



**JOINT PORTFOLIO COMMITTEE MEETING /  
GESAMENTLIKE PORTEFEULJEKOMITEE VERGADERING:**

- **Finance / Finansies**
  - **Management Services / Bestuursdienste**
  - **Protection Services / Beskermingsdienste**
  - **Community Services / Gemeenskapsdienste**
    - Economic Development & Tourism /  
Ekonomiese Ontwikkeling & Toerisme**
- **Infrastructure & Planning / Infrastruktuur & Beplanning**

**INTLANGANISO YEKOMITI ZAMASEBE AHLANGENEYO:**

- **EleZemali**
  - **liNkonzo zoLawulo**
  - **liNkonzo zoKhuselo**
  - **liNkonzo zoLuntu**
- Uphuhliso lweZoqoqosho & Nezokhenketho**
  - **UbuXhakaxhaka & UCwangciso**

**A G E N D A / I-AJENDA**

**DATE / DATUM / UMHLA : 20 SEPTEMBER / SEPTEMBER 2016**  
**VENUE / PLEK / INDAWO : BANQUETING HALL / BANKETSAAL**  
**CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU**  
**HERMANUS**  
**TIME / TYD / IXESHA : 10:00**

## **MUNISIPALITEIT OVERSTRAND MUNICIPALITY**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

**7 September 2016**

### **NOTICE TO ALL ALDERMEN / COUNCILLORS**

**NOTICE IS HEREBY GIVEN** that an **ORDINARY MEETING** of the **JOINT PORTFOLIO COMMITTEE** will be held in the **Banqueting Hall, Civic Centre, HERMANUS**, on **TUESDAY, 20 SEPTEMBER 2016 AT 10:00**, to consider the items set out in the attached agenda.

**C GROENEWALD  
MUNICIPAL MANAGER**

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**7 September 2016**

### **KENNISGEWING AAN ALLE RAADSHERE / RAADSLEDE**

**KENNIS WORD HIERMEE GEGEE** dat 'n **GEWONE VERGADERING** van die **GESAMENTLIKE PORTEFEULJEKOMITEE** gehou sal word in die **Banketsaal, Burgersentrum, HERMANUS**, op **DINSDAG, 20 SEPTEMBER 2016 OM 10:00**, vir oorweging van die items op die meegaande agenda.

**C GROENEWALD  
MUNISIPALE BESTUURDER**

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**7 Septemba 2016**

### **ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA**

**OKU KUKWAZISA** ukuba **INTLANGANISO YESIQHELO YEKOMITI ZAMASEBE AHLANGENEYO** ebhunga iza kuba se **Banqueting Hall, kwiZiko LoLUNTU, eHERMANUS**, ngo**LWESIBINI**, umhla, we **20 SEPTEMBER 2016 ngeye-10:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

**C GROENEWALD  
UMPHATHI KAMASIPALA**

**AGENDA/...**

**PORTFOLIO COMMITTEE :**

**FINANCE**

**Chairperson :**

**Deputy Executive Mayor  
Ald D Coetzee**

**Committee Members :**

**Cllr F Africa, K Brice,  
S Tebele & B Molefe**

**PORTEFEULJEKOMITEE :**

**FINANSIES**

**Voorsitter :**

**Uitvoerende Onderburgemeester  
Rdl D Coetzee**

**Komiteelede :**

**Rdle F Africa, K Brice,  
S Tebele & B Molefe**

**AGENDA of the  
Portfolio Committee : Finance  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

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**OPENING**

**APPLICATIONS FOR LEAVE OF ABSENCE**

**STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE  
CHAIRPERSON**

**FINANCE PORTFOLIO COMMITTEE  
FINANSIES PORTEFEULJEKOMITEE**

**20 SEPTEMBER 2016**

**I N D E X**

**ITEM**

**PAGE  
NUMBER**

**OPENING**

**APPLICATIONS FOR LEAVE OF ABSENCE**

**STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE  
CHAIRPERSON**

**1. DRAFT BY-LAW ON SPECIAL RATING AREAS**

**1**

**AGENDA of the  
Portfolio Committee: Finance  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

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**1.  
DRAFT BY-LAW ON SPECIAL RATING AREAS**

1/3/23

L Wallace

28 July 2016

(028) 313 5031

Corporate Head Office

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**1. Executive Summary**

The purpose of this report is for Council to adopt the proposed by-law on Special Rating Areas in terms of Section 12(3) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), hereafter referred to as "*the MSA*". The proposed by-law was introduced as is provided for in terms of Section 12(1) of the MSA and Council's By-law on Rules of Order for Internal Arrangements, P.N. 7188 of 2013. The necessary permission was obtained to publish the proposed by-law in the press in order to give the public an opportunity to make representations.

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

Directorate: Finance  
Department: Finance

**3. Compliance with Strategic Priority**

Provision of democratic, accountable and ethical governance.

**4. Delegated Authority**

None

**5. Legal Requirements**

Constitution of the Republic of South Africa, 1996 (Constitution)  
Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA)  
Local Government: Municipal Systems Act, Act 32 of 2000 (MSA)  
Local Government: Property Rates Act, 6 of 2004 (PRA)  
Overstrand Municipality By-law on Rules of Order for Internal Arrangements, P.N. 7188 of 2013

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

**Background / Discussion**

To provide for the establishment of special rating areas; to provide for additional rates; and for matters incidental thereto.

**AGENDA of the  
Portfolio Committee: Finance  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

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### **6.1 Effect of Special Rating Areas**

It is important to note that the purpose and objective of special rating areas is to only supplement or top-up existing municipal services. The Municipal Systems Act clearly defines a municipal service as a service that the Municipality can provide in terms of its delegated Constitutional powers and functions for the benefit of the community, and where a fee, charge or tariff is levied for such a service.

### **6.2 Proposed draft by-law on Special Rating Area**

The Municipality's financial services department in collaboration with legal services conducted various discussions, and workshops in relation to special rating areas. The outcome of these workshops and discussions was the formulation of a final draft by-law on Special Rating Areas within our jurisdiction.

The proposed Special Rating Area By-law in its current form is regarded as compliant with the Constitution, the MFMA, and the PRA, and other legislation, based on the best available information and knowledge about Special Rating Areas currently available. It should be accepted that the incorporation of Special Rating Areas will experience some 'growing pains', but this change is unavoidable and needs to be embraced to ensure a smooth transition.

### **6.3 Process followed**

The draft by-law was advertised for public participation. This was done on 26 May 2016. The advertisement was placed in the Gansbaai Courant, Hermanus Times, The Overstrand Herald, and Municipal Notice Boards.

Despite the notification of the proposed by-law, the Municipality only received representations from the Hermanus Rate Payers Association. A copy of their representations is annexed to the item as annexure C.

Section 12(3) of the MSA determines that a by-law may only be passed by a municipal council if all members of the council have been given reasonable notice and that the proposed by-law has been published to allow for representations by the public. Council members have been given reasonable notice of the by-law and as described; the public was also afforded the opportunity to make representations. Section 12 of the MSA as well as the provisions of the By-law on Rules of Order for Internal Arrangements have been complied with.

It is therefore recommended that the Council passes the by-law, attached as Annexure A.

**AGENDA of the  
Portfolio Committee: Finance  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

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#### **6.4 Publication of the by-law and taking effect thereof**

When a municipal council passes a by-law, Section 13 of the MSA requires that:-

- it must be published promptly in the Provincial Gazette and when feasible also in the local newspaper or in any other way to bring the contents of the bylaw to the attention of the local community; and
- that it takes effect when published in the Provincial Gazette or on a future date determined in or in terms of the by-law.

#### **7. Financial Implications**

The by-law must be published in the Provincial Gazette.

#### **8. Staff Implications**

None

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

Legal Services comments in response to the Rate Payers Association letter dated 15 June 2016 are as follows:

##### **Definition of implementation plan**

In response, the definition of an implementation plan is not mentioned in section 22 of the Property Rates Act, the necessary revision was made to the draft by-law, by way of the removal of implementation plan from the definition section, and the necessary revision of section 4(2) of the draft by-law. As set forth in the definition section the business plan includes a motivation report, implementation plan and term budget as contemplated in section 6 of the by-law.

##### **The purpose of a Special Rating Area**

The proposal of the Rate Payers Association is that the purpose of the Special Rating Area should be stated upfront in the by-law, and further that there should be a list of precisely what municipal services may legally be enhanced and supplemented by a Special Rating Area.

In response it should be noted that the purpose and objective of Special Rating Areas were always to supplement and top up existing municipal services. The Municipal Systems Act clearly defines a municipal service as a service that the Municipality can provide in terms of its delegated constitutional powers and functions for the benefit of the community, and where a fee or tariff is levied for

**AGENDA of the  
Portfolio Committee: Finance  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

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such service. The Municipality can neither render a service, and levy or fee or tariff for such service if it has not been delegated to the Municipality in terms of schedule 4 and 5 of the Constitution.

**Comments on section 4(3)(c)(2) of the draft by-law**

In response, it should be noted that the second component of section 4(3) (c) (2) refers to members of the local community that will be liable for paying the additional rate. It should be further noted that section 22 (2) (b) of the Property Rates Act 6 of 2004 refers to “members of the local community liable for paying the additional rate. Cognizance should further be taken of the fact that the section of the Act provides that the additional rate is to be levied on property and having regard thereto, it will probably remain the liability of the owner.

**Comments on section 5(7) of the draft by-law**

In response, it should be noted that Section 5(7) has a wide application, and include owners and rate payers.

**The Special Rating Area must be tied to the 5 year Integrated Development Cycle and not just any fifth year or lesser period.**

In response, the Special Rating Area will firstly assist Council to fulfil its developmental duties and objectives set out in the Integrated Development Plan. Section 22(4) of the Property Rates Act 6 of 2004; require that any determination of a special rating area must be consistent with the objectives of the Municipalities Integrated Development Plan. It is on this basis that there should be a tie between the Integrated Development Plan Cycle and the Special Rating Area, to ensure that the area is both consistent and aligned with the objectives of the Municipalities Integrated Development Plan.

**Comments on oral representation set forth in section 7(4) of the draft by-law**

In response, clause 10.5.4 of the Special Rating Area policy dictate that a property owner who wants to make oral representations for submission to Council in terms of section 7(4) of the by-law may be assisted by an official to document this for inclusion in the report for consideration by Council.

**Comments on section 7(5) (2) of the draft by-law**

In response the period referred to in section 7(5) of the draft by-law is 30 days.

**AGENDA of the  
Portfolio Committee: Finance  
20 September 2016  
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

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**Comments on section 8(1) of the draft by-law**

In response Section 8 of the by-law specifically refer to Councils decision after consideration of the application. Section 8 provides the necessary scope to Council decision making powers, which extends either to determine a special rating area in accordance with the business plan, or refuse the application. Section 22(3) (b) refers to the role and functions of the Municipality, including the determination of the boundaries of the area, how the area is to be improved or upgraded, the establishment of a separate accounting system, and the establishment of a committee of persons representing the committee.

**Comments on section 12(6) of the by-law**

In response section 12(6) of the draft by-law makes any payment conditional upon the conclusion of a finance agreement to be entered into between Council and the relevant management body. Such an agreement will regulate the mechanism and manner of payment as well as the terms on which payment to the management body will be made. Any payment process will be subject to the provisions set forth in section 67 of the Municipal Finance Management Act. The provisions of the Act are prescriptive and must be followed.

**10. Annexures**

- Annexure A: Proposed draft by-law on Special Rating Areas
- Annexure B: Formal Public Notices
- Annexure C: Letter dated 15<sup>th</sup> June 2016 by the Hermanus Ratepayers Association

**RECOMMENDATION TO THE COUNCIL:**

1. that, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the By-law on Special Rating Areas **be adopted**; and
2. that, in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the By-law on Special Rating Areas **be published** promptly in the Provincial Gazette.

**RESPONSIBLE OFFICIAL :**

**L WALLACE**

**TARGET DATE FOR IMPLEMENTATION :**

**DATE OF PUBLICATION IN THE  
PROVINCIAL GAZETTE**

**AGENDA of the  
Portfolio Committee : Finance  
26 September 2016  
(Also the agenda for the Mayoral Committee Meeting : 26 September 2016)**

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**REMARK**

**Please note that the following recommendations contained in this agenda are subject to confirmation or amendment by the Portfolio Committees in view of the fact that the compilation of the Mayoral Committee agenda was done before the Portfolio Committees of 26 September 2016 had formally sat.**

**1.  
DRAFT BY-LAW ON SPECIAL RATING AREAS**

**1/3/23**

**L Wallace**

**(028) 313 5031**

**Corporate Head Office**

**28 July 2016**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
26 SEPTEMBER 2016, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE COUNCIL:**

1. that, in terms of section 156(2) of the Constitution of the Republic of South Africa, 1996, read with section 11(3)(m) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the By-law on Special Rating Areas **be adopted**; and
2. that, in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the By-law on Special Rating Areas **be published** promptly in the Provincial Gazette.

**RESPONSIBLE OFFICIAL :**

**L WALLACE**

**TARGET DATE FOR IMPLEMENTATION :**

**DATE OF PUBLICATION IN  
THE PROVINCIAL GAZETTE**

**OVERSTRAND MUNICIPALITY**  
**SPECIAL RATING AREA BY-LAW**

To provide for the establishment of special rating areas; to provide for additional rates; and to provide for matters incidental thereto.

**BE IT ENACTED BY OVERSTRAND MUNICIPALITY AS FOLLOWS: -**

**1. DEFINITIONS**

In this By – law words or expressions shall bear the meaning assigned to them, unless context otherwise indicates –

**“additional rate”** means an additional rate contemplated in section 19(1) (d) and 22(1) (b) of the Property Rates Act in section 12(2) of this By – law;

**“applicant”** means any owner who makes an application for the determination of a special rating area in accordance with the provisions of Chapter 1, or if a management body is established in terms of section 10 any reference to “the Applicant” means the management body;

**“business plan”** include a motivation report, implementation plan and term budget as contemplated in section 6 of the By – law;

**“CFO”** means the Chief Financial Officer of Overstrand Municipality, or his or her nominee;

**“Council”** means Council of Overstrand Municipality;

**“limited special rating area”** means a limited special rating area approved by Council in terms of section 9;

**“Companies Act”** means the Companies Act, 2008 (Act 71 of 2008), as amended or replaced;

**“Majority”** means the majority of property owners as contemplated in section 22 of the Property Rates Act and as may be amplified in the Policy;

**“Management body”** means the management body of a special rating area to be established in accordance with the provisions of section 11;

**“Owner”** has the meaning assigned to it in section 1 of the Property Rates Act;

**“Policy”** means the Policy for the determination of special rating areas, or any other policy adopted by the Council in relation to special rating areas, as in force from time to time;

**“Property Rates Act”** means the Local Government Municipality Property Rates Act;

**“rateable property”** has the meaning assigned to it in section 1 of the Property Rates Act;

**“special rating area”** means a special rating area approved by the Council in accordance with the provisions of section 22 of the Property Rates Act and section 8 of the By – law.

**“term budget”** means the budget of the management body contemplated in section 6 of the By – law.

## 2. INTERPRETATION

In the event of any conflict with the Afrikaans and isiXhosa texts the English version prevails.

## 3. DETERMINATION OF SPECIAL RATING AREAS

Overstrand Municipality may by resolution of Council determine special rating areas in accordance with the provisions of section 22 of the Property Rates Act.

#### 4. APPLICATION

- (1) Any owner located within the area of jurisdiction of Overstrand Municipality and who owns property within the proposed special rating area, may lodge an application to the Council for the determination of a special rating area.
- (2) All cost incurred by the applicant in respect of the establishment of a special rating area shall be for his or her own account, provided that after implementation of the business plan the management body may reimburse the applicant for some or all of those cost.
- (3) Any application contemplated in subsection (1) must –
  - (a) be in writing and be in the form as the CFO may determine;
  - (b) be submitted not more than nine months after the date on which the public meeting referred to in section 5 is held, or if a public meeting is held as provided for in section 6(2), nine months after the date of the second public meeting;
  - (c) be accompanied by –
    - (i) the business plan;
    - (ii) the written consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate.
    - (iii) payment of such fee as the Council may determine.

#### 5. PUBLIC MEETINGS

- (1) An application for the determination of a special rating area must be preceded by the holding of a public meeting.
- (2) The purpose of the public meeting is to enable the applicant to consult with the property owners who will be liable for paying the additional rate within the proposed special rating area with regard to the proposed boundaries of the area and the improvement or upgrading of the area.

(3) Prior to the holding of the public meeting, the applicant must –

(a) Give notice in a manner approved by the CFO in terms of this By – law to all property owners of rateable property, who will be liable for payment of the additional rate, of the applicants intention to apply for the determination of a special rating area.

(b) In the notice referred to in subsection 3 (a), give notice of a public meeting, which notice must -

I. state the purpose of such meeting; and

II. contain details of the place, date and time when such meeting is to be held.

(4) The public meeting must be held not less than seven days and not more than 30 days after the date of the notice.

(5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.

(6) The public meeting must be chaired by a suitable qualified and experienced person appointed by the CFO.

(7) Interested persons, at the public meeting, be –

(a) Furnished with all the relevant information relating to the proposed special rating area, including the information to be set out in the business plan and;

(b) given an opportunity to ask questions, express their views and make representations.

## **6. BUSINESS PLAN**

(1) Any application for the establishment of a special rating area must include a motivation report an implementation plan and a term budget covering the period commencing on 1 July of a year and ending on 30 June of the fifth year, or covering such lesser period as may be determined by the CFO.

- (2) If the motivation report of the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 5, the applicant must call a second public meeting for the approval of the special rating area as amended.
- (3) The provision of section 5 applies with the necessary changes to the second public meeting.

## **7. ADVERTISING OF APPLICATIONS AND OBJECTIONS**

- (1) The applicant must within 14 days after the application is lodged in accordance with section 4, or within such period which the CFO may approve -
  - (a) cause a notice of the application to be published in a manner approved by the CFO and;
  - (b) either before or up to seven days after the date of publication of the notice referred to in subsection (1) (a), give written notice of the application to all owners within the proposed special rating area, who will be liable for payment of the additional rate, such notice to be given by pre – paid registered post, hand delivery or in any other manner approved or in writing by the CFO.
- (2) Every notice contemplated in terms of subsection (1) must state that written objections to the determination of a special rating area or the provision of the business plan (Refer to the definition of a business plan and section 6 of the by – law) may be lodged with the Council by the date specified in the notice, which shall not be less than 30 days after the date of publication in terms of subsection (1)(a), and must state were the documentation specified in subsection (5) will be available for inspection.
- (3) Any owner of ratable property who will be liable for paying the additional rate may submit written objections to the determination of the special rating area, which objections must be received by the Council not later than the date stipulated in the notice referred to in subsection (1).

- (4) An application and any objector to the application who owns property within the proposed special rating area may make oral representation, which will be recorded in writing, for submission to Council.
- (5) The application, including the business plan and all objections must be available for inspections at the office of Overstrand Municipality and at a venue determined by the CFO within the proposed special rating area, for a period referred to in subsection (2).

## 8. DECISION

- (1) After the provision of section 4 to 7 have been complied with, the Council must, at a meeting of the Council held within 90 days after the last date for the submission of objections in accordance with subsection 7(2), consider the application, and –
  - (a) determine a special rating area which must be implemented in accordance with the business plan, which include the motivation report, implementation plan and term budget;
  - (b) determine a special rating area with such amendments or conditions as the Council considered to be in the public interest;
  - (c) determine a special rating area in respect of a limited area in terms of section 9;
  - (d) refuse the application, in which event the Council must, within 30 days after the date of decision, furnish the applicant with written reasons for not approving the determination of a special rating area; or
  - (e) refer the application back to the applicant for amendments in such manner as the Council may direct.
- (2) If an application is refused by Council in accordance with the provisions of subsection 1(d) or referred back to the applicant in accordance with the provisions of subsection (1) (e), the applicant may, within 6 months of the Council's decision, re – apply to the Council for determination of the special rating area, provided that such re – application has been appropriately amended in the light of the reasons for refusal or referral, as the case may be.

- (3) If the business plan is amended in any material respect at any time before the determination, the Council may require that the application be re – advertised in accordance with the provisions of section 7, with the necessary changes.

## **9. DETERMINATION OF A LIMITED SPECIAL RATING AREA**

If an application in terms of section 4 is not accompanied by the consent of the majority of the members of the local community in the proposed special rating area who will be liable for paying the additional rate in writing in the proposed special rating area as required by section 4(3)(c), but the applicant can demonstrate to the satisfaction of the Council, that -

- (a) There are such confirmations from owners or rateable properties in a limited geographical area within the proposed special rating area that would meet the requirements of section 4(3) (c) if they were to be applied to that area; and
- (b) The level of services to be provided will not be reduced and the budget will be reduced accordingly as a result of the provision of those services in the limited area alone, as compared to the provision of those services in the whole of the special rating area,

Then the Council may, subject to the other requirements of this By – law, determine a limited special rating area.

## **CHAPTER 2**

### **SPECIAL RATING AREAS, STRUCTURES AND FINANCES**

## **10. COMMENCEMENT OF THE BUSINESS PLAN**

Once the Council has approved the establishment of the special rating area, the business plan may only be implemented after the management body has been established in accordance with section 11.

## 11. ESTABLISHMENT, COMPOSITION, POWERS, AND DUTIES OF THE MANAGEMENT BODY

- (1) The applicant must cause the establishment of a management body for the purposes of implementing the provisions of the business plan.
- (2) The management body must be a non – profit company with members as prescribed in schedule 1, subsection 4(2) of the Amended Companies Act.
- (3) Overstrand Municipality shall monitor compliance by the management body with the applicable provisions of this By – law, any guidelines or policies adopted by Overstrand Municipality and any agreements entered into with the management body and Overstrand Municipality.
- (4) The Council must nominate the relevant ward councilor and one other person, as an alternate representative to attend and participate, but not vote, at the meetings of the management body.
- (5) Any Councilor appointed by the Executive Mayor must -
  - (a) not have all the powers and duties of directors of companies as set out in the Companies Act and the memorandum of incorporation of the management body;
  - (b) be deemed to have vacated the position should such observer no longer serve as councilor and such observer shall be replaced.
  - (c) not chair the board of the management body or any committee or sub – committee of the board.
- (6) Employees of Overstrand Municipality may only serve as representatives of the Municipality on the management body if nominated to do so by the CFO in terms of section 13(b)(2) of this By-Law.
- (7) Within two months after the receipt of the first payment of the additional rate, the management body must begin carrying out the provisions of the implementation plan, as included in the business plan.

- (8) Within three months after its Annual General Meeting, the management body must provide the CFO with –
  - (a) Its audited financial statements for the immediately preceding year; and
  - (b) An annual report on its progress in carrying out the provisions of the business plan in the preceding year to improve and upgrade the special rating area.
  
- (9) Within two months after the Annual General Meeting, the management body must provide the Finance Portfolio Committee with –
  - (a) Its audited financial statements for the immediately preceding year; and
  - (b) An annual report on its progress in carrying out the provisions of the implementation plan in the preceding year to improve and upgrade the special rating area.

## 12. FINANCES

- (1) The financial year of the management body must coincide with the financial year of the Council.
  
- (2) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Property Rates Act, a property rate in addition to the rates that it already charged on the owners of ratable property in the special rating area for the purposes of realizing the business plan, provided that the Council may in terms of the Local Government Municipal Property Rates Act, 2004 (Act No. 6 of 2004), Rates Policy, Customer Care, Credit Control and Debt Collection Policy, exempt or rebate the indigent, senior citizens, disabled persons or any other category or resident.
  
- (3) When determining the additional rate referred to in subsection (2), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Property Rates Act.
  
- (4) The additional rate due in terms of this By – law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.
  
- (5) The Council may, for purposes of carrying out the provisions of the business plan of special rating area and subject to section 67 of the Local Government Municipal Finance

Management Act, 2003 (Act No. 56 of 2000), make payment to the management body of a special rating area.

(6) The payment contemplated in subsection (5) is conditional upon the conclusion of a finance agreement to be entered into between Council and the relevant management body, and such agreement must regulate, among other things –

(a) the mechanisms and manner of payment; and

(b) terms on which payment to the relevant management body is to be made.

(7) Subject to the provisions of its memorandum and articles of association, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.

(8) The Council, may for the purpose of this By – law, determine and impose on the management body an administrative charge.

### **13. THE ROLE OF THE CFO**

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By – law, the CFO must –

(a) Establish separate accounting and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the special rating area.

(b) Monitor compliance with the applicable legislation, including this By – law and the Policy by –

I. Receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the business plan;

II. If he or she elects to do so, nominate representatives to attend and participate but not vote at meetings of the management body.

## CHAPTER 3

### AMENDMENT TO THE BUSINESS PLAN AND EXTENTION OF THE SPECIAL RATING AREA TERM

#### 14. AMENDMENT OF BUSINESS PLANS

- (1) A business plan, including the geographical boundaries of the special rating area, may be amended by Council on written application by the management body at any time after the formation of the special rating area.
- (2) The Council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interest of any owner, provided that the Council may require the management body to cause a notice of the application for such amendments to be published as approved by the CFO.
- (3) The Council may only approve an amendment in terms of subsection (1), with the changes required by the context, in accordance with the provisions of Chapter 1, which the Council considers is likely to –
  - (a) materially affect the rights or interest of any person;
  - (b) affect the approved budget for the special rating area; or
  - (c) change the boundaries of the special rating area.

#### 15. EXTENTION OF SPECIAL RATING AREA TERM

A management body must, if it elects to extent the term of the Special Rating Area for a further period, on or before 1 September in the year before in which the business plan is due to terminate, submit an application to Overstrand Municipality for approval of the extension of the term of the business plan, provided that -

- (a) The extension of the Special rating area term plan may only be approved by the Council in accordance with the provisions of Chapter 1, with the changes required by the context, and the Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone, non – compliance, with any such provision.
- (b) The provisions of section 14 shall apply to any amendment of the business plan which has been extended in terms of this section.

## **CHAPTER 4**

### **DISSOLUTION OF A SPECIAL RATING AREA**

#### **16. DISSOLUTION AND WINDING UP**

(1) The Council may dissolve a special rating area –

- (a) Upon written application signed by the majority of owners within the boundaries of the special rating area who are liable for paying the additional rate;
- (b) For any good cause, after prior consultation by the CFO with the management body or the community.

(2) Upon dissolution of the special rating area by the Council, any director, including the director(s) or alternate director(s) appointed by the Executive Mayor, may cause the management body to be wound up in terms of the Companies Act.

(3) Upon the winding up of a management body, the entire net value of the management body, including its net assets remaining after the satisfaction of all its liabilities, shall be disposed of in terms of the relevant provisions of the Companies Act and the memorandum of incorporation of the management body

## **CHAPTER 5**

### **MISCELLANEOUS PROVISIONS**

#### **17. SHORT TITLE AND COMMENCEMENT**

(1) This By – law is called the Overstrand Municipality: Special Rating Areas By – law, 2016 and takes effect on the date of publication hereof.

(2) No new special rating area determined in terms of this By – law may implement its implementation plan prior to 1 July 2016.

**OVERSTRAND MUNICIPALITY****DRAFT BY-LAW RELATING TO SPECIAL RATING AREA**

Notice is hereby given that the municipality intends adopting the abovementioned by-law.

The public is invited in terms of Section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to submit representations in connection with the proposed by-law on or before 11 July 2016 to the Municipal Manager (for attention Lionel Wallace) at the under-mentioned address or fax number.

The proposed by-law will be available for perusal during office hours at the offices of the Area Managers in Gansbaai, Stanford, Hermanus and Kleinmond; all public libraries in the Overstrand; the municipality's corporate head office in Hermanus and on the official website at [www.overstrand.gov.za](http://www.overstrand.gov.za).

Persons who cannot write can visit the Area Managers in Gansbaai, Stanford, Hermanus or Kleinmond during office hours where such persons will be assisted to transcribe their comments or representations. The designated officials for the respective municipal areas are as follows:

Gansbaai, Stanford: F Myburgh  
Hermanus: D Kearney  
Kleinmond: D Lakey

C GROENEWALD  
MUNICIPAL MANAGER

Overstrand Municipality  
PO Box 20  
HERMANUS  
7200  
Fax number: 028 313 8931

Notice number: 75/2016



## **MUNISIPALITEIT OVERSTRAND**

### **KONSEP VERORDENING INSAKE SPESIALE BELASTINGGEBIED**

Kennisgewing geskied hiermee dat die munisipaliteit beoog om bogenoemde verordening te aanvaar.

Die publiek word ingevolge artikel 12 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000) genooi om versoë in verband met die voorgestelde verordening voor of op 11 Julie 2016 aan die Munisipale Bestuurder (vir aandag Lionel Wallace) by ondergemelde adres of faksnommer te rig.

Die voorgestelde verordening sal gedurende kantoorure ter insae beskikbaar wees by die kantore van die Areabestuurders in Gansbaai, Stanford, Hermanus en Kleinmond; alle openbare biblioteke in die Overstrand; die munisipaliteit se korporatiewe hoofkantoor in Hermanus en op die amptelike webwerf by [www.overstrand.gov.za](http://www.overstrand.gov.za).

Persone wat nie kan skryf nie, kan die Areabestuurders in Gansbaai, Stanford, Hermanus of Kleinmond gedurende kantoorure besoek, waartydens sodanige persone hulp sal ontvang om hulle kommentaar of versoë op skrif te stel. Die aangewese amptenare vir die onderskeie munisipale gebiede is soos volg:

Gansbaai, Stanford: F Myburgh  
Hermanus: D Kearney  
Kleinmond: D Lakey

C GROENEWALD  
MUNISIPALE BESTUURDER

Munisipaliteit Overstrand  
Posbus 20  
HERMANUS  
7200  
Faksnommer: 028 313 8931

Kennisgewingnommer: 75/2016



## UMASIPALA WE-OVERSTRAND

### UMTHETHWANA OQULUNQWAYO WESIQHELO OPHATHELENE NOTHIKELELO LWAMAXABISO KWINDAWO EZIKHETHEKILEYO

Kwaziswa ukuba uMasipala uneenjongo zokwamkela lo mthethwana ungentla.

Uluntu luyacelwa ngokwesahluko 12 sooRhulumente Basemakhaya: UMthetho-Nkqubo wooMasipala, wowama-2000 (Umthetho 32 wowama-2000) ukuba bangenise izimvo ngokwalo mthethwana uphakanyiswayo kuMasipala phambi okanye ngomhla wama 11 ku Julayi wama 2016 kuMpathi kaMasipala (zithunyelwe kuMnu. Lionel Wallace) kule dilesi nenombolo zefekisi ezingezantsi.

Lo mthethwana ucetywayo uza kufumaneka kwi-ofisi zabaphathi bengingqi bakamasipala eGansbaai, eStanford, eHermanus naseKleinmond nakuwo amathala encwadi aseOverstrand nakuyo i-ofisi ephezulu kamasipala eHermanus, nakwi-webhusayithi [www.overstrand.gov.za](http://www.overstrand.gov.za), kwabo bafuna ukuwufunda.

Abantu abangakwaziyo ukubhala bangandwendwela ii-ofisi zabaphathi bengingqi zikamasipala eGansbaai, eStanford, eHermanus naseKleinmond apho baza kufumana uncedo lokubhala izimvo zabo. Abaphathi bengingqi ababelwe lo msebenzi ngaba balandelayo:

Gansbaai, Stanford: F Myburgh  
Hermanus: D Kearney  
Kleinmond: D.Lakey

C GROENEWALD  
UMPHATHI KAMASIPALA

Umasipala weOverstrand  
PO Box 20  
HERMANUS  
7200  
Inombolo yefekisi: 028-313 8931

Inombolo yesaziso: 75/2016



15<sup>th</sup> June, 2016

Municipal Manager  
Overstrand Municipality  
P O Box 20  
Hermanus  
7200

Dear Municipal Manager,

### COMMENTS ON DRAFT SPECIAL RATING AREA (SRA) BY-LAW PUBLISHED FOR COMMENT

The above draft By-Law that was published for comment refers, together with the HRA's previous correspondence of the 28<sup>th</sup> April 2016 (to which there has been no acknowledgement or response) on the incomplete Draft SRA Policy that was contained in the Draft IDP.

This draft By-Law published on the Municipality's website is entitled "*Overstrand Municipality Special Rating Areas By - law original approved by-law by Council and MM*" and the HRA would like to know how it can possibly be approved by Council prior to being out for public comment?

Our comments on the above Draft By-Law are as follows, namely;

- Definitions - "*Implementation plan*" – this is not mentioned at all in S22 of the Property Rates Act?
- The purpose of an SRA should be stated upfront i.e. to **enhance and supplement specific municipal services** and there needs to be a list of precisely what municipal services may legally be enhanced and supplemented by an SRA, otherwise a whole lot of abortive motivational work can be done by ratepayers only to be told at the end that a particular SRA can't for example do safety and security – as indicated in the written Opinion obtained by the Overstrand Municipality
- Section 4(3)(c)(ii) - must be owners/ratepayers – not just members of the local community
- Section 5(7) - must be owners/ratepayers – not just interested persons
- Section 6(1) - must be tied to the relevant 5-year IDP cycle and not just any fifth year



or lesser period

- Section 7(4) - oral representation – how and to who?
- Section 7(5) – period referred to in subsection (2) is incorrect – it must be some period after this period
- Section 8(1) – in terms of S22(3)(b) of the Property Rates Act, Council must also “determine how the area is to be improved or upgraded by funds derived by the additional rate”
- Sections 12 &13 – in terms of S67(1) of the MFMA, the SRA must **agree** i.e. there must be an agreement with the Municipality that covers issues specified in S67 (1) & (2) – including if the SRA fails to comply

Kind regards,

Bob Stanway  
HRA EXCO MEMBER