



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N SPESIALE RAADSVERGADERING IN DIE
MUNISIPALE RAADSAAL, BREDASDORP GEHOU OM
10:00 OP WOENSDAG 31 AUGUSTUS 2022**

**MINUTES OF A SPECIAL COUNCIL MEETING HELD ON
WEDNESDAY, 31 AUGUST 2022 AT 10:00 AT THE MUNICIPAL
COUNCIL CHAMBERS, BREDASDORP**

RAADSLEDE / COUNCILLORS

Me J August-Marthinus
Mnr D Burger (Speaker)
Me K Donald
Mnr D Jantjies
Mnr R Louw
Me M Matthysen
Mnr R Mokotwana
Mnr J Nieuwoudt
Mnr G Olwage
Mnr R Ross (Onder-Burgemeester)
Mnr P Swart (Burgemeester)

AMPTENARE / OFFICIALS

Mnr E Phillips	Munisipale Bestuurder / Municipal Manager
Mnr H Van Biljon	Direkteur: Finansiële Dienste
Mnr A Jacobs	Direkteur: Infrastruktuurdienste
Mnr H Kröhn	Direkteur: Bestuursdienste
Mnr B Swart	Interne Ouditeur
Mnr M Moelich	Bestuurder: Admin Ondersteuning / Komiteedienste
Me S Nel	Stadsbeplanner
Me N Mhlati-Musewe	Afdelingshoof: Menslike Hulpbronne

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1. OPENING

Die Speaker heet die teenwoordiges welkom Raadslid Swart open die vergadering met gebed.

2. AANSOEKE OM VERLOF TOT AFWESIGHEID / APPLICATIONS FOR LEAVE

Me T Stone (Afdelingshoof: Strategiese Dienste)

3. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE VOORSITTER**3.1 BRIEWE VAN DANK**

Geen.

3.2 FUNKSIES VIR DIE MAAND

Geen.

3.3 AANWYS VAN AFGEVAARDIGDES

Geen.

3.4 DRINGENDE SAKE DEUR DIE SPEAKER VOORGELê

- (i) Die aangepaste jaarbeplanner vir die oorblywende vier maande van die jaar sal aan Raadslede versprei word.
- (ii) 'n Werknemer van KAM was in 'n motorongeluk betrokke en word sterkte toegewens.

4. TERUGVOERING VANAF RAADSLEDE OOR VERGADERINGS BYGEWOON

- (i) Die Raad neem kennis van die Notule van SALGA Speakers Forum gehou op 3 Junie 2022.
- (ii) Die Burgemeester sal notules van SALGA werksgroepe aan Raadslede beskikbaar stel.

5. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER

- (i) Die Burgemeester verwelkom alle toeriste en atlete wat eerskomende naweek aan die Voet van Afrika gaan deelneem. Hy spreek ook sy dank uit teenoor die organiseerders van die geleentheid.
- (ii) Op 31 Augustus 2022 vind die oorhandiging van die nuwe netbalbane plaas deur Minister Anroux Marais.
- (iii) The Mayor mentioned that the "sector-based" public participation process for the IDP 2023 - 2027 is currently in process.
- (iv) The Mayor announced that the Cape Agulhas talent show will be hosted for the first time on 15 December 2022.
- (v) Die Burgemeester deel die Raad mee dat hy bewus is van die mosie wat vandag teen hom ingedien word. Hy gee erkenning aan die opposisie se rol in die Raad en noem dat die eed wat hy in 2016 en 2021 afgelê het, steeds van toepassing op sy besluitneming is. Hy onderneem om sy volle samewerking te gee met enige ondersoek wat ingestel word aangaande die aantuigings.

6. ITEMS NA DIE RAAD VERWYS VIR OORWEGING

6.1 PROCESS FOR APPOINTMENT OF SENIOR MANAGER - DIRECTOR: INFRASTRUCTURE SERVICES

PURPOSE OF REPORT

To obtain approval from Council for the advertisement of the Director Infrastructure Services position and the establishment of a selection panel.

BACKGROUND

The Senior Manager position of Director: Infrastructure Services became vacant after the resignation of the current incumbent Mr Abdul Aziz Jacobs (see attached resignation letter). The Director gave a 2 month notice period with his last day of work being 26 September 2022.

According to Section 56 of the Systems Act, a municipal council, after Consultation with the Municipal Manager must appoint a Manager directly accountable to the Municipal Manager or acting manager directly accountable to the Municipal Manager under these circumstances, for the period as prescribed. According to section 56(3) of the systems Act, the Municipal Council must advertise a vacant post nationally and select from the pool of candidates a suitable person who complies with the prescribed requirements as contained in the Act and the Regulations.

Section 57 regulates employment contracts for municipal managers and managers directly accountable to municipal managers. Council to note that the Local Government: Municipal Systems Amendment Act, 2022 came into effect on 17 August 2022, and that sub section 7 was inserted that states "*The contract of employment of a manager directly accountable to the municipal manager **must** be on a permanent basis.*". In the past Municipalities had the option to appoint a manager reporting to the municipal manager permanently or on a fixed term contract, but this is no longer optional.

The Local Government: Regulations on the Appointment and Conditions of Employment of Senior Managers, 2014, regulates the procedures for the appointment of senior managers in local government. In terms of Regulation 12, a municipal council must appoint a selection panel to make recommendations for the appointment of candidates to the vacant Senior Manager post. In deciding who to appoint to a selection panel, the nature of the post, gender balance of the panel and the skills, expertise, experience and availability of the persons to be involved must be considered.

The selection panel for the appointment of a manager directly accountable to a Municipal Manager must consist of at least three and not more than five members, constituted as follows:

1. The municipal manager, who will be the chairperson;
2. A member of the mayoral committee or a councillor who is the portfolio head of the relevant portfolio; and
3. At least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the advertised post.

LEGAL REQUIREMENTS

1. Local Government: Municipal Systems Act, 32 of 2000 as amended.
2. Local Government: Regulations on the Appointment and Conditions of Employment of Senior Managers, 2014.
3. Regulations on Appointment and Conditions of employment of Senior Managers GNR 21,GG 37245 dated 17 January 2014.

FINANCIAL IMPLICATIONS

The financial implications for the advertising phase would be that of the appointment of a recruitment service provider and the cost of advertising in the national papers. A conservative estimation of the costs for this phase would depend on the Supply Chain Management Process to avail sufficient budget in the current budget.

MANAGEMENT RECOMMENDATION

- (i) That Council accepts the resignation of Mr Abdul-Aziz Jacobs with his last day being 26 September 2022.
- (ii) That the position be advertised according to the upper limits as prescribed by the Regulations on Appointment and Conditions of employment of Senior Managers dated 17 January 2014.
- (iii) That Council approves the filling of the vacant post of Director: Infrastructure Services, in line with the applicable legislation.
- (iv) That Council appoints a Selection Panel as follows:
 - a. Municipal Manager - who will be the Chairperson;
 - b. A member of the Mayoral Committee or Councillor who is the portfolio head of the relevant portfolio; and
 - c. At least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.
- (v) That both unions, SAMWU and IMATU be invited to nominate one member to serve as observers.
- (vi) That approval be granted that the services of a recruitment agency be utilised for the recruitment and selection process in compliance with applicable legislation.
- (vii) That Council notes that the position is a permanent position as required by the Systems Amendment Act.
- (viii) That Council approves the appointment of as Acting Director Infrastructure Services until the position is filled provided that such appointment shall not exceed 3 months.

RESOLUTION 209/2022

- (i) That Council accepts the resignation of Mr Abdul-Aziz Jacobs with his last day being 26 September 2022.
- (ii) That the position be advertised according to the upper limits as prescribed by the Regulations on Appointment and Conditions of employment of Senior Managers dated 17 January 2014.
- (iii) That Council approves the filling of the vacant post of Director: Infrastructure Services, in line with the applicable legislation.
- (iv) That Council appoints a Selection Panel as follows:
 - a. Municipal Manager - who will be the Chairperson;
 - b. A member of the Mayoral Committee or Councillor who is the portfolio head of the relevant portfolio; and
 - c. At least one other person (appointed by the Municipal Manager) who is not a councillor or staff member of the municipality, and who has expertise or experience in the area of the advertised post.
- (v) That both unions, SAMWU and IMATU and the apposition parties be invited to nominate one member to serve as observers.
- (vi) That approval be granted that the services of a recruitment agency be utilised for the recruitment and selection process in compliance with applicable legislation.
- (vii) That Council notes that the position is a permanent position as required by the Municipal Systems Amendment Act.
- (viii) That Council approves the appointment of mr Steve Cooper and/or mr Deon Wasserman as Acting Director: Infrastructure Services until the position is filled provided that such appointment shall not exceed 3 months.
- (ix) That the advertisement for the position of Director: Infrastructure Services be communicated to all Councillors.

6.2 REPORT OF THE MUNICIPAL AUDIT COMMITTEE FOR THE QUARTER ENDED 30 JUNE 2022**PURPOSE OF THE REPORT**

To present to Council the Audit Committee report on its activities for the quarter ended 30 June 2022.

BACKGROUND

In terms of National Treasury Circular 65 of 2003, the municipality's Audit Committee must report to Council, on a quarterly basis, on its functions and activities for that quarter including its oversight function over the Internal Audit Activity. The Committee has completed its report for the quarter ended 30 June 2022 for consideration by the Council (see report attached on **page 11 to 15**).

The Committee which to bring Councils attention to following items in their report:

- Par. 5(a) : Areas of satisfaction
- Par 5(b) : Areas of concern
- Par 5(c) : Internal Audit reports reviewed by the Committee
- Par. 6 : Committee recommendations

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

Compliance to National Treasury Circular 65 Of 2003.

RECOMMENDATION: AUDIT COMMITTEE

That Council considers and approves the Audit Committee's quarterly report and recommendations for the quarter ended 30 June 2022.

RESOLUTION 210/2022

That Council approves the Audit Committee's quarterly report and recommendations for the quarter ended 30 June 2022.

6.3 **HALF-YEARLY REPORT OF THE MUNICIPALITY'S PERFORMANCE AUDIT COMMITTEE'S REVIEW OF THE MUNICIPALITY'S PERFORMANCE MANAGEMENT AND PERFORMANCE MANAGEMENT SYSTEM FOR THE PERIOD 1 JANUARY 2022 TO 30 JUNE 2022**

PURPOSE OF REPORT

To inform the Council on the outcomes of the Performance Audit Committee's bi-annual review of the municipality's performance management and performance management system as well as the management of the system.

BACKGROUND

In terms of section 14(4)(a)(iii) of the Local Government: Municipal Planning and Performance Management Regulations, 2002 (Regulation 796) the Performance Audit Committee must, twice a year evaluate the municipality's performance management system (SDBIP system) and the management of the system, as well as the staff evaluation process, and report its findings to the Council.

The Committee did the required evaluation for the period 1 January 2022 to 30 June 2020 and is now submitting it's report to Council for consideration with specific reference to par. 4(b) where the Committee expressed some concern (**see page 16 to 18**).

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

Compliance of the Municipal Planning and Performance Management Regulations, 2001.

RECOMMENDATION: PERFORMANCE AUDIT COMMITTEE

That Council considers and adopts the Performance Audit Committee bi-annual report on the municipality's performance management and performance management system for the period 1 January 2022 to 30 June 2022.

RESOLUTION 211/2022

That Council adopts the Performance Audit Committee bi-annual report on the municipality's performance management and performance management system for the period 1 January 2022 to 30 June 2022.

6.4 EXTERNAL AUDIT ACTION PLAN FOR 2020/21(OPCAR): MONTHLY PROGRESS REPORT AS AT 19 AUGUST 2022**PURPOSE OF REPORT**

Consideration of the progress made with the implementation of the approved 2020/21 Auditor General Findings Action Plan (OPCAR) as at 19 August 2022 (*see page 19 to 21*).

BACKGROUND

The Auditor General's audit of the municipality's activities for the 2020/21 financial year revealed some shortcomings that needs to be addressed. These shortcomings has been taken up in the 2020/21 OPCAR where specific corrective measures has been determined for implementation. The action plan was approved by Council on 14 December 2021.

The progress made with the implementation of the plan is submitted to Council and the Western Cape Treasury on a monthly basis as well as quarterly to the Cape Agulhas Audit Committee for review. The only item still outstanding is linked to the finalisation of the 2021/22 draft annual financial statements which is due 31 August 2022. At 19 August 2022 it was still in progress and additional feedback will be given during the Council meeting on 31 August 2022.

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

That Council considers and approves the progress report on the 2020/21 OPCAR Action Plan as at 19 August 2022.

RESOLUTION 212/2022

That Council approves the progress report on the 2020/21 OPCAR Action Plan as at 19 August 2022.

6.5 AMENDMENT / EXTENTION OF CONTRACT ONTEC SYSTEMS (T87/2019)**PURPOSE OF REPORT**

To obtain approval in terms of Part 20.14 of the Municipal Supply Chain Management Policy and System [SCMP] issued in terms of section 111 of the Municipal Finance Management Act, 2003 (Act 56 of 2003) – [MFMA] and adopted by the Council in 2022 and section 116 (3) (a) of the Municipal Finance Management Act that the municipality intends to amend the existing contract with Ontec Systems.

BACKGROUND

On 1 October 2019, the Cape Agulhas Municipality [CAM] concluded a formal agreement with Ontec Systems for the provision of a prepaid vending platform for the period 2019 - 2022. This agreement ends on 30 September 2022.

There has since been extensive work undertaken with the alignment of the system to our financial system to ensure integration. The Municipality has also recently undertaken a full sweeping meter audit and TID roll over exercise which was performed by Ontec Systems. This now allows us to integrate the prepaid vending platform with our financial system.

It would be prudent to run the two tenders concurrently to ensure that all the work performed thus far will not need to be redone with a new service provider. The constant three year changing of a prepaid vending system also has far reaching implications on the residents and third-party vendors in the area. The Municipality now wishes to amend the service level agreement to run parallel with the financial system until 30 June 2027.

The rationale for the above conclusion is that Ontec Systems -

1. Confirmed in writing its willingness to render the services at the same terms and conditions.
2. Rendered excellent services till date.
3. Has initially been appointed after an open bidding process in terms of the abovementioned services.
4. Can ensure continuous service delivery.

FINANCIAL IMPLICATIONS

The extended contract will be funded from the current operational budget and there will be no extra costs to the Municipality as it is an SLA based on commission for sales.

MANAGEMENT RECOMMENDATION

That the proposed amendment / extension of the contract of Ontec Systems: As per Parts 20.14 of the Municipal SCM Policy and System and in terms of Section 116(3) of the Municipal Finance Management Act 2003 (Act 56 of 2003), be approved at the same terms and conditions.

RESOLUTION 213/2022

That the proposed amendment / extension of the contract of Ontec Systems: As per Parts 20.14 of the Municipal SCM Policy and System and in terms of Section 116(3) of the Municipal Finance Management Act 2003 (Act 56 of 2003), be approved at the same terms and conditions.

6.6 **BELEID: STAANDE REËLS EN PROSEDURE MET BETREKKING TOT DISSIPLINÊRE AANGELEENTHED E RAKENDE RAADSLEDE (SPEAKER) / POLICY: STANDING RULES AND PROCEDURES WITH REGARDS TO DISCIPLINARY MATTERS AGAINST COUNCIL MEMBERS (SPEAKER)**

DOEL VAN VERSLAG

Om oorweging te skenk om die “Staan de Reëls en Prosedure met betrekking tot die dissiplinêre aangeleenthede rakende Raadslede” as beleid van die Raad te aanvaar.

AGTERGROND

Die Speaker het die aangehegte dokumente/beleid/prosedure, aangeheg op **bladsy 22 tot 28** saam gestel en word aan die raad voorgelê vir oorweging om as beleid en riglyne vir die Raad te dien. Die beleid is opgestel om eenvoudige reëls en prosedures daar te stel vir ondersoeke en optrede in terme van die Verordening insake die “Reëls vir die hou van Vergaderings” van Kaap Agulhas Munisipaliteit, 2006 en die Gedragskode vir Raadslede, soos vervat in Skedule 7 van die Wet op Plaaslike Regering: Munisipale Strukture, 2021 (Wet 3/ 2021).

Die dokument was gewerkswinkel deur die Raad en mnr Anton Coetzee op 10 Augustus 2022. Insette is gegee en aanpassings aan die voorlopige dokument is aangebring. Die wysigings is ingesluit in die aangehegte dokument.

FINANSIËLE IMPLIKASIE

Geen.

REGSIMPLIKASIE

Verordening insake die “Reëls vir die hou van Vergaderings” van Kaap Agulhas Munisipaliteit, 2006 en die Gedragskode vir Raadslede, soos vervat in Skedule 7 van die Wet op Plaaslike Regering: Munisipale Strukture, 2021 (Wet 3/2021) is van toepassing.

PERSONEEL IMPLIKASIE

Geen.

BESTUURSAANBEVELING

Dat die “Staan de Reëls en Prosedure met betrekking tot Dissiplinêre Aangeleenthede Rakende Raadslede” as beleid van Kaap Agulhas Munisipaliteit goedgekeur en aanvaar word, met ingang 1 September 2022.

BESLUIT 214/2022

Dat die “Staan de Reëls en Prosedure met betrekking tot Dissiplinêre Aangeleenthede Rakende Raadslede” as beleid van Kaap Agulhas Munisipaliteit goedgekeur en aanvaar word, met ingang 1 September 2022.

7. **DRINGENDE SAKE DEUR DIE MUNISIPALE BESTUURDER**

Geen.

8. OORWEGING VAN KENNISGEWING VAN MOSIES**Motion of no confidence in the Executive Mayor of Cape Agulhas Municipality, mr Paul Swart and his removal from his office**

Councillor Matthysen reads the motion on behalf of five applicants. Councillor Karin Donald opposed the mentioned motion. After the casting of votes (6 opposed, 5 in favour) the Speaker ruled as follows:

- (i) He will request the Mayor for his counterplea to the motion.
- (ii) He will report the mentioned motion to the applicable authorities.
- (iii) He will, in collaboration with the Municipal Manager, appoints an accredited service provider, that is registered in the supply chain database to investigate the alligations contained in the motion.
- (iv) He will inform Councillors of the time-frames and progress during the investigation.
- (v) He will submit the final outcome of the investigation to Council as soon as possible.

9. OORWEGING VAN KENNISGEWING VAN VRAE

Geen.

10. IN KOMITEE VERSLAE

In Komitee items word vertroulik hanteer.

11. SLUITING

Die vergadering verdaag om 11h15.

Hierna gaan die Raad "In Komitee" om sake van vertroulike aard te bespreek.

BEKRAGTIG op hierdie

dag van

2022

SPEAKER

DATUM