

Ref no.2/1/4/4/2

Date distributed:

MINUTES

3rd COUNCIL MEETING OF THE BREED VALLEY MUNICIPALITY

2018-03-20 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 opened the meeting at 10:08 and welcomed everyone present. The Speaker requested a moment of silence for prayer and meditation.

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.

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 no Applications for Leave. Cllr S. Goedeman informed the Speaker that he will be late for the meeting.

Cllr C. Ismail indicated that Cllrs C.F. Wilskut & N. Wullschleger will join the meeting later.

3. COMMUNICATION**3.1 INTERVIEWS OR PRESENTATIONS BY DEPUTATIONS**

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

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

3.2 BIRTHDAYS OF COUNCILLORS

Cllr E.S.C. Matjan 10 April 2018

Cllr N.P. Williams 14 April 2018

The Speaker asked Cllr P. Marran to congratulate the Councillors on their respective birthdays.

3.3 LONG SERVICE AWARDS: EMPLOYEES

NUMBER	NAME AND SURNAME	POST TITLE AS AT DATE OF LONG SERVICE AWARD	LONG SERVICE YEARS
1	Clifford Filander	Civil Engineering (Nekkies)	10
2	Tewedean Joseph	Civil Engineering (Nekkies)	10
3	Tseviso Saule	Traffic Services	10
4	Sara Setona	Civil Works	15
5	Adian Speelman	Civil Works	15
6	Isak Tarentaal	Civil Engineering (Bulk Sewer: De Doorns)	15
7	Beneta Norman	Planning and Building Control	15
8	Liezel Alberts	Human Resource	15
9	Luthando Ngqabuko	Planning and Building Control	15

3.4 STATEMENTS BY THE SPEAKER

The Speaker thanked the Councillors who attended the Ward Committee Summit on Saturday, 17 March 2018.

3.5 STATEMENTS BY THE EXECUTIVE MAYOR

“Goeie more Raadslede en besoekers. Ek wil graag van die geleentheid gebruik maak om al die mense van die Municipaliteit sterkte toe te wens wat familie en vriende verloor het.

21 Maart 2018 is Menseregtedag en ons moet nooit vergeet waarom dit gaan nie. Die grootste uitdaging in ons lewens is om elke dag 'n verskil te maak daar buite. Solank ons 'n verskil kan maak en baklei vir dit wat reg is moet ons dit doen en elke dag probeer om mense te help. Ek glo elkeen van u wat more gan betrokke wees in die gemeenskap, wyke en by funksies dat ons nie sal vergeet waarom hierdie dag gaan nie. In my leek taal gaan die dag daaroor dat ons nooit mense van hul regte moet ontnem. Ek wil dus hê dat ons hierdie dag sal vier vir die vooruitgang van ons dorp en ook ons pragtige land.

Ons het ook more die Cape Epic by ons en dit is 'n groot geleentheid vir ons dorp. Die fietsryers gan reg rondom ons dorp wees en vra ek dat ons vir hulle wuif wanneer ons hulle sien. Ek glo dit gaan ons dorp goed doen om so groot funksie te hê want dit is wêreldwyd om die televisies.

Ek wil graag 'n goeie brokkie nuus deel dat die Rooi duiwel lokomotief in Worcester gestationeer sal word om dit te herstel hier op die treinspore van ons dorp. Ons sal ook geleentheid kry om dit weer te sien en voel ry.

Ek wil asseblief vir u vra dat ons gaan kyk na ons waterbeperkings. Ek weet De Doorns en Touwsrivier is op 'n ander vlak as Worcester, maar is water 'n belangrik bron wat bewaar moet word. Ons sal dus moet gaan kyk na besparing sodat nie in 'n posisie sal wees wat ons gemeenskap paniekerig sal maak nie. Ons Raadslede moet asseblief klagtes rapporteur sodat Mnr Steyn ons sal help.

Ons het elke dag uitdagings in ons dorpe en het ons steeds uitdagings in Avianpark. Ek glo ons gaan tog 'n oplossing kry en dit gaan beter in ons wyke. Ons moet ten alle tye ons gemeenskap deel maak van ons beluite want ons kan niks doen sonder ons gemeenskappe nie want die gemeenskap help ons daarbuite.

Ek vertrou dat ons 'n goeie vergadering sal hê. Baie dankie!"

4. CONFIRMATION OF MINUTES

- 4.1 In terms of the Rules of Order for Internal Arrangement By-Law 2012;
- (a) Minutes of the proceedings of meetings must be compiled in printed form and be confirmed by the Council at the next meeting and signed by the Speaker.
 - (b) The minutes shall be taken as read, for the purpose of confirmation, if a copy thereof was sent to each Councillor within forty-eight hours before the next meeting, subject to the provisions of sub-Clause (4).
-

- (c) No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.
- (d) The minutes formulated and screened during meetings, shall constitute a resolution for purposes of implementation of decisions.

4.2 Council Meeting held on 27 February 2018 (Copy enclosed)

RECOMMENDATION

That in respect of

**CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING
discussed by Council at the Council meeting held on 20 March 2018:**

1. As the Minutes of the Council Meeting held on 27 February 2018 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 27 February 2018 be taken as read and confirmed.

PROPOSED: CLLR J.F. VAN ZYL

SECONDED: CLLR E. VAN DER WESTHUIZEN

RESOLVED

C18/2018

That in respect of

**CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING
discussed by Council at the Council meeting held on 20 March 2018:**

1. As the Minutes of the Council Meeting held on 27 February 2018 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 27 February 2018 be taken as read and confirmed.
-

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

5.1 The Deputy Executive Mayor: Cllr. J.D. Levendal

5.2 MMC1: Cllr. M. Sampson

5.3 MMC 3: Cllr. J.P. Kritzinger

5.4 MMC 4: Cllr. R. Faroa

5.5 MMC 5: Cllr. S.J. Mei

5.6 MMC 6: Cllr. E.Y. Sheldon

5.7 MMC 7: Cllr. W.R. Meiring

Mayco Meeting held on 20 February 2018

**5.7.1 IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED
NOVEMBER 2017
MFMA SECTION 71 Report**

RESOLVED

EX2/2018

That in respect of
**IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED
NOVEMBER 2017
MFMA SECTION 71 Report**

discussed by MayCo at the MayCo meeting held on the 20 February 2018:

That MayCo takes note of the contents in the In-year monthly report for November 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.

5.7.2 PROGRESS REPORT ON THE IMPLEMENTATION OF THE mSCOA FOR THE PERIOD ENDED 31 OCTOBER 2017.

RESOLVED:

EX3/2018

**That in respect of -
MUNICIPAL REGULATIONS ON STANDARD CHART OF ACCOUNTS
discussed by the Mayoral Committee at the next Mayco meeting:**

1. That Mayco take cognisance of Breede Valley's progress with regard to the implementation of the mSCOA.

5.7.3 PROGRESS REPORT ON THE IMPLEMENTATION OF THE mSCOA FOR THE PERIOD ENDED 31 DECEMBER 2017.

RESOLVED:

EX4/2018

**That in respect of -
MUNICIPAL REGULATIONS ON STANDARD CHART OF ACCOUNTS
discussed by the Mayoral Committee at the next Mayco meeting:**

1. That Mayco take cognisance of Breede Valley's progress with regard to the implementation of the mSCOA.

5.8 MMC 8: Cllr. J.F. Van Zyl

6. CONSIDERATION OF AGENDA ITEMS

The meeting agreed that items 6.1 and 6.2 be combined for purposes of discussion and consideration.

6.1 SUBMISSION OF ANNUAL REPORT 2016/2017**File No./s:** 3/15/1**Responsible Official:** C. September**Directorate:** SSS**Portfolio:** Performance Management

1. Purpose

To submit to Council, the Annual Report 2016/2017 for adoption.

2. Background

In terms of Section 121 (1) of the Municipal Finance Management Act, every municipality must for each financial year prepare an Annual Report. Furthermore, the Council of a municipality must within nine months after the end of a financial year deal with the Annual Report of the municipality.

In terms of the Municipal Finance Management Act, 56 of 2003, section 127(2), the Mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the Annual Report of the municipality.

“The purpose of an annual report is—

(a) to provide a record of the activities of the municipality or municipal entity during the financial year to which the report relates;

(b) to provide a report on performance against the budget of the municipality or municipal entity for that financial year; and

(c) to promote accountability to the local community for the decisions made throughout the year by the municipality or municipal entity.”

3. Financial Implications

None

4. Applicable Legislation / Council Policy

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

Municipal Finance Management Act, 56 of 2003 (section 127);

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

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

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:

RECOMMENDATION:

That in respect of

SUBMISSION OF ANNUAL REPORT 2016/2017 discussed by Council at the Council meeting held on 20 March 2018:

1. That Council approves the 2016/2017 annual report, inclusive of an oversight report containing the Council's comments on the annual report.
-

The ANC requested a 15 min caucus

Caucas started: 10:45

Meeting reconvened 11:05

PROPOSED: **CLLR W.R. MEIRING** proposed that Council approves the 2016/17 Annual Report.

SECONDED: **CLLR J.F. VAN ZYL**

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

Cllr P. Marran

Cllr C. Ismail

Cllr N. Ismail

Cllr E.N. Isaacs

Cllr P.B. Langata

Cllr Z.M. Mangali

Cllr T. Maridi

Cllr S.M. Mkhiwane

Cllr V.I. Mngcele

Cllr C.M. Mohobo

Cllr J. Robinson

Cllr I.L. Thsabile

Cllr P. Tyira

Cllr M. T. Williams

Cllr N.P. Williams

Cllr C.F. Wilskut

RESOLVED (21 votes)

C19/2018

That in respect of

SUBMISSION OF ANNUAL REPORT 2016/2017 discussed by Council at the Council meeting held on 20 March 2018:

1. That Council approves the 2016/2017 Annual Report.

To Action:

Cindy September

6.2 SUBMISSION OF FINAL ANNUAL REPORT, ANNUAL FINANCIAL STATEMENTS, AUDITOR GENERAL'S REPORT, AUDIT AND PERFORMANCE AUDIT COMMITTEE REPORT; AND THE ADOPTION OF THE OVERSIGHT REPORT FROM THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR THE PERIOD 2016-2017 FINANCIAL YEAR

File No/s: 3/15/1

Responsible Person: Cllr N Nel

Directorate: Municipal Manager

Portfolio: Municipal Public
Account Committee

1. Purpose

To submit to Council the final Annual Report, Financial Statements, Auditor General's Report, Audit and Performance Audit Committee Report and Oversight report for the period 2016-2017, for approval.

2. Background

In terms of the Municipal Finance Management Act, 56 of 2003, section 127 (2), the Mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality.

Section 129(1) of the MFMA prescribes that the council of a municipality must consider the Annual Report (as tabled) and by no later than two months from the date on which the Annual Report was tabled, adopt an oversight report containing the council's comments on the Annual Report. In the event that a municipality chose to table the Annual Report earlier, the adoption moves forward by two months from the date of tabling the Annual Report in Council.

We have therefore drafted the said document with relevant submissions received from our respective departments in accordance to the applicable legal prescripts. The said draft document was advertised for community inputs and also the Municipal Public Accounts Committee (MPAC) has exercised its oversight role in terms of the roles and responsibilities.

The MPAC has met on the following dates to dispense its mandate:

- 24 January 2018 – 1st Meeting (Discussed methodology);
- 26 January 2018 – 2nd Meeting (Discussed methodology);
- 01 February 2018 – 3rd Meeting (Analysis of Annual Report);
- 07 February 2018 – 4th Meeting (Analysis of Annual Report);
- 09 February 2018 – 5th Meeting (Analysis of Annual Report);
- 20 February 2018 – 6th Meeting (Analysis of Annual Report);
- 01 March 2018 – 7nd Meeting (Analysis of Annual Report); and
- 06 March 2018 – 8th Meeting (Conclude and Compile Oversight Report).

Members of the MPAC unanimously agreed to recommend that the Council approve the Annual Report, Annual Financial Statements, Auditor General's Report and the Oversight Report, without reservations.

The MPAC also want to congratulate the Council, Administration and other role players on the achievement of a clean audit report for the financial year 2016-2017.

Attached hereto are the following documents: Annual Report (AR), Annual Financial Statements (AFS), Auditor General's Report, Audit and Performance Audit Committee Report and the Oversight Report 2016-2017:

- Annexure 1 – Inclusive Annual Report 2016-2017 (AR, AFS, AGSA Report, Audit and Performance Audit Committee); and
- Annexure 2 – Municipal Public Accounts Committee (MPAC) Oversight Report 2016-2017.

3. Financial Implications

- Compilation of the Annual Report;
- Quality review on the Annual Financial Statements;
- Oversight review from the Audit Committee;
- Oversight from the Municipal Public Accounts Committee; and
- Audit fee for the said period 2015-2016 financial year.

4. Applicable Legislation / Council Policy

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

Municipal Finance Management Act, 56 of 2003;

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

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

MFMA Circular 68 (Unauthorised, irregular, fruitless and wasteful expenditure); and
Local Government, National Treasury & Salga's Guidelines on the functioning of the
MPAC.

Comment of Directorates / Departments concerned:

Municipal Manager

Support the recommendations.

Director: Strategic Support Services

Support the recommendations.

Director: Financial Services

Support the recommendations.

Director: Technical Services

Support the recommendations.

Director: Community Services

Support the recommendations.

RECOMMENDATION

That in respect of -

**SUBMISSION OF FINAL ANNUAL REPORT, ANNUAL FINANCIAL STATEMENTS,
AUDITOR GENERAL'S REPORT, AUDIT AND PERFORMANCE AUDIT COMMITTEE
REPORT; AND THE ADOPTION OF THE OVERSIGHT REPORT FROM THE MUNICIPAL
PUBLIC ACCOUNTS COMMITTEE FOR THE PERIOD 2016-2017 FINANCIAL YEAR**

discussed by Council at the Council meeting held on 20 March 2018:

- a) That MPAC, having fully considered the 2016-2017 Annual Report of the Breede Valley Municipality and the representations thereon, recommends the adoption of the Oversight Report and the approval of the Annual Report without reservations;
-

- b) The MPAC further recommends that Council take note of the irregular expenditure as disclosed in the Annual Financial Statement 2016-2017 page 94, that Council condoned the amount of R 62 500 resolution C89/2017 at the Council meeting held on 06 December 2017;
- c) That Council urgently attends to the implementation of the Section 80 Committees;
- d) That Council urgently consider the legitimacy of the Ward Committee status and Ward Committee members;
- e) That Council consider the effective functioning of Ward Committees with regard to number of meetings held, attendance, ward committee stipend;
- f) That Council must urgently consider and implement the Public Participation Unit;
- g) That available funds for training be used for other possible and available training;
- h) The Committee took note of the Mayoral donations provided and as a result the Committee recommends:
That the Policy regarding donations be reviewed bearing the following in mind-
 - i. More equal distribution to all organizations; and
 - ii. That the information recorded on the financial system be more comprehensive especially with regards to dates and beneficiaries.
- i) That the under expenditure of 26.91% on the Capital budget be noted and the impact that it may have on service delivery.

Lunch started: 13:15

Meeting reconvened: 14:00

The Speaker approved the ANC's caucus of 5 minutes.

Caucas started: 14:35

Meeting reconvened at 14:55.

PROPOSED: CLLR N.NEL proposed that the recommendation be accepted, and that the Municipal Manager engage with the opposition parties to resolve some issues on the Annual Report as discussed during the Council Meeting.

SECONDED: CLLR C.F. WILSKUT

COUNTER PROPOSAL: Cllr W.R. MEIRING proposed

- (a) That the recommendation by MPAC that the 2016/17 Annual Report be adopted without reservations be noted;
- (b) That the under expenditure of 26.91% on the Capital budget be noted and the impact that it may have on service delivery;
- (c) That the items listed under paragraphs b, d, e, f, g & h of the Report be noted and referred to the Administration for urgent attention and finalization / implementation where required.

SECONDED: CLLR J.F. VAN ZYL

Votes in favour of Cllr W.R. MEIRING's proposal: 21

Votes in favour of Cllr N. Nel's proposal: 17

The following Councillors requested that their votes in favour of Cllr N. Nel's proposal be recorded:

Cllr P. Marran

Cllr C. Ismail

Cllr N. Ismail

Cllr E.N. Isaacs

Cllr P.B. Langata

Cllr Z.M. Mangali

Cllr T. Maridi

Cllr S.M. Mkhiwane

Cllr V.I. Mngcele

Cllr C.M. Mohobo

Cllr J. Robinson

Cllr I.L. Thsabile

Cllr P. Tyira

Cllr M. T. Williams

Cllr N.P. Williams

Cllr C.F. Wilskut

RESOLVED

C20/2018

That in respect of -

SUBMISSION OF FINAL ANNUAL REPORT, ANNUAL FINANCIAL STATEMENTS, AUDITOR GENERAL'S REPORT, AUDIT AND PERFORMANCE AUDIT COMMITTEE REPORT; AND THE ADOPTION OF THE OVERSIGHT REPORT FROM THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR THE PERIOD 2016-2017 FINANCIAL YEAR

discussed by Council at the Council meeting held on 20 March 2018:

- (a) That the recommendation by MPAC that the 2016/17 Annual Report be adopted without reservations be noted;
- (b) That the under expenditure of 26.91% on the Capital budget be noted and the impact that it may have on service delivery;
- (c) That the items listed under paragraphs b, d, e, f, g & h of the Report be noted and referred to the Administration for urgent attention and finalization / implementation where required.

To Action

E. Cloete

6.3 BREDE VALLEY MUNICIPALITY CUSTOMER SERVICES CHARTER**File No./s:**3/15/1**Responsible Official:** C September**Directorate:** Strategic Support Services**Portfolio:** IDP/PMS

1. Purpose

To request Council's approval of the Breede Valley Municipality Customer Services Charter.

2. Background

Article 195 of the Constitution states that public administration must be conducted with the democratic values and principles enshrined in the Constitution. The Batho Pele Principles sets out the abovementioned values and principles to be utilized by Government in order to ensure excellence in the delivering of goods and services to communities. The Breede Valley Municipality Customer Services Charter will serve as a performance tool to guide administration in respect of service delivery. In addition, it also sets out Council's service standards and provides guidance in terms of the steps that municipal customers can follow if the Municipality does not deliver a service to that standard.

3. Comment

A copy of the Breede Valley Municipal Customer Services Charter is attached as Annexure "A".

4. Financial Implications

None

5. Applicable Legislation/Council Policy

Article 195 of the Constitution

Batho Pele Principles

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:

That in respect of

THE BREEDE VALLEY MUNICIPALITY CUSTOMER SERVICES CHARTER

Discussed by Council at the Council meeting held on 20 March 2018

1. That Council approve the Municipal Customer Services Charter

PROPOSED: CLLR P. MARRAN proposed that the Draft Municipal Customer Services Charter be workshopped and referred to Council for approval.

SECONDED: CLLR W.R. MEIRING

RESOLVED

C21/2018

That in respect of

THE BREEDE VALLEY MUNICIPALITY CUSTOMER SERVICES CHARTER

Discussed by Council at the Council meeting held on 20 March 2018

1. That the Draft Municipal Customer Services Charter be workshopped and referred to Council for approval.

To Action:

Cindy September

6.4 DEVIATIONS REPORT TO COUNCIL

File No./s: 2/1/1/1

Responsible Official: D.R.M Potgieter

Directorate: Finance

Portfolio: Finance

1. Purpose

The purpose of this report is to inform Council of all deviations from the Supply Chain Management Policy, approved by the delegated authority in terms of Paragraph 36 and of the Supply Chain Management Policy.

2. Background

The purpose of this report is to ensure that Council maintains oversight over the implementation of the Supply Chain Management Policy. In terms of Paragraph 36(13) of the said policy, the Accounting Officer must record the reasons for any deviations in terms of Paragraph 36(1)(b) of the policy and report to Council.

Deviations approved in terms of clause 36(1)(b) for the month of February 2018, are attached as **Annexure A**.

3. Financial Implications

None

4. Applicable Legislation / Council Policy

Municipal Finance Management Act. 2003, (Act 56 of 2003)
Breede Valley Supply Chain Management Policy, as amended.
Supply Chain Management Regulations

Comment of Directorates / Departments

Municipal Manager

Noted

Director: Strategic Support Services

Noted

Director: Financial Services

Noted

Director: Technical Services

Noted

Director: Community Services

Noted

Senior Manager: Legal Services

Noted

Annexures

Annexure A: Schedule of deviations from the procurement processes approved in terms of sub-delegations.

RECOMMENDATION

That In respect of

DEVIATIONS REPORT TO COUNCIL

Discussed by Council at the Council Meeting held on 20 March 2018

1. That the deviations from the procurement processes, approved in terms of the delegated authority for the month of February 2018, **be noted**.

RESOLVED

C22/2018

That In respect of

DEVIATIONS REPORT TO COUNCIL

Discussed by Council at the Council Meeting held on 20 March 2018

1. That the deviations from the procurement processes, approved in terms of the delegated authority for the month of February 2018, **be noted**.

To Action

M. Potgieter

6.5 WATER SERVICES DEVELOPMENT PLAN

File No. /s: 11/1/B

Responsible Official: C. Posthumus

Directorate: Technical Services

Portfolio: Civil Engineering Services

1. Purpose

The purpose of this item is for Council to approve the Breede Valley Municipality Water Services Development Plan for 2018 - 2023.

2. Background

Section 12 and 13 of the Water Services Act (Act 108 of 1997) makes it compulsory for every Water Services Authority to compile a Water Services Development Plan (WSDP). The Breede Valley Municipality is the responsible Water Services Authority in its area of jurisdiction. In addition to being a legal requirement, the WSDP provides the basis of planning for water services in a Water Services Authority, serving as input to the Integrated Development Planning process. The WSDP provides information on, inter alia, water sources and quality, water balance, water services infrastructure and institutional arrangements for water services.

The primary purpose of the WSDP is to assist WSA's to carry out their mandate effectively. It is an important tool to assist the WSA to develop a realistic long-term investment plan which prioritises the provision of basic water services, promotes economic development and is affordable and sustainable over time.

The WSDP is a five-year plan that is aligned with the IDP process. The WSDP analyse data and information in order to support the planning of water services. This then provides an opportunity for the Breede Valley Municipality to recognize shortfalls and optimally utilize the data to address gaps by developing strategic plans in order to reach the Municipality's strategic objectives.

3. Financial Implications

There will be no financial costs in the development of the Water Services Development Plan, as the plan has been developed internally by the Civil Engineering Services Department.

4. Applicable Legislation / Council Policy

Sections 12 and 13 of the Water Services Act (Act No 108 of 1997).

Comment of Directorates / Departments concerned

Municipal Manager:

Director: Community Services: The report is noted

Director: Strategic Support Services: Supported

Senior Manager: Legal Services: Recommendation supported

Director: Financial Services: Supported

Director: Technical Services: The item and recommendation are supported.

RECOMMENDATION

That in respect of

ACCEPTANCE BY COUNCIL OF THE WATER SERVICES DEVELOPMENT PLAN, 2017/18

discussed by the Council at the Council meeting held on 20 March 2018:

1. the Water Services Development Plan 2018 to 2023 be accepted as the Water Services Development Plan for the Breede Valley Municipality.

PROPOSED: CLLR W. R. MEIRING

SECONDED: CLLR E.Y. SHELDON

RESOLVED

C23/2018

That in respect of

ACCEPTANCE BY COUNCIL OF THE WATER SERVICES DEVELOPMENT PLAN, 2017/18

discussed by the Council at the Council meeting held on 20 March 2018:

1. the Water Services Development Plan 2018 to 2023 be accepted as the Water Services Development Plan for the Breede Valley Municipality.

To Action

C. Posthumus

6.6 SOCIAL DEVELOPMENT PLAN FOR THE BREDE VALLEY MUNICIPALITY**File No./s:** 10/3/8**Responsible Official:** W THYS**Directorate:** Community Services**Portfolio:** Community Development

1. Purpose

To obtain Council's approval for the Social Development Plan for the Breede Valley Municipality.

2. Background

The Municipal Social Development plan was first drafted in the 2015/16 financial year. The Plan was submitted to the Director Community Services for approval and also inclusion in the IDP.

In this Plan, we provide a guideline for Community Development throughout the entire municipality. This guideline includes plans, programmes and projects that can be initiated to help the municipality to develop our communities and improve the quality of life.

This is a five-year plan and we need to review some aspects in this plan for to the next few years.

3. Financial Implications

This plan is not funded. Implementation of this plan take place with various stakeholders and will be submitted to them for funding and support. Some programmes and projects can be funded internally from our annual operation budget.

4. Applicable Legislation / Council Policy

- a) South African Constitution, Act no 108 of 1996, Chapter 11, Sec 198(a)
 - b) South African Police Service Act No 68 of 1995
 - c) The Municipal Structures Act, No 117 of 1998
 - d) The Municipal Systems Act, No 32 of 2000
 - e) Inter – governmental Relations Framework Act
 - f) National Crime Prevention Strategy, 1996.
-

- g) White Paper on Safety and Security, 1998.
 - h) White Paper on Local Government 1998
 - i) Aged Persons Act, Act 81 of 1967
 - j) Child Care Act, 1983, act 74 of 1983
 - k) Social Assistance Act, 1992, Act 59 of 1992 (2004, Act 13 of 2004)
 - l) Non-Profit Organizations Act, 1997, Act 71 of 1997
 - m) Social Development Act, 2001,
 - n) 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.

Comments of Directorates / Departments

Municipal Manager: Recommendation supported

Director: Strategic Support Services: In terms of delegation, POL.1.03 Council has not sub-delegated the approval of Policies and Strategies. In terms of delegation, POL.1.04 the municipal manager is authorised to approve operational procedure. The Social Development Plan set out a board framework of the municipal Social Development responsibilities.

Senior Manager: Legal Services: Recommendation supported

Director: Financial Services: Recommendation supported

Director: Technical Services: The plans, programmes and projects should be included in the Medium Term Expenditure Framework (MTEF) as the plans, programmes and projects are prioritized during the budget processes. The SOCIAL DEVELOPMENT PLAN FOR THE BREEDE VALLEY MUNICIPALITY, is supported.

Director: Community Services: Social Development Plan is supported. It deals with all the social development issues in municipal area, mandated by SA Constitution, section 152 (1) (c), "to promote social and economic development" Roll out of programmes and projects will be in partnership with NGO's and government departments.

We submit the Social Development Plan to Council as it have the same status as other sectors plans, like the Waste Management Plan or Disaster Management Plan

Community Development Officer: This plan provides a general guideline to this institution to facilitate the process of sustainable community/social development. It can ultimately ensure the inclusion of the broader civil society and maintain stronger partnerships across all sectors. The Social Development Plan is supported.

RECOMMENDATION

That in respect of –

SOCIAL DEVELOPMENT PLAN FOR THE BREEDE VALLEY MUNICIPALITY

as discussed by Council at the Council meeting held on 20 March 2018:

1. That Council adopts and approve the Social Development Plan for the municipality.

PROPOSED: CLLR S.J.MEI proposed that the Draft Social Development Plan be workshopped and referred to Council for approval.

SECONDED: CLLR M. SAMPSON

RESOLVED

C24/2018

That in respect of –

SOCIAL DEVELOPMENT PLAN FOR THE BREEDE VALLEY MUNICIPALITY

as discussed by Council at the Council meeting held on 20 March 2018:

1. That the Social Development Plan be workshopped and referred back to Council for approval.

To Action:

W. Thys

6.7 PROPOSED ALIENATION OF MUNICIPAL PROPERTY FOR INSTITUTIONAL PURPOSES (PLACE OF ASSEMBLY): A PORTION OF ERF 6603 WORCESTER

File no.: 9/2/1/R

Responsible Official: H Potgieter

Directorate: SSS

Portfolio: SSS

1. PURPOSE

This item is submitted to Council to obtain approval for the alienation of a portion of Erf 6603 Worcester, ±2500m² in extent, for institutional purposes (place of assembly), by means of a competitive process.

2. BACKGROUND

Erf 6603 Worcester, 3833m² in extent, is an unimproved Erf situated in Sampson Street, Riverview. The property is zoned as Institutional Zone 1. Various enquiries, confirming the interest in the said property, have been received from the Worcester community about the availability of institutional erven in Worcester. The locality map and proposed subdivision plan is attached as Annexures A and B respectively.

During Council meeting held on 23 February 2016, it was resolved as follows:

“That in respect of the PROPOSED ALIENATION OF COUNCIL PROPERTY FOR INSTITUTIONAL PURPOSES (PLACE OF ASSEMBLY): PORTION OF ERF 6603:

1. That Council in principle supports the alienation of the mentioned property subject to the following conditions:

1.1 That Council notes that said capital asset is not needed for basic municipal services;

1.2 Immovable property is alienated for religious purposes/institutional purposes in line with the Supply Chain Management and Land disposal policy;

1.3 That the administration be mandated to administer the processes of disposal of the property;

1.4 That the administration be mandated to make public the intention in line with the legislative requirement;

1.5 That the administration be mandated to obtain a market related price;

1.6 That portion marked "A" on the proposed sub divisional plan of Erf 6603 measuring 2500m² be made available and alienated;

1.7 That all cost pertaining to subdivision and land surveying fees be for the applicant's account; and

1.8 That the item reverts back to Council following the public participation process for further consideration and decision."

The public participation process as prescribed in applicable legislation was duly followed and a notice was placed in the Worcester Standard on 17 March 2016. No written objections or comments were received in this regard.

Subsequently, the matter was tabled before Council on 6 December 2017. At said meeting Councillors were of the opinion that following a public meeting, uncertainty existed in the community with regards to the specific portion of Erf 6603 Worcester to be alienated as well as the location thereof. It was thus indicated that the public participation process was to be followed again to specifically include a locality map of the subject portion to be alienated. Consequently, the item was withdrawn.

A further notice was placed in the local newspaper on 25 January 2018. This advertisement, attached hereto as "Annexure C", contained a locality map of the subject portion of Erf 6603 Worcester to be alienated which indicated also the physical address. No written objections or comments were received in respect of the proposed alienation.

In accordance with the provisions of Regulation 7 of the Municipal Asset Transfer Regulations, R878 of 2008 the following was taken into account upon the transfer of this non-exempted capital asset:

- (a) whether the capital asset may be required for the Municipality's own use at a later date;**
-

The asset will not be required for Municipal use, specifically in that it is not needed for the provision of basic municipal services and also not required for operational services.

(b) the expected loss or gain that is expected to result from the proposed transfer or disposal;

The portion of Erf 6603 will be alienated by means of a competitive process and a market related purchase price will be the indicative price for prospective bidders.

HCB Group Valuers determined the market related value of the whole Erf 6603 Worcester ($\pm 3833\text{m}^2$ in extent) in March 2018 at an amount of R460 000,00 (FOUR HUNDRED AND SIXTY THOUSAND RAND ONLY) (VAT excluded). This results in a market related value of approximately R120,00 (ONE HUNDRED AND TWENTY RAND ONLY) (VAT excluded) per square metre. The indicative value of the remainder of the subject property to be alienated will thus be determined in accordance with the said square metre price. This amounts to R300 000,00 (THREE HUNDRED THOUSAND RAND ONLY) (VAT excluded) calculated by multiplying the market related amount of R120,00 (ONE HUNDRED AND TWENTY RAND ONLY) (VAT excluded) per square metre with the subject portion's total square metres, being 2500.

(c) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the Municipality;

The Municipality will receive payment of the purchase price which will be a financial benefit to the Municipality. Rates and taxes will furthermore be paid to the Municipality.

(d) the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the Municipality's interests;

There will only be rewards applicable in relation to the Municipality's interests.

(e) the effect that the proposed transfer or disposal will have on the credit rating of the Municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;

No detrimental effect will be experienced on the credit rating.

(f) any limitations or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;

The property is only to be utilized in accordance with Institutional Zone I usage.

(g) the estimated costs of the proposed transfer or disposal;

The successful bidder/purchaser will be liable for all costs, excluding the cost for the valuation of the property. Subsequently, the cost will *inter alia* entail the transfer costs and the connection of services.

(h) the transfer of any liabilities and reserves funds associated with the capital asset;

No transfer of reserve funds is associated with the asset.

(i) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;

The required public participation process was followed and no written comments or objections were received from the local community or other interested persons.

(j) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant Provincial Treasury;

The written views and recommendations of National Treasury and the relevant Provincial Treasury are not required.

(k) the interests of any affected organ of state, the Municipality's own strategic, legal and economic interests and the interests of the local community; and

No interests will be affected.

(i) compliance with the legislative regime applicable to the proposed transfer or disposal.

The proposed transfer or disposal is in compliance with:

The Local Government: Municipal Finance Management Act, No.56 of 2003.

Local Government: Municipal Finance Management Act, No.56 of 2003: Municipal Asset Transfer Regulations, R.878 of 2008.

Breede Valley Municipality Supply Chain Policy, as amended

Land Management and Disposal Policy of the Breede Valley Municipality, as amended

CONCLUSION:

It is recommended that the subject portion of Erf 6603 Worcester be alienated by means of a competitive process at a market related value.

Furtermore, it is recommended that the suceessfull bidder/purchaser be liable for all costs, excluding the cost for the valuation. Subsequently the cost will entail *inter alia* the transfer costs, sub-division and the connection of services.

FINANCIAL IMPLICATIONS:

The Municipality stands to gain a market related purchase price for the property.

At minimum the Municipality stands to gain the market related valuation, determined at R120,00 (ONE HUNDRED AND TWENTY RAND ONLY) (VAT excluded) per square metre. This being the amount of R300 000.00 (THREE HUNDRED THOUSAND RAND ONLY) (VAT excluded) calculated by multiplying the market related amount of R120,00 (ONE HUNDRED AND TWENTY RAND ONLY) (VAT excluded) per square metre with the subject portion's total square metres, being 2500.

In addition income will also be received from rates and taxes.

RELEVANT LEGISLATION:

The Local Government: Municipal Finance Management Act, No.56 of 2003.

Local Government: Municipal Finance Management Act, No.56 of 2003: Municipal Asset Transfer Regulations, 2008

Breede Valley Municipality Supply Chain Policy, as amended

Land Management and Disposal Policy of the Breede Valley Municipality, as amended

COMMENTS OF DIRECTORATES:**MUNICIPAL MANAGER:**

Recommendation supported

DIRECTOR TECHNICAL SERVICES:

Recommendation supported

DIRECTOR FINANCIAL SERVICES:

Supported

DIRECTOR COMMUNITY SERVICES:

Item supported

DIRECTOR STRATEGIC SUPPORT SERVICES:

Recommendation supported

SENIOR MANAGER: LEGAL SERVICES

Author of the item.

Section 14 of the Local Government : Municipal Finance Management Act, 2003 (No. 56 of 2003) prescribes that "*A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.*"

Also take note that Section 14(5) of the Local Government : Municipal Finance Management Act, 2003 (act 56 of 2003) prescribes that "*Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy.*" Due to the aforesaid, a competitive bidding process is proposed.

Recommendation supported.

Recommendation:

That in respect of

**PROPOSED ALIENATION OF MUNICIPAL PROPERTY FOR INSTITUTIONAL PURPOSES
(PLACE OF ASSEMBLY): PORTION OF ERF 6603 WORCESTER**

As discussed by Council at the Council meeting held on 20 March 2018:

1. That it be noted that a public participation process was followed and no written objections or comments were received;
-

2. that the alienation of unregistered portion of Erf 6603 Worcester, marked "A" on the proposed sub-division plan (Annexure B), measuring ±2500m², at a market related price (indicative value of the property) for religious/institutional purposes by means of a competitive process **be approved**;
3. that it is confirmed that Council has taken cognizance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003);
4. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, surveying and subdivision costs, etc. but excluding the valuation costs, be paid by the successful bidder/purchaser;
5. that the subsequent Deed of Sale be made subject to any conditions imposed by the respective user departments and to be conformed to by the successful bidder/ purchaser to the satisfaction of the Municipality;
6. that a reversion clause be included in the Deed of Sale and registered against the Title Deed that the subject property, being a portion of Erf 6603, be utilized in accordance with Institutional Zone I usage (religious purposes) and should the successful bidder/purchaser fail to erect a building within two (2) years from date of registration and fail to use the property as specified, the erf will revert back to the Municipality free of charge or liability;
7. that the successful bidder/purchaser to the satisfaction of the Municipality comply with all internal Municipal Departments' procedures and requirements, *inter alia* subdivision, submission of building plans, application for services, bulk services, site development plan etc.; and
8. That the Municipal Manager be authorised to sign all documents relating to the alienation of the subject portion of Erf 6603 Worcester.

PROPOSED: CLLR J.F. VAN ZYL

SECONDED: CLLR J.P. KRITZINGER

VOTES IN FAVOUR OF CLLR J.F. VAN ZYL'S PROPOSAL: 19

THE ANC HAVE ABSTAINED FROM VOTING.

RESOLVED

C25/2018

That in respect of

**PROPOSED ALIENATION OF MUNICIPAL PROPERTY FOR INSTITUTIONAL PURPOSES
(PLACE OF ASSEMBLY): PORTION OF ERF 6603 WORCESTER**

As discussed by Council at the Council meeting held on 20 March 2018:

1. That it be noted that a public participation process was followed and no written objections or comments were received;
2. that the alienation of unregistered portion of Erf 6603 Worcester, marked "A" on the proposed sub-division plan (Annexure B), measuring $\pm 2500\text{m}^2$, at a market related price (indicative value of the property) for religious/institutional purposes by means of a competitive process **be approved**;
3. that it is confirmed that Council has taken cognizance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003);
4. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, surveying and subdivision costs, etc. but excluding the valuation costs, be paid by the successful bidder/purchaser;
5. that the subsequent Deed of Sale be made subject to any conditions imposed by the respective user departments and to be conformed to by the successful bidder/ purchaser to the satisfaction of the Municipality;
6. that a reversion clause be included in the Deed of Sale and registered against the Title Deed that the subject property, being a portion of Erf 6603, be utilized in accordance with Institutional Zone I usage (religious purposes) and should the successful bidder/purchaser fail to erect a building within two (2) years from date of registration and fail to use the property as specified, the erf will revert back to the Municipality free of charge or liability;
7. that the successful bidder/purchaser to the satisfaction of the Municipality comply with all internal Municipal Departments' procedures and requirements, *inter alia* subdivision, submission of building plans, application for services, bulk services, site development plan etc.; and
8. That the Municipal Manager be authorised to sign all documents relating to the alienation of the subject portion of Erf 6603 Worcester.

TO ACTION**H POTGIETER**

6.8 AMENDMENTS OF TWO CONTRACTS [(1) THE SUPPLY OF MULTIFUNCTION OFFICE MACHINES AND (2) THE PROVISION AND MAINTENANCE OF INTERNET (AND RELATED SERVICES)] PROCURED THROUGH THE SUPPLY CHAIN MANAGEMENT POLICY OF THE MUNICIPALITY IN COMPLIANCE WITH SECTION 116(3) OF THE MFMA.

File No./s: 5/1/2/3/1

Directorate: Strategic Support Services

Responsible Official: B Magawu

Portfolio: ICT

1. Purpose

To obtain Council's approval to amend the following two contracts in compliance with section 116(3) of the Municipal Finance Management Act 56 of 2003:

1. the supply of multifunction office machines and
2. the provision and maintenance of internet (and related services)

Both the above contracts were procured in compliance with the Supply Chain Management Policy of the municipality.

The objective is to amend the contracts to allow the current service providers to deliver the services to the municipality on a month to month basis from 1 April 2018 for a period not exceeding 12 (twelve) months, to allow the conclusion of a tender processes.

2. Background

Contracts for the supply of multifunction office machines

Breede Valley Municipality has a recurring contract for the rental of multi-functional office machines (inclusive of related services) every three years. The current contract in terms of tender BV357 with Nashua is ending 31 March 2018. The municipal administration is now approaching council to extend the existing contract (on a month-to-month) to ensure municipal operations continue as normal, while a new tender process is being finalised. Breede Valley Municipality currently makes use of 68 multi-functional office machines, which vary in size, specification and output capability, to suit the needs of the various user departments.

The administration initially started a process at the end of last year to consider reacquiring the service of renting the current multifunctional office machines at a reduced cost and alternatively to acquire refurbished/second-hand machines. The reason for this is that the current machines are functioning very well and the municipality has first-hand experience of the current capability of the machines. In addition, refurbished machines could have been rented at a reduced cost.

However, second-hand machines do present a significant risk for council as the performance of the machines could not be guaranteed. Another concern with the rental of second-hand machines is that although we have service standards that require the service provider to attend to faulty machines within certain hours, it would be very disruptive to service delivery if repairs to faulty machines occur too frequently.

Our investigation into the refurbish/ second-hand machines revealed that second-hand machines and even continuing with the current machines presents to great a risk for service delivery and the decision was concluded during January 2018, that the acquiring of second-hand machines are not a viable option. This investigation resulted in a delay in concluding the bid documents.

It would take at least another six months to finalise the bid process for rental of new machines.

Contract for the provision and maintenance of internet services

BVM invited tenders for the provision of internet services in terms of tender BV621. This tender was adjudicated on 27 September 2017 and was awarded to Innovo Networks (Pty).

An objection was lodged by Linux Based System Design on 4 October 2017. The outcomes of the objection were tabled by the impartial person, to the Accounting Officer, on 6 November 2017.

The BV621 tender specifications required bidders to have a licence to provide services for the following products:

- IDMS Linux Enterprise V7
- Dansguardian – Data lists are used under license from 3rd parties who own the data lists
- IDMS Linux Enterprise V4

As part of the evaluation process, the Evaluation Committee requested Innovo Networks (Pty) to submit a detailed project plan with clear deliverables & time frames, associated risks and how to mitigate those risks. In the project plan, it was requested that Innovo Networks (Pty) should highlight how they would undertake the transitional arrangements, should they be considered for the award and take over from the current service provider.

In this way due diligence was performed by the evaluation committee and Innovo Networks (Pty) presented themselves as capable do deliver the services as specified in the BV621 tender.

Based on the recommendations received from the impartial person, the tender had to be cancelled due to the fact that Innovo Networks (Pty) misrepresented their holding of the licenses.

The matter was tabled in the Bid Adjudication Committee for a formal cancellation and was cancelled on 14 December 2017.

Brede Valley Municipality is currently on a month to month contract for the provision and maintenance of internet and related services with Linux Based System Design. The current contract is ending 31 March 2018; hence, the municipality needs to opt for the extension of the existing contract (on a month-to-month) in order to follow a new tender process to ensure municipal operations continue as normal, while the new tender is being implemented.

3. Financial Implications

Both contracts have been budgeted for in the current & next financial year and are funded.

4. Applicable Legislation / Council Policy

Municipal Finance Management Act, section 116 (3) stats:

"A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—

- a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and*
- b) the local community—*
 - i. has been given reasonable notice of the intention to amend the contract or agreement; and*
 - ii. has been invited to submit representations to the municipality or municipal entity."*

In compliance with section 116(3)(b) an advert was placed in the Cape Times on 12 March 2018, calling on the local community to submit representation by 26 March 2018.

Comment of Directorates / Departments

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

Senior Manager: Legal Services

Recommendation supported

RECOMMENDATION

That in respect of -

AMENDMENTS OF TWO CONTRACTS [(1) THE SUPPLY OF MULTIFUNCTION OFFICE MACHINES AND (2) THE PROVISION AND MAINTENANCE OF INTERNET (AND RELATED SERVICES)] PROCURED THROUGH THE SUPPLY CHAIN MANAGEMENT POLICY OF THE MUNICIPALITY IN COMPLIANCE WITH SECTION 116(3) OF THE MFMA as discussed by Council at the Council meeting held on 20 March 2018:

1. Council note that in compliance with section 116(3) of the Municipal Finance Management Act 56 of 2003 the following contracts:
 - a. the supply of multifunction office machines; and
 - b. the provision and maintenance of internet (and related services)be amended to allow the current service providers to deliver the services to the municipality on a month to month basis from 1 April 2018 for a period not exceeding 12 (twelve) months.
2. Council note that reasonable notice was given to the local community of council's intention to amend the two contracts as set out in (1) above and;
3. That the local community was invited to submit representations to the municipality on the intended amendment of the two contracts within 14 days from the date notice appeared in the Cape Times on 12 March 2018.
4. The municipal managers is authorised to evaluate the representation received if any and make a final decision on the amendment of the contracts as per (1) above.

PROPOSED: CLLR J.F. VAN ZYL proposed that the period of 12 months be shortened to 6 months.

SECONDED: CLLR J.R. JACK

VOTES IN FAVOUR OF CLLF J.F. VAN ZYL'S PROPOSAL: 20

RESOLVED

C26/2018

That in respect of -

AMENDMENTS OF TWO CONTRACTS [(1) THE SUPPLY OF MULTIFUNCTION OFFICE MACHINES AND (2) THE PROVISION AND MAINTENANCE OF INTERNET (AND RELATED SERVICES)] PROCURED THROUGH THE SUPPLY CHAIN MANAGEMENT POLICY OF THE MUNICIPALITY IN COMPLIANCE WITH SECTION 116(3) OF THE MFMA

Discussed by Council at the Council meeting held on 20 March 2018:

1. Council note that in compliance with section 116(3) of the Municipal Finance Management Act 56 of 2003 the following contracts:
 - a. the supply of multifunction office machines; and
 - b. the provision and maintenance of internet (and related services)
-

be amended to allow the current service providers to deliver the services to the municipality on a month to month basis from 1 April 2018 for a period not exceeding 6 (six) months.

2. Council note that reasonable notice was given to the local community of council's intention to amend the two contracts as set out in (1) above and;
3. That the local community was invited to submit representations to the municipality on the intended amendment of the two contracts within 14 days from the date notice appeared in the Cape Times on 12 March 2018.
4. The municipal managers are authorised to evaluate the representation received if any and make a final decision on the amendment of the contracts as per (1) above.

To Action:

B Magawu

6.9 DRAFT COMMUNICATION STRATEGY/POLICY**File No./s:** 2/6**Responsible Official:** J.R. Botha**Directorate:** Strategic Support Services**Portfolio:** Communication

1. Purpose

To obtain Council's approval of the draft Communication Strategy/Policy.

2. Background

The communication strategy/ Policy aims to meet the challenges of post 2014 developmental local government, be sensitive to the communication needs of the Breede Valley community and include developments within the three spheres of government. Central to achieving improved dialogue and participation with communities is the development of a structured, people centred communication strategy/ policy to ensure the participation of communities in governance.

The legal framework guides the strategy/ policy and enshrines the community's right to be heard/ consulted/ informed and play an active role in matters that impact on their lives. It identifies target audiences and provides a line of hierarchy and authorisation to ensure that communication across the Breede Valley are well co-ordinated, effectively managed and responsive to the needs of the public. It provides guidelines for the use of language and encourage multilingualism as a tool for building relationships with the community.

In addition to programs of action to enhance service delivery the strategy also caters for real challenges/ threats to the performance and image of the municipality as well as the effect of violence on BVM's image as a caring municipality.

The strategy/ policy is informed by the IDP and other spheres of government. It is a dynamic document and to ensure transparency and alignment to the IDP (and wishes of the community) it will be revised annually.

The Supreme Court of Appeal in *Drift Supersands* on 22 September 2017 reminded us again of our constitutional obligation to encourage the public to participate in 'policy-making' and municipal 'decision-taking' in order to ensure procedural fairness, not only for the protection of citizens' rights, but also to facilitate trust in the public administration and in our participatory democracy.

Therefore, any policy that affect the public must be advertised for public comments prior to its final approval in Council.

3. Financial Implications

None

4. Applicable Legislation / Council Policy

Contained in document

Comment of Directorates / Departments

Acting Municipal Manager (Director Strategic & Support Services): Recommendation supported

Director: Strategic Support Services: Recommendation supported

Director: Financial Services: None

Director: Technical Services: Recommendation supported

Director: Community Services: Recommendation supported

Senior Manager: Legal Services: Recommendation supported

RECOMMENDATION

**That in respect of the
DRAFT COMMUNICATION STRATEGY/POLICY**

1. That Council in principle approves the Draft Communication Strategy/Policy to be workshopped with Councillors;

PROPOSED: CLLR J.F. VAN ZYL

SECONDED: CLLR J.R. JACK

RESOLVED

C27/2018

**That in respect of the
DRAFT COMMUNICATION STRATEGY/POLICY**

1. That Council in principle approves the Draft Communication Strategy/Policy to be workshopped with Councillors.

To Action

J. Botha

6.10 AMENDMENT TO THE MUNICIPAL LAND USE PLANNING BY-LAW, 2015

File No. /s: 1/B
Directorate: SSS

Responsible Official: I Roos
Portfolio: SSS

1. Purpose

To obtain Council's approval for undermentioned amendment to the Municipal Land Use Planning By-Law and the mandating of Administration to advertise such amendment in accordance with section 12(3) of the Local Government: Municipal Systems Act, 32 of 2000 for public comments and/or representations.

2. Background

At the Council meeting held on 25 June 2015 Council resolved that the Municipal Land Use Planning By-Law be approved and published in the Provincial Gazette. The By-Law was published on 8 September 2015 in Provincial Gazette 7485. In section 77(1) of the By-Law it states that **Council** is the Appeal Authority (see extraction hereof attached as Annexure A).

At the same Council meeting of 25 June 2015, whilst constituting the Municipal Planning Tribunal and with resolution number C40/2015 (attached as Annexure B), Council resolved that:

*"The **Executive Mayor** be designated as the appeal authority....."*

The above resolution was taken in accordance with section 51 of the Spatial Planning and Land Use Management Act, 16 of 2013 (SPLUMA) that states the following:

- "51.(1) A person whose rights are affected by a decision taken by a Municipal Planning Tribunal may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of notification of the decision.*
- (2) The municipal manager must within a prescribed period submit the appeal to the executive authority of the municipality as the appeal authority.**
 - (3) The appeal authority must consider the appeal and confirm, vary or revoke the decision.*
 - (4) A person whose rights are affected within the provisions of subsection (1) includes-*
 - (a) an applicant contemplated in section 45(1);*
 - (b) the municipality where the land affected by the application is located;*
-

- (c) *an interested person who may reasonably be expected to be affected by the outcome of the land development application proceedings.*
- (5) *An interested person for the purpose of subsection 4(c) must be a person having a pecuniary or proprietary interest who is adversely affected or able to demonstrate that she or he will be adversely affected by the decision of the planning tribunal or an appeal in respect of such a decision.*
- (6) *A municipality may, in the place of its executive authority, authorize that a body or institution outside of the municipality or in a manner regulated in terms of a provincial legislation, assume the obligations of an appeal authority in terms of this section.*
- (7) *No appeal in respect of a decision taken in terms of our pursuant to this Act may be lodged in terms of section 62 of the Municipal Systems Act.*

“Executive authority” is being defined in section 1 of SPLUMA as: *“in relation to a municipality, means the executive committee or executive mayor of the municipality or, if the municipality does not have an executive committee or executive mayor, a committee of councilors appointed by the Municipal Council.”*

It must furthermore be noted that section 156(3) of the Constitution of the Republic of South Africa, 1996 states that *“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.”*

From the above explanation, it is therefore clear that the By-Law must be amended to stipulate that the **Executive Mayor** is the appeal authority. (see amendment attached as Annexure C).

Section 12(3) of the Local Government: Municipal Systems Act, 32 of 2000 states that:

“No by-law may be passed by a municipal council unless –

- (a) all the members of the council have been given reasonable notice; and*
(b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regards to the proposed by-law.”

3. Financial Implications

Provision has been made in the current budget for the costs of advertisement of By-Laws for public comment.

4. Applicable Legislation / Council Policy

Local Government: Municipal Systems Act, 32 of 2000
Spatial Planning and Land Use Management Act, 16 of 2013
Constitution of the Republic of South Africa, 1996

Comment of Directorates / Departments concerned**Municipal Manager (Director: Strategic & Support Services):** Recommendation is supported**Director: Strategic & Support Services:** Co-author of the item.**Director: Financial Services:** None.**Director: Technical Services:** Recommendation is supported.**Director: Community Services:** Recommendation is supported.**Senior Manager: Legal Services:** Recommendation noted.**Senior Manager: Planning and Development (Mr PSJ Hartzenberg):** Recommendation is supported.**RECOMMENDATION**

That in respect of

AMENDMENT TO THE MUNICIPAL LAND USE PLANNING BY-LAW, 2015

discussed by Council at the Council meeting held on 20 March 2018:

1. That Council approve the amendment made to section 1 and 77 of the Municipal Land Use Planning By-Law, 2015 to stipulate that the Executive Mayor is the appeal authority (**annexure C**); and
2. That the administration be authorised to advertise such amendment in accordance with section 12(3) of the Local Government: Municipal Systems Act, 32 of 2000 for public comments and/or representations; and
3. That all comments and/or representations be collated and submitted to Council for final approval of the proposed amendment and promulgation thereof in the Provincial Gazette.

RESOLVED**C28/2018**

That in respect of

AMENDMENT TO THE MUNICIPAL LAND USE PLANNING BY-LAW, 2015

discussed by Council at the Council meeting held on 20 March 2018:

1. That the item stands over until the next Council Meeting.

To ActionI. Roos

The ANC requested a caucus
Caucas started: 18:00
Meeting reconvened: 18:20

7. **CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER**

8. **CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF THE COUNCIL**

9. **CONSIDERATION OF NOTICES OF MOTION AND NOTICES OF QUESTIONS WHICH SHALL APPEAR ON THE AGENDA IN THE ORDER IN WHICH THEY HAVE BEEN RECEIVED BY THE MUNICIPAL MANAGER**

9.1 **NOTICE OF MOTION SUBMITTED BY CLLR Z.M.MANGALI: MANDELA NORTH: SERVICE DELIVERY, HEALTH AND SAFETY**

RESOLVED

C30/2018

That

1. **A meeting be held with the Health official from Cape Winelands District Municipality;**
2. **A follow up on the repairs of Mandela North must be conducted and a comprehensive plan must be drafted;**
3. **The relocation of the residents of Mandela North to Transhex must also be discussed in this comprehensive plan;**
4. **The issue of water and toilets must also be addressed through plastic pipes and chemical toilets for these residents.**

Mr T. Serfontein must engage with The Technical Service Director and the Ward Councillor, Thursday, 22 March 2018 to attend to the cleaning of the area where the pigs were held.

Proposed: Cllr P. Tyira

Seconded: Cllr M.N. Bushwana.

MOTION	WARD 16
COUNCILLOR	MOSES MANGALI
ISSUE	MANDELA NORTH

Dear Office of the Speaker

RE: SUBMISSION MOTION OF MANDELA NORTH

As the Councillor of ward 16 I am submitting this motion under the following matter that are a very big challenge for the people of ward 16

- Service delivery
- Health
- Safety

SERVICE DELIVERY

-Water, Electricity & Toilets

It's been over 17 years the people from Mandela North have been living there without Water, Electricity and Toilets. We as the councillors it is our duty to bring change to our people and deliver on the service. These people use to use the area that the Avian park people occupied now it's hard for them to go and relieved themselves because it's not safe at all. People have to walk a distance to fetch water which is 4 to 5 km. No one can survive without electricity so please these people are in need of the these. As the Breede Valley Municipality claims that it cares for the people now it's the right time for it to show the people how much it cares for them as this is affecting young to older people or even disables people.

HEALTH

The Mandela North is not clean and there was an area that was occupied by pigs and now it's vacant and due to that certain area 90% of children are having a rash because they didn't clean that area. The children are playing in that site which is not clean and it cause them to get sick and have the rash. It is not a healthy lifestyle people going to bed without water, even at night it's a risk sleeping without water especially when you have children living with you or even a patient.

SAFETY

The safety is the major and very important issue. The fact that we don't have street it is impossible for the Ambulances to enter the Mandela North and from late 2016 to 2018 many people have died in waiting of an ambulances and some of them burnt to death due to the fact that the fire Brigade can't reach the burning shack. The crime has increased and the people are not safe at all because the Mandela North it's dark no lights and no streets, we find that people are being mugged and robbed, stabbed and you will see that person the next morning dead. The children are also not safe at all because late they get missing and the rape has also increased in Zwelethemba leaving the children not safe at all. The parents don't trust anyone and it's hard for them to leave their children alone at night. The Mandela North is not safe at all especially now that there is also the Avian Park People, some of them are gang members so it's not safe for the children.

for Council Meet 20 March 2018


12/03/18

10. CONSIDERATION OF MOTIONS OF EXIGENCY

The DA requested a caucus of 15min

Caucus started: 19:00

Meeting reconvened: 19:10

Cllr C.F. Wilskut argued that the Motion submitted on 27 February 2018 was not finalised and that the Executive Mayor should report on her findings. The Councillor also referred to the letter issued by the Speaker whereby he was informed that the requests as put forward by Councillor C.F. Wilskut could not be acceded to.

The Speaker indicated that the Motion could be forwarded to the Council Meeting scheduled for 28 March 2018 for discussion and finalisation.

Extensive deliberation ensued, and the Speaker urged the meeting not to revert to voting on the issue as all Councillors are in favour of actions and programmes that will curtail the violence in Avian Park.

The BO requested a 5 min caucus

Caucas started: 20:10

Meeting reconvened: 20:25

After the caucus break, the Executive Mayor tabled the following for consideration:

1. That an amount of R500 000.00 be made immediately available for crime prevention programmes in Avian Park;
2. That an amount of R500 000.00 be made available in the 2018/19 financial year to augment the allocation in paragraph 1;
3. That a multi-party committee be established to determine the programmes and activities that will be funded by the available funds;
4. That the members of the community be included in all deliberations and rolling out of programmes and that the Executive Mayor determine the community representation;
5. That parties forward their delegates to the Executive Mayor by 28 March 2018;

After a caucus break Councillor C.F. Wilskut under a Motion of Exigency, moved that the Motion introduced on 27 March 2018 be amended as follows:

RESOLVED

C29/2018

1. That an amount of R500 000.00 be made immediately available for crime prevention programmes in Avian Park;
 2. That an amount of R500 000.00 be made available in the 2018/19 financial year to augment the allocation in paragraph 1;
 3. That a multi-party committee be established to determine the programmes and activities that will be funded by the available funds;
-

4. That the members of the community be included in all deliberations and rolling out of programmes and that the Executive Mayor determine the community representation;
5. That parties forward their delegates to the Executive Mayor by 28 March 2018;
6. That service delivery in Avian Park be improved and that the assistance of the SAPS be established to protect Council's teams if so required.

Seconded: Cllr I. Thsabile

Votes in favour of Cllr C.F. Wilskut's Motion of Exigency: 28

Council unanimously accepted the Motion of Exigency.

10. CLOSURE

The Speaker closed the meeting at 21:15.

11.1 COPY OF NOTICE PLACED ON NOTICE BOARDS

For information, a copy of the Notice follows:

NOTICE IS HEREBY GIVEN that a **COUNCIL MEETING**
of the **Breede Valley Municipality** will be held on
TUESDAY, 20 MARCH 2018 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** on **Monday, 19 March 2018** and will be handed to Security officials the morning of the meeting. Only persons whose names appear on the list will be allowed to attend the meeting and they must be seated at least five minutes before the scheduled start of the meeting. Once the meeting has started, no member of the public will be allowed into the meeting. If a member of the public leaves the meeting venue during the course of the meeting, he / she will not be allowed to return to the meeting.

KENNIS GESKIED HIERMEE dat 'n **RAADSVERGADERING**
van die **Breede Vallei Munisipaliteit** op
DINSDAG, 20 MAART 2018 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** op **Maandag, 19 Maart 2018** 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.

MINUTES

**3rd COUNCIL MEETING OF THE
BREEDE VALLEY MUNICIPALITY**

2018-03-20

**D. MCTHOMAS
MUNICIPAL MANAGER/MUNISIPALE BESTUURDER**

03 2018

BREDE VALLEY MUNICIPALITY. ATTENDANCE REGISTER: COUNCILLORS
 COUCIL MEETING: 20 MARCH 2018
 VENUE: CWDM COUNCIL CHAMBER, TRAPPE STREET, WORCESTER

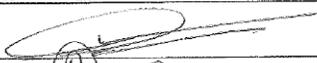
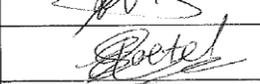
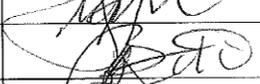
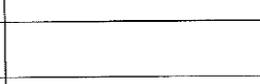
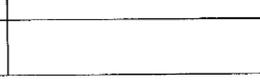
COUNCILLOR	SIGNATURE	COUNCILLOR	SIGNATURE
The Speaker: Mercur, N.P.		Mohobo, C.M. ✓	
The Executive Mayor: Steyn, A. The Deputy Executive Mayor: Levendal, J.D.		Nel, N.	
Bushwana, M.N. ✓		Pietersen, A.	
Farao, R.		Ramokhabi, P.C.	
Goedeman, S.		Robinson, J.	
Isaacs, E.N. ✓		Sampson, M.	
✓ Ismail, C.		Sheldon, E.Y.	
✓ Ismail, N.		Tshabile, I.L. ✓	
Jack, J.R.		Tyira, P. ✓	
Jafftha, 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.		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.	ABSENT
✓ Mngcele, V.I.			

BREDE VALLEY MUNICIPALITY.

Attendance Register - Officials

COUNCIL MEETING: 20 MARCH 2018

VENUE: CWDM, COUNCIL CHAMBER, Worcester

POSITION	OFFICIAL	SIGNATURE
Municipal Manager	D. McThomas	
Director: Financial Services	R. Ontong	
Director: Community Services	J. Marthinus	
Director: Strategic Support Services	PR .Esau	
Director: Technical Services	J.Steyn	
Manager: Admin & Support Services	I. Roos	
Manager: I.D.P./PMS	C.September	
Chief Internal Auditor	W.F. Du Plessis	
Chief Risk Officer	E. Cloete	
Public Relations Officer	J.R. Botha	
Chief: Committees	V. Amsterdam	
Kommunikasie beampte	H. Botha	
COMMUNITY DEVELOPMENT	W. HAYS	

ATTENDANCE REGISTER.

DELEGATIONS; PRESENTATIONS; REPRESENTATIVES; MEMBERS OF THE PUBLIC; ETC.

COUNCIL MEETING

VENUE: CWDM COUNCIL CHAMBERS

DATE: 20 MARCH 2018

TIME 10:00

<u>NAME</u>	<u>ORGANISATION</u>	<u>PHONE NO.</u>	<u>SIGNATURE</u>
PIETER STEVENS			
RAYMOND LANGDON			
CAROL ANNE BOSMAN			
EDMUND MITCHELL			
SAMMY PEKEUR			
PIETER VERHOOG			
LOYISO NDLEBE	Land Committee (16)	0630992500	<i>L. ndlebe</i>
AVRIL STEYN			
TREVOR SAMPSON			
N. APOLLIS	Community		<i>N. Apollis</i>
A. MACKAY	Community	0796466584	<i>A. Mackay</i>
G SCHEEPERS	COM	0762750786	<i>G. Scheepers</i>