



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref. no.3/4/1/5

2017-10-25

MINUTES

13TH MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY

2017-10-25 AT 10:00

Detailed account of the meeting proceedings is available on audio recording, which is obtainable from The Municipal Manager's Office per Request for Information (RFI)

MINUTES
13TH MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY
2017-10-25
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MINUTES OF THE 13TH MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY HELD ON 2017-10-25 AT 10:00 IN THE COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET, STELLENBOSCH

PRESENT	The Speaker, Cllr DD Joubert [Chairperson] The Executive Mayor, Ald G Van Deventer (Ms) The Deputy Executive Mayor, Cllr N Jindela	
ALDERWOMEN	JP Serdyn (Ms)	
COUNCILLORS	F Adams DS Arends FJ Badenhorst GN Bakubaku-Vos (Ms) FT Bangani-Menziwa (Ms) PR Crawley (Ms) A Crombie (Ms) JN De Villiers MB De Wet R Du Toit (Ms) A Florence AR Frazenburg E Fredericks (Ms) E Groenewald (Ms) (until 14:50) JG Hamilton AJ Hanekom JK Hendriks	MC Johnson NS Louw N Mananga-Gugushe (Ms (until 12:00)) C Manuel LM Maqeba NE McOmbring (Ms) XL Mdemka (Ms) RS Nalumango (Ms) N Olayi MD Oliphant SA Peters WC Petersen (Ms) MM Pietersen WF Pietersen N Sinkinya (Ms) Q Smit E Vermeulen (Ms)

Officials:	Municipal Manager (Ms G Mettler) Chief Financial Officer (M Wüst) Director: Community and Protection Services (G Esau) Director: Engineering Services (D Louw) Director: Human Settlements (T Mfeya) Director: Planning and Economic Development (D Lombaard) Director: Strategic and Corporate Services (Ms A De Beer) Chief Audit Executive (F Hoosain) Head: Committee Services (EJ Potts) Committee Clerk (T Samuels (Ms)) Committee Clerk (N Mbali (Ms)) Interpreter (J Tyatyeka)
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1.	OPENING AND WELCOME
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The Speaker, Councillor DD Joubert, welcomed all present, and requested that a moment of silent reflection be observed. Thereafter Cllr JK Hendriks opened the meeting with a prayer.

2.	COMMUNICATIONS
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2.1	MAYORAL ADDRESS
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“Goeie dag, good day, molweni, as-salaam alaikum.

- Unfortunately I must start this council meeting with acknowledging two separate incidences of violent crime within our municipal area
- Club shooting (week and half ago)
 - Two people killed
 - Suspected gang activity
 - Symptom of what is happening not just in Stellenbosch but broader Western Cape
- Murder of a farmer in Klapmuts yesterday
 - Across South Africa, and very much within our own municipality people must face violent crimes daily.
 - These two tragic incidences are just more examples of the harsh truth that our national government is failing us.
 - Constitution states that every person has the right to life and has the right to live free without fear of any form of violence
 - Our national government continues to fail to empower our police services with a mandate to actively work to end crime
 - I urge residents to not keep quiet but to report any and all criminal activity to the Police
 - Heartfelt condolences on behalf of myself and Council goes out the families and loved ones of all the victims.
- Minister Dan Plato was dan ook hier om met die gemeenskap te praat oor veral probleme wat ervaar word met die polisiediens – openbare vergadering in Wyk 16.
- Minister Plato het ook onderneem om veiligheidsinisiatiewe te loods in die area, insluitend ‘n lopende bus inisiatief in November.
- Al die inisiatiewe fokus op gemeenskapsbetrokkenheid
- Ernstige beroep op ons hele gemeenskap doen
 - Julle is die oë en ore
 - Meld ongerymdhede aan
 - Stilte skep ‘n broeiplek vir misdaad, so PRAAT, en moenie ophou totdat iemand luister nie asseblief.
- On 13 October we celebrated International Risk Reduction Day
 - Day focuses on disaster management and what can and must be done to reduce and manage the risk as much as possible to minimize the loss of life and destruction of property
 - Stellenbosch celebrated with an event at Klapmuts
 - At the event we launched the installation of 500 smoke detectors in informal and backyard dwellings in Klapmuts

- Study conducted by researchers from the University of Stellenbosch indicated how vulnerable these residents are in event of fire.
 - These smoke detectors will sound the alarm in case of a fire, enable residents to vacate the area in time as well as enabling them to alert the authorities more quickly, in the process helping to limit the damage and prevent loss of life.
 - Smoke detectors were donated by the Western Cape Provincial Government and SANTAM
 - Hope to roll out the project in other wards as well with help of sponsorships and the efforts of the councillors
 - Thank you to our Disaster Management team, fire-fighters & Law Enforcement officials who all play a part to manage and reduce the devastation of disasters.
- Tot die einde van Oktober is dit nog Vervoermaand
 - Ons het verlede week Nasionale Vervoerweek gevier
 - Deel van bewussyn skep rakende vervoer het ons dele van Andringastraat toe gemaak vir motorvoertuie gedurende dié week.
 - Baie positiewe terugvoer gekry rakende motor vry sone in hart van die dorp
 - Miskien iets wat ons meer intensief kan kyk na in die toekoms.
 - Vervoer is 'n integrale deel van elke dorp se ekonomie en dit is belangrik dat ons aanhou praat oor die uitdagings in ons area, veral verkeersdruk en tekort aan parkering.
 - Ek is persoonlik deurlopend in gesprek met Provinsiale Minister Donald Grant
 - Soos raadslede reeds weet het ons dan ook met 'n proses begin om oplossings te soek vir veral parkering asook alternatiewe oplossings te oorweeg soos "park and ride".
 - Al is vervoermaand amper op 'n einde wil ek graag ons inwoners en selfs raadslede aanmoedig om waar moontlik te stap of fiets te ry, ritte te deel of van openbare vervoer gebruik te maak, sodat ons die aantal karre op die paaie kan verminder.
 - Onlangs 'n nuwe BMX-baan geopen by Idasvallei sportgronde
 - Baan is gebou met 'n bydrae van die Provinsiale Departement van Sport en Kultuursake.
 - Ons het reeds 'n aantal plaaslike ryers en klubs
 - BMX-fietsry is 'n Olimpiese sportkode en Suid-Afrika het al Olimpiese atlete gehad in die sport.
 - Help om nuwe geleenthede te skep vir veral jongmense.
 - Inwoners en raadslede word herinner dat vlak 5 Waterbeperkings steeds geld.
 - Ons het verlede week baie lekker reën gehad, maar dit is nie NAASTENBY genoeg om ons probleme op te los nie.
 - Soos ons nou die vakansieseisoen nader word besoekers ook gemaan om asseblief water te spaar en te hou by die voorgeskrewe 87 liter water per persoon per dag.
 - Recently attended a fundraiser event for a new local skills initiative located in Franschoek – Change 4 twenty.
 - Truly wonderful initiative championed and supported by locals like Ruben Riffel, Margot Janse, Chris Erasmus and Matthew Gordan
 - With the support of various organisations and persons in the area, they will open te doors to the Franschoek Hospitality Academy & Learning Centre in January 2018.
 - They will take in 20 local students who will be trained for a year in various hospitality related skills including chef training, hospitality management and more.

- The training will be 8 months theory/classroom/online based training and 4 months internship training at various Franschoek hotels/guests houses and restaurants
 - They are raising funds to support the 20 selected students throughout the year.
 - This is an inspiring community based action to help address unemployment and creating HOPE for the young people who live in the area.
 - It is proof of what can be done when especially local success stories, pay it forward and give back.
 - Please go to their website www.franschoekhospitalityacademy.co.za to see what you can do to make a contribution to support these kids.
- Wil al die raadslede herinner dat November Gestremdeheidsbewussensmaand is
 - As 'n gemeenskap moet ons aandag gee aan die uitdagings wat gestremde inwoners elke dag in die gesig staar, en baie daarvan is binne ons vermoëns om aan te spreek.
 - Soos met die opkomende 16 Dae van Aktiwisme veldtog, moet ons nie net aandag gee aan die uitdagings wat gestremde inwoners in die gesig staar, vir slegs een maand in die jaar nie, maar ons moet dit deurlopend in ag neem in ons daaglikse planne vir dienslewering aan ons gemeenskap.
 - Baie dankie / Thank you / Enkosi kakhulu.”

2.2	COMMUNICATION BY THE SPEAKER
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- The Speaker congratulated all Councillors who celebrated and will celebrate their birthdays during September. A special tribute was paid to the late Mr Tommy Meyer for his outstanding service as an employee.
- Item 8.6.1 on the Agenda (Schedule of meetings of Council) will be withdrawn.
- A consultant of Agitominds, Mr Rabbets will do a presentation on the Organogram, whereafter Councillors will be allowed to pose questions, should the need arise. Additional information (relating to the new Organisational Structure) which were received late will be handed out during the meeting, in terms of Rule 12 of Council's Rules of Order By-law.
- Leave of absence forms should be submitted to the Chief Whip timeously.
- The EFF had requested that the list of matters submitted prior to the Speaker's Office be addressed in Council. Due to the approved leave of absence for the EFF Councillors, those matters will not be considered.
- As leaders, Councillors are expected to behave appropriately in meetings. When addressing Council, Councillors must refrain from swearing, from making racist remarks, humiliating others, and from any untoward action that could bring Council into disrepute.
- When seeking clarity on any matter, a member should simply raise his/her hand for the opportunity to pose a question. A "point of self-explanation" relates to a situation where a member wishes to explain his/her point when such has apparently been misunderstood.

2.3	COMMUNICATION BY THE MUNICIPAL MANAGER
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NONE

3.	OFFICIAL NOTICES
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3.1	DISCLOSURE OF INTERESTS	(3/6/2/2)
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No Councillor or official present disclosed an interest in any of the items that will be discussed.

3.2	APPLICATIONS FOR LEAVE OF ABSENCE	(3/4/1/6)
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(1) The following applications for leave of absence were approved in terms of the Rules of Order By-law of Council:-

Cllr PW Biscombe – 25 October 2017
 Cllr DA Hendrickse – 25 October 2017
 Cllr LK Horsband (Ms) – 25 October 2017
 Cllr S Schäfer – 25 October 2017
 Cllr P Sitshoti (Ms) – 25 October 2017

(2) Permission was granted to Councillors M Mananga-Gugushe (Ms); and E Groenewald (Ms) to leave the meeting earlier (at 12:00 and 14:50 respectively);

(3) Permission for leave of absence was also granted to Cllr C Manuel, subject thereto that he submits a doctor's certificate).

4.	CONFIRMATION OF MINUTES	(3/4/1/5)
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4.1 The minutes of the 12th Council meeting dated 2017-09-27 were **confirmed as correct.**

5.	STATUTORY MATTERS	(3/4/1/4)
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NONE

6.	REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS COUNCIL MEETINGS
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NOTED

The feedback report on Outstanding Resolutions.

7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: (ALD G VAN DEVENTER (MS))
7.1	COMMUNITY DEVELOPMENT AND COMMUNITY SERVICES: (PC: CLLR AR FRAZENBURG)
7.1.1	DRAFT EARLY CHILDHOOD DEVELOPMENT POLICY

1. PURPOSE OF REPORT

To request Council approval of the Draft Early Childhood Development (ECD) Policy for Stellenbosch Municipality for public consultation.

2. BACKGROUND

This Policy on early childhood development centres is premised on a distinction between registered and unregistered facilities as a means of reflecting and providing for the variations in demand of ECD facilities and services.

The motivation for a standard policy for ECD centres for Stellenbosch Municipality arises from:

- The growth in the number of applications for ECD centres linked to the population growth.
- The growth in the number of informal facilities vs. formal facilities.
- The mushrooming phenomena of ECD facilities within the municipal area
- The lack or ignorance in terms of abiding by the Children's Act 38 of 2005 Chapter 5
- The need to ensure ECD's within WC024 are accessible to children with disabilities.
- The prevalence of issues pertaining to ECD centres; particularly the impact of noise and traffic.

This policy must provide a framework to assist officials in assessing applications for ECD centres as well as a guideline as to how matters relating to ECD centres should be dealt with collaboratively.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.1.1

RESOLVED (nem con)

- that the draft Early Childhood Development Policy be approved, in principle; and
- that the draft Early Childhood Development Policy be advertised for public comment, whereafter same be resubmitted to Council for final consideration and approval.

Meeting: Ref no: Collab:	13 th Council: 2017-10-25 17/P/24 542950	Submitted by Directorate: Author Referred from:	Planning & Economic Development Manager: Community Development Mayco: 2017-10-11
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7.2	CORPORATE AND STRATEGIC SERVICES: (PC: CLLR E GROENEWALD (MS))
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7.2.1	CELL PHONE POLICY
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Collaborator No:

IDP KPA Ref No: Good Governance and Compliance

Meeting Date: Corporate and Strategic Services Portfolio Meeting: 4 October 2017
Mayoral Committee Meeting: 11 October 2017

1. SUBJECT: CELL PHONE POLICY

2. PURPOSE

To submit the Cell Phone Policy to Council for approval.

3. DELEGATED AUTHORITY

Council to approve Policy.

4. EXECUTIVE SUMMARY

The current cell phone policy was approved in draft form on 26/09/2000. The policy has not been revised since then, nor could a final approval by Council be found. In terms of that policy an employee may receive an allowance of either R371 or R467.

Council has to revise policies on a regular basis and at least every five years if no changes to legislation took place. Operational needs change on a constant basis and to enable the municipality to keep track with changes in electronic communication more and more functions can be performed through a smart phone. The amounts for allowances need to be revised as it is out-dated. The employee must insure the phone from the allowance and if an employee receives an allowance be available to answer the phone 24 hours a day, unless on leave.

The policy was revised and consulted in the sub-committee of the Local Labour Forum in September 2017 after it was discussed with Management.

The comments of all the parties have been incorporated in the draft that is tabled for discussion and recommended for approval.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.2.1

RESOLVED (nem con)

that the revised Cell Phone Policy be approved.

FOR FURTHER DETAILS CONTACT:

NAME	ANNALENE DE BEER
POSITION	DIRECTOR CORPORATE AND STRATEGIC SERVICES
DIRECTORATE	CORPORATE AND STRATEGIC SERVICES
CONTACT NUMBERS	021 8088018
E-MAIL ADDRESS	Annalene.deBeer@ Stellenbosch.gov.za
REPORT DATE	4 October 2017

7.2.2	REVISED SMOKING POLICY
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Collaborator No:

IDP KPA Ref No: **Good Governance and Compliance**

Meeting Date: **Corporate and Strategic Services Portfolio Meeting 4 October 2017**
Mayoral Committee Meeting 11 October 2017

1. SUBJECT: REVISED SMOKING POLICY.

2. PURPOSE

To submit the revised Smoking Policy to Council's for approval.

3. DELEGATED AUTHORITY

Council to approve Policy.

4. EXECUTIVE SUMMARY

The current smoking policy was approved in 2008. Council has to revise policies on a regular basis and at least every five years if no changes to legislation took place. The policy was revised and consulted in the sub-committee of the Local Labour Forum in September 2017 after it was discussed with Management.

The comments of all the parties have been incorporated in the draft that is tabled for discussion and recommended for approval.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.2.2

RESOLVED (nem con)

that the revised Smoking Policy be approved.

FOR FURTHER DETAILS CONTACT:

NAME	ANNALENE DE BEER
POSITION	DIRECTOR CORPORATE AND STRATEGIC SERVICES
DIRECTORATE	CORPORATE AND STRATEGIC SERVICES
CONTACT NUMBERS	021 8088018
E-MAIL ADDRESS	Annalene.deBeer@stellenbosch.gov.za
REPORT DATE	29 September 2017

7.2.3	APPROVAL OF NEW ORGANISATIONAL STRUCTURE AND PLACEMENT AGREEMENT
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Collaborator No:

IDP SFA Ref No: 5 – Good Governance and Compliance

Meeting Date: 11 October 2017

1. SUBJECT: APPROVAL OF NEW ORGANISATIONAL STRUCTURE AND PLACEMENT AGREEMENT

2. PURPOSE

To obtain Council's approval for the new organisational structure and the Placement Policy.

3. DELEGATED AUTHORITY

For decision by municipal council

4. EXECUTIVE SUMMARY

Section 66 of the Local Government Systems Act, 32 of 2000 as amended, requires the Municipal Manager to develop a staff establishment and submit it for Council approval. The Local Government Regulations on the Appointment and Conditions of Service of Senior Managers, GN 21 published on 17 January 2014) requires a Municipal Manager to within 12 months after the election of a new Council review the staff structure. Council resolved on 26 April 2017 to, in principle, approve a proposed Macro and Micro structure to commence with a consultation process.

A consultation process with SAMWU and IMATU took place within the Local Labour forum over the past months where the proposed structure was discussed in detail. Meetings with MATUSA were also called and the structure was published to all employees to provide input and comments on the structure. The comments have been considered and the Municipal Manager is herewith submitting a final proposal to Mayco and Council for recommendation to Council.

During the consultation process a Placement Policy has also been consulted and agreed with the Trade Unions. The Placement Policy is attached for approval.

5. RECOMMENDATIONS

That it be recommended to Council

- 5.1 that the proposed macro and micro structures (as depicted in **ANNEXURES A**) be adopted for implementation.
- 5.2 that the Placement Policy (attached as **ANNEXURE B**), be approved.
- 5.3 that the existing organizational structure of the Municipality be regarded as a holding structure and be abolished after the placement processes has been concluded in terms of Council's Placement Policy.
- 5.4 that the filling of the new and vacant positions on the proposed organisational structure be phased in over three (3) financial years. For this purpose, top management will identify critical posts for immediate filling whilst other vacancies will be budgeted for over the three year period.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.2.3

A document containing new information was circulated (see APPENDIX D). The DA requested a caucus which the Speaker allowed (at 10:45).

When the meeting resumed, the Speaker afforded the consultant from AGITO MINDS (PTY) LTD, Mr W Rabbets, an opportunity to do a presentation to Council on the Proposed Organisational Structure. Mr Rabbets also answered questions posed on the organisational structure.

After the presentation, the ANC requested a caucus which the Speaker allowed (at 12:05).

When the meeting resumed, it was

RESOLVED (majority vote with abstentions)

- (a) that the proposed macro and micro structures (as depicted in Annexure A) be adopted for implementation;
- (b) that the existing organizational structure of the Municipality be regarded as a holding structure and be abolished after the placement processes have been concluded in terms of Council's Placement Policy;
- (c) that the filling of the new and vacant positions on the proposed organisational structure be phased in over three (3) financial years, where, for this purpose, top management will identify critical posts for immediate filling whilst other vacancies will be budgeted for over the three year period;
- (d) that the fundamental principle of organisational development and transformation be considered and applied in coherency to the re-structuring activity as described in this report;
- (e) that the post names be used as temporary names until the evaluation process determines final post designations; and
- (f) that the Placement Policy attached as **ANNEXURE B**, be formally adopted by Council.

Councillor F Adams requested that his vote of dissent be minuted.

FOR FURTHER DETAILS CONTACT:

NAME	Annalene de Beer
POSITION	Director: Corporate and Strategic Services
DIRECTORATE	Corporate and Strategic Services
CONTACT NUMBERS	021 – 808 8018
E-MAIL ADDRESS	Annalene.deBeer@stellenbosch.org.za
REPORT DATE	9 October 2017

APPENDIX D



IMATU

INDEPENDENT MUNICIPAL AND ALLIED TRADE UNION

Social Transformation Through Sustainable Local Government

PO Box 6083
PAARL, 7620

**WESTERN CAPE
REGION**

Tel: 021 – 886 7074
Fax: 021 – 883 9874

STELLENBOSCH BRANCH

Email: herman.theart@stellenbosch.gov.za
www.imatu.co.za

Our Ref No.: IMATU Restructuring Concerns
Your Ref No.: IMATU Restructuring Concerns
Enquiries: J. H. Theart

24 October 2017

Speaker
Stellenbosch Municipality
P O Box 17
STELLENBOSCH
7599

Dear Mr Speaker,

IMATU hereby request that the micro structure that will be presented to Council for approval at the Council meeting be withdrawn. After consultation, IMATU has realised that little of the input given at the Restructuring Committee meetings was not considered and no reasons were given for the exclusions. IMATU would like to know why no feedback was given with regards to our inputs. We have received a lot of complaints from our members also on Management level, whereby they have indicated that the short fall on the structure does not address the service delivery needs of the municipality. Crucial posts were excluded and unnecessary posts were created. Departments were moved and this will have a negative impact on service delivery. IMATU is concerned that rumours are going the rounds that IMATU has approved the proposed structure that will be presented to Council. We do not want to delay the process and is for service delivery but we act on behalf of our members. Attached hereto please find IMATU's inputs on the proposed structure that was submitted to the Director Corporate and Strategic Services.

We trust that Council will adhere to our request and implement a proper consultation session to address the matters raised above.

Yours in good labour relations,

J. H. Theart
IMATU Permanent Shop Steward
Obo IMATU Stellenbosch Shop Steward Council

WORKING TOGETHER FOR YOU

Registration number: LR2/6/2/533

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REPRESENTATIVES: S Khoza (President), K Swanepoel (Deputy President), J Koen (General Secretary), H. Coffee (NEC), F Willemsse (NEC & Regional Chairperson), P. Buys (NEC), E Bruwer (Regional Manager)

IMATU INPUT ON THE PROPOSED STRUCTURE

DIRECTORATE	SECTION	PAGE	CONCERN	PROPOSAL	COMMENTS	
CORPORATE & STRAT	ICT	7	Section head for Infrastructure the functions are not in line with day to day activities and ultimately core function. Job purpose on job description reads as follows – To provide high availability and sustainability of the Municipality's ICT Infrastructure through the management and motivation of the technical team and by way of pro active and preventative maintenance.	Desktop to move to infrastructure ICT	Dir Cor & Strat agreed and accepted proposal also received from ICT Manager	PROPOSED ICT MICROSTRUCTURE.docx
CORPORATE & STRAT	MUNICIPAL COURT	80	MUNICIPAL COURT-NOT CORRECT POSITION UNDER COOMUNITY SERVICES	MUNICIPAL COURT TO MOVE TO CORPORATE AND STRATEGIC SERVICES	MUNICIPAL COURT TO MOVE TO CORPORATE AND STRATEGIC SERVICES	
CORPORATE & STRAT	REGISTRY & OFFICE AUXILIARY SERVICES	4	QUERY OFFICE AUXILIARY.docx	QUERY OFFICE AUXILIARY.docx		
CORPORATE & STRAT	Records	4	Daar was aangedui dat alle poste binne hierdie sub-seksie wel befonds is, maar dat personeel nog nie geïdentifiseer is vir plasing en/of advertering nie. Plasing en vul van poste moet baie noukeurig hanteer word, gegewe die negatiewe impak voortspruitend uit vorige posvulling-geskiedenis.			

			<p>Pos gedegradeer van oorspronklike Hoof, na Snr Proffesionele Beampte na Senior Administratiewe Beampte, gelykstaande aan Komiteeklerke met geen verantwoordelikheid in Seksiebestuur. Uitklaring moet verskaf word oor die posinhoud. Hierdie posbekleër kan onmoontlik verantwoordelik wees vir die skryf van beleide en handleidings, toepassing van Wetgewing en Provinsiale voorskrifte, interne opleiding en kontrole oor prosesse en rekordbestuurstandaarde op dieselfde verantwoordelikheidsvlak as Komiteeklerke nie. Dieselfde geld vir sub-seksiehoofde binne MHB. Hoe is onderskeid getref tussen verantwoordelikheidsgraad? Waarom word Rekordbestuur as ondergeskik geklassifiseer terwyl die funksie deur Provinsie geaudit word?</p>		Correct name will be determined by evaluation process	
			<p>Gedesentraliseerde Beplannings-Argief beskik ook oor 'n Senior Argiefbeampte-pos wat slegs die 1 Direktooraat se rekords bestuur. Hierdie posbekleër word voorsien deur Rekordbestuursdienste se Senior Admin Beampte van die stelsels en handleidings. Verantwoordelikheidsvlak van persoon wat bg opstel kan nie gelyk wees nie.</p>			
			1. Gedesentraliseerde Regsrekords			
			<p>Seksie moet verskuif word na Regsdienste. Gedesentraliseerde kantore rapporteer aan die relevante Direktooraat of Departement. (Sien Gedesentraliseerde MHB- en Beplanning-Argiewe)</p>			
			Hofseksie: Gaan Gedesentraliseerde Regsrekords ook die Hofrekords bestuur?			
			2. Rekords-Sentraal			
			<p>Rekords-Sentraal hanteer die volle organisasie se rekords, uitsluitend MHB en Beplanning. Die personeelkomponent vergeleke Beplanning waarvoor 4 Argiefbeampte poste toegestaan is, teenoor 3 by Sentraal.</p>			

			Die pos verantwoordelik vir die bestuur van hierdie rekords is geklassifiseer as 'n Senior Argiefbeampte, laer as Komiteeklerke en dieselfde as die persoon verantwoordelik vir Gedesentraliseerde Beplannings-Argief. Die Sentraal-posbektel is verantwoordelik vir die breë spektrum verskillende rekords en rekords anders as korrespondensie, sowel as huidige kontrakte.			
			Argiefassistenteposte is verminder.			
			Beheer oor/bewaring van kontrakte moet verskuif na Kontrakadministrasie-department. Kabinet in veilige stoorarea van Sentraal kan reserveer word vir Bewaring.			
			Waar is onderskeid tussen Elektronies en Papier? Indien saamgevoeg: Geen voorsiening huidige vir data-vasleggers. Indien invoere gedoen word onder die Document Management Support System-seksie, aanvaar ek dat die Snr Klerk verantwoordelik sal wees vir invoere. Indien nie, sal 'n addisionele Datavasleggerpos geskep moet word onder Rekords-Sentraal.			
			3. Projekte en Beskikkings			
			Komponent voorlopig voldoende vir verwerking van Papierrekords.			
			Argiefkantore/-rekords:			
			* MHB: Posbenamings verskil van die posbenamings gebruik vir Rekords-Sentraal, sowel as Gedesentraliseerde Beplannings- en Regs-Argiewe. Eenvormigheid moet toegepas word.			
			MHB-Argief bestuur:			
			* 4-reeks Korrespondensiereeks			
			* Gevalle lêers: Personeel (Kontrakwerkers/Permanent/Raadslede)			
			Verlof			
			Beserings aan			
			Diens			
			Arbeidsrekords			
			Rekords anders			
			as korrespondensie			

			* Hofrekords: Daar moet duidelik beslis word dat hierdie rekords deel vorm van Gedesentraliseerde Regs-Argief. Indien nie, moet voorsiening gemaak word vir 'n Gedesentraliseerde Hof-Argief.		
			* Kontrakadministrasie: Regverdig eie Gedesentraliseerde-Argief?		
CORPORATE & STRAT	COUNCIL SUPPORT	8	The Ward Administrators (pg8) is listed as half day position have been working full day since January 2017, and were informed that positions are full day positions. There are 15 Ward Administrators on the Micro Structure where there is about 20 (Ward Administrators).		
CORPORATE & STRAT	HR SKILLS DEVELOPMENT	6	Employer to give detail of KPA's different to current-Redefining of KPA's -Employer to give detail of KPA's different to current	Employer to give detail of KPA's different to current-Redefining of KPA's -Employer to give detail of KPA's different to current	Employer to give detail of KPA's different to current-Redefining of KPA's -Employer to give detail of KPA's different to current
FINANCE	ASSET MANAGEMENT	14	Due to the volume of the work with asset management -current value of assets within the municipality R5.2 billion only 4 employees in section	Due to the high volume of the work within the asset management section it was agreed to an extra accountant and 2 senior clerks	Agreed with Manager Budget at departmental meeting that the proposal was presented and accepted
		14	The head asset management(as on the discussed with my heads proposal) is now manager and not snr manager as the other previous heads within budget section – Refer to head budget (p346) and AFS & reconciliations (p347) Also refer to the duties of manager		Correct name will be determined by evaluation process

FINANCE	FINANCIAL STATEMENTS, COMPLIANCE & REPORTING	13	Functions listed under the section <u>MFMA Reporting & Compliance</u> .	Employer to give detail of KPA's different to current- Redefining of KPA's -Employer to give detail of KPA's different to current-focus is GRAP and MFMA compliance	Asset Management organisational structure proposal.docx	
FINANCE	ACCOUNTANT VAT SPECIALIST		FUNCTION NOT INCORPORATED IN PROPOSED STRUCTURE	TO BE ADDED TO STRUCTURE		
PLANNING & ECON DEVELOPMENT	LAND USE MANAGEMENT	31	REQUEST FOR MORE LAND USE INSPECTORS AND BUILDING INSPECTORS	PROPOSAL BUILDING INSPECTORS.docx	PROPOSAL BUILDING INSPECTORS.docx	
	BUILDING DEVELOPMENT	32	The <u>functions</u> does not relate to the <u>purpose</u>	PROPOSAL BUILDING DEVELOPMENT.docx		
	BUILDING PLAN APPROVALS					
PLANNING & ECON DEVELOPMENT	ECONOMIC DEVELOPMENT & TOURISM	35	SENIOR ED OFFICER EPWP/SMME- SNR ED OFFICER-AGRICULTURAL SUPPORT, RURAL DEVELOPMENT & TOURISM	ELABORATE ON TOURISM FUNCTIONS		
PLANNING & ECON DEVELOPMENT	ECONOMIC DEVELOPMENT & TOURISM	35	DATABASE ADMIN OFFICER TO BE ADDED	DATABASE ADMIN OFFICER POSITION MISSING		
COMMUNITY & PROTECTION SERVICES	TRAFFIC SERVICES	83	The 2 divisions (DLTC and VTS) does not justify a Senior Superintendent position.	Proposal - Traffic Services structure - 11 May 2017.pdf		
COMMUNITY & PROTECTION SERVICES	TRAFFIC SERVICES	83	Proposed Changes	Employee Proposal - TRAFFIC.pdf	Employee Proposal Motivation - TRAFFIC.pdf	
COMMUNITY & PROTECTION SERVICES	LAW ENFORCEMENT	88	Proposed Changes	Proposed Law Enforcement Structure OrganigramApril2017 (2).xls		
COMMUNITY & PROTECTION SERVICES	COMMUNITY SERVICES	93	Proposed Changes	Proposed microstructure CS.pdf	Microstructure recommendations as proposed by the department CS.pdf	

DIRECTORATE HUMAN SETTLEMENTS				<p>IMATU PROPOSED THAT THE DIRECTORATE MUST STAY-</p> <p>a) That the functions of the Department: New Housing not be fragmented</p> <p>b) that the project management of Housing projects be recognized as a specialised function</p> <p>c) that the Department: New Housing (no matter which functional designation is linked to it) be kept as a unit in the new established micro-structure</p>			<p>MOTIVATION FOR NEW HOUSING & INFORMAL SETTLEMENTS.docx</p>
INFRASTRUCTURE	INFRASTRUCTURE	40	DEPUTY DIRECTOR: WATER AND WASTE WATER SERVICES AND DEPUTY DIRECTOR: INFRASTRUCTURE DEVELOPMENT & RTS	NOT TO HAVE DEPUTY DIRECTORS			
		40	MANAGER SUPPORT SERVICES NOT LINKED NEXT TO OTHER SENIOR MANAGERS	MANAGER SUPPORT SERVICES LINK NEXT TO PA TO DIRECTOR			
		40	ROADS, TRANSPORT & STORMWATER NOT AMBIT UNDER INFRASTRUCTURE DEVELOPMENT	ROADS, TRANSPORT & STORMWATER FUNCTION AS SEPARATE DEPARTMENT			
		41	SUB SECTION MAINTENANCE	SUB SECTION MAINTENANCE TO LINK NEXT TO ADMIN OFFICER TO DEPUTY DIRECTOR			
INFRASTRUCTURE	WASTE WATERTREATMENT WORKS CLASS A	43	GROUND MAINTENANCE HAVE TOO MANY SMALL PLANT OPERATORS				
		42	SENIOR CLERK MOVE TO SENIOR MANAGER WASTE WATER TREATMENT				
		43	LEADING HAND (MAINTENANCE) TO BE CHANGED	CHANGE TO DRIVER/SUPERVISOR			
		43	LEADING HAND (GROUND MAINTENANCE) TO BE CHANGED	SUPERVISOR (MAINTENANCE)			
		44	WEMMERSHOEK PLANT- CLASS OF PLANT TO BE VERIFIED				
			KLAPMUTS PLANT CLASS TO BE VERIFIED				

		54	ADMINISTRATIVE OFFICER NOT NEEDED UNDER INFRASTRUCTURE DEVELOPMENT & RTS	MOVE TO PG 78-SUPPORT SERVICES		
		54	OFFICE ASSISTANT/CLEANER	NOT NEEDED ON STRUCTURE-ALREADY FUNCTION UNDER SUPPORT SERVICES		
		57	OFFICE ASSISTANT	SHOULD BE MOVED TO SUPPORT SERVICES SECTION		
INFRASTRUCTURE	METERING, LOSS CONTROL & DWARSRIVER	69	CLERK NEW POST UNDER SUB SECTION SUPPORT & DATA	CLERK NEW POST UNDER SUB SECTION SUPPORT & DATA TO AMBIT UNDER MANAGER: METERING, LOSS CONTROL & DWARSRIVER		
INFRASTRUCTURE	ELECTRO TECHNICAL		GIS OPERATOR	Micro structure VOORSTEL BRADLEY WILLIAMS.docx		
INFRASTRUCTURE	COLLECTIONS	76	CLERK TO BE ADDED UNDER SUPERINTENDENT COLLECTIONS	CLERK TO BE ADDED UNDER SUPERINTENDENT COLLECTIONS		
INFRASTRUCTURE	COLLECTIONS	76	FOREMAN X 3 TO BE ADDED UNDER SUPERTINDENT COLLECTIONS	FOREMAN X 3 TO BE ADDED UNDER SUPERTINDENT COLLECTIONS		
INFRASTRUCTURE	WASTE MINIMIZATION & DISPOSAL	77	SUB SECTION EDUCATION & AWARENESS BE COMBINED WITH WASTE MINIMIZATION	SUB SECTION EDUCATION & AWARENESS BE COMBINED WITH WASTE MINIMIZATION		
INFRASTRUCTURE	WASTE MINIMIZATION & DISPOSAL	77	GENERAL WORKERS TO CHANGE TO AWARENESS OFFICERS	GENERAL WORKERS TO CHANGE TO AWARENESS OFFICERS		

7.3	ECONOMIC DEVELOPMENT AND PLANNING: (PC: ALD JP SERDYN (MS))
7.3.1	APPLICATION FOR A DEVIATION FROM THE PROVISIONS OF THE BY-LAW RELATING TO THE CONTROL OF BOUNDARY WALLS AND FENCES ON FARM NO. 82/18 AND ERF 13789, STELLENBOSCH DIVISION

1. PURPOSE OF REPORT

To enable Council to make an informed decision on the waiver from the By-Law Relating to the Control of Boundary Walls and Fences. The application is **recommended for approval**.

2. BACKGROUND

The application also entails a departure in terms of the Stellenbosch Municipal Land Use Bylaw to relax the street building line from **8,0m** to **0m** to accommodate the Eskom mini substation and covered refuse area on Farm No. 82/18 and Erf 13789 (to be consolidated), Stellenbosch. This part of the application will however be dealt with under delegated authority as the delegation is with the Authorized Employer.

On 23 January 2013, Council approved an application for rezoning, subdivision and departures for the establishment of Gevonden Development and the amendment of the approved subdivision and site development plans was approved on 09 June 2016 (see **APPENDIX 4**).

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.3.1

RESOLVED (majority vote)

that **approval be granted** for the application to deviate from the By-law Relating to the Control of Boundary Walls and Fences to enable the owner to construct a 2,1m high solid wall on a section along the northern and western boundary of the property on Farm No. 82/18 and Erf 13789 (to be consolidated), Stellenbosch, as indicated on the attached Drawing No. 0068-C-103, dated 22 February 2016, drawn by Van Heerden & Van Der Merwe (See **APPENDIX 3**), subject to the following conditions:

1. The approval applies only to the waiver from the subject by-law in question and shall not be construed as authority to depart from any other legal prescription or requirements from council;
2. Building plans must be submitted to this municipality for approval, prior to any building work commencing onsite;
3. That the building plans not differ substantially from the plan attached as **APPENDIX 3** of this report;

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4. This approval may not be acted upon prior to the issuing of a certificate of consolidated title;
 5. This Council reserves the right to impose further conditions if deemed necessary.

The following Councillors requested that their votes of dissent be minuted:

Cllrs F Adams; GN Bakubaku-Vos (Ms); FT Bangani-Menziwa (Ms); LM Maqeba; N Mananga-Gugushe (Ms); MD Oliphant; RS Nalumango (Ms) and N Sinkinya (Ms).

<i>Meeting:</i>	<i>13th Council: 2017-10-25</i>	<i>Submitted by Directorate:</i>	<i>Planning & Economic Development</i>
<i>Ref no:</i>		<i>Author</i>	<i>Manager: Spatial Planning</i>
<i>Collab:</i>	<i>543198</i>	<i>Referred from:</i>	<i>Mayco: 2017-10-11</i>

7.3.2	IDENTIFICATION OF LAND FOR EMERGENCY HOUSING: PHASE 1
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1. PURPOSE OF REPORT

To inform Council on the processes followed to date with the identification of land for emergency housing in the WC024 municipal area; to propose a way forward to finalise the process for identifying appropriate land; and to gain authorisation for a workshop with Council regarding the matter.

2. BACKGROUND

Evictions in terms of the Extension of Security of Tenure Act, No. 62 of 1997 (ESTA) and other relevant legislation have increased over the past few years. Stellenbosch Municipality has received a significant number of notices for eviction. Council has a constitutional obligation to provide temporary relief to people in urban and rural areas who find themselves in emergency situations.

As was recently evident from the devastating fires in the Southern Cape and flooding on the Cape Peninsula it is clear that the term “emergency housing” does not relate only to evictions of the poor in communities, but a variety of mostly unforeseen incidents can create an unplanned need for emergency housing. It is predicted that climate change will contribute to a significant increase in the likelihood that disasters such as veld fires, flooding, droughts, tornadoes, hailstorms, extreme heat etc. will occur more frequently and potentially with greater vigour.

For the municipality to be in a position to render assistance effectively it has to plan for such eventualities (proactive) and be ready to assist once the need was identified (reactive). At the moment appropriate located land, zoned correctly and serviced to an acceptable standard is lacking and hampers the process of assisting those in need speedily. Notwithstanding the aforementioned the municipality, when and where possible, should seek to take preventative measures and should avoid using policies indiscriminately or in a manner that may incentivise negligence.

Section 26 (1) and (2) of the Constitution of the Republic of South Africa, (Act 108 of 1996) compels the municipality to provide for adequate housing or take reasonable legislative and other measures within its available resources to achieve the progressive realisation of the right to have access to adequate housing.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.3.2

RESOLVED (majority vote)

- (a) that in order to understand and agree on the uncertainties (as listed in paragraph 7 of the report), it is proposed that a workshop be held amongst the relevant municipal directorates and Ward Councillors, to:
 - (i) discuss, agree and formulate a response to the questions listed in paragraph 7;
 - (ii) determine criteria for the selection of suitable emergency housing sites;

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- (b) that the Director: Planning & Economic Development be mandated to coordinate the aforementioned workshop; and
- (c) that after the workshop envisaged in (a) above, the item be resubmitted to Council for consideration.

Councillor F Adams requested that his vote of dissent be minuted.

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Economic Development & Planning Services
Ref No:	17/P/4 & 17/4/3	Author:	Manager: Spatial Planning
Collab:	544596	Referred from:	Mayco:2017-10-11

7.3.3	COMMENT ON THE FINAL ENVIRONMENTAL IMPACT ASSESSMENT REPORT AND ENVIRONMENTAL MANAGEMENT PROGRAM FOR THE PROPOSED VLOTTENBURG VILLAGE DEVELOPMENT, STELLENBOSCH
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1. PURPOSE OF REPORT

The purpose of this report is twofold:

- Firstly to inform Council as to the actions taken by the Directorate: Planning & Economic Development (DPED) following the resolution made by Council at the 39th Council Meeting of Stellenbosch Municipality (2016/03/30) regarding comment on the Draft Environmental Impact Report (DEIR) for the Proposed Vlotenburg Village Development submitted in terms of the National Environmental Management Act, 107 of 1998 (NEMA).
- Secondly, for Council to decide on the comment prepared on the Final Environmental Impact Assessment Report (FEIR).

Given the scale of the proposed development, the potential implications the proposed development may have on Vlotenburg, on Municipal infrastructure and the broader Stellenbosch area, the wide ranging comments and objections and potential sensitivity of the matter, the DPED's comment (paragraph 3) on the FEIR and Environmental Management Programme (Volumes 1 & 2) is herewith submitted to Council for approval before it is formally submitted as part of the above NEMA process.

Table 1: Abbreviations.

DEA&DP	Department of Environmental Affairs & Development Planning
DEIR	Draft Environmental Impact Report
DPED	Directorate: Planning & Economic Development
FEIR	Final Environmental Impact Report
NEMA	National Environmental Management Act, 107 of 1998
SDF	Spatial Development Framework
SM	Stellenbosch Municipality

2. COUNCIL RESOLUTION

In the absence of a clear delegation permitting the DPED to comment on applications submitted in terms of the NEMA comment on the DEIR for the proposed development was submitted to Council for consideration. The 39th Council Meeting of Stellenbosch Municipality (2016/03/30) resolved, in terms of Item 8.5:

- (a) *that the Delegation be granted to the Director: Planning and Economic Development to submit comment on environmental authorization application;*
- (b) *that Council does not support the proposed Vlotenburg Village development.*

The table below summarises the actions taken by the DPED prior to and following the above Council resolution.

Table 2: DPED Actions.

Action / Request	Timeframe	Date	Annexure
SM response to Scoping Report		2014/08/11	Annex. 1
Meeting held between consultants and officials from DEA&DP / SM		2014/09/25	Annex. 2
Meeting held between consultants and officials from DEA&DP / SM		2015/01/27	Annex. 3
Request to comment on DEIR	2015/12/14-2016/02/12	2015/12/14	Annex. 4
Item with comments submitted to Planning & Economic Development Committee Meeting		02/2016	
Item submitted to Council		03/2016	Annex. 5
Comments on DEIR submitted		2016/04/05	Annex. 6
Meetings with SM executives re. Vlotenburg Development			Annex. 7
Request to comment on FEIR (and FEIR)	2017/06/26-2017/07/17	2017/06/23	Annex. 8
Communication informing late submission		2017/06/30	Annex. 9
Item with comments submitted Council		08/2017	
Communication from DEA&DP requesting SM input		2017/09/14	Annex. 10

Following the above Council Resolution the DPED submitted comment on 12 other applications submitted in terms of NEMA. It is only in this instance, for the reasons included above, that the item is brought to Council.

Table 3: DPED comments on other NEMA applications.

Report	Date
Draft Basic Assessment Report: Proposed Rezoning and Construction of a Residential Security Estate on Portion 86 of Farm 222, Haasendal, Kuilsriver DEA&DP Reference: 16/3/1/1/A5/A3/1044/14	2016/07/20
Draft Basic Assessment Report: Proposed Extension of the existing telecommunication base station on Portion 44 of Farm 20, Stellenbosch DEA&DP Reference: 16/3/3/1/B4/45/1018/16	2016/07/25
Draft Basic Assessment Report: Proposed stabilization of the left bank of the Franschoek River on Farm Klein Dassenberg no 1551, Franschoek DEA&DP Reference: 16/3/3/6/7/1/B4/12/1120/16	2016/08/17
Draft Basic Assessment Report: Proposed Mt Vernon Development on Portion 36 of the Farm Bronkhorst no 748, Paarl DEA&DP Reference: 16/3/3/1/B3/28/1019/16	2016/08/17
Draft Basic Assessment Report: Proposed Canola Processing Plant on Portion 2 of the Farm no 750, Klapmuts, Stellenbosch DEA&DP Reference: 16/3/3/1/B4/23/1025/16	2016/10/06
Pre-application Basic Assessment Report: Proposed Mixed Use Development on Portion 7 and 10 of the Farm 1674, Boschendal DEA&DP Reference: 16/3/3/16/7/1/B4/45/1096/15	2016/11/18
Basic Assessment Report: Proposed Development of the Kylemore Reservoirs and Associated Infrastructure DEA&DP Reference: 16/3/1/1/B4/45/1005/13	2016/11/18
Proposed repair and/or upgrade of the Brandwacht Aan Rivier Residential Estate's security fence and erosion control infrastructure, Erf 16168, Stellenbosch.	2017/05/02
Proposed Welgegund Domaine Prive Residential development of Farm 372/1, Paradyskloof, Stellenbosch. DEA&DP Reference: 16/3/3/1/B4/23/1025/16	2017/05/17
Proposed River Maintenance Management Plan Associated with the Holden Manz Bridge, Farm 1657, Franschoek.	2017/06/23
Eerste River Masterplan, Stellenbosch. DEA&DP Reference: 16/3/3/6/7/1/B4/45/1034/17	2017/07/17
Basic Assessment Process for the Proposed Arra Residential Development on Portion 7 of the Farm Weltevreden No. 744, Klapmuts	2017/07/20

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.3.3**RESOLVED** (nem con)

that Council **DO NOT SUPPORT** the Vlottenburg Village Development for the following reasons inter alia:

- (i) the proposed development falls outside the demarcated urban edge of Vlottenburg;
- (ii) the proposal depends on private transport which will further escalate the traffic congestion;
- (iii) the development is contrary to various other developments in the area already approved in particular the Longlands development which the municipality is contractually bound to; and
- (iv) the municipality is committed to inclusive developments which cater for all housing typologies and income groups and this development is exclusive rather than inclusive.

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Economic Development & Planning Services
Ref No:		Author:	Manager: Spatial Planning
Collab:		Referred from:	Mayco:2017-10-11

7.4	FINANCIAL SERVICES: (PC: CLLR S PETERS)
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7.4.1	SERVICE LEVEL STANDARDS: 2017/2018
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1. PURPOSE OF REPORT

To present the Service Level Standards for the 2017/2018 financial year to Council for approval.

2. LEGAL FRAMEWORK

In terms of Municipal Finance Management Act Circular 75:

“All municipalities are required to formulate service standards by the end of January 2015 which must form part of the 2015/16 draft MTREF budget documentation. In addition, the service standards need to be tabled before the municipal council for formal adoption. The service standards must at a minimum incorporate the administrative, technical, and economic development categories of the municipality.”

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.4.1

RESOLVED (nem con)

that the Service Level Standards for 2017/2018 as set out in **APPENDIX 1**, be approved.

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Finance
Ref no:	5/1/1/2017-2018	Author	Chief Financial Officer: M Wüst
Collab	545288	Referred from:	Mayco:2017-10-11

7.4.2	ADJUSTMENTS BUDGET: 2017/2018
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1. PURPOSE OF REPORT

To table an adjustments budget for the 2017/2018 financial year to Council for approval. The adjustments budget emanates from additional allocations from the Provincial Treasury and also to authorize unavoidable expenditure due to the drought adversity.

2. BACKGROUND

2.1 LEGAL FRAMEWORK

Section 28 of the Municipal Finance Management Act states that:

“(1) The municipality may revise an approved annual budget through an adjustments budget.

(2) An adjustments budget –

(b) may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for.

(c) may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the mayor of the municipality”

Furthermore, Section 29 of the Municipal Finance Management Act states that:

“(1) The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.

(2) Any such expenditure-

(a) must be in accordance with any framework that may be prescribed;

(b) may not exceed a prescribed percentage of the approved annual budget;

(c) must be reported by the mayor to the municipal council at its next meeting; and

(d) must be appropriated in an adjustments budget.

(3) If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies”

Regulation 23 of the Municipal Budget and Reporting Regulations states that:

“(3) If a national or provincial adjustments budget allocates or transfers additional revenues to a municipality, the mayor of a municipality must, at the next available council meeting, but within 60 days of the approval of the relevant national or provincial adjustments budget, table an adjustments budget

referred to in section 28 (2) (b) of the Act in the municipal council to appropriate these additional revenues.”

- (4) *An adjustments budget referred to in section 28 (2) (c) of the Act must be tabled in the municipal council at the first available opportunity after the unforeseeable and unavoidable expenditure contemplated in that section was incurred and within the time period set in section 29 (3) of the Act.”*

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.4.2

RESOLVED (nem con)

- (a) that an Adjustments Budget for 2017/2018 as set out in **APPENDIX 2** be approved; and
- (b) that the Service Delivery and Budget Implementation Plan be adjusted accordingly, inclusive of the non-financial information (performance measurement).

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Finance
Ref no:	5/1/1/2017-2018	Author	Chief Financial Officer: M Wüst
Collab		Referred from:	Mayco:2017-10-11

7.4.3	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR SEPTEMBER 2017
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1. PURPOSE OF REPORT

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 4.36.2 of the Supply Chain Management Policy 2016/2017 to report the deviations and ratifications to Council.

2. DISCUSSION

Reporting the deviations as approved by the Accounting Officer for September 2017. The following deviations were approved with the reasons as indicated below:

DEVIATION NUMBER	CONTRACT DATE	NAME OF CONTRACT	CONTRACT DESCRIPTION	REASON	TOTAL CONTRACT PRICE
D/SM 05/18	05/09/2017	SMITH TABATA BUCHANAN BOYES (STBB)	Appointment of an appropriately experienced legal service provider for legal assistance to the section 80 committee on farm130/3 (STBB)	Exceptional case and it is impractical or impossible to follow the official procurement processes	R20 000
D/SM 06/18	05/09/2017	THE GEOSS PTY (LTD)	Preparation and implementation of drought disaster action plan for Stellenbosch. Appointment of GEOSS (PTY) Ltd for drilling site supervision, contract management, drill work inspections, contract management and drill work monitoring of boreholes due to the drought disaster in WC 024.	Exceptional case and it is impractical to follow the official procurement processes	R 500 000
D/SM 07/18 & D/SM 08/18	5/09/2017	HATCH - Western Cape Water Demand Management	Preparation and implementation of drought disaster action plan for Stellenbosch. Appointment of hatch consultants to update the draft drought response plan, do detail designs for drought related work including borehole connections, containerized water purification units and borehole pump installation, due to the drought Disaster in the WC 024. Preparation and implementation of drought disaster action plan for Stellenbosch. Appointment of drillers to do exploration. Emergency & exceptional case and it is impractical or impossible to follow the official procurement processes, production boreholes for drought relief in the WC024.	Emergency	R15 000 000
D/SM 09/18	26/09/2017	Appointment of Apronics-Cape for the Veeam & VMware Software License Upgrades & Renewal	Apronics	4.36.1 (a) (v) in any other exceptional case where it is impractical or impossible to follow the official procurement process	R634 683

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.4.3

It is noted that a replacement page (page 439 of the Agenda) was incorporated in the table under Discussion above.

RESOLVED (majority vote with abstentions)

that Council notes the Monthly Financial Statutory Reporting: Deviations for September 2017.

Councillor F Adams requested that his vote of dissent be minuted.

Meeting: Ref no: Collab	13 th Council: 2017-10-25 8/1/Financial	Submitted by Directorate: Author Referred from:	Finance Chief Financial Officer: M Wüst Mayco:2017-10-11
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7.5	HUMAN SETTLEMENTS: (PC: CLLR PW BISCOUBE)
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NONE

7.6	INFRASTRUCTURE: [CLLR J DE VILLIERS]
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NONE

7.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: CLLR N JINDELA)
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7.7.1	FUTURE USAGE OF BRÜMMER PARK
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1. PURPOSE OF REPORT

To Inform Council regarding the community dispute on the current use of Brümmer Park with regard to the activities that must be allowed in the park and to get a formal decision for the future use of Brümmer Park.

2. BACKGROUND

A portion of Brümmer Park (Erf 3592), situated next to the Eerste River, has been developed into a garden by Advocate Abrie Meiring. Advocate Meiring currently resides next to Brümmer Park. The development of the garden within Brümmer Park is still on-going. The remaining part of Brümmer Park can be regarded as a natural area, where trees have been planted and are currently managed as a natural area next to the Eerste River.

The last few years there has been a growing on-going friction amongst residents in relation to the usage of the park and or park status. Some residents want to use the park to as a cycle zone from various intersections and entrances where lawn areas area with no formal paths, while other residents are of the opinion that cyclists only be allowed in a portion of Brümmer Park and not the area that has been developed into a garden consisting of a footpath for passive multiple recreation purposes only.

This situation has reached a position that the Directorate is of the opinion that an official decision be taken regarding the type of activities which are allowed in Brümmer Park.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.7.1

RESOLVED (nem con)

that the Directorate commences with a public participation process to determine the future use of Brümmer Park.

Meeting: Ref no: Collab	13 th Council: 2017-10-25 17/5/2/6	Submitted by Directorate: Author Referred from:	Director: Comm & Protection Services Manager: Community Services Mayco:2017-10-11
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7.8	PROTECTION SERVICES: [PC: CLLR Q SMIT]
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NONE

7.9	YOUTH, SPORTS AND CULTURE: [PC: XL MDEMKA (MS)]
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NONE

7.10	OFFICE OF THE MUNICIPAL MANAGER
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7.10.1	ESTABLISHMENT OF A STELLENBOSCH MUNICIPAL RELIEF AND CHARITABLE OR TRUST FUND (THE MAYORAL FUND)
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1. PURPOSE OF REPORT

To obtain approval for the introduction and establishment of a relief and charitable fund in terms of Section 12 of the Municipal Finance Management Act, no 56 of 2003 (MFMA), and to obtain approval for the guidelines associated with such fund (hereafter referred to as the Fund).

2. DISCUSSION

MOTIVATION

The Executive Mayor receives on a regular basis requests for grants, donations and financial assistance from various organisations, groups and individuals. Most of these are dealt with through the normal Grants-in-Aid policy, but some deserving requests fall outside the ambit of the policy.

It is thus along these lines that a mechanism be put in place that could address these deserving relief and / or charitable cases. In this regard it is proposed that a "Relief and / or charitable fund" be created in the name of Stellenbosch Municipality, specifically for this purpose and in terms of guidelines set out below.

MFMA

Relief, charitable, trust or other funds

- 12.(1) No political structure or office-bearer of a municipality may set up a relief, charitable, trust or other fund of whatever description except in the name of the municipality. Only the municipal manager may be the accounting officer of any such fund.
- (2) A municipality may in terms of section 7 open a separate bank account in the name of the municipality for the purpose of a relief, charitable, trust or other fund.
- (3) Money received by the municipality for the purpose of a relief, charitable, trust or other fund must be paid into a bank account of the municipality, or if

a separate bank account has been opened in terms of subsection (2), into that account.

- (4) Money in a separate account opened in terms of subsection (2) may be withdrawn from the account without appropriation in terms of an approved budget, but only—
 - (a) by or on the written authority of the accounting officer acting in accordance with decisions of the municipal council; and
 - (b) for the purposes for which, and subject to any conditions on which, the fund was established or the money in the fund was donated.

PURPOSE OF THE FUND

The Fund is for the purpose of allocating grants by the Executive Mayor at his / her discretion in respect of applications made or at the Executive Mayor's initiative for cases set out in the Fund Guidelines.

SET OF FUND GUIDELINES

a) The "Fund" may be used for:

- 1) Causes that will promote the profile of the Stellenbosch Municipality in the instances where beneficiaries represents Stellenbosch abroad;
- 2) Cases of hardship which fall outside the Municipality's Grant-in-Aid policy;
- 3) Emergency/Disaster situations where the Municipality has no other provision to cater for the event;
- 4) The specific use and conditions as may be set out by a donor to the "Fund" for that donated amount;
- 5) Grants may be used for registration, travelling expenses or accommodation (including outside municipal boundaries) for academic excellence, choirs, sports teams or any other form of religious activity and cultural events, from organisations within the WC024 area including NPO's and Schools which will promote the profile of Stellenbosch Municipality;
- 6) Applications should include all relevant details of the request and upon examination of all the documentation the Executive Mayor and/or Municipal Manager will make a final decision to approve / reject the application. All funding will be made to the bank account of the organisation and not an individual.

(b) The "Fund" may NOT be used for:

- 1) The "Fund" may not be used for any purpose that benefits a political party;
- 2) Appropriations may not benefit any member of the Council or a family member or relative of any member of the Council;
- 3) Only in exceptional cases may grants be made for activities occurring outside the boundaries of the Municipality and only after the approval by the Executive Mayor in consultation with the Mayoral Committee;

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- 4) Any grant from the "Fund" shall not result in repeat commitments nor may any expectation be created that funding will automatically be made available for future events;
 - 5) Grants should not be used in conjunction with other municipal funding of grants.

13TH COUNCIL MEETING: 2017-10-25: ITEM 7.10.1**RESOLVED** (nem con)

that Council approves the revised set of Fund Guidelines as set out above.

<i>Meeting :</i>	<i>13th Council: 2017-10-25</i>	<i>Submitted by Directorate</i>	<i>Office of the MM</i>
<i>Ref no:</i>	<i>8/1/Financial</i>	<i>Author</i>	<i>Office of the MM</i>
<i>Collab</i>		<i>Referred from :</i>	<i>Mayco: 2017-10-11</i>

8.	CONSIDERATION OF ITEMS, REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED VIA THE OFFICE OF THE MUNICIPAL MANAGER
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8.1	CORPORATE AND STRATEGIC SERVICES: (PC: CLLR E GROENEWALD (MS))
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8.1.1	TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) REPORT FOR THE FIRST QUARTER (1 JULY 2017 UNTIL 30 SEPTEMBER 2017)
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Collaborator No:

IDP KPA Ref No: Good Governance and Compliance

Meeting Date:

1. PURPOSE OF REPORT

That Council takes cognisance of progress made with the achievement of key performance indicators, development priorities and objectives as determined in the Top Layer Service Delivery and Budget Implementation Plan (SDBIP) for the 1st Quarter (1 July 2017 to 30 September 2017).

2. BACKGROUND

In terms of Section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) the service delivery and budget implementation plan (SDBIP) is defined as a detailed plan approved by the mayor of a municipality within 28 days after the approval of the budget for implementing the municipality's delivery of municipal services and its annual budget.

The format of the Service Delivery and Budget Implementation Plan (SDBIP) is prescribed by MFMA Circular Number 13 issued by National Treasury. In terms of the said Circular Number 13 the Service Delivery and Budget Implementation Plan (SDBIP) must depict the service delivery areas, budget allocations and enable monitoring and evaluation. It specifically requires the Service Delivery and Budget Implementation Plan (SDBIP) to include, inter alia, the following:

- Monthly projections of revenue to be collected for each source;
- Monthly projections of expenditure (operating and capital) and revenue for each vote;
- Quarterly projections of service delivery targets and performance indicators for each vote;
- Information for expenditure and delivery; and
- Detailed capital works plan.

Section 41(1)(e) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000 (MSA), stipulates that a process must be established of regular reporting to Council. This process is detailed in the Performance Management Framework of the Municipality.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.1.1**RESOLVED** (nem con)

that Council takes cognisance of the 2017/18 Top Layer Service Delivery and Budget Implementation Plan (SDBIP) Report for the 1st Quarter (1 July 2017 to 30 September 2017).

<i>Meeting:</i> <i>Ref no:</i> <i>Collab</i>	<i>13th Council: 2017-10-25</i> <i>8/1/3/3/1/4</i>	<i>Submitted by Directorate:</i> <i>Author</i> <i>Referred from:</i>	<i>Strategic & Corporate Services</i> <i>Performance Management Officer</i>
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8.2	ECONOMIC DEVELOPMENT AND PLANNING: (PC: ALD JP SERDYN (MS))
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8.2.1	DEMARCATION OF KLAPMUTS
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1. PURPOSE OF REPORT

To report to Council on the 2017 – 2021 municipal boundary demarcation process, the demarcation of Klapmuts and recommend further actions in this regard.

2. EXECUTIVE SUMMARY

The Municipal Demarcation Board sent out circulars (Circular 1 and 2/2017) to all stakeholders in the demarcation of municipal boundaries. Circular 1/2017 was sent in March 2017 (Annexure 1), setting out a program for the period 2017 to 2021. This dealt specifically with a program for consideration of technical boundary realignments. The circular makes it clear that the Municipal Demarcation Board (MDB) will not consider major municipal boundary redeterminations in the period preceding the 2019 national elections.

The MDB undertakes three broad types of municipal outer boundary determinations.

- **Type A - Technical and minor boundary re-determinations:** This re-determination entails a small scale boundary adjustment and/or alignment with a minor impact on the geographic area.
- **Type B – Consolidation and Annexations:** This is a medium scale boundary re-determination that may impact on a sizable geographic area, and number of voters in one or all the municipalities affected.
- **Type C – Amalgamation and Categorisation:** This type of re-determination entails a major and large scale municipal boundary redetermination which will have a significant impact on the geographic areas, the number of voters, and the capacities of the affected municipalities.

In July 2017 the DMB sent out circular 2/2017, requesting municipalities to commit to participation on the process of the technical (Type A) boundary redeterminations (Annexure 2). Amongst others the DMB indicated that local communities had to be consulted prior to any formal boundary redetermination processes commencing. Stellenbosch Municipality did not participate in these processes.

The Drakenstein Municipality Council resolved on the technical alignments between Stellenbosch and Drakenstein on 27 September 2017 (Annexure 3) as follows:

1. *that the report be **noted**;*
2. *that the proposed reconfigurations as per Annexures A & B of the departmental report identified by the Municipal Demarcation Board (MDB) and the proposed reconfigurations as per Annexures C & D of the departmental report, identified by the Planning Services department, be **supported** subject to the entire legal demarcation process;*
3. *that the southern portion of Farm 736 Paarl be incorporated into the Drakenstein Municipal Area; and*

4. *that further discussions with Stellenbosch Municipality be entered into regarding the incorporation of Klapmuts as a whole into the Drakenstein Municipal Area.*

The report on which the resolution is based is annexed hereto (**ANNEXURE 4**).

The Stellenbosch Municipality placed the issue of demarcation of Klapmuts on the agenda of the spatial development framework (SDF) planning process to allow for the planning of a regional node at Klapmuts, which would cover land on either side of the N1. The N1 is the current municipal boundary between the Drakenstein and Stellenbosch municipalities, i.e. a future town would be split between two municipalities, which is clearly not advisable.

3. RECOMMENDATIONS

- a) that Council takes cognisance of the municipal boundary demarcation process and program for the period 2017 - 2021;
- b) that Council confirms that the Drakenstein proposal for demarcation of any portion of Klapmuts into the Drakenstein Municipality not be supported and that the property rather be subdivided to retain the N1 as the current municipal boundary; and
- c) that only the Municipal Manager be authorised to participate in the municipal demarcation program and processes and conduct the required public participation and other activities for consideration of the municipal boundary demarcation between all abutting municipalities and Stellenbosch Municipality.

4. DISCUSSION

1.1 Demarcation

The MDB undertakes three broad types of municipal outer boundary determinations in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998) where the criteria are applied differentially and the data requirement and motivation also vary.

- **Type A - Technical and minor boundary re-determinations:** This re-determination entails a small scale boundary adjustment and/or alignment with a minor impact on the geographic area, and with a negligible or no impact on the number of voters, and on the capacity of the affected municipalities. The outcome of this redetermination is the correction and/or alignment of a municipal boundary with physical or natural features such as roads, rivers, and mountains; or cadastral boundaries (parent farm boundaries) or a combination of the two. Alignment to cadastre may be necessary where, for purposes of property valuations and rates, a property has to be under the jurisdiction of one municipality rather than being split between two or more municipal areas.
- **Type B – Consolidation and Annexations:** This is a medium scale boundary re-determination that may impact on a sizable geographic area, and number of voters in one or all the municipalities affected. This type of determination may impact on ward arrangements but will not, or will not materially, impact on the capacities of the affected municipalities to deliver services. The outcome of this type of boundary adjustment is the correction of boundary anomalies that affect service delivery, and to promote integrated communities and economies.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.2.1

It is noted that a replacement page (page 501 of the Council Agenda) was handed out in the meeting, which is captured on page 29 above.

RESOLVED (nem con)

- (a) that Council takes cognisance of the municipal boundary demarcation process and program for the period 2017 - 2021;
- (b) that Council confirms that the Drakenstein proposal for demarcation of any portion of Klapmuts into the Drakenstein Municipality not be supported and that the property rather be subdivided to retain the N1 as the current municipal boundary; and
- (c) that only the Municipal Manager be authorised to participate in the municipal demarcation program and processes and conduct the required public participation and other activities for consideration of the municipal boundary demarcation between all abutting municipalities and Stellenbosch Municipality.

<i>Meeting :</i>	<i>13th Council: 2017-10-25</i>	<i>Submitted by Directorate</i>	<i>Office of the MM</i>
<i>Ref no:</i>	<i>3/1/1 & 3/1/2</i>	<i>Author</i>	<i>Office of the MM</i>
<i>Collab</i>		<i>Referred from :</i>	

8.3	FINANCIAL SERVICES: (PC: CLLR S PETERS)
8.3.1	QUARTERLY BUDGET STATEMENTS REPORTING: JULY 2017 – SEPTEMBER 2017

1. PURPOSE OF REPORT

To comply with the requirements of Section 52 (d) of the Municipal Finance Management Act, 56 of 2003, dealing with the general responsibilities of the mayor of a municipality by reporting to Council on the financial position and financial performance measured against the approved budget for the quarter as at 30 September 2017.

2. LEGAL FRAMEWORK

In terms of 52 (d) of the Municipal Finance Management Act:

“The mayor of a municipality—

(d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality;”

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.3.1

RESOLVED (nem con)

that Council notes the quarterly report (**APPENDIX A**) as envisaged by Section 52 of the MFMA detailing the implementation of the budget and the financial state of affairs of the municipality.

Meeting: Ref no: Collab:	Council:2017-10-25 5/1/1/2017-2018	Submitted by Directorate: Author Referred from:	Finance Chief Financial Officer: M Wüst
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8.3.2	OVERSIGHT ROLE OF COUNCIL: SUPPLY CHAIN MANAGEMENT POLICY- REPORT ON THE IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY OF STELLENBOSCH MUNICIPALITY: 01 JULY 2017 UNTIL 30 SEPTEMBER 2017
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File Ref: 8/1/3/3/2
 Collaborator No:
 IDP KPA Ref: 8: Financial Sustainability (KFA 59: Supply Chain Management)
 Meeting Date:

1. PURPOSE OF REPORT

To submit a report for the period 1 July 2017 – 30 September 2017 on the implementation of Council's Supply Chain Management Policy. The report covers the performance of the various delegated functions and the implementation thereof.

2. FOR DECISION BY MUNICIPAL COUNCIL

Section 2(3) & 4 of the SCM Policy 2017/2018 determines that the Accounting Officer must within 10 days of the end of each quarter; submit a report on the implementation of the SCM Policy to the Executive Mayor. This report must be made public in accordance with section 21A of the Municipal Systems Act (32 of 2000).

3. EXECUTIVE SUMMARY

On a quarterly basis the Accounting Officer must submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor. In terms of the SCM Regulations and Council's SCM Policy the SCM unit has been delegated to perform powers and functions that related to the procurement of goods and services, disposal of goods no longer needed, the selection of contractors to provide assistance in the provision of municipal services.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.3.2

RESOLVED (nem con)

- (a) that Council takes note of this report and **ANNEXURE A** attached to the report, and
- (b) that the report be made public in accordance with section 21A of the Municipal Systems Act.

FOR FURTHER DETAILS CONTACT:

NAME	<i>Dalleel Jacobs</i>
CONTACT NUMBERS	<i>021 808 8137</i>
E-MAIL ADDRESS	<i>Dalleel.Jacobs@ Stellenbosch.gov.za</i>
DIRECTORATE	<i>Financial Services</i>
REPORT DATE	<i>10 October 2017</i>

8.4	INFRASTRUCTURE: [CLLR J DE VILLIERS]
8.4.1	AMENDMENT OF THE DEVELOPMENT CHARGE TARIFF STRUCTURE

1. PURPOSE

To obtain Council's approval for the amendment of the Development Charge (DC) tariff structure.

2. BACKGROUND

This item deals with Development Charges paid by developers to the Municipality for the impact that the intended development would have on the Bulk Infrastructure of the Municipality and covers all expenditure such as Electrical - & Water Networks, as trading services funded networks; Sanitation and Solid Waste, as economical funded services networks and roads & stormwater as property tax funded networks. The DC formula is made of formulas to calculate the impact of a development on bulk service provision. The formulas are based on certain tariffs which are increased year-on-year depending on the particular inflation increase.

The DC tariff structure was approved in terms of Item 7.4 of Council Meeting 31 May 2017: MEDIUM TERM REVENUE AND EXPENDITURE FRAMEWORK (MTREF) FOR THE FINANCIAL PERIODS 2017/2018 – 2019/2020

When a new development obtains land-use approval, Development Charges (DCs) are calculated and included as a condition of such approval. If not paid in the financial year that the approval is obtained, the DCs are subject to escalation up to the date of payment. With the approval of the 2017/18 DC Policy, we are obliged to use the 2017/18 tariff structure when escalating DCs. In previous years, the escalation factor was simply based in the Construction Price Adjustment Factor (CPAF) which is linked to inflation. However the 2017/18 DC tariff structure has been determined by re-calculating the demands and unit costs based on the current capacity status of the municipal infrastructure services. This is an exercise that needs to be carried out every 5 years. This exercise has however lead to some of the DC tariffs, escalating by much more than the average inflation, in particular the "Business – Retail" DC for roads.

Development Charges (DCs) for new developments are subject to annual escalation up to the date of payment and as per Council's policy. In terms of the 2017/18 Development Charge policy, this results in an excessive escalation for developments with business-retail zonings. This is mainly due to the new trip generation factor for this zoning.

Similarly, the new policy includes a new DC category, namely "Community Facilities", which was not part of the previous DC policy and DC tariff structure.

These increases do not seem fair and reasonable, since a Developer would not have reasonably foreseen this during approval of the. Such escalations could result in a previously feasible development to being non-feasible.

For this reason the retail trip generation and DC cost above should be reviewed and the "Community Facilities" DC category should not be applicable when escalating DCs from previous years.

The contribution in lieu of parking provision which was applicable in previous years was not included in the 2017/18 DC tariff structure. This DC tariff should also be added to the tariff structure.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.4.1

The Municipal Manager requested that this item be withdrawn, because the item never served before Mayco.

Speaker **RULED** that this item be withdrawn.

<i>Meeting:</i>	<i>13th Council: 2017-10-25</i>	<i>Submitted by Directorate:</i>	<i>Infrastructure</i>
<i>Ref no:</i>	<i>5/17/9</i>	<i>Author</i>	<i>Head: Dev. Serv. & Proj. Man.</i>
<i>Collab:</i>	<i>545968</i>	<i>Referred from:</i>	

8.4.2	RELIEF FOR CONSUMERS EXPERIENCING LEGITIMATE BURST OR LEAKING WATER SUPPLY
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1. PURPOSE OF REPORT

To consider relief for consumers experiencing a legitimate burst or leaking water supply.

2. BACKGROUND

Council approved the introduction of water restriction tariffs from Level 1 to Level 4 within its tariff structure for the 2017/18 Budget. Stellenbosch Municipality is currently experiencing a Level 5 water restriction drought conditions. For this restriction level, Level 4 tariffs are levied for water use of customers. This level of water restrictions encourages domestic water consumers to keep water consumption below 20kl of water. At this level the increase in cost above Level 1 tariffs is 42% (R7.06 to R10.00) as opposed to 625% at the 80kl level (R40.00 to R250.00) of water consumption per month.

Due to the delay in the receiving of water accounts (accounts are read in month 1 and only sent out in month 2), some consumers have only now discovered that they have a burst or leaking pipe. This has resulted in very high water accounts, in some of the above mentioned cases, where water in excess of 400kl has been consumed.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.4.2

RESOLVED (nem con)

- (a) that this report be noted;
- (b) that Council reduces the Level 4 Municipal Tariff for Domestic, Business & Commercial Leakages as follows:

Type of Water Consumption Municipal Tariff for Domestic, Business and Commercial Leakage	Level 4 per kl Current Tariff	Level 4 per kl New Proposed Tariff
0 to 20 kl	R30.00	R15.00
21 to 50	R50.00	R15.00
Above 50kl	R100.00	R15.00

- (c) that the new tariff be implemented retrospectively from 1 July 2017; and
- (d) that the new tariff be advertised.

Meeting: Ref no: Collab:	13th Council: 2017-10-25 5/17/8/1 545967	Submitted by Directorate: Author Referred from:	Director: Engineering Services Director: Engineering Services
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8.5	PROTECTION SERVICES: (PC: CLLR Q SMIT)
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8.5.1	DOWNWARDS ADJUSTMENT OF PARKING TARIFFS
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1. PURPOSE OF REPORT

To request Council to approve a downward adjustment of Parking Tariffs.

2. BACKGROUND

In terms of Schedule 5(b) of the Constitution (Act 108 of 1996), a Municipality is responsible for managing of parking.

In terms of Sect 75A(2) of the Municipal Systems Act (Act 32 of 2000), *“The fees, charges or tariffs are levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.”*

Sect 28(6) of the Municipal Finance Management Act (Act 56 of 2003) states that *“Municipal tax and tariffs may not be increased during a financial year”*.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.5.1

RESOLVED (nem con)

that Council approves a downward adjustment of Parking Tariffs.

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Director: Comm & Protection Services
Ref no:	17/6MN	Author	Manager: Traffic Services
Collab		Referred from:	

8.5.2	REVIEW OF THE DISASTER MANAGEMENT PLAN
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1. PURPOSE OF REPORT

To present a reviewed Disaster Management Plan (**APPENDIX 1**) to Council for approval.

2. BACKGROUND

The revision of the disaster management plan is done in accordance with Section 53 (1) of the Disaster Amendment Act, 16 of 2015 to:

- (g) *regularly review and update its plan; and*
- (h) *through appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), consult the local community on the preparation or amendment of its plan."*

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.5.2

RESOLVED (nem con)

- (a) that Council takes note of the public participation process that was followed by the Directorate: Community & Protection Services; and
- (b) that Council approves the revised Disaster Management Plan.

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Community & Protection Services
Ref No:	17/8/4	Author:	Manager: Fire & Disaster
Collab:	521168	Referred from:	Mayco: 2017-07-19

8.6	OFFICE OF THE MUNICIPAL MANAGER
8.6.1	SCHEDULE OF MEETINGS OF COUNCIL, MAYORAL COMMITTEE, STANDING COMMITTEES AND OTHER COMMITTEES OF COUNCIL FOR THE 2018 CALENDAR YEAR

1. PURPOSE OF REPORT

To obtain Council's approval of the schedule of meetings of Council, Mayoral Committee, Standing Committees and other Committees of Council for the 2018 calendar year.

2. DELEGATED AUTHORITY

In terms of the Local Government: Municipal Systems Act, 32 of 2000, Section 19, read together with the Stellenbosch Municipality Rules of Order By-Law (Rule 6), the final decision-making authority is the Municipal Council.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.6.1

The Executive Mayor proposed that this item be revised and to be submitted at the next Council meeting.

The Speaker **RULED** that this matter be withdrawn.

Meeting : Ref no: Collab	13 th Council: 2017-10-25	Submitted by Directorate Author Referred from :	Office of the MM Office of the MM
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8.6.2	APPOINTMENT OF A SUBSTITUTE BUILDING CONTROL OFFICER AND EXTENSION OF DELEGATIONS IN TERMS OF THE SYSTEM OF DELEGATIONS
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1. PURPOSE OF REPORT

To recommend to Council the appointment of an alternative/substitute Building Control Officer in terms of Section 5 of the National Building Regulations and Building Standards Act 103 of 1977 (NBRBSA).

2. BACKGROUND

Section 5 (1) of NBRBSA reads as follows: “*a local authority shall appoint a person as Building Control Officer in order to exercise and perform the powers, duties or activities granted or assigned to a Building Control Officer by or under this Act*”. In terms of Section 28(4) of the NBRBSA, a local authority cannot delegate the appointment of a Building Control Officer hence the matter is submitted to Council for a decision.

(A) It is essential that the Council appoints more individuals as alternative or substitute Building Control Officers who are qualified in terms of the National Building Regulations, to undertake the role and functions of the Building Control Officer in the absence of one or more of the appointed Building Control Officers. The Council has formally appointed the current two Building Control Officers, Mr Rodney Adams and Ms Babalwa Nkonzo. In the event that Mr Adams or Ms Nkonzo are out of office due to illness or approved leave and should such sick leave and approved leave coincide, it will leave Council without a Building Control Officer and therefore no building plan applications would be finalized during this time frame.

Ms Babalwa Nkonzo is currently on maternity leave from 01 September until 30 November 2017. She has indicated that she will thereafter take annual leave from 01 December 2017 until 31 December 2017. The increase in development and building plan applications require an additional Building Control Officer to make recommendations in terms of the relevant National Building Regulation. Mr Andrew Crouzer, Manager Building Development Management is suitably qualified in terms of the requirements to be appointed as a substitute Building Control Officer who will recommend applications to the Director: Planning and Economic Development for a decision.

(B) It became apparent that the Director: Planning and Economic Development currently holds no delegation in terms of the National Building Regulations to make decisions on building plan applications upon the recommendation of the Building Control Officer. These delegations were given to the Manager: Building Development Management wherein he may approve or refuse a building plan application recommended to him by a Building Control Officer. The Manager: Building Development Management may however not recommend a building plan to himself for approval or refusal in terms of the National Building Regulations.

13TH COUNCIL MEETING: 2017-10-25: ITEM 8.6.2**RESOLVED** (nem con)

- (a) that Mr Andrew Crouzer, Manager Building Development Management, be appointed as a substitute Building Control Officer for Stellenbosch Municipality with effect from 01 November 2017; and
- (b) that the Delegations 394 – 485 relating to the National Building Regulations be extended to also be made applicable to the Director: Planning and Economic Development with immediate effect.

<i>Meeting:</i>	<i>13th Council: 2017-10-25</i>	<i>Submitted by Directorate:</i>	<i>Office of the MM</i>
<i>Ref No:</i>	<i>4/1/4/5 and 4/3/3/5</i>	<i>Author:</i>	
<i>Collab:</i>		<i>Referred from:</i>	

9.	MATTERS FOR NOTIFICATION
9.1	REPORT BY THE EXECUTIVE MAYOR
9.1.1	QUARTERLY REPORT: DECISIONS TAKEN BY THE EXECUTIVE MAYOR FROM JULY 2017 UNTIL SEPTEMBER 2017

1. PURPOSE OF THE REPORT

To inform Council of the decisions taken by the Executive Mayor from July 2017 to September 2017.

2. BACKGROUND

In terms of the Municipal Structures Act 117 of 1998 Section 56 (5) it is stated that:

“An Executive Mayor must report to the municipal council on all decisions taken by the Executive Mayor.”

According to the Municipal Systems Act 60 (1)(b)

“(1) the following powers may, within policy framework determined by the municipal council be delegated to an executive committee or executive mayor only (b) the determination or alternation of the remuneration, benefits or other conditions of service of the municipal manager or managers directly responsible to the municipal manager.

13TH COUNCIL MEETING: 2017-10-25: ITEM 9.1.1

NOTED

the decisions taken by the Executive Mayor as attached as **APPENDIX 1**.

Meeting: Ref No: Collab:	13 th Council: 2017-10-25	Submitted by Directorate: Author: Referred from:	Office of the Executive Mayor
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9.2	REPORT BY THE SPEAKER
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NONE

9.3	REPORT BY THE MUNICIPAL MANAGER
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9.3.1	DECISIONS TAKEN BY DIRECTORATES IN TERMS OF DELEGATED AUTHORITY: PLANNING AND ECONOMIC DEVELOPMENT: APRIL 2017 UNTIL JUNE 2017
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1. PURPOSE OF REPORT

To report to Council on the decisions taken by the delegated officials in the Directorate Planning and Economic Development in terms of Council's System of Delegations for the period 01 April – 30 June 2017, in compliance with Section 63 of the Local Government: Municipal Systems Act read in conjunction with the System of Delegations as approved by Council.

2. BACKGROUND

Section 63 of the Local Government Municipal Systems Act 32 of 2000 reads as follows:

"A political structure, political office bearer, Councillor or staff member of a municipality to whom a delegating authority has delegated or sub delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report."

13TH COUNCIL MEETING: 2017-10-25: ITEM 9.3.1

NOTED

the decisions taken, for the period 01 April – 30 June 2017, by the Directorate: Planning and Economic Development (attached as **APPENDIX 1**).

Meeting :	13 th Council: 2017-10-25	Submitted by Directorate	Office of the MM
Ref no:	3/5/1/2	Author	Office of the MM
Collab	543136	Referred from :	Mayco: 2017-10-11

9.3.2	DECISIONS TAKEN BY DIRECTORATES IN TERMS OF DELEGATED AUTHORITY: AUGUST 2017 UNTIL SEPTEMBER 2017
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1. PURPOSE OF REPORT

To report to Council on the decisions taken by the Municipal Manager and Directors in terms of Council's System of Delegations for the period 1 August 2017 until 30 September 2017, in compliance with Section 63 of the Local Government: Municipal Systems Act read in conjunction with the System of Delegations as approved by Council.

2. BACKGROUND

Section 63 of the Local Government Municipal Systems Act 32 of 2000 reads as follows:

"A political structure, political office bearer, Councillor or staff member of a municipality to whom a delegating authority has delegated or sub delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty since the last report."

13TH COUNCIL MEETING: 2017-10-25: ITEM 9.3.2

NOTED

the decisions taken, for the period 1 August 2017 until 30 September 2017 (attached as **APPENDIX 1**), by the following Section 56 Managers:

- Municipal Manager – Ms G Mettler
- Director Community and Protection Services – Mr G Esau
- Director Strategic and Corporate Services – Ms A de Beer
- Director Integrated Human Settlements and Property Management – Mr T Mfeya
- Director Planning and LED – Mr D Lombaard
- Chief Financial Officer – Mr M Wüst
- Director Engineering Services – Mr D Louw

Meeting:	13 th Council: 2017-10-25	Submitted by Directorate:	Office of the MM
Ref no:	3/5/1/2	Author:	Office of the MM
Collab:		Referred from:	

10.	CONSIDERATION OF NOTICES OF QUESTIONS AND NOTICES OF MOTIONS RECEIVED BY THE SPEAKER
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10.1	QUESTION BY COUNCILLOR F ADAMS: PEOPLE WITH DISABILITIES
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13TH COUNCIL MEETING: 2017-10-25: ITEM 10.1

Councillor F Adams posed a follow-up question, namely:

“What extraordinary measures will this institution do to invite more people with disabilities?”

It was **NOTED**

that the Municipal Manager responded that it is standard practice for the municipality to encourage people with disabilities to apply for positions, and this is also clearly indicated in the advertisements.

Meeting:	13 th Council meeting: 2017-10-25	Submitted by Directorate:	Office of the Municipal Manager
Ref No:	3/4/1/4	Author:	Municipal Manager: (Ms G Mettler)
Collab:		Referred from:	

10.2	QUESTION BY COUNCILLOR F ADAMS: CONTRACT PERIOD – SECTION 57 MANAGERS
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13TH COUNCIL MEETING: 2017-10-25: ITEM 10.2

Councillor F Adams posed a follow-up question, namely:

“What was the reason for moving away from the standard practice of a 5 year contract, and who was responsible for the decision, because a precedent was created?”

It was **NOTED**

that the Municipal Manager responded as follows:

- (i) legislation makes provision for Directors to be appointed for longer than a 5-year period, even permanently. This ensures that institutional knowledge and stability is created within a municipality; and
- (ii) an application for an age waiver was submitted to the National Minister of Cooperative Governance and Traditional Affairs; Council is awaiting feedback in this regard.

Meeting:	13 th Council meeting: 2017-10-25	Submitted by Directorate:	Office of the Municipal Manager
Ref No:	3/4/1/4	Author:	Municipal Manager: (Ms G Mettler)
Collab:		Referred from:	

10.3	QUESTION BY COUNCILLOR DA HENDRICKSE: SALARIES AND BENEFITS OF COUNCILLORS
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13TH COUNCIL MEETING: 2017-10-25: ITEM 10.3

In view of the absence of the member,

the Speaker **RULED**

that this matter has lapsed.

Meeting:	13 th Council meeting: 2017-10-25	Submitted by Directorate:	Office of the Municipal Manager
Ref No:	3/4/1/4	Author:	Municipal Manager: (Ms G Mettler)
Collab:		Referred from:	

10.4	QUESTION BY COUNCILLOR DA HENDRICKSE: ACTUAL SPENDING CAPITAL AND OPERATIONAL BUDGET
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13TH COUNCIL MEETING: 2017-10-25: ITEM 10.4

In view of the absence of the member,

the Speaker **RULED**

that this matter has lapsed.

Meeting:	13 th Council meeting: 2017-10-25	Submitted by Directorate:	Office of the Municipal Manager
Ref No:	3/4/1/4	Author:	Municipal Manager: (Ms G Mettler)
Collab:		Referred from:	

11.	CONSIDERATION OF URGENT MOTIONS
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NONE

12.	URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER
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12.1	CONTRAVENTION PENALTY ON ERVEN 12805 AND 15524 WELGEVONDEN, STELLENBOSCH IN TERMS OF THE 2017/2018 TARIFF STRUCTURE
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1. PURPOSE OF REPORT

To request Council's approval for the interpretation of the contravention penalty formula as stipulated in Council's approved tariff structure 2017/18 with respect to erven 12805 and 15524, Welgevonden, Stellenbosch, and as general rule that the 2017/18 Tariff Policy be amended accordingly.

2. BACKGROUND

When owners in Welgevonden, Stellenbosch wish to sell their property, the Welgevonden Home Owner's Association will only issue a clearance certificate, if proof is given of a municipal approved building plan for existing buildings.

Thereafter the owners of erven 12805 and 15524, Welgevonden, Stellenbosch submitted "as built" building plans for municipal approval, seeing that the owners intended to sell their properties.

It came to the department's attention that certain areas on the properties were already unlawfully utilized without approved building plans as well as without approved land use applications.

Erven 12805 and 15524, Welgevonden, Stellenbosch were served with compliance notices for the unlawful utilisation of land and construction activity of their properties. See **APPENDIX 1**.

The owners then submitted the required land use applications for departures on their properties. The respective land use applications were approved, subject to certain conditions such as the payment of the contravention penalty amount. See **APPENDIX 3** for the approval letters.

However, when the administration calculated the contravention penalty formula, to determine the amount, it was realized that Council's approval was necessary for the interpretation of the formula.

3. DISCUSSION

Section 87 of the Stellenbosch Municipality Land Use Planning By-Law, October 2015 stipulates that:

- “(1) *The Municipality must serve a compliance notice on a person if it has reasonable grounds to suspect that the person or owner is guilty of an offence in terms of section 86.*
- (2) *A compliance notice must instruct the occupier and owner to cease the unlawful utilisation of land or construction activity or both, without delay or within the period determined by the Municipality, and may include an instruction to—*
- (a) *demolish, remove or alter any building, structure or work unlawfully erected or constructed or to rehabilitate the land or restore the building concerned to its original form or to cease the activity, as the case may be, within the period determined by the Municipal Manager;*
 - (b) *submit an application for the approval of the utilisation of the land or construction activity in terms of this By-law within 30 days of the service of the compliance notice and to pay the contravention penalty within 30 days after approval of the utilisation; or*
 - (c) *rectify the contravention of or non-compliance with a condition of approval within a specified period.*

The contravention penalty formula, as approved per Council's Tariffs 2017/18 (see **APPENDIX 2**) reads as follows:

$$(\text{area}/\text{m}^2) \times (\text{valuation}/\text{m}^2) = \text{R}/\text{m}^2$$

WHERE AS:

(The area of the land and/or construction activity per square meter (m²) that is unlawfully utilised in terms of the relevant zoning of the property) multiplied by (the municipal value per square meter (m²) of the land and/or building as stipulated in the current valuation roll of the municipality as on the date that is indicated on the contravention notice)

With the two above mentioned land use applications that were submitted as a result of a compliance notice, the administration realised that with the calculation of the contravention penalty the area (m²) of the land as well as/or the construction activity must be separately stipulated and interpreted.

The reason is that the By-law refers to two areas (m²):

The unlawful utilisation of “*land*”, which is one area (m²), and

the unlawful utilisation of “*construction activity*” which is the other area (m²) or “*both*” areas (m²).

Usually contraventions per (m²) will entail both. In practise it is the unlawful utilisation of land such as parking and patios which are subservient to the unlawful utilisation of the construction activity such as the actual activity in the building.

Therefore it is proposed to differentiate between the two types of areas (m²) with a penalty rate in %. For example:

Area (m²) A:

Area of contravention: Area in which the contravention occurs, e.g. rooms, floor area, coverage, measured in square metres, and

Area (m ²) B:	
Indirect area of Contravention:	Area complementary and subservient to the contravention, e.g. area used for parking, storage, outdoor activities or other purposes.
Penalty rate A	Rate at which penalty amount will be calculated on area of contravention as approved annually by Council.
Penalty rate B	Rate at which penalty amount will be calculated on indirect area of contravention as approved annually by Council.

Erf 12805 has unlawfully utilised the garage as habitable space with a bedroom, bathroom and seating area of 36m² as well as a patio with awning of 12m². Erf 15524 has unlawfully built a patio and braai of 16m².

The contravention penalty amounts for erven 12805 and 15524, Welgevonden will then be calculated as follows:

Property value	Valuation year	Size of property	Area of Contravention	Indirect Area of Contravention	Penalty rate A	Penalty rate B	Amount payable
Erf 12805 R 2 254 000.00	2016	240.00	36.00	0.00	10%	0%	R 33 810.00
Erf 12805 R 2 254 000.00	2016	240.00	0.00	12.00	0%	5%	R 5 635.00
Erf 15524 R 2 014 000.00	2016	314.00	0.00	16.00	0%	5%	R 5 131.21

If the contravention penalties for erven 12805 and 15524, Welgevonden are calculated without the differentiation of area (m²) (unlawful construction activity and unlawful land activity) as one total and no % penalty rate will be incorporated, the amounts will be as follows:

Property value	Valuation year	Size of property	Total Area of Contravention Which includes land and construction	Amount payable
Erf 12805 R 2 254 000.00	2016	240.00	48.00	R 450 7999.99
Erf 15524 R 2 014 000.00	2016	314.00	16.00	R 102 624.20

4. SUMMARY

The aforementioned tables indicate that if the contravention area (m²) be divided as direct area ("*construction activity*/m²") and indirect area ("*land activity*/m²") and if a different penalty rate % be allocated to each area (m²), the contravention amount be less than when the contravention area (m²) be calculated as one total area without a penalty rate %.

Moreover the amount is then less than the actual building cost, but sufficiently punitive to cause other owners to think twice about building illegally.

5. COMMENTS FROM OTHER DEPARTMENTSSenior Legal Advisor:

Section 229(1)(b) of the Constitution provides that a Municipality may impose if authorised by national legislation, other taxes, levies and duties appropriate to local government or to the category of local government into which that municipality falls, but no municipality may impose income tax, value added tax, general sales tax or customs duty. Section 66(2)(z) of the Stellenbosch Municipality Land Use Planning By-law authorise the payment of a contravention levy in respect of the unlawful utilisation of the zoning scheme. Section 75A(1) of the Systems Act authorise a municipality to levy and recover fees, charges or tariffs in respect of any function or service of the municipality and to recover collection charges and interest on any outstanding amount. In terms of section 75A(2) of the Systems Act the fees, charges or tariffs referred to in subsection (1) are levied by a municipality by resolution passed by the municipal council with a supporting vote of a majority of its members.

Section 12(1) of the Property Rates Act provides that when levying rates, a municipality must levy the rate for a financial year. A rate lapsed at the end of the financial year for which it was levied. In terms of section 12(2) of the Property Rates Act the levying of rates must form part of a municipality's annual budget process as set out in Chapter 4 of the Municipal Finance Management Act. A municipality must annually at the time of its budget process review the amount in the Rand of its current rates in line with its annual budget for the next financial year. Section 12(3) provides that a rate levied for a financial year may not be increased during a financial year as provided for in section 28(6) of the Municipal Finance Management Act.

Section 16(1) of the MFMA provides that the Council of a municipality must for each financial year approve an annual budget for the municipality before the start of that financial year. Section 16(2) of the MFMA provides that in order for a municipality to comply with subsection (1), the mayor of the municipality must table the annual budget at a council meeting 90 days before the start of the budget year. In terms of section 16(3) when an annual budget is tabled in terms of section 16(2), it must be accompanied by the following documents:

- Draft resolutions –
 - (ii) Approving the budget of the municipality;
 - (iii) Imposing any municipal tax and setting any municipal tariffs as may be required for the budget year; and
 - (iv) Approving any other matter that may be prescribed.

In terms of section 22 of the MFMA immediately after an annual budget is tabled in a municipal council, the accounting officer must in accordance with Chapter 4 of the Municipal Systems Act make public the annual budget and the documents referred to in section 17(3) and invite the local community to submit representations in connection with the budget. Section 23(1) of the MFMA provides that when the annual budget has been tabled, the municipal council must consider any views of the local community and the National Treasury, the relevant provincial treasury and any provincial and national organs of state or municipalities which made submissions on the budget. Section 23(2) provides that after considering all budget submissions, the council must give the mayor an opportunity to respond to the submissions and if necessary to revise the budget and table amendments for considerations by the council. In terms of section 24(1) of the MFMA the municipal council must at least 30 days before the start of the budget consider approval of the annual budget. In terms of section 24(2) of the MFMA an annual budget-

- Must be approved before the start of the budget year;
- Is approved by the adoption by council of a resolution referred to in section 17(3)(a)(i)(a); and
- Must be approved together with the adoption of resolutions as may be necessary –
 - (i) Imposing any municipal tax for the budget year;
 - (ii) Setting any municipal tariffs for the budget year;
 - (iii) Approving measurable performance objectives for revenue from each source and for each vote in the budget;
 - (iv) Approving any changes to the municipality's integrated development plan; and
 - (v) Approving any changes to the municipality's budget-related policies.

Section 24 of the MFMA alluded to above contemplates that tariffs for a financial year are approved and adopted annually as part of the budget process. The relationship between the Systems Act and the MFMA with regards to the levying of fees, charges or tariffs is that the introduction of the aforesaid fees, charges and tariffs operates through the budget approval process. The Systems Act authorise a municipality to pass a resolution to levy tariffs which is then approved and adopted as part of the budget process.

The Supreme Court of Appeal in *South African Property Owners Association v The Council of the City of Johannesburg (648/2011) ZASCA 157* dealt with the issue of whether the levying of property rates is an integral part of the budget process. The court analysed Chapter 4 of the MFMA and emphasised the following:

- That a municipality must for each financial year approve an annual budget;
- That the annual budget must set out realistically anticipated revenue from each revenue source (obviously including rates);
- That when an annual budget is tabled it must be accompanied, inter alia, by draft resolutions approving the budget and imposing any municipal tax and setting any municipal tariffs;
- The Rates Act provides that the levying of rates must form part of the municipality's annual budget process set out in Chapter 4 of the MFMA and that a municipality must at the time of its budget process review the amount in the rand of its current rates in line with its budget for the next financial year;
- A rate is levied by a municipality by resolution passed by the Council with a supporting vote of a majority of its members.

The court held that logic dictates that the approval of the budget must go hand in hand with the determination of the rates, as the revenue from rates is essential to fund the budgeted expenditure. The court a quo therefore wrongly concluded that the levying of rates is not an integral part of the budget of the budget process. The same interpretation can be applied to the levying of fees, charges and tariffs, ie the approval process in respect of fees, charges and tariffs goes hand in hand with the approval of the municipal budget. In the same way that revenue from rates funds budget expenditure, so too does the revenue from fees, charges and tariffs fund budget expenditure. The court further held that the Municipality did not comply with its public participation process as provided for in the MFMA and Systems Act and thus acted unlawfully.

The formula to calculate the contravention levy was part of the budget process and was public participated during same. According to the Land Use Management Department no objections were received against the proposed formula and same was approved by council. The contravention levy and formula to calculate same is for the unlawful utilisation of land in terms of the Land Use By-law. It appears that

the contravention levy is a penalty for the unlawful utilisation of land and does not amount to a rate, fee, charge or tariff as envisaged in the Property Rates Act and the Systems Act. In light of the aforesaid the formula could be amended during the current financial year, but subject to a public participation process. We however note that the initial intention of the formula is to determine a fine, which will act as a deterrent for people who built or utilise land unlawfully. The current proposal is to amend the initial formula so that a smaller fine can be implemented, which might in my view not always act as a deterrent.

The item and recommendations are supported.

6. APPENDICES

Appendix 1: Compliance notices for erven 12805 and 15524, Welgevonden, Stellenbosch.

Appendix 2: The contravention penalty formula in the land use management tariffs as approved in the 201/718 tariff structure, page 58.

Appendix 3: The Decision letters of the Land Use Applications for Erven 12805 and 15524, Welgevonden, Stellenbosch.

7. RECOMMENDED

- (a) That Council takes cognisance of:
- (i) Section 87 of the Stellenbosch Municipality Land Use Planning By-Law, October 2015;
 - (ii) The contravention penalty formula in the land use management tariffs as approved in the 201/718 tariff structure, page 58;
 - (iii) Comments from the Senior Legal Advisor as stated in paragraph 4.
- (b) That approval be granted that the contravention penalty formula where it refers to "*area of the land and/or construction activity per square meter (m²)*" be interpreted as follows:
- (i) the construction activity be the actual area of contravention, such as the building area multiplied 10%, defined as penalty rate A, and
 - (ii) the area of land be the indirect area of contravention, such as the parking area, multiplied by 5%, defined penalty rate B, and
- (c) That the "*Remarks*" column in the Tariff Policy be amended to include the interpretation in paragraph (b) as follows:

Formula for Contravention Penalty:

((actual area/m² multiply by penalty rate A) + (indirect area /m² multiply by penalty rate B)) x (valuation/m²) = R/m²

The area of the construction activity (actual area per square meter x penalty rate A) and/or land area (indirect area per square meter x penalty rate B) that is unlawfully utilised in terms of the relevant zoning of the property) multiplied by (the municipal value per square meter (m²) of the land and/or building as

stipulated in the current valuation roll of the municipality as on the date that is indicated on the contravention notice), and

- (d) That the following Notes be included in the Tariff Policy Rules:

Notes	
Property value	Value of property as reflected in the most recent municipal valuation roll.
Valuation year	The year of the last municipal valuation.
Annual adjustment	Value adjustment (if any) on house price index or any other approved by the municipality.
Size of property	Area in square metres of the property as indicated on the title deed.
Area of contravention	Area in which the contravention occurs, e.g. rooms, floor area, coverage, measured in square metres.
Indirect area of contravention	Area complementary to the contravention, e.g. area used for parking, storage, outdoor activities or purposes.
Penalty rate A	Rate at which penalty amount will be calculated on area of contravention as approved annually by Council.
Penalty rate B	Rate at which penalty amount will be calculated on indirect area of contravention as approved annually by Council.
Amount payable	Total amount payable as a contravention penalty in terms of the relevant bylaw.
A contravention penalty as stipulated in terms of section 88 (1) (g) of the Stellenbosch Municipal Land Use Planning By-Law, dated 20 October 2015, is payable within 30 days after approval of the utilization of the land and/or construction activity.	
If the property is to be transferred, the Municipality will only issue a certificate in terms of section 28 of the Stellenbosch Municipal Land Use Planning By-Law dated 20 October 2015, upon proof of payment of the contravention penalty.	
No occupancy certificate for the building construction will be issued unless proof of the payment of the contravention penalty is submitted by the applicant.	

, and

- (e) That the following contravention calculator be used for ease of reference when calculating a contravention penalty:

Property value	Valuation year	Size of property	Area of Contravention	Indirect Area of Contravention	Penalty rate A	Penalty rate B	Amount payable
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Erf 12805 R 2 254 000.00	2016	240.00	36.00	0.00	10%	0%	R 33 810.00
Erf 12805 R 2 254 000.00	2016	240.00	0.00	12.00	0%	5%	R 5 635.00
Erf 15524 R 2 014 000.00	2016	314.00	0.00	16.00	0%	5%	R 5 131.21

, and

- (f) No completion- or occupancy certificates for the building construction will be issued unless proof of the payment of any contravention penalty is submitted by the applicant, and
- (g) That for financial year 2017/18 “penalty rate A” be 10% and “penalty rate B” be 5%, and
- (h) That the contravention penalty amount as stipulated in terms of section 88 (1) (g) of the Stellenbosch Municipality Land Use Planning By-Law, dated 20

October 2015 for Erven 12805 and 15524, Welgevonden, Stellenbosch be determined as follows:

- i. Erf 12805 = R 39 445,00
 - ii. Erf 15524 = R 5 131,21 , and
- (i) That the contravention penalty as determined in paragraph (h) be payable within 30 days of Council's Resolution, or
- (j) That in the light of the aforesaid formula be amended, as stated in paragraphs (b) to (i), it be published for public participation for 30 days and should any comments be received same first be considered by Council before a final decision is made.

MAYORAL COMMITTEE MEETING: 2017-10-11: ITEM 5.3.11

RESOLVED

that this matter be referred back for refinement, whereafter it be submitted to Council.

<i>Meeting:</i>	<i>Mayco:2017-10-11</i>	<i>Submitted by Directorate:</i>	<i>Planning & Economic Development</i>
<i>Ref no:</i>		<i>Author</i>	<i>Manager: Land Use Management</i>
<i>Collab:</i>	<i>545137</i>	<i>Referred from:</i>	

FURTHER COMMENTS BY THE DEPARTMENT LAND USE MANAGEMENT: DIRECTORATE PLANNING AND ECONOMIC DEVELOPMENT

The Municipal Manager requested further deliberation of the contravention levy formula.

The purpose of the contravention formula is to levy a penalty for the unlawful utilisation of land and buildings in terms of the Land Use Planning By-Law, October 2015. The formula was approved as part of the tariff and fee structure for 2017/18 financial year.

The formula is based on the ratio of the contravention coverage area (m²) to the municipal property valuation per m². With the calculation of the first contravention case, it was realized that the amount of the penalty will be too high if the total coverage area per m² is calculated at 100%. It will make it impossible for an owner who contravenes to pay the penalty.

Therefore it is proposed to differentiate between the two types of coverage areas (m²) with a penalty rate in %, because the contravening area (m²) will be either direct floor such as the illegal guest or student rooms and the indirect coverage area (m²) such as the parking or patio area (m²).

For example:

Area (m²) A:

Direct area of contravention: (m²) area in which the contravention occurs, e.g. rooms, floor area, coverage, measured in square metres, and

Area (m²) B:

Indirect area of Contravention: Area complementary and subservient to the contravention, e.g. area used for parking, storage, outdoor activities or other purposes.

The aforementioned indicate that if the contravention area (m²) be divided as direct area ("*construction activity*/ m²") and indirect area ("*land activity*"/m²) and if a different penalty rate % be allocated to each area (m²), the contravention amount be less than when the contravention area (m²) be calculated as one total area without a penalty rate %.

Moreover the amount is then less than the actual building cost, but sufficiently punitive to cause other owners to think twice about building illegally. This interpretation will also result in a reduction of the penalty amount that will be for the benefit of the whole community. The fact that the formula is based on the municipal property valuation, it means that the calculation will be in principle the same ratio for each area, since the property values are not the same in the different areas.

Since the contravention levy is a penalty for the unlawful utilisation of land and does not amount to a rate, fee, charge or tariff as envisaged in the Property Rates Act and the Systems Act, the opinion is held that it does not need to be public participated, thus the formula could be amended during this current financial year.

The current proposal is to amend the initial formula so that a smaller fine can be determined which will be practical to implement and still act as a deterrent for people who built or utilise land unlawfully.

13TH COUNCIL MEETING: 2017-10-25: ITEM 12.1

The ANC requested a caucus to peruse the item handed out in the meeting. The Speaker allowed a caucus (at 14:20).

RESOLVED (nem con)

- (a) that Council takes cognisance of:
- (i) Section 87 of the Stellenbosch Municipality Land Use Planning By-Law, October 2015;
 - (ii) The contravention penalty formula in the land use management tariffs as approved in the 201/718 tariff structure, page 58;
 - (iii) Comments from the Senior Legal Advisor as stated in paragraph 4.
- (b) that approval be granted that the contravention penalty formula where it refers to "*area of the land and/or construction activity per square meter (m²)*" be interpreted as follows:
- (i) the construction activity be the actual area of contravention, such as the building area multiplied 10%, defined as penalty rate A, and
 - (ii) the area of land be the indirect area of contravention, such as the parking area, multiplied by 5%, defined penalty rate B, and

- (c) That the “Remarks” column in the Tariff Policy be amended to include the interpretation in paragraph (b) as follows:

Formula for Contravention Penalty:

((actual area/m² multiply by penalty rate A) + (indirect area /m² multiply by penalty rate B)) x (valuation/m²) = R/m²

The area of the construction activity (actual area per square meter x penalty rate A) and/or land area (indirect area per square meter x penalty rate B) that is unlawfully utilised in terms of the relevant zoning of the property) multiplied by (the municipal value per square meter (m²) of the land and/or building as stipulated in the current valuation roll of the municipality as on the date that is indicated on the contravention notice), and

- (d) That the following Notes be included in the Tariff Policy Rules:

Notes	
Property value	Value of property as reflected in the most recent municipal valuation roll.
Valuation year	The year of the last municipal valuation.
Annual adjustment	Value adjustment (if any) on house price index or any other approved by the municipality.
Size of property	Area in square metres of the property as indicated on the title deed.
Direct area of contravention	Area in which the contravention occurs, e.g. rooms, floor area, coverage, and measured in square metres.
Indirect area of contravention	Area complementary to the contravention, e.g. area used for parking, storage, outdoor activities or purposes.
Penalty rate A	Rate at which penalty amount will be calculated on area of contravention as approved annually by Council.
Penalty rate B	Rate at which penalty amount will be calculated on indirect area of contravention as approved annually by Council.
Amount payable	Total amount payable as a contravention penalty in terms of the relevant bylaw.
A contravention penalty as stipulated in terms of section 88 (1) (g) of the Stellenbosch Municipal Land Use Planning By-Law, dated 20 October 2015, is payable within 30 days after approval of the utilization of the land and/or construction activity.	
If the property is to be transferred, the Municipality will only issue a certificate in terms of section 28 of the Stellenbosch Municipal Land Use Planning By-Law dated 20 October 2015, upon proof of payment of the contravention penalty.	
No occupancy certificate for the building construction will be issued unless proof of the payment of the contravention penalty is submitted by the applicant.	

, and

- (e) that the following contravention calculator be used for ease of reference when calculating a contravention penalty:

Property value	Valuation year	Size of property	Area of Contravention	Indirect Area of Contravention	Penalty rate A	Penalty rate B	Amount payable
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Erf 12805 R 2 254 000.00	2016	240.00	36.00	0.00	10%	0%	R 33 810.00
Erf 12805 R 2 254 000.00	2016	240.00	0.00	12.00	0%	5%	R 5 635.00
Erf 15524 R 2 014 000.00	2016	314.00	0.00	16.00	0%	5%	R 5 131.21

, and

-
- (f) that no completion- or occupancy certificates for the building construction will be issued unless proof of the payment of any contravention penalty is submitted by the applicant, and
- (g) that for financial year 2017/18 “penalty rate A” be 10% and “penalty rate B” be 5%, and
- (h) that the contravention penalty amount as stipulated in terms of Section 88 (1) (g) of the Stellenbosch Municipality Land Use Planning By-Law, dated 20 October 2015 for Erven 12805 and 15524, Welgevonden, Stellenbosch be determined as follows:
- (i) Erf 12805 = R 39 445,00
- (ii) Erf 15524 = R 5 131,21; and
- (i) that the contravention penalty as determined in paragraph (h) be payable within 30 days of Council’s Resolution.

<i>Meeting:</i>	<i>Council:2017-10-25</i>	<i>Submitted by Directorate:</i>	<i>Planning & Economic Development</i>
<i>Ref no:</i>		<i>Author</i>	<i>Manager: Land Use Managemen</i>
<i>Collab:</i>		<i>Referred from:</i>	

13.	CONSIDERATION OF REPORTS
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13.1	REPORTS SUBMITTED BY THE SPEAKER
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NONE

13.2	REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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NONE

14.	MATTERS TO BE CONSIDERED IN-COMMITTEE
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SEE PINK DOCUMENTATION

The meeting adjourned at 14:35.

CHAIRPERSON:

DATE:

Confirmed on **with/without amendments.**