

MINUTES

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

Date distributed: 2023 06 13

**MINUTES OF THE 10th COUNCIL MEETING OF
2022/2023
FINANCIAL YEAR OF THE COUNCIL OF
BREED VALLEY MUNICIPALITY
TUESDAY, 2023-06-20 AT 10:00**

SPEAKER: ALDERMAN J.F. VAN ZYL

APPROVED



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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.

The Speaker opened the meeting at 10:00 and welcomed everyone present. The Speaker welcomed Reverend A. Noble to the meeting who opened the meeting with Scripture and prayer.

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.

The Speaker received an apology from Cllr Sibozo. Cllr Bushwana informed the Speaker that Cllr E. Isaacs' child is sick.

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 M.N. Bushwana	21 June 2023
Cllr S.K. Madlolo	7 July 2023
Cllr A. Pietersen	9 July 2023

The Speaker asked Cllr T. Manuel to congratulate the Councillors on their respective birthdays.

3.3 STATEMENTS BY THE SPEAKER

None

3.4 STATEMENTS BY THE EXECUTIVE MAYOR

The Speaker ruled that the Spokesperson on behalf of the Rawsonville community address Council on the recent flooding and how it affected the community.

The Spokesperson on behalf of the Rawsonville community affected by the recent flooding addressed Council.

The Speaker asked the Deputy Mayor to enlighten Council on what transpired from the recent events.

Mr Hartzenberg (resident from Spokiesdorp) further addressed Council on the above matter.

The Deputy Mayor addressed Council on the matter.

Mr T. Botha (Chief Fire Services) gave feedback to Council in respect of the above.

The Municipal Manager addressed Council on the above.

Cllrs S. Steenberg, M. Williams, R. Johnson, Cllr H. Titus, and Cllr N. Wullschleger addressed Council on the recent flooding. Cllr N Wullschleger proposed that the recent flooding be declared a disaster.

The Executive Mayor addressed Council on the matter.



The Speaker asked Mr R Esau to explain the legal position in terms of declaring the recent flooding a disaster.

Mr R Esau explained the legal position in terms of the Disaster Management Act.

Proposal By Cllr Z. Mangali: Committee of Council be established to be chaired by the Portfolio Councillor with one member of each political party part of the Committee to ensure transparency and accountability.

Seconded: Cllr M.T. Williams

The Deputy Mayor made the following counter proposal that the JOC have a meeting with Director R Esau after the Council Meeting to investigate the possibility of declaring the flooding a disaster in terms of the Disaster Management Act.

Seconded: Alderman A. Steyn

Cllr M.N. Bushwana asked for a caucus.

Caucas started at 11:50.

Meeting reconvened at 12:16

Votes in favour of Cllr J. Von Willingh's counter proposal: 22

Votes against the counter proposal of Cllr J. Von Willingh: no votes

Votes in favour of Cllr Z.M. Mangali's proposal: 10

Votes against Cllr Mangali's proposal: 22

The counter proposal of Cllr J. Von Willingh carries.

RESOLVED

As discussed by Council at the Council meeting held on 20 June 2023, resolution number C47/2023:

That the JOC have a meeting with Director R Esau after the Council Meeting to investigate the possibility of declaring the flooding a disaster in terms of the Disaster Management Act.

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).

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- (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 2023

RECOMMENDATION

That in respect of

CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING

discussed by Council at the Council Meeting held on 20 June 2023:

1. As the Minutes of the Council Meeting held on 30 May 2023 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 30 May 2023 be taken as read and confirmed.

Proposed: Cllr E. van der Westhuizen

Seconded: Cllr M. Jacobs

RESOLVED

That in respect of

CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING

discussed by Council at the Council Meeting held on 20 June 2023, **resolution number C48/2023:**

1. As the Minutes of the Council Meeting held on 30 May 2023 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 30 May 2023 be taken as read and confirmed.

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

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

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5.2 MMC1: Alderman W.R. Meiring.

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

6. COLLABORATOR OUTSTANDING RESOLUTIONS REPORT

Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment
1352782 2023 CUSTOMER SERVICE CHARTER	RESOLVED: That in respect of - The 2023 Customer Service Charter tabled before Council at the Council meeting held on 30 May 2023 with resolution number C37/2023: 1. That Council, having noted the content of the 2023 Customer Service Charter, provides in principle approval thereof subject to the following conditions: a. The Customer Service Charter be referred to a Council Workshop to be held on 8 June 2023; b. The Customer Service	2023-05-30	CMALGAS	75	The Customer Service Charter served before Council on 30 May 2023 and was workshopped with Council on 8 June 2023. Various contributions and input flowed from the workshop, which necessitated management to schedule further internal engagements to further streamline service standards. The CSC has also been circulated to the public for input. The CSC will be resubmitted to Council upon conclusion of the aforementioned.



		Charter be made public in terms of section 21 of the MSA; c. That such public comments (if any) be tabled at Council for consideration; and d. The Customer Service Charter be resubmitted to Council for final consideration and approval.				
1352783	2022/2023 COMMUNICATION STRATEGY	RESOLVED: That in respect of - The 2022/2023 Communication Strategy tabled before Council at the Council meeting held on 30 May 2023 with resolution number C38/2023: 1. That Council, having noted the content of the 2022/23 Communications Strategy, provides in principle approval thereof subject to the following conditions: a. The strategy be referred to a Council Workshop to be held on 8 June 2023 ; b. The strategy be made public in terms of section 21 of the MSA and submitted to the relevant stakeholders (i.e. relevant National & Provincial Government Departments as well as the Cape Winelands District Municipality) for input; c. That such public comments (if any) be tabled at Council for consideration; and d. The strategy be resubmitted to Council for final consideration and approval.	2023-05-30	CMALGAS	75	The Communication Strategy served before Council on 30 May 2023 and was workshopped with Council on 8 June 2023. The Strategy has also been circulated to the public for input. Upon receipt and consideration of the latter, the Strategy will be resubmitted to Council.
Council		Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment
776194	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT	RESOLVED C21/2020 1. That Council appoint a Disciplinary Committee comprising of 11 members (6 DA members and one member of each other Political Party (i.e ANC; BO; FF+; PDM; EFF); 2. That Cllr J.F. van Zyl be appointed as the Chairperson of the Disciplinary Committee; 3. The names of members to the Disciplinary Committee should	2020-02-25	JVANWYK	75	Compilation of Disciplinary Committee rescinded and reviewed and replaced by a committee comprising of 5 Councillors, inclusive of the Chairperson. The Prosecutor has been appointed and trial date is pending.



		be submitted to the Speaker within 7 days from the date of the Council Meeting.				
1155841	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. MARGARET SWARTZ. ITEM FOR COUNCIL: 26 JULY 2022	<p>RESOLVED C85/2022 In terms of Clause 16 of the Code of Conduct: a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code; or b) Establish a Special Committee: i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special committee, pertaining to the investigation of disciplinary matters, has already been established by Council per Council decision C40/2022.</p> <p>ClIr Nel proposed that Council recommends this motion to the established Special Committee to investigate and make a finding on any alleged breach of this code and to make appropriate recommendations to the Council, as stated above under point (b).</p>	2022-07-26	JVANZYL	50	Finalization of trial date pending.
1185140	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT.	<p>RESOLVED: That in respect of – ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR.C.F. WILSKUT. as discussed by Council at the Council meeting held on 23 August 2022 with resolution number C98/2022 Council decide that: In terms of Clause 16 of the Code of Conduct : 1. a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code ; or b) Establish a Special Committee : i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special</p>	2022-08-23	JVANZYL	50	Finalization date of trial pending. Prosecutor appointed.



Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment
172625	<p>SUBMISSION OF BY-LAW RELATING TO THE MANAGEMENT AND CONTROL OF FLATS (rental housing units) OWNED OR ADMINISTERED BY THE BREEDE VALLEY MUNICIPALITY</p> <p>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:</p> <ol style="list-style-type: none"> 1. That Council approved the draft By-Law relating to the Management and Control of flats (rental housing units) owned or administer by the Breede Valley Municipality; 2. That the administration advertises said draft By-Law for public comments; 3. That all comments be collated submitted to Council for final approval and promulgation in the Provincial Gazette. 4. That the draft By-Law be workshopped with all the Councillors. 	2015-06-25	GMAYEKI	95	The item will be submitted to the council in order to amend. The by-law will be included in the next policy workshop with all other policy related documents.



7. CONSIDERATION OF AGENDA ITEMS**7.1 ORGANISATIONAL PERFORMANCE MANAGEMENT POLICY
FRAMEWORK****File No./s:**10/3/8**Responsible Official:** C. Malgas**Directorate:** Strategic Support Services **Portfolio:** IDP/PMS/SDBIP

PURPOSE:

To table the Organisational Performance Management Policy Framework to Council for consideration and approval.

BACKGROUND:

Organisational performance management and its related components indicates how well an organisation is meeting its aims and objectives, and the extent to which policies and processes are working. Performance information is key to effective planning, budgeting, implementation, monitoring and reporting, and underpins effective management and decision-making processes. Performance information also facilitates effective accountability, enabling legislators, members of the public and other interested parties to track progress, identify the scope for improvement and better understand the municipal performance.

Section 38 of the Municipal Systems Act (No 32 of 2000) prescribes that a municipality must (amongst others) -

- a. establish a performance management system that is –
 - i commensurate with its resources;
 - ii best suited to its circumstances; and
 - iii in line with the priorities, objectives, indicators and targets contained in its integrated development plan (IDP);
- b. promote a culture of performance management among its political structures, political office bearers and councillors and in its administration.

Regulation 7(1) of the Municipal Planning and Performance Management Regulations, 2001 prescribes that a municipality's performance management system must entail a framework that describes and represents how the municipality's cycle and processes of performance planning, monitoring, measurement, review, reporting and improvement will be conducted, organised and managed, including determining the roles of the different role-players.

The proposed Organisational Performance Management Policy Framework will, as a result, accentuate the municipal performance management cycle and related procedures, as contemplated in the requisite legislative prescripts.



A copy of the Organisational Performance Management Policy Framework is attached as Annexure "A".

FINANCIAL IMPLICATIONS:

Payment of performance bonuses to S57 Managers may (in accordance with applicable legislative prescripts, the aforementioned policy, signed performance agreements, and the corresponding budgetary provision in the MTREF) be considered based on the actual performance outcomes achieved in a particular financial period.

APPLICABLE LEGISLATION:

Local Government: Municipal Systems Act 32 of 2000

Local Government: The Municipal Planning and Performance Management Regulations (No 796, 24 August 2001)

Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, Notice 805 of 2006

COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED:

Municipal Manager:	Recommendation Supported.
Director: Strategic Support Services:	Recommendation Supported.
Director: Financial Services:	Recommendation Supported.
Director: Engineering Services:	Recommendation Supported.
Director: Community Services:	Recommendation Supported.
Acting Director: Public Services:	Recommendation Supported.
Senior Legal Manager:	Recommendation Supported.

RECOMMENDATION:

That in respect of –

The Organisational Performance Management Policy Framework,
tabled before Council at the Council meeting held on 20 June 2023:

1) That Council: having noted the content of the Organisational Performance Management Policy Framework, having provided in principle approval of the policy framework in terms of resolution C39/2023 and having workshopped the policy framework on Thursday 8 June 2023:

a) Approves the Organisational Performance Management Policy Framework.



Proposed: Ald. W.R. Meiring

Seconded: Cllr E. van der Westhuizen

Unanimously agreed

RESOLVED:

That in respect of –

The Organisational Performance Management Policy Framework,
tabled before Council at the Council meeting held on 20 June 2023, **resolution number C49/2023:**

1) That Council: having noted the content of the Organisational Performance Management Policy Framework, having provided in principle approval of the policy framework in terms of resolution C39/2023 and having workshopped the policy framework on Thursday 8 June 2023:

- a) Approves the Organisational Performance Management Policy Framework.



7.2 REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MAY 2023**File No./s:** 2/1/1/1**Responsible Official:** R. Ontong**Directorate:** Financial Services **Portfolio:** Supply Chain Management

Purpose

To report to Council on all deviations and their reasons, approved by the delegated authority in terms of paragraph 36(2) of the Supply Chain Management Policy, for the month of May 2023.

Background

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

Deviations approved in terms of paragraph 36(1)(a) for the month of May 2023, are attached as **Annexure A**.

Financial Implications

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

Applicable Legislation / Council Policy

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

Comment of Directorates / Departments

Municipal Manager Noted

Director: Strategic Support Services Noted



Director: Financial Services	Noted
Director: Engineering Services	Noted
Director: Community Services	Noted
Acting Director: Public Services	Noted
Senior Manager: Legal Services	Noted

RECOMMENDATION:

That in respect of

REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MAY 2023

As discussed by Council at the Council meeting held on 20 June 2023,

1. The deviations from the procurement processes, approved in terms of the delegated authority for the month of May 2023, **be noted**.

Proposed: Ald. W.R. Meiring
Seconded: Cllr V. Bedworth

Unanimously agreed

RESOLVED:

That in respect of

REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MAY 2023

As discussed by Council at the Council meeting held on 20 June 2023, **resolution number C50/2023:**

1. The deviations from the procurement processes, approved in terms of the delegated authority for the month of May 2023, **be noted**.

TO ACTION:

R Ontong



7.3 PROPOSED ORGANISATIONAL MACRO- AND MICROSTRUCTURE FOR BREDE VALLEY MUNICIPALITY

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

Responsible Official: G COOK

Directorate: SSS

Portfolio: HR

Purpose

To obtain Council's approval for the amended organisational structure for Breede Valley Municipality in terms of the Local Municipal Staff Regulations No. 890 of 2021.

Background

In terms of the Local Municipal Staff Regulations A municipal council must determine the municipality's staff establishment, which will provide the basis for each departments' strategic workforce and human resource planning.

The municipality's current organisational structure was approved on January 2021 and amendments made in July 2022. Review processes of the organisational structure of the Municipality was finalized as required by legislation. These processes were followed to ensure that Breede Valley Municipality achieves sustainable and cost-effective service delivery as envisaged by the specific strategic objectives identified in the Integrated Development Plan of the Municipality.

According to the Local Government: Regulations on the appointment and conditions of employment of Senior Managers subsection 4 (3) relating to staff establishment, the municipal manager must review the municipality's staff establishment within 12 months in any of the following instances:

- (a) The election of a new municipal council
- (b) The adoption of the integrated development plan of the municipality as contemplated in section 25 of the Act
- (c) Material changes to the functions of the municipality
- (d) The determination of new municipal boundaries

Attached: Annexure A – Staff Establishment – Macro and Microstructure
Annexure B – Report from IGNITE Consultancy on the staff
Establishment Models and Diagnosis

Financial Implications

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The staff structure is fully funded. All new positions funded from posts made redundant.

Applicable Legislation / Council Policy

1. The Constitution of the Republic of South Africa
2. Municipal Systems Act
3. Local Government: Regulations on the Appointment and conditions of employment of Senior Manager
4. Municipal Finance Management Act

RECOMMENDATION

That in respect of -

PROPOSED ORGANISATIONAL MACRO- AND MICROSTRUCTURE FOR BREDE VALLEY MUNICIPALITY as

Discussed by Council at the Council meeting held on 20 June 2023:

1. The proposed organisational structure was consulted with the Unions and referred to Council, at a special Local Labour Forum meeting on 16 May 2023, for adoption.

Proposed: Ald. W.R. Meiring

Seconded: Ald. A. Steyn

RESOLVED

That in respect of -

PROPOSED ORGANISATIONAL MACRO- AND MICROSTRUCTURE FOR BREDE VALLEY MUNICIPALITY as

Discussed by Council at the Council meeting held on 20 June 2023, **resolution number C51/2023:**

1. The proposed organisational structure as consulted with the Unions and referred to Council at a special Labour Forum meeting on 16 May 2023, is adopted.



7.4 MUNICIPAL STAFF REGULATIONS: REVISED HUMAN RESOURCES POLICIES

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

Responsible Official: G COOK

Directorate: SSS

Portfolio: HR

1. PURPOSE

To obtain Council's approval of the revised 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 revised HR policies and to align their existing HR policies consistent with the specifications as contained in the Regulations.

The following revised HR policies were drafted, workshopped with the LLF on 9 and 16 May 2023.

- Revised Placement Policy (Annexure A)
- Revised Telecommunications Policy (Annexure B)
- Revised Transport Policy (Annexure C)
- Revised Registration of Membership and Dependents Policy (Annexure D)
- Revised Employment Equity Policy (Annexure E)
- Revised Overtime Policy
- Revised Standby Allowance Policy
- Revised Medical Surveillance Policy



3. FINANCIAL IMPLICATIONS

All financial implications as addressed within the individual policies.

4. APPLICABLE LEGISLATION

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

RECOMMENDATION

That in respect of-

THE MUNICIPAL STAFF REGULATIONS: REVISED HUMAN RESOURCES POLICIES.

Discussed by Council at the Council meeting held on 20 June 2023:

1. That Council approve the above-mentioned revised policies and implementation thereof from 1 July 2023.

Proposed: Ald. W.R. Meiring
Seconded: Cllr J. Pieters

RESOLVED

C52/2023

That in respect of-

THE MUNICIPAL STAFF REGULATIONS: REVISED HUMAN RESOURCES POLICIES.

Discussed by Council at the Council meeting held on 20 June 2023, **resolution number C52/2023**:

1. That Council approves the above-mentioned revised policies and implementation thereof from 1 July 2023.

TO ACTION:

G. COOK



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**7.5 HUMAN RESOURCES MANAGEMENT STRATEGY AND HR PLAN:
2022 - 2027****File No./s:** 4/1/B**Responsible Official:** G. Cook**Directorate:** SSS**Portfolio:** Human Resources

PURPOSE

The purpose of this item is for Council to approve the Human Resources Management Strategy and HR Plan 2022 – 2027.

PURPOSE OF THE STRATEGY AND PLAN

The purpose of this HRM Strategy and Implementation Plan is to outline key interventions to be undertaken by the Municipality in ensuring that it has the right number of staff (staff component), with the right composition and with the right competencies in the right places to enable it to deliver on the mandates and achieve its strategic goals and objectives.

HR strategic planning is about determining the demand and supply of staff that are critical to achieving strategic objectives, analysing the gap between the demand and supply, and developing a plan that seeks to close the gap.

In order to ensure that the Municipality makes the best possible use of its resources to attain its commitments and programme objectives set out in the IDP, BUDGET and SDBIPs, the Municipality must have in place a well-structured HRM Strategy and Implementation Plan.

APPLICABLE LEGISLATION

Municipal Staff Regulations GN 890 of 20 September 2021

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FINANCIAL IMPLICATIONS

Various financial implications as per the proposed implementation plan.

RECOMMENDATION

That in respect of –

HUMAN RESOURCES MANAGEMENT STRATEGY AND HR PLAN: 2022 - 2027

as discussed by Council at the Council meeting held on 20 June 2023:

1. That Council approves the Human Resources Management Strategy and HR Plan 2022 – 2027.

Proposed: Ald. W.R. Meiring

Seconded: Cllr F. Vaughan

RESOLVED

That in respect of –

HUMAN RESOURCES MANAGEMENT STRATEGY AND HR PLAN: 2022 - 2027

as discussed by Council at the Council meeting held on 20 June 2023, **resolution number C53/2023:**

1. That Council approves the Human Resources Management Strategy and HR Plan 2022 – 2027.

To action:

Glen Cook



**7.6 EXTENSION OF CURRENT AUDIT AND PERFORMANCE AUDIT
COMMITTEE MEMBER' S CONTRACT****File No. /s:** 2/1/1/3/2**Responsible Official:** W du Plessis**Directorate:** Municipal Manager**Portfolio:** Internal Audit

1. Purpose

To obtain Council's approval for the extension of the current Audit and Performance Audit Committee member's (Dr Mariaan Roos) contract for operational purposes, until a suitable candidate is appointed.

2. Background

Section 166(5) of the MFMA requires that the members of an audit & performance audit committee must be appointed by the council of the municipality. One of the members, who are not in the employ of the municipality, must be appointed as the chairperson of the committee. Councillors are not allowed to be members of an audit & performance audit committee. The appointed members should enter into a contract with the municipality according to the approved terms of reference.

Except in the case of shared audit & performance audit committees, the council must ensure that audit & performance audit committee members do not serve on more than three (3) local government audit & performance audit committees simultaneously as the practice of serving on too many committees may impact negatively on performance of audit & performance audit committees contributing to their effectiveness.

The approved Audit & Performance Audit Committee Charter prescribes the following with regards the term of office of committee members (see attached APAC Charter):

- *"The chairperson should be appointed for a minimum of three years to ensure that he/she contributes most effectively and provides stability to the audit & performance audit committee.*
- *Audit & performance audit committee members should serve at least a minimum of three years with an option to renew for another three years, based on performance.*
- *Recruitment of members should be staggered to prevent a loss of knowledge and skills in the committee.*
- *Members of the audit & performance audit committee should not be contracted continuously for a period exceeding six years.*



- *After serving consecutively for six years, a cooling off period of two years should be provided for, before appointing the same member to the same audit & performance audit committee.”*

3. Functioning of BVM’s Audit & Performance Audit Committee

The current APAC member’s (Dr Mariaan Roos) contract expires on 30 June 2023 and the upcoming vacancy was advertised as prescribed, but another unexpected vacancy arose, as the other member (Mr. Shahied Allie) resigned on 21 April 2023.

The first round of applications received did not avail a suitable candidate which complied with the requirements in terms of the APAC Charter. In order to ensure the functionality of the committee and to fast track the filling of the abovementioned vacancies, another round of advertising was undertaken with an increase in the scope of platforms utilized (This includes BVM’s website, social media footprints, IIA(SA) website including the PSACF website).

The current member is willing to avail herself in order to ensure the functionality of the committee until such time the position is filled.

4. Financial Implications:

Meeting rate as determined by Council approved APAC Charter.

5. Applicable Legislation / Council Policy:

Section 166 of the Municipal Finance Management Act(No. 56 of 2003)

BVM Audit- & Performance Audit Committee Charter

MFMA Circular No. 65(November 2012)

Section 14 of the Local Government: Municipal Planning and Performance Management Regulations, 2001

6. Comment of Directorates / Departments concerned:

Municipal Manager: Supported

Director: Community Services (Acting): Supported

Director: Strategic Support Services: The content of the report is noted. The recommendation to extend Dr M Roos is supported. Also, I do express my appreciation and thanks to Mr. Shahied Allie for the exceptional and meticulous contribution he made to BVM as a member of the Audit and Performance Audit Committee.

Director: Financial Services: Supported



Director: Technical Services: Item and recommendation supported

Senior Manager: Legal Services: Supported

RECOMMENDATION:

That in respect of

EXTENSION OF CURRENT AUDIT AND PERFORMANCE AUDIT COMMITTEE MEMBER' S CONTRACT

discussed by Council at the Council meeting held on 20 June 2023:

1. Council approves the extension of the current member of the Audit and Performance Audit Committee's contract for operational purposes, until a suitable candidate is appointed.

Proposed: Ald. W.R. Meiring

Seconded: Cllr N. Nel

RESOLVED:

That in respect of

EXTENSION OF CURRENT AUDIT AND PERFORMANCE AUDIT COMMITTEE MEMBER' S CONTRACT

discussed by Council at the Council meeting held on 20 June 2023, **resolution number C54/2023:**

1. Council approves the extension of the current member of the Audit and Performance Audit Committee's contract for operational purposes, until a suitable candidate is appointed.

TO ACTION:

W. Du Plessis



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

1. Purpose

To submit the minutes and the Midyear Report of 2022/2023 of the Audit & Performance Audit Committee to Council for information and notification.

2. Background

The Audit & Performance Audit Committee is fully functional and have met regularly as prescribed.

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

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

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

The Audit & Performance Audit Committee minutes for the relevant quarters, together with the Midyear Report, are hereby submitted to Council as prescribed. *Attached as annexure A respectively.*

3. Financial Implications:

N/A



4. Applicable Legislation / Council Policy:

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

5. Comment of Directorates / Departments concerned:

Municipal Manager:	Supported
Director: Community Services:	Supported
Director: Strategic Support Services:	The item and the minutes of the Audit & Performance Audit Committee is noted.
Director: Financial Services:	Supported
Director: Engineering Services	Item and recommendation supported
Acting Director: Public Services:	Noted and Supported
Senior Manager: Legal Services:	Recommendation to Council noted

RECOMMENDATION:

That in respect of

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

discussed by the Council at the Council meeting held on 20 June 2023:

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

Proposed: Ald W.R. Meiring

Seconded: Ald. A. Steyn



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RESOLVED:

That in respect of

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

discussed by the Council at the Council meeting held on 20 June 2023, **resolution number C55/2023:**

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

TO ACTION:

W. du Plessis



**7.8 CONSIDERATION FOR THE ALIENATION OF A PORTION OF REMAINDER
OF FARM 576 RHOODE HOOGTE OUTSPAN, WORCESTER****File no.:** 9/2/1/1/67**Responsible Official:** H Potgieter**Directorate:** SSS**Portfolio:** Legal Services

1. PURPOSE

The purpose of this item is to inform Council of the written comments or representations received following the public participation process in respect of the proposed alienation of a portion of remainder of farm 576 (Rhoode Hoogte Outspan), Worcester, ±15.2400ha in extent.

2. BACKGROUND / DISCUSSION

The subject property is depicted on the locality map attached as “**Annexure A**” marked “**A**”, ±15.24ha in extent. The municipal owned property is currently zoned as **Agricultural Zone I**.

During the Council meeting held on 28 April 2021, it was resolved as follows.

“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***

as discussed by Council at the Council meeting held on 28 April 2021 Council decide:

- 1. That the disposal of a portion of remainder of Farm 576 (Rhoode Hoogte Outspan), Worcester, ±15.2400ha in extent for purposes permitted under Agricultural Zone I be approved in principle by means of a competitive process in the open market at least at a*



fair market price as determined by HCB Valuers in the amount of Seventy-Five Thousand Rand (R75 000.00);

- 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;*
- 3. that the following of a public participation process, be approved;*
- 4. that an item will only be resubmitted to Council should any representations/comments be received;*
- 5. that the administration be mandated to administer the process of disposal of the municipal properties following the public participation process;*
- 6. that a reversion clause be included in the Deed of Sale as well as the Title Deed that the disposed property be utilized for Agricultural Zone I Purposes only and should the Purchaser not use the property as specified, the erf will revert back to the Municipality free of charge;*
- 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;*
- 8. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;*
- 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 disposal and transfer of the municipal property.*



3. PUBLIC PARTICIPATION PROCESS

The public participation process as prescribed in the relevant legislation was duly followed and a notice was placed in the Worcester Standard on 6 May 2021.

The following written comments / representations was submitted to Legal Services:

1. Breedevallei Onafhanklik (**Annexure B**)
2. Mr. A J N September (**Annexure C**)
3. Mr. R Windvogel (**Annexure D**)
4. Mr. S J Arendse (**Annexure E**)

Following the receipt of the above comments, Legal Services opted to obtain an independent valuation. The valuation that was obtained sets out the highest and best use of the property as well as the fair market-related value which is in accordance with the highest and best use currently reflected in the market. According to the valuer the market research indicates that best usage of the property is for rural/ agricultural purposes. The independent valuation is attached hereto and marked "**Annexure F**".

Bearing in mind that the above independent valuation reflects the current position in respect of the market and the potential of the property within that market, it is proposed that Council consider alienating the property in accordance with the fair market-related value indicated in "**Annexure F**".

Furthermore, the proposed usage is for purposes allowed under Agricultural Zone I, which includes the following:

"The objective of this zone is to promote and protect agriculture on farms as an important economic, environmental and cultural resource. Limited provision is made for non-agricultural uses to provide rural communities in more remote areas with the opportunity to increase the



economic potential of their properties, provided these uses do not present a significant negative impact on the primary agricultural resource.

Primary use: Agriculture “agriculture” means the cultivation of land for raising crops and other plants, including plantations, the keeping and breeding of animals, birds or bees, stud farming, game farming, a riding school or natural veld, and— (a) includes— (i) the harvesting, cooling, storing, sorting, packing and packaging of agricultural produce grown on that land unit and surrounding or nearby farms; (ii) harvesting of natural resources limited to living organisms for delivery to the market; (iii) agricultural buildings or infrastructure that are reasonably connected with the main farming activities, including a dwelling house, agricultural worker accommodation and rooftop base telecommunication stations; (iv) a camping site limited to a maximum of 10 tent or caravan stands subject to the development parameters applicable to “tourist accommodation”, provided further that a consent use must be applied for in the following cases (aa) the property is smaller than 1ha; (bb) the property is situated within 1km of the high water mark of the sea or a tidal river; (cc) more than 10 tent or caravan stands are applied for; (v) linear infrastructure; (vi) agricultural industry (smaller than 2000m²); and (b) does not include aquaculture; an abattoir, a farm shop, an animal care centre, any mining activity, utility services and renewable energy structures for commercial purposes.

Consent uses: Abattoir, Additional dwelling units, Agricultural industry (>2000m²), Airfield, Animal care centre, Aqua-culture, Camping site, Creche, Farm shop, Farm grave yard, Farmer’s market, Freestanding base telecommunication station, Function venue, Guest house, Helicopter landing pad, Intensive horticulture, Intensive animal farming, Off-road trail, Plant nursery, Quarry, Renewable energy structure, Shooting range, Tourist facilities, Utility service.”

The prospective purchaser will be allowed to utilise the property for any of the proposed primary uses stipulated above. Furthermore, the prospective purchaser may apply for any of the consent uses, which application will be considered by the municipality in accordance with the applicable legislative prescripts. Thus, the proposed usage provided to the municipality through the comments/ representations received can be accommodated under the proposed zoning.



The alienation of Farm 576 (Rhoode Hoogte Outspan), Worcester would be beneficial to the community, especially considering the fact that the erf be made available for purpose permitted under Agricultural Zone I. Legal Services receives multiple requests for Agricultural land. In order to comply with the legislation governing the alienation of Municipal owned property, a competitive process must be followed.

It is thus proposed that Council consider alienating this erf by way of competitive bidding process in the open market.

4. ANNEXURES:

1. Annexure A: Locality Map
2. Annexure B: Breedevallei Onafhanklik
3. Annexure C: Mr. A J N September
4. Annexure D: Mr. D Windvogel
5. Annexure E: Mr. S J Arendse
6. Annexure F: Independent valuation report

5. COMMENTS OF DIRECTORATES / DEPARTMENTS

MUNICIPAL MANAGER:	Supported
DIRECTOR ENGINEERING SERVICES:	Item supported
CHIEF FINANCIAL OFFICER:	Item supported.
ACTING DIRECTOR COMMUNITY SERVICES:	Item supported
ACTING DIRECTOR PUBLIC SERVICES:	Supported



DIRECTOR STRATEGIC SUPPORT SERVICES: Co-Author of the item

SENIOR MANAGER LEGAL SERVICES: Author of the item

Cllr Z. Mangali requested a caucus of 15 minutes.

Caucus started at 13:35.

Meeting reconvened at 14: 11

RECOMMENDATION

That in respect of –

CONSIDERATION FOR THE ALIENATION OF A PORTION OF REMAINDER OF FARM 576 (RHOODE HOOGTE OUTSPAN), WORCESTER

as discussed by Council at the Council meeting held on 20 June 2023 Council decide:

Recommendation 1:

1. That Council, after having duly considered the objections do not approve the disposal of a portion of remainder of farm 576 (Rhoode Hoogte Outspan), Worcester.

or

Recommendation 2:

1. That Council, after having duly considered the objections approve the disposal of a portion of remainder of Farm 576 (Rhoode Hoogte Outspan), Worcester, ±15.2400ha in extent for purposes permitted under Agricultural Zone I by means of a competitive process in the open market at a fair market price as determined by the independent valuation attached hereto and marked as “**Annexure F**”



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;
3. that the administration be mandated to administer the process of alienation of the municipal property;
4. that a reversion clause be included in the Deed of Sale as well as the Title Deed that the disposed property be utilized for **Agricultural Zone I Purposes** only and should the Purchaser not use the property as specified, the erf will revert back to the Municipality free of charge;
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;
6. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;
7. 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
8. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the municipal property.
9. that it be noted that there is an illegal encroachment onto the subject property that must be terminated by Legal Services prior to commencing with the competitive process in the open market.



Proposed: Ald. W. R. Meiring proposed the following:

1. That Council, after having duly considered the objections approve the disposal of a portion of remainder of Farm 576 (Rhoode Hoogte Outspan), Worcester, ±15.2400ha in extent for purposes permitted under Agricultural Zone I by means of a competitive process in the open market at a fair market price as determined by the independent valuation attached hereto and marked as “**Annexure F**”
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;
3. that the administration be mandated to administer the process of alienation of the municipal property;
4. that a reversion clause be included in the Deed of Sale as well as the Title Deed that the disposed property be utilized for **Agricultural Zone I Purposes** only and should the Purchaser not use the property as specified, the erf will revert back to the Municipality free of charge;
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;
6. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;
7. 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

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8. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the municipal property.
9. that it be noted that there is an illegal encroachment onto the subject property that must be terminated by Legal Services prior to commencing with the competitive process in the open market.

Seconded: Cllr F. Vaughan

Cllr R. Johnson made a counter proposal that Council should consider the objections that have been submitted and that the property should not be disposed

Seconded: Cllr S. Steenberg

Votes in favour of Cllr Johnson's counter proposal: 17

Votes against: 21

Votes in favour of Ald.W.R. Meiring's proposal: 21

Votes against: 15

Abstained: 1 (Cllr T Manuel)

The proposal by Ald. W. Meiring carries.

RESOLVED

That in respect of –

CONSIDERATION FOR THE ALIENATION OF A PORTION OF REMAINDER OF FARM 576 (RHOODE HOOGTE OUTSPAN), WORCESTER

as discussed by Council at the Council meeting held on 20 June 2023 Council decide, **resolution number C56/2023:**

1. That Council, after having duly considered the objections approve the disposal of a portion of remainder of Farm 576 (Rhoode Hoogte Outspan), Worcester, ±15.2400ha in extent for purposes permitted under Agricultural Zone I by means



of a competitive process in the open market at a fair market price as determined by the independent valuation attached hereto and marked as “**Annexure F**”

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;
3. that the administration be mandated to administer the process of alienation of the municipal property;
4. that a reversion clause be included in the Deed of Sale as well as the Title Deed that the disposed property be utilized for **Agricultural Zone I Purposes** only and should the Purchaser not use the property as specified, the erf will revert back to the Municipality free of charge;
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;
6. that the relevant internal comments be incorporated in the Deed of Sale and the right be reserved to supplement internal comments;
7. 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
8. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the municipal property.
9. that it be noted that there is an illegal encroachment onto the subject property that must be terminated by Legal Services prior to commencing with the competitive process in the open market.



7.9 CONSIDERATION TO REVIEW AND RESCIND MAYORAL COMMITTEE RESOLUTION EX22/2013: SELLING OF THE 35 ERVEN IN RAWSONVILLE and IN PRINCIPLE APPROVAL FOR THE PROPOSED ALIENATION OF ERVEN 715, 718 AND 727 SITUATED IN RAWSONVILLE FOR RESIDENTIAL PURPOSES

File no.: 9/2/1/1/64

Responsible Officials: H Potgieter

Directorate: SSS

Portfolio: Legal Services

1. PURPOSE

The purpose of this item is for Council to consider to review and rescind Mayoral Committee resolution **EX22/2013**: Selling of 35 erven in Rawsonville, and to consider granting in-principle approval to alienate erven 715, 718 and 727 situated in Rawsonville, for residential purposes.

2. BACKGROUND / DISCUSSION

Legal Services receive numerous requests from the community of Rawsonville for Council to avail residential erven. Rawsonville is situated within the Breede Valley municipal area and is considered geographically the smallest town within the jurisdiction. Erven 715, 718 and 727 are some of the few residential erven owned by the municipality within Rawsonville.

Mayco resolved as follows on 23 April 2013:

“RESOLVED: EX22/2013

That in respect of

SELLING OF THE 35 ERVEN IN RAWSONVILLE



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Discussed by MayCo at the MayCo meeting held on 23 April 2013:

1. *Council sells the remaining 35 erven by means of a Public Auction at market related prices;*
2. *first preference is given to first time homeowners in the middle income group (earning between R3500.00 and R15000.00) and in particular those from the Rawsonville area; and*
3. *a dwelling be erected and occupied (occupation certificate issued) in at least three years after the purchase date, failure to do so, the erf reverts back to the Municipality.”*

The resolution was implemented resulting in the alienation of various erven. An internal investigation was conducted and it was ascertained that erven 715, 718 and 727, Rawsonville is eligible to be availed and alienated in the open market.

These erven are situated in Angelier Street, Rawsonville as indicated as “A” on the locality maps, attached hereto as “**Annexure A₁₋₃**”. The erven are fully serviced and zoned as **Residential Zone I**. It can be confirmed that the erven are not needed for the provision of a minimum level of basic municipal services and also not required for operational purposes.

For this purpose, it is proposed that Mayco resolution **EX22/2013** be reviewed and rescinded due to the lapse of time since the resolution was taken. Furthermore, it is to align the conditions of sale with the current conditions of sale imposed by Council for recent similar alienations.

3. EVALUATION

A. LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO 56 OF 2003

“14. *Disposal of capital assets*



-
- (1) *A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.*
 - (2) *A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public—*
 - (a) *has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*
 - (b) *has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.*
 - (3) *A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred, or otherwise disposed of.*
 - (4) *A municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsections (2)(a) and (b) in respect of movable capital assets below a value determined by the council.*
 - (5) *Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive, and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111.*
 - (6) *This section does not apply to the transfer of a capital asset to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with a prescribed framework.”*



Adherence to this section is sought through obtaining in-principle approval from Council to alienate the subject properties. In respect of subsections 2(a) and (b) above, no objections were received from the internal departments, thus confirming that the subject portion of the municipal property is not needed for the provision of basic municipal services.

HCB Property Valuations determined the market-related values per erf as depicted on the attached **Annexures B, C and D** respectively.

In recent case law [*Oranje Watersport CC v Dawid Kruijer Local Municipality and Others (397/2019) [2020] ZASCA 75 (30 June 2020)*], the court held that when disposing of municipal-owned property, the community value, as well as the economic value that will be received in exchange for the property, must be taken into consideration. Furthermore, the court held that section 14(2)(b) requires that once the market value of the property is ascertained, the market value should be weighed against the community value as well as the economic value of the asset.

In this instance, the subject properties are proposed to be alienated for **Residential Zone I purposes**. The aforementioned will result in the municipality generating the income from the proceeds of the sales, future rates and taxes will be payable and it will furthermore stimulate the local economy. The proposed alienation will accordingly add value to the community as it will create opportunities to enter the property market as homeowners. Legal Services receives numerous requests from the community to avail land for residential purposes, thus availing the above erven will aid in addressing the need for residential property.

In accordance with the above judgment, it is proposed that the community value should in essence outweigh the economic value of the asset / municipal properties.



B. MUNICIPAL ASSET TRANSFER REGULATIONS

In accordance with the provisions of *Regulation 7* of the Municipal Asset Transfer Regulations, R878 of 2008 the municipal council must, when considering any proposed transfer or disposal of a non-exempted capital asset, take into account -

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

The assets will not be required for Municipal use.

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

The erven will be alienated by means of a competitive process and the respective purchase prices would be gained by the municipality.

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

The Municipality will receive payment of the purchase prices which will be a financial benefit to the Municipality.

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

As the erven have already been fully improved (serviced) by the Municipality, it is of paramount importance to alienate the erven in reducing the risk of the infrastructure being stolen. The Municipality will therefore reduce the risk associated in this instance and be proactive in safeguarding its assets. The reward for the Municipality would be receipt of the respective purchase prices.



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

No detrimental effect will be experienced on the credit rating.

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

The properties will only to be utilized for residential purposes.

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

The transfer costs will be for the purchaser's account.

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

No transfer of reserve funds is associated with the asset.

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

The required public participation process will be followed in order to obtain comments or representations on the proposed transfers.

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

The written views and recommendations of the National Treasury and the relevant Provincial Treasury will be obtained if required.

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



As the community of Rawsonville experience a shortage of adequate housing the interests of the local community will be served through the alienation of the erven.

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

The proposed transfer or disposal is in compliance with:

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

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

Regulation 13 of the Asset Transfer Regulations furthermore determines:

“13. Compensation for transfer of non-exempted municipal assets

(1) The compensation payable to a municipality or municipal entity for the transfer of a non-exempted capital asset must, subject to regulation (2) –

- (a) be consistent with criteria applicable to compensation set out in the disposal management system of the municipality or municipal entity; and*
- (b) if regulation 12(2)(b) applies to the transfer, reflect fair market value.*

(2) If a municipality or municipal entity on account of the public interest, in particular in relation to the plight of the poor, intends to transfer a non-exempted capital asset for less than its fair market value, the municipality or entity must, when considering the proposed transfer, take into account –

- (a) the interest of –*
 - (i) the State; and*
 - (ii) the local community;*



-
- (b) *the strategic and economic interest of the municipality or municipal entity, including the long-term effect of the decision on the municipality or entity;*
 - (c) *the constitutional rights and legal interest of all affected parties;*
 - (d) *whether the interest of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and*
 - (d) *whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.”*

An open and transparent competitive process will be followed, thus it is proposed that the indicative value of the erven be determined as per the market-related values of each erf as depicted in **Annexures B, C and D**.

C. ADVERTISEMENT

The necessary advertisement/notice in terms of legal prescripts will be published should this in principle approval be obtained. This is in order to obtain any representations/comments from the local community in respect of the proposed alienation of the erven. An item will only be resubmitted to Council should representations/comments be received.

4. CONCLUSION

It is recommended that erven 715, 718 and 727, Rawsonville be alienated **solely** for **Residential Zone I Purposes** by means of a competitive process in the open market.

It should be noted that the adjacent owner illegally encroached onto a portion of erf 715, Rawsonville. Thus, should Council approve the proposed alienation, prior to commencing with



the competitive disposal process in the open market, Legal Services will attend to the illegal encroachment on the subject property.

5. FINANCIAL IMPLICATIONS

The Municipality stands to gain the purchase price for the erven as well as rates and taxes following the transfers.

APPLICABLE LEGISLATION / COUNCIL PROPERTY

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

Local Government: Municipal Asset Transfer Regulations, 2008

6. COMMENTS OF DIRECTORATES / DEPARTMENTS

MUNICIPAL MANAGER: Supported

DIRECTOR ENGINEERING SERVICES: Supported

Civil Engineering:

Erven are fully services with water and sewer connections. No objection towards the proposed alienation of erven 715,718,727.

CHIEF FINANCIAL OFFICER: Supported

ACTING DIRECTOR COMMUNITY SERVICES: Supported



Fire, Safety and Risk Management:

- i. Any future structures/buildings being erected on the above-mentioned premises as well as existing structures/buildings, must conform with the provisions of the National Building Regulations, SANS 10400-A:2010, Part T.
- ii. Access for firefighting and rescue purposes, must be provided in accordance with Regulation T1(1)(e) of the National Building Regulations, read with the Deemed to Satisfy rules, Rule T4.54 of SANS 10400 - 1990, Part T, and in accordance to the Fire Brigade By-Laws of the Breede Valley Municipality. A width of 3.5 meter and a height of 4.2 meter must be maintained for emergency vehicles to enter premises
- iii. Provision must be made for fire-fighting equipment (fire extinguishers), in accordance to SANS 10400 -2010 Part T 4.37 Table 10.
- iv. Escape routes must also not be blocked so people can escape in case of emergency.

Traffic Services:

Traffic Department: Traffic supports this alienation of the said erven. All municipal services, streets and other services are already in place therefore the support to develop these erven for residential purposes.

ACTING DIRECTOR PUBLIC SERVICES:

On all the erven is a section of sewer pipe running through the erven, the owner must not be allowed to build over the sewer pipeline. Thus, a services servitude should be registered to accommodate the municipal services situated on the properties.

Town Planning:

1. That the properties in question be used for residential purposes only as the zoning of the properties is Residential Zone I (in terms of the section 8 scheme regulations);



2. That building plans be lodged and approved before any structure on the properties are erected or structurally altered in any way.

Building Control:

Because of the services [i.e., sewer lines] the area that can be used to build any top structure are restricted. Special foundation methods will have to be applied for the development of the site(s) and building lines will have to be revised.

DIRECTOR STRATEGIC SUPPORT SERVICES: Co-author of the item including the recommendation

SENIOR MANAGER: LEGAL SERVICES: Author of the item

RECOMMENDATION

That in respect of –

CONSIDERATION TO REVIEW AND RESCIND MAYORAL COMMITTEE RESOLUTION EX22/2013: SELLING OF THE 35 ERVEN IN RAWSONVILLE

and

IN PRINCIPLE APPROVAL FOR THE PROPOSED ALIENATION OF ERVEN 715, 718 AND 727 SITUATED IN RAWSONVILLE FOR RESIDENTIAL PURPOSES

as discussed by Council at the Council meeting held on 20 June 2023 Council decide:

1. That Mayoral Committee resolution EX22/2013 in respect of erven 715,718 and 727 be reviewed and rescinded;
2. that the alienation of erven 715,718 and 727, Rawsonville as set out in **Annexure A₁₋₃** by means of a competitive process in the open market **solely for Residential Zone**

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-
- I purposes** in accordance with the market-related values per erf as determined by HCB Property Valuations depicted on the attached **Annexures B, C and D** respectively, be **approved in principle**;
3. that the following of a public participation process, **be approved** and that an item will only be resubmitted to the Council should any representations/comments be received;
 4. that the properties be alienated to first time homeowners from the Breede Valley Municipal jurisdiction. Proof of address or another applicable document to prove residency within the municipal area will be required;
 5. that only one (1) property per purchaser is sold subject to item (6) below;
 6. that the properties will not be alienated to developers, except in instances where an employer with registered offices in the Breede Valley municipal area purchase more than one property on behalf of and for the benefit of their employees. However, should the latter apply the property should be registered directly in the name of the beneficiary employees. The beneficiary employees must also comply with **items 4 and 5** above;
 7. that a reversion condition be included in the Deed of Sale as well as the Title Deed that the disposed of properties be utilised for **Residential Zone I purposes only** and should the Purchaser fail to erect a building within two (2) years from the date of registration and not use the property as specified, the erf will revert back to the Municipality free of charge;
 8. that a special condition be included in the Deed of Sale which provides that:
 - 8.1. If the purchaser intent to dispose of the property within a period of two (2) years from the date of signing the Deed of Sale, the property will be offered to the Municipality for a purchase price at 10% less than the original purchase price;
 - 8.2. Should the Municipality accept the offer, the cost of the transfer shall be payable by the Purchaser; and



-
- 8.3. if the Municipality decline the offer, the Purchaser will be permitted to dispose of the property to any other third party.
 9. that the purchasers will be responsible for the payment of all municipal services including rates and taxes in respect of the properties the following transfer;
 10. that the purchasers be responsible at its cost, for the registration of any relevant servitudes over the subject property to accommodate all applicable municipal services thereon.
 11. that the costs pertaining to the transaction, e.g. transfer costs be paid by the purchasers;
 12. that it be noted that there is an illegal encroachment onto the subject property that must be terminated by Legal Services prior to commencing with the competitive disposal process in the open market.
 13. 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
 14. that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the respective municipal properties.

Proposed: Ald. W. R. Meiring
Seconded: Ald A. Steyn

Votes in favour of Ald W.R. Meiring's: 22
Votes against 15
The proposal by Ald. W.R. Meiring carries.



RESOLVED

That in respect of –

**CONSIDERATION TO REVIEW AND RESCIND MAYORAL COMMITTEE
RESOLUTION EX22/2013: SELLING OF THE 35 ERVEN IN RAWSONVILLE**

and

**IN PRINCIPLE APPROVAL FOR THE PROPOSED ALIENATION OF ERVEN 715,
718 AND 727 SITUATED IN RAWSONVILLE FOR RESIDENTIAL PURPOSES**

as discussed by Council at the Council meeting held on 20 June 2023, **resolution number C57/2023**, Council decide:

1. That Mayoral Committee resolution EX22/2013 in respect of erven 715,718 and 727 be reviewed and rescinded,
2. that the alienation of erven 715,718 and 727, Rawsonville as set out in **Annexure A₁₋₃** by means of a competitive process in the open market **solely for Residential Zone I purposes** in accordance with the market-related values per erf as determined by HCB Property Valuations depicted on the attached **Annexures B, C and D** respectively, be **approved in principle**;
3. that the following of a public participation process, **be approved** and that an item will only be resubmitted to the Council should any representations/comments be received;
4. that the properties be alienated to first time homeowners from the Breede Valley Municipal jurisdiction. Proof of address or another applicable document to prove residency within the municipal area will be required;
5. that only one (1) property per purchaser is sold subject to item (6) below;



-
6. that the properties will not be alienated to developers, except in instances where an employer with registered offices in the Breede Valley municipal area purchase more than one property on behalf of and for the benefit of their employees. However, should the latter apply the property should be registered directly in the name of the beneficiary employees. The beneficiary employees must also comply with **items 4 and 5** above;
 7. that a reversion condition be included in the Deed of Sale as well as the Title Deed that the disposed of properties be utilised for **Residential Zone I purposes only** and should the Purchaser fail to erect a building within two (2) years from the date of registration and not use the property as specified, the erf will revert back to the Municipality free of charge;
 8. that a special condition be included in the Deed of Sale which provides that:
 - 8.1 If the purchaser intent to dispose of the property within a period of two (2) years from the date of signing the Deed of Sale, the property will be offered to the Municipality for a purchase price at 10% less than the original purchase price;
 - 8.2 Should the Municipality accept the offer, the cost of the transfer shall be payable by the Purchaser; and
 - 8.3 if the Municipality decline the offer, the Purchaser will be permitted to dispose of the property to any other third party.
 - 9 that the purchasers will be responsible for the payment of all municipal services including rates and taxes in respect of the properties the following transfer;
 - 10 that the purchasers be responsible at its cost, for the registration of any relevant servitudes over the subject property to accommodate all applicable municipal services thereon.
 - 11 that the costs pertaining to the transaction, e.g. transfer costs be paid by the purchasers;



-
- 12 that it be noted that there is an illegal encroachment onto the subject property that must be terminated by Legal Services prior to commencing with the competitive disposal process in the open market.
- 13 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
- 14 that the Municipal Manager be authorized to sign all documents relating to the disposal and transfer of the respective municipal properties.



7.10 IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF ERF 1909 DE DOORNS, STASIE WEG SITUATED ADJACENT TO ERF 6159, DE DOORNS.**File no.:** 9/2/1/1/56**Responsible Official:** H Potgieter**Directorate:** SSS**Portfolio:** Legal Services

PURPOSE

To obtain in principle approval for the direct alienation of Erf 1909 De Doorns, ± 778.89m² in extent, to the adjacent owner of erf 6159, De Doorns.

BACKGROUND / DISCUSSION

A request was received from the owner of Erf 6159 (hereinafter referred to as “*the Applicant*”) to purchase Erf 1909, Stasie Weg, ±778.89m², De Doorns. The portion which the Applicant intend to purchase is municipal owned property and depicted on the locality map attached as “**Annexure A**” marked “**A**”. The property of the Applicant is depicted in “**Annexure B**” marked “**A**”. The subject property applied for is zoned as **Residential Zone I** and the Applicant wish to utilise this portion for **Business Zone I** purposes. The Applicant wish to consolidate and rezone the subject property with their Erf 6159, De Doorns for further development.

Factors such as the locality and the use of the portion of the subject property applied for, renders that it can be classified as a non-viable property, allowing it to be alienated directly to the adjoining property owner. The Breede Valley Land Management and Disposal Policy define non-viable property as follows:

“Non-viable property” means property that, owing to urban planning, physical constraints or extent cannot be developed on its own function as a separate entity and that can therefore



become functional only if used by an adjoining owner in conjunction with such owners' property".

It can be confirmed that the subject property is not needed for the provision of minimum level of basic municipal services and also not required for operational services. This then is confirmed through the comments obtained from the internal departments.

It will also be necessary that a condition be included in the Deed of Sale that the subject property be consolidated with Erf 6159, being the existing property of the Applicant. A suspensive condition will be included in the Deed of Sale in respect of the immovable property (subject property) being sold subject to the approval in terms of land use planning legislation.

Subsequent costs from this direct alienation, for which the Applicant will be responsible entails *inter alia* the following: Town planning procedures e.g. consolidation and rezoning, transfer cost as well as the required advertisement to be published for comments and / objections.

EVALUATION

D. LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO 56 OF 2003 ("MFMA")

"14. *Disposal of capital assets*

- (1) *A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.*
- (2) *A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public—*



-
- (a) *has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*
- (b) *has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.*
- (3) *A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.*
- (4) *A municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsection (2)(a) and (b) in respect of movable capital assets below a value determined by the council.*
- (5) *Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111.*
- (6) *This section does not apply to the transfer of a capital asset to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with a prescribed framework.”*

Adherence to this section is sought through obtaining in principle approval from Council to directly alienate the subject property to the Applicant.

In respect of subsection 2(a) and (b) above the internal departments' comments confirmed that the subject portion of municipal property is not needed for the provision of basic municipal services. HCB Property Valuations determined the market related value of the property in the amount of Two Hundred and Ten Thousand Rand (R210 000.00), VAT Included.



In recent case law [*Oranje Watersport CC v Dawid Kruijer Local Municipality and Others (397/2019) [2020] ZASCA 75 (30 June 2020)*], the court held that when disposing of municipal owned property, the community value as well as the economic value that will be received in exchange for the property must be taken into consideration. Furthermore, the court held that section 14(2)(b) requires that once the market value of the property is ascertained, the market value should be weighed against the community value as well as the economic value of the asset.

In this instance, the subject property is being alienated to the adjoining owner. By being given the opportunity to purchase this property the owner will be able to enlarge their existing property and in doing so increase the value of their property, but the further development of the property will also be beneficial to the community of De Doorns. Furthermore, unused open spaces have been increasingly creating instances where unwanted activities take place. Thus, by allowing the Applicant to purchase Erf 1909, De Doorns will be in the interest of the community.

E. MUNICIPAL ASSET TRANSFER REGULATIONS

In accordance with the provisions of Regulation 7 of the Municipal Asset Transfer Regulations, R878 of 2008 the municipal council must, when considering any proposed transfer or disposal of a non-exempted capital asset, take into account -

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

The asset will not be required for Municipal use.

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

The property will be disposed of at the market related value of approximately Two Hundred and Ten Thousand Rand (R210 000.00), Vat Included.



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

The Municipality will receive payment of the purchase price which will be a financial benefit to the Municipality.

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

The reward for the Municipality would be receipt of the purchase price.

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

No detrimental effect will be experienced on the credit rating.

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

The property is intended to be utilized by the Applicant for business purposes, therefore the Applicant will apply for the consolidation and rezoning of the subject property.

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

The transfer and related costs will be for the Applicants account.

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

No transfer of reserve funds is associated with the asset.



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

The required public participation process will be followed in order to obtain comments or representations on the proposed transfer.

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

The written views and recommendations of National Treasury and the relevant Provincial Treasury will be obtained if required.

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

None to report on.

- (l) **compliance with the legislative regime applicable to the proposed transfer or disposal.**

The proposed disposal and transfer are in compliance with:

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

Asset Transfer Regulations

It can be summarised that the erf is not required by the municipality for own use as can be seen from the internal departments' comments. The risks are limited, and a fair market related purchase price will be obtained as well as future rates and taxes as income. The representations and comments from the local community will be sought in terms of the advertisement to be placed. Compliance with the applicable legislative regime is sought with this item.

Regulation 13 of the Asset Transfer Regulations furthermore determine:



“13. Compensation for transfer of non-exempted municipal assets

- (3) *The compensation payable to a municipality or municipal entity for the transfer of a non-exempted capital asset must, subject to regulation (2) –*
- (b) *be consistent with criteria applicable to compensation set out in the disposal management system of the municipality or municipal entity; and*
 - (b) *if regulation 12(2)(b) applies to the transfer, reflect fair market value.*
- (4) *If a municipality or municipal entity on account of the public interest, in particular in relation to the plight of the poor, intends to transfer a non-exempted capital asset for less than its fair market value, the municipality or entity must, when considering the proposed transfer, take into account –*
- (a) *the interest of –*
 - (i) *the State; and*
 - (ii) *the local community;*
 - (b) *the strategic and economic interest of the municipality or municipal entity, including the long-term effect of the decision on the municipality or entity;*
 - (c) *the constitutional rights and legal interest of all affected parties;*
 - (d) *whether the interest of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and*
 - (d) *whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.”*



F. ADVERTISEMENT

The necessary advertisement / notice in terms of legal prescripts will be published should it be resolved that the erf may be alienated. This is to obtain any representations / objections from the local community in respect of the proposed disposal of the Erf. An item will only be resubmitted to Council should representations / objections be received.

CONCLUSION

It is recommended that Erf 1909, De Doorns ±778.89m² in extent, be alienated by means of a direct alienation at a market related purchase price of Two Hundred and Ten Thousand Rand (R210 000.00), (VAT Included) to the Applicant,

Furthermore. it is recommended that the purchaser be liable for all cost involved to affect transfer of the property in the deeds office. These costs will *inter alia* include the consolidation, rezoning, advertisement, transfer, and registration costs.

FINANCIAL IMPLICATIONS

The Municipality stands to gain the market related purchase price of Two Hundred and Ten Thousand Rand (210 000.00), VAT Included. More so, the Municipality will also gain rates and taxes after transfer of the subject property.

ANNEXURES

- Annexure A: Locality Map of subject property.
Annexure B: Locality Map of Applicant's Property.

COMMENTS OF DIRECTORATES / DEPARTMENTS

MUNICIPAL MANAGER: Supported



DIRECTOR ENGINEERING SERVICES:

Directorate Public Services must provide comments with reference to municipal service to the property.

Department Civil Engineering Services:

The Department: Civil Engineering Services has no objection to the application for the alienation of Erf 1909, De Doorns.

Electrical Services:

The Electrical Services Department has no objection against the proposed municipal land use application, the application is conditionally approved based on the following:

- i. There is no electrical supply to the ERF.
- ii. Should there be a need for a New Service Connection, a separate application must be filled out and approval will depend on the availability of the capacity. All costs will be for Applicant's account.
- iii. Should any municipal electrical service or infrastructure require re-location; it will be for the applicant's account where possible.
- iv. Any damage to council property will be for the applicant's account.
- v. Applicant to ensure the electrical cable positions have been identified before construction commences where construction / excavation work will be performed.
- vi. No guaranteed approval for any new Electrical connection/Capacity Increases.

ACTING DIRECTOR PUBLIC SERVICES:

Supported

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Manager Town Planning:

The zoning of Erf 1909, De Doorns is Residential Zone I.

From a Town Planning point of view, there is no objection to the proposed alienation of the property subject to the following:

- i. That any development on the property adheres to the BVM Zoning scheme By-law, 2021.
- ii. That the applicant is responsible for all costs pertaining to any land use planning applications in terms of the Breede Valley Municipal Land Use Planning By-law, 2015.

Manager Building Control:

Building Control has no objection against the application.

Buildings plans must be submitted for approval at Building Control.

Manager Roads and Stormwater:

No objection – given that stormwater common law applies.

CHIEF FINANCIAL OFFICER: Supported

DIRECTOR COMMUNITY SERVICES: Supported

Fire and Rescue Services:

1. Any future structures/buildings being erected on the above-mentioned premises as well as existing structures/buildings, must conform with the provisions of the National Building Regulations, SANS 10400-A:2010, Part T.
2. Access for firefighting and rescue purposes, must be provided in accordance with Regulation T1(1)(e) of the National Building Regulations, read with the Deemed to Satisfy rules, Rule T4.54 of SANS 10400 - 1990, Part T, and in accordance to the Fire Brigade



By-Laws of the Breede Valley Municipality. A width of 3.5 meter and a height of 4.2 meter must be maintained for emergency vehicles to enter premises.

3. Provision must be made for fire-fighting equipment (fire extinguishers), in accordance with SANS 10400 -2010 Part T 4.37 Table 10.
4. Escape routes must also not be blocked so people can escape in case of emergency.

Traffic Services:

No objection to the application.

DIRECTOR STRATEGIC SUPPORT SERVICES: Co-Author if the item

Senior Manager Legal Services: Author of the item

RECOMMENDATION:

That in respect of-

IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF ERF 1909 DE DOORNS, STASIE WEG SITUATED ADJACENT TO ERF 6159, DE DOORNS

As discussed by Council at the Council meeting held on 20 June 2023:

1. That the direct alienation of Erf 1909, De Doorns (adjacent to Erf 6159), ±778.89m² in extent, for **purpose allowed under Business Zone I**, to the owner of the adjoining Erf 1659, at an amount of Two Hundred and Ten Thousand Rand (R210 000.00) (VAT Included), be **approved in principle**;
2. That the Purchaser will be liable to pay an amount of Two Hundred and Ten Thousand Rand (R210 000.00) (VAT Included) towards the purchase price in **item 1** above.



3. that Council take cognisance of the fact that the direct alienation is only approved as Erf 1909, De Doorns is classified as a non-viable property;
4. that Erf 1909, De Doorns be consolidated with the adjoining property of the Applicant, being Erf 6159, De Doorns;
5. that the alienation of Erf 1909, De Doorns 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;
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;
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 erf be subject to approval in terms of land use planning legislation;
9. that the following of a public participation process, **be approved**;
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;
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



12. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of Erf 1909, De Doorns and all necessary documents relating thereto.

Proposed: Ald. W.R. Meiring
Seconded: Cllr F. Vaughan

Vote for the recommendations: 22

RESOLVED:

That in respect of-

IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF ERF 1909 DE DOORNS, STASIE WEG SITUATED ADJACENT TO ERF 6159, DE DOORNS

As discussed by Council at the Council meeting held on 20 June 2023 **resolution number C58/2023:**

1. That the direct alienation of Erf 1909, De Doorns (adjacent to Erf 6159), $\pm 778.89\text{m}^2$ in extent, for **purpose allowed under Business Zone I**, to the owner of the adjoining Erf 1659, at an amount of Two Hundred and Ten Thousand Rand (R210 000.00) (VAT Included), be **approved in principle**;
2. That the Purchaser will be liable to pay an amount of Two Hundred and Ten Thousand Rand (R210 000.00) (VAT Included) towards the purchase price in **item 1** above.
3. that Council take cognisance of the fact that the direct alienation is only approved as Erf 1909, De Doorns is classified as a non-viable property;
4. that Erf 1909, De Doorns be consolidated with the adjoining property of the Applicant, being Erf 6159, De Doorns;



-
5. that the alienation of Erf 1909, De Doorns 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;
 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;
 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 erf be subject to approval in terms of land use planning legislation;
 9. that the following of a public participation process, **be approved**;
 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;
 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
 12. that the Municipal Manager be authorized to sign all documents relating to the alienation and transfer of Erf 1909, De Doorns and all necessary documents relating thereto.



**7.11 WORCESTER BUSINESS IMPROVEMENT DISTRICT SPECIAL RATING AREA:
BUSINESS PLAN (2023 – 2028)**

File no.: 2/3/2/65

Responsible Official: H Potgieter

Directorate: SSS

Portfolio: Legal Services

1. Purpose

The purpose of this item is for the council to consider approval of the Worcester Business Improvement District (hereinafter referred to as “*the WBID*”) Business Plan for the period 1 July 2023 – 30 June 2028, attached as “**Annexure A**” with or without amendments.

2. Background / Discussion

During the council meeting held on 30 March 2016, the council resolved and approved the establishment of its first Special Rating Area within its jurisdiction, being the WBID.

Annexure A depicts the projects successfully implemented by the WBID as well as the envisaged future projects.

The WBID propose significant developments in respect of Church Square, attached as “**Annexure B**”.

3. Conclusion

It is recommended that the WBID proposed Business Plan, attached as **Annexure A** be approved by the council with or without amendments.

4. APPLICABLE LEGISLATION

4.1 Local Government: Municipal Property Rates Act

4.2 BVM: Special Rating Area By-law and Policy

5. Financial implications

Brede Valley Municipality will receive the income as per the additional tariff payable by the WBID SRA businesses.



6. ANNEXURES

Attached as annexure a - B

7. Comment of Directorates

Municipal Manager

Noted

ACTING DIRECTOR: PUBLIC SERVICES

Noted

DIRECTOR: ENGINEERING SERVICES

Noted

ACTING DIRECTOR: COMMUNITY SERVICES

Noted

DIRECTOR: FINANCE / CFO

Noted

Director: Strategic Support Services

Co-Author of the item and recommendation

SENIOR MANAGER: LEGAL SERVICES

Author of the item

MANAGER: LED

Item supported.

MANAGER: IDP/SDBIP/PMS



In principle, I support this item. The anticipated projects will positively contribute to local economic development, safety and aesthetic appeal of the CBD.

RECOMMENDATION

That in respect of –

WORCESTER BUSINESS IMPROVEMENT DISTRICT: BUSINESS PLAN (2023 – 2028)

as discussed by Council at the Council meeting held on 20 June 2023, the following recommendation be made to Council:

1. That council confirm the continuation of the Worcester Improvement District Special Rating Area for a period until 30 June 2028.
2. that council approve the Worcester Improvement District Special Rating Area Business Plan for the period 1 July 2023 until 30 June 2028, as per **Annexure A**;
3. that the Municipal Manager be mandated and delegated to:
 - 3.1.1 enter into negotiations/discussions with the **Worcester Central Improvement District Special Area** in respect of the Church Square Development in consultation with the relevant internal user departments as per **Annexure B**; and
 - 3.1.2 that the Municipal Manager, following negotiations/discussions with the **Worcester Improvement District Special Rating Area**, resubmit an item to the council for its final consideration, only regarding the Church Square proposed development, as per **Annexure B**.

Proposed: Cllr J.P. Kritzinger

Seconded: Ald. W.R. Meiring

Council unanimously agreed on the recommendation

RESOLVED

That in respect of –

WORCESTER BUSINESS IMPROVEMENT DISTRICT: BUSINESS PLAN (2023 – 2028)

as discussed by Council at the Council meeting held on 20 June 2023, **resolution number C59/2023**, the following recommendation be made to Council:



1. That council confirm the continuation of the Worcester Improvement District Special Rating Area for a period until 30 June 2028.
2. that council approve the Worcester Improvement District Special Rating Area Business Plan for the period 1 July 2023 until 30 June 2028, as per **Annexure A**;
3. that the Municipal Manager be mandated and delegated to:
 - 3.1.1 enter into negotiations/discussions with the **Worcester Central Improvement District Special Area** in respect of the Church Square Development in consultation with the relevant internal user departments as per **Annexure B**; and
 - 3.1.2 that the Municipal Manager, following negotiations/discussions with the **Worcester Improvement District Special Rating Area**, resubmit an item to the council for its final consideration, only regarding the Church Square proposed development, as per **Annexure B**.



**7.12 THE ACTING APPOINTMENT OF OFFICIALS TO ACT IN THE POSITION OF
DIRECTOR: PUBLIC SERVICES****File No./s:** 2/3/3/1**Responsible Official:** D McThomas**Directorate:** Municipal Manager**Portfolio:** Municipal Manager

1. PURPOSE

The purpose of this item is for the Council to approve that an application in writing is submitted to the MEC for the secondment of a suitably qualified and competent person to act in the senior manager post of Director: Public Services in terms of section 6 of the Public Administration Management Act, 11 of 2014 or any other relevant legislation that empowers the MEC to second a competent and qualifying person to BVM.

2. BACKGROUND

Council resolved on 12 December 2022:

“RESOLVED

That in respect of –

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

as discussed by Council at the Council meeting held on 12 December 2022, resolution number C127/2022, Council resolve that:

1. *Mr. P. Hartzenberg be appointed to act in the position of Director: Public Services from 1 January 2023 to 31 March 2023; and*



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

The Breede Valley Municipality is currently, in terms of the Local Government: Municipal Staff Regulations, No. 890 and its Guidelines for the Implementation of the Municipal Staff Regulations, No. 891, in the process of finalizing the Staff Establishment process subject to the MEC inputs. It follows that the recruitment process for the vacant position of Director: Public Services can only commence after the finalisation of the staff establishment.

The acting period of Mr J. Pekeur to act in the position of Director Public Services expires on 30 June 2023.

The appointment of managers accountable directly to the municipal manager, including acting managers, is governed in terms of section 56(1)(b) of the Local Government: Municipal Systems Amendment Act, Act No. 3 of 2022 (hereinafter referred to as “the Act”) provides that:

'56 Appointment of managers directly accountable to municipal managers

- (1)(a) *A municipal council, after consultation with the municipal manager, must appoint-*
- (i) *a manager directly accountable to the municipal manager; or*
 - (ii) *an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed.*
- (b) *A person appointed in terms of paragraph(a)(i) or (ii) must at least have the skills, expertise, competencies and qualifications as prescribed.*
- (c) *A person appointed in terms of paragraph(a)(ii) may not be appointed to act for a period that exceeds three months: Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of*



appointment contemplated in paragraph(a), for a further period that does not exceed three months.

- (2) A decision to appoint a person referred to in subsection (1)(a)(i) or (ii), and any contract concluded between the municipal council and that person in consequence of the decision, is null and void if-
- (a) the person appointed does not have the prescribed skills, expertise, competencies or qualifications; or
- (b) *the appointment was otherwise made in contravention of this Act, unless the Minister, in terms of subsection (6), has waived any of the requirements listed in subsection (1)(b).*

The Act explicitly requires that the person appointed to act as Director: Public Services should at least have the **skills, expertise, competencies and qualifications as prescribed**. This was confirmed in the matter *Western Cape Provincial Minister of Local Government, Environmental Affairs And Development Planning v Central Karoo District Municipality*.¹

In terms of section 56(1)(c) of Act 3 of 2022, the person who has been appointed to act may not exceed an acting period of three months: Provided that a Municipal Council may, in special circumstances and on good cause shown, apply in writing to the MEC for Local Government to extend the period of appointment for a further period that does not exceed a further three months. This was confirmed in the matter of *Member of The Executive Council For Local*

¹ *Western Cape Provincial Minister Of Local Government, Environmental Affairs And Development Planning v Central Karoo District Municipality and Others* (4835/2023) [2023] ZAWCHC 80 (25 April 2023).



*Government, Environmental Affairs And Development And Development Planning, Western Cape Province v Knysna Municipality*² delivered on **Wednesday, 7 June 2023**.

Cognisance should also be taken of the fact that the value of the annual budget of a municipality also finds application in determining the minimum competency levels for Senior Managers.

“Senior Manager” in terms of the Local Government: Regulations on Appointments and Conditions of Employment of Senior Managers means a Municipal Manager appointed in terms of section 56A of the Act and includes a manager directly accountable to the Municipal Manager appointed in terms of section 56 of the Act.

Having regard to the Local Government: Municipal Finance Management Regulations, all municipalities with an annual budget of a value equal to or above R1 billion like BVM, must have the following minimum competency levels for Senior Managers:

Higher Education Qualification:

- At least a Post Graduate Degree or relevant qualification registered on the National Qualifications Framework at NQF Level 8 with a minimum of 120 credits;

Work-Related Experience:

- Minimum of 7 years at senior and middle management level, of which at **least 2 years must be at senior management level**

This presupposes that for a person to act or be appointed as a director at BVM with a budget over R1 billion, the person must have been a director at any municipality for at least two years.

² *Member Of the Executive Council For Local Government, Environmental Affairs And Development And Development Planning, Western Cape Province v Knysna Municipality and Others (3488/2023; 4884/2023) [2023] ZAWCHC 133 (7 June 2023).*



With respect to the Higher Education Qualification and Work-Related Experience of the candidates who previously acted in the vacant position of Director: Public Services, and after perusing their relevant documentation, the following can be confirmed from the records in possession of the municipality:

Mr. P Hartzenberg: -

Higher Education Qualification: Honours Degree in Economy
: Master's Degree in Town & Regional Planning

Work-Related Experience : Snr Manager: Planning, Development and Building Control
(1 July 2008 – Currently) (Not a senior manager as per the senior manager regulations)

Mr. J Pekeur: -

Higher Education Qualification: National Diploma Civil Engineering
B-Tech Civil Engineering (NQF level 7)

Work-Related Experience : Director: Technical Services
(Matzikama Municipality: 2009-2017) Senior Manager position.

With reference to the above candidates, in relation to the content of section 56(1)(b) of the Act referred to above, it appears that:

- Mr Hartzenberg **do not have the minimum two years of senior management experience**, and
- Mr. J Pekeur **do not have the prescribed qualification at NQF level 8**.



Further, no other internal candidates meet the experience and qualification requirements for the senior manager post.

The municipality previously advertised the position but could not attract suitably qualified persons. In addition, the post requirements may be amended by finalising the Staff Establishment. It is thus not feasible to advertise a post whose core requirements may change a few months later. Thus, the post is anticipated to be vacant for at least another three to six months.

The two crucial recent Western Cape High Court judgements highlighting that:

- a) All acting senior managers (Managers Reporting to the Municipal Manager) must possess the **same qualifications and experience as the permanent incumbent to the post** (Central Karoo case supra) and
- b) Senior managers acting appointments made in terms of section 56(1)(a)(ii) are **limited to a single period, three months** which may by application in writing to the MEC and in special circumstances and on good cause shown to be extended for a further period of three months. (Knysna case delivered on Wednesday, 7 June 2023)

3. CONCLUSION

It, therefore, means that in the case of BVM and regarding the specific senior manager post:

- a) The council may only appoint a qualifying person to act as a senior manager for a single period of three months or apply in writing to the MEC and in special circumstances and on good cause shown for a further single extension of three months and
- b) the person must have at least NQF Level 8 qualification in the relevant field, as well as the person must have been a senior manager (director) (which could have been at any municipality) for two years.



- c) If no qualifying internal person is available, like in our case, the council, thus, urgently needs to apply to the MEC for the secondment of a qualifying person in terms of section 6 of the Public Administration Management Act, 11 of 2014 or other applicable legislation.

4. APPLICABLE LEGISLATION

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

4. FINANCIAL IMPLICATIONS

The financial implications will be the acting allowances payable.

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED:

MUNICIPAL MANAGER:

Author of the item

DIRECTOR: STRATEGIC SUPPORT SERVICES: Co-Author of the item

RECOMMENDATION

That in respect of –

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



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as discussed by Council at the Council meeting held on 20 June 2023, the following recommendation be made to Council:

That Council approve that an application be submitted to the MEC for the secondment of a suitably qualified and competent person to act in the post of Director: Public Services in terms of section 6 of the Public Administration Management Act, 11 of 2014 or any other relevant legislation.

Proposed: Ald. W.R. Meiring

Seconded: Cllr E. van der Westhuizen

RESOLVED

That in respect of –

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

as discussed by Council at the Council meeting held on 20 June 2023 with **resolution number C60/2023**:

That Council approve that an application be submitted to the MEC for the secondment of a suitably qualified and competent person to act in the post of Director: Public Services in terms of section 6 of the Public Administration Management Act, 11 of 2014 or any other relevant legislation.



7.13 BREDE VALLEY MUNICIPALITY INVESTMENT INCENTIVE POLICY**File No.:** 7/1/1/2**Responsible Official:** Colin January.**Directorate:** SSS**Portfolio:** LED., Tourism and EPWP

Purpose:

- a) To present the initial discussion document "Draft BVM Investment Incentive Policy" to Council for notification that internal discussions must be facilitated to develop an Investment Incentive Policy for BVM.
- b) That council task the municipal manager to establish an intra-municipal administrative committee of senior officials and internal specialists under the chairmanship of the Director of Strategic Support Services to draft the Investment Incentive Policy and table it to the council within four months.
- c) At the minimum, the following key sections, and departments, being, the CFO, the Director of Engineering, the Director of Community Services, the Director of Public Services, the Senior Managers of Financial Planning, SCM, Electricity, Income, Planning and Public Services must serve on the committee and actively provide specialist detailed inputs in writing to the draft policy within the deadlines as set out by the committee chairperson.

Background:

Municipalities have a legislative mandate to ease and promote economic development, and to establish a business-friendly environment. The economic decline which started during the Covid 19 pandemic in 2020, and the later electric supply crisis, because of the unstable national grid have caused negative consequences for business viability in South Africa, and the Breede Valley Municipality in particular. To mitigate the above negative developments, the Breede Valley Municipality must produce innovative strategies to attract added investment into our local economy, to increase employment absorption, which will decrease unemployment and potentially increase the Municipal revenue.

An investment incentive policy can be a useful business attraction tool to attract business to our industrial and commercial zones. Responsive and cost-effective municipal service delivery remains the core business attraction tool, as well as first perceptions by prospective investors. This policy will complement the ongoing efforts to roll out capital projects to support economic development. The key feature of this policy is to provide a pre-approved incentive criteria and ensure the appropriate administrative procedures to ensure that



applications are processed, and decision are made during a shorter timeframe. The aim is to speed-up the investors' negotiation process, and thereby increase the Breede Valley Municipality's competitiveness within the investment market. The attached draft policy is a rules-based incentive scheme, with a transparent policy that provides a set of guidelines and criteria.

Investment incentives is a policy instrument that must be applied evenly by a Municipality to promote the establishment of new businesses. There are three main categories of investment incentives relevant the municipal space and these are:

- a) Financial incentives, such as reduced or deferred payments for service charges, or some cost incentive that will be decided on, if it is affordable and for the municipality, and legally sound.
- b) Subsidized [infrastructure](#), [market](#) preferences through spatial targeting strategies.
- c) There are non-financial incentives such regulatory [concessions](#) and business support programmes to assist prospective investors.

Generally, incentives must be selective as we cannot offer incentives to companies who would have invested in the BVM economy in any case. The municipal administration has approached SALGA for support, and they will train and orientate some municipal officials on how to structure investment incentives. Some BVM representatives will also take part in a SALGA training which was set up to broaden our understanding of the implementation of these incentives, as we wish to tread very carefully with this concept. This is merely a draft policy that was put together after extensive literature reviews and consultation with SALGA. The administration must ensure that the BVM Investment Incentive Policy is legally sound and financially prudent. The final BVM Investment Incentive Policy will be tabled to a full Council meeting, once all the internal consultations and clarifications have been finalised.

Financial Implications:

Incentives will have budget implication; more detailed budget implication will be presented in the final item to Council

Applicable Legislation / Council Policy:

- a) The Constitution, Section 152 c) put an obligation of local authorities to promote economic development.
- b) Municipal Systems Act, Section 26 (c) prescribe how local economic development is a sectoral plan of the IDP.



- c) National Framework for Economic Development COCTA, which supplies a guideline of how LED should be conceptualised and implemented.
- d) National Policy framework for development charge\
- e) BVM Rates Policy
- f) BVM Municipal Planning Bylaw
- g) BVM Spatial Development Framework
- h) BVM Integrated Development Plan
- i) National framework for LED Cogta
- j) National development plan
- k) BVM Local Economic Development Strategy
- l) Development Charges Policy for Engineering Services (Version 3, 9th of February 2015, Resolution C 3/2015)
- m) National Treasury - Policy Framework for Municipal Development Charges (Final Draft, Version 7)

Comment of Directorates / Departments

Municipal Manager: Recommendation supported

Director: Strategic Support Services: Co-author of item.

Director: Community Services: Noted

Director: Financial Services: Noted

Director: Engineering Services: In terms of the Development Charges Policy for Engineering Services (Version 3, 9th of February 2015, Resolution C 3/2015): Section 11.4

11.4 Exemptions from Development Charges may only be granted by the Municipality if it:

a) does so in accordance with a Council approved policy or Council resolution that complies with the requirements of national legislation and policy dealing with Development Charges, and which:

(i) may exempt specified categories of land use or specified geographical areas or a combination of both; and

(ii) may not specify individual developers or properties.

b) a Council approved policy or Council resolution allowing for exemption from Development Charges liability must:



-
- (i) calculate the full liability for Development Charges that would otherwise have been received by the municipality were it not for the exemption;
- (ii) make projections regarding revenue to be foregone for a period of at least three years; and
- (iii) make budgetary provision for the realisation of the associated revenue forgone from another realistically available source either through a specific capital transfer or an alternative capital budget vote.

Senior Manager Legal Services: Noted

Acting Director: Public Services: Noted

Senior Manger Legal Services: Noted

RECOMMENDATION:

That in respect of the

BREDE VALLEY MUNICIPALITY INVESTMENT INCENTIVE POLICY

Discussed by Council in the Council meeting held on 20 June 2023.

the following recommendation is proposed:

- a) To present the initial discussion document "Draft BVM Investment Incentive Policy" to Council for notification that an internal administrative committee must be established to develop an Investment Incentive Policy for BVM.
- b) That council task the municipal manager to establish an intra-municipal administrative committee of senior officials and internal specialists under the Director of Strategic Support Services chairmanship to draft the Investment Incentive Policy and table it to the council within four months.
- c) At the minimum, the following key sections and departments, being the CFO, the Director of Engineering, the Director of Community Services, the Director of Public Services, the Senior Managers of Financial Planning, SCM, Electricity, Income, Planning and Public Services must serve on the committee and actively provide specialist detailed inputs in writing to the draft policy within the deadlines



as set out by the committee chairperson and actively attend all meetings of the committee.

Proposed: Cllr J.P. Kritzinger
Seconded: Ald. W.R. Meiring

Vote for the recommendations: 36

RESOLVED:

That in respect of the

BREDE VALLEY MUNICIPALITY INVESTMENT INCENTIVE POLICY

Discussed by Council in the Council meeting held on 20 June 2023, **resolution number C61/2023**; the following recommendation is proposed:

1. To present the initial discussion document "Draft BVM Investment Incentive Policy" to Council for notification that an internal administrative committee must be established to develop an Investment Incentive Policy for BVM.
2. That council task the municipal manager to establish an intra-municipal administrative committee of senior officials and internal specialists under the Director of Strategic Support Services chairmanship to draft the Investment Incentive Policy and table it to the council within four months.
3. At the minimum, the following key sections and departments, being the CFO, the Director of Engineering, the Director of Community Services, the Director of Public Services, the Senior Managers of Financial Planning, SCM, Electricity, Income, Planning and Public Services must serve on the committee and actively provide specialist detailed inputs in writing to the draft policy within the deadlines as set out by the committee chairperson and actively attend all meetings of the committee.



7.14 Engineering Services: Draft review of the Electrical Infrastructure Masterplan**File No. /s:** 11/2/B**Responsible Official:** F Geduld**Directorate:** Engineering Services**Portfolio:** Electrical Services

Purpose:

To submit a draft review of the Electrical Infrastructure Masterplan to the Council for approval.

Background:

The Electrical Infrastructure Master Plan was updated by the Electrical Department to provide BVM with a long term (5 year) plan for the development and renewal of the electrical infrastructure in base years, short and long term.

Financial Implications:

Projects as per Master plan and Capital Budgets as per financial years.

Applicable Legislation / Council Policy:**CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996**

Section 152. (1) The objects of local government are:

- (a) to ensure the provision of services to communities in a sustainable manner.
- (b) to promote social and economic development.
- (c) to promote a safe and healthy environment.

(2) A municipality must strive, within its financial and administration capacity, to achieve the objectives set out in subsection (1).

Section 153. Development duties of municipalities. - A municipality must-



(a). Structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.

MUNICIPAL SYSTEMS ACT NO 32 OF 2000 (The Systems Act)

Chapter 1: Definitions: In this Act, unless inconsistent with the context-

“**development**” means sustainable development, and includes integrated social, economic, environmental, spatial, infrastructural, institutional, organisational and human resources upliftment of a community aimed at –

- a) Improving the quality of life of its members with specific reference to the poor and other disadvantaged sections of the community; and
- b) Ensuring that development services present and future generations.

Electricity Regulation Act, Act 4 of 2006, and Electricity Regulation Amendment Act, Act 28 of 2007 as amended.

Occupational Health and Safety Act 1993, as amended.

SANS 10142 – Parts 1 to 4. Wiring of premises.

NRS 047 Electricity Supply – Quality of Services

NRS 048 Electricity Supply – Quality of Supply

Brede Valley Municipalities By-Law

Comment of Directorates / Departments concerned:

Municipal Manager: Supported.

Director: Community Services: Supported.

Director: Strategic Support Services: The item and the electrical master plan are noted.

Director: Financial Services: Supported



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Acting Director: Public Services: Noted.

Director: Engineering Services: The aim of this item and recommendation is firstly, to respond to the Breede Valley Municipality's presumed Strategic and Operational Risk Register for the 2022-2023 (i.e., ageing electricity network, Insufficient supply of electricity, etc.) and secondly, to provide the Municipality with a long-term plan for the development and renewal of the electrical infrastructure for the present and future generations. The Electrical Infrastructure Master Plan will inform decision-making regarding the current and future electrical infrastructure for the towns of Worcester, De Doorns and Touwsrivier. The Electrical Infrastructure Master Plan aims to provide a concise summary of the key recommendations.

Manager: Integrated Risk Management: Supported. Insufficient supply of electricity was identified and reported on the Strategic Risk Report approved by Council for the 2022-2023 financial year.

Snr. Manager Legal Services: Recommendation noted

Snr. Manager: Electrical Services: Author of Item

RECOMMENDATION:

That in respect of the

Engineering Services: Draft review of the Electrical Infrastructure Masterplan

Discussed by Council at the Council meeting held on 20 June 2023, Council decides,

1. That Council approved the final review of the Electrical Infrastructure Masterplan, as tabled.

Proposed: Cllr J.R. Jack

Seconded: Cllr E. van der Westhuizen

Unanimously agreed



RESOLVED:

That in respect of the

Engineering Services: Draft review of the Electrical Infrastructure Masterplan

Discussed by Council at the Council meeting held on 20 June 2023 **resolution number C62/2023**, Council decides,

1. That Council approved the final review of the Electrical Infrastructure Masterplan, as tabled.



7.15 GOVERNMENT NOTICE ON THE DETERMINATION OF 2022/2023 UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS**File no.:** 3/2/2/20**Responsible Official:** R Esau**Directorate:** SSS**Portfolio:** Human Resources

1. PURPOSE

The purpose of this item is to inform the Council of the attached Notice on Upper Limits of the Total Remuneration Packages of Municipal Managers (MM) and Managers Directly Accountable to Municipal Managers for the 2022 / 2023 financial year, Government Gazette Number 48789, issued on 14 June 2023.

2. BACKGROUND AND DISCUSSION

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

- Classification of municipalities according to different grades;
- Respective duties, powers and functions and responsibilities of a municipality;
- Affordability of different levels of remuneration, the number of municipal employees, and the salary and wage bill of the municipality;
- Population, operating budget and assets of the municipality;
- Current principles and levels of remuneration in society in general;



-
- Need for the promotion of equality and uniformity of salaries, allowances, and benefits for equal work performed;
 - Provision of uniform norms and standards nationally to address disparities; and
 - Inflationary increases.

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

- 2015/16 - SALGA observed that senior managers' salaries decreased between 11-17.2%.
- 2016/17 - 6% Cost of living adjustment (CLA)
- 2017/18 - 5.9% CLA
- 2018/19 - 5.4% CLA
- 2019/20 - 2.8% CLA for managers accountable to MM and 0% CLA for the MM
- 2020/21 - No cost of living adjustment - 0%
- 2021/22 - 1.5% CLA plus non-pensionable cash gratuity of R1695 per month for 12 months
- 2022/23 - 3% CLA plus non-pensionable cash gratuity of R1695 per month for 12 months

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



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

 - *Increases approved for senior managers have been significantly lower than that granted to other municipal officials. In most instances, these increases granted to senior managers have been at CPI or below CPI. The rationale for this is unclear.*

 - *Again, a significant concern is that the rationale for the 3% is not substantiated, as with previous Notices, arbitrary decisions are taken by the Department in this regard, where concerns submitted during the consultation are not acknowledged nor addressed in the subsequent Notices.*

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

 - *The current approach followed by the Department on remunerating senior managers is a direct violation of regulation 35 (referred to in item 2 above of this letter) in many respects and has a biased application of the factors listed there that must be considered by the Minister when making the determination.*



- *It is unclear how the additional non-pensionable monthly gratuity was derived.*

SALGA recommended that the Minister publish a Notice to sanction payment of an inflation-related across-the-board inflation increase to enable senior managers to offset the cost-of-

living expenses. It further requires that the minister publish the Notice timely to enable proper budget planning, inclusive of anticipated salary adjustments.

The Notice is also like the previous Notice, substantively late.

3. APPLICABLE LEGISLATION

- a) Local Government: Municipal Systems Act, No. 32 of 2000 and Regulations, for Snr Managers
- b) Upper Limit Notice dated 14 June 2023

4. FINANCIAL IMPLICATIONS

A 3% cost of living adjustment plus non-pensionable cash gratuity of R1695 per month for 12 months for directors and the MM. Note that the municipality does not qualify for a remote or rural allowance.

5. COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Municipal Manager: Item supported

Director: Strategic Support Services: Author

Director: Financial Services: Item supported



RECOMMENDATION

That in respect of –

GOVERNMENT NOTICE ON THE DETERMINATION OF 2022/2023 UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

as discussed by the Council at the meeting held on 20 June 2023:

1. That Council notes the content of the Government Notice on the Determination of 2022/2023 Upper Limits of the Total Remuneration Packages of Municipal Managers and Managers Directly Accountable to Municipal Managers as published by the Minister on 14 June 2023.

Council unanimously agreed

RESOLVED

That in respect of –

GOVERNMENT NOTICE ON THE DETERMINATION OF 2022/2023 UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

as discussed by the Council at the meeting held on 20 June 2023, **resolution number C63/2023**:

1. That Council notes the content of the Government Notice on the Determination of 2022/2023 Upper Limits of the Total Remuneration Packages of Municipal Managers and Managers Directly Accountable to Municipal Managers as published by the Minister on 14 June 2023.



-
8. CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER
- 8.1 CIRCULAR WC04 OF 2023/24: DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS FOR THE 2022/23 FINANCIAL YEAR

File no.: 3/2/2/20

Responsible Official: D McThomas

Directorate: Office of the Municipal Manager

1. PURPOSE

The purpose of this item is for council to consider the Draft Notice in respect of the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils for the 2023/23 Financial Year.

2. BACKGROUND AND DISCUSSION

SALGA issued circular WC04 of 2023/24 (**Annexure A**), requesting municipalities to submit written comments on the draft notice (**Annexure B**).

3. APPLICABLE LEGISLATION

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

4. ANNEXURES

Annexure A: SALGA Circular WC04 of 2023/24

Annexure B: Draft Notice - Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils



RECOMMENDATION

That in respect of –

CIRCULAR WC04 OF 2023/24: DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS FOR THE 2022/23 FINANCIAL YEAR

as discussed by the Council at the Council meeting held on 20 June 2023:

1. That Council considers the Draft Notice in respect of the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils for the 2023/23 Financial Year; and
2. that Council support the Draft Notice.

Council unanimously agreed to the recommendation

RESOLVED

That in respect of –

CIRCULAR WC04 OF 2023/24: DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS FOR THE 2022/23 FINANCIAL YEAR

as discussed by the Council at the Council meeting held on 20 June 2023, **resolution number C64/2023:**

1. That Council consider the Draft Notice in respect of the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils for the 2023/23 Financial Year; and
2. that Council support the Draft Notice.

9. CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL

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

11. CONSIDERATION OF MOTIONS OF EXIGENCY

Cllr M. Williams requested Council to consider the written motion of exigency as submitted to the Speaker at 14:50 at the Council Meeting.

Motion of exigency: that Council avail R500 000.00 to assist those affected by the recent flooding.

Votes in favor of the carry of the motion of exigency: 17

Votes against the consideration of the motion: 21

The motion of exigency will not carry.

12. CLOSURE

The Speaker closed the meeting at 15:53.

