



KAAP AGULHAS MUNISIPALITEIT  
CAPE AGULHAS MUNICIPALITY  
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N ALGEMENE RAADSVERGADERING GEHOU OM 14:00 OP DINSDAG  
9 DESEMBER 2014 IN DIE MUNISIPALE RAADSAAL TE BREDASDORP**

**MINUTES OF A GENERAL COUNCIL MEETING HELD ON TUESDAY, 9 DECEMBER 2014  
AT 14:00 IN THE MUNICIPAL COUNCIL CHAMBERS, BREDASDORP**

**RAADSLEDE**

|                  |  |
|------------------|--|
| Me E Marthinus   | Speaker                                      |
| Mnr R G Mitchell | Uitvoerende Burgemeester                     |
| Mnr D Jantjies   | Uitvoerende Onder-Burgemeester               |
| Mnr R Mokotwana  | Lid van die Uitvoerende Burgemeesterskomitee |
| Me P Atyhosi     | Raadslid                                     |
| Mnr D Burger     | Raadslid                                     |
| Mnr A Coetzee    | Raadsheer                                    |
| Mnr W October    | Raadslid                                     |
| Mnr J Nieuwoudt  | Raadsheer                                    |

**AMPTENARE**

|                    |   |
|--------------------|---|
| Mnre D O'Neill     | Munisipale Bestuurder                   |
| Mnr S Ngwevu       | Direkteur: Korporatiewe Dienste         |
| Mnr H Van Biljon   | Direkteur: Finansiële Dienste           |
| Mnr N Kotze        | Direkteur: Siviele Ingenieursdienste    |
| Mnr K Mrali        | Direkteur: Gemeenskapsdienste           |
| Mnr P Everson      | Asst. Direkteur: Elektries              |
| Mnr B Hayward      | Bestuurder: Stads- en Streeksbeplanning |
| Mnr B Swart        | Interne Ouditeur                        |
| Mnr G M Moelich    | Bestuurder: Admin Ondersteuning         |
| Me N Mhlali-Musewe | Bestuurder: Menslike Hulpbronne         |

1. **OPENING**

Die Speaker heet die teenwoordiges welkom en Raadsheer Jantjies open die vergadering met gebed.

2. **AANSOEKE OM VERLOF TOT AFWESIGHEID**

Geen.

3. **NOTULES VAN VORIGE VERGADERINGS VOORGELê VIR BEKRAGTIGING**

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

3.1.1 28 Oktober 2014

*(Bogenoemde Notule word ingebind in meegaande Notule dokument.)*

**BESLUIT 243/2014**

Die Notule word as korrek en volledig bekragtig.

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

4.1 **NOTULES VAN UBK VERGADERINGS GEHOU OP:**

4.1.1 2 September 2014

4.1.2 8 September 2014

4.1.3 9 September 2014

4.1.4 28 Oktober 2014

*(Bogenoemde Notules word ingebind in meegaande Notule dokument.)*

**BESLUIT 244/2014**

Die Raad neem kennis van bogenoemde UBK Notules.

5. **NOTULES VAN KOMITEE VERGADERINGS VOORGELê VIR KENNISNAME**

5.1 **WYKSKOMITEE VERGADERINGS GEHOU OP:**

5.1.1 WYK 1 : 21 Oktober 2014

5.1.2 WYK 2 : 27 Oktober 2014

5.1.3 WYK 3 : 22 Oktober 2014

5.1.4 WYK 4 : 21 Oktober 2014

5.1.5 WYK 5 : 22 Oktober 2014

*(Bogenoemde Notules word ingebind in meegaande Notule dokument.)*

**BESLUIT 245/2014**

Die Raad neem kennis van bogenoemde Wykskomitee Notules.

6. **SAKE VOORTSPRUITEND UIT NOTULES**

Geen.

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

7.1 **BRIEWE VAN DANK**

Skrywes ontvang word aangeheg op bladsy 1 tot 9.

7.2 **FUNKSIES VIR DIE MAAND**

Raadsheer Nieuwoudt gee terugvoer oor die werksaamhede van die ODM se Gesondheidsraad.

7.3 **AANWYS VAN AFGEVAARDIGDES**

Geen.

8. **VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER**

8.1 Verklarings is reeds tydens die UBK vergadering afgehandel.

8.2 Raadsheer Coetzee (namens die DA), Raadslid Mokotwana (namens die ANC) en Raadsheer Jantjies bedank die Raad vir die goeie samewerking gedurende 2014. Die Munisipale Bestuurder en personeel word ook bedank vir hul toewyding.

9. **ONDERHOUDE MET AFGEVAARDIGDES EN/OF ANDER BESOEKE**

Geen.

10. **ITEMS NA DIE RAAD VERWYS VIR OORWEGING**

|   | <b><u>Bladsy: Agenda</u></b> |
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**Bladsy: Agenda**

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| 12.    | <b><u>AANVULLENDE ITEMS DEUR DIE RAAD HANTEER</u></b>  |                |
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| 13.    | <b><u>DRINGENDE SAKE DEUR DIE MUNISIPALE BESTUURDER</u></b>  |                |
|        | Geen.  |                |
| 14.    | <b><u>OORWEGING VAN KENNISGEWING VAN MOSIES</u></b>  |                |
|        | Geen.  |                |

15. **OORWEGING VAN KENNISGEWING VAN VRAE**  
Geen.
16. **OORWEGING VAN DRINGENDE MOSIES**  
Geen.
17. **VERSLAG DEUR MUNISIPALE BESTUURDER OOR DIE UITVOERING VAN RAADSBESLUIE**  
'n Lys van onafgehandelde besluite word aangeheg op bladsy 50.
18. **IN-KOMITEE VERSLAE**  
Die In-Komitee agenda word as 'n aparte dokument gemerk "In-Komitee" versprei.
19. **SLUITING**  
Die vergadering verdaag om 16:15.

## 10. **ITEMS NA DIE RAAD VERWYS VIR OORWEGING**

### 10.1 **MUNISIPALE BESTUURDER / MUNICIPAL MANAGER**

#### 10.1.1 **KAAP AGULHAS MUNISIPALITEIT STRATEGIESE RISIKO AKSIEPLAN VORDERING: OKTOBER 2014 (MB)**

##### **DOEL VAN VERSLAG**

Om die vordering met die Strategiese Risikoregister Aksieplan soos op einde Oktober 2014 aan die Raad voor te lê vir oorweging en bespreking.

##### **AGTERGROND**

Die vordering met die Strategiese Risiko Aksieplan word op 'n maandelikse grondslag gemoniteer vir vordering of identifisering van aangeleenthede wat die vordering belemmer.

Die verslag wat aangeheg word op bladsy 10 en 11 is die vordering soos op einde Oktober 2014 en word aan die Raad voorgelê vir oorweging en bespreking waar nodig geag.

##### **PERSONEEL IMPLIKASIES**

Geen.

##### **FINANSIËLE IMPLIKASIES**

Onbekend.

##### **BESTUURSAANBEVELING**

Dat die vordering met die Strategiese Risiko Aksieplan soos op einde Oktober 2014 oorweeg en aanvaar word.

##### **BESLUIT 246/2014**

Dat die Bestuursaanbeveling aanvaar word.

### 10.1.2 **STRATEGIESE AKSIEPLAN 2013: VORDERING - OKTOBER 2014 (BM)**

#### **DOEL VAN VERSLAG**

Om die vordering met die 2013 Strategiese Aksieplan soos op einde Oktober 2014 aan die Raad voor te lê vir oorweging.

#### **AGTERGROND**

Op 10 en 11 Oktober 2013 het die Burgemeester sy jaarlikse strategiese sessie gehou waaruit 'n aksieplan opgestel is en op 18 Maart 2014 is dit opdateer met verdere aksies en items. Die vordering met die aksieplan word op 'n maandelikse grondslag opgedateer en aan die Burgemeester voorgelê. In terme van die Raadsbesluit vir die goedkeuring van die aksieplan, moet die vordering ook aan die Raad voorgelê word. Die aangehegte plan op bladsy 12 tot 24 dui die vordering gemaak tot en met die einde van Oktober 2014 en word aan die Raad voorgelê vir oorweging.

#### **PERSONEEL IMPLIKASIES**

Geen.

#### **FINANSIËLE IMPLIKASIES**

Geen.

#### **BESTUURSAANBEVELING**

Dat die vorderingsverslag ten opsigte van die Strategiese Aksieplan vir 2013 soos op einde Oktober 2014 deur die Raad oorweeg en aanvaar word.

#### **AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

- (i) Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*
- (ii) Dat uitstaande items wat nog nie afgehandel is nie ook in die nuwe strategiese aksieplan opgeneem word.

#### **BESLUIT 247/2014**

Dat die Bestuursaanbeveling aanvaar word.

### 10.1.3 **VERSLAG VAN DIE OUDIT- EN PRESTASIEOUDIT KOMITEE OOR DIE KOMITEE VERGADERING VAN 26 SEPTEMBER 2014 (IO)**

#### **DOEL VAN VERSLAG**

Verslagdoening aan die Raad oor die Oudit- en Prestasieoudit komitee se vergadering, besluite en aanbevelings van 26 September 2014.

#### **AGTERGROND**

Die komitee het op 26 September 2014 vergader waarvan die goedgekeurde Notule aangeheg word op bladsy 25 tot 27.

Die volgende notule items, besluite en aanbevelings word graag onder die Raad se aandag gebring:

- **Par. 5 - Termyn van Komitee lede:** Dat 'n item aan die Raad gerig word om die huidige lede vir 'n tweede termyn van drie jaar aan te stel (vir Raadsvergadering in Oktober 2014).
- **Par. 6 - Vakante posisie op die Komitee:** Dat 'n item aan die Raad gerig word om die Komitee te hou op die huidige vier lede. Die item kan met item 5 hierbo gekombineer word.
- **Par. 15 - Konsep finansiële state vir 2013/14:** Die Komitee het die konsep state geëvalueer en insette is aan die HFB voorgelê.

Ten opsigte van items 5 en 6 is die items aan die Raad voorgelê op 28 Oktober 2014 en goedgekeur per Resolusie 220/2014.

#### **PERSONEEL IMPLIKASIES**

Geen.

#### **FINANSIËLE IMPLIKASIE**

Geen.

#### **AANBEVELING: OUDIT- EN PRESTASIEOUDIT KOMITEE**

- (i) Dat kennis geneem word van die items hierbo.
- (ii) Dat die Komitee se Notule van hul vergadering van 26 September 2014 aanvaar word.

#### **BESLUIT 248/2014**

- (i) Dat die aanbeveling van die Oudit- en Prestasieoudit Komitee aanvaar word.
- (ii) Dat paragraawe 5 en 6 reeds afgehandel is.

#### 10.1.4 **KWARTAALVERSLAG OOR DIE OUDIT- EN PRESTASIEOUDIT KOMITEE SE WERKSAAMHEDE VIR DIE KWARTAAL GEËINDIG 30 SEPTEMBER 2014 (IO)**

##### **DOEL VAN VERSLAG**

Verslagdoening aan die Raad oor die Oudit- en Prestasieoudit Komitee se werksaamhede en die uitvoering van hul pligte vir die kwartaal geëindig 30 September 2014.

##### **AGTERGROND**

In terme van Nasionale Tesourie se Omsendskrywe 65 van 2003 moet die komitee op 'n kwartaallike basis verslag aan die Raad doen oor die uitvoering van hulle funksies en werksaamhede asook werksaamhede van die interne oudit afdeling. Hierdie omsendskrywe is in 2012 aangepas om by die jongste verwickelinge en verwagtinge rondom die komitee, interne oudit en risiko bestuur aan te pas.

Op grond van hierdie skrywe het die komitee sy kwartaalverslag, soos aangeheg op bladsy 28 tot 30 uitgebring vir die tydperk geëindig 30 September 2014 en wat nou aan die Raad voorgelê word vir bespreking en oorweging.

**Die Raad se aandag word graag op die volgende pertinente punte gevestig:**

*"5.2 However, the Committee does have concerns on the following issues:*

- i. The SDBIP findings highlighted by the Auditor-General to date still indicates a lack of review, in some instances, by senior staff of the monthly updates or commitment by the Directors to ensure complete and accurate completion thereof.*
- ii. Although it is noted that progress is being made with the conflict of interest and workload situation, the Committee is currently not in a position to express an opinion on the independence of the Internal Auditor."*

**PERSONEEL IMPLIKASIES**

Geen.

**FINANSIËLE IMPLIKASIE**

Geen.

**AANBEVELING: OUDIT- EN PRESTASIEOUDIT KOMITEE**

Dat die Raad die inhoud van die Komitee se kwartaalverslag vir die tydperk geëindig 30 September 2014 aanvaar.

**BESLUIT 249/2014**

Dat die aanbeveling van die Oudit- en Prestasieoudit Komitee aanvaar word.

**10.1.5 TABLING OF ANNUAL REPORT: 2013/14 (MB)****PURPOSE OF REPORT**

To submit to Council the Annual report 2013/14 for consideration ('n afskrif van die verslag is reeds onder lede versprei).

**BACKGROUND**

The following documents in respect of the municipality's annual report for 2013/14 are submitted for consideration:

- The draft annual report for 2013/14.
- The final consolidated financial statements for 2013/14 as signed-off by the Auditor-General.
- The final consolidated audit report from the Auditor-General.
- The Audit and Performance Committee report for 2013/14 .

In terms of the Municipal Systems Act, 2000 (Act 32 of 2000), section 46 (1) and (2) and the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) Section 127,129,130, determines that an annual report must be tabled before Council.

The Municipal Systems Act, 2000 (Act 32 of 2000), section 46(1) and (2) reads as follows:

***"46. Annual performance reports -***

- (1) A municipality must prepare for each financial year a performance report reflecting -*



- (a) *the performance of the municipality and of each external service provider during that financial year;*
  - (b) *a comparison of the performances referred to in paragraph (a) with targets set for and performances in the previous financial year; and*
  - (c) *measures taken to improve performance.*
- (2) *An annual performance report must form part of the municipality's annual report in terms of Chapter 12 of the Municipal Finance Management Act.  
[S. 46 substituted by s. 6 of Act No. 44 of 2003.]  
(Date of commencement of s. 46: 1 July, 2001.)”*

The Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) Section 127, 129, 130 reads as follows:

**“127. Submission and tabling of annual reports -**

- (1) *The accounting officer of a municipal entity must, within six months after the end of a financial year, or on such earlier date as may be agreed between the entity and its parent municipality, submit the entity's annual report for that financial year to the municipal manager of the entity's parent municipality.*
- (2) *The mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control.*
- (3) *If the mayor, for whatever reason, is unable to table in the council the annual report of the municipality, or the annual report of any municipal entity under the municipality's sole or shared control, within seven months after the end of the financial year to which the report relates, the mayor must -*
  - (a) *promptly submit to the council a written explanation referred to in section 133 (1) (a) setting out the reasons for the delay, together with any components of the annual report listed in section 121 (3) or (4) that are ready; and*
  - (b) *submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.*
- (4) *The Auditor-General may submit the financial statements and audit report -*
  - (a) *of a municipality directly to the municipal council, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the mayor fails to comply with subsection (2) or (3); or*
  - (b) *of a municipal entity directly to the parent municipality, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the accounting officer of the entity fails to comply with subsection (1).*
- (5) *Immediately after an annual report is tabled in the council in terms of subsection (2), the accounting officer of the municipality must -*
  - (a) *in accordance with section 21A of the Municipal Systems Act -*
    - (i) *make public the annual report; and*
    - (ii) *invite the local community to submit representations in connection with the annual report; and*
  - (b) *submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.*
- (6) *Subsection (5), with the necessary modifications as the context may require, is also applicable if only components of the annual report are tabled in terms of subsection (3).*

(Date of commencement of s. 127: 1 July, 2005.)

**130. Council meetings open to public and certain public officials -**

- (1) The meetings of a municipal council at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken, must be open to the public and any organs of state, and a reasonable time must be allowed -
  - (a) for the discussion of any written submissions received from the local community or organs of state on the annual report; and
  - (b) for members of the local community or any organs of state to address the council.
- (2) Representatives of the Auditor-General are entitled to attend, and to speak at, any council meeting referred to in subsection (1).
- (3) This section, with the necessary modifications as the context may require, is also applicable if only components of the annual report were tabled in terms of section 127 (3).

(Date of commencement of s. 130: 1 July, 2005.)”

**LEGAL IMPLICATIONS**

As set out in the detail above.

**STAFF IMPLICATIONS**

None.

**FINANCIAL IMPLICATIONS**

None.

**MANAGEMENT RECOMMENDATION**

- (i) That Council adopts the Annual Report and that the report is advertised for public comment to be considered during the oversight process.
- (ii) That the report be referred to MPAC to perform the oversight process as well as the compilation and tabling of the oversight report.

**BESLUIT 250/2014**

- (i) Dat die Bestuursaanbeveling aanvaar word.
- (ii) Dat die kommentaar van die Oudit- en Prestasieoudit Komitee se verslag ingesluit word by hierdie jaarverslag.

10.1.6 **PERFORMANCE REVIEWS REPORT**

**PURPOSE OF REPORT**

To submit the performance reviews report for the Municipal Manager and other senior managers to Council for approval.

**BACKGROUND**

The Municipal Manager and all senior managers reporting directly to him are required, in terms of section 57.1(b) of the Local Government: Municipal Systems Act, to annually conclude a performance agreement. Performance agreements were thus concluded between the Municipal Manager and the Executive Mayor as well as between all other senior managers and the Municipal Manager for the 2013/14 financial year.

**PERFORMANCE PROCESS**

The performance reviews for the full year was done on 15 September 2014 and was done by a panel consisting of the Executive Mayor and Deputy Mayor, the Speaker, Municipal Manager Africa from Swellendam Municipality as well as the Chairperson of the Audit Committee and a member of the community, Mr R Smal. This panel conducted the annual review of the performance of the following managers:

- Municipal Manager
- Director: Corporate Services
- Director: Community Services
- Director: Financial Services; and
- Director: Technical Services.

All evaluatees were comfortable with the process and all the KPI's were audited by the Internal Auditor. The POE's were also made available to the Internal Auditor. All evaluatees were allowed an opportunity to make a presentation to the panel and scoring was done in terms of evidence provided. The following information was considered during the evaluation:

- The Performance Agreements;
- The presentation of the employee, and
- The SDBIP reports.

**ASSESSMENT OUTCOMES**

The assessment outcomes were as follows:

- |                                |     |
|--------------------------------|-----|
| • Municipal Manager            | 70% |
| • Director: Corporate Services | 68% |
| • Director: Community Services | 65% |
| • Director: Financial Services | 70% |
| • Director: Technical Services | 68% |

These outcomes were communicated to the employees and agreed upon at the same meeting and can be seen as a realistic reflection of the level of performance at the municipality.

**BONUSES PAYABLE**

The evaluation was done in terms of the requirements stipulated in the performance contracts. The bonuses are payable in terms of clause 11.3 of the performance agreements which stipulates that bonuses should be calculated as follows:

| <b><u>Performance Rating</u></b> | <b><u>Performance Bonus Calculation</u></b> |
|----------------------------------|---|
| 0% - 40%                         | 0% of total package                         |
| 41% - 50%                        | 5% of total package                         |
| 51% - 60%                        | 8% of total package                         |
| 61% - 70%                        | 11% of total package                        |
| 71% - 100%                       | 14% of total package                        |

In terms of the final scores awarded to all employees evaluated a performance bonus of 11% of their total package is payable to all the above employees. The annual report is tabled at this same council meeting which is a further requirement before bonuses can be paid.

**LEGISLATIVE IMPLICATIONS**

1. Local Government: Municipal System Act (32 of 2000)
2. Sections 45, 46 and 57: Complied
3. Local Government: Municipal Performance Regulations for Municipal Managers and Managers Reporting Directly to Municipal Managers: Complied
4. Local Government: Municipal Finance Management Act (56 of 2003): Complied.

**PERSONNEL IMPLICATIONS**

Effect will be given to the stipulations of the performance agreements.

**FINANCIAL IMPLICATIONS**

Sufficient funds have been allocated in the current budget for the payment of these bonuses.

**MANAGEMENT RECOMMENDATION**

It is recommended that:

- (i) Council notes the content of the 2013/14 performance reviews report.
- (ii) Council approves the payment of performance bonuses to the affected employees as per the outcome of the performance reviews.

**BESLUIT 251/2014**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

**10.2 TEGNIËSE DIENSTE / TECHNICAL SERVICES****10.2.1 GOEDKEURING VIR "WASTE WATER RISK ABATEMENT PLAN (W<sup>2</sup>RAP)" (16/4/B - DTD) (ALLE WYKE) / APPROVAL OF WASTE WATER RISK ABATEMENT PLAN (W<sup>2</sup>RAP) (16/4/B - DTS) (ALL WARDS)****DOEL VAN VERSLAG / PURPOSE OF REPORT**

Die goedkeuring van die "Waste Water Risk Abatement Plan" (volledige dokument word elektronies onder lede versprei).

**AGTERGROND / BACKGROUND**

Die W<sup>2</sup>RAP is 'n plan wat daarop gerig is om risiko's ten opsigte van rioolsuiweringswerke en prosesse te identifiseer en nodige beplanning in plek te sit ten einde die risiko's aan te spreek.

Die W<sup>2</sup>RAP is'n vereiste vir "Green Drop" sertifisering.

SALGA het aangebied om hierdie plan kosteloos vir die Raad op te stel en is elektronies aan raadslede versprei vir bestudering.

**FINANSIËLE IMPLIKASIES / FINANCIAL IMPLICATIONS**

Geen.

**BESTUURSAANBEVELING / MANAGEMENT RECOMMENDATION**

- (i) Dat die W<sup>2</sup>RAP deur die Raad aanvaar word. / *That the W<sup>2</sup>RAP be accepted by Council.*
- (ii) Die aanbevelings van die verslag implementeer word onderhewig aan beskikbare fondse. / *The recommendations of the report be implemented as per available funding.*
- (ii) Dat, waar daar nie voldoende fondse beskikbaar is nie, dit verwys word na die 2015/2016 begroting.

**BESLUIT 252/2014**

Dat die Bestuursaanbeveling aanvaar word.

### 10.3 **GEMEENSKAPSDIENSTE / COMMUNITY SERVICES**

#### 10.3.1 **REQUEST FOR COUNCIL TO RECALL RESOLUTION 274/2013 : "REQUEST BY TEHILLAH TO ESTABLISH A REHABILITATION CENTRE FOR SUBSTANCE ABUSE VICTIMS AT THE SAAME HALL" (DCS)**

**PURPOSE OF REPORT**

For Council to recall their decision for Tehillah to establish a rehabilitation centre for substance abuse victims at the SAAME hall (Resolution: 247/2013 - 25 September 2013).

**BACKGROUND**

According to resolution 247/2013 the Cape Agulhas Council granted permission to Tehillah Community Collaborative to establish a drug rehabilitation centre for substance abuse victims at the SAAME hall. Several attempts were made by the Corporate Services department to conclude the lease agreement between CAM and Tehillah.

The management of Tehillah did not conclude the lease agreement to date which results in a delay of the implementation of the project and vandalism of the facility. After a follow-up telephonic conversation with Mrs. Klein she confirmed that Tehillah is not going to occupy the facility.

**MANAGEMENT RECOMMENDATION**

It is recommended that Council recall resolution 247/2013

**AANBEVELING: GEMEENSKAPSDIENSTE KOMITEE / RECOMMENDATION: COMMUNITY SERVICES COMMITTEE**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

**BESLUIT 253/2014**

Dat die aanbeveling van die Gemeenskapsdienste Komitee aanvaar word.

## 10.4 KORPORATIEWE DIENSTE / CORPORATE SERVICES

### 10.4.1 VERSOEK OM KAAP AGULHAS MUNISIPALE KANTORE OP SEKERE DAE BINNE DIE KERSEISOEN TE SLUIT (BMH)

#### DOEL VAN VERSLAG

Om oorweging te skenk om Raadskantore op sekere dae binne die Kersseisoen te sluit. As erkenning van prestasie en die feit dat prestasiebonusse nie hierdie jaar aan personeel betaal word nie, verlof aan werknemers toegestaan word vir 29, 30 en 31 Desember 2014 (2½ dae).

#### AGTERGROND

Kaap Agulhas Munisipaliteit se kantore was die afgelope aantal jare slegs tot 13:00 op 24 en 31 Desember oop.

'n Versoek word aan die Raad gerig om goedkeuring te verleen dat alle kantore binne Kaap Agulhas Munisipaliteit op bogenoemde datums (29, 30 en 31 Desember 2014) gesluit sal wees.

Daar is verskeie betaalpunte wat vir die publiek beskikbaar sal wees waar rekeninge betaal kan word, naamlik:

- Bredasdorp: Checkers, Poskantoor, Spar en Hop In
- Napier: Poskantoor
- Struisbaai: Oord
- L'Agulhas: Oord
- Waenhuiskrans: Oord
- Klipdale: Poskantoor
- Proteem: Poskantoor
- Internet en Direkte Bank Inbetalings

#### FINANSIËLE IMPLIKASIE

Geen.

#### BESTUURAAANBEVELING

- (i) Dat alle kantore van Kaap Agulhas Munisipaliteit op 29, 30 en 31 Desember 2014 gesluit sal wees.
- (ii) As erkenning van prestasie en die feit dat prestasiebonusse nie hierdie jaar aan personeel (uitgesluit Artikel 57 amptenare) betaal word nie, werknemers vrygestel word van diens op 29, 30 en 31 Desember 2014.
- (iii) Dat alle kantore op 5 Januarie 2015 oop sal wees vir die publiek.
- (iv) Dat vooraf kennisgewings op strategiese plekke geplaas word om die publiek dienooreenkomstig in te lig.
- (v) Dat alle buitendienste soos geskeduleerd sal voortgaan.
- (vi) Dat telefoniese navrae steeds deur die Bystandpersoneel hanteer sal word.
- (vii) Dat 'n rampbestuursplan beskikbaar sal wees om binne 2 uur te kan rapporteer. Alle Direkteure in samewerking met die Munisipale Bestuurder sal deel uitmaak van die span.

#### BESLUIT 254/2014

- (i) Dat die Bestuursaanbeveling aanvaar word.
- (ii) Dat, indien personeel noodsaaklike dienste gedurende genoemde tydperk moet verrig, hierdie vergunning op 'n latere stadium aan hul toegestaan kan word.

**10.4.2 OPTIMISATION OF TELKOM SA LIMITED'S PUBLIC PAY-TELEPHONE PORTFOLIO (DCS)****DOEL VAN VERSLAG**

Om kennis te neem van TELKOM SA se intensie om publieke betaaltelefoonhokkies te verwyder en ook om insette en kommentaar daaroor te lewer.

**AGTERGROND**

'n Skrywe, gedateer 31 Oktober 2014 en soos aangeheg op bladsy 31 is vanaf TELKOM ontvang waarin KAM versoek word om "inputs or comments" te gee oor TELKOM se intensie insake die wegdoening van publieke telefoonhokkies.

TELKOM het ook saam met die skrywe, 'n volledige skedule gegee vanwaar die publieke telefone aangebring is (sien bylaag op bladsy 32).

**BESTUURSAANBEVELING**

Dat die Raad die aangeleentheid bespreek en insette lewer aan TELKOM.

**BESLUIT 255/2014**

Dat die voorstel van TELKOM ondersteun word.

**10.4.3 AANWYS VAN VERTEENWOORDIGER OP ACVV GESONDHEID- EN WELSYNSFORUM, BREDASDORP (12/2/3/3/1- DKD - COLLAB 125635)****DOEL VAN VERSLAG**

Om 'n persoon aan te wys wat die Raad kan verteenwoordig op die Gesondheid- en Welsynsforum van die ACVV te Bredasdorp.

**AGTERGROND**

'n Skrywe gedateer 17 Oktober 2014, aangeheg op bladsy 33 is van Suideroord Tehuis Vir Bejaardes ontvang om die Raad te versoek om 'n persoon as verteenwoordiger op die forum aan te wys. Raadsheer Jantjies word deur die Burgemeester voorgestel - Opdrag is van die Munisipale Bestuurder ontvang om die aangeleentheid aan die Raad voor te lê vir oorweging.

**WETLIKE VEREISTES**

Geen.

**BESTUURSAANBEVELING / MANAGEMENT RECOMMENDATION**

Vir oorweging.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die aangeleentheid na die Raad verwys word vir die aanwys van 'n verteenwoordiger.

**BESLUIT 256/2014**

Dat Raadsheer Marthinus aangewys word as verteenwoordiger op die Gesondheid- en Welsynsforum van die ACVV te Bredasdorp.

10.4.4 **UITBREIDING VAN NAPIER EN BREDASDORP BEGRAAFPLASE: ERF 513, NAPIER EN ERF 1148, BREDASDORP (N513, B1148 - SSB/GIS) (WYK 1 EN 4)**

**DOEL VAN VERSLAG**

Om terugvoering te gee oor die huidige status van die projekte.

A. **NAPIER**

• **STADS- EN STREEKSBEPLANNING**

Op 1 Julie 2011 was die publieke deelname proses geloods met die volgende inligting wat aan die publiek voorsien was:

1. Wysiging van die Kaap Agulhas Ruimtelike ontwikkelingsraamwerk ten einde die bestaande begraafplaas uit te brei.
2. Onderverdeling van erf 513, Napier in twee gedeeltes (Gedeelte A: ±3.69ha) en die restant van 513, Napier
3. Hersonerig van die voorgestelde gedeelte A van Erf 513, Napier vanaf Landbousone I na Oopruimtesone II vir begraafplaas doeleindes

Die stadsbeplaaansoek is op 2 Februarie 2012 goedgekeur deur die UBK.

• **DEPARTEMENT OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING**

'n Skrywe van Departement Omgewingsake en Ontwikkelingsbeplanning is gerig aan die raad gedateer 25 November 2011 waarin die raad in kennis gestel word dat die omgewingsimpakstudie proses goedgekeur is. Goedkeuring is geldig vir 5 jaar.

• **LG DIAGRAM**

1089/2012

• **REGISTRASIE IN AKTEKANTOOR**

Uitstaande. Eiendomsadministrasie is op 22 Oktober 2014 versoek om die eiendom in die Aktekantoor te registreer.

• **BESTUURDER PUBLIEKE WERKE**

Ons moet begroot daarvoor.

B. **BREDASDORP**

• **STADS- EN STREEKSBEPLANNING**

Op 1 Julie 2011 was die publieke deelname proses geloods met die volgende inligting wat aan die publiek voorsien was:

1. Wysiging van die Kaap Agulhas Ruimtelike Ontwikkelingsraamwerk ten einde die bestaande begraafplaas uit te brei.
2. Onderverdeling van erf 1148, Bredasdorp in twee gedeeltes (Gedeelte A: ±4.08ha) en die Restant van erf 1148, Bredasdorp
3. Hersonerig van die voorgestelde Gedeelte A van Erf 1148, Bredasdorp vanaf Landbou na Begraafplaas doeleindes
4. Konsolidasie van Gedeelte A met Erf 1392, Bredasdorp

Die aansoek is op 13 Januarie 2012 goedgekeur deur die Direkteur Korporatiewe Dienste.



- **DEPARTEMENT OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING**

'n Skrywe vanaf die Department is gerig aan die raad gedateer 25 November 2011 waarin die raad in kennis gestel word dat die omgewingsimpakstudie proses goedgekeur is. Goedkeuring is geldig vir 5 jaar.

- **LG DIAGRAM**

538/2012

- **REGISTRASIE IN AKTEKANTOOR**

Uitstaande. Eiendomsadministrasie is op 22 Oktober 2014 versoek om die eiendom in die Aktekantoor te registreer.

- **BESTUURDER PUBLIEKE WERKE**

Ons moet begroot daarvoor.

**BESTUURSAANBEVELING**

Dat die Raad kennis neem van die huidige situasie ten opsigte van die begraafplase.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

**BESLUIT 257/2014**

Dat die Finansiële- en Korporatiewe Dienste Komitee se aanbeveling aanvaar word.

10.4.6 **REZONING, SUBDIVISION AND CONSOLIDATION OF PROPERTY, AND THE ACQUISITION AND LEASE OF PROPERTY IN RESPECT OF THE VISHUIS HERITAGE CENTRE IN KASSIESBAAI, ARNISTON (W416 - MTRP) (WARD 5)**

**PURPOSE OF REPORT**

For Council to consider this draft report which will be made available for public comment. This version will be finalised in light of any comments received.

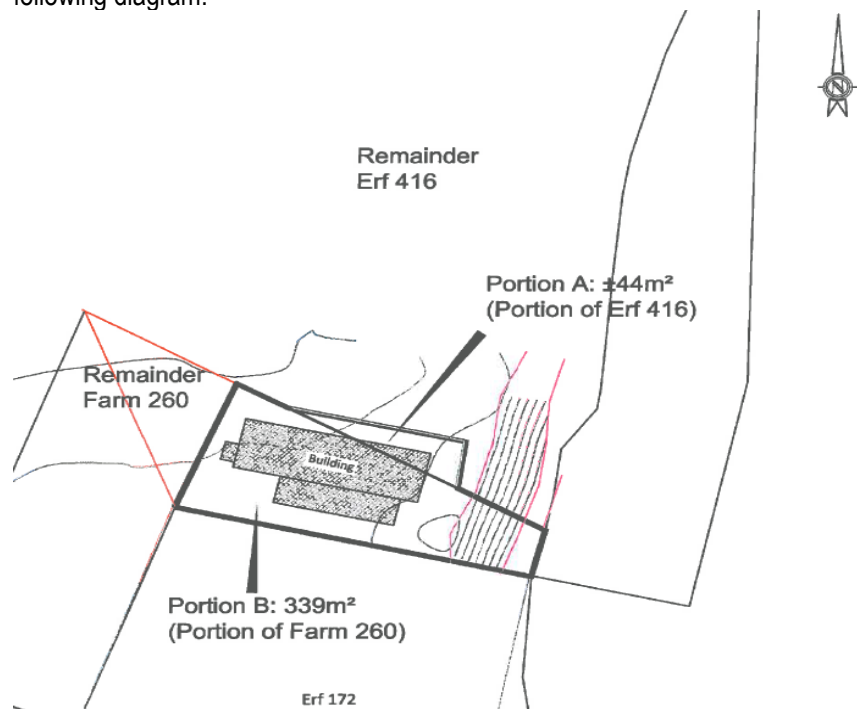
**INTRODUCTION**

1. Kassiesbaai is a historic fishing village in Arniston within the jurisdiction of the Cape Agulhas Municipality ('CAM'). It is recognised as a Grade I heritage resource under the National Heritage Resources Act 25 of 1999 ('the Heritage Act'), that is a heritage resource with qualities so exceptional that it is of 'special national significance'. Despite this status, many visitors to Arniston do not enter Kassiesbaai and the Village benefits relatively little from tourism. Many residents of the Village are unemployed and poor. In order to promote tourism inside Kassiesbaai and to train its residents in tourism-related skills, the community developed the idea, now known as the Vishuis Project, of building an information and heritage centre at the entrance to Kassiesbaai. The Vishuis Project has been approved by among others the South African Heritage Resources Agency ('SAHRA'). SAHRA is responsible for administering Grade I heritage resource under the Heritage Act.

2. The heritage centre has been designed to incorporate architectural elements from the Kassiesbaai Heritage Area with more modern architectural elements to complement the character of the Heritage area in which it will be located, without trying to duplicate it.
3. The most suitable position identified for the heritage centre is just north of the Arniston Harbour, along the sea shore and on the right hand side as one enters Kassiesbaai. This location results in the visitors centre straddling the land upon which Kassiesbaai is situated (erf 416) and a relatively small triangle of land ( $\pm 339\text{m}^2$ ) between Kassiesbaai, the harbour and the Indian Ocean.
4. The triangle of land, upon which the heritage centre would be partially situated, currently forms part of the Remainder of Farm 260 Arniston Downs Bredasdorp RD, which is owned by CAM.
5. Erf 416 is owned by the Waenhusekranz Fisherman's Union ('the Union').
6. In order to enable the heritage centre to be established, in summary, it is proposed that the following would need to happen:

- 6.1 First, the boundaries would need to be altered to create a separate erf for the heritage centre. This would involve:
  - 6.1.1 The subdivision of the portion of erf 416 to form portion A with a proposed temporary erf number **erf 768**, Arniston ( $\pm 44\text{m}^2$ ).
  - 6.1.2 The subdivision of the triangle of land referred to above from the remainder of Farm 260 Arniston Downs Bredasdorp RD to form portion B with a proposed temporary erf number **erf 767**, Arniston ( $\pm 339\text{m}^2$ ). This is referred to below as 'Portion B'.
  - 6.1.3 After subdivision, the consolidation of portions A and B to form a new erf of  $\pm 383\text{m}^2$  (with proposed erf number **erf 769** Arniston). This consolidated portion is referred to below as 'the Property'.

These properties, and the position of the heritage centre are depicted in the following diagram.



- 6.2 The proposed new Property would be registered in CAM's name. It is proposed that the Union would donate Portion A to CAM to enable this. The Union has indicated it is agreeable to doing so.

- 6.3 Second, together with the above-mentioned subdivisions and consolidation, the Property would be rezoned to Special Zone to permit the construction and operation of the heritage centre.
- 6.4 Third, it is proposed that CAM would enter into a lease agreement in terms of which it would lease the heritage centre to the Union at a nominal rental for a period of 20 years, with an option to extend the tenancy for a further period of 20 years. The proposed rental agreement limits purposes for which the heritage centre may be used.
7. The purpose of this report is to describe the decisions which the Council of CAM ('the Council') is called upon to make. Before discussing each of the decisions in turn, the background to this matter is set out in more detail.

### **BACKGROUND**

8. In support of the worthy objectives of the Vishuis Project, CAM previously considered took certain decisions concerning the heritage centre. Those previous decisions included a decision to donate to the Union Portion B which is now proposed to be Erf 767 (it was previously referred to as erf 758). CAM also made a zoning determination and granted building plan approval in respect of the heritage centre. Thereafter construction of the heritage centre commenced with funding raised for that purpose by the Waenhuiskrans Arniston Community Development Trust ('the Trust').
9. In June 2013 certain residents of Arniston questioned the legal validity of those decisions.
10. As a result, CAM investigated the decision to donate Portion B to the Union and the related decisions and identified a number of administrative irregularities. Construction on the heritage centre was suspended. CAM then brought an application before the Western Cape High Court to have the previous decisions set aside because of the irregularities which it had identified. At CAM's request, on 1 October 2013 the Court set aside the decisions, and remitted the matter to CAM for consideration. The heritage centre is currently partially constructed.
11. CAM considered the Vishuis Project afresh and revisited the legal requirements relating to the matter. As indicated, CAM is now considering a transaction in terms of which CAM's property will be leased to the Union for a nominal amount rather than donated. This means that CAM will retain ownership of Portion B.
12. The remainder of this report deals with each of the decisions that will be required to be taken to give effect to the Vishuis Project.

### **(1) SUBDIVISIONS AND CONSOLIDATION**

13. As set out above, the partially constructed heritage centre straddles the boundary between the remainder of Farm 260 Arniston Downs Bredasdorp RD and Erf 416 (the land on which Kassiesbaai is situated).
14. The current proposal envisages the subdivision of both Erf 416 and the Remainder of Farm 260 Arniston Downs Bredasdorp RD to form the remainder of those properties and Portion A and Portion B. After subdivision, Portion A and Portion B will be consolidated to form the Property.
15. The application for the subdivisions and consolidation is attached as Annexure A. on page 42.
16. The applications should be read with the motivation report from Town & Country Land Surveyors and Town Planners, Annexure B. page 44].
17. The applications for subdivision and consolidation are governed by among other provisions, s 25 of the Land Use Planning Ordinance 15 of 1985 (Cape) ('LUPO').
18. The proposed subdivision and consolidation of the properties have been advertised in terms of s 24(2) of LUPO. A copy of the advertisements is attached as Annexure C. on page 68.

19. [No objections or comments were received / The objections and comments received in response to the advertisement are attached as Annexure D.] **[TBC – depending on whether objections / comments received]**
20. [All objections have been submitted to the relevant landowner for comment as required under s 24(2)(b) of LUPO. The landowner had no comments / All landowner comments are attached as Annexure E.] **[TBC – depending on whether comments received]**
21. The land owner has obtained the requisite permit in terms of s 27(18) of the National Heritage Resources Act 25 of 1999 allowing Erf 416 to be subdivided. A copy of the permit is attached as Annexure F. on page 69.
22. Council is required to make its decisions regarding the subdivision of each property and the consolidation of the subdivided portions after considering the above mentioned motivation, **[any objections and comments]**, together with the remaining matters addressed in this report.

## **(2) REZONING**

23. The applicable zoning scheme is the Cape Agulhas Municipality Integrated Zoning Scheme ('the Zoning Scheme'), which came into effect on 30 June 2014.
24. The current zoning of Erf 416, Arniston is Special Zone and the portion of Farm 260, Arniston Downs Bedasdorp RD involved is Undetermined.
25. CAM is applying in terms of s 17 of LUPO for the rezoning of the consolidated portion to Special Zone. This will make provision for the construction of the heritage centre and the use of the property for that purpose.
26. Under s 300(1) of the Zoning Scheme, CAM must select one of the following methods of development management for a Special Zone: (a) Special Zone Annexure method; (b) Special Zone Site Development Plan method; or (c) a combination of (a) and (b).
27. Method (b) is proposed.
28. The development rules which would apply to the consolidated portion are set out in the proposed Special Zone Site Development Plan for the Property contemplated in s 300(1)(b) of the Zoning Scheme, which is attached as Annexure G. on page 75. It makes provision for the site to be used for:
  - A museum displaying the history and living heritage of the site;
  - A facility for community meetings, community functions and any other community matters;
  - An information centre for tourists;
  - A facility where light snacks and drinks could be offered to the public; and
  - A training and educational facility,
29. Council would need to approve the draft Special Zone Site Development Plan.
30. Among the other issues which Council must consider when deciding this rezoning application are the motivation for the rezoning (referred in para 16 above), the remaining matters addressed in this report, and the input provided during the public consultation process.
31. The entire property is subject to a servitude requiring that it be 'open to the use of the public'. In this regard, the following is relevant: The anticipated development objectives of the project are that it will be a visitors' and information centre available for the use of the public. In addition, pedestrians will be able to walk around the centre. Accordingly, it is submitted that the property will remain open to the use of the public.

## **(3) LEASE**

32. As mentioned, it is proposed that CAM lease the Property to the Union. A copy of the proposed lease agreement is attached as Annexure H. on page 76.

33. The proposed lease agreement provides for, among other things, the following.
- 33.1 The lease will be for a period of 20 years with an option, subject to certain conditions, for the Union to extend for a further period of 20 years. The right to extend may not be exercised more than once (clauses 3.1 and 25);
  - 33.2 The monthly rental is R1 excluding VAT (clause 7.1);
  - 33.3 The Union shall effect all improvements to the Property. The Union acknowledges that all improvements effected to the Property will become the property of CAM. CAM shall not be liable to compensate the Union. (clause 8);
  - 33.4 The Union acknowledges that the Property must be used in compliance with the servitude which provides that the entire Property is "open for the use of the public" (clause 12.1).
  - 33.5 Unless CAM gives written permission, the Union may use the Property and allow it to be used only for the purposes of (clause 12.2):
    - 33.5.1 a visitor's centre for purposes of providing general and specific information about services and products offered in the Kassiesbaai fishing community;
    - 33.5.2 a heritage centre providing information on the archaeological, ecological and human history of the Kassiesbaai environment and history;
    - 33.5.3 providing of training facilities to members of the Kassiesbaai fishing community in order to assist these members to become economically active; and
    - 33.5.4 serving of refreshments and light meals.
  - 33.6 The Union shall maintain the interior of the Building (clause 14.1).
  - 33.7 CAM shall maintain, at its cost, the exterior of the Building (clause 14.4);
  - 33.8 The Union shall maintain, at its cost, the roof of the Building and ensure that the roof remains at all times in good condition. In the event that the roof requires replacement, CAM, at its cost, shall replace the roof (clause 14.5);
  - 33.9 The Union shall not allow the property to be used in any manner contrary to any provisions of law (including but not limited to the provisions of any applicable town planning or zoning scheme or of any licence relating to or affecting the occupation of the Property or the conducting of any business therein) (clause 12.3);
34. The decision about whether to enter into the proposed lease is governed by among other provisions, the Municipal Asset Transfer Regulations (GN R878 in GG 31346 of 22 August 2008) ('the MATR'). The following provisions are relevant:
- 34.1 A municipality may grant a right to use, control or manage a capital asset only after the municipal council has approved in principle that the right may be granted (MATR 34(1)(b)). 'Capital asset' is defined to include land.
  - 34.2 The municipal council must, when considering in terms of MATR 34(1)(b) approval for any proposed granting of a right to use, control or manage a capital asset, take into account (MATR 36) -
    - (a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;
    - (b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality;
    - (c) the risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;

- (d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;
  - (e) any written views and recommendations on the proposed granting of the right by the National Treasury and the Provincial Treasury;
  - (f) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and
  - (g) compliance with the legislative regime applicable to the proposed granting of the right.
- 34.3 An approval in principle in terms of MATR 34(1)(b) that a right to use, control or manage a capital asset may be granted, may be given subject to any conditions, including conditions specifying (MATR 40) -
- (a) the type of right that may be granted, the period for which it is to be granted and the way in which it is to be granted;
  - (b) the minimum compensation to be paid for the right; and
  - (c) a framework within which direct negotiations for the granting of the right must be conducted, if granting of the right is subject to direct negotiations.
- 34.4 If approval in principle has been given in terms of MATR 34(1)(b) that a right to use, control or manage a capital asset may be granted, the municipality may grant the right only in accordance with the disposal management system of the municipality (MATR 41(1)).
- 34.5 Before granting the right to use, control or manage a capital asset, the municipality must be satisfied that the private sector party to whom the right is to be granted can demonstrate the ability to adequately maintain and safeguard the asset (MATR 41(4)).
- 34.6 A written agreement concluded between the municipality and the private sector party to whom the right to use, control or manage a capital asset is granted must be signed on behalf of the municipality and the private sector party and set out the terms and conditions on which the right is granted, including, the prescribed minimum terms and conditions (MATR 45(1) and (2)).<sup>1</sup>
- 34.7 An agreement granting a right to use, control or manage a capital asset to a private sector party or organ of state must be made available in its entirety to the council of the municipality and may not be withheld from public scrutiny (MATR 46).
35. In light of the above provisions, the Council must take into consideration the following facts and considerations.

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<sup>1</sup> The minimum terms and conditions are (MATR 45(2)(a)):

- (i) a sufficient description of the capital asset in respect of which the right is granted, in order to identify the asset;
- (ii) particulars of any subsidiary assets that are to be made available with the capital asset;
- (iii) the period for which the right is granted;
- (iv) the amount of compensation payable to the municipality or municipal entity for the granting of the right, and the terms and conditions of payment;
- (v) requirements for the private sector party or organ of state to whom the right is granted to maintain and safeguard the asset for its intended purpose, taking into account the condition of the asset and its estimated remaining life at the date of granting of the right;
- (vi) where the asset is to be used by the municipality or municipal entity and the public sector party or organ of state to whom the right is granted, the basis of how the asset is to be shared as well as how the costs and benefits of the shared asset will be apportioned between the parties;
- (vii) the extent to which the public sector party or organ of state to whom the right is granted will be required to make improvements or enhancements to the asset, and the terms and conditions regulating such improvements or enhancements;
- (viii) a statement to the effect that the risk and accountability for the asset is transferred to the public sector party or organ of state to whom the right is granted;
- (ix) the effective date from which the risk and accountability for the asset is transferred; and
- (x) a clause disallowing the private sector party or organ of state to whom the right is granted from ceding or subcontracting the right to another person.

**Whether the property may be required for CAM's own use during the period of the lease (MATR 36(a))**

36. Before the commencement of construction of the heritage centre, CAM did not utilise Portion B. Nor was it utilised by anyone else. CAM does not foresee that CAM will require the property for its own use during the period of the lease.

**Compensation to be received and the estimated value of the improvements to the property (MATR 36(b))**

37. As indicated, the rental to be received for the Property (which will include Portion B), namely R1 per month, is nominal.
38. This needs to be seen in the context of the value of the Portion B.
- 38.1 On 20 February 2012 CAM obtained a valuation of Portion B from De Kock Lloyd Property Valuations who placed a value of R520,000 on Portion B.
- 38.2 The residents who questioned the validity of the decision to donate Portion B obtained a report from Philip Eloff Professional Valuer dated 25 April 2013 (Annexure I. on page 87), which valued Portion B at R1,500,000.
- 38.3 CAM then requested Douglas Property Valuations CC to comment on the report from De Kock Lloyd Property Valuations and Philip Eloff report, and to provide an independent valuation of Portion B (referred to as erf 758). The report of Douglas Property Valuations CC (Annexure J. on page 107). It found among other things that:
- 38.3.1 The De Kock Lloyd report failed to link the determined value to the statutory constraints on Portion B, and the derived value did not constitute a "market value".
- 38.3.2 The valuation in the Philip Eloff report is premised on single residential property sales (as the highest and best use). However residential use is not permissible on Portion B. The valuation report employs a comparable sales analysis utilising single residential properties which do not have the same zoning or statutory impediments as Portion B the not have the same zoning or statutory impediments. Accordingly, the premise on which the Philip Eloff report is based is incorrect and leads to an incorrect conclusion as to value.
- 38.3.3 Considering all the statutory impediments applicable to Portion B, an "open market value" of such property cannot be realized.
- 38.3.4 The value attached to the property is one of socio-economic upliftment, community benefit and public interest.
- 38.3.5 In the circumstances, Portion B has a value of R1.
39. For the reasons, set out more fully in the report of Douglas Property Valuations CC, it is submitted that Portion B has a value of R1.
40. Also of importance in considering the economic benefit to CAM is the following.
- 40.1 The Union will at its cost effect improvements to the Property. The Union has estimated the cost of the building works at R1,600,000. In terms of the proposed lease agreement, the Union acknowledges that all improvements effected to the Property will become the property of CAM and CAM is not liable to compensate the Union (clause 8).
- 40.2 The Union will be donating to CAM a portion of its property, Portion A.
- 40.3 The Vishuis Project has as one of its aims the promotion of tourism and economic development of Arniston. If these aims are realised, it will benefit CAM, through increased rates and decreased liabilities for the provision of social services.

41. In the circumstances, Council is advised that the proposed lease will result in both an economic and a financial benefit to CAM. These benefits are likely to be significant. At worst however, should the economic aims of the project not be realised, the economic and financial consequences to CAM would be neutral.

**Risks and rewards associated with the use, control or management of the Property in relation to CAM's interests (MATR 36(c))**

42. A potential risk to CAM's interests would arise from a public liability claim by any member of the public who suffers damages on the Property. This risk can be mitigated by way of public liability insurance. Such insurance is contemplated in clause 18.1.3 of the proposed lease agreement.
43. CAM will have the financial obligations associated with the following maintenance and replacement obligations in terms of the lease:
- 43.1 maintenance of the exterior of the Building (apart from the roof) at CAM's cost (clause 14.4); and
- 43.2 replacement of the roof of the Building, at CAM's cost, if the need arises (clause 14.5).
44. The proposed lease of the Property to the Union does not pose any other foreseeable risk to CAM's interests. This is especially so given the fact that Portion B has no market value, and CAM is not using Portion B and does not intend to do so.
45. The potential rewards to CAM's interests arise from the socio-economic objectives of the project. In particular, it is expected that the project will:
- 45.1 help to provide additional income for residents of Kassiesbaai which would enable them to pay their municipal rates, to maintain the historic fisherman's residences so to prevent the decay of the historic houses, and to preserve the historic character of Kassiesbaai;
- 45.2 promote economic growth in Arniston and Kassiesbaai by promoting tourism to the benefit of both Kassiesbaai and Arniston; and
- 45.3 enable CAM to fulfil its Constitutional and statutory duties to protect heritage resources and the built environment within its jurisdiction and to foster and promote sustainable development.

**Any comments or representations on the proposed granting of the right from the local community and other interested persons (MATR 36(d))**

46. Refer below from paragraph 58.

**Any written views and recommendations by the National Treasury and the Provincial Treasury (MATR 36(e))**

47. Refer below from paragraph 61.

**Interests of any affected organ of state, CAM's own strategic, legal and economic interests and the interests of the local community (MATR 36(f))**

48. The other organs of state which are affected by this proposal are the heritage authorities: SAHRA and Heritage Western Cape ("HWC"). They have both given approval for the project.
49. The project advances CAM's strategic interests of promoting sustainable economic development, tourism, and social upliftment and alleviating poverty. CAM's legal interests are accommodated in the terms of the lease agreement. CAM's economic interests are addressed above.



50. The project will affect the interests of the local community in the following ways. The primary and directly objects of the project are to benefit the community of Kassiesbaai in the ways described above. All residents and ratepayers of CAM will benefit from the completion of the heritage centre which will be visually attractive and will enhance the character of the whole of Arniston. All residents and ratepayers will also benefit from any increase in tourism to the town and enhanced social and economic integration between residents of Kassiesbaai and other residents of Arniston. Visitors to Arniston will benefit from information about and access to Kassiesbaai which the heritage centre intends to provide.

**Compliance with the applicable legislative regime (MATR 36(g))**

51. All applicable legislation has been or will be complied with.

**Conditions (MATR 40)**

52. Conditions suitable to the project are provided for in the lease and have been discussed above.

**Compliance with CAM's disposal management system (MATR 41(1))**

53. If Council grants in principle approval for the lease to be concluded, CAM must comply with its Land Disposal Policy dated 23 February 2012. Part 10.1.8 permits the letting of CAM's land by private treaty in certain special circumstances. The following circumstances are relevant (any one of which would permit the proposal):
- municipal land for community projects;
  - municipal land for educational purposes other than private schools;
  - previously disadvantaged areas identified by the Municipality, where the local economy is stagnant and remedial steps will require special treatment; and
  - 'non-viable parcels of land' may be let to adjoining owners. Under the Policy, the determination of non-viability rests with the Council and its decision will be final. It is recommended that a determination of non-viability be made in respect of Portion B given that its small size and the restrictions on its permissible use preclude any commercial, business or residential use.

**Whether the Union can demonstrate the ability to adequately maintain and safeguard the asset (MATR 41(4))**

54. In terms of the proposed lease, the Union's maintenance obligations are in respect of the interior of the Building (clause 14.1) and the roof of the Building (clause 14.5). CAM is satisfied that the Union is able to adequately carry out those maintenance obligations and to safeguard the Building. If the Union fails to meet these duties, CAM has remedies in terms of the lease.

**Whether the proposed lease agreement includes the prescribed minimum terms and conditions (MATR 45(1) and (2))**

55. The proposed written lease which is proposed to be signed on behalf of CAM and the Union sets out the terms and conditions on which the right is granted. They include the minimum terms prescribed by the MATR which are relevant (refer to note 1 in para 34.6 above).

**The entire lease agreement must be made available to the Council and to the public (MATR 46)**

56. The entire draft lease agreement will be circulated for public comment and will be made available to the Council.

**OTHER DECISIONS**

57. CAM has previously approved the Trust's building plan application in respect of the heritage centre. That prior approval was set aside under the Court Order. It is expected that a new application for building plan approval will be made if and when the authorisations contemplated in this report have been granted.

**OBJECTIONS, COMMENTS AND REPRESENTATIONS**

58. A process of public participation in relation to the decisions contemplated in this report is required by the definition of 'advertise' in LUPO; ss 29, 30 and 33 of the Zoning Scheme, s 4(1)(b) PAJA read with regulation 18 the Regulations on Fair Administrative Procedures; and ss 21 and 21A of the Local Government: Municipal Systems Act 32 of 2000 ('the Systems Act').
59. This process has been carried out. Annexure K. sets out the comments received as a result of this process.
60. [This is to be completed in light of any comments received.]

**VIEWS AND RECOMMENDATIONS BY THE NATIONAL TREASURY AND THE PROVINCIAL TREASURY**

61. Annexure L. sets out the written views and recommendations on the proposed granting of the right by the National Treasury and the relevant provincial treasury [modify if none are received].
62. [This is to be completed in light of any comments received.]

**MANAGEMENT RECOMMENDATION**

1. In all the circumstances, it is recommended that Council, in principle, approve the following:
- (i) The subdivision of Erf 416 into the Remainder Erf 416, Arniston and Portion A: ±44m<sup>2</sup> (with proposed new erf number Erf 768, Arniston).
  - (ii) The subdivision of the Remainder of Farm 260 Arniston Downs Bredasdorp RD into the Remainder of the Remainder of Farm 260 Arniston Downs Bredasdorp RD and Portion B ±339m<sup>2</sup> (with proposed new erf number Erf 767, Arniston).
  - (iii) After subdivision, the consolidation of Portion A and Portion B to form a new erf of ±383m<sup>2</sup> (with proposed new erf number Erf 769 Arniston).
  - (iv) The rezoning of the Property to Special Zone.
  - (v) Approval of the annexed Special Zone Site Development Plan in respect of the Property.
  - (vi) The in-principle approval that the right may be granted to the Union to use the Property in accordance with the annexed lease which must be signed on behalf of CAM and the Union.
  - (vii) A determination that Portion B be regarded as a 'non-viable parcel of land' in terms of Part 10.1.8 of the Land Disposal Policy dated 23 February 2012.
2. That all processes (mentioned in 1) be advertised for public participation.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

*(Raadsheer Marthinus nie teenwoordig tydens bespreking van die aangeleentheid nie.)*

**KOMMENTAAR: WYK 5**

Die Wykskomitee ondersteun die aansoek.

**BESLUIT 258/2014**

Dat die Finansiële- en Korporatiewe Dienste Komitee se aanbeveling aanvaar word.

*(Raadsheer Marthinus nie teenwoordig tydens bespreking van die aangeleentheid nie.)*

10.4.7 **SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO. 16 OF 2013 (SPLUMA)  
DRAFT REGULATIONS (MTRP) (ALL WARDS)**

**BACKGROUND**

The purpose of this report is to inform Council of the latest development and progress made on the finalisation of the proposed SPLUMA regulations, to enable the implementation of SPLUMA.

The SPLUMA was signed into law by the President on 02 August 2013, and formally published in the gazette on the 05 August 2013. The Minister of Department of Rural Development and Land Reform (DRDLR) has gazetted and published Draft Regulations in terms of Section 54 (1) of Spatial Planning and Land Use Management Act on the 04 July 2014 for a period of 60 days for comment.

The Department further republished the draft regulations for a period of 30 days and the new date for the closing of the commenting period was 10 November 2014. The Department is currently in the process of considering the comments received. The purpose of the republication was allow for more time interested parties to provide comments on the draft regulations and it is to be noted that the republished regulations are exactly the same as those published on 4 July 2014.

On 3 October 2014 a National Working Group was established to propose suggestions on the completion of the draft SPLUMA Regulations. The meeting resulted in the establishment of five Thematic Working Groups (TWGs), whose function was to deliberate on the five themes of the Draft Regulations. Furthermore, the TWGs met on 9 October 2014 where key issues for consideration from the five thematic areas were discussed and presented. The compositions of the 5 THEMATIC WORKING GROUP were such that there was presentation from each province and the representation included various national departments, provincial government and municipalities.

On 16 October 2014, the NATIONAL WORKING GROUP met where it was agreed that framework approach to drafting of the regulations is preferred. On 23 October 2014 the convener of the NATIONAL WORKING GROUP, Sunday Ogunronbi including the chairpersons and deputy chairpersons of the five THEMATIC WORKING GROUPS met and concluded that Chapter 6 of SPLUMA required regulations immediately, in order to implement SPLUMA.

Some principle decisions were taken on 16 October 2014 and which were ratified at the meeting on 23 October 2014, which included:

1. That the proposed regulations should take the form of a set of regulations and should as such give broad minimum standards to be complied with, recognising the difference in competencies of the 3 spheres of government involved;
2. That the proposed framework regulations are to contain a minimum set of regulations to enable the implementation of SPLUMA;

3. That the regulations are to be supplemented by a set of Standard Draft Municipal Land Use Planning Bylaws to be presented to municipalities for their adoption, with or without amendments;
4. The SPLUMA may have different sets of regulations, some of which may come at a later stage, especially where they are not needed right now to be able to implement SPLUMA;
5. That it is recognised that the regulations and the proposed bylaws will not be the only regulatory instruments for land use planning and that these will also be supplemented by various sets of guideline documents and pro-forma documents such as standard agreements, standard notices, application forms etc.
6. That suitable exemption clauses be adopted to make provision for provincial and municipal differentiation (*This is dependent on the content of the regulations*);
7. That it is imperative that SPLUMA be implemented as soon as possible;
8. That the supporting regulatory instruments be expanded and further developed as time goes on and more experience is gained;
9. The Act was scrutinised to determine which sections of the Act require regulations right now to be able to implement SPLUMA as a minimum. Chapter 6 of the Act was singled out as a Chapter to be considered in more detail by THEMATIC WORKING GROUP 4; and
10. That THEMATIC WORKING GROUP would interrogate the existing proposed regulations to determine in the light of the above, which of the clauses can remain, which are to be adjusted and which are to be omitted, and for those to indicate whether or not these should be taken in later regulations, bylaws or guidelines.

### **RESOLUTIONS OF THIRD NATIONAL WORKING GROUP (NWG) MEETING**

The new structure of the proposed draft SPLUMA Regulations to be drafted, which primarily focuses on regulating chapter 6 of SPLUMA was adopted by the NATIONAL WORKING GROUP on 4 November 2014.

Thematic Working Group 1 and 4's presentation on the sections of Chapter 6 of SPLUMA to be regulated, including sections requiring bylaws and guidelines were adopted by the NATIONAL WORKING GROUP (see Annexure A on page 116 to 119).

The dates for the completion and approval of the Regulations as proposed by the NATIONAL WORKING GROUP on 4 November 2014 include:

1. THEMATIC WORKING GROUP Chairpersons and Deputy Chairpersons 2<sup>nd</sup> : 17 November 2014
2. 4th Final NATIONAL WORKING GROUP : 3 December 2014
3. 5th Proposed Closing NATIONAL WORKING GROUP Meeting *INCF* : 10 December 2014

The legal drafting team will in the next 14 days (after 4 November 2014) revisit and redraft the exiting proposed regulations mindful of the decisions/instructions given by the NATIONAL WORKING GROUP meeting on 4 November 2014. It is of utmost importance that the content of the regulations be finalised as soon as possible to be able to fully inform the team to be drafting the proposed Standard Draft Municipal Land Use Planning Bylaws so as to be clear on the extent of the content thereof, so as to prevent interpretational issues.

### **PROPOSED SCHEDULE TILL 1 JULY 2015**

It has to be accepted that a new date for envisaged SPLUMA implementation be communicated. There has to be a date set to work towards so as to inform a time line for completion of minimum actions.

Since 1 July 2015 marks the date of implementation of the new municipal financial year it was proposed that 1 July 2015 would be the new target date. It is a rather tight framework and to reach this objective the cooperation and commitment of all involved would be required.

Agreement was thus made in regard to administrative and other functions of municipalities and provinces; which is to ensure that implementation of SPLUMA is budgeted for and preparations in regard thereto are planned towards the date: 1 July 2015. The schedule of dates to ensure the effective start towards the implementation of SPLUMA is indicated below:

| <u>Activity</u>                                      | <u>Completion Date</u>     |
|--|----------------------------|
| 1. SPLUMA Draft Regulations Approved by the Minister | January 2015               |
| 2. Bylaws, Delegations and Tariffs                   | 1 April 2015               |
| 3. Land Use Regulators; MPTs and Appeal Authority    | 1 July 2015                |
| 4. Provincial SPLUM Legislation                      | 1 July 2015                |
| 5. Training and Capacity Building                    | 1 March 2015 - 1 July 2015 |

Neither SPLUMA nor LUPA can be used for the consideration of land use applications at this point in time as neither of these Acts have been implemented as yet. The use of this legislation in the consideration of planning applications may expose your Municipality to costly risks of High Court Review applications.

### **CURRENT SITUATION**

During the Quarterly Meeting between SALGA and the Provincial Minister responsible for Local Government, held on 23 September 2014, it was mentioned that some Municipalities are starting to consider planning applications in terms of SPLUMA. As SPLUMA has not been implemented yet. From a legal perspective, land use planning in the Western Cape is still regulated by the Western Cape land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) together with a number of other old order legislation such as the Removal of Restrictions Act, 1967; the Municipal Ordinance, 1974; and the Less Formal Township Establishment Act, 1991 amongst others.

These Acts will only be repealed by the Western Cape land Use Planning Act, 2014 (Act 3 of 2014) (LUPA) once it comes into operation.

The implementation of LUPA is premised on the enactment of SPLUMA. As both these Acts are framework legislation, the development and adoption of Municipal Land Use Planning Bylaws is the most important aspect of the regulatory system and the development thereof is dependent on the finalisation of the proposed SPLUMA regulations.

As SPLUMA was not implemented on 1 September 2014 the Western Cape Land Use Planning Ordinance, 1985 together with the other old order legislation, remains in *force* in the Western Cape. As such all planning applications must be submitted and processed in terms of the Ordinance and the other acts mentioned above.

### **KEY ACTIONS REQUIRED BEFORE THE COMMENCEMENT DATE FOR SPLUMA**

Key actions that the municipality should undertake leading up to the implementation of the Spatial Planning and Land Use Management Act (SPLUMA).

SPLUMA contains sufficient guidance for key municipal actions required by municipalities in preparation for the implementation of the SPLUMA.

Depending on the institutional arrangements options that the municipality choose, below are key actions required (in terms of the SPLUMA) by the municipality to prepare for implementing SPLUMA, whenever comes into effect.

## **1. MUNICIPAL COOPERATION (JOINT MUNICIPAL TRIBUNALS)**

- 1.1 Councils of two or more municipalities may, in writing, agree to establish a joint Municipal Planning Tribunal to exercise the powers and perform the functions of a Municipal Planning Tribunal.
- 1.2 The agreement to enter into a Joint Municipal Planning Tribunal will require a resolution of Council which must be accompanied with terms and conditions of the members of the tribunals as well as the powers delegated to the tribunal.
- 1.3 A district municipality may, with the agreement of the local municipalities within the area of such district municipality, establish a Municipal Planning Tribunal to receive and dispose of land development applications and land use applications within the district municipal area.
- 1.4 Enter into an agreement to form a Joint Municipal Planning Tribunal and publish the agreement in the Provincial Gazette and a local newspaper in each of the affected municipalities.

## **2. ESTABLISHMENT OF MUNICIPAL PLANNING TRIBUNALS (SINGLE MUNICIPAL TRIBUNAL)**

- 2.1 A municipality must, in order to determine land use and development applications within its municipal area, establish a Municipal Planning Tribunal.
- 2.2 A municipality may authorise that certain land use and land development applications may be considered and determined by an official in the employ of the municipality.
- 2.3 Categorisation of development applications to be considered by an official and those to be referred to the Tribunal.
- 2.4 Prepare guidelines for classification of applications to be determined by designated official and those to be determined by the Tribunal.
- 2.5 Categorise land use and land development applications to be considered by an official and those to be referred to by the Municipal Planning Tribunal.
- 2.6 Designate an official who will act as the Authorised Official to dispose of land use applications that are not referred to the Tribunal.
- 2.7 Review existing delegations or formulate new delegations to authorise the designated official, the Municipal Planning Tribunal and the Appeals Tribunal to exercise the powers contemplated in the SPLUMA.

## **3. COMPOSITION OF MUNICIPAL PLANNING TRIBUNALS**

- 3.1 Identify municipal officials to serve as Municipal Tribunal Members
- 3.2 Invite nominations or applications through the press for people who have experience and are knowledgeable in spatial planning, land use management or law related to development planning.
- 3.3 Prepare and adopt terms and conditions of service of Municipal Planning Tribunals members in line with norms and standards published by the Minister.

## **4. DETERMINATION OF THE APPEAL AUTHORITY**

Make a determination on the type of the Appeal Authority, which can be the executive committee or executive mayor of the municipality, or if the municipality does not have an executive committee or executive mayor, a committee of Councillors appointed by the Municipal Council or an external institution authorized by Council to assume the functions of an Appeal Authority.

## 5. MUNICIPAL ADMINISTRATIVE CAPACITY AND CHANGE MANAGEMENT STRATEGY

Designate or appoint a municipal official or any other person to act as an inspector for the purposes of enforcing the provisions of the land use scheme and undertake inspections.

## 6. FINANCIAL

**Municipalities should make financial provision for the following:**

- Gazetting of the agreement to establish a Joint Municipal Tribunal.
- Remuneration of Municipal Planning Tribunal members who are not municipal officials.
- Gazetting of the notice of commencement of the Municipal Planning Tribunal.
- Remuneration of Appeal Tribunal members in case of an external institution being the Appeal Authority.
- Additional support staff for the MPT Structure.
- Institutional, technical and administrative support staff for Local and District municipalities that opt for a Joint Municipal Tribunal.
- Review tariffs for land use management and development planning, taking into account the different types applications required in terms of the SPLUMA.

### **FINANCIAL IMPLICATIONS**

A number of the actions listed above will have human resource and financial implications to municipalities. The necessary preparatory work has to be started with and opt for institutional arrangements that will optimize the use of resources at our disposal and facilitate the developmental mandate of local government.

1. Implementation of SPLUMA
2. Appointment and functioning of Tribunal
3. Staff component to deal with administration and planning processes
4. Conversion of CAM IZS to By-Law

### **MANAGEMENT RECOMMENDATION**

- (i) That Council take note of the SPLUMA process.
- (ii) That Council consider the financial implications with the finalisation of the Budget 2015/16.

### **AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

### **BESLUIT 259/2014**

Dat die Finansiële- en Korporatiewe Dienste Komitee se aanbeveling aanvaar word.

## 10.5 FINANSIËLE DIENSTE / FINANCE SERVICES

### 10.5.1 MAANDVERSLAG: VOORSIENINGSKANAALBESTUUR VIR DIE MAAND GEëINDIG 31 OKTOBER 2014 (5/27 - DFD) (GEEN WYKE)

#### DOEL VAN VERSLAG

Om kennis te gee van:

1. Toekennings gemaak aan verskaffers van dienste en goedere ingevolge die Voorsieningskanaalbestuur Regulasies en Beleid en.
2. Tersaaklike verslae ingevolge die Voorsieningskanaalbestuur Regulasies en Beleid.

#### AGTERGROND

Die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003, Hoofstuk 11, die Munisipale Voorsieningskanaalbestuur Regulasies, soos afgekondig in die Staatskoerant op 30 Mei 2005 en die Raad se Voorsieningskanaalbestuur Bestuursbeleid soos aanvaar op 26 Junie 2014 bepaal dat verskeie verslae aan die Rekenpligtige beamppte en die Hoof Finansiële Beamppte voorgelê moet word. Ten einde 'n deursigtige beeld aan alle prosesse in die Voorsieningskanaalbestuursafdeling te skep, word 'n volledige verslag aan die Raad voorgelê.

#### BESTUURSAANBEVELING

Die ondergenoemde verslae soos aangeheg op bladsy 120 tot 149 word voorgelê vir kennisname:

1. Kleinkas Aankope (Regulasies 15(d)) : Kennisname
2. Finale toekennings gemaak bo R30 000 (Regulasies 5(4)) : Kennisname
3. Verslag: Nasionale Tesourie: Kontrakte bo R100 000 : Kennisname
4. Afwyking: Voorsieningskanaal Bestuursbeleid onder R30 000 (Regulasies 16(c). 17(c): Kennisname
5. Afwyking: Voorsieningskanaal Bestuursbeleid bo R30 000 (Regulasies 5(3), 5(4)(a) & (b)): Kennisname
6. Finale toekennings (alle toekennings) : Kennisname
7. Artikel 45 toekennings : Kennisname
8. Aantal registrasies van verskaffers op databasis : Kennisname

#### AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

#### BESLUIT 260/2014

Dat die Finansiële- en Korporatiewe Dienste Komitee se aanbeveling aanvaar word.

### 10.5.2 REKENING: 4<sup>DE</sup> AANVULLENDE WAARDASIE VIR 2012/2013 : DE KOCK LLOYD EIENDOMSWAARDEERDERS (DFD)

#### DOEL VAN VERSLAG

Om die meegaande skrywe, soos aangeheg op bladsy 150 en 151 van De Kock Lloyd Eiendomswaardeerders te bespreek en te oorweeg.



**AGTERGROND**

In terme van hul kontrak met die Raad moes De Kock Lloyd Eiendomswaardeerders die 4<sup>de</sup> Aanvullende Waardasie uitoefen. Dit sou dan ook die laaste aanvullende waardasie wees voor die volgende Algemene Waardasie geïmplementeer sou word.

Soos deur mnr Lloyd in sy skrywe genoem, is die rol wel gelewer, maar vanweë die feit dat die Algemene Waardasie op 1 Julie 2013 geïmplementeer moes word, was daar nie genoegsame tyd om al die wetlike vereistes na te kom sodat die Aanvullende Waardasie op 1 Junie 2013 geïmplementeer kon word nie.

Mnr Lloyd het sy kontraktuele verpligting teenoor die Raad nagekom, die rol is gelewer, maar die implementering daarvan het nooit plaasgevind nie.

**FINANSIËLE IMPLIKASIE**

R330 885,00 (Oorspronklike rekening - R436 295,10)

**BESTUURSAANBEVELING**

Vir oorweging.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE /**  
**RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat daar eers duidelikheid verkry word rondom die nie-implementering van die Aanvullende Waardasie, alvorens 'n besluit deur die Raad geneem word.

**BESLUIT 261/2014**

Dat 'n volledige verslag rondom die aangeleentheid aan die Raad voorgelê word vir oorweging.

10.5.3 **UITSTAANDE BESKIKBAARHEIDSFOOIE: CHIANTI HOMES (DE OUDE ARENA) (DFD)****DOEL VAN VERSLAG**

Om die afskrywing van die uitstaande beskikbaarheidsfooie te her-oorweeg.

**AGTERGROND**

'n Aansoek om die uitstaande beskikbaarheidsfooie af te skryf het reeds voor die Raad gediens tydens hul vergadering van 29 Julie 2014. Tydens die vergadering het die Raad besluit om nie aan die versoek te voldoen nie en dat alle uitstaande gelde betaalbaar is. Die besluit van die Raad is op 5 Augustus 2014 per e-pos aan die betrokkenes deurgegee.

Hulle voel egter dat daar genoeg gronde bestaan dat die Raad wel van hierdie uitstaande gelde kan afskryf en hulle rig dus weer 'n versoek om kwytstelling van die beskikbaarheidsgelde (sien skrywe aangeheg op bladsy 153 en 154).

**FINANSIËLE IMPLIKASIE**

R192 493,96

**BESTUURSAANBEVELING**

Vir oorweging.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE /**  
**RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat daar volstaan word met die Raad se besluit geneem op 5 Augustus 2014.

**BESLUIT 262/2014**

Dat die Finansiële- en Korporatiewe Dienste Komitee se aanbeveling aanvaar word.

10.5.4 **ODUIT AKSIEPLAN 2012/13 (OPCAR): MAANDELIKSE VORDERING - OKTOBER 2014**  
**(DFD)**

**DOEL VAN VERSLAG**

Oorweging van die vordering met die goedgekeurde 2012/2013 Oudit bevindinge aksieplan (OPCAR) soos en met 31 Oktober 2014.

**AGTERGROND**

Na aanleiding van die Ouditeur-Generaal se oudit op die 2012/2013 finansiële jaar is daar sekere leemtes uitgewys wat aangespreek moet word. Hierdie bevindinge is in die oudit bevindinge aksieplan opgeneem en bepaalde regstellende stappe is bepaal om die bevindinge aan te spreek.

Die vordering word ook aan die Oudit- en Prestasieouditkomitee voorgelê en word ook op 'n gereelde grondslag met die Ouditeur-Generaal bespreek. Die vordering met die plan word ook op 'n kwartaallikse grondslag aan die Wes-Kaapse Provinsiale Tesourie voorgelê. Die verslag wat hierby aangeheg is op bladsy 155 tot 178, is 'n aanduiding van die vordering wat met hierdie aksieplan gemaak is tot en met 31 Oktober 2014.

Daar is nog net een item onafgehandel nl. Item 46. Aangesien die Ouditeur-Generaal dit nie weer in hulle 2013/2014 oudit bevindinge het, word daar voorgestel dat die item op die OPCAR gefinaliseer word en oorgedra word na die Munisipale Bestuurder se bestuursvergadering en daar verder hanteer word.

**PERSONEEL IMPLIKASIES**

Geen.

**FINANSIËLE IMPLIKASIES**

Geen.

**BESTUURSAANBEVELING**

- (i) Oorweging, bespreking en aanvaarding van die munisipaliteit se vordering insake die implementering van die Oudit Aksieplan voortspruitend uit die bevindinge van die Ouditeur-Generaal vir die 2012/2013 finansiële jaar vir die tydperk geëindig 31 Oktober 2014.
- (ii) Dat item 46 oorgedra word na die Munisipale Bestuurder se bestuursvergadering en daar verder hanteer en afgehandel word.
- (iii) Dat die OPCAR vir 2012/2013 as afgehandel beskou word.

**BESLUIT 263/2014**

Dat die Bestuursaanbeveling aanvaar word.

**10.5.5 ouditeur-Generaal: 2013/2014 bevindinge aksieplan (OPCAR)****DOEL VAN VERSLAG**

Om die voorgestelde aksieplan ten opsigte van die bevindinge voortspruitend uit die Ouditeur-Generaal (OG) se audit op die 2013/14 finansiële jaar aan die Raad voor te lê vir oorweging

**AGTERGROND**

Alhoewel die munisipaliteit 'n "skoon" audit gekry het met die OG se audit op die 2013/14 finansiële jaar, het daar nogtans 'n aantal bevindinge uitgekome wat aandag moet geniet en waarvoor 'n bestuursaksieplan opgetrek word om die bevindinge aan te spreek.

Die voorgestelde aksieplan is opgestel in samewerking met die interne ouditeur en ander bepaalde rolspelers, insluitende die Munisipale Bestuurder. Die plan bevat ook detail oor die onderliggende redes vir die bevindinge (soos deur die OG in hulle bevindinge gemeld) en gepaste aksies om te verseker dat doelgerigte en effektiewe korrektiewe maatreëls ingestel word om die bevindinge op te los en behoorlike kontroles in plek te stel.

Die konsep aksieplan soos voorgelê op bladsy 179 tot 193 dui ook aan watter vordering reeds gedoen is soos op 30 November 2014.

**PERSONEEL IMPLIKASIES**

Geen.

**FINANSIËLE IMPLIKASIES**

Geen.

**BESTUURSAANBEVELING**

- (i) Dat die voorgestelde aksieplan deur die Raad aanvaar en onmiddellik geïmplementeer word.
- (ii) Dat 'n vorderingsverslag maandeliks aan die Raad voorgelê word vir oorweging.

**BESLUIT 264/2014**

Dat die Bestuursaanbeveling aanvaar word.

**11. ITEMS DEUR DIE UBK NA DIE RAAD VERWYS VIR OORWEGING****11.1 AANSOEK OM FINANSIËLE HULP AAN BUURTWAGDIENSTE: STRUISBAAI, NAPIER EN BREDASDORP GPF (5/18/1 - DKD / DFD)****DOEL VAN VERSLAG**

Om aansoeke om finansiële ondersteuning ontvang vanaf Struisbaai, Napier en Bredasdorp GPF vir hul buurtwagdienste, te oorweeg (sien ook skrywe vanaf die Stasiebevelvoerder van Struisbaai SAPD, aangeheg op bladsy 93).

**AGTERGROND**

Die buurtwagdienste te Struisbaai, Napier en Bredasdorp is 'n vrywillige diens wat deur gemeenskapslede gelewer word ter versterking van hul hand. Daar word sterk op hul gesteun en hulle werk die hele jaar sonder enige vergoeding. Hulle vra om finansiële ondersteuning.

**FINANSIËLE IMPLIKASIE**

Bemerkingsfonds: 110102021 (totaal R38 500)

|            |   |            |
|------------|---|------------|
| Struisbaai | : | R12 000,00 |
| Napier     | : | R 8 500,00 |
| Bredasdorp | : | R18 000,00 |

**BESTUURSAANBEVELING**

Dat die Raad bogenoemde finansiële ondersteuning oorweeg vir goedkeuring.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE /  
RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

**UBK BESLUIT: 9 DESEMBER 2014**

- (i) Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.
- (ii) Dat die aangeleentheid na die Raad verwys word vir oorweging.

**BESLUIT 265/2014**

Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.

11.2 **AANSOEK VIR BEFONDSING: VERGOEDING RESERVISTE (5/18/1 - DKD - COLLAB 124315)**

**DOEL VAN VERSLAG**

Om oorweging te skenk om 'n finansiële bydrae te maak vir SAPD se reserviste.

**AGTERGROND**

'n Skrywe, soos aangeheg op bladsy 94 gedateer 8 Oktober 2014 is van die "Voorsitter: Gemeenskap Poliseringsforum" ontvang waarin gevra word om 'n finansiële bydrae vir die betaling van Polisie Reserviste wat diens gaan doen vanaf die 15<sup>de</sup> Desember 2014 tot 15<sup>de</sup> Januarie 2015.

Daar is reeds 8 vrywillige lede wat hierdie diens verrig. Die Raad het ook gedurende 2013 'n bydrae aan die organisasie gemaak.

**WETLIKE VEREISTES**

Donasie volgens die MFMA.

**BESTUURSAANBEVELING / MANAGEMENT RECOMMENDATION**

Vir oorweging.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE /**  
**RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat 'n bedrag van R30 000,00 beskikbaar gestel word aan Bredasdorp Gemeenskap Polisie Forum om hul lede se "stipends" te betaal.

**UBK BESLUIT: 9 DESEMBER 2014**

- (i) Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.
- (ii) Dat die aangeleentheid na die Raad verwys word vir oorweging.

**BESLUIT 266/2014**

Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.

11.3 **LEASE PERIOD: ARGİ DWALA - COMMONAGE, NAPIER (7/1/31 DKD - COLLAB 124662)**

**PURPOSE OF REPORT**

**TO RECONSIDER:** Approval of extension of the current lease of a portion of Napier commonage to the Agri Dwala (PTY) LTD in the interest of the wider community through primary and production agriculture or food security and local economic growth.

**BACKGROUND**

An application has been received from Agri Dwala to review the current lease of a portion of commonage (617 ha in extent), Napier, to utilized for projects aimed at small scale farming and emerging farmers. They ask an additional 10 year lease for a new organization, that forms part of Agri Dwala, namely Amaqhawa Agri (Edms) Bpk (see attached letter on page 95 to 98).

Food security, development of small scale farming and emerging farmers as well as development of the economy are key national objectives and local government is obliged to implement national objectives where the required capacity exists and contribute towards Vision 2030.

**FINANCIAL IMPLICATIONS**

Income derived from the commonage for the benefit of the municipality, national and provincial funding for local projects and growth of the local economy benefitting the community.

**LEGAL CONSIDERATIONS**

The following legal considerations are applicable:

|             |   |
|-------------|---|
| <b>MFMA</b> | 7. <b>Sect 33:</b> Contracts having long term financial implications  |
| <b>MATR</b> | 1. Definition of "fair market value" relates to amount a knowledgeable and willing seller sells to a knowledgeable and willing buyer in an "arm's length transaction;<br>2. Definition of "high value asset": " <i>fair market value of the capital asset exceeds any of the following amounts:</i> |

|                                       |  |
|---------------------------------------|--|
|                                       | <p>a) R50 million;</p> <p>b) One percent of the total value of the capital assets of the municipality.</p> <p>c) An amount determined by resolution of the council of the municipality ... which is less than (a) or (b).</p> <p>3. Definition of "right to use, control or manage": when granting such rights do not amount to permanent transfer or disposal.</p> <p><b>For in-principle resolution</b></p> <p>1. Chapter 2 of MATR</p> <p>2. Regulation 33(3) (where the asset is required to remain economically useful, indefinite period and full use and control as if owner (without legal transfer)</p> <p>3. Regulation 35 (long term)(public participation)</p> |
|                                       | <p><b>For final approval</b></p> <p>1. Regulation 34 (decision-making),</p> <p>2. Regulation 35 (public participation)</p> <p>3. Regulation 36 (granting right to use)</p> <p>4. Regulation 40 (considerations)</p> <p>5. Regulation 41 (conditional approval)</p> <p>6. Regulation 45(agreements)</p>   |
| <b>SCM Regulations<br/>SCM Policy</b> | <b>Regulation 40 (Disposal Management)</b> letting of land for community benefit (job creation, economic growth, agrarian development etc)   |
| <b>Systems Act</b>                    | Sect 21A (public participation)  |
| <b>Town Planning<br/>legislation</b>  | Not applicable. Current use and other matters in order.  |

### **MANAGEMENT RECOMMENDATION**

Council resolve in principle that:

- (i) The public participation process required by Regulation 35 (MATR) for long term contracts of this nature is authorised in terms of Regulation 34(3) (MATR).
- (ii) A long term lease of 10 years on the same provisions as the current lease agreement, having taken into consideration (Regulation 35 of MATR) the reasons for the duration of the lease, the fact that the municipality does not require the land for own purposes; local economic benefits, food security enhancement etc subject to:
  - a. final decision by Council after completion of the public participation process; and
  - b. comments, if any, from Provincial and National Treasury.

### **AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat meer inligting ingewin word aangaande die nuwe groep wat gaan deel uitmaak van Agri Dwala, waarna dit weer voor die UBK sal dien vir bespreking met 'n aanbeveling na die Raad.

### **UBK BESLUIT: 9 DESEMBER 2014**

- (i) Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.
- (ii) Dat die aangeleentheid na die Raad verwys word vir oorweging.

### **BESLUIT 267/2014**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

11.4 **STANDAARDISERING VAN MEENTGROND VERHURING AAN OPKOMENDE BOERE (7/1/3/1 - DKD - COLLAB 125388)**

**DOEL VAN VERSLAG**

Dat die UBK oorweging skenk om die verhuring van meentgronde, op 'n standaardtarief vir opkomende boere beskikbaar te stel.

**AGTERGROND**

Binne KAM se regsgebied word baie aansoeke van opkomende boere hanteer wat graag op die raad se meentgronde wil begin met 'n boerdery en dan later uitbrei om moontlik hul eie grond te koop.

Die bepaling van 'n markverwante huur, soos bepaal deur wetgewing, bleik 'n probleem te wees vir die opkomende boere, wat nie altyd die volle tarief kan betaal nie. Volgens 'n landbou ekonoom, kan die tariewe nie gestandaardiseer word nie, omrede die gewasse wat verbou word, nie dieselfde opbrengs in dieselfde tyd lewer nie. Die huidige huurgeld wat gehef word, is sowat 4-5 keer minder as die markverwante huur.

Sien aangehegte skrywe van 'n plaaslike landbou ekonoom op bladsy 100.

**WETLIKE VEREISTES**

MFMF (Markverwante huur)

**FINANSIËLE IMPLIKASIE**

Potensiële bron van inkomste.

**BESTUURSAANBEVELING / MANAGEMENT RECOMMENDATION**

Dat die huurgeld vir die meentgronde van die raad soos volg gehef gaan word:

1. **Vir Saaidoeleindes en graangewasse:**

JAAR 1: Markverwant min 70%  
 JAAR 2: Markverwant min 50%  
 JAAR 3: Markverwant min 30%  
 JAAR 4: Markverwante huur  
 JAAR 5: Markverwante huur

2. **Vir aanhouding van vee:**

JAAR 1: Markverwant min 50%  
 JAAR 2: Markverwant min 20%  
 JAAR 3: Markverwante huur  
 JAAR 4: Markverwante huur  
 JAAR 5: Markverwante huur

3. **Vir meerjarige gewasse, soos vrugtebome:**

JAAR 1: Markverwant min 80%  
 JAAR 2: Markverwant min 60%  
 JAAR 3: Markverwant min 40%  
 JAAR 4: Markverwant min 20%  
 JAAR 5: Markverwante huur

4. **Vir die aanbring van tunnel-verbouing:**

- JAAR 1: Markverwant min 70%
- JAAR 2: Markverwant min 50%
- JAAR 3: Markverwant min 30%
- JAAR 4: Markverwante huur
- JAAR 5: Markverwante huur

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE /**  
**RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

**UBK BESLUIT: 9 DESEMBER 2014**

- (i) Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.
- (ii) Dat die aangeleentheid na die Raad verwys word vir oorweging.

**BESLUIT 268/2014**

Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.

11.5 **VERVREEMDING VAN GEDEELTE VAN ERF 120, WAENHUISKRANS / ARNISTON (7/R - BSSB) (WYK 5)**

**DOEL VAN VERSLAG**

Om oorweging te skenk aan die versoek van die eienaar van Erf 589, Waenhuiskrans / Arniston ten einde 'n gedeelte van Erf 120, Waenhuiskrans te vervreem (sien Bylaag A op bladsy 111).

**AGTERGROND**

Die eienaar van Erf 589, Waenhuiskrans het op 23 September 2014 die volgende aansoek ingedien by die Raad:

*Good Morning Dean*

*After a meeting held with you on the 21<sup>st</sup> July 2014 and attended by Riaan Griesel, Derick Burger and myself, you recommended that we apply to council for the following:*

- 1. ....
- 2. *The possibility of purchasing the portion of Erf 120 in front of the Arniston Hotel, from the Municipality*

Die "Land Disposal" Komitee het op 9 Oktober 2014 die volgende besluit (LD110/2014) geneem:

- a. Dat die Direkteur: Gemeenskapsdienste bevestig dat die "Land Disposal Committee" nie gedelegeerde mag het nie.
- b. Dat die Direkteur: Korporatiewe Dienste bevestig dat die "Land Disposal Committee" slegs aanbevlings aan die Raad maak insake die vervreemding van munisipale grond.
- c. Dat die Bestuurder: Stads- en Streekbeplanning aanbeveel dat Erf 120, Waenhuiskrans vervreem word aan Mnr Haarburger.
- d. Dat 'n aanbeveling aan die Raad gemaak word vir oorweging.



Die huidige huurooreenkoms wat die Raad met die eienaar van Erf 589, Waenhuiskrans het is aangeheg as Bylaag B op bladsy 112.

### FINANSIËLE IMPLIKASIES

Vervreemding van die oopruimte sal vir die Raad 'n inkomste inbring.

### WETLIKE IMPLIKASIES

Hierdie bate van die Raad word nie benodig vir die lewering van die minimum vlak van basiese dienste nie. Ondervinding het getoon dat 'n tender of ontwikkelingsvoorstel nie die gewenste uitwerking vir hierdie bepaalde projek het nie. Die onderstaande wetlike vereistes en gemeenskapsdeelname prosesse sal egter wel gevolg moet word:

| Council policy                     | Alienation of land  |
|------------------------------------|---|
| MFMA                               | <ol style="list-style-type: none"> <li>1. <b>Sect 14(2)(a)</b>: asset not required for minimum level of basic services.</li> <li>2. <b>Sect 14(2)(b)</b>: consider fair market value and economic and community value to be received in exchange for the asset.</li> <li>3. 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).</li> <li>4. <b>Sect 33</b>: Contracts having long term financial implications.</li> </ol>  |
| MATR                               | <ol style="list-style-type: none"> <li>1. <b>Definition of "high value asset"</b>: <i>"fair market value of the capital asset exceeds any of the following amounts:</i> <ol style="list-style-type: none"> <li>a) <i>R50 million;</i></li> <li>b) <i>One percent of the total value of the capital assets of the municipality....</i></li> <li>c) <i>An amount determined by resolution of the council of the municipality ..... which is less than (a) or (b).</i></li> </ol> </li> <li>2. <b>Definition of "realisable value"</b>: fair market value <u>less</u> estimated costs of completion.</li> <li>3. <b>Definition of "right to use, control or manage"</b>: when granting such rights do not amount to permanent transfer or disposal.</li> <li>4. <b>Regulation 5</b> (decision-making).</li> <li>5. <b>Regulation 6</b> (public participation)</li> </ol> |
| SCM Regulations<br>SCM Policy      | <b>Regulation 40: (Disposal Management)</b> Project for job creation, skills development, poverty alleviation and economic growth   |
| Systems Act (public participation) | <p><b>Section 21A:</b> (1) All documents that must be made public by a municipality in terms of a requirement of this Act, the Municipal finance Management Act or other applicable legislation, must be conveyed to the local community:</p> <ol style="list-style-type: none"> <li>(a) by displaying the documents at the municipality's head and satellite offices and libraries;</li> <li>(b) by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and</li> <li>(c) by notifying the local community, in accordance with section 21, of the place, including website address, where detailed particulars concerning the documents can be obtained.</li> </ol>  |
| Town Planning legislation          | As long as the proposed site is not being built upon, no rezoning, subdivision and environmental impact assessment is required. The owner of Erf 589 Waenhuiskrans to complete the rezoning and closure processes of the two stoeps.  |

**BESTUURSAANBEVELING**

Aangesien die eiendom nie ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet vir die lewering van die minimum vlak van basiese dienste benodig word nie, die Raad in-beginsel-goedkeuring verleen vir die vervreemding van 'n Gedeelte van Erf 120, Waenhuiskrans aan die eienaar van Erf 589, Waenhuiskrans vir die gebruik daarvan vir twee stoepe (sitplek van die restaurant en eetkamer van die hotel), oopruimte en parking, op voorwaarde dat:

1. Alle wetlike vereistes vir vervreemding nagekom word.
2. Die aansoek na afhandeling van die wetlike proses weer na die Raad verwys word vir finale oorweging.
3. Die Eiendomsadministrasie afdeling 'n waardeerder aanstel om die markwaarde te bepaal.
4. Geen strukturele werk en opgraderings mag op die eiendom gedoen word nie, en enige kleinwerke moet voldoen aan die wetlike vereistes en moet met die toestemming van die Boubeheerafdeling oppgerig word.
5. Alle stadsbeplanningsprosesse van die twee stoepe eers voltooi word deur die eienaar van Erf 589, Waenhuiskrans voordat oordrag plaasvind.

**AANBEVELING: FINANSIËLE- EN KORPORATIEWE DIENSTE KOMITEE / RECOMMENDATION: FINANCE AND CORPORATIVE SERVICES COMMITTEE**

Dat die markwaarde van die gedeelte eers vasgestel word, alvorens die Raad 'n besluit neem.

**UBK BESLUIT: 9 DESEMBER 2014**

- (i) Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.
- (ii) Dat die aangeleentheid na die Raad verwys word vir oorweging.

**BESLUIT 269/2014**

Dat die aanbeveling van die Finansiële- en Korporatiewe Dienste Komitee aanvaar word.

11.6 **VERHURING VAN ERWE 852, 857 EN 854, STRUISBAAI VIR GEMEENSKAPS-ONTWIKKELINGSAKTIWITEITE (7/R - BSSB) (WYK 5)**

**DOEL VAN VERSLAG**

Oorweging vir die verhuring van Erwe 852, 857 en 854, Struisbaai vir gemeenskaps-ontwikkelingsaktiwiteite en kommersiële bedrywighede (sien Bylaag A op bladsy ).

**AGTERGROND**

Mnr Pierre Ettienne Rossouw het 'n aansoek ingedien vir 'n waterpark en konferensiesentrum op Erwe 852 en 857 Struisbaai (sien Bylaag B op bladsy ).

Suidpunt Inwonersvereniging het 'n aansoek ingedien vir o.a. 'n putt-putt baan, trampolien en skaatsplankbaan op Erwe 852, 854 en 857 Struisbaai (sien Bylaag C op bladsy ).

Intussen is daar 'n samewerkingsooreenkoms onderteken deur die twee partye (sien Bylaag D op bladsy ) en het die Suidpunt Inwonersvereniging 'n voorlegging gedoen aan die Raad op 28 Oktober 2014.

**FINANSIËLE IMPLIKASIES**

Huurinkomste.

Die projekte behoort 'n beduidende bydrae tot werkskepping, armoedeverligting en ekonomiese groei vir die Struisbaai gebied sowel as vir die Kaap Agulhas regsgebied te lewer.

**WETLIKE IMPLIKASIES**

Hierdie bates van die Raad word nie benodig vir die lewering van die minimum vlak van basiese dienste nie. Ondervinding het getoon dat tenders nie die gewenste uitwerking vir hierdie bepaalde projek het nie. Die onderstaande wetlike vereistes en gemeenskapsdeelname prosesse sal egter wel gevolg moet word:

| <b>Council policy</b>                     | <b>Alienation of land</b>   |
|---|---|
| <b>MFMA</b>                               | <ol style="list-style-type: none"> <li>1. <b>Sect 14(2)(a):</b> asset not required for minimum level of basic services.</li> <li>2. <b>Sect 14(2)(b):</b> consider fair market value and economic and community value to be received in exchange for the asset.</li> <li>3. 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).</li> <li>4. <b>Sect 33:</b> Contracts having long term financial implications.</li> </ol>  |
| <b>MATR</b>                               | <ol style="list-style-type: none"> <li>1. <b>Definition of "high value asset":</b> "fair market value of the capital asset exceeds any of the following amounts:               <ol style="list-style-type: none"> <li>a) R50 million;</li> <li>b) One percent of the total value of the capital assets of the municipality....</li> <li>c) An amount determined by resolution of the council of the municipality ..... which is less than (a) or (b).</li> </ol> </li> <li>2. <b>Definition of "realisable value":</b> fair market value <u>less</u> estimated costs of completion.</li> <li>3. <b>Definition of "right to use, control or manage":</b> when granting such rights do not amount to permanent transfer or disposal.</li> <li>4. <b>Regulation 5</b> (decision-making).</li> <li>5. <b>Regulation 6</b> (public participation)</li> </ol> |
| <b>SCM Regulations<br/>SCM Policy</b>     | <b>Regulation 40: (Disposal Management)</b> Project for job creation, skills development, poverty alleviation and economic growth   |
| <b>Systems Act</b> (public participation) | <p><b>Section 21A:</b> (1) All documents that must be made public by a municipality in terms of a requirement of this Act, the Municipal finance Management Act or other applicable legislation, must be conveyed to the local community:</p> <p>(a) by displaying the documents at the municipality's head and satellite offices and libraries;</p> <p>(b) by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and</p> <p>(c) by notifying the local community, in accordance with section 21, of the place, including website address, where detailed particulars concerning the documents can be obtained.</p>   |
| <b>Town Planning legislation</b>          | As long as the proposed site is not being built upon, no rezoning, subdivision and environmental impact assessment is required. Suggests that an Encroachment Agreement be signed.  |

**BESTUURSAANBEVELING**

Aangesien die eiendomme nie ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet vir die lewering van die minimum vlak van basiese dienste benodig word nie, die Raad in-beginsel-goedkeuring verleen vir die verhuring van Erwe 852, 854 en 857 Struisbaai aan die Suidpunt Inwonersvereniging vir 'n termyn van 9 jaar en 11 maande met die opsie om die huur vir 'n verdere tydperk te verleng, vir die bedryf van waterpark, konferensiesentrum, 'n putt-putt baan, trampolien en skaatsplankbaan en die voorsiening van infrastruktuur vir gemeenskaps-ontwikkeling op voorwaarde dat:

1. Alle wetlike vereistes vir langtermyn verhuring nagekom word.
2. Die aansoek na afhandeling van die wetlike proses in a na die Raad verwys word vir finale oorweging.
3. Alle stadsbeplanningsaansoek en omgewingsprosesse sal vir die aansoeker se rekening wees.
4. Die gemeenskapswaarde van die projek en die feit dat die aansoeker volle verantwoordelikheid vir die opgradering van die grond vat en instandhouding van die toekomstige geboue en strukture aanvaar vir die volle termyn van die huurooreenkoms in ag geneem word met die bepaling van die huur en dat die huur bepaal word teen 'n markverwante huur per jaar vooruitbetaalbaar met 'n eskalاسie van 10% per jaar.
5. Die geboue en strukture onmiddellik na die Raad terugval en die ooreenkoms gekanselleer word indien die projek in verwaarlosing verval of die geboue nie langer vir gemeenskapsdoeleindes soos gespesifiseer in die aansoek, aangewend word nie.
6. Alle strukturele werk en opgraderings wat aan die eindom gedoen word, moet voldoen aan die wetlike vereistes en moet met die toestemming van die Boubeheerafdeling opgerig word.
7. 'n Moniteringskomitee bestaande uit die volgende rolspelers saamgestel word vir jaarlikse monitoring van die impak van hierdie projek op ekonomiese groei in die algemeen en die verbetering van lewensomstandighede van die Struisbaai gemeenskap: Die Hoof Uitvoerende Beampte Kaap Agulhas Toerisme, die Bestuurder: PEO, die Bestuurder: Publieke Dienste en die aansoeker.
8. Geen vergoeding aan die aansoeker betaalbaar sal wees vir enige verbeteringe aan die eiendom aangebring tydens die verhuringstydperk nie.
9. Die huurtermyn sal 9 jaar en 11 maande wees, met die opsie om te verleng.

**UBK BESLUIT: 9 DESEMBER 2014**

Dat die Bestuursaanbeveling aanvaar word.

**BESLUIT 270/2014**

- (i) Dat die Bestuursaanbeveling aanvaar word.
- (ii) Dat die genoemde grond vir "sport doeleindes" gesoneer moet word.
- (iii) Indien die Raad die grond dringend benodig, ooreenkoms gekanselleer sal word.

12. **AANVULLENDE ITEMS DEUR DIE RAAD HANTEER**12.1 **KONSEP STRATEGIESE AKSIEPLAN: 2014 (MB)****DOEL VAN VERSLAG**

Om die Konsep 2014 Strategiese Aksieplan soos op November 2014 aan die Raad voor te lê vir oorweging.

**AGTERGROND**

Op 13 en 14 November 2014 het die Burgemeester 'n strategiese sessie gehou waaruit 'n aksieplan opgestel is.

Die vordering met die aksieplan word op 'n maandelikse grondslag opgedateer en aan die Burgemeester voorgelê. In terme van die Raadsbesluit vir die goedkeuring van die aksieplan, moet die vordering ook aan die Raad voorgelê word. Die konsep plan word hierby aangeheg en word aan die Raad voorgelê vir oorweging.

**PERSONEEL IMPLIKASIES**

Geen.

**FINANSIËLE IMPLIKASIES**

Geen.

**BESTUURSAANBEVELING**

Dat die konsep verslag ten opsigte van die Strategiese Aksieplan vir 2014 soos op einde November 2014 deur die Raad aanvaar word.

**BESLUIT 271/2014**

Dat die Bestuursaanbeveling aanvaar word.

**12.2 APPROVAL OF SEASONAL TEMPORARY EMPLOYEES: PROTECTIVE SERVICES****PURPOSE OF REPORT**

For Council to approve financial allocation through the mid-year budget adjustment for the appointment of Festive Season Temporary EPWP Workers (Law Enforcement).

**BACKGROUND**

Annually Council budgets on its operational budget for the appointment of Temporary Workers. With the availability of budget information for the 2014/2015 the department of Protection Services did budget for the Temporary / Seasonal Workers under budget vote 110261020 (R350 000). After the budget approval it was noticed that the amount budgeted for Temporary / Seasonal Workers did not appear on the new budget. This information was immediately brought under the CFO's attention, but somehow there was an omission in the allocation.

According the CFO's feedback an amount of R350 000 was budgeted for the current budget with Traffic for Temporary Workers that he should have moved to a project vote for the Season Workers for law enforcement on the beach areas. It is hereby requested that the amount budgeted for the 2014/2015 budget is placed back, pointed to the department's vote numbers as above. This division's responsibility is to maintain safety and security and the attention is drawn to the fact that we are a holiday destination and attracts large numbers of holiday makers to CAM area. The placement of extra law enforcers will help to ensure a lower crime rate in the municipal area.

It is requested that Council resolve to make the allocation of the requested budget in order to appoint EPWP Workers (Law Enforcement) and that adjustment be done in the mid-year budget adjustment.

**FINANCIAL IMPLICATION**

It is envisaged that the total amount for the appointment of the EPWP Workers as Temporary Law Enforcement will be R60 000 for the season.

**MANAGEMENT RECOMMENDATION**

It is recommended that Council approve the allocation of R60 000.00 for the appointment of 12 EPWP Workers (Law Enforcement).

**BESLUIT 272/2014**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

12.3 **ADJUSTMENT IN RESPECT OF THE RECOVERING OF AND / OR WRITING OFF UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE FOR 2013/14 FINANCIAL YEARS (DFS)**

**PURPOSE OF REPORT**

The purpose of this report is for council to investigate the amended unauthorized, irregular or fruitless and wasteful expenditure that have been incurred based on the final audit outcome report in respect of the 2013/14 financial year 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.

A list of identified unauthorized, irregular, fruitless and wasteful expenditure had been submitted to council during August 2014 for expenditure incurred in respect of the 2013/14 financial year based on the preliminary results as at financial year end 30 June 2014. However these figures have been adjusted as a result of the audit outcome and which requires a resubmission informed by the audited figures for investigation by council and / or MPAC in order to either recover or certify as irrecoverable and write off.

Following the amended list of unauthorized and irregular expenditure (Operating & Capital) in respect of the 2013/14 financial year:

### **2013/14: Unauthorised Expenditure Operating**

|   | 2014<br>R<br>(Actual) | 2014<br>R<br>(Budget) | 2014<br>R<br>(Variance) | 2014<br>R<br>(Unauthorised) |
|---|-----------------------|-----------------------|-------------------------|-----------------------------|
| <b><u>Unauthorised expenditure current year - operating</u></b> |                       |                       |                         |                             |
| Executive and Council   | 37 323 112            | 50 587 150            | (13 264 038)            | -                           |
| Budget and Treasury Office                                      | 27 511 812            | 24 854 044            | 2 657 768               | 2 657 768                   |
| Corporate Services  | 17 194 824            | 14 833 056            | 2 361 768               | 2 361 768                   |
| Community and Social Services                                   | 12 573 825            | 12 394 462            | 179 363                 | 179 363                     |
| Sport and Recreation  | 6 978 950             | 8 089 754             | (1 110 804)             | -                           |
| Public Safety   | 6 601 439             | 6 235 852             | 365 587                 | 365 587                     |
| Road Transport  | 9 896 024             | 9 943 159             | (47 135)                | -                           |
| Electricity   | 61 943 022            | 61 246 351            | 696 671                 | 696 671                     |
| Water   | 12 181 965            | 11 744 466            | 437 498                 | 437 498                     |
| Waste Water Management  | 6 911 437             | 6 633 271             | 278 166                 | 278 166                     |
| Waste Management  | 11 952 348            | 10 152 811            | 1 799 537               | 1 799 537                   |
| Environmental Protection  | 392 951               | 512 123               | (119 172)               | -                           |
| Other   | 2 305 800             | 2 318 928             | (13 128)                | -                           |
|   | <b>213 767 508</b>    | <b>219 545 427</b>    | <b>(5 777 919)</b>      | <b>8 776 358</b>            |

### **2013/14: Unauthorised Expenditure Capital**

|   | 2014<br>R<br>(Actual) | 2014<br>R<br>(Budget) | 2014<br>R<br>(Variance) | 2014<br>R<br>(Unauthorised) |
|---|-----------------------|-----------------------|-------------------------|-----------------------------|
| <b><u>Unauthorised expenditure current year - capital</u></b> |                       |                       |                         |                             |
| Executive and Council   | 167 611               | -                     | 167 611                 | 167 611                     |
| Budget and Treasury Office                                    | 832 859               | 450 000               | 382 859                 | 382 859                     |
| Corporate Services  | 2 553                 | 7 000                 | (4 447)                 | -                           |
| Community and Social Services                                 | 6 650 961             | 5 815 993             | 834 968                 | 834 968                     |
| Sport and Recreation  | 1 179 433             | 1 251 000             | (71 567)                | -                           |
| Road Transport  | 9 459 395             | 9 691 975             | (232 580)               | -                           |
| Electricity   | 4 164 812             | 2 035 000             | 2 129 812               | 2 129 812                   |
| Water   | 45 098                | 100 000               | (54 902)                | -                           |
| Waste Water Management  | 8 150 410             | 6 775 125             | 1 375 285               | 1 375 285                   |
| Waste Management  | 2 501 355             | 213 500               | 2 287 855               | 2 287 855                   |
|   | <b>33 154 485</b>     | <b>26 339 593</b>     | <b>6 814 892</b>        | <b>7 178 389</b>            |

The unauthorized operating expenditure mainly refers to the following non-cash and other cash related items per expenditure category such as Debt Impairment, Depreciation & Asset Impairment, Bulk Purchases, Contracted Services and other expenditure.

Whilst the main reason for unauthorized capital expenditure refers to an incorrect classification of a capital project as operating relating to electricity, under budget in respect of the Thusong Centre and ad hoc provincial grants received after the adjustment budget been submitted to council for approval by the end of January 2014.

In order to adhere to applicable legislation and to avoid similar cases to be repeated in future, appropriate procedure and internal budget controls have been identified for implementation as from the 2014/15 financial year. Council have adopted a new budget & virement policy effective from 1st July 2014 whereby virements has drastically been amended to ensure strict budget control and oversight from council's point of view.

Recommend regular workshops with council / senior management in respect of newly adopted policies and / or understanding of the monthly section 71 budget reports.

#### **2013/14: Irregular Expenditure**

| <b>Incident</b>   | <b>Disciplinary steps/criminal proceedings</b> |                |
|---|--|----------------|
| <i>Premium Computers - Non-compliance with MFMA section 44.</i>               | <i>None</i>                                    | 247 064        |
| <i>Nashua Mobile (Pty) Ltd - Non-compliance with MFMA section 44.</i>         | <i>None</i>                                    | 219 575        |
| <i>Thusong Centre - Contract extended with more than 20% of tender award.</i> | <i>None</i>                                    | 525 475        |
|   |  | <b>992 113</b> |

System and procedures have been identified for implementation aligned with the newly approved Supply Chain Management policy effective from the 1<sup>st</sup> July 2014.

#### **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 amended report on unauthorized, irregular, fruitless and wasteful expenditure for the 2013/14 financial year 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.
- (iii) Council request the Chief Financial Officer in terms of the approved policy on unauthorized, irregular, fruitless and wasteful expenditure to report promptly on a monthly basis as prescribed.

#### **BESLUIT 273/2014**

Dat die Bestuursaanbeveling aanvaar word. / *That Management's recommendation be accepted.*

#### 12.4 **MAKRO-ORGANISASIESTRUKTUUR: 2015/2016**

##### **DOEL VAN VERSLAG**

Om die gewysigde herstruktuering van die nuwe makro-organisasiestruktuur wat deur QBIT saamgestel is in terme van die strategiese doelwitte van Kaap Agulhas Munisipaliteit vir 2015/2016 aan die Raad voor te lê vir oorweging en goedkeuring.



## **AGTERGROND**

Artikel 66(1) van die Plaaslike Owerhede: Wet op Munisipale Stelsels, Wet 32 van 2000, bepaal dat die Munisipale Bestuurder binne perke van die beleidsraamwerk deur die Raad daargestel en onderworpe aan toepaslike wetgewing, 'n personeel organisasie struktuur vir die munisipaliteit moet ontwikkel en dit aan die Raad vir goedkeuring moet voorlê. Die struktuur is reeds met die departementshoofde en vakbonde gekonsulteer.

### **Die voorgestelde gewysigde makro organisasiestruktuur van die Raad maak voorsiening vir die volgende departemente:**

- Kantoor van die Munisipale Bestuurder (MB)
- Hoof van Departement: Bestuur en Strategiese Ondersteuning (Strategy, Risk & Compliance)
- Hoof van Departement: Infratraktuurdienste
- Hoof van Departement Gemeenskapsdienste
- Hoof van Departement: Ondersteuningsdienste
- Hoof van Departement: Menslike Kapitaal (People Alignment)
- Hoof van Departement: Finansiële Dienste
- Asook die Hoof Interne Ouditeur
- Divisional Head: Client Services & Service Optimisation

Aangeheg op bladsy vind die voorgestelde Departementele Struktuur en funksionele groepering van Kaap Agulhas Munisipaliteit.

## **WETLIKE VEREISTES**

1. Plaaslike Owerhede: Wet op Munisipale Stelsels, Nr 32 van 2000.
2. Die Makro Organisasie Struktuur reeds deur die Raad goedgekeur.

## **PERSONEEL IMPLIKASIES**

Nuwe posvlak graderings deur TASK

## **FINANSIËLE IMPLIKASIES**

Daar is vir al die poste op die nuwe herstruktureerde makro-organisasiestruktuur voorsiening gemaak op die 2015/2016 begroting vir die TASK posgraderings van poste in volgende begroting siklusse aangespreek moet word. Tans is die administrasie besig met die beraming van kostes vir die ondersteuning van die voorgestelde makrostruktuur en sal dit gedurende die normale begrotingsprosesse aan die raad voorgehou word.

## **BESTUURSAANBEVELING**

Dat die gewysigde 2015/2016 makro-organisasiestruktuur oorweeg en goedgekeur word.

## **BESLUIT 274/2014**

Dat die Bestuursaanbeveling aanvaar word vir implementering op 1 Januarie 2015.

17. **ONAFGEHANDELDE RAADSBESLUIT**

| Besluit Nr | Onderwerp   | Verkorte Besluit  | Vordering         | Verantwoordelike persoon |
|------------|---|---|-------------------|--------------------------|
| 291/2012   | Verhuring gedeelte meentgrond, Napier: Vierfontein Boerdery (7/1/3/1) | (i) Volstaan met besluit 153/2011 geneem op 31 Augustus 2011, met die weglating van (ix).<br>(ii) Beswaarmaker dienooreenkomstig in kennis stel.<br>(ii) Dat 'n opskortende voorwaarde gestel word m.b.t. nie-nakoming van die 40% swartbemaagtigingsgroep, soos gemoniteer deur LED.   |                   | LED / MB                 |
| 174/2014   | Payment of outstanding invoice: Kiosk Renovating                      | Refer back to Community Services Department for full investigation.   |                   | DGD                      |
| 198/2014   | Ablusie Geriewe: Nostra   | (i) Dat bouplanne aan die Boukomitee voorgelê word.<br>(ii) 'n Projekbestuursplan saamgestel word.<br>(iii) MB en DSID afgevaardig word om tydelike ablusie geriewe daar te stel gedurende die komende seisoenstyd.   | <i>In proses.</i> | DGD / DSID / MB          |
| 205/2014   | Kantoorakkommodasie   | (i) Raad die huur van die Nedbank gebou oorweeg.<br>(ii) MB en DFD gemagtig word om verhuringsooreenkoms vir 'n tydperk van drie jaar te onderhandel, met die opsie om te verleng.<br>(iii) In die aansuiweringsbegroting toegelaat word vir die kostes vir die huur.<br>(iv) Dat erwe 581, 591 en 3652, Bdor op 'n openbare veiling vervreem word met 'n insetwaarde gekoppel aan die markwaarde soos bepaal.<br>(i) In gesprek getree word met 'n ontwikkelaar om die Raad te adviseer rakende die toekomstige moontlike gebruike van erwe 581, 591 en 3652.<br>(ii) Moontlikheid om erwe 581, 591 en 3652, Bredasdorp op 'n openbare veiling te vervreem ondersoek word en verslag aan die Raad voorgelê word. | <i>In proses.</i> | MB                       |

**BESTUURSAANBEVELING**

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

BEKRAGTIG op hierdie

dag van

2014

**BESLUIT 275/2014**

Dat die Bestuursaanbeveling aanvaar word.

\_\_\_\_\_  
SPEAKER

DATUM:

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