

# NOTICE

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

2021-07-27

**NOTICE OF THE 6<sup>th</sup> COUNCIL MEETING OF  
THE COUNCIL OF BREEDE VALLEY MUNICIPALITY  
TUESDAY, 2021-07-27 AT 10:00**

**TO** The Speaker, Cllr N.P. Mercurur [Chairperson]  
The Executive Mayor, Alderman A. Steyn (Ms)  
The Deputy Executive Mayor, Alderman E. Y. Sheldon

**COUNCILLORS**

M.N. Bushwana	A.Pietersen
K. Benjamin	
R. Farao	P.C. Ramokhabi
Alderman S.Goedeman	J. Robinson
E.N. Isaacs	Alderman M. Sampson
Alderman C. Ismail	I.L. Tshabile
M. Jacobs	Alderman P.Tyira
J.R.Jack	E.Van der Westhuizen
	F. Vaughn
J.D.P.Jaftha	J.F. Van Zyl
J.P. Kritzinger	J.J. Von Willingh
P.B.Langata	W.Vrolick
Z.M. Mangali	T.M. Wehr
T.Maridi	N.P. Williams
	M.T. Williams
T. McThomas	
S.J.Mei	C.F. Wilskut
	L. Willemse
W.R.Meiring	N.J. Wullschleger
S.M. Mkhwane	
V.I. Mngcele	
C.M. Mohobo	
N.Nel	

Notice is hereby given in terms of Section 29, read with Section 18(2) of the *Local Government: Municipal Structures Act, 117 of 1998*, as amended, that the **6<sup>th</sup> COUNCIL MEETING** of the **COUNCIL** of **BREEDE VALLEY MUNICIPALITY** will be held by means of a virtual platform on **TUESDAY, 2021-07-27** at **10:00** to consider the items on the Agenda.

**SEATING ARRANGEMENTS AS PER ANNEXURE A ATTACHED HERETO.**



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**SPEAKER  
CLLR NP MERCUUR**

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## TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
1.	<b>OPENING AND WELCOME</b>	
2.	<b>OFFICIAL NOTICES</b>	
2.1	Disclosure of interests	
2.2	Applications for leave of absence	
3.	<b>COMMUNICATION</b>	
3.1	Interviews or presentations by deputations	
3.2	Birthdays of Councillors	
3.3	Statements by the Speaker	
3.4	Statements by the Executive Mayor	
4.	<b>CONFIRMATION OF MINUTES</b>	
4.1	The minutes of the following Council meeting were previously distributed	
4.2	5 <sup>th</sup> Council Meeting: 2021-05-25	
4.3	Special Council Meeting: 2021-07-01	
	<b>FOR CONFIRMATION</b>	
5.	<b>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</b>	
5.1	The Deputy Executive Mayor: Alderman E.Y. Sheldon	
5.2	MMC1: Alderman M. Sampson	
5.3	MMC3: Cllr. J.P Kritzinger	
5.4	MMC4: Cllr. R Farao	
5.5	MMC5: Cllr. S.J Mei	
5.6	MMC6: VACANT	
5.7	MMC7: Cllr. W.R. Meiring <b><u>Mayco Meeting held on 20 April 2021</u></b>	
5.7.1	IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED JANUARY 2021 MFMA SECTION 71 Report	
5.7.2	IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED FEBRUARY 2021 MFMA SECTION 71 Report	
5.8	MMC8: Cllr. J.F. Van Zyl <b><u>Mayco Meeting held on 20 April 2021</u></b>	
5.8.1	ERP: CONSIDERATION FOR THE IMPLEMENTATION OF AN INTEGRATED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM	
5.9	MMC9: Cllr J. Von Willingh	

<b>6.</b>	<b>CONSIDERATION OF MATTERS SUBMITTED BY THE ADMINISTRATION</b>	
6.1	SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2021. MFMA SECTION 71 & 52 (d) Report	
6.2	2021/2022 SERVICE DELIVERY BUDGET AND IMPLEMENTATION PLAN (SDBIP)	
6.3	QUARTERLY PERFORMANCE REPORTS PERTAINING TO THE FOURTH QUARTER (1 APRIL 2021 – 30 JUNE 2021)	
6.4	2021/2022 PERFORMANCE AGREEMENTS OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER	
6.5	FINAL SUBMISSION OF THE BVM INFORMAL TRADING BYLAW	
6.6	REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: MAY 2021	
6.7	REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: JUNE 2021	
6.8	QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 4 <sup>th</sup> QUARTER OF THE 2020/21 FINANCIAL YEAR	
6.9	ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT: 1 JULY 2020 TO 30 JUNE 2021	
6.10	APPROVAL OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE CHARTER	
6.11	MINUTES OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE SUBMITTED TO COUNCIL FOR INFORMATION AND NOTIFICATION	
6.12	RECRUITMENT AND SELECTION OF SENIOR MANAGERS - MUNICIPAL MANAGER AND DIRECTOR: PUBLIC SERVICES	
<b>7.</b>	<b>CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER</b>	
<b>8.</b>	<b>CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL</b>	
<b>9.</b>	<b>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</b>	
9.1	EQUAL RECOGNITION TO THE MAIN LANGUAGES IN THE WESTERN CAPE, NAMELY AFRIKAANS, ENGLISH AND XHOSA	
<b>10.</b>	<b>CONSIDERATION OF MOTION OF EXIGENCY</b>	
<b>11.</b>	<b>CLOSURE</b>	

**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.

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**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.
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**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*

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**3.2 BIRTHDAYS OF COUNCILLORS**

Cllr N.P. Mercur	2 August 2021
Cllr T. Wehr	9 August 2021
Cllr J. Robinson	13 August 2021

**3.3 STATEMENTS BY THE SPEAKER****3.4 STATEMENTS BY THE EXECUTIVE MAYOR**

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**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 25 May 2021 (Copy enclosed)****RECOMMENDATION**

That in respect of

**CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING  
discussed by Council at the Council Meeting held on 27 July 2021:**

1. As the Minutes of the Council Meeting held on 25 May 2021 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 25 May 2021 be taken as read and confirmed.
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**4.3 Special Council Meeting held on 01 July 2021 (Copy enclosed)****RECOMMENDATION**

That in respect of

**CONFIRMATION OF MINUTES OF PREVIOUS SPECIAL COUNCIL MEETING  
discussed by Council at the Council Meeting held on 27 July 2021:**

1. As the Minutes of the Special Council Meeting held on 01 July 2021 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Special Council meeting held 01 July 2021 be taken as read and confirmed.
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**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**

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**5.1 The Deputy Executive Mayor: Alderman E.Y. Sheldon**

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**5.2 MMC1: Alderman M. Sampson**

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**5.3 MMC 3: Cllr. J.P. Kritzinger**

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**5.4 MMC 4: Cllr. R. Faroa**

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**5.5 MMC 5: Cllr. S.J. Mei**

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**5.6 MMC 6: VACANT**

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**5.7 MMC 7: Cllr. W.R. Meiring****Mayco Meeting held on 20 April 2021****5.7.1 IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED  
JANUARY 2021  
MFMA SECTION 71 Report**

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**RESOLVED:****EX9/2021**

That in respect of

**IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED  
JANUARY 2021****MFMA SECTION 71 Report**

discussed by MayCo at the MayCo meeting held on 20 April 2021:

That MayCo takes note of the contents in the In-year monthly report for January 2021 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 IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED  
FEBRUARY 2021  
MFMA SECTION 71 Report****RESOLVED:****EX10/2021**

That in respect of

**IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED  
FEBRUARY 2021****MFMA SECTION 71 Report**

discussed by MayCo at the MayCo meeting held on 20 April 2021:

That MayCo takes note of the contents in the In-year monthly report for February 2021 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.

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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.
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**5.8 MMC 8: Cllr. J.F. Van Zyl****Mayco Meeting held on 20 April 2021****5.8.1 ERP: CONSIDERATION FOR THE IMPLEMENTATION OF AN INTEGRATED ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM****RESOLVED:****EX11/2021**

After due consideration by Mayco it is resolved that the recommendation to Council cannot be supported and therefore the implementation of the ERP system is not approved at this stage.

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**5.9 MMC 9: Cllr J.J. Von Willingh**

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**6. CONSIDERATION OF AGENDA ITEMS****6.1 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2021.  
MFMA SECTION 71 & 52 (d) Report****File No. /s:** 3/15/1**Responsible Officials:** R. Ontong**Directorate:** Financial Services**Portfolio:** Financial Services

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**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-

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- (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

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**COMMENT OF DIRECTORATES/ DEPARTMENTS CONCERNED**

**Municipal Manager:** Recommendation supported  
**Director: Strategic Support Services:** Recommendation supported  
**Director: Financial Services:** Recommendation supported  
**Director: Community Services:** Recommendation supported  
**Director: Engineering Services:** Recommendation supported  
**Acting Director: Public Services:** Recommendation supported

**RECOMMENDATION**

That in respect of

**SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2021**

discussed by Council at the Council Meeting held on the 27 July 2021:

1. That council takes note of the in-year financial management report for the period ended 30 June 2021.

**To Action**

R. Ontong

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**6.2 2021/2022 SERVICE DELIVERY BUDGET AND IMPLEMENTATION PLAN  
(SDBIP)****File No./s:** 3/15/1**Responsible Official:** C Malgas**Directorate:** Strategic Support Services**Portfolio:** Performance Management

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**1. PURPOSE**

To notify Council of the approval of the 2021/2022 Service Delivery Budget and Implementation Plan (SDBIP).

**2. BACKGROUND**

In terms of Section 1 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 53 (1)(c)(ii) 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).

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The municipality's SDBIP 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 serves as 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. COMMENT

A copy of the approved 2021/2022 SDBIP is attached as Annexure "A"

### 4. FINANCIAL IMPLICATIONS

None

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**5. 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:** Recommendation supported

**Director: Strategic Support Services:** Recommendation supported

**Director: Financial Services:** Recommendation supported

**Director: Engineering Services:** Recommendation supported

**Director: Community Services:** Recommendation supported

**Acting Director: Public Services:** Recommendation supported

**Senior Manager: Legal Services:** Recommendation supported

**RECOMMENDATION**

That in respect of -

**The 2021/2022 SDBIP**

as discussed by the Council at the Council meeting held on 27 July 2021:

1. That Council takes note of the approved 2021/2022 SDBIP as attached in the annexed schedule.

**To Action**

C. Malgas

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**6.3 QUARTERLY PERFORMANCE REPORTS PERTAINING TO THE FOURTH  
QUARTER (1 APRIL 2021 – 30 JUNE 2021)****File No./s:** 3/15/1**Responsible Official:** C Malgas**Directorate:** Strategic Support Services**Portfolio:** Performance Management

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**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 the approved 2020//2021 Top-Layer SDBIP.

**2. BACKGROUND**

According to Section 52(d) of the MFMA, the Mayor must, 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.

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**3. COMMENT**

A copy of the Quarter 4 SDBIP Performance Report and Top-Layer KPI Report is attached as Annexures "A" and "B" respectively.

**4. FINANCIAL IMPLICATIONS**

None

**5. APPLICABLE LEGISLATION / COUNCIL POLICY**

- Municipal Finance Management Act, no. 56 of 2003

**COMMENTS OF DIRECTORATES CONCERNED**

**Municipal Manager:** Recommendation Supported

**Director Strategic Support Services:** Recommendation Supported

**Director Financial Services:** Recommendation Supported

**Director Engineering Services:** Recommendation Supported

**Director Community Services:** Recommendation Supported

**Acting Director: Public Services:** Recommendation Supported

**Senior Manager Legal Services:** Recommendation Supported

**RECOMMENDATION**

That in respect of -

**The Quarterly Performance Report for the Fourth Quarter (1 April 2021 – 30 June 2021),**

as discussed by Council at the Council Meeting held on 27 July 2021:

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1. That Council takes note of the Quarter 4 SDBIP Performance Report and the Top-Layer KPI Report for the period 1 April 2021 – 30 June 2021.

**To Action**

C. Malgas

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**6.4 2021/2022 PERFORMANCE AGREEMENTS OF THE MUNICIPAL MANAGER  
AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL  
MANAGER****File No./s:** 3/15/1**Responsible Official:** C Malgas**Directorate:** Strategic Support Services**Portfolio:** Performance Management

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**1. PURPOSE**

To notify Council of the annual Performance Agreements (for the period 2021/2022) pertaining to the Municipal Manager and Managers directly accountable to the Municipal Manager.

**2. BACKGROUND**

In terms of section 57 of the Municipal Systems Act (Act 32 of 2000), hereafter referred to as the MSA, a person to be appointed as a Municipal Manager or Manager directly accountable to the Municipal Manager may only be appointed in that position in terms of a written employment contract and a separate performance agreement. In terms of Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, Notice 805 of 2006, the employment contract of Section 57 Managers, subject to labour legislation, specifically delineates the key components to be included in the contract such as:

- a) details of duties;
- b) remuneration;
- c) benefits; and
- d) other terms and conditions of employment

The Performance Agreement provides assurance to the municipal Council of what can and should be expected from their Section 57 Managers. The purpose thereof is to:

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- Comply with the provisions of Sections 57(1)(b), (4A), (4B) and (5) of the MSA as well as the employment contract entered into between the parties;
- Specify objectives and targets defined and agreed with the employee and to communicate to the employee the employer's expectations of the employee's performance and accountabilities in alignment with the IDP, SDBIP and the budget of the municipality;
- Specify accountabilities as set out in a performance plan, which forms an annexure to the performance agreement;
- Monitor and measure performance against set targeted outputs;
- Use the performance agreement as the basis for assessing whether the employee has met the performance expectations applicable to his or her job;
- In the event of outstanding performance, to appropriately reward the employee; and
- Give effect to the employer's commitment to a performance-orientated relationship with its employee in attaining equitable and improved service delivery.

Section 53(3)(b) of the Municipal Finance Management Act (Act 56 of 2003) inter alia determine that the mayor must ensure that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public and that copies of such performance agreements be submitted to the Council and the MEC for local government in the province.

### **3. COMMENT**

Copies of the signed 2021/2022 Performance Agreements are attached as Annexure "A - E"

### **4. FINANCIAL IMPLICATIONS**

None

### **5. APPLICABLE LEGISLATION**

Chapter 7 of the Local Government: Municipal Systems Act 32 of 2000

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Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, Notice 805 of 2006  
Local Government Municipal Systems Amendment Bill, No 7 of 2011  
Local Government: Municipal Finance Management Act 56 of 2003

### **COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED**

**Municipal Manager:** Recommendation Supported

**Director: Strategic Support Services:** Recommendation Supported

**Director: Financial Services:** Recommendation Supported

**Director: Engineering Services:** Recommendation Supported

**Director: Community Services:** Recommendation Supported

**Acting Director: Public Services:** Recommendation Supported

**Senior Manager: Legal Services:** Recommendation Supported

### **RECOMMENDATION**

That in respect of -

**The signed 2021/2022 Performance Agreements of the Municipal Manager and Managers directly accountable to the Municipal Manager**

as discussed by Council at the Council Meeting held on 27 July 2021:

1. That Council takes note of the signed 2021/2022 Performance Agreements of the Municipal Manager and Managers directly accountable to the Municipal Manager.

### **To Action**

C. Malgas

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## 6.5 FINAL SUBMISSION OF THE BVM INFORMAL TRADING BYLAW

**File No./s:** 7/1/4/8

**Responsible Official:** R Esau

**Directorate:** Strategic Support Services

**Portfolio:** LED & Tourism

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### 1. PURPOSE

To request Council to finally approve the Draft BVM Informal Trading Bylaw.

### 2. BACKGROUND

Economic performance over last decade has not created enough formal jobs to absorb the unemployed in the labour market, and this situation poses challenges on the social and economic outlook of our local inhabitants. Secondly, BVM remains inundated with requests from people to access trading bays to engage in informal trading activities (which is in essence a point of entry for the retail value chain). Informal trade was to some extent only regulated in the CBD of Worcester, but not in communities outside the CBD such as Zwelethemba, De Doorns as well as the other towns and communities, as it falls outside the parameters of the old By-Law which was developed for the CBD of Worcester.

There is a need to recognize the role of the informal traders in the local economy as access to it can generate meaningful commercial benefits. The BVM administration acknowledges their role is not only to regulate informal trading, but also to use the legislative mandate to its disposal to promote economic development through some enabling policies. Whilst promoting informal trade, the administration must remain mindful to the rights of shop owners who own or lease formal business premises in the CBD of all our respective towns.

Although we have economic empowerment in mind, we need to prevent urban decay by preventing unlicensed trading on the road reserves. To mitigate these, the BVM must find a balance between law enforcement and creating additional spaces to accommodate and stimulate local economic activities. By regulating informal trade, Council values and promotes the contribution which informal traders can make to the local economy of the Breede Valley area. With the drafting of the new informal trade by-law, we aim to:

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- deliver a degree of certainty to informal traders by establishing the set of legal parameters of the Businesses Act permits.
- Include new provisions to reduce red tape, thus allowing a seamless inclusion of new and emerging markets to indirectly facilitate economic development.
- clauses such as special events and exceptions clauses were also inserted to both regulate and promote a more inclusive and regulated approach to festival trading and creation of new economic activities, such as the establishment of night markets.

With the By-law development process, we have widely consulted with key stakeholder like local business and the Breede Valley Informal Trader Association. This draft bylaw was further examined and interrogated at a workshop of Council in the Worcester Town hall on the 27 of May 2021, where valuable inputs in respect of the bylaw were received from various Councillors. The Draft Informal Trade bylaw advert was then subsequently published in the Worcester Standard Newspaper with translated versions in English, Afrikaans, and Xhosa to solicit public comment. The BVM administration did not receive any public comments since the date of publishing the advertisement in the local newspaper. All inputs of the Council workshop were incorporated and is reflecting in the final BVM Informal Trading By-law.

The BVM Draft Informal Trading By-law is hereby submitted to Council for consideration and final approval, in terms of section 6A (1) of the Businesses Act, 71 of 1991, read with section 160(2) of the Constitution for the Republic of South Africa Act, 108 of 1996, which provides that only council may consider and approve by-laws. Said by-law is attached hereto as Annexure A.

### **3. FINANCIAL IMPLICATIONS**

There are no financial implications, as compliance enforcement in respect of this bylaw will be funded from the operational vote structures of the Traffic Services Department, whilst any reviews or amendments will be financed from the vote structure of the LED department.

### **4. APPLICABLE LEGISLATION / COUNCIL POLICY**

- a) 6A (1) of the Businesses Act, 71 of 1991, read with section 60(2) of the Constitution for the Republic of South Africa Act, 108 of 1996, which provides that only council may consider and approve by-laws. Said by-law is attached hereto as Annexure A.
  - b) Section 152 of Constitution of South Africa, Act,108 of 1996.
-

Said draft by-law is referred to Council in terms of the above-mentioned legislation. The process applicable to by-law promulgation is prescribed in section 12 of the Local Government: Municipal Systems Act, 32 of 2000, which prescribes that:

- “Only a member or committee of a municipal council may introduce a draft by-law in the council.
  
- A by-law must be made by a decision taken by a municipal council—
  - (a) in accordance with the rules and orders of the council; and
  
  - (b) with a supporting vote of a majority of its members.
  
- 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 regarding the proposed by-law.”

Section 13 of said Systems Act, then also prescribes that:

- “A by-law passed by a municipal council—
    - (a) must be published promptly in the Provincial Gazette, and, when feasible, also in a local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and
  
    - (b) takes effect when published or on a future date determined in or in terms of the by-law.”
-

**Comment of Directorates / Departments concerned**

**Municipal Manager:** Item is supported.

**Director: Community Services:** Item supported.

**Director: Financial Services:** Item supported.

**Director: Strategic Support Services:** Item supported.

**Director: Engineering Services:** Item supported.

**Acting Director Public Works:** Item supported.

**RECOMMENDATION**

In respect of

**FINAL SUBMISSION OF THE BVM INFORMAL TRADING BYLAW**

as discussed by Council at the Council Meeting held on 27 July 2021 that:

1. Council to finally approve the BVM Informal Trading By-law.
2. The administration ensure that the bylaw is published in the Western Cape Government Gazette.

**To Action**

C. January

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**6.6 REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: MAY 2021****File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Financial Services**Portfolio:** Supply Chain Management

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**1. PURPOSE**

To report to Council on all deviations and their reasons, approved by the delegated authority in terms of paragraph 36(2) of the Supply Chain Management Policy, for the month of May 2021.

**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(2) of the said policy, the Accounting Officer must record the reasons for any deviations in terms of paragraph 36(1)(a) of the policy and report them to Council. However, it must be noted that these deviations also serve on the **monthly Section 71** (MFMA) report/s to Mayco and **quarterly Section 52** (MFMA) report/s to Council.

Deviations approved in terms of paragraph 36(1)(a) for the month of May 2021, are attached as **Annexure A**.

**3. FINANCIAL IMPLICATIONS**

Reference can be made to the total approved amount as reflected in annexure "A"

**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

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**Director: Financial Services:** Noted

**Director: Engineering Services:** Noted

**Director: Community Services:** Noted

**Acting Director: Public Services:** Noted

**Senior Manager: Legal Services:** Noted

### **RECOMMENDATION**

In respect of

### **REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: MAY 2021**

As discussed by Council at the Council Meeting held on 27 July 2021:

1. That the deviations from the procurement processes, approved in terms of the delegated authority for the month of May 2021, **be noted**.

### **To Action**

M. Potgieter

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**6.7 REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: JUNE 2021****File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Financial Services**Portfolio:** Supply Chain Management

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**1. PURPOSE**

To report to Council on all deviations and their reasons, approved by the delegated authority in terms of paragraph 36(2) of the Supply Chain Management Policy, for the month of June 2021.

**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(2) of the said policy, the Accounting Officer must record the reasons for any deviations in terms of paragraph 36(1)(a) of the policy and report them to Council. However, it must be noted that these deviations also serve on the **monthly Section 71** (MFMA) report/s to Mayco and **quarterly Section 52** (MFMA) report/s to Council.

Deviations approved in terms of paragraph 36(1)(a) for the month of June 2021, are attached as **Annexure A**.

**3. FINANCIAL IMPLICATIONS**

Reference can be made to the total approved amount as reflected in annexure "A"

**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

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**Director: Financial Services:** Noted

**Director: Engineering Services:** Noted

**Director: Community Services:** Noted

**Acting Director: Public Services:** Noted

**Senior Manager: Legal Services:** Noted

## **RECOMMENDATION**

In respect of

### **REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: JUNE 2021**

As discussed by Council at the Council Meeting held on 27 July 2021:

1. That the deviations from the procurement processes, approved in terms of the delegated authority for the month of June 2021, **be noted**.

#### **To Action**

M. Potgieter

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**6.8 QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT  
FOR THE 4<sup>th</sup> QUARTER OF THE 2020/21 FINANCIAL YEAR****File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Financial Services**Portfolio:** Supply Chain Management

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**1. PURPOSE**

The Local Government: Municipal Finance Management Act, no 56 of 2003 (MFMA), requires the municipality to have and implement a Supply Chain Management (SCM) Policy which gives effect to the provisions of Part 1 of Chapter 11 of the Act that deals with 'Supply Chain Management'.

**2. BACKGROUND**

Although the MFMA prohibits a Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or tenders, Council has an oversight role to ensure that the Accounting Officer implements all supply chain management activities in accordance with this policy. For the purposes of such oversight, Council's Supply Chain Management Policy, **paragraph 6.3** requires that the Accounting Officer must "**within 10 working days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality.**" In addition, **paragraph 6.4** requires that the report referred to in paragraph 6.3 above **also to be tabled to council on a quarterly basis.** The report may be included as part of any other report to serve before council.

The SCM quarterly implementation report approved in terms of paragraph 6.3 for the 4<sup>th</sup> quarter of the 2020/21 financial year, is attached as **Annexure A.**

**3. FINANCIAL IMPLICATIONS**None

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**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

**5. ANNEXURE**

Annexure A: SCM quarterly implementation report (4<sup>th</sup> Quarter ending 30 June 2021) approved in terms of paragraph 6.3.

**RECOMMENDATION**

In respect of

**QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 4<sup>th</sup> QUARTER OF THE 2020/21 FINANCIAL YEAR**

As discussed by Council at the Council Meeting held on 27 July 2021:

1. That the approved SCM quarterly implementation report for the 4<sup>th</sup> quarter of the 2020/21 financial year, **be noted**.

**To Action**

M. Potgieter

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**6.9 ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT: 1 JULY  
2020 TO 30 JUNE 2021****File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Finance**Portfolio:** Finance

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**1. PURPOSE**

The Local Government: Municipal Finance Management Act, no 56 of 2003 (MFMA), requires the municipality to have and implement a Supply Chain Management (SCM) Policy which gives effect to the provisions of Part 1 of Chapter 11 of the Act that deals with 'Supply Chain Management'.

Although the MFMA prohibits a Councilor from being a member of a bid committee or any other committee evaluating or approving quotations or tenders, Council has an oversight role to ensure that the Accounting Officer implements all supply chain management activities in accordance with this policy. For the purposes of such oversight, Council's Supply Chain Management Policy, **Paragraph 6.2(a)** requires that the Accounting Officer must **"Within 30 calendar days of the end of each financial year, submit a report on the implementation of the policy to Council."**

**2. BACKGROUND**

Although the MFMA prohibits a Councilor from being a member of a bid committee or any other committee evaluating or approving quotations or tenders, Council has an oversight role to ensure that the Accounting Officer implements all supply chain management activities in accordance with this policy. For the purposes of such oversight, Council's Supply Chain Management Policy, **paragraph 6.2** requires that the Accounting Officer must **"within 30 working days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality."** In addition, **paragraph 6.4** requires that the report referred to in paragraph 6.2 above **also to be tabled to council on a quarterly basis**. The report may be included as part of any other report to serve before council.

The SCM annual implementation report approved in terms of paragraph 6.2 for the financial year 2020/2021, is attached as **Annexure A**.

**3. FINANCIAL IMPLICATIONS**None

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**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

**5. ANNEXURE**

Annexure A: SCM annual implementation report (1 July 2020 to 30 June 2021) approved in terms of paragraph 6.2.

**RECOMMENDATION**

In respect of

**ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT: 1 JULY  
2020 TO 30 JUNE 2021**

As discussed by Council at the Council Meeting held on 27 July 2021:

1. That the approved SCM annual implementation report for the 2020/2021 financial year, **be noted.**

**To Action**

M. Potgieter

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**6.10 APPROVAL OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE CHARTER****File No. /s:** 2/1/1/3/2**Responsible Official:** W du Plessis**Directorate:** Municipal Manager**Portfolio:** Internal Audit

---

**1. PURPOSE**

To gain Council approval of the amended Audit Committee Charter of the Audit Committee of the Breede Valley Municipality.

**2. BACKGROUND**

The purpose, roles, responsibilities and authority of the Audit Committee must be clearly defined in an Audit Committee Charter. The Audit Committee is an independent advisory committee of Council whose function is to provide an oversight role to Council.

The Audit Committee amended their Charter to be in line with the relevant prescripts at an Audit Committee meeting held on 23 June 2021 and resolved as follows:

***“RESOLVED******That in respect of******REVIEW AND APPROVAL OF AUDIT COMMITTEE CHARTER******discussed by the Audit Committee at the Audit Committee meeting held on 23 June 2021:***

*The Audit & Performance Audit Committee Charter is recommended for approval to Council.”*

Audit & Performance Audit Committee Charter are hereby submitted to Council as prescribed. *Attached as annexure A.*

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**3. FINANCIAL IMPLICATIONS**

N/A

**4. APPLICABLE LEGISLATION / COUNCIL POLICY**

Municipal Finance Management Act (Section 166)  
Municipal Planning & Performance Management Regulations (Section 14)  
National Treasury Internal Audit Framework 2<sup>nd</sup> Edition (March 2009)  
MFMA Circular 65(November 2012)  
Audit & Performance Audit Committee Charter

**COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED**

<b>Municipal Manager:</b>	Support
<b>Director: Community Services:</b>	Item Supported
<b>Director: Strategic Support Services:</b>	Supported
<b>Director: Financial Services:</b>	Supported
<b>Director: Engineering Services</b>	Item and recommendation supported
<b>Director: Public Services(Acting):</b>	As recommended
<b>Senior Manager: Legal Services:</b>	Supported

**RECOMMENDATION**

That in respect of

**APPROVAL OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE CHARTER**

discussed by Council at the Council meeting held on 27 July 2021:

1. The amended Audit Committee Charter is approved.

**To Action**W. du Plessis

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**6.11 MINUTES OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE  
SUBMITTED TO COUNCIL FOR INFORMATION AND NOTIFICATION****File No. /s:** 2/1/1/3/2**Responsible Official:** W du Plessis**Directorate:** Municipal Manager**Portfolio:** Internal Audit

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**1. PURPOSE**

To submit the minutes of the Audit & Performance Audit Committee to Council for information and notification.

**2. BACKGROUND**

Since the initial appointment date, the Audit & Performance Audit Committee is fully functional and have met regularly as prescribed.

The members of the Audit & Performance Audit Committee requested that the minutes of the committee be submitted to Council as part of their communication to Council as prescribed by legislation and the approved Audit Committee Charter.

Audit & Performance Audit Committee minutes for the relevant quarters are hereby submitted to Council as prescribed. *Attached as annexure A.*

**3. FINANCIAL IMPLICATIONS**

N/A

**4. APPLICABLE LEGISLATION / COUNCIL POLICY**

Municipal Finance Management Act (Section 166)  
Audit & Performance Audit Committee Charter

**COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED**

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<b>Municipal Manager:</b>	Support
<b>Director: Community Services:</b>	Item Supported
<b>Director: Strategic Support Services:</b>	Supported
<b>Director: Financial Services:</b>	Supported
<b>Director: Engineering Services</b>	Item and recommendation supported
<b>Director: Public Services(Acting):</b>	As recommended
<b>Senior Manager: Legal Services:</b>	Supported

**RECOMMENDATION:**

That in respect of

**MINUTES OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE SUBMITTED TO  
COUNCIL FOR INFORMATION AND NOTIFICATION**

discussed by Council at the Council meeting held on 27 July 2021:

1. Council notes the content of the Minutes of the Committee

**To Action**

W. Du Plessis

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**6.12 RECRUITMENT AND SELECTION OF SENIOR MANAGERS - MUNICIPAL  
MANAGER AND DIRECTOR: PUBLIC SERVICES****File no.:** 4/1/3/1**Responsible Official:** R Esau**Directorate:** SSS**Portfolio:** Human Resources

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**1. PURPOSE**

The purpose of this item is to:

- 1.1 Provide feedback to council in respect of the recruitment and selection process applied to the Director: Public Services; to
- 1.2 Inform council of the expiration of the employment contract of the Municipal Manager, Mr David McThomas on 30 November 2021; and to
- 1.3 Recommend to Council to institute the process for the recruitment and selection for both the Municipal Manager and the Director: Public Services

**2. BACKGROUND / DISCUSSION****2.1 DIRECTOR: PUBLIC SERVICES**

During the Council meeting held on 26 January 2021 in respect of the above vacancy, it was resolved per resolution C9/2021 -

1. *That with regards to the filling of the vacancy of the Director Public Services:*
-

- 1.1 Council affirms that the position of Director Public Services is vacant from 1 February 2021.
- 1.2 That in terms of Regulation 7(2)(a) of the Regulations on the Appointment and Conditions of Employment of Senior Managers (after this referred to as "The Regulations") Gazetted on 17 January 2014 (Gazette No. 37245), Council grant approval that the post of Director Public Services be filled;
- 1.3 That council confirm that in compliance with Regulation 5 that:
- 1.3.1 the municipality requires the post to meet its strategic objectives.
- 1.3.2 a job description for the position of Director of Public Services must be developed before it is advertised
- 1.3.3 remuneration and other conditions of employment will be attached to the post in terms of the Upper Limits of Total Remuneration Package Payable to Municipal Managers and Managers Directly Accountable to the Municipal Managers once a suitable candidate is recommended; and
- 1.3.4 sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post.
- 1.4 that the municipal manger must ensure that the post of Director Public Services is advertised in a newspaper circulating nationally and in this province within 14 days after 1 February 2021.
- 1.5 that the services of a competent and experience recruitment agency be used during the recruitment process, subject thereto that the advertising, recruitment, selection procedure and competency testing complies with the Regulations.
- 1.6 that council appoint the following members to the selection panel, for the recruitment and selection of the Director Public Services:
- 1.6.1 The Municipal Manager who is the Chairperson;
- 1.6.2 Councillor Wouter Meiring;
-

1.6.3 *Mr Henry Prins or should he not be available, Mr David Nasson who both has expertise and experience in the area of the advertised post.*

1.7 *that the selection panel submit a report and recommendation on the selection process to the council on the suitable candidates who comply with the relevant competency requirements of the post in order of preference.”*

2.1.1 Implementation of resolution C9/2021:

Advertisements were placed in the Sunday Times and Rapport newspapers, respectively, on 7 February 2021. None of the candidates met the criteria to be shortlisted.

The vacancy was advertised on 17 and 18 April 2021 (Sunday Times, Burger) and potentially suitable candidates were shortlisted on 10 May 2021. Interviews were conducted on 21 May 2021.

The Selection Report attached as **Annexure A** was subsequently received, with the findings that:

- The Selection Panel found that none of the candidates exhibited the full range of competencies required for this physical post though candidates are competent in various essential areas.
- Accordingly, the Selection Panel resolved that a further search for suitable candidates should be embarked upon.

In terms of the Local Government: Municipal Systems Act, No. 32 of 2000 (“the Systems Act”), the council “*must re-advertise the post if there is no suitable candidate who complies with the prescribed requirements*”. This vacancy should therefore be re-advertised in compliance with legislative prescripts in order to conclude the recruitment process.

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Council furthermore resolved at the Council meeting held on 26 January 2021 per resolution C9/2021-

*“That with regards to the acting appointment in the position of Director Public Services:*

1. *Council appoint Mr J Pekeur to act in the position of Director Public Services from 1 February 2021 to 30 April 2021;*
2. *That council appoints Mr P Hartzenberg to act in the position of Director Public Services from 1 May 2021 to 31 July 2021, or until such date, the position is filled whichever occur first.”*

As a result of Director: Public Services still being vacant, it is proposed that the council appoint Mr J Pekeur to act in said position from 1 August 2021 until 31 October 2021 or until such date that the position is filled. In the unlikely event of the vacancy not being filled on 1 November 2021, it is recommended that Mr P Hartzenberg acts in the position with effect from 1 November 2021 until 31 January 2022.

## **2.2 MUNICIPAL MANAGER:**

The relevant section of the Systems Act determines:

***“57. Employment contracts for municipal managers and managers directly accountable to municipal managers***

- (6) *The employment contract for a municipal manager must -*
  - (a) *be for a fixed term of employment up to a maximum of five years, not exceeding a period ending one year after the election of the next council of the municipality.”*

The Supreme Court of Appeal in *Mawonga and Another v Walter Sisulu Municipality and Others* (Case no 574/2019) on 7 October 2020, held that in terms 57(6)(a) of the Local Government: Municipal Systems Act 32 of 2000 the employment contract of a municipal manager has a maximum fixed term of five years which cannot be renewed or extended. The judgement unequivocally stated that once the five years have elapsed, the position of a municipal manager

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becomes vacant as contemplated in s 54A(4) and thus subject to the nationally competitive procedures prescribed in s 54A. This procedure prescribes the filling of a vacancy process. It states in the judgement's heading:

*"Any renewal thereafter is null and void ab initio – this is irrespective of whether the provisions of the employment contract as municipal manager stipulated the terms of its renewal within the meaning of that expression in s 57(6)(c)."*

Note that s54A(4) was inserted into the Systems Act during 2008 and thus predates the later unconstitutional amendments.

Mr David McThomas was duly appointed in the position of Municipal Manager for a fixed term of employment for five (5) years, with the termination date being 30 November 2021. The position of Municipal Manager will thus become vacant on 1 December 2021 and cannot be extended or renewed beyond that date.

Section 54A of the Systems Act governs the appointment of municipal managers. The applicable sub-sections stipulate:

***"54A. Appointment of municipal managers and acting municipal managers***

- (1) *The municipal council must appoint-*
    - (a) *a municipal manager as head of the administration of the municipal council.*
  - (2) *A person appointed as municipal manager in terms of subsection (1) must at least have the skills, expertise, competencies and qualifications as prescribed.*
  - (3) *A decision to appoint a person as municipal manager, and any contract concluded between the municipal council and that person in consequence of the decision, is null and void if-*
-

- (a) *the person appointed does not have the prescribed skills, expertise, competencies or qualifications; or*
- (b) *the appointment was otherwise made in contravention of this Act.*
- (4) *If the post of municipal manager becomes vacant, the municipal council must-*
- (a) *advertise the post nationally to attract a pool of candidates nationwide; and*
- (b) *select from the pool of candidates a suitable person who complies with the prescribed requirements for appointment to the post.”*

As the post of Municipal Manager will become vacant with effect from 1 December 2021, the recruitment process of filling the vacancy must commence without delay.

Section cast in obligatory language 57(6)(a) instruct that the employment contract for a municipal manager must be for a fixed term, not exceeding a period ending one year after the election of the next council of the municipality. The post to be advertised shall thus be for a term ending one year after the election of the next council of the municipality.

### **3. APPLICABLE LEGISLATION**

1. The Constitution of the Republic of South Africa
  2. Local Government: Municipal Systems Act, No. 32 of 2000 and Regulations
  3. Local Government: Municipal Finance Management Act, No. 56 of 2003
-

#### 4. FINANCIAL IMPLICATIONS

Both positions are funded. The financial implications will be the total cost to the company and the advertisement costs and payment to the recruitment agency.

#### 5. ANNEXURES

1. Annexure A: Selection Report

#### COMMENTS OF DIRECTORATE:

**MUNICIPAL MANAGER:** ITEM SUPPORTED

**DIRECTOR STRATEGIC SUPPORT SERVICES:** Author of the item

#### RECOMMENDATION

That in respect of –

#### **RECRUITMENT AND SELECTION OF SENIOR MANAGERS - MUNICIPAL MANAGER AND DIRECTOR: PUBLIC SERVICES**

as discussed by the council at the Council meeting held on 27 July 2021 Council decide:

#### 1.1 **In respect of the vacant Director: Public Services position:**

1.1 That cognisance was taken of the Selection Report attached as **Annexure A**;

1.2 that the vacancy be re-advertised in a newspaper circulating nationally and in this province within the legislative timeframe;

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- 1.3 The appointment of Director: Public Services shall be for a fixed term of ten (10) years.
  - 1.4 that the services of a competent and experienced recruitment agency be used during the recruitment process, subject thereto that the advertising, recruitment, selection procedure and competency testing complies with the Regulations;
  - 1.5 that council appoint the following members on the selection panel, for the recruitment and selection of the Director: Public Services-
    - 1.5.1 The Municipal Manager who is the Chairperson;
    - 1.5.2 Councillor Wouter Meiring;
    - 1.5.3 Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager) or should he not be available, Mr David Nasson (Witzenberg Municipality: Municipal Manager), who both have expertise and experience in the area of the advertised post;
  - 1.6 that the selection panel submit a report and recommendation on the selection process to council on the suitable candidates who comply with the relevant competency requirements of the post in order of preference;
  - 1.7 that council appoint Mr J Pekeur to act in the position of Director: Public Services from 1 August 2021 until 31 October 2021 or until such date as the post is filled whichever occurs first; and
  - 1.8 Should the vacancy not be filled on 1 November 2021, Mr P Hartzenberg acts in the position from 1 November 2021 until 31 January 2022 or until such date as the post is filled, whichever occurs first.
- 2. In respect of the Municipal Manager:**
-

- 2.1 That council affirm that the position of Municipal Manager will be vacant on 1 December 2021;
- 2.2 That in terms of Regulation 7(2)(a) of the Regulations on the Appointment and Conditions of Employment of Senior Managers ('The Regulations') Gazetted on 17 January 2014 (Gazette No. 37245) Council approve that the post of the Municipal Manager be filled;
- 2.3 That council confirm that in compliance with Regulation 5 that:
- 2.3.1 the municipality requires the post to meet its strategic objectives;
  - 2.3.2 remuneration and other conditions of employment will be attached to the post in terms of the Upper Limits of Total Remuneration Package Payable to Municipal Managers and Managers Directly Accountable to the Municipal Managers once a suitable candidate is recommended; and
  - 2.3.3 sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post;
- 2.4 that the administration must ensure that the post of the Municipal Manager is advertised in a newspaper circulating nationally and in this province within the legislative timeframe from the date of this resolution;
- 2.5 that the services of a competent and experienced recruitment agency be used during the recruitment process, subject thereto that the advertising, recruitment, selection procedure and competency testing complies with the Regulations;
- 2.6 that council appoint the following members on the Selection Panel for the recruitment and selection of the Municipal Manager:
- 2.6.1 The Executive Mayor who is the Chairperson;
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- 2.6.2 Councillor Wouter Meiring;
- 2.6.3 Mr David Nasson (Witzenberg Municipality: Municipal Manager) or should he not be available, Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager), who both have expertise and experience in the area of the advertised post; and
- 2.7 that the selection panel submit a report and recommendation on the selection process to council on the suitable candidates who comply with the relevant competency requirements of the post in order of preference.
- 2.8 That the appointment shall be for a fixed term, not exceeding a period ending one year after the election of the next council of the municipality
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**AGENDA**

**6<sup>th</sup> COUNCIL MEETING OF THE  
BREEDE VALLEY MUNICIPALITY**

**2021-07-27**

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- 7. CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER**
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- 8. CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL**
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- 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 EQUAL RECOGNITION TO THE MAIN LANGUAGES IN THE WESTERN CAPE, NAMELY AFRIKAANS, ENGLISH AND XHOSA**
-



13 July 2021

To: The Speaker of BVM

**A MOTION FOR THE BVM COUNCIL MEETING**

I, Councilor Isaac Tshabile, the ANC chief whip (BVM), hereby give notice, in terms of section 31(2) of the rules of order of Breede Valley Municipality, as promulgated in the Provincial Gazette no7118 of 12 April 2013, that I intend to table a motion set out below, during the next council meeting, which will be held on 27 July 2021

Kindly note that I will propose the following resolution: The Municipal Manager immediately takes action that will ensure the equal recognition to the major languages in the Western Cape, namely: Afrikaans, English and Xhosa.

My motivation for this resolution is as follows:

The right to language is one of the fundamental human rights that are enshrined in our Constitution. It is of great importance that the Government takes the necessary steps to ensure the protection of our recognized languages.

One can simply not claim to care for people, if you do not care on how you communicate with them. This principle was recognized by the Mayco in 2013, when they first adopted a communication policy. However, to date, there has been no serious action from both the political and administrative arm of the municipality and in many provinces as well as municipalities, little effort has however been made to comply with these constitutional obligations. Furthermore, it would be in the best interest of all constituents to ensure the adoption of language policies on the national, provincial and local levels, as well as the enactment of language legislation in some provinces.

The current system and practice where all official communication are in English has no legal or developmental basis. It disregards the rights of the majority of the citizens of Breede Valley rights of the majority of the citizens of Breede Valley who do not have English as their home Language!

I therefore submit the following resolution to council:

1. That the Municipal Manager takes immediate and urgent steps to ensure that all official documents and communications are available in Afrikaans, English and Xhosa.
2. That sign Language interpretation is available at all council and Public meetings.
3. That the reception in all council building is able to serve the public in Afrikaans, English and Xhosa.

I hope this motion will receive a favourable response!

Yours in local government



**From Isaac Tshabile**

Acknowledgement of receipt by:

Name & Surname: Ferdi Richards

Date: 14.07.2021

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**10. CONSIDERATION OF MOTIONS OF EXIGENCY**

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**11. CLOSURE**

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