STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/1/5

2023-06-27

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MINUTES

SPECIAL MEETING OF THE

COUNCIL OF STELLENBOSCH MUNICIPALITY

2023-06-27 AT 10:00

M I N U T E S
SPECIAL MEETING OF COUNCIL
OF STELLENBOSCH MUNICIPALITY
2023-06-27

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MINUTES **SPECIAL MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY** **2023-06-27**

TO

The Speaker, Cllr Q Smit [Chairperson]
The Executive Mayor, Ald GMM Van Deventer
The Deputy Executive Mayor, Cllr JS Fasser
The Council Whip, Cllr P Crawley

COUNCILLORS

RA Adams	NR Ndalasi
J Andrews	CD Noble (until 12:25)
Ald JC Anthony	L Nkamisa
ZJ Dalling	M Nkopane
A Ferns	N Ntsunguzi
E Groenewald	N Olayi
AJ Hanekom	WC Petersen
RB Hendrikse	RO Pheiffer
P Johnson	WF Pietersen
J Joon	MG Rataza
O Jooste	Ald JP Serdyn
X Kalipa	MJ Slabbert
C Manuel	SR Schäfer
EP Masimini	A Tomose
NE Mcombring	RB Van Rooyen
XL Mdemka	CA Van Wyk
NM Mkhontwana	E Vermeulen
RS Nalumango	J Williams

****

OFFICIALS

Municipal Manager (G Mettler)
Chief Financial Officer (K Carolus)
Director: Community and Protection Services (G Boshoff)
Director: Corporate Services (A De Beer)
Director: Planning and Economic Development (A Barnes)
Director: Infrastructure (S Chandaka)
Chief Audit Executive (F Hoosain)
Senior Administration Officer (T Samuels)

****

1.	OPENING AND WELCOME

The Speaker, Cllr Q Smit, extended a warm welcome to all present in the Special Council meeting.

2.	MAYORAL ADDRESS

NONE

3.	COMMUNICATION BY THE SPEAKER

The Speaker, Cllr Q Smit informed Councillors that updates were made to the current Code of Conduct for Councillors and it was promulgated in the Government Gazette, **Vol. 696 14 June 2023 No. 48786**. The Office of the Speaker distributed an email to all Councillors to ensure they were aware of and familiarize themselves with the changes to the Code of Conduct for Councillors.

4.	COMMUNICATION BY THE MUNICIPAL MANAGER

NONE

5.	DISCLOSURE OF INTERESTS

NONE

6.	APPLICATION FOR LEAVE OF ABSENCE

6.1 The following applications for leave of absence were approved in terms of the Rules of Order By-law of Council:-

Cllr I De Taillerfer	–	27 June 2023
Cllr R Du Toit	–	27 June 2023
Cllr M Van Stade	–	27 June 2023
Cllr C Noble	–	Removed from Council meeting on request of the Speaker

6.2 Absent:

Cllr MM Danana	–	27 June 2023
Cllr Mananga-Gugushe	–	27 June 2023

7.	STATUTORY MATTERS

7.1	MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR MAY 2023

Collaborator No:
IDP KPA Ref No: **Good Governance and Compliance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: MONTHLY FINANCIAL STATUTORY REPORTING: DEVIATIONS FOR MAY 2023

2. PURPOSE

To comply with Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy 2022/2023 to report the deviations to Council.

3. DELEGATED AUTHORITY

Council

FOR NOTING.

4. EXECUTIVE SUMMARY

Regulation 36(2) of the Municipal Supply Chain Management Regulations and Section 36 of the Supply Chain Management Policy (2022/2023) stipulate that SCM deviations be reported to Council. In compliance thereto, this report presents to Council the SCM deviations that occurred during May 2023.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 7.1

NOTED

the deviations as listed for the month of May 2023.

FOR FURTHER DETAILS CONTACT:

NAME	Dalleel Jacobs
POSITION	***Senior Manager Supply Chain Management***
DIRECTORATE	***Finance***
CONTACT NUMBERS	***021 808 8137***
E-MAIL ADDRESS	***Dalleel.jacobs@stellenbosch.gov.za***
REPORT DATE	05 June 2023

8.	**CONSIDERATION OF ITEMS BY THE EXECUTIVE MAYOR: [ALD G VAN DEVENTER]**

8.1	**PROTECTION SERVICES: (PC: CLLR R PHEIFFER)**

NONE

8.2	**SPORT, YOUTH AND CULTURE [PC: CLLR JC ANTHONY]**

NONE

8.3	**CORPORATE SERVICES: (PC: CLLR L NKAMISA)**

NONE

8.4	FINANCIAL SERVICES: (PC: CLLR J FASSER)

8.4.1	APPROVAL OF DEBT AGREEMENT

Collaborator No:
IDP KPA Ref No: **Good Governance and Compliance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: APPROVAL OF DEBT AGREEMENT

2. PURPOSE

To obtain Council's approval for the raising of an external loan in terms of Section 46 (2) of the Municipal Finance Management Act (Act No 56 of 2003).

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

During May 2023 an advertisement was placed inviting interested parties to make submissions regarding the financing of the proposed loan of R69 244 294 million. Submissions were received from 5 authorised financial institutions:

(a) Development Bank of Southern Africa (DBSA);
(b) ABSA Bank;
(c) Nedbank;
(d) Standard Bank; and
(e) First National Bank (FNB)

After due process, in terms of the municipality's approved Supply Chain Policy, the offer of *Nedbank for the term of 10 years*, was adjudicated by the Bid Adjudication Committee and approved by the Municipal Manager as being the most favorable for Council.

Council noted and considered the comments from National and Provincial Treasure (**APPENDIX 3**)

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 8.4.1

RESOLVED (majority vote)

(a) that Council approves the debt agreement as stipulated in **APPENDIX 1**, and

(b) that the Municipal Manager be mandated to enter into a loan agreement with Nedbank.

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

Cllrs RB Hendrikse; E Masimini; Mkhontwana; RS Nalumango; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS CONTACT:

NAME	Monique Steyl
POSITION	***Senior Manager: Financial Management Services***
DIRECTORATE	***Financial Services***
CONTACT NUMBERS	***021 808 8512***
E-MAIL ADDRESS	***Monique.Steyl@stellenbosch.gov.za***
REPORT DATE	***08 June 2023***

8.5	**HUMAN SETTLEMENTS: (PC: CLLR R DU TOIT)**

8.5.1	**STELLENBOSCH MUNICIPALITY: DRAFT INTEGRATED HUMAN SETTLEMENT PLAN (IHSP) FOR THE PERIOD 2022 - 2027**

Collaborator No:
IDP KPA Ref No: **Good Governance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: STELLENBOSCH MUNICIPALITY: DRAFT INTEGRATED HUMAN SETTLEMENT PLAN (IHSP) FOR THE PERIOD 2022 - 2027

2. PURPOSE

To approve the draft Integrated Human Settlement Plan (IHSP), 2022 – 2027, compiled in accordance with the Provincial Department of Infrastructure (previously known as Provincial Department of Human Settlements) guidelines and aligned with the Integrated Development Plan (IDP) and Municipal Spatial Development Framework (MSDF), for public participation.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The National Housing Act 107 of 1997 requires that all municipalities must plan to facilitate the delivery of housing opportunities as part of their overall plan for their municipality.

The aim of the draft Integrated Human Settlements Plan (IHSP) is therefore:

- To outline the Municipality's implementation plan in providing for the housing needs of its steadily growing and increasing population.

- to enable the Municipality to prepare funding applications for submission to the Provincial Department of Infrastructure, that are consistent with funding conditions and included in the municipal IDP and Housing Pipeline, as per Provincial Department of Infrastructure guidelines is a requirement; and

- To informs the municipal Housing Pipeline spanning over ten years reflected in five-year periods the funding required in the Provincial Department of Infrastructure's Business Plan.

The development of the IHSP will therefore not only comply with the requirements of the National Housing Act whereby the municipality are obliged to facilitate the delivery of housing opportunities as part of their municipal but will also develop credible Housing Pipeline and operational models for human settlements development within the WC024.

The draft Integrated Human Settlements Plan is a component of the Integrated Development Plan (IDP) and therefore outlines the Human Settlements contribution to the Municipality's five-year Integrated Development Plan (2022 – 2027).

It should be further mentioned that the need for shelter within the Stellenbosch Municipal area is outlined in the Spatial Development Framework (SDF). By 2036, the need for subsidised housing was projected as 40 953 opportunities consisting of and separated between 17 847 indigent and 23 106 others (excluding privately funded).

The draft IHSP also commits to the following principle aligned with the IDP and SDF focus areas:

IDP & SDF Focus Areas	IHSP Principles	IHSP Implication
Valley of Possibility	Equal access	Require well located land
Safe Valley	Place Identify	Provide for amenities & safe communal spaces
Dignified Living	Well-being & individual capability.	Secured tenure (title or rental)
Good Governance and compliance	Corporate capabilities	Secured funds & services
Green & sustainable valley	Resource frugal	Healthy ecological infrastructure

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 8.5.1

RESOLVED (majority vote with 7 abstentions)

(a) that the draft Integrated Human Settlements Plan (IHSP) be approved for public participation; and

(a) that after the comments from external and internal stakeholders are received, the draft Integrated Human Settlements Plan be submitted to Council for approval.

FOR FURTHER DETAILS CONTACT:

NAME	***Lester van Stavel***
POSITION	***Manager: Housing Development***
DIRECTORATE	***Planning & Economic Development, Integrated Human Settlements***
CONTACT NUMBERS	***021 808 8462***
E-MAIL ADDRESS	***Lester.vanstavel@stellenbosch.gov.za***
REPORT DATE	***8 June 2023***

8.6	**INFRASTRUCTURE SERVICES : (PC : CLLR P JOHNSON)**

NONE

8.7	**PARKS, OPEN SPACES AND ENVIRONMENT: (PC: J WILLIAMS)**

NONE

8.8	**PLANNING AND LOCAL ECONOMIC DEVELOPMENT AND TOURISM: (PC: CLLR C VAN WYK)**

NONE

8.9	**COMMUNITY SERVICES:(PC: CLLR X KALIPA)**

NONE

8.10	**RURAL MANAGEMENT: (PC: CLLR J JOON)**

NONE

8.11	**MUNICIPAL MANAGER**

8.11.1	**CONSIDERATION ON APPLICATIONS RECEIVED: FUNDING OF EXTERNAL BODIES PERFORMING A MUNICIPAL FUNCTION AS PROVIDED BY THE POLICY FUNDING OF BODIES PERFORMING A MUNICIPAL FUNCTION, READ WITH SECTION 80(2) OF THE LOCAL GOVERNMENT SYSTEMS ACT, 32 OF 2000, FINANCIAL YEAR 2023 / 2024: (**Local Tourism Organisations "LTO")

Collaborator No:
IDP KPA Ref No:
Meeting Date: **22 June 2023 & 27 June 2023**

1. SUBJECT: CONSIDERATION ON APPLICATIONS RECEIVED: FUNDING OF EXTERNAL BODIES PERFORMING A MUNICIPAL FUNCTION AS PROVIDED BY THE POLICY FUNDING OF BODIES PERFORMING A MUNICIPAL FUNCTION, READ WITH SECTION 80(2) OF THE LOCAL GOVERNMENT SYSTEMS ACT, 32 OF 2000, FINANCIAL YEAR 2023 / 2024: (Local Tourism Organisations "LTO")

2. PURPOSE OF MEETING

To discuss and consider the funding applications for the the 2023 / 2024 financial year received from external bodies performing a municipal function as provided by the Policy for the Funding of External Bodies Performing a Municipal Function, read with Section 80(2) of the Municipal Systems Act No. 32 of 2000.

3. EXECUTIVE SUMMARY

In terms of Section 7(2) of the Policy relating to External Bodies Performing a Municipal Function of which budget allocation are delegated to the Grants Committee to make recommendations to Council.

The notices of the applications for the funding of bodies performing a municipal function was advertised in the Eikestadnuus and the Paarl Post, dated 24 March 2023, attached as **Appendix 1** of which the closing date to submit such applications was at 12:00 midday on 21 April 2023.

The following bodies submitted applications by the closing date for funding to perform the Tourism function for Council for the 2023 / 2024 financial year:

Applicant	**2023 / 2024** **Funding Requested in Rand Value**
Franschhoek Wine Valley Tourism Association NPC	R3 998 200
Visit Stellenbosch NPC	R6 055 000
Total Funding Requested	**R10 053 200**

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 8.11.1

During deliberations on this matter, the Speaker adjourned the meeting from 10:45 – 11:15 to allow the Municipal Manager to coordinate with Law Enforcement to address the situation where certain Councillors unlawfully occupied Councillor WF Pietersen's office without his consent. Cllr Pietersen indicated that the Councillors did not occupy his office, but the office next door.

After the meeting resumed at 11:15, the Speaker requested that it be placed on record that his office did not receive any requests from Councillors to occupy the Council Chamber for the duration of the Special Council meeting.

It was

RESOLVED (majority vote)

a) that the amount of R2 018 555 be allocated to Franschhoek Wine Valley Tourism Association NPC for the 2023 / 2024 financial year; and

b) that the amount of R4 341 300, that include an allocation for Dwarsrivier Tourism, be allocated to Visit Stellenbosch NPC for the 2023 / 2024 financial year.

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

Cllrs J Andrews; RB Hendrikse; E Masimini; NM Mkhontwana; RS Nalumango; NR Ndalasi; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS, CONTACT:

NAME	*Lesley van Gensen*
POSITION	*Manager: Economic Development and Tourism*
DIRECTORATE	*PLANNING AND ECONOMIC DEVELOPMENT*
CONTACT NUMBERS	*021 808 8179*
E-MAIL ADDRESS	*Lesley.vanGensen@stellenbosch.gov.za*
REPORT DATE	*09 May 2023*

9.	**CONSIDERATION OF ITEMS, REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATINS SUBMITTED VIA THE OFFICE OF THE MUNICIPAL MANAGER**

9.1	**MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC): [CLLR WF PIETERSEN]**

9.1.1	**CONSIDERATION OF EXPENDITURE INCURRED RELATING TO SERVICES RENDERED BY NIEL LYNERS AND ASSOCIATES (PTY) LTD**

Collaborator No: **750580**
IDP KPA Ref No: **Good Governance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: CONSIDERATION OF EXPENDITURE INCURRED RELATING TO SERVICES RENDERED BY NIEL LYNERS AND ASSOCIATES (PTY) LTD

2. PURPOSE OF REPORT

To provide information regarding the expenditure incurred for investigation by MPAC and to be recommended to and consideration by Council to certify the expenditure as irrecoverable and that it be written off in terms of the MFMA Section 32 (2). The expenditure with regards to the procurement of services the provision of professional services by means of B/SM 13/21: ESLM.1: Rapid Installation of Photovoltaic (PV) panels, supporting structures and injection equipment to generate electricity at LV at one or two points, required demand input maximum 600kW, which is regarded as irregular because it breached the procurement process.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Bid (B/SM 13/21ESLM.1) was awarded to Niel Lyners and Associates (Pty) Ltd on 21 October 2021 for the ESLM.1: Rapid Installation of Photovoltaic (PV) panels, supporting structures and injection equipment to generate electricity at LV at one or two points, required demand input maximum 600kW. An order Number: 367 308 which was generated for a total amount of R 1 466 250 (incl. VAT) was raised in this regard for their professional fees. In May 2022 during the implementation of B/SM 13/21: ESLM.1 it was then decided by senior management that additional work of similar nature was to be included at the Fire Station at Stellenbosch which is one of the sites covered by B/SM 13/21: ESLM.1 appointment. The service provider Neil Lyners and Associates (Pty) Ltd was called in by the then Director: Infrastructure Services, Mr Deon Louw and instructed to continue with the compilation of specifications and tender documentation for the procurement of a service provider for B/SM 63/22 Engineering Procurement and Construction of Containerized Battery Storage and Grid Interactive Inverter System at Stellenbosch Fire station.

Whilst the Department was finalizing the administrative process the service continued without an official order number. This was because the instruction was given by Director Louw that the works must continue in order to be completed before the financial year end June 2022.

As a result of this irregular expenditure the Department will introduce various corrective measures such as consequence management, training of staff and Standard Operating Procedures (SOPs).

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 9.1.1

RESOLVED (majority vote)

(a) that Council takes note of the circumstances as provided in the report;

(b) that Council certifies the irregular expenditure to the amount of R 370 530,00 (Including VAT) as irrecoverable; and

(c) that Council writes off the irregular expenditure as irrecoverable in terms of the MFMA Section 32(2).

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

Cllrs J Andrews; RB Hendrikse; E Masimini; NM Mkhontwana; RS Nalumango; NR Ndalasi; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS CONTACT:

NAME	Shane Chandaka
POSITION	**Director: Infrastructure Services**
DIRECTORATE	**Infrastructure Services**
CONTACT NUMBERS	**021 808 8213**
E-MAIL ADDRESS	**shane.chandaka@stellenboch.gov.za**
REPORT DATE	**25 October 2022**

9.1.2	CONSIDERATION OF EXPENDITURE INCURRED THAT WAS PREVIOUSLY CERTIFIED AS IRREGULAR BY MPAC

Collaborator No:
IDP KPA Ref No: **Good Governance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: CONSIDERATION OF EXPENDITURE INCURRED THAT WAS PREVIOUSLY CERTIFIED AS IRREGULAR BY MPAC

2. PURPOSE OF REPORT

To provide information regarding the irregular expenditure that was identified subsequent to the tenders serving at MPAC as the tender contracts are still valid and, to be recommended to and considered by Council to certify the expenditure as irrecoverable and to be written off by Council in terms of Section 32 of the MFMA.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Section 32(2)(b) of the Municipal Finance Management, 2003 (Act 56 of 2003) (MFMA) require a municipality to recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure, 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.

Expenditure was identified in the 2021/2022 financial year which was noncompliant with Council approved policies and the Municipal Financial Management Act. All known instances of non-compliance with legislation, which the Municipality is aware of and whose effects should be considered have been recorded.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 9.1.2

RESOLVED (majority vote)

(a) that Council takes note of the circumstances as provided in the report;

(b) that Council certifies the irregular expenditure to the amount of R 30 510 938.91 (including VAT) as irrecoverable; and

(c) that Council writes off the irregular expenditure as irrecoverable in terms of the MFMA Section 32(2).

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

Cllrs J Andrews; RB Hendrikse; E Masimini; NM Mkhontwana; RS Nalumango; NR Ndalasi; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS CONTACT:

NAME	Monique Steyl
POSITION	**Senior Manager: Financial Management Services**
DIRECTORATE	**Financial Services**
CONTACT NUMBERS	**021 808 8512**
E-MAIL ADDRESS	Monique.Steyl@stellenbosch.gov.za
REPORT DATE	**1 June 2023**

9.1.3	CONSIDERATION OF EXPENDITURE INCURRED RELATING TO SERVICES RENDERED BY MARTIN AND EAST (PTY) LTD CIVIL ENGINEERING CONTRACTORS

Collaborator No:
File No: 750730
IDP KPA Ref No: Good Governance
Meeting Date: 14 June 2023 & 27 June 2023

1. SUBJECT: CONSIDERATION OF EXPENDITURE INCURRED RELATING TO SERVICES RENDERED BY MARTIN AND EAST (PTY) LTD CIVIL ENGINEERING CONTRACTORS

2. PURPOSE OF REPORT

To provide information regarding the irregular expenditure that was identified on the value of contract increase and, to be recommended to and considered by Council to certify the expenditure as irrecoverable and to be written-off by Council in terms of Section 32 of the MFMA.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Contract Price Adjustment, linked to inflation was paid to Martin & East (Pty) Ltd of which provision was not made for under contingencies within BSM 10/17.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 9.1.3

RESOLVED (majority vote)

(a) that Council takes note of the circumstances as provided in the report;

(b) that Council certifies the irregular expenditure to the amount of R 55 555,53 (including VAT) as irrecoverable; and

(c) that Council writes off the irregular expenditure as irrecoverable in terms of the MFMA Section 32(2).

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

Cllrs J Andrews; RB Hendrikse; E Masimini; NM Mkhontwana; RS Nalumango; NR Ndalasi; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS CONTACT:

NAME	*Garth Abrahams*
POSITION	***Manager: Sport, Recreation and Halls***
DIRECTORATE	***Community and Protection Services***
CONTACT NUMBERS	***021 808 8162***
E-MAIL ADDRESS	*Garth.abrahams@stellenbosch.gov.za*
REPORT DATE	***01 June 2023***

9.1.4	CONSIDERATION OF POSSIBLE IRREGULAR EXPENDITURE INCURRED RELATING TO SERVICES RENDERED THROUGH TENDER NO BSM 10/17 AND BSM 45/19

Collaborator No:
File No:
IDP KPA Ref No: **Good Governance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: CONSIDERATION OF POSSIBLE IRREGULAR EXPENDITURE INCURRED RELATING TO SERVICES RENDERED THROUGH TENDER NO BSM 10/17 AND BSM 45/19

2. PURPOSE OF REPORT

To provide information regarding the possible irregular expenditure that was identified, and that the expenditure be regarded as irrecoverable and that it be written-off in terms of the MFMA Section 32 (2).

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The applicable tenders, BSM 10/17 and 45/19 are rates-based tenders, which requires technical and administrative verification processes to be followed by Infrastructure Services and Supply Chain Officials to generate and issue orders to contractors, or to increase orders.

Supply Chain Management's contract review of the 2018/19 financial year (carried out in 2022) reflects a possible irregular expenditure of R666 659.70. However, the amount for possible irregular expenditure is R284 402.00 (R436 038.00 – R151 636.00 already paid) and R230 973.19 (still to be paid), see **ANNEXURE A**. Retention monies are payable 12 months after completion of the project and is normally 5% of the contract value. At the time (2018/19) the Roads Section had a severe staff shortage with more than 80% staff vacancy rate for technical staff. In certain instances, the necessary technical and administrative processes could not be concluded timeously to make adequate provision for retention.

The Supply Chain 2022 contract review of the 2019/20 financial year reflects a possible irregular expenditure of R2.2m. This review interpreted the closure of the financial system at the end of the financial year as an order cancellation process where orders to the value of R2.6m was cancelled, see **ANNEXURE B**.

The cancellation of orders by the financial system at financial year end is an administrative process to allow for new budgets to be loaded for the new financial year and should therefore not be viewed as official cancellations or irregular expenditure.

As it relates to retention monies payable and the cancellation of orders, the department has the view that a "material" irregular expenditure had not been incurred and, where the necessary technical and administrative processes could not be timeously concluded due to staff shortages, the resultant outcomes would have been similar should the administrative process been concluded.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 9.1.4

RESOLVED (majority vote)

(a) that Council takes note of the circumstances as provided in the report;

(b) that Council certifies the irregular expenditure to the amount of R230 973,19 (Including VAT) as irrecoverable; and

(c) that Council writes off the irregular expenditure as irrecoverable in terms of the MFMA Section 32(2).

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

Cllrs J Andrews; RB Hendrikse; E Masimini; NM Mkhontwana; RS Nalumango; NR Ndalasi; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS CONTACT:

NAME	Johan Fullard
POSITION	**Senior Manager: Road, Transport and Stormwater**
DIRECTORATE	**Infrastructure Services**
CONTACT NUMBERS	**021 808 8207**
E-MAIL ADDRESS	**Johan.fullard@stellenbosch.gov.za**
REPORT DATE	**31 May 2023**

9.1.5	ANNUAL WORK PLAN 2023/24 OF THE MUNICIPAL PUBLIC ACCOUNT COMMITTEE

Collaborator No:
File No:
IDP KPA Ref No: **Good Governance**
Meeting Date: **14 June 2023 & 27 June 2023**

1. SUBJECT: ANNUAL WORK PLAN 2023/24 OF THE MUNICIPAL PUBLIC ACCOUNT COMMITTEE

2. PURPOSE OF REPORT

To request Council to approve the Annual Work Plan for the Municipal Public Account Committee (MPAC) for the 2023/24 financial year.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The MPAC is a committee of council and is established in terms of Section 79 of the Local Government: Municipal Structures Act, 1998, (Act No 117 of 1998), and as per the "Guideline for Establishment of Municipal Public Accounts Committees" issued by the Department of Cooperative Governance (CoGTA) and National Treasury. Its primary responsibility and mandate are to exercise oversight over the executive functionaries of council and to ensure good governance within the Municipality.

In order to ensure the effective functioning of the committee and to achieve the set objectives, an annual work plan has been developed for the consideration and approval of Council.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 9.1.5

RESOLVED (nem con)

(a) that Council notes the report; and

(b) that Council approves MPAC annual work plan for 2023/24 financial year.

FOR FURTHER DETAILS CONTACT:

NAME	*Wilfred Pietersen*
POSITION	***Chairperson: Municipal Public Account Committee (MPAC)***
DIRECTORATE	***Corporate Services***
CONTACT NUMBERS	***021 808 8095***
E-MAIL ADDRESS	*wilfred.pietersen@stellenbosch.gov.za*
REPORT DATE	***08 June 2023***

10.	REPORTS BY THE MUNICIPAL MANAGER

10.1	APPROVED TOP LAYER (TL) SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) 2023/24

Collaborator No: 751447
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: Special Council: 27 June 2023

1. SUBJECT: APPROVED TOP LAYER (TL) SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) 2023/24

2. PURPOSE

To inform the Council that the Executive Mayor has approved the Top Layer (TL) Service Delivery and Budget Implementation Plan (SDBIP) 2023/24.

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

Section 53(1)(c)(ii) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) requires the Mayor of a municipality to take all reasonable steps to ensure that the municipality's Service Delivery and Budget Implementation Plan (SDBIP) is approved by the mayor within 28 days after the approval of the budget.

The TL SDBIP 2023/24 was approved by the Executive Mayor on 20 June 2023, which falls within the prescribed 28 days after the approval of the Budget.

The TL SDBIP 2023/24 is herewith submitted to the Council for notification.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 10.1

NOTED

(a) the approved TL SDBIP 2023/24 attached hereto as **ANNEXURE A**;

(b) that the approved TL SDBIP 2023/24 has been made public within 10 working days after the approval of the TL SDBIP 2023/24 and duly submitted to the MEC for Local Government in the Province; and

(c) that the approved TL SDBIP 2023/24 must be read together with the first review of the 5th Generation Integrated Development Plan (IDP) 2022 – 2027 and that the performance indicators and targets contained in the approved TL SDBIP 2023/24 be considered to have been made in the IDP to ensure accurate technical alignment between the first review of the IDP 2022 – 2027 and the TL SDBIP 2023/24.

FOR FURTHER DETAILS CONTACT:

NAME	*Geraldine Mettler*
POSITION	*Municipal Manager*
DIRECTORATE	*Office of the Municipal Manager*
CONTACT NUMBERS	*021 808 8025*
E-MAIL ADDRESS	*mm@stellenbosch.gov.za*
REPORT DATE	*20 June 2023*

10.2	**SIGNED PERFORMANCE AGREEMENTS 2023/24 OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER (THE CFO AND DIRECTORS)**

Collaborator No:
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: Special Council: 27 June 2023

1. SUBJECT: SIGNED PERFORMANCE AGREEMENTS 2023/24 OF THE MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER (THE CFO AND DIRECTORS)

2. PURPOSE

To submit to the Council, for notification, the following:

(a) The signed Performance Agreements 2023/24 of the Municipal Manager and Managers Directly Accountable to the Municipal Manager (the Chief Financial Officer (CFO) and Directors).

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

According to Section 57(2) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA) the performance agreement/s must be concluded annually:

"(a) …within one month after the beginning of each financial year of the municipality."

The Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) further requires that the signed performance agreements be promptly submitted to the Council.

The Performance Agreements 2023/24 was developed in consultation with the Municipal Manager, CFO and Directors and signed on 20 June 2023.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 10.2

NOTED

the signed Performance Agreements 2023/24 of the Municipal Manager, the CFO and Directors.

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Office of the Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	mm@stellenbosch.gov.za
REPORT DATE	20 June 2023

10.3	RETURN ITEM: REQUEST FOR THE APPROVAL OF THE FINAL DRAFT STELLENBOSCH MUNICIPALITY INCLUSIONARY ZONING POLICY, 2023

Collaborator No:
IDP KPA Ref No:
Meeting Date: **27 June 2023**

1. SUBJECT: REQUEST FOR THE APPROVAL OF THE FINAL DRAFT STELLENBOSCH MUNICIPALITY INCLUSIONARY ZONING POLICY, 2023

2. PURPOSE

To provide Council with the pertinent facts that include the responses from the extended legislative Public Participation Process ("PPP") in order to approve the final draft Stellenbosch Municipality Inclusionary Zoning Policy.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The draft policy document aims to support Stellenbosch Municipality and other key role players in delivering more high-quality affordable housing (also referred to as inclusionary housing) in well-located and priority development areas, creating a mix of income groups across new and infill developments in Stellenbosch Municipality thereby promoting social and economic integration.

To deliver affordable housing within the Stellenbosch Municipality, available municipal spatial planning, land use planning systems, and land-based financing mechanisms were identified and investigated. This will be used in leveraging and incentivising land value gains in spatially targeted areas for the creation of public good (i.e. affordable housing) and to enable better performing settlements (i.e. integrated, inclusive, resilient, efficient settlements) in order to address current development challenges and historical spatial imbalances/inequalities.

The spatial compact as envisaged and approved in the Stellenbosch Municipal Spatial Development Framework, 2019 (MSDF) and the Adam Tas Corridor Local Spatial Development Framework (ATC: LASDF) and Development Guidelines, 2022 of enabling an inclusive, efficient, and an effective municipality by providing a wide choice of quality affordable housing to meet the needs of the community, broadening the opportunities for homeownership, and creating flexibility and choice of tenures and price ranges for those who rent and seek the security of tenures. In addition, to facilitate and grow a stronger partnership with the private sector in terms of delivering more quality affordable housing.

The draft Inclusionary Zoning policy was public participated for 60 days and based on the submissions received changes were made to the draft policy. The amended draft policy was accordingly re-advertised for a further 21-days and this report provides the feedback received subsequent to the second round of public participation, and the municipal responses to the comments, where applicable.

It is noted that there has been large scale support from the bodies providing comments during both rounds of public participation.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 10.3

RESOLVED (majority vote)

(a) that Council takes note of the feedback from the Public Participation Process , which commenting period closed on 22 June 2023; copies attached as **APPENDIX 2** to this report; and

(b) that Council **approves and adopt** the draft Stellenbosch Municipality Inclusionary Zoning Policy, 2023 in terms of the Local Government Municipal Systems Act No. 32 of 2000, copy attached as **APPENDIX 1** to this report.

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

Cllrs J Andrews; RB Hendrikse; E Masimini; NM Mkhontwana; RS Nalumango; NR Ndalasi; M Nkopane; C Noble; N Ntsunguzi; M Rataza and A Tomose.

FOR FURTHER DETAILS CONTACT:

NAME	Chantel Hauptfleisch
POSITION	***Senior Spatial Planner***
DIRECTORATE	***Planning and Economic Development***
CONTACT NUMBERS	***021 808 8607***
E-MAIL ADDRESS	***Chantel.Hauptfleisch@stellenbosch.gov.za***
REPORT DATE	***23 June 2023***

10.4	**SUBJECT: REQUEST FOR THE APPROVAL, ADOPTION AND PROMULGATION OF THE AMENDED STELLENBOSCH MUNICIPALITY SPATIAL DEVELOPMENT FRAMEWORK, 2023 ("MSDF"), AND THE STELLENBOSCH MUNICIPALITY CAPITAL EXPENDITURE FRAMEWORK ("CEF"), 2023**

Collaborator No:
KPA Ref No: **GOOD GOVERNANCE**
Meeting Date: **27 June 2023**

1. SUBJECT: REQUEST FOR THE APPROVAL, ADOPTION AND PROMULGATION OF THE AMENDED STELLENBOSCH MUNICIPALITY SPATIAL DEVELOPMENT FRAMEWORK, 2023 ("MSDF"), AND THE STELLENBOSCH MUNICIPALITY CAPITAL EXPENDITURE FRAMEWORK ("CEF"), 2023

2. PURPOSE

To provide Council with the pertinent facts that include the responses from the legislative Public Participation Process ("PPP") in order to approve, adopt, and the promulgate the Amended Stellenbosch Municipality Spatial Development Framework, 2023 ("MSDF), and the Stellenbosch Municipality Capital Expenditure Framework, 2023 ("CEF").

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Council approved the commencement and public participation of the proposed amended Municipal Spatial Development Framework, 2023 (MSDF), including the Capital Expenditure Framework (CEF) to achieve strategic, spatial, and financial alignment and to enable the coordination of policies within the municipality.

The report provides feedback received during the public participation process and the responses on the comments, where applicable.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 10.4

RESOLVED (majority vote with 5 abstentions)

(a) that Council takes note of the feedback from the public participation process, which commenting period closed on 30 May 2023; copies attached as **Appendix 2, 3 and 4** to this report;

(b) that Council supports and approves the recommendations contained in the comments and responses tables, copies attached as **Appendix 3 and 4** to this report;

(c) that Council **approves and adopt** the Amended Municipal Spatial Development Framework, 2023 (MSDF), including the Capital Expenditure Framework (CEF), copy attached as **Appendix 1** for the subsequent promulgation in terms of the relevant legislation; and

(d) that Council **approves** that the Amended Municipal Spatial Development Framework, 2023 (MSDF), including the Capital Expenditure Framework (CEF), form part of the updating and amending of the Integrated Development Plan (IDP).

FOR FURTHER DETAILS CONTACT:

NAME	Chantel Hauptfleisch
POSITION	***Senior Spatial Planner***
DIRECTORATE	***Planning and Economic Development***
CONTACT NUMBERS	***021 808 8607***
E-MAIL ADDRESS	***Chantel.Hauptfleisch@stellenbosch.gov.za***
REPORT DATE	***23 June 2023***

10.5	AMENDED DEVELOPMENT CHARGES, ELECTRICITY AND SEWERAGE EFFLUENT TARIFFS FOR 2023/24 FINANCIAL YEAR

Collaborator No:
IDP KPA Ref No:
Meeting Date: **27 June 2023**

1. SUBJECT: AMENDED DEVELOPMENT CHARGES, ELECTRICITY AND SEWERAGE EFFLUENT TARIFFS FOR 2023/24 FINANCIAL YEAR

2. PURPOSE OF REPORT

a) To consider the views/submissions of the local community in terms of Section 23(1) (a) of Municipal Finance Management Act (Act 56 of 2003), herein after called the MFMA and to allow the Executive Mayor to respond to the views of the public envisaged in terms of Section 23 (2) (a) and (b).

b) To approve the amended Development Charges, Electricity and Sewerage Effluent Tariffs for 2023/24 in terms of S16 (2) of the Municipal Finance Management Act, (Act 56 of 2003).

3. DELEGATED AUTHORITY

Council.

4. EXECUTIVE SUMMARY

The Development charges, Electricity and Sewerage Effluent tariffs were released for public comment that closed on 24 June 2023.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 10.5

After several points of order and 3 warnings, the Speaker requested that Cllr C Noble be removed from the meeting for bringing the Council in disrepute with his continuous comments and refusal to adhere to the Speaker's warnings in terms of the Rules of Order. Councillor Noble was removed from the teams meeting by Administration.

RESOLVED (majority vote)

(a) that Council takes note no public comments and submissions, as per **ANNEXURE A**, were received;

(b) that the proposed amendments made to the Electricity tariffs, Development Charges tariffs and Sewerage Effluent tariffs as set out in **ANNEXURE B**, be approved;

(c) that the proposed amendments to the Development charges policy as set out in **ANNEXURE C**, be approved; and

(d) that the 2023/2024 updated tariffs be published for notification purposes.

Councillor RB Hendrikse requested that her vote of dissent be minuted.

FOR FURTHER DETAILS CONTACT:

NAME	***Monique Steyl***
POSITION	***Senior Manager: Financial Management Services***
DIRECTORATE	***Financial Services***
CONTACT NUMBERS	***021 808 8512***
E-MAIL ADDRESS	monique.steyl@stellenbosch.gov.za
REPORT DATE	**June 2023**

10.6	THE FUTURE USE OF ERVEN RE/279, RE/119 AND FARM 181/0 FOR POSSIBLE ALTERNATIVE ENERGY GENERATION

Collaborator No:
KPA Ref No: GOOD GOVERNANCE
Meeting Date: 27 June 2023

1. SUBJECT: THE FUTURE USE OF ERVEN RE/279, RE/119 AND FARM 181/0 FOR POSSIBLE ALTERNATIVE ENERGY GENERATION PROJECTS

2. PURPOSE

To request approval to commence with the public participation process for the propose future use of RE/279, RE/119 and Farm 181/0 for alternative energy generation projects through a long-term lease of the sites for a period of up to 50 years (as required in n Regulation 34(3)(b) is as well as the approval of the draft information statement for the same.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

As part of Stellenbosch Municipality's loadshedding mitigation strategy, the Municipality is investigating possible sites on which alternative energy can be generated from.

Stellenbosch Municipality who is the owner of Erven RE/279 (SBP279/BN, SBP279/CN and SBP279/DN (Opposite Landfill site – Devonvalley) X Erven RE/119 (Idas Valley site) x Farm 181/0 (the sites) (Area below Kayamandi Reservoir) has been identified by administration as possible suitable sites from where alternative energy can be generated.

The size of each site is:

According to the standard norms, 1 hectare is required for the generation of 1 Megawatt (MW) energy from Solar Photovoltaic (PV). The estimated energy capacity from the identified sites can be estimated as follows:

- Erven RE/279 (SBP279/BN, SBP279/CN and SBP279/DN (Opposite Landfill site – Devonvalley) - (Solar PV – Size of Erf = 40.1 hectares = 40 MW
- Erven RE/119 (IdasValley/Botmaskop site) – (Biomass - Size of Erf = 419.4 hectares can be quantified once the process unfolds.
- Farm 181/0 (Area below Kayamandi Reservoir) – (Solar PV – Size of Farm = 50 Hectares = 50 MW

The municipality's propose intention with the identified sites is to procure Independent Power Producers who will through a long-term lease agreement with the Municipality generate alternative electricity for municipal consumption.

SPECIAL COUNCIL MEETING: 2023-06-27: ITEM 10.6

RESOLVED (majority vote with 9 abstentions)

(a) that Council confirms that erven RE/279, RE/119 and Farm 181/0, Stellenbosch as land not needed to provide the minimum level of basic municipal services;

(b) that Council approves the public participation process for the propose future use of erven RE/279, RE/119 and Farm 181/0 for Alternative Energy Generation Projects;

(c) that Council approves the information statement attached as Annexure "A"; and

(d) that the item will return to Council for an in-principle decision on the future use after the public participation process closed.

FOR FURTHER DETAILS CONTACT:

NAME	**Kevin Carolus**
POSITION	**Chief Financial Officer**
DIRECTORATE	**Financial Services**
CONTACT NUMBERS	**021 808 8528**
E-MAIL ADDRESS	**Kevin.Carolus@stellenbosch.gov.za**
REPORT DATE	**27 June 2023**

11.	MATTERS TO BE CONSIDERED IN–COMMITTEE

SEE PINK DOCUMENTATION

The meeting adjourned at 12:45.

CHAIRPERSON: ……

DATE: ……

Confirmed on …… **with/without amendments**