



**STELLENBOSCH**  
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/1/5

2016-01-28

## **MINUTES**

### **37<sup>TH</sup> COUNCIL MEETING OF STELLENBOSCH MUNICIPALITY**

**2016-01-27**

**MINUTES**  
**37<sup>TH</sup> MEETING OF THE COUNCIL**  
**OF STELLENBOSCH MUNICIPALITY**  
**2016-01-27**

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**MINUTES OF THE 37<sup>TH</sup> MEETING OF STELLENBOSCH COUNCIL HELD ON  
2016-01-27 AT 15:00 IN THE COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET,  
STELLENBOSCH**

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<b>PRESENT</b>	The Speaker, Councillor CP Jooste [Chairperson] The Executive Mayor, Alderman CJ Sidego The Deputy Executive Mayor, Cllr MG Smuts	
<b>ALDERMAN</b>	DC Botha	
<b>COUNCILLORS</b>	F Adams (until 19:22) DS Arends NM August HC Bergstedt (Ms) PW Biscombe A Crombie (Ms) JA Davids R du Toit (Ms) V Fernandez (Ms) JSA Fourie AR Frazenburg E Groenewald DA Hendrickse JK Hendriks N Jindela MC Johnson DD Joubert S Jooste (Ms) (until 19:45) SJ Louw (Ms) N Mananga-Gugushe (Ms)	C Manuel EL Maree (Ms) (until 19:00) NE McOmbring (Ms) (from 15:40) XL Mdemka (Ms) C Moses (Ms) P Mntumni (Ms) RS Nalumango (Ms) MM Ngcofe N Ntsunguzi (Ms) WC Petersen (Ms) PJ Retief L Ronoti JP Serdyn (Ms) P Sitshoti (Ms) LN Siwakamisa (Ms) (from 15:30) Q Smit LL Stander AT van der Walt M Wanana (until 17:30)

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<b>OFFICIALS</b>	Acting Municipal Manager (D Lombaard) Chief Financial Officer Director: Human Settlements and Property Management Director: Community and Protection Services (G Esau) Acting Director: Strategic and Corporate Services (Ms A Rossouw) Acting Director: Engineering Services (J Coetzee) Senior Legal Advisor (M Williams) Chief Audit Executive Head Committee Services (EJ Potts) Committee Clerk (Ms T Samuels) Interpreter
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**1. APPLICATION FOR LEAVE OF ABSENCE (3/4/2/3)****37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 1****RESOLVED** (nem con)

- (a) that permission be granted to Councillor NE McOmbring (Ms) to join the meeting later; and
- (c) that permission be granted to Councillors EL Maree (Ms) and M Wanana to leave the meeting earlier, at 19:00 and 17:30 respectively.

**(HEAD: COMMITTEE SERVICES TO ACTION)****2.1 DECLARATION OF INTEREST (3/6/2/2)**

NONE

**2.2 PRESENTATION (8/1/4/2/6)**

NONE

**2.3 COMMUNICATIONS (3/4/1/6)****2.3.1 COMMUNICATION BY THE SPEAKER (3/4/1/6)**

2.3.1.1 The Speaker, Councillor CP Jooste, congratulated all Councillors who celebrated their birthdays during the month of January.

( - )

2.3.1.2 The Speaker informed the meeting that his Office receives numerous requests from Councillors regarding the use of halls. He explained that the Policy makes provision for all Councillors to use the halls twice, but he urged Councillors to distinguish between the use of halls for political activities (for which political parties have to pay) and the use of the hall for ward activities.

( - )

**2.3.2 COMMUNICATION BY THE EXECUTIVE MAYOR (3/4/1/6)**

2.3.2.1 The Executive Mayor's communications can be summarised as follows:-

- Sterftes:
  - Die vader van Janine Waldis, bestuurder van verkeersdienste.
  - Die moeder van Vernon Bowers, hoof van die korporatiewe kommunikasie-afdeling.

- Randall Wiccomb, sanger en bekende inwoner van Stellenbosch, wie se lewensverhaal diep resoneer met baie inwoners van Stellenbosch.
  - Prof Pieter Kapp, 'n historikus verbonde aan die Universiteit Stellenbosch en sy broer, Chris, 'n bekende in universiteitsonderwyskringe.
  - Die moeder van Sjef Ruben Riffel.
  - Die moord op die pensionaris, mnr Nico Geldenhuys was ook 'n slag vir ons dorp veral omdat dit die wreedheid van misdaad hier weerspieël.
- "Welcome to all councillors. I am happy to see all of you. I trust that you are well rested and that you have many new and exciting ideas on how we can improve service delivery in this town.
  - I am also happy about the great results achieved by our learners in the matric exams last year. I know many of you have children who have passed and I hope that you will convey my congratulations to each of the matriculants you may know.
  - As you are very well aware, the municipal elections are taking place later this year. And as is expected, we will see all kinds of alliances being formed as the battle to gain power, intensifies. This is part and parcel of a democracy and I am looking forward to the coming months, even though I know the personal attacks against all of us will increase.
  - However, all indications are that this year is going to be quite challenging on a number of fronts – locally as well as internationally. Economists are warning about global financial difficulties.
  - In Suid-Afrika waarsku ekonome dat ons ook hier 'n moeilike tyd binnegaan. Die roeringe op internasionale geldmarkte het ook op Suid-Afrika 'n uitwerking. Internasionale beleggingsvertroue in Suid-Afrika het geweldig afgeneem en ons voel al geruime tyd die druk van 'n afname in beleggings in hierdie land. Hierdie faktore, asook die styging in die rentekoers en verbruikersgoedere, is nie goed vir die gesamentlike moraal van Suid-Afrikaners nie.
  - Unfortunately, as we have seen these past few months, racism seems to be quite alive in this country. I urge each councillor to be vigilant. Be careful of what you say and when you encounter racism, make it clear that you do not tolerate or condone it in any form. We need to act decisively when others act in a racist way.
  - In South Africa the drought has severely impacted on food security. There are heartbreaking stories of farmers having to shoot starving cattle, and maize farmers have suffered great losses. The result is devastating. In a country that can ill afford rising costs, we are looking at dramatic increases in the food price. In Stellenbosch this will mean that some of the poorest households will have even less food to put on the table daily. Stellenbosch Municipality has already established more than 30 food gardens. But what else can we do to address the food insecurity issues? We need innovative solutions.
  - In the face of severe financial challenges, students across the country are demanding a number of things from the authorities. Not least of which is free education. Authorities will have to carefully navigate this issue.
  - Brande in verskeie gebiede in Stellenbosch het groot skade aangerig en ons landbousektor bedreig.
  - Ek wil egter my groot bewondering en diepe dank uitspreek teenoor die manne en vroue in die verskillende brandbestryderspanne wat so hard teen die vlamme geveg het. Sonder hul toewyding was die gevolge van die brande dalk veel erger.

- 
- Ons dorp is 'n mikrokosmos van die res van Suid-Afrika en ons uitdagings is groot. Hier op Stellenbosch het ons nog reuse-uitdagings om die lot van die verarmdes aan te spreek.
  - As politieke leiers en as plaaslike regering sal ons minder oor armoede moet praat, maar in die skoene van die vertraptes van die samelewing moet klim. Een van my voorstelle om van die uitdagings aan te spreek, is 'n ekonomiese indaba oor alle politieke grense heen.
  - 'n Ander voorstel is daadwerklike aksies om beweegruimte vir entrepreneurskap te skep – vir wit en swart mense. Entrepreneurs is nodig om die plaaslike ekonomie te stimuleer en om werkgeleenthede te skep.
  - Ons moet ook indringend kyk na 'n voorkeurverkrygingsbeleid, oftewel 'n Preferential Procurement Policy.
  - Indien ons nie hierdie geleenthede inisieer nie, sal armoede en die armes vir diegene van ons wat wel iets besit, oorrompel.
  - Om so sy aan sy met armoede te leef, en bittermin daaraan te doen, is eintlik om jousef skuldig te maak aan ekonomiese onderdrukking – ondanks ons uitsprake van demokrasie in 'n vrye Suid-Afrika.
  - Laat ons politieke verskille, kleinlikheid en agterdog opsy sit en doen waarvoor die gemeenskappe ons aigestel het.
  - Laat dit ons voorkeuraksie vir 2016 wees.

Sterkte vir die jaar vorentoe”.

( - )

**2.3.3 COMMUNICATION BY THE MUNICIPAL MANAGER (3/4/1/6)**

NONE

**3. CONFIRMATION OF THE MINUTES (3/4/1/5)**

**3.1 CONFIRMATION OF THE MINUTES OF THE 36<sup>TH</sup> MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY HELD ON 2015-11-25 (3/4/1/5)**

The minutes of the 36<sup>th</sup> Meeting of the Council of Stellenbosch Municipality held on 2015-11-25 were previously distributed.

**FOR CONFIRMATION**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 3.1****RESOLVED** (nem con)

that the minutes of the 36<sup>th</sup> Meeting of the Council of Stellenbosch Municipality held on 2015-11-25, be confirmed, subject to the following admendment:-

Item 13.2.1:

Replace the sentence "*Councillors F Adams and DA Hendrickse also left the Chamber at 21.45*" with the following:-

"The Acting Speaker again explained his ruling. Despite repeated cautions from the acting Speaker, Cllr F Adams and Cllr DA Hendrickse continued with interjections and points of order, whereupon the acting Speaker ordered that both Cllr F Adams and Cllr DA Hendrickse leave the Chamber. (Cllrs F Adams and DA Hendrickse then left the Chamber at 21.47)".

**(HEAD: COMMITTEE SERVICES TO ACTION)****4. INTERVIEWS WITH DEPUTATIONS (3/4/17)**

NONE

**5. STATUTORY BUSINESS (3/4/17)**

NONE

**6. REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MEETINGS OF COUNCIL (3/4/15)**

The report by the Acting Municipal Manager re outstanding resolutions taken at previous meetings of Council is attached as **APPENDIX 1**.

**FOR INFORMATION****37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 6****RESOLVED** (nem con)

- (a) that the report by the Acting Municipal Manager on outstanding resolutions be noted; and
- (b) that the Acting Municipal Manager note the input by Councillors regarding the items as outlined below, and provide responses, where applicable.



Issue raised by	Item	Response by
<p><b><u>Cllr : F Adams:</u></b></p> <p>Raised his concern and disappointment regarding items that were previously <b>resolved</b> by Council, and rulings made by the Speaker, but not executed by the Administration, i.e.:</p> <p>- Motion by Cllr F Adams: Process for the Renaming of Street names (pg. 29).</p>	Pg. 29	The Acting MM responded that advertisements will be in the media this coming week and written response will be sent to Cllr F Adams also this week.
<p><b><u>Cllr DA Hendrickse:</u></b></p> <p><u>Enquired regarding a Motion by Cllr M Wanana: Conditions of flats in Kayamandi</u></p> <p>Cllr DA Hendrickse said that the Speaker made a ruling in the August 2014 meeting regarding the conditions of the flats in Kayamandi and that a report be submitted to Council. No feedback yet.</p> <p><b><u>Cllr DA Hendrickse &amp; Cllr JA Davids: Vliegveld</u></b></p> <p><u>Cllr DA Hendrickse</u></p> <p>What is this brief mentioned on pg. 14 under the feedback comment, when the Council resolution did not and cannot be changed?</p> <p><u>Cllr JA Davids</u></p> <p>The item and the content in the discussion document differs. Is this part of the brief, because the item was totally faulty/flawed when it served before Council?</p> <p><b><u>Cllr AT van der Walt:</u></b></p> <p>Is unregistered Portion L of Farm 502 registered at the Deeds Office or at the office of the Surveyor-General?</p>	Pg. 14	<p>The Acting MM explained that this brief referred to is given to the Legal Advisor to provide comment on the item before it is submitted to Council.</p> <p>The Speaker <b>RULED</b> that the Chief Whip set up a meeting with the acting MM on Tuesday, 2016-02-02, where the interpretation of Vliegveld will be discussed. A copy of the resolution on the Vliegveld will be distributed.</p> <p>The Speaker extended and invitation to those Cllrs who have an interest in the Vliegveld, to attend the Whips' Meeting on Wednesday 11:00. If the date/time does not suite all, another date must be set.</p>
<p><b><u>Cllr DS Arends: Slabtown</u></b></p> <p>What is the status regarding "Slabtown", because this item is long overdue.</p>	Pg 6 under Council resolutions audit 2013-2014	A new Policy on Emergency Housing and the Identification of places for the location of Emergency Housing sites will be submitted to Council soon. The Slabtown residents will have to be relocated and will therefore form part of the process.

7. **CONSIDERATION OF MATTERS REFERRED TO COUNCIL VIA THE MAYORAL COMMITTEE MEETING/S**

7.1 **TABLING OF THE 2014/15 ANNUAL REPORT FOR THE STELLENBOSCH MUNICIPALITY IN ACCORDANCE WITH SECTION 121 OF THE MUNICIPAL FINANCE MANAGEMENT ACT (MFMA), ACT 56 OF 2003, READ TOGETHER WITH SECTION 46 OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, ACT 32 OF 2000**

*File number* : 3/4/5/2/32  
*Report by* : Acting Municipal Manager  
*Compiled by* : Acting Director: Strategic & Corporate Services  
*Delegated authority* : Council

**Strategic intent of item:**

Preferred investment destination	<input type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

The purpose of this report is two-fold:

- (a) To table the 2014/15 Annual Report which was compiled in terms of Section 121 of the Municipal Finance Management Act (MFMA), Act 56 of 2003, read together with Section 46 of the Local Government: Municipal Systems Act, Act 32 of 2000; and
- (b) To recommend for the appointment of an Oversight Committee to consider the Draft Annual Report.

**2. BACKGROUND**

Section 121 (1) of the MFMA determines that every municipality must prepare an Annual Report for each financial year. The Council must within nine months after the end of the financial year deal with the Annual Report of the municipality in accordance with Section 129.

The Annual Report is compiled in terms of Section 121 of the Municipal Finance Management Act (MFMA), Act 56 of 2003, read together with Section 46 of the Local Government: Municipal Systems Act, 32 of 2000, and which is **submitted herewith under separate cover as APPENDIX 1.**

The National Treasury issued strict guidelines on the content, disclosures, timelines and format of the Annual Report.

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MFMA Circular No. 63: Annual Report update, issued by National Treasury in September 2012, provides guidance to municipalities and municipal entities on the new Annual Report Format and its contents released earlier that year. The review of the format and content of the Municipal Annual Report was done with due consideration of the full legislative requirements.

The purpose of the Annual Report is:

- (a) to provide a record of the activities of the municipality or entity during the financial year to which the report relates;
- (b) to provide a report on performance in service delivery and budget implementation for the financial year;
- (c) to promote accountability to the local community for the decisions made throughout the year by the municipality or municipal entity; and
- (d) to reduce the additional reporting requirements that will otherwise arise from Government Departments, monitoring agencies and financial institutions.

With the above in mind, the goals of the new Annual Report Format are to achieve the following:

- (a) standardise reporting to enable municipalities / municipal entities to submit comparable Annual Reports;
- (b) align financial and non-financial reporting in the Annual Report;
- (c) create a standardised reporting structure that will enhance comprehensive oversight, meaningful evaluation and improved understanding of service delivery output.

### **3. DISCUSSION**

#### **3.1 Submission and Oversight of the Annual Report**

After submission of the Annual Report, it then becomes the responsibility of the Municipal Council, in its oversight role, to consider it.

National Treasury recommends that Municipal Councils should consider the establishment of an 'Oversight Committee' under Sections 33 and 79 of the Municipal Structures Act 1998. This Committee and, if needed, sub-committees could be responsible for the detailed analysis and review of the Annual Report and the drafting of an "Oversight Report" that may be taken to full Council for discussion. Such a committee may receive and review representations made by the public and also seek inputs from other Councillors and Council Portfolio Committees.

The 'Oversight Committee' should be made up of only non-executive Councillors and representatives of the community and can be formed each year to deal with the Annual Report. Municipal officials cannot be members of this 'Oversight Committee'. Assistance from the Audit Committee in the review process is also recommended as a major source of independent specialist advice.

The 'Oversight Report' is a separate report which must contain the Council's comment on the Annual Report and must also include a statement on whether the Council:

- a) has approved the Annual Report, with or without reservations;
- b) has rejected the Annual Report; or
- c) has referred the Annual Report back for revision of those components that can be revised.

The MFMA and Circular No 32 deals in great detail on further issues and processes involved on the Oversight Committee, the process and report.

Section 127(5) of the MFMA stipulates further as follows:

*"(5) Immediately after an annual report is tabled in the council in terms of subsection (2), the accounting officer of the municipality must –*

- (a) in accordance with section 21A of the Municipal Systems Act -*
  - (i) make public the annual report; and*
  - (ii) invite the local community to submit representations in connection with the annual report; and*
- (b) submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province."*

### **3.2 Meetings of MPAC**

All meetings of council and the Municipal Public Accounts Committee (MPAC) at which the annual report is considered, must be open to the public and reasonable time must be allowed for discussion of any written submissions received and for members of the community and organs of state to address the meetings.

Representatives of the Auditor General would be entitled to attend and speak at any meeting held to discuss the annual report.

It is imperative that timely notice of meetings should be given to enable representations to be made. A draft proposal of a timetable is also submitted for approval by Council. Making representations to MPAC should not preclude representations by the same individual to full council as this will promote transparency in the process.

Questions raised with the accounting officer by Council or the MPAC may be taken on notice by the accounting officer and responses subsequently provided to the committee process. MPAC meetings to discuss the Annual Report will be published in local newspapers. In accordance with Section 129(2)(a) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), the accounting officer must attend council and council committee meetings where the annual report is discussed for the purpose of responding to questions concerning the report. The top management team may assist during the oversight committee meetings to avoid delays.

**3.3 Outcome**

A conclusion that the Annual Report is approved without reservation would be the preferred outcome from the process.

**4. COMMENTS BY RELEVANT DEPARTMENTS****4.1 Financial**

Finance supports the item.

**4.2 Legal**

The item and recommendations are supported by the Legal Department.

**RECOMMENDED**

- (a) that Council take cognizance of the 2014/15 Draft Annual Report for the Stellenbosch Municipality;
- (b) that the Draft Annual Report be made public for comment on the official website of the Stellenbosch Municipality and local print media for a period of 21 days;
- (c) that the Municipal Public Accounts Committee (MPAC) be appointed as the Oversight Committee in terms of Sections 33 and 79 of the Municipal Structures Act, Act 117 of 1998 to assist the Council with its statutory role to consider and evaluate the content of the Draft Annual Report and make recommendations to Council;
- (d) that the Oversight Committee abide by the following schedule of meetings and provide the Council with an Oversight Report to be considered together with the Draft Annual Report, not later than 30<sup>th</sup> March 2016; and

<b>Date</b>	<b>Agenda</b>	<b>Venue</b>	<b>Time</b>
01 February 2016	Orientation re Annual Report	Stellenbosch Council Chamber	14:00
08 February 2016	Chapters 1 and 2	Stellenbosch Council Chamber	14:00
22 February 2016	Chapter 3	Stellenbosch Council Chamber	14:00
29 February 2016	Chapters 4, 5 and 6	Stellenbosch Council Chamber	14:00
07 March 2016	-Public Hearing -Preparation for Discussions with feedback from Directors and MM	Stellenbosch Council Chamber	09:00- 14:00
11 March 2016	Feedback and discussions: Municipal Manager, Executive Mayor and Directors	Stellenbosch Council Chambers	09:00 (45 min sessions with 15 min breaks)
14 March 2016	Finalizing Oversight Report	Stellenbosch Council Chamber	To be confirmed

- (e) that, should the Municipal Public Accounts Committee (MPAC) elect to co-opt members of the public with expertise in specific fields to assist and advise the Committee when deliberating before it, the following recommendation in terms of tariff and number of co-opted members shall apply:

<i>Tariff</i>	<i>Number of co-opted members</i>	<i>Not exceeding no of hours</i>	<i>Remuneration</i>
<i>Per hour tariff for attendance of meeting</i>	2	40 hours	R400.00
<i>Once-off Tariff for duties performed in preparation</i>	2	4 hours	R1500 (for four hours)

**(ACTING DIRECTOR: CORPORATE SERVICES TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.1**

**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that Council take cognizance of the 2014/15 Draft Annual Report for the Stellenbosch Municipality;
- (b) that the Draft Annual Report be made public for comment on the official website of the Stellenbosch Municipality and local print media for a period of 21 days;
- (c) that the Municipal Public Accounts Committee (MPAC) be appointed as the Oversight Committee in terms of Sections 33 and 79 of the Municipal Structures Act, Act 117 of 1998 to assist the Council with its statutory role to consider and evaluate the content of the Draft Annual Report and make recommendations to Council;
- (d) that the Oversight Committee abide by the following schedule of meetings and provide the Council with an Oversight Report to be considered together with the Draft Annual Report, not later than 30th March 2016; and

Date	Agenda	Venue	Time
01 February 2016	Orientation re Annual Report	Stellenbosch Council Chamber	14:00
08 February 2016	Chapters 1 and 2	Stellenbosch Council Chamber	14:00
22 February 2016	Chapter 3	Stellenbosch Council Chamber	14:00
29 February 2016	Chapters 4, 5 and 6	Stellenbosch Council Chamber	14:00
07 March 2016	-Public Hearing Preparation for Discussions with - for and	Stellenbosch Council Chamber	09:00- 14:00

	feedback from Directors and MM		
11 March 2016	Feedback and discussions: Municipal Manager, Executive Mayor and Directors	Stellenbosch Council Chambers	09:00 (45 min sessions with 15 min breaks)
14 March 2016	Finalizing Oversight Report	Stellenbosch Council Chamber	To be confirmed

- (e) that, should the Municipal Public Accounts Committee (MPAC) elect to co-opt members of the public with expertise in specific fields to assist and advise the Committee when deliberating before it, the following recommendation in terms of tariff and number of co-opted members shall apply:

<i>Tariff</i>	<i>Number of co-opted members</i>	<i>Not exceeding no of hours</i>	<i>Remuneration</i>
<i>Per hour tariff for attendance of meeting</i>	2	40 hours	R400.00
<i>Once-off Tariff for duties performed in preparation</i>	2	4 hours	R1500 <i>(for four hours)</i>

**(ACTING DIRECTOR STRATEGIC AND CORPORATE SERVICES TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.1**

As per the Council Agenda of 2016-01-27, the recommendations of the Mayco meeting that was held earlier on 2016-01-27 was distributed during the Council meeting. The Speaker allowed for a 5 minute break to allow Councillors to familiarize themselves with the Mayco recommendations.

**RESOLVED** (majority vote)

- (a) that Council take cognizance of the 2014/15 Draft Annual Report for the Stellenbosch Municipality;
- (b) that the Draft Annual Report be made public for comment on the official website of the Stellenbosch Municipality and local print media for a period of 21 days;
- (c) that the Municipal Public Accounts Committee (MPAC) be appointed as the Oversight Committee in terms of Sections 33 and 79 of the Municipal Structures Act, Act 117 of 1998, to assist the Council with its statutory role to consider and evaluate the content of the Draft Annual Report and make recommendations to Council;

- (d) that the Oversight Committee abide by the following schedule of meetings and provide the Council with an Oversight Report to be considered together with the Draft Annual Report, not later than 30th March 2016; and

Date	Agenda	Venue	Time
01 February 2016	Orientation re Annual Report	Stellenbosch Council Chamber	14:00
08 February 2016	Chapters 1 and 2	Stellenbosch Council Chamber	14:00
22 February 2016	Chapter 3	Stellenbosch Council Chamber	14:00
29 February 2016	Chapters 4, 5 and 6	Stellenbosch Council Chamber	14:00
07 March 2016	-Public Hearing - Preparation for Discussions with and feedback from Directors and MM	Stellenbosch Council Chamber	09:00- 14:00
11 March 2016	Feedback and discussions: Municipal Manager, Executive Mayor and Directors	Stellenbosch Council Chambers	09:00 (45 min sessions with 15 min breaks)
14 March 2016	Finalizing Oversight Report	Stellenbosch Council Chamber	To be confirmed

- (e) that, should the Municipal Public Accounts Committee (MPAC) elect to co-opt members of the public with expertise in specific fields to assist and advise the Committee when deliberating before it, the following recommendation in terms of tariff and number of co-opted members shall apply:

<i>Tariff</i>	<i>Number of co-opted members</i>	<i>Not exceeding no of hours</i>	<i>Remuneration</i>
<i>Per hour tariff for attendance of meeting</i>	2	40 hours	<i>R400.00</i>
<i>Once-off Tariff for duties performed in preparation</i>	2	4 hours	<i>R1500 (for four hours)</i>

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

*Councillors F Adams; DA Hendrickse; AT van der Walt and M Wanana.*

**(ACTING DIRECTOR STRATEGIC AND  
CORPORATE SERVICES TO ACTION)**



**7.2 MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT FOR 2015/2016**

*File number* : 8/1/Financial Mid-Year Reporting

*Report by* : The Executive Mayor

*Compiled by* : Chief Financial Officer

*Delegated authority* : Council

**Strategic intent of item:**

Preferred investment destination	<b>X</b>
Greenest municipality	<b>X</b>
Safest valley	<b>X</b>
Dignified Living	<b>X</b>
Good Governance	<b>X</b>

**1. PURPOSE OF REPORT**

To submit the Section 72 report (Mid-year Budget and Performance Assessment) as envisaged by Section 54 of the Municipal Finance Management Act (MFMA), 56 of 2003, to Council.

**2. LEGAL CONTEXT**

In terms of the Municipal Finance Management Act (MFMA) Section 72(1) the Accounting Officer of the municipality must by 25 January each year assess:

- (a) the performance of the municipality during the first half of the financial year, taking into account the following:
  - (i) the monthly statements referred to in Section 71 for the first half of the financial year;
  - (ii) the municipality's service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the service delivery and budget implementation plan;
  - (iii) the past year's annual report, and progress on resolving problems identified in the annual report; and
- (b) submit a report on such assessment to-
  - (i) the mayor of the municipality;
  - (ii) the National Treasury; and
  - (iii) the relevant Provincial Treasury

Once the Mayor has considered the section 72 report, same must be submitted to Council by the 31st of January of each year in terms of section 54 (1) (f) of the MFMA.

The statements as referred to in section 71 (1) of the MFMA for the first half of the financial year, specifically the sixth month, is incorporated into the mid-year budget and performance assessment in accordance with section 72 (2) of the MFMA.

As part of the review in terms of Section 72 (3) the Accounting Officer must:

- (a) make recommendations on whether an adjustments budget is necessary; and
- (b) recommend revised projections for revenue and expenditure to the extent that this may be necessary.

### 3. DISCUSSION

#### 3.1 Mid-year Budget and Financial Performance Assessment

The Financial Mid-year Performance is reported on in **APPENDIX 1** (Section 1). This report encapsulates the performance of the first six months of the financial year and places emphasis on the positive as well as the areas of concern.

The condensed comparative statement report for operating revenue and operating expenditure for the period ending 31 December 2015 can be found in the executive summary of the attached report. It should however be noted that the following services included in the Operating Revenue relate to actual levied amounts against consumer accounts and not actual cash received:

- Property Rates
- Property Rates-Penalties imposed and collection charges
- Service Charges
  - Electricity
  - Refuse Removal
  - Sewerage
  - Water
- Interest earned-Outstanding Debtors

It is also important to note that the following services have already been levied for the full year and minimal movement will be seen for the rest of the financial year:

- Property Rates
- Refuse Removal
- Sewerage

The revenue budget for water will have to be adjusted downward. This is due to a noticeable decline in consumption which was caused due to the tariff increase that was implemented due to the water shortages that we are experiencing.

The income projected for Electricity will have to be adjusted downwards due to a noticeable decline in consumption and the utilization of alternative energy sources by consumers.

The performance of our investment portfolio is better than expected due to the additional surplus cash invested. This line item will be adjusted upwards.

**3.2 Mid-year Non-Financial Performance Assessment**

Non-Financial Mid-year Performance is reported on in **APPENDIX 1** Section 2) (**distributed under separate cover**). It covers the overall performance of the Municipality on the Key Performance Indicators (KPI's) that are assessed in the period from 1 July 2015 to December 2015. The performance of the first six months of the financial year should be assessed and reported on in terms of Section 72 of the MFMA. This assessment must include the measurement of performance, the identification of corrective actions and recommendations for the adjustments of KPI's, if necessary.

A detailed report on Top layer SDBIP per National KPA and Assessment of targets achieved is attached as **APPENDIX 1** (Section 2) (**distributed under separate cover**).

**RECOMMENDED**

After reviewing the mid-year budget and performance assessment for the period ending 31 December 2015, the following is recommended:

- (a) that Council take note of the report and more specifically the assessment and forecasts contained in the report;
- (b) that Council take note that an Adjustments Budget will be compiled and tabled to Council as a result of the following:
  - the increased realistically anticipated revenue during the financial year;
  - the reprioritization of projects in line with being completed by the communicated cut-off dates to facilitate year-end preparation;
- (c) that Council note the performance of the Municipality against the set objectives contained in Section 2; and
- (d) that the Accounting Officer attend to ensuring that Directors put the necessary corrective measures in place to ensure that projects are managed proactively in a bid to ensure that Council meet its strategic objectives contained in the Service Delivery and Budget Implementation Plan and to report on same at the end of quarter 3.

**(CHIEF FINANCIAL OFFICER TO ACTION)****MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.2****RECOMMENDED BY THE EXECUTIVE MAYOR**

After reviewing the mid-year budget and performance assessment for the period ending 31 December 2015, the following is recommended:

- (a) that Council take note of the report and more specifically the assessment and forecasts contained in the report;
- (b) that Council take note that an Adjustments Budget will be compiled and tabled to Council as a result of the following:

- the increased realistically anticipated revenue during the financial year;
  - the reprioritization of projects in line with being completed by the communicated cut-off dates to facilitate year-end preparation;
- (c) that Council note the performance of the Municipality against the set objectives contained in Section 2; and
- (d) that the Accounting Officer attend to ensuring that Directors put the necessary corrective measures in place to ensure that projects are managed proactively in a bid to ensure that Council meet its strategic objectives contained in the Service Delivery and Budget Implementation Plan and to report on same at the end of quarter 3.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.2**

**RESOLVED** (majority vote)

After reviewing the mid-year budget and performance assessment for the period ending 31 December 2015, the following is resolved:

- (a) that Council take note of the report and more specifically the assessment and forecasts contained in the report;
- (b) that Council take note that an Adjustments Budget will be compiled and tabled to Council as a result of the following:
- the increased realistically anticipated revenue during the financial year;
  - the reprioritization of projects in line with being completed by the communicated cut-off dates to facilitate year-end preparation;
- (c) that Council note the performance of the Municipality against the set objectives contained in Section 2; and
- (d) that the Accounting Officer attend to ensuring that Directors put the necessary corrective measures in place to ensure that projects are managed proactively in a bid to ensure that Council meet its strategic objectives contained in the Service Delivery and Budget Implementation Plan and to report on same at the end of quarter 3.

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

*Councillors F Adams; JA Davids; DA Hendrickse; S Jooste (Ms); C Moses (Ms); N Mananga-Gugushe (Ms); P Mntumni (Ms); RS Nalumango (Ms); MM Ngcofe; N Ntsunguzi (Ms); L Ronoti; P Sitshoti (Ms); LN Siwakamisa (Ms); AT van der Walt and M Wanana.*

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**7.3 ADJUSTMENTS BUDGET FOR 2015/2016**

*File number* : 8/1/*Financial*

*Report by* : *Acting Municipal Manager*

*Compiled by* : *Chief Financial Officer*

*Delegated Authority* : *Council*

**Strategic intent of item:**

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input checked="" type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input checked="" type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

To table the adjustments budget as envisaged by section 23(1) of the Municipal Budget and Reporting Regulations, for the 2015/2016 financial year, for approval.

**2. LEGAL CONTEXT**

In terms of section 28 of the Municipal Finance Management Act (Act no. 56 of 2003), a municipality may revise an approved budget through an adjustments budget process. Only the mayor may table an adjustments budget in the Municipal Council (within the prescribed framework). The latter is regulated by means of the Municipal Budget and Reporting Regulations that came into effect on 1 July 2009.

In terms of section 28(2) of the Municipal Finance Management Act, an adjustments budget:

- (a) must adjust the revenue and expenditure estimates downwards if there is material under collection of revenue during the current year;
- (b) may appropriate additional revenue 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 authorize the utilization of projected savings in one vote towards spending in another vote;
- (d) may correct any errors in the annual budget;

In terms of section 23(1) of the Municipal Budget and Reporting Regulations, the above mentioned adjustments can only be done after the mid-year budget and performance assessment has been tabled to Council, but not later than 28 February.

---

### 3. DISCUSSION

As alluded to above, this adjustments budget addresses adjustments in terms of section 28 (2) a, b, d & f of the MFMA and is further explained as required by section 28 (2) (5) of the legislation.

Attached as **APPENDIX 1** is an executive summary by the Accounting Officer.

#### **Capital Adjustments Budget**

During the mid-year budget and performance assessment process, inclusive of taking into account actual spending as at 31 December 2015, it was identified that the capital budget had to be adjusted downward to make necessary amendments to various projects in order to accelerate progress on the priorities identified.

#### **Effect of the adjustments budget on the current annual budget:**

Taking all proposed adjustments into consideration, will result in the current approved capital budget of R 471 851 402 decreasing with

R 34 668 257. The proposed adjusted capital budget for 2015/2016 will be R 437 183 145, refer to **APPENDIX 3** for the detail.

#### **Material changes to the capital budget:**

Spending on capital projects was evaluated and the cash flow projections in terms of spending on estimated work to be completed by 30 June 2016 were taken into consideration during the adjustments budget compilation process.

#### **a) Kayamandi ( Watergang & Zone O)**

Provincial Department of Housing approved R7 936 290 additional funds for the Kayamandi phase 2 housing project: 1006 sites.

#### **b) New housing: Jametown**

The initial budget for this project was R 2 513 000. Following the progress of the project, it was deemed necessary to increase the budget by R2 000 000.

#### **c) Waterpipe replacement**

The project was initially under-budgeted for. An additional R1 700 000 is required to complete the project.

#### **d) New Stellenbosch Main Sewer outfall**

The estimate for the project was R60 million. However, the tender was awarded at a substantially less amount of R42 million for the contractor and R10.7 million for consultancy fees. A reduction R5.9 million has therefore been instituted in the adjustments budget.

#### **e) Upgrade of WWTW: Klapmuts**

According to the project plan, this project was supposed to start in October 2015. But due to unforeseen circumstances, the procurement processes were delayed and the site handover was only done in January 2016. It is therefore deemed improbable that a significant portion of the budget of R21,499,732 will

be spent in the current financial year. Therefore, R9,174,715 reduction is being implemented and deferred to the 2016/17 financial year.

*f) Extension of WWTW Stellenbosch*

This is a multi-year project that commenced in the 2014/15 financial year. The membranes needed for the project had to be imported and due to down-turn of economic conditions, a weaker rand against the foreign currency was predicted. It was then decided to make an advance payment at a spot rate to take advantage of better exchange rates.

R15,000,000 from the current year is being deferred to the 2016/17 financial year as more payments are expected to be made then, rather than this financial year.

*g) Major Drop-offs: Construction – Franschoek*

The project commenced later than expected. A consultant was appointed but there were delays in identifying the site for construction. It is therefore unlikely that the total amount would be spent as initially projected and R2,800,000 is to be deducted.

*h) Upgrade Refuse disposal site (Existing Cell) – Rehab*

The tender is still to be advertised. The original budget of R8 977 868 is to be reduced with R2 347 868.

**Operational Adjustments Budget**

With the process followed during the mid-year budget and performance assessment, taking into consideration projected spending or projected billed revenue versus what was actually processed, it was identified that the operational budget should be adjusted accordingly.

**Affect of the adjustments budget on the current annual budget:**

The operational income budget of 2015/2016 increases from R 1,332,314,772 to the proposed budget of R1,349,944,986 refer to **APPENDIX 3** for detail.

The operational expenditure budget of 2015/2016 increases from R 1,274,977,238 to the proposed budget amount of R 1,284,671,161 refer to **APPENDIX 3** for detail.

**Material changes to the operating budget:**

**Operational Income Budget**

The income line items that will have to be adjusted downwards are:

- Electricity- The revenue budget for this line item will have to be adjusted downward with R5,508,350. This is due to a noticeable decline in consumption and the utilization of alternative energy sources by consumers.
- Water- The revenue budget of this line item will have to be adjusted downward with R1,500,000. This is due to a noticeable decline in consumption which was caused due to the water restriction that was implemented due to the water shortages that we are experiencing.

However, there are other line items where we anticipate receiving additional revenue, over and above those already included and approved in the annual budget. The following income line items will be adjusted upwards:

- Interest on investments- The performance of our investment portfolio is better than expected due to the additional surplus cash invested. The budget is R29,123,995 whereas the year-to-date (in this instance 5 months) actual is R21,638,392. This line item will be adjusted upwards with R13,283,325.

### ***Operational Expenditure Budget***

Various line items were adjusted (detail included in **APPENDIX 3**) due to requests received from user departments and operational pressure to increase efficiencies.

### **Impact of any increased spending on the annual budget and the annual budgets for the next two years**

The proposed adjustments are resulting in increased spending on the capital and operational budget for the current financial year and will have an impact over the medium term. This adjustments budget together with actual spending of previous years will be used as basis when reassessing the last two years of the approved Medium Term Budget and Expenditure Framework.

## **4. COMMENTS FROM OTHER RELEVANT DEPARTMENTS**

### **Legal Services**

The item at my disposal is compliant with the relevant legislative framework.

## **RECOMMENDED**

- that the Annual Budget Tables as prescribed by the Budgeting and Reporting Regulations, as set out in **APPENDIX 2** be approved;
- that the following capital projects be adjusted over the MTREF (2016/2017 & 2017/2018), as follows:

<b>Projects</b>	<b>Funding</b>	<b>2016/2017</b>	<b>2017/2018</b>
Bulk Sewer Outfall: Jamestown	Capital Replacement Reserve	1,000,000.00	3,000,000.00
Bulk Sewer Outfall: Jamestown	External Loans	-	11,451,629.00
Bulk Sewer Outfall: Jamestown	MIG	8,548,371.00	-
New Plankenburg Main Outfall Sewer	Capital Replacement Reserve	10,272,160.00	4,000,000.00
New Plankenburg Main Outfall Sewer	External Loans	5,500,000.00	6,500,000.00
New Plankenburg Main Outfall Sewer	MIG	7,727,840.00	-
Upgrade of WWTW: Klapmuts	Capital Replacement Reserve	11,500,000.00	-
Upgrade of WWTW: Klapmuts	MIG	9,000,000.00	-
Extention of WWTW Stellenbosch	Capital Replacement Reserve	-	-
Extention of WWTW Stellenbosch	External Loans	119,349,810.00	-
Extention of WWTW Stellenbosch	RBIG	58,667,000.00	12,723,000.00
New Community Centre: Klapmuts	Capital Replacement Reserve	9,000,000.00	-



- (c) that the Service Delivery and Budget Implementation Plan be adjusted accordingly inclusive of the non-financial information (performance measurement).

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.3**

**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that the Annual Budget Tables as prescribed by the Budgeting and Reporting Regulations, as set out in **APPENDIX 2** be approved;
- (b) that the following capital projects be adjusted over the MTREF (2016/2017 & 2017/2018), as follows:

<b>Projects</b>	<b>Funding</b>	<b>2016/2017</b>	<b>2017/2018</b>
Bulk Sewer Outfall: Jamestown	Capital Replacement Reserve	1,000,000.00	3,000,000.00
Bulk Sewer Outfall: Jamestown	External Loans	-	11,451,629.00
Bulk Sewer Outfall: Jamestown	MIG	8,548,371.00	-
New Plankenburg Main Outfall Sewer	Capital Replacement Reserve	10,272,160.00	4,000,000.00
New Plankenburg Main Outfall Sewer	External Loans	5,500,000.00	6,500,000.00
New Plankenburg Main Outfall Sewer	MIG	7,727,840.00	-
Upgrade of WWTW: Klapmuts	Capital Replacement Reserve	11,500,000.00	-
Upgrade of WWTW: Klapmuts	MIG	9,000,000.00	-
Extention of WWTW Stellenbosch	Capital Replacement Reserve	-	-
Extention of WWTW Stellenbosch	External Loans	119,349,810.00	-
Extention of WWTW Stellenbosch	RBIG	58,667,000.00	12,723,000.00
New Community Centre: Klapmuts	Capital Replacement Reserve	9,000,000.00	-

- (c) that the Service Delivery and Budget Implementation Plan be adjusted accordingly inclusive of the non-financial information (performance measurement)

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.3**

**RESOLVED** (majority vote)

- (a) that the Annual Budget Tables as prescribed by the Budgeting and Reporting Regulations, as set out in the **APPENDICES** be approved;
- (b) that the following capital projects be adjusted over the MTREF (2016/2017 & 2017/2018), as follows:

<b>Projects</b>	<b>Funding</b>	<b>2016/2017</b>	<b>2017/2018</b>
Bulk Sewer Outfall: Jamestown	Capital Replacement Reserve	1,000,000.00	3,000,000.00
Bulk Sewer Outfall: Jamestown	External Loans	-	11,451,629.00
Bulk Sewer Outfall: Jamestown	MIG	8,548,371.00	-
New Plankenburg Main Outfall Sewer	Capital Replacement Reserve	10,272,160.00	4,000,000.00
New Plankenburg Main Outfall Sewer	External Loans	5,500,000.00	6,500,000.00
New Plankenburg Main Outfall Sewer	MIG	7,727,840.00	-
Upgrade of WWTW: Klapmuts	Capital Replacement Reserve	11,500,000.00	-
Upgrade of WWTW: Klapmuts	MIG	9,000,000.00	-
Extention of WWTW Stellenbosch	Capital Replacement Reserve	-	-
Extention of WWTW Stellenbosch	External Loans	119,349,810.00	-
Extention of WWTW Stellenbosch	RBIG	58,667,000.00	12,723,000.00
New Community Centre: Klapmuts	Capital Replacement Reserve	9,000,000.00	-

- (c) that the Service Delivery and Budget Implementation Plan be adjusted accordingly, inclusive of the non-financial information (performance measurement).

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

*Councillors F Adams; JA Davids; DA Hendrickse; S Jooste (Ms); C Moses (Ms); N Mananga-Gugushe (Ms); P Mntumni (Ms); RS Nalumango (Ms); MM Ngcofe; N Ntsunguzi (Ms); L Ronoti; P Sitshoti (Ms); LN Siwakamisa (Ms); AT van der Walt and M Wanana.*

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**7.4 RE-STATEMENT OF 2012/13 AND 2013/14 FINANCIAL FIGURES IN THE BUDGET AND REPORTING REGULATIONS: SCHEDULE A: TABLE A7**

*File number* : 8/1/Financial  
*Report by* : Acting Municipal Manager  
*Compiled by* : Chief Financial Officer  
*Delegated Authority* : Council

**Strategic intent of item:**

Preferred investment destination	<input type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

To table the restated financial figures for the 2012/13 and 2013/14 financial years in Table A7 of the Budget and Reporting Regulations: Schedule A.

**2. LEGAL CONTEXT**

In terms of section 17 (1) d of the Municipal Finance Management Act (Act no. 56 of 2003), an annual budget of a municipality must be a schedule in the pre-scribed format setting out -

- (i) *estimated revenue and expenditure by vote for the current year; and*
- (ii) *actual revenue and expenditure by vote for the financial year preceding the current year;*

In terms of the Municipal Budget and Reporting Regulations:

Section 6

*The municipal manager of a municipality must take all reasonable steps to ensure that -*

- a) *the basis of measurement and accounting policies underpinning the municipality's annual financial statements are the same as those used in the preparation of the municipality's annual budget and supporting documentation, its adjustments budgets and supporting documentation, and its in-year reports; and*
- b) *any differences or changes between financial years are explicitly noted.*

## Section 9

*The annual budget and supporting documentation of a municipality must be in the format specified in Schedule A and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the Act,2*

**3. DISCUSSION**

The Table A7 of the Budget and Reporting Regulations Schedule A tabled in May omitted the opening balance of cash and cash equivalents for the financial year/s 2012/13 and 2013/14.

The amendment to Table A7 of the Budget and Reporting Regulations Schedule A will not change the Net Increase/ Decrease in Cash Held.

It is required by National Treasury that the past financial information reconciles with the audited financial statements and audited return forms submitted to the National Treasury database. To comply with the above requirements the financial figures for 2012/13 and 2013/14 were restated in Table A7 of the Budget and Reporting Regulations: Schedule A (**APPENDIX 1**).

**RECOMMENDED**

that the restated financial figures for 2012/13 and 2013/14 financial years as set out in **APPENDIX 1**, be approved;

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.4****RECOMMENDED BY THE EXECUTIVE MAYOR**

that the restated financial figures for 2012/13 and 2013/14 financial years as set out in **APPENDIX 1**, be approved.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.4****RESOLVED** (nem con)

that the restated financial figures for 2012/13 and 2013/14 financial years as set out in **APPENDIX 1**, be approved.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**7.5 SUPPLY CHAIN MANAGEMENT 2<sup>nd</sup> QUARTER IMPLEMENTATION REPORT FOR THE 2015/2016 FINANCIAL YEAR**

*File number* : 8/1/Financial  
*Report by* : Accounting Officer  
*Compiled by* : Head: Supply Chain Management  
*Delegated authority* : Council

**Strategic intent of item:**

Preferred investment destination	<input type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

To comply with Regulation 6(2) (a) (and 6(3) of the Municipal Supply Chain Management Regulations, by reporting on the state of the implementation of Supply Chain Management Policy of the Stellenbosch Municipality.

**2. DISCUSSION**

The Supply Chain Management 2<sup>nd</sup> Quarter Implementation Report for the financial 2015/2016 is attached which contains detailed discussion.

**RECOMMENDED**

that the Supply Chain Management 2<sup>nd</sup> Quarter Implementation Report for the financial year 2015/2016, be noted.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.5****RECOMMENDED BY THE EXECUTIVE MAYOR**

that the Supply Chain Management 2<sup>nd</sup> Quarter Implementation Report for the financial year 2015/2016, be noted.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.5**

During deliberations on the matter, the DA requested a caucus, which the Speaker allowed.

After the meeting resumed, it was

**RESOLVED** (majority vote)

that the Supply Chain Management 2<sup>nd</sup> Quarter Implementation Report for the financial year 2015/2016, be noted.

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

*Councillors F Adams; JA Davids; DA Hendrickse; S Jooste (Ms); C Moses (Ms); N Mananga-Gugushe (Ms); P Mntumni (Ms); RS Nalumango (Ms); MM Ngcofe; N Ntsunguzi (Ms); L Ronoti; P Sitshoti (Ms); LN Siwakamisa (Ms); AT van der Walt and M Wanana.*

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**7.6 QUARTERLY BUDGET STATEMENTS REPORTING: OCTOBER 2015 – DECEMBER 2015**

*File number* : 8/1/Financial  
*Report by* : The Executive Mayor  
*Compiled by* : Chief Financial Officer  
*Delegated Authority* : Council

**Strategic intent of item:**

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input checked="" type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input checked="" type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**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 2nd quarter as at 31 December 2015.

**2. DISCUSSION**

This report illustrates the implementation of the budget for the relevant quarter and the financial state of the municipality.

The Operating expenditure reflects a 5.84% under spending for the year to date.

The 32% under spending of the year to date capital budget is in line with previous years.

The Financial Services Quarterly Report for October 2015 – December 2015 is attached as **APPENDIX 1**.

**RECOMMENDED**

that Council notes the quarterly report (**APPENDIX 1**) as envisaged by Section 52 of the MFMA detailing the implementation of the budget and the financial state of affairs of the municipality.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.6****RECOMMENDED BY THE EXECUTIVE MAYOR**

that Council note the Quarterly Report (**APPENDIX 1**) as envisaged by Section 52 of the MFMA detailing the implementation of the budget and the financial state of affairs of the municipality.

**(CHIEF FINANCIAL OFFICER TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.6****RESOLVED** (nem con)

that Council note the Quarterly Report (**APPENDIX 1**) as envisaged by Section 52 of the MFMA detailing the implementation of the budget and the financial state of affairs of the municipality.

**(CHIEF FINANCIAL OFFICER TO ACTION)**



**7.7 INTERIM REPORT ON THE AUDIT OF LEGAL OCCUPATION OF PUBLIC RENTAL MUNICIPAL FLATS***File number* : 8/1/4/2/3 x 17/4/1*Compiled by* : Manager: Housing Administration*Report by* : Director: Human Settlements & Property Management*Delegated Authority* : Council**Strategic intent of item**

Preferred investment destination	<input type="checkbox"/>
Greenest Municipality	<input type="checkbox"/>
Safest Valley	<input type="checkbox"/>
Dignified Living	<input checked="" type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

To inform Council of the outcome of the survey conducted of all Public Rental Municipal Flats in terms of the Council resolution Item 9.3 of 24<sup>th</sup> June 2015.

**2. BACKGROUND**

During the 31<sup>st</sup> meeting of Council held on 24 June 2015, Councillor Biscombe tabled a motion calling for:

- (i) a survey of every dwelling to establish whether the legal occupants are still living there;
- (ii) How many persons are currently occupying each unit and are they legally there. What steps would be put in place to rectify any illegality;
- (iii) Due to complaints lodged, what is currently being done between Housing Administration and Legal Department to attend to anti-social behaviour patterns with the view to removing these elements from Council premises.

**3. DISCUSSION****3.1 SURVEY OF MUNICIPAL RENTAL UNITS**

Following on the motion tabled by Councillor Biscombe, the Housing Administration Department undertook a survey of all municipal rental stock.

The information received during the survey process was compared to the information on the records both Housing Administration and the records of Finance Department. In the case of Cloetesville, these lists were also cross referenced with the information supplied by resident's committees.

### 3.2 LEGAL OCCUPANCY

The preliminary findings with regard to legal occupancy of the survey and the comparison of information obtained with the records of Finance Department are as follows:

AREA	Number of units	Legal Tenant Still In Occupation	Transfers of Tenancy (Tenant Deceased)	Number of alleged Illegal Occupants
CLOETESVILLE				
Rhode Street	72	49	14	9
Kloof + Long Streets	132	102	14	16
Maisonettes	36	27	7	2
KAYAMANDI	146	85	5	56
LAP FLATS				
Lavanda	72	58	13	1
Aurora	72	60	12	0
Phyllaria	77	66	11	0

The Department is currently engaged with the process of interviewing all occupants where the tenant is deceased to determine whether this is a standard **transfer of tenancy** to the widow or a family member who formed part of the original household or whether the occupants should be considered as **illegal occupants**.

There are criteria set out in the approved council **Policy and Guidelines for the Allocation and Transfer of Tenancy of Municipal Rental Housing Stock** in terms of which this process is being conducted and the criteria will be strictly applied.

Likewise, Council has approved a **Policy for the Unlawful Occupation of Municipal Rental Housing** that is being used as a framework to determine how the alleged illegal occupants of the units will be handled. These families are also being interviewed and, in terms of this policy, occupants who comply with the criteria as set out in the policy will be considered for legalization whereas occupants who do not meet the criteria will be referred to Legal Services for eviction from the premises.

It should be emphasized that, only once the Department has conducted interviews with all the families concerned, will it be able to produce accurate figures as to the status of the households where the tenants are deceased and where there are illegal occupants living in the municipal flats.

### 3.3 PROGRESS WITH LEGAL ACTION AGAINST TRANSGRESSORS

To date this Department has referred 23 cases to the Legal Advisor for action to be taken against tenants/occupants for various lease infractions ranging from illegal occupation to anti-social behaviour/ drug trafficking. This is an ongoing process and as and when this office becomes aware of lease infractions, the respective matters will be referred to the Legal Advisor for the necessary steps to be taken against occupants.

**Cloeteville: 7 cases**

**Kayamandi: 1 case**

**LAP: 9 cases**

**Staff Rental: 4 cases**

**Other (Eland/Hugo Streets): 2 cases**

The Legal Advisor is systematically referring the various matters to Attorneys. To date ten cases have been handed to various attorneys.

**RECOMMENDED**

that Council note the progress made with the audit of legal occupation of Public Rental Municipal Flats.

**(DIRECTOR: HUMAN SETTLEMENTS AND  
PROPERTY MANAGEMENT TO ACTION)**

**ENGINEERING SERVICES AND HUMAN SETTLEMENTS COMMITTEE MEETING:  
2015-12-01: ITEM 5.1.1**

**RESOLVED** (nem con)

that a final report be submitted to Council via this Standing Committee.

**RECOMMENDED**

that Council note the progress made with the audit of occupation of Public Rental Municipal Flats.

**(DIRECTOR: HUMAN SETTLEMENTS AND  
PROPERTY MANAGEMENT TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.1**

**RECOMMENDED BY THE EXECUTIVE MAYOR**

that Council note the progress made with the audit of occupation of Public Rental Municipal Flats.

**(DIRECTOR: HUMAN SETTLEMENTS AND  
PROPERTY MANAGEMENT TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.7****RESOLVED** (nem con)

that Council note the progress made with the audit of occupation of Public Rental Municipal Flats.

**(DIRECTOR: HUMAN SETTLEMENTS AND  
PROPERTY MANAGEMENT TO ACTION)**

**7.8 TRAFFIC CALMING POLICY**

*File number* : 8/1 Engineering Services  
*Compiled by* : Head: Traffic Engineering (Nigell Winter)  
*Report by* : Manager: Transport, Roads and Stormwater (EJ Wentzel)  
*Delegated Authority* : Council

**Strategic intent of item**

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input checked="" type="checkbox"/>
Good Governance	<input type="checkbox"/>

**1. PURPOSE OF REPORT**

To inform Council that the existing Draft Traffic Calming policy as tabled to Council in 2007 has been revised and will be advertised for comment, whereafter a final Traffic Calming Policy will be prepared for Mayco and Council for final approval.

**2. BACKGROUND**

Over the past number of years requests for traffic calming measures were received on a continuous basis. The requests were scrutinized and implemented according to the Draft Traffic Calming policy dated August 1997. The Traffic Engineer was requested to update the policy and submit to this Committee for consideration.

**3. DISCUSSION**

The purpose of this document is to set out the policy for traffic calming for the Stellenbosch Municipality.

The document firstly describes the evaluation procedure to be followed by the Stellenbosch Municipality should it receive requests relating to any traffic problems, i.e. a procedure that commences with a preliminary evaluation and the steps that follow onto a detailed evaluation.

The remainder of the document focuses very specifically on traffic calming and deals with:

- the road hierarchy (from a traffic calming perspective);
- principles for evaluating traffic calming;
- traffic calming techniques;
- warrants.

The **objective** with the introduction of traffic calming measures is to moderate traffic behaviour, through physical and legislative measures, with the aim to reduce the vehicle speeds and/or traffic volumes, thereby improving traffic

safety, and quality of life in the urban environment, but with due regard to mobility and accessibility.

The objectives of this policy document are as follows:

- i) to ensure that traffic calming is part of the overall transport strategy for the area;
- ii) to ensure that traffic is accommodated and applied at the correct road hierarchy level;
- iii) to provide communication channels for the public to participate in the “calming” process;
- iv) to improve the efficiency and safety of the road network without compromising costs;
- v) to minimise the extent of pollution and damage caused by motorised vehicles;
- vi) to protect residential areas and the resident from unwanted through traffic and associated dangers;
- vii) to moderate extraneous traffic behaviour;
- viii) to promote road safety;
- ix) to improve traffic flows; and
- x) to ensure that other low order roads are not negatively impacted through the implementation of specific traffic calming measures.

### **Principles of Evaluating Potential Traffic Calming**

The principle philosophy in evaluating potential traffic calming is to eliminate hazards on minor roads and not later alter traffic characteristics on main roads.

Potential traffic calming should be evaluated and prioritized using the following principles:

#### First order priorities:

1. No traffic calming measures are to be imposed on roads classified as Classes 1, 2 and 3.
2. Traffic calming measures should not be considered :
  - on an ad hoc basis;
  - in addressing other social problems ;
  - where it will be detrimental to road safety or
  - where other traffic engineering or alternative procedures could address the problem.
  - on public transport routes
  - emergence vehicle routes

#### Second order priorities:

3. The implementation of appropriate road signs and road markings should be considered before other traffic calming techniques are proposed.
4. Traffic calming measures must not cause traffic to deviate to other minor order roads.
5. Traffic calming measures should only be considered where :
  - there are inherent safety problems caused by road layout, geometrics, sight distances, etc.;
  - these will contribute directly to safety at schools, community centres, etc. when no other methods are possible;
  - where rat-running is causing serious safety problems.

Compliance's:

- Traffic calming proposals should be considered with the participation of the Ward Councillor in liaison with the Ward Committee and other residents.
- Where possible upgrading of the existing major road network is to be undertaken in the short or medium term.
- Traffic calming should
  - comply with the Warrants stated in this Policy Document,
  - be in accordance with the National Guideline for Traffic Calming

**Traffic Calming Techniques**

There is a variety of traffic calming techniques, having different applications and serving different functions. The following measures are primarily for speed and capacity reduction

i) Planting/Greening

Tree planting should be an essential part of all traffic calming schemes and its use is applicable on all road types. This contributes to visual side friction.

ii) Narrow Carriageways

The narrowing of any carriageway tends to reduce speeds. This also applies to median islands.

iii) Optical Width (Visual Narrowing)

This refers to such measures as tree planting.

iv) Footway Extensions

Footway extensions can be built on all roads of a lower classification than arterial standards wherever there is a surplus carriageway space, at junctions, pedestrian crossings places and bus stops.

v) Shared Surfaces

Shared surfaces (i.e. between vehicles and pedestrians) are suitable to local streets with no through traffic and where traffic flow is below 300 vehicles per hour.

vi) Surface Texture/Type/Colour/Location

Textured surfaces are useful where visual or sensory reinforcement of a situation is required. These measures should not be used on roads where speed limits are higher than 50 km/h.

vii) Synchronization

The synchronization of traffic signals can be used to control speed along such a road but could prove to be detrimental to traffic flow.

viii) Electronic Enforcement

This refers to normal law enforcement.

ix) Priority Management

This refers to the type of control at intersections.

x) Road Markings and Signs

These measures can be used to change lane width thus slowing traffic. Alternatively signs and markings can be used to highlight potentially unsafe conditions for the driver,

xi) Small Corner Radii

The small corner radii are useful at all junctions within residential areas where the speeds of turning movements need to be reduced. Radius design should be appropriate to the classification of roads involved.

xii) Roundabouts

Conventional roundabouts are appropriate for major collectors and arterials where they can reduce accidents and assist traffic flow.

Mini roundabouts should only be used on distributors and minor collectors within residential areas – where they will increase the intersection capacity.

xiii) Carriageway Constrictions

Constrictions are localized measures to reduce the capacity on a road. Constrictions are appropriate for both access streets and mixed priority roads where volumes are less than 500 vph.

xiv) Lateral Shifts in the Carriageway:

- Alternative footway extensions
- Islands and medians in the carriageway
- Alternate angled parking (with permanent features, e.g. planters)

Lateral shifts, which force change in direction and limits the driver's view of the road ahead. These are not suitable for bus routes.

xv) Vertical Shifts in the Carriageway:

These vary according to the severity of the obstacle. i.e. humps, cushions, plateaux (tables) and ramps.

These measures are applicable where excessive speeds on local access streets need to be controlled.

When considering the techniques that can be used it is recommended that the use of Road signs and Markings be investigated prior implementing other traffic calming techniques.



For routes that have been identified as emergency routes, traffic calming measures will not be permitted if the measure will negatively impact on emergency response times. It is therefore suggested that traffic calming measures that will not result in vertical deviation (example; speed hump), be considered.

Where traffic calming measures have already been implemented on emergency routes and these measures result in vertical deviation then the measures should be re-evaluated and where justified replaced with an alternative technique.

#### **Implementation of Traffic Calming Techniques**

The implementation of Traffic Calming proposals is twofold, namely the detailed investigation and design, and the construction of the proposal.

##### Detailed Investigation & Design

Should a request be evaluated and meets the requirements for progression to the detailed investigation and design stage, the project will require further technical input.

This technical input will involve the following:

- A detailed analysis of the traffic patterns, traffic volumes, intersection geometry, intersection levels of service, alternative routes, unintended implementation consequences (eg rat runs) pedestrian and cyclist patterns and environmental aspects of the route.
- A detailed design of the recommended appropriate calming solution, entailing exact location, geometric design, road markings and signage.

#### **Construction of the Proposal**

Once the investigation and the design have been completed the project will then be placed on a priority program for funding, including any ward funding available. It must be emphasized that should the request not meet the technical warrants for traffic calming, then the construction will not be approved notwithstanding the availability of funding from any source.

#### **4. LEGAL IMPLICATION**

Refer to legal comments.

#### **5. FINANCIAL IMPLICATION**

None

#### **6. COMMENTS FROM OTHER RELEVANT DEPARTMENTS**

##### **6.1 DIRECTORATE: PUBLIC SAFETY & COMMUNITY SERVICES (JANINE WALDIS)**

I perused the document and found no further input required, therefore the department supports the draft proposal.

**6.2 DIRECTORATE: STRATEGIC & CORPORATE SERVICES (Snr Legal Advisor EA Williams)**

The National Road Traffic Regulations, 2000 provides for the "free and proper passage of traffic". As such it is incumbent on the Municipality to be cautious when introducing traffic calming measures on the road networks. There is thus the need to develop a policy to ensure a clear and consistent approach is adopted with regard to traffic calming.

Road safety problems within the municipality must be addressed in such a way that sustainable partnerships between the municipality, the business sector and civil society are formed. An action plan must as such be implemented to improve road safety for all users in WCO24. Special attention must be given to vulnerable road users especially scholars.

Though Legislation does not make specific provision for traffic calming, the municipality may implement traffic calming measures which must meet Constitutional scrutiny and legal scrutiny.

**6.3 DIRECTORATE: FINANCIAL SERVICES**

Finance supports the item.

**RECOMMENDED**

- (a) that the revised Traffic Calming Policy, as amended and attached as **APPENDIX 1**, be accepted as a draft policy;
- (b) that the draft Policy be advertised for public input; and
- (c) that the Director: Engineering Services be requested to finalise the draft Traffic Calming Policy after public input and present it to Council for final approval by February 2016.

**(ACTING DIRECTOR: ENGINEERING  
SERVICE TO ACTION)**

**ENGINEERING SERVICES AND HUMAN SETTLEMENTS COMMITTEE MEETING:  
2015-12-01: ITEM 6.1.1****RECOMMENDED**

- (a) that the revised Traffic Calming Policy, as amended and attached as **APPENDIX 1**, be accepted as a draft policy;
- (b) that the draft policy be advertised for public input; and
- (c) that the Director: Engineering Services be requested to finalise the draft Traffic Calming Policy after public input and present it to Council for final approval by February 2016.

**(ACTING DIRECTOR: ENGINEERING  
SERVICE TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.2****RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that the Draft Policy be referred back to allow Administration to incorporate area plans;
- (b) that further consultation with the Ward Committees, Councillors and communities takes place; and
- (c) that the Draft Policy be resubmitted to the Portfolio Committee whereafter same be submitted to Council.

**(ACTING DIRECTOR: ENGINEERING SERVICE TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.8****RESOLVED** (nem con)

- (a) that the revised Traffic Calming Policy, as amended and attached as **APPENDIX 1**, be accepted as a Draft Policy;
- (b) that the Draft Policy be advertised for public input;
- (c) that the Acting Director: Engineering Services be requested to incorporate the public input; and
- (d) that the Draft Policy, with public input, be workshopped, whereafter same be submitted to Council for final approval by April 2016.

**(ACTING DIRECTOR: ENGINEERING SERVICE TO ACTION)**

**7.9 DRAFT POLICY FOR THE MANAGEMENT OF MUNICIPAL AGRICULTURAL LAND***File number* : 7/P/2*Compiled by* : Manager: Local Economic Development*Report by* : Director: Planning and Economic Development*Delegated Authority* : Council**Strategic intent of item**

<i>Preferred investment destination</i>	X
<i>Greenest municipality</i>	
<i>Safest valley</i>	
<i>Dignified Living</i>	X
<i>Good Governance</i>	

**1. PURPOSE OF REPORT**

To obtain inputs from Council regarding the Draft Policy for the Management of Municipal Agricultural Land which will govern the management and allocation of municipal agricultural land based on the principles of sustainable development.

**2. BACKGROUND**

The vision of the third generation Integrated Development Plan (IDP) indicates that Stellenbosch strives to be the "Preferred Investment Destination" and to create a place for "Dignified Living". Agriculture has been identified as one of the key economic sectors through which economic growth and job creation can be achieved.

Last year, Council approved the Draft Policy on the Management of Stellenbosch Municipality's Immovable Property (COUNCIL MEETING: 2014-09-02) on condition that a policy is developed for the management of municipal agricultural land.

To this end, an Ad-Hoc Committee was established comprising of representation from all political parties to devise recommendations on the way forward for the management of municipal agricultural land. Consequently, the Ad-Hoc Committee in collaboration with the administration (Property and LED Department) undertook to work together to implement the Council decision.

The purpose of this item is therefore to solicit comments from the Mayoral Committee regarding the policy for the management of municipal agricultural land and provide recommendations for the way forward.

**3. DISCUSSION**

In May 2014 the Draft Policy on Immovable Property was tabled and approved by Council. The decision was taken by Council that parallel to the process

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dealing with Immovable Property (overarching policy), an Agricultural /Land Reform Policy should be developed. The overarching policy was advertised for public comments which were incorporated into the draft for final approval from Council. However, the overarching policy will only be approved if it includes an Agricultural Land Reform Policy.

To this end, the Property Management and LED Department decided to work collaboratively on the development of the agricultural policy with the Ad-Hoc Committee providing strategic input including critical issues which need to be taken into consideration and playing an oversight role. In execution of the Council decision, the two departments agreed on the scope of work to be undertaken (**See APPENDIX 1**). It was decided that because of the complexity of such a policy, it would be better if such a policy is developed by competent, experienced service providers. To this end, at the same time in which the Ad-Hoc Committee was established, the administration appointed a group of experienced service providers through the supply chain management process to undertake the development of the policy.

Upon an extensive consultation process with the Ad-Hoc Committee, organised agriculture, government representatives and small farmers, a draft policy was developed based on the scope of work provided. In honouring the scope of work and given the complexity of such a contentious issue, drafting this policy was no easy task. However, the policy provides a balanced approach to guide the municipality in executing its responsibility to manage its property (agricultural land) in a manner that ensures that it achieves the overall developmental objectives of Council.

#### **4. INPUTS BY OTHER DEPARTMENTS / COMMENTS BY RELEVANT DEPARTMENTS**

The draft policy was circulated to the relevant departments (Property, Legal, Spatial Planning, Land Use Management, Community Services, Financial Services, Transport and Traffic Services) for comments on 20 October 2015, however to date, no comments were received.

#### **5. CONCLUSION**

The Municipality is being pro-active in making land available for the purposes of land reform and ensuring that Council's objectives as the preferred investment destination is achieved.

#### **RECOMMENDED**

- (a) that the Draft Agricultural Land Reform Policy be adopted, in principle; and
- (b) that the said Policy be advertised for public comment, whereafter same be re-submitted to Council for consideration and conclusion.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2015-12-01: ITEM 5.1.1****RECOMMENDED**

- (a) that the Draft Agricultural Land Reform Policy be adopted, in principle; and
- (b) that the said Policy be advertised for public comment, whereafter same be re-submitted to Council for consideration and conclusion.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.3****RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that the Draft Agricultural Land Reform Policy be adopted, in principle;
- (b) that the legal inputs be obtained before this Policy go for public comment; and
- (c) that the said Policy be advertised for public comment, whereafter same be re-submitted through the committee system to Council for consideration and conclusion.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.9**

During deliberations on the matter, the Speaker undertook to allow more time for debate on the Policy in the next Council meeting. On a request by Councillor AT van der Walt to rectify mistakes in the Policy, the Speaker reiterated that he will not allow further debate on the Policy, but urged the Councillor to submit his inputs to the Acting Municipal Manager for inclusion in Mayco and for further debate in the Council meeting at the end of February 2016.

**RESOLVED** (nem con)

- (a) that the Draft Agricultural Land Reform Policy be adopted, in principle;
- (b) that the legal inputs be obtained before this Policy go for public comment; and
- (c) that the said Policy be advertised for public comment, whereafter same be re-submitted via Mayco to Council by end February 2016 for consideration and conclusion.

**(DIRECTOR: ENGINEERING SERVICES AND  
HUMAN SETTLEMENTS TO ACTION)**

- 7.10 THE PROPOSED AMENDMENT OF THE BY-LAW FOR THE SUPERVISION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER PN 166/1998 AS WELL AS THE BY-LAW FOR THE DECLARATION OF PLACES WHERE THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR AND HAWKER IS PROHIBITED (PN 189/1998) (APPLICABLE ON THE STELLENBOSCH TOWN) AND THE BY-LAW FOR THE SUPERVISION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER PN 386/1996 AND THE BY-LAW FOR THE DECLARATION OF PLACES WHERE THE CARRYING ON OF THE BUSINESS OF STREET VENDOR, PEDLAR OR HAWKER IS PROHIBITED PN 5127 (APPLICABLE ON FRANSCHHOEK TOWN)**

*File number* : 1/3/1/10/1x1/3/1/10/2  
*Report by* : Director: Planning and Development  
*Compiled by* : Manager: Local Economic Development  
*Delegated Authority* : Council

***Strategic intent of item***

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input type="checkbox"/>

**1. PURPOSE OF REPORT**

To obtain approval from Council to advertise the proposed intention of Council to amend the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 and the proposed intention to proclaim the additional sites in terms of the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar and Hawker is prohibited (PN 189/1998) which is applicable to Stellenbosch Town and pursuant thereto to amend same accordingly after the relevant comments are considered.

Furthermore that the proposed intention of Council to amend the By-Law for the Supervision and Control of the Carrying on of Business of Street Vendor, Pedlar or Hawker (PN 386/1996) and the proposed intention to proclaim certain additional sites in terms of the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar or Hawker is Prohibited (PN 5127/1997) which is applicable on Franschhoek.

**2. BACKGROUND**

The informal trading sites in Stellenbosch (pre 2000 dispensation) is regulated by the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 and Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor,

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Pedlar and Hawker is prohibited, copies of which are attached hereto as **APPENDICES 1 AND 2.**

Furthermore informal trading sites in Franschoek (pre 2000 dispensation) is regulated by the By-law for the Carrying on of Business of Street Vendor, Pedlar or Hawker (PN 386/1996) and the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar or Hawker is Prohibited (PN 5127/1997), (the Notices and By-laws are collectively referred to as "the By-laws") copies of which is attached annexed hereto as **APPENDICES 3 AND 4.**The above-mentioned request for approval is an interim measure to remove the restrictive clauses in the current By-laws in order to create an enabling environment and to include additional sites for informal trading within Stellenbosch and Franschoek while an integrated policy framework and by-law for informal trading for the entire municipal area been developed

The proclaimed sites have been disproportionate to the population growth in the Stellenbosch WC024 municipal area. Areas such as *inter alia* Pniel, Jamestown, Klappmuts, Languedoc had unfortunately not been addressed, by the By-laws alluded to above.

Furthermore Site 6 and 7 of the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 read with the Notice/Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar and Hawker is prohibited (PN 189/1998) was de-proclaimed by Council on 25 October 2012. The de-proclamation was advertised on or about 13 January 2013 which left approximately 17 informal traders without an income since 25 January 2013.

In 2011 the informal sector created 11, 2 % employment of the total employment in the Stellenbosch Municipal Area. Consequently the Stellenbosch Municipality recognizes the contribution of this sector to the local economy and intends to seize the opportunity to further encourage the development of new entrepreneurs while simultaneously seeking to offer growth opportunities for existing traders.

In a study of Africa's rapidly growing cities, markets and street vendors were found to be major sources of providing income to poor urban households. It is recognized that Informal Trading forms a vital part of any emerging economy.

Against this reality a review of the informal trading sites was embarked upon to accommodate new additional sites. It is important for Council to consider the proposed amendment of the above-mentioned By-laws.

### 3. DISCUSSION

South Africa, street trading is largely governed and regulated by municipal by-laws and policies. The **Businesses Act 72 of 1991 ("Businesses Act")** together with the **Businesses Amendment Act 186 of 1993**, give municipalities the mandate to adopt and implement such by-laws. Municipal by-laws must ultimately be in line with the Constitution of the Republic of South Africa Act 108 of 1996 ("Constitution") and applicable legislation which gives effect to it e.g. the Local Government: Municipal Systems Act 32 of 2000 ("the Systems Act").

The Constitution sets out the objectives, developmental duties and powers and functions of local government, and provides the authority for local government to develop by-laws in order to administer street trading. Section



152(1) of the Constitution sets out that the objectives of local government, which include providing democratic and accountable government for local communities, promoting social and economic development and encouraging the involvement of communities and community organisations in the matters of local government.

Section 153 of the Constitution provides that a municipality must structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community.

**Section 156** of the Constitution relates to the powers and functions of municipalities and states that a municipality has executive authority in respect of, and the right to administer, certain local government matters including street trading (which is listed in Part B of Schedule 5). A Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer. Municipalities thus have the mandate to develop and adopt *inter alia* street trading by-laws. Section 162 of the Constitution provides that a municipal by-law may be enforced only after it has been published in the official gazette of the relevant province which must be accessible to the public. These provisions are given effect to by the Systems Act, as alluded to below.

Section 22 of the Constitution relates to freedom of trade and states that every citizen has the right to choose their trade, occupation or profession freely”, however this is qualified by the clause that states “the practice of a trade, occupation or profession may be regulated by law.” Therefore, while the freedom of trade is extended to informal trading, it can be regulated.

Section 12(3) of the Systems Act provides further that no by-laws may be passed by a municipal council unless-

- (a) all the members of the council have been given reasonable notice; and
- (b) the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.

**Section 13** of the Systems Act provides that a by-law passed by a municipal council-

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

Section 6A(1)(a) of the Businesses Act provides that a local authority may, with the approval of the Administrator, make by-laws regarding-

- (i) the supervision and control of the carrying on of the business of street vendor, pedlar or hawker;
- (ii) the restriction of the carrying on of such business-
  - (aa) ...

- (bb) On a verge as defined in section 1 of the Road traffic Act, 1989 (Act No. 29 of 1989), contiguous to-
  - (A) a building belonging to, or occupied solely by, the State or the local authority concerned;
  - (B) a church or other place of worship;
  - (C) a building declared to be a national monument under the National Monuments Act, 1969 (Act No 28 of 1969); (cc) in a area declared or to be declared under subsection (2)(a);

Section 6(2)(a) of the Businesses Act provides that a local authority may, subject to the provision of paragraph (b) up to and including (j), by resolution declare any place in its area of jurisdiction to be an area in which the carrying on of the business of street vendors, pedlar or hawker may be restricted or prohibited.

- (b) A motion that steps be taken to declare an area under this subsection shall be dealt with at a meeting of the local authority;
- (c) Before a motion is adopted, the local authority shall have regard to the effect of the presence of a large number of street vendors, pedlars or hawkers in that area and shall consider whether-
  - (i) more effective supervision or control in that area, including negotiations with any person carrying on in that area the business of street vendor, pedlar or hawker or their representatives, will make such declaration unnecessary; and
  - (ii) the intended restriction or prohibition will drive out of business a substantial number of street vendors, pedlars or hawkers;
- (d) If such a motion is adopted the local authority shall cause a plan to be prepared showing the position of the area concerned;
- (e) On completion of the said plan the local authority shall cause to be published in a newspaper circulating in the area of jurisdiction of that local authority, a notice setting out its intention to effect the restriction or prohibition concerned as well as its reasons therefore, stating that the said plan is open for inspection at a place and during the hours mentioned in the notice and calling upon any person who has any objection to the intended restriction or prohibition to submit in writing to the local authority within a period mentioned in the notice, which period shall not be shorter than 21 days following the day upon which the notice appeared in the newspaper, such objection or objections;
- (f) The local authority shall consider every objection submitted in terms of paragraph (e) or (f) and may thereafter resolve on the declaration of the area concerned;
- (h) The local authority shall cause the declaration to be published in the Official Gazette, and such declaration shall take effect on the date of such publication;
- (i) The local authority shall forthwith after the publication referred to in paragraph (h), submit to the Administrator a copy of the plan of the

area, the notice published in the newspaper in terms of paragraph (e), the notice published in the Official Gazette in terms of paragraph (h) and all objections received, together with its comments thereon;

- (j) The Administrator may within 60 days after such submission and after consultation with the local authority concerned, by notice in the Official Gazette amend or revoke the declaration concerned;

Section 6(3) of the Businesses Act provides that notwithstanding the provision of any other law, a local authority may-

- (b)(i) set apart by resolution and demarcate stands or areas for the purpose of the carrying on of the business of street vendor, pedlar or hawker on any public road the ownership or management of which is vested in the local authority or on any other property in the occupation and under the control of the local authority; and
  - (ii) in like manner extend, reduce or disestablish any such stand or area.
- (c) by agreement let or otherwise allocate any stand or area demarcated under paragraph (b)(i) or otherwise established for such purpose.

The Director: Strategic and Corporate Services under delegation 56(18) of the Stellenbosch Municipality System of Delegation is delegated to draft proposed by-laws and amendments to by-laws after departments have obtained the approval of the relevant portfolio committee, prior to necessary authority being obtained from the Executive Mayor's office to proceed with the legislative process.

The By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) was proclaimed on or about 20 March 1998 while the Notice/ Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar and Hawker is prohibited (PN 189/1998) (Stellenbosch) was proclaimed on or about 9 April 1998. Furthermore the By-law for the Carrying on of Business of Street Vendor, Pedlar or Hawker (PN 386/1996) (Franschhoek) was proclaimed on or about 13 September 1996 and the Notice/Declaration of Places where the Carrying on of the Business of Street Vendor, Pedlar or Hawker is Prohibited (PN 5127/1997) (Franschhoek) was proclaimed on or about 11 April 1997.

These By-laws were already promulgated during the 1990's in terms of the Businesses Act, 71 of 1991 and are currently in operation in the municipal areas of the disestablish Stellenbosch Municipal area excluding Pniel and the rural areas.

Clause 2 of the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) provides that a person shall not carry on the business of street vendor, pedlar or hawker-

- (a) ...
- (b) On a verge contiguous to –

- (i) a building belonging to, or occupied solely by, the State or the local authority;
- (ii) a church or other place of worship, or
- (iii) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).

In terms of the abovementioned legislative framework, any proposed site on a verge continuous to a building belonging to, or occupied solely by, the State or the local authority, a church or a national monument (the Rhenish Church in Stellenbosch and the NG Church in Franschoek) may not be utilized as a site for informal trading. Bird, Blom, and Market Street in Stellenbosch as well as Le Roux, Mark (Groendal), Lambrecht, Huguenot and Church Street in Franschoek are on a verge continuous to building/s belonging to, or occupied solely by, the State or the local authority, a church or place of worship and a building declared to be a national monument. In light of the aforesaid any proposed sites in the vicinity of these streets would be on the verge of a street contiguous to a building belonging to, or occupied solely by, the State or the local authority, national monument and to a church. In light of the aforesaid, the By-laws as alluded to above need to be amended to remove the restrictive clauses (b)(i)(ii)(iii) alluded above in order to accommodate the proposed proclamation of the additional sites. The intention is to proclaim the proposed additional trading sites for the first time as trading sites as listed hereunder, except for those informal traders currently trading in Franschoek next to the NG Church and no existing Street Vendor, Pedlar or Hawker will be affected by the proposed proclamation. The sites listed hereunder are additions to those sites that already exist.

The following proposed sites were identified for possible informal trading between approximately 09h00 until 18h00 – (See **APPENDIX 5** for more information. Please be advised that further comments on the proposed sites will be solicited internally and externally.)

1. **Stellenbosch:** A portion of the Braak opposite Nedbank along Bird Street;
2. **Stellenbosch:** A portion of the Braak along Blom Street
3. **Stellenbosch:** A site opposite the Telkom Building, next to the Magistrate Court;
4. **Stellenbosch:** A site on the corner of Andringa and Plein Street, next to the parking of the Town Hall;
5. **Stellenbosch:** A site at the corner of First National Bank in Plein Street;
6. **Stellenbosch:** An open space along Bird Street near the bridge in the direction of Kayamandi;
7. **Kayamandi:** The formalizing of informal trading along both Masithandani and Rand Street (a) opposite the KETC, (b) across the old municipal building and (c) piece of land near Watergang)
8. **Klapmuts:** A site in Merchant Street next to the proposed taxi rank;
9. **Pniel:** The parking site next to the municipal offices in Pniel;

- 
10. **Kylemore:** A portion of land at the entrance of Kylemore
  11. **Kylemore:** Erf 11 next to the Clinic in Skool Street;
  12. **Franschhoek:** Pavement along Church Street next to the Municipal Offices;
  13. **Franschhoek:** The park at the entrance of Groendal;
  14. **Idas Valley:** The portion of land at the corner of Helshoogte and Rustenburg Road.
  15. **Cloetesville:** A portion of the parking area next to the Filling Station in Lang Street

The By-law as alluded to is applicable to the proposed sites listed under 1 to 5 above and clause 2(b)(i) to (iii) of the By-law should be deleted prior to proclaiming the abovementioned sites under 1 to 4 as sites identified for possible informal trading. The sites listed under 5 to 6 above are however not affected by clause 2(b)(i) to (iii) of the By-law.

#### 4. COMMENTS BY RELEVANT DEPARTMENTS

##### 4.1 Financial Services

The recommendations are supported.

##### 4.2 Strategic and Corporate Services

###### Legal Department

The Legal Department support the proposal listed under number 2 to 4 of this item, except for the proposal under number 1 thereof relating to a portion of the Braak along Blom Street in Stellenbosch. The propose site was one of two sites (previously site 6 and 7) of the By-law which was de-proclaimed on 25 October 2012 by Council after a duly public participation process was followed.

Various complaints were received from *inter alia* the Rhenish Church regarding the informal traders who occupied site 6 which were duly considered by the Municipal Council. The previous site 6 is situated next to the Rhenish Church in Bird Street while site 7 is situated in front of the Rhenish Church.

We are of the view that the proclamation of previous site 7 cannot be supported by this department as this site is situated in front of the Rhenish Church and we are of the view that the presence of informal traders will have a negative effect on the church and its operation. Blom Street is also a very short street and the presence of informal traders in Blom Street might also possibly affect traffic flow. Furthermore the Rhenish Church might perceive the re-proclamation of site 7 with possibly racial connotation. In this regard we concur with the view express by the Law Enforcement Department.

Be that as it may, we suggest that a portion of the Braak opposite Nedbank at Bird Street or a portion of the Braak opposite the "Kruit Huis" be considered as a site which should be utilized for this purpose. This portion is situated approximately between the two churches and would not have a negative

effect on the churches and its operations as the propose site in front of the Rhenish Church or in Blom Street.

Alternatively the pedestrian footpath in the middle of the Braak is considered for possible sites for purposes of informal trading. The informal traders craft are largely intended for the tourist market. The busses which convey these tourist parks opposite the "Kruit Huis" and these sites would be visible and accessible for tourist whilst absolute minimum impact on both churches and the general public.

The propose site/s are temporary in nature until the finalization of a By-law and policy and will not be permanent. Furthermore a condition should be incorporated should this proposal be considered or approved that the Braak is also utilized for other events, which would result that these sites would for certain periods not be available for informal trading.

#### 4.2 Planning & Development

##### Department Spatial Planning, Heritage and Environment

1. Stellenbosch: A portion of the Braak along Blom Street

This department supports the above area as an interim measure until such time the integrated Informal Trading policy and by-law have been approved.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

This department supports the above area as an interim measure until such time the integrated Informal Trading policy and by-law have been approved.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

This department supports the site identified to be used for informal trading.

4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

This department supports the site identified to be used for informal trading.

##### Land Use Management

Comments on the proposed amendment of the bylaw for the supervision of street vendor, pedlar or hawker PN 166/1998 as well as the bylaw for the declaration of places where the carrying on of the business of street vendor, pedlar and hawker is prohibited (PN 189/1998)

1. Stellenbosch: A portion of the Braak along Blom Street

No objection subject that only arts and crafts being sold

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

No objection subject that only arts and crafts being sold

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

No objection

4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

No objection

#### 4.3 **Engineering Services**

Comments from Transport, Roads and Stormwater section, including Traffic Engineering:

1. Stellenbosch: A portion of the Braak along Blom Street

Location is supported subjected to the following conditions;

1. Structures to be erected at least 2m behind the existing kerbline
2. Structures must not obscure any traffic signs.
3. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements.
4. Structures to be erected at least 1m away from existing municipal services such as manholes, poles etc.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

Location is supported subjected to the following conditions;

1. Structures to be erected at least 2m behind the existing kerbline.
2. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements. Sidewalk space is also required in front of buildings. A site inspection can identify the side walk space required.
3. Side walk space may not be used for informal trading.
4. Structures must not obscure any traffic signs.
5. Structures to be erected at least 1m away from existing municipal services such as manholes, poles ect.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

Location is supported subjected to the following conditions;

1. Site forms part of future Bird Street widening, approval will be temporary and will be withdrawn once road construction commences.
2. This space is also currently used as an informal taxi rank. Informal trading should not interfere with taxi operations. As a result of the taxi

operations the safety of informal traders must be taken into account when determining the final position of stalls and other structures.

3. Structures to be erected at least 1.5m behind the existing kerblines.
  4. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements.
  5. Structures must not obscure any traffic signs
  6. Structures to be erected at least 1m away from existing municipal services such as manholes, poles ect.
4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

Location is supported subjected to the following conditions;

1. Structures to be erected at least 1.5m behind the existing kerblines.
2. Informal trading structures and activities are not to interfere with sidewalk spaces, or pedestrian movements.
3. This space is also currently used as an informal taxi rank. Informal trading should not interfere with taxi operations. As a result of the taxi operations the safety of informal traders must be taken into account when determining the final position of stalls and other structures.
4. Structures must not obscure any traffic signs
5. Structures to be erected at least 1m away from existing municipal services such as manholes, poles etc.

#### 4.4 Community and Protection Services

##### Law Enforcement

1. Stellenbosch: A portion of the Braak along Blom Street

This department does not support the above area as an interim measure as the proposed site will be directly in front of Die Rynse Kerk negatively impacting on church services especially with funerals on Saturdays. This site is one of the two sites which were recently de-proclaimed as a result of complaints received over years from the church.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

This department supports the above area as an interim measure until such time the integrated Informal Trading policy and by-law have been approved.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

This department supports the site identified to be used for informal trading.



4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

This department supports the site identified to be used for informal trading.

#### **Traffic Services**

1. Stellenbosch: A portion of the Braak along Blom Street

The department supports location only as interim measure until new sites are identified and By-law revised due to current lack of parking in general Stellenbosch CBD.

2. Stellenbosch: A site opposite the Telkom Building next to the Magistrate Court

No objection and agree to requirements as set by Engineering Department.

3. Stellenbosch: An open space along Bird Street near the bridge in the direction of Kayamandi

No objection and agree to requirements as set by Engineering Department and in addition propose investigation to traffic calming measures with an intended increase to vehicular traffic at proposed site.

4. Kayamandi: The formalizing of informal trading along both Masithandani Street and Rand Street

No objection and agree to requirements as set by Engineering Department.

#### **RECOMMENDED**

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker; and
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

#### **SPECIAL PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE MEETING: 2013-11-12: ITEM 6.1.2**

During deliberations the DA requested a caucus, which the Chairperson allowed.

After the meeting resumed, it was

**RECOMMENDED**

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker;
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council;
- (c) that the amendment to the various By-laws and all trading sites except the portion of the Braak along Blom Street, be advertised for public and internal comment whereafter same be re-submitted to Council; and
- (d) that the Beyers alley in the CBD (Eikestad Mall) also be included in partnership with land owners.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2013-11-27: ITEM 5.1.5****RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Walker;
- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council; and
- (c) that the amendment to the various By-laws and all trading sites except the portion of Die Braak along Blom Street, be advertised for public and internal comment whereafter same be re-submitted to Council; and
- (d) that the Beyers alley in the CBD (Eikestad Mall) also be included in partnership with land owners.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**17<sup>TH</sup> COUNCIL MEETING: 2014-01-16: ITEM 7.7****RESOLVED (nem con)**

- (a) that Council support the initiative to amend the By-laws for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Walker;

- (b) that the decision to amend the above-mentioned By-laws as well as the proposed proclamation of the sites attached be advertised for public comment (internally and externally), before a final decision is made by Council;
- (c) that the amendment to the various By-laws and all trading sites except the portion of Die Braak along Blom Street, be advertised for public and internal comment whereafter same be re-submitted to Council; and
- (d) that the Beyers alley in the CBD (Eikestad Mall) also be included in partnership with land owners.

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**FUTHER COMMENTS BY THE DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT**

Subsequent to the resolution as contemplated above further comments by the relevant departments (**APPENDIX 6**) and from the broader public (**APPENDIX 7**), as well a summary (**APPENDIX 8**), are attached herewith.

The additional sites proposed for approval will result in approximately 106 trading opportunities.

**RECOMMENDED**

- (a) that Council approve the amendments to the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) by removing the following restrictive clauses:

On a verge contiguous to –

- (iv) a building belonging to, or occupied solely by, the State or the local authority;
  - (v) a church or other place of worship, or
  - (vi) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).
- (b) that any concerns or inadequacies regarding the identification of proposed sites be addressed in the single Informal Trading By-law for the WCO24 which is now in its conceptual phase.
  - (c) that, based on the comments received from the public as well as the internal departmental comments provided, the following proposed additional sites be proclaimed as informal trading areas:

<b>Town/Township</b>	<b>Specific locality</b>
Stellenbosch	Site opposite Telkom Building next to the Magistrate Court
Kayamandi	1. Open space along Bird Street near the bridge in the direction of Kayamandi 2. Site opposite the old municipal building 3. A piece of land near Watergang; and

	4. Informal trading site opposite the KETC
Pniel	Parking site next to the municipal offices
Kylemore	Erf 11 next to clinic in School Street
Franschhoek	5. Pavement along Church Street next to the Municipal Offices 6. The park at the entrance to Groendal
Ida's Valley	Portion of land at the corner of New Helshoogte and Rustenburg Road
Cloetesville	A portion of the parking area next to the Filling Station in Long Street

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2015-12-01: ITEM 5.1.2**

**RECOMMENDED** (majority vote with 3 abstentions)

- (a) that Council approve the amendments to the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) by removing the following restrictive clauses:

On a verge contiguous to –

- (vii) a building belonging to, or occupied solely by, the State or the local authority;
- (viii) a church or other place of worship, or
- (ix) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).
- (b) that any concerns or inadequacies regarding the identification of proposed sites be addressed in the single Informal Trading By-law for the WCO24 which is now in its conceptual phase.
- (c) that, based on the comments received from the public as well as the internal departmental comments provided, the following proposed additional sites be proclaimed as informal trading areas:

<b>Town/Township</b>	<b>Specific locality</b>
Stellenbosch	Site opposite Telkom Building next to the Magistrate Court
Kayamandi	1. Open space along Bird Street near the bridge in the direction of Kayamandi 2. Site opposite the old municipal building 3. A piece of land near Watergang; and 4. Informal trading site opposite the KETC
Pniel	Parking site next to the municipal offices
Kylemore	Erf 11 next to clinic in School Street
Franschhoek	5. Pavement along Church Street next to the Municipal Offices 6. The park at the entrance to Groendal
Ida's Valley	Portion of land at the corner of New Helshoogte and Rustenburg Road
Cloetesville	A portion of the parking area next to the Filling Station in Long Street

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

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 5.1.4****RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that Council approve the amendments to the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) by removing the following restrictive clauses:

On a verge contiguous to –

- (i) a building belonging to, or occupied solely by, the State or the local authority;
  - (ii) a church or other place of worship, or
  - (iii) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).
- (b) that any concerns or inadequacies regarding the identification of proposed sites be addressed in the single Informal Trading By-law for the WCO24 which is now in its conceptual phase;
- (c) that, based on the comments received from the public as well as the internal departmental comments provided, the following proposed additional sites be proclaimed as informal trading areas:

<b>Town/Township</b>	<b>Specific locality</b>
Stellenbosch	Site opposite Telkom Building next to the Magistrate Court
Kayamandi	1. Open space along Bird Street near the bridge in the direction of Kayamandi 2. Site opposite the old municipal building 3. A piece of land near Watergang; and 4. Informal trading site opposite the KETC
Pniel	Parking site next to the municipal offices
Kylemore	Erf 11 next to clinic in School Street
Franschhoek	5. Pavement along Church Street next to the Municipal Offices 6. The park at the entrance to Groendal
Ida's Valley	Portion of land at the corner of New Helshoogte and Rustenburg Road
Cloetesville	A portion of the parking area next to the Filling Station in Long Street

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.10**

During deliberations on the matter, Councillor F Adams called the Deputy Executive Mayor and his Ward Committee racists and accused an official of receiving benefits through certain development projects. Councillor Q Smit called a Point of Order and requested that Councillor F Adams withdraw his statement because it is in direct contravention of the Rules of Order and the Code of Conduct for Councillors. The Speaker instructed Councillor Adams to withdraw his remark and to only deal with the issues at hand. Despite repeated cautions from the Speaker, Cllr F Adams continued with interjections and refused to withdraw his statement, whereupon the Speaker ordered Councillor F Adams to leave the Chamber (at 19:22).

**RESOLVED** (majority vote)

- (a) that Council approve the amendments to the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 166/1998 (Stellenbosch) and the By-law for the Supervision and Control of the Carrying on of the Business of Street Vendor, Pedlar or Hawker PN 386/1996 (Franschhoek) by removing the following restrictive clauses:

On a verge contiguous to –

- (i) a building belonging to, or occupied solely by, the State or the local authority;
  - (ii) a church or other place of worship, or
  - (iii) a building declared to be a national monument under the National Monuments Act, 1969 (Act 28 of 1969).
- (b) that any concerns or inadequacies regarding the identification of proposed sites be addressed in the single Informal Trading By-law for the WCO24 which is now in its conceptual phase;
- (c) that, based on the comments received from the public as well as the internal departmental comments provided, the following proposed additional sites be proclaimed as informal trading areas:

Town/Township	Specific locality
Stellenbosch	Site opposite Telkom Building next to the Magistrate Court
Kayamandi	1. Open space along Bird Street near the bridge in the direction of Kayamandi 2. Site opposite the old municipal building 3. A piece of land near Watergang; and 4. Informal trading site opposite the KETC
Pniel	Parking site next to the municipal offices
Kylemore	Erf 11 next to clinic in School Street
Franschhoek	5. Pavement along Church Street next to the Municipal Offices 6. The park at the entrance to Groendal
Ida's Valley	Portion of land at the corner of New Helshoogte and Rustenburg Road
Cloetesville	A portion of the parking area next to the Filling Station in Long Street

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

*Councillors JA Davids; DA Hendrickse; S Jooste (Ms); C Moses (Ms); N Mananga-Gugushe (Ms); P Mntumni (Ms); RS Nalumango (Ms); MM Ngcofe; N Ntsunguzi (Ms); L Ronoti; P Sitshoti (Ms); LN Siwakamisa (Ms); AT van der Walt and M Wanana.*

**(DIRECTOR: PLANNING AND ECONOMIC  
DEVELOPMENT TO ACTION)**

**7.11 EVENTS BY-LAW**

*File number* : 7/P/5

*Compiled by* : Director: Community and Protection Services

*Report by* : Manager: Events & Fleet Management

*Delegated Authority* : Council

**Strategic intent of item**

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input type="checkbox"/>

**1. PURPOSE OF REPORT**

To submit the Events By-Law to Council for approval.

**2. BACKGROUND**

Stellenbosch is known for hosting major local, national and international events. The Municipality plays an important role in: the regulations of events, partnerships with events organized in the WC024, events organization, facilitation and the provision of services at events. Currently, events are regulated by the Events Act of 2010 and is applicable to events which accommodate more than 2000 people. There is a need for Stellenbosch Municipality to have its own Events By-Law. This will make it possible to set clear guidelines and regulations for events not covered under the Events Act. The By-Law will also set clear timeframes for event applications depending on the magnitude of the event.

**3. CONSTITUTIONAL AND POLICY IMPLICATIONS**

- 3.1 Section 156(2) and (5) of the Constitution provides that a municipality may make and administer By-laws for the effective administration of the matters which it has the right to administer, and to exercise any power concerning a matter reasonably necessary for, or incidental to, the effective performance of its schedule 4B and 5B functions. Schedule 4B of the Constitution lists Local Tourism as a local government function.
- 3.2 In terms of Section 160(2) of the Constitution, the passing of By-laws may not be delegated. Section 160(2) of the Constitution of South Africa as read with Section 12 of the Systems Act empowers a municipal council to pass by-laws. In terms of Section 13 of the Systems Act a by-law takes effect when published in the Provincial Gazette.
- 3.3. As part of the prescribed legislative process the adoption of the Municipality's by-laws, the following process flow applies:-

- 
- (a) serve before Portfolio Committee;
  - (b) serve before MAYCO;
  - (c) serve before the Council;
  - (d) be advertised in the press for public comments;
  - (e) be open for inspection to the public at all municipal offices and libraries;
  - (f) re-submit to Mayco and the Council for final adoption.

#### 4. DISCUSSION

The Draft Events By-Law and proposed fine list are attached as **APPENDICES 1** and **2**. It should be noted that the proposed fine list will also have to be endorsed and approved by the local magistrate after the promulgation of the By-law. The schedules to the Events By-Law are attached as **APPENDICES 3** and **4**. The department is in process to develop an Events Policy which will set clear guidelines for the administration in terms of process.

The Draft Events By-law makes provision for the following:

- a) that the requisite approval be obtained to host an event subject to certain requirements and conditions;
- b) provision is made for the safeguarding of the event and environmental health officers
- d) to make further provisions relating to decisions on events;
- e) to provide that a compliance notice is to be issued by an authorised official to provide for the immediate stoppage of non-permitted events and events that are non-compliant with permit conditions;
- g) to provide clear consequences for an offending event organiser;
- h) to provide that the event organiser must provide evidence to the Municipality regarding appropriate indemnity cover and public liability insurance;
- i) to provide that the Municipality shall not be liable for any costs, including any damage or loss incurred or suffered as a result of an event; to provide for the mitigation of damage to Municipality's property;
- j) to amend the provisions relating to Offences and Penalties; and to provide for matters connected therewith.

#### 5. LEGAL IMPLICATION

In considering the Events By-law, the Council will ensure that it creates mutually beneficial outcomes for Stellenbosch residents, businesses and visitors by using the platforms created by events to contribute to Stellenbosch's growth, development and inclusivity.

The Events By-law will assist, guide and provide the regulatory framework for the municipality in managing event related activities in an efficient and effective manner thereby providing clarity to all role players and stakeholders.



It will furthermore, create an enabling mechanism for new approaches to event initiatives.

Furthermore, in considering the By-law, the council would ensure that it becomes a town for great events for visitors to the jurisdiction/ WCO24 and the events industry, by creating stability in the municipality's events calendar and clearly defining processes and systems that support events.

**6. FINANCIAL IMPLICATION**

Finance supports the Events By-law.

**RECOMMENDED**

- (a) that Council consider the adoption and approval of the draft Events By-Law and proposed fines list; and
- (d) that the proposed By-law be duly advertised for public comment and be re-submitted together with any comment/objections by the public for final approval and adoption by Council.

**(DIRECTOR: COMMUNITY AND PROTECTION  
SERVICES TO ACTION)**

**COMMUNITY AND PROTECTION SERVICES COMMITTEE: 2015-06-10: ITEM 5.1.1**

**RECOMMENDED**

- (a) that Council consider the adoption and approval of the draft Events By-Law and proposed fines list; and
- (b) that the proposed By-law be duly advertised for public comment and be re-submitted together with any comment/objections by the public for final approval and adoption by Council.

**(DIRECTOR: COMMUNITY AND PROTECTION  
SERVICES TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2015-06-17: ITEM 5.1.10**

**RESOLVED (nem con)**

that a comparative analysis be conducted with National Legislation regarding timeframes in approving events and that this additional information be submitted to Council.

**(DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)**

**RECOMMENDED BY EXECUTIVE MAYOR**

- (a) that Council consider the adoption and approval of the draft Events By-Law and proposed fines list; and
- (b) that the proposed By-law be duly advertised for public comment and be re-submitted together with any comment/objections by the public for final approval and adoption by Council.

**(DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)****FURTHER COMMENTS BY DEPARTMENT**

In terms of Section 6 of the Events Act, Act No.2 of 2010 an event's organiser must, at least 6 months before the start of -

- 6 (1) (a) *A calendar year for a specific sport, recreational, religious, cultural, organisation or similar activity, or*
- (b) *A season, in the case of a seasonal sport, recreational, religious, cultural, organisational or similar activity, submit an annual schedule of events to the National Commissioner.*
- (2) *The schedule of events, referred to in subsection (1) or (3), must contain –*
  - (a) *The prescribed information; and*
  - (b) *Sufficient particulars of the planned events, to enable the National Commissioner to make a categorisation of the safety and security risk association with each event contained in the schedule.*
- (3) *Where an event –*
  - (a) *cannot, by virtue of its unforeseen nature, be planned to fall within the schedule of event referred to in subsection (1); and*
  - (b) *is scheduled to take place within the six months contemplated in that subsection or during the calendar year or season, the event organiser must upon initiating plans for the event forthwith submit the schedule for that event to enable the National Commissioner to make a risk categorisation.*

By implication it means that events that caters for more than 2000 people Section 6 of the Events Act, Act No.2 of 2010 applies. The Events By-Law as well as the time frames has been written taking Section 6 of the Events Act into consideration. Events that cater for less than 2000 people will be considered in terms of the Events By-Law as well as the time frames attached to it.

It should also be noted that a SOP was developed to specifically deal with events applications and the time frames as listed for small and medium events are the minimum periods the department stipulates to effectively deal with event applications.

**(DIRECTOR: COMMUNITY AND PROTECTION  
SERVICES TO ACTION)**

**31ST COUNCIL MEETING: 2015-06-24: ITEM 7.7****RESOLVED** (nem con)

- (a) that Council, in-principle, approve the draft Events By-Law and proposed fines list; and
- (b) that the proposed By-law be duly advertised for public comment and be re-submitted together with any comment/objections by the public for final approval and adoption by Council.

**(DIRECTOR: COMMUNITY AND PROTECTION  
SERVICES TO ACTION)****FURTHER COMMENTS BY DEPARTMENT**

The Draft Events By-law was advertised for public comments in the local newspaper, Eikestadnuus on 09 July 2015 (Copy of advertisement attached as **APPENDIX 5**) and on the municipal website for a period of 30 days.

The department received comments from Mr HJ Hugo (Attached as **APPENDIX 6**). In summary the comments from Mr Hugo is as follow;

*Mr Hugo states that he has been involved in the organising of the annual Winelands marathon road-running event for the past 11 years. His comment relates to the time frame of 6 months for larger events (2000 and above) which is a requirement for submission for these type of events. Mr Hugo believes that this time frame should be reduced to at least 6 weeks as most of the finalising of the routes, parking and specific requirements can only be done closer to the event.*

The department's response;

Unfortunately, the Events Act of 2010 applies for events that attract more than 2000 people and the time frame is legislated by this Act. The Events By-law has been drafted to cater for events for under 2000 people taking the Events Act of 2010 into consideration and the time frames of these events has been drastically reduced.

No further comments were received.

The department wish to add the following definition under the heading of definitions in the By-law:

*"Safety officer" means a person appointed in terms of Regulation 6(1)(d) to assist with the oversight of the safety and security risk management of the event.*

*"Veiligheidsbeampte" beteken 'n persoon aangestel in terme van Regulasie 6(1)(d) om te assisteer met die oorsig van die veiligheid en sekuriteitsbestuur van die geleentheid.*

It was further established that the proposed fine list is much lower than City of Cape Town's fines for events. The fines have been categorized in terms of the size of the event and address the typical types of offences which are associated with events. The typical fines are as follow:

Small events –	R1000	Repeat offences –	R10 000
Medium events –	R5000	Repeat offences -	R50 000
Large events –	R10 000	Repeat offences -	R100 0000
Very large events –	R15 000	Repeat offences -	R150 000

Council should consider whether the proposed fine list (**APPENDIX 7**) should be increased proportionally or remain the same.

#### RECOMMENDED

- (a) that the following addition be added to the definitions of the Events By-law;

*“Safety officer” means a person appointed in terms of Regulation 6(1) (d) to assist with the oversight of the safety and security risk management of the event.*

*“Veiligheidsbeampte” beteken ‘n persoon aangestel in terme van Regulasie 6(1) (d) om te assisteer met die oorsig van die veiligheid en sekuriteitsbestuur van die geleentheid.*

- (b) that Council finally approve the draft Events By-Law and the new proposed fines list as indicated in **APPENDIX 7**; and
- (c) that the approved Events By-law be promulgated in the Provincial Gazette.

#### (ACTING DIRECTOR: COMMUNITY AND PROTECTION SERVICES TO ACTION)

#### COMMUNITY AND PROTECTION SERVICES COMMITTEE: 2015-10-14: ITEM 5.1.1

#### RECOMMENDED

- (a) that the following additions be added to the definitions of the Events By-law;

- (i) *“Safety officer” means a person appointed in terms of Regulation 6(1)(d) to assist with the oversight of the safety and security risk management of the event.*

*“Veiligheidsbeampte” beteken ‘n persoon aangestel in terme van Regulasie 6(1)(d) om te assisteer met die oorsig van die veiligheid en sekuriteitsbestuur van die geleentheid.*

- (ii) **“Venue”** means any ..., whether a private dwelling or not:

**“Vergaderplek”** enige..., hetsy ‘n private perseel of nie:

- (b) that Council approve the draft Events By-Law and the new proposed fines list as indicated in **APPENDIX 7**;
- (c) that this draft Events By-law be re-advertised with the new proposed fines, whereafter same be resubmitted to Council for final adoption; and

- (d) that the new proposed fines list be submitted to the Local Magistrate for endorsement after final approval by Council.

**(ACTING DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2015-10-21: ITEM 5.1.10**

**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that the following additions be added to the definitions of the Events By-law;
- (i) *“Safety officer” means a person appointed in terms of Regulation 6(1)(d) to assist with the oversight of the safety and security risk management of the event.*
- “Veiligheidsbeampte” beteken ‘n persoon aangestel in terme van Regulasie 6(1) (d) om te assisteer met die oorsig van die veiligheid en sekuriteitsbestuur van die geleentheid.*
- (ii) *“Venue” means any ..., whether a private dwelling or not:*
- “Vergaderplek” enige..., hetsy ‘n private perseel of nie:*
- (b) that Council approve the draft Events By-Law and the new proposed fines list as indicated in **APPENDIX 7**; a
- (c) that this draft Events By-law be re-advertised with the new proposed fines, whereafter same be resubmitted to Council for final adoption; and
- (d) that the new proposed fines list be submitted to the Local Magistrate for endorsement after final approval by Council.

**(ACTING DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)**

**35<sup>TH</sup> COUNCIL MEETING: 2015-10-28: ITEM 7.11**

**RESOLVED** (majority vote)

- (a) that the following additions be added to the definitions of the Events By-law;
- (i) *“Safety officer” means a person appointed in terms of Regulation 6(1) (d) to assist with the oversight of the safety and security risk management of the event.*
- “Veiligheidsbeampte” beteken ‘n persoon aangestel in terme van Regulasie 6(1) (d) om te assisteer met die oorsig van die veiligheid en sekuriteitsbestuur van die geleentheid.*

(ii) *“Venue” means any ..., whether a private dwelling or not:*

*“Vergaderplek” enige..., hetsy ‘n private perseel of nie:*

- (b) that Council approve the draft Events By-Law and the new proposed fines list as indicated in **APPENDIX 7**;
- (c) that this draft Events By-law be re-advertised with the new proposed fines, whereafter same be resubmitted to Council for final adoption; and
- (d) that the new proposed fines list be submitted to the Local Magistrate for endorsement after final approval by Council.

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

*Councillors F Adams; JA Davids; S Jooste (Ms); N Mananga–Gugushe (Ms) C Moses (Ms); P Mntumi (Ms); RS Nalumango (Ms); and P Sitshoti (Ms) and LN Siwakamisa (Ms).*

**(ACTING DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)**

**FURTHER COMMENTS BY DEPARTMENT**

The Draft Events By-law was advertised for public comments in the local newspaper, Eikestadnuus on 19 November 2015 (Copy of advertisement attached as **APPENDIX 8**), and on the municipal website for a period of 30 days.

The department received comments from the following persons:

Ms Charlotte Cronje, Principal Technician: Waste Management and Disposal (Engineering Department);

Extract from email dated 10 December 2015 – *“For any Medium or Large/ Major events, the event organizer is to appoint a suitably qualified and registered waste management service provider. The aim of said service provider should be zero waste to landfill”.*

Response from Events department:

The comment is fully supported and should be included in the Schedule of requirements listing in **APPENDIX 4**.

It should further be noted that the amendments as per Council resolution on 2015-10-28 has been included in the By-law.

No further comments were received from the public.

**RECOMMENDED**

- (a) that Council consider the inclusion of the comment received in the Schedule of requirements listing in **APPENDIX 4**;

- (b) that Council approve the draft Events By-Law and the annexures thereto with the proposed fines list as indicated in **APPENDIX 7**;
- (c) that the approved Events By-law be promulgated in the Provincial Gazette.

**(DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)**

**37<sup>TH</sup> COUNCIL MEETING: 2016-01-27: ITEM 7.11**

**RESOLVED** (nem con)

- (a) that Council consider the inclusion of the comment received in the Schedule of requirements listing in **APPENDIX 4**;
- (b) that Council approve the draft Events By-Law and the annexures thereto with the proposed fines list as indicated in **APPENDIX 7**; and
- (c) that the approved Events By-law be promulgated in the Provincial Gazette.

**(DIRECTOR: COMMUNITY AND  
PROTECTION SERVICES TO ACTION)**

**7.12 APPOINTMENT OF MUNICIPAL ELECTORAL OFFICER (MEO) FOR STELLENBOSCH MUNICIPAL AREA**

*File number* : 3/3/1/6  
*Report by* : Acting Municipal Manager  
*Compiled by* : Office of the Municipal Manager  
*Delegated Authority* : Council

**Strategic intent of item:**

Preferred investment destination	<input checked="" type="checkbox"/>
Greenest municipality	<input checked="" type="checkbox"/>
Safest valley	<input checked="" type="checkbox"/>
Dignified Living	<input checked="" type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

To consider a request by the Provincial Electoral Offices: Western Cape for the nomination of a candidate for the position of Municipal Electoral Officer for the Stellenbosch Municipal Area.

**2. BACKGROUND**

Since the resignation of Ms EC Liebenberg, the former Municipal Manager, who was also appointed as MEO by the IEC, there is no serving MEO for the Stellenbosch Municipal Area. Provincial IEC meetings have commenced in order for the municipalities to be ready for the coming 2016 national elections, and the IEC requires an appointment for a MEO.

**3. DISCUSSION**

As it is common practice at Stellenbosch Municipality, the Municipal Manager always served as the MEO for this Municipal Area, acting as a liaison between the Municipality and the Electoral Commission. Any senior manager may however also be appointed as MEO, as it is the prerogative of the Council to nominate to the IEC a person to be appointed to this position.

See **APPENDIX 1** (SALGA Circular 12/ 2011) for more details.

**4. COMMENTS BY RELEVANT DEPARTMENTS**

None

**5. CONCLUSION**

The IEC prefers that Council nominate a person to be appointed as MEO in order for him/her to manage, in consultation with the Provincial Electoral Officer, whatever political matters related to the work of the IEC may arise within the Municipality.



**RECOMMENDED**

- (a) that it be recommended to the IEC that Mr Dupré Lombaard be nominated to the IEC for appointment as MEO for the Stellenbosch Municipal area; and
- (b) that approval be granted that the appointed MEO may receive the honorarium payable to a MEO by the IEC.

**(ACTING MUNICIPAL MANAGER TO ACTION)**

**MAYORAL COMMITTEE MEETING: 2016-01-27: ITEM 6.1.7****RECOMMENDED BY EXECUTIVE MAYOR**

- (a) that it be recommended to the IEC that Mr PR Esau be nominated to the IEC for appointment as MEO for the Stellenbosch Municipal area; and
- (b) that approval be granted that the appointed MEO may receive the honorarium payable to a MEO by the IEC.

**(ACTING MUNICIPAL MANAGER TO ACTION)**

**37<sup>TH</sup> COUNCIL: 2016-01-27: ITEM 7.12****RESOLVED** (majority vote with 14 abstentions)

- (a) that it be recommended to the IEC that Mr PR Esau be nominated to the IEC for appointment as MEO for the Stellenbosch Municipal area; and
- (b) that approval be granted that the appointed MEO may receive the honorarium payable to a MEO by the IEC.

**(ACTING MUNICIPAL MANAGER TO ACTION)**

**8. CONSIDERATIONS OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED BY THE MUNICIPAL MANAGER****8.1 WATER RESTRICTION TARIFFS: WC024***File number* : 8/1 Engineering Services*Compiled by* : Manager: Treasury Office*Report by* : Chief Financial Officer*Delegated Authority* : Council**Strategic intent of item**

Preferred investment destination	<input type="checkbox"/>
Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF THE REPORT**

To request Council to amend the implementation of water restriction tariffs of Resolution 7.2 (b) of 25 November 2015 to 28 December 2015 in order for it to be more practical and fair.

**2. BACKGROUND**

On 25 November 2015 Council approved the implementation of 20% Water Restriction Tariffs with effect from water usage as of 26 November 2015.

**3. DISCUSSION**

The resolution also calls for consumers to be made aware of the implementation of the water restriction tariffs.

With the date of implementation being only one day after the date of the the Resolution, it was practically impossible to inform residents timeously.

Notices of water restrictions were distributed to consumers via the November consumer accounts, but the newsletter contained no information on new tariffs as the council had not yet resolved on the matter at the time.

The newsletter sent with the December 2015 consumer accounts contained information on the approved new water restriction tariffs. Due to issues beyond the control of the municipality, this newsletter however, only reached consumers towards the end December 2015.

It would therefore be unfair to impose penalty tariffs on consumers for water that had already been consumed by the time the notices reached them.

The Council is requested to amend paragraph (b) of Resolution 7.2 of 25 November 2015 by substituting the date 26 November 2015 with the more practical date of 28 December 2015.

**4. COMMENTS FROM OTHER RELEVANT DEPARTMENTS**

None received

**RECOMMENDED**

that Resolution 7.2 (b) of item Water Restriction Tariffs: WC024 which served before Council on 2015-11-25, be amended to indicate the effective date as 28 December 2015.

**(CHIEF: FINANCIAL OFFICER TO ACTION)**

**37<sup>TH</sup> COUNCIL: 2016-01-27: ITEM 8.1**

**RESOLVED** (nem con)

that Resolution 7.2 (b) of item Water Restriction Tariffs: WC024 which served before Council on 2015-11-25, be amended to indicate the effective date as 28 December 2015.

**(CHIEF: FINANCIAL OFFICER TO ACTION)**

**8.2 DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND BENEFITS OF COUNCILLORS FOR THE 2015/2016 FINANCIAL YEAR**

*File number* : 5/22

*Report by* : Acting Director: Strategic & Corporate Services

*Compiled by* : Human Resources Manager

*Delegated Authority* : Council

**Strategic intent of item:**

Preferred investment destination

Greenest municipality	<input type="checkbox"/>
Safest valley	<input type="checkbox"/>
Dignified Living	<input type="checkbox"/>
Good Governance	<input checked="" type="checkbox"/>

**1. PURPOSE OF REPORT**

The purpose of the item is to table the recommended increase in the upper limits of salaries, allowances and benefits of Councillors for the 2015/2016 financial year.

**2. BACKGROUND**

The National Minister for Cooperative Governance and Traditional affairs on 21 December 2015 published the upper limits for the salaries, allowances and benefits for the 2015/16 financial year in the Government Gazette No. 39548 (**APPENDIX 1**). In terms of Section 18 the Regulation will take effect from 1 July 2015.

**3. DISCUSSION****3.1 Implementation of Government Gazette**

The Upper Limits Notice may not be implemented before respective municipal councils have considered a report on the upper limits and have resolved on the levels of remuneration which will apply in that Municipality. This consideration must occur with regard to the financial year (in this instance 2015/2016) within which the payments will have to be made, and the affordability thereof for Municipalities. This implies that the budget for the year in question must reflect the liability to pay the level of remuneration determined by the council and this must in turn be cash funded.

Further, before implementation, it is necessary for a council to consult with the MEC responsible for Local Government in the Province, motivating the affordability and demonstrating that the liability has been budgeted for. Failure to follow these steps will result in an adverse audit opinion being expressed by the Auditor General.

It will be necessary for Councils to apply the formula contained in the attached Gazette, in order to determine which grade of Municipality they are. It should be noted that this formula applies to Local, District and Metropolitan Municipalities. It should further be noted that this definition of “*total population*” is now defined to be as determined by the Statistician General for the 2011 Census results. The administration has determined the grading of the municipality based on the criteria as set out in the Government Gazette and has calculated the upper limits of salaries and allowances of the various members of Council. In terms of grading, the municipality is a grade 4 municipality (Total population 2011 census = 152 525 and the Total Municipal Income = R 1 036 318 781. This gives Stellenbosch Municipality a point of 58.33. A Grade 4 municipality is between 50.01 and 66.67 points).

It should be clarified that the total remuneration package includes the travel allowance, housing allowance and municipal contribution to pension fund and municipal contribution to be medical aid scheme.

### 3.3 Affordability

The total anticipated amount of R15 817 265 in terms of the latest gazette payable to all councillors for the 2015/2016 year, are less than budgeted and should therefore be implemented subject to approval by the Minister.

## 4. PARTIES CONSULTED

Finance: The 2015/2016 budget is sufficient to absorb the increase. Council did budget for the following amounts for 2015/2016:

- Allowance Councillors = R 10 667 755
- Councillors Travel Allowance = R 3 600 514
- Councillors Telephone Allowance = R 762 213
- Councillors Medical Allowance = R 121 730
- Councillors Pension Allowance = R 910 820

The total amount budget is R 16 063 032.

## RECOMMENDED

- (a) that the upper limits pertaining to Councillors' remuneration as determined by the National Minister for Cooperative Governance and Traditional Affairs, be adopted and approved by Council; and
- (b) that the Administration effect implementation after due process has been followed, which includes: Notifying the MEC for Local Government of the Council resolution, the availability of funds in terms of affordability and the schedule containing the increased salaries, allowances and benefits.
- (c) The following specific adjustments to the upper limits are approved by Council for implementation by the Administration effective from July 2015, subject to approval by the MEC for Local Government.

All current upper limits amounts for total annual remuneration must be adjusted for full-time and part-time councillors to the amounts stated in section/item 5 and 8 as contained in **Government Gazette No 39548**.

**(ACTING DIRECTOR: STRATEGIC AND  
CORPORATE SERVICES TO ACTION)**

**37<sup>TH</sup> COUNCIL: 2016-01-27: ITEM 8.2****RESOLVED** (nem con)

- (a) that the upper limits pertaining to Councillors' remuneration as determined by the National Minister for Cooperative Governance and Traditional Affairs, be adopted and approved by Council;
- (b) that the Administration effect implementation after due process has been followed, which includes: Notifying the MEC for Local Government of the Council resolution, the availability of funds in terms of affordability and the schedule containing the increased salaries, allowances and benefits; and
- (c) The following specific adjustments to the upper limits are approved by Council for implementation by the Administration effective from July 2015, subject to approval by the MEC for Local Government.

All current upper limits amounts for total annual remuneration must be adjusted for full-time and part-time councillors to the amounts stated in section/item 5 and 8 as contained in **Government Gazette No 39548**.

- (d) that the data allowance amounting to R300.00 per month as reflected in **Government Gazette no 39548**, be paid retrospectively.

**(ACTING DIRECTOR: STRATEGIC AND  
CORPORATE SERVICES TO ACTION)**

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**9. CONSIDERATION OF NOTICES OF QUESTIONS AND NOTICES OF MOTIONS RECEIVED BY THE SPEAKER**

NONE

**10. CONSIDERATION OF MOTIONS OF EXIGENCY**

NONE

**11. MATTERS FOR INFORMATION****11.1 REPORT BY THE EXECUTIVE MAYOR ON DECISIONS TAKEN BY THE MAYORAL COMMITTEE AND STANDING COMMITTEES FOR THE PERIOD DECEMBER 2015 (3/5/2/5)**

NONE

**11.2 DECISIONS TAKEN IN TERMS OF DELEGATED AUTHORITY BY THE EXECUTIVE MAYOR FOR THE PERIOD NOVEMBER UNTIL DECEMBER 2015**

NONE

**12. OTHER URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER**

NONE

**13.1 CONSIDERATION OF REPORTS SUBMITTED BY THE SPEAKER**

NONE

**13.2 CONSIDERATION OF REPORTS SUBMITTED BY THE EXECUTIVE MAYOR****14. MATTERS TO BE CONSIDERED IN-COMMITTEE**

SEE PINK DOCUMENTATION.

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Meeting adjourned at 19:45.**CONFIRMED****CHAIRPERSON** .....

(Signature &amp; date)

