

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
16 February 2021  
(Also the agenda for the Mayoral Committee Meeting : 24 February 2021)**

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**3.  
APPOINTMENT OF EXTERNAL MEMBER ON THE MUNICIPAL PLANNING  
TRIBUNAL**

15/3/3/1

R Kuchar

Senior Manager : Town & Spatial Planning

22 January 2021

(028) 3138087

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**1. Executive Summary**

Council at its meeting held on 28 October 2020 took the following decision:

***“RESOLVED (SUPPORTED BY 23 COUNCILLORS):***

1. *that the municipal officials that will serve on the Municipal Planning Tribunal are the Director: Infrastructure & Planning (Mr S Müller), Director: Economic Development & Tourism (Mr S Madikane), Deputy Director: Engineering Services (Mr H Blignaut) and Senior Manager: Strategic Services (Ms R Louw);*
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 and Ms Dalene Carstens as second;*
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*
5. *that Ms H Janser from the Provincial Department of Environmental Affairs be appointed as Chairperson of the MPT and the Director: Infrastructure & Planning (Mr S Müller) as Deputy Chairperson of the MPT.”*

The item serves to proceed to fulfil condition 4 of the above resolution.

**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

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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)
- Overstrand Municipality By-Law on Municipal Land Use Planning

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

**Background**

Council at its meeting held on 28 October 2020 took the following resolution:

- “1. *that the municipal officials that will serve on the Municipal Planning Tribunal are the Director: Infrastructure & Planning (Mr S Müller), Director: Economic Development & Tourism (Mr S Madikane), Deputy Director: Engineering Services (Mr H Blignaut) and Senior Manager: Strategic Services (Ms R Louw);*
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 and Ms Dalene Carstens as secondi (as per Annexure C to the item);*
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*
5. *that Ms H Janser from the Provincial Department of Environmental Affairs be appointed as Chairperson of the MPT and the Director: Infrastructure & Planning (Mr S Müller) as Deputy Chairperson of the MPT.”*

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Council's resolution of 28 October 2020 is attached per Annexure A.

In order to fulfil condition 4. Of the above resolution a prescribed legal procedure needs to be complied with in order to call for nominations of external members, evaluation of external members and a final proposal for the preferred external member needs to be submitted to Council for a final decision.

In terms of Section 36.(1) (b):

*“36.1(1)(b) persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of spatial planning, land use management and land development or the law related thereto.”*

read together with Spatial Planning and Land Use Management Regulation: Land Use Management and General Matters, 2015 Regulations

sub regulation 3.(1)(g) *“convene an evaluation panel to evaluate the nominations received by the municipality and determine the terms of reference of that evaluation panel;”*

determining the following:

- “4. *A nomination submitted in response to an invitation must comply with all the requirements for a nomination submitted in response to a call for nomination referred to in subregulation (6).*
  
6. *The call for nominations must –*
  - (a) *request sufficient information for the municipality to evaluate the knowledge and experience of the nominee;*
  - (b) *permit self-nomination or provide for acceptance of the nomination by the nominee;*
  - (c) *include a confirmation by the nominee that he or she is not disqualified from serving as a member as contemplate in section 38 of the Act;*
  - (d) *include agreement by the nominee that the municipality may verify all the information provided by the nominee;*
  - (e) *include a statement that the nominee will be obliged to commit to and uphold a code of conduct; and*
  - (f) *provide for a closing date for nominations which date may be no less than 14 days from the date of publication and no nominations submitted after that date may be evaluated by the municipality.*

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11. *The evaluation panel referred to in sub regulation (3)(g) must convene an evaluation panel to evaluate the nominations received by the municipality and determine the terms of reference of that evaluation panel -*
- (a) consist of officials in the employ of the municipality; and*
  - (b) evaluate all nominations that complied with the requirements of this regulation which were received by the municipality in response to the invitations and call for nominations and make recommendations on the appointment of members to the municipality.*
12. *The municipality may not appoint any person to the Municipal Planning Tribunal if that persons –*
- (a) was not nominated in accordance with the provisions of this regulation;*
  - (b) is disqualified from appointment as contemplated in section 38 of the Act; or*
  - (c) if he or she does not possess the knowledge or experience required in terms of section 36(1)(b) of the Act or the additional criteria determined in terms of subregulation (1)(e).”*

### **Discussion**

In order for Council to invite nominations for an external member to be represented on the Municipal Planning Tribunal Council need to decide the following:

➤ Call for nomination

The call for nomination must indicate the period to which must be called for.

The period will be the same as per Council's resolution of 28 October 2020 stating from date of the Council's resolution on appointment of external member.

➤ Qualification of Nominees

Further Section 36(1)(b) determine the broad criteria of experience needed to qualify to be considered:

*“36.1(1)(b) persons appointed by the Municipal Council who are not municipal officials and who have knowledge and experience of*

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*spatial planning, land use management and land development or the law related thereto.”*

Council however can in addition to the above make further requirements.

It is recommended that the following requirements be added:

1. that the nominees have at least 7 years' experience in either spatial planning, land use management, land development and law related.
2. that the nominee be a permanent resident in the Overstrand area (must reside here permanently).
3. that the nominee not be active in his profession within Overstrand area.

The above is to make sure that the nominees has the relevant expertise and experience, that they are informed about the situation and happenings in Overstrand area and to ensure that they do not unduly influence the outcome of the decision to benefit his or her practise.

➤ Code of Conduct

Code of conduct is as prescribed and included under Schedule 3 of the Spatial Planning and Land Use Regulation (attached per Annexure A), which be applicable..

➤ Evaluation Panel

In terms of sub regulation 3.(1)(g) “*convene an evaluation panel to evaluate the nominations received by the municipality and determine the terms of reference of that evaluation panel;*” it is recommended that the Municipal Manager and the Authorised Official be delegated the task of evaluating the nominees and to submit a recommendation to Council for final consideration and approval.

## **7. Financial Implications**

The SPLUMA Regulations Schedule 1 stipulated the following:

*“(2)(e) - in the case of a person referred to in regulation 3(2)(b), is entitled to a seating 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. Adequate budget provision is available.

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**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

None

**10. Annexures**

Annexure A: Resolution of Council's meeting held on 28 October 2020

**RECOMMENDATION TO THE COUNCIL:**

1. that a notice be published inviting external nominations to serve on the Municipal Planning Tribunal (MPT);
2. that external nominations member must comply with the following criteria:
  - (a) has at least 7 years' experience in either spatial planning, land use management, land development and law related.
  - (b) be a permanent resident in the Overstrand area (must reside here permanently).
  - (c) not be active in his profession within Overstrand area.
3. that the external MPT member be remunerated according prescribed in regulation (2)(e) – *“in the case of a person referred to in regulation 3(2)(b), is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on”*;
4. that the Municipal Manager and Authorised Official be appointed as members of the panel to evaluate the nominees received in 1. above and to submit a report to Council requesting the appointment of the external member of the Municipal Planning Tribunal; and
5. that the Authorised Official be mandated to effect the process for appointment of external member together with all necessary administration thereto.

**RESPONSIBLE OFFICIAL :**

**R KUCHAR**

**TARGET DATE FOR IMPLEMENTATION :**

**10 MARCH 2021**

**TARGET DATE TO INFORM APPLICANT :**

**N/A**

**TARGET DATE TO INFORM OBJECTOR :**

**N/A**

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R Kuchar

Senior Manager : Town & Spatial Planning

22 January 2021

(028) 3138087

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
16 FEBRUARY 2021, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that a notice be published inviting external nominations to serve on the Municipal Planning Tribunal (MPT);
2. that external nominations member must comply with the following criteria:
  - (a) has at least 7 years' experience in either spatial planning, land use management, land development and law related.
  - (b) be a permanent resident in the Overstrand area (must reside here permanently).
  - (c) not be active in his profession within Overstrand area.
3. that the external MPT member be remunerated according prescribed in regulation (2)(e) – *“in the case of a person referred to in regulation 3(2)(b), is entitled to a seating and travel allowance for each meeting of the Municipal Planning Tribunal that he or she sits on”*;
4. that the Municipal Manager and Authorised Official be appointed as members of the panel to evaluate the nominees received in 1. above and to submit a report to Council requesting the appointment of the external member of the Municipal Planning Tribunal; and
5. that the Authorised Official be mandated to effect the process for appointment of external member together with all necessary administration thereto.

**RESPONSIBLE OFFICIAL :**

**R KUCHAR**

**TARGET DATE FOR IMPLEMENTATION :**

**10 MARCH 2021**

**MINUTES : ORDINARY MEETING OF THE COUNCIL      28 OCTOBER 2020****5.3****APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL****(ITEM 8, PAGE 149 : INFRASTRUCTURE & PLANNING PORTFOLIO -  
MAYORAL COMMITTEE MEETING : 28 OCTOBER 2020)****THE AFRICAN NATIONAL CONGRESS REQUESTED A CAUCUS AT 15:25****THE MEETING RESUMED AT 15:45****RESOLVED (SUPPORTED BY 23 COUNCILLORS):**

1. that the municipal officials that will serve on the Municipal Planning Tribunal are the Director: Infrastructure and Planning (Mr S Müller), Director: Economic Development & Tourism (Mr S Madikane), Deputy Director : Engineering Services (Mr H Blignaut) and Senior Manager : Strategic Services (Ms R Louw);
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 and Ms Dalene Carstens as secondi (as per Annexure C to the item);
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
5. that the Ms H Janser from the Provincial Department of Environmental Affairs be appointed as Chairperson of the MPT and the Director: Infrastructure & Planning (Mr S Müller) as Deputy Chairperson of the MPT.

**RESPONSIBLE OFFICIAL :****R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****11 NOVEMBER 2020**