

MINUTES

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

2023-04-24

**MINUTES OF THE 8th COUNCIL
MEETING OF 2022/2023
FINANCIAL YEAR OF THE COUNCIL
OF BREEDE VALLEY MUNICIPALITY
MONDAY, 2023-04-24 AT 10:00**



SPEAKER: ALDERMAN J.F. VAN ZYL



BREED VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

A caring valley of excellence.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
1.	OPENING AND WELCOME	5
2.	OFFICIAL NOTICES	5
2.1	Disclosure of interests	5
2.2	Applications for leave of absence	5
3.	COMMUNICATION	5
3.1	Interviews or presentations by deputations	5
3.2	Birthdays of Councillors	6
3.3	Statements by the Speaker	6
3.4	Statements by the Executive Mayor	6
4.	CONFIRMATION OF MINUTES	6
4.1	The minutes of the following Council meeting were previously distributed	6
4.2	7 TH Council Meeting: 2023-03-28	6
	FOR CONFIRMATION	
4.3	Council Meeting held on 12 December 2022	7
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	8
5.1	The Deputy Executive Mayor: Cllr J.J. von Willingh	8
5.2	MMC1: Alderman W.R. Meiring	8
5.3	MMC2: Cllr. P.C. Ramokhabi	8
5.4	MMC3: Cllr. N. Nel	8
5.5	MMC4: Cllr. E. Van der Westhuizen	8
5.6	MMC5: Cllr J.R. Jack	8
5.7	MMC6: Cllr. V.A. Bedworth <u>MAYCO MEETING HELD ON 18 APRIL 2023</u> COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY MASTERPLAN <u>MAYCO MEETING HELD ON 18 APRIL 2023</u> COURT UPDATE: THE PROGRESS OF THE MUNICIPAL	8 9

	COURT AND STATISTICS	
5.8	MMC7: Cllr. J.P. Kritzinger	9
5.9	MMC8: Cllr F. Vaughan	9
6.	COLLABORATOR OUTSTANDING RESOLUTIONS REPORT	
6.1	OUTSTANDING COUNCIL RESOLUTION REPORT PER DIRECTORATE AS EXTRACTED ON 18 APRIL 2023.	9

7.	CONSIDERATION OF MATTERS SUBMITTED BY THE ADMINISTRATION	17
7.1	ADDITIONAL / AMENDMENT ALLOCATIONS - ADJUSTMENTS BUDGET 2022/2023 – 24 APRIL 2023	17
7.2	QUARTERLY PERFORMANCE REPORTS PERTAINING TO THE THIRD QUARTER (1 JANUARY 2023 – 31 MARCH 2023)	32
7.3	SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 MARCH 2023. MFMA SECTION 71 & 52 (d) Report	35
7.4	GRANTING OF LEGAL REPRESENTATION TO COUNCILLORS AND EMPLOYEES	38
7.5	QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 3rd QUARTER OF THE 2022/23 FINANCIAL YEAR	46
7.6	REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MARCH 2023	48
7.7	COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY MASTERPLAN	50
7.8	MUNICIPAL COURT UPDATE: THE PROGRESS OF THE MUNICIPAL COURT AND STATISTICS	54
8.	CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER	59
9.	CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL	59
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	59
11.	CONSIDERATION OF MOTION OF EXIGENCY	59
	A written motion was presented by Cllr C. Wilskut (which forms part of this Agenda) which he submits in terms of s37 of the Rules of Order Bylaw about the restriction of electricity for indigent consumers.	
12.	CLOSURE	59

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 welcomes all and requests Cllr T. Manuel to open the meeting with 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.

None

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.

**Apologies were received from: Ald C. Ismail; Cllr M. Swartz; Cllr S. K Madlolo;
Cllr J. M Mokgosi**

**10:09 Caucus requested by ANC for 30minutes
The meeting reconvenes at 10:40**

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*

None

3.2 BIRTHDAYS OF COUNCILLORS

Cllr S.J. Mei	4 May 2023
Cllr J.P. Kritzinger	8 May 2023
Cllr T.P. Sibozo	8 May 2023

The Speaker requested Cllr H Titus to congratulate the councillors on their birthdays.

3.3 STATEMENTS BY THE SPEAKER

1. Councillors are reminded again of the workshop tomorrow at Nekkie's.
2. Submission of names for members and alternates (VFP: Cllr N. Nel; 2 x DA; 1 x BO; 1 x ANC) to serve on the disciplinary committee must be provided by the end of this week. The Speaker reminded them of the communication sent out earlier, without any response. As this was a decision of Council the cooperation of the councillors is requested.

3.4 STATEMENTS BY THE EXECUTIVE MAYOR

The Executive Mayor relayed her heartfelt condolence to the families in the Breede Valley who lost their loved ones. She congratulated Cllr D. Judge on her engagement. She is grateful for all the councillors and administration working hard in the community during these trying times. The theft of electricity cables, the replacement of sewer pipes to name but a few. The message is loud and clear that service delivery need to improve.

4. CONFIRMATION OF MINUTES

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

- (a) Minutes of the proceedings of meetings must be compiled in printed form and be confirmed by the Council at the next meeting and signed by the Speaker.
- (b) The minutes shall be taken as read, for the purpose of confirmation, if a copy thereof was sent to each Councillor within forty-eight hours before the next meeting, subject to the provisions of sub-Clause (4).
- (c) No motion or discussion shall be allowed on the minutes, except in connection with the correctness thereof.
- (d) The minutes formulated and screened during meetings, shall constitute a resolution for purposes of implementation of decisions.

4.2 Council Meeting held on 28 March 2023 and the correction on the minutes of the Council meeting held on 12 December 2022.

RECOMMENDATION

That in respect of

CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING HELD ON 28 MARCH 2023.

discussed by Council at the Council Meeting held on 24 April 2023:

1. As the Minutes of the Council Meeting held on 28 March 2023 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 28 March 2023 be taken as read and confirmed.

4.3 Council Meeting held on 12 December 2022 correction.

The minutes of the Council meeting held on 12 December 2022 was taken as read and confirmed by Council during the Council Meeting held on 24 January 2023.

However, it was ascertained that the minutes in respect of Council resolution **C128/2022**, tabled on 12 December 2022, only in respect of **items 3 and 4** thereof, did not accurately reflect the decision adopted by Council.

The relevant part of the minutes confirmed on 24 January 2023, **items 3 and 4** reflects:

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

RECOMMENDATION

That in respect of

CORRECTION OF MINUTES OF COUNCIL MEETING HELD ON 12 DECEMBER 2022 AS CONFIRMED BY COUNCIL AT THE COUNCIL MEETING HELD ON 24 JANUARY 2023

discussed by Council at the Council Meeting held on 24 April 2023:

-
1. As the Corrected Minutes of the Council Meeting held on 12 December 2022 were sent to each councillor at least forty-eight hours prior to the meeting, the Corrected Minutes of the Council meeting held on 12 December 2022 in respect of **C128/2022**, be taken as read and confirmed, to reflect the composition of the Disciplinary Committee as:

2 x DA; 1 x ANC; 1 x BO and Cllr. N Nel as Chairperson and the 5th member of the Committee.

Proposed: Cllr E. VD Westhuizen

Seconded: Cllr J. J. Jack

RESOLVED

That in respect of

CONFIRMATION OF MINUTES OF PREVIOUS COUNCIL MEETING

discussed by Council at the Council Meeting held on 24 April 2023, **resolution number C25/2023:**

1. As the Minutes of the Council Meeting held on 28 March 2023 were sent to each councillor at least forty-eight hours prior to the meeting, the minutes of the Council meeting held 28 March 2023 be taken as read and confirmed.

RESOLVED

That in respect of

CORRECTION OF MINUTES OF COUNCIL MEETING HELD ON 12 DECEMBER 2022 AS CONFIRMED BY COUNCIL AT THE COUNCIL MEETING HELD ON 24 JANUARY 2023

discussed by Council at the Council Meeting held on 24 April 2023:

1. As the Corrected Minutes of the Council Meeting held on 12 December 2022 were sent to each councillor at least forty-eight hours prior to the meeting, the Corrected Minutes of the Council meeting held on 12 December 2022 in respect of **C128/2022**, be taken as read and confirmed, to reflect the composition of the Disciplinary Committee as:

2 x DA; 1 x ANC; 1 x BO and Cllr. N Nel as Chairperson and the 5th member of the Committee.

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

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

5.2 MMC1: Alderman W.R. Meiring

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

MAYCO MEETING HELD ON 18 APRIL 2023

COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY MASTERPLAN

RESOLVED:

That in respect of

COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY MASTERPLAN

Discussed by the Mayoral Committee held on 18 April 2023 with resolution number **EX2/2023:**

- 1) That Section 80 committee also recommend to MAYCO that the final review will be tabled at the May 2023 Council Meeting
- 2) That the upgrade of Rawsonville and Fanie Otto [De Wet] sport grounds be supported and budgeted for in the 2023/24 capital budget.

-
- 3) That the directorate of Community Services will investigate the possibility of acquiring external funding for the upgrade or maintenance of sport infrastructure

MAYCO MEETING HELD ON 18 APRIL 2023

COURT UPDATE: THE PROGRESS OF THE MUNICIPAL COURT AND STATISTICS

RESOLVED:

That in respect of –

MUNICIPAL COURT UPDATE: THE PROGRESS OF THE MUNICIPAL COURT AND STATISTICS

as discussed by the Mayoral Committee held on 18 April 2023 the following recommendation be made to Council with resolution number **EX3/2023**:

1. That Council take cognisance of the progress update and statistics of the Municipal Court and those expenses associated with the operation of the Municipal court also be added.

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
1317891	CONSIDERATION TO REVIEW AND RESCIND COUNCIL RESOLVED That in respect of – CONSIDERATION TO	2023-03-28	HPOTGIETER	30	Notice placed in CW Standard on 13/04/2023. Closing

	<p>RESOLUTIONS C88/2018 AND C16/2019: LEASE OF MUNICIPAL PROPERTY - PORTION OF ERF 1, CORNER OF HIGH- AND ROBERTSON ROAD (R60), WORCESTER and PROPOSED IN PRINCIPLE APPROVAL FOR A TWENTY (20) YEAR LEASE OF MUNICIPAL</p>	<p>REVIEW AND RESCIND COUNCIL RESOLUTIONS C88/2018 AND C16/2019: LEASE OF MUNICIPAL PROPERTY - PORTION OF ERF 1, CORNER OF HIGH- AND ROBERTSON ROAD (R60), WORCESTER; and PROPOSED IN PRINCIPLE APPROVAL FOR A TWENTY (20) YEAR LEASE OF MUNICIPAL PROPERTY – PORTION OF ERF 1, CORNER OF HIGH- AND ROBERTSON ROAD (R60), WORCESTER as discussed by the Council at the Council meeting held on 28 March 2023, the following recommendation be made to Council, resolution number C22/2023 :</p> <ol style="list-style-type: none"> 1. That Council resolutions C88/2018 and C16/2019 be reviewed and rescinded. 2. that the lease at a market related rental of the municipal property, being a portion of Erf 1, ±1.8610ha in extent, situated at the corner of High- and Robertson Road (R60), also known as Murray Square, for a period of twenty (20) years, be approved in principle for the purposes of utilizing the subject property for different school sports / codes as permitted under Open Space Zone II: Private open space; by means of a competitive process in the open market; 3. that the lease be for purposes permitted under the zoning Open Space Zone II and that structures may only be erected with the permission of the municipality which structures will revert to the municipality upon termination of the lease; 4. that a market related valuation report be obtained for a twenty (20) year lease period and that the lease amount annually increases on the 1st of July by a percentage equal to the prevailing consumer price index (all items); 5. that all costs pertaining to a 				<p>date for comments is 15/05/2023.</p>
--	---	--	--	--	--	---

		<p>possible traffic impact assessment and implementation of the recommendations, relocation of municipal services and installation of municipal services, must be paid by the Lessee;</p> <p>6. that an investigation must be conducted and completed before the availing of the lease in respect of the future extension of the electrical substation (located on erf 19908) onto the subject property ;</p> <p>7. that the following of a public participation process, be approved;</p> <p>8. that an item will only be resubmitted to Council should any representations / comments be received during the public participation process;</p> <p>9. that the administration be mandated to administer the process of the lease of the municipal property following the public participation process by means of a competitive process in the open market;</p> <p>10. that all the associated costs in respect of the lease, including but not limited to Town Planning procedures, e.g. rezoning and installation of municipal services be paid by the Lessee;</p> <p>11. that the Lessee will be responsible for the payment of all municipal services including rates and taxes in respect of the property;</p> <p>12. that the Lessee will comply with all internal departmental requirements to be incorporated in the subsequent Lease Agreement and the right be reserved to supplement such comments;</p> <p>13. that Directorate: Public Services be mandated to approve the site plan for the lease area; and</p> <p>14. that it is confirmed that Council has taken cognisance</p>				
--	--	---	--	--	--	--

		of the fact that the Municipal property herewith leased is not required for the municipality's own use in terms of the provision Regulation 36 of the Asset Transfer Regulations.				
Council	Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment	
1127524	<p>RECRUITMENT AND SELECTION OF DIRECTOR: PUBLIC SERVICES</p> <p>RESOLVED C69/2022 That in respect of RECRUITMENT AND SELECTION OF DIRECTOR: PUBLIC SERVICES discussed by the Council at the Special Council meeting held on 8 June 2022:</p> <p>1. That Council affirms that the position of Director: Public Services is vacant from 1 July 2022;</p> <p>2. that in terms of Regulation 7(2)(a) of the Regulations on the Appointment and Conditions of Employment of Senior Managers (herein after referred to as "The Regulations") Gazetted on 17 January 2014 (Gazette No. 37245) Council grant approval that the post of Director Public Services be filled;</p> <p>3. that Council confirm in compliance with Regulation 5 that: 3.1 the municipality requires the post to meet its strategic objectives. 3.2 remuneration and other conditions of employment will be attached to the post in terms of the Upper Limits of Total Remuneration Package Payable to Municipal Managers and Managers Directly Accountable to the Municipal Managers once a suitable candidate is recommended; and 3.3 sufficient budgeted funds, including funds for</p>	2022-06-08	HPOTGIETER	80	<p>28/06/2022: Post advertised, closing date is 28 June 2022. Procurement of recruitment agency in process.</p> <p>11/07/2022: Closed quotation process followed - recruitment agency duly appointed. Shortlisting scheduled for 18/07/2022.</p> <p>01/08/2022:: Shortlisting conducted on 18/07/2022. Way forward to be discussed internally. 08/09/2022 Item to remain in inbox until way forward is determined.</p> <p>13/10/2022: Item to remain in inbox until way forward is determined. 06/12/2022: Way forward discussed internally.</p> <p>18/01/2023: Process in abeyance due to review of staff establishment. 17/02/2023: Process in abeyance due to review of staff establishment.</p> <p>22/03/2023: Process in abeyance due to review of staff establishment.</p>	

		<p>the remaining period of the medium-term expenditure framework, are available for filling the post;</p> <p>4. that the services of a competent and experience recruitment agency be used during the recruitment process, subject thereto that the advertising, recruitment, selection procedure and competency testing complies with the Regulations;</p> <p>5. that Council appoint the following members to the selection panel, for the recruitment and selection of the Director Public Services: 5.1 The Municipal Manager who is the Chairperson; 5.2 Councillor Wouter Meiring; 5.3 Mr Henry Prins (Cape Winelands District Municipality: Municipal Manager) who has expertise and experience in the area of the advertised post;</p> <p>6. that the selection panel submit a report and recommendation on the selection process to the Council on the suitable candidates who comply with the relevant competency requirements of the post in order of preference;</p> <p>7. that with regards to the acting appointment in position of Director Public Services: 7.1 that Council appoint Mr P Hartzenberg to act in the position of Director Public Services from 1 July 2022 to 30 September 2022; and 7.2 that Council appoint Mr J. Pekeur to act in the position of Director Public Services from 1 October 2022 to 31 December 2022 or until such date the position is filled which ever occur first.</p>				
--	--	--	--	--	--	--

Council		Resolution	Meeting Date	Allocate To	% Compl.	Feedback Comment
776194	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT	RESOLVED C21/2020 1. That Council appoint a Disciplinary Committee comprising of 11 members (6 DA members and one member of each other Political Party (i.e ANC; BO; FF+; PDM; EFF); 2. That Cllr J.F. van Zyl be appointed as the Chairperson of the Disciplinary Committee; 3. The names of members to the Disciplinary Committee should be submitted to the Speaker within 7 days from the date of the Council Meeting.	2020-02-25	JVANWYK	50	Outcome of criminal matter in Regional Court Worcester and compilation of the DC has been resinded and reviewed.
1155841	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. MARGARET SWARTZ. ITEM FOR COUNCIL: 26 JULY 2022	RESOLVED C85/2022 In terms of Clause 16 of the Code of Conduct: a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code; or b) Establish a Special Committee: i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special committee, pertaining to the investigation of disciplinary matters, has already been established by Council per Council decision C40/2022. Cllr Nel proposed that Council recommends this motion to the established Special Committee to investigate and make a finding on any alleged breach of this code and to make appropriate recommendations to the Council, as stated above under point (b).	2022-07-26	JVANZYL	50	Refer to Disciplinary Committee, Await date
1155841	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. MARGARET SWARTZ. ITEM FOR COUNCIL: 26 JULY 2022	RESOLVED C85/2022 In terms of Clause 16 of the Code of Conduct: a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code; or b) Establish a Special Committee: i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special committee, pertaining to the investigation of disciplinary matters, has already been	2022-07-26	JVANZYL	50	Referred to Disciplinary Committee. Await date

		established by Council per Council decision C40/2022. Cllr Nel proposed that Council recommends this motion to the established Special Committee to investigate and make a finding on any alleged breach of this code and to make appropriate recommendations to the Council, as stated above under point (b).				
1185140	ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR. C.F. WILSKUT.	RESOLVED: That in respect of – ALLEGED BREACH OF CODE OF CONDUCT FOR COUNCILLORS: CLLR.C.F. WILSKUT. as discussed by Council at the Council meeting held on 23 August 2022 with resolution number C98/2022 Council decide that: In terms of Clause 16 of the Code of Conduct : 1. a) A Municipal Council may – investigate and make a finding on any alleged breach of a provision of this Code ; or b) Establish a Special Committee : i) to investigate and make a finding on any alleged breach of this code and ii) to make appropriate recommendations to the Council. And whereas a special committee, pertaining to the investigation of disciplinary matters, has already been established by Council per Council decision C40/2022.	2022-08-23	JVANZYL	50	Referred to Disciplinary Committee. Which has been rescinded and reviewed on 12/12/2022 by Council and the DC to compose of 5 (five) councillors: Chair: VF; 2 DA; 1 ANC; 1 BO.

7. CONSIDERATION OF AGENDA ITEMS

Proposal from Councillor C.F. Wilskut to adjourn the meeting because of the insufficient time councillors had to scrutinise the agenda.

Seconded by Cllr S.S.S. Steenberg

Votes for the proposal by Cllr C. F Wilskut: 16

Votes against the proposal of Councillor C. F. Wilskut: 21

Cllr J. Kritzinger proposed that council proceed with the meeting.

Seconded: Cllr N. Nel

Votes for the proposal: 21

Votes against: 15

**7.1 ADDITIONAL / AMENDMENT ALLOCATIONS - ADJUSTMENTS BUDGET
2022/2023 – 24 APRIL 2023**

File No. /s:

Responsible Official: A Crotz

Directorate: Financial Services

Portfolio: Financial Services

Purpose:

To submit an Adjustments budget for the 2022/23 financial year as a result of amendments / adjustments to allocations from National Government and Cape Winelands District Municipality during the 2022/23 financial year.

Background:

In terms of the MFMA (Section 28) the approved budget may be revised through an adjustments budget.

A. Section 28(2) further provides that; An Adjustments budget -

- Must adjust the revenue and expenditure estimates downwards if there is a material under-collection of revenue during the year;
- May appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmed already budgeted for;
- May, within the prescribed framework, authorize unforeseen and unavoidable expenditure recommended by the Mayor;
- May authorize the utilization of projected savings in one vote towards spending under another vote;
- May authorize the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by council;
- May correct any errors in the annual budget, and

-
- May provide for any other expenditure within a prescribed framework.

Municipal Budget and Reporting Regulations further provides that;

B. Timeframes for tabling of adjustment budgets

- An adjustment budget referred to in section 28(2)(b), (d) and (f) of the Act may be tabled in the Municipal Council at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year;
- Only one adjustment budget referred to in sub regulations (1) may be tabled in the municipal council during a financial year, except when the additional revenues contemplated in section 28(2)(b) of the Act are allocations to a Municipality in a National or Provincial adjustments budget, in which case sub regulation (3) applies. If a National or provincial adjustment budget allocates or transfer additional revenue to a Municipality, the Mayor of the Municipality must, at the next available council meeting, but within 60 days of the approval of the relevant National or Provincial adjustment budget, table an adjustment budget referred to in section 28(2) (b) of the Act in the Municipal council to appropriate these additional.

Financial Implications:

Financial implications are contained in the detail in this report.

Applicable Legislation / Council Policy:

1. The MFMA Section 28, 30 and 16(3)
2. Municipal Budget and Reporting Regulations
3. Council Budget related Policies

ADJUSTMENTS BUDGET SCHEDULE B REPORT 2022/23



BREDE VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

24 APRIL 2023

Contents

<u>SECTION A – Part 1</u>	21
1. <u>Glossary</u>	21
2. <u>Mayoral Report</u>	7
3. <u>Resolutions</u>	25
4. <u>Executive Summary</u>	25
5. <u>Adjustments Budget Tables</u>	26
<u>B1 Consolidated Adjustments Budget Summary</u>	26
<u>B2 Consolidated Adjustments Budget Financial Performance</u>	26
<u>B3 Consolidated Adjustments Budget Financial Performance</u>	26
<u>B4 Consolidated Adjustments Budget Financial Performance</u>	27
<u>B5 Consolidated Adjustments Budget Capital Expenditure</u>	27
<u>B6 Consolidated Adjustments Budget Financial Position</u>	27
<u>B7 Consolidated Adjustments Budget Cash Flows</u>	27
<u>B8 Consolidated Cash Backed Reserves/Accumulated Surplus</u>	28
<u>B9 Consolidated Asset Management</u>	28
<u>B10 Consolidated Basic Service Delivery Measurement</u>	28
<u>SECTION A – Part 2</u>	28
1. <u>Adjustments to Budget Inputs and Assumptions</u>	28
2. <u>Adjustments to Budget Funding</u>	9
3. <u>Adjustments to Expenditure on Allocations and Grant</u>	29
4. <u>Adjustment to Allocations or Grants made by the Municipality</u>	29
5. <u>Adjustment to Councillor Allowances and Employees</u>	29
6. <u>Adjustment to Service Delivery and Budget</u>	29

<u>7. Adjustment to Capital Spending Detail</u>	29
<u>8. Other Supporting Documents</u>	29

SECTION A – Part 1

1. Glossary

Adjustments Budgets – Prescribed in section 28 of the Municipal Finance Management Act. It is the formal means by which a municipality may revise its budget during a financial year.

Allocations – Money received from Provincial and National Treasury.

Budget – The financial plan of a municipality.

Budget related policy – Policy of a municipality affecting or affected by the budget.

Capital Expenditure – Spending on municipal assets such as land, buildings and vehicles. Any capital expenditure must be reflected as an asset on a municipality's balance sheet.

Cash Flow Statement – A statement showing when actual cash will be received and spent by the Municipality, and the month end balances of cash and short term investments.

DORA – Division of Revenue Act. The annual piece of legislation that indicate the allocations from National Government to Local Government.

Equitable Share – A general grant paid to municipalities. It is predominantly targeted to assist with free basic services.

GDFI - Gross Domestic Fixed Investment

GFS – Government Finance Statistics. An internationally recognised classification system that facilitates comparisons between municipalities.

IDP – Integrated Development Plan. The main strategic planning document of a Municipality.

KPI – Key Performance Indicators. Measures of service output and/or outcome.

LM – Breede Valley Municipality.

MFMA - Municipal Finance Management Act (No 53 of 2003). The principle piece of legislation relating to municipal financial management.

MTREF – Medium Term Revenue and Expenditure Framework as prescribed by the MFMA sets out indicative revenue and projected expenditure for the budget year plus two outer financial years to determine the affordability level.

Operating Expenditure – Spending on the day to day expenses of a municipality such as general expenses, salaries & wages and repairs & maintenance.

Rates – Local Government tax based on assessed valuation of a property.

TMA – Total Municipal Account

SDBIP – Service Delivery Budget Implementation Plan. A detailed plan comprising quarterly performance targets and monthly budget estimates.

Strategic Objectives – The main priorities of a municipality as set out in the IDP Budgeted spending must contribute towards achievement of these strategic objectives.

Vote – One of the main segments into which a budget is divided, usually at department level.

Abbreviations and Acronyms

AMR	Automated Meter Reading
ASGISA	Accelerated and Shared Growth Initiative
BPC	Budget Planning Committee
CBD	Central Business District
CFO	Chief Financial Officer
CPI	Consumer Price Index
CRRF	Capital Replacement Reserve Fund
DBSA	Development Bank of South Africa
DoRA	Division of Revenue Act
DWA	Department of Water Affairs
EE	Employment Equity
EEDSM	Energy Efficiency Demand Side Management
EM	Executive Mayor
FBS	Free basic services
GAMAP	Generally Accepted Municipal Accounting Practice
GDP	Gross domestic product
GDS	Gauteng Growth and Development Strategy
GFS	Government Financial Statistics
GRAP	General Recognised Accounting Practice
HR	Human Resources
HSRC	Human Science Research Council
IDP	Integrated Development Strategy
IT	Information Technology
kℓ	kilolitre
km	kilometre
KPA	Key Performance Area
KPI	Key Performance Indicator
kWh	kilowatt-hour
ℓ	litre
LED	Local Economic Development

MEC	Member of the Executive Committee
MFMA	Municipal Financial Management Act
MIG	Municipal Infrastructure Grant
MM	Municipal Manager
MMC	Member of Mayoral Committee
MPRA	Municipal Properties Rates Act
MSA	Municipal Systems Act
MTEF	Medium-term Expenditure Framework
MTREF	Medium-term Revenue and Expenditure Framework
NERSA	National Electricity Regulator South Africa
NGO	Non-Governmental organisations
NKPIs	National Key Performance Indicators
OHS	Occupational Health and Safety
OP	Operational Plan
PBO	Public Benefit Organisations
PHC	Provincial Health Care
PMS	Performance Management System
PPE	Property Plant and Equipment
PPP	Public Private Partnership
PTIS	Public Transport Infrastructure System
RG	Restructuring Grant
RSC	Regional Services Council
SALGA	South African Local Government Association
SAPS	South African Police Service
SDBIP	Service Delivery Budget Implementation Plan
SMME	Small Micro and Medium Enterprises

2. Mayors Report

The allocations made to the Breede Valley Municipality were further amended from the allocations as published and approved with the compilation of the 2022/23 Original Budget. National Government and Cape Winelands District Municipality (CWDM) had the following amendments to the allocations of Breede Valley Municipality:

- Disaster Recovery Grant: R10 310 000.00
- CWDM: R105 000.00

All conditional grants / funds allocated and transferred to the Breede Valley Municipality has specific conditions in terms of the timeframes and the type of spending to be incurred by the municipality during the 2022/23 financial year.

We as a municipality will continuously strive to successfully implement all projects, especially the projects funded from external sources such as grants. These projects add great value given the challenging economic environment faced by municipalities to ultimately deliver better services within the Breede Valley Municipality.

3. Resolutions

That council approves the following:

- (a) To approve the adjustments budget as tabled in terms of section 28 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).
- (b) The recommendations with regard to resolutions are contained at the end of this report and have been prepared and presented according to the budget regulations.

4. Executive Summary

The 2022/23 budget of Breede Valley Municipality is adjusted to accommodate the amendments from Provincial Government.

The additional / amended allocations relate to the following grants:

NAME OF GRANT	Amount
Disaster Recovery Grant: Rehabilitation of Zwelethemba Bridge	R10 310 000.00
Cape Winelands District Municipality: Community Safety	R105 000.00

The 2022/23 Adjustments Budget was compiled in accordance with section 28 of the Municipal Finance Management Act and regulation 23 of the Municipal Budget and Reporting Regulations.

In compiling the 2022/23 Adjustments Budget, the importance of credibility, sustainability, responsiveness and affordability remains integral in striving to achieve the desired outcome of effective and efficient service delivery.

1. Adjustments Budget Tables – Please refer to Annexure A

B1 Consolidated Adjustments Budget Summary

The table above is a budget summary and provides a concise overview of Breede Valley Municipality's budget from all the major financial perspectives (operating, capital expenditure, financial position, cash flow, and MFMA funding compliance).

The table provides an overview of the amounts approved by Council for operating performance, resources deployed to capital expenditure, financial position, cash and funding compliance, as well as the municipality's commitment to eliminating basic service delivery backlogs.

B2 Consolidated Adjustments Budget Financial Performance by Standard Classification

Table B2 above is a view of the budgeted financial performance in relation to revenue and expenditure per standard classification. The GFS standard classification divides the municipal services into 15 functional areas.

Total Revenue on this table includes capital revenues (Transfers recognized – capital) and so does not balance to the operating revenue shown on Table B4.

B3 Consolidated Adjustments Budget Financial Performance by Municipal Vote

Table B3 above is a view of the budgeted financial performance in relation to the revenue and expenditure per municipal vote. This table facilitates the view of the budgeted operating performance in relation to the organizational structure Breede Valley Municipality. This means it is possible to present the operating surplus or deficit of a vote.

B4 Consolidated Adjustments Budget Financial Performance (Revenue and Expenditure)

Table B4 above is a view of the budgeted financial performance in relation to the revenue by source and expenditure by type.

B5 Consolidated Adjustments Budget Capital Expenditure Vote and Funding

Table B5 is a breakdown of the capital programmed in relation to capital expenditure by municipal vote (multi-year and single-year appropriations); capital expenditure by standard classification; and the funding sources necessary to fund the capital budget, including information on capital transfers from national and provincial departments

B6 Consolidated Adjustments Budget Financial Position

Table B6 is consistent with international standards of good financial management practice and assist stakeholders in understanding the impact of the budget on the statement of financial position (balance sheet).

This format of presenting the statement of financial position is aligned to GRAP1, which is generally aligned to the international version which presents Assets less Liabilities as “accounting” Community Wealth. The order of items within each group illustrates items in order of liquidity; i.e. assets readily converted to cash, or liabilities immediately required to be met from cash, appear first.

B7 Consolidated Adjustments Budget Cash Flows

The budgeted cash flow statement is the first measurement in determining if the budget is funded. It shows the expected level of cash in-flow versus cash out-flow that is likely to result from the implementation of the budget.

B8 Consolidated Cash Backed Reserves/Accumulated Surplus Reconciliation

The cash backed reserves/accumulated surplus reconciliation is aligned to the requirements of MFMA Circular 42 – Funding a Municipal Budget. In essence the table evaluates the funding levels of the budget by firstly forecasting the cash and investments at year end and secondly reconciling the available funding to the liabilities/commitments that exist.

B9 Consolidated Asset Management

Table B9 provides an overview of municipal capital allocations to building new assets and the renewal of existing assets, as well as spending on repairs and maintenance by asset class.

B10 Consolidated Basic Service Delivery Measurement

Table B10 provides an overview of service delivery levels, including backlogs (below minimum service level), for each of the main services.

SECTION A – Part 2**1. Adjustments to Budget Inputs and assumptions**

The 2022/23 Adjustments Budget was compiled in line with Chapter 4 Municipal Finance Management Act and Chapter 2 Part 4 of the Municipal Budget and Reporting Regulations.

The 2022/23 Adjustments Budget remain consistent with the Long-Term Financial Plan to ensure continued synergy between long term planning and implementation planning.

The operational budget is adjusted in order to accommodate the amendments to allocations mentioned in this report. Please refer to table B4 and SB8 for all related amendments

2. Adjustments to Budget Funding

Budget funding in terms of operating and capital expenditure is set out on table B4.

3. Adjustments to Expenditure on Allocations and Grant

Detailed particulars of budgeted allocations and grants can be found on SB8.

Please refer to table SB8

4. Adjustment to Allocations or Grants made by the Municipality

None.

5. Adjustment to Councillor Allowances and Employees

The changes to councillor allowances and employee related cost is provided on table B4.

6. Adjustment to Service Delivery and Budget

The monthly targets for revenue, expenditure and cash flows are provided in B10 - Section B Supporting Tables.

7. Adjustment to Capital Spending Detail

Information/detail regarding capital projects by vote is provided in Section B – Capital Budget, read with B5, B5B, SB16, SB17, SB18a, SB18b, SB18e and SB19.

8. Other Supporting Documents

- National treasury electronic revised budget report, SB1-SB19 as **Annexure A**
- Signed quality certificate as **Annexure B**
- Government Gazette No 48327, 29 March 2023 **Annexure C**

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
Director: Public Services (Acting):	Recommendation Supported

The DA requested a 10 min caucus.

RECOMMENDATION:

That in respect of-

Adjustments budget for 2022/23 – April 2023

Discussed by Council at the Council meeting held on 24 April 2023:

1. Council resolves that the Adjustment Budget of Breede Valley Municipality for the financial year 2022/23 be adjusted and approved with amendments as set out in the following.
 - a. Municipal Budget tables B1- B10
 - b. Municipal Budget supporting documentation SB1 - SB19

Proposed: Ald A. Steyn

Seconded: Cllr M. Bushwana

Votes in favor of the proposal by Ald A. Steyn: 38

No votes against

RESOLVED

That in respect of-

Adjustments budget for 2022/23 – April 2023

Discussed by Council at the Council meeting held on 24 April 2023, **resolution number C26/2023**:

1. Council resolves that the Adjustment Budget of Breede Valley Municipality for the financial year 2022/23 be adjusted and approved with amendments as set out in the following.
 - a. Municipal Budget tables B1- B10
 - b. Municipal Budget supporting documentation SB1 - SB19

7.2 QUARTERLY PERFORMANCE REPORTS PERTAINING TO THE THIRD QUARTER (1 JANUARY 2023 – 31 MARCH 2023)

File No./s: 3/15/1

Responsible Official: C Malgas

Directorate: SSS

Portfolio: Performance Management

1. PURPOSE:

To inform Council on the implementation of the budget and the financial state of affairs of the Municipality and assess performance against the performance indicators set in the approved 2022/2023 Top-Layer SDBIP.

2. BACKGROUND:

According to Section 52(d) of the MFMA, the Mayor must, submit a report to the Council on the implementation of the budget and the financial state of affairs of the Municipality. Effective in-year reporting provides municipal management with an opportunity to analyse performance and address shortcomings and improve internal controls and service delivery. The SDBIP is normally updated on the 20th of the following month. Therefore, some KPI's that appears not met, may be due to the fact that it must still be updated. Top – Level KPI's usually are updated 10 to 5 working days before the 20th of each month to prepare said report timeously for Council.

All quarterly reports tabled in the Council in terms of section 52(d) must be placed on the website not later than five days after its tabling in the Council or on the date on which it must be made public, whichever occurs first.

3. COMMENT:

A copy of the Quarter 3 SDBIP Performance Report and Top-Layer KPI Report is attached as Annexures "A" and "B" respectively.

4. FINANCIAL IMPLICATIONS:

None

5. APPLICABLE LEGISLATION / COUNCIL POLICY:

- Municipal Finance Management Act, no. 56 of 2003

6. COMMENTS OF DIRECTORATES CONCERNED:

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

RECOMMENDATION:

That in respect of -

The Quarterly Performance Report for the Third Quarter (1 January 2023 – 31 March 2023),

as discussed by Council at the Council meeting held on 24 April 2023:

1. That Council takes note of the Quarter 3 SDBIP Performance Report and the Top-Layer KPI Report for the period 1 January 2023 – 31 March 2023.

Proposed: Ald W. R. Meiring

Seconded: Ald A. Steyn

Council unanimously agreed to the recommendation

RESOLVED

That in respect of -

The Quarterly Performance Report for the Third Quarter (1 January 2023 – 31 March 2023),

as discussed by Council at the Council meeting held on 24 April 2023, **resolution number C27/2023:**

1. That Council takes note of the Quarter 3 SDBIP Performance Report and the Top-Layer KPI Report for the period 1 January 2023 – 31 March 2023.

7.3 SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 MARCH 2023. MFMA SECTION 71 & 52 (d) Report**File No. /s:** 3/15/1**Responsible Officials:** R. Ontong**Directorate:** Financial Services**Portfolio:** Financial Services

1. Purpose

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

2. Background:**In terms of the Municipal Finance Management Act, 56 of 2003, section 71.**

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

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

(2) The statement must include-

- (a) a projection of the relevant municipality's revenue and expenditure for the rest of the financial year, and any revisions from initial projections; and
- (b) the prescribed information relating to the state of the budget of each municipal entity as provided to the municipality in terms of section 87(10).

(3) The amounts reflected in the statement must in each case be compared with

-
- the corresponding amounts budgeted for in the municipality's approved budget.
- (4) The statement to the provincial treasury must be in the format of a signed document and in electronic format.
- (5) The accounting officer of a municipality which has received an allocation referred to in subsection (1)(e) during any particular month must, by no later than 10 working days after the end of that month, submit that part of the statement reflecting the particulars referred to in subsection (1)(e) and (f) to the national or provincial organ of state or municipality which transferred the allocation.
- (6) The provincial treasury must by no later than 22 working days after the end of each month submit to the National Treasury a consolidated statement in the prescribed format on the state of the municipalities' budgets, per municipality and per municipal entity.
- (7) The provincial treasury must, within 30 days after the end of each quarter, make public as may be prescribed, a consolidated statement in the prescribed format on the state of municipalities' budgets per municipality and per municipal entity. The MEC for finance must submit such consolidated statement to the provincial legislature no later than 45 days after the end of each quarter.

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

The mayor of a municipality—

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

3. Financial Implications:

None

4. Applicable Legislation/ Council Policy:

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

5. Comment of Directorates/ Departments concerned:

Municipal Manager: Recommendation supported

Director: Strategic Support Services: Recommendation supported

Director: Financial Services: Recommendation supported

Director: Community Services: Recommendation supported

Director: Engineering Services: Recommendation supported

Acting Director: Public Services: Recommendation supported

RECOMMENDATION:

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 MARCH 2023

discussed by Council at the Council meeting held on the 24 April 2023:

1. That council take note of the in-year financial management report for the period ended 31 March 2023.

Proposed: Ald W. R. Meiring

Seconded: Ald A. Steyn

Council unanimously agreed to the recommendation

RESOLVED

That in respect of

SUBMISSION OF THE IN-YEAR FINANCIAL MANAGEMENT REPORT FOR THE PERIOD ENDED 31 MARCH 2023

discussed by Council at the Council meeting held on the 24 April 2023, **resolution number C28/2023:**

1. That council take note of the in-year financial management report for the period ended 31 March 2023.

7.4 GRANTING OF LEGAL REPRESENTATION TO COUNCILLORS AND EMPLOYEES

File no.: 2/1/1

Responsible Official: H Potgieter

Directorate: SSS

Portfolio: Legal Services

1. PURPOSE

The purpose of this item is twofold. Firstly, for Council to consider granting legal representation to the Speaker and the Executive Mayor in a current litigious matter.

Secondly, it is to introduce the draft Provision of legal representation for Employees and Councillors Policy in terms of section 109A of the Local Government: Municipal Systems Act, No. 32 of 2000.

2. BACKGROUND / DISCUSSION

Breede Valley Onafhanklik instituted legal proceedings in the High Court of South Africa, Western Cape Division, Cape Town. The applicant cited the following respondents:

1. First Respondent: Speaker of the Breede Valley Municipality
2. Second Respondent: Executive Mayor of the Breede Valley Municipality
3. Third Respondent: Municipal Manager of the Breede Valley Municipality
4. Fourth Respondent: Breede Valley Municipality

The applicant seeks an order *“reviewing and setting aside the fourth respondent’s decision to unilaterally appoint members of the applicants to the fourth respondent’s Committees established in terms of section 80 of the Local Government: Municipal Structures Act 117 of 1998, per Resolution C114/2021”*.

The first respondent, therefore, the Speaker, is called upon to dispatch to the Registrar the record of such proceedings and decision(s) sought to be reviewed and / or set aside. The respondent must also file an opposing affidavit in due course in response to the applicant's founding affidavit.

Section 109A of the Municipal Systems Act provides the following with regards to legal representation for councillors and officials:

"Legal representation for employees or councillors of municipality

A municipality may, subject to such terms and conditions as it may determine, provide an employee or councillor of the municipality with legal representation where-

- (a) legal proceedings have been instituted against the employee or councillor as a result of any act or omission by the employee or councillor in the exercise of his or her powers or the performance of his or her duties; or*
- (b) the employee or the councillor has been summoned to attend any inquest or inquiry arising from the exercise of his or her powers or the performance of his or her duties.¹*

2.1 COUNCIL APPROVED SYSTEM OF DELEGATIONS: LEGAL REPRESENTATION TO COUNCILLORS:

"L.5 LEGAL REPRESENTATION

L.5.0.1 To decide on granting legal representation to Councillors against whom legal proceedings have been instituted or are being contemplated, as a result of any act

¹ Section 109A inserted by section 43 of Act 51 of 2002.

or omission in the exercise of their duties as Councillors which approval shall not be unreasonably withheld”.

The above power or duty, according to the system of delegations, vest in Council.

The Speaker executed his duties as Councillor and elected chairperson of the municipal council in respect of the decision / resolution which the Breede Valley Onafhanklik is challenging. For this reason, the Speaker is the appropriate legal functionary who is cited as the first respondent and he would accordingly be required, amongst others, to depose to the opposing affidavit *nomine officio*. It should be noted that the external legal representatives instructed in this matter is the firm awarded this category for rendering legal services on behalf of the municipality following a competitive process (tender in the open market).

In light of the above, it is proposed that Council grant legal representation to the Speaker and the Executive Mayor in this specific matter, wherein Breede Valley Onafhanklik lodged review proceedings against Breede Valley Municipality, under **case number 2613/23**.

It is furthermore proposed that in the event any council resolutions or official decisions taken by the Speaker in the role of the Speaker are challenged and taken on review to an appropriate court or another lawful forum, the Speaker inherently be authorised to settle or oppose and / defend such legal matters *nomine officio*.

2.2 COUNCIL APPROVED SYSTEM OF DELEGATIONS: LEGAL REPRESENTATION TO OFFICIALS:

The respective delegations as per the system of delegations:

“L.5 LEGAL REPRESENTATION

L.5.0.7 To obtain legal representation if legal proceedings have been instituted or are being contemplated against the Municipal Manager, as a result of any act or omission in the exercise of his / her duties, which approval shall not be unreasonably be withheld”.

The above power or duty, according to the system of delegations, was delegated to the Executive Mayor by Council.

“L.5.0.8 To provide legal representation to officials against whom legal proceedings have been instituted or are being contemplated, as a result of any act or omission in the exercise of their duties”.

The above power or duty, according to the system of delegations, was delegated by Council to the Executive Mayor and sub-delegated to the Municipal Manager.

2.3 PROVISION OF LEGAL REPRESENTATION FOR EMPLOYEES AND COUNCILLORS POLICY IN TERMS OF SECTION 109A OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, NO. 32 OF 2000

As reflected above, section 109A stipulate that “a municipality may, **subject to such terms and conditions as it may determine**, provide an employee or councillor of the municipality with legal representation **under certain circumstances**”.

To enable Council to determine such terms and conditions under certain circumstances, it is proposed that Council in principle approve the draft Provision of legal representation for Employees and Councillors Policy, attached as **Annexure A**.

3. CONCLUSION

It is recommended:

1. That Council in principle approve the draft Provision of legal representation for Employees and Councillors Policy and that a workshop be conducted with Council prior to the date of final approval;
2. that pending final approval of the policy referred to in recommendation **1 above**, Council grant legal representation to the Speaker and the Executive Mayor in the matter wherein Breede Valley Onafhanklik lodged review proceedings against Breede Valley Municipality, under **case number 2613/23**; and
3. that pending final approval of the policy referred to in recommendation **1 above**, in the event any council resolutions or official decisions taken by the Speaker in the role of the Speaker are challenged and taken on review to an appropriate court or another lawful forum, the Speaker inherently be authorised to settle or oppose and / defend such legal matters *nomine officio*.

FINANCIAL IMPLICATIONS

The financial implications will be the legal costs of the external legal representatives.

COMMENT OF DIRECTORATES

Only the comment from the Municipal Manager was solicited as this item relates to the political component of the municipality.

MUNICIPAL MANAGER

Item and recommendation supported

DIRECTOR: STRATEGIC SUPPORT SERVICES

Co-Author of the item and recommendation

SENIOR MANAGER: LEGAL SERVICES

Author of the item

The BO, ANC and Good parties requested a caucus of 15 minutes.

RECOMMENDATION

That in respect of –

GRANTING OF LEGAL REPRESENTATION TO COUNCILLORS AND EMPLOYEES

as discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council:

1. That Council in principle approve the draft Provision of legal representation for Employees and Councillors Policy and that a workshop be conducted with Council prior to the date of final approval;
2. that pending final approval of the draft policy referred to in **item 1**, Council grant legal representation to the Speaker and the Executive Mayor in the matter wherein Breede Valley Onafhanklik lodged review proceedings against Breede Valley Municipality, under **case number 2613/23**; and
3. that pending final approval of the draft policy referred to in **item 1**, in the event any council resolutions or official decisions taken by the Speaker in the role of the Speaker are challenged and taken on review to an appropriate court or another lawful forum, the Speaker inherently be authorised to settle or oppose and / defend such legal matters *nomine officio*.

Proposal by Cllr T. Blom who called on Rule49 to go on to voting on the matter:

Votes against: 0

Votes for the proposal by Cllr T. Blom: majority

That bullets 1-3 be adopted as appeared in the recommendation.

Proposed: Cllr P. Marais

Seconded: Cllr J. Kritzinger

Votes for the proposal by Cllr P. Marais: 21

Votes against: 14

Votes abstain: 1

Counter proposal:

Cllr C.F Wilskut: That bullet 1 in the recommendation will remain and send for public participation. Bullet 2 and 3 to be removed from the recommendation.

Seconded by Cllr R. Johnson

Votes for the proposal of Cllr C. F. Wilskut: 14

Votes abstain:1

Votes against Cllr Wilskut's proposal: 21

RESOLVED

That in respect of –

GRANTING OF LEGAL REPRESENTATION TO COUNCILLORS AND EMPLOYEES

as discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council, **resolution number C29/2023**:

1. That Council in principle approve the draft Provision of legal representation for Employees and Councillors Policy and that a workshop be conducted with Council prior to the date of final approval;
2. that pending final approval of the draft policy referred to in **item 1**, Council grant legal representation to the Speaker and the Executive Mayor in the matter wherein Breede Valley Onafhanklik lodged review proceedings against Breede Valley Municipality, under **case number 2613/23**; and
3. that pending final approval of the draft policy referred to in **item 1**, in the event any council resolutions or official decisions taken by the Speaker in the role of the Speaker are challenged and taken on review to an appropriate court or another lawful forum, the Speaker inherently be authorised to settle or oppose and / defend such legal matters *nomine officio*.

7.5 QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 3RD QUARTER OF THE 2022/23 FINANCIAL YEAR

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

Responsible Official: R. Ontong

Directorate: Financial Services

Portfolio: Supply Chain Management

1. Purpose

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

2. Background

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

The SCM quarterly implementation report approved in terms of paragraph 6.3 for the 3rd quarter of the 2022/23 financial year, is attached as **Annexure A.**

3. Financial Implications

None

4. Applicable Legislation / Council Policy

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

Annexure

Annexures A: SCM quarterly implementation report (3rd quarter ending 31 March 2023) approved in terms of paragraph 6.3.

RECOMMENDATION:

That in respect of-

QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 3rd QUARTER OF THE 2022/23 FINANCIAL YEAR

as discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council:

1. That the approved SCM quarterly implementation report for the 3rd quarter of the 2022/23 financial year, **be noted**.

Proposed: Ald W. R. Meiring

Seconded: Ald A. Steyn

Council unanimously agreed to the recommendation

RESOLVED

That in respect of-

QUARTERLY SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT FOR THE 3rd QUARTER OF THE 2022/23 FINANCIAL YEAR

as discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council, **resolution number C30/2023**:

1. That the approved SCM quarterly implementation report for the 3rd quarter of the 2022/23 financial year, **be noted**.

7.6 REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MARCH 2023

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

Responsible Official: R. Ontong

Directorate: Financial Services

Portfolio: Supply Chain Management

1. Purpose

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

2. Background

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

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

3. Financial Implications

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

4. Applicable Legislation / Council Policy

Municipal Finance Management Act. 2003, (Act 56 of 2003)

Brede Valley Supply Chain Management Policy, as amended.

Supply Chain Management Regulations

5. Comment of Directorates / Departments

Municipal Manager:

Noted

Director: Strategic Support Services: Noted

Director: Financial Services: Noted

Director: Engineering Services: Noted

Director: Community Services: Noted

Acting Director: Public Services: Noted

Senior Manager: Legal Services: Noted

RECOMMENDATION:

That in respect of-

REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MARCH 2023

as discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council:

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

Proposed: Ald W. R. Meiring

Seconded: Cllr J. J. Jack

Council unanimously agreed to the recommendation

RESOLVED

That in respect of-

REPORT TO COUNCIL ON DEVIATIONS FOR THE MONTH OF MARCH 2023

as discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council, **resolution number C31/2023**:

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

**7.7 COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY
MASTERPLAN****File No./s:** 2/1/4/3/1**Responsible Official:** Seon Swartz**Directorate:** Community Services**Portfolio:** Community Facilities

Purpose:

To submit a draft review of the Sport Facility Masterplan to Council for notification.

BACKGROUND

Breede Valley Municipality has appointed the company Engineering Advice Services (Pty)(Ltd) during 2017 to produce a masterplan on the state of the sport facilities. The need arose that the masterplan needs to be reviewed in order for Council to take note of the current situation in 2023 at the sport facilities and also include the new infrastructure and facilities upgrades that has been completed over the last financial years as well as the facilities that will be upgraded over the next financial years. The Directorate has decided to do the review in house and provide Council with a draft during March 2023 Council Meeting and a final review at the May 2023 Council Meeting. We have done an inspection on all our facilities and in the draft report we discuss each facility and the challenges encountered at each facility. During the 2023/2024 financial year, the Fanie Otto Sport field and Rawsonville Sport field will be upgraded via MIG allocation and Municipal funding. The upgrades to the facilities will include:

1. Rawsonville Sport field:

- Construction of a soccer/rugby field
- Laser cutting, levelling, and irrigation of surface.
- Topsoil and roll-on grass
- Spectator's fence
- Soccer poles
- Steel pavilion [300 seats]

-
- Ablution facility

The above will be done at an estimated cost of R4 746 280.00

2. Fanie Otto Sport field

- Spectator fence
- Outdoor Gym and artificial grass
- Play area
- Combi court

These upgrades will be done at an estimated cost of R2 500 000.00 including all professional costs and contingencies. The MIG allocation for these projects is R6 000 000.00 and the Municipality's contribution will be R1 966 640.00.

Many short comings have been identified at our facilities and we have already started addressing some of them by utilizing our maintenance budget.

Financial Implications:

Due to the nature of the use of our facilities, our facilities need to be constantly maintained. The maintenance budget of the facilities at this stage is insufficient and need to be increased by almost 200% in order for this department to make a meaningful change at the facilities.

The municipality needs to budget for the counter funding of R2 000 000.00 on the MIG projects.

Applicable Legislation / Council Policy:

Constitution of the Republic of South Africa, Act 108 of 1996

Municipal Systems Act No 32 Of 2000 (The Systems Act)

The Municipal Finance Management Act, 56/2003

MFMA Guidelines, 11 and 32

Comment of Directorates / Departments concerned:

Municipal Manager:	Supported.
Director: Community Services:	Author of this report.
Director Strategic Support Services:	Noted
Senior Manager Legal Services:	Noted
Acting Director Financial Services:	Supported.
Director Engineering Services:	Supported.
Acting Director Public Services:	Supported.

Decision made by SECTION 80 committee

The item served as Item 5.1 on the Agenda before the Community and Strategic Support Service Committee on 16 March 2023, resolution number CS4/2023, the Committee unanimously concurred with the recommendation and agreed that the recommendation be tabled before Mayco for consideration.

Decision made by MAYORAL committee

The item served as Item 6.1 on the Agenda before the Mayoral committee on 18 April 2023, resolution number EX2/2023, the MAYCO unanimously concurred with the recommendation and agreed that the recommendation be tabled before Council for approval.

RECOMMENDATION:

That in respect of

**COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY
MASTERPLAN**

Discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council:

- 1) That the upgrade of Rawsonville and Fanie Otto [De Wet] sport grounds be supported and budgeted for in the 2023/24 capital budget.
- 2) That the directorate of Community Services will investigate the possibility of acquiring external funding for the upgrade or maintenance of sport infrastructure.

Proposed: Cllr V. Bedworth

Seconded: Cllr P. Marais

Council unanimously agreed to the recommendation

RESOLVED

That in respect of

**COMMUNITY SERVICES: DRAFT REVIEW OF THE SPORT FACILITY
MASTERPLAN**

Discussed by Council at the Council meeting held on 24 April 2023, the following recommendation be made to Council, **resolution number C32/2023**:

1. That the upgrade of Rawsonville and Fanie Otto [De Wet] sport grounds be supported and budgeted for in the 2023/24 capital budget.
2. That the directorate of Community Services will investigate the possibility of acquiring external funding for the upgrade or maintenance of sport infrastructure.

7.8 COURT UPDATE: THE PROGRESS OF THE MUNICIPAL COURT AND STATISTICS

File no.: 9/2/1/1/56

Responsible Official: S Schroeder

Directorate: Community Services

Portfolio: Municipal Court

PURPOSE

The purpose of the item is to:

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

BACKGROUND / DISCUSSION

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

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

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

PROGRESS OF THE MUNICIPAL COURT SINCE OPENING IN JULY 2021:

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

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

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

The Municipal Court roll is also compiled of speeding fines deduced from speeding cameras, these matters are placed on the court roll once a week.

The Municipal court process all representations received by the public.

The Municipal court received encroachment matters, which matters were placed on the court roll and postponed for compliance by the accused.

By -Law Matters, such as public nuisance, was also received and placed on the court roll. These matters were postponed for compliance by the accused.

The relevant Municipal departments are engaging and forwarding their matters to the Municipal Court.

The Department of Justice and Constitutional Development employed a new Municipal Court Magistrate on 01 March 2023.

Traffic Violations issued for the period of January 2023-March 2023:

A total number of 22 670 Traffic violations were issued for the aforementioned period.

Building Regulations and By-Law matters:

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

The Municipal Court received 2 encroachment matters from the Legal department and it was placed on the court roll and postponed for the accused to comply.

During this period 15 matters were received, 11 new matters were placed on the Municipal Court roll and 1 was withdrawn due to compliance.

Finance and warrants of arrest:

During the period of January 2023 to 31 March 2023 the Municipal Court received an income of R 3 033 192

	MONTHLY INCOME	MUN FINES ON ROLL	PROVINCIAL FINES ON COURT ROLL	TOTAL WARRANTS ISSUED
January 2023	R 1 571 834	366	1801	1683
February 2023	R 612 006	472	2556	2677
March 2023	R 849 352	979	3802	3603

Municipal Court expenses (Budgeted personnel costs):

1. Magistrate annual remuneration: R 934 277
2. Prosecutor annual remuneration: R 882 294

Statistics relating to court appearances:

During the period of January 2023 to 31 March 2023 the Municipal Court sat for 45 days and heard the following matters:

Total matters in court	284
Guilty	157
Not guilty	0
Withdrawn: Complied	1
Postponements	98
Bench warrants issued in court	28
warrants placed on court roll	61
Court hours	37 hours 45 min
New building/By law matters on court roll	2
Representations	1 407

Decision made by SECTION 80 committee

The item served as Item 5.3 on the Agenda before the Community and Strategic Support Service Committee on 13 April 2023, resolution number CS9/2023, the Committee unanimously concurred with the recommendation and agreed that the recommendation be tabled before Mayco for consideration

Decision made by MAYORAL committee

The item served as Item 6.2 on the Agenda before the Mayoral committee on 18 April 2023, resolution number EX3/2023, the MAYCO unanimously concurred with the recommendation and agreed that the recommendation be tabled before Council for notification.

RECOMMENDATION

That in respect of –

MUNICIPAL COURT UPDATE: THE PROGRESS OF THE MUNICIPAL COURT AND STATISTICS

as discussed by Council at the Council meeting held on 24 April 2023 the following recommendation be made to Council:

1. That Council take cognisance of the progress update and statistics of the Municipal Court and those expenses associated with the operation of the Municipal court also be added.

Council unanimously agreed to the recommendation

RESOLVED

That in respect of –

MUNICIPAL COURT UPDATE: THE PROGRESS OF THE MUNICIPAL COURT AND STATISTICS

as discussed by Council at the Council meeting held on 24 April 2023 the following recommendation be made to Council, **resolution number C33/2023**:

1. That Council take cognisance of the progress update and statistics of the Municipal Court and those expenses associated with the operation of the Municipal court also be added.

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

9. CONSIDERATION OF MATTERS SUBMITTED BY THE CHAIRPERSON OF COUNCIL

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 C. F Wilskut directs the attention of Council to a written motion (which forms part of this Agenda) which he submit in terms of s37 of the Rules of Order Bylaw about the restriction of electricity for indigent consumers, because of no payment, and that such restriction be suspended.

Seconded by Cllr N. Wullschleger

Voting take place whether the mover shall be permitted without notice to bring the matter under consideration by way of a motion or request in terms of R37 (3) of the Rules of Order.

Votes in favor of the motion: 15

Remove of the motion: 21

12. CLOSURE
