

COUNCIL MEETING AGENDA



To: Councillors:

J.R. Van Schalkwyk
H.F. Du Rand
E. J. Lamprecht
F. Kees
D. Julius
A. Bokwana
G. Libazi
J.A. Matthysen
M.T.A. Swart
D.J. Julius
I.H. Ferguson

(Speaker)
(Executive Mayor)

Ex Officio:

A. Vorster
E. Wasserman
K. Stuurman
W. Treurnicht

R. Brunings

(Municipal Manager)
(Director: Financial Services)
(Director: Community Services)
(Acting: Director: Infrastructure Services)
(Manager: Town Planning and Building Control)

AGENDA FOR AN ORDINARY COUNCIL MEETING

Notice is hereby given that an **Ordinary Council meeting** of the Municipal Council of Swellendam Municipality will be held on **Tuesday, 31 October 2023** at **10:00** in the **Council Chambers, Rhenius Street, Swellendam** to consider the items attached hereto.

A handwritten signature in black ink, appearing to be "J.R. Van Schalkwyk", written over a horizontal line.

J.R. VAN SCHALKWYK

SPEAKER

A handwritten date "26/10/2023" in black ink.

DATE

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1. OPENING AND WELCOME

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

4. Commencement of Meeting

The speaker must take the chair precisely at the time for which the meeting is convened and must proceed immediately with the business of the meeting subject to section 14.

14. Quorum

- (1) A majority of the members constitutes the quorum.
- (2) If there is no quorum at the time for which the meeting is scheduled, the speaker must take the chair as soon as a quorum is present.
- (3) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of the period, there is no quorum, the speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- (4) Whenever the speaker is not present and there is no quorum, the municipal manager must act in accordance with the procedure prescribed in terms of subsection 14(3).
- (5) Whenever during a meeting there is no quorum, the speaker must suspend the proceedings until a quorum is again present or adjourn the meeting if a longer time has passed than the speaker has allowed and there is still no quorum.
- (6) Whenever a meeting is adjourned owing to the absence of a quorum, the speaker must convene a meeting within seven (7) days where the rest of the matters on the agenda must be dealt with.

2. ELECTION OF ACTING SPEAKER, IF NECESSARY

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

41. Acting speakers

If the speaker of a municipal council is absent or not available to perform the functions of speaker, or during a vacancy, the council must elect another councillor to act as speaker.

3. APPLICATION FOR LEAVE OF ABSENCE

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

11. Leave of Absence

A member who wishes to absent himself or herself from meetings must act in accordance with the rules relating to the leave of absence from the council as determined by council.

Item A2481: Council meeting of 21 November 2013:

PROPOSED AMENDMENTS – ITEM A2446 OF 7 OCTOBER 2013: RULES OF ORDER AND PROCEDURES WITH REGARDS TO ALLEDGED TRANSGRESSION OF THE CODE OF CONDUCT FOR COUNCILLORS

1. That the following procedures be reconfirmed by means of which councillors may apply for leave of absence from 'n council meeting:

LEAVE OF ABSENCE

1. Application for leave of absence from a meeting of the Council must be addressed to the Speaker of Council in writing and signed by the member who is applying for such leave.
2. The Speaker of Council may only consider applications for leave of absence which are in writing. Applications for leave of absence which are not in writing may not be considered.
3. Notwithstanding Section 2 above, applications for leave of absence from a meeting are deemed to have been granted if:
 - 3.1 the Council or Mayor delegated the relevant member to act elsewhere on behalf of the Council in a matter; or
 - 3.2 if the Council requests the member to leave the relevant meeting in circumstances envisaged in Item 3(b) of the code of conduct of Schedule 1 to the Systems Act, or the member recuses him/herself.
4. The Speaker may, subject to Sections 2 and 3 above, grant leave of absence to a member for the following reasons:

- 4.1 illness of the member a medical certificate must be handed to the office of the Speaker in this regard within 5 working days after the Council meeting, for which leave of absence was applied by the member as proof of illness.
 - 4.2 essential business or personal commitments, or personal circumstances of the member.
 - 4.3 When the member is not permitted to attend the meeting due to circumstances envisaged in item 3(b) of the Code of Conduct for Councillors in Schedule 1 to the Systems Act;
 - 4.4 Any other circumstances where the member is prevented from attending the meeting.
2. That the following revised fines are imposed in respect of situations where councilors fails to remain in attendance of council meetings:
- FINES IN TERMS OF PARAGRAPH 4(2)(b) OF THE CODE OF CONDUCT FOR COUNCILLORS**
- In the case where the accused councillor was convicted that he or she failed to remain in attendance at a meeting of the Council, the Council may impose the following penalties:
- a. 1st transgression, 10 % of the Councillor's monthly remuneration;
 - b. 2nd transgression, 15 % of the Councillor's monthly remuneration;
 - c. 3rd transgression, 20 % of the Councillor's monthly remuneration;
 - d. 4th transgression, 25% of the Councillor's monthly remuneration; and
 - e. 25% for each subsequent transgression.
3. That the disciplinary committee, as established, handles complaints against councilors who are guilty of paragraph 4(2)(b) of the code of conduct Councillors as per schedule 1 of Municipal Systems Act, 2000 (Act 32 of 2000).

3.1 A blank application for leave of absence form is enclosed

3.2 The attendance registers will be available at the meeting

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

10. Attendance of meetings

- (1) Every member attending a meeting of the council must sign his or her name in the attendance register kept for such purpose.
- (2) A member must attend each meeting except when-
 - (a) leave of absence is granted in terms of section 11; or
 - (b) the member is required to withdraw in terms of law.

4. MOTIONS OF JOY AND SORROW

4.1 Announcement of Councillors' birthdays

Councillor J.R. van Schalkwyk – 23 October 2023

4.2 Announcements of deaths by Municipal Manager

None received

5. SPEECHES AND SUBMISSIONS

Presentation – Local Breede River Conservancy Trust

6. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

6.1 Report on the Functionality of Ward Committees: 1 July – 30 September 2023 (See Annexures attached on pages 381 to 390)

6.2 Feedback by the Speaker on Disciplinary Matters.

7. STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR

8. DISCLOSURE OF INTERESTS BY COUNCILLORS

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

5. Disclosure of interests

- (1) A councillor must-
 - (a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
 - (b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.
- (2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.
- (3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

9. MATTERS FOR CONSIDERATION

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 4: DECISION

15. Unopposed Matters

Whenever council is called upon to consider a matter before it and there is no opposition from any member, a unanimous vote will be recorded in the minutes.

16. Opposed Matters

- (1) After attempts to reach consensus on certain matters have failed, the speaker must put the matter under discussion to the vote. Motions must be moved and seconded by members. Hereafter the speaker must call upon the members to indicate by a show of hands whether they are for such motions or against it, whereupon he or she declare the result of such vote.
- (2) Upon the speaker's declaration of the result of a vote, a member may demand for his or her vote to be recorded against the decision concerned and the municipal manager shall ensure that such vote is recorded in the minutes.
- (3) If there is an equality of votes in respect of a matter on which voting takes place, the speaker must exercise his or her casting vote, in addition to his or her deliberative vote, provided that the speaker may not exercise a casting vote in terms of any matter set out in section 160(2) of the Constitution.

PART 7: RULES OF DEBATE

23. Member to address the chair

A member who speaks at a meeting must address the chair and may do so in any one of the three official languages of the Province of the Western Cape.

24. Order or priority

When a member wishes to address the council, he or she must first have the permission of the speaker.

25. Precedence of speaker

Whenever the speaker addresses the meeting, all members must be silent so that the speaker may be heard without any interruption.

26. Relevance

- (1) A member who speaks must direct his speech strictly to the subject or matter under discussion or to an explanation or to a point of order.
- (2) No discussion may be permitted-
 - (a) which will anticipate any matter on the agenda;
 - (b) on any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of enquiry is pending.

27. Right to speak

A member or non-member may speak on any matter before the council as determined by the speaker, provided that speeches of all members and non-members are allocated in a fair manner.

28. Length of speeches

The speaker determines the length of speeches.

31. Speaker's ruling on points of order and explanation

- (1) The ruling of the speaker on a point of order or an explanation shall be final and not open to discussion.
- (2) The ruling of the speaker on any point of order required as to the interpretation of these rules must be entered in the minutes.

9.1 Items submitted by officials to Council

9.1.1

Item number A116. 31.10.2023

SANPARKS' PROPERTY PROPOSAL: BONTEBOK PARK VIS-À-VIS SWELLENDAM INDUSTRIAL AREA

Report by the Manager Town Planning and Building Control (R. Brunings).

Department	Corporate Services
Section	Town Planning and Building Control
File number	7/2/1/1

PURPOSE OF REPORT

To table a development proposal received from SANParks for the use of proposed Erf 8485 (Portion 2) and proposed Erf 8486 (Portion 1), Swellendam, as per Council resolution A26/24/02/2022.

FACTS AND BACKGROUND

On 24 February 2022 Council resolved as follows:

UNANIMOUSLY RESOLVED

Item A26/24/02/2022

1. that the contents of the report on SANParks' property proposal: Bontebok Park Vis-à-vis Swellendam Industrial area, be noted.
2. that SANParks' proposal to purchase proposed Erf 8485 (Portion 2) and proposed Erf 8486 (Portion 1) be approved in-principle subject to: (i) SANParks submitting a proposal with set time frames regarding appropriate development options to create a presence on the proposed land be submitted to Council (ii) Council's intention being advertised for public comment prior to a final decision being taken, (iii) and once Portion 1 is purchased by SANParks, the portion be consolidated with erf 5338.
3. that proposed Erf 8484 (Portion 3) be sold by way of a competitive bidding process.
4. that proposed Portion 7, which comprises a small wetland area and an area of "High Sensitivity" vegetation measuring ± 1.5 ha in extent, as denoted in the botanist's report, be alienated and consolidated into the Bontebok National Park (Erf 5338), at no cost to SANParks other than the transfer and registration fee, and the moving of the fence to where the municipality indicate.
5. that an agreement be drawn up between the Municipality and SANParks with regard to the rehabilitation, alien clearing and maintenance of Area "A", which would remain in place until such time as the area is negotiated for sale to a third party for development purposes, at which point the status quo in terms of its future ownership can be reconsidered.

SANParks has since lodged its proposal (conceptual) for the use of the property, and has also given a broad timeline for implementation, contingent on procurement processes – **see Pages 1 to 13 of the Annexures.**

DISCUSSION

As noted in the Annexures attached, SANParks has proposed that the property be set aside for a farm stall, a café, ablutions, a dog-park, related parking and garden paths. The anticipated

physical development would likely comprise some 3500m² in extent, with the balance of the property comprising natural vegetation. The proposed ingress and egress points are also indicated. The development would serve to create the necessary ambience for guests to the Bontebok National Park, and offer a 180° view of the Langeberg Mountain Range. It is noted that the plans and 3D renderings are still conceptual at this stage, but gives a good indication of the intent.

The bulk of the development would be constructed across the erstwhile shooting range, which is now in a severely dilapidated state. There would be very limited impact on the existing natural vegetation.

It is noted that the property will need to be rezoned (with Consent Use for Tourist Facilities) for the purpose and be consolidated with the existing Bontebok National Park property.

SANParks anticipates that the development could be complete within 3 years of registration, contingent on procurement. All necessary land use processes and building plan submissions will be followed and made.

It is considered that SANParks has hereby complied with Item 2(i) of Council's resolution of 24 February 2022, and that the intention to advertise for public comment can be commenced with. The balance of Council's resolution is in process.

LEGAL IMPLICATIONS

The following legislation regulates the management of municipal property:

- The provisions of Section 14 of the Municipal Finance Management Act, 2003 (Act 56 of 2003).
- The By-law relating to the Management and Administration of Immovable Property, 2018.
- The Municipal Asset Transfer Regulations, 2008.
- Municipal Policy in relation to the Management, Administration and Alienation of Immovable Property, 2014.
- Municipal Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

Public advertisement.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

Need to prepare public advertisements.

COMMENTS FROM DEPARTMENTS

Town Planning and Building Control:

The use can be supported in principle from the town planning perspective, provided the property (2x erven) is consolidated with the Bontebok National Park and rezoned, and that the placement of the vehicle egress / ingress points vis-a-vis Produksie Street and the Park itself is finalised. There ought also to be only a single access point into the park. It would appear that the delivery yard is larger than needed, unless this will also cater for staff parking – these aspects and details will be addressed as part of the land use planning process.

Director: Community Services

No comment received.

Director: Financial Services

No comment received.

Director: Infrastructure Service

The Municipality to retain access to the embankment cut material on the site for road repair purposes.

Municipal Manager

The location and extent of the “dog park” needs to be reconsidered, particularly relative to the anticipated vehicular traffic.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the content of the report on SANParks's property proposal: Bontebok Park vis-à-vis Swellendam Industrial Area be noted.
2. that portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) are not needed for the provision of a minimum level of basic municipal services, in terms of Section 14 of the Municipal Finance Management Act, 2003 (Act No.56 of 2003).
3. that Council's intention to alienate Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks, and for the use as proposed, be advertised for public comment prior to a final decision being taken.
4. that a reserve price for each erf based on the findings of 2 independent valuation reports be determined and that the cost of the valuation reports be for the applicant's account.
5. that the alienation of Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks be subject to the completion of requirements in terms of the Swellendam By-Law on Municipal Land Use Planning, 2020, more specifically: Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485), be rezoned to Natural Environment Zone (Nature Area) and simultaneously consolidated with Erf 5338 for the applicant's (SANPark's) account. Portion 1

(proposed Erf 8486) to also have Consent Use for "Tourist Facilities" as per the concept land use proposed.

6. that point 3 to 5 of Council's resolution dated 24 February 2022 be proceeded with.

9.1.2

Item number A117. 31.10.2023

PUBLIC ART: POLICY

Report by the Manager Town Planning and Building Control, Mr R. Brunings.

Department	Corporate Services
Section	Town Planning and Building Control
File number	2/B

PURPOSE OF REPORT

To table a draft policy on Public Art, for use by Council on receipt of applications as lodged by individuals, collectives, corporations or institutions.

FACTS AND BACKGROUND

Public Art, by broad definition, is art erected or installed for public consumption and enjoyment. Public Art is usually located in public spaces and / or on publicly owned land. Public art commonly takes the form of outdoor sculptures, installations, or murals.

DISCUSSION

Given that Public Art is located in public spaces and oftentimes on public land, and viewed by a broad cross section of society, Council is required to consider such initiatives with some circumspection. Council ought therefore to deliberate whether such art does not offend, discriminate, or exhibit overtly political messaging. Such art ought also to be considered in terms of its safety, integrity, visual impact and overall standard and quality. Public art should serve to contribute positively to our public spaces, by way of its aesthetics and visual interest, but should also encourage contemplation and thought. Public art should not aim to be permanent, with key public spaces to be shared equitably by approved artists.

To this end, Council must receive and consider formal submissions from applicants via the Administration, and apply its mind judiciously before issuing permission. To provide Council some basic guidelines on which to make decisions, a short policy has been prepared for consideration – refer to **Page 14 of the Annexures**.

LEGAL IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

Publication of the draft policy.

COMMENTS FROM DEPARTMENTS

Director: Community Services

No comment received.

Director: Financial Services

The current sundry tariffs do not include tariffs for public art. Council may introduce new tariffs during a financial year, but subject to a public participation process.

The applicant who applies to display public art on public open spaces must provide a waiver to the municipality for any liability claim due to damages, theft, fire etc.

The municipality will have to report such art approvals to Council's insurers for public liability from members of the public who may be hurt when visiting the display. This will result in additional insurance costs which cannot upfront be determined as it will depend on the type of art and area.

Director: Infrastructure Service

No comment received.

Municipal Manager

No further comment received.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the content of the report on the proposed Public Art Policy be noted.
2. that the draft policy be advertised for public comment and if no objection is received, the Municipal Manager be authorised to finalise and implement the policy as necessary.
3. that the applications for public art be circulated to all internal departments before being tabled for Council's consideration.

9.1.3

Item number A118. 31.10.2023

PUBLIC ART PERMIT: APPLICATION FORM

Report by the Manager Town Planning and Building Control, Mr R. Brunings

Department

Corporate Services

Section

Town Planning and Building Control

File number

2/B

PURPOSE OF REPORT

To table the Public Art Permit Application Form, for use by Council on receipt of public art applications as lodged by individuals, collectives, corporations or institutions.

FACTS AND BACKGROUND

Public Art, by broad definition, is art erected or installed for public consumption and enjoyment. Public Art is usually located in public spaces and / or on publicly owned land. Public art commonly takes the form of outdoor sculptures, installations, or murals.

DISCUSSION

Given that Public Art is located in public spaces and oftentimes on public land, and viewed by a broad cross section of society, Council is required to consider such initiatives with some circumspection. Council ought therefore to deliberate whether such art does not offend, discriminate, or exhibit overtly political messaging. Such art ought also to be considered in terms of its safety, integrity, visual impact and overall standard and quality. Public art should serve to contribute positively to our public spaces, by way of its aesthetics and visual interest, but should also encourage contemplation and thought. Public art should not aim to be permanent, with key public spaces to be shared equitably by artists.

To this end, Council must receive and consider formal applications on application forms, and apply its mind judiciously before issuing permission. Essentially Public Art can be considered broadly in the same genre as graffiti, which could also necessitate Council to look at proclaiming a specific bylaw, particularly if it starts to receive an increasing number of applications competing for the same limited public space.

Attached at **Pages 15 to 32 of the Annexures** is a proposed Application Form, as well as a copy of the By-Law used by the City of Cape Town in relation to graffiti – which could be adjusted for Swellendam purposes if deemed necessary.

LEGAL IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

None.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Service

None

Municipal Manager

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the content of the report on the Public Art Application Form be noted.
2. that Council makes use of the Public Art Application Form when taking receipt of any applications for public art.
3. that applications for public art be circulated to all necessary internal departments before being tabled for Council's consideration.

9.1.4

Item number A119. 31.10.2023

SUBDIVISION OF MUNICIPAL INDUSTRIAL LAND – ERF 8240 (6.0675HA)

Report by the Manager Town Planning and Building Control (R Brunings)

Department

Corporate Services

Section

Town Planning and Building Control

File number

15/2/4

PURPOSE OF REPORT

To set out a proposal for the subdivision and subsequent sale of Erf 8240 (6.0675ha), Swellendam.

FACTS AND BACKGROUND

Erf 8240 Swellendam was generated on 11 February 2019, the result of a rezoning, consolidation and subdivision process relating to the rationalisation of various portions of municipal land located in the industrial area, with a view to its sale on the open market in the short to medium term – see Subdivision Sketch Plan **on page 33 of the Annexures**.

Erf 8240 Swellendam measures 6.0675ha in extent, and comprises elements of the erstwhile municipal sewer works, which would have to be removed. It is noted that the property would likely also be subject to environmental rehabilitation processes in terms of the National Environmental Management Act 1998 prior to further development. In April 2019 the property was valued at ±R6.5million (R107 / m²).

In April 2021 Council resolved as follows:

UNANIMOUSLY RESOLVED

Item A48/29/04/2021

1. that subparagraph 3, 4, 5, 6, 7 and 8 of the Council resolution A23 of 25 February 2021 as reflected below be rescinded.
 - "3. that development proposals for the right to develop be called from prospective developers in terms of a competitive tender process by the Supply Chain Management Unit, for the subdivision and development of the balance of Erf 8241 as described in paragraph 2 above;
 4. that the three proposed development blocks relating to Erf 8240 be made available for a right of development to interested developers with the aim to create a number of Industrial erven for industrial development;
 5. that development proposals for the right to develop be called in terms of a competitive tender process by the Supply Chain Management Unit, from prospective developers for the subdivision and development of the three proposed development blocks related to Erf 8240;
 6. that the development proposals as per paragraphs 3 and 5 above be advertised for 60 days locally but also nationally making use of national marketing development platforms;

7. *that the Mayoral Committee be mandated to consider the development proposals on a report to be submitted to the Mayoral Committee by the Bid Evaluation Committee, interact and liaise with interested developers and submit a report with recommendations on the development proposals to Council for consideration;*
 8. *that the SWANSS Group of Companies be informed that there are no serviced erven available currently and that they will be informed as soon as the erven have been serviced and are ready for disposal, but if they wish to apply to rent a portion of the Traffic Services erf, the Mayoral Committee will favourably consider such an option; “*
2. that a two-phase bidding process be followed by the Supply Chain Management Unit for the subdivision and development of any or all three of the development blocks related to Erf 8240 on the basis of a right to develop with the aim to create a number of Industrial erven for industrial development but that interested industrialists also be allowed to submit bids for the purchase of a specific block or for all three blocks for own development and not for further subdivision;
 3. that a two-phase bidding process be followed by the Supply Chain Management Unit for the subdivision and development of Erf 8241 on the basis of a right to develop with the aim to create a number of Industrial erven for industrial development;
 4. that proposals for the right to develop be called in terms of a competitive tender process by the Supply Chain Management Unit;
 5. that the conditions as per paragraph 10 of the Council Resolution A35 dated 25 February be applicable to the process as per paragraphs 2 to 4 above;
 6. that the following reserve prices for offers be approved by Council:
 - 6.1 Erf 8240: R202 per square metre
 - 6.2 Erf 8241: R144.00 per square metre

In keeping with the resolution, Erf 8240 Swellendam was put out to tender in May 2021. No proposals for the 2 Stage Right-to-Develop strategy (as per Point 2 and Point 4 above) were received.

DISCUSSION

Given the lack of response to the tender, it would appear that the appetite of investors to undertake the development of industrial land in Swellendam for downstream commercial sale is lacking at this juncture. However, that is not to say that there are not currently individual business owners / operators who would not be willing to purchase an erf suited to their own needs / budget and to thereby establish themselves in the industrial area per se, even if they would be expected to lay on services to the selected erf.

Accordingly, and after substantial further consideration by Senior Management, it is proposed that Erf 8240 Swellendam rather be formally subdivided into 3 smaller portions and that the subdivision process be undertaken in-house. The 3 separate erven are then to be sold on a simple competitive bidding process (tender) or an auction, and the remaining erven out of hand. The proposed portions are set out as per Subdivision Sketch Plan **on page 33-34 of the Annexures.**

LEGAL IMPLICATIONS

The following legislation regulates the proclamation of by-laws and the management of Municipal property:

- The Municipal Systems Act, 2000 (Act 32 of 2000)
- The provisions of Section 14 of the Municipal Finance Management Act, 2003 (Act 56 of 2003).
- The By-law relating to the Management and Administration of Immovable Property, 2018.
- The Municipal Asset Transfer Regulations, 2008.
- Municipal Policy in relation to the Management, Administration and Alienation of Immovable Property, 2014.
- Municipal Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

Cost for the land survey process. The town planning process will be handled in-house.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

Preparation of public advertisements.

COMMENTS FROM DEPARTMENTS

Director: Community Services

No comment received.

Director: Financial Services

No comment received.

Director: Infrastructure Service

No further comment received.

Municipal Manager

Agree with report.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the content of the report on the proposed subdivision and subsequent sale of Erf 8240, Swellendam be noted.
2. that previous Council resolutions A23/25/02/2021 and A48/29/04/2021, be rescinded.
3. that it be noted that Erf 8240, Swellendam, is not needed for the provision of basic municipal services in terms of section 14 of the Municipal Finance Management Act, 2003 (Act 56 of 2003);
4. that Erf 8240 be subdivided as per the Sketch Plan presented (**page 33-34 of the Annexures**).
5. that a reserve price for each of the three erven be determined, based on the findings of 2 independent valuation reports.

6. that the apportionment of costs for the installation of requisite bulk-link services to each of the 3 erven be determined and articulated in a Services Level Agreement signed with the purchaser by the Director Infrastructure Services, prior to registration.
7. that the 3 industrial erven be sold on the following basis:
 - each erf be put out to tender, on a competitive bidding basis, by the Supply Chain Management Unit and sold to the highest bidder;
 - successful bidders to submit suitable guarantees from registered financial institutions, within 30 days of signing the Agreement of Sale;
 - the erven that are not sold on completion of the tender process, be sold "out of hand" in a piecemeal manner, and at the average tender price (per m²) achieved for such erf / erven or at the reserve price set, whichever is the highest;
 - the full purchase price for each erf to be settled on date of registration;
 - municipal rates be payable, calculated from the date of registration;
 - a clause be registered against the title deed of each erf, specifying that in the event that the property remains vacant for two (2) years after the date of first registration, that the municipal rates for improvements will be calculated on the basis of an erected building value of R2.5 million, until such time as actual construction is complete and the actual value is determined.

9.1.5

Item number A121. 31.10.2023

APPLICATION: PURCHASE OF PROPOSED ERF 4604, INDUSTRIAL AREA IN SWELLENDAM – NICO TRUST

Municipal Manager	A. Vorster
Department	Corporate Services
Section	Property Administration
File Number	7/2/R

PURPOSE OF REPORT

To submit an application to buy a piece of municipal land in the Industrial area, Erf 4604 Swellendam.

FACTS AND BACKGROUND

An application was received from Mr Pieter Houterman, on behalf of his client, Nico Trust (C.J. Kotze), the owner of Erf 4594, adjacent to the mentioned property.

The following motivation was received in Afrikaans:

Agtergrond:

Erf 4604, Swellendam is oorspronklik geskep in 1996 en kom voor op Algemene Plan nr. 9114/1996. Hierdie erf is geskep om spoor-toegang te verleen na erf 4124, Swellendam. Daar is ook tydens die genoemde opmeting van 1996, 'n konsolidasiekaart opgestel naamlik erf 4605, Swellendam. Laasgenoemde kaart is goedgekeur maar weer teruggetrek by die kantoor van die Landmeter Generaal.

Huidige omstandighede:

Die eienaar van erf 4124, Swellendam is onder die indruk dat erf 4604, Swellendam aan hulle behoort, maar dit behoort steeds aan die Swellendam Munisipaliteit. Dit was dan die voorneme van die eienaar om erf 4604, Swellendam te vervreem aan die eienaar van erf 4594, Swellendam. Die rede vir die aanvanklike terugtrekking is aan my onbekend.

Die eienaar van erf 4594, Swellendam stel steeds belang om die betrokke erf aan te koop en te konsolideer met hulle erf.

Aansoek:

Ons, Bekker & Houterman Landmeters, doen hiermee aansoek namens die eienaars van erf 4594, Swellendam vir die aankoop van erf 4604, Swellendam om gekonsolideer te word met erf 4594. Die eiendom kan slegs aan 2 eienaars vervreem word, en die eienaar van erf 4124 het te kenne gegee dat hulle nie belangstel nie en dus kan dit slegs vervreem word aan die eienaar van erf 4594, Swellendam.

Attached find a site map, and the application **on pages 35 to 40 of the Annexures.**

DISCUSSION

The mentioned property, is still registered as Erf 4123, which forms part of Produksie Street and is registered in the name of the municipality. The proposed Erf 4604 was never registered.

The mentioned property is also adjacent to Erf 4124, which is a private owner, on the one side and Erf 158, which is the property of Transnet, on the other side. This is the only two neighbours who also have access to the piece of land.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The provisions of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

The property should be disposed of through a public bidding process.

Section 40(b) of the Supply Chain Management Regulations stipulates that immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise.

It is further recommended that once the property is alienated, it be removed from the municipal asset register.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control – Mr R. Brunings

Proposed Erf 4604 still forms part of registered Erf 4123, which comprises the erf underlying Produksie Street. There is no objection to the alienation of the proposed Erf 4604 from a town planning perspective, but the property ought to be consolidated with either Erf 4594 or Erf 4124 given the issue of access and service connection. It is noted that erf 4604 also adjoins Erf 158 (*Transnet*) which accommodates a portion of the railway line that runs through the town.

Director: Community Services

None

Director: Financial Services

See above for financial implications.

Director : Infrastructure Services

None

Municipal Manager

This matter has been dragging along for years, without a final conclusion. Should the property be alienated, the necessary land use processes must be completed within a period of twelve months.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that Council in-principle approves that proposed Erf 4604, in Swellendam, as indicated on the attached map, is not needed for essential municipal services;
2. that Council in-principle has no objection to alienating the land described in (1) above, on an open tender basis, subject to the completion of the necessary land use processes, as well as compliance with relevant asset transfer regulations;
3. that a market value, of the land described in (1) above, be obtained by the municipality by averaging the two property valuations as determined by the two independent valuers appointed by Council;
4. that on the determination of the market value of the property described in (3) above, Council advertises its intention to alienate proposed Erf 4604, Swellendam;
5. that, should no objection be received, the Municipal Manager be mandated to invite competitive bids, via a tender process and be mandated to sign the Transfer Agreement, according to her delegated powers;
6. that should any objections be received in respect of this application, the matter be referred back to Council, for consideration;
7. that the successful bidder be responsible for all costs in respect of the transfer, legal cost, advertisement costs, as well as the procurement of a valuation of the applicable property;
8. that should the adjacent neighbour be the successful bidder, the land be consolidated with their adjacent property;
9. that Council's attorney be delegated to draft the applicable documents for the transfer.

9.1.6

Item number A122. 31.10.2023

APPLICATION FOR THE PURCHASE OF A PORTION OF ROTHMANN STREET, SWELLENDAM

Report of the Municipal Manager:

A. Vorster

Department

Corporate Services

Section

Property Administration

File Number

7/2/R

PURPOSE OF REPORT

To submit a request to buy a portion of a street, a portion of Erf 159, Swellendam.

FACTS AND BACKGROUND

The following application was received from Ms E. Patientia, on behalf of the Matthysen family:

"The descendants of Andrew Matthysen, the previous owner of erf 165, are the current owners of this property. All of Andrew Matthysen's children grew up on this property and were raised there and educated in Swellendam. They all hold an equal undivided share in this property.

The Matthysen family are desirous of rezoning the property to permit a general residential development of the property in order that they may share in the family property more beneficially. Their objective is consistent with Swellendam's Municipal Spatial Development Framework as far as it reflects the proposed land use for this property and is also consistent with the Municipality's densification policy. The property falls outside of the Municipality's designated Heritage Zone.

In the past, significant portions of the original (close to 12 Ha) property were expropriated and deducted by SANRAL and others, resulting in a significantly diminished remainder of just under 1 Ha.

To the South-east, there is a road reserve for a portion of Rothmans Street that appears to be closed but has not been constructed and serves no apparent purpose. Across the road to the east is an undeveloped "agricultural" property, with an allocated land-use of "mixed development" with its northeastern boundary running all the way down Rothman Street's southwestern edge, to across the Koornlands river.

The Matthysen family would like to acquire that portion of Rothman Street that abuts its south-west boundary to an approximate extent of 1 620 odd square metres and to consolidate it with the remainder of erf 165 so that the resultant enlarged property can be more generously shared among the surviving heirs. "

Find attached the applicable documents **on pages 41 to 52 of the Annexures.**

DISCUSSION

The portion of land proposed to be purchased forms part of Erf 159, which exists as part of the adjoining road network. More specifically, said portion of land enables access, below or over the

N2, to Railton, which may be required in the medium to long term. The alienation of the requested portion of land for development purposes is therefore not supported from a town planning perspective.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The stipulations of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003) (MFMA);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Municipal Asset Transfer Regulations, 2008.
- Municipal Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

The property should be disposed of in terms of the municipal disposal policy.

Section 40(b) of the Supply Chain Management Regulations stipulates that immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise.

It is further recommended that once the property is alienated, it be removed from the municipal asset register.

The disposal of the municipal land must be in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control – Mr R. Brunings

All applications for rezoning are to be directed to the Division Town Planning and Building Control as per the requirements, for consideration in terms of the relevant legislation.

Director: Community Services

None

Director: Financial Services

Should Council decide to alienate a portion of Erf 159, it must be alienated at a market-related price except if it is in the plight of the poor.

Director: Infrastructure Services

This is a portion of the road reserve towards the N2 and may be needed to connect the areas under or above the N2.

Municipal Manager

As this is a road reserve that can possibly be used for an underpass to connect Railton with the Cooper Street area. A second entrance to Railton is a high priority and though a lease agreement could be considered, alienation is not supported.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that Council may need a portion of Erf 159, Swellendam for a possible underpass to connect Railton with the Cooper Street Area as possible future development and therefore the alienation is not supported.
2. that the applicant be informed accordingly.

9.1.7

Item number A123. 31.10.2023

PURCHASE OF A PORTION OF STREETRESERVE (PORTION OF ERF 2217) IN VAN STADEN STREET, SWELLENDAAM – OWNER: MR NICOLAAS FRANCOIS NEL

Report of the Municipal Manager:

A. Vorster

Department

Corporate Services

Section

Property Administration

File Number

7/2/R

PURPOSE OF REPORT

To submit a request to buy a portion of a street, a portion of Erf 2217, Swellendam.

FACTS AND BACKGROUND

Mr Nel is the owner of Erf 2215, van Staden Street in Swellendam. Mr Nel's house is the last house in the street and is adjacent to open municipal land on the one side and the store premises of the municipality on the other. He would like to put up a fence in the front of his property, for safety reasons, but then he would not be able to drive into his driveway and close the gate behind him, before entering his garage.

See his application in Afrikaans:

1. "Sekuriteit is 'n groot probleem hier en die behoefte is om 'n sekuriteitsheining van "clear view" aan die voorkant van die erf aan te bring. Langs die sykant en agter is reeds ge-elektrifiseer.
2. Die probleem is egter dat die afstand tussen die bestaande motorhuis en die boulyn te kort is dat 'n motorvoertuig daar sal inpas.
3. Die versoek is dat toestemming verleen word om die heining met 2 meter vanaf die landmeter penne nader aan die straat opgerig word.
4. Die sypaadjie vanaf die landmeter penne tot by die randsteen is 5.5 meter. Vanaf die lyn wat die ander huise in die straat se heinings tot by die randsteen vorm is 4.5 meter. Effektief sal dit dus beteken dat ek die heining slegs 1 meter nader aan die straat wil skuif.
5. Die erf is geleë aan die einde van Van Staden straat en die straat loop hier dood. Daar is dus geen deur verkeer nie en hier is dus baie min beweging van ander voertuie en mense.
6. Langs en agter die erf is munisipale grond wat begroei is met lang gras (wat van tyd tot tyd gesny word), maar sekuriteit is 'n groot probleem aangesien ons die afgelope maand reeds verskeie probleme ondervind het.
7. Indien die motor uit die motorhuis getrek word is die heining te naby om die deure toe te maak en die motor nog binne die heining te parkeer. Sekuriteit gaan dus totniet aangesien alles dan sou oopstaan. Dit is belangrik vir sekuriteit dat daar nie toegang tot die erf sal wees

wanneer die motorhuis deur of enige ander deure sou oopstaan nie. Ook is dit belangrik om eers die veiligheidsheining se hek toe te maak voordat enige ander deure oopgemaak word by jou tuiskoms.

8. Volgens die lugfoto, wat mnr Schutte aan my voorsien het, sou die skuif van die heining nie 'n risiko vir bestaande dienslyne wees nie aangesien die dienslyne nogsteeds buite die beplande heining sal wees.
9. Sekuriteit is vir ons die grootste belang aangesien ek en my vrou soms nie hier sal wees nie en dan sal my dogter, wat by ons inwoon, alleen hier wees. Ons kan nie die risiko loop om haar hier alleen te los nie.
10. Na die onlangse moord en tragiese dood van 'n egpaar van Piketberg kan ek seker veiligheid nie genoeg beklemtoon nie. Veiligheid en sekuriteit het vir te lank nie deel van ons bestaan uitgemaak nie, maar sal nou dringend en daadwerklik aangespreek moet word.
11. Soos ek dit sien sal die skuif van die heining niemand benadeel of verontrief nie. Dit sal egter net 'n nuwe intrekker baie meer gerus en gelukkig maak in Swellendam."

Find attached the applicable documents **on page 53 to 54 of the Annexures.**

DISCUSSION

In the middle of Mr Nel's driveway is 'n municipal lamp pole. When a fence will be erected, as requested by the owner, the pole will form part of Mr Nel's property, hampering maintenance.

The request to move the boundary will mean that the road reserve will be compromised and this may hamper future development.

Road reserves serve a crucial future planning purpose and should not be alienated lightly.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The stipulations of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003) (MFMA);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Municipal Asset Transfer Regulations, 2008.
- Municipal Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

The property should be disposed of through a public bidding process.

Section 40(b) of the Supply Chain Management Regulations stipulates that immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise.

It is further recommended that once the property is alienated, it be removed from the municipal asset register.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

According to the resolution.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control – Mr R. Brunings

This is a direct consequence of poor on-site planning by the property owner of his garage vis-a-vis the property boundary. This should not now become a municipal problem. The road reserve is in place for good reason and may be required for future services and road upgrading, particularly in this area, where there is still potential for future residential development. Moreover, if we were to concede to this request, all of the neighbours would likely want to do the same, which cannot be accommodated in this area. Whilst the applicant's security concern is noted, the application is not supported from a town planning perspective.

Director: Community Services

The piece of land cannot be sold to the owner as there is already a service pole in the existing driveway. A new 2-meter allocation will effectively put the pole about half a meter inside the property line, but still accessible for servicing. All the properties on that side of the streets' fences are already 1 metre outside of the boundary. I would propose that a long-term agreement be entered into with the owner. There will still be a 2-metre sidewalk left after the new fencing is erected.

Director: Financial Services

The property should be disposed of in terms of the municipal disposal policy.

Section 40(b) of the Supply Chain Management Regulations stipulates that immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise.

It is further recommended that once the property is alienated, it be removed from the municipal asset register.

The disposal of the municipal land must be in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.

Infrastructure Services:

An on-site investigation was conducted to consider the setting. The request is not supported. The area down towards the river could possibly be developed in the future and a ring road at the bottom would give access to the area.

The road reserve should therefore not be alienated in this case for an individual who wants to extend his property, as it may be needed for the purpose of a road reserve in the future.

The individual must address his own security risks.

Municipal Manager

As it is indicated that the road reserve may be needed for future services, the application is not supported.

This item served on the Corporate and Financial Services Portfolio meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the application to alienate a portion of street reserve (portion of Erf 2217) in Van Staden Street, Swellendam not be supported as it may be needed for future services when the area is developed.
2. that the applicant be informed accordingly.

9.1.8

Item number A124. 31.10.2023

APPLICATION: PURCHASE OF A PORTION OF CHURCH STREET (REMAINDER ERF 1191) IN SWELLENDAM – AAN DE LEISURE COLLECTION (PTY) LTD

Municipal Manager	A Vorster
Department	Corporate Services
Section	Property Administration
File Number	7/2/R

PURPOSE OF REPORT

To submit an application from Mr Casper Bosman, on behalf of Aan de Leisure, to purchase a portion of street, adjacent to their properties in Church Street, namely Remainder erf 1191 Swellendam.

FACTS AND BACKGROUND

Aan de Leisure is the owner of erven 4085, 4086 and 4087, Church Street, Swellendam. The portion of Church Street, Erf 1191 Swellendam, services these three properties and three other privately owned properties (Erf 6232, Erf 4084 and 1182).

These three houses are used to accommodate guests of the Aan de Leisure group and the safety of the guests is very important to them. During the last months, a lot of incidents occurred because people can get access to these properties by way of the street.

The fencing of the properties is at its maximum height, according to the building regulations of the municipality. The erecting of an electrical fence is also an option, but does not look that inviting to guests.

The request is thus to purchase the mentioned portion of Church Street, (Remainder erf 1161), by Aan de Leisure Collection (Pty) Ltd, and maintain it as a private street, by putting up a motorised gate at the entrance and providing entrance to only the involved parties.

Attached find a site map, and the application **on pages 55 to 61 of the Annexures.**

DISCUSSION

Remainder Erf 1191, Swellendam is 379 square metres in size and is owned by Oorgangsrada Swellendam. It was privately owned in 1981 and then transferred in 1996 for an amount of R10.00.

By alienating remainder Erf 1191, Swellendam, a private development area will be created. As several properties will be affected, right of way must be protected as well as the Municipality's access to services.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The provisions of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control – Mr W. Schutte

Erf 1182 should also be allowed access, as they have a gate at the back as far as I know.

A Home Owners Association will have to be created to take ownership of the road. All the owners would have to agree to that.

Town Planning & Building Control – Mr R. Brunings

Remainder Erf 1191 exists as a separate subdivision, measuring 369m² in extent. The property ought to be zoned Transport Zone. There is no objection to the alienation of Remainder Erf 1191 from a land use perspective, provided it is zoned Transport Zone (*Private Road*), that the road is closed as a public place if it is currently so denoted at the Deeds Office, that all adjoining property owners provide written consent, and that the Administration is afforded unfettered access to its existing service infrastructure.

Director: Community Services

None

Director: Financial Services

The property should be disposed of through a public bidding process.

Section 40(b) of the Supply Chain Management Regulations stipulates that immovable property may be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise.

It is further recommended that once the property is alienated, it be removed from the municipal asset register.

The disposal of the municipal land must be in accordance with Chapter 2 of the Municipal Asset Transfer Regulations.

Director: Infrastructure Services

The process of purchasing the portion of Church Street in question, to create a private access road and gated development, would in essence result in the formation of a "Mini Sub" development (collection of freehold sites) that would require the establishment of a Homeowners Association and conclusion of a Service Level Agreement between the Homeowners Association and the Municipality for the maintenance & operation of all internal services and infrastructure (roads, sewers, water, electricity, etc). In addition, all required service servitudes would need to be registered in both the names of the Homeowners Association and the Municipality.

Municipal Manager

As the alienation of the area will in actuality result in a private development, consideration should be given to transferring all internal services to the applicant.

This item served on the Financial and Corporate Services Portfolio meeting held on Monday, 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that Council in principle approves that Remainder Erf 1191, Church Street in Swellendam, as indicated on the attached map, is not needed for essential municipal services;
2. that Council in principle has no objection to alienating the land described in (1) above, on an open tender basis, subject to the completion of the necessary land use processes, as well as compliance with relevant asset transfer regulations;
3. that Remainder Erf 1191, be utilized as a street and no permanent structures may be erected on it;
4. that the owners of Erf 6232, Erf 4084 and Erf 1182 have access to Remainder Erf 1191, Swellendam;
5. that the municipality have access to Remainder Erf 1191, for maintenance on services;
6. that a market value, of Remainder Erf 119, Swellendam be obtained based on the average of two independently obtained valuations as compiled by Council's appointed valuers;
7. that on the determination of the market value of the property, Council advertises its intention to alienate Erf 1191, Swellendam;
8. that, should no objection be received, the Municipal Manager be mandated to invite competitive bids, via a tender process and be mandated to sign the Transfer Agreement, according to her delegated powers;
9. that should any objections be received in respect of this application, the matter be referred back to Council, for consideration;
10. that the successful bidder be responsible for all costs in respect of the transfer, legal cost, advertisement costs, as well as the procurement of a valuation of the applicable property;
11. that Council's attorney be delegated to draft the applicable documents for the transfer.

9.1.9

Item number A135. 31.10.2023

RESUBMISSION: ALIENATION OF VACANT MUNICIPAL ERVEN IN BARRYDALE – RESIDENTIAL ZONE 1

Municipal Manager	A Vorster
Department	Corporate Services
Section	Property Administration
File Number	7/1/4/2

PURPOSE OF REPORT

To submit valuation reports to determine the reserve prices on the three municipal plots in Barrydale.

FACTS AND BACKGROUND

EXTRACT COUNCIL MINUTES: 8 DECEMBER 2022

Item A213:
That Council:

1. Resolves that:

- 1.1. "the erven are not needed to provide the minimum level of basic municipal services;
- 1.2. each property be made available on tender by way of a competitive bidding process, led by the Supply Chain Management Unit, based on a fair market value, as determined by an average of two valuation reports;
- 1.3. valuation reports be secured and tabled for Council to determine a reserve price for each property;**
- 1.4. the reserve price for each property be valid for twelve (12) months;
- 1.5. Properties not sold on completion of the tender process, be sold "out of hand" in a piecemeal manner, based on the reserve price and /or at the average tender price (per m²) achieved for such property.
- 1.6. the full purchase price for each property be settled on date of registration;
- 1.7. municipal rates be payable, calculated from the date of registration;
- 1.8. the decision of Council to alienate the properties be advertised for public comments.**
- 1.9. that cognisance be taken of the remaining erven in the Panorama Development that was not taken up by a competitive bid process and that Council gives permission that the erven be taken up into the inventory at the reserve price to be sold out of hand.
- 1.10. that erf 1715, 1717 and 1718 in Upington and Van Riebeeck Street, Barrydale, be excluded from the alienation process in order to be preserved for possible middle-class income housing."

EXTRACT COUNCIL MINUTES: 08 MAY 2023

UNANIMOUSLY RESOLVED

Item A51/08/05/2023

1. "That it is confirmed that erven 7106, 7165, 8500, 8501, 7585, 6715 and 8484, Swellendam and Erven 643, 1689, 1690, 1691 and 1692, Barrydale are not needed for essential services and may be alienated.
2. That the market values per erven, be as indicated in table A below, per square metres, excluding VAT, as determined by the average of two valuation reports;

Table A

Erf number	Town	Size Per square metres	Average per square metres (excluding VAT)
7106	Railton	1802.7	R32,50
7165	Railton	1306.4	R32,50
8500	Railton	5322	R101,00
8501	Railton	594	R104,50
7585	Railton	425	R63,00
6715	Swellendam	21.598	R151,50
8484	Swellendam	13.416	R121,50
643	Barrydale	312	R47,50
1689	Barrydale	232	R53,00
1690	Barrydale	200	R55,00
1691	Barrydale	200	R55,00
1692	Barrydale	200	R55,00

3. That each property be made available on tender, by way of a competitive bidding process;
4. That the reserve price for each property, as indicated in table A above, be valid for a twelve (12) month period;
5. That the properties not sold on completion of the tender process, be sold "out of hand" in a piecemeal manner, based on the reserve price and /or at the average tender price (per m²) achieved for such property;

6. That the full purchase price for each property be settled on date of registration;
 7. That the municipal rates and availability fees be payable, calculated from the date of registration;
 8. That a building clause for a two (2) year period be included in the sales agreement;
 9. That the Municipal Manager be mandated to sign the sales agreement, as drawn up by Council's attorney, in terms of the existing delegations.
-
1. that the objection from Mr M. Pieterse be noted and rejected as the current policy is adhered to in terms of alienation.
 2. that erf 1715, 1717 and 1718 in Upington and Van Riebeeck Street, Barrydale be included in the alienation process and made available on tender, by way of the competitive bidding process."

DISCUSSION

Notice V3/2023 was placed in the media on 20 July 2023 to advertise the decision of Council to also alienate Erven 1715, 1717 and 1718 in Barrydale. The time period for comments or objections closed on 11 August 2023. No feedback was received.

The following table indicates the market values (VAT excluded) received from M. Heyns and C. van Wyk:

Erf number	Town	M. Heyns		C.L. van Wyk		Average per square metre (excluding VAT)
			Per square metre		Per square metre	
1715	Barrydale	R413 400.00	R200	R430 000.00	R208.03	R204.02
1717	Barrydale	R522 200.00	R200	R500 000.00	R192.00	R196.00
1718	Barrydale	R356 600.00	R200	R380 000.00	R213.12	R206.56

Find the valuation reports on **pages 62 to 124 of the Annexures.**

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The provisions of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Corporate Services

Town Planning & Building Control – Mr R. Brunings

No further comments.

Director: Community Services

No further comments

Director: Financial Services

No further comments.

Director: Infrastructure Services

No further comments.

Municipal Manager

No further comments

This item served on the Corporate and Financial Services Portfolio Committee meeting held on 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that resolutions A213 of 08.12.2022 and A51 of 08.05.2023 still remains valid;
2. that the market value per erf, be as indicated in table A below, per square metre, excluding VAT, as determined by the average of two valuation reports:

Table A

Erf number	Town	Size Per square metre	Average per square metre (Excluding VAT)
------------	------	-----------------------	--

1715	Barrydale	2067	R204.02
1717	Barrydale	2611	R196.00
1718	Barrydale	1783	R206.56

3. that each property be made available on tender, by way of a competitive bidding process.
4. that the properties be transferred to the inventory account.

9.1.10

Item number A136. 31.10.2023

APPLICATION: LEASE OF WOLVAARDT TRUST BUILDING

Municipal Manager

A. Vorster

Department

Municipal Manager

Section

Property Administration

File Number

7/2/1/3

PURPOSE OF REPORT

To consider the lease of the Wolvaardt Trust Building for a 36-month period for interim municipal offices.

FACTS AND BACKGROUND

Management has visited various buildings in town which can be used as interim offices. Office space for +-22 employees is required. The Wolvaardt Building in Stasie Street was identified as the most suitable with parking for personnel at the showgrounds.

The Show Committee has verbally indicated that the municipality can use the corner for parking purposes. The terms and conditions and lease amount still need to be finalized.

At the Wolvaardt Trust Building, there are three portions of which two are connected namely B1 and B2 as well as the old clinic space. The cost for the B1 and B2 is R16 000 pm and the old clinic portion is R6 500 pm, thus totalling R22 500 pm.

DISCUSSION

The rental of the building was not included in the budget, but to normalize the municipal activities it is essential to obtain a new workplace. This space will be insufficient to accommodate all personnel who were situated in the main municipal building.

The finance department (revenue and expenditure personnel) will be accommodated in the new building, whilst credit control and one cashier will remain at the Thusong MPCC and one cashier at the Traffic department.

Minor renovations will be required to allow for a cashier cubicle and enquiries, some partitioning, and carpets for the floors. The estimated cost for the renovations will be +-R80 000. Should approval be granted to proceed with the lease of the Wolvaardt Trust Building, formal engagements can be entered into with the owner on possible renovations.

The municipality will be responsible for the water and lights account, excluding property rates.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The stipulations of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003) (MFMA);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018
- SCM Policy and Regulation;

FINANCIAL IMPLICATIONS

The estimated cost per annum is +-R410 000 which includes the ad hoc renovations if required and service account. The annual lease amount included is R270 000.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Corporate Services

None

Director: Community Services

None

Director: Financial Services

In terms of the SCM Policy, the lease of the building will be by means of a deviation as it is impractical to follow a procurement process as the office space in town which can meet the requirements of the municipality, is limited. The municipality has contacted the local estate agents to indicate potential places of which the Wolvaardt building was the most suitable.

Before the incident, the finance department was in the process of finalizing the lease of an office container for SCM. The department has entered into negotiations with the successful bidder to cancel the tender. The budgetary funds of R180 000 can then be made available towards the lease of the Wolvaardt Trust Building. The water and lights will be funded from the current provision of the main municipal building.

The renovations can be funded from property services for the maintenance of office buildings where an amount of R220 000 is available.

The remaining amount of R90 000 can be funded from the ICT software licences vote. This means that the planned implementation of the Adobe signature licences will not proceed until additional budget funds can be secured.

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Corporate and Financial Services Portfolio Committee meeting held on 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the Mayoral Committee recommends the leasing of office space by way of a competitive bidding process.

9.1.11

Item number A137. 31.10.2023

APPLICATION: ALIENATION OF A PORTION OF COMMONAGE LAND (between van Eeden- and Moolman streets), SWELLENDAM, ADJACENT TO ERF 1203, SWELLENDAM

Municipal Manager	A Vorster
Department	Corporate Services
Section	Property Administration
File Number	7/2/R

PURPOSE OF REPORT

To submit an application to purchase a portion of municipal land for residential development in Swellendam.

FACTS AND BACKGROUND

An application was received from Mr Hans J. Steyn, owner of Erf 1203, Swellendam, who already submitted the same application in 2019, but did not want to proceed at that stage.

The following decision was made by Council:

UNANIMOUSLY RESOLVED: Item A55/30/05/2019

1. *"that Council resolves that the land parcel, comprising approximately 3881m² of municipal commonage situated between Buitekant and van Eeden Streets, Swellendam, as depicted on the plan as per the annexure, and hereafter further referred to as "the development area" is not needed for the provision of a basic level of municipal services in terms of Section 14 of the Municipal Finance Management Act, 2003.*
2. *that the alienation of "the development area" as described in Paragraph 1 above to the applicant, Dr H Steyn, be approved in principle at a fair market related price to be determined by Council, subject to the following:*
 - a. *that public be invited to make comments or to lodge objections to the Council resolution relating to the proposed development and alienation of the "development area"; and*
 - b. *that two fair market related valuations be obtained for consideration by Council;*
 - 2.1.1 *that, after the Council has considered feedback from the community and has determined a reserve price on the land, the applicant be requested to submit a detailed proposal for consideration by Council;*
 - 2.1.2 *that the applicant be informed that the land will be offered for sale as unproclaimed and unserviced and that the purchaser will be responsible for the township establishment process, environmental impact assessment, biodiversity study and for the provision of all engineering infrastructure;*
 - 2.1.3 *that the applicant be informed that the following conditions will be applicable to the construction of engineering infrastructure:*
 - a. *All municipal services, including roads must be built to the standard set by the Director Infrastructure Services and the funding thereof must be done proportionality amongst the proposed new stands to be developed and must include the proposed six new full title stands of Erf 1504;*

- b. *The owner of Erf 1504 will not be exempted to make a financial contribution towards the new development, specifically for the establishment of the new road;*
- c. *The engineering infrastructure that will be required to make basic services available to the new stands must be installed and paid for by the successor in the procurement process of the land. The engineering infrastructure will consist of the:*
 - *Internal reticulation in front of the new stands;*
 - *The bulk link infrastructure that must connect the new internal reticulation with the backbone infrastructure;*
 - *The developer and /or applicant will also pay a proportional contribution towards the bulk backbone infrastructure for the capacity allocation or creation towards these new stands."*

DISCUSSION

Mr Steyn wants to buy the mentioned portion (3881 square metres) of municipal land to upgrade the street, that service his property on Erf 1203. It is still a gravel road and his only access. He wants to create a private establishment, with a private road (*extension of Moolman Street*), to serve his existing three units and the newly development on portion G, as indicated on the attached map.

A servitude will also be registered for the municipality to have access to the bulk services on portion G.

Find the applicable documents on **pages 125 to 126 of the Annexures.**

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The provisions of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

According to the resolution.

COMMENTS FROM DEPARTMENTS

Corporate Services

Town Planning & Building Control – Mr R. Brunings

The previous decision was taken some 4 years ago. The process was then subject to considerable further discussion between Mr Steyn and the Administration, particularly Infrastructure Services. The project was not taken further given the cost and servicing implications, these issues remain. Notwithstanding, the proposal cannot be supported in its current format, from a land use perspective, for 2 key reasons; 1. The proposal will cut off future municipal access to the balance of Remainder Erf 1 from both Moolman and Van Eeden St for potential residential development, 2. We need to have further detail as to what is proposal on the property, given its location. Finally, and as was discussed at length with the applicant previously, Mr Steyn continues to utilise a portion of Remainder Erf 1 in an unauthorised manner to access his units. He was advised at the time that this needs to be addressed, this is yet to be done.

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

Selling a portion of Erf 1 in that location will essentially block and close the road reserve on the edge of the developed part of town in order to create a private estate with no development possibilities further down.

The Council decision stated seems to speak to an extension of a road reserve to service a single erf with multiple dwellings that should not have been constructed in that way in the first place.

It is still a very different decision than to buy the land to create a private estate.

For the purpose of protecting and reserving access to the outlying parts of Erf 1, the proposal is not supported.

Municipal Manager

The application is not supported due to the reasons provided by Town Planning and the Infrastructure Department.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the application by Mr Hans J. Steyn to purchase a portion of municipal land approximately 3881 m² of municipal commonage situated between Buitekant and van Eeden

Streets, Swellendam be **REFERRED BACK** for further discussion with Mr Steyn to provide Council with more information regarding his development plans on the property.

9.1.12

Item number A138. 31.10.2023

TENDER NO: SM-T31/14-15 – AMENDMENT OF AGREEMENT_ RENTAL FOR RUBBISH DUMPSITES FARM RIETFontein INFANTA (ERF 140,141 AND 201) AND FARM MELKHOUTRIVIER PORTION 1 OF THE FARM 492

Report by the Director Financial Services: Ms. E. Wasserman

Department Financial Services
Section Supply Chain Management
File number 8/2

PURPOSE OF REPORT

To inform Council in terms of a proposed amendment of the existing agreements between Swellendam Municipality and Mr. J. Kemp and T. Sedgwick Holdings (Pty) Ltd.

FACTS AND BACKGROUND

Tender SM-T31/14-15 was awarded to Mr. J. Kemp and T. Sedgwick Holdings (Pty) Ltd as per the below table for the period from 01 November 2014 to 31 October 2017.

Name of suppliers	Description
Mr. J. Kemp	Refuse dumpsite: Farm, Melkhoutrivier, Portion 1 of the farm 492
T. Sedgwick Holdings (Pty) Ltd	Refuse dumpsite: Farm Rietfontein, Infanta (erf 140,141 and 201)

The agreement was amended for a further period from 01 November 2017 to 31 October 2020. The agreement was again amended from 01 November 2020 to 31 October 2023. Both these amendments were done by following Section 116(3) of the MFMA.

A request was received from the user department for the amendment of the agreement for a further period of 3 years from 01 November 2023 to 31 October 2026.

The reason(s) for the amendment of this Service Level Agreement are as follows:

- The Service Providers are the owners of the land and the only Service Providers of a licensed landfill site in the area.
- Service delivery to the community is of the outmost importance.

LEGAL IMPLICATIONS

In terms of section 116(3) of the Municipal Finance Management Act the following needs to be followed when amending a contract which was procured through a supply chain management policy:

A contract or agreement procured through the supply chain management policy of the municipality or municipal entity 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 or, in the case of a municipal entity, in the council of its parent 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.

Notices about the proposed amendment was placed in the Langeberg Bulletin and on the municipal website on Thursday, 08 June 2023. To date no representations were received. Please note that the closing date and time was Friday, 30 June 2023 at 12:00.

FINANCIAL IMPLICATIONS

The total estimated cost for this amendment is R1,725,547.46 (Net) as per the below table.

Description	Price per month (NET)	Total cost Year 1 (NET)	Total cost Year 2 (NET)	Total cost Year 3 (NET)	Total cost over three (3) year contract period
Mr. J. Kemp					
Rental	9,243.85	110,926.20	118,691.03	126,999.41	356,616.64
T. Sedgwick Holdings (Pty) Ltd					
Rental	14,725.53	176,706.38	187,308.76	198,547.28	562,562.42
Management and maintenance	21,107.35	253,288.23	268,485.52	284,594.65	806,368.40
Total Estimated Cost					1,725,547.46

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Corporate and Financial Services Portfolio Committee meeting held on 18 September 2023.

This item served on the Mayoral Committee meeting held on Tuesday, 10 October 2023.

RECOMMENDED TO COUNCIL

1. that the proposed amendment of the agreements between Swellendam Municipality and Mr. J. Kemp and T. Sedgwick Holdings (Pty) Ltd for the rental for rubbish dumpsites Farm Rietfontein Infanta (Erf 140,141 And 201) And Farm Melkhoutrivier Portion 1 of the Farm 492 for the period 01 November 2023 to 31 October 2026 to the estimated amount of R1,725,547.46 (Net), be noted by Council.

9.1.13

Item number A155. 31.10.2023

SUPPLY CHAIN MANAGEMENT MONTHLY REPORT – SEPTEMBER 2023

Report by the Director Financial Services:

Ms. E Wasserman

Department

Financial Services

Section

Supply Chain Management

File number

9/2/1/5

PURPOSE OF REPORT

The SCM monthly report is prepared to inform Council on key SCM monthly activities and adhere to the reporting requirements in terms of the Legislative Framework.

FACTS AND BACKGROUND

In terms of section 6 of the Supply Chain Management Regulations, Council has a responsibility to maintain oversight over the implementation of the Supply Chain Management Policy.

Section 36(2) of the Supply Chain Management Regulation requires that the accounting officer must record the reasons for any deviation from the procurement process and report it to the next council meeting.

DISCUSSION

The SCM monthly report for September 2023 is attached **on pages 126 to 133 of the Annexure** to enable the council to fulfil its oversight role. The report informs on the following matters:

- Procurement Statistics for the month
- Awards made above R 100 000 which was reported to National Treasury
- SCM deviations

There are no material problems with the implementation of SCM policy.

LEGAL IMPLICATIONS

- Municipal Finance Management Act, 2003
- Municipal Supply Chain Management Regulation, 2005
- Municipal Supply Chain Management Policy, 2022

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Corporate and Financial Services Portfolio meeting held on Tuesday, 17 October 2023.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that Council takes cognisance of the Supply Chain Management Report for September 2023 attached **on pages 1 to 8 of the Annexures.**

9.1.14

Item number A156. 31.10.2023

SECTION 52 OBJECTIONS – GENERAL VALUATION ROLL – 2023-2028

Report of the Director: Financial Services

E. Wassermann

Department:

Financial Services

File Number:

5/2/R

PURPOSE OF REPORT

The purpose of the report is to inform Council on the outcome of the Section 52 Objections process of the new General Valuation Roll of 2023-2028. Attached **on pages 134 to 158 of the Annexures** is the close-out report on the objection process.

FACTS AND BACKGROUND

The new valuation roll was implemented from 1 July 2023, and the new property rates payable were billed on the July 2023 monthly accounts.

According to the Municipal Property Rates Act (MPRA), Section 31, for the purpose of a general valuation roll, the municipality must determine a date that may not be more than 12 months before the start of the financial year in which the valuation roll is to be first implemented.

The valuation roll was available for inspection from 13 February 2023 until 26 May 2023.

In terms of Section 50(4) of the Municipal Property Rates Act, a municipal council may also lodge an objection with the municipal manager concerned against any matter reflected in, or omitted from the roll.

The municipal manager must inform the council of any matter reflected in, or omitted from, the roll that affects the interest of the municipality.

DISCUSSION

A summary of the objections received are:

Number of Objections received:	321
Number of Categories changed:	32
Number of Values adjusted/inserted	132
Number of Values adjusted downwards	84
Number of Values adjusted upwards	46
Number of Properties omitted:	2
Number of Objections lodged by the municipality:	93

During the public participation process, the municipality has noted that there are discrepancies in the valuations for the INFANTA area. The municipality has therefore objected against the valuations. The total number of objections was 93.

The municipal valuer has submitted a list of the outcome of objection decisions, including Section 52 reviews, to the municipality on 24 July 2023.

Section 52 of the Municipal Property Rates Act further prescribes that If a municipal valuer adjusts the valuation of a property by more than 10% upwards or downwards:

- a) The municipal valuer must give written reasons to the municipal manager;
- b) The Valuation Appeal Board must review such decisions and either confirm, amend or revoke the decision in terms of Section 52(2)(a)+(b).

Number of Section 52 review adjustments: 76

In terms of Section 53 of the Municipal Property Rates Act an objector or owner of a property affected by an objection may request reasons for the outcome of the objection. Such reasons must be requested in writing from the municipal manager.

The municipal valuer must, within 30 days after receipt of such application for reasons, provide the reasons for the decisions to the applicant, in writing. Once an objector or owner requested reasons in terms of Section 53, the appeal period for that property gets "paused" by legislation.

Once the written reasons have been provided, the appeal period re-activates again and the owner/objector has 21 days from the date on which the reasons were provided, to appeal should he/she wish to do so.

Number of Appeals 27

The appeal period has been advertised and closed on 24 August 2023.

LEGAL IMPLICATIONS

Municipal Property Rates Act, No 6 of 2004 and Regulations.

FINANCIAL IMPLICATIONS

The estimate cost for the objections received and the appeal process is R75 000.

PERSONNEL IMPLICATIONS

None

COMMUNITY IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

See report.

Director: Infrastructure Services

None

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Tuesday, 17 October 2023.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that Council takes note of the Close Out Report on the new valuation roll objection process.
2. that Council takes note of the objections which were submitted by the Municipal Manager on the new general valuation roll of 2023-2028.

9.1.15

Item number A157. 31.10.2023

REPORT ON THE EXPIRY AND POSSIBLE RENEWAL OF THE SERVICE LEVEL AGREEMENT WITH THE LOWER BREEDE RIVER CONSERVANCY TRUST

Report by the Municipal Manager:

Ms A. Vorster

File number:

12/2/3/43

PURPOSE OF REPORT

To inform the Portfolio Committee of the expiry of the current tri-party service level agreement with the Lower Breede River Conservancy Trust on the 30th of June 2024 and that an Item will be presented to Council to recommend the renewal of the agreement for 3 years from 1 July 2024 till 30th June 2027.

BACKGROUND AND DISCUSSION

The Lower Breede River Conservancy Trust (LBRCT) manages the lower Breede River estuary in terms of a service level agreement concluded between them and the Municipalities of Swellendam and Hessequa. The agreement expires on 30 June 2024.

The Services the LBRCT renders inter alia are:

1. Registration and licensing of boats;
2. Management and protection of the estuary;
3. Law enforcement and implementation of Municipal By-laws;
4. Management of facilities for boats (Only on the Swellendam municipal side of the estuary)
5. Management agent for the operation and management of the Infanta, Moddergat and Malgas slipways. (Only on the Swellendam municipal side of the estuary in terms of an addendum to the current service level agreement between the two entities).

Challenges that are faced in terms of the management of the estuary are related to functions rendered by other state departments, examples thereof are the management of marine living resources and the night fish ban as it gravitates from the Marine Living Resources Act (No. 18 of 1998) (MLRA). Enforcement must be done by Fisheries Control Officers appointed by the Department of Agriculture Forestry, Fisheries and the Environment. Officials from the LBRCT have recently been appointed as Fisheries Control Officers which broadens their enforcement capacity to the benefit of the estuary. The LBRCT can also enforce municipal bylaws as their officials underwent peace officer's training and obtained the relevant designation from the two local authorities.

Both the Swellendam and Hessequa municipalities believe that the service level agreement with the Conservancy Trust should be renewed. Funding for the LBRCT is not a new item on the municipality's Operational Budget and a budget for the next financial year will be submitted during the budgeting process for consideration. This will ensure continued service delivery as none

of the municipalities at this stage has the capacity to manage the estuary with current staff and resources.

Supporting documents can be found **on pages 159 to 196 of the Annexures.**

LEGAL IMPLICATIONS

The new agreement must be in line with the legislative requirements in terms of the Municipal Finance Management Act, 2003 (Act 56 of 2003). It is a unique service that can only be delivered by a specialist service provider. The Lower Breede River Conservancy Trust at this stage is the only service provider that can provide the service, as it is situated in the Malagas/ Witsand area and is indeed the custodian of the lower Breede River and they can serve the two municipalities simultaneously. It would be impossible to render the service by two different organizations as the estuary cannot be subdivided. The LBRCT is a unique organization that protects the Breede River estuary and is familiar with the biodiversity of the area. They are already established with all the infrastructure to deliver the required service. Since the LBRCT is a non-profit service organization, the agreement is concluded in accordance with Section 67 of the Municipal Finance Management Act, 2003 (Act 56 of 2003), and the payment is dealt with as a donation.

The current LBRCT contract was correctly concluded and managed as a 'transfer payment' contract in terms of section 67 of the MFMA and not a procurement contract in terms of section 116 of the MFMA. The contract is legally defensible as it complies with the relevant Municipal By-laws on the management and use of rivers, section 67 of the MFMA, as well as the relevant Municipal Grant in Aid Policy.

FINANCIAL IMPLICATIONS

The budget for the current year is R 393 260 and the medium-term revenue and expenditure framework provides for the funding, plus on the Swellendam municipal budget an additional amount of R30, 000 for the management and operation of their public launch sites.

COMMENTS FROM DEPARTMENTS:

Director: Corporate Services

Director: Community Services

Director: Financial Services

Director: Infrastructure Services

Municipal Manager

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Tuesday, 17 October 2023.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that the Committee takes cognisance that an Item will be presented to Council to inter alia:
 - 1.1 approve that Swellendam Municipality can continue with the current tri-party service level agreement with the Lower Breede River Conservancy Trust and Hessequa Municipality.
 - 1.2. that Council confirms the continuation of the transfer payment arrangement and related contractual requirements as per the current service level agreement;
 - 1.3. that the abovementioned tri-party service level agreement be renewed for 3 years from 1 July 2024 until 30 June 2027.
 - 1.4. that the Council's resolution be made public.

9.1.16

Item number A158. 31.10.2023

FINANCIAL IMPLICATIONS OF CIVIL UNREST: AUGUST AND SEPTEMBER 2023

Report of the Municipal Manager:

A. Vorster

Department

Office of the Municipal Manager

File Number

5/14/2/2

PURPOSE OF REPORT

To inform Council of the financial impact thus far, related to the Civil Unrest of August and September 2023.

FACTS AND BACKGROUND

With the civil unrest of 16 August and 20 September 2023 two municipal buildings were burned down. Municipal operations needed to be restored. A SASRIA insurance claim has been registered on both damaged buildings. The claims are still being processed. Municipal operations had to be restored at high financial cost. Not all operations have been fully restored and thus not all expenses can thus in full be reported on. As operations are restored, cost will be reported on.

DISCUSSION

To date of 10 October 2023, the following cost have been incurred to restore operations:

Ad-Hoc Security	20 886.60
Cleaning	11 749.79
Communication (cell phones)	5 797.00
ICT Network and Equipment	440 875.18
Accommodation	1 500.00
Security Red-Ants	1 304 613.00
Signs	1 560.00
Stationery and office equipment	15 549.72
Telephone System	38 000.00
Total	1 840 531.29

The Municipality received support from George Municipality and the Western Cape Government in respect of office furnishings. Additional cost will have to be incurred going forward and will be reported on as it occurs. Indirect cost such as the various disciplinary hearings and investigations have not been included in the cost.

LEGAL IMPLICATIONS

- Municipal Finance Management Act, 56 of 2003

FINANCIAL IMPLICATIONS

R1 840 531.29 as of 10 October 2023.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

Expenses will be reported on as cost is incurred via the normal reporting processes.

COMMENTS FROM DEPARTMENTS

Municipal Manager

The expenses will have to be provisioned in the adjustments budget of Council.

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Tuesday, 17 October 2023.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

that Council takes note of the expenses relating to the civil unrest of August and September 2023 as of 10 October 2023.

9.1.17

Item number A161. 31.10.2023

SUPPLY CHAIN MANAGEMENT QUARTERLY REPORT – SEPTEMBER 2023

Report by the Director Financial Services:

Ms E Wasserman

Department

Financial Services

Section

Supply Chain Management

File number

9/2/1/5

PURPOSE OF REPORT

The SCM quarterly report is prepared to inform Council of the key SCM quarterly activities and adhere to the reporting requirements in terms of the Legislative Framework.

FACTS AND BACKGROUND

In terms of section 6 of the Supply Chain Management Regulations, Council has a responsibility to maintain oversight over the implementation of the Supply Chain Management Policy.

Section 36(2) of the Supply Chain Management Regulation requires that the accounting officer must record the reasons for any deviation from the procurement process and report it to the next council meeting.

DISCUSSION

The SCM quarterly report for September 2023 is attached **on pages 197 to 211 of the Annexures**, to enable the council to fulfil its oversight role. The report informs on the following matters:

- Procurement Statistics for the month
- Awards made above R 100 000 which were reported to National Treasury
- SCM deviations
- BBBE

There are no material problems with the implementation of the SCM policy.

LEGAL IMPLICATIONS

- Municipal Finance Management Act, 2003
- Municipal Supply Chain Management Regulation, 2005
- Municipal Supply Chain Management Policy, 2021

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Tuesday, 17 October 2023.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that Council takes cognisance of the Supply Chain Management Quarterly Report for September 2023 **attached on pages 72 to 86 of the Annexures.**

9.1.18

Item number A162. 31.10.2023

MONTHLY REPORT FOR AUGUST AND SEPTEMBER 2023

OFFICE OF THE MUNICIPAL MANAGER

Report by the Municipal Manager:

A. Vorster

Department:

Office of the Municipal Manager

File number:

2/13

ORGANISATIONAL DESIGN

The organisational design for Swellendam Municipality was drafted and is ready to be tabled to the Local Labour Forum and Council. After principle agreement at Council, the proposed organisational design will be consulted with the unions and staff. Final approval by Council will be in November/December 2023.

VACANCIES

The job evaluation outcome for the position of Barrydale Town Manager and the Chief Clerk for the Office of the Speaker has been finalised and the positions have been advertised.

The vacancy for Technical Director, has been re-advertised.

It should be noted that the immediate resignation of the Performance Officer at Swellendam was accepted on 29 September 2023. This position needs to be re-advertised soonest.

TEMPORARY APPOINTMENT

Ms J Etzebeth was appointed on a three-month contract as Manager Administration.

DISCIPLINARY PROCESSES

Councillors

A competitive bid invitation was put out for the investigation of possible transgressions of the Code of Conduct for Councillors. This bid will close on 13 October 2023.

Ward committee members

There are also three disciplinary investigations underway against ward committee members.

Staff

An investigator was appointed to investigate allegations against the Municipal Manager.

The following disciplinary investigations was mandated by the Municipal Manager:

- (i) Misconduct: Fuel cards – Fleet management (Disciplinary date set)
- (ii) Misconduct: Electricity losses – Electricity department (Charge sheet to be drafted)
- (iii) Misconduct: Environmental damage – Technical Department – underway
- (iv) Misconduct: Sick leave fraud: Office of the Municipal Manager – immediate resignation accepted
- (v) Misconduct: Poor work performance: Community Service – no grounds found

Employee health

After the initial riots and protest actions, mental health support was organised for all staff. Several staff members require continued support in this capacity and each at risk staff member was assigned a support official.

One staff member that was directly threatened with physical harm, was temporarily removed from his house to a place of safety.

Councillor safety

During the protest meetings, several councillors were removed from their homes for safekeeping in line with Council's Councillor Safety Plan. A threat assessment was formally requested on the Executive Mayor and Councillor A Bokwana. The outcome of these reports by Crime Intelligence is still awaited.

The Councillor Safety plan was also reviewed and tabled to Council in September 2023.

Red Ant security

With the riots on 16 August and again on 20 September 2023 the Red Ants were contracted to protect critical infrastructure as well as councillors and the Municipal Manager (16 August riots). The financial impact of these services will be reported in the presentation by the Municipal Manager to the MAYCO.

Office Space

A tender inviting bid for office space, has been invited. It will be closing on 6 October 2023. Temporary shared office space for staff was allocated in alternative buildings.

Insurance claims were submitted for the Municipal Head Office and Thusong Centre as well as other municipal buildings that were damaged in the riots of 16 August and September 2023.

Numerous staff members are working from home, until new office space can be found.

The burned Thusong Centre has been closed up to prevent unwanted visitors and further looting.

The burned down municipal building has condemned signage on it to prevent unauthorised entry.

Office furnishings

Salvaged office equipment was removed and cleaned and are currently being utilised by staff. The Municipal Manager requested assistance from the Department of Local Government and George Municipality for donations. The transfer of these approved donations will be received by 13 October 2023.

Communications network

The Municipality could not continue with the Telkom contract as Telkom was unable to respond to requests to restore communications. A new telephone network was contracted via a deviation and is in the process of being installed.

The ICT network has been repaired but is not operating at full capacity. Continued vandalism by the destruction and theft of communication cables is continuing to disrupt the services.

IDP outreaches

IDP outreaches were held in Swellendam's ward 1, Infanta and Malagas. The IDP meeting in Barrydale was cancelled and two meetings within this community was requested. The IDP meetings for Suurbraak were cancelled due to loadshedding and will take place on 10 October 2023.

Due to the ongoing riots the IDP meetings for wards 4, 5 and 6 were cancelled.

DCF meeting with Min P de Lille

In September the Municipal Manager attended a DCF meeting in Bredasdorp to engage with Min P de Lille on tourism development. It was agreed that the attendees will develop a stakeholder list of all tourism role players within their municipal jurisdiction for further engagements directly with the Minister.

JAPAN ADVENTURE TRAVEL WORLD SUMMIT: 11 TOT 14 SEPTEMBER

Swellendam Municipality paid R15 000 to partake in the Japan Adventure Travel World Summit, the largest adventure travel summit in the world, from 11 to 14 September. Swellendam was the only municipality in the Overberg to be included in this summit that brought exposure to tourism guides from Japan, Germany, Russia, Brazil, USA etc.

MUNICIPAL MANAGERS FORUM

The Municipal Manager attended the MM forum in Cape Town in August where best practices were shared amongst municipalities. The City of Cape Town indicated that they will, where possible, assist the Municipality with legal expertise.

FINANCIAL STATEMENTS

Due to the continued riots, the Municipality was not able to submit their Annual Financial Statements (AFS) by 30 August 2023. National Treasury provided an extension until 30 September 2023. The AFS were submitted on 30 September 2023. The CFO and her financial team should be commended and thanked for their commitment and hard work in getting the financial statements submitted. A reduced scope of the work to be audited is expected.

The performance report in terms of Section 46, submitted with the AFS, could, however not be submitted by 30 September 2023. This report was only submitted on 3 October 2023 due to the resignation of the Performance Officer and challenges with cross-referencing the accuracy of the report.

The Auditor-General has already commenced with their audit process.

HOUSING

Several meetings with the Department of Infrastructure took place on the procurement of emergency housing kits as well as further support for the servicing of the informal settlement of Matjoks.

The allocation of the Transnet roll-over has been approved and we are awaiting the gazetting of these funds at end of October 2023. The funding of R16 million requested for the upgrade of Eskom's network to accommodate the 950 Railton housing project in full, is still outstanding and could not be confirmed yet.

SALGA engagement

The Executive Mayor and Municipal Manager met with SALGA representatives in September 2023 and requested councillor training. This training has been scheduled to take place from 18 to 19 October 2023.

Ward committee training

Ward committee training is scheduled for 21 October 2023.

COGTA engagement

The Municipal Manager and CFO met with COGTA representatives on the complaint received from parliament member Windvogel. It was confirmed by COGTA that it is and has always been a requirement of COGTA that people who want to receive indigent support, must apply and qualify to receive such. The Municipality requested COGTA to put this in writing.

LEGAL MATTERS

The Municipality is engaged in several court cases on PIE and ESTA evictions. The Community Services Department represents the Municipality in court on these matters.

The Municipality is currently still negotiating a Service Level Agreement with the DYNARC developers on the Swellengrebel Mall.

The Municipality procured an interdict against 8 parties as a result of the September 2023 riots. The Municipality is also preparing damages claims against all parties involved in the riots and protest. The preliminary claim is estimated at R50 million.

There are several open police cases on the riots and protest meetings, while the Municipality is also working with the Special Investigation Unit on an investigation on possible terrorism, linked to the protest and riots in Swellendam.

DISASTER MANAGEMENT

In the last week in September heavy rainfall led to several road closures and flooding in the Overberg. Several homes in Malagas had to be evacuated and road closures took place. Daily Disaster Management meetings were attended by the Municipal Manager.

RIOTS AND SECURITY ISSUES

A full progress report on the riots and remedial actions taken, as well as progress made with each of these matters, is attached on **pages 212 to 220 of the Annexures**.

A Vorster

MUNICIPAL MANAGER

This item served on the Corporate and Financial Services Portfolio Committee meeting held on Tuesday, 17 October 2023.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that the monthly report for August and September 2023 of the Municipal Manager be noted.

2. that the Municipal Manager provides a detailed report on the total damage to the municipal buildings during the riots and public unrest together with detailed information on the insurance of the buildings and the progress of the insurance claims.

9.1.19

Item number A164. 31.10.2023

2023/2024 1st QUARTER AUDIT AND PERFORMANCE AUDIT COMMITTEE (APAC) FOR THE PERIOD ENDED 30 SEPTEMBER 2023 AND THE MINUTES OF THE APAC MEETING HELD ON 31 AUGUST 2023 AND 15 SEPTEMBER 2023 (SPECIAL APAC MEETING).

Report of the Senior Internal Auditor: Mr A Petersen

Department Municipal Manager

Section Internal Audit

Proposed File number 3/3/3/16

PURPOSE OF THE REPORT

The purpose of the report is to submit the 1st Quarter Audit and Performance Audit Committee Report and the minutes of the Committee meetings held on 31 August 2023 and 15 September 2023 (Special Audit and Performance Audit Committee Meeting) to Council for cognizance.

FACTS AND BACKGROUND

In terms of National Treasury's Circular 65 of 2003, the committee must on a quarterly basis report to the Council on the performance of their functions and duties, as well as the functions of the internal audit department. This circular has been amended in 2012, to adapt to the latest developments and expectations regarding internal audit and risk management.

DISCUSSION

Based on this Circular, the committee drafted its 1st quarterly report for the period ended 30 September 2023 and which is now being submitted to the Council for discussion and consideration.

Annexures on pages 221 to 240.

1. 2023/2024 1st Quarter Audit and Performance Audit Committee Report for the period ended 30 September 2023; and
2. Minutes of the Audit and Performance Audit Committee Meeting held on 31 August 2023 and 15 September 2023 (Special APAC meeting).

LEGAL IMPLICATIONS

Section 166 of the Municipal Finance Management Act No. 56 of 2003, requires every Municipality to establish and maintain an Audit Committee, as an independent appraisal function.

In terms of National Treasury's Circular 65 of 2003, the committee must on a quarterly basis report to the Council on the performance of their functions and duties and the functions of the internal audit department.

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED TO COUNCIL

1. that cognizance be taken of the 2023/2024 1st Quarter Audit and Performance Audit Committee Report for the period ended 30 September 2023; and
2. that cognizance be taken of the minutes of the Audit and Performance Audit Committee meetings held 31 August 2023 and 15 September 2023 (Special Audit and Performance Audit Committee Meeting).

RECOMMENDED TO COUNCIL

1. that cognizance be taken of the 2023/2024 1st Quarter Audit and Performance Audit Committee Report for the period ended 30 September 2023; and
2. that cognizance be taken of the minutes of the Audit and Performance Audit Committee meetings held 31 August 2023 and 15 September 2023 (Special Audit and Performance Audit Committee Meeting).

9.1.20

Item number A165. 31.10.2023

REPORT IN TERMS OF THE SDBIP – IMPLEMENTATION OF COUNCIL RESOLUTIONS: MUNICIPAL MANAGER

Report of the Municipal Manager: Mrs A. Vorster

Department Office of the Municipal Manager

Division Office of the Municipal Manager

File number 3/3/2/1

PURPOSE OF THE REPORT

In terms of the Service Delivery and Budget Implementation Plan as well as to measure the performance with regard to the implementation of Council Resolutions, a quarterly report is submitted. The resolutions are summarized in a schedule with the comments and actions taken.

The schedules for July 2023 to September 2023 **are attached on pages 241 to 262 of the Annexures.**

DISCUSSION

As under purpose of the report.

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that Council takes cognisance of the report on the implementation of Council Resolutions for the period July to September 2023.

9.1.21

Item number A166. 31.10.2023

COMPILATION OF A COUNCIL DISCIPLINARY COMMITTEE

Director: Corporate Services:

A. Vorster

Department:

Municipal Manager

Section:

Legal Services

File number:

3/3/3/1

PURPOSE OF REPORT

To submit a request for the re-compilation of a Disciplinary Committee for Councillors.

FACTS AND BACKGROUND

Swellendam Municipality approved a Disciplinary Committee per Council resolution Item A172/13/10/2022, taken on 13 October 2022. The Disciplinary Committee established comprises of the following persons:

Chairperson: Councillor F. Kees

Deputy Chairperson: Councillor G. Mangcu-Qotywe with alternate member: Councillor E.J. Lamprecht

Councillor J.A. Matthysen with alternate member: Councillor M.T.A. Swart

There are currently several investigations underway, whereby complaints have been lodged against several councillors, that at present form part of the Disciplinary Committee and thus it is necessary to revisit the compilation of the Disciplinary Committee.

DISCUSSION

The powers and functions of the Disciplinary Committee includes:

- Ensuring compilation of the Register of Financial Interest on an annual basis.
- The Committee must comply with the Code of Conduct for Councillors.
- The Committee must perform its functions and exercise its powers reasonably assigned to it by The Speaker of Council and in terms of resolutions taken in Council.
- The Committee shall meet as required and report to council on its activities or as and when the cases it investigates are concluded.
- The Chairperson shall have the power to convene special meeting of the Committee to consider urgent matters assigned to it.
- The Committee shall have the power to investigate and make a finding on any alleged breach of the Code of Conduct for Councillors and the Standing Rules in accordance with the procedure laid down in the Code of Conduct and Standing Rules of Council.
- The Committee shall have the power to make appropriate recommendations to Council in accordance with the Code of Conduct of Councillors.

PROCEDURES OF THE COMMITTEE

The meetings of the Disciplinary Committee must be held in closed session when the Committee considers a matter affecting a Councillor and the Committee regards that matter to be confidential.

A matter before the Committee is decided when there is agreement on the matter among the majority of the members present provided the quorum requirements are met.

In considering any matter assigned to it in terms of the conduct of councillors, the Committee must investigate the matter in accordance with the Code of Conduct for Councillors, any other applicable legislation and the Standing Rules of Council.

LEGAL IMPLICATIONS

- RSA Constitution, 1996 – as amended
- Local Government: Municipal Structures Act, No 117 of 1998
- Local Government: Municipal Systems Act No 32 of 2000 as amended
- Code of Conduct of Councillors
- Standing Rules of Council
- Rules of Order: Swellendam Municipality

FINANCIAL IMPLICATIONS

No fee is payable for the sitting of the committee members.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Services

None

Municipal Manager

As per the report.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

that Council revisits the compilation of the Disciplinary Committee.

9.1.22

Item number A167. 31.10.2023

CLOSING OF MUNICIPAL OFFICES FOR DECEMBER 2023

Report by the Senior Manager – Human Resources: Mr P. Le Roux

Department Corporate Services

Section Human Resources

Proposed File number 2/5

PURPOSE OF REPORT

To consider the closing of the municipal offices between Christmas and New Year.

FACTS AND BACKGROUND

Traditionally the municipal offices close between Christmas and New Year subject to the condition that employees must take leave for this period. Provision is made in the leave regulations for such closure. The closing of the offices does not affect essential and/or standby services.

DISCUSSION

None

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

Employees who would normally be on duty take leave for 3 (three) days;
Sufficient staff to be placed on standby duty to perform essential services.

COMMUNICATIONS IMPLICATIONS

The closing of the offices to be widely communicated to the public by means of advertisements in the local newspapers, social media platforms, the website and notices on notice boards along with a list of contact numbers for standby services.

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Service

None

Municipal Manager

Recommendation is supported.

This item served on the Mayoral Committee meeting held on Wednesday, 25 October 2023.

RECOMMENDED TO COUNCIL

1. that approval be granted for the closing of the municipal offices (excluding pay points / cashier's offices) for the period **27 - 29 December 2023**, on condition that all employees who would normally be on duty for the said period take **leave for 3 (three) days**.
2. that employees who perform essential services continue with their work and that sufficient staff be placed on standby duty for the said period.
3. that all **pay points / cashier's** offices be **open** for services from 27 – 29 December 2023 from **08:00 to 12:00** daily.
4. that all municipal offices **close** at **12:00** on **Friday, 22 December 2023**.
5. that **salaries** be paid out on **Monday, 18 December 2023**.
6. that the closing of the offices be widely communicated to the public by means of advertisements in the local newspapers, notices on notice boards along with a list of contact numbers for standby services as well as on social media platforms.

9.1.23

Item number A168. 31.10.2023

TENDER NO: TENDER NO: SMT33/17/18 – AMENDMENT OF AGREEMENT_PROVISION OF ICT SERVICES

Report by the Director Financial Services: Ms. E. Wasserman

Department	Financial Services
Section	Supply Chain Management
File number	8/2

PURPOSE OF REPORT

To inform Council in terms of a proposed amendment of the existing service level agreement with ICT Wize Group (Pty) Ltd for the Provision of ICT Services.

FACTS AND BACKGROUND

ICT Wize Group (Pty) Ltd has been appointed to provide ICT services at an estimated value of R2,800,000.00 for the period 01 July 2018 to 30 June 2021.

During May 2021 this agreement was amended in terms of 116(3) of the MFMA to be extended for a further period of three years until 30 June 2024. All the requirements were met and the item was already before Council for notification.

The recent riots by the community whereby the Municipal Head Office burnt down brought about many challenges, more specifically where the telephone system was compromised. After Telkom failed to promptly reinstate the telephone lines, the user department decided to cancel the agreement with Telkom. The agreement with ICT Wize Group (Pty) Ltd was amended to include a VOIP Telephone system for 150 users as per approved Memo No: 09/23/24.

A request was received to include telecom and additional internet services as and when required until **30 June 2024**. It should be noted that the municipality is currently in the process of putting out a tender for a new telephone system.

MOTIVATION FOR AMENDMENT

- The municipality is currently in the process of putting out a tender for a new telephone system. It would not be advantageous to conclude a new contract for 3 years with Telkom without following a procurement process.

- It is imperative that the telephone system remain online until a new tender process is concluded.

LEGAL IMPLICATIONS

In terms of section 116(3) of the Municipal Finance Management Act the following needs to be followed when amending a contract which was procured through a supply chain management policy:

A contract or agreement procured through the supply chain management policy of the municipality or municipal entity 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 or, in the case of a municipal entity, in the council of its parent 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.

Notices about the proposed amendment was placed in the Langeberg Bulletin and on the municipal website on Thursday, 14 September 2023. To date no representations were received. Please note that the closing date and time was **Friday, 06 October 2023 at 12:00.**

FINANCIAL IMPLICATIONS

The estimated cost for this amendment is R 400,000.00 (Incl. VAT)

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the proposed amendment of the agreement between Swellendam Municipality and ICT Wize Group (Pty) to include telecom and additional internet services as and when required until 30 June 2024 to the estimated amount of R400,000.00 (Incl. VAT), be noted by Council.

9.1.24

Item number A169. 31.10.2023

TENDER NO: SMT17-16-17 – AMENDMENT OF AGREEMENT_PRINTING, SORTING AND MAILING OF MUNICIPAL ACCOUNTS

Report by the Director of Financial Services: Ms. E. Wasserman

Department	Financial Services
Section	Supply Chain Management
File number	8/2

PURPOSE OF REPORT

To inform the Council in terms of a proposed amendment of the existing agreement between Swellendam Municipality and Cab Holdings (Pty) Ltd.

FACTS AND BACKGROUND

Cab Holdings (Pty) Ltd was appointed through a competitive bidding process on 27 March 2017 for the Printing, Sorting and Mailing of Municipal Accounts for the period from 01 July 2017 to 30 June 2020 at an estimated value of R2,146,365.04 (VAT inclusive).

The agreement was amended for a further 3 years from 01 July 2020 to 30 June 2023 by following Section 116(3) of the Municipal Finance Management Act.

The agreement was again amended for a 3-month period from 01 July 2023 to 30 September 2023.

A request was received to amend the contract for a further period from 01 October 2023 to 30 June 2024. The agreement was amended for a further 1-month period from 01 October 2023 to 31 October 2023 to provide enough time to conclude an MFMA Section 116(3) process.

MOTIVATION FOR AMENDMENT

In the light of the recent liquidity problems at the SA Postal Office, the municipality is exploring various other platforms on which monthly statements will be made available to the public.

The amendment is to provide the municipality with enough time to explore all possible solutions before following a new tender process.

LEGAL IMPLICATIONS

In terms of section 116(3) of the Municipal Finance Management Act the following needs to be followed when amending a contract which was procured through a supply chain management policy:

A contract or agreement procured through the supply chain management policy of the municipality or municipal entity 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 or, in the case of a municipal entity, in the council of its parent 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.

Notices about the proposed amendment was placed in the Langeberg Bulletin and on the municipal website on Thursday, 14 September 2023. To date no representations were received. Please note that the closing date and time was Friday, 06 October 2023 at 12:00.

FINANCIAL IMPLICATIONS

The total estimated cost for this amendment is R 600,000.00 (Incl. VAT).

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the proposed amendment of the agreement between Swellendam Municipality and Cab Holdings (Pty) Ltd for the Printing, Sorting and Mailing of Municipal Accounts for the period 01 November 2023 to 30 June 2024 to the estimated amount of R 600,000.00 (Incl. VAT), be noted by council.

9.1.25

Item number A170. 31.10.2023

TENDER NO: SMT27/17/18/BWRPD – AMENDMENT OF AGREEMENT_ PROVISION OF PROFESSIONAL SERVICES_SWELLENDAM BULK WATER RETICULATION, PURIFICATION AND DISTRIBUTION

Report by the Director Financial Services: Ms. E. Wasserman

Department	Financial Services
Section	Supply Chain Management
File number	8/2

PURPOSE OF REPORT

To inform Council in terms of a proposed amendment of the existing service level agreement with Element 2030 (Pty) Ltd for the Provision of Professional Services: Swellendam Bulk Water Reticulation, Purification, and Distribution.

FACTS AND BACKGROUND

Element 2030 (Pty) Ltd was appointed as a service provider for the Provision of Professional Services: Swellendam Bulk Water Reticulation, Purification, and Distribution to the Swellendam Municipality at an estimated value of R 739 082.00 (Incl. VAT) for the period from 01 July 2021 to 30 June 2024.

The agreement was previously amended by following an MFMA s116(3) process to increase the contract value by R2 949 750.00 (incl. VAT) and to extend the contract period from 01 July 2024 to 31 December 2024 with the option of renewal if the project is not completed.

The agreement was again amended to increase the indirect costs for Stage 5: Contract Administration & Inspections, by R 110 990.87 (Incl. VAT) by following an MFMA Circular 62 process.

A request was received from the user department to amend the agreement with Element 2030 (Pty) Ltd by increasing the contract value by **R4 262 458.96 (Incl. VAT)** due to additional funding received and to extend the contract for a further 3 years until **31 December 2027** with the option of renewal if the project is not completed.

MOTIVATION FOR AMENDMENT

The contract conditions as per paragraph 6 of the Agreement state that the appointment is subject to the application of grant funding, as well as the approval thereof. The agreement may be amended once grant funding is approved.

The Department of Local Government Municipal Infrastructure (MIG) approved the MIG project and the Department of Water and Sanitation approved the direct and indirect costs for the project.

The professional services fees (indirect costs) were included in the Technical Report for MIG, as well as the Business Plan for WSIG, which were approved by the respective grant funding authorities.

LEGAL IMPLICATIONS

In terms of section 116(3) of the Municipal Finance Management Act the following needs to be followed when amending a contract which was procured through a supply chain management policy:

A contract or agreement procured through the supply chain management policy of the municipality or municipal entity 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 or, in the case of a municipal entity, in the council of its parent 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.

Notices about the proposed amendment was placed in the Langeberg Bulletin and on the municipal website on Thursday, 14 September 2023. To date no representations were received. Please note that the closing date and time was **Friday, 06 October 2023 at 12:00.**

FINANCIAL IMPLICATIONS

The estimated cost for this amendment is R 4 262 458.96 (Incl. VAT)

- R 408 250.00 (Incl. VAT) – Bulk Reticulation (MIG/Own Funding)
- R 3 854 208.96 (Incl. VAT) – Bulk Reticulation (WSIG Funding)

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

There is no change in the scope of the original award, it is the quantities that are adjusted as grant funding is received. Element is the consulting engineer on the project.

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the proposed amendment of the agreement between Swellendam Municipality and Element 2030 (Pty) Ltd for the Provision Of Professional Services Swellendam Bulk Water Reticulation, Purification and Distribution to the total estimated amount of R8 062 281.83 (Incl. VAT), be noted by Council.
2. that Council further takes note that the contract period is to be amended for a further 3 years until 31 December 2027.

9.1.26

Item number A171. 31.10.2023

TENDER NO: SMT14/15/16 – AMENDMENT OF AGREEMENT_PROVISION OF PROFESSIONAL SERVICES: BARRYDALE BULK WATER INFRASTRUCTURE

Report by the Director Financial Services: Ms. E. Wasserman

Department	Financial Services
Section	Supply Chain Management
File number	8/2

PURPOSE OF REPORT

To inform Council of a proposed amendment of an agreement with Rowe Iliso Joint Venture (JV) for the Provision of Professional Services for the Barrydale Bulk Water Infrastructure.

FACTS AND BACKGROUND

Rowe Iliso Joint Venture (JV) was appointed on Tender SMT14/15/16: Provision of Professional Engineering Services and assigned for the Barrydale Bulk Water Infrastructure for a 3-year period at an estimated value of R3 109 991.77 (VAT incl.)

The agreement was previously amended by following Section 116(3) of the MFMA to extend the contract period until 30 June 2022 and increase the contract value with R114 218,00. This amendment was required in order to enable the municipality to apply for funding and implement the outstanding deliverables.

The agreement was again amended by following Section 116(3) of the MFMA to increase the contract value by R 3 499 901.95 (VAT inclusive) due to approval of project funding and to extend the contract period to 30 April 2024.

A request was received from the user department to amend the agreement with Rowe Iliso Joint Venture (JV) by increasing the contract value by **R 955,800.40 (Incl. VAT)** due to additional funding received and to extend the contract for a further period of three (3) years until **30 April 2027** with the option of renewal if the project is not completed.

MOTIVATION FOR AMENDMENT OF AGREEMENT

The Department of Water and Sanitation approved the project business plan for implementation through the Water Services Infrastructure Grant (WSIG). The project funding was published in the

DoRA for implementation in the 2021/2022 and 2022/2023 financial years, respectively, as a multi-year project.

National Treasury did a stoppage of funding in 2021/2022, hence the project scope was decreased accordingly. In the 2022/2023 financial year, WSIG provided additional funding for the project, hence the municipality was able to continue with part of the scope, as per approved business plan.

LEGAL IMPLICATIONS

In terms of section 116(3) of the Municipal Finance Management Act the following needs to be followed when amending a contract which was procured through a supply chain management policy:

A contract or agreement procured through the supply chain management policy of the municipality or municipal entity 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 or, in the case of a municipal entity, in the council of its parent 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.

Notices about the proposed amendment was placed in the Langeberg Bulletin and on the municipal website on Thursday, 14 September 2023. To date no representations were received. Please note that the closing date and time was **Friday, 06 October 2023 at 12:00**.

FINANCIAL IMPLICATIONS

The estimated cost for this amendment is R 955,800.40 (Incl. VAT).

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the proposed amendment of the agreement between Swellendam Municipality and Rowe Iliso Joint Venture (JV) for the Provision of Professional Services: Barrydale Bulk Water Infrastructure to the total estimated amount of R 7 679 912.12 (Incl. VAT), be noted by Council.
2. that Council further takes note that the contract is to be amended for a further 3 years until 30 April 2027 or until the current project is completed.

9.1.27

Item number A172. 31.10.2023

SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) AND PERFORMANCE QUARTERLY REPORT FOR PERIOD ENDED 30 SEPTEMBER 2023

Report of the Municipal Manager:

Mrs A Vorster

Department:

Municipal Manager

Section:

Performance Management

File number:

2/13

PURPOSE OF REPORT

The purpose of the report is to submit to Council the Service Delivery and Budget Implementation Plan (SDBIP) and Performance Quarterly Report for the quarter ended 30 September 2023.

FACTS AND BACKGROUND

In terms of Section 52(d) of the Municipal Finance Management Act, 56 of 2003, the Mayor must within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality. This report informs the council on a quarterly basis of the SDBIP and Budget.

DISCUSSION

The Top Layer SDBIP for the 2023/24 financial year was approved by the Executive Mayor in June 2023. The SDBIP was submitted to Provincial and National Treasury in both electronic and hard copy format. The SDBIP was also made public by placement on the website.

The Quarterly Budget Statement and Quarter SDBIP Report are **attached as on pages 263 to 318 of the Annexures.**

The key elements can graphically be presented as follows:

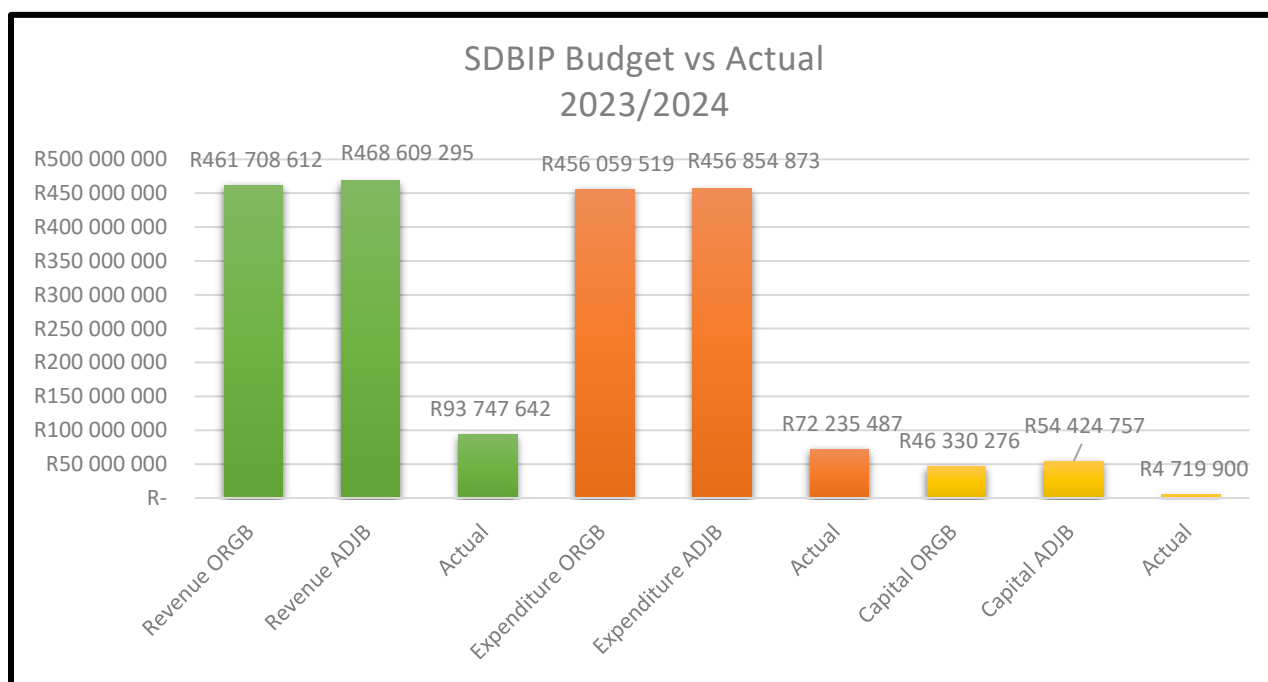
1. Implementation of Budget

For the first quarter, there are no material financial concerns. Electricity revenue reflects a positive deviation which can be attributed to the lesser load shedding experienced and a cold winter which resulted in higher consumption. Water revenue is slightly under budget due to the high rainfall during the winter.

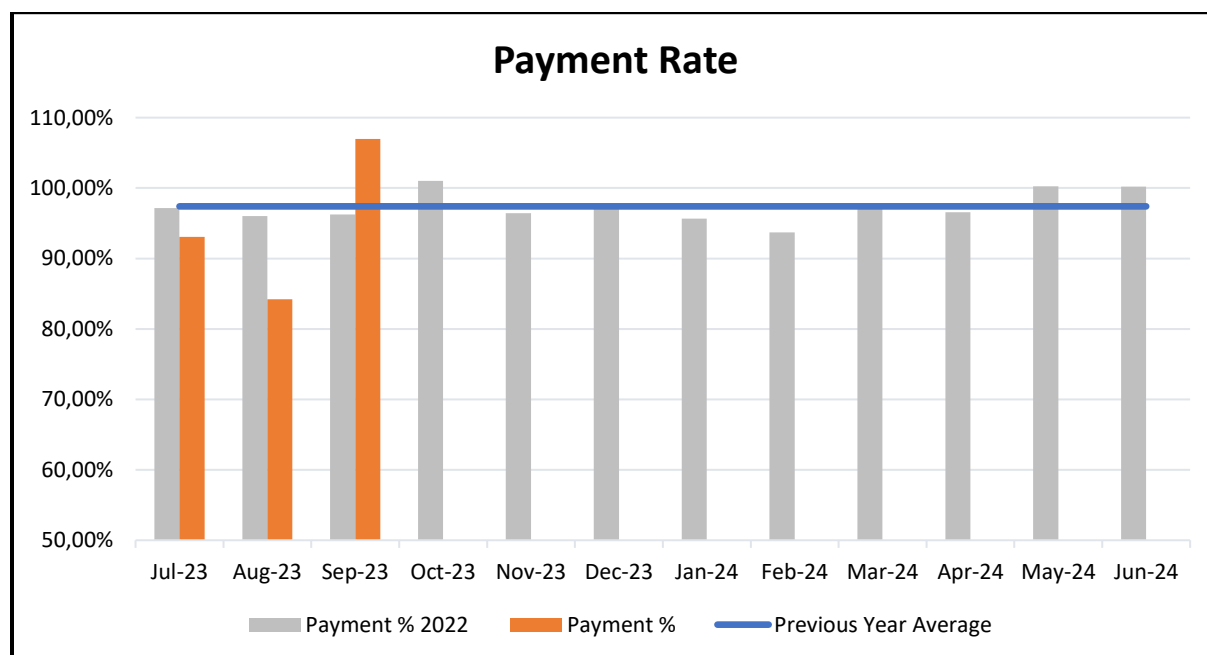
Traffic fines were not accrued for the quarter end which will be corrected by the end of October 2023. The housing development grant was not received as planned for the first quarter.

Low capital expenditure is normally planned for the first quarter to finalize the procurement process. Some processes were halted due to recent riots experienced. However, government grants have been spent in terms of the grant requirements. Currently, MIG expenditure is 48% of the grant received to date, and WSIG at 34%.

The municipality's cash and cash equivalents are stable at R119 million.



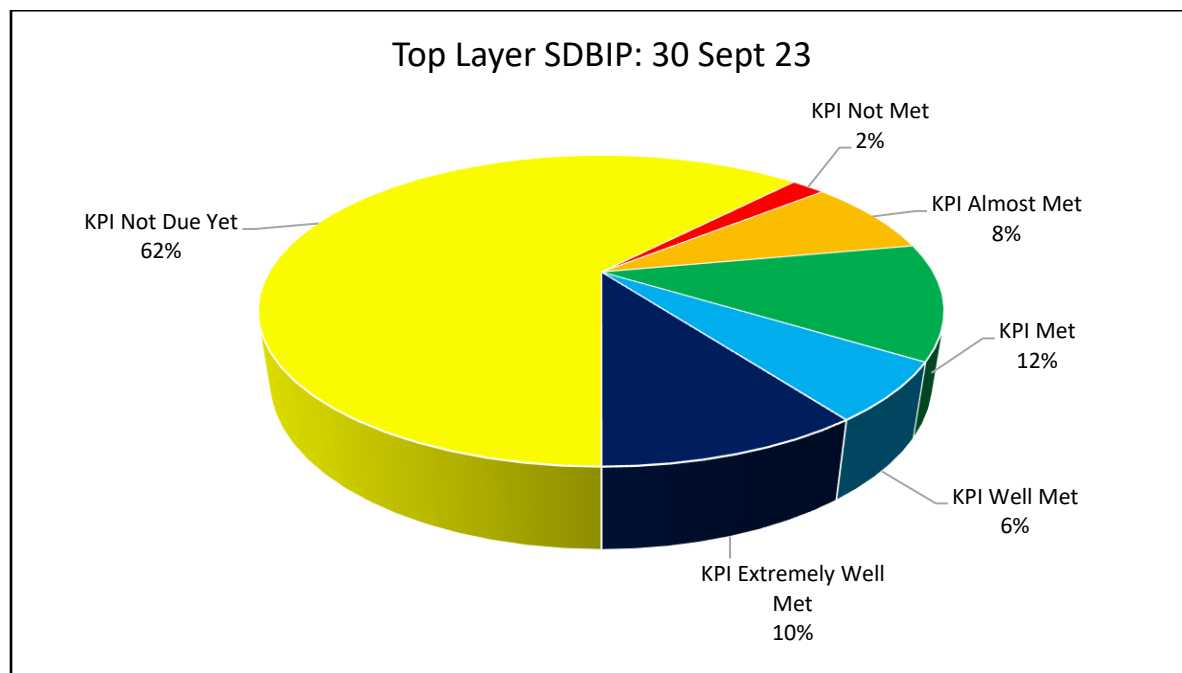
The payment rate remains under pressure with fluctuations as seen in the previous financial year. The National Government Rates account was not paid by 30 September 2023. Continuous follow-ups are made for the payment.



2. Implementation of Performance

The implementation of performance is graphically presented below. There were only two targets which were not met namely:

- TL25 - Achieve a debtor payment percentage of 95% by 30 June 2024 – Actual 93.7% - As provided above and in the report.
- TL30 - Limit quarterly vacancy rate to less than 10% of funded posts - Municipality busy with restructuring of the Organizational Structure. Some positions were kept vacant to complete the process first.
- TL33 - Spend 10% of the roads and stormwater maintenance (excluding general vehicles-streets) budget by 30 Sept 2023 – Actual 4.18% - Tender was advertised for road maintenance and reseal program. Once awarded the project will commence.
- TL35 - Spend 90% of the wastewater maintenance (excluding general vehicles-sewerage network and general vehicles sewerage administration) budget by 30 June 2024 – Maintenance work delay due to lengthy delivery period of parts.
- TL46 - 95% microbiological quality level achieved for water as per SANS 241 - Sample testing on the network was done after the cleaning of reservoirs resulting in some samples not meeting the minimum criteria.



LEGAL IMPLICATIONS

Section 52(d) of the MFMA;

FINANCIAL IMPLICATIONS

No direct financial implication.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

Comments on the municipality's financial position for quarter one is contained in the quarterly report.

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council takes cognizance of the 2023/24 Top Layer Service Delivery and Budget Implementation Plan (SDBIP) and Performance quarterly report for the quarter ended 30 September 2023.

Item number A173. 31.10.2023

SWELLENDAM MUNICIPALITY: IN-PRINCIPLE APPROVAL OF MICRO ORGANISATIONAL STRUCTURE.

Report by the Municipal Manager, Mrs A, Vorster

Department: Human Resources

File Number: 4/R

PURPOSE AND BACKGROUND

This project entails the review and design of the organisational structure at the Swellendam Municipality (hereafter "SDM") in accordance with legislative prescripts and specifically the Municipal Staff Regulations (hereafter "MSR"), promulgated as GN. R890, published in GG 45181 dated 20 September 2021, effective from 1 July 2022.

Legislative obligations require that a Municipal Manager review the organisational structures of the Municipality, guided by specific directives, and submit it to Council. In addition, the Municipal Staff Regulations requires a municipality to align its organisational structure to a functional operating model relating to its municipal service delivery mandates within its unique local circumstances.

The WC-DLG has commissioned AGITOMINDS (PTY) LTD, as service provider, in terms of WCG: DLG Bid Number: LG-01 2022-2023, which entails to Review & Design the Organisational Structures of four (4) different capacity municipalities according to the prototype structures proposed in the Municipal Staff Regulations.

The SDM requires this assistance with the alignment and review of its organisational structure because its new Council elected in November 2021 has adopted a 5-year Integrated Development Plan, as well as to align the structures with the requirements of the Municipal Staff Regulations mentioned supra.

SCOPE OF WORK AND PROJECT IMPLEMENTATION PLAN

Based on the project delivery requirements and the Scope of Work for this project, a work breakdown structure (WBS) and a comprehensive project implementation plan (PIP) were developed for project management purposes. The phases of the PIP are the following:

- a) Phase 1: Planning & Inception
- b) Phase 2: Assessing Current Status
- c) Phase 3: Design & Align Organisation Structures
- d) Phase 4: Project Change Management & Communication
- e) Phase 5: Implementation Support & Close-Out
- f) Phase 6: Project Management & Governance Meetings

DISCUSSION AND MOTIVATION

The review of the municipality's organisational structure is an important strategic objective. It is essential that the structure of a municipality is reviewed for effectiveness to ensure that it can deliver on its service delivery mandate.

Project Planning and Inception (Phase 1) for this intervention started on 20 January 2023 and was concluded on 17 February 2023. Essential information sets were requested on 26 January 2023 and the basic sets of information were received until 2 February 2023.

Executing Phase 2: Assessing Current Status, the service provider started by analysing the sets of information to prepare for engagements with municipal stakeholders. The information was analysed with the following in mind:

- a) To engage with stakeholders regarding the project's aims, approach, and methodologies and to answer any questions in this regard;
- b) To attain insight into the current functionality of the municipality's structure, roles and responsibilities and staff establishment;
- c) To gather statistical and other information of relevance to the project; and
- d) To solicit inputs regarding organisational anomalies and challenges in the current staff establishment.

Formal Analysis Interviews and focus groups were conducted from 3 to 13 April 2023. During the interview sessions with HOD's and managers additional information were requested, and these were received until 2 May 2023.

The Service Provider team analysed and examined these information sets in terms of legislative provisions, official strategy documents, current organisational functional configurations, key policy documents and relevant reports of current operations in each directorate. The objective was to determine and formulate focus areas in terms of which the current organisational structure of the SDM must be re-designed to improve its strategic ability to render services to its communities and to comply with the provisions of the MSR.

Phase 2: Assessing Current Status was concluded with the Current Organisational Structure Report (COSR), dated 12 May 2023, and submitted to the Municipal Manager.

Phase 3: Design & Align Organisational Structure commenced on 12 May 2023. This phase involved inter alia designing and developing macro and micro functional/ organisational structures and a proposed staff establishment. Statutory prescriptions, other key policy documents and reports were also scrutinised to ensure that the organisational structuring process is properly informed by legislative, institutional, functional and policy guidelines. The current SDM organisational structure, the assigned Constitutional powers and functions of the SDM, the IDP, SDBIP, budgets, annual reports, Auditor General's reports and various other relevant Council reports / policies were studied. Interviews sessions were held with the Executive Mayor, Restructuring Committee, Municipal Manager, Directors, and Managers / Functional Heads. Formal design interviews and focus groups were conducted from 12 June to 16 June 2023.

Best practices and benchmarks regarding functional structuring were studied and applied to collaboratively invent optimal solutions to identified problem areas. The legislative and strategic environment of local government and organisational design approach and principles, as described in the COSR of 12th May 2023, were applied in the design of the macro and micro-structures and staff establishment.

Subsequently draft macro and micro-structures versions were developed and discussed at various times with, amongst others, the Restructuring Committee (7 August 2023) and Senior Management Team (SMT) up to 10 October 2023. The First Draft Proposed micro-structure was submitted on 9 June 2023, the Second Draft Proposed micro-structure on 12 July 2023, the Third Draft Proposed micro-structure on 4 August 2023, the Fourth Draft Proposed micro-structure on 12 September 2023 and the Final Draft Proposed micro-structure on 10 October 2023. (Please see the attached PIP dated 25 October 2023 for reference - Annexure A)

The Final Draft Proposed micro-structure is hereby submitted to Council for In-Principle approval. A review period will follow during which relevant stakeholders, including organised labour, can comment on the Final Draft Proposed micro-structure.

PROPOSED MICRO-STRUCTURE

The Final Draft Proposed micro-structure dated 10 October 2023 is attached hereto (Annexure B). Also see Annexure C (SDM Proposed Staff Establishment - 10 October 2023), and Annexure D (New, Abolished, Major, Minor Changed posts - 10 October 2023).

Supporting documents attached on pages 319 to 380 of the Annexures.

FINANCIAL IMPLICATIONS

Please see the SDM Current vs Proposed Structure staff and cost comparisons dated 10 Oct 2023 (Annexure E).

The total cost of the Final Draft Proposed micro-structure (all posts) is costed (based on salary scale averages) at R147, 242,112 p/a, i.e., if all posts on the proposed structure should be filled immediately. This represents a 30,5% employee-costs ratio. This is well within the National Treasury's norm of 30% - 40%.

RECOMMENDED

that Council approves the final draft proposed micro organisational structure in-principle for further consultation with relevant stakeholders.

9.1.29

Item number A174. 31.10.2023

REQUEST TO COMMENCE WITH LAND USE PROCESS: ERF 7106 SWELLENDAM

Report by the Municipal Manager:

A. Vorster

Department:

Corporate Services

Section:

Property Administration

File number:

7/1/4/1

PURPOSE OF REPORT

- (i) To submit a request to commence with a land use process before the registration of the erf in the new owner's name.
- (ii) To request a 50% reduction in building plan fees.

FACTS AND BACKGROUND

Erf 7106 Swellendam was not needed for essential services and thus Council resolved to alienate the erf via a competitive bid process. Rotary Swellendam was awarded the bid at an amount of R86 250.00.

Rotary plans to establish a creche focused on early childhood development on said property and to later develop it further to serve as a community centre.

The erf is currently zoned as a Residential erf.

DISCUSSION

A public participation process was undertaken within the neighborhood to determine the need for an early childhood centre. The outcome indicated that there is a great need for an ECD in the area and thus this need was included in the IDP as part of ward-based planning.

Rotary Swellendam was awarded the tender, but it will take several months to complete the registration of the erf in the name of Rotary Swellendam. As the erf is still zoned as Residential, it needs to undergo a land use process to obtain the correct zoning. As Council is still the registered owner, Council must provide permission to commence said process, that must be for the cost of Rotary South Africa.

Simultaneously, Rotary Swellendam wishes to submit building plans for the ECD to save time. The building plans can be considered but will not be issued before the finalization of the land use process. Rotary Swellendam have requested that as the ECD will serve as a community project, if a 50% building plan fee subsidy could be awarded to them.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The Municipal Finance Management Act, 2003, (Act 56 of 2003) (MFMA);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.
- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018

- Building Regulations, RSA

FINANCIAL IMPLICATIONS

A 50% rebate on building fees

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS

Corporate Services

Manager: Town Planning & Building Control

None

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Services

None

Municipal Manager

As per the report.

RECOMMENDED

1. that Council provides permission that the land use process to establish an ECD facility on Erf 7106 Swellendam can commence for the cost of Rotary Swellendam.
2. that a 50% rebate be awarded to Rotary Swellendam in terms of building plan fees for the establishment of an ECD facility on Erf 7106 Swellendam.

9.2 Consideration of matters which require non-disclosure

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

6. Non-disclosure of Matters

- (1) Matters which require non-disclosure, must be marked as such in the agenda.
- (2) When such matters are to be considered, the speaker must direct that all members of the public leave the venue of the meeting.
- (3) Any member can prior to the commencement of the meetings, request the speaker to deal with a certain matter as a non-disclosed matter.

9.3 Consideration of urgent matters

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

7. Speaker may introduce urgent matters

The speaker may at any time and without notice make any statement or introduce urgent matters.

10 MINUTES OF COMMITTEES AND AD HOC COMMITTEES

The following minutes are distributed as a separate document for cognisance:

- 10.1 Minutes of an Ordinary Mayoral Committee meeting held on Wednesday, 21 June 2023.
- 10.2 Minutes of a continuation meeting of the Mayoral Committee held on Thursday, 22 June 2023.
- 10.3 Minutes of a Special Mayoral Committee meeting held on Monday, 04 September 2023.
- 10.4 Minutes of an Ordinary Mayoral Committee meeting held on Tuesday, 10 October 2023.

11 CONFIRMATION OF MINUTES

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

13. Minutes

- (1) The municipal manager must compile the minutes of the proceedings of meetings in printed form.
- (2) The minutes of a meeting must be confirmed by the council at the next meeting and signed by the speaker.
- (3) The minutes shall be taken as read, for the purpose of confirmation, if a copy thereof was sent to each member within a reasonable period before the next meeting.

The following minutes are distributed as a separate document for confirmation:

- 11.1 Minutes of a Hybrid In-Committee Special Council meeting held on Thursday, 21 September 2023.
- 11.2 Minutes of an Ordinary Council Meeting held on Friday, 29 September 2023.

12. MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

13(4). The speaker shall declare that the minutes are open for discussion as soon as the minutes are confirmed.

13. CONSIDERATION OF MATTERS OF EXIGENCY

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 7: RULES OF DEBATE

29. Matters of exigency

- (1) A member can prior to the commencement of a meeting direct the attention of the speaker to any matter which does not appear on the agenda and of which no previous notice has been given, for consideration during the meeting.
- (2) The speaker must use his own discretion to decide if the matter must be considered or not during the meeting in terms of subsection (3).
- (3) Urgent matters must be of such a nature that it will receive the approval of the council or that it will not elicit any discussion or only serve as information to members.

14. GENERAL

15. CLOSURE

16. NOTICE TO THE PUBLIC

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

8(4). The municipal manager must give notice to the public of the date, time and venue of every meeting by publishing a notice in a local newspaper determined by him or her, provided that he or she may depart from this requirement when time constraints make this impossible.

**MUNISIPALITEIT SWELLENDAM**

KENNISGEWING

Kennisgewing geskied hiermee in terme van Artikel 19 van die Wet op Plaaslike Regering: Wet op Munisipale Stelsels, 2000 (Wet 32 van 2000) dat 'n **Gewone Raadsvergadering** van die Swellendam Munisipale Raad soos volg geskeduleer is:

Datum: Dinsdag, 31 Oktober 2023.

Tyd: 10:00.

Plek: Raadsaal, Rhenius Street, Swellendam

A. VORSTER/MUNISIPALE BESTUURDER
Kennisgewing Nr: A51/2023

POSBUS 20, SWELLENDAM
6740

**SWELLENDAM MUNICIPALITY**

NOTICE

Notice is hereby given in terms of Section 19 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that an **Ordinary Council meeting** of the Municipal Council of Swellendam Municipality is scheduled as follows:

Date: Tuesday, 31 October 2023.

Time: 10:00.

Location: Council Chambers, Rhenius Straat, Swellendam

A. VORSTER/MUNICIPAL MANAGER
Notice no.: A51/2023

PO. BOX 20, SWELLENDAM
6740

SWELLENDAM MUNICIPALITY**APPLICATION FOR LEAVE OF ABSENCE FROM MEETING**

(Note: To be submitted to the Chairperson before the start of the meeting)

Name of Councillor

Herewith I apply for leave of absence from the following meeting(s):

MEETING	DATE
Council Meeting	
Special Council Meeting	
Executive Mayoral Committee Meeting	
Any other Committee/Forum/Workshop (Please specify)	
Reason for absence	

SIGNATURE

DATE