



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

A G E N D A

I-AJENDA

**DATE / DATUM / UMHLA : 31 OCTOBER / OKTOBER /
OKTOBHA 2018**

**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

26 October / Oktober / Oktobha 2018

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, 31 OCTOBER 2018** 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

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, 31 OKTOBER 2018** om **11:00** om die sake op meegaande sakelys te bespreek.

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

C GROENEWALD
MUNISIPALE BESTUURDER

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 ngoLWESITHATHU, Umhla we 31 OKTOBHA 2018 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 **Council** held on **Wednesday, 26 September 2018** 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 Executive Mayor in view of the fact that the **compilation of the Council agenda** was done before the Mayoral Committee of 31 October 2018 had formally sat.

5.1

FRAUD PREVENTION AND ANTI-CORRUPTION STRATEGY, POLICY AND PLAN 2018/2019

(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the Fraud Prevention and Anti-Corruption Strategy **be approved**;
2. that the Fraud Prevention and Anti-Corruption Policy **be approved**; and
3. that the Fraud Prevention and Anti-Corruption Plan **be approved**.

RESPONSIBLE OFFICIAL :

A RIDDLES

TARGET DATE FOR IMPLEMENTATION :

1 NOVEMBER 2018

5.2

DRAFT POLICY FOR THE STAGING OF EVENTS**(ITEM 3, PAGE 30 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)****RECOMMENDATION TO THE COUNCIL:**

that, in terms of section 11(3)(a) of the Local Government: Municipal Systems Act No 32 of 2000, the draft Policy for the Staging of Events **be adopted**.

RESPONSIBLE OFFICIAL :**L WALLACE
D LAKEY
AREA MANAGER: HERMANUS
F MYBURGH****TARGET DATE FOR IMPLEMENTATION :****18 OCTOBER 2018**

5.3

OVERSTRAND MUNICIPALITY DRAFT EVENTS BY-LAW**(ITEM 4, PAGE 58 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)****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 Events **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 Events be published promptly in the Provincial Gazette, and if deemed feasible, also in the local newspapers to bring the contents of the By-law to the attention of the local community.

RESPONSIBLE OFFICIAL :**L WALLACE****TARGET DATE FOR IMPLEMENTATION :****DATE OF PROMULGATION IN
GOVERNMENT GAZETTE**

5.4

HOUSING: FINANCE LINKED INDIVIDUAL SUBSIDY PROGRAMME (FLISP)**(ITEM 6, PAGE 106 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)****RECOMMENDATION TO THE COUNCIL:**

1. that the policy for the Financed Linked Individual Subsidy Programme (FLISP) and the content of the report **be noted**;
2. that the stands developed for the development of affordable housing in Hawston (107 stands) be allocated to potential beneficiaries which are to be identified from the housing demand database for the catchment area as affordable service residential stands or affordable housing, depending on the directive to be obtained from the Department Human Settlements: Western Cape;
3. that the following procedure for potential beneficiaries to finalise subsidy applications, be approved:
 - (a) that potential beneficiaries be given 30 days written notice to complete their subsidy application documentation; and
 - (b) that potential beneficiaries that do not respond to the first notice (30 days) be given a final written notice of 7 days.
4. that, in the event of any applicants not responding within the mentioned period of 7 days, the available housing opportunities be given to identified additional beneficiaries (replacements).

RESPONSIBLE OFFICIAL:**FW FRANS
D HENDRIKS****TARGET DATE FOR IMPLEMENTATION:****IN PROGRESS**

5.5

HERMANUS: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF A PORTION OF THE REMAINDER OF ERF 241 HERMANUS ADJACENT TO ERF 239 HERMANUS TO DG JORDAAN

(ITEM 2, PAGE 159 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the direct alienation of a portion of the remainder of Erf 241 Hermanus (adjacent to Erf 239 Hermanus), $\pm 248\text{m}^2$ in extent, to the owner of the adjoining Erf, DG Jordaan, at an amount of R327.40/m² (THREE HUNDRED AND TWENTY SEVEN RAND AND FORTY CENTS) (PER SQUARE METRE) (VAT excluded) be **approved in principle**;
2. that Council take cognisance of the fact that the direct alienation is approved as the said portion of the remainder of Erf 241 Hermanus is classified as a non-viable property;
3. that the abovementioned approval in principle be subject to a public participation process being followed at the cost of the Applicant due to the non-viability of the property;
4. that said portion of the remainder of Erf 241 Hermanus must be consolidated with the adjoining property of DG Jordaan, being Erf 239 Hermanus;
5. that the alienation of said portion of the remainder of Erf 241 Hermanus, be subject to obtaining the necessary closure, subdivision, rezoning and consolidation approvals;
6. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, subdivision, closure of portion of public road, consolidation, rezoning, transfer and related costs, advertisements, etc., be paid by the Applicant;
7. that the purchaser will be responsible for the cost of the relocation of the existing electrical cables on the said portion of the Remainder of Erf 241 Hermanus;
8. that no structures of any kind (excluding a boundary wall or fence) may be erected on the said portion of the Remainder of Erf 241 Hermanus; and
9. 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).

RESPONSIBLE OFFICIAL :	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION :	3 DECEMBER 2018
TARGET DATE TO INFORM APPLICANT:	14 NOVEMBER 2018
TARGET DATE TO INFORM OBJECTOR:	N/A

5.6

GANSBAAI: TRANSFER OF UNREGISTERED CONSOLIDATED ERF 4081 GANSBAAI, 2.25 HECTARES IN EXTENT, FOR THE DEVELOPMENT AND MANAGEMENT OF A HOSPITAL

(ITEM 3, PAGE 168 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of unregistered consolidated Erf 4081 Gansbaai, 2.25 ha in extent, for the development and management of a hospital, to Cape Ethical Organics (Pty) Ltd for the amount of R2,000,000.00 (TWO MILLION RAND) (VAT included), **be approved subject to the fulfilment of the following condition:**
 - that Cape Ethical Organics (Pty) Ltd obtain all relevant licences and/or consents from all the relevant authorities, to operate a hospital on the property within 18 (EIGHTEEN) months of date of signature of the Deed of Sale, or any extended period as agreed to upon in writing between the parties;
2. that the Municipal Manager be authorised to sign all documents relating to the transfer of unregistered consolidated Erf 4081 Gansbaai, to Cape Ethical Organics (Pty) Ltd;
3. that cognisance be taken of the fact that the subject portion of Municipal property is **not required** for the provision of the minimum level 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 Cape Ethical Organics (Pty) Ltd be responsible for all the costs pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office, costs involved with the registration of the transfer in the Deeds Office, including but not limited to registering a Certificate of Registered Title and/or Certificate of Consolidated Title, if necessary.

RESPONSIBLE OFFICIAL :

M ERASMUS

TARGET DATE FOR IMPLEMENTATION :

30 NOVEMBER 2018

TARGET DATE TO INFORM APPLICANT :

15 NOVEMBER 2018

5.7

HERMANUS, VARIOUS PORTIONS OF MUNICIPAL PROPERTY: DEVIATION FROM PARAGRAPHS 18 AND 24 OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO TEMPORARY LEASE AGREEMENTS WITH VODACOM (PTY) LTD

(ITEM 4, PAGE 175 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the current lease agreements with Vodacom (Pty) Ltd in respect of a portion of Erf 2595 Onrustrivier and a portion of Erf 1253 Hermanus for a further period of 12 (TWELVE) months without following a competitive process, **be approved**; and
2. that the deviation from paragraph 24 of the Administration of Immovable Property Policy in order to renew the current lease agreements with Vodacom (Pty) Ltd without having a new market related valuation being done, **be approved**.

RESPONSIBLE OFFICIAL :**M ERASMUS****TARGET DATE FOR IMPLEMENTATION :****30 NOVEMBER 2018****TARGET DATE TO INFORM APPLICANT :****19 NOVEMBER 2018****TARGET DATE TO INFORM OBJECTOR :****N/A**

5.8

HAWSTON, A PORTION OF ERF 1 HAWSTON, ALSO KNOWN AS THE HAWSTON TAXI RANK STALLS: DEVIATION FROM PARAGRAPHS 4 AND 20.1(b), OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO ENTER INTO FURTHER LEASE AGREEMENTS WITH VARIOUS LESSEES

(ITEM 5, PAGE 182: INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the deviation from paragraph 4 of the Administration of Immovable Property Policy for the waive of the application fees in respect of the renting out of stalls at the Hawston Taxi Rank, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the lease agreements with the various stall Lessees following a public participation process, **be approved**.

RESPONSIBLE OFFICIAL :**W MURTZ****TARGET DATE FOR IMPLEMENTATION :****15 NOVEMBER 2018****TARGET DATE TO INFORM APPLICANT :****5 NOVEMBER 2018****TARGET DATE TO INFORM OBJECTOR :****N/A**

5.9

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR SEPTEMBER 2018**

**(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING : 31 OCTOBER
2018)**

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for September 2018, **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 September 2018, **be noted**.

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

5.10

**SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT – 2018/2019:
1st QUARTER: 01 JULY 2018 – 30 SEPTEMBER 2018**

**(ITEM 6, PAGE 9 : MAYORAL COMMITTEE MEETING : 31 OCTOBER
2018)**

RECOMMENDATION TO THE COUNCIL:

that the activities undertaken and outcomes achieved in the implementation of the Overstrand Municipality's Supply Chain Management Policy for the 1st Quarter of 2018/2019 **be noted**.

RESPONSIBLE OFFICIAL :

C LE ROUX

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED

5.11

BUDGET REPORT FOR THE QUARTER ENDED SEPTEMBER 2018**(ITEM 7, PAGE 25 : MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)****RECOMMENDATION TO THE COUNCIL:**

that the budget report for the quarter ended September 2018, prepared as part of the financial reporting obligations arising from the Local Government: Municipal Finance Management Act, 2003, **be noted**.

RESPONSIBLE OFFICIAL :**BA KING****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.12

QUARTERLY BANK ACCOUNT WITHDRAWALS NOT IN TERMS OF AN APPROVED BUDGET FOR THE QUARTER ENDED SEPTEMBER 2018

(ITEM 8, PAGE 82 : MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

that the consolidated quarterly report, as per Annexure A to the item, in respect of Bank Account Withdrawals not in terms of an Approved Budget for the quarter ended September 2018, **be noted**.

RESPONSIBLE OFFICIAL :**BA KING****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.13

**SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)
FIRST QUARTERLY REPORT: JULY- SEPTEMBER 2018**

**(ITEM 9, PAGE 85 : MAYORAL COMMITTEE MEETING : 31 OCTOBER
2018)**

RECOMMENDATION TO THE COUNCIL:

that the content of the report for the first quarter of the 2018/19 financial year on the top level Service Delivery and Budget Implementation Plan **be noted**.

RESPONSIBLE OFFICIAL :

R LOUW

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED

5.14

CONTRACT NO.: SC1870/2018: PROPOSED AWARD BEYOND THE THREE YEARS COVERED IN THE FINANCIAL YEAR FOR PROVISION OF MULTI-FUNCTIONAL OFFICE MACHINES FOR A CONTRACT PERIOD ENDING 30 JUNE 2021

(ITEM 10, PAGE 118 : MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that **cognisance be taken of the reasons** to award Contract No. SC1870/2018 for Provision of multi-functional office machines for a contract period ending 30 June 2021 to end 30 September 2021, in terms of enabling provisions of Section 33 of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the **award be consented to**; and
2. that **cognisance be** taken that no recommendations or representations were received from the local community or other stakeholders by the closing date of 10 September 2018.

RESPONSIBLE OFFICIAL :**J VAN ASPEREN****TARGET DATE FOR IMPLEMENTATION :****1 NOVEMBER 2018**

5.15

LONG TERM WASTE DISPOSAL AGREEMENT BETWEEN OVERSTRAND MUNICIPALITY, THE OVERBERG DISTRICT MUNICIPALITY, AND THEEWATERSKLOOF MUNICIPALITY WITH REGARDS TO THE KARWYDERSKRAAL REGIONAL LANDFILL SITE

(ITEM 11, PAGE 132 : MAYORAL COMMITTEE MEETING : 31 OCTOBER 2018)

RECOMMENDATION TO THE COUNCIL:

1. that Council **takes cognisance** of the response received from the Department of Environmental Affairs and Development Planning to the request for comments, representations, views and recommendations in respect of the long term Waste Disposal Service Level Agreement between Overstrand Municipality, the Overberg District Municipality, and Theewaterskloof Municipality in respect of the Karwyderskraal Regional Landfill Site, in terms of the enabling provisions of Section 33 of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003); and
2. that it be determined that Overstrand Municipality will derive a significant economic financial benefit from the long term Service Level Agreement and entering into the agreement **be confirmed**.

RESPONSIBLE OFFICIALS :**H BLIGNAUT
J VAN TAAK****TARGET DATE FOR IMPLEMENTATION :****COMMISSIONING DATE OF
KARWYDERSKRAAL CELL 4,
CURRENTLY ESTIMATED TO
BE 1 MARCH 2019**

5.16

SUBMISSION OF THE OVERSTRAND SUSTAINABLE TRANSPORT PLAN

**(ITEM 12 PAGE 169 : MAYORAL COMMITTEE MEETING :
31 OCTOBER 2018)**

RECOMMENDATION TO THE COUNCIL:

that the content of the Overstrand Provincial Sustainable Transport Programme **be noted and be endorsed.**

RESPONSIBLE OFFICIAL :

DER HENDRIKS

TARGET DATE FOR IMPLEMENTATION :

31 OCTOBER 2018

6. CONSIDERATION OF REPORTS

6.1

RECESS: DECEMBER 2018 / JANUARY 2019

3/2/1/4

H van Tonder

(028) 313 8037

Corporate Head Office

12 October 2018

1. Executive Summary

The purpose of the report is to obtain confirmation of Council's recess from 28 November 2018 to 20 January 2019 and related matters.

2. Service Delivery and Budget Implementation Plan Reference - IGNITE

Not applicable

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 Structures Act, 1998 (Act 117 of 1998) (Structures Act)
- Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (Systems Act)
- Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)

6. Discussion

Section 18(2) of the Structures Act provides that a Municipal Council must meet at least quarterly.

Item 3 of the Code of Conduct for Councillors (Schedule 1 to the Systems Act) provides that a Councillor must attend each meeting of the Municipal Council and of a committee of which that Councillor is a member. Apart from the aforesaid, Overstrand Municipality's By-Law on Rules of Order for Internal Arrangements also addresses this matter. Should Council resolve to go into

recess on **28 November 2018, directly after the meeting of Council, to 20 January 2019**, such a resolution will have no effect on Council's legal responsibility to meet at least quarterly.

During the proposed recess, all urgent matters shall be dealt with by the Executive Mayor in consultation with the Municipal Manager, except those reserved in terms of the provisions of Section 160(2) of the Constitution and Section 59 (1) (a) of the Systems Act for full Council.

It is furthermore proposed that all the municipal offices, **excluding essential services, be closed for the general public on Monday, 24 December 2018 and Monday, 31 December 2018.**

Whilst the first cycle for Council business will commence during February 2019, it is important to note that a **Special Council Meeting** will take place on **Wednesday, 23 January 2019** in order for the Municipality's 2017/2018 Annual Report and other matters to be tabled in Council as provided for in inter alia section 127(2) of the MFMA.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that the proposed period of recess, ie **28 November 2018, immediately after the meeting of Council, to 20 January 2019 (the latter included) be approved;**
2. that, during the period of recess, all urgent matters / emergency situations be dealt with by the Executive Mayor in consultation with the Municipal Manager, except those reserved by law for full Council;

3. that the municipal offices in the Overstrand area, including libraries, but excluding other essential services, **be closed for the general public on Monday, 24 December 2018 and Monday, 31 December 2018** and respectively reopen at 07:45 on Thursday, 27 December 2018, and Thursday, 3 January 2019;
4. that the public and personnel be informed timeously and in an appropriate way, of the arrangement in 3 above; and
5. that **cognisance be taken** that a **Special Council Meeting** will take place on **Wednesday, 23 January 2019** and that in 2019 the first meeting of the **Joint Portfolio Committee** will be held on **19 February 2019 at 10:00**, the **Mayoral Committee** on **27 February 2019 at 10:00** and the **Council Meeting** on **27 February 2019 at 11:00** in the Banqueting Hall, Civic Centre, Hermanus.

RESPONSIBLE OFFICIAL :

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION :

28 NOVEMBER 2018

6.2

**NON-COMPLIANCE WITH SECTION 126(1)(a) OF THE LOCAL GOVERNMENT:
MUNICIPAL FINANCE MANAGEMENT ACT, NO.56 OF 2003 (MFMA)**

3/2/3/8

S Reyneke-Naude/H van Tonder (028) 313 8040

Corporate Head Office

24 October 2018

1. Executive Summary

The purpose of the report is to inform Council of the outcome of the investigation done by the Municipal Public Accounts Committee (MPAC) regarding the reasons for the late submission of the annual financial statements to the Auditor-General as contemplated in section 133(1)(c) of the MFMA.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Finance
Department: Financial Services

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003)

6. Background/Discussion

Council on 26 September 2018 resolved as follows:

- “1. that the report in terms of section 133(a) of the Local Government: Municipal Finance Management Act, No 56 of 2003 for the late submission of the 2017/18 financial statements to the Auditor-General **be noted**; and
2. that the Chairperson of the Municipal Public Accounts Committee (MPAC), assisted by the councillors serving as members of MPAC, investigate the reasons for the non-compliance referred to in 1 above and that the outcome of such investigation **be reported** to Council.”

In terms of section 126(1)(a) of the MFMA, the accounting officer of a municipality must prepare the annual financial statements of the municipality and, within two months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing. The municipality failed to submit annual financial statements to the Auditor-General for auditing within two months after the end of the 2017/18 financial year, ie 31 August 2018, by submitting it at 03h44 on 01 September 2018.

The municipality received an acknowledgement of receipt letter from the Auditor-General on 03 September 2018 and was issued with a Communication of Audit Findings (COMAF) on 04 September 2018 to which the municipality responded on 11 September 2018.

The municipality now finds itself in breach of section 126(1)(a) of the MFMA and will lose its "Clean Audit" status as the municipality has been issued with a COMAF by the Auditor-General and after receiving the municipality's response was deemed to be material non-compliance and therefore a matter that is to be reported in the audit report.

The Overstrand Municipality has invested heavily in time and dedication over the past number of years, to receive five consecutive "clean audits" and anything less is considered disastrous, taking the circumstances and evidence as presented, into account.

The combination of these issues led to the annual financial statements only submitted to the Auditor-General on 01 September 2018 at 03h44.

In view of the above, and based on the submission in terms of circumstances as explained it is the municipality's view that the transgression cannot be seen as material due to the late submission of less than 4 hours, together with the fact that the Auditor-General was not prejudiced in any way as no time was lost to conduct the audit and an application for condonation in terms of section 170 of the MFMA has been submitted to the Minister of Finance for consideration.

On 23 October 2018 the Municipal Public Accounts Committee (MPAC) consisting of Cllr S Tebele, Ald N Botha-Guthrie, Cllrs D Botha, B Molefe and G Cohen considered the matter. The MPAC came to the conclusion that no negligence could be found. The MPAC was unanimous in its decision to recommend that the reasons that have been provided are found to be justified in terms of the late submission of the Annual Financial Statements and that the Committee supports any actions in resolving the audit finding.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that the reasons that have been provided are found to be justified in terms of the late submission of the Annual Financial Statements; and
2. that it be noted that the Municipal Public Accounts Committee supports any actions in resolving the audit finding.

RESPONSIBLE OFFICIAL :**S REYNEKE-NAUDE****TARGET DATE FOR IMPLEMENTATION :****14 DECEMBER 2018**

6.3**INVESTIGATION INTO THE INSTANCE OF FRUITLESS AND WASTEFUL EXPENDITURE: REFUND CLAIMED IN RESPECT OF COSTS INCURRED BY MR JA OSTER, OWNER OF PROPERTY: ERF 4278****3/2/3/8****E Hooneberg/H van Tonder (028) 313-8149****Corporate Head Office****24 October 2018**

1. Executive Summary

The purpose of this report is to request Council to write off the fruitless and wasteful expenditure for the refund paid in respect of costs incurred by Mr JA Oster, owner of property: Erf 4278 in terms of section 32(2)(a)(ii) of the Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003).

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Finance
Department: Supply Chain Management

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003) (MFMA)
Overstrand Municipality Supply Chain Management Policy dated 25 May 2008, as amended

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

During August 2016 the owner of erf 4278 queried his high consumption, which sparked an investigation into the actual location of the properties and meters.

The difference of the site addresses between the GIS and DB4 Financial System was highlighted and GIS confirmed that their data was indeed correct.

Using this confirmation, the Client Service Department suggested via email on 5 September 2016 to Mr Weakley from Vorster & Steyn Attorneys, that each owner has their registrations at the Deeds Office investigated.

These investigations at the Deeds Office and Surveyor Generals Office by various parties over a period of time initially did not provide any evidence to substantiate the allegations of incorrect property details for Mr Oster on the SAMRAS financial system.

Various correspondence subsequently addressed to the municipality by Mr Leon Weakley, acting on behalf of Mr Oster (a property owner residing in Sweden for part of the year) prior to finally resolving the matter, has led to costs which the owner of erf 4278 ultimately demanded reimbursement for.

Discussion

During August 2016 Mr JA Oster, the owner of erf 4278 queried his high consumption, which led to an investigation into the actual location of the properties and meters on erf 4278 and erf 4273 respectively.

With the subsequent investigation into the actual location of the street numbers and respective erf numbers of the properties, together with the meter numbers, by Mrs Rozella Fisher of the Revenue Department, the difference of the site addresses between the GIS and DB4 Financial System was highlighted.

Mrs Lee-Ann Rauch (Snr GIS Operator) confirmed that the data on the GIS System was indeed correct. Relying on this confirmation as standard practice, the Client Service Department suggested via email on 5 September 2016 to Mr Weakley from Vorster & Steyn Attorneys, that each owner will have their registrations at the Deeds Office investigated, since the property detail and thus the meter number as well, was correctly indicated on the monthly municipal account.

It was only after further investigation by the Town Planning section that it became apparent that the fault indeed rested on the side of the Municipality.

Mrs Rauch subsequently also confirmed, after a site inspection conducted by the ward councillor (Councillor Brice), and Mr Petrus Roux (Town Planning Department), that the information for the site address on GIS was incorrect. The GIS information incorrectly had 299 5th Street as erf 4273 Hermanus and 293 5th Street as erf 4278 Hermanus.

Mrs Rauch confirmed that the GIS information is received from a service provider and thus accepted as correct.

The Revenue Department is not a service delivery department and once it becomes aware of the registrations of the new properties and/or

developments, it obtains the actual positioning and site address of the erven from our GIS. GIS is a cadastral view of all the properties in Overstrand's demarcated area and is therefore the main verification of the property's location, in order to open a record (municipal account) for any particular property on the SAMRAS financial system.

The Revenue Section had the meter numbers subsequently rectified on the system, together with corrections to both municipal accounts (erf 4278 and erf 4273) involved, after the factual position was established.

Mr Oster confirmed in writing on 13 July 2018 that he had indeed paid Mr Leon Weakley on 14 December 2016, who acted as attorney for him in the matter of alleged incorrect municipal meter readings, to the amount of R14 364.00 for services rendered.

The Municipality admitted the fault due to a discrepancy in the information on the SAMRAS System and the GIS system, and has been in communication with Mr Weakley regarding the possible waiving of the amount, in the absence of any knowledge that the amount was indeed already paid to the attorneys by Mr Oster. The legal costs claimed started recurring through written correspondence, telephonic attendance, consultations and the drafting of papers, and for this reason a detailed account statement was requested, which should indicate the date and type of professional service rendered by the account holders legal representative. The account was scrutinised and assessed as reasonable in terms of costs charged.

On 23 October 2018 the Municipal Public Accounts Committee (MPAC) consisting of Ald N Botha-Guthrie, Cllrs D Botha, B Molefe and G Cohen considered the matter. The MPAC was unanimous in its decision to recommend to Council that the Fruitless and Wasteful Expenditure to the value of R14 364 in relation to the refund paid in respect of costs incurred by Mr JA Oster, owner of property: Erf 4278, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

7. Financial Implications

R14 364 (Incl Vat) to be written off

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that the Fruitless and Wasteful Expenditure to the value of R14 364 in relation to the refund paid in respect of costs incurred by Mr JA Oster, owner of property: Erf 4278, be certified as irrecoverable and written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

RESPONSIBLE OFFICIAL :**B KING
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****14 DECEMBER 2018**

6.4**INVESTIGATION INTO THE INSTANCE OF LEASE OF ERF 4485, KLEINMOND FOR OFFICE ACCOMMODATION – ACM KRIGE****3/2/3/8****C Le Roux/H van Tonder
24 October 2018****(028) 313-8052****Corporate Head Office**

1. Executive Summary

The purpose of the report is to provide the necessary information to take an informed decision when considering the facts and circumstances regarding the irregular expenditure incurred for the lease of Erf 4485, Kleinmond used for office accommodation for the Town Planning Section in Kleinmond.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Community Services
Department: Area Manager: Kleinmond

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003) (MFMA)
Overstrand Municipality Supply Chain Management Policy dated 25 May 2008, as amended.

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

The former Area Manager: Kleinmond, which falls under the Directorate: Community Services, entered into a rental agreement (long term contract) for a period of 3 years viz, 01 July 2009 to 30 June 2012, for the rental of Erf 4485, Kleinmond.

The rental agreement was concluded between ACM Krige (lessor) and Overstrand Municipality (lessee), who was represented by C Jonkheid, the then Area Manager: Kleinmond.

This property was rented to be used by the Town Planning and Property Administration Section as office accommodation.

This house was located between the two other properties used by the Overstrand Municipality in Kleinmond. At the beginning of the lease period, the Municipality converted the house into office accommodation by installing dry walls and additional parking.

When the lease expired on 30 June 2012, the Town Planning Section wanted to renew the lease for the following reasons:

- the Town Planning Section could still not be accommodated in one of the existing Municipal buildings;
- the property was conveniently located between the two other Municipal offices in Kleinmond, making it the ideal location in terms of service delivery and client service; and
- the Municipality converted the house into offices at the beginning of the initial lease. By extending the lease, this investment would be optimised.

Negotiations were entered into with the owner's granddaughter who at that stage acted as the letting agent on behalf of her grandmother. A Tax Clearance Certificate (TCC) of herself was submitted.

However, after submitting this to the Supply Chain Management Department, Town Planning was informed that the Tax Clearance Certificate of the letting agent is not acceptable. The Supply Chain Management Department required the Tax Clearance Certificate of the owner. This certificate was then requested from the owner.

It then became apparent that the owner (Me ACM Krige) had transferred the property to her children (Ms J Krige, Mr J Bekker and Ms A Bekker). This complicated the matter because the new owners did not have the required certificates to indicate that their tax matters were in order.

Eventually, the matter was resolved and in February 2013 permission was granted to deviate from the Supply Chain Management Policy to procure the lease.

Discussion

The Municipal Manager, Mr. C Groenewald, informed Internal Audit Services (IAS) that the municipality made payments for the rental of a house which have been utilised as municipal offices in Kleinmond, however the rental of

the house for such purposes was purportedly not procured through the Municipality's Supply Chain Management process (hereafter referred to as SCM process). Accordingly IAS was requested to review the circumstances surrounding the rental and subsequent payments made in this regard and make appropriate recommendation(s).

The Town Planning Section occupied the house on Erf 4485, Kleinmond during the period 1 July 2012 until 28 February 2013 while a request for a deviation was submitted to the Supply Chain Management Department. The deviation could not be approved due to an outstanding Tax Clearance Certificate, therefore the building was occupied without a valid lease agreement and the expenditure incurred of R40 960 (no VAT) was deemed to be irregular.

This expenditure of R40 960 was certified and written-off by Council after serving before the Section 79 Committee on 17 April 2014.

On 23 October 2018 the Municipal Public Accounts Committee (MPAC) consisting of Ald N Botha-Guthrie, Cllrs D Botha, B Molefe and G Cohen considered the matter. The MPAC came to the conclusion that the municipality received value for money and was unanimous in its decision to recommend to Council that, in view of the municipality having received value for money for expenses incurred for the lease of Erf 4485, Kleinmond for the period 10 July 2008 to 30 June 2012, the expenditure, in total R191 880 (no VAT applicable), be certified as irrecoverable and be written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

7. Financial Implications

Irregular expenditure to the value of R191 880 (no VAT applicable) incurred for the period 1 July 2008 to 30 June 2012 to be written off as irrecoverable

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

that, in view of the municipality having received value for money for expenses incurred for the lease of Erf 4485, Kleinmond for the period 10 July 2008 to 30 June 2012, the expenditure, in total R191 880 (no VAT applicable), be certified as irrecoverable and be written off in terms of section 32(2)(b) of the Local Government: Municipal Finance Management Act, Act 56 of 2003.

RESPONSIBLE OFFICIAL :**B KING
C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****14 DECEMBER 2018**

7. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (IF ANY)

8. CONSIDERATION OF NOTICES OF MOTIONS / QUESTIONS

At the time of the closing of the agenda, no notices of motions/questions were received.

9. CONSIDERATION OF MOTIONS OF EXIGENCY (IF ANY)