



# STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/1/5

2017-05-26

## MINUTES

### 8<sup>TH</sup> MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY

**2017-04-26 AT 10:00**

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

**MINUTES**  
**8<sup>TH</sup> MEETING OF THE COUNCIL**  
**OF STELLENBOSCH MUNICIPALITY**  
**2017-04-26**  
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**MINUTES OF THE 8<sup>th</sup> MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY HELD ON 2017-04-26 AT 10:00 IN THE COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET, STELLENBOSCH**

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<b>PRESENT</b>	The Speaker, Cllr DD Joubert [Chairperson] The Executive Mayor, Ald G Van Deventer (Ms) The Deputy Executive Mayor, Cllr N Jindela	
<b>ALDERWOMAN</b>	JP Serdyn (Ms)	
<b>COUNCILLORS</b>	F Adams (until 15:55) DS Arends FJ Badenhorst GN Bakubaku-Vos (Ms) FT Bangani-Menziwa (Ms) PW Biscombe PR Crawley (Ms) A Crombie (Ms) JN De Villiers MB De Wet (until 15:00) R Du Toit (Ms) A Florence AR Frazenburg E Fredericks (Ms) E Groenewald (Ms) AJ Hanekom DA Hendrickse (until 16:20) JK Hendriks LK Horsband (Ms)	MC Johnson NS Louw N Mananga-Gugushe (Ms) C Manuel LM Mqeba XL Mdemka (Ms) RS Nalumango (Ms) N Olayi MD Oliphant SA Peters WC Petersen (Ms) MM Pietersen (until 15:00) WF Pietersen SR Schäfer N Sinkinya (Ms) P Sitshoti (Ms) Q Smit E Vermeulen (Ms)

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<b>Officials:</b>	Municipal Manager (Ms G Mettler) Director: Planning and Economic Development (D Lombaard) Director: Human Settlements (T Mfeya) Acting Chief Financial Officer (A Treurnich) Acting Director: Strategic and Corporate Services (V Bowers) Acting Director: Engineering Services (M Wüst) Acting Director: Community and Protection Services (N Langenhoven) Chief Audit Executive (F Hoosain) Head: Committee Services (EJ Potts) Senior Admin Officer (Office of the Speaker): (N Ceasar) Committee Clerk (T Samuels (Ms)) Interpreter (J Tyatyeka)
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<b>1.</b>	<b>OPENING AND WELCOME</b>
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The Speaker, Councillor DD Joubert, welcomed all present and requested that a moment of silence be observed in honour of those who recently passed away. Councillor JK Hendriks offered a prayer.

<b>2.</b>	<b>COMMUNICATIONS</b>
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<b>2.1</b>	<b>MAYORAL ADDRESS</b>
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- “Hoop u het ‘n geseënde Paastyd gehad, vir almal wat gevier het.
- Mōre herdenk ons nog ‘n belangrike dag in ons geskiedenis
  - Vryheidsdag
  - Dag van eerste demokratiese verkiesing in Suid-Afrika 1994.
  - Baie vordering gemaak, maar huidige situasie van staatskaping en korrupsie bedreig alles waarvoor ons die afgelope 23 jaar gewerk het.
- 1 Mei, Internasionale Werkersdag – Dag wat in verskeie lande gevier word, herdenk die arbeidsbeweging wat homself beywer het vir regverdige en gelyke werkseleenthede en omgewings.
- So many exciting new developments in the tourism industry.
- Happy to say that the tourism industry in greater Stellenbosch does wonderful work to embrace new opportunities and stays on top of the changing environment ensuring growth that leads to job creation and new opportunities.
- So excited and happy to learn according to recently released Airbnb statistics Stellenbosch has been rated as one of the most popular destinations in province with excellent service.
- Stellenbosch received a 79% approval rating from Airbnb users, placing it at a top spot in the province.
- Airbnb looks at the percentage of trips where guests give 5 star scores for all the criteria.
- As the users of online platforms like Airbnb increases every day this positive feedback from within the industry is sure to create more opportunities in the area.
- Thank you to all Airbnb hosts that create a positive experience for all visitors to the region, you are our ambassadors
- We are in fortunate position that province also shares and supports our efforts to create investment, trade and bring tourism to our area
- Recently hosted the Western Cape Government Agency – WESGRO – here in Stellenbosch to talk to us about changing tourism market, investment and trade and the services they provide to local government as well as private stakeholders
- These services provide support to create favourable environments for economic growth, creating jobs in the process.

- Their services are truly invaluable and I have had meetings before and after the workshop, talking with WESGRO about how they can assist us in a changing universe.
- Very exciting to see how they assist local businesses to expand their products into an overseas market, bringing in foreign capital and creating jobs.
- Ons eie Toerisme agentskap, Stellenbosch 360, het onlangs Beste Besoekers en Informasie Dienste ontvang tydens die jaarlikse Burgemeesterstoekennings vir Toerisme aangebied deur die Kaapse Wynland-distriksmunisipaliteit.
- Leopard's Leap het die Wyn Toerismebestemming vir die jaar gewen,
- Franschoek Kelders was die wenner in die kategorie vir nuwe toerismebesigheid van die jaar.
- Die Franschoek Cap Classique en Sjampanje Fees het weggestap met die prys vir die beste toerisme verwante fees/geleentheid van die jaar.
- Opgewondenheid oor die UCI Bergfiets Wêreldbeker wat in Stellenbosch afskop volgende jaar.
- Onlangse gesprekke met Minister Alan Winde en organiseerders van die geleentheid was baie opwindend
  - Geleentheid gaan nuwe werksgeleenthede in toerismebedryf skep.
  - Gaan ook 'n behoefte wees vir mense met tegniese/meganiese kennis oor fietse.
  - Provinsie gaan fondse bewillig om 'n aantal persone op te lei om herstel en onderhoudswerk aan fietse te doen en hul so te bemagtig om vir hulself 'n inkomste te verdien.
  - Ek gaan ook hand by sit om die organiseerders in kontak te bring met plaaslike besighede sodat alle geleenthede ten opsigte van hierdie geleentheid ten volle benut sal word.
  - Hierdie bergfietskompetisie hou baie geleenthede in vir ons plaaslike besighede en inwoners.
  - Soos beplanning vorder sal daar ook gesprekke wees tussen die onderskeie rolspelers om seker te maak geleenthede word benut.
  - Werkskepping is een van die grootste voordele wat hierdie toernooi in hou.
  - Ons hoop ook dat ons die geleentheid sal kan aanbied na 2018.
  - Stellenbosch geweldig gewild onder bergfietsryers en word reeds gebruik deur hulle as oefenbasis. – Mense wat hulself hier gevestig het vir die doel, skep nuwe geleenthede.
- Daarom baie opgewonde oor die nuwe Cross Cape fietsroete wat gaan loods in Mei maand. Stellenbosch maak deel uit van die eerste roete van Plettenbergbaai tot Stellenbosch.
  - Nog nuwe geleenthede word geskep in plaaslike toerisme mark
  - Potensiaal vir nuwe werksgeleenthede
- Ons dorpe is ook uiters gewild as gasheer vir verskeie feeste en uitstallings:
  - Komende Naweek – Suid-Afrikaanse Kaasfees by Sandringham.
  - Naweek van 19-20 Mei – Franschoek Literatuurfees.
  - Hierdie is beide geleenthede wat ongelooflike groot gewildheid geniet onder plaaslike, nasionale en selfs internasionale besoekers.
  - Afgelope naweek het Roete 44 mark, geleë by Audacia Wynplaas, gasheer gespeel vir die Rooibos Ervaring.

- Al hierdie tipe feeste skep toerisme en besigheidsgeleenthede vir ons plaaslike inwoners en skep nuwe werksgeleenthede
  - Ek wil alle belangstellende industrieë nooi om van die groter Stellenbosch area gebruik te maak as gasheer vir geleenthede – hier is kundigheid, pragtige fasiliteite en wonderlike geleenthede vir ons inwoners om julle geleenthede 'n sukses te maak.
- We recently hosted a very successful Mayoral Golf Day to raise funds for my mayoral fund.
  - R100 000 was raised.
  - Thank you to Cllr Rikus Badenhorst for all the effort he put in to the organisation and to all the sponsors.
  - This section 12 fund exists for me to be able to assist residents in need, which is not covered by the normal grant in aid policy.
  - I receive heart wrenching requests almost daily from people who are in desperate need of assistance.
  - This fund, will be used for these cases.
  - I will focus on helping homeless people and organisations that support them, destitute children and victims of fires.
  - I can assure all councillors that this fund will be managed with great discretion.
  - It is audited annually as part of the municipality's annual audit.
  - It is a pleasure for me to inform Council, that during this council meeting we will submit an item regarding an additional grand of R17.8 million for Human Settlements from the Provincial Government.
  - Human Settlements is extremely important and this grant will help us to improve the lives of our citizens.
  - Water bly 'n ernstige kwessie.
  - Die waterbeperkings sal in werking bly vir die voorsienbare toekoms.
  - Vra vir raadslede om dit ook so aan hul wyke te verkondig.
  - Ons werk nou saam met provinsiale regering, en indien provinsie 'n rampgebied hier sou verklaar, het hulle gebeurlikheidsplanne in plek om die situasie te bestuur.
  - Elke druppel is kosbaar.”

**2.2****COMMUNICATION BY THE SPEAKER**

- The Speaker congratulated all Councillors who celebrated and will celebrate their birthdays during April and May.
- After consultation with the Executive Mayor and the Municipal Manager the Mayoral Committee meetings will be scheduled a week earlier to allow the Administration to submit items timeously for the Council meeting.
- The Open Council meeting and the In-Committee are two separate meetings, hence the separate attendance registers. A Councillor who was ordered by the Speaker to



leave the Council Chambers, may sit in the public gallery, however, if that Councillor becomes disruptive in the public gallery, he or she may be requested to leave the building.

- If a Councillor wants to return to the In-Committee meeting, he/she may request the Speaker to attend the meeting, but only after he/she apologizes.
- The Speaker made reference to Rule 8.3 of Council's Rules of Order and cautioned Councillors not to divulge confidential information, as they may face dismissal.
- Councillors are urged to submit written applications for leave of absence for meetings (with valid reasons) timeously to the Office of the Chief Whip (Rule 10.4). The Speaker will sign the application for leave of absence, whereafter the Chief Whip will notify the Councillor that his/her leave of absence was approved. A Councillor who did not receive confirmation that leave of absence was approved, is compelled to attend the Council meeting. A member who is absent from three or more consecutive meetings must vacate office.
- Speaker made reference to Rule 24 and requested Councillors to respect the precedence of the Speaker.
- He cautioned Councillors to keep their municipal accounts up to date, failing which may result in their names being placed in the Government Gazette for non-payment.

<b>2.3</b>	<b>COMMUNICATION BY THE MUNICIPAL MANAGER: (MS G METTLER)</b>
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The Municipal Manager announced that outages were experienced in Onder-Papegaaiberg (due to cable theft) as well as Kaymandi and Idasvalley (due to lightning). SMS's were sent to the community.

<b>3.</b>	<b>OFFICIAL NOTICES</b>
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<b>3.1</b>	<b>DISCLOSURE OF INTERESTS</b>	<b>(3/6/2)</b>
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Councillor F Adams disclosed an interest in item 7.5.1 on the Agenda and will recuse himself when this matter is dealt with.

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

Cllr NE McOmbring (Ms) – 26 April 2017

- (2) Permission was granted to Councillors MB De Wet and MM Pietersen to leave the meeting earlier (at 15:00).

- (3) Absent:

Councillor JG Hamilton

4.	<b>CONFIRMATION OF MINUTES</b>	<b>(3/4/1/5)</b>
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- (i) The minutes of the 7<sup>th</sup> Council meeting dated 2017-03-29 was **confirmed as correct subject to the following amendment:**

Bottom of page 36:

That the initials of Cllr Oliphant be rectified to MD Oliphant and not DD Oliphant.

- (ii) The minutes of a Special Council meeting dated 2017-04-04 was **confirmed as correct subject to the following amendment:**

Bottom of page 5:

That the name of Cllr MD Oliphant be added to the names of Councillors who requested that their votes of dissent be minuted.

5.	<b>STATUTORY MATTERS</b>	<b>(3/4/1/4)</b>
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NONE

6.	<b>REPORT/S BY THE MUNICIPAL MANAGER RE OUTSTANDING RESOLUTIONS TAKEN AT PREVIOUS COUNCIL MEETINGS</b>
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ITEM	Pg	INPUT	RESPONSE
<u>Cllr DA Hendrickse: Item 7.5.2</u> PROPOSED AMENDMENT TO SUPPLY CHAIN MANAGEMENT CONTRACT: EIKESTAD MALL	18	The due date for submission is 21 days from date of advert and not 27 April 2017.  Not all members of the public have access to email.	The Municipal Manager will follow-up.  The MM responded that the advert stated that members of the public who needed assistance or who do not have access to emails, may visit the municipal offices for assistance.
<u>Cllr N Jindela: Item 7.5</u> <u>ELECTRICITY SUPPLY TO THE MUNICIPAL AREAS OF STELLENBOSCH</u>	5	Councillor N Jindela requested a follow-up on this matter.	The Municipal Manager will follow-up.

NOTED

<b>Meeting:</b>	8 <sup>th</sup> Council: 2017-04-26	<b>Submitted by Directorate:</b>	Office of the MM
<b>Ref No:</b>	3/4/1/5	<b>Author:</b>	R Pietersen
<b>Collab</b>		<b>Referred from:</b>	

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7.	CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: (ALD G VAN DEVENTER (MS))
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7.1	COMMUNITY DEVELOPMENT AND COMMUNITY SERVICES: CLLR AR FRAZENBURG
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NONE

7.2	CORPORATE AND STRATEGIC SERVICES: (CLLR E GROENEWALD (MS))
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NONE

7.3	<b>ECONOMIC DEVELOPMENT AND PLANNING: [ALD JP SERDYN (MS)]</b>
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7.3.1	<b>THE FUTURE USE AND MAINTENANCE OF COUNCIL HERITAGE BUILDINGS</b>
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## 1. PURPOSE OF REPORT

- (a) To sensitise Council of the municipality's responsibility as title holder of significant historical buildings;
- (b) To ensure the sustainable, appropriate and continuous maintenance of existing historical buildings and spaces;
- (c) To highlight the opportunities available to improve the utilization of and access to strategically located municipal heritage buildings;
- (d) To identify the various categories of heritage buildings;
- (e) To consider authorising the Municipal Manager to start the prescribed public participation process, with the view of following a tender/call for proposal process in awarding long term rights for management of specific properties; and
- (f) To unlock the development potential of the Rhenish complex in a manner that contributes to the municipal objective of building the local economy, while enabling further cultural development and social integration in Stellenbosch.

## 2. BACKGROUND

Some of the oldest settlements in the country can be found in the Stellenbosch municipal area. The local municipality is blessed with an extensive portfolio of assets that includes various heritage resources such as buildings of exceptional cultural and historical significance. Many of these council owned buildings are utilized to a greater or lesser extent by the municipality. Most of the buildings of heritage significance are not maintained properly and are in various states of disrepair.

Due to the cultural significance of heritage resources and in particular heritage buildings that enjoy international recognition heritage resources play a major role in economic development and supporting tourism in the municipal area. The local historic environment has a key role in making a place distinct, making it a place in which people wish to live, work and spend time. Many case studies demonstrate how this distinctiveness can be harnessed to provide a boost to local economic activity. Therefore it is not only a responsibility that rests with the municipality born from the need to maintain buildings in its ownership but also important from an economic point of view to do so.

The National Heritage Resources Act, 1999 (Act no 25 of 1999) controls and manages the affairs of heritage resources in South Africa. Section 34 of the Act provides protection to all structures and buildings older than 60 years and stipulates that no building or structure may be altered without a permit from the relevant heritage authority. In terms of the Act there rests a

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responsibility on any owner of a heritage resource to maintain it and through Section 4. A heritage resources agency (Heritage Western Cape or the South African Heritage Resource Agency) can issue a compulsory repair order for the repair of a heritage resource in disrepair.

From the perspective of a property owner it is common cause that the proper maintenance of all property is an operational requirement with financial implications. This is all the more relevant with historical buildings as they were not constructed with modern building techniques and require constant and specialist maintenance with the obvious financial implications. The proper maintenance of all municipal owned buildings but particularly heritage buildings is therefor in the best interest of Council.

There are many definitions for heritage assets or heritage resources. The Department for Communities and Local Government, UK (2010) define heritage assets as buildings, monuments, sites, places, areas or landscapes positively identified as having a degree of significance in meriting consideration in planning decisions. Blöndal (2003) defines heritage assets as any monuments, buildings and archaeological sites with historical significance together with documents collection and other contents from the museum and gallery. It is normally old, very valuable, and the value would not reduce over time.

Closer to home heritage resources could be defined as objects of cultural significance; places, buildings, structures and equipment of cultural significance; places to which oral traditions were attached or associated with the living heritage included intangible heritage such as rain making; historical settlements such as District Six, landscapes, sacred sites and natural features of cultural significance etc.

Further, according to the GRAP Guidelines 103 on Heritage Assets issued by the National Treasury, heritage assets are assets that have cultural, environmental, historical, natural, scientific, technological or artistic significance and are held indefinitely for the benefit of present and future generations. One of the key features of heritage assets is that they are held indefinitely for the purposes of preserving such assets for the benefit of present and future generations. This means that entities often incur expenditure to preserve and extend the life of an asset so that it can be enjoyed by future generations. As a result of the preservation of heritage assets, their value often increase over time, making the effect of depreciation negligible.

It could therefore be argued that this characteristic places heritage assets in general and heritage buildings in particular in a distinct category that requires a different approach to managing and maintaining. It is therefore suggested that Council develops a "heritage portfolio" that can be managed independently from other assets, and the recommendations below seek to ensure this.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.3.1****RESOLVED** (majority vote with abstentions)

- (a) that Council supports the establishment of a “heritage portfolio” that can be managed independently from other assets and that the Municipal Manager be mandated to identify all council owned properties to be placed in the heritage portfolio;
- (b) that the Rhenish complex including Voorgelegen and the Transvalia complex of apartments (Transvalia, Tinetta, Bosmanhuis en Alma) be agreed to be categorised as category A assets;
- (c) that in terms of Section 14(2)(a) of the MFMA, the properties listed in paragraph 3.4 (table 2) marked as Category A properties, be identified as properties not needed to provide the minimum level of basic municipal services;
- (d) that, in terms of Regulation 34(3) of the ATR, the Municipal Manager be authorized to conduct the prescribed public participation process, as envisaged in Regulation 35 of the ATR, with the view of awarding long term rights in relation to the Category A properties;
- (e) that, for the purpose of disposal, two independent valuers be appointed to determine the fair market value and fair market rental of the properties listed in Categories A and B;
- (f) that, following the public participation process, a report be tabled before Council to consider **in principle**, the awarding of long term rights in the relevant properties, whereafter a public competitive disposal process be followed; and
- (g) that, with regard to the properties listed as Category B and C, the Municipal Manager be mandated to investigate the best way of disposing of or managing these assets, including feasibility studies on the possible disposal/awarding of long term rights and/or outsourcing of the maintenance function and that a progress report be tabled before Council within 6 months from the date of approval of the recommendation.

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

Meeting:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate:	Planning and Economic Dev.
Ref no:	7/2/1/1	Author	D Lombaard
Collab:	498461	Referred from:	Mayoral Committee: 2017-03-22

7.3.2	<b>STELLENBOSCH MUNICIPALITY: EXTENSION OF BURIAL SPACE</b>
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**1. PURPOSE OF THE REPORT**

To inform Council of the status of the above project, the result of the feasibility study conducted in the process of identifying new cemetery sites, and to obtain Council's approval to commence with the process of developing the proposed sites as cemeteries.

**2. BACKGROUND**

The provision and maintenance of cemeteries, funeral parlours and crematoria is a function vested in local government in terms of Schedule 5 (Part B) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

The Greater Stellenbosch Municipality's (the municipality) burial space in cemeteries is under pressure. The development of suitable cemetery sites to provide capacity in this regard has become critical.

An Item that served before Council on the 27<sup>th</sup> Meeting of the Council of Stellenbosch (25 February 2015) (**APPENDIX 1**) reported the status of burial space within the municipality and the need to provide for additional burial space mainly due to the increase in population growth within the municipality, cultural beliefs as it pertains to dealing with the deceased and the fact that neighbouring municipality's, the City of Cape Town, Drakenstein and Overstrand, cemeteries have also reached capacity.

The above Council Meeting resolved that the situation pertaining to burial space in the municipality is acknowledged and that various possible sites be investigated as a solution to the burial space needed.

The Department Planning & Economic Development subsequently initiated a tender process in terms of which the following call for proposals was issued:

- a) *the establishment of a professional team for the identification of suitable sites for the establishment of one or more regional cemetery sites of 30 ha and more within Stellenbosch Municipality;*
- b) *the preparation and the submission of applications for authorisation of a municipal cemetery, including all specialist assessments related to the activities;*
- c) *the planning and design of all related services infrastructure for the cemetery; and*
- d) *the planning and design of the cemetery and establishing a cemetery register in accordance with the layout.*

Bidders were requested to evaluate those cemetery sites as per the above Council resolution as well as alternative sites that might be identified as being feasible.

CK Rumboll & Partners were appointed during June 2016 in the above regard after the tender process was successfully concluded and commenced with the identification and feasibility study of the various sites.

### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.3.2

#### RESOLVED (nem con)

- (a) that Council amends its 27th Meeting of the Council of Stellenbosch (25 February 2015) resolution by adding (b)(x) to include any alternative land in the same area which could feasibly be used as a site to be investigated as a solution to the critical need for burial space within Stellenbosch Municipality;
- (b) that Council supports the acquisition of the required authorization for the proposed establishment of regional cemeteries (for burial need within WC024) at Farm Culcatta No. 29 and the Remainder of Farm Louw's Bos No. 502 as well as the proposed establishment of a regional cemetery at Farm De Novo No. 727/10 and Portion 1 of 'Farm Meer Lust No 1006 should the process of acquiring the necessary approval from the Department of Transport and Public Works be acquired;
- (c) that the possible creation of a garden of remembrance as alternative to a traditional land site also be investigated; and
- (d) that Council authorises the Municipal Manager to proceed with acquiring the necessary approvals for the establishment of the above cemeteries.

<i>Meeting:</i>	8 <sup>TH</sup> COUNCIL: 2017-04-26	<i>Submitted by Directorate:</i>	Planning & Econ Dev
<i>Ref no</i>	7/2/1/1	<i>Author</i>	D Lombaard
<i>Collab:</i>		<i>Referred from:</i>	Mayco: 2017-04-19



7.4	<b>FINANCIAL SERVICES: [CLLR S PETERS]</b>
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7.4.1	<b>NOMINATION OF COUNCILLOR TO PARTICIPATE AT MEETINGS OF SPECIAL RATING AREA (SRA) MANAGEMENT BODY</b>
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**1. PURPOSE OF REPORT**

To nominate a councillor and one other person to participate, but not vote, at the meetings of Special Rating Area (SRA) management bodies.

**2. BACKGROUND**

Section 11(4) of the SRA By-Law determines as follows:

*“The council must nominate the relevant ward councillor and one other person as representatives to attend and participate, but not vote, at the meetings of the (SRA) management body.*

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.4.1**

**RESOLVED** (majority vote with abstentions)

- (a) that Councillor Badenhorst be nominated as the relevant Ward Councillor to act as representative and attend, but not vote, at the meetings of the Techstel Special Rating Area (SRA) management body, with Councillor Hanekom acting as alternate;
- (b) that Councillor Hanekom be nominated as the relevant Ward Councillor to act as representative and attend, but not vote, at the meetings of the Jonkershoek Special Rating Area (JSRA) management body, with Councillor Badenhorst acting as alternate; and
- (c) that Councillor Q Smit be nominated to act as the other person in both the above-mentioned Special Rating Areas.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26 3/6/3	Submitted by Directorate: Author Referred from:	Chief Financial Officer Manager: Treasury Office Mayoral Committee: 2017-03-22
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<b>7.4.2</b>	<b>ADJUSTMENTS BUDGET FOR 2016/2017</b>
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**1. PURPOSE OF REPORT**

The purpose of this submission is to table the adjustments budget for the 2016/2017 financial year to Council for approval. The adjustments budget emanated from additional allocations from the Provincial Treasury.

**2. LEGAL FRAMEWORK**

Section 28 of the Municipal Finance Management Act states that:

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

*(2) An adjustments budget -*

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

Regulation 23 (3) of the Municipal Budget and Reporting Regulations states that:

*“If a national or provincial adjustments budget allocates or transfers additional revenues to a municipality, the mayor of a municipality must, at the next available council meeting, but within 60 days of the approval of the relevant national or provincial adjustments budget, table an adjustments budget referred to in section 28 (2) (b) of the Act in the municipal council to appropriate these additional revenues.”*

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.4.2****RESOLVED** (nem con)

- (a) that the Adjustments Budget for 2016/2017 as set out in **APPENDIX 2** be approved; and
- (b) that the Service Delivery and Budget Implementation Plan be adjusted accordingly inclusive of the non-financial information (performance measurement).

Meeting: Ref no Collab:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate: Author Referred from:	Financial Services  Mayco: 2017-04-19
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7.5	HUMAN SETTLEMENTS: [CLLR PW BISCOUBE]
7.5.1	PROPOSED CHANGES IN SHAREHOLDING: FARM 502BL: MEDIPROP CC

## 1. PURPOSE OF REPORT

To consider the change in majority shareholding of Mediprop cc, the Lessee of Farm 502BL.

## 2. BACKGROUND

### 2.1 Lease Agreement

On 2008-05-27 Council approved the ceding of the Lease Agreement in relation to Farm 502BL to a legal entity comprising of Mr L Arendse, F Adams and the Winelands Business Opportunity Forum, subject to the proposed ceding being advertised in terms of Section 124 of the Municipal Ordinance. A copy of the council resolution is attached as **APPENDIX 1**.

The proposed ceding was advertised in The Eikestad News on 2008-07-21, a copy of which is attached as **APPENDIX 2**. No comments and/or objections were received.

On 2008-10-03 a letter was received from Messrs Louis B. Arendse and Franklin Adams of Medi-Prop cc (Reg, No. 2002/098971/23) informing the Municipality that the Cession Agreement was to be made out in the name of Medi-Prop cc, with the directors with power of attorney being:

1. Mr Franklin Adams; and
2. Mr Louis B Arendse

A copy of their letter is attached as **APPENDIX 3**.

On 11 December 2008 a Cession Agreement was concluded with Medi Prop cc. The contract was signed by both Messrs Arendse and Adams. A copy of the agreement is attached as **APPENDIX 4**.

### 2.2 Notices of change in shareholding

Hereto attached as **APPENDIX 5** is a notice received from Mr Louis B Arendse, informing the Municipality:

- a) that Mr Franklin Adams has resigned from Mediprop cc;
- b) that Mr Arendse is now the sole member of Mediprop cc; and
- c) that Mr Arendse accept full responsibility for all rates and taxes owed to the Stellenbosch Municipality.

He further requests that the current rates and rental tariffs be approved retrospectively in line with other Black Emerging Farmers.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.5.1**

Before the matter was debated, Cllr F Adams recused himself.

**RESOLVED** (nem con)

- (a) that it be noted that Mr Franklin Adams has resigned from Medi-prop cc;
- (b) that it be noted that the outstanding debt, as at 2016-07-30, amounts to R199 519.61; and
- (c) that no approval be granted to any ceding of the Lease Agreement (Between Stellenbosch Municipality and Medi-Prop cc), and that Council takes steps to cancel any lease agreement with Medi-Prop cc.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26 7/2/1/1	Submitted by Directorate: Author Referred from:	Human Settlements Manager: Property Management Mayoral Committee: 2017-03-22
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7.5.2	<b>PROPOSED POLICY ON THE MANAGEMENT OF STELLENBOSCH MUNICIPALITY'S IMMOVABLE PROPERTY</b>
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**1. PURPOSE OF REPORT**

To consider the Draft Policy on the Management of Stellenbosch Municipality's Immovable Property.

**2. BACKGROUND**

Before the enactment of the Municipal Finance Act, No 56/2003 (MFMA) the disposal of Municipal Property was governed by Section 124 of the Municipal Ordinance, No 20 of 1974 and the directive(s) issued in terms thereof (circular LDC 4/1993). With the enactment of the MFMA in 2003, especially section 14 thereof, a new era dawned insofar as the disposal of Municipal (fixed) assets are concerned.

There were, however a number of uncertainties regarding the interpretation/applicability thereof, respectively taking into account that section 124 of the Municipal Ordinance was not repealed at that stage. (It has subsequently been repealed).

There was also uncertainty as to the applicability of the Preferential Procurement Policy Framework Act, No 5/2000 and the subsequent Preferential Procurement Regulations of 2001, insofar as it relates to the sale and letting of municipal immovable assets.

The Municipal Asset Transfer Regulations (August 2008) and New Preferential Procurement Regulations (2011), however provided much anticipated clarity on a number of issues.

Although the Municipal Asset Transfer Regulations deals in detail with the various aspects of Disposal Management, there are still grey areas which are not covered by the Regulations.

**8<sup>th</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.5.2**

It was noted that all policies that have gone out for public participation will be workshopped prior to being submitted to Council for final approval.

**RESOLVED** (nem con)

- (a) that Council approves the attached updated Draft Policy on the Management of Stellenbosch Municipality's Immovable Property as a draft policy; and
- (b) that the Draft Policy be advertised for a further round of public participation.

Meeting: Ref no: Collab:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate: Author Referred from:	Human Settlements Manager: Property Management Mayco: 2017-04-19
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7.5.3

## APPLICATION TO ACQUIRE LAND FOR A CLINIC IN LANQUEDOC

## 1. PURPOSE OF THE REPORT

To consider a request from the Western Cape Government (Department of Transport and Public Works) to acquire land in Lanquedoc for the purpose of a clinic.

## 2. BACKGROUND

## 2.1 Application for land for a clinic

Hereto attached as **APPENDIX 1** a copy of a letter received from the Western Cape Government, Department of Transport and Public Works, acquiring about the possible transfer of erven 135,136,137,138 and 105, Lanquedoc.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.5.3**

Kindly note that page 242 in the Council Agenda (Mayoral Committee meeting: 2017-04-19: Item 5.5.2, RECOMMENDED) was replaced with a new page.

**RESOLVED** (nem con)

- (a) that the properties listed in paragraph 3.1 measuring  $\pm 2852\text{m}^2$  in extent, be identified as land not needed to provide the minimum level of basic municipal services;
- (b) that the fair market value be determined as the weighted average of two independent valuations;
- (c) that Council **in principle** support the transfer of the land identified in paragraph 3.1, to the Western Cape Government (Chief Directorate Property Management) for the purpose of constructing a health facility, on condition that:
  - (i) the Provincial Government be responsible for all costs related to the closure, rezoning and transfer of the land, including, but not limited to survey and legal costs;
  - (ii) the Provincial Government be responsible for the upgrading of bulk infrastructure, should the need arise, and for making a contribution towards the Bulk Infrastructure Fund, as per the approved tariff structure at the time of approval of the site development plan;
  - (iii) the Provincial Government be responsible for all service connections at the prevailing rates;
- (d) that the Provincial Government be given occupancy of the land as soon as Stellenbosch Municipality approve the gratis transfer of the properties from

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the Lanquedoc Housing Association, to enable them to attend to planning/building plan approval(s); and

- (e) that the Municipal Manager (or delegate) be authorised to sign the Sales Agreement and all documents necessary to effect transfer of the property.

<i>Meeting: Ref no:</i>	<i>8<sup>TH</sup> COUNCIL: 2017-04-26</i>	<i>Submitted by Directorate: Author Referred from:</i>	<i>Human Settlements Manager: Property Management Mayco: 2017-04-19</i>
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7.5.4	<b>POSSIBLE DISPOSAL PORTION OF LAND TO CAPITEC IKAYA, ERF 9190, TECHNOPARK</b>
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### 1. PURPOSE OF REPORT

To consider an application from Capitec Ikaya to purchase a portion of municipal owned land in Technopark, that would allow them to redevelop their sites in a more effective way.

### 2. BACKGROUND

#### 2.1 Application to purchase a portion of land, measuring $\pm 0.2$ ha in extent

Following a meeting between the consultant team of Capitec Ikaya and representative of Stellenbosch Municipality on 04 October 2016, an application to purchase a portion of land from the municipality was received from TV3 Architect and Town Planners, on behalf of Capitec Ikaya Development. The portion of land is located between Capitec's erven 9211 and 13166, as shown on Fig 1, below.



**Fig 1**

A copy of the application is attached as **APPENDIX 1**.

#### 2.2 Application for encroachment

Following the above, an application to use the said portion of land on an encroachment basis, has been received and has subsequently been approved as an interim arrangement.

### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.5.4

#### **RESOLVED** (majority vote)

- (a) that the land identified in par. 3.1.1 *supra*, be identified as land not necessary for providing the minimum level of basic municipal services;



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- (b) that a reserve price be determined, based on the fair market value and the bidder to demonstrate the possible economic benefit to the municipality as a qualifying functionality criteria;
  - (c) that approval be granted that the capital asset may be disposed of; and
  - (d) that the Municipal Manager be authorised to follow a public tender process with the view of disposing of the said portion of land, on condition that the successful bidder be responsible for all steps necessary to effect transfer, including, but not limited to survey and legal costs.

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

*Councillors F Adams; GN Bakubaku-Vos (Ms); FT Bangani-Menziwa (Ms); DA Hendrickse; LK Horsband (Ms); N Mananga-Gugushe (Ms); LM Maqeba; RS Nalumango (Ms); MD Oliphant; N Sinkinya (Ms) and P Sitshoti (Ms).*

<i>Meeting: Ref no:</i>	<i>8<sup>TH</sup> COUNCIL: 2017-04-26 Unfiled</i>	<i>Submitted by Directorate: Author Referred from:</i>	<i>Human Settlements Manager: Property Management Mayco: 2017-04-19</i>
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7.5.5	<b>APPLICATION TO RELAX DEED OF SALE CONDITION: ANTI-SPECULATION CLAUSE: ERF 9194, TECHOPARK</b>
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### 1. PURPOSE OF REPORT

To obtain the necessary authorisation to relax one of the conditions of sale (anti-speculation clause), allowing the owner to sell his property in the open market.

### 2. BACKGROUND

#### 2.1 Sales Agreement

On 4 February 2008, following a public tender process, a Sales Agreement in relation to erf 9194, Technopark, was concluded with Elsabe Daneel Properties (Pty) Ltd, a copy of which is attached as **APPENDIX 1**.

#### 2.2 Application to relax anti-speculation clause

On 25 April 2016 a letter was received from Mr J Daneel, indicating that, due to personal circumstances, he be allowed to sell erf 9194, a copy of which is attached as **APPENDIX 2**.

### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.5.5

**RESOLVED** (majority vote with abstentions)

- (a) that the request for the relaxation of the anti-speculation clause not be approved;
- (b) that clause 11 of the Sales Agreement be enforced, i.e. that the property be repurchased;
- (c) that an independent valuer be appointed to determine a fair escalation on the purchase price; and
- (d) that the necessary budgetary provisions be made on the 2017/18 budget.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26 Unfiled	Submitted by Directorate: Author Referred from:	Human Settlements Manager: Property Management Mayco: 2017-04-19
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7.6	INFRASTRUCTURE: [CLLR J DE VILLIERS]
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7.6.1	CLOSING OF THE PROCLAIMED ROAD 5225 (THE WILLOWS) AND PROCLAMATION OF A MUNICIPAL STREET
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**1. PURPOSE OF REPORT**

For Council to consider the taking over of Minor Road 5225.

**2. BACKGROUND**

The proclaimed Provincial road 5225 (The Willows) is the last remaining portion of the Old Helshoogte road. With the construction of the New Helshoogte road this road has lost its significance and only serves as a local access from a municipal street to the Amoi development, four small holdings and access to the Municipal dams.

One of the critical land-use subdivision conditions for the Amoi development from the Department of Transport and Public Works (dated 25 October 2007) was that Stellenbosch Municipality must provide a commitment to take over minor road 5225 from Farm 490, portion 7 to the nearest municipal street and must be in place before any construction vehicles enter this development. (**APPENDIX 1**).

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.6.1**

It was noted that the public will continue to have access to this road.

**RESOLVED** (majority vote)

- (a) that the Municipality, in principle, agrees to take over Minor Road 5225;
- (b) that the public be informed of Council's decision; and
- (c) that this portion of road be named Old Helshoogte Road.

Meeting:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate:	Engineering Services
Ref no:	8/1/ Engineering Services	Author	Acting Director: Engineering
Collab:		Referred from:	Mayoral Committee: 2017-03-22

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7.7	PARKS, OPEN SPACES AND ENVIRONMENT: (PC: CLLR N JINDELA)
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NONE

7.8	PROTECTION SERVICES: [PC: CLLR Q SMIT]
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NONE

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

8.	<b>CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED BY THE MUNICIPAL MANAGER</b>
8.1	<b>RATIFICATION OF DECISIONS EXERCISED BY ACTING DIRECTOR ENGINEERING SERVICES AND ACTING DIRECTOR STRATEGIC AND CORPORATE SERVICES– MR WILLEM PRETORIUS AND MR VERNON BOWERS</b>

### 1. PURPOSE OF REPORT

To provide Council with a summary of the Acting Director: Engineering Service and Acting Director Strategic Services' acting tenure for the period 1 January 2017 – 14 February 2017 and 1 December 2016 – 23 December 2016 respectively.

### 2. BACKGROUND

Upon the termination of the contract of the then Director Engineering Services, Mr Andre van Niekerk, relevant Managers in the Engineering Department have been acting as Director Engineering Services.

During this period, Mr Willem Pretorius acted as Director Engineering Services as instructed by the Acting Municipal Manager. Mr Pretorius is appointed as acting Manager in the Engineering Department, and due to capacity constraints and the continued assurance of the delivery of services, he was requested to act as Director Engineering Services for periods of time.

The resignation of Mr Raymond Esau during August 2016 left the post of Director Strategic and Corporate Services vacant. Mr Vernon Bowers was appointed to act in the position of Director Strategic and Corporate Services from September 2016 – December 2016.

**Section 56** of the **Municipal Systems Amendment Act 7 of 2011** the following is prescribed:

*Section 56 (1) (a)(ii) - "A municipal council, after consultation with the municipal manager, must appoint an acting manager directly accountable to the municipal manager under circumstances and for a period as Prescribed".*

*Section 56 (1)c) - "A person appointed in terms of paragraph ( a)(ii) may not be appointed to act for a period that exceeds three months: Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three months".*

Due to a bona fide oversight and the fact that various Acting Municipal Managers were appointed during this period, application was not made to the MEC prior the extension of the acting periods of Mr Willem Pretorius and Mr Vernon Bowers. The main focus of the Municipality was to ensure continued service delivery to the whole of Stellenbosch Municipal area. Said approval by Council was received at the 6<sup>th</sup> meeting of Council held on

22 February 2017 after which submission was made to the MEC, and the Municipality is still awaiting the relevant feedback.

The vacancies of both Director Engineering Services and Director Strategic Services was advertised during the acting period; interviews were held and a successful candidate was recommended for appointment.

During these acting periods various delegations were exercised. Attached as **APPENDIX 1** find a summary of Mr Pretorius and Mr Bowers tenure as the Acting Director : Engineering Services and Acting Director Strategic and Corporate Services for the period 1 January 2017 – 14 February 2017 and 1 December 2016 – 23 December 2016 respectively.

The Provincial Department of Local Government was consulted in this regard to give guidance in abovementioned instance. The suggestion that Council should ratify the decisions taken by the incumbent during the period where no application was sought from the MEC is supported by the relevant Local Government Department. (**APPENDIX 2**).

#### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 8.1

Before the matter was debated, the Acting Director: Strategic and Corporate Services, Mr V Bowers, recused himself.

**RESOLVED** (majority vote with abstentions)

that the summary of all the decisions and/or actions taken by Mr Willem Pretorius and Mr Vernon Bowers as the Acting Director : Engineering Services and Acting Director Strategic and Corporate Services as reflected in **APPENDIX 1**, be hereby noted and ratified by the Council.

*Councillors DA Hendrickse and LK Horsband (Ms) requested that their votes of dissent be minuted.*

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate: Author Referred from:	Office of the MM Office of the MM Mayoral Committee: 2017-04-19
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8.2	<b>DRAFT REPORT ON MACRO AND MICRO STRUCTURE</b>
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**1. PURPOSE OF REPORT**

To submit to Council the Draft Macro and Micro Organogram for approval to commence with the consultation process.

**2. BACKGROUND**

In terms of Section 66 (a) of the Municipal Systems Act, Act 32 of 2000, a Municipal Manager must develop a staff establishment for the municipality, and submit the staff establishment to the Municipal Council for approval.

Stellenbosch Municipality commissioned AGITO MINDS (PTY) LTD to review and re-design the municipality's existing organisational structure. The re-designed structure must be compliant with the statutory mandate of the municipality, in line with statutory guidelines and the legislative competencies, powers and functions and aligned with the strategic mandate of the municipality, providing for unique local situations, operational requirements and service delivery demands.

This project improves the operational abilities of the Municipality to achieve its service delivery targets and strategic objectives.

**The Scope of Work for this Project entails the following:**

- Phase 1: Project Inception & Mobilization
- Phase 2: A Status quo analysis
- Phase 3: Organisational Design
- Phase 4: Conducting a Skills Audit
- Phase 5: Reviewing the HR Strategy, Policies & Delegations
- Phase 6: Project Deliverable Approvals
- Phase 7: Implementation Support
- Phase 8: Project Management

**Project Progress**

Phase 1 and Phase 2 of the project has been concluded. The outcomes of Phase 2: Review the Current Status was documented in a Key Findings Report (KFR), detailing the results of a diagnostic review of the current organisational structures. The final KFR was submitted on 7 December 2016.

The KFR, however, had to be submitted without a comparative analysis of the current staff establishment due to a lack of staff establishment information. After deliberation between the Municipal Manager and the Human Resource Department, AGITOMINDS was requested to execute additional work to complete and compile the current staff establishment.

The additional work activities enabled the following:

- (a) A comprehensive staff establishment reflecting all approved positions of the municipality, per directorate/division/section/sub-section and containing details such as T levels, salary scales, budgeting, post numbers and personnel numbers;

- (b) A current staff establishment including all approved organisational structures and all ad-hoc amendments;
- (c) A reconciled staff establishment between approved structures, payroll and all staff records;
- (d) Corrected staff details on the staff establishment;
- (e) Tallied all temporary positions, contract appointees and casuals; and
- (f) A developed Staff Establishment Control System to ensure maintenance and monitoring of structures, and trained members of the Human Resource component in application of the System.

The outputs of Phase 3 (a): Organisational comprise the proposed Macro and Micro that now needs to be considered by Council, in accordance with the Project Implementation Plan, for In-Principle approval to conclude Phase 3(a).

#### **MAYORAL COMMITTEE MEETING: 2017-04-19: ITEM 6.2**

The Executive Mayor afforded the team of AGITO MINDS (PTY) LTD, Messers Wessel Rabbets and Johan van Baalen, an opportunity to do a presentation on the proposed Macro and Micro structure (see **APPENDICES 1-3**).

#### **RECOMMENDED**

that the proposed Macro and Micro structure be considered by Council, in accordance with the Project Implementation Plan, for In-Principle approval to commence with the consultation process.

#### **8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 8.2**

Kindly note that the item above replaced Item 8.2 Draft Report on Macro and Micro Structure (pages 328-330) in the Council Agenda.

#### **RESOLVED** (majority vote with abstentions)

that the proposed Macro and Micro structure be considered by Council, in accordance with the Project Implementation Plan, for In-Principle approval to commence with the consultation process.

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

Meeting : Ref no:	8 <sup>th</sup> COUNCIL : 2017-04-26	Submitted by Directorate Author Referred from :	Office of the MM Office of the MM Mayoral Committee : 2017-04-19
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8.3	<b>UPPER LIMITS OF SALARIES, ALLOWANCE AND BENEFITS OF COUNCILLORS</b>
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1. To inform Council of the contents of Government Notice No 313 of 3 April 2017 that deals with the upper limits of salaries, allowances and benefits of councillors. See attached **ANNEXURE A**. Also to highlight changes from the previous Notice.

2. **BACKGROUND**

A recent Notice, 1600 of 21 December 2016, published in this regard, has been repealed and replaced by Notice 313 of 3 April 2017.

The Implementation Date of the Notice is back dated to 1 July 2016, and has become standard practice over the years.

Issues that need particular noting, are listed below. In essence, the Notice does not deviate from the format of previous years, but there are some improvements that are highlighted below.

### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 8.3

#### **RESOLVED** (nem con)

that the previous Council decision taken on 22 February 2017 stating:

*“6<sup>TH</sup> COUNCIL MEETING: 2017-02-22: ITEM 8.1*

#### *RESOLVED (nem con)*

- (a) *that the upper limits pertaining to Councillors’ remuneration as determined by the National Minister for Cooperative Governance and Traditional Affairs, be adopted and approved by Council;*
- (b) *that the Administration effect implementation after due process has been followed, which includes: Notifying the MEC for Local Government of the Council resolution, the availability of funds in terms of affordability and the schedule containing the increased salaries, allowances and benefits;*
- (c) *that the following specific adjustments to the upper limits are approved by Council for implementation by the Administration effective from 1 July 2016, subject to approval by the MEC for Local Government; and*
- (d) *that the MEC for Local Government be informed of the following challenges:*
  - *Implementation date for the Pension fund for Councillors;*
  - *The administrative burden regarding the cell phone allowances and data bundles.*

- *Compulsory pension fund membership*
- *Retrospective nature of compulsory pension fund membership*
- *Retrospective nature of data bundles reimbursement*
- *Non-increase in remuneration packages for some Councillors”*

be rescinded and replaced with

- (a) that the upper limits pertaining to Councillors’ remuneration as determined by the National Minister for Cooperative Governance and Traditional Affairs, be adopted and approved by Council;
- (b) that the Administration effect implementation after due process has been followed, which includes: Notifying the MEC for Local Government of the Council resolution, the availability of funds in terms of affordability and the schedule containing the increased salaries, allowances and benefits; and
- (c) that the adjustments to the upper limits are approved by Council for implementation by the Administration effective from 1 July 2016, subject to approval by the MEC for Local Government.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate: Author Referred from:	Office of the MM Office of the MM Mayoral Committee: 2017-04-19
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8.4	<b>CONSIDERATION OF IRREGULAR EXPENDITURE DISCLOSED IN THE ANNUAL FINANCIAL STATEMENTS OF 2014/2015 FOR WERNER ZYBRANDT</b>
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**1. PURPOSE OF THE REPORT**

To provide information regarding “irregular expenditure” for oversight by MPAC. Council needs to consider and approve that the expenditure is deemed irrecoverable and be written off in terms of the MFMA Section 32 (2).

**2. BACKGROUND**

The Committee was established to deal with expenditure not aligned or non-compliant with Council’s approved policies and the Municipal Finance Management Act, herein after referred to as the “Act” and “Policies”.

**2.1 Legislation**

The Act (Section 32) stipulates the following with regard to unauthorized, irregular or fruitless and wasteful expenditure:

- “(1) without limiting liability in terms of the common law or other legislation-
- (a) *a political office-bearer of a municipality is liable for unauthorized expenditure if that office-bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorized expenditure, instructed an official of the municipality to incur the expenditure;*
  - (b) *The accounting officer is liable for unauthorized expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);*
  - (c) *Any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorized an irregular expenditure, is liable for that expenditure; or*
  - (d) *Any political office-bearer or official of a municipality who deliberately or negligently made or authorized a fruitless and wasteful expenditure is liable for that expenditure”.*

In terms of Section 32 (2)

*“A municipality must recover unauthorized, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure-*

- (a) *In the case of unauthorized expenditure, is-*
  - (i) *authorized in an adjustments budget; or*

- (ii) *Certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and*
- (b) *In the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council”.*

A further stipulation, Section 32(4) compels the accounting officer to

*“Promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of-*

- (a) *Any unauthorized, irregular or fruitless and wasteful expenditure incurred by the municipality;*
- (b) *Whether any person is responsible or under investigation for such unauthorized, irregular or fruitless and wasteful expenditure; and*
- (c) *The steps that have been taken-*
- (i) *To recover or rectify such expenditure; and*
- (ii) *To prevent a recurrence of such expenditure”.*

1.1 Irregular expenditure as defined under Chapter 1 of the Act:

- a)** *Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;*
- b)** *Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Municipal systems Act, and which has not been condoned on terms of that Act;*
- d)** *Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or any of the municipality’s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law”.*

#### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 8.4

**RESOLVED** (majority vote with abstentions)

that Council certifies the expenditure to the amount of R120 000.00 as irrecoverable and that it be written off.

<b>Meeting: Ref No:</b>	8 <sup>TH</sup> COUNCIL: 2017-04-26	<b>Submitted by Directorate: Author: Referred from:</b>	Office of the Municipal Manager  MPAC: 2017-04-20
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8.5	<b>UNAUTHORISED EXPENDITURE AS DISCLOSED IN NOTE 53 OF THE AUDITED 2014/2015 ANNUAL FINANCIAL STATEMENTS</b>
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**1. PURPOSE OF REPORT**

To submit to the Council a report on the unauthorised expenditure as disclosed in Note 53 of the audited 2014/2015 Annual Financial Statements that cannot be authorised by Council through another adjustments budget for the 2014/2015 financial year but needs to be certified by Council as irrecoverable unauthorised expenditure and to be written off.

**2. BACKGROUND**

Section 32(1)(a) of the Municipal Finance Management Act (MFMA) determines that a political office-bearer of a municipality is liable for unauthorised expenditure if that office-bearer knowingly or having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure.

Section 32(1)(b) of the MFMA also determines that the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer.

Section 32(2)(a) of the MFMA further determines that a municipality must recover unauthorised expenditure from the person liable for that unauthorised expenditure unless the expenditure in the case of unauthorised expenditure is authorised in an adjustments budget (which cannot take place anymore); or, after investigation by a committee of council, is certified by the council as irrecoverable and to be written-off.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 8.5****RESOLVED** (majority vote with abstentions)

- (a) that Council certifies the unauthorised expenditure amount per Vote (Directorate) of R 49 806 155 (2014/2015) and R 58 193 244 (2013/2014) as set out above as irrecoverable and to be written off; and
- (b) that Council accepts the reasons in the report and record that no political office-bearer or official of the Municipality deliberately or negligently incurred the over-expenditure and unauthorised expenditure to be written-off as irrecoverable.

*Councillors DA Hendrickse and LK Horsband (Ms) requested that it be minuted that they abstained from voting on the matter.*

<b>Meeting: Ref No:</b>	8 <sup>TH</sup> COUNCIL: 2017-04-26	<b>Submitted by Directorate: Author: Referred from:</b>	Office of the Municipal Manager  MPAC: 2017-04-20
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8.6	<b>MUNICIPAL REGULATIONS ON FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS</b>
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See item 11.1 below.

9.	<b>MATTERS FOR NOTIFICATION</b>
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9.1	<b>REPORT ON DECISIONS TAKEN BY THE EXECUTIVE MAYOR</b>
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See items 9.2.1 and 9.2.2 below.

9.2	<b>REPORT BY THE MUNICIPAL MANAGER</b>
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9.2.1	<b>MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FROM 01 FEBRUARY UNTIL 28 FEBRUARY 2017</b>
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#### 1. PURPOSE OF REPORT

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

#### 2. BACKGROUND/DISCUSSION

Reporting the deviation as approved by the Accounting Officer for the period of 01 February until 28 February 2017. The following deviation was approved with the reason as indicated below:

Deviation Number	Contract Date			Name of Contractor	Contract Description	Reason	Total Contract Price R
D/SM: 32/17	16	02	2017	Angel Shack & Urban World	Office Relocation to Eikestad Mall for Planning and Economic Development	Revamping of space for composite desks and special storage equipment.	R 514.644.75 excl VAT
				Urban World		Soft seating and reception desks	R 76715.00 excl VAT

#### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 9.2.1

#### NOTED

that the deviation as listed above, **be noted**.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate: Author Referred from:	Finance Acting CFO: A. Treurnich Mayco: 2017-04-19
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9.2.2	<b>mSCOA PROJECT PROGRESS REPORT AS AT 31 MARCH 2017</b>
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**1. PURPOSE OF THE REPORT**

The purpose of this report is as follows:

- (a) To inform Council of the mSCOA progress leading up to 1 July 2017, since the last mSCOA project update provided for the period up to October 2016;
- (b) To inform Council of mSCOA documents issued by National Treasury since October 2016;
- (c) To inform Council of anticipated National Treasury documents/outcomes that will impact on our mSCOA project phase progress;
- (d) To inform Council of internal processes that has a potential material impact on mSCOA compliance.

**2. BACKGROUND: LEGISLATIVE FRAMEWORK**

The Local Government: Municipal Finance Management Act (56/2003): Municipal Regulations on Standard Chart of Accounts (mSCOA) was issued on 22 April 2014. The mSCOA regulation takes effect on 1 July 2017 and applies to municipalities and municipal entities.

The objective of mSCOA *“is to provide for a national standard for the uniform recording and classification of municipal budget and financial information at a transaction level by prescribing a standard chart of accounts for municipalities and municipal entities which-*

*(a) are aligned to the budget formats and accounting standards prescribed for municipalities and municipal entities and with the standard charts of accounts for national and provincial government; and*

*(b) enable uniform information sets recorded in terms of national norms and standards across the whole of government for the purposes of national policy coordination and reporting, benchmarking and performance measurement in the local government sphere.”*

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 9.2.2****NOTED**

that the mSCOA updated report as at March 2017, **be noted**.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26 3/3/3/6/17	Submitted by Directorate: Author Referred from:	Acting CFO VAT & Accounting Specialist Mayco: 2017-04-19
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10.	<b>CONSIDERATION OF NOTICES OF QUESTIONS AND NOTICES OF MOTIONS RECEIVED BY THE SPEAKER</b>
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10.1	<b>MOTION BY COUNCILLOR CLLR F ADAMS: CHANGING NAME OF BIRD STREET TO CHRIS HANI STREET</b>
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**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 10.1**

The Speaker allowed Councillor F Adams to put his Motion, duly seconded.

After the Motion was motivated, the Speaker allowed debate on the matter.

At 15:55 the Speaker ordered Cllr F Adams to leave the chamber on account of breach of order.

The Speaker **RULED**

that in the absence of the mover, the motion has lapsed.

<b>Meeting:</b>	8 <sup>th</sup> Council: 2017-04-26	<b>Submitted by Directorate:</b>	Office of the Municipal Manager
<b>Ref No:</b>	3/4/1/4	<b>Author:</b>	MM: (Ms G Mettler)
<b>Collab:</b>		<b>Referred from:</b>	



<b>10.2</b>	<b>MOTION BY COUNCILLOR CLLR DA HENDRICKSE: LEASE AGREEMENT - STELLENBOSCH GOLF CLUB</b>
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**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 10.2**

The Speaker allowed Councillor DA Hendrickse to put his Motion, duly seconded.

After the Motion was motivated, the Speaker allowed debate on the matter.

The matter was put to the vote, yielding a result of 2 for and 26 against the Motion.

**RESOLVED** (majority vote with abstentions)

that this Motion not be accepted.

<b>Meeting:</b> <b>Ref No:</b> <b>Collab:</b>	<i>8<sup>th</sup> Council: 2017-04-26 3/4/1/4</i>	<b>Submitted by Directorate:</b> <b>Author:</b> <b>Referred from:</b>	<i>Office of the Municipal Manager MM: (Ms G Mettler)</i>
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10.3	<b>MOTION BY COUNCILLOR CLLR DA HENDRICKSE: FAILURE OF LESSEES TO PAY THEIR OUTSTANDING DEBT</b>
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**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 10.3**

The Speaker allowed Councillor DA Hendrickse to put his Motion, duly seconded.

After the Motion was motivated, the Speaker allowed debate on the matter.

The matter was put to the vote, yielding a result of 3 for and 26 against the Motion.

**RESOLVED** (majority vote with abstentions)

that this Motion not be accepted.

<b>Meeting:</b>	8 <sup>th</sup> Council: 2017-04-26	<b>Submitted by Directorate:</b>	Office of the Municipal Manager
<b>Ref No:</b>	3/4/1/4	<b>Author:</b>	MM: (Ms G Mettler)
<b>Collab:</b>		<b>Referred from:</b>	

11.	<b>URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER</b>
11.1	<b>MUNICIPAL REGULATIONS ON FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS</b>

### 1. PURPOSE OF REPORT

To review and rescind Council's previous resolution in this regard;

To inform Council of the progress with regard to Stellenbosch Municipality's implementation of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings as per the Government Gazette dated 30 May 2014;

To appoint the Disciplinary Board and the Designated Official as per the regulation.

### 2. BACKGROUND

The above-mentioned regulation R430 Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings hereto attached as **APPENDIX 1** for your information and attention and has been enforceable with effect from 1 July 2014. These regulations replace R425. In order to give effect to these regulations Stellenbosch municipality needs to:

- (a) Establish a disciplinary board and its functioning in terms of regulation 4 of these regulations;
- (b) Identify the designated official to whom reports on alleged financial offences against councillors should go to;
- (c) Ensure that any allegation of financial misconduct be reported in terms of these regulations.

### FURTHER COMMENTS BY THE MUNICIPAL MANAGER: 2017-04-20

It has proven to be quite difficult to implement the resolution of Council due to two (2) reasons.

The first being that it has been difficult to source the member as required in point (d) (v) of the resolution. This is however not a requirement in terms of the said regulation and I request that it be removed as it has proven to be very difficult to find such person who is willing to serve in the greater WC024.

The second relates to the (e) part of the resolution whereby my concern is that the Chief Audit Executive cannot operate in the domain of Council and therefore cannot be the designated official. It also has an impact on the independence of the Chief Audit Executive whom is already going to be part of the disciplinary board. I would suggest that the designated official be the Municipal Manager.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 11.1****RESOLVED** (nem con)

- (a) that Council reviews and rescinds its resolution taken in this regard on 2015-10-28;
- (b) that Council takes note of the concerns raised by the Municipal Manager with regard to the implementation of the Municipal Regulation on Financial Misconduct Procedures and Criminal Proceedings;
- (c) that Council establishes the Disciplinary Board based on the last inputs of the Municipal Manager in line with these regulations;
- (d) that the Disciplinary Board has as its members the following:
  - (i) The Chief Audit Executive
  - (ii) A member of the Audit Committee as elected by the Audit Committee
  - (iii) A senior manager from the legal division as determined by the Director Corporate and Strategic Services
  - (iv) A representative from Provincial Treasury as nominated by Province; and
- (e) that Council designates the Municipal Manager as the designated official to whom reports on alleged financial offences against Councillors should go.

<b>Meeting:</b> <b>Ref No:</b> <b>Collab:</b>	<i>8th Council: 2017-04-26</i>	<b>Submitted by Directorate:</b> <b>Author:</b> <b>Referred from:</b>	<i>Municipal Manager Chief Audit executive</i>
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12.	CONSIDERATION OF MOTION OF EXIGENCY
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NONE

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

13.2	CONSIDERATION OF REPORTS SUBMITTED BY THE EXECUTIVE MAYOR
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13.2.1	TERMS OF REFERENCE SECTION 80 COMMITTEES
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**1. PURPOSE OF REPORT**

For the Council to approve the draft Terms of Reference for the Section 80 Committees in terms of Municipal Structures Act No 117 of 1998.

**2. BACKGROUND**

Section 80 of the Municipal Structures Act provides for:

***“Committees to assist executive committee or executive mayor***

- (1) *If a municipal council has an executive committee or executive mayor, it may appoint in terms of section 79, committees of councillors to assist the executive committee or executive mayor.*
- (2) *Such committees may not in number exceed the number of members of the executive committee or mayoral committee.*
- (3) *The executive committee or executive mayor -*
  - (a) *appoints a chairperson for each committee from the executive committee or mayoral committee;*
  - (b) *may delegate any powers and duties of the executive committee or executive mayor to the committee;*
  - (c) *is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and*
  - (d) *may vary or revoke any decision taken by a committee, subject to any vested rights.*

- (4) *Such a committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor.”*

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 13.2.1****RESOLVED** (nem con)

that Council approves the Terms of References of the Section 80 Committees attached as **APPENDIX 1**.

Meeting: Ref no:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate: Author Referred from:	Office of the EM Office of the EM Mayco: 2017-04-19
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14.	<b>MATTERS TO BE CONSIDERED IN-COMMITTEE</b>
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(SEE PINK DOCUMENTATION)

<b>ADDITIONAL ITEMS</b>
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7.5	<b>HUMAN SETTLEMENTS: [CLLR PW BISCOBE]</b>
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7.5.6	<b>IDAS VALLEY HOUSING PROJECT</b>
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**1. PURPOSE OF THE REPORT**

To obtain approval from the Municipal Council to amend the tender of B/SM 246/09B as envisaged in terms of section 116(3)(a) and (b) of the Municipal Finance Management Act, 56 of 2003 ("MFMA") to obtain the following:

- a) To adjust the selling prices of the housing units in line with a reasonable, average yearly escalation rate.
- b) To revise the percentage of house typologies in the different income bands in order to provide an affordable, marketable spread of units.

**2. BACKGROUND**

Idas Valley is a well-established traditional community and has been protected as a heritage site since 1976. During 1980, Council developed 'treintjiesdorp' in Newman Street for the poor community of Idas Valley. Thereafter the development of Lindida was implemented to make provision for the middle income families in Idas Valley. This development started in 1990 whereby families had an opportunity to buy properties in the Garden Cities development.

The municipality has for the past 25 years trying to get a project started in Idas Valley. There was political pressure on delivering a project in Idas Valley, as well as a result of the increased backyard dwellers. The current project started 10 years ago and the municipality requested several proposal calls to get a turnkey developer appointed.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 7.5.6**

**RESOLVED** (majority vote)

- (a) that Council approves in terms of MFMA Section 116(3) the amendment framework (B/SM 246/09) as depicted in the table below:

Revised proposal	Number of units
Subsidy unit (21%)	89
250 000 – 350 000 (19%)	80
Units less than R521 000 (44%)	190
Units less than R751 000 (16%)	70
Plot and plan	0

- (b) that the approved framework be communicated with the affected community in Idas Valley.

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

*Cllrs F Adams; DA Hendrickse and LK Horsband (Ms).*

Meeting: Ref no: Collab:	8 <sup>TH</sup> COUNCIL: 2017-04-26 17/4/4/22/1	Submitted by Directorate: Author Referred from:	Human Settlements
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8.	<b>CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS SUBMITTED BY THE MUNICIPAL MANAGER</b>
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8.2.2	<b>REPORT ON CREATION OF NEW POSTS</b>
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**1. PURPOSE OF REPORT**

The purpose of the report is for Council to create and approve the following posts

- Senior Manager : Governance (Office of the Municipal Manager);
- Senior Manager : Waste Management (Infrastructure Services);
- Deputy- Director : Protection Services (Community and Protection Services); and
- 3 x Area-Based Manager (Planning and Economic Development: Human Settlements)

**2. BACKGROUND**

In terms of Section 66 (a) of the Municipal Systems Act, Act 32 of 2000, a Municipal Manager must develop a staff establishment for the municipality, and submit the staff establishment to the Municipal Council for approval.

No person may be employed in a municipality unless the post is provided in the staff establishment of the municipality. Before the recruitment and selection process start the job descriptions of the new posts must be completed and evaluated in terms of the approved SALGA process. In terms of Section 66 (a) of the Municipal Systems Act, Act 32 of 2000, the Municipal Manager is responsible for the above mentioned.

Stellenbosch Municipality commissioned AGITO MINDS (PTY) LTD to review and re-design the municipality's existing organisational structure. The re-designed structure must be compliant with the statutory mandate of the municipality, in line with statutory guidelines and the legislative competencies, powers and functions and aligned with the strategic mandate of the municipality, providing for unique local situations, operational requirements and service delivery demands.

**3. DISCUSSION**

Due to service delivery challenges and the assurance of continued service delivery the following posts on the Current Draft Macro Organogram is required to be created and filled:

**3.1 SENIOR MANAGER: GOVERNANCE (OFFICE OF THE MUNICIPAL MANAGER)**

**PURPOSE:** To evaluate and contribute to the improvement of governance management processes.

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**FUNCTIONS:**

1. Establish and maintain enterprise risk management (ERM) and compliance within the organisation;
2. Manage and coordinate the integrated development plan (IDP), institutional performance management (PM), and intergovernmental relations (IGR);
3. Render a public and media relations and comprehensive communication service to promote and build sound relationships between the municipality and all stakeholders and to promote and manage the corporate image; and
4. Render management and line function administrative support services.

**3.2 SENIOR MANAGER: WASTE MANAGEMENT (INFRASTRUCTURE SERVICES)**

**PURPOSE:** To manage the rendering of waste management services in accordance with applicable legislation, by-laws and standards

**FUNCTIONS:**

1. Provide waste minimization and disposal services in accordance with applicable legislation, by-laws and standards;
2. Render cleansing and collection services in accordance with applicable legislation, by-laws and standards;
3. Provide solid waste management support services;
4. Render management and line function administrative support services; and
5. Liaise with law enforcement regarding by-law enforcement.

**3.3 DEPUTY DIRECTOR: PROTECTION SERVICES (COMMUNITY AND PROTECTION SERVICES)**

**PURPOSE:** To manage the rendering of protection services to ensure the safety of the community.

**FUNCTIONS:**

1. Manage the rendering of efficient and sustainable traffic, licensing and law enforcement services to all road users and public and administer by-laws enforcement to ensure compliance with regard to municipal legislation;
2. Manage the rendering of disaster management and fire services to prevent/manage potential losses/threats to property and lives;
3. Provide municipal court agency services; and
4. Render management and line function administrative support services.

**3.4 AREA-BASED MANAGER (PLANNING AND ECONOMIC DEVELOPMENT: HUMAN SETTLEMENTS)**

**PURPOSE:** Monitoring and facilitation of the Human Settlements function within Informal Settlements.

**FUNCTIONS:**

1. Monitor the expansion of the Informal Settlements;
2. Monitor basic service delivery in Informal Settlements;
3. Facilitate community engagement with regards to service delivery in Informal Settlements
4. Render management and line function administrative support services.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 8.2.2**

**Kindly note:** This item replaces Item 11.1 Draft Report on creation of new posts (pages 576-578) that was distributed as an additional item).

**RESOLVED** (majority vote)

- (a) that the following posts be created and approved:
- Senior Manager : Governance (Office of the Municipal Manager);
  - Senior Manager : Waste Management (Infrastructure Services); and
  - Deputy- Director: Protection Services (Community and Protection Services)
  - 3 x Area-Based Manager (Planning and Economic Development)
- b) that the Municipal Manager complete job descriptions for the above mentioned posts and submit it for evaluation to the Regional Job Evaluation Committee before the commencement of the recruitment and selection process.
- c) that the Municipal Manager report back to Council on the Financial Implications of these posts, after the relevant job description processes have been finalized.

Meeting:	8 <sup>TH</sup> COUNCIL: 2017-04-26	Submitted by Directorate:	Office of the Municipal Manager
Ref no:		Author	
Collab:		Referred from:	

11.	<b>URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER</b>
11.2	<b>QUARTERLY BUDGET STATEMENTS REPORTING: JANUARY 2017 – MARCH 2017</b>

### 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 3<sup>rd</sup> quarter as at 31 March 2017.

### 2. DISCUSSION

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

The Operating expenditure reflects a 3.83% over spending for the year to date.

The 45.29% under spending of the year to date capital budget is of great concern.

The Financial Services Quarterly Report for January 2017 to March 2017 is attached as **APPENDIX 1**.

### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 11.2

At 16:20 the Speaker ordered Cllr DA Hendrickse to leave the chamber on account of breach of order.

### NOTED

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

<i>Meeting: Ref no:</i>	<i>8<sup>th</sup> Council: 2017-04-26 8/1/Financial QUARTERLY BUDGET</i>	<i>Submitted by Directorate: Author Referred from:</i>	<i>Financial Services Manager: Budget Office</i>
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11.3	<b>TOP LAYER SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) REPORT FOR THE THIRD QUARTER (1 JANUARY 2017 TO 31 MARCH 2017)</b>
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### 1. PURPOSE OF REPORT

That Council take cognisance of progress made with the achievement of key performance indicators, development priorities and objectives as determined in the Top Layer Service Delivery and Budget Implementation Plan (SDBIP) for the 3<sup>rd</sup> Quarter (1 January 2017 to 31 March 2017).

### 2. BACKGROUND

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

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

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

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

### 8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 11.3

#### RESOLVED (majority vote)

that Council takes cognisance of the 2016/17 Top Layer Service Delivery and Budget Implementation Plan (SDBIP) Report for the 3<sup>rd</sup> Quarter (1 January 2017 to 31 March 2017) attached under separate cover as **APPENDIX 1**.

Meeting: Ref no:	8 <sup>th</sup> Council: 2017-04-26 8/1/3/3/1/4	Submitted by Directorate: Author Referred from:	Financial Services Manager: Budget Office
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11.4	<b>PROPOSED AMENDMENT OF SUPPLY CHAIN MANAGEMENT CONTRACT: GARY WHITE AND ASSOCIATES</b>
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**1. PURPOSE OF REPORT**

To obtain the necessary authorization for the intended amendment of a contract concluded with Gary White and Associates (now trading as Tim Ziehl (architects).

**2. BACKGROUND****2.1 Initial appointment**

During April 2012 Formal Quotations were invited for the appointment of an Architect to do the design of Klapmuts Multi-Purpose Community Centre.

Prospective bidders were requested to quote as follows:

- a) Phase 1: Up to work stage 4.1
- b) Phase 2: Contract Management

At the time the budget for the actual construction was not yet approved. For this reason it was agreed that, should the necessary funds be made available for the actual construction during the 2012/13 financial year, the Municipality would consider the appointment of the successful bidder for phase 2 of the project.

Gary White and Associates were initially appointed to do phase 1 for an amount of R132 990 (excluding Vat). They were later appointed to also attend to phase 2 for an amount of R134 400 (excluding Vat), thus totalling a contract value of R267 390 (excluding Vat).

**2.2 Tender process: Construction of facility**

During 2014 tenders were invited for the actual construction of the facility. An amount of R9 million was available on the capital budget (Vote 5/6220/0811). Following the Tender process, the lowest tender was ±R17million.

For this reason the project was put on ice with the view of increasing the budget.

The budget (2015/16 and 16/17) was recently increased to R22million, and tenders were again invited. The tender was subsequently awarded for a contract amount of R20 751 616.24.

**3. DISCUSSION****3.1 Increase of project**

When the prospective bidders were asked to quote for the initial project the estimated project value was **±R4million**. This was later extended to R9million and is now at a contract amount of R20 751 616.24, (including VAT) i.e an increase of more than 350% on the original scope of work.

Under normal circumstances Architects are appointed on a percentage basis, based on the contract value of a project for a project value of  $\pm$ R4.5M the prescribed fee is 8.5%. In this specific circumstances, however, Gary White and Associates were appointed for a fixed amount of R267 390 plus Vat =R304 824.60, thus at a discounted rate of 27.27%.

At a contract value of R20 751 616.24 the prescribed % fee of 7.2 % is applicable.

If the same discount of 27.27% is applied, then the fee for the architect should amount to R1 086 670.83 (R1 494 116.36 minus 27.27%).

From the above it is clear that the project has drastically increased, whilst the contracted amount has stayed unchanged at R304 824.60.

### 3.2 Legal requirements

#### 3.2.1 SCM Guide for Accounting Officer

In terms of paragraph 5.9.5.2, of the SCM Guide for Accounting Officers a **single source selection** may be appropriate, but only if it present a clear advantage over competition; e.g for tasks that represent a **natural continuation** of previous work carried out by the Service Provider.

Further in terms of paragraph 5.9.5.3 the reason for a single source selection should be recorded and approved by the Accounting Officer or his/her delegate prior to the conclusion of a contract.

See **APPENDIX 1** for abstract from Guidelines.

The Municipal Manager subsequently considered a request for the appointment of Gary White & Associates (now trading as Tim Ziehl Architects) on the basis of a continuation. Having considered the request, she approved the appointment, subject to the prescribed process in terms of Section 116 of the MFMA\*. A copy of the memo, setting out the detail is attached as **APPENDIX 2**.

#### 3.2.2 Municipal Finance Management Act (MFMA)

In terms of Section 116(3) of the MFMA a contract or agreement procured through the supply chain management policy of the municipality may be amended by the parties, but only after-

- a) The reasons for the proposed amendment have been tabled in the council of the municipality; and
- b) The local community-
  - i) has been given reasonable notice of the intention to amend the contract or agreement; and
  - ii) has been invited to submit representations to the municipality or municipal entity.

### 3.3 Notice

A notice was published in the Eikestad Nuus of 2017-03-17, informing the public of the intended amendment, and inviting them to submit representations. A copy of the notice is attached as **APPENDIX 3**.

At the time of compiling this item, no submissions and/or representations /submissions/objections were received.

## 4. INPUTS BY OTHER DEPARTMENTS

### 4.1 CFO

Item supported, provided the budget available is sufficient to absorb the additional expenditure.

### 4.2 Legal Services

In terms of Section 116(3) of the MFMA a contract or agreement procured through the supply chain management policy of a municipality may be amended by the parties, but only after –

- (a) the reasons for the proposed amendments have been tabled in the council of the municipality; and
- (b) the local community –
  - (i) has been given reasonable notice of the intension to amend the contract or agreement; and
  - (ii) has been invited to submit representations to the municipality.

In terms of Circular 62 Municipalities may expand or amend contracts for all other goods and/or services by not more than 15% of the original value of the contract. Anything above the aforementioned threshold must be reported to Council. The recommendations should be amended in line with the above.

The item and recommendations are supported.

## 5. CONCLUSION

From the above it is clear that there is a clear financial advantage of appointing the Service Provider on a natural continuation basis.

### RECOMMENDED

- (a) that it be noted that the Municipal Manager has approved the amendment of the contract with Gary White and Associates, now trading as Tim Ziehl Architects, to allow for an all-inclusive cost of R457 236.90; subject to the prescribed Section 116 process;
- (b) that Council in principle approve the intension to amend the contract/agreement as listed under (a) above;
- (c) should any comment/input be received, same should first be considered by Council before a final decision in this regard is made.



**7<sup>TH</sup> COUNCIL MEETING: 2017-03-29: ITEM 7.5.1****RESOLVED** (majority vote with abstentions)

- a) that it be noted that the Municipal Manager has approved the amendment of the contract with Gary White and Associates, now trading as Tim Ziehl Architects, to allow for an all-inclusive cost of R457 236.90; subject to the prescribed Section 116 process;
- b) that Council, in principle, approve the intention to amend the contract/agreement as listed under (a) above; and
- c) that should any comment/input be received, same should first be considered by Council before a final decision in this regard is made.

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

*Cllrs F Adams; DA Hendrickse and LK Horsband (Ms).*

Meeting: Ref no:	7 <sup>th</sup> Council: 2017-03-29 7/2/1/1	Submitted by Directorate: Author Referred from:	Human Settlements Manager: Property Management Mayoral Committee: 2017-03-22
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**FURTHER COMMENTS BY THE DIRECTOR: HS&PM**

Following the above resolution, it became evident that the wrong amount (R457 236.90) was indicated in recommendation (a). This amount should have read R644 824.60 (Inclusive of VAT). The correct all inclusive amount of R644 824.60 was indeed indicated in the Section 116 notice, which was attached to the agenda item.

The closing date for inputs/objections was 30 March 2017. No objections were received.

**8<sup>TH</sup> COUNCIL MEETING: 2017-04-26: ITEM 11.4****RESOLVED** (majority vote with abstentions)

- (a) that it be noted that the Municipal Manager has approved the amendment of the contract with Gary White and Associates, now trading as Tim Ziehl Architects, to allow for an all-inclusive cost of R644 824.60; subject to the prescribed Section 116 process; and
- (b) that it be noted that no objections have been received, following the section 116 Notice.

Meeting: Ref no:	8 <sup>th</sup> Council: 2017-04-26 7/2/1/1	Submitted by Directorate: Author Referred from:	Human Settlements Manager: Property Management 7 <sup>th</sup> Council: 2017-03-29
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The meeting adjourned at 16:45.

**CHAIRPERSON:** .....

**DATE:** .....

**Confirmed on** ..... **with/without amendments.**

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