



**NOTULE VAN DIE EERSTE VERGADERING VAN DIE VYFDE SWARTLAND MUNISIPALE RAAD,
GEHOU IN DIE MALMESBURY STADSAAL OP DINSDAG, 16 NOVEMBER 2021 OM 10:15**

TEENWOORDIG:

RAADSLEDE:

Bess, D G (DA)	Penxa, B J (ANC)
Booyesen, A M (VF)	Pieters, C (ANC)
Cleophas, J H (DA)	Pypers, D C (DA)
Daniels, C (DA)	Rangasamy, M A (DA)
De Beer, J M (DA)	Smit, N (DA)
Fortuin, C (ANC)	Soldaka, P E (ANC)
Gaika, M F (EFF)	Stanley, B J (DA)
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)	

BEAMPTES:

Munisipale Bestuurder, mnr J J Scholtz
Direkteur: Korporatiewe Dienste, me M S Terblanche
Direkteur: Ontwikkelingsdienste, me J S Krieger
Direkteur: Beskermingsdienste, mnr P A C Humphreys
Direkteur: Siviele Ingenieursdienste, mnr L D Zikmann
Direkteur: Elektriese Ingenieursdienste, mnr R du Toit
Bestuurder: Sekretariaat en Rekords, me N Brand

1. OPENING EN VERWELKOMING

Mnr J J Scholtz, in sy hoedanigheid as Munisipale Bestuurder, tree op ingevolge artikels 29(2) en 36(3) van die Munisipale Strukturewet (Wet 117 van 1998) as voorsitter totdat die verkiesing van Speaker afgehandel is.

'n Woord van verwelkoming word deur die Munisipale Bestuurder gerig tot verkose raadslede, familie en vriende van verkose raadslede en die publiek.

'n Spesiale woord van verwelkoming word gerig aan alle eertydse raadslede – spesiaal aan Rdd M S I Goliath, amptenare van die Provinsiale Regering, lede van die Onafhanklike Verkiesingskommissie, die media, die tolk en kollegas.

Pastoor Philander, op versoek van die Munisipale Bestuurder, open die vergadering met skriflesing en gebed.

Na afloop van 'n inspirerende boodskap deur Pastoor Philander aan raadslede versoek die Munisipale Bestuurder die Direkteur: Ontwikkelingsdienste, me J S Krieger en die Direkteur: Korporatiewe Dienste, me M S Terblanche om kerse aan te steek as simboliek ter ondersteuning van die 16 dae van aktivisme teen die mishandeling van vroue en kinders. 'n Verklaring in dié verband word deur die Munisipale Bestuurder voorgehou.

2./...



MINUTES OF THE FIRST MEETING OF THE FIFTH SWARTLAND MUNICIPAL COUNCIL, HELD IN THE MALMESBURY TOWN HALL ON TUESDAY, 16 NOVEMBER 2021 AT 10:15

PRESENT:

COUNCILLORS:

Bess, D G (DA)	Penxa, B J (ANC)
Booyesen, A M (VF)	Pieters, C (ANC)
Cleophas, J H (DA)	Pypers, D C (DA)
Daniels, C (DA)	Rangasamy, M A (DA)
De Beer, J M (DA)	Smit, N (DA)
Fortuin, C (ANC)	Soldaka, P E (ANC)
Gaika, M F (EFF)	Stanley, B J (DA)
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: Corporate Services, ms M S Terblanche
Director: Development Services, ms J S Krieger
Director: Protection Services, mr P A C Humphreys
Director: Civil Engineering Services, mr L D Zikmann
Director: Electrical Engineering Services, mr R du Toit
Manager: Secretarial and Records, ms N Brand

1. OPENING AND WELCOME

Mr J J Scholtz, in his capacity as Municipal Manager, acted as chairman in accordance with sections 29(2) and 36(3) of the Municipal Structures Act (Act 117 of 1998) until completion of the election of Speaker.

The Municipal Manager welcomed the newly elected councillors, their family and friends and the public.

A special word of welcome was made to all former councillors – especially Alld M S I Goliath, officials from the Provincial Government, members of the Independent Electoral Commission, the media, the interpreter and colleagues.

Pastor Philander, at the request of the Municipal Manager, opened the meeting with a scripture reading and a prayer.

After the inspiring message to councillors from Pastor Philander the Municipal Manager requested the Director: Development Services, ms J S Krieger and the Director: Corporate Services, ms M S Terblanche to light candles as a symbol of support for the 16 days of activism against the abuse of women and children. A declaration in respect of this was made by the Municipal Manager.

2./...

2. KONSTITUERING VAN VERGADERING

2.1 INSTELLINGSKENNISGEWING: SOORT MUNISIPALITEIT EN VOORSIENING VIR VOLTYDSE RAADSLEDE (1/1/1/5)

Die Munisipale Bestuurder behandel die verslag en meld dat die instellingskennisgewing ten doel het om, onder andere, aangeleenthede betreffende die kategorisering van die munisipaliteit (B-munisipaliteit), die soort (plaaslike munisipaliteit met wykdeelnemende stelsel) en die getal raadslede te reël.

Ingevolge die vyfde wysiging van die instellingskennisgewing, soos gesirkuleer met die sakelys, is Swartland Munisipaliteit twaalf (12) wyksraadslede en elf (11) proporsionele raadslede toegeken.

BESLUIT

(op voorstel van rdd M van Zyl, gesekondeer deur rdh T van Essen)

- (a) Dat kennis geneem word dat ingevolge die Artikel 12 Instellingskennisgewing en wysigings Swartland Munisipaliteit –
 - (1) 'n kategorie B-munisipaliteit ingevolge artikel 155(1) van die Grondwet is en wat ingevolge artikel 1 van die Munisipale Strukturewet munisipale uitvoerende en wetgewende gesag in sy gebied deel met die Distriksmunisipaliteit;
 - (2) 'n munisipaliteit is met 'n burgemeestersuitvoerende stelsel wat met 'n wykdeelnemende stelsel gekombineer is;
 - (3) oor 23 raadslede beskik, waarvan 12 wyksraadslede en 11 proporsioneel verkose raadslede is;
- (b) Dat verder kennis geneem word dat die volgende raadslede as voltydse raadslede aangewys mag word –
 - (1) die uitvoerende burgemeester;
 - (2) lede van die burgemeesterskomitee, en
 - (3) die speaker.

2.2 (1) BEKENDSTELLING VAN RAADSLEDE: UITSLAG VAN ONAFHANKLIKE VERKIESINGSKOMMISSIE; (2) AANWYSING VAN GEMAGTIGDE VERTEENWOORDIGER DEUR ONDERSKEIE POLITIEKE PARTYE (17/17/3/2/7)

Die Munisipale Bestuurder bevestig dat raadslede teenwoordig deur die Onafhanklike Verkiesingskommissie by wyse van Goewermentskennisgewing No. 677 in die Staatskoerant No. 45447 gedateer 11 November 2021 as verkose verklaar is.

Die Munisipale Bestuurder vestig raadslede se aandag op die vereiste ingevolge die Wysigingswet op die Munisipale Strukturewet, Wet 3 van 2021, dat die onderskeie politieke partye 'n gemagtigde verteenwoordiger moet aanwys.

KENNIS GENEEM van die versoek van die Munisipale Bestuurder dat politieke partye die naam en kontakbesonderhede van sy gemagtigde verteenwoordiger op skrif en op 'n amptelike party-briefhoof aan die Munisipale Bestuurder moet deurgee teen nie later nie as 26 November 2021.

Die Munisipale Bestuurder verklaar die vergadering behoorlik gekonstitueer en geopen, en gee geleentheid vir raadslede om hulself voor te stel.

3. AANSOEKE OM VERLOF TOT AFWESIGHEID DEUR RAADSLEDE

Geen, die Raad is voltallig.

4./...

2. CONSTITUTING THE MEETING

2.1 ESTABLISHING NOTICE: MUNICIPALITY TYPE AND PROVISION FOR FULL TIME COUNCILLORS (1/1/1/5)

The Municipal Manager dealt with the report and stated that the establishment notice is for, inter alia, arrangements in respect of the categorising of the municipality (B municipality), type of municipality (local municipality with ward participation system) and the number of councillors.

In accordance with the fifth amendment to the establishment notice, circulated with the agenda, Swartland Municipality was allocated 12 (twelve) councillors and 11 (eleven) proportional councillors.

RESOLUTION

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

- (a) That Council takes cognizance that in terms of the Section 12 Establishment Notice and amendments, Swartland Municipality –
 - (1) Is a local municipality as defined in section 1 of the Municipal Structures Act, being a municipality that shares municipal executive and legislative authority in its area with the District Municipality, and which is described in section 155(1) of the Constitution as a category B municipality;
 - (2) Is a local municipality with a mayoral executive system combined with a ward participatory system;
 - (3) Has 23 councillors, of which 12 are ward councillors and 11 are proportionally elected councillors;
- (b) That Council further takes cognizance that the Municipality may designate the following councillors as full-time councillors –
 - (1) The executive mayor;
 - (2) The members of the mayoral committee; and
 - (3) The Speaker.

2.2 (1) INTRODUCTION OF COUNCILLORS: RESULT OF THE INDEPENDENT ELECTORAL COMMISSION; (2) NOMINATION OF AUTHORISED REPRESENTATIVE BY THE VARIOUS POLITICAL PARTIES (17/17/3/2/7)

The Municipal Manager confirmed that the councillors present are declared elected by the Independent Electoral Commission in terms of Government Notice no 677 in the Government Gazette No 45447 dated 11 November 2021.

The Municipal Manager directed the councillors' attention to the requirement that the various political parties must appoint an authorised representative in accordance with the Amendment Act to the Municipal Structures Act, Act 3 of 2021.

NOTE TAKEN of the request by the Municipal Manager that political parties must submit the name and contact details of their authorised representative, in writing, to the Municipal Manager, on an official party letter head, by not later than 26 November 2021.

The Municipal Manager declared the meeting duly constituted and opened and gave the councillors the opportunity to introduce themselves.

3. APPLICATION FOR LEAVE OF ABSENCE

None, the Council is complete.

4./...

4. AFLEGGING VAN EED DEUR LEDE VAN SWARTLAND RAAD (3/1/1)

Die Munisipale Bestuurder versoek elke raadslid om mondeling die eed van getrouheid af te lê en te onderteken.

5. KENNISGEWING EN MEDEDELINGS: MUNISIPALE BESTUURDER (3/1/1)

5.1 (1) GEDRAGSKODE VIR RAADSLEDE (3/1/1)

Die Munisipale Bestuurder versoek dat raadslede hulself vergewis van die inhoud van die Gedragskode vir Raadslede ingevolge Bylae 7 tot die Munisipale Strukturewet (Wet 117 van 1998) en wys raadslede spesifiek op artikels 2, 6 en 13.

5.1 (2) STAANDE REËLS EN PROSEDURE MET BETREKKING TOT DISSIPLINÊRE AANGELEENTHEDE RAKENDE RAADSLEDE (3/1/1)

Die Munisipale Bestuurder bevestig dat, tot tyd en wyl die nuwe Raad dit sou wysig, die aangehegte Staande Reëls en Prosedure met betrekking tot Dissiplinêre Aangeleenthede rakende Raadslede van toepassing sal wees.

BESLUIT

(op voorstel van rdl B J Penxa, gesekondeer deur rdl P E Soldaka)

Dat oorweging daaraan verleen word dat voorrang aan die Engelse-teks van die Staande Reëls en Prosedure met betrekking tot Dissiplinêre aangeleenthede rakende Raadslede gegee word.

6. VERKIESING VAN SPEAKER EN OORHANDIGING VAN VOORSITTERSTOEL AAN DIE SPEAKER (3/1/1)

Die prosedure wat geld vir die verkiesing van Speaker word deur die Munisipale Bestuurder toegelig met verwysing na artikels 36 tot 41, asook Bylae 3 van die Munisipale Strukturewet (Wet 117 van 1998).

Die Munisipale Bestuurder verduidelik die stemproses en beklemtoon dat elke raadslid sy/haar stem in geheim moet uitbring.

Die volgende kandidate vir die amp van Speaker word genomineer op die voorgeskrewe vorms vir hierdie doel:

- (1) rdh M A Rangasamy van die DA, genomineer deur rdle I S le Minnie en D C Pypers;
- (2) rdl C Fortuin van die ANC, genomineer deur rdle P E Soldaka en M Ngosi.

Die Munisipale Bestuurder bevestig die volledigheid van die nominasievorms.

Op versoek van die Munisipale Bestuurder word rdl A K Warnick (DA) en rdl C Pieters (ANC) as waarnemers tot die stemproses aangewys.

Tydens geslote stemming word stemme vir die amp van Speaker uitgebring soos volg:

- (1) rdh M A Rangasamy – 16 (sestien) stemme;
- (2) rdl C Fortuin – 5 (vyf) stemme;
- (3) 2 (twee) bedorwe stembriewe word aangeteken.

Rdh M A RANGASAMY word hierna deur die Munisipale Bestuurder as verkose verklaar as Speaker van Munisipaliteit Swartland, waarna rdh Rangasamy die voorsitterstoel inneem.

7. SAKE VIR OORWEGING

7.1 ORDEREËLS (3/4/2/1)

7.1.1/...

4. OATH OF ALLEGIANCE BY MEMBERS OF THE SWARTLAND COUNCIL (3/1/1)

The Municipal Manager requested each councillor to take the oath of allegiance verbally and to sign the oath.

5. NOTICE AND COMMUNICATION: MUNICIPAL MANAGER (3/1/1)

5.1 (1) CODE OF CONDUCT FOR COUNCILLORS (3/1/1)

The Municipal Manager requested councillors to familiarise themselves with the contents of the Code of Conduct for Councillors in accordance with Schedule 7 to the Municipal Structures Act (Act 117 of 1998) and referred them specifically to sections 2, 6 and 13.

5.1 (2) STANDING RULES AND PROCEDURES WITH REFERENCE TO DISCIPLINARY MATTERS IN RESPECT OF COUNCILLORS (3/1/1)

The Municipal Manager confirmed that, until such time as the new Council amends it, the attached Standing Rules and Procedure in respect of Disciplinary Matters with respect to councillors applies.

RESOLUTION

(proposed by clr B J Penxa, seconded by clr P E Soldaka)

That consideration will be given that precedence is given to the English text of Standing Rules and Procedure in respect of disciplinary matters with respect to Councillors.

6. ELECTION OF SPEAKER AND HANDING OVER THE CHAIRMAN'S SEAT TO THE SPEAKER (3/1/1)

The procedure in respect of the election of Speaker was explained by the Municipal Manager with reference to sections 36 to 41, as well as Schedule 3 to the Municipal Structures Act (Act 117 of 1998).

The Municipal Manager explained the voting procedure and emphasised that each councillor must vote in secret.

The following candidates were nominated for the post of Speaker on the prescribed forms for this purpose:

- (1) Ald M A Rangasamy of the DA, nominated by clrs I S le Minnie and D C Pypers;
- (2) Cllr C Fortuin of the ANC, nominated by clrs P E Soldaka and M Ngosi.

The Municipal Manager confirmed that the nomination forms were correctly completed.

At the request of the Municipal Manager clr A K Warnick (DA) and clr C Pieters (ANC) were appointed as observers of the voting process.

During the secret ballot votes for the post of Speaker were as follows:

- (1) ald M A Rangasamy – 16 (sixteen) votes;
- (2) cllr C Fortuin – 5 (five) votes;
- (3) 2 (two) spoiled votes were recorded.

Ald M A Rangasamy was therefore declared as the elected Speaker by the Municipal Manager, where after ald Rangasamy took the chairman's seat.

7. MATTERS FOR DISCUSSION

7.1 RULES OF ORDER (3/4/2/1)

7.1.1/...

7.1.1 VERORDENING VIR DIE HOU VAN VERGADERINGS VAN DIE RAAD VAN MUNISIPALITEIT SWARTLAND (3/4/2/1)

Die verordening vir die Hou van Vergaderings van die Raad van Munisipaliteit Swartland, soos vervat in Provinsiale Koerant 7501 van 2 Oktober 2015 is met die sakelys gesirkuleer.

BESLUIT

(op voorstel van rdd M van Zyl, gesekondeer deur rdl D G Bess)

- (a) Dat die Raad kennis neem dat vergaderings van die Swartland Munisipale Raad en sy komitees deur die Verordening insake die Reëls vir die Hou van Vergaderings van die Raad van Munisipaliteit Swartland soos afgekondig per Provinsiale Kennisgewing 7501 gedateer 2 Oktober 2015, gereguleer word, asook die Virtuele Reëls vir Vergaderings;
- (b) Dat 'n bedrag van R250,00 deur die Raad bepaal word as boete om regstreeks van raadslede se toelaes verhaal te word vir –
 - (1) die nie-bywoning (sonder verlof tot afwesigheid) van enige vergadering van die Raad of van enige staande of ad hoc-komiteevergaderings wat die raadslid veronderstel is om by te woon; of
 - (2) die versuim van 'n raadslid om teenwoordig te bly by enige van die voormelde vergaderings.

7.1.2 ALGEMENE ORDEREËLS (3/4/2/1)

Algemene ordereëls, soos aangeheg tot die sakelys, is met verloop van tyd deur voormalige munisipale rade aanvaar ten einde orde op vergaderings te verseker.

BESLUIT

(op voorstel van rdd M van Zyl, gesekondeer deur rdl D G Bess)

Dat die algemene ordereëls – soos uiteengesit in Bylae A tot die verslag – vir die nuwe Raad van krag sal bly.

7.2 UITOEFENING VAN KEUSE INSAKE (1) DIE AANWYSING VAN UITVOERENDE BURGEMEESTER, (2) DIE INSTELLING VAN WYKSKOMITEES, (3) DIE AANWYSING VAN 'N UITVOERENDE ONDERBURGEMEESTER, (4) DIE AANWYSING VAN 'N SWEEP (3/1/1)

Die Munisipale Bestuurder noem dat alhoewel Munisipaliteit Swartland kragtens sy Artikel 12 Instellingskennisgewing in soort 'n munisipaliteit is met 'n burgemeestersuitvoerendestelsel wat met 'n wyk deelnemende stelsel gekombineer is, die Raad steeds sekere keuses moet uitoefen, soos voorgelê in die verslag voor die Raad.

Die keuse om 'n sweep aan te wys spruit voort uit die Wysigingswet op die Munisipale Strukturewet, Wet 3 van 2021.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl J M de Beer)

Dat die Raad goedkeuring verleen –

- (1) ingevolge artikel 54 van die Munisipale Strukturewet, dat 'n Uitvoerende Burgemeester aangewys word;
- (2) ingevolge artikel 72 van die Munisipale Strukturewet, dat wykskomitees ingestel word; en
- (3) ingevolge artikel 55 van die Munisipale Strukturewet, dat 'n Uitvoerende Onderburgemeester aangewys word;

BESLUIT VERDER

Dat die Raad nie 'n sweep ingevolge artikel 41A van die Munisipale Strukturewet sal aanwys nie.

7.1.1 REGULATION IN RESPECT OF THE HOLDING OF MEETINGS BY THE SWARTLAND MUNICIPAL COUNCIL (3/4/2/1)

The regulation in respect of the Holding of Meetings of the Swartland Municipal Council referred to in Provincial Gazette 7501 of 2 October 2015 was circulated with the agenda.

RESOLUTION

(proposed by aldd M van Zyl, seconded by cllr D G Bess)

- (a) That cognisance be taken that meetings of the Council and its committees are regulated in terms of the By-Law relating to the Rules for the Conduct of Meetings of the Swartland Municipality as promulgated by Provincial Notice 7501 dated 2 October 2015, as well as the Rules of Virtual Meetings as adopted during May 2020;
- (b) That an amount of R250,00 be determined by Council for a councillor to be fined for –
 - (1) absence without leave from any meeting of the Council or of any standing or ad hoc committee meeting which the councillor is required to attend; or for
 - (2) refraining from remaining in attendance at any of the above-mentioned meetings, which fine shall be recovered directly from such councillor's remuneration.

7.1.2 GENERAL RULES OF ORDER (3/4/2/1)

General rules of order, as attached to the agenda, were accepted, as time went by, by the former municipal councils, in order to ensure order during meetings.

RESOLUTION

(proposed by aldd M van Zyl, seconded by cllr D G Bess)

That the general rules of order – explained in Attachment A to the agenda – will remain in force for the new Council.

7.2 DISCHARGE OF SELECTION IN RESPECT OF (1) THE APPOINTMENT OF THE EXECUTIVE MAYOR (2) ESTABLISHMENT OF WARD COMMITTEES, (3) THE NOMINATION OF DEPUTY EXECUTIVE MAYOR (4) THE APPOINTMENT OF A SWEEP (3/1/1)

The Municipal Manager stated that, although Swartland Municipality, by virtue of its Section 12 Establishment Notice, is a municipality with an executive mayoral system combined with a ward participation system, the Council must exercise certain choices, as referred to in the report before the Council.

The choice in order to elect a sweep stems from the Municipal Structures Amendment Act, Act 3 of 2021.

RESOLUTION

(proposed by ald T van Essen, seconded by cllr rdl J M de Beer)

That Council resolves -

- (1) in terms of section 54 of the Municipal Structures Act, about the appointment of an Executive Mayor;
- (2) in terms of section 72 of the Municipal Structures Act, about the establishment of ward committees;
- (3) in terms of section 55 of the Municipal Structures Act, about the appointment of a Deputy Executive Mayor, and

FURTHER RESOLUTION

That the Council will not appoint a sweep in accordance with section 41A of the Municipal Structures Act.

7.3 VERKIESING VAN UITVOERENDE BURGEMEESTER EN UITVOERENDE ONDERBURGEMEESTER (3/1/1)

Die Speaker versoek die Munisipale Bestuurder om nominasies te vra vir die amp van Uitvoerende Burgemeester en word die volgende nominasies op die voorgeskrewe vorms vir hierdie doel ingedien:

- (1) rdh J H Cleophas van die DA, genomineer deur rdle I S le Minnie en R J Jooste; en
- (2) rdl B J Penxa van die ANC, genomineer deur rdle C Pieters en M Ngozi.

Die Munisipale Bestuurder bevestig die volledigheid van die nominasievorms.

Tydens geslote stemming waartydens rdle A K Warnick (DA) en C Pieters (ANC) die stemproses waarneem, word stemme vir die amp van Uitvoerende Burgemeester uitgebring soos volg:

- (1) rdh J H Cleophas – 17 (sewentien) stemme;
- (2) rdl B J Penxa – 5 (vyf) stemme; en
- (3) 1 (een) bedorwe stembrief word aangeteken.

Rdh J H CLEOPHAS word hierna deur die Speaker in die amp van Uitvoerende Burgemeester van Munisipaliteit Swartland as verkose verklaar.

Die Munisipale Bestuurder vra nominasies vir die amp van Uitvoerende Onderburgemeester en word die volgende nominasies op die voorgeskrewe vorms vir hierdie doel ingedien:

- (1) rdl J M de Beer van die DA, genomineer deur rdle C Daniels en D G Bess; en
- (2) rdl P E Soldaka van die ANC, genomineer deur rdle B J Penxa en C Fortuin.

Die Munisipale Bestuurder bevestig die volledigheid van die nominasievorms.

Tydens geslote stemming waartydens rdle A K Warnick (DA) en C Pieters (ANC) as waarnemers aangewys word, word stemme vir die amp van Uitvoerende Onderburgemeester uitgebring soos volg:

- (1) rdl J M de Beer – 16 (sestien) stemme;
- (2) rdl P E Soldaka – 6 (ses) stemme.

Rdl J M DE BEER word hierna deur die Speaker in die amp van Uitvoerende Onderburgemeester van Munisipaliteit Swartland as verkose verklaar.

7.4 TOESPRAAK DEUR NUUTVERKOSE UITVOERENDE BURGEMEESTER (10/1/1)

Die Speaker gee geleentheid aan Rdh J H Cleophas, as nuutverkose Uitvoerende Burgemeester, om 'n toespraak te lewer (*wat vir volledigheid as Aanhangsel A aangeheg word*).

7.5 AANWYS VAN VOLTYDSE RAADSLEDE (3/1/1) (5/10/1)

In terme van artikel 18(4) van die Munisipale Strukturewet (Wet 117 van 1998) het 'n munisipaliteit die bevoegdheid om raadslede wat deur die LUR vir plaaslike regering bepaal word as voltyds aan te wys.

Voormelde bepaling is gedoen ingevolge die Derde Wysiging van die Munisipaliteit se Instellingskennisgewing, soos gesirkuleer met die verslag.

Besluit/...

7.3 ELECTION OF EXECUTIVE MAYOR AND DEPUTY EXECUTIVE MAYOR (3/1/1)

The Speaker requested the Municipal Manager to call for nominations for the post of Executive Mayor and the following nominations were submitted on the prescribed forms:

- (1) Ald J H Cleophas from the DA, nominated by cllrs I S le Minnie and R J Jooste; and
- (2) cllr B J Penxa from the ANC, nominated by cllrs C Pieters and M Ngozi.

The Municipal Manager confirmed that the nomination forms were correctly completed.

During a secret ballot, during which cllrs A K Warnick (DA) and C Pieters (ANC) acted as observers, the votes for Executive Mayor were as follows:

- (1) ald J H Cleophas – 17 (seventeen) votes;
- (2) cllr B J Penxa – 5 (five) votes; and
- (3) 1 (one) spoilt vote was recorded.

Ald J H CLEOPHAS was declared by the Speaker, according to the votes, to the post of Executive Mayor of the Swartland Municipality.

The Municipal Manager called for nomination for the post of Deputy Executive Mayor and the following nominations were submitted on the prescribed forms:

- (1) cllr J M de Beer of the DA, nominated by cllrs C Daniels and D G Bess; and
- (2) cllr P E Soldaka of the ANC, nominated by cllrs B J Penxa and C Fortuin.

The Municipal Manager confirmed that the nomination forms had been correctly completed..

During a secret ballot, during which cllrs A K Warnick (DA) and C Pieters (ANC) acted as observers, the votes for Deputy Executive Mayor were as follows:

- (1) cllr J M de Beer – 16 (sixteen) votes;
- (2) cllr P E Soldaka – 6 (six) votes.

Cllr J M de Beer was declared by the Speaker as the Deputy Executive Mayor of the Swartland Municipality.

7.4 ADDRESS BY THE NEWLY ELECTED EXECUTIVE MAYOR (10/1/1)

The speaker gave Ald J H Cleophas, as the newly elected Mayor, the opportunity to address the meeting (*attached for completeness as attachment A*).

7.5 DESIGNATION OF FULL TIME COUNCILLORS (3/1/1) (5/10/1)

In terms of section 18(4) of the Municipal Structures Act (Act 117 of 1998) a municipality has the authority to appoint councillors who have been identified by the IEC for local government, as full time councillors.

The above mentioned is done in accordance with the Third Amendment to the Municipality's Establishment Notice, as circulated with the report.

Resolution/...

7.5/...

BESLUIT

(op voorstel van rdl C Daniels, gesekondeer deur rdl N Smit)

- (a) Dat die Raad die volgende ampsbekleërs as voltydse raadslede aanstel:
- die Uitvoerende Burgemeester;
 - lede van die Uitvoerende Burgemeesterskomitee (onderhewig aan Item 9 van die Gedragskode vir Raadslede), Uitvoerende Onderburgemeester ingesluit;
 - die Speaker
- (b) Dat die Uitvoerende Burgemeester, in oorlegpleging met die burgemeesterskomitee, riglyne sal neerlê oor wat van voltydse raadslede verwag word.

7.6 AANKONDIGING VAN BURGEMEESTERSKOMITEE (3/2/2)

Die Speaker gee geleentheid aan die Uitvoerende Burgemeester om die burgemeesterskomitee aan te kondig.

Rdh J H Cleophas noem dat dit 'n groot voorreg is om die name van die vier lede bekend te maak en die portefeuljes wat hulle sal verteenwoordig, synde:

- **rdl N SMIT** (Munisipale Bestuurder, Administrasie en Finansies);
- **rdh T VAN ESSEN** (Siviele en Elektriese Dienste);
- **rdl A K WARNICK** (Beskermingsdienste);
- **rdl D G BESS** (Ontwikkelingsdienste).

7.7 AANWYS VAN RAADSLID OM IN DIE AFWESIGHEID VAN DIE UITVOERENDE BURGEMEESTER EN -ONDERBURGEMEESTER WAAR TE NEEM (3/1/1)

Artikel 56(7) van die Munisipale Strukturewet (Wet 117 van 1998) bepaal dat die Raad 'n raadslid moet aanwys om as uitvoerende burgemeester waar te neem wanneer sowel die uitvoerende burgemeester en uitvoerende onderburgemeester afwesig of nie beskikbaar is nie.

BESLUIT

(op voorstel van rdl A K Warnick, gesekondeer deur rdl E C O'Kennedy)

- (a) Dat in die afwesigheid van die Uitvoerende Burgemeester, of wanneer hy nie beskikbaar is nie, die Uitvoerende Onderburgemeester aangewys word om as Uitvoerende Burgemeester waar te neem;
- (b) Dat in die afwesigheid van sowel die Uitvoerende Burgemeester en Uitvoerende Onderburgemeester of indien geeneen van hulle beskikbaar is nie, rdh T van Essen aangewys word om as Uitvoerende Burgemeester waar te neem.

7.8 AANSTEL VAN VERTEENWOORDIGERS OP DIE WESKUS DISTRIKS-MUNISIPALITEIT (3/3/1/1)

[Die Speaker versoek die MEO (munisipale verkiesingsbeampte), mnr J J Scholtz, om voor te sit vir die aanstel van verteenwoordigers op die Weskus Distrikmunisipaliteit.]

Artikel 16(1) van Bylae 2 van die Munisipale Strukturewet (Wet 117 van 1998) bepaal dat: "Die hoofverkiesingsbeampte moet die verkiesing van verteenwoordigers van 'n plaaslike raad na die distriksraad bestuur". Die MEO bevestig dat hy deur lede van die Onafhanklike Verkiesingskommissie bygestaan sal word vir die afhandeling van hierdie item.

Die MEO verduidelik die inhoud van die verslag, met inbegrip van die bepaling van die kwota, en bevestig dat Munisipaliteit Swartland vier (4) lede ingevolge Provinsiale Kennisgewing 109/2016 gedateer 8 April 2016 na die Weskus Distrikmunisipaliteit mag aanwys.

Die MEO/...

7.5/...

RESOLUTION

(proposed by cllr C Daniels, seconded by cllr N Smit)

- (a) That the following office-bearers be appointed by Council as full-time councillors:
- the Executive Mayor;
 - members of the Executive Mayoral Committee (subject to item 9 of the Code of Conduct for Councillors), Deputy Executive Mayor included;
 - the Speaker;
- (b) That a set of directives be compiled by the Executive Mayor, in consultation with his mayoral committee, as to what is to be expected of full-time councillors.

7.6 ANNOUNCEMENT OF THE MAYORAL COMMITTEE (3/2/2)

The Speaker gave the Executive Mayor the opportunity to announce the mayoral committee.

Ald J H Cleophas stated that it was a great honour to name the four members and the portfolios which they will represent, as:

- **cllr N SMIT** (Municipal Manager, Administration and Finances);
- **ald T VAN ESSEN** (Civil and Electrical Services);
- **cllr A K WARNICK** (Protection Services);
- **cllr D G BESS** (Development Services).

7.7 ANNOUNCEMENT OF ACTING COUNCILLOR IN THE ABSENCE OF THE EXECUTIVE MAYOR AND DEPUTY EXECUTIVE MAYOR (3/1/1)

Section 56(7) of the Municipal Structures Act (Act 117 of 1998) stipulates that the Council must appoint a councillor to act in place of both the executive mayor and the deputy executive mayor in their absence

RESOLUTION

(proposed by cllr A K Warnick, seconded by cllr E C O'Kennedy)

- (a) That the Executive Deputy Mayor be appointed to act as Executive Mayor when the latter is absent or not available;
- (b) That ald T van Essen be designated to act as Executive Mayor when both the Executive Mayor and the Deputy Executive Mayor are absent or not available.

7.8 APPOINTMENT OF REPRESENTATIVES ON THE WEST COAST DISTRICT MUNICIPALITY (3/3/1/1)

[The Speaker requested the MEO (municipal election officer), mr J J Scholtz, to officiate for the appointment of the representatives on the West Coast District Municipality]

Section 16(1) of Schedule 2 of the Municipal Structures Act (Act 117 of 1998) stipulates that: "The chief election officer must manage the election of the representatives of a local council to the district council." The MEO confirmed that he would be supported by members of the Independent Electoral Commission for the handling of this item.

The MEO explained the contents of the report, including the determination of the quota, and confirmed that Swartland Municipality may appoint four (4) members to the West Coast District Municipality, in accordance with Provincial Notice 109/2016 dated 8 April 2016.

The MEO/...

7.8/...

Die MEO gaan voort om nominasies te vra.

Na ontvangs van die nominasies verklaar die MEO die nominasieproses as gesluit. Die MEO bevestig dat hy nominasies ontvang het van die:

- (1) ANC; en
- (2) DA, en bevestig hy verder dat die genomineerde kandidate hul nominasie dienoooreenkomstig aanvaar het.

Die MEO versoek elke raadslid om sy/haar stem in geheim uit te bring.

Die MEO versoek rdlle A K Warnick en C Pieters om met die tel van die stemme as waarnemers teenwoordig te wees. Die uitslag van die stemming is soos volg:

- (1) ANC = 7 (sewe);
- (2) DA = 15 (vyftien)

gebaseer op die toepassing van die kwota, synde $23 \div 4 = 5,75 + 1$ (met weglating van die fraksies) word die volgende resultaat gelewer:

- (1) ANC = 1 (een);
- (2) DA = 3 (drie), waarna die resultaat op die voorgeskrewe OVK resultaatvorm voltooi word.

BESLUIT

- (a) Dat daar kennis geneem word van die nominasieproses wat onder voorsitterskap van die MEO, bygestaan deur lede van die Onafhanklike Verkiesingskommissie, volvoer is en dat die verkiesing die volgende uitslag opgelewer het, na toepassing van die kwota, naamlik –
 - (i) 1 (een) verteenwoordiger van die ANC; en
 - (ii) 3 (drie) verteenwoordigers van die DA;
- (b) Dat daar kennis geneem word dat die ANC een, synde rdl B J Penxa en die DA drie, synde rdh B J Stanley en rdlle C Daniels en D C Pypers, as verteenwoordigers na die Weskus Distriksmunisipaliteit afvaardig, onderhewig daaraan dat die uitslae aan die Onafhanklike Verkiesingskommissie voorsien word om die nodige afkondiging en bevestiging te doen.

7.9 ARTIKEL 53 ROLUITKLARING EN VERANTWOORDELIKHEDE (3/B)

[Die voorsitterstoel word weer deur die Speaker ingeneem.]

'n Munisipaliteit moet binne die raamwerk van en ooreenkomstig die besondere bepalings van die Munisipale Strukturewet, die Munisipale Stelselswet en ander toepaslike wetgewing, die bepaalde rol en verantwoordelikhedsgebiede van elke politieke struktuur en politieke ampsbekleër en van die Munisipale Bestuurder omskryf.

BESLUIT

(op voorstel van rdd M van Zyl, gesekondeer deur rdh T van Essen)

- (a) Dat daar kennis geneem word van die poging om uitvoering te gee aan artikel 53 van die Stelselswet wat vereis dat 'n munisipale raad 'n verklaring van voorneme moet onderteken ten aansien van die onderskeie rolle en verantwoordelikhede van politieke ampsbekleërs en die administrasie;
- (b) Dat raadslede versoek word om hulle van die inhoud van die dokument te vergewis;
- (c) Dat die verklaring van voorneme as blyk van vereenselwiging met die stelsel van rolle en verantwoordelikhedsgebied van elke politieke struktuur en politieke ampsbekleër en die munisipale bestuurder na afloop van die vergadering onderteken word;

7.8/...

The MEO then called for nominations.

After receiving the nominations the MEO declared the nomination process closed. The MEO confirmed that nominations had been received from the:

- (1) ANC; and
- (2) DA, and confirmed that the nominees had accepted the nomination accordingly.

The MEO requested each councillor to vote in secret.

The MEO requested cllrs A K Warnick and C Pieters to count the votes as the observers present. The result of the voting was as follows:-

- (1) ANC = 7 (seven);
- (2) DA = 15 (fifteen)

based on the applicable quota , thus $23 \div 4 = 5,75 + 1$ (leaving out the fractions) the following results were:

- (1) ANC = 1 (one);
- (2) DA = 3 (three), where after the results were filled in on the prescribed IEC results form.

RESOLUTION

- (a) That note is taken of the nomination process, which took place under the chairmanship of the MEO supported by members of the Independent Electoral Commission and that the election produced the following results, after application of the quota system -
 - (i) 1 (one) representative from the ANC; and
 - (ii) 3 (three) representatives from the DA;
- (b) That note is taken that the ANC one, being cllr B J Penxa and the DA three, being ald B J Stanley and cllrs C Daniels and D C Pypers, are delegated as representatives to the West Coast District Municipality, subject to the results being provided to the Independent Electoral Commission in order to carry out the necessary promulgation and confirmation.

7.9 SECTION 53 DECLARATION OF ROLES AND RESPONSIBILITIES (3/B)

[The chair was once again taken by the Speaker.]

A municipality must, within the framework of and in accordance with the various stipulations of the Municipal Structures Act, the Municipal Systems Act and other relevant laws, define the determined role and areas of responsibility of each political structure and political official and the Municipal Manager.

RESOLUTION

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

- (a) That cognizance be taken of the attempt to give effect to section 53 of the Systems Act which stipulates that a municipal council sign a declaration of intent in respect of the various roles and responsibilities of political officials and the administration;
- (b) That councillors are requested to acquaint themselves with the contents of the document;
- (c) That the declaration of intent as indication of identification with the system of roles and areas of responsibility of each political structure and political office-bearer and the municipal manager be signed after the meeting;

7.9/...

- (d) Dat kennis geneem word dat die artikel 53 dokument by die Raad se Stelsel van Delegasies (soos behandel onder item 7.10) geïnkorporeer word.

7.10 AANNAME VAN 'N STELSEL VAN DELEGASIES (2/5/2)

Artikel 59 van die Munisipale Stelselwet (Wet 32 van 2000) bepaal dat 'n munisipale raad 'n stelsel van delegasies moet ontwikkel wat administratiewe en operasionele doeltreffendheid sal optimaliseer en wat voorsiening maak vir voldoende wigte en teenwigte.

Sodanige delegasies en instruksies moet ingevolge voormelde wetgewing hersien word wanneer 'n nuwe raad verkies word.

Die aangeleentheid word deur die Speaker tot stemming geroep en bepaal met sewentien (17) stemme ten gunste daarvan, en ses (6) raadslede wat buite stemming bly.

BESLUIT

(op voorstel van rdl N Smit, gesekondeer deur rdl I S le Minnie)

- (a) Dat die 5^{de} Raad van Munisipaliteit Swartland die Stelsel van Delegasies soos aangeheg, vir doeileindes van administratiewe en operasionele doeltreffendheid aanvaar en bekragtig, en kennis neem van die delegasies van die Munisipale Bestuurder en Hoof Finansiële Beampte, soos vervat in Dele 4 en 5 van die Stelsel van Delegasies;
- (b) Dat die Raad kennis neem dat hierdie Stelsel van Delegasies nie 'n statiese dokument is nie, en dat die aanbring van wysigings/toevoegings 'n deurlopende proses sal wees in oorlegpleging met die Raad, wat die prerogatief het om delegasies te mag herroep, te wysig of addisionele voorwaardes op te lê;
- (c) Dat, tensy wetgewing spesifiek belet dat die Raad 'n mag, bevoegdheid of funksie mag deleger, alle magte, bevoegdhede en funksies wat nie in die stelsel van delegasies aangespreek word nie, geag word gedelegeer te wees aan die Uitvoerende Burgemeester, in oorlegpleging met sy/haar burgemeesterskomitee.

7.11 INSTELLING VAN KOMITEES/STRUKTURERING VAN RAAD (3/1/1)

Die Speaker gee geleentheid aan die Uitvoerende Burgemeester, rdh J H Cleophas, om die voorstelle vir die instelling van artikel 80 of artikel 79 komitees en die aanwysing van lede op ander komitees, asook eksterne liggame aan die vergadering voor te hou.

Rdl B J Penxa versoek dat oorweging daaraan verleen word om die voorsitter van die MPAC uit opposisie-geledere aan te wys, waarop die Speaker versoek dat die voorstel as 'n mosie ingedien moet word.

BESLUIT

(op voorstel van rdl A K Warnick, gesekondeer deur rdl N Smit)

- (a) Dat die Raad die volgende artikel 79 komitees instel, met die bevoegdhede soos uiteengesit in Bylaes B tot E van die verslag:
 - (1) Munisipale Bestuurder, Administrasie en Finansies (Bylae B)
 - (2) Siviele en Elektriese Dienste (Bylae C)
 - (3) Ontwikkelingsdienste (volgens Bylae D)
 - (4) Beskermingsdienste (volgens Bylae E);
- (b) Dat raadslede kennis neem dat –
 - (1) die vergadering van bg. komitees waar moontlik elke tweede Woensdag van elke maand sal plaasvind, onderhewig aan die vergaderingdatums soos bepaal deur die Raad en die Speaker;
 - (2) die 1ste komitee (Munisipale Bestuurder, Administrasie en Finansies) se vergadering om 10:00 'n aanvang sal neem, en elke komitee daarna sal vergader vyf minute na afloop van die vergadering van die vorige komitee;

(c)/...

7.9/...

- (d) That it be noted that the section 53 document is incorporated into Council's System of Delegation (being dealt with under item 7.10).

7.10 ACCEPTANCE OF A SYSTEM OF DELEGATIONS (2/5/2)

Section 59 of the Municipal Systems Act (Act 32 of 2000) stipulates that a municipal council must develop a system of delegations which will optimise administrative and operational efficacy and provides for adequate checks and balances.

Such delegations and instructions must be revised in accordance with the abovementioned legislation when a new council is elected.

The matter was brought to the vote by the Speaker and determined by seventeen (17) votes in favour thereof, and six councillors who abstained from voting.

RESOLUTION

(proposed by cllr N Smit, seconded by cllr I S le Minnie)

- (a) That the 5th Council Of Swartland Municipality adopts and confirms the attached System of Delegations for purposes of ensuring administrative and operational efficiency, and takes cognizance of the delegations of the Municipal Manager and Chief Financial Officer, as contained in Parts 4 and 5 of the System of Delegations;
- (i) That Council takes cognizance that this System of Delegations is not a static document, and that amendments/additions to same will be made continuously in consultation with Council, who has the prerogative to withdraw, amend or determine additional conditions;
- (ii) That – unless legislation specifically prohibits the delegation of a power, function or duty by Council – all powers, functions and duties which are not addressed in the system of delegations, shall be regarded as if delegated to the Executive Mayor, in consultation with his/her mayoral committee.

7.11 ESTABLISHMENT OF COMMITTEES/STRUCTURING OF COUNCIL (3/1/1)

The Speaker gave the opportunity to the Executive Mayor, ald J H Cleophas, to present to the meeting the proposals for the establishment of section 80 of section 79 committees, and the appointment of members on other committees, as well as external bodies.

Cllr B J Penxa requested that consideration be given to appointing the chairman of the MPAC from the opposition members, to which the Speaker asked for the proposal to be submitted as a motion.

RESOLUTION

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

- (a) That the following section 79 committees be established by Council, with the powers as set out in Annexures B to E hereto:
 - (1) Municipal Manager, Administration and Finance (**Annexure B**)
 - (2) Civil and Electrical Services (**Annexure C**)
 - (3) Development Services (**Annexure D**)
 - (4) Protection Services (**Annexure E**)
- (b) That councillors take cognisance that –
 - (1) meetings of the above committees shall take place, where possible, on the second Wednesday of each month, subject to the meeting schedule to be determined by Council and the Speaker;
 - (2) the 1st committee meeting (Municipal Manager, Administration and Finance) will commence at 10:00, and the other committees will start five minutes after the meeting of the previous committee is concluded;

7.11/...

- (c) Dat die volgende raadslede tot die onderskeie komitees aangewys word, beperk tot 'n maksimum van elf (11) lede per komitee, in die hoedanighede en vanuit die partye soos aangetoon:

(1) Munisipale Bestuur, Administrasie en Finansies:

Voorsitter (DA): rdl I S le Minnie

Ondervoorsitter (DA): rdl N Smit

Uitvoerende Burgemeester, ex officio

Lede:

DA-raadslede: A K Warnick, rdh T van Essen, rdh M A Rangasamy, E C O'Kennedy, D C Pypers, rdd M van Zyl

ANC-raadslede: (x2)

VF⁺-raadslid: (x1)

(2) Siviele en Elektriese Dienste:

Voorsitter (DA): rdl R J Jooste

Ondervoorsitter (DA): rdh T van Essen

Uitvoerende Burgemeester, ex officio

Lede:

DA-raadslede: D G Bess, A K Warnick, N Smit, rdh B J Stanley, rdl E C O'Kennedy, rdd M van Zyl

ANC-raadslede: (x2)

EFF-raadslid: (x1)

(3) Ontwikkelingsdienste:

Voorsitter (VF⁺): rdl G Vermeulen

Ondervoorsitter (DA): rdl D G Bess

Uitvoerende Burgemeester, ex officio

Lede:

DA-raadslede: N Smit, J M de Beer, rdh M A Rangasamy, C Daniels, D C Pypers, I S le Minnie, B J Stanley

ANC-raadslede: (x2)

(4) Beskermingsdienste:

Voorsitter (DA): rdd M van Zyl

Ondervoorsitter (DA): rdl A K Warnick

Uitvoerende Burgemeester, ex officio

Lede:

DA-raadslede: I S le Minnie, rdh B J Stanley, J M de Beer, R J Jooste, D G Bess, C Daniels

ANC-raadslede: (x2)

GOOD-raadslid: (x1)

- (d) (i) Dat die Munisipale Publieke Verantwoordbaarheidskomitee (MPAC) uit die volgende raadslede sal bestaan:

Voorsitter (DA): rdl E C O'Kennedy

Ondervoorsitter (DA): rdl M van Zyl

Lede: (DA): D C Pypers, I S le Minnie, R J Jooste, C Daniels

(ANC): (x1)

(VF⁺): (x1)

(EFF): (x1)

- (ii) Die funksies van 'n MPAC soos uiteengesit in artikel 79A(3)(a) – (e) geïnkorporeer word as funksies van die MPAC van Swartland Munisipaliteit en dat die gewysigde “*Terms of Reference*” mettertyd aan die Raad voorgelê word;

- (e) Dat die volgende verteenwoordigers uit die geledere van die Raad tot die onderskeie komitees en/of eksterne liggame aangewys word:

Arbeidsverhoudingeforum/...

7.11/...

- (c) That the following councillors be appointed to the various committees, limited to a maximum of eleven members per committee, in the capacities and to represent the parties as indicated:

(1) Municipal Manager, Administration and Finances

Chairperson: (DA): cllr I S le Minnie

Deputy Chairperson: (DA): cllr N Smit

Executive Mayor, ex officio

Members:

DA-Councillors: A K Warnick, ald T van Essen, ald M A Rangasamy,
E C O'Kennedy, D C Pypers, ald M van Zyl

ANC- Councillors: (x2)

VF+-Councillor: (x1)

(2) Civil and Electrical Services

Chairperson: (DA): cllr R J Jooste

Deputy Chairperson: (DA): ald T van Essen

Executive Mayor, ex officio

Members:

DA-Councillors: D G Bess, cllr A K Warnick, N Smit, ald B J Stanley
E C O'Kennedy, ald M van Zyl

ANC- Councillors: (x2)

EFF-Councillor: (x1)

(3) Development Services

Chairperson: (VF+): cllr G Vermeulen

Deputy Chairperson: (DA): cllr D G Bess

Executive Mayor, ex officio

Members:

DA-Councillors: N Smit, J M de Beer, ald M A Rangasamy, C Daniels
D C Pypers, I S le Minnie, ald B J Stanley

ANC- Councillors: (x2)

(4) Protection Services

Chairperson: (DA): ald M van Zyl

Deputy Chairperson: (DA): cllr A K Warnick

Executive Mayor, ex officio

Members:

DA-Councillors: I S le Minnie, ald B J Stanley, J M de Beer, R J Jooste
D G Bess, C Daniels

ANC- Councillors: (x2)

GOOD-Councillor: (x1)

- (d) (i) That the Municipal Public Accountability Committee (MPAC) will consist of the following councillors:

Chairperson: (DA): cllr E C O'Kennedy

Deputy Chairperson: (DA): ald M van Zyl

Members: (DA): cllr D C Pypers, I S le Minnie, R J Jooste,
C Daniels

(ANC): (x1)

(VF+): (x1)

(EFF): (x1)

- (ii) The functions of an MPAC as set out in section 79A (3) (a) - (e) are incorporated as functions of the MPAC of Swartland Municipality and that the amended "Terms of Reference" be submitted to the Council in due course;

- (e) That the following representatives from among the members of the Board be appointed to the various committees and / or external bodies:

Labour Relations Forum/...

7.11(e)/...

Arbeidsverhoudingeforum / Opleiding- en Gelyke Indiensnemingskomitee (*drie raadslede plus twee raadslede as sekunde vir enige lid*)

1. rdl N Smit (Chairperson)
2. Uitvoerende Burgemeester, rdh J H Cleophas
3. Uitvoerende Onderburgemeester, rdl J M de Beer
4. rdl A K Warnick (sekunde)
5. rdl D G Bess (sekunde)

Keuringspaneel t.o.v. die aanstelling van die Munisipale Bestuurder

Uitvoerende Burgemeester (voorsitter)
of Uitvoerende Onderburgemeester
Portefeulje voorsitter, rdl N Smit
Munisipale Bestuurder van Drakenstein Munisipaliteit

DDM/JDMA/"One-plan/GOP Koördineringskomitee

Uitvoerende Burgemeester
Uitvoerende Onderburgemeester (as sekunde)

Plaaslike/Streek Toerisme-Organisasie (LTO/RTO) (*twee raadslede plus een raadslid as sekunde vir enige lid*)

1. rdl N Smit (Voorsitter)
2. rdd M van Zyl
3. Speaker, rdh M A Rangasamy (sekunde)

Stortingsterrein Ouditkomitee (*twee raadslede*)

1. rdh T van Essen
2. rdl R J Jooste

Rekenaar (Tegnologie) Komitee (*een raadslid*)

1. Uitvoerende Onderburgemeester, rdl J M de Beer

Reëlskomitee (*hoogstens agt (8) lede*)

1. Speaker (ex officio en Voorsitter)
2. rdl N Smit
3. rdl I S le Minnie
4. rdl A K Warnick
5. Uitvoerende Onderburgemeester, rdl J M de Beer
6. rdl D G Bess
7. rdl B J Penxa
8. VF⁺-raadslid

Polisiëringsforums:

(*Nota: Geen raadslede word deur die Raad na 'n polisiëringsforum afgevaardig. Elke raadslid is egter vry om as gemeenskapspersoon die polisiëringsforum by te woon.*)

Swartland Verkeer- en Wetstoepassingsdiens: Toesighoudingskomitee (*hoogstens elf (11) raadslede / Voorsitter van UBK bemoeid met Beskermingsdienste*)

1. rdl A K Warnick (Voorsitter)
2. rdd M van Zyl
3. rdh B J Stanley
4. rdl R J Jooste
5. rdl D C Pypers
6. Uitvoerende Onderburgemeester, rdl J M de Beer
7. rdl I S le Minnie
8. rdl D G Bess
9. rdh M A Rangasamy
10. rdl C Pieters
11. VF⁺-raadslid

Beroepsgesondheid- en Veiligheidskomitee (*een raadslid plus een raadslid as sekunde*)

1. rdl N Smit
2. rdl I S le Minnie (sekunde)

Rampbestuurskomitee

(*Vaste komitee bestaande uit lede van die UBK aangevul met wyksraadslid waar ramp plaasgevind het*)

Uitvoerende Burgemeester, rdh J H Cleophas
Uitvoerende Onderburgemeester, rdl J M de Beer
rdl N Smit
rdh T van Essen
rdl A K Warnick
rdl D G Bess

SSDF (Swartland Social Development Forum) (Voorsitter en Ondervoorsitter van die betrokke Artikel 79-portefeuljekomitee) / (*Kinderontwikkelingsforum – waaronder dwelm- en alkohol misbruik – met dwelm-voorkoming as 'n fokusterrein*)

rdl D G Bess
rdl G Vermeulen

7.11(e)/...

Labour Relations Forum / Training and Employment Equity Committee (three councillors plus two councillors as secundi for any member)

1. cllr N Smit (Chairperson)
2. Executive Mayor, ald J H Cleophas
3. Executive Deputy Mayor, cllr J M de Beer
4. cllr A K Warnick (secundi)
5. cllr D G Bess (secundi)

Selection Panel w.r.t. Appointment of the Municipal Manager

The Executive Mayor (Chairperson)
or Executive Deputy Mayor
Portfolio Chairperson, cllr N Smit
Municipal Manager of Drakenstein Municipality

DDM/JDMA/"One-plan/IDP Coordinating Committee

Executive Mayor
Executive Deputy Mayor (as secundi)

Local/Regional Tourism Organisation (LTO/RTO) (two councillors plus one councillor as secundi for any member)

1. cllr N Smit (Chairperson)
2. ald M van Zyl
3. Speaker, ald M A Rangasamy (secundi)

Landfill Site Audit Committee (two councillors)

1. ald T van Essen
2. cllr R J Jooste

Computer (Technology) Committee (one councillor)

1. Executive Deputy Mayor, cllr J M de Beer

Rules Committee (*not exceeding eight Council Members*)

- | | |
|---|--------------------------------|
| 1. Speaker (ex officio & Chairperson) | |
| 2. cllr N Smit | 6. cllr D G Bess |
| 3. cllr I S le Minnie | 7. cllr B J Penxa |
| 4. Executive Deputy Mayor, cllr J M de Beer | 8. VF ⁺ -Councillor |
| 5. cllr A K Warnick | |

Community Police Forums

(Note: No councillors will be delegated to community policing forums. Each councillor is welcome to attend community policing forums as a community member.)

Swartland Traffic and Law Enforcement Services: Supervisory Committee (*not exceeding 11 Council Members*)

(Chairperson from MayCo burdened with Protection Services)

- | | |
|---|---------------------------------|
| 1. cllr A K Warnick (Chairperson) | 7. cllr I S le Minnie |
| 2. ald M van Zyl | 8. cllr D G Bess |
| 3. ald B J Stanley | 9. ald M A Rangasamy |
| 4. cllr R J Jooste | 10. cllr C Pieters |
| 5. cllr D C Pypers | 11. VF ⁺ -councillor |
| 6. Executive Deputy Mayor, cllr J M de Beer | |

Occupational Health and Safety Committee (one councillor plus one councillor is the secundi)

1. cllr N Smit
2. cllr I S le Minnie (secundi)

Disaster Management Committee

(Standing committee consisting of EMC-members supplemented with Ward Councillor where disaster occurred)

Executive Mayor, ald J H Cleophas
Executive Deputy Mayor, cllr J M de Beer
cllr N Smit
ald T van Essen
cllr A K Warnick
cllr D G Bess

SSDF (Swartland Social Development Forum) (Chairperson and Deputy Chairperson of section 79 committee) (*Child Development Forum – including drug- and alcohol abuse – with substance abuse prevention as a focus area*)

cllr D G Bess
cllr G Vermeulen

7.11(e)/...

ISOK (Internal Social Development Committee) (drie raadslede)

1. rdl D G Bess
2. Uitvoerende Onderburgemeester, rdl J M de Beer
3. rdh M A Rangasamy

CWP (Community Workers Programme) (twee raadslede)

1. rdl N Smit
2. rdl R J Jooste

Huurbehuiskomitee (vier raadslede)

1. rdl I S le Minnie
2. rdl C Daniels
3. rdd M van Zyl
4. Uitvoerende Onderburgemeester, rdl J M de Beer

DCF (District Co-ordinating Forum)

Uitvoerende Burgemeester

Uitvoerende Onderburgemeester (sekunde)

Watermoniteringskomitee

Uitvoerende Burgemeester

Uitvoerende Onderburgemeester (sekunde)

PCF (Provincial Co-ordinating Forum)

Uitvoerende Burgemeester

Uitvoerende Onderburgemeester (sekunde)

MinMay (Ministers, Mayors Forum)

Uitvoerende Burgemeester

Uitvoerende Onderburgemeester (sekunde)

Appèlkomitee (ingevolge artikel 62 van MSA): Speaker (Ex Officio & Voorsitter – vyf raadslede) / (Aanhoor van appèlle teen 'n besluit van 'n politieke struktuur, 'n politieke ampsbekleër of 'n raadslid, soos na verwys in die Raad se Reëls en Prosedures vir Artikel 62-appèlle)

1. Speaker, rdh M A Rangasamy
2. Uitvoerende Onderburgemeester, rdl J M de Beer
3. rdl I S le Minnie
4. rdl C Fortuin
5. VF+-raadslid

Appèlgesag (ingevolge artikel 68 van Swartland Munisipaliteit: Verordening insake Munisipale Grondgebruiksbeplanning)

Uitvoerende Burgemeester

Lede van die Uitvoerende Burgemeesterskomitee

Paneelevalueringskomitee

Uitvoerende Burgemeester

Voorsitter van die Eksterne Ouditkomitee

'n Lid van die Burgemeesterskomitee

Burgemeester of MB van 'n ander munisipaliteit

Lid van 'n wykskomitee soos deur die Uitvoerende Burgemeester genomineer

BEGROTINGSBEHEERKOMITEE:

RAADSLEDE	
Die Uitvoerende Burgemeester	rdh JH Cleophas
Die raadslid wat as voorsitter dien op die Munisipale Bestuurder, Administrasie en Finansies Portefeuljekomitee	rdl I S le Minnie
Lid van die Uitvoerende Burgemeesterskomitee verantwoordelik vir Administrasie en Finansies	rdl N Smit
Addisionele raadslid	rdh M A Rangasamy
AMPTENARE	
Die Munisipale Bestuurder	
Hoof Finansiële Beampte	
Senior bestuurders verantwoordelik vir ten minste die drie grootste begrotingsposte in die munisipaliteit	All direkteure
Bestuurder verantwoordelik vir begroting	
Bestuurder verantwoordelik vir beplanning (GOP)	
Tegniese kundiges op gebied van infrastruktuur	

7.11(e)/...

ISOK (Internal Social Development Committee) (three councillors)

1. cllr D G Bess
2. Executive Deputy Mayor, cllr J M de Beer
3. ald M A Rangasamy

CWP (Community Workers Programme) (two councillors)

1. cllr N Smit
2. cllr R J Jooste

Rental Housing Committee (four councillors)

1. cllr I S le Minnie
2. cllr C Daniels
3. ald M van Zyl
4. Executive Deputy Mayor, cllr J M de Beer

DCF (District Co-ordinating Forum)

Executive Mayor
Executive Deputy Mayor (secundi)

Water Monitoring Committee

Executive Mayor
Executive Deputy Mayor (secundi)

PCF (Provincial Co-ordinating Forum)

Executive Mayor
Executive Deputy Mayor (secundi)

MinMay (Ministers, Mayors Forum)

Executive Mayor
Executive Deputy Mayor (secundi)

Appeals Committee (according to Section 62 of the MSA): Speaker (Ex Officio & Chairperson) / (five councillors)

(Hearing of Appeals against a decision of a political structure, a political office bearer or Councillor, as referred to in the Council's Rules and Procedures for Section 62 appeals)

1. Speaker, ald M A Rangasamy
2. Executive Deputy Mayor, cllr J M de Beer
3. cllr I S le Minnie
4. cllr C Fortuin
5. cllr G Vermeulen

Appeal Authority (in accordance with Section 89 of the Swartland Municipality: Municipal Land Use Planning By-Law)

Executive Mayor
Members of the Executive Mayoral Committee

Panel Evaluation Committee

Executive Mayor
Chairperson of the External Audit Committee
A member of the Mayoral Committee
Mayor or Municipal Manager of another municipality
Member of a ward committee as nominated by the Executive Mayor

BUDGET STEERING COMMITTEE:

COUNCIL MEMBERS	
The Executive Mayor	ald JH Cleophas
The Councillor who act as Chairperson on the Municipal Manager, Administration and Finance Portfolio Committee	cllr I S le Minnie
Member of the Executive Mayoral Committee responsible for Administration and Finance	cllr N Smit
Additional Councillors	ald M A Rangasamy
OFFICIALS	
The Municipal Manager	
Chief Financial Officer	
Senior managers responsible for at least three of the biggest budget votes in the municipality	All directors
Manager responsible for the budget	
Manager responsible for planning (IDP)	
Technical experts in the field of infrastructure	

7.11(e)/...

SALGA:

(Die Uitvoerende Burgemeester mag op alle werkgroepe dien in ex officio hoedanigheid)

WERKGROEP	RAADSLEDE	AMPTENARE
<i>Capacity Building & Institutional Resillience</i>	rdl J M De Beer rdd M van Zyl (sekunde)	
<i>Community Development & Social Cohesion</i>	rdl D G Bess rdl G Vermeulen (sekunde)	
<i>Economic Empowerment & Employment Creation</i>	rdh M A Rangasamy rdl I S le Minnie (sekunde)	
<i>Environmental Planning & Climate Resillience</i>	rdl A K Warnick rdl R J Jooste (sekunde)	
<i>Human Settlements & Municipal Planning</i>	rdl D C Pypers rdl R J Jooste (sekunde)	
<i>Municipal Finance & Fiscal Policy</i>	rdl N Smit rdl I S le Minnie (sekunde)	
<i>Municipal Innovations & Information Technology</i>	rdl J M De Beer rdh T van Essen (sekunde)	
<i>Public Transport & Roads</i>	rdh B J Stanley rdl C Daniels (sekunde)	
<i>Water, Sanitation & Waste Management</i>	rdh T van Essen rdl R J Jooste (sekunde)	
<i>Governance & Intergovernmental Relations</i>	rdh J H Cleophas rdl J M de Beer (sekunde)	

ANDER EKSTERNE LIGGAME:

	KOMITEE/LIGGAAM	VERTEENWOORDIGERS	SEKUNDE
1	Taxi-/Informe Handelaarskomitee	rdl J M De Beer rdl C Daniels rdl D C Pypers rdl I S le Minnie rdl A K Warnick rdl N Smit rdl D G Bess rdl R J Jooste	n.v.t.
2	Sport Komitees	<u>SWARTLAND</u> rdl J M De Beer <u>Malmesbury</u> rdl D Daniels <u>Moorreesburg/Koringberg</u> rdl D C Pypers <u>Ilinge Lethu</u> rdl I S le Minnie <u>Darling/Yzerfontein</u> rdl A K Warnick <u>Riebeek-Wes</u> rdl N Smit <u>Riebeek Kasteel</u> rdl D G Bess <u>Abbotsdale/Kalbaskraal/</u> <u>Chatsworth/Riverlands</u> rdl R J Jooste	n.v.t.
3	Museum Komitees	<u>Malmesbury Museum</u> rdl J M de Beer rdl E C O'Kennedy <u>Wheat Industry Museum,</u> <u>Moorreesburg</u> rdd M van Zyl rdl D C Pypers <u>Darling Museum</u> rdh M A Rangasamy <u>Oude Kerk, Riebeek Kasteel</u> rdl D G Bess	n.v.t.

7.11(e)/...

SALGA:

(the Executive Mayor may serve on all working groups in an ex officio capacity)

WORKING GROUP	COUNCILLORS	OFFICIALS
Capacity Building & Institutional Resilience	cllr J M De Beer aldl M van Zyl (secundi)	Ms S de Jongh Ms M Terblanche (secundi)
Community Development & Social Cohesion	cllr D G Bess cllr G Vermeulen (secundi)	Ms H Balie Ms C du Plessis (secundi)
Economic Empowerment & Employment Creation	ald M A Rangasamy cllr I S le Minnie (secundi)	Ms O Fransman Mr L Fourie (secundi)
Environmental Planning & Climate Resilience	cllr A K Warnick cllr R J Jooste (secundi)	Mr A M Zaayman Mr A Burger (secundi)
Human Settlements & Municipal Planning	cllr D C Pypers cllr R J Jooste (secundi)	Mr S Arendse Ms J Krieger (secundi)
Municipal Finance & Fiscal Policy	cllr N Smit cllr I S le Minnie (secundi)	Mr M Bolton Ms H Papier (secundi)
Municipal Innovations & Information Technology	cllr J M De Beer ald T van Essen (secundi)	Mr R du Toit Mr J Pienaar (secundi)
Public Transport & Roads	ald B J Stanley cllr C Daniels (secundi)	Mr L Zikmann Mr J Spies (secundi)
Water, Sanitation & Waste Management	ald T van Essen cllr R J Jooste (secundi)	Mr L Zikmann Mr J Venter (secundi)
Governance & Intergovernmental Relations	ald J H Cleophas cllr J M de Beer (secundi)	Mr J Scholtz Ms M Terblanche (secundi)

OTHER EXTERNAL BODIES:

	COMMITTEE / BODY	REPRESENTATIVES	SECUNDI
1	Taxi-/Informal Trading Committee	cllr J M De Beer cllr C Daniels cllr D C Pypers cllr I S le Minnie cllr A K Warnick cllr N Smit cllr D G Bess cllr R J Jooste	n.v.t.
2	Sport Committees	<u>SWARTLAND</u> cllr J M De Beer <u>Malmesbury</u> cllr D Daniels <u>Moorreesburg/Koringberg</u> cllr D C Pypers <u>Ilinge Lethu</u> cllr I S le Minnie <u>Darling/Yzerfontein</u> cllr A K Warnick <u>Riebeek-Wes</u> cllr N Smit <u>Riebeek Kasteel</u> cllr D G Bess <u>Abbotsdale/Kalbaskraal/</u> <u>Chatsworth/Riverlands</u> cllr R J Jooste	n.v.t.
3	Museum Committees	<u>Malmesbury Museum</u> cllr J M de Beer cllr E C O'Kennedy <u>Wheat Industry Museum,</u> <u>Moorreesburg</u> aldl M van Zyl cllr D C Pypers <u>Darling Museum</u> ald M A Rangasamy <u>Oude Kerk, Riebeek Kasteel</u> cllr D G Bess	n.v.t.
4	Funeral Undertakers Forum	cllr J M De Beer cllr D Daniels cllr D C Pypers	n.v.t.

	KOMITEE/LIGGAAM	VERTEENWOORDIGERS	SEKUNDE
4	Begrafnisondernemingsforum	rdl J M De Beer rdl D Daniels rdl D C Pypers rdl I S le Minnie rdl A K Warnick rdl N Smit rdl D G Bess rdl R J Jooste	n.v.t.
5	EPWP	rdl R J Jooste	n.v.t.

- (f) Dat kennis geneem word dat, ingevolge artikel 166(1) van die Wet op Munisipale Finansiële Bestuur (Wet 56 van 2003) die voormalige Raad reeds die lede van sy prestasie- en risiko auditkomitee aangewys het, welke komitee reeds operasioneel is en die lede soos volg daaruit sien:

Mnr D B de Jager
Me R Gani
Mnr B J Gouws

- (g) Dat verder kennis geneem word dat, ingevolge artikel 35 van die *Spatial Planning and Land Use Management Act, Act 16 of 2013* (SPLUMA) die voormalige Raad reeds die lede van die Munisipale Beplanningstribunaal aangewys het, welke komitee reeds operasioneel is en die lede soos volg daaruit sien:

Mnr C Rabie
Me C Havenga
Die Munisipale Bestuurder
Die Direkteur: Korporatiewe Dienste
Die Direkteur: Beskermingsdienste

7.12 RAADSLIDVERGOEDING: 2021/2022 FINANSIËLE JAAR (5/10/1 MY)

Die salarisse, toelaes en voordele van raadslede ingevolge Goewermenskennisgewing No. 475 soos afgekondig in die Staatskoerant No. 43246 van 24 April 2020 (soos gesirkuleer met die sakelys) is steeds van krag as die raadslidvergoeding soos goedgekeur deur die LUR vir plaaslike regering vir die 2019/2020 finansiële jaar.

Die rede hiervoor is dat die Minister op 2 November 2021 (Goewermenskennisgewing No. 1465) 'n nul persent (0%) lewenskoste-aanpassing van salarisse vir die 2020/2021 finansiële jaar bepaal het.

BESLUIT

Dat kennis geneem word van die inhoud van die onderskeie dokumente aangeheg tot die verslag met betrekking tot die vergoeding van raadslede.

7.13 AANVAARDING VAN DIE GEÏNTEGREERDE ONTWIKKELINGSPLAN (GOP) VAN VOORGANGER, PAD NA NUWE GOP, EN GOP/BEGROTINGSKEDULE (2/1/4/4/1)

Artikel 25(1) van die Munisipale Stelselwet (Wet 32 van 2000) (MSA) bepaal dat elke munisipale raad moet binne 'n voorgeskrewe tydperk na die aanvang van sy verkose termyn 'n Geïntegreerde Ontwikkelingsplan (GOP) aanvaar.

Omrede die plaaslike verkiesings op 1 November 2021 plaasgevind het, is daar nie genoeg tyd vir die nuutverkose raad om die volledige GOP-proses soos beoog in artikels 25(1), 28 en 29 van die MSA te volg nie en word die opsies aan die Raad in die verslag tot die sakelys voorgehou.

Die Speaker/...

	COMMITTEE / BODY	REPRESENTATIVES	SECUNDI
		cllr I S le Minnie cllr A K Warnick cllr N Smit cllr D G Bess cllr R J Jooste	
5	EPWP	cllr R J Jooste	n.v.t.

- (f) That cognisance be taken that, in terms of section 166(1) of the Municipal Finance Management Act, 2003 the previous Council has already appointed the members of the combined financial-, risk and performance audit committee, which committee is already operational and are represented as follows:

Mr C B de Jager
 Ms R Gani
 Mr B J Gouws

- (g) That cognisance is further taken, that in terms of section 35 of the Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA) the former municipal council already appointed members to the Municipal Planning Tribunal, which committee is already operational and are represented as follows:

Mr C Rabie
 Ms C Havenga
 The Municipal Manager
 The Director: Corporate Services
 The Director: Protection Services

7.12 REMUNERATION FOR COUNCILLORS: 2021/2022 FINANCIAL YEAR (5/10/1 MY)

The salaries, allowances and benefits for councillors in accordance with Government Notice No. 475 as promulgated in Government Gazette No. 43246 of 24 April 2020 (circulated with the agenda), which were approved by the MEC for local government for the 2019/2020 financial year, remain in force as councillor remuneration.

The reason for this being that the Minister determined a nil percent (0%) cost of living increase in salaries for the 2020/2021 financial year on 2 November 2021 (Government Notice No. 1465).

RESOLUTION

That cognisance be taken of the content of the various documentation attached to the report with regard to the remuneration of councillors.

7.13 APPROVAL OF THE INTEGRATED DEVELOPMENT PLAN (IDP) OF THE PREDECESSOR, ROUTE TO NEW IDP, AND IDP/BUDGETING SCHEDULE (2/1/4/4/1)

Section 25(1) of the Municipal Systems Act (Act 32 of 2000) (MSA) stipulates that each municipal council must approve an Integrated Development Plan (IDP) within a prescribed time period after its elected term of office.

Because the local elections took place on 1 November 2021 there has not been enough time for the newly elected council to follow the complete IDP process as envisaged in sections 15(1), 28 and 29 of the MSA and the options for the council are presented in the report circulated with the agenda.

The Speaker/...

7.13/...

Die Speaker versoek dat daar tot stemming oorgegaan word en word die aangeleentheid beslis met sestien (16) stemme ten gunste van die aanvaarding van die GOP en verwante dokumente en sewe (7) raadslede wat buite stemming bly.

BESLUIT

(op voorstel van rdl I S le Minnie, gesekondeer deur rdh T van Essen)

- (a) Dat die GOP (2017-2022 GOP) van die voormalige Raad vir nog 'n jaar tot einde Junie 2023 aanvaar word ingevolge artikel 25(3)(a) van die Wet op Munisipale Stelsels (Wet 32 van 2000);
- (b) Dat die GOP/begroting tydskedule ingevolge artikel 21(1)(b) van die Wet op Munisipale Finansiële Bestuur (Wet 56 van 2003) (MFMA) soos goedgekeur deur die voormalige Raad in Augustus 2021 aanvaar word;
- (c) Dat 'n werkwinkel met die Uitvoerende Burgemeesterskomitee gehou word voor einde Januarie 2022 om moontlike wysigings (indien enige) aan die voorganger se GOP (2017-2022 GOP) te bespreek.

7.14 HAND-OVER-VERSLAG (2/1/4/4/1)

Die *Hand-over*-verslag is opgestel ingevolge riglyne voorsien deur die Nasionale Tesourie (MFMA Omsendbrief 108 gedateer 8 Maart 2021) en die Weskaapse Regering (DG Omsendbrief 62 gedateer September 2021).

Die verslag het ten doel om die nuwe raadslede van belangrike oriënteringsinligting insake die Munisipaliteit te voorsien wat van hulp kan wees gedurende hul ampstermyn.

KENNIS GENEEM van die inhoud van die *Hand-Over* verslag.

7.15 MEERJARIGE KAPITAAL- EN BEDRYFSBEGROTING VIR 2021/2022, 2022/2023 en 2023/2024 (5/1/1/1, 5/1/1/2, 5/1/4)

Die verslag tot die sakelys bevat die besluit wat deur die voormalige munisipale raad op 27 Mei 2021 geneem is ter goedkeuring van die meerjarige begroting. 'n Volledige stel begrotingsdokumente is aan nuwe raadslede gesirkuleer.

Die aangeleentheid word deur die Speaker tot stemming gebring en beslis met veertien (14) stemme ten gunste daarvan en nege (9) raadslede wat buite stemming bly.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdd M van Zyl)

Dat die besluit betreffende die goedkeuring van die meerjarige kapitaal- en bedryfsbegroting vir 2021/2022, 2022/2023 en 2023/2024, sowel as van die inhoud van die begrotingsdokumente, aanvaar word.

7.16 GEDRAGSKODE VIR RAADSLEDE: VERKLARING VAN BELANGE (3/1/1 MY)

Die Gedragskode vir Raadslede soos vervat in Bylae 7 (sien item 5.1) van die Munisipale Strukturewet het betrekking.

BESLUIT

- (a) Dat raadslede kennis neem van die bepalings ingevolge items 6 tot 8 van die Gedragskode vir Raadslede;
- (b) Dat raadslede kennis neem dat die aard of detail van die finansiële belange van 'n raadslid soos na verwys in Item 8 van die Gedragskode vir Raadslede, **jaarliks op skrif aan die Munisipale Bestuurder verklaar moet word**, ingesluit geskenke wat deur 'n raadslid ontvang word en wat in waarde R1 000,00 oorskry;
- (c)/...

7.13/...

The Speaker determined that the matter be brought to the vote and it was decided with sixteen (16) votes in favour of accepting the IDP and related documents, while seven (7) councillors abstained from voting.

RESOLUTION

(proposed by cllr I S le Minnie, seconded by ald T van Essen)

- (a) That the predecessor's IDP (2017-2022 IDP) be adopted by the new council for another year up the end of June 2023 in terms of Section 25(3)(a) of the Municipal Systems Act 32 of 2000;
- (b) That the IDP/budget time schedule in terms of Section 21(1)(b) of the Municipal Finance Management Act 56 of 2003 (MFMA) that was adopted by previous council in August 2020 be adopted by the new council;
- (c) That a workshop be held with the Mayoral Committee before the end of January 2022 to discuss possible amendments (if any) to the predecessor's IDP (2017-2022 IDP).

7.14 HAND-OVER-REPORT (2/1/4/4/1)

The Hand-over report was drawn up in accordance with the guidelines supplied by the National Treasurer (MFMA) Circular 108 dated 8 March 2021 and the Western Cape Government (DG Circular 62 dated September 2021).

The report aims to provide the new councillors with important orientation information in respect of the Municipality which may be of help during their term of office.

COGNISANCE BE TAKEN of the contents of the *Hand-Over* report.

7.15 MULTI YEAR CAPITAL AND OPERATING BUDGETS 2021/2022, 2022/2023 AND 2023/2024 (5/1/1/1, 5/1/1/2, 5/1/4)

The report circulated with the agenda contains the decisions made by the previous municipal council on 27 May 2021 in respect of approval of the multi year budget. A complete set of budget related documents was circulated to new councillors.

The matter was brought to the vote by the Speaker and decided with fourteen (14) votes in favour thereof, whilst nine (9) councillors abstained from voting.

RESOLUTION

(proposed by ald T van Essens, econded by aldd M van Zyl)

That the resolution regarding the approval of the multi-year capital and operating budget for 2021/2022, 2022/2023 and 2023/2024, as well as of the contents of the budget documents, be adopted.

7.16 CODE OF CONDUCT FOR COUNCILLORS: DECLARATION OF INTERESTS (3/1/1MY)

The Code of Conduct for Councillors referred to in Attachment 7 (see item 5.1) of the Municipal Structures Act is applicable.

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;

7.16/...

- (c) Dat kennis geneem word dat die verklaring soos na verwys in paragraaf (b), teen nie later nie as 9 Desember 2021 by die Direkteur: Korporatiewe Dienste ingedien moet word.

7.17 DATUMS/FREKWENSIE VAN TOEKOMSTIGE RAADSVERGADERINGS (3/4/2/1)

Die Speaker doen 'n beroep op raadslede om hulle te vergewis van die datums van raadsvergadering en komitees van die raad en dat raadslede 'n geldige verskoning moet hê wanneer verskoning aangeteken word.

Die Speaker versoek dat die administrasie op 'n kwartaallikse basis 'n verslag aan hom sal voorlê insake die rekord van bywoning deur raadslede van raads- en komiteevergaderings.

BESLUIT

- (a) Dat die voorgestelde vergaderingskedsule en aanvangstye van die onderskeie vergaderings vir 2022 aanvaar word;
- (b) Dat die datums vir publieke insae in die plaaslike media gepubliseer word, asook op die munisipale webtuiste;
- (c) Dat elke raadslid van die finale skedsule voorsien word, sowel as die Weskus Distriksmunisipaliteit vir beplanningsdoeleindes;
- (d) Dat die vergaderingskedsule ook aan SALGA en die Provinsiale Departement van Plaaslike Bestuur voorsien word.

7.18 UITNODIGING: 2021 GEÏNTEGREERDE INDUKSIEPROGRAM VIR RAADSLEDE (3/1/3)

'n Uitnodiging is ontvang vanaf SALGA, die werkgewersorganisasie, na die eerste van 'n reeks van drie induksieprogramme vir raadslede, wat vanaf 29 November tot 3 Desember 2021 sal plaasvind.

BESLUIT

Dat raadslede kennis neem van die Generiese Induksieprogram vir Raadslede wat vanaf 29 November tot 3 Desember 2021 aangebied sal word deur SALGA.

**GETEKEN:
SPEAKER**

7.16/...

- (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 9 December 2021.

7.17 DATES/FREQUENCY OF FUTURE COUNCIL MEETINGS (3/4/2/1)

The Speaker requested councillors to familiarise themselves with the dates of council meetings and council committees and that councillors must have a valid reason for offering an apology for not attending a meeting.

The Speaker asked the administration to give him a quarterly report in respect of the record of attendance by councillors at council and council committee meetings.

RESOLUTION

- (a) That the proposed meeting schedule and start times of the respective meetings for 2022 be accepted;
- (b) That the dates be published in the local media for public cognisance, as well as on the municipal website;
- (c) That each councillor be furnished with a copy of the final schedule, as well as the West Coast District Municipality to use for planning purposes;
- (d) That the meeting schedule also be forwarded to SALGA and the Provincial Department of Local Government.

7.18 INVITATION: 2021 INTEGRATED INDUCTION PROGRAMME FOR COUNCILLORS (3/1/3)

An invitation has been received from SALGA, the employer's organization, to the first of a series of three induction programmes for councillors, which will take place from 29 November to 3 December 2021.

RESOLUTION

That councillors take cognizance of the Generic Induction Programme for Councillors that will be presented by SALGA from 29 November until 3 December 2021.

**SIGNED
SPEAKER**



NOTULE VAN 'N SPESIALE VERGADERING VAN DIE SWARTLAND MUNISIPALE RAAD GEHOUD IN DIE STADSAAL, MALMESBURY OP DONDERDAG, 9 DESEMBER 2021 OM 10:00

TEENWOORDIG:

Speaker, rdh M A Rangasamy
Uitvoerende Burgemeester, rdh J H Cleophas
Uitvoerende Onderburgemeester, rdl J M de Beer

TEENWOORDIG:

RAADSLEDE:

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

BEAMPTES:

Munisipale Bestuurder, mnr J J Scholtz
Direkteur: Korporatiewe Dienste, me M S Terblanche
Direkteur: Ontwikkelingsdienste, me J S Krieger
Direkteur: Siviele Ingenieursdienste, mnr L D Zikmann
Direkteur: Elektriese Ingenieursdienste, mnr R du Toit
Bestuurder: Sekretariaat en Rekords, me N Brand

1. OPENING

Die Speaker verwelkom die Uitvoerende Burgemeester, raadsdames, raadshere, raadslede, amptenare en die tolk.

Die Direkteur: Ontwikkelingsdienste, me J S Krieger, open die vergadering met skriflesing en gebed op versoek van die Speaker.

2. VERLOF TOT AFWESIGHEID

Verlof tot afwesigheid word verleen aan rdd M van Zyl, rdh B J Stanley en rdl J R Papier.

3. AFVAARDIGINGS/VERKLARINGS EN MEDEDELINGS/VOORLEGGINGS

3.1 BEDANKING: EFF VERTEENWOORDIGER, ME M F GAIKA

Die Munisipale Bestuurder bevestig dat, me M F Gaika, haar bedanking as raadslid op 5 November 2021 – ontvang op 6 November 2021 – ingedien het. Die provinsiale sekretaris is van die bedanking in kennis gestel ter bevestiging.

Die Onafhanklike Verkiesingskommissie (OVK) is ingevolge die toepaslike wetgewing in kennis gestel van die bedanking ten einde met die proses 'n aanvang te neem om die vakature te vul.



MINUTES OF A SPECIAL MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE TOWN HALL, MALMESBURY ON THURSDAY, 9 DECEMBER 2021 AT 10:00

PRESENT:

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

PRESENT :

COUNCILLORS:

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

OFFICIALS

Municipal Manager, mr J J Scholtz
Director: Corporate Services, ms M S Terblanche
Director: Development Services ms J S Krieger
Director: Civil Engineering Services, mr L D Zikmann
Director: Electrical Engineering Services, mr R du Toit
Manager: Secretarial and Records, ms N Brand

1. OPENING

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

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

2. APOLOGIES

Apologies received from aldd M van Zyl, ald B J Stanley and clr J R Papier.

3. DEPUTATIONS/DECLARATIONS AND COMMUNICATIONS/SUBMISSIONS

3.1 RESIGNATION: EFF REPRESENTATIVE, MS M F GAIKA

The Municipal Manager confirmed that, ms M F Gaika, submitted her resignation as a councillor on 5 November 2021 – received on 6 November 2021. The provincial secretary was notified of the resignation for confirmation.

The Independent Electoral Commission (IEC) was notified of the resignation in accordance with the relevant legislation in order to begin the process of filling the post.

3.1/...

Die Munisipale Bestuurder meld dat 'n skrywe gedateer 8 Desember 2021 ontvang is waarin die bedanking deur, me M F Gaika, teruggetrek word – bevestig deur die provinsiale sekretaris.

Die OVK is in kennis gestel van die terugtrekking, maar aangesien die terugtrekking van die bedanking 'n eensydige aksie is, is die terugtrekking nie deur die OVK aanvaar nie.

VIR KENNISNAME

4. SAKE VIR BESPREKING

4.1 (1) GOEDKEURING VAN DIE REËLS EN PROSEDURES VIR WYKSKOMITEES; (2) VOORLOPIGE PROSESPLAN T.O.V. VERKIESING VAN NUWE WYKSKOMITEES; (3) GOEDKEURING VAN SITTINGSFOOI (3/4/4/B)

Die hersiening van die Reëls en Prosedures vir Wykskomitees is in oorleg met die Speaker gedoen ten einde die leemtes in die funksionering van wykskomitees aan te spreek.

Die belangrikste wysigings word deur die Direkteur: Korporatiewe Dienste aan die Raad voorgehou. Die Reëls en Prosedures vir Wykskomitees, met gepaardgaande aanhangsels, is apart tot die sakelys gesirkuleer.

Rdl B J Penxa versoek dat die vergoeding aan wykskomitees heroorweeg moet word weens die swak ekonomiese omstandighede en verhoogde uitgawes wat wykskomiteelede moet aangaan in die uitvoering van hulle pligte.

EENPARIG BESLUIT

(op voorstel van rdl A K Warnick, gesekondeer deur rdh T van Essen)

A: **Ten opsigte van die goedkeuring van die hersiende Reëls en Prosedures vir Wykskomitees:**

- (a) Dat die Reëls en Prosedures vir Wykskomitees aanvaar word;
- (b) Dat, indien daar 'n behoefte is, die Reëls en Prosedures met alle raadslede behandel sal word na afloop van die induksieprogram op Dinsdag, 14 Desember 2021, waartydens die betrokke dokumente ten opsigte van die nominasieproses aan raadslede gesirkuleer sal word;

B: **Ten opsigte van die voorlopige prosesplan vir die verkiesing van nuwe wykskomiteelede:**

- (a) Dat kennis geneem word dat ingevolge artikel 72(1) van die Strukturewet die verkiesing van wykskomitees moet geskied binne 120 dae na die verkiesing van die munisipale raad (9 Maart 2022);
- (b) Dat volmag ingevolge die reëls en prosedures aan die Munisipale Bestuurder verleen word om 'n buitengewone openbare vergadering te belê vir die uitsluitlike doel om wykskomiteelede te verkies;
- (c) Dat kennis geneem word van die periode vir die aanvra van nominasies wat begin op 14 Desember 2021 en eindig op 21 Januarie 2022 en dat raadslede aangemoedig word om belangstellende lede van die gemeenskap hieromtrent in te lig;
- (d) Dat kennis geneem word van die voorlopige tydsraamwerk vir die verkiesing van nuwe wykskomiteelede en dat dit aangepas en uitgevoer sal word soos wat betrokke datums gefinaliseer word;

3.1/...

The Municipal Manager stated that a letter dated 8 December 2021 was received in which the resignation of ms M F Gaika was withdrawn – confirmed by the provincial secretary.

The IEC was notified of the withdrawal, but because the withdrawal of the resignation was unilateral, it was not approved by the IEC.

FOR INFORMATION

4. MATTERS FOR DISCUSSION

4.1 (1) APPROVAL OF THE RULES AND PROCEDURES FOR WARD COMMITTEES; (2) PROVISIONAL PROCESS PLAN IN RESPECT OF ELECTION OF NEW WARD COMMITTEES; (3) APPROVAL OF SESSION FEES (3/4/4/B)

The revision of the Rules and Procedures for Ward Committees was carried out in conjunction with the Speaker in order to address the deficiencies in the functioning of ward committees.

The most important amendments were presented to the Council by the Director: Corporate Services. The Rules and Procedures for Ward Committees, with associated attachments, were circulated separately from the agenda.

Clr B J Penxa requested that the remuneration to ward committees must be reconsidered due to the weak economic circumstances and increased expenditure which ward committee members must bear in carrying out their duties.

UNANIMOUS RESOLUTION

(proposed by clr A K Warnick, seconded by ald T van Essen)

A: With respect to the approval of the revised Rules and Procedures for Ward Committees:

- (a) That the Rules and Procedures for Ward Committees be approved by Council;
- (b) That, if needed, the Rules and Procedures will be discussed with all councillors directly after the induction programme on Tuesday, 14 December 2021, during which the relevant documents regarding the nomination process will be circulated to councillors;

B: With respect to the preliminary process plan for electing new ward committee members:

- (a) That cognisance be taken of the determination in terms of section 72(1) of the Structures Act that the election of new ward committees must take place within 120 days after the election of the municipal council (9 March 2022);
- (b) That the Municipal Manager be authorised in terms of the rules and procedures to convene an extraordinary public meeting for the sole purpose of electing ward committee members;
- (c) That cognisance be taken of the period for the asking of nominations commencing on 14 December 2021 and ending on 21 January 2022 and that councillors are encouraged to inform interested community members thereof;
- (d) That cognisance be taken of the preliminary timeframe for the election of new ward committee members and that it will be adapted and implemented when the relevant dates are finalised;

4.1/B...

- (e) Dat die 2022 vergaderingskedule, met die toevoeging van wykskomiteevergaderings, goedgekeur word (apart gesirkuleer);

C: Ten opsigte van die vergoeding van wykskomiteeledede:

- (a) Dat, soos voorgestel deur rdl B J Penxa, die betaling van 'n sittingsfooi van R500,00/vergadering en R3,50/km indien daar verder as 10 km na vergadering gereis word goedgekeur word, onderhewig daaraan dat 'n ondersoek gedoen word na die bekostigbaarheid om die sittingsfooi te verhoog na R1000,00/vergadering en die reiskoste na R4,50/km indien daar verder as 10 km na die vergadering gereis word;
- (b) Dat daar verder volstaan word met die betaling van 'n addisionele sittingsfooi van R250,00/vergadering en R3,50/km indien daar verder as 10 km na 'n vergadering gereis word vir die bywoning van blokvergaderings of waar die betrokke wykskomiteelid 'n verteenwoordiger van die Raad is, onderhewig aan die voorlegging van die nodige bewyse.

4.2 AANWYS VAN RAADSLEDE AS KOMMISSARISSE VAN EDE (3/B)

Die Beleid insake die Optrede van Munisipale Raadslede in hul hoedanigheid as Kommissarisse van Ede is deur die voormalige raad opgestel.

Die Beleid is gebaseer en onderhewig aan bevoegdhede wat deur die Minister van Justisie en Staatkundige Ontwikkeling aan kommissarisse van ede verleen word, ingevolge die toepaslike wetgewing.

BESLUIT

- (a) Dat kennis geneem word van die inhoud van die Beleid insake die Optrede van Munisipale Raadslede in hul hoedanigheid as Kommissarisse van Ede;
- (b) Dat elke raadslid 'n ooreenkoms sal onderteken wat bevestig dat daar onderneem word om -

t.o.v. alle raadslede:

- (i) die verantwoordelikhede ingevolge die Beleid na te kom;

t.o.v. wyksraadslede:

- (ii) die stempel op eie koste te vervang indien dit sou gebeur dat die stempel verlore is;
- (iii) ingevolge paragraaf 12 van die Beleid die stempel terug te besorg.

**GETEKEN:
SPEAKER**

4.1/B...

- (e) That the 2022 meeting schedule with the additions of ward committee meetings be approved (circulated separately).

C: With respect to remuneration of ward committee members:

- (a) That, as proposed by cllr BJ Penxa, the payment of a sitting fee of R500,00/meeting and R3,50/km if traveling more than 10 km to the meeting is approved, subject to an investigation being conducted becomes after the affordability to increase the sitting fee to R1000,00 / meeting and the travel costs to R4,50/km if traveling more than 10 km to the meeting;
- (b) That an additional attendance fee of R250,00/meeting and R3,50/km if traveling further than 10km to the venue is paid to ward committee members for the attendance of block meetings and where the ward committee member is a representative of council, subject to the submission of the necessary evidence.

4.2 APPOINTMENT OF COUNCILLORS AS COMMISSIONERS OF OATH (3/B)

The Policy in respect of the Conduct of Municipal Councillors in their capacity as Commissioners of Oath was drawn up by the previous council.

The Policy is based on and subject to the competencies given by the Minister of Justice and Constitutional Development to commissioners of oath in accordance with relevant legislation.

RESOLUTION

- (a) That cognisance be taken of the content of the Policy for Municipal Councillors acting in their capacity as Commissioners of Oaths;
- (b) That each councillor signs an agreement confirming that the councillor undertakes to -

i.r.o. all councillors

- (i) fulfill the responsibilities in accordance with the Policy;

i.r.o. ward councillors

- (ii) replace the stamp at own costs if the stamp is lost;
- (iii) return the stamp in accordance with paragraph 12 of the Policy.

**SIGNED
SPEAKER**



NOTULE VAN 'N VERGADERING VAN DIE UITVOERENDE BURGEMEESTERSKOMITEE GEHOUD IN DIE BANKETSAAL, MALMESBURY OP DINSDAG, 23 NOVEMBER 2021 OM 15:00

TEENWOORDIG:

Uitvoerende Burgemeester, rdh J H Cleophas (voorsitter)
Uitvoerende Onderburgemeester, rdh J M de Beer

Lede van die Burgemeesterskomitee:

Rdl D G Bess
Rdl N Smit
Rdh T van Essen

Beamptes:

Munisipale Bestuurder, mnr J J Scholtz
Direkteur: Finansiële Dienste, mnr M Bolton
Direkteur: Elektriese Ingenieursdienste, mnr R du Toit
Direkteur: Siviele Ingenieursdienste, mnr L D Zikmann
Direkteur: Korporatiewe Dienste, me M S Terblanche
Bestuurder: Sekretariaat en Rekords, me N Brand

1. OPENING

Die Uitvoerende Burgemeester rig 'n spesiale woord van verwelkoming aan lede op die eerste vergadering van die Uitvoerende Burgemeesterskomitee vir die termyn.

Die Uitvoerende Burgemeester versoek rdh N Smit om die vergadering met gebed te open.

2. VERLOF TOT AFWESIGHEID

Dat **KENNIS GENEEM** word van die verskonings ontvang vanaf rdh A K Warnick en die Direkteur: Ontwikkelingsdienste, me J S Krieger.

3. VOORLEGGINGS/AFVAARDIGINGS/SPREEKBEURTE

3.1 SALGA: 2021 GEÏNTEGREERDE INDUKSIEPROGRAM VIR RAADSLEDE

Die Munisipale Bestuurder meld dat mnr J van der Westhuizen van SALGA bevestig het dat die induksieprogram wat vanaf 29 November tot 3 Desember sou plaasvind, uitgestel moet word.

Die rede vir die uitstel is dat die Weskus Distriksmunisipaliteit nog in afwagting is op die afkondiging deur die Onafhanklike Verkiesingskommissie van die raadslede wat na eersgenoemde benoem is.

Mnr van der Westhuizen het aangedui dat raadslede vanaf Swartland Munisipaliteit kan inskakel by die induksieprogram van –

- (1) Drakenstein Munisipaliteit op die datums soos hierbo vermeld, of
- (2) Weskus Distriksmunisipaliteit wat gedurende Februarie 2022 sal plaasvind.

BESLUIT dat daar van die tweede geleentheid gebruik gemaak sal word om die induksieprogram saam met die Weskus Distriksmunisipaliteit by te woon.

4./...



MINUTES OF A MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD IN THE BANQUETING HALL, MALMESBURY ON TUESDAY, 23 NOVEMBER 2021 AT 15:00

PRESENT:

Executive Mayor, ald J H Cleophas (chairman)
Deputy Executive Mayor, clr J M de Beer

Members of the Mayor's Committee:

Clr D G Bess
Clr N Smit
Ald T van Essen

Officials:

Municipal Manager, mr J J Scholtz
Director: Financial Services, mr M Bolton
Director: Electrical Engineering Services, mr R du Toit
Director: Civil Engineering Services, mr L D Zikmann
Director: Corporate Services, ms M S Terblanche
Manager: Secretarial and Records, ms N Brand

1. OPENING

The Executive Mayor expressed a special word of welcome to members on the first meeting of the Executive Mayor's Committee for the term.

The Executive Mayor asked clr N Smit to open the meeting with a prayer.

2. APOLOGIES

NOTED that apologies were received from clr A K Warnick and the Director: Development Services, ms J S Krieger.

3. SUBMISSIONS/DEPUTATIONS/COMMUNICATIONS

3.1 SALGA: 2021 INTEGRATED INDUCTION PROGRAMME FOR COUNCILLORS

The Municipal Manager stated that mr J van der Westhuizen from SALGA had confirmed that the induction programme which was to take place from 29 November to 3 December 2021 had to be postponed.

The reason for the postponement is that the West Coast District Municipality is still waiting for promulgation by the Independent Election Commission of councillors nominated to the aforementioned.

Mr van der Westhuizen indicated that councillors from the Swartland Municipality can join the induction programme of –

- (1) Drakenstein Municipality on the dates explained above, or
- (2) West Coast District Municipality which will take place in February 2022.

RESOLUTION that the second opportunity will be made use of in order to attend the induction programme together with the West Coast District Municipality.

4./...

4. NOTULES

4.1 NOTULE VAN 'N GEWONE UITVOERENDE BURGEMEESTERSKOMITEE-VERGADERING GEHOU OP 18 OKTOBER 2021

Dat **KENNIS GENEEM** word van die notule van 'n Gewone Uitvoerende Burgemeesterskomitee vergadering gehou op 18 Oktober 2021.

5. SAKE VOORTSPRUITEND UIT DIE NOTULES

Geen

6. NUWE SAKE

6.1 VERSLAGDOENING IN TERME VAN ARTIKEL 15(3) VAN DIE MUNISIPALE EIENDOMSBELASTINGSWETGEWING INSAKE EIENDOMSBELASTING-VRYSTELLINGS, -VERMINDERING, -KORTINGS EN "REVENUE FORGONE" VIR DIE 2020/2021 FINANSIËLE JAAR (5/3/1/3)

Artikel 15(3) van die Wet op Plaaslike Regering: Munisipale Eiendomsbelasting, (Wet 6 van 2004) bepaal dat die munisipale bestuurder jaarliks verslag moet doen insake eiendomsbelastingvrystellings, -vermindering, -kortings en inkomste afgestaan (*revenue forgone*) vir die voorafgaande finansiële jaar.

Die Direkteur: Finansiële Dienste, mnr M Bolton, bevestig dat voormelde eiendomsbelastingtoegewings gereël word deur die Eiendomsbelastingbeleid soos goedgekeur deur die Raad op 28 Mei 2020 vir die 2020/2021 finansiële jaar.

Die verslag tot die sakelys bevat 'n volledige uiteensetting van die belastingtoegewings vir die onderskeie kategorieë van eiendomme soos vervat in die Eiendomsbelastingbeleid.

Die Munisipale Bestuurder, mnr J J Scholtz, bevestig dat die addisionele korting op eiendomsbelasting van R35 000 aan eienaars van residensiële eiendomme (totaal van R3 506 292.24), gesien moet word as 'n poging om inwoners by te staan het gedurende die Covid 19-pandemie, soortgelyk met die 2 kl gratis water aan alle huishoudings voorsien was.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl N Smit)

Dat kennis geneem word van die vrystellings van munisipale eiendomsbelasting aan openbare weldaatsorganisasies/nie-regeringsorganisasies, afslag, kortings toegestaan en inkomste afgestaan (*revenue forgone*) soos gestaaf in die verslag tot die sakelys en in Aanhangsels A tot D vir die finansiële jaar geëindig 30 Junie 2021.

6.2 VERKOOP VAN UITGEDIENDE BATES PER OPENBARE VEILING (5/14/3/5)

Die Batebestuursbeleid reguleer die beskikking van bates deur te verseker dat dit regverdig, billik, deursigtig, mededingend en koste-effektief geskied en dat daar voldoen word aan die Voorsieningskanaalbestuursbeleid van die Munisipaliteit.

Die kriteria vir wegdoening van bates behels die volgende:

- Die bruikbare leeftyd van die bate het verstryk;
- Die bate is verouderd;
- Dit is onekonomies om die bate te herstel of dit is onherstelbaar.

Die lyste van uitgediende bates van die onderskeie direktorate is met die sakelys gesirkuleer.

BESLUIT

(op voorstel van rdl N Smit, gesekondeer deur rdl D G Bess)

(a)/...

4. MINUTES

4.1 MINUTES OF AN ORDINARY EXECUTIVE MAYOR'S COMMITTEE MEETING HELD ON 18 OCTOBER 2021

That **NOTE** is taken of the minutes of an Ordinary Meeting of the Executive Mayor's Committee held on 18 October 2021.

5. MATTERS ARISING FROM THE MINUTES

None

6. NEW MATTERS

6.1 REPORTING IN TERMS OF SECTION 15(3) OF THE MUNICIPAL PROPERTY RATES AND TAXES LEGISLATION IN RESPECT OF PROPERTY TAX EXEMPTIONS, REDUCTION, DISCOUNT AND "REVENUE FORGONE" FOR THE 2020/2021 FINANCIAL YEAR (5/3/1/3)

Section 15(3) of the Local Government Act: Municipal Property Rates and Taxes, (Act 6 of 2004) stipulates that the municipal manager must report annually in respect of property rates and taxes exemptions, reductions, discounts and *revenue forgone* for the previous financial year.

The Director: Financial Services, mr M Bolton, confirmed that the above mentioned property rates and taxes concessions were managed by the Property Rates and Taxes Policy approved by the Council on 28 May 2020 for the 2020/2021 financial year.

The report attached to the agenda contains a complete explanation in respect of the tax concessions for the various categories of property as referred to in the Property Rates and Taxes Policy.

The Municipal Manager, mr J J Scholtz, confirmed that the additional discount on property rates and taxes of R35 000 to owners of residential property (total of R3 506 292.24) must be seen as an attempt to support residents during the Covid-19 pandemic, just as with the 2kl free water provided to all households.

RESOLUTION

(proposed by ald T van Essen, seconded by clr N Smit)

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 and in Attachments A – D for the financial year ended 30 June 2021.

6.2 SALE OF OBSOLETE ASSETS PER PUBLIC AUCTION (5/14/3/5)

The Asset Management Policy regulates the disposal of assets in order to ensure that it is carried out fairly, equitably, transparently, competitively and cost effectively and that it complies with the Municipality's Supply Chain Management Policy.

The criteria for the disposal of assets consists of the following:

- The usable lifespan of the asset has expired;
- The asset is old;
- It is uneconomic to repair the asset or it is irreparable.

The list of obsolete assets from the various directorates was circulated with the agenda.

RESOLUTION

(proposed by clr N Smit, seconded by clr D G Bess)

(a)/...

6.2/...

- (a) Dat goedkeuring verleen word dat die uitgediende bates, soos gelys, tydens die openbare veiling verkoop word en dienoreenkomstig vanaf die bateregister verwyder word, onderhewig daaraan dat -
- (i) Die Kawasaki KL650-motorfiets, CK 38072 (batekode: 23218) moontlik van die veiling onttrek of andersins voetstoots verkoop mag word, weens die skade aangerig deur die diensverskaffer wat die motorfiets nagegaan het vir aanbieding op die veiling.

6.3 UITSTAANDE DEBITEURE: OKTOBER 2021 (5/7/1/1)

'n Volledige verslag van die stand van uitstaande debiteure is met die sakelys gesirkuleer en word sekere aspekte daarin deur die Direkteur: Finansiële Dienste, mnr M Bolton, uitgelig.

Die Direkteur: Finansiële Dienste bevestig dat die vermeerdering (totaal van R4 854 380,18) in uitstaande debiteure vanaf September 2021 tot Oktober 2021 grotendeels toegeskryf kan word aan die uitstaande rekening van 'n grootmaat verbruiker wat intussen opgelos is.

BESLUIT

(op voorstel van rdl J M de Beer, gesekondeer deur rdh T van Essen)

Dat kennis geneem word van die verslag aangaande die stand van Swartland Munisipaliteit se uitstaande debiteure vir Oktober 2021.

6.4 VORDERING MET UITSTAANDE VERSEKERINGSEISE (5/14/3/5)

Ingevolge die Batebestuursbeleid moet maandeliks verslag gedoen word insake die uitstaande versekeringseise.

Die Direkteur: Finansiële Dienste, mnr M Bolton, bevestig dat 'n strategie ontwikkel sal word vir die bekamping van diefstel en vandalisme, aangesien laasgenoemde 'n negatiewe effek op die versekeringspremie van die Raad het.

BESLUIT dat kennis geneem word van die stand van uitstaande versekeringseise tot en met 31 Oktober 2021 soos met die sakelys gesirkuleer.

6.5 BEGROTING VIR ONDERHOUDING AAN PROVINSIALE HOOFPAALIE: 2022/2023 FINANSIËLE JAAR (5/6/1/1/2)

Die onderstaande tabel toon die beraamde uitgawes ten opsigte van die onderhoud aan provinsiale hoofpaaie in die Swartland munisipale gebied.

RAAD	PAD NO.	BESKRYWING	AKTIWITEIT	VERSOEKE 2022/2023
Swartland	MR 230	Moorreesburg (Lang St)	Onderhoud	Geen
Swartland	MR 230	Moorreesburg (Piketberg Rd)	Onderhoud	Geen
Swartland	MR 231	Moorreesburg (Lang St)	Onderhoud	Geen
Swartland	MR 226	Riebeeck Kasteel (Hermon Rd)	Rehabilitasie	R 510 000.00
Swartland	MR 25	Malmesbury (Piet Retief St)	Onderhoud	Geen
Swartland	MR 224	Malmesbury (Bokomo Rd)	Onderhoud	Geen
Swartland	MR 224	Malmesbury (Darling Rd)	Onderhoud	R 140 000.00
Swartland	MR 174	Malmesbury (Voortrekker St)	Onderhoud	R 3 199 848.02
Swartland	MR 215	Darling (Hoof St)	Onderhoud	R 77 000.00
Swartland	MR 228	Darling (Evita Bezuidenhout Blvd)	Rehabilitasie	R 1 455 600.00
Swartland	MR 215	Yzerfontein (Hawe Rd)	Onderhoud	Geen
				R 5 382 448.02

6.2/...

- (a) That approval be granted that the obsolete assets, as listed, be sold during the public auction and removed accordingly from the asset register, subject to –
- (i) The Kawasaki KL650 motorcycle, CK 38072 (asset code: 23218) may be withdrawn from the auction or otherwise sold outright, due to the damage caused by the service provider who inspected the motorcycle for presentation at the auction.

6.3 OUTSTANDING DEBTORS: OCTOBER 2021 (5/7/1/1)

A complete list of outstanding debtors was circulated with the agenda and certain aspects thereof were highlighted by the Director: Financial Services, mr M Bolton.

The Director: Financial Services confirmed that the increase (total of R4 854 380,18) in outstanding debtors from September 2021 to October 2021 can mainly be attributed to the outstanding account of a bulk user, which has been solved in the interim.

RESOLUTION

(proposed by clr J M de Beer, seconded by ald T van Essen)

That cognizance be taken of the report with reference to the state of the outstanding debtors of Swartland Municipality for October 2021.

6.4 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.

The Director: Financial Services, mr M Bolton, confirmed that a strategy will be developed for the combating of theft and vandalism, because the latter has a negative effect on the Council's insurance premium.

RESOLUTION that cognizance be taken of the progress with outstanding insurance claims for the period ending 31 October 2021.

6.5 BUDGET FOR MAINTENANCE TO PROVINCIAL MAIN ROADS: 2022/2023 FINANCIAL YEAR (5/6/1/1/2)

The following table indicates the estimated costs in respect of maintenance of provincial main roads in the Swartland municipal area:

COUNCIL	ROAD NO.	DESCRIPTION	ACTIVITY	REQUESTS 2022/2023
Swartland	MR 230	Moorreesburg (Lang St)	Maintenance	None
Swartland	MR 230	Moorreesburg (Piketberg Rd)	Maintenance	None
Swartland	MR 231	Moorreesburg (Lang St)	Maintenance	None
Swartland	MR 226	Riebeeck Kasteel (Hermon Rd)	Rehabilitation	R 510 000.00
Swartland	MR 25	Malmesbury (Piet Retief St)	Maintenance	None
Swartland	MR 224	Malmesbury (Bokomo Rd)	Maintenance	None
Swartland	MR 224	Malmesbury (Darling Rd)	Maintenance	R 140 000.00
Swartland	MR 174	Malmesbury (Voortrekker St)	Maintenance	R 3 199 848.02
Swartland	MR 215	Darling (Hoof St)	Maintenance	R 77 000.00
Swartland	MR 228	Darling (Evita Bezuidenhout Blvd)	Rehabilitation	R 1 455 600.00
Swartland	MR 215	Yzerfontein (Harbour Rd)	Maintenance	None
				R 5 382 448.02

6.5/...

Die behoeftes word op 'n jaarlikse basis aan die Provinsiale Distrikspadengeneur voorgelê vir oorweging tydens die begrotingsproses van die betrokke departement.

BESLUIT

(op voorstel van Rdh T van Essen, gesekondeer deur rdl D G Bess)

Dat die Uitvoerende Burgemeesterskomitee die Begroting van Uitgawes aan Provinsiale Hoofpaaie vir die 2022/2023 finansiële jaar soos hierbo uiteengesit, goedkeur.

6.6 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DRINGENDE HERSTELWERK AAN VULLISVERWYDERINGSVRAGMOTOR, CK 37359 (8/1/B/2)

Die vullisverwyderingsvragmotor, CK 37359, word in Malmesbury gebruik vir die verwydering van vaste afval. Die vragmotor het onklaar geraak en dringende herstelwerk is benodig.

BESLUIT

(op voorstel van rdl D G Bess, gesekondeer deur rdl N Smit)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuursbeleid;
- (b) Dat die aksie van die Munisipale Bestuurder gekondoneer word met betrekking tot goedkeuring vir die herstel van die vullisverwyderingsvragmotor, CK37359 deur HD Transmissions vir 'n bedrag van R48 415.21 BTW uitgesluit;
- (c) Dat die rede vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
 - (i) Die vragmotor sal vir 'n lang tydperk buite werking gelaat word;
 - (ii) Dit sal lei tot 'n mislukking in die kapasiteit van die vaste afval-verwyderingsdienste en risiko's vir openbare gesondheid;
 - (iii) Die herstelwerk aan die vragmotor word dus as 'n noodgeval hanteer;
- (d) Dat kennis geneem word dat die uitgawe teen posnommer: 9/241-1253-709 verreken word en dat daar voldoende fondse beskikbaar is vir die bestelling ter waarde van R48 415.21 BTW uigesluit;
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsieningkanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.7 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE OPLEIDING VAN WETSTOEPASSINGSBEAMPTES AS VREDESBEAMPTES (8/1/B/2)

Daar is 20 amptenare geïdentifiseer om as Vredesbeamptes opgelei te word. Nelson Mandela Universiteit is die alleen diensverskaffer van hierdie tipe opleiding.

Die Munisipale Bestuurder, mnr J J Scholtz, gee agtergrond tot die behoefte wat destyds geïdentifiseer was om amptenare wat op grondvlak werk op te lei as Vredesbeamptes om die afdwinging van die Raad se verordeninge effektief aan te spreek.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl J M De Beer)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuursbeleid;

(b)/...

6.5/...

The needs are submitted to the Provincial Districts Road Engineer on an annual basis for consideration during the budgeting processes of the relevant department.

RESOLUTION

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

That the Executive Mayoral Committee approves the budget of expenses for Provincial Main Roads for the 2022/2023 financial year.

6.6 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR URGENT REPAIRS TO THE REFUSE REMOVAL TRUCK, CK 37359 (8/1/B/2)

The refuse removal truck, CK 36359, is used in Malmesbury for the removal of solid waste. The truck broke down and needed urgent repairs.

RESOLUTION

(proposed by clr D G Bess, seconded by clr N Smit)

- (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 CK37359 for the amount of R 48 415.21 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 it be noted 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 48 415.21 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.

6.7 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE TRAINING OF LAW ENFORCEMENT OFFICERS AS SAFETY OFFICIALS (8/1/B/2)

20 officers have been identified to be trained as Safety Officers. Nelson Mandela University is the only provider of this type of training.

The Municipal Manager, mr J J Scholtz, provided the background to the need, which was previously identified, to train officers to work at ground level as Safety Officers, in order to address the effective enforcement of the Council's regulations.

RESOLUTION

(proposed by ald T van Essen, seconded by clr J M De Beer)

- (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 appointment of Nelson Mandela University for the provision of the Law Enforcement by Peace Officer training to the twenty (20) employees;
- (c) That the reasons for the deviation from the prescribed procurement processes be recorded as follows:
 - (c)(i)/...

6.7/...

- (b) Dat die aksie van die Munisipale Bestuurder gekondoneer word om Nelson Mandela Universiteit aan te stel vir die voorsiening van opleiding aan 20 amptenare as Vredesbeamptes;
- (c) Dat die rede vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
 - (i) Nelson Mandela Universiteit is die enigste diensverskaffer wat die vereiste geakkrediteerde opleiding kan voorsien vir Vredesbeamptes oor 'n tydperk van 5 dae;
- (d) Dat kennis geneem word dat die uitgawe 'n bedrag van R111 600,00 (BTW vrygestel) behoort en verreken sal word teen posnommer 9/213-1195-953 (Opleidingspos);
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.8 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE AANSTELLING VAN 'N SEKURITEITSMATSKAPPY (8/1/B/2)

Die bestaande ooreenkoms met die diensverskaffer vir die monitoring van alarms en voorsiening van gewapende reaksie by verskeie fasiliteite en infrastruktuur van die Raad het op 30 Junie 2021 verstryk. Die kontrak is met 'n verdere vier maande uitgebrei, aangesien daar nie 'n suksesvolle tenderaar aangestel kon word nadat daar by twee geleenthede op tender uitgegaan is nie.

Die Direkteur: Beskermingsdienste, mnr P A C Humphreys, bevestig dat die hoofrede is dat tenderaars nie voldoen het aan die vereiste om geldige vuurwapenlisensies te voorsien nie. Die uitreiking en hernuwing van vuurwapenlisensies deur die SAPD is 'n landwyse probleem wat nie spoedig opgelos gaan word nie.

BESLUIT

(op voorstel van rdl D G Bess, gesekondeer deur rdl N Smit)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuursbeleid;
- (b) Dat die aksie van die Munisipale Bestuurder gekondoneer word om nie tenders in te win nie en dat die aanstelling van Dogs & All ten bedrae van R14 087,50 (BTW ingesluit) per maand vir die periode 1 Desember 2021 tot 30 November 2023 bekragtig word;
- (c) Dat die rede vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
 - (i) Die risiko van inbrake en vandalisme by munisipale fasiliteite en infrastruktuur is uiters hoog en moet die bates van die Raad beskerm word;
 - (ii) Die aanstelling van Dogs & All word as 'n noodgeval hanteer ten einde munisipale bates teen diefstal en vandalisme te beskerm;
- (d) Dat kennis geneem word dat die uitgawe toegewys word na die sekuriteitsposte in die onderskeie departemente en dat daar voldoende fondse beskikbaar is;
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

(GET) J H CLEOPHAS
UITVOERENDE BURGEMEESTER

6.7/...

- (i) Nelson Mandela University is the only service provider in this instance who provides fully accredited training as required for Law Enforcement for Peace Officers training over a period of 5 days;
- (d) That the appointment be implemented to the amount of R111 600.00 (VAT exempt) and the expenditure be allocated to the Training: Efficiency Development vote number 9/213-1195-953 (Training: Efficiency Development) in the 2021/22 budget;
- (e) That the Manager: Annual Financial Statements in terms of the Supply Chain Management Policy be instructed to include the aforementioned reasons as a note to the financial statements, when the statements are compiled.

6.8 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE APPOINTMENT OF A SECURITY COMPANY. (8/1/B/2)

The existing agreement with the service provider for the monitoring of alarms and the provision of armed reaction for various Council facilities and infrastructures, expired on 30 June 2021. The contract was extended by a further four months because a successful tender was not awarded after calling for tenders on two occasions.

The Director: Protection Services, mr P A C Humphreys, confirmed that the main reason that tenders were not compliant was due to the requirement to provide valid gun licenses. The issuing and renewal of gun licenses by the SAPS is a country wide problem which is not going to be resolved quickly.

RESOLUTION

(proposed by clr D G Bess, seconded by clr N Smit)

- (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 not to invite further tenders but to approve the acceptance of the quotation for the appointment of Dogs & All for the period 1 December 2021 to 30 November 2023 to the amount of R 14 087, 50 (VAT Incl.) per month;
- (c) That the reasons for the deviation from the prescribed procurement process be recorded as:
 - (i) The risk of burglaries and vandalism to the municipal assets will be of such a nature that Council needed to secure it against damage and vandalism;
 - (ii) The appointment is an emergency to safeguard municipal property against vandalism;
- (d) That it be noted that the expenditure be allocated to the different security services votes per department and that there is sufficient funding available in the MTREF Budget;
- (e) That the Manager: Financial Statements and Control be requested to include the above reasons as a note to the financial statements, when same are compiled.

(SGD) J H CLEOPHAS
EXECUTIVE MAYOR



NOTULE VAN 'N VERGADERING VAN DIE UITVOERENDE BURGEMEESTERSKOMITEE GEHOU IN DIE BANKETSAAL, MALMESBURY OP WOENSDAG, 8 DESEMBER 2021 OM 10:00

TEENWOORDIG:

Uitvoerende Burgemeester, rdh J H Cleophas (virtueel ingeskakel)
Uitvoerende Onderburgemeester, rdl J M de Beer (wnde voorsitter)

Lede van die Burgemeesterskomitee:

Rdl D G Bess
Rdl N Smit
Rdh T van Essen
Rdl A K Warnick

Beamptes:

Munisipale Bestuurder, mnr J J Scholtz
Direkteur: Elektriese Ingenieursdienste, mnr R du Toit
Direkteur: Siviele Ingenieursdienste, mnr L D Zikmann
Direkteur: Beskermingsdienste, mnr P A C Humphreys
Direkteur: Ontwikkelingsdienste, me J S Krieger
Direkteur: Korporatiewe Dienste, me M S Terblanche
Hoof: Begrotingskantoor, mnr W Rossouw
Bestuurder: Sekretariaat en Rekords, me N Brand

1. OPENING

Die waarnemende voorsitter, Uitvoerende Onderburgemeester, rdl J M de Beer, verwelkom lede en versoek die Munisipale Bestuurder om die vergadering met gebed te open.

2. VERLOF TOT AFWESIGHEID

Die komitee is voltallig. Die Munisipale Bestuurder meld dat die Direkteur: Finansiële Dienste, mnr M Bolton, met verlof is.

3. VOORLEGGINGS/AFVAARDIGINGS/SPREEKBEURTE

3.1 BEDANKING VAN ME M F GAIKA, EFF VERTEENWOORDIGER (3/1/7)

Die Munisipale Bestuurder noem dat me M F Gaika op 5 Desember 2021 haar bedanking ingedien het as verteenwoordiger van die EFF op die munisipale raad.

Die vakature is reeds ingevolge die toepaslike wetgewing aan die Onafhanklike Verkiesingskommissie verklaar.

4. NOTULES

4.1 NOTULE VAN 'N GEWONE UITVOERENDE BURGEMEESTERSKOMITEE-VERGADERING GEHOU OP 23 NOVEMBER 2021

Besluit/...



MINUTES OF THE EXECUTIVE MAYOR'S COMMITTEE HELD IN THE BANQUETING HALL, MALMESBURY ON WEDNESDAY, 8 DECEMBER 2021 AT 10:00

PRESENT:

Executive Mayor, ald J H Cleophas (present virtually)
Deputy Executive Mayor, clr J M de Beer (acting chairman)

Members of the Mayor's Committee:

Clr D G Bess
Clr N Smit
Ald T van Essen
Clr A K Warnick

Officials:

Municipal Manager, mr J J Scholtz
Director: Electrical Engineering Services, mr R du Toit
Director: Civil Engineering Services, mr L D Zikmann
Director: Protection Services mr P A C Humphreys
Director: Development Services, ms J S Krieger
Director: Corporate Services, ms M S Terblanche
Head: Budget Office, mr W Rossouw
Manager: Secretarial and Records, ms N Brand

1. OPENING

The Executive Mayor requested the Deputy Executive Mayor, clr J M de Beer, to act as chairman.

The chairman welcomed members and asked the Municipal Manager to open the meeting with a prayer.

2. APPOLOGIES

The committee was complete. The Municipal Manager stated that the Director: Financial Services, mr M Bolton, is on holiday.

3. SUBMISSIONS/DEPUTATIONS/COMMUNICATIONS

3.1 RESIGNATION OF MS M F GAIKA, EFF REPRESENTATIVE (3/1/7)

The Municipal Manager stated that ms M F Gaika submitted her resignation as EFF representative on the Council on 5 December 2021.

The post has already been declared to the Independent Electoral Commission in accordance with the relevant legislation,

4. MINUTES

4.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYOR'S COMMITTEE HELD ON 23 NOVEMBER 2021

Resolution/...

4.1/...

BESLUIT

(op voorstel van rdl N Smit, gesekondeer deur rdl D G Bess)

Dat die notule van 'n Gewone Uitvoerende Burgemeesterskomitee gehou op 23 November 2021 goedgekeur en deur die Uitvoerende Burgemeester onderteken word.

5. SAKE VOORTSPRUITEND UIT DIE NOTULES

Geen

6. NUWE SAKE**6.1 IMPLEMENTERING VAN DIE BELEID INSAKE DIE BELONING VIR DIE VERSKAFFING VAN INLIGTING T.O.V. BEDROG, KORRUPTIE, DIEFTAL, VANDALISME OF ENIGE KRIMINELE AKTIVITEIT (5/15/1/4)**

Die doel van die Beloningsbeleid is om personeel, lede van die publiek, sowel as diensverskaffers aan te moedig om beweerde bedrog en korrupsie by die Munisipaliteit aan te meld.

Die bekamping van hierdie kriminele aktiwiteite bly 'n prioriteit vir die Suid-Afrikaanse regering.

Die Beloningsbeleid is belyn met die Swartland Munisipaliteit se Teenkorrupsiestrategie wat reeds geïmplementeer is en sal die Munisipaliteit bystaan in die stryd teen bedrog en korrupsie.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl A K Warnick)

- (a) Dat die Beloningsbeleid vir die verskaffing van inligting ten opsigte van bedrog, korrupsie, diefstal, vandalisme of enige kriminele aktiwiteit aanvaar en geïmplementeer word, onderhewig daaraan dat –
- (i) die beloningstruktuur heroorweeg word om nie slegs 'n beloning uit te betaal wanneer inligting lei tot 'n skuldigbevinding nie, maar ook die uitbetaling van 'n kleiner beloning wanneer inligting voorsien word wat korrupsie, bedrog, diefstal en vandalisme teen sal werk;
 - (ii) nie slegs amptenare wat fluitjieblasers is die nodige beskerming bied nie, maar ook lede van die publiek;
 - (iii) 'n addendum tot die beleid toegevoeg word met die doel om die aanmelding van 'n saak te vergemaklik;
- (b) Dat kennis geneem word dat die implementering van die beleid die volgende voordele vir die Munisipaliteit inhou:
- (i) identifisering van swak beheermaatreëls;
 - (ii) implementering van verbeterde voorkomende- en opsporingskontroles om toekomstige verliese te voorkom;
 - (iii) verbetering in dienslewering en finansiële prestasie (deur die voorkoming van die misbruik van munisipale fondse, fokus op waarde vir geld en verbeterde finansiële bestuur);
 - (iv) versterking van vertroue in gemeenskap dat die Munisipaliteit verbind is om bedrog en korrupsie uit te roei;
 - (v) verbetering in dissipline binne die organisasie deur te fokus op professionaliteit en integriteit.

6.2 GOEDKEURING VAN DIE ONDERNEMINGSRISIKOBESTUURSBELEID (5/15/1/6)

Die beleid het ten doel om 'n proses te vestig waardeur risiko's geïdentifiseer kan word wat 'n bedreiging inhou vir volhoubare dienslewering en die bereiking van die Munisipaliteit se doelwitte. Die proses behels verder die mitgering van die geïdentifiseerde risiko's om die bestuur van die Munisipaliteit te optimaliseer.

Die gewysigde Ondernemingsrisikobestuursbeleid is met die sakelys gesirkuleer vir oorweging en goedkeuring.

4.1/...

RESOLUTION

(proposed by clr N Smit, seconded by clr D G Bess)

That the minutes of an Ordinary Executive Mayor's Committee Meeting held on 23 November 2021 are approved and signed by the Mayor.

5. MATTERS ARISING FROM THE MINUTES

None

6. NEW MATTERS**6.1 IMPLEMENTATION OF THE POLICY IN RESPECT OF THE REWARD FOR PROVIDING INFORMATION WITH RESPECT TO FRAUD, CORRUPTION, THEFT, VANDALISM OR ANY CRIMINAL ACTIVITIES (5/15/1/4)**

The purpose of the Reward Policy is to encourage members of the public, as well as service providers, to report alleged fraud and corruption to the Municipality.

The combating of these criminal activities remains a priority for the South African government.

The Reward Policy is in line with the Swartland Municipality's Strategy Against Corruption which has already been implemented, and which will support the Municipality in the fight against fraud and corruption.

RESOLUTION

(proposed by ald T van Essen, seconded by clr A K Warnick)

- (a) Dat die Beloningsbeleid vir die verskaffing van inligting ten opsigte van bedrog, korrupsie, diefstal, vandalisme of enige kriminele aktiwiteit aanvaar en geïmplementeer word, onderhewig daaraan dat –
- (i) die beloningstruktuur heroorweeg word om nie slegs 'n beloning uit te betaal wanneer inligting lei tot 'n skuldigbevinding nie, maar ook die uitbetaling van 'n kleiner beloning wanneer inligting voorsien word wat korrupsie, bedrog, diefstal en vandalisme teen sal werk;
 - (ii) nie slegs amptenare wat fluitjieblasers is die nodige beskerming bied nie, maar ook lede van die publiek;
 - (iii) 'n addendum tot die beleid toegevoeg word met die doel om die aanmelding van 'n saak te vergemaklik;
- (b) Dat kennis geneem word dat die implementering van die beleid die volgende voordele vir die Munisipaliteit inhou:
- (i) identifisering van swak beheermaatreëls;
 - (ii) implementering van verbeterde voorkomende- en opsporingskontroles om toekomstige verliese te voorkom;
 - (iii) verbetering in dienslewering en finansiële prestasie (deur die voorkoming van die misbruik van munisipale fondse, fokus op waarde vir geld en verbeterde finansiële bestuur);
 - (iv) versterking van vertroue in gemeenskap dat die Munisipaliteit verbind is om bedrog en korrupsie uit te roei;
 - (v) verbetering in dissipline binne die organisasie deur te fokus op professionaliteit en integriteit.

6.2 APPROVAL OF THE UNDERTAKING RISK MANAGEMENT POLICY (5/15/1/6)

The purpose of the policy is to establish how the risks, which can be a threat to sustainable service delivery and the attainment of the Municipality's goals, can be identified. The process also includes the mitigation of identified risks in order to optimise the management of the Municipality.

The amended Undertaking Risk Management Policy was circulated with the agenda for consideration and approval.

6.2/...

BESLUIT

(op voorstel van rdl N Smit, gesekondeer deur rdl A K Warnick)

- (a) Dat die gewysigde Ondernemingsrisikobestuursbeleid goedgekeur word vir implementering omrede dit 'n verskeidenheid van voordele vir die Munisipaliteit inhou, byvoorbeeld:
- (i) meer doeltreffende, betroubare en koste effektiewe dienslewering;
 - (ii) meer betroubare besluitneming;
 - (iii) minder verrassings en krisisse deur bestuur in staat te stel om effektief te handel met potensiele opkomende risiko's wat onsekerheid kan skep; en
 - (iv) beter uitsette en uitkomste deur die verbetering in die bestuur van projekte en programme;
- (b) Dat die "Risk Appetite"-vlak van 15 – "Impact x Likelihood" = 15 (5x3) & (3x5) aanvaar word;
- (c) Dat "Risk Tolerance"-vlakke van 16 (4x4) en hoër nie aanvaarbaar is nie en moet bestuur word.

6.3 (1) NOTULES VAN VERGADERINGS VAN DIE MUNISIPALE PRESTASIE EN RISIKO OUDITKOMITEE ONDERSKEIDELIK OP 24 EN 30 AUGUSTUS 2021, (2) JAARVERSLAG VIR DIE PERIODE 1 JULIE 2020 TOT 30 JUNIE 2021 (5/15/13)

Die Ouditkomitee dien as 'n volwaardige onafhanklike komitee van die Raad en vervul sy funksie ingevolge die bepalings van artikel 166 van die Plaaslike Regering: Munisipale Finansiële Bestuurswet, Nr 56 van 2003.

Die notules van die Munisipale Prestasie en Risiko Ouditkomiteevergadering onderskeidelik gehou op 24 Augustus en 30 Augustus 2021 is met die sakelys gesirkuleer, en bevat geen aanbevelings aan die Uitvoerende Burgemeesterskomitee vir oorweging nie.

Verder is die jaarverslag van die betrokke komitee vir die periode 1 Julie 2020 tot 30 Junie 2021 ook beskikbaar gestel.

BESLUIT dat kennis geneem word van die notules van die Munisipale Prestasie en Risiko Ouditkomitee se vergaderings van 24 en 30 Augustus 2021 asook die jaarlikse verslag van die Ouditkomitee vir die tydperk 1 Julie 2020 tot 30 Junie 2021.

6.4 VORDERING MET UITSTAANDE VERSEKERINGSEISE (5/14/3/5)

Ingevolge die Batebestuursbeleid moet maandeliks verslag gedoen word insake die uitstaande versekeringseise.

Besluit dat **KENNIS GENEEM** word van die stand van uitstaande versekeringseise tot en met 30 November 2021 soos met die sakelys gesirkuleer.

6.5 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE DRINGENDE HERSTELWERK VAN 11kV INKOMENDE KRINGBREKERPANEEL BY DIE BAROCCA SUBSTASIE, MALMESBURY (8/1/B/2)

Die Barocca Substasie, Malmesbury is op 13 November 2021 beskadig deur 'n interne *arc flash* ontploffing wat veroorsaak het dat Amandelrug en gedeeltes van die sentrale besigheidsarea sonder elektrisiteitsvoorsiening gelaat is. Dringende herstelwerk is benodig.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl A K Warnick)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuursbeleid;

6.2/...

RESOLUTION

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

- (a) That the amended Enterprise Risk Management Policy be approved for implementation because it has a variety of benefits for the Municipality, for example:
- (i) more efficient, reliable and cost-effective service delivery;
 - (ii) more reliable decision-making;
 - (iii) enabling fewer surprises and crises by enabling management to deal effectively with potential emerging risks that may create uncertainty; and
 - (iv) better outputs and outcomes through the improvement in project and program management;
- (b) That the "Risk Appetite" level of 15 - "Impact x Likelihood" = 15 (5x3) & (3x5) is accepted;
- (c) That "Risk Tolerance" levels of 16 (4x4) and higher are not acceptable and must be managed.

6.3 (1) MINUTES OF MEETINGS OF THE MUNICIPALITY'S PERFORMANCE AND RISK AUDIT COMMITTEE HELD RESPECTIVELY ON 24 AND 30 AUGUST 2021, (2) ANNUAL REPORT FOR THE PERIOD 1 JULY 2020 TO 30 JUNE 2021 (5/15/13)

The Audit Committee serves as an independent body of the Council and fulfils its function in accordance with the stipulations of section 166 of the Local Government: Municipal Financial Management Act, No 56 of 2003.

The minutes of the Municipal Performance and Risk Audit Committee Meetings held on 24 August 2021 and 30 August 2021 respectively were circulated with the agenda and do not contain any recommendations for consideration by the Executive Mayor's Committee.

The annual report from the relevant committee for the period 1 July 2020 to 30 June 2021 was also made available.

RESOLUTION that cognizance be taken of the minutes of the meetings of the Municipality's Performance and Risk Audit Committee of 24 and 30 August 2021 as well as the Audit Committee's annual report for the period 1 July 2020 to 30 June 2021.

6.4 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 November 2021.

6.5 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE URGENT REPAIR TO THE 11 kV INCOMING RING FEEDER BREAKER BOARD AT THE BAROCCA SUBSTATION, MALMESBURY (8/1/B/2)

The Barocca Substation, Malmesbury was damaged by an internal *arc flash* explosion on 13 November 2021, which resulted in Amandelrug and parts of the central business district being left without electricity. Urgent repairs were necessary.

RESOLUTION

(proposed by ald T van Essen, seconded by clr A K Warnick)

- (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;

6.5/...

- (b) Dat kennis geneem word van die aksie deur die Munisipale Bestuurder om nie tenders uit te nooi nie, maar om die aanstelling van ABB vir die dringende herstelwerk aan die 11kV kringbrekerpaneel by die Barocca-substasie teen 'n bedrag van R61 010.07 (BTW uitgesluit) goed te keur;
- (c) Dat die redes vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
 - (i) die faling van die elektrisiteitsverspreidingstoerusting was 'n noodgeval en dringende herstelwerk was noodsaaklik om die betroubaarheid van elektrisiteitstoevoer te verseker en om oorlading te verlig;
 - (ii) die aanstelling van die vervaardiger van die toerusting was noodsaaklik vir die spoedige vervanging van die beskadigde komponente en om te verseker dat die noodherstelwerk deur kundiges onderneem word;
 - (iii) die koste vir die herstelwerk, toetsing en inwerkingstelling word as billik en redelik beskou;
- (d) Dat kennis geneem word dat die uitgawe teen posnommer: 9/253-743-3174 verreken word en dat daar voldoende fondse beskikbaar is vir die bestelling ter waarde van R61 010.07 (BTW uitgesluit);
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.6 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE DRINGENDE VOORSIENING EN AFLEWERING VAN TWEE MOBILE KRAGOPWEKKEREENHEDE VIR DIE KALBASKRAAL EN RIVIERLANDS WATER AANJAAGPOMPSTASIE (8/1/B/2)

Die grootmaat watervoorsieningstelsel na Riverlands en Chatsworth wat bestaan uit 'n waterpyp wat water vervoer oor 'n afstand van 26 km na reservoirs in Chatsworth. Die stelsel is toegerus met twee aanjaagpompstasie, onderskeidelik by Kalbaskraal en Riverlands.

Die verhoogde aanvraag na water in hierdie gebiede veroorsaak dat die pompstasies 24/7 in bedryf gestel moet word ten einde 'n onderbreking in watervoorsiening te voorkom. Met die realiteit van gereelde beurtkrag is dit noodsaaklik om nood kragopwekking beskikbaar te stel om te verseker dat genoegsame water na die Chatsworth reservoir gepomp word.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl A K Warnick)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuursbeleid;
- (b) Dat kennis geneem word dat die Munisipale Bestuurder goedkeuring verleen het om 'n informele tenderproses te volg vir die voorsiening en aflewering van twee 150kVA mobiele kragopwerkers;
- (c) Dat die redes vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
 - (i) die implementering van beurtkrag het 'n verlies aan pompure tot gevolg wat lei tot langdurige onderbrekings in watervoorsiening aan Riverlands en Chatsworth;
 - (ii) die onlangse en onverwagte verhoging in beurtkrag het dit genoodsaak om voorsiening te maak vir noodkragopwekking by die Kalbaskraal en Riverlands waterpompstasies;
 - (iii) die verkryging van kragopwerkers was as 'n noodgeval hanteer om verlengde onderbreking in watervoorsiening aan Riverlands en Chatsworth te voorkom;

(d)/...

6.5/...

- (b) That the action of the Municipal Manager not to invite tenders but to approve the appointment of the manufacturer ABB for the emergency repair of the 11kV circuit breaker panel in Barocca substation for the amount of R61 010.07 excluding VAT;
- (c) That the reason for the deviation from the prescribed procurement process to alleviate the emergency situation be recorded as follows:
 - (i) The failure of the electricity distribution equipment constituted an emergency and urgent repair was essential to ensure the reliability of electricity supply and to alleviate overloading;
 - (ii) The appointment of the manufacturer of the equipment was essential to ensure prompt replacement of the failed components and expertise to undertake the emergency repairs;
 - (iii) The cost for the repairs, testing and commissioning is considered fair and reasonable;
- (d) That it be noted that the expenditure was allocated to mSCOA vote 9/253-743-3174 and that there is sufficient funding available for the order in the amount of R61 010.07 excluding VAT;
- (e) That the Manager: Financial Statements be requested to include the above reasons as a note to the financial statements, when they are compiled.

6.6 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE URGENT PROVISION AND DELIVERY OF TWO MOBILE GENERATORS FOR KALBASKRAAL AND RIVERLANDS WATER BOOSTER PUMP STATIONS (8/1/B/2)

The bulk water supply system to Riverlands and Chatsworth consists of a water pipe which carries water over a distance of 25 km to reservoirs in Chatsworth. The system is equipped with two booster pumps stations, in Kalbaskraal and Riverlands respectively.

The increased demand for water in these areas means that the pump stations must work 24/7 in order to prevent an interruption in the provision of water. With the reality of load shedding it is necessary to provide urgent power generation in order to ensure that enough water is pumped to the Chatsworth reservoir.

RESOLUTION

(proposed by ald T van Essen, seconded by clr A K Warnick)

- (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 to approve that an informal tender process be followed in order to procure the supply and delivery of two 150kVA mobile power generators;
- (c) That the reason for the deviation from the prescribed procurement process be recorded as follows:
 - (i) The implementation of load shedding results in a loss of pumping hours ultimately causing prolonged periods of disruption in the water supply in Riverlands and Chatsworth;
 - (ii) The recent unexpected increase in load shedding necessitates the application of emergency power generation at the Kalbaskraal and Riverlands booster pump stations;
 - (iii) Procurement of the said mobile power generators has to be done as an emergency to prevent prolonged water supply interruptions to Chatsworth and Riverlands;

(d)/...

6.6/...

- (d) Dat kennis geneem word dat die uitgawe teen posnommer: 9/105-376-128 verreken word en dat daar voldoende fondse beskikbaar is vir die bestelling ter waarde van R760 000,00 BTW uitgesluit;
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.7 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE DIENS EN HERSTEL VAN FINALE UITVLOEI BESPROEINGS POMP NO 2, BY DIE MALMESBURY WWTW (8/1/B/2)

Behandelde afvalwater van die Malmesbury WWTW word vir besproeiingsdoeleindes by verskeie sportgronde, onder andere die Gholfklub, in Malmesbury gebruik. Dit is dus noodsaaklik dat die behandelde afvalwater aan die neergelegde standaarde voldoen.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl A K Warnick)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuurbeleid;
- (b) Dat kennis geneem word van die aksie van die Munisipale Bestuurder om goedkeuring te verleen vir 'n afwyking ingevolge voormelde bepaling vir die diens en herstel van die besproeiingspomp, No. 2, by die Malmesbury WWTW deur *Tricom Africa* teen 'n bedrag van R61 689,96 (BTW uitgesluit);
- (c) Dat die rede vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
 - (i) ten einde 'n kwotasie te voorsien moet die toerusting deur spesialis toerusting verwyder om na 'n doelmatige toegeruste werkwinkel vervoer te word, waar dit uitmekaar gehaal word vir evaluering;
 - (ii) dit word as onprakties beskou om meer as een kwotasie te verkry, aangesien dit sou beteken dat toerusting aanmekaar gesit moet word, na 'n ander werkwinkel vervoer moet word en weer daar uitmekaar gehaal word vir evaluering;
- (d) Dat kennis geneem word dat die uitgawe teen posnommer: 9/249-849-259 verreken word en dat daar voldoende fondse beskikbaar is vir die bestelling ter waarde van R61 680,96 (BTW uitgesluit);
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.8 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE DRINGENDE HERSTELWERK AAN DIE VULLISVERWYDERINGSVRAGMOTOR, CK 37359 (8/1/B/2)

Die verwydering van vasteafval is 'n essensiële diens en die vullisverwyderingsvragmotor, CK 37359, is noodsaaklik om die diens te kan lewer.

BESLUIT

(op voorstel van rdl A K Warnick, gesekondeer deur rdl D G Bess)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuurbeleid;
- (b) Dat kennis geneem word van die aksie van die Munisipale Bestuurder om die kwotasie goed te keur vir die herstel van die vullisverwyderingsvragmotor, CK 37359 deur *Transtech* vir 'n bedrag van R78 672,77 (BTW uitgesluit);

6.6/...

- (d) That cognisance be taken that the expenditure was allocated to mSCOA Code: 9/105-376-128 and that there is sufficient funding available for the tendered amount of R 760,000.00 (excl. VAT);
- (e) That the Manager: Financial Statements and Control be instructed to include the above reason as a note to the financial statements, when same are compiled.

6.7 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE SERVICE AND REPAIR OF THE FINAL OUTFLOW IRRIGATION PUMP NO 2, AT THE MALMESBURY WWTW (8/1/B/2)

Treated waste water from the Malmesbury WWTW is used for the irrigation of various sports fields, inter alia, the Malmesbury Golf Club. It is therefore necessary that the treated waste water complies with the standards laid down.

RESOLUTION

(proposed by ald T van Essen, seconded by clr A K Warnick)

- (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 Municipal Manager has approved a deviation from the normal SCM procedure for servicing and repair of irrigation pump No. 2 at the Malmesbury Waste Water Treatment Works and that it be handled by Tricom Africa for the amount of R 61 680.96 (excluding VAT);
- (c) That the reason for the deviation from the prescribed procurement process be recorded as follows:
 - (i) Extensive work which entails removal of the pump with special equipment to an appropriately equipped workshop, strip down and assessment is required to prepare a quotation;
 - (ii) To obtain more quotations would be impractical as it would require re-assembly, removal to another workshop, strip down and assessment;
- (d) That it be noted that the expenditure was allocated mSCOA Code: 9/249-849-259 and that there is sufficient funding available for the quoted amount of R 61 680.96 (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 same are compiled.

6.8 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE URGENT REPAIR TO THE REFUSE REMOVAL TRUCK, CK 37359 (8/1/B/2)

The removal of solid waste is an essential service and the refuse removal truck, CK 37359, is necessary in order to provide this service.

RESOLUTION

(proposed by clr A K Warnick, seconded by clr D G Bess)

- (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 to approve the quotation for the repair of the waste removal truck CK37359 for the amount of R 78 672.77 excluding VAT;

6.8/...

- (c) Dat die rede vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
- (i) die vragmotor sal vir 'n lang tydperk buite werking gelaat word;
 - (ii) dit sal lei tot 'n mislukking in die kapasiteit van die vaste afval-verwyderingsdienste en risiko's vir openbare gesondheid;
 - (iii) die herstelwerk aan die vragmotor word dus as 'n noodgeval hanteer;
- (d) Dat kennis geneem word dat die uitgawe teen posnommer: 9/241-1253-709 verreken word en dat daar voldoende fondse beskikbaar is vir die bestelling ter waarde van R78 672,77 BTW uitgesluit;
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.9 AFWYKING VAN DIE VOORGESKREWE VERKRYGINGSPROSEDURES VIR DIE DRINGENDE HERSTELWERK AAN DIE VULLISVERWYDERINGSVRAGMOTOR, CK 38712 (8/1/B/2)

Die verwydering van vasteafval is 'n essensiële diens en die vullisverwyderings-vragmotor, CK 38712, is noodsaaklik om die diens te kan lewer.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl A K Warnick)

- (a) Dat die Uitvoerende Burgemeesterskomitee kennis neem van die afwyking van die voorgeskrewe verkrygingsprosedures ingevolge klousule 36(2) van die Voorsieningkanaalbestuursbeleid;
- (b) Dat kennis geneem word van die aksie van die Munisipale Bestuurder om die kwotasie goed te keur vir die herstel van die vullisverwyderingsvragmotor, CK 38712 deur *Transtech* vir 'n bedrag van R55 339,19 (BTW uitgesluit);
- (c) Dat die rede vir die afwyking van die voorgeskrewe verkrygingsproses soos volg aangeteken word:
- (i) die vragmotor sal vir 'n lang tydperk buite werking gelaat word;
 - (ii) dit sal lei tot 'n mislukking in die kapasiteit van die vaste afval-verwyderingsdienste en risiko's vir openbare gesondheid;
 - (iii) die herstelwerk aan die vragmotor word dus as 'n noodgeval hanteer;
- (d) Dat kennis geneem word dat die uitgawe teen posnommer: 9/241-1253-709 verreken word en dat daar voldoende fondse beskikbaar is vir die bestelling ter waarde van R55 339,19 (BTW uitgesluit);
- (e) Dat die Bestuurder: Finansiële State in terme van die Voorsiening-kanaalbestuursbeleid opdrag gegee word om bovermelde rede as nota by die finansiële state in te sluit, wanneer die betrokke state opgestel word.

6.10 UITSTAANDE DEBITEURE: NOVEMBER 2021 (5/7/1/1)

'n Volledige verslag van die stand van uitstaande debiteure is met die sakelyk gesirkuleer.

Besluit dat **KENNIS GENEEM** word van die verslag aangaande die stand van Swartland Munisipaliteit se uitstaande debiteure vir November 2021.

6.11 VOORGESTELDE VERVREEMDING VAN MUNISIPALE ONROERENDE EIENDOMME (INDUSTRIËLE PERSELE) TE MALMESBURY: OORWEGING VAN VEILINBAANBIEDINGE (12/2/5/2-8/5)

Die Raad het op 29 Julie 2021 goedkeuring verleen vir die vervreemding van drie industriële persele in Malmesbury deur middel van 'n mededingende proses.

6.8/...

- (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 it be noted 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 78 672.77 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.

6.9 DEPARTURE FROM THE PRESCRIBED PROCUREMENT PROCEDURE FOR THE URGENT REPAIRS TO THE REFUSE REMOVAL TRUCK CK 38712 (8/1/B/2)

The removal of solid waste is an essential service and the refuse removal truck, CK 38712, is necessary in order to provide this service..

RESOLUTION

(proposed by ald T van Essen, seconded by clr A K Warnick)

- (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 to approve the quotation for the repair of the waste removal truck CK38712 for the amount of R 55 339.19 excluding VAT;
- (c) That the reason for the deviation from the prescribed procurement process be recorded as follows:
- (i) The truck would have been left out of service for an extended period of time;
 - (ii) This would have resulted 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 it be noted that the expenditure was allocated mSCOA Code: 9/241-1253-709 and that there is sufficient funding available for the quoted amount of R 55 339.19 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.

6.10 OUTSTANDING DEBTORS: NOVEMBER 2021 (5/7/1/1)

A complete list of outstanding debtors was circulated with the agenda

That **cognizance** be taken of the report with reference to the state of the outstanding debtors of Swartland Municipality for November 2021.

6.11 PROPOSED ALIENATION OF MUNICIPAL IMMOVABLE PROPERTY (INDUSTRIAL PREMISES) IN MALMESBURY: CONSIDERATION OF AUCTION BIDS (12/2/5/2-8/5)

On 29 July 2021 the Council approved the alienation of three industrial premises in Malmesbury by means of a competitive process.

The properties were offered for sale on 3 December 2021 by means of a public auction and outstanding bids on the erwen were received.

The Municipal Manager confirmed that the Municipality must continuously look at development opportunities in order to ensure growth in the municipal area. In so doing

6.11/...

Die erwe is op 3 Desember 2021 by wyse van 'n openbare veiling te koop aangebied, en is uitstekende aanbiedinge op die erwe ontvang.

Die Munisipale Bestuurder bevestig dat die Munisipaliteit voortdurend moet kyk na ontwikkelbare geleenthede om groei in die munisipale gebied te verseker. Sodoende word finansiële volhoubaarheid bevorder deur 'n balans te skep tussen belastingbetalings en gesubsidieerde deernishuishoudings. Hierdie word die risiko van toenemende werkloosheid ook aangespreek.

BESLUIT

(op voorstel van rdh T van Essen, gesekondeer deur rdl N Smit)

- (a) Dat die volgende aanbiedinge aanvaar word, en goedkeuring verleen word vir die oordrag van die bates aan die partye soos aangetoon:

Erfnommer	Monetêre aanbieding (BTW uitgesluit)	Koper
7577	R2 450 000,00	Fair Cape Buildings (Pty) Ltd
Restant Erf 12378	R2 650 000,00	Fair Cape Buildings (Pty) Ltd
Erf 12984	R2 300 000,00	Louw Diggers (Pty) Ltd

- (b) Dat die Direkteur: Korporatiewe Dienste gemagtig word om die aanbiedinge te onderteken;
- (c) Dat daar van die volgende kennis geneem word met verwysing na die Raadsbesluit soos geneem op 29 Julie 2021, naamlik dat:
- sou die eiendomme onverkoop bly na afloop van die betrokke mededingende prosesse, dit uit-die-hand-uit op 'n 'first come first served' basis verkoop mag word teen die reserweprijs soos voormeld, of teen die munisipale waardasie soos toepaslik op die stadium van verkoop;
 - die opbrengs uit die verkope van die erwe in die begroting gereserveer sal word vir die daarstel van munisipale stoorfasiliteite in Malmesbury, ingesluit die maandelikse aankoop van eiendom vir hierdie doel.

(GET) J M DE BEER
UITVOERENDE ONDERBURGEMEESTER

6.11/...

financial sustainability is promoted by creating a balance between taxation and subsidised destitute households. This will also address the risk of the increasing unemployment.

RESOLUTION

(proposed by ald T van Essen, seconded by clr N Smit)

- (a) That the following offers be accepted, and approval be granted for the transfer of the assets to the parties as indicated:

Erf number	Monetary offer (excluding VAT)	Purchaser
7577	R2 450 000,00	Fair Cape Buildings (Pty) Ltd
Remainder Erf 12378	R2 650 000,00	Fair Cape Buildings (Pty) Ltd
Erf 12984	R2 300 000,00	Louw Diggers (Pty) Ltd

- (b) That the Director: Corporate Services be mandated to sign the offers;
- (c) That the following be noted with reference to the Council resolution taken on 29 July 2021, namely that:
- should the properties remain unsold after the competitive process, it be sold out-of hand on a 'first come first served' basis at the reserve prices as aforementioned, or at the most recent municipal valuation as applicable at that stage;
 - the proceeds from the sale of the erven be reserved in the budget for the establishment of municipal storage facilities in Malmesbury, including the possible purchase of property for this purpose.

(SGD) J M DE BEER
DEPUTY EXECUTIVE MAYOR



MINUTES OF A MEETING OF THE BID ADJUDICATION COMMITTEE VIRTUALLY HELD ON TUESDAY, 7 DECEMBER 2021 AT 15:00

PRESENT

Director: Corporate Services, Ms M S Terblanche (chairperson)
 Snr Manager: Budget Office and Costing, Ms H Papier
 Director: Electrical Engineering Services, Mr R du Toit
 Director: Development Services, Ms J Krieger
 Manager: Supply Chain Management, Mr P Swart
 Manager: Secretariat and Records Services, Ms N Brand

1. OPENING/APOLOGIES

The chairperson opened the meeting.

RESOLVED that cognisance is taken of the sub-delegation by the Director: Financial Services to the Senior Manager: Budget Office and Costing to attend the meeting.

2. DECLARATION OF INTEREST

RESOLVED that cognisance is taken that no declaration of interests were made.

3. MINUTES

3.1 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 9 NOVEMBER 2021

RESOLVED that the minutes of the Bid Adjudication Committee held on 9 November 2021 be approved.

3.2 MINUTES OF A BID EVALUATION COMMITTEE MEETING HELD ON 30 NOVEMBER 2021
3.3 MINUTES OF A BID EVALUATION COMMITTEE MEETING HELD ON 3 DECEMBER 2021

FOR COGNISANCE

4. MATTERS FOR DISCUSSION

4.1 TENDER T19/21/22: SUPPLY AND DELIVERY OF RUBBERISED BITUMEN WATERPROOFING COMPOUND (8/2/21)

Tenders were invited for the supply and delivery of rubberised bitumen waterproofing compound and six tenders were received.

All the tenders adhered to the tender requirements and specifications – see table below for the preferential procurement evaluation in accordance with the 80/20 point system:

TENDERER	PRICE	POINTS FOR PRICE	CONTRIBUTION LEVEL	PREFERENCE POINTS	POINTS SCORED
K2C Construction	R 169 337.50	80.00	1	20	100.00
Dalven Products	R 205 680.95	62.83	0 ¹	0	62.83
Memotek Trading cc	R 222 756.43	54.76	1	20	74.76
EBN Project (PTY) Ltd	R 243 115.72	45.15	1	20	65.15

TENDERER	PRICE	POINTS FOR PRICE	CONTRIBUTION LEVEL	PREFERENCE POINTS	POINTS SCORED
Qabani National (PTY) Ltd	R 268 575.30	33.12	2	20	51.12
West Coast Skies	R 284 625.00	25.53	1	18	45.53

*1: Dalven Products did not claim preference points nor submitted a BBBEE certificate

RECOMMENDATION¹

- (a) That K2C Construction be awarded the tender for the supply and delivery of 45 units of 200litre drums of rubberized bitumen waterproofing compound to the amount of R 169 337.50 inclusive of 15% VAT (R 147,250.00 excl. VAT) and a delivery period of 14 working days.
- (b) That the expense be allocated against vote number 9/247-1105-719 (Street Maintenance) for the 2021/2022 financial year.

4.2 TENDER T21/21/22: SUPPLY OF MEMBRANE MODULES TO FIT INTO EXISTING ZEEWEED 500D CASSETTES BEING USED AT THE MALMESBURY WWTW (8/2/21)

The Malmesbury WWTW is equipped with membranes technology to purify the treated effluent to an acceptable standard. The membranes are located in a cassette and during a routine maintenance inspections it was found that some membrane modules needed to be replaced.

A total of two tenders were received which complied with the tender conditions and specifications – see table below for the preferential procurement evaluation:

TENDERER	TENDER AMOUNT (INCL. VAT)	PREFERENTIAL POINTS			
		POINTS FOR PRICE	CONTRIBUTION LEVEL	PROCUREMENT POINTS	TOTAL
Improchem (Pty)Ltd	R 44,556.18	80.00	1	20	100.00
Alveo Water (Pty)Ltd	R 59,290.97	53.54	2	18	71.54

RECOMMENDATION²

- (a) That the tender for the supply of membrane modules for the Malmesbury WWTW for a unit price per module of R44 556.18 (R38 744.50 excluding VAT) for the period ending 30 June 2022, be awarded to Improchem (Pty) Ltd.
- (b) That the expense be allocated against vote number 9/239-852-664.

4.3 TENDER T26/21/22: SUPPLY AND INSTALL INCLINED FRONT RAKE BAR SCREEN AND SCREENING PRESS (8/2/22)

The inlet works at the Malmesbury WWTW is equipped with a Macerator with the function to remove foreign objects from raw sewer inflow. The Macerator will be replaced by a different technology with the same functions, namely an Inclined Front Rake Bar Screen and Screening Press.

A total of five tenders were received of which all the tenders adhered to the tender conditions and specifications. The preferential procurement evaluations was done in accordance with the 80/20 point system – see results below:

TENDERER	TENDER AMOUNT	PREFERENTIAL POINTS			
		PRICE	CONTRIBUTION LEVEL	B-BBEE	TOTAL
Hydro Tech (PTY) Ltd	R 637 036.75	80.00	1	20	100.00
Inenzo Water (PTY) Ltd	R 799 438.03	59.61	2	18	77.61
Zana Manzi Services (PTY) Ltd	R 904 435.90	46.42	1	20	66.42

¹ Confirmed by the Municipal Manager on 8 December 2021

² Confirmed by the Municipal Manager on 8 December 2021

TENDERER	TENDER AMOUNT	PREFERENTIAL POINTS			
		PRICE	CONTRIBUTION LEVEL	B-BBEE	TOTAL
Flowline Technology (PTY) Ltd	R 920 618.13	44.39	4	12	56.39
Lektratek Water Technology (PTY) Ltd	R 1 048 085.91	28.38	1	20	48.38

RECOMMENDATION³

- (a) That the tender for Supply and Install Inclined Front Rake Bar Screen and Screening Press be awarded to *Hidro Tech (Pty) Ltd* for the amount of R637 036.75 including VAT (R553 945.00 excl. VAT), with a construction period of 22 weeks;
- (b) That the expense be allocated against vote 9/107-165-64: Malmesbury: New Macerator;
- (c) That the matters relating to Health and Safety be handled by AD Astra Health and Safety Services.

4.4 TENDER T28/21/22: SUPPLY AND DELIVERY OF LIGHT MOTOR VEHICLE 1000-1600 cc (8/2/2)

Tenders were invited for the supply and delivery of a light motor vehicle for the Credit Control Division.

A total of two tenders were received of which one tenderer did not comply with the tender requirement to be a registered motor vehicle dealer.

RECOMMENDATION⁴

- (a) That the tender for the supply and delivery of light motor vehicle (Toyota Starlet Hatch 1.4L) be awarded to *Williams Hunt* for the amount of R 242 132.50 (incl. VAT, cannot be claimed from SARS on passenger vehicles) and a delivery period of 4 weeks;
- (b) That the expense be allocated against vote number 9/119-423-763.

4.5 TENDER T31/21/22: APPOINTMENT OF A SERVICE PROVIDER FOR THE FACILITATION AND DELIVERING OF A CERTIFICATE IN MUNICIPAL FINANCIAL MANAGEMENT FOR MUNICIPAL OFFICIALS WITHIN THE SWARTLAND MUNICIPAL AREA (8/2/2/1)

The Certificate in Municipal Financial Management is one of the training needs identified and forms part of the Workplace Skills Plan. Tenders were advertised and four tenders were received.

All tenders adhered to the tender conditions and specifications. Preference points were calculated in accordance with the 80/20 preference point system – see results below:

BIDDER	TENDER PRICE	POINTS FOR PRICE	CONTRIBUTOR LEVEL	PREFERENCE POINTS	TOTAL POINTS
Morar Incorporated	R 206 482.50	80.00	1	20	100
Vumilia Africa (Pty) Ltd	R 288 473.06	48.23	0	0	48.23
Bantubanye Skills	R 289 800.00	47.72	1	20	67.72
Summat Training Institute (Pty) Ltd	R 297 252.00	44.83	1	20	64.83

* Vumilia Africa (Pty) Ltd - Did not submit BEE certificate (Level 1)

4.5/...

RECOMMENDATION⁵

- (a) That the tender for the appointment of a services provider for the facilitation and delivering of a Certificate in the Municipal Financial Management for the municipal officials with in the Swartland Municipal area be awarded to Morar Incorporated for the tendered amount of R206 482.50, including VAT (R179 550.00, excluding VAT) for a period of 12 months;
- (b) That the estimated expenditure (VAT excluded) be as follow:

Financial Year	Vote	Vote Description	Expenditure
2021/22	9/213-1195-953	Training Efficiency Development	R 22 800.00
	9/212-177-887	Capacity Building Budget	R 68 400.00
2022/23	9/213-1195-953	Training Efficiency Development	R 19 950.00
	9/212-177-887	Capacity Building Budget	R 68 400.00
Total			R 179 550.00

- (c) That the expenditure be allocated to vote number 9/213-1195-953 and 9/212-177-887.

(sgd) M S TERBLANCHE
CHAIRPERSON

³ Confirmed by the Municipal Manager on 8 December 2021

⁴ Confirmed by the Municipal Manager on 8 December 2021

⁵ Confirmed by the Municipal Manager on 8 December 2021



Verslag ♦ Ingxelo ♦ Report

Kantoor van die Munisipale Bestuurder
3 Januarie 2022

17/17/3/2/4; 3/1/7

ITEM 8.1 VAN DIE AGENDA VAN 'N GEWONE RAADSVERGADERING WAT GEHOU SAL WORD OP DONDERDAG, 27 JANUARIE 2022

ONDERWERP:	(1) BEDANKING AS RAADSLID: ME M F GAIKA / (2) AANWYS VAN NUWE RAADSLID: MNR A A DUDA
SUBJECT:	(1) RESIGNATION AS COUNCILLOR: MS M F GAIKA / (2) ELECTION OF NEW COUNCILLOR: MR A A DUDA

1. RESIGNATION AS COUNCILLOR: CLLR M F GAIKA

Cllr M F Gaika tendered her resignation as councillor of the Swartland Municipality, thereby causing a vacancy in the EFF's proportional representation on the Swartland Council with effect from 5 December 2021 – see **Annexure A**.

The Chief Electoral Officer was informed of the vacancy on 6 December 2021 – see **Annexure B**.

2. LEGISLATION

See **Annexure C** for an excerpt from schedule 1 to the Structures Act, 1998 i.r.o. –

Item 18: Filling of vacancies;

Item 19: Causes of vacancies on lists

Item 20: Filling vacancies and changing the order.

In terms of Item 20(1) the following timeframe is applicable:

Vacancy arisen	5 December 2021
Municipal Manager to inform Chief Electoral Officer	By no later than 19 December 2021 (14 days)
EFF to amend/supplement party list	By no later than 26 December 2021 (21 days)
Filling of vacancy by IEC	By no later than 9 January 2022 (14 days after the 21 day deadline above)

3. ELECTION OF NEW COUNCILLOR

The Provincial Electoral Officer advised that Mr Avela Austin Duda was elected to Swartland Local Municipality effective from 13 December 2021 as replacement for Cllr M F Gaika – see **Annexure D**.

4. RECOMMENDATION

(a) That cognisance be taken of:

- (i) the resignation of councillor M F Gaika effective from 5 December 2021;
- (ii) the statutory procedures adhered to in the filling of the EFF's proportional seat in Council, left vacant as a result of councillor Gaika's resignation;
- (iii) the election of councillor A A Duda as advised by the IEC on 13 December 2021;

(b) That cllr A A Duda be granted the opportunity to take the oath;

4./...

- (c) *That cllr A A Duda be appointed to the following committees of Council as representative of the EFF:*
- (i) *Portfolio Committee: Civil and Electrical Services*
 - (ii) *Municipal Public Accounts Committee (MPAC)*

AANBEVELING

- (a) Dat die Raad kennis neem van:
- (i) die bedanking van raadslid M F Gaika met ingang van 5 Desember 2021;
 - (ii) die wetlike prosedures waaraan voldoen is met die vulling van die proporsionele setel van die EFF in die Raad wat vakant gelaat is met die bedanking van rdl Gaika;
 - (iii) die verkiesing van raadslid A A Duda soos bevestig deur die OVK op 13 Desember 2021;
- (b) Dat geleentheid gegee word aan rdl A A Duda om die eed af te lê;
- (c) Dat rdl A A Duda aangewys word op die volgende komitees van die Raad as verteenwoordiger van die EFF:
- (i) Portefeulekomitee: Siviele en Elektriese Dienste
 - (ii) Munisipale Publieke Verantwoordbaarheidskomitee (MPAC)

(get) J J Scholtz

MUNISIPALE BESTUURDER

Joggie Scholtz

From: Provincial Secretary <effwesterncape.ps@gmail.com>
Sent: 06 December 2021 09:36
To: Joggie Scholtz; M Rangasamy
Subject: Fwd: Resignation of EFF Councilor Megan Gaika
Attachments: Resignation Letter EFF Clr Megan Gaika.jpg

Dear Municipal Manager and Speaker

Kindly find below the resignation letter of EFF councilor Megan Gaika for your attention.

Revolutionary regards

Cmsr. Andrew Arnolds
WC Provincial Secretary
ECONOMIC FREEDOM FIGHTERS
Email: effwesterncape.ps@gmail.com
Tel: 0762105381



Received on
6/12/2021
[Signature]

----- Forwarded message -----

From: Provincial Secretary <effwesterncape.ps@gmail.com>
Date: Sun, Dec 5, 2021 at 7:05 PM
Subject: Resignation of EFF Councilor Megan Gaika
To: <swartlandmun@swartland.org.za>

Dear Mr Joggie Scholtz, Swartland Municipal Manager

Kindly find below resignation letter of Councilor Megan Gaika for your attention.

Revolutionary regards

Cmsr. Andrew Arnolds
WC Provincial Secretary
ECONOMIC FREEDOM FIGHTERS
Email: effwesterncape.ps@gmail.com
Tel: 0762105381



Municipal Manager
Speaker of Swartland Municipality

Dear Sir

Resignation as EFF PR Councillor
I hereby tender my resignation as a
Proportional Representative Councillor of the EFF

Kind regards
M. Garka

Date 5 December 2021

Antwary 9/6/12/21




CLEAN AUDITS SINCE 2010/11



*Ons gee gestalte aan 'n beter toekoms!
We shape a better future!
Sakha ikusasa elingcono!*

File Ref: 3/1/7

Enquiries:
Ms Nicolette Brand

6 December 2021

lawrencel@elections.org.za

Provincial Electoral Officer
Electoral Commission: Western Cape
The Bridge
304 Durban Road
BELLVILLE
7535

Attention: Ms Leonora Lawrence

RESIGNATION AS COUNCILLOR: MS M F GAIKA

Notice is hereby given in terms of section 18(b) of Schedule 1 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) that Ms M F Gaika, ID 920818 0061 087, resigned as a councillor of the Swartland Municipal Council on 5 December 2021.

Attached find the letter of resignation received from Ms M F Gaika, as confirmed by the Provincial Secretary of the EFF on 6 December 2021. On receipt of the letter the Municipal Manager, Mr J J Scholtz, confirmed the validity of the correspondence with Ms Gaika.

Please continue with the necessary steps in accordance with the abovementioned legislation to fill the vacancy and to submit the details of the candidate to the undersigned.

Yours faithfully


MUNICIPAL MANAGER
via Department Corporate Services

Local Government: Municipal Structures Act, No 117 of 1998
Schedule 1: Electoral System for Metro and Local Councils

(7) In an election for a council that has wards, the Electoral Commission must deduct from the total number of seats to which each party is entitled in terms of subitem (5), the number of ward candidates representing the party who were declared elected.

(8) If no party is awarded a seat in terms of subitem (5) (a) the votes for each party must be treated in accordance with subitem (5) (b) as if they are surpluses.

(9) The Electoral Commission must determine in the manner provided in item 13 (5) which party candidates are elected.

(10) If a party is entitled to an additional number of seats in terms of subitem (5) and its list of candidates does not contain a sufficient number of candidates, the party concerned forfeits, subject to subitem (1), the unfilled seats and the process provided in this item must be repeated until all seats have been filled or until all listed candidates have been allocated to a vacant seat.

[Item 17 amended by s. 23 of Act 51 of 2002 (wef 5 December 2002).]

17A Multiple seats

(1) If a candidate is assigned to more than one seat, the parties or independent ward candidates must, within two days after being informed by the chief electoral officer, indicate to the Electoral Commission which seat such candidate should be designated to.

(2) If a party or independent ward candidate fails to indicate to the chief electoral officer which seat such candidate should be designated, such candidate's name must be deleted from the lists.

(3) If a ward seat allocation is deleted it shall lead to the holding of a by-election.

[Item 17A inserted by s. 33 (c) of Act 3 of 2021 (wef 1 November 2021).]

18 Filling of vacancies

(1) (a) If a councillor elected from a party list ceases to hold office, the chief electoral officer must, subject to item 20, declare in writing the person whose name is at the top of the applicable party list to be elected in the vacancy.

[Para. (a), previously subitem (1), renumbered by s. 25 of Act 51 of 2002 (wef 5 December 2002).]

(b) Whenever a councillor referred to in paragraph (a) ceases to hold office, the municipal manager concerned must within 14 days after the councillor has ceased to hold office, inform the chief electoral officer accordingly.

[Para. (b) added by s. 25 of Act 51 of 2002 (wef 5 December 2002) and substituted by s. 33 (d) of Act 3 of 2021 (wef 1 November 2021).]

(c) If the municipal manager of the municipality concerned does not inform the chief electoral officer of the vacancy referred to in paragraph (a), the MEC for local government in the province, must inform the chief electoral officer of the vacancy within 14 days where the municipal manager does not.

[Para. (c) added by s. 33 (e) of Act 3 of 2021 (wef 1 November 2021).]

(2) Where a party list has become exhausted, item 17, adjusted as may contextually be necessary, applies to the supplementation of the list, and if the party fails to supplement its list, or if the party has ceased to exist, the vacancy must remain unfilled.

Part 4
Filling and amending party lists

19 Causes of vacancies on lists

A person who is a candidate on a party list ceases to be a candidate and a vacancy arises in the list when the party withdraws the person's name by written notice to the chief electoral officer, or when that person-

- (a) assumes office as a councillor;
- (b) resigns from the list by written notice to the chief electoral officer;
- (c) becomes ineligible to be a candidate;
- (d) is disqualified or removed from the list in terms of any legislation;
- (e) ceases to be a member of the party for which that person was listed as a party candidate; or
- (f) ceases to be ordinarily resident in the municipality to which the list relates.

20 Filling vacancies and changing the order

(1) (a) A party may not supplement or change its list from the date of the closure of nomination of candidates for an election until a day after the date of the first council meeting.

(b) (i) Subject to paragraph (a), a party may supplement or change its list, provided that if a councillor elected according to a party list ceases to hold office, the party concerned may supplement or change its list by not later than 21 days after the councillor has ceased to hold office.

(ii) The vacancy must be filled as soon as the party in question has supplemented, changed or increased its list, but not later than 14 days after the expiry of the 21-day period.

[Subitem (1) substituted by s. 26 of Act 51 of 2002 (wef 5 December 2002) and by s. 33 (f) of Act 3 of 2021 (wef 1 November 2021).]

(2) If a party supplements, changes or increases its list in terms of subitem (1) it must provide the chief electoral officer with an amended list.

Schedule 2 ELECTORAL SYSTEM FOR DISTRICT COUNCILS

[Schedule 2 amended by s. 93 of Act 27 of 2000 (wef 11 July 2000), by s. 9 of Act 20 of 2002 (wef 20 June 2002), by ss. 27, 29, 30, 31 and 32 of Act 51 of 2002 (wef 5 December 2002), by s. 17 of Act 55 of 2008 (wef 17 April 2009) and by s. 34 of Act 3 of 2021 (wef 1 November 2021).]

1 Definitions

In this Schedule, unless the context otherwise indicates-

'chief electoral officer' means the chief electoral officer appointed in terms of section 12 (1) of the Electoral Commission Act, 1996 (Act 51 of 1996), and includes a person designated by the chief electoral officer for the purposes of this Schedule;

'election' means an election called in terms of section 24, and, where appropriate, also a by-election called in terms of section 25;

'independent ward councillor' means a councillor who was not nominated by a party as a candidate in a ward election;

[Definition of 'independent ward councillor' inserted by s. 27 (b) of Act 51 of 2002 (wef 5 December 2002).]

'nomination day' means the day determined in terms of the Electoral Act for the announcement of the nominated candidates and parties for an election.

Part 1 Proportional elections

2 Electoral system for party representatives

The councillors of a district council that in terms of section 23 must be elected in accordance with this Part, must be elected from party lists to proportionally represent parties in the council.

[Item 2 substituted by s. 34 (1) (a) of Act 3 of 2021 (wef 1 November 2021).]

3 Number of votes



SOUTH AFRICA

Memorandum

To: The Municipal Manager: Swartland Local Municipality
From: G Abrahams
CC: C Sampson; D Marco; B Mbeleni; K Tshoke; K Molefe
Date: 13 December 2021
Re: Replacement of Economic Freedom Fighters (EFF) PR Councillor Gaika:
WC015 – Swartland Local Municipality

☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Please be advised that as prescribed in item 18 of Schedule 1 of the Municipal Structures Act, 1998 (Act. No. 117 of 1998), that **Avela Austin Duda, ID No. 850811 5998 084**, being the candidate at the top of the party list for the **Economic Freedom Fighters (EFF)** has been declared elected to **Swartland Local Municipality**.

Councillor **Duda** replaces **Megan Furgmagan Gaika, ID No. 920818 0061 087**, who ceased to hold office of Councillor in the municipality.

Sincerely

G Abrahams
General Manager: Electoral Matters

Electoral Commission

Ensuring Free and Fair Elections

Commissioners: Mr V.G. Mashinini (Chairperson) | Ms J.Y. Love (Vice-Chairperson) | Dr N.P. Masuku | Mr M. Moepya | Judge D. Pillay
National Office: Election House, Riverside Office Park, 1303 Heuwel Avenue, Centurion, 0157 | P/Bag X112, Centurion, 0048
info@elections.org.za | www.elections.org.za
Tel (+27) 12 622 5700 | Fax (+27) 622 5784



Verslag ♦ Ingxelo ♦ Report

Kantoor van die Munisipale Bestuurder
18 Januarie 2022

7/1/1 MY
WYK: n.v.t.

ITEM 8.2 VAN DIE AGENDA VAN 'N GEWONE RAADSVERGADERING WAT GEHOU SAL WORD OP 27 JANUARIE 2022

ONDERWERP: VOORLEGGING VAN KONSEP JAARVERSLAG: 2020/2021 FINANSIËLE JAAR
TABLING OF DRAFT ANNUAL REPORT: 2020/2021 FINANCIAL YEAR

1. AGTERGROND / BACKGROUND

The format of the annual report is prescribed by MFMA Circular 63 dated 26 September 2012.

The draft 2020/2021 annual report was submitted to the Office of the Auditor General and the Provincial Treasury for comments. The comments received by the Auditor General is already incorporated in the draft annual report.

At the time of drafting the report no comments were received from the Provincial Treasury. During the public participation process comments will be requested again and will be considered by the MPAC during the drafting of the oversight report.

2. WETGEWING / LEGISLATION

Section 127 of the Municipal Finance Management Act, 2003 stipulates that the mayor of a municipality must, within seven months after the end of a financial year, i.e. by end January of the following year, table in the municipal council the annual report of the municipality.

The annual report, in terms of section 121 of the MFMA, must include – inter alia –

- *the annual financial statements of the municipality;*
- *the Auditor-General's audit report on those financial statements;*
- *the annual performance report of the municipality prepared in terms of section 46 of the Municipal Systems Act and the Auditor-General's audit report on same.*

In terme van wetgewing moet die volgende stappe aan uitvoering gegee word:

In terms of legislation the following actions must be adhered to:

A.	Voorlegging van jaarverslag aan Raad [art 127(2), MFMA]	Voor einde Januarie	<i>Tabling of annual report in council [section 127(2), MFMA]</i>
B.	Onmiddellik na tertafellegging, moet die rekenpligtige beampte (1) die jaarverslag openbaar maak; (2) die plaaslike gemeenskap uitnooi om vertoë daaromtrent te rig; en (3) die verslag aan die Ouditeur-Generaal, provinsiale tesourie en provinsiale departement vir plaaslike regering voorlê. [art 127(5), MFMA]	8 Februarie 2022 Sperdatum vir kommentaar: 2 Maart 2022	<i>Immediately following tabling of the annual report, the accounting officer must (1) make public the annual report; (2) invite the local community to submit representations about same; and (3) submit the annual report to the Auditor-General, provincial treasury and provincial department responsible for local government. [section 127(5), MFMA]</i>
C.	MPAC 'n gedetailleerde analise en hersiening te doen van die jaarverslag, om vertoë ontvang te verwerk en 'n konsep oorsigverslag op te stel vir oorweging deur die volle Raad op 31 Maart 2022;	8 Maart 2022	<i>MPAC to undertake a detailed analysis and review of the annual report and to consider representations and to draft an oversight report for consideration by the full council on 31 March 2022;</i>
D.	Die jaarverslag, asook vertoë in verband daarmee, moet binne twee maande na tertafellegging deur die raad oorweeg/ bespreek word, en 'n oorsigverslag moet aangeneem word wat die raad se kommentaar bevat.	31 Maart 2022	<i>The annual report, along with the representations made, must be submitted to council for consideration within two months after tabling, and an oversight report containing council's comments, must be adopted at such meeting.</i>

	Hierdie vergadering is oop vir die publiek en lede van die plaaslike gemeenskap of staatsorgane moet 'n redelike tyd gegun word om die raad toe te spreek. (artikels 129 & 130, MFMA)		<i>This meeting is open to the public and members of the local community or organs of state must be allowed reasonable time to address the council. (sections 129 & 130, MFMA)</i>
E.	(1) Afskrifte van die notules van die voormelde vergadering moet aan die Ouditeur-Generaal, provinsiale tesourie en die provinsiale departement vir plaaslike regering voorgelê word, en (2) moet die oorsigverslag binne sewe dae nadat dit aanvaar is, openbaar gemaak (geadverteer) word. [art 129(2) & (3)]	(1) teen 4 April 2022 (2) teen 5 April 2022	<i>(1) Copies of the minutes of the above meetings must be submitted to the Auditor-General, provincial treasury and provincial department for local government, and (2) the oversight report must be made public (advertised) within seven days after its adoption by council. [section 129(2) & (3)]</i>

3. **RECOMMENDATION**

- (a) *That cognisance be taken of the annual report in respect of the 2020/2021 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 cognisance 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 31 March 2022, 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 31 March 2022;*
- (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 31 March 2022.*

3. **AANBEVELING**

- (a) Dat kennis geneem word van die jaarverslag vir die 2020/2021 finansiële jaar soos voorgelê in terme van artikel 127(2) van die MFMA, en opgestel in die formaat soos voorgeskryf deur MFMA Omsendbrief 63 van 2012 van Nasionale Tesourie;
- (b) Dat kennis geneem word van die opvolgaksies waaraan in terme van artikel 127 van die MFMA uitvoering gegee sal word, te wete –
 - (i) die openbaarmaking van die jaarverslag;
 - (ii) die rig van 'n uitnodiging aan die publiek om verhoë daaromtrent te rig;
 - (iii) uitnodiging aan die publiek en die relevante staatsorgane om die raadsvergadering op 31 Maart 2022 by te woon, wanneer die jaarverslag en oorsigverslag bespreek sal word;
 - (iv) voorlegging van die jaarverslag aan die Ouditeur-Generaal, provinsiale tesourie en die provinsiale departement verantwoordelik vir plaaslike regering;
- (c) Dat die MPAC, na afloop van die sluiting van kommentaar op die jaarverslag, 'n gedetailleerde analise sal doen van die verhoë wat ontvang is, ten einde die konsep oorsigverslag op te stel vir oorweging deur die Raad op 31 Maart 2022;
- (d) Dat raadslede wat nie op die MPAC dien nie, kennis neem dat dit ook van hulle verwag word om hul eie evaluering van die jaarverslag te doen, onder andere in konsultasie met hul kiesers, wykskomitees en wyksverteenwoordigers om insette en kommentare aan te moedig vir oorweging by die volle raadsvergadering op 31 Maart 2022.

(get) J J Scholtz

MUNISIPALE BESTUURDER



Verslag ♦ Ingxelo ♦ Report

Kantoor van die Munisipale Bestuurder
20 Januarie 2022

7/1/22-2
WYK: ALLE

ITEM 8.3 VAN DIE AGENDA VAN 'N RAADSVERGADERING WAT GEHOU SAL WORD
OP 27 JANUARIE 2022.

ONDERWERP: KWARTAALVERSLAG (ARTIKEL 52 van MFMA) – OKTOBER - DESEMBER 2021

SUBJECT: QUARTERLY REPORT (ARTICLE 52 of MFMA) – OCTOBER - DECEMBER 2021

1. AGTERGROND / BACKGROUND

Die doel van hierdie verslag is om te voldoen aan die vereistes van Artikel 52 (d) van die Wet op Munisipale Finansiële Bestuur, No. 56 van 2003, wat die algemene verantwoordelikhede van die Burgermeester voorskryf om aan die raad die finansiële posisie asook die finansiële vordering van die munisipaliteit voor te lê, gemeet teenoor die goedgekeurde begroting vir die 2de kwartaal soos op 31 Desember 2021.

Hierdie verslag bevat ook die nie-finansiële inligting in die vorm van die munisipaliteit se prestasie gemeet teen die teikens soos uiteengesit in die Topvlak Dienslewering en Begroting Implementeringsplan van 2021/2022.

The purpose of this report is to comply with the requirements of Section 52 (d) of the Municipal Finance Management Act, No. 56 of 2003, which prescribes the general responsibilities of the Mayor to table to council the financial position as well as the financial progress of the municipality, measured against the approved budget for the 2nd quarter as at 31 December 2021.

This report also includes the non-financial information in the form of the municipality's performance measured against the targets set out in the Top Level Service Delivery and Budget Implementation Plan 2021/2022.

2. WETGEWING / LEGISLATION

- 2.1 Local Government: Municipal Systems Act 32 of 2000
- 2.2 Local Government: Municipal Finance Management Act 56 of 2003

3. KOPPELING AAN DIE GOP / LINK TO THE IDP

The quarterly report links with Chapter 7 of the IDP - Strategic Goal 4 (Caring, Competent and Responsive Institutions, Organisations and Business) and more specifically with the following Strategic Objectives:

- 4.7 (Sound long-term financial planning including making the right investment decisions)
- 4.8 (Sound financial management, budgeting and expenditure control)
- 4.9 (Broaden the tax/ revenue base)

4. FINANSIËLE IMPLIKASIE / *FINANCIAL IMPLICATION*

Not applicable.

Grants and Subsidies received and recognised for October - December 2021:

• Equitable Share	: R 36 265 000
• Municipal Infrastructure Grant (MIG)	: R 9 423 000
• Human Settlements	: R 8 346 239
• Integrated National Electrification Programme	: R 5 355 000
• Library Grants	: R 4 169 333
• EPWP	: R 824 000
• Community Development Workers	: R 38 000

5. AANBEVELING / *RECOMMENDATION*

Dat die raad kennis neem van die aangehegte kwartaalverslag, soos voorgeskryf deur Artikel 52 van die Wet op Munisipale Finansiële Bestuur, Wet 56 van 2003 ten opsigte van die implementering van die begroting sowel as die prestasie teenoor die Topvlak Dienslewering en Begroting Implementeringsplan van die munisipaliteit vir die periode 1 Oktober 2021 tot 31 Desember 2021.

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 October 2021 to 31 December 2021.

(get) J J Scholtz

MUNICIPAL MANAGER



Verslag ♦ Ingxelo ♦ Report

Office of the Municipal Manager
2022-01-27

7/1/1/2
WARDS: All wards

ITEM 8.4 OF THE AGENDA OF A COUNCIL MEETING TO BE HELD ON 27 JANUARY 2022

SUBJECT: MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT
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1. BACKGROUND AND DISCUSSION

Section 72(1) of the Municipal Finance Management Act (MFMA), Act 56 of 2003, stipulates that the accounting officer of a municipality must by 25 January of each year assess the performance of the municipality during the first half of the financial year and submit a report on such assessment to -

- the mayor of the municipality;
- the National Treasury; and
- the relevant provincial treasury.

In terms of Section 54(1)(f) of the MFMA the mayor must, in the case of a section 72 report, submit the report to the council by 31 January of each year.

The document tabled at this meeting was compiled in accordance with the prescriptions of the Municipal Budget and Reporting Regulations (GN 393 of 17 April 2009).

The mid-year budget and performance assessment report must include both financial and non-financial information.

2. INPUTS AND COMMENTS

The report was compiled in collaboration with the Financial Services Department.

3. LEGISLATION

The following acts and regulations are applicable:

- Section 72 of the MFMA (Mid-year budget and performance assessment)
- Section 54 of the MFMA (Budgetary control and early identification of financial problems)
- Regulations 33, 34 and 35 of the Municipal Budget and Reporting Regulations

On the adjustments budget:

- Regulation 23 of the Municipal Budget and Reporting Regulations

4. ALIGNMENT TO THE IDP

The performance management system measures amongst others the implementation of Chapter 7 of the IDP.

5. FINANCIAL IMPLICATION

None

6. AANBEVELING / RECOMMENDATION

- (a) Dat kennis geneem word van die halfjaarlikse begrotings- en prestasie-evaluasie met betrekking tot die eerste helfte van die 2021/2022 finansiële jaar en meer spesifiek die noodsaaklikheid om die oorspronklike begroting te hersien deur middel van 'n aansuiweringsbegroting.

- (a) *That cognizance be taken of the mid-year budget and performance assessment i.r.o. the first half of the 2021/2022 financial year and more specifically the need to revise the original budget by way of an adjustments budget.*

(get) J J Scholtz

MUNISIPALE BESTUURDER / MUNICIPAL MANAGER

DATUM / DATE: 27 Jan 2022

ITEM 8.5 VAN DIE AGENDA VAN 'N RAADSVERGADERING WAT GEHOU SAL WORD OP 27 JANUARIE 2022

ONDERWERP: GOEDKEURING VAN DIE 2021/2022 HALF-JAARLIKSE AANSUIWERINGSKAPITAAL EN BEDRYFSBEGROTING

SUBJECT: APPROVAL OF THE 2021/2022 MID-YEAR ADJUSTMENTS CAPITAL AND OPERATING BUDGET

1. BACKGROUND

The Municipal Finance Management Act places specific responsibilities and obligations on the Accounting Officer and Executive Mayor regarding the progress made in respect of the implementation of the originally approved budget and performance measured against the goals set out in the Service Delivery and Budget Implementation Plan. To assist the Mayor with his duties in respect of tabling the adjustment budget, the budget steering committee met on 13 January 2022 to discuss and consider the adjustments as a result of the half-year performance ended 31 December 2021.

Opportunity was given to the Chief Financial Officer to present the detail in respect of the mid-year adjustments and to allow for considering performance to date. During this engagement the BSC in the main wanted to ensure consolidation of expenditure and that the achievement of the objectives set in the main budget is not compromised.

Further to the above, the Provincial Adjustments Budgets resulted in additional grant funding being promulgated for the K9-Dog Unit, Public Employment Support, Non-motorised Transport and Municipal Energy Resilience. The roll-over approved by Provincial Treasury for the Resourcing Funding for Establishment and Support of a K9 Unit must also be appropriated in the Mid-year Adjustments budget.

1.2 SECTION 72 MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT (LEGISLATIVE RESPONSIBILITIES)

- (1) The accounting officer of a municipality must by 25 January of each year-
 - (a) assess the performance of the municipality during the first half of the financial year, taking into account-
 - (i) the monthly statements referred to in section 71 for the first half of the financial year;
 - (ii) the municipality's service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the service delivery and budget implementation plan;
 - (iii) the past year's annual report, and progress on resolving problems identified in the annual report; and
 - (iv) the performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities; and
 - (b) submit a report on such assessment to-
 - (i) the mayor of the municipality;
 - (ii) the National Treasury; and
 - (iii) the relevant provincial treasury.
- (2) The statement referred to in section 71 (1) for the sixth month of a financial year may be incorporated into the report referred to in subsection (1) (b) of this section.

- (3) The accounting officer must, as part of the review-
 - (a) make recommendations as to whether an adjustments budget is necessary; and
 - (b) recommend revised projections for revenue and expenditure to the extent that this may be necessary.

SECTION 28 MUNICIPAL ADJUSTMENTS BUDGETS

(2) An adjustments budget-

- (a) must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
- (b) may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
- (c) may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the mayor of the municipality;
- (d) may authorise the utilisation of projected savings in one vote towards spending under another vote;
- (e) may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council;
- (f) may correct any errors in the annual budget; and
- (g) may provide for any other expenditure within a prescribed framework.

2. HIGH-LEVEL DISCUSSION / MOTIVATION

The adjustments in respect of the Capital Budget for 2021/2022 (**Annexure A-1: Adjusted 2021/22 Capital Budget**) will result in a decrease of R395 281, which will decrease the 2021/2022 capital budget from R166 435 729 to R166 040 448. Capital projects already completed, of which the final envisaged expenditure is known, will also be adjusted.

The adjustments in respect of the Operating Budget (**Annexure B: Adjusted 2021/22 Operating Budget**) for 2021/2022 will result in the gross budgeted surplus of R56 908 464 decreasing to R55 906 750 including capital grants and development charges. **The budgeted net surplus excluding capital grants and development charges was R8 996 055 and will change to a budgeted net surplus of R7 879 504. At this juncture it is appropriate to emphasize that the aforementioned net surplus of R7 879 504 is the more appropriate measurement of budgeted surpluses or deficits from a budgeted cash flow perspective.**

The aforementioned was mainly the result of additional grant funding being promulgated in the Provincial Adjustments Budgets (**Annexure D: Allocation Letter**) and informed by an in-depth analysis and consideration of the performance for the mid-year ended 31 December 2021 inclusive of considering the 2020/21 audited outcomes insofar as it impacted the figures in the original budget.

The adjustments to the 2021/2022 balance sheet budget are due to a combination of adjustments to the capital and operating budgets.

2.1 OPERATING EXPENDITURE

Operating expenditure must increase from R911 967 149 to R951 133 356. The R39 166 207 increase in operating expenditure was influenced in the main by the following: (Self explanatory notes attached as **Annexure B-1**)

1. Employee Related Costs – Wages, Salaries and Social Contributions increases by R2 849 603 based on the reasons provided in the attached Annexure B-1;
2. Contribution to Debt impairment decreases by R2 866 681 mainly based on available information and modelling done, linked to year to date payment rates;
3. Bad Debts Written Off increases by R2 771 462 mainly as a result of payment rates for Water and Fines extensively;

4. Impairment of Assets increases by R3 578 554 based on the infrastructure verification audit estimation;
5. Other materials increases by R6 393 589 based on the reasons provided in the attached Annexure B-1;
6. Contracted Services increases by R968 589 based on the reasons provided in the attached Annexure B-1;
7. Grants and Subsidies Paid increases by R40 262 due to Title deeds restoration funded by DHS;
8. Operational Cost increases by R464 316 based on the reasons provided in the attached Annexure B-1;
9. Loss on disposal of PPE increases by R24 966 513 mainly due to the envisaged accounting Loss on disposal of Assets and the actuarial gains and losses portion of Post Employee Health Benefits.

Note: The difference between the actual adjustment amounts listed above and the adjustment amounts in the B-schedule are because of virements within departments that now also forms part of the adjusted budget.

2.2 OPERATING REVENUE

Operating revenue must increase from R968 875 613 to R1 007 040 106. The R38 164 493 increase in operating revenue was influenced in the main by the following: (Self explanatory notes attached as **Annexure B-2**)

1. Revenue from Property Rates increases by R1 945 906 based on the mid-year performance;
2. Revenue from Refuse Removal service charges increases by R600 000 based on the mid-year performance;
3. Revenue from Sewerage service charges increases by R990 000 based on the mid-year performance;
4. Revenue from Electricity service charges increases by R600 000 mainly due to an increase in new electricity connections;
5. Revenue from Water service charges increases by R395 000 mainly due to an increase in new water connections;
6. Rent of Facilities and Equipment increases by R99 244 due to additional rental income;
7. Interest earned on External investments increases by R63 310, mainly due to the increased positive cashflow balance of the 2020/21 audited period;
8. Interest earned on Outstanding Debtors increases by R381 749 based on 2020/21 audited performance and the arrangement to accommodate the SASSA payment dates;
9. Fines increases by R9 080 000 based on the 2020/21 audited performance of traffic fines;
10. Transfers Recognised – Operational increases by R6 093 625 based on the reasons provided in the attached Annexure B-2;
11. Transfers Recognised – Capital decreases by R1 588 163 mainly due to the adjustments to the DHS funded projects;

12. Public Contributions and Donations increases by R1 000 000 which is contributed by Sanral to fund a capital project;
13. Other revenue increases by R1 629 746 based on the reasons provided in the attached Annexure B-2;
14. Gains increases by R16 874 076 based on the reasons provided in the attached Annexure B-2.

IMPORTANT NOTE: Council and other stakeholders must take note that the final revenue and expenditure figures as reported in the B- schedules to National and Provincial Treasury which form part of the budget documentation, will differ considerably from the figures mentioned in the table under recommendation (c), due to the fact that departmental charges are accounted for differently. The end result however in respect of the surplus remains unchanged.

2.3 CAPITAL EXPENDITURE

CAPITAL PROJECTS ABOVE THE THRESHOLD AS ENVISAGED BY SECTION 19 OF THE MFMA

SECTION 19 (1) requires that council considers the operational costs over the MTREF and beyond prior to approving these capital projects:

- (1) "A municipality may spend money on a capital project only if-
 - (a) the money for the project, excluding the cost of feasibility studies conducted by or on behalf of the municipality, has been appropriated in the capital budget referred to in section 17 (2);
 - (b) the project, including the total cost, has been approved by the council;
 - (c) section 33 has been complied with, to the extent that this section may be applicable to the project; and
 - (d) the sources of funding have been considered, are available and have not been committed for other purposes."

SECTION 19 (2) requires the following:

- (2) "Before approving a capital project in terms of subsection (1) (b), the council of a municipality must consider-
 - (a) the projected cost covering all financial years until the project is operational; and
 - (b) the future operational costs and revenue on the project, including municipal tax and tariff implications."

An adjustment to the 2021/22 Capital budget also affects the original Section 19 disclosure, due to the changed cash flows of the Sewerage Works Project: Moorreesburg with the total project cost still being within the overall planning. (**Annexure A-2: Capital Projects ito Sec 19**);

The effect of the adjustments on the finance sources are as follows: (Self explanatory notes attached as **Annexure A-1: Adjusted 2021/22 Capital Budget**)

FINANCING SOURCES	Original Budget 2021/2022	Viremented Budget 2021/22	Mid-Year Adj Budget 2021/2022	Increase / (Decrease)
Capital Replacement Reserve (CRR)	R 119 720 229	R 119 720 229	R 119 913 111	R 192 882
Municipal Infrastructure Grant (MIG)	R 22 700 000	R 22 700 000	R 22 301 000	R (399 000)
Dept. Human Settlements	R 14 600 000	R 14 600 000	R 11 794 000	R (2 806 000)
Integrated National Electrification Programme	R 8 355 000	R 8 355 000	R 8 355 000	R -
Dept. Cultural Affairs and Sport	R 1 033 000	R 1 033 000	R 1 052 684	R 19 684
Community Safety Grant	R 27 500	R 27 500	R 342 500	R 315 000
Dept. Transport	R -	R -	R 1 282 153	R 1 282 153
Contributions	R -	R -	R 1 000 000	R 1 000 000
GRAND TOTAL	R 166 435 729	R 166 435 729	R 166 040 448	R (395 281)

2.4 UNAUTHORISED EXPENDITURE AS DISCLOSED IN THE AUDITED 2020-2021 ANNUAL FINANCIAL STATEMENTS

In terms of regulation 23(6)(b) of the MBRR, “a special adjustments budget tabled in the municipal council when the mayor tables the annual report in terms of section 127(2) of the MFMA, which may only deal with unauthorised expenditure from the previous financial year, which the council is being requested to authorise in terms of section 32(2)(a)(i) of the MFMA”. This adjustments budget may only deal with those instances of unauthorised expenditure from the previous financial year that formed part of the 2020/2021 notes in the annual financial statements:

- **Unauthorised expenditure that occurred in the previous financial year, and**
- Any unauthorised expenditure identified by the Auditor-General during the annual audit process;

The following Unauthorized Expenditure has been “incurred” in the amount of R 13 258 009 for the 2020/2021 financial year:

	2021	2020
68. Unauthorised expenditure		
Opening balance as previously reported	1 107 201	9 666 715
Opening balance as restated	1 107 201	9 666 715
Add: Expenditure identified - current	13 258 009	1 107 201
Less: Authorised by council	(1 107 201)	(9 666 715)
Closing balance	13 258 009	1 107 201

The department of Financial Service’s budget was overspend by an amount of R 9 950 664 (2020: R1 107 201). This is mainly as a result of the deemed capital expenditure due to the vesting of properties. The revenue has increased accordingly. This is a non- cash transaction.

The department of Protection Services overspent their vote by an amount of R 3 307 345 (2020: R Nil). The overspending is mainly as a result of the impairment of traffic fines (non-cash transaction). The value of fines issued and subsequent impairment increased significantly higher than the expectations during the original budget planning stage. This is a non-cash accounting transaction and is based on the increase in the traffic fines revenue experienced in the previous year.

RECOMMENDATIONS (as recommended by the by the Executive Mayoral Committee on 20 January 2022)

- (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 Sewerage Works Project: Moorreesburg (**Annexure A-2: Capital Projects ito Sec 19**);
- (c) That approval be granted to amend the high-level capital and operating budget for 2021/2022 with no amendments to the outer years as follows:

	Original Budget 2021/22	Mid-Year Adj Budget 2021/22	Original Budget 2022/23	Original Budget 2023/24
Capital budget	166 435 729	166 040 448	132 744 732	136 678 848
Operating Expenditure	911 967 149	951 133 356	983 835 346	1 055 314 274
Operating Revenue	968 875 613	1 007 040 106	1 048 008 388	1 119 714 984
Budgeted (Surplus)/ Deficit	(56 908 464)	(55 906 750)	(64 173 042)	(64 400 709)
Less: Capital Grants, Donations & Development Charges	47 912 409	48 027 246	45 865 556	50 788 078
(Surplus)/ Deficit	(8 996 055)	(7 879 504)	(18 307 486)	(13 612 631)

- (d) That it be noted that the changes to the budget will have no impact on tariffs in respect of the 2021/2022 financial year or beyond but will result in a decreased budgeted net surplus from R8 996 055 to a budgeted net surplus of R7 879 504;
- (e) That the unauthorised expenditure of R13 258 009 for the 2020/2021 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 2021/22 – 2023/24**);
- (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.

AANBEVELINGS (soos aanbeveel deur die Uitvoerende Burgemeesterskomitee op 20 Januarie 2022)

- (a) Dat kennis geneem word dat die Begrotingsbeheerkomitee vergader het om die verduidelikings en motivering van die finansiële personeel en ander direkteure te oorweeg in 'n poging om die Uitvoerende Burgemeester te adviseer insake die pad vorentoe;
- (b) Dat die raad kennis neem van die voorgestelde aanpassing (wat verband hou met Artikel 19) ten opsigte van die Riool Werke Projek: Moorreesburg (**Annexure A-2: Capital Projects ito Sec 19**);
- (c) Dat goedkeuring verleen word om die hoë-vlak kapitaal- en bedryfsbegroting vir 2021/2022 as volg te wysig met geen veranderinge aan die buite jare nie;

	Oorspronklike Begroting 2021/22	Half-Jaarlikse Aansuiwerings begroting 2021/22	Oorspronklike Begroting 2022/23	Oorspronklike Begroting 2023/24
Kapitaalebegroting	166 435 729	166 040 448	132 744 732	136 678 848
Bedryfsuitgawes	911 967 149	951 133 356	983 835 346	1 055 314 274
Bedryfsinkomste	968 875 613	1 007 040 106	1 048 008 388	1 119 714 984
Begrote (Surplus)/ Tekort	(56 908 464)	(55 906 750)	(64 173 042)	(64 400 709)
Minus: Kapitaal Toekenning, Donasies & Ontwikkelingsbydraes	47 912 409	48 027 246	45 865 556	50 788 078
(Surplus)/ Tekort	(8 996 055)	(7 879 504)	(18 307 486)	(13 612 631)

- (d) Dat kennis geneem word dat die veranderinge in die begroting geen impak op tariewe het ten opsigte van die 2021/2022 finansiële jaar nie maar sal lei tot 'n afname in die begrote netto surplus van R8 996 055 na 'n begrote netto surplus van R7 879 504;
- (e) Dat die ongemagtigde uitgawe van R13 258 009 vir die 2020/2021 finansiële jaar gemagtig word as deel van die aansuiweringsbegroting in lyn met artikel 32(2)(a)(i) van die Wet;
- (f) Dat die aangepaste begrotingskedules soos vereis deur die Begroting en Verslagdoening Regulasies goedgekeur word soos vervat in **(Annexure C: Budget Report and B-Schedules 2021/22 – 2023/24)**;
- (g) Dat die Direkteur: Finansiële Dienste voldoen aan die vereistes van die Begrotingsomsendbriewe en –formate in die konteks van die verslagdoeningsvereistes aan Provinsiale en Nasionale Tesourie;
- (h) Dat die Dienslewering – en Begroting Implementeringsplan (SDBIP) dienoreenkomstig gewysig word.

(get) M BOLTON

DIREKTEUR: Finansiële Dienste



Verslag ♦ Ingxelo ♦ Report

Office of the Municipal Manager
Internal Audit Division
18 January 2022

5/15/1/5

ITEM 8.6 ON THE AGENDA OF THE ORDINARY COUNCIL MEETING WHICH WILL BE HELD ON 27 JANUARY 2022

SUBJECT: INVESTIGATION IN RESPECT OF FRUITLESS AND WASTEFUL EXPENDITURE IN TERMS OF SECTION 32 OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003

1. BACKGROUND/ DISCUSSION

1.1 Fruitless and Wasteful expenditure incurred

The following expenses were incurred that is regarded as “fruitless and wasteful expenditure” in terms of the Municipal Finance Management Act, 2003 (MFMA), i.e. “*expenditure that was made in vain and would have been avoided had reasonable care been exercised*”:

i) Excess payment i.r.o. an insurance claim for the repair of a vehicle – CK47348

Excess to the amount of R5 000.00 was paid to the insurance company for the repair of a vehicle that was damaged in an accident.

1.2 Status of Reported Cases

The following cases were reported for investigation where fruitless and wasteful expenditure has been incurred or will be incurred:

Description of discrepancy	Reference	Outcome of investigation	Status
Fruitless & Wasteful Expenditure – Damage of vehicle (Bakkie) – CK47348	IADB20/11/21	The damage to the vehicle amounted to R12 122.75 and was claimed against the municipality's insurance. The excess payment of R5 000.00 payable to the insurance company for the repair of the vehicle is regarded as fruitless and wasteful expenditure as the municipality received no value and suffered a loss. The driver deny that he was negligent and indicated that the alterations made to the truck were not clear when he reversed from the parking area.	Investigation completed and report attached

The above-mentioned case was investigated and a report has been issued. Refer to Annexure A for the recommendation by the Disciplinary Committee.

The following have been determined for the Disciplinary Committee to give feedback to Council:

- If any employees were negligent;
- If yes, the money must be recovered from the liable person/s;
- If not, the amount should be written off; and
- The controls to be implemented or improved to prevent reoccurrence in future.

1.3 Status of previous Reported Cases

All previous reported cases have been finalised and the money recovered from the liable officials.

2. LEGISLATION

2.1 Section 32(2)(b) of the MFMA provides as follows –

A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure ... in the case of irregular or fruitless and wasteful expenditure is, after investigation by a council committee (Disciplinary Board), certified by the council as irrecoverable and written off by the council.

2.2 Function of the Disciplinary Board

The Disciplinary Board must:

- investigate the circumstances of the fruitless and wasteful expenditure;
- based on the facts revealed by the investigation, consider whether the Municipality received value or suffered any loss;
- conclude that, where the Municipality –
 - received value and suffered no loss, that a claim against the official concerned would not succeed and that no further steps be taken, or
 - received no value and suffered loss, that a claim against the official or the recovery of such loss be instituted.

2.3 Duty of the Municipal Manager:

2.3.1 Municipalities should endeavour not to incur irregular expenditure and to effectively deal with such expenditure when it does occur. The responsible person is the Accounting Officer.

2.3.2 The Accounting Officer is obliged to take all reasonable steps to ensure that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented in terms of section 62(1)(d) of the MFMA.

2.3.3 Following the above, the Municipal Manager instructed the Disciplinary Board that was appointed to investigate allegations of financial misconduct in the municipality and to monitor the institution of disciplinary proceedings against an alleged transgressor/s in terms of the Municipal Regulations and Financial Misconduct Procedures and Criminal Proceedings which became effective from 1 July 2014, to conduct an investigation into the possible fruitless expenditure discussed in this report. The following persons serve on the Disciplinary Board:

- Mr CB de Jager, member of the Performance and Risk Audit Committee
- Ms M Terblanche, Director: Corporate Services
- Ms S de Jongh, Manager: Human Resources
- Mr P le Roux, Manager: Internal Audit

3. ALIGNMENT TO THE IDP

Strategic Goal 4 (*Caring, competent and responsive institutions, organisations and business*) of the municipality's Integrated Development Plan for 2017-2022 requires that instances of potential financial misconduct should be investigated properly, in order to give effect to **Objective 4.6**, that is *to identify risks and implement preventative and corrective controls*.

4. FINANCIAL IMPLICATION

The municipality will suffer the following loss in respect of the below mentioned case:

Description of discrepancy	Reference	Amount of Loss	Note
Fruitless & Wasteful Expenditure – Damage of vehicle (Bakkie) - CK47348	IADB20/11/21	R5 000	Recommends that the total amount be written off, as negligence by the driver could not be proved.

5. RECOMMENDATION

- (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 investigation; and
- (b) That the following recommendations by the Disciplinary Board as contained in Annexure A to the report be approved and implemented:
 - (i) The write-off of R5 000 with regards to the excess payment to the insurance company as negligence by the driver could not be determine.
 - (ii) The Traffic and Law Enforcement Officers, who complete the accident reports, should include more detail of the accident scene, such as the cause of the accident, if sufficient precautionary measures were taken to prevent the accident, all traffic rules were obeyed, if the accident could have been prevented, negligent by the driver, obstacles/ difficulties affecting normal driving ability, etc.
 - (iii) The Traffic Department should determine whether the rear-view mirrors of vehicle CK47348 are sufficient for the driver to properly observe the rear of the vehicle (alterations) and the area around the vehicle.

(Detail investigation report is available at the office of the Manager, Internal Audit)

AANBEVELING

- (a) Dat daar kennis geneem word van die inhoud van die Rekords van Besluitneming van die Dissiplinêre Raad soos per Aanhangsel A tot hierdie verslag m.b.t. die vrugtelose en verkwiste uitgawe ondersoek; en
- (b) Dat die volgende aanbevelings van die Dissiplinêre Raad soos vervat in die aanhangsel tot die verslag goedgekeur en geïmplementeer word:
 - (i) Die afskrywing van R5 000 met betrekking tot die bybetaling aan die versekeringsmaatskappy, aangesien daar nie bepaal kon word of die bestuurder van die voertuig nalatig was nie.
 - (ii) Die Verkeers- en Wetstoepassingsbeamptes, wat die ongeluksverslae voltooi, moet meer besonderhede van die ongelukstoneel insluit, soos die oorsaak van die ongeluk, indien voldoende voorsorgmaatreëls getref is om

die ongeluk te voorkom, is alle verkeersreëls nagekom, indien die ongeluk voorkom kon word, nalatig deur die bestuurder, hindernisse/probleme wat normale bestuursvermoë beïnvloed, ens.

- (iii) Die Verkeersdepartement moet bepaal of die truspieëls van voertuig CK47348 voldoende is sodat die bestuurder die agterkant van die voertuig (veranderings) en die area rondom die voertuig behoorlik kan waarneem.

(Volledige ondersoekverslag is beskikbaar by die kantoor van die Bestuurder, Interne Oudit)

(get) J J Scholtz

Municipal Manager
PLR

Attached annexure A

INVESTIGATION INTO FRUITLESS AND WASTEFUL EXPENDITURE IN TERMS OF SECTION 32 OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003: VEHICLE ACCIDENT

Report issued by: Disciplinary Board, Swartland Municipality

Date of finding: 14 December 2021

RECORD OF DECISION

After investigation of the matter, based on discussions held with relevant staff members and verification of evidence, it was found that:

1. Municipal Vehicle CK47348 damaged

- 1.1. Mr Avril Papier, Inspector Law Enforcement/ Traffic Officer employed at Protection Services, Traffic and Law Enforcement Services in Malmesbury drove the municipal vehicle, Nissan (UD Truck), CK36311 on Tuesday, 17 August 2021. The truck had to undergo a roadworthy test and was parked behind the Fire station's offices in the yard of the Traffic Department. Vehicle CK47348, Isuzu Bakkie of the Traffic and Law Enforcement Services was parked next to the truck. Inspector Papier had to move the truck from the parking area and scratched the Isuzu Bakkie on the left rear-end that slightly damaged the body of the vehicle, signwriting and taillight.
- 1.2. Inspector Papier immediately reported the accident to his Supervisor, Regional Inspector M Cloete as well as to the SAPS. Superintendent, PJ Baron attended the accident scene and finalised the accident report on 24 August 2021. No indication was made of any witnesses. Although a sketch of the accident scene and photos of the damage to the Isuzu Bakkie have been attached to the accident report, no description of the accident scene was made indicating that the driver followed all the traffic rules and could not prevent the accident.
- 1.3. The Nissan Truck CK36311 was not damaged.

2. Discussion with Driver and Officer who attended the accident scene

- 2.1. Information about previous accidents by Inspector Papier was obtained from the Assets and Fleet Management Division who indicated that he had no accidents with a municipal vehicle in the past five years. He also did report the accident immediately to his Supervisor and to the Traffic Department for investigation.
- 2.2. The driver of the vehicle as well as the officer who visited the accident scene did not specify in the accident report what the cause was and why the accident could not have been prevented. Therefore, Inspector Papier and Superintendent PJ Baron was interviewed to obtain more information about the circumstances and the accident scene.
- 2.3. Previously alterations were made to the Nissan truck, CK36311 for the transporting of stray animals to avoid the risk of animals on the roads that causes unsafe conditions on the roads in the Swartland area. The steel frame attached to the outside of the vehicle's body as well as the limited space to move the truck out of the parking area resulted in Inspector Papier damaging the Isuzu Bakkie that was parked next to the truck. According to him the steel frame was not

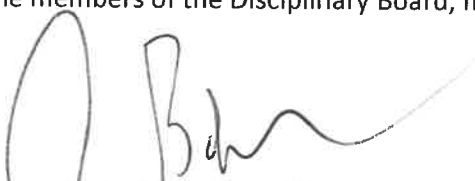
visible in the rear mirror when he had to make a sharp turn to move the truck from where it was parked.

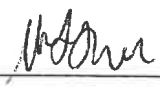
- 2.4. The damage to the vehicle amounted to R12 122.75 and was claimed against the municipality's insurance. The excess payment of R5 000.00 payable to the insurance company for the repair of the vehicle is regarded as fruitless and wasteful expenditure as the municipality received no value and suffered a loss. During the investigation, Inspector Papier denied that he was negligent and could not prevent the accident due to the reasons stated in 2.3 above.

3. Recommendations

- 3.1. It is recommended that the excess payment of R5 000.00 be written off as according to Inspector Papier he did everything possible to prevent the accident. He also followed the correct procedure by immediately notifying his Supervisor and completed an accident report. The investigating officer, Superintendent PJ Baron also confirmed during the discussions held that Inspector Papier was not negligent although he did not indicate this in his report.
- 3.2. Due to the limited information in the completed accident report and no witnesses at the accident scene, negligence could not be proven. According to the fleet management records, Inspector Papier has a satisfactory track record that indicates he is not a reckless driver and he did follow the correct reporting procedures at the time of the accident.
- 3.3. The Traffic and Law Enforcement Officers who complete the accident reports should include more detail of the accident scene such as the cause of the accident, if sufficient precautionary measures were taken to prevent the accident, all traffic rules were obeyed, if the accident could have been prevented, negligence by the driver, obstacles/ difficulties affecting normal driving ability, etc.
- 3.4. The Traffic Department should determine whether the rear-view mirrors are sufficient for the driver to be able to properly observe the rear of the vehicle (alterations) and the area around the vehicle.
- 3.5. Employees should be more careful when parking vehicles or moving vehicles from parking areas by asking co-workers to guide them or to find a safer place to park vehicles.

We, the members of the Disciplinary Board, hereby certify the above Record of Decision as correct:



CB de Jager (Chairperson)

M Terblanche (Director Corporate Services)

P le Roux (Manager Internal Audit)

S de Jongh (Manager Human Resources)



Verslag ♦ Ingxelo ♦ Report

Office of the Municipal Manager
Internal Audit Division
20 January 2022

5/15/1/5

ITEM 8.7 ON THE AGENDA OF AN ORDINARY COUNCIL MEETING WHICH WILL BE HELD ON 27 JANUARY 2022

SUBJECT: IRREGULAR EXPENDITURE AS REPORTED BY THE AUDITOR-GENERAL (AGSA) IN THEIR REPORT FOR 2020/2021 FINANCIAL YEAR

1. BACKGROUND/ DISCUSSION

1.1 Irregular expenditure incurred

Section 1 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) defines irregular expenditure as “expenditure incurred by a municipality in contravention of, or that is not in accordance with a requirement of the supply chain management policy of the municipality or any of the municipality’s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law”.

In terms of Section 32 of the Municipal Finance Management Act, a municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

The Auditor-General of South Africa (AGSA) indicated in their report that the municipality did not comply with the SCM regulations in the following instances:

1.1.1 The municipality procured the following service from a person in service of the state:

Supplier	Amount	Award date	Employer’s detail	Detail
Braaffs Corporation T/A Alfonso Braaff	R950.00	15/03/2021	Ms Anne Braaff Principal Clerk: Support Services, Public Relations, Library and Tourism Services	Ms A Braaff is employed in the service of Swartland Municipality and one of the directors of Braaffs Corporation.

The above results in a non-compliance with the Supply Chain Management Regulation 44 as the municipality should not have made an award with a person who is in the service of the state

1.1.2 Two separate requests to obtain quotations for the Rental of Earthmoving Equipment, which both constituted exactly the same service, except that it had to be performed at different locations, namely Moorreesburg and Darling areas.

Management failed to treat the services delivered as a single transaction and thus split the service into lesser values to avoid procuring the service through a competitive

bidding process, which resulted in a non-compliance with the Supply Chain Management Regulation 19.

1.2 Swartland Municipality's explanation regarding the finding

1.2.1 The expenditure of R950.00 incurred relates to the procurement of services from a person in service of the state.

- *Management did implement internal processes to obtain a declaration of interest relating to the code of conduct from all staff and not only SCM staff and directors of the municipality. Roadshows were held to inform staff regarding the objection and reason for the declaration of interest.*
- *The relevant staff member completed a declaration of financial interest form and indicated that she is a director of the relevant supplier with a 50% shareholding. However, she gave conflicting answers to further questions that she does not have financial interest in any partnership or that she or her husband own a business or shares in a company or do business with the municipality/institution of the State.*
- *The Managing Director of the company updated their declaration where after a directive was issued by SCM on 28 July 2021 that no business will be conducted with the relevant supplier.*

1.2.2 The expenditure incurred relates to the procurement of services to the value of R333 148.10.

- *No intentional splitting of procurement took place for the municipality to avoid procuring the service through a competitive bidding process.*
- *Management made an informed decision based on an engineering perspective to handle the work to be done at the each site separately as the functioning, management and physical conditions on site are different.*

2. LEGISLATION

2.1 Section 32(2) of the MFMA reads as follows:

A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—

- (b) in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.*

2.2 Section 32(4) of the MFMA provides as follows:

The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of -

- (a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;*
- (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and*
- (c) the steps that have been taken—*
 - (i) to recover or rectify such expenditure; and*
 - (ii) to prevent a recurrence of such expenditure.*

2.3 **Duty of the Municipal Manager**

- 2.3.1 Municipalities should endeavour not to incur irregular expenditure and to effectively deal with such expenditure when it does occur. The responsible person is the Accounting Officer.
- 2.3.2 The Accounting Officer is obliged to take all reasonable steps to ensure that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented in terms of section 62(1)(d) of the MFMA.
- 2.3.3 The Mayor, the MEC for Local Government and the Auditor-General will be promptly informed in writing in terms of section 32(4) of the MFMA with regards to the irregular expenditure as indicated in 1.1 above.
- 2.3.4 Following the above, the Municipal Manager instructed the Disciplinary Board that was appointed to investigate allegations of financial misconduct in the municipality to perform an investigation in terms of section 171(4)(a) and (b) to determine if any disciplinary proceedings need to be instituted against officials. The following persons serve on the Disciplinary Board:
- Mr CB de Jager, member of the Performance and Risk Audit Committee
 - Ms M Terblanche, Director: Corporate Services
 - Ms S de Jongh, Manager: Human Resources
 - Mr P le Roux, Manager: Internal Audit
- 2.3.5 The committee convened and issued a report in respect of the procurement of goods and services, which resulted in irregular expenditure identified by the Auditor-General. Attached hereto as **Annexure A**

3. **ALIGNMENT TO THE IDP**

Strategic Goal 4 (*Caring, competent and responsive institutions, organisations and business*) of the municipality's Integrated Development Plan for 2017-2022 requires that instances of potential financial misconduct should be investigated properly, in order to give effect to **Objective 4.6**, that is *to identify risks and implement preventative and corrective controls*.

4. **FINANCIAL IMPLICATION**

The irregular expenditure according to the Auditor-General and determined by management is as follows:

- Total irregular expenditure for 2020-2021 amounts to R 334 098.10

5. **RECOMMENDATION**

That the investigation by the Disciplinary Board regarding the irregular expenditure as reported by the Auditor-General be noted:

- (a) The investigation has been completed with regards to the procurement of goods and services that resulted in irregular expenditure;
- (b) The final conclusion and recommendation to council as indicated in the report is as follows:
 - i) that the irregular expenditure of R950.00 be written off as irrecoverable as sufficient steps have been taken to prevent awards made to persons in service of the state;

- ii) that the irregular expenditure of R333 148.10 be written off by Council as the decision taken by the Manager: Supply Chain Management in conjunction with the Civil Engineering Department was an informed decision based on an engineering perspective; and
 - iii) that the Manager: SCM acted in good faith and the irregular expenditure was not because of deliberate or gross negligence or as a result of fraud or other dishonest intent.
- (c) No further business will be conducted with the relevant supplier and SCM will utilise National Treasury's CSD report for all purchases to ensure that no awards are made to persons in service of the state;
 - (d) The MEC for Local Government and the Auditor-General to be informed in writing in terms of section 32(4) of the MFMA with regards to the irregular expenditure.

(Detail investigation reports are available at the office of the Manager, Internal Audit.)

AANBEVELING

Daar kennis geneem word van die ondersoek deur die Dissiplinêre Raad ten opsigte van die onreëlmatige uitgawes soos deur die Ouditeur-Generaal gerapporteer:

- (a) Die ondersoek is afgehandel met betrekking tot die verkryging van goedere en dienste wat onreëlmatige uitgawes tot gevolg gehad het;
- (b) Die finale gevolgtrekking en aanbeveling aan die raad soos in die verslag aangedui, is soos volg:
 - i) dat die onreëlmatige uitgawes van R950.00 as oninvorderbaar afgeskryf word aangesien voldoende stappe geneem is om aankope te voorkom van persone indiens van die staat;
 - ii) dat die onreëlmatige uitgawes van R333 148.10 deur die Raad as oninvorderbaar afgeskryf word aangesien 'n ingeligte besluit gebaseer op 'n ingenieursperspektief deur die Bestuurder: Verkrygingsbestuur in samewerking met die Siviele Ingenieursdienste geneem was; en
 - iii) dat die Bestuurder: Verkrygingsbestuur ter goeder trou opgetree het en die onreëlmatige uitgawes nie die gevolg was van opsetlike of growwe nalatigheid of as gevolg van bedrog of met ander oneerlike bedoeling nie.
- (c) Geen verdere besigheid sal aangegaan word met die relevante verskaffer en sal Nasional Tesourie se CSD verslag aangewend word vir alle aankope om te voorkom dat aankope gedoen word met persone indiens van die staat; en
- (d) Die LUR vir Plaaslike Regering en die Ouditeur-Generaal moet skriftelik ingelig word ingevolge artikel 32 4) van die MFMA oor die onreëlmatige uitgawes.

(Volledige ondersoekverslae is beskikbaar by die kantoor van die Bestuurder, Interne Oudit)

Municipal Manager

Annexure A attached

ANNEXURE A

INVESTIGATION INTO IRREGULAR EXPENDITURE IN TERMS OF SECTION 32 OF THE MUNICIPAL FINANCE MANAGEMENT ACT, 2003: IDENTIFIED BY AUDITOR-GENERAL DUE TO NON-COMPLIANCE WITH SECTION 19 AND 44 OF THE SUPPLY CHAIN MANAGEMENT REGULATIONS

Report issued by: Disciplinary Board, Swartland Municipality

Date of finding: 20 January 2022

RECORD OF DECISION

After investigation of the below matters, based on discussions held with relevant staff members and verification of evidence, it was found that:

1. Awards to persons in the service of the state

- 1.1. In terms of the Supply Chain Management Regulation 44 of the Municipal Supply Chain Management Regulations, GNR 868 of May 2005, (MSCMR) and paragraph 44 of the Supply Chain Management (SCM) policy of the municipality (amended on 31 March 2021) the following is stated:

“44. The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be made to a person –

- a) who is in the service of the state; or
- b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- c) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.”

- 1.2. Furthermore, in terms of paragraph 38 of the Supply Chain Management (SCM) regulations states, “A supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer–

- a) to take all reasonable steps to prevent such abuse;
- f) to cancel a contract awarded to a person if –
 - (i) The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract...”

- 1.3. During the audit of procurement and contract management, the Auditor-General identified that the municipality made an award to the following supplier who is in the service of state:

Supplier	Amount	Award date	Employee's detail	Detail
Braaffs Corporation T/A Alfonso Braaff	R950.00	15/03/2021	Ms Anne Braaff Principal Clerk: Support Services, Public Relations, Library and Tourism Services	Ms A Braaff is employed in the service of Swartland Municipality and one of the directors of Braaffs Corporation.

- 1.4. The above results in a non-compliance with the Supply Chain Management Regulation 44 as the municipality should not have made an award with a person who is in the service of the state.

- 1.5. Although the procurement process was a direct purchase as per the SCM policy, management should have also identified the interest by management's internal processes relating to the code of conduct of the municipality.
- 1.6. The above non-compliance results in irregular expenditure of R950.
- 1.7. Management should ensure employees are made aware of the policies of the entity and not limited only to the SCM department. It is advisable that management does roadshows and make employees aware of policies of the entity. Further, management should establish policies whereby all staff is required to declare business interests they have in a supplier contracting with the state.
- 1.8. Management should amend note 67 of the Annual Financial Statements with the irregular expenditure identified above.

2. Splitting of quotes – Non-Compliance with SCM Regulation 19

- 2.1 In terms of paragraph 19 of the Municipal Supply Chain Management (SCM) Regulations: GNR. 868 of 30 May 2005, states the following:

"A supply chain management policy must specify -

- (a) that goods or services above a transaction value of R200 000 (VAT included) and long term contracts may be procured by the municipality or municipal entity only through a competitive bidding process, subject to regulation 11(2)";
 - (b) that no requirement for goods or services above an estimated transaction value of R200 000 (VAT Included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
- 2.2 In terms of paragraph 12(3) of the municipality's Supply Chain Management Policy, "Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction".
 - 2.3 During the audit of procurement and contract management, it was identified that there were two (2) requests for quotations for the Rental of Earthmoving Equipment, both with a closing date of 22 April 2021. The requests for quotations went out as two separate advertisements, however they constituted exactly the same services, except that the service was to take place in a different location, namely Moorreesburg and Darling areas. These areas are 85km from each other.
 - 2.4 Both contracts had the same six bidders, with five out of the six bidders quoting the exact same amounts for both contracts, and the sixth bidder's rates were only marginally different. Furthermore, the winning supplier for both contracts (West Coast Skies Services) quoted the same amount of R199 398.50 in both instances. It is therefore reasonable to believe that this service could have been procured as one tender, given that the services were the same, the quotes had the same closing date, they had the same bidders, quoting the same amounts for both contracts. In addition, that the winning supplier quoted the same price in both instances, thus rendering the travel and distance between the two locations immaterial. The quotations were thus split into two different parts.

- 2.5 When the two contract values are added together, the amount is greater than R200 000 (VAT inclusive) and the municipality should thus have followed a competitive bidding process:

Supplier	Order no	Service description as per order	Amount
West Coast Skies Services	SCM51/20/21	Rental of Earthmoving Equipment for Work on Darling Landfill Site	R199 398.50
West Coast Skies Services	SCM78/20/21	Rental of Earthmoving Equipment for Work on Moorreesburg Landfill Site	R199 398.50
Total			R398 797,00

- 2.6 The procurement of the Rental of Earthmoving Equipment should thus have been procured as a single transaction through a competitive bidding process. The amount of R333 148.10 (R199 398.50 + R133 749.60) paid to the supplier is thus irregular expenditure and will be assessed for material non-compliance.
- 2.7 Management should ensure that when procuring services of a similar nature, that it is done as a single transaction and the correct procurement process is followed based on the regulated thresholds as prescribed by the supply chain management regulations and internal policy.
- 2.8 Management should ensure that where they have budgeted or estimated the value of the work and quotations to exceed R200 000 (VAT inclusive), a competitive process is followed.
- 2.9 Management should amend note 67 of the AFS as the expenditure incurred is regarded as irregular.

3. Investigation by the Disciplinary Board

3.1 Awards to persons in the service of the state (Item 1 above)

- 3.1.1 The investigation by the Disciplinary Board revealed that the municipality's SCM policy paragraph 44 does include the terms of paragraph 44 of the Supply Chain Management (SCM) regulations that no award may be made to a person who is in the service of the state.
- 3.1.2 Management did implement internal processes to obtain a declaration of interest relating to the code of conduct from all staff and not only SCM staff and directors of the municipality. Roadshows were held to inform staff regarding the objection and reason for the declaration of interest.
- 3.1.3 Ms Anne Braaff completed a declaration of financial interest form on 20 September 2020 and indicated that she is a director of Braaffs Corporation with a 50% shareholding. However, she gave conflicting answers to further questions that she does not have financial interest in any partnership or that she or her husband own a business or shares in a company or do business with the municipality/institution of the State.
- 3.1.4 Ms Braaff completed a confirmation letter on 21 July 2021 for the financial year 2020/2021 and declared that the information furnished by her in the previous declaration remains unchanged. This is to the best of her knowledge, a true and correct reflection of her compliance to the Statutory Code of Conduct for Municipal Staff, Local Government: Municipal Systems Act (Act No 32 of 2000) and Regulations 45 & 46 of the Municipal Supply Chain Management Regulations, 2005 as at the date of her signature.

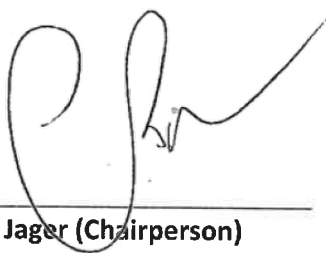
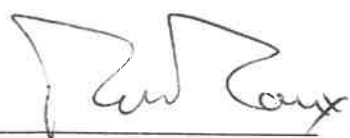
- 3.1.5 Although Ms Braaff indicated that they did not do business with the municipality during the financial year 2020/2021, an award of R950.00 was made to Braaffs Corporation on 15 March 2021.
- 3.1.6 Ms Braaff mentioned that she unknowingly gave conflicting answers to some of the questions and it was not her intention to mislead the municipality as she indicated that she is a director of Braaffs Corporation and has a 50% interest in the business. She was uncertain regarding some questions. She also mentioned that she was unaware that they did any business with Swartland Municipality, as she is not involved in the daily operations of the business.
- 3.1.7 Management indicated that the COVID 19 pandemic placed such a burden on available person-hours in HR, which resulted in them not being able to assess all the returned declarations. In the case of Ms Braaff, the declaration made to HR was later found to be incomplete with no responses to doing business with the municipality or the state.
- 3.1.8 Mr Alfonso Braaff, Managing Director of Braaffs Corporation and husband of Ms Anne Braaff, updated the declaration following the request by HR for declarations. SCM was informed where after a directive was issued by SCM on 28 July 2021 that no business will be conducted with Braaffs Corporation.
- 3.1.9 The irregular expenditure of R950.00 was not as a result of deliberate or gross negligence or as a result of fraud or other dishonest intent by staff of the SCM division. The purchase/service was urgent as requested by the user department. A Declaration of Interest did not accompany the requisition and only a quotation was submitted. Due to the amount being below R2 000.00, only one quotation was sufficient to issue an order.
- 3.1.10 Management amended note 67 of the AFS accordingly.
- 3.2 **Splitting of quotes – Non-Compliance with SCM Regulation 19** (Item 2 above)
- 3.2.1 The Disciplinary Board found that the municipality's SCM policy paragraph 12(3) does indicate as follows - "Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction".
- 3.2.2 The Disciplinary Board is in agreement with Management's statement that no intentional splitting of procurement took place and therefore, the Auditor-General's finding that Management failed to treat the services delivered as a single transaction and thus split the service into lesser values, which has resulted in the municipality dispensing from the competitive bidding process.
- 3.2.3 Management indicated that functionally the Darling and Moorreesburg landfill sites are different. It is located away from each other in separate towns and differs in terms of access, operation and management. The physical conditions on site are not the same. The most critical technical consideration, given the health hazards caused by a site not managed daily, was the foresight when planned to ensure that the prospective tenderer has the capacity to have the required machinery/large plant on site daily and not be hampered by machines being busy on another site. Management made an informed decision based on an engineering perspective to handle the work to be done at the each site separately.

- 3.2.4 The different final amounts of R199 398.50 and R133 749.60 paid to the contractor for the different landfill sites is the result of the different conditions present at each site.
- 3.2.5 Management amended note 67 of the AFS with R333 148.10 as the Auditor-General regards the expenditure incurred as irregular.

4. Recommendations

- 4.1 The Disciplinary Board performed an investigation in terms of section 171(4) of the MFMA in respect of the irregular expenditure incurred by the municipality as indicated in the Auditor-General's report for the financial year 2020/2021.
- 4.2 It is recommended that the irregular expenditure of R950.00 be written off as irrecoverable as the municipality received value and suffered no loss. Sufficient steps have been taken that no further business will be conducted with Braaffs Corporation and SCM will utilise National Treasury's CSD report for all purchases to ensure that no awards are made to persons in service of the state.
- 4.3 The Disciplinary Board recommends that the irregular expenditure of R333 148.10 be written off by council as the decision taken by the Manager: Supply Chain Management in conjunction with the Civil Engineering Department was an informed decision based on an engineering perspective.
- 4.4 The Manager: Supply Chain Management acted in good faith and the irregular expenditure was not as a result of deliberate or gross negligence or as a result of fraud or other dishonest intent.
- 4.5 The MEC for Local Government as well as the Auditor-General to be notified of the outcome of the investigation.

We, the members of the Disciplinary Board, hereby certify the above Record of Decision as correct:


CB de Jager (Chairperson)
M Terblanche (Director Corporate Services)
P le Roux (Manager Internal Audit)
S de Jongh (Manager Human Resources)



Verslag ♦ Ingxelo ♦ Report

Kantoor van die Direkteur: Korporatiewe Dienste
18 Januarie 2022

3/3/1
WYK: NVT

ITEM 8.8 VAN DIE AGENDA VAN 'N GEWONE RAADSVERGADERING WAT GEHOU SAL WORD OP 27 JANUARIE 2022

ONDERWERP:	NOMINASIES: AANWYS VAN RAADSLEDE OP KLINIEK-KOMITEES VAN DIE GESONHEIDSORGFASILITEITE IN DIE MUNISIPALE GEBIED
SUBJECT:	NOMINATIONS: APPOINTMENT OF COUNCILLORS TO CLINIC COMMITTEES OF THE PRIMARY HEALTH CARE FACILITIES IN THE MUNICIPAL AREA

1. BACKGROUND

A request was received from the Western Cape Government: Department of Health for the submission of nominations of councillors to serve on the committees of primary health care facilities in the municipal area – see attached correspondence (**Annexure A**) which includes –

- (i) The Western Cape Health Facility Boards and Committees Act, 2016 (Act No 4 of 2016) – (**Annexure B**);
- (ii) List of facilities in the Swartland municipal area – (**Annexure C**).

It was clarified with the said department to also nominate one councillor to be considered by the relevant Minister for appointment to the West Coast District Health Council.

1.1 Appointment of member of Board

The nomination must be made in accordance with section 5(2)(b) of the Western Cape Health Facility Boards and Committees Act, 2016 (Act No. 4 of 2016) in order for the Provincial Minister to consider the appointment. The Act determines that –

“In addition to the members appointed in terms of subsection (1) the Provincial Minister may appoint to a Board –

(b) one or more councillors of the municipal council for the municipal area in which the hospital is situated, nominated by the municipal council or a health-related committee of the municipal council;”

1.2 Appointment of members of Committees

The nominations must be made in accordance with section 6(1) of the Western Cape Health Facility Boards and Committees Act, 2016 (Act No. 4 of 2016) and determines that –

“The Provincial Minister must appoint to a Committee not more than 12 members, including-

(a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council;”

A Committee must be established for the following health care facilities situated in the Swartland municipal area:

- (i) Darling Clinic
- (ii) Moorreesburg Clinic
- (iii) Malmesbury Community Day Centre
- (iv) Riebeeck Kasteel Clinic
- (v) Riebeeck West Clinic
- (vi) Abbotsdale Satellite Clinic
- (vii) Chatsworth Satellite Clinic
- (viii) Kalbaskraal Satellite Clinic

- (ix) Riverlands Satellite Clinic
- (x) Koringberg Satellite Clinic
- (xi) Swartland Hospital

2. **LEGISLATION**

Provincial Legislation – Western Cape Health Facility Boards and Committees Act, 2016 (Act No. 4 of 2016)

3. **ALIGNMENT TO THE IDP**

N/a

4. **FINANCIAL IMPLICATION**

N/a

5. **RECOMMENDATION**

(a) *That cognisance be taken of the request from the Western Cape Department of Health dated 4 January 2022 to appoint councillors to the various clinic committees;*

(b) *That the following councillors be nominated to represent the Swartland Municipal Council on clinic committees of the various health facilities in the municipal area, namely:*

(i)	Darling Clinic	cllr
(ii)	Moorreesburg Clinic	cllr
(iii)	Malmesbury Community Day Centre	cllr
(iv)	Riebeek Kasteel Clinic	cllr
(v)	Riebeek West Clinic	cllr
(vi)	Abbotsdale Satellite Clinic	cllr
(vii)	Chatsworth Satellite Clinic	cllr
(viii)	Kalbaskraal Satellite Clinic	cllr
(ix)	Riverlands Satellite Clinic	cllr
(x)	Koringberg Satellite Clinic	cllr
(xi)	Swartland Hospital	cllr

(c) *That the abovementioned nominations be forwarded to the Provincial Minister of Health.*

(d) *That cllr be nominated to represent the Swartland Municipal Council on the West Coast District Health Council for consideration by the Provincial Minister of Health.*

AANBEVELING

(a) Dat kennis geneem word van die versoek ontvang vanaf die Wes-Kaapse Departement van Gesondheid gedateer 4 Januarie 2022 om raadslede op die onderskeie kliniek-komitees aan te wys;

(b) Dat die volgende raadslede genomineer word om die Swartland Munisipale Raad op die onderskeie kliniek-komitees van die gesondheidsfasiliteite geleë binne die munisipale gebied te verteenwoordig, naamlik:

(i)	Darling Kliniek	rdl
(ii)	Moorreesburg Kliniek	rdl
(iii)	Malmesbury Gemeenskap Dagsentrum	rdl
(iv)	Riebeek Kasteel Kliniek	rdl
(v)	Riebeek-Wes Kliniek	rdl
(vi)	Abbotsdale Satelliet Kliniek	rdl
(vii)	Chatsworth Satelliet Kliniek	rdl
(viii)	Kalbaskraal Satelliet Kliniek	rdl
(ix)	Riverlands Satelliet Kliniek	rdl
(x)	Koringberg Satelliet Kliniek	rdl
(xi)	Swartland Hospitaal	rdl

(c) Dat die voormelde nominasies aan die Provinsiale Minister van Gesondheid deurgegee sal word;

- (d) Dat rdl aangewys word om die Swartland Munisipale Raad op die Weskus Gesondheidsraad te verteenwoordig vir oorweging deur die Provinsiale Minister van Gesondheid;

(get) J J Scholtz

MUNISIPALE BESTUURDER

From: [Akhona Semele](#)
To: [Nicolette Brand](#)
Subject: RE: NOMINATION OF THE CLINIC COMMITTEES : SWARTLAND MUNICIPALITY
Date: Tuesday, 18 January 2022 11:28:12
Attachments: [image004.png](#)
[image003.png](#)

Dear Nicolette,

Yes, you are right it's only for the Clinics and one person who will represent Swartland Municipality in the entire District.

Kind Regards

Akhona Semele
Community Outreach Officer
Ministry of Health
Provincial Government of the Western Cape
P.O Box 2060

21st Floor, 4 Dorp Street, Cape Town

Tel: (+27) 21 483 9895
Cell: (+27) 72 309 0851
Fax: (+27) 21 483 4143
E-mail: akhona.stemele@westerncape.gov.za
Website: www.westerncape.gov.za

Please note that all invitations and meeting requests are accepted on the basis that they could be cancelled due to emergencies which may arise and require the Minister's attention.



Be 110% Green. Read from the screen.

From: Nicolette Brand <BrandN@swartland.org.za>
Sent: Tuesday, January 18, 2022 11:14 AM
To: Akhona Semele <Akhona.Stemele@westerncape.gov.za>
Subject: FW: NOMINATION OF THE CLINIC COMMITTEES : SWARTLAND MUNICIPALITY
Importance: High

Good day mr Stemele

I'm in process to prepare a report on behalf of the mayor regarding the appointment of councillors to the clinic committees in the Swartland municipal area.

Am I correct that the appointments is only for the clinics and not the Swartland Hospital? Please confirm.

The report will be tabled to Council on 27 January 2022 where after I will informed you on the appointments.

Kind regards

From: Akhona Stemele [<mailto:Akhona.Stemele@westerncape.gov.za>]

Sent: Tuesday, 04 January 2022 00:27

To: Harold Cleophas <Mayor@swartland.org.za>; debeer.anet@gmail.com; M Rangasamy <Speaker@swartland.org.za>

Cc: Douglas D Newman <Douglas.Newman@westerncape.gov.za>; Nomawethu Sbukwana <Nomawethu.Sbukwana@westerncape.gov.za>; Olivia Daniels <Olivia.Daniels@westerncape.gov.za>; Honey Morara <Honey.Morara@westerncape.gov.za>

Subject: NOMINATION OF THE CLINIC COMMITTEES : SWARTLAND MUNICIPALITY

Dear Mayor, Deputy Mayor and Speaker,

NOMINATION OF THE CLINIC COMMITTEES

WESTERN CAPE HEALTH FACILITY BOARDS AND COMMITTEES Act 4 of 2016

Compliments of the New Season, this email serves as a reminder on the letters that the office of Minister Mbombo had sent to all Mayors at the last Premier's Coordinating Forum that took place on December 3rd 2021.

As per clause 6(1)(a) of the Western Cape Health Facility Boards and Committees Act, 2016 (Act 4 of 2016) each clinic committee needs to have a councilor appointed by the municipal council or a health-related committee of the municipal council. Clause 6(1)(a):

6. (1) The Provincial Minister must appoint to a Committee not more than 12 members, including—

(a) one or more councilors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal

council or a health-related committee of the municipal council;

As such I am writing to you to request that your council or health portfolio committee submit a nomination for the below clinic committees:

- Darling Clinic
- Moorreesburg Clinic
- Malmesbury Community Day Centre
- Riebeek-Kasteel Clinic
- Riebeek-Wes Clinic
- Abbotsdale Satellite Clinic
- Chatsworth Satellite Clinic
- Kalbaskraal Satellite Clinic
- Riverlands Satellite Clinic
- Koringberg Satellite Clinic

I have attached the Act, the nomination form and the clinic list.

Looking forward to your response.

Do not hesitate to contact me should you have any enquiries.

Kind Regards

Akhona Stemele
Community Outreach Officer
Ministry of Health
Provincial Government of the Western Cape
P.O Box 2060

21st Floor, 4 Dorp Street, Cape Town

Tel: (+27) 21 483 9895

Cell: (+27) 72 309 0851

Fax: (+27) 21 483 4143

E-mail: akhona.stemele@westerncape.gov.za

Website: www.westerncape.gov.za

Please note that all invitations and meeting requests are accepted on the basis that they could be cancelled due to emergencies which may arise and require the Minister's attention.



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

IPHONDO LENTSHONA KOLONI

**Provincial Gazette
Extraordinary**

**Buitengewone
Provinsiale Koerant**

**Isongezelelo
kwiGazethi yePhondo**

7648

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Tuesday, 5 July 2016

Dinsdag, 5 Julie 2016

Lwesibini, 5 Julayi 2016

Registered at the Post Office as a Newspaper

*(*Copies are obtainable at Room M21, Provincial Legislature Building, 7 Wale Street, Cape Town 8001.)*

**OFFICE OF THE PREMIER
OF THE PROVINCE OF THE
WESTERN CAPE**

P.N. 273/2016 5 July 2016

It is hereby notified that the Premier of the Province of Western Cape has assented to the following Act which is hereby published for general information:—

No. 4 of 2016: Western Cape Health Facility Boards and Committees Act, 2016.

As 'n nuusblad by die Poskantoor geregistreer

*(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewer-gebou, Waalstraat 7, Kaapstad 8001.)*

**KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP**

P.K. 273/2016 5 Julie 2016

Hiermee word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet, wat hierby ter algemene inligting gepubliseer word, bekragtig het:—

Nr. 4 van 2016: Wes-Kaapse Wet op Rade en Komitees vir Gesondheidsfasiliteite, 2016.

Ibhaliswe ePosini njengePhephandaba

*(*Iikopi zifumaneka kwigumbi M21, kwiSakhiwo seNdлу yoWiso Mthetho yePhondo, e7 Wale Street, eKapa 8001.)*

**I-OFISI YENKULUMBUSO
YEPHONDO LENTSHONA
KOLONI**

I.S. 273/2016 5 Julayi 2016

Kwenziwa isaziso apha sokuba iNkulumbuso yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala:—

Nomb 4 ka-2016: UMthetho weeKomiti kunye neeBhodi zaMaziko ezeMpilo weNtshona Koloni, 2016.

(English text signed by the Premier)
(Assented to 30 June 2016)

ACT

To provide for the establishment, functions and procedures of boards established for hospitals and committees established for primary health care facilities; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

Definitions

1. In this Act, unless the context indicates otherwise—
 - “**auditor**” means a person registered as an auditor in terms of the Auditing Profession Act, 2005 (Act 26 of 2005); 5
 - “**Board**” means a board established in terms of section 4(1);
 - “**central hospital**” means a hospital designated as such by the national Minister under the National Health Act;
 - “**Committee**” means a committee established in terms of section 4(4); 10
 - “**Department**” means the provincial department responsible for health matters in the Province;
 - “**district health council**” means a district health council as defined in section 1 of the Western Cape District Health Councils Act, 2010 (Act 5 of 2010);
 - “**district health manager**” means a district health manager as defined in section 1 15 of the Western Cape District Health Councils Act, 2010;
 - “**existing central-hospital board**” means a board appointed under the Western Cape Health Facility Boards Act for a central hospital and existing immediately before the commencement of this Act;
 - “**Head of Department**” means the head of the provincial department responsible 20 for health matters in the Province;
 - “**health facility**” means a hospital or primary health care facility;
 - “**hospital**” means a building, institution or place designated as a hospital by the Provincial Minister in terms of section 3;
 - “**member**” means a member of a Board or Committee, as the case may be; 25
 - “**National Health Act**” means the National Health Act, 2003 (Act 61 of 2003);
 - “**national Minister**” means the national Minister responsible for health matters;
 - “**prescribe**” means prescribe by regulation;
 - “**primary health care facility**” means a building, institution or place designated as a primary health care facility by the Provincial Minister in terms of section 3; 30
 - “**Province**” means the Province of the Western Cape;
 - “**Provincial Minister**” means the Provincial Minister responsible for health matters in the Province;
 - “**regulation**” means a regulation made under this Act;
 - “**representative central-hospital board**” means a board appointed by the 35 national Minister under section 41(4) of the National Health Act;
 - “**this Act**” includes the regulations;
 - “**Western Cape Health Facility Boards Act**” means the Western Cape Health Facility Boards Act, 2001 (Act 7 of 2001).

Objects of Act

2. The objects of this Act are to provide for—
- (a) the establishment of representative and accountable Boards and Committees as statutory bodies;
 - (b) responsiveness of the management of health facilities to the community and the needs of patients and their families; 5
 - (c) community support for, and involvement in, health facilities and their programmes;
 - (d) a basic set of clearly defined functions for Boards and Committees, which may be incrementally expanded in the public interest as the capacity of a Board or Committee increases; and 10
 - (e) transitional provisions for existing central-hospital boards.

Designation of hospital or primary health care facility

3. (1) For the purposes of the establishment of a Board or Committee in terms of this Act, the Provincial Minister may designate as a hospital or primary health care facility 15 any building, institution or place where persons receive treatment, diagnostic or therapeutic interventions or other health services.

(2) The Provincial Minister may so designate as a hospital or primary health care facility a building, institution or place that is administered by a municipality only with the concurrence of— 20

- (a) the Provincial Minister responsible for local government; and
- (b) the municipality concerned.

Establishment of Boards and Committees

4. (1) The Provincial Minister must establish a Board for each hospital or group of hospitals other than a central hospital or a group of central hospitals. 25

(2) Where a Board is established for a group of hospitals, the Provincial Minister must determine the group by having regard to—

- (a) the geographic distance between the hospitals;
- (b) the size and distribution of the population served by the hospitals; and
- (c) the service volumes of the hospitals. 30

(3) A Board is a juristic person and is capable of suing and being sued and holding property in its own name.

(4) The Provincial Minister must establish a Committee for—

- (a) every primary health care facility; or
- (b) a group of primary health care facilities, determined by the Provincial Minister. 35

(5) The criteria and process for the clustering of primary health care facilities in the case of a Committee appointed for a group of primary health care facilities may be prescribed by the Provincial Minister.

(6) A Committee is not a juristic person and is not capable of suing or being sued or holding property in its own name. 40

Appointment of members of Board

5. (1) The Provincial Minister must appoint to a Board not more than 14 members, including—

- (a) persons representing the community or communities served by the hospital for which the Board is established, nominated in terms of subsection (4); 45
- (b) at least one person with technical expertise in business, law, finance or accounting or some other area relevant to the functions of the Board;
- (c) the head of the hospital concerned or, in the case of a Board established for more than one hospital, at least one of the heads of those hospitals; 50
- (d) at least one person representing the clinical staff of the hospital concerned, nominated by the clinical staff of the hospital, but in the case of a Board established for more than one hospital it is not necessary for a person representing the clinical staff of every hospital concerned to be appointed;
- (e) at least one person representing the non-clinical staff of the hospital concerned, nominated by the non-clinical staff of the hospital, but in the case 55

- of a Board established for more than one hospital it is not necessary for a person representing the non-clinical staff of every hospital concerned to be appointed; and
- (f) in the case of a Board established for one or more hospitals where health professionals are trained, at least one person representing the academic interests of each hospital concerned, nominated by the Vice-Chancellor or Vice-Chancellors of the university or universities concerned. 5
- (2) In addition to the members appointed in terms of subsection (1) the Provincial Minister may appoint to a Board—
- (a) a member of the Provincial Parliament, nominated by the parliamentary committee concerned with health matters; and 10
- (b) one or more councillors of the municipal council for the municipal area in which the hospital is situated, nominated by the municipal council or a health-related committee of the municipal council.
- (3) The members appointed in terms of subsection (1)(a) must constitute at least fifty per cent of the total number of members of the Board. 15
- (4) The members referred to in subsection (1)(a) must be nominated by a body that, in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned.
- (5) A body referred to in subsection (4)— 20
- (a) may not be a political party;
- (b) may be, but need not be, a—
- (i) community health committee or forum;
- (ii) community development forum; 25
- (iii) civic organisation;
- (iv) welfare organisation;
- (v) representative organisation of patients who use health services or health facilities;
- (vi) community-based organisation;
- (vii) non-governmental organisation; or 30
- (viii) representative organisation of children, women, the elderly, persons with disabilities or persons granted asylum.
- (6) The Provincial Minister must prescribe procedures for the invitation of nominations contemplated in subsections (1)(a) and (4).
- (7) Where nominations are required in terms of this section, all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made. 35
- (8) If the Provincial Minister receives no or insufficient nominations required in terms of this section, any suitably qualified person may be appointed a member from the relevant category stipulated in subsection (1) or (2). 40
- (9) The appointments to the Board must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities.

Appointment of members of Committee

6. (1) The Provincial Minister must appoint to a Committee not more than 12 members, including— 45
- (a) one or more councillors of the municipal council for the municipal area in which the primary health care facility is situated, nominated by the municipal council or a health-related committee of the municipal council;
- (b) members of the community or communities served by the primary health care facility for which the Committee is established, nominated in terms of subsection (3); and 50
- (c) the head of the primary health care facility concerned or, in the case of a Committee appointed for more than one primary health care facility, a manager designated by the district health manager.
- (2) The members appointed in terms of subsection (1)(b) must constitute at least fifty per cent of the total number of members of the Committee. 55
- (3) The members referred to in subsection (1)(b) must be nominated by a body that—
- (a) in the opinion of the Provincial Minister, is sufficiently representative of the interests of the community or communities concerned;
- (b) is not a political party, but may be, yet need not be, a body referred to in section 5(5)(b). 60

(4) The Provincial Minister may prescribe procedures for the invitation of nominations contemplated in subsections (1)(b) and (3).

(5) Where nominations are required in terms of subsection (1)(b) and (3), all nominations received within the prescribed period must be considered by the Provincial Minister before the relevant appointments are made. 5

(6) If the Provincial Minister receives no or insufficient nominations required in terms of paragraph (b) of subsection (1), any suitably qualified persons may be appointed as members from the category stipulated in that paragraph.

(7) The appointments to the Committee must be made with racial and gender sensitivity and sensitivity to the elderly, the youth and persons with disabilities. 10

Eligibility for appointment as a member

7. (1) To be eligible for appointment as a member a person must—

- (a) be a South African citizen;
- (b) be older than 18 years;
- (c) not be an unrehabilitated insolvent; 15
- (d) not, at any time, have been convicted of—
 - (i) an offence for which he or she was sentenced to imprisonment without the option of a fine; or
 - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, 20

whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) demonstrate commitment to community service; 25
- (f) demonstrate support for the mission and values of the health facility concerned; and
- (g) demonstrate a high level of personal integrity and honesty.

Term of office of members

8. (1) Members are appointed for a period of three years. 30

(2) On the expiry of the term of office of a member, that member may remain in office until a successor has been appointed, but not for longer than six months.

(3) Subject to subsection (4), a member is eligible for reappointment to a Board or Committee at the expiry of his or her term of office.

(4) A member, other than a member appointed in terms of section 5(1)(c) or 6(1)(c), 35 may not serve on a Board or Committee for more than two consecutive terms.

(5) Despite subsection (4), a member who has served for two consecutive terms may be reappointed if, in the opinion of the Provincial Minister, exceptional circumstances exist for reappointment or, in the absence of exceptional circumstances, after an interval of not less than one year. 40

Vacancies

9. (1) The chairperson of a Board or Committee must immediately in writing declare an office on the Board or Committee vacant if a member—

- (a) dies;
- (b) submits his or her resignation from office in writing to the chairperson; 45
- (c) is declared insolvent by a court of the Republic;
- (d) is during his or her term of office convicted of—
 - (i) an offence and sentenced to imprisonment without the option of a fine; or
 - (ii) theft, fraud, forgery, the uttering of a forged document, perjury, any offence in terms of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004), or any offence of which dishonesty is an element, 50

whether in the Republic or elsewhere if the conduct constituting the offence would be an offence in the Republic;
- (e) is absent without leave of the chairperson of the Board or Committee from 55 three consecutive ordinary meetings of the Board or Committee;
- (f) is suspended or removed from office under section 24(12)(b);

- (g) ceases to hold any office by virtue of which that member was appointed to the Board or Committee; or
- (h) fails to disclose to the Board or Committee any direct or indirect personal financial interest in a matter before the Board or Committee, and that member is present during, or participates in, the discussion of, or voting on, that matter. 5
- (2) If a member of a Board or Committee continuously disrupts meetings of the Board or Committee or fails to perform his or her duties in good faith or honestly, the Provincial Minister may initiate an investigation into the matter and, if sufficient grounds are found to exist, remove that member and declare his or her office vacant.
- (3) Within seven days of declaring an office vacant in terms of subsection (1), the chairperson must in writing inform the Provincial Minister of the vacancy. 10
- (4) On receipt of notice of a vacancy in terms of subsection (3), or on the removal of a member under subsection (2), the Provincial Minister must appoint another person to fill the vacancy for the unexpired period of office of the previous incumbent and, for the purposes of section 8(4), the unexpired period constitutes a term of office. 15
- (5) For the purposes of an appointment contemplated in subsection (4) the Provincial Minister must apply the same criteria used for the appointment of the vacating member.
- (6) In the event that a Board or a Committee fails to hold four meetings in a calendar year, the Provincial Minister may declare the Board or Committee concerned dysfunctional and appoint a new Board in terms of section 5 or a new Committee in terms of section 6. 20

Duties of Boards

- 10. (1) A Board must, in respect of each hospital for which it is established—
 - (a) participate in strategic planning with a view to advising the hospital management; 25
 - (b) monitor the performance, effectiveness and efficiency of the hospital and measures taken by the hospital management to improve the performance and quality of service of the hospital;
 - (c) take measures to ensure that the needs, concerns and complaints of patients and the community are properly addressed by the hospital management; 30
 - (d) foster community support for the hospital;
 - (e) encourage volunteers to offer their services in performing general duties for the hospital in accordance with the applicable policy on volunteers;
 - (f) request and review at least once a year the financial statements and annual financial statements of the hospital; 35
 - (g) raise funds for the functioning of the Board; and
 - (h) at reasonable times and in cooperation with the hospital management conduct scheduled visits to the hospital, without impeding its functioning, and provide constructive written feedback on such visits to the management.
- (2) A Board must take receipt of, administer and account for the funds raised by a Committee for which it is designated in terms of section 18(6) for the benefit of the primary health care facility concerned or the functioning of the Committee, in the manner prescribed by the Provincial Minister.

Powers of Boards

- 11. A Board may, in respect of a hospital for which it is established— 45
 - (a) advise and make recommendations to the Provincial Minister, the hospital management, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Board's functions;
 - (b) advise and make recommendations to the Provincial Minister or the municipality concerned, as the case may be, on the naming or renaming of the hospital or a part thereof, including a ward or theatre; 50
 - (c) obtain information it requires from the hospital management if the information does not violate the rights of a patient or staff member to privacy and confidentiality; 55
 - (d) request from the hospital management copies of routine progress reports that have been generated;
 - (e) conduct surveys, meetings and consultative workshops in the community or communities concerned;

- (f) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the hospital;
- (g) appoint staff on a contractual basis to serve the purposes of the Board;
- (h) donate funds or movable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital, in the manner prescribed by the Provincial Minister; and 5
- (i) raise and administer trust funds or Board funds for the purposes referred to in paragraph (g) or (h), or to give effect to any other provision of this Act. 10

Duties of Committees

12. A Committee must, in respect of each primary health care facility for which it is established—

- (a) request feedback on measures taken by the management of the primary health care facility to improve the quality of service at the facility; 15
- (b) assist the community to effectively communicate its needs, concerns and complaints to the management of the primary health care facility so that the needs, concerns and complaints can be appropriately addressed;
- (c) foster community support for the primary health care facility;
- (d) at reasonable times and in cooperation with the management of the primary health care facility conduct scheduled visits to the facility, without impeding its functioning, and provide constructive written feedback on such visits to the management; 20
- (e) encourage volunteers to offer their services in performing general duties in respect of the primary health care facility in accordance with the applicable policy on volunteers; and 25
- (f) provide constructive feedback to the management of the primary health care facility in order to enhance service delivery.

Powers of Committees

13. (1) A Committee may, in respect of a primary health care facility for which it is established— 30

- (a) conduct surveys, meetings and consultative workshops in the community or communities concerned;
- (b) disseminate information to the community or communities concerned on the mission, vision, values, services, performance, standards, policies, strategies, needs and financial status of the primary health care facility; 35
- (c) advise and make recommendations to the Provincial Minister, the management of the primary health care facility, the Head of Department or the municipality concerned, as the case may be, on any matter relating to the performance of the Committee's functions; 40
- (d) obtain information it requires from the management of the primary health care facility if the information does not violate the rights of a patient or staff member to privacy and confidentiality;
- (e) request from the management of the primary health care facility copies of routine progress reports that have been generated; and 45
- (f) conduct fundraising activities for the benefit of the primary health care facility and the functioning of the Committee.

(2) All funds raised by a Committee—

- (a) must be paid to, administered by, and accounted for by, the Board designated by the Head of Department in terms of section 18(6), in the prescribed manner; 50
- (b) may be used only for the benefit of the primary health care facility or facilities concerned or for the functioning of the Committee.

(3) Moveable property donated to the Committee must be allocated on receipt to the primary health care facility concerned and must be accounted for by that facility in accordance with the asset and inventory management policies applicable to the facility. 55

Alteration of functions of Board or Committee

- 14.** (1) Subject to subsection (4) and any other law, the Provincial Minister may in consultation with a Board or Committee authorise that Board or Committee to perform additional duties or exercise additional powers if the Provincial Minister has reason to believe that— 5
- (a) the Board or Committee has the capacity to perform those additional duties or exercise those additional powers; and
 - (b) it would be in the public interest for the Board or Committee to do so.
- (2) The Provincial Minister may after consultation with a Board or Committee revoke the authority given to that Board or Committee in terms of subsection (1) to perform an additional duty or exercise an additional power if the Provincial Minister has reason to believe that— 10
- (a) the Board or Committee no longer has the capacity to perform that additional duty or exercise that additional power; or
 - (b) it would be in the public interest for the Provincial Minister to do so. 15
- (3) The Provincial Minister may after consultation with a Board or Committee—
- (a) exempt that Board or Committee from performing a duty imposed by section 10 or 12; or
 - (b) revoke a power conferred on the Board or Committee by section 11 or 13. 20
- (4) When exercising a power contemplated in subsection (1), (2) or (3), the Provincial Minister must act after consultation with the head or heads of the health facility or facilities concerned. 20

Performance of duties and exercise of powers

- 15.** (1) In performing its duties or exercising its powers, a Board or Committee must act in accordance with the relevant and applicable laws and policy made by the national, provincial or local government. 25
- (2) The Head of Department may request a Board or Committee to provide a quarterly report on its activities.
- (3) The chairperson of a Board or Committee must, within two months of the end of each calendar year, submit a written report to the Provincial Minister on the activities of the Board or Committee during that year. 30

Measures for cooperation

- 16.** (1) The Provincial Minister may take measures to ensure collaborative working relationships between Boards, Committees and district health councils.
- (2) A Board or Committee must forge strong and cooperative relations with the management of the health facility it serves. 35
- (3) The head of a health facility must—
- (a) take measures to assist the Board or Committee concerned to perform its duties and exercise its powers; and
 - (b) forge strong and cooperative relations with the Board or Committee. 40
- (4) If irreconcilable differences arise between the management of a health facility and the Board or Committee concerned, the Board or Committee or the head of the health facility may request mediation or arbitration by the Head of Department.

Chairperson and deputy chairperson

- 17.** (1) A Board or Committee must, from among the members referred to in section 5(1)(a), 5(1)(b) or 6(1)(b), as the case may be, elect a chairperson and a deputy chairperson— 45
- (a) at its first meeting; and
 - (b) subsequently, whenever either of those offices becomes vacant.
- (2) An employee of the Department may not be the chairperson of a Board. 50
- (3) The chairperson and the deputy chairperson are elected for the term of office of the member concerned.
- (4) Within 14 days of the election of a chairperson or deputy chairperson in terms of subsection (1), the chairperson must notify the Head of Department in writing of the name and address of the office bearer concerned. 55

(5) When the chairperson is absent from a meeting of the Board or Committee or is not available, the deputy chairperson acts as chairperson.

(6) If both the chairperson and deputy chairperson are absent from a meeting of the Board or Committee, the members present must elect one of their number to act as chairperson for that meeting. 5

(7) The chairperson of a Board is the accounting officer for that Board and has the powers and duties prescribed by the Provincial Minister.

(8) The office of the chairperson or the deputy chairperson becomes vacant if the member concerned—

- (a) resigns in writing; or 10
- (b) is removed by a decision of the Board or Committee concerned.

General support

18. (1) The hospital for which a Board is established must provide a venue for the Board as well as secretarial, administrative and financial accounting support required by the Board. 15

(2) If a Board is established for more than one hospital, a venue and secretarial, administrative and financial accounting support required by the Board must be provided by one or more of the hospitals, as determined by—

- (a) agreement between the heads of the hospitals concerned; or
- (b) the Head of Department, in the absence of such agreement. 20

(3) Despite subsections (1) and (2), a Board may make alternative arrangements for the provision of a venue as well as secretarial, administrative and financial accounting support from its funds in the manner prescribed by the Provincial Minister.

(4) The primary health care facility or facilities for which a Committee is established must provide a venue for the Committee and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee. 25

(5) If a Committee is established for more than one primary health care facility, a venue and, in so far as is possible, secretarial, administrative and financial accounting support required by the Committee must be provided by one or more of the primary health care facilities, as determined by— 30

- (a) agreement between the heads of the primary health care facilities concerned; or
- (b) the Head of Department, in the absence of such agreement.

(6) The Head of Department must designate a Board for every Committee for the purposes of taking receipt of, administering and accounting for the funds raised by a Committee. 35

(7) A Board designated in terms of subsection (6) must receive, administer and account for the funds raised by the Committee in the manner prescribed.

(8) The Department must provide for the induction and training of members newly appointed to a first term of office and must provide additional training if considered necessary and appropriate. 40

Scheduling of meetings

19. (1) The Head of Department must determine the time and place for the first meeting of a Board or Committee.

(2) A Board or Committee must determine the time and place of subsequent ordinary meetings, which must take place at least once every three months and four times in a calendar year. 45

(3) The chairperson may at any time call a special meeting, and must do so if requested in writing by at least two members of the Board or Committee, as the case may be, and the chairperson is satisfied that the request is reasonable. 50

(4) The chairperson must notify members of the time, place and reason for a special meeting at least three working days in advance of the meeting, except where a shorter notice period is necessitated by the exceptional urgency of the circumstances.

(5) Notice of all meetings of a Board or Committee must be made public by the Board or Committee concerned. 55

Procedure at meetings

- 20.** (1) The procedure at a meeting of a Board or Committee must, in so far as it has not been prescribed, be determined by the Board or Committee.
- (2) A quorum of not less than one half of the members appointed in terms of section 5(1)(a) or 6(1)(b) and one half of the other members appointed in terms of section 5(1) and (2) or 6(1), as the case may be, must be present at a meeting at any time. 5
- (3) A decision of a Board or Committee should be by consensus, but in the absence of consensus the decision of a majority of the members present at the meeting is the decision of the Board or Committee.
- (4) In the event of an equality of votes on any matter, the chairperson at the meeting has a casting vote and a deliberative vote. 10
- (5) A Board may request or permit any person to participate in a meeting of the Board in an advisory capacity.
- (6) The chairperson must ensure that—
- (a) a proper record is kept of attendance at, minutes of, and resolutions adopted at, every meeting; and 15
- (b) a copy of a record referred to in paragraph (a), signed by the chairperson, is sent to the Head of Department if the Head of Department requests it.

Public attendance at meetings

- 21.** (1) Subject to subsection (2), all meetings of a Board or Committee are open to members of the public. 20
- (2) If a Board or Committee decides on reasonable grounds that members of the public should not be present at a meeting while a particular issue is being discussed, the chairperson must exclude the public from the meeting for the duration of that discussion.
- (3) A Board or Committee may use any reasonable means to inform members of the public of Board or Committee meetings. 25

Executive committee

- 22.** (1) A Board or Committee may appoint an executive committee composed of members of the Board or Committee, at least half of whom must be members appointed in terms of section 5(1)(a) in the case of a Board and section 6(1)(b) in the case of a Committee. 30
- (2) Subject to the directions of a Board or Committee and subsections (3) and (4), an executive committee may perform all the duties and exercise all the powers of the Board or Committee between meetings of the Board or Committee.
- (3) An executive committee does not have the power to review or alter a decision of the Board or Committee, except in so far as the Board or Committee directs otherwise. 35
- (4) Any action taken or decision made by an executive committee may at the first meeting of the Board or Committee following that action or decision be reviewed and altered by the Board or Committee, without prejudice to any person.

Specialist committees

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- 23.** (1) A Board or Committee may appoint specialist committees consisting of members of the Board or Committee to perform certain duties or exercise certain powers on behalf of the Board or Committee.
- (2) Where executive power is delegated to a specialist committee, the mandate, terms of reference, procedure and quorums of the specialist committee must be agreed to and recorded by the Board or Committee. 45
- (3) A specialist committee of a Board may co-opt a person or persons not serving on the Board to serve on the specialist committee in an advisory capacity.
- (4) Any action taken or decision made by a specialist committee may, at the first meeting of the Board or Committee following that action or decision, be reviewed and altered by the Board or Committee, without prejudice to any person. 50

Raising and utilisation of Board funds

- 24.** (1) A Board may receive services, funds or property for the purpose of performing its functions.

(2) A Board may use funds, property or equipment belonging to it for the purpose of performing its functions.

(3) A Board may establish a trust for the benefit of a hospital served by it and may accept and administer a trust already established for the benefit of a hospital served by it.

(4) A Board must keep records of all funds received and spent by it and of its assets, liabilities and transactions.

(5) A Board must annually, within two months of the end of its financial year, submit to the Head of Department its financial statements for that year, compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.

(6) An auditor appointed by the Board must, subject to subsection (7), audit the records and annual financial statements of the Board and must submit an audit report to the Head of Department and the Board within two months of receipt of the statements referred to in subsection (5).

(7) The Provincial Minister may, after consultation with the Head of Department, determine that a Board is exempted from being audited.

(8) The Provincial Minister must consider the following when making a determination in terms of subsection (7):

- (a) whether the total asset value, including investments of the Board, exceeded R5 000 000 in the previous financial year, with such amount to be adjusted annually on 1 March in accordance with the consumer price index;
- (b) the financial statements of the Board in the previous financial year; and
- (c) whether the Board complied with its duties in terms of this Act in the previous financial year.

(9) Where the Provincial Minister has exempted a Board in terms of subsection (7), the Board must nevertheless submit to the Head of Department financial statements compiled according to the reporting framework determined by the Provincial Minister in consultation with the Provincial Minister responsible for finance.

(10) The Provincial Minister may require a Board that has been exempted in terms of subsection (7) to be audited as set out in subsection (6).

(11) The financial year of a Board is a year ending on 31 March.

(12) If a Board fails to comply with subsection (5) or (9), or in the event of any financial mismanagement by a Board, the Provincial Minister may take reasonable remedial steps that he or she considers necessary, including—

- (a) the appointment of an administrator to administer the financial affairs or operational functions of the Board;
- (b) the suspension or removal of Board members from office; and
- (c) the alteration of the duties and powers of the Board, despite section 14.

(13) Before the Provincial Minister takes any remedial steps contemplated in subsection (12), the Head of Department must issue to the Board a compliance notice and copies thereof to its members setting out—

- (a) a description of the transgression constituting the non-compliance;
- (b) the steps that the Board is required to take and the period within which those steps must be taken to remedy the transgression; and
- (c) a notification to the Board that if it fails to take any steps referred to in paragraph (b), the Head of Department must refer the non-compliance to the Provincial Minister to take remedial steps in terms of subsection (12).

(14) If the Board complies with all the steps referred to in subsection (13)(b) within the period specified in the compliance notice, the Head of Department must notify the Board in writing of its compliance with the terms of the compliance notice.

(15) If the Board fails to comply with any or all of the steps referred to in subsection (13)(b) within the period specified in the compliance notice—

- (a) the Head of Department must, on expiry of the period specified in the compliance notice, notify the Provincial Minister in writing of the non-compliance or partial compliance by the Board; and
- (b) the Provincial Minister must within 30 days of receipt of a notification of non-compliance or partial compliance notify the Board in writing of its non-compliance or partial compliance with the terms of the compliance notice.

(16) The notice contemplated in subsection (15)(b) must state—

- (a) the proposed remedial steps to be taken in terms of subsection (12); and

- (b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed remedial steps.
- (17) On expiry of the 14 days contemplated in subsection (16)(b), whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including the partial compliance of the Board with the terms of the compliance notice and any written representations by the Board, take the proposed remedial steps. 5
- (18) If an administrator is appointed in terms of subsection (12)(a), he or she must—
- (a) within six months of his or her appointment, furnish the Head of Department with a report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board; 10
 - (b) thereafter, in consultation with the Head of Department, prepare a recovery plan for the Board; and
 - (c) upon completion of the implementation of the recovery plan, or failure to implement the recovery plan— 15
 - (i) if necessary, recommend to the Provincial Minister and Head of Department an extension of the recovery plan for a period not exceeding six months; or
 - (ii) furnish the Provincial Minister and Head of Department with a final report on the financial affairs of the Board and any suspected breach of a statutory provision or unlawful act committed by the Board. 20
- (19) The Provincial Minister may, after consultation with the Head of Department and on receipt of the final report contemplated in subsection (18)(c)(ii), determine that— 25
- (a) the Board is capable of administering its own financial affairs; or
 - (b) the Board is capable of administering its own financial affairs with the assistance of an administrator appointed by the Provincial Minister on such further terms and conditions as determined by the Provincial Minister.
- (20) Before the Provincial Minister makes a determination in terms of subsection (19)(b), he or she must notify the Board in writing of his or her intention to make such a determination. 30
- (21) The notice contemplated in subsection (20) must state—
- (a) the determination that the Provincial Minister intends to make; and
 - (b) that the Board is entitled to make written representations to the Provincial Minister within 14 days of receipt of the notice regarding the proposed determination. 35
- (22) On expiry of the 14 days contemplated in subsection (21)(b), whether the Provincial Minister has or has not received any written representations from the Board, the Provincial Minister may, after due consideration of all relevant facts, including any representations by the Board, make the proposed determination. 40

Travelling and other allowances

- 25.** (1) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds reimburse a member of the Board appointed in terms of section 5(1)(a) and (b), an advisor in terms of section 20(5) or any person co-opted to serve on a specialist committee in terms of section 23(3) for— 45
- (a) transport expenses between that member's, advisor's or person's normal place of residence or business and the venue of a meeting of the Board or the specialist committee concerned; and
 - (b) travelling and subsistence expenses incurred as a result of attendance at conferences, seminars or training courses or other business of the Board, but in the case of conferences, seminars and training courses outside the Province, the Provincial Minister's prior written approval must be obtained. 50
- (2)(a) A Board may not compensate its members for time spent on Board business.
- (b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, a Board may from its funds compensate an advisor in terms of section 20(5) or a person co-opted to serve on a specialist committee of the Board in terms of section 23(3) for time spent on Board business. 55
- (3)(a) A member of a Committee is not entitled to be compensated for time spent on Committee business. 60

(b) Subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds compensate a member of a Committee appointed in terms of section 6(1)(b) for transport expenses incurred as a result of attendance at meetings of the Committee.

(4) In the event that the Board has insufficient available funds, and subject to tariffs set by the Provincial Minister in consultation with the Provincial Minister responsible for finance, the Department may from its funds reimburse a member of a Board appointed in terms of sections 5(1)(a) or (b) for the transport expenses contemplated in subsection (1)(a). 5

Closure of health facility

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26. (1) In the event of the closure of a health facility for which a Board or Committee has been established, the Head of Department must, at least three months prior to the closure and after consultation with that Board or Committee, instruct the Board or Committee in writing regarding—

- (a) in the case of a Board or Committee established only for that health facility, the intended closure of that facility and the dissolution of the Board or Committee and, in the case of a Board, any trust that may have been established by the Board; 15
- (b) in the case of a Board or Committee established for more than one health facility, any intended alteration of its composition necessitated by the closure of that facility; and 20
- (c) in the case of a Board established only for that health facility, the disposal of the assets and liabilities of the Board and any trust which may have been established by the Board.

(2) On the closure of a health facility referred to in subsection (1)(a), the Board or Committee serving that health facility and, in the case of a Board, any trust that may have been established by the Board are dissolved, and the Head of Department must, if necessary, take steps to give effect to the instructions contemplated in subsection (1)(c). 25

Limitation of liability of members

27. A member is not liable for anything done in good faith in the performance of a function in terms of this Act. 30

Regulations

28. (1) Subject to subsection (3), the Provincial Minister must make regulations regarding—

- (a) procedures for the nomination of members for appointment to Boards and Committees; 35
- (b) the financial governance of Boards;
- (c) the manner in which a Board may donate funds or other moveable property for the provision, improvement or expansion of services and amenities, or donate funds for the acquisition of movable or immovable assets for the benefit of the hospital; 40
- (d) the powers and duties of the chairperson of a Board or Committee;
- (e) the manner in which a Board may make arrangements for the provision of a venue, as well as secretarial, administrative and financial accounting support;
- (f) the manner in which a Committee must pay funds raised for the benefit of the primary health care facility and the functioning of the Committee to the Board designated by the Head of Department in terms of section 18(6); 45
- (g) the manner in which a Board designated in terms of section 18(6) must take receipt of, administer and account for the funds raised by a Committee;
- (h) travelling and other allowances payable in terms of this Act; 50
- (i) the establishment of trusts by Boards; and
- (j) the criteria and process for the clustering of primary health care facilities for the purposes of the establishment of a Committee for a group of primary health care facilities.

(2) Subject to subsection (3), the Provincial Minister may make regulations regarding— 55

- (a) procedures for meetings of a Board or Committee; and

- (b) any other matter which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

(3) In the case of regulations that have financial implications for the state, the Provincial Minister must make the regulations with the concurrence of the Provincial Minister responsible for finance.

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Delegation

29. (1) The Provincial Minister may delegate or assign any of his or her powers or duties in terms of this Act, except the power to make regulations, to the Head of Department.

(2) The Head of Department may delegate or assign any of his or her powers or duties in terms of this Act to—

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- (a) an employee in the Department; or
- (b) the holder of a specific office or position in the Department.

(3) Despite subsection (2), the Head of Department may not delegate a power or assign a duty to a member.

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(4) A delegation or assignment referred to in subsection (1) or (2)—

- (a) must be in writing;
- (b) may be made subject to conditions;
- (c) may be withdrawn or amended in writing by the Provincial Minister or the Head of Department, as the case may be;
- (d) may permit the further delegation of that power or further assignment of that duty;
- (e) does not prevent the Provincial Minister or the Head of Department, as the case may be, from exercising that power or performing that duty; and
- (f) does not divest the Provincial Minister or the Head of Department, as the case may be, of the responsibility regarding the exercise of the delegated power or the performance of the assigned duty.

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Transitional provisions in respect of central hospitals

30. (1) Despite the repeal of the Western Cape Health Facility Boards Act by this Act, an existing central-hospital board in the Province continues to function in accordance with the provisions of that Act until the national Minister has appointed a representative central-hospital board for the hospital concerned.

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(2) Notwithstanding section 7 of the Western Cape Health Facility Boards Act, when the term of office of a member of an existing central-hospital board lapses prior to the appointment by the national Minister of a representative central-hospital board for the hospital concerned, that member may remain in office until the appointment has been made by the national Minister.

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(3) On the appointment of a representative central-hospital board by the national Minister—

- (a) the assets and liabilities of the existing central-hospital board vest in the representative central-hospital board, on condition that the assets must be utilised by the representative central-hospital board for the benefit of that board or the central hospital it serves; and
- (b) the Provincial Minister may, after consultation with the existing central-hospital board, make a determination in writing regarding any matter that may be necessary to ensure the effective functioning of the representative central-hospital board.

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Repeals and savings

31. (1) The Western Cape Health Facility Boards Act is repealed.

(2) Subject to section 30—

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- (a) a Board established under section 5 of the Western Cape Health Facilities Board Act and in existence immediately before the commencement of this Act continues to function and is regarded as having been established under section 4(1) of this Act;
- (b) the juristic identity and the rights and obligations of such a Board are not affected by the repeal of that Act; and

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- (c) any person holding an office in accordance with that Act immediately before the commencement of this Act continues in office for the term of that person's appointment and is regarded as duly appointed in terms of this Act for the unexpired portion of his or her term of office.

(3) Any proclamation, regulation, notice, order, authority, permission or document issued, promulgated, given or granted and any other action taken under the Western Cape Health Facility Boards Act is, if not inconsistent with this Act, deemed to have been issued, promulgated, given, granted or taken under this Act. 5

Short title and commencement

32. This Act is called the Western Cape Health Facility Boards and Committees Act, 2016, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*. 10

(Engelse teks deur die Premier geteken)
(Bekragtig op 30 Junie 2016)

WET

Om voorsiening te maak vir die instelling, werksaamhede en prosedures van rade wat vir hospitale ingestel is en komitees wat vir primêregesondheidsorg-fasiliteite ingestel is; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Wes-Kaap, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy dit uit die samehang anders blyk, beteken—
 - “**bestaande sentralehospitaal-raad**” ’n raad wat kragtens die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade vir ’n sentrale hospitaal aangestel is en onmiddellik voor die inwerkingtreding van hierdie Wet bestaan;
 - “**Departement**” die provinsiale departement verantwoordelik vir gesondheidsaangeleenthede in die Provinsie;
 - “**Departementshoof**” die hoof van die provinsiale departement verantwoordelik vir gesondheidsaangeleenthede in die Provinsie;
 - “**distriksgesondheidsbestuurder**” ’n distriksgesondheidsbestuurder soos omskryf in artikel 1 van die Wes-Kaapse Wet op Distriksgesondheidsrade, 2010 (Wet 5 van 2010);
 - “**distriksgesondheidsraad**” ’n distriksgesondheidsraad soos omskryf in artikel 1 van die Wes-Kaapse Wet op Distriksgesondheidsrade, 2010;
 - “**gesondheidsfasiliteit**” ’n hospitaal of ’n primêregesondheidsorg-fasiliteit;
 - “**hierdie Wet**” ook die regulasies;
 - “**hospitaal**” ’n gebou, inrigting of plek wat deur die Provinsiale Minister ingevolge artikel 3 as ’n hospitaal aangewys is;
 - “**Komitee**” ’n komitee wat ingevolge artikel 4(4) ingestel is;
 - “**lid**” ’n lid van ’n Raad of Komitee, na gelang van die geval;
 - “**Nasionale Gesondheidswet**” die “National Health Act, 2003” (Wet 61 van 2003);
 - “**nasionale Minister**” die nasionale Minister verantwoordelik vir gesondheidsaangeleenthede;
 - “**ouditeur**” ’n persoon geregistreer as ’n ouditeur ingevolge die “Auditing Profession Act, 2005” (Wet 26 van 2005);
 - “**primêregesondheidsorg-fasiliteit**” ’n gebou, inrigting of plek wat deur die Provinsiale Minister ingevolge artikel 3 as ’n primêregesondheidsorg-fasiliteit aangewys is;
 - “**Provinsiale Minister**” die Provinsiale Minister verantwoordelik vir gesondheidsaangeleenthede in die Provinsie;
 - “**Provinsie**” die Provinsie van die Wes-Kaap;
 - “**Raad**” ’n raad wat ingevolge artikel 4(1) ingestel is;
 - “**regulasie**” ’n regulasie wat kragtens hierdie Wet gemaak is;
 - “**sentrale hospitaal**” ’n hospitaal wat as sodanig aangewys is deur die nasionale Minister kragtens die Nasionale Gesondheidswet;
 - “**verteenwoordigende sentralehospitaal-raad**” ’n raad wat deur die nasionale Minister kragtens artikel 41(4) van die Nasionale Gesondheidswet aangestel is;
 - “**voorskryf**” voorskryf by regulasie;
 - “**Wes-Kaapse Wet op Gesondheidsfasiliteitsrade**” die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, 2001 (Wet 7 van 2001).

Oogmerke van Wet

2. Die oogmerke van hierdie Wet is om voorsiening te maak vir—
- (a) die instelling van verteenwoordigende en rekenpligtige Rade en Komitees as statutêre liggame;
 - (b) responsiwiteit van die bestuur van gesondheidsfasiliteite teenoor die 5
gemeenskap en die behoeftes van pasiënte en hul gesinne;
 - (c) gemeenskapsteun vir, en -betrokkenheid by, gesondheidsfasiliteite en hul programme;
 - (d) 'n basiese stel duidelik omskrewe werksaamhede vir Rade en Komitees, wat 10
toenemend uitgebrei kan word in die openbare belang namate die vermoë van 'n Raad of Komitee toeneem; en
 - (e) oorgangsbepalings vir bestaande sentralehospitaal-rade.

Aanwysing van hospitaal of primêregesondheidsorg-fasiliteit

3. (1) Met die doel van die instelling van 'n Raad of Komitee ingevolge hierdie Wet kan die Provinsiale Minister enige gebou, inrigting of plek waar persone behandeling, 15
diagnostiese of terapeutiese ingrypings of ander gesondheidsdienste ontvang, aanwys as 'n hospitaal of primêregesondheidsorg-fasiliteit.
- (2) Die Provinsiale Minister kan 'n gebou, inrigting of plek wat deur 'n munisipaliteit geadministreer word aldus aanwys as 'n hospitaal of primêregesondheidsorg-fasiliteit 20
slegs met die instemming van—
- (a) die Provinsiale Minister verantwoordelik vir plaaslike regering; en
 - (b) die betrokke munisipaliteit.

Instelling van Rade en Komitees

4. (1) Die Provinsiale Minister moet 'n Raad instel vir elke hospitaal of groep 25
hospitale behalwe 'n sentrale hospitaal of 'n groep sentrale hospitale.
- (2) Waar 'n Raad vir 'n groep hospitale ingestel word, moet die Provinsiale Minister die groep bepaal deur die volgende in ag te neem:
- (a) die geografiese afstand tussen die hospitale;
 - (b) die grootte en verspreiding van die bevolking wat deur die hospitale bedien 30
word; en
 - (c) die diensvolumes van die hospitale.
- (3) 'n Raad is 'n regspersoon en is bevoeg om te dagvaar en gedagvaar te word en eiendom in sy eie naam te besit.
- (4) Die Provinsiale Minister moet 'n Komitee instel vir—
- (a) elke primêregesondheidsorg-fasiliteit; of
 - (b) 'n groep primêregesondheidsorg-fasiliteite, bepaal deur die Provinsiale 35
Minister.
- (5) Die maatstawwe en prosedures vir die groepering van primêregesondheidsorg-fasiliteite in die geval van 'n Komitee wat vir 'n groep primêregesondheidsorg-fasiliteite aangestel word, kan deur die Provinsiale Minister voorgeskryf word. 40
- (6) 'n Komitee is nie 'n regspersoon nie en is nie bevoeg om te dagvaar of gedagvaar te word of eiendom te besit nie.

Aanstelling van lede van Raad

5. (1) Die Provinsiale Minister moet hoogstens 14 lede in 'n Raad aanstel, met 45
inbegrip van—
- (a) persone wat die gemeenskap of gemeenskappe verteenwoordig wat bedien word deur die hospitaal waarvoor die Raad ingestel is, benoem ingevolge subartikel (4);
 - (b) minstens een persoon met tegniese kundigheid oor die sakewêreld, die reg, finansies of rekeningkunde of 'n ander vakgebied van toepassing op die 50
werksaamhede van die Raad;
 - (c) die hoof van die betrokke hospitaal of, in die geval van 'n Raad wat vir meer as een hospitaal ingestel is, minstens een van die hoofde van daardie hospitale;
 - (d) minstens een persoon wat die kliniese personeel van die betrokke hospitaal 55
verteenwoordig, benoem deur die kliniese personeel van die hospitaal, maar in die geval van 'n Raad wat vir meer as een hospitaal ingestel is, is dit nie

- nodig dat 'n persoon wat die kliniese personeel van elke betrokke hospitaal verteenwoordig, aangestel word nie;
- (e) minstens een persoon wat die niekliniese personeel van die betrokke hospitaal verteenwoordig, benoem deur die niekliniese personeel van die hospitaal, maar in die geval van 'n Raad wat vir meer as een hospitaal ingestel is, is dit nie nodig dat 'n persoon wat die niekliniese personeel van elke betrokke hospitaal verteenwoordig, aangestel word nie; en 5
- (f) in die geval van 'n Raad wat vir een of meer hospitale ingestel is waar gesondheidsberoepslui opgelei word, minstens een persoon wat die akademiese belange van elke betrokke hospitaal verteenwoordig, benoem deur die Visekanselier of Visekanseliers van die betrokke universiteit of universiteite. 10
- (2) Buiten die lede aangestel ingevolge subartikel (1) kan die Provinsiale Minister die volgende persone in 'n Raad aanstel—
- (a) 'n lid van die Provinsiale Parlement, benoem deur die parlementêre komitee betrokke by gesondheidsaangeleenthede; en 15
- (b) een of meer raadslede van die munisipale raad vir die munisipale gebied waarin die hospitaal geleë is, benoem deur die munisipale raad of 'n gesondheidsverwante komitee van die munisipale raad.
- (3) Die lede wat ingevolge subartikel (1)(a) aangestel word, moet minstens vyftig persent van die totale getal lede van die Raad uitmaak. 20
- (4) Die lede bedoel in subartikel (1)(a) moet deur 'n liggaam benoem word wat, na die mening van die Provinsiale Minister, verteenwoordigend genoeg van die belange van die betrokke gemeenskap of gemeenskappe is.
- (5) 'n Liggaam bedoel in subartikel (4)— 25
- (a) mag nie 'n politieke party wees nie;
- (b) kan die volgende wees, maar hoef dit nie te wees nie:
- (i) 'n gemeenskapsgesondheidskomitee of -forum;
- (ii) 'n gemeenskapsontwikkelingsforum;
- (iii) 'n burgerlike organisasie; 30
- (iv) 'n welsynsorganisasie;
- (v) 'n verteenwoordigende organisasie van pasiënte wat gesondheidsdienste of gesondheidsfasiliteite gebruik;
- (vi) 'n gemeenskapsgebaseerde organisasie;
- (vii) 'n nieregeringsorganisasie; of 35
- (viii) 'n verteenwoordigende organisasie van kinders, vroue, bejaardes, persone met gestremdhede of persone aan wie asiel verleen is.
- (6) Die Provinsiale Minister moet prosedures voorskryf vir die uitnodiging van benoemings beoog in subartikels (1)(a) en (4).
- (7) Waar benoemings ingevolge hierdie artikel vereis word, moet alle benoemings ontvang binne die voorgeskrewe tydperk deur die Provinsiale Minister oorweeg word voordat die tersaaklike aanstellings gemaak word. 40
- (8) Indien die Provinsiale Minister geen, of nie die vereiste hoeveelheid, benoemings ingevolge hierdie artikel ontvang nie, kan enige toepaslik gekwalifiseerde persoon as 'n lid aangestel word uit die tersaaklike kategorie vermeld in subartikel (1) of (2). 45
- (9) Die aanstellings in 'n Raad moet gedoen word met ras- en geslagsensitiwiteit en sensitiwiteit teenoor bejaardes, die jeug en persone met gestremdhede.

Aanstelling van lede van Komitee

6. (1) Die Provinsiale Minister moet hoogstens 12 lede in 'n Komitee aanstel, met inbegrip van— 50
- (a) een of meer raadslede van die munisipale raad vir die munisipale gebied waarin die primêregesondheidsorg-fasiliteit geleë is, benoem deur die munisipale raad of 'n gesondheidsverwante komitee van die munisipale raad;
- (b) lede van die gemeenskap of gemeenskappe wat bedien word deur die primêregesondheidsorg-fasiliteit waarvoor die Komitee ingestel is, benoem ingevolge subartikel (3); 55
- (c) die hoof van die betrokke primêregesondheidsorg-fasiliteit of, in die geval van 'n Komitee wat vir meer as een primêregesondheidsorg-fasiliteit aangestel is, 'n bestuurder aangewys deur die distriksgesondheidsbestuurder.
- (2) Die lede wat ingevolge subartikel (1)(b) aangestel word, moet minstens vyftig persent van die totale getal lede van die Komitee uitmaak. 60

- (3) Die lede bedoel in subartikel (1)(b) moet deur 'n liggaam benoem word wat—
 (a) na die mening van die Provinsiale Minister, voldoende verteenwoordigend van die belange van die betrokke gemeenskap of gemeenskappe is;
 (b) nie 'n politieke party is nie, maar 'n liggaam bedoel in artikel 5(5)(b) kan wees, maar hoef nie te wees nie. 5
- (4) Die Provinsiale Minister kan prosedures voorskryf vir die uitnodiging van benoemings beoog in subartikels (1)(b) en (3).
- (5) Waar benoemings ingevolge subartikel (1)(b) en (3) vereis word, moet alle benoemings ontvang binne die voorgeskrewe tydperk deur die Provinsiale Minister oorweeg word voordat die tersaaklike aanstellings gemaak word. 10
- (6) Indien die Provinsiale Minister geen, of nie die vereiste hoeveelheid, benoemings ingevolge paragraaf (b) van subartikel (1) ontvang nie, kan enige toepaslik gekwalifiseerde persone as lede aangestel word uit die kategorie vermeld in daardie paragraaf.
- (7) Die aanstellings in die Komitee moet gedoen word met ras- en geslagsensitiwiteit 15 en sensitiwiteit teenoor bejaardes, die jeug en persone met gestremdhede.

Benoembaarheid vir aanstelling as 'n lid

7. (1) Om vir aanstelling as 'n lid te kwalifiseer, moet 'n persoon—
 (a) 'n Suid-Afrikaanse burger wees;
 (b) ouer as 18 jaar wees; 20
 (c) nie 'n ongerehabiliteerde insolvent wees nie;
 (d) nie, te eniger tyd, skuldig bevind gewees het nie aan—
 (i) 'n oortreding waarvoor hy of sy tot gevangenisstraf sonder die keuse van 'n boete gevonnissen is; of
 (ii) diefstal, bedrog, vervalsing, die in omloop bring van 'n vervalste 25 dokument, meened, enige misdryf ingevolge die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet 12 van 2004), of enige misdryf waarvan oneerlikheid 'n element is, hetsy in die Republiek of elders indien die optrede wat die oortreding uitmaak 'n oortreding in die Republiek sal wees; 30
 (e) toewyding tot gemeenskapsdiens toon;
 (f) steun vir die missie en waardes van die betrokke gesondheidsfasiliteit toon; en
 (g) 'n hoë vlak van persoonlike integriteit en eerlikheid toon.

Ampstermyn van lede

8. (1) Lede word vir 'n tydperk van drie jaar aangestel. 35
 (2) By verstryking van die ampstermyn van 'n lid, kan daardie lid in die amp bly totdat 'n opvolger aangestel is, maar nie vir langer as ses maande nie.
 (3) Behoudens subartikel (4) is 'n lid by verstryking van sy of haar ampstermyn heraanstelbaar in 'n Raad of Komitee.
 (4) 'n Lid, behalwe 'n lid wat ingevolge artikel 5(1)(c) of 6(1)(c) aangestel is, mag nie 40 vir langer as twee opeenvolgende termyne in 'n Raad of Komitee dien nie.
 (5) Ondanks subartikel (4) kan 'n lid wat vir twee opeenvolgende termyne gedien het, heraanstellings word indien daar, na die mening van die Provinsiale Minister, buitengewone omstandighede vir heraanstelling bestaan of, in die afwesigheid van buitengewone omstandighede, na 'n onderbreking van nie minder as een jaar nie. 45

Vakatures

9. (1) Die voorsitter van 'n Raad of Komitee moet 'n amp in die Raad of Komitee onmiddellik op skrif vakant verklaar indien 'n lid—
 (a) sterf;
 (b) sy of haar bedanking uit die amp skriftelik by die voorsitter indien; 50
 (c) insolvent verklaar word deur 'n hof van die Republiek;
 (d) gedurende sy of haar ampstermyn skuldig bevind word aan—
 (i) 'n oortreding en gevonnissen word tot gevangenisstraf sonder die keuse van 'n boete; of
 (ii) diefstal, bedrog, vervalsing, die in omloop bring van 'n vervalste 55 dokument, meened, enige misdryf ingevolge die Wet op die Voorkoming

- en Bestryding van Korrupte Bedrywighede, 2004 (Wet 12 van 2004), of enige misdryf waarvan oneerlikheid 'n element is, hetsy in die Republiek of elders indien die optrede wat die oortreding uitmaak 'n oortreding in die Republiek sal wees;
- (e) sonder verlof van die voorsitter van die Raad of Komitee afwesig is van drie opeenvolgende gewone vergaderings van die Raad of Komitee; 5
 - (f) geskors of uit die amp verwyder is kragtens artikel 24(12)(b);
 - (g) ophou om enige amp te beklee uit hoofde waarvan daardie lid in die Raad of Komitee aangestel is; of
 - (h) versuim om aan die Raad of Komitee enige direkte of indirekte persoonlike finansiële belang in 'n aangeleentheid voor die Raad of Komitee bekend te maak, en daardie lid teenwoordig is gedurende, of deelneem aan, die bespreking van of stemmery oor, daardie aangeleentheid. 10
- (2) Indien 'n lid van 'n Raad of Komitee voortdurend vergaderings van die Raad of Komitee ontwrig of versuim om sy of haar pligte te goeder trou of eerlik uit te voer, kan die Provinsiale Minister 'n ondersoek instel na die aangeleentheid en, indien daar voldoende gronde gevind word, daardie lid uit sy of haar amp verwyder en sy of haar amp vakant verklaar. 15
- (3) Die voorsitter moet binne sewe dae vandat 'n amp ingevolge subartikel (1) vakant verklaar is die Provinsiale Minister skriftelik van die vakature in kennis stel. 20
- (4) By ontvangs van kennisgewing van 'n vakature ingevolge subartikel (3) of by die verwydering van 'n lid kragtens subartikel (2) moet die Provinsiale Minister 'n ander persoon aanstel om die vakature te vul vir die onverstreke ampstermyn van die vorige ampsbekleër en, vir die toepassing van artikel 8(4), maak die onverstreke termyn 'n ampstermyn uit. 25
- (5) Vir 'n aanstelling beoog in subartikel (4) moet die Provinsiale Minister dieselfde maatstawwe toepas wat vir die aanstelling van die uittredende lid gebruik is.
- (6) In die geval dat 'n Raad of 'n Komitee versuim om vier vergaderings in 'n kalenderjaar te hou, kan die Provinsiale Minister die betrokke Raad of Komitee wanfunksioneel verklaar en 'n nuwe Raad ingevolge artikel 5 of 'n nuwe Komitee ingevolge artikel 6 aanstel. 30

Pligte van Rade

10. (1) 'n Raad moet, ten opsigte van elke hospitaal waarvoor hy ingestel is—
- (a) deelneem aan strategiese beplanning met die doel om die hospitaalbestuur van raad te bedien; 35
 - (b) die prestasie, doeltreffendheid en doelmatigheid van die hospitaal en maatreëls wat deur die hospitaalbestuur getref word om die prestasie en gehalte van diens van die hospitaal te verbeter, monitor;
 - (c) maatreëls tref om toe te sien dat die behoeftes, kwellinge en klagtes van pasiënte en die gemeenskap behoorlik deur die hospitaalbestuur aangepak word; 40
 - (d) gemeenskapsteun vir die hospitaal bevorder;
 - (e) vrywilligers aanmoedig om hul dienste aan te bied om algemene pligte vir die hospitaal uit te voer ooreenkomstig die toepaslike beleid oor vrywilligers;
 - (f) minstens een keer 'n jaar die finansiële state en jaarlikse finansiële state van die hospitaal aanvra en hersien; 45
 - (g) fondse vir die funksionering van die Raad insamel; en
 - (h) op redelike tye en in samewerking met die hospitaalbestuur, geskeduleerde besoeke aan die hospitaal aflê, sonder om die funksionering daarvan te belemmer, en konstruktiewe skriftelike terugvoering oor sodanige besoeke aan die bestuur verskaf. 50
- (2) 'n Raad moet fondse ingesamel deur 'n Komitee waarvoor hy ingevolge artikel 18(6) aangewys is tot voordeel van die betrokke primêregesondheidsorg-fasiliteit of die funksionering van die Komitee in ontvangs neem, administreer en van rekenskap gee, op die wyse voorgeskryf deur die Provinsiale Minister. 55

Bevoegdhede van Rade

11. 'n Raad kan, ten opsigte van 'n hospitaal waarvoor hy ingestel is—
- (a) raad gee en aanbevelings maak aan die Provinsiale Minister, die hospitaalbestuur, die Departementshoof of die betrokke munisipaliteit, na

- gelang van die geval, oor enige aangeleentheid wat met die verrigting van die Raad se werksaamhede verband hou;
- (b) raad gee en aanbevelings maak aan die Provinsiale Minister of die betrokke munisipaliteit, na gelang van die geval, oor die benaming of herbenaming van die hospitaal of 'n deel daarvan, met inbegrip van 'n saal of teater; 5
 - (c) inligting bekom wat hy van die hospitaalbestuur benodig, indien die inligting nie die regte van 'n pasiënt of personeellid tot privaatheid en vertroulikheid skend nie;
 - (d) afskrifte van gegenereerde roetine-vorderingsverslae by die hospitaalbestuur aanvra; 10
 - (e) opnames, vergaderings en raadplegende werksinkels in die betrokke gemeenskap of gemeenskappe hou;
 - (f) inligting aan die betrokke gemeenskap of gemeenskappe versprei oor die missie, visie, waardes, dienste, prestasie, standaarde, beleide, strategieë, behoeftes en finansiële status van die hospitaal; 15
 - (g) personeel op kontrak aanstel om die doeleindes van die Raad te dien;
 - (h) fondse of roerende eiendom skenk vir die verskaffing, verbetering of uitbreiding van dienste en geriewe, of fondse skenk vir die verkryging van roerende of onroerende bates tot voordeel van die hospitaal, op die wyse voorgeskryf deur die Provinsiale Minister; en 20
 - (i) trustfondse of Raadfondse insamel en administreer vir die doeleindes bedoel in paragraaf (g) of (h), of om uitvoering te gee aan enige ander bepaling van hierdie Wet.

Pligte van Komitees

- 12.** 'n Komitee moet, ten opsigte van elke primêregesondheidsorg-fasiliteit waarvoor hy ingestel is— 25
- (a) terugvoering versoek oor maatreëls wat deur die bestuur van die primêregesondheidsorg-fasiliteit getref is om die gehalte van diens by die fasiliteit te verbeter;
 - (b) die gemeenskap bystaan om sy behoeftes, kwellinge en klagtes doeltreffend aan die bestuur van die primêregesondheidsorg-fasiliteit te kommunikeer sodat die behoeftes, kwellinge en klagtes toepaslik aangepak kan word; 30
 - (c) gemeenskapsteun vir die primêregesondheidsorg-fasiliteit bevorder;
 - (d) op redelike tye en in samewerking met die bestuur van die primêregesondheidsorg-fasiliteit geskeduleerde besoeke aan die fasiliteit aflê, sonder om die funksionering daarvan te belemmer, en konstruktiewe skriftelike terugvoer op sodanige besoeke aan die bestuur verskaf; 35
 - (e) vrywilligers aanmoedig om hul dienste aan te bied om algemene pligte uit te voer ten opsigte van die primêregesondheidsorg-fasiliteit ooreenkomstig die toepaslike beleid oor vrywilligers; en 40
 - (f) konstruktiewe terugvoer verskaf aan die bestuur van die primêregesondheidsorg-fasiliteit ten einde dienslewering te verbeter.

Bevoegdhede van Komitees

- 13.** (1) 'n Komitee kan, ten opsigte van 'n primêregesondheidsorg-fasiliteit waarvoor hy ingestel is— 45
- (a) opnames maak en vergaderings en raadplegende werksinkels in die betrokke gemeenskap of gemeenskappe hou;
 - (b) inligting aan die betrokke gemeenskap of gemeenskappe versprei oor die missie, visie, waardes, dienste, prestasie, standaarde, beleide, strategieë, behoeftes en finansiële status van die primêregesondheidsorg-fasiliteit; 50
 - (c) raad gee en aanbevelings maak aan die Provinsiale Minister, die bestuur van die primêregesondheidsorg-fasiliteit, die Departementshoof of die betrokke munisipaliteit, na gelang van die geval, oor enige aangeleentheid wat met die verrigting van die Komitee se werksaamhede verband hou;
 - (d) inligting bekom wat hy van die bestuur van die primêregesondheidsorg-fasiliteit benodig indien die inligting nie die regte van 'n pasiënt of personeellid tot privaatheid en vertroulikheid skend nie; 55
 - (e) afskrifte van gegenereerde roetine-vorderingsverslae by die bestuur van die primêregesondheidsorg-fasiliteit aanvra; en

- (f) fondsinsamelingsbedrywighede tot voordeel van die primêregesondheidsorg-fasiliteit en die funksionering van die Komitee hou.
- (2) Alle fondse wat deur 'n Komitee ingesamel is—
 - (a) moet betaal word aan, en geadministreer word en van rekenskap gegee word deur, die Raad wat ingevolge artikel 18(6) deur die Departementshoof aangewys is, op die voorgeskrewe wyse;
 - (b) kan gebruik word slegs tot voordeel van die betrokke primêregesondheidsorg-fasiliteit of -fasiliteite of vir die funksionering van die Komitee.
- (3) Roerende eiendom wat aan die Komitee geskenk is, moet by ontvangs aan die betrokke primêregesondheidsorg-fasiliteit toegewys word, en die fasiliteit moet daarvan rekenskap gee ooreenkomstig die bate- en inventarisbestuursbeleid van toepassing op die fasiliteit.

Verandering van werksaamhede van Raad of Komitee

- 14.** (1) Behoudens subartikel (4) en enige ander wet kan die Provinsiale Minister in oorleg met 'n Raad of Komitee daardie Raad of Komitee magtig om bykomende pligte uit te voer of bykomende bevoegdhede uit te oefen indien die Provinsiale Minister rede het om te glo dat—
- (a) die Raad of Komitee die vermoë het om daardie bykomende pligte uit te voer of daardie bykomende bevoegdhede uit te oefen; en
 - (b) dit in die openbare belang sal wees vir die Raad of Komitee om dit te doen.
- (2) Die Provinsiale Minister kan na oorleg met 'n Raad of Komitee die gesag wat ingevolge subartikel (1) aan daardie Raad of Komitee gegee is om 'n bykomende plig uit te voer of 'n bykomende bevoegdheid uit te oefen, intrek indien die Provinsiale Minister rede het om te glo dat—
- (a) die Raad of Komitee nie meer die vermoë het om daardie bykomende plig uit te voer of daardie bykomende bevoegdheid uit te oefen nie; of
 - (b) dit in die openbare belang sal wees vir die Provinsiale Minister om dit te doen.
- (3) Die Provinsiale Minister kan na oorleg met 'n Raad of Komitee—
- (a) daardie Raad of Komitee vrystel van die uitvoering van 'n plig wat by artikel 10 of 12 opgelê is; of
 - (b) 'n bevoegdheid intrek wat by artikel 11 of 13 aan die Raad of Komitee verleen is.
- (4) Wanneer die Provinsiale Minister 'n bevoegdheid beoog in subartikel (1), (2) of (3) uit te oefen, moet die Provinsiale Minister na oorleg met die hoof of hoofde van die betrokke gesondheidsfasiliteit of -fasiliteite handel.

Uitvoering van pligte en uitoefening van bevoegdhede

- 15.** (1) By die uitvoering van sy pligte of uitoefening van sy bevoegdhede moet 'n Raad of Komitee handel ooreenkomstig die tersaaklike en toepaslike wette en beleid wat deur die nasionale, provinsiale of plaaslike regering gemaak is.
- (2) Die Departementshoof kan 'n Raad of Komitee versoek om 'n kwartaallikse verslag van sy bedrywighede te verskaf.
- (3) Die voorsitter van 'n Raad of Komitee moet binne twee maande voor die einde van elke kalenderjaar 'n skriftelik verslag by die Provinsiale Minister indien oor die bedrywighede van die Raad of Komitee gedurende daardie jaar.

Maatreëls vir samewerking

- 16.** (1) Die Provinsiale Minister kan maatreëls tref om samewerkende werksbetrekkinge tussen Rade, Komitees en distriksgesondheidsrade te verseker.
- (2) 'n Raad of Komitee moet sterk en samewerkende betrekkinge smee met die bestuur van die gesondheidsfasiliteit wat hy bedien.
- (3) Die hoof van 'n gesondheidsfasiliteit moet—
- (a) maatreëls tref om die Raad of Komitee by te staan in die uitvoering van sy pligte en die uitoefening van sy bevoegdhede; en
 - (b) sterk en samewerkende betrekkinge met die Raad of Komitee smee.
- (4) Indien onversoenlike verskille tussen die bestuur van 'n gesondheidsfasiliteit en die betrokke Raad of Komitee ontstaan, kan die Raad of Komitee of die hoof van die gesondheidsfasiliteit bemiddeling of arbitrasie deur die Departementshoof aanvra.

Voorsitter en ondervoorsitter

17. (1) 'n Raad of Komitee moet, vanuit die lede bedoel in artikel 5(1)(a), 5(1)(b) of 6(1)(b), na gelang van die geval, 'n voorsitter en 'n ondervoorsitter verkies—
- (a) by sy eerste vergadering; en
 - (b) daarna, wanneer ook al die een of die ander amp vakant word. 5
- (2) 'n Werknemer van die Departement mag nie die voorsitter van 'n Raad wees nie.
- (3) Die voorsitter en die ondervoorsitter word vir die ampstermyn van die betrokke lid verkies.
- (4) Binne 14 dae vanaf die verkiesing van 'n voorsitter of ondervoorsitter ingevolge subartikel (1) moet die voorsitter die Departementshoof skriftelik in kennis stel van die naam en adres van die betrokke ampsbekleër. 10
- (5) Wanneer die voorsitter afwesig is van 'n vergadering van die Raad of Komitee of nie beskikbaar is nie, neem die ondervoorsitter as voorsitter waar.
- (6) Indien beide die voorsitter en ondervoorsitter afwesig is van 'n vergadering van die Raad of Komitee moet die teenwoordige lede een onder hulle verkies om as voorsitter vir daardie vergadering waar te neem. 15
- (7) Die voorsitter van 'n Raad is die rekenpligtige beampte vir daardie Raad en het die bevoegdhede en pligte voorgeskryf deur die Provinsiale Minister.
- (8) Die amp van die voorsitter of die ondervoorsitter word vakant indien die betrokke lid— 20
- (a) skriftelik bedank; of
 - (b) verwyder word deur 'n besluit van die betrokke Raad of Komitee.

Algemene steun

18. (1) Die hospitaal waarvoor 'n Raad ingestel is, moet 'n lokaal vir die Raad asook die sekretariële, administratiewe en finansiële rekeningkundige steun verskaf wat die Raad benodig. 25
- (2) Indien 'n Raad vir meer as een hospitaal ingestel word, moet 'n lokaal en die sekretariële, administratiewe en finansiële rekeningkundige steun wat die Raad benodig deur een of meer van die hospitale verskaf word, soos bepaal—
- (a) by ooreenkoms tussen die hoofde van die betrokke hospitale; of 30
 - (b) deur die Departementshoof, in die afwesigheid van sodanige ooreenkoms.
- (3) Ondanks subartikels (1) en (2) kan 'n Raad uit sy fondse op die wyse voorgeskryf deur die Provinsiale Minister alternatiewe reëlings tref vir die verskaffing van 'n lokaal asook sekretariële, administratiewe en finansiële rekeningkundige steun.
- (4) Die primêregesondheidsorg-fasiliteit of -fasiliteite waarvoor 'n Komitee ingestel is, moet 'n lokaal vir die Komitee en, so ver as moontlik, die sekretariële, administratiewe en finansiële rekeningkundige steun wat die Komitee benodig, verskaf. 35
- (5) Indien 'n Komitee vir meer as een primêregesondheidsorg-fasiliteit ingestel is, moet 'n lokaal en, so ver as moontlik, sekretariële, administratiewe en finansiële rekeningkundige steun benodig deur die Komitee deur een of meer van die primêregesondheidsorg-fasiliteite verskaf word, soos bepaal— 40
- (a) by ooreenkoms tussen die hoofde van die betrokke primêregesondheidsorg-fasiliteite; of
 - (b) deur die Departementshoof, in die afwesigheid van sodanige ooreenkoms.
- (6) Die Departementshoof moet 'n Raad vir elke Komitee aanwys met die doel om die fondse ingesamel deur 'n Komitee in ontvangs te neem, te administreer en van rekenskap te gee. 45
- (7) 'n Raad aangewys ingevolge subartikel (6) moet die fondse ingesamel deur die Komitee ontvang, administreer en van rekenskap gee op die voorgeskrewe wyse.
- (8) Die Departement moet voorsiening maak vir die inlywing en opleiding van lede wat nuut aangestel is in 'n eerste ampstermyn en moet bykomende opleiding verskaf, indien nodig en toepaslik geag. 50

Skedulering van vergaderings

19. (1) Die Departementshoof moet die tyd en plek vir die eerste vergadering van 'n Raad of Komitee bepaal. 55
- (2) 'n Raad of Komitee moet die tyd en plek van daaropvolgende gewone vergaderings bepaal, wat minstens een keer elke drie maande en vier keer per kalenderjaar moet plaasvind.

(3) Die voorsitter kan te eniger tyd 'n spesiale vergadering belê en moet dit doen indien skriftelik versoek deur minstens twee lede van die Raad of Komitee en die voorsitter tevrede is dat die versoek redelik is.

(4) Die voorsitter moet lede van die tyd, plek en rede vir 'n spesiale vergadering in kennis stel minstens drie werksdae voor die vergadering, behalwe waar 'n korter kennisgewingtydperk genoodsaak word deur die uitsonderlike dringendheid van die omstandighede. 5

(5) Kennisgewing van alle vergaderings van 'n Raad of Komitee moet aan die publiek bekendgemaak word.

Prosedure by vergaderings 10

20. (1) Die prosedure by 'n vergadering van 'n Raad of Komitee moet, vir sover dit nie voorgeskryf is nie, deur die Raad of Komitee bepaal word.

(2) 'n Kworum van minstens een helfte van die lede aangestel ingevolge artikel 5(1)(a) of 6(1)(b) en een helfte van die ander lede aangestel ingevolge artikel 5(1) en (2) of 6(1), na gelang van die geval, moet te eniger tyd by 'n vergadering teenwoordig wees. 15

(3) 'n Besluit van 'n Raad of Komitee behoort deur eenparigheid te wees, maar by gebrek aan eenparigheid is die besluit van 'n meerderheid van die lede teenwoordig by die vergadering die besluit van die Raad of Komitee.

(4) In die geval van 'n staking van stemme oor enige aangeleentheid het die voorsitter by die vergadering 'n beslissende stem en 'n beraadslagende stem. 20

(5) 'n Raad kan enige persoon versoek of toelaat om in 'n raadgewende hoedanigheid aan 'n vergadering van die Raad deel te neem.

(6) Die voorsitter moet toesien dat—

(a) daar behoorlike rekord gehou word van bywoning van, die notule van, en besluite aangeneem by, elke vergadering; en 25

(b) 'n afskrif van 'n rekord bedoel in paragraaf (a), onderteken deur die voorsitter, na die Departementshoof gestuur word indien die Departementshoof dit versoek.

Openbare bywoning by vergaderings

21. (1) Behoudens subartikel (2) is alle vergaderings van 'n Raad of Komitee oop vir lede van die publiek. 30

(2) Indien 'n Raad of Komitee op redelike gronde besluit dat lede van die publiek nie teenwoordig behoort te wees by 'n vergadering terwyl 'n bepaalde kwessie bespreek word nie moet die voorsitter die publiek vir die duur van daardie bespreking uit die vergadering uitsluit. 35

(3) 'n Raad of Komitee kan enige redelike middele gebruik om lede van die publiek van vergaderings van Rade of Komitees in kennis te stel.

Uitvoerende komitee

22. (1) 'n Raad of Komitee kan 'n uitvoerende komitee aanstel wat uit lede van die Raad of Komitee bestaan, waarvan minstens die helfte lede moet wees wat ingevolge artikel 5(1)(a) aangestel is in die geval van 'n Raad en artikel 6(1)(b) in die geval van 'n Komitee. 40

(2) Behoudens die opdragte van 'n Raad of Komitee en subartikels (3) en (4), kan 'n uitvoerende komitee tussen vergaderings van die Raad of Komitee alle pligte uitvoer en bevoegdhede uitoefen van die Raad of Komitee. 45

(3) 'n Uitvoerende komitee het nie die bevoegdheid om 'n besluit van die Raad of Komitee te hersien of te verander nie, behalwe vir sover die Raad of Komitee anders opdrag gee.

(4) Enige handeling wat verrig of besluit wat geneem is deur 'n uitvoerende komitee kan by die eerste vergadering van die Raad of Komitee wat volg op die handeling of besluit hersien en verander word deur die Raad of Komitee, sonder benadeling van enige persoon. 50

Spesialiskomitees

23. (1) 'n Raad of Komitee kan spesialiskomitees aanstel wat uit lede van die Raad of Komitee bestaan om namens die Raad of Komitee sekere pligte uit te voer of sekere bevoegdhede uit te oefen.

(2) Waar uitvoerende bevoegdheid aan 'n spesialiskomitee gedelegeer word, moet daar oor die mandaat, opdrag, prosedure en kworums van die spesialiskomitee ooreengekom word en moet dit deur die Raad of Komitee aangeteken word. 5

(3) 'n Spesialiskomitee van 'n Raad kan 'n persoon of persone wat nie in die Raad dien nie koöpteer om in 'n raadgewende hoedanigheid in die spesialiskomitee te dien.

(4) Enige handeling verrig of besluit geneem deur 'n spesialiskomitee kan by die eerste vergadering van die Raad of Komitee na daardie handeling of besluit deur die Raad of Komitee hersien en verander word, sonder benadeling van enige persoon. 10

Insameling en aanwending van fondse van Raad

24. (1) 'n Raad kan dienste, fondse, of eiendom ontvang met die doel om sy werksaamhede te verrig. 15

(2) 'n Raad kan fondse, eiendom of toerusting wat aan hom behoort, aanwend vir die doel om sy werksaamhede te verrig.

(3) 'n Raad kan 'n trust instel tot voordeel van 'n hospitaal wat deur hom bedien word en kan 'n trust aanvaar en administreer wat reeds ingestel is tot voordeel van 'n hospitaal wat deur hom bedien word. 20

(4) 'n Raad moet rekord hou van alle fondse deur hom ontvang en bestee en van sy bates, laste en transaksies.

(5) 'n Raad moet jaarliks, binne twee maande voor die einde van sy boekjaar, sy finansiële state vir daardie jaar by die Departementshoof indien, saamgestel volgens die verslagdoeningsraamwerk bepaal deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies. 25

(6) 'n Ouditeur wat deur die Raad aangestel is, moet, behoudens subartikel (7), die rekords en jaarlikse finansiële state van die Raad ouditeer en moet binne twee maande vanaf ontvangs van die state bedoel in subartikel (5) 'n auditverslag by die Departementshoof en die Raad indien. 30

(7) Die Provinsiale Minister kan, na oorleg met die Departementshoof, bepaal dat 'n Raad daarvan vrygestel is om geouditeer te word.

(8) Die Provinsiale Minister moet die volgende oorweeg wanneer 'n bepaling ingevolge subartikel (7) gemaak word:

- (a) of die totale batewaarde, met inbegrip van beleggings van die Raad, in die vorige boekjaar R5 000 000 oorskry het, met sodanige bedrag wat jaarliks op 1 Maart ooreenkomstig die verbruikersprysindeks aangepas moet word; 35
- (b) die finansiële state van die Raad in die vorige boekjaar; en
- (c) of die Raad in die vorige boekjaar aan sy pligte ingevolge hierdie Wet voldoen het. 40

(9) Waar die Provinsiale Minister 'n Raad ingevolge subartikel (7) vrygestel het, moet die Raad nietemin finansiële state by die Departementshoof indien wat saamgestel is volgens die verslagdoeningsraamwerk bepaal deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies.

(10) Die Provinsiale Minister kan vereis dat 'n Raad wat ingevolge subartikel (7) vrygestel is, geouditeer word soos uiteengesit in subartikel (6). 45

(11) Die boekjaar van 'n Raad is 'n jaar wat op 31 Maart eindig.

(12) Indien 'n Raad versuim om aan subartikel (5) of (9) te voldoen, of in die geval van enige finansiële wanbestuur deur 'n Raad, kan die Provinsiale Minister redelike regstellende stappe doen wat hy of sy nodig ag, met inbegrip van— 50

- (a) die aanstelling van 'n administrateur om die finansiële sake of bedryfsfunksies van die Raad te administreer;
- (b) die skorsing of verwydering van Raadslede uit hul amp; en
- (c) die verandering van die pligte en bevoegdhede van die Raad, ondanks artikel 14. 55

(13) Voordat die Provinsiale Minister enige regstellende stappe beoog in subartikel (12) doen, moet die Departementshoof aan die Raad 'n voldoeningskennisgewing, en afskrifte daarvan aan sy lede, uitreik wat die volgende uiteensit:

- (a) 'n beskrywing van die oortreding wat die nievoldoening uitmaak;

- (b) die stappe wat die Raad moet doen en die tydperk waarbinne daardie stappe gedoen moet word om die oortreding reg te stel; en
- (c) 'n kennisgewing aan die Raad dat indien hy versuim om enige stappe bedoel in paragraaf (b) te doen, die Departementshoof die nievoldoening na die Provinsiale Minister moet verwys om ingevolge subartikel (12) regstellende stappe te doen. 5
- (14) Indien die Raad binne die tydperk vermeld in die voldoeningskennisgewing aan die stappe bedoel in subartikel (13)(b) voldoen, moet die Departementshoof die Raad skriftelik in kennis stel van sy voldoening aan die bepalings van die voldoeningskennisgewing. 10
- (15) Indien die Raad versuim om binne die tydperk vermeld in die voldoeningskennisgewing aan enige of alle stappe bedoel in subartikel (13)(b) te voldoen—
 - (a) moet die Departementshoof, by verstryking van die tydperk vermeld in die voldoeningskennisgewing, die Provinsiale Minister skriftelik in kennis stel van die nievoldoening of gedeeltelike voldoening deur die Raad; en 15
 - (b) moet die Provinsiale Minister binne 30 dae van ontvangs van 'n mededeling oor nievoldoening of gedeeltelike voldoening die Raad skriftelik in kennis stel van sy nievoldoening of gedeeltelike voldoening aan die bepalings van die voldoeningskennisgewing. 20
- (16) Die kennisgewing beoog in subartikel (15)(b) moet die volgende vermeld:
 - (a) die voorgestelde regstellende stappe wat ingevolge subartikel (12) gedoen moet word; en
 - (b) dat die Raad daarop geregtig is om binne 14 dae van ontvangs van die kennisgewing rakende die voorgestelde regstellende stappe skriftelike vertoë aan die Provinsiale Minister te rig. 25
- (17) By verstryking van die 14 dae beoog in subartikel (16)(b), of die Provinsiale Minister enige skriftelike vertoë van die Raad ontvang het al dan nie, kan die Provinsiale Minister, na behoorlike oorweging van alle tersaaklike feite, met inbegrip van die Raad se gedeeltelike voldoening aan die bepalings van die voldoeningskennisgewing en enige skriftelike vertoë deur die Raad, die voorgestelde regstellende stappe doen. 30
- (18) Indien 'n administrateur ingevolge subartikel (12)(a) aangestel word, moet hy of sy—
 - (a) binne ses maande van sy of haar aanstelling die Departementshoof voorsien van 'n verslag van die finansiële sake van die Raad en enige vermoedelike oortreding van 'n wetlike bepaling of onwettige handeling wat deur die Raad gepleeg is; 35
 - (b) daarna, in oorleg met die Departementshoof, 'n herstelplan vir die Raad voorberei; en
 - (c) by voltooiing van die implementering van die herstelplan, of by versuim om die herstelplan te implementeer— 40
 - (i) indien nodig, aan die Provinsiale Minister en Departementshoof 'n verlenging van die herstelplan vir 'n tydperk van hoogstens ses maande aanbeveel; of
 - (ii) die Provinsiale Minister en Departementshoof voorsien van 'n finale verslag van die finansiële sake van die Raad en enige vermoedelike oortreding van 'n wetlike bepaling of onwettige handeling wat deur die Raad gepleeg is. 45
- (19) Die Provinsiale Minister kan, na oorleg met die Departementshoof en by ontvangs van die finale verslag beoog in subartikel (18)(c)(ii), bepaal dat— 50
 - (a) die Raad in staat is om sy eie finansiële sake te administreer; of
 - (b) die Raad in staat is om sy eie finansiële sake te administreer met die bystand van 'n administrateur aangestel deur die Provinsiale Minister op sodanige verdere bepalings en voorwaardes soos bepaal deur die Provinsiale Minister.
- (20) Voordat die Provinsiale Minister 'n bepaling ingevolge subartikel (19)(b) maak, moet hy of sy die Raad skriftelik in kennis stel van sy of haar voorneme om so 'n bepaling te maak. 55
- (21) Die kennisgewing beoog in subartikel (20) moet die volgende vermeld:
 - (a) die bepaling wat die Provinsiale Minister van voorneme is om te maak; en
 - (b) dat die Raad daarop geregtig is om binne 14 dae van ontvangs van die kennisgewing skriftelike vertoë rakende die voorgestelde bepaling aan die Provinsiale Minister te rig. 60

(22) By verstryking van die 14 dae beoog in subartikel (21)(b), of die Provinsiale Minister enige skriftelike vertoë van die Raad ontvang het al dan nie, kan die Provinsiale Minister, na behoorlike oorweging van alle tersaaklike feite, met inbegrip van enige vertoë deur die Raad, die voorgestelde bepaling maak.

Reis- en ander toelae

5

25. (1) Behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan 'n Raad uit sy fondse 'n lid van die Raad wat ingevolge artikel 5(1)(a) en (b) aangestel is, 'n raadgewer ingevolge artikel 20(5) of enige persoon wat gekoöpteer is om ingevolge artikel 23(3) in 'n spesialiskomitee te dien, vergoed vir— 10

(a) vervoeruitgawes tussen daardie lid, raadgewer of persoon se normale woon- of werkplek en die plek van 'n vergadering van die Raad of die betrokke spesialiskomitee; en

(b) reis- en verblyfuitgawes wat aangegaan is as gevolg van bywoning van konferensies, seminare of opleidingskursusse of ander sake van die Raad, 15 maar in die geval van konferensies, seminare en opleidingskursusse buite die Provinsie moet die skriftelike goedkeuring van die Provinsiale Minister vooraf bekom word.

(2)(a) 'n Raad mag nie sy lede vergoed vir tyd wat aan Raadsake bestee is nie.

(b) Behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale 20 Minister verantwoordelik vir finansies vasgestel word, kan 'n Raad uit sy fondse 'n raadgewer ingevolge artikel 20(5) of 'n persoon wat gekoöpteer is om ingevolge artikel 23(3) in 'n spesialiskomitee van die Raad te dien, vergoed vir tyd wat aan Raadsake bestee is.

(3)(a) 'n Lid van 'n Komitee is nie geregtig op vergoeding vir tyd wat op 25 Komiteesake bestee is nie.

(b) Behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan die Departement uit sy fondse 'n lid van 'n Komitee wat ingevolge artikel 6(1)(b) aangestel is, vergoed vir reisuittgawes wat as gevolg van bywoning van vergaderings van die Komitee aangegaan 30 is.

(4) In die geval dat die Raad onvoldoende beskikbare fondse het, en behoudens tariewe wat deur die Provinsiale Minister in oorleg met die Provinsiale Minister verantwoordelik vir finansies vasgestel word, kan die Departement uit sy fondse 'n lid van 'n Raad wat ingevolge artikels 5(1)(a) of (b) aangestel is, vergoed vir die 35 vervoeruitgawes beoog in subartikel (1)(a).

Sluiting van gesondheidsfasiliteit

26. (1) In die geval van die sluiting van 'n gesondheidsfasiliteit waarvoor 'n Raad of Komitee ingestel is, moet die Departementshoof minstens drie maande voor die sluiting en na oorleg met daardie Raad of Komitee, die Raad of Komitee skriftelik opdrag gee 40 rakende—

(a) in die geval van 'n Raad of Komitee wat slegs vir daardie gesondheidsfasiliteit ingestel is, die voorgenome sluiting van daardie fasiliteit en die ontbinding van die Raad of Komitee en, in die geval van 'n Raad, enige trust wat moontlik 45 deur die Raad ingestel is;

(b) in die geval van 'n Raad of Komitee wat vir meer as een gesondheidsfasiliteit ingestel is, enige voorgenome aanpassing van sy samestelling wat deur die sluiting van daardie gesondheidsfasiliteit genoodsaak word; en

(c) in die geval van 'n Raad wat slegs vir daardie gesondheidsfasiliteit ingestel is, die beskikking oor die bates en laste van die Raad, en enige trust wat moontlik 50 deur die Raad ingestel is.

(2) By die sluiting van 'n gesondheidsfasiliteit bedoel in subartikel (1)(a) word die Raad of Komitee wat daardie gesondheidsfasiliteit bedien en, in die geval van 'n Raad, enige trust wat moontlik deur die Raad ingestel is, ontbind, en die Departementshoof moet, indien nodig, stappe doen om uitvoering te gee aan die instruksies beoog in 55 subartikel (1)(c).

Beperking van aanspreeklikheid van lede

27. 'n Lid is nie aanspreeklik vir enigiets wat te goeder trou gedoen is in die uitvoering van 'n werksaamheid ingevolge hierdie Wet nie.

Regulasies

28. (1) Behoudens subartikel (3) moet die Provinsiale Minister regulasies maak rakende— 5

- (a) prosedures vir die benoeming van lede vir aanstelling in Rade en Komitees;
- (b) die finansiële bestuur van Rade;
- (c) die wyse waarop 'n Raad fondse of ander roerende eiendom kan skenk vir die verskaffing, verbetering of uitbreiding van dienste en geriewe, of fondse kan skenk vir die verkryging van roerende of onroerende bates tot voordeel van die hospitaal;
- (d) die bevoegdhede en pligte van die voorsitter van 'n Raad of Komitee;
- (e) die wyse waarop 'n Raad reëlings kan tref vir die verskaffing van 'n lokaal, asook sekretariële, administratiewe en finansiële rekeningkundige steun;
- (f) die wyse waarop 'n Komitee fondse wat ingesamel is tot voordeel van die primêregesondheidsorg-fasiliteit en vir die funksionering van die Komitee moet betaal aan die Raad wat ingevolge artikel 18(6) deur die Departementshoof aangewys is;
- (g) die wyse waarop 'n Raad wat ingevolge artikel 18(6) aangewys is die fondse wat deur 'n Komitee ingesamel is in ontvangs moet neem, moet administreer en van rekenskap gee;
- (h) reis- en ander toelae wat ingevolge hierdie Wet betaalbaar is;
- (i) die instelling van trusts deur Rade; en
- (j) die maatstawwe en prosedures vir die groepering van primêregesondheidsorg-fasiliteite met die doel om 'n Komitee vir 'n groep primêregesondheidsorg-fasiliteite in te stel.

(2) Behoudens subartikel (3) kan die Provinsiale Minister regulasies maak rakende—

- (a) prosedures vir vergaderings van 'n Raad of Komitee; en
- (b) enige ander aangeleentheid wat nodig of raadsaam kan wees om voor te skryf ten einde die oogmerke van hierdie Wet te bereik.

(3) In die geval van regulasies wat finansiële implikasies vir die staat inhou, moet die Provinsiale Minister die regulasies maak met die instemming van die Provinsiale Minister verantwoordelik vir finansies.

Delegering

29. (1) Die Provinsiale Minister kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet aan die Departementshoof deleger of opdra, behalwe die bevoegdheid om regulasies te maak.

(2) Die Departementshoof kan enige van sy of haar bevoegdhede of pligte ingevolge hierdie Wet deleger of opdra aan—

- (a) 'n werknemer in die Departement; of
- (b) die bekleër van 'n spesifieke amp of posisie in die Departement.

(3) Ondanks subartikel (2) mag die Departementshoof nie aan 'n lid 'n bevoegdheid deleger of 'n plig opdra nie.

(4) 'n Delegasie of opdrag bedoel in subartikel (1) of (2)—

- (a) moet op skrif wees;
- (b) kan behoudens voorwaardes gemaak word;
- (c) kan skriftelik deur die Provinsiale Minister of die Departementshoof, na gelang van die geval, ingetrek of gewysig word;
- (d) kan die verdere delegasie van daardie bevoegdheid of verdere opdrag van daardie plig toelaat;
- (e) verhoed nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, om daardie bevoegdheid uit te oefen of daardie plig uit te voer nie; en
- (f) ontnem nie die Provinsiale Minister of die Departementshoof, na gelang van die geval, van die verantwoordelikheid rakende die uitoefening van die gedelegeerde bevoegdheid of die uitvoering van die opgedraagde plig nie.

Oorgangsbepalings ten opsigte van sentrale hospitale

30. (1) Ondanks die herroeping by hierdie Wet van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, gaan 'n bestaande sentralehospitaal-raad in die Provinsie voort om te funksioneer ooreenkomstig die bepalinge van daardie Wet totdat die nasionale Minister 'n verteenwoordigende sentralehospitaal-raad vir die betrokke hospitaal aangestel het. 5

(2) Ondanks artikel 7 van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade, wanneer die ampstermyn van 'n lid van 'n bestaande sentralehospitaal-raad verval voor die aanstelling deur die nasionale Minister van 'n verteenwoordigende sentralehospitaal-raad vir die betrokke hospitaal, kan daardie lid in die amp bly totdat die aanstelling deur die nasionale Minister gemaak is. 10

(3) By die aanstelling van 'n verteenwoordigende sentralehospitaal-raad deur die nasionale Minister—

(a) vestig die bates en laste van die bestaande sentralehospitaal-raad in die verteenwoordigende sentralehospitaal-raad op voorwaarde dat die bates deur die verteenwoordigende sentralehospitaal-raad aangewend moet word tot voordeel van daardie raad of die sentrale hospitaal wat hy bedien; en 15

(b) kan die Provinsiale Minister na oorleg met die bestaande sentralehospitaal-raad 'n skriftelike bepaling maak rakende enige aangeleentheid wat nodig kan wees om die doeltreffende funksionering van die verteenwoordigende sentralehospitaal-raad te verseker. 20

Herroeping en voorbehoude

31. (1) Die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade word herroep.

(2) Behoudens artikel 30—

(a) gaan 'n Raad ingestel kragtens artikel 5 van die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade en wat onmiddellik voor die inwerkingtreding van hierdie Wet bestaan, voort om te funksioneer en word die Raad geag ingestel te wees kragtens artikel 4(1) van hierdie Wet; 25

(b) word die regsidentiteit en die regte en verpligtinge van so 'n Raad nie deur die herroeping van daardie Wet geraak nie; en 30

(c) gaan enige persoon wat ooreenkomstig daardie Wet onmiddellik voor die inwerkingtreding van hierdie Wet 'n amp beklee, voort in die amp vir die termyn van daardie persoon se aanstelling en word die persoon geag behoorlik aangestel te wees ingevolge hierdie Wet vir die onverstreke gedeelte van sy of haar ampstermyn. 35

(3) Enige proklamasie, regulasie, kennisgewing, bevel, magtiging, toestemming of dokument wat uitgereik, gepromulgeer, gegee of verleen en enige ander handeling verrig kragtens die Wes-Kaapse Wet op Gesondheidsfasiliteitsrade word geag, indien nie onbestaanbaar met hierdie Wet nie, kragtens hierdie Wet uitgereik, gepromulgeer, gegee, verleen of verrig te wees. 40

Kort titel en inwerkingtreding

32. Hierdie Wet heet die Wes-Kaapse Wet op Rade en Komitees vir Gesondheidsfasiliteite, 2016, en tree in werking op 'n datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

(Uxwebhu lwesiNgesi lutyikitywe yiNkulumbuso)
(Wamkelwe ngowama-30 Juni 2016)

UMTHETHO

Lo mthetho uyilwayo ulungiselelwe ukuseka, imisebenzi, amagunya neenkqubo zeebhodi ezimiselwe izibhedlele neekomiti ezimiselweyo zamaziko ezempilo onyango olusisiseko; kunye nokulungiselela imiba enxulumene noko.

NGOKO KE KUWISWA UMTHETHO yiPalamente yeNtshona Koloni, ngolu hlobo lulandelayo:—

Inkcazo-magama

1. Kulo Mthetho naliphi na igama elinikwe intsingiselo lihlala linaloo ntsingiselo liyinikeyo ngaphandle kwalapho indlela elisetyenziswe ngayo igama linika enye intsingiselo—

“**umphicothi**” uthetha umntu obhalise njengomphicothi ngokoMthetho i-*Auditing Profession Act, 2005* (uMthetho 26 ka-2005);

“**iBhodi**” ithetha iBhodi yesibhedlele esekwe ngokwecandelo 4(1);

“**isibhedlele esikhulu**” sithetha isibhedlele esibalelwa ukuba sisibhedlele esikhulu ngokwecandelo lama-35 lomthetho i-*National Health Act* nguMphathiswa wesizwe onoxanduva lwemicimbi yezempilo;

“**IKomiti**” ithetha iKomiti yeziko lempilo leenkonzo zonyango olusisiseko esekwe ngokwecandelo (4);

“**ISebe**” lithetha isebe lephondo elinoxanduva lwemicimbi yezempilo kwiPhondo;

“**IBhunga lezeMpilo leSithili**” lithetha iBhunga leMpilo leSithili ngokwendlela echazwe kwicandelo 1 lomthetho i-*Western Cape District Health Councils Act, 2010* (uMthetho 5 ka-2010);

“**umphathi wezempilo wesithili**” uthetha umphathiswa wezempilo wesithili njengeko kuchaziwe kwicandelo 1 lomthetho i-*Western Cape District Health Councils Act, 2010*;

“**ibhodi emileyo yesibhedlele esikhulu**” ithetha ibhodi ngokwendlela echazwe phantsi kwecandelo 5 lomthetho i-*Western Cape Health Facility Boards Act* yesibhedlele esikhulu;

“**INTloko yeSebe**” ithetha intloko yesebe onoxanduva lwemicimbi yezempilo kwiPhondo;

“**iziko lempilo**” lithetha isibhedlele okanye iziko lempilo elineenkonzo zonyango olusisiseko;

“**isibhedlele**” sithetha isakhiwo, iziko okanye indawo emiselwe njengesibhedlele nguMphathiswa wePhondo ngokwecandelo 3;

“**ilungu**” lithetha ilungu leBhodi okanye leKomiti, njengoko kunjalo;

“**INational Health Act**” ithetha i-*National Health Act, 2003* (uMthetho 61 ka-2003);

“**uMphathiswa wesizwe**” uthetha uMphathiswa wesizwe onoxanduva lwemicimbi yezempilo;

“**ukumisela**” kuthetha ukumisela ngokommiselo;

“**iziko lempilo leenkonzo ezisisiseko**” lithetha isakhiwo, iziko okanye indawo emiselwe njengeziko lempilo nguMphathiswa wePhondo ngokwecandelo 3;

“**IPhondo**” lithetha iPhondo leNtshona Koloni;

“**UMphathiswa wePhondo**” uthetha uMphathiswa wePhondo onoxanduva lwemicimbi yezempilo kwiPhondo;

“**ummiselo**” uthetha ummiselo owenzwe phantsi kwalo mthetho;
 “**ibhodi yabameli yesibhedlele esikhulu**” ithetha ibhodi enyulwe nguMphathiswa wesizwe phantsi kwecandelo 41(4) lomthetho i*National Health Act*;
 “**lo Mthetho**” uquka nemimiselo;
 “**iWestern Cape Health Facility Boards Act**” ithetha i*Western Cape Health Facility Boards Act, 2001* (uMthetho 7 ka-2001). 5

Injongo yalo Mthetho

2. Injongo zalo mthetho kukulungiselela—

- (a) ukumisela abameli neeBhodi kunye neeKomiti njengamaqumrhu omthetho;
- (b) ukukwazi kwabaphathi bamaziko empilo ukukhawulelana noluntu kunye neemfuno zezigulane neentsapho zazo; 10
- (c) inkxaso yoluntu, ukubandakanyeka kwalo kumaziko empilo kunye neenkqubo zawo;
- (d) iiBhodi zempilo neKomiti inikwe imisebenzi esisiseko ecacisiweyo, enokumana isandiswa ngokwezinto eziphambili ezifunwa luluntu njengoko umsebenzi weBhodi okanye oweKomiti uya usanda; kunye 15
- (e) nemimiselo yethutyana yeebhodi esezikho zezibhedlele ezikhulu.

UkuChongwa kwesibhedlele okanye iziko lempilo leenkonziso ezisisiseko

3. (1) Ngokweenjongo zokumisela kweBhodi okanye kweKomiti ngokwalo Mthetho, uMphathiswa wePhondo uya kuchonga njengesibhedlele okanye iziko lempilo nasiphi isakhiwo, iziko okanye indawo apho abantu baye bafumane unyango khona, apho kukho iinkqubo zohlolo ukufumanisa ngezigulo nangonyango okanye kwenziwe nezinye iinkonziso zonyango. 20

(2) UMphathiswa wePhondo uya kuchonga njengesibhedlele okanye iziko lempilo elineenkonziso ezisisiseko isakhiwo, iziko okanye indawo emiselwe ngumasipala ekwenza oko kuphela ngokwesivumelwano— 25

- (a) noMphathiswa wePhondo ojongene norhulumente wommandla; kunye
- (b) nomasipala ochaphazelekayo.

Ukusekwa kweeBhodi neeKomiti

4. (1) UMphathiswa wePhondo uya kumisela iBhodi yesibhedlele okanye iqela lezibhedlele ngaphandle kwezibhedlele ezikhulu okanye iqela lezibhedlele ezikhulu. 30

(2) Apho iBhodi yeqela lezibhedlele iya kumisela khona, uMphathiswa wePhondo uya kumisela iqela enike ingqalelo—

- (a) umgama ophakathi kwezibhedlele ngokweendawo ezimi kuzo;
- (b) ubukhulu nobungakanani babantu abancedwa kwezi zibhedlele; kunye 35
- (c) nobungakanani beenkonzo ezenziwa ezibhedlele.

(3) IBhodi ngumntu osemthethweni onokufaka isimangalo okanye amangalelwe ngegama layo.

(4) UMphathiswa wePhondo uya kumisela iKomiti—

- (a) iziko lempilo elineenkonziso zonyango olusisiseko; kunye 40
- (b) neqela lamaziko empilo aneenkonzo zonyango olusisiseko, amiselwe nguMphathiswa wePhondo.

(5) Imigaqo neenkqubo ezilandelayo zokuhlenganisa amaziko empilo aneenkonzo zonyango olusisiseko kwimeko apho iKomiti ithe yatyunjelwa ukujongana namaziko empilo aneenkonzo zonyango olusisiseko iya kumisela nguMphathiswa wePhondo. 45

(6) IKomiti asingomntu womthetho kwaye akanako ukumangalela okanye amangalelwe okanye onepropathi egameni lakhe.

Ukutyunjwa kwamalungu eBhodi

5. (1) UMphathiswa wePhondo kufuneka amisele iBhodi enamalungu angekho ngaphezu kwesine kodwa angadluli kumalungu ali-14, kuqukwa— 50

- (a) abantu abamele uluntu okanye iindawo ezahlukeneyo zoluntu oluncedwa kwesi sibhedlele emiselwe sona iBhodi, etyunjwe ngokwecandelwana (4);
- (b) ubuncinane ibe ngumntu omnye onobungcali kwezomsebenzi, kwezomthetho, ezemali okanye kwezinye iindawo ezinxulumene nemisebenzi yeBhodi;

- (c) intloko yesibhedlele esichaphazelekayo okanye, kwimeko apho iBhodi imiselwe ukujongana nezibhedlele eziliqela, makuphume intloko ibenye kwiintlo kwezo zibhedlele ubuncinane;
- (d) ubuncinane mayibe ngumntu omnye omele abasebenzi bezonyango emiselwe bona iBhodi, atyunjwe ngabasebenzi bezonyango besibhedlele, kodwa kwimeko apho iBhodi imiselwe ukujongana bezibhedlele eziliqela, kodwa akukho mfuneko yokuba kutyunjwe umntu omele abasebenzi bezempilo kwisibhedlele ngasinye esichaphazelekayo; 5
- (e) ubuncinane ngumntu omnye omele abasebenzi abangengobanyangi abasebenza esibhedlele esimiselwe sona iBhodi, okhethwa ngabasebenzi abangengobanyangi, kodwa kwimeko yokumiselwa kweBhodi ejongene nezibhedlele eziliqela akukho mfuneko yokuba kutyunjwe umntu omele abasebenzi abangengobanyangi kwisibhedlele ngasinye; kunye 10
- (f) nakwimeko apho iBhodi imiselwe isibhedlele esinye okanye izibhedlele eziliqela iingcali zabasebenzi ziye ziqeqeshwe, ubuncinane umntu omnye omele iimfuno eziphambili ezinxulumene nemfundo kwisibhedlele ngasinye esichaphazelekayo, otyunjwe liSeleka-Ngqonyela okanye ngaMasekela-Ngqonyela eyunivesithi okanye eeyunivesithi ezichaphazelekayo. 15
- (2) Ukwangeza kumalungu atyunjwe ngokwecandelwana (1) uMphathiswa wePhondo uya kunyulela kwiBhodi— 20
- (a) ilungu lePalamente yePhondo limisele ikomiti yepalamente ejongene nemiba yempilo; kunye
- (b) uceba omnye okanye ooceba abaninzi bebhunga likamasipala lendawo kamasipala enesibhedlele, amiselwa libhunga likamasipala okanye ikomiti echaphazelekayo yezempilo yebhunga laloo masipala. 25
- (3) Amalungu amiselwe ngokwecandelwana (1)(a) aya kuba namalungu eBhodi akumlinganiselo wamashumi amahlanu eepesenti ewonke.
- (4) Amalungu ekubhekiselelwa kuwo kwicandelwana (1)(a) aya kumiselwa liqumrhu eliya kuthi ngokwembono yoMphathiswa wePhondo libe nabameli abaya kuzifezekisa ngokupheleleyo iimfuno eziphambili zoluntu okanye zeendawo zoluntu oluchaphazelekayo 30
- (5) Iqumrhu ekubhekiselelwa kulo kwicandelwana (4)—
- (a) aliya kuba ngumbutho wezopolitiko;
- (b) liya kuthi, nangani kunganyanzelekanga ukuba libe—
- (i) yikomiti okanye iforam yezempilo yoluntu; 35
- (ii) yiforam yophuhliso loluntu;
- (iii) ngumbutho wezokuhlala;
- (iv) ngumbutho wezentlatlontle;
- (v) ngumbutho omele izigulane ezisebenzisa inkonzo yezempilo okanye amaziko empilo; 40
- (vi) ngumbutho osekwe eluntwini;
- (vii) ngumbutho ongekho kurhulumente; okanye
- (viii) ngumbutho omele abantwana, amabhinqa, abantu abadala, abantu abakhubazekileyo okanye iimbacu.
- (6) UMphathiswa wePhondo uya kukhupha imigaqo eyalelayo yokwenziwa kwezimemelelo zokutyumba njengoko kuchaziwe kumacandelwana (1)(a) no-(4). 45
- (7) Apho kufuneka kutyunjwe khona ngokweli candelo, onke amagama aphakanyiselwe ukutyunjwa afumanekileyo kwisithuba esimiselweyo aya kunikwa ingqalelo nguMphathiswa wePhondo ngaphambi kokuba kwenziwe inkqubo efanelekileyo yokutyumba. 50
- (8) Ukuba uMphathiswa wePhondo uthe akafumana magama aphakanyiselwe ukutyunjwa okanye angonelanga afunekayo ngokweli candelo, nawuphi umntu oselungelweni nofanelekileyo uya kutyunjwa njengelungu etyunjwa kwisigaba esimiselweyo nesichazwe kwicandelwana (1) okanye (2).
- (9) Ukutyunjelwa ukuba kwiBhodi kuya kwenziwa kuthatyathelwe ingqalelo uhlanga nesini kwanabantu abadala, ulutsha kwanabantu abakhubazekileyo. 55

Ukumiselwa kwamalungu ekomiti

6. (1) UMphathiswa wePhondo uya kumisela iKomiti engayi kuba namalungu angaphantsi kwamathathu kodwa angabi ngaphezu kwali-12, kuqukwa—

- (a) uceba omnye okanye ooceba abaninzi bebhunga likamasipala lendawo kamasipala enesibhedlele, amiselwa libhunga likamasiapala okanye ikomiti echaphazelekayo yezempilo yebhunga laloo masipala;
- (b) amalungu oluntu okanye eendawo zoluntu oluncedwa liziko lempilo elineenkonzon zonyango olusisiseko ngokubhekiselele kwindawo elikulo iziko lempilo elineenkonzon zonyango oluphambili elimiselwe lona uluntu, atyunjwe ngokwecandelwana (3); kunye 5
- (c) nentloko yeziko elichaphazelekayo lempilo elineenkonzon zonyango oluphambili okanye, kwimeko apho iKomiti imiselwe ukujongana neziko lempilo elineenkonzon zonyango oluphambili, umanejala wesithilana sezonyango apho limi khona iziko lempilo elineenkonzon zonyango olusisiseko. 10
- (2) Amalungu atyunjwe ngokwecandelwana (1)(b) aya kuba namalungu eKomiti akumlinganiselo wamashumi amahlanu eepesenti ewonke.
- (3) Amalungu ekubhekiselelwa kuwo kwicandelwana (1)(b) aya kutyunjwa liqumrhu elithe— 15
- (a) ngokwembono yoMphathiswa wePhondo libe nabameli abaya kuzifizekisa ngokupheleleyo iimfuno eziphambili zoluntu okanye zeendawo zoluntu oluchaphazelekayo;
- (b) aliyi kuba ngumbutho wezopolitiko, kodwa lingalilo, nangani kunganyanzelekanga ukuba libe liqumrhu ekubhekiselelwe kulo kwicandelo 5(5)(b). (4) UMphathiswa wePhondo uya kukhupha imigaqo eyalelayo yokwenziwa kwezimemelelo zokutyumba njengoko kuchaziwe kumacandelwana (1)(b) nele (3). 20
- (5) Apho kufuneka kutyunjwe khona ngokwecandelo (1)(b), onke amagama aphakanyiselwe ukutyunjwa afumanekileyo kwisithuba esimiselweyo aya kunikwa ingqalelo nguMphathiswa wePhondo ngaphambi kokuba kwenziwe inkqubo efanelekileyo yokutyumba. 25
- (6) Ukuba uMphathiswa wePhondo uthe akafumana magama aphakanyiselwe ukutyunjwa okanye angenelanga afunekayo ngokwecandelo (b) wecandelwana (1), nabaphi na abantu abafanelekileyo baya kutyunjwa njengamalungu, betyunjwa kwisigaba esimiselweyo nesichazwe kula mhlathi. 30
- (7) Ukonyulelwa kwiKomiti makwenziwe ngokukekelele kwisini nohlanga kwakunye nokukekelele kwabadala, ulutsha nabantu abakhubazekileyo.

Ukulungela ukuba sesikhundleni kwelungu

35

7. (1) Ukuze abe umntu ukulungele ukuba sesikhundleni njengelungu kufuneka abe—

- (a) ungummi waseMzantsi Afrika;
- (b) ngaphezulu kwiminyaka eli-18 ubudala;
- (c) akakho matyaleni angahlawulekiyo; 40
- (d) akazange, nangaliphi na ixesha, afunyaniswe—
- (i) enetyala awakhe waligwetyelwa ngokuvallelwa entolongweni engasinikwanga isohlwayo; okanye
- (ii) ebuseleni, ubuqhetseba, ukukhohlisa, lithethe inkohliso ngamaxwebhu, lifunge ubuxoki, libe likwanalo naliphi na ityala ngokwe*Prevention and Combating of Corrupt Activities Act, 2004* (uMthetho 12 ka-2004), okanye linalo naliphi ityala ngenxa yokungathembeki kwalo, nokuba kukwiRiphabliki yoMzantsi Afrika okanye ngaphandle kwiRiphabliki, ukuba oku kuziphatha bekuya kuba lityala kwiRiphabliki; 45
- (e) ubonakalisa ukuzinikela kwinkonzon yoluntu; 50
- (f) ubonakalisa inkxaso kumnqophiso neempawu zentsulungeko zeziko lezempilo elichaphazelekayo; kunye
- (g) nokubonakalisa imfezeko nentembeko enkulu.

Ixesha lokuba sesikhundleni kwamalungu

8. (1) Amalungu atyunjelwa ukuba sesikhundleni isithuba seminyaka emithathu 55
- (2) Lakuba liphelile ixesha lokuba sesikhundleni kwelungu, elo lungu liya kuba sesikhundleni kude kutyunjwe umntu oya kungena esikhundleni salo, kodwa zingendluli iinyanga ezinhandathu.

(3) Ngokuxhomekeke kwicandelwana (4), ilungu linako ukutyunjelwa kwiBhodi okanye kwiKomiti lakuba liphelile ixesha lalo lokuba libe sesikhundleni.

(4) Ilungu, ngaphandle kwelungu elityunjwe ngokwecandelo 5(1)(c) okanye 6(1)(c), liya kusebenza kwiBhodi okanye kwiKomiti izihlandlo ezilandelelanyo eziya kuba ngaphezulu kezibini. 5

(5) Nangona kuchazwa kwicandelwana (4), ilungu elisebenze izihlandlo ezilandelelanayo ezibini liya kuphinda lityunjwe kwakhona ukuba kuthe ngokwembono yoMphathiswa wePhondo kubekho iimeko ezibaluleke ngokukodwa ukuba lityunjwe kwakhona okanye, xa kungekho meko zibaluleke ngokukodwa, emva kokuba likhe lanqumama ixesha elingabanga ngaphantsi konyaka omnye. 10

Izikhundla

9. (1) USihlalo weBhodi okanye weKomiti uya kuthi ngokukhawuleza abhalele iBhodi okanye kwiKomiti isibhengezo esichaza ukuba isikhundla njengesingenamntu xa lithe ilungu—

(a) lasweleka; 15

(b) lithe lakwazisa ukurhoxa kwalo kusihlalo ngembalelwano;

(c) lisematyaleni angahlawulekiyo yinkundla yeRiphabliki;

(d) lithe ngexesha lisesikhundleni lachaphazeleka—

(i) lafunyaniswa linetyala lize ligwetyelwe intolongo lingasinikwanga sohlwayo; okanye 20

(ii) ebuseleni, ubuqhetseba, ukukhohlisa, lithethe inkohliso ngamaxwebhu, lifunge ubuxoki, libe likwanalo naliphi na ityala ngokwe*Prevention and Combating of Corrupt Activities Act, 2004*, (uMthetho 12 ka-2004), okanye linalo naliphi ityala ngenxa yokungathembeki kwalo, nokuba kukwiRiphabliki yoMzantsi Afrika okanye ngaphandle kwiRiphabliki, ukuba oku kuziphatha bekuya kuba lityala kwiRiphabliki; 25

(e) alibangakho kwiintlanganiso ezintathu zilandelelana libe lingekho kwikhefu elimiselwe yiBhodi okanye yiKomiti;

(f) linqunyanyiwe okanye lirhoxisiwe kwisikhundla salo phantsi kwecandelo 24(12)(b); 30

(g) liyayeka esikhundleni elalinyulelwe sona yiBhodi okanye kwiKomiti; okanye

(h) lisilele ukuchaza kwiBhodi okanye kwiKomiti layo nayiphi indlela eliyingenisa ngayo imali, aliwandlalanga umcimbi onjalo ngokungqalileyo okanye ngokungqalanga kwiBhodi okanye kwiKomiti, kwaye elo lungu kufuneka libekho xa, okanye lithathe inxaxheba kwiingxoxo, okanye xa kuvotelwa lo mcimbi. 35

(2) Ukuba ilungu leBhodi okanye leKomiti liziphazamisa rhoqo iintlanganiso zeBhodi okanye ezeKomiti, okanye liyasilela ukwenza umsebenzi walo ngokuzimisela nangokuthembeka, uMphathiswa wePhondo uya kuqhuba uphando ngaloo mcimbi kwaye, ukuba akho amagunya afanelekileyo, uya kulirhoxisa elo lungu esikhundleni aze asibhengeze njengesingenamntu isikhundla salo. 40

(3) Kwisithuba seentsuku ezisixhenxe zokubhengeza isithuba ngokwecandelwana (1), usihlalo uya kubhalela uMphathiswa wePhondo amazise ngesithuba eso.

(4) Uya kuthi akuba esifumene isaziso ngesithuba ngokwecandelwana (3), okanye ngokurhoxiswa kwelungu ngokwecandelo (2), uMphathiswa wePhondo uya kunyula omnye umntu, elandela kwinkqubo efanayo naleyo yayilandelwe xa kwakunyulwa eli lungu likhutshwayo, lungu elo liya kuba sesikhundleni selungu elimkileyo ixesha elingayi kuphelelwa, kwaye ngokweenjongo zecandelo 8(4), kwakukho isithuba ngexesha ebelingene ngalo esikhundleni. 45

(5) Ngokweenjongo zokutyumba okuchazwe kwicandelwana (4) uMphathiswa wePhondo uya kusebenzisa imigaqo efanayo eyayisetyenzisiwe yokutyumba ilungu elingena kwisikhundla selungu elirhoxisiweyo. 50

(6) Xa iBhodi okanye iKomiti ithe yasilela ukuya kwiintlanganiso ezine ngokwekhalenda yonyaka, uMphathiswa wePhondo uya kuyibhengeza iBhodi okanye iKomiti echaphazelekayo njengengasebenzi kakuhle aze amisele iBhodi entsha ngokwecandelo 5 okanye iKomiti entsha ngokwecandelo 6. 55

Imisebenzi yeeBhodi

- 10.** (1) IBhodi iya kuthi ngokuphathelele kwisibhedlele ngasinye emiselwe sona—
- (a) ithathe inxaxheba kucwangciso-qhinga ngenjongo yokunika abalawuli besibhedlele iingcebiso;
 - (b) ikhangele ukuba ingaba isibhedlele sisebenza ngokufanelekileyo, ngokukuko namanyathelo athatyathwa ngabalawuli besibhedlele ukuphucula indlela yokusebenza nomgangatho wenkonzo yesibhedlele; 5
 - (c) ithathe amanyathelo okuqinisekisa ukuba iimfuno, izinto ezixhalabisayo nezikhalazo zezigulane nezoluntu ziqwalaselwa ngokukuko ngabalawuli besibhedlele; 10
 - (d) ukumilisela inkxaso yesibhedlele luluntu;
 - (e) ukukhuthaza amavoluntiya ukuba anikele ngeenkonzo zawo zokwenza imisebenzi ngokubanzi esenzela isibhedlele, oko ekwenza ngokomgaqo-nkqubo ophathelelene namavolontiya;
 - (f) ukwenza isicelo nokuphonononga kube kanye ngonyaka iingxelo zemali neengxomali-zemali zonyaka zesibhedlele; 15
 - (g) ukunyusa ingxowa-mali yokusebenza yeBhodi; nokuba
 - (h) ithi ngokusebenzisana nabalawuli besibhedlele indwendwele isibhedlele, kodwa kungabikho luphazamiseko kwimisebenzi yaso, kwaye inike ingxelo ebhaliweyo eyakhayo ngondwendwelo olo kubalawuli. 20
- (2) IBhodi inokwamkela, ilawule kwaye iphendule ngengxowa-mali eyenziwe yiKomiti emiselwe yona ngokwecandelo 18(6) elungiselelwe unyango olusisiseko lweziko elichaphazelekayo okanye ukusebenza kweKomiti, ngendlela emiselwe nguMphathiswa wePhondo.

Amagunya eeBhodi

25

- 11.** IBhodi iya kuthi, ngokubhekiselele kwisibhedlele emiselwe sona—
- (a) icebise yenze iziphakamiso kuMphathiswa wePhondo, kulawulo lwesibhedlele, kwiNtloko yeSebe, okanye kumasipala ochaphazelekayo, ngokwaloo meko, ngayo nayiphi indlela ewenza ngayo imisebenzi yayo iBhodi; 30
 - (b) icebise yenze iziphakamiso kuMphathiswa wePhondo okanye kumasipala ochaphazelekayo, ngokwaloo meko, malunga nokuthiywa okanye ukuthiywa ngokutsha kwesibhedlele okanye inxalenye kuqukwa iwodi okanye ithiyetha;
 - (c) ifumana nayiphi into efuna ukuyazi kubalawuli besibhedlele, ukuba ngaba olo lwazi lufunekayo aluwanyhashi amalungele ezigulane okanye awabasebenzi okugcinwa kwengcombolo zabo ziyimfihlelo zikhuselekile; 35
 - (e) yenza iinkqubo zophando, iintlanganiso neendibano ezixhobisa ngolwazi kuluntu okanye kwiindawo zoluntu oluchaphazelekayo;
 - (f) ihambisa ulwazi eluntwini okanye kwiindawo zoluntu oluchaphazelekayo, umnqophiso, umbono, iimpawu zentsulungeko, iinkonzo, umsebenzi, umgangatho, imigaqo-nkqubo, iimfuno nobume bezimali zesibhedlele; 40
 - (g) iqesha abasebenzi ngokwekhontrakthi ukuze baphumeze iinjongo zeBhodi;
 - (h) inikele ngemali okanye ngempahla enokuphakamiseka ukubonelela, ukuphucula, okanye ukwandisa iinkonzo nezinto zolonwabo, okanye ukunikela ngemali ukuze kuthengwe iimpahla ezinokuphakamiseka okanye ezingenakuphakamiseka eziya kunceda isibhedlele, oko kusenzeka ngokwendlela emiselwe nguMphathiswa wePhondo; 45
 - (i) yenze ingxowa-mali ize ilawule imali yetrasti okanye imali yeBhodi ngeenjongo ekubhekiselelwa kuzo kumhlathi (h) okanye (i), okanye yenze isebenze nayiphi imimiselo yalo Mthetho; 50

Imisebenzi yeeKomiti

- 12.** IKomiti iya kuthi, ngokubhekiselele kwiziko ngalinye emiselwe lona—
- (a) icele ingxelo malunga namanyathelo athatyathiweyo ngabalawuli beziko lonyango olusisiseko okuphucula umgangatho wenkonzo kwiziko; 55
 - (b) incedise uluntu ukuba luzichaze iimfuno, inkxalabo nezikhalazo zalo kwabezolawulo lweziko lezempilo elineenkonzo zonyango olusisiseko ukuze ezo mfuno, inkxalabo nezikhalazo ziqwalaselwe ngokufanelekileyo;
 - (c) imilisele ukuxhaswa kweziko lezempilo elineenkonzo zonyango ezisiseko;

- (d) ithi ngokusebenzisana nabalawuli besibhedlele indwendwele isibhedlele, kodwa kungabikho luphazamiseko kwimisebenzi yaso, kwaye inike ingxelo ebhaliweyo eyakhayo ngondwendwelo olo kubalawuli;
- (e) amavolontiya ukuba anikele ngeenkonzozo zawo zokwenza imisebenzi ngokubanzi esenzela isibhedlele, oko ekwenza ngokomgaqo-nkqubo ophathelelene namavolontiya; kunye 5
- (f) nokunika ingxelo esulungekileyo kubalawuli beziko lezempilo elineenkonzozo ezisisiseko ukuphucula ukwenziwa kweenkonzo.

Amagunya eeKomiti zeziko lonyango olusisiseko

13. (1) IKomiti iya kuthi ngokuphathelelene neziko lonyango olusisiseko emiselwe lona— 10

- (a) yenze uphando, ihlale iintlanganiso yenze neendibano zokuxhobisana ngolwazi kuluntu okanye kwiindawo zoluntu oluchaphazelekayo;
- (b) ihambise ulwazi oluphethelelene nomnqophiso, umbono, iimpawu zentsulungeko, iinkonzozo, umsebenzi, imigangatho, imigaqo-nkqubo, izicwangciso-qhinga, iimfuno nobume bezezimali zeziko lezempilo elineenkonzozo zonyango olusisiseko kuluntu okanye kwiindawo zoluntu oluchaphazelekayo; 15
- (c) icebise kwaye yenze iziphakamiso kuMphathiswa wePhondo, kubalawuli beziko lonyango olusisiseko, kwiNtloko yeSebe okanye kumasipala ochaphazelekayo, ngokwaloo meko, ngawo nawuphi umba ophathelelene nendlela yokwenziwa kwemisebenzi yeKomiti; 20
- (d) ifumane naluphi ulwazi olufunwa lulawulo okanye abalawuli beziko lempilo elineenkonzozo zonyango olusisiseko, ukuba olo lwazi aluwanyhashi amalungelo ezigulane okanye awabasebenzi ngokugcina imicimbi yabo iyimfihlo kwaye isekhusini; 25
- (e) iyalele abalawuli beziko lonyango olusisiseko ukuba likhuphe iikopi eziphathelelene neengxela ngenkqubela yemisebenzi eyenziwayo neyathi yasungulwa; kunye
- (f) inyuse ingxowa-mali eya kusetyenziswa liziko lonyango olusisiseko nasekusebenzeni kweKomiti. 30

(2) Yonke imali eyenziwe yiKomiti—

- (a) iya kuhlululwa, ilawulwe kwaye kuphendule ngemali kwiBhodi emiselwe yiNtloko yeSebe ngokwecandelo 18(6), ngendlela emiselweyo;
- (b) iya kusetyenziswa kuphela ukunceda iziko okanye amaziko onyango olusisiseko achaphazelekayo okanye ekusebenzeni kweKomiti. 35

(3) Impahla enokuphakamiseka engumnikelo kwiKomiti iya kwabiwa yakufunyanwa liziko lonyango olusisiseko elichaphazelekayo kwaye liziko elo eliya kuphendula, oko likwenza ngokwemigaqo-nkqubo emiselwe ukulawulwa kweempahla noluhlu lwezinto kwiziko.

Ukutshintsha-tshintsha kwemisebenzi yeBhodi okanye yeKomiti 40

14. (1) Ngokuxhomekeke kwicandelwana (4) nawo nawiphi omnye umthetho, uMphathiswa wePhondo uya kuthi akuba ebonisene neBhodi okanye neKomiti agunyazise iBhodi okanye iKomiti ukuba yenze imisebenzi eyongezelelweyo okanye isebenzise amagunya ongezelelweyo, xa kuthe ngokwesizathu athe uMphathiswa wePhondo wabona ukuba— 45

- (a) iBhodi okanye iKomiti ukuba inako ukuyenza loo imisebenzi yongezelelweyo okanye ukusebenzisa loo magunya ongezelelweyo; kunye
- (b) nokuba kuya kuxhomekeka kumdla wabantu wokuba uMphathiswa wePhondo angakwenze oko.

(2) UMphathiswa wePhondo uya kuthi emva kokubonisana neBhodi okanye neKomiti, alirhoxise igunya ebelinikwe iBhodi okanye iKomiti ngokwecandelwana (1) lokuba yenze imisebenzi eyongezelelweyo okanye isebenzise igunya elongezelelweyo, xa kuthe ngokwesizathu athe uMphathiswa wePhondo wabona ukuba—

- (a) iBhodi okanye iKomiti ayinakuwenza umsebenzi owongezelelweyo okanye ayinakulisebenzisa igunya; okanye 55
- (b) nokuba kuya kuxhomekeka kumdla wabantu wokuba uMphathiswa wePhondo angakwenze oko.

- (3) UMphathiswa wePhondo uya kuthi akuba ebonisene neBhodi okanye neKomiti—
 (a) ayikhulule iBhodi okanye iKomiti ekubeni yenze imisebenzi ibimiselwe ukuba iyenze ngokwecandelo 10 okanye 12; okanye
 (b) arhoxise igunya ekubhekiselelwe kulo kwicandelo 11 okanye 13 ngokumayela neBhodi okanye neKomiti. 5
- (4) Xa esebenzisa igunya elichazwe kwicandelwana (1), (2) okanye (3), uMphathiswa wePhondo uya kuwasebenzisa emva kokubonisana nentloko okanye neentloko zeziko okanye zamaziko achaphazelekayo empilo.

Ukwenziwa kwemisebenzi nokusetyenziswa kwamagunya

15. (1) Xa kusenziwa imisebenzi okanye xa kusetyenziswa amagunya, iBhodi okanye iKomiti iya kusebenza ngokwemithetho echaphazelekayo nesetyenziswayo yezempilo kunye nomgaqo-siseko owenziwe ngurhulumente wesizwe, owephondo okanye owommandla. 10
- (2) INTloko yeSebe iya kucela iBhodi okanye iKomiti ukuba ingenise ingxelo ephathelelene neenkqubo zayo. 15
- (3) Usihlalo weBhodi okanye weKomiti uya kwisithuba seenyanga ezimbini ekupheleni konyaka ngamnye wekhalenda, angenise ingxelo ebhaliweyo kuMphathiswa wePhondo ngemisebenzi yeBhodi okanye yeKomiti ngaloo nyaka.

Amanyathelo eNtsebenziswano

16. (1) UMphathiswa wePhondo uya kuthabatha amanyathelo okuqinisekisa ubudlelane bentsebenziswano phakathi kweBhodi, iKomiti namabhunga ezithili zempilo. 20
- (2) IBhodi okanye iKomiti iya kwenza kubekho ubudlelane bentsebenziswano eluqilima kunye nolawulo lwelo ziko lempilo ilisebenzelayo.
- (3) INTloko yeziko lempilo iya— 25
- (a) kuthabathela amanyathelo iBhodi okanye iKomiti echaphazelekayo ukuba yenze imisebenzi yayo okanye isebenzise amagunya ayo; kunye
- (b) nokuqinisa ubudlelane bentsebenziswano kunye neBhodi okanye neKomiti echaphazelekayo.
- (4) Ukuba isonjululwe iyantlukwano ethe yakho phakathi kwabalawulo beziko lezempilo kunye neBhodi okanye neKomiti echaphazelekayo, iBhodi okanye iKomiti okanye intloko yeziko lezempilo iya kucela iNtloko yeSebe ukuba ingenelele okanye ilamle. 30

USihlalo nasekela sihlalo

17. (1) IBhodi okanye iKomiti iya kuthi phakathi kwamalungu ekubhekiselelwe kuwo kwicandelo 5(1)(a) okanye 6(1)(b), ngokwaloo meko, inyule usihlalo kunye nasekela sihlalo— 35
- (a) kwintlanganiso yokuqala; kunye
- (b) nokuya kuthi kwenziwe, nokuba sesiphi kwezo zikhundla esishiyeka singenamntu. 40
- (2) Umsebenzi weSebe akayi kunyulwa njengosihlalo weBhodi.
- (3) Usihlalo kunye nasekela sihlalo batyunjelwa esikhundleni ixesha le-ofisi lelungu ekuthethwa ngalo.
- (4) Kwisithuba seentsuku ezili-14 zenkqubo yokutyumba usihlalo okanye usekela sihlalo ngokwecandelwana (1), usihlalo uya kuyazisa iNtloko yeSebe ngembalelwano ngegama nedilesi yegosa elichaphazelekayo elichaphazelekayo. 45
- (5) Ukuba usihlalo akakho entlanganisweni yeBhodi okanye eyeKomiti okanye akafumaneki, usekela sihlalo uya kubamba njengosihlalo.
- (6) Ukuba usihlalo kunye nasekela sihlalo abakho entlanganisweni yeBhodi okanye eKomiti, amalungu akhoyo aya kunyula omnye kwelo nani alilo ukuba abambe njengosihlalo kuloo ntlanganiso. 50
- (7) Usihlalo weBhodi ligosa lengxelo laloo Bhodi kwaye uya kuba namagunya nemisebenzi emiselwe nguMphathiswa wePhondo.
- (8) I-ofisi kasihlalo okanye usekela sihlalo ayibinamntu ukuba ilungu ekuthethawa nagalo— 55
- (a) libeka phantsi iintambo ngembalelwano; okanye
- (b) liyasuswa ngesigqibo seBhodi okanye iKomiti ekuthethwa ngayo.

Inkxaso ngokubanzi

18. (1) Isibhedlele emiselwe sona iBhodi siya kwalatha indawo, iofisi yonobhala, inkxaso kwezolawulo nakwezemali ezimiselwe yiBhodi.

(2) Ukuba iBhodi iye yamiselwa ukuba ijongane nezibhedlele eziliqela, indawo neofisi yonobhala, inkxaso kwezolawulo nakwezemali iya kunikwa sisibhedlele okanye zizibhedlele eziliqela njengoko kumiselwe— 5

(a) ngokwesivumelwano esiphakathi kweentloko ezibhedlele ezichaphazelekayo; okanye

(b) iNtloko yeSebe, xa singekho isivumelwano esinjalo.

(3) Nangona ngokwamacandelwana (1) nele-(2), iBhodi iya kwenza amanye amalungiselelo aphahelelene nendawo, iofisi yonobhala, inkxaso kwezolawulo nakwimali evela engxoweni yayo oko kusenziwa ngendlela emiselwe nguMphathiswa wePhondo. 10

(4) Iziko lonyango olusisiseko emiselwe kulo iKomiti liya kukunika indawo eya kusetyenziswa yiKomiti kwaye kukho imfuneko enkulu yokuba iKomiti ibe ne-ofisi yonobhala, inkxaso yezolawulo nokuphendula ngemali. 15

(5) Ukuba iKomiti imiselwe ukujongana namaziko empilo aneenkonzo zonyango oluphambili aliqela, indawo kukho imfuneko enkulu yokuba kubekhona unobhala, inkxaso kwezolawulo nophicotho zincwadi efunwa yiKomiti neya kwenziwa liziko elinye okanye amaziko aliqela ezempilo aneenkonzo zonyango oluphambili, njengoko kumiselwe— 20

(a) ngokwesivumelwano esiphakathi kweentloko zamaziko onyango olusisiseko achaphazelekayo; okanye

(b) iNtloko yeSebe, xa singekho eso sivumelwano.

(6) INtloko yeSebe iya kumisela iBhodi yeKomiti nganye ngokweenjongo zokwamkela, ilawule kwaye iphendule ngemali eyenziwe yiKomiti. 25

(7) IBhodi emiselwe ngokwecandelwana (6) iya kwamkela, ilawule kwaye iphendule ngemali eyenziwe yiKomiti ngendlela emiselweyo.

(8) ISebe liya kuqeqesha lifundise amalungu alo amatsha aqeshiweyo kwisigaba sokuqala sokuba sesikhundleni eofisini kwaye makubonelelwe ngoqeqesho olongezelelweyo ukuba luthatyathwa luyimfuneko kwaye lufanelekile. 30

Ukumisela iintlanganiso

19. (1) INtloko yeSebe iya kumisela ixesha nendawo yentlanganiso yokuqala yeBhodi okanye yeKomiti.

(2) IBhodi okanye iKomiti iya kumisela ixesha nendawo yentlanganiso yezinye iintlanganiso zesiqhelo ezilandelayo eziya kuhlala kube kanye kwinyanga ezintathu kanye ngonyaka. 35

(3) Usihlalo uya kuthi nangaliphi na ixesha abize iintlanganiso yesikhawu, kwaye uya kukwenza oko xa eceliwe ngembalelwano ngamalungu eBhodi okanye eKomiti amabini ubuncinane, xa athe wakubona oko kufanelekile. 40

(4) Usihlalo uya kuwazisa amalungu ngexesha, indawo nesizathu sokubizwa kwentlanganiso yesikhawu ubuncinane kwisithuba seentsuku ezintathu zomsebenzi ngaphambi kokuba ihlale kwintlanganiso leyo, ngaphandle kwaxa kufuneka ibizwe ngesiqophe iintlanganiso ngokubangelwa ziimeko ezingxamisekileyo.

(5) Isaziso sazo zonke iintlanganiso zeBhodi okanye iKomiti mazenziwe zivuleleke eluntwini yiBhodi okanye iKomiti ekuthethwa ngayo. 45

Inkqubo elandelwayo ezintlanganisweni

20. (1) Inkqubo elandelwayo entlanganisweni yeBhodi kufuneka ithi, njengoko ingagunyaziswanga, imiselwe yiBhodi okanye yiKomiti.

(2) Ikhoram enamalungu angayi kuba ngaphantsi kwesiqingatha samalungu amiselwe ngokwecandelwana 5(1)(a) okanye 6(1)(b) kwaye esinye isiqingatha samanye amalungu atyunjwa ngokwecandelo 5(1) no (2) lecandelo 6(1), njengoko kunjalo, kulindeleke ukuba abekho entlanganisweni nangaliphi ixesha. 50

(3) Isigqibo seBhodi okanye seKomiti siya kwenziwa ngokufikelela kwisivumelwano, kodwa xa singafikelelanga isininzi samalungu ebekho entlanganisweni kwisivumelwano, eso sivumelwano kufikelelwe kuso iya kuba sisigqibo seBhodi okanye seKomiti. 55

(4) Xa kuye kwakho ukulingana ngokweevoti kuwo nawuphi umbandela, usihlalo kuloo ntlanganiso uya kongeza eyakhe ivoti ukuze kuthathwe isigqibo.

(5) IBhodi iya kunika umyalelo okanye inike imvume nawuphi na umntu osesikhundleni sokuba ngumcebisi athabathe inxaxheba kwiintlanganiso.

(6) Usihlalo uya kuqinisekisa ukuba—

(a) iyagcinwa irekhodi egqibeleleyo yamalungu abekho entlanganisweni, amanqaku entlanganiso nezisombululo ekugqitywe ngazo, kuzo zonke iintlanganiso; kunye

(b) nekopi yerekhodi ekubhekiselwe kuyo kumhlathi (a), ityikitywe ngusihlalo, ithunyelwe kwiNtloko yeSebe, ukuba iNtloko yeSebe ithe yayifuna.

Iintlanganiso ezivulelekele noluntu

21. (1) Ngokuxhomekeke kwicandelwana (2), zonke iintlanganiso zeBhodi zivulelekile eluntwini.

(2) Ukuba iBhodi okanye iKomiti ithe ngezizathu ezifanelekileyo yagqiba ekubeni uluntu malungathabathi nxaxheba kwintlanganiso xa kuxoxwa ngomba othile, usihlalo akayi kulubandakanya uluntu entlanganisweni ngexesha laloo ngxoxo.

(3) IBhodi okanye iKomiti iya kusebenzisa nayiphi na into ebona ifanelekile, ukwazisa uluntu ngeentlanganiso zeBhodi okanye zeKomiti

Ikomiti elawulayo

22. (1) IBhodi okanye iKomiti iya kuseka ikomiti elawulayo enamalungu eBhodi okanye eKomiti, ekuya kubakho kuwo ubuncinane isiqingatha samalungu anyulwe ngokwecandelo 5(1)(a) xa iyiBhodi nangokwecandelo 6(1)(b).

(2) Ngokuxhomekeke kwimigaqo yeBhodi okanye yeKomiti kunye necandelwana

(3) nele (4), ikomiti elawulayo iya kwenza yonke imisebenzi kwaye isebenzise onke amagunya eBhodi okanye eKomiti phakathi kweentlanganiso zeBhodi okanye zeKomiti.

(3) IKomiti elawulayo ayinawo amagunya okumisela okanye okwenza nasiphi na isigqibo seBhodi okanye seKomiti, ngaphandle kwaxa iBhodi okanye iKomiti ikwalathile oko.

(4) Naliphi inyathelo okanye isigqibo esithatyathiweyo yikomiti elawulayo siya kuthi kwintlanganiso yokuqala yeBhodi okanye yeKomiti elandela emva kwelo nyathelo okanye eso sigqibo, siphononongwe yiBhodi okanye yiKomiti size silungiswe kungagatywanga nawuphi na umntu.

IiKomiti ezizodwa

23. (1) IBhodi okanye iKomiti iya kuseka iikomiti ezizodwa eziya kuba namalungu eBhodi okanye eKomiti aya kwenza imisebenzi ethile okanye asebenzise amagunya athile egameni leBhodi okanye leKomiti.

(2) Xa igunya lolawulo linikwe ikomiti eyodwa, umyalelo, imimiselo ekubhekiselelwa kuyo, inkqubo neekhoram zekomiti eyodwa kufuneka kuya kuvunyelwana ngazo zishicilelwe yiBhodi okanye yiKomiti.

(3) Ikomiti eyodwa yeBhodi iya kutyumba umntu okanye abantu abangasebenzi kwiBhodi ukuba basebenze kwikomiti njengabacebisi.

(4) Naliphi inyathelo elithatyathiweyo okanye isigqibo esithatyathiweyo yikomiti eyodwa, siya kuthi kwintlanganiso yokuqala yeBhodi okanye iKomiti emva kwelo nyathelo kweso sigqibo, kuphononongwa okanye sitshintshwe yiBhodi okanye iKomiti kungakhethwanga mntu utheni.

Ukunyusa ingxowa-mali yeBhodi nokusetyenziswa kwayo

24. (1) IBhodi iya kufumana iinkonzo, imali, oovimba bokugcina okanye izixhobo ngeenjongo zokufezekisa imisebenzi yayo.

(2) IBhodi iya kuyisebenza imali, oovimba okanye izixhobo ezinikwe ngeenjongo zokwenza imisebenzi yayo.

(3) IBhodi iya kuseka iqumrhu eliya kujongana nemali eya kuba luncedo kwiziko lempilo esebenzela lona kwaye iya kwamkela ize ilawule elo qumrhu lakuba lisekiwe ukuze lincede iziko lempilo esebenzela lona.

- (4) IBhodi iya kugcina zonke iirekhodi zemali ezifumeneyo nezichithileyo neempahla.
- (5) IBhodi iya kuthi rhoqo kwisithuba seenyanga ezimbini zokuphela konyaka-mali, ingenise kwiNtloko yeSebe iingxelo zemali zonyaka ezihlanganiswe ngokwesikhokelo soniko-ngxelo esimiselwe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wezemali. 5
- (6) UMphicothi zincwadi onyulwe yiBhodi uya kuthi ngokwecandelwana (7), enze uphicotho kwiirekhodi nakwiingxelo zonyaka zemali zeBhodi athumele ingxelo yophicotho kwiNtloko yeSebe nakwiBhodi echaphazelekayo kwisithuba seenyanga ezimbini zifumanekile iingxelo ekubhekiselelwa kuzo kwicandelwana (5). 10
- (7) UMphathiswa wePhondo uya kuthi emva kokubonisana neNtloko yeSebe amisele ukuba iBhodi ixolelwe ekuphicothweni.
- (8) UMphathiswa wePhondo uya kuqwalasela oku kulandelayo kuba iBhodi xa esenza isindululo ngokwecandelwana (7):
- (a) ukuba ngaba lilonke ixabiso lee-asethi kuqukwa nemali eselugcinweni yeBhodi egqithileyo kuma-R5 000 000 kumnyaka-mali odlulileyo, kunye nesixamali esinjalo siza kuhlengahlengiswa rhoqo ngonyaka ngowo-1 Matshi ngokuhambelana neSalathisi seXabiso loMthengi; 15
 - (b) iingxelo zemali zeBhodi zomnyaka-mali odlulileyo; kunye
 - (c) nokuba iBhodi yayenza imisebenzi yayo ngokwalo Mthetho kumnyaka-mali odlulileyo. 20
- (9) Apho uMphathiswa wePhondo aye wayixolela iBhodi ngokwecandelwana (7), iBhodi iya kuthi nokuba kunjalo ingenise kwiNtloko yeSebe iingxelo zemali ezenziwe ngokwesikhokelo soniko ngxelo esimiselwe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wemali. 25
- (10) UMphathiswa wePhondo uya kumisela iBhodi exolelweyo ngokwecandelwana (7) kuba iphicothwe njengoko kuchaziwe kwicandelwana (6).
- (11) Unyaka-mali weBhodi ngunyaka ophela ngomhla wama-31 kuMatshi.
- (12) Ukuba iBhodi iyasilela ukuthobela icandelwana (5) okanye (9), okanye apho iBhodi iye yanamagingxigingxi ekuphatheni imali, uMphathiswa wePhondo uya kumisela amanyathelo olungiso awabona efanelekile, aquka— 30
- (a) ukuqeshwa komlawuli ukuze alawule imicimbi yemali okanye imisebenzi eyenziwayo yiBhodi;
 - (b) ukunqunyanyiswa okanye ukurhoxiswa kwamalungu eBhodi esikhundleni; kunye 35
 - (c) nokutshintshwa kwemisebenzi namagunya eBhodi, nangona kumiselwe kwicandelo 14.
- (13) Ngaphambi kokuba athabathe amanyathelo olungiso akhankanywe kwicandelwana (12), uMphathiswa wePhondo, iNtloko yeSebe iya kukhuphela amalungu eBhodi isaziso neekopi ezigunyazisa ukufezekiswa kwemisebenzi njengoko inikiwe— 40
- (a) inkcazelo ephathelele ekunxaxheni kwimimiselo kuqukwa nokusilela ukwenza imisebenzi ngemfezeko;
 - (b) amanyathelo amiselwe iBhodi ukuba iwalandele kwanexesha apho la manyathelo aya kuthi alungise oko kunxaxhwe kuko; kunye
 - (c) nokwazisa iBhodi ukuba isilele ekuthabatheni amanyathelo akhankanywe kumhlathi (b) iNtloko yeSebe iya kugqithisela kuMphathiswa wePhondo olo nxaxho ukuze ibe nguye othabatha amanyathelo olungiso ngokwecandelwana (12). 45
- (14) IBhodi iyakhawulelana nawo onke amanyathelo akhankanyiweyo kwicandelwana (13)(b) kwisithuba esikhankanyiweyo kwisaziso sothobelo, iNtloko yeSebe iya kuyazisa iBhodi ngembalelwano malunga nokuthobela kwayo ngokwesaziso sokuthobela. 50
- (15) Ukuba iBhodi iyasilela ukuthobela naliphi na inyathelo kumanyathelo onke ekubhekiselelwa kuwo kwicandelwana (13)(b) kwisithuba esikhankanywe kwisaziso sothobelo— 55
- (a) iNtloko yeSebe iya kuthi ekupheleni kwexesha elichazwe kwisaziso sothobelo, imazise uMphathiswa wePhondo ngembalelwano ngesizathu sokunxaxha okanye ukungathobeli ngokupheleleyo kweBhodi; kunye
 - (b) nokuthi uMphathiswa wePhondo athi kwiintsuku ezingama-30 esifumene isaziso sonxaxho okanye ukungathobeli ngokupheleleyo kweBhodi ngembalelwano malunga nokunxaxha okanye ukungathobeli ngokupheleleyo ngokwendlela ekhankanywe kwisaziso sothobelo. 60

- (16) Isaziso esikhankanywe kwicandelwana (15)(b) iya kuchaza—
- (a) amanyathelo aphakanyisiweyo olungiso aya kuthatyathwa ngokwecandelwana (12); kwaye
 - (b) ukuba iBhodi inelungelo lokwenza ulwandlalo phambi koMphathiswa wePhondo kwisithuba seentsuku ezi-14 sifunyenwe isaziso esiphathelele kumanyathelo aphakanyisiweyo olungiso. 5
- (17) Zakuphela iintsuku ezili-14 ezichazwe kwicandelwana (16)(b), ukuba uMphathiswa wePhondo uyifumene akayifumana ingcaciso ngembalelwano evela kwiBhodi, uMphathiswa wePhondo uya kuthi emva kokuqwalasela onke amanqaku afanelekileyo kuquka nokungathobeli ngokupheleleyo kweBhodi, athabathe amanyathelo olungiso aphakanyisiweyo 10
- (18) Ukuba umlawuli uye waqeshwa ngokwecandelwana (12)(a), uya kuthi—
- (a) kwisithuba seenyanga ezintandathu eqeshiwe, angenise kwiNtloko yeSebe ingxelo emalunga nemicimbi yemali yeBhodi nazo naziphi na izenzo ezikrokelwayo zonxaxho kwimimiselo esemthethweni okanye ukwenza isenzo solwaphulo-mthetho seBhodi echaphazelekayo 15
 - (b) emva koko, iya kuthi ibonisene neNtloko yeSebe, yenze isicwangciso sokulungisa seBhodi echaphazelekayo; kunye
 - (c) nokuthi sakuba sigqityiwe isicwangciso sokulungisa, okanye ukuphumeza isicwangciso sokulungisa— 20
 - (i) ukuba kufanelekile, kungenziwa isiphakamiso kuMphathiswa wePhondo neNtloko yeSebe sokuba kwandiswe isicwangciso sokulungisa esiya kuthatha isithuba seenyanga ezintandathu; okanye
 - (ii) kungeniswe kuMphathiswa wePhondo nakwiNtloko yeSebe ingxelo egqibeleleyo yemicimbi yemali yeBhodi kunye nalo naluphi na unxaxho kummiselo womthetho okanye isenzo esingekho mthethweni esenziwe yiBhodi. 25
- (19) UMphathiswa wePhondo uya kuthi emva kokubonisana neNtloko yeSebe akufumana ingxelo egqibeleleyo echazwe kwicandelwana (18)(c)(ii), nguye oya kubona ukuba— 30
- (a) iBhodi inako ukulawula imicimbi yayo yemali; okanye
 - (b) iBhodi inako ukulawula imicimbi yayo yemali ngoncedo lomlawuli omiselwe nguMphathiswa wePhondo ngokuphathelene ngemiqathango nemimiselo njengoko kumiselwe nguMphathiswa wePhondo.
- (20) Ngaphambi kokuba uMphathiswa wePhondo enze isindululo ngokwecandelwana (19)(b), uya kuyazisa iBhodi ngembalelwano ngeenjongo zakhe zokuba enze eso sindululo. 35
- (21) Isaziso esikhankanywe kwicandelwana (20) siya kuchaza—
- (a) isindululo sokuba uMphathiswa wePhondo abe nenjongo yokwenza; kunye
 - (b) nokuba iBhodi inelungelo lokwenza ingcaciso ebhaliweyo kuMphathiswa wePhondo kwisithuba seentsuku ezili-14 isifumene isaziso esimalunga nesindululo esenziweyo. 40
- (22) Ukuphela kweentsuku ezili-14 ezikhankanywe kwicandelwana (21)(b), ukuba ingaba uMphathiswa wePhondo uyifumene okanye akayifumananga ingcaciso ebhaliweyo evela kwiBhodi, uMphathiswa wePhondo uya kuthi emva kokuqwalasela onke amanqaku afanelekileyo kuquka nayo nayiphi na ingcaciso eyenziwe yiBhodi, enze isindululo 45

Imfanelo zohambo nezimayela noko

- 25.** (1) Ngokuxhomekeke kwixabiso elimiswe nguMphathiswa wePhondo, ebonisene noMphathiswa wePhondo wezemali, iBhodi ingathatha kwimali yayo ibuyekeze ilungu leBhodi, elatyunjwa ngokwecandelo 5(1)(a) no(b), umcebisi ngokwecandelo 20(5), okanye nawuphi na umntu owatyunjwa njengelungu eliya kusebenza kwikomiti eyodwa ngokwecandelo 23(3) mayela—
- (a) neendleko zothutho phakathi kwendawo elihlala, okanye elisebenza kuyo ilungu, umcebisi okanye umntu kunye nendawo ebanjelwe kuyo intlanganiselo yeBhodi okanye yekomiti echaphazelekayo; kunye 55
 - (b) neendleko zohambo neemfanelo zokuphila ezithe zadaleka ngenxa yokuya kwiinkomfa, iisemina okanye kwiinkqubo zoqeqesho zeBhodi, kodwa xa iinkomfa, iisemina neenkqubo zoqeqesho zingaphaya kwemida yePhondo yoMzantsi Afrika, kuya kufumaneka imvume kuMphathiswa wePhondo. 60

(2) (a) IBhodi ayiyi kuwabuyekeza amalungu ayo ngexesha elichithelwe kwizinto zomsebenzi weBhodi.

(b) Ngokuxhomekeke kwixabiso elimiswe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wezemali, iBhodi ingathatha kwimali yayo ibuyekeze umcebisi ngokwecandelo 20(5) okanye nawuphi na umntu owatyunjwa njengelungu eliya kusebenza kwikomiti eyodwa ngokwecandelo 23(3), ngexesha elichithwe emsebenzini weBhodi. 5

(3) (a) Ilungu leKomiti alinalungelo lokubuyekwezwa ngexesha elilichithele emsebenzini weKomiti.

(b) Ngokuxhomekeke kwixabiso elimiswe nguMphathiswa wePhondo ebonisene noMphathiswa wePhondo wezemali, iSebe lingathatha kwingxowamali yalo libuyekeza ilungu leKomiti elatyunjwa ngokwecandelo 6(1)(b) iindleko zohambo ezenzeke ngokuya ezintlanganisweni zeKomiti. 10

(4) Xa iBhodi ingenamali yaneleyo, ize ithi ngokuxhomekeke kwixabiso elimiselwe nguMphathiswa wePhondo ebonisene noMphathiswa wezemali, iSebe lingathatha kwingxowamali yalo libuyekeza ilungu leBhodi elingekabikho lungelweni lokubuyekwezwa ngeendleko zalo liSebe ngenxa yokuba sesikhundleni ekubhekiselelwa kuso kumacandelo 5(1)(c), (d), (e) okanye (f), zohambo ezikhankanyiweyo kwicandelwana (1)(a). 15

Ukuvalwa kweziko lempilo

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26. (1) Xa lithe lavalwa iziko lempilo yiBhodi okanye yiKomiti emiselwe lona, iNtloko yeSebe iya kuthi kwisithuba seenyanga ezintathu ubuncinane ngaphambi kokuvalwa kwalo nasemva kokuba ibonisene neBhodi okanye neKomiti, iyalele iBhodi okanye iKomiti ngembalelwano malunga—

- (a) nemeko apho ithe iBhodi okanye iKomiti eyayimiselwe ukujongana nelo ziko lempilo kuphela, kuthe injongo yokuvalwa kwalo ziko nokuchithwa kweBhodi okanye iKomiti kunye, naxa iBhodi yayisungule nayiphi na itrasti; 25
- (b) naxa iBhodi okanye iKomiti eyayimiselwe ukujongana namaziko empilo angaphezulu kwelinye, nakuphi na ukutshintshwa okucetywayo ngolwakhwiwo lwayo olubangelwa kukuvalwa kwelo ziko; kunye 30
- (c) naxa iBhodi eyayimiselwe kuphela elo ziko lempilo, ukutshithiswa kweempahla namatyala eBhodi, okanye nayiphi na itrasti eyayisungulwe yiBhodi.

(2) Xa kuvalwa iziko lempilo ekubhekiselelwa kulo kwicandelwana (1)(a), iBhodi okanye iKomiti ejongene nelo ziko lempilo, apho itrasti eyayisungulwe yiBhodi ithe yatshithiswa, iNtloko yeSebe iya kuthi, xa kukho imfuneko, ithabathe amanyathelo okuba kuqaliswe ukusetyenziswa imiyalelo echazwe kwicandelwana (1)(c). 35

Imimiselo yexeshana ngokubhekiselele kwizibhedlele ezikhulu

27. Ilungu alinaxanduva layo nayiphi na into ethe yenziwa ngentembeko ekwenzeni umsebenzi ngokwalo Mthetho. 40

Imimiselo

28. (1) Ngokuxhomekeke kwicandelo (3), uMphathiswa wePhondo uya kwenza imimiselo ephathelele—

- (a) neenkqubo zokutyunjwa kwamalungu aya kunyulwa asebenze kwiiBhodi nakwiiKomiti; 45
- (b) nolawulo lwemali yeeBhodi;
- (c) indlela ethi iBhodi yenze isibonelelo ngayo okanye enye iimpahla enokushukumiseka yokubonelela, ukuphucula okanye ukwandisa iinkonzo ukuphucula, okanye ukwandisa iinkonzo nezinto zolonwabo, okanye ukunikela ngemali ukuze kuthengwe iimpahla ezinokuphakamiseka okanye ezingenakuphakamiseka eziya kunceda isibhedlele; 50
- (d) amagunya nemisebenzi kasihlalo weBhodi okanye weKomiti;
- (e) indlela ethi iBhodi enokuthi yenze ngayo amalungiselelo endawo, kunye nenkxaso kwi-ofisi yonobhala, ulawulo nakwezemali;
- (f) indlela emiselwe iKomiti ekuhlawuleni imali eyenzelwe ukuxhasa iziko lonyango olusisiseko nokusebenza kweKomiti kwiBhodi emiselwe yiNtloko yeSebe ngokwecandelo 18(6); 55

- (g) indlela ethi imiselwe ngayo iBhodi ngokwecandelo 18(6) ukuba yamkele, ilawule iphendule ngemali eyenziwe yiKomiti;
 - (h) iindleko zokuhamba neemfanelo ezihlawulwayo ngokwalo Mthetho;
 - (i) ukusungulwa kwetrasti yiBhodi; kunye
 - (j) inkqubo elandelwayo inkqubo yokuhlanganiswa kwamaziko onyango olusisiseko nokumiselwa kweKomiti yamaziko aliqela onyango. 5
- (2) Ngokuxhomekeke kwicandelwana (3), uMphathiswa wePhondo wenza imimiselo malunga—
- (a) iinkqubo ezilandelwayo zentlanganisano zeBhodi okanye zeKomiti; kunye
 - (b) nawo nawuphi na omnye umba oyimfuneko okanye ungxamiseko lokukhupha umyalelo ukuze kufezekiswe iinjongo zalo Mthetho. 10
- (3) Xa imimiselo ifuna kubekho imali kurhulumente, uMphathiswa wePhondo uya kwenza imimiselo ngokwesivumelwano soMphathiswa wePhondo wezemali.

Ulwabiwo-msebenzi

29. (1) UMphathiswa wePhondo uya kumisela nawaphi na amagunya okanye imisebenzi ayinikwe ngokwemimiselo yalo Mthetho, ngaphandle kwegunya lokwenza imimiselo, kwiNtloko yeSebe. 15
- (2) INtloko yeSebe iya kumisela okanye inike naliphi na igunya ngokwemimisela yalo Mthetho—
- (a) umsebenzi weSebe; okanye 20
 - (b) umntu osesikhundleni okanye kwisihlalo esithile kwiSebe.
- (3) Ngaphandle kwe candelwana (2), iNtloko yeSebe iya kumisela amagunya okanye inike ilungu umsebenzi.
- (4) Ukumiselwa magunya okanye imisebenzi ekubhekiselelwa kulo kwicandelwana (1) okanye (2)— 25
- (a) kuya kubhalwa phantsi;
 - (b) kuyaa kwenziwa ngokwemiqathango;
 - (c) kuya kurhoxiswa okanye kulunguswe ngokubhalwa phantsi nguMphathiswa wePhondo okanye yiNtloko yeSebe, njengoko kunjalo;
 - (d) kunika imvume yokumiselwa kwamanye amagunya okanye oko kwenziwayo kula msebenzi; 30
 - (e) akumthinteli uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunjalo, ekubeni asebenzise amagunya akhe okanye enze la msebenzi; kunye
 - (f) nokuba akumhluthi uMphathiswa wePhondo okanye iNtloko yeSebe, njengoko kunjalo, uxanduva lwakhe malunga namagunya amiselweyo okanye ukwenza umsebenzi omiselweyo. 35

Imimiselo yethutyana ephathelele nezibhedlele ezikhulu

30. (1) Nangona ubhangiso lwe*Western Cape Health Facility Boards Act* lalo Mthetho, ibhodi ekhoyo yesibhedlele esikhulu iqhuba nokusebenza ngokwemimiselo yala Mthetho ade uMphathiswa wesizwe atyumbe ibhodi engummeli wesibhedlele esikhulu yesibhedlele esichaphazelekayo. 40
- (2) Lingatyeshelwanga nje icandelo 7 lomthetho i*Western Cape Health Facility Boards Act*, ukuba ixesha lokuba sesikhundleni kwelungu lebhodi lesibhedlele esikhulu elikhoyo liyaphela ngaphambi kokuba uMphathiswa wesizwe amisele isibhedlele esichaphazelekayo ibhodi engummeli wesibhedlele esikhulu, elo lungu liya kuhlala esikhundleni ade uMphathiswa wesizwe alimisele. 45
- (3) Yakuba imiselwe ibhodi engummeli yesibhedlele esikhulu nguMphathiswa wesizwe—
- (a) iimpahla namatyala ebhodi ekhoyo kwisibhedlele esikhulu, ezinikwe ibhodi engummelo wesibhedlele esikhulu ngokomqathango ezo mpahla ziya kusetyenziswa yibhodi engummeli wesibhedlele esikhulu ixhase le bhodi okanye isibhedlele esikhulu esebenzela sona; kunye 50
 - (b) nokuba uMphathiswa wePhondo uya kuthi emva kokubonisana nebhodi ekhoyo yesibhedlele esikhulu enze ummiselo obhaliweyo ophathelelene nawo nawuphi na umba oyimfuneko ukuqinisekisa ngokusebenza ngokufanalekileyo kwebhodi engummeli wesibhedlele esikhulu. 55

UBhangiso noLondolozo

31. (1) UMthetho weeBhodi zamaZiko eMpilo weNtshona Koloni uyabhangiswa.

(2) Ngokwecandelo 30—

- (a) iBhodi emiselwe phantsi kwecandelo 5 le*Western Cape Health Facilities Board Act* kunye nokubakho kwayo ngaphambi kokuqalisa kokusebenza kwalo Mthetho iyaqhuba nokusebenza kwaye ithathwa njengemiselwe phantsi kwecandelo 4(1) lalo Mthetho; 5
- (b) ukuchongwa kwegunya lolawulo lomthetho namalungelo nezimiselo zaloo Bhodi azichaphazeleki ngenxa yokubhangiswa kwalo Mthetho; kunye
- (c) nawuphi na umntu osesikhundleni ngokwalo Mthetho othi ngaphambi kokuqalisa ukusebenza kwalo Mthetho aqhubeke esesikhundleni ixesha elisikelwe ukuba abe sesikhundleni loo mntu kwaye oku kuthathwa njengokuba watyunjelwa kweso sikhundla ngokwalo Mthetho ngokwenxalenye yexesha elingaphelelwayo lokuba sesikhundleni. 10

(3) Nawuphi na umpoposho, umgaqo, umyalelo, isigunyaziso, imvume okanye uxwebhu oluthe lwakhutshwa, lwapapashwa, lwanikelwa okanye lwavunywa kunye naso nasiphi na esinye isenzo esenziwe phantsi komthetho i*Western Cape Health Facility Boards Act*, ukuba oko akuhambi ngokwalo Mthetho, uthatyathwa njengopapashwe, wanikelwa, wavunywa okanye wenziwa phantsi kwalo Mthetho. 15

Isihloko esifutshane nokuqala kokusebenza komthetho

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32. Lo Mthetho ubizwa ngokuba ngu uMthetho weeBhodi neeKomiti zamaZiko eMpilo weNtshona Koloni, 2016 noya kuqala ukusebenza ngomhla oya kumiselwa yiNkulumbuso ngokwenza umpoposho kwiGazethi yePhondo.

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