

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

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

15/3/3/1

R Kuchar Senior Manager : Town & Spatial Planning

1 September 2020

(028) 313 8087

1. Executive Summary

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

Council at its meeting held on 28 October 2015 resolved to appoint members of the MPT for a period of five (5) years from date of commencement of the legislation.

The date of commencement was gazetted as 1 February 2016.

The current appointment of the MPT members' five year period will thus lapse on 31 January 2021. This item serves to submit to Council to consider the re-appointment of the current members of the MPT for a further five (5) years as allowed for in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2015) Section 37.(1) that reads as follows:

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

It is however in line with Section 73(1) of the Municipal By-Law.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priorities

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

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

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/Conclusion

Background

At Council's meeting held on 28 October 2015 the Council appointed the following members to the Municipal Planning Tribunal:

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

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

However, in order for the Municipal Manager (Accounting Officer) to lodge appeals against resolutions of the Municipal Planning Tribunal (MPT) and the Authorised Official, the Municipal Manager's membership of the MPT was terminated at the Council meeting held on 29 November 2017.

Council resolved on 29 November 2017 that the Director: Infrastructure and Planning be appointed as Chairperson and the Director: Community Services as Deputy Chairperson.

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

The Director: Management Services was appointed as the fifth member of the MPT – see Council’s resolution of 29 November 2017 (attached as Annexure D) as a replacement for the Municipal Manager.

The members who were appointed and currently the members of the MPT are the Director: Infrastructure and Planning (Mr S Müller), Director: Community Services (Mr R Williams), Director: Economic Development (Mr S Madikane) and Director: Management Services (Ms D Arrison), all officials in service of the Overstrand Municipality.

As external member Ms H Janser was appointed. Ms H Janser is an official in service of the Department Environment Affairs and Development Planning.

The above members formed the Planning Tribunal which commenced from the date of 1 February 2016 as gazetted.

In terms of their appointment the members were appointed for a period of five (5) years which expires on 31 January 2021.

In terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) Section 37.(1) *“The term of office of members of a Municipal Planning Tribunal is five years or such shorter period as the Municipal Council may determine, provided that a member may not serve as a member for a continuous period of ten years.”*

In terms of Overstrand Municipal Land Use Planning By-Law Section 73.(1) *“A member of the Municipal Planning Tribunal for contemplated in Section 37 of the Spatial Planning and Land Use Management Act is appointed for a term of 5 years which is renewable once.”*

Discussion

Thus, in terms of Council’s By-Law, Council can appoint the current serving members for a further five (5) year period whereafter Council needs to appoint new members or request an exemption from the relevant ministry.

The current members of the MPT exercised their duties diligently and competently. No reason exists not to continue with any one of the members on the MPT.

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

Overstrand Municipality is a relatively small Municipality which limits the numbers of members eligible with the relevant knowledge and expertise to fulfil their membership of a MPT member.

It would thus be to the Municipality's advantage to continue with the existing internal members of the MPT for a further five (5) year.

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

Having had a member of the provincial authorities as a member of the MPT was very beneficial to the MPT and is consideration of matters before it.

Firstly, in terms of financial costs, there was no financial cost to Overstrand Municipality as Ms Janser was employed by the Department and all cost related to her attending and being a member of Overstrand MPT was covered by her employer, the Provincial Government.

Secondly, the experience, inside knowledge and information that Ms Janser brought to the Overstrand MPT, was very beneficial to the MPT. Her knowledge of policy and direction from a Provincial and National Authority experience proved very useful to the MPT at deciding applications.

For the above reasons it is proposed that Ms Janser's appointment as a member of Overstrand MPT be extended for a further five (5) year period.

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

Conclusion

Term of office for members of the MPT

Section 37 of SPLUMA provides that the term of office of members of the MPT is five (5) years or such shorter period as the Municipal Council may determine, provided that a member may not serve as a member for a continuous period of ten (10) years. This constitutes a minimum requirement. Therefore a shorter period of appointment than five (5) years may be set.

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

For the aforesaid reason it is recommended that Council appoint the following members as members of Overstrand MPT:

Mr S Müller (Director: Infrastructure and Planning – Chairperson)
Mr R Williams (Director: Community Services - Deputy Chairperson)
Ms D Arrison (Director: Management Services)
Mr S Madikane (Director: Economic Development)
Ms H Janser – (External Member)
Ms Dalene Carstens (nominated as a substitute in the place of Mr J Benjamin and Ms Y Mabantsela as secundi as they are no longer employed by the Department of Environmental Affairs and Development Planning - see Annexure C).

That this appointment is for a five (5) year period commencing 1 February 2021.

It is recommended that the Council determine the term of office for both authorised officials and members who are not authorised officials to be five (5) years from 1 February 2021.

Designation of Chairperson and Deputy Chairperson

Regulation 3(1)(h) requires the Municipal Council to designate a member of the MPT a Chairperson and another member as Deputy Chairperson to act as chairperson when the chairperson is absent or unable to perform his or her duties. It is recommended that the Director: Infrastructure and Planning be designated as the Chairperson and the Director: Community Services as Deputy Chairperson.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

10. Annexures

- Annexure A: Council resolution of 28 October 2015
 Annexure B: Letter of appointment of Ms H Jansen dd 22 February 2016 to serve on Overstrand Municipal Planning Tribunal for five (5) years
 Annexure C: Confirmation of the Department Environmental Affairs and Development Planning for the continuation of Ms H Janser as their primary representative on Overstrand MPT dd 14 August 2020
 Annexure D: Council resolution dd 29 November 2017.

RECOMMENDATION TO THE COUNCIL:

1. that the municipal officials that will serve on the Municipal Planning Tribunal are the Director: Infrastructure and Planning (Mr S Müller), Director: Community Services (Mr R Williams), Director: Management Services (Ms D Arrison) and Director: Economic Development (Mr S Madikane);
2. that Ms H Janser be re-appointed as the external member to the Municipal Planning Tribunal (MPT) and Ms Dalene Carstens as substitute of the two (2) secondi, J Benjamin and Ms Y Mabantsela, as set out in the letter of the Department Environmental Affairs and Development Planning (attached as Annexure C);
3. that the members of the MPT be re-appointed for a further five (5) year period from 1 February 2021; and
4. that the Director: Infrastructure and Planning (Mr S Müller) be appointed as Chairperson and the Director: Community Services (Mr R Williams) as Deputy Chairperson of the MPT.

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

14 OCTOBER 2020

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 September 2020
(Also the agenda for the Mayoral Committee Meeting : 30 September 2020)**

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

15/3/3/1

R Kuchar

Senior Manager : Town & Spatial Planning

1 September 2020

(028) 313 8087

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

RECOMMENDATION:

that the item **be referred back** in order for the Administration to gather information regarding:

- (a) the desirability to appoint a new Tribunal for a period of 18 months in terms of Section 37 of the SPLUMA Act; and
- (b) the composition of the new Tribunal in terms of the SPLUMA Act of 2013 legislation, Section 36.

and **be resubmitted** during the next cycle of Council.

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

14 OCTOBER 2020

MINUTES : ORDINARY MEETING OF THE COUNCIL **28 OCTOBER 2015**

5.5
APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

(ITEM 2, PAGE 29 : INFRASTRUCTURE AND PLANNING PORTFOLIO
- MAYORAL COMMITTEE MEETING : 28 OCTOBER 2015)

RESOLVED (UNANIMOUSLY):

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

RESPONSIBLE OFFICIAL : **R KUCHAR**

TARGET DATE FOR IMPLEMENTATION : **11 NOVEMBER 2015**

ANNEXURE B



Navrae:
Enquiries: Mr Riaan Kuchar

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

Datum:
Date: 22 February 2016

KANTOOR VAN DIE MUNISIPALE BESTUURERS
OFFICE OF THE MUNICIPAL MANAGER

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

(Attention: H Janser)

REGISTERED MAIL

Dear Madam

APPOINTMENT OF MEMBER OF THE OVERSTRAND MUNICIPAL TRIBUNAL

Your nomination regarding the above refer.

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

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

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

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

Yours sincerely,

**D ARRISON
ACTING MUNICIPAL MANAGER**

Tel: (029) 313 8505
FAX: (086) 568 0726
E-mail: cg@eneval.gov.za

Postbus 20
FD Bos 20
HERMANS, 740

ANNEXURE C



Department of Environmental Affairs and Development Planning
Pieter van Zyl
 Head of Department
Pieter.vanZyl@westerncape.gov.za | Tel: 021 483 8315

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

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

Dear Colleague

OVERSTRAND MUNICIPAL PLANNING TRIBUNAL: PROVINCIAL REPRESENTATION

Your letter dated 23 July 2020, refers.

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

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

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

Yours sincerely

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

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

MINUTES : ORDINARY MEETING OF THE COUNCIL 29 NOVEMBER 2017

5.11

APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

**(ITEM 10, PAGE 126 : INFRASTRUCTURE & PLANNING PORTFOLIO
- MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

RESOLVED (SUPPORTED BY 20 COUNCILLORS):

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

RESPONSIBLE OFFICIAL :

R KUCHAR

TARGET DATE FOR IMPLEMENTATION :

13 DECEMBER 2017