



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN 'N SPESIALE RAADSVERGADERING IN DIE MUNISIPALE
RAADSAAL, BREDASDORP GEHOU OM 09:00 OP VRYDAG
30 JUNIE 2023**

**MINUTES OF A SPECIAL COUNCIL MEETING HELD ON FRIDAY,
30 JUNE 2023 AT 09:00 AT THE MUNICIPAL COUNCIL CHAMBERS,
BREDASDORP**

RAADSLEDE / COUNCILLORS

Me	J August-Marthinus	
Mnr	D Burger	(Speaker)
Me	K Donald	
Dr	A Eksteen	
Mnr	D Jantjies	
Mnr	R Louw	
Me	M Matthysen	
Mnr	J Nieuwoudt	
Mnr	R Ross	(Onder-Burgemeester)
Mnr	P Swart	(Burgemeester)

AMPTENARE / OFFICIALS

Mnr	E Phillips	Munisipale Bestuurder / Municipal Manager
Mnr	H Van Biljon	Direkteur: Finansies- en IT Dienste
Mnr	H Kröhn	Direkteur: Infrastruktuurdienste
Mnr	S Stanley	Budget and Treasury
Me	T Stone	Afdelingshoof: Strategiese Dienste
Me	S Nel	Stadsbeplanner
Me	N Mhlali-Musewe	Divisional Head: HR and OD
Me	U Jantjies	Namens Komiteedienste

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1. OPENING

Die Voorsitter heet die teenwoordiges welkom en Raadsheer Swart open die vergadering met gebed.

2. AANSOEKE OM VERLOF TOT AFWESIGHEID / APPLICATIONS FOR LEAVE

Raadslid R Mokotwana

3. ONDERHOUDE MET AFGEVAARDIGDES EN/OF ANDER BESOEKE

Die Speaker meld van 'n vergadering met amptenare van die Wes-Kaapse Departement van Plaaslike Regering (Publieke Deelname Afdeling) wat bygewoon was deur homself, die Munisipale Bestuurder, me Stone, Paul Valentine en Gurswin Prins waartydens wykskomitee aktiwiteite, publieke deelname, ens. bespreek was. Die Speaker gee verdere toeligting tydens sy verklarings/mededelings.

4. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE VOORSITTER

4.1 Die Speaker deel die Raad mee van mnr Ghristoffel September van Klipdale wat op 17 Junie 2023 oorlede is. Hy was vir 15 jaar lid van wyk 2 se Wykskomitee. Die Speaker en ander Raadslede spreek, namens die Raad hul innige meegevoel aan sy familie. 'n Minuut van stilte word gehandhaaf.

4.2 Met betrekking tot die Wykskomitees, deel die Speaker die Raad as volg mee:

- (i) Die hersiende Wykskomitee Beleid sal deur amptenare van die Wes-Kaapse Departement van Plaaslike Regering gedurende Augustus 2023 gewerkswinkel word met Wyksraadslede.
- (ii) 'n Publieke Deelname Beleid word tans opgestel en sal deur Provinsie gewerkswinkel word met Wyksraadslede. Dit sal in drie tale beskikbaar wees.
- (iii) Wyksraadslede word versoek om hul kwartaallikse verslag aan die Speaker te lewer as deel van hulle verpligte Wyksraadslid aanspreeklikheid. Wyksraadslede moet verslag doen oor die kwartaal na afloop van die geskeduleerde kwartaallikse wyksterugvoering vergaderings. Wyksraadslede word versoek om die genoemde vergadering se notule te voorsien asook beplanning vir die volgende kwartaal.
- (iv) Die Kliëntediens Handves (Client Services Charter) word tans hersien en sal so gou as moontlik aan die Raad voorgelê word vir bespreking en aanvaarding. Dit sal ook voorgelê word aan die Wykskomitees en gekommunikeer word aan die publiek.
- (v) Die Wes-Kaap Provinsie het versoek dat twee KAM amptenare genomineer word met wie hulle kan skakel gedurende hul komende geskeduleerde assesseringsoefening om die stand van KAM se wykskomitee aktiwiteite en publieke deelname te bepaal. Die Munisipale Bestuurder het voorgestel dat mnr Paul Valentine en me Caitlin Leonard genomineer word. Provinsie het KD Bussiness Development as konsultante aangestel om 24 munisipaliteite in die Wes-Kaap en een metro se wykskomitee betrokkenheid en aktiwiteite te assesseeer.
- (vi) Die weeklikse verslag vanaf Bussiness Engineering het getoon dat daar heelwat uitstaande aangeleenthede is. Wyksraadslede word versoek om so gou as moontlik aandag daaraan te skenk sodat lank uitstaande aangeleenthede wat nog op die stelsel verskyn, verwyder of afgehandel kan word. Die Speaker stel voor dat hierdie verslag 'n staande item op Wykskomitee agenda's sal wees.
- (vii) Daar is nog uitstaande inligting vir die wykskomitee operasionele planne. Die Speaker meld dat hy reeds uitstel ontvang het, maar dat inligting so gou as moontlik aan mnr Paul Valentine voorsien word.

5. VERKLARINGS EN/OF MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER

- 5.1 Die Burgemeester bedank amptenare vir hul volgehoue harde werk met die opstel van die huidige begroting en wens hul sterkte toe vir die afhandeling van die finansiële boekjaar.
- 5.2 Die Burgemeester verwys na die potensiële "land invasion" wat plaasgevind het. Daar is intussen aansoek gedoen vir 'n vreedsame optog wat Donderdag sal plaasvind.
- 5.3 Voorbereidings is aan die gang vir die Kaap Agulhas "State of the Municipality Address" (SOMA).

(‘n Minuut van stilte word gehandhaaf met die afsterwe van Raadsheer Swart se broer.)

6. ITEMS NA DIE RAAD VERWYS VIR OORWEGING

6.1 ANTI-CORRUPTION AND FRAUD PREVENTION POLICY, STRATEGY AND PLAN REVIEW 2023 - 2024

REPORT BY THE DIVISION HEAD: STRATEGIC PLANNING AND ADMINISTRATION

PURPOSE OF REPORT

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

1. Annexure A: Anti-Corruption and Fraud Prevention Policy **(attached on page 1)**
2. Annexure B: Anti-Corruption and Fraud Prevention Strategy **(attached on page 15)**
3. Annexure C: Anti-Corruption and Fraud Prevention Plan **(attached on page 27)**

BACKGROUND

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

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

Corruption and fraud risk management is also an integral part of the municipality's risk management processes. In order to give effect to the Acts, frameworks and best practices as well as to the responsibilities of the Accounting Officer, an Anti-Corruption and Fraud Prevention Strategy, Policy and Plan have been developed and approved by the Municipality's FARMCO. The documents must now be approved by Council and implemented.

DISCUSSION

The Fraud and Risk Management Committee reviewed the 2023-2024 Anti-Corruption and Fraud Prevention documents again on the 14th of June 2023 who recommended that the documents be submitted to Council for approval.

ANTI-CORRUPTION AND FRAUD PREVENTION DOCUMENTS
Amendment
All legislation regarding the Code of Conduct within the Anti- Corruption and Fraud Prevention documents has changed: <i>The Code of Conduct is now Schedule 7 to the Local Government: Municipal Structures Amendment Act, (Act No. 3 of 2021) which repeals Schedule 1 of the Municipal Systems Act (Act 32 of 2000)</i>

LEGAL FRAMEWORK

1. The Constitution of the Republic of South Africa
2. Municipal Finance Management Act (MFMA) (No. 56 2003)
3. MFMA Regulation on Financial Misconduct (No. 430 of 2014)
4. The Municipal Structures Act (No 17 of 1998)
5. Local Government: Municipal Structures Amendment Act, (Act No.3 of 2021)
6. Prevention and Combating of Corrupt Activities Act (No. 12 of 2004)
7. Protected Disclosures Act (PDA) (No. 26 of 2000)

PERSONNEL IMPLICATIONS

There were no significant changes made to the Anti-Corruption and Fraud Prevention documents for 2023 - 2024.

FINANCIAL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

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

1. Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Policy (2023/24).
2. Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Strategy (2023/24).
3. Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Plan (2023/24).

RESOLUTION 120/2023

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

1. Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Policy (2023/24).
2. Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Strategy (2023/24).
3. Cape Agulhas Municipality Anti-Corruption and Fraud Prevention Plan (2023/24).

(Proposer: Cllr Eksteen / Seconder: Cllr Donald)

6.2 **REVIEW: 2023/24 RISK MANAGEMENT POLICY, RISK MANAGEMENT STRATEGY AND FARMCO CHARTER**

REPORT BY THE DIVISION HEAD: STRATEGIC PLANNING AND ADMINISTRATION**PURPOSE OF REPORT**

To submit the annual revision of the Cape Agulhas Municipality Risk Management Policy, Risk Management Strategy and FARMCO Charter for 2023/24 to Council for approval.

LEGAL IMPLICATIONS**Municipal Finance Management Act (MFMA)**

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

National Treasury Risk Management Framework

The National Treasury Risk Management Framework requires that the Municipality must operate within the terms of a risk management policy.

The framework also recommends the establishment of mechanisms aimed at embedding risk management into organizational culture, one of which is a Fraud and Risk Management Committee (FARMCO). The FARMCO Charter sets out the roles and responsibilities of the FARMCO.

DISCUSSION

The Council approved the Risk Management Policy and Risk Management Strategy and FARMCO Charter on 5 October 2022. These documents are reviewed on an annual basis by the FARMCO. The revised documents were submitted to (FARMCO) on 14th June 2023 who approved the amendments. Amendments to the strategy, policy and plan were necessitated by a change in the risk management processes of the municipality, mainly since the risk appetite and frequency of risk assessments has changed.

Key amendments are summarised as follows:

RISK MANAGEMENT POLICY
Amendment
Risk assessments changed from annually to quarterly. Risk appetite changed from 40 (high risk - out of a possible score of 100) to each risk to have its own appetite level.
RISK MANAGEMENT STRATEGY
Amendment
Risk assessments changed from annually to quarterly. Risk appetite changed from 40 (high risk - out of a possible score of 100) to each risk to have its own appetite level.
FARMCO CHARTER
Amendment
None - FARMCO to revise risk appetite quarterly.

The documents are attached as Annexures:

Annexure A:	Risk Management Policy	<i>(attached on page 49)</i>
Annexure B:	Risk Management Strategy	<i>(attached on page 73)</i>
Annexure C:	FARMCO Charter	<i>(attached on page 89)</i>

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

- (i) That the 2023/2024 revision of the Cape Agulhas Municipality Risk Management Policy and Risk Management Strategy be approved.
- (ii) That the 2023/24 revision of the Cape Agulhas Municipality FARMCO Charter be approved.

RESOLUTION 121/2023

- (i) That Council approves the 2023/2024 revision of the Cape Agulhas Municipality Risk Management Policy and Risk Management Strategy.
- (ii) That Council approves the 2023/24 revision of the Cape Agulhas Municipality FARMCO Charter.

(Proposer: Cllr Ross / Seconder: Cllr Donald)

6.3 **DRAFT BY-LAW ON THE CAPE AGULHAS RULES OF ORDER FOR MEETINGS OF COUNCIL AND COMMITTEES**

PURPOSE OF REPORT

To present a draft by-law on the Cape Agulhas Municipality Rules of order for meetings of Council and Committees for consideration.

BACKGROUND

Meetings of Council and committees are currently regulated in terms of the Cape Agulhas Municipality: Rules of Order Regulating the Conduct of Meetings published in Provincial Gazette 7188 of 18 October 2013. It has become necessary to revise these by-laws and the revision is attached as Annexure. The revision makes specific reference to hybrid and virtual meetings which were not addressed in the previous ones (**attached on page 99**).

LEGAL FRAMEWORK

Constitution

In terms of Section 162, a municipal by-law may be enforced only after it has been published in the official gazette of the relevant province.

Municipal Systems Act

Section 12 sets out the procedure for adopting a by-law:

- 1) Only a member or committee of a municipal council may introduce a draft by-law in the council.
- 2) A by-law must be made by a decision taken by a municipal council -
 - (a) in accordance with the rules and orders of the council; and
 - (b) with a supporting vote of a majority of its members.
- 3) No by-law may be passed by a municipal council unless -
 - (a) all the members of the council have been given reasonable notice; and
 - (b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.

DISCUSSION

The Speaker of the Municipal Council intends introducing the draft by-law for Cape Agulhas Municipality Rules of order for meetings of Council and Committees. When approved by Council

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None.

MANAGEMENT RECOMMENDATION

That Council approves that the draft by-law on the Cape Agulhas Municipality Rules of order for Meetings of Council and Committees be made available for public comment.

RESOLUTION 122/2023

That the draft by-law on the Cape Agulhas Municipality Rules of order for Meetings of Council and Committees be made available for public comment and afterwards submitted to Council for final approval.

(Proposer: Clr Ross / Seconder: Clr Donald)

6.4 **AANGEPASTE TARIIEWE VIR STADSBEPLANNING: 2023/24****DOEL VAN VERSLAG**

Om die bestaande tariewe aan te pas vir finale goedkeuring. Daar was verskeie oorsigfoute op Bylaag B (Diverse Tariewe) 2023/24 deurdat daar van die tariewe vekeerde bedrae aangetoon het en ander was uitgelaat.

Oorsigfoute op Skedule B

Onderverdelings: Vir die eerste erf per onderverdeling : R1 8750 - for the first erf per subdivision
 Oorskryding van boulyne (Strydigheidsheffing) : 0
 Dekkings oorskryding (Strydigheidsheffing) : 0
 Ongemagtide grond gebruik (Strydigheidsheffing) : 0
 Hoogte beperking (Strydigheidsheffing) : 0
 Van ons tariewe is weggelaat

VOORGESTELDE TARIIEWE 2023/24:

- Voorgestelde tariewe is 'n verhoging van 5% vanaf 2022/23 na 2023/24 finansiële jaar.
- Hersonerig, Onderverdeling en Opheffing van Titelvoorwaardes is elk met 15% verhoog. Ons tariewe is steeds baie laer as ander omliggende Munisipaliteite.
- Geen Stadsbeplanning aansoeke sal oorweeg word indien die volle dienste rekening nie tot op datum betaal is nie.
- No Town Planning applications will be considered if the full-service account is not paid up-to-date.

Die wysigings is met die finansiële afdeling bespreek.

Afdeling	Aansoeke	2022/23	Voorgestelde 2023/24
2(a)	'n hersonerig van grond; a rezoning of land;	R1 750	R2 013
2(b)	'n permanente afwyking van die ontwikkelingsparameters van die soneringskema; a permanent departure from the development parameters of the zoning scheme;	R1 750	R1 875
2(c)	'n tydelike afwyking toegestaan om die grond te benut vir 'n doel wat nie toegelaat word kragtens die primêre regte van die sonering van toepassing op die grond nie; a departure granted on a temporary basis to utilise land for a purpose not permitted in terms of the primary rights of the zoning applicable to the land; including house shops	R1 750	R1 875
2(d)	'n onderverdeling van grond wat nie kragtens afd. 24 vrygestel is nie, insluitend die registrasie van 'n servituut of huurooreenkoms; a subdivision of land that is not exempted in terms of section 24, including the registration of a servitude or lease agreement;	R1 750	R2 013
	addisionele erwe Additional erven	R 180	R 190
2(e)	'n konsolidasie van grond wat nie kragtens afd 24; vrygestel is nie a consolidation of land that is not exempted in terms of section 24;	R1750	R1 875
2(f)	'n opheffing, opskorting van of wysiging van beperkende voorwaardes ten opsigte van 'n grondeenheid; a removal, suspension or amendment of restrictive conditions in respect of a land unit;	R1 750	R2 013
2(g)	'n toestemming/ vergunning wat volgens die soneringskema vereis word; a permission required in terms of the zoning scheme;	R1 750	R1 875
2(h)	'n wysiging, skraping of opheffing van voorwaardes ten opsigte van bestaande goedkeuring; an amendment, deletion or imposition of conditions in respect of an existing approval;	R1 750	R1 875
2(i)	'n uitbreiding van die geldigheidstydperk van 'n goedkeuring; an extension of the validity period of an approval;	R1 750	R1 875
2(j)	'n goedkeuring van 'n oorvleuelingsone soos in die soneringsone beoog word; an approval of an overlay zone as contemplated in the zoning scheme;	R1 750	R1 850
2(k)	'n wysiging of kansellasie van 'n goedgekeurde onderverdelingsplan of 'n	R1 750	R1 875

Afdeling	Aansoeke	2022/23	Voorgestelde 2023/24
	gedeelte daarvan, met 'n algemene plan of diagram ingesluit; ' an amendment or cancellation of an approved subdivision plan or part thereof, including a general plan or diagram;		
2(l)	'n toestemming vereis volgens 'n voorwaarde van goedkeuring; a permission required in terms of a condition of approval;	R1 750	R1 875
2(m)	'n bepaling van 'n sonering; a determination of a zoning;	R1 750	R1 875
	'n soneringsertifikaat zoning extract/ certificate	R 150	R 160
2(n)	'n sluiting van 'n openbare plek of gedeelte daarvan; a closure of a public place or part thereof;	R 1 750	R1 875
2(o)	'n toestemmingsgebruik wat in die soneringskema beoog word; a consent use contemplated in the zoning scheme;	R1 750	R1 875
2(p)	'n gebruik van die grond by geleentheid; an occasional use of land;	R1 750	R1 875
2(q)	om 'n huiseienaarsvereniging te ontbind; to disestablish a home owner's association;	R1 750	R1 875
2(r)	om 'n versuim deur 'n huiseienaarsvereniging reg te stel om sy verpligtinge ten opsigte van die beheer oor of instandhouding van dienste reg te stel; to rectify a failure by a home owner's association to meet its obligations in respect of the control over or maintenance of services;	R1 750	R1 875
2(s)	'n toestemming vereis vir die rekonstruksie van 'n bestaande gebou wat 'n nie-konformerende gebruik uitmaak wat dermate vernietig of beskadig is dat dit nodig om 'n redelike deel van die gebou te sloop. a permission required for the reconstruction of an existing building that constitutes a non-conforming use that is destroyed or damaged to the extent that it is necessary to demolish a substantial part of the building.	R1 750	R1 875
	Huiswinkel House shop	R 450	R 480
	verslapping van beperkende titelvoorwaarde relaxation of a restrictive title deed condition	R1 750	R1 875
	aansoek om beroepsbeoefening occupational practice	R 450	R 480
	'n besigheidslisensie business licence	R 30	R 35
	addisionele fooi waar onwettige grondgebruik reeds bestaan Additional fee where illegal land use already exists	R5 751	R6 038
	Aansoeke om appél deur die aansoeker en/of beswaarmaker Application to appeal by the applicant and/or objector	R1 750	R1 875
	Wysigingsaansoek Amendment application	R1 750	R1875
	Oorskryding van boulyn (Strydigheidsheffing) Encroachment of building line	R4 015	R4 216
	Dekking oorskryding (Strydigheidsheffing) Deviation of Coverage	R4 579	R4 808
	Hoogtebeperking (Strydigheidsheffing) Deviation of Height Restriction	R4 015	R4 216
	KENNIS DIEN VAN KENNISGEWING Aflewering per hand, geregistreerde pos, databoodskappe SERVING OF NOTICES Delivering by hand; registered post; data messages	R 70	R 75
	PUBLIKASIE VAN KENNISGEWING Plaaslike koerant(e) ter plaatse kennisgewing, munisipale webwerf PUBLICATION OF NOTICES Local Newspaper(s); site notice; Municipality's website	R3 275	R3 505
	PUBLIKASIE VAN KENNISGEWING Provinsiale koerant PUBLICATION OF NOTICES Provincial Gazette	R 460	R 490
	BYKOMENDE PUBLIKASIE VAN KENNISGEWINGS Ter plaatse kennisgewing, openbare vergadering, plaaslike radiostasie, munisipale webwerf, briewe van instemming of beswaar ADDITIONAL PUBLICATION OF NOTICES Site notice, public meeting, local radio station, Municipality's website, letters of consent or objection	R 70	R 75
	KENNISGEWING VAN BESLUIT Provinsiale koerant NOTICE OF DECISION Provincial Gazette	R 460	R 490

BESTUURSAANBEVELING

Dat die Raad die voorgestelde aangepaste Stadsbeplanningstariewe goedkeur wat by Bylaag B van die begroting vir 2023/24 ingesluit moet word.

BESLUIT 123/2023

Dat die Raad die voorgestelde aangepaste Stadsbeplanningstariewe goedkeur wat by Bylaag B van die begroting vir 2023/24 ingesluit moet word.

(Stel Voor: Rdh Nieuwoudt / Sekondeer: Rdh Swart)

6.5 **REVIEW OF THE WARD COMMITTEE POLICY****REPORT FROM THE OFFICE OF THE MUNICIPAL MANAGER: STRATEGIC PLANNING AND ADMINISTRATION DIVISION****PURPOSE OF REPORT**

To present the revised policy on establishment and operation of municipal ward committees to Council for approval. The revised policy is attached on **page 157**.

BACKGROUND

The Municipal Council approved the policy on establishment and operation of municipal ward committees on 14 December 2021 (Resolution 262/2021).

DISCUSSION

The policy was revised to improve semantics and make minor corrections. The following are the most significant amendments:

Section 5: Election meeting mechanisms

The My Muni App must be replaced with Municipal App

Section 21: Attendance

1. The public may only attend general ward meetings, on invitation by the ward councillor or approval by the ward councillor on receipt of such a request.
2. The General public should be encouraged to attend ward feedback meetings.

The 2021 policy provided that the general public, subject to the rulings set out in section 8, can attend General ward meetings.

LEGAL FRAMEWORK

The establishment of Ward Committees is regulated by Chapter 4 of the Local Government Municipal Structures Act, No 117 of 1998 and Regulations as amended.

FINANCIAL IMPLICATIONS

Payment of out-of-pocket expenses monthly to the amount of R700,00 per ward committee member which is provided for on the current budget as indicated in section 73 (3) (c) of Local Government Municipal Structures Act, No 117 of 1998 and Regulations.

MANAGEMENT RECOMMENDATION

That Council approves the revised policy on establishment and operation of municipal ward committees.

RESOLUTION 124/2023

That Council approves the revised policy on establishment and operation of municipal ward committees.

(Proposer: Cllr Eksteen / Seconder: Cllr Ross)

6.6 MUNICIPAL PUBLIC ACCOUNTS COMMITTEE WORKPLAN FOR 2023-24**COUNCIL SUPPORT AND ADMINISTRATIVE SERVICES****PURPOSE OF REPORT**

To bring to the attention of Council the annual workplan of the MPAC for 2023/24 financial year as required by various pieces of applicable legislation.

BACKGROUND

The municipality is required to comply with various pieces of legislation in fulfilment of its mandate. The MPAC, as a sub-Committee of Council, is also required in terms of legislation to play an oversight role in ensuring that the municipality fulfil these responsibilities in accordance with relevant legislation. As such, an annual calendar detailing what is expected of MPAC for each month in fulfilment of its oversight role was obtained from the Department of Cooperative Governance which detail monthly activities. This Calendar has been tailor-made for Cape Agulhas Municipality allocating responsibilities to relevant department within the municipality.

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

LEGAL IMPLICATIONS

Adherence to various relevant legislation, including Municipal Finance Management Act and Municipal Systems Act, as well as the applicable Regulations relating to the MPAC oversight role.

RECOMMENDATION: MPAC

That Council considers and approves the MPAC's annual calendar for 2023/24.

RESOLUTION 125/2023

That Council approves the MPAC's annual calendar for 2023/24.

(Proposer: Cllr Donald / Seconder: Ald Nieuwoudt)

6.7 **REMUNERATION OF THE CHAIRPERSON OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE****REPORT COMPILED BY: COUNCIL SUPPORT AND ADMINISTRATIVE SERVICES****PURPOSE OF REPORT**

To re-submit for Council to consider the increase of the total remuneration package of the elected Chairperson of the Council's Municipal Public Accounts Committee (MPAC) in terms of section 8 of the Government Notice on the Determination of Upper Limits of Salaries, Allowances, and Benefits of different Members of Municipal Councils as published in the Government Gazette No. 46470 published on 2 June 2022 (Notice) and which took effect 1 July 2021 (**attached on page 167**)

BACKGROUND

A Council Agenda item on this matter was previously tabled in Council on 14 December 2021 (item 6.4.) of the agenda) and again on 13 December 2022 (item 11.19 of the agenda) for consideration. The background to that agenda item is as follows:

The new Chairperson of the Council's MPAC was elected and appointed in the aforementioned position during the Council's inaugural meeting held on 22 November 2021. The Chairperson indicated that he should be remunerated as the Chairperson of MPAC as set out by the said Government Notice.

Paragraph 8 of the notice indicates that Part-time Members of Council receives a total remuneration package of R280 603 (grade three) and makes provision for a total package for the Chairperson of a section 79 Committee, i.e., MPAC, of R360 107, which is an additional R79 504. The notice, therefore, makes provision for higher package for such Chairpersons.

The preamble states that:

"The salary and allowances of a Councillor is determined by that municipal council by resolution of a supporting vote of the majority of its members, in consultation with the member of the Executive Council responsible for Local Government in each province, having regard to the upper limits as set out hereunder, the financial year of a municipality and affordability of municipality to pay within the different grades..."

It is clear that the Council can decide on the different remuneration level for the Chairperson of MPAC. However, emphasis must be placed on the requirement of "...in consultation with..." the MEC for Local Government. The preamble clarifies this consultation as follows:

"For purpose of implementation of the Government Notice, "in consultation with" means that the municipal council must obtain concurrence of the MEC for local government prior to the implementation of the provisions of this Notice."

The above is clear that, should the Council approve the payment of the remuneration for s79 Committee Chairpersons, the Council still need the approval of the MEC.

After consideration the following was resolved:

"RESOLUTION 252/2021

That the application of the increased remuneration package of the MPAC Chairperson be referred back for investigation and budget consideration and resubmitted to Council for consideration."

(i) In terms of the Resolution SALGA was then approached for guidance who responded as follows:

"Die Cogta Minister se Determination of upper limits of salaries, allowances and benefits of different members of municipal councils, maak nie spesifiek voorsiening vir 'n MPAC komitee/voorsitter nie. Dit is en bly 'n artikel 79 komitee en vergoeding geskied dinooreenkomstig afhanged of dit 'n voltydse dan wel deelydse pos is."

Daar was geen verhogings hierdie jaar nie so die vorige termyn se salarisse geld steeds - sien twee Staatskoerante aangeheg.

'n Voorsitter van 'n artikel 79 komitee kry wel meer vergoeding as 'n gewone raadslid as jy na die onderskeie tabelle in die "determination" kyk.

- item 5 - Upper limits of the annual total remuneration packages of **full-time** councillors;
- item 8 - Upper limits of the annual total remuneration packages of **part-time** councillors.

SALGA also indicated that:

"It depends on the Council; however, the Upper Limits Notice makes provision for Section 79 Committee Chairpersons to be remunerated differently from other Councillors."

- (ii) During a recent workshop for MPAC members presented by the National Treasury, this matter was a specific discussion point. According to National Treasury, the MPAC Chairperson should be remunerated in terms of the abovementioned notice. In view of this, the matter is again submitted to Council for consideration. The following is an extract of the notice regarding the different remuneration:

Municipality Council Grade	Chairperson of s72 Committee	Other part-time Councillors	Difference
3	R360 107	R280 603	R79 504

- (iii) Research was also done at some other municipalities on how they deal with this. The results are as follows which indicates that there no consistency:

Municipality	Remunerated as a Councillor	Remunerated as a s79 Chairperson	Comments
Witzenberg Municipality		√	-
Overberg District Municipality	√		Also pay them a sitting fee as for the Audit Committee meetings
Breede Valley Municipality		√	
Overstrand Municipality	√		-
Swellendam Municipality	√		-
Theewaterskloof Municipality		√	-
Oudtshoorn Municipality		√	-
Hessequa Municipality	√		-

From the above, it is clear that there is inconsistencies within the municipalities on this matter.

- (iv) This has been communicated with Budget and Treasury Office to make provision in the 2023/24 budget in anticipation of the financial implications should it be supported and approved by the MEC.

STAFF IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

Additional R79 504 Council expenditure. A request was made with the Budget and Treasury Office to make a provision for the MPAC Chairperson's remuneration in the 2023/24 budget.

LEGISLATIVE IMPLICATIONS

Consideration of section 8 of the Government Notice on the Determination of Upper Limits of Salaries, Allowances, and Benefits of different Members of Municipal Councils as published in the Government Gazette No. 46470 published on 2 June 2022 in respect of section 79 Chairpersons.

MANAGEMENT RECOMMENDATION

- (i) That Council considers the application for the increased remuneration package of the MPAC Chairperson.
- (ii) If supported, that Council makes a resolution whether this remuneration be paid retrospectively, considering that the said Government Notice took effect from 1 July 2021.
- (iii) If supported, that the matter be referred to the Western Cape MEC for Local Government for concurrence as indicated in the preamble of the Government Notice.

Proposal - Clr Matthysen (Seconder: Clr Louw)

That the application for the increased remuneration package of the MPAC Chairperson be granted and paid retrospectively.

Counter Proposal - Clr Ross (Seconder: Clr Donald)

That the application for the increased remuneration package of the MPAC Chairperson not be granted.

Council proceeds to vote by show of hands

4 For Proposal (2 ANC, 2 Diensleweringsparty)

5 For Counter Proposal (DA)

RESOLUTION 126/2023

That the application for the increased remuneration package of the MPAC Chairperson not be granted.

6.8 **TYDELIKE POLISIESTASIE WAENHUISKRANS****DOEL VAN VERSLAG**

Om oorweging te skenk om kantoorspasie in Waenhuiskrans aan die SAPD beskikbaar te stel.

AGTERGROND

As gevolg van die geweldige toename in misdaad in Waenhuiskrans het SAPD hul dienste na die dorp uitgebrei om 'n 24 uur diens te lewer. Die beamptes het nie 'n kantoorspasie waar hul kan rus, toilette te gebruik en verklarings af te neem nie. Langs die biblioteek, is 'n onbenutte kantoor wat in die verlede deur die raadslid gebruik is, wat vir die doel aangewend kan word. Alle munisipale dienste is in die kantoor beskikbaar.

FINANSIËLE IMPLIKASIE

Onkonste vir die gebruik van water en elektrisiteit.

BESTUURSAANBEVELING

- (i) Dat die kantoor langs die Biblioteek in Waenhuiskrans, gratis aan die SAPD beskikbaar gestel word.
- (ii) Dat 'n MOU met die Stasiebevelvoerder gesluit word waarin verantwoordelikheid vir die kantoor geneem word.
- (iii) Dat die vergunning gebruik kan word solank dit die Raad behaag, met 'n wedersydse kennisgewing van 3 maande.

BESLUIT 127/2023

- (i) Dat die kantoor langs die Biblioteek in Waenhuiskrans, gratis aan die SAPD beskikbaar gestel word.
- (ii) Dat 'n MOU met die Stasiebevelvoerder gesluit word waarin verantwoordelikheid vir die kantoor geneem word.
- (iii) Dat die vergunning gebruik kan word solank dit die Raad behaag, met 'n wedersydse kennisgewing van 3 maande.
- (iv) Dat die SAPD versoek word om 'n voorafbetaalde elektrisiteitsmeter te laat installeer.

(Voorsteller: Rdh Nieuwoudt / Sekondant: Rdl Eksteen)

6.9 SPECIAL ADJUSTMENTS BUDGET IN RESPECT OF THE 2022/23 FINANCIAL YEAR

REPORT COMPILED BY THE DIRECTOR: FINANCE

PURPOSE OF REPORT

In terms of section 28 of the MFMA and guidelines received from National Treasury the municipality is allowed to revise its approved annual budget through an adjustments budget based on the following criteria:

1. Must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
2. May appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
3. May within a prescribed framework, authorize unforeseeable and unavoidable expenditure recommended by the mayor of the municipality; may authorize the utilization of projected savings in one vote towards spending under another vote;
4. May authorize the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council;
5. May correct any errors in the annual budget; and
6. May provide for any other expenditure within a prescribed framework.

BACKGROUND

However, section 23(2) of the Municipal Budget & Reporting Regulations prescribe that only one adjustment budget be tabled in council during a financial year except when additional revenues become available from National / Provincial governments and / or unforeseeable and avoidable expenditure has been incurred. Circular 68 provides clarity on the procedures to be followed when dealing with unauthorized, irregular or fruitless and wasteful expenditure as defined in section 1 of the MFMA. The circular further provides guideline information on what process to follow when council may authorize unauthorized expenditure in an adjustment budget. An adjustment budget can be addressed in the following three different adjustments budgets:

- **Adjustments budget for unforeseen and unavoidable expenditure:** It allows council to provide *ex post* authorization for unforeseen and unavoidable expenditure that was authorized by the Executive Mayor in terms of section 29 of the MFMA and which must be tabled in council at the “first available opportunity” or within 60 days after the expenditure was incurred.
- **Main adjustments budget:** In terms of regulation 23(6)(a) of the Municipal Budget and Reporting Regulations a council may authorize unauthorized expenditure in the adjustments budget occurred in the first half budget which may be tabled in council for approval at any time after the mid-year budget and performance assessment but not later than 28 February of the current year.
- **Special adjustments budget to authorize unauthorized expenditure:** In terms of regulation 23(6)(b) of the Municipal Budget and Reporting Regulations, council may authorize unauthorized expenditure in a special adjustments budget which only deals with unauthorized expenditure from the previous financial year such as:
 - (i) Unauthorized expenditure that occurred in the first half of the previous financial year that was not included in the main adjustments budget;
 - (ii) Unauthorized expenditure that occurred in the second half of the previous financial year; and
 - (iii) Any unauthorized expenditure identified by the Auditor-General during the annual audit process.

In order to avoid any unauthorized expenditure as prescribed in terms of section 15 of the MFMA it is suggested that council considers the special adjustment budget based on the additional grant allocations received from the respective National & Provincial Treasuries, Eskom Bulk purchases adjustment based on the projected expenditure trend and other unforeseeable expenditure incurred and / or approved after finalization of the mid-year financial and performance assessment when the main adjustments budget was approved by council during January 2023. The second adjustment budget is attached as **Annexure “A”** for council’s consideration and approval.

The unforeseen adjustment mainly refers to:

- Application of virement above the 10% ratio prescribed in terms of the Budget & Virement policy;
- Additional grant allocations in respect of capital as well as operating expenditure;
- Reallocation and / or downward adjustment of capital projects due to savings in respect of completed projects; and
- Provision in respect of Landfill Site and Post Service Employee Benefits if necessary.

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

MANAGEMENT RECOMMENDATION

- (i) Council considers the approval of the special adjustment budget as per recommended resolution tabled.
- (ii) Council resolves that the special adjustment budget of Cape Agulhas Municipality for the financial year 2022/2023, and indicative for the projected outer years 2023/2024 and 2024/2025 be approved as set out in the following schedules:
 1. Adjustment Budget Summary – Table B1;
 2. Budgeted Financial Performance (Revenue and Expenditure by standard Classification) – Table B2;
 3. Budgeted Financial Performance (Revenue and Expenditure by standard Classification) - B – Table B2;
 4. Budgeted Financial Performance (revenue and expenditure by municipal vote) Table B3;
 5. Budgeted Financial Performance (revenue and expenditure by municipal vote) – B -Table B3;
 6. Budgeted Financial Performance (revenue and expenditure) – Table B4;
 7. Budgeted Capital Expenditure by vote and funding – Table B5;
 8. Budgeted Financial Position – Table B6;
 9. Budgeted Cash Flows Table B7;
 10. Cash backed reserves/accumulated surplus reconciliation – Table B8;
 11. Asset Management – Table B9; and
 12. Basic service delivery measurement table B10
- (iii) Council resolves that a hard and electronic copy of the complete special adjustment budget be submitted to National- and Provincial Treasury respectively for information.

RESOLUTION 128/2023

- (i) That Council approves the special adjustment budget as per recommended resolution tabled.
- (ii) That Council approves the special adjustment budget of Cape Agulhas Municipality for the financial year 2022/2023, and indicative for the projected outer years 2023/2024 and 2024/2025 as set out in the following schedules:
 1. Adjustment Budget Summary – Table B1;
 2. Budgeted Financial Performance (Revenue and Expenditure by standard Classification) – Table B2;
 3. Budgeted Financial Performance (Revenue and Expenditure by standard Classification) - B – Table B2;
 4. Budgeted Financial Performance (revenue and expenditure by municipal vote) Table B3;
 5. Budgeted Financial Performance (revenue and expenditure by municipal vote) – B -Table B3;
 6. Budgeted Financial Performance (revenue and expenditure) – Table B4;
 7. Budgeted Capital Expenditure by vote and funding – Table B5;
 8. Budgeted Financial Position – Table B6;
 9. Budgeted Cash Flows Table B7;
 10. Cash backed reserves/accumulated surplus reconciliation – Table B8;
 11. Asset Management – Table B9; and
 12. Basic service delivery measurement table B10

- (iii) That a hard and electronic copy of the complete special adjustment budget be submitted to National- and Provincial Treasury respectively for information.

(Proposer: Clr Donald / Seconder: Clr Eksteen)

6.10 NERSA: GOEDKEURING VAN ELEKTRISITEITSTARIEWE INSAKE DIE 2023/24 BEGROTING JAAR

DOEL VAN VERSLAG

Om NERSA se goedgekeurde tariewe vir die lewering van elektrisiteitsdienste in die Kaap Agulhas munisipale gebied, met betrekking tot die 2023/24 begroting jaar, te oorweeg vir goedkeuring in terme van Nasionale Tesourie se riglyne met omsendskrywe 122 en 123 asook ander toepaslike wetgewing in dié verband.

AGTERGROND

Die voorlopige elektrisiteitstariewe vir die periode 1 Julie 2023 tot Junie 2024 was deur die Raad goedgekeur op 31 Maart 2023, onderhewig aan voorlegging na NERSA vir finale goedkeuring.

Op 28 Junie 2023 het die munisipaliteit voorlopige terugvoer ontvang vanaf NERSA insake die voorgestelde finale goedgekeurde elektrisiteitstariewe vir implementering met effek 1 Julie 2023. Behalwe vir desimale verskille vir aanpassing ten opsigte van reeds goedgekeurde elektrisiteitstariewe deur die Raad op 31 Mei 2023 word geen ander afwykings aangetoon ter aanpassing nie. Dit is egter van belang om die tarief aanpassing te doen en in lyn gebring moet word met die elektrisiteitstariewe soos vasgestel deur NERSA per kennisgewing gedateer 28 Junie 2023. 'n Afskrif van die goedgekeurde NERSA elektrisiteitstariewe ten opsigte van die 2023/24 finansiële jaar is aangeheg vir oorweging en goedkeuring.

Die finansiële implikasie met betrekking tot die een gewysigde tarief het geen impak op die goedgekeurde begroting vir elektrisiteit ten opsigte van die 2023/24 begroting jaar.

The Munisipale Bestuurder, in konsultasie met die Direkteur: Finansies, beveel as volg aan:

BESTUURSAANBEVELING

- (i) Dat die Raad die goedgekeurde elektrisiteitstariewe van NERSA aanvaar vir implementering vanaf 1 Julie 2023 tot Junie 2024.
- (ii) Dat die Raad verder goedkeuring verleen dat Bylaag "A(1)" - Elektrisiteitsdienste Tariewe (2023/24) gewysig en in lyn gebring word met die tariewe soos goedgekeur deur NERSA.

BESLUIT 129/2023

- (i) Dat die Raad die goedgekeurde elektrisiteitstariewe van NERSA aanvaar vir implementering vanaf 1 Julie 2023 tot Junie 2024.
- (ii) Dat die Raad verder goedkeuring verleen dat Bylaag "A(1)" - Elektrisiteitsdienste Tariewe (2023/24) gewysig en in lyn gebring word met die tariewe soos goedgekeur deur NERSA.

(Voorsteller: Rdh Nieuwoudt / Sekondant: Rdl Donald)

6.11 DETERMINATION OF THE UPPER LIMITS OF TOTAL REMUNERATION PACKAGES PAYABLE TO THE MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGERS

The Municipal Manager reports as follows:

PURPOSE OF REPORT

To obtain principle approval from council to proceed with the prescribed process for approval from the National Minister of Co-Operative Governance and Traditional Affairs, after consultation with the responsible MEC to consider the change in the categorization of the municipality in terms of "Government Notice No. 3541 in Government Gazette No. 48789, dated 14 June 2023 dealing with the upper limits of total remuneration packages payable to the Municipal Manager and Managers directly accountable to the Municipal Manager (a copy of the Notice is separately bound as "Annexure A").

BACKGROUND

The remuneration of Municipal Managers and Senior Managers accountable to the Municipal Manager been regulated in terms of section 35 of the Local Government Regulations on the Appointment and Conditions of Employment of Senior Managers within the local government sphere which stipulates as follows:

- "Section 35(1) The Minister must by notice in the Gazette annually determine the upper limit of the total remuneration package of senior managers according to the different categories of municipalities.*
- (2) The upper limit of the total remuneration package of senior managers for a financial year, must be determined by the Minister before 31 March of the following financial year, after consultation with the Minister for Public Service and Administration, the Minister of Finance, the MEC for local government, and organized local government by notice in the Gazette after taking into consideration -*
- (a) the classification of municipalities according to different grades;*
 - (b) the respective duties, powers and functions and responsibilities of the municipality;*
 - (c) the affordability of different levels of remuneration, the number of municipal employees and the salary & wage bill of the municipality;*
 - (d) the population, operating budget and assets of the municipality;*
 - (e) the current principles and levels of remuneration in society in general;*
 - (f) the need for promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;*
 - (g) the provision of uniform norms and standards nationally to address disparities; and*
 - (h) inflationary increases."*

Based on the government gazette's notice the calculation directive prescribed to determine the remuneration categorisation of the Cape Agulhas municipality appears to change from a category 2 municipality to a category 3 municipality. If the categorisation of the municipality is higher than the categorisation for the previous financial, the municipality must apply in writing to the Minister of Co-Operate Governance and Transitional Affairs to obtain approval, after consultation with the MEC for local government in the province. Notwithstanding the afore mentioned the Minister must first confirm the actual values and points scored by the municipality, determine the sustainability of the driving factors that led to the higher categorisation of the municipality and the affordability of the higher categorisation taking into consideration several key financial ratio calculations and / or other risks as may be identified.

Consideration for principle approval by Council is required or not in order to proceed with the prescribed process to obtain approval by the Minister for the implementation to apply the higher categorization of the municipality in the determination of the remuneration for the Municipal Manager and Manger accountable to him.

Should council consider favorable it will also assist to address the disparity in salaries between the Senior Managers and the managers reporting directly to him / her which currently earns more with reference to the total cost to company package.

LEGISLATIVE IMPLICATIONS

Compliance to prescribed legislation.

FINANCIAL IMPLICATIONS

Additional cost estimated at R350 000 per annum if remunerated at the higher category 3 level.

The Municipal Manager recommends as follows:

MANAGEMENT RECOMMENDATION

Council considers principle approval in support of the implementation of the higher categorization of the municipality as determined in terms of "Government Notice No. 3541 in Government Gazette No. 48789, dated 14 June 2023 dealing with the upper limits of total remuneration packages payable to the Municipal Manager and Managers directly accountable to the Municipal Manager, subject to -

The approval by the Minister of Co-Operative Governance and Traditional Affairs, after consultation with the Western-Cape MEC for Local Government in the province as prescribed in terms of the procedures applicable.

RESOLUTION 130/2023

That Council grants principle approval in support of the implementation of the higher categorization of the municipality as determined in terms of "Government Notice No. 3541 in Government Gazette No. 48789, dated 14 June 2023 dealing with the upper limits of total remuneration packages payable to the Municipal Manager and Managers directly accountable to the Municipal Manager, subject to -

The approval by the Minister of Co-Operative Governance and Traditional Affairs, after consultation with the Western-Cape MEC for Local Government in the province as prescribed in terms of the procedures applicable.

(Proposer: Ald Nieuwoudt / Seconder: Clr Donald)

6.12 **RECOVERING OF AND/OR WRITING OFF IRREGULAR EXPENDITURE FOR 2021/22 FINANCIAL YEAR**

PURPOSE OF REPORT

The purpose of this report is for council to investigate the irregular expenditure identified by the Auditor-General during the 2021/22 financial year audit 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.

Additional irregular expenditure to the value of R9 481 429 was identified by the Auditor General subject to further investigation to ensure that the correct SCM processes were followed during the appointment of a panel of service providers versus the more traditional SCM appointment processes. The auditing finding was referred to Provincial Treasury as agreed between the office of the Auditor-General and the municipality for them to perform an independent assessment as to whether the municipality indeed applied the correct SCM process and / or at fault as per the auditor's opinion of non-compliance.

The outcome by Provincial Treasury's SCM unit revealed that the municipality followed the correct and fair SCM process and the outcome of this report was discussed with Auditor-General on the 7 June 2023 on how the irregular expenditure under investigation should be dealt with in the current 2022/23 financial year with a significant lessor impact as per the initial audit finding. An amendment in the financial statements (2022/23) been required for correct disclosure as per the discussion held with the office of the Auditor-General.

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 irregular expenditure under investigation identified by the Auditor General to the value of R9 481 429 for amendment as per the independent assessment performed by Provincial Treasury and further discussion held between the municipality and the office of the Auditor-General as the way forward with the recommended corrective actions required in respect of the amendment for disclosure in the annual financial statements (2022/23).
- (ii) Council promptly informs the Western-Cape 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 131/2023

- (i) That Council takes note of the irregular expenditure under investigation identified by the Auditor General to the value of R9 481 429 for amendment as per the independent assessment performed by Provincial Treasury and further discussion held between the municipality and the office of the Auditor-General as the way forward with the recommended corrective actions required in respect of the amendment for disclosure in the annual financial statements (2022/23).
- (ii) Council promptly informs the Western-Cape 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.

(Unanimously Resolved)

6.13 **OORWEGING VIR DIE AFSKRYF VAN ONINBARE DIVERSE SKULDE ASOOK TERUGSKRYF VAN VOORSIENING TEN OPSIGTE VAN ERF 599, WAENHUISKRANS.**

DOEL VAN VERSLAG

Vir die Raad om oorweging te skenk vir die afskryf van oninbare gelde voortspruitend 'n verhaling deur SARS vir sogenaamde foutiewe berekening op die LBS-gelde verskuldig in in terme van die jaarlikse IRP 5 rekonsiliasie ingedien vir 2015/2016 belastingjare asook oninvorderbare geld ten opsigte van die skoonmaak van erwe tesame met die terugskryf van die voorsiening ten opsigte van erf 599 dispuut.

AGTERGROND

As deel van die jaareinde prosesse is die volgende lank uitstaande items geïdentifiseer op die grootboek afwagrekening waar geen beweging plaasgevind het nieteenstaande verskeie pogings deur die munisipaliteit om die aangeleentheid te kon finaliseer met geen verdere doel om die gelde te openbaar met die wete dat die onderskeie items se invordering van die gelde en/of aanwending van die voorsiening aangewend gaan word nie, naamlik:

POSNUMMER	BESKRYWING VAN ITEM	BEDRAG	KOMMENTAAR
03/1010/850 231	Voorsiening: Dispuut erf 599, Waenhuiskrans	(-) R426 000	"Settlement Agreement" tussen die partye is bereik dat die erf verkoop moet word en dat die aankoopprys plus die koste ter verbetering van die erf terugbetaal moet word vanuit die opbrengs vanuit verkoopprys wat die genoemde voorsiening tot die dispuut nie meer van toepassing sou maak. Die aangeleentheid steeds in proses van finalisering deurdat "WARA" die ooreenkoms tans teenstaan.
03/2124/400 125	Schoonmaak van privaat eiendom	R78 540	Die koste vir die skoonmaak van die erwe kon nie verhaal word vanaf die 2019/20 boekjaar deurdat die onderskeie eienaars die proses betwis dat enige kennisgewing in die verband ontvang was en/of aanvoer dat die erf op standard volgens hulle skoonmaak en instand gehou was. Geen toewysing van die koste kon plaasvind a.g.v die dispuut en verbeterde prosedure/interne kontrole reeds in plek gestel om diesulke dispute in toekoms te vermy.
03/2124/400 110	SARS Dispuut	R393 445	Die onderbetaling volgens SARS vir LBS het plaasgevind gedurende die 2015 & 2016 IRP 5 rekonsiliasie indiening sonder enige kennisgewing en direk verhaal vanaf die munisipaliteit se bankrekening. Sedertdien geen sukses om die dispuut aan te spreek en regstelling te doen.
Netto Aansuiwering (Vorige periode):		R 45 985	

Die Munsipale Bestuurder, in oorleg met die Direkteur: Finansies en IT versoek oorweging deur die Raad om die boegenoemde afskrywing van oninbare gelde asook die terugskryf van die voorsiening ten opsigte van erf 599 dispuut goed te keur.

WETLIKE IMPLIKASIE

Geen.

FINANSIËLE IMPLIKASIE

Oorweging vir die afskryf van oninbare skulde ten bedrae van R471 985 synde SARS-dispuut ten opsigte van LBS-onderbetaling asook skoonmaak van privaat eiendom se oninbare gelde tesame met die terugskryf van die voorsiening ten bedrae van R426 000 insake die dispuut met verkoop van erf 599, Waenhuiskrans.

BESTUURSAANBEVELING

Dat die Raad goedkeuring verleen dat oninbare skulde ten bedrae van R471 985 synde SARS-dispuut ten opsigte van LBS-onderbetaling asook skoonmaak van privaat eiendom afgeskryf word asook om goedkeuring te verleen dat die voorsiening ten bedrae van R426 000 insake die dispuut met die verkoop van erf 599, Waenhuiskrans teruggeskrywe word.

BESLUIT 132/2023

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(Voorsteller: Rdl Donald / Sekondant: Rdl Eksteen)

7. DRINGENDE SAKE DEUR DIE MUNISIPALE BESTUURDER

Geen.

8. OORWEGING VAN KENNISGEWING VAN MOSIES

Geen.

9. OORWEGING VAN KENNISGEWING VAN VRAE

Geen.

10. IN KOMITEE VERSLAE

In Komitee items word vertroulik hanteer.

11. SLUITING

Die vergadering verdaag om 11h00.

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

BEKRAGTIG op hierdie

dag van

2023

SPEAKER

DATUM: