

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
21 November 2017
(Also the agenda for the Mayoral Committee Meeting : 29 November 2017)**

**10.
APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

15/3/3/1

R Kuchar

(028) 313 8087

Corporate Head Office

18 October 2017

1. Executive Summary

The purpose of this report is for Council to consider:

- (a) a change in membership for the Municipal Planning Tribunal (MPT);
- (b) to appoint a new Chairperson and Deputy Chairperson.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Creation and maintenance of a safe and healthy environment
The encouragement of structured community participation in the matters of the Municipality
Promotion of tourism, economic and social development

4. Delegated Authority

None

5. Legal Requirements

- Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) (SPLUMA)
- Regulations in terms of the Spatial Planning and Land Use Management Act 16 of 2013

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6. Background/Discussion/Conclusion

Background

The new suite of planning legislation namely, the SPLUMA and the regulations in terms of SPLUMA came into effect on 1 July 2015.

The Council, at its meeting held on 29 July 2015, resolved to establish a MPT. The resolution is attached per *Annexure A*.

Further, the Council, at its meeting held on 28 October 2015, resolved to appoint the external member of the MPT, the MPT's Chairperson and Deputy Chairperson and its term of office. The resolution is attached per *Annexure B*.

Discussion

Section 51(4)(a) and (b) of SPLUMA provide as follows:

“(a) A person whose rights are affected within the provision of Subsection (1) includes –

(b) the Municipality where the land affected by the application is located.”

The Municipality may thus lodge an appeal against any decision taken by the Authorised Official (AO), currently the Senior Manager: Town and Spatial Planning, or MPT. A legal opinion was obtained regarding how to and who should submit such an appeal on behalf of the Municipality. Senior Council's advice is that such an appeal should be submitted under the hand of the Accounting Officer, who is also the Municipal Manager (MM).

This, according to the Senior Council, is in order if the appeal is against a decision of the AO. However, it becomes problematic when a decision of the MPT is to be appealed. The reason being that the MM (Accounting Official) is currently a member of the MPT as well as the Chairperson of the MPT.

It is thus recommended that the MM ceases to be a member of the MPT in order for him to act as the appellant for the Municipality on planning decisions taken by the AO or the MPT.

In view of the aforementioned, it is recommended that the Director : Infrastructure and Planning, who is currently the Deputy Chairperson, be appointed as Chairperson and that the Director: Community Services be

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appointed as Deputy Chairperson. In order to fill the vacancy as a result of the MM not being a member of the MPT anymore, it is recommended that the Director : Management Services, the Director of the Directorate in which the Department of Legal Services is situated, be nominated as a member on the MPT.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Council resolution of 29 July 2015
Annexure B: Council resolution of 28 October 2015

RECOMMENDATION TO THE COUNCIL:

1. that, in order for the Municipal Manager (Accounting Officer) to lodge appeals against resolutions of the Municipal Planning Tribunal and the Authorised Official, the Municipal Manager's membership of the Municipal Planning Tribunal be terminated forthwith;
2. that the Director : Infrastructure and Planning be appointed as Chairperson and the Director : Community Services as Deputy Chairperson of the Municipal Planning Tribunal; and
3. that the Director : Management Services be appointed as the fifth member of the Municipal Planning Tribunal.

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

13 DECEMBER 2017

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15/3/3/1

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18 October 2017

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
21 NOVEMBER 2017, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

1. that, in order for the Municipal Manager (Accounting Officer) to lodge appeals against resolutions of the Municipal Planning Tribunal and the Authorised Official, the Municipal Manager's membership of the Municipal Planning Tribunal be terminated forthwith;
2. that the Director : Infrastructure and Planning be appointed as Chairperson and the Director : Community Services as Deputy Chairperson of the Municipal Planning Tribunal; and
3. that the Director : Management Services be appointed as the fifth member of the Municipal Planning Tribunal.

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

13 DECEMBER 2017

4.10**IMPLEMENTATION OF THE SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, NO 16 OF 2013 (SPLUMA)****(ITEM 13, PAGE 294 : SPECIAL MAYORAL COMMITTEE MEETING : 29 JULY 2015)****RESOLVED (UNANIMOUSLY):**

1. that, based on the requirements set out in the Spatial Planning and Land Use Management Act, No 16 of 2013, the associated implications thereof and the findings of the Municipality's administrative, professional and financial capacity, Overstrand Municipality be regarded as having the ability to implement Chapter 6 of SPLUMA (Land Development Management);
2. that the implementation date of SPLUMA, being 1 July 2015, be noted;
3. that the contents of the SPLUMA Regulations published on 23 March 2015, be noted;
4. that the municipal capacity assessment that has been undertaken, be noted and that the establishment of a single Municipal Planning Tribunal (MPT) for the Overstrand Municipality, be approved;
5. that the MPT comprises of five members of which four be internal officials and one an external member;
6. that the following municipal officials be appointed to serve on the MPT: Municipal Manager; Director: Infrastructure and Planning; Director: Economic Development and Director: Community Services;
7. that the Municipal Manager; Director: Infrastructure and Planning and Senior Manager: Town- and Spatial Planning be appointed to evaluate the external members to be nominated for the Planning Tribunal;
8. that the external MPT members be remunerated for travel and subsistence only;
9. that an invitation be extended to the National Department of Rural Development and Land Reform and the Provincial Department of Environmental Affairs and Development Planning to serve on the MPT as external members; and

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MINUTES : SPECIAL COUNCIL MEETING**29 JULY 2015**

10. that the evaluation panel considers the potential external MPT members in terms of the following criteria and report back with recommendations to Council, for the latter's approval -

- at least 5 years' experience in Spatial Planning and Land Use Management;
- registered with SACPLAN as professional planner; and
- extensive experience and knowledge of planning legislation.

RESPONSIBLE OFFICIAL :**R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****9 SEPTEMBER 2015**

MINUTES : ORDINARY MEETING OF THE COUNCIL 28 OCTOBER 2015**5.5****APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL****(ITEM 2, PAGE 29 : INFRASTRUCTURE AND PLANNING PORTFOLIO
- MAYORAL COMMITTEE MEETING : 28 OCTOBER 2015)****RESOLVED (UNANIMOUSLY):**

1. that Ms H Janser be appointed as the external member to the Municipal Planning Tribunal (MPT) and Mr J Benjamin and Ms Y Mabantsela as secundi alternatively;
2. that the members of the MPT be appointed for a five (5) year period from the date that the legislation is enacted; and
3. that the Municipal Manager be appointed as Chairperson and the Director: Infrastructure and Planning as Deputy Chairperson of the MPT.

RESPONSIBLE OFFICIAL :**R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****11 NOVEMBER 2015**