



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

A G E N D A

I-AJENDA

**DATE / DATUM / UMHLA :
VENUE / PLEK / INDAWO :**

**25 NOVEMBER / NOVEMBA 2015
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

20 November 2015

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, 25 NOVEMBER 2015 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, 25 NOVEMBER 2015 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, 25 NOVEMBA 2015 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 Overstrand Municipal **Council** held on **Wednesday, 28 October 2015 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 25 November 2015 had formally sat.

5.1

WRITING OFF OF IRRECOVERABLE DEBT

(ITEM 1, PAGE 1 : FINANCE AND ECONOMIC DEVELOPMENT PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)

RECOMMENDATION TO THE COUNCIL:

that the item **be referred back** for investigation and be resubmitted at the forthcoming Mayoral Committee meeting.

RESPONSIBLE OFFICIAL :

E M HOONEBERG

TARGET DATE FOR IMPLEMENTATION :

30 NOVEMBER 2015

5.2

AMENDMENTS TO GRANT-IN-AID POLICY

**(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)**

RECOMMENDATION TO THE COUNCIL:

that the amendments to the Grant-in-Aid Policy **be approved.**

RESPONSIBLE OFFICIAL :

G SMIT

TARGET DATE FOR IMPLEMENTATION :

25 NOVEMBER 2015

5.3

REVISION: STUDY AID POLICY FOR EMPLOYEES

**(ITEM 2, PAGE 25 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)**

RECOMMENDATION TO THE COUNCIL:

that the reviewed Study Aid Policy for Employees **be approved.**

RESPONSIBLE OFFICIAL :

L BUCCHIANERI

TARGET DATE FOR IMPLEMENTATION :

01 DECEMBER 2015

5.4

REVISION OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF THE OVERSTRAND MUNICIPALITY**(ITEM 2, PAGE 19 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)****RECOMMENDATION TO THE COUNCIL:**

that the revised Administration of Immovable Property Policy **be approved** and be implemented with effect from 1 December 2015.

RESPONSIBLE OFFICIAL :	A KOTZE
TARGET DATE FOR IMPLEMENTATION :	1 DECEMBER 2015
TARGET DATE TO INFORM APPLICANT :	N/A
TARGET DATE TO INFORM OBJECTOR :	N/A

5.5

HERMANUS: RESCISSION OF COUNCIL DECISION AND DEVIATION FROM PARAGRAPHS 7 AND 15.1 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY TO OBTAIN AN IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 4771, VOËLKLIP, HERMANUS

(ITEM 3, PAGE 44 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)

RECOMMENDATION TO THE COUNCIL:

1. that Council's resolution dated 29 April 2015 for the alienation of a portion of Erf 4771, Voëlkliip, Hermanus, ($\pm 205\text{m}^2$ in extent), by means of a competitive process **be rescinded**;
2. that the deviation from paragraphs 7 and 15.1 of the Administration of Immovable Property Policy of 2014 **be approved**;
3. that the direct alienation of a portion of Erf 4771, Voëlkliip, Hermanus, ($\pm 205\text{m}^2$ in extent) to Mr Paul Mark and Mrs Beverley Lewin **be approved in principle**;
4. that the abovementioned approval in principle be subject to a public participation process being followed due to the non-viability of the property and the costs involved in advertising a tender;
5. that the costs pertaining to the transaction, e.g. subdivision, consolidation, rezoning, transfer costs, water- and sewer connections, bulk services contribution, advertisements, etc., excluding the valuation costs, be paid by the purchaser; and
6. that an access servitude be registered over the remainder of Erf 4771, Voëlkliip, Hermanus to provide access to the proposed subdivided erf at the cost of the purchaser;
7. that the subject portion of Erf 4771, Voëlkliip, Hermanus, must be consolidated with the adjoining property of the Applicants, being Erf 4075, Voëlkliip, Hermanus; and
8. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL :	A KOTZE
TARGET DATE FOR IMPLEMENTATION:	2 DECEMBER 2015
TARGET DATE TO INFORM APPLICANT:	2 DECEMBER 2015
TARGET DATE TO INFORM OBJECTOR:	N/A

5.6

ERVEN 3707 AND 3708, MAIN ROAD, KLEINMOND, OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING, CONSOLIDATION, DEPARTURE AND AMENDMENT OF THE SPATIAL DEVELOPMENT FRAMEWORK : MESSRS PLAN ACTIVE ON BEHALF OF MESSRS P MEHNERT & JA VAN DYK

(ITEM 8, PAGE 115 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)

RECOMMENDATION TO THE COUNCIL:

that the item **be referred back** and be resubmitted at the forthcoming Mayoral Committee meeting.

RESPONSIBLE OFFICIAL :	H VAN DER STOEP
TARGET DATE FOR IMPLEMENTATION :	9 DECEMBER 2015
TARGET DATE TO INFORM APPLICANT :	9 DECEMBER 2015
TARGET DATE TO INFORM OBJECTORS :	N/A

5.7

HERMANUS: REQUEST FROM THE HERMANUS BOWLING CLUB TO REMOVE CERTAIN TITLE DEED RESTRICTIONS

(ITEM 13, PAGE 566 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)

RECOMMENDATION TO THE COUNCIL:

that the request for a consent to remove the title deed restrictions contained in Clauses B2, D2 and E2 respectively from Title Deed No. T4588/2008, **not be approved.**

RESPONSIBLE OFFICIAL :**M MÜLLER****TARGET DATE FOR IMPLEMENTATION :****9 DECEMBER 2015****TARGET DATE TO INFORM APPLICANT :****9 DECEMBER 2015****TARGET DATE TO INFORM APPLICANT:****N/A**

5.8

HERMANUS: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF ERF 6214 (A PORTION OF ERF 914), HERMANUS, BY MEANS OF A COMPETITIVE PROCESS

(ITEM 14, PAGE 575 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)

RECOMMENDATION TO THE COUNCIL:

1. that the alienation of Erf 6214 (a portion of Erf 914), Hermanus, (361m² in extent), by means of a competitive process be **approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water-, sewer and electricity connections, , the section 14 advertisement, etc., be paid by the purchaser,
3. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision of basic municipal services in terms of the provisions of paragraphs 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003); and
4. that the Municipal Manager be authorised to sign all documentation related to the alienation of the subject property.

RESPONSIBLE OFFICIAL :

D TALJAARD

TARGET DATE FOR IMPLEMENTATION :

7 DECEMBER 2015

TARGET DATE TO INFORM APPLICANT :

N/A

TARGET DATE TO INFORM OBJECTOR :

N/A

5.9

KLEINMOND HARBOUR DEVELOPMENT PROJECT: CLOSE OUT REPORT

(ITEM 17, PAGE 824 : INFRASTRUCTURE AND PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 NOVEMBER 2015)

RECOMMENDATION TO THE COUNCIL:

1. that the fact that the Kleinmond Harbour Project has now been completed, **be noted**;
2. that the utilisation of the remaining balance of R18 410.87, which will be utilised for the additional work needed at the slipway, **be noted**;
3. that the process that will now be undertaken to complete the subdivision, rezoning and transfer of the portion of land purchased to complete the Luckhoff- and Harbour Roads traffic circle, **be noted**; and
4. that the withholding of the remaining balance of R700 000.00 which is to be paid out to KCIH until such time that they have adhered to requests of proof of expenditure of the R300 000.00 and provided the Municipality with acceptable information on the intended expenditure of the balance within six (6) months, **be noted**.

RESPONSIBLE OFFICIAL :**B LOUW / A CAIRNS****TARGET DATE FOR IMPLEMENTATION :****NOVEMBER 2015**

5.10

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR OCTOBER 2015**

**(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING :
25 NOVEMBER 2015)**

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for October 2015, **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 October 2015, **be noted**.

RESPONSIBLE OFFICIAL :

C LE ROUX

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED

5.11

CONTRACT SC 1657/2015:

**PROPOSED EXTENSION: RENEWAL OF
NOVELL LICENSE FROM AUTHORISED
NOVELL RESELLER****(ITEM 6, PAGE 7 : MAYORAL COMMITTEE MEETING :
25 NOVEMBER 2015)****RECOMMENDATION TO THE COUNCIL:**

1. that **cognisance be taken** of the reasons for the proposed amendment of the contract **SCD2828/2015** for the **RENEWAL OF NOVELL LICENSE FROM AUTHORISED NOVELL RESELLER**, with a contract period ending **30 NOVEMBER 2017**, in terms of the enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003) and the amendment to be consented to; and
2. that **cognisance be taken** that no recommendations or representations were received from the local community by closing date, 18 November 2015.

RESPONSIBLE OFFICIAL :**CRAIG JOHNSON
MORNÉ POTGIETER****TARGET DATE FOR IMPLEMENTATION :****1 DECEMBER 2015**

6. CONSIDERATION OF REPORTS

6.1

DISCIPLINARY HEARING: CLLR L BEYERS CRONJE

3/2/3/1

H van Tonder

(028) 313 8037

Corporate Head Office

12 October 2015

1. Executive Summary

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

2. Service Delivery and Budget Implementation Plan Reference

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (the Systems Act).
- Overstrand Municipality's Standard By-law on Rules of Order for Internal Arrangements

6. Discussion

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

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

- (a) perform the functions of office in good faith, honestly and a transparent manner; and*
- (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.*

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

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

- “9(1)A councillor must, before absenting himself or herself from a meeting, make an application to the Speaker by signing a leave form and delivering the completed leave form to the Municipal Manager at least 72 hours before the meeting.
- (2) *The Municipal Manager must submit the application to the Speaker before the commencement of the meeting.*
 - (3) *Upon receipt of the application referred to in sub rule (1) the Speaker must consider the application, and may, approve or reject the application. The Speaker must notify the councillor of his or her decision at least 24 hours before the meeting.*
 - (4) *The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub rule (1).*
 - (5) *The special circumstances referred to in sub rule (4) may include –*
 - (a) *Illness of the councillor; or*

- (b) Illness or death in the family of the councillor.*
- (6) The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted must be entered into the minutes.*
- (7) If the Speaker rejects the application referred to in sub rule (1) he or she must provide a reason there for.*
- (8) Sub rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application a reference in those sub rules to the Speaker is regarded to be a reference to the Mayor.*
- 10(1) Except for the instances contemplated in rule 9(4) and (5), a councillor is in breach of the rules if he or she without leave –*
- (a) absents himself or herself from a meeting;*
- (b) fails to be in attendance at the commencement of a meeting; or*
- (c) fails to remain in attendance until the end of a meeting.*
- (2) ...*
- (3) ...*
- (4) When the Speaker becomes aware of an alleged contravention of the code he or she must commence with a preliminary investigation. The Speaker must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach. If the Speaker is not satisfied that the reasons provided is compelling enough, then the Speaker must refer the matter to a Disciplinary Committee to investigate the allegations, and to report the outcome of the investigation to the Council. In the event that the accused member is a ward committee member, the Speaker may in his or her sole discretion decide, after conclusion of the preliminary investigation, whether the member should be removed or not.*
- (5) The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the Disciplinary committee.*
- (6) If Council finds that a councillor has breached the rules as contemplated in sub rule (1), the Council must fine the councillor in an amount equal to 10% of his or her monthly salary.*

(7) ...

(8) ...”

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

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

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

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

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

(4) ... “

In executing the aforementioned duty, the Speaker charged Cllr L Beyers Cronje for being absent without leave from the 22 September 2015 Joint Portfolio Committee meeting.

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

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

- (a) investigate and make a finding on any alleged breach of a provision of this Code; or*
- (b) establish a special committee –*
 - (i) to investigate and make a finding on any alleged breach of this Code; and*
 - (ii) to make appropriate recommendations to the Council.*

- (2) *If the council or a special committee finds that a councillor has breached a provision of this Code, the council may –*
- (a) ...
 - (b) ...
 - (c) *fine the councillor; and*
 - (d) ...
 - (e) ...”

The Rules Committee of Council consisting of Cllr R Smith (Chairperson), Cllrs P Appelgrein and M Andrews, with Ald Coetsee (Speaker) as initiator, considered the aforementioned charge on 12 October 2015.

The committee resolved as follows:

1. *THAT Cllr L Beyers Cronje be found guilty of a violation of Item 3 of Schedule 1 of the Code of Conduct for Councillors in that she has been absent without leave from the 22 September 2015 Portfolio Committee meeting; and*
2. *THAT Cllr L Beyers Cronje be fined 1% of her monthly salary.*

7. Financial Implications

1% of monthly salary

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexure

None

RECOMMENDATION TO THE COUNCIL:

1. that the outcome of the Disciplinary Hearing of Cllr L Beyers Cronje which was held on 12 October 2015 **be noted**;

2. that Cllr L Beyers Cronje be fined 1% of her monthly salary; and
3. that, in terms of Item 13(3) of the Code of Conduct for Councillors, a copy of Council's decision be forwarded to the Minister of Local Government, Environmental Affairs and Development Planning.

RESPONSIBLE OFFICIAL :

H VAN TONDER / R RUST

TARGET DATE FOR IMPLEMENTATION :

9 DECEMBER 2015

6.2

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : FARM 470 HONINGKLIP, A DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : RH MIDDELMANN

3/2/3/6**S Swart****(028) 313 8006****Corporate Head Office****3 November 2015**

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 29 April 2015 that the application for a consent use on Farm 470 Honingklip, be approved.

The Appeal Committee resolved as indicated in the recommendation hereunder.

7. Financial Implications

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 20 October 2015

RECOMMENDATION TO THE COUNCIL:

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

1. that the appeal **be dismissed**; subject to the recommendation being amended as follows:

“1. that, in terms of Section 2.2 of the Section 9 Zoning Scheme Regulations Agricultural Zone I of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a consent use on Farm 470, Honingklip in order to lease buildings for agricultural activities on the property concerned, **be approved**, subject to the following conditions:

- (a) that the storage and processing of agriculture related products be allowed for a period of five (5) years only;
- (b) remains unchanged;
- (c) remains unchanged;
- (d) remains unchanged;
- (e) remains unchanged;
- (f) remains unchanged;
- (g) remains unchanged; and
- (h) that the condition suggested by the Western Cape Government: Department of Agriculture in their letter dated 24 November 2014, pertaining to listed activities, be complied with.

2. remains unchanged.”

2. that the full deposit **be refunded** to the appellant.

RESPONSIBLE OFFICIAL :

H OLIVIER/S SWART

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED



RECORD OF DECISION
20 OCTOBER 2015

RE:

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : FARM 470 HONINGKLIP, A DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : RH MIDDELMANN

PRESENT :

COUNCILLORS

Ald A Coetsee
Cllr D Coetsee
Cllr M Dyani
Cllr V Macotha
Cllr L Krige

CAPACITY

Chairperson: Appeal Committee
Member : Appeal Committee
Member : Appeal Committee
Member : Appeal Committee
Member : Appeal Committee

OFFICIALS

Mr R Kuchar
Mr L Wallace
Ms S Swart

Senior Manager : Town Planning
Legal Advisor
Administrative Officer, Secretariat

APPELLANT

Mr J Punt

APPLICANT

Mr N Middelman
Mr R Middelman

APOLOGIES

None

ABSENT

None

APPELLANT:

Mr J Punt

RESPONDENT:

Overstrand Municipality herein represented by Mr R Kuchar, Senior Manager : Town Planning.

NOTICE OF APPEAL HEARING:

Notices were sent to all parties concerned.

NATURE OF APPEAL:

The appellant appeals against the Executive Mayor's decision dated 29 April 2015 that the application for a consent use on Farm 470 Honingklip be approved.

CONSTITUTION:

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

The Chairperson, Ald Coetsee, declared that no members of the Appeal Committee have a conflict of interest in the application barring their presence to this 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:

It seemed from the documents that the decision by the Executive Mayor and the letter of the Department of Agriculture were contradictive. It was explained by Mr Kuchar that the Department of Agriculture considered the application against the wrong Scheme Regulations. Although the situation was explained on page 3 of the bundle, it was not apparent from the letter of the Department of Agriculture which Scheme Regulations were considered. Currently animal feed is received on the premises and packed and redistributed. This is regarded as a "service trade" which can be allowed in terms of the Section 9 Zoning Scheme Regulations as a consent use.

After due consideration of the documents and after hearing arguments by both parties, the Panel found that it is reasonable for the appeal to be dismissed and for the decision of the Executive Mayor to stand. The panel furthermore found that the appeal was not frivolous and that the Appellant should not be penalised for lodging the appeal. It was therefore decided that the deposit should be refunded.

THE MEETING STOOD DOWN AT 16:00 FOR DELIBERATION BY THE PANEL

THE MEETING RESUMED AT 16:30

The Committee then –

RESOLVED (UNANIMOUSLY):

1. that the appeal **be dismissed**, subject to the recommendation being amended as follows:

“1. that, in terms of Section 2.2 of the Section 9 Zoning Scheme Regulations Agricultural Zone I of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a consent use on Farm 470, Honingklip in order to lease buildings for agricultural activities on the property concerned, **be approved**, subject to the following conditions:

- (a) that the storage and processing of agriculture related products be allowed for a period of five (5) years only;
- (b) remains unchanged;
- (c) remains unchanged;
- (d) remains unchanged;
- (e) remains unchanged;
- (f) remains unchanged;
- (g) remains unchanged; and
- (h) that the condition suggested by the Western Cape Government: Department of Agriculture in their letter dated 24 November 2014, pertaining to listed activities, be complied with.

2. remains unchanged.”

2. that the full deposit **be refunded** to the appellant.

The session of the Appeal Committee closed at 16:40

SESSION OF APPEAL COMMITTEE

20 OCTOBER 2015

SIGNED ON THIS 28th DAY OF OCTOBER 2015 AT HERMANUS BY THE APPEAL COMMITTEE:

Cllr A Coetsee **Chairman:** Appeal Committee

Cllr D Coetsee **Member:** Appeal Committee

Cllr V Macotha **Member:** Appeal Committee

Cllr M Dyani **Member:** Appeal Committee

Cllr L Krige **Member:** Appeal Committee

[Handwritten signatures of the Appeal Committee members]

6.3

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 2802, 7 DUINEGANS STREET, GANSBAAI (PERLEMOENBAAI) : PROPOSED DEPARTURE : PLANACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF JJ SMITH

3/2/3/6**S Swart****12 November 2015****(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 30 April 2014 that the application for a departure not be approved and that the application for a removal of a restrictive title deed condition, not be supported.

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 10 November 2015

RECOMMENDATION TO THE COUNCIL:

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

1. that the appeal **be dismissed**; and
2. that the appellant forfeits the deposit paid.

RESPONSIBLE OFFICIAL :

S VAN DER MERWE/S SWART

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED



RECORD OF DECISION
10 NOVEMBER 2015

RE:

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 2802, 7 DUINEGANS STREET, GANSBAAI (PERLEMOENBAAI) : PROPOSED DEPARTURE : PLANACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF J J SMITH

PRESENT :

COUNCILLORS

Ald A Coetsee
Cllr D Coetsee
Cllr V Macotha
Cllr L Krige

CAPACITY

Chairperson: Appeal Committee
Member : Appeal Committee
Member : Appeal Committee
Member : Appeal Committee

OFFICIALS

Mr R Kuchar
Mr S van der Merwe
Ms S Swart

Senior Manager : Town Planning
Senior Town Planner
Administrative Officer, Secretariat

APPELLANT

Mr JJ Smith

Represented by Mr J McLachlan from Planactive

OBSERVERS

Mr J Gericke
Mr J Botes

APOLOGIES

None

ABSENT

Cllr M Dyani

Member : Appeal Committee

APPELLANT:

Mr J J Smith

RESPONDENT:

Overstrand Municipality herein represented by Mr R Kuchar, Senior Manager : Town Planning and Mr S van der Merwe, 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 30 April 2014 that the application for a departure not be approved and that the application for a removal of a restrictive title deed condition, not be supported.

CONSTITUTION:

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

The Chairperson, Ald Coetsee, declared that no members of the Appeal Committee have a conflict of interest in the application barring their presence to this 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 owner of Erf 2802, Gansbaai (Perlemoenbaai) applied for a departure in order to legalise an existing carport. The carport exceeds the prescribed maximum width of 6 m applicable to carports and encroaches on the street building lines. Furthermore the size of the carport causes the 50% bulk coverage requirement applicable to the property to be exceeded by approximately 7,6%. It is not in dispute that the existing carports were illegally constructed on the property.

SESSION OF APPEAL COMMITTEE**10 NOVEMBER 2015**

After due consideration of the documents and after hearing arguments by both parties, the Panel found no fault with the decision taken by die Executive Mayor and resolved unanimously that the decision of the Executive Mayor must stand, that the appeal must be dismissed and that the Appellant must forfeit the deposit paid. The Panel was also of the opinion that a clear message should be sent out to transgressors to obtain the necessary approval prior to the construction of any permanent structures.

THE MEETING STOOD DOWN AT 12:50 FOR DELIBERATION BY THE PANEL

THE MEETING RESUMED AT 13:12

The Committee then –

RESOLVED (UNANIMOUSLY):

1. that the appeal **be dismissed**; and
2. that the appellant forfeits the deposit paid.

The session of the Appeal Committee closed at 13:20

SIGNED ON THIS 12TH DAY OF NOVEMBER 2015 AT HERMANUS BY THE APPEAL COMMITTEE:

Cllr A Coetsee **Chairman:** Appeal Committee

Cllr D Coetsee **Member:** Appeal Committee

Cllr V Macotha **Member:** Appeal Committee

Cllr M Dyani **Member:** Appeal Committee

Cllr L Krige **Member:** Appeal Committee

6.4

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 2817, 12 DUINEGANS STREET, GANSBAAI (PERLEMOENBAAI) : PROPOSED DEPARTURE : PLANACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF MS MMC SMITH

3/2/3/6

S Swart

12 November 2015

(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 28 May 2014 that the application for departures not 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 10 November 2015

RECOMMENDATION TO THE COUNCIL:

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

1. that the appeal **be dismissed**; and
2. that the appellant forfeits the deposit paid.

RESPONSIBLE OFFICIAL :

S VAN DER MERWE/S SWART

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED



RECORD OF DECISION
10 NOVEMBER 2015

RE:

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 2817, 12 DUINEGANS STREET, GANSBAAI (PERLEMOENBAAI) : PROPOSED DEPARTURE : PLANACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF MS MMC SMITH

PRESENT :

COUNCILLORS

Ald A Coetsee
Cllr D Coetzee
Cllr V Macotha

CAPACITY

Chairperson: Appeal Committee
Member : Appeal Committee
Member : Appeal Committee

OFFICIALS

Mr R Kuchar
Mr S van der Merwe
Ms S Swart

Senior Manager : Town Planning
Senior Town Planner
Administrative Officer, Secretariat

APPELLANT

Ms MMC Smith

Represented by Mr J McLachlan from Planactive

APOLOGIES

Cllr L Krige

Member : Appeal Committee

ABSENT

Cllr M Dyani

Member : Appeal Committee

APPELLANT:

Ms MMC Smith

RESPONDENT:

Overstrand Municipality herein represented by Mr R Kuchar, Senior Manager : Town Planning and Mr S van der Merwe, 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 28 May 2014 that the application for departures not be approved.

CONSTITUTION:

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

The Chairperson, Ald Coetsee, declared that no members of the Appeal Committee have a conflict of interest in the application barring their presence to this 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 owner of Erf 2817, Gansbaai (Perlemoenbaai) applied for the removal of a title deed condition as well as a departure in order to legalise an existing carport and enclosed walkway, an enclosed aluminium and glass roof-light walkway, a lean-to over the braai area and the encroachment of the 50% permissible coverage applicable to the property.

The Appellant states that the carport does not conform to the definition of a carport and that the width thereof does not exceed a width of 6.5 m. It was said that, with minor alterations, it could conform to the definition of a carport. The Appellant further states

SESSION OF APPEAL COMMITTEE**10 NOVEMBER 2015**

that, by making the portico smaller, it will conform to the maximum permissible size and the door will also not open into the actual road reserve. The Appellant also argues that the braai area does not constitute a braai room as the three (3) walls were not purposely built to enclose the braai area but consists of two (2) boundary walls and the outside wall of the existing dwelling. Furthermore, the roof is not a permanently enclosed roof as it can open with a louvre system.

After due consideration of the documents and after hearing arguments by both parties on the merits of the appeal, as well as mitigating measures, the Panel found no fault with the decision taken by die Executive Mayor and resolved unanimously that the decision of the Executive Mayor must stand, that the appeal must be dismissed and that the Appellant must forfeit the deposit paid.

THE MEETING STOOD DOWN AT 15:50 FOR DELIBERATION BY THE PANEL**THE MEETING RESUMED AT 16:06**

The Committee then –

RESOLVED (UNANIMOUSLY):

1. that the appeal **be dismissed**; and
2. that the appellant forfeits the deposit paid.

The session of the Appeal Committee closed at 16:20

SIGNED ON THIS 12TH DAY OF November 2015 AT HERMANUS BY THE APPEAL COMMITTEE:

Cllr A Coetsee **Chairman:** Appeal Committee

Cllr D Coetsee **Member:** Appeal Committee

Cllr V Macotha **Member:** Appeal Committee

Cllr M Dyani **Member:** Appeal Committee

Cllr L Krige **Member:** Appeal Committee

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).