



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

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA :	28 JUNE / JUNIE / JUNI 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

23 June / Junie / Juni 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, 28 JUNE 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, 28 JUNIE 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 ngoLWESITHATHU, Umhla we 28 JUNI 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, 31 May 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 28 June 2017 had formally sat.

**5.1
BUSINESS CONTINUITY FRAMEWORK**

**(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 28 JUNE 2017)**

RECOMMENDATION TO THE COUNCIL:

1. that the Business Continuity Framework **be approved**; and
2. that the Relationship between Business Continuity and Disaster Management **be noted**.

RESPONSIBLE OFFICIAL :

A RIDDLES

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2017

5.2

HERMANUS: RECTIFICATION OF THE PROPERTY SIZE IN COUNCIL RESOLUTION DATED 31 MAY 2017 FOR THE TRANSFER OF UNREGISTERED ERF 12199 HERMANUS FOR INDUSTRIAL PURPOSES

(ITEM 3, PAGE 41 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 JUNE 2017)

RECOMMENDATION TO THE COUNCIL:

that condition 1 of Council resolution dated 31 May 2017 be rectified to reflect the correct size of the unregistered Erf 12199 Hermanus to be 2,4818 ha in extent.

RESPONSIBLE OFFICIAL :	A LE ROUX
TARGET DATE FOR IMPLEMENTATION :	31 JULY 2017
TARGET DATE TO INFORM APPLICANT :	N/A

5.3

**ERF 8168, 104 MAIN ROAD, KLEINMOND, OVERSTRAND MUNICIPAL AREA :
SUBDIVISION, REZONING AND AMENDMENT OF SPATIAL DEVELOPMENT
FRAMEWORK: MESSRS PLAN ACTIVE ON BEHALF OF THE GRAIL CENTRE
TRUST**

**(ITEM 4, PAGE 47 : INFRASTRUCTURE & PLANNING PORTFOLIO -
MAYORAL COMMITTEE MEETING : 28 JUNE 2017)**

RECOMMENDATION TO THE COUNCIL:

that the item be dealt with at the forthcoming Mayoral Committee meeting.

RESPONSIBLE OFFICIAL :	H VAN DER STOEP
TARGET DATE FOR IMPLEMENTATION :	12 JULY 2017
TARGET DATE TO INFORM APPLICANT :	12 JULY 2017
TARGET DATE TO INFORM OBJECTORS :	12 JULY 2017

5.4

OVERSTRAND SOCIO-ECONOMIC STUDY CLOSE-OUT REPORT**(ITEM 5, PAGE 81 : INFRASTRUCTURE & PLANNING PORTFOLIO -
MAYORAL COMMITTEE MEETING : 28 JUNE 2017)****RECOMMENDATION TO THE COUNCIL:**

that the findings and recommendations made in the final report of the Overstrand Socio-economic Study, **be noted**.

RESPONSIBLE OFFICIAL :**A JACOBS****TARGET DATE FOR IMPLEMENTATION :****28 JUNE 2017****TARGET DATE TO INFORM APPLICANT:****N/A****TARGET DATE TO INFORM OBJECTOR:****N/A**

5.5

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

(ITEM 5, PAGE 1: MAYORAL COMMITTEE MEETING : 28 JUNE 2017)

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for May 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 May 2017, **be noted**.

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

5.6

**REMUNERATION OF PUBLIC OFFICE BEARERS ACT, 1998 (ACT 20 OF 1998):
DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND
BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS –
CHAIRPERSON OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**

(ITEM 6, PAGE 8: MAYORAL COMMITTEE MEETING : 28 JUNE 2017)

RECOMMENDATION TO THE COUNCIL:

that the salary and allowances in respect of the Chairperson of the MPAC, as a section 79 Committee, as provided for in Government Notice 313, dated 03 April 2017, (Annexure A), **be approved** and be made applicable **with effect from 12 August 2016**, subject to the concurrence of same by the Provincial Minister of Local Government, Environmental Affairs and Development Planning.

RESPONSIBLE OFFICIAL :**J VORSTER /
RETHA RUST****TARGET DATE OF IMPLEMENTATION:****31 JULY 2017**

5.7

CONTRACT NO. SC1792/2017:**PROPOSED AMENDMENT: LEASE AGREEMENT FOR THE HAWSTON / ONRUS RADIO MAST SITE FOR HOSTING 7 ANTENNAE WITH RFG ELECTRONICS CC FOR A CONTRACT PERIOD ENDING 30 JUNE 2020****(ITEM 7, PAGE 29 : MAYORAL COMMITTEE MEETING : 28 JUNE 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that **cognisance be taken** of the reasons for the proposed amendment of **Contract SC1792/2017** for lease agreement for the Hawston / Onrus radio mast site for hosting 7 antennae with RFG Electronics cc for a contract period ending 30 June 2020, in terms of the enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the amendment be consented to; and
2. that **cognisance be taken** that no recommendations or representations were received from the local community by closing date, 4 May 2017.

RESPONSIBLE OFFICIAL :**C JOHNSON
M POTGIETER****TARGET DATE FOR IMPLEMENTATION :****1 JULY 2017**

5.8

AMENDMENTS TO THE 2017/2018 INDIGENT POLICY

(ITEM 8, PAGE 44 : MAYORAL COMMITTEE MEETING : 28 JUNE 2017)

RECOMMENDATION TO THE COUNCIL:

that Clause 3(m) in the revised Indigent Policy for 2017/2018 **be deleted.**

RESPONSIBLE OFFICIAL :

S. REYNEKE-NAUDE

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2017

6. CONSIDERATION OF REPORTS**6.1**

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 3451, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : PROPOSED SUBDIVISION : COR VAN ROOYEN LAND SURVEYOR ON BEHALF OF MESSRS CE LIEBENBERG, FJ & SM PIENAAR AND AH LUCKHOFF

3/2/3/6

S Swart

12 June 2017

(028) 313 8006

Corporate Head Office

1. Executive Summary

To submit a resolution of the proceedings of the Appeal Committee to Council for information.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Not applicable. The matter is submitted **for information** only.

5. Legal Requirements

Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

6. Discussion

The nature of the appeal is as follows:

The appellant appeals against the Executive Mayor's decision dated 25 May 2016 that the application for subdivision be approved.

The Appeal Committee resolved as indicated in the recommendation hereunder.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Not applicable

10. Annexures

Annexure A: Record of Decision of Appeal held on 13 February 2017

RECOMMENDATION TO THE COUNCIL:

that the decision of the Section 62 Committee be noted, namely:

that the panel reserved its finding on the basis that, if the parties could not reach settlement within a reasonable period, the Panel will reconvene the hearing in order to deliver its finding.

SUBSEQUENT TO THE HEARING:

1. The Panel received a written deed of settlement duly signed by the parties; and
2. The Panel considered the deed of settlement and decided to accept the terms thereof and to raise it to become the decision of the Panel. The terms of the deed of settlement therefore become the decision of the Appeal Committee.

RESPONSIBLE OFFICIAL :**H VAN DER STOEP/S SWART****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**



RECORD OF DECISION
13 FEBRUARY 2017

RE:
APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT:
MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 3451, BETTY'S BAY,
OVERSTRAND MUNICIPAL AREA : PROPOSED SUBDIVISION : COR VAN
ROOYEN LAND SURVEYOR ON BEHALF OF MESSRS CE LIEBENBERG, FJ & SM
PIENAAR AND AH LUCKHOFF

PRESENT :

COUNCILLORS

Ald A Coetsee
Cllr V Macotha
Cllr D Botha
Cllr K Brice

CAPACITY

Chairperson: Appeal Committee
Member : Appeal Committee
Member : Appeal Committee
Ex officio

OFFICIALS

Ms H van der Stoep
Mr L Wallace
Ms S Swart

Senior Town Planner
Legal Advisor
Administrative Officer, Secretariat

APPELLANT

Mr C Hofmeyr
Mr T Lourens

Messrs D Plessis Hofmeyr, Malan on behalf of the
Appellants
Messrs Malan Lourens Viljoen on behalf of the
Applicant

APOLOGIES

Cllr M Opperman
Cllr X Msweli

Member : Appeal Committee
Member : Appeal Committee

ABSENT

None

APPELLANT:

Messrs Cor van Rooyen Land Surveyor on behalf of Messrs CE Liebenberg, FJ & SM Pienaar and AH Luckhoff

RESPONDENT:

Overstrand Municipality herein represented by Ms H van der Stoep, Senior Town Planner.

NOTICE OF APPEAL HEARING:

Notices were sent to all parties concerned.

NATURE OF APPEAL:

The appellant appeals against the Executive Mayor's decision dated 25 May 2016.

CONSTITUTION:

With the presence of a quorum, the Appeal Committee was regarded as duly constituted.

The Chairperson, Ald Coetsee, declared that Cllr D Botha, a member of the Appeal Committee, has a conflict of interest as he was a member of the Infrastructure & Planning Portfolio when this decision was taken. Cllr Botha was however needed to form a quorum. Ald Coetsee requested the parties present whether they had any objection if the Appeal proceeded with Cllr Botha as a member of the Panel. The parties present held the position that Cllr Botha on his own will not determine the outcome of the appeal and as such had no objection if Cllr Botha remained a member of the Panel. It was decided to proceed with the appeal meeting and that Cllr Botha may be a member of the Panel.

VALIDITY OF APPEAL:

It was determined by the Appeal Committee that the appeal was lodged within the prescribed time frame viz. within 21 days of written notification of the decision taken by the Executive Mayor, and therefore the appeal was regarded as valid and could proceed.

It was noted that the deposit was paid in terms of the approved tariffs.

SITE VISIT:

None

CONSIDERATION OF APPEAL:

The Appeal Panel considered the documents and heard arguments from both parties. It was argued that the application was submitted while the old Zoning Scheme was still in force. It was also apparent from the documents submitted. The decision therefore had to be informed by the old Zoning Scheme. The decision of the Executive Mayor refers to the new Zoning Scheme and it was therefore accepted that the Mayor considered the application against the existing Zoning Scheme instead of against the relevant old Zoning Scheme.

During the Appeal hearing it became apparent that the parties wished to explore settlement. The Panel decided to present the parties with an opportunity to explore the possibility of settlement through negotiation, and stood the matter down without coming to a finding on the merits.

THE MEETING STOOD DOWN AT 10:52 IN ORDER FOR THE PANEL TO DELIBERATE AND THE PARTIES TO REACH A SETTLEMENT**THE MEETING RESUMED AT 11:00**

The Committee then –

RESOLVED (UNANIMOUSLY) :

that the panel reserve its finding on the basis that, if the parties could not reach settlement within a reasonable period, the Panel will reconvene the hearing in order to deliver its finding.

The session of the Appeal Committee closed at 11:07

SUBSEQUENT TO THE HEARING:

1. The Panel received a written deed of settlement duly signed by the parties; and
2. The Panel considered the deed of settlement and decided to accept the terms thereof and to raise it to become the decision of the Panel. The terms of the deed of settlement therefore become the decision of the Appeal Committee.

The Deed of Settlement is attached as Annexure A to the Record of Decision.

SESSION OF APPEAL COMMITTEE

13 FEBRUARY 2017

SIGNED ON THIS 21ST DAY OF JUNE 2017 AT HERMANUS BY THE APPEAL COMMITTEE:

Cllr A Coetsee	Chairman: Appeal Committee
Cllr D Botha	Member: Appeal Committee
Cllr V Macotha	Member: Appeal Committee

19 MAY 2017

Swart
ONTVANG

5/33

INTERNAL MEMO

TOWN PLANNING / STADSBEPLANNING
HERMANUS

TO: SPEAKER / SECTION 62 APPEAL COMMITTEE

FROM: MS H VAN DER STOEP (TOWN PLANNER)

DATE: 18 May 2017

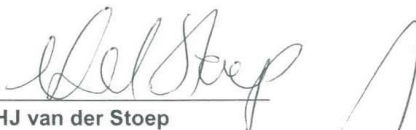
Dear Sir

SECTION 62 APPEAL : SUBDIVISION OF ERF 3451 BETTY'S BAY

An appeal was received from Mr. FJ & SM Pienaar and Ms. CE Liebenberg. The appellants were represented by Mr. C Hofmeyr (Messrs. DHM Land Law Specialists). The Applicant, Mr. AH Luckhoff, was represented by Mr. Lourens (Messrs. MLV Attorneys). The Appeal Hearing took place on 28 February 2017 and during the appeal procedure it became clear that there may be common ground for an agreement between the parties concerned.

The appellants withdrew the Appeal subject to that the Section 62 Appeal Committee ratify the signed agreement between the appellants and the applicant. Attached please find the signed agreement by all parties concerned.

All other conditions of approval, dated 2 June 2016 as considered by the Executive Mayor will still remain in effect.



HJ van der Stoep

18/5/2017
Date



Ald A Coetzee
Chairman: Section 62 Appeal Committee
Approved / Not Approved

22/5/17
Date

List of Attachments:

Annexure A : Signed Agreement

Tel: 028 3138900
Fax: 028 3132093
E-mail : loretta@overstrand.gov.za

PO Box 20 / Posbus 20
HERMANUS
7200

du plossis • hofmeyr • malan
land law specialists

SKIKKINGSOOREENKOMS

Aangegaan deur en tussen

ABRAHAM HENDRIK LÜCKHOFF

Identiteitsnommer: 401009 5103 00 3

("Lückhoff")

en

FRANS JOHANNES PIENAAR

Identiteitsnommer: 641008 5044 08 4

SUSANNA MARTHA PIENAAR

Identiteitsnommer: 630522 0062 08 4

(daar word verder hierin verwys na bogemelde twee persone, wat binne
gemeenskap van goed met mekaar getroud is, as "FJ Pienaar" en "SM Pienaar"
onderskeidelik en na hulle gesamentlik as "die Pienaars")

en

CECILIA ELIZABETH LIEBENBERG

Identiteitsnommer: 430917 0081 00 5

("Liebenberg")

(daar word verder hierin na Lückhoff, die Pienaars en Liebenberg gesamentlik
verwys as "die Partye" en na elkeen van die drie Partye afsonderlik as 'n "Party")

Handwritten signatures and initials of the parties involved in the agreement. The signatures include 'SM' (Susanna Martha Pienaar), 'FJ' (Frans Johannes Pienaar), and 'CE' (Cecilia Elizabeth Liebenberg). There are also several other initials and marks, including a large 'L' and 'H' at the top right, and 'SM' and 'FJ' at the bottom left.

AANGESIEN die Partye die gemeenskaplike eienaars is in gelyke onverdeelde aandele van Erf 3451 Bettiesbaai ("die Eiendom");

EN AANGESIEN Lückhoff, met SM Pienaar en Liebenberg se toestemming, aansoek gedoen het vir die onderverdeling van die Eiendom in drie dele in ooreenstemming met die onderverdelingsplan, hierby aangeheg as Aanhangel **A** met die bedoeling dat Gedeelte 1 aan Liebenberg oorgedra word, Gedeelte 2 aan Lückhoff en die Restant aan die Pienars;

EN AANGESIEN die onderverdeling op 25 Mei 2016 deur die Overstrand Munisipaliteit ("die Munisipaliteit") goedgekeur is;

EN AANGESIEN die Pienars en Liebenberg appèl aangeteken het teen die onderverdelingsgoedkeuring omdat hulle die gebruike op die onverdeelde eiendomme wil beperk tot dit wat die partye in gedagte gehad het toe die onderverdelingsaansoek gebring is (daar word verder hierin verwys na voormelde appèl as "die appèl");

EN AANGESIEN Lückhoff die appèl teengestaan het, maar alle partye nou begerig is om die dispuut wat tussen hulle ontstaan het vriendskaplik by te lê deur finaal ooreen te kom watter grondgebruike op die perseel toelaatbaar is en watter regte die onderskeie stukke grond ten opsigte van die ander het;

NOU DERHALWE KOM DIE PARTYE AS VOLG OOREEN:

1. TOESTEMMING TOT ONDERVERDELING

Die Pienars en Liebenberg bevestig hiermee dat hulle tot die onderverdeling toestem en dit nie verder sal teenstaan nie, op voorwaarde dat die Munisipaliteit se appèlkomitee die onderverdelingsgoedkeuring wysig deur die invoeging van die volgende goedkeuringsvoorwaardes:

- 1.1. Daar mag geen verdere geboue op Gedeelte 1 opgerig word as die geboue wat op 10 Maart 2017 daarop staan nie, en veranderinge daaraan mag slegs gemaak word in ooreenstemming met die ontwikkelingsreëls- en

Handwritten signatures and initials, including "SM", "L", and "A".

beperinge wat vervat is in die soneringskema wat van tyd tot tyd op Gedeelte 1 van toepassing is:

- 1.2. Onderworpe aan klousule 1.3 hieronder, mag daar op Gedeelte 2 en die Restant onderskeidelik geen geboue opgerig word nie anders as 'n enkele residensiële woonhuis vir die behuising van een huisgesin en sodanige bona fide buitegeboue as wat normaalweg 'n enkelresidensiële woonhuis dien, welke woonhuis en buitegeboue op elkeen van gemelde erwe opgerig sal word in ooreenstemming met die ontwikkelingsreëls- en beperkinge vir residensiële woonhuise en buitegeboue wat vervat is in die soneringskema wat van tyd tot tyd op Gedeelte 2 en die Restant onderskeidelik van toepassing is;
- 1.3. 'n Addisionele woonhuis sal op die Restant opgerig mag word slegs met die voorafverkreë skriftelike toestemming van die eienaars van Gedeelte 1 en Gedeelte 2, en 'n addisionele woonhuis sal op die Gedeelte 2 opgerig mag word slegs met die voorafverkreë skriftelike toestemming van die eienaars van Gedeelte 1 en die Restant, welke toestemming in beide gevalle nie onredelik weerhou sal word nie. In beide gevalle sal die addisionele woonhuis gebou word in ooreenstemming met die ontwikkelingsreëls- en beperkinge vir addisionele woonhuise wat vervat is in die soneringskema wat van tyd tot tyd op Gedeelte 2 en die Restant onderskeidelik van toepassing is.
- 1.4. 'n Reg van weg serwituut sal geregistreer word oor Gedeelte 2 ten gunste van die Restant, 6 (ses) meter wyd al langs die noordelike grens van Gedeelte 2 soos aangetoon met groen belyning op die onderverdelingsplan hierby aangeheg, gemerk "A" ten einde die Restant toegang te gee tot die naaste openbare pad, welke serwituut gebruik mag word vir voetganger en voertuigverkeer.
- 1.5. 'n Reg van weg serwituut sal geregistreer word oor Gedeelte 1 ten gunste van die Restant, 6 (ses) meter wyd al langs die noordelike grens van Gedeelte 1 soos aangetoon met pienk belyning op die onderverdelingsplan hierby aangeheg, gemerk "A", ten einde die Restant toegang te gee tot



die naaste openbare pad, welke serwituut gebruik mag word vir voetganger en voertuigverkeer.

- 1.6. 'n Reg van weg serwituut sal geregistreer word oor Gedeelte 1 ten gunste van Gedeelte 2, 6 meter wyd al langs die noordelike grens van Gedeelte 1 soos aangetoon met pienk belyning op die onderverdelingsplan hierby aangeheg, gemerk "A", ten einde die Gedeelte 2 toegang te gee tot die naaste openbare pad, welke serwituut gebruik mag word vir voetganger en voertuigverkeer.
- 1.7. 'n 2-meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van Gedeelte 2 oor die Restant, die noordelike grens waarvan aangetoon word deur die letters Q, R, S, T op die onderverdelingsplan hierby aangeheg, gemerk "A".
- 1.8. 'n 1 meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van die Restant oor Gedeelte 2, langs die volle lengte van die westelike grens van Gedeelte 2, vanaf die punt gemerk "D1" tot by die punt gemerk "L", soos aangetoon op die onderverdelingsplan, hierby aangeheg, gemerk "A".
- 1.9. 'n 1 meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van die Restant oor Gedeelte 1, langs die volle lengte van die oostelike grens van Gedeelte 1, vanaf die punt gemerk "D1" tot by die punt gemerk "L", soos aangetoon op die onderverdelingsplan, hierby aangeheg, gemerk "A".
- 1.10. 'n 2-meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van Gedeelte 2 en die Restant oor Gedeelte 1, die noordelike grens waarvan aangetoon word deur die letters L, K, J, H, C, Hoogwatermerk, op die onderverdelingsplan hierby aangeheg.
- 1.11. Dit word op rekord geplaas dat die verwysing na daardie gedeelte in die onderverdelingsplan (aansluiting "A") wat aangetoon word deur letters L, E, M, N, P tot Q onder Nota 5 by ooreenkoms tussen die partye geïgnoreer word en sal nie as 'n serwituut geregistreer sal word nie.

2. TOESTEMMING TOT BOUPLANNE

- 2.1. Liebenberg en die Pienaars onderneem om nie beswaar te maak teen bouplanne vir 'n gebou op Gedeelte 2 wat wesenlik in ooreenstemming is met die planne wat hierby aangeheg is, gemerk "B1-4" nie en sal niks doen om die goedkeuring daarvan te vertraag of te belemmer nie.
- 2.2. Liebenberg en Lückhoff onderneem om nie beswaar te maak teen bouplanne vir 'n gebou op die Restant nie, mits dit voldoen aan die ontwikkelingsreëls- en beperkinge vervat in die soneringskema wat van tyd tot tyd op die Restant van toepassing is.

3. VOLLE EN FINALE SKIKKING

Hierdie ooreenkoms bevat die volle en finale skikking tussen die Partye van alle dispute wat tussen hulle mag bestaan rakende die goedkeuring van die onderverdelingsaansoek. Sonder om aan die algemeenheid van die voorafgaande afbreek te doen, word bevestig dat die appèl hierdeur geskik word en geeneen van die Partye sal enige vergoedings- of ander eise van enige aard teen die ander hê voortspruitend uit sodanige dispute nie.

4. GEEN DWANG

Al die Partye bevestig dat hulle die ooreenkoms vrywillig en sonder dwang geteken het en dat hulle hulself derhalwe daaraan gebonde ag.

5. VOLLEDIGE OOREENKOMS

Hierdie dokument bevat die volledige ooreenkoms tussen die Partye met betrekking tot die verhoudinge wat hierin gereël word en geen voorstellings, terme, voorwaardes of waarborge wat nie hierin vervat is nie, sal bindend wees op die Partye nie.

6. WYSIGING EN KANSELLASIE

Geen ooreenkoms wat beoog om hierdie ooreenkoms te wysig, enige byvoegings of weglatings daaruit te maak of om dit te kanselleer, sal enige effek of krag hê

Handwritten signatures and initials are present at the bottom right of the page, including a large signature, the initials "SNP", and other illegible marks.

nie, behalwe as dit in skrif is en deur al die Partye onderteken is, en geen toegewing wat deur 'n Party aan 'n ander Party gemaak is, sal neerkom op 'n afstanddoening van enige van eersgenoemde Party se regte nie; destengevolge sal eersgenoemde Party nie omdat s/hy sodanige toegewing gemaak het, verhoed word om sy/haar regte teen die ander Party af te dwing nie.

7. KOSTES

- 7.1. Elke Party sal aanspreeklik wees vir sy eie kostes in verband met of voortspruitend uit die onderhandeling van hierdie ooreenkoms.
- 7.2. Waar dit vir enige Party nodig sou word om 'n prokureur te raadpleeg as gevolg van kontrakbreuk deur die ander party sal laasgenoemde party verplig wees om eersgenoemde se regskostes op die prokureur-en-eie-klieënt skaal te betaal.
- 7.3. Die koste van die onderverdeling en transport word tussen die partye in gelyke dele verdeel en Dr. Lückhoff, ingevolge h vroeëre ooreenkoms met Liebenberg, onderneem om Liebenberg se een derde gedeelte daarvan namens haar te betaal.

8. ONDERTEKENING

Die ooreenkoms sal ook as geldig onderteken geag word as elkeen van die partye 'n afsonderlike kopie daarvan teken, in welke geval die onderskeie kopieë saam 'n koop-ooreenkoms sal vorm.

ALDUS geteken te _____ op hierdie _____ dag van Maart 2017

AS GETUIES

1. _____

2. _____

CECILIA ELIZABETH LIEBENBERG

Handwritten signatures and initials of the parties involved in the agreement, including a large signature for Cecilia Elizabeth Liebenberg and several other initials.

ALDUS geteken te strand op hierdie 14 dag van Maart 2017

AS GETUIES

1. A. Lütkhoff

A. Lütkhoff
ABRAHAM HENDRIK LÜCKHOFF

2. M. Gey

ALDUS geteken te NKONYENI op hierdie 14 dag van Maart 2017

AS GETUIES

1. F. Pienaar

F. Pienaar
FRANS JOHANNES PIENAAR

2. J. Pienaar

ALDUS geteken te Nkonyeni op hierdie 14 dag van Maart 2017

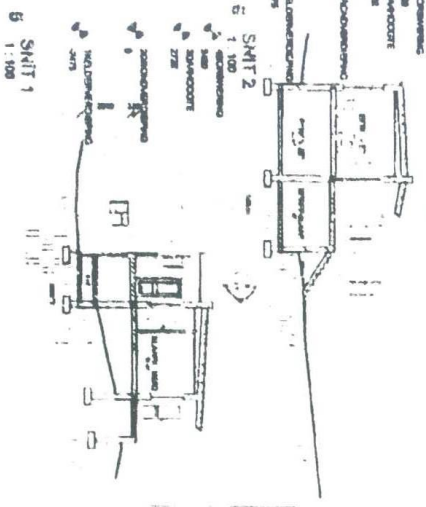
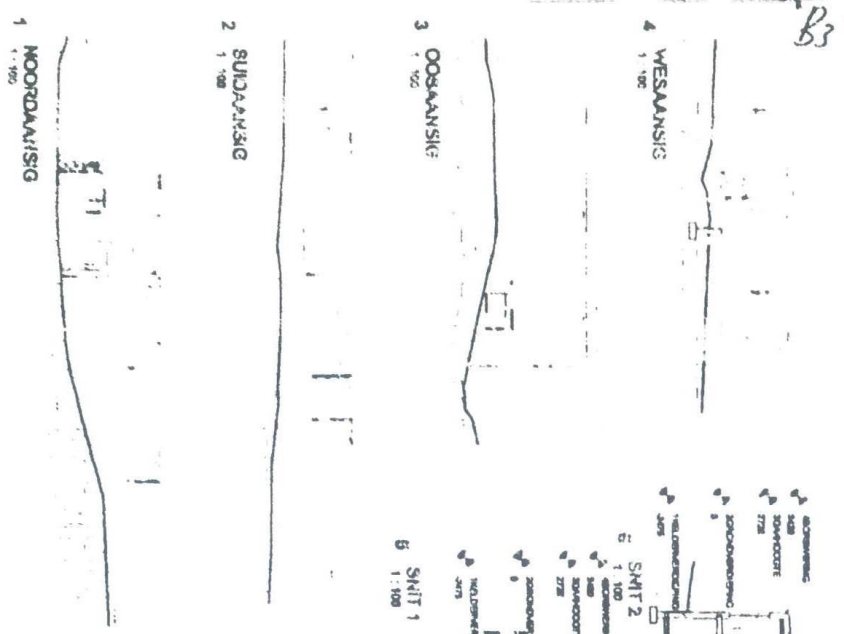
AS GETUIES

1. S. Pienaar

S. Pienaar
SUSANNA MARTHA PIENAAR

2. J. Pienaar

SMP UJ



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NO. 1	RESERVING	DATUM
NO. 2	RESERVING	DATUM
NO. 3	RESERVING	DATUM
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NO. 9	RESERVING	DATUM
NO. 10	RESERVING	DATUM

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NOORDZIJDE
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SUIDZIJDE
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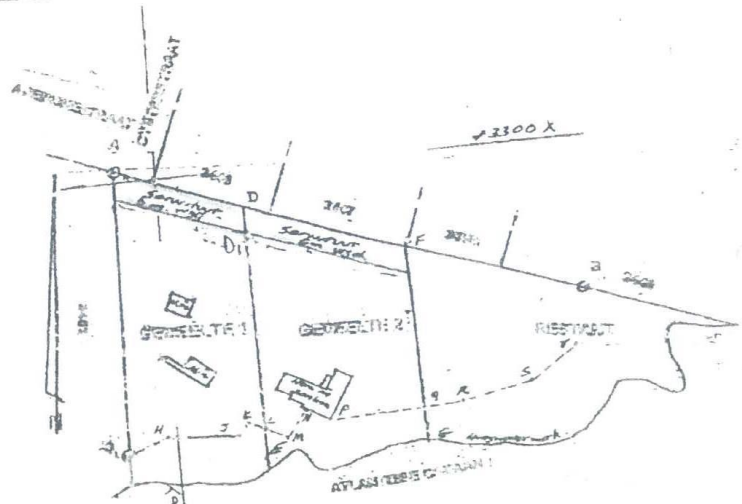
OOSTZIJDE
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WESTZIJDE
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SNIT 1
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SNIT 2
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GOR VAN ROOYEN
 LANDMETER / LAND SURVEYOR
 Epitaph, Oribonkoppas, Kleinmond (Res.) Poort, P.O. Pk 596; Post's Bay, 7141
 Tel / Faks / Fax 028 271 4565 18 S: / Cel 082 781 6777
 e-pcs / e-mail gvanrooyen@sericmail.co.za



**VOORGESTELDE ONDERVERDELING VAN
 ERF 3451
 BETTIESBAAI
 SKAAL 1:1000**

- NOTAS:**
1. Figuur A B hoogwatermerk C A stel voor erf 3451 groot 7046 vk.m.
 2. Figuur A D E hoogwatermerk C A stel voor Gedeelte 1 groot 2350 vk.m.
 3. Figuur D F G hoogwatermerk E D stel voor Gedeelte 2 groot 2350 vk.m.
 4. Figuur F B hoogwatermerk G F stel voor die Residant groot 2350 vk.m.
 5. Die lynne C H J K L en L M N P Q en Q R S T stel voor die noordelike grans van voorgestelde serwitate 2m. wyd oor Ged. 1, Gedeelte 2 en Residant vas aangedui.
 6. Finale erfnummers sal deur Landmeter Generaal toegesien word.

Oktober 2011

Gor van Rooyen

Municipality: **OVERSTRAND**
 07 OCT 2011
 HAN. KUPPLEINMOND

Handwritten signatures and initials:
 GPR
 MJP
 GPR

du plessis • hofmeyr • malan
land law specialists

SKIKKINGSOOREENKOMS

Aangegaan deur en tussen

ABRAHAM HENDRIK LÜCKHOFF

Identiteitsnommer: 401009 5103 00 3

("Lückhoff")

en

FRANS JOHANNES PIENAAR

Identiteitsnommer: 641008 5044 00 4

SUSANNA MARTHA PIENAAR

Identiteitsnommer: 630522 0062 00 4

(daar word verder hierin verwys na bogenoemde twee persone, wat binne
gemeenskap van goed met mekaar geïroudi is, as "FJ Pienaar" en "SM Pienaar"
onderskeidelik en na hulle gesamentlik as "die Piencars")

en

CECILIA ELIZABETH LIEBENBERG

Identiteitsnommer: 480917 0081 00 5

("Liebenberg")

(daar word verder hierin na Lückhoff, die Piencars en Liebenberg gesamentlik
verwys as "die Partye" en na elkeen van die drie Partye afsonderlik as 'n "Partye")

Handwritten signatures and initials:
AHL
CML
W

AANGESIEN die partye die gemeenskaplike eienaars is in gelyke onverdeelde aandele van Erf 3451 Bettiesbaai ("die Eiendom");

EN AANGESIEN Lückhoff, met SM Pienaar en Liebenberg se toestemming, aansoek gedoen het vir die onderverdeling van die Eiendom in drie dele in ooreenstemming met die onderverdelingsplan, hierby aangeheg as Aanhangsel A met die bedoeling dat Gedeelte 1 aan Liebenberg oorgedra word, Gedeelte 2 aan Lückhoff en die Restant aan die Pienars;

EN AANGESIEN die onderverdeling op 25 Mei 2016 deur die Overstrand (wants "die Munisipaliteit") goedgekeur is;

EN AANGESIEN die Pienars en Liebenberg appèl aangeteken het teen die onderverdelingsgoedkeuring omdat nulle die gebruike op die onverdeelde eiendomme wil beperk tot dit wat die partye in gedagte gehad het toe die onderverdelingsaansoek gebring is (daar word verder hierna verwys na voormelde appèl as "die appèl");

EN AANGESIEN Lückhoff die appèl teengestaan het, maar die partye nou begerig is om die dispuut wat tussen hulle ontstaan het vriendskaplik by te lê deur finaal ooreen te kom watter grondgebruike op die perseel toelaatbaar is en watter regte die onderskeie stukke grond ten opsigte van die ander het;

NOU DERHALWE KOM DIE PARTYE AS VOLGS OOREEN:

1. TOESTEMMING TOT ONDERVERDELING

Die Pienars en Liebenberg bevestig hiermee dat hulle tot die onderverdeling toestem en dit nie verder sei teengestaan nie, op voorwaarde dat die Munisipaliteit se appèlkomitee die onderverdelingsgoedkeuring wysig deur die invoeging van die volgende goedkeuringsvoorwaardes:

- 1.1. Daar mag geen verdere geboue op Gedeelte 1 opgerig word as die geboue wat op 10 Maart 2017 daarop staan nie, en veranderinge daaraan mag slegs gemaak word in ooreenstemming met die ontwikkelingsreëls-er;

Bl. h.
App. W. G. K.

beperinge wat vervat is in die soneringskema wat van tyd tot tyd op Gedeelte 1 van toepassing is;

- 1.2. Onderworpe aan klausule 1.3 hieronder, mag daar op Gedeelte 2 en die Restant onderskeidelik geen geboue opgerig word nie anders as 'n enkele residensiële woonhuis vir die behuising van een huiskgesin en sodanige *bona fide* buitegeboue as wat normaalweg 'n enkelresidensiële woonhuis dien, welke woonhuis en buitegeboue op elkeen van gemelde erwe opgerig sal word in ooreenstemming met die ontwikkelingsreëls- en beperkinge vir residensiële woonhuise en buitegeboue wat vervat is in die soneringskema wat van tyd tot tyd op Gedeelte 2 en die Restant onderskeidelik van toepassing is;
- 1.3. 'n Addisionele woonhuis sal op die Restant opgerig mag word slegs met die voorafverkreë skriftelike toestemming van die eienaars van Gedeelte 1 en Gedeelte 2, en 'n addisionele woonhuis sal op die Gedeelte 2 opgerig mag word slegs met die voorafverkreë skriftelike toestemming van die eienaars van Gedeelte 1 en die Restant, welke toestemming in beide gevalle nie onredelik weerhou sal word nie. In beide gevalle sal die addisionele woonhuis gebou word in ooreenstemming met die ontwikkelingsreëls- en beperkinge vir addisionele woonhuise wat vervat is in die soneringskema wat van tyd tot tyd op Gedeelte 2 en die Restant onderskeidelik van toepassing is.
4. 'n Reg van weg serwituut sal geregistreer word oor Gedeelte 2 ten gunste van die Restant, 6 (ses) meter wyd al langs die noordelike grens van Gedeelte 2 soos aangetoon met groen belyning op die onderverdelingsplan hierby aangeheg, gemerk "A" ten einde die Restant toegang te gee tot die naaste openbare pad, welke serwituut gebruik mag word vir voetganger en voertuigverkeer.
- 1.5. 'n Reg van weg serwituut sal geregistreer word oor Gedeelte 1 ten gunste van die Restant, 6 (ses) meter wyd al langs die noordelike grens van Gedeelte 1 soos aangetoon met pienk belyning op die onderverdelingsplan hierby aangeheg, gemerk "A", ten einde die Restant toegang te gee tot

die naaste openbare pad, welke serwituut gebruik mag word vir voetganger en voertuigverkeer.

- 1.6. 'n Reg van weg serwituut sal geregistreer word oor Gedeelte 1 ten gunste van Gedeelte 2, 6 meter wyd al langs die noordelike grens van Gedeelte 1 soos aangetoon met pienk belyning op die onderverdelingsplan hierby aangeheg, gemerk "A", ten einde die Gedeelte 2 toegang te gee tot die naaste openbare pad, welke serwituut gebruik mag word vir voetganger en voertuigverkeer.
- 1.7. 'n 2-meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van Gedeelte 2 oor die Restant, die noordelike grens waarvan aangetoon word deur die letters Q, R, S, T op die onderverdelingsplan hierby aangeheg, gemerk "A".
- 1.8. 'n 1 meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van die Restant oor Gedeelte 2, langs die volle lengte van die westelike grens van Gedeelte 2, vanaf die punt gemerk "D1" tot by die punt gemerk "L", soos aangetoon op die onderverdelingsplan, hierby aangeheg, gemerk "A".
- 1.9. 'n 1 meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van die Restant oor Gedeelte 1, langs die volle lengte van die oostelike grens van Gedeelte 1, vanaf die punt gemerk "D1" tot by die punt gemerk "L", soos aangetoon op die onderverdelingsplan, hierby aangeheg, gemerk "A".
- 1.10. 'n 2-meter breë reg van weg serwituut vir doeleindes van 'n voetpad sal geregistreer word ten gunste van Gedeelte 2 en die Restant oor Gedeelte 1, die noordelike grens waarvan aangetoon word deur die letters L, K, J, H, C, Hoogwatermerk, op die onderverdelingsplan hierby aangeheg.
- 1.11. Dit word op rekord geplaas dat die verwysing na daardie gedeelte in die onderverdelingsplan (aanhangsel "A") wat aangetoon word deur letters L, E, M, N, P tot Q onder Nota 5 by ooreenkoms tussen die partye geïgnoreer word en sal nie as 'n serwituut geregistreer sal word nie.

2. TOESTEMMING TOT BOUPLANNE

- 2.1. Liebenberg en die Pienaars onderneem om nie beswaar te maak teen bouplanne vir 'n gebou op Gedeelte 2 wat wesenlik in ooreenstemming is met die planne wat hierby aangeheg is, gemerk "B1-4" nie en sal nie doen om die goedkeuring daarvan te verfraog of te belemmer nie.
- 2.2. Liebenberg en Lückhoff onderneem om nie beswaar te maak teen bouplanne vir 'n gebou op die Restant nie, mits dit voldoen aan die ontwikkelingsreëls- en beperkinge vervat in die soneringskema wat van tyd tot tyd op die Restant van toepassing is.

3. VOLLE EN FINALE SKIKKING

Hierdie ooreenkoms bevat die volle en finale skikking tussen die Partye van alle dispute wat tussen hulle mag bestaan rakende die goedkeuring van die onderverdelingsaansoek. Sonder om aan die algemeenheid van die voorafgaande afbreuk te doen, word bevestig dat die appèl hierdeur geskik word en geeneen van die Partye sal enige vergoedings- of ander eise van enige aard teen die ander nie voortspruitend uit sodanige dispute nie.

4. GEEN DWANG

Al die Partye bevestig dat hulle die ooreenkoms vwilwig en sonder dwang geteken het en dat hulle hulself derhaive daaraan gebonde ag.

5. VOLLEDIGE OOREENKOMS

Hierdie dokument bevat die volledige ooreenkoms tussen die Partye met betrekking tot die verhoudinge wat hierin gereël word en geen voorstellings, terme, voorwaardes of waarborgs wat nie hierin vervat is nie, sal bindend wees op die Partye nie.

6. WYSIGING EN KANSELLASIE

Geen ooreenkoms wat beoog om hierdie ooreenkoms te wysig, enige byvoegings of weglatings daaruit te maak of om dit te kanselleer, sal enige effek of krag hê

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nie, behalwe as dit in skrif is en deur al die Partye onderteken is, en geen toegewing wat deur 'n Party aan 'n ander Party gemaak is, sal neerkom op 'n afstanddoening van enige van eersgenoemde Party se regte nie; destengevolge sal eersgenoemde Party nie omdat s/hy sodanige toegewing gemaak het, verhoed word om sy/haar regte teen die ander Party af te dwing nie.

7. KOSTES

- 7.1. Elke Party sal aanspreeklik wees vir sy eie kostes in verband met of voortspuitend uit die onderhandeling van hierdie ooreenkoms.
- 7.2. Waar dit vir enige Party nodig sou word om 'n prokureur te raadpleeg as gevolg van kontrakbreuk deur die ander party sal laasgenoemde party verplig wees om eersgenoemde se regskostes op die prokureur-an-eis-kant skaal te betaal.
- 7.3. Die koste van die onderverdeling en transport word tussen die partye in gelyke dele verdeel en Dr. Lückhoff, ingevolge 'n vroeëre ooreenkoms met Liebenberg, onderneem om Liebenberg se een derde gedeelte daarvan namens haar te betaal.

8. ONDERTEKENING

Die ooreenkoms sal ook as geldig onderteken gegag word as elkeen van die partye 'n afsonderlike kopie daarvan teken, in welke geval die onderskeie kopieë saam 'n koop-ooreenkoms sal vorm.

ALDUS geteken is C. E. Liebenberg op hierdie 15 dag van Maart 2017

AS GETUIG

1.

2. _____

CECILIA ELIZABETH LIEBENBERG

[Handwritten signatures]

ALDUS geteken te Standa op hierdie 14 dag van Maart 2017

AS GETUIES

1. Opzichter


ABRAHAM HENDRIK LÜCKHOFF

2. Wag

ALDUS geteken te _____ op hierdie _____ dag van Maart 2017

AS GETUIES

1. _____

FRANS JOHANNES PIENAAR

2. _____

ALDUS geteken te _____ op hierdie _____ dag van Maart 2017

AS GETUIES

1. _____

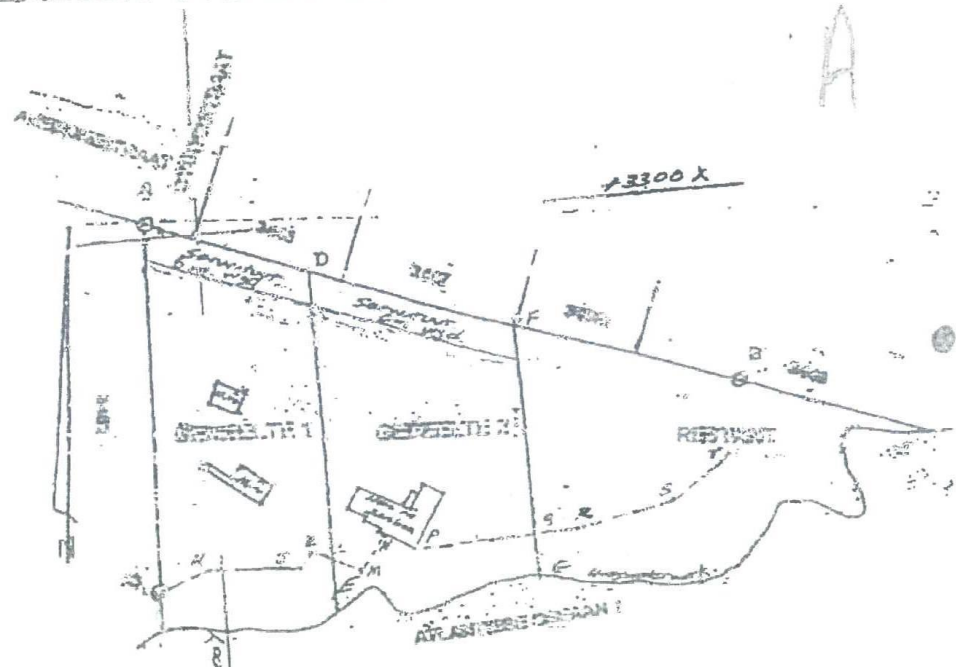
SUSANNA MARTHA PIENAAR

2. _____



GOR VAN ROOYEN
LANDMETER / LAND SURVEYOR

ADDRESSE: A. V. S. 1
Bylaag Offisiële Kaart Kleinmond (Kor.) Posbus (P.O. Box) 594, Betty's Bay, 7141
Tel / Faks / Fax: 028 271 4565
e-pos / e-mail: rooyen@sunmail.co.za



VOORGESTELDE ONDERVERDELING VAN
ERF 3451
BETTY'S BAY
SKAAL 1:1000

- NOTAS:**
1. Figuur A B hoogwatermerk C A stel voor erf 3451 groot 7046 vk.m.
 2. Figuur A D E hoogwatermerk C A stel voor Gedeelte 1 groot 2350 vk.m. ±
 3. Figuur D F G hoogwatermerk E D stel voor Gedeelte 2 groot 2350 vk.m. ±
 4. Figuur F B hoogwatermerk G F stel voor die Resstant groot 2350 vk.m. ±
 5. Die lyn C H J K L en L M N P Q en Q R S T stel voor die noordelike grænse van voorgestelde serwitte 2m. wyd oor Ged. 1, Gedeelte 2 en Resstant soos aangedui.
 6. Finale erfnommers sal deur Landmeter Generaal toegesien word.

Oktober 2011

Gor van Rooyen
lcl
AK
st

Municipality
Munisipaliteit **OVERSTRAND**
07 OCT 2011
HANTSKEUR / KLEINMOND

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HNR.	BESKRYWING	DATUM

J.H. BLIGNAUT
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 SELFPOON 082 7322732
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 7165
 EPOB jhblignaut@blignaut.co.za

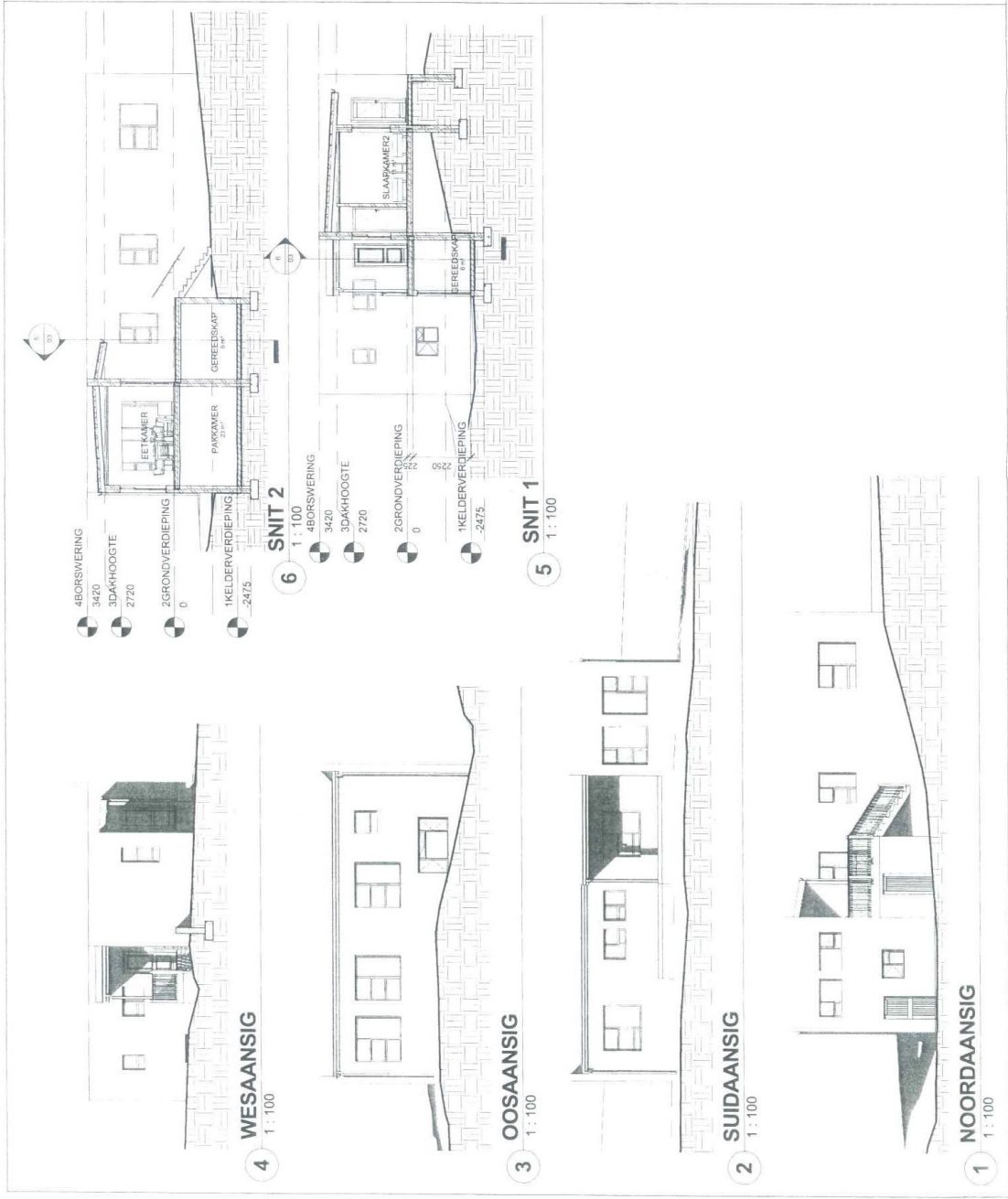
TWEEDE WOONEENHEID VIR
 ABRAHAM LUCKHOFF

ERF 3451
 DE WETSBAAI
 BETTYSBAAI

AANSIGTE

DATUM	2016.08.12
DATE	2016.08.12
TEKENING	JHB
DESIGN BY	JHB
NGESENDEUR	JHB
CHECKED BY	JHB
SCALE	1:100
PROJEKTOOMMER	03
TEKENING NOOMMER	03

B4008



2016/8

6.2

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 661, 17 PELICAN CRESCENT, VERMONT, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE AND REMOVAL OF RESTRICTIVE CONDITIONS : R AND R VAN DEN BERG

3/2/3/6**S Swart****12 June 2017****(028) 313 8006****Corporate Head Office**

1. Executive Summary

To submit a resolution of the proceedings of the Appeal Committee to Council for information.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Not applicable. The matter is submitted **for information** only.

5. Legal Requirements

Section 62 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)

6. Discussion

The nature of the appeal is as follows:

The appellant appeals against the Executive Mayor's decision dated 27 September 2016 not to approve the application for a departure.

The Appeal Committee resolved as indicated in the recommendation hereunder.

7. Financial Implications

The full deposit to be refunded to the Appellant.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Not applicable

10. Annexures

Annexure A: Record of Decision of Appeal held on 22 May 2017

RECOMMENDATION TO THE COUNCIL:

that the decision of the Section 62 Committee be noted, namely:

1. that the appeal **be upheld**;
2. that, should the Appellant wish to build a second storey at any future time, the normal 2 m lateral building lines must be observed and the roof of any area herewith legalised may not become or be incorporated in a patio to such second storey; and
3. that the full deposit **be refunded** to the Appellant.

RESPONSIBLE OFFICIAL :

H VAN DER STOEP/S SWART

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED



RECORD OF DECISION
22 MAY 2017

RE:
APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT:
MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 661, 17 PELICAN
CRESCENT, VERMONT, OVERSTRAND MUNICIPAL AREA : PROPOSED
DEPARTURE AND REMOVAL OF RESTRICTIVE CONDITIONS : R AND R VAN DEN
BERG

PRESENT :

COUNCILLORS

Ald A Coetsee
Cllr V Macotha
Cllr C Msweli
Cllr K Brice

CAPACITY

Chairperson: Appeal Committee
Member : Appeal Committee
Member : Appeal Committee
Ex officio

OFFICIALS

Ms H van der Stoep
Mr H Olivier
Mr L Wallace
Ms S Swart

Senior Town Planner
Town Planner
Legal Advisor
Administrative Officer, Secretariat

APPELLANT

R and R van den Berg

Represented by Ms M Weyers (Professional
Planner) and L van den Berg

APOLOGIES

Cllr D Botha
Cllr M Opperman

Member : Appeal Committee
Member : Appeal Committee

ABSENT

None

APPELLANT:

Mr R and Ms R van den Berg, represented by Ms M Weyers, Professional Planner, as well as Mr L van den Berg.

RESPONDENT:

Overstrand Municipality herein represented by Mr H Olivier, Town Planner.

NOTICE OF APPEAL HEARING:

Notices were sent to all parties concerned.

NATURE OF APPEAL:

The appellant appeals against the Executive Mayor's decision dated 27 September 2016 not to approve the application for a departure.

CONSTITUTION:

With the presence of a quorum, the Appeal Committee was regarded as duly constituted.

The Chairperson, Ald Coetsee, stated that Cllr D Botha declared a conflict of interest as his daughter is representing the Appellants. Cllr D Botha submitted his apologies for the meeting.

VALIDITY OF APPEAL:

It was determined by the Appeal Committee that the appeal was lodged within the prescribed time frame viz. within 21 days of written notification of the decision taken by the Executive Mayor, and therefore the appeal was regarded as valid and could proceed.

It was noted that the deposit was paid in terms of the approved tariffs.

SITE VISIT:

None

CONSIDERATION OF APPEAL:

The rights that stand to be protected in an appeal of this kind, is the rights to administrative action which is lawful, reasonable and fair. The allegation that needs to be considered in this instance, is whether the decision taken by the Mayor was reasonable under the circumstances. Reasonableness aims at whether the decision was supported by sound reasons. That does not mean that the decision must be right. It means that the decision must not be arbitrarily taken, in other words it must be founded on sound reasons. It is also necessary to consider whether the factual matrix

serving before the Appeal Committee is the same as that which served before the Mayor, alternatively whether the consideration is different.

It was pointed out that the Fire Dept withdrew their objection. The consideration is therefore different than that which the Mayor was confronted with. What must be considered is whether this decision has an impact on the character of the area, and whether this decision has an impact on surrounding properties. Those are the two considerations which must be considered to decide whether the Mayor's decision was indeed reasonable or the reasons given were fair under the circumstances.

The merits indicate that this is an old matter, where an owner of property has found that, after he bought the property, there were certain transgressions and he is now trying to legalise that. The argument raised by the parties was silent on the question of whether there was factually an impact on surrounding properties. We do however accept that there may be an impact on the neighbour, or on one neighbour, and also, as a matter of fact, when you transgress the Scheme Regulations, it must have an impact on the character. Town planning is a planning process for the future and the Scheme Regulations envisage a certain planning trend to be carried through in that residential area. If one deviates from that planning, then one deviates from the envisaged character. Therefore, by implication, if one transgresses, it must have an impact on the character of the area. But, it's not that simple. The Scheme Regulations and the Town Planning Legislation allow someone to bring an application for a departure. So, the Scheme Regulations is a set of rules that should be followed, but by itself, it envisages that in certain instances there will be deviations from the Scheme Regulations and legislation allows that. So, the committee had to weigh up the interest of following the Scheme Regulations and the Town Planning Legislation, against the prejudice to the municipality and the future planning of the area if a departure is allowed.

THE MEETING STOOD DOWN AT 15:10 IN ORDER FOR THE PANEL TO DELIBERATE

THE MEETING RESUMED AT 15:42

In conclusion and after due consideration of the documents and arguments by both parties, it was established that the Executive Mayor's decision not to approve the departure was reasonable at the time. However, if the Executive Mayor considered the application after the Fire Department withdrew its recommendation, he may have come to a different conclusion. No facts were argued that there is an impact on surrounding properties. It was however accepted that, to deviate from Scheme Regulations, will always impact on the character of the area because it goes against that which was planned. Scheme Regulations and Town Planning Regulations however do allow for departures in some cases. The application was therefore not irregular. The fact that the Appellant brought the application in order to legalise a previous wrong, carried weight. The committee found that the inconvenience and the costs involved to the appellant would be much greater than the prejudice to the municipality and the future planning of the area, and on that basis, the appeal must succeed.

SESSION OF APPEAL COMMITTEE

22 MAY 2017

The Committee then –

RESOLVED (UNANIMOUSLY):

1. that the appeal **be upheld**;
2. that, should the Appellant wish to build a second storey at any future time, the normal 2 m lateral building lines must be observed and the roof of any area herewith legalised may not become or be incorporated in a patio to such second storey; and
3. that the full deposit **be refunded** to the Appellant.

The session of the Appeal Committee closed at 15:55

SIGNED ON THIS 21ST DAY OF JUNE 2017 AT HERMANUS BY THE APPEAL COMMITTEE:

Cllr A Coetsee	Chairman: Appeal Committee	
Cllr X Msweli	Member: Appeal Committee	
Cllr V Macotha	Member: Appeal Committee	

6.3**FRUITLESS AND WASTEFUL EXPENDITURE: SOUND EQUIPMENT MISSING FROM THE THUSONG CENTRE****3/2/3/8****D Kearney / H van Tonder
19 June 2017****(028) 313 8112****Hermanus Administration**

1. Executive Summary

The purpose of the report is to provide Council with the necessary information to take an informed decision when considering the facts and circumstances regarding the loss and replacement costs of sound equipment from the Thusong Community Centre.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

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)

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

The Hawston Secondary School had booked the hall for a period for the matric exams. They had transported their own school benches to the hall. Due to the size of the hall, the Principal found it necessary to use a sound system. They had set up their own sound system, except for an amplifier and microphone. The Thusong Centre Manager, Ms Ronell Salies, allowed the school the use of the Municipality's amplifier and microphone. The Hawston Primary School had booked the hall for a parents meeting on the evening of Monday, 28 October 2013. The Hawston Secondary School staff and learners themselves packed the school benches, etc. to one side to accommodate the said meeting.

The affidavit of Ms Dane Laing, who was the responsible official at the time (Ms Ronell Salies was on Maternity leave) can be summarised as follows:

The sound system was on site when the Thusong Centre was locked up earlier the afternoon. She later unlocked the hall at 18:00 for the next meeting.

As the hall/facility co-ordinator, in this case, D Laing is not required to be present during the function, she left the premises after the organisers had arrived. She was called back later that evening to lock the centre. The Primary School did not make use of the sound system.

When she arrived at the hall approximately 21:00, all the people had left and only the Primary School Principal, Mr Julius Swart, was waiting for her to lock the hall.

It was only the next morning, the sound system was to be set up and the school benches packed out for the remainder of the matric exam period that it was discovered that the following items, which are listed on the asset register of the Municipality, were missing:

1. Mic desk Samson Alloid (6076A0159E)
2. Samson Power Amplifier (186I618E)

It was also discovered that the following items belonging to the Hawston Secondary School were also missing:

1. Cordless Microphone
2. Rectifier
3. Speaker

After thorough investigation by the official, no trace of forced entry could be found. There is an alarm system that is activated when the facility is vacated. She reported the matter to the Municipality's Insurance Department as well as the SAPS on 29 October 2013.

When the caretaker of such a facility makes it available for a function, the procedure that they must follow is to:

- i) Confirm the inventory of items with the organiser of the function before the function so that everything can be left in the same condition as it was handed over and that the items and equipment are on hand;
- ii) Conduct a stock take of these items and equipment after the event and bring any shortages or missing items to the attention of the organiser and that money can be deducted from the deposit. In this instance, the "event" was not over as the hall was to be utilised as a matric

examination venue until the last exam was written. For the reason stated above, the Thusong Manager did not do an inventory check.

The caretaker on duty normally leaves the premises during the course of the function as the functions are private and meetings are conducted confidentially. The Thusong Centre is an isolated building with no normal activities of the residents at night. The area has been targeted by criminal elements and all the staff who work there at night have been threatened and have come close to being assaulted on numerous occasions. At the time of the incident, there was no perimeter fence or security guards, as is the current situation. There is no reason to believe that Ms Laing went back after hours to remove the missing equipment.

The missing items have since the date of the incident not been recovered. The incident was reported to the Municipality's Insurer but the claim was rejected as there was no sign of forced entry. It was also reported to SAPS.

The assets need to be replaced and/ or the cost thereof recovered.

As the sound equipment went missing while the following groups of people had access to the hall:

- i. Secondary School teachers
- ii. Secondary School learners
- iii. Primary School staff
- iv. Other attendees of the meeting held on the particular evening, and as the Thusong Manager was not present, it is impossible to indicate at what point in time the equipment was removed, as even the School's equipment was removed.

On 19 June 2017 the Municipal Public Accounts Committee (MPAC) consisting of Cllr S Tebele, K Brice and G Cohen considered the matter. Mr D Kearney informed the meeting that since the incident all sound equipment is being secured in a locked room. The MPAC recommended that the Fruitless and Wasteful Expenditure in respect of the value be certified as irrecoverable and written off and that a Standard Operating Procedure with regard to the hiring of municipal halls and equipment be put in place.

7. Financial Implications

The expenditure in respect of the book value of the stolen equipment to the amount of R2 424,88, needs to be written off.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations**Director: Finance**

The book value of the equipment, to wit R2 424,88, needs to be written off.

Municipal Manager

The recommendation with regard to a Standard Operating Procedure is noted and will be dealt with administratively.

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that the fruitless and wasteful expenditure in respect of the book value of the stolen equipment, to wit R2 424,88, 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 :**E HOONEBERG
B KING
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****14 JULY 2017**

6.4**FRUITLESS AND WASTEFUL EXPENDITURE INCURRED DUE TO OVERSIGHT ON PLOT CLEARING PROCESSES IN RESPECT OF ERF NO 882, SANDBAAI****3/2/3/8****N Michaels / H van Tonder
19 June 2017****(028) 313 8054****Corporate Head Office**

1. Executive Summary

The purpose of this report is to request Council to write off the amount levied of R6 085.00, which includes collection fee, administration fee and legal fees and other fees that may have incurred in an attempt to recover plot clearing costs from Mr Jordaan, the owner of Erf 882 Sandbaai.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

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

Constitution of the Republic of South Africa, 1996
Fire Brigade Services Act 99 of 1987
National Veld and Forest Act, 101 of 1998
Section 34(2) of Community Fire Safety Bylaw P.N. 654 of 2007
Local Government: Municipal Finance Management Act, No.56 of 2003

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

In terms of section 34(2) of the Standard By-law relating to Community Fire Safety as published per Provincial Notice No. 342/2006 dated 27 October 2006, all plot owners are required to remove any nuisance that may be a safety hazard.

The first notice for plot clearing was issued to Mr Jordaan on 1 August 2013 by registered mail as prescribed.

After the final inspection to the plot, the contractor was instructed to clear the plot as mandated by legislation. The owner would be liable for all costs involved including administration fee.

The owner disputes his bill with plot clearing charges. His argument was that he never received a plot clearing notice from Overstrand Municipality.

The matter was sent to court and it was discovered that the notice was sent to the wrong address (Mrs Whiting) not Mr Jordaan, however agreement in court was that Mr Jordaan pays for plot clearing work executed on his property at a cost of R1 800.00, which he paid. There is an amount of R6 085.00 which the council is requested to write off.

At this time there was no permanent employee appointed for Plot Clearing Administration, hence the Fire Department utilised an EPWP worker who committed this error.

An EPWP Worker from whom the oversight came from, did not read the DB4 correctly, as a result the worker selected **other** instead of **owner** by so doing the letter was sent to the wrong address.

On 19 June 2017 the Municipal Public Accounts Committee (MPAC) consisting of Cllr S Tebele, K Brice and G Cohen considered the matter. The Director: Protection Services undertook to submit a Standard Operating Procedure regarding plot clearing to the MPAC within 14 days from the date of the meeting. The MPAC recommended that the Fruitless and Wasteful Expenditure to the value of R6 085.00 for plot clearing charges, legal, collection and administration fees in respect of erf 882, Sandbaai, be certified as irrecoverable and written off.

7. Financial Implications

The amount of R6 085.00 to be written off.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that the fruitless and wasteful expenditure in the amount of R6 085.00 for plot clearing charges, legal, collection and administration fees in respect of erf 882, Sandbaai 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 :**E HOONEBERG
B KING
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****14 JULY 2017**

6.5**FRUITLESS AND WASTEFUL EXPENDITURE: WRITING OFF OF DAMAGES AND COST INCURRED THROUGH THE BEHAVIOUR OF A FORMER EMPLOYEE****3/2/3/8****D van Rhodie / H van Tonder (028) 271 8431
19 June 2017****Kleinmond Administration**

1. Executive Summary

The purpose of this report is to provide Council with the relevant information on the damages suffered and costs incurred as a result of the actions or omissions of a former employee of the Overstrand Municipality in order to enable Council to take an informed decision when writing off the damages and cost incurred.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services
Creating and maintenance of a safe and healthy environment

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act 56 of 2003

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

On 30 December 2013 the erstwhile employee, Mr JE Abrahams, was instructed by his supervisor to disengage the shut off valve of the water reticulation at 28 Clarence Drive, Rooiels due to a reported water leakage on the said property. A job card was issued. Mr Abrahams was unable to find the shut off valve and recorded his finding on the job card accordingly. He omitted to contact the owner of the premises or the municipal water meter reading contractor to assist him in tracking the exact position of the valve.

The employer, Overstrand Municipality, instituted a civil claim against Mr Abrahams in the amount of R21 889.93, representing the amount the Municipality lost through crediting the owner's water account due to the said water leakage. The employee was hereafter dismissed in an unrelated disciplinary process and was no more in the employ of the Municipality at date of the institution of the civil claim.

Discussion

Mr Abrahams filed a notice to defend and delivered his plea. There is thus a strong likelihood that this matter may be adjudicated at a subsequent trial hearing in the Magistrate's Court.

The outstanding balance in this matter equates to R21 889.93. Once court appearances commence, the associated legal cost may drastically increase.

In addition to the above, there is a likelihood that the defendant may not be in a position to feed the bill for the damages claimed, together with the resultant legal cost. Given the quantum, the fact that the matter might only be resolved through trial, and the inability of the defendant to pay the damages and cost, it needs to be resolved whether the outstanding damages and cost herein should be written off.

On 19 June 2017 the Municipal Public Accounts Committee (MPAC) consisting of Cllr S Tebele, K Brice and G Cohen considered the matter. The MPAC recommended that the Fruitless and Wasteful Expenditure for damages suffered and costs incurred as a result of the actions or omissions of a former employee be certified as irrecoverable and written off and that a Standard Operating Procedure with regard to work orders be put in place.

7. Financial Implications

Damages to the value of R21 889.93 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 the Fruitless and Wasteful Expenditure to the amount of **R21 889.93**, being fruitless and wasteful expenditure for damages suffered and costs incurred as a result of the actions or omissions of a former employee, 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 :**E HOONEBERG
B KING
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****14 JULY 2017**

6.6**FRUITLESS AND WASTEFUL EXPENDITURE INCURRED DUE TO OVERSIGHT ON PLOT CLEARING PROCESSES IN RESPECT OF ERF NO 227, SANDBAAI****3/2/3/8****N Michaels / H van Tonder
19 June 2017****(028) 313 8054****Corporate Head Office**

1. Executive Summary

The purpose of this report is to request Council to write off the amounts of R1 546.74, which was paid to the Plot Clearing Contractor for clearing erf 227 Sandbaai, as well as the Administration Levy of R1 000.00 which was to be levied to the owner of the erf. The total amount to be written off is **R2 546.74**.

2. Service Delivery and Budget Implementation Plan Reference

Not applicable.

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

The Constitution of the Republic of South Africa, 1996
Fire Brigade Services Act, 99 of 1987
National Veld and Forest Act, 101 of 1998
Section 34(2) of Community Fire Safety Bylaw P.N. 654 of 2007
Local Government: Municipal Finance Management Act, No. 56 of 2003

6. Background/Introduction/Discussion

In terms of section 34(2) of the Standard By-law relating to Community Fire Safety as published per Provincial Notice No. 342/2006 dated 27 October 2006, all plot owners are required to remove any nuisance that may be a safety hazard.

An inspection at this erf was conducted on 20 January 2015, which showed that the property poses a safety hazard to neighbouring properties and the

general surroundings. As the notice to clear the plot was issued to the owner on 21 January 2015, the notice makes provision for owners who want to clear their plots to indicate so before the set deadline, and in this case the deadline was 2 March 2015.

In response to the notice, the owner Mr Bruce Durrbaum, sent an email on 20 February 2015 to Divisional Commander Joe Schoeman stating his concerns about the notice and its requirements since he had just cleared his plot five months before in August 2014.

On 20 February 2016, Mr Joe Schoeman responded to Mr Durrbaum's email, stating that he will investigate the case and revert to him as soon as possible.

Mr Joe Schoeman didn't revert to the owner as indicated, instead the owner received a plot clearing bill of R2 546.74, for the plot being cleared as a result of what was regarded as non-compliance.

Mr Durrbaum refuses to pay this amount and it is understandable. The plot owner has a good argument for not complying with the notice, it is clear that the owner believed that Mr Joe Schoeman will give him direction as to whether to clear the plot again or not, since it didn't make sense to clear the plot just after it had been cleared five months earlier.

One can assume that Mr Durrbaum did not clear his plot because he was waiting for Mr Joe Schoeman's feedback. By Mr Joe Schoeman not reverting to him, he could be under the impression that the plot was in order.

Although the plot was cleared by the contractor on behalf of the Municipality, it is inappropriate and unfair to expect Mr Durrbaum to pay for these costs since the history itself proves that he was willing to clear his own plot had the communication been clear.

The oversight of Mr Joe Schoeman not to revert to Mr Bruce Durrbaum as promised, had unintentionally bore these consequences. It is also to be noted that Mr Joe Schoeman did not intentionally ignore the task expected from him but he was rather busy committed to the Fire Season which struck the Overstrand Area at the time, hence there was a lack of communication from his side.

Considering the fact that Overstrand Area had more fires in the Fire Season of 2014/2015 in comparison to previous years, the oversight of Mr Joe Schoeman was inadvertently as he was committed to the fires given the urgency it required. Inasmuch as Mr Joe Schoeman committed to revert to the client, the circumstances made it inevitably impossible to do so as fire season took precedent over any other commitments at that particular time.

On 19 June 2017 the Municipal Public Accounts Committee (MPAC) consisting of Cllr S Tebele, K Brice and G Cohen considered the matter. The Director: Protection Services undertook to submit a Standard Operating Procedure regarding plot clearing to the MPAC within 14 days from the date of the meeting. The MPAC recommended that the Fruitless and Wasteful Expenditure to the value of **R2 546.74** in relation to the payment of funds to a contractor for plot clearing and the administration fee subsequently being levied on the municipal account of Mr Bruce Durrbaum incorrectly, be certified as irrecoverable and written off.

7. Financial Implications

The amount of R2 546.74 to be written off

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that the Fruitless and Wasteful Expenditure to the amount of **R2 546.74** being fruitless and wasteful expenditure for the plot clearing charges, administration and collection fees on erf 227, Sandbaai 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:

**E HOONEBERG
B KING
C LE ROUX**

TARGET DATE FOR IMPLEMENTATION:

12 JULY 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)