



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N ALGEMENE RAADSVERGADERING GEHOU OM 10:00 OP MAANDAG
27 FEBRUARIE 2017 IN DIE MUNISIPALE RAADSAAL TE BREDASDORP**

**MINUTES OF A GENERAL COUNCIL MEETING HELD ON MONDAY, 27 FEBRUARY 2017
AT 10:00 IN THE MUNICIPAL COUNCIL CHAMBERS, BREDASDORP**

RAADSLEDE / COUNCILLORS

MNR	R J BAKER	
MNR	G D BURGER	
MNR	D J EUROPA	
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
Mnr K Mrali	Direkteur: Gemeenskapsdienste
Mnr O January	nms Direkteur: Korporatiewe Dienste
Mnr B Hayward	Bestuurder: Stads- en Streeksbeplanning
Mnr F du Toit	Bestuurder: Boubeheer
Mnr D Wasserman	Tegniese Dienste
Me N Mhlali-Musewe	Bestuurder: Menslike Hulpbronne
Me N Swartbooi	Bestuurder: Behuising
Me A Jonker	Komiteedienste

1. **OPENING**

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

'n Minuut stilte word gehandhaaf met die afsterwe van Raadslid Tonisi se suster.

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

Mnr B Swart	Interne Ouditeur
Mnr S Ngwevu	Direkteur: Korporatiewe Dienste

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

SABRI (South African Business Resources Institute):

Denise and Lynn Maggott (CEO of SABRI) made a presentation regarding a development programme for formalising recyclable waste. The presentation included the following:

- Social, Economic and Environmental Challenges
- Background of the Project
- Government's Response
- Waste Collection Business Opportunity
- Equipment Costs
- SABRI and Ackerman Foundation's Contribution
- Funding request to Municipality

The Municipality is requested to assist with costs relating to the facilitation of training and support to businesses.

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

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

6 Desember 2016

BESLUIT 6/2017

Die Notule word as korrek en volledig bekragtig.

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

31 Januarie 2017

BESLUIT 7/2017

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:**

30 November 2016

14 Februarie 2017

BESLUIT 8/2017

Die Raad neem kennis van bogenoemde UBK Notules.

6. NOTULES VAN KOMITEE VERGADERINGS VOORGELê VIR KENNISNAME**6.1 WYKSKOMITEE VERGADERINGS GEHOU OP:**

- WYK 1 : 22 November 2016 en 30 Januarie 2017
- WYK 2 : 23 November 2016
- WYK 3 : 8 November 2016 en 7 Desember 2017
- WYK 4 : 22 November 2016 en 31 Januarie 2017
- WYK 5 : 30 November 2016
- WYK 6 : 14 November 2016 en 13 Desember 2016

BESLUIT 9/2019

Die Raad neem kennis van bogenoemde Wykskomitee Notules.

7. SAKE VOORTSPRUITEND UIT NOTULES**WYKSKOMITEES:**

- 7.1 Die Speaker meld dat wyksraadslede in die toekoms voortydig moet voorberei op onafgehandelde sake wat lank uitstaande is op die wykskomitee notules sodat dit by die Raadsvergadering hanteer kan word.
- 7.2 Die Burgemeester spreek sy kommer uit oor wykskomitee vergaderings wat nie goed genoeg geadverteer word nie, veral in Napier.
- 7.3 Raadslid Tonisi verneem na die bewering vanuit wyk 6 dat daar met notules gepeuter word. Raadslid Europa deel die Raad mee dat die persoon wat die bewering gemaak het versoek is om die spesifieke geval skriftelik uit te wys.

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

Sien skrywes aangeheg op *bladsy 6 en 7*.

8.2 FUNKSIES VIR DIE MAAND

- Skoonmaak in Struisbaai.
- Besoek van Minister Madikizela (Minister van Behuising).

8.3 AANWYS VAN AFGEVAARDIGDES

Geen.

8.4 ALGEMEEN

- Die Speaker herinner die Raadslede daaraan dat die bus Dinsdagoggend om 8 uur vertrek na die SALGA opleiding te Caledon.
- Die Speaker versoek dat Raadslede wat SALGA vergaderings bywoon en ander vergaderings waarop hulle die Raad amptelik verteenwoordig, in die toekoms kortliks sal terugvoering gee. 'n Staande item sal voortaan op die agenda geplaas word.
- Die volgende persone word geluk gewens met hul huwelike: Cari Conradie, Jaco Lotter, Gurswin en Kay-Lee Prins, Geraldine Lewis en Christopher Ahrends.
- Persone wat in Februarie verjaar word geluk gewens.

8.5 DRINGENDE SAKE DEUR DIE SPEAKER VOORGELê

Die Speaker lê 'n skrywe voor ontvang vanaf die ANC waarin hulle 'n dringende mosie indien teen die huidige praktyk van die Raad wat arm mense aanslaan vir 30 ampère elektrisiteit, terugwerkend na 1 Julie 2016, terwyl die huise jare gelede gebou was met 'n 30 ampère toevoer. Die Speaker beslis dat die saak egter nie as 'n dringende mosie hanteer gaan word nie.

Die ou HOP huise was destyds gebou met 30 ampère elektrisiteitstoevoer. Die eienaars was egter nie daarvan bewus nie en ontvang nou diensterekeninge waarin hulle aangeslaan word vir 30 ampère. Eienaars weier nou om hul rekeninge te vereffen, aangesien hulle nie bewus was dat hul aangeslaan gaan word vir die 30 ampère nie.

BESLUIT 10/2019

- (i) Dat hierdie aangeleentheid ondersoek en 'n volledige verslag aan die Raad voorgelê word.
- (ii) Dat die Raad met die nuwe tariewe vir die volgende begroting spesifiek na hierdie gevalle sal kyk.
- (iii) Dat eienaars intussen aangemoedig word om wel hul rekeninge te betaal, maar sal aansoek doen om Masakhane hulp.

9. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER

- 9.1 Die Burgemeester herinner die Raad aan die Burgemeesters-Gholfdag wat plaasvind op Vrydag 3 Maart 2017. Hy meld dat die opbrengs vir kinder- en jeugontwikkeling aangewend sal word.
- 9.2 Die volgende skoonmaak funksie sal later vandag op Napier plaasvind.

10. ITEMS NA DIE RAAD VERWYS VIR OORWEGING**Bladsy****10.1 MUNISIPALE BESTUURDER / MUNICIPAL MANAGER**

- 10.1.1 Huurooreenkoms: KAM en Fietsverhuring besigheid in Struisbaai **5 - 6**
- 10.1.2 Amendment of the 2016/2017 SDBIP **7 - 8**

10.2 KORPORATIEWE DIENSTE / CORPORATE SERVICES

- 10.2.1 Development: Remainder erf 1148, Bdorp (Retirement Village) **8 - 17**
- 10.2.2 Status Quo: Erf 599, Waenhuiskrans **18 - 23**

10.3 TEGNIËSE DIENSTE / TECHNICAL SERVICES

- 10.3.1 Area F External Stormwater Channel **23 - 24**
- 10.3.2 Deproklamasie: Ondergesikhte Pad Nr 4401, L'Agulhas **24 - 26**
- 10.3.3 Aansuiwering van waternetwerk onderhoudsbegroting: 2016/17 **26**

10.4 FINANSIËLE DIENSTE / FINANCIAL SERVICES

- 10.4.1 Oudit Aksieplan 2015/16 (OPCAR): Jan en Feb 2017 **27**

11. ITEMS WAT OP 14 FEBRUARIE 2017 BY DIE UBK GEDIEN HET EN AAN DIE RAAD VOORGELê WORD VIR OORWEGING**27**

- 11.1 Vervreemding (koop): Erf 935, Napier **27 - 29**
- 11.2 Vervreemding (koop): Erf 1730, Napier **30 - 32**
- 11.3 Vervreemding (koop): Ged erf 2518, Bredasdorp (Suideroord) **32 - 35**
- 11.4 Vervreemding (koop): Erf 1666, Struisbaai **35 - 37**
- 11.5 Aansoek om finansiële ondersteuning: Heavenly Promise **38**

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

Geen.

13. **OORWEGING VAN KENNISGEWING VAN MOSIES**

Geen.

14. **OORWEGING VAN KENNISGEWING VAN VRAE**

Geen.

15. **OORWEGING VAN DRINGENDE MOSIES**

Geen.

16. **VERSLAG DEUR MUNISIPALE BESTUURDER OOR DIE UITVOERING VAN RAADSBESLUIE**
Lys van onafgehandelde Raadsbesluite verskyn op **bladsy 36**.

17. **SLUITING**

Die vergadering verdaag om 12:40

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

10.1 **MUNISIPALE BESTUURDER / MUNICIPAL MANAGER**

10.1.1 **SLUIT VAN HUUROORENKOMS TUSSEN KAAP AGULHAS MUNISIPALITEIT EN FIETSVERHURING BESIGHEID IN STRUISBAAI**

VERSLAG OPGESTEL DEUR BESTUURDER: STRATEGIESE DIENSTE

DOEL VAN VERSLAG

Mnr Deon Wildschut besit 'n fietsverhuring besigheid in Struisbaai hawe en het 'n staanplek in die parkeerarea by die Struisbaai hawe gekry by Kaap Agulhas Munisipaliteit, die eienaar van die grond, maar het nooit 'n huuroorenkoms vanaf die Kaap Agulhas Munisipaliteit ontvang om te onderteken nie.

Dit het ten gevolg gehad dat daar nooit huurgeld van hom verhaal is nie. Daar moet aldus nou 'n huuroorenkoms opgestel word sodat huurgeld vir die staanplek betaal word en toegang tot krag verkry word.

AGTERGROND

Mnr Wildschut, 'n jeugdige van Struisbaai, het 'n inisiatief begin deur 'n fietsverhuring besigheid in Struisbaai hawe te open waar hy fietse aan toeriste verhuur. Die erf waarop die vraghouer geleë is is die eiendom van Kaap Agulhas Munisipaliteit. Die vraghouer waaruit hy sy besigheid bedryf en die fietse wat hy verhuur is aan hom geskenk deur "BEN BIKES". Hy is reeds geruime tyd besig met die verhuring van fietse by die Struisbaai hawe vanwaar hy sy besigheid bedryf.

Kaap Agulhas Munisipaliteit het toestemming aan mnr Wildschut gegee vir die staanplek vir sy vraghouer in die parkeerarea in die hawe, maar het nooit 'n huurooreenkoms opgestel met mnr Wildschut nie. Dit het ten gevolg gehad dat mnr Wildschut nooit huur betaal het vir sy staanplek nie. Mnr Wildschut het intussen ook aansoek gedoen by die Raad vir 'n kragpunt om koeldrank en water te kan verkoop en dit is goedgekeur vir 'n bepaalde bedrag deur 'n Raadsbesluit (BK/240/2014). Die bedrag is ook reeds deur mnr Wildschut vereffen, maar as gevolg van die huurkontrak wat nog nie opgestel is nie kon die kragpunt nog nie geïnstalleer word nie.

Daar moet dus 'n huurbedrag bepaal word wat bekostigbaar is met inagneming van die feit dat die projek onder die vaandel van ekonomiese ontwikkeling ontstaan het. Mnr Wildschut kan nie as 'n smous beskou word nie en derhalwe sal die smoustarief nie eintlik toepaslik wees nie. Daar word dus gekyk na die tarief wat soortgelyke informele besighede betaal wat binne die hawe perseel geleë is. Die besighede betaal R500 per maand en dié kan as 'n basis wees vir die berekening van mnr Wildschut se huurbedrag.

'n Verdere oorweging is of mnr Wildschut se vraghouer in die regte plek is met inagneming van die toekomstige ontwikkeling van die hawe perseel sowel as die voorgestelde plasing van bevriesing fasiliteite vir die vissermanne wat befonds word deur die Departement Landelike Ontwikkeling. Die plasing hiervan moet egter nog oorweeg word deur die Raad. Dit word dus voorgestel dat daar slegs 'n korttermyn huurooreenkoms aangegaan word wat jaarliks hernu word en wat ook die Munisipaliteit die reg gee om mnr Wildschut elders op die perseel te skuif indien nodig.

BESTUURSAANBEVELING

- (i) Dat die Raad goedkeuring verleen dat daar 'n huurkontrak opgestel word tussen Kaap Agulhas Munisipaliteit en mnr Deon Wildschut vir 12 maande met die opsie om dit te verleng met 'n verdere 12 maande.
- (ii) Dat 'n bepaling in die ooreenkoms ingesluit word waarby die Raad die reg voorbehou om die huurder binne die perseel te verskuif sou die grond benodig word.
- (iii) Dat oorweging geskenk word om huurgeld van R500 per maand te hef vir die staanplek.
- (iv) Dat die aansluiting van die kragpunt sal plaasvind sodra die huurkontrak onderteken is.
- (v) Dat alle wetlike prosesse gevolg word met die opstelling van die huurkontrak en die installering van 'n kragpunt vir die besigheid.

Die volgende twee voorstelle word gemaak:

Voorstel 1

Dat die huurgeld verminder word na R1,00 per maand.

(Voorstel: Rdh Marthinus, Sekondant: Rdl Baker)

Voorstel 2

Dat die huurgeld van R500,00 per maand onveranderd bly.

(Voorstel: Rdl Swart, Sekondant: Rdl Tonisi)

Die Raad gaan oor in stemming deur die opsteek van hande.

Voorstel 1: 4 Stemme

Voorstel 2: 5 Stemme

BESLUIT 11/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

(Die volgende Raadslede/-here teken hulle teenstem aan teen die huurgeld wat die Raad gestel het: Jantjies, Marthinus, Baker en Europa)

10.1.2 **AMENDMENT OF THE 2016/17 SERVICE DELIVERY BUDGET IMPLEMENTATION PLAN (SDBIP) IN TERMS OF SECTION 54 (1) (C) OF THE MUNICIPAL FINANCE MANAGEMENT ACT (ACT 56 OF 2003)**

REPORT BY THE MANAGER: STRATEGIC SERVICES

PURPOSE OF REPORT

To propose amendments to the key performance indicators as contained in the 2016/17 Service Delivery Budget Implementation Plan (SDBIP).

LEGAL AND REGULATORY FRAMEWORK

Section 54 of the Municipal Finance Management Act, 56 of 2003 (MFMA) regulates budgetary control and the early identification of problems. Subsection (1) (b) and (c) provides interalia that -

- 1 "On receipt of a statement or report submitted by the accounting officer of the municipality in terms of section 71 or 72, the mayor must -
 - b) check whether the municipality's approved budget is implemented in accordance with the service delivery and budget implementation plan;
 - c) consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget;

Section 54 (3) provides that -

- "3. The Mayor must ensure that any revisions of the Service Delivery Budget Implementation Plan are made public promptly"

MFMA Circular 13 provides that; "The top-layer of the SDBIP and its targets cannot be revised without notifying the council, and if there is to be changes in service delivery targets and performance indicators, this must be with the approval of the council, following approval of an adjustments budget (section 54(1)(c) of MFMA). This council approval is necessary to ensure that the mayor or municipal manager do not revise service delivery targets downwards in the event where there is poor performance."

DISCUSSION

The Mid-Year Budget and Performance Assessment was compiled in terms of Section 72 of the Municipal Finance Management Act, 56 of 2003 (MFMA) and submitted to the Mayor on 25 January 2017 with the recommendation that an adjustment budget be submitted to Council.

The Mid-Year Budget and Performance Assessment and adjustment budget were submitted to Council on 31 January 2017.

The Municipality's SDBIP comprises two distinct components, namely a financial and non- financial component. The financial component of the SDBIP comprises:

- Monthly projections of revenue by source and expenditure by type
- Monthly projections of expenditure and revenue (municipal Vote)
- Monthly capital expenditure per municipal vote
- Three year capital works programme

The schedules comprising this information were contained in the adjustment budget.

The non-financial component comprises pre-determined objectives with key performance indicators and service delivery targets which are coupled to the national key performance areas of local government and the strategic objectives of the IDP. It has become necessary to make amendments and improvements to the Municipality's SDBIP as a result of the adjustment budget and lessons learnt from the 2015/16 performance audit which revealed potential problem areas with our KPI wording, evidence collation, targets and computation of actuals. In some cases new KPI's were also added.

The proposed amendments to the SDBIP (Key performance indicators) are attached as **Annexure A on page 8 to 27** to this report. All amendments are in shaded blocks. Deletions are crossed out and additions are underlined. Revised targets are indicated in the column "Revised targets". The reason for amendments is indicated in the Comments / Reason for amendment Column.

MANAGEMENT RECOMMENDATION

That the amendments to the 2016/17 SDBIP attached as **Annexure A** be approved in terms of Section 54(1)(c) and made public in terms of Section 54(3) of the Municipal Finance Management Act, 56 of 2003 (MFMA).

RESOLUTION 12/2017

That the management recommendation be accepted as resolution of Council.

10.2 **KORPORATIEWE DIENSTE / CORPORATE SERVICES**

10.2.1 **PROPOSED DEVELOPMENT: REMAINDER OF ERF 1148, BREDASDORP (RETIREMENT VILLAGE) (B1148 - STRP) (WARD 4)**

PURPOSE OF REPORT

For Council to consider the comments received from the developer on the objections for a retirement village in Bredasdorp (Portion of Remainder of Erf 1148, Bredasdorp).

This report consists of the following:

- Proposed sale agreement
- Location of the property
- Proposed Layout
- Architectural guidelines
- Valuation Certificate
- Objections on proposal
- Developer's response on the objections

BACKGROUND

On 26 April 2016, Council took the following decision (65/2016):

- (i) *That Council, in principle, approves the development.*
 (ii) *That a formal request (including lay-out and architecture) be submitted to Council for consideration."*

On 17 June 2016, Council received the relevant documents (**Annexure A was already distributed**) and on 28 June 2016 Council took the following decision (149/2016):

- (i) "That Council approves the proposed development layout and all relevant documents.
- (ii) That two independent valuers be appointed to obtain a fair market value of the land.
- (iii) That the new market values be reported to Council for further consideration."

MARKET VALUE

The following valuations were obtained:

C.D.V. Property Valuers Pty Ltd (Cape Data Valuers) - Annexure B, page 28 to 36
R1 540 000,00

De Kock Lloyd Eiendomswaardeerders - Annexure C, page 37 to 41
R1 495 000,00

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": <i>"fair market value of the capital asset exceeds any of the following amounts:</i> 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 SEPTEMBER 2016

On 29 September 2016 Council took the following decision (197/2016):

That the management recommendation be accepted as resolution of Council.

(Die volgende Raadslede/-here teken hulle teenstem aan teen die reserweprys wat die Raad gestel het: Jantjies, Jacobs, Marthinus, Baker en Europa)

- (i) That Council consider the new valuations from Messrs C.D.V. Property Valuers Pty Ltd (Cape Data Valuers) and De Kock Lloyd Eiendomswaardeers.
- (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 1148, Bredasdorp 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 1148, Bredasdorp, by development proposal to Annison 35 (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.
- (vi) That Council determine a reserve price of R1 540 000,00 (excluding VAT) to determine.
 - (vii) That all legal requirements are met for disposal of land.

ADVERTISEMENT

On 28 Oktober 2016 the following advert was placed in the Local Newspaper:

CAPE AGULHAS MUNICIPALITY**NOTICE: SALE OF PORTION OF ERF 1148, BREDASDORP**

Notice is hereby given in terms of Section 14 & 33 of the Local Government: Municipal Finance Management Act, 2003, Act 56 of 2003, Municipal Asset Transfer Regulations 2008 and Section 21A of the Municipal Systems Act 2000, Act 32 of 2000 Council Decision 197/2016, that Cape Agulhas Municipality intends to sell a portion of Erf 1148 to the extent of 22Ha, Bredasdorp to:

Buyer: Annison 35 (PTY) Ltd
 Price: R 1 540 000 (VAT excl.)
 Size: Approximately 22HA
 Purpose: Retirement Village

Comments and objections should reach the Municipal Manager not later than 19 November 2016.

In terms of section 21(4) of the Local Government Act: Municipal Systems, 2000 (Act 32 of 2000) notice is hereby given that persons who cannot read or write may request that an employee at any of the reception offices of the Cape Agulhas Municipal Council assist in the formulation and writing of comments.

Any further particulars and enquiries can be obtained from Ms Urlene Jantjies at (028) 425 5500 during office hours.

DGI O'Neill
Municipal Manager / Munisipale Bestuurder
PO Box 51/ Posbus 51
Bredasdorp
7280

OBJECTIONS RECEIVED

Three objections were received:

1. D Mintoer of Umhlaba Wobizo, attached as **Annexure D on page 42**
2. Jan Malan, attached as **Annexure E on page 43**
3. D van der Heyde, attached as **Annexure F on page 49**

COMMENT FROM DEVELOPER ON OBJECTIONS**1. INTRODUCTION AND BACKGROUND**

A sale agreement has been entered into between Cape Agulhas municipality (hereafter "the Municipality") and Annison 35 (Pty) Ltd ("the Purchaser") in terms of which 22,27 hectares was sold by the Municipality to the Purchaser. A public process has been embarked upon in terms of which the transaction has been advertised for public comment.

The purpose of this report is to comment and respond on the following objections received:

- 1.1 D Mintoer of Umhlaba Wobizo
- 1.2 Jan Malan
- 1.3 D van der Heyde

RESPONSES TO THE OBJECTIONS ARE AS FOLLOWS:**2. OBJECTION BY: D Mintoor of Umhlaba Wobizo (hereafter "Objector 1")**

2.1 Objection:

"Ons beskik oor 'n huurkontrak wat die gedeelte van die grond insluit. Die verlies van die 22 hektaar maak dit onmoontlik om finansiële steun van die staat te ontvang. Daar is dus 'n verlies aan inkomste. Ons het baie inset koste aangegaan om grond vrugbaar te kry. Indien dit moontlik is, sal ons beswaar terug trek as die grond aan die Swellendam pad Kamp Erf 1148 aan ons beskikbaar gestel word."

Comment and response to objection:

- 2.1.1 The objection does not state the extent of the portion that is farmed by them and what is included in the 22 hectares that was sold to the Developer. It also fails to mention whether it is a substantial and or a material part of the land sold to the Purchaser.
- 2.1.2 Details are not given as to why the proposed transaction would make it impossible to obtain financial backing from the state and if there may be other reasons as well that makes such backing problematic.
- 2.1.3 Despite the above, the Lessee can be accommodated on the property for a considerable period of time, until all the development rights have been granted, subject to reasonable access by the Developer. It obviously stands to reason that a balance of benefits for Council must be considered, i.e the rental income versus the taxable income after development.
- 2.1.4 In order to proceed with the 22 Ha development, the municipality is respectfully requested to:
- (i) Cancel the existing agreement with Objector 1 in due course in order to make it possible for the purchaser to apply for the required statutory approvals and to develop it. Until date of cancellation, the Developer must be granted reasonable access, as specified in paragraph 8.2 of the sale agreement
 - (ii) Enter into a new agreement with Objector 1 in respect of alternative land suggested by him.

3. OBJECTION BY: Dr Jan Malan (hereafter "Objector 2")

3.1 Objection:

"Die voorstel en aanbieding bevat geen inligting oor wat vir die aftree-oord beoog word nie, behalwe dat 4,28 hektaar vir medium- tot hoë-digtheid aftreeeenhede/ wonings opsygesit sal word. Baie meer besonderhede is noodsaaklik om die meriete van die voorstel enigsins te kan beoordeel."

Comment and response to objection:

- 3.1.1 It is important to recognize that detailed planning for a retirement village is a costly and time consuming exercise and that it would not be practical for any investor and/or developer to do such detail planning at a cost of millions of Rands before it knows that the land has been secured, without restriction.
- 3.1.2 If a developer were to make such planning available it is almost guaranteed (and there is many critical examples) that its ideas would be taken by another developer and implemented, in which case the first developer would suffer huge financial loss.
- 3.1.3 During the statutory approval process a much higher level of detail will be made available to make it possible for Council to evaluate the proposals in detail.

3.1.4 Council still have the ultimate say in that no project and/or proposals could be approved without its consent. Council is therefore in a very powerful position in respect of the project and its approval and its implementation.

3.2 Objection:

Ook is 'n aansienlik groter area spesifiek vir 'n aftree-oord nodig, omdat medium tot hoë-digtheid nie gepas is vir die Bredasdorp-omgewing nie. Ruimte is juis 'n belangrike voordeel wat ons bo 'n digbeboude stedelike omgewing het."

3.3 **Comment and response to objection:**

3.3.1 This is a valid and valuable comment, is duly taken to heart and will be incorporated into the planning of the project. We are prepared, in our planning of the project to consider:

3.3.1.1 Committing a larger area to the retirement village

3.3.1.2 A lower density in some, if not all areas of the retirement village to accommodate potential patrons that prefer lower density. It is however also true that some retirees prefer higher density for reasons of lower garden maintenance etc.

3.4 Objection:

"Daar is in die voorgestelde ooreenkoms geen aanduiding van die koper se ervaring met die beplanning, ontwikkeling en bedryf van 'n suksesvolle aftree-oord met sy gespesialiseerde ondersteunende fasiliteite nie. Die voorstel sal moet aandui watter bewese kundigheid gebruik gaan word, sou die koper dit nie self hê nie."

3.5 **Comment and response to objection:**

3.5.1 The first and foremost requirement for a project of this multi-faceted nature to be successful, is the ability to plan and implement it on a macro level – **to put the deal together and to make it work**. With the success of internationally recognized large scale multi-faceted projects such as the very successful De Zalze Winelands Golf Estate, Fransche Hoek Estate and many others under his belt, the developer is as qualified as he could be to make a resounding success of this project.

3.6 Objection:

"Daar is geen bindende voorstel dat die aftree-oord binne 'n redelik tyd ontwikkel sal word nie."

3.6.1 **Comment and response to objection:**

3.6.1.1 Clear time frames are provided for in clause 10 of the land sale agreement (three years) as to the time frame that is allowed for the statutory approval process which includes subdivision, rezoning, Agriculture, Environmental Impact Assessment, Heritage and Surveyor General.

3.6.1.2 In the approvals that may or may not be granted by the Municipality and other state organs and/or authorities, time frames will be given which will determine for how long the approvals will be valid and therefore forcing the implementation in a reasonable time frame.

3.6.1.3 It must be borne in mind that the developer commits substantial resources to the project and as such it is in its interest to proceed with the project as soon as possible. It is therefore not in the interest of the Developer to delay the project.

3.6.1.4 There is therefore a two-fold built-in security in the way the way the sales agreement has been structured in that:

- (i) Time frames are provided for in the contract.
- (ii) Further time frames will be dictated by the municipality as part of the approval process.
- (iii) The interests of the developer is to proceed as fast as possible, purely for financial reasons.
- (iv) The interests of the developer and the municipality is aligned to proceed as soon as possible.

3.7 Objection:

“Uit Mnr. Hattingh se voorlegging was dit duidelik dat dit iewers laat in die beoogde ontwikkelingsproses lê. Die prioriteit is duidelik die ontwikkeling van ‘n groot en relatief luukse dorpsgebied. Trouens, dit is nogal misleidend om die doel van die koper as die “Oprigting van ‘n Aftreeoord” aan te dui “

3.7.1 **Comment and response to objection:**

It is not clear on what statement, report and or correspondence Objector 2 bases his statement that the Developer prefers that the retirement village will only be done “late in the development process”. This is not factually correct.

The final program for implementation could unfortunately only be determined and approved as part of the statutory approval process and when all the required planning, services requirements, studies, designs etc have been done and considered by the authorities.

It is however safe to say that if the success of retirement projects in the area such as the one in Napier is used as a yard stick, that the retirement village will be implemented early in the project.

3.8 Objection:

“Volgens die voorgestelde ooreenkoms (par. 10.5) het die koper absolute vryheid om die tydskaal vir die hele ontwikkeling te bepaal, die hele voorstel te wysig, of selfs op enige stadium daarvan weg te stap. Hy sou natuurlik ook die eiendom kon verkoop. Dit hou vir die dorp die ernstige gevaar in dat beheer verloor word oor 22 hektaar van die beste grond vir uitbreiding, sodat die dorp (en ‘n aftree-oord) se ontwikkeling gesmoor of skeefgetrek sou kon word, terwyl dringende behoeftes van die gemeenskap nie bevredig word nie.”

3.8.1 **Clause 10.5 of the land sale agreement is phrased as follows:**

“The suspensive conditions in this clause have been inserted for the benefit of the Purchaser who may waive or abandon same, either in whole or in part upon written notice to the seller.”

The above clause simply means that in the event of the Developer electing to waive any of the suspensive conditions, which has been inserted for his benefit only, there is a mechanism to do so. The Developer cannot change time frames agreed to in the contract or as per approvals granted by the municipality or other authorities one-sidedly or unilaterally, nor can the Developer sabotage the project.

The Municipality is to approve the final development and can impose any conditions it deems fit at any stage of the development process.

Before the Developer can change the development as agreed, it must obtain the approval of the municipality as seller of the land and also obtain the approval of the municipality as local authority.

There are a large number of suspensive conditions that need to be fulfilled to make the project success for the Developer. It is not unusual in circumstances of this nature that certain conditions is only partially fulfilled, in which case the Developer carries additional risk.

Due to the complexity of the developments of this nature it must be open to the developer, if all requirements are not met, to make a sensible decision whether to waive strict compliance with the precise requirements of certain conditions. Failing having this option (to waive conditions), the risk for the developer is simply too large.

The objecting party must have regard to sub-clause 10.1.11 which requires the purchaser to meet the suspensive conditions "...as expediently as possible ..." As such the clause offers a solution if certain processes are not successful.

The developer is keen to procure fulfilment of the conditions in that this is the best solution. The Developer must however be in the position to save the project if some of the conditions cannot be met.

3.9 Objection:

"Daar is geen aanduiding van een of ander vorm van waarborg wat die dorp sal vrywaar teen die moontlikheid dat iets met die ontwikkeling kan skeefloop en die dorp dan bly sit met die koste om die terrein op te ruim nie. Die bates en finansiële vermoë van die spesifieke maatskappy aan wie verkoop word, is hier ook ter sake."

3.9.1 **Comment and response on objection:**

The Developer cannot build anything on the land before it is not transferred and paid for. There would therefore not be any need for cleaning of the site before such transfer. After transfer of the land the development is of the same nature as any other development such as for instance any of the commercial shopping centre developments which has not been burdened with a request for guarantees.

3.10 Objection:

"Soos ek reeds gesê het, sal ek en die Komitee elke geloofwaardige poging steun wat ons nader aan die ideaal van 'n aftree-oord vir Bredasdorp met al die gepaardgaande ekonomiese en werkskeppings-voordele sal bring. Dit impliseer egter dat kwessies soos bostaande ondervang moet word. Omdat die voorgestelde verkoopkontrak dit nie doen nie, maak ek daarteen beswaar"

3.10.1 We have dealt with the above mentioned objections. We also welcome the support of Objector 2 for the object of this agreement.

4. **D van der Heyde (Hereafter "Objector 3")**

4.1 Objection:

"Secondly, the amount of R1 540 000 is not fair market value as recommended by the independent valuers. The valuation amounts obtained are in relation to the plot that has a current "undetermined" zoning profile currently used for agricultural purposes. The Erf in question is however earmarked for residential property and will be rezoned as such. It is in my opinion unethical for Council to approve a valuation that is not based on a market related valuation for residential land."

The property developers will therefore be paying for 22,0000 Hectare of agricultural land instead of 22,0000 Hectare for residential land that has a far higher estimated market value, when rezoned to residential property. In support of the above, consider the adjacent property value that ranges from R700, 000 to R900, 000 for a 1000m². This is a market-related value that is applicable to a residential property. Erf 1148 has a much higher value than the amount Council approved it for, as it will be rezoned to residential and I appeal that Council recalls its decision.”

4.1.1 **Comment and response to objection:**

The independent valuers are independent professionals. The valuation of R 1 540 000 was quite correctly, based on the **current** status of the land. It could not be based on any possible future value based on some possible future zoning because it is not zoned as such yet, and there is no guarantee that it will ever be zoned for the intended purposes.

Furthermore, there is a substantial risk that it will not be rezoned at all. The entire risk of the rezoning and other statutory approvals are therefore entirely on the developer, including cost, time and opportunity cost which all happens on the Developers account.

It should also be noted that the 22 Hectares are not a separate erf but a very small part of erf 1148, which is 2399 hectares in extent and has an undetermined zoning. It is therefore not possible to purchase the land outright, as it is not separately transferable. If it was a separate erf, the Developer could have paid of the land now already and taken transfer.

It is not correct to compare adjacent plot prices with the 22 hectares for the following reasons:

The price of the adjacent plots includes:

- (i) The effect of rezoning and other statutory approvals - the Developer at the time paid for this process while being at risk of it perhaps not materializing.
- (ii) Pro-rata bulk contributions for bulk distribution of services and link services, including water purification, sewerage purification, electricity generation, road system to the site, contribution to land fill site and storage of water.
- (iii) Internal services such as water system, sewerage pipe system, electrical distribution system, roads, stormwater, security fencing, landscaping and the like.
- (iv) Link/bulk services such as water system, sewerage pipe system, electrical distribution system, roads, stormwater, security fencing, landscaping and the like.
- (v) Finance and funding costs which will include a risk premium.
- (vi) The fair and market related profit of the Developer.
- (vii) Professional specialists costs in relation to services for water, roads, electricity, urban planning, surveying, legal etc.
- (viii) The original land price for virgin undeveloped land.
- (ix) At least 5% - 7% estate agents commission.
- (x) Includes 14% VAT or other transfer duties.
- (xi) Transfer cost of attorneys.

It is important to appreciate that the Developer of the 22 hectares has to go through approvals processes at its entire risk and cost and spend the development costs as listed above, before it can sell land at market related prices comparable to the adjacent land.

4.2 “Lastly, the municipal valuation of for the Remainder of Erf 1148 is R7,395 000 and this was on 1 July 2015.”

4.2.1 **Comments and response to the objection:**

Erf 1148 is shown below in Surveyor General Diagram of Erf 1148 Bredasdorp – see figure 1 below. The area of the full erf 1148 is 2399 hectares.

The 22 hectares forms only a small part (0,09%) of the erf 1148 which is valued at R7 395 000,00 which translates to a value for the 22 hectares of **R 67 815,75** if the argument of objector 3 is followed.

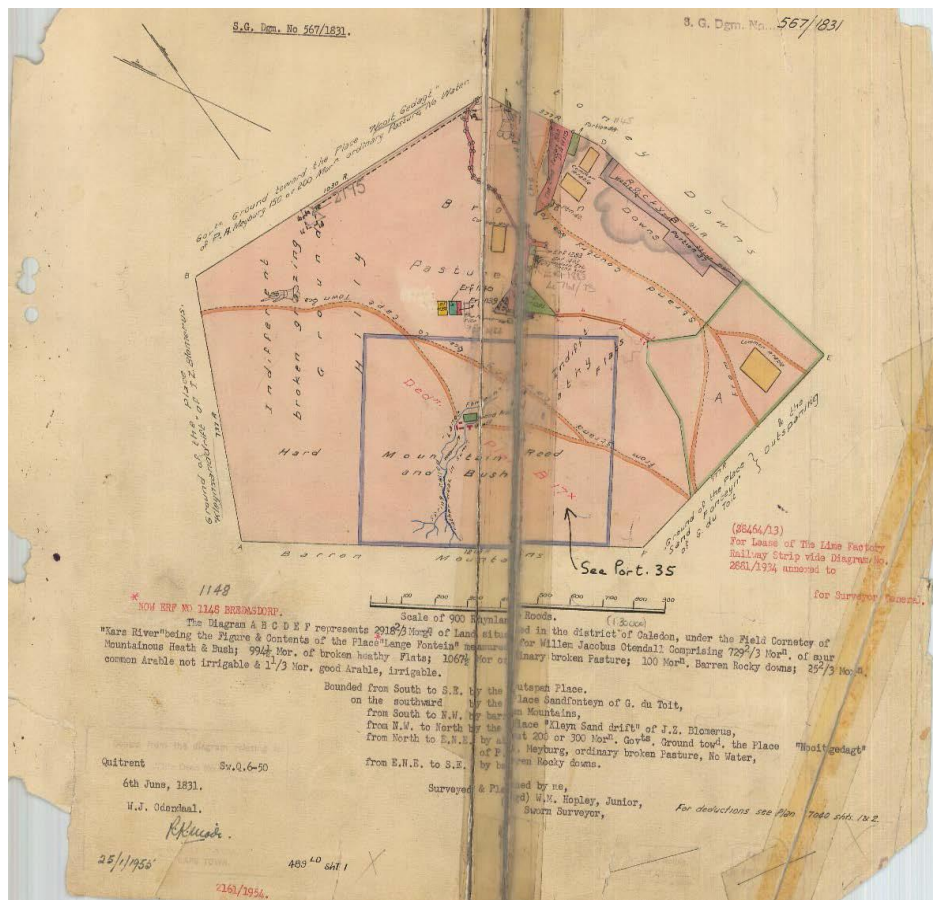


Figure 1: Erf 1148 - 2399 hectares

The land is however worth more and for this reason the parties agreed to a valuation by an independent valuer, a professional who has taken in account all relevant considerations made an independent determination of the value of the land.

MANAGEMENT RECOMMENDATION

That Council, after considering the objections and comments from the developer on the objections, UPHOLD the previous Council decision 197/2016 of 29 September 2016.

RESOLUTION 13/2017

That the matter be referred back in order to ensure that the report to Council includes all the comments and objections received.

10.2.2 **STATUS QUO: ERF 599, DUNKIRK STREET, WAENHUISKRANS / ARNISTON (W599 - TRP) (WARD 5)**

PURPOSE OF REPORT

That Council take note of the status quo of Erf 599 Waenhuiskrans / Arniston. The locality of the said property is shown on the map as Annexure A on **page 50**.

GENERAL INFORMATION

Current zoning	:	Single Residential and Street
Existing Use	:	Vacant- Half completed structure that consists of a basement area as well as a concrete slab
Size of the Property	:	2348m ²

BACKGROUND

The town planning application consisted of the following:

Rezoning of Erf 599, Waenhuiskrans / Arniston in terms of Section 17 of the Land Use Planning Ordinance, 1985 from Single Residential / Street Zone to Business Zone.

The character of the area is predominantly single residential in nature. The subject property is located next to the R316, opposite the Arniston Resort. With the Arniston Hotel located approximately 100 meter to the north.

ADVERTISING PERIOD FOR COMMENTS

The application was advertised on 28 November 2014 in the Provincial Gazette as well as the local newspaper - closing date for comments was 19 January 2015. Registered mail was also sent to the surrounding property owners, The Waenhuiskrans / Arniston Ratepayers Association, Cape Agulhas Business Chamber, The Community Policing Forum of Waenhuiskrans / Arniston, Department of Transport and Public Works and the Breede-Gouritz Catchment Management Agency. Furthermore, after numerous requests on behalf of the interested and affected parties, extension was given to submit comments/objections. Closing date for submissions was 31 January 2015.

Objections were received.

COUNCIL DECISION

On 31 March 2015 Council took the following decision (84/2015):

(i) *That Council approves the following:*

Rezoning of Erf 599, Waenhuiskrans / Arniston in terms of Section 16 of the Land Use Planning Ordinance, 1985 from Single Residential / Street Zone to Business Zone.

Above-mentioned approval is subject to the City Planning Conditions, as laid down in Section 42 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

(ii) *That the objectors be informed of Council's decision.*

LETTER TO APPLICANT

The above decision sent to the applicant on 8 June 2015 had inter alia the following condition:

"4. The applicant / owner / developer note that the rezoning approval will lapse within two years of the date of this letter, if all the conditions are not met."

LETTER: WAENHUISKRANS / ARNISTON RATEPAYER'S ASSOCIATION

On 25 January 2017 the WARA Executive Committee sent the following letter to the Municipal Manager:

Following the last formal meeting between WARA, the CAM Manager and ABC, under Mediation of Advocate Olivier, WARA continued, as agreed to engage directly with ABC and their architects to find a common solution to the design parameters applicable to ERF 599. These meetings took place at the offices of Kevin Gadd Architects on 16th August, 19th October and 30th November 2016.

You will recall that, as CAM Manager, Mr O'Neill had agreed at the first Mediation meeting, that the CAM would concede that any agreement reached between WARA and ABC would be endorsed by the CAM.

A new proposal for Zoning constraints was proposed in August by WARA. This proposal, within the limitations of the existing structure, would provide a new design outcome that would address the concerns of both ABC and WARA.

The design outcome, interpreted by the Architects has now been agreed by both ABC and WARA ("the Design" see attached).

We believe the Design to be potentially in keeping with the prevailing environmental quality, and a building with aesthetic value.

Although the Design is at a conceptual level, it is sufficiently developed to determine Planning parameters, as well as to identify important aesthetic attributes.

The CAM as owner of erf 599 and the Local Authority, must now put in place the conditions for Zoning that will ensure that the integrity of the Design is retained through development and construction.

WARA and ABC, jointly propose the following :

1. SITE DEVELOPMENT PLAN

1.1 The CAM appoint Architects to prepare a Site Development Plan, (SDP) for Erf 599.

We recommend that, having prepared the Design, Kevin Gadd Architects are most competent to carry out this work in the best interests of all parties, including the CAM.

1.2 The SDP, prepared in terms of the CAM Integrated Zoning Scheme, should reflect:

1.2.1 All conditions of the Design in terms of FAR bulk, Coverage, Set-backs and heights, which shall be the maximum permitted for each criteria, but may be less than the "Design".

1.2.2 The disposition of accommodation, Access to the building, as well as utilities and parking as per the Zoning Scheme, and retain all architectural façade detail entirely.

2. CONDITIONS OF SALE

2.1 The Approved SDP will form a primary Condition of Sale defining conditions for development of the Erf 599.

- 2.2 Notwithstanding the continuing process of Sale - SDP and planning - the CAM will proceed with Rezoning of erf 599 to Special Business Zone, whose conditions reflect those of the Approved SDP.

We note that the above clauses are intended to reflect the outcome of our Agreement, as between the ABC, WARA and by implication the CAM, to Conditions for Zoning, Architectural treatment that will be applicable to any future development of Erf 599, regardless of who the future Owner and or Developer will be. Other than Conditions set out above it is assumed the Erf will be sold in terms of Municipal Systems legal requirements.

3. UNRESOLVED LITIGATION

- 3.1 As regards the formal Litigation, held in abeyance during the Mediation process, there remains unresolved the first 'leg' of WARA'S litigation with the CAM, being certain Conditions of Sale of the property at public auction.
- 3.2 As you are aware this leg challenged the legality of the CAM's Agreement with ABC, as being a 'concealed' pre-condition to a public auction, favoring one party only. WARA contends that the Agreement conflicts with the conditions and requirements for an open and transparent sale of Municipal property, in terms of the Municipal Financial Management Act.
- 3.3 However, as part of the Mediation Settlement, and provided that the second leg of the litigation, as described in this letter above, is agreed to in its entirety, WARA will agree to allow that, without conceding our claim of its illegality, the CAM may dispose of ERF 599 in their own best interests, but subject to the agreed Design conditions.

WARA would in effect withdraw its interest in this leg of the Case.

3.4 Costs:

A further condition is that all costs to date in both the litigation referred to and the Mediation, be borne by each of the Parties to the agreement as being their own costs.

- 3.5 Should all of the foregoing be agreed to, being Clauses 1,0, 2.0 and 3,0. then WARA will withdraw all pending litigation, each party to pay their own costs.
4. WARA suggests that the Mediation process be further held in abeyance pending the receipt of CAM's response to the above proposal. In the event of this not being resolved before the present zoning is to expire, we understand that it can be relatively easily be extended for a further period.

WARA looks forward to your responses.

We recommend that, having prepared the Design, Kevin Gadd Architects are most competent to carry out this work in the best interests of all parties, including the CAM.

BURNING ISSUES

1. Lapsing of Rezoning

The Town Planning Department informed the potential developer of this property about the lapsing – and the following e-mail was received:

As I understand it, the Western Cape Land Use Planning Act has replaced LUPO. Section 33 of the said Act provides as follows:

33. (1) *Despite the repeal of the Ordinance by section 77- (a) a zoning scheme, including a zoning map, register and scheme regulations in existence in terms of section 7, 8, 8A, 9, 10 or 12 of the Ordinance immediately before the commencement of this Act, remains in force, and sections 2, 7 to 14, 39 to 41, 46 and 47 of the Ordinance apply to that zoning scheme, as if not repealed, unless those provisions are inconsistent with this Act or an applicable by-law; and (b) a use right and a lawful zoning in terms of that zoning scheme remains in force until amended in terms of an applicable by-law.*

This simply means that section 16 of LUPO has been removed from the statute books and is no longer applicable.

It was section 16 of LUPO which made provision for the lapsing of zoning in the event that the rezoning was not utilised within a period of two years. That provision no longer applies. This means that the zoning does not lapse unless the new legislation makes provision for it

The new legislation makes provision for the lapsing of zoning into circumstances: when there has been a subdivision, or a consolidation. One can understand why: the nature of the erf will have changed

Erf 599 does not fall into either of the aforesaid categories as it was created many years ago, when CAM first contemplated the development of Erf 599

It is thus clear that the zoning of Erf 599 will not lapse at the end of the two-year period after its rezoning.

If you disagree with this interpretation, please explain why.

OPINION (KOOS CELLIERS)

Ek is nie so vertrou met die wetgewing nie, maar is die antwoord op die vraag nie te vinde in a 78 van LUPA nie? :

Savings and transitional provisions

78. (1) Any approval, designation, consent, right or authorisation issued, granted or in force in terms of a law repealed by this Act, and in existence immediately before the commencement of this Act, remains in force and is regarded to have been issued or granted in accordance with this Act and in terms of the corresponding provisions of applicable by-laws for the period for which, and subject to the conditions under which, it was issued or granted under the repealed law until withdrawn, amended or extended in terms of applicable by-laws.

OPINION (DEADP)

Our e-mail dated 1 Feb 2017 and your further enquiry below refers. There are a number of matters to consider here:

1. The rezoning was granted in March 2015 as a LUPO rezoning.
2. If nothing else was specified in the approval then LUPO section 16(2)(i) would have determined the validity period of the rezoning granted to be 2 years.
3. However, in the Council resolution on this rezoning and the subsequent letter of approval, it was made a very specific condition (*and not referring to LUPO section 16(2)(i)*) that *"The applicant/owner/developer note that the rezoning approval will lapse within two years of the date of this letter, if all the conditions are not met."*
4. It is evident that not all conditions were met. This has the implication that the new zoning granted has not vested and can thus still lapse.
5. Since the rezoning has not lapsed yet, (*it will in due course*) there is still an opportunity to apply for an extension of the validity period of this rezoning, prior to the lapsing date.

6. Since the 2 year validity period was specifically made a condition of approval, which LUPA section 42 provided for, it will be necessary that 2 applications be submitted (*which may be done simultaneously*) to your municipality in terms of the municipality's land use planning by-laws:
 - a. Firstly an application for an extension of the validity period of an approval in terms of section 15(2)(i); and
 - b. secondly, since the validity period was a condition of approval, an application for an amendment, deletion or imposition of conditions in respect of an existing approval, in terms of section 15(2)(h).
7. The above in our view is how this matter should be handled. However, the email below also alleges 2 aspects to be responded on namely:
 - a. that the rights granted live on because with the implementation of LUPA, LUPA (*inclusive of section 16*) was repealed; and
 - b. the perceived support for this notion found in section 33 of LUPA.
8. To this end it is submitted that -
 - a. Section 33 of LUPA is a provision specifically aimed to keep existing LUPA zoning schemes alive and valid until such time as being replaced by the new single zoning scheme. It only addresses the continuation of such schemes and is a transitional/saving measure in this specific regard. It is not a transitional measure to deal with LUPA approvals during the period of transition between LUPA and LUPA. (*Since the new zoning did not vest as set out in 4. above this section has no applicability in this case.*)
 - b. Section 78(2) has been inserted in LUPA for this specific purpose and specifies that *"Any approval, designation, consent, right or authorisation issued, granted or in force in terms of a law repealed by this Act, and in existence immediately before the commencement of this Act, remains in force and is regarded to have been issued or granted in accordance with this Act and in terms of the corresponding provisions of applicable by-laws for the period for which, and subject to the conditions under which, it was issued or granted under the repealed law until withdrawn, amended or extended in terms of applicable by-laws."*
9. So this section kept the rezoning approval alive, subject to the conditions under which it was approved and even if there was no specific condition as set out in your condition 4. the period of 2 years of section 16(2) would still have been applicable.

We trust that the above will be of assistance to you. Should you hold a different view or have further enquiries in this regard, please revert back to us.

2. Site Development Plan and Zoning

Section 2.2 of Messrs WARA's letter will be dealt with the submission of a Site Development Planning. CAM Integrated Zoning Scheme does not have a Special Business Zone.

On 8 February 2017 the Municipal Manager sent the following e-mail to Messrs Kevin Gadd Architects:

We, as the municipality, need a Site Development Plan (SDP), with the intention of using it as a condition of sale and annexed to the sale agreement, for the future development of the site. The design that you have done for the building that was negotiated between Robert and WARA must form the basis of this plan. It needs to include height, coverage, aesthetic and any other issues that was agreed upon between the two abovementioned parties when you worked with them in producing the preliminary design that was, as I understand it, accepted by both.

WARA proposed that a SDP should be included in the sale agreement and Robert as well as the municipality agreed to this. From the municipality's side we are responsible for the drafting of such a plan and therefore my request is that you provide us with a formal quote for drafting thereof.

On the same day the following response was received:

Thank you for your mail. I will revert to you with a formal quote in due course.

*Regards
Kevin Gadd*

MANAGEMENT RECOMMENDATION

- (i) That Council take note of the lapsing of the rezoning of Erf 599 Waenhuiskrans / Arniston on 8 June 2017.
- (ii) That the extension of the rezoning will only be done as set out in DEADP's opinion.
- (iii) That the Site Development Plan be included in the sale agreement and that Council, Mr Haarburger and WARA agree to this.

RESOLUTION 14/2017

- (i) That the management recommendation be accepted as resolution of Council.
- (ii) That Council be responsible for the cost of the Site Development Plan, not exceeding the amount of R200 000,00.

(Raadslid Jacobs teken sy teenstem aan.)

10.3 TEGNIËSE DIENSTE / TECHNICAL SERVICES

10.3.1 AREA F EXTERNAL STORMWATER CHANNEL (B1148 F - DTS) (WARD 2)

PURPOSE OF REPORT

Council's permission to construct an external storm water channel in Area F, low cost housing in Bredasdorp.

BACKGROUND

Before the houses can be build the 1:100 year flood needs to be commissioned as criteria for infrastructure services. There were three options given by the implementing agent, ASLA, which consist of the following:

1. An open trapezoidal channel to the amount of R14.65m (excluding VAT)
2. 4 x 1200 mm Pipes to the amount of R28.95m (excluding VAT)
3. 3 x 1.8 x 0.9 mm Concrete culverts to the amount of R21.58m (excluding VAT)

See letter dated 29 November 2016 from Hessequa Engineers attached on **page 51**.

One of these options has to be constructed before any houses can be build and before Province will approve the funding for Area F.

FINANCIAL IMPLICATIONS

As these funds must come from MIG, there is no other option but to choose the most economical option, which is alternative one, as our allocation for MIG funding per annum is R11m. The implementing agent can do this over two financial years.

LEGAL IMPLICATIONS

See addendum attached on **page 52 to 55** between ASLA and Cape Agulhas Municipality (SCM29/2012/13).

PERSONNEL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

That Council approves the construction of an external storm water channel for Area F as per option 1 to the amount of R14.65m (excluding VAT).

RECOMMENDATION: PUBLIC WORKS COMMITTEE

That Management's recommendation be accepted.

RESOLUTION 15/2017

That the recommendation of the Public Works Committee be accepted as resolution of Council.

10.3.2 **DEPROKLAMASIE VAN ONDERGESKIKTE PAD NR 4401, L'AGULHAS/ SUIDERSTRAND NA PROVINSIALE PAD (16/3/B, 16/3/4/2 - DTD) (WYK 5) / DEPROCLAMATION OF MINOR ROAD NO 4401, L'AGULHAS/SUIDERSTRAND TO PROVINCIAL ROAD (16/3/B, 16/3/4/2 - DTS) (WARD 5)**

DOEL VAN VERSLAG / PURPOSE OF REPORT

Die Raad se goedkeuring om Ondergeskikte Pad, Nr 4401, L'Agulhas/Suiderstrand te deproklameer vanaf Munisipale Pad na Provinsiale Pad. / *Council's permission for the deproclamation of Minor Road, No. 4401, L'Agulhas/Suiderstrand from Municipal Road to Provincial Road.*

AGTERGROND / BACKGROUND

Die Suiderstrand-pad, Ondergeskikte Pad Nr 4401 was onder die jurisduksie van die Wes-Kaapse Provinsie. In 2004 begin KAM 'n ondersoek na "alternatiewe toegangroetes" na Suiderstrand. 'n Maatskappy (Planpart) is aangestel om moontlike roetes te ondersoek en voorstelle aan die Raad te maak.

In die ondersoek word 4 alternatiewe roetes geïdentifiseer, naamlik:

- (A) Die bestaande gruispad
- (B) Via Hoffmanstraat - Zoetendalrylaan
- (C) Via Skoolstraat - Zoetendalrylaan
- (D) Via 'n nuwe pad (Nasionale Hawe-Owerheid / Theron Trust)

Die Raad gaan deur 'n volledige publieke deelnameproses (advertensie is geplaas op 9 Desember 2004 en insette het gesluit op 31 Desember 2004). Die ontwikkeling van die toegangspad was ook deel van die totale ontwikkeling van die suidpunt. Die publieke deelnameproses het ook Departement van Transport en Publieke Werke ingesluit (skrywe 23 Februarie 2005.).

'n Totaal van 62 kommentare word ontvang en die uitslag was as volg:

Roete A:	95.1%
Roete B:	4.8%
Roete C:	3.2%
Roete D:	6.5%

Nuwe voorstelle: 3.2% (soos aan die Raad gerapporteer op 22 Februarie 2005 - **UBK besluit 51/2005**) en daar word besluit dat die bestaande roete behou moet word, met roete D as alternatief. Op 20 Mei 2005 ontvang KAM 'n skrywe vanaf die Provinsiale Padingenieur wat bevestig dat Provinsie nie 'n probleem het indien die pad geskuif kan word nie. SANParke beveel steeds die meer noordelike roete aan (Roete D) (skrywe dateer 27 Mei 2005).

Op 27 Junie 2006 besluit KAM dat die bestaande pad opgradeer moet word met 'n permanente geplaveide oppervlakte (BK 151/2006) met ODM fondse. Op 27 Julie 2006 ontvang KAM 'n skrywe vanaf Overberg Distriksmunisipaliteit waarin bevestig word dat die ODM nie meer geld beskikbaar stel vir die herstel van die genoemde pad nie (ODM het in daardie stadium as "padagent" vir Provinsie opgetree) en beveel KAM aan om aansoek te doen vir die deproklamering van die pad.

Op 28 Augustus 2006 besluit KAM (BK233/2006) om aansoek te doen om die Ondergeskikte Pad, Nr 4401 tussen L'Agulhas en Suiderstrand te deproklameer na 'n Munisipale Pad. Befondsing word aangevra vanaf Provinsiale Departement Vervoer en Openbare Werke (opgradering sou nagenoeg R5m beloop - met twee kroonlae + dubbelseëllaag).

Op 30 Oktober 2007 besluit KAM (RB 229/2007) om "ingevolge Art 26 van Ordonansie 19/1976", oordrag van die pad te neem. Die amptelike oordrag van die Ondergeskikte Pad nr 4401 tussen L'Agulhas en Suiderstrand word amptelik op 4 Desember 2009 afgekondig (P.K. 450/2009, Provinsie Wes-Kaap: Provinsiale Koerant 6681). Daar was ook 'n ander Provinsiale Kennisgewing, Nr 450/2009 gedateer 23 November 2009. KAM is met ingang van 4 Desember 2009 die aangewese padowerheid.

Op 28 April 2010 neem die Raad kennis van die oordrag van die funksie en besluit om die instandhoudingsprogram uit te brei om ook die onderhoudswerk aan die genoemde pad in te sluit.

Die herproklamasie van die pad terug na 'n provinsiale pad is reeds op hoë vlak met Provinsie bespreek wat hul gunstig hieroor uitgespreek het. Die pad verbind twee dorpe met mekaar en is in werklikheid 'n Provinsiale Pad.

Die Suiderstrand-pad is by tye in 'n baie slegte toestand en vele klagtes word ontvang van inwoners en ander padgebruikers. Kaap Agulhas Munisipaliteit beskik nie oor die nodige fondse om die pad te onderhou of op te gradeer nie. Die beraamde koste vir opgradering beloop nou R20m.

Provinsie het aangedui dat hul KAM nie kan befonds om die pad op te gradeer nie, maar wel die pad sal opgradeer as dit 'n provinsiale pad is.

FINANSIËLE IMPLIKASIES / FINANCIAL IMPLICATIONS

Geen.

WETLIKE IMPLIKASIES / LEGAL IMPLICATIONS

1. Albei partye moet instem tot die deproklamasie.
2. Artikel 26 van Ordonnansie 19 van 1976.

PERSONNEL IMPLICATIONS / PERSONEEL IMPLIKASIES

Geen. / None.

BESTUURSAANBEVELING / MANAGEMENT RECOMMENDATION

Dat die Raad toestemming verleen vir die deproklamasie van Ondergeskikte Pad Nr 4401 L'Agulhas/Suiderstrand vanaf Munisipale Pad na Provinsiale Pad. / *That Council approves the deproclamation of Minor Road No 4401 L'Agulhas/Suiderstrand from Municipal Road to Provincial Road.*

BESLUIT 16/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

10.3.3 **AANSUIWERING VAN WATERNETWERK ONDERHOUDSBEGROTING 2016/17****DOEL VAN VERSLAG**

Ten einde die tekort op die 2016/17 Waternetwerk Onderhoudsbegroting aan te suiwer.

AGTERGROND

Tydens die aansuiweringsbegrotingsproses is die waternetwerk onderhoudsbegroting nie voldoende aangesuiwer nie weens 'n administratiewe oorsig en gevolglik is die fondse hiervoor reeds uitgeput terwyl daar nog vier maande van die finansiële jaar oor is.

Water is 'n essensiële diens en kan die onderhoud die infrastruktuur nie tot stilstand kom nie. Die tekort is nagenoeg R300 000,00 en die ander begrotingsposte in die Water Afdeling kan nie afwaarts aangepas word nie.

Die Raad word dus versoek om die bedrag van R300 000,00 by te voeg by die Waternetwerk Onderhoudsbegroting ten einde kontinuiteit in dienslewering te verseker.

WETLIKE IMPLIKASIES

Voldoening aan die Waterwet en Munisipale Verordeninge.

FINANSIËLE IMPLIKASIES

R300 000,00

PERSONEEL IMPLIKASIES

Geen.

BESTUURSAANBEVELING

Dat die Waternetwerk Onderhoudsbegroting met 'n bedrag van R300 000,00 uit besparings aangesuiwer word.

BESLUIT 17/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

10.4 **FINANSIËLE DIENSTE / FINANCIAL SERVICES**

10.4.1 **ODUIT AKSIEPLAN 2015/16 (OPCAR): MAANDELIKSE VORDERING - JANUARIE EN FEBRUARIE 2017**

DOEL VAN VERSLAG

Oorweging van die vordering met die goedgekeurde 2015/16 Oudit Bevindinge Aksieplan (OPCAR) vir die maande Januarie en Februarie 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 56 tot 64** opgeneem en bepaalde regstellende stappe is bepaal om die bevindinge aan te spreek. Die vordering word ook aan die Oudit- en Prestasie-Oudit 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 in die plan is nou afgehandel en word aan die Raad voorgelê vir kennisname. Daar sal, derhalwe ook geen verdere maandelikse rapportering wees ten opsigte van hierdie betrokke ouditbevindinge nie.

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIES

Geen.

WETLIKE IMPLIKASIES

Geen.

BESTUURSAANBEVELING

Dat die Raad die vordering met die 2015/16 Ouditeur-Generaal aksieplan oorweeg en aanvaar.

BESLUIT 18/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11. **ITEMS WAT OP 14 FEBRUARIE 2017 BY DIE UBK GEDIEN HET EN AAN DIE RAAD VOORGELê WORD VIR OORWEGING**

11.1 **AANSOEK OM VERVREEMDING (KOOP) VAN ERF 935, NAPIER (COLLAB: 156324) (DKD/LDC) (WYK 1)**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van me Johanna Jaars ten einde erf 935, Napier te koop. (liggingsplan aangeheg op **bladsy 65**).

ALGEMENE INLIGTING

Eienaars	:	KAM
Eiendom	:	Erf 935, Napier
Ligging	:	Oktoberlaan 13
Erf Grootte	:	565m ²
Huidige Sonering	:	Enkel Residentieël

AGTERGROND

'n Skriftelike versoek is van me Johanna Jaars ontvang om erf 935, Napier by die Raad te koop om as 'n crèche en sopkombuis aan te wend.

MARKWAARDASIE

R9 500,00

FINANSIËLE IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

Council policy	Alienation of land
MFMA	<ol style="list-style-type: none"> Sect 14(2)(a): asset not required for minimum level of basic services. Sect 14(2)(b): consider fair market value and economic and community value to be received in exchange for the asset. Items in 1 and 2 only to be complied with if the asset to be transferred is a high value asset (see definition of MATR below). Sect 33: Contracts having long term financial implications.
MATR	<ol style="list-style-type: none"> Definition of "high value asset": "fair market value of the capital asset exceeds any of the following amounts: <ol style="list-style-type: none"> R50 million; One percent of the total value of the capital assets of the municipality.... An amount determined by resolution of the council of the municipality which is less than (a) or (b). Definition of "realisable value": fair market value <u>less</u> estimated costs of completion. Definition of "right to use, control or manage": when granting such rights do not amount to permanent transfer or disposal. Regulation 5 (decision-making). Regulation 6 (public participation)
SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth
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: <ol style="list-style-type: none"> by displaying the documents at the municipality's head and satellite offices and libraries; by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and 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.
Town Planning legislation	No application is required.

DEPARTEMENTELE KOMMENTAAR**MUNISIPALE BESTUURDER**

Please follow due asset transfer procedures.

DKD

Geen beswaar.

DGD

No objections.

DSID

Geen invloed op die dienste.

ADEMD

All electricity costs for the owner.

BBB

Aansoek word ondersteun.

BSB

N935

BSD

No objection.

FINANSIËLE DEPARTEMENT

Stelsel dui reeds "J J Carstens - KAM" aan op rekord, maar nota's dui duidelik nog aan dat dit aan KAM behoort. Daar moes dus jare terug reeds 'n aansoek gewees het vir die eiendom dat oordrag moontlik nog net moet geskied. Maak seker of die naam J J Carstens of kerksnaam moet wees. Sien geen inligting omtrent 'n koopsom op die SAMRAS stelsel nie.

LAND DISPOSAL COMMITTEE BESLUIT: LD 91/2016

- (i) Dat die genoemde erf of publieke tender geplaas word.
- (ii) Dat die item na die Raad verwys word vir oorweging.

BESTUURSAANBEVELING

- (i) Aangesien die eiendom ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van erf 935, Napier.
- (ii) Dat die genoemde erf op publieke tender geplaas word.

AANBEVELING: KORPORATIEWE DIENSTE KOMITEE - 7 FEBRUARIE 2017

Dat die Bestuursaanbeveling aanvaar word.

OP 14 FEBRUARIE 2017 NEEM DIE UBK DIE VOLGENDE BESLUIT (BK14/2017)

Dat die Korporatiewe Dienste Komitee se aanbeveling as besluit van die Burgemeesters-komitee aanvaar word.

BESTUURSAANBEVELING

Vir oorweging deur die Raad.

BESLUIT 19/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2 AANSOEK OM VERVREEMDING (KOOP) VAN ERF 1730, NAPIER (COLLAB: 157134) (DKD/LDC) (WYK 1)

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van me N B Walele ten einde erf 1730, Napier te koop om 'n besigheid te bedryf (liggingsplan aangeheg op **bladsy 66**).

ALGEMENE INLIGTING

Eienaars	:	KAM
Eiendom	:	Erf 1730, Napier
Ligging	:	Wesstraat
Erf Grootte	:	1557m ²
Huidige Sonering	:	Sake

AGTERGROND

'n Skriftelike is van me N B Walele ontvang om erf 1730, Napier by die Raad te koop om as 'n besigheid aan te wend.

MARKWAARDASIE

R35 000,00

FINANSIële IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

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

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.
Town Planning legislation	No application is required.

DEPARTEMENTELE KOMMENTAAR**MUNISIPALE BESTUURDER**

No objection if the erf is zoned accordingly and due process for transfer is followed.

DGD

No Objection.

DSID

Geen beswaar teen die versoek die grense moet eers bevestig word daar loop 'n toegangspad na die begraafplaas wat dalk oor die erf loop.

DFD

GEEN

ADEMD

There are MV and LV overhead distribution lines in front of the property in Wes Street but no underground services on the property. All costs of connection are for the owners account.

BAD

Ek het geen beswaar nie, solank die volgende in plek is nie:

1. Stadbeplannings prosesse afgehandel is nie.
2. Die erf wel in die aktekantoor geregistreer is nie.
3. Dit teen 'n markverwante prys verkoop word.
4. Dit deur 'n publieke deelname proses gaan.
5. 'n Kooporeenkoms opgestel word en betaling aan raad onmiddelik geskied soos deur die ooreenkoms bepaal.

BSB

Geen beswaar. Sakeperseel wat op publieke veiling verkoop kan word

BBB

Die aansoek word ondersteun maar die nodige prosesse moet gevolg word, en deur Land Disposal hanteer word.

LAND DISPOSAL COMMITTEE BESLUIT: LD 85/2016

- (i) Dat die erf op publieke tender geplaas word.
- (ii) Dat die item na die Raad verwys word vir oorweging.

BESTUURSAANBEVELING

- (i) Aangesien die eiendom ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van Erf 1730, Napier.
- (ii) Dat die genoemde erf op publieke tender geplaas word.

AANBEVELING: KORPORATIEWE DIENSTE KOMITEE - 7 FEBRUARIE 2017

Dat die Bestuursaanbeveling aanvaar word.

OP 14 FEBRUARIE 2017 NEEM DIE UBK DIE VOLGENDE BESLUIT (BK15/2017)

Dat die Korporatiewe Dienste Komitee se aanbeveling as besluit van die Burgemeesters-komitee aanvaar word.

BESTUURSAANBEVELING

Vir oorweging deur die Raad.

BESLUIT 20/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.3 **AANSOEK OM VERVREEMDING (KOOP) VAN GEDEELTE ERF 2518, BREDASDORP (COLLAB: 134767) (DKD/LDC) (WYK 4)**

Om oorweging te skenk aan die versoek van Suideroord Tehuis ten einde erf 2518, Bredasdorp te koop vir die bou van wooneenhede vir bejaardes (liggingsplan aangeheg op **bladsy 67**).

ALGEMENE INLIGTING

Eienaars	:	KAM
Eiendomme	:	Erf 2518, BREDASDORP
Ligging	:	Langefonteinweg
Huidige sonering	:	Publieke Oopruimte
Bestaande oppervlakte	:	2.8 ha
Voorgestelde oppervlakte	:	1.7ha

AGTERGROND

'n Skriftelike versoek is van Suideroord Tehuis ontvang om 'n gedeelte erf 2518, Bredasdorp by die Raad te koop om as wooneenhede vir bejaardes aan te wend.

Suideroord Tehuis sowel as Huis Klippedrift is tans KAM se enigste fasiliteite om versorging te bied aan ongeveer 256 van KAM se ouer persone wat jaarliks toeneem in getalle. Sedert 1999 het spesifiek Suideroord Tehuis talle pogings aangewend om ekonomiese eenhede te vestig, ten einde die beskikbare huisvesting in die Hoofgebou aan te wend vir die versorging van ook sub-ekonomiese en verswakte ouer persone.

MARKWAARDASIE

R800 000,00

FINANSIële IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

Council policy	Alienation of land
MFMA	<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> 1. Definition of "high value asset": <i>"fair market value of the capital asset exceeds any of the following amounts:</i> <ol style="list-style-type: none"> 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 <u>less</u> 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)	<p>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:</p> <ol style="list-style-type: none"> (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.
Town Planning legislation	No application is required.

DEPARTEMENTELE KOMMENTAAR**Munisipale Bestuurder**

In die lig daarvan dat die raad die gronde net ten noordooste hiervan geogmerk het vir 'n affreeoord en weereens op 31 Maart besluit het dat daar weereens ontwikkelingsvoorstelle aangevra word vir 'n affreeoord is hierdie aansoek voortydig na my mening. Ek stel voor dat ons eers die besluit van die raad afhandel voordat ons enige verdere versoeke tot die verband hanteer.

DIREKTEUR: SIVIELE INGENIEURSDIENSTE**Direkteur**

Daar is dienste in die omgewing en sal die ontwikkeling wel moontlik wees; maar op die grond loop afvoer water kanalle en daar is ook 'n boorgat.

DIREKTEUR: KORPORATIEWE DIENSTE**Direkteur**

Geen beswaar nie, solank alles aan die nodige stadsbeplanning vereistes voldoen.

Bestuurder: Administratiewe Dienste

Aansoek word ondersteun en sal 'n aanwinst wees vir die totale omgewing.

DIREKTEUR: ELEKTROMEGANIESE DIENSTE**Ass. Direkteur**

Ek het geen probleem met krag voorsiening daar nie. Koste sal net vir die ontwikkelaar se rekening wees

WYKSKOMITEE: WYK 4**Raadsheer J Nieuwoudt**

Ek het nie n probleem met die aansoek nie, behalwe dat die speelpark en skaatsbaan binne die gebied val. Indien die hele gedeelte verkoop sou word, moet daar 'n nuwe skaatsbaan en speel park opgerig word in oopruimte erf nr. 2596.

R Strydom

Johan ons moet hierdie versoek sterk ondersteun.

L Marais

Ek dink dit is 'n goeie plan om nog behuising te skep. Die feit dat hulle fasiliteite wil skep vir terminaal siek mense en ook vir rehabilitasie, maak dat dit 'n positiewe beweging in die regte rigting is. Hier is 'n definitiewe tekort aan behuising oor die algemeen, nie net vir die senior burgers nie.

LAND DISPOSAL COMMITTEE BESLUIT: LD 22/2016

- (i) Dat die aansoek van Suideroord Tehuis aanbeveel word.
- (ii) Dat die hersonering van die gedeelte erf vir die aansoeker se rekening sal wees.
- (iii) Dat 'n omgewingsimpakstudie gedoen word.

BESTUURSAANBEVELING

- (i) Dat, aangesien die eiendom ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van gedeelte erf 2518, Bredasdorp aan Suideroord Tehuis.
- (ii) Dat die hersonering van gedeelte erf, vir die aansoeker se rekening sal wees.
- (iii) Dat 'n omgewingsimpakstudie gedoen word en die koste deur die tenderaar betaal sal word.
- (iv) Dat die genoemde erf op publieke tender geplaas word.
- (v) Dat 'n verdere twee waardasies aangevra word.

AANBEVELING: KORPORATIEWE DIENSTE KOMITEE - 7 FEBRUARIE 2017

Dat die Bestuursaanbeveling aanvaar word.

OP 14 FEBRUARIE 2017 NEEM DIE UBK DIE VOLGENDE BESLUIT (BK16/2017)

- (i) Dat die Korporatiewe Dienste Komitee se aanbeveling as besluit van die Burge-meesterskomitee aanvaar word.
- (ii) Dat die onderverdeling van erf 2518 eers plaasvind voordat bogenoemde prosesse in werking tree (sodat die speelparkie gedeelte uitgesluit is).

KOMMENTAAR: WYK 4

Die Wykskomitee ondersteun die aansoek (spesifiek vir wooneenhede vir bejaardes).

BESTUURSAANBEVELING

Vir oorweging deur die Raad.

BESLUIT 21/2017

- (i) Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat die onderverdeling van erf 2518 eers plaasvind voordat bogenoemde prosesse in werking tree (sodat die speelparkie gedeelte uitgesluit is).

11.4 **AANSOEK OM VERVREEMDING (KOOP) VAN ERF 1666, STRUISBAAI (COLLAB: 156121) (DKD/LDC) (WYK 5)**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van mnr Henri Cremer ten einde erf 1666, Struisbaai te koop.

ALGEMENE INLIGTING

Eienaar : KAM
 Eiendom : Erf 1666, Cinerariastraat, Struisbaai
 Erf Grootte : 3204m²
 Huidige Sonering : Sake

AGTERGROND

Skriftelike versoeke was vanaf mnr Henri Cremmer en mnr L Greeff ontvang om erf 1666, Struisbaai by die Raad te koop.

MARKWAARDASIE

R520 000,00

FINANSIËLE IMPLIKASIES

Vervreemdingsinkomste vir KAM.

WETLIKE IMPLIKASIES

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	<p>1. Definition of "high value asset": "fair market value of the capital asset exceeds any of the following amounts:</p> <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>2. Definition of "realisable value": fair market value <u>less</u> estimated costs of completion.</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>4. Regulation 5 (decision-making).</p> <p>5. Regulation 6 (public participation)</p>
SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth
Systems Act (public participation)	<p>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:</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>
Town Planning legislation	No application is required.

DEPARTEMENTELE KOMMENTAAR

MUNISIPALE BESTUURDER

This erf must be sold by public auction as I know there is more than one person who is interested in it. Get a market related valuation and speak to Dawie Maritz for the auction.

DKD

No problem.

DGD

No Objection

ADEMD

There is LV electricity underground cable rerouting on that property.

DSID

Word nie vir dienste benodig nie; daar was gekyk om die toegangspad oor die erf te neem, daar is ander alternatiewe ook aangaande die toegangspad.

BBB

Aansoek word ondersteun. Geen beswaar.

BSD

No objection.

BSB

1. Verkeerde liggingsplan
2. Vervreemding van S1666 op publieke tender.
3. GEEN verdere industriële aktiwiteite

BAD

Ek kan die ontwikkeling ondersteun. Daar is al navrae vir 'n ontwikkeling oor die afgelope 10 - 15 jaar. Ontwikkeling van die erf sal waarde tot Struisbaai toevoeg.

FINANSIËLE DEPARTEMENT

Per Collab ontvang eers op 20/6/2016 in Belastingseksie. Toepaslike nota's aangebring op Notepad van erf 1666 Struisbaai op Samras-stelsel. Sien ook Notule van 22/2/2011 en UBK Besluit BK 275/2007 wat moontlik van toepassing kan wees volgens vorige nota's.

LAND DISPOSAL KOMITEE BESLUIT: LD 74/2016

- (i) Dat die erf op publieke tender geplaas word.
- (ii) Dat 'n markwaardasie verkry word.
- (iii) Dat die formalisering van die parkeerarea en die onderverdeling van die erf vir die tenderaar se onkoste sal wees.

BESTUURSAANBEVELING: 30 NOVEMBER 2016

- (i) Aangesien die eiendom, ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van erf 1666, Struisbaai.
- (ii) Dat die genoemde erf op publieke veiling verkoop word.
- (iii) Dat die formalisering van die parkeerarea en die onderverdeling van die erf deur die munisipaliteit voor die veiling afgehandel sal word.

AANBEVELING: KORPORATIEWE DIENSTE KOMITEE: 30 NOVEMBER 2016

Die Komitee ondersteun Bestuursaanbeveling (i) en (ii).

OP 30 NOVEMBER 2016 NEEM DIE UBK DIE VOLGENDE BESLUIT (BK170/2016)

"Dat die aangeleentheid terug verwys word na die Land Disposal Komitee vir spesifieke ondersoek na die genoemde toegangspad asook die hele heruitleg van erf 1666, Struisbaai."

Heruitleg van erf 1666, Struisbaai word aangeheg op **bladsy 68**.

LAND DISPOSAL KOMITEE BESLUIT: LD 14/2017

- (i) Aangesien die eiendom, ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van erf 1666, Struisbaai.
- (ii) Dat die genoemde erf op publieke veiling verkoop word.
- (iii) Dat die genoemde erf vir besigheidsdoeleindes aangewend word.
- (iv) Dat die koper voorsiening maak vir parkering op erf 921, Struisbaai.

OP 14 FEBRUARIE 2017 NEEM DIE UBK DIE VOLGENDE BESLUIT (BK19/2017)

Dat die Land Disposal Komitee se besluit as besluit van die Burgemeesterskomitee aanvaar word.

BESTUURSAANBEVELING

Vir oorweging deur die Raad.

BESLUIT 22/2017

- (i) Aangesien die eiendom, ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van erf 1666, Struisbaai.
- (ii) Dat die genoemde erf op publieke veiling verkoop word.
- (iii) Dat die genoemde erf vir besigheidsdoeleindes aangewend word.
- (iv) Dat die koper voorsiening maak vir parkering voor die gebou en op erf 921, Struisbaai.

11.5 AANSOEK OM FINANSIËLE ONDERSTEUNING: HEAVENLY PROMISE (SAVE HOUSE)**DOEL VAN VERSLAG**

Oorweging van 'n aansoek om finansiële ondersteuning aan Heavenly Promise (Safe House).

AGTERGROND

Die Raad het vir die tydperk 1 Januarie 2016 tot 31 Desember 2016 'n bedrag van R10 700 bewillig ten einde die rekening van die Safe House te subsidieer. Aangesien hulle van donasies afhanklik is, is die betaling van hulle maandelikse munisipale diensterekening vir hulle 'n probleem. Hulle rig dus weereens 'n versoek tot die Raad om dit te oorweeg om hulle diensterekening vir die tydperk 1 Januarie 2017 tot 31 Desember 2017 te subsidieer.

Die koste per maand beloop so gemiddeld R830,00 en 'n bedrag van R10 000,00 sal benodig word om die kostes te subsidieer.

FINANSIËLE IMPLIKASIE

R10 000 - Ten einde die Safe House se rekening te subsidieer vir die tydperk 1 Januarie 2017 tot 31 Desember 2017.

BESTUURSAANBEVELING

Dat R10 000 bewillig word om rekening 200 000 774 819 te subsidieer vir die tydperk 1 Januarie 2017 tot 31 Desember 2017.

(Munisipale Bestuurder nie teenwoordig tydens bespreking van die aangeleentheid nie.)

OP 14 FEBRUARIE NEEM DIE UBK DIE VOLGENDE BESLUIT (BK29/2017)

Dat die Bestuursaanbeveling as besluit van die Burgemeesterskomitee aanvaar word.

BESTUURSAANBEVELING

Vir oorweging deur die Raad.

BESLUIT 23/2017

- (i) Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat die organisasie finansiële state vir die afgelope 3 maande sal voorsien.

(Munisipale Bestuurder nie teenwoordig tydens bespreking van die aangeleentheid nie.)

16. **ONAFGEHANDELDE RAADSBESLUIT**

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	<ul style="list-style-type: none"> (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
197/2016	Proposed development: Remainder of erf 1148, Bredasdorp (Retirement Village)	<ul style="list-style-type: none"> (i) Council consider the new valuations. (ii) Applicant be informed that a formal Town Planning application be submitted to Council. (iii) Environmental assessment be for the applicant's account. (iv) Portion of Erf 1148, Bredasdorp 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 1148, Bredasdorp. (vi) Council determine a reserve price of R1 540 000,00 (ex. VAT) (vii) All legal requirements are met. 	In proses van afhandeling. Besware het reeds gesluit en volledige verslag sal gedurende Jan/Feb aan die Raad voorgelê word.	BSSB
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.		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.		LDC/DKD
237/2016	Parkering: Erf 264, Struisbaai	<p>Dat die randstene wel verwyder word, op voorwaarde dat -</p> <ul style="list-style-type: none"> (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 Vergunningsooreenkoms vir die vergroting van die parkeerarea met die eienaar gesluit word. 		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
244/2016	Oordrag: Suiderstrand Pad	(i) Dat beginsel-goedkeuring vir die oordrag van die Suiderstrand pad na Provinsie gegee word. (ii) Dat die Munisipale Bestuurder getaak word om die nodige prosesse van oordrag in werking te stel. (iii) Dat die Munisipale Bestuurder dringend 'n vergadering belê tussen die munisipaliteit, SANParke en die provinsiale departement van Paaie en Openbare Werke om die opgradering van die pad te bespreek.		
247/2016	Bredasdorp Voeding- en Ontwikkelingsentrum	(i) Dat erf 4443, geleë op die hoek van Tolbos- en Baatjiesstraat, Bredasdorp aan genoemde organisasie beskikbaar gestel word vir die daarstelling van 'n sokkombuis. (ii) Dat die dienste aansluiting deur die Raad gedoen sal word. (iii) Dat goedkeuring gegee word vir die oprigting van 'n struktuur, onderworpe aan die goedkeuring van volledige bouplanne. (iv) Dat die nodige huurooreenkoms deur Korporatiewe Dienste opgestel word.	<i>In proses.</i>	

BESTUURSAANBEVELING

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

BESLUIT 24/2017

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: