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MINUTES

SPECIAL COUNCIL MEETING OF THE BREEDE VALLEY MUNICIPALITY

2017-07-20 AT 10:00

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1. OPENING AND WELCOME

In terms of the Rules of Order for Internal Arrangement By-Law 2012 the chairperson 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.

The Speaker opens the meeting at 10:00 and welcomes everybody present. The Speaker preserves a moment of silence for prayer and meditation.

The Speaker officially introduces Mr J. Pekeur (Manager Water Services) to the Council. The Speaker welcomes the officials from Klein Karoo and Swellendam Municipality. The Speaker request a moment of silence for those who lost their lives.

The Speaker addresses Council on the situation in Avianpark. The BVM Market day will be on 28 July 2017 and this will be the last Friday of every month and applications for stands may be made at the Mayor's office.

The Speaker addresses his concern that Councillors do not attend meetings of Committees tp which they are elected as members. The Speaker also requests that the Councillors should indicate if they cannot attend meetings, they should notify the Speaker so that a secundi may be appointed.

2. OFFICIAL NOTICES**2.1 DISCLOSURE OF INTERESTS**

Item 5 of the Code of Conduct for councillors' states:

A councillor must –

- (a) disclose to the council, or any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
- (b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillors' direct or indirect interest in the matter is trivial or irrelevant.

None

2.2 APPLICATIONS FOR LEAVE OF ABSENCE

In terms of the Rules of Order for Internal Arrangement By-Law 2012;

- 2.2.1 Every Councillor attending a meeting of the Council must sign his or her name in the attendance register kept for such purpose.
- 2.2.2 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.
- 2.2.3 The Attendance Registers will be available at the meeting.
- 2.2.4 A blank Application for Leave of Absence form is enclosed.

The Speaker received the following formal applications for Leave from Cllr M.N. Bushwana & Cllr M. Sampson. The Speaker approved Cllr C. Ismail and Cllr R. Farao requests to respectively be excused from the meeting at 11:30 and 13:00.

3. CONSIDERATION OF AGENDA ITEMS

The Executive Mayor Cllr A. Steyn tables the report to Council.

3.1 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2017.

MFMA SECTION 71 & 52 (d) Report

File No. /s: 3/15/1

Responsible Officials: R. Ontong

Directorate: Financial Services

Portfolio: Financial Services

1. Purpose

To submit to Council the In-year financial management report for adoption.

2. Background

In terms of the Municipal Finance Management Act, 56 of 2003, section 71.

(1) The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:

- (a) Actual revenue, per revenue source;
- (b) actual borrowings;
- (c) actual expenditure, per vote;
- (d) actual capital expenditure, per vote;
- (e) the amount of any allocations received;
- (f) actual expenditure on those allocations, excluding expenditure on
 - (i) its share of the local government equitable share; and
 - (ii) allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and
- (g) when necessary, an explanation of-
 - (i) any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote;
 - (ii) any material variances from the service delivery and budget implementation plan; and
 - (iii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

(2) The statement must include-

- (a) a projection of the relevant municipality's revenue and expenditure for the rest of the financial year, and any revisions from initial projections; and

- (b) the prescribed information relating to the state of the budget of each municipal entity as provided to the municipality in terms of section 87(10).
- (3) The amounts reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the municipality's approved budget.
- (4) The statement to the provincial treasury must be in the format of a signed document and in electronic format.
- (5) The accounting officer of a municipality which has received an allocation referred to in subsection (1) (e) during any particular month must, by no later than 10 working days after the end of that month, submit that part of the statement reflecting the particulars referred to in subsection (1) (e) and (f) to the national or provincial organ of state or municipality which transferred the allocation.
- (6) The provincial treasury must by no later than 22 working days after the end of each month submit to the National Treasury a consolidated statement in the prescribed format on the state of the municipalities' budgets, per municipality and per municipal entity.
- (7) The provincial treasury must, within 30 days after the end of each quarter, make public as may be prescribed, a consolidated statement in the prescribed format on the state of municipalities' budgets per municipality and per municipal entity. The MEC for finance must submit such consolidated statement to the provincial legislature no later than 45 days after the end of each quarter.

In terms of the Municipal Finance Management Act, 56 of 2003, section 52(d).

The mayor of a municipality—

- (d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality.

3. Financial Implications

None

4. Applicable Legislation/ Council Policy

Municipal Finance Management Act, 56 of 2003 (Section 52(d), & 71);
Municipal Budget and Reporting Regulations, 2009

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

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE MONTH ENDED 30 JUNE 2017 discussed by Council at the Special Council Meeting held on the 20 July 2017:

Recommended resolution to Council with regards to June 2017 In-year report is:

RESOLVED

(a) That Council takes note of the contents in the In-year monthly report for June 2017 as set out in the schedules contained in Section 4 (In-year budget statement tables) as well as the supporting documentation in Section 6 to 13.

1. Table C1 – Monthly Budget Statement Summary;
2. Table C2 – Monthly Budget Statement – Financial Performance (Standard classification);
3. Table C3 – Monthly Budget Statement – Financial Performance Standard classification (Revenue and expenditure by Municipal Vote)
4. Table C4 – Monthly Budget Statement – Financial Performance (Revenue by Source and Expenditure by Type)
5. Table C5 – Monthly Budget Statement – Capital Expenditure;
6. Table C6 – Monthly Budget statement – Financial Position; and
7. Table C7 – Monthly Budget statement – Cash Flows

(b) Any other resolutions required by Legislation.

PROPOSED: CLLR W.R.MEIRING

SECONDED: CLLR R. FARAO

RESOLVED

C48/2017

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE MONTH ENDED 30 JUNE 2017 discussed by Council at the Special Council Meeting held on the 20 July 2017:

(a) That Council takes note of the contents in the In-year monthly report for June 2017 as set out in the schedules contained in Section 4 (In-year budget statement tables) as well as the supporting documentation in Section 6 to 13.

1. Table C1 – Monthly Budget Statement Summary;
2. Table C2 – Monthly Budget Statement – Financial Performance (Standard classification);
3. Table C3 – Monthly Budget Statement – Financial Performance Standard classification (Revenue and expenditure by Municipal Vote)
4. Table C4 – Monthly Budget Statement – Financial Performance (Revenue by Source and Expenditure by Type)
5. Table C5 – Monthly Budget Statement – Capital Expenditure;
6. Table C6 – Monthly Budget statement – Financial Position; and
7. Table C7 – Monthly Budget statement – Cash Flows

(b) Any other resolutions required by Legislation.

To Action

R. Ontong

3.2 Final 2017/2018 TOP- LEVEL SERVICE DELIVERY BUDGET AND IMPLEMENTATION PLAN (SDBIP)

File No. /s: 3/15/1

Responsible Official: C September

Directorate: Strategic Support Services **Portfolio:** Performance Management

1. Purpose

To inform Council of the approval of the final 2017/2018 Top-Level Service Delivery Budget and Implementation Plan (SDBIP).

2. Background

In terms of Section 53(1)(c)(ii) of the Municipal Finance Management Act, Act no.56 of 2003, the service delivery and budget implementation plan” means a detailed plan approved by the mayor of a municipality in terms of section for implementing the municipality’s delivery of municipal services and its annual budget, and which must indicate—

(a) projections for each month of—

(i) revenue to be collected, by source; and

(ii) operational and capital expenditure, by vote;

(b) service delivery targets and performance indicators for each quarter; and

(c) any other matters that may be prescribed,

and includes any revisions of such plan by the mayor in terms of section 54(1)(c).

The municipality’s service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget. According to Section 53 (3), the mayor must ensure—

(a) that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan; and

(b) that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the municipality's service delivery and budget implementation plan.

According to MFMA Circular 13 of National Treasury, the SDBIP provides the **vital link** between the mayor, council (executive) and the administration, and facilitates the process for holding management accountable for its performance. The SDBIP is a **management, implementation and monitoring tool** that will assist the mayor, councillors, municipal manager, senior managers and community to monitor in-year information, such as quarterly service delivery and monthly budget targets, and links each service delivery output to the budget of the municipality, thus providing credible management information and a detailed plan for how the municipality will provide such services and the inputs and financial resources to be used. A properly formulated SDBIP will ensure that appropriate information is circulated internally and externally for purposes of monitoring the execution of the budget, performance of senior management and achievement of the strategic objectives set by council.

3. Financial Implications:

None

4. Applicable Legislation / Council Policy:

Local government: Municipal Finance Management Act, Act no.56 of 2003

MFMA Circular 13 dealing with the SDBIP

Comment of Directorates / Departments concerned:

Municipal Manager: Support recommendation

Director: Strategic Support Services: Support recommendation

Director: Financial Services: Support recommendation

Director: Technical Services: Support recommendation

Director: Community Services: Support recommendation

Senior Manager: Legal Services: Support recommendation

RECOMMENDATION:

That in respect of the final 2017/2018 Top-Level SDBIP as discussed by the Council at the Special Council meeting held on 20 July 2017:

Council takes note of the final top-level SDBIP 2017/2018 as proposed in the annexed schedule

PROPOSED: CLLR W.R.MEIRING

SECONDED: CLLR J.KRITZINGER

COUNTERPROPOSAL: CLLR C.F. WILSKUT PROPOSES THAT THE ITEM STANDS OVER IN ORDER TO ALLOW THE ADMINISTRATION AN OPPORTUNITY TO RECTIFY ANY ERRORS THAT MIGHT APPEAR IN THE SCHEDULE.

SECONDED: CLLR J.R. ROBINSON

VOTES IN FAVOUR OF CLLR W.R.MEIRING'S PROPOSAL: 19

VOTES IN FAVOUR OF CLLR C.F.WILSKUT'S PROPOSAL: 14

The following Councillors requested that their vote against the resolution be recorded:

Cllr C. Ismail

Cllr C.F. Wilskut

Cllr N. Wullschleger

Cllr J. Robinson

Cllr N. Ismail

RESOLVED

C50/2017

That in respect of the final 2017/2018 Top-Level SDBIP as discussed by the Council at the Special Council meeting held on 20 July 2017:

Council takes note of the final top-level SDBIP 2017/2018 as proposed in the annexed schedule.

To Action

C. September

3.3 FILLING OF VACANCY ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) DA COUNCILLOR VACANCY**File No. /s:** 3/15/1**Responsible Official:** E Cloete**Directorate:** Municipal Manager**Portfolio:** Risk Management

1. Purpose

To present an item to Council to consider the filling of the vacancy as arise on the MPAC.

2. Background

Councillor Matjan, resigned from the Municipal Public Accounts Committee. See annexure attached.

Council Resolution - RESOLVED: C64/2016 That in respect of the MPAC Committee discussed by the Council at the Council Meeting held on 23 August 2016: 1) MPAC consist of 10 (ten) members as follows: • 5 DA Councillors • 1 Councillor of each other parties/independent. 2) Cllr N. Nel be appointed as the MPAC Chairperson 3) that the position of Chairperson of MPAC be remunerated in accordance with Government Notice 1271 dated 21 December 2015 (Determination of Upper Limits of salaries, allowances and benefits of Councillors) as a part-time Councillor Chairperson of section 79 Committee. Cllr N.Nel accepted the Nomination of Chairperson of MPAC.

“RESOLVED C15/2017 That in respect of SUBMISSION OF THE NAMES OF COUNCILLORS DELEGATED BY COUNCIL TO SERVE ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC). Discussed by Council at the Council meeting held on 28 February 2017: 1. Council to take note of the submission of the names from the various political parties and condone the names of the following Councillors to serve on the Municipal Public Accounts Committee: • Councillor Naomi Nel (Chairperson); • Councillor Vanessa Ida Mngcele; • Councillor Joffrey Rumark Jack; • Councillor Juben J Von Willingh; • Councillor Torique Moegammad Wehr; • Councillor Esme van der Westhuizen; • Councillor Evelyn Sophia Christine Matjan; • Councillor Jerrie Robinson; • Councillor Nobantu Margaret Bushwana; and • Councillor Colin Frederick Wilskut. 2. That the request for Secundi’s be considered and tabled at a future Council Meeting.”

The Speaker informed the Municipal Public Accounts Committee that Cllr. Matjan will be replaced by Cllr. Wilfred Vrolik as the DA representative on the MPAC.

3. Financial Implications:

- Logistical costs applicable.

4. Applicable Legislation / Council Policy:

Municipal Structures Act, 117 of 1998 (as amended);

Municipal Systems Act, 32 of 2000 (as amended);

Municipal Finance Management Act, 56 of 2003 (section 129); as well as

MFMA Circular 32 (The Oversight Report – 15 March 2006),

MFMA Circular 11 (Annual Report Guidelines – 14 January 2005);

MFMA Circular 18 (New Accounting Standards – 23 June 2005);

MFMA Circular 28 (Budget Content and Format – 12 December 2005).

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

**FILLING OF VACANCY ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) DA
COUNCILLOR VACANCY**

discussed by Council at the Council meeting held on 20 July 2017:

1. Council to take note of the resignation from Cllr. Matjan and the DA political party to nominate a Councillor to serve in the MPAC.
2. Council to condone the name of Cllr. Wilfred Vrolik as the DA representative on the Municipal Public Accounts Committee.

PROPOSED: CLLR N. NEL

SECONDED: CLLR E. VAN DER WESTHUIZEN

RESOLVED

C51/2017

That in respect of

**FILLING OF VACANCY ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) DA
COUNCILLOR VACANCY**

discussed by Council at the Council meeting held on 20 July 2017:

1. Council to take note of the resignation of Cllr. Matjan and the DA political party to nominate a Councillor to serve in the MPAC.
2. Council to condone Cllr. Wilfred Vrolik as the DA representative on the Municipal Public Accounts Committee with immediate effect.

To Action

E. Cloete

3.4 TRANSPARENT TENDER PROCESS: BID ADJUDICATION COMMITTEES OPEN TO THE PUBLIC**File No. :** 5/B**Responsible Official:** R Esau**Directorate:** Strategic Support Services**Portfolio:** Director Strategic Support

1. Purpose

The purpose of the report is to recommend to Council to open its bid adjudication committees (BAC) to the public subject to the conditions as set out in the recommendation.

2. Background: Argument for Transparent Procurement in the Public Sector

Section 217 of the South African Constitution provides that when organs of state procure goods or services, they must comply with five principles: fairness, equity, competitiveness, cost-effectiveness and transparency. These requirements must be understood together with the constitutional precepts on administrative justice in section 33 of the Constitution and the basic values governing public administration in section 195(1). In Millennium Waste the Supreme Court of Appeal (per Jafta JA) elaborated:

“The . . . Constitution lays down minimum requirements for a valid tender process and contracts entered into following an award of tender to a successful tenderer (section 217). The section requires that the tender process, preceding the conclusion of contracts for the supply of goods and services, must be ‘fair, equitable, transparent, competitive and cost-effective’. Finally, as the decision to award a tender constitutes administrative action, it follows that that the provisions of [PAJA] apply to the process.”

In the Firechem case Schutz JA, dealing with a situation where the award of a tender outside the applicable legal framework arose, stated:

“One of the requirements . . . is that the body adjudging tenders be presented with comparable offers in order that its members should be able to compare. Another is that a tender should speak for itself. Its real import may not be tucked away, apart from its

terms. Yet another requirement is that competitors should be treated equally, in the sense that they should all be entitled to tender for the same thing. Competitiveness is not served by only one or some of the tenderers knowing what is the true subject of tender. . . . That would deprive the public of the benefit of an open competitive process.”[47]

Government procurement procedures must therefore be transparent. According to Burton Legal Thesaurus 515 transparent, mean 'public' or 'open'. Professor Bolton in her paper published in PER/PELJ 2006(9)2 is of the view that transparent procurement mean;

“Thus, when organs of state procure goods or services, this should not be done behind closed doors.”

Bolton does however not suggest that an open tender process means that the bid adjudication meetings should be open to the public, but she advocate that:

- procurement information should be generally available;
- there should be publication of general procurement rules and practices;
- government contracts should be advertised;
- contractors should be able to access information on government contract awards; and
- organs of state should disclose the criteria that will be applied in selecting a winning contractor.

The National Development Plan (NDP) at page 143 highlight the fact that government procurement opportunities must improve transparency and get rid of corruption. It further argues at page 425 that government must develop mechanism to ensure that there is adequate insulation from capture of bid committees and the tender system. The NDP recognises at page 450 and 451 that the vast range of tender opportunities in the public service has come with increased opportunities for corruption for both officials and contractors. The government is conscious of these challenges and continue to put measures in place to introduce greater accountability and transparency in supply-chain management practices.

The NDP assert that in the democratic era, steps have been taken to counter corrupt practices and put in place accountability mechanisms which is appreciative of the role of transparency in creating an accountable and responsive government. Transparency is an important element of public accountability. Dissatisfaction about lack of access to information on service delivery is

prominent in public protests. Section 32 of the Constitution enshrines the right of access to information.

National Treasury in its 2015 Public Sector Supply Chain Management Review states on page 22: *“Transparent or open contracting is a powerful tool that can be used to combat corruption and ensure good governance, value for money and good-quality service delivery.”*

3. Legal Framework

Can a municipality legally open its bid adjudication committee to the public and if so under what circumstances?

To answer the question one have to take cognisance of the status, powers and functions of a municipality.

Section 151 of the Constitution sets out the status of municipalities. It determine:

- “(1) The local sphere of government consists of municipalities, which must be established for the whole of the territory of the Republic.*
- (2) The executive and legislative authority of a municipality is vested in its Municipal Council.*
- (3) A municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution.*
- (4) The national or a provincial government may not compromise or impede a municipality’s ability or right to exercise its powers or perform its functions.*

Section 152 sets out the objects of local government:

- “(1) The objects of local government are –*

- (a) *to provide democratic and accountable government for local communities;*
 - (b) *to ensure the provision of services to communities in a sustainable manner;*
 - (c) *to promote social and economic development;*
 - (d) *to promote a safe and healthy environment; and*
 - (e) *to encourage the involvement of communities and community organisations in the matters of local government.*
- (2) *A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1)."*

In terms of section 153 municipalities has the following developmental duties:

"A municipality must -

- (a) *structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and*
- (b) *participate in national and provincial development programmes."*

Section 156 determine a municipality has the following powers and functions:

- (1) *A municipality has executive authority in respect of, and has the right to administer -*
- (a) *the local government matters listed in Part B of Schedule 4 and Part B of Schedule 5; and*
 - (b) *any other matter assigned to it by national or provincial legislation.*
- (2) *A municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer.*

- (3) *Subject to section 151(4), a by-law that conflicts with national or provincial legislation is invalid. If there is a conflict between a by-law and national or provincial legislation that is inoperative because of a conflict referred to in section 149, the by-law must be regarded as valid for as long as that legislation is inoperative.*
- (4) *The national government and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5 which necessarily relates to local government, if -*
- (a) *that matter would most effectively be administered locally; and*
- (b) *the municipality has the capacity to administer it.*
- (5) *A municipality has the right to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its functions.* (Parts underlined my emphasis)

The Constitutional Court held in *The City of Cape Town and the Minister of Provincial and Local Government v Anita Marie Robertson and Guy Trevor Robertson* CCT 19/04:

“Moseneke J writing for a unanimous Court finds that the Local Government: Municipal Structures Act 117 of 1998 (Structures Act) taken together with the Ordinance authorise the City to value property and to recover property rates within its area of jurisdiction. He holds that despite the powers of municipalities being subject to definition and regulation by a “competent authority”, this does not mean that the powers exercised by local government are “delegated” powers. Rather, local government exercises “original” powers entrenched in the Constitution.

The approach that a municipality has no power to act if not authorised by a statute, is a relic of our pre-1994 past and is no longer permissible under our constitutional supremacy. In the past, parliament was sovereign and municipalities were creatures of statute, enjoying only delegated or subordinate legislative powers derived exclusively from ordinances or Acts of Parliament. The Constitution has moved away from a hierarchical division of governmental power. A municipality under the Constitution is no longer a mere creature of statute. The Constitution has ushered in a new vision of government in which the sphere of local government is interdependent, inviolable and possesses the constitutional latitude with which to define and express its unique character subject to constraints permissible under our Constitution."

(Parts underlined my emphasis)

Therefore, even if not authorised by a specific statute, a municipality can make laws, policies and take decisions to govern its own affairs provided that it does not conflict with the Constitution, national or provincial legislation.

Section 115 of the Municipal Finance Management Act 56 of 2003 (MFMA) states that the accounting officer of a municipality or municipal entity must –

- a) Implement the supply chain management policy of the municipality or municipal entity; and
- b) Take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.

(Parts underlined my emphasis)

Section 117 of the MFMA states that no councillor of any municipality may be a member of a municipal bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer. (Parts underlined my emphasis)

Section 118 of the MFMA states that no person may –

- a) interfere with the supply chain management system of a municipality or a municipal entity;

- b) amend or tamper with any tenders, quotations, contracts or bids after their submission.

National Treasury has issued a Code of Conduct for Supply Chain Officials and Other Role-players involved in the Supply Chain Process. The municipality has accepted this as part of its Supply Chain Policy. The relevant parts on page 91 and 92 reads as follows:

- “3.5 Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.*
- 3.6 Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including*
- (i) any alleged fraud, corruption, favouritism or unfair conduct;*
 - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and*
 - (iii) any alleged breach of this code of conduct.*
- 3.7 Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor and /or the board of directors in case of a municipal entity who must ensure that such declaration is recorded in the register.*
- 4 Openness*
- 4.1 Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.*
- 5 Confidentiality*

- 5.1 *Any information that is the property of the municipality and /or the municipal entity or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractors personal rights.*
- 5.2 *Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.*
- 6 *Bid Specification / Evaluation / Adjudication Committees*
- 6.1 *Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality and /or the municipal entity in an honest, fair, impartial, transparent, cost-effective and accountable manner.*
- 6.2. *Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.*
- 6.3 *All members of bid adjudication committees should be cleared by the accounting officer at the level of "confidential" and should be required to declare their financial interest annually.*
- 6.4 *No person should-*
- 6.4.1 *interfere with the supply chain management system of the municipality and /or the municipal entity ; or*
- 6.4.2 *amend or tamper with any price quotation / bid after its submission.*
- 7 *Combative Practices*

7.1 *Combative practices are unethical and illegal and should be avoided at all cost.*

They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;*
- (ii) Reference to non-existent competition;*
- (iii) Exploiting errors in price quotations / bids;*
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.”*

The Supreme Court of Appeal in a number of cases (Groenewald v M 5 Developments 2010 (5) SA 82 (SCA) at 83 A; Moseme Road Construction CC and Others v King Civil Engineering Contractors (Pty) Ltd and Another 2010 (4) SA 359 (SCA) at 361 A-B), asserted that awards of tenders are;

“a fruitful source of litigation which has led to Courts being swamped with cases concerning complaints about the award of contracts”.

The municipality must therefore guard against it being embroiled in various litigations due to the bid process been open. The following concerns are raised against the opening of the bid adjudication committee that needs further deliberation:

- a) Confidentiality of the bid process cannot be adhered to if the bid adjudication meetings are open to the public.
- b) Councillors are barred from being observers at the bid committee meeting and yet the public will have access to the meetings.

Section 117 of the MFMA prohibits any councillor from any municipality to be an observer at a bid committee meeting. How will the committee know that a member of the public is not a councillor at any municipality in the country?

4. Confidentiality vs open bid process

Tenderers has the right to access to bid information as set out in various judgements. In Monoceros Trading 135 Cc T/A v Nelson Mandela Bay Municipality Sandi J

held at paragraph 27:

“I am of the view that the applicant has a lawful right to the documents set out in the notice of motion. As stated in Aquafund Pty Ltd v Premier of the Province of the Western Cape 1997 (7) BCLR 907 (C) at 913 I the applicant “reasonably requires the information to enable it to determine whether or not its right to lawful administrative action... has been violated.” At page 915 I - 916 A of the above judgment the following was stated:

“If the applicant is entitled to lawful administrative action it must, in my view, follow that it will be entitled to all such information as may be reasonably required by it to establish whether or not its right to lawful administrative action has been violated. The applicant will reasonably require this information to make an informed decision on the future conduct of the matter. If it is shown that the tenders were properly considered, the applicant can abandon any proposed application for a review of the decision. If not, the information will enable the applicant to properly formulate the grounds of review.”

At 916 D it is stated that

“(t)he right which the applicant is seeking to protect is not the right to have the decision of the board reviewed with a view to eventually being awarded the contract.”

In the National Union of Metal Workers v City Power Johannesburg (Pty) Limited the court held that the municipality cannot merely ‘refused’ a bidder access to information on, inter alia, the grounds that the documentation contained “financial, commercial, scientific or technical information of third parties which, if disclosed, would likely to cause harm to the financial or commercial interests of such third party” and that “tender documents submitted by each of the successful bidders contain sensitive and confidential financial and commercial information regarding each bidder’s product and the pricing thereof as well as other sensitive commercial and financial information relating to each bidder’s business”. The municipality must deal with access to information in terms of the procedures in Chapter 5 of PAIA and give notice to third parties who may be affected by the decision to provide the information or not.

The court *supra* held at paragraphs 15 and 16:

To the extent that the second respondent sought, in July 2014, to claim that the information could not be released because it was “sensitive and confidential”, he was merely offering an unsubstantiated thumbsuck. He had not asked for a response from nor heard from any third parties; none of them had expressed this view; his knee jerk response was not only unprocedural but it was made without regard to all relevant information. I should point out that relevant information includes views both for and against disclosure of the information.

It does not appear that the information officer has given any thought to reduction, redaction, removal or deletion of portions or sections of information from the records in respondents’ possession. His July 2014 affidavit refers to certain documents which he believes constitutes ‘sensitive and confidential financial and commercial information’ (for example, audited financial statements or tax clearance certificates) which “ought not to be divulged”. He does not appear to have considered the possibility that staples can be undone and papers removed or censored if, indeed, any of this information is so confidential.

The municipality therefore cannot adopt a blanket approach that all bid information contain sensitive financial and commercial information that cannot be disclosed. If the municipality publicly state before bidders decide to tender that the adjudication will be done in public, bidders have a choice to do business with the municipality in the manner stated up front by the municipality. In any event, the public will only have observer status and will not be provide full bid documents at the time that the bid is adjudicated. In particular instances, the chairperson of the adjudication committee may close its meetings only when reasonable to do so having regard to the nature of the item(s) to be considered.

The declaration of confidentiality by officials involved the bid process requires that matters of confidential nature in the possession of officials and other role players involved in supply chain process should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Thus if a legislation or the performance of a duty requires that the information is no longer confidential it shall be treated as such.

In addition; it’s not proposed that the bid specification committee or the bid evaluation committee be open to the public.

5. Councillors Barred form Bid Committees

If bid adjudication committees are open to the public, it does not mean that all members of the public have un-restricted access to the meetings. Rules and procedures have to be in place similar to the attendance of council meetings. Members of the public have to indicate in writing to the Chief Financial Officer or his delegate that they want to be an observer at the bid adjudication meeting. The size venue will in all probability restrict the number of members to be present as observers at the meeting. In this process; councillors will be identified and refused access to the meeting. If a councillor attend the meeting, he/she will contravene the code of conduct for councillors. The public can also be required to sign a declaration that they are not councillors of any municipality nor in the services of the state.

6. Public Notice for the Bid Adjudication Meeting

The public notice for the bid adjudication meeting may contain the following:

Notice is hereby given in terms of Section 115(1)(b) of the Local Government: Municipal Finance Management Act (Act 56 of 2003) that the Breede Valley Bid Adjudication Committee (BAC) meetings are open for attendance by the public. Meetings will commence at 09:00 every Friday depending whether any bids were received for consideration. The agendas for meetings will be published on the notice boards at the supply chain office and the website at latest by 12h00 on a Wednesday. Additional bids may be added to the agenda at discretion on the chairperson of the BAC.

Members of the public wishing to attend the BAC meeting must please contact the supply chain office during office hours to book one of the eight seats available to the public on a first come first served basis. The list for the public to attend the BAC meeting will close at 16:00 on Thursdays.

Only persons whose names appears on the list will be allowed access to the BAC meeting.

Members of the public may not participate in the meeting and may only observe;

The BAC must conduct its business in an open manner and may close its meetings only when reasonable to do so having regard to the nature of the item(s) to be considered; and

The reason for the exclusion of the public from a meeting of the BAC must be included in the minutes.

No councillor of any municipality may be a member of any of the bid committees, nor may he/she attend any of its meetings as an observer.

7. Financial Implications:

It is anticipated that the opening of the bid adjudication committee to the public will not result in any additional significant cost to council, which cannot be covered through the current operational budget.

8. Advantages of the open bid process:

Open Bid Adjudication Committee initiative may to improve transparency in the procurement processes in order to build public confidence. It may strengthen internal controls, compliance, governance and transparency by subjecting procurement processes to public scrutiny.

Comment of Directorates / Departments

Municipal Manager: **Recommendation Supported**

Director: Community Services: **The report and recommendations are noted.**

Director: Strategic Support Service: **Author**

Director: Technical Services: **Confidential documentation of bidders must not end up at the public domain. The report and recommendations are noted.**

Director: Financial Services: **The report and recommendations are noted.**

Senior Manager: Legal Services: **Recommendation noted for consideration by Council.**

Manager: Supply Chain Management: **Supply Chain Management has got no objection if the said initiative is implemented**

RECOMMENDATION

Discussed by Council at the Special Council meeting held on 20 July 2017, the municipal council decide that:

- a) The Breede Valley Municipality Bid Adjudication Committee (BAC) meetings are open for attendance by the public with effect from 1 August 2017.
- b) The meetings of the Bid Specification Committee (BSC) and Bid Evaluation Committee (BEC) are not open to the public;
- c) The chairperson of the BAC must take reasonable steps to regulate public access and public conduct at meetings;

- d) Members of the public may not participate in the meeting nor be provided with any bid documents, save for the agenda of the meeting identifying the bids to be considered and they may only be observers at the meeting;
- e) The BAC must conduct its business in an open manner and may close its meetings only when reasonable to do so having regard to the nature of the item(s) to be considered; and
- f) The reason for the exclusion of the public from a meeting of the BAC must be included in the minutes;
- g) No councillor of any municipality may be a member of any of the bid committees, nor may he/she attend any of its meetings.

PROPOSED: CLLR J.F. VAN ZYL

SECONDED: CLLR J.P. KRITZINGER

RESOLVED

C52/2017

Discussed by Council at the Special Council meeting held on 20 July 2017, the municipal council decide that:

- a) The Breede Valley Municipality Bid Adjudication Committee (BAC) meetings are open for attendance by the public with effect from 1 August 2017.
- b) The meetings of the Bid Specification Committee (BSC) and Bid Evaluation Committee (BEC) are not open to the public;
- c) The chairperson of the BAC must take reasonable steps to regulate public access and public conduct at meetings;
- d) Members of the public may not participate in the meeting nor be provided with any bid documents, save for the agenda of the meeting identifying the bids to be considered and they may only be observers at the meeting;
- e) The BAC must conduct its business in an open manner and may close its meetings only when reasonable to do so having regard to the nature of the item(s) to be considered; and
- f) The reason for the exclusion of the public from a meeting of the BAC must be included in the minutes;
- g) No councillor of any municipality may be a member of any of the bid committees, nor may he/she attend any of its meetings.

To Action

R. Esau

3.5 BREDE VALLEY MUNICIPALITY SPORT FACILITIES INFRASTRUCTURE MASTER PLAN**File No. /s:** 12/6/3/2/2 & 12/6/3/2/3**Directorate:** Community Services**Responsible Official:** Denver Pienaar**Portfolio:** Community Facilities

1. Purpose

To submit the Breede Valley Municipality Sport Facilities Infrastructure Master Plan to Council for consideration.

2. Background

The MayCo resolved on 16 May 2016, resolution EX11/2017, as follows

“BREDE VALLEY MUNICIPALITY SPORT FACILITIES INFRASTRUCTURE MASTER PLAN discussed by the MayCo at the MayCo meeting held on 16 May 2017:

1. *That MayCo approves the Breede Valley Municipality Sport Facility Master Plan for implementation as and when sufficient funds become available, and*
2. *That MayCo approve the registration of the Municipal Infrastructure Grant (MIG) projects that will form part of the medium term expenditure framework in accordance with the MFMA.”*

At the Council meeting on 25 May 2017, Council requested that the Breede Valley Municipality Sport Facilities Infrastructure Master Plan be tabled in Council.

FURTHER BACKGROUND

A need arose within the Breede Valley Municipality to look at our existing infrastructure with regards to Sport Facilities and Swimming Pools. The mandate was to:

- determine the current status quo of the existing facilities;
- develop a Sports Facility Master Plan for each of the sport facilities within the management of the Breede Valley Municipality; and
- to determine possible cost for upgrading purposes

This will enable us to be prepared for any future Municipal Infrastructure Grant (MIG) allocation for sport facilities as well as from own funding.

Engineering Advice & Services was appointed to produce a Master Plan for the Sport Facilities and Swimming Pools managed and maintained by the municipality. Consultation and Engagement meetings were held with all relevant stakeholders to assemble information for the compilation of the plan. This was the first step in determining the long term goal for the development of the sport fields and swimming pools. It should be noted that details of the actual design might change over time as the need for the facilities in the years to come might change.

3. Financial Implications

- The following cost estimation includes an estimate of construction costs, a 10% contingency, and consultation fees escalated until June 2017, including VAT.

Facility Description	Cost Estimation
Boland Park Sports Facility	R 53 826 119.16
Esselen Park Sports Facility	R 44 207 700.90
Zweletemba Sports Facility	R 12 912 563.40
De Wet Sports Facility	R 20 232 211.56
De Doorns West Sports Facility	R 26 219 635.20
De Doorns East Sports Facility	R 16 387 272.00
Touw Park Sports Facility	R 21 477 947.70
Steenvliet Sports Facility	R 19 998 541.20
Rawsonville Sports Facility	R 4 536 846.60
De La Bat Swimming Pool	R 6 797 683.20
Grey Street Swimming Pool	R 2 791 905.60
Touws River Swimming Pool	R 2 351 877.00
Zwelethemba Swimming Pool	R 16 660 393.20
Total Cost Estimation	R248 400 969.72

A preliminary cost estimation breakdown for each facility will be found in the Master Plan.

4. Applicable Legislation / Council Policy

- Breede Valley Sport Facilities By-Law, Provincial Gazette 6560
- National Sport and Recreation Act, 110 of 1998
- The Constitution of the Republic of South Africa, 1996. Schedule 5 Part B
- MFMA, Act 56 of 2003;
- Municipal Infrastructure Grant (MIG)

Division of Revenue Act, 2011 (Act No. 6 of 2011)

- Section 8(3): The National Treasury must publish the share or indicative allocation of each municipality in respect of the local government allocations contemplated in subsections (1) and (2) in the *Gazette* in terms of section 24.

Division of Revenue Bill:

- Municipalities must ensure appropriate programme and project planning and implementation readiness prior to the year of implementation and must be informed by the IDP, three year capital plan.
- Municipalities must submit to the national department by 31 October 2017, detailed project implementation plans for all the projects to be implemented in the 2018/2019 and 2019/2020 financial years.
- The P-component of the MIG formula (described in part 5 of Annexure W1 to the Division of Revenue Bill) amounts to 5 per cent of the MIG and must be used for municipal sport facilities only.

Municipal Finance Management Act (Act 56 of 2003):

- Section 19(1): A municipality may spend money on a capital project only if- (a) the money for the project, excluding the cost of feasibility studies conducted by or on behalf of the municipality, has been appropriated in the capital budget referred to in section 17(2);- (b) the project, including the total cost, has been approved by the council; - (d) the sources of funding have been considered, are available and have not been committed for other purposes.
- Section 19(2): Before approving a capital project in terms of subsection (1)(b), the council of a municipality must consider- (a) the projected cost covering all financial years until the project is operational; and (b) the future operational costs and revenue on the project, including municipal tax and tariff implications.
- Section 19(3): A municipal council may in terms of subsection (1)(b) approve capital projects below a prescribed value either individually or as part of a consolidated capital programme.

Comment of Directorates / Departments concerned

Municipal Manager: Recommendation Noted.

Director: Community Services: The recommendation is supported. All projects must be prioritised for inclusion in future budgets. Projects should also be registered for MIG funding.

It must be noted that this plan only focussed on current sport facilities in BVM and their related and subsequent upgrading and extensions.

Sport facilities that are manage via legal rental agreements does not form part of this document. These facilities are amongst other the following:

- Worcester Golf Course;
- Riverside Golf Course;
- Worcester Bowling Club

Manager: Community Facilities: The upgrading of sport facilities and swimming pools within the Breede Valley Municipality requires sufficient funding, which is not that easily obtainable. It is however important to keep the infrastructure in good conditions to prevent any major disasters and to mitigate risks as the facilities are mainly been utilized by the public. A Master Plan for Sport Facilities and Swimming Pools was compiled to speak to the current condition of the infrastructure and set out future developmental plans to address the needs. This will also enable us to be prepared for any future funding from any source.

Acting Director: Financial Services: Recommendation Noted.

Acting Director Strategic Support Services: The principle of a master plan for sport facilities is supported. However, the master plan is not attached to the item in order to comment. Adequate funding should be available for the implementation of the master plan.

Senior Manager: Legal Services: The principle of a master plan for sport facilities is supported. However, the master plan is not attached to the item in order to comment. Adequate funding should be available for the implementation of the master plan.

Acting Director: Technical Services: The Municipal Infrastructure Grant (MIG) is intended to provide specific capital finance for basic municipal infrastructure backlogs for poor households, micro enterprises and social institutions servicing poor communities. MIG funds can be used for new or upgrading of municipal bulk and connector infrastructure as a result of the formalisation of settlements subject to compliance with sector policies and on condition that pre- 2001 backlogs have been

addressed. At least 95 per cent of a municipality's MIG allocation must be appropriated on the municipality's capital budget. The P-component of the MIG formula (described in part 5 of Annexure W1 to the Division of Revenue Bill) amounts to **5 per cent of the MIG and must be used for municipal sport facilities only.**

The Breede Valley Municipality's MIG Allocations (described under Part 5 of Annexure W5 to the Division of Revenue Bill) for the following three (3) financial years are indicated in table 1 below:

TABLE 1 : MIG ALLOCATIONS			
Financial Year	2017/2018	2018/2019	2019/2020
Approved MIG Budget	R 35,007,000	R 36,867,000	R 38,830,000

All of the MIG funded projects must be counter-funded by Breede Valley Municipality's own capital budget.

Presently the Breede Valley Municipality is under committed for the 2017/2018, 2018/2019 and 2019/2020 financial year's MIG sport facility allocation (5 per cent of the MIG). In terms of the Division of Revenue Bill (Annexure W3: Framework For Conditional Grants to Municipalities), Municipalities must submit to the national department by 31 October 2017, detailed project implementation plans for all the projects to be implemented in the 2018/19 and 2019/2020 financial years. Such plans should include timelines regarding project designs, initiation of procurement, and Environmental Impact Assessment (EIA) approvals.

In order to ensure that the Breede Valley Municipality complies with the provisions of the Division of Revenue Bill, further sport facility projects have to be registered.

MIG and counter-funding of MIG projects should be included in the Medium Term Expenditure Framework (MTEF) as the projects are prioritized during the budget processes.

The Breede Valley Municipality Sport Facilities Infrastructure Master Plan to MayCo, is supported.

RECOMMENDATION

That in respect of

**BREDE VALLEY MUNICIPALITY SPORT FACILITIES INFRASTRUCTURE MASTER PLAN
discussed by the Council at the Special Council meeting held on 27 June 2017:**

That Council approves the Breede Valley Municipality Sport Facility Master Plan for implementation as and when sufficient funds become available;

PROPOSED: CLLR W.R.MEIRING

SECONDED: CLLR J.ROBINSON

RESOLVED

That in respect of

BREDE VALLEY MUNICIPALITY SPORT FACILITIES INFRASTRUCTURE MASTER PLAN

C53/2017

discussed by the Council at the Special Council meeting held on 20 July 2017:

That Council approves the Breede Valley Municipality Sport Facility Master Plan for implementation as and when sufficient funds become available;

To Action

D. Pienaar

3.6 AMENDMENT OF THE STAFF ESTABLISHMENT: CREATION OF PROSECUTOR POST

File No. : 2/1/4/3/4

Responsible Official: R Esau

Directorate: Strategic Support Services

Portfolio: Human Resources

1. Purpose

The purpose of the report is to recommend to council to approve the amendment of the staff establishment so that the post of prosecutor for the additional court be added to the staff establishment.

2. Background

The municipal council resolved on 1 December 2016 under item C93/201:

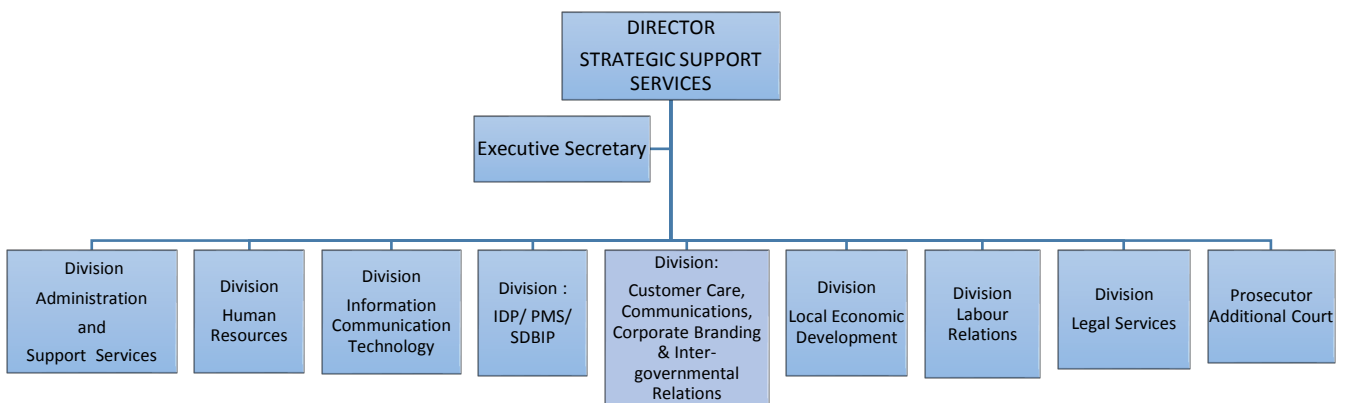
“That in respect of the PROPOSED ESTABLISHMENT OF A MUNICIPAL COURT FOR THE WORCESTER MAGISTERIAL DISTRICT, discussed by Council at the meeting held on 1 December 2016;

1. *That the establishment of a Court dedicated to municipal affairs be approved;*
2. *That the Samee Hall be utilised as the venue for the Municipal Court;*
3. *That the estimated construction costs at the Samee Hall be tabled at the next Council meeting and budgetary provisions be made;*
4. *That provision be made in the 2017/18 operational budget for the costs of the Magistrate and Court Personnel; and*
5. *That the necessary Memorandum of Understanding be entered into with the Department of Justice and that the Municipal Manager be delegated to sign the agreement on behalf of the Municipality;”*

The item tabled further highlighted to council at 6.2:

- “6.2 Prosecutor: A suitably legally qualified official will be appointed by the Breede Valley Municipality in consultation with the National Prosecuting Authority.”

The post will be set out on the staff establishment as follows:



3. Legal Framework

Section 66 of the Local Government: Municipal Systems Act states:

“66. (1) A municipal manager, within a policy framework determined by the municipal council and subject to any applicable legislation, must—

- (a) develop a staff establishment for the municipality, and submit the staff establishment to the municipal council for approval;
- (b) provide a job description for each post on the staff establishment;
- (c) attach to those posts the remuneration and other conditions of service as may be determined in accordance with any applicable labour legislation; and
- (d) establish a process or mechanism to regularly evaluate the staff establishment and, if necessary, review the staff establishment and the remuneration and conditions of service.

- (2) Subsection (1)(c) and (d) do not apply to remuneration and conditions of service regulated by employment contracts referred to in section 57,
- (3) No person may be employed in a municipality unless the post, which he or she is appointed, is provided for in the staff establishment of that municipality.
- (4) A decision to employ a person in a municipality, and any contract concluded between the municipality and that person in consequence of the decision, is null and void if the appointment was made in contravention of subsection(3).
- (5) Any person who takes a decision contemplated in subsection (4), knowing that the decision is in contravention of subsection (3), may be held personally liable for any irregular or fruitless and wasteful expenditure that the municipality may incur as a result of the invalid decision.”

Consultation with Labour:

The amendment to the staff establishment was discussed with labour at the Local Labour Forum of 7 July 2017 and it supports the establishment of the post of prosecutor as proposed.

4. Financial Implications

It is anticipated that the post TASK level will be T14. The municipality has budgeted for the total expenditure of the post.

Comment of Directorates / Departments

Municipal Manager: **Recommendation Supported**

Director: Community Services: **The recommendations in the report is noted**

Director: Strategic Support Service: **Author**

Director: Technical Services:

Director: Financial Services: **Recommendation Supported**

Senior Manager: Legal Services:

Manager: Human Resource Management:

RECOMMENDATION:

Discussed by Council at the Special Council meeting held on 20 July 2017, the municipal council decide that:

- a) The post of Prosecutor for the additional court be added on the staff establishment of the municipality.

- b) That the prosecutor shall report to the Director Strategic Support Services.

PROPOSED: CLLR J.F. VAN ZYL

SECONDED: CLLR G.STALMEESTER

RESOLVED

C54/2017

Discussed by Council at the Special Council meeting held on 20 July 2017, the municipal council decide that:

- a) The post of Prosecutor for the additional court be added on the staff establishment of the municipality.
- b) That the prosecutor shall report to the Director Strategic Support Services.

To Action

R. Esau

3.7 ENTERPRISE RISK MANAGEMENT POLICY

File No. /s: 3/16

Responsible Official: E Cloete

Directorate: Municipal Manager **Portfolio:** Enterprise Risk Management

1. Purpose

To report to Council that the Local Labour Forum and the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Enterprise Risk Management Policy.

2. Background

The policy was approved on 24 March 2015, and need to be reviewed every three years.

Risk Management in the Municipality provides a framework to identify, assess and manage potential risks and opportunities. It provides a way for managers to make informed management decisions. Effective Risk Management affects everyone in the Municipality. To ensure a widespread understanding, Management and all operational/business units should be familiar with, and all staff and councillors are aware of, the principles set out in this document.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure – ENTERPRISE RISK MANAGEMENT POLICY

3. Financial Implications:

None

4. Applicable Legislation / Council Policy:

- Municipal Finance Management Act no. 56 of 2003;
- Public Sector Risk Management Framework, 1 April 2010;
- Treasury Regulations (issued in terms of MFMA);
- King Code of Governance for South Africa 2009;

- Committee of Sponsoring Organization of the TreadWay Commission (COSO) Enterprise Risk Management – Integrated Framework 2004;
- COSO – Strengthening Enterprise Risk Management for Strategic Advantage, 2009;
- International Organization for Standardization - ISO31000, 2009;
- Framework for Managing Programme Performance Information 2007;
- International Standards for the Professional Practice of Internal Audit;
- The Orange Book, Management of Risk – Principles and Concepts, October 2004;
- Public Service Regulations, 2001;
- Companies Act No. 71 of 2008.

RECOMMENDATION:**That in respect of the****ENTERPRISE RISK MANAGEMENT POLICY****discussed by Council at the Special Council meeting held on 20 July 2017:**

- That Council approves the Enterprise Risk Management Policy.

PROPOSED: CLLR J.F. VAN ZYL**SECONDED: CLLR J. ROBINSON****RESOLVED****C55/2017****That in respect of the****ENTERPRISE RISK MANAGEMENT POLICY****discussed by Council at the Special Council meeting held on 20 July 2017:**

- That the Enterprise Risk Management Policy be workshopped and referred back to Council.

To Action

E. Cloete

3.8 ENTERPRISE RISK MANAGEMENT STRATEGY 2017-2018**File No. /s:** 3/16**Directorate:** Municipal Manager**Responsible Official:** E Cloete**Portfolio:** Enterprise Risk Management

1. Purpose

To report to Council that the Local Labour Forum and the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Enterprise Risk Management Strategy for the 2017-2018 Financial Year.

2. Background

The strategy was approved on 27 June 2016, and need to be reviewed annually.

The risk management strategy outlines the plan on how the Municipality will go about implementing its risk management policy. This strategy is designed to provide all the role players with information to enable them to fully understand the roles and responsibilities of their office in terms of risk management and to effectively discharge such roles and responsibilities.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure 1 – ENTERPRISE RISK MANAGEMENT STRATEGY 2017-2018**3. Financial Implications:**

None

4. Applicable Legislation / Council Policy:

- Municipal Finance Management Act no. 56 of 2003;
- Public Sector Risk Management Framework, 1 April 2010;
- Treasury Regulations (issued in terms of MFMA);
- King Code of Governance for South Africa 2009;
- Committee of Sponsoring Organization of the TreadWay Commission (COSO) Enterprise Risk Management – Integrated Framework 2004;

- COSO – Strengthening Enterprise Risk Management for Strategic Advantage, 2009;
- International Organization for Standardization - ISO31000, 2009;
- Framework for Managing Programme Performance Information 2007;
- International Standards for the Professional Practice of Internal Audit;
- The Orange Book, Management of Risk – Principles and Concepts, October 2004;
- Public Service Regulations, 2001;
- Companies Act No. 71 of 2008.

RECOMMENDATION:

That in respect of the

ENTERPRISE RISK MANAGEMENT STRATEGY 2017-2018

discussed by Council at the Special Council meeting held on 20 July 2017:

- That Council approves the Enterprise Risk Management Strategy 2017-2018 Financial Year.

PROPOSED: CLLR J.F. VAN ZYL proposes that the Enterprise Risk Management Strategy 2017-2018 Financial Year be workshopped and referred back to Council for approval.

SECONDED: CLLR J. ROBINSON

RESOLVED**C56/2017**

That in respect of the

ENTERPRISE RISK MANAGEMENT STRATEGY 2017-2018

discussed by Council at the Special Council meeting held on 20 July 2017:

- That the Enterprise Risk Management Strategy 2017-2018 Financial Year be workshopped and referred back to Council for approval.

To Action

E. Cloete

3.9 FRAUD AND CORRUPTION PREVENTION POLICY

File No. /s: 3/16

Directorate: Municipal Manager

Responsible Official: E Cloete

Portfolio: Enterprise Risk Management

1. Purpose

To report to Council that the Local Labour Forum and the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Fraud Prevention Policy.

2. Background

The policy was approved on 24 March 2015, and need to be reviewed every three years.

This policy provides guidance to all Staff Members, Councillors of the Municipality, and all external stakeholders to prevent and combat fraud and other acts of theft and maladministration.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure – FRAUD PREVENTION POLICY

3. Financial Implications:

None

4. Applicable Legislation / Council Policy:

- The Constitution of the Republic of South Africa, No.108 of 1996;
- Corruption Act, No. 92 of 1994;
- Public Protector Act, No. 23 of 1994;
- Prevention of Organised Crime Act, No. 121 of 1998 (POCA);
- Protected Disclosures Act, No. 26 of 2000;
- Financial Intelligence Centre Act, No. 38 of 2001 (FICA);
- Local Government: Municipal Finance Management Act, No. 56 of 2003 (“MFMA”);
- Local Government: Municipal Supply Chain Management Regulations, No. 27636 of 2005;

- National Treasury Regulations;
- Local Government: Municipal Systems Act, No. 32 of 2000 ("MSA");
- Local Government: Municipal Structures Act, No. 117 of 1998 ("MSA");
- Prevention and Combating of Corrupt Activities Act, No. 12 of 2004;
- Protection of Constitutional Democracy against Terrorist and Related Activities Act, No. 33 of 2004 ("POCDATARA");
- Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, GG 37699, 2014;
- The Public Service Commission Rules.

RECOMMENDATION:**That in respect of the****FRAUD PREVENTION POLICY****discussed by Council at the Special Council meeting held on 20 July 2017:**

- That Council approves the Fraud Prevention Policy.

PROPOSED: CLLR J.F. VAN ZYL proposes that the Fraud Prevention Policy be workshopped and referred back to Council for approval.

SECONDED: CLLR J. ROBINSON

RESOLVED**C57/2017****That in respect of the****FRAUD PREVENTION POLICY****discussed by Council at the Special Council meeting held on 20 July 2017:**

- That the Fraud Prevention Policy be workshopped and referred back to Council for approval.

To Action

E. Cloete

3.10 FRAUD PREVENTION STRATEGY AND RESPONSE PLAN 2017-2018**File No. /s:** 3/16**Responsible Official:** E Cloete**Directorate:** Municipal Manager**Portfolio:** Enterprise Risk Management

1. Purpose

To report to Council that the Local Labour Forum and the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Fraud Prevention Strategy and Response Plan for the 2017-2018 Financial Year.

2. Background

The strategy was approved on 27 June 2016, and need to be reviewed annually.

This Fraud Prevention Strategy and Response Plan outlines the plan on how the Municipality will go about implementing its fraud and corruption prevention policy. It links closely to the Breede Valley Municipality's Vision and supports its values of openness, honesty and performing to the highest standards.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure 1 – FRAUD PREVENTION STRATEGY AND RESPONSE PLAN 2017-2018

3. Financial Implications:

None

4. Applicable Legislation / Council Policy:

- The Constitution of the Republic of South Africa, No.108 of 1996;
- Corruption Act, No. 92 of 1994;
- Public Protector Act, No. 23 of 1994;
- Prevention of Organised Crime Act, No. 121 of 1998 (POCA);
- Protected Disclosures Act, No. 26 of 2000;

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- Financial Intelligence Centre Act, No. 38 of 2001 (FICA);
 - Local Government: Municipal Finance Management Act, No. 56 of 2003 ("MFMA");
 - Local Government: Municipal Supply Chain Management Regulations, No. 27636 of 2005;
 - National Treasury Regulations;
 - Local Government: Municipal Systems Act, No. 32 of 2000 ("MSA");
 - Local Government: Municipal Structures Act, No. 117 of 1998 ("MSA");
 - Prevention and Combating of Corrupt Activities Act, No. 12 of 2004;
 - Protection of Constitutional Democracy against Terrorist and Related Activities Act, No. 33 of 2004 ("POCDATARA");
 - Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, GG 37699, 2014;
 - The Public Service Commission Rules.

RECOMMENDATION:**That in respect of the****FRAUD PREVENTION STRATEGY AND RESPONSE PLAN****discussed by Council at the Special Council meeting held on 20 July 2017:**

1. That Council to approve the Fraud Prevention Strategy and Response Plan for the 2017-2018 Financial Year.

PROPOSED: CLLR J.F. VAN ZYL proposes that the Fraud Prevention Strategy and Response Plan be workshopped and referred back to Council for approval.

SECONDED: CLLR J. ROBINSON

RESOLVED**C58/2017****That in respect of the****FRAUD PREVENTION STRATEGY AND RESPONSE PLAN****discussed by Council at the Special Council meeting held on 20 July 2017:**

1. That the Fraud Prevention Strategy and Response Plan for the 2017-2018 Financial Year be workshopped and referred back to Council for approval.

To Action

E. Cloete

3.11 FRAUD AND RISK MANAGEMENT COMMITTEE TERMS OF REFERENCE

File No. /s: 3/16

Directorate: Municipal Manager

Responsible Official: E Cloete

Portfolio: Enterprise Risk Management

1. Purpose

To report to Council that the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Fraud and Risk Management Committee Terms of Reference.

2. Background

The policy was approved on 24 March 2015, and need to be reviewed every three years.

The primary objective of the Risk and Ethics Management Committee (FARMCO) is to assist the Accounting Officer, the Council and the Audit Committee in discharging their accountability for Fraud Prevention and Enterprise Risk Management by reviewing and monitoring the effectiveness of the municipality's corruption prevention and risk management systems, practices and procedures, and providing recommendations for improvement.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure – FRAUD AND RISK MANAGEMENT COMMITTEE (FARMCO) TERMS OF REFERENCE

3. Financial Implications

None

4. Applicable Legislation / Council Policy:

- The Constitution of the Republic of South Africa, No.108 of 1996;
- Municipal Finance Management Act no. 56 of 2003;
- Municipal Systems Act, No. 32 of 2000 ("MSA").

RECOMMENDATION:

That in respect of the

FRAUD AND RISK MANAGEMENT COMMITTEE TERMS OF REFERENCE

discussed by Council at the Special Council meeting held on 20 July 2017:

- That Council approves the Fraud and Risk Management Committee (FARMCO) Terms of Reference.

PROPOSED: CLLR J. F. VAN ZYL that the name be amended to the Risk, Fraud and Corruption Management Committee Terms of Reference.

SECONDED: CLLR J. ROBINSON

RESOLVED**C59/2017**

That in respect of the

FRAUD AND RISK MANAGEMENT COMMITTEE TERMS OF REFERENCE

discussed by Council at the Special Council meeting held on 20 July 2017:

- That Council approves the Risk, Fraud and Corruption Management Committee Terms of Reference.

To Action

E. Cloete

3.12 CODE OF ETHICS POLICY

File No./s: 3/16

Directorate: Municipal Manager

Responsible Official: E Cloete

Portfolio: Enterprise Risk Management

1. Purpose

To report to Council that the Local Labour Forum and the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Code of Ethics Policy.

2. Background

The policy was approved on 24 March 2015, and need to be reviewed every three years.

Ethics is about distinguishing between what is morally right and wrong with the purpose of doing what is right. In an ethical organisation employees will do the right thing for the right reason – not just because the rule says so. Rules and procedures influence individuals' behaviour, but values are what change the culture within the Municipality.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure – CODE OF ETHICS POLICY

3. Financial Implications:

None

4. Applicable Legislation / Council Policy:

- The Constitution of the Republic of South Africa, No.108 of 1996;
- Municipal Finance Management Act no. 56 of 2003;
- Municipal Systems Act, No. 32 of 2000 ("MSA").

RECOMMENDATION:

**That in respect of the
CODE OF ETHICS POLICY
discussed by Council at the Special Council meeting held on 20 July 2017:**

- That Council approves the Code of Ethics Policy.

PROPOSED: CLLR J.F. VAN ZYL proposes that the Code of Ethics Policy be workshopped and referred back to Council for approval.

SECONDED: CLLR J. ROBINSON

RESOLVED

C60/2017

That in respect of the
CODE OF ETHICS POLICY
discussed by Council at the Special Council meeting held on 20 July 2017:

- That the Code of Ethics Policy be workshopped and referred back to Council for approval.

To Action

E. Cloete

3.13 WHISTLE BLOWING POLICY

File No. /s: 3/16

Directorate: Municipal Manager

Responsible Official: E Cloete

Portfolio: Enterprise Risk Management

1. Purpose

To report to Council that the Local Labour Forum and the Risk & Ethics Management Committee (RiskCom) support and recommend to Council also for the approval of the Whistle Blowing Policy.

2. Background

The policy was approved on 24 March 2015, and need to be reviewed every three years.

Brede Valley Municipality is committed to its Fraud Prevention Policy and Response Plan, and also its Code of Ethics and to promote a high standard of honesty, openness and accountability.

The item served before the Local Labour Forum on 12 May 2017 and the Risk & Ethics Management Committee on 9 May 2017.

The document is compiled with track changes and will be corrected after approval to be signed by the Executive Mayor and Municipal Manager.

Annexure – Whistle Blowing Policy

3. Financial Implications:

None

4. Applicable Legislation / Council Policy:

- The Constitution of the Republic of South Africa, No.108 of 1996;
- Corruption Act, No. 92 of 1994;
- Public Protector Act, No. 23 of 1994;
- Prevention of Organised Crime Act, No. 121 of 1998 (POCA);
- Protected Disclosures Act, No. 26 of 2000;
- Financial Intelligence Centre Act, No. 38 of 2001 (FICA);
- Local Government: Municipal Finance Management Act, No. 56 of 2003 (“MFMA”);
- Local Government: Municipal Supply Chain Management Regulations, No. 27636 of 2005;
- National Treasury Regulations;

- Local Government: Municipal Systems Act, No. 32 of 2000 ("MSA");
- Local Government: Municipal Structures Act, No. 117 of 1998 ("MSA");
- Prevention and Combating of Corrupt Activities Act, No. 12 of 2004;
- Protection of Constitutional Democracy against Terrorist and Related Activities Act, No. 33 of 2004 ("POCDATARA");
- Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, GG 37699, 2014;
- The Public Service Commission Rules.

RECOMMENDATION:

That in respect of the

WHISTLE BLOWING POLICY

discussed by Council at the Special Council meeting held on 20 July 2017:

- That Council approves the Whistle Blowing Policy.

PROPOSED: CLLR J.F. VAN ZYL proposes that the Whistle Blowing Policy be workshopped and referred back to Council for approval.

SECONDED: CLLR J. ROBINSON

RESOLVED**C61/2017**

That in respect of the

WHISTLE BLOWING POLICY

discussed by Council at the Special Council meeting held on 20 July 2017:

- That the Whistle Blowing Policy be workshopped and referred back to Council for approval.

To Action

E. Cloete

3.14 QUARTERLY PERFORMANCE REPORT FOR FOURTH QUARTER (1 APRIL 2017 – 30 JUNE 2017)**File No./s:**3/15/1**Responsible Official:** C September**Directorate:** SSS**Portfolio:** IDP/PMS

1. Purpose

To inform Council on the implementation of the budget and the financial state of affairs of the Municipality and assess performance against the performance indicators set in approved Top-Layer SDBIP 2016/2017.

2. Background

According to Section 52(d) of the MFMA, the Mayor must, within 30 days of the end of each quarter, submit a report to the Council on the implementation of the budget and the financial state of affairs of the Municipality. Effective in-year reporting provides municipal management with an opportunity to analyse performance and address shortcomings and improve internal controls and service delivery.

All quarterly reports tabled in the Council in terms of section 52(d) must be placed on the website not later than five days after its tabling in the Council or on the date on which it must be made public, whichever occurs first.

Comment:

A copy of the Quarterly Performance Report is attached as Annexure "A"

3. Financial Implications

None

4. Applicable Legislation/Council Policy

Municipal Finance Management Act, no. 56 of 2003

Comment of Directorates/Departments concerned

Municipal Manager: Support recommendation

Director: Strategic Support Services: Support recommendation

Director: Financial Services: Support recommendation

Director: Technical Services: Support recommendation

Director: Community Services: Support recommendation

Senior Manager: Legal Services: Support recommendation

RECOMMENDATION:

That in respect of

QUARTERLY PERFORMANCE REPORT FOR THE FOURTH QUARTER (1 APRIL 2017 – 30 JUNE 2017)

discussed by Council at the Special Council meeting held on 20 July 2017

That Council takes note of the Quarterly Performance Report for the Fourth Quarter (1 April 2017 – 30 June 2017).

PROPOSED: CLLR W.R.MEIRING

SECONDED: CLLR N.WULLSCHLEGER

RESOLVED

C62/2017

That in respect of

QUARTERLY PERFORMANCE REPORT FOR THE FOURTH QUARTER (1 APRIL 2017 – 30 JUNE 2017)

discussed by Council at the Special Council meeting held on 20 July 2017

That Council takes note of the Quarterly Performance Report for the Fourth Quarter (1 April 2017 – 30 June 2017).

To Action

C. September

3.15 REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY IN TERMS OF PARAGRAPH 6(2)(a)(i) OF THE MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS**File No. /s:** 5/1/2/3/2**Responsible Official:** K. Moteetee**Directorate:** Financial Services**Portfolio:** Supply Chain Management

1. Purpose

To report to Council on the state of affairs in respect to the implementation of the Supply Chain Management Policy of the municipality, in terms of paragraph 6(2)(a)(i) of the Municipal Supply Chain Management Regulations.

2. Legislative Requirement

Paragraph 6(2)(a)(i) of the Municipal Supply Chain Management Regulations requires the Accounting Officer to submit to Council (for its oversight role), a report on the implementation of the Supply Chain Management Policy, within 30 days of the end of the financial year.

The report shall only cover critical reportable matters for the 2016/17 financial year, which are:

- (i) The adoption of the Supply Chain Management Policy;
- (ii) The establishment of the Supply Chain Management Unit;
- (iii) Demand management;
- (iv) Acquisition management;
- (v) Logistics management;
- (vi) Disposal management;
- (vii) Performance management;
- (viii) Bid Committee Systems;
- (ix) Appeals lodged against the decisions of the Bid Adjudication Committee;
- (x) Deviations from normal procurement processes;
- (xi) Other reportable matters.

The Supply Chain Management Policy was initially adopted on 30 August 2005 and has been reviewed in April 2017. A Supply Chain Unit was also established, which operates under s direct supervision of the Chief Financial Officer. The policy provides for the systems for Demand, Acquisition, Logistics, Disposal, Performance and Risk Management.

3. Discussion

(a) Demand management

Demand management requires timely planning and management process to ensure that all goods and services which are required are quantified, budgeted for and delivered in a timely and effective manner at the right locations and at the critical delivery dates. These goods and services must be of appropriate quality and quantity at a fair cost.

In order to enhance the demand planning process, an annual procurement plan was implemented for the 2016/17 financial year for capital spending.

(b) Acquisition Management

The system of acquisition management must ensure the following:

- (i) That goods and services are procured in accordance with authorized processes only;
- (ii) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Municipal Finance Management Act (Act 56 of 2003);
- (iii) That the threshold values for different procurement processes are complied with;
- (iv) That bid documentation, evaluation and adjudication criteria and general conditions of a contract are in accordance with applicable legislations; and
- (v) That any Treasury guidelines on acquisition management are properly taken into account.

The new Preferential Procurement Regulations of 2017 promulgated for implementation on 1 April 2017, have been taken into consideration as well as the National Treasury Circulars that have been issued from time to time.

(c) Logistics Management

Each stock item at the municipal stores in Market Avenue is coded and listed on the financial system. Monthly monitoring of "issues and receipts" patterns is performed by the storekeeper. Inventory levels are set at the start of each financial year. These levels are set for normal operations. Internal controls are in place to ensure that goods and services received, are certified by the responsible person which is in line with the general conditions of a contract. Regular checking of the condition of stock is performed.

(d) Disposal Management

For the year under review, the municipality has undergone a competitive bidding process for the disposal of the former Mayoral vehicle (CW1 WP). Finalisation of the disposal process shall take place during the month of July 2017.

(e) Performance Management

Contract management remains the responsibility of each manager for contracts in his/ her functional area. For the year under review, three critical performance management issues were recorded by the Supply Chain Management Office where suppliers could not supply, or render in accordance with the requirements of the contract, which are:

Table 1: List of suppliers who under-performed during the 2016/17 financial year

Contract number	Contract Description	Awarded to	Nature of the default	Remedial action
BVs 495 - 497	Upgrading of gravel roads in Zweletemba, De Doorns and Hex Industria	NDG Construction cc	Failure to complete the project within the agreed / contract timeframe.	R2,500 per day for every working day the contract is late (no upper limit)
Invoice 4413	Rendering the security services for the month of November and December 2016 at the landfill site.	Global Force Security Services	Failure to render the services to the satisfaction of the client (municipality).	Penalty of 90% against the invoice amount. The service provider was paid only 10% of his invoice amount
Order number 1142389	Reparations to palisade fencing around the Worcester landfill site.	Olivier Kontrakteur	Failure to render the services to the satisfaction of the client (municipality).	Penalty of 50% against the invoice amount. The service provider was paid only 50% of his invoice amount

(f) Bid Committee Systems

A Bid Committee system for competitive bids has since been established and is fully operational. It comprises of the Bid Specification, Evaluation and Adjudication committees. The committees meet regularly. The Accounting Officer appoints members of each committee taking into account Section 117 of the MFMA. All tenders that have been approved by the Bid Adjudication Committee are reported on a monthly basis.

For the year under review, the Bid Adjudication Committee approved 65 tenders with an estimated value of R84.5 million (VAT Included). This amount excludes those tenders which are based on rates, as their usage or consumption is on an “*as and when a need arise*” basis.

Table 2: The ten highest bids awarded by the Bid Adjudication Committee are as follows:

Bid number	Title of bid	Directorate and section	Successful bidder	Value of bid awarded (R)
BV582	Water Pipeline Replacement through trenchless technology in Roodewal	Technical Services	Tuboseal Services (Pty) Ltd	R3,104,309.60
BV583	Water Pipeline Replacement through trenchless technology in Hexpark	Technical Services	Tuboseal Services (Pty) Ltd	R3,161,808.62
*BV592	Construction of water supply pipeline from Langerug Reservoir to Transhex Development	Technical Services	JVZ Construction (Pty) Ltd	*R21,804,315.93

Bid number	Title of bid	Directorate and section	Successful bidder	Value of bid awarded (R)
BV557	Resurfacing of Municipal Roads (Rawsonville, Worcester, De Doorns & Touwsriver)	Technical Services	Actophambili Roads (Pty) Ltd	R6,121,146.11
BV590	De Doorns Material Recovery Facility: Public Drop Off	Technical Services	Alpha Civil (Pty) Ltd	R3,206,756.11
BV620	Supply and delivery of electrical cables	Financial Services (Stores)	Aberdare Cables (Pty) Ltd	R3,485,629.80
BV546	Supply and delivery of electrical cables	Financial Services (Stores)	Aberdare Cables (Pty) Ltd	R2,455,555.44
BV568	Supply and delivery of ductile iron pipes	Technical Services	Mendospan (Pty) Ltd	R4,909,842.63
BV435	Professional services for the construction of Langerug 20ML reservoir	Technical Services	Aurecon SA (Pty) Ltd	R3,572,056.28
BV575	Construction of Roodewal outfall sewer	Technical Services	PR Civils cc	R1,749,743.82

**The Bid Adjudication Committee referred the tender to the Accounting Officer for final approval, in terms of the delegations.*

(g) Appeals/ Objections by aggrieved bidders

Paragraph 49 of the policy makes provision for persons aggrieved by the decisions of the Bid Adjudication Committee, to lodge written complaints or objections for the attention of the Accounting Officer.

For the year under review, six objections were recorded, which are:

Table 3: Objections/ appeals recorded for the financial year.

Date of receipt	Tender/ project number	Project description	Appeal status as at 30 June 2016
6 July 2016	BV528	WORCESTER WASTE WATER TREATMENT WORKS	The appeal was successfully administered by the impartial person (Legal Services) and the initial award was maintained without amendment.
7 July 2016	BV535	SUPPLY, DELIVERY AND INSTALLATION OF SECURITY FENCING IN RIVERVIEW, WORCESTER	The appeal was successfully administered by the impartial person (Legal Services) and referred back to the Bid Evaluation Committee for re-evaluation.
28 August 2016	BV502	FACILITATING 3 rd PARTY PAYMENTS FOR THE PERIOD ENDING 30 JUNE 2019	The appeal was successfully administered by the impartial person (Legal Services) and the initial award was maintained without amendment.
21 February 2017	BV573	CONSTRUCTION OF 1.8M WIDE ASPHALT WALKWAYS IN AVIAN PARK, RIVERVIEW AND ROODEWAL, WORCESTER	The appeal was successfully administered by the impartial person (Legal Services) and referred back to the Bid Evaluation Committee for re-evaluation.
24 March 2017	BV575	CONSTRUCTION OF THE ROODEWAL OUTFALL SEWER	The appeal was successfully administered by the impartial person (Legal Services) and the initial award maintained without amendment
28 June 2017	BV604	FITTING OF TYRES AND RELATED SERVICES FOR THE PERIOD ENDING 30 JUNE 2018	Matter still under review by the independent person (Legal Services) appointed by the Accounting Officer.

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(h) Deviations from normal procurement processes

Paragraph 36(1)(b) of the policy allows the Accounting Officer to dispense with the official procurement processes established by the Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

- (i) In an emergency;
- (ii) If such goods or services are produced or available from a single provider only;
- (iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile;
- (iv) Acquisition of animals for zoos and/or nature and game reserves; or
- (v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes.

For the year under review, the Accounting Officer approved 382 deviations to the amount of R23,243,554.57 (VAT Included). Such deviations were reported every time in the next meeting of Council.

It must be borne in mind that the deviations for the year under review are currently under a review/ reconciliation process which shall result in the following:

- (i) The number of deviations decreasing as a result of orders that had to be cancelled due to year-end processes;
- (ii) The reason for a particular deviation changing from one, to another, based on its merit and explanation;
- (iii) The amount of the deviation changing (decreasing or increasing).

This process is mandatory in order to ensure that the Annual Financial Statements are not misstated. The true and correct amount for the deviations shall be disclosed in the 2016/17 Annual Financial Statements.

(i) Other reportable matters

- (i). The Supply Chain Management personnel are still continuing to attend the mandatory Minimum Competency Levels training as prescribed by National Treasury;
- (ii) The current micro-structure is undergoing a review of which proper consultative processes with personnel is underway;
- (iii) Various legislative SCM reporting requirements are strictly adhered to.

Recommendation

That Council takes note of the report on the implementation of the Supply Chain Management Policy for the 2016/17 financial year.

PROPOSED: CLLR W.R.MEIRING

SECONDED: CLLR J.KRITZINGER

RESOLVED**C63/2017****That in respect of REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY IN TERMS OF PARAGRAPH 6(2)(a)(i) OF THE MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS**

Discussed by Council at the Special Council Meeting held on 20 July 2017

(a) That Council takes note of the report on the implementation of the Supply Chain Management Policy for the 2016/17 financial year;

(b) That proactive measures be put in place in order to ensure that Items are submitted to Council timeously as required by relevant legislation.

To Action

K. Moteetee

4. CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL**4.1 PROPOSED UNIFORM STANDING PROCEDURE: SANCTIONS FOR NON-ATTENDANCE OF MEETINGS BY COUNCILLORS**

File No.: 2/1/4/4/2

Responsible Office Bearer: Speaker

Directorate: Mayco

Portfolio: Mayco

1. Purpose

To adopt a standing procedure for the imposition of a fine for non-attendance of meetings of Council and its Committees in terms of Item 4 of the Code of Conduct of Councillors.

2. Discussion

Items 3 and 4 of the Code of Conduct for Councillors contained in Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) stipulate the following:

“3 Attendance at meetings

A Councillor must attend each meeting of the municipal Council and of a committee of which that Councillor is member, except when –

- (a) leave of absence is granted in terms of an applicable law or as determined by rules and orders of the Council; or
- (b) that Councillor is required in terms of the Code to withdraw from the meeting.

4 Sanctions for non-attendance at meetings

- (1) A municipal Council may impose a fine as determined by the standing rules and orders of the municipal Council on a Councillor for:
 - (a) not attending a meeting which the Councillor is required to attend in terms of item 3; or
 - (b) failing to remain in attendance at such meeting
 - (2) A Councillor who is absent from three or more consecutive meetings of a municipal Council, or from three or more consecutive meetings of a committee, which that
-

Councillor is required to attend in terms of item 3, must be removed from office as a Councillor.

- (3) Proceedings for the imposition of a fine or the removal of a Councillor must be conducted in accordance with a *uniform standing procedure*, which each Council must adopt for the purposes of the item. The uniform standing procedure must comply with the rules of natural justice.”

The attached Annexure is a proposed uniform standing procedure, compiled in terms of item 4(3) above, for this purpose.

3. Financial Implications

Cost for advertisement and promulgation of by-law amendments.

4. Applicable Legislation

- Code of Conduct for Councillors (Municipal Systems Act, 2000)
- Rules of Order (30 May 2012)

COMMENTS FROM DIRECTORATES/DEPARTMENTS CONCERNED

Municipal Manager:	Supported
Senior Manager Legal Services:	Supported
Director Strategic Support Services:	Supported

MAYCO: The item served before Mayco on 19 June 2017 and Mayco supports the recommendation as outlined below. Mayco also supports the Uniform Standing Procedure as per annexure A.

RECOMMENDED THAT

1. *The Uniform Standing Procedure : Sanctions for non-attendance of meetings (attached hereto as Annexure A)* be adopted by Council in terms of item 4(3) of the Code of Conduct for Councillors contained in Schedule 1 of the Local Government : Systems Act, 2000; and
 2. The Rules of Order, which had been adopted by Council as a bylaw on 30 May 2012, be amended to include the Uniform Standing Procedure referred to in paragraph 1, and promulgated as such.
 3. The Rules of Order further be amended as follows: {to insert paragraph 11(2.1)}
-

“If the committee finds that a member has breached Rule 11(1) the member must be fined 10% of his/her monthly salary. (gross salary, excluding cell phone and data allowances)

PROPOSED: CLLR N.NEL
SECONDED: CLLR J.F. VAN ZYL

COUNTER PROPOSAL: CLLR C.F. WILSKUT PROPOSES THAT THIS REPORT HAS NOT BEEN DISCUSSED WITH HIM AND THAT THERE BE CONSULTED WITH ALL PARTIES AND THAT A REPORT BE SUBMITTED TO THE SPEAKER’S OFFICE BEFORE IT BEING ADVERTISED.

SECONDED: CLLR J. ROBINSON

VOTES IN FAVOUR OF CLLR N.NEL’S PROPOSAL: 22
VOTES IN FAVOUR OF CLLR C.F.WILSKUT’S PROPOSAL: 13

AFTER THE COUNTING OF THE VOTES THE PROPOSAL OF CLLR N.NEL CARRIED.

RESOLVED THAT

C49/2017

1. *The Uniform Standing Procedure : Sanctions for non-attendance of meetings (attached hereto as Annexure A)* be adopted by Council in terms of item 4(3) of the Code of Conduct for Councillors contained in Schedule 1 of the Local Government : Systems Act, 2000; and
2. The Rules of Order, which had been adopted by Council as a bylaw on 30 May 2012, be amended to include the Uniform Standing Procedure referred to in paragraph 1, and promulgated as such.
3. The Rules of Order further be amended as follows: {to insert paragraph 11(2.1)}

“If the committee finds that a member has breached Rule 11(1) the member must be fined 10% of his/her monthly salary. (gross salary, excluding cell phone and data allowances)

To Action:
Speaker

4. CLOSURE

The Speaker closes the meeting at 13:55.

5.1 COPY OF NOTICE PLACED ON NOTICE BOARDS

For information, a copy of the Notice follows:

NOTICE IS HEREBY GIVEN that a **SPECIAL COUNCIL MEETING**
of the **Brede Valley Municipality** will be held on
THURSDAY, 20 JULY 2017 at 10:00 in the
COUNCIL CHAMBERS, CWDM, 51 TRAPPE STREET, 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 (sixteen) 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 **SPESIALE RAADSVERGADERING**
van die **Brede Vallei Munisipaliteit** op
DONDERDAG, 20 JULIE 2017 om 10:00
gehou sal word in die
RAADSAAL, KWDM, TRAPPESTRAAT 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 (sestien) 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.

D. MCTHOMAS
MUNICIPAL MANAGER/MUNISIPALE BESTUURDER

06 2017

BREDE VALLEY MUNICIPALITY. ATTENDANCE REGISTER: COUNCILLORS
SPECIAL COUCIL MEETING: 20 JULY 2017
VENUE: CWDM COUNCIL CHAMBER, TRAPPE STREET, WORCESTER


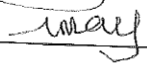
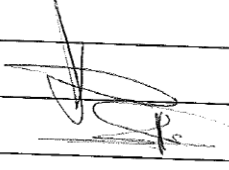






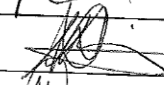
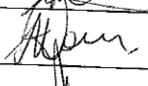
COUNCILLOR	SIGNATURE	COUNCILLOR	SIGNATURE
The Speaker: Mercur, N.P.		Mohobo, C.M	
The Executive Mayor: Steyn, A.		Nel, N.	
The Deputy Executive Mayor: Levendal, J.D.		Pietersen, A.	
Bushwana, M.N.	Apology	Ramokhabi, P.C.	
Farao, R.		Robinson, J.	
Goedeman, S.		Sampson, M.	
Isaacs, E.N.	E.N. Isaacs	Sheldon, E.Y.	
Ismail, C.		Stalmeester, G.	
Ismail, N.		Tshabile, I.L.	
Jack, J.R		Tyira, P.	ABSENT
Jaftha, J.D.P.		Van der Horst, K.	
Kritzinger, J.P.		Van der Westhuizen, E.	
Langata, P.B.		Van Zyl, J.F.	
Mangali, Z.M.		Von Willingh, J.J.	
Maridi, T.		Vrolick, W.	
Marran, P.	ABSENT	Wehr, T.M.	
Matjan, E.S.C.		Williams, N.P.	
Mei, S.J.		Williams, M.T.	
Meiring, W.R.		Wilskut, C.F.	
Mkhiwane, S.M.		Wullschleger, N.J.	
Mngcele, V.I.			

BREDE VALLEY MUNICIPALITY.

SPECIAL COUNCIL MEETING: 20 JULY 2017

Attendance Register: Officials

VENUE: CWDM WORCESTER

POSITION	OFFICIAL	SIGNATURE
Manager: Human Resources	M. Nell	
Manager: ICT	Z. Solomon	
Senior Manager: Legal Services	H.C. Potgieter	
Manager: Administration	I. Roos	
Chief: Committees	V. May	
Officer: Committees	L.H. Du Plessis	
Officer: Committees	A. Apollis	
Manager: Financial Planning	H.B. Volschenk	
Town Electrical Engineer - Head: Electrical Services	H. Benecke	
Manager: Civil Engineering Services	J.A. Steyn	
Senior Manager: ^{WATER SERVICES} Civil Works	J. Malan J. PELENE	
Manager: Planning Development & Building Control	P.S.J. Hartzenberg	
Town Planner: Planning Development & Building Control	C.S. Pieters	
Manager: Roads and Stormwater	T. Steenberg	
Risk Manager	E. Cloete	
Director: Finance	R. Ontong	
Municipal Manager	D. McThomas	
Director: Community Services	J. Marthinus	
DIR SS S.	R. ESAN	
CAC	W. DU PLESSIS	
Mayor: Pro	K. Motsepe	

DIR TECH SERVICES J. Steyn
 Y:IV MAY Attendance Register Committees & Council Meetings Officials
 J.R. Botha Kommissaris G.R. Botha

