



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/1/5

2016-05-13

MINUTES

**40TH COUNCIL MEETING OF
STELLENBOSCH MUNICIPALITY**

2016-04-26

MINUTES
40TH MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY
2016-04-26

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MINUTES OF THE 40TH MEETING OF STELLENBOSCH COUNCIL HELD ON 2016-04-26 AT 15:00 IN THE COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET, STELLENBOSCH

PRESENT The Speaker, Alderman CP Jooste [Chairperson]
The Executive Mayor, Alderman CJ Sidego
The Deputy Executive Mayor, Cllr MG Smuts

ALDERMEN DC Botha
V Fernandez (Ms)

COUNCILLORS

F Adams	N Mananga-Gugushe (Ms)
DS Arends	C Manuel
NM August	NE McOmbring (Ms) (from 15:30)
HC Bergstedt (Ms)	XL Mdemka (Ms)
PW Biscombe	C Moses (Ms)
A Crombie (Ms)	RS Nalumango (Ms)
JA Davids	MM Ngcofe
R du Toit (Ms)	N Ntsunguzi (Ms)
AR Frazenburg	WC Petersen (Ms)
E Groenewald	PJ Retief
JK Hendriks	L Ronoti
N Jindela	P Sitshoti (Ms)
MC Johnson	Q Smit
DD Joubert	LL Stander
S Jooste (Ms)	AT van der Walt (until 15:30)
SJ Louw (Ms)	M Wanana

OFFICIALS Acting Municipal Manager (R Bosman)
Chief Financial Officer
Director: Community and Protection Services
Director: Human Settlements and Property Management
Director: Planning and Economic Development
Director: Strategic and Corporate Services
Chief Audit Executive
Senior Legal Advisor (Ms EA Rhoda (née Williams))
Senior Legal Advisor (M Williams)
Head: Committee Services (EJ Potts)
Committee Clerk (Ms B Mgcushe)
Interpreter

1. APPLICATION FOR LEAVE OF ABSENCE (3/4/2/3)**40TH COUNCIL MEETING: 2016-04-26: ITEM 1****RESOLVED** (nem con)

- (a) that leave of absence be granted to Aldermen EL Maree (Ms) and JP Serdyn (Ms) and Councillors JSA Fourie, and P Mntumni (Ms); and
- (b) that permission be granted to Councillors NE McOmbring (Ms) to join the meeting later, and AT van der Walt to leave the meeting at 15:30 respectively.

ABSENT

Cllr LN Siwakamisa (Ms)

Cllr DA Hendrickse

(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, Alderman CP Jooste, congratulated all Councillors who celebrated their birthdays during the month of May.

2.3.1.2 The Speaker informed Council of the following meeting arrangements for the remainder of the current term of office:

- (i) the 41st Council meeting will take place as scheduled on 2016-05-25; and
- (ii) the final Council meeting for the current term of office will be scheduled for mid-June, where only urgent and mandatory matters will be transacted.

2.3.1.3 The Speaker reiterated that his Office receives numerous requests from Councillors regarding the use of municipal halls. He explained that the Policy makes provision for all Councillors to use the halls, but he urged Councillors to distinguish between the

use of halls for party-political activities (for which political parties have to pay) and the use of the hall for ward activities. The user is also liable for any damages caused to the hired facility or to any municipal building while such facility is utilized by the user.

(-)

2.3.2 COMMUNICATION BY THE EXECUTIVE MAYOR

(3/4/1/6)

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

“ONS vier vandeeweek Vryheidsdag. Dis nou 22 jaar sedert alle Suid-Afrikaners ten aanskoue van die hele wêreld met groot geesdrif en trots by stembusse landwyd opgedaag het.

Dit was met reg 'n geleentheid om op trots te wees. Om verskeie redes.

Ons het 'n onderhandelde skikking bo 'n bloedige revolusie gekies om politieke gelykheid vir almal te verseker.

Ons het geduldig in lang toue in sale en oor die wye vlaktes gestaan om daardie kruisie vir 'n beter toekoms te maak. Vir baie die eerste keer dat wit en swart Suid-Afrikaners in een lyn saam gestaan het en simbolies van die een nasie wat ons sou begin bou. Die blye hoop van 'n beter politieke tuiste in elkeen se hart.

Today we celebrate those huge benefits of the political revolution that changed the political landscape of our nation.

So much to be grateful for.

So much to celebrate.

And yet, so much to be done.

The economic revolution still evades us and it is at the heart of the major challenges the historically disadvantaged citizens now face.

Om uit die vernederende armoede te ontsnap het mense werkgeleenthede nodig. Die ontstellende feit is egter dat der duisende, dalk miljoene, nie die vaardighede of geletterdheid om geleenthede aan te gryp, waar dit wel mag bestaan nie. Dis honger mense voor borde kos, terwyl hul monde toegebind is! Dis die hartseer lot van so baie volksgenote na daardie groot vryheidsoomblik op 27 April 1994, 22 jaar gelede. Hulle is nie toegerus om nuwe geleenthede te benut nie.

Met die reeks gemeenskapsvergaderings as deel van die GOP die afgelope weke, het ons opnuut diep onder die indruk gekom van die reuse agterstande en die historiese ongelykhede waarmee mense hier in ons samelewing, ons buurmense, saamleef. Dikwels onmenswaardig en vernederend, 22 jaar nadat ons daardie geleentheid wat die wêreld-mensdom se waterskeidingservaring beleef het.

As politieke leierskap en senior administrasie van hierdie vallei se mense, is dit ons primêre taak om dienste te lewer aan die ryk en arm inwoners van ons dorp sodat almal die voordele kan benut van ons Vallei van Hoop.

Ons is dankbaar en trots vir wat ons hier op plaaslike vlak kon vermag, maar daar is nog so baie wie se dowwe oë 'n glinstering moet kry en vir wie ons moet aanhou om voort te baklei. Dis ons taak. Ons roeping. Ons voorreg.

The latest report on our vulnerable people, released days ago, is a stark reminder of the nature of the massive task awaiting us all.

Let me quote from this report

'In 2014, more than 5 million South Africans were unemployed. Young people aged 15–34 made up approximately three quarters (3,4 million) of the unemployed. Thus, more must be done to ensure the youth are skilled and educated to earn a living and participate in the economy.

Even though the number of young people living below the poverty line decreased in all provinces, the number of youth entrepreneurs also declined, from 609 000 in 2009 to 543 000 in 2014.

White, Indian, or Asian youths were more likely to complete Grade 12 than their black and coloured counterparts. Black and coloured youths were also less likely to finish university. And unemployment was strongly linked to education.

The number of blacks and coloured youths that go to university has increased, dramatically so. The problem is that they don't complete their studies, like their counterparts who are white. They are confronted by a number of challenges.

This meant the proportion of white people getting skilled employment was higher in all age categories.

According to the report, in 2014, about 2 million employed people in the country were classified as entrepreneurs. A total of 543 000 of them were from the youth sector.

The number of young female entrepreneurs declined by 6.2 percentage points.

This is why the municipality and the private sector have to partner to create programmes and skills development workshops and mentorships to encourage and foster entrepreneurial skills and also support youth employment'.

In die lig van bogenoemde moet ons opnuut kyk na bestaande en deels verlore geleenthede.

Our procurement policy should become a useful instrument to address some of these economic inequalities.

I have asked that we re-visit the intentions of what was known as Tender 34. There we set aside properties which were specifically aimed to give the disadvantaged community a chance at sharing in a small way in the tremendous wealth of this town.

Councillor Sophie Louw and the LED are tasked to bring to Council suggestions on how we will take up an almost lost opportunity.

With this and other efforts, I am confident that we will eventually make major strides into territories hereto excluded from the majority — who needs it most.

May today's deliberations help and take us closer".

(-)

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 39TH MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY HELD ON 2016-03-30 (3/4/1/5)

The minutes of the 39th Meeting of the Council of Stellenbosch Municipality held on 2016-03-30 were previously distributed.

FOR CONFIRMATION

40TH COUNCIL MEETING: 2016-04-26: ITEM 3.1

Before the minutes could be confirmed, the Chief Whip of the DA, Councillor PW Biscombe wished to provide clarity with reference to resolution (c) of item 13.1.3 of the 39th Council held on 2016-03-30, namely:-

that the matter be reported to the provincial MEC for Local Government in order for the MEC to finalise the disciplinary process in terms of Section 14(2) of the Code of Conduct for Councillors.

During debate Councillors F Adams, JA Davids and AT van der Walt were of the view that the original resolution is a true reflection of what transpired. Councillor JA Davids further raised concern that the correct procedure for amending this resolution should be to review and rescind it whereafter a new resolution can be formulated.

The Speaker then called for a vote for and against the amendment.

It was

RESOLVED (majority vote)

that the minutes of the 39th Meeting of the Council of Stellenbosch Municipality held on 2016-03-30, be confirmed, subject to the following amendment:

that resolution (c) of item 13.1.3 be amended to read as follows:-

that the matter be reported to the provincial MEC for Local Government in order for the MEC to finalise the disciplinary process in terms of Section 14(2) of the Code of Conduct for Councillors".

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

Councillors F Adams; JA Davids; S Jooste (Ms); C Moses (Ms); RS Nalumango (Ms); MM Ngcofe; N Ntsunguzi (Ms); L Ronoti; P Sitshoti (Ms); AT van der Walt and M Wanana.

(HEAD: COMMITTEE SERVICES TO ACTION)

4. INTERVIEWS WITH DEPUTATIONS (3/4/1/7)

NONE

5. STATUTORY BUSINESS (3/4/1/7)

NONE

6. REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS MEETINGS OF COUNCIL (3/4/1/5)

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

FOR INFORMATION

40TH COUNCIL MEETING: 2016-04-26: 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	Ref	Response by
<p><u>Cllr: JA Davids: Items 7.10 until 7.12: Conferral of Aldermanship on Councillors EL Maree (Ms); V Fernandez (Ms) and JP Serdyn (Ms)</u></p> <p>Item is 50% concluded, when will this ceremony take place?</p>	<p>421372 421375 421377</p>	<p>Speaker responded that the Executive Mayor will announce a date when the ceremony will be held.</p>

<p><u>Cllr: F Adams: All other outstanding matters since 2012 until 2016</u></p> <p>Councillor F Adams referred to an email he wrote earlier to the Speaker; Acting Municipal Manager and the Director: Strategic and Corporate Services with regard to outstanding matters as far back as 2012.</p>		<p>The Acting Municipal Manager responded that these outstanding matters will serve at the next meeting of Council.</p>
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(ACTING MUNICIPAL MANAGER TO ACTION)

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

7.1 APPROVAL OF TRANSFER OF CESSION OF LEASE AGREEMENT OF FARM 502BH FROM STELLENBOSCH SMALL FARM HOLDING TRUST TO INDIVIDUALS

File number: 7/2/2/1/1/2

Compiled by: Manager: Local Economic Development

Report by: Director Planning & 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 THE REPORT

- (a) To request the ceding of the lease on Farm 502BH from the Stellenbosch Small Farm Holdings Trust (referred hereafter as the Trust or SSFHT) to the individual Small Farmers currently farming on the land;
- (b) To request Council to write off the arrears accrued for rental and water;
- (c) To mandate the Municipal Manager to sign the individual lease agreements with farmers currently farming on Farm 502 BH.

2. BACKGROUND

The Farm 502 BH Project started in 2002 when a group of small farmers from historically disadvantaged backgrounds, moved on to 65 hectares of irrigated municipal commonage land when the original lessee (Spier) decided to close down their organic fresh produce operation. (Currently ten (10) farmers are on the land).

Whilst at the time of the change of tenancy there was access to water on the land it was only sufficient for viticulture but approximately 30% under the minimum requirement for cash crops. The infrastructure was also built for a commercial operation and did not take into consideration the needs of

individual farmers on small lots of land. However, a number of the farmers have since 2002, despite limited financial and other support, and a dire shortage of water, managed to farm on their five hectare allotments - albeit from hand to mouth.

The Stellenbosch Small Farmers Holdings Trust which was established in December 2002 was in keeping with the South African constitutional land reform process of the time. The sole object of the SSFHT was to promote, support and facilitate access to land and use of land on "an equitable basis" for the benefit of the beneficiaries.

On 31 March 2003, with the support of the Municipality, the Trust became the lawful tenant of the land when it superseded the then existing tenant (Spier Holdings Pty Ltd). In terms of the lease with the Municipality, the Trust is the tenant of the land until 2041 and the Trust represents the interest of the beneficiaries.

The Trust entered into individual five year sub-let contracts with the small farmers in 2009. The sub-lease agreements provide that *the SSFHT will relinquish its rights as lessee of Farm 502BH and that the Municipality will provide the following to fulfil its developmental objectives:*

- *Security of tenure – Individual lease agreements and uphold the conditions as set out therein*
- *Water – the water meters as well as the pipeline to be installed*
- *Assist with priority infrastructure which includes fencing and an additional water pipeline to ensure sufficient pressure for irrigation*

The Trust will continue to play a supportive role in pursuit of its objectives amongst its members independently from the Municipality but in collaboration with it. The existing farmers agree to continue leasing the land directly from the Municipality subject to the terms and condition of the lease.

The current lease agreement will cease to exist as soon as the individual lease agreements have been signed between the municipality and the individual farmers. The replacement of the Municipality as lessor does not lessen the rights of the holders; and such further arrangements as may be made between the SSFHT and the Municipality to support the new holders.

3. DISCUSSION

The Trust has always indicated their intention to cede the lease agreement with the Municipality to the individual farmers. The objective of the Farm 502 BH is, among others, to ensure security of tenure which will enable the farmers' access to funding and to assist them to compete on equal footing with commercial farmers.

Furthermore experience has shown that the success of **group** farming enterprises relies on farmers being held **individually** accountable for their rental and water charges by the Municipality.

In June 2015 a Project Coordinator was appointed by the LED Department to assist with the streamlining and coordination of the Stellenbosch Small Farmers project and to ensure all aspects needed for a successful project is achieved. The idea is to devise a generic model to facilitate and support projects of similar nature or an extension of the Farm 502 project. The following issues have specifically been under the magnifying glass:

- a. To whom are we ceding the individual lease agreements?
- b. Dealing with the arrears that have accrued through water usage due to the fact that individual water use could not be measured;
- c. Arrears that accrued with rental of the land due to insufficient water and crop failure;
- d. Initial actions of the Consultant appointed in 2015 impacting on the project: Purchase of water meters and surveying of Farm 502BH.
- e. Day to day operations on Farm 502BH in the absence of institutional arrangements.

Dealing with the non-payment of water charges has been quite a challenging task in the past, since individual water meters were not installed. As a result of this farmers have been reluctant to pay their dues.

The management of the irrigation system will however no longer be a problem, since the municipality has purchased individual water meters to measure the amount of water used by individual farmers. As a result, each farmer will from now on be responsible for their own water account.

Farmers will be held responsible for their own water account as soon as the water meters are installed in the winter of 2016 (During winter farming activities, the disruption of farming activities will be marginal. The appointed consultant will be responsible for the reading of the meters and communication of outstanding fees/rent between the farmers and the municipality. Attached please find a report on the abovementioned issues as **APPENDIX A.**

4. INPUTS BY OTHER DEPARTMENTS

PROPERTY DEPARTMENT

The current contractual arrangement is between Stellenbosch Municipality and the Stellenbosch Small Farm Holdings Trust (SSFHT) in terms of an agreement concluded on 31 March 2003, in terms whereof all rights, liabilities obligations and interest of Spier Holdings (Pty) Ltd (the previous Lessee) were transferred to SSFHT.

SSFHT therefor stepped into the shoes of Spier Holdings (Pty) Ltd for the remainder of the contract period, i.e. until 2014-03-31. In terms of this Agreement, however, Spier was still held accountable "*should the substitute Lessee, for any reason whatsoever, fails to comply with any condition pertaining to the Lease Agreement*".

This situation, however, changed in 2008, when the parties signed a further Agreement, in terms whereof Spier, nor any of its shareholders, were to have any rights and obligations in relation to the Municipality or the SSFHT whatsoever arising from or in connection with the Lease Agreement. As from 1 January 2009 the SSFHT was responsible for all obligations, including the payment of rental and water usage, albeit at a reduced rate of 20% of market value, as approved by Council in December 2007. Subsequently the outstanding debt has risen to R247 536.14 in total, as at 31 January 2015*

The proposed ceding of the agreement is in terms of the contract, in particular clause 13, which deals with sub-leasing, cession and assignment. In terms hereof the SSFHT may not sub-lease or cede any of their rights without prior written approval from the Municipality.

*Should Council indeed approve the ceding of the Agreement to the 13 individual farmers, it should be subject thereto that the individual farmers take responsibility for their pro-rate share of the outstanding rental and/or service charges as at the day of the ceding agreement coming into operation. This means that the SSFH Trust will no more be responsible for the outstanding debts. [the agreement reached is that the farmers will be responsible pro rata for the rental ask that the service charges be written off (in part because we can't determine what each farmer owes in the absence of water meters) The current outstanding debt, as at 31 January 2015, is as follows:

Rentals:	R 32 980.57
Water:	R214 305.57
Other:	R 250.00
Total:	R247 536.14 (Latest amounts attached)

This means that the individual farmers will have to take responsibility for R19 022.01, being their pro-rata portion of the outstanding debt as at 31 January 2015.

Alternatively Council could consider writing off the outstanding debt, or a portion thereof.

The other issue that Council still needs to decide on is whether the SSFHT will still be responsible for the communal infrastructure, such as the water network and communal shed that was constructed some years ago.

Council also needs to decide on how to deal with "*vacancies*" i.e. should it become necessary to replace any of the individual farmers, for whatever reason. This department would suggest that the SSFHT should still be

responsible to “*appoint*” replacement tenants, to be ratified by Council. Alternatively Council will have to go through a tender process to replace individual Lessees every time that a “vacancy” occurs. [Advisory Ccommittee to deal with it in terms of principles]. Will be in line with new policy].

The Draft Agreement makes provision for a lease period of 9 years and 11 months. This is not in line with the current Lease Agreement, which only lapse in 2041. Under normal circumstances, when ceding an agreement, the substitute Lessee take over all the rights and obligations of the Lessee for the remaining period of the Agreement, i.e until 2041-03-31. [Lease agreements to be until 2041].

FINANCIAL SERVICE DEPARTMENT

In general, Finance supports the principle of transferring the lease to 13 individual farmers, but with some additional conditions to ensure practicality of implementing the logistics.

1. Each individual lessee must, in addition to a lease agreement, also enter into a consumer agreement with the municipality for the provision of services. This will include the payment of consumer deposit i.r.o. water.
2. The abovementioned will only be applicable if individual meters are installed. [this will be prioritised by the new appointees] Otherwise, Finance does not support the item. Each individual water meter must also have the functionality of being able to be turned off individually. Water consumption will be for agricultural purposes only and as such, water supply will be terminated in the event of non-payment. Debt will not be allowed to escalate out of control as has been the case up to now.
3. Leases must make provision for cancellation in the event of rent OR rates OR water not being paid. (i.e. any outstanding debt in respect of the rental of the land) Included in the principles, lease to be finalised.

Current debt of the SSFHT exceeds R200 000. In this respect, the current farmers have undertaken to pay an amount of R200 per month till such time that the individual leases are in place. What about the period thereafter? At a rate of R200 per month x 13 farmers it will take in excess of 10 years to collect this debt, excluding interest and the cost of administration of this account. As soon as the lease is transferred, SSFHT will also be in a position to disband and deny further responsibility to the debt. An offer of R200 per month is not really feasible and council should perhaps consider writing off this debt. Farmers will pay R400 a month towards rental; will ask for water to be written off.

LEGAL SERVICE DEPARTMENT

Stellenbosch Municipality initially leased Farm 502 BH to Mon Villa (Eiendoms) Beperk which name was amended to Spier Holdings (Pty) Ltd (“Spier”). On 31 March 2003 the Municipality, Spier and the Small Farm Holding Trust (“the Trust”) agreed that the Trust would substitute Spier as

lessee but that Spier would remain liable in the event that the Trust failed to comply with the lease.

On 4 March 2008 Spier, the Trust and the Municipality entered into an agreement in terms of which the lease agreement between the Municipality and Spier was ceded to the Trust. The Trust entered into the shoes of Spier. In terms of clause 13 of the written lease agreement, the Trust need to obtain the prior written consent of the Municipality before the lease agreement is ceded. The 13 small farmers with the consent of the Municipality will step into the shoes of the Trust and we propose that a new lease agreement be entered into incorporating the comments/conditions of the various departments. The lease agreement should make provision for the cancellation of same, if the lessee fails to pay the rental and water charges. We propose that the filling of vacancies, in circumstances where the lease agreement is terminated, should be overseen by the Trust. The Municipality should ratify/condone the appointments accordingly. With regard to the arrear rental and water charges it is Council's prerogative to resolve that same be paid in full, alternatively that rental and water be written off in part or in full.

Recommendation (a) should be amended from the Executive Mayor in consultation with the Municipal Manager to Council. The rest of the recommendation is supported.

5. CONCLUSION

Under an individual tenure system farmers will be able to approach financial institutions for loans. They will also be able to get assistance from the Land bank for their ventures. This implies some risk taking by the farmers but also that they will personally invest in the land.

One can expect a certain "pride of ownership" to develop and fencing and demarcation of the properties will become a reality.

ANNEXURE A

1. Current farmers on the land

The initial of farmers were:

Braam Botha, Chris Jacobs, Christine Jephtha, Eric Linders, Gerrit Hendricks, Hermanus Booysen, Neville Cloete, Peter Stone, Roland Meyer, Rudi Hendricks, Simon Opperman; Willem Klaasen; Aurora Cooperatives (c).

Of the original farmers not all are as active as desirable. The situation now is as follows.

Bram Botha	Full time farmer - Active and successful
Chris Jacobs	Full time farmer - Active and successful
Christine Jephtha	Full time farmer - Active and successful
Eric (Morty) Linders	Full time farmer - Active and successful
Gerrit Hendricks	Full time farmer. Due to an old injury to his heel has been

	inactive for two years. Recently had operation and promise to become active again.
Hermanus Booysen	Decided that farming was too much trouble at his age of 70+. Gave up
Neville Cloete	Got another job and gave up.
Peter Stone	Full time farmer - Active
Roland Meyer	Full time farmer – Active
Rudi Hendricks	Inactive
Simon Opperman	Deceased
Willem Claasen	Full time farmer - Active and successful
Aurora Cooperatives	Now being farmed successfully by a nominee Magda Stephanus

2. Individual lease agreements

Security of tenure is crucial for successful land reform and agricultural development. This will not only motivate the farmers to invest in the land (municipal land, which remains municipal property), but also would allow them to access support from the private sector.

The intention of the individual lease agreements is in the first instance to assist poorer, but eligible families who have experience of farming to earn a living and to become economically independent. Some of the farmers had to turn down many contracts from reputable retail stores such as Woolworths, because they do not have individual lease agreements.

Furthermore, the vacant plots will need to be filled as soon as the Draft Agricultural Land Policy is accepted by Council. Preference should be given to people with a farming background (preferably previously in an overseeing capacity) whom have been residents of Stellenbosch for a period of at least 10 years. Farmers need to have the basic equipment (transport and some capital) and must be able to within a reasonable period be able to till the land. This will be subject to the approval of a business plan that shows that they understand the challenges and opportunities which is embedded in the use of leasehold land. Farmers need to be prepared to take individual responsibility for rental, water and general management of the property.

3. Dealing with the arrears that accrued through water usage and rental of the land.

A total amount of approximately R374.143.21 (end October 2015) (**ANNEXURE B**) in arrear rental and water charges have been accrued. Partly due to the fact that some farmers are using more water than others and also the means to measure the water use, non-payment has become a norm.

Whilst the municipality are strongly opposed to this irresponsible attitude and would have preferred to enforce payment of all outstanding dues, it is nevertheless true that over the past 13 years these farmers have never received substantial and coordinated

assistance to put them on a road to success and in a position to make a decent living.

Under the circumstances it is recommend that the total amount (of R374.143.21) in arrears for the water and rental charges be written off. Farmers must also formally be made aware of the consequences should they default in any way. These issues are already addressed by the current draft individual lease agreements which the Trust and the farmers have agreed to sign.

4. Dealing with individual non-payment of either rental or water usage in future

In the lease agreement with the farmer's, specific provision is made and strict rules pertaining to on time payment of all dues to the municipality is made. It basically makes provision that individual water meters can be cut off and also that the tenant can be evicted.

These rules will in future be enforced without exception.

5. Initial actions of the Consultant appointed in 2015 impacting on the project: Purchase of water meters and surveying of Farm 502BH

As water meters were seen as a priority, the first actions of the Consultants were to install 26 water meters. The water meters will be installed in the month of January 2016.

Farm 502 BH were never formally divided into separate lots in 2002 and therefore it was imperative that a surveyor measure the land and demarcate the individual pieces of land. This was completed in October 2015.

6. Day to day operations on Farm 502BH in the absence of institutional arrangements

The difficulties experienced in terms of the current institutional arrangements are relevant: Two research reports into the project have recommended tiered institutional arrangements that include among others individual lease agreements, payment obligations, criteria for new entrants and a structure to deal with everyday operation, enforcement of terms of conditions of leases etc. These are discussed below.

a) Management principles

The criteria for new entrants into the project and the 'use it or lose it' principle will function into the future. The principles that will guide the municipality and will be entrenched in the lease agreements between the Municipality and the individual farmers which include:

-
- Each farmer will be responsible for his/her individual rental and water charges. Subject to certain conditions and reasonable negotiation, non-payment will be met with the cancellation of the lease.
 - Cancellation may also follow non-compliance with the operational rules of Farm 502BH.
 - Once a contract is cancelled the municipality will advertise the vacant allotment and leasing will take place in a competitive process as prescribed by the MFMA and the Policy for the Management of Municipal Agricultural Land (currently in draft format).

b. Strategic Partner: Day to day management

It is envisaged to recruit a Strategic partner in the future. Currently farmers indicated that they have their own model to manage themselves and only need the following from the municipality:

- *security of tenure – Individual lease agreements and uphold the conditions as set out therein*
- *Water – the water meters as well as the pipeline to be installed*
- *Assist with priority infrastructure which includes fencing and an additional water pipe to ensure appropriate pressure for irrigation*

c. Billing individual farmers

Following a series of engagements with the Finance Department, the aforementioned department has given its assurance that it sees no obstacles in collecting rental from the farmers as individual tenants. The assessment and collection of water charges is currently problematic as the allotments are not individually metered and it is therefore impossible to assess individual accounts. This problem shall be solved when individual water meters are installed.

RECOMMENDED

- (a) that approval be granted for the ceding of the lease agreement between the municipality and the Trust to the current ten (10) individual farmers on Farm 502BH and;
- (b) that the Municipal Manager be mandated to sign the abovementioned individual lease agreements after it have been scrutinised by Legal Services;
- (c) that the leasing of the remainder allotments be determined by a competitive process as per the MFMA and the Policy for the Management of Municipal Agricultural Land (Currently in draft format);
- (d) that the Municipal Manager to sign future lease agreements for probable further leasehold contracts to new entrants and;

- (e) that the arrears accrued for water and rental, be written off.

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

**PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2016-04-05:
ITEM 6.1.1**

RECOMMENDED

- (a) that approval be granted for the ceding of the lease agreement between the municipality and the Trust to the current ten (10) individual farmers on Farm 502BH and;
- (b) that the Municipal Manager be mandated to sign the abovementioned individual lease agreements after it have been scrutinised by Legal Services;
- (c) that the leasing of the remainder allotments be determined by a competitive process as per the MFMA and the Policy for the Management of Municipal Agricultural Land (Currently in draft format);
- (d) that the Municipal Manager to sign future lease agreements for probable further leasehold contracts to new Historical Disadvantaged Individuals (HDI) as entrants and;
- (e) that the arrears accrued for water and rental, be written off.

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

MAYORAL COMMITTEE MEETING: 2016-04-22: ITEM 5.1.1

RECOMMENDED BY THE EXECUTIVE MAYOR

- (a) that approval be granted for the ceding of the lease agreement between the municipality and the Trust to the current ten (10) individual farmers on Farm 502BH;
- (b) that the Municipal Manager be mandated to sign the abovementioned individual lease agreements after it have been scrutinised by Legal Services;
- (c) that the leasing of the remainder allotments be determined by a competitive process as per the MFMA the Policy for the Management of Municipal Agricultural Land (Currently in draft format);

-
- (d) that the Municipal Manager to sign future lease agreements for probable further leasehold contracts to new Historical Disadvantaged Individuals (HDI) as entrants; and
 - (e) that the arrears accrued for water and rental, be written off.

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

40TH COUNCIL MEETING: 2016-04-26: ITEM 7. 1

RESOLVED (nem con)

- (a) that approval be granted for the ceding of the lease agreement between the municipality and the Trust to the current ten (10) individual farmers on Farm 502BH;
- (b) that the Municipal Manager be mandated to sign the abovementioned individual lease agreements after it have been scrutinised by Legal Services;
- (c) that the remainder of the allotments be leased in accordance with the requirements of the Municipal Supply Chain Management Policy, with specific compliance with paragraph 5.3.1 of Chapter 5 of the Municipal Supply Chain Management Policy and that further preference be given to previously disadvantaged individuals permanently residing in WC024;
- (d) that the Municipal Manager to sign future lease agreements for probable further leasehold contracts to new Historical Disadvantaged Individuals (HDI) as entrants; and
- (e) that the arrears accrued for water and rental, be written off.

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

7.2 TRAFFIC CALMING POLICY

File number : 8/1 Engineering Services
Compiled by : Head: Traffic Engineering (Nigell Winter)
Report by : Manager: Transport, Roads and Stormwater
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.

Compliances:

- 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, plateau (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 (e.g. 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)**

37TH 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)**

FURTHER INPUT FROM THE DIRECTORATE: ENGINEERING SERVICES

To inform Council that the Revised Draft Traffic Calming policy (refer to **APPENDIX 1**) dated May 2015 has been advertised on 18 February 2016 in the Eikestadnuus and placed at all municipal libraries within the WC024 and on the municipal website from 18 February 2016 – 11 March 2016. The Traffic Calming Policy is now ready for Council's final approval (refer to **APPENDIX 2**).

During the advertising period, only one (1) comment was received via e-mail whereby input was received for the use of "Armadillos" as a lane divider between vehicle and bicycle lanes. E-mail from Ms Jennifer Mackintosh dated 11 March 2016 is attached as **APPENDIX 3**. Technically, this measure is acceptable but to source local suppliers may be a problem.

RECOMMENDED

that the revised Traffic Calming Policy, as amended, attached as **APPENDIX 1**, be accepted and approved by Council.

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

**ENGINEERING SERVICES AND HUMAN SETTLEMENTS COMMITTEE MEETING:
2016-04-06: ITEM 5.1.1**

It is noted that the Portfolio Committee did not have sufficient time to thoroughly scrutinize the final draft revised Traffic Calming Policy document.

RECOMMENDED

that the revised Traffic Calming Policy, as amended, attached as **APPENDIX 1**, be accepted and approved by Council.

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

MAYORAL COMMITTEE MEETING: 2016-04-22: ITEM 5.1.2

RECOMMENDED BY THE EXECUTIVE MAYOR

that the revised Traffic Calming Policy, as amended, attached as **APPENDIX 1**, be accepted and approved by Council.

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

40TH COUNCIL MEETING: 2016-04-26: ITEM 7. 2

RESOLVED (nem con)

that the revised Traffic Calming Policy, as amended, attached as **APPENDIX 1**, be accepted and approved by Council.

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

7.3 INFORMAL SETTLEMENTS UPGRADING STRATEGY*File number* : 17/4/5/3*Report by* : Director: Human Settlements and Property Management*Compiled by* : Manager: Informal Settlements*Delegated Authority* : Council**Strategic intent of item**Preferred investment destination Greenest municipality Safest valley Dignified Living Good Governance **1. PURPOSE OF REPORT**

The purpose of the report is to obtain Council's approval for:

- (a) The Informal Settlements Upgrading Strategy.
- (b) The categorisation of the existing 15 informal settlements in accordance with the Strategy.
- (c) The implementation and execution of the intervention strategies as per the informal settlement response plan.
- (d) The relevant projects per informal settlements be aligned with the Housing Pipeline.

2. BACKGROUND

The National Upgrading Support Programme (NUSP) was created by the National Department of Human Settlement (NDHS) to explicitly support local Municipalities to create capacities in areas where they are lacking. In particular, NUSP was tasked to assist local Municipalities with the implementation of the Upgrading of Informal Settlements Programme (UISP).

In December 2013, NUSP approached Stellenbosch Municipality to determine what kind of support the Municipality required and to what extent that support would be, in accordance with the UISP. It was mutually agreed that the Municipality did not have a clear strategy on how to deal with the existing informal settlements and that this would be the area in which the

Municipality required assistance. All previous actions and interventions with informal settlements were premised on the notion of eradication and inclusion in the formal housing projects. Recent surveys by the Department of Informal Settlements (ISD) indicate that informal settlements are in fact growing in the number of structures and inhabitants and necessitate a paradigm shift in dealing with the informal settlements.

Hence, after several engagements between the Municipality and NUSP, it was agreed that the most critical support needed by the municipality was to develop an Informal Settlements Upgrading Strategy which could serve as an informant to the Emergency Housing Policy (EHP) (2012), as well as other strategic planning documents such as the Spatial Development Framework (SDF) (2012), Municipal Integrated Development Plan (IDP) (2015/2016) and the Provincial Housing Pipeline (2015 - 2019).

A partnership was established between the Municipality and NUSP to explore a "Participatory Based Planning Support" for informal settlements projects in the Stellenbosch Local Municipal area. The scope of the collaboration with NUSP include among others:

- i. **Technical Planning and Implementation:** To facilitate technical planning and implementation processes aimed at incremental upgrading of informal settlements in all parts of the municipality,
- ii. **Community Engagement:** To ensure that all technical planning and implementation processes are conducted through processes of participatory planning with local communities,
- iii. **Community Capacity Building:** To ensure that communities are sufficiently capacitated to participate meaningfully in all planning and implementation processes,
- iv. **Development Partnerships:** To focus on the establishment of development partnerships with local stakeholders/communities, government departments and NGOs towards the incremental upgrading of informal settlements,
- iv. **Informal Settlement Management:** To focus on the establishment of development partnerships with local stakeholders/ communities, government departments and NGOs towards the incremental upgrading of informal settlements.

3. DISCUSSION

The main outcome of the Informal Settlement Upgrading Strategy (ISUS) was the proposed categorisation of informal settlements in accordance to a Suitability Assessment. The assessment conducted for each settlement focused on the following aspects:

- i. Physical and environmental features of the area,

- ii. Legal issues (e.g. Land Ownership) and land use rights (zoning or alignment with municipal SDF),
- iii. Availability of social and/or economic infrastructure and
- iv. Availability of engineering service infrastructure (water, sanitation, electricity, roads etc.).

Following from the suitability assessment and categorisation, was the prioritisation of informal settlements premised on the following criteria:

- i. Current status of the informal settlement (e.g. Pipeline/Approved Projects are top priority),
- ii. Nature of hazardous conditions,
- iii. Size of the informal settlement and socio-economic conditions prevalent,
- iv. Historic agreements/commitments made to the community,
- v. Political and administrative directives; and
- vi. Project readiness of the area (e.g. quick wins) etc.

Further to the categorisation, a suitability assessment and prioritisation of settlements, four key strategic documents were used as an informant in compiling the ISUS. These documents are summarised below:

- i. Spatial Development Framework (2012): the direction of development within the municipality.
- ii. Integrated Development Framework (2015/16): development indicators.
- iii. Human Settlement Provincial Housing Pipeline (2015/2016): approved and/or planned housing projects contained in the housing pipeline.
- iv. National and Provincial Guidelines (2009); and
- v. Internet based searches for best practices at other municipalities.

From this research, a categorisation model of the existing 15 informal settlements (**refer to table 1 and annexure A, B & C**) was distilled to a model that would best fit the Stellenbosch Local Municipality premised on existing development trends within a particular settlement. A copy of the full Informal Settlement Upgrading Strategy document is attached as **APPENDIX 1**.

Table 1: Categorisation/Classification of Informal Settlements in Stellenbosch Local Municipality

CATEGORISATION/CLASSIFICATION OF INFORMAL SETTLEMENTS
Category A: Full Upgrading
<ul style="list-style-type: none"> • Developmental pathway: Rapid formalisation consisting of full services, top-structures and formal tenure (e.g. title deeds). • Rationale: <ul style="list-style-type: none"> - Site is viable (developable) and appropriate for purposes of formalisation; - Project is implementation-ready - full upgrading can commence rapidly (typically land secured, feasibilities complete, plans approved etc.). • Response <ul style="list-style-type: none"> - Formal Township Establishment; - Full Services; - Full Tenure.
Category B1: Interim Basic Services
<ul style="list-style-type: none"> • Developmental pathway: Provision of interim basic services leading to eventual formalisation (full upgrading). • Rationale: <ul style="list-style-type: none"> - Site is viable (developable) and appropriate for purposes of formalisation; - Project is not implementation-ready and imminent (there will be significant delay due to such factors as land acquisition or bulk services provision). • Response: <ul style="list-style-type: none"> - Upgrading Plan - Basic Services (Short Term) - Upgraded Services (Long Term) - Top Structure (Long Term) - Tenure Upgrading (Long term).
Category B2: Emergency Basic Services
<ul style="list-style-type: none"> • Developmental pathway: Provision of emergency basic services but not leading to eventual formalisation - more likely leading to eventual relocation (when and if a suitable relocation site is obtained and developed). • Rationale: <ul style="list-style-type: none"> - Site is not viable (developable) and appropriate for purposes of eventual formalisation; - No urgent need for relocation (absence of serious health and safety threats which cannot be adequately mitigated in the short term through basic services provision). • Response: <ul style="list-style-type: none"> - Short Term Intervention: Interim Basic Services Plan/Mobile Facilities; - Relocate Long Term.
Category C: Relocations
<ul style="list-style-type: none"> • Developmental pathway: Rapid relocation to a site which is already available or imminently available.

-
- **Rationale:**
 - Site is not viable (developable) or appropriate for purposes of eventual formalisation.
 - There is an urgent need for relocation due to serious health and safety threats which cannot be adequately mitigated in the short-term through basic services provision.
 - An appropriate relocation destination is currently or imminently available.
 - In some instances residents may be assisted in terms of SLM Emergency Housing Assistance Policy.
 - **Response:**
 - Land Identification/Acquisition (Formal Township or Informal Area);
 - Basic/Full Services;
 - Tenure Partial/Full;
 - Top Structures (Long Term).

The categorisation of settlements was then linked to various projects that the Municipality are currently working on. A checklist was developed to include all the prevalent characteristics of the informal settlements and each settlement was measured against this checklist. Projects were thereafter prioritised and an implementation and execution strategy developed (**see table 2**) premised on the location of the settlements in the categorisation model taking into account the importance given to the settlements by the SDF, IDP and Housing Pipeline (**see table 2**) and other strategic documents that speak to developmental local government, good governance and providing access to a dignified living.

Table 3: Proposed Informal Settlement Summary

NO	CLUSTER	CATEGORISATION & PRIORITY		INTERVENTION	PRIORITY ACTIONS	INTEGRATED DEVELOPMENT PLAN (15/16)	SPATIAL DEVELOPMENT PLAN (2012)	HOUSING PIPELINE (2015-2019)	URBAN EDGE	
		Yes	No							
1	Sewende Laan/ Kreefgat (35 Units)	C		<ul style="list-style-type: none"> ☐ Sewende Laan is located on privately owned land. ☐ Court order/ legal eviction ☐ There is provision of basic interim services. ☐ Community facilities are to be shared with Jamestown community. ☐ After a recent fire, some 43 families from this area were relocated to farm 527/4 (South). 		☐ New Housing: Jamestown	<ul style="list-style-type: none"> ☐ A portion of municipal land on which the airfield stands as well as the land holding at the entrance to Techno park has potential to be used for social and gap housing ☐ Vacant land in Jamestown can be further consolidated. ☐ Further research is required to assess the long term costs and benefits of developments that convert productive agricultural land into new suburbs. ☐ Land, mainly below the R310 has been identified as having development potential subject to the identification and demarcation of flood lines. ☐ The land between 	<ul style="list-style-type: none"> ☐ Project has funding approval for planning / services / Top structures ☐ Funding required to appoint consultant and apply for Planning approval for Phase 2 	X	
2	Rasta Camp/ Lower Graveyard (30 Units)	B1							X	
3	Upper Graveyard A (35 Units)	B1		<ul style="list-style-type: none"> ☐ Farm 527/4 South - This land belongs to the Stellenbosch Municipality. 					X	
4	Riverside (26 Units)	B1		<ul style="list-style-type: none"> - These five informal 					X	

5	Sewende Laan/ Kreefgat Fire Victims relocated to Farm 527 (South) (43 Units)	B1	<p>settlements are to be consolidated on the southern portion of Farm 527/4.</p> <ul style="list-style-type: none"> - The SLM is busy upgrading water pressure for provision of communal water connections to residents in this area. 			<p>Flottenburg and De Zalze and Onder Papagaaiberg could be relatively easily developed into continuous urban suburbs.</p>		X	
6	Fresno Street (26 Units)	B1	<ul style="list-style-type: none"> - Individual electricity connections are planned per household. - Communal toilets will be provided (clustered), but with an individual unit allocated per family/ household. - To be incrementally formalised in line with B1 Upgrading/ Formalisation Strategy to be formulated. - If the area is eventually vacated, with families being accommodated on farm 527 North, Farm 527/4 South will be 					X	

			<p>developed with serviced stands.</p> <p>☐ Farm 527 North:</p> <ul style="list-style-type: none"> - Construction of 162 of the planned 300 low income/subsidised units is underway. - Various potential beneficiaries from surrounding Jamestown areas. - Including informal settlements on Farm 527/4 (South). - The existing formal housing project may expand in future (total capacity of the farm is estimated at 570 units). 					
7	Slabtown/ Upper Slabtown (39 Units)	C	<p>☐ Slabtown and Upper Slabtown were recently relocated to Longlands.</p> <p>☐ This development</p>					X
8	Longlands (Vlottenburg)	A	<p>will accommodate approximately 144 subsidised units as part of a larger IRDP project</p>		☐ New Housing: Longlands, Vlottenburg		☐ Project has funding approval for 106 sites. Contractual matters and access to the site	X

			(Longlands) which will accommodate the entire informal settlement community.				still an issue.		
Cluster 2: Central Stellenbosch									
9	Enkanini(3307 units)	B1	<p>📌 Enkanini</p> <ul style="list-style-type: none"> - Earmarked for In Situ Incremental Upgrading or Formal Layout Plan with Township Establishment. - Western Cape DoHS earmarked the area for formal layout planning for 2016/17. - 1800 Top structures: Requires decanting site for 1100 structures. - Remainder part comprises three farm portions: Grootvlei 183 and 181; and Kromme Rivier 175. - Stellenbosch north expansion area could be utilised for decanting during upgrading process. 	<p>📌 Upgrading plan alternatives for Enkanini informal settlement has been compiled</p>	<p>📌 Enkanini (Planning) Informal Settlements</p> <p>📌 Enkanini (Services) Informal Settlements</p>	<p>📌 The town is to be conceptualised as 5 interdependent mixed-use, mixed-income urban villages focusing on:</p> <ul style="list-style-type: none"> - (1) North: intersection of Bassi Street / R304 / Cloeteville Steps - (2) Centre: existing town centre, - (3) East: Idasvallei/Uniepark on intersection of Helshoogte/Cluver. - (4) West: Onderpapagaaiberg / SFW on intersection of Devon Valley/Adam Tas/Oude Libertas, - (5) South: Paradyskloof on intersection of Blaauklippen/Strand Roads. <p>📌 Johannesburg plots and</p>	<p>📌 Planning application submitted to PDoHS.</p>	X (partial)	

10	Zone O Kayamandi (1700 Units)	B1&C	<input type="checkbox"/> Zone O Decanting area at Watergang – 193 houses and 295 serviced erven to be provided. - Existing/ remaining Zone O (± 1200 units): Earmarked for enhanced serviced sites - UISP Phase 3 upgrading (possible).	<input type="checkbox"/> Layout plan has been compiled <input type="checkbox"/> Install Full Services	<input type="checkbox"/> New Housing: Kayamandi (Watergang & Zone O)	the strip along Helshoogte Road. <input type="checkbox"/> Eastern fringe of Kylemore to proposed river corridor setback line. <input type="checkbox"/> Link area along flood plain between Kylemore and Lanquedoc (above 1:100 year flood plain). East of Lanquedoc.	<input type="checkbox"/> Project has funding approval for planning/services/Top-structures.	X	
11	Kayamandi Town Centre (1228 Units) - Zone J (East) (523 Units) - Hostels Area (West) (705 Units)	B1	<input type="checkbox"/> Kayamandi Town Centre - Eastern Precinct (Zone J): To be incrementally upgraded (B1) with decanting. - Hostel Precinct Redevelopment Plan: Request for Proposals Advertised (Redevelop entire area in-situ).	<input type="checkbox"/> Compile Upgrading Plan and Strategy <input type="checkbox"/> Hostel Precinct Plan	<input type="checkbox"/> New Housing: Kayamandi Town Centre		<input type="checkbox"/> Planning application submitted to PDoHS. <input type="checkbox"/> PDoHS appointed consultants to apply on behalf of Stellenbosch Municipality for Restructuring the Town and Zones.	X	
12	Slabtown/Cloet esville (35 Units)	C	<input type="checkbox"/> Slabtown: To be relocated and formalised somewhere in Cloetesville (site to be confirmed).	<input type="checkbox"/> Greenfields relocation in Cloetesville			<input type="checkbox"/>	X	
Cluster 3: Dwarsriver Valley									
13	Erf 64 Kylemore	B1: Phase 2	<input type="checkbox"/> Kylemore	<input type="checkbox"/> Apply for	<input type="checkbox"/> New Housing:		<input type="checkbox"/> Project has funding		

	(10 Units)		<ul style="list-style-type: none"> - Existing informal settlement is provided with all basic services (water, sanitation and electricity). - Next stage will be UISP Phase 3 and 4 (Full services and top structures) - The land still belongs to Department of Public Works. 	funding	Kylemore		approval for planning but due to the land not being transferred to Stell Mun from National Public works the project has been put on-hold.		X
14	Ghiff (Pniel) (15 Units)	C	Ghiff – Meerlust.						X
15	Meerlust (10 Units)	C	Both informal settlements to be relocated to Meerlust Housing Project – 200 units planned.		☑ New Housing: Meerlust			X	
Cluster 4: Klapmuts									
16	La Rochelle (30 Units)	A	<ul style="list-style-type: none"> ☑ Erf 2183 (La Rochelle) to be developed for 100 Gap Units/CRU. ☑ Existing 30 units on Erf 2183 to be relocated/ incorporated into Mandela City. 		☑ Informal Settlement: Klapmuts	☑ The area of Klapmuts to the west of the R44 has potential to operate as a mixed-use, mixed-income settlement, particularly if development can be encouraged in the centre of the village.		X	
17	Mandela City (340 Units)	A	<ul style="list-style-type: none"> ☑ Mandela City, 400 erven capacity: The 400 stands are all fully serviced (Phase 3). ☑ Some top structures (Phase 4) approved (number unknown). 			Open spaces around the 4-way stop and on the verges are well positioned for low income traders. The market in front of the church could be formalised, and drawings	☑ Project has funding approval for 219 units (planning/services/Top-structures).	X	

						for this are already available.			
Cluster 5: Franschhoek									
18	Langrug (1858 Units)	B1 and C	<ul style="list-style-type: none"> ☐ Earmarked for in-situ incremental upgrading. ☐ Next priority is to compile an Upgrading Plan (underway). ☐ Decanting from streets at upper slopes to be accommodated at La Mote (500 erven). ☐ La Mote land belongs to Department of Public Works. ☐ Township Establishment Application and EIA completed. ☐ Not finalized due to delay with transfer of property to SLM. 		<ul style="list-style-type: none"> ☐ Development of Erf 412 for housing ☐ Informal Settlement: Langrug, Franschhoek: UISP 	<ul style="list-style-type: none"> ☐ Land above the current urban boundary of the town between Franschhoek North and South is to be promoted for mixed use, mixed income development including social and gap housing. ☐ Low key densification of existing suburbs with 2nd dwellings and subdivisions down to minimum plot sizes should be encouraged. 	<ul style="list-style-type: none"> ☐ Planning application submitted to PDoHS 	X (partial)	

Further informants to this process were:

- i. To identify informal settlements that falls within/outside the municipal urban edge (**see table 2**).
- ii. Policy guidelines for the electrification of unproclaimed areas,
- iii. The NUSP Resource Kit.
- iv. Implementation of Emergency Housing by the Housing Development Agency (HDA) (2012); and
- v. Emergency Housing Programme (2009) and Informal Settlement Policies from local Municipalities.

The Informal Settlement Upgrading Strategy will be a working document that will give directives as to how the Municipality manages unplanned settlements. It will be implemented within the Stellenbosch Local Municipality (WC024) and will be reviewed and amended as per the Council's directives whenever the Council deems necessary.

4. COMMENTS BY RELEVANT DEPARTMENTS

The Item was circulated to the relevant Departments on 04 November 2015 and 11 November 2015

- 4.1 Planning and Economic Development
Spatial Planning has no comment.
- 4.2 Engineering Services
Did not receive comments from the Department before the cut-off date.
- 4.3 Chief Financial Officer
The projects should be costed and prioritised and included in the housing pipeline item aligning with the DORA budget allocation for human settlements.
- 4.4 Snr Legal Advisor

The item and recommendations are supported.

RECOMMENDED

- (a) Council adopts the Informal Settlement Upgrading Strategy;
- (b) Council approves the categorisation of existing informal settlements as per **table 1**;
- (c) Council approves the implementation and execution of the intervention strategies as per the informal settlements response plan in accordance to **table 1 and 2**;
- (d) Council approves the relevant projects per informal settlements be aligned with the Housing Pipeline.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

**ENGINEERING SERVICES AND HUMAN SETTLEMENTS COMMITTEE MEETING:
2016-04-06: ITEM 6.1.1****RECOMMENDED**

- (a) that Council adopts the Informal Settlement Upgrading Strategy;
- (b) that Council approves the categorisation of existing informal settlements as per **table 1**;
- (c) that Council approves the implementation and execution of the intervention strategies as per the Informal Settlements Response Plan in accordance with **tables 1 and 2**;
- (d) that Council approves the relevant projects per informal settlements be aligned with the Housing Pipeline; and
- (e) that Council mandates the Administration to make the same assessment of the informal settlements in all Bosdorpe in WC024.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

MAYORAL COMMITTEE MEETING: 2016-04-22: ITEM 5.1.3**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that Council adopts the Informal Settlement Upgrading Strategy;
- (b) that Council approves the categorisation of existing informal settlements as per **table 1**;
- (c) that Council approves the implementation and execution of the intervention strategies as per the Informal Settlements Response Plan in accordance with **tables 1 and 2**;
- (d) that Council approves the relevant projects per informal settlements be aligned with the Housing Pipeline; and
- (e) that Council mandates the Administration to make the same assessment of the informal settlements in all Bosdorpe in WC024.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 7.3**RESOLVED** (nem con)

- (a) that Council adopts the Informal Settlement Upgrading Strategy;

- (b) that Council approves the categorisation of existing informal settlements as per **table 1**;
- (c) that Council approves the implementation and execution of the intervention strategies as per the Informal Settlements Response Plan in accordance with **tables 1 and 2**;
- (d) that Council approves the relevant projects per informal settlements be aligned with the Housing Pipeline; and
- (e) that Council mandates the Administration to make the same assessment of the informal settlements in all Bosdorpe in WC024.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

7.4 REVISED EMERGENCY HOUSING ASSISTANCE POLICY (EHAP)*File number* : 17/4/3*Report by* : *Municipal Manager**Compiled by* : *Director: Human Settlements and Property Management**Delegated Authority* : *Council***Strategic intent of item**

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

1. PURPOSE OF REPORT

The purpose of the report is to:

- (i) provide Council with the revised Emergency Housing Policy (EHAP) for consideration and in principal approval;
- (ii) to advertise the revised policy for public input.

2. BACKGROUND

The Emergency Housing Assistance Policy was adopted by Council on 25 October 2012. It was however found (over time) that the EHAP did not necessarily address and include the prescripts of the most recent judgements in terms of evictions and the resultant emergency housing assistance.

The Blue Moonlight Eviction Case extends the obligation of a municipality to provide alternative accommodation to people who will become homeless because of an eviction from either private or state owned land.

In accordance with the City of Johannesburg / Changing Tides 74 (Pty) Ltd & Others judgment/ruling, the court may now request certain information from the municipality before the eviction order will be granted. The report provided to the court by the municipality must include:

- (a) Information on the building or property;
- (b) Information on the demographic profile and personal circumstances of the occupiers;
- (c) Information on whether the occupier will become homeless because of the eviction;

- (d) Alternative accommodation that is available for the occupiers after they are evicted (if they will become homeless because of the eviction);
- (e) The implications for the property owner;
- (f) Details of all engagements (mediation) between the municipality and the occupiers with the purpose of finding a solution;
- (g) Information on the municipalities housing policies and programmes;
- (h) The housing needs in the municipal area.

The municipality must be able to provide the court with housing policies and plans that respond to the need of the most desperate households and provide a plan for alternative accommodation.

In accordance with the various legislative requirements the Council approved an emergency housing policy on 25 October 2012 which addresses to some extent the issue of evictions.

2.1 Revised Emergency Housing Assistance Policy (EHAP)

The policy approved by Council aims to provide a basis for the implementation of emergency assistance by the municipality.

One of the critical implications of the court judgment is that a municipality must budget and plan for all categories of persons in need of emergency accommodation (**APPENDIX 1 - FINAL REVISED EMERGENCY HOUSING POLICY (EHAP) DOCUMENT, APPENDIX 2 – final document showing revisions to the approved EHAP OF 25 October 2012**).

2.2 Workshop

Several workshops was held over a period of a year and a half to address the impasse created with the approval of the EHAP and the prescribes of the Blue Moonlight Eviction Case, City of Johannesburg / Changing Tides 74 (Pty) Ltd & Others. The outcomes of these workshops have been included in the revised EHAP.

3. DISCUSSION

The revised Emergency Housing Policy is an attempt to address the gap between the prescripts of the abovementioned cases and the approved EHAP. Furthermore, issues or concerns raised by officials and Councillors have been included in the revised EHAP. These issues or concerns are *inter alia* the following:

- i. The uniform use of the phrase “informal dwelling”. The latter should include less formal backyard structures and less formal structures in informal settlements. Where these structures are in a backyard it must have an approval by the Planning Department.
- ii. The role of the Municipality and more specifically the role of Departments as it pertain to various emergency scenarios.
- iii. Clarification of the definition of various concepts.

- iv. The approved allocation of 10% of all housing projects for emergency housing has proven to be insufficient and alternative sites need to be identified by Council as a matter of urgency.

The above issues and concerns have been included in the revised EHAP and were circulated to the various Departments affected by this proposed revised policy.

4. COMMENTS BY RELEVANT DEPARTMENTS

The proposed revised policy was circulated to the following Departments:

4.1 Engineering Services

No comments received.

4.2 Chief Financial Officer

No comments received.

4.3 Senior Legal Advisor

The item and recommendations are supported.

4.4 Planning and Economic Development

No comments received.

RECOMMENDED

- (a) that Council approve the revised Emergency Housing Assistance Policy (EHAP) attached as **APPENDIX 1**, in principle;
- (b) that the revised EHAP be advertised for public input; and
- (c) that should any inputs be received, same be considered by Council before a final decision is made.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

ENGINEERING SERVICES AND HUMAN SETTLEMENTS COMMITTEE MEETING: 2016-04-06: ITEM 6.1.2

RECOMMENDED

- (a) that Council approve the revised Emergency Housing Assistance Policy (EHAP) attached as **APPENDIX 1**, in principle;
- (b) that the revised EHAP be advertised for public input;
- (c) that should any inputs be received, same be considered by Council before a final decision is made; and

- (d) that the Administration incorporate into the EHAP the information regarding the nature and extent of assistance to be rendered to informal dwellers in the event of a disaster.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

MAYORAL COMMITTEE MEETING: 2016-04-22: ITEM 5.1.4

RECOMMENDED BY THE EXECUTIVE MAYOR

- (a) that Council approve the revised Emergency Housing Assistance Policy (EHAP) attached as **APPENDIX 1**, in principle;
- (b) that the revised EHAP be advertised for public input;
- (c) that should any inputs be received, same be considered by Council before a final decision is made; and
- (d) that the Administration incorporate into the EHAP the information regarding the nature and extent of assistance to be rendered to informal dwellers in the event of a disaster.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 7. 4

RESOLVED (nem con)

that this item be referred back to allow Administration to obtain comments from all directorates, whereafter same be resubmitted to Council.

(DIRECTOR: HUMAN SETTLEMENTS TO ACTION)

7.5 IMPROVING MUNICIPAL FINANCES

File number : 8/1/Financial
Report by : Chief Financial Officer
Compiled by : Chief Financial Officer
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 checked="" type="checkbox"/>

1. PURPOSE OF REPORT

Previously Council resolved that a report must serve at Council how financial sustainability can be improved. Specifically the resolution required the following points for discussion:

- (i) increasing revenue from alternative and existing sources, which include social housing rental stock, historical properties as well as all other land holdings of the municipality;
- (ii) recommending financial savings through the effective use of office accommodation; and
- (iii) any other recommendations that the Administration deems fit to increase revenue and to improve financial efficiencies to ensure the financial viability of the organization

2. DISCUSSION

- (i) Increasing revenue from alternative and existing sources, which include social housing rental stock, historical properties as well as all other land holdings of the municipality;
- a) Currently the Municipality owned rental flats runs at a loss. The Directorate of Human Settlements recently substantially completed the interviewing of the occupants of the municipal properties. From this an "interim report on the audit of legal occupation of public rental municipal flats" served at the Council meeting of 27 January 2016.

The report indicated that there are cases of transferred tenancy and alleged illegal occupancy. 23 cases were referred to the Legal Department for action.

- b) It is clear that many tenants cannot afford the rentals, because of limited income. This situation is one of the reasons for escalating outstanding

-
- debt. The Director: Human Settlements & Property Management will submit an Item shortly which will recommend a lower rental tariff structure to support these cases which will improve the escalating debt situation.
- c) This reduced rental structure will put more pressure on the financial sustainability of the 607 municipal flats.
- d) Possible solutions could include:
- Outsourcing the management of the flats
 - Move single elder occupants to single units and rent out larger units at higher rates
 - Test the market for developers who might be interested to manage the flats for the exchange to obtain the rights to build another flat on municipal property to let at market related rates to cross-subsidise the current municipal social service delivery of providing housing at a financial loss.
- e) Stellenbosch Municipality is fortunate to own historical rich properties like the Voorgelegen and Rhenish complex and the Dorp Street flats. However, these properties are expensive to maintain and it is debatable if these properties are optimally utilised to the wider benefit of the community. Finance proposes for the market to be tested for developers' proposals to enhance the use of these properties on terms set by Council.
- f) The revision of the Integrated Zoning Scheme will promote densification and increase revenue sources and improve the effective use of municipal infrastructure.
- g) The airfield can be extended to enhance the pillar of "Preferred investment destination" and cater for private jets as well.
- h) Catalytic projects to the Transit Orientated Development on Municipal property which will promote integration; densification; the use of non-motorised transport and the effective use of infrastructure.
- i) Synergies with District Municipal property like to the Fire Station.
- j) Forestry and associated potential can be explored.
- k) Synergies of sport facilities with the university's facilities can be explored where Stellenbosch is a popular sport destination.
- l) The management of the Town Hall can be outsourced to improve revenue.
- m) The Immovable Property Policy should be considered,
- n) Project managers have been identified to support various property development projects.
- (i) Recommending financial savings through the effective Use of office accommodation**

-
- a) It is debatable if the current use for office space (both owned and rented) is optimal. It must be noted that converting the owned property will not provide all the required office space. It is also not always practical due to the historical nature of the owned property and conversions are also costly.
 - b) It is therefore possible that a private developer may develop an office building that is fit for purpose and improve customer interface and experience more cost effectively. Finance proposes for the market to be tested for developers' proposal to develop municipal offices and lease back to Council for a number of years on terms set by Council.
 - (ii) **Any other recommendations that the Administration deems fit to increase revenue and to improve financial efficiencies to ensure the financial viability of the organization.**
 - a) Various ongoing initiatives are taking place to improve efficiencies;
 - b) The new Policy on Development Charges will increase the revenue;
 - c) The new valuation roll which will come into effect on 1 July 2017 should improve revenue;
 - d) GIS was implemented and the Billing Viewer links accounting data spatially with erven. This should provide the administration with visual analyses of revenue anomalies;
 - e) A service provider will be procured to project manage Revenue Enhancement;
 - f) New CATS meter readers were procured which can take photographs where access could not be obtained or where building work is in progress. This can be linked per GIS and compared to accounting data and Building Plan approvals which can improve revenue from interim valuations;
 - g) Implement subsidy housing projects through Turnkey Developers to mitigate implementation risks;
 - h) On 2 March 2016 there was a presentation by Province about Fleet Management which might provide a part solution to fleet management;
 - i) A project manager is identified to support the fleet management function;
 - j) A project manager is identified to support organization alignment.

RECOMMENDED

that the report, be noted.

(CHIEF FINANCIAL OFFICER TO ACTION)

**FINANCE AND STRATEGIC AND CORPORATE SERVICES COMMITTEE:
2016-03-08: ITEM 6.1.1**

RECOMMENDED

- (a) that the report be noted; and
- (b) that a Working Committee consisting of the Directors be established by the Municipal Manager to consider the content of the item and to submit a preliminary implementation report to the Finance and Strategic and Corporate Services Committee Meeting scheduled for the June 2016 cycle of Council.

(MUNICIPAL MANAGER TO ACTION)

MAYORAL COMMITTEE MEETING: 2016-03-23: ITEM 5.1.6**RECOMMENDED BY THE EXECUTIVE MAYOR**

- (a) that the report on Improving Municipal Finances, be noted; and
- (b) that a Working Committee consisting of the Directors be established by the Municipal Manager to consider the content of the item and to submit a preliminary implementation report to the Finance and Strategic and Corporate Services Committee Meeting scheduled for the June 2016 cycle of Council.

(MUNICIPAL MANAGER TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 7. 5

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

After the meeting resumed, it was

RESOLVED (nem con)

that this item be referred back for Administration to arrange for a workshop for all Councillors, whereafter the item be resubmitted to Council.

(MUNICIPAL MANAGER TO ACTION)

8. CONSIDERATIONS OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED BY THE MUNICIPAL MANAGER

8.1 UNIVERSAL ACCESS POLICY FRAMEWORK

File number : 4/P/16

Report by : Director: Planning and Economic Development

Compiled by : Manager: Community Development

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 ask Council to approve the attached draft Disability Policy (**APPENDIX 1**) in order to advertise said Policy for public comment.

2. BACKGROUND

In terms of the United Nations Convention on the Rights of Persons with Disabilities 'Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others'. The same document also speaks of disability being an evolving concept and that disability results from the interaction between people with impairments and the attitudinal and environmental barriers that hinder full and effective participation in society on an equal basis.

3. DISCUSSION

In drafting the policy the following process was followed:

Guidance was taken from the external disability policy from City of Cape Town. The concept document was discussed with a consultant in the field of disability employment and policy development from Altitude Supported Employment.

Introduction session with the Stellenbosch Disability Network on the meeting held on 4 March 2015. The policy was then send electronically to the network and was also made available to persons with sight impairments through the US to comment on the policy by 20 March 2015.

Internal discussions with a focus on the deliverables per directorate was concluded to finalize the first year's deliverables to be approved as part of the policy and to clarify the roles of the internal line departments.

4. LEGAL DEPARTMENT

The draft item is supported subject to confirmation of availability of budget by the Finance Department for the implementation of the policy. (Comment emailed 2015-08-12).

5. FINANCIAL IMPLICATION

Implementation will be subject to budget prioritization (Comment emailed 2015-07-30).

RECOMMENDED

- (a) that the draft Disability Policy, be approved, in principle; and
- (b) that the draft Disability Policy be advertised for public comment whereafter same be resubmitted to Council for final consideration and subsequent approval.

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

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE: 2015-10-06: ITEM 5.1.1

RECOMMENDED

- (a) that the draft Disability Policy, be approved, in principle; and
- (b) that the draft Disability Policy be advertised for public comment whereafter same be resubmitted to Council for final consideration and subsequent approval.

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

MAYORAL COMMITTEE MEETING: 2015-10-21: ITEM 5.1.1

RECOMMENDED BY THE EXECUTIVE MAYOR

- (a) that the draft Disability Policy, be approved, in principle; and
- (b) that the draft Disability Policy be advertised for public comment whereafter same be resubmitted to Council for final consideration and subsequent approval.

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

35TH COUNCIL MEETING: 2015-10-28: ITEM 7.2**RESOLVED** (nem con)

- (a) that the draft Disability Policy, be approved, in principle;
- (b) that the draft Disability Policy be advertised for public comment whereafter same be resubmitted to Council for final consideration and subsequent approval; and
- (c) that Council agree that all Directors be held accountable through their KPI's to employ more people with disability in line with the Employee Equity Policy and Plan.

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

**FURTHER COMMENTS BY THE DIRECTOR PLANNING AND ECONOMIC
DEVELOPMENT**

The said "Disability Policy Framework" was advertised for public comment in the Kasi Vision Boland (13/11/2015) and Stellenbosch Gazette (17/11/2015) in three languages attached hereto as **APPENDIX 2**.

Comments were received from three sources, attached hereto as **APPENDIX 3**.

Comment 1: Stellenbosch Hospice - refers to **sidewalks** in Stellenbosch. Send to Engineering Services for comment. The following comment was received:

"The utilization of the sidewalks is covered in the By-law on Streets which states that no works can be done in the road reserve without the Municipalities approval. It further states that no tree or shrub may be planted in a street without the Municipalities written permission. It is therefore not necessary to include it in the Disability Policy. Gardening on sidewalks contribute to the beautification of the road reserve and should be encouraged where it does not interfere with services and where space allow for gardens and adequate sidewalk space for non-motorized transport users.

The comment of Mrs. M Wilken is noted and sidewalk access space will be managed on an ad hoc basis."

Comment 2: Altitude Supported Employment – refers to Stellenbosch Municipality **employment target** of persons with disability and inclusion in all directors' performance agreements. Included in the policy.

Comment 3: Universal Design Africa (UDA) – refers to acceptance of **Universal Design principles** and broadening of policy to include all persons with diverse needs which will include persons with disability, but also other vulnerable groups. The comments provided by UDA have far reaching consequences as it suggest a philosophical and name change to the policy. The proposed changes suggest a much wider reach for the policy as it will affect not only persons with disability, but also any person with diverse needs/requirements in doing business with the municipality, affected by the type of services the municipality delivers and how those services are delivered. Incorporating and accepting Universal Access and Universal Design will lead to Stellenbosch

Municipality being one of the leading and most progressive municipalities regarding the approach we follow to deliver services.

A consequence of the suggested changes is that the policy has changed in essence and in name and should therefore be re-advertised for public comment.

Incorporated comments can be found in said policy with track changes (**APPENDIX 4**) for ease of reference and attention of council.

38TH COUNCIL MEETING: 2016-02-24: ITEM 8.2

RESOLVED (nem con)

- (a) that Council approve the draft Universal Access Policy Framework as per **APPENDIX 4** with incorporation of the comments submitted by the public in principle; and
- (b) that the draft Universal Access Policy Framework be advertised for public comment whereafter same be resubmitted to Council for final consideration and subsequent approval.

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

FURTHER COMMENTS BY THE DIRECTOR PLANNING AND ECONOMIC DEVELOPMENT

The said "Disability Policy Framework" was advertised for public comment in the Stellenbosch Gazette (08/03/2016) and Eikestad Nuus (10/03/2016) in three languages attached hereto as **APPENDIX 5 a and b**. The draft policy was also distributed through the Stellenbosch Disability Network via email.

Comment was received from the Stellenbosch University Disability Unit attached as **APPENDIX 6**. The comments relating to terminology and the section on mainstreaming of Universal Access across all directorates were included in the policy.

Incorporated comments can be found in said policy with track changes (**APPENDIX 7**) for ease of reference and attention of council.

RECOMMENDED

that Council approve the Universal Access Policy Framework as per **APPENDIX 7** with incorporation of the comments submitted by the public.

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

40TH COUNCIL MEETING: 2016-04-26: ITEM 8. 1**RESOLVED** (nem con)

that Council approve the Universal Access Policy Framework as per **APPENDIX 7** with incorporation of the comments submitted by the public.

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

8.2 **APPLICATION TO EXTEND THE TERM OF THE LEASE AGREEMENT BETWEEN THE MUNICIPALITY AND STELLENBOSCH VliegVELD MAATSKAPPY – RESCINDING OF COUNCIL RESOLUTION**

File number : 7/2/2/1/1/31
Compiled by : Director: Planning & Economic Development
Report by : Acting Municipal Manager
Delegated Authority : Council

Strategic intent of item

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

1. PURPOSE OF REPORT

To consider the disposal of the Stellenbosch Airport through a long term lease. Item is **recommended for approval**.

2. BACKGROUND

2.1 Latest decision

The matter previously served in Council (Item 8.4 MINUTES 23RD MEETING OF THE COUNCIL 2014-09-23 OF STELLENBOSCH MUNICIPALITY)

The purpose then was: "*To consider the extension of the term of the Lease Agreement between Stellenbosch Municipality and Stellenbosch VliegVeld Maatskappy.*"

At this meeting it was "*RECOMMENDED that the current lease period not be extended, as requested by the Stellenbosch Flying Club.*"

It was "*RESOLVED (majority vote) that this matter be referred back to allow the Administration to provide all relevant information, whereafter same be resubmitted to Council for consideration.*"

Councillors DA Hendrickse and M Wanana requested that their votes of dissent be minuted.

**(ACTING DIRECTOR: HUMAN
SETTLEMENT TO ACTION)"**

2.2 Motion by Councillor E.L. Maree

A notice of motion dated 2013-11-26 was received from Councillor E. L. Maree, requesting that the term of the Lease Agreement between Stellenbosch Municipality and Stellenbosch Vliegveld be extended. The said motion was considered by Council on 2014-06-25. Having considered the motion, Council resolved as follows:

“a) that the application to extend the term of the lease agreement between the Municipality and “Stellenbosch Vliegveld Maatskappy” in respect of Farm 502L Stellenbosch from 31 March 2012 to 31 March 2014, be investigated; and

b) that the Administration be commissioned to draft an item and include all particular annexures for consideration at the next meeting of Council.”

2.3 Current Lease Agreement

The current Lease Agreement was concluded on the 10th of February 1992 for the period 01 April 1991 to 31 March 2021. A copy of the Lease Agreement is attached as **APPENDIX 1**.

The current market value of the lease is R53 760,00 per year (determined in keeping with the lease agreement in 2011), plus escalation, i.e. R70 988,59 (2015). This is a determination based on the land value only, as the infrastructure and assets are the property of the Stellenbosch Vliegveld Maatskappy.

The relevant portion of the property, undivided portion L of Stellenbosch Farm No. 502 (roughly 28,2 ha), is valued at R21 890 000,00.

3. DISCUSSION**3.1 Contractual arrangements**

In terms of the current Lease Agreement, the duration of the contract is for the period 1 April 1991 to 31 March 2021. No provision is made for the renewal of the agreement or for the extension of the duration.

3.2 Legislative requirements

The report motivates for the disposal of the airport, which needs to be put into perspective. The Local Government: Municipal Finance Management Act, 2003, Municipal Asset Transfer Regulations (No. R. 878, 22 August 2008) (MATR) determines that “disposal”, in relation to a capital asset, includes -

(a) the demolition, dismantling or destruction of the capital asset; or

(b) any other process applied to a capital asset which results in loss of ownership of the capital asset otherwise than by way of transfer of ownership;”

3.2.1 Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) and Municipal Asset Transfer Regulation (MATR)

The MFMA determines the following: “Transfer or disposal of non-exempted capital assets

5. (1) A municipality may transfer or dispose of a non-exempted capital asset only after -

(a) the accounting officer has in terms of regulation 6 conducted a public participation process to facilitate the determinations a municipal council must make in terms of section 14(2)(a) and (b) of the Act; and

(b) the municipal council -

(i) has made the determinations required by section 14(2)(a) and (b); and

(ii) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

(3) (a) Only the municipal council may authorise the public participation process referred to in sub-regulation (i)(a).

(b) A request to the municipal council for authorisation of a public participation process must be accompanied by an information statement stating - the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation; the reasons for the proposal to transfer or dispose of the capital asset; any expected benefits to the municipality that may result from the transfer or disposal; any expected proceeds to be received by the municipality from the transfer or disposal; and any expected gain or loss that will be realised or incurred by the municipality arising from the transfer or disposal.

5.3.1 Immovable property may only be sold at market-related prices and let at market related rates except when the public interest or plight of the poor demands otherwise and provided that all charges, rates, tariffs, scales of fees or other charges.”

Upon expiry of the current lease, then a new decision must be taken in terms of the current legislation for the disposal of the property.

In terms of Regulation 34 of the ATR, a municipality may grant a right to use, control or manage a capital asset only after: The accounting officer has conducted a public participation process (with the prior approval of Council) requesting the proposed granting of the right. The public participation process must be complied with only if:-

a) the capital asset in respect of which the proposed right is to be granted has a value in excess of R10M; and

b) a long term right (i.e. longer than 3 years) is proposed to be granted in respect of the capital asset.

Further, in terms of Regulation 36, the Municipal council must, when considering the approval for any such right, take into account:

- a) whether such asset may be required for the municipality's own use during the period for which such right is to be granted;
- b) the extent to which any compensation to be received will result in a significant economic or financial benefit to the municipality;
- c) the risks and rewards associated with such right to use; and
- d) the interest of the local community

Further in terms of Regulation 41 the relevant municipality may grant the right only in accordance with the disposal management system (read Supply Chain Management Policy) of the Municipality, irrespective of the value of the asset; the period for which the right is to be granted, or whether the right is to be granted to a private sector party or organ of State.

3.2.2 Supply Chain Management System of Stellenbosch Municipality

In terms of paragraph 5.6, which deals with the letting of municipal fixed assets; the Supply Chain Management department, following an approval in principle by Council, must then embark on the applicable process.....**which process must be fair, equitable, transparent and competitive.**

3.3 Proposed process and statutory considerations

The Stellenbosch Vliegveld Maatskappy has established a fully operational private airport on the property at considerable costs, partly funded by the financial support of its members and also loans from the Municipality (see Legal Department comment below). In order to ensure the continued safe operation of the airport certain essential work has to be carried out (e.g. subsurface drainage should be installed and taxi ways and the runway needs to be edged, curbed and slurry-sealed) at further substantial costs to be funded by the company, i.e. its members.

The lessee (current or future) will only be able to raise the necessary funding / loan for the required work if it manages to conclude a lease agreement with the Municipality for a sufficient length of time.

Although airports are regarded as a municipal service in terms of The Constitution, all the key risks (e.g. operational risk) and liability for costs (e.g. construction costs) of the airport will remain with the lessee (current or future) of the property. While the Municipality has made financial contribution towards the development and upkeep of the airport (see Legal Department comment below) and that the lessee will be required to pay normal property rates and taxes in addition to a market related rental. This aspect must be highlighted in any public participation process.

An early tender process is essential, as the transfer process for a new operator / tenant will be no less than three years. Add to this the tender award period and time needed for negotiations between parties, then six years is the minimum time required for commencement of the process. To return the property to its original state as determined in the lease agreement, the current tenant must undertake an environmental authorisation and land remediation process for the removal of the fuel supply system and tanks, which will take no less than three years. Keep in mind that the fuel system, regardless of the technical ownership, is permitted to a specific person or entity. The flying club

purchased the tanks and refuelling system from Shell and it is doubtful whether this could be deemed the property of the Municipality. The land owner, i.e. the Municipality is responsible for any pollution on the site if the Legal Department's comment is valid, i.e. that the fuel installations are the property of the Municipality by default unless prior approval was granted for the installation. Section 28 of the National Environmental Management Act, 1998, Act 107 of 1998 (NEMA) is abundantly clear, namely that the owner of the land is responsible for remediation, unless the person (company) in control of the land can be held accountable, in which case the owner must ask the party in control to undertake "*measures to - (a) investigate, assess and evaluate the impact on the environment*".

Listing Notice 1: List of Activities and Competent Authorities Identified in terms of Sections 24(2) and 24D, Item 31 addresses this aspect and indicates the type of assessment required. Only after completion of that will the new tenant (or the Municipality as land owner) be able to apply for and install a new system, adding another two years to the time. Certain other aspects of the airport upgrading that is at the heart of the matter might also require environmental authorisation and add to the lead time for a new lease.

The comment from the Legal Department (below) does not take the aforementioned time lines and timing realities into consideration, i.e. it fails to recognise the importance of prior planning and timely action to ensure an uninterrupted use of the airport under a new lease.

3.4 Proposed tender conditions

The Bid specifications for the evaluation of tenders will be developed according to the following criteria:

- 3.4.1 Relevant experience and proven track record to operate a private airport: The airport delivers a service of significant importance to the communities within the municipal area. Its strategic value is likely to become increasingly important in future. The Municipality intends to protect this asset by requiring that the successful tenderer must have sufficient relevant experience and a proven track record to operate a private airport of similar size or bigger as a Grade 3 licensed airport.
- 3.4.2 Arrangements put in place to continue airport operations without interruption: The airport adds both economic and strategic value to the local communities and holds a positive advantage for the broader community. The current lessee has embarked upon a flight training empowerment initiative (the "Young Falcons") directed at previously disadvantaged individuals drawn from the areas surrounding the airport, which aims to serve as stepping stone for participants to eventually achieve full time employment as pilots on commercial airlines. The successful tenderer will be required to continue with this program (providing aircraft, instructors and advanced training including simulator service training) as it is an integral part of social and economic development and a community service to be rendered.
- 3.4.3 Community welfare: The airport is designated as an alternate aerodrome for the South African Red Cross Air Mercy Services and is also the airport of choice for Working-on-Fire, which provides critical airborne fire-fighting services in support of the Winelands local authorities during the summer season. The successful tenderer will be required to permit the continued use of the airport for these purposes.

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- 3.4.4 Capital improvements: The current lessee has expended substantial sums of money over the last three decades to construct, operate and maintain the airport. Tenderers must be able to show to the Municipality's satisfaction that they had made adequate arrangements with the current lessee and / or its members for taking over the private owned underground fuel tanks and other movable property which the lessee or its members have installed or erected on the property. "Third party tenderers" will have to show to the Municipality's satisfaction that they have concluded an agreement with the current lessee regarding market related compensation in respect of the permanent improvements which the current lessee has made to the property.
- 3.4.5 Alternative proposals: In the event that "third party tenderers" are unable to show that they have made satisfactory arrangements with the current lessee in respect of movable property and permanent improvements as contemplated above and / or if it they consider it essential to interrupt the service for a period after the current lease period runs out (e.g. to decommission the existing facilities or infrastructure and / or redevelop the property), they will have to include in their tenders full particulars of the work proposed to be carried out, confirm the expected period during which the airport will be out of commission and how such time period has been calculated.
- 3.4.6 Economic benefit and employment: "Third party tenderers" must be able to show to the Municipality's satisfaction that they had made acceptable arrangements with the Aircraft Maintenance Operator based at the airport to continue the service currently provided, as it employs a range of skilled and semi-skilled technical staff from the local area.

4. FINANCIAL IMPLICATION

The renewal of the lease has significant indirect financial benefits for the Stellenbosch Municipality. Economic impact assessments for similar local airports indicate that airport infrastructure is strongly linked to economic growth and plays a major role in providing greater mobility and choice, leading to an improvement in business income and welfare of citizens, e.g. special services such as air ambulances, fire protection and safety. Airports are also reported to play a critical role in generating employment within an economy, creating wealth, contributing to the tax base, stimulating tourism and contributing to high value goods trade.

5. COMMENTS FROM OTHER RELEVANT DEPARTMENTS

INTEGRATED HUMAN SETTLEMENTS AND PROPERTY

Supports the recommendation.

ENGINEERING SERVICES

Supports the recommendation.

FINANCIAL SERVICES

Supports the recommendation.

COMMUNITY AND SAFETY

Supports the recommendation.

CORPORATE AND STRATEGIC SERVICES

Supports the recommendation.

LEGAL DEPARTMENT

Clause 14 of the lease agreement entered into between Stellenbosch Municipality ("the Municipality") and the Stellenbosch Vliegvelde Company ("the Company") dated 10 February 1992 provides as follows:

GEBOU EN STRUKTURELE VERBETERINGE

- "14.1 *Enige gebou of strukturele verbetering wat op die EIENDOM by die aanvang van die huurtermyn opgerig mag word, sal deur die HUURDER op sy eie koste hetsy binne of buite in 'n goeie toestand gehou word en wel tot die bevrediging van die VERHUURDER en indien die HUURDER versuim om dit te doen kan die VERHUURDER sodanige reparasies as wat hy nodig mag ag, laat aanbring terwyl die HUURDER vir die Lugawe aanspreeklik bly.*
- 14.2 *Geen nuwe gebou, struktuur of ander permanente verbetering sal op die EIENDOM aangebring, opgerig of uitgevoer word sonder die voorafverkreë skriftelike toestemming van die VERHUURDER nie, en sonder dat bouplanne ten opsigte van sodanige verbetering vooraf deur die VERHUURDER goedgekeur is nie en laasgenoemde kan gelas dat sodanige gebou, struktuur of verbetering wat inderdaad sonder sy skriftelike goedkeuring en toestemming opgerig, aangebring of gebou is deur die HUURDER op sy eie koste verwyder word.*
- 14.3 *Goedgekeurde verbetering van 'n permanente aard sal deur die HUURDER op sy eie risiko aangebring of opgerig word.*
- 14.4 *Die VERHUURDER sal enige geboue of ander verbetering wat by die aanvang van die huurtermyn op die EIENDOM is teen skade verseker en sodanige versekering in stand hou, met dien verstande dat die HUURDER verantwoordelik sal wees vir die volle kostes verbonde aan sodanige versekering, en die VERHUURDER sal derhalwe die premies direk van die HUURDER vorder.*
- 14.5 *Indien die VERHUURDER kontant van 'n versekeringsmaatskappy sou ontvang ter vergoeding van 'n eis ten opsigte van skade aan enige verbetering op die EIENDOM soos in subklousule 14.4 van hierdie ooreenkoms genoem, kan die verbetering herstel of die kontant hou, na gelang hy dit dienlik ag.*
- 14.6 *Behuising kan, met behoud van die bepalinge van subklousules 14.1, 14.2, 14.3 en 14.4 van hierdie ooreenkoms aan werkers wat die HUURDER op die EIENDOM in diens het, met inbegrip van hul onmiddellike afhanklikes, op die EIENDOM voorsien word, onderworpe aan die voorafverkreë skriftelike toestemming van die*

VER-HUURDER, en die skriftelike nakoming van die bepalings en vereistes van die toepaslike wetgewing met betrekking tot behuising.

Enige plakkery op die EIENDOM is ten strengste verbode.

- 14.7 *Die Huurder sal geen reg of aanspraak het of vergoeding kan eis ten opsigte van verbeteringe, met inbegrip van landboukundige verbeteringe wat tydens die huurtermyn op die EIENDOM aangebring is nie, en die VERHUURDER behou die reg voor om, by beëindiging van hierdie ooreenkoms ingevolge die bepalings van klousule 3, subklousule 4.4, 20.1.1, 20.1.2, 20.2 of andersins volgens sy eie diskresie en goëddunke te besluit of die VERHUURDER enigsins te vergoed vir sodanige verbeteringe. Voorts kan die VERHUURDER in die alternatief toestem tot die verwydering van enige verbeteringe binne 'n tydperk soos deur die VERHUURDER voorgeskryf, by gebreke waarvan die HUURDER enige reg op verwydering van sodanige verbeteringe of enige verdere aanspraak van watter aard ook al sal verbeur, ten opsigte waarvan die betrokke verbeteringe sonder enige aard van vergoeding die EIENDOM van die VERHUURDER word."*

In light of the aforementioned, the improvements on the Property are not the property of the Company as envisaged in this Item. The reference in the item that the infrastructure and assets are the property of the Company is incorrect and misleading. These improvements are the property of the Municipality unless Council resolved that the Company is allowed to remove same. We was not provided with such a resolution and in the absence of same, the lease agreement dictates the terms and conditions applicable. In terms of the 1979 lease agreement between the parties, the lessee is not entitled to claim any money for improvements made on the Property. In light hereof a proper valuation of the Property should be obtained as envisaged in the Stellenbosch Supply Chain Management Policy.

Furthermore, the reference that the Company has established a fully operational private airport on the property at its own (considerable) costs, funded entirely by the financial support of its members is also incorrect and misleading as the Municipality previously approved loan/s to the Company for purposes of permanent improvements to the Property. These/this loan/s were made interest free to the Company. From the documents provided it is evident that the Property was leased to the Company since 1979 and that this Property are in the possession and control of the Company for the past 34 years. We also note that the Company paid relatively low rental until the rental was recently (a few years back) amended to market related rental. The Property are utilized for commercial business purposes.

In terms of the Council resolution dated 23 September 2014 dealing with the proposed Policy on the Management of Stellenbosch Municipality's Immovable Property an Ad Hoc Committee of Council must be established to investigate the matter, which shall include a Policy for immovable property as well as a Policy for agricultural land. This resolution affectedly placed a moratorium on further disposal and lease of municipal immovable property. Notwithstanding same, it

appears that lessees with pending lessee agreements gets preferential treatment while applicants for the lease of municipal immovable properties over various years were informed that the Municipality do not possess over a policy for the lease of immovable property and that they have to wait for the implementation of same before the Municipality could assist them. We also do not understand why this matter is urgent under the circumstances in light of the fact that the lease with the Company only expires on 31 March 2021. There is more than 6 years left of the remaining lease period, which in our view is more than sufficient time for the Municipality to deal with its future planning of the Property. We are of the view that this matter/item should be considered pursuant to the approval of the Policy on the Management of Stellenbosch Municipality's Immovable Property as well as a Policy for agricultural land to ensure that lease/disposal of municipal immovable land is dealt with holistically and not on an ad hoc basis.

In light of the aforesaid, the item and recommendations are not supported, prior to the relevant corrections as alluded to above being effected and the draft Policy on the Management of Stellenbosch Municipality's Immovable Property as well as a Policy for agricultural land are approved.

We advise accordingly.

6. CONCLUSION

From the above it is obvious that the application and motion for the extension of the lease cannot be considered positively.

A new disposal process is required and it must commence well ahead of time of the expiry of the current lease, to ensure a smooth transition into a new lease. NEMA compliance and simple business reasons, e.g. continued operation of an economic contributor, makes it imperative to commence early with a process calling for tenders. Moreover, postponement of the process until there is a policy in place assumes that the policy might prescribe a rational legally required decision to the Council, which is not the case. The Council must at all times apply its mind to an application and consider a matter using a policy, if any, as a guideline.

The current market related rental is deemed adequate in view of the continued service to the community and the economic contribution of the airport at no cost to the Municipality.

RECOMMENDED

- (a) that Council confirm in terms of Section 14 of the MFMA that the land, unregistered Portion L of Stellenbosch Farm 502, is required for the provision of essential services (the on-going operation of an airport) and that the extension of the long term lease of the land be actively pursued for airport operational purposes;
- (b) that the Municipal Manager be authorised to conduct the required public participation and other processes for the disposal of unregistered Portion L of Stellenbosch Farm 502 for airport operational purposes through a long term lease;

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- (c) that Council confirms the market related rental value of unregistered Portion L of Stellenbosch Farm 502, is R70 988,59 (2015) per annum plus all costs incidental and annual increases; and
 - (d) that the Directors: Planning and Economic Development and Integrated Human Settlements and Property be jointly tasked with the management of the project and that quarterly feedback on progress be given to Council.

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

29TH COUNCIL MEETING: 2015-04-30: ITEM 8.5

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

After the meeting resumed, it was

RESOLVED (majority vote)

- (a) that Council confirm in terms of Section 14 of the MFMA that the land, unregistered Portion L of Stellenbosch Farm 502, is required for the provision of essential services (the on-going operation of an airport) and that the extension of the long term lease of the land be actively pursued for airport operational purposes;
- (b) that the Municipal Manager be authorised to conduct the required public participation and other processes for the disposal of unregistered Portion L of Stellenbosch Farm 502 for airport operational purposes through a long term lease;
- (c) that Council confirms the market related rental value of unregistered Portion L of Stellenbosch Farm 502, is R70 988,59 (2015) per annum plus all costs incidental and annual increases; and
- (d) that the Directors: Planning and Economic Development and Settlements and Property Management be jointly tasked with the management of the project and that quarterly feedback on progress be given to Council.

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

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

**(MUNICIPAL MANAGER + DIRECTORS: PLANNING AND ECONOMIC
DEVELOPMENT + HUMAN SETTLEMENTS TO ACTION)**

FURTHER COMMENTS BY THE ACTING MUNICIPAL MANAGER

Due to the historical background of this item and the advice of the Senior Legal Advisor to rescind the initial resolution, it is

RECOMMENDED

- (a) that Council rescind the previous council resolutions (a), (b) and (d) that were recommended at the 29th Council meeting on 2015-04-30; and
- (b) that a new item be submitted by the Director Planning and Economic Development taking all legal concerns into account, i.e. the proposal to approve a Municipal airport and if the services are required to be outsourced, a Section 78 investigation process be embarked upon.

(ACTING MUNICIPAL MANAGER TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 8.2

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

After the meeting resumed, it was

RESOLVED (nem con)

that Council rescind the previous council resolutions (a), (b) and (d) that were recommended at the 29th Council meeting on 2015-04-30.

(ACTING MUNICIPAL MANAGER TO ACTION)

8.3 SUPPLY CHAIN MANAGEMENT 3rd QUARTER IMPLEMENTATION REPORT FOR THE 2015/2016 FINANCIAL YEAR

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

Strategic intent of item

<i>Preferred investment destination</i>	<input checked="" type="checkbox"/>
<i>Greenest municipality</i>	<input type="checkbox"/>
<i>Safest valley</i>	<input type="checkbox"/>
<i>Dignified Living</i>	<input type="checkbox"/>
<i>Good Governance</i>	<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 3rd Quarter Implementation Report for the financial 2015/2016 is attached which contains detailed discussion.

RECOMMENDED

that the Supply Chain Management 3rd Quarter Implementation Report for the financial year 2015/2016, be noted.

(CHIEF FINANCIAL OFFICER TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 8.3**RESOLVED** (nem con)

that the Supply Chain Management 3rd Quarter Implementation Report for the financial year 2015/2016, be noted.

(CHIEF FINANCIAL OFFICER TO ACTION)

8.4 QUARTERLY REPORT: FINANCIAL AND NON-FINANCIAL JANUARY 2016 – MARCH 2016

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

Strategic intent of item

<i>Preferred investment destination</i>	<input checked="" type="checkbox"/>
<i>Greenest municipality</i>	<input type="checkbox"/>
<i>Safest valley</i>	<input type="checkbox"/>
<i>Dignified Living</i>	<input type="checkbox"/>
<i>Good Governance</i>	<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 3rd quarter as at 31 March 2016.

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

2. DISCUSSION**Quarterly Budget and Financial Performance Assessment**

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

The Operating expenditure reflects a 10.09% under spending for the year to date.

The 40.63% under spending of the year to date capital budget is of great concern. Capital Expenditure Report for March 2016 is attached as Appendix A to the Quarterly Budget and Financial Performance Assessment.

The Quarterly Budget and Financial Performance Assessment for January 2016 – March 2016 is attached as **APPENDIX 1**.

Quarterly Non-Financial Performance Assessment

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

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

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

Quarterly Non-Financial Performance Assessment for January 2016 – March 2016 is attached as **APPENDIX 2**.

RECOMMENDED

- (a) that Council notes the Quarterly Budget and Financial Performance Assessment (**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; and
- (b) that Council note the performance of the Municipality against the set objectives contained in **APPENDIX 2**.

(CHIEF FINANCIAL OFFICER TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 8.4

RESOLVED (nem con)

- (a) that Council notes the Quarterly Budget and Financial Performance Assessment (**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; and
- (b) that Council note the performance of the Municipality against the set objectives contained in **APPENDIX 2**.

(CHIEF FINANCIAL OFFICER TO ACTION)

8.5 EVICTION: BLAAUWKLIPPEN AGRICULTURAL ESTATES STELLENBOSCH (PTY) LTD & OTHERS / STELLENBOSCH MUNICIPALITY & OTHERS CASE NUMBER: 4042/15

File number : 17/4/3
Report by : Director: Strategic & Corporate Services
Compiled by : Senior Legal Advisor: Mervin Williams
Delegated Authority : Council

Strategic intent of item

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

1. PURPOSE OF REPORT

To inform Council of the eviction application instituted by Blaauwklippen Agricultural Estates Stellenbosch (Pty) Ltd & Others against Stellenbosch Municipality & Others under case number 4042/15 and to obtain a settlement mandate to negotiate and mediate the eviction between the respective parties for purposes of settling the matter amicably.

2. BACKGROUND AND DISCUSSION

Blaauwklippen Agricultural Estates Stellenbosch (Pty) Ltd & Others ("Blaauwklippen") instituted eviction proceedings against the illegal occupiers of Restant of Portion 71 (a Portion of Portion 31) of the Farm Blaauwklip, Nr. 510 and Portion 9 (a Portion of Portion 4) of the Farm Blaauwklip, Nr 510. A copy of the eviction application is annexed hereto as **Appendix 1**. Portion 71 with Portion 9 is generally known as the Kreefgat Informal Settlement.

Stellenbosch Municipality ("the Municipality") is joined as First Respondent in the eviction matter to mediate the eviction in terms of section 7 of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 19 of 1998 and to provide alternative accommodation to the respondents to be evicted. The eviction application is couched in such a fashion that the Municipality is obliged to provide alternative accommodation to the respondents to be evicted.

In light of the aforesaid, Ashraf Parker & Associates were appointed via the Legal Panel to *inter alia* appoint a mediator to mediate the eviction matter on behalf of the Municipality and to oppose the eviction matter on the Municipality's behalf. Jacques Joubert of Mediation in Motion was appointed to mediate the matter between the parties.

However, Delegation 48 of the Stellenbosch Municipality's System of Delegations is very limited in nature and provides that the Executive Mayor and Municipal Manager are authorised to settle any action out of court, including any arbitration, mediation and/or debt collection where court actions have been instituted/defended. The Executive Mayor is authorised to settle any matter where the settlement amount does not exceed R1 million, after having considered a recommendation from the Municipal Manager. The Municipal Manager, on the other hand, is authorised to settle any matter where the settlement amounts does not exceed R500 000.00, after having considered a recommendation from the Director: Strategic & Corporate Services and pursuant to consultation with the Chief Financial Officer.

The aforesaid delegation appears to be insufficient for purposes of negotiating a substantial financial contribution from Blaauwklippen in the eviction matter. In light of the aforesaid, and the fact that the potential monetary contribution is envisaged to exceed R500 000.00 and/or R1 million as provided for in Delegation 48, Council is requested to authorise the Municipal Manager to mediate and settle the eviction application between the parties, subject thereto that Blaauwklippen is required to make a substantial monetary contribution.

4. COMMENTS OF RELEVANT DEPARTMENTS

Legal Department:

The item and recommendations are supported.

RECOMMENDED

- (a) that Council notes the eviction application instituted by Blaauwklippen Agricultural Estates Stellenbosch (Pty) Ltd & Others against Stellenbosch Municipality & Others under case number 4042/15; and
- (b) that the Municipal Manager be mandated to mediate and settle the eviction application between the parties, subject thereto that Blaauwklippen makes a substantial monetary contribution for purposes of settling the matter amicably.

(DIRECTOR: STRATEGIC AND CORPORATE SERVICES TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 8.5

RESOLVED (majority vote)

- (a) that Council notes the eviction application instituted by Blaauwklippen Agricultural Estates Stellenbosch (Pty) Ltd & Others against Stellenbosch Municipality & Others under case number 4042/15; and
- (b) that the Municipal Manager be mandated to mediate and settle the eviction application between the parties, subject thereto that Blaauwklippen makes a substantial monetary contribution for purposes of settling the matter amicably.

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

(DIRECTOR: STRATEGIC AND CORPORATE SERVICES TO ACTION)

9. CONSIDERATION OF NOTICES OF QUESTIONS AND NOTICES OF MOTIONS RECEIVED BY THE SPEAKER**9.1 QUESTION BY COUNCILLOR F ADAMS: DISCOUNT OR REBATE BEING GRANTED TO THE UNIVERSITY OF STELLENBOSCH**

File number : 3/4/1/4

Report by : Office of the Speaker

Compiled by : Office of the Speaker

Delegated Authority : Council

A Notice of a Question, dated 2016-04-11, was received from Councillor F Adams, regarding the discount or rebate being granted to the University of Stellenbosch.

The said Question is attached as **APPENDIX 1** and the Response is attached as **APPENDIX 2**.

FOR CONSIDERATION**40TH COUNCIL MEETING: 2016-04-26: ITEM 9.1****RESOLVED** (nem con)

that it be noted that Councillor F Adams was satisfied with the response provided in respect of the question posed.

(ACTING MUNICIPAL MANAGER TO ACTION)

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 MARCH 2016
(3/5/2/5)**

NONE

**11.2 DECISIONS TAKEN IN TERMS OF DELEGATED AUTHORITY BY THE EXECUTIVE
MAYOR FOR THE PERIOD MARCH 2016**

NONE

12. OTHER URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER

NONE

13.1 CONSIDERATION OF REPORTS SUBMITTED BY THE SPEAKER

13.1.1 INVESTIGATION INTO ALLEGATION OF BREACH OF THE CODE OF CONDUCT FOR COUNCILLORS: COUNCILLOR F ADAMS

File number : 3/6/4

Compiled by : Admin Officer: Office of the Speaker

Report by : Speaker

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 report to Council on the outcome of an investigation done by an external investigator, Ald A Coetsee from SALGA on allegations received against Cllr F Adams.

2. BACKGROUND

At the Council meeting held on 25 February 2015 the Speaker requested Cllr Adams to leave the Council Chambers according to item 27.1 and 2 of the Stellenbosch Municipality Rules of Order By-Law which states that:

“27. IRRELEVANCE, TEDIOUS REPETITION, UNBECOMING LANGUAGE OR BEHAVIOR AND BREACH OF ORDER

27.1 *The Speaker must call the attention of the member to irrelevant, tedious repetition, unbecoming language or behaviour or any breach of order on the part of a member, and shall direct such member, if speaking, to discontinue his/her speech until the member has come to order. Such direction shall be regarded as a warning. Upon 2 warnings, of which the second warning will be final, during the deliberations of the Council meeting, the provisions of rule 28 shall apply and the Speaker may decide to take disciplinary action against such member in terms of the Code of Conduct for Councillors.*

27.2 *The Speaker shall direct a member to apologise or withdraw an allegation if it is unbecoming or injures or impairs the dignity or honour of a member or officer of the Council.”*

Councillor Adams refused to leave the Council Chambers and the Speaker relied on item 28.1 of the Stellenbosch Municipality Rules of Order By-Law to remove Clr Adams from the Council Chambers. Item 28.1 state that:

“28. REMOVAL OR EXCLUSION OF COUNCILLOR

28.1 If a member refuses to comply with a direction in terms of rule 27, the Speaker may direct an officer to remove the member or to cause his/ her removal and to take steps to prevent his / her return to the meeting, provided that the Speaker may, in his / her sole and absolute discretion, permit the return of the member to the meeting on the submission by the said member to the Speaker of a written expression of regret, such expression of regret must be part of the minutes of the meeting.”

On 04 March 2015 the Speaker wrote to Clr Adams to inform him of the alleged breach. The letter was hand delivered by Law Enforcement officers but Clr Adams refuses to accept it. The Law Enforcement officers made a statement and affidavit to the refusal of acceptance by Clr Adams.

On 12 March 2015 the same letter were send to Clr Adams by registered post but the addressee never collect the registered letter and it was returned. All the above documents are attached.

3. DISCUSSION

Section 13 of the Code of Conduct for Councillors prescribes that:

“13. Duty of chairpersons of municipal councils

- (1) *If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must-(a) authorise an investigation of the facts and circumstances of the alleged breach;*
- (b) *give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and*
- (c) *report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.*
- (2) *A report in terms of subitem (1) (c) is open to the public.”*

An investigation into the facts and circumstances of the alleged breach was done by Ald A Coetsee.

RECOMMENDED

- (a) that Council take note of the advice from Ald A Coetsee: and
- (b) that this matter be referred to the Disciplinary Committee to be dealt with.

(OFFICE OF THE SPEAKER TO ACTION)

36TH COUNCIL MEETING: 2015-11-28: ITEM 13.1.1

Before debate on the matter, the Speaker requested Councillor F Adams to recuse himself for the duration of the matter, as he is implicated in the matter. Councillor F Adams then left the Chamber during discussion on the matter.

The Senior Legal Advisor, Ms Elizabeth Williams raised her concern that the item was not distributed to her for legal input. The Speaker responded that, according to legislation, the issue of disciplinary hearings resort under him. When a matter is brought to his attention he must consider whether or not there is reasonable suspicion to proceed with an investigation.

RESOLVED (majority vote)

- (a) that Council take note of the advice from Ald A Coetsee: and
- (b) that this matter be referred to the Disciplinary Committee to be dealt with.

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

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

(OFFICE OF THE SPEAKER TO ACTION)**FURTHER DISCUSSION: DISCIPLINARY HEARING HELD ON 16 MARCH 2016**

On 16 February 2016 the Speaker gave notice of a disciplinary hearing to Clr Adams.

Officials tried to serve the notice on him but he refused to accept it. On 24 February 2016 the said notice was again served on Clr Adams which he then accepted and signed for.

On 26 February 2016 Clr Adams sent an email to the Speaker informing him that he won't attend the hearing as scheduled.

The Speaker responded to Clr Adams by email on 02 March 2016 that the hearing will go ahead as scheduled and that he has to attend.

At the start of the disciplinary hearing Clr Adams was not in attendance and the Disciplinary Committee decided that the hearing will go ahead in the absence of the Councillor.

The charge sheet is attached hereto as **APPENDIX1**.

The Code of Conduct for Councillors section 2 state that:

*"2. General conduct of councillors
A councillor must-*

- (a) perform the functions of office in good faith, honestly and a transparent manner; and*

- (b) *at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.*"

The Disciplinary Committee considered all evidence presented to it and found that Clr Adams indeed breached the said Code.

The Code of Conduct for Councillors section 14(2) states that:

"14. Breaches of Code

- (2) *If the council or a special committee finds that a councillor has breached a provision of this Code, the council may-*
- (a) *issue a formal warning to the councillor;*
 - (b) *reprimand the councillor;*
 - (c) *request the MEC for local government in the province to suspend the councillor for a period;*
 - (d) *fine the councillor; and*
 - (e) *request the MEC to remove the councillor from office."*

The Disciplinary Committee found Clr Adams guilty and recommended that he must be fined with one month's net salary payable/deductible over a two month period.

RECOMMENDED

- (a) that Clr Adams is guilty as charged
- (b) that a fine of one month's net salary be deducted from the Councillor payable over a consecutive two month period; and
- (c) that the administration be mandated to deduct 50% of net salary from his April 2016 salary and 50% from his May 2016 salary.

39TH COUNCIL MEETING: 2016-03-30: ITEM 13.1.1

Before the matter was debated, the Speaker requested Councillor F Adams to recuse himself, as he is implicated in the matter.

RESOLVED (majority vote with abstentions)

- (a) that Councillor F Adams is guilty as charged;
- (b) that a fine of one month's net salary be deducted from the Councillor payable over a consecutive two month period; and
- (c) that the Administration be mandated to deduct 50% of net salary from his April 2016 salary and 50% from his May 2016 salary.

(OFFICE OF THE SPEAKER TO ACTION)

FURTHER DISCUSSION: APPEAL LODGED BY CLLR F ADAMS

The Code of Conduct for Councillors Section 14(3) prescribes that:

“14. Breaches of Code

- (3) (a) *Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of sub item (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.*
- (b) *A copy of the appeal must be provided to the council.*
- (c) *The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.*
- (d) *The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.”*

On 6 April 2016 the Speaker informed Cllr Adams of the finding and his right to appeal.

On 19 April 2016 Cllr Adams forwarded a copy of his letter of appeal, addressed to the MEC for Local Government, to the Speaker. **(APPENDIX 2).**

RECOMMENDED

- (a) that Council authorizes the Speaker to, in terms of item 14(3)(c) of the Code of Conduct for Councillors, make representation to the MEC for Local Government pertaining the appeal; and
- (b) that upon receipt of the MEC’s decision on the appeal, same be submitted to Council for notification.

(OFFICE OF THE SPEAKER TO ACTION)

40TH COUNCIL MEETING: 2016-04-26: ITEM 13.1.1**RESOLVED** (nem con)

- (a) that Council authorizes an ad hoc Committee comprising of the Chief Whip of the ANC, Chief Whip of the DA, Councillor L Stander and Councillor Q Smit to, in terms of item 14(3)(c) of the Code of Conduct for Councillors, make a consolidated representation to the MEC for Local Government pertaining the appeal; and
- (b) that upon receipt of the MEC’s decision on the appeal, same be submitted to Council for notification.

(OFFICE OF THE SPEAKER TO ACTION)

13.2 **CONSIDERATION OF REPORTS SUBMITTED BY THE EXECUTIVE MAYOR**

NONE

14. **MATTERS TO BE CONSIDERED IN-COMMITTEE**

(See pink documentation)

Meeting adjourned at 18:25.

CONFIRMED

CHAIRPERSON

(Signature & date)

