



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N ALGEMENE RAADSVERGADERING IN DIE MUNISIPALE
RAADSAAL, BREDASDORP GEHOU OM 10:00 OP DONDERDAG
31 AUGUSTUS 2023**

**MINUTES OF A GENERAL COUNCIL MEETING HELD ON THURSDAY,
31 AUGUST 2023 AT 10:00 AT THE MUNICIPAL COUNCIL CHAMBERS,
BREDASDORP**

TEENWOORDIG / PRESENT

RAADSLEDE / COUNCILLORS

Me J August-Martinus
Mnr D Burger (Speaker)
Me K Donald
Dr A Eksteen
Mnr D Jantjies
Mnr R Louw
Mnr R Mokotwana
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 H Kröhn Direkteur: Infrastruktuurdienste
Me M Boyce Direkteur: Bestuursdienste (*virtueel ingeskakel*)
Mnr M Moelich Bestuurder: Admin Ondersteuning
Mnr Z Baca Internal Audit
Me L Smith Menslike Ontwikkeling
Me S Nel Stadsbeplanner

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1. **VERWELKOMING / WELCOME**

Die Speaker heet die teenwoordiges welkom. Raadslid Mokotwana word geluk gewens met die geboorte van sy kleinkind. 'n Minuut stilte word gehandhaaf met die afsterwe van Raadsheer Kallie Papier, Burgemeester van Theewaterskloof Munisipaliteit.

2. **OPENING MET GEBED / OPENING WITH PRAYER**

Raadslid Matthysen open die vergadering met gebed.

3. **KWORUM/AANSOEKE OM VERLOF TOT AFWESIGHEID / QUORUM/APPLICATIONS FOR LEAVE**

Me T Stone Afdelingshoof: Strategiese Dienste

4. **AANVAARDING VAN AGENDA / ACCEPTANCE OF AGENDA**

Na die toevoeging van twee addisionele items word die Agenda aanvaar.

5. **VERKLARING VAN BELANGE / DECLARATION OF INTERESTS**

Die Burgemeester verklaar sy belang as trustee op die raad van Struisbaai Vaardigheidskool.

6. **ONDERHOUDE MET AFGEVAARDIGDES EN/OF ANDER BESOEKE / INTERVIEWS WITH DELEGATES AND/OR OTHER VISITS**

Geen.

7. **NOTULES VAN VORIGE VERGADERINGS VOORGELê VIR BEKRAGTING**

7.1 **NOTULE VAN ALGEMENE RAADSVERGADERING GEHOU OP:**

27 Julie 2023 (*Notule was onder lede versprei*)

BESLUIT 163/2023

Die Notule word as korrek en volledig bekragtig.

(Voorsteller: Rdl Donald / Sekondant: Rdl Eksteen)

8. **NOTULES VAN DIE UITVOERENDE BURGEMEESTERSKOMITEE VERGADERINGS OOR BESLUIE DEUR HOM GENEEM SAAM MET DIE BURGEMEESTERSKOMITEE**

8.1 **NOTULE VAN UBK VERGADERING GEHOU OP:**

17 Julie 2023 (*Notule was onder lede versprei*)

BESLUIT 164/2023

Die Raad neem kennis van bogenoemde UBK Notule.
(Voorsteller: Rdl Donald / Sekondant: Rdl Ross)

9. **NOTULES VAN KOMITEE VERGADERINGS VIR BESPREKING / KENNISNAME**

9.1 **WYKSKOMITEE VERGADERINGS**

Notules van Wykskomitee vergaderings was onder lede versprei.

BESLUIT 165/2023

Die Raad neem kennis van bogenoemde Wykskomitee Notules.

9.2 **ICT STEERING COMMITTEE VERGADERING**

15 Mei 2023 (Notule was onder lede versprei)

BESLUIT 166/2023

Die Raad neem kennis van bogenoemde ICT Steering Committee Notule.

10. **SAKE VOORTSPRUITEND UIT NOTULES / MATTERS ARISING FROM MINUTES**

Geen.

11. **VERKLARINGS EN/OF MEDEDELINGS DEUR DIE VOORSITTER**

11.1 **BRIEWE VAN DANK**

Sien skrywe ontvang, aangeheg op *bladsy 1* van die bylaes.

11.2 **FUNKSIES VIR DIE MAAND**

- Die bevestiging van die Kaap Agulhas Jeugraad vind plaas op 7 September 2023.
- Die jaarlikse Nampo Kaap vind plaas vanaf 13 tot 16 September 2023.
- Die herbenaming van Kerkstraat, Napier na Wilma Stockenströmstraat het plaasgevind op 5 Augustus 2023.
- Die plaaslike Veiligheidsforum, onder Voorsitterskap van Raadslid Ross het plaasgevind op 21 Augustus 2023.
- Op 25 Augustus 2023 vind die 10-jarige herdenking van Anene Booysen plaas by die Nelson Mandela Saal, in samewerking met die Departement van Justisie.

11.3 **AANWYS VAN AFGEVAARDIGDES**

Geen.

11.4 **DRINGENDE SAKE DEUR DIE SPEAKER VOORGELê**

Geen.

12. **TERUGVOERING VANAF RAADSLEDE OOR VERGADERINGS BYGEWOON**

12.1 Die Speaker het op 3 en 4 Augustus 2023 'n Speakers Forum bygewoon en gee tydens die vergadering verdere toeligting aangaande die volgende aangeleenthede:

- (i) Anti-Corruption Strategy
- (i) Code for Ethical Leadership in Local Government
- (ii) Local Government Ethics Committee Guidebook

- (iii) Municipal Integrity Management Framework
- (iv) Presentations:
 - (a) IDP Process: Role of other spheres of Government
 - (b) Draft Local Government Code for Ethical Governance and Local Government Ethics Committee Guidebook.
 - (c) Pillars of Good Governance: Oversight (Sec 79, 79A) and Accountability (80) Committees.
 - (d) Ward Committees.
 - (e) SALGA Women's Commission.

12.2 Die Speaker gee tydens die vergadering breedvoerige terugvoer in verband met die "Implementation of the Code of Conduct for Councillors: Circular No. 9 of 2023".

12.3 Die Burgemeester en sekere Raadslede woon SALGA "Working Committees" by op 14 Augustus 2023.

12.4 Die Burgemeester woon 'n "Premier's Co-Ordinating Forum" (PCF) vergadering by in Plettenbergbaai. Hy sal die Raad toelig van die uitkomst van die genoemde vergadering sodra die notule ontvang is.

13. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER

- Die Burgemeester betoon sy medelye met die familie van die oorlede Raadsheer Papier, Burgemeester van Theewaterskloof Munisipaliteit. Sy roudiens vind later vandag plaas.
- Die Burgemeester wens Randall Smit geluk wat Suid-Afrika later vanjaar op die atletiekbaan by die Afrika atletiekbyeenkoms in Pretoria sal verteenwoordig.
- Mr Zolile Baca is congratulated on his appointment as Chief Audit Executive (CAE).

14. ITEMS NA DIE RAAD VERWYS VIR OORWEGING / ITEMS REFERRED TO COUNCIL FOR CONSIDERATION

14.1 AANWYS VAN VERTEENWOORDIGERS: SALGA NATIONAL MEMBERS ASSEMBLY

DOEL VAN VERSLAG

Om persone aan te wys wat die Raad kan verteenwoordig by die SALGA "National Members Assembly" wat gehou sal word op 4 - 6 September 2023 te Birchwood Hotel and OR Tambo Convention Centre, Boksburg, Ekurhuleni.

AGTERGROND

We kindly request municipalities to specifically resolve who would be the councillor in the municipal delegation mandated to vote on behalf of that municipality.

Such mandated Councillor will be required to register at the registration desk at the National Members Assembly to be able to ascertain attendance and quorum.

Municipalities' attention is also drawn to the SALGA Constitutional provision (article 8.9) that "In the event of the non-payment of the prescribed membership fees and/or levies by a member, the National Executive Committee reserves the right to determine the extent of a member's participation in SALGA governance structures". Membership fees and levies as determined are due and payable by members on 1 April but before 31 July and shall be payable to SALGA at its national office. The requirement is therefore that for members to be classified as members in good standing, all fees and levies up to the 2023/24 financial year should have been paid.

Note that in complying with SALGA's constitutional provisions, the National Members Assembly will, inter alia, accord consideration to the following matters:

- Annual Report, including Audited financial statements in respect of the 2022/23 financial year;
- SALGA's programme of action, the annual performance plan and the budget for the 2023/24 financial year;
- Proposals for the annual performance plan and the budget for the 2024/25 financial year;
- Key policy and legislative matters impacting on local government;
- Reports from Working Groups and other oversight bodies; and
- deal with any other issues emanating from the provisions of the SALGA constitution.

Documentation for the National Members Assembly will be conveyed to all municipalities closer to the date of the event.

All member municipalities are entitled to be represented by up to six (6) delegates (Executive Mayor/Mayor, Speaker, Whip of Council, MPAC Chairperson, Municipal Manager and Chief Financial Officer). Registration for the National Members Assembly will open on 01 August 2023 and will be done online at www.salga.org.za.

The SALGA Constitution provides that every municipal member (municipality) shall have one (1) vote only at the National Members Assembly.

WETLIKE IMPLIKASIES

Intergovernmental Relations Framework Act (Act 13 of 2005)

FINANSIËLE IMPLIKASIES

- Reis Posnommer 12010330000 (Beskikbaar R15 000)
- Verblyf Posnommer 12010328000 (Beskikbaar R15 000)
- S&T Posnommer 12010315000 (Beskikbaar R5 200)

BESTUURSAANBEVELING

Dat persone aangewys word wat die Raad kan verteenwoordig by die SALGA "National Members Assembly" wat gehou sal word op 4 - 6 September 2023.

BESLUIT 167/2023

- (i) Dat die Burgemeester, Raadsheer Swart aangewys word as Kaap Agulhas se verteenwoordiger by die SALGA "National Members Assembly" wat gehou sal word op 4 - 6 September 2023.
- (ii) Dat Raadsheer Swart as Kaap Agulhas se stemgeregtigde sal optree.

(Voorsteller: Rdl Donald / Sekondant: Rdl Ross)

14.2 **VERVREEMDING (HUUR): GEDEELTE ERF 3502, STRUISBAAI (S POTGIETER EN S KRUGER)**

DOEL VAN VERSLAG

Dat oorweging geskenk word aan die versoek van me S Potgieter en mnr S Kruger ten einde 'n gedeelte van erf 3502, Struisbaai by die Raad te huur (liggingsplan aangeheg op **bladsy 2 tot 4**).

ALGEMENE INLIGTING

Eienaars	:	KAM
Eiendom	:	Gedeelte Erf 3502, Struisbaai
Huidige Sonering	:	Publieke Oopruimte
Erf Grootte	:	3 823m ²
Voorgestelde Grootte	:	198.24m ²

AGTERGROND

'n Skriftelike versoek, soos hieronder is van me Potgieter en mnr Kruger ontvang om 'n gedeelte van erf 3502, Struisbaai by die Raad te huur.

AANSOEK TEN OPSIGTE VAN OORSKRYDINGS OOREENKOMS, ERF 3463, LANDASTRAAT 11, STRUISBAAI

Graag wil ons as die eienaars van erf 3463 aansoek doen om die gedeelte soos uitgewys in die aangehegde diagramme te huur by die munisipaliteit. Sover as wat ons navorsing strek dien die area aan die linkerkant nie as 'n serwituut nie.

Sedert ons hier Ingetrek het hou ons die Raadsgrond aangrensend ons eiedom instand deur middel van skoon maak, op ons eie onkoste, om moontlike brandgevaar te vermy en ook as gevolg van al die slange en skerpioene gevind. Ons kleuter speel graag buite.

Ons will graag betonmure laat op sit om die eiendom, insluitend die stuk Raadgrond vir ons familie se veiligheid. Daar is die afgelope paar maande ongelooflik baie inbrake, veral in die Oceanview Heights area en het iemand Desember op twee geleenthede in ons huis probeer inkom. Die bure langsaan se huis is beroof in Maart.

Ten einde die aansoek suksesvol is sal dit geen nadelige uitwerking hê op munisipale dienste nie en sal geen toegang tot die grond belemmer word nie.

MARKWAARDASIE

R4 015,00 per jaar (volgens tariewe van oorskreidingsooreenkoms)

FINANSIËLE IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

1. MFMA
2. MATR
3. SCM Regulations / SCM Policy
4. Systems Act (public participation)
5. Town Planning Legislation

DEPARTEMENTELE KOMMENTAAR

MUNISIPALE BESTUURDER

Noted.

FINANSIËLE DIENSTE

No objection subject to specific policy directive in terms of municipal opens spaces and that any improvements be on the owner's own risk with regard to the fencing suggestion as indicated in the application.

INFRASTRUKTUURDIENSTE

Aangrensende eienaars se insette moet verkry word. Is daar nie ander wat ook sou belangstel om te huur nie?

ELEKTRISITEITSDIENSTE

No electrical servitude.

ADMINISTRATIEWE DIENSTE

Die aansoek word ondersteun, alhoewel die wykskomitees nie ten gunste van sluiting van "groenstroke" is nie.

Die wykskomitees se insette in die verband moet gekry word, asook die van omliggende bure, voordat die item aan die raad voorgelê word vir oorweging. Die nuwe oorskreidingsfooi vir 2023/24 sal betaalbaar wees indien die raad die aansoek sou goedkeur.

STADSBEPLANNING

No objection. Omheining word egter nie ondersteun nie. Infrastruktuur sal moet verseker geen dienste word negatief beïnvloed nie.

STRATE EN STORMWATER

Strate- en stormwaterinfrastruktuur word nie beïnvloed.

BOUBEHEER

No objection.

KOMMENTAAR: WYKSKOMITEE: 30 MEI 2023

Erf 3502 - Not in favor to build wall.

BESTUURSAANBEVELING

- (i) Dat die versoek ondersteun word.
- (ii) Dat 'n oorskreidingsooreenkoms met die huurder aangegaan word.
- (iii) Dat geen permanente strukture op die grond opgerig mag word nie.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

Dat die bestuursaanbeveling aanvaar word.

AANBEVELING: UBK (21 AUGUSTUS 2023)

- (i) Dat die versoek om 'n gedeelte van erf 3502, Struisbaai by die Raad te huur, goedgekeur word.
- (ii) Dat 'n oorskreidingsooreenkoms met die huurders aangegaan word teen 'n bedrag van R4 015,00 per jaar.
- (iii) Dat geen permanente strukture op die grond opgerig mag word nie en dat 'n terugvalklousule in plek gestel word.

BESLUIT 168/2023

- (i) Dat die versoek om 'n gedeelte van erf 3502, Struisbaai by die Raad te huur, goedgekeur word.
- (ii) Dat 'n oorskreidingsooreenkoms met die huurders aangegaan word teen 'n bedrag van R4 015,00 per jaar.
- (iii) Dat geen permanente strukture op die grond opgerig mag word nie en dat 'n terugvalklousule in plek gestel word.

(Voorsteller: Rdl Eksteen / Sekondant: Rdl Donald)

14.3 **VERVREEMDING (KOOP): GEDEELTE ERF 1277, STRUISBAAI (STRUISBAAI ISLAMIC SOCIETY)**

DOEL VAN VERSLAG

Dat oorweging geskenk word aan die versoek van mnr Z Jackson namens Struisbaai Islamic Society ten einde 'n gedeelte van erf 1277, Struisbaai by die Raad te koop en vir 'n Islamitiese Moskee aan te wend (liggingsplan aangeheg op **bladsy 5**).

ALGEMENE INLIGTING

Eienaars : KAM
Ligging : Gedeelte Erf 1277, Struisbaai

AGTERGROND

'n Skriftelike versoek, soos aangeheg op **bladsy 6 en 7** is van mnr Z Jackson ontvang om 'n gedeelte van erf 1277, Struisbaai by die Raad te koop.

MARKWAARDASIE

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FINANSIËLE IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

1. MFMA
2. MATR
3. SCM Regulations / SCM Policy
4. Systems Act (public participation)
5. Town Planning legislation

DEPARTEMENTELE KOMMENTAAR

FINANSIËLE DIENSTE

No objection subject to land use / town planning requirements aligned with the SDP objectives.

INFRASTRUKTUURDIENSTE

No objections.

ELEKTRISITEITSDIENSTE

Eskom supply area.

ADMINISTRATIEWE DIENSTE

Noted.

STADSBEPLANNING

Indien die Raad dit sou goedkeur sal die grond onderverdeel en gehersoneer moet word na Publiek en Sosiaal.

STRATE EN STORMWATER

Toegang na die gedeelte grond sal slegs vanaf Deinelaan gegee word.

WATER EN RIOOL

No objection. Water and sanitation connection for owner.

BESTUURSDIENSTE

Geen beswaar vanaf verkeer teen die aansoek.

KOMMENTAAR: WYKSKOMITEE: 16 MAART 2023

Voorstel en aksie: Dat KAM sal kyk na 'n ander stuk grond vir die doeleindes. Motivering is dis in die ingang na die dorp. Nie beswaar teen moskee nie, maar teen ligging van so 'n gebou. Aangeheg vind 'n skrywe ontvang van Bredasdorp Muslim Society op **blady 8**.

BESTUURSAANBEVELING

- (i) Dat die Raad oorweging skenk om 'n gedeelte van erf 1277, Struisbaai aan Struisbaai Islamic Society te vervreem.
- (ii) Dat alle stadsbeplanningsprosesse vir die koper se rekening sal wees.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

- (i) Dat die Burgemeester eers 'n gesprek sal hê met alle belangegroepe, wat onder andere sal insluit die identifisering van alternatiewe grond vir die oprigting van 'n moskee asook bevestiging van registrasie by die "Muslim Judicial Council".
- (ii) Dat die LED-afdeling se insette ook verkry word.

AANBEVELING: UBK (21 AUGUSTUS 2023)

Dat die aangeleentheid terugverwys word om die aansoekers 'n geleentheid te bied om 'n gesamentlike versoek aan die Raad te rig.

BESLUIT 169/2023

- (i) Dat die Munisipale Bestuurder en Wyksraadslid met die aansoeker en ander relevante rolspelers vergader ten einde uitsluitel te kry aangaande aansoek prosedures.
- (ii) Dat, na die bogenoemde vergadering, 'n nuwe aansoek aan die Raad voorgelê word vir oorweging, indien 'n alternatiewe stuk grond beoog word.

14.4 **VERVREEMDING (KOOP): GEDEELTE ERF 1148, BREDASDORP (CLEARLAKE) (PTY) LTD**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van mnr B Smit, namens Clearlake (Pty) Ltd ten einde 'n gedeelte van erf 1148, Bredasdorp te koop vir die uitbreiding van die voorgestelde ontwikkeling op erf 6954, Bredasdorp.

ALGEMENE INLIGTING

Eienaars	:	KAM
Eiendom	:	Gedeelte Erf 1148, Bredasdorp
Huidige sonering	:	Meentgrond
Voorgestelde Grootte	:	30ha

AGTERGROND

'n Skriftelike versoek is van mnr Smit, namens Clearlake (Pty) Ltd ontvang om 'n gedeelte van erf 1148, Bredasdorp by die Raad te koop.

MARKWAARDASIE

R4 800 000,00 (sien *bladsy 9 tot 18*)

FINANSIËLE IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

- 1. MFMA
- 2. MATR

3. SCM Regulations / SCM Policy
4. Systems Act (public participation)
5. Town Planning legislation

DEPARTEMENTELE KOMMENTAAR

MUNISIPALE BESTUURDER

Noted.

DIREKTEUR: FINANSIËLE DIENSTE

In principle no objection but will to be considered in terms of the SDF as well as the directive for selling of pre-identified property aligned with the LTFP.

DIREKTEUR: BESTUURSDIENSTE

Neem kennis sien kommentaar van verkeer.

DIREKTEUR: INFRASTRUKTUURDIENSTE

This consideration of alienation should be tested against all Spatial Planning determinations and a holistic infrastructure development plan needs to be tabled in order for this application to be considered.

ELEKTRISITEITSDIENSTE

There would be bulk infrastructure costs and upgrading of the MV network in that area, this will be for the purchasers account when developing the property.

BESTUURDER: STADSBEPLANNING

This development proposal is supported. Our SDF earmarked the proposed portion of Erf 1148 east of the R319 and south of the R316 for future settlement expansion provided that the planning of the land be sensitive to the golf course. The proposed Golf Estate development on Erf 6954 could be an expansion to include the medical facility, frail care and retirement housing.

BESTUURDER: STRATE EN STORMWATER

In beginsel geen beswaar. Alle dienste sal aangespreek word in 'n ingenieursverslag van die totale gholflandgoed ontwikkeling.

BESTUURDER: WATER EN RIOOL

Additional water and sewer connections, moving of existing water and sewer infrastructure will be for the applicant's account.

BESTUURDER: BOUBEHEER

Die aansoek vir die ontwikkeling word ondersteun, daar moet aan alle wetlike aspekte voldoen word.

BESTUURDER: BESKERMINGSDIENSTE

Geen kommentaar. Geen impak op verkeer.

KOMMENTAAR: WYKSKOMITEE (12 SEPTEMBER 2022)

Die Wykskomitee versoek dat mnr Smit eers 'n voorlegging moet kom doen.

BESTUURSAANBEVELING

Dat die aansoek deur die Raad oorweeg word, nadat:

- (i) 'n Publieke deelname proses gevolg is.
- (ii) Mnr Smit die voorlegging gedoen het.
- (iii) 'n Markwaarde bepaal is.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

- (i) That the Committee in-principle supports the alienation of part of erf 1148, Bredasdorp.
- (ii) That all legal processes be followed, which includes a public participation process.
- (iii) That a market related value be determined.
- (iv) That all townplanning processes be followed by the applicant.

AANBEVELING: UITVOERENDE BURGEMEESTERSKOMITEE (1 NOVEMBER 2022)

- (i) Dat die aanbeveling van die Finansies- en IT Dienste Komitee in-beginsel aanvaar word.
- (ii) Dat 'n werkwinkel ten opsigte van die "Eiendomsvervreemdingsbeleid" voor einde Februarie 2023 afgehandel word.

RAADSBESLUIT 279 /2022: 10 NOVEMBER 2022

- (i) Dat die aanbeveling van die Uitvoerende Burgemeesterskomitee in-beginsel aanvaar word.
- (ii) Dat 'n werkwinkel met die ontwikkelaar gereël word waarin hy die wykskomitee se lede ook inlig aangaande die beplande ontwikkeling.

Die aansoek was op 7 April 2023 geadverteer en geen kommentaar/besware was ontvang nie.

BESTUURSAANBEVELING

- (i) Dat die Raad die versoek van mnr B Smit, namens Clearlake (Pty) Ltd ten einde 'n gedeelte van erf 1148, Bredasdorp te koop vir die uitbreiding van die voorgestelde ontwikkeling op erf 6954, Bredasdorp, oorweeg.
- (ii) Dat alle stadsbeplanningsprosesse vir die aansoeker se rekening sal wees.

BESLUIT 170/2023

Dat die aangeleentheid oorstaan tot na die "property management workshop" afgehandel en gefinaliseer is.

14.5 **VERVREEMDING: ERF 2789, STRUISBAAI (MEALS ON WHEELS)**

DOEL VAN VERSLAG

Om oorweging te skenk aan 'n versoek om Erf 2789, Struisbaai te vervreem vir die aanwending van 'n "meals on wheels", Struisbaai.

AGTERGROND

Eienaar	:	CAM
Eiendom	:	Erf 2789, Struisbaai
Adres	:	Strelitzaweg, Struisbaai
Sonering	:	Oop Ruimte
Grootte	:	6529m ²

'n Aansoek is van "Meals on Wheels"(Saloma Gouws) ontvang om Erf 2789, Struisbaai (of 'n gedeelte daarvan) by die Raad te koop ten einde hul bestaande fasiliteit op Erf 2788, uit te brei.

'n Tereinbesoek is deur die Raad gedoen gedurende September 2021. Tydens sodanige besoek is gevind dat 'n gedeelte van die genoemde erf beperk word deur grondwater en natuurlike stormwater probleme.

Daar is 'n groot behoefte om die bestaande fasiliteit uit te brei om meer inwoners te akkommodeer. Meals on Wheels, Wes Kaap het 'n projekspan aangestel om 'n nuwe uitleg van die bestaande behoefte op te stel en 'n aansoek in te dien om aan die Raad voor gelê te word vir oorweging.

Sodanige aansoek is nog nie ontvang nie, maar in beginsel goedkeuring vir die vervreemding word versoek. Daar is ook 'n aansoek ontvang van 'n ontwikkelaar om dieselfde stuk grond te koop en te ontwikkel.

MARKWAARDE VAN DIE EIENDOM

Sal by die vergadering voorsien word.

WETLIKE IMPLIKASIES

Council policy	Alienation of land
MFMA	<ol style="list-style-type: none"> Sect 14(2)(a): asset not required for minimum level of basic services. Sect 14(2)(b): consider fair market value and economic and community value to be received in exchange for the asset. Items in 1 and 2 only to be complied with if the asset to be transferred is a high value asset (see definition of MATR below). Sect 33: Contracts having long term financial implications.
MATR	<ol style="list-style-type: none"> Definition of "high value asset": "fair market value of the capital asset exceeds any of the following amounts: <ol style="list-style-type: none"> R50 million; One percent of the total value of the capital assets of the municipality.... An amount determined by resolution of the council of the municipality which is less than (a) or (b). Definition of "realisable value": fair market value less estimated costs of completion. Definition of "right to use, control or manage": when granting such rights do not amount to permanent transfer or disposal. Regulation 5 (decision-making). Regulation 6 (public participation)
SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth

RAADSBESLUIT 9/2023: 31 JANUARIE 2023

- Dat die Raad kennis neem van die aansoek om vervreemding van 'n gedeelte van erf 2789, Struisbaai.
- Dat alle wetlike prosesse gevolg word.
- Dat die publieke deelname proses voortgaan nadat 'n terreinontwikkelingsplan van die aansoeker ontvang is in terme van Artikel 22 van die Kaap Agulhas Munisipale Soneringskema Verordening, 2022.

KOSTEBERAMING

R595 000,00

BESTUURSAANBEVELING

- Dat die Raad kennis neem van die markwaarde van die eiendom.
- Dat alle stadsbeplanningskoste vir die aansoeker se rekening sal wees.

BESLUIT 171/2023

- Dat die Raad kennis neem van die markwaarde van die eiendom.
- Dat alle stadsbeplanningskoste vir die aansoeker se rekening sal wees.
- Dat die Raad se voorneme geadverteer word.

(Voorsteller: Rdh Swart / Sekondant: Rdh Jantjies)

14.6 **VERLENGING VAN HUURKONTRAK: GEDEELTE ERF 916, STRUISBAAI (STRUISIES SPEELSKOOL)**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van me C Fredericks namens Struisies Speelskool vir die verlenging van die bestaande ooreenkoms vir die gedeelte erf 916, Struisbaai.

AGTERGROND

Struisies Speelskool huur tans 'n gedeelte van erf 196, Struisbaai wat aangewend word vir 'n speelskool. Die bestaande ooreenkoms, soos aangeheg op **bladsy 19 tot 20** eindig op 1 Oktober 2023. Die Overberg Distriksmunisipaliteit het egter gedurende die huurtermyn die administrasie behartig.

MARKWAARDASIE

R

FINANSIËLE IMPLIKASIES

Huurinkomste vir die Raad.

WETLIKE IMPLIKASIES

1. MFMA
2. MATR
3. SCM Regulations / SCM Policy
4. Systems Act (public participation)
5. Town Planning legislation

KOMMENTAAR: RASSIE MARAIS

Daardie tyd het die Distriksmunisipaliteit Struisbaai Raad se administrasie behartig. Die grond is aan die kleuterskool beskikbaar gestel vir die doel om 'n kleuterskool vir die gemeenskap daar op te rig. Dit is ook so gedoen. Dit is reeds in bedryf toe ek in 1998 op Struisbaai gekom het.

Die skool moet nou weer (elke 5 jaar) by Departement Welsyn registreer. Deel van die registrasiedokumente is die indiening van sonerings briewe, huurkontrakte ens. Mev Fredericks (hoof van Struisies) benodig die nuwe huurkontrak vanaf KAM om haar dokumente volledig in te dien. Volgens my behoort die kontrak net deur KAM hernu te word.

BESTUURSAANBEVELING

- (i) Dat goekeuring gegee word vir die verlenging van Struisies Speelskool vir 'n termyn van 9 jaar en 11 maande.
- (ii) Dat alle bestaande huurvoorwaardes steeds van toepassing sal bly.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

- (i) Dat goekeuring gegee word vir die hernuwing van die ooreenkoms van Struisies Speelskool vir 'n termyn van 9 jaar en 11 maande.
- (ii) Dat alle bestaande huurvoorwaardes steeds van toepassing sal bly.

ADDITIONAL INFORMATION

Whilst the above item was circulating the Struisbaai SOS Trust visited this office and put forward a proposal to upgrade the Struisies Speel School as an ECD Centre that can accommodate 200 children.

*They furthermore want to affiliate Struisies with the Struisbaai Primary School and register it at WCED to obtain the appropriate benefit structure per child. They requested that the entire Erf 916 be leased to them for a period of 99 years at a nominal rental of R1.00 per annum (currently the school only occupies a small portion). This was agreed to by the principals of the Struisbaai Primary and the principal of Struisies. The proposal undersigned by both is attached on **page 21 to 24**.*

The item on the long-term lease of the larger property is circulating for a forthcoming meeting, but in the interim the registration of Struisies expires on 30 September 2023 and to renew, they must have a valid lease agreement. In a further communication with the Trust they advised that in order to access the funding, the renewed lease must be in the name of the Trust. The Trust made a presentation to the Ward Committee who support the proposal. This was discussed with the Manager: Human Development who supports the proposal but has suggested that the lease should be advertised for public input.

AANBEVELING: UBK (21 AUGUSTUS 2023)

- (i) Die UBK neem kennis van die Burgemeester se belang as 'n trustee van Struisbaai Vaardigheidskool.
- (ii) Dat 'n amptelike versoek om die grond te huur vanaf die Vaardigheidskool Trust afgewag word, nadat instemming vanaf Struisies Speelskool ontvang is.
- (iii) Dat, nadat bogenoemde skrywe ontvang is, die aansoek weer oorweeg word.

BESLUIT 172/2023

- (i) Die Raad neem kennis van die Burgemeester se belang as 'n trustee van Struisbaai Vaardigheidskool.
- (ii) Dat goeuring gegee word vir die hernuwing van die ooreenkoms van Struisies Speelskool vir 'n verdere termyn van 9 jaar en 11 maande.
- (iii) Dat alle bestaande huurvoorwaardes steeds van toepassing sal bly.
- (iv) Dat die Raad se voorneme geadverteer word en daarna weer aan die Raad voorgelê word ten einde oorweging te skenk om die ooreenkoms met Struisbaai SOS Trust aan te gaan.

(Eenparige Besluit)

14.7 **VERLENGING VAN HUURKONTRAK: GEDEELTE VAN ERF 4329, BREDASDORP (NOMPUMELELO SPEELSKOOL)**

DOEL VAN VERSLAG

Om oorweging te skenk vir die verlenging van die bestaande ooreenkoms vir Gedeelte erf 4329, Bredasdorp.

AGTERGROND

Nompumelelo Crèche huur tans 'n gedeelte van erf 4329, Bredasdorp wat aangewend word vir 'n speelskool. Die bestaande ooreenkoms het verstryk op 30 Junie 2023 en versoek verdere verlenging van Gedeelte Erf 4329, Bredasdorp. Nompumelelo het 'n jaarlikse huur van R20,00 betaal onderhewig aan geen eskalاسie.

MARKWAARDASIE

R

FINANSIële IMPLIKASIES

Huurinkomste vir die Raad.

WETLIKE IMPLIKASIES

1. MFMA
2. MATR
3. SCM Regulations / SCM Policy
4. Systems Act (public participation)
5. Town Planning legislation

BESTUURSAANBEVELING

- (i) Dat 'n huurooreenkoms vir 9 jaar en 11 maande met die huurder gesluit word.
- (ii) Dat alle bestaande huurvoorwaardes steeds van toepassing sal bly.
- (iii) Dat die huurooreenkoms deur die Eiendomsadministrasie opgestel word.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

- (i) Dat goekeuring gegee word vir die verlenging van die bestaande ooreenkoms van Nompumelelo Speelskool vir 'n termyn van 9 jaar en 11 maande.
- (ii) Dat alle bestaande huurvoorwaardes steeds van toepassing sal bly.
- (iii) Dat die huurooreenkoms deur die Eiendomsadministrasie opgestel word.

AANBEVELING: UBK (21 AUGUSTUS 2023)

Dat die aanbeveling van die Finansies- en IT Dienste Komitee aanvaar word.

BESLUIT 173/2023

- (i) Dat goekeuring gegee word vir die verlenging van die bestaande ooreenkoms van Nompumelelo Speelskool vir 'n termyn van 9 jaar en 11 maande.
- (ii) Dat alle bestaande huurvoorwaardes steeds van toepassing sal bly.
- (iii) Dat die huurooreenkoms deur die Eiendomsadministrasie opgestel word.

(Voorsteller: Rdl Louw / Sekondant: Rdl Mokotwana)

14.8 **EXCHANGE OF PROPERTIES SOLD ON AUCTION: ERVEN 4186 AND 4179, BREDASDORP**

REPORT FROM THE OFFICE OF THE MUNICIPAL MANAGER: STRATEGIC SERVICES

PURPOSE OF REPORT

To submit a request to Council from ms Doreen Oncke to cancel the purchase of the property that she purchased on auction (erf 4186) and allow her to purchase a different property (erf 4179) that was previously cancelled. The request is attached on **page 25**.

BACKGROUND

A total of 26 immoveable properties were auctioned in February 2023.

- Ms K van Heerden purchased erf 4179 at a purchase price of R220 000 (excluding VAT).
- Ms D Oncke purchased erf 4186 at a purchase price of R181 000 (excluding VAT).

Ms van Heerden has formally cancelled the purchase of erf 4179 and has been refunded her deposit and excess commission that was wrongfully levied by the auctioneer. Ms Oncke has requested that the sale of erf 4186 be cancelled and that she be allowed to purchase erf 4179 at the price for which it was sold to ms van Heerden. She is prepared to pay in the difference of R39 000. She cites the reason for wanting the exchange as erf 4186 is quite wet following recent rains and she is concerned that building costs may be higher than anticipated due to this.

LEGAL IMPLICATIONS

1. MFMA
2. SCM Policy and Regulations

DISCUSSION

- The net effect of allowing this transaction is insignificant as the number of properties sold / available for resale will remain the same.
- Cancellation of the sale of erf 4186 will not be problematic as Council has already taken a resolution to delegate such requests to the Municipal Manager.
- From a procedural point of view, it must however be considered that the transaction will now be taken out of the realm of the open public process (auction). A new purchase agreement will need to be concluded with ms Oncke, effectively making this an out of hand sale and not an open competitive bidding process which could be questionable and put us in a position to justify it.

FINANCIAL IMPLICATIONS

There are no adverse financial implications as ms Oncke is willing to pay the same amount as the previous purchaser.

PERSONNEL IMPLICATIONS

None.

COMMENTS BY RELEVANT DEPARTMENTS

Manager: Administration

No problems are foreseen. If there is an additional cost for the cancelation of the transaction, or the transfer of the property, that cost must be paid by the new buyer.

Director: Finance and IT

According to my view this is not allowed in terms of the prescribed legislated SCM procedure as a fair and transparent SCM process been concluded with the auction and a legal obligation with regards to the property purchased.

Any cancellation of the property purchase has to revert back to the municipality with a new SCM process to follow either through public auction again and/or request for formal tenders to ensure legislated compliance and to avoid any possibility of irregular expenditure despite the fact that there are no adverse financial implications applicable.

MANAGEMENT RECOMMENDATION

That the request of ms D Oncke to purchase erf 4179, Bredasdorp not be acceded to.

RECOMMENDATION: FINANCE- AND IT SERVICES COMMITTEE

That the request from ms Doreen Oncke to cancel the purchase of the property that she purchased on auction (erf 4186) and allow her to purchase a different property (Erf 4179) that was previously cancelled, be granted.

RECOMMENDATION: MAYCO (21 AUGUST 2023)

After new information regarding the supply chain processes and applicable legislation, the request from Mrs Doreen Oncke to cancel the purchase of the property that she purchased on auction (erf 4186) and allow her to purchase a different property (erf 4179) that was previously cancelled will be unlawfull and irregular en therefore could not be granted.

RESOLUTION 174/2023

That the request from Mrs Doreen Oncke to cancel the purchase of the property that she purchased on auction (erf 4186) and allow her to purchase a different property (erf 4179) that was previously cancelled, not be granted, as it will be unlawful and irregular.

(Unanimously Resolved)

14.9 **LEASE OF SECURITY CONTAINER TO BREDASDORP COMMUNITY POLICE FORUM: ANENE BOOYSEN URBAN PARK**

REPORT FROM THE OFFICE OF THE MUNICIPAL MANAGER: STRATEGIC SERVICES

PURPOSE OF REPORT

To request Council's formal permission to lease the security container at the Anene Booyesen Park to the Bredasdorp CPF.

BACKGROUND

The RSEP Programme has funded the development of the Anene Booyesen Park over three phases. The Development included civil works (paving, entrance road, parking area and seating), a five a side soccer field, ablution facility, skate park.

During the development multiple incidents of vandalism have taken place, including the destruction of trees, theft of paving and most concerning the destruction of netting and Astro turf which is particularly costly to repair. The Provincial Department responsible for the RSEP programme were dissatisfied with this situation and gave the municipality an ultimatum to address this, failing which funds may be withdrawn.

24-Hour security was implemented which has assisted but not fully resolved the issue and it was agreed with the province that a modified security container would be placed in the centre of the park, which would be occupied by an organization that can render a community service and simultaneously assist with taking ownership of the park and providing visible security.

DISCUSSION

The Bredasdorp CPF were identified as a suitable organization as they require an office in Ward 3 which is an identified hotspot. The plan is to use the top of the container to house the security and an office and the bottom as a bicycle workshop which is linked to their plans for bicycle patrols. The possibility also exists that it can be used for other community projects. It is proposed that the security container at the Anene Booyesen Park be leased to the Bredasdorp CPF for a period of 3 years (with an option to renew) at a nominal rental of R100 per annum and that in exchange they assist with providing a visible security presence.

This proposal, which was received from the Chairperson was presented at a previous Portfolio Committee, and the Division Head: Strategic Planning and Administration was requested to establish whether the proposal was supported by the broader CPF and the local SAPS. The revised proposal which is signed by both the CPF Chair and Lt Col Tamboer of SAPS is attached on **page 26 to 35** together with a letter from SAPS. It is also confirmed that Lt Col Tamboer attended one of the project planning meetings where the proposal was discussed.

LEGAL IMPLICATIONS

MFMA

FINANCIAL IMPLICATIONS

Nominal rental of R100 per annum.

PERSONNEL IMPLICATIONS

None.

COMMENTS BY THE DIRECTOR: FINANCE AND IT

As per the discussion I have no further input on this item and seem to be in order.

MANAGEMENT RECOMMENDATION

- (i) That Council approve in principle that the container at the Anene Booysen Park be leased to the Bredasdorp Community Police Forum for purposes of an office and community-based project.
- (ii) That the Municipal manager be delegated to approve the project plan and any amendments thereto.
- (iii) That a nominal rental of R100,00 per annum be levied.
- (iv) That in exchange for the nominal rental the CPF provide a security presence on the property.
- (v) That the term of lease be for a period of 3 years with an option to renew for the same period.
- (vi) That a reversion clause be included in the event that the facility is not used.
- (vii) That the proposed lease be advertised and if no objections are received the Municipal Manager be authorised to finalise the lease agreement.

RECOMMENDATION: FINANCE- AND IT SERVICES COMMITTEE

That the management recommendation be accepted.

RECOMMENDATION: MAYCO (21 AUGUST 2023)

- (i) That Council approves in principle that the container at the Anene Booysen Park be leased to the Bredasdorp Community Police Forum for purposes of an office and community-based project for a period of 12 months.
- (ii) That the Municipal manager be delegated to approve the project plan and any amendments thereto.
- (iii) That a nominal rental of R100,00 per annum be levied.
- (iv) That in exchange for the nominal rental the CPF provide a security presence on the property.
- (v) That a reversion clause be included in the event that the facility is not used.
- (vi) That the proposed lease be advertised and if no objections are received the Municipal Manager be authorised to finalise the lease agreement.
- (vii) That the possibility of installing security cameras be investigated and budgeted by the IT Department.

RESOLUTION 175/2023

- (i) That Council approves in principle that the container at the Anene Booysen Park be leased to the Bredasdorp Community Police Forum for purposes of an office and community-based project for a period of 12 months.
- (ii) That the Municipal Manager be delegated to approve the project plan and any amendments thereto.
- (iii) That a nominal rental of R100,00 per annum be levied.
- (iv) That in exchange for the nominal rental the CPF provide a security presence on the property.
- (v) That a reversion clause be included in the event that the facility is not used for its intended purpose.
- (vi) That the proposed lease be advertised and if no objections are received the Municipal Manager be authorised to finalise the lease agreement.
- (vii) That the possibility of installing security cameras be investigated and budgeted by the IT Department.
- (viii) That no sub-leasing be permitted.

(Unanimously Resolved)

14.10 **REPORT TO COUNCIL ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE'S (MPAC) ACTIVITIES FOR JUNE 2023**

PURPOSE OF REPORT

To present to Council the MPAC minutes on its activities for the quarter ending 30 June 2023.

BACKGROUND

In terms of section I, par. 1 of the MPAC Charter, the Committee must report at least quarterly on the activities of the Committee and any recommendations made by them. As per the same section, the minutes of any meeting will serve as the report and will be tabled at the next Council meeting after the MPAC meeting. The minutes of meetings held on 26 April 2023 and 15 May 2023 are attached on **page 36 to 41** for consideration by Council.

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

Adherence to section I of the MPAC Charter requiring at least quarterly reporting to Council.

RECOMMENDATION: MPAC

That Council take cognisance of the MPAC quarterly report for the period ending 30 June 2023.

RESOLUTION 176/2023

That Council take cognisance of the MPAC quarterly report for the period ending 30 June 2023.

(Proposer: Ald Nieuwoudt / Seconder: Clr Donald)

14.11 **VACANT COMMITTEE POSITION: AUDIT- AND PERFORMANCE AUDIT COMMITTEE**

PURPOSE OF REPORT

To inform the Council that one Audit Committee position has become vacant and to make a submission requesting Council approval for the advertisement of the vacant position to invite suitably qualified candidates to apply.

BACKGROUND

During the special meeting held on 31 January 2023, Council approved the appointment of three (3) new Audit- and Performance Audit Committee members to fill vacant positions with effect from 1 February 2023. Among those appointed was Mr Basil Vink who has resigned from the Committee with effect from 24 July 2023 after taking up a full-time employment in a municipality in the Northern Cape.

As such, there is currently a vacant position on the Audit- and Performance Audit Committee which the Committee resolved during its quarterly meeting held on the 31st of July 2023 that it be filled to ensure that the Committee remains with four members. The Committee is of the opinion that the filling of the vacant position will prevent instances whereby the unavailability of one member would result in the Committee not making a quorum, as it has been the case past.

The Committee therefore proposed that Council approves the advertment of the vacant Audit- and Performance Audit Committee position.

STAFF IMPLICATIONS

Filling of one (1) position on the municipaly's Audit- and Performance Audit Committee positions.

FINANCIAL IMPLICATIONS

None - Provisions has already been made in the 2023/24 budget.

LEGAL IMPLICATIONS

Compliance to section 166 of the Municipal Financial Management Act, 2003, as well as the National Treasury Circular 65 on Audit Committees.

RECOMMENDATION: AUDIT COMMITTEE

That Council consider and approves the advertisement of Audit- and Performance Audit Committee of Cape Agulhas Municipality.

RESOLUTION 177/2023

That Council approves the advertisement of the vacant Audit- and Performance Audit Committee position.

(Proposer: Clr Mokotwana / Seconder: Clr Donald)

14.12 **AUDIT COMMITTEE CHARTER FOR 2023/24**

PURPOSE OF REPORT

To present the Audit Committee Charter to Council after it was reviewed for 2023/24 for Council's consideration and approval.

BACKGROUND

The Audit Committee Charter must be reviewed annually by the Committee for possible amendments that may be necessary. This was done during the Committee meeting held on 23 June 2023 and it was determined that minor amendments to keep up with leading practices as well as the changes in the Institute of Internal Auditors (IIA) framework were necessary.

The Charter, as attached on **page 42 to 57** is submitted to Council consideration and approval of the amendments made.

PERSONNEL IMPLICATION

None.

FINANCIAL IMPLICATION

None.

LEGAL IMPLICATION

Compliance with the Municipal Finance Management Act of 2003 as well as Circular 65.

RECOMMENDATION: AUDIT- AND PERFORMANCE AUDIT COMMITTEE

That the Audit Committee Charter for 2023/24 financial year be considered and approved.

RESOLUTION 178/2023

That the Audit Committee Charter for 2023/24 financial year be approved.

(Proposer: Clr Donald / Secoder: Clr Eksteen)

14.13 **REPORT OF THE AUDIT COMMITTEE FOR THE QUARTER ENDED 30 JUNE 2023**

PURPOSE OF REPORT

To present to Council the Audit Committee report on its activities for the quarter ended 30 June 2023, as attached on **page 58 to 61**.

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 Function. The Committee has completed its report for the quarter ended 30 June 2023 for consideration by the Council.

The Committee wishes to bring to Council's 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

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

Compliance to National Treasury Circular 65 Of 2003

RECOMMENDATION: AUDIT COMMITTEE

That Council consider and approves the Audit Committee's quarterly report for the quarter ended 30 June 2023.

RESOLUTION 179/2023

That Council approves the Audit Committee's quarterly report for the quarter ended 30 June 2023.

(Proposer: Clr Ross / Secoder: Clr Mokotwana)

14.14 **REPORT OF THE PERFORMANCE AUDIT COMMITTEE FOR THE QUARTER ENDED 30 JUNE 2023**

PURPOSE OF REPORT

To present to Council the Performance Audit Committee report on its activities for the quarter ended 30 June 2023, as attached on *page 62 to 65*.

BACKGROUND

In terms of Municipal Planning and Performance Management Regulations of 2001, the municipality's Performance Audit Committee must report to Council, at least twice during the financial year, on its functions and activities for each quarter including its oversight function over the Internal Audit Function. The Committee has completed its report for the quarter ended 30 June 2023 for consideration by the Council.

The Committee wishes to bring to Council's attention to following items in their report:

- Par 7 : Areas of satisfaction
- Par 8 : Areas of concern

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

Compliance Municipal Planning and Performance Management Regulations of 2001.

RECOMMENDATION: PERFORMANCE AUDIT COMMITTEE

That Council considers and approve the Performance Audit Committee's quarterly report for the quarter ended 30 June 2023.

RESOLUTION 180/2023

That Council approves the Performance Audit Committee's quarterly report for the quarter ended 30 June 2023.

(Proposer: Clr Eksteen / Seconder: Clr Donald)

14.15 **EXTERNAL AUDIT ACTION PLAN FOR THE AUDITOR GENERAL AUDIT OF THE 2021/22 FINANCIAL YEAR (OPCAR): MONTHLY PROGRESS REPORT AS AT 31 AUGUST 2023**

PURPOSE OF REPORT

Consideration of the progress made with the implementation of the approved 2021/22 Auditor General Findings Action Plan (OPCAR) as at 31 August 2023.

BACKGROUND

The Auditor General's audit of the municipality's activities for the 2021/22 financial year revealed some shortcomings that needs to be addressed. These shortcomings has been taken up in the 2021/22 OPCAR where specific corrective measures has been determined for implementation.

The progress made with the implementation of the plan, as attached on **page 66 to 71** 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.

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

That Council considers and accept the progress report on the 2021/22 OPCAR action plan as at 31 August 2023.

RESOLUTION 181/2023

That Council accepts the progress report on the 2021/22 OPCAR action plan as at 31 August 2023.

(Unanimously Resolved)

14.16 **DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS**

The Municipal Manager reports as follows:

“Government Notice No. 3807 in Government Gazette No. 49142, dated 18 August 2023 dealing with the remuneration of councillors of municipal councils was received on 21 August 2023. A copy of the Notice is attached as annexure **(Bound separately as Annexure A)**.

In terms of §4 of the notice Cape Agulhas Municipality is determined as a grade 3 municipality based on the following criteria:

- Total Municipal Income (Excluding transfers and / or grants as well as VAT refunds); and
- Total Population

(A copy of the Affordability Verification Certificate, signed by the Municipal Manager, is attached as Annexure B).

The net financial impact in respect of the proposed increase reflects an estimated amount of R270,368 or 4,69% compared to the previous financial year’s increase inclusive allowances and benefits. The cellphone allowance increased from R3,400 per month to R3,600 per month compared to the previous financial year and the data bundle allowance of R317 per month be calculated separate whilst in the past it be considered inclusive the monthly cellphone allowance. A total amount of R5,548,700 was budgeted for council remuneration in the 2022/23 financial year whilst the actual cost based on a grade 3 municipality’s increase reflects at R6,038,199 should the increase in cellphone allowance and the additional data bundle allowances be considered for implementation.

The total remuneration packages of the Executive Mayor, the Speaker, Deputy Mayor and the full-time members of the Executive Committee set out in §5 and §9 reflects at R920 379, R736 304 and R690 286 respectively. *(Increase of 3,80% compared to the previous financial year, excluding cellphone and mobile data bundles benefit)*

The allowances of councillors appointed to governance structures of organized local are set out in §7. According to §7(1)(a & b) these councillors are entitled to receive an allowance of not more than R1 179.50 per sitting of any governance structure of organized local provided that this allowance is limited to R1 179.50 per day regardless the number of meetings that are attended by such councilor. However organized local government is responsible for the payment of above mentioned allowance, accommodation and the reimbursement of travel expenditure incurred by a councilor during performance of official functions. The prescribed allowance reflects an estimated increase of 3,80% compares to the 2021/22 financial year.

The total remuneration package of part-time councillors are set out in §8 and §9, reflected at R291 266. *(Increase of 3,80% compare to the previous financial year, excluding cellphone and mobile data bundles benefit).* Councillors are allowed to structure their total remuneration package (see definition of "total remuneration package) to include a travelling allowance, a housing allowance, contribution to a pension fund and medical aid scheme as provided in the above mentioned Gazette.

Medical and pension benefits for councillors who wish to structure their total remuneration package to include such benefits are set out in §13. See definition of "total remuneration package". Therefore councillors are entitled to contributions by Council to the pension fund and medical aid, should they be members of such funds. (Such contributions form part of the Total Remuneration Package.) Refer to the definition of Total Remuneration Package.

Cellphone and data bundle allowances for councillors are stipulated in §11 and §12. These benefits is given **in addition** to the total remuneration package. The mentioned sections stipulates that a councilor may be paid a cellphone allowance not exceeding R3 600 per month and a data bundle allowance of R317 per month. *(The cellphone allowance increased by R200 per month with a mobile data allowance be re-introduced as a separate allowance payable to the amount of R317 per month whilst in the previous financial year it be regarded inclusive the cellphone allowance amount)*

In summary, allowances payable are therefore as follows:

	Total Remuneration	Cellphone allowance (Maximum)	Mobile Data Card allowance (Maximum)
Exec. Mayor	920 379	3 600 x 12	R317 x 12
Deputy Mayor and Speaker	736 304	3 600 x 12	R317 x 12
Full-Time Executive Comm.	690 286	3 600 x 12	R317 x 12
Other Part-Time Cllrs.	291 266	3 600 x 12	R317 x 12

Certain key features of the notice compared to the previous financial year are the following:

- The Councillor salaries, allowances and benefits reflects a nett increase of almost 4,69% in respect of the Executive Mayor, the Speaker, Deputy Mayor, the full-time members of the Executive Committee and other part-time councillors effected from the 1st July 2022;
- Sitting allowance payable in respect of councillors appointed to governance structures of organized local government subject to the payment from organized local government increased to R1 179.50 or 3,80% per sitting provided that this allowance is limited to the same amount per day regardless the number of meetings attended;
- The maximum cellphone allowance payable to a councilor increased for R3 400 per month to R3 600 per month with an additional data bundle allowance now payable to the amount R317 per month whilst in the past included as part of the cellphone allowance;
- In addition to the total remuneration package provided, a municipality must take out risk insurance cover to provide for the loss of or damage to a councillor's property or assets arising from any riot, civil unrest, strike or public disorder - §14 (A councillor's is obliged to submit the necessary details prescribed to the municipality and failure to do so will forfeit the benefits associated with the special risk insurance cover);
- A Council may extend tools of trade to a councilor in consultation with the member of the Executive Council (MEC) responsible for local government in the province concerned and based on accessibility, affordability, cost control and value of tools of trade - §15;

- A municipality may also contribute towards the payment of cost towards capacity building initiatives directed at councillors and must be informed by capacity building needs of a municipality and/or affordability levels of the municipality - §16; and
- Any remuneration paid to a councilor otherwise than in accordance with section 167(1) of the MFMA, including any bonus, bursary, loan, advance or other benefit is an irregular expenditure and the municipality must recover and may not be written-off – Section §17 have reference.

During the adjustment budget assessment in January 2023 the remuneration budget for councillors had been reduced by the amount of R228 500 aligned with the negative budget forecast for electricity revenue because of the ongoing elec loadshedding. Although no sufficient budget to cover the additional cost to the estimated amount of R270 368, it is however important to note the pre-audit performance results in respect of the 2022/23 financial year which reflects a surplus to the amount R7,73m and cash in the bank to the value of R118,84m should council want to assess the affordability impact before consideration to approve the proposed councillor remuneration increases at an average of 4,69%.

Payment will only be made once the concurrence of the member of the Executive Council (MEC) responsible for local government has been obtained, as stipulated in the preamble of the Government Notice. Councillors preferring to restructure their Total Remuneration Package to include travelling allowances of not more than 25%, a housing allowance and/or pension fund and/or medical aid contribution will have to indicate same in writing to the Municipal Manager before 30 September 2023 and by failure to do so the municipality will maintain the status quo.”

The Municipal Manager recommends as follows:

MANAGEMENT RECOMMENDATION

- (i) Council takes note of its classification as a grade 3 municipality.
- (ii) Council consider to grants approval for the remuneration of its councillors in accordance with Regulation Gazette Notice No. 49192 dated 18 August 2023 with retrospective effect from 1 July 2022.
- (iii) Council grants approval for the payment of the increased cellphone allowance within the maximum limit of R3 600 per month and a prescribed data bundle allowance with a maximum limit of R317 per month to the Executive Mayor, Speaker, Deputy Mayor, full-time members of the Mayoral Committee and all other councillors.
- (iv) Council obtains the concurrence of the Minister for Cooperative Governance, Human Settlement and Traditional Affairs regarding recommendations (i) to (iii) before implementation thereof as stipulated in the preamble of Notice No. 3807.

RESOLUTION 182/2023

- (i) That Council takes note of its classification as a grade 3 municipality.
- (ii) That Council grants approval for the remuneration of its councillors in accordance with Regulation Gazette Notice No. 49192 dated 18 August 2023 with retrospective effect from 1 July 2022.
- (iii) That Council grants approval for the payment of the increased cellphone allowance within the maximum limit of R3 600 per month and a prescribed data bundle allowance with a maximum limit of R317 per month to the Executive Mayor, Speaker, Deputy Mayor, full-time members of the Mayoral Committee and all other councillors.
- (iv) That Council obtains the concurrence of the Minister for Cooperative Governance, Human Settlement and Traditional Affairs regarding recommendations (i) to (iii) before implementation thereof as stipulated in the preamble of Notice No. 3807.

(Proposer: Cllr Mokotwana / Seconder: Cllr Donald)

14.17 **RECOVERING OF AND / OR WRITING OFF IRREGULAR, UNAUTHORISED, FRUITLESS AND WASTEFUL EXPENDITURE FOR 2022/23 FINANCIAL YEARS**

PURPOSE OF REPORT

For Council to investigate any irregular, unauthorized, fruitless and wasteful expenditure that have been incurred for the period July 2022 to June 2023 for approval and / or to be written off.

BACKGROUND

In terms of section 32(1) of the MFMA any political office-bearer or official of a municipality is liable for unauthorized expenditure if:

- An office-bearer knowingly or after having been advised by the accounting officer that the expenditure is likely to result in unauthorized expenditure, instructed an official of the municipality to incur the expenditure;
- The accounting officer deliberately or negligently incurred unauthorized expenditure, subject to subsection (3) whereby the accounting officer has informed the Council in writing that the expenditure is likely to be unauthorized, irregular or fruitless and wasteful expenditure;
- Any political office-bearer or official deliberately or negligently committed, made or authorized an irregular expenditure; or
- Any political office-bearer or official deliberately or negligently made or authorized a fruitless and wasteful expenditure.

Furthermore section 32(2) of the MFMA prescribes that a municipality must recover unauthorized, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure -

- (a) in the case of unauthorized expenditure, is-
 - (i) authorized in an adjustment budget; or
 - (ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
- (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.

As part of the financial year end process unauthorized, irregular, wasteful and fruitless expenditure has been identified for further investigation if so require by council / MPAC in order to either recover or certify as irrecoverable and write off as prescribed in terms of the above mentioned legislation and in terms of the municipality's approved policy in this regard. Attached as **Annexure A** the register in respect unauthorized, irregular, fruitless and wasteful expenditure for the period July 2022 to June 2023 to the total amount of R13,81m since the last report tabled to Council for investigation and / or verification.

Unauthorized expenditure reflected at R11 846 375 of which an amount of R2 664 707 been included from the previous financial year as not yet been submitted to council for consideration and / or further investigation. The unauthorized expenditure only relates to expenditure in excess of approved budget votes with no disciplinary steps or criminal proceedings instituted as a result of unauthorized expenditure incurred for both the 2021/22 and the 2022/23 financial year's mainly with reference to non-cash items such as employee related cost for leave provision, debt impairment, depreciation and loss on the disposal of PPE.

Irregular expenditure incurred for the financial year under review reflected at R 1 529 657 with reference to non-compliance because the legislated processes and procedure prescribed in terms of the SCM regulations were not adhered / followed. The wasteful & fruitless expenditure to the amount of R 438 263 mainly have reference to no mandatory authorization and / or approved policy directive to justify the expenditure incurred for the Animal Control operations undertaken - procurement of medicine, private consultancy & medicine, enting & rables, sterilisations and other sundry expenditure as well as accommodation provided to official of the SA Post Office in his / her private capacity.

Also one case where accommodation was paid to attend the Municipal Manager's forum meeting during June 2023 but had to be cancelled due to unforeseen circumstances with no refund – valid voucher been issued to utilise the accommodation before end of December 2023 .

LEGAL IMPLICATION

Non-compliance if not adhere to the prescripts as stipulated per above mentioned legislation.

FINANCIAL IMPLICATION

In terms of the prescribed legislation a Council must recover any unauthorized, irregular or fruitless and wasteful expenditure deliberately or negligently incurred by a political office-bearer or official of the municipality for which he / she will be held liable after a thorough investigation been completed.

The Municipal Manager, in consultation with the Director: Finance, recommends as follows:

MANAGEMENT RECOMMENDATION

- (i) Council considers the report on unauthorized, irregular, fruitless and wasteful expenditure for the period from July 2022 to June 2023 to the amount R13 814 295,00 as per Annexure "A" for recovery or certification as irrecoverable and written off.
- (ii) Council promptly informs the MEC for local government and Auditor-General in writing of the unauthorized, irregular, fruitless and wasteful expenditure incurred by the municipality for the periods under review inclusive of the council resolution on the outcome of finding.

RESOLUTION 183/2023

- (i) That Council notes the report on unauthorized, irregular, fruitless and wasteful expenditure for the period from July 2022 to June 2023 to the amount R13 814 295,00 as per Annexure "A", and refer the report to MPAC for a full investigation and recommendation to Council in this regard.
- (ii) That Council promptly informs the MEC for local government and Auditor-General in writing of the unauthorized, irregular, fruitless and wasteful expenditure incurred by the municipality for the periods under review inclusive of the council resolution on the outcome of finding.

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

Geen.

16. **OORWEGING VAN KENNISGEWING VAN MOSIES**

Geen.

17. **OORWEGING VAN KENNISGEWING VAN VRAE**

Geen.

18. **VERSLAG DEUR MUNISIPALE BESTUURDER OOR DIE UITVOERING VAN RAADSBESLUIE**

'n Lys van onafgehandelde Raadsbesluite word aangeheg op **bladsy** van hierdie Notule.

19. **IN KOMITEE VERSLAE**

In Komitee items word vertroulik hanteer.

20. **SLUITING**

Die vergadering verdaag om 13h30

ONAFGEHANDELDE RAADSBESLUIE

Besluit Nr	Onderwerp	Verkorte Besluit	Vordering	Verantwoordelike persoon
118/2020	Vervreemding (Koop): Ged erf 955, Struisbaai	(i) In-beginsel-goedkeuring verleen word vir die verkoop van Ged van erf 955, Struisbaai per publieke veiling. (ii) Die munisipale waardasie sal as reserwe prys dien. (iii) Alle wetlike prosesse gevolg sal word, soos onder andere die voorneme van vervreemding aan die publiek bekend gemaak moet word.	Erf word per veiling verkoop. Veiling sou saam met die vervreemding van Struisbaai industriële erwe plaasgevind het, maar is uitgestel tot 'n latere datum. Die kontrakteur vir die installering van munisipale dienste word in Jan 2023 aangestel, so die moontlike veilingsdatum kan April / Mei 2023 wees.	Eiendoms-administrasie
182/2022	Vervreemding (huur): Ged erf 1343, Bredasdorp (J Williams)	(i) Aansoek in-beginsel goedgekeur word. (ii) Voorneme geadverteer word vir publieke kommentaar. (iii) Eiendom sal hersoneer moet word en dat daar eerstens met die aansoeker die moontlikheid bespreek word om eerder erf 6951, Bredasdorp of 'n ander toepaslike erf wat klaar gesoneer is vir die doel te gebruik. (iv) Verdere verslag aan die Raad voorgelê word.	Verslag sal voor Raad dien na afhandeling van publieke deelname proses.	Eiendoms-administrasie
183/2022	Vervreemding (koop): Ged erf 6570, Bredasdorp (J Muggels)	(i) Aansoek in-beginsel goedgekeur word vir verhuring. (ii) Voorneme geadverteer word vir publieke kommentaar. (iii) Volledige verslag aan Raad na afhandeling van publieke deelname proses.	Verslag sal voor Raad dien na afhandeling van publieke deelname proses.	Eiendoms-administrasie
184/2022	Vervreemding (koop): Ged erf 5209, Bredasdorp (H Vaaltyn)	(i) Aansoek in-beginsel goedgekeur word. (ii) Voorneme geadverteer word vir publieke kommentaar. (iii) Volledige verslag aan Raad na afhandeling van publieke deelname proses.	Verslag sal voor Raad dien na afhandeling van publieke deelname proses.	Eiendoms-administrasie
185/2022	Vervreemding (koop): Erf 937, Napier (C Van Zyl)	Dat erf per veiling verkoop word met die waardasie as insetprys en dat 'n veiling van die en ander erwe wat die Raad mag identifiseer voor einde 2022 plaasvind.	Sal met eerskomende veiling hanteer word.	Eiendoms-administrasie
186/2022	Vervreemding (koop): Ged erf 670, WHKrans (United Outreach Ministries)	Dat die aansoek terugverwys word vir 'n terreinbesoek daarna weer aan die Raad voorgelê word vir oorweging.	Terreinbesoek (aansoeker, Wyksraadslid en Eiendomsadministrasie) sal plaasvind en daarna weer aan Raad voorgelê word.	Eiendoms-administrasie
188/2022	Subdivision: Erf 5783, Bredasdorp	(i) Approves that Town Planning Department proceed with the subdivision. (ii) Further report be submitted on the servicing and manner of disposal of the erven.	Konsultant reeds aangestel om voort te gaan met onderverdeling.	Stadsbeplanning
240/2022	Vervreemding (koop): Erf 3539, Bredasdorp (mnr en mev Kloppers)	Dat die aangeleentheid terugverwys word, sodat Stadsbeplanning oorweging kan skenk aan 'n registrasie van 'n "reg tot weg" vir die aanliggende erf.	Vermoed hierdie aansoek is goedgekeur. Indien goedgekeur moet die eienaars die kostes dra van 'n stadsbeplanner vir stadsbeplanningsprosesse en publieke deelname.	Stadsbeplanning
312/2022	Vervreemding (huur): Ged Erf 1148, Bredasdorp (W Murtz)	(i) Dat die aansoek nie ondersteun word nie. (ii) Dat Eiendomsbestuur gedurende die eerste kwartaal van 2023 'n werkwinkel aanbied waartydens alle Raadslandbougrond en opkomende boere bespreek sal word.		Eiendoms-administrasie

Besluit Nr	Onderwerp	Verkorte Besluit	Vordering	Verantwoordelike persoon
314/2022	Vervreemding (huur): Ged Erf 1148, Bredasdorp (Williams en Van Niekerk)	(i) Dat die aansoeke nie goedgekeur word nie. (ii) That the matter be referred back for further investigation by property management for alternative land to mr Williams, due to the danger of animals close to the public road. (iii) That Council take note that mr Van Niekerk have received other property to rent.		Eiendoms-administrasie
31/2023	Duikerstraat, Struisbaai: Uitdagings Ou Jaarsdag en Nuwe Jaarsdag	(i) The proposal be noted. (ii) Alternative sites be identified for recreational purposes in Struisbaai. (iii) A layout be done for the area from Andrew's Field to Struisbaai-North by Townplanning. (iv) That the SDF also includes investigation towards the "OK-plein" in Struisbaai, the parking area at the harbour and the parking area on the southern side of the harbour. (v) Proposed layouts for the abovementioned premises be tabled at the next Finance- and IT Services Portfolio Committee meeting by the Town Planning Department.		Stadsbeplanning

BESTUURSAANBEVELING

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

BESLUIT 184/2023

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

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

BEKRAGTIG op hierdie

dag van

2023

SPEAKER

DATUM