

NOTICE

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

2022-07-26

**NOTICE OF THE 1st COUNCIL MEETING OF 2022/2023
FINANCIAL YEAR OF THE COUNCIL OF BREDE VALLEY MUNICIPALITY
TUESDAY, 2022-07-26 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 **1st COUNCIL MEETING** of the **2022/2023 FINANCIAL YEAR** of the **COUNCIL** of **BREDE VALLEY MUNICIPALITY** will be held at **CWDM, COUNCIL CHAMBERS, 51 TRAPPE STREET, WORCESTER** on **TUESDAY, 2022-07-26** at **10:00** to consider the items on the Agenda.



SPEAKER
ALDERMAN J.F. VAN ZYL



BREDE VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

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1. OPENING AND WELCOME

In terms of the Rules of Order for Internal Arrangement By-Law 2012 (as amended) the chairperson must take the chair at the time stated in the notice of the meeting or as soon thereafter as is reasonably possible: provided that the meeting does not commence later than 30 (thirty) minutes after the time stated in the notice of the meeting and must proceed immediately with the business of the meeting.

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

Item 6 of Schedule 7 of the Municipal Structures Amendment Act 3 of 2021 states:

A councillor must –

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

2.2 APPLICATIONS FOR LEAVE OF ABSENCE

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

- 2.2.1 Every Councillor attending a meeting of the Council must sign his or her name in the attendance register kept for such purpose.
 - 2.2.2 A Councillor must attend each meeting except when –
 - (a) Leave of absence is granted in terms of Clause 10; or
 - (b) The Councillor is required to withdraw in terms of law.
 - 2.2.3 The Attendance Registers will be available at the meeting.
 - 2.2.4 A blank Application for Leave of Absence form is enclosed.
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3. COMMUNICATION**3.1 INTERVIEWS OR PRESENTATIONS BY DEPUTATIONS**

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

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

3.2 BIRTHDAYS OF COUNCILLORS

Cllr F. Vaughan	12 August 2022
Cllr O. Ralehoko	27 August 2022

3.3 LONG SERVICE AWARDS: EMPLOYEES**LONG SERVICE AWARDS FOR JUNE 2022**

NUMBER	NAME AND SURNAME	POST TITLE AS AT DATE OF LONG SERVICE AWARD	LONG SERVICE YEARS
1	Monica Bolwana	Revenue / Billing	10
2	Denisa Jaftha	Roads & Stormwater, Touws River	10
3	Bandile Advocate Fusa	Solid Waste	15
4	Hendrik Johannes Smit	Roads & Stormwater	15
5	Esteronia Jantjies	Esselen Park Sportsground	25
6	Matthews Mtabane	Solid Waste	25
7	Antonie Nqakala	Revenue Services	25
8	Johannes Thabiso Rhalane	Solid Waste	25

3.4 STATEMENTS BY THE SPEAKER**3.5 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 30 May 2022 (Copy enclosed)**RECOMMENDATION**

That in respect of

CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING

discussed by Council at the Council Meeting held on 26 July 2022:

1. As the Minutes of the Council Meeting held on 30 May 2022 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 30 May 2022 be taken as read and confirmed.

4.3 Special Council Meeting held on 08 June 2022 (Copy enclosed)**RECOMMENDATION**

That in respect of

CONFIRMATION OF MINUTES OF SPECIAL COUNCIL MEETING

discussed by Council at the Council Meeting held on 26 July 2022:

1. As the Minutes of the Special Council Meeting held on 08 June 2022 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Special Council meeting held 08 June 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

Mayco Meeting held on 24 May 2022**5.1.1 INTEGRATED DISASTER RISK MANAGEMENT FRAMEWORK AND DISASTER RISK MANAGEMENT PLAN REVIEW: 2022/2023****RESOLVED****EX27/2022**

That in respect of

INTEGRATED DISASTER RISK MANAGEMENT FRAMEWORK AND DISASTER RISK MANAGEMENT PLAN REVIEW: 2022/2023

discussed by Mayco at the Mayco meeting held on 24 May 2022, the following recommendation be made to Council:

That Council approves the:-

1. Municipal Integrated Disaster Risk Management Framework
2. Municipal Disaster Risk Management Plan;

and that both must be for inclusion into the Municipal Integrated Development Plan.

5.2 MMC1: Alderman W.R. Meiring

Mayco Meeting held on 24 May 2022

**5.2.1 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 APRIL 2022.
MFMA SECTION 71 Report**

RESOLVED

EX24/2022

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 APRIL 2022

discussed by Mayco at the Mayco meeting held on 24 May 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 30 April 2022.

5.2.2 REPORT TO FINANCE COMMITTEE ON DEVIATIONS FOR THE MONTH OF APRIL 2022

RESOLVED

EX25/2022

In respect of the

REPORT TO FINANCE COMMITTEE ON DEVIATIONS FOR THE MONTH OF APRIL 2022

discussed by Mayco at the Mayco meeting held on 24 May 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 April 2022, be noted.

5.2.3 PRESUMED STRATEGIC RISK MANAGEMENT REPORT FOR THE 2022-2023 FINANCIAL YEAR**RESOLVED****EX26/2022**

That in respect of the

PRESUMED STRATEGIC RISK MANAGEMENT REPORT FOR THE 2022-2023 FINANCIAL YEAR

discussed by Mayco at the Mayco meeting held on 24 May 2022, the following recommendation be made to Council:

1. Recommends that Council takes note of the outcome of the Strategic Risk identification and assessment process, the result of which is captured in the BVM Strategic Risk Management Report for the period 2022-2023.
2. Recommend that Council approve the Strategic Risk Management Report for the period financial period 2022-2023.

5.2.4 RECRUITMENT AND SELECTION OF MUNICIPAL MANAGER**RESOLVED****EX29/2022**

That in respect of –

RECRUITMENT AND SELECTION OF MUNICIPAL MANAGER

as discussed by Mayco at the Mayco meeting held on 24 May 2022 Mayco decide:

1. That Council affirm that the position of Municipal Manager will be vacant on 1 November 2022;
2. that in terms of Regulation 7(2)(a) of the Regulations on the Appointment and Conditions of Employment of Senior Managers ('The Regulations') Gazetted on 17 January 2014 (Gazette No. 37245) Council approve that the post of the Municipal Manager be filled;
3. That Council confirm in compliance with Regulation 5 that:

-
- 3.1.1 the municipality requires the post to meet its strategic objectives;
 - 3.1.2 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
 - 3.1.3 sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post;
 - 3.2 that the administration must ensure that the post of the Municipal Manager is advertised in a newspaper circulating nationally and in this province within the legislative timeframe from the date of this resolution;
 - 3.3 that the services of a competent and experienced recruitment agency be used during the recruitment process, subject thereto that the advertising, recruitment, selection procedure and competency testing complies with the Regulations;
 - 3.4 that Council appoint the following members on the Selection Panel for the recruitment and selection of the Municipal Manager:
 - 3.4.1 The Executive Mayor who is the Chairperson;
 - 3.4.2 Councillor Wouter Meiring; and
 - 3.4.3 Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager), who has expertise and experience in the area of the advertised post;
 - 3.5 that the selection panel submit a report and recommendation on the selection process to Council on the suitable candidates who comply with the relevant competency requirements of the post in order of preference; and
 - 3.6 that the appointment shall be for a fixed term of five (5) years.

5.3 MMC 2: Cllr. P.C. Ramokhabi

5.4 MMC 3: Cllr. N. Nel

5.5 MMC 4: Cllr. E. Van der Westhuizen

5.6 MMC 5: Cllr J.R. Jack

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 24 May 2022

**5.9.1 CONSIDERATION FOR THE DIRECT ALIENATION OF A PORTION
ELIZABETH STREET, RAWSONVILLE**

RESOLVED:

EX28/2022

That in respect of –

**CONSIDERATION FOR THE DIRECT ALIENATION OF A PORTION ELIZABETH
STREET, RAWSONVILLE.**

discussed by Mayco at the Mayco meeting held on 24 May 2022, the following
recommendation be made to Council:

1. That the objections in respect of the proposed pedestrian thoroughfare is upheld;
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;
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;

4. that the subject portion of Elizabeth Street, Rawsonville be consolidated with the adjoining property of the Applicant, being Erf 537, Rawsonville;
5. 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;
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 2 above;
7. that all costs pertaining to the transaction be borne by the Purchaser, which may include survey, rezoning, consolidation and costs of transfer;
8. 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;
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
10. 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."

6. COLLABORATOR OUTSTANDING RESOLUTIONS REPORT**6.1 OUTSTANDING COUNCIL RESOLUTIONS PER DIRECTORATE AS EXTRACTED
ON 25 JULY 2022****OUTSTANDING COUNCIL RESOLUTIONS PER DIRECTORATE AS EXTRACTED ON 20
JULY 2022 FOR THE MONTH OF JUNE 2022:****1. COMMUNITY SERVICES**

Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment	
172625	SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY	RESOLVED C41/2015 That in respect of the SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY discussed by Council at the Council meeting held on 25 of June 2015: 1. That Council approved the draft By-Law relating to the Management and Control of flats (rental housing units) owned or administer by the Breede Valley Municipality; 2. That the administration advertises said draft By-Law for public comments; 3. That all comments be collated submitted to Council for final approval and promulgation in the Provincial Gazette. 4. That the draft By-Law be workshopped with all the Councillors.	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 completed first, and all related policy be updated. 2. Council must approve the policy after this process. Covid-19 and the lockdown have delayed the submission. A new report we will be submitted Council when the normal business resume.
767107	AVIAN PARK (439) HOUSING PROJECT: OCCUPIERS AND TRANSFER OF SUBSIDIES TO TRANSHEX HOUSING PROJECT AND PROPOSED	RESOLVED C85/2018 That in respect of – AVIAN PARK (439) HOUSING PROJECT: OCCUPIERS AND TRANSFER OF SUBSIDIES TO TRANSHEX HOUSING PROJECT AND PROPOSED ALIENATION OF TWENTY-FIVE (25) ERVEN IN AVIAN	2018-10-30	HPOTGIETER	80	15/07/2022: Transfers still in process.

	<p>ALIENATION OF TWENTY-FIVE (25) ERVEN IN AVIAN PARK FOR RESIDENTIAL PURPOSES</p>	<p>PARK FOR RESIDENTIAL PURPOSES as discussed by Council at the Council meeting held on 30 October 2018 council decide:</p> <p>1. That Council take cognizance of the negotiations with the respective effected stakeholders;</p> <p>2. That Council resolve in respect of the occupants or owners as follows:</p> <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> <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</p>				
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		<p>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 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>				
1099838	SAFETY PLAN FOR THE BREEDE	<p>RESOLVED C52/2022</p> <p>That in respect of –</p>	2022-04-26	DAPOLLIS		

	VALLEY MUNICIPALITY	<p>SAFETY PLAN FOR THE BREEDE VALLEY MUNICIPALITY</p> <p>discussed by Council at the Council meeting held on 26 April 2022:</p> <ol style="list-style-type: none"> 1. That the Council takes note of the proposed Safety Plan as encapsulated in "Annexure A – Breede Valley Municipal Safety Plan" 2. That Council considers and approves the draft Safety Plan encapsulated in Annexure A which is to be workshopped with Council and relevant roleplayers / stakeholders before final approval; 				
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2. STRATEGIC SUPPORT SERVICES

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> <ol style="list-style-type: none"> 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; 2. that the subject portion, a portion of Erf 1, Worcester be consolidated with the adjoining 	2019-07-23	HPOTGIETER	95	15/07/2022: Transfer documents being drafted for submission to the Deeds Office.

		<p>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 portion of Erf 1, Worcester and all</p>				
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		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 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 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 in respect of the consolidated properties be included stipulating 	2019-10-29	HPOTGIETER	80	15/07/2022: Surveyor advised that application for consolidation & subdivision is in process.

		<p>that the subject even 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>				
886395	<p>IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF MUNICIPAL PROPERTY: ERF 5595, SITUATED AT 1 PHILLY MAPUTANE STREET, DE DOORNS</p>	<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	80	15/07/2022: Regulation 68 advertisement being placed in accordance with Deeds Registry Act. Transfer documents duly signed.

		<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</p>				
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		documents relating to the 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 	2021-02-23	HPOTGIETER	80	15/07/2022: Original title deed obtained. Instruction issued to conveyancer to proceed with application for original subdivision plan.

		<p>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 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>				
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 –</p> <p>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</p>	2021-02-23	HPOTGIETER	80	<p>15/07/2022: Purchaser was duly informed that subdivision application should be submitted prior to transfer.</p>

		<p>time homeowners with the means to purchase and 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</p>				
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		<p>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>13. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the subject property.</p>				
913139	<p>IN PRINCIPLE APPROVAL FOR THE DISPOSAL OF A PORTION OF REMAINDER OF FARM 576 RHOODE HOOGTE OUTSPAN, WORCESTER</p>	<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 (Rhode 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</p>	2021-04-28	HPOTGIETER	80	15/07/2022: Collaborative site inspection at the property proposed.

		<p>Agricultural Zone I Purposes only and should the Purchaser not use the property as specified, the erf will revert 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>				
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</p>	2021-09-28	HPOTGIETER	80	15/07/2022: Matter pending decision from Municipal Planning Tribunal.

		<p>Rand), alternatively R40 000.00 (Forty Thousand Rand) per hectare, for the 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>				
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</p>	2022-04-26	HPOTGIETER	50	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).

		<p>non-viable property;</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</p>				
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		<p>municipal services in terms of the provision Section 14 of the Local Government: 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</p>	2022-05-30	HPOTGIETER	25	15/07/2022: Council resolution communicated with applicant. Town Planning processes to be finalized.

		<p>in item 2 above;</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>				
1121587	RECRUITMENT AND SELECTION OF MUNICIPAL MANAGER	<p>RESOLVED C65/2022</p> <p>That in respect of – RECRUITMENT AND SELECTION OF MUNICIPAL MANAGER as discussed by Council at the Council meeting held on 30 May 2022 Council decide:</p> <p>1. That Council affirm that the position of Municipal Manager will be vacant on 1 November 2022;</p> <p>2. that in terms of Regulation 7(2)(a) of the Regulations on the Appointment and Conditions of Employment of Senior Managers ("The Regulations") Gazetted on 17 January 2014 (Gazette No. 37245) Council approve that the post of the Municipal Manager be filled;</p> <p>3. That Council confirm in compliance with Regulation 5 that:</p> <p>3.1.1 the municipality requires the post to meet its strategic objectives;</p> <p>3.1.2 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</p>	2022-05-30	HPOTGIETER	50	11/07/2022: Closed quotation process followed - recruitment agency duly appointed. Shortlisting scheduled for 18/07/2022.

		<p>the Municipal Managers once a suitable candidate is recommended; and</p> <p>3.1.3 sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post;</p> <p>3.2 that the administration must ensure that the post of the Municipal Manager is advertised in a newspaper circulating nationally and in this province within the legislative timeframe from the date of this resolution;</p> <p>3.3 that the services of a competent and experienced recruitment agency be used during the recruitment process, subject thereto that the advertising, recruitment, selection procedure and competency testing complies with the Regulations;</p> <p>3.4 that Council appoint the following members on the Selection Panel for the recruitment and selection of the Municipal Manager:</p> <p>3.4.1 The Executive Mayor who is the Chairperson;</p> <p>3.4.2 Councillor Wouter Meiring; and</p> <p>3.4.3 Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager), who has expertise and experience in the area of the advertised post;</p> <p>3.5 that the selection panel submit a report and recommendation on the selection process to Council on the suitable candidates who comply with the relevant competency requirements of the post in order of preference;</p> <p>3.6 that the appointment shall be for a fixed term of five (5) years; and</p> <p>3.7 that each party is entitled to nominate one representative to attend and observe the proceedings;</p>				
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3. PUBLIC SERVICES

None

4. **ENGINEERING SERVICES**

Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment	
1127521	<p>PROPOSED AMENDMENTS TO BIDS BV 566/2020; BV814/2020 AND BV816/2019 IN COMPLIANCE WITH SECTION 116(3) OF THE MFMA (The tender descriptions are within the report content)</p>	<p>RESOLVED C67/2022 In respect of PROPOSED AMENDMENTS TO BIDS BV 566/2020; BV814/2020 AND BV816/2019 IN COMPLIANCE WITH SECTION 116(3) OF THE MFMA as discussed by Council at the Special Council Meeting held on 8 June 2022: That cognisance be taken of the reasons for the proposed amendment of Contracts: 1. WEC CONSULT (PTY) LTD (BV566/2020 Professional Services for the Construction of Erosion Protection at Hex River, Worcester) 2. BERGSTAN SOUTH AFRICA (PTY) LTD (BV814/2020 Professional services for the extension of Rawsonville Wastewater Treatment Works) 3. WSP GROUP AFRICA (PTY) LTD (BV816/2019 Professional services for the construction of 20ML service Reservoir at Preloads for services of the above contracts, ending 30 June 2022, enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the amendments of the contracts be consented to; And that the amendment of all above-mentioned contracts extended under the same terms and conditions for a period ending 30 June 2024, and that the amendments be subject to BVM financial capacity to utilise these contracts, including a one-month written notification for cancellation clause, applicable to for both parties.</p>	2022-06-08	JGORDON		

5. **FINANCIAL SERVICES**

None

6. MUNICIPAL MANAGER

Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment
1127524	<p>RECRUITMENT AND SELECTION OF DIRECTOR: PUBLIC SERVICES</p> <p>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:</p> <p>1. That Council affirms that the position of Director: Public Services is vacant from 1 July 2022;</p> <p>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;</p> <p>3. that Council confirm in compliance with Regulation 5 that:</p> <p>4.1.1 the municipality requires the post to meet its strategic objectives.</p> <p>4.1.2 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</p> <p>4.1.3 sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post;</p> <p>4.2 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;</p> <p>4.3 that Council appoint the following members to the selection panel, for the recruitment and selection of the</p>	2022-06-08	HPOTGIETER	50	11/07/2022: Closed quotation process followed - recruitment agency duly appointed. Shortlisting scheduled for 18/08/2022.

		<p>Director Public Services: 4.3.1 The Municipal Manager who is the Chairperson; 4.3.2 Councillor Wouter Meiring; 4.3.3 Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager) who has expertise and experience in the area of the advertised post;</p> <p>4.4 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;</p> <p>4.5 that with regards to the acting appointment in position of Director Public Services: 4.5.1 that Council appoint Mr P Hartzenberg to act in the position of Director Public Services from 1 July 2022 to 30 September 2022; and 4.5.2 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.</p>				
1127524	RECRUITMENT AND SELECTION OF DIRECTOR: PUBLIC SERVICES	<p>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:</p> <p>1. That Council affirms that the position of Director: Public Services is vacant from 1 July 2022;</p> <p>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;</p> <p>3. that Council confirm in compliance with Regulation 5 that:</p> <p>4.1.1 the municipality requires the post to meet its strategic objectives. 4.1.2 remuneration and other conditions of employment will be</p>	2022-06-08	HPOTGIETER	50	11/07/2022: Closed quotation process followed - recruitment agency duly appointed. Shortlisting scheduled for 18/07/2022.

		<p>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</p> <p>4.1.3 sufficient budgeted funds, including funds for the remaining period of the medium-term expenditure framework, are available for filling the post;</p> <p>4.2 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;</p> <p>4.3 that Council appoint the following members to the selection panel, for the recruitment and selection of the Director Public Services:</p> <p>4.3.1 The Municipal Manager who is the Chairperson;</p> <p>4.3.2 Councillor Wouter Meiring;</p> <p>4.3.3 Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager) who has expertise and experience in the area of the advertised post;</p> <p>4.4 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;</p> <p>4.5 that with regards to the acting appointment in position of Director Public Services:</p> <p>4.5.1 that Council appoint Mr P Hartzenberg to act in the position of Director Public Services from 1 July 2022 to 30 September 2022; and</p> <p>4.5.2 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.</p>				
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7. CONSIDERATION OF AGENDA ITEMS**7.1 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2022.
MFMA SECTION 71 & 52 (d) Report****File No. /s:** 3/15/1**Responsible Officials:** R. Ontong**Directorate:** Financial Services**Portfolio:** Financial Services

1. Purpose

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

2. Background

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

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

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

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

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

The mayor of a municipality—

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

3. Financial Implications:

None

4. Applicable Legislation/ Council Policy:

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

5. Comment of Directorates/ Departments concerned:

Municipal Manager:	Recommendation supported
Acting 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 BY MAYORAL COMMITTEE

RESOLVED:

EX40/2022

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2022 discussed by Mayco at the Mayco meeting held on the 19 July 2022:

1. That council take note of the in-year financial management report for the period ended 30 June 2022.

RECOMMENDATION

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 30 JUNE 2022 discussed by Council at the Council meeting held on the 26 July 2022:

1. That council takes note of the in-year financial management report for the period ended 30 June 2022.

To Action

R. Ontong

7.2 APPROVED 2022/2023 SERVICE DELIVERY BUDGET AND IMPLEMENTATION PLAN (SDBIP)**File No./s:** 3/15/1**Responsible Official:** C Malgas**Directorate:** Strategic Support Services **Portfolio:** Performance Management

1. PURPOSE:

To notify the Mayoral Committee (Mayco) of the approved 2022/2023 Service Delivery Budget and Implementation Plan (SDBIP) and recommend referral hereof to Council for notification.

2. BACKGROUND:

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

(a) projections for each month of—

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

(ii) operational and capital expenditure, by vote;

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

(c) any other matters that may be prescribed,

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

According to MFMA Circular 13 of National Treasury, the SDBIP provides the **vital link** between the mayor, council (executive) and the administration, and facilitates the process for holding management accountable for its performance.

The SDBIP serves as a **management, implementation and monitoring tool** that will assist the mayor, councillors, municipal manager, senior managers and community to monitor in-year information, such as quarterly service delivery and monthly budget targets, and links each service delivery output to the budget of the municipality, thus providing credible management information and a detailed plan for how the municipality will provide such services and the inputs and financial resources to be used. A properly formulated SDBIP will ensure that appropriate information is circulated internally and externally for purposes of monitoring the execution of the budget, performance of senior management and achievement of the strategic objectives set by council.

The municipality's SDBIP is approved by the mayor within 28 days after the approval of the budget. According to Section 53 (3), the mayor must ensure—

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

In accordance with this legislative provision, the publication process is summarised in the table below:

Description	Date	Action	Date of Website Upload & Publication
Executive Mayor approval of the 2022/2023 SDBIP	24 June 2022	<ul style="list-style-type: none"> • Approved SDBIP circulated to NT, PT and DLG; • Approved SDBIP uploaded onto the municipal website; • An electronic notification, confirming the approval, published on municipal website & social media platforms 	<ul style="list-style-type: none"> • 3 July 2022 • 4 July 2022 • 4 July 2022
Approved 2022/2023 SDBIP to serve before Council for notification purposes	26 July 2022	<ul style="list-style-type: none"> • A consolidated notification (inclusive of the signed 2022/2023 Performance Agreements of the municipal manager and managers directly accountable to the municipal manager) will be published in the Worcester Standard, subject to Council's notification thereof 	<ul style="list-style-type: none"> • 28 July 2022

Table 1: Publication Process

3. COMMENT

A copy of the approved 2022/2023 SDBIP is attached as Annexure "A"

4. FINANCIAL IMPLICATIONS:

None

5. APPLICABLE LEGISLATION / COUNCIL POLICY:

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

Local Government: Municipal Systems Act, Act no. 32 of 2000

MFMA Circular 13 dealing with the SDBIP

6. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED:

Municipal Manager:	Recommendation supported
Acting 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

DECISION BY MAYORAL COMMITTEE**RESOLVED:****EX38/2022**

That in respect of -

APPROVED 2022/2023 SERVICE DELIVERY BUDGET AND IMPLEMENTATION PLAN (SDBIP)

discussed by Mayco at the Mayco meeting held on 19 July 2022:

1. That the Mayco takes note of the approved 2022/2023 SDBIP as per Annexure A, coupled with the publication process depicted in table 1 above; and

2. That the Mayor refers the approved 2022/2023 SDBIP to Council for notification.

RECOMMENDATION

That in respect of -

APPROVED 2022/2023 SERVICE DELIVERY BUDGET AND IMPLEMENTATION PLAN (SDBIP)

discussed by Council at the Council meeting held on 26 July 2022:

1. That Council takes note of the approved 2022/2023 SDBIP as per Annexure A, coupled with the publication process depicted in table 1 above.

To Action

C. Malgas

7.3 REPORT ON DEVIATIONS FOR THE MONTH OF JUNE 2022**File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Financial Services**Portfolio:** Supply Chain Management

1. Purpose

To report to Council on all deviations and their reasons, approved by the delegated authority in terms of paragraph 36(2) of the Supply Chain Management Policy, for the month of June 2022.

2. Background

The purpose of this report is to ensure that Council maintains oversight over the implementation of the Supply Chain Management Policy. In terms of paragraph 36(2) of the said policy, the Accounting Officer must record the reasons for any deviations in terms of paragraph 36(1)(a) of the policy and report them to Council. However, it must be noted that these deviations also serve on the **monthly Section 71** (MFMA) report/s to Mayco and **quarterly Section 52** (MFMA) report/s to Council.

Deviations approved in terms of paragraph 36(1)(a) for the month of June 2022, are attached as **Annexure A**.

3. Financial Implications

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

4. Applicable Legislation / Council Policy

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

5. 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 BY MAYORAL COMMITTEE

RESOLVED:

EX35/2022

That in respect of –
REPORT ON DEVIATIONS FOR THE MONTH OF JUNE 2022
discussed by Mayco at the Mayco meeting held on 19 July 2022:

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

RECOMMENDATION:

That in respect of –
REPORT ON DEVIATIONS FOR THE MONTH OF JUNE 2022
discussed by Council at the Council meeting held on 26 July 2022:

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

To Action

K. Moteetee

**7.4 ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT:
1 JULY 2021 TO 30 JUNE 2022****File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Finance**Portfolio:** Finance

1. PURPOSE

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

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

2. Background

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

The SCM annual implementation report approved in terms of paragraph 6.2(a)(i) for the financial year 2021/2022, is attached as **Annexure A**.

3. Financial Implications

None

4. Applicable Legislation / Council Policy

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

Annexure:

Annexure A: SCM annual implementation report (1 July 2021 to 30 June 2022) approved in terms of paragraph 6.2 (a)(i).

DECISION BY MAYORAL COMMITTEE**RESOLVED:****EX37/2022**

That in respect of
**ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT: 1 JULY
2021 TO 30 JUNE 2022**
Discussed by Mayco at the Mayco meeting held on 19 July 2022:

That the approved SCM annual implementation report for the 2021/2022 financial year,
be noted.

RECOMMENDATION

That in respect of
**ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT: 1 JULY
2021 TO 30 JUNE 2022**
Discussed by Council at the Council meeting held on 26 July 2022:

That the approved SCM annual implementation report for the 2021/2022 financial year,
be noted.

To Action

R. Ontong

7.5 QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 4th QUARTER OF THE 2021/22 FINANCIAL YEAR

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

Responsible Official: R. Ontong

Directorate: Financial Services

Portfolio: Supply Chain Management

1. Purpose

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

2. Background

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

The SCM quarterly implementation report approved in terms of paragraph 6.3 for the 4th quarter of the 2021/22 financial year, is attached as **Annexure A**.

3. Financial Implications

None

4. Applicable Legislation / Council Policy

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

Annexure

Annexures A: SCM quarterly implementation report (4th quarter ending 30 June 2022) approved in terms of paragraph 6.3.

DECISION BY MAYORAL COMMITTEE**RESOLVED:****EX36/2022**

That in respect of –

QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 4th QUARTER OF THE 2021/22 FINANCIAL YEAR

discussed by Mayco at the Mayco meeting held on 19 July 2022:

That the approved SCM quarterly implementation report for the 4th quarter of the 2021/22 financial year, **be noted**

RECOMMENDATION:

That in respect of –

QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 4th QUARTER OF THE 2021/22 FINANCIAL YEAR

discussed by Council at the Council meeting held on 26 July 2022:

2. That the approved SCM quarterly implementation report for the 4th quarter of the 2021/22 financial year, **be noted**.

To Action

R. Ontong

7.6 MUNICIPAL STAFF REGULATIONS: REVIEW OF COUNCIL APPROVED HUMAN RESOURCES POLICIES

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

Responsible Official: IE ROOS

Directorate: SSS

Portfolio: HR

1. PURPOSE

To obtain Council's approval of the alignment of Council approved Human Resources Policies in accordance with the Local Government: Municipal Staff Regulations, No. 890, GG45181 (hereinafter referred to as "*the Regulations*"), as published on 20 September 2021.

2. BACKGROUND

The Regulations were promulgated setting uniform standards for municipal staff systems and procedures for all municipal staff and senior managers and came into operation 1 July 2022.

In terms thereof, municipalities are required to review existing HR policies consistent with the Regulations.

The following Council approved HR policies were reviewed and approved by the LLF on 1 July 2022 for submission to Council for final approval (amendments and or insertions are in bold and underlined):

- Acting allowance policy (Annexure A)
- Recruitment and selection policy (Annexure B)
- Education training and development policy (Annexure C)

3. FINANCIAL IMPLICATIONS

Advertisement costs, acting allowances as applicable to the respective policies.

4. APPLICABLE LEGISLATION

Local Government: Municipal Staff Regulations, No. 890, GG45181

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Director Community Services: Item supported

Municipal Manager: Supported

Director: Engineering Services: Item and recommendation supported

Director Financial Services: Supported

Acting Director Strategic Support Services: Recommendation to Council supported

Acting Director Public Services: Supported

DECISION BY SECTION 80 COMMITTEE:**RESOLVED****CS21/2022**

That in respect of –

MUNICIPAL STAFF REGULATIONS: REVIEW OF COUNCIL APPROVED HUMAN RESOURCES POLICIES

discussed by the Community and Strategic Support Services Committee at the Community and Strategic Support Services Committee meeting held on 12 July 2022:

1. That Council approves the following revised Human Resources policies for immediate implementation thereof after approval:
 - Acting allowance policy (Annexure A)
 - Recruitment and selection policy (Annexure B)
 - Education training and development policy (Annexure C)

2. That Human Resources must avail the policies to employees.

The Committee concurs with the recommendation made to Council.

DECISION BY MAYORAL COMMITTEE**RESOLVED:****EX32/2022**

That in respect of –

MUNICIPAL STAFF REGULATIONS: REVIEW OF COUNCIL APPROVED HUMAN RESOURCES POLICIES

discussed by Mayco at the Mayco Meeting held on 19 July 2022:

1. That Council approves the following revised Human Resources policies for immediate implementation thereof after approval:
 - Acting allowance policy (Annexure A)
 - Recruitment and selection policy (Annexure B)
 - Education training and development policy (Annexure C)
2. That Human Resources must avail the policies to employees.

RECOMMENDATION

That in respect of –

MUNICIPAL STAFF REGULATIONS: REVIEW OF COUNCIL APPROVED HUMAN RESOURCES POLICIES

discussed by Council at the Council meeting held on 26 July 2022:

1. That Council approves the following revised Human Resources policies for immediate implementation thereof after approval:
 - Acting allowance policy (Annexure A)
 - Recruitment and selection policy (Annexure B)
 - Education training and development policy (Annexure C)
2. That Human Resources must avail the policies to employees.

To Action

I. Roos

7.7 MUNICIPAL STAFF REGULATIONS: NEW HUMAN RESOURCES POLICIES**File No./s:** 4/1/1/1**Responsible:** Official: IE ROOS**Directorate:** SSS**Portfolio:** HR

1. PURPOSE

To obtain Council's approval of the new Human Resources Policies drafted in accordance with the specifications as contained in the Local Government: Municipal Staff Regulations, No. 890, GG45181 (hereinafter referred to as "*the Regulations*"), as published on 20 September 2021.

2. BACKGROUND

The Regulations were promulgated setting uniform standards for municipal staff systems and procedures for all municipal staff and senior managers and came into operation 1 July 2022.

In terms thereof, municipalities are required to draft new HR policies and to align their existing HR policies consistent with the specifications as contained in the Regulations.

The following new HR policies were drafted, workshopped with the LLF on 8 July 2022 and approved by the LLF on 14 July 2022 at a Special LLF meeting for submission to Council for final approval and implementation thereof immediately after approval.

- Transfer Policy (Annexure A)
- Probation Policy (Annexure B)
- Induction and Onboarding Policy (Annexure C)
- Exit Management Policy (Annexure D)

3. FINANCIAL IMPLICATIONS

All financial implications as addressed within the individual policies.

4. APPLICABLE LEGISLATION

Local Government: Municipal Staff Regulations, No. 890, GG45181

COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Director Community Services:	Support recommendation
Municipal Manager:	Support recommendation
Director: Engineering Services:	Support recommendation
Director Financial Services:	Support recommendation
Acting Director Strategic Support Services:	Support recommendation to Council
Acting Director Public Services:	Support recommendation

DECISION BY MAYORAL COMMITTEE**RESOLVED****EX39/2022**

That in respect of –

MUNICIPAL STAFF REGULATIONS: NEW HUMAN RESOURCES POLICIES

discussed by Mayco at the Mayco meeting held on 19 July 2022:

1. That Mayco recommend to Council to approve the following new Human Resources policies for immediate implementation thereof after approval by Council:
 - Transfer Policy (Annexure A)
 - Probation Policy (Annexure B)
 - Induction and Onboarding Policy (Annexure C)
 - Exit Management Policy (Annexure D)
2. That Human Resources must avail the abovementioned policies to all employees immediately after approval thereof by Council.

RECOMMENDATION

That in respect of –

MUNICIPAL STAFF REGULATIONS: NEW HUMAN RESOURCES POLICIES

discussed by Council at the Council meeting held on 26 July 2022:

1. That Council approve the following new Human Resources policies for immediate implementation:
 - Transfer Policy (Annexure A)
 - Probation Policy (Annexure B)
 - Induction and Onboarding Policy (Annexure C)
 - Exit Management Policy (Annexure D)

2. That Human Resources must avail the abovementioned policies to all employees immediately after approval thereof by Council.

To Action

IE. Roos

7.8 THE PROPOSED APPOINTMENT OF MEMBERS FOR THE BREDE VALLEY MUNICIPAL PLANNING TRIBUNAL**File No./s:** 10/3/22**Responsible Official:** PSJ Hartzenberg**Directorate:** Public Services**Portfolio:** Public Services

1. PURPOSE:

The purpose of this report is to obtain the necessary Council resolutions required in terms of the Spatial Planning and Land Use Management, Act 16 of 2013 (*hereafter referred to as SPLUMA*) and the Land Use Planning Act (Act 3 of 2014) (*hereafter referred to as LUPA*), and the Breede Valley Municipal Land Use Planning By-Law (2015) (*hereafter referred to as BVMPBL*) regarding the appointment of Municipal Planning Tribunal members for the next three-year term.

2. BACKGROUND / DISCUSSION:

Planning law has undergone a complete law reform process with the enacting of the following Laws, related Regulations and Bylaws:

- a. National Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), hereafter referred to as "*SPLUMA*".
- b. The Regulations in terms of the Spatial Planning and Land Use Management Act 16 of 2013 (Notice R239/2015 in Government Gazette 38594 published on 23 March 2015) hereafter referred to as the "*SPLUMA Regulations*".
- c. Provincial Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), hereafter referred to as "*LUPA*".
- d. Provincial Regulations in terms of the Provincial Western Cape Land Use Planning Act, 2014 (Act 3 of 2014), hereafter referred to as the "*LUPA Regulations*".
- e. Breede Valley Municipal Land Use Planning By-Law, P. N. 7485, 8 September 2015, hereafter referred to as the "*BVMPBL*".
- f. Breede Valley Zoning Scheme By- Law, P. N. 8498, 30 September 2021

The Breede Valley Municipal Land Use Planning By-Law (2015) came into operation on the same date that *LUPA* commenced, i.e., on 1 December 2015 as per Extraordinary Provincial Gazette No. 7531. *SPLUMA* is the overarching national legislation and the MPT must be established subject to said Act and Regulations.

Establishment of a Municipal Planning Tribunal in terms of Section 35 of SPLUMA and Section 70 of the Breede Valley Municipal Land Use Planning By-Law (2015)

A municipality must, to determine land use and development applications within its municipal area, establish a Municipal Planning Tribunal in terms of Section 70 of the BVMPBL.

An MPT consist of at least 3 members (or more (Section 36(3) of SPLUMA) of whom a Chairperson and Deputy Chairperson must be appointed by the Council. The term of office for a MPT member is 3 years, which is renewable once.

In terms of Section 70(1) of the BVMPBL, a MPT must consist of:

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

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

Section 36(1)(b) of SPLUMA further determines that such external members have appropriate experience and knowledge in the planning fields, and for which purpose the municipality, in terms of Section 3(1)(e) of the SPLUMA regulations, must identify any additional criteria that such members must comply with. Section 40(1) determines that the MPT may designate at least (i.e., minimum of) 3 members of such MPT to hear, consider and decide on an application, and of which at least one such member should be an external member (Section 40(2)). For such meeting the appointed chairperson of the MPT must designate one of such three members to be the preceding officer (Section 40(3)).

In the establishment of an MPT, the following principles should be considered:

- The independence, objectivity, and credibility of the MPT must be ensured and this can be assisted by enhanced capacity for responsible decision making.
- The system must not be too taxing on the capacity of existing staff to manage and participate in an MPT.
- Inherent control over administration of tribunal should remain with individual municipalities to cater for unique operational requirements and related costs with clear administrative accountability.

- The required external members of a Tribunal should preferably be sourced from other spheres of Government and municipalities to reduce cost as well as ensuring appropriately competent members to enhance responsible decision making and the credibility of the MPT.
- A larger the pool of appropriate professional staff to serve as internal MPT members should ensure appropriately competent internal members to enhance responsible decision making and the credibility of the MPT.

3. FINANCIAL IMPLICATIONS:

Not applicable.

4. APPLICABLE LEGISLATION / COUNCIL POLICY:

Spatial Planning and Land Use Management, Act 16 of 2013

Spatial Planning and Land Use Management Regulations: Land use Management and General Matters, 2015

Land Use Planning Act (Act 3 of 2014)

Breede Valley Municipal Land Use Planning By-Law, 2015

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED:

MUNICIPAL MANAGER: Item supported.

DIRECTOR: COMMUNITY SERVICES: Item supported.

ACTING DIRECTOR: STRATEGIC SUPPORT SERVICES: Item supported.

DIRECTOR: FINANCIAL SERVICES: Recommendation noted.

ACTING DIRECTOR: PUBLIC SERVICES: Item supported.

DIRECTOR: ENGINEERING SERVICES: Item and recommendation, not supported for the following reasons:

- None of the proposed nominate appropriately skilled municipal officials. (3 officials) are from the Municipal Planning Division.
- That the nominated Chairperson be the most senior municipal official that is appointed as member of the MPT, and
- that the nominated Deputy Chairperson be the second most senior municipal official that is appointed as member of the MPT.

DISCUSSION:

Senior Manager: Municipal Planning and Building Control

In terms of Section 70(1) of the BVMPBL, the municipality must establish a Municipal Planning Tribunal for its municipal area.

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

This MPT model and approach will entail the following:

MPT Composition: Structure and members:

- Internal Complement: Municipality to nominate appropriately skilled officials. (3 officials). The officials of the Town Planning Department are involved with the processing and recommendation of the items to the Tribunal and may attend the tribunal but cannot be involved in the final decision-making.
- External Complement: In order to curb additional cost for the appointment of independent external MPT members, it is proposed to only make use of nominated appropriately skilled officials from neighbouring municipalities or the CWDM and Provincial Government. In terms Section 71(1)(b) of the BVMPBL, two external members are required but 4 external members are proposed
- Council must appoint a Chairperson and Deputy Chairperson to manage and coordinate the MPT meetings.

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

(a) Administration of Applications

The municipality will continue to administer the applications for the MPT but will also have to administer the MPT's own application register, agendas, a program for MPT meetings in accordance with its operational requirements and needs, as well as minutes and a register of decisions.

(b) MPT Meetings

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

(c) Duration of MPT

The term of office of the members to a municipal tribunal is 3 years which is renewable once or such shorter period as the Council determines.

DECISION BY MAYORAL COMMITTEE**RESOLVED:****EX34/2022**

That in respect of -

THE APPOINTMENT OF MEMBERS FOR THE BREDE VALLEY MUNICIPAL PLANNING TRIBUNAL

discussed by Mayco at the Mayco meeting held on 19 July 2022:

1. That Council approves that, in compliance with Section 36(3) of The Spatial Planning And Land Use Management Act, 16 of 2013 (SPLUMA), that the Municipal Planning Tribunal shall consist of six (6) members;
2. That in compliance with Section 71(1)(a) of Breede Valley Municipal planning By-Law (2015), the following officials who are in the full-time service of the municipality, are herewith appointed as members of the Municipal Planning Tribunal:
 - a. The Senior Manager: Public Services;
 - b. Legal Advisor
 - c. Manager: Project Management (Registered Professional Town Planner)
3. That the Municipal Manager is authorised to appoint the further members of the Municipal Planning Tribunal as required by Section 36(1)(b) of Breede Valley Municipal planning By-Law (2015), read with Regulation 3(2) of the Spatial Planning And Land Use Management Regulations: Land Use Management and General Matters, 2015, the further members appointed as indicated above shall have knowledge and experience of spatial planning, land use management and land development or the law related thereto;

4. That in compliance with Section 71(3)(a) of the Breede Valley Municipal Planning By-Law (2015), Council appoint Manager: Project Management as the chairperson of the Municipal Planning Tribunal;
5. That in compliance with Section 71(3)(b) of the Breede Valley Municipal planning By-Law (2015), Council appoint one of the internal members as deputy chairperson of the Municipal Planning Tribunal;
6. That in compliance with Section 72(1) of the Breede Valley Municipal Planning By-Law (2015), the term of office of the members of the Municipal Planning Tribunal is three years which term will commence with the publication of the notice as required by Section 37(4) of SPLUMA;

RECOMMENDATION

That in respect of -

THE APPOINTMENT OF MEMBERS FOR THE BREDE VALLEY MUNICIPAL PLANNING TRIBUNAL

discussed by Council at the Council meeting held on 26 July 2022:

1. That Council approves that, in compliance with Section 36(3) of The Spatial Planning And Land Use Management Act, 16 of 2013 (SPLUMA), that the Municipal Planning Tribunal shall consist of six (6) members;
2. That in compliance with Section 71(1)(a) of Breede Valley Municipal planning By-Law (2015), the following officials who are in the full-time service of the municipality, are herewith appointed as members of the Municipal Planning Tribunal:
 - a. The Senior Manager: Public Services;
 - b. Legal Advisor
 - c. Manager: Project Management (Registered Professional Town Planner)
3. That the Municipal Manager is authorised to appoint the further members of the Municipal Planning Tribunal as required by Section 36(1)(b) of Breede Valley Municipal planning By-Law (2015), read with Regulation 3(2) of the Spatial Planning And Land Use Management Regulations: Land Use Management and General Matters, 2015, the further members appointed as indicated above shall have knowledge and experience of spatial planning, land use management and land development or the law related thereto;

4. That in compliance with Section 71(3)(a) of the Breede Valley Municipal Planning By-Law (2015), Council appoint Manager: Project Management as the chairperson of the Municipal Planning Tribunal;
5. That in compliance with Section 71(3)(b) of the Breede Valley Municipal planning By-Law (2015), Council appoint one of the internal members as deputy chairperson of the Municipal Planning Tribunal;
6. That in compliance with Section 72(1) of the Breede Valley Municipal Planning By-Law (2015), the term of office of the members of the Municipal Planning Tribunal is three years which term will commence with the publication of the notice as required by Section 37(4) of SPLUMA;

To Action

P. Hartzenberg

7.9 SAFETY PLAN FOR THE BREDE VALLEY MUNICIPALITY**File No./s:** 2/1/4/3/1**Responsible Official:** D APOLLIS**Directorate:** Community Services**Portfolio:** LAW ENFORCEMENT

1. Purpose

To obtain Council's approval for the Safety Plan for the Breede Valley Municipality

2. Background

The Plan was submitted to the Director Community Services for approval and inclusion in the IDP. The revised plan is being submitted to council to serve as a guiding framework for the current term of council 2021 -2026.

This plan was drafted after the Community Safety Summit held in November 2019.

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.

The Safety plan serve on the April 2022 Council meeting and the item were sent to be workshop. The Item were workshop on the 26th of May 2022. All the aspects that was discuss at the workshop were include in the plan

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

3. Financial Implications

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

The municipality should consider allocating funding to the community projects listed in the plan.

4. Applicable Legislation / Council Policy

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

5. Comments of Directorates / Departments

Municipal Manager: Supported

Acting Director: Strategic Support Services: Supported

Senior Manager: Legal Services: Supported

Director: Financial Services: Supported

Director: Technical Services: Supported

Acting Director: Public Services: Supported

Director: Community Services: Supported

Senior Superintendent Supported

Traffic Law Enforcement & Public Transport: Supported

DECISION BY SECTION 80 COMMITTEE:

RESOLVED

CS23/2022

That in respect of –

SAFETY PLAN FOR THE BREDE VALLEY MUNICIPALITY

discussed by the Community and Strategic Support Services Committee at the Community and Strategic Support Services Committee meeting held on 12 July 2022:

1. That the Committee takes note of the proposed Safety Plan as encapsulated in “Annexure A – Breede Valley Municipal Safety Plan”
2. That Committee recommends that Council considers and approves the Safety Plan encapsulated in Annexure A.

The Committee concurs with the recommendation made to Council.

DECISION BY MAYORAL COMMITTEE

RESOLVED

EX33/2022

That in respect of –

SAFETY PLAN FOR THE BREDE VALLEY MUNICIPALITY

discussed by Mayco at the Mayco Meeting held on 19 July 2022:

1. That the Committee takes note of the proposed Safety Plan as encapsulated in “Annexure A – Breede Valley Municipal Safety Plan”
2. That Committee recommends that Council considers and approves the Safety Plan encapsulated in Annexure A.

RECOMMENDATION

That in respect of –

SAFETY PLAN FOR THE BREDE VALLEY MUNICIPALITY

discussed by Council at the Council meeting held on 26 July 2022:

1. That the Council takes note of the proposed Safety Plan as encapsulated in “Annexure A – Breede Valley Municipal Safety Plan”
2. That Council considers and approves the Safety Plan encapsulated in Annexure A.

To Action

D. Apollis

7.10 MUNICIPAL COURT OPERATIONS AND UPDATE ON THE PROGRESS OF THE MUNICIPAL COURT**File no.:** 9/2/1/1/56**Directorate:** Community Services**Responsible Official:** S Schroeder**Portfolio:** Municipal Court

1. Purpose

The purpose of the item is to:

- a) Inform the council of the operations of the Municipal (Additional) Court, and
- b) Provide an update on progress made at the Municipal Court since the establishment, and
- c) What matters are to be placed on the court roll.

2. Background / Discussion

The council gave approval for the establishment of a Municipal (Additional) Court for the Breede Valley Magisterial District during 2016.

The principle/goal of the Municipal Court has a direct link with the vision of the Breede Valley Municipality. The Municipal Court, through effective and efficient prosecuting of transgressors of Traffic offences, by-laws, National Building Regulations, and others, can fulfil the goal to empower the Breede Valley community to prosper in a safe and healthy environment.

The Municipal Court commenced with operations during July 2021. The Department of Justice appointed a Magistrate designated for the Municipal Court on 1 October 2021.

The Municipal Court is fully operational and is sitting on a full-time basis.

3. WORKFLOW TRAFFIC FINES

Municipal Traffic Officer issues the fine. The traffic notice is in book form which is printed in triplicate. The first page is issued to the offender, second page (control document) is kept at court and the third page remains in the book.

The clerk of the Municipal Court enters all the information as it appears on the control document on the system, namely TCS.

All payments done without representations directly into the bank account and at the is processed by the cashier/clerk on the TCS system.

All representations received are processed by the clerk and handed to the Prosecutor for consideration. After consideration, the Prosecutor will amend the control document and hand all representations back to the clerk. The clerk informs the applicant of the outcome. Representations will only be considered before the court date.

The court roll is printed, and all control documents are submitted to the court from the traffic department.

The clerk removes all control documents that have been paid and affix the relevant proof of payment thereto. These payments are handed to the Magistrate who signs it off and allocate to the admission of guilt register. This admission of guilt register is kept up to date by the clerk.

A printout of the daily payments is handed to the clerk for processing, the clerk hands all proof of payments together with the control documents to the Magistrate for checking.

Should the accused fail to appear in court as warned on the summons, the Magistrate will authorise a warrant of arrest for the contempt of court.

If after 14 days of such authorisation the fine attached to the summons is not yet paid, the warrant of arrest will be printed and issued by the Magistrate.

Once the warrants are printed, the court register together with the warrants and warrant register is handed to the Magistrate to sign all the warrants.

The warrants are handed to the clerk for placing an administration mark on the ENatis system.

Should the person then subsequently transact at any traffic department the administration mark will prevent them from doing so, unless all the fines are paid in full.

The warrants are handed to the law enforcement and traffic officers to execute.

Matters that proceed to trial's witnesses are subpoenaed by the Prosecutor to testify in court on the trial date.

The day after court proceedings, the court register is processed by the clerk of the court. All the case results as noted by the Magistrate is entered onto the TCS system.

PROGRESS OF THE MUNICIPAL COURT SINCE OPENING IN JULY 2021:

The Municipal court commenced with operations during July 2021. During this period, we operated with the assistance of a Magistrate from the Magistrates' Court in Worcester. The Magistrate allocated to the Municipal Court was appointed on the 1st of October 2021. The Municipal Court Magistrate is appointed by the Department of Justice and Constitutional Development on a contractual basis.

All relevant staff from the Court Section at the Traffic Department moved office to the new Municipal Court building at 23 Baring Street, Worcester. (Stofberg Huis)

Since its commencement, the Municipal Court has an important function in ensuring the compliance with the National Building Regulations and Municipal By-Laws.

The Municipal Court also adjudicates traffic related offences received from the Provincial and Municipal Traffic Departments that are committed within the jurisdiction of the Breede Valley Municipality.

The Municipal Court roll is also compiled of speeding fines deduced from speeding cameras. The tender for the administration of the speeding fines has been awarded.

The Municipality is also in the process of procuring the tender for the administration of parking meters.

Both the speeding and parking transgressions will be heard in the Municipal Court.

Building Regulations and By-Law matters:

The Municipal Court deals with Matters from the Directorate: Planning and Integrated Services, such as failure to submit building plans, failure to apply for occupancy certificates and failure to remove building rubble etc.

During this period 29 matters were received; 16 new matters were placed on the Municipal Court roll and 14 were withdrawn due to compliance.

Court appearances:

Total court days	105
Total matters on court roll	923
Guilty	440
Not Guilty	1
Withdrawn: Complied	14

Postponements	397
Warrants issued in court	79
Warrants appearing in court	136
Court hours	150
Representations	1477

Finance, printed court rolls and warrants of arrest:

During the period of July 2021 to 31 May 2022 the monthly income, matters printed on the court roll and total warrants issued were as follows:

	MONTHLY INCOME	MUNICIPAL FINES ON ROLL	PROVINCIAL FINES ON COURT ROLL	TOTAL WARRANTS ISSUED
July 2021	R182 525	395	734	659
August 2021	R278 320	687	931	983
September 2021	R203 258	603	1018	1004
October 2021	R190 360	580	2090	1007
November 2021	R338 179	641	1735	936
December 2021	R95 686	541	927	1259
January 2022	R233 937	865	3022	1904
February 2022	R578 576	1504	4415	2044
March 2022	R359 579	2196	3078	2038
April 2022	R286 683	1138	3021	1477
May 2022	R278 664	1058	3589	994
TOTAL	R3 025 767	10 208	24 560	14 305

COMMENTS

Director Community Services	:	Noted and Supported
Municipal Manager	:	Noted and Supported
Director: Engineering	:	Noted and Supported
Director Financial Services	:	Noted and Supported
Acting Director Strategic Support Services:		Recommendation to Council noted
Acting Director Public Services	:	Noted and Supported

DECISION BY SECTION 80 COMMITTEE:**RESOLVED****CS20/2022**

That in respect of –

**MUNICIPAL COURT OPERATIONS AND UPDATE ON THE PROGRESS OF THE
MUNICIPAL COURT**discussed by the Community and Strategic Support Services Committee at the
Community and Strategic Support Services Committee meeting held on 12 July 2022:

That Council take cognisance of the operations and progress of the Municipal Court.

**The committee is in support but based on the discussion that was made and
pending any amendments****DECISION BY MAYORAL COMMITTEE****RESOLVED:****EX31/2022**

That in respect of –

**MUNICIPAL COURT OPERATIONS AND UPDATE ON THE PROGRESS OF THE
MUNICIPAL COURT**

discussed by Mayco at the Mayco meeting held on 19 July 2022:

That Mayco take cognisance of the operations and progress of the Municipal Court.

RECOMMENDATION

That in respect of –

**MUNICIPAL COURT OPERATIONS AND UPDATE ON THE PROGRESS OF THE
MUNICIPAL COURT**

discussed by Council at the Council meeting held on 26 July 2022:

1. That Council take cognisance of the operations and progress of the Municipal Court.

To Action

S. Schroeder

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 **ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. MARGARET SWARTZ. ITEM FOR COUNCIL: 26 MAY 2022**

File No: 2/11

Responsible Official: Ald. J.F. Van Zyl

Directorate: Council

Department: Office of the Speaker

1. PURPOSE

- To inform Council of the alleged breach of the Code of Conduct for Councillors by Cllr. Swartz.
- For Council to, if so resolved, appoint a special Committee as contemplated by Clause 16(1)(b) of Schedule 7 of the Structures Act 117 of 1998, as amended (Act 3 of 2021)

2. BACKGROUND

The Speaker's office received complaints by two members of public Ms. Christa Plaatjies and Henriette Jacobs. Attached please find their respective affidavits marked "CP1" and "HJ2" respectively.

The complaints were put to Cllr. Swartz per letter from the Speaker's Office, attached hereto marked "JFVZ3" and Cllr. Swartz response thereto, marked "MS4"

It appears common cause from the opposing allegations, and it is evident that the complainants did do work and it is denied that such work was initiated/instigated by Cllr. Swartz and those certain discussions did take place. The Councillor questions the veracity of the allegations against her by mere denial and allegations of perjury as well as alluding to the allegations as being a "political campaign to smear my good reputation and name...."

Therefore, on the available evidence the matter is referred to Council in terms of Clause 15(1)(c) of Schedule 7, alluded to above, after Sub Sections (a) and (b) of Clause 15(1) have been complied with.

Therefore, it is furthermore respectfully submitted that such alleged conduct pertains to a possible transgression of Clause 2 of Schedule 7, supra referred to and which reads as follows:

3. General conduct of Councillors:

- a) perform the functions of office in good faith, honesty and in a transparent matter; and
- b) at all times act in the best interest of the Municipality and in such a way that the credibility and integrity of the Municipality are not compromised”.

4. LEGAL FRAMEWORK

- Constitution of the Republic of South Africa, 1996
- The Municipal Structures Act 117/1998 as amended and Schedule 7 thereof
- The Municipal Systems Act, 2000, as amended
- BVM Ethics Policy

5. FINANCIAL IMPLICATIONS

Legal fees

CONCLUSION

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.

NOW THEREFORE IT IS SUBMITTED FOR CONSIDERATION

**9.2 ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR.
C.F. WILSKUT.****File No:** 2/11**Responsible Official:** Ald. J.F. Van Zyl**Directorate:** Council**Department:** Office of the Speaker

1. PURPOSE

To inform Council of the alleged breach of the Code of Conduct for Councillors by Cllr. Colin Frederick Wilskut.

For Council to, if so resolved, appoint a special Committee as contemplated by Clause 16(1)(b) of Schedule 7 of the Structures Act 117 of 1998, as amended (Act 3 of 2021).

2. BACKGROUND

The Speaker's office received a complaint by a member of the public Ms. Sophie Marcus and Ms. Salomie Colette Solomons-Saul. Attached please find their respective affidavits marked "SM1" and "SCS2" respectively.

The complaints were put to Cllr. Wilskut per letter from the Speaker's Office, attached hereto marked "JFVZ3". The Response of Councillor Wilskut is attached and marked "CFW4".

Casus Position:

It is evident from the response of Cllr. Wilskut that his defense is a denial of wrongfulness in that he relies for justification on the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act (19 of 1998) wherein it is inter alia depicted that it may lead to prosecution if the owner of a property acted unlawfully. Apart from the fact that it must be reiterated the demeanor of the owner (complainant in this matter) does not necessarily warrants such prosecution and such decision can only be determined after careful scrutiny of the facts by the investigating officer (SAPS) and decision taken by the National prosecuting authority, it must be stated that no one has the right to threaten with arrest (opsluit) in casu (Section 40 et al of Acts 51 of 1977 finds application.)

A Councillor should not interfere in alleged transgressions of the Law which are an exclusive SAPS and NPA competency. Hence, whilst it is the mandate of SAPS to investigate and collate evidence, it is the exclusive mandate of the national prosecuting authority to decide on prosecuting the case. It thus appears prima facie unlawful to threaten with “opsluit”.

This is the basis of the “Rule of Law” and it will be arbitrary and irrational to act otherwise to promote “vigilante” and or so called “bundu courts” to operate. Prosecution per se should not be conflated with arrest and incarceration. It cannot, in casu, be argued that we are dealing with a schedule I offence (Act 51 of 1977), which would justify an arrest without a warrant by a peace officer, therefore, to threaten with “opsluit” is unlawful.

Furthermore, no evidence was presented of a criminal charge being made against the complainant and or other justification provided, for the presence of a SAPS member.

It is furthermore evident from the councillor’s response that he does not deny the use of the word “opsluit” against complainant and in fact confirms that he “I agreed with the SAPD members assessment of the situation, and the risks of arrest and criminal charges Ms. Solomons faced.” The mere presence of a SAPS member does not render justification for an unlawful threat and or demeanor.

Therefore, it appears that such act of the councillor may have constituted a transgression of the Code of Conduct alluded to herein, to threaten a citizen of the community and landowner with “opsluit”.

In this regard the preamble in Schedule 7 of the Structures Act (117/1998, as amended finds application).

“Councillors are elected to represent local municipalities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil their obligations to their communities and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, the following Code of Conduct is established”.

as well as Section 19 of the Municipal Structures Act, depicted therein:

(1) “A Municipal Council must strive within its capability to achieve that objective set out in Section 152 of the Constitution”.

Therefore, on the available evidence the matter is referred to Council in terms of Clause 15(1)(c) of Schedule 7, alluded to above, after Sub Sections (a) and (b) of Clause 15(1) have been complied with. (Structures Act 117/1998, as amended)

Therefore, it is furthermore respectfully submitted that such alleged conduct pertains to a transgression of Clause 2 of Schedule 7, supra referred to and which reads as follows:

General conduct of Councillors:

- a) perform the functions of office in good faith, honesty and in a transparent matter; and
- b) at all times act in the best interest of the Municipality and in such a way that the credibility and integrity of the Municipality are not compromised”.

4. LEGAL FRAMEWORK

- Constitution of the Republic of South Africa, 1996
- The Municipal Structures Act 117/1998 as amended and Schedule 7 thereof
- The Municipal Systems Act, 2000, as amended
- BVM Ethics Policy

5. FINANCIAL IMPLICATIONS

Legal fees

6. CONCLUSION

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.

NOW THEREFORE IT IS SUBMITTED FOR CONSIDERATION

9.3 ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS:**CLLR. C.F. WILSKUT****File No:** 2/11**Responsible Official:** Ald. J.F. Van Zyl**Directorate:** Mayco**Department:** Office of the Speaker

1. PURPOSE

To inform Council of the alleged breach of the Code of Conduct for Councillors by Cllr. Colin Frederick Wilskut, investigation of which is still outstanding per Council decision C21/2020, alluded to infra.

2. BACKGROUND

There is an outstanding implementation of a Council Resolution with reference to alleged breach of conduct investigation pertaining to a sexual misconduct charge made by women of this community against Cllr. Colin Frederick Wilskut, per Council Resolution C21/2020 see attached hereto as Annexure "A" with findings of Attorney H. Du Bois.

And whereas, there is a criminal case pending and which is still continuously postponed in the Magistrate Court Worcester, with the latest date of the 13th of February 2022 and wherein the said Councillor appears as the accused.

And, further, whereas it has now become an imperative to finalise this matter bearing in mind the adagium "Justice delayed, is Justice denied" and which accounts for all the parties implicated herein.

Now, therefore, it is ex abundanti cautela respectfully submitted, to reaffirm the aforesaid Resolution for implementation herewith, with immediate effect.

3. LEGAL FRAMEWORK

- Constitution of The Republic of South Africa, 1996
- The Municipal Structures Act, 1998 as amended and Schedule 7 thereof
- The Municipal Systems Act, 2000, as amended.

4. FINANCIAL IMPLICATIONS

Legal fees

5. CONCLUSION

The Council decision C21/2020 is hereby reaffirmed in terms of Clause 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 Disciplinary 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.

SUBMITTED FOR CONSIDERATION

- 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**
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- 11. CONSIDERATION OF MOTIONS OF EXIGENCY**
-
-

- 12. CLOSURE**
-
-