



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N ALGEMENE RAADSVERGADERING GEHOU OM 10:00 OP DINSDAG
26 SEPTEMBER 2017 IN DIE MUNISIPALE RAADSAAL TE BREDASDORP**

**MINUTES OF A GENERAL COUNCIL MEETING HELD ON TUESDAY, 26 SEPTEMBER 2017
AT 10:00 IN THE MUNICIPAL COUNCIL CHAMBERS, BREDASDORP**

RAADSLEDE / COUNCILLORS

MNR	R J BAKER	
MNR	G D BURGER	
MNR	D J EUROPA	(Verlaat die vergadering om 11:50)
MNR	C J JACOBS	
MNR	D JANTJIES	
ME	E C MARTHINUS	
MNR	J G A NIEUWOUDT	(Speaker)
ME	M OCTOBER	
ME	E L SAULS	
MNR	P J SWART	(Burgemeester)
ME	Z TONISI	(Onder-Burgemeester)

AMPTENARE / OFFICIALS

Mnr D O'Neill	Munisipale Bestuurder
Mnr H Van Biljon	Direkteur: Finansiële Dienste
Me N Swartbooi	nms Direkteur: Bestuursdienste
Mnr B Swart	Interne Ouditeur
Mnr B Hayward	Bestuurder: Stads- en Streeksbeplanning
Me N Mhlali-Musewe	Divisional Head: HR Services & Organisational Development
Me T Stone	Afdelingshoof: Strategiese Dienste
Me A Jonker	Snr Admin Beampte: Komiteedienste

1. **OPENING**

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

2. **AANSOEKE OM VERLOF TOT AFWESIGHEID / APPLICATIONS FOR LEAVE**

Mnr S Cooper	Bestuurder: Elektrotegniese Dienste
Mnr K Mrali	Direkteur: Bestuursdienste

3. ONDERHOUDE MET AFGEVAARDIGDES EN/OF ANDER BESOEKE

3.1 Astrid Wicht: Beautification of the towns entrances

Astrid Wicht was contracted to do an overall concept plan regarding the beautification of our town entrances, mobility routes and play parks.

Her presentation included the following:

- The key issue - How do we tidy up the entrances?
- Upgrading / Beautifications must be low maintenance, cost efficient and affordable.
- Signage must be legible and the design consistent but specific to each town (different branding for each town).
- Iconic symbols that represent Cape Agulhas must be incorporated.
- Routes between the entry points must indicate places of interest (picnic spots, view sites).

3.2 Kahmiela August: Affordable Housing Demand

Mrs Kahmiela August, Director of Affordable Housing made a presentation regarding the above. According to her hypothesis and what can be regarded as low cost housing, the consumer is faced with the following:

- Increasing unemployment
- Increasing cost of living
- Increasing inflation
- Increasing interest rates
- Increasing service charges
- Low economic growth
- Reducing affordability

She also stipulated the challenges the affordable housing market is facing, such as: Credit worthiness; Affordability and Reduced income earning capacity.

The following should be considered:

- The impediment to achieving the affordable housing mandate revolves around the anticipated recipients of the opportunity.
- FLISP cannot be the only solution to provide ownership to the lower gap market.
- Undertake a municipal Socio-Economic Demand Survey to -
 - (i) Gain an understanding of the target market.
 - (ii) Understand employers in the area and related demand.
- Push hard to develop policy alternatives, such as a revision of the Housing Policy.

She made the following recommendations:

- Understand the target market (what can people afford).
- Build in some time and allocate a budget to run a beneficiary readiness drive.
- Undertake a registration to identify potential target beneficiaries for affordable housing.
- Facilitate the pre-screening of would-be purchasers by financial institutions.
- Operationalise the Department Guideline for a FLISP serviced site.
- Understand employers in the area.
- Understand partnership expectations.

BESLUIT 188/2017

- (i) Die Raad neem kennis van bogenoemde voorleggings.
- (ii) Die Raad bevestig dat die huidige begroting vir die opgradering van die dorpsingange gebruik word om 'n volledige, eenvormige implementeringsplan daar te stel.

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

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

29 Augustus 2017

Raadsheer Jantjies doen navraag in verband met die item: "Bredasdorp Gholfbaan-ontwikkeling", Besluit 176/2017 - "*Dat volledige inligting rakende die voorgestelde ontwikkeling tydens 'n volgende vergadering aan die Raad voorgelê word.*"

Die Munisipale Bestuurder meld dat alle inligting waarskynlik nog nie beskikbaar was om 'n volledige verslag aan die Raad voor te lê nie.

Die Speaker versoek dat 'n volledige verslag by Oktobermaand se Raadsvergadering sal dien.

BESLUIT 189/2017

Na bespreking word die Notule as korrek en volledig bekragtig.

4.2 **NOTULE VAN SPESIALE RAADSVERGADERING GEHOU OP:**

19 September 2017

BESLUIT 190/2017

Die Notule word as korrek en volledig bekragtig.

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

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

21 Augustus 2017

BESLUIT 191/2017

Die Raad neem kennis van bogenoemde UBK Notule.

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

6.1 **VOORGELê VIR BESPREKING : WYKSKOMITEE VERGADERINGS GEHOU OP**

- WYK 1 : 23 Augustus 2017
- WYK 2 : 17 Augustus 2017
- WYK 3 : 21 Augustus 2017
- WYK 4 : 15 Augustus 2017
- WYK 5 : 21 Augustus 2017
- WYK 6 : 22 Augustus 2017

DIE VOLGENDE TERUGVOER WORD GEGEE**WYK 2**

- Die maak van kennisgewingborde vir geen storting in Ou Meulestraat is reeds in proses.
- Raadslid October meld dat die wyk se “operational ward plan” as voorbeeld van goeie praktyk in Provinsie gebruik is.

WYK 3

- In terme van die operasionele plan is daar 5 doelwitte uitgewys.
- Raadslid Baker vra dat die Raad sal kyk na ‘n tolk vir gemeenskapsvergaderings, aangesien dit ‘n probleem raak in sy wyk.
- Raadslid Tonisi verneem na die praktyk deur sommige diensverskaffers wat krag verkoop waar hulle mense ekstra vra wanneer hulle krag koop - Die Munisipale Bestuurder meld dat die aangeleentheid reeds onder die aandag van die diensversaffer gebring is, aangesien dit by ‘n gemeenskapsvergadering gemeld is. Die Direkteur: Finansiële Dienste meld dat die diensverskaffer Syntell reeds in verbinding was met die “kragverkopers” en hulle versoek het om dit onmiddellik te stop.

WYK 5

- Raadslid Jacobs verneem na die aangeleentheid rakende mnr Francois de Wet wat sy kommer uitspreek oor die boubeheer departement van die munisipaliteit en dat reëls nie konsekwent toegepas word nie asook me Fourie wat wil weet of dieselfde persoon wat die bouplanne teken dit ook mag afteken.

Raadslid Jacobs meld ook dat hy verskeie navrae ontvang het rakende erf 521, Struisbaai ten opsigte van prosedures gevolg.

Mnr Francois du Toit, Bestuurder: Boubeheer meld dat hy die aangeleentheid met mnr de Wet bespreek en skriftelike terugvoering aan hom deurgegee het.

Raadslid Jacobs versoek dat daar amptelike terugvoer rakende erf 521, Struisbaai voorsien word.

- Raadslid Swart verneem na die kennisgewings wat uitgegee was rakende oorgroeide erwe en watter aksies daar gaan wees indien mense nie gehoor gee nie. Hy spreek ook sy bekommernis uit rakende die oop gedeeltes rondom die dorp, spesifiek as gevolg van die brandgevaar.

Die Munisipale Bestuurder meld dat, in samewerking met die Distriksmunisipaliteit daar reeds ‘n diensverskaffer aangestel is om belangrike areas uit te wys vir brandpaaie en areas rondom die dorp.

WYK 6

Raadslid Europa meld dat komiteede navraag doen oor inwoners wat kennisgewings ontvang oor onwettige bedrywighede by hulle woonplekke en wat gebeur as hulle nie gehoor gee nie.

Die Munisipale Bestuurder verduidelik kortliks die prosedure in verband met sulke aangeleenthede.

Die Speaker vra dat Wyksraadslede sal uitkyk vir onwettige bedrywighede en aan die munisipaliteit sal rapporteer.

BESLUIT 192/2017

Die Raad neem kennis van bogenoemde Wykskomitee Notules en terugvoering vanaf Wyksraadslede.

6.2 **VOORGELê VIR KENNISNAME : ICT STEERING COMMITTEE GEHOU OP**

24 Augustus 2017

BESLUIT 193/2017

Die Raad neem kennis van bogenoemde ICT Steering Committee Notule.

7. **SAKE VOORTSPRUITEND UIT NOTULES**

Geen.

8. **VERKLARINGS EN/OF MEDEDELINGS DEUR DIE VOORSITTER**8.1 **BRIEWE VAN DANK**

Geen.

8.2 **FUNKSIES VIR DIE MAAND**

- Thusong Sentrum Outreach.
- Treasure Tracks.
- Behuising Imbizo - 26 September 2016 te Napier.
- Bewusmaking van dwelmmisbruik te Struisbaai.
- 'n Skoonmaakprojek van ons strande, in samewerking met Cape Nature het die afgelope naweek plaasgevind en word die Raad bedank vir hulle samewerking in dié verband.

8.3 **AANWYS VAN AFGEVAARDIGDES**

Geen.

8.4 **ALGEMEEN**

- Mnr Walter Linnert word geluk gewens met die geboorte van sy kleinkind.
- Raadslede en personeel wat gedurende September verjaar het word geluk gewens.

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

Die Speaker meld dat Raadslid Burger die SPLUMA vergadering te Mosselbaai bygewoon het en dat hy skriftelik terugvoer sal gee.

(Raadslid Europa verlaat die vergadering om 11:50)

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

Die Burgemeester voel dat Raadslede en amptenary meer produktief kan wees, spesifiek met verwysing na insette tydens formele vergaderings soos die portefeulje komitees en dat Raadslede en amptenary belangrike en uitstaande kwessies van elke wyk, in diepte moet bespreek tydens hierdie vergaderings.

Die Burgemeester versoek dat hy die geleentheid gegun word om slegs saam met die UBK lede in die toekoms te vergader, ten opsigte van Burgemeesterskomiteevergaderings, om verslae behoorlik te kan deurwerk en waar nodig die Direkteur te betrek, sodat volledige verslae en aanbevelings weer aan die Raad voorgelê kan word.

11.	<u>ITEMS NA DIE RAAD VERWYS VIR OORWEGING</u>	<u>Bladsy</u>
11.1	<u>MUNISIPALE BESTUURDER</u>	
11.1.1	Oudit- en Prestasieoudit Komitee Handveste	7
11.1.2	Kwartaalverslag: Oudit- en Prestasieoudit Komitee	8
11.1.3	Half-Jaarlikse Verslag: Prestasiemeting Stelsel: 30 Junie 2017	9
11.1.4	MPAC konsep Handves	9 - 10
11.2	<u>STRATEGIESE BEPLANNING EN ADMINISTRASIE</u>	
11.2.1	Code of Ethics for Municipal Councillors and Staff	10 - 11
11.2.2	Anti-Corruption and Fraud Prevention Policy, Strategy and Plan	11 - 12
11.2.3	Valuation: Erf 857, Struisbaai	12 - 17
11.3	<u>FINANSIES- EN IT DIENSTE</u>	
11.3.1	Oudit Aksieplan maandelikse vordering: Augustus 2017	17 - 18
12.	<u>ITEMS DEUR DIE UBK NA DIE RAAD VERWYS VIR OORWEGING</u>	
12.1	Parking for erf 848, Struisbaai	18 - 21
13.	<u>DRINGENDE SAKE DEUR DIE MUNISIPALE BESTUURDER</u>	
13.1	Land Availability Agreement Amendments: Elite Consulting	22 - 25
13.2	Upgrading: R316, Bredasdorp	25 - 26
13.3	Employment Equity Plan	26
14.	<u>OORWEGING VAN KENNISGEWING VAN MOSIES</u>	
	Geen.	
15.	<u>OORWEGING VAN KENNISGEWING VAN VRAE</u>	
	Geen.	
16.	<u>OORWEGING VAN DRINGENDE MOSIES</u>	
	Geen.	
17.	<u>VERSLAG DEUR MUNISIPALE BESTUURDER OOR DIE UITVOERING VAN RAADSBSLUIE</u>	
	Lys van onafgehandelde Raadsbesluite verskyn op <i>bladsy 27</i> .	
18.	<u>IN KOMITEE</u>	
	Items word vertroulik hanteer.	
18.	<u>SLUITING</u>	
	Die vergadering verdaag om 13:20	

11. ITEMS NA DIE RAAD VERWYS VIR OORWEGING

11.1 MUNISIPALE BESTUURDER / MUNICIPAL MANAGER

11.1.1 LOUDIT- EN PRESTASIELOUDIT KOMITEE HANDVESTE

DOEL VAN VERSLAG

Om die nuwe Oudit- en Prestasieoudit Komitee se Handveste aan die Raad voor te lê vir oorweging en goedkeuring.

AGTERGROND

Die munisipaliteit het tans 'n gekombineerde Oudit- en Prestasieoudit Komitee wat beide die oudit- en prestasie aangeleenthede van die munisipaliteit hanteer. Die Komitee het tans 'n gesamentlike Handves wat die werksaamhede van die Komitee ten opsigte van albei gemelde velde reguleer.

Die Ouditkomitee word gestig in terme van Artikel 166 van die MFMA terwyl die daarstelling van 'n Prestasieoudit Komitee deur Artikel 14(2) van die Munisipale Beplannings- en Prestasiebestuur Regulasies hanteer word. Gesien in die lig van die uiteenlopende mandate en verpligtinge ten opsigte van hierdie twee velde het die Komitee versoek dat die twee Handveste geskei word.

Die skeiding van die Handveste het geen invloed op die werksaamhede van die Komitee nie. Daar is nogsteeds slegs een Komitee met dieselfde lede en Voorsitter en slegs een vergadering wat albei velde hanteer, dit wil sê geen addisionele kostes. Slegs die Handves word nou verdeel tussen die twee Komitees.

Die twee Handveste, aangeheg op **bladsy 1 tot 15** word nou aan die Raad voorgelê vir oorweging en goedkeuring.

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Voldoening aan die Munisipale Finansiële Bestuurswet en Munisipale Beplannings- en Prestasiebestuursregulasies.

LOUDIT- EN PRESTASIELOUDIT KOMITEE AANBEVELING

Dat die nuwe Komitee Handveste van die Oudit- en Prestasieoudit Komitee oorweeg en goedgekeur word.

BESLUIT 194/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.1.2 **KWARTAALVERSLAG: OUDIT- EN PRESTASIEOUDIT KOMITEE SE WERKSAAMHEDE VIR DIE KWARTAAL GEËINDIG 30 JULIE 2017**

DOEL VAN VERSLAG

Verslagdoening aan die Raad oor die Oudit- en Prestasieoudit Komitee se werksaamhede en die uitvoering van sy pligte vir die kwartaal geëindig 30 Junie 2017.

AGTERGROND

In terme van Nasionale Tesourie se Omsendskrywe 65 van 2003 moet die Komitee op 'n kwartaallikse 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 verwikkelinge 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 16 tot 19** uitgebring vir bogemelde kwartaal en wat nou aan die Raad voorgelê word vir bespreking en oorweging.

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

"Par. 5(b):

- a. However, the Committee does have concerns on the following issue:*
- i. The number of KPI's that have not yet been achieved and the effect this could have on service delivery;*
 - ii. The difficulty still experienced by the Manager: Strategic Services in obtaining the evidence of performance achievements which has not improved since the last reporting period;*
 - iii. The inadequate review of such evidence by the internal audit function due to the unavailability of the evidence, which also effects the credibility of the supporting evidence used by senior management during their performance evaluation;*
 - iv. The inadequacy and lack of quality supporting documentations for performance achieved.*

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Voldoening aan die Munisipale Beplannings- en Prestasiebeestuersregulasies, 2001.

UDIT- EN PRESTASIEOUDIT KOMITEE AANBEVELING

Dat die Raad die inhoud van die Komitee se kwartaalverslag vir die kwartaal geëindig 30 Junie 2017 bespreek en die verslag aanvaar word.

BESLUIT 195/2017

- (i) Dat die aangeleentheid na die UBK verwys word vir verdere ondersoek en aanbeveling na die Raad met spesifieke verwysing na die pertinente punte in die verslag hierbo.
- (ii) Dat spesifieke name gekoppel word wanneer daar verslag gedoen word oor die tekortkominge en nie-voldoening ten opsigte van die sleutel prestasie indikatore nie.

11.1.3 HALF-JAARLIKSE VERSLAG: PRESTASIEMETING STELSEL VIR DIE TYDBERK GEËNDIG 30 JUNIE 2017

DOEL VAN VERSLAG

Om die Raad in te lig oor die Oudit- en Prestasieudit komitee se half-jaarlikse verslag oor bogemelde tydperk oor hulle evaluering van die prestasieëmetingstelsel en die bestuur daarvan en vir die Raad om die verslag te oorweeg.

AGTERGROND

In terme van artikel 14(4)(a)(iii) van die Plaaslike Regering: Munisipale Beplanning en Prestasiebestuursregulasies, 2001 (Regulasie 796), moet die Komitee twee maal per jaar die munisipaliteit se prestasieëmetingstelsel (SDBIP) en die bestuur daarvan evalueer en daarvoor aan die Raad verslag doen.

Die Komitee het dan ook sodanige evaluering, soos aangeheg op **bladsy 20 tot 23** gedoen vir die tydperk 1 Januarie 2017 tot 30 Junie 2017 en die vereiste verslag opgestel. Die Komitee is oor die algemeen baie tevrede met die stelsel en die bestuur daarvan, maar lig die volgende bekommernisse uit:

Daar is nogsteeds gevalle waar die Direkteure nie in alle gevalle die maandelikse voltooiing van die SDBIP moniteer vir akkuraatheid en volledigheid nie en ook nie die nodige stawende dokumentasie aan die Bestuurder: Strategiese Dienste voorsien nie.

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Voldoening aan die Munisipale Beplannings- en Prestasiebestuursregulasies, 2001

UDIT- EN PRESTASIEUDIT KOMITEE AANBEVELING

Dat die Komitee se half-jaarlikse verslag vir die half-jaar geëindig 30 Junie 2017 oor die munisipaliteit se prestasieëbestuurstelsel en die bestuur daarvan oorweeg en aanvaar word.

BESLUIT 196/2017

Dat die aangeleentheid na die UBK verwys word vir verdere ondersoek en aanbeveling na die Raad.

11.1.4 MPAC KONSEP HANDVES

DOEL VAN VERSLAG

Om die konsep gewysigde handves van die MPAC aan die Raad voor te lê vir oorweging en goedkeuring.

AGTERGROND

Op 3 Desember 2013 het die Raad die MPAC se handves goedgekeur. As gevolg van die verandering in die Raad ná die Plaaslike Regering verkiesing van 3 Augustus 2016, is daar ook 'n nuwe MPAC saamgestel.

In ag genome verwikkelinge in die veld van oorsig die afgelope klompie jare en die nuwe MPAC se wyse van werksaamhede is dit nodig geag dat die bestaande handves aangepas word. Hierdie aanpassing geskied nogsteeds binne die riglyne deur die nasionale regering en SALGA uitgereik.

Die konsep is opgestel tydens 'n werkswinkel gehou op 6 September 2017 waartydens die Interne Ouditeur en die Bestuurder: Strategiese Dienste teenwoordig was vir hulp en leiding. Die gewysigde handves is weer deur MPAC in detail deurgewerk en bespreek op 19 September 2017 ten einde dit te finaliseer vir voorlegging aan die Raad.

Hierdie konsep word nou aan die Raad voorgelê vir oorweging, tesame met die Notules van bogemelde vergadeings (sien *bladsy 24 tot 34*).

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIES

Geen.

WETLIKE IMPLIKASIES

Voldoening aan die Nasionale Tesourie se riglyn vir die daarstelling van 'n MPAC

BESTUURSAANBEVELING

Dat die Raad die konsep handves oorweeg en aanvaar vir implementering.

BESLUIT 197/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2 STRATEGIESE BEPLANNING EN ADMINISTRASIE / STRATEGIC PLANNING AND ADMINISTRATION

11.2.1 CODE OF ETHICS FOR MUNICIPAL COUNCILLORS AND STAFF

REPORT BY THE DIVISION HEAD: STRATEGIC PLANNING AND ADMINISTRATION

PURPOSE OF REPORT

To submit the Code of Ethics to the Council for approval. The Code of Ethics is attached as Annexure on *page 35 to 42*.

Legal framework

1. The Constitution of the Republic of South Africa, 108 of 1996. Sec 195 (1).
2. Local Government: Municipal Systems Act, (Act 32 of 2000). Schedule 1 & 2.
3. Local Government Municipal Financial Management Act, (Act 56 of 2003). Sec. 112 (m)(ii).

Personnel implications

The Code of Ethics was submitted to the LLF on multiple occasions and was also workshopped with the LLF and Union members. On 7 September 2017, the LLF recommended that the Code of Ethics be referred to the Council for approval.

Financial implications

None.

Discussion

The process of developing a Code of Ethics is an integral component of the Risk Management process. The Code of Ethics for Municipal Staff does not replace the Code of Conduct for Municipal Staff. Whereas the Code of Conduct is mainly compliance based, the Code of Ethics is mainly value based.

The process commenced with a District Workshop which was held on 2 February 2017 followed by a workshop with senior and middle management of the Municipality on 9 February 2017. The Code of Ethics was approved by the Municipality's FARMCO on 24 March 2017, and must now be approved by Council.

MANAGEMENT RECOMMENDATION

That the Cape Agulhas Municipality Code of Ethics (2017/18) be approved.

RESOLUTION 198/2017

That the management recommendation be accepted as a resolution of Council.

11.2.2 **ANTI CORRUPTION AND FRAUD PREVENTION POLICY, STRATEGY AND PLAN****REPORT BY THE DIVISION HEAD: STRATEGIC PLANNING AND ADMINISTRATION****PURPOSE OF REPORT**

To submit the Anti-Corruption and Fraud Prevention Policy, Strategy and Plan to Council for approval. The three documents must be read in conjunction with one another and are attached as follows:

1. Annexure A: Anti-Corruption and Fraud Prevention Policy **(page 43 to 54)**
2. Annexure B: Anti-Corruption and Fraud Prevention Strategy **(page 55 to 65)**
3. Annexure C: Anti-Corruption and Fraud Prevention Plan **(page 66 to 89)**

LEGAL FRAMEWORK

- 1) The Constitution of the Republic of South Africa
- 2) Municipal Finance Management Act (MFMA) (No. 56 2003)
- 3) MFMA Regulation on Financial Misconduct (No. 430 of 2014)
- 4) The Municipal Structures Act (No 17 of 1998)
- 5) Local Government: Municipal Systems Act (No 32 of 2000)
- 6) Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
- 7) Protected Disclosures Act (PDA) (No. 26 of 2000)

PERSONNEL IMPLICATIONS

The Anti-Corruption and Fraud Prevention Policy was submitted to the LLF on multiple occasions and was also workshopped with the LLF and Union members. On 7 September 2017, the LLF recommended that the Anti-Corruption and Fraud Prevention Policy be referred to the Council for approval.

FINANCIAL IMPLICATIONS

An awareness campaign will be funded from the operational budget.

DISCUSSION

Corruption and fraud is a serious concern in South African society. Section 62 (2)(c) of the Local Government: Municipal Systems Act states that the administration of a municipality must take measures to prevent corruption. The Local Government: Municipal Finance Management Act assigns responsibilities for the combatting of corrupt and fraudulent activities to the Accounting Officer while the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings and the Prevention and Combating of Corrupt Activities Act compels the Accounting Officer to report certain cases of corruption, fraud and theft to the South African Police Service.

In addition to the legal requirements, various frameworks and best practices for preventing, detecting and responding to corrupt and fraudulent incidents have been issued by national and provincial government departments and professional associations, most notably the Local Government Anti-Corruption Strategy and Public Sector Risk Management Framework.

Corruption and fraud risk management is also an integral part of the municipality's risk management processes.

In order to give effect to the Acts, frameworks and best practices as well as to the responsibilities of the Accounting Officer, an Anti-Corruption and Fraud Prevention Strategy, Policy and Plan have been developed and approved by the Municipality's FARMCO. The documents must now be approved by Council and implemented. It must be noted that an integral component of the Plan is creating awareness and that an awareness campaign will be rolled out following approval.

MANAGEMENT RECOMMENDATION

That the following Anti-Corruption and Fraud prevention documents be approved:

- (i) Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Policy (2017/18).
- (ii) Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Strategy (2017/18).
- (iii) Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Plan (2017/18).

RESOLUTION 199/2017

That the management recommendation be accepted as a resolution of Council.

11.2.3 VALUATION: ERF 857, STRUISBAAI (BUSINESS DEVELOPMENT) (S857 AND 852 - STRP) (WARD 5)

PURPOSE OF REPORT

For Council to consider the valuations for a proposed development on portions of Erven 857 and 852, Struisbaai.

This report consists of the following:

- Location of the property
- Proposed Layout
- Two valuations

BACKGROUND

Mr Pierre Erasmus had discussions with the Town Planning and Building Control Departments, the Mayor and Councillor Burger with the proposed Draft Layout on the corner of Main Road and Industrial Road:



On 29 June 2017 Council received the following letter from LTN Bedrywe (Pty)Ltd:

Ons verwys na die gesprek insake bogenoemde perseel met Stedelike beplanning en doen hiermee formeel aansoek om bogenoemde eiendom te koop van die Raad(teen markwaarde, soos deur 2 of meer geregistreeerde waardeers bepaal) of 'n 99 jaar huurooreenkoms aan te gaan.

Daar het n behoefde ontstaan in Struisbaai om 'n groter besigheidsentrum te kan ontwikkel en betrokke perseel is ge-identifiseer as die mees geskikte weens die volgende redes:

- Meer sentrale ligging om vir al die inwoners toegang te bied.
- 'n Verkeersirkel word beoog om toegang na Struisbaai Noord, Industriële area, Ocean View, Langezandt, Struisbaai en Agulhas te verbeter. Ter selfde tyd sal so 'n sirkel addisionele voordele meebring soos verkeerskalmering, 'n baken en voetgangerstoeganklikheid.
- Ons stel ook verder voor om die sport en vissersklub asook tennisbane te herbou op 'n voorgestelde gedeelte van die ontwikkeling.
- Behoorlike parkering word voorsien om veral druk tydens vakansie seisoene te verlig.
- Integrasie met Departement Publieke werke se argitekte, stadsbeplanners en KAM se stedelike beplannings departemente.
- Ons is verder van mening dat die tipe ontwikkeling 'n bate en ook werkskeppings geleentheid vir KAM kan wees.

In relation to spatial priorities, CAM is required to focus on three broad types of actions as outlined in the Spatial Development Framework of May 2017:

- Protective actions – things to be protected and maintained to achieve the vision and spatial concept.
- Change actions – things that need to be changed, transformed, or enhanced to achieve the vision and spatial concept.
- New development actions – new development or initiatives to be undertaken to achieve the vision and spatial concept.

The actions – protective, change, or new development – could focus on elements of each of the SDF themes:

- Bio-physical environment.
- Socio-economic environment.
- Built environment.

In turn, each of these actions – related to each focus area – could require inputs, effort, and work of two types:

- Operational inputs – work involving municipal staff resources in the form of time, undertaking studies, managing processes, preparing plans, and so on.
- Capital expenditure inputs – financing specific projects (with municipal or other governmental funds and grants).

In terms of the Cape Agulhas Spatial Development Framework Plan, May 2017 the following area New Development Actions:

- Explore expanded day visitor recreational facilities on the coast west of Struisbaai North (subject to detailed precinct planning).
- Focus new tourism related facilities (including day visitor, accommodation, and commercial uses) in the general area of the caravan park, business district and harbour (subject to detailed precinct planning for the area bounded by Protea Road, Church Street, Cinneraria Street, and Harbour Road with a view to maximise tourism related facilities, rationalise vehicular movement and parking (including boat trailers), improve pedestrian and NMT movement ensure efficient harbour use, and manage visitor impact on private residences).
- Explore a continuous NMT route linking Struisbaai North – and focal public places in between – to the Lighthouse precinct in L'Agulhas. (page 77 of CAM SDF, 2017).



-  NEW COMMERCIAL, TOURISM & PUBLIC PLACES
-  DIRECTION OF URBAN GROWTH
-  IMPROVEMENT NODE
-  NEW COMMERCIAL, TOURISM & PUBLIC PLACES
-  FUTURE ASSISTED HOUSING AREAS
-  NEW RESIDENTIAL DEVELOPMENT



FINANCIAL IMPLICATIONS

Land disposal of the site will have an income for Council.

LEGAL IMPLICATIONS

This asset of the Council is not required for the provision of the minimum level of basic services. However, the following legal requirements and community participation processes will have to be followed:

Council policy	Alienation of land
MFMA	1.Sect 14(2)(a): asset not required for minimum level of basic services. 2.Sect 14(2)(b): consider fair market value and economic and community value to be received in exchange for the asset. 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). 4.Sect 33: Contracts having long term financial implications.
MATR	1. Definition of "high value asset": "fair market value of the capital asset exceeds any of the following amounts: a) R50 million; b) One percent of the total value of the capital assets of the municipality.... c) An amount determined by resolution of the council of the municipality which is less than (a) or (b). 2. Definition of "realisable value": fair market value less estimated costs of completion. 3. Definition of "right to use, control or manage": when granting such rights do not amount to permanent transfer or disposal. 4. Regulation 5 (decision-making). 5. Regulation 6 (public participation)
SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth
Systems Act (public participation)	Section 21A: (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: (a) by displaying the documents at the municipality's head and satellite offices and libraries; (b) by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and (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.

COUNCIL DECISION ON 29 JUNE 2017

On 29 June 2017 Council took the following decision (146/2017):

- (i) That the management recommendation be accepted as a resolution of Council, namely:
 - a) That Council, in principle, approves the development – subject to agreements being reached with all current lessees of Council property.
 - b) That the applicant be informed that a formal Town Planning application be submitted to Council for consideration and public notice.
 - c) That an environmental assessment be for the applicant's account.
 - d) That portions of Erven 857 and 852 Struisbaai in terms of section 14(2)(a) of the Local Government: Municipal Finance Management Act is not required for the provision of the minimum level of basic services.
 - e) That Council grants in-principle approval for the transfer of portions of Erven 857 and 852 Struisbaai, by development proposal to LTN Bedrywe Pty Ltd (OUT OF HAND SALE - for specific purpose) in terms of Section 11 (a) and (d) of Asset Transfer Regulations of the Local Government: Municipal Finance Management Act:

Conditional approval of transfer or disposal of non-exempted capital assets

11. An approval in principle in terms of regulation 5(1)(b)(ii) or 8(1)(b)(ii) that a non-exempted capital asset may be transferred or disposed of, may be given subject to any conditions, including conditions specifying¹² –

- (a) the way in which the capital asset is to be sold or disposed of;
 - (b) a floor price or minimum compensation for the capital asset;
 - (c) whether the capital asset may be transferred or disposed of for less than its fair market value, in which case the municipal council must first consider the criteria set out in regulation 13(2); and
 - (d) a framework within which direct negotiations for the transfer or disposal of the capital asset must be conducted with another person, if transfer or disposal is subject to direct negotiations.
 - f) That two independent valuers be appointed to obtain a fair market value of the land.
 - g) That the new market values be reported to Council for further consideration.
 - h) That all legal requirements are met for disposal of land.
- (ii) That the options for renting of the property be investigated.
 - (iii) That an external valuator be appointed for the valuation of the mentioned property.
 - (iv) That an on-site inspection be done by councillors and ward committee members.

VALUATIONS

The following table is a summary of the two valuations received (see attached as annexure on **page 90 to 115**) for the sale and / or lease of a Portion of Erf 857, Struisbaai:

	DDP	PENDO
Market Related Value	R9 600 000,00	R 3 850 000,00
Market Rental	R90 000,00 per month (excl VAT)	R9 625,00 per month

MANAGEMENT RECOMMENDATION

- (i) That Council consider the new valuations from Messrs DDP and PENDO Valuers.
- (ii) That the applicant be informed that a formal Town Planning application be submitted to Council for consideration and public notice.
- (iii) That an environmental assessment be for the applicant's account.
- (iv) That a portion of Erf 857, Struisbaai in terms of section 14(2)(a) of the Local Government: Municipal Finance Management Act is not required for the provision of the minimum level of basic services.
- (v) That Council grants in-principle approval for the transfer of a portion of Erf 857, Struisbaai, by development proposal to LTN Bedrywe Pty Ltd (OUT OF HAND SALE - for specific purpose) in terms of Section 11 (a) and (d) of Asset Transfer Regulations of the Local Government: Municipal Finance Management Act.
- (vi) That Council determine a reserve price of R9 600 000,00 (excluding VAT) of 32 093m²
- (vii) That all legal requirements are met for disposal of land.

BESLUIT 200/2017

Dat die aangeleentheid oorstaan totdat duidelikheid verkry is in verband met die volgende:

- (i) Die voorstel dat die erf liefs op 'n veiling verkoop word.
- (ii) Teen die tyd wat die grond verkoop word is die waardasies reeds verouderd.
- (iii) Die grootte van die erf - Is die ontwikkelaar bewus van die 1.5 hektaar wat vir Struisbaai Polisie uitgesit is.
- (iv) Dat daar in gesprek getree word met die SAPD om vas te stel wat die presiese grootte van die erf is wat hul van KAM verlang vir die oprig van 'n polisiestasie.
- (v) Dat daar bevestig word dat die ligging van die erf vir die beplande polisiestasie op die hoek van Industria en Hoofweg is.

11.3 FINANSIES- EN IT DIENSTE / FINANCE AND IT SERVICES**11.3.1 LOUDIT AKSIEPLAN 2015/16 (OPCAR): MAANDELIKSE VORDERING - AUGUSTUS 2017****DOEL VAN VERSLAG**

Oorweging van die vordering met die goedgekeurde 2015/16 Oudit bevindinge aksieplan (OPCAR) vir Augustus 2017.

AGTERGROND

Na aanleiding van die Ouditeur-Generaal se oudit van die 2015/16 finansiële jaar is daar sekere leemtes uitgewys wat aangespreek moet word. Hierdie bevindinge is in die oudit bevindinge aksieplan, soos aangeheg op **bladsy 116 tot 126** opgeneem en bepaalde regstellende stappe is bepaal om die bevindinge aan te spreek.

Die vordering word ook aan die Oudit- en Prestasieudit Komitee voorgelê en word ook op 'n gereelde grondslag met die Ouditeur-Generaal bespreek. Die vordering met die plan word verder op 'n kwartaallikse grondslag aan die Wes-Kaapse Provinsiale Tesourie voorgelê.

Alle items op die aksieplan is teen einde Augustus afgehandel en daar sal, derhalwe geen verdere rapportering oor die 2015/16 aksieplan wees nie.

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Geen.

BESTUURSAANBEVELING

- (i) Dat die Raad die vordering met die 2015/16 Ouditeur-Generaal aksieplan vir Augustus 2017 oorweeg en aanvaar.
- (ii) Dat die Raad kennis neem van die afhandeling van die plan en dat daar geen verdere rapportering sal wees nie.

BESLUIT 201/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

12. **ITEMS DEUR DIE UBK NA DIE RAAD VERWYS VIR OORWEGING**

12.1 **PARKING FOR ERF 848, STRUISBAAI (S848 - MTRP) (WARD 5)**

PURPOSE OF REPORT

That Council consider the provision for additional parking of the proposed development on erf 921, Struisbaai.

BACKGROUND

The following application was submitted to the Town Planning Department:

Owner	:	Golden Falls Trading 193 (Pty) Ltd
Applicant	:	Tommy Brümmer Town Planners
Property	:	Erf 848, Struisbaai
Locality	:	2 Harbour Road, Struisbaai
Existing zoning	:	Industry

Proposal:

- A. Rezoning of Erf 848, Struisbaai in terms of Section 15 of the Cape Agulhas: By-Law on Municipal Land Use Planning, 2015 from Industry Zone to Special Zone with the following development rules:

1. Primary use rights: Retail (restaurants and shops), hotel, flats and Parking.
2. Floor Factor: 1.21
3. Coverage: 71%
4. Building lines:
 - meter from northern seaward boundary
 - 0 meter from southern street boundary
 - 0 meter from eastern boundary
 - 0 meter from western boundary
5. Parking:
 - 4 bays for every 100m² of GLA (retail space)
 - 0.8 bays per hotel room
 - 0.8 bays per apartment (flat)

6. Height:

2 storeys and/or 8 meter above the highest natural ground level abutting the building.
Basement storeys are not permitted.

- B. Rights in terms of Section 15 of the Cape Agulhas: By-Law on Municipal Land Use Planning, 2015 and Section 67 of the Cape Agulhas Integrated Zoning Scheme to use portion of the parking area south of Erf 848, Struisbaai to park vehicles required for the proposed development on Erf 848, Struisbaai.

Closing date was 2 May 2017 and various objections were received and forwarded to Messrs Tommy Brümmer Town Planners for comment.

The following motivation form part of the application:

5.5 Access and parking

Access to Erf 848 is currently obtained via the access to the harbour, over Erven 854 and 1394 (the harbour). Vehicular access control into the harbour is occasionally exercised, especially during the summer holiday period, which results in queuing at the entrance. To avoid conflict and reduce congestion at the harbour entrance and to ensure unrestricted vehicular access to the development, vehicular access to Erf 848 is proposed over the parking area (described as Erf 921 and hence part of the Kusweg road reserve), situated directly to the south of the property.

The vehicular entrance and exit way on the south-western portion of the property facing the parking area, will provide access to 18 parking bays on the ground floor of the building. These bays will be allocated to the hotel and apartments. A hotel drop off, large enough for tourist buses, is proposed on Erf 921 in front of the pedestrian entrance forecourt dedicated for residents and hotel guests. A third access point (for pedestrians to the retail area) is provided along the southern boundary; the retail area can also be accessed from the front (north) via the harbour and servitude over the property, accessing the site from the north.

It is proposed that the parking ratios be applied to the proposed development, which ratios were recommended by the ICE Group when the Traffic Impact Assessment (TIA) was undertaken for the previous proposal (now withdrawn).

The following parking ratios to be applied:

Land use	Parking ratio (TIA recommendation)	No of bays Required	No of bays provided
Retail (820m ² GLA)	4 bays / 100m ² GLA	33	33
Hotel (28 rooms)	0.8 bays / room	23	23
Apartments (9 flats)	0.8 bays / flats	7	7
Total required / provided		63	63

A total of 63 bays are provided, 18 on the ground floor of the building and 45 on a portion of the abutting parking area (Erf 921) which vests in the City.

The proposal to provide bays on Erf 921 is made in terms of Section 67(1)(b) of the CAM Integrated Zoning Scheme which deals with alternative parking requirements and which provides for the owner of land to, with the approval of the Municipality, "acquire rights to a parking facility for the required parking elsewhere in a position approved by the Municipality". Section 67(2) prescribes that if the Municipality approves the provision of alternative parking, that the owner shall register a notarial deed against such land or parking rights to the effect that the Municipality and the public shall have access to that parking area, and the cost of registration of the servitude shall be borne by the owner.

The Town Planning Department also circulates the following proposal for consideration: on Erf 921, Struisbaai:

Owner : Cape Agulhas Municipality
 Applicant : Town and Country
 Property : Parking area south of Erf 848 Struisbaai
 Locality : Harbour Road, Struisbaai
 Existing zoning : Street

Proposal : Rezoning and closure of a portion of parking area south of Erf 848, Struisbaai in terms of Section 15 of the Cape Agulhas: By-Law on Municipal Land Use Planning, 2015 from Street Zone to Special Zone for freezing facilities within containers.

The closing date hereof be 22 May 2017.

DISCUSSION

In terms of Section 67 of the Cape Agulhas Integrated Zoning Scheme provision has been made for the following:

“Alternative parking requirements

67.(1) *As an alternative to compliance with the required off-street parking, the owner may with the approval of the Municipality:*

- (a) *acquire the prescribed area of land for the required parking facilities elsewhere in a position approved by the Municipality, and level, surface and maintain this land to the satisfaction of the Municipality, or*
 - (b) *acquire rights to a parking facility for the required parking elsewhere in a position approved by the Municipality, and*
- (2) *If the Municipality approves the provision of alternative parking in accordance with Sub-regulation (1), the owner shall register a notarial deed against such land or parking rights to the effect that the Municipality and the public shall have access to that parking area, and the cost of registration of the servitude shall be borne by the owner.”*

The Draft CAM Spatial Development Framework, April 2017 made the following observation:*“Catalytic interventions*

CAM should continue to participate actively in inter-governmental initiatives to establish the Agri-Park and Farmer Production Support Unit, upgrade existing harbours,” with the following proposal:

“New Development Action – New development of significant scale (Strategic Focus) and SDF Element (New commercial, tourism or public places):

Focus new tourism related facilities (including day visitor, accommodation, and commercial uses) in the general area of the caravan park, business district and harbour (subject to detailed precinct planning for the area bounded by Protea Road, Church Street, Cinneraria Street, and Harbour Road with a view to maximise tourism related facilities, rationalise vehicular movement and parking (including boat trailers), improve pedestrian and NMT movement ensure efficient harbour use, and manage visitor impact on private residences). “

From a Town Planning point of view the Struisbaai Harbour is the main attraction and entrance point to Struisbaai. Therefore emphasis should be placed on the cohesive planning of the harbour in order to become a 24/7 tourism attraction and not just a seasonal experience for visitors and fishermen.

If the parking area can be upgraded with formalised parking, good signage, aesthetically acceptable fencing, good traffic flow everyone can benefit with this economic viable asset of CAM. It is recommended that the owner of Erf 848 make provision for Parking on Erf 921 Struisbaai, but should be accessible for the rest of the public and not for his development.

COMMENTS: COUNCILLOR BURGER

“Ek en Rdsl. Jacobs het inderdaad vergader om die voorgestelde verhuring van ‘n gedeelte van Erf 921, Struisbaai aan die ontwikkelaar van Erf 848 te bespreek - soos versoek. Ondersteun met ‘n lugfoto van die betrokke area het ons die bestaande gebruik van Erf 921 en die parkering op Erf 1394 (DOW / Hawe perseel) oorweeg - soos tans buite en binne seisoen ervaar of benut word deur dagbesoekers aan die hawe/restaurant sowel as skiboothengelaars / kleinskaalvissers wat die infrastruktuur, veral sleepbellings en parkeerarea, benut.

Na deeglike oorweging van al die feite aan ons bekend is ons eens dat:

1. 'n Gedeelte van Erf 921 aan die ontwikkelaar van Erf 848 verhuur word vir die skep van formele parkering vir die voorgenome ontwikkeling - soos per sy versoek, teen 'n markverwante huur.
2. Verder is ons eens dat die ontwikkelaar versoek word om die totale oppervlakte van die restant van Erf 921 op sy koste in formele (hetsy geplaveide of geteerde oppervlakte) parkering te omskep as addisionele voorwaarde.
3. DOW versoek word om die bestaande parkering uit te brei aan die westekant van hulle Erf 1349.
4. Indien addisionele parkering benodig word vir motors met bootsleepwaens/bote, KAM 'n gedeelte wes van Erf 1394 op versoek beskikbaar sou kon stel op die aangrensende Erf 854.

Ons bespreking en bogenoemde voorstel was deurgaans gelei deur een beginsel; "Wat is goed vir die hele gemeenskap dwarsdeur die jaar?" Neem gerus ook kennis dat dit ons mees objektiewe dog persoonlike beskouing is en slegs voorgehou word as 'n moontlike oplossing."

MANAGEMENT RECOMMENDATION

- (i) That Council in principle approve the provision for additional / overflow parking on erf 921, Struisbaai for the development of Erf 848, Struisbaai as per Section 67 of the CAM Integrated Zoning Scheme, subject to:
 1. The favourable consideration of both applications by the Authorised Official and the CAM Tribunal.
 2. Formalisation of the total parking area on Erf 921, Struisbaai (adjoining of Erf 848) be for the cost of the developer of Erf 848, Struisbaai and the parking should be accessible for the public and not just allocated for Erf 848, Struisbaai.
- (ii) That the applicant be informed accordingly.

AANBEVELING: KORPORATIEWE DIENSTE KOMITEE

- (i) Dat die bestuursaanbeveling nie aanvaar word nie.
- (ii) Dat daar ingesprek getree word met die eienaar van erf 848 vir 'n moontlike ruiltransaksie, indien hy erf 572 kan bekom.
- (iii) Dat 'n ondersoek gedoen word om die bestaande parkering aan die westekant van erf 1349 uit te brei vir addisionele parkering.

RAADSBESLUIT 144/2017: 29 JUNIE 2017

Dat die aangeleentheid terug verwys word na die UBK vir aanbeveling na die Raad.

MAYCO RESOLUTION BK134/2017: 21 AUGUST 2017

That Management recommendation be accepted as resolution of the Mayoral Committee.

RESOLUTION 202/2017

- (i) That the management recommendation be accepted as a resolution of Council.
- (ii) That a Notarial Deed be registered for the cost of the developer, indicating that the public also has access to that area.

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

13.1 **REQUEST FOR LAND AVAILABILITY AGREEMENT AMENDMENTS: ELITE CONSULTING GAP HOUSING**

REPORT FROM DIRECTOR: MANAGEMENT SERVICES

PURPOSE OF REPORT

For Council to consider the request for Amendments of the Land Availability Agreement (LAA) by Elite Consulting Holding CC.

BACKGROUND

Mr Kruger was instructed by the municipality to attend to the various agreements to be concluded between CAM and Elite Consulting, in order to ensure the success of the aforesaid project and to address risks to the municipality associated with such agreements.

They consulted with Elite Consulting on 8 April 2016. They agreed on broad principles for the project, to be approved by Council, where after they can proceed with the drawing of the agreements. Principles/Guidelines were given in terms of the following:

- Aim of the project
- FLISP
- Areas of concern for the municipality
- Areas of concern for the company
- Recommended approach
- Infrastructure agreement
- Requirements of FLISP and direct transfer
- Building contracts
- Cash flow
- Risk to the respective parties

They request Council to authorize the Municipal Manager to approve and sign the infrastructure agreement, land availability agreement and individual sale agreements on behalf of the municipality.

Resolution 66/2016: 26 April 2017

“That the Municipal Manager be mandated to sign the infrastructure agreement, land availability agreement and individual sale agreements on behalf of the municipality.”

DEVIATION ON CLAUSE 9.8 OF THE LAA BETWEEN CAM AND ELITE CC

Elite Consulting was appointed by Council to implement FLISP/GAP housing projects in Arniston, Struisbaai and Bredasdorp. Elite Consulting then requested to build a show house in Struisbaai on erf 5206, Struisbaai, but the building of the show house cannot be implemented as Clause 9.8 which states –

“Elite may not commence with building work on any individual erf prior to registration of the erf into the name of the resident, without an approved building plan and without conclusion of a municipal pre-approved building contract between Elite and the Resident”..... prohibits Elite from building the show house.

The Council has approved the following on 21 August 2017:

- (i) A deviation from Clause 9.8 of the LAA for the building of the show house.
- (ii) Elite Consulting to build the show house on erf 5206, Struisbaai.

ELITE CONSULTING PROPOSED AMENDMENTS ON LAA AND LEGAL IMPLICATIONS**Director: Management Services Meeting on Friday, 15 September 2017 with Kruger & Blignaut Attorneys**

The Director Management Service on receipt of the request by Elite Consulting CC arranged a meeting with Attorney, Martin Kruger, of Kruger & Blignaut to consider the proposed amendments from Elite Attorneys. There are four (4) Amendments on clauses 9.8, 9.10, 9.11 and 10.1.

CLAUSE 9.8 ELITE'S PROPOSAL

9.8 *"Elite may at their own risk commence with building work on erf 5206 for the purpose of erecting a show house. Approved building plans for the said show house are available for commencement of the building work."*

Comments by Kruger and Blignaut

"We are advised that the relevant clause has already been approved by council and that the wording of the clause is de facto complete. We were not invited to comment thereon, prior to referral to council. However, we kindly wish to refer you to clause 10 in the LAA, whereby our firm was appointed to monitor legal compliance with the processes and therefore regret to advise that the new wording of the par 9.8 unfortunately falls short in protecting the Municipality from future risk, primarily against a claim by Elite for improvements, waiver of builders lien, the building contract (or lack thereof) and future on-sale to a resident.

Kindly bear in mind that the building of a show house normally happens when a developer is already the owner of the erf concerned and carries the risk of erecting a house on its own property for on-sale to a new owner. In this case, the situation differs vastly from that, in that the Municipality is the owner, upon which Elite will attend to the erection of a dwelling."

It is therefore recommended that the following clauses *inter alia* be inserted:

- That a proper building contract be entered into between the Municipality and Elite, whereby the terms of the building works is recorded, with specific reference to the protection of the end-user, such as NHBRC registration, builder warranties, building standards etc.
- That Elite waives and abandons all claims against the Municipality for compensation re the improvements.
- That Elite waives any lien on possession they may have on the property.
- That the terms for on-sale to a future end-user be recorded in order to place that purchaser in the same position as other purchasers building separate houses from scratch.

The clause, as it currently stands, must in any event remain in the LAA for building works done for residents.

Comments on the Attorney's legal opinion

It is a fact that clause 9.8 of the LAA has been approved by Council on 21 August 2017. Elite Consulting will have to comply with all the regulatory requirements, i.e. terms of building works, NHBRC registration and builder warranties.

CLAUSE 9.10 ELITE'S PROPOSAL

9.10 *"Elite will provide the resident with vacant occupation of the dwelling upon completion of same. Should the date of occupation not co-inside with the date of registration of transfer, the party occupying the property while it is registered in the name of a other party, shall pay monthly in advance on the first day of the month for the period of occupation, as compensation, occupational rental in the amount of R_____. This amount will be paid to the conveyancer who in return will pay same over to Elite. The party occupying the property while it is registered in the name of the other party will be liable to pay the monthly municipal services which includes water, electricity and sewage."*

Comments by Kruger and Blignaut

"The essence of this paragraph aims to pay the owner of the property occupational rent from date of occupation to date of transfer. According to your Mr Mrali, this will be done to prevent illegal occupation of persons other than the identified end-user.

Unfortunately, this paragraph demonstrates a misunderstanding of the proposed process and is therefore unnecessary.

Kindly refer to the process prescribed by the LAA. The vacant land is sold to Elite and immediately from Elite to the end-user. Transfer of the properties are therefore registered in the deeds office simultaneously, and a building bond registered against the property, for funding of the building works. It therefore follows that the end-user becomes the owner of the property, even before the building works commences and occupies once the occupation certificate is issued. He therefore cannot pay occupational rent to himself, as he will already be the owner, once the building reaches completion stage. He is also liable for his own rates, taxes etc from date of registration into his own name."

Comments on the Attorney's legal opinion

"I concur with the Attorney's opinion as the transfer of the properties (from Municipality to Elite and from Elite to owner) as well as the building bond for the owner (end-user), will be transferred simultaneously in the Deeds office. There is no need for occupational rent as he or she is already the owner. The owner will be liable to pay rates and taxes on the property as from date of registration."

CLAUSE 9.11 ELITE'S PROPOSAL

9.11 *"Elite may at their own risk and after the deed of sale between them and the resident and/or Elite and the Municipality is unconditional start building at their own costs. The costs of which will be refundable to Elite by means of bond and/or FLISP subsidy."*

Comments by Kruger and Blignaut

"This paragraph purports to enable Elite to commence with the building works, once the contract is unconditional (i.e. we accept that Mr Mrali's interpretation of "concluded" is erroneous).

We once again wish to refer you to the proposed building agreement, that allows Elite to commence with building works, once all the suspensive conditions in that contract has been met. This was inserted for the protection of the end-user and should be adhered to. In any event, should building works be initiated whilst the Municipality is still the owner, the comments under par 9.8 above apply."

Comments on the Attorney's legal opinion

"Agree that instead of unconditional should substituted with "concluded".

CLAUSE 10.1 ELITE'S PROPOSAL

10.1 *"The Municipality and Elite agree that they will be authorized to appoint the attorneys and/or conveyancers of their own choice to attend to any and/or all legal work/ conveyancing aspects with regards to this agreement and transfers following out of same."*

Comments by Kruger and Blignaut

"Unfortunately, our firm has already been appointed by Council and Elite to ensure legal compliance with the process and we will unfortunately not consent to a change to this position."

GENERAL

Although the parties condoned the expiry dates contained in par 7, we would recommend that these dates be re-visited again, to be included in any addendum to serve before council. In this regard, we confirm that all the agreements have been circulated by our firm for comments some time ago, but cannot be completed as a result of outstanding financial information that must be inserted in the various contracts, such as builder's deposits, plan approval fees, augmentation fees, purchase prices of erven etc.

COMMENTS ON THE ATTORNEY'S LEGAL OPINION

The Attorney is correct when expressing that they have been appointed by Council to ensure legal compliance with the process. Unfortunately, the Municipality cannot appoint attorneys on behalf of Elite Consulting CC to act between Elite and the end-user. For the project not to be delayed, the attorney must be persuaded to meet with Elites' Attorneys to hear the concerns of Elite CC.

MANAGEMENT RECOMMENDATION

Council to take note of the proposed amendments by Elite and the Legal comments by Kruger & Blignaut. Until notified different, the LAA remains.

RESOLUTION 203/2017

That the matter be referred back for further investigation in view of the information provided in the presentation by die Director: Affordable Housing earlier in this meeting.

13.2 **UPGRADING OF R316 (ARNISTON ROAD) FROM RECREATION / CHURCH STREET INTERSECTION, BREDASDORP FOR 1.2 KM (16/3/4/1)**

PURPOSE OF REPORT

The Council's preliminary approval to apply for funding to upgrade Road R316 from Recreation/Church Street to the end of Area F, Bredasdorp.

BACKGROUND

The Arniston Road from the mentioned intersection is in very poor state. However, this road does not belong to Council and therefore an application to Public Works for funding is required.

Area F will consists of 683 households that will use this road as pedestrian traffic along the road and it is also the gateway to Arniston/Waenhuiskrans and Kassiesbaai. It will serve the poorest of the poor.

In the past we have sourced funding from Public Works for Long Street of almost R20m thus we have a good track record with Public Works. This was a huge success and awards were won for the project due to labour-based job creation. Public Works are very positive if applications are well motivated.

We have already acquired a draft plan and cost estimate with a total project value of R25m. See attached documents.

FINANCIAL IMPLICATIONS

20% of R25m due to the 80/20 principal of Department of Public Works which means R5m from Council, spreading over 2 book years, amounting to R2.5m per annum.

PERSONNEL IMPLICATIONS

At least 30 temporary work opportunities over a period of 12 months for the community

MANAGEMENT RECOMMENDATION

That Council approve this initiative of Department Roads & Storm Water, as this is in line with Council's vision that outside funding should be sourced.

RESOLUTION 204/2017

That the management recommendation be accepted as a resolution of Council.

13.3 **EMPLOYMENT EQUITY PLAN (4/4/4/1 - DH/HRD-OD)****PURPOSE OF REPORT**

To consider the Employment Equity plan for Council Approval.

BACKGROUND

In terms of Section 23 of the Employment Equity Act no 55 of 1998, stipulates that a Designated Employer in this case Cape Agulhas Municipality must, before the end of the term of its current Employment Equity Plan, prepare an Employment Equity Plan and reporting to the Director-General of Labour.

Section 24 of the Employment Equity Act nr 55 of 1998 stipulates that a Designated Employer must assign one or more Senior Manager(s) to ensure implementation and monitoring of the Employment Equity Plan. Attached on **page** is the Employment Equity Plan: 1 October 2012 - 30 September 2017.

LEGAL REQUIREMENTS

Employment Equity Act, 55 of 1998.

COUNCIL POLICY

Prosedural Manual for Recruitment and Selection approved by Council on 28 August 2017.

PERSONNEL IMPLICATIONS

To ensure that appointments of vacant positions on the approved structure by align with the objectives set out in the Employment Equity Plan 2017-2020.

FINANCIAL IMPLICATIONS

Council need to ensure to budget on a yearly basis for vacant postitions on approved organisational structure.

RECOMMENDATION: EMPLOYMENT EQUITY COMMITTEE

- (i) That Council approve the Employment Equity Plan for 1 October 2017 - 30 September 2020.
- (ii) That the Accounting Officer, in this case the Municipal Manager, signed off the approved Employment Equity Plan 1 October 2017 - 30 September 2020.
- (iii) That all union representative signed off approved Employment Equity Plan for 1 October 2017 - 30 September 2020 for Cape Agulhas Municipality.
- (iv) That the approved Employment Equity Plan 1 October 2017 - 30 September 2020 be summited before 30 September 2017 to the Department of Labour in terms of Legal Compliance.

RESOLUTION 205/2017

That the Employment Equity Committee recommendation be accepted as a resolution of Council.

17. ONAFGEHANDELDE RAADSBESLUITE

Besluit Nr	Onderwerp	Verkorte Besluit	Vordering	Verantwoordelike persoon
76/2016	Vervreemding (koop): Erf 3344, Bredasdorp	Dat genoemde erf op publieke tender geplaas word.	Advertensie was geplaas - Tendraar het erf 3139 gekies nadat hy vir beide getender het. Die Raad moet nou besluit wat van erf 3344 gaan word en of dit weer op tender geplaas moet word.	LDC
90/2016	Ouditeur-Generaal navraag insake erwe 563 en 937, Napier	(i) Dat Erf 563, Napier so spoedig as moontlik deur die raad se oordragprokureurs aan KAM oorgedra word. (ii) Dat, sodra Erf 563, Napier in KAM se naam registreer is, dit per openbare tender vervreemd word. (iii) Dat alle uitstaande skuld ten bedrae van R35 256,83 op rekening 200 000 011 073 in die naam van N en S M Noor afgeskryf word. (iv) Dat Erf 937, Napier se uitstaande gelde so spoedig as moontlik deur die raad se Masakane proses gevorder word (binne 90 dae). (v) Indien alle uitstaande fooie nie binne 90 dae gevorder is nie, erf 937 per openbare tender vervreemd sal word om deel van die koste te delg. (vi) Dat die verskil in uitstaande fooie (balans min verkoopprijs) afgeskryf word.	In proses van afhandeling.	DFD
235/2016	Heroorweging van huurgeld (erf 856, Struisbaai): Zuso Khanyo Co-Operative Limited	Dat 'n volledige verslag rakende die status van die projek opgestel word wat die toekomstige volhoubaarheid daarvan insluit vir oorweging deur die Raad by 'n volgende Raadsvergadering.	By UBK hanteer.	LDC/DKD
236/2016	Heroorweging van huurgeld (erf 1343, Bredasdorp): Isivuno Agricultural Co-Operative Limited	Dat 'n volledige verslag rakende die status van die projek opgestel word wat die toekomstige volhoubaarheid daarvan insluit vir oorweging deur die Raad by 'n volgende Raadsvergadering.	By UBK hanteer.	LDC/DKD
237/2016	Parkering: Erf 264, Struisbaai	Dat die randstene wel verwyder word, op voorwaarde dat - (i) Die eienaar in kennis gestel word dat sou hulle die parkeerarea wil vergroot tot by die voetpaadjie (in Hoofweg), die nodige grondgebruiksaansoek ingedien moet word vir oorweging. (ii) 'n Vergunningssooreenkoms vir die vergroting van die parkeerarea met die eienaar gesluit word.	Eienaar reageer nie op skrywe van prokureur nie.	BSSB

Besluit Nr	Onderwerp	Verkorte Besluit	Vordering	Verantwoordelike persoon
238/2016	Council's further directions: Rezoning, Subdivision, Consolidation and letting of property in respect of the Vishuis Heritage Centre in Kassiesbaai, Arniston	That Council approves the following: Amendment of Clause 12.2.4 of the attached Lease Agreement to read as follows: "The serving of refreshments including hot and cold beverages and snack foods (i.e. a portion of food, smaller than a regular meal, generally eaten between meals) shall be permitted, excluding regular meals."	<i>In proses.</i>	BSSB

BESTUURSAANBEVELING

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

BESLUIT 206/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

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

BEKRAGTIG op hierdie

dag van

2017

SPEAKER

DATUM: