



ORDINARY MEETING OF THE COUNCIL
GEWONE VERGADERING VAN DIE RAAD
INTLANGANISO YESIQHELO YEBHUNGA

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA : 30 AUGUST / AUGUSTUS / AGASTI
2017

VENUE / PLEK / INDAWO : BANQUETING HALL / BANKETSAAL
CIVIC CENTRE / BURGERSENTRUM /
IZIKO LOLUNTU
HERMANUS

TIME / TYD / IXESHA : 11:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

25 August / Augustus / Agasti 2017

NOTICE TO ALL ALDERMEN & COUNCILLORS

ORDINARY MEETING OF THE OVERSTRAND MUNICIPAL COUNCIL

NOTICE IS HEREBY GIVEN that an **ORDINARY MEETING** of the **OVERSTRAND MUNICIPAL COUNCIL** will be held in the **Banqueting Hall, Civic Centre, Hermanus**, on **WEDNESDAY, 30 AUGUST 2017** at **11:00** to consider the business set forth in the subjoined agenda.

The attention of Councillors is directed to the Code of Conduct for Councillors and Municipal Officials, Schedules 1 & 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

C GROENEWALD
MUNICIPAL MANAGER

KENNISGEWING AAN ALLE RAADSHERE & RAADSLEDE

GEWONE VERGADERING VAN DIE OVERSTRAND MUNISIPALE RAAD

KENNIS WORD HIERMEE GEGEE dat 'n **GEWONE VERGADERING** van die **OVERSTRAND MUNISIPALE RAAD** gehou sal word in die **Banketsaal, Burgersentrum, Hermanus**, op **WOENSDAG, 30 AUGUSTUS 2017** om **11:00** om die sake op meegaande sakelys te bespreek.

Raadslede se aandag word gevestig op die Gedragskode vir Raadslede en Munisipale Beampptes, Bylae 1 & 2 van die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000).

C GROENEWALD
MUNISIPALE BESTUURDER

ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA

INTLANGANISO YESIQHELO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND

OKU KUKWAZISA ukuba intlanganiso **YESIQHELO yeBHUNGA LIKAMASIPALA WE-OVERSTRAND**, iza kuba se **Banqueting Hall, kwiZiko LoLUNTU, eHermanus** ngo**LWESITHATHU, Umhla we 30 AGASTI 2017** ngeye-**11:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

OoCeba bayacelwa ukuba baqwalasele isikhokelo sokuziphatha sooCeba namaGosa kamasipala, amaXwebhu 1 & 2 kaRhulumente wooMasipala: uMthetho weeNkqubo zikaMasipala, 2000 (UMthetho 32 wowama-2000).

C GROENEWALD
UMPHATHI KAMASIPALA

AGENDA/...

1. **OPENING**

2. **APPLICATIONS FOR LEAVE OF ABSENCE**

3. **CONFIRMATION OF MINUTES**
 - 3.1 Minutes of an **Ordinary Meeting** of the **Council** held on **Wednesday, 28 June 2017** at **11:00**

 - 3.2 Minutes of a **Special Meeting** of the **Council** held on **Thursday, 27 July 2017** at **11:00**

4. **STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE SPEAKER / EXECUTIVE MAYOR**

5. CONSIDERATION OF RECOMMENDATIONS MADE BY THE EXECUTIVE MAYOR TO COUNCIL, IN TERMS OF SECTION 160(2) OF THE CONSTITUTION, 1996, AND SECTION 59(1)(a) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 2000 (ACT 32 OF 2000)

REMARK

Please note that the following recommendations contained in this agenda are subject to confirmation or amendment by the Mayoral Committee in view of the fact that the **compilation of the Council agenda** was done before the Mayoral Committee of 30 August 2017 had formally sat.

5.1

RISK MANAGEMENT IMPLEMENTATION PLAN 2017/2018

(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)

RECOMMENDATION TO THE COUNCIL:

that the Overberg District Risk Management Implementation Plan for 2017/2018 **be approved.**

RESPONSIBLE OFFICIAL :

A RIDDLES

TARGET DATE FOR IMPLEMENTATION :

31 AUGUST 2017

5.2

TIME SCHEDULE FOR THE 2018/19 INTEGRATED DEVELOPMENT PLAN (IDP) REVIEW / BUDGET PROCESS**(ITEM 2, PAGE 17 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)****RECOMMENDATION TO THE COUNCIL:**

that the schedule of key dates for the 2018/19 compilation of an IDP review/ Budget process **be noted**.

RESPONSIBLE OFFICIAL:**R LOUW****TARGET DATE FOR IMPLEMENTATION:****1 SEPTEMBER 2017**

5.3

TRANSFER : OVERSTRAND MUNICIPALITY TO DENISE AUGUST: ERF 6796, MOUNT PLEASANT

(ITEM 3, PAGE 47 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)

RECOMMENDATION TO THE COUNCIL:

1. that permission be granted to transfer Erf 6796, Mount Pleasant to Denise August; and
2. that the aforementioned consent to transfer be subject to Denise August accepting full responsibility for the outstanding municipal services account in respect of Erf 6796, Mount Pleasant.

RESPONSIBLE OFFICIAL :**FW FRANS****TARGET DATE FOR IMPLEMENTATION :****01 SEPTEMBER 2017**

5.4

TRANSFER : OVERSTRAND MUNICIPALITY TO JAYDRE GRESHLYN DEEZ AND CHANEL JADELIN DEEZ : ERF 7928, MOUNT PLEASANT, HERMANUS

(ITEM 4, PAGE 54 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)

RECOMMENDATION TO THE COUNCIL:

1. that permission be granted to transfer Erf 7928, Mount Pleasant, Hermanus to Ms Jaydre Greshlyn Deez and Ms Chanel Jadelin Deez;
2. that the aforementioned consent to transfer be subject to Ms Jaydre Greshlyn Deez and Ms Chanel Jadelin Deez accepting full responsibility for the outstanding municipal services account in respect of Erf 7928, Mount Pleasant; and
3. that the aforementioned consent to transfer be subject to a usufruct being granted in favour of the minor son, Rydall Reagan May, until the age of 18 years.

RESPONSIBLE OFFICIAL :

FW FRANS

TARGET DATE FOR IMPLEMENTATION :

01 SEPTEMBER 2017

5.5

HERMANUS: TRANSFER OF REMAINDER ERF 2834 (EXCLUDING ERF 2836 AND INCLUDING UNREGISTERED ERF 2837) SANDBAAI, ±39,4905HA IN EXTENT, FOR MIXED RESIDENTIAL PURPOSES AND A RETIREMENT VILLAGE

(ITEM 4, PAGE 21 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of the Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai, ±39,4905 ha in extent, for mixed residential purposes and a retirement village, to Mygaworx (Pty) Ltd for the amount of R64,777,777.00 (SIXTY FOUR MILLION SEVEN HUNDRED AND SEVENTY SEVEN THOUSAND AND SEVEN HUNDRED AND SEVENTY SEVEN RAND ALONE) (VAT included), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of Remainder of Erf 2834 (excluding Erf 2836 and including unregistered Erf 2837) Sandbaai to Mygaworx (Pty) Ltd;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act, No 56 of 2003;
4. that Mygaworx (Pty) Ltd be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office, costs involved with the registration of the transfer in the Deeds Office, including but not limited to registering a Certificate of Registered Title and/or Certificate of Consolidated Title, if necessary; and
5. that all the conditions as approved by the Executive Mayor on 7 October 2010 be incorporated in the Deed of Sale as special conditions to the sale.

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

30 OCTOBER 2017

TARGET DATE TO INFORM APPLICANT :

22 SEPTEMBER 2017

5.6

**HERMANUS, A PORTION OF PORTION 3 FARM 585 (BEESEMHOOT KLOOF):
DEVIATION FROM SEVERAL PARAGRAPHS OF THE ADMINISTRATION OF
IMMOVABLE PROPERTY POLICY OF 2015 TO ACCOMMODATE SUBSISTENCE
AND EMERGING FARMERS (PIG AND RABBIT FARMING) ON MUNICIPAL OWNED
LAND BY MEANS OF SHORT TERM LEASE AGREEMENTS**

**(ITEM 5, PAGE 31 : INFRASTRUCTURE & PLANNING PORTFOLIO -
MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)**

RECOMMENDATION TO THE COUNCIL :

that the deviation from 4, 17, 18, 21.2, 36 and 41 of the Administration of Immovable Property Policy of 2015 and as discussed in the item, be approved in order to enter into short term lease agreements on a portion of Portion 3 of Farm 585, Beesemhout Kloof, with identified subsistence and emerging farmers at a monthly rental amount of R34.20 (VAT included) (THIRTY FOUR RAND AND TWENTY CENTS VAT INCLUDED) per unit ("pen") to be allocated on a first come first serve basis, **be approved**.

RESPONSIBLE OFFICIAL :**A LE ROUX****TARGET DATE FOR IMPLEMENTATION :****14 SEPTEMBER 2017****TARGET DATE TO INFORM APPLICANT :****N/A****TARGET DATE TO INFORM OBJECTOR :****N/A**

5.7

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c), FOR JULY 2017**

**(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING : 30 AUGUST
2017)**

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for July 2017, **be noted**; and
2. that the awards made in terms of Paragraph 16(1)(b) and 17(1)(c), approved in terms of the delegated authority for July 2017, **be noted**.

RESPONSIBLE OFFICIAL :**C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.8

SUBMISSION OF THE DRAFT UNAUDITED ANNUAL REPORT FOR THE FINANCIAL YEAR 2016/17

(ITEM 6, PAGE 7 : MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)

RECOMMENDATION TO THE COUNCIL:

that the tabling of the 2016/17 **DRAFT** unaudited Annual Report, **be noted**.

RESPONSIBLE OFFICIAL :

R LOUW

TARGET DATE FOR IMPLEMENTATION :

NONE

5.9

FIXED ASSETS: DISPOSAL / DERECOGNITION OF ASSETS FOR THE 2016/17 FINANCIAL YEAR**(ITEM 7, PAGE 13 : MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that it **be noted** that the assets detailed in Annexure A to the item are not needed to provide the minimum level of basic municipal services;
2. that the Minor Assets and Control Items written off and sold on Public Auction as detailed in Annexure A and Annexure B to the item **be noted**; and
3. that the derecognition of the Infrastructure Assets as detailed in Annexure A to the item, **be approved**.

RESPONSIBLE OFFICIAL :**J VORSTER****TARGET DATE FOR IMPLEMENTATION :****31 AUGUST 2017**

5.10**REPORT OF THE JOINT AUDIT AND PERFORMANCE AUDIT COMMITTEE (JAPAC) TO THE OVERSTRAND MUNICIPAL COUNCIL****(ITEM 8, PAGE 25 : MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)****RECOMMENDATION TO THE COUNCIL:**that the report from the JAPAC to the Overstrand Municipal Council **be noted**.**RESPONSIBLE OFFICIAL :****DC VAN DER HEEVER****TARGET DATE FOR IMPLEMENTATION :****30 AUGUST 2017**

5.11

**REVISED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)
FOURTH QUARTERLY REPORT: APRIL - JUNE 2017****(ITEM 9, PAGE 54 : MAYORAL COMMITTEE MEETING : 30 AUGUST
2017)****RECOMMENDATION TO THE COUNCIL:**

1. that the content of the revised report for the fourth quarter of the 2016/2017 financial year on the top level Service Delivery and Budget Implementation Plan **be noted**; and
2. that the amendments to the Departmental and Top layer SDBIP for the fourth quarter of the 2016/2017 financial year **be approved**.

RESPONSIBLE OFFICIAL :**R LOUW****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.12

APPLICATION FOR PROJECTS DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM (DRLDR) 2018/19 FINANCIAL YEAR**(ITEM 10, PAGE 87 : MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)****RECOMMENDATION TO THE COUNCIL:**

that the submission of the funding proposals to the Department of Rural Development and Land Reform (DRDLR) as per the identified and prioritised projects indicated in Annexure C 2/2 to the item and derived from the IDP wish-list, **be supported.**

RESPONSIBLE OFFICIAL:**S MADIKANE****TARGET DATE FOR IMPLEMENTATION:****IMMEDIATELY**

5.13**NON-COLLECTABLE TRAFFIC FINES****(ITEM 11, PAGE 95 : MAYORAL COMMITTEE MEETING : 30 AUGUST 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that it be noted that according to the Director of Public Prosecutions, if a summons cannot be served on the registered owner or driver of the vehicle within 18 months, the case cannot be prosecuted;
2. that it be noted that, according to the Director of Public Prosecutions, warrants must also be carried out within 2 years after the date of authorisation or it must be returned to the magistrate for cancellation;
3. that it be noted that due to "house keeping" of the back office the cases in 1 and 2 above were withdrawn as the fines are non-collectable;
4. that an amount of R14 488 381.95, relating to the impairment of these traffic fines, be written back; and
5. that the amount of R25 566 555.00, relating to non-collectable traffic fines, be written off as irrecoverable debt.

RESPONSIBLE OFFICIAL :**N MICHAELS
R FRASER****TARGET DATE FOR IMPLEMENTATION :****31 AUGUST 2017**

6. CONSIDERATION OF REPORTS

6.1

DISCIPLINARY HEARING: CLLRS S KALOLO AND N NQINATA

3/2/3/1

H van Tonder

(028) 313 8037

Corporate Head Office

31 July 2017

1. Executive Summary

The purpose of this report is to afford Council the opportunity to take note and confirm recommendations of Council's Disciplinary Committee in respect of the above matter.

2. Service Delivery and Budget Implementation Plan Reference

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (the Systems Act).
- Overstrand Municipality's Standard By-law on Rules of Order for Internal Arrangements
- Procedure for investigation regarding any allegation of misconduct against a member of Overstrand Municipal Council

6. Discussion

Items 2, 3 and 4 of Schedule 1 of the Systems Act provides as follows:

"2. *General conduct of councillors.—A councillor must—*

- (a) *perform the functions of office in good faith, honestly and a transparent manner; and*

- (b) *at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.*
3. *Attendance at meetings.—A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when—*
- (a) *leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or*
- (b) *that councillor is required in terms of this Code to withdraw from the meeting.*
4. *Sanctions for non-attendance of meetings - (1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for*
- (a) *not attending a meeting which that councillor is required to attend in terms of item 3; or*
- (b) *failing to remain in attendance at such a meeting.*
2. ...
3. ...”

Rules 9 and 10 of the Standard By-law on Rules of Order for Internal Arrangements provide as follows:

- “9(1) *A councillor must, before absenting himself or herself from a meeting, make an application to the Speaker by signing a leave form and delivering the completed leave form to the Municipal Manager at least 72 hours before the meeting.*
- (2) *The Municipal Manager must submit the application to the Speaker before the commencement of the meeting.*
- (3) *Upon receipt of the application referred to in sub rule (1) the Speaker must consider the application, and may, approve or reject the application. The Speaker must notify the councillor of his or her decision at least 24 hours before the meeting.*

- (4) *The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub rule (1).*
- (5) *The special circumstances referred to in sub rule (4) may include –*
- (a) *Illness of the councillor; or*
- (b) *Illness or death in the family of the councillor.*
- (6) *The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted must be entered into the minutes.*
- (7) *If the Speaker rejects the application referred to in sub rule (1) he or she must provide a reason there for.*
- (8) *Sub rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application a reference in those sub rules to the Speaker is regarded to be a reference to the Mayor.”*

“10(1) Except for the instances contemplated in rule 9(4) and (5), a councillor is in breach of the rules if he or she without leave –

- (a) *absents himself or herself from a meeting;*
- (b) *fails to be in attendance at the commencement of a meeting; or*
- (c) *fails to remain in attendance until the end of a meeting.*
- (2) ...
- (3) ...
- (4) *When the Speaker becomes aware of an alleged contravention of the code he or she must commence with a preliminary investigation. The Speaker must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach. If the Speaker is not satisfied that the reasons provided is compelling enough, then the Speaker must refer the matter to a Disciplinary Committee to investigate the allegations, and to report the outcome of the investigation to the Council. In the event that the accused member is a ward committee member, the Speaker may in his*

or her sole discretion decide, after conclusion of the preliminary investigation, whether the member should be removed or not.

- (5) *The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the Disciplinary committee.*
- (6) *If Council finds that a councillor has breached the rules as contemplated in sub rule (1), the Council must fine the councillor in an amount equal to 10% of his or her monthly salary.*
- (7) *...*
- (8) *..."*

The duty of the Chairperson (Speaker) of the Council in so far as the Code of Conduct of Councillors is concerned, is embedded in Item 13 of the Code and reads as follows:

"13(1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must—

- (a) *authorise an investigation of the facts and circumstances of the alleged breach;*
- (b) *give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and*
- (c) *report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.*

(2) *A report in terms of subitem (1) (c) is open to the public.*

(3) *The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.*

(4) *... "*

In executing the aforementioned duty, the Speaker charged Cllrs S Kalolo and N Nqinata for being absent without leave from the 22 May 2017 Joint Portfolio Committee meeting.

Item 14 of the Code of Conduct of Councillors provides as follows:

"14. Breaches of Code. – (1) A municipal council may –

- (a) *investigate and make a finding on any alleged breach of a provision of this Code; or*
- (b) *establish a special committee –*
 - (i) *to investigate and make a finding on any alleged breach of this Code; and*
 - (ii) *to make appropriate recommendations to the Council.*
- (2) *If the council or a special committee finds that a councillor has breached a provision of this Code, the council may –*
 - (a) *issue a formal warning to the councillor;*
 - (b) *reprimand the councillor;*
 - (c) *request the MEC for local government in the province to suspend the councillor for a period;*
 - (d) *fine the councillor; and*
 - (e) *request the MEC to remove the councillor from office.”*

The Disciplinary Committee of Council consisting of Ald D Coetzee (Chairperson), Cllrs A Komani, Cllr L Ntsabo and X Msweli, with Ald A Coetzee (Speaker) as initiator, considered the aforementioned charge on 27 July 2017.

The committee resolved as follows:

1. *that Cllr S Kalolo be fined 10% of his monthly salary, suspended for 6 months; and*
2. *that Cllr N Nqinata be fined 10% of her monthly salary, suspended for 6 months.*

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexure

None

RECOMMENDATION TO THE COUNCIL:

1. that the outcome of the Disciplinary Hearing of Cllrs S Kalolo and N Nqinata which was held on 27 July 2017 **be noted**;
2. that Cllr S Kalolo be fined 10% of his monthly salary, suspended for 6 months;
3. that Cllr N Nqinata be fined 10% of her monthly salary, suspended for 6 months; and
4. that, in terms of Item 13(3) of the Code of Conduct for Councillors, a copy of Council's decision be forwarded to the Minister of Local Government, Environmental Affairs and Development Planning.

RESPONSIBLE OFFICIAL :**H VAN TONDER****TARGET DATE FOR IMPLEMENTATION :****13 SEPTEMBER 2017**

7. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (IF ANY)**8. CONSIDERATION OF NOTICES OF MOTIONS / QUESTIONS**

At the time of the closing of the agenda, no notices of motions/questions were received.

9. CONSIDERATION OF MOTIONS OF EXIGENCY (IF ANY)