

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

**8.
APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

15/3/3/1

R Kuchar Senior Manager : Town & Spatial Planning

7 October 2020

(028) 313 8087

1. Executive Summary

The purpose of this report is for Council to consider the appointment of the members of the Overstrand Municipal Planning Tribunal (MPT).

Council at its meeting held on 28 October 2015 resolved to appoint members of the MPT for a period of five years from date of commencement of the legislation.

The date of commencement was gazetted as 1 February 2016. The current appointment of the MPT members' five year period will thus lapse on 31 January 2021.

This item serves to submit to Council to consider the appointment of the current members of the MPT for a new five year term as allowed for in terms of the Spatial Planning and Land Use Management Act (SPLUMA) and for the inclusion of an additional, external, publically nominated member in the MPT

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

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

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
- Overstrand Municipality By-Law on Municipal Land Use Planning

6. Background/Discussion/Conclusion

Introduction

The Executive Mayor resolved on 30 September 2020 (Item 10) as follows:

“That the item be referred back in order for the Administration to gather information regarding:

a) the desirability to appoint a new Tribunal for a period of 18 months in terms of Section 37 of the SPLUMA Act; and

b) the composition of the new Tribunal in terms of the SPLUMA Act of 2013 legislation, Section 36

and be resubmitted during the next cycle of Council.”

What follows hereunder is a revised report including information addressing the request of the Executive Mayor referred to above.

Background

At Council’s meeting held on 28 October 2015 the Council appointed the following members to the MPT:

- Municipal Manager
- Director: Infrastructure and Planning
- Director: Community Services, and
- Director: Economic Development
- External Member - H Janser (an official in service of the Provincial Department Environment Affairs and Development Planning)

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

The Municipal Manager was appointed as Chairperson and the Director: Infrastructure and Planning as Deputy Chairperson.

However, in order for the Municipal Manager (Accounting Officer) to lodge appeals against resolutions of the MPT and the Authorised Official, the Municipal Manager's membership of the MPT was terminated at the Council meeting held on 29 November 2017 and the Director: Infrastructure and Planning was appointed as Chairperson and the Director: Community Services as Deputy Chairperson. The Director: Management Services was appointed as the fifth member of the MPT as a replacement for the Municipal Manager – see Council's resolution of 29 November 2017 (attached as Annexure D).

Therefore, the current members of the MPT are:

- Director: Infrastructure and Planning (Mr S Müller),
- Director: Community Services (Mr R Williams),
- Director: Economic Development (Mr S Madikane)
- Director: Management Services (Ms D Arrison)
- Ms H Janser: external member

The term of office of the current members expires on 31 January 2021.

The municipality also received requests to include an additional member, nominated by the public, to the MPT.

Discussion

In terms of the SPLUMA, Section 37.(1) "*The term of office of members of a Municipal Planning Tribunal is five years or such shorter period as the Municipal Council may determine, provided that a member may not serve as a member for a continuous period of ten years.*"

The five year term is preferred over a shorter period because, due to the complexity of the legislation and decisions to be taken, it takes a long time for a new MPT to grasp the intricacies of the legislation and planning processes and to become fully productive.

In terms of SPLUMA S37(1), Council can appoint the current serving members for a further period of five years. This has been confirmed with the Legal Department. The current members of the MPT exercised their duties diligently

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

and competently. No reason exists not to continue with any one of the members on the MPT.

Overstrand Municipality is a relatively small Municipality which limits the numbers of members eligible with the relevant knowledge and expertise to fulfil their membership of a MPT member. It would thus be to the Municipality's advantage to continue with the existing internal members of the MPT for a further five years.

The external member of the MPT is Ms H Janser who is an official employed by the Provincial Department of Environment Affairs and Development Planning.

Having a member of the provincial authority as a member of the MPT is very beneficial to the MPT for the following reasons:

- the experience, knowledge and information that Ms Janser brought to the Overstrand MPT, was very beneficial to the MPT. Her knowledge of policy and direction from a Provincial and National Authority point of view is of great benefit to the MPT.
- there is no financial cost to Overstrand Municipality as Ms Janser is employed by the Department and all cost related to her attending and being a member of Overstrand MPT is covered by the Department, and

For the reasons mentioned above it is proposed that Ms Janser be appointed as an external member of Overstrand MPT for a further period of five years.

The Head of the Department, Mr P van Zyl, in a letter attached as Annexure B, confirmed his support for the continuation of Ms H Janser's services as member of the Overstrand Municipal MPT.

The request to accommodate an additional, external member nominated by the public can be accommodated in terms of SPLUMA Section 36(1)(b). The SPLUMA Regulations Section 3 stipulates the following process:

3 Institutional requirements for establishment of Municipal Planning Tribunal for municipal area

(1) A municipality, in establishing a Municipal Planning Tribunal for its municipal area in terms of section 35(1) of the Act, must, amongst others -

...
(c) determine the terms and conditions of service of the members of the Municipal Planning Tribunal in accordance with the norms and standards

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

referred to in Schedule 1;
(d) ... determine procedures for the invitation and calling for nominations of persons contemplated in section 36(1)(b) of the Act to serve on the Municipal Planning Tribunal;
(e) identify any additional criteria that a person referred to in paragraph (b) must comply with;
(f) ... determine the format of the call for nominations;
(g) convene an evaluation panel to evaluate the nominations received by the municipality and determine the terms of reference of that evaluation panel;
(h) consider the recommendations of the evaluation panel and make the appropriate appointments ...

Conclusion

Based on the legal requirements of SPLUMA and the discussion above it is recommended that Council:

- appoint the following five persons as members of Overstrand MPT:
 - Mr S Müller (Director: Infrastructure and Planning – Chairperson)
 - Mr R Williams (Director: Community Services - Deputy Chairperson)
 - Ms D Arrison (Director: Management Services)
 - Mr S Madikane (Director: Economic Development)
 - Ms H Janser – (External Member)
- That the appointment of the five members above be for a five year period commencing 8 February 2021,
- That the legally prescribed process be followed to include an additional, external, publicly nominated member in the MPT, and
- That, in terms of SPLUMA Regulation 3(1)(h), Council designate the Director: Infrastructure and Planning as the Chairperson of the MPT and the Director: Community Services as Deputy Chairperson of the MPT.

7. Financial Implications

The SPLUMA Regulations Schedule 1 stipulates the following:

(2)(e) in the case of a person referred to in regulation 3(2)(b), is entitled to a seating

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on

It is estimated that the cost of one additional external member will be approximately R50 000 per year.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Council resolution of 28 October 2015

Annexure B: Letters of appointment of Ms H Jansen dd 22 February 2016 to serve on Overstrand Municipal Planning Tribunal for five (5) years

Annexure C: Confirmation of the Department Environmental Affairs and Development Planning for the continuation of Ms H Janser as their primary representative on Overstrand MPT dd 14 August 2020

Annexure D: Council resolution dd 29 November 2017.

RECOMMENDATION TO THE COUNCIL:

1. that the municipal officials that will serve on the Municipal Planning Tribunal are the Director: Infrastructure and Planning (Mr S Müller), Director: Community Services (Mr R Williams), Director: Management Services (Ms D Arrison) and Director: Economic Development (Mr S Madikane);
2. that Ms H Janser from the Provincial Department of Environmental Affairs and Development Planning be appointed as the external member to the Municipal Planning Tribunal;
3. that the members of the MPT mentioned in 1 and 2 above be appointed for a five year period starting from 8 February 2021;
4. that the legally prescribed process be followed to include an additional, external, publicly nominated member of the MPT; and

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

5. that the Director: Infrastructure and Planning (Mr S Müller) be appointed as Chairperson and the Director: Community Services (Mr R Williams) as Deputy Chairperson of the MPT.

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

11 NOVEMBER 2020

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
20 October 2020
(Also the agenda for the Mayoral Committee Meeting : 28 October 2020)**

**8.
APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

15/3/3/1

R Kuchar Senior Manager : Town & Spatial Planning

7 October 2020

(028) 313 8087

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
20 OCTOBER 2020, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

RECOMMENDATION TO THE COUNCIL:

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

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

11 NOVEMBER 2020

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

ANNEXURE B



Navrae:
Enquires: Mr Riaan Kuchar

Oms Verw/Our Ref:
U Verw/Your Ref: Municipal Tribunal

Datum:
Date: 22 February 2016

KANTOOR VAN DIE MUNISIPALE BESTUUR
OFFICE OF THE MUNICIPAL MANAGER

Head of the Department
Environmental Affairs and Development Planning
Private Bag X9086
CAPE TOWN
8000

(Attention: H Janser)

REGISTERED MAIL

Dear Madam

APPOINTMENT OF MEMBER OF THE OVERSTRAND MUNICIPAL TRIBUNAL

Your nomination regarding the above refer.

On 28 October 2015 Council resolved in terms of Section 72 of the Overstrand Municipality: Land Use Planning By-law (2015), that you be appointed as a member of the Overstrand Municipal Tribunal. The terms of the office of all MPT members shall be five (5) years.

You are requested to confirm your appointment in writing. The Tribunal will commence its operation only after receipt of the confirmation of all members. You will be notified in due course regarding the relevant commencement date.

Letters have also been sent to Mr J Benjamin and Ms Y Mabentsela to confirm their appointments as secundi.

We are looking forward to receive your written confirmations at your earliest convenience.

Yours sincerely,

**D ARRISON
ACTING MUNICIPAL MANAGER**

Tel: (029) 313 8509
Fax: (086) 568 0726
E-mail: cgroenewald@overstrand.gov.za

Postbus 20
PO Box 20
HERMANUS, 7190

ANNEXURE C



**Western Cape
Government**

Department of Environmental Affairs and Development Planning

Pieter van Zyl

Head of Department

Pieter.vanZyl@westerncape.gov.za | Tel: 021 483 8315

Mr Stephen Müller
Director: Infrastructure and Planning
Overstrand Municipality
PO Box 20
Hermanus
7200

(Via e-mail: smuller@overstrand.gov.za)

Dear Colleague

OVERSTRAND MUNICIPAL PLANNING TRIBUNAL: PROVINCIAL REPRESENTATION

Your letter dated 23 July 2020, refers.

It is encouraging to get your feedback that our representatives have been adding value to the functioning of your Municipal Planning Tribunal. It is equally important that our officials are exposed to the challenges and issues that municipal colleagues experience, for us to deliver on our own Provincial mandate to support and capacitate municipalities in the exercise of their municipal planning function.

I hereby confirm approval for the continuation of Ms Helene Janser as our primary representative on your MPT. I, however, wish to replace the two previous *secundi* as they are no longer employed in our Development Management Directorates, from which this function is co-ordinated and nominate Ms Dalene Carstens is being nominated as a substitute in their place. Ms Carstens recently joined the Directorate: Development Management in the Cape Town Office. Ms Carstens has many years' experience, having been in our George Regional Office where she also served on the Joint Eden District MPT. We trust that she will bring a wealth of experience and knowledge to your MPT's functioning.

I trust that this will be in order. Should you have any questions, please contact Kobus Munro at Kobus.munro@westerncape.gov.za or mobile 0837011890, in his capacity as the Director: Development Management.

Yours sincerely

PIET VAN ZYL
HEAD OF DEPARTMENT
ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
DATE: 14 August 2020

CC: Riaan Kuchar, Senior Manager: Town and Spatial Planning (riaan@overstrand.gov.za)

www.westerncape.gov.za

Department of Environmental Affairs and Development Planning

15

MINUTES : ORDINARY MEETING OF THE COUNCIL 29 NOVEMBER 2017

5.11

APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**(ITEM 10, PAGE 126 : INFRASTRUCTURE & PLANNING PORTFOLIO
- MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)****RESOLVED (SUPPORTED BY 20 COUNCILLORS):**

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**