



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

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA : 30 NOVEMBER / NOVEMBA 2022
VENUE / PLEK / INDAWO : BANQUETING HALL /
BANKETSAAL
CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU
HERMANUS
TIME / TYD / IXESHA : 10:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

22 November / Novemba 2022

NOTICE TO ALL ALDERMEN & COUNCILLORS

ORDINARY MEETING OF THE OVERSTRAND MUNICIPAL COUNCIL

NOTICE IS HEREBY GIVEN that an **ORDINARY MEETING** of the **OVERSTRAND MUNICIPAL COUNCIL** will be held in the **Banqueting Hall, Civic Centre, Hermanus**, on **WEDNESDAY, 30 NOVEMBER 2022 at 10:00** to consider the business set forth in the subjoined agenda.

The attention of Councillors is directed to the Code of Conduct for Councillors, Schedule 7 of the Local Government : Municipal Structures Act, 1998 (Act 117 of 1998).

D O'NEILL
MUNICIPAL MANAGER

KENNISGEWING AAN ALLE RAADSHERE & RAADSLEDE

GEWONE VERGADERING VAN DIE OVERSTRAND MUNISIPALE RAAD

KENNIS WORD HIERMEE GEGEE dat 'n **GEWONE VERGADERING** van die **OVERSTRAND MUNISIPALE RAAD** gehou sal word in die **Banketsaal, Burgersentrum, Hermanus**, op **WOENSDAG, 30 NOVEMBER 2022 om 10:00** om die sake op meegaande sakelys te bespreek.

Raadslede se aandag word gevestig op die Gedragskode vir Raadslede, Skedule 7 van die Wet op Plaaslike Regering : Munisipale Strukture, 1998 (Wet 117 van 1998).

D O'NEILL
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 **I-Banqueting Hall, kwiZiko LoLUNTU, eHermanus, uLWESITHATHU, Umhla we 30 NOVEMBA 2022, ngeye-10:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

OCeba bayacelwa ukuba baqwalasele isikhokelo sokuziphatha sooCeba, iShedyuli 7 kaRhulumente wooMasipala: uMthetho weeNkqubo zikaMasipala, uMthetho -1998 (uMthetho we-117 ka-1998).

D O'NEILL
UMPHATHI KAMASIPALA

AGENDA/...

COUNCIL

30 November 2022

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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 September 2022** at **10:00**

3.2 Minutes of a **Special Meeting** of the **Overstrand Municipal Council** held on **Wednesday, 26 October 2022** at **10:00**

3.3 Minutes of a **Special Meeting (In Committee)** of the **Overstrand Municipal Council** held on **Wednesday, 9 November 2022** at **12:00**

(To be distributed at the meeting.)

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

4.1 Schulphoek Housing Project

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)

5.1

OVERSTRAND MUNICIPALITY DISASTER MANAGEMENT ANNUAL REPORT

(ITEM 2 PAGE 12 : PROTECTION SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

that the Overstrand Disaster Management Annual Report **be noted**.

RESPONSIBLE OFFICIAL :

**NJ MICHAELS
L SMITH**

TARGET DATE FOR IMPLEMENTATION :

30 NOVEMBER 2022

5.2

REVIEW OF THE OVERSTRAND MUNICIPALITY DISASTER MANAGEMENT POLICY

(ITEM 6 PAGE 250 : PROTECTION SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

that the Overstrand Municipality Disaster Management Policy, **be adopted.**

RESPONSIBLE OFFICIAL :

**NJ MICHAELS
L SMITH**

TARGET DATE FOR IMPLEMENTATION :

30 NOVEMBER 2022

5.3

ERF 9515 ZWELIHLE KNOWN AS “THE ZWELIHLE MALL”: DEVIATION FROM PARAGRAPH 18 AND 20.1(B) OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO TEMPORARY RENEW THE LEASE OF MUNICIPAL PROPERTY TO PEMZO CONSTRUCTION CC FOR A SHORT-TERM PERIOD - FINALISATION OF THE TENDER PROCESS

(ITEM 5 PAGE 148 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew for a short-term period the current lease agreement with Pemzo Construction CC for a period of 8 (EIGHT) months or 1 (ONE) month after the award of the tender, whichever one comes first, without following a competitive process, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew for a short-term period the current lease agreement with Pemzo Construction CC for a period of 8 (EIGHT) months or 1 (ONE) month after the award of the tender, whichever one comes first, without following a public participation process, **be approved**.

RESPONSIBLE OFFICIAL :**R MARINUS****TARGET DATE FOR IMPLEMENTATION :****15 DECEMBER 2022****TARGET DATE TO INFORM APPLICANT :****15 DECEMBER 2022****TARGET DATE TO INFORM OBJECTOR :****N/A**

5.4

TRANSFER OF UNREGISTERED ERF 6291 (A PORTION OF ERF 2467) GANSBAAI, ADJACENT TO ERF 2474 GANSBAAI, SITUATED BETWEEN 25 AND 27 BERGGANS STREET, GANSBAAI, TO EL ALDRICH

(ITEM 6 PAGE 158 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Unregistered Erf 6291 (a portion of Erf 2467) Gansbaai (adjacent to Erf 2474 Gansbaai) situated in Berggans Street, Gansbaai, 135m² in extent, to the owner of the adjoining Erf 2474 Gansbaai, EL Aldrich, at an amount of R23,328.00 (TWENTY-THREE THOUSAND THREE HUNDRED AND TWENTY-EIGHT RAND) (VAT excluded) for the purpose of gardening and retention of a boundary fence or wall **be approved**;
2. that Council take cognisance of the fact that the direct alienation and subsequent transfer is only approved as the subject Erf 6291 (a portion of Erf 2467) Gansbaai is classified as a non-viable property;
3. that it be noted that a condition for the transfer is that the said Erf 6291 (a portion of Erf 2467) Gansbaai must be consolidated with the adjoining property of EL Aldrich, being Erf 2474 Gansbaai;
4. that a condition be registered against the title deed of the to be consolidated property that the portion of property envisaged to be transferred may only be used for gardening and no structures, excluding a boundary fence or wall, may be erected thereon;
5. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, closure of public place, subdivision, rezoning, consolidation, transfer and related costs, advertisements, etc. be paid by the applicant/purchaser; and
6. that it be noted that the municipal property envisaged to be transferred 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:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

15 DECEMBER 2022

TARGET DATE TO INFORM APPLICANT:

19 DECEMBER 2022

TARGET DATE TO INFORM OBJECTOR:

N/A

5.5

ZWELIHLE: RECISSION OF COUNCIL RESOLUTION DATED 28 SEPTEMBER 2010 FOR THE ALIENATION OF ERF 88 ZWELIHLE AND ERF 40 ZWELIHLE – ZWELIHLE COMMUNITY DEVELOPMENT TRUST

(ITEM 7 PAGE 169 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

that the whole of Council's resolution dated 29 Septemer 2010 for the alienation of Erf 88 Zwelihle and Erf 40 Zwelihle to the Zwelihle Community Development Trust, **be rescinded.**

RESPONSIBLE OFFICIAL:**A LE ROUX****TARGET DATE FOR IMPLEMENTATION:****12 DECEMBER 2022**

5.6

IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF REMAINDER ERF 5504 KLEINMOND, ADJACENT TO ERF 4711 KLEINMOND, SITUATED IN LOWER BEACH ROAD (PORTION OF PUBLIC OPEN SPACE), KLEINMOND, TO EILEEN THORN FAMILY TRUST

(ITEM 8 PAGE 174 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

1. that the direct alienation of a portion of Remainder Erf 5504 Kleinmond (adjacent to Erf 4711 Kleinmond) situated at 30 Lower Beach Road, Kleinmond ($\pm 65\text{m}^2$ in extent), to the owner of the adjoining Erf 4711 Kleinmond, Eileen Thorn Family Trust, at an amount of R2,000.00/m² (TWO THOUSAND RAND) (PER SQUARE METRE) (VAT excluded) be **approved in principle**;
2. that it be noted that the direct alienation is possible as the said portion of Remainder Erf 554 Kleinmond can be classified as a non-viable property;
3. that, subject to the approval in 1 above, a public participation process be followed at the cost of the applicant/purchaser;
4. that it be noted that a condition for the alienation will be that the said portion of Remainder Erf 5504 Kleinmond must be consolidated with the adjoining property of Eileen Thorn Family Trust, being Erf 4711 Kleinmond;
5. that no structures of any kind (excluding a boundary wall or fence) may be erected on the said portion of Remainder Erf 5504 Kleinmond, which condition must be registered against the title deed of the consolidated property;
6. that the alienation of said portion of Remainder Erf 5504 Kleinmond be subject to a suspensive condition that the applicant/purchaser obtains approval for all the required land use rights, which may include, the closure of public open space, rezoning, subdivision and consolidation;
7. that all the costs pertaining to the transaction, e.g. application costs, valuation costs, closure of public open space, rezoning, subdivision and consolidation, advertisement and the related costs, etc. be paid by the Applicant/purchaser, Eileen Thorn Family Trust; and

8. that it be noted that the municipal property herewith envisaged to be 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:

W MURTZ

TARGET DATE FOR IMPLEMENTATION:

15 DECEMBER 2022

TARGET DATE TO INFORM APPLICANT:

30 DECEMBER 2022

TARGET DATE TO INFORM OBJECTOR:

N/A

5.7

A PORTION OF REMAINDER ERF 4771 HERMANUS KNOWN AS “THE NAUTILLUS PROPERTY”: DEVIATION FROM PARAGRAPH 18 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO A TEMPORARY LEASE AGREEMENT WITH JACKALSVLEI (PTY) LTD FOR A SHORT-TERM PERIOD PENDING THE FINALISATION OF THE TENDER PROCESS

(ITEM 10 PAGE 281 : INVESTMENT & INFRASTRUCTURE PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy (2015) in order to enter into a lease agreement with Jackalsvlei (Pty) Ltd for a short-term period of 3 (THREE) months to lease a portion of Remainder Erf 4771 Hermanus, ±500m² in extent, for the purpose of operating a summer lounge at a total rental amount of R43,502.46 (FOURTY THREE THOUSAND FIVE HUNDRED AND TWO RAND AND FORTY-SIX CENTS) (VAT included) for the period, without following a competitive process, **be approved**; and
2. that a condition be included in the lease agreement that the lessee must make use of local labour (as waiters/waitresses/cleaners/etc.) during the period of the lease.

RESPONSIBLE OFFICIAL :**M ERASMUS****TARGET DATE FOR IMPLEMENTATION :****15 DECEMBER 2022****TARGET DATE TO INFORM APPLICANT :****15 DECEMBER 2022****TARGET DATE TO INFORM OBJECTOR :****N/A**

5.8

OVERSTRAND MUNICIPALITY: PUBLIC PLACE TRADING POLICY**(ITEM 11 PAGE 288 : INVESTMENT & INFRASTRUCTURE
PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER
2022)****RECOMMENDATION TO THE COUNCIL:**

that the Overstrand Municipality: Public Place Trading Policy **be accepted** and that it be advertised for public comments before resubmitted to Council for adoption.

RESPONSIBLE OFFICIAL :**R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****1 DECEMBER 2022**

5.9**AMENDMENTS AND ADDITIONS TO THE DELEGATION OF POWERS AND DUTIES: MUNICIPAL MANAGER: HUMAN RESOURCES****(ITEM 1 PAGE 1 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)****RECOMMENDATION TO THE COUNCIL:**

that the amendments and additions to the Municipal Manager's delegations of powers and duties conferred on him, **be approved**.

RESPONSIBLE OFFICIAL :**L BUCCHIANERI****TARGET DATE FOR IMPLEMENTATION :****15 DECEMBER 2022**

5.10**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR OCTOBER 2022****(ITEM 2 PAGE 12 : FINANCE & TOURISM PORTFOLIO - MAYORAL
COMMITTEE MEETING : 16 NOVEMBER 2022)****RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for October 2022, **be noted**;
2. that the awards made in terms of Paragraph 16(1)(b) and 17(1)(c), approved in terms of the delegated authority for October 2022, **be noted**; and
3. that the awards made through the Bid Committee system, and formal written price quotations in excess of R30 000 and all price quotations below R30 000 for October 2022, **be noted**.

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

**5.11
ANNUAL REVIEW OF CONSUMER DEPOSITS**

**(ITEM 3 PAGE 26 : FINANCE & TOURISM PORTFOLIO - MAYORAL
COMMITTEE MEETING : 16 NOVEMBER 2022)**

RECOMMENDATION TO THE COUNCIL:

that the report be noted and **referred back** in order to resubmit the report to council in 2023, to assess the proposed revision of consumer deposits on consumers.

RESPONSIBLE OFFICIAL :

EM HOONEBERG

TARGET DATE FOR IMPLEMENTATION :

31 DECEMBER 2022

5.12**TRIBUNAL: PROPOSAL TO CALL FOR NOMINATIONS FOR EXTERNAL MEMBERS FOR PLANNING TRIBUNAL****(ITEM 5 PAGE 1 : MAYORAL COMMITTEE MEETING : 16 NOVEMBER 2022)****RECOMMENDATION TO COUNCIL:**

that Council Resolution taken on 29 August 2022 be amended by amending resolution 8(c) and adding 8(d) to read as follows:

- 8(c) travel allowance for people who reside and have a property in the Overstrand Municipal area be determined from that property to the place of sitting.
- 8(d) people who reside outside of the Overstrand Municipal area will be able to claim a maximum travel allowance for 150km each way.

RESPONSIBLE OFFICIAL:**R KUCHAR****TARGET DATE FOR IMPLEMENTATION:****1 DECEMBER 2022**

6. CONSIDERATION OF REPORTS**6.1****NON-COMPLIANCE WITH PARAGRAPH 36(1)(a)(i)(c) OF THE OVERSTRAND MUNICIPALITY SCM POLICY: TOWING SERVICES****3/2/3/8****N Michaels****Director : Protection Services****06 October 2022****(028) 313 8054**

1. Executive Summary

The purpose of this report is to report the expenditure incurred in contravention of paragraph 36(1)(a)(i)(c) of Council's Supply Chain Management (SCM) Policy, in terms of Section 3(1)(b) of the Local Government: Municipal Finance Management Act (56/2003); Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings and/or Section 32 of the Local Government: Municipal Finance Management Act (56/2003).

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Protection Services
Traffic, Law Enforcement & Task Team

3. Compliance with Strategic Priorities

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

4. Delegated Authority

Not applicable

5. Legal Requirements

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

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

On 18 July 2022 at around 16:00 members of the Rapid Response Unit were conducting random stop/searches. They pulled a White Volkswagen Polo vehicle over with registration CEM 9021 on the R43, Hermanus. A routine inspection was done and found that one suspect had drugs on him and the

driver to whom the vehicle belongs, had possible stolen items with him. Both suspects were arrested.

The vehicle had to be impounded due to unroadworthiness (no valid license disc, faulty engine, loose battery, etc.). The driver also did not have his driver's license with him. The owner of the vehicle left the vehicle parked on a red line in the street causing obstruction opposite Hermanus SAPS. He refused to hand over the key to the officers and hid it and also refused to inform them where he hid the key.

It was impossible to obtain a quotation and follow the supply chain process to obtain an order. Tacit approval was obtained, and the vehicle was towed away by Overberg Towing & Recovery. An invoice was issued for the amount of R500-00.

SAPS information as follow:

HERMANUS CAS 287/07/2022;

SAP 14A – S1908470;

SAP 14 – 167/07/2022 &

SAP 13 – 1210/2022

The user department waited upon important information from Hermanus SAPS in order to complete the deviation, resulting in an oversight to report in writing to the Accounting Officer or delegated SCM official within 3 business days.

Corrective Steps / Conclusion

Request 126576 was captured as a bulk order for the interim period until the Tender for Towing Services is finalised and awarded. The department committed to following the correct process in the instance where an action needs to be considered to avoid an incident in leaving the vehicle (in this instance) on a dangerous spot, to ensure that the tacit approval is immediately reported in writing to the Supply Chain Management Department.

On 24 October 2022, the Municipal Public Accounts Committee (MPAC), consisting of Cllrs C Tafu-Nwonkwo, S Williams, K Ngqandana and Ald R de Coning, considered a detailed report on the matter and came to the conclusion that the Municipality did not suffer any financial loss and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R500,00 (Incl. VAT), be certified as irrecoverable and be written off.

7. Financial Implications

Irregular expenditure: R500.00 (Incl VAT)

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that, since the municipality received value for money, the irregular expenditure in the amount of R500-00 (incl. VAT) for towing services be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

RESPONSIBLE OFFICIAL :**C LE ROUX
B KING**

6.2**SCIE 2021.22.18 NON-COMPLIANCE WITH PARAGRAPH 44 OF THE SCM POLICY**

3/2/3/8

S Reyneke-Naude**Director: Finance****11 October 2022****(028) 313 8040**

1. Executive Summary

The purpose of this report is to provide the necessary information and to request Council to write off the irregular expenditure in terms of the the following incurrence of the irregular expenditure:

The expenditure was incurred in contravention of Clause 44 of Council's Supply Chain Management (SCM) Policy, and was reported to the Accounting Officer, in terms of Section 3(1)(b) of the Local Government: Municipal Finance Management Act (56/2003): Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings and/or Section 32 of the Local Government: Municipal Finance Management Act (56/2003).

2. Service Delivery and Budget Implementation Plan - IGNITE

Finance Directorate
Supply Chain Management Department

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Not applicable

5. Legal Requirements

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

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

6. Background/Discussion/Evaluation/Conclusion

Background

The expenditure in contravention of Clause 44 of Council's Supply Chain Management (SCM) Policy was brought to the attention of the Accounting Officer, who also referred this to the Speaker of Council for investigation, based on the e-mail correspondence confirming the details and status (paid / unpaid orders issued) of transactions. The consideration in this instance was transactions in contravention of Clause 44 of Council's (SCM) Policy.

On 14 April 2022, the contravention of Clause 44 of Council's SCM Policy and the reporting of irregular expenditure was officially submitted in the prescribed format (template) to the Director: Finance, with the particulars reported as follows.

"On 06 April 2022 it was brought to the attention of the Supply Chain Management Unit that awards were made to a person that is in the service of the state (Overstrand Municipality). The amount equates to R87 456.60 (Incl. Vat)."

The report also confirmed the specific instance in elaborating as follows:

"Upon review of the situation the following aspects of non-compliance to the SCM Policy were identified:

Awards were made to a person that is in the service of the state (Overstrand Municipality).

EFFECT

The municipality now finds itself in contravention of its own SCM policy without any other recourse but to declare this expenditure incurred as non-compliance or irregular expenditure, as defined in the MFMA (act 56 of 2003)."

Discussion

On receipt of the mentioned formal reporting, the CFO referred the matter to the Accounting Officer for his consideration. The Finance Directorate proceeded in providing the Accounting Officer with the departmental report submitted by the Deputy Director Finance and SCM, Mr C Le Roux, containing the following detailed background and sequence of events leading to the reporting of the matter:

"On 26 January 2022 I received an email from the CFO enquiring whether I have received the declarations of interests for the councillors and identified the businesses that should be flagged accordingly citing Omega Steelworks

as an example. I replied that I have not received the declarations and request my colleagues to confirm same which they duly did.

On 27 January 2022 the CFO sent me an email with the declarations and requested me to remind the colleagues of the confidential nature of the documentation. Up until this point, the relevant colleagues were included in all communication and I cannot find an email where I directed the information to them. I can only conclude that I was mistakenly under the impression that they were included in the email.

On 24 March the CFO enquired regarding transactions involving Omega Ondernemings. The queries were answered, and the supplier was closed on the system.

As at 24 March the following transactions were concluded with Omega Ondernemings and deemed to be irregular expenditure:

<u>Order No.</u>	<u>Order Date</u>	<u>Amount</u>	<u>Status</u>
254082	2021/11/09	4 000,00	Paid
254198	2021/11/15	440,00	Paid
254208	2021/11/15	1 846,00	Paid
254283	2021/11/17	29 496,00	Paid
254290	2021/11/17	462,50	Paid
254388	2021/11/24	9 400,00	Paid
254530	2021/11/30	1 572,00	Paid
254625	2021/12/08	899,60	Paid
<u>Subtotal</u>		48 116.10	<u>Paid</u>
255520	2022/02/11	1 899,00	Paid
255771	2022/02/24	412,00	Paid
<u>Subtotal</u>		2 311.00	<u>Paid</u>
255757	2022/02/23	3 514,50	Open
255995	2022/03/09	29 640,00	Open
256008	2022/03/09	1 975,00	Open
256261	2022/03/18	1 900,00	Open
<u>Subtotal</u>		37 029.50	<u>Open</u>
<u>Total</u>		87 456.60	

The following creditors are captured on the financial system:

Supplier 1: SMARAG HANDEL

Trade Name: OMEGA ONDERNEMINGS

Creditor No.: H90618

Last payment date: 21/02/2013

Supplier 2: SMARAG HANDEL

Trade Name: OMEGA ONDERNEMINGS

Creditor No.: G004019

Last payment date: 15/11/2018

Supplier 3: VAN STADEN JA

Trade Name: OMEGA ONDERNEMINGS

Creditor No.: G96397

Last payment date: 08/06/2022

It is important to note that the councillor declared his interest in Smarag Handel Pty (Ltd) t/a Omega Ondernemings which represents suppliers 1 and 2 above. We however did business with Van Staden JA t/a Omega Ondernemings, a sole proprietor. There is no declaration for this supplier.”

Further to the above, the initial trigger to the identification of the irregular expenditure incurred, was the following –

On 26 January 2022 the Director: Finance, raised an enquiry with the administration with regard to the submission of the latest declarations for all Councillors to the SCM department, after transactions for Omega Ondernemings appeared on the SCM Monthly Report to Council and was highlighted at the Mayoral Committee Meeting on Monday afternoon on 24 January 2022. An e-mail was sent to role-players involved in collecting and safe-keeping of Declarations. The declarations were submitted the next day, on 27 January 2022 to the SCM department. The sequence of events are explained above, as quoted from the report submitted by Mr C Le Roux.

To be noted that the total number of transactions (orders issued on the system/ prior to the receipt of the Declarations) amount to 11 transactions (R53 941,60 with 3 more transactions (R33 515,00) which took place after the submission of Declarations to the SCM department.

It is furthermore management's submission that value for money has been received in that the supplier rendered the services to the municipality as can be confirmed from the information available.

Corrective Steps/Conclusion

1. Written confirmation was provided by the Director Management Services stating the following: "The declarations were done by councillors during their first week of office. These declarations are kept in the Office of the Municipal Manager, and Rentia are currently busy making copies to submit to the SCM office. I have followed up on this and according to Rentia it was always kept in the Office of the Municipal Manager. I have also asked her to "going forward", once changes were brought and new declarations submitted forward these to SCM ";
2. As a first time omission of this nature and in view of management of high volumes of critical information dealt with effectively and efficiently to ensure compliance in various areas for the past more than 7 years, the Departmental Head Mr C Le Roux was requested to attend to delegating and ensuring feedback also in this area, in view the importance to ensure that these documents, as crucial information be dealt with promptly to avoid negative consequences for the municipality.

On 24 October 2022, the Municipal Public Accounts Committee (MPAC), consisting of Cllrs C Tafu-Nwonkwo, S Williams, K Ngqandana and Ald R de Coning, considered a detailed report on the matter and came to the conclusion that the Municipality did not suffer any financial loss and was unanimous in its decision to recommend to Council that the irregular expenditure in the amount of R87 456,60 (Incl. VAT), be certified as irrecoverable and be written off.

7. Financial Implications

Irregular expenditure to the value of R87 456.60 (Incl. Vat) 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, in view of the municipality having received value for money, irregular expenditure in the amount of R87 456.60 (Vat Incl) for provisioning of services, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

RESPONSIBLE OFFICIAL :**C LE ROUX
B KING**

**6.3
WRITING OFF OF IRRECOVERABLE DEBT**

This item is distributed under separate cover.

In terms of Section 20(1) of the Local Government: Municipal Systems Act, No 32 of 2000, read with Rule 17 of the Overstrand Municipality's By-law on Rules of Order for Internal Arrangements, this item must be considered "in committee".

6.4**APPROVAL FOR FILLING OF VACANCY : DIRECTOR: COMMUNITY SERVICES****4/3/R****D Arrison****Director: Management Services****28 November 2022****(028) 313 8001****1. Executive Summary**

The purpose of this report is to obtain Council's approval for the filling of the vacancy of the Director Community Services, which is triggered by the resignation of the current Director Community Services, Mr Friedel (Roderick) Williams with effect 22 December 2022.

2. Service Delivery and Budget Implementation Plan Reference - IGNITE

Directorate: Management Services

3. Compliance with Strategic Priority

Provision of democratic and accountable governance

4. Delegated Authority

None

5. Legal Requirements

- Section 160(1)(d) of the Constitution of the Republic of South Africa, 1996
- Sections 67, 56, 57A and 72 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) [Systems Act]
- Chapter 3 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000): Local Government Regulations on Appointment and Conditions of Employment of Senior Managers, **(GN 21 dated 17 January 2014)** [Regulations]

6. Discussion

Mr Friedel (Roderick) Williams submitted his resignation letter dated 23 November 2022, to the Municipal Manager, Mr Dean O'Neill on Friday, 25 November 2022. Mr Williams' contract of employment provides for a written notice period of not less than one month from the side of the employer and therefore his last day of employment will be 22 December 2022.

Chapter 3 of the Regulations Chapter 3 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000): Local Government Regulations on

Appointment and Conditions of Employment of Senior Managers, (**GN 21 dated 17 January 2014**) provides for the legislative process to be followed for the filling of the vacancy of a Senior Manager. Sub-regulation 7(1) determines that the municipal manager must *upon receipt of official notification that the post of a senior manager will become vacant, obtain approval from the municipal council for the filling of such post in its next council meeting or as soon as it is reasonably possible to do so.*

Sub-regulation 10(2) provides that the vacancy must be advertised in a newspaper circulating nationally and, in the province, where the Municipality is located.

This item is thus brought before Council to seek approval to follow the recruitment process as prescribed in the Regulations mentioned above, for Council to appoint a new Director: Community Services in good time.

7. Financial Implications

Funding available on the 2022/2023 salary budget for the funding of this post, after the vacancy.

8. Staff Implications

Vacancy of the position of Director: Community Services

9. Comments from other Departments, Divisions and Administrations

Not applicable

10. Annexures

Annexure A: Resignation letter: Mr Friedel (Roderick) Williams

RECOMMENDATION TO THE COUNCIL:

1. that the resignation of Mr Friedel (Roderick) Williams with effect 22 December 2022 **be noted**; and
2. that the filling of the vacancy **be approved** and the post of Director: Community Services be advertised in the national newspapers as well as provincial newspapers in the Western Cape.

RESPONSIBLE OFFICIAL:

DS ARRISON

TARGET DATE FOR IMPLEMENTATION:

IMMEDIATELY

13 Duiker Street
HERMANUS
7200
23 November 2022

The Municipal Manager
Overstrand Municipality

PER HAND

Dear Mr O'Neill,

RESIGNATION: F.R.J.WILLIAMS

I hereby tender my resignation as the Director: Community Services, with 22 December 2022 as my last working day.

A word of gratitude towards you, the Top Management Team and management team within the Directorate Community Services for good working relations in the interest of service delivery.

I intend to give my co-operation regarding the hand over of duties during the next few weeks.

Yours sincerely



F.R.J. Williams

Received by MM on 25 November 2022

Mr O'Neill

Noted on Monday 28/11/22

Wade

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)