



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N ALGEMENE RAADSVERGADERING GEHOU OM 10:00 OP VRYDAG
31 MAART 2017 IN DIE MUNISIPALE RAADSAAL TE BREDASDORP**

**MINUTES OF A GENERAL COUNCIL MEETING HELD ON FRIDAY, 31 MARCH 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	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 S Ngwevu	Direkteur: Korporatiewe Dienste
Mnr H Van Biljon	Direkteur: Finansiële Dienste
Mnr K Mrali	Direkteur: Gemeenskapsdienste
Mnr S Cooper	Bestuurder: Elektrotegniese Dienste
Mnr B Hayward	Bestuurder: Stads- en Streeksbeplanning
Mnr G M Moelich	Bestuurder: Admin Ondersteuning
Me T Stone	Bestuurder: Strategiese Dienste
Me N Mhlati-Musewe	Bestuurder: Menslike Hulpbronne

1. **OPENING**

Die Speaker heet die teenwoordiges welkom en mnr Hayward open die vergadering met gebed.

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

Raadslid C J Jacobs

3. ONDERHOUDE MET AFGEVAARDIGDES EN/OF ANDER BESOEKE**3.1 Mr Dinga: Dhladhla Foundation**

Mr Dinga informs council of the CWP programme which is linked to the EPWP. He focused on the working of the programme, the relationship between different government programmes like the EPWP recruitment processes, organogram, activities, local reference committee, role and responsibilities of the different stakeholders and the benefits for the local municipality.

3.2 Jan Greyling - Mega Groep

Mnr Greyling lig die Raad in van verskeie projekte wat deur die Mega Groep beplan word vir 2017. Die fokus is veral op Napier halfmarathon, Agri Mega week, die Toontjie, die Voet van Afrika, asook die top-10 skole atletiek byeenkoms.

Hy meld dat die Mega Groep ook as fasiliteerder wil optree by verskeie LED-prosesse. Hy noem dat verskeie "ondersteuningsopsies" vir die raad beskikbaar is om 'n finansiële bydrae te maak. Tydens die beoogde Mega Week gaan opkomende entrepreneurs geleentheid gegun word om opleiding te ontvang in die bestuur van sake (registrasiegeld beloop R4 500,00 per deelnemer) en is die versoek dat die Raad ook hier as borg optree.

4. NOTULES VAN VORIGE VERGADERINGS VOORGELê VIR BEKRAGTING**4.1 NOTULE VAN ALGEMENE RAADSVERGADERING GEHOU OP:**

27 Februarie 2017

BESLUIT 31/2017

Die Notule word as korrek en volledig bekragtig.

4.2 NOTULE VAN SPESIALE RAADSVERGADERING GEHOU OP:

9 Maart 2017

BESLUIT 32/2017

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:**

2 Maart 2017

BESLUIT 33/2017

Die Raad neem kennis van bogenoemde UBK Notule.

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

- WYK 1 : 16 Februarie 2017
- WYK 2 : 6 Februarie 2017
- WYK 3 : 2 Februarie 2017
- WYK 4 : -
- WYK 5 : 1 Februarie 2017
- WYK 6 : 7 Februarie 2017

BESLUIT 34/2017

Die Raad neem kennis van bogenoemde Wykskomitee Notules.

7. SAKE VOORTSPRUITEND UIT NOTULES**7.1 Raadsvergadering: 27 Februarie 2017****Item 7.2**

Die Speaker meld dat hy reeds reëlings in plek gestel het vir die advertering en bekendmaking van wykskomitee vergaderings.

Item 7.3 (Wykskomitees: Wyk 6)

Geen skriftelike bevestiging is nog van die klaer ontvang wat bewerings gemaak het van peutery aan notules nie. Die Raad sal 'n dringende ondersoek doen indien bewerings wel skriftelik gestaaf kan word.

7.2 Wykskomitee Notule (Wyk 5): 1 Februarie 2017

Die Wyksraadslid noem dat 'n komitee aangewys gaan word wat die dringende probleem areas in wyk 5 sal ondersoek en voorstelle aan die Raad sal maak.

7.3 Wykskomitee Notule (Wyk 6): 7 Februarie 2017**Item 5.5**

Die Wykskomitee versoek dat 'n kriminele klag gemaak word teen die beweerde elektrisiteitsdiefstal te Waenhuiskrans en 'n verslag wat alle eiendomme van die beweerde oortreder insluit opgestel moet word. Die Munisipale Bestuurder meld dat die aangeleentheid in die ondersoek en verslag, wat nog gedoen moet word, uitgewys sal word.

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

Geen.

8.2 FUNKSIES VIR DIE MAAND

Die Speaker meld dat Imbizo's in alle wyke sal plaasvind soos per kennisgewing aan Wyksraadslede bekend gestel.

8.3 AANWYS VAN AFGEVAARDIGDES

Die Raadslede, soos vandag aangewys op SALGA Werkskomitees moet kennis neem van werkswinkels op 17 en 18 Mei 2017.

8.4 DRINGENDE SAKE DEUR DIE SPEAKER VOORGELê

Geen.

9. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER

Die Burgemeester versoek dat die item vir die hantering van die konsep begroting verskuif word op die agenda en lê die konsep begroting deur middel van 'n voorlegging deur die Direkteur: Finansiële Dienste aan die Raad voor.

MANAGEMENT RECOMMENDATION

1. Council resolves that the draft budget of the municipality for the financial year 2017/18 as per Budget Related Resolutions of the budget document and indicative for the projected outer years 2018/19 and 2019/20 be adopted as set out in 1.8 Annual Budget Tables in respect of the following schedules:
 - 1.1 Executive summary of revenue & expenditure – Table A1;
 - 1.2 Budgeted Financial Performance (Revenue and Expenditure by standard Classification) –Table A2;
 - 1.3 Budgeted Financial Performance (revenue and expenditure by municipal vote) A – Table A3;
 - 1.4 Budgeted Financial Performance (revenue and expenditure) – Table A4;
 - 1.5 Budgeted Capital Expenditure by vote, standard classification and funding – Table A5;
 - 1.6 Budgeted Financial Position – Table A6;
 - 1.7 Budgeted Cash Flows Table A7;
 - 1.8 Cash backed reserves/accumulated surplus reconciliation – Table A8;
 - 1.9 Asset Management – Table A9;
 - 1.10 Basic service delivery measurement table A10;
 - 1.11 Council notes Part 2 - Other related Supporting Documentation completed where applicable from Table SA1 to SA38.
2. Council approves and adopts the draft tariffs listing for services as per Appendix A with effect 1 July 2017.
3. Council approves and adopt the Draft SDBIP in respect of the 2017/18 budget year per Appendix B.
4. Council notes the Service Level Standards to be submitted as required in terms of National Treasury Budget Circular 86 dated 8 March 2017 attached as Appendix C
5. Council notes that the mSCOA data string in respect of A Schedule version 6.1 been uploaded via the VESTA Financial System as per National Treasury requirement - Budget Circular 86 dated 8 March 2017.
6. Council approves the further refinement of the draft budget with regard to the mSCOA format, prescribed supporting documentation, Draft SDBIP, IDP-Budget linkages and the revenue and expenditure figures before final adoption by Council in May 2017.
7. Council notes that the Executive Mayor will have an oversight role over the budget process before it is again submitted for final approval.

After a presentation by the CFO, Council took the following decision:

RESOLUTION 51/2017

- (i) That the management recommendation be accepted as resolution of Council.
- (ii) That a workshop with Councillors be held after the public participation process.

10. **TERUGVOERING VANAF RAADSLEDE OOR VERGADERINGS BYGEWOON**
 Geen.
11. **ITEMS NA DIE RAAD VERWYS VIR OORWEGING** **Bladsy**
- 11.1 **MUNISIPALE BESTUURDER / MUNICIPAL MANAGER**
- | | | |
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| 11.1.1 | Draft 4th Generation IDP Plan (2017/18 - 2021/22) | 6 - 8 |
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| 11.1.5 | Establishment of an informal market | 15 - 18 |
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| 11.2.2 | Oprig van dagsorgsentrum op ged erf 1148, Bredasdorp | 20 - 22 |
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12. **ADDISIONELE ITEMS DEUR DIE RAAD HANTEER**
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| 12.1 | Approval and adoption of Junior Town Council Constitution | 54 |
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13. **DRINGENDE SAKE DEUR DIE MUNISIPALE BESTUURDER** Geen
14. **OORWEGING VAN KENNISGEWING VAN MOSIES** Geen
15. **OORWEGING VAN KENNISGEWING VAN VRAE** Geen
16. **OORWEGING VAN DRINGENDE MOSIES** Geen

17. **VERSLAG DEUR MUNISIPALE BESTUURDER OOR DIE UITVOERING VAN RAADSBESLUIE**
Lys van onafgehandelde Raadsbesluite verskyn op bladsy 55.

18. **SLUITING**

Die vergadering verdaag om 14:00

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

11.1 **MUNISIPALE BESTUURDER / MUNICIPAL MANAGER**

11.1.1 **DRAFT FOURTH GENERATION INTEGRATED DEVELOPMENT PLAN (2017/18 - 2021/22) AND SPATIAL DEVELOPMENT FRAMEWORK**

REPORT BY THE MANAGER: STRATEGIC SERVICES

PURPOSE OF REPORT

To table the Draft 4th generation Integrated Development Plan for 2017/18 to 2021/22 and a high level Spatial Development Framework Strategy and Policy.

LEGISLATIVE FRAMEWORK

Integrated Development Planning is regulated by Chapter 5 of the Local Government Municipal Systems Act, Act 32 of 2000. This Chapter must be read together with Chapter 6 which regulates Performance Management and the Municipal Planning and Performance Regulations (R796 of 2001).

The main provisions of Chapter 5 (Integrated Development Planning) are set out below:

1. Municipalities must undertake development orientated planning to ensure that they achieve the local government objectives as set out in Section 152(1) of the Constitution.
2. Municipalities must also work together with other organs of state to contribute to the progressive realisation of the human rights to environment, property, housing, health care, food and social security and education (Section 23).
3. Each Municipal Council must adopt a single, inclusive and strategic plan for the development of the Municipality within a prescribed period after the start of its elected term (Section 25 (1)).
4. The IDP must contain the following core components (Section 26):
 - The Municipal Council's vision for the long term development of the municipality that emphasises its critical development and internal transformation needs.
 - An assessment of the existing level of development in the Municipality, including the identification of communities who do not have access to basic municipal services.
 - The Municipal Council's development priorities and objectives for its elected term, including its local economic development and internal transformation needs.
 - The Municipal Council's development strategies which must be aligned with any National and Provincial sector plans and planning requirements binding on the Municipality in terms of legislation.
 - A Spatial Development Framework (SDF) which must include basic guidelines for a land use management system for the Municipality.

- The Municipal Council's operational strategies.
- Disaster Management plans.
- A financial plan, which must include a budget projection for at least the next three years.
- Key performance indicators (KPI) and performance targets determined in terms of section 41.

DISCUSSION

The draft five year IDP for the period 1 July 2017 to 30 June 2022 will be circulated separately and is based on the following:

1. The Process Plan that was approved by Council on 30 August 2016.
2. Public meetings and ward committee meetings that were held in October 2016 to obtain public input.
3. A strategic workshop with Council and senior management held in Arniston from 9 to 11 November 2016.
4. Existing plans, strategies and departmental input.

The SDF is a statutory requirement of all municipalities. Its purpose is to structure and direct - as far as it is possible - the distribution and management of activities and supporting infrastructure in spatial terms.

The new Cape Agulhas Municipality (CAM) Spatial Development Framework (SDF) is under preparation in parallel to the development of the 2017-2022 Integrated Development Plan (IDP). As a component of the IDP, preparation of the SDF lags slightly behind, as it is informed by the inputs received during the IDP process, as well as the strategic direction by set by CAM leadership in relation to the IDP.

The SDF is being done in 2 phases:

The first is predominantly analytical, setting out the "status quo" in relation to spatial matters in CAM; the current policy context, the perspective of citizens and interest groups on challenges, and a professional review of biophysical, socio-economic, and built environment challenges, opportunities, and what is been done by different services and agencies, public and private.

The second phase is more creative, encompassing the preparation of the actual spatial development framework, including spatial development and land use management strategies, policies, guidelines, and supportive programmes and projects to address challenges and exploit opportunities. Work on the second phase will commence in earnest during the second quarter of 2017 when the broad strategic framework for the IDP is in place.

The outcome of the first phase, namely a status quo report with high level strategy and policy guidelines forms part of the IDP. The final SDF will be submitted with the final IDP in May.

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

- (i) That the draft 2017 - 2022 IDP for Cape Agulhas Municipality be approved in terms of Section 25(1) of the Municipal Systems Act, 2000 (Act 32 of 2000) for the purposes of obtaining public inputs and comments.
- (ii) That the draft IDP be advertised for public inputs and comments during April 2017.
- (iii) That the draft IDP be submitted to Local Government, Provincial Treasury, National Treasury and the Overberg District Municipality.
- (iv) That the IDP be submitted to the Council before the end of May 2017 for final approval.

RESOLUTION 35/2017

That the management recommendation be accepted as resolution of Council.

11.1.2 2016/17 RISK MANAGEMENT POLICY, RISK MANAGEMENT STRATEGY AND FARMCO CHARTER REVIEW**REPORT BY THE MANAGER STRATEGIC SERVICES****PURPOSE OF REPORT**

To submit the revised Cape Agulhas Municipality Risk Management Policy, Risk Management Strategy and FARMCO Charter to Council for approval.

BACKGROUND

The Municipal Finance Management Act (MFMA) (Section 62 (1) (a) states, inter alia, that the Accounting Officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure that the municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal controls.

The National Treasury Risk Management Framework requires that the Municipality must operate within the terms of a risk management policy approved by the Accounting Officer / Authority. It furthermore states that in the case of a municipality or municipal entity, the Council should also approve the risk management policy and strategy. The aforementioned framework also recommends the establishment of mechanisms aimed at embedding risk management into organizational culture, one of which is a Fraud and Risk Management Committee (FARMCO). The FARMCO Charter sets out the roles and responsibilities of the FARMCO was developed

DISCUSSION

The Council approved the 2015/16 review of the Risk Management Policy and Risk Management Strategy and Implementation Plan in June 2016. The establishment of the FARMCO and its Charter were approved in July 2015.

Risk management is performed as a shared service by the Overberg District Municipality, who employ a Chief Risk Officer (CRO) to oversee risk management at the local municipalities within the District. The CRO undertook a review of all the Municipalities policies and strategies with a view to obtaining a certain degree of conformity within the District.

Collectively, there are not any significant amendments, the main one being that the bulk of what we had as our strategy has now become policy and vice versa. It was also endeavored to obtain conformity in respect of the terminology used throughout the District.

The FARMCO Charter needs to align to the policy and strategy and also needed to be reviewed. Again there are no significant changes.

The Municipality's Risk Management Policy and Risk Management Strategy and FARMCO Charter were reviewed and submitted to the Fraud and Risk Management Committee (FARMCO) who approved the amendments.

The documents are attached as annexures on **page 1 to 28**.

LEGAL IMPLICATIONS

1. Municipal Finance Management Act (MFMA) Section 62 (1) (a)
2. National Treasury Risk Management Framework

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

- (i) That the 2016/17 revision of the Cape Agulhas Municipality Risk Management Policy and Risk Management Strategy be approved.
- (ii) That the 2016/17 revision of the Cape Agulhas Municipality FARMCO Charter be approved.

RESOLUTION 36/2017

That the management recommendation be accepted as resolution of Council.

11.1.3 **MAKRO/MIKRO-ORGANISASIESTRUKTUUR: 2016/2017**

DOEL VAN VERSLAG

Om die gewysigde makrostruktuur ten op sigte van die voorgestelde naamsveranderinge sowel as die belyning van die struktuur na die strategie van die Raad voor te lê vir goedkeuring.

AGTERGROND

Met al die GOP en ander strategiese werkwinkels/sessies van die raad is dit duidelik dat die fokus van die termyn van die raad, strategies op sosio-ekonomiese ontwikkeling is. Hierdie strategiese rigting is al telkemale deur die Uitvoerende Burgemeester en sy komitee sowel as verskeie ander raadslede bevestig.

Ten einde te voldoen aan die ge-eikte beginsel van "struktuur vol strategie" en daarom ook die begroting, moet die raad veranderinge aan die bestaande makro-struktuur oorweeg. Na beraadslaging met die Uitvoerende Burgemeesterskomitee, die bestuurder menslike hulpbronne en direkteure finansies en gemeenskapsdienste word die volgende veranderinge voorgestel. Die skematiese voorstelling van die makro struktuur is aangeheg as bylaag op **bladsy 29 tot 35**.

Kantoor van die Munisipale Bestuurder

Strategiese Dienste, Risiko en Voldoening (Compliance)

Stadsbeplanning intergreer met die afdeling en gaan verskuif na Strategiese dienste. Dit is algemene kennis dat ruimtelike beplanning en in wese die Ruimtelike Ontwikkelingsraamwerk (ROR) wat 'n sektorplan van die GOP is nie in isolasie van die algemene ontwikkelingsbeplanning moet geskied nie. Dit is die mening van die skrywer dat indien die raad ernstig is oor die belangrikheid van volhoubare en sinvolle beplanning daar voldoende sinergie en integrasie tussen die GOP as die primêre beplanningdokument van die munisipaliteit en die ROR moet wees. Daarom juis die rede vir die samevoeging van die twee afdelings as een.

Op die huidige organigram word die raadslid ondersteuningsbeampte, wie hoofsaaklik verantwoordelik is vir die implementering van die wykskomitee vergaderings, aangedui met 'n stippellyn na die Speaker. Dit was so geïllustreer om die Speaker se verantwoordelikheid vir wykskomitees uit te wys maar het ook verwarring veroorsaak ten opsigte van rapportering. Gevolglik is die voorstel dat die posbenaming verander na publieke deelname beampte met dieselfde funksies en dat die posbekleër direk aan die senior bestuurder rapporteur.

Sosio-Ekonomiese Dienste

Die voorstel is dat die 'n nuwe afdeling wat meer pertinent kan fokus op die sosiale en ekonomiese ontwikkeling binne die munisipaliteit geskep moet word. Daar word voorsien dat daar voorsiening gemaak moet word vir 'n senior bestuurder (op dieselfde vlak as die huidige strategiese bestuurder). Die pos van die huidige senior ekonomiese ontwikkelingsbeampte is alreeds vakant en sal nie gevul word nie. Die begrotingsimplikasie sal dus net wees die verskil tussen die huidige pos en die nuwe pos en beloop ongeveer R500 000,00 per jaar. Verder is daar geen ander onmiddellike begrotingsimplikasies met die voorgestelde verandering nie aangesien die huidige menslike ontwikkeling afdeling alreeds ten volle befonds is en daar slegs veranderinge aan die rapporteringslyne sal wees.

Verder moet die raad ook die moontlikheid van die terugname van die toerisme funksie in oorweging neem. Met die fokus op ekonomiese ontwikkeling en die feit dat toerisme een van die onder ontginde ekonomiese drywers in die area is, maak dit ook sin dat dit intern gedryf en bestuur word, indien dit meer doeltreffend as wat die geval tans is bestuur word. Huidiglik word die funksie in sy totaliteit deur die Cape Agulhas Tourism bedryf met 'n begroting wat bykans 100% deur die munisipaliteit befonds word. Indien die munisipaliteit dit sou oorweeg om die funksie terug te neem word daar voorsien dat die begrotingsvoorsiening nie oorskry gaan word nie en moet die pos soos aangedui op die aanhangsel (Tourism Officer) ook deur die raad goedgekeur word. 'n Afsonderlike verslag om die moontlikheid vir die terugname van die funksie sal op 'n latere stadium ter tafel gelê word ten einde die raad in staat te stel om 'n ingeligte besluit te neem.

Die ander veranderings wat voorgestel word is dat die direktoraat Korporatiewe Dienste se naam verander word na Bestuursdienste. Daar bestaan egter nog steeds 'n behoefte vir raadslidondersteuning, spesifiek vir die voltydse raadslede weens die feit dat die aantal voltydse raadslede vermeerder het vanaf vier tot vyf. Die raadslede is ook voltyd op kantoor (wat nie die geval met die vorige raad was nie) en gevolglik word die persoonlike assistent van die Uitvoerende Burgemeester oorlaai tot so 'n mate dat dié kantoor sukkel om behoorlik te funksioneer.

Die Raad word dus ook versoek om die moontlikheid van 'n administratiewe beampte wie se dienstermyn gekoppel gaan wees aan die van die Uitvoerende Burgemeester, op die makrostruktuur te oorweeg. Die finansiële implikasie, indien die raad dit sou goedkeur sal in die omgewing van R220 000,00 per jaar wees.

WETLIKE VEREISTES

1. Wet op Plaaslike Regering: Munisipale Stelsels, Nr 32 van 2000.
2. Wet op Plaaslike Regering: Munisipale Finansiële Bestuur

PERSONEEL IMPLIKASIES

Geen huidiglik.

FINANSIËLE IMPLIKASIES

Die finansiële implikasies soos hierbo aangetoon vir die volle finansiële jaar is R 720 000,00 (total cost to company). Die bedrag kan egter verminder na aanleiding van die aanstellingsdatum van die poste indien dit deur die raad goedgekeur sou word.

BESTUURSAANBEVELING

- (i) Dat die Raad voorgestelde wysigings aan die makrostruktuur in beginsel goedkeur.
- (ii) Dat die begroting dienooreenkomstig aangepas word om die wysigings te akkommodeer.
- (iii) Dat, indien nodig, 'n werkwinkel op versoek van die Speaker, rakende die wysigings gehou word.

BESLUIT 37/2017

- (i) Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat Raadslede Marthinus, Baker en Europa hul teenstem aanteken teen die vulling van die volgende poste: "Tourism Officer, Rural and Agricultural Officer, Snr Manager: Social Economic Services."
- (iii) Raadsheer Jantjies ondersteun die nuwe struktuur, maar nie die vulling van poste soos in (ii) hierbo nie.

11.1.4 **CONSTRUCTION OF INFRASTRUCTURE FOR MARKETING, STOREROOMS AND FREEZER FACILITIES IN STRUISBAAI AND ARNISTON**

REPORT BY THE MANAGER: STRATEGIC SERVICES**PURPOSE OF REPORT**

To obtain the Councils principle approval for the placement and future operation of infrastructure for marketing, storerooms and freezer facilities in Struisbaai and Arniston.

BACKGROUND

On 28 June 2016, the Council considered a report in respect of the conclusion of a memorandum of understanding with the Department of Rural Development and Land Reform (DRDLR) for the co-implementation of the following CRDP projects:

1. Upgrading of the roads and storm water system in Kassiesbaai.
2. Construction of infrastructure for marketing, storerooms and freezer facilities in Struisbaai and Arniston.

The conclusion of the MOU was approved in terms of resolution 151/2016 and signed by the Municipality on 16 July 2017. The parties' obligations in terms of the MOU are as follows:

- **Department of Rural Development**
 - Capital expenditure (R10 000.00 (R5000 000.00 per project).
 - Supply chain processes.

- **Municipality**
 - Funding and resources to design, plan and oversight of the project.
 - Maintenance and management of the projects on completion.

The MOU primarily regulated the funding and obligations of the parties with no details on project implementation.

The land identified for the placement of the infrastructure is as follows and is shown on the attached locality plans on **page 36 and 37**.

- Struisbaai: A portion of the parking area adjacent to the harbour which is owned by the Municipality.
- Arniston: A portion of land in Kassiesbaai owned by the Fishermen's Union.

The infrastructure to be erected comprises refrigeration containers which are housed within an attractive open structure that has the appearance of a building. It will also accommodate fish cleaning facilities. There is a possibility that the Struisbaai facility may become a farmer support production unit – and a business plan is already being compiled for this by the Department of Rural Development, although there is no confirmation of funding. The areas will be fenced with a powder coated palisade fence. The designs are attached as annexures on **page 38 to 40**.

The advantages for the Municipality over and above the obvious benefit to the local fishermen are that the Struisbaai project includes the paving of the whole parking area and it will also address the complaint that fishermen use roads and private property to clean fish.

DISCUSSION

The Director: Technical Services took the initiative of applying for the funding for this project and managed it exclusively in co-operation with the Department of Rural Development and Land Reform.

To date, the Municipality has already paid a consulting engineer R 29600.00 for the planning and design of the infrastructure. This also included the compilation of bills of quantities for the tender documents.

The Department of Rural Development advertised the tender and one tender was received. The tender is apparently suitable in all respects except that the price exceeds the budget. The tender is higher than the budget but DRDLR is negotiating the contract price. DRDLR are ready to implement pending the cost reduction which they are relatively sure that they will resolve. The project is set for completion by the end of the year.

There are a number of impediments relating to the project, mainly associated with the land.

- **Struisbaai**
 - The placement of the containers was never discussed internally or referred to Council for approval, and this needs to be resolved before the project can commence.
 - The zoning of the site does not permit the uses proposed
 - The site may require an EIA
 - The community are sensitive to any form of development.
 - Ideally this site should have been planned holistically in relation to surrounding private and municipal land first.

- There are no arrangements in place to oversee the project and we lack the internal capacity to do so.
- There are no arrangements in place for the management of the facility once erected and handed over to the Municipality.

The possibility of relocating the project to another site within the industrial area was discussed but was rejected because:

- Consultations with the fishermen already took place and there is an expectation that the infrastructure will be placed there and a likelihood of it not being used if placed too far away from the harbour.
- The planning, designs and bill of quantities is site specific and cannot just be carried over to another site.
- **Arniston**
 - The zoning of the site does not permit the uses proposed;
 - The sites may require an EIA
 - The Kassiesbaai site may require a Heritage Assessment
 - The community are sensitive to any form of development.
 - The land does not belong to the Municipality and hence the placement of the containers will have to be agreed to by the land owners. We are uncertain at this stage to what extent they were consulted with.
 - There are no arrangements in place to oversee the project and we lack the internal capacity to do so.
 - There are no arrangements in place for the management of the facility once erected and handed over to the Municipality.

These impediments were discussed at a meeting with DRDLR, where it transpired that they were never informed of any of these impediments and dealt with the Municipality in good faith that we were project ready. We were given an ultimatum to commit to the resolution of these impediments by **31 March 2017 or the project will be cancelled and the project taken elsewhere and there is no guarantee that we will get it in an ensuing year.** Obviously insofar as the processes are concerned we will not be able to complete them by this date but at least commit to commence them. The possibility of using the funds for other projects was also put forward but DRDLR are not open to this.

The circumstances surrounding this project have put the Municipality in a very difficult position. The sites, especially the Struisbaai one are not ideal and fraught with legalities but we need to weigh this up against a R10 000 000.00 investment in our people. The reputational loss would also be significant if it transpires that we failed to implement a R10 000 000 project that is really needed by the local community.

Insofar as the overseeing of the project is concerned, this can possibly resolved through the extension of the contract of the contractor who is overseeing the Kassiesbaai Roads project. This can be accommodated in the current Technical Services budget for professional fees.

- The management can possibly resolved through the establishment of community structures to manage the facilities. In Kassiesbaai this should be quite easy as the site is already on the Fishermen's Union land. A suitable structure will have to be established for Struisbaai. The only challenge with this is whether they would be able to pay the consumption costs of water and electricity.
- We are still trying to ascertain the need for an EIA, and are awaiting a response from the Department of Environmental Affairs and Development Planning.

COMMENTS BY THE MANAGER TOWN AND REGIONAL PLANNING

The zoning of the two sites in Struisbaai and Arniston are STREETS in terms of the CAM Integrated Zoning Scheme.

The primary rights for this zoning are:

- Public street
- Private road
 - Public parking
 - Private parking

The definitions are as follow:

“public parking” means a property that is accessible to the general public for parking purposes with or without a fee;

“public street” means land indicated on an approved plan, diagram or map as having been set aside as a public thoroughway for vehicles and pedestrians, of which the ownership as such vests in the Municipality in terms of the Ordinance, or in terms of any other law;

Street vendors (as per the CAM Integrated Zoning Scheme):

228. *Use of the road reserve in a public street for business by street vendors, peddlers or hawkers within the road reserve of a public street is permitted subject to:*
- (a) *compliance with any applicable Municipal by-law relating to street vendors, peddlers or hawkers, and*
 - (b) *the Municipality terminating such use if, in its opinion, there is interference with pedestrian or vehicular movement, or with the amenity of the area, or such use constitutes a public nuisance.*

The following comments were received from the Department of Environmental Affairs and Development Planning (Jeremy Benjamin):

Hi Bertus, the proposal is definitely not in line with the zoning. An application for closure and rezoning should be submitted to allow the proposed use.

And Stephen Boshoff (consultant for CAM SDF):

Bertus, I looked at your zoning scheme quickly. I don't think this is possible also, further down in the scheme regulations it says that no person is allowed to build a verandah, wall, etc .. Cape Town has a consent provision for streets which allows just about anything, but you are very confined.

Therefore from a Town Planning point of view an application for Rezoning and Closure of Street has to be submitted for Public Participation and consideration by the Authorised Official at CAM, even if a Basic Assessment is not required.

LEGAL IMPLICATIONS

1. The Municipality has a contractual obligation with the Department of Rural Development and Land reform (DRDLR).
2. MFMA - potential of fruitless and wasteful expenditure.
3. By-Law on Municipal Land Use Planning, 2015.
4. NEMA

FINANCIAL IMPLICATIONS

1. The Municipality has already paid a consulting engineer R29 600,00 for the planning and design of the infrastructure.
2. There will be additional professional fees required to oversee the project, but this can be accommodated in the current Technical Services budget for professional fees.
3. There will be future budgetary implications in respect of maintenance of the facilities that will have to be addressed in the final budget.
4. There will be electricity and water consumption costs which will have to be recouped.

The recommendation below is provisional pending the need for an EIA.

MANAGEMENT RECOMMENDATION

- (i) That DRDLR be advised that the Council wishes to continue with the project and that it commits to undertake and expedite all legal and planning processes associated therewith.
- (ii) That Council approve in principle the placement of infrastructure for marketing, storerooms and freezer facilities in Struisbaai as per the attached sketch plan.
- (iii) That the necessary rezoning and street closure of the Struisbaai site be commenced with.
- (iv) That the necessary rezoning and street closure of the Arniston site be commenced at the Municipality's cost subject to the conclusion of an agreement with the land owners in this regard.
- (v) That a consulting Engineer be appointed to oversee the project in fulfilment of the Municipality's obligations in terms of the MOU and that the costs associated therewith be allocated to the professional fees budget of the Technical Services Directorate.
- (vi) That management models be investigated for the sites whilst the planning processes are underway.

RESOLUTION 38/2017

- (i) That the management recommendation be accepted as resolution of Council.
- (ii) That the investigation includes possible alternative sites.

11.1.5 **ESTABLISHMENT OF AN INFORMAL MARKET****REPORT BY THE MANAGER STRATEGIC SERVICES****PURPOSE OF REPORT**

To present Council with the various possibilities in relation to the development of an informal market as requested by the Mayoral Committee.

BACKGROUND

Cape Agulhas Municipality (CAM) has provided a sum of R500 000 on the 2016/ 17 municipal budget for the establishment of an informal market in Bredasdorp. The funds allocated originate from the sale of municipal land and a concomitant Council decision to "plough-back" some of the value accrued through the land sale.

DISCUSSION

The Municipality is currently reviewing its Spatial Development Framework and as part of the brief, the service provider Built Environment Partnership/ JSA was asked to consider the question of best placement for such a market.

An engagement was also held with the service provider and all relevant departments to exchange ideas with the future development of the Municipal Area in mind and the following is a summation of the ideas exchanged:

1. *The Council resolution should be welcomed and is directly supportive of national and provincial policy aimed at municipalities assisting to create an enabling environment for the development of small enterprises.*
2. *However, it is not clear what Council's intention was with the resolution and allocation of funds for establishing a market in Bredasdorp. Who was to benefit? What kind of market was contemplated? Who will operate the market?*
3. *This is an important issue, because there is no specific "type" of market that will meet community needs fully. In reality, the informal economy comprises a "continuum" of economic activities, requiring decision-makers and service providers to differentiate what is provided to the needs of different sectors and local areas.¹*
4. *As some researchers have observed, "...the effects of globalisation on labour markets, combined with South Africa's particular history, have led to the term 'informal sector' being increasingly unhelpful. For example, as far as street-based traders are concerned, there is a world of difference between women in up-market flea markets trading in niche antique or luxury goods, and the women in the survivalist sector trading in fruit and vegetables produced by someone else."² Depending on who is to benefit – or the kind of market contemplated – the location of the facility, the services provided to assist traders or visitors, and management arrangements, may differ substantially.*
5. *With the above in mind, it appears sensible for CAM to develop an approach to enabling development of a "hierarchy" of markets in different places. This could range from larger formalized spaces (as perhaps the one contemplated by the Deputy Mayor for Napier; a dedicated formal structure which exposes regional craft, produce, cuisine, and culture, and acts as an enabler of livelihood development and cultural and regional understanding) to small street spaces where individuals can trade in food and goods on a daily or intermittent basis. In this way, the full range of needs in the municipal area could be met, while greater certainty is assured that the requirements of leadership are met or public funds assist targeted beneficiaries.*
6. *This does not imply that nothing should be done now; the CAM could utilize the existing budget provision to do something at the "lower" end of the hierarchy, a pilot project or projects meeting urgent needs and as an opportunity to "learn through doing".*
7. *While establishing a pilot project, it should be borne in mind that in many cases, municipally provided informal markets have performed badly country-wide; a fait similar to that of publicly provided taxi-ranks. Physically building a market does not automatically ensure its use or it meeting the needs of those targeted.*
8. *Often, the key success factor appears to be location – providing accommodation where conditions favor the "business". Too often have markets being provided in places where negative conditions perceived to be associated with markets could be "hidden", while in this way, denying the exposure and passing trade essential to the success of traders.*
9. *Also critically important is access to infrastructure, in particular shelter against the sun/ rain, water, sanitation and access to storage facilities.*

¹ The South African LED network: The informal economy (<http://led.co.za/topic/informal-economy>)

² Women Street Traders in Urban South Africa: A Synthesis of Selected Research Findings, Francie Lund, CSDS Research Report No 15 (<http://sds.ukzn.ac.za/files/rr15.pdf>)

10. *A safe environment is very important. Research in the Durban metropolitan area, revealed that theft and criminal violence were felt as a very serious problem by both women and men traders.³*
11. *The CAM has, following the Council resolution, identified 3 or 4 sites for possible development of a market. These are all smaller opportunities, and target the “lower” end of the market “hierarchy”.*
12. *The site proposed adjoining the hotel appears the best option for immediate targeting. People are already trading in the area (so the site appears to have locational advantages to them and the presence of people provides a degree of surveillance and security), albeit limited structured services are available at this stage (except for an existing ablution facility).*
13. *Some conceptual design work has been undertaken for the site, incorporating surfacing, the planting of trees, upgrading of the ablution facility, and the provision of both structured (roofed) and open trading space.*
14. *In finalizing the design of this area, much could be learnt from experience elsewhere. Lessons learnt from Cape Town’s Dignified Spaces Programme – which has delivered some 100 projects over a period of 15 years in many different parts of the city – include:*
 - (i) *Given the uncertainty associated with the actual use of market space in particular areas – depending on the livelihood strategies of traders – it is often best to focus on providing flexible, minimalist public space with critical services – as opposed to highly structured markets. This means that dignified space is provided which could be use as general public space – places for relaxation, seating, and play – at times when markets do not function (or prove to be unsustainable). The focus would be on surfacing, seating, shade (through trees and temporary shelter as opposed to permanent buildings), water, and ablution facilities.*
 - (ii) *The importance of establishing clear lines of accountability for managing spaces once established. To avoid maintenance and security problems the City now enters into contracts with local members of the community who act as managing agents responsible for cleaning, watering trees, security and the allocation of trading spaces.*
 - (iii) *The confidence and sustainability associated with planting mature trees in public spaces. Mature trees ensure that shade is provided soonest, survival of trees is better assured, and gives dignity to public space.*
15. *Should a “minimalist” approach be followed towards development of this site, it is likely that more than one space in Bredasdorp can benefit from the funding allocated. Alternatively, some of the funding could be used for the provision of shaded structures which could be deployed in different areas as and when needed”*

The possible areas identified were as follows:

- Site next to Victoria Hotel: Erf 809
- Site next to Welverdiend Library: Erf 1599
- The old cemetery (across Julians restaurant): Erf 270

³ Women Street Traders in Urban South Africa: A Synthesis of Selected Research Findings, Francie Lund, CSDS Research Report No 15 (<http://sds.ukzn.ac.za/files/rr15.pdf>)

During the IDP public participation process, a number of needs were identified which slot into the idea of a “market hierarchy” namely:

- Development of an area for a market - Elim
- Building for a B-Hive - Napier
- Business hive - Bredasdorp
- Informal Business Hub - Arniston

As with the proposed Bredasdorp market – the question arises as to the underlying need in terms of type of markets or facility proposed, and whether what is put on the table as a want actually responds to what is needed and what people can afford. Progression through the hierarchy should also be considered and ideally an informal trader should be able to move through the ranks of being an informal trader to a formal trader and eventually become a viable commercial trader.

Irrespective of the placement and type of market, there are also implications in terms of services and other facilities like parking, ablution facilities etc.

A further consideration with any facility of this type is the management thereof needs to be considered along with security and maintenance etc.

In essence there are a number of unknowns and ideally the Municipality should spend some time and resources on a market analysis and the development of a plan that maps out a “market hierarchy” within each town with possible management models. Such a plan would also indicate the type of market needed and the best location.

LEGAL IMPLICATIONS

MFMA SCM Regulations.

FINANCIAL IMPLICATIONS

Depending on the management model, operational funding would have to be provided for on the budget when any form of market is constructed.

COMMENTS FROM MANAGER: BUILDING CONTROL

Start with phase 1 next to the Victoria Hotel. The area nearest to the Hotel must be upgraded incorporating surfacing, the planting of big trees, upgrading of the ablution facility and the provision of both structured (roofed) space, that can be removed when necessary, and open trading space with seating accommodation. A container can be put up as a temporary structure (see annexure on **page 41** of the use of containers and potential site plans).

MANAGEMENT RECOMMENDATION

- (i) That the Municipality adopt a “holistic market hierarchy” approach of establishing different markets in different places.
- (ii) That the funds allocated in the 2016/ 17 budget be used for a market analysis and development of a market hierarchy plan for each town that identifies the type of market needed and best placement with due cognizance of the new SDF, as well as potential management models.

RESOLUTION 39/2017

That the management recommendation be accepted as resolution of Council.

11.2 KORPORATIEWE DIENSTE / CORPORATE SERVICES

11.2.1 AANWYS VAN RAADSLEDE EN VERTEENWOORDIGERS OP SALGA-WERKSGROEPE (SPEAKER) (GEEN WYKE)

DOEL VAN VERSLAG

Om Raadslede en verteenwoordigers aan te wys op SALGA Werksgroepe.

AGTERGROND

Die nuutverkose SALGA PUK het verskeie werksgroepe daargestel wat verskil vanaf die voriges en word die rade nou gevra om raadslede te oorweeg wat op die groepe kan dien. Gevolglik het KAM het nie toegewysde raadslede vir elk van die nuwe werksgroepe nie.

Die Speaker het versoek dat die Raad oorweging skenk daaraan om Raadslede aan te wys om die Raad te verteenwoordig.

	WERKSGROEP	VERTEENW	SEKUNDI	AMPTENAAR
1	Economic Empowerment and Employment Creation	Rdl Sauls	Rdl Jacobs	Bestuurder: Stadsbeplanning (Mnr Hayward)
2	Public Transport and Roads	Rdl October	Rdl Sauls	Bestuurder: Strate en Stormwater (Mnr Daniels)
3	Community Development and Social Cohesion	Rdl Tonisi	Rdl Jacobs	Direkteur: Gemeenskapsdienste (Mnr Mrali)
4	Enviromental Planning and Climate Resilience	Rdl October	Rdl Sauls	Bestuurder: Strategiese Dienste (Me Stone) + Bestuurder: Elektriese Dienste (Mnr Cooper)
5	Water Sanitation and Waste Management	Rdl October	Rdl Baker	Bestuurder: Water en Riolering (Mnr Wasserman)
6	Human Settlement and Municipal Planning	Rdl Sauls	Rdl Jacobs	Direkteur: Gemeenskapsdienste (Mnr Mrali)
7	Municipal Finance and Fiscal Policy	Rdl Swart	Rdl Burger	Direkteur: Finansies (Mnr Van Biljon)
8	Governance and Intergovernmental Relations	Rdl Swart	Rdl Burger	Munisipale Bestuurder (Mnr O'Neill)
9	Municipal Innovations and Information Technology	Rdl Burger	Rdl Tonisi	Bestuurder: ICT (Mnr Van Zyl)
10	Capacity Building and Institutional Resilience	Rdl Burger	Rdl October	Bestuurder: Menslike Hulpbronne (Me Mhtlati-Musewe)
11	SALGA Womens' Commission	Rdl Tonisi		

FINANSIËLE IMPLIKASIE

Geen - Voorsiening is gemaak in die 2016/2017 begroting vir Reis- en Verblyf koste.

BESTUURANBEVELING

Dat verteenwoordigers soos per bogenoemde skedule as verteenwoordigers vir SALGA werksgroepe aangewys word.

BESLUIT 40/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2.2 **OPRIGTING VAN 'N DAGSORGSENTRUM OP GEDEELTE ERF 1148, BREDASDORP (LANGS DIE SAFEHOUSE) (DKD/LDC) (WYK 2)**

DOEL VAN VERSLAG

Om oorweging te skenk om 'n gedeelte van erf 1148, Bredasdorp beskikbaar te stel vir die oprigting van 'n dagsorgsentrum (liggingsplan aangeheg op **bladsy 42**).

ALGEMENE INLIGTING

Eienaar	:	KAM
Bestaande sonering	:	Onbepaald
Bestaande grondbesluit	:	Vakant
Grootte	:	± 0.26ha

AGTERGROND

In 'n skrywe soos ontvang versoek Elim Tehuis die Raad om oorweging te skenk om 'n gedeelte van erf 1148, Bredasdorp aan hulle beskikbaar te stel vir die oprigting van 'n dagsorgsentrum.

I.S: AANSOEK OM GROND VIR DAGSORG SENTRUM VIR ERG GESTREMDE PERSONE

Hiermee wens ek, Lesinda Cunningham, Direktrise van die Elim Tehuis, aansoek te doen vir die oop grond langs die "Safe House" in Langstraat, Bredasdorp, vir die oprigting van die "Dagsorg" vir Erg Intellektueel en Liggaamlik gestremde kinders" vir die gemeenskap van Bredasdorp en omliggende dorpe.

Ons is in die proses met die optrek van die Planne vir die gebou en ook besig met onderhandelinge met moontlike Donateurs.

Ons maak staat op u samewerking tot die bediening van ons mees weerlose persone.

Beste groete.



LESINDA CUNNINGHAM
DIREKTRISE
ELIM TEHUIS

Aangesien die aansoeker die fasiliteit wil oprig vir erg intellektueel en liggaamlik gestremde kinders en vir die hele gemeenskap beskikbaar gaan stel, en die aansoeker ook op skenkings aangewese is, kan die grond moontlik gratis aan die aansoeker beskikbaar gestel word [MFMA: Art 14 (2)].

MARKWAARDASIE

R1 048,18 (aangeheg op *bladsy 43*)

FINANSIËLE IMPLIKASIE

Aangesien daar 'n groot behoefte vir so 'n fasiliteit in Bredasdorp is, sal die ontwikkeling van die perseel 'n inkomste genereer vir die Raad.

WETLIKE IMPLIKASIES

Hierdie bate van die Raad word nie benodig vir die lewering van die minimum vlak van basiese dienste nie.

Die onderstaande wetlike vereistes en gemeenskapsdeelname prosesse sal egter wel gevolg moet word:

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> <i>a) R50 million;</i> <i>b) One percent of the total value of the capital assets of the municipality....</i> <i>c) An amount determined by resolution of the council of the municipality which is less than (a) or (b).</i> 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)	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.

DEPARTEMENTELE KOMMENTAAR**MUNISIPALE BESTUURDER**

Application is noted. Process of council needs to be followed by the corporate services department for possible alienation.

DIREKTEUR: KORPORATIEWE DIENSTE**Direkteur**

No objections if the applicant meets town planning requirements.

DIREKTEUR: TEGNIESE DIENSTE**Bestuurder: Strate en Stormwater**

Gemeenskap behoeftes.

Bestuurder: Reinigingsdienste

Huidiglik geen invloed op Reinigingsdienste nie.

Bestuurder: Water en Riool

Die betrokke perseel kan aansluit by die water- en rioolnetwerk.

RAADSLEDE**Raadsheer D Jantjies**

Hiermee wil ek, Raadsheer Dirk Jantjies, my ondersteuning aanteken vir die versoek van Elim Te Huis om die grond reg langs die Safe House in Langstraat, Bredasdorp ten einde 'n dagsorg sentrum op te rig.

Raadsheer J Nieuwoudt

Ek ondersteun die aansoek.

Wykskomiteelede Wyk 4**R Strydom**

Ek dink ons moet ElimTe Huis ondersteun.

L Marais

Dit klink asof daar 'n groot behoefte is aan die Dagsorg Sentrum is. Hulle sal darem seker 'n goeie beplanning hê vir 'n ondersteunings netwerk en heel moontlik werk gee vir 'n paar mense. Ek het geen probleem daarmee nie.

H Odendal

Dit lyk reg. Gaan hulle dan Bredasdorpers ook toelaat?

BESTUURSAANBEVELING

- (i) Dat 'n gedeelte van erf 1148, Bredasdorp ongeveer \pm 0.26ha ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie benodig word vir die lewering van die minimum vlak van basiese dienste nie.
- (ii) Dat die Raad in-beginsel die gedeelte grond, genoem erf 1148, Bredasdorp gratis aan Elim Tehuis beskikbaar stel vir die oprigting van 'n dagsorgsentrum tot voordeel en gebruik deur die armstes van die armes.
- (iii) Dat die onderverdeling, aansluiting van munisipale dienste en die oprigting van die gebou, vir die aansoeker se rekening sal wees.
- (iv) Dat daar aan alle goedkeurings soos vereis deur die relevante wetgewing voldoen moet word, voordat enige voorgestelde gebruik en aktiwiteite in aanvang neem.

BESLUIT 41/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2.3 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) - see Annexure B on **page 44**.
R1 540 000,00

De Kock Lloyd Eiendomswaarders - see Annexure C on **page 46**.
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> <i>a) R50 million;</i> <i>b) One percent of the total value of the capital assets of the municipality....</i> <i>c) An amount determined by resolution of the council of the municipality which is less than (a) or (b).</i> 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.

MANAGEMENT RECOMMENDATION: 29 SEPTEMBER 2016

- (i) That Council consider the new valuations from Messrs C.D.V. Property Valuers Pty Ltd (Cape Data Valuers) and De Kock Lloyd Eiendomswaarders.
- (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.

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)

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 Mintoor of Umhlaba Wobizo, attached as **Annexure D on page 51**
2. Jan Malan, attached as **Annexure E on page 52**
3. D van der Heyde, attached as **Annexure F on page 54**

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 Mintoor 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 aftree-eenhede/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 R1 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 **R67 815,75** if the argument of objector 3 is followed.

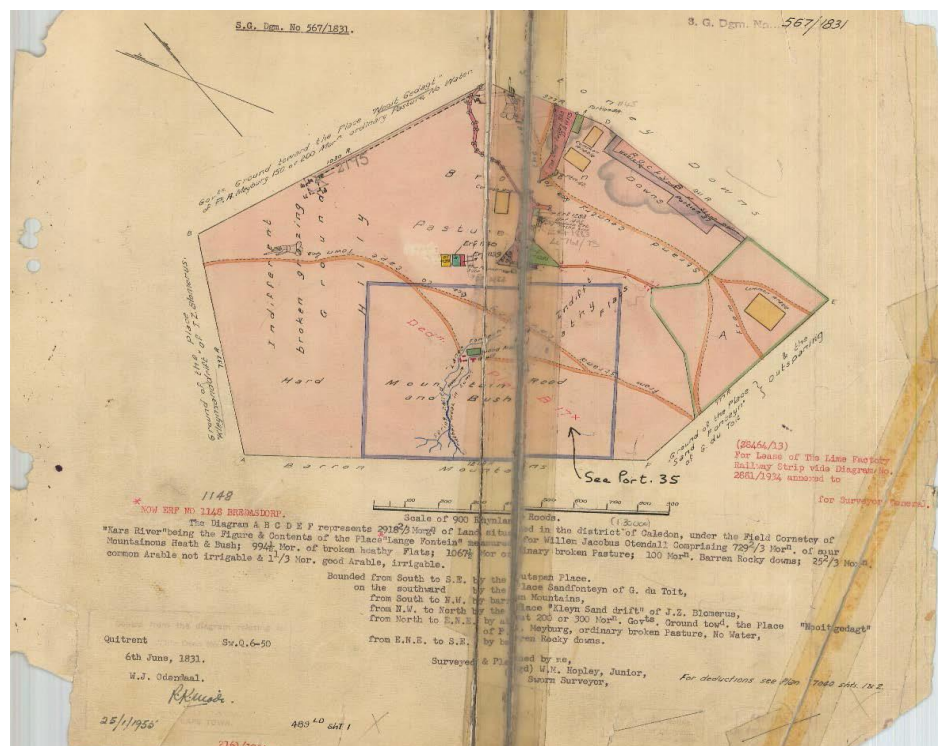


Figure 1: Erf 1148 - 2399 hectares

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.

ADDENDUM

On 20 March 2017 Messrs Kruger and Blignaut sent the following to the Municipal Manager:

“Hier is die ontwikkelaar (Annison 35 Pty Ltd) se brief en voorgestelde addendum (annexure G) om die besware aan te spreek. Julle sal merk dat die besware wat aangespreek was (spesifiek par 5.1 en 10.5) nou hanteer word in terme van die addendum. In opsomming, mag die ontwikkelaar nou nie die eiendom oordra op sy naam, indien alle opskortende voorwaardes nie nagekom is nie (sien spesifiek die 1ste wysiging).”

“Sale agreement between Annison 35 (Pty) Ltd and Cape Agulhas Municipality in respect of Portion of Erf 1148 Bredasdorp, in extent 22,27 ha: Meeting with commenting Parties.

Thank you for the opportunity to respond to further public comments presented to us during March 2017. We kindly confirm the following:

1. *We apologize for not being able to respond to these further comments presented to us, together with our response to the first batch of comments, as it was not made available to us together with the first batch.*
2. *We met with the groupings that made the above mentioned further comments, on 13 March 2017 at the municipal offices at Bredasdorp.*
3. *At the above mentioned meeting, it was agreed that further response over and above than what was originally given, would not be required by those that made the further comments, as it has already been dealt with in our earlier responses on an in principle level.*
4. *It was furthermore agreed that an addendum, attached hereto, will be proposed to Council as a way to address any remaining concerns that the various groupings that made comment, may have. The central principle contained in the addendum is that the land will not be transferred until Council has finally approved the subdivision and rezoning of the property.”*

MANAGEMENT RECOMMENDATION

- (i) 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.
- (ii) That Council approve the draft Addendum to the contract - Annexure G on **page 55**.

RESOLUTION 42/2017

- (i) That the management recommendation be accepted as resolution of Council.
- (ii) That the following Councillors record their votes against the price of the land and not against the development itself: Jantjies, Marthinus, Baker and Europa.

11.2.4 HUISEIENAARSVERENIGINGS: ALIKREUKEL EN SOUTHERN HORIZON (BSSB - 17/7/R) (WYK 5)

DOEL VAN VERSLAG

Dat die Raad kennis neem van die huidige situasie ten opsigte van Alikreukel en Southern Horizon in Struisbaai, aangesien hierdie huiseienaarsverenigings nie funksioneer nie.

Mnre Kruger en Blignaut is aangestel om die aangeleentheid te ondersoek en aanbevelings te maak na die Raad.

AGTERGROND**1. Alikreukel**

Hierdie ontwikkeling van Erf 340, Struisbaai was goedgekeur in Junie 1995, in terme van die Wes Kaapse Grondgebruiksbeplannings Ordonansie (LUPO - Land Use Planning Ordinance, 1985), wat intussen herroep is en vervang is deur die Ruimtelike Beplanning en Grondgebruiksbestuurswet, Wet 16 van 2013 (SPLUMA), gelees met die Wes-Kaap Grondgebruikswet, Wet 3 van 2014 (LUPA) en die Munisipale Verordening op Grondgebruiksbeplanning.

Die goedkeuring van die ontwikkeling het bepaal dat 'n huiseienaarsvereniging gestig moet word en dat die gemelde vereniging hulle gemeenskaplike eiendom moet onderhou en bestuur. Daar was 'n konstitusie opgestel en aan die Munisipaliteit voorgelê vir goedkeuring.

Die probleme wat ervaar word met die voormelde huiseienaarsvereniging, is die volgende:

Die titelaktes van die individuele eiendomme is foutief. Dit het geen verwysing na die verpligte lidmaatskap van die huiseienaarsvereniging nie. Eiendomme word dus na willekeur oorgedra, sonder goedkeuring van die vereniging of betaling van heffings.

Die huiseienaarsvereniging funksioneer nie en word nie bestuur nie. Die huiseienaarsvereniging het ook geen bankrekening of fondse nie.

Sommige van die huiseienaarsvereniging se gemeenskaplike eiendomme is aan die vereniging oorgedra, synde Erf 2482 en 2515 (oop ruimtes). Die Restant van Erf 340 (straat) is egter steeds op die oorspronklike ontwikkelaar se naam en was nooit oorgedra nie.

Die uitstaande erf belastings op Erf 2482 (R15 784.42) en Erf 2515 (R486.30) word nie betaal nie. Restant van Erf 340 dra nog nie belasting nie. Die huiseienaarsvereniging onderhou nie hulle gemeenskaplike eiendom nie en word deur die munisipaliteit gedoen.

Artikel 30 van die Munisipale Verordening op Grondgebruiksbeplanning, magtig die Munisipaliteit om op te tree teen huiseienaarsverenigings wat nie funksioneer nie en aanmanings was derhalwe aan alle eienaars versend om hulle verenigings na behore te bestuur. Daar is tans 17 eienaars. 'n Skrywe was ook gerig aan die Prokureurs wat die aanvanklike oordragte hanteer het, Nilands in Kaapstad (Mnr Potgieter).

Die vermelde Mnr Potgieter was voortdurend met Mnre Kruger en Blignaut in verbinding, ten einde hom tyd te vergun om die bestaande eienaars te kontak en te ooreed om die situasie reg te stel. Hierdie voorstel sou uiteraard onnodige regskostes bespaar.

Hy het die volgende voorgestel:

Hy sal intussen gelde vanaf die eienaars ontvang en as Administrateur optree, tot tyd en wyl daar 'n behoorlike algemene vergadering gehou word en nuwe Trustees gekies word. Op die algemene vergadering sal onderhoud en heffings uiteraard ook bespreek moet word en ingevorder moet word.

Hy sal die titelaktes regstel, kosteloos, met uitsluiting van die aktekantoor fooi ('n uitgawe).

Restant van Erf 340 moet oorgedra word.

Mnr Potgieter het 'n skrywe gerig aan eienaars (sien Bylaag A op **bladsy 57**) en slegs die samewerking van vier (4) eienaars ontvang, wat hulle pro-rata deel van die uitstaande heffings betaal het. Die fondse word nou deur Mnr Potgieter in trust gehou.

As gevolg van die tydsverloop en en gebrek aan samewerking van die eienaars, het Mnr Potgieter nou voorgestel dat die verpligte lidmaatskap aan die vereniging deur die Munisipaliteit abandoneer word en die eiendomme (Erf 2482, 2515 en Restant 340) aan die Munisipaliteit oorgedra word en deur die Munisipaliteit onderhou word. Verwys na Bylaag B op **bladsy 59**, wat die liggings van die onderskeie eiendomme aandui. In die alternatief, versoek Mnr Potgieter dat indien regsaksie ingestel word, die eienaars wat samewerking gegee het, onthef word van 'n kostebevel teen hulle.

2. Southern Horizon

Hierdie ontwikkeling van Erf 773 Struisbaai was goedgekeur op die 11de Desember 1984, in terme van die Wes Kaapse Dorpstigtings Ordonansie 33 van 1934. Hierdie Ordonansie was later vervang deur LUPO en opvolgende wetgewing (sien notas hierbo *supra*). 'n Gedeelte van die ontwikkeling was later gewysig, deur die onttrekking van veertien (14) eiendomme en vervanging daarvan deur agt (8) erwe in terme van LUPO.

Die probleme wat ervaar word met hierdie huiseienaarsvereniging, is die volgende:

Sommige van die titelaktes van die individuele eiendomme is foutief. Daar bestaan verskeie aktes wat wél 'n verwysing het na die verpligte lidmaatskap van die huiseienaarsvereniging en sommige wat dit nie bevat nie. Van die eiendomme kan dus na willekeur oorgedra word, sonder goedkeuring van die vereniging of betaling van heffings.

Die huiseienaarsvereniging funksioneer nie en word nie bestuur nie. Die huiseienaarsvereniging het ook geen bankrekening of fondse nie.

Die Restant van Erf 773 (straat) is egter steeds op die oorspronklike ontwikkelaar se naam en was nooit oorgedra nie. Verwys na Bylaag C op **bladsy 60**.

Die uitstaande erfbelastings op die Restant van erf 773 (R13 056.82) word nie betaal nie.

Die huiseienaarsvereniging onderhou nie hulle gemeenskaplike eiendom nie en word deur die munisipaliteit gedoen.

Dieselfde remedie in terme van Artikel 30 van die Munisipale Verordening op Grondgebruiksbeplanning bestaan (sien notas hierbo *supra*). Aanmanings was derhalwe aan alle eienaars versend om hulle vereniging na behore te bestuur. Daar is tans 18 eienaars. 'n Skrywe was ook gerig aan Mnr Le Riche, die persoon wat tans namens die vereniging "funsioneer".

Mnr Le Riche het namens drie (3) van die eienaars waar die nodige titelvoorwaarde ontbreek, 'n opinie versoek vanaf Jan S De Villiers Prokureurs, welke opinie hierby aangeheg word as Bylaag D op **bladsy 61**. Na Mnre Kruger en Bignaut se mening is die opinie foutief. Die oorspronklike goedkeurnigsvoorwaardes en gewysigde uitleg plan verwys duidelik na groepsbehuising, konstitusies, argitektoniese ontwerpe ens. Verwys na Bylaag E op **bladsy 63**.

Tot dusver het Mnre Kruger en Bignaut geen positiewe terugvoer van enige eenaar ontvang op die aanmanings nie, behalwe dat Mnr Le Riche ook voorgestel het dat die Restant van Erf 773 oorgedra word in die naam van die Munisipaliteit en dat die Munisipaliteit die onderhoud daarvan oorneem.

VOORSTELLE

Die Raad het drie keuses (vir albei situasies):

Regsaksie:

Hierdie oorweging is uiteraard die voorhandliggende oorweging, omrede die bestaande wetgewing (en spesifiek die munisipale verordening) dit spesifiek magtig. Dit sal egter behels dat die aksie in die Hooggeregshof gevoer moet word (vir jurisdiksie redes) en sal gebring moet word met gepaardgaande Hooggeregshof kostes. Die aksies word ook belemmer deur die groot hoeveelheid Respondente wat gevoeg moet word in die aksies (alle eienaars).

Die effek hiervan sal wees om die hof te versoek om 'n Administrateur aan te stel om die verenigings oor te neem, te bestuur, rekeninge te open, onderhoud te doen, heffings te vorder en die titelaktes reg te stel.

Die hof sal na alle waarskynlikheid gelas dat die Administrateur se kostes deur die eienaars betaal moet word, maar die Munisipaliteit sal steeds die aanvanklike aansoek kostes moet dra. Daar sal uiteraard 'n gedeelte van daardie kostes herwin word.

Onteiening:

Hierdie proses is wél moontlik, maar word nie werklik aanbeveel nie. Die kostes van onteiening sal deur die Munisipaliteit gedra moet word en die billike markwaarde van die eiendomme moet uitbetaal word aan die reghebbendes. Dit is moontlik om afsetting teen skuld te doen.

Neem oordrag:

Die oorweging hier is toekomstige onderhoudskostes, oordrag kostes en samewerking van die eienaars.

BESTUURSAANBEVELING

- (i) Dat die Raad oordrag neem van die volgende eiendomme: Restant van Erf 340, Struisbaai, Restant van Erf 773, Struisbaai en Erwe 2482 en 2515, Struisbaai.
- (ii) Dat die segspersone vir die verenigings (synde Mnre Potgieter en Le Riche) die aangewese resolusies van al die eienaars verkry om die eiendomme te verveemd aan die Munisipaliteit, tesame met 'n volmag aan Mnre Potgieter en Le Riche om sodanige kontrakte met die Munisipaliteit te sluit.
- (iii) Dat die skuld op die eiendomme af geskryf word *vis-à-vis* die eiendomswaardes en die oordrag kostes deur die eienaars te laat betaal.
- (iv) Dat, indien die Raad nie die voormelde roete wil volg nie, volstaan die Raad met die regsaksies tot beskikking.

BESLUIT 43/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2.5 **STATUS QUO: KAAP AGULHAS RUIMTELIKE ONTWIKKELINGSRAAMWERK (BSSB - 17/7/R) (ALLE WYKE)**

DOEL VAN VERSLAG

Dat die Raad kennis neem van die aangehegde status quo verslag ten opsigte van die Kaap Agulhas Ruimtelike Ontwikkelingsraamwerk (sien verslag aangeheg as Bylaag A op **bladsy 71 tot 114**, asook die kommentare ontvang tydens die publieke deelname proses.

AGTERGROND

Die KAM ROR is 'n langtermyn vooruitbeplanning dokument wat die langtermyn groei en ontwikkelingspoot van 'n munisipaliteit ruimtelik aandui. Dit koördineer die ruimtelike implikasies van alle strategiese sektorplanne (ingenieurs, vervoer, ekonomiese, behuising, gemeenskaps-dienste, ens.) van 'n munisipaliteit.

Die KAM ROR is ook een van die kern komponente van 'n munisipale GOP en gee fisiese uitvoering aan die visie, doelwitte en doelstellings van die munisipale GOP. Sodra voltooi, sal die KAM ROR ingevolge die Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000) goedgekeur word en sal dan dien as 'n riglyn vir besluitneming in ontwikkeling en grondgebruikbeplanning.

ADVERTERING

Ingevolge artikels 21A van die Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000), artikel 20 van die Wet op Ruimtelike Beplanning en Grondgebruik, 2013 (Wet 16 van 2013), artikel 11 van die Wes-Kaap Wet op Grondgebruikbeplanning, 2014 (Wet 13 van 2014) en artikel 3(2)(a) van die Kaap Agulhas Verordening op Munisipale Grondgebruikbeplanning – moet daar kennis geskied met die opstelling van die Munisipale Ruimtelike Ontwikkelingsraamwerk (KAM ROR).

Die verslag is ge-adverteer vir kommentaar en tot op hede is drie “Integrated Steering Committee” vergaderings gehou met verskeie belangegroepe. Op 20 Maart 2017 is Ope Dag gehou by die Glaskasteel, Bredasdorp.

Die proses wat gevolg moet word by die opstel van die KAM ROR vir Kaap Agulhas bestaan uit ses fases (Fase 1: Projek Aanvang, Fase 2: Kwessies en Visie, Fase 3: Status Quo Evaluering, Fase 4: Scenarios (Strategie en Planne) Fase 5: Scenarios (Openbare Deelname) en Fase 6; KAM ROR Verslag). Daar word verwag dat hierdie proses teen die middel van 2017 sal afsluit.

BESTUURSAANBEVELING

- (i) Dat die Raad kennis neem van die proses met die opstelling van die Status Quo verslag vir die KAM ROR wat in lyn is met die huidige Ruimtelike Ontwikkelingsraamwerk (sien Bylaag C op *bladsy 115*).
- (ii) Dat die Raad die Status Quo verslag goedkeur en die konsultante dienoreenkomstig in kennis gestel word.

BESLUIT 44/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2.6 **MANDATE TO ADOPT A PROCESS TO IMPLEMENT AN INTEGRATED ZONING SCHEME BYLAW (MTRP - 15/5/R) (ALL WARDS)**

PURPOSE OF REPORT

To obtain a mandate from Council to adopt a process to commence with the implementation of an Integrated Zoning Scheme Bylaw for the Municipality.

BACKGROUND

The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2014) [SPLUMA], stipulates in Section 24(1) that a municipality must adopt a single land use scheme for its entire municipal area within 5 years from the commencement of said Act. Municipalities thus have until 30 June 2020 to implement such integrated zoning scheme.

Currently the Cape Agulhas Municipal area is covered by one integrated zoning scheme. Consequently it is necessary to convert the Integrated Zoning Scheme into a By-Law.

A zoning scheme is however a complex legal document that affects the rights of all properties and to develop and introduce a new zoning scheme By-Law is a laborious task which requires specialised expertise, and can result in a costly exercise.

PROPOSED ZONING SCHEME

In order to assist municipalities, the Western Cape Provincial Government (WCPG) has embarked on a process to develop a Proposed Standard Draft Zoning Scheme By-law (SZSB). During this process many professionals from across the Provincial, Local Government and private sector spheres have participated to develop such model SZSB, which was also fully vetted by a legal team of the PGWC. The SZSB was also already advertised once and all the inputs received were processed.

Municipalities in the Western Cape therefore have three options to adopt an integrated zoning scheme:

- Draft their own unique Integrated Zoning Scheme
- To use the Proposed Draft SZSB as a basis and make any amendments and additions to this scheme to suite any specific needs that the municipality may have;
- To adopt and implement the SZSB without any amendments.

The main objectives of the SZSB were the following:

- To integrate the existing zoning schemes applicable in a municipal area into a single Integrated Zoning Scheme.
- To make provision for the present day challenges of land use management in terms of new and modern land use functions.
- To devise modern mechanisms to facilitate and fast track desirable development outcomes.
- To give recognition to the diversity of communities and areas and its corresponding needs and to make provision to accommodate these scenarios.

A brief overview of the zoning provisions of the SZSB are as follows:

- (a) A variety of single residential zonings which caters for:
 - variable development parameters in accordance with erf sizes which will allow smaller erven to have more relaxed building lines and other restrictions in order to develop the full potential of such properties;
 - different sets of user rights and potential consent rights in accordance with the different needs of communities;
- (b) A variety of General Residential Zones with varying bulk and height factors for different density zones according to locality considerations.
- (c) Business Zones with different objectives in accordance with locality considerations and its functional role.
- (d) A variety of Industrial, Community, Conservation and Agricultural Zones to match the needs of a modern society,
- (e) And lastly, the IZS includes the provision of Overlay Zones which provides a mechanism with which the Municipality can pro-actively facilitate change.

Whilst the development of this SZSB benefited to a great extent from such collective effort, it also carries the advantage that there are many municipalities who have already indicated that they will adopt the SZSB. It is consequently proposed that the Cape Agulhas Municipality adopts the SZSB for the following considerations and reasons:

- The savings in cost and time to adopt the SZSB;
- The SZSB has gone through a laborious process with wide consultation during which many planning professionals from the WCPG, municipalities and consultants have contributed towards the SZSB, and also includes the legal vetting of the product by the PGWC legal team.

- Consultants and developers serving the planning profession will be more readily acquainted with a Standardised Zoning Scheme which will be in force at a number of municipalities, and the adoption of such SZSB may contribute to improve effective and efficient service delivery to all stake holders.
- The municipality will benefit from any future amendments or additions to the Standard Zoning Scheme which the Western Cape Provincial Government (WCPG) will undertake to improve said scheme.
- The municipality will also benefit from any legal action or legal opinions based on the SZSB which any of the participating municipalities may solicit.

OVERVIEW OF PROPOSED PROCESS

Following the required mandate from Council, the following process and associated timeframes to finalise and implement the SZSB will be followed in three phases:

Finalise SZSB : From present up to April 2017

- Scrutinize the content of the SZSB to consider and make sure that it covers any specific needs or challenges that the municipality faces.
- Develop zoning transition tables to determine the new zonings.
- Prepare Land Use Registers and determine a new zoning in terms of the SZSB for every property with the finalisation of a new associated zoning map.

Public Participation process for SZSB : May 2017 - July 2017

- Submit draft SZSB to Council for mandate to release same for purpose of public participation, including the proposed public participation process.
- Undertake Public participation and advertisement campaign, incl. Council workshops
- Evaluate any inputs on SZSB and finalise draft SZSB
- Communicate responses to parties who provided inputs.

Approval and Implementation of SZSB : August 2017 - October 2017

- Finalise SZSB and submit report to Council for final adoption.
- Publish adoption of SZSB [MSA s13(a) promulgation]
- Continue to address any bona fide zoning disputes

WAY FORWARD

Following the mandate of the Council to proceed with the process as proposed, the survey of existing land use rights and uses and the zoning register and the associated maps are already developed. This exercise in itself holds great value to the municipality for the following reasons:

- It will provide an accurate land use register to facilitate the effective management of land uses.
- It will identify illegal land uses and where appropriate, such illegal land uses can be accommodated and legalised with the appropriate zoning.
- The new zonings will result in higher value user rights and the municipality will accordingly capitalize on new revenue sources from:
 1. Application fees for land use applications to rectify illegal land uses;
 2. Associated building plan fees;
 3. Capital contribution payments, as well as higher property rates and service charges for higher value properties.

MANAGEMENT RECOMMENDATION

That **APPROVAL BE GRANTED** to convert the existing Integrated Zoning Scheme into a Proposed Standard Draft Zoning Scheme By-law to commence a process as depicted in the subject report for the approval and implementation of an Integrated Zoning Scheme By-law for the Cape Agulhas Municipality.

RESOLUTION 45/2017

That the management recommendation be accepted as resolution of Council.

11.2.7 **WYSIGING VAN BESLUIT: BREDASDORP VOEDING- EN ONTWIKKELINGSENTRUM (BSSB)**

DOEL VAN VERSLAG

Erf 4443, Bredasdorp is alreeds ontwikkel en dus moet Raadsbesluit 247/2016 gedeeltelik gewysig word ten einde voorsiening te maak vir 'n alternatiewe perseel.

AGTERGROND

Op 6 Desember 2016 neem die Raad die volgende besluit (247/2016):

- (i) *Dat erf 4443, geleë op die hoek van Tolbos- en Baatjesstraat, 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.*

Daar is alreeds 'n huis gebou op erf 4443, Bredasdorp en behoort dit aan me E Olivier en is daar 'n alternatiewe perseel geïdentifiseer vir 'n Voeding-en Ontwikkelingsentrum, naamlik Restant van erf 4058, Bredasdorp (sien liggingsplan op **bladsy** 116).

BESTUURSAANBEVELING

Dat voorwaarde (i) van Raadsbesluit 247/2016 as volg gewysig word:

Dat die Restant van Erf 4058, geleë op die hoek van Lelie- en Geelstraat, Bredasdorp aan genoemde organisasie beskikbaar gestel word vir die daarstelling van 'n sokkombuis.

BESLUIT 46/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.2.8 **REGSOPINIE: VISHUIS, WAENHUISKRANS / ARNISTON (15/5/R - BSSB)(WYK 6)**

DOEL VAN VERSLAG

Om kennis te neem van die regsgeldigheid en prosesse wat gevolg is ten opsigte van die Vishuis se huurooreenkoms wat beskikbaar gemaak is vir ondertekening.

VERSOEK

Mnre Kruger & Blignaut is versoek om 'n opinie te voorsien met betrekking tot die regsposisie van die Vishuis.

Op 14 Maart 2017 is die volgende opinie ontvang:

“Van belang is die regs-geldigheid en prosesse wat gevolg was ten opsigte van die konsep huurooreenkoms wat nou beskikbaar gemaak word vir ondertekening deur die Munisipaliteit en die Waenhuiskrans Vissermans Unie (hierinlater verwys na as “die Unie”). Dit blyk dat die Munisipaliteit tans aan litigasie blootgestel kan word (vanaf Mnr Haarburger), indien die Raadsbesluit uitgevoer word en insgelyks, aan litigasie blootgestel kan word (deur die Unie) indien die Raads besluit nie uitgevoer word nie.”

Hierdie opinie sal spesifiek verwys na:

- Die agtergrond
- Die onderskeie partye se belange
- Die eiendom
- Die bestaande Raads besluite en die uitwerking daarvan op die huidige huurooreenkoms
- Die bouplanne
- Die voorgestelde huurooreenkoms
- Die pad vorentoe

Ons was voorsien van die volgende dokumente en die opinie is dus beperk daartoe:

- Die kennisgewings wat gepubliseer was.
- Die konsep verslag wat opgestel was deur Kritzinger Prokureurs (1 Junie 2015).
- Die konsep huurooreenkoms.
- Skrywe vanaf die Departement van Omgewingsake.
- Skrywe vanaf die Departement van Grondbestuur (Wes Kaap Provinsiale Regering)
- Argitektoniese projek voorstel (Julie 2010)
- Raadsbesluite vanaf Mei 2014 tot Desember 2016.
- Uitvoerings opdragte September & Desember 2016.
- UBK minute van Maart 2011
- Verskeie e-posse.

AGTERGROND

Dit blyk uit 'n ondersoek van die dokumente, dat die Vishuis projek reeds 'n geruime tyd (sedert 2008) in beplanning was, met die ondersteuning van die Waenhuiskrans Arniston Community Development Trust (hierinlater verwys na as “die Trust”). Die doel van die Vishuis projek is om 'n gebou beskikbaar te stel op erf 769 Arniston (soos dit tans bestaan), vir die gebruik van:

- 'n Besoekers sentrum ter ondersteuning van Kassiesbaai.
- 'n Historiese bewarings sentrum van Kassiesbaai.
- Opleidings fasiliteite vir inwoners van Kassiesbaai.
- Die bediening van verversings.

Volgens die inligting tot my beskikking, word Kassiesbaai erken as 'n graad 1 historiese bewarings gebied, soos omskryf in die Nasionale Erfenis Hulpbronne Wet, Wet 25 van 1999.

Vorige raadsbesluite het bepaal, dat 'n gedeelte van Munisipale grond geskenk vir die projek, wat aanleiding gegee het tot besware uit die gemeenskap, op grond van waardasies en administratiewe foute wat begaan was deur die Munisipaliteit.

Die vorige Raadsbesluite was derhalwe, op aansoek van die Munisipaliteit, tersyde gestel in Oktober 2013 en die projek moes weer *de novo* aangepak word. Op daardie stadium, was die konstruksie van die gebou deels voltooi, maar was die bouwerk gestaak.

Die aangeleentheid was verder gevoer vanaf daardie datum en het weer op **3 Desember 2013** voor die Raad gediën. Hierdie besluit het *inter alia* bepaal dat die Unie weereens moet aansoek doen vir onderverdeling, konsolidasie, oprigting van die gebou en indiening van planne. Die Raad het ook besluit om 'n volledige verslag aan te vra vir die Raads vergadering wat geskeduleer was vir verdere oorweging. Uiteraard het daar op hierdie vergadering geen regte ontstaan ten opsigte van enige party nie, aangesien die besluit die Unie uitgenooi het om aansoek te doen vir verdere oorweging. Na aanleiding hiervan, het die Munisipaliteit die voorgename onderverdeling, konsolidasie en sonerings aansoek geadverteer.

Die aangeleentheid het weereens voor die Raad gediën op die **27ste Mei 2014**, waar die Raad besluit het dat die Raad 'n langtermyn huurooreenkoms sal oorweeg en dat die Raad se Regs Adviseurs daarvan in kennis gestel moet word. In ons opinie het hier ook geen regte ten opsigte van enige party ontstaan nie.

Die daaropvolgende Raadsvergadering wat die aangeleentheid hanteer het, het plaasgevind op die **23ste Februarie 2016**, wat waarskynlik die belangrikste besluit was deur die Raad tot dusver en waarop die grootste gedeelte van die dispuut wentel.

Gedurende hierdie vergadering, was die volgende besluite geneem:

- *Any resolution of the Council inconsistent with the following approvals is rescinded.*
- *The subdivision of Erf 416 into the Remainder Erf 416, Arniston and Portion A: $\pm 44m^2$ (with proposed new erf number Erf 768, Arniston) is approved.*
- *The subdivision of the Remainder of Farm 260 Arniston Downs Bredasdorp RD into the Remainder of the Remainder of Farm 260 Arniston Downs Bredasdorp RD and Portion B $\pm 339m^2$ (with proposed new erf number Erf 767, Arniston) is approved.*
- *After subdivision, the consolidation of Portion A and Portion B to form a new erf of $\pm 383m^2$ (with proposed new erf number Erf 769 Arniston) is approved.*
- *The provision of alternative parking for the heritage centre in accordance with either parking Alternative A or Alternative B described in the supplementary parking report ARN/1210 by Town and Country is approved.*
- *The above subdivisions and rezoning are approved subject to the conditions set out in Annexure R.*
- *The annexed Special Zone Site Development Plan in respect of erf 769 is approved.*
- *It is determined that Portion B be regarded as a 'non-viable parcel of land' in terms of Part 10.1.8 of the Land Disposal Policy dated 23 February 2012.*
- *In-principle approval is given to grant the Union the right to use erf 769 in accordance with the annexed lease which must be signed on behalf of CAM and the Union.*
- *It is recorded that the above approvals do not remove the need for the Union and / or CAM to obtain all other approvals required by law before commencing with the contemplated uses and activities.*

Ek word deur Mnr Hayward meegedeel dat die besluit en konsep huurooreenkoms behoorlik geadverteer was.

Met betrekking tot die 1ste besluit (alle vorige besluite word tersyde gestel), is die regs-beginsel van *functus officio* van toepassing. Dit is gemeensaak dat 'n Raad nie sy eie besluite mag terugtrek of wysig nie, indien daar weens vorige besluite regte vir enige party ontstaan het. Dit is egter duidelik dat die vorige besluite deur die hof nietig verklaar was en 'n ontleding van vorige besluite, toon aan dat daar geen regte ten opsigte van enige persoon ontstaan het nie. Ons laat dit daar.

Dit is egter ook duidelik uit die oorblywende besluite, dat sekere regte aan die Unie toegeken was, onderworpe aan die nakoming van enige ander goedkeurings wat deur wetgewing vereis word. Die bewoording van die voorlaaste besluit is belangrik, omrede die huurooreenkoms "in principle" goedgekeur was. Die enigste afleiding wat daaruit gemaak kan word, is dat die finale ooreenkoms weer voor die Raad moet dien.

Opvolgend hierop, het sekere belange groepe (hoofsaaklik vanaf mnr Haarburger) op **22 Maart 2016** beswaar gemaak teen die vorige besluite.

Die besware sentreer hoofsaaklik rondom die volgende aspekte:

- Die eiendom wat die Raad konsolideer is nie 'n "non-viable parcel of land" nie. Die waardasie is inderwaarheid R1 500 000.00 en moes in berekening gebring gewees het. Mnr Haarburger is bereid om die eiendom vir daardie waarde te koop.
- Die huurkontrak is 'n verdoeselde skenking weens die tyds-periode van die ooreenkoms.
- Die waarde van die huurinkomste is R1.00 per maand en die waarskynlike uitgawes oorskry die inkomste.
- Die huurkontrak bevat 'n voorkeepsreg ten gunste van die Unie, wat sedeerbaar is aan die Trust.
- Die sonering is foutief.
- Die Omgewings Impak Studie was gedoen op 'n foutiewe basis.
- Die toestemming verleen deur die Wes Kaapse Provinsie ten opsigte van die bewaring, moes deur SAHRA gegee word.
- Die restaurant skep onregverdig kompetisie vir ander restaurant eienaars daar.
- Die huurooreenkoms moes op tender uitgesit word.

Die Prokureurs van die beswaarmakers het gedreig om die Raad se besluit op hersiening te neem in die Hooggeregshof.

Die Raad se Prokureurs het vervolgens aanbeveel dat daar pogings aangewend moet word om die aangeleentheid te laat medieër tussen alle partye. Hulle het derhalwe 'n skrywe gerig aan die Unie en Trust, waarop hulle terugvoering (in opsomming) ontvang het op **13 September 2016**.

Die Unie en Trust was van mening dat Mnr Haarburger se belang in werklikheid beperk was tot die beskerming van sy besigheid en die kompetisie wat die Vishuis Restaurant se restaurant sou daarstel. Hulle het verder beweer dat die Raad gebonde was aan hulle vorige besluite, wat uitgevoer moet word. In effek beroep die Unie en Trust hulle daarop dat mediasie teenstrydig is teen die Raad se vorige besluit van Februarie 2016 en hulle derhalwe nie belangstel in mediasie nie.

Hulle beweer dat hulle regte gevestig het en nie teruggetrek kan word nie. (sien ook hierbo *supra* dat die Raad nie *functus officio* mag optree nie)

Die mediasie was dus onsuksesvol en was as sulks gerapporteer aan die Raad vir kennisname en oorweging op die **29ste September 2016**. Die Raad neem egter kennis, dat die Unie na voorbereiding van die verslag, intussen 'n vergadering aangevra het met die Raad se Regs Adviseurs op die 6de Oktober 2016. Die Raad besluit derhalwe om die aangeleentheid weer te oorweeg na afloop van die vergadering.

Op die **25ste Oktober 2016** neem die Raad kennis dat die Unie en die Raad se Regsverteenwoordigers steeds in gespek met mekaar is. Die Munisipaliteit ontvang egter 'n aanbeveling vanaf hulle Regs Adviseurs op die **15de November 2016** wat aanbeveel dat paragraaf 12.2.4 van die huurooreenkoms as volg gewysig moet word:

"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 alcoholic beverages and regular meals."

Op die 6de Desember 2016 keur die Raad die wysiging goed. Die aanname kan gemaak word dat die Unie die wysigings goedkeur.

PARTYE EN HUL BELANGE

Die belange van die Munisipaliteit, die Unie en Mnr Haarburger spreek vanself uit die agtergrond.

Met betrekking tot die Trust, blyk dit uit die dokumentasie tot ons beskikking, dat die Trust waarskynlik die fondse gegeneer het om die bouwerk op die perseel te verrig. Dit is vanuit hierdie perspektief dat die sessie van die voorkeepsreg sy weg gevind het in die voorgestelde huurooreenkoms. Hierdie tipe kontrak staan bekend as 'n *stipulatio alteri* (kontrak ten behoeve van 'n derde) en moes nie as 'n sessie in die kontrak wees nie. Sien asb die Appèlhof saak van **Eldacc (Pty) Lyd v Bidvest Properties (Pty) Ltd**. Hoe dit ookal sy, die Trust is nie 'n party tot die huurooreenkoms nie en het nooit in enige Raads besluit enige regte verkry nie. Die Trust moet dus vir alle praktiese redes, nie as 'n party tot die aangeleentheid aangespreek of erken word nie.

Dit word *inter partes* tussen die Trust en Unie aanbeveel dat hulle lenings en/of skenkings ooreenkoms apart aangespreek word.

DIE EIENDOM EN BOUPLANNE

Dit blyk gemeensaak te wees dat Erf 416 Arniston (in die naam van die Unie) onderverdeel was om 'n nuwe erf 768 (44 m²) te vorm. Erf 768 was aan die Munisipaliteit geskenk. 'n Gedeelte van die Plaas Arniston Downs (in die naam van die Munisipaliteit) was onderverdeel om 'n nuwe erf 767 (339 m²) te vorm. Erf 768 en 767 is gekonsolideer om die nuwe erf 769 Arniston (383 m²) te vorm, welke eiendom die onderwerp van die dispuut vorm.

Ek word meegedeel dat die oordragte en konsolidasie reeds plaasgevind het en geregistreer is.

Mnr F Du Toit (Boubeheer) deel ons mee dat die planne vir die gebou tegnies voldoen aan die bepalings van die Wet op Nasionale Bouregulasies en Boustandaarde, Wet 103 van 1977. Die planne het egter betrekking op die vorige eiendoms beskrywing en het ook verval. Die planne sal dus weer ingedien moet word vir oorweging.

Die bestaande Raadsbesluite

Indien die Raad se besluite ontleed word, is ons van opinie dat die volgende regs-posisie geld:

- Alle besluite wat deur die Raad geneem was voor Oktober 2013, was by wyse van die hofbevel tersyde gestel, wat die proses weer *de novo* begin het.
- Die Raads besluite wat geneem was gedurende Desember 2013 tot Mei 2014 het geen regte geskep ten gunste van enige persoon nie. Dit spesifiseer immers dat die Unie moet aansoek doen vir die projek (ons vind dit vreemd dat die Unie versoek was om die aansoek te bring, voordat die Unie enige regte op die gekonsolideerde eiendom verkry het) en dat 'n huurooreenkoms oorweeg sal word. Geen finale besluit was gemaak nie.
- Die Raads besluit van Februarie 2016 het wél regte laat ontstaan ten gunste van die Unie. Hierdie regte was egter nie onbeperk en finaal gevestig nie. Die Raads besluit bepaal duidelik dat die voorgestelde huurooreenkoms slegs "in beginsel" goedgekeur was (nie finaal nie) en dat die regte onderworpe is daaraan dat beide die Unie en die Munisipaliteit steeds alle wetgewende goedkeurings moet verkry. Dit beteken dus dat die alle besware steeds oorweeg moet word, wat insluit om die huurooreenkoms te wysig.
- Die Raads besluite van September 2016 en Oktober 2016 het in effek, geen uitwerking gehad nie.
- Die Raads besluit van Desember 2016 het slegs die bewoording van 'n enkele paragraaf aangespreek.

HUIDIGE REGSPOSISIE EN VOORGESTELDE HUUROOREENKOMS

Dit is uitersbelangrik om daarop te let dat die proses vir goedkeuring van die huurooreenkoms nog nie voltooi is nie. Daar bestaan geen Raads besluit waar die besware van Mnr Haarburger regs-tegnies oorweeg was om te bepaal of die besware geldig is, aldan nie. Totdat die besware oorweeg en ge-evalueer was, bly die proses onvolledig. Die Unie kan dus nie aanspraak maak daarop dat die huurooreenkoms geteken moet word nie. Hulle kan egter aanspraak maak daarop dat die proses voltooi word. Die besluit wat aan die Unie regte toegeken het, was onderworpe aan die voltooiing van alle wetgewende prosesse, wat formele oorweging van die besware insluit. Die finale huurooreenkoms moet ook (indien daar geen ander geldige besware bestaan nie) gewysig word om aan geldige besware te voldoen.

Enige persoon wie se regte beïnvloed word, mag, in terme van Die Wet op Bevordering van Administratiewe Reg, Wet 3 van 2000 (die sg. PAJA wet), aansoek doen by die Hooggeregshof om administratiewe besluite tersyde te laat stel.

Hierdie wetgewing bepaal (in opsomming) dat:

- Enige foutiewe administratiewe aksie deur 'n hof tersyde gestel mag word (Artikel 6).
- Aksie ingestel moet word sonder onredelike vertraging en nie later nie as 180 dae nie, nadat:
 - Alle interne remedies uitgeput is, of
 - Waar interne remedies nie bestaan nie, die datum waarop die persoon ingelig was deur die administratiewe aksie, of bewus geword het van die aksie, of redeliker gewys bewus moes geword het van die aksie (Artikel 7).
- Die periode van 180 dae mag deur die partye verleng word by ooreenkoms of deur 'n hof vir die doel van reg en geregtigheid.

Indien hierdie beginsels van toepassing gemaak word *in casu* is ons van mening dat die finale administratiewe aksie nog nie plaasgevind het nie, omrede Mnr Haarburger se besware nog nie formeel oorweeg was nie. Indien sy besware van die hand gewys word, sal die periode vanaf daardie datum bereken word. Hy mag ook aansoek doen vir kondonasië om die tyds periode te verleng.

Verwys asb na die saak van **Andreas Du Toit v Knysna Munisipaliteit & 'n ander**.

PAD VORENTOE

Ons wil aanbeveel dat 'n behoorlike ondersoek gedoen word op grond van die besware (wat op rekord is) en 'n volledige verslag aan die Raad voorgelê word met die volgende sitting, vir formele oorweging om die besware te handhaaf of te verwerp.

Dit blyk *prima facie* dat sommige van mnr Haarburger se besware meriete mag inhou, maar moet volledig ondersoek word. Dit blyk ook dat die voorgestelde huurooreenkoms verskeie wysigings moet bevat, alvorens dit aan munisipale wetgewing voldoen

BESTUURSAANBEVELING

- (i) Dat die Raad kennis neem van die regsgeldigheid en prosesse wat gevolg is ten opsigte van die huurooreenkoms wat beskikbaar gemaak is vir ondertekening.
- (ii) Dat 'n behoorlike ondersoek gedoen word op grond van die besware (wat op rekord is) en 'n volledige verslag aan die volgende Raadsvergadering voorgelê word vir formele oorweging om die besware te handhaaf of te verwerp.
- (iii) Dat die voorgestelde huurooreenkoms verskeie wysigings moet bevat, alvorens dit aan munisipale wetgewing voldoen.

(Raadslid Europa nie teenwoordig tydens bespreking van die aangeleentheid nie.)

BESLUIT 47/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.3 **GEMEENSKAPSDIENSTE / COMMUNITY SERVICES**

11.3.1 **APPROVAL OF AMENDED: HOUSING SELECTION POLICY (DCS)**

PURPOSE OF REPORT

To inform Council on the amendments made by the Western Cape MEC for Human Settlements on Circular C10 of 2015 on the prioritization of households headed by middle-aged and elderly individuals in the selection of beneficiaries in green fields housing projects for ownership-based products (Circular attached on **page 117**).

BACKGROUND

The MEC of Human Settlements in the Western Cape signed a Framework Policy on 21 May 2015 detailing guidelines on how municipalities should conduct “age-based prioritization” in the selection of beneficiaries for ownership-based subsidy products in green-fields projects. Subsequent to that on 19 August 2016 the MEC signed an amendment on the age of beneficiaries to be prioritized and the age was adjusted to 35 years.

All municipalities have to comply with the core elements and principles of the Framework Policy and project applications submitted by municipalities which are not compliant may not be approved for funding by the department. The implementation of the guidelines as stated in the Amended Circular C10 of 2015 to be effective as from 19 August 2016 and all project starting after this date must comply.

LEGAL AND POLICY IMPLICATIONS

1. The Constitution of South Africa
2. The Housing Act, 1997
3. The National Housing Code, 2009
4. Circular C10 of 2015

FINANCIAL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

- (i) Council to approve the policy as amended.
- (ii) Council to approve amendment of Cape Agulhas Municipality’s Housing Selection Policy, Section 4.2.2.A (Selection Policy attached on **page 118 to 128**).

“4.2.2 Selection Criteria

A. Households containing adults of 35 years and older to be prioritised.

An applicant to have been on the municipal housing demand database for a period of Three (3) years before the commencement of the housing project. Registration date ordering will still be applicable.”

- (iii) Community information sessions to be held as an awareness campaign on the amendments.

RECOMMENDATION: COMMUNITY SERVICES COMMITTEE

That Management’s recommendation be accepted.

RESOLUTION 48/2017

That the recommendation of the Community Services Committee be accepted as resolution of Council.

11.3.2 DISCOUNTING OF FINANCE LINKED INDIVIDUAL SUBSIDY (FLISP) SITES ON THE GAP HOUSING PROJECT OF CAM (WARDS 5 AND 6) (DCS)

PURPOSE OF REPORT

That Council take note of the valuation reports received from Messrs DDP Values (PTY) Ltd and discount the value of the sites to make the "GAP" houses affordable for the targeted beneficiaries of the project.

BACKGROUND

There are currently no housing opportunities for beneficiaries who do not qualify for the low cost houses (IRDP). This is due to the fact the current housing market does not have affordable housing that are accessible to the "GAP"(R3 501,00 - R15 000,00) market. National and Provincial Departments of Human Settlements have thus intervened to provide funding for bulk infrastructure to assist in reducing the final cost of the house so as to make it affordable for the beneficiaries. Even with such intervention the price of land has a significant impact on the cost of the house, hence the proposal to discount the price of the sites.

VALUATIONS

Attached as annexures on **page 129 to 146** are the reports from Messrs DDP Values (Pty)Ltd for the following areas:

- Struisbaai (see Locality Plan attached as Annexure A on **page 147**)
- Arniston (see Locality Plan attached as Annexure B on **page 148**)

LEGAL AND POLICY IMPLICATIONS

1. The Constitution of South Africa
2. The Housing Act, 1997
3. The National Housing Code
4. Western Cape Department of Human Settlements Strategic Objectives.

FINANCIAL IMPLICATIONS

1. Council will not be able to receive any revenue from the sale of the houses in the short term.
2. In terms of long term planning the success of this project will ensure that council has additional rate payers who are contributing to the financial viability of the municipality.

MANAGEMENT RECOMMENDATION

- (i) That Council, in principle approves the discounting of the price of the sites in Struisbaai and Arniston.
- (ii) The value of each plot be R10,00.
- (iii) Waiver the payment of services connection fee per erf.
- (iv) Waiver the building plan approval fee.

RECOMMENDATION: COMMUNITY SERVICES COMMITTEE

That Management's recommendation be accepted.

RESOLUTION 49/2017

- (i) That the recommendation of the Community Services Committee be accepted as resolution of Council.
- (ii) That a full report be submitted to Council, after the selling prices of the proposed homes to be built are finalized.

11.3.3 **TRANSFER OF FUNDS FROM TRAVEL EXP: TRANSPORTATION - TO MOTOR VEHICLE: FUEL BUDGET**

PURPOSE OF REPORT

For Council to approve the transfer of funds from the expenditure transportation- to the motor vehicle: fuel budget.

BACKGROUND

The initial budget for motor vehicle fuel for the 2016/2017 financial year was R12 000,00. The budget vote for motor vehicle fuel: 1 40 51 1 2830 00 00 is currently over spent due to the fact that it was the first time that we have this budget item and we were not clear on the amount that we would spend on fuel.

The implementation of social development programmes within the municipal boundaries, meeting attendance locally as well as outside the Cape Agulhas area also contributed to the early depletion of funds.

LEGAL IMPLICATIONS

Adherence to the Budget and Virement policy of Cape Agulhas Municipality.

MANAGEMENT RECOMMENDATION

That Council approves the transfer of R6 000,00 from the travel expenditure transportation (1 40 51 1 3300 00 00) to the motor vehicle fuel (1 140 51 1 2830 00 00) budget.

RESOLUTION 50/2017

That the management recommendation be accepted as resolution of Council.

11.4 **FINANSIële DIENSTE / FINANCIAL SERVICES**

11.4.1 **DRAFT BUDGET FOR THE 2017/2018 FINANCIAL YEAR (DFS)**

The Director: Finance reports as follows:

PURPOSE OF REPORT

To submit the draft annual budget in respect of the 2017/18 and two outer financial years for consideration and discussion by Council as prescribed in the Municipal Finance Management Act (MFMA).

BACKGROUND

In terms of section 21(2) of the Municipal Finance Management Act, the Mayor must consider the following issues when preparing the annual budget:

- Take into account the municipality's integrated development plan;
- Take all reasonable steps to ensure that the municipality revises the integrated development plan in terms of section 34 of the Municipal Systems Act, taking into account realistic revenue and expenditure projections for future years;

- Take into account the national budget, the relevant provincial budget, the national government's fiscal and economic policy, the annual Division of Revenue Act and any agreements reached in the Budget Forum.
- Consult -
 - (i) All other local municipalities in the area, if the municipality is a district municipality
 - (ii) The relevant provincial treasury, and when requested, the National Treasury; and
 - (iii) Any national or provincial organ of state, as may be prescribed.

BUDGET PREPARATION PROCESS

The budget preparation process consists of the following six distinct steps:

1. **Planning** Schedule key dates, establish consultation forums, review previous processes.
2. **Strategizing** Review IDP, set service delivery goals and objectives for next three years, consult on tariffs, indigent, credit control, free basic service, etc. policies and consider local, provincial and national issues, previous year's performance and current economic trends, etc.
3. **Preparing** Prepare budget, revenue and expenditure projections, draft budget policies, consult and consider local, provincial and national priorities.
4. **Tabling** Table draft budget, IDP and budget related policies before Council, consult and consider formal local, provincial and national inputs or responses.
5. **Approving** Council approves budget and related policies.
6. **Finalizing** Publish and approve Service Delivery and Budget Implementation Plan (SDBIP) and annual performance agreements and indicators.

The above steps must be incorporated into one process with reference to the IDP and Budget. These processes could be finalized before submission of the draft budget to Council.

In terms of section 16 of the MFMA, the council of a municipality must for each year approve an annual budget for the municipality and as a consequence of this legislative requirement, the mayor of the municipality must table the annual budget at a council meeting at least 90 days before the start of the budget year.

After the draft annual budget has been tabled, the community must be invited to make written submission to the Council on the budget and to make representation at the council hearings. Key stakeholders like national and provincial departments (eg. Treasuries, Local Government, Water, Environment, Health) should also be invited to submit written comments to the hearing. The Council may wish to host special sessions with the community organizations, business organizations, and public sector institutions prior to convening the hearings on the budget process.

Council is required to have hearings on the budget before it considers the budget for adoption. Council must consider all submissions received during its hearing process. The Mayor must be given an opportunity to respond to the recommendations, make revisions and amend the tabled budget if so required. After the Mayor has responded to the recommendations and made amendments to the draft budget, the full council must meet to consider the budget for approval not later than 31 May 2017.

BUDGET CONTENT AND FORMAT

National Treasury, through the Municipal Budget and Reporting Regulations provided guidelines on the content and format standards of the budget as well as supporting documentation to which all municipalities must comply. The regulations became effective as from July 2009.

The reason why National Treasury provided guidelines on the budget and supporting documentation is to ensure:

- Compliance with legal requirements for an approved budget;
- Strengthened oversight by council and improved performance by officials;
- Readability of and linkages within the budget documentation;
- Satisfaction of stakeholders' information needs (councillors, community etc.); and
- Facilitation of comparability between municipalities.

Municipal Circulars 85 and 86 further provides guidance (inclusive of all previous budget related circulars issued by National Treasury) to municipalities and municipal entities for the preparation of their 2017/18 budgets, medium term revenue and expenditure framework (MTREF) as informed by the *Budget Review 2017* and the *2017 Division of Revenue Act*. According to the mentioned circular, municipalities must prepare their budgets in the context of the current global economic crisis and the slow-down in the domestic economy.

The draft annual budget is attached as annexure (**Bound separately**) for Council's consideration.

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

MANAGEMENT RECOMMENDATION

1. Council resolves that the draft budget of the municipality for the financial year 2017/18 as per Budget Related Resolutions of the budget document and indicative for the projected outer years 2018/19 and 2019/20 be adopted as set out in 1.8 Annual Budget Tables in respect of the following schedules:
 - 1.1 Executive summary of revenue & expenditure – Table A1;
 - 1.2 Budgeted Financial Performance (Revenue and Expenditure by standard Classification) –Table A2;
 - 1.3 Budgeted Financial Performance (revenue and expenditure by municipal vote) A – Table A3;
 - 1.4 Budgeted Financial Performance (revenue and expenditure) – Table A4;
 - 1.5 Budgeted Capital Expenditure by vote, standard classification and funding – Table A5;
 - 1.6 Budgeted Financial Position – Table A6;
 - 1.7 Budgeted Cash Flows Table A7;
 - 1.8 Cash backed reserves/accumulated surplus reconciliation – Table A8;
 - 1.9 Asset Management – Table A9;
 - 1.10 Basic service delivery measurement table A10;
 - 1.11 Council notes Part 2 - Other related Supporting Documentation completed where applicable from Table SA1 to SA38.
2. Council approves and adopts the draft tariffs listing for services as per Appendix A with effect 1 July 2017.
3. Council approves and adopt the Draft SDBIP in respect of the 2017/18 budget year per Appendix B.
4. Council notes the Service Level Standards to be submitted as required in terms of National Treasury Budget Circular 86 dated 8 March 2017 attached as Appendix C
5. Council notes that the mSCOA data string in respect of A Schedule version 6.1 been uploaded via the VESTA Financial System as per National Treasury requirement - Budget Circular 86 dated 8 March 2017.
6. Council approves the further refinement of the draft budget with regard to the mSCOA format, prescribed supporting documentation, Draft SDBIP, IDP-Budget linkages and the revenue and expenditure figures before final adoption by Council in May 2017.
7. Council notes that the Executive Mayor will have an oversight role over the budget process before it is again submitted for final approval.

After a presentation by the CFO, Council took the following decision:

RESOLUTION 51/2017

- (i) That the management recommendation be accepted as resolution of Council.
- (ii) That a workshop with Councillors be held after the public participation process.

(This item was finalised under item 9 of this minutes.)

11.4.2 **RAISING OF LONG TERM DEBT FOR IDENTIFIED NEW AND UPGRADE RELATED INFRASTRUCTURE PROJECTS OVER THE MEDIUM REVENUE AND EXPENDITURE FRAMEWORK (DFS)**

PURPOSE OF REPORT

For council to consider the raising of long term debt for asset financing and infrastructure services over the medium term budget framework aligned with the Long Term Financial Plan strategy objectives inclusive the source of what funding to be used for the repayment of the loan.

BACKGROUND

The main purpose of the proposed application to incur long-term debt is to provide the municipality with an additional funding model to finance its capital programme and ensure instant relief on its deteriorating cash reserves as the mayor funding source over the past ten years. The capital investment was primarily funded from cash & reserves at 58% and grant funding at 40%.

In terms of the Long Term Financial Plan strategy external borrowing is an important part of the funding model of the municipality by not only provide the municipality with relatively inexpensive capital to fast-track service delivery and infrastructure backlogs, but it also ensures that the user of the infrastructure pay for the use over the lifetime of the asset. .

Currently the municipality is operating well below the debt ceiling ratio of between 40% to 45%. According to the Long Term Financial Plan strategy, taking into account the municipality's current cash position, the maximum level of external borrowing is limited to not more than 20%. Although this is an area that the municipality should definitely explore as a funding option, it should be carefully prioritize with the focus on revenue generating services in order to recover the financial charges through the tariff model.

The main purpose for the proposed long-term debt to the estimated value of not more than R15m over the 2017/18 medium term budget framework will be utilized for asset financing and infrastructure services investment.

Following the detail of the long-term debt to be considered by council and the source of funding which will be used to repay the loan:

Purpose of Borrowing	Type of Instrument	Source of loan fund	Repayment period	Total amount	Estimated Borrowing Cost	Estimated Borrowing Cost P/A
Motor Vehicle Fleet	External Loan – Annuity Method	Term Loan: Asset Financing	3 - 5 Years	R5,000,000	R6,713,164	R1,342,633
New and Upgrade Infrastructure Services	External Loan – Annuity Method	Term Loan: Infrastructure	5 Years	R3,000,000	R4,027,898	R 805,580

New and Upgrade Infrastructure Services	External Loan – Annuity Method	Term Loan: Infrastructure	10 Years	R7,000,000	R11,959,289	R1,195,929
Total Long-term Application:				R15,000,000	R22,700,351	R3,344,142

LEGAL IMPLICATION

In terms of section 46 of the MFMA a municipality may incur long-term debt only in accordance with and subject to any applicable provisions in the mentioned Act and only for the purpose of capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government stipulated in the Constitution.

Furthermore the municipality's long-term debt must be consist with its capital budget and may only spend money on a capital project if the sources of funding have been considered, are available and have not been committed for other purposes.

Therefore it is imperative before final approval of the long-term debt that council first considers the amount of debt to be raised through borrowing or other means, purposes for which the borrowing(Debt) is to be incurred, total estimated cost of borrowing over the repayment period, type of instrument and source of loan funds.

Non-compliance to prescribed legislation in terms of the above key considerations.

FINANCIAL IMPLICATION

The total estimated borrowing cost over the 2017/18 medium term budget framework amounts to R22,70m whilst the total borrowing per annum amounts R3,34m.

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

MANAGEMENT RECOMMENDATION

- (i) Council takes note of the procedure for incurring long-term debt as prescribed in terms of section 46 of the MFMA.
- (ii) In terms of the type and method of external loans, it is recommended that the long-term debt will be in the form of direct borrowing from a banking institution calculated on the annuity method.
- (iii) Council approves the roll-out to obtain the long-term debt to the estimated amount of R15,00m for final consideration / approval on condition that the external loan period will not exceed the useful life of the asset.

RESOLUTION 52/2017

That the management recommendation be accepted as resolution of Council.

11.4.3 **VERLAGING VAN KRAGTOEVOER VANAF 30 AMPÈRE NA 20 AMPÈRE (DFD)**

DOEL VAN VERSLAG

Om die Raad in te lig omtrent die prosesse wat gevolg is om die gemeenskap omtrent hierdie aangeleentheid in te lig.

AGTERGROND

Alle persone wat voor 1997 pre-paid elektrisiteitsmeters ontvang het was kwytgeskeld van 'n basiese fooi ongeag die sterkte kragtoevoer wat ontvang is. Met die 2015/16 begroting het die Raad besluit dat slegs die persone wat 'n kragtoevoer van 20 ampère het, kwytgeskeld is van 'n basiese fooi. Almal hoër as 20 ampère moet dus 'n basiese fooi betaal.

Aangesien daar kostes aan verbonde is om die kragtoevoer te verlaag en aangesien daar 'n baie groot persentasie van die kliënte was wat deur hierdie besluit geraak is, het die Raad besluit om 'n jaar grasie aan alle betrokkenis te verleen waartydens die verlaging van die kragtoevoer gratis gedoen kan word. Hierdie besluit was via die nuusbrief gekommunikeer sowel as deur 'n boodskap wat op elke kliënt se rekening verskyn het.

As deel van ons "data skoonmaak proses" is daar gedurende Oktober 2016 spesifiek aandag gegee aan die uitvoering van die Raadsbesluit dat slegs kliënte met 20 ampère kragtoevoer kwytgeskeld is van 'n basiese fooi. Gedurende die proses is daar nog omtrent 500 rekening gevind waar persone wel 'n kragtoevoer van meer as 20 ampère het, maar nie die basiese fooi betaal nie. Aangesien almal die vorige boekjaar in kennisgestel is dat hulle die geleentheid het om die kragtoevoer gratis afwaarts te wysig indien hulle so sou verkies, het elkeen van die persone 'n brief ontvang waarin hulle meegedeel word dat hulle kragtoevoer wel meer is as 20 ampère en dat daar met hulle volgende rekening 'n regstelling gedoen sal word met betrekking tot die heffing van die basiese fooi.

Ingevolge die Raad se begroting was die heffing betaalbaar vanaf 1 Julie 2016 en dus was die regstelling dienooreenkomstig gedoen. 'n Groot ongelukkigheid het egter ontstaan ten opsigte van die terugwerkende heffing. Mense weier om die gelde te betaal. Daar is deur die Direkteur Finansies 'n vergunning gemaak dat die gelde wat terugwerkend gehef is, oor 'n tydperk (tot Junie 2017) terugbetaal kan word. Baie mense het van die vergunning gebruik gemaak.

Daar het egter nog steeds mense die Raadslede genader met hul ongelukkigheid omtrent die aangeleentheid en op versoek van die Raad is inligtingsessies deur die Kredietbeheer kantoor in die gemeenskap gedoen. Een sessie was in die Mandela Saal op Donderdag 16 Maart 2017 (18:00 tot 20:00) en Vrydag 17 Maart 2017 (09:00 tot 13:00) en die ander een by Welverdiend Biblioteek op Maandag 20 Maart 2017 (09:00 tot 13:00 en 18:00 tot 20:00).

Tydens die sessies is een tot een gesprekke met kliënte gevoer waartydens die aangeleentheid deeglik met hulle uitgeklaar is. 23 Persone het die onderskeie sessies bygewoon en hulle het ook 'n keuse gehad om die kragtoevoer te verlaag of om dit op die hoër ampère te hou. Al die persone het versoek dat hulle ampère verlaag moet word aangesien hulle nie die basiese fooi kan bekostig nie. Slegs een persoon was deel van die groep wat November 2016 briewe ontvang het. Hy het ook al reeds gebruik gemaak van die vergunning om die terugwerkende heffing oor 'n periode af te betaal. Die ander betaal al 'n geruime tyd die basiese fooi en het slegs versoek vir die verlaging van die ampère. Aangeheg op **bladsy 149** ook 'n naamlys van die persone wat die sessies bygewoon het.

FINANSIËLE IMPLIKASIES

Geen.

BESTUURSAANBEVELING

Dat die Raad kennis neem van die prosesse wat gevolg is.

BESLUIT 53/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

11.4.4 **REVIEWED AND AMENDED SCM POLICY (DFS)**

PURPOSE OF REPORT

To obtain Council's approval in respect of the amended Supply Chain Management Policy:

In terms of section 17(3)(e) of the MFMA any proposed amendments to budget-related policies of the municipality must accompanied the tabled budget when submitted to council for final approval each year.

Due to ongoing changes in processes, procedures, risks legislation, gaps identified during the audit and the new Infrastructure Procurement and Delivery Management policy that impacted on the existing policy, it is suggested to amend the Supply Chain Management Policy with an effective date of 1st July 2017 which is attached to this document.

SCM Policy amendments:

- **Annexure A:** Supply Chain Management Policy for Infrastructure Procurement and Delivery Management (attached on **page 150 to 164**).
- **Annexure B:** Supply Chain Management Policy: Standard for Infrastructure Procurement and Delivery Management (attached on **page 165 to 196**).

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

MANAGEMENT RECOMMENDATION

- (i) Council consider approval of the following amended supply chain management policies with the effective date 1st July 2017
- (ii) Council approves, subject to recommendation 1, that the above mentioned policies be thoroughly workshop with councillors and senior management as a matter of high priority.

RESOLUTION 54/2017

That the management recommendation be accepted as resolution of Council.

11.4.5 **ODUIT AKSIEPLAN 2015/16 (OPCAR): MAANDELIKSE VORDERING - MAART 2017**

DOEL VAN VERSLAG

Oorweging van die vordering met die goedgekeurde 2015/16 Oudit Bevindinge Aksieplan (OPCAR) vir Maart 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 197** opgeneem en bepaalde regstellende stappe is bepaal om die bevindinge aan te spreek.

Die vordering word ook aan die Oudit- en Prestasieoudit Komitee voorgelê en word ook op 'n gereelde grondslag met die Ouditeur-Generaal bespreek. Die vordering met die plan word verder op 'n kwartaalike 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 opsigt 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 55/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

12. ADDISIONELE ITEMS DEUR DIE RAAD HANTEER**12.1 APPROVAL AND ADOPTION OF THE JUNIOR TOWN COUNCIL CONSTITUTION****PURPOSE OF REPORT**

For Council to approve and adopt the attached Constitution of the Cape Agulhas Junior Town Council (JTC).

BACKGROUND

The Cape Agulhas Junior Town Council was established in November 2016. The structure consists of nine representatives from Bredasdorp High, Agulhas School of Skills and Albert Myburgh Senior Secondary School. The Junior Town Council members have two core functions:

They have to act as a representative of the junior governance structure of the Cape Agulhas Municipality and have to serve as a community ambassador, identifying and responding to challenges and needs in schools and the communities they represents.

FINANCIAL IMPLICATIONS

The budget of the Social Development department as well as council's budget will be utilized for projects implemented by the Junior Town Council.

PERSONNEL IMPLICATIONS

The officials in the Social Development department will coordinate the activities of the Junior Town Council.

MANAGEMENT RECOMMENDATION

That Council approve and adopt the Constitution for the Cape Agulhas Junior Town Council.

RESOLUTION 56/2017

That the management recommendation be accepted as resolution of Council.

17. **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	(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)	(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. Verslag weer voor Raad tydens Maart se vergadering.	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	Dat die randstene wel verwyder word, op voorwaarde dat - (i) Die eienaar in kennis gestel word dat sou hulle die parkeerarea wil vergroot tot by die voetpaadjie (in Hoofweg), die nodige grondgebruiksaansoek ingedien moet word vir oorweging. (ii) 'n 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	(v) Dat erf 4443, geleë op die hoek van Tolbos- en Baatjiesstraat, Bredasdorp aan genoemde organisasie beskikbaar gestel word vir die daarstelling van 'n sopkombuis. (vi) Dat die dienste aansluiting deur die Raad gedoen sal word. (vii) Dat goedkeuring gegee word vir die oprigting van 'n struktuur, onderworpe aan die goedkeuring van volledige bouplanne. (viii) Dat die nodige huurooreenkoms deur Korporatiewe Dienste opgestel word.	<i>In proses.</i>	

BESTUURSAANBEVELING

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

BESLUIT 57/2017

- (i) Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat Raadsbesluit 235/2016 en 236/2016 op 6 April 2017 tydens 'n vergadering met belange groepe bespreek sal word.

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

BEKRAGTIG op hierdie

dag van

2017

SPEAKER

DATUM: