



**SPECIAL MEETING OF THE COUNCIL**

**SPEZIALE VERGADERING VAN DIE RAAD**

**INTLANGANISO EKHETHEKILEYO YEBHUNGA**

**A G E N D A**

**I-AJENDA**

**DATE / DATUM / UMHLA : 28 JULY / JULIE / JULAYI 2021**  
**VIRTUAL**

**TIME / TYD / IXESHA : 11:00**

# **MUNISIPALITEIT OVERSTRAND MUNICIPALITY**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

**23 July / Julie / Julayi 2021**

## **NOTICE TO ALL ALDERMEN & COUNCILLORS**

### **SPECIAL MEETING OF THE OVERSTRAND MUNICIPAL COUNCIL**

**NOTICE IS HEREBY GIVEN** that, due to the Covid-19 Lockdown, a **SPECIAL MEETING** of the **OVERSTRAND MUNICIPAL COUNCIL** will be held by means of a virtual platform on **WEDNESDAY, 28 JULY 2021** at **11:00**, of which the agenda will be available on the Overstrand Website ([www.overstrand.gov.za](http://www.overstrand.gov.za)).

*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).*

**D O'NEILL**  
**MUNICIPAL MANAGER**

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## **KENNISGEWING AAN ALLE RAADSHERE & RAADSLEDE**

### **SPESIALE VERGADERING VAN DIE OVERSTRAND MUNISIPALE RAAD**

**KENNIS GESKIED HIERMEE** dat, weens die Covid-19 grendeltydperk, 'n **SPESIALE VERGADERING** van die **OVERSTRAND MUNISIPALE RAAD** gehou sal word by wyse van 'n virtuele platform op **WOENSDAG, 28 JULIE 2021** om **11:00**, welke agenda op die Overstrand Webtuiste ([www.overstrand.gov.za](http://www.overstrand.gov.za)) beskikbaar sal wees.

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

**D O'NEILL**  
**MUNISIPALE BESTUURDER**

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## **ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA**

### **INTLANGANISO EKHETHEKILEYO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND**

**OKU KUKWAZISA** ukuba, ngenxa yokuvakwa okubangelwe yintsolongwana i-COVID-19, **INTLANGANISO EKHETHEKILEYO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND**, iyakubanjwa ngeqonga elibonakalisayo **NGOLWESITHATHU UMHLA, 28 JULAYI 2021 ngeye-11:00**. I-ajenda iya kufumaneka yona kwiwebhusayithi ye-Overstrand ([www.overstrand.gov.za](http://www.overstrand.gov.za)).

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

**D O'NEILL**  
**LOMPHATHI KAMASIPALA**

**AGENDA/...**

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

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

**4. 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 Executive Mayor in view of the fact that the **compilation of the Special Council agenda** was done before the Special Mayoral Committee of 28 July 2021 had formally sat.

**4.1**

**BENEFICIARIES: 107 SERVICED SITES, HAWSTON: ADDITIONAL LIST (REPLACEMENTS)**

**(ITEM 6, PAGE 24 : SPECIAL MAYORAL COMMITTEE MEETING : 28 JULY 2021)**

**RECOMMENDATION TO THE COUNCIL:**

1. that, given the support by the Minister of Human Settlements: Western Cape and the letter of support by the DOHS, potential beneficiaries exceeding the threshold for FLISP to the amount of R22,000 monthly gross household income be approved to participate in the project under FLISP, subject to the qualifying criteria for FLISP (excluding income threshold) and Western Cape Provincial Circular 10/2015;
2. that approval be granted to potential beneficiaries exceeding the threshold for FLISP to the amount of R22,000 monthly gross house hold income, to purchase serviced sites from the Municipality subject to:
  - (a) the site being sold at a market-related price in accordance with the municipal statutory requirements; and
  - (b) the candidate being informed that he/she will therefore not be receiving any FLISP subsidy assistance from the Department.
3. that the applicants on the Western Cape Housing Demand Database for Hawston, who physically reside in Hawston be given preference to participate in the FLISP project before opportunity is given to applicants on the Western Cape Housing Demand Database for the broader Overstrand Municipal area;

4. that the additional list (replacements) of 8 (eight) potential beneficiaries (replacements) be noted;
5. that, after pre-approval letters for potential beneficiaries referred to in recommendation 4 above with regard to mortgage/non-mortgage funding (income category R7,001 - R22,000) and non-approval letters (income category R3,501 - R7,000) were provided, the respective subsidy applications for the final list of potential beneficiaries be processed;
6. that the following procedure for potential beneficiaries to finalise subsidy applications, be approved:
  - (a) that potential beneficiaries be given 30 days written notice to obtain letters for approval of mortgage/non-mortgage bonds/non approval letters as set out in recommendation 5 above;
  - (b) that potential beneficiaries be given 30 days written notice to complete their subsidy application documentation; and
  - (c) that potential beneficiaries that do not respond to the first notice (30 days) be given a final written notice of 7 days.
7. that, in the event of any applicants not responding within the mentioned period of 7 days, the available housing opportunities be given to identified additional beneficiaries (replacements).

**RESPONSIBLE OFFICIAL:****FW FRANS****TARGET DATE FOR IMPLEMENTATION:****IN PROGRESS**

**4.2****SIGNED PERFORMANCE AGREEMENTS OF THE MUNICIPAL MANAGER AND SECTION 56 (DIRECTORS) APPOINTEES FOR 2021/22****(ITEM 7, PAGE 36 : SPECIAL MAYORAL COMMITTEE MEETING : 28 JULY 2021)****RECOMMENDATION TO THE COUNCIL:**

that the signed performance agreements of the Municipal Manager and Section 56 (Directors) appointees for 2021/22 **be noted**.

**RESPONSIBLE OFFICIAL :****RG LOUW****TARGET DATE FOR IMPLEMENTATION :****28 JULY 2021**

**4.3**

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM) POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) AND PARAGRAPH 6(7)(4)(F) OF THE DIRECTIONS OF THE DISASTER MANAGEMENT ACT, MAY 2021**

**(ITEM 8, PAGE 308 : SPECIAL MAYORAL COMMITTEE MEETING : 28 JULY 2021)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for May 2021, **be noted**;
2. that the awards made in terms of Paragraph 16(1)(b) and 17(1)(c), approved in terms of the delegated authority for May 2021, **be noted**; and
3. that the awards made through the Bid Committee system, and formal written price quotations in excess of R30 000 and all price quotations below R30 000 for May 2021, **be noted**.

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

## 4.4

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM) POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) AND PARAGRAPH 6(7)(4)(F) OF THE DIRECTIONS OF THE DISASTER MANAGEMENT ACT, JUNE 2021**

**(ITEM 9, PAGE 325 : SPECIAL MAYORAL COMMITTEE MEETING : 28 JULY 2021)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for June 2021, **be noted**;
2. that the awards made in terms of Paragraph 16(1)(b) and 17(1)(c), approved in terms of the delegated authority for June 2021, **be noted**; and
3. that the awards made through the Bid Committee system, and formal written price quotations in excess of R30 000 and all price quotations below R30 000 for June 2021, **be noted**.

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

**4.5****SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT – 2020/2021:  
4<sup>th</sup> QUARTER: 1 APRIL 2021 – 30 JUNE 2021****(ITEM 10, PAGE 340 : SPECIAL MAYORAL COMMITTEE MEETING :  
28 JULY 2021)****RECOMMENDATION TO THE COUNCIL:**

that the activities undertaken and outcomes achieved in the implementation of the Overstrand Municipality's Supply Chain Management Policy for the 4<sup>th</sup> Quarter of 2020/2021 **be noted**.

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

## 4.6

**ANNUAL SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT IN TERMS OF PARAGRAPH 6(2)(a) OF THE POLICY: 2020/2021****(ITEM 11 PAGE 394 : SPECIAL MAYORAL COMMITTEE MEETING : 28 JULY 2021)****RECOMMENDATION TO THE COUNCIL:**

1. that the Supply Chain Management Implementation Report for the 2020/2021 financial year submitted in terms of Paragraph 6 of the Supply Chain Management Policy, **be noted**;
2. that, following the provisions of paragraph 6 of the Supply Chain Management Policy, **the report be made public** in accordance with Section 21A of the Local Government: Municipal Systems Act, No. 32 of 2000; and
3. that the schedules of Deviations and Irregular Expenditure **be disclosed** as a note to the Annual Financial Statements for the 2020/2021 financial year.

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

## 4.7

**ANNUAL STOCK TAKING FOR 2020/2021: MUNICIPAL STORES****(ITEM 12, PAGE 522 : SPECIAL MAYORAL COMMITTEE MEETING :  
28 JULY 2021)****RECOMMENDATION TO THE COUNCIL:**

1. that the surplus stock be accounted against the appropriate vote numbers and permission granted to correct stock values;
2. that the redundant stock as recorded on 30 June 2021 be **written off**; and
3. that the stock as recorded on 30 June 2021 be taken as the starting balance of the 2021/2022 stock register.

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

4.8

**QUARTERLY BANK ACCOUNT WITHDRAWALS IN TERMS OF SECTION 11(4) OF THE MFMA FOR THE QUARTER ENDED JUNE 2021**

**(ITEM 13, PAGE 572 : SPECIAL MAYORAL COMMITTEE MEETING : 28 JULY 2021)**

**RECOMMENDATION TO THE COUNCIL:**

that the consolidated quarterly report in respect of Bank Account Withdrawals in terms of Section 11(4) of the MFMA for the quarter ended June 2021, **be noted**.

**RESPONSIBLE OFFICIAL :**

**BA KING**

**TARGET DATE FOR IMPLEMENTATION :**

**TO BE NOTED**

## 4.9

**BUDGET REPORT FOR THE QUARTER ENDED JUNE 2021****(ITEM 14, PAGE 575 : SPECIAL MAYORAL COMMITTEE MEETING :  
28 JULY 2021)****RECOMMENDATION TO THE COUNCIL:**

that the budget report for the quarter ended June 2021, prepared as part of the financial reporting obligations arising from the Local Government: Municipal Finance Management Act, 2003 and additional information, **be noted**.

**RESPONSIBLE OFFICIAL :****BA KING****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

## 4.10

**SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)****FOURTH QUARTERLY REPORT: APRIL - JUNE 2021****(ITEM 15, PAGE 621 : SPECIAL MAYORAL COMMITTEE MEETING :  
28 JULY 2021)****RECOMMENDATION TO THE COUNCIL:**

1. that the content of the report for the fourth quarter of the 2020/2021 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 2020/21 financial year **be approved**.

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

**5. CONSIDERATION OF REPORTS****5.1****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: SCIE 2020.21.10: NON-COMPLIANCE WITH PARAGRAPH 36(1)(a)(i)(v)(c) OF THE OVERSTRAND MUNICIPALITY SCM POLICY WITH REGARD TO ADVERTISEMENT OF WARD COMMITTEE MEETING IN GANSBAAI****3/2/3/8****F Myburgh****19 April 2021****Senior Manager : Gansbaai Administration****(028) 384 8300**

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**1. Executive Summary**

The purpose of this report is to request Council for the writing off of the expenditure in terms of section 32(2)(b) of the Local Government: Finance Management Act 2003, (Act 56 of 2003), which occurred when Ward Committee meetings in Gansbaai were advertised before an order was issued.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Community Services  
Area Management: Gansbaai

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable, and ethical governance.  
The encouragement of structured community participation in the matters of the municipality.

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Finance Management Act 2003, (Act 56 of 2003)  
Overstrand Municipality: Supply Chain Management Policy dated 25 May 2008, as amended.

**6. Background/Discussion/Evaluation/Conclusion****Background**

Requisition (no. 110734) was captured on 6 November 2020 to the amount of R2,800 (including VAT) for the advertising of Public Ward Committee meetings of Wards 1,2 and 11 in the Gans-berg news. The advertisement was placed in the newspaper on 6 November 2020 without the requisition being authorised by the delegated official and without an official order being issued to the service provider.

**Discussion**

The responsible official Ms Madelein Swart did not timeously obtain an official order prior to the publication of the mentioned advertisement in the Gans-berg News on 6 November 2020. A departmental disciplinary process followed and the delegated authority of Ms Swart to use the Flexgen system was also withdrawn.

**Conclusion**

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report on the matter and came to the conclusion that the municipality received value for money and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R2,800 (including VAT) for the advertising of Public Ward Committee meetings of Ward 1, 2 and 11, Gansbaai, in the Gans-berg News be certified as irrecoverable and written off.

**7. Financial Implications**

Irregular expenditure to the value of R2,800 (including VAT).

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the Municipality having received value for money, the irregular expenditure in the amount of R2,800 (including VAT) for the advertising of Public Ward Committee meetings of Ward 1, 2 and 11, Gansbaai, in the Gans-berg News be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL :****B KING  
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**

**5.2****INVESTIGATION INTO THE IRREGULAR EXPENDITURE SCIE2020.21.12: NON-COMPLIANCE WITH CLAUSE 16 OF THE OVERSTRAND MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY: KENNEL BOARDING OF BELGIAN SHEPHERD DOGS****3/2/3/8****N Michaels****Director : Protection Services****28 May 2021****(028) 313 8054**

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**1. Executive Summary**

The purpose of this report is to provide the necessary information to Council for the writing-off of the expenditure in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act (56/2003). This report contains the background and reasons for the incurrence of the expenditure, when services were rendered for the kennel boarding of Belgian shepherd dogs.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate: Protection Services  
Traffic, Law Enforcement & Task Team

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Creation and maintenance of a safe and healthy environment

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act, (Act 56 of 2003)  
Overstrand Municipality: Supply Chain Management Policy dated 25 May 2008, as amended.

**6. Background/Discussion/Evaluation/Conclusion****Background**

Provincial Government awarded funding to the Overstrand Municipality for the establishment of a K9 Law Enforcement division. This process included the purchasing of 6 x K9 dogs. A tender process was followed for the purchasing

of these K9 dogs and was awarded to Genesis K9 Group (Pty) Ltd. In total 6 Belgium Melanosis K9 dogs were purchased. In the process of having the dogs fully trained as specified in the tender, the world experienced the global Covid-19 pandemic. These dogs could not be transported during the national level 5 or 4 lockdown as per the Disaster Management Act.

Furthermore the 6 vacant positions as Dog Handlers at the K9 Law Enforcement division could not be filled, due to applicants not having the required qualifications to qualify for the positions. During this time most staff members of Overstrand Municipality had a staggered work approach at the different departments which further hampered the process.

At that time the dogs were fully trained and ready to be delivered, but due to resurges of Covid-19 infections the country was once again placed on a higher lockdown level and prohibited the transport and accommodation of the Dog Trainers to assess the Dog Handlers. The Dog Handlers were also not yet appointed.

This led to financial implications on Genesis K9 Group (PTY) Ltd. In the signed contract between Overstrand Municipality and them it was not stipulated if such a global pandemic should happen who would be responsible for carrying such costs as this could not have been foreseen. The dogs were fully trained and ready to be delivered. The only option, in dealing with a matter of a specialized nature, was to approach the contractor to consider and provide a quotation for further funding for the kenneling and feeding of our 6 Belgium Melanosis.

At the time the user department followed a deviation process because it would have been impractical to issue this service to another supplier as the initial tender was awarded the same.

The dogs were situated in Pretoria at Genesis K9 Group (Pty) Ltd. The deviation was awarded for the purpose to accommodate the 6 dogs, until they could be delivered to the Overstrand Municipality K9 Law Enforcement division. The oversight occurred when it was unfortunately not attended to, in terms of obtaining the necessary order, although a deviation was approved.

Meanwhile the vacant position of Inspector K9 Law Enforcement was filled, and the national lockdown level of Covid-19 was downgraded. The 6 dogs could be delivered and cared for by the K9 Law Enforcement division and arrived on 28 February 2021.

The municipality declared this expenditure incurred as non-compliance or irregular expenditure, as defined in the MFMA (Act 56 of 2003).

**Conclusion**

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report and was unanimous in its decision to recommend to Council that, in view of the fact that the municipality have received value for money, the irregular expenditure in the amount of R7,176-00 (Incl. VAT) for the kennel boarding of Belgian shepherd dogs, be certified as irrecoverable and written off.

**7. Financial Implications**

R7,176-00

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received value for money, the irregular expenditure in the amount of R7,176-00 (Incl. VAT) for the kennel boarding of Belgian shepherd dogs, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL :****C LE ROUX  
B KING****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**

**5.3****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT POLICY WITH REGARDS TO THE APPOINTMENT OF AN INITIATOR IN A DISCIPLINARY HEARING**

3/2/3/8

N Floors

08 June 2021

Manager : Labour Relations, Health &amp; Safety

(028) 313 8123

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**1. Executive Summary**

The purpose of this report is to provide the necessary information to Council for the writing off of expenditure in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003). Genesinea Consulting rendered a service as an initiator in a disciplinary hearing to the amount of R37,682.77 after approval of a deviation in terms of the Overstrand Municipality SCM policy. Supply Chain Management is of the opinion that the reasons for the mentioned deviation are not deemed to be justifiable and reasonable and resulted in non-compliance with SCM regulation.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate: Management Services  
Department: Human Resources

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003) Overstrand Municipality Supply Chain Management Policy dated 27 May 2020, as amended.

**6. Background/Discussion/Evaluation/Conclusion**

On 07 March 2019, through the Supply Chain Management process with deviation SCD3115/2018, Genesinea Consulting was appointed to initiate in the Disciplinary Hearing of Mr Dirk Lourens. The disciplinary hearing commenced on 14 March 2019.

The request to extend the appointment of Genesinea Consulting was submitted because the disciplinary hearing was not finalised. The reasons within the SALGBC Disciplinary Proceeding Collective Agreement was submitted for the request to deviate from the normal SCM process to be considered.

Section 7.2 necessitates for the disciplinary proceeding to commence promptly; the disciplinary proceedings may include an investigation. Section 7.3 provides for the Municipal Manager or his authorised representative that if they are satisfied that there is prima facie cause to believe that an act of misconduct has been committed, to institute disciplinary proceedings against the employee concerned.

Section 7.7 allows the Municipal Manager to appoint a representative to represent the employer. Subsection 7.7.3 allows the Municipal Manager or his authorised representative to appoint an external person from outside the employ of the municipality to act in the capacity as initiator.

The hearing was scheduled to commence on 14 March 2019, unfortunately the union requested that the hearing be postponed of which the request for postponement was granted. The parties then agreed for the hearing to start on 04 April 2019 but on the morning of the hearing the union representative fell ill and the hearing had to be postponed to start on 27 June 2019. On 27 June 2019 the matter was further postponed due to the union asking for clarity on the charges.

Because of the nature and history of the case it would have been more costly to source the services of another initiator, therefore the need was to continue with the then current initiator and therefore the request was to deviate.

### **Conclusion**

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report on the matter and came to the conclusion that the municipality received value for money and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R33,488.00 (VAT incl) be certified as irrecoverable and written off.

## **7. Financial Implications**

R33,488.00 (VAT incl).

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the municipality having received value for money, the irregular expenditure in the amount of R33 488-00 (Incl. VAT) for services with regard to the initiating of a disciplinary hearing, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIALS :****B KING  
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**

**5.4****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: SCIE 2020.21.11: NON-COMPLIANCE WITH CLAUSE 16 OF THE OVERSTRAND MUNICIPALITY SCM POLICY: HARDWARE ITEMS**

3/2/3/8

C Le Roux

31 May 2021

Deputy Director : Finance

(028) 313 8107

**1. Executive Summary**

The purpose of this report is to request Council for the writing off of irregular expenditure in terms of 32(2)(b) of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003) which occurred when hardware goods were purchased.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate: Finance

Department: Supply Chain Management

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003)

Overstrand Municipality Supply Chain Management Policy dated 25 June 2008 as amended.

**6. Background/Discussion/Evaluation/Conclusion****Background**

On 15 January 2021, it was brought to the attention of the Supply Chain Management Unit that a procurement process was followed, but that the order was issued to an incorrect service provider. The expenditure incurred equates to R2 114.90.

The user department loaded a request for hardware items and identified Hermanus Build It as a preferred supplier. The request for quotations was sent out, however only one quotation was received from Hermanus Builders Express. The buyer recommended Hermanus Builders Express for the award, however the budget holder awarded the items to Hermanus Build It. The buyer did not pick up the error and proceeded to issue the order to Hermanus Build It.

### **Discussion**

1. Request no. 111761 was captured and authorised on 14 December 2020, with Hermanus Build It listed as a preferred supplier.
2. The request for quotations was sent out on 17 December 2020 with a closing date of 21 December 2020.
3. A total of 10 hardware suppliers were invited to quote, amongst them Hermanus Builders Express and Hermanus Build It.
4. Upon closing only one quotation was received from Hermanus Builders Express, and this request was approved in terms of paragraph 16(1)(b) of the Supply Chain Management Policy.
5. The responsible buyer evaluated the offer in terms of compliance and recommended the approval for the award of Hermanus Builders Express in accordance with the standard procedure.
6. The budget holder responded and approved Hermanus Build It.
7. In processing the order, the buyer had the request with Hermanus Build It as the preferred supplier. The approval of the budget holder to Hermanus Build It and issued the order to Hermanus Build It without realising the need to change the awarded supplier to Hermanus Builders Express in consultation with the budget holder.
8. On 22 December 2020, the official order was sent to the supplier who was awarded the quotation by the budget holder, Hermanus Build It and to the budget holder based on the quotation submitted by Hermanus Builders Express.
9. No-one identified the error until the Creditors section was comparing the order pack with the invoice, in order to process the payment.
10. Upon identification of the error, the budget holder and the supplier were contacted, and the budget holder confirmed that some of the items were already collected and used, therefore a credit note could not be issued for the entire order.
11. Considering the similarity of the suppliers' names it can be concluded that this occurred because of human error.

Please note that the transaction is still cost effective as the cost of the goods consumed from Hermanus Build It was less than the total of the goods that would have been ordered from Hermanus Builders Express.

**Conclusion**

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report on the matter and came to the conclusion that the municipality received value for money in these circumstances, and rather benefitted to the amount of R137,54, and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R2 114.90 (Vat Incl.) for hardware items be certified as irrecoverable and written off.

**7. Financial Implications**

Irregular expenditure to the value of R2 114.90 to be written off as irrecoverable

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the fact that the Municipality have received value for money, the irregular expenditure in the amount of R2 114.90 (Vat Incl.) for hardware items, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL :****C LE ROUX  
B KING****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**

**5.5****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT POLICY WITH REGARDS TO: APPOINTMENT OF ADVERTISING AGENCY (AYANDA MBANGA COMMUNICATIONS PTY LTD & SACCTN MARKETING CC)****3/2/3/8****L Bucchianeri      Senior Manager : Human Resources      (028) 313 8120****A Wyngaard      Senior Manager : Hermanus Administration      (028) 313 8112****31 March 2021**

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**1. Executive Summary**

The purpose of this report is to provide the necessary information and to request Council for the writing off of the expenditure in terms of section 32(2)(b) which incurred due to the following reasons:

- a) Services were rendered with regard to appointment of Ayanda Mbanga Communications Pty Ltd as deviations, however, these reasons are not deemed to be justifiable and reasonable and resulted in non-compliance with the SCM regulations.
- b) Services rendered by the service provider, SACCTN Marketing cc for the purposes of Marketing Onrus Caravan Park by Advertising in the Camp and Live Magazine.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate: Management Services  
Department: Human Resources Department

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003)

Overstrand Municipality Supply Chain Management Policy dated 27 May 2020, as amended.

## 6. Background/Discussion/Evaluation/Conclusion

### Background/Discussion

Paragraph 36 of the Supply Chain Management (SCM) Policy of the Overstrand Municipality provides for the Accounting Officer to dispense with the official procurement process to procure required services when it is impractical or impossible to follow the official procurement processes included, but not limited to, the acquisition.

#### Ayanda Mbanga Communication – L Bucchianeri

The Municipality has provided placement of advertisements for vacancies by Ayanda Mbanga Communication Pty Ltd in the past. This is a well established practice that is in use for a number of years.

The Senior Manager: Human Resources corresponded via email with Supply Chain Management Officials respectively on 12 & 19 August 2019, asking for assistance and or advise with regard to an example regarding Tender Specifications on advertising and placement. Emanating from email correspondence, it is evident that telephone conversations preceded the email correspondence regarding example of Tender Specifications on advertising and placement.

The Senior Manager: Human Resources and Human Resources Practitioner paid a visit to the office of the Manager: Purchases, Supply Chain Management, Finance to address the same topic as mentioned above. The Manager: Purchases, Supply Chain Management, Finance assured the HR Officials that she will take the matter up with National and Provincial Treasury for their inputs. To date no one from SCM reverted to Human Resources Officials.

It was brought to the attention of HR that the current process allows for bias in the selection of service providers as some service providers are awarded more advertising deviations compared to others. Therefore, the process currently followed is not fair and equitable as other service providers that the municipality could potentially use for advertisement services are not given a fair chance.

Ayanda Mbanga is an established company and one of the few left in the field. They have a proven track record and is the only registered Agency in the Western Cape. So, if there are problems they are on our doorstep for help. They also are the only Agency who is accredited to the Marketing & Advertising Association; the only company that can provide proof that their copy writer is registered with the SA Institute of Copy Writers. Furthermore, they are the only company in the Western Cape that has been validated by

Corexalence Association (financially in good standing). Ayanda Mbanga further obtain quotations from the newspaper companies, then the Municipality would decide in which newspaper to place the advert.

Regardless of before-mentioned, the Auditor-General upheld their opinion and included the following as irregular expenditure incurred by the municipality (Human Resources Department):

SACCTN Marketing cc – A Wyngaard

The former Resort Manager for Onrus Caravan Park, Mr Rhyn Potgieter placed an advertisement, via service provider, SACCTN Marketing cc in Camp and Live Magazine for the year 2019/2020 to the annual payment of R3,500. The purpose of the advert was to advertise the mentioned Caravan park national-wide in order to attract holiday makers. The Auditor-General however regarded the particular approved deviation as irregular expenditure.

**Conclusion**

In terms of the audit finding, it was recommended that the municipality follows a competitive bid process and appoint a panel of service providers to render the advertising services to the municipality for a period of time at pre-agreed standard prices/rates.

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report on the matter and came to the conclusion that the municipality received value for money and was unanimous in its decision to recommend to Council that, in view of the fact that the municipality have received value for money, the irregular expenditure in the amount of R567 856.13 (VAT Incl) for Human Resources Department and R3 500.00 (VAT incl) for Department: Hermanus Administration respectively, be certified as irrecoverable and be written off.

**7. Financial Implications**

R567 856.13 (VAT Incl) plus R3 500.00 (VAT Incl), in total: R571 356.13 (VAT Incl)

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

1. that, in view of the fact that the municipality have received value for money, the irregular expenditure in the amount of R567 856.13 (VAT Incl) for human resources services, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003; and
2. that, in view of the fact that the municipality have received value for money, the irregular expenditure in the amount of R3,500 (VAT Incl) for marketing the Onrus Caravan Park, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL :****B KING  
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**

**5.6****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: NON-COMPLIANCE WITH SUPPLY CHAIN MANAGEMENT POLICY WITH REGARDS TO APPOINTMENT OF ATTORNEYS****3/2/3/8****D Arrison/R Williams/S Muller (028) 313 8111****Hermanus Administration****9 June 2021**

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**1. Executive Summary**

The purpose of this report is to provide the necessary information and to request Council for the writing off of the expenditure in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003).

Fairbridges Wertheim Becker Attorneys as well as Vorster & Steyn Attorneys rendered legal services to the total amount of R1 163 902,28 after approval of deviations in terms of the Overstrand Municipality SCM policy. The Auditor-General however found that the reasons for the mentioned deviation are not deemed to be justifiable and reasonable and the expenditure incurred thus resulted in non-compliance with SCM regulation.

The municipality subsequently also considered other instances where deviations were approved and identified and reported these instances related to the previous finding of the Auditor-General, irregular expenditure, amounting to R900 480,28.

The total amount of R2 064 382,56 (Incl Vat) is now presented in this request for consideration by Council.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate: Management Services

Directorate: Community Services

Directorate: Infrastructure and Planning

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance

**4. Delegated Authority**

None

## 5. Legal Requirements

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003) Overstrand Municipality Supply Chain Management Policy dated 27 May 2020, as amended.

## 6. Background/Discussion/Evaluation/Conclusion

Regulation 36(1)(a)(v) of the Municipal Supply Chain Management Regulation states that:

*“A Supply Chain Management Policy may allow the accounting officer to dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only in any other exceptional case where it is impractical or impossible to follow the official procurement processes.”*

The Auditor General however made the following finding with regard to the deviation on legal services for 2019/2020:

*“It is noted that the SCM policy of the Municipality makes provision that the deviation process be followed for all procurement of legal services on the basis that it is impractical to follow a competitive process/quotation process due to the nature of the services. The motivation (as per the policy) provided for the deviations is not justifiable and does not provide sufficient reasons for not following a fair competitive bidding process. This is due to the fact that the procurement of legal services is not so specialized in nature that it is impractical to follow the competitive bid process.*

*Furthermore, the auditors assessed the market which confirmed that there are a number of attorneys available that are assisting municipalities around the Western Cape which often face similar cases as the Overstrand Municipality. The outcomes of the research performed proved that it is practical to follow the competitive bid process for the procurement of legal services.*

*The current process followed is not fair and equitable as other service providers that offer legal services are not given a fair chance”. The result of this finding is non-compliance with regulation 36(1)(a)(v) of the Municipal Supply Chain Management regulation.*

The recommendation by the Auditor General stated the following:

*“It is recommended that the Municipality appoint a panel of attorneys which specialises in different types legal services through a competitive bidding process for legal services and enter into framework agreements with multiple attorneys and law firms. In these framework agreements, the Municipality will be able to use any of the attorneys in the framework agreement when the need arise.*

*Management should adjust the irregular expenditure disclosure note for both the current and prior year in order to account for the irregular expenditure identified”.*

The Municipality did follow a competitive process subsequent to the finding by the Auditor-General, in order to establish a panel of attorneys to attend to municipal legal services as per the recommendation of the Auditors in the 2018/2019 financial year. Due to four User Departments being involved in the tender specifications and the subsequent National State of Disaster, the tender was advertised on 23 April 2020 with a closing date 29 May 2020. The tender was unsuccessful mostly because the attorneys who submitted bids were not able to obtain all the required documents due to the lockdown period and as some of the attorneys did not have the necessary experience as was required to attend to municipal legal matters. Thus, the tender was subsequently cancelled on 8 September 2020 after all the bids received were evaluated by the four User Departments and the Supply Chain Management Unit.

Due to the unsuccessful tender, the tender specifications had to be reconsidered and subsequently a new tender was advertised on 30 October 2020, approximately a month and a half after the previous tender was cancelled. This tender is in the process of being evaluated to serve before the relevant committees as soon as possible.

### **Conclusion**

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report on the matter and came to the conclusion that the municipality received value for money and was unanimous in its decision to recommend to Council that the irregular expenditure (R1 163 902,28 plus R900 480,28) in the total amount of R2 064 382,56 (Incl Vat) be certified as irrecoverable and be written off.

### **7. Financial Implications**

R2 064 382,56 (Incl Vat)

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the fact that the Municipality have received value for money, the irregular expenditure in the amount of R2 064 382,56 (Incl Vat) be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL :****C LE ROUX  
B KING****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**

**5.7****INVESTIGATION INTO THE INSTANCE OF IRREGULAR EXPENDITURE: SCIE 2020.21.09: NON-COMPLIANCE WITH CLAUSE 16 OF THE OVERSTRAND MUNICIPALITY SCM POLICY: MEMBERSHIP FEES**

3/2/3/8

S Muller

31 May 2021

Director : Infrastructure &amp; Planning

(028) 313 8107

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**1. Executive Summary**

The purpose of this report is to request Council for the writing off of irregular expenditure in terms of 32(2)(b) of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003), when membership fees were paid.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Directorate: Infrastructure and Planning  
Department: Environmental Services

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Provision and maintenance of municipal services

**4. Delegated Authority**

None

**5. Legal Requirements**

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003)  
Overstrand Municipality Supply Chain Management Policy dated 25 June 2008 as amended.

**6. Background/Discussion/Evaluation/Conclusion****Background**

On 13 November 2020 it was brought to the attention of the Supply Chain Management Unit that services were utilised without an official order. The expenditure incurred equates to R19 382,10 (Incl Vat) that was paid to Greater Overberg Fire Protection Association for annual membership fees.

**Discussion**

The municipality is the custodian of and carries the capacity in terms of management of nature reserves and public open spaces. The municipality also has a responsibility to manage and control the spread of fires from and to these properties.

In terms of the Veld and Forest Act, 1998 (Act 101 of 10998) the municipality is compelled to be a member of the Fire Protection Association (FPA). The municipality falls in the areas of the Greater Overberg Fire Protection Association (goFPA) and has been a member of the FPA since 2016. Membership period runs from April 2020 to March 2021, but the invoice for this subscription was received only in October 2020.

The goFPA has submitted to following reason why the invoices were only submitted in October 2020:

*“The annual membership fee is decided at the AGM, however due to covid-19 the AGM could not be held, Then it was decided to a virtual meeting, but the constitution had to change to allow for the virtual meeting, which took up more time. Thus the AGM was only held in August 2020 an invoices could only be sent out in October 2020.”*

The Municipality did not suffer a financial loss as the subscription was due and payable for this period.

**Conclusion**

On 17 June 2021 the Municipal Public Accounts Committee (MPAC) consisting of Cllrs S Tebele, D Botha, B Molefe, L Ntsabo and R Nutt considered a detailed report on the matter and came to the conclusion that the municipality received value for money and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R19 382,10 (Vat Incl.) for membership fees be certified as irrecoverable and written off

**7. Financial Implications**

Irregular expenditure to the value of R19 382,10 (Inc Vat) to be written off as irrecoverable

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

None

**RECOMMENDATION TO THE COUNCIL:**

that, in view of the fact that the Municipality have received value for money, the irregular expenditure in the amount of R19 382,10 (Vat Incl.) for membership fees be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

**RESPONSIBLE OFFICIAL :****C LE ROUX  
B KING****TARGET DATE FOR IMPLEMENTATION :****11 AUGUST 2021**