

**MINUTES OF THE COUNCIL MEETING OF THE BREEDE VALLEY MUNICIPALITY
HELD ON 25 JUNE 2015 IN THE COUNCIL CHAMBER, CAPE WINELANDS DISTRICT
MUNICIPALITY, 51 TRAPPES STREET, WORCESTER.**

**PLEASE RETAIN THIS DOCUMENT FOR RECORD PURPOSES AS IT WILL NOT BE
CIRCULATED AGAIN.**

PRESENT AND IN ATTENDANCE:

As per the attendance registers copied into the minutes after the final item:

ABSENT WITHOUT APOLOGY:

1. OPENING

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

PART 3: MEETINGS

4. Commencement of meetings of Council

The Speaker must take the chair at the time stated in the notice of the meeting or as soon thereafter as is reasonably possible: provided that the meeting does not commence later than 30 (thirty) minutes after the time stated in the notice of the meeting and must proceed immediately with the business of the meeting, subject to Clause 13.

13. Quorum

- (1) A majority of the Councillors constitutes a quorum.
- (2) If there is no quorum at the time for which the meeting is scheduled, the meeting must be delayed for no longer than 20 (twenty) minutes and if at the end of that period, there is still no quorum, the Speaker must adjourn the meeting to the same time, a week later at an available venue and the time of such adjournment, as well as the names of the Councillors present, must be recorded in the minutes.
- (3) Whenever the Speaker is not present and there is no quorum, the start of the meeting must be delayed for no more than 20 (twenty) minutes and if there is no quorum at the end of that period, the Municipal Manager must adjourn the meeting to the same time, a week later at an available venue and the time of such adjournment, as well as the names of the Councillors present, must be recorded in the minutes.
- (4) Whenever during a meeting there is no quorum, the Speaker must suspend the proceedings until a quorum is again present: Provided that if after 15 (fifteen) minutes there is still no quorum the Speaker must adjourn the meeting to the same time, a week later at an available venue and the time of such adjournment, as well as the names of the Councillors present, must be recorded in the minutes.
- (5) The Speaker must report the names of the absentee Councillors to the committee established in terms of Clause 11.2 (Disciplinary Committee) for the purposes of an investigation of a breach of these Rules.

At 10:03 the Speaker called the meeting to order and requested Cllr. S. Goedeman to open the meeting with prayer.

1.1 Announcement of Councillors birthdays

Cllr B.J. Kriegler	03 June
Cllr J.F. van Zyl	04 June
Cllr M.N. Bushwana	21 June
Cllr A.M. du Toit	26 June
Cllr S.B. Mfutwana	01 July
Cllr G.F. Jaftha	03 July
Cllr B.V. Klein	11 July
Cllr M.N. Lubisi	15 July
Cllr T.C. Dyonta	20 July

The Speaker asks Cllr. P.B. Januarie to congratulate the Councillors on their birthdays on behalf of Council.

2. ELECTION OF (ACTING) SPEAKER, IF NECESSARY

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11. COPY OF NOTICE PLACED ON NOTICE BOARDS

3. APPLICATIONS FOR LEAVE OF ABSENCE

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

10. Leave of absence

- (1) A Councillor who wishes to absent himself or herself from meetings must, before so absents himself or herself, obtain leave of absence via the Whip of the respective Political Party, from the Speaker or Chairperson of a Committee prior to a meeting: Provided that the Speaker or Chairperson of a Committee, on good cause, may grant leave of absence after the meeting to a Councillor who has been prevented by special circumstances from obtaining leave of absence prior to the meeting.
- (2) Where necessitated due to circumstances, leave of absence by Councillors must be duly applied for -
 - (a) In the case of Council – to the Speaker;
 - (b) In the case of meeting of Committees of Council – to the Chairperson of the relevant Committee and the Administration must also be timeously informed so that the alternate for the relevant Councillor of the Committee can be informed in time to ensure a quorum;
 - (c) In the case of workshops, congresses, functions and other meetings than those contemplated in (a) and (b) above – to the Speaker to grant approval in such cases and the Administration must also be timeously informed in the event that Councillors cannot attend workshops, congresses, meetings, functions, etc. so that cancellation arrangements can be made to avoid fruitless expenditure.
- (3) In the event that Councillors have not timeously applied for leave of absence as contemplated in (a) to (c) above and the non-attendance results in expenditure related to the attendance of workshops, congresses, meetings, functions, etc. not being recoverable, such expenditure will constitute fruitless expenditure in terms of the Local Government: Municipal Financial Management Act, 2003 (Act No. 56 of 2003) (MFMA) which holds serious implications and penalties;
- (4) Should Councillors contravene Items (1) and (2) above, the contravention will be -
 - (a) Addressed in terms of the Code of Conduct for Councillors [Schedule 1, Item 4, in the Local Government: Municipal Systems Act (Act 32 Of 2000)] as a contravention of the Code;
 - (b) Dealt with as a contravention of Section 32 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and any non-recoverable costs recovered from the relevant Councillor.

3.1 A blank Application for Leave of Absence form is enclosed

Cllr. L. Dyabooi
Cllr. G.F. Jaftha
Cllr. B.J. Kriegler
Cllr. W.R. Meiring
Cllr. C. Ntsomi
Cllr. S.E. James
Cllr. N. Jali
Cllr. P. Marran

3.2 The Attendance Registers will be available at the meeting

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

9. Attendance at meetings

- (1) Every Councillor attending a meeting of the Council must sign his or her name in the attendance register kept for such purpose.
- (2) A Councillor must attend each meeting except when –
 - (a) Leave of absence is granted in terms of Clause 10; or
 - (b) The Councillor is required to withdraw in terms of law.

4. INTERVIEWS WITH OR PRESENTATIONS BY DEPUTATIONS

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

20. Deputations

- (1) A deputation seeking an interview with Council must give the Municipal Manager 6 (six) days written notice of its intention and furnish details of the representations to be made and the source of the deputation.
- (2) The Municipal Manager must submit a request by a Deputation for an interview with Council to the Speaker, who may decide to grant or refuse an interview and under what conditions.

None

5. CONFIRMATION OF MINUTES

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

12. Minutes

- (1) Minutes of the proceedings of meetings must be compiled in printed form and be confirmed by the Council at the next meeting and signed by the Speaker.

- (2) The minutes shall be taken as read, for the purpose of confirmation, if a copy thereof was sent to each Councillor within forty eight hours before the next meeting, subject to the provisions of sub-Clause (4).
- (3) No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.
- (4) The minutes formulated and screened during meetings, shall constitute a resolution for purposes of implementation of decisions.

5.1 Council Meeting held on 27 May 2015 (copy enclosed)

RECOMMENDATION

That in respect of the

CONFIRMATION OF MINUTES

discussed by Council at the Council meeting held on 25 June 2015:

as the Minutes of the Council Meeting held on 27 May 2015 were sent to each councillor at least forty eight hours prior to the meeting, the minutes of the Council Meeting held on 27 May 2015 be taken as read and confirmed.

Proposed: Cllr. E. Van der Westhuizen

Seconded: Cllr. G. Stalmeester

RESOLVED

C38/2015

That in respect of the

CONFIRMATION OF MINUTES

discussed by Council at the Council meeting held on 25 June 2015:

as the Minutes of the Council Meeting held on 27 May 2015 were sent to each councillor at least forty eight hours prior to the meeting, the minutes of the Council Meeting held on 27 May 2015 be taken as read and confirmed.

6. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER
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7. STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR
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1. Verwelkoming
2. Innige simpatie aan Rdl. Pat Marran wie sy broer verloor het. Ook aan alle families in ons gemeenskap wie geliefdes aan die dood afgestaan het.
3. Laaste vergadering vir 2014/15 boekjaar. Amptenare besig met afsluiting van finansiële jaar. Sterkte met die taak.
4. Op 1 Julie 2015 tree die 2015/16 begroting in werking en ek doen 'n beroep op alle Direkteure en Bestuurders om die Kapitaalprogram sonder vertraging te implementeer. Veral projekte wat die lot van die armes in ons gemeenskappe sal verlig en wat gerig is op dienslewering moet onverwyld aangepak word.
5. Die winter is op hande. Ons dink aan ons broeders en susters wie om verskeie redes aan die genade van die elemente oorgelaat is. Wyksraadslede oet asb situasies in informele nedersettings monitor en probleme deurgee vir aandag.
6. BVM se nood- en reddingsdienste is gereed en great en om die uitdagings van die winter, oorstromings en brande, die hoof te bied.
7. Die Transnet Phelephapa gesondheidstrein besoek die Breedevallei vanaf 17 Augustus 2015. Die trein sal op De Doorns stasie staan en sal gesondheidsdienste aan sorgbehoewende persone lewer. Die Onder-Burgermeester as MayCo-lid vir Gesondheid verteenwoordig my op die organiseringskommittee. Meer inligting sal oorgedra word sodra die program gefinaliseer is.

8. REPORT BY THE EXECUTIVE MAYOR ON DECISIONS TAKEN BY THE EXECUTIVE MAYOR, THE EXECUTIVE MAYOR TOGETHER WITH THE DEPUTY EXECUTIVE MAYOR AND THE EXECUTIVE MAYOR TOGETHER WITH THE MAYORAL COMMITTEE

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

PART 3: MEETINGS

5. Order of business

(1) The business of meetings of the Council will appear in the following order on the agenda

(h) Report by the Executive Mayor on decisions taken by the Executive Mayor, the Executive Mayor together with the Deputy Executive Mayor, and the Executive Mayor together with the Mayoral Committee;

10:17 Caucus

10:46 Reconvened

9. MATTERS FOR CONSIDERATION

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

PART 4: DECISIONS

14. Unopposed matters

Whenever Council is called upon to consider a matter before it and there is no opposition from any Councillor, a unanimous vote must be recorded.

15. Opposed matters

(1) The Speaker must put every opposed matter to the vote by calling upon Councillors to indicate by a show of hands, unless otherwise prescribed by any law or the Council resolves otherwise, whether they are for that matter or against it, whereupon the Speaker must announce the result of the vote.

(2) Upon the announcement of the result of a vote, a Councillor may demand that his or her vote be recorded against the decision concerned.

(3) If there is an equality of votes on any matter, the Speaker must exercise a casting vote, as required by section 30(4) of the Structures Act.

(4) A matter on the agenda is regarded as opposed business if a Councillor signifies the intention to discuss the matter immediately after the Speaker has intimated to the meeting that the matter is open for discussion. No matter is regarded as opposed by reason only of questions being asked in connection therewith.

PART 7: RULES OF DEBATE

24. Councillor to address chair

A Councillor who speaks at a meeting of the Council must address the chair and may do so in any one of the 3 (three) official languages of the Province of the Western Cape.

25. Order of priority

When a Councillor wishes to address the Council, he or she must first have the permission of the Speaker.

26. Precedence of the Speaker

Whenever the Speaker addresses the meeting, all Councillors must be silent so that the Speaker may be heard without any interruption.

27. Relevance

(1) A Councillor who speaks must direct his speech strictly to the subject or matter under discussion or to an explanation or to a point of order.

(2) No discussion shall be permitted -

(a) which will anticipate any matter on the agenda;

(b) on any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of enquiry is pending.

28. Right to speak

(1) A Councillor may only speak once -

(a) to the matter before the Council;

(b) to any motion before the Council;

(c) to any amendments to the matter before the Council;

(d) to a matter or an amendment proposed or to be proposed by himself or herself;

(e) to a point of order or a question of privilege; unless authorised by the Speaker or as provided for in terms of these Rules.

(2) The mover of an original motion may, however, speak to the motion and reply, but in replying he shall strictly confine himself or herself to answering previous speakers and shall not introduce any new matter into the debate.

(3) The right of reply shall not extend to the mover of an amendment which, having been carried has become the substantive motion.

29. Length of speeches

(1) Except with the consent of the Speaker no Councillor may speak for more than **3 (three) minutes** on any subject or matter.

(2) The mover of an original motion or of any amendment may however speak for 10 (ten) minutes on such motion or amendment.

9.1 Items submitted by officials of Council

9.1.1 BY-LAW ON MUNICIPAL LAND USE PLANNING

File No./s: 8/2/B
Directorate: Strategic Support Services

Responsible Official: I Roos
Portfolio: SSS

Purpose

The purpose of this report is to obtain a Council resolution in respect of the passing of the proposed By-Law on Municipal Land Use Planning in terms of Section 12(3) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), hereafter referred to as “*the MSA*”. The proposed By-Law was introduced by Councillor W.R. Meiring provided for in terms of Section 12(1) of the MSA. At its meeting on **29 May 2014**, resolution number **C22/2014**, the Council resolved to publish the proposed By-Law in the press in order to give the public an opportunity to make representations.

Background

The Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), hereafter referred to as “*LUPO*”, as a 1985 piece of legislation, predates the current Constitution of the Republic of South Africa and was found to be unconstitutional in many respects. The Constitution confers “municipal planning” firmly as a municipal competency whilst in LUPO many of these powers vest with the Provincial Minister responsible for land use planning.

As a result of the Constitutional provisions in terms of planning, the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), hereafter referred to as “*SPLUMA*”, was introduced as a national framework act for land use planning. The Minister of Rural Development and Land Reform has on 23 March 2015 also published the Regulations in terms of SPLUMA.

Within the Western Cape Province, the Western Cape Government will soon be repealing LUPO and has in April 2014 approved of the Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), hereafter referred to as “*LUPA*”.

EFFECT OF THE PLANNING LAW REFORM

Both SPLUMA and LUPA are “framework” legislation, meaning that it sets a framework and certain minimum standards in place which municipalities must comply with in terms of executing their own municipal land use planning functions. This means that municipalities must “give effect to” the provisions of SPLUMA and LUPA via their own legislative powers (i.e. a By-Law).

In the past, there was no legislation on national level which made provision for the execution of municipal land use planning. This was done via old order legislation by means of provincial ordinances, such as LUPO.

LUPO did not recognise municipal land use planning as a municipal competency. Besides other matters, LUPO controlled many aspects of municipal land use planning such as:-

- *The compilation and approval of town planning schemes and structure plans, which needed to be approved by the Minister;*
- *Approval of certain land use applications;*
- *The manner in which subdivision approvals are confirmed;*

- *Prescribing time frames and lapsing periods; and*
- *Consideration of appeals*

These matters are not regulated in detail by the SPLUMA or LUPA as these are regarded as municipal planning competencies.

In terms of Section 156(2) of the Constitution, municipalities have the right to make By-Laws for the matters which they have the right to administer, in this case “municipal planning” as set out in Schedule 4 B of the Constitution, read together with section 11(3)(e) and (m) of the MSA. An effective means to regulate municipal planning would be to make, pass and implement municipal planning By-Laws.

The effect of the two pieces of planning legislation is that Municipalities will now have full responsibility for land use planning within their areas of jurisdiction, which entails:

- *drafting of municipal spatial development frameworks;*
- *drafting of integrated municipal zoning schemes;*
- *receiving and considering all land use applications;*
- *decision-making on land use applications by authorised officials and the Municipal Planning Tribunals (MPT) to be established;*
- *appeals against decisions of the authorised official or the MPT to the Council's appeal authority;*
- *regulating time frames, notifications, confirmation of subdivision arrangements;*
- *lapsing of rights; and*
- *transgressions and enforcements.*

PROPOSED STANDARD DRAFT BY-LAW ON MUNICIPAL LAND USE PLANNING

Although the President has assented to SPLUMA, it is not implemented yet; however current indications are that it will be implemented on 1 July 2015. It is also envisaged that the Western Cape Government will soon thereafter implement LUPA as well. As the implementation of LUPA is dependent on municipalities passing Municipal Land Use Planning By-Laws, it is possible that a staggered approach will be considered in terms of repealing LUPO and other old-order planning laws, and the resultant implementation of LUPA.

Since the Minister of Rural Development and Land Reform has now published the SPLUMA Regulations, there is no more uncertainty regarding its content. The Western Cape Government's Minister of Local Government, Environmental Affairs and Development Planning has, as a result, revised and finalised its proposed standard draft By-Law for Municipal Land Use Planning. The By-Law before Council is based on the proposed standard draft By-Law for Municipal Land Use Planning, as compiled and provided by the Western Cape Government. In revising and updating its proposed standard draft By-Law for Municipal Land Use Planning, the Western Cape Government took heed of the following:-

- *all comments and responses received by all municipalities in the Western Cape as a result of the individual public participation process and commenting period undertaken by municipalities;*
- *comments and inputs received from municipalities;*
- *the amended and revised content of the approved and published version of the SPLUMA regulations.*

The revised proposed Municipal Land Use Planning By-Law in its current form (as provided by the Western Cape Government) is regarded as compliant with the Constitution, SPLUMA, LUPA, MSA and other legislation, based on the best available information and knowledge about municipal planning currently available. It should be accepted that this law reform process will in the transition period experience some 'growing pains', but this change is unavoidable and needs to be embraced and negotiated to ensure a smooth transition.

The revised proposed Municipal Land Use Planning By-Law in the current form makes provision for the following matters:-

- Chapter I, Interpretation and application
- Chapter II, Spatial Planning
- Chapter III, Development Management
- Chapter IV, Application Procedures
- Chapter V, Criteria For Decision Making
- Chapter VI, Extension Of The Validity Of Approvals
- Chapter VII, Municipal Planning Decision Making Structure
- Chapter VIII, Provision Of Engineering Services
- Chapter IX, Enforcement
- Chapter X, Miscellaneous

PROCESS FOLLOWED

As per Council resolution **C22/2014** on **29 May 2014** it was resolved that the draft By-Law be advertised for public participation. The draft By-Law was advertised in the Worcester Standard on **19 June 2014**.

Despite the notification of the proposed By-Law, no representations were received.

Section 12(3) of the MSA determines that a By-Law may only be passed by a municipal council if all members of the council have been given reasonable notice and that the proposed bylaw has been published to allow for representations by the public. Council members have been given reasonable notice of the By-Law and on **18 June 2014** at the **Town Hall** the By-Law was workshopped with Councillors. The public was also afforded the opportunity to make representations. Section 12 of the MSA has thus been complied with.

It is therefore recommended that the Council passes the By-Law, attached as **Annexure A**.

PUBLICATION OF THE BY-LAW AND TAKING EFFECT THEREOF

When a municipal council passes a By-Law, Section 13 of the MSA requires that:-

- *it must be published promptly in the Provincial Gazette and when feasible also in the local newspaper or in any other way to the contents of the bylaw to the attention of the local community; and*
- *that it takes effect when published or on a future dates determined in or in terms of the by-law.*

The date of implementation of LUPA is not yet known since it will be dependent on the progress which municipalities in the Western Cape make with regard to passing their Municipal Land Use Planning By-Laws.

Section 13(b) of the MSA provides “*that a By-Law passed by a municipal council takes effect when published or on a future date determined in or in terms of the bylaws*”. To make provision for this, the final section in the By-Laws provides that “*This By-law comes into operation on the date that the Land Use Planning Act comes into operation in the municipal area of the Municipality*”. In this way the By-Law can be published and will take effect when the LUPA comes into operation.

It cannot take effect before LUPA is implemented in this municipality. In this way the Breede Valley Municipality will be ready for implementation of LUPA and the By-Laws from this perspective.

Financial Implications

Printing costs

Applicable Legislation

Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

Western Cape Land Use Planning Act, 2014 (Act 3 of 2014)

Comment of Directorates / Departments concerned

Municipal Manager

Recommendation supported

Director: Strategic Support Services

Recommendation supported

Director: Financial Services

Recommendation supported

Director: Technical Services

Recommendation supported

Director: Community Services

Recommendation supported

RECOMMENDATION

**That in respect of the
BY-LAW ON MUNICIPAL LAND USE PLANNING
discussed by Council at the Council meeting held on 25 June 2015:**

1. That the contents of the report be noted.
2. That in terms of section 156(2) of the Constitution read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the By-Law on Municipal Land Use Planning, attached as **Annexure A** be passed.
3. That in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the By-Law on Municipal Land Use Planning, attached as **Annexure A**, be published.

Proposed: Cllr. J.A. Boshoff

Seconded: Cllr. T.M. Wehr

RESOLVED

C39/2015

**That in respect of the
BY-LAW ON MUNICIPAL LAND USE PLANNING
discussed by Council at the Council meeting held on 25 June 2015:**

1. That the contents of the report be noted.
2. That in terms of section 156(2) of the Constitution read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the By-Law on Municipal Land Use Planning, attached as **Annexure A** be passed.
3. That in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the By-Law on Municipal Land Use Planning, attached as **Annexure A**, be published.
4. That the following amendments be made to the By-Law:
 - Pg 13: Heading on top of page to change to Municipal Land Use Planning By-Law.
 - Pg 59: 71. (1) must read: A Municipal Planning Tribunal established under subsection 70(1)(a) must at least consist of the following members:

9.1.2 REPORT ON THE IMPLEMENTATION OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SPLUMA) ACT 16 OF 2013: PROPOSED ESTABLISHMENT OF THE MUNICIPAL PLANNING TRIBUNAL

File No./s: 10/3/R
Directorate: Technical Services

Responsible Official: PSJ Hartzenberg
Portfolio: Technical Services

Purpose:

The purpose of this report is to obtain the necessary Council resolutions required in terms of the Spatial Planning and Land Use Management, Act 16 of 2013 (*hereafter referred to as SPLUMA*) and the Land Use Planning Act (Act 3 of 2014) (*hereafter referred to as LUPA*), which is to be implemented on 1 July 2015.

A number of in-principle decisions are required from Council in order to put structures and processes in place prior to 1 July 2015.

Therefore, the purpose of this Council Item is for Council to resolve on the following:

1. To take note of the anticipated implementation date of SPLUMA and LUPA on 1 July 2015;
2. To delegate the power to the Municipal Manager to appoint an authorised official(s) who will decide upon land use applications that are not to be determined by the MPT;
3. To adopt the principles and the categorisation of land use and land development applications to determine which type of land use and land development applications will be considered and determined by the MPT and which by the authorised official(s).
4. To confirm the appeal authority for the hearing of appeals;
5. To adapt the delegations of powers and functions in accordance with SPLUMA and LUPA legislation.

Background:

Planning law has undergone a complete law reform process with the enacting of the following Laws, related Regulations and contemplated proposed draft regulations and standard Municipal Land Use Planning Bylaws:

- a. National Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), hereafter referred to as "*SPLUMA*".
- b. The Regulations in terms of the Spatial Planning and Land Use Management Act 16 of 2013 (Notice R239/2015 in Government Gazette 38594 published on 23 March 2015) hereafter referred to as the "*SPLUMA Regulations*".
- c. Provincial Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), hereafter referred to as "*LUPA*".
- d. Draft Provincial Regulations in terms of the Provincial Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), hereafter referred to as the "*Draft LUPA Regulations*".

- e. Draft Proposed Standard Municipal Land Use Planning By-Law for Western Cape Municipalities, hereafter referred to as the “*Draft Standard MLUPB*”.

The Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) provides a framework for Spatial Planning and Land Use Management within the Republic of South Africa. Regulations in terms of SPLUMA were published on 23 March 2015 under Notice R239/2015 in Government Gazette 38594.

Breede Valley Municipality’s Draft Municipal Land Use Planning By-Law was advertised on 19 June 2014. Aligned with the SPLUMA Regulations, the By-law will now need to be approved by Council as a matter of urgency to enable the implementation of all the aspects of the planning law reform process underway.

Establishment of a Municipal Planning Tribunal in terms of Section 35 of SPLUMA

A municipality must, in order to determine land use and development applications within its municipal area, establish a Municipal Planning Tribunal in terms of Section 35 of SPLUMA and sections 2 and 3 of the SPLUMA regulations.

A MPT consist of at least 5 or more members (Section 36(3)) of whom a Chairperson and Deputy Chairperson must be appointed by the Council. The term of office for a MPT member is 5 years or such shorter period as the Council may determine and no MPT member may serve continuously for more than 10 years, i.e. two terms. (Section 37(1)).

In terms of Section 36(1) a MPT must consist of

- (a) Officials in the full time employ of the municipality (i.e. staff); and
- (b) Persons appointed by the Municipal Council who are not municipal officials (i.e. external members).

The SPLUMA Regulation do however determine in terms of Section 3(2) that external members may include officials or employees from national, provincial, a government business enterprise, a public entity, organised local government, NGO, and a municipal support organisation created for such purpose. Section 36(2) stipulates that no municipal councillors may be appointed as MPT members.

Section 36(1)(b) further determines that such external members have appropriate experience and knowledge in the planning fields, and for which purpose the municipality, in terms of Section 3(1)(e) of the SPLUMA regulations, must identify any additional criteria that such members must comply with.

Section 40(1) determines that the MPT may designate at least (i.e. minimum of) 3 members of such MPT to hear, consider and decide on an application, and of which at least one such member should be an external member (Section 40(2)). For such meeting the appointed chairperson of the MPT must designate one of such three members to be the preceding officer (Section 40(3)).

In the establishment of a MPT, the following principles should be taken into account:

- The independence, objectivity and credibility of the MPT must be ensured and this can be assisted by enhanced capacity for responsible decision making.
- The system must not be too taxing on the capacity of existing staff to manage and participate in an MPT.
- Inherent control over administration of tribunal should remain with individual municipalities in order to cater for unique operational requirements and related costs with clear administrative accountability;
- The required external members of a Tribunal should preferably be sourced from other spheres of Government and municipalities to reduce cost as well as ensuring appropriately competent members to enhance responsible decision making and the credibility of the MPT.
- A larger the pool of appropriate professional staff to serve as internal MPT members should ensure appropriately competent internal members to enhance responsible decision making and the credibility of the MPT.

Financial Implications:

Not applicable.

Applicable Legislation / Council Policy:

Spatial Planning and Land Use Management, Act 16 of 2013
Land Use Planning Act (Act 3 of 2014)

Comment of Directorates / Departments concerned:

Municipal Manager: Recommends approval

Director: Community Services: Recommends approval

Director: Strategic Support Services: Recommends approval

Director: Financial Services: Recommends approval

Director: Technical Services: Recommends approval

Senior Manager: Municipal Planning and Building Control

The following key actions are required before the implementation of SPLUMA, LUPA and the Municipal Land Use Planning By – Law.

1. The type, establishment and composition of a Municipal Planning Tribunal.

Taking the mentioned principles of an MPT into account, it is recommended that the Municipality establish a single MPT in terms of Section 35 of SPLUMA and sections 2 and 3 of the SPLUMA regulations.

This MPT model and approach will entail:

- (a) MPT Composition: Structure and members:

- Internal Complement: Municipality to nominate appropriately skilled officials. (3 officials).
- External Complement: In order to curb additional cost for the appointment of independent external MPT members, it is proposed to only make use of nominated appropriately skilled officials from neighbouring municipalities or the Provincial Government. (2 external members)
- Council to appoint Chairperson and Deputy Chairperson to manage and coordinate the MPT meetings.

It is proposed that the following Local Authorities be contacted to each contribute a suitably qualified planning official to the MPT: Langeberg Municipality and Witzenberg Municipality. Each of these municipalities will be requested to carry the cost for the hours spend by each such member for MPT meetings, as well as travel and accommodation cost where applicable.

Should the above mentioned municipalities not be available to serve on the BVM MPT, officials from Provincial Department can be requested to serve as external members at no additional cost.

(b) Administration of Applications

The municipality will continue to administer the applications for the MPT but will also have to administer the MPT's own application register, agendas, a program for MPT meetings in accordance with its operational requirements and needs, as well as minutes and a register of decisions. It is foreseen that additional administrative capacity might have to be created for the administrative functioning of the MPT.

(c) MPT Meetings

The MPT will have meetings in accordance with the operational needs for which purpose a designated MPT with a minimum of 3 members will be appointed from the available body of MPT members by the Chairperson to hear, consider and decide on the matters submitted in terms of the MPT agenda.

(d) Duration of MPT

There is no time limit on an internal MPT but the term of office of the external members to a municipal tribunal is 5 years or such shorter period as the Council determines (Section 37 of SPLUMA).

2. Categorisation of land use and land development applications and the Authorised official.

In terms of Section 35(3) of SPLUMA, a municipality must, in order to determine land use and land development applications within its municipal area, categorise development applications to be considered by an official and those to be referred to the Municipal Planning Tribunal.

The municipality must review existing delegations or formulate new delegations to authorise the designated official, the Municipal Planning Tribunal and the Appeals Tribunal to exercise the powers contemplated in the SPLUMA.

3. Determination of the appeal authority

Section 51 of SPLUMA states that the executive authority of the municipality is the appeal authority.

RECOMMENDATION

That in respect of the

REPORT ON THE IMPLEMENTATION OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT (SPLUMA) ACT 16 OF 2013: PROPOSED ESTABLISHMENT OF THE MUNICIPAL PLANNING TRIBUNAL

discussed by Council at the Council meeting held on 25 June 2015:

Council resolved the following:

Composition of the Municipal Planning Tribunal

1. That Council approves that in compliance with s36(3) of The Spatial Planning And Land Use Management Act, 16 of 2013 (SPLUMA) that the Municipal Planning Tribunal shall consist of six (6) members;
2. That in compliance with s36(1)(a) of SPLUMA, the following officials who are in the full-time service of the municipality or persons acting in the positions, are herewith appointed as members of the Municipal Planning Tribunal:
 - a. The Senior Manager Municipal Planning and Building Control;
 - b. The Senior Manager Legal Services;
 - c. The Manager Engineering;
3. That the Municipal Manager is authorised to appoint the further members of the Municipal Planning Tribunal as required by s36(1)(b) read with reg3(2) of the Spatial Planning And Land Use Management Regulations: Land Use Management and General Matters, 2015, the further members appointed as indicated above shall have knowledge and experience of spatial planning, land use management and land development or the law related thereto;
4. That in compliance with s36(4)(a) of SPLUMA, council appoint The Senior Manager Municipal Planning and Building Control or a person acting in the position as the chairperson of the Municipal Planning Tribunal;

5. That in compliance with s36(4)(b) of SPLUMA, council appoint the Senior Manager Legal Services or a person acting in the position as the deputy chairperson of the Municipal Planning Tribunal;
6. That in compliance with s37(1) of SPLUMA, the term of office of the members of the Municipal Planning Tribunal is three years which term will commence with the publication of the notice as required by s37(4) of SPLUMA;

Authorised Official / Employee

7. Council appoint in terms of Section 35(2) of SPLUMA, Mr.Pieter Hartzenberg which hold the required planning qualification as Authorised Official, in order to decide on an approved category of land use and land development applications;
8. That council approves the categorisation of land development applications as set out in Annexure A hereto;
9. That the municipal manager is authorised to take the necessary steps to refine such categorisation as set out in Annexure A hereto as required from time to time;
10. That the wording of delegations PSP5.01 to PSP5.13 where applicable, as approved by Council, be adapted to reflect the relevant sections in the Municipal Planning By-Law, and that the power or duties in the approved delegations be amended to reflect the Authorised Official as the duly delegated person;

Internal Appeals

11. That the Executive Mayor be designated as the appeal authority as stipulated in terms of Section 51(2) of SPLUMA; and
12. The Executive Mayor may appoint technical advisors to provide advice on the appeal subject to s39(1) of SPLUMA;

Proposed: Cllr. P.G. Smith

Seconded: Cllr. C.F. Wilskut

RESOLVED

C40/2015

**That in respect of the
REPORT ON THE IMPLEMENTATION OF THE SPATIAL PLANNING AND LAND USE
MANAGEMENT ACT (SPLUMA) ACT 16 OF 2013: PROPOSED ESTABLISHMENT OF
THE MUNICIPAL PLANNING TRIBUNAL
discussed by Council at the Council meeting held on 25 June 2015:**

Council resolved the following:

Composition of the Municipal Planning Tribunal

1. That Council approves that in compliance with s36(3) of The Spatial Planning And Land Use Management Act, 16 of 2013 (SPLUMA) that the Municipal Planning Tribunal shall consist of six (6) members;
2. That in compliance with s36(1)(a) of SPLUMA, the following officials who are in the full-time service of the municipality or persons acting in the positions, are herewith appointed as members of the Municipal Planning Tribunal:
 - a. The Director: Technical Services;
 - b. The Senior Manager Legal Services;
 - c. The Civil Engineer;
3. That the Municipal Manager is authorised to appoint the further members of the Municipal Planning Tribunal as required by s36(1)(b) read with reg3(2) of the Spatial Planning And Land Use Management Regulations: Land Use Management and General Matters, 2015, the further members appointed as indicated above shall have knowledge and experience of spatial planning, land use management and land development or the law related thereto;
4. That in compliance with s36(4)(a) of SPLUMA, council appoint The Director: Technical Services or a person acting in the position as the chairperson of the Municipal Planning Tribunal;
5. That in compliance with s36(4)(b) of SPLUMA, council appoint the Senior Manager Legal Services or a person acting in the position as the deputy chairperson of the Municipal Planning Tribunal;
6. That in compliance with s37(1) of SPLUMA, the term of office of the members of the Municipal Planning Tribunal is three years which term will commence with the publication of the notice as required by s37(4) of SPLUMA;

Authorised Official / Employee

7. Council appoint in terms of Section 35(2) of SPLUMA, Mr. Pieter Hartzenberg which hold the required planning qualification as Authorised Official, in order to decide on an approved category of land use and land development applications;
8. That council approves the categorisation of land development applications as set out in Annexure A hereto;
9. That the municipal manager is authorised to take the necessary steps to refine such categorisation as set out in Annexure A hereto as required from time to time;
10. That the wording of delegations PSP5.01 to PSP5.13 where applicable, as approved by Council, be adapted to reflect the relevant sections in the Municipal

Planning By-Law, and that the power or duties in the approved delegations be amended to reflect the Authorised Official as the duly delegated person;

Appeals

11. That the Executive Mayor be designated as the appeal authority as stipulated in terms of Section 51(2) of SPLUMA; and
12. The Executive Mayor may appoint technical advisors to provide advice on the appeal subject to s39(1) of SPLUMA;

9.1.3 SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY

File No./s:
Directorate: Community Services

Responsible Official: J Marthinus
Portfolio: Human Settlements

Purpose

The purpose of this item is to submit the draft By-law relating to the Management and Control of flats (rental housing units) owned or administer by the BVM for consideration.

Background and motivation

The By-law has been drafted to support the Housing Administration Policy in regulating the management and control of the rental stock owned by Council. The By-law will assist in addressing anti-social behavior of tenants who legally occupies any rental housing units of the BVM.

The By-law is attached hereto as Annexure A

Financial Implications

No negative financial implications are anticipated for the municipality with the implementation of the By-law.

Applicable legislation / council policy

- Constitution of the Republic of South Africa, 1996 (Act No 108 of 1996)
- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998 (Act No 19 of 1998)
- Municipal Systems Act, 2000 (Act No 32 of 2000)
- Local Government Municipal Finance Management Act, 2003 (Act No.56 of 2003)
- Housing Act, 1997 (No 107 of 1997)
- Rental Housing Act, 1999 (No 50 of 1999)
- National Housing Code, 2000
- Criminal Procedure Act, 1997 (Act 51 of 1977).

Comment of Directorates / Departments concerned

Municipal Manager

Recommendation supported

Director: Financial Services

Recommendation supported

Director: Community Services

Author of the report

Manager: Housing and Projects

Supported

Director Strategic Support Services

Supported

Acting Senior Manager Legal Services

Supported

Director: Technical Services

Supported

RECOMMENDATION

That in respect of the

SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY

discussed by Council at the Council meeting held on 25 of June 2015:

1. That Council approved the draft By-Law relating to the Management and Control of flats (rental housing units) owned or administer by the Breede Valley Municipality;
2. That the administration advertises said By-Law for public comments;
3. That all comments be collated submitted to Council for final approval and promulgation in the Provincial Gazette.

Proposed: Cllr. E.Y. Sheldon

Seconded: Cllr. T.C. Dyonta

RESOLVED

C41/2015

That in respect of the

SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY

discussed by Council at the Council meeting held on 25 of June 2015:

1. That Council approved the draft By-Law relating to the Management and Control of flats (rental housing units) owned or administer by the Breede Valley Municipality;
2. That the administration advertises said draft By-Law for public comments;
3. That all comments be collated submitted to Council for final approval and promulgation in the Provincial Gazette.
5. That the draft By-Law be workshopped with all the Councillors.

9.1.4 HUMAN RESOURCES POLICIES MANUAL

File No./s: 4/1/B
Directorate Strategic Support Services

Responsible Official: M Nell
Portfolio: Human Resources

Purpose

To present the Council for approval the Human Resources Policies Manual containing human resources policies

Background

Breede Valley Municipality is committed to ensure effective management of human resources procedures and processes as part of fulfilling its constitutional mandates. In order for Breede Valley Municipal to achieve a high level of efficiency and effectiveness in the management of its staff component, it has embarked on a process of reviewing current human resources policies and also to formulate new policies.

All HR policies was formulated on the basis of the SALGA guideline policies as contained within the SALGA HR Policy handbook. The main objective of SALGA compiling a HR Policy handbook is to provide municipalities with a selection of generic HR policies to select, customize and adopt in the interest of greater administrative efficiency and increased corporate governance.

Breede Valley Municipality held three workshops with the members of the local labour forum in order to ensure proper consultation and review. During these workshops the generic policies re customized according to the situations applicable to Breede Valley Municipality.

The local labour forum is committed to ensure that the policies are implemented and therefore supports the submission of the policies to Council for approval.

Financial Implications

n/a

Applicable Legislation

- The Constitution of the Republic of South Africa, No 108 of 1996
- Local Government: Municipal Finance Management Act, No 56 of 2003
- Local Government: Municipal Systems Act, No 32 of 2000
- Basic Conditions of Employment Act 75 of 1997 and its amendments
- Employment Equity Act 55 of 1998
- Labour Relations Act 66 of 1995
- Skills Development Act 97 of 1998
- Skills Development Levies Act 9 of 1999
- Collective Agreements
- All other relevant legislation as contained within the policies

Comment of Directorates / Departments concerned

Municipal Manager

Recommendation supported

Director: Strategic Support Services

Recommendation supported

Director: Financial Services

Recommendation supported

Director: Technical Services

Recommendation supported

Director: Community Services

Recommendation supported

RECOMMENDATION

That in respect of the

HUMAN RESOURCES POLICIES MANUAL

discussed by Council at the Council meeting held on 25 June 2015:

1. Council approves all policies contained in the Human Resources Policies Manual for implementation.

Proposed: Cllr. R. Farao

Seconded: Cllr. B.V. Klein

RESOLVED

C42/2015

That in respect of the

HUMAN RESOURCES POLICIES MANUAL

discussed by Council at the Council meeting held on 25 June 2015:

1. Council approves all policies contained in the Human Resources Policies Manual for implementation.

9.1.5 PRESUMED STRATEGIC RISK ASSESSMENT REPORT 2015/16 FINANCIAL YEAR

File No./s: 3/16

Directorate: Municipal Manager

Responsible Official: E Cloete

Portfolio: Enterprise Risk Management

Purpose

To report to Council on the outcome of the annual risk assessment process which took place during 2014/15 financial year for the Strategic Risk Register; the result of which is the BVM Annual Strategic Presumed Risk Assessment Report 2015/16 Financial Year.

Background

The implementation of the Risk Management system is prescribed by legislation which the municipality must comply with.

Enterprise risk management (ERM) in business includes the methods and processes used by organizations to manage risks and seize opportunities related to the achievement of their objectives. The ERM in Breede Valley Municipality provides the framework for Risk Management, which typically involves identifying particular events or circumstances relevant to the municipality's objectives (risks and contributing factors), assessing them in terms of likelihood and impact, determining a response strategy (action plans), and monitoring progress.

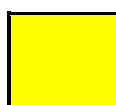
The management response strategy for the specific risks identified and analysed, fall within the following four categories as well as the appetite of 9 as approved by Council:

- **Avoid** – Action is taken to exit the activities giving rise to risk. Risk avoidance may involve exiting a product line, declining expansion to a new geographical market, or selling a division.
- **Reduce** – Action is taken to reduce the risk likelihood or impact, or both. This may involve any of a myriad of everyday business decisions.
- **Share** – Action is taken to reduce risk likelihood or impact by transferring or otherwise sharing a portion of the risk. Common risk sharing techniques include purchasing insurance products, pooling risks, engaging in hedging transactions, or outsourcing an activity.
- **Accept** – No action is taken to affect likelihood or impact.

The Risk assessment process was conducted in the strategic session of which the information was used to define the descriptions and also engaged on a one on one session with the various directors where practical.

The following tables provide the risk ratings:

LIKELIHOOD	5	LOW	MEDIUM	HIGH	EXTREME	EXTREME
	4	LOW	MEDIUM	HIGH	HIGH	EXTREME
	3	LOW	MEDIUM	MEDIUM	HIGH	HIGH
	2	LOW	LOW	MEDIUM	MEDIUM	MEDIUM
	1	LOW	LOW	LOW	LOW	LOW
Risk Matrix		1	2	3	4	5
IMPACT/ CONSEQUENCE						



Risk Appetite Level
3 X 3 = 9 Level

Potential Impact / Consequence

Rating	Continuity of Service	Safety & Environmental	Technical Complexity	Financial	Achievement of objectives
Catastrophic (5)	Risk event will result in widespread and lengthy reduction in continuity of service delivery to customers for a period greater than 48 hours	Major environmental damage. Serious injury (permanent disability) or death of personnel or members of the Public. Major negative media coverage.	Use of unproven technology for critical systems / project components. High level of Technical Interdependencies between system components.	Disaster with potential to lead to collapse of business and is fundamental to the achievement of objectives.	Negative outcomes or missed opportunities that are of critical importance to the achievement of objectives
Major (4)	Reduction in service delivery or disruption for a period ranging between 24 & 48 hours over a significant area	Significant injury of personnel or public. Significant environmental damage. Significant negative media coverage.	Use of new technology not previously utilised by the organisation for critical systems / project components.	Critical event which can be endured but which may have a prolonged negative impact and extensive consequences.	Negative outcomes or missed opportunities that are likely to have a relatively substantial impact on the ability to meet objectives
Moderate (3)	Reduction in service delivery or disruption for a period between 8 & 24 hours over a significant area	Lower level of environmental, safety or health impacts. Negative media coverage	Use of unproven or emerging technology for critical systems / project components.	Major events, which can be managed but requires additional resources and management effort.	Negative outcomes or missed opportunities that are likely to have a relatively moderate impact on the ability to meet objectives

Minor (2)	Brief local inconvenience (work around possible). Loss of an asset with minor impact on operations	Little environmental, safety or health impacts. Limited negative media coverage.	Use of unproven or emerging technology for systems / project components.	Event, which can be managed under normal operating conditions.	Negative outcomes or missed opportunities that are likely to have a relatively low impact on the ability to meet objectives
Insignificant (1)	No or minimal impact on business or core systems	No environmental, safety or health impacts and/or negative media coverage	Use of unproven or emerging technology for non-critical systems / project components	Consequences can be readily absorbed under normal operating conditions.	Negative outcomes or missed opportunities that are likely to have a relatively negligible impact on the ability to meet objectives

Likelihood/Probability of occurrence

Rating	Level	Description
5	Almost certain	The risk is already occurring, or is likely to occur more than once within the next 12 months
4	Likely	The risk will easily occur, and is likely to occur at least once during the next 12 months.
3	Moderate	There is an above average chance of the risk occurring more than once during the next 3 years
2	Unlikely	The risk has a low likelihood of occurring during the next 3 years
1	Rare/Remote	The risk is unlikely to occur during the next 3 years

Control Assessment

Control Adequacy		Control Adequacy	
Rating	Title	Rating	Title
1	Adequate	1	Effective
2	Adequate but over controlled	2	Partially Effective
3	Partially Adequate	3	Ineffective
4	Inadequate		

Annexure: A copy of the BVM Annual Presumed Strategic Risk Register 2015/16 Financial Year.

Deliberation:

Definition of Risk Management:

Risk management is a systematic process to identify, evaluate and address risks on a continuous basis before such risks can impact negatively on the municipality's service delivery capacity.

Risk management is a management discipline with its own techniques and principles. It is a recognised management science and has been formalised by international and national codes of practice, standards, regulations and legislation.

Risk management forms part of management's core responsibilities and is an integral part of the internal processes of the municipality.

When properly executed risk management provides reasonable, but not absolute assurance, that the municipality will be successful in achieving its goals and objectives.

- Definition of Risk Identification:

Risk identification is a deliberate and systematic effort to identify and document the municipality's key risks.

The objective of risk identification is to understand what is at risk within the context of the municipality's explicit and implicit objectives and to generate a comprehensive inventory of risks based on the threats and events that might prevent, degrade, delay or enhance the achievement of the objectives.

- Definition of Risk Assessment:

Risk assessment is a systematic process to quantify or qualify the level of risk associated with a specific threat or event, to enrich the risk intelligence available to the Institution.

The main purpose of risk assessment is to help the municipality to prioritise the most important risks as the municipality is not expected to have the capacity to deal with all risks in an equal manner.

Risks should be formally reviewed concurrently with changes in strategy, or at least once a year to consider new and emerging risks.

- Definition of Risk Register:

Risk register is the outcome of the annual risk assessment process which is a comprehensive inventory of risks based on the threats and events that might prevent, degrade, delay or enhance the achievement of the objectives of the municipality.

i. The Executive Authority/ Council:

- The Council should take an interest in risk management to the extent necessary to obtain comfort that properly established and functioning systems of risk management are in place to protect the Institution against significant risks.
- Responsibilities of the Executive Authority in risk management should include:
 - ensuring that the Institutional strategies are aligned to the government mandate;
 - obtaining assurance from management that the Institution's strategic choices were based on a rigorous assessment of risk;
 - obtaining assurance that key risks inherent in the Institution's strategies were identified and assessed, and are being properly managed;
 - assisting the Accounting Officer / Authority to deal with fiscal, intergovernmental, political and other risks beyond their direct control and influence; and
 - insisting on the achievement of objectives, effective performance management and value for money.
 - In case of a municipality or municipal entity, in addition to the responsibilities outlined in 21(2), the Executive Authority should also: (a) approve the risk management policy, strategy, and implementation plan; and (b) approve the fraud prevention policy, strategy and implementation plan.

Council is responsible for providing oversight and direction to the Accounting Officer on the risk management related strategy and policies; which also include an interest in the effectiveness of the process of risk management within the municipality.

Risk Management Oversight (Risk Management Committee)

The committee's role is to review the risk management progress and maturity of the municipality, the effectiveness of risk management activities, the key risks facing the municipality and the responses to address these key risks.

ii. The Accounting Officer/ Municipal Manager:

Sections 62(1)(c)(i) and 95(c)(i) of the MFMA, requires the Accounting Officer to ensure that their municipalities and municipal entities have and maintain effective, efficient and transparent systems of risk management

The **Municipal Manager** is ultimately responsible for risk management within the municipality. This includes ensuring that the responsibility for risk management vests at all levels of management. The Municipal Manager sets the tone at the top by promoting accountability, integrity and other factors that will create a positive control environment.

iii. Management, Other Personnel, Risk Manager:

Section 78 of the Municipal Finance Management Act (Act 56 of 2003):

The extension of general responsibilities in terms of Section 78 of the MFMA to all senior managers and other officials of municipalities imply that responsibility for risk management vests at all levels of management and that it is not limited to only the accounting officer and internal audit.

Risk Management Implementers (Management)

All other levels of management, support the municipality's risk management philosophy, promote compliance with the risk appetite and manage risks within their areas of responsibility.

Management takes ownership for managing the municipality's risks within their areas of responsibility and is accountable to the Municipal Manager for designing, implementing, monitoring and integrating ERM into their day-to-day activities of the municipality. This should be done in a manner that ensures that risk management becomes a valuable strategic management tool.

Risk Management Implementers (Other Officials)

Other officials are responsible for integrating risk management into their day-to-day activities i.e. by ensuring conformance with controls and compliance to procedures.

Risk Management Support (Chief Risk Officer)

The Chief Risk Officer is the custodian of the Risk Management Strategy and Implementation Plan and the coordinator of Enterprise Risk Management activities throughout Breede Valley Municipality.

Risk Management Support (Risk Champions)

A Risk Champion would generally hold a senior position within the municipality and possess the skills, knowledge and leadership qualities required to champion a particular aspect of risk management.

The Risk Champion assists the Chief Risk Officer to facilitate the risk assessment process and manage risks within their area of responsibility to be within the risk appetite. Their

primary responsibilities are advising on, formulating, overseeing and managing all aspects of a municipality's entire risk profile, ensuring that major risks are identified and reported upwards.

iv. Internal Auditors:

Section 165(2)(a), (b)(iv) of the Municipal Finance Management Act (Act 56 of 2003) requires that: *"(2) The internal audit unit of a municipality or municipal entity must - (a) prepare a risk based audit plan and an internal audit program for each financial year; (b) advise the accounting officer and report to the audit committee on the implementation on the internal audit plan and matters relating to:*

- *(iv) risk and risk management."*

IIA Standard 2110 - Risk Management of the International Standards for the Professional Practice of Internal Auditing states:

"The internal audit activity should assist the organisation by identifying and evaluating significant exposures to risk and contributing to the improvements of risk management and control systems.

Risk Management Assurance Providers (Internal Audit)

The core role of Internal Audit in risk management is to provide an independent, objective assurance to council and the Audit Committee on the effectiveness of risk management. Internal Audit also assists in bringing about a systematic, disciplined approach to evaluate and improve the effectiveness of the entire system of risk management and provide recommendations for improvement where necessary.

Risk Management Assurance Providers (External Audit)

External Audit (Auditor-General) provides an independent opinion on the effectiveness of Enterprise Risk Management.

v. Audit Committee:

Section 166 (2)(a)(ii) of the Municipal Finance Management Act (Act 56 of 2003) states:

"(2) An audit committee is an independent advisory body which must - (a) advise the municipal council, the political office-bearers, the accounting officer and the management staff of the municipality, or the board of directors, the accounting officer and management staff of the municipal entity, on matters relating to - (ii) risk management."

The **Audit Committee** is an independent committee, responsible to oversee the municipality's control, governance and risk management. This committee is vital to, among other things, ensure that financial, IT and fraud risk related to financial reporting are identified and managed.

The Audit Committee's primary responsibility is providing an independent and objective view of the effectiveness of the municipality's risk management process to council and to provide recommendations to the Municipal Manager for continuous improvement and management of risks. The responsibilities of the Audit Committee with regard to risk management are formally defined in its charter.

Financial Implications

None

Applicable Legislation / Council Policy

- The Municipal Finance Management Act (Act 56 of 2003) (MFMA);
- Municipal Structures Act (Act 117 of 1998);
- Municipal Systems Act (Act 32 of 2000); and
- Public Sector Risk Management Framework (NT) published 1 April 2010.

Comment of Directorates / Departments concerned

Municipal Manager

Supported

Director: Community Services

Supported

Director: Strategic Support Services

Supported

Director: Financial Services

Supported

Director: Technical Services

Supported

RECOMMENDATION

**That in respect of the
BVM ANNUAL RISK ASSESSMENT REPORT 2015/16
discussed by Council at the Council meeting held on 27 June 2015:**

1. Council takes note and approve the outcome of the annual presumed strategic risk assessment process, the result of which is captured in the BVM Annual Risk Assessment Report 2015/16.

Proposed: Cllr. P.G. Smith

Seconded: Cllr. T.C. Dyonta

RESOLVED

C43/2015

**That in respect of the
BVM ANNUAL RISK ASSESSMENT REPORT 2015/16
discussed by Council at the Council meeting held on 27 June 2015:**

1. Council takes note and approve the outcome of the annual presumed strategic risk assessment process, the result of which is captured in the BVM Annual Risk Assessment Report 2015/16.

9.1.6 EXECUTIVE MAYOR'S REPORT TO COUNCIL IN TERMS OF SECTION 56(5) OF THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 117 OF 1998

File No.: 6/1/1/1
Directorate: Strategic Support Services

Responsible Official: R Esau
Portfolio: Council

Purpose

To obtain council's approval in terms of S63 of the Local Government: Municipal Systems Act, 32 of 2000 to determine the intervals at which the executive mayor must report to council and to set the standards for such a report in compliance with S56(5) of the Local Government: Municipal Structures Act, 117 of 1998.

Background and Legal Framework

S56 of the Structures Act provides the following:

"56 Functions and powers of executive mayors-

(1) An executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers.

(2) The executive mayor must-

(a) identify the needs of the municipality; (b) review and evaluate those needs in order of priority;

(c) recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and (d) recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

(3) The executive mayor in performing the duties of office, must-

(a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2) (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;

- (b) evaluate progress against the key performance indicators;*
- (c) review the performance of the municipality in order to improve-*
 - (i) the economy, efficiency and effectiveness of the municipality; (ii) the efficiency of credit control and revenue and debt collection services; and*
 - (iii) the implementation of the municipality's by-laws;*
- (d) monitor the management of the municipality's administration in accordance with the directions of the municipal council;*
- (e) oversee the provision of services to communities in the municipality in a sustainable manner;*
- (f) perform such duties and exercise such powers as the council may delegate to the executive mayor in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000); [Para. (f) amended by S16 (a) of Act 51 of 2002.]*
- (g) annually report on the involvement of communities and community organisations in the affairs of the municipality; and*
- (h) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.*

(4) An executive mayor must perform a ceremonial role as the municipal council may determine.

(5) An executive mayor must report to the municipal council on all decisions taken by the executive mayor.

(6) The deputy executive mayor of a municipality exercises the powers and performs the duties of the executive mayor if the executive mayor is absent or not available or if the office of the executive mayor is vacant.

(7) If the executive mayor is absent or not available and the municipality does not have a deputy executive mayor, or the deputy executive mayor is also absent or not available, the council must designate a councillor to act as executive mayor.

[Sub-s. (7) added by S16 (b) of Act 51 of 2002.]”

Parts underlined my emphasis.

S63 of the Systems Act provides:

“Duty to report to delegating authorities

A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report.”

Parts underlined my emphasis.

Council's Rules of Order for Internal Arrangements Bylaw, 2012 provides under S5 (which regulate the order of business of council meeting agenda) that the report to be submitted by the executive mayor be included in the order of business of council.

Section 18(2) of the Municipal Structures Act requires that a municipal council meet at least quarterly.

The intervals at which the executive mayor report must therefore be considered in relation to S18(2).

Both S63 of the Systems Act and S56(5) refers to a “report” to be submitted by the executive mayor. The rules of South African interpretation of statutes require that when a piece of legislation is interpreted, the ordinary dictionary meaning of words must be given to the specific words. Report is defined in Wikipedia as “any informational work made with the specific intention of relaying information”. It is therefore clear that the legislator's intention was for the executive mayor to relay information on decisions taken by the executive mayor.

S31 and S32 of Council's Rules of Order for Internal Arrangements Bylaw, 2012 provides that councillors may ask question or table motions in compliance therewith.

Question for clarity or motions flowing from the report of the executive mayor will therefore have to be dealt with in terms of S31 and S32 of Council's Rules of Order for Internal Arrangements Bylaw, 2012.

S37 of Council's Rules of Order for Internal Arrangements Bylaw, 2012 provide for motions of exigency.

Comment of Directorates / Departments concerned

Municipal Manager

Supported

Director: Community Services

Supported

Director: Strategic Support Services
Author

Director: Financial Services
Supported

Director: Technical Services
Supported

RECOMMENDATION

**That in respect of the
EXECUTIVE MAYOR'S REPORT TO COUNCIL IN TERMS OF S56(5) OF THE LOCAL
GOVERNMENT: MUNICIPAL STRUCTURES ACT, 117 OF 1998
discussed by Council at the Council meeting held on 25 June 2015:
it is decided that:**

1. The executive mayor reports to the municipal council on all decisions taken by the executive mayor since the last report on a quarterly basis which report shall be submitted to council at the first regular council meeting (excluding special council meetings) after end of the relevant quarter.
2. The report of the executive mayor shall be for information and noting by council and no debate, question, motions, points for information, clarity or points of order on the report shall be allowed save where motions or question are raised in compliance with the provisions of s31, s32 and or s37 of the Council's Rules of Order for Internal Arrangements By-Law, 2012.

Proposed: Cllr. J.F. van Zyl
Seconded: Cllr. J.D. Levendal

Counter proposal Cllr. C.F. Wilskut
Aanvaar bullet punt 1 met die skrapping van punt 2.
Seconded by C. Ismail

Votes for counter proposal of Cllr. C.F. Wilskut: 9
Votes for proposal of Cllr. J.F. van Zyl: 20

Cllr. Wilskut and Cllr. Ismail want their counter votes to be recorded.

RESOLVED

C44/2015

**That in respect of the
EXECUTIVE MAYOR'S REPORT TO COUNCIL IN TERMS OF S56(5) OF THE LOCAL
GOVERNMENT: MUNICIPAL STRUCTURES ACT, 117 OF 1998
discussed by Council at the Council meeting held on 25 June 2015:
it is decided that:**

1. The executive mayor reports to the municipal council on all decisions taken by the executive mayor (excluding special Council meetings).

2. The report of the executive mayor shall be for information and noting by council and no debate, question, motions, points for information, clarity or points of order on the report shall be allowed save where motions or question are raised in compliance with the provisions of s31, s32 and or s37 of the Council's Rules of Order for Internal Arrangements By-Law, 2012.

9.2 Urgent matters submitted by the Municipal Manager

9.3 Matters for notification

9.4 Consideration of notices of motion

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

31. Notice of motion

- (1) The Speaker may not accept any motion except a motion of exigency or a motion of course unless notice thereof has been given in terms of sub-Clause (2).
- (2) Every notice of intention to introduce a motion shall be in writing, signed and dated by the Councillor submitting same and shall motivate the motion.
- (3) A notice of intention to introduce a motion as contemplated in sub-Clause (2), shall be delivered to the Municipal Manager at least 6 (six) working days before the date of the meeting at which it is intended to be introduced.

9.5 Consideration of notices of questions

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

32. Notice of question

- (1) Subject to Clause 38, the Speaker may not accept any question unless notice thereof has been given in terms of sub-Clause (2).
- (2) Every notice of intention to ask a question shall be in writing, signed and dated by the Councillor submitting same and shall motivate the question.
- (3) A notice of intention to ask a question shall be delivered to the Municipal Manager at least 6 (six) working days before the date of the meeting at which it are intended to be asked.
- (4) Notices of questions must be referred by the Municipal Manager to the Speaker within 4 (four) working days before a Council meeting.
- (5) The Speaker must forthwith submit the question to the Executive Mayor.
- (6) The Executive Mayor or a Councillor of the Mayoral Committee nominated by the Executive Mayor may answer the question as follows:
 - (a) the question may be answered verbally at the next Council meeting; or
 - (b) if information is needed from the administration for the purpose of answering the question, or if more time is needed to prepare the answer, the Executive Mayor or Councillor answering the question must advise Council at the Council meeting where the question is asked that the question will be answered in writing at the next Council meeting.

9.6 Considerations of motions of exigency

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

37. Motion of exigency

- (1) A Councillor may direct the attention of the Council to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject of the matter and without comment thereon, moving that the motion to which attention has been directed be considered forthwith as a matter of exigency.
- (2) Such motion is herein referred to as a motion of exigency.
- (3) If such motion is seconded and carried by a majority of the Councillors present, the mover shall be permitted without notice to bring the matter under consideration by way of a motion or question.

10. CLOSURE

Meeting adjourns at 12:

NOTICE IS HEREBY GIVEN that a **COUNCIL MEETING**
of the Breede Valley Municipality will be held on
THURSDAY, 25 JUNE 2015 at **10:00** in the
COUNCIL CHAMBERS, CAPE WINELANDS DISTRICT COUNCIL,
TRAPPE STREET 51, WORCESTER

Members of the media and the public wishing to attend the meeting must please contact **Mr. J.R. Botha (Public Relations Officer) at 023 348 2807** during office hours to book one of the **16 seats available to the public** on a first come first served basis. The list will be closed at **16:30** the previous working day before the meeting and will be handed to Security officials the morning of the meeting. Only persons whose names appear on the list will be allowed to attend the meeting and they must be seated at least five minutes before the scheduled start of the meeting. Once the meeting has started, no member of the public will be allowed into the meeting. If a member of the public leaves the meeting venue during the course of the meeting, he / she will not be allowed to return to the meeting.

KENNIS GESKIED HIERMEE dat 'n **RAADSVERGADERING**
van die Breede Vallei Munisipaliteit op
DONDERDAG, 25 JUNIE 2015 om **10:00**
gehou sal word in die
RAADSAAL, KAAPSE WYNLAND DISTRIKMUNISIPALITEIT,
TRAPPESSTRAAT 51, WORCESTER

Lede van die media en die publiek wat graag die vergadering wil bywoon moet asseblief **Mnr. J.R. Botha (Skakelbeampte) by 023 348 2807** gedurende kantoorure kontak om een van die **16 sitplekke wat vir die publiek beskikbaar is** op 'n "first come first served basis" te bespreek. Die lys sal om **16:30** die werksdag voor die vergadering sluit en sal aan Sekuriteitbeamptes die oggend van die vergadering gegee word. Alleenlik persone wie se name op die lys verskyn sal toegelaat word om die vergadering by te woon en hulle moet 'n sitplek inneem minstens vyf minute voor die geskeduleerde tyd van die vergadering. Niemand sal tot die vergadering toegelaat word wanneer dit reeds begin het nie. Indien 'n lid van die publiek die vergaderplek gedurende die duur van die vergadering verlaat sal hy / sy nie weer tot die vergadering toegelaat word nie.

G.F. MATTHYSE
MUNICIPAL MANAGER / MUNISIPALE BESTUURDER

11 JUNIE 2015

BREEDE VALLEY MUNICIPALITY. ATTENDANCE REGISTER; COUNCILLORS.

COUNCIL MEETING: 25 JUNE 2015

VENUE: CDWM, TRAPPE STREET, Worcester

COUNCILLOR	SIGNATURE	COUNCILLOR	SIGNATURE
The Speaker: Sampson, M		Lakey, S.	
The Executive Mayor: Steyn, A		Lubisi, M.N.	
The Deputy Executive Mayor: Levendal, J.D.		Marran, P.	✓ APOLOGY
Apollis, V.K.M.	V.K.M. Apollis	Matjan, E.S.C.	
Blom, R.		Mei, S.J.	S.S. Mei
Blom, W.M.		✓ Meiring, W.R.	APOLOGY
Boshoff, J.A.		Mfutwana, S.B.	
Bushwana, M.N.		Ntshingila, B.W.	
Du Toit, A.M.		✓ Ntsomi, C.	APOLOGY
Dyabooi, L. ✓	APOLOGY	Richards, L.	
Dyonta, T.C.		Schneider, J.	
Farao, R. (Chief Whip)		Sheldon, E.Y.	E.Y. Sheldon
Goedeman, S.		Smith, P.G.	
Ismail, C.		Stalmeester, G.	
Jaftha, G.F. ✓	APOLOGY	Steto, N.V.	
Jali, N. ✓	APOLOGY	Tyira, P.	
James, S.E. ✓	APOLOGY	Van Der Westhuizen, E.	
Januarie, P.B.		Van Zyl, J.F.	
Jordaan, A.E.	A.E. Jordaan	Wehr, T.M.	
Klein, B.V.	B.V. Klein	Wilskut, C.F.	
Kriegler, B.J. ✓	APOLOGY		

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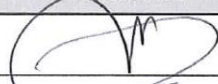

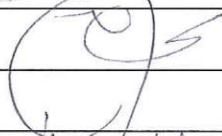
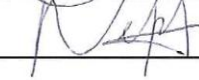
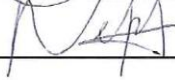


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MUNICIPALITY. ATTENDANCE REGISTER; OFFICIALS

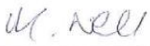
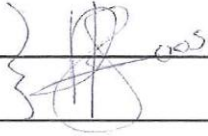

COUNCIL MEETING: 25 JUNE 2015

VENUE: CDWM, TRAPPE STREET, Worcester

POSITION	OFFICIAL	SIGNATURE
Municipal Manager	G.F. Matthyse	
Director: Financial Services	D. McThomas	
Director: Community Services	J. Marthinus	
Director: Strategic Support Services	P.R. Esau	
Director: Technical Services	E. Delport	
Deputy Director: Financial Services	J.M. Boonzaaier	
Manager: I.D.P./PMS	G. Muller	
Chief Internal Auditor	W.F. Du Plessis	
Chief Risk Officer	E. Cloete	
Public Relations Officer	J.R. Botha	
Area Manager: De Doorns		
Area Manager: Touws River	N.B. Fourie	
Snr. Clerk / Cashier: Rawsonville	R.K. Baadjies	
Chief: Fire and Emergency Services		
Chief: Traffic Services	S. Swartz	
Chief Librarian	C. Gerber	
Manager: Administration	A. Joseph	
Manager: Housing Development & Projects	G.S. Mayeki	

BREED VALLEY MUNICIPALITY. ATTENDANCE REGISTER; OFFICIALS
COUNCIL MEETING: 25 JUNE 2015

VENUE: CDWM, TRAPPE STREET, Worcester

POSITION	OFFICIAL	SIGNATURE
Manager: Human Resources	M. Nell	
Manager: ICT	Z. Tyala	
Acting Senior Manager: Legal Services	I. Roos	
Admin. Officer: Committees	I. Roos	
Officer: Committees	L.H. Du Plessis	
Admin. Officer		
Manager: Financial Planning	H.B. Volscenk	
Manager: Revenue	R.T. Ontong	
Town Electrical Engineer - Head: Electrical Services		
Manager: Civil Engineering Services	J.A. Steyn	
Manager: Civil Works		
Manager: Planning Development & Building Control	P.S.J. Hartzenberg	
Town Planner: Planning Development & Building Control	C.S. Pieters	
Engineering Technician	J.A. Beukes	
Arts Culture & Heritage Officer		
P.A. To Cllr. W.M. Blom		
Manager: Administration & Strategic Planning	N.P. Mercur	