



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

**A G E N D A**

**I-AJENDA**

**DATE / DATUM / UMHLA :** 24 FEBRUARY/FEBRUARIE/  
FEBHRUWARI 2016

**VENUE / PLEK / INDAWO :** BANQUETING HALL / BANKETSAAL  
CIVIC CENTRE / BURGERSENTRUM /  
IZIKO LOLUNTU  
HERMANUS

**TIME / TYD / IXESHA :** 11:00

# **MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

19 February/Februarie/Februwari 2016

## **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, 24 FEBRUARY 2016** 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**

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## **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, 24 FEBRUARIE 2016** om **11:00** om die sake op meegaande sakelys te bespreek.

*Raadslede se aandag word gevestig op die Gedragskode vir Raadslede en Munisipale Beamptes, Bylae 1 & 2 van die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000).*

**C GROENEWALD**  
**MUNISIPALE BESTUURDER**

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## **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 uLWESITHATHU**, **24 FEBHRUWARI 2016 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, 25 November 2015 at 11:00**

3.2 Minutes of a **Special Meeting** of the Overstrand Municipal **Council** held on **Monday, 18 January 2016 at 11:00**

3.3 Minutes of a **Special Meeting** of the Overstrand Municipal **Council** held on **Friday, 22 January 2016 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 24 February 2016 had formally sat.

**5.1**

**AMENDMENTS TO THE 2015/2016 SUPPLY CHAIN MANAGEMENT POLICY (SCM) AND DELEGATION OF POWERS AND DUTIES**

**(ITEM 2, PAGE 35 : FINANCE AND ECONOMIC DEVELOPMENT PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the amended Supply Chain Management Policy for 2015/2016 **be approved**;
2. that the amended Supply Chain Management Policy for the 2015/2016 be applied retrospectively from 01 July 2015;
3. that the amended Delegation of Power and Duties for 2015/2016 **be approved**; and
4. that the amendments to the Delegation of Power and Duties for the 2015/2016 be applied retrospectively from 01 July 2015.

**RESPONSIBLE OFFICIAL :**

**C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION :**

**1 JULY 2015**

**5.2****TRAFFIC SPEED AND MEASURING, CAMERAS AND BACK OFFICE FOR FINE COLLECTION IN THE OVERSTRAND SC 1579/2015****(ITEM 2, PAGE 15 : PROTECTION SERVICES PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)****RECOMMENDATION TO THE COUNCIL:**

1. that the contract of SC 1579/2015 for the Traffic Speed Measuring, cameras and back office for fine collection in the Overstrand, be approved exactly as it is to be executed;
2. that the annual budget requirements for the contract period as set out in paragraph 7 be approved;
3. that the annual budget requirements for the contract period as set out in paragraph 7 be approved;
4. the Council take note that no recommendations were received in respect of the proposed long term contract SC 1579/2015 from the relevant provincial department or treasury; and
5. that the Council authorise the Municipal Manager to sign the contract on behalf of the Overstrand Municipality.

**RESPONSIBLE OFFICIAL :****N MICHAELS  
R FRASER  
M POTGIETER****TARGET DATE FOR IMPLEMENTATION :****1 MARCH 2016****TARGET DATE TO INFORM APPLICANT :****24 FEBRUARY 2016**

**5.3**

**ERVEN 10527, 10528, 10529, 10530 & 10532, MARINERS VILLAGE, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE, AMENDMENT OF CONDITIONS OF APPROVAL, AMENDMENT OF THE SITE DEVELOPMENT PLAN, AMENDMENT OF THE SPATIAL DEVELOPMENT FRAMEWORK, CONSENT USE, AMENDMENT OF THE OVERSTRAND GROWTH MANAGEMENT STRATEGY : URBAN DYNAMICS ON BEHALF OF HERMANUS RETIREMENT VILLAGE (PTY) LTD**

**(ITEM 4, PAGE 65 : INFRASTRUCTURE AND PLANNING PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

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

<b>RESPONSIBLE OFFICIAL :</b>	<b>H VAN DER STOEP</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

## 5.4

ERF 942, 71 DREYER STREET, STANFORD, OVERSTRAND MUNICIPAL AREA :  
PROPOSED REZONING, DEPARTURE AND AMENDMENT OF THE OVERSTRAND  
SPATIAL DEVELOPMENT FRAMEWORK : MESSRS INTERACTIVE TOWN- &  
REGIONAL PLANNERS ON BEHALF OF MA & CK MESELE

**(ITEM 7, PAGE 197 : INFRASTRUCTURE AND PLANNING PORTFOLIO  
– MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO COUNCIL:**

that the application for the amendment of the Overstrand Spatial Development Framework (2006) to change the reservation of Erf 942, Stanford from residential purposes to commercial purposes, **be approved**.

<b>RESPONSIBLE OFFICIAL :</b>	<b>SW VAN DER MERWE</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 MARCH 2016</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

## 5.5

**HERMANUS, A PORTION OF ERF 2353: DEVIATION FROM PARAGRAPHS 4, 24, 36, 40 AND 41 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 TO WAIVE THE APPLICATION FEE, THE COSTS PERTAINING TO THE APPLICATION PROCESS, THE RENTAL PAYABLE AND GENERAL CONDITIONS**

**(ITEM 9, PAGE 330 : INFRASTRUCTURE AND PLANNING PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

that the deviation from paragraphs 4, 24, 36, 40 and 41 of the Administration of Immovable Property Policy of 2015 **be approved** in light of the envisaged investment in infrastructure and goods by Hermanus Public Protection on Municipal property, the community interest in this regard and the nature of the services to be rendered to the community.

**RESPONSIBLE OFFICIAL :****M ERASMUS****TARGET DATE FOR IMPLEMENTATION :****9 APRIL 2016****TARGET DATE TO INFORM APPLICANT :****9 MARCH 2016**

## 5.6

**IN PRINCIPLE APPROVAL FOR THE ALIENATION OF UNREGISTERED ERF 12199 (A PORTION OF ERF 2366), HERMANUS****(ITEM 10, PAGE 336 : INFRASTRUCTURE AND PLANNING PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)****RECOMMENDATION TO THE COUNCIL:**

1. that the alienation of Unregistered Erf 12199 (a portion of Erf 2366), Hermanus, approximately 2,489 ha, by means of a competitive process, **be approved in principle**;
2. that the costs pertaining to the transaction, e.g. transfer costs, water- and sewer connections, bulk services contribution, advertisements, etc., excluding the valuation, surveying and rezoning costs, 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 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);
4. that the alienation of the property be subject to obtaining the LUPO approval and the Record of Decision; and
5. that a service servitude must be registered for the 11kV cables running across the property according to the Electrical Department.

**RESPONSIBLE OFFICIAL :** H VAN DER STOEP

**TARGET DATE FOR IMPLEMENTATION :** 9 MARCH 2016

**TARGET DATE TO INFORM APPLICANT :** N/A

**TARGET DATE TO INFORM OBJECTOR :** N/A

## 5.7

**HERMANUS, A PORTION OF ERF 243 (MOUNT PLEASANT): DEVIATION FROM PARAGRAPH 5.2.1.1 OF THE MUNICIPAL RESIDENCE POLICY AND PARAGRAPHS 20.1(b) AND 24 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 TO ENTER INTO A LEASE AGREEMENT WITH A FORMER EMPLOYEE OF THE MUNICIPALITY**

**(ITEM 11, PAGE 346 : INFRASTRUCTURE AND PLANNING PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 5.2.1.1 of the Municipal Residence Policy, in order to allow for the lease of the Municipal Residence leased to Mr. Botha, who is not an employee of the Overstrand Municipality, **be approved;**
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy of 2015 in order for a long term lease agreement to be entered into without following a public participation process, **be approved;**
3. that the deviation from paragraph 24 of the Administration of Immovable Property Policy of 2015 in order to lease the Municipal Residence Mount Pleasant Hostel Room number 5 at the amount currently being paid and not having to determine the fair market value by appointing a professional valuer **be approved;**
4. that the lease of the Mount Pleasant Hostel Room number 5 to Karel Botha at a rental amount of R461.25 (FOUR HUNDRED AND SIXTY ONE RAND AND TWENTY FIVE CENTS) per month **be approved;**
5. that the lease amount mentioned in 4 above escalates on the 1<sup>st</sup> of July of every year, by a percentage fixed in accordance with the prevailing consumer price index (all items) in accordance with paragraph 40 of the Administration of Immovable Property Policy of 2015; and
6. that the following condition be included in the lease agreement: “The lease agreement shall be valid and continue until the LESSEE is no longer an employee of Veolia in his current position. Should Veolia’s agreement with the Municipality end and the LESSEE be transferred back to the Overstrand Municipality as an employee a new agreement will be entered into between the LESSEE and the LESSOR in terms of the Municipal Residence Policy.”

**RESPONSIBLE OFFICIAL :****M ERASMUS****TARGET DATE FOR IMPLEMENTATION :****1 APRIL 2016****TARGET DATE TO INFORM APPLICANT :****7 MARCH 2016**

## 5.8

**HERMANUS, TRANSFER OF UNREGISTERED ERF 11472 (A PORTION OF ERF 243), HERMANUS ±4196M<sup>2</sup> IN EXTENT, FOR GENERAL RESIDENTIAL III PURPOSES (MOUNT PLEASANT)**

**(ITEM 12, PAGE 354 : INFRASTRUCTURE AND PLANNING PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of unregistered Erf 11472 (a portion of Erf 243), Hermanus (Mount Pleasant), ±4196m<sup>2</sup> in extent, for general residential III purposes to Adama Foundation Trust for the amount of R300,000.00 (THREE HUNDRED THOUSAND RAND ALONE) (Vat excluded), **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of unregistered Erf 11472 (a portion of Erf 243), Hermanus (Mount Pleasant) to Adama Foundation Trust;
3. that cognisance be taken of the fact that the subject portion of Municipal property 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, No 56 of 2003; and
4. that Adama Foundation Trust be responsible for all the costs pertaining to the advertisement of the transfer and the registration of the property in the Deeds Office.

**RESPONSIBLE OFFICIAL :****D TALJAARD****TARGET DATE FOR IMPLEMENTATION :****7 MARCH 2016****TARGET DATE TO INFORM APPLICANT :****N/A**

**5.9****WATER AND WASTE WATER TREATMENT OPERATIONS MANAGEMENT  
CONTRACT: SC1508/2014 – AMENDMENT TO SALARY CONTRIBUTION****(ITEM 13, PAGE 361 : INFRASTRUCTURE AND PLANNING  
PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY  
2016)****RECOMMENDATION TO THE COUNCIL:**

1. that the proposed amendments to the Salary Contribution of the contract for the management of the operation and maintenance of the water and waste water treatment works in the jurisdiction of Overstrand Municipality, be approved, to be retrospective effective from 1 November 2015; and
2. that the Municipal Manager be delegated to approve future administrative adjustments to the Salary Contribution as and when required in terms of the approved contract.

**RESPONSIBLE OFFICIAL :****S MULLER  
H BLIGNAUT****TARGET DATE FOR IMPLEMENTATION :****1 NOVEMBER 2015  
(BACKDATED)****TARGET DATE TO INFORM APPLICANT:****1 MARCH 2016**

## 5.10

**HERMANUS, TRANSFER OF ERF 1596 (A PORTION OF ERF 1413), ZWELIHLE, ±264M<sup>2</sup> IN EXTENT, FOR RESIDENTIAL PURPOSES**

**(ITEM 14, PAGE 372 : INFRASTRUCTURE AND PLANNING PORTFOLIO – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of Erf 1596 (a portion of Erf 1413), Zwelihle, ±264m<sup>2</sup> in extent, for residential purposes to Fezeka Lumka-Mcothama and Ayanda Mcothama for the amount of R65,000.00 (SIXTY FIVE THOUSAND RAND ALONE) (VAT excluded), being R32,719.30 (THIRTY TWO THOUSAND SEVEN HUNDRED AND NINETEEN RAND AND THIRTY CENTS) (VAT excluded) in cash and R32,280.70 (THIRTY TWO THOUSAND RAND TWO HUNDRED AND EIGHTY RAND AND SEVENTY CENTS) (VAT excluded) in kind for repairs, **be approved**;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of Erf 1596 (a portion of Erf 1413), Zwelihle;
3. that cognisance be taken of the fact that the subject portion of Municipal property 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, No 56 of 2003; and
4. that Fezeka Lumka-Mcothama and Ayanda Mcothama be responsible for all the costs pertaining to the advertisement of the transfer and the registration of the property in the Deeds Office.

**RESPONSIBLE OFFICIAL :****M ERASMUS****TARGET DATE FOR IMPLEMENTATION :****4 APRIL 2016****TARGET DATE TO INFORM APPLICANT :****4 MARCH 2016**

**5.11****FIRST AUDIT REPORT OF THE PERFORMANCE AUDIT COMMITTEE (PAC) TO THE OVERSTRAND MUNICIPAL COUNCIL PERIOD 2015/16****(ITEM 5, PAGE 1 – MAYORAL COMMITTEE MEETING : 24 FEBRUARY 2016)****RECOMMENDATION TO THE COUNCIL:**

that the first Audit Report in respect of the 2015/16 financial year submitted by the Performance Audit Committee as part of their reporting obligations arising from the Local Government: Municipal Planning and Performance Management Regulations, 2001, be noted.

**RESPONSIBLE OFFICIAL :****DC VAN DER HEEVER****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

## 5.12

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)  
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR JANUARY 2016**

**(ITEM 6, PAGE 16 – MAYORAL COMMITTEE MEETING :  
24 FEBRUARY 2016)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for January 2016, **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 January 2016, **be noted**.

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

## 5.13

**REPORT ON THE PROPOSED 3<sup>RD</sup> ADJUSTMENTS BUDGET FOR 2015/2016****(ITEM 7, PAGE 21 – MAYORAL COMMITTEE MEETING :  
24 FEBRUARY 2016)****RECOMMENDATION TO THE COUNCIL:**

1. that, in terms of section 28(2)(b), (c) & (f) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), the 3<sup>rd</sup> Adjustments Budget for 2015/2016 **be approved** as set out in the following schedules:

- Schedule 1:** Budgeted financial performance (revenue & expenditure by municipal vote)
- Schedule 2:** Budgeted financial performance (revenue by source & expenditure by type)
- Schedule 3:** Budgeted multi-year capital appropriations by standard classification (vote) and associated funding by source
- Schedule 4:** Budgeted financial position
- Schedule 5:** Budgeted cash flow
- Schedule 6:** Cash backed reserves and acc. surplus reconciliation
- Schedule 7:** Asset management
- Schedule 8:** Basic service delivery measurement

2. that the following schedules be noted:

- Schedule 9:** Budgeted financial performance (revenue & expenditure by standard classification)
- Schedule 10:** Budgeted capital appropriations by municipal vote

3. that project managers submit a revised SDBIP to the Municipal Manager by 2 March 2016.

**RESPONSIBLE OFFICIAL :****BA KING****TARGET DATE FOR IMPLEMENTATION :****29 FEBRUARY 2016**

## 5.14

**REVISED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)  
FOR 2015/16****(ITEM 8, PAGE 98 – MAYORAL COMMITTEE MEETING :  
24 FEBRUARY 2016)****RECOMMENDATION TO THE COUNCIL:**

1. that the revised SDBIP for 2015/16 **be approved**;
2. that the amendments to the Departmental and Top Layer SDBIP for 2015/16 **be approved**; and
3. that the revised SDBIP for 2015/16 **be made public**.

**RESPONSIBLE OFFICIAL :****R LOUW****TARGET DATE FOR IMPLEMENTATION :****29 FEBRUARY 2016**

## 6. CONSIDERATION OF REPORTS

### 6.1

**APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 4843, 1 SCABIOSA CLOSE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : WARREN PETTERSON PLANNING ON BEHALF OF BB UITBREIDING 7 BELEGGINGS CC**

3/2/3/6

S Swart

(028) 313 8006

Corporate Head Office

3 December 2015

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#### 1. Executive Summary

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

#### 2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

#### 3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

#### 4. Delegated Authority

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

#### 5. Legal Requirements

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

#### 6. Discussion

The nature of the appeal is as follows:

The appellant appeals against the Executive Mayor's decision dated 25 March 2015 that the application for a consent use in order to enable MTN to install a rooftop base station on Erf 4843, Betty's Bay, not 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 12 November 2015

**RECOMMENDATION TO THE COUNCIL:**

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

1. that the appeal **be upheld**; and
2. that the full deposit **be refunded** to the appellant.

**RESPONSIBLE OFFICIAL :**

**H VAN DER STOEP/S SWART**

**TARGET DATE FOR IMPLEMENTATION :**

**TO BE NOTED**



**RECORD OF DECISION**  
12 NOVEMBER 2015

**RE:**

APPEAL LODGED IN TERMS OF SECTION 62 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT 32 OF 2000) : ERF 4843, 1 SCABIOSA CLOSE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : WARREN PETTERSON PLANNING ON BEHALF OF BB UITBREIDING 7 BELEGGINGS CC

**PRESENT :**

**COUNCILLORS**

Ald A Coetsee  
Cllr D Coetzee  
Cllr V Macothen  
Cllr L Krige

**CAPACITY**

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

**OFFICIALS**

Mr R Kuchar  
Ms H van der Stoep  
Ms S Swart

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

**APPELLANT**

BB Uitbreiding 7 Beleggings CC Represented by Mr D Frank from Warren Petterson Planning

**APOLOGIES**

Cllr M Dyani

Member : Appeal Committee

**ABSENT**

None

**APPELLANT:**

Messrs BB Uitbreiding 7 Beleggings CC

**RESPONDENT:**

Overstrand Municipality herein represented by Mr R Kuchar, Senior Manager : Town Planning and Ms H van der Stoep, Senior Town Planner.

**NOTICE OF APPEAL HEARING:**

Notices were sent to all parties concerned.

**NATURE OF APPEAL:**

The appellant appeals against the Executive Mayor's decision dated 25 March 2015 that the application for a consent use in order to enable MTN to install a rooftop base station on Erf 4843, Betty's Bay, 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 Appellant explained that the installation of two (2) dishes on the said property is necessary to ensure line of sight with surrounding dishes. The Appellant further argued that visibility of the dishes will not have a large impact. He informed the meeting that other sites were investigated but it was established by professionals and experts that Erf 4843, Betty's Bay is the most viable option and that the character of the area was most definitely taken into consideration.

SESSION OF APPEAL COMMITTEE

12 NOVEMBER 2015

It was argued by the Respondent that the Municipality's Transfer Station site would be a better option as it would ensure a line of sight, although problems like security, power supply and visual impact may occur and will be more expensive to develop. It was the opinion of the Respondent that the easiest route and most financial beneficial site was chosen irrespective of any other considerations.

**THE MEETING STOOD DOWN AT 12:33 FOR DELIBERATION BY THE PANEL**

**THE MEETING RESUMED AT 12:50**

After due consideration of the documents and after hearing arguments by both parties on the merits of the appeal, the Panel found that the decision taken by the Executive Mayor was not reasonable, specifically that the supporting information in the item, as amplified by oral argument and information received in the Appeal, no longer support the reasons provided as to why the application cannot be approved. The Committee resolved unanimously that the appeal must succeed and that the full deposit must be refunded to the Appellant.

The Committee then –

**RESOLVED (UNANIMOUSLY):**

1. that the appeal **be upheld**; and
2. that the full deposit **be refunded** to the appellant.

**The session of the Appeal Committee closed at 13:00**

SIGNED ON THIS 24<sup>TH</sup> 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 L Krige **Member: Appeal Committee** .....

**7. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (IF ANY)****8. CONSIDERATION OF NOTICES OF MOTIONS / QUESTIONS**

- Questions received from the African National Congress on 2 February 2016 for the Executive Mayor to answer, are attached as Annexure A.
- The Executive Mayor's reply is attached as Annexure B.

**9. CONSIDERATION OF MOTIONS OF EXIGENCY (IF ANY)**



*L*  
*Vin Collab, sub*  
*MM se aunday.*  
*9/2*



Annexure A  
 112

28/01/2016

Mr Speaker

Overstrand Municipality

Questions submitted in terms of Section 33(2) and section 37(3) respectively of the rules of orders for consideration at council meeting of February.

I hereby give notice and request the Mayor be so kind and answer the following questions,

QUESTIONS PUT TO THE MAYOR AS PER RULES OF THE COUNCIL

Back ground .

On the joint portfolio committee meeting dated 17 november 2015, It was brought to the council attention that on the 27 June 2015 an application for rezoning of the following ERF's 7340 Owner NS & T Vara, ERF 7355 Owner XH Suka and ERF 7418 owner NB Malote. All these application are based on the previously disadvantaged communities in Overhills Kleinmond. During the proceedings of the joint portfolio Committee meeting in the presence of all councilors these matters were dealt with intensively, the committee and the full council after deliberations took a decision that these should be then referred back as the recommendations by administration were questionable in order for the council to find an amicable solutions.

Please see attached minutes of the portfolio of infrastructure and planning dated 17 November 2015.

Question 1

Can the Executive Mayor please explain to this council as to which legislation did she applied when considering the above mentioned items in a mayoral committee, hence the systems act does not give the Executive Mayor delegation on the matters that were dealt with in a full council?

FILE NO:	10113
SCAN NO:	07
COLLABORATOR NO:	874328

**Question 2**

Can the Executive Mayor explain to this council, are there any mechanisms that are in place in assisting the affected parties with regards to their businesses in a designated area to do so, hence they want to do business properly and contribute to the Socio Economic challenges, poverty alleviations, SARS and LED as well as eradicating high rate of unemployment in Overhills in particular? If there are possible ways of assisting these inhabitants when can that happen and what will happen to their families in the meantime?

**Question 3**

Did the Executive Mayor took into cognizance the deliberations that were made during the joint portfolio before She made her decision? If so Why is not considering the issues of poor town planning which designed our townships in a way that prohibits our people from doing businesses properly.

**Question 4**

Can the Executive Mayor explain the role of the LED in this regard and why the LED is not involved in finding the amicable solution to the problem.

**Question 5**

Can the executive Mayor explain to this council as to why is she dealing with the merits of how they got their licenses instead of dealing with the matter at hand which is rezoning of the properties?

From the ANC Caucus  
Overstrand Municipality  
Date of Submissions: 02/02/2016  
Time 12h25

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Annexure B  
11/15

EXECUTIVE MAYOR'S REPLY IN TERMS OF RULE 27 OF THE MUNICIPALITY'S BY-LAW ON RULES OF ORDER FOR INTERNAL ARRANGEMENTS TO QUESTIONS SUBMITTED ON 2 FEBRUARY 2016 BY CLLR V MACOTHA APPARENTLY ON BEHALF OF THE AFRICAN NATIONAL CONGRESS CAUCUS.

REMARKS ON THE FIRST PARAGRAPH OF THE DOCUMENT DATED 28 JANUARY 2016:

Sections 33(2) and 37(3) mentioned in the paragraph deal with "Motions for adjournment of meeting to another date" and "Motion to remove matter from agenda". I therefore cannot see the relevance of same in this matter.

**GENERAL REMARKS ON BACKGROUND:**

The aforementioned notice of questions was not signed. It merely states that it is coming from the ANC caucus. It was however hand delivered to the Municipal Manager's office by Cllr V Macotha. I am of the opinion that only individual Councillors can, in terms of the by-law, *inter alia* give notice of questions and not a caucus of Councillors. The validity of said notice is thus questioned but I will nonetheless hereunder provide my answers to the questions.

It must furthermore be brought to the attention of Council that the full Council never considered these matters. The matters served before the Portfolio Committee for Infrastructure and Planning on 17 November 2015 where the committee **recommended** to the Executive Mayor that the item be referred back. The Executive Mayor however considered the recommendation on 25 November 2015 following *in loco* inspections to the relevant properties by certain Councillors. No issues were raised when the Executive Mayor considered the items on 25 November 2015.

The minutes of the Portfolio Committee meeting referred to in the background were not attached to the questions submitted. It is thus annexed to this reply.

**QUESTION 1:**

I take it that the act referred to in the question is the Local Government: Municipal Systems Act, No. 32 of 2000. Even if it is such, such reference is vague.

Local Government delegations are dealt with in section 160(2) of the Constitution of the Republic of South Africa, 1996.

Section 59 of the Local Government: Municipal Systems Act, No. 32 of 2000 furthermore deals with delegations.

Delegations are also dealt with in terms of the Municipality's Policy on Delegation of Powers and Duties.

The crux of the matter lies with Council's resolution 7 dated 1 June 2011 which resolution provides for all powers and functions vested with the Council to be delegated to the Executive Mayor with the power of sub-delegation in terms of section 59(2)(d) of the Local Government: Municipal Systems Act, No.32 of 2000 but excluding those powers and functions:

- mentioned in section 160(2) of the Constitution, 1996;
- mentioned in section 59(1)(a) and (4) and 76(b) of the Local Government: Municipal Systems Act, No.32 of 2000; and
- delegated to the municipality's staff members provided that where the delegates are for whatever reason unwilling or not in a position to exercise his/her delegated power, such matter be dealt with by the Executive Mayor or his/her delegatee.

When regard is had to the aforementioned, the Executive Mayor acted within her powers to decide on the matters.

#### **QUESTION 2:**

Township development takes place according to town planning criteria and after following due public participation processes. The Municipality's Zoning Scheme Regulations are as promulgated under Provincial Notice 400/12 of 29 November 2013. The Municipality is bound by the aforementioned 'legislation' and has not only a Constitutional duty but also a moral duty to enforce same. This follows that the Municipality cannot at random approve town planning applications for the sake of putting applicants in a position to conduct businesses from any premises such applicants deem appropriate. The merits and suitability of the applications were dealt with in full in the items which served before the relevant portfolio committee and the Executive Mayor.

#### **QUESTION 3:**

Yes. Poor town planning, if it was the case and which I doubt, cannot be rectified by a mere decision of the Executive Mayor [*vide* section 160(2)(a) of the Constitution of the Republic of South Africa, 1996].

#### **QUESTION 4:**

Refer to the answers under questions 2 and 3 above.

**QUESTION 5:**

The allegation is denied. The content of the items which served before the relevant portfolio committee and Executive Mayor speaks for itself.

**MINUTES of the**  
**Portfolio Committee : Infrastructure & Planning**  
**17 November 2015**  
**(Also the agenda for the Mayoral Committee Meeting : 25 November 2015)**

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**4.**  
**ERF 7355, 6 ABALONE STREET, OVERHILLS, KLEINMOND, OVERSTRAND**  
**MUNICIPAL AREA : PROPOSED DEPARTURE : XH SUKA**

**7355 KOH (2609)**  
**H van der Stoep (028) 313 8900 Hermanus Administration**  
**22 September 2015**

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**EXECUTIVE SUMMARY**

An application has been received on 27 June 2014 from XH Suka on Erf 7355, Overhills, Kleinmond for a departure from the Scheme Regulations to enable the owner to legalize the existing shebeen on the property.

**RECOMMENDATION:**

1. that the objection **be noted**;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a departure from the Scheme Regulations on Erf 7355, Overhills, Kleinmond, **not be approved**, due to the following reasons:
  - (a) the land use for a tavern is not in line with the Scheme Regulations and the Overstrand Municipal Spatial Growth Management Strategy;
  - (b) the land use is not catered for in the design of the township and width of the street does not cater for articulated trucks and or delivery vehicles;
  - (c) the proposed land use is not conducive to the residential character of Overhills in terms of being compliant with the National Building Regulations, Fire Regulations, noise pollution and hours of trading;
  - (d) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations, does not allow the trading hours proposed by the applicant in order to accommodate all residents and especially school going children of the area;
  - (e) the ablution facility does not comply as a paraplegic toilet facility and is not catered for; and
  - (f) the tavern exceed the allowable coverage on residential erven for business purposes e.g 25% or 30m<sup>2</sup>, whichever is the lesser.

**MINUTES of the** 7  
**Portfolio Committee : Infrastructure & Planning**  
**17 November 2015**  
**(Also the agenda for the Mayoral Committee Meeting : 25 November 2015)**

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3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 17 NOVEMBER 2015, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

that the item **be referred back.**

<b>RESPONSIBLE OFFICIAL :</b>	<b>H VAN DER STOEP</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>9 DECEMBER 2015</b>

## 4.

ERF 7355, 6 ABALONE STREET, OVERHILLS, KLEINMOND, OVERSTRAND  
MUNICIPAL AREA : PROPOSED DEPARTURE : XH SUKA

7355 KOH (2609)

H van der Stoep

22 September 2015

(028) 313 8900

Hermanus Administration

## EXECUTIVE SUMMARY

An application has been received on 27 June 2014 from XH Suka on Erf 7355, Overhills, Kleinmond for a departure from the Scheme Regulations to enable the owner to legalise the existing shebeen on the property.

## RESOLVED:

1. that the objection **be noted**;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a departure from the Scheme Regulations on Erf 7355, Overhills, Kleinmond, **not be approved**, due to the following reasons:
  - (a) the land use for a tavern is not in line with the Scheme Regulations and the Overstrand Municipal Spatial Growth Management Strategy;
  - (b) the land use is not catered for in the design of the township and width of the street does not cater for articulated trucks and or delivery vehicles;
  - (c) the proposed land use is not conducive to the residential character of Overhills in terms of being compliant with the National Building Regulations, Fire Regulations, noise pollution and hours of trading;
  - (d) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations, does not allow the trading hours proposed by the applicant in order to accommodate all residents and especially school going children of the area;
  - (e) the ablution facility does not comply as a paraplegic toilet facility and is not catered for; and
  - (f) the tavern exceed the allowable coverage on residential erven for business purposes e.g 25% or 30m<sup>2</sup>, whichever is the lesser.
3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

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MINUTES OF THE MAYORAL COMMITTEE MEETING      25 NOVEMBER 2015

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 OBJECTOR :	9 DECEMBER 2015

MINUTES of the  
 Portfolio Committee : Infrastructure & Planning  
 17 November 2015  
 (Also the agenda for the Mayoral Committee Meeting : 25 November 2015)

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5.  
 ERF 7418, 46 GM SIYONI STREET, OVERHILLS, KLEINMOND, OVERSTRAND  
 MUNICIPAL AREA: PROPOSED DEPARTURE: NB MALOTE

7418 KOH (2610)  
 H van der Stoep (028) 313 8900 Hermanus Administration  
 22 September 2015

**EXECUTIVE SUMMARY**

An application has been received on 27 June 2014 from NB Malote on Erf 7418, Overhills, Kleinmond for a departure from the Scheme Regulations to enable the owner to legalise the existing shebeen on the property.

**RECOMMENDATION:**

1. that the objection **be noted**;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a departure from the Scheme Regulations on Erf 7418, Overhills, Kleinmond, **not be approved**, due to the following reasons:
  - (a) the land use for a tavern is not in line with the Scheme Regulations and the Overstrand Municipal Spatial Growth Management Strategy;
  - (b) the land use is not catered for in the design of the township and width of the street does not cater for articulated trucks and/or delivery vehicles;
  - (c) the proposed land use is not conducive to the residential character of Overhills in terms of being compliant with the National Building Regulations, Fire Regulations, noise pollution and hours of trading;
  - (d) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations, does not allow the trading hours proposed by the applicant in order to accommodate all residents and especially school going children of the area;
  - (e) the ablution facility does not comply as a paraplegic toilet facility and is not catered for;
  - (f) the tavern exceeds the allowable coverage on residential erven for business purposes e.g 25% or 30m<sup>2</sup>, whichever is the lesser; and
  - (g) the existing dwelling is used for overflow storage.

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**MINUTES of the**  
**Portfolio Committee : Infrastructure & Planning**  
**17 November 2015**  
**(Also the agenda for the Mayoral Committee Meeting : 25 November 2015)**

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3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 17 NOVEMBER 2015, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

that the item **be referred back**.

<b>RESPONSIBLE OFFICIAL :</b>	<b>H VAN DER STOEP</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>9 DECEMBER 2015</b>

5.  
**ERF 7418, 46 GM SIYONI STREET, OVERHILLS, KLEINMOND, OVERSTRAND  
 MUNICIPAL AREA: PROPOSED DEPARTURE: NB MALOTE**

7418 KOH (2610)

H van der Stoep

22 September 2015

(028) 313 8900

Hermanus Administration

**EXECUTIVE SUMMARY**

An application has been received on 27 June 2014 from NB Malote on Erf 7418, Overhills, Kleinmond for a departure from the Scheme Regulations to enable the owner to legalise the existing shebeen on the property.

**RESOLVED:**

1. that the objection **be noted**;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a departure from the Scheme Regulations on Erf 7418, Overhills, Kleinmond, **not be approved**, due to the following reasons:
  - (a) the land use for a tavern is not in line with the Scheme Regulations and the Overstrand Municipal Spatial Growth Management Strategy;
  - (b) the land use is not catered for in the design of the township and width of the street does not cater for articulated trucks and/or delivery vehicles;
  - (c) the proposed land use is not conducive to the residential character of Overhills in terms of being compliant with the National Building Regulations, Fire Regulations, noise pollution and hours of trading;
  - (d) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations, does not allow the trading hours proposed by the applicant in order to accommodate all residents and especially school going children of the area;
  - (e) the ablution facility does not comply as a paraplegic toilet facility and is not catered for;
  - (f) the tavern exceeds the allowable coverage on residential erven for business purposes e.g 25% or 30m<sup>2</sup>, whichever is the lesser; and
  - (g) the existing dwelling is used for overflow storage.

**MINUTES OF THE MAYORAL COMMITTEE MEETING 25 NOVEMBER 2015**

3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

<b>RESPONSIBLE OFFICIAL :</b>	<b>H VAN DER STOEP</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>9 DECEMBER 2015</b>

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MINUTES of the 10  
 Portfolio Committee : Infrastructure & Planning  
 17 November 2015  
 (Also the agenda for the Mayoral Committee Meeting : 25 November 2015)

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6.  
 ERF 7340, 17 PS LITHOLI STREET, OVERHILLS, KLEINMOND, OVERSTRAND  
 MUNICIPAL AREA : PROPOSED DEPARTURE : NS & T VARA

7340 KOH (2608)  
 H van der Stoep (028) 313 8900 Hermanus Administration  
 22 September 2015

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#### EXECUTIVE SUMMARY

An application has been received on 27 June 2014 from NS & T Vara on Erf 7340, Overhills, Kleinmond for a departure from the Scheme Regulations to enable the owner to legalize the existing shebeen on the property.

#### RECOMMENDATION:

1. that the objections **be noted**;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a departure from the Scheme Regulations on Erf 7340, Overhills, Kleinmond, **not be approved**, due to the following reasons:
  - (a) the land use for a tavern is not in line with the Scheme Regulations and the Overstrand Municipal Spatial Growth Management Strategy;
  - (b) the land use is not catered for in the design of the township and width of the street does not cater for articulated trucks and/or delivery vehicles;
  - (c) the proposed land use is not conducive to the residential character of Overhills in terms of being compliant with the National Building Regulations, Fire Regulations, noise pollution and hours of trading;
  - (d) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations, does not allow the trading hours proposed by the applicant in order to accommodate all residents and especially school going children of the area;
  - (e) the ablution facility does not comply as a paraplegic toilet facility is not catered for; and
  - (f) the tavern exceeds the allowable coverage on residential erven for business purposes e.g 25% or 30m<sup>2</sup>, whichever is the lesser.

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**MINUTES of the**  
**Portfolio Committee : Infrastructure & Planning**  
**17 November 2015**  
**(Also the agenda for the Mayoral Committee Meeting : 25 November 2015)**

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3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 17 NOVEMBER 2015, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

that the item **be referred back.**

<b>RESPONSIBLE OFFICIAL :</b>	<b>H VAN DER STOEP</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>9 DECEMBER 2015</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>9 DECEMBER 2015</b>

6.  
**ERF 7340, 17 PS LITHOLI STREET, OVERHILLS, KLEINMOND, OVERSTRAND  
 MUNICIPAL AREA : PROPOSED DEPARTURE : NS & T VARA**

7340 KOH (2608)

H van der Stoep

22 September 2015

(028) 313 8900

Hermanus Administration

**EXECUTIVE SUMMARY**

An application has been received on 27 June 2014 from NS & T Vara on Erf 7340, Overhills, Kleinmond for a departure from the Scheme Regulations to enable the owner to legalise the existing shebeen on the property.

**RESOLVED:**

1. that the objections **be noted**;
2. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for a departure from the Scheme Regulations on Erf 7340, Overhills, Kleinmond, **not be approved**, due to the following reasons:
  - (a) the land use for a tavern is not in line with the Scheme Regulations and the Overstrand Municipal Spatial Growth Management Strategy;
  - (b) the land use is not catered for in the design of the township and width of the street does not cater for articulated trucks and/or delivery vehicles;
  - (c) the proposed land use is not conducive to the residential character of Overhills in terms of being compliant with the National Building Regulations, Fire Regulations, noise pollution and hours of trading;
  - (d) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations, does not allow the trading hours proposed by the applicant in order to accommodate all residents and especially school going children of the area;
  - (e) the ablution facility does not comply as a paraplegic toilet facility is not catered for, and
  - (f) the tavern exceeds the allowable coverage on residential erven for business purposes e.g 25% or 30m<sup>2</sup>, whichever is the lesser.
3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

MINUTES OF THE MAYORAL COMMITTEE MEETING      25 NOVEMBER 2015

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 OBJECTOR :	9 DECEMBER 2015