

NOTICE

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

2022-12-12

**ADDENDUM NOTICE OF THE 4th COUNCIL MEETING OF 2022/2023
FINANCIAL YEAR OF THE COUNCIL OF BREEDE VALLEY MUNICIPALITY
MONDAY, 2022-12-12 AT 10:00**

TO

The Speaker, Alderman J.F. Van Zyl [Chairperson]
The Executive Mayor, Alderman A. Steyn (Ms)
The Deputy Executive Mayor, Cllr J.J. von Willingh

COUNCILLORS

V.A. Bedworth	N.Nel
W.M. Blom	C.T. Nyithana
M.N. Bushwana	J. Pieters
G.L. Daames	A. Pietersen
Alderman R. Farao	O. Ralehoko
M.A. Goedeman	P.C. Ramokhabi
E.N. Isaacs	Alderman M. Sampson
Alderman C. Ismail	T.P. Sibozo
J.R. Jack	S.S.T. Steenberg
R.T. Johnson	M. Swartz
I.J. Joseph	H.C. Titus
D. Judge	E. Van der Westhuizen
J.P. Kritzinger	F. Vaughan
S.K. Madlolo	L. Willemse
Z.M. Mangali	M.T. Williams
T. S. Manuel	C.F. Wilskut
P.H. Marais	N.J. Wullschleger
S.J. Mei	L.R. Yayi
Alderman W.R. Meiring	
J.M. Mokgosi	

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 4th COUNCIL **MEETING** of the **2022/2023 FINANCIAL YEAR** of the COUNCIL of **BREEDE VALLEY MUNICIPALITY** will be held at the **CAPE WINELANDS DISTRICT MUNICIPALITY, TRAPPE STREET, WORCESTER** on **MONDAY, 2022-12-12** at **10:00** to consider the items on the agenda.



**SPEAKER
ALDERMAN J.F. VAN ZYL**



BREEDE VALLEY
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TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
1.	OPENING AND WELCOME	4
2.	OFFICIAL NOTICES	4
2.1	Disclosure of interests	4
2.2	Applications for leave of absence	4
3.	COMMUNICATION	4
3.1	Interviews or presentations by deputations	4
3.2	Birthdays of Councillors	4
3.3	Statements by the Speaker	5
3.4	Statements by the Executive Mayor	5
4.	CONFIRMATION OF MINUTES	5
4.1	The minutes of the following Council meeting was previously distributed	5
4.2	3 rd Council Meeting: 2022-10-25	5
	FOR CONFIRMATION	
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	6
5.1	The Deputy Executive Mayor: Cllr J.J. von Willingh	6
5.2	MMC1: Alderman W.R. Meiring	6
5.3	MMC2: Cllr. P.C. Ramokhabi	6
5.4	MMC3: Cllr. N. Nel	6
5.5	MMC4: Cllr. E. Van der Westhuizen	6
5.6	MMC5: Cllr J.R. Jack	7
5.7	MMC6: Cllr. V.A. Bedworth	7
5.8	MMC7: Cllr. J.P. Kritzinger	7
5.9	MMC8: Cllr F. Vaughan	7
6.	COLLABORATOR OUTSTANDING RESOLUTIONS REPORT	9
6.1	OUTSTANDING COUNCIL RESOLUTION REPORT PER DIRECTORATE AS EXTRACTED ON 6 DECEMBER 2022	9
7.	CONSIDERATION OF MATTERS SUBMITTED BY THE ADMINISTRATION	
7.1	APPROVAL OF AGREEMENT TO INCUR LONG-TERM DEBT FOR VARIOUS CAPITAL PROJECTS / R300 MILLION LOAN	31
7.2	21/2022 YEAR-END PERFORMANCE EVALUATION REPORT OF THE MUNICIPAL MANAGER AND DIRECTORS	39
7.3	SUBMISSION AND TABLING OF THE ANNUAL REPORT PERTAINING TO THE 2021/22 FINANCIAL YEAR	44
7.4	PERFORMANCE AGREEMENT OF THE MUNICIPAL MANAGER FOR THE PERIOD 1 NOVEMBER 2022 – 30 JUNE 2023	49

7.5	GOVERNMENT NOTICE ON THE DETERMINATION OF 2021/2022 UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS	52
7.6	SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 OCTOBER 2022. MFMA SECTION 71 REPORT	58
7.7	REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: OCTOBER 2022	61
7.8	THE PREFERENTIAL PROCUREMENT POLICY, 2022 AND AMENDMENTS TO THE SUPPLY CHAIN MANAGEMENT POLICY TO GIVE EFFECT TO THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022	63
7.9	DEBT COLLECTION: MICRO ORGANOGRAM ALIGNMENT	70
7.10	IMPLEMENTATION OF THE SAFETY PLAN FOR THE BREEDE VALLEY MUNICIPALITY	75
7.11	REPORT OF THE AUDIT & PERFORMANCE AUDIT COMMITTEE SUBMITTED TO COUNCIL FOR INFORMATION AND NOTIFICATION	79
7.12	THE ACTING APPOINTMENT OF OFFICIALS TO ACT IN THE POSITION OF DIRECTOR: PUBLIC SERVICES	81
7.13	PROPOSED REVIEW AND RESCISSION: DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE CODE OF CONDUCT FOR COUNCILLORS	85
7.14	AMENDMEND OF DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS	92
8.	CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER	91
9.	CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL	91
	9.1 REPLACEMENT OF CLLR L WILLEMSE ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) AND THE LOCAL LABOUR FORUM (LLF)	95
	9.2 COUNCIL RECESS DECEMBER 2022/JANUARY 2023	97
10.	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	98
11.	CONSIDERATION OF MOTION OF EXIGENCY	98
12.	CLOSURE	98

Cllr S. S. S Steenberg	14 November 2022
Ald W. R. Meiring	21 November 2022
Cllr M. Swartz	20 December 2022
Cllr Z. M Mangali	22 December 2022
Cllr H. C Titus	26 December 2022
Cllr R. T Johnson	27 December 2022

3.3 STATEMENTS BY THE SPEAKER

3.4 STATEMENTS BY THE EXECUTIVE MAYOR

4. CONFIRMATION OF MINUTES

4.1 In terms of the Rules of Order for Internal Arrangement By-Law 2012 (as amended).

- (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 October 2022 (Copy enclosed)

RECOMMENDATION

That in respect of

CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING

discussed by Council at the Council Meeting held on 12 December 2022:

1. As the Minutes of the Council Meeting held on 25 October 2022 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 25 October 2022 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

5.1 The Deputy Executive Mayor: Cllr J.J. von Willingh

5.2 MMC1: Alderman W.R. Meiring

Mayco meeting held on 18 October 2022

5.2.1 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 JULY 2022,

as discussed by the Mayco at the Mayco meeting held on 18 October 2022 with **resolution number EX43/2022**, the following recommendation be made to Council:

1. That the committee take note of the in-year financial management report for the period ended 31 JULY 2022.

5.2.2 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 AUGUST 2022,

as discussed by the Mayco at the Mayco meeting held on 18 October 2022 with **resolution number EX44/2022**, the following recommendation be made to Council:

1. That the committee take note of the in-year financial management report for the period ended 31 August 2022.

5.2.3 REPORT TO FINANCE COMMITTEE ON DEVIATIONS FOR THE MONTH OF AUGUST 2022

as discussed by the Mayco at the Mayco meeting held on 18 October 2022 with **resolution number EX45/2022**, the following recommendation be made to Council:

1. Recommends that the deviations from the procurement processes, approved in terms of the delegated authority for the month of August 2022, be noted.
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5.3 MMC 2: Cllr. P.C. Ramokhabi

5.4 MMC 3: Cllr. N. Nel

5.5 MMC 4: Cllr. E. Van der Westhuizen

Mayco meeting held on 18 October 2022

5.5.1 The Water Services Audit Report for 2021 / 2022 financial year,

as discussed by the Mayco at the Mayco meeting held on 18 October 2022 with **resolution number EX46/2022**, the following recommendation be made to Council:

1. That Council approves the Water Services Audit Report for 2021/2022.
 2. That Mayco note that some errors appeared in the Water Services Audit Report for 2021/2022 and that the errors shall be corrected by the Administration when the item is tabled at council meeting.
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5.6 MMC 5: Cllr J.R. Jack

Mayco meeting held on 18 October 2022

5.6.1 BREEDE VALLEY MUNICIPALITY LOCAL INTEGRATED TRANSPORT PLAN FOR 2022-2027 discussed by the Mayoral Committee at the MayCo meeting held on Tuesday, 18 October 2022 with **resolution number EX47/2022**.

MayCo recommends approval of the BREEDE VALLEY MUNICIPALITY LOCAL INTEGRATED TRANSPORT PLAN for 2022 - 2027 to Council and take note of the following:

- That the available budget for the improvement of the transport system is nearly always insufficient to fund all identified projects and a process of project prioritization will have to be used to ensure that the available budget is spent in those areas where the greatest needs are.
 - Some projects can have a major impact in a sensitive area and the EIA process can take much longer than anticipated. It is impossible to predict the time frame for getting a Record of Decision (ROD) in respect of the projects, however funds must be kept available so that the project can proceed as soon as a ROD is issued.
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5.7 MMC 6: Cllr. V.A. Bedworth

5.8 MMC 7: Cllr. J.P. Kritzinger

5.9 MMC 8: Cllr F. Vaughan **Mayco meeting held on 18 October 2022**

5.9.1 AFRIMAT: CONSIDERATION OF COMPENSATION AGREEMENT IN RESPECT OF SMALBLAAR, SITUATED AT A PORTION OF ERF 2, RAWSONVILLE AND BREWELSKLOOF, SITUATED AT A PORTION OF THE REMAINDER OF ERF 3604, WORCSTER.

as discussed by the Mayco at the Mayco meeting held on 18 October 2022 with **resolution number EX42/2022**, the following recommendation be made to Council:

1. That Council note the legal opinions obtained which determine that the Municipality cannot insist on a right to use under the Asset Transfer Regulations as a requirement for the mining right to be exercised under the Mineral and Petroleum Resources Development Act, Act 28 of 2002;
 2. that **the compensation agreement in respect of a portion of Erf 2, Rawsonville (Smalblaar) and a portion of the remainder of erf 3604, Worcester (Brewelskloof)** for mining purposes permitted under the departure be **approved** for a period of nine (9) years and eleven (11) months **with commencement date of 1 November 2022**;
 3. that the monthly compensation in the amount of Ten Thousand Six Hundred Rand (R10 600.00) for Smalblaar and Thirty Thousand Rand (R30 000.00) for Brewelskloof which shall escalate annually in accordance with the consumer price index (CPIX) be paid for the respective properties;
 4. that Afrimat honor their social upliftment obligation towards the community of Breede Valley Municipality by:
 - 4.1 Participating in projects that are aimed at addressing the needs of the community;
 - 4.2 on an annual basis liaise with the Breede Valley Municipality IDP Department for the purpose of establishing which ward priorities were identified within the community; and
 - 4.3 provide annual proof to the IDP Department and the Council of compliance with the social upliftment obligations;
 5. that all costs pertaining to the transaction be borne by Afrimat, e.g. survey, rezoning etc. where applicable;
 6. that Afrimat comply with the Municipal Planning By-law and the Integrated Zoning Scheme;
 7. that Afrimat be responsible for the payment of all municipal services; and
 8. that the Municipal Manager be authorized to negotiate the final terms of and sign the compensation agreements.
 9. That the administration report back to the ComSSS committee on the final terms of a settlement, including the payment pertaining to the period since expiry of the lease until 31 October 2022.
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6. COLLABORATOR OUTSTANDING RESOLUTIONS REPORT

Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment	
776194	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT	RESOLVED C21/2020 1. That Council appoint a Disciplinary Committee comprising of 11 members (6 DA members and one member of each other Political Party (i.e ANC; BO; FF+; PDM; EFF); 2. That Cllr J.F. van Zyl be appointed as the Chairperson of the Disciplinary Committee; 3. The names of members to the Disciplinary Committee should be submitted to the Speaker within 7 days from the date of the Council Meeting.	2020-02-25	JVANWYK		Awaiting outcome of criminal case.
1155841	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. MARGARET SWARTZ. ITEM FOR COUNCIL: 26 JULY 2022	RESOLVED C85/2022 In terms of Clause 16 of the Code of Conduct: a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code; or b) Establish a Special Committee: i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special committee, pertaining to the investigation of disciplinary matters, has already been established by Council per Council decision C40/2022. Cllr Nel proposed that Council recommends this motion to the established Special Committee to investigate and make a finding on any alleged breach of this code and to make appropriate recommendations to the Council, as stated above under point (b).	2022-07-26	JVANZYL		
1155852	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT	RESOLVED C86/2022 This motion will serve at the next Council Meeting.	2022-07-26	JVANZYL		
1155854	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT	RESOLVED C87/2022 This motion will serve at the next Council Meeting.	2022-07-26	JVANZYL		

1185140	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT.	<p>RESOLVED: That in respect of – ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR.C.F. WILSKUT. as discussed by Council at the Council meeting held on 23 August 2022 with resolution number C98/2022 Council decide that: In terms of Clause 16 of the Code of Conduct : 1. a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code ; or b) Establish a Special Committee : i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special committee, pertaining to the investigation of disciplinary matters, has already been established by Council per Council decision C40/2022.</p>	2022-08-23	JVANZYL		
1185142	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT	<p>RESOLVED That in respect of – ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR.C.F. WILSKUT. as discussed by Council at the Council meeting held on 23 August 2022 with resolution number C99/2022 The Council decision C21/2020 is hereby reaffirmed in terms of Item 16(1)(b) of the Code of Conduct (Schedule 7 of Act 117 of 1998), as amended, relating to this alleged breach of Conduct by Cllr. C.F. Wilskut and is referred to the Special Committee of Council: 1) to investigate and make a finding on any alleged breach of this code and 2) to make appropriate recommendations to the Council.</p>	2022-08-23	JVANZYL		
1185143	SECTION 80 (MUNICIPAL STRUCTURES ACT 117 OF 1998 AS AMENDED) PARTICIPATION AS PER COUNCIL RESOLUTION C114/2021	<p>RESOLVED C100/2022 Whereas Council resolved per Council Resolution C114/2021 that Section 80 Committees be established, nl. ? Finance Committee; ? Engineering Services Committee; ? Public Services Committee; ? Strategic Services Committee; ? Community Services Committee;</p>	2022-08-23	JVANZYL		

		<p>And further whereas the following Councillors of the Breede Valley Onafhanklik is therefor nominated and indicated to partake and serve on the said Committees as follow:</p> <p>(a) Cllr. C.F. Wilskut to serve as a Section 80 Committee member on the Public and Community Services Committees;</p> <p>(b) Cllr. M. Swartz to serve as a Section 80 Committee member on the Strategic Services Committee;</p> <p>(c) Cllr. N.J. Wullschleger to serve as a Section 80 Committee member on the Finance Services Committee; and</p> <p>(d) Cllr. C. Ismail to serve as a Section 80 Committee member on the Engineering Services Committee.</p> <p>AND THUS Council herewith confirms and appoint the members of the various Section 80 Committees established by Council per aforementioned Resolution C114/2021 as follow :</p> <p>Finance Services Committee Ald. W.R. Meiring; Ald. R. Farao; Cllr. M.T. Williams; Cllr. N. Nel; Cllr. I.J. Joseph; Cllr. T. Manuel; Cllr. S.S.T. Steenberg and Cllr. N.J. Wullschleger.</p> <p>Engineering Services Committee Cllr. J.R. Jack; Cllr. A. Pietersen; Cllr. D. Judge; Cllr. N. Nel; Cllr. H. Titus; Cllr. T. Manuel; Cllr. S.S.T. Steenberg and Cllr. C. Ismail.</p> <p>Public Services Committee Cllr. E. van der Westhuizen; Cllr. G.L. Daames; Cllr. R. Johnson; Cllr. N. Nel; Cllr. I.J. Joseph; Cllr. T. Manuel; Cllr. S.S.T. Steenberg and Cllr. C.F. Wilskut.</p> <p>Strategic Services Committee Cllr. J.P. Kritzinger; Cllr. J. Pieters; Cllr. O. Ralehoko; Cllr. N. Nel; Cllr. H. Titus; Cllr. T. Manuel; Cllr. S.S.T. Steenberg and Cllr. M. Swartz; Cllr. F. Vaughan.</p> <p>Community Services Committee Cllr. P.C. Ramokhabi; Cllr. M. Goedeman; Cllr. E. Isaacs; Cllr. N. Nel; Cllr. I.J. Joseph; Cllr. T. Manuel; Cllr. S.S.T. Steenberg and Cllr. C.F. Wilskut.</p>				
Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment	
172625	SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental	RESOLVED C41/2015 That in respect of the SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental	2015-06-25	GMAYEKI	95	The item will be submitted to the councillor in order to amend the recommendation as follows; 1. Human Settlements Plan must be

	<p>housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY</p>	<p>housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY discussed by Council at the Council meeting held on 25 of June 2015:</p> <ol style="list-style-type: none"> 1. That Council approved the draft By-Law relating to the Management and Control of flats (rental housing units) owned or administer by the Breede Valley Municipality; 2. That the administration advertises said draft By-Law for public comments; 3. That all comments be collated submitted to Council for final approval and promulgation in the Provincial Gazette. 4. That the draft By-Law be workshopped with all the Councillors. 				<p>completed first, and all related policy be updated. 2. Council must approve the policy after this process.</p> <p>Covid-19 and the lockdown have delayed the submission. A new report we will be submitted Council when the normal business resume.</p>
767107	<p>AVIAN PARK (439) HOUSING PROJECT: OCCUPIERS AND TRANSFER OF SUBSIDIES TO TRANSHOX HOUSING PROJECT AND PROPOSED ALIENATION OF TWENTY-FIVE (25) ERVEN IN AVIAN PARK FOR RESIDENTIAL PURPOSES</p>	<p>RESOLVED C85/2018 That in respect of – AVIAN PARK (439) HOUSING PROJECT: OCCUPIERS AND TRANSFER OF SUBSIDIES TO TRANSHOX HOUSING PROJECT AND PROPOSED ALIENATION OF TWENTY-FIVE (25) ERVEN IN AVIAN PARK FOR RESIDENTIAL PURPOSES as discussed by Council at the Council meeting held on 30 October 2018 council decide:</p> <ol style="list-style-type: none"> 1. That Council take cognizance of the negotiations with the respective effected stakeholders; 2. That Council resolve in respect of the occupants or owners as follows: <p>2.4 Legitimate owners of the Volstruis- and Dikkop Street units to have their approved subsidies transferred to the Transhex Housing Development;</p> <p>2.5 Occupants of the Volstruis- and Dikkop Street Houses agreed to cancel the initial mediation agreement and a new agreement be concluded stipulating that they will remain in the aforementioned houses;</p>	2018-10-30	HPOTGIETER	92	<p>25/03/2021: Erven for which no offers received to be included in the next auction. 19/04/2021: Erven for which no offers received to be included in the next auction. Currently compiling list of all erven to be auctioned for submission. 23/04/2021: List of properties to be auctioned e-mailed to auctioneer. Linked with C909152. 10/06/2021: Erven will be auctioned on 28 June 2021. 06/07/2021: Auction scheduled for 28 June 2021 cancelled until further notice due to Covid-19 level 4 restrictions. 04/08/2021: Preliminary date for the auction was scheduled. Following completion of internal SCM processes the date will be confirmed for marketing purposes. 02/09/2021: Auction in process to be rescheduled. 04/10/2021: Confirmation of new date for auction in process. 25/10/2021: Offers received during auction held on 20 October 2021. Acceptance in process. 25/11/2021: Deeds of sales duly signed and provided to conveyancer. 18/01/2022: Deeds of sales duly signed and</p>

		<p>2.6 Worcester West Informal Occupants cancelled the mediation agreement and application for a subsidy at the Transhex Housing Development project will be processed.</p> <p>3. That Council resolve that the alienation of the respective erven as set out in Annexure G by means of a competitive process in the open market solely for housing / residential purposes be approved in principle; subject to the following conditions:</p> <p>3.1 that the Municipal Manager be mandated to decide on the final erven to be disposed of prior to the competitive process being followed;</p> <p>3.2 that the administration be mandated to administer the process of disposal of the properties;</p> <p>3.3 that the municipality will complete the outstanding engineering services (i.e. roads, stormwater and electricity) and the erven thereafter be alienated at the market related value, which will serve as the residual value;</p> <p>3.4 that a reversion condition be included in the Deed of Sale as well as the Title Deed that the disposed properties be utilised for residential purposes only and should the Purchaser fail to erect a building within two (2) years from date of registration and not use the property as specified, the erf will revert back to the Municipality free of charge;</p> <p>3.5 that the Purchaser will be responsible for the payment of all municipal services including rates and taxes in respect of the property following transfer of the property;</p> <p>3.6 that the costs pertaining to the transaction, e.g. transfer costs be paid by the purchaser;</p> <p>3.7 that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement such internal comments</p> <p>4. that the following of a public participation process, be approved and should no</p>			<p>provided to conveyancer. Transfers in process. 08/01/2022: Deeds of sales duly signed and provided to conveyancer. Transfers in process. 07/03/2022: Deeds of sales duly signed and provided to conveyancer. Transfers in process. 06/04/2022: Transfers in process. Title deeds awaited from Transhex conveyancer. 23/05/2022: Transfers still in process. 15/07/2022: Transfers still in process. 11/08/2022: Transfers still in process. 13/10/2022: Section 137 application completed. Rate clearance certificates applied for. 06/12/2022: Rates clearances received. Lodgment at Deeds Office in process.</p>
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		<p>objections / comments be received, then the item would not be referred back to Council;</p> <p>5. That provision be made in the February 2019 adjustment budget for the provision of roads, stormwater and electrical reticulation to the amount of approximately One Million Rand (R1,000,000.00);</p> <p>6. that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provisions Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and</p> <p>7. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the respective municipal properties.</p>				
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Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment	
685303	<p>IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 1 WORCESTER, LOUIS LANGE STREET SITUATED ADJACENT TO ERF 5899, WORCESTER</p>	<p>RESOLVED C59/2019</p> <p>In respect of IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 1 WORCESTER, LOUIS LANGE STREET SITUATED ADJACENT TO ERF 5899, WORCESTER</p> <p>As discussed by Council at the Council Meeting held on 23 July 2019:</p> <p>That the direct alienation of a portion of Erf 1 Worcester (adjacent to Erf 5899), ±115m² in extent, for business purposes, to the owner of the adjoining erf, Mr. Tait, at an amount of One Hundred and Thirty Rand (R130.00) per square metre (VAT exclusive) at the total purchase price of approximately Fifteen Thousand Rand (R15 000.00) be approved in principle;</p> <p>1. that Council take cognisance of the fact that the direct alienation is only approved as the subject portion, a portion of Erf 1, Worcester is classified as a non-viable property;</p>	2019-07-23	HPOTGIETER	97	<p>02/08/2019: The letter of the outcome of application communicated to Applicant. Awaiting acceptance of conditions</p> <p>28/10/2019: Applicant accepted the conditions and a notice was placed in the newspaper to obtain inputs from the public</p> <p>20/12/2019: Public Participation process was completed no comments or objection received.</p> <p>Applicant to apply for Town Planning processes</p> <p>03/02/2020: The applicant applied for Town Planning processes</p> <p>25/03/2021: Town Planning processes pending</p> <p>19/04/2021: Requested status report iro Town Planning processes</p> <p>10/06/2021: Awaiting feedback iro Town Planning processes.</p> <p>06/07/2021: Conveyancer advised that transfer of portion of Erf 1 to BVM to proceed prior to transfer to</p>

		<p>2. that the subject portion, a portion of Erf 1, Worcester be consolidated with the adjoining property of the Applicant, being Erf 5899, Worcester;</p> <p>3. that the alienation of the subject portion, a portion of Erf 1, Worcester be subject to obtaining the necessary closure, rezoning and consolidation approvals as well as comply with the relevant internal departments (Directorates) comments and the right be reserved to supplement such internal comments;</p> <p>4. that a reversion condition be included in the Deed of Sale and Council's pre-emptive right be registered in the title deed that the disposed property will only be utilized for the purpose stipulated in item 1 above;</p> <p>5. that all costs pertaining to the transaction be borne by the Purchaser, which may include survey, rezoning, consolidation and costs of transfer;</p> <p>6. that a suspensive condition in respect of the consolidated properties be included stipulating that the subject erven be subject to approval in terms of land use planning legislation;</p> <p>7. that the following of a public participation process, be approved;</p> <p>8. that the above-mentioned approval in principle be subject to a public participation process being followed due to the non-viability of the property and that an item will only be tabled in Council again should any representations/comments be received;</p> <p>9. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), and</p> <p>10. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of the subject property, being a</p>			<p>purchaser. 04/08/2021: The Purchaser must do a vesting transfer of the portion of Erf 1, once this is done the transfer can proceed.</p> <p>02/09/2021: The Purchaser must do a vesting transfer of the portion of Erf 1, once this is done the transfer can proceed.</p> <p>04/10/2021: Vesting transfer in process.</p> <p>25/11/2021: Vesting transfer in process.</p> <p>18/01/2022: Vesting transfer in process.</p> <p>10/02/2022: Vesting transfer in process</p> <p>07/03/2022: Vesting transfer in process.</p> <p>06/04/2022: Vesting transfer in process. Diagrams awaited.</p> <p>23/05/2022: Diagrams for vesting transfer still awaited. 15/07/2022: Transfer documents being drafted for submission to the Deeds Office. 11/08/2022: Transfer in process</p> <p>08/09/2022: Town Planning advised that certain internal comments outstanding. Upon receipt item will be drafted and submitted by TP. 13/10/2022: Application for endorsement required. This application is due to the fact that the Municipality's name changed from Worcester Plaaslike Oorgangraad to Breede Valley Municipality. Deeds Office to change the name of the Municipality on the endorsement.</p> <p>06/12/2022: One (1) internal comment awaited in order to proceed.</p>
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		portion of Erf 1, Worcester and all necessary documents relating thereto.				
728886	IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF FARM 319, PORTION 64 WORCESTER, TWEE FONTEINEN SITUATED ADJACENT TO FARM 319 PORTION 43, WORCESTER.	<p>RESOLVED C87/2019</p> <p>That in respect of – IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF FARM 319, PORTION 64 WORCESTER, TWEE FONTEINEN SITUATED ADJACENT TO FARM 319 PORTION 43, WORCESTER</p> <p>Discussed by Council at the Council meeting held on 29 October 2019 council decide:</p> <ol style="list-style-type: none"> 1. That the direct alienation of Farm 319 Portion 64 Worcester (adjacent to Farm 319 Portion 43), ±4300m² in extent, for the purpose of building a lined dam for irrigation, to the owner of the adjoining erf, De Wet Cellar (Pty) Ltd, at the total purchase price of approximately Thirty-Four Thousand Rand (R34 000.00) be approved in principle; 2. that Council take cognisance of the fact that the direct alienation is only approved as Farm 319 Portion 64, Worcester is classified as a non-viable property; 3. that Farm 319 Portion 64, Worcester be consolidated with the adjoining property of the Applicant, being Farm 319 Portion 43, Worcester; 4. that the alienation of Farm 319 Portion 64, Worcester be subject to obtaining the necessary rezoning and consolidation approvals as well as comply with the relevant internal departments (Directorates) comments and the right be reserved to supplement such internal comments; 5. that a reversion condition be included in the Deed of Sale and Council's pre-emptive right be registered in the title deed that the disposed property will only be utilized for the purpose stipulated in item 1 above; 6. that all costs pertaining to the transaction be borne by the Purchaser, which may include survey, rezoning, consolidation and costs of transfer; 7. that a suspensive condition 	2019-10-29	HPOTGIETER	92	<p>25/03/2021: Applicant in process of applying for the rezoning and consolidation of the erf.</p> <p>19/04/2021: Request status report iro rezoning and consolidation process</p> <p>10/06/2021: Awaiting feedback iro Town Planning processes.</p> <p>04/08/2021: The Purchaser has to bring an application with SANRAL for the relaxation of the building line over portion 64.</p> <p>02/09/2021: The Purchaser has to lodge an application with SANRAL for the relaxation of the building line over portion 64.</p> <p>04/10/2021: SANRAL approved the encroachment of the dam on 20 September 2021. Consent from Bondholder awaited.</p> <p>25/11/2021: Vesting transfer in process. SANRAL approved the encroachment of the dam on 20 September 2021. Consent from Bondholder awaited.</p> <p>18/01/2022: SANRAL approval received: Transfer to be followed up.</p> <p>10/02/2022: SANRAL approval received: Transfer in process.</p> <p>07/03/2022: SANRAL approval received: Transfer in process.</p> <p>06/04/2022: Transfer in process.</p> <p>Approval from adjacent bond holders awaited.</p> <p>23/05/2022: Transfer still in process.</p> <p>15/07/2022: Surveyor advised that application for consolidation & subdivision is in process.</p> <p>11/08/2022: Surveyor advised that application for consolidation & subdivision is in process.</p> <p>13/10/2022: Town Planning process underway. Confirmation awaited from Purchaser iro comments submitted by SANRAL with regards to compliance.</p>

		<p>in respect of the consolidated properties be included stipulating that the subject erven be subject to approval in terms of land use planning legislation;</p> <p>8. that the following of a public participation process, be approved;</p> <p>9. that the above-mentioned approval in principle be subject to a public participation process being followed due to the non-viability of the property in that an item will only be tabled in Council again should any representations/comments be received;</p> <p>10. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), and</p> <p>11. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of the subject portion of Farm 319 Portion 64 Worcester and all necessary documents relating thereto.</p>				06/12/2022: Town Planning objection process pending.
886395	IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF MUNICIPAL PROPERTY: ERF 5595, SITUATED AT 1 PHILLY MAPUTANE STREET, DE DOORNS	<p>RESOLVED C20/2021 That in respect of – IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF MUNICIPAL PROPERTY: ERF 5595, SITUATED AT 1 PHILLY MAPUTANE STREET, DE DOORNS as discussed by Council at the Council meeting held on 23 February 2021 Council decide:</p> <p>1. that the disposal of erf 5595, De Doorns for purposes permitted under Institutional Zone I be approved in principle by means of a competitive bidding process in the open market at the market related value as determined by HCB Property Valuations in the amount of R95 000.00 (Ninety-Five Thousand Rand), VAT Excluded, VAT Excluded;</p> <p>2. should the Purchaser be a registered social care organization/institution the purchase price be fixed at a minimum of 50% of the fair</p>	2021-02-23	HPOTGIETER	92	<p>25/03/2021: Notice placed in the Standard on 11 March 2021. Closing date for comments is 12 April 2021. 19/04/2021: No comments received during PP process. Compilation of list for erven to be auctioned being finalized.</p> <p>23/04/2021: Property is included in list sent to auctioneer for next auction within this FY. Linked with C909152.</p> <p>06/07/2021: Auction scheduled for 28 June 2021 cancelled until further notice due to Covid-19 level 4 restrictions. 04/08/2021: Preliminary date for the auction was scheduled. Following completion of internal SCM processes the date will be confirmed for marketing purposes. 02/09/2021: Auction in process to be</p>

		<p>market value;</p> <p>3. that all costs pertaining to the transaction be borne by the Purchaser, e.g. transfer costs, survey, rezoning, provision of services and a direct access road;</p> <p>4. that the development of the erf be completed within two (2) years of registration and be included in the Deed of Sale;</p> <p>5. that the following of a public participation process, be approved;</p> <p>6. that an item will only be resubmitted to Council should any representations/objections be received;</p> <p>7. that the administration be mandated to administer the process of disposal of the municipal property following the public participation process;</p> <p>8. that a reversion condition be included in the Deed of Sale and that Council's pre-emptive right be registered in the title deed that the disposed property will only be utilised for the purpose stipulated in item 1 above;</p> <p>9. that the Purchaser be responsible for the payment of all municipal services including rates and taxes in respect of the property following transfer of the property;</p> <p>10. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;</p> <p>11. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), and the community value as well as the economic value in exchange for the asset was weighed against the market related purchase price; and</p> <p>12. that the Municipal Manager be authorized to sign all documents relating to the</p>			<p>rescheduled. 04/10/2021: Confirmation of new date for auction in process. 25/10/2021: Offer received during auction held on 20 October 2021. Acceptance in process. 25/11/2021: Deed of sale duly signed and provided to conveyancer. 18/01/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 10/02/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 07/03/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 06/04/2022: Regulation 68 (Deeds Registry Act) in process due to lost title deed. 23/05/2022: Regulation 68 (Deeds Registry Act) still in process. 15/07/2022: Regulation 68 advertisement being placed in accordance with Deeds Registry Act. 01/08/2022: Regulation 68 advertisement duly placed in accordance with Deeds Registry Act. 13/10/2022: Awaiting further update from conveyancer. 06/12/2022: Regulation 68 process concluded. Rates clearance received, awaiting payment by purchaser.</p>
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		disposal and transfer of the subject property.				
886398	IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF THE REMAINDER OF ERF 5940, SITUATED AT CHURCH STREET, WORCESTER	<p>RESOLVED C22/2021 That in respect of – IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF THE REMAINDER OF ERF 5940, SITUATED AT CHURCH STREET, WORCESTER</p> <p>as discussed by Council at the Council meeting held on 23 February 2021 council decide:</p> <ol style="list-style-type: none"> 1. That, the disposal of the remainder of erf 5940 Worcester currently permitted under Transport Zone I be approved in principle by means of a competitive bidding process in the open market at the market related value as determined by HCB Property Valuations as HCB Property Valuations determined the market related value of the property in the amount of R300 000.00 (Three Hundred Thousand Rand), VAT Excluded. 2. that the Purchaser be permitted to apply for the rezoning of the municipal property, provided that the application follows proper Town Planning procedures; 3. that all costs pertaining to the transaction be borne by the Purchaser, e.g. transfer costs, survey, rezoning, provision of services and a direct access road; 4. that the development of the erf be completed within two (2) years of registration and be included in the Deed of Sale; 5. that the following of a public participation process, be approved; 6. that an item will only be resubmitted to Council should any representations/objections be received; 7. that the administration be mandated to administer the process of disposal of the municipal property following the public participation process; 8. that a reversion condition be included in the Deed of Sale and that Council's pre-emptive right be registered in the title deed that the disposed property will only be utilised for 	2021-02-23	HPOTGIETER	92	<p>25/03/2021: Notice placed in the Standard on 11 March 2021. Closing date for comments is 12 April 2021. 19/04/2021: No comments received during PP process. Compilation of list of erven to be auctioned being finalized. 23/04/2021: Property is included in list sent to auctioneer for next auction within this FY. Linked with C909152. 10/06/2021: Erf will be auctioned on 28 June 2021. 06/07/2021: Auction scheduled for 28 June 2021 cancelled until further notice due to Covid-19 level 4 restrictions. 04/08/2021: Preliminary date for the auction was scheduled. Following completion of internal SCM processes the date will be confirmed for marketing purposes. 02/09/2021: Auction in process to be rescheduled. 04/10/2021: Confirmation of new date for auction in process. 25/10/2021: Offer received during auction held on 20 October 2021. Acceptance in process. 25/11/2021: Deed of sale duly signed and provided to conveyancer. 18/01/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 10/02/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 07/03/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 23/05/2022: Transfer still in process. 15/07/2022: Original title deed obtained. Instruction issued to conveyancer to proceed with application for original subdivision plan. 11/08/2022: Original title deed obtained. Instruction issued to conveyancer to proceed</p>

		<p>the purpose stipulated in item 1 above;</p> <p>9. that the Purchaser will be responsible for the payment of all municipal services including rates and taxes in respect of the property following transfer of the property;</p> <p>10. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;</p> <p>11. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), and the community value as well as the economic value in exchange for the asset was weighed against the market related purchase price; and</p> <p>12. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the respective municipal properties.</p>				<p>with application for original subdivision plan. 13/10/2022: Awaiting status report from conveyancer. 06/12/2022: Original subdivision plan still awaited.</p>
886399	<p>IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF A PORTION OF ERF 1 (ALSO KNOWN AS YSSEL STREET THOROUGHFARE), SITUATED AT YSSEL STREET, WORCESTER</p>	<p>RESOLVED C23/2021</p> <p>That in respect of – IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF A PORTION OF ERF 1 (ALSO KNOWN AS YSSEL STREET THOROUGHFARE) SITUATED AT YSSEL STREET, WORCESTER as discussed by Council at the Council meeting held on 23 February 2021 Council decide:</p> <p>1. That the disposal of a portion of erf 1 (also known as Yssel Street thoroughfare), Worcester for purposes permitted under Residential Zone I be approved in principle by means of a competitive bidding process in the open market at the market related value as determined by HCB Property Valuations in the amount of R105 500.00 (One hundred and Five Thousand Five Hundred Rand), VAT Excluded;</p> <p>2. that the erf be offered to first time homeowners with the means to purchase and</p>	2021-02-23	HPOTGIETER	90	<p>25/03/2021: Notice placed in the Standard on 11 March 2021. Closing date for comments is 12 April 2021. 19/04/2021: No comments received during PP process. Compilation of list of erven to be auctioned being finalized. 23/04/2021: Property is included in list sent to auctioneer for next auction within this FY. Linked with C909152. 10/06/2021: Erf will be auctioned on 28 June 2021. 06/07/2021: Auction scheduled for 28 June 2021 cancelled until further notice due to Covid-19 level 4 restrictions. 04/08/2021: Preliminary date for the auction was scheduled. Following completion of internal SCM processes the date will be confirmed for marketing purposes. 02/09/2021:</p>

		<p>develop the property;</p> <p>3. that all costs pertaining to the transaction be borne by the Purchaser, e.g. transfer costs, survey, rezoning, provision of services and a direct access road;</p> <p>4. that the development of the erf be completed within two (2) years of registration and be included in the Deed of Sale;</p> <p>5. that a suspensive condition in respect of the subdivision of the property be included in the Deed of Sale stipulating that the disposal of the property be made subject to approval of the subdivision (Town Planning) processes in terms of land use planning legislation;</p> <p>6. that the following of a public participation process, be approved;</p> <p>7. that an item will only be resubmitted to Council should any representations/objections be received;</p> <p>8. that the administration be mandated to administer the process of disposal of the municipal property following the public participation process;</p> <p>9. that a reversion condition be included in the Deed of Sale and that Council's pre-emptive right be registered in the title deed that the disposed property will only be utilised for the purpose stipulated in item 1 above;</p> <p>10. that the Purchaser will be responsible for the payment of all municipal services including rates and taxes in respect of the property following transfer of the property;</p> <p>11. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;</p> <p>12. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), and the community</p>			<p>Auction in process to be rescheduled. 04/10/2021: Confirmation of new date for auction in process. 25/10/2021: Offer received during auction held on 20 October 2021. Acceptance in process. 25/11/2021: Deed of sale duly signed and provided to conveyancer. 18/01/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 10/02/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 07/03/2022: Deed of sale duly signed and provided to conveyancer. Transfer in process. 06/04/2022: Transfers in process. Title deed awaited from Transhex conveyancer. 23/05/2022: Transfer still in process. 15/07/2022: Purchaser was duly informed that subdivision application should be submitted prior to transfer. 11/08/2022: Purchaser was duly informed that subdivision application should be submitted prior to transfer. 13/10/2022: No application received by Town Planning. Formal correspondence to be issued. 06/12/2022: Formal compliance notice issued to purchaser.</p>
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		<p>value as well as the economic value in exchange for the asset was weighed against the market related purchase price; and</p> <p>13. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the subject property.</p>				
913139	IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF A PORTION OF REMAINDER OF FARM 576 RHOODE HOOGTE OUTSPAN, WORCESTER	<p>RESOLVED C45/2021 That in respect of – IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF A PORTION OF REMAINDER OF FARM 576 (RHOODE HOOGTE OUTSPAN), WORCESTER</p> <p>as discussed by Council at the Council meeting held on 28 April 2021 Council decide:</p> <p>1. That the disposal of a portion of remainder of Farm 576 (Rhoode Hoogte Outspan), Worcester, ±15.2400ha in extent for purposes permitted under Agricultural Zone I be approved in principle by means of a competitive process in the open market at least at a fair market price as determined by HCB Valuers in the amount of Seventy-Five Thousand Rand (R75 000.00);</p> <p>2. That the prospective purchaser be liable for all costs related to the disposal, e.g. rehabilitation- and transfer costs, EIA if required, registration of a right of way and the installation of municipal services;</p> <p>3. that the following of a public participation process, be approved;</p> <p>4. that an item will only be resubmitted to Council should any representations/comments be received;</p> <p>5. that the administration be mandated to administer the process of disposal of the municipal properties following the public participation process;</p> <p>6. that a reversion clause be included in the Deed of Sale as well as the Title Deed that the disposed property be utilized for Agricultural Zone I Purposes only and should the Purchaser not use the property as specified, the erf will revert</p>	2021-04-28	HPOTGIETER	90	<p>30/04/2021: Notice to be placed in Standard on 6 May 2021. 06/05/2021: Notice placed in local newspaper 6 May 2021 edition. Closing date for comments is 4 June 2021. 10/06/2021: Objections to proposed disposal received. Item to be resubmitted to Council. 06/07/2021: Item to be resubmitted to Council. Public participation process concluded - closing date was 4 June 2021. 04/08/2021: Resubmission item prepared and distributed for comments. To be tabled at next Council meeting 02/09/2021: Resubmission item prepared and distributed for comments. 04/10/2021: Matter in abeyance for consideration by newly elected Council. 25/10/2021: Matter in abeyance for consideration by newly elected Council. Heleine Potgieter 25/11/2021: Matter will be tabled for consideration by newly elected Council. 18/01/2022: Item to be resubmitted to Council for consideration. 10/02/2022: Item to be resubmitted to Council for consideration, following in loco inspection. 07/03/2022: Item to be resubmitted to Council for consideration, following in loco inspection. 12/05/2022: Item to serve at sec 80 committee. 23/05/2022: Further site inspection conducted on 13/05/2022. Internal action to be taken prior to resubmitting item. 15/07/2022:</p>

		<p>back to the Municipality free of charge;</p> <p>7. that the Purchaser will be responsible for the payment of all municipal services including rates and taxes in respect of the property following transfer of the property;</p> <p>8. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;</p> <p>9. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and</p> <p>10. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the municipal property.</p>				<p>Collaborative site inspection at the property proposed. 11/08/2022:SAIV duly contacted to provide details of 3 valuers. 13/10/2022: None of the proposed valuers in a position to conduct independent valuation. Further e-mail sent to SAIV urgently requesting details of alternative valuers. 06/12/2022: Details of alternative valuer received for consideration.</p>
977287	<p>IN-PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION AND TRANSFER OF A PORTION OF ERF 4014 AND A PORTION OF ERF 4015, SITUATED ON THE R43 VILLIERSDORP ROAD, WORCESTER, TO CAPE WINELANDS DISTRICT MUNICIPALITY</p>	<p>RESOLVED C85/2021 That in respect of – IN-PRINCIPLE, APPROVAL FOR THE DIRECT ALIENATION AND TRANSFER OF A PORTION OF ERF 4014 AND A PORTION OF ERF 4015, SITUATED ON THE R43 VILLIERSDORP ROAD, WORCESTER, TO CAPE WINELANDS DISTRICT MUNICIPALITY as discussed by Council at the Special Council meeting held on 28 September 2021, Council decide:</p> <p>1. That the capital asset to be transferred is not needed for the provision of the minimum level of basic municipal services and is considered to be surplus to the requirements of the municipality;</p> <p>2. That the direct alienation and transfer of the property being a portion of Erf 4014 and a portion of Erf 4015, situated on the R43 Villiersdorp Road, Worcester ±47.23 ha in extent, at the market-related value of R1 890 000.00 (One Million Eight Hundred And Ninety Thousand Rand), alternatively R40 000.00 (Forty Thousand Rand) per hectare, for the</p>	2021-09-28	HPOTGIETER	85	<p>05/10/2021: As per uploaded file, resolution e-mailed to CWDM. Awaiting acceptance of conditions. 25/10/2021: Awaiting acceptance of offer from CWDM. Follow-up e-mail sent. 25/11/2021: CWDM to table the matter at their Council meeting for approval. 18/01/2022: CWDM advised item will be tabled at their Council for approval. Updated feedback to be obtained from CWDM. 10/02/2022: CWDM replied on 20 January 2022 that the item will serve at their next meeting, as due to the new council compilation it could not serve earlier. Confirmation received from CWDM on that the item will serve at their Council meeting scheduled for 28 February 2022. 07/03/2022: CWDM Council resolved on 28 February 2022 to purchase the BVM property. CWDM resolution ("file") duly uploaded on this</p>

		<p>primary purpose of establishing a Regional Landfill Site or for alternative utilisation identified and approved by Breede Valley Municipality to the Cape Winelands District Municipality, be approved in principle;</p> <p>3. that the transfer of the property be subject to obtaining the necessary rezoning and subdivision approvals as well as compliance with the relevant internal departments (Directorates) comments with the right to supplement same;</p> <p>4. that all costs pertaining to the transaction be borne by the Cape Winelands District Municipality; and</p> <p>5. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of the property and all necessary documents relating to it.</p>				<p>resolution. 06/04/2022: Town planning following public participation process. 23/05/2022: Town Planning procedures in process. 15/07/2022: Matter pending decision from Municipal Planning Tribunal. 11/08/2022: Matter pending decision from Municipal Planning Tribunal. 13/10/2022: Matter pending decision from Municipal Planning Tribunal. 06/12/2022: Matter pending decision from Municipal Planning Tribunal.</p>
1099841	<p>IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF ERF 9048 WORCESTER, WERDA STREET SITUATED ADJACENT TO ERF 9047 AND 9049, WORCESTER</p>	<p>RESOLVED C55/2022</p> <p>That in respect of –</p> <p>IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF ERF 9048 WORCESTER, WERDA STREET SITUATED ADJACENT TO ERF 9047 AND 9049, WORCESTER</p> <p>discussed by Council at the Council Meeting held on 26 April 2022:</p> <p>1. That the direct alienation of a Erf 9048, Worcester (adjacent to Erf 9047 and 9049), ±135m² in extent, for purpose allowed under Residential Zone I, to the owners of the adjoining erven, at an amount of Thirty Thousand Rand (R30 000.00) (VAT Excluded), be approved in principle;</p> <p>1. That each Purchaser will be liable to pay an amount of Fifteen Thousand Rand (R 15 000.00) (VAT Excluded) towards the purchase price in item 1 above.</p> <p>2. that Council take cognisance of the fact that the direct alienation is only approved as Erf 9048, Worcester is classified as a non-viable property;</p>	2022-04-26	HPOTGIETER	65	<p>06/05/2022: Meeting scheduled with applicant. 23/05/2022: Resolution duly conveyed: Meeting was had with respective owners / applicants. 15/07/2022: Public participation process followed, closing date was 11 July 2022. No objections / representations received. Purchasers to follow Town Planning processes (subdivision & consolidation). 11/08/2022: Public participation process followed. No objections / representations received. Purchasers to follow Town Planning processes (subdivision & consolidation) 13/10/2022: TP applications incomplete; formal correspondence drafted. 06/12/2022: Meeting held with purchasers. TP application submitted.</p>

		<p>3. that Erf 9048, Worcester be consolidated with the adjoining properties of the Applicants, being Erf 9047 and 9049, Worcester respectively;</p> <p>4. Should one of the Purchasers be unable to proceed with the purchase of their respective portion of Erf 9048, the other purchaser be given the opportunity to purchase Erf 9048 in its entirety;</p> <p>5. that the alienation of Erf 9048, Worcester be subject to obtaining consolidation approvals as well as comply with the relevant internal departments (Directorates) comments and the right be reserved to supplement such internal comments;</p> <p>6. that a reversion condition be included in the Deed of Sale and Council's pre-emptive right be registered in the title deed that the disposed property will only be utilized for the purpose stipulated in item 1 above;</p> <p>7. that all costs pertaining to the transaction be borne by the Purchasers equally, which may include survey, rezoning, consolidation and costs of transfer;</p> <p>8. that a suspensive condition in respect of the consolidated properties be included stipulating that the subject erf be subject to approval in terms of land use planning legislation;</p> <p>9. that the following of a public participation process, be approved;</p> <p>10. that the above-mentioned approval in principle be subject to a public participation process being followed due to the non-viability of the property in that an item will only be tabled in Council again should any representations/comments be received;</p> <p>11. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government:</p>				
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		<p>Municipal Finance Management Act (Act 56 of 2003), and</p> <p>12. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of Erf 9048, Worcester and all necessary documents relating thereto.</p>				
1121580	<p>CONSIDERATION FOR THE DIRECT ALIENATION OF A PORTION ELIZABETH STREET, RAWSONVILLE</p>	<p>RESOLVED C63/2022 That in respect of –</p> <p>CONSIDERATION FOR THE DIRECT ALIENATION OF A PORTION ELIZABETH STREET, RAWSONVILLE</p> <p>discussed by Council at the Council Meeting held on 30 May 2022:</p> <p>1. That the objections in respect of the proposed pedestrian thoroughfare is upheld;</p> <p>2. that the direct alienation of a portion of Elizabeth Street, Rawsonville (adjacent to Erven 536 and 537), ±221.57m² in extent, for formal parking purposes, to the owner of the adjoining erven, at an amount of One Hundred and Ten Thousand Rand (R110 000.00), be approved;</p> <p>3. that Council take cognisance of the fact that the direct alienation is only approved as the subject portion of Elizabeth Street, Rawsonville is classified as a non-viable property;</p> <p>4. that the subject portion of Elizabeth Street, Rawsonville be consolidated with the adjoining property of the Applicant, being Erf 537, Rawsonville;</p> <p>11. that the alienation of the subject portion of Elizabeth Street, Rawsonville be subject to obtaining the necessary closure, rezoning, consolidation and deproclamation approvals within two (2) years, as well as comply with the relevant internal departments (Directorates) comments and the right be reserved to supplement such internal comments;</p> <p>12. that a reversion condition be included in the Deed of Sale and Council's pre-emptive right be registered in the title deed that the disposed property will only be utilized for the purpose stipulated in item 2 above;</p>	2022-05-30	HPOTGIETER	65	<p>15/07/2022: Council resolution communicated with applicant. Town Planning processes to be finalized. 11/08/2022: Council resolution communicated with applicant. Town Planning processes to be finalized. 13/10/2022: Town Planning process underway. Comments from certain internal departments awaited. 06/12/2022: Town Planning informed one (1) comment awaited.</p>

		<p>13. that all costs pertaining to the transaction be borne by the Purchaser, which may include survey, rezoning, consolidation and costs of transfer;</p> <p>14. that a suspensive condition in respect of the consolidated properties be included stipulating that the subject erven be subject to approval in terms of land use planning legislation;</p> <p>15. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provision Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), and</p> <p>16. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of the subject portion of Elizabeth Street, Rawsonville and all necessary documents relating thereto."</p>				
1185135	BREEDE VALLEY 2022-2027 LOCAL ECONOMIC DEVELOPMENT STRATEGY	<p>RESOLVED</p> <p>That in respect of BREEDE VALLEY 2022-2027 LOCAL ECONOMIC DEVELOPMENT STRATEGY discussed by Council at the Council meeting held on 23 August 2022: The following recommendation is therefore proposed with resolution number C94/2022</p> <p>a) That Council adopts the 2022-27 Local Economic Development Strategy and action plan as the strategic document that will guide LED facilitation and implementation. b) That Council workshops the 2022-2027 LED Strategy. c) Administration be tasked to develop an implementation plan with key dates and financial sources.</p>	2022-08-23	CJANUARY2	50	Action plan was submitted will table it in next Councill meetin
1206095	JOHNSONS PARK INFILL DEVELOPMENT: PROPOSED ALIENATION OF THIRTY-SIX (36) ERVEN IN JOHNSONS PARK FOR RESIDENTIAL PURPOSES	<p>RESOLVED</p> <p>That in respect of – JOHNSONS PARK INFILL DEVELOPMENT: PROPOSED ALIENATION OF THIRTY-SIX (36) ERVEN IN JOHNSONS PARK FOR RESIDENTIAL PURPOSES as discussed by Council at the Special Council meeting held</p>	2022-09-27	HPOTGIETER	35	<p>04/10/2022: Notice compiled, quotation received from CW Standard for placement on 6 October 2022, request captured to obtain an order. 06/10/2022: Notice duly placed on 6 October 2022 inviting comments</p>

		<p>on 27 September 2022, resolution C101/2022, Council, decided:</p> <ol style="list-style-type: none"> 1. That the alienation of the thirty-six (36) erven as set out in Annexure A by means of a competitive process in the open market solely for Residential Zone I purposes be approved in principle; 2. that the following of a public participation process, be approved and that an item will only be resubmitted to the Council should any representations/comments be received; 3. that the properties be alienated to persons from the Breede Valley Municipal jurisdiction. Proof of address or another applicable document to prove residency within the municipal area will be required; 4. that only one (1) property per purchaser is sold subject to item (5) below; 5. that the properties will not be alienated to developers, except in instances where an employer with registered offices in the Breede Valley municipal area purchase more than one property on behalf of and for the benefit of their employees. However, should the latter apply the property should be registered directly in the name of the beneficiary employees. The beneficiary employees must also comply with items 3 and 4 above; 6. that a reversion condition be included in the Deed of Sale as well as the Title Deed that the disposed of properties be utilised for Residential Zone I purposes only and should the Purchaser fail to erect a building within two (2) years from the date of registration and not use the property as specified, the erf will revert back to the Municipality free of charge; 7. that a special condition be included in the Deed of Sale which provides that: <ol style="list-style-type: none"> 7.1 If the purchaser intent to dispose of the property within a period of two (2) years from the date of signing the Deed of Sale, the property will be offered to the Municipality 			<p>/ representations. 07/11/2022: Closing date for comments / representations is today, 7 November 2022. Ascertain if any were received during public participation process in order to proceed with matter. 06/12/2022: No objections received. General plan awaited.</p>
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		<p>for a purchase price at 5% less than the original purchase price;</p> <p>7.2 Should the Municipality accept the offer, the cost of the transfer shall be payable by the Purchaser; and</p> <p>7.3 if the Municipality decline the offer, the Purchaser will be permitted to dispose of the property to any other third party.</p> <p>8. that the purchasers will be responsible for the payment of all municipal services including rates and taxes in respect of the properties the following transfer;</p> <p>9. that the costs pertaining to the transaction, e.g., transfer costs be paid by the purchasers;</p> <p>10. that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provisions Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and</p> <p>11. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the respective municipal properties.</p>				
1224675	<p>AFRIMAT: CONSIDERATION OF COMPENSATION AGREEMENT IN RESPECT OF SMALBLAAR, SITUATED AT A PORTION OF ERF 2, RAWSONVILLE AND BREWELSKLOOF, SITUATED AT A PORTION OF THE REMAINDER OF ERF 3604, WORCESTER</p>	<p>RESOLVED</p> <p>That in respect of –</p> <p>AFRIMAT: CONSIDERATION OF COMPENSATION AGREEMENT IN RESPECT OF SMALBLAAR, SITUATED AT A PORTION OF ERF 2, RAWSONVILLE AND BREWELSKLOOF, SITUATED AT A PORTION OF THE REMAINDER OF ERF 3604, WORCSTER.</p> <p>as discussed by Council at the Council meeting held on 25 October 2022, the following recommendation was made by Council with resolution number C107/2022.</p> <p>1. That Council note the legal opinions obtained which determine that the Municipality cannot insist on a right to use under the Asset Transfer Regulations as a requirement for the mining right to be exercised under the Mineral and Petroleum Resources</p>	2022-10-25	HPOTGIETER	30	<p>02/11/2022: Resolution allocated to my Coll. inbox. Resolution communicated to applicant's legal representative on 02/11/2022 - awaiting acceptance of conditions. 04/11/2022: Written reply iro resolution duly received. 06/12/2022: Resolution duly communicated with relevant internal departments. Draft agreement in process.</p>

		<p>Development Act, Act 28 of 2002;</p> <p>2. That the compensation agreement in respect of a portion of Erf 2, Rawsonville (Smalblaar) and a portion of the remainder of erf 3604, Worcester (Brewelskloof) for mining purposes permitted under the departure be approved for a period of nine (9) years and eleven (11) months with commencement date of 1 November 2022;</p> <p>3. that the monthly compensation in the amount of Ten Thousand Six Hundred Rand (R10 600.00) for Smalblaar and Thirty Thousand Rand (R30 000.00) for Brewelskloof which shall escalate annually in accordance with the consumer price index (CPIX) be paid for the respective properties;</p> <p>4. that Afrimat honor their social upliftment obligation towards the community of Breede Valley Municipality by:</p> <p>4.1 Participating in projects that are aimed at addressing the needs of the community;</p> <p>4.2 on an annual basis liaise with the Breede Valley Municipality IDP Department for the purpose of establishing which ward priorities were identified within the community; and</p> <p>4.3 provide annual proof to the IDP Department and the Council of compliance with the social upliftment obligations;</p> <p>5 that all costs pertaining to the transaction be borne by Afrimat, e.g. survey, rezoning etc. where applicable;</p> <p>6 that Afrimat comply with the Municipal Planning By-law and the Integrated Zoning Scheme;</p> <p>7 that Afrimat be responsible for the payment of all municipal services; and</p> <p>8 that the Municipal Manager be authorized to negotiate the final terms of and sign the compensation agreements.</p> <p>9 That the administration report back to the ComSSS committee on the final terms of a settlement, including the payment pertaining to the period since expiry of the lease until 31 October 2022.</p>				
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7. CONSIDERATION OF AGENDA ITEMS

7.1 APPROVAL OF AGREEMENT TO INCUR LONG-TERM DEBT FOR VARIOUS CAPITAL PROJECTS / R300 MILLION LOAN

File No. /s: 3/2/2/10

Responsible Official: R Ontong

Directorate: Financial Services

Portfolio: Financial Services

Purpose

The purpose of this item is to obtain the Council's approval in compliance with section 46(2)(a) of the Municipal Finance Management Act 56 of 2003 (MFMA) **to approve the debt agreement** to finance various capital projects.

Background:

In March 2021, Council resolved on supporting the intention of long-term borrowing. As per the conditions of the resolution, the municipality followed the process of acquiring/procuring long-term funding.

The municipal manager awarded Tender BV 890 to ABSA Bank LTD on 1 July 2022 in compliance with applicable Municipal Supply Chain Regulations and the council's Supply Chain Management Policy following the recommendations of both the Bid Evaluation Committee and the Bid Adjudication Committee subject to three suspensive conditions. See the award letter send to the bidder on 6 July 2022 as annexure **A**. The award by the accounting officer, although burdened with three suspensive conditions which had to be met, was a final decision, and no new tender award can be made safe to 31 fulfil the suspensive conditions.

The suspensive conditions were:

- (c) that the bid was subject to appeal by unsuccessful bidders,
 - ii. that the Provincial Treasury (PT), National Treasury (NT), and the public are invited to comment on the debt agreement, and
 - iii. that the municipal council approves the debt agreement.

The first condition was met when the appeal by Standard Bank was rejected on 17 August 2022.

The second condition that the Provincial Treasury, National Treasury, and the public are invited to comment on the debt agreement was also fulfilled.

Thus, the only outstanding matters for the debt agreement to take effect are:

- a) the council approval of the debt agreement signed by the executive mayor and

- b) the accounting officer to sign the agreement or other document which creates or acknowledges the debt.

Section 1 of the MFMA defines long-term debt as "debt repayable over a period exceeding one year". The repayment period of the debt is 15 years, thus is it a long-term debt.

Sections 46 to 48 of the MFMA read with the Municipal Regulations on Debt Disclosure, Regulation R492, published under Government Gazette 29966, 15 June 2007 regulate the matters a municipality must comply with prior to incurring long-term debt.

Section 46 of the MFMA states:

"46.(1) A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of this Act, including section 19, and only for the purpose of—

- (a) capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution, including costs referred to in subsection (4); or*
(b) re-financing existing long-term debt subject to subsection (5).

(2) A municipality may incur long-term debt only if—

- (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and*
(b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

(3) A municipality may incur long-term debt only if the accounting officer of the municipality—

- (a) has, in accordance with section 21A of the Municipal Systems Act—*
(i) at least 21 days prior to the meeting of the council at which approval for the debt is to be considered, made public an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided; and
(ii) invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the proposed debt; and

(b) has submitted a copy of the information statement to the municipal council at least 21 days prior to the meeting of the council, together with particulars of—

- (i) the essential repayment terms, including the anticipated debt repayment schedule; and*
(ii) the anticipated total cost in connection with such debt over the repayment period.

(4) Capital expenditure contemplated in subsection (1)(a) may include—

- (a) financing costs, including—*
(i) capitalised interest for a reasonable initial period;

- (ii) costs associated with security arrangements in accordance with section
(iii) discounts and fees in connection with the financing;
(iv) fees for legal, financial, advisory, trustee, credit rating and other services directly connected to the financing; and
(v) costs connected to the sale or placement of debt, and costs for printing and publication directly connected to the financing;
(b) costs of professional services directly related to the capital expenditure; and
© such other costs as may be prescribed.
(5).../
- (6) *A municipality's long-term debt must be consistent with its capital budget referred to in section 17(2)."*
(parts underlined my emphasis)

Incur Debt for Capital Expenditure

In terms of section 46(1)(a) a municipality may incur long-term debt *inter alia* only for the purpose of capital expenditure on property, plant, or equipment to be used for achieving the objectives of local government as set out in section 152 of the Constitution.

The municipality intends to fund the capital projects listed below with the long-term debt.

External Loans Capital Projects	Total
Substation Refurbishment – Electrical	R 24 000 000,00
Stetteynskloof Dam Increase of storage capacity	R 120 000 000,00
Alternative Electrical Supply – Zwelethemba	R 10 000 000,00
Rawsonville Sewerage Works – Upgrading	R 27 000 000,00
Rawsonville Sewerage Pipeline	R 27 000 000,00
Worcester Industrial Zone Development – Sewer Pump Station	R 19 000 000,00
Upgrading Sewerage System – Zwelethemba, Roodewal, Riverview, Avian Park, etc.	R 18 000 000,00
New 20 MI Service Reservoir at Preloads	R 55 000 000,00
	R 300 000 000,00

The above capital projects may be subject to change, due to Council's re-prioritisation.

The extension/increase of the dam wall project is still in the discussion phase, with a possibility that this project can be financed by other grant funding.

Compliance to Section 46(3)(a)(i) – Made Public a Debt Information Statement 21 Days Prior To The Council Meeting

On 15 September 2022, the Municipality made public, an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purpose for which the debt is to be incurred and particulars of security to be provided, at least twenty-one (21) days prior to the meeting of the council at which approval for the debt is to be considered. See attached annexure **B**

Compliance to Section 46(3)(a)(ii) – Invited the Public, PT, and NT to Submit Written Comments on the Proposed Debt

The public advert placed in the Worcester Standard on 15 September invited the public to submit written comments or representations in respect of the proposed debt. The municipality invited the public, NT, and PT to submit written comments or representations to Council in respect of the proposed debt. PT provided a favourable response, attached as annexure **C**, in support of the external loan, with no comments from the NT and the public. Please see attached proof that NT and PT were invited to comment on the intended long-term debt marked annexure **D**.

Compliance to Section 46(3)(b) – Copy of The Information Statement Submitted to Council At Least 21 Days Prior to the Council Meeting,

Section 46(3)(b) of the MFMA requires that the municipal manager submit a copy of the information statement to the municipal council **at least 21 days prior to the meeting of the council**, together with particulars of—

- (d) the essential repayment terms, including the anticipated debt repayment schedule;
and
- (ii) the anticipated total cost in connection with such debt over the repayment period.

The Council agenda including this item on long-term debt was submitted to the municipal councillors at least 21 days prior to the meeting of the council where the item is to be discussed.

Compliance to Section 46(3)(b)(i) and (ii)

The above subsections require that the particulars of the essential repayment terms, including the anticipated debt repayment schedule; and the anticipated total cost in

connection with the debt over the repayment period must be submitted to the council 21 days prior to the council meeting.

The particulars of the essential repayment terms, including the anticipated debt repayment schedule, as well as the anticipated total cost in connection with such debt over the repayment period, are fully set out in annexure E.

Provision has been made in the operating budget of 2022/2023 to 2024/2025 for the payment of interest and redemption of the external loan to be obtained. The amortised repayment schedules, as required in terms of section 46(3)(b)(i) of the Municipal Finance Management Act, Act No 56 of 2003 are attached as annexure F.

The total cost for the R300 million in connection with the external loan is illustrated in the table below:

Total cost of the Loan			
	Redemption	Interest	Total
1st Portion	166 237 952.00	176 904 057.74	343 142 009.74
2nd Portion	68 762 048.00	67 579 559.03	136 341 607.03
3rd Portion	65 000 000.00	58 696 292.79	123 696 292.79
			603 179 909.56

The rate calculated for the total cost of the loan as shown above was 11%.

The all-in-rate received from the bidders is based on the base rate and the all-in-margin.

The base rate of the loan used as an indicative base rate and the actual base rate will be determined on the day the drawdown takes place.

The all-in-margin rate remains fixed over the long-term loan period. The sum of the all-in-rate and all-in-margin will determine the interest rate on the portion taken up.

Compliance with Section 46(6) Long-Term Debt Must Be Consistent with the Capital Budget:

All the capital projects listed below to be funded with the long-term loan are budgeted for in the municipal Capital Budget.

- External Loans Capital Projects
 - Substation Refurbishment – Electrical
 - Stetteynskloof Dam Increase of storage capacity
 - Alternative Electrical Supply – Zwelethemba
 - Rawsonville Sewerage Works – Upgrading

- Rawsonville Sewerage Pipeline
- Worcester Industrial Zone Development – Sewer Pump Station
- Upgrading Sewerage System – Zwelethemba, Roodewal, Riverview, Avian Park, etc.
- New 20 MI Service Reservoir at Preloads

Compliance with Section 48 – Debt Security

Section 48 of the MFMA states:

“ Security

48. (1) A municipality may, by resolution of its council, provide security for—

(a) any of its debt obligations.

(b) any debt obligations of a municipal entity under its sole control; or

© contractual obligations of the municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the municipality or such other person for the purpose of achieving the objects of local government in terms of section 152 of the Constitution.”

As per the detailed draft debt agreement attached marked annexure **G** no security is required for the long-term debt.

Financial Implications:

See attached the detailed financial and affordability analysis done by PT as annexure **C**.

COMMENTS BY OTHER DIRECTORATES

Municipal Manager –	Recommendation supported
Director Strategic Services –	Recommendation supported
Director Community Services –	Recommendation supported
Director Engineering Services –	Item and recommendation, supported.
Director Public Services (Acting) –	Recommendation supported

The item served as Item 5.3 on the Agenda before the Finance Committee on 21 November 2022 resolution number FSC15/2022:

the Committee unanimously concurred with the recommendation and agreed that the above recommendation be tabled before Mayco for consideration.

Decision made by MAYORAL Committee

RESOLVED

That in respect of **APPROVAL OF AGREEMENT TO INCUR LONG-TERM DEBT FOR VARIOUS CAPITAL PROJECTS / R300 MILLION LOAN:**

as discussed by the Mayco at the Mayco meeting held on 29 November 2022 **resolution number EX51/2022** the following recommendation be made to Council:

1. That Council approves the municipal long-term debt agreement between Breede Valley Municipality and ABSA Bank Ltd for the municipality to acquire an R300 million loan from ABSA Bank Ltd marked annexure **G**.
2. That Council, in compliance with section 46(2)(a) of the Municipal Finance Management Act 56 of 2003, authorises the executive mayor to sign this resolution of the municipal council that approves the long-term debt agreement.
3. That Council, in compliance with section 46(2)(b) of the Municipal Finance Management Act 56 of 2003, authorises the accounting officer to sign the long-term debt agreement with ABSA Bank Ltd or other documents which creates or acknowledges the debt.
4. That Council notes that the loan / long-term debt is intended to fund only capital expenditure on property, plant, or equipment to be used for the purpose of achieving the objectives of local government as set out in section 152 of the Constitution.
5. That it be noted that the rates provided in the long-term debt tender documentation are based on the base rate and the all-in margin. The actual base rate will be determined on the day the drawdown occurs and the all-in margin will be fixed.
6. That Council note that no security is required for the external loan / long-term debt.
7. That Mayco be quarterly informed about the progress of the implementation of the capital projects.

RECOMMENDATION

That in respect of **APPROVAL OF AGREEMENT TO INCUR LONG-TERM DEBT FOR VARIOUS CAPITAL PROJECTS / R300 MILLION LOAN:**

as discussed by the Council at the Council meeting held on 12 December 2022 the following recommendation be made to Council:

1. That Council approves the municipal long-term debt agreement between Breede Valley Municipality and ABSA Bank Ltd for the municipality to acquire an R300 million loan from ABSA Bank Ltd marked annexure **G**.
2. That Council, in compliance with section 46(2)(a) of the Municipal Finance Management Act 56 of 2003, authorises the executive mayor to sign this resolution of the municipal council that approves the long-term debt agreement.
3. That Council, in compliance with section 46(2)(b) of the Municipal Finance Management Act 56 of 2003, authorises the accounting officer to sign the long-term debt agreement with ABSA Bank Ltd or other documents which creates or acknowledges the debt.
4. That Council notes that the loan / long-term debt is intended to fund only capital expenditure on property, plant, or equipment to be used for the purpose of achieving the objectives of local government as set out in section 152 of the Constitution.
5. That it be noted that the rates provided in the long-term debt tender documentation are based on the base rate and the all-in margin. The actual base rate will be determined on the day the drawdown occurs and the all-in margin will be fixed.
6. That Council note that no security is required for the external loan / long-term debt.
7. That Mayco be quarterly informed about the progress of the implementation of the capital projects.

7.2 2021/2022 YEAR-END PERFORMANCE EVALUATION REPORT OF THE MUNICIPAL MANAGER AND DIRECTORS

File No. /s: 3/15/1

Responsible Official: C. Malgas

Directorate: SSS

Portfolio: IDP/PMS/SDBIP

1. PURPOSE

To notify Council of the performance outcomes achieved by the Section 57 Managers (as per the Year-end Evaluation Report), as prescribed by the applicable legislative prescripts.

2. BACKGROUND

2.1 Employment Contracts & Performance Agreements:

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 Director may only be appointed in that position:

- (a) in terms of a written employment contract with the municipality; and
- (b) a separate performance agreement concluded annually.

The Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, notice 805 of 2006 (hereafter referred to as the MPRMM&M), stipulates that the Employment Contract of Section 57 Managers, subject to labour legislation, specifically delineates the terms of employment such as:

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

The Performance Agreements on the other hand, provides assurance to the Municipal Council of what can and should be expected from their Municipal Manager and Directors. The purpose thereof is to:

- Comply with the provisions of Sections 57(1)(b), (4A), (4B) and (5) of the Systems Act 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 the subsequent performance evaluation to assess 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.

The following conditions should be noted when considering the employment contract and performance agreement respectively:

Type	Validity Period	Position	Parties	
			Employer	Employee
Employment Contract	5-year contract	Municipal Manager	Executive Mayor	Municipal Manager
	10-year contract	Directors	Municipal Manager	Directors
Performance Agreement	1-year agreement	Municipal Manager	Executive Mayor	Municipal Manager
		Directors	Municipal Manager	Directors

All compilations and revisions of the 2021/22 Performance Agreements and annexures, conducted throughout the 2021/22 financial period, has served before Council. For ease of reference, the resolutions numbers and descriptions are depicted in the table below:

Date	Description	Comment
C66/2021	Initial Performance Agreements and Annexures (A, B & C) - Municipal Manager and Directors	Director: Public Services not applicable as the position was vacant at the time.
C19/2022	New Performance Agreement and Annexures (A, B, C) - Municipal Manager	The Accounting Officer (Mr. McThomas) has been reappointed in the position on a fixed term contract of employment not exceeding one (1) year after the election of the next Council of the Municipality
C23/2022	Amendment of the Annexure A's of each Performance Agreement - Municipal Manager and Directors	Amendments were made in accordance the 2021/22 TL SDBIP approved amendments, which is an inherent component of the applicable Annexure
C49/2022	Initial Performance Agreement and Annexures (A, B & C) - Director: Public Services	The agreement was applicable from 7 March 2022 – 30 June 2022. The Director resigned in May 2022 and exited the employ on 30 June 2022

2.2 Monitoring & Evaluation of Performance:

Monitoring and evaluation of performance is conducted frequently, and in line with the applicable legislative prescripts. Regulation 26 (5) of the MPRMM&M states that performance must be measured against the Key Performance Area's/Indicators (KPA's/KPI's) and Core Competency Requirements, based on an 80:20 weighting, respectively.

KPA's/KPI's – 80% of Performance Outcome

The KPA's/KPI's are encapsulated in the Service Delivery and Budget Implementation Plan (SDBIP) and approved by the Executive Mayor (in terms of Section 53 of the Municipal Finance Management Act and Circular 13 of the MFMA) prior to the commencement of a particular

financial year. In addition, the approved SDBIP is submitted to Council for notification. The KPI's, as encapsulated in the SDBIP, are split between top-layer and departmental KPI's. These KPI's, as stated in bullet 3 of the preceding section, are incorporated into the Performance Agreement of each Section 57 Manager and serves as basis for the performance monitoring and evaluation conducted throughout a particular year in review.

As the KPA/KPI component contributes 80% to the overall performance outcome, various monitoring and evaluation mechanisms are implemented to verify performance. These include:

- Quarterly/mid-yearly and yearly reporting to Council on the performance realised in relation to each top-layer KPI
- Monthly monitoring and reporting on departmental KPI's (Section 57 Managers and appointed line Managers)
- Independent internal scrutiny and auditing of top-layer KPI's by Internal Audit as well as the Municipal Audit & Performance Audit Committee, coupled with report back to Management and Council which specifically elaborates on:
 - the KPI's degree of compliance with the SMART-principles (i.e. Specific, Measurable, Achievable, Relevant and Time-based); and
 - each KPI's performance status/progress
- Independent external scrutiny and auditing of top-layer KPI's by the Auditor-General, coupled with report back to Management which specifically elaborates on the Auditor-General's:
 - evaluation of the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework;
 - procedures to determine whether performance information was properly presented and whether performance was consistent with the approved performance planning documents;
 - procedures to determine whether the indicators and related targets were measurable and relevant; and
 - assessment of the reliability of the reported performance information to determine whether it was valid, accurate and complete
- Informal & formal performance evaluations conducted as follows:
 - Informal Evaluations: Quarters 1 & 3 – evaluations conducted by Section 57 Manager, with the applicable Management team
 - Formal Evaluations: Quarters 2 (mid-year) & 4 (year-end) – evaluations conducted by a panel as constituted in terms of regulation 27 (4)(d) of the MPRMM&M. The outcomes of the year-end performance evaluation (quarter 4) is used to determine the overall performance score for a particular year under review. The mid-year evaluation serves as opportunity to reflect on performance progress realised within the first half of a particular financial year, primarily to institute proactive corrective measures as and where applicable. Amendment(s) made to the TL KPI's as a result of this evaluation, will constitute a corresponding amendment of the Performance Agreements (only Annexure A thereof). The year-end evaluation is utilised to determine the final/overall performance outcome achieved by each Section 57 Manager in that particular financial year.
- Oversight exercised by the Municipal Public Accounts Committee on the 2021/22 Annual Report, inclusive of the top-layer KPI's contained in the Annual Performance Report component (yet to be conducted).

Core Competency Requirements – 20% of Performance Outcome

Annexure A of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, notice 21 of 2014, provides a competency framework that should be portrayed by all Section 57 Managers. Consequently, Section 57 Managers are

assessed, during the formal performance evaluations, on the back-drop of this competency framework. The outcome obtained during the year-end performance evaluation will contribute 20% to the overall performance outcome.

The table below, presents the performance outcomes of the Section 57 Managers as obtained at the end of the 2021/22 financial year (based on the year-end performance review)

Employee	Operational % (80%)	Competencies % (20%)	Final Score (100%)
Mr D McThomas	64.80%	19.67%	84.47%
Mr R Esau	65.60%	19.67%	85.27%
Mr R Ontong	68.00%	17.67%	85.67%
Mr J Steyn	70.20%	17.34%	87.54%
Mr S Swartz	65.80%	17.67%	83.47%

2.3 Payment of Performance Bonusses:

Section 57 (4B) of the MSA states that bonusses based on performance, be awarded to Section 57 Managers after the end of the financial year and only after an evaluation of performance and approval of such evaluation of the municipal council concerned. This section is underpinned by regulation 8 of the MPRMM&M, which states (amongst others) that performance bonusses be paid to the employee after:

- The annual report for the financial year under review has been tabled and adopted by the municipal council;
- an evaluation of performance in accordance with the provisions of regulation 23 (which elaborates on the purpose and of the performance agreement); and
- approval of such evaluation by the municipal council as a reward for outstanding performance

With regards to bullet 3 above, Council has (in terms of Section 59 of the MSA coupled with delegation P.1.05.1 of the Breede Valley Municipality's approved System of Delegations - Council Resolution C99/2021), delegated the authority of approving the performance evaluation to the Executive Mayor of Breede Valley Municipality. The performance outcome as per this report was approved by the Executive Mayor in line with this delegated authority.

Council should further note that to date, no performance bonusses have been paid for the 2021/22 financial year under review.

3. COMMENT:

Copies of the following supporting documents are attached for Council's perusal:

- Annexure A – Extract of the Service Delivery Performance Report as per the 2021/22 Draft Annual Report
- Annexure B - The 2021/22 Section 57 Year-end Performance Evaluation Report & Supporting Documents

4. FINANCIAL IMPLICATIONS:

Payment of performance bonusses to Section 57 Managers based on the performance outcome achieved in the 2021/22 financial year are subject to- and aligned with the applicable legislative prescripts, contractual agreements stipulating (amongst others) the % to be paid based on performance outcomes, approval of the performance outcomes by the Executive Mayor and Council, and the approved budget. The actual calculation and payment hereof, will be facilitated by the Salary Department, subject to compliance with all the conditions stated above and in

preceding sections. This transaction's compliance with the mentioned provisions, will be audited by the Auditor-General.

5. APPLICABLE LEGISLATION/COUNCIL POLICY:

- Chapter 7 of the Local Government: Municipal Systems Act 32 of 2000
- 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: Regulations on Appointment and Conditions of Employment of Senior Managers, notice 21 of 2014

6. COMMENT OF DIRECTORATES/DEPARTMENTS CONCERNED:

Municipal Manager:	Recommendation Supported
Chief Audit Executive:	Recommendation Supported
Senior Manager Legal Services:	Recommendation Supported

RECOMMENDATION:

That in respect of-

The 2021/22 Section 57 Year-end Performance Evaluation Report of the Municipal Manager and Managers directly accountable to the Municipal Manager,
tabled before Council at the Council meeting held on 12 December 2022:

1. That Council approve the performance outcomes achieved by the respective Section 57 Managers (as per the 2021/22 Section 57 Year-end Performance Evaluation Report) as endorsed by the Executive Mayor.

7.3 SUBMISSION AND TABLING OF THE ANNUAL REPORT PERTAINING TO THE 2021/22 FINANCIAL YEAR

File No./s:3/15/1

Responsible Official: C. Malgas

Directorate: Strategic Support Services

Portfolio: IDP/SDBIP/PMS

1. PURPOSE

To table the Annual Report for the 2021/22 financial year, as prescribed by sections 121 and 127 of the Municipal Finance Management Act 56 of 2003 (hereafter referred to as the MFMA), to Council; with specific reference to the following:

- 1) That Council takes note of the 2021/22 Annual Report (draft);
- 2) That Council takes note of- and approves the amendment to the KPI description of TL30, as recommended by the Auditor-General
- 3) That Council instruct the accounting officer to-
 - (a) in accordance with section 21A of the Municipal Systems Act:
 - (i) make public the annual report; and
 - (ii) invite the local community to submit representations in connection with the annual report;
 - (b) submit the Annual Report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province;
- 4) That Council refer the 2021/22 Annual Report (draft) to MPAC for the purpose of compiling an Oversight Report as prescribed by section 129 of the MFMA; and
- 5) That Council takes note that the Oversight Report and 2021/22 Annual Report (final) will (after closure of the public input period and conclusion of the MPAC oversight process) be submitted to Council for adoption and approval respectively.

2. BACKGROUND

In terms of Section 121 (1) of the MFMA, 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.

Section 121 (2) of the MFMA states that the purpose of the 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.

Section 127 (2) of the MFMA states that 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. In addition, sub-section 5 prescribes that, immediately after the annual report has been tabled in council, the accounting officer of the municipality must:

- a) in accordance with section 21A of the MSA:

- i. make public the annual report; and
 - ii. invite the local community to submit representations in connection with the annual report; and
- b) submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.

Section 129 (1) of the MFMA (amongst others) states that the council of a municipality must consider the annual report of the municipality, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing council's comments on the annual report.

On this premise, the 2021/22 Annual Report (draft) is attached as Annexure 1 for Council's perusal. The annexures to the 2021/22 Annual Report (final) shall include:

- **Annexure A** - Financial Statements
- **Annexure B** - Report of the Auditor-General (This report will be distributed as addendum at the Council meeting as it will only be finalised on 9 December 2022)
- **Annexure C** - Report of the Audit and Performance Audit Committee (This report will only be distributed as part of the final 2021/22 Annual Report submission, as the Audit and Performance Audit Committee can only compile their report after conclusion of the external audit).

Council should note that the Auditor-General, during their audit of performance objectives/information, recommended that a component of TL30's KPI description be amended/aligned to the corresponding component as depicted in the Standard Operating Procedure (SOP). The recommendation stemmed from the premise that the calculation result of the SOP could be reconciled with the performance results reported in the Annual Financial Statements and Annual Report respectively. For ease of reference, the proposed amendment is depicted below:

Ref	Component of KPI Description – SDBIP/AR	Component of KPI Description – SOP	Proposed amendment of the KPI Description
TL30	Number of kilolitres water available from reservoirs	Number of Kilolitres Water Supplied from Reservoirs	Limit unaccounted water losses to less than 25% by 30 June 2022 {(Number of kilolitres water available supplied from reservoirs - number of kilolitres water sold) / (number of kilolitres water purchased or purified) x 100}

In accordance with the provisions above, the table below summarises the key activities and timelines pertaining to the submission and finalisation of the 2021/22 Annual Report:

Ref	Date	Activity	Description/Comment
1	Monday 12 December 2022	<ul style="list-style-type: none"> • Tabling of 2021/22 Annual Report (draft) to Council 	<ul style="list-style-type: none"> • In accordance with section 127 of the MFMA
2	Monday, 12 December 2022	<ul style="list-style-type: none"> • Publish the 2021/22 Annual Report (draft) and call for public representations thereon 	<ul style="list-style-type: none"> • On municipal website & at all municipal libraries and town offices. • A notification will be published in the Worcester Standard (Thursday, 8 December 2022), informing stakeholders that the 2021/22 Annual Report will be available for public perusal and/or representation from Monday 12 December 2022 after the item served before Council. • Daily reminders will be published on the municipal social media platforms on a from 12 – 16 December 2022
		<ul style="list-style-type: none"> • Distribute the 2021/22 Annual Report (draft) to the Provincial Treasury, Provincial Department of Local Government and Auditor-General 	<ul style="list-style-type: none"> • Proof of submission (electronic e-mail) to the mentioned stakeholders
		<ul style="list-style-type: none"> • Circulation of the 2021/22 Annual Report (draft) to MPAC 	<ul style="list-style-type: none"> • In order to proceed with the oversight process as contemplated in section 129 of the MFMA
3	Tuesday – Thursday 13 – 15 December 2022	<ul style="list-style-type: none"> • MPAC engagements regarding the 2021/22 Annual Report 	<ul style="list-style-type: none"> • In accordance with section 129 of the MFMA

4	<p>Friday 16 December 2022</p>	<ul style="list-style-type: none"> The opportunity to submit representations on the 2021/22 Annual Report, will close at 12:00 	<ul style="list-style-type: none"> All input/representation on the 2021/22 Annual Report (draft) will be included in the final submission to Council
5	<p>Monday 19 December 2022</p>	<ul style="list-style-type: none"> Tabling of the Oversight Report and 2021/22 Annual Report (final) to Council for adoption and approval respectively 	<ul style="list-style-type: none"> In accordance with section 129 of the MFMA
6	<p>Tuesday 20 December 2022</p>	<ul style="list-style-type: none"> Publish and circulate the documentation (as per “ref 5”) on the same premise as per “ref 2” (bullets 1 and 2) 	<ul style="list-style-type: none"> In accordance with section 129 of the MFMA

3. FINANCIAL IMPLICATIONS

None

4. APPLICABLE LEGISLATION

- Municipal Systems Act, 32 of 2000;
- 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);

5. 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 2021/22 Annual Report (as attached in Annexure 1), tabled to Council during the Council meeting held on 12 December 2022:

1. That Council takes note of the 2021/22 Annual Report (draft);
2. That Council takes note of- and approves the amendment to the KPI description of TL30, as recommended by the Auditor-General;
3. That Council instruct the accounting officer to-
 - (a) in accordance with section 21A of the Municipal Systems Act:
 - (i) make public the annual report; and
 - (ii) invite the local community to submit representations in connection with the annual report;
 - (b) submit the Annual Report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province;
4. That the 2021/22 Annual Report (draft) be referred to MPAC for the purpose of compiling an Oversight Report on the Annual Report; and
5. That the Oversight Report and 2021/22 Annual Report (final) be submitted to Council (after implementation/conclusion of recommendations 2 and 3) for adoption and approval respectively, followed by official publication and circulation to stakeholders.

7.4 PERFORMANCE AGREEMENT OF THE MUNICIPAL MANAGER FOR THE PERIOD 1 NOVEMBER 2022 – 30 JUNE 2023

File No./s: 3/15/1

Responsible Official: C Malgas

Directorate: SSS

Portfolio: Performance Management

1. PURPOSE

To inform Council of the Performance Agreement entered into with the Municipal Manager for the period 1 November 2022 – 30 June 2023.

2. BACKGROUND

During a Council meeting held on 30 May 2022, Council (amongst others) affirmed that the position of Municipal Manager would be vacant as from 1 November 2022, due to the expiration of the employment contract of Mr David McThomas (hereafter referred to as the incumbent), appointed in the position at the time. Subsequently, Council endorsed that the position be advertised, and that a formal recruitment and selection (R&S) process be initiated to appoint a Municipal Manager. The R&S process concluded in August 2022, after which an item served before Council, recommending that (amongst others):

1. Mr. David McThomas be appointed as Municipal Manager for a fixed term of employment up to a maximum of five (5) years not exceeding a period ending one (1) year after the election of the next Council of the Municipality; and
2. that the commencement date of the contract be 1 November 2022.

Council subsequently endorsed the recommendation, and the incumbent was, after approval by the MEC for Local Government in the Province, duly appointed as Municipal Manager for the period stipulated.

On this backdrop, the need to formulate a Performance Agreement, in terms of section 57 (1) (b) and (2), read together with sub-regulation 4 and 23 of the Local Government: Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers (2006), has been triggered and is subsequently serving before Council.

As there was effectively no break in service from contract expiry (31 October 2022) until reappointment (1 November 2022), the incumbent was not subjected to a formal performance evaluation at the end of October 2022 (i.e. for the period 1 July 2022 – 31 October 2022). In this instance, the evaluation of performance will be conducted in the standardised manner as specified in the Performance Agreement (specifically those provisions regulating the performance assessment, schedule of performance reviews and rewards).

On this premise, the affixed Performance Agreement should be read in conjunction with the incumbent's initial Performance Agreement (see resolution C92/2022). However, the Annexures to the incumbent's initial Performance Agreement are repealed, updated and consolidated in the Annexures to the affixed Performance Agreement.

3. COMMENT

A copy of the signed Performance Agreement entered into with the Municipal Manager, for the period 1 November 2022 – 30 June 2023, is attached as Annexure "1"

4. FINANCIAL IMPLICATIONS

None

5. APPLICABLE LEGISLATION

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

6. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Municipal Manager: Recommendation Supported

Director: Strategic Support Services: Recommendation Supported

Senior Manager: Legal Services: Recommendation Supported

RECOMMENDATION

That in respect of -

The signed Performance Agreement entered with the Municipal Manager (for the period 1 November 2022 – 30 June 2023),

as discussed by Council at the Council meeting held on 12 December 2022:

1. That Council takes note of the signed Performance Agreement entered into with the Municipal Manager for the period 1 November 2022 – 30 June 2023 (Annexure 1);
2. That Council takes note that the Performance Agreement, mentioned in recommendation 1, be read together with the corresponding Performance Agreement entered into with the Municipal Manager on the 28th of July 2022 (C92/2022);
3. That Council takes note that the Annexures to the Municipal Manager's initial Performance Agreement are repealed, updated, and consolidated in the Annexures to the Performance Agreement mentioned in recommendation 1; and
4. That the Performance Agreement, mentioned in recommendation 1, be publicised as legislatively prescribed after serving before Council.

To Action

Chad Malgas

7.5 GOVERNMENT NOTICE ON THE DETERMINATION OF 2021/2022 UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

File no./s:2/12/8

Responsible Official: R Esau

Directorate: SSS

Portfolio: Human Resources

1. PURPOSE

The purpose of this item is to:

Bring to the attention of the Council the attached Notice on Upper Limits of the Total Remuneration Packages of Municipal Managers (MM) and Managers Directly Accountable to Municipal Managers for the 2021 / 2022 financial year, Government Gazette number 47538, issued on 18 November 2022. And

To inform the Council on the position paper submitted by SALGA to the Minister on 2 September 2022, after a consultation session held with the senior managers on 30 August 2022, to consider the then-proposed draft Notice. Written comments received from municipalities in response to a call for comments made via SALGA Circular 29/2022 were also incorporated into the final submission made to the Minister.

2. BACKGROUND AND DISCUSSION

Senior managers' (the term senior managers refers to directors and the municipal manager) remuneration is determined, annually through the Upper Limits Notice Government Gazette published by the Minister of CoGTA since 29 March 2014, informed by a range of the following factors set out in regulation 35 of the (2014) Local Government Regulations on the Appointment and Conditions of Employment of Senior Managers:

- Classification of municipalities according to different grades;
- Respective duties, powers and functions and responsibilities of a municipality;

- Affordability of different levels of remuneration, the number of municipal employees, and the salary and wage bill of the municipality;
- Population, operating budget and assets of the municipality;
- Current principles and levels of remuneration in society in general;
- Need for the promotion of equality and uniformity of salaries, allowances, and benefits for equal work performed;
- Provision of uniform norms and standards nationally to address disparities; and
- Inflationary increases.

It must be noted that senior managers had a substantive decline in salaries as set out below:

- 2015/16 - SALGA observed that senior managers' salaries decreased between 11-17.2%.
- 2016/17 - 6% Cost of living adjustment (CLA)
- 2017/18 - 5.9% CLA
- 2018/19 - 5.4% CLA
- 2019/20 - 2.8% CLA for managers accountable to MM and 0% CLA for the MM
- 2020/21 - No cost of living adjustment - 0%
- 2021/22 - 1.5% CLA plus non-pensionable cash gratuity of R1695 per month for 12 months taxed at 40%.
- 2022/23 - Unknown

SALGA addressed its dissatisfaction with the Minister's Upper Limits with the notice by stating:

- *" The proposed 1.5% cost of living adjustments is unacceptable owing to inflationary trends, the cost of living as well as interest rates and other cost drivers have escalated far beyond the average household CPI, this in contrast to the total percentage increase to Senior management being less than 10% over the last 5 years combined.*

- *Most municipalities face a dilemma in terms of the current remuneration regime in that sub-ordinate employees reporting to managers that directly report to the Municipal Manager, in other words, **3rd level of the organization managers are earning more than the maximum of the upper limits applicable in the municipality.***

- *Increases approved for senior managers have been significantly lower than that granted to other municipal officials. In most instances, these increases granted to senior managers have been at CPI or below CPI. The rationale for this is unclear. Remuneration of senior management averages at less than 3% of total payroll costs, whilst the other 97% is for other officials who enjoy inflation related increases for the same period (inclusive of notch increases).*

- *To further illustrate the cause of the disparity when it comes to annual cost of living adjustment, the table below contrasts the applicable cost of living adjustments for senior managers and staff covered at bargaining level.*

- *Again, a major concern is that the rationale for the 1.5% is not substantiated, as with previous Notices, arbitrary decisions are taken by the Department in this regard, where concerns submitted during the consultation are not acknowledged, nor addressed in the subsequent Notices.*

- *Contrary to the remuneration philosophy espoused in the various Notices, the current remuneration approach militates against reward principles pertaining to consistent, internally balanced (equitable), externally competitive, cost-effective, and fair remuneration, especially for senior managers.*

- *The current approach followed by the Department on remunerating senior managers is a direct violation of regulation 35 (referred to, in item 2 above of this letter) in many respects and has biased application of the factors listed there that must be considered by the Minister when making the determination.*
- *An additional non-pensionable monthly gratuity of R1695 is offered to Senior Managers earning below R1.9m and R1818 for those earning at least R1.9m, effective from July 2021 to June 2022. Similarly, it is not clear how these amounts were derived. Municipalities have, nonetheless, requested that a universal amount of R 1818 should be awarded to all senior managers as a once of and not monthly as proposed.”*

SALGA, therefore, recommended to the Minister that she address the salary discrepancy for senior managers by stating the following to the Minister:

“The Minister is acutely aware of the wider economic environment marred by the unrelenting escalation in the cost of living, fuel prices, the recruitment and retention challenges councils are facing due to the lack of competitive pay scales and low financial viability of some municipalities, as well as the decline in the value of the current pay scales of senior managers following, in particular, the two-year stagnation on annual cost of living adjustments.

- *SALGA recommends that the Minister publishes a Notice to sanction payment of an inflation related across-the-board inflation increase, to enable senior managers to offset the cost-of-living expenses, effective immediately.*
- *Publish the Notice timely to enable proper budget planning, inclusive of anticipated salary adjustment for senior manager by Councils. A practical view expressed is that it should be issued ideally be issued by May.*

- *The 14-day comments window period should be extended to allow sufficient time for consultation and compilation of positions to advance formidable policy design and development.*
- *The Working Group established by CoGTA with specific terms of reference to resolve remuneration and conditions of service of senior managers, be comprised to include representatives from among the senior managers echelon, amongst others.*
- *Other matters raised with SALGA pertaining remuneration in general be registered for the attention of the Working Group.*
- *The recently gazetted municipal systems amended be placed at the centre of the work of the Working Group owing to the fundamental implications for senior management conditions of appointment and employment.”*

None of the comments of SALGA or municipalities was considered by the Minister when she promulgated the Upper Limits.

3. APPLICABLE LEGISLATION

- a) Local Government: Municipal Systems Act, No. 32 of 2000 and Regulations, for Snr Managers
- b) Upper Limit Notice dated 18 November 2022

4. FINANCIAL IMPLICATIONS

A 1.5% cost of living adjustment plus non-pensionable cash gratuity of R1 695 per month for 12 months taxed at 40% for directors and the MM. Note that the municipality does not qualify for a remote or rural allowance.

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Municipal Manager:	Item supported
Director: Strategic Support Services:	Author
Director: Financial Services:	Item supported
Director: Engineering Services:	Item and recommendation supported
Director Community Services:	Supported
Acting Director: Public Services:	Supported
Senior Manager Legal Services:	Supported
Senior Manager Supply Chain Management:	Supported

RECOMMENDATION

That in respect of –

GOVERNMENT NOTICE ON THE DETERMINATION OF 2021/2022 UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

as discussed by the Council at the meeting held on 12 December 2022:

1. That Council notes the content of the Government Notice on the Determination of 2021/2022 Upper Limits of the Total Remuneration Packages of Municipal Managers and Managers Directly Accountable to Municipal Managers as published by the Minister on 18 November 2022.

**7.6 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 OCTOBER 2022.
MFMA SECTION 71 Report**

File No. /s: 3/15/1

Responsible Officials: R. Ontong

Directorate: Financial Services

Portfolio: Financial Services

Purpose

To submit to the finance committee the in-year financial management report for adoption.

Background:

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

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

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

(2) The statement must include-

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

Financial Implications:

None

Applicable Legislation/ Council Policy:

Municipal Finance Management Act, 56 of 2003 (Section 71);

Municipal Budget and Reporting Regulations, 2009

Comment of Directorates/ Departments concerned:

Municipal Manager: Recommendation supported

Director: Strategic Support Services: Recommendation supported

Director: Financial Services: Recommendation supported

Director: Community Services: Recommendation supported

Director: Engineering Services: Recommendation supported

Acting Director: Public Services: Recommendation supported

Decision made by SECTION 80 committee

The item served as Item 5.1 on the Agenda before the Finance Committee on 21 November 2022, resolution number **FSC13/2022**, the Committee unanimously concurred with the recommendation and agreed that the above recommendation be tabled before Mayco for consideration.

Decision made by MAYORAL Committee

RESOLVED

That in respect of
SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 OCTOBER 2022,
as discussed by the Mayco at the Mayco meeting held on 29 November 2022 with resolution number **EX49/2022** the following recommendation be made to Council:

1. That the committee take note of the in-year financial management report for the period ended 31 OCTOBER 2022.

RECOMMENDATION:

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 OCTOBER 2022,
as discussed by Council at the Council meeting held on 12 December 2022, the following recommendation be made to Council:

1. That Council take note of the in-year financial management report for the period ended 31 OCTOBER 2022.

7.7 REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: OCTOBER 2022

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

Responsible Official: R. Ontong

Directorate: Financial Services **Portfolio:** Supply Chain Management

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 October 2022.

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 October 2022, are attached as **Annexure A**.

Financial Implications

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

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: Engineering Services: Noted

Director: Community Services: Noted

Acting Director: Public Services: Noted

Senior Manager: Legal Services: Noted

Decision made by SECTION 80 committee

The item served as Item 5.2 on the Agenda before the Finance Committee on 21 November 2022, resolution number **FSC14/2022** the Committee unanimously concurred with the recommendation and agreed that the recommendation be tabled before Mayco for consideration.

Decision made by MAYORAL committee

RESOLVED

That in respect of

REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: OCTOBER 2022
as discussed by the Mayco at the Mayco meeting held on 29 November 2022
resolution number **EX50/2022** the following recommendation be made to Council:

1. That the deviations from the procurement processes, approved in terms of the delegated authority for the month of October 2022, be noted.

RECOMMENDATION:

That in respect of

REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF: OCTOBER 2022
as discussed by Council at the Council meeting held on 12 December 2022, the
following recommendation be made to Council:

1. That the deviations from the procurement processes, approved in terms of the delegated authority for the month of October 2022, **be noted.**

7.8 THE PREFERENTIAL PROCUREMENT POLICY, 2022 AND AMENDMENTS TO THE SUPPLY CHAIN MANAGEMENT POLICY TO GIVE EFFECT TO THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022

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

Responsible Official: Snr Manager SCM

Directorate: Financial Services

Portfolio: Supply Chain Management

1. PURPOSE

The purpose of the item is to approve in principle the new Draft Preferential Procurement Policy and amendments to the Supply Chain Management (SCM) Policy to give effect to the Preferential Procurement Regulations, 2022.

2. BACKGROUND AND LEGAL CONSIDERATIONS

On 2 November 2020, the Supreme Court of Appeal (SCA) in the case of Afribusines NPC v The Minister of Finance¹ declared the Preferential Procurement Regulation, 2017 invalid and set it aside. The SCA suspended the declaration of invalidity for 12 months. The Minister of Finance appealed to the Constitutional Court against the SCA judgement. By operation of section 18(1)², the operation and execution of a decision of the SCA was automatically suspended pending the appeal.

On 16 February 2022, the Constitutional Court in a narrow majority in Minister of Finance v Afribusines NPC³ dismissed the appeal against the SCA judgement. The Constitutional Court did not pronounce on the suspension of the SCA order nor on retrospectivity or prospectiveness.

On 25 February 2022, the Director-General at National Treasury issued an unprecedented communiqué to all organs of state wherein he inter alia “advised” all public tenders be held in abeyance and no new tenders be advertised.

The above “advice” was based on the Director-General at NT’s erroneous view that there was uncertainty on the status of the SCA’s order of suspension. According to the communiqué, the uncertainty arose due to a footnote in the minority judgement of the Constitutional Court.

¹ (Case no 1050/2019) [2020] ZASCA 140 (2 November 2020)

² Footnote 1 supra

³ [2022] ZACC 4

The municipality differed with that view and decided to implement the Preferential Procurement Regulations, 2017, for 12 months unless it is repealed sooner. The municipal manager sent a letter to the Director-General at NT setting out the view above as previously reported to the Council.

On 3 March 2022, the Director-General issued another communiqué to organs of state to inform that its communiqué of 28 February 2022 was an “advisory note”. It further advised that NT is developing draft regulations that will be published for comment during the week of 7 March 2022. It argued that organs of state who need any procurement above R30,000 must apply for an exemption to the Minister in compliance with section 3(c) of the Preferential Procurement Policy Framework Act, 2000. The municipality once again differed with this view of NT and did not apply for the exception which in our view would have been irregular.

On 10 March 2022, the Minister of Finance issued new draft Preferential Procurement Regulations⁴ for public comment. The deadline for public comments is 11 April 2022. The new draft regulations deal with the following matters:

1. Definitions
2. Application
3. Identification of preference point system
4. 80/20 preference point system for acquisition of goods or services with Rand value equal to or above R30 000 and up to R50 million
5. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
6. 80/20 preference points system for tenders to generate income or to dispose of or lease assets with Rand value equal to or above R30 000 and up to Rand value of R50 million
7. 90/10 preference point system for tenders to generate income or to dispose of or lease assets with Rand value equal to or above R50 million
8. Criteria for breaking deadlock in scoring
9. Award of contracts to tenderers not scoring highest points
10. Remedies
11. Repeal of regulations
12. Short title and commencement

⁴ Government Gazette No. 46026 R.1851

The new draft regulations deleted the unconstitutional provisions on pre-qualifying criteria, sub-contracting and local content.

A new feature introduced in the regulations is the preference point system for tenders to generate income or to dispose of or lease assets. These provisions were inserted due to the judgement of the SCA in *Airports Company South Africa SOC Ltd v Imperial Group Ltd & Others*⁵ where the court held that s217 of the Constitution and therefore the supply chain management prescripts are applicable when organs of state contracts for goods or services even where organ of state is not incurring an expenditure, like when it lease or dispose of assets.

On 30 May 2022, the Constitutional Court in *Minister of Finance v Sakeliga NPC*⁶ vindicated the municipality's earlier stance against the views of the National Treasury when it confirmed the position earlier adopted by the municipality. It held:

" For the reasons I have given, there is no need for this clear legal position to be confirmed

[17] As at 16 February 2022, of the 12-month period of suspension, less than a month had elapsed.

[18] With the legal position as plain as it is, I do not understand how the confusion we hear about from the Minister could have arisen. It could have arisen only if the Minister and the interest groups to which he refers interpreted the order without due regard to the law; that is, the provisions of section 18(1). Of course, there is no justification for interpreting the order in a vacuum."

On 4 November 2022, The Minister of Finance issued the new Preferential Procurement Regulations 2022, effective from 16 January 2023. The regulations mirrored the draft regulations issued on 10 March 2022.

The municipality, therefore, has until 15 January 2023 to approve its Preferential Procurement Policy and to amend its Supply Chain Management Policy in line with the new regulations and the court judgements.

The objective of the Preferential Procurement Policy is to comply with the provisions of section 217(2) of the Constitution and section 2 of the Preferential Procurement Framework Act. This was best explained by Ponnann JA in *Airports Company South Africa SOC Ltd v Imperial Group Ltd and Others* when stated:

⁵ (1306/18) [2020] ZASCA 02 (31 January 2020)

⁶ (previously known as *Afribusiness NPC*) and *Others* (CCT 62/22) [2022] ZACC 17; 2022 (4) SA 401 (CC) (30 May 2022)

“The general rule under s 217 of the Constitution is that all public procurement must be affected in accordance with a system that is fair, equitable, transparent, competitive and cost-effective.

The only exception to that general rule is that envisaged by ss 217(2) and (3). Section 217(2) allows organs of state to implement preferential procurement policies, that is, policies that provide for categories of preference in the allocation of contracts and the protection and advancement of people disadvantaged by unfair discrimination.

Express provision to permit this needed to be included in the Constitution in order for public procurement to be an instrument of transformation and to prevent that from being stultified by appeals to the guarantee of equality and non-discrimination in s 9 of the Constitution.

The freedom conferred on organs of state to implement preferential procurement policies is however circumscribed by s 217(3), which states that national legislation must prescribe a framework within which those preferential procurement policies must be implemented. The clear implication therefore is that preferential procurement policies may only be implemented within a framework prescribed by national legislation.⁷”

Therefore, the only escape for Breede Valley Municipality from the reach of s 217(1) of the Constitution is to bring our Preferential Procurement Policy within ss (2) and (3).

The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)-[PPPFA] was promulgated in compliance with section 217(3) of the Constitution to create the framework within which the Municipality may develop its preferential procurement policy.

Section 2 (1) (d) (i) and (ii) of the Preferential Procurement Policy Framework Act, 2000 refers to specific goals which may include:

- (i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
- (ii) implementing the programmes of the Reconstruction and Development Programme (RDP) as published in Government Gazette 16085 dated 23 November 1994.

Although the preferential procurement policy-specific goals are created as the only exception to section 217(1) of the Constitution, the preferential procurement-specific goals must still be compliant with and based on the objects of local government set out in section 152 of the Constitution and the developmental duties as required by section

⁷ Airports Company South Africa SOC Ltd v Imperial Group Ltd and Others [2020] ZASCA 2; 2020 (4) SA 17 (SCA) para 64 also agreed to in Afribusines NPC v The Minister of Finance (Case no 1050/2019) [2020] ZASCA 140 para 39

153 of the Constitution as well as comply with applicable national legislation that sets standards and or guidelines for preferential procurement such as the Broad-Based Black Economic Empowerment Act, 2003.

The Minister of Finance has, in terms of section 5, read with sections 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and with effect from 16 January 2023, issued the Preferential Procurement Regulations, 2022 to provide for the preference point system that must be followed by organs of state in their preferential procurement policies.

In addition to adhering to the peremptory prescribed preference point system as set out in the Preferential Procurement Regulations, 2022 the municipality must add to this preference points system its 10 or 20 points for specific goals as set out in section 2(1)(d)(i) and (ii) of the Act.

In *AllPay Consolidated Investment Holdings (Pty) Ltd and Others v Chief Executive Officer of the South African Social Security Agency and Others*⁸ the Constitutional Court held:

“The transformation that our Constitution requires includes economic redress⁹.”
“Economic redress for previously disadvantaged people also lies at the heart of our constitutional and legislative procurement framework”¹⁰

In *Afribus NPC v The Minister of Finance* the SCA confirmed the transformative imperatives as obliged by the Constitution when it stated:

“What section 217(2) seeks to achieve is consonant with the transformative nature of our Constitution. And its provisions dovetail with those of section 9(2) of the Constitution. Without provisions of this nature, true or substantive equality would forever be pie in the sky for the vast majority of South Africans and the transformative agenda of the Constitution would be unrealisable.”¹¹

Both the majority and minority judgements in *Minister of Finance v Afribus NPC* agreed on the application of transformation and the B-BBEE Act on public procurement.

The minority in *Minister of Finance v Afribus NPC* stated:

*“The Supreme Court of Appeal held in *ACSA*, that it is undisputed that the Procurement Act and the B-BBEE Act constitute the legislative scheme envisaged in section 217(3), giving effect to section 217(2)”¹²*

⁸ [2013] ZACC 42; 2014 (1) SA 604 (CC)

⁹ Para 46

¹⁰ Para 47

¹¹ (Case no 1050/2019) [2020] ZASCA 140 (2 November 2020) Para 99

¹² *Minister of Finance v Afribus NPC* supra para 80

The majority judgement stated: *'The debate between the first judgment and this judgment is not about these transformative imperatives. We both agree on them. And we must.'*¹³

Section 10 of the B-BBEE Act instruct in obligatory terms that every organ of state **must** apply any relevant code of good practice issued in terms of the Act in developing and implementing a preferential procurement policy.

A key feature of the judgement in Minister of Finance v Aribusiness NPC is that regulations and by implications policies that exceed to scope given in legislation for such regulations will be unlawful. The municipal Preferential Procurement Policy can thus lawfully only deal with matters of preferential procurement as other matters such as cancellation of tenders, functionality and subcontracting can only be addressed in the Supply Chain Management Policy and not the Preferential Procurement Policy.

3. FINANCIAL IMPLICATIONS

None

4. APPLICABLE LEGISLATION

- c) Constitution of the Republic of South Africa, Sections 217, 9, 33, 152 and 153
- d) Local Government: Municipal Systems Act, No. 32 of 2000 and Regulations, section 55
- e) Local Government: Municipal Finance Management Act, No. 56 of 2003, Section 186 and section 61
- f) Preferential Procurement Policy Framework Act, 2000, sections 2, 3 and 5
- g) Superior Courts Act, 10 of 2013, Section 18
- h) Preferential Procurement Regulation, 2017 (entire regulations)
- i) Draft Preferential Procurement Regulation, 2022. Government Gazette No. 46026 R.1851 (entire regulations)
- j) Preferential Procurement Regulations, 2022. Government Gazette No. No. 47452 dated 4 November 2022. (entire regulations)

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

¹³ Para 100

Municipal Manager: Item supported

Director: Strategic Support Services: Co-Author

Director: Financial Services: Item supported

Director: Engineering Services: Item and recommendation supported

Director Community Services: Supported

Acting Director: Public Services: Supported

Senior Manager Legal Services: Supported

Senior Manager Supply Chain Management: Supported

RECOMMENDATION

That in respect of –

THE PREFERENTIAL PROCUREMENT POLICY, 2022 AND AMENDMENTS TO THE SUPPLY CHAIN MANAGEMENT POLICY TO GIVE EFFECT TO THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022

as discussed by the Council at the meeting held on 12 December 2022, Council approves that:

1. The draft Preferential Procurement Policy, 2022 and the amendments to the Supply Chain Management Policy be approved in principle subject to a public participation process.
2. The draft Preferential Procurement Policy, 2022 and the amendments to the Supply Chain Management Policy be made public and the views of the public be solicited.
3. The draft Preferential Procurement Policy, 2022 and the amendments to the Supply Chain Management Policy be workshopped with the Council prior to the date of final approval.
4. That the draft Preferential Procurement Policy, 2022 and the amendments to the Supply Chain Management Policy be tabled again in Council in January 2023 for final approval.

7.9 DEBT COLLECTION: MICRO ORGANOGRAM ALIGNMENT

File No./s: 4/1/1/1

Responsible Official: IE ROOS

Directorate: SSS

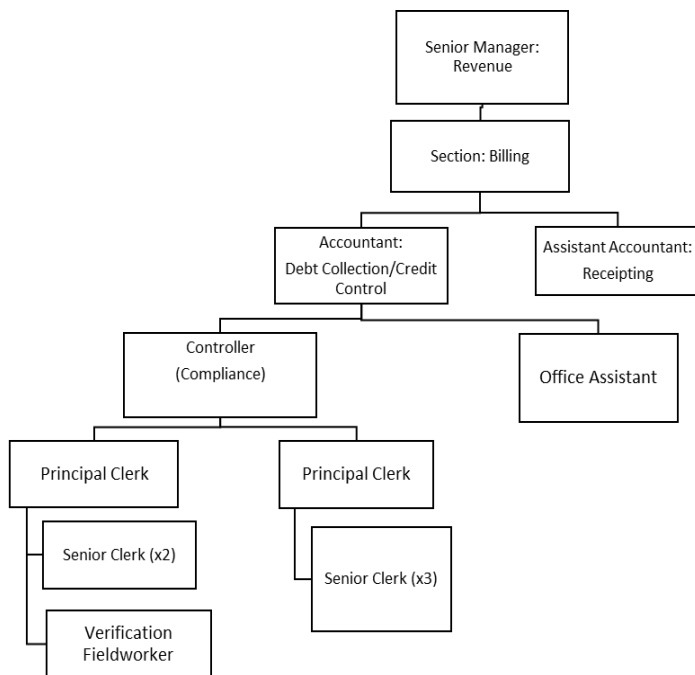
Portfolio: HR

1. PURPOSE

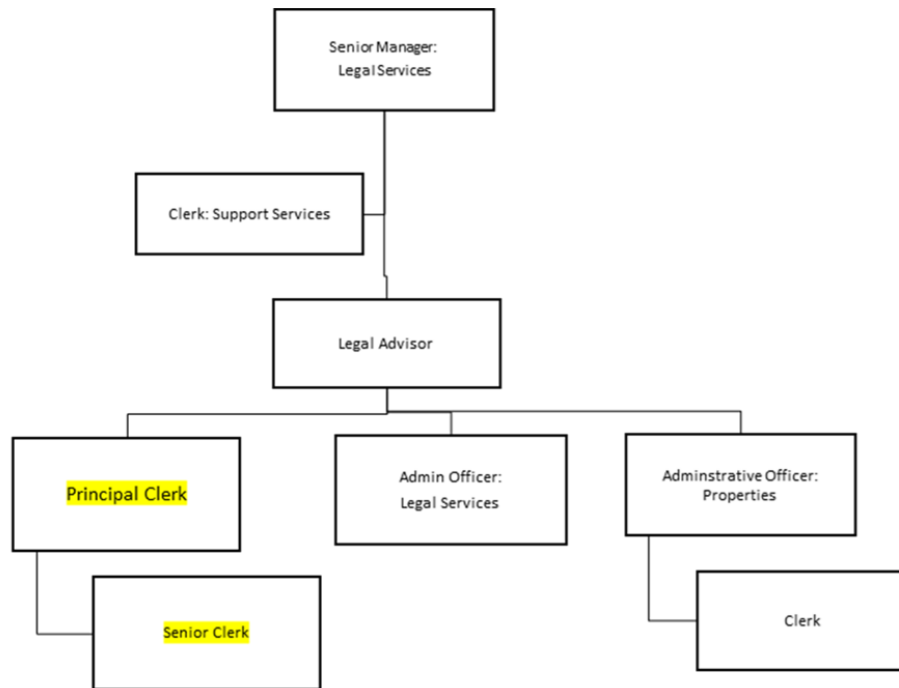
The purpose of this item is to align the micro-organogram with regards to the debt collection function.

2. BACKGROUND

In accordance with governing legislation, Council approved the current staff establishment. Directorate: Finance (Debt Collection) micro-organogram is depicted below:



The Legal Services micro organogram includes two (2) debt collection related posts:



It should be noted that Legal Services does not perform any debt collection functions as per the above as the accompanying duties resort under Directorate: Finance.

It follows that the two (2) posts on the Legal Services “debt collection leg”, as indicated highlighted should accordingly resort under Directorate: Finance in accordance with the established principle of “*staff follow function*”.

The item served at the LLF meeting of 4 November 2022 and the LLF resolved that:

RECOMMENDATION

That in respect of –

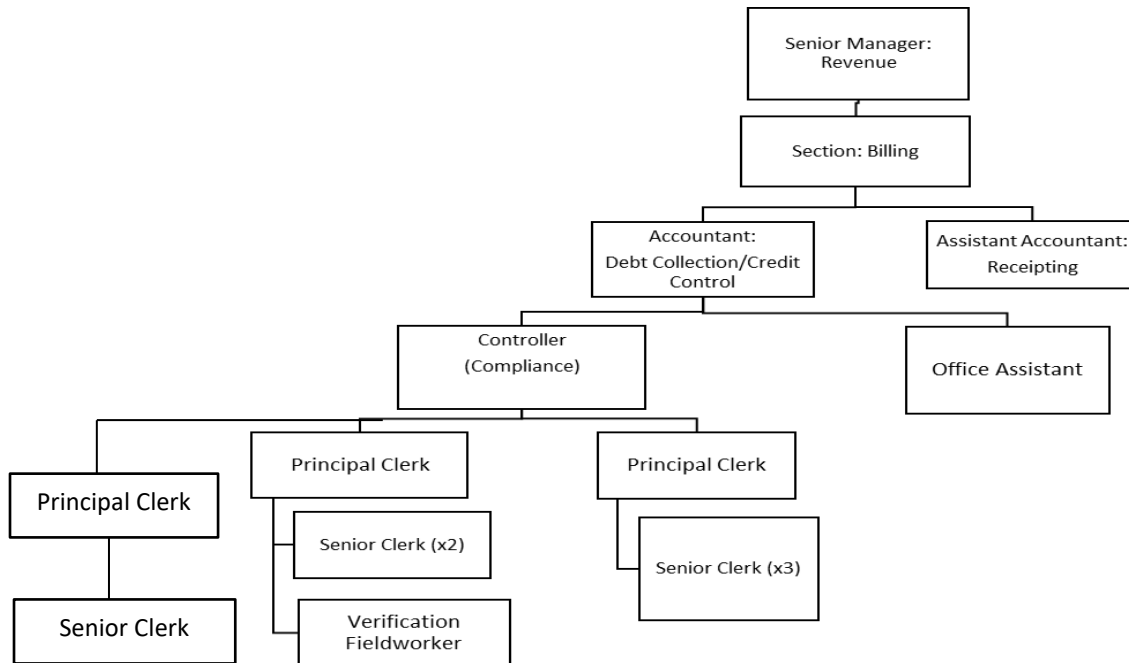
DEBT COLLECTION: MICRO ORGANOGRAM ALIGNMENT

discussed at the LLF meeting held on 4 November 2022:

That the LLF:

1. *take cognizance of the Breede Valley Municipality’s approved staff establishment;*
2. *that the LLF recommend the proposed alignment of the micro organogram to Council in that -*
 - 2.1 *the two (2) Debt Collection positions as per the Legal Services organogram be moved to Directorate: Finance for recommendation to Council as set out in the table hereunder.*

3.



4. FINANCIAL IMPLICATIONS

N/A

5. APPLICABLE LEGISLATION

Local Government: Municipal Systems Act

6. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Director Community Services: Supported

Municipal Manager: Item supported.

Director: Engineering Services: Item and recommendation supported.

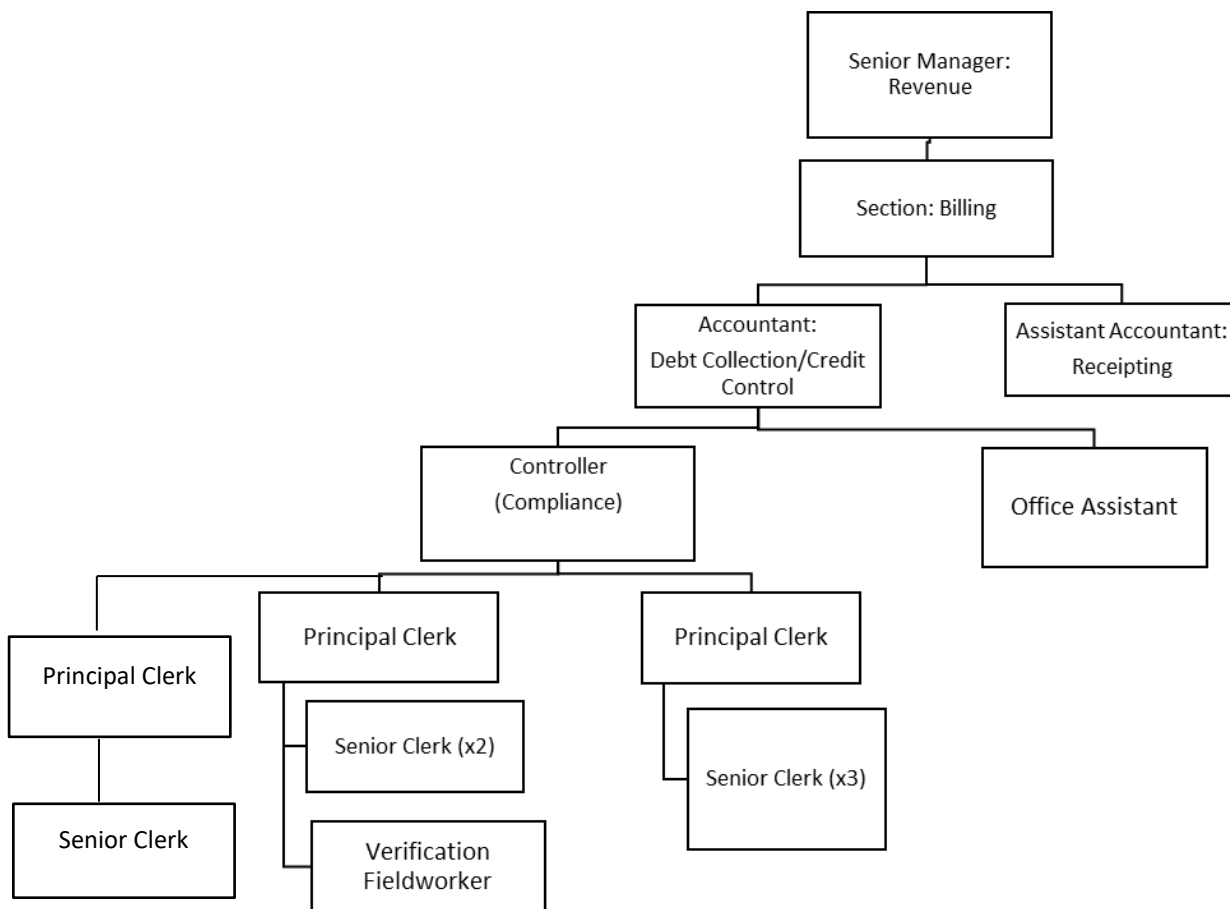
Director Financial Services: My suggestion will be that the Principal Clerk (Legal Collections) report directly to the Accountant (Debt Collection and Credit Control) and that the Verification Officer to report to the Principle Clerk (Legal Collections). This will

enable this leg to have a Senior Clerk and Verification Officer both reporting to the Principal Clerk who in turn reports directly to the Accountant.

Director Strategic Support Services: Supported

Acting Director Public Services: Support item.

Senior Manager: Legal Services: Recommendations supported.



DECISION BY SECTION 80 COMMITTEE

The item served as Item 5.1 on the Agenda before the Community and Strategic Support Service Committee on 24 November 2022, resolution number **CS31/2022** the Committee unanimously concurred with the recommendation and agreed that the above recommendation be tabled before Mayco for consideration.

DECISION BY MAYORAL COMMITTEE

RESOLVED

That in respect of –

DEBT COLLECTION: MICRO ORGANOGRAM ALIGNMENT

as discussed by the Mayco at the Mayco meeting held on 29 November 2022 resolution number **EX52/2022** the following recommendation be made to Council:

That the Committee:

1. take cognizance of the Breede Valley Municipality's approved staff establishment;
2. that the Committee recommend the proposed alignment of the micro-organogram to Council in that –
 - 2.1 the two (2) Debt Collection positions as per the Legal Services organogram be moved to Directorate: Finance for recommendation to Council as set out in the table hereunder.

RECOMMENDATION

That in respect of –

DEBT COLLECTION: MICRO ORGANOGRAM ALIGNMENT

as discussed by Council at the Council meeting held on 12 December 2022, the following recommendation be made to Council:

That Council:

1. take cognizance of the Breede Valley Municipality's approved staff establishment;
2. that the Committee recommend the proposed alignment of the micro-organogram to Council in that –
 - 2.1 the two (2) Debt Collection positions as per the Legal Services organogram be moved to Directorate: Finance for recommendation to Council as set out in the table hereunder.

7.10 IMPLEMENTATION OF THE SAFETY PLAN FOR THE BREEDE VALLEY MUNICIPALITY

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

Responsible Official: D APOLLIS

Directorate: Community Services

Portfolio: LAW ENFORCEMENT

Purpose

To inform Council of the progress of the implementation of the Safety Plan (2021 – 2026) for the Breede Valley Municipality

Background

During the month of May 2022, the Safety Plan (2021 – 2026) was submitted to council for approval, and subsequently was approved by Council on the 26 July 2022

The aim of this safety plan is to provide Council and the administration with a guiding framework on how best to deal with the community safety issues throughout the Breede Valley WC025 Municipal Area.

In this safety plan one will get a sense of the process followed in drafting the document. A variety of all stakeholders was identified and consulted to ensure that an all-inclusive approach was followed. This plan must ultimately become the strategic plan for the Community Safety Forum to be implemented in conjunction with all other partners and be considered as the Community Safety Sector Plan.

This is a five-year plan and should be reviewed annually in line with the IDP.

Progress

See resolution taken by Council on the 26th of July 2022:

RESOLVED That in respect of – SAFETY PLAN FOR THE BREEDE VALLEY MUNICIPALITY discussed by Council at the Council meeting held on 26 July 2022 with resolution number C83/2022:

Please take note of the following progress regarding the Safety Plan

- A meeting was held with all relevant stakeholders, and different local NGO's regarding the Safety Plan of the Breede Valley Municipality
- During the meeting with the different stakeholders, it was decided that a Community Safety Forum needs to be established, and currently is in process to be established.

- The Safety Plan of the BVM forms part of the greater Safety Plan of the Cape Winelands Municipal District Safety Plan
- A process is currently underway to discuss the appointment of a Community Safety Officer which will be funded by the Cape Winelands District Municipality.
- An engagement has already been made with Ward 10 regarding their safety plan.
- That the ward safety plans be workshopped before submission to council.

The next engagement with different wards will be on the following dates.

Ward 11 – 16 November 2022 – 17h00 (BVM Council Chambers)

Ward 9 - 17 November 2022 – 18h00 (BVM Council Chambers)

Ward 14 – 17 November 2022 – 18h00 (BVM Committee Room)

Ward 13 – 22 November 2022 – 18h00 (BVM Council Chambers)

Ward 21 – 29 November 2022 – 18h00 (BVM Council Chambers)

Wards 1- 8, 10, 12, 15-20, the dates to be communicated
Ward committees.

- We are currently busy with the phasing in of different awareness programmes
- Surveillance cameras has already been installed in the Riverview area (flats)
- The next phasing out of surveillance cameras will be installed in the Avian Park residential area.

Financial Implications

As per Approved budget: R430 000 CCTV Avian Park
R260 000 crime prevention

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) Municipal Systems Amendment Bill 2010
- g) 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.

h) Policy Framework

- National Crime Prevention Strategy, 1996.
- White Paper on Safety and Security, 1998.
- White Paper on Traditional Leadership and Governance
- White Paper on Local Government 1998

Comments of Directorates / Departments

Municipal Manager: Supported

Director: Strategic Support Services: Noted

Director: Financial Services: Supported

Director: Engineering Services: Noted

Acting Director: Public Services: Supported

Director: Community Services: Supported

Decision by Section 80 Committee

The item served as Item 5.2 on the Agenda before the Community and Strategic Support Service Committee on 24 November 2022, resolution number **CS32/2022** the Committee unanimously concurred with the recommendation and agreed that the above recommendation be tabled before Mayco for consideration.

Decision by Mayoral Committee

RESOLVED

That in respect of –

APPROVED SAFETY PLAN FOR THE BREEDE VALLEY MUNICIPALITY

as discussed by the Mayco at the Mayco meeting held on 29 November 2022 with resolution number **EX53/2022** the following recommendation be made to Council:

1. That Council approves the implementation of the Community Safety Plan.

RECOMMENDATION

That in respect of –

APPROVED SAFETY PLAN FOR THE BREEDE VALLEY MUNICIPALITY

as discussed by Council at the Council meeting held on 12 December 2022, the following recommendation be made to Council:

1. That Council approves the implementation of the Community Safety Plan.

7.11 REPORT 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

1. Purpose

To submit the report 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 Audit & Performance Audit Committee must report to Council as part of their communication to Council, as is prescribed by relevant legislation and the approved Charter.

The Chairperson of the Audit & Performance Audit Committee will report twice a year, or more frequently if required, to Council on the operations of the Internal Audit Activity and the Audit & Performance Audit Committee.

The report of the Audit & Performance Audit Committee for the period 01 January – 30 June 2022 is hereby submitted to Council as prescribed. *Attached as annexure A respectively.*

3. Financial Implications:

N/A

4. Applicable Legislation / Council Policy:

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

5. Comment of Directorates / Departments concerned:

Municipal Manager: Supported

Director: Community Services: Item Supported

Director: Strategic Support Services: The Audit Committee's report for 01 January 2022 to 30 June 2022 is noted. The recommendations that management improves controls in the Financial and Performance Management Systems to ensure the accuracy of the documentary evidence and that management continues to enhance compliance and control processes are noted.

Director: Financial Services: Supported

Director: Engineering Services: Noted

Acting Director: Public Services: Item Supported

Senior Manager: Legal Services: Recommendation to Council noted

RECOMMENDATION:

That in respect of

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

discussed by the Council at the Council meeting held on 12 December 2022:

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

TO ACTION:

W. du Plessis

7.12 THE ACTING APPOINTMENT OF OFFICIALS TO ACT IN THE POSITION OF DIRECTOR: PUBLIC SERVICES

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

Responsible Official: D McThomas

Directorate: Municipal Manager

Portfolio: Municipal Manager

1. PURPOSE

The purpose of this item is for Council to affirm the acting appointment of officials to act in the position of Director: Public Services.

2. BACKGROUND

Council resolved on 8 June 2022:

“RESOLVED

C69/2022

That in respect of

RECRUITMENT AND SELECTION OF DIRECTOR: PUBLIC SERVICES

discussed by the Council at the Special Council meeting held on 8 June 2022:

1. *That Council affirms that the position of Director: Public Services is vacant from 1 July 2022;*
2. *that in terms of Regulation 7(2)(a) of the Regulations on the Appointment and Conditions of Employment of Senior Managers (herein after 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;*
3. *that Council confirm in compliance with Regulation 5 that:*
 - 3.1 *the municipality requires the post to meet its strategic objectives.*
 - 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*
- 3.3 *sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post;*
 4. *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;*
 5. *that Council appoint the following members to the selection panel, for the recruitment and selection of the Director Public Services:*
 - 5.1 *The Municipal Manager who is the Chairperson;*
 - 5.2 *Alderman Wouter Meiring;*
 - 5.3 *Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager) who has expertise and experience in the area of the advertised post;*
 6. *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;*
 7. *that with regards to the acting appointment in position of Director Public Services:*
 - 7.1 *that Council appoint Mr P Hartzenberg to act in the position of Director Public Services from 1 July 2022 to 30 September 2022; and*
 - 7.2 *that Council appoint Mr J. Pekeur to act in the position of Director Public Services from 1 October 2022 to 31 December 2022 or until such date the position is filled which ever occur first.”*

The post was duly advertised on 13 June 2022 with closing date of 28 June 2022. Fifteen (15) applications were received and during the shortlisting meeting held on 18 July 2022, it was found that none of the applicants complied with the minimum requirements.

In terms of Regulation 19(1)(b) of the Regulations on the Appointment and Conditions of Employment of Senior Managers (herein after referred to as "The Regulations") Gazetted on 17 January 2014 (Gazette No. 37245), if no suitable candidate has been identified, the municipal council may re-advertise the posts.

The Breede Valley Municipality is currently, in terms of the Local Government: Municipal Staff Regulations, No. 890 and its Guidelines for the Implementation of the Municipal Staff Regulations, No. 891, busy with the revision of the Staff Establishment which is projected with a completion date of being 17 March 2023. It is thus proposed that Council do not exercise their option in terms of Regulation 19(1)(b) mentioned above to re-advertise the post.

The acting period of Mr J. Pekeur to act in the position of Director Public Services is coming to an end on 31 December 2022 and accordingly it is proposed that Council affirm the acting appointment of Mr. P Hartzenberg to act in the position of Director Public Services from 1 January 2023 to 31 March 2023 and Mr J. Pekeur to act in the position from 1 April 2023 to 30 June 2023 or until such date the position is filled, whichever occur first.

3. APPLICABLE LEGISLATION

1. The Constitution of the Republic of South Africa
2. Municipal Systems Act, Act 32 of 2000 and Regulations
3. Municipal Finance Management Act

4. FINANCIAL IMPLICATIONS

The financial implications will be the acting in this position.

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED:

MUNICIPAL MANAGER:	AUTHOR OF THE ITEM
DIRECTOR: STRATEGIC SUPPORT SERVICES:	SUPPORTED
CHIEF FINANCIAL OFFICER:	SUPPORTED
DIRECTOR: ENGINEERING SERVICES:	NOTED
DIRECTOR: COMMUNITY SERVICES:	SUPPORTED

ACTING DIRECTOR: PUBLIC SERVICES:

ITEM SUPPORTED

SENIOR MANAGER: LEGAL SERVICES:

RECOMMENDATION SUPPORTED

RECOMMENDATION

That in respect of –

THE ACTING APPOINTMENT OF OFFICIALS TO ACT IN THE POSITION OF DIRECTOR: PUBLIC SERVICES

as discussed by Council at the Council meeting held on 12 December 2022, Council resolve that:

1. Mr. P. Hartzenberg be appointed to act in the position of Director: Public Services from 1 January 2023 to 31 March 2023; and
2. That Mr. J. Pekeur be appointed to act in the position of Director: Public Services from 1 April 2023 to 30 June 2023 or until such date the position is filled, whichever occur first.

To action:

Municipal Manager

7.13 PROPOSED REVIEW AND RESCISSION: DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE CODE OF CONDUCT FOR COUNCILLORS

File No./s: 9/2/3/1/33

Responsible Official: I Roos

Directorate: SSS

Portfolio: Administration & Support Services

1. PURPOSE

The purpose of this item is for Council to consider the review and rescission of its previous resolution in respect of the Disciplinary Committee in terms of the Local Government: Municipal Structures Amendment Act (Act No. 3 of 2021), hereinafter referred to as “*the Act*”, Schedule 7 (Code of Conduct for Councillors).

2. BACKGROUND

The procedure to be followed in the event of an alleged breach of the Code of Conduct is prescribed in the Act, item 15(1):

“15. Breaches of Code

(1) If the speaker of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the speaker must-

(a) authorize an investigation of the facts and circumstances of the alleged breach;

*(b) give the councilor a reasonable opportunity to reply in writing regarding the alleged breach;
and*

(c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with”.

Item 16(1) of the Act furthermore stipulates:

“16 Investigation of breach

(1) A municipal council may-

(a) investigate and make a finding on any alleged breach of a provision of this Code; or

(b) establish a special committee-

(i) to investigate and make a finding on any alleged breach of this Code; and

(ii) to make appropriate recommendations to the council”.

During the Council meeting held on 31 March 2022 it was resolved as follows:

“RESOLVED

C40/2022

That in respect of -

DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE CODE OF CONDUCT FOR COUNCILLORS

as discussed by Council at the Council meeting held on 31 March 2022:

- 1. That Council establish a Disciplinary Committee in compliance with Item 16(1)(b) of Schedule 7 of the Local Government: Municipal Structures Amendment Act.*
- 2. The Disciplinary Committee cannot at its own discretion investigate alleged breaches of the Code of Conduct for Councillors but can only consider matters referred to it by the municipal council.*
- 3. That council shall at the time when it refers a matter to the Disciplinary Committee set the terms of reference of each investigation into an alleged breach and*

4. *That Council can at that stage when it refers matters to the committee, substitute any member of the committee should a councillor be implicated or have a conflict of interest or should the committee member be a potential witness at the hearing.*
5. *Safe as provided above the Disciplinary Committee shall be comprised of a representative of all political parties.*
6. *The Disciplinary Committee may be assisted by external experts”.*

Section 79(2)(c) of the Structures Act instructs in peremptory terms that the municipal Council must appoint the chairperson of any committee of council members established to assist council with its functions. It should be noted from the above that Council did not appoint the chairperson of the Disciplinary Committee as prescribed in section 79(2)(c) of the Structures Act. It is accordingly proposed that Council resolution C40/2022 be reviewed and rescinded to enable Council to re-establish the Disciplinary Committee and appoint the chairperson.

FINANCIAL IMPLICATIONS

Only the chairperson of the committee may be entitled to remuneration as set out in the Upper Limits as the chairperson of a part-time section 79 committee.

APPLICABLE LEGISLATION

Local Government: Municipal Structures Amendment Act, Act 3 of 2021

COMMENT OF DIRECTORATES

As this item seek to review and rescind a previous Council resolution, the inputs from only the Municipal Manager were solicited and not that of the respective directorates.

MUNICIPAL MANAGER

Item and recommendation supported.

DIRECTOR: STRATEGIC SUPPORT SERVICES

Author of the item

SENIOR MANAGER: LEGAL SERVICES

Co-Author of the item.

RECOMMENDATION

That in respect of -

PROPOSED REVIEW AND RESCISSION: DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE CODE OF CONDUCT FOR COUNCILLORS

as discussed by Council at the Council meeting held on 12 December 2022, Council decide:

1. That Council resolution C40/2022 be reviewed and rescinded;
2. that Council in compliance with section 79 of the Structures Act and item 16(1)(b) of Schedule 7 of the Local Government: Municipal Structures Amendment Act establish a Disciplinary Committee;
3. that Council appoint the members of the Disciplinary Committee from among its members.
4. that Council appoints the Chairperson of the Disciplinary Committee, as a chairperson of a part-time section 79 committee.
5. To ensure the effective and efficient operations of the Disciplinary Committee with due regard to the rules of natural justice, Council delegates the following powers and functions to the Speaker:

- 5.1 to refer disciplinary matters of councilors directly to the Disciplinary Committee without submitting the matter first to the municipal council for consideration.
- 5.2 to decide whether an initiator or assessor shall be needed during the disciplinary process. The assessor shall be an independent legally qualified and experienced person who shall with no voting rights advise members of the committee on analysing and evaluating evidence and an appropriate outcome and sanction if needed.
- 5.3 to direct the Municipal Manager to procure the services of external experts if needed to assist as initiators or assessors during the disciplinary process or the speaker may consult with SALGA or another organ of state to assist in the roles of initiator or assessor.
- 5.4 to at the time when the speaker refers the matter to the Disciplinary Committee, he shall set the terms of reference of each investigation into an alleged breach.
- 5.5 to direct the Municipal Manager to make arrangements for assistance services such as translation services, recording services, witness transport, refreshments, etcetera during or in anticipation of the disciplinary inquiry.
- 5.6 to with the chairperson of the committee set the date, time, and venue of every disciplinary inquiry against a councilor.
- 5.7 to distribute the formal notice to a councilor to appear at a disciplinary inquiry. The notice must *inter alia* set out:
 - 5.7.1 The date, time, and venue of the inquiry.
 - 5.7.2 The allegations to which the councilor will be required to answer.
 - 5.7.3 Enquire from the councilor whether interpretation services will be required.
 - 5.7.4 inform the councilor that the hearing can proceed should he/she fail to attend the inquiry without a valid reason.

- 5.7.5 inform the councilor of the format and style of the inquiry as well as his rights during the proceedings.
- 5.8 to in addition to the powers and duties stated above, the speaker shall do such things and take such actions as may be necessary to assist the Disciplinary Committee to ensure effective and efficient disciplinary procedure against any councillor whilst observing the rules of natural justice and any applicable legal prescripts.
- 5.9 to at that stage when he refers matters to the Disciplinary Committee, the speaker shall assess if any members of the Disciplinary Committee are implicated or have a conflict of interest or maybe a potential witness at the hearing
6. In the event that a member of the Disciplinary Committee in the assessment of the speaker is conflicted as stated in 5.9 the speaker must submit an item to the Council to replace the conflicted member on the committee for that specific matter.

To action

Ivy Roos

7.14 AMENDMENT OF DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS

File No./s: 3/2/2/20

Responsible Official: R Ontong

Directorate: Financial Services

Portfolio: Financial Services

1. PURPOSE

The purpose of this item is to inform Council of the Amendment of Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils, as promulgated in Government Gazette No. 2692, dated 2 November 2022, attached as “**Annexure A**”, hereinafter referred to as the “**Amended Upper Limits**”.

2. BACKGROUND

The Minister of Cooperative Governance and Traditional Affairs promulgated the Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils in Government Gazette No. 46470, dated 2 June 2022, attached as “**Annexure B**”. The aforementioned determine that the increases take effect from 1 July 2021.

During the Special Council meeting held on 8 June 2022, it was resolved as follows:

“RESOLVED

C70/2022

That in respect of -

DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF COUNCILLORS: 2021/22

as discussed by Council at the Special Council meeting of 08 June 2022:

1. *All relevant Stakeholders be informed that the Breede Valley Municipal Council supports the upwards adjustment of councillor allowances from 01 July 2021.*
2. *It be noted that before the implementation of the notice by municipalities the concurrence of the relevant Member of the Executive Council (MEC) responsible for local government is required.*
3. *The increase is implemented immediately after the concurrence has been received from the MEC for Local Government.”*

Subsequent to resolution C70/2022, the **Amended Upper Limits** were promulgated on 2 November 2022. The item which finds application relates to the cell phone and data bundles for councillors. In this regard, item 11 stipulates:

Amendment of item 11 of the upper limits of cell phone allowance for councillors

3. The following item is hereby substituted for item 11 of the Notice:

“A councillor may, in addition to the annual total remuneration package provided for in terms of items 5 and 8 respectively, be paid a cell phone allowance not exceeding R3,400.00 per month [**inclusive of mobile data,**] in accordance with the applicable municipal council policy”.

Insertion of item 11A in Notice

4. The following item is hereby inserted in the Notice after item 11:

11A Upper limits of mobile data bundles for councillors

A councillor may, in addition to the annual total remuneration package provided for in terms of items 5 and 8 respectively, be paid an allowance on the use of data bundles not exceeding R300.00 per month”.

Should Council resolve as per the below recommendation, it follows that the cell phone allowance for all councilors will remain at an amount not exceeding R3 400.00 per month, **exclusive** of mobile data. In accordance with item 11A, a councillor may **in addition** be paid an allowance not exceeding R300.00 per month on the use of data bundles.

It is confirmed that sufficient budgetary provision is available in the 2022/2023 financial year to provide for the allowances of R300.00 per month to councilors for the use of data bundles, retrospectively with effect from 1 July 2021.

3. FINANCIAL IMPLICATIONS

The financial implications would be the allowance of R300.00 per month per councillor, with effect from 1 July 2021.

4. COMMENTS OF DIRECTORATES

As this item will not impact on the respective directorates, the inputs from only the Municipal Manager was solicited.

5. APPLICABLE LEGISLATION

Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998)

Municipal Finance Management Act, 2003 (Act No. 5 of 2003)

6. COMMENTS OF DIRECTORATES

MUNICIPAL MANAGER: Supported

CHIEF FINANCIAL OFFICER: Author of the item

RECOMMENDATION

That in respect of -

AMENDMENT OF DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS

as discussed by Council at the Council meeting held on 12 December 2022:

1. That all relevant stakeholders be informed that the Breede Valley Municipal Council supports the allowance of R300.00 per month on the use of data bundles for councilors;
2. that Council note that sufficient budgetary provision is made in the 2022/2023 budget to implement the allowance retrospectively with effect from 1 July 2021;
3. that prior to the implementation of the data bundle allowance the concurrence of the relevant Member of the Executive Council (MEC) responsible for local government is required; and
4. that the allowance be implemented immediately after the concurrence has been received from the MEC for Local Government.

To action

R Ontong

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

9. CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL

9.1 REPLACEMENT OF CLLR L WILLEMSE ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) AND THE LOCAL LABOUR FORUM (LLF)

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

Responsible Person: Speaker

Directorate: Municipal Manager

Portfolio: Municipal Manager

1. PURPOSE OF REPORT

For Council to elect a DA Councillor to replace Cllr L Willemse on MPAC and the LLF.

2. BACKGROUND

At the Council meeting held on 17 November 2021, Council resolved the following on the appointment of MPAC members and the MPAC Chairperson:

RESOLVED

C101/1021

- 1. that Cllr H.C. Titus be appointed as the Chairperson of MPAC;**
- 2. that one member of each political party serves on MPAC excluding the VF+; and**
- 3. that the names of the delegates of each party must be given to the Speaker's office within 7 days of this meeting.**

In terms of the above resolution, the name of Cllr L Willemse, as the delegate of the DA, was given by the DA to the Speaker to be appointed as a member of MPAC.

At the meeting held on 17 November 2021, Council furthermore resolved the following on the appointment of Councillors to serve on the Local Labour Forum:

RESOLVED

C103/2021

that Council appoints the following Councillors to serve on the Local Labour Forum:

- 1. Ald. W.R. Meiring;**
- 2. Cllr N. Nel;**
- 3. Cllr P. C. Ramokhabi; and**
- 4. Cllr L. Willemse.**

3. DISCUSSION

By virtue of the resignation of Cllr L Willemse as a DA Councillor on 21 November 2022 (see attached resignation letter as annexure A), Council is obliged to replace Councillor L Willemse with another DA Councillor to serve as a member on the MPAC and the Local Labour Forum.

RECOMMENDED

That in respect of –

REPLACEMENT OF CLLR L WILLEMSE ON THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) AND THE LOCAL LABOUR FORUM (LLF)

discussed by Council at the Council meeting held on 12 December 2022:

1. That Council elects a DA Councillor to replace Councillor L Willemse, who resigned on 21 November 2022, to serve as a member on MPAC and the LLF.

9.2 COUNCIL RECESS DECEMBER 2022/JANUARY 2023

File No. /s: 2/1/4/2/3
Directorate: Mayco

Responsible Official: JF van Zyl
Portfolio: Mayco

1. Purpose

The purpose of the report is to obtain confirmation of Council's recess from 20 December 2022 to 15 January 2023.

2. Background

Section 18(2) of the Structures Act (as amended) provides that a municipal council must meet at least quarterly.

Item 4 of the Code of Conduct for Councillors (Schedule 7 to the Structures Act) provides that a Councillor must attend each meeting of the municipal council and of a committee of which that Councillor is a member. Should Council resolve to go into recess on 20 December 2022 to 15 January 2023, such a resolution will have no effect on Council's legal responsibility to meet at least quarterly.

During the proposed recess, all urgent matters shall be dealt with by the Executive Mayor in consultation with the Municipal Manager, except those reserved in terms of the provisions of Section 160(2) of the Constitution and Section 59 (1) (a) of the Systems Act for full Council.

3. Financial Implications

None

4. Applicable Legislation / Council Policy

Constitution of the Republic of South Africa, 1996 (Constitution)

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

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

RECOMMENDATION

That in respect of

COUNCIL RECESS DECEMBER 2022/JANUARY 2023

discussed by the Council at the Council meeting held 12 December 2022:

1. that the proposed period of recess, namely 20 December 2022 to 15 January 2023 be approved; and
2. that, during the period of recess, all urgent matters/emergency situations be dealt with by the Executive Mayor in consultation with the Municipal Manager, except those reserved by law for full Council.

TO ACTION

Municipal Manager

10. 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

11. CONSIDERATION OF MOTIONS OF EXIGENCY

12. CLOSURE
