



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N ALGEMENE RAADSVERGADERING GEHOU OM 10:00 OP DONDERDAG
7 DESEMBER 2017 IN DIE MUNISIPALE RAADSAAL TE BREDASDORP**

**MINUTES OF A GENERAL COUNCIL MEETING HELD ON THURSDAY, 7 DECEMBER 2017
AT 10:00 IN THE MUNICIPAL COUNCIL CHAMBERS, BREDASDORP**

RAADSLEDE / COUNCILLORS

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

AMPTENARE / OFFICIALS

Mnr D O'Neill	Munisipale Bestuurder
Mnr H Van Biljon	Direkteur: Finansiële Dienste
Mnr K Mrali	Direkteur: Bestuursdienste
Mnr B Swart	Interne Ouditeur
Mnr S Cooper	Bestuurder: Elektrotegniese Dienste
Mnr B Hayward	Bestuurder: Stads- en Streeksbeplanning
Mnr G M Moelich	Bestuurder: Administrasie
Me N Mhlati-Musewe	Divisional Head: HR Services & Organisational Development
Me T Stone	Afdelingshoof: Strategiese Dienste

1. **OPENING**

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

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

Geen.

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

3.1 **Departement Energie: SWH ("solar water heating") program**

Afgevaardigdes vra verskoning en sal die voorlegging op 'n latere geleentheid doen.

3.2 **Productivity SA**

Mnre Cloete en Roux gee terugvoer aan die Raad aangaande die pas afgehandelde produktiwiteitsstudie. Hulle verduidelik die prosesse gevolg, brei uit oor die 39 poste wat gemeet is en verduidelik die resultate.

BESLUIT 230/2017

- (i) Dat die Raad kennis neem van die studie en die uitkomst.
- (ii) Dat kennis geneem word dat Bestuurders voortaan self die evaluering sal kan doen.

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

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

31 Oktober 2017

BESLUIT 231/2017

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:**

24 Oktober 2017

BESLUIT 232/2017

Die Raad kennis van bogenoemde UBK Notule.

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

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

- WYK 1 : 18 Oktober 2017
- WYK 2 : 19 Oktober 2017
- WYK 3 : 18 Oktober 2017
- WYK 4 : 17 Oktober 2017
- WYK 5 : 18 Oktober 2017
- WYK 6 : 17 Oktober 2017

BESLUIT 233/2017

- (i) Die Raad neem kennis van bogenoemde Wykskomitee Notules.
- (ii) Wyk 3: Dat kennis geneem word dat geen geld ontvang is vir top strukture vir area F, Bredasdorp nie.
- (iii) Wyk 5: Dat alle wyke voortaan tot vier spoedwalle per wyk binne die bestaande begroting mag oprig.
- (iv) Wyk 5: Dat die Afdelingshoof vir Strategiese Dienste en Administrasie 'n verslag aan die Raad voorlê met betrekking tot die uitreiking van walvis besigtigingstoere en die toekenning van permitte.
- (v) Wyk 6: Dat die Raad kennis neem van die serwituut ten gunste van die publiek tussen Hoofweg en Dunkirkstraat oor erf 599 in Waenhuiskrans as 'n moontlikheid binne die mediasie tussen die betrokke partye oorweeg word.

6.2 VOORGELê VIR KENNISNAME : ICT STEERING COMMITTEE GEHOU OP

19 Oktober 2017

BESLUIT 234/2017

Die Raad neem kennis van bogenoemde ICT Steering Committee Notule.

7. SAKE VOORTSPRUITEND UIT NOTULES

Geen.

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

Aangeheg op *bladsy 1 tot 9*.

BESLUIT 235/2017

Die Raad neem kennis van bogenoemde skrywes.

8.2 FUNKSIES VIR DIE MAAND

Dat die Raad kennis neem van die Blouvlag status asook die inhuldiging van die junior raad wat plaasgevind het.

8.3 AANWYS VAN AFGEVAARDIGDES

Geen.

8.4 DRINGENDE SAKE DEUR DIE SPEAKER VOORGELê

- (i) Versoeke is ontvang vanaf Wykskomiteeëde wat diens verrig in die EPWP program. Volgens die bestaande beleid mag Wykskomiteeëde nie in die owerheid se diens wees nie.
- (ii) Die Munisipale Bestuurder word geluk gewens met sy verkiesing as Voorsitter van die Wes-Kaapse Munisipale Bestuurdersforum.
- (iii) Overberg Distriksmunisipaliteit het die tweede prys ontvang vir die "groenste" munisipaliteit.

BESLUIT 236/2017

- (i) Dat die Raad kennis neem van bogenoemde.
- (ii) Dat die beleid ten opsigte van Wykskomitee lede gewysig word om voorsiening te maak dat slegs permanente werknemer nie op 'n Wykskomitee mag dien nie.

(Raadslid Jacobs teken sy teenstem aan.)

9. TERUGVOERING VANAF RAADSLEDE OOR VERGADERINGS BYGEWOON

Geen.

10. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER

- (i) Die Raadslede en amptenare word bedank vir hulle harde werk gedurende 2017 en 'n geseënde Kersfees word hul en hul gesinne toegewens.
- (ii) Die Burgemeester spreek sy teleurstelling uit oor die onweloweglike uitlatings wat tydens die vergadering geopper is.

		<u>Bladsy</u>
	<u>Notule</u>	<u>Bylaes</u>
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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**

Sien skrywe ontvang vanaf Raadsdame Marthinus, aangeheg op **bladsy 41**.

BESLUIT 237/2017

Dat die Raad kennis neem van die skedule wat deur die Burgemeester voorsien is.

16. **OORWEGING VAN DRINGENDE MOSIES**

Geen.

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

Lys van onafgehandelde Raadsbesluite verskyn op **bladsy 49**.

18. **IN-KOMITEE VERSLAE**

Die In-Komitee items word vertroulik hanteer.

19. **SLUITING**

Die Speaker wens alle Raadslede en amptenare 'n geseënde Kersvakansie toe. Hierna verdaag die vergadering om 13:50

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

11.1 **MUNISIPALE BESTUURDER / MUNICIPAL MANAGER**

11.1.1 **2016/17 DRAFT ANNUAL REPORT SUBMITTED IN TERMS OF SECTION 127 OF THE MUNICIPAL FINANCE MANAGEMENT ACT (ACT 56 OF 2003)**

REPORT BY: DIVISION HEAD STRATEGIC PLANNING AND ADMINISTRATION

PURPOSE OF REPORT

To present the Draft Annual Report for the 2016/17 financial year in terms of section 127 of the Municipal Finance Management Act, Act 56 of 2003).

The following documents will be submitted separately for consideration by Council:

The Draft Annual Report for 2016/17, inclusive of the following Annexures:

- The final consolidated Annual Financial Statements for 2016/17 as signed-off by the Auditor-General;
- The final consolidated Audit Report from the Auditor-General;
- The Audit and Performance Committee report for 2016/17.

The most important documents of the Municipality are the Integrated Development Plan (IDP), Budget, and Annual Report. The IDP and Budget are planning documents that focus on the year ahead; the IDP identifies the objectives, strategies and projects that the Municipality will achieve and implement in the year as well as the key performance indicators against which its performance can be measured, while the budget sets out how these strategies and projects will be funded. The Annual Report is retrospective and focuses on the year's actual performance as measured against the key performance indicators set out in the IDP. The Annual Report also indicates the manner in which the IDP was implemented and how the budget was spent during the year under review.

LEGAL FRAMEWORK

The submission of the Annual Report is regulated by the Municipal Systems Act, Act 32 of 2000 and the Municipal Finance Management Act, Act 56 of 2003. The following table provides an overview of the main provisions:

MUNICIPAL SYSTEMS ACT NO. 32 OF 2000	
Section 46: Annual performance reports	<ol style="list-style-type: none"> 1) <i>A municipality must prepare for each financial year a performance report reflecting -</i> <ol style="list-style-type: none"> (a) <i>the performance of the municipality and of each external service provider during that financial year;</i> (b) <i>a comparison of the performances referred to in paragraph (a) with targets set for and performances in the previous financial year; and</i> (c) <i>measures taken to improve performance.</i> 2) <i>An annual performance report must form part of the municipality's annual report in terms of Chapter 12 of the Municipal Finance Management Act.</i>
MUNICIPAL FINANCE MANAGEMENT ACT NO 56 OF 2003	
Section 121: Preparation and adoption of annual reports	<ol style="list-style-type: none"> 1) <i>Every municipality and every municipal entity must for each financial year prepare an annual report in accordance with this Chapter. The council of a municipality must within nine months after the end of a financial year deal with the annual report of the municipality and of any municipal entity under the municipality's sole or shared control in accordance with section 129.</i> 2) <i>The purpose of an annual report is-</i> <ol style="list-style-type: none"> (a) <i>to provide a record of the activities of the municipality or municipal entity during the financial year to which the report relates;</i> (b) <i>to provide a report on performance against the budget of the municipality or municipal entity for that financial year; and</i> (c) <i>to promote accountability to the local community for the decisions made throughout the year by the municipality or municipal entity.</i> 3) <i>The annual report of a municipality must include-</i> <ol style="list-style-type: none"> (a) <i>the annual financial statements of the municipality, and in addition, if section 122 (2) applies, consolidated annual financial statements, as submitted to the Auditor-General for audit in terms of section 126 (1);</i> (b) <i>the Auditor-General's audit report in terms of section 126 (3) on those financial statements;</i> (c) <i>the annual performance report of the municipality prepared by the municipality in terms of section 46 of the Municipal Systems Act;</i> (d) <i>the Auditor-General's audit report in terms of section 45 (b) of the Municipal Systems Act;</i> (e) <i>an assessment by the municipality's accounting officer of any arrears on municipal taxes and service charges;</i> (f) <i>an assessment by the municipality's accounting officer of the municipality's performance against the measurable performance objectives referred to in</i>

	<p>section 17 (3) (b) for revenue collection from each revenue source and for each vote in the municipality's approved budget for the relevant financial year;</p> <p>(g) particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d);</p> <p>(h) any explanations that may be necessary to clarify issues in connection with the financial statements;</p> <p>(i) any information as determined by the municipality;</p> <p>(j) any recommendations of the municipality's audit committee; and</p> <p>(k) any other information as may be prescribed.</p>
Section 127: Submission and tabling of annual reports	<p>1) The accounting officer of a municipal entity must, within six months after the end of a financial year, or on such earlier date as may be agreed between the entity and its parent municipality, submit the entity's annual report for that financial year to the municipal manager of the entity's parent municipality.</p> <p>2) The Mayor must within seven months (by end January) of the financial year, table in the municipal council the annual report of the municipality.</p> <p>3) If the mayor, for whatever reason, is unable to table in council the annual report of the municipality, or the annual report of any municipal entity under the municipality's sole or shared control, within seven months after the end of the financial year to which the report relates, the mayor must:</p> <p>a) Promptly submit to the council a written explanation referred to in section 133(1)(a) setting out the reasons for the delay, together with any components of the annual report listed in section 121(3) or (4) that are ready; and</p> <p>b) Submit to council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.</p> <p>(4) The Auditor-General may submit the financial statements and audit report -</p> <p>(a) of a municipality directly to the municipal council, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the mayor fails to comply with subsection (2) or (3); or</p> <p>(b) of a municipal entity directly to the parent municipality, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the accounting officer of the entity fails to comply with subsection (1).</p> <p>5) Immediately after an annual report is tabled in the council in terms of subsection (2), the accounting officer of the municipality must—</p> <p>(a) in accordance with section 21A of the Municipal Systems Act—</p> <p>(i) make public the annual report; and</p> <p>(ii) invite the local community to submit representations in connection with the annual report; and</p> <p>(b) submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the Province.</p>
Section 129: Oversight reports on annual reports	<p>1) The council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality's sole or shared control, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127 adopt an oversight report....</p>
Section 130 Council meetings open to the public and certain officials	<p>1) The meetings of a municipal council at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken, must be open to the public and any organs of state, and a reasonable time must be allowed -</p> <p>a) for the discussion of any written submissions received from the local community or organs of state on the annual report; and</p> <p>b) for members of the local community or any organs of state to address the council.</p> <p>2) Representatives of the Auditor-General are entitled to attend, and to speak at, any council meeting referred to in subsection (1).</p> <p>3) This section, with the necessary modifications as the context may require, is also applicable if only components of the annual report were tabled in terms of section 127 (3).</p>

DISCUSSION

The 2016/17 Draft Annual Report will be made public and submitted to the relevant organs of state following its adoption.

The report will also be referred to the MPAC to perform the oversight process which shall include the consideration of any representations received from the public and organs of state and the compilation of the oversight report.

MANAGEMENT RECOMMENDATION

- (i) That the Council adopt the 2016/17 Draft Annual Report as tabled by the Mayor in terms of Section 127(2) of the MFMA.
- (ii) That the 2016/17 Draft Annual Report be made public and submitted to the relevant organs of state in terms of Section 127 of the MFMA.
- (iii) That the 2016/17 Draft Annual Report be referred to the MPAC to perform the oversight process and compile the Oversight Report.

RESOLUTION 238/2017

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

11.1.2 **REVISION: SYSTEM OF DELEGATIONS**

PURPOSE OF REPORT

To table the revised delegation of administrative and operational powers and duties of Cape Agulhas Municipality for council approval.

BACKGROUND

The current set of delegations were approved by council on 28 January 2014. The approved changes to the portfolio committees as well as those made to the macro-structure necessitated the revisions to the above approved system of delegations.

Section 59 of the Local Government: Municipal Systems Act, 32 of 2000, makes it obligatory for a municipal council to develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances. The system must allow for the delegation of powers, excluding those mentioned in section 160(2) of the Constitution of South Africa, 1996, the power to set tariffs, to decide to enter into a service delivery agreement and to approve or amend the municipality's IDP, to any of the municipality's other political structures, political office bearers, councillors or staff members.

The development of the current set of delegations was done by a senior legal practitioner in consultation with the management of the municipality and shows the actual legal mandate for each delegation. The proposed revision was done by the Municipal Manager and actually only required the alignment of the approved delegations with the changes to the political and administrative structures that were approved by the current council.

A set of the revised delegations *is provided separately to this agenda*.

LEGAL IMPLICATION

Section 59 of the Local Government: Municipal Systems act, 32 of 2000.

PERSONNEL IMPLICATION

The alignment of the approved macro structure. No other personnel implications than those already assigned are envisaged.

MANAGEMENT RECOMMENDATION

That Council approves the revision to the system of delegations as tabled with this report.

RESOLUTION 239/2017

- (i) That the management recommendation not be accepted.
- (ii) That a workshop be held for Councillors and senior Managers on the proposed amendments to the system of delegations.

11.1.3 PERFORMANCE REVIEWS 2016/17: MUNICIPAL MANAGER AND SENIOR MANAGERS**REPORT BY THE MUNICIPAL MANAGER****PURPOSE OF REPORT**

The purpose of this report is to submit the performance reviews of the Municipal Manager and Senior Managers to Council.

BACKGROUND

The Municipal Manager and senior managers reporting directly to the Municipal Manager are required to conclude an annual performance agreement for each financial year in terms of Section 57 (1) (b) of the Local Government: Municipal Systems Act.

PERFORMANCE EVALUATION PROCESS

The performance reviews for the full year 2016/17 were done on 2 November 2017 and were done by a panel which was constituted in terms of legislation and the performance agreements of the respective managers.

The following managers were evaluated:

- Municipal Manager - Mr D O'Neill
- Director: Corporate Services - Mr S Ngwevu (in absentia)
- Director: Community Services - Mr K Mrali (Management Services)
- Director: Financial Services - Mr H van Biljon (Finance and IT Services)

The officials were given an opportunity to make a presentation to the panel and scoring was done in terms of evidence provided. The following information was considered during the evaluation:

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

The supporting evidence was audited in full by the Internal Auditor.

EVALUATION OUTCOMES AND DISPUTES

The evaluation outcomes following the assessment were as follows:

Name	%
Mr D O'Neill	72%
Mr H van Biljon	71%
Mr S Ngwevu	56%
Mr K Mrali	62%

These outcomes were communicated to the employees and signed off following the evaluation. Mr K Mrali subsequently lodged a dispute against the performance outcomes which will be dealt with in terms of the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to the Municipal Manager.

Sub regulation 33 (2) states that -

“any disputes about the outcome of the employee’s performance evaluation must be mediated by:

- b) *In the case of managers directly accountable to the municipal manager, a member of the municipal council provided that such member was not part of the evaluation panel provided for in sub regulation (27)(4)(e) within 30 days of receipt of a dispute from the employee. Whose decision shall be final and binding on the parties”*

Cllr Burger was appointed as mediator. He was not part of the panel that scored Mr Mrali’s performance during the evaluation. The dispute was mediated on 5 December 2017 and Mr Mrali’s final score was amended as follows.

Name	%
Mr K Mrali	65%

The amendment was based on the application of uniform principles in terms of the SDBIP and a review of the employee’s core competencies

BONUSES PAYABLE

The evaluation was done in terms of the requirements stipulated in the Local Government Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers (2006) and the performance contracts.

Sub regulation 8 states that -

“a performance bonus, based on affordability, may be paid to the employee, after -

- 1) *the annual report for the financial year under review has been tabled and adopted by the municipal council;*
- 2) *an evaluation of performance in accordance with the provisions of regulation 23; and*
- 3) *approval of such evaluation by the municipal council as a reward for outstanding performance.*

The Draft Annual Report for 2016/17 is tabled at the same council meeting as this report and its tabling is a pre-requisite to the payment of bonuses.

Bonuses are payable in terms of clause 11.3 of the performance agreements which stipulate that bonuses should be calculated as follows:

Employee	Operational % (80%)	Competencies % (20%)	Final Score (100%)	Bonus % of total package
Mr D O’Neill	56%	17%	72%	8%
Mr H van Biljon	54%	17%	71%	8%
Mr S Ngwevu	43%	13%	56%	0%
Mr K Mrali	49%	16%	65%	5%

The full performance reviews report is attached as **Annexure**.

It should be noted that the bonuses payable in respect of the 2016/17 financial year are less than the previous financial years. This is primarily due to the bonus structure being amended in terms of legislation. The implication of this is that evaluatees need to score much higher to achieve a full bonus and any score under 65% does not warrant a bonus.

2015/16 Bonus structure:

RATING	LEVEL	BONUS CALCULATION
0% - 40%	Poor performance	0% of Total package
41% - 50%	Average Performance	5% of Total Package
51% - 60%	Fair Performance	8% of Total Package
61% - 70%	Good Performance	11% of Total Package
71% - 100%	Excellent Performance	14% of Total Package

2016/17 Bonus Structure:

RATING	LEVEL	BONUS CALCULATION
0% - 64%	Poor performance	0% of Total package
65% - 69%	Average Performance	5% of Total Package
70% - 74%	Fair Performance	8% of Total Package
75% - 79%	Good Performance	11% of Total Package
80% - 100%	Excellent Performance	14% of Total Package

FINANCIAL IMPLICATIONS

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

MANAGEMENT RECOMMENDATION

It is recommended that:

- (i) Council takes note the content of the 2016/17 performance reviews report.
- (ii) Council approves the payment of performance bonuses to the affected employees as per the outcome of the performance reviews.

(Die Munisipale Bestuurder, Direkteure: Finansies en Gemeenskapsdienste, nie teenwoordig tydens bespreking van die aangeleentheid nie.)

RESOLUTION 240/2017

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

11.1.4 MACRO/MICRO STRUCTURE 2018/2019**PURPOSE OF REPORT**

For Council to consider the inclusion of the micro structure to support the approved macro structure of Cape Agulhas Municipality.

BACKGROUND

The macro structure is approved at 30 June 2017 with immediate effect from 1 July 2017.

The following post need to be considered and budgeted for the micro-structure 2018/2019 in the Finance Department:

Finance and Information Technology Department

- Senior ICT Specialist: Technical (already budgeted - need to be incorporated in the micro structure 2018/2019)
- Senior ICT Specialist: System/Admin(already budgeted- need to be incorporated in the micro structure 2018/2019)
- Admin Clerk: Helpdesk (need to be budgeted and need to be incorporated in the micro structure 2018/2019)

Finance and Expenses Department

- Assistant Officer: Assets and Insurance

The ICT Section and the Chief Finance officer has already reported this specific needs to the ICT steering committee which were presented to council on a monthly basis.

FINANCIAL IMPLICATIONS

R600 000,00 per year for the two proposed post this is total cost of employment. As mentioned above this cost is already included in the current salary budget.

LEGISLATIVE REQUIREMENTS

- Municipal Systems Act, No 32. of 2000
- Task Policy-SALGA
- Cape Agulhas Municipality Remuneration Policy
- Municipal Finance Management Act, Act No 56 of 2003
- Main Collective Agreement, SALGBC

MANAGEMENT RECOMMENDATION

- (i) That Council consider and approve the micro structure for 2018/2019 and attached proposed structure of the Finance and Information Technology Department.
- (ii) That all new recommended posts go through the TASK evaluation process, before filling of the post.
- (iii) That one additional post, *Admin Officer: Helpdesk*, be considered and approved for the next book year 2018/2019.

RESOLUTION 241/2017

- (i) That management recommendation (i) and (ii) be accepted as a resolution of Council.
- (ii) That the additional post not be filled and only after the productivity study has been studied and low productivity identified, be allocated internally.

11.1.5 **KWARTAALVERSLAG OOR DIE OUDIT- EN PRESTASIEOUDIT KOMITEE SE WERKSAAMHEDE VIR DIE KWARTAAL GEËINDIG 31 DESEMBER 2017**

DOEL VAN VERSLAG

Verslagdoening aan die Raad oor die Oudit- en Prestasieoudit Komitee se werksaamhede en die uitvoering van sy pligte vir die kwartaal geëindig 31 Desember 2017.

AGTERGROND

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

Op grond van hierdie skrywe het die Komitee sy kwartaalverslag uitgebring vir bogemelde kwartaal en wat nou aan die Raad voorgelê word vir bespreking en oorweging (sien **bladsy 10 tot 13**).

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

“Par. 5(a)

The Committee would like to express its satisfaction on the following issues:

- i. The functioning of the district Shared Risk Management Services and the progress made with the establishment of risk management culture in the municipality;*
- ii. The functioning and effectiveness of the municipality’s FARMCO as well as the consideration of possible fraud and emerging risks;*
- iii. The progress made with implementation of the 2017/18 Risk Based Audit Plan;*
- iv. The effectiveness of the internal audit function; and*
- v. The manner in which the municipality is dealing with its ICT matters and the progress made with the implementation of the new framework.*
- vi. That the municipality achieved a clean audit for the fourth year in a row.*
- vii. That the Internal Audit function is auditing the performance portfolio of evidence on a quarterly basis”*

“Par. 5(b):

However, the Committee does have concerns on the following issue:

- i The difficulty still experienced by the Manager: Strategic Services in obtaining timeous and appropriate supporting evidence of performance achievements which has not improved since the last reporting period.*
- ii That the evacuation plans for the municipality that has not yet been formally approved and implemented.*
- iii Issues raised by the Auditor General especially around proper record keeping at revenue, traffic services and supply chain management.*
- iv The external quality assessment of the Internal Audit function as per the IIA standard 1312 has not been done.*
- v Implementation of the new financial system, including mSCOA as well as the support from the service provider.*
- vi Top risks of the municipality needs to be reviewed.*

Par. 5(c)

Review of internal audit reports – The following internal audit reports were submitted to and reviewed by the Committee for the period under review:

- i. Municipality’s implementation and adherence to the National Treasury ICT Framework*
- ii Municipality’s compliance to Laws and Regulations*
- iii Follow-up audit on the management of cash at the main office building*
- iv Review of Directors departmental Portfolio of Evidence*

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Voldiening aan die Munisipale Beplannings en Prestasiebestuurs Regulasies, 2001.

AANBEVELING: OUDIT- EN PRESTASIEOUDIT KOMITEE

Dat die Raad die inhoud van die Komitee se kwartaalverslag vir die kwartaal geëindig 31 Desember 2017 bespreek en die verslag aanvaar.

BESLUIT 242/2017

Dat die Oudit- en Prestasieoudit Komitee se aanbeveling as besluit van die Raad aanvaar word.

11.1.6 HALF-JAARLIKSE VERSLAG OOR PRESTASIEMETING EN DIE PRESTASIEMETINGSTELSEL VIR DIE TYDPERK GEËNDIG 31 DESEMBER 2017**DOEL VAN VERSLAG**

Om die Raad in te lig oor die Prestasieoudit Komitee se half-jaarlikse verslag oor bogemelde tydperk oor hulle evaluering van die prestasiekeningstelsel en die bestuur daarvan en vir die Raad om die verslag te oorweeg.

AGTERGROND

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

Die Komitee het dan ook sodanige evaluering gedoen vir die tydperk 1 Julie 2017 tot 31 Desember 2017 en die vereiste verslag opgestel. Die Komitee is oor die algemeen baie tevrede met die stelsel en die bestuur daarvan, maar lig die volgende bekommernisse uit:

Die verslag word aangeheg op **bladsy 14 tot 17**.

PERSONEEL IMPLIKASIES

Geen.

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Voldoening aan die Munisipale Beplannings- en Prestasiebestuursregulasies, 2001.

AANBEVELING: OUDIT- EN PRESTASIEOUDIT KOMITEE

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

BESLUIT 243/2017

Dat die Oudit- en Prestasieoudit Komitee se aanbeveling as besluit van die Raad aanvaar word.

11.1.7 TERUGVOERING AAN DIE RAAD TEN OPSIGTE VAN RESOLUSIES 195/2017 EN 196/2017**DOEL VAN VERSLAG**

Terugvoering aan die Raad t.o.v. die munisipaliteit se bekommernisse rondom die gebruik en opdatering van die prestasie-meting stelsel en wat na die UBK verwys is per Resolusies 195/2017 en 196/2017 ver verdere ondersoek.

AGTERGROND

Die munisipaliteit se Oudit- en Prestasieoudit Komitee het in hulle kwartaalverslag vir die tydperk geëindig 30 September 2017 bepaalde bekommernisse uitgespreek. Na bespreking is die aangeleenthede na die UBK verwys vir verdere ondersoek.

Gesprekvoering is tussen die UBK, Interne Oudit en Strategiese Dienste gevoer op 29 November 2017. Die notules van die bespreking asook die aanbevelings word aangeheg op **bladsy 18 en 19** en is vanselfsprekend.

PERSONEEL IMPLIKASIES

Geen

FINANSIËLE IMPLIKASIE

Geen.

WETLIKE IMPLIKASIE

Uitvoering vand Raadsbesluite 195/2017 en 196/2017.

AANBEVELING: OUDIT- EN PRESTASIEOUDIT KOMITEE

Dat die Raad die inhoud van die UBK se notule bespreek en die aanbevelings bekragtig.

BESLUIT 244/2017

Dat die Oudit- en Prestasieoudit Komitee se aanbeveling as besluit van die Raad aanvaar word.

11.2 STRATEGIESE BEPLANNING EN ADMINISTRASIE / STRATEGIC PLANNING AND ADMINISTRATION**11.2.1 JAARBEPLANNER: 2018 (BAO)****DOEL VAN VERSLAG**

Om die Raad se jaarbeplanner vir vergaderings vir 2018 te oorweeg.

AGTERGROND

Die jaarbeplanner van die Raad word jaarliks deur Komiteedienste opgestel om die beplanning van vergaderings te koördineer. 'n Voorlopige beplanner is na rolspelers gesirkuleer, en nadat insette in berekening gebring is, word die volledige dokument aan die Raad voorgelê vir oorweging (*jaarbeplanner was reeds versprei*).

FINANSIËLE IMPLIKASIE

Geen.

ANDER ROLSPELERS GENADER

Alle Raadslede, Munisipale Bestuurder, Direkteure en Departementshoofde.

BESTUURSAANBEVELING

- (i) Dat die aangehegte skedule as beleidsraamwerk van die Raad aanvaar word.
- (ii) Dat die skedules op strategiese plekke binne die Raad se lokale vertoon sal word.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

Dat die Bestuursaanbeveling aanvaar word.

BESLUIT 245/2017

Dat die Finansies- en IT Dienste Komitee se aanbeveling as besluit van die Raad aanvaar word.

11.2.2 **VERSOEK OM KAAP AGULHAS MUNISIPALE KANTORE OP SEKERE DAE BINNE KERSSEISOEN TE SLUIT (BMH)**

DOEL VAN VERSLAG

Om oorweging te skenk om Raadskantore op sekere dae binne die Kersseisoen te sluit.

AGTERGROND

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

'n Versoek deur die Plaaslike Arbeidsforum word aan die Raad gerig om goedkeuring te verleen dat alle kantore binne Kaap Agulhas Munisipaliteit vanaf Woensdag, 27 Desember 2017 tot Dinsdag 2 Januarie 2018 gesluit word.

Alle bystand personeel sal steeds op diens wees, asook alle nood-funksies. Telefoniese navrae sal steeds deur die Bystandpersoneel hanteer word. Voorafkenningsgewings en ander kommunikasie metodes (SMS, Facebook, Twitter, Webtuiste) sal gebruik word om die publiek dienoooreenkomstig in te lig.

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

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

FINANSIËLE IMPLIKASIE

Twee verlofdae.

BESTUURSAANBEVELING

- (i) Dat alle kantore van Kaap Agulhas Munisipaliteit vanaf Woensdag, 27 Desember 2017 tot Dinsdag 2 Januarie 2018 gesluit word (4 werksdae).
- (ii) Dat personeel vir 27 en 28 Desember 2017 vakansieverlof sal neem en dat 29 Desember 2017 en 2 Januarie 2018 as spesiale verlof toegestaan sal word.
- (iii) Dat alle kantore op 3 Januarie 2018 oop sal wees vir die publiek.
- (iv) Dat vooraf kennisgewings en ander kommunikasie metodes (SMS, Facebook, Twitter, Webtuiste) gebruik sal word om die publiek dienooreenkomstig in te lig.
- (v) Dat alle buitendienste sal voortgaan soos geskeduleer.
- (vi) Dat telefoniese navrae steeds deur die Bystandpersoneel hanteer sal word.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

Dat die Bestuursaanbeveling aanvaar word.

BESLUIT 246/2017

- (i) Dat die Finansies- en IT Dienste Komitee se aanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat die finansiële implikasie aan die Raad voorgelê word - In 'n skrywe gedateer 8 Desember 2017 ontvang vanaf die Direkteur: Finansies word twee dae se verlof bereken teen R547 657,42.
- (iii) Dat betaalpunte in Napier ondersoek word om dienslewering te optimaliseer.
- (iv) Raadslid Jacobs teken sy teenstem aan.

11.2.3 APPROVAL OF HUMAN RESOURCES POLICIES (HR)**PURPOSE OF REPORT**

To present to Council the following policies for approval:

- 1. Remuneration : Attached on **page 20 to 25**
- 2. Uniform / Protective Clothing : Attached on **page 26 to 29**

BACKGROUND

As determined through the recent municipal risk management exercise, the adoption of new and regular review of policies has been identified as a risk. To ensure and avoid Auditor-General findings new and review of Human Resources policies will be undertaken to fully address this issue.

The abovementioned policies were served before management and the unions on 17 August 2017 and again on 12, 20 and 30 October 2017 for discussion and input.

COUNCIL POLICY

Risk Management Policy.

PERSONNEL IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

Unknown.

OTHER ROLE-PLAYERS / UNIONS / MANAGERS

Accepted at a LLF meeting on Thursday 9 November 2017. The unions however do not agreed to clause 7.1 (e) (11). In the Draft Remuneration Policy which states "Employees who resign from the municipality or are dismissed will not receive a prorata bonus payment." The unions believed that employees who resign or are dismissed must receive a prorata bonus payment. The unions will abide by the decision of the Council.

RECOMMENDATION: LOCAL LABOUR FORUM

That Council approves the following Human Resources Policies:

- (i) Remuneration Policy: With either "Employees who resign from the municipality or are dismissed, **will not** receive a pro-rata bonus payment" **OR** "Employees who resign or are dismissed **must** receive a pro-rata bonus payment."
- (ii) Uniform / Protective Clothing Policy.

RESOLUTION 247/2017

That Council approves the following Human Resources Policies:

- (i) Remuneration Policy: "Employees who resign from the municipality or are dismissed, **will not** receive a pro-rata bonus payment."
- (ii) Uniform / Protective Clothing Policy.

11.2.4 **LEGAL OPINION: ERF 599, DUNKIRK STREET, WAENHUISKRANS / ARNISTON (W599 - TRP) (WARD 6)**

PURPOSE OF REPORT

That Council consider the legal opinion of Messrs Kruger and Blignaut on Erf 599, Waenhuiskrans / Arniston.

COUNCIL DECISION

On 30 May 2017 Council took the following decision (117/2017):

- (i) *That Council adopts the Site Development Plan as designed by Messrs Kevin Gadd Architects.*
- (ii) *That the Site Development Plan be advertised for comment by Interested and Affected Parties and form part of the extension of the rezoning of Erf 599 Waenhuiskrans / Arniston.*
- (iii) *That the Site Development Plan be included in the intended sales agreement and that Council, Mr Haarburger and WARA agree to this.*
- (iv) *That Council's legal representative be instructed to provide a legal opinion regarding the legal compliance of the processes followed in the matter thus far.*

LEGAL OPINION

On 9 November 2017 Council received the following legal opinion from Messrs Kruger and Blignaut:

Ons verwys na die bovermelde aangeleentheid en bevestig ons instruksies om aan u 'n opinie te verskaf ten opsigte van die Munisipaliteit se regs-posisie in die aangeleentheid en die risikos verbonde aan die voortgesette aksies.

Die verkryging van die inligting, moes ingewin word vanaf die Munisipaliteit se vorige Prokureur Blignaut Lolwane, maar Glynnis Blignaut is intussen oorlede en was die leër oorgeplaas deur die Prokureurs Orde na AV Dawson Prokureurs wat verder daarmee gehandel het.

Daar was ook geskiedkundig 5 (vyf) regs-aksies tussen die onderskeie partye. Mnr Dawson was ongelukkig nie in besit van alle relevante inligting nie en moes die inligting by die Hoggeregshof verkry word. Sekere van die hofleërs is steeds onverkrygbaar en hierdie opinie is dus beperk tot die inligting voorhande.

Die geskiedenis van die huidige regs-posisie, wentel rondom erf 599 (Dunkirkstraat) Arniston, sowat 2348 vk/m, waarop daar gedeeltelike verbeterings aangebring was.

AGTERGROND

Dit blyk uit die inligting tot ons beskikking, dat die aanvanklike vervreemding van die eiendom verskeie regs-aksies tot gevolg gehad het. In opsomming was dit die volgende:

- Verreweide Eiendomsontwikkeling (Edms) Bpk (hierna "Verreweide" genoem) het die eiendom op die 19de Oktober 2004 by die Munisipaliteit uit die hand gekoop vir 'n bedrag van R426 000,00 en gedurende Januarie 2007 oordrag van die eiendom geneem.
- Verreweide het intussen begin om die eiendom te verbeter, deur die oprigting van 'n struktuur, vir die doel om besigheid op die eiendom te bedryf. Die eiendom was op daardie stadium gesoneer vir besigheid.
- Die "Waenhuiskrans / Arniston Ratepayers Association" (hierna "WARA" genoem) het gedurende 2008 onder saak nommer 1926/2008 in die Hooggeregshof te Kaapstad 'n interdik verkry, o.a. ten einde die voltooiing van die bouwerke te verhoed. Die beweegrede van die aansoek was hoofsaaklik dat die Munisipaliteit nie die voorskrifte van Artikel 14 van Plaaslike Bestuur: Die Munisipale Finansiële Bestuurswet, Wet 56 van 2003 (hierna "die MFMA" genoem) gevolg het nie, met die besluit om die eiendom te verkoop. Die verkoop van die eiendom was derhalwe onregmatig en die hof gelas ook:
 1. Dat die eiendom weer na die Munisipaliteit oorgedra moet word.
 2. Dat mnr Jordaen (vorige Munisipale Bestuureder) se appél van die 18de Februarie 2008 tersyde gestel word (ons het nie verdere inligting hieroor nie).
 3. Dat die Munisipaliteit se besluit om die besigheids sonering te verleng, tersyde gestel word.
 4. Dat die goedkeuring van die bouplanne tersyde gestel word.
 5. Dat die verkoopsoreenkoms tersyde gestel word.

Die aansoek was gesamentlik gebring deur WARA (1ste Applikant) en Heritage Western Cape (2de Applikant) teen Verreweide (1ste Respondent), die Munisipaliteit (2de Respondent) en die Registrateur van Aktes (3de Respondent). Die Applikante se aansoek het geslaag.

Verreweide en die Munisipaliteit het vervolgens aansoek gedoen om teen die uitspraak appél aan te teken, maar was die aansoek van die hand gewys met koste. Verreweide het ook gepoog om die aansoek na die Konstitusionele Hof te verwys, welke aansoek ook van die hand gewys was. Die kosterekening teen die Munisipaliteit was ongeveer R700 000,00, maar was geskik op ongeveer R350 000,00. Hierdie regsaksie was dus gefinaliseer en geen verdere regte m.b.t. hierdie aksie bestaan nie.

Verreweide het intussen (waarskynlik as gevolg van al die regs-kostes - kon nie bevestig word nie) hulself in likwidasië geplaas in Junie 2010. Die Likwidateurs was Brian Shaw van Progressive Trustees. Die Trusteës van Verreweide het intussen die bedrag van R25 000 000,00 by die Munisipaliteit ge-eis ten opsigte van 'n verband, wat ten gunste van Arniston Hotel Properties (Edms) Bpk teen die eiendom geregistreer was, welke verband gekanseleer moes word om oordrag van die eiendom weer terug aan die Munisipaliteit te besorg.

Hierdie eis van die Likwidateur was skynbaar ge-abandoneer (sien egter die verdere eise hieronder) en opvolgend op die hof se beslissing, neem die Munisipaliteit weer oordrag van die eiendom op 5 September 2011.

Die Likwidateur (namens Verreweide - in likwidasie) stel vervolgens 'n eis in teen die Munisipaliteit onder saak nommer 2226/2012 in die Hooggeregshof te Kaapstad. Dit is gebaseer op:

1. Beweerde skade wat gelei was m.b.t. die kontrakbreuk deur die Munisipaliteit met die aanvanklike verkoop van die eiendom. Die eisbedrag vir die skade beloop 'n bedrag van R33 119 510,00 (met 'n alternatiewe eis van R10 370 000,00 as markwaarde van die eiendom).
2. 'n Verdere eis van R7 383 774,00 vir deliktuele skade (Munisipaliteit se plig om binne die raamwerk van die MFMA Wet op te tree).
3. R6 950 370,00 vir ongeregverdigde verryking ten opsigte van die verbeterings wat Verreweide aan die eiendom aangebring het.
4. Verspilde oordragkoste van R7 404,00.

Die aksie was deur die Munisipaliteit verdedig en spesiale pleite en teen-eise was ingestel. Hierdie regsaksie is nog nie gefinaliseer nie en bly dus oop.

Intussen was daar ook onder saak nommer 14084/2012 'n kostebevel teen mnr Haarburger se maatskappy uitgereik t.o.v. 'n aangeleentheid wat nie direk relevant tot hierdie aangeleentheid is nie, behalwe dat die partye (die Munisipaliteit en mnr Haarburger) ooreengekom het dat die kostebevel teen mnr Haarburger sal oorstaan vir latere afsetting of betaling, inaggenome sy eis teen die Munisipaliteit. Hierdie aksie is ook nog nie voltooi nie.

Die Likwidateurs het intussen, weens die verbeteringe aan die eiendom, staat gemaak op 'n retensiereg en in besit van die eiendom gebly.

Die Munisipaliteit het vervolgens, gedurende 2013 in die Hooggeregshof te Kaapstad onder saak nommer 20755/2013 'n aansoek gebring teen Verreweide (in likwidasie) en mnr Haarburger vir:

1. 'n Slopingsbevel vir die bouwerke op die eiendom.
2. 'n Bevel vir uitsetting van die Likwidateurs vanaf die eiendom.

Die aansoek was geopponeer, maar op die 14de Augustus 2013 word uitspraak gegee en bevind die hof dat Verreweide nie enige retensiereg op die eiendom het nie en derhalwe die eiendom moet ontruim.

Met betrekking tot die slopingsbevel, bevind die hof egter dat:

1. Die aansoek gebaseer was op die Veiligheidsbeampte se aanbeveling dat die half-voltooidde eiendom toeganklik is vir die algemene publiek en dus gevaarlik is. In aggenome dat Verreweide dus die eiendom verlaat en weer beheer oor die eiendom aan die Munisipaliteit gee, verval die nodigheid om die gebou te sloop.
2. Erkenning gegee moet word aan Verreweide se argument dat die sloop van die gebou reggestel kan word deur 'n behoorlike sonering, waarna die Munisipaliteit die half-voltooidde gebou op veiling kan verkoop. Die hof bevind voorts dat die algemene publiek se deelname vir so 'n proses wat deur die Munisipaliteit voorgestel moes word, onvoldoende was.

Die hof het egter nie spesifiek beslis dat die Munisipaliteit moet hersoneer nie en het ook nie spesifiek die Munisipaliteit verbied om die gebou te sloop nie. Slopings bevel word normaalweg gegee op aansoek van 'n Munisipaliteit vir die sloop van geboue op ander persone se eiendom en mag die Munisipaliteit dus geboue sloop op hulle eie eiendom, op eie inisiatief. Ten spyte hiervan, het beide partye teen die uitspraak appél aangeteken, welke appélle oorgehou was, in antisipasie van samesprekings tussen die partye. Hierdie regsaksie is dus ook nog nie gefinaliseer nie en bly oop.

Die maatskappy, Arniston Bay Consortium (Edms) Bpk het intussen die "eis" wat Verreweide teen die Munisipaliteit ingestel het onder saak nommer 2226/2012, by die Likwidateurs gekoop en sessie daarvan geneem. Die Eiser, synde Verreweide in Likwidasie, was dus vervang deur Arniston Bay Consortium (Edms) Bpk, waartoe die Munisipaliteit toegestem het.

Gedurende 2015, het die partye, synde die Munisipaliteit, Verreweide, Arniston Hotel (Edms) Bpk, Arniston Bay Consortium (Edms) Bpk en Mnr Haarburger in sy persoonlike hoedanigheid begin om skikkings samesprekings ten opsigte van die geheel van die probleem te finaliseer. WARA was nie in hierdie proses ingesluit nie.

Op die 8ste November 2015 het die voormelde partye 'n skikkings ooreenkoms geteken, wat in breë trekke bepaal dat die Munisipaliteit die eiendom verkoop, in terme van die korrekte beginsels soos voorgeskryf deur Artikel 14 van die MFMA. Verreweide (oftewel Arniston Bay Consortium) se eis sou beperk word tot die prys wat die eiendom behaal op veiling, tot 'n maksimum bedrag van R9.5mil, betaalbaar uit die verkoopsprys. Indien die eiendom verkoop word vir meer as die voormelde bedrag, sal die balans betaalbaar wees aan die Munisipaliteit, op voorwaarde dat indien Arniston Bay Consortium die suksesvolle koper is, die koopprys betaal sal word deur afsetting van hulle eis teen die Munisipaliteit.

Op die 30ste November 2015, bring WARA 'n dringende Aansoek na die hof (was geplaas vir die 7de Desember 2015) teen al die voormelde partye, waarin hulle aanvra dat:

1. Die Raad verbied word om om die skikkings ooreenkoms goed te keur.
2. Die skikkings ooreenkoms in geheel tersyde gestel word.
3. Die Munisipaliteit se toestemming om vir Arniston Bay Consortium te vervang as Eiser onder saak nommer 2226/2012, tersyde gestel word.

Insovére dit tot ons kennis strek, was daar nie uitvoering aan die skikkings ooreenkoms gegee nie en het die partye *de novo* met skikkings gesprekke begin, waarby WARA ingesluit was. Hierdie regsaksie is dus ook nog oop en is nie gefinaliseer nie.

Die partye het vervolgens, gedurende Maart 2016, met mediasie verrigtinge begin, waarby alle partye betrokke was en wat onder leiding van Adv. Sven Olivier geskied. Die mediasie proses was vir 'n geruime tyd vertraag, weens 'n verandering in die bestuurs struktuur van WARA. Dit het egter weer op die 22ste September 2017 in aanvang geneem. Dit blyk dat die grootste punte van dispuut tussen die die partye die volgende is:

1. Die estetiese voorkoms van die toekomstige gebou.
2. Die sonering van die eiendom.
3. Die beperkinge op die toekomstige uitbreiding van die bouwerk op die eiendom.

Die bepalings van die nuwe skikking het ten doel het om bindend te wees op die uiteindelijke koper van die eiendom en waarin die onderhandelende partye almal 'n belang het.

Voortspruitend uit die laaste gesprekke, blyk dit ook dat die partye met relatiewe gemak die estetiese voorkoms van die gebou kan verseker, sowel as die sonering. Die probleem blyk egter die verdere uitbreiding van die gebou te wees, wat die partye ooreengekom het om met beperkende titel voorwaardes te beheer. Die Munisipaliteit het reeds voorstelle in hierdie verband gemaak, wat deur die "Haarburger groep" aanvaar was, maar deur WARA verwerp was.

Die voorstelle het as volg gelui, onderworpe aan Raads goedkeuring en regmatige regs-prosesse om gevolg te word:

"Subject to the following conditions imposed by the Cape Agulhas Municipality in terms of Section 66 of the Cape Agulhas Municipality: By-Law on Municipal Land Use Planning, promulgated on the 15th of July 2015, when approval for the Zoning Application was granted, being:

1. *Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the Cape Agulhas Municipality: By-Law on Municipal Land Use Planning, promulgated on the 15th of July 2015*
2. *No building on this erf shall be used or be converted for any purpose other than approved by the Cape Agulhas Council on the 30th of May 2017.*

3. *In order to preserve the aesthetic nature of the Arniston township and the interests of the general public, no building or structure or any portion thereof, shall deviate from the site development plan drawn up by Kevin Gadd Architects and approved by the Cape Agulhas Municipal Council on the 30th of May 2017.*
4. *On consolidation of this erf or any portion thereof with any abutting erf, these conditions shall apply to the consolidated holding as if it was one erf."*

Die voorstelle van WARA word nou ingewag, vir verdere oorweging en rapportering.

Dit spreek vanself dat enige van die punte onder bespreking te enige tyd weer in 'n dispuut kan onttaard.

HUIDIGE POSISIE

Ten einde die Munisipaliteit se huidige regs-posisie vas te stel, moet aandag geskenk word aan die status van die onderskeie regsaksies wat ingestel was, asook die geldigheid van die besluitnemingsprosesse wat die Munisipaliteit tot dusvêr gevolg het. Daar moet ook aandag geskenk word aan die onderskeie persone se regte en die status daarvan, sowel as die soneringsprosesse wat gevolg was.

Die onderskeie regs-aksies

Die enigste regs-aksie wat gefinaliseer was en waaruit daar geen verdere remedies voortspruit nie, is die aksie wat ingestel was onder saak nommer 1926/2008. Opvolgend hierop, was die koop-ooreenkoms tussen Verreweide en die Munisipaliteit tersyde gestel en die eiendom is weer geregistreer in die naam van die Munisipaliteit. Die Munisipaliteit is dus die eienaar van die eiendom, tesame met die verbeterings daarop, alhoewel daar steeds uitstaande eise is vir die verbeterings op die eiendom.

Alle ander regs-aksie is onvoltooid en die onderskeie partye se regte daaronder bly voortbestaan. Dit word dan ook voorsien, gegewe die geskiedenis van die aangeleentheid, dat die partye hulself waarskynlik sal wend tot hulle regte in sulke uitstaande aksies, indien die aangeleentheid nie na behore gefinaliseer word nie. Die doel van hierdie opinie word beperk tot die huidige stand van sake en word nie uitgebrei tot die Munisipaliteit se kanse op sukses, met voortsetting van enige regs-aksie nie.

Dit sal miskien raadsaam wees om 'n beraming te doen van alle regskostes wat verskuldig is aan en vanaf die onderskeie persone, ten einde 'n beter finansiële begrip vir die situasie te verkry. Die kapitale bedrae is reeds bekend.

Die sonering

Ek word meegedeel dat die eiendom, met aanvang van die bouwerk, gesoneer was vir besigheids doeleindes. Na aanleiding van die bevinding in saak nommer 1926/2008, was die sonering tersyde gestel en het dit weer terug verval na die oorspronklike sonering, synde enkel residensieël.

Her-sonering van die eiendom was weereens gedoen na besigheids sone (deur WRAP, op aanvraag van die Munisipaliteit), in terme van die voormalige Wes Kaap Land Use Planning Ordinance (15 van 1985 - LUPO), wat intussen herroep is. Die nuwe besigheids sonering was deur die Raad goedgekeur op die 31ste Maart 2015, met inagneming van Artikel 16(2)(a)(i) van LUPO, wat bevestig dat 'n sonering verval, indien die eiendom nie gebruik word vir die doeleindes van die sonering binne 'n periode van 2 (twee) jaar nie. Die Raads besluit het derhalwe genotuleer dat die besluit aan die aansoeker versend word en dat die 2 (twee) jaar periode verval vanaf datum van kennisgewing, welke kennisgewing uitgestuur was aan alle partye op die 8ste Junie 2015. Die sonering sou dus verval na die 8ste Junie 2017, tensy die geldigheid van die sonerings tydperk regmatig verleng word, voor datum van verval.

LUPO is intussen vervang met die "Spatial Planning and Land Use Management Act, Act 16 of 2013" (SPLUMA – Nasionale wetgewing) vanaf 1 Julie 2015, wat ekenning gee aan beide die sg. "Western Cape Land Use Planning Act, Ordinance 3 of 2014" (LUPA) en die "Cape Agulhas Municipal By-Law on Land Use Planning" (hierna "die Beplannings Verordening" genoem), wat op 15 Julie 2015 in werking getree het.

Leiding moet dus ook hierin gevind word of die verlenging van die besigheids sonering, soos hieronder uiteengesit, regmatig gevolg was.

Enige aansoek vir die verlenging van 'n sonering, moet gedoen word deur die eienaar van die eiendom in terme van Artikel 67 van die Beplannings Verordening, voordat die sonerings tydperk verval.

Op die 27ste Februarie 2017, het die Raad, as eienaar van die eiendom en uit eie oorweging, die verlenging van die bestaande sonering oorweeg (dus as 'n aansoek voor die verval datum), nadat verskeie skrywes van partye ontvang was, primêr vanaf WARA en Mnr Haarburger. Hulle het verskeie menings gehuldig m.b.t die verlenging van die sonering, as volg:

- Mnr Haarburger beweer dat 'n interpretasie van Artikel 33 van LUPA, bloot die gevolg het dat Artikel 16 van LUPO verval het en tesame daarmee, die 2 (twee) jaar periode, tensy nuwe wetgewing daarvoor voorsiening maak, wat nie die geval is nie.
- WARA het die verlenging by implikasie aangeval, deur te beweer dat hulle en Mnr Haarburger se verteenwoordigers ooreengekom het op 'n sonering wat die spesifieke ontwikkeling sal pas, synde 'n "Special Business Zone".

Die onderskeie standpunte was verwys na Mnr Cilliers van die Wes-Kaapse Provinsie en DEADP vir leiding. Hulle beveel onder andere aan, dat oorweging gegee moet word aan die volgende, i.t.v. Artikel 15(2)(i) en 15(2)(h) van die Beplannings Verordening:

- Dat die verlenging van die sonering goedgekeur kan word voor die verval datum.
- Dat die spesifieke verwysing na die 2 (twee) jaar periode, wat 'n spesiale voorwaarde was (in teenstelling met die outomatiese verval van regte), en wat opgelê was in terme van Artikel 42 van LUPO, gewysig of geskrap word.

Die gemelde persone interpreteer ook die submissies van Mnr Haarburger en WARA, in samevatting as volg:

- Artikel 33 van LUPA is slegs daarop gemik om oorgangs reëlings vanaf LUPO na LUPA en Munisipale verordinge te vergemaklik. Dit maak nie Artikel 16 van LUPO ongeldig nie.
- Artikel 78 van LUPA maak spesifiek voorsiening daarvoor dat alle besluite wat geneem was i.t.v. LUPO geldig sal bly in terme van LUPA.

Ek stem met mnr Cilliers en DEADP se vertolking saam, met die uitsluiting van DEADP se vertolking dat daar 'n "spesiale voorwaarde" aan die goedkeuring gekoppel was. My interpretasie is dat die Raad slegs die outomatiese verval van die periode bevestig het, i.p.v. om 'n "spesiale voorwaarde" te skep. Dit is egter irrelevant, omrede die Raad DEADP se aanbeveling, synde dat daar 'n "spesiale voorwaarde" was, reeds aanvaar het.

Die Raad het vervolgens op die voormelde datum (27 Februarie 2017) die volgende besluit geneem:

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

Hierdie besluit was geneem op 'n bestuurs aanbeveling, wat lees as volg:

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

In effek, besluit die Raad om die aanbeveling van DEADP se opinie, na die Munisipale Tribunaal te verwys vir finale goedkeuring, i.t.v. Artikel 68 en 69 van die Beplannings Verordening, wat as volg lees:

Municipal planning decision-making structures

68. *Applications are decided by -*

- (a) *an authorised employee who has been authorised by the Municipality to consider and determine the applications contemplated in subsection 69(1);*
- (b) *the Tribunal, where the powers and duties to consider and determine an application have not been delegated to an authorised employee contemplated in section 69(2); or*
- (c) *the Appeal Authority where an appeal has been lodged against a decision of the authorised employee or the Tribunal.*

Consideration of applications

- 69.(1) *The Municipality may categorise applications for consideration and determination by an authorised employee and must delegate the powers and duties to decide on those applications to that authorised employee.*
- (2) *The Tribunal considers and determines all applications, other than those in respect of which the powers and duties to consider and determine them have been assigned and delegated to an authorised employee in terms of subsection (1).*

Ons word meegedeel dat die delegasie van besluitneming oor Munisipale eiendom, buite die delegasie van die Munisipaliteit val en deur die Tribunaal beoordeel moet word, soos hierbo uiteengesit.

Intussen was daar ook skrywes ontvang vanaf Fairbridges (namens WARA), wat goedkeuring van verlenging van die sonering opponeer. Hulle maak staat daarop dat die sonering van die eiendom deur die hof terysde gestel was, reeds verval het en opper dieselfde punt i.t.v. Artikel 33 van LUPA. Hulle inligting was egter kennelik foutief, aangesien die aansoek om verlenging gebring was voor die verval daarvan. Mnr Hayward het reeds op hulle skrywe gereageer.

Die Tribunaal

By die goedkeurings proses van die Tribunaal, moet spesifieke aandag geskenk word oor welke besluite die Raad goedgekeur wil hê, omrede die aanbeveling van die toekomstige besluit gevra word op die basis wat DEADP aanbeveel het, wat geensins duidelik omskryf was nie, nl:

Since the 2 year validity period was specifically made a condition of approval, which LUPO section 42 provided for, it will be necessary that 2 applications be submitted (which may be done simultaneously) to your municipality in terms of the municipality's land use planning by-laws:

- a. *Firstly an application for an extension of the validity period of an approval in terms of section 15(2)(i); and*
- b. *secondly, since the validity period was a condition of approval, an application for an amendment, deletion or imposition of conditions in respect of an existing approval, in terms of section 15(2)(h).*

Die foute in die aanbeveling spreek vanself, synde dat:

- DEADP se aanbeveling was dat daar 'n "spesiale voorwaarde" was in die 2015 goedkeuring, wat in terme van die nuwe Munisipale verordening aangevul, gewysig of geskrap moet word [Artikel 15(2)(h)]. Die Raad het ongelukkig nie hierdie aanbeveling gespesifiseer aan die Tribunaal nie.
- DEADP se aanbeveling was ook dat die sonering verleng word. Die Raad het ongelukkig ook hier die aanbeveling gevul, sonder om 'n tydsbeperking daarop te plaas.

Die goedkeuring deur die Tribunaal sal gedoen moet word i.t.v. die Beplanings Verordening en sodanige aansoek moet geskied in terme van Artikel 15(2)(h), Artikel 15(2)(i) en Artikel 67 van die vermeldde verordening.

Artikel 15(2)(h) en (i) bepaal as volg:

“15(2) *The owner of land or his or her agent may apply to the Municipality in terms of this Chapter and Chapter IV for the following in relation to the development of the land concerned:*

- (h) an amendment, deletion or imposition of conditions in respect of an existing approval;*
- (i) an extension of the validity period of an approval;”*

Artikel 67 van die verordening bepaal:

Applications for extension of validity period

67. (1) *Subject to section 43(2) of the Spatial Planning and Land Use Management Act, the condition of approval, on a date before or after the expiry of the validity period of an approval, if the application for the extension of the period was submitted before the expiry of the validity period.*
- (2) *When the Municipality considers an application in terms of subsection (1), it must have regard to the following:*
- (a) whether the circumstances prevailing at the time of the original approval have materially changed;*
 - (b) whether the legislative or policy requirements applicable to the approval that prevailed at the time of the original approval have materially changed; and 54 15 July 2015 Province of the Western Cape: Provincial Gazette Extraordinary 7428*
 - (b) whether there is a pending review application in court which may have an effect on the date of implementation of the approval.*
- (3) *If there are material changes in circumstances or in legislative or policy requirements that will necessitate new conditions of approval if an extension of a validity period is approved, an application contemplated in section 15(2)(h) must be submitted for consideration before or simultaneously with the application for the extension of a validity period.*
- (4) *The extended validity period takes effect on and is reckoned from the expiry date of the validity period applicable to the original approval or from the expiry date of the previously extended validity period approved in terms of this By-law.*

Artikel 43(2) van SPLUMA (na verwys in Artikel 67(1) bepaal:

A conditional approval of an application lapses if a condition is not complied with, within -

- (a) a period of five years from date of such approval, if no period of compliance is specified in such approval; or*
- (b) the period for compliance specified in such approval, which, together with any extension which may be granted, may not exceed five years*

Hierdie bovermelde wetgewing moet baie duidelik aangespreek word in die item wat deur die Tribunaal oorweeg word. Dit is derhalwe ons aanbeveling dat hierdie aspekte weer voor die Raad dien, waar al hierdie aspekte deur 'n aanvullende besluit ondersteun word. Dit sal raadsaam wees om die “spesiale voorwaarde” bloot uit die verlengde sonerings periode te verwyder en dan ook die periode van verlenging vas te stel. Ons is verder van mening dat hierdie besluit deur die Raad nie as “*Functus officio*” beskou kan word nie, omrede daar nog nie enige regte ten opsigte van enige persoon gevestig het nie.

U aandag word ook gevestig op Artikel 17(5) van die voormelde verordening, wat bepaal dat 'n sonering verval indien dit nie uitgeoefen word in terme van die voorwaardes nie (soos hierbo vermeld), maar ook indien 'n bouplan goedgekeur is en daar nie met konstruksie voortgegaan word nie.

Dit sal raadsaam wees om sodanige voorwaardes in die verkoopsooreenkoms te plaas, wanneer die verkoop van die eiendom uiteindelik goedgekeur word. Sodanige voorwaarde moet voldoen aan die bepalings van die Wet op Boustandaarde en Bou Regulasies, Wet 103 van 1977. Bouplanne moet dus binne 'n sekere periode ingedien word en met bouwerk begin word binne 3 maande (Artikel 11 van die Boustandaarde Wet). Planne verval ook binne 12 maande, as daar nie met konstruksie begin word nie.

Indien die voormelde prosesse gevolg word en gemonitor word, sal daar voldoening wees aan die regs-egniese aspekte van die verlenging van die sonering.

Die Terrein Ontwikkelingsplan

Dit blyk uit die minute van die Raads besluit van die 30ste Mei 2017, dat die volgende besluit was:

- That Council adopts the Site Development Plan as designed by Messrs Kevin Gadd Architects.
- That the Site Development Plan be advertised for comment by interested and affected parties and form part of the extension of the rezoning of Erf 599 Waenhuiskrans / Amiston.
- That the Site Development Plan be included in the intended sales agreement and that Council, Mr Haarburger and WARA agree to this.

Dit spreek vanself dat 'n Terrein Ontwikkelingsplan nie finaal goedgekeur kan word deur die Raad, alvorens die sonering nie goedgekeur is nie. In hierdie verband, is die Raad se besluit dus korrek gewees, synde dat die besluit van die 30ste Mei nie 'n finale besluit was nie. Dit spreek uit:

- Die notulering dat die Raad die plan "adopt" in teenstelling met "approve"
- Die besluit is voorwaardelik, deurdat daar nog geadverteer moet word vir besware, welke besware deur die Raad oorweeg sal word vir finale goedkeuring.
- Die besluit doelbewus gekoppel is aan die sonering.

Ons word meegedeel deur Mnr Hayward dat daar inderdaad besware ingekom het, welke besware aan Mnr Gadd versend was en waarop hy nog moet kommentaar lewer. Sodra die kommentaar dus gelewer is en die verlenging van die sonering deur die Tribunaal goedgekeur was, moet die Raad aan die besware aandag skenk, oorweeg en 'n finale besluit daaroor neem.

Die besluit het egter regte aan WARA en mnr Haarburger toegeken en sonder hulle geskrewe toestemming kan die Raad dit nie goedkeur nie.

Bouplanne

Ek word deur mnr Du Toit (Boubeheer Beampte) meegedeel dat daar wél met die aanvanklike bouwerk planne ingedien was, maar dat die eienaar afgewyk het van die planne en dat die planne intussen ook verval het, in terme van Artikel 7(4) van die Wet op Boustandaarde. Nuwe planne sal dus opgestel moet word, goedgekeur word en verdere konstruksie daarvolgens moet doen.

Soos reeds hoerbo vermeld, moet hierdie aspek ook in die verkoopsooreenkoms aangespreek word.

COMMENTS ON SITE DEVELOPMENT PLAN

Messrs Kevin Gadd's comments dated 13 November 2017 on the objections attached as annexure on **page 30 to 40** are as follows:

Western Cape Government Transport

No traffic impact assessment – The client should commission a traffic impact assessment.

Overberg District Municipality

These comments are noted and on submission of building plans for approval. These concerns will be addressed.

Architects Boers Associates

1. I cannot comment on the correctness or otherwise of the current zoning of the site. I have submitted my proposal on behalf of my client, Cape Agulhas Municipality, on business zoning as instructed. The comments about desirability and the extent of value added are subjective and without foundation.
2. I cannot comment on objections to the zoning which is in place.
3. I cannot comment on objections to the zoning which is in place.
- 3.1 The proposal is designed well within its current zoning parameters.
- 3.2 This is a subjective opinion.
- 3.3 It has been recommended that my client have a traffic impact study prepared.
- 3.4 See 3.3
4. The proposal has been prepared within the current zoning parameters.
5. The proposal has been prepared within the current zoning parameters.
6. I only have a mandate to propose a development on this portion of land. This objection is not an objection to the S.D.P. but again to the land use and zoning in place on this site.
7. The current proposal is well within the height restriction of the current zoning in place on this site.
8. This, once again, is permitted and indeed envisioned by the business zoning this site has. I cannot respond to objections based on historic town planning decisions taken long before this proposal was prepared.
9. The proposal is nowhere near 20m high and excepting at the vehicular entrance is little more than half of this height.
10. Once again the proposal is in line with the business zoning of the site.
- 11.1 I cannot comment on this.
- 11.2 I do not know how this is so as my proposal was prepared this year.
- 11.3 I cannot comment on this.
- 11.4 There are no cottagey roofs and three dimensional representations of the proposal in its context were prepared and I am sure are available for viewing.
10. (sic) I do not believe the scale of this development is inappropriate as it is in a prominent position on the Main Road leading into the village and care has been taken to reduce its vertical impact. It is well under the height allowable on a site with this zoning. I cannot comment on its profitability or otherwise.

Annexure

I really cannot comment on the opinion that this building to be on another site.

Waenhuiskrans Arniston Ratepayers Association

I cannot comment on the administrative processes related to the zoning nor any legal processes ensuing from these.

Margot Rudolph

The proposal presented as the site development plan was prepared in consultation with her husband Andrew Rudolph, together with Rod Lloyd, and I believe, represents accurately what was discussed and agreed to in these meetings.

I have yet to receive any specific examples of "significant amendments". I enclosed comparative studies with this S.D.P. to demonstrate, what I believe, to be our faithfulness to the negotiated design and parameters. I cannot comment on the legality of the zoning.

I believe the suggested traffic impact study could go some way towards answering questions around loading and busses for guests, although I do not know which guests are being referred to that may require busses.

DISCUSSION

Dit is Mnre Kruger en Blignaut se opinie, dat die stappe wat deur die Munisipaliteit tot dusvêr gevolg is, regmatig was.

Daar word egter aanbeveel dat die Raad aan die volgende beginsels / stappe oorweging gee:

- Die samesprekings wat tussen die partye gevoer word, moet voortgaan. Alle belanghebbende partye is reeds daarby betrek en WARA verteenwoordig tot 'n groot mate die algemene publiek. Dit is ook van belang om by wyse daarvan, die terrein ontwikkelingsplan goedgekeur te kry. Alle skikkings ooreenkomstes wat egter aangegaan word, moet binne die voorgeskrewe regs-raamwerk geskied, spesifiek Artikel 14 van die MFMA. Dit sal ook raadsaam wees om die finale skikkingsooreenkoms te publiseer vir publieke kommentaar, alvorens die Raad dit goedkeur.
- Die Raad moet kennis neem van die onvoltooide regsaksies en die moontlike risikos en kostes daaraan verbonde.
- Die uiteindelijke verkoopsooreenkoms moet versigtig bewoord word, om die bouplanne, sonering, terrein ontwikkelingsplan te inkorporeer. Daar word ook aanbeveel dat daar 'n terugvallings-reg geskep word ten gunste van die Munisipaliteit, indien die koper die terme en bepalinge nie nakom nie.
- Die Raad moet 'n item oorweeg en goedkeur, as 'n aanvullende riglyn aan die Tribunaal, waarin daar oorweging geskenk moet word aan die verlenging van die sonering op die volgende basis:
 - Dat die "spesiale voorwaarde" van die vorige sonering verval.
 - Die verlengde sonering vir 'n spesifieke tydperk gegee word. Die berekening hiervan moet in aanmerking neem, welke tyd nog geneem gaan word vir die samesprekings om te voltooi, die verkoop van die eiendom, opstel van bouplanne ens. Mnre Kruger en Blignaut stel voor dat die verlengde periode nie 5 jaar oorskry nie. Die verkoopsooreenkoms sal in iedere geval voor die verval, die periode verkort i.t.v die periode van plan indiening.
- Die kommentaar van die Terrein Ontwikkelingsplan moet gemonitor word en voor die Raad dien vir oorweging van finale goedkeuring, nadat die Tribunaal die verlenging van die sonering goedgekeur het.

MANAGEMENT RECOMMENDATION

That Council take the following decision:

- (i) The discussions between the parties must continue. All stakeholders have already been involved and WARA represents to a large extent the general public. It is also important to approve the site development plan. However, all settlement agreements that are entered into must be within the prescribed legal framework, specifically Section 14 of the MFMA. The final settlement agreement has to be advertised for public comment, before Council considers it.
- (ii) Council must take note of the unfinished legal actions and the possible risks and costs involved.
- (iii) The final sales agreement must be carefully worded to incorporate the building plans, zoning and site development plan. A reversionary clause must be created in favor of the Municipality if the buyer fails to comply with the terms and conditions.
- (iv) Council must consider and approve an item as an additional guideline to the Tribunal, which should consider the extension of zoning on the following basis:
 1. That the "special condition" of the previous zoning expires.
 2. The extended zoning is given for a specific period. The calculation of this should be taken into account the time it will take for the discussions to be completed, the sale of the property, the preparation of building plans, etc. We propose that the extended period not exceed 5 years.
 3. The comments of the Site Development Plan must be monitored and submitted to the Council for consideration after the Tribunal has considered the extension of the zoning.

RESOLUTION 248/2017

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

11.2.5 **AANSOEK OM VERVREEMDING (KOOP): GEDEELTE ERF 587, L'AGULHAS (COLLAB: 156108) (WYK 5)**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van mnr De Kock ten einde gedeelte erf 587, L'Agulhas te koop.

ALGEMENE INLIGTING

Eienaars	:	KAM
Eiendom	:	Gedeelte Erf 587, L'agulhas
Ligging	:	h/v Cliff- en Wesselsstraat
Erf Grootte	:	403m ²
Huidige Sonering	:	Straat

AGTERGROND

Die markwaarde van die genoemde eiendom is op 25 April 2017 aan die Raad voorgelê.

MARKWAARDASIE

R360 000,00 (BTW ingesluit)

Die Raad het op 25 April 2017 die volgende besluit (71/2017) geneem:

"Aangesien die eiendom, ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verkoop van erf 857, L'Agulhas, onderhewig aan die volgende voorwaarde, naamlik:

Dat die erf gekonsolideer word met die koper se bestaande erf, vir die koste van die koper."

'n Advertensie met die Raad se voorneme is geplaas - Geen kommentare of besware is ontvang nie.

BESTUURSAANBEVELING

Vir oorweging om genoemde gedeelte erf te verkoop aan mnr A De Kock.

AANBEVELING: FINANSIES- EN IT DIENSTE KOMITEE

Dat die Bestuursaanbeveling aanvaar word.

UBK BESLUIT BK121/2017: 21 AUGUSTUS 2017

Dat goedkeuring gegee word vir die vervreemding van genoemde gedeelte erf aan mnr A De Kock.

BESTUURSAANBEVELING

- (i) Dat die besluit van die UBK aanvaar word.
- (ii) Dat die koper aansoek doen vir onderverdeling, hersonering en konsolidasie met sy bestaande erf vir sy eie rekening.
- (iii) Dat die onderverdeling, oordrag en konsolidasie onderhewig is aan die sonering, vir die koste van die koper.

BESLUIT 249/2017

Dat die Bestuursaanbeveling as besluit van die Raad aanvaar word.

11.3 FINANSIES- EN IT DIENSTE / FINANCE- AND IT SERVICES

11.3.1 ICT STRATEGIC PLAN

PURPOSE OF REPORT

To table the ICT Strategic Plan and implementation thereof for Council's consideration.

BACKGROUND

This ICT strategy has been developed and delivers on Phase One (1) and Phase Two (2) of the Municipal Corporate Governance of Information and Communication Technology Policy (MCGICTP) that has been circulated by COGTA and subsequently approved by the municipality.

This document shall officiate all aspects around the Municipal Information and Communications Technology Strategy & Implementation Plan (MICTSIP). It will be used as a standard for ensuring alignment of the municipal IDP with the objectives of Information and Communications Technology (ICT) through a governed and unified standard. This strategy document therefore exists parallel to the IDP, and should be reviewed in alignment with the IDP review processes

This document will be noted formally and officially as a strategy, which will be set in place for a period of five (5) years. May it be noted that the implementation plans contained within this document will yield a turnaround of a five (5) year period for holistic conclusion; however, any additional ICT undertakings during the five (5) year lifecycle of this strategy shall specifically comply with all governance as set out within this document.

Furthermore as addendum to this document a Book of Standards has been developed that provides an overview of the standard products and is structured referring to the Cape Agulhas Municipality defined architecture layers (***documentation is provided separately to this agenda***).

ICT projects are required to use this as a repository for their planning purposes so they are able to identify the products and standards that provide the requirements for business purposes, ICT systems and projects.

A decision of the ICT Steering Committee is necessary to approve products as a standard for the Cape Agulhas Municipality use and to incorporate it into the book of standards.

This Strategic document consist of various initiatives as identified therein and the proposed implementation plan can be viewed as part of the relevant document.

One has to consider that implementation schedules and costing linked thereto, is subject to change and based on information currently available as well as the current Economic climate. We will however investigate and prepare complete business plans for those projects where it's deemed necessary to determine the feasibility thereof and the probable Return on Investment (ROI) to the Municipality.

FINANCIAL IMPLICATIONS

R19 040 000

LEGISLATIVE REQUIREMENTS

1. Minimum Information Security Standards, as approved by Cabinet in 1996.
2. Municipal Finance Management Act, Act No. 56 of 2003.
3. Minimum Interoperability Standards (MIOS) for Government Information Systems, 2011.

The following internationally recognized ICT standards were leveraged in the development of this strategy:

1. Western Cape Municipal Information and Communication Technology Governance Policy Framework, 2014.
2. COBIT, 2012.
3. ITIL, 2011.
4. International Organization for Standardization (ISO 38500 - Governance of IT), 2015.
5. King IV Report, 2016.

MANAGEMENT RECOMMENDATION

- (i) That Council consider the approval of the ICT Strategy Plan and that this document will be noted formally and officially as a strategy, which will be set in place for a period of five (5) years.
- (ii) That Council on approval of this document, understand that this is a strategic document only and separate business cases with detailed implementation plans will be tabled to Council before or during the budgetary process of Council related to the applicable initiatives identified in this strategy.
- (iii) That Council consider the approval of the Book of Standards as it is paramount that it becomes a central document for planning ICT projects.

RESOLUTION 250/2017

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

11.3.2 **Wi-Fi HOTSPOTS**

PURPOSE OF REPORT

For Council to consider the availability of Wi-Fi at the Municipalities resorts over the upcoming holiday season.

BACKGROUND

As part of the ICT Strategy plan, public Wi-Fi access has been identified as an ICT initiative to meet the set goals of Council in the IDP.

The ICT division therefore identified this initiative, to provide Wi-Fi access at a cost to the people visiting our resorts.

The purpose of this is not only to use as a benchmark to provide an alternative income source for the Municipality, but also as a case study to see how effective these services could be provided on a larger scale in the entire Municipal area.

Our current service provider, TWK Communications, has indicated that they will assist with the provision of these services as part of the research initiative at no cost to the Municipality for the resorts during the holiday season.

Currently the Municipal resorts consist of 565 caravan stands and 55 housing units for rent.

We understand that there is implementation and running cost related to such a project, hence the purpose of the research initiative.

The idea is to sell vouchers at the reception areas of each resort.

The proposed cost for the Wi-Fi vouchers are as follows:

Data size	Cost (vat incl.)	Terms
200 MB	R10	1 x Connections per voucher valid for 30 days
300 MB	R15	1 x Connection per voucher valid for 30 days
500 MB	R 20	2 x Connections per voucher valid for 30 days
1 GB	R 30	2 x Connections per voucher valid for 30 days
2 GB	R 50	3 x Connections per voucher valid for 30 days
5 GB	R 100	3 x Connections per voucher valid for 30 days
10 GB	R 180	3 x Connection per voucher valid for 30 days

Should this prove to be a successful and lucrative, we would like these costs to be considered for the remainder of the book year, so that we can try to duplicate these efforts to other areas in the Municipal area to generate additional income.

FINANCIAL IMPLICATIONS

None.

LEGISLATIVE REQUIREMENTS

1. Minimum Information Security Standards, as approved by Cabinet in 1996.
2. Municipal Finance Management Act, Act No. 56 of 2003.

MANAGEMENT RECOMMENDATION

That Council consider the approval of the above initiative.

RESOLUTION 251/2017

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

12. ADDISIONELE ITEMS DEUR DIE RAAD HANTEER

12.1 AANSOEK OM VERVREEMDING (HUUR) VAN ERF 601, L'AGULHAS (WYK 5) COLLAB: 253855

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van me E Potgieter ten einde erf 601, L'Agulhas te huur ten einde vir 'n "Backpackers" aan te wend. (Liggingsplan aangeheg op bladsy P15).

ALGEMENE INLIGTING

Eienaars : KAM
 Ligging : Erf 601, Jim Van Druuten Singel, L'Agulhas
 Erf Grootte : 2700m²
 Huidige Sonering : Landbou

AGTERGROND

'n Skriftelike versoek, soos aangeheg, is van me E Potgieter ontvang om erf 601, L'Agulhas by die Raad te huur ten einde vir 'n "Backpackers" aan te wend.

MARKWAARDASIE

R2 500,00 per maand (aangeheg op **bladsy**)

FINANSIËLE IMPLIKASIE

Huurinkomste vir die Raad.

WETLIKE IMPLIKASIES

Council policy	Alienation of land
MFMA	<ol style="list-style-type: none"> 1. Sect 14(2)(a): asset not required for minimum level of basic services. 2. Sect 14(2)(b): consider fair market value and economic and community value to be received in exchange for the asset. 3. Items in 1 and 2 only to be complied with if the asset to be transferred is a high value asset (see definition of MATR below). 4. Sect 33: Contracts having long term financial implications.
MATR	<ol style="list-style-type: none"> 1. Definition of "high value asset": "fair market value of the capital asset exceeds any of the following amounts: <ol style="list-style-type: none"> a) R50 million; b) One percent of the total value of the capital assets of the municipality.... c) An amount determined by resolution of the council of the municipality which is less than (a) or (b). 2. Definition of "realisable value": fair market value <u>less</u> estimated costs of completion. 3. Definition of "right to use, control or manage": when granting such rights do not amount to permanent transfer or disposal. 4. Regulation 5 (decision-making). 5. Regulation 6 (public participation)
SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth
Systems Act (public participation)	<p>Section 21A: (1) All documents that must be made public by a municipality in terms of a requirement of this Act, the Municipal finance Management Act or other applicable legislation, must be conveyed to the local community:</p> <p>(a) by displaying the documents at the municipality's head and satellite offices and libraries;</p> <p>(b) by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and</p> <p>(c) by notifying the local community, in accordance with section 21, of the place, including website address, where detailed particulars concerning the documents can be obtained.</p>
Town Planning legislation	All surrounding property owners be informed of the temporary use of the site.

DEPARTEMENTELE KOMMENTAAR**DGD**

No objection.

EMD

Electricity is available on the site but the borehole control equipment is inside the building and that could pose a problem as the store is the biggest area available.

BAD

Ek sal die aansoek ten volle ondersteun. Daar is wel 'n behoefte aan addisionele/ goedkoper akkomodasie in die gebied. Alle prosesse moet net reg afgehandel word.

BSB

Aansoek om vergunning/afwyking sal vir die aansoeker se rekening wees.

BBB

Hier moet seker gemaak word van die sonering van die grond en die nuwe gebruik daarvan. Huidiglik is dit stil area en nou gaan daar kampering, ens wees met baie meer mense en verkeer. Hierdie aansoek sal deur die grond vervreemdingskomitee hanteer moet word en die aansoek moet seker geadverteer word vir publieke deelname. Volledige terrein ontwikkelings planne moet voorsien word waar alle parkering aangedui word, daarsal gekyk moet word na die geraas invloed. Is die gebou geskik vir wat hulle beoog. Gesondheid en Brandweer moet geken word.

BW&R

Die elektriese panele van die boorgate moet geskuif word om toeganklik te wees vir KAM. Toegang na die boorgate moet voldoende wees vir onderhoudsdoeleindes. Die riooltenk moet voldoende kapasiteit he om die gebruik te kan hanteer.

BS&S

Voorsien geen wesenlike probleem.

BESTUURSAANBEVELING

Aangesien die eiendom, ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet nie vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verhuring van erf 601, L'Agulhas aan me E Potgieter vir 'n termyn van 3 jaar met die opsie om die huur vir 'n verdere tydperk te verleng, op voorwaarde dat:

- (i) Alle wetlike prosesse gevolg moet word.
- (ii) Dat nadat insette uit die publieke deelname proses ontvang is, die aangeleentheid weer aan die raad voorgelê word vir oorweging.

BESLUIT 252/2017

- (i) Dat die Bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat die Raad kennis neem dat 'n gedeelte van die eiendom wel vir basiese dienste benodig word, aangesien daar boorgate op die genoemde perseel is.

12.2 **BEFONDSING VIR 24 UUR WETSTOEPASSINGSDIENS (DMS)****DOEL VAN VERSLAG**

Dat die Raad oorweging skenk aan die behoefte vir befondsing vir 'n 24 uur wetstoepassingsdiens om 'n veiliger Kaap Agulhas Munisipale omgewing te skep. Hierdie diens sal verseker dat daar ter alle ure van die dag en nag beamptes aandiens sal wees vir sigbare polisiëring.

AGTERGROND

Die Wetstoepasingsbeamptes se werksure is tans van 08:00 tot 16:30 van Maandag tot Vrydag. Beamptes se salaris is bereken op 'n veertig uur per week skof wat agt ure per dag uitmaak, soos bepaal in hul dienskontrakte. Enige diens verrigting buite die normale diensure word as oortyd beskou wat op die langduur baie duursaam is.

Weens die huidige situasie rondom die kriminele aktiwiteite wat die hoogte in skiet binne die munisipale gebied, word dit genoodsaak dat die Beskermingsdienste Afdeling hul operasionele diens-ure vir wetstoepassing aangepas word om die misdaad in die omgewing te bekamp. Hierdie aksie was as 'n drastiese stap tot beveiliging, onmiddellik geïmplementeer.

Hierdie beamptes is in vier skofte ingedeel en is soos volg:

1. Skof A
2. Skof B
3. Skof C
4. Skof D

Die skofte is 'n twaalf ure skof met vier dae aan diens en vier rus dae. Die werksyde is 06:00 tot 18:00 en van 18:00 tot 06:00. Die nuwe diens-ure sal dan veroorsaak dat bystand en oortyd vervang word.

BESPREKING

Hiermee versoek die Beskermingsdienste Afdeling dat die Raad alle besparings aanwend om die Wetstoepassers asook die EPWP Wetstoepassers vir die res van die finansiële jaar operationeel uitvoerbaar te maak.

FINANSIËLE IMPLIKASIES

Fondse wat benodig word tot 30 Junie 2017 is soos volg:

- | | | | | |
|----|--------------------------|---|------------|---------------------------------|
| 1. | 12 x EPWP Wetstoepassers | : | R96 000,00 | (totale verhoging van dag loon) |
| 2. | 12 x EPWP Wetstoepassers | : | R18 908,10 | (totale nagskof toelaag) |
| 3. | 4 x Wetstoepassers | : | R33 052,02 | (totale nagskof toelaag) |

Die totale bedrag is dus: R147 960,12 wat benodig word.

PERSONEEL IMPLIKASIES

Die permanente operasionele personeel bestaan uit:

Wetstoepassing

- | | | |
|-----------------------------------|---|---------------------------------|
| 1 x Senior Wetstoepassingsbepapte | : | D Braaf |
| 3 x Wetstoepassingsbepaptes | : | L Ahrends, T Ahrends en F Bunga |

EPWP Wetstoepassing

12 x Wetstoepassers waarvan 6 x beamptes deel uitmaak van die Spoedspan op elke skof.

BESTUURSAANBEVELING

Dat die Raad dit sal oorweeg om die bedrag van R147 960,12 beskikbaar te stel ten einde die operasionele beveiliging uit te kan voer.

BESLUIT 253/2017

Dat die Bestuursaanbeveling as besluit van die Raad aanvaar word.

12.3 **SUBMISSION OF REVENUE ENHANCEMENT STRATEGY - ACTION PLAN (2017/18) (DFS)**

PURPOSE OF REPORT

For Council to take note of the Revenue Enhancement Strategy - Action Plan for roll-out and implementation according to set time frames.

BACKGROUND INFORMATION

The municipality received funding from Provincial Treasury to assist with the development of a Revenue Enhancement Strategy which was completed and approved by Council during the 2016/17 financial year.

Although the municipality started with the recommendations made by PricewaterhouseCoopers Inc. as a way forward for implementation it was not formalized in an appropriate action plan with clear responsibility and time frames for rectification. Additional to the development of the Revenue Enhancement Strategy the Department of Local Government appointed "Agitominds" during January 2017 to add value with the specific focus on data sustainability.

The outcome of the data sustainability assessment was completed during October 2017 and submitted to the department for discussion on 3 November 2017 with the relevant municipalities involved. At the meeting it was resolved that a comprehensive Revenue Enhancement Strategy - Action plans be developed and drafted in terms of the guidelines provided in the Data Sustainability Assessment reports as well as the recommendations made in respect of the Revenue Enhancement Strategy compiled by PricewaterhouseCoopers Inc. for finalization 24 November 2017.

The Revenue Enhancement Strategy and the Data Sustainability Assessment reports highlighting improvements to be made to the revenue value chain at the Municipality whereby it will covers the following key areas:

- Legislative framework
- Customer data quality and management
- Customer management
- Billing and revenue collection
- Debt management
- Information Technology
- Other areas

The developed Revenue Enhancement Strategy – Action Plan is attached as **page P38- P41** with clear delegation of responsibility and timed frames for roll-out and implementation. The proposed action plan and timeframes will be workshopped with the responsible line managers for implementation.

LEGAL IMPLICATION

Review and update policies aligned with legislative requirements and newly developed procedures.

FINANCIAL IMPLICATION

An amount of R 200k have been budgeted for data cleansing & verification in the 2017/18 financial year as an ongoing initiative to address the shortcomings identified.

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

MANAGEMENT RECOMMENDATION

That Council takes note of the comprehensive Revenue Enhancement Strategy – Action Plan for roll-out and implementation by the responsible line managers.

RESOLUTION 254/2017

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

12.4 UPDATED LONG-TERM FINANCIAL PLAN ASSESSMENT BASED ON THE 2016/17 PRE-AUDITED FINANCIAL RESULTS

PURPOSE OF REPORT

For Council to take note of the updated long term financial plan assessment done by INCA Portfolio Managers in respect of the 2016/17 pre-audited financial statement results.

BACKGROUND INFORMATION

The long-term financial plan (LTFP) has been completed by INCA Portfolio Managers during May 2015 and in terms of the arrangement been updated on an annual basis to reflect any progress made with the implementation of the approved long term financial plan strategies.

The long term financial plan assessment completed only reflects on the period 1 July 2016 till 30 June 2017 whilst most of the targets reflected in the LTFP strategy focuses on the current financial year to be achieved. Despite the variance in timeframe it is important to take note of the following key findings indicated in the updated report:

- Cape Agulhas Municipality's accumulated surplus, decreased by 2.6% from R297.4 million to R289.7 million, following a transfer to the capital replacement reserve of R16.8 million during the year. As result the capital replacement reserve increased from R13.5 million to R20.0 million as at 30 June 2017.
- Due to the significant increase in current liabilities, compared to the increase in current assets for the year, the liquidity ratio of Cape Agulhas deteriorated from 1.71:1 in 2016 to 1.27:1 in 2017. Although the current liquidity ratio still reflects above the minimum norm at 1.00:1 it does not meet the minimum guideline requirement from National Treasury between 1.50 to 2.00:1.
- Employee related costs remains the highest cost driver at 40,31% (Excl. Councillor Remuneration) for the FYE 2017 and which reflects above the ratio norm 35% to 40%;
- Notwithstanding a write-off of R4.3 million in consumer debtors during the year, gross consumer debtors increased over the same period which is a going concern to ensure financial sustainability despite the fact that a fairly healthy collection rate above 96% was maintained; and
- The Municipality maintained its low levels of borrowing during the year, with a gearing ratio of 1% although the municipality introduced borrowing initiative as co-funding for capital programme;
- The cash position of Cape Agulhas improved at year end mainly due to a delay in payment of creditors which resulted in the increased total cash and cash equivalents at the highest level since 2014 at a level of R 24.4 million.

It is suggested to review and updated the long term financial plan strategy aligned with the key findings in the report for strategic decision making / policy formulation during the 2018/19 budget preparation process. A copy of the updated long term financial plan is attached as **page P42 – P82** for council's consideration.

LEGAL IMPLICATION

Non-compliance to prescribed legislation and external loan conditions.

FINANCIAL IMPLICATION

Proposals to be review for updating the LTFP strategy and incorporation as part of the 2018/19 MTREF budget consideration aligned with the updated targets for implementation subject to availability of funding.

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

MANAGEMENT RECOMMENDATION

- (i) Council takes note of the updated long term financial plan submitted by INCA Portfolio Managers as *Annexure A*; and
- (ii) Council resolves that the Chief Financial Officer reviews and update the LTFP strategy accordingly if so required.

RESOLUTION 255/2017

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

12.5 **RECOVERING OF AND / OR WRITING OFF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE FOR 2016/17 FINANCIAL YEAR**

PURPOSE OF REPORT

For Council to investigate the amended unauthorized, irregular, fruitless and wasteful expenditure additionally identified by the Auditor-General during the 2016/17 financial year audit and not yet submitted to council for approval and / or to be written off.

BACKGROUND

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

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

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

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

A report in respect of irregular, fruitless and wasteful expenditure was submitted to Council during June 2017 excluding unauthorized expenditure not yet concluded at the time as well as other issues identified during the course of the audit. It is therefore suggested to repeal the whole report submitted during the June 2017 and replace it with the amended register aligned with the audited financial statements.

Due to the fact the Manager: Internal Audit already investigated the bulk of the items identified as unauthorized, irregular, fruitless & wasteful expenditure inclusive of recommendations for recovery where applicable, it is suggested for council to consider these recommendation made in order to either recover or certify as irrecoverable and write off as prescribed in terms of section 32(2) of the MFMA and the municipality's approved policy in this regard. Attached as **page P83 - P85** the amended register in respect unauthorized, irregular, fruitless & wasteful expenditure for the period July 2016 to June 2017 for Council's verification.

LEGAL IMPLICATION

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

FINANCIAL IMPLICATION

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

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

MANAGEMENT RECOMMENDATION

- (i) Council considers the amended unauthorized, irregular, fruitless & wasteful expenditure aligned with the audited financial statements as well as additional issues identified by the Auditor General to the value of R2,707,602.24 (Amended register - *Annexure "A"*) for recovery or certification as irrecoverable and written off.
- (ii) Council promptly informs the MEC for local government and Auditor-General in writing of the unauthorized, irregular, fruitless and wasteful expenditure incurred by the municipality for the periods under review inclusive of the council resolution on the outcome of finding.

RESOLUTION 256/2017

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

12.6 **AANSOEK OM VERVREEMDING (HUUR) VAN 'N STAANPLEK BUITE DIE HAWE, STRUISBAAI (COLLAB: 174488) (WYK 5)**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van Awesome Chaters ten einde 'n staanplek buite die hawe (Struisbaai) se ingang te huur ten einde vir 'n mobiele kantoor aan te wend. (Liggingsplan aangeheg op bladsy **P86**.)

ALGEMENE INLIGTING

Eienaars : KAM
Ligging : Gedeelte Erf 921, Struisbaai (Parkeerarea buite hawe)

AGTERGROND / BACKGROUND

'n Skriftelike versoek soos aangeheg op bladsy **P87**, is van Awesome Chaters ontvang om 'n staanplek buite die hawe (Struisbaai) se ingang by die Raad te huur ten einde vir 'n mobiele kantoor aan te wend.

Die Raad het op 26 September 2017 die volgende besluit geneem in verband met die parkering van erf 848, Struisbaai:

“MANAGEMENT RECOMMENDATION

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

RESOLUTION 202/2017

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

FINANSIËLE IMPLIKASIES

Huurinkomste vir die Raad.

WETLIKE IMPLIKASIES

Council policy	Alienation of land
MFMA	<ol style="list-style-type: none"> 1. Sect 14(2)(a): asset not required for minimum level of basic services. 2. Sect 14(2)(b): consider fair market value and economic and community value to be received in exchange for the asset. 3. Items in 1 and 2 only to be complied with if the asset to be transferred is a high value asset (see definition of MATR below). 4. Sect 33: Contracts having long term financial implications.
MATR	<ol style="list-style-type: none"> 1. Definition of “high value asset”: “fair market value of the capital asset exceeds any of the following amounts: <ol style="list-style-type: none"> a) R50 million; b) One percent of the total value of the capital assets of the municipality.... c) An amount determined by resolution of the council of the municipality which is less than (a) or (b). 2. Definition of “realisable value”: fair market value <u>less</u> estimated costs of completion. 3. Definition of “right to use, control or manage”: when granting such rights do not amount to permanent transfer or disposal. 4. Regulation 5 (decision-making). 5. Regulation 6 (public participation)
SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth
Systems Act (public participation)	Section 21A: (1) All documents that must be made public by a municipality in terms of a requirement of this Act, the Municipal finance Management Act or other applicable legislation, must be conveyed to the local community: <ol style="list-style-type: none"> (a) by displaying the documents at the municipality's head and satellite offices and libraries; (b) by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and (c) by notifying the local community, in accordance with section 21, of the place, including website address, where detailed particulars concerning the documents can be obtained.
Town Planning legislation	All surrounding property owners be informed of the temporary use of the site.

DEPARTEMENTELE KOMMENTARE / DEPARTMENTAL COMMENTS**MUNISIPALE BESTUURDER**

Julle moet net seker maak dat ons nie weer met dieselfde probleme gaan sit as met die vraghouer met die fietse nie. Die aansoeker sal heel waarskynlik ook sy plek wil opsit gedurende die vakansietye waar daar alreeds 'n probleem is met die parkering in die area so die plasing van sy kantoor sal nie 'n hindernis vir parkering moet wees nie.

DIREKTEUR: GEMEENSKAPSDIENSTE

No objections.

ELEK

Any electrical connections for the tenant account.

BESTUURDER: ADMINISTRATIEWE DIENSTE

Ek kan ongelukkig nie kommentaar lewer op die versoek nie. Daar is nou onlangs verskeie aansoeke vir daardie area ingedien en ek dra nie spesifiek kennis van wat goed gekeur of nog in proses is nie.

BESTUURDER: STADSBEPLANNING

From a Town Planning point of view this request is not supported. Council is in a process to consider a site for freezing containers and there is already a challenge with formal parking.

BESTUURDER: STRATEGIESE DIENSTE

In principle, there is no objection as it is services such as these that contribute to Tourism. The challenge is that development on this land is highly contentious with pending applications for freezing infrastructure and parking facilities which were both opposed by the public. There is also significant pressure in terms of parking facilities during holiday seasons. Piecemeal development of this land needs to be avoided.

BESTUURDER: STRATE EN STORMWATER

Die aangehegte liggingsplan dui nie die posisie behoorlik aan om op kommentaar te lewer nie.

BESTUURDER: WATER EN RIOOL

Voorsien geen wesenlike probleem.

BESTUURSAANBEVELING

Aangesien die eiendom nie ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verhuur van gedeelte erf 921, Struisbaai.

BESLUIT 257/2017

- (i) Dat die Bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat dieselfde dagpermit tarief wat op Struisbaai se plein gehef word, van toepassing sal wees vir die huurder.

12.7 **AANSOEK OM VERVREEMDING (HUUR) VAN 'N STAANPLEK BUITE DIE HAWE, STRUISBAAI (COLLAB: 245889) (WYK 5)**

DOEL VAN VERSLAG

Om oorweging te skenk aan die versoek van me L Gertse ten einde 'n staanplek buite die hawe (Struisbaai) te huur ten einde vir 'n kiosk aan te wend.

ALGEMENE INLIGTING

Eienaars : KAM
 Ligging : Gedeelte Erf 921, Struisbaai (Parkeerarea buite hawe)

AGTERGROND

'n Skriftelike versoek soos aangeheg op bladsy P88, is van me L Gertse ontvang om 'n staanplek buite die hawe (Struisbaai) by die Raad te huur ten einde vir 'n Kiosk aan te wend.

Die Raad het op 26 September 2017 die volgende besluit geneem in verband met die parkering van erf 848, Struisbaai:

“MANAGEMENT RECOMMENDATION

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

RESOLUTION 202/2017

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

FINANSIËLE IMPLIKASIES

Huurinkomste vir die Raad.

WETLIKE IMPLIKASIES

Council policy	Alienation of land
MFMA	<ol style="list-style-type: none"> 1. Sect 14(2)(a): asset not required for minimum level of basic services. 2. Sect 14(2)(b): consider fair market value and economic and community value to be received in exchange for the asset. 3. Items in 1 and 2 only to be complied with if the asset to be transferred is a high value asset (see definition of MATR below). 4. Sect 33: Contracts having long term financial implications.
MATR	<ol style="list-style-type: none"> 1. Definition of “high value asset”: “fair market value of the capital asset exceeds any of the following amounts: <ol style="list-style-type: none"> a) R50 million; b) One percent of the total value of the capital assets of the municipality.... c) An amount determined by resolution of the council of the municipality which is less than (a) or (b). 2. Definition of “realisable value”: fair market value <u>less</u> estimated costs of completion. 3. Definition of “right to use, control or manage”: when granting such rights do not amount to permanent transfer or disposal. 4. Regulation 5 (decision-making). 5. Regulation 6 (public participation)

SCM Regulations SCM Policy	Regulation 40: (Disposal Management) Project for job creation, skills development, poverty alleviation and economic growth
Systems Act (public participation)	<p>Section 21A: (1) All documents that must be made public by a municipality in terms of a requirement of this Act, the Municipal Finance Management Act or other applicable legislation, must be conveyed to the local community:</p> <p>(a) by displaying the documents at the municipality's head and satellite offices and libraries;</p> <p>(b) by displaying the documents on the municipality's official website, if the municipality has a website as envisaged by section 21 B; and</p> <p>(c) by notifying the local community, in accordance with section 21, of the place, including website address, where detailed particulars concerning the documents can be obtained.</p>
Town Planning legislation	All surrounding property owners be informed of the temporary use of the site.

BESTUURSAANBEVELING

Aangesien die eiendom nie ingevolge Art 14(2)(a) van die Plaaslike Regering: Munisipale Finansiële Bestuurswet vir die lewering van die minimum vlak van basiese dienste benodig word nie, in-beginsel-goedkeuring verleen word vir die verhuur van gedeelte erf 921, Struisbaai.

BESLUIT 258/2017

- (i) Dat die Bestuursaanbeveling as besluit van die Raad aanvaar word.
- (ii) Dat dieselfde dagpermit tarief wat op Struisbaai se plein gehef word, van toepassing sal wees vir die huurder.

12.8 **STRATEGIC RISK ANALYSIS: 2017/18**

REPORT BY THE MANAGER STRATEGIC SERVICES

PURPOSE OF REPORT

To present the revised strategic risks to the Council for approval.

LEGAL FRAMEWORK

Section 62(1) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) stipulates that the "Accounting Officer must take all reasonable steps to ensure that the municipality has and maintains an effective, efficient and transparent system of financial and risk management and internal control"

DISCUSSION

The Council is required to annually review its strategic risks. During the Council's strategic session held on 12 and 13 November 2017, the CRO gave an overview of the strategic risks and their alignment to Council's strategic goals. The FARMCO then sat on 22 November 2017 and reviewed Council's strategic risks. This was followed by a working / training session on 24 November 2017, to which all Councillors were invited.

The Council's strategic risks were discussed and revised as follows:

RISK DESCRIPTION	RESIDUAL RISK	RESIDUAL RISK EXPOSURE	RATING
R 264	Illegal Erection of Informal Structures and Land invasions	High	47,25
R 300	Non-Adherence to Permit Conditions (Landfill Sites)	High	48
R 305	MSCOA	High	40,5
R 306	Financial viability of the municipality	High	47,25
R 335	Eskom maximum demand capacity restraints in the Cape Agulhas Municipal area	Medium	27
R 336	Provision of long term bulk water supply – source	Medium	22,5

Actions to address these risks will be formulated and monitored by FARMCO on a quarterly basis.

MANAGEMENT RECOMMENDATION

That Council approve the following strategic risks for 2017/18:

RISK DESCRIPTION	RESIDUAL RISK	RESIDUAL RISK EXPOSURE	RATING
R 264	Illegal Erection of Informal Structures and Land invasions	High	47,25
R 300	Non-Adherence to Permit Conditions (Landfill Sites)	High	48
R 305	MSCOA	High	40,5
R 306	Financial viability of the municipality	High	47,25
R 335	Eskom maximum demand capacity restraints in the Cape Agulhas Municipal area	Medium	27
R 336	Provision of long term bulk water supply – source	Medium	22,5

RESOLUTION 259/2017

- (i) That the management recommendation be accepted as a resolution of Council.
- (ii) That action plans for each risk be compiled and submitted to FARMCO.

12.9 **VERHURING / VERVREEMDING: ERF 767 (VISHUIS), WAENHUISKRANS / ARNISTON (15/5/R - BSSB) (WYK 6)**

DOEL VAN VERSLAG

Om 'n in-beginsel besluit te neem ten opsigte van die volgende: Die verkoop van die Raad se grond aan die Vissersunie of die vestiging van 'n PPP met die Vissersunie aan wie die Raad se grond verhuur gaan word.

AGTERGROND

Op 30 Mei 2017 neem die Raad die volgende besluit 116/2017 - (***Raadslid Europa was nie teenwoordig tydens bespreking van die aangeleentheid nie***):

- (i) *Dat die Raad 'n markverwante verhuringswaarde van die eiendom vasstel, deur 'n onafhanklike waardeerder aan te stel, inaggenome alle skenkings en verbeterings wat aan die eiendom gedoen is en/of gaan word. Die termyn van die verhuring moet ook in ag geneem word, tesame met 'n markverwante jaarlikse verhoging. Hierdie faktore moet in die huurooreenkoms op rekord geplaas word.*
- (ii) *Dat indien die Raad nie die eiendom teen markverwante prys wil verhuur nie, moet die Raad Tesourie se toestemming daarvoor verkry.*

- (iii) *Dat omrede die Munisipale eiendom deur 'n ander persoon gebruik word vir o.a. kommersiële doeleindes, moet die Raad klaring verkry vanaf Tesourie of die projek as 'n "PPP" hanteer moet word aldan nie. Uiteraard moet daardie proses dan gevolg word.*
- (iv) *Dat die Raad die verhuring in die IDP insluit, vir begrotingsdoeleindes.*
- (v) *Dat versigtige oorweging deur die Raad geskenk word aan die huurtermyn. Dit word normaalweg nie aanbeveel nie. Indien die Raad egter op 'n termyn van langer as tien (10) jaar besluit, moet die kontrak teen die titelakte geregistreer word.*
- (vi) *Dat die huurooreenkoms 'n kansellasie klousule ten gunste van die Munisipaliteit moet bevat.*
- (vii) *Dat alle uitgawes, wat onderhoud en herstel van die perseel en geboue insluit, moet deur die Unie gedra word en in die huurooreenkoms ingesluit word.*
- (viii) *Dat die voorkoepsreg en sessie ten gunste van die Unie en Trust moet uit die ooreenkoms verwyder word.*
- (ix) *Dat die Omgewings Impak Toestemming oorgedra word aan die Unie.*
- (x) *Dat die Unie alle faktore wat intussen verander het vanaf toestaan van die Omgewingsimpakstudie aan die Provinsiale Regering rapporteer en toestemming vir die voortsetting van die aktiwiteite en/of projek moet verkry word.*
- (xi) *Dat die Unie uitklaring by SAHRA verkry, sodat hulle toestemming gebaseer is met inagneming van alle faktore wat intussen verander het.*
- (xii) *Dat die finale gewysigde huurooreenkoms weer voor die Raad dien vir goedkeuring.*
- (xiii) *Dat die hantering van die besware aan die beswaarmaker gekommunikeer word.*
- (xiv) *Dat die Vissersunie en die Beswaarmaker dienooreenkomstig ingelig word.*

MARKVERWANTE HUURWAARDASIE

Mnre DDP se volledige waardasie vir die verhuring is aangeheg as Bylaag A op bladsy . Die voorgestelde markverwante huur is as volg:

1. Market Rental Rate

The rental rate, based on the ground rental and capitalisation method, ranges between **R3 866.67 per month and R6 283.33 per month** per month per month excluding V.A.T. with our recommended monthly rental of **R5 000.00**

2. Market Rental Escalation

The duration and type of the lease agreement will impact the proposed escalation rate i.e. if the lease agreement is a long term lease agreement this could contribute to a lower rental amount and vice versa.

From the research conducted market rate escalation range between 7% and 9% with an average of 8%.

NASIONALE TESOURIE

Die skrywe gedateer 11 Julie 2017 van die Nasionale Departement van Tesourie is aangeheg as Bylaag B op **bladsy tot** .

PPP

"Public-Private Partnership" or "PPP" means a commercial transaction between an institution and a private party in terms of which the private party -

- (a) performs an institutional function on behalf of the institution; and / or
- (b) acquires the use of state property for its own commercial purposes; and
- (c) assumes substantial financial, technical and operational risks in connection with the performance of the institutional function and/or use of state property; and
- (d) receives a benefit for performing the institutional function or from utilising the state property, either by way of:

- (i) consideration to be paid by the institution which derives from a revenue fund or, where the institution is a national government business enterprise or a provincial government business enterprise, from the revenues of such institution; or
- (ii) charges or fees to be collected by the private party from users or customers of a service provided to them; or
- (iii) a combination of such consideration and such charges or fees.

Only the accounting officer or the accounting authority of an institution may enter into a PPP agreement on behalf of that institution.

RAADSBESLUIT: 29 AUGUSTUS 2017

Op 29 Augustus 2017 neem die Raad die volgende besluit (177/2017):

- (i) *Dat die bestuursaanbeveling nie aanvaar word nie, wat as volg gelees het:*
 - *Dat die Raad die markverwante verhuringswaarde van die eiendom vasstel op R5 000,00 per maand vir 'n tydperk van 99 jaar en 11 maande teen 'n eskalاسie van 8% per jaar.*
 - *Dat 'n PPP by die Nasionale Departement van Tesourie geregistreer word deur die huurder / verhuurder.*
- (ii) *Dat die Raad 'n komitee aanwys, wat uit die volgende lede bestaan: Raadslede Burger, Jacobs en Swart, Raadsdame Marthinus, mnr Hayward en me Stone sowel as die Raad se regsverteenvoerder om dringend gesprekke met alle rolspelers te voer na aanleiding van die regsmening van prokureur Kruger.*
- (iii) *Dat die aanbevelings van die bogemelde komitee aan die Raad voorgehou word vir besluitname.*

REGISTRASIE VAN PPP

Op 7 November 2017 word die volgende skrywe aan die Tegnieuse Adviseur, Nasionale Tesourie gestuur:

We acknowledge receipt of your letter dated the 31st of October 2017 (sien Bylaag C op bladsy).

Kindly note that the building had already been erected, straddling the property of the Union and the Municipal land. As such, the extent of the Municipal land was determined to accommodate the zoning and building lines and can therefore not be amended.

In as far as the "de minimus" principle is concerned, the value of the property is in process to be determined, but will in all probability be in excess of R1.5 million. The last valuation was done on 12 July 2013 and the property was valued at R1.00. Be that as it may, you may be correct in that the value of the land diminishes by comparison to the value granted to the community.

Kindly advise finally, incorporating all the facts, whether the Municipality is obliged to register the project as a PPP, alternatively whether Treasury will view the matter as "de minimus" and absolve the Municipality from registering the process as such. In the latter event, kindly advise us if you require anything else from us.

Op 14 November 2017 ontvang die Raad die volgende skrywe van Mnr Aeillo:

In my view, the matter is, "de minimus" and, if the municipality should decide to register the matter as a PPP in terms of the Municipal PPP Regulations and the MFMA, I would register my "view and recommendation" in such terms.

As I explained to you and the other representatives from the municipality when we met in Cape Town last month. National Treasury does not “approve” municipal PPPs. It only provides “views and recommendations”. And, National Treasury is not the only governmental entity that provides “views and recommendations” - provincial treasury must also be so requested, and COGTA, and whatever other National Department may be involved also be invited.

I also explained to you that we have no law enforcement duties.

I must remind you as well that at that meeting I was informed that the size of the municipal land involved was 40 square metres. I have only recently been advised that it is larger amount of land.

I suggest that there is no need to pursue this matter further. I will be pleased to respond accordingly to any organization conducting a review of the processes the municipality followed in this regard.

MARKVERWANTE WAARDASIES

Waardasies is verkry vir die volgende: Grondwaardasie en 'n waardasie van die eiendom soos dit tans daar uitsien sodat die waarde van die gebou bepaal kan word om sodoende dit te kan gebruik vir die verdiskontering van die huurbedrag.

WAARDEERDERS	GROND WAARDASIE	MARK WAARDASIE
DDP	R580 000	After completion : R500 000 As is uncompleted : R325 000
BOLAND VALUERS	R305 100	R655 000

Mnre DDP se volledige waardasie is aangeheg as Bylaag D op bladsy en Mnre Boland Waardeerders se volledige waardasie is aangeheg as Bylaag E op bladsy .

BESPREKING

Markwaardasie

Boland Waardeerders se bedrag is nou R305 100 vir die grond en DDP is R580 000. Dit verskil weereens met 47% terwyl in die vergadering opgemerk is dat hulle prys per v/m is baie naby aan mekaar. Boland Waardeerders het skynbaar nou 'n ander waardasie metode gevolg.

Huurwaardasie

Die waardasie is foutief, omrede die waardasie nie die kapitaal waarde van die bouwerk pertinent as 'n bydrae in berekening bring nie. Dit verwys net na “ground rental” en nie die verbeterings nie. Geen persoon huur slegs oop grond nie, of indien hy bedoel dat die kaal stuk grond se huurwaarde R5 000,00 p/m is, is dit tog duidelik foutief.

Die huur gaan gepaard met 'n gebou, wat die huurder reeds betaal en gebou het (op hulle kostes) en dus afgetrek moet word van die huur. Ons het dit al vele kere bespreek in die verlede en ook die moontlikheid of ons dit nie eerder deur 'n Aktuaris moet laat doen nie. Die probleem is egter dat tot en met laasweek nog nie 'n kapitaal waarde van die bouwerk beskikbaar was nie en nie die waardasie kon laat doen nie. Volgens Boland Waardeerders is die kapitaal bydrae R350 000,00 en volgens DDP is die kapitaal bydrae R325 000,00. Dit is hierdie waardes wat in berekening gebring moet word met die bepaling van behoorlike “markwaarde”, natuurlik met inagnome van die huurtermyn.

Die kapitale bydrae kom ter sprake indien die stadsraad dit wil afspeel teenoor die huurgeld van die grond oor 'n langtermyn huurkontrak en dan word die stadsraad eienaar van die gebou aan die einde van die huurkontrak.

Die beginsel in ons reg is dat enige permanente aanhegting aan grond, soos 'n gebou, deel vorm van die grond. Die unie dra dus hulle gedeelte van die grond oor aan die munisipaliteit en word die munisipaliteit dus die eienaar van die grond en die geboue na oordrag. Die hele stuk grond en die geboue word dus verhuur aan die unie, nie net die grond nie. DDP is ongelukkig verkeerd, omrede die munisipaliteit nie die eienaar van die grond word aan die einde van die huurkontrak nie. KAM is reeds die eienaar van die gebou, met aanvang van die kontrak. 'n Huurbedrag van R5 000,00 p/m vir oop grond maak nie sin nie.

Mnre Kruger en Bignault het reeds in hul opinie van die 23ste Mei 2017 dit so uiteengesit en ook die huurtermyn. Die huurwaardasie van die hele eiendom moet bepaal word en die skenking van hulle grond en verbeterings moet in ag geneem word, tesame met die huurtermyn, kostes van voltooiing ens. Die termyn van die huurkontrak beïnvloed ook die bedrag, omrede 'n langer termyn, normaalweg goedkoper huur bewerkstellig. Julle sal ook moet kyk in julle beleid en "Asset Transfer Regulations" of 'n langtermyn huurkontrak toegelaat word en tesourie se rol daarin.

Langtermyn Huurkontrak

I, Divisional Head: Strategic Planning and Administration, can't find anything in the Asset Transfer Regulations or our policies that require Treasury's approval for a longer term lease. Only reference I can find where such approval is required is section 33 of the Municipal Finance Management Act, 2003 where a municipality must obtain Treasury's views for contracts with future budetary implications beyond 3 years where financial obligations are imposed on the municipality.

BESTUURSAANBEVELING

- (i) Dat die betrokke waardeerders, Mnre DDP en Boland, gekontak word en in gesprek tree ten einde 'n oplossing te kry / verklaring te gee vir die verskil in waardasie.
- (ii) Dat Mnre DDP Waardeerders gekontak word ten einde die huurwaardasie aan te pas na aanleiding van die nuutbepaalde markwaardasie, soos in (i) gehoem hierbo.

BESLUIT 260/2017

- (i) Dat bestuursaanbeveling (i) aanvaar word.
- (ii) Dat die waardeerders 'n ooreengekome waardasie aan die Raad voorsien.

17. **ONAFGEHANDELDE RAADSBESLUIE**

Besluit Nr	Onderwerp	Verkorte Besluit	Vordering	Verantwoordelike persoon
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.	<i>In proses van afhandeling.</i>	DFD
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.	<i>Eienaar reageer nie op skrywe van prokureur nie.</i>	BSSB
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.		

BESTUURSAANBEVELING

Dat die Raad kennis neem van die onafgehandelde Raadsbesluite.

BESLUIT 261/2017

Dat die bestuursaanbeveling as besluit van die Raad aanvaar word.

BEKRAGTIG op hierdie

dag van

2018

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

SPEAKER

DATUM: