

COUNCIL MEETING AGENDA



To: Councillors: J.R. Van Schalkwyk (Speaker)
H.F. Du Rand (Executive Mayor)
E. J. Lamprecht
F. Kees
D. Julius
A. Bokwana
G. Libazi
J.A. Matthysen
M.T.A. Swart
D.J. Julius
I.H. Ferguson

Ex Officio: A. Vorster (Municipal Manager)
E. Wasserman (Director: Financial Services)
K. Stuurman (Director: Community Services)
W. Treurnicht (Acting: Director: Infrastructure Services)
R. Brunings (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, 30 January 2024** 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 in black ink, '26 January 2024', written over a horizontal line.

DATE

INDEX

	Item		Page
1.		OPENING AND WELCOME	4
2.		ELECTION OF CHAIRPERSON, IF NECESSARY	4
3.		APPLICATION FOR LEAVE OF ABSENCE	4
4.		MOTIONS OF JOY AND SORROW	5
5.		SPEECHES AND SUBMISSIONS	6
6.		STATEMENTS AND COMMUNICATIONS BY THE SPEAKER	6
7.		STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR	6
8.		DISCLOSURE OF INTERESTS BY COUNCILLORS	6
9.		MATTERS FOR CONSIDERATION	7
9.1		Items submitted by officials of Council	8
9.1.1	Item A1.	Supply Chain Management Monthly Report – December 2023	9
9.1.2	Item A2.	Amendment of Supply Chain Management Regulation for the 2023/2024 Financial Year	11
9.1.3	Item A3.	Supply Chain Management Quarterly Report – December 2023	15
9.1.4	Item A4.	Monthly Report of Municipal Manager: December 2023 and January 2024	17
9.1.5	Item A6.	Request for Nominations of Members to Serve on the Governing Board of the Breede-Olifants Catchment Management Agency (BOCMA)	20
9.1.6	Item A7.	Tender No: Smt15/22/23 – Amendment of Agreement_Supply Maintenance and Upgrading of Fire and Safety Equipment	22
9.1.7	Item A8.	Review of the Compilation of the Municipal Public Accounts Committee	25
9.1.8	Item A9.	Swellendam Golf Club: Request for Rebate on Municipal Account	28
9.1.9	Item A10.	Overberg District Municipalities – Co-Operative Agreement on Shared Services: Service Level Agreement (SLA)	31

9.1.10	Item A11.	Notice in Terms of Section 21 of the Local Government Municipal Demarcation Act, 1998, Act No.27 Of 1998	35
9.1.11	Item A12.	Report By Executive Mayor on Decisions Taken During Recess: December to January 2024	37
9.1.12	Item A13.	Sasria Insurance Claim Progress: Civil Unrest August and September 2023	39
9.1.13	Item A14.	Barrydale Sport Club Contract	41
9.1.14	Item A15.	2023/24 Mid-Year Budget and Performance Assessment for the Period 1 July 2023 to 31 December 2023	43
9.1.15	Item A16.	Service Delivery and Budget Implementation Plan (SDBIP) and Performance Quarterly Report for Period Ended 31 December 2023	46
9.1.16	Item A17.	2023/2024 Strategic and Operational Risk Register	50
9.1.17	Item A18.	Report on the Impact of the Implementation of the AARTO Act	53
9.1.18	Item A19.	Monthly Report: Water Services: October 2023: Water Resilience	58
9.2		Consideration of matters which require non-disclosure	61
9.2.1	Item AA1.	See In-Committee Council Agenda	Seperate Addendum
9.2.1	Item AA2.	See In-Committee Council Agenda	61
9.3		Consideration of urgent matters	61
10.		REPORTS OF COMMITTEES AND AD HOC COMMITTEES	61
11.		CONFIRMATION OF MINUTES	61
12.		MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING	62
13.		CONSIDERATION OF MATTERS OF EXIGENCY	62
14.		GENERAL	62
15.		CLOSURE	62
16.		NOTICE TO THE PUBLIC	62
17.		BLANK APPLICATION FOR LEAVE OF ABSENCE FORM	63

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 councillors 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 councillors 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 birthdays:

Donovan J. Julius	01 January
Agnes Bokwana	09 January
E. Wassermann	10 January
Frans Kees	02 February

4.2 Announcements of deaths by Municipal Manager

November - December 2023

SWELLENDAM	
Hester Petronella Theron	Swellendam
Jomondo Meyer	Swellendam
William Johannes Calits	Swellendam
Dirk Johannes Carolus	Swellendam
Jan Abrahams	Swellendam
Johandrè Dawid Temmers	Swellendam
Meinard William Van der Weide	Swellendam

Ronald Charles Van der Weide	Swellendam
Hans Johannes Jonkers	Swellendam
Evani Gxara	Swellendam
Dora Mbela	Swellendam
Delia Charmaine Oktober	Swellendam
Hannelie Abrams	Swellendam
Miena Pietersen	Swellendam
Redgy Donovan Witbooi	Swellendam
Petrus Elliot Van Niekerk	Swellendam
Julie Pietersen	Swellendam
Joan Pekeur	Swellendam
Pieter Gaffley	Swellendam
Rachel Hendrina Abrahams	Swellendam
Andrew Andries Booysen	Swellendam
Miena Pietersen	Swellendam
Pieter Edons	Swellendam
Hendrik Miggels	Swellendam
Philip Evertson	Swellendam
Martha Abrahams	Swellendam
Mazaphuke Ernest Fuma	Swellendam
John Jamale Semema	Swellendam
Dirk Fortuin	Swellendam
Jacobus Johannes Rossouw	Swellendam
Peter Pick	Swellendam
Andre Jonas	Swellendam
Sellwyn Grant Gertse	Swellendam
Ella Spetember	Swellendam
Willemina Johanna Claasen	Swellendam
Gertruida Baadjies	Swellendam
Herald Silberbauer	Swellendam
Paul Colson	Swellendam

5. SPEECHES AND SUBMISSIONS

None

6. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

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 raised 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 A1. 30.01.2024

SUPPLY CHAIN MANAGEMENT MONTHLY REPORT – DECEMBER 2023

Report by the Director Financial Services: Ms. E Wassermann

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 December 2023 is attached **on pages 1 to 7 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 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 Mayoral Committee meeting held on Wednesday, 24 January 2024.

RECOMMENDED TO COUNCIL

1. that Council takes cognisance of the Supply Chain Management Report for December 2023 attached **on pages 1 to 7 of the Annexures.**

9.1.2

Item number A2. 30.01.2023

AMENDMENT OF SUPPLY CHAIN MANAGEMENT REGULATION FOR THE 2023/2024 FINANCIAL YEAR

Report by the Director Financial Services: Ms. E Wasserman

Department Financial Services

Section Supply Chain Management

File number 8/2/B

PURPOSE OF REPORT

The report is to inform the Council of the amendments to the Supply Chain Regulations which must be implemented with immediate effect. The result is that the Supply Chain Management Policy (SCM) for 2023 must be amended to align with the new regulations. Linked to the SCM Policy a separate preferential procurement policy is required.

FACTS AND BACKGROUND

Before the issuing of the new procurement policy, the Provincial Treasury and information received from the Western Cape Audits, advised municipalities to have separate preferential procurement policies. In the municipality's case, the preferential part was included in one combined policy.

On 14 December 2023, the National Treasury circulated the amendments to the Municipal Supply Chain Management Regulations as gazetted in Government Gazette Notice 4198 Numbered 49863 to be implemented with immediate effect. The gazette is attached on **pages 8 to 10 of the Annexures**.

DISCUSSION

The main changes in the amended regulations are:

The range of procurement processes was amended as follows:

PROCUREMENT METHOD	PREVIOUS THRESHOLD	NEW THRESHOLD
Petty Cash Purchases	Where the transaction value is less than or equal to R2 000.	Remain the same
Written or Verbal Price Quotations	Where the estimated transaction value exceeds R2 000 and is less than or equal to R10 000.	Removed from regulations
Formal Written Price Quotations	Where the estimated transaction value exceeds R10 000 and is less than or equal to R200 000	Where the estimated transaction value exceeds R2 000 and is less than or equal to R300 000

Competitive Bids	Where the estimated transaction value exceeds R200 000, or for any contract exceeding one year in duration	Where the estimated transaction value exceeds R300 000
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Except for the amended procurement ranges, municipalities were advised to separate preferential procurement to allow for a stand-alone policy. The Preferential Procurement part included in the current SCM Policy was therefore removed and is submitted as a separate policy on **pages 11 to 25 of the Annexures**. The track changes to the policy are included on **pages 26 to 83 of the Annexures**.

Other minor changes were also made which is reflected in the SCM policy track changes document.

The impact of formal written quotations is that all the suppliers from quotations above R2000 need to complete the SCM MDB forms which are:

- MBD 4 – Declaration of Interest
- MBD 6.1 – Preference Points Schedule
- MBD 8 – Declaration of past supply chain performance
- MBD 9 – Independent Bid determination.
- Pricing Schedule and or quotation.

Secondly, this will increase the administration burden on SCM as a vast amount of quotations is between R2000 and R30 000 which must now meet the new SCM requirements. In the past, these requirements were only applicable above R30 000.

SMME Suppliers and Emergent Enterprises must now have BBBE certificates or affidavits to claim preference points for all procurements above R2000. In the past, this was only applicable above R30 000.

Since the implementation, SCM already experienced difficulties with suppliers who are unwilling to complete these documents for small procurement amounts. It is evident that it will become more difficult to procure which might lead to increased prices, limit the number of available suppliers and contribute to longer and or delays in the procurement of goods and services. This will result in more frustration by the public as it might affect response time by the municipality.

The municipality is currently investigating with other municipalities and the Provincial Treasury of the Western Cape to improve methods to simplify the new SCM requirements.

The SCM Unit plans sessions to invite small contractors, SMME's and emerging contractors to discuss the impact and the new SCM requirements.

LEGAL IMPLICATIONS

Non-compliance with the amended SCM Regulations

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

The regulations were unexpected and a surprise when gazetted on 14 December 2023. The new regulations' implementation date was with immediate effect. The SCM Unit had therefore no choice but to implement temporary arrangements with immediate effect to ensure compliance with the new regulations. The result will be procurement transactions from 14 December 2023 which will differ from the SCM Policy of 2023 as a result of the regulation amendments. This should not result in irregular expenditure as a policy cannot contradict a regulation.

However, to be transparent a separate report will be tabled to Council to take note of the procurement transactions from 14 December 2023 until the date of approval of the amended SCM Policy for 2023/2024, which differs from the 2023 SCM Policy implemented from 1 July 2023.

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Wednesday, 24 January 2024.

RECOMMENDED TO COUNCIL

1. that Council takes cognisance of the amendments to the Municipal Supply Chain Management Regulations, 2005;
2. that Council adopts the amended SCM Policy to be in line with the amended Municipal Supply Chain Management Regulations, 2005 attached on pages 8 to 65 of the Annexures.
3. that Council adopts the amended Preferential Procurement Policy attached on page 69 to 83 of the Annexures.
4. that Council make public the amended policies.
5. that an information session be held for small contractors, SMME's and emerging enterprises to explain the new SCM requirements.

6. that a separate report be tabled on the SCM transactions from 14 December 2023 until date of approval of the policies.

9.1.3

Item number A3 30.01.2024

SUPPLY CHAIN MANAGEMENT QUARTERLY REPORT – DECEMBER 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 the 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, the 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 Dec 2023 is attached **on pages 84 to 97 of the Annexures** to enable the council to fulfill 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.

Emerging Risks

On 14 December 2023, the Supply Chain Management Regulations were amended with immediate effect. The purpose of the amendment is to increase the procurement thresholds and delete the part of written and verbal quotations to be replaced with only formal written price quotations above R2000.00. This means that a formal process must now be followed to obtain quotations from R2000.00

This will have an impact on small SMME contractors to complete additional documents before they can provide quotations as well as for the municipality as it will result in an additional administrative burden and longer procurement processes to procure minor items.

A separate report will be tabled on the details of the new procurement regulation.

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 Mayoral Committee meeting held on Wednesday, 24 January 2024.

RECOMMENDED TO COUNCIL

1. that Council takes cognisance of the Supply Chain Management Quarterly Report for December 2023 attached **on pages 84 to 97 of the Annexures.**
2. that Council takes note of the emerging risks of the new procurement regulations as gazetted on 14 December 2023.

9.1.4

Item number A4. 30.01.2024

MONTHLY REPORT OF MUNICIPAL MANAGER: DECEMBER 2023 AND JANUARY 2024

AUDITOR-GENERAL

The annual audit undertaken by the Auditor-General is still underway. The audit report is delayed and is expected to be finalized in February 2024. This implies that the draft Annual Report will be delayed as it has to include the report by the Auditor-General. The delay in tabling the draft Annual Report has been reported to the Western Cape MEC for Local Government, COGTA and National Treasury.

SIU ACCOUNT

The Municipality received a notice to settle the outstanding Special Investigation Unit account of more than R1 million resulting from an investigation undertaken by the SIU in 2012. As this account is older than eleven years, it was requested that the amount be written off.

CIVIL UNREST

With warnings of civil protest to take place from 15 January 2024 onwards, the Municipal Manager instituted an internal business resilience task team to address the ongoing risk. Continuous monitoring via crime intelligence is taking place, with constant engagement of relevant law enforcement role players and internal staff.

TOURISM DEVELOPMENT

The Net for Pret Tourism Meander took place in Barrydale during December 2023, highlighting the indigent heritage of the area and contributing to social cohesion. A full report of the initiative will be tabled to the next meeting of the Corporate Services Portfolio.

Swellendam Municipality will take part in the Knysna Outdoor Adventure Tourism Show later this year and preparation is currently taking place to prepare marketing material in this respect.

A discussion with Drostdy Museum took place on 17 January 2024 to explore possible collaboration for a community festival in October 2024.

WATER RESTRICTIONS

Water restrictions level 1 still remains in place within Barrydale and Swellendam and will remain in place until the end of February 2024. No water shortages were experienced during the peak holiday period.

SECTION 30 NEMA TRANSGRESSIONS

Two Section 30 NEMA transgressions took place during December 2023 when sewerage spillage from the N2 pump station took place. Remedial action took place to address the spillage. An engagement with the Overberg District Municipality took place in December to discuss the remedial actions needed and to monitor the steps to be undertaken according to the Pre-Directive.

CAPITAL EXPENDITURE

Concern remains on the capital expenditure to December. Though the MIG expenditure is on track (72.2% to date), the overall expenditure of the capital budget is slower than expected. The

slow progress on the overall capital expenditure is due to the disruptions experienced due to the civil unrest that hampered the business operations and caused concerns about possible re-allocation of capital expenditure from own funds to cover the expenditure incurred due to the civil unrest. The changes in the national procurement regulations that were gazetted in December 2023, will also hamper the procurement process going forward.

In terms of mitigation on capital expenditure, monthly meetings on capital expenditure in terms of the procurement plan is held, with amended timelines, allowing for mitigation measures to ensure that the capital budget is spend in full.

An amendment of the SCM Policy and a separate Preferential Procurement Policy as required by the amended SCM Regulations will be tabled to Council in January 2024.

LOCAL ECONOMIC DEVELOPMENT

The Municipal Manager approached Cobra to provide community training to community members on basic plumbing skills. The aim of this training is to provide basic plumbing skills that will allow participants to operate their own basic plumbing business and also enhances participants' competitive edge in the labour market. Enhancing plumbing skills within the community also contributes in combatting leak detection and water losses in general. The target grouping for this training was community members affected by Gender Based Violence, parolees to be re-introduced into the community, early school drop outs and the general unemployed. The training took place from 15-19 January 2024 and 100 participants participated in this event.

LITIGATION

A motion of litigation was received on 19 January 2024 from Dynarc Capital to litigate in the Western Cape High Court on 2 February 2024. A senior attorney has been appointed to defend the motion in the High Court.

ERF 422 MALAGAS

Erf 422 Malagas was registered in the name of Swellendam Municipality in December 2023. A dispute was registered against the Municipality on a portion of Erf 422 Malagas from a neighbouring property owner and this will be tabled via a portfolio committee for Council consideration.

FILLING OF VACANCY: DIRECTOR: TECHNICAL SERVICES

During December 2023, the Directorship of the Technical Department, was allocated to Mr J Bester and Mr W Treurnicht alternatively to allow for leave accommodation. The interview to fill the vacancy took place in December 2023 and the Selection Panel will meet on 24 January 2024 to formulate a recommendation to Council.

STAFF COMPLEMENT

The Town Manager vacancy was filled in December 2023 and the official took office on 2 January 2024.

The Administrative Officer: Property Management resigned to be effective 31 January 2024. The PA to the Executive Mayor resigned to be effective 15 March 2024. The filling of the vacancies has been requested.

The Performance and Compliance Officer vacancy is in the process to be filled with the interviews to be conducted before the end of January 2024.

ORGANISATIONAL REVIEW

The organizational review is in the final phase with the final consultation with the Local Labour Forum to take place in February 2024, after which it will be tabled to the Council for final resolution.

A Vorster

MUNICIPAL MANAGER

This item served on the Mayoral Committee meeting held on Wednesday, 24 January 2024.

RECOMMENDED TO COUNCIL

1. that cognizance be taken of the monthly report of the Municipal Manager for December 2023 and January 2024.
2. that Council takes note that the tabling of the draft Annual Report will be delayed as it must include the Auditor General's report by the Auditor-General which is still underway and expected to be finalized in February 2024.
3. that cognizance be taken of a request made by the municipality to write off the outstanding amount of R1 million resulting from an investigation undertaken by the SIU in 2012.
4. that cognizance be taken that after warnings of civil protests, the Municipal Manager instituted an internal Business Resilience Task team to address the ongoing risk.
5. that cognizance be taken that the water restrictions within Barrydale and Swellendam will remain in place until the end of February and that notice will be sent out to the public.
6. that Council takes note that the Tourism Budget has been reduced from R1.2 million to R570 000 of which R50 000 remain after allocations have been made and that the positioning of Swellendam as an adventure destination should be prioritised.
7. that Council takes note of the two Section 30 NEMA transgressions that took place during December 2023 when sewerage spillage from the N2 pump station occurred whereafter remedial action took place to address the spillage. The Infrastructure Department was instructed to come up with an action plan to prevent future spillages and to monitor the steps to be undertaken according to the Pre-Directive which was issued.
8. that Council takes note of the MIG expenditure which is on track with 72.2% to date, however, the overall expenditure of the capital budget was slower than expected due to the disruptions experienced due to the civil unrest.
9. that cognizance be taken of the basic plumbing skills training presented by Cobra that took place from 15-19 January 2024 and 100 participants participated in this event and that the Municipal Manager be requested to follow this initiative up with similar opportunities in future.
10. that Council takes note that the municipality will proceed with a motion of litigation that was received on 19 January 2024 from Dynarc Capital to litigate in the Western Cape High Court on 2 February 2024.
11. that Council takes note that a recommendation by the Selection Panel for the filling of the vacancy of the Director Infrastructure Services will be tabled to Council.
12. that Council takes note of the finalization of the new organizational review that will take place in February 2024 after which it will be tabled to Council.

9.1.5

Item number A6. 24.01.2024

REQUEST FOR NOMINATIONS OF MEMBERS TO SERVE ON THE GOVERNING BOARD OF THE BREEDE-OLIFANTS CATCHMENT MANAGEMENT AGENCY (BOCMA)

Municipal Manager	A Vorster
Department	Municipal Manager
Section	Administrative Support
File Number	12/2/3/97

PURPOSE OF REPORT

To facilitate the nomination of 2 representatives (Councillors and officials) to serve on the Breede-Olifants Catchment Management Agency (BOCMA) as requested by the Department of Water and Sanitation in terms of Section 81(6) of the National Water Services Act, Act 36 of 1998.

Correspondence received from the Department of Water and Sanitation is attached on **page 98 of the Annexures.**

FACTS AND BACKGROUND

The Minister of Water and Sanitation has amalgamated the Berg-Olifants Proto-Catchment Management Agency(CMA) with the existing Breede-Gouritz CMA which is now the Breede - Olifants CMA (BOCMA) on 28 March 2023.

The purpose of establishing CMA's is to delegate water resource management to the regional or catchment level and to involve local communities, within the framework of the national water resource strategy established in terms of Chapter 2 of the Act. This strategy provides for the framework for the protection, use, development, conservation, management and control of water resources for the community as a whole as well as for the management of water resources at regional or catchment level.

DISCUSSION

The Minister has appointed the Advisory Committee (Selection Panel) to identify the organs of state and bodies representing the different sectors, water users and other interest groups for nomination for the Governing Board. Nominations were called by the Minister which closed on 2 November 2024 but the nominations received did not cover representation in terms of gender, geographical area and skills.

On 18 January 2024 the Department of Water and Sanitation has requested SALGA Western Cape as the identified sector to submit two nominations of suitably qualified persons from its local government sectors, which includes municipalities. Advising that this was a further extension of 2 weeks for nominations, SALGA encouraged Councillors and officials to apply, giving due regard for transformation and gender targets, geographical area and required skill sets.

Key competencies and the general criteria for assessing suitability are outlined in the Call for Nominations included in the **Annexures on pages 99 to 100.**

LEGAL IMPLICATIONS

The National Water Act, Act 36 of 1938.

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

Call for Nominations was published by the Department of Water and Sanitation.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

No further comment.

This item served on the Mayoral Committee meeting held on Wednesday, 24 January 2024.

RECOMMENDED TO COUNCIL

1. that the call for nominations for the appointment of board members to govern the Breede-Olifants Catchment management Agency received from the Department of Water and Sanitation, be noted;
2. that Council nominates two suitably qualified candidates to submit their applications to the Department of Water and Sanitation by 30 January 2024;
3. that it be noted that the final selection process will be conducted through the Department of Water and Sanitation.
4. that the Mayoral Committee nominates Alderman A. Franken to serve as a member of the Breede-Olifants Catchment Management Agency.

9.1.6

Item number A7. 30.01.2024

TENDER NO: SMT15/22/23 – AMENDMENT OF AGREEMENT_SUPPLY MAINTENANCE AND UPGRADING OF FIRE AND SAFETY EQUIPMENT

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 about of a proposed amendment of the existing agreement between Swellendam Municipality and Firewire System Solutions (Pty) Ltd.

FACTS AND BACKGROUND

Firewire System Solutions (Pty) Ltd was appointed through a competitive bidding process on 07 December 2022 for Supply Maintenance and Upgrading of Fire and Safety Equipment for the period from 01 January 2023 to 31 December 2025 at an estimated contract value of R248,173.32 (Incl. VAT).

The agreement was previously amended for the servicing of fire extinguishers for the 2022/2023 financial year at a value of R30, 095.50 (including VAT), which represents 12,13% of the original contract value.

A new request was received from the user department for the servicing of fire extinguishers for year 2 and year 3 of the contract as this was accidentally omitted in the tender request document.

MOTIVATION FOR THE AMENDMENT

- To include the annual basic servicing of fire extinguishers.
- The servicing of municipal fire extinguishers is a requirement as per Occupational Health and Safety Act of 1993 (OHSA) and SANS 10400.

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, 16 November 2023. To date no representations were received. Please note that the closing date and time was **Friday, 08 December 2023 at 11:00**

FINANCIAL IMPLICATIONS

The total estimated cost for this amendment is R 100,000.00 (Incl. VAT) for the duration of this contract, as per the rates in the below table:

Qty	Description	Unit Price (VAT Incl.)
1	1 kg DCP Fire Extinguisher - Service	109.25
1	1.5 kg DCP Fire Extinguisher - Service	109.25
1	2 kg CO2 Fire Extinguisher - Service	143.75
1	2.5 kg DCP Fire Extinguisher - Service	143.75
1	4.5 kg DCP Fire Extinguisher - Service	143.75
1	5 kg CO2 Fire Extinguisher - Service	143.75
1	9 kg DCP Fire Extinguisher - Service	143.75

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 Firewire System Solutions (Pty) Ltd for the Supply Maintenance and Upgrading of Fire and Safety Equipment to the estimated amount of R 100,000.00 (Incl. VAT), be noted by Council.

9.1.7

Item number A8. 30.01.2024

REVIEW OF THE COMPILATION OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

Report of the Municipal Manager: Mrs A Vorster

Department Office of the Municipal Manager

File number 3/3/3/1

PURPOSE OF REPORT

A request was received from the Speaker to re-consider the compilation of the MPAC.

FACTS AND BACKGROUND

The MPAC meeting compilation as per Council resolution A57/24/04/2023 is as follows:

1. that Councillor A.Bokwana be appointed as the Chairperson of the Municipal Public Accounts Committee (MPAC).
2. that Councillor D. Julius be appointed as the alternate member on the Municipal Public Accounts Committee (MPAC).
3. that Councillor J.A. Matthysen and Councillor D.J. Julius be appointed as members of the Municipal Public Accounts Committee (MPAC).

DISCUSSION

In accordance with the provisions of Section 79 (1) (a) and (b) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) (hereinafter referred to as the Structures Act), a municipality may establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers and appoint the members of such committee from among its members.

In terms of Section 79A of the Structures Act, it is compulsory for the Council to establish a Municipal Public Accounts Committee, (hereinafter referred to as the MPAC). Section 129 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), (hereinafter referred to as the MFMA), deals with the oversight report on the annual report and makes reference to an oversight committee that can assist council in dealing with the annual report.

The MPAC serves as an oversight committee to exercise oversight over the executive obligations of council. The MPAC will assist council to hold the executive to account, and to ensure the efficient and effective use of municipal resources. Also, the MPAC would help to increase council and public awareness of the financial and performance issues of the municipality.

Composition and Term

In terms of the MPAC Terms of Reference, Section 5.1 The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of

the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee.

5.2 The chairperson of the MPAC must be appointed by council in terms of Section 79 (2)(c) of the Structures Act.

5.3 The MPAC will comprise solely of councillors appointed by resolution of a council meeting.

5.4 The chairperson of MPAC shall be elected by Council.

5.5 Councillors serving on MPAC will be appointed for a term as approved by the Council. 5.6 If the chairperson of the MPAC is absent from a specific meeting of MPAC, the Deputy Chairperson will chair the meeting.

5.7 In accordance with section 79(1) (c), of the Structures Act, Council may dissolve the MPAC at any time.

5.8 In accordance with section 79(2) (e), of the Structures Act, Council may remove a member of the MPAC at any time.

LEGISLATIVE IMPLICATIONS

Constitution of RSA, 1996

Local Government: Municipal Structures Act, No 117 of 1998

MPAC: Terms of Reference, 2021

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council considers the compilation of the Municipal Public Accounts Committee as per the Speaker's request.

9.1.8

Item number A9. 30.1.2024

SWELLENDAM GOLF CLUB: REQUEST FOR REBATE ON MUNICIPAL ACCOUNT

Report prepared by: A. Vorster
Department: Municipal Manager
Section: Administrative Support
File number: 5/8/R

PURPOSE OF REPORT

To table a request for a rebate on their municipal account, received from the Swellendam Golf club, for consideration.

FACTS AND BACKGROUND

The Swellendam Golf club in a detailed motivation dated 19 January 2024, received from Mr. Guihan Groenewald, on behalf of the club, submitted a request that Council consider the following:

1. A rebate on the municipal account in respect of water and electricity consumption;
2. Financial assistance with the fencing of the property as they experience considerable damage to the course and greens caused by stray cattle of surrounding commonages;
3. Advice about sourcing funding/sponsorships from foundations, funding institutions etc.;

The above-mentioned letter is attached **on pages 101 to 105 of the Annexures.**

DISCUSSION

The Golf Club leases a portion of Erf 1, Swellendam, in extent 23ha from the municipality. The current lease agreement was concluded on 1 July 2014 and will expire on 30 May 2024. The rental amount is R100 per month, with a 10% annual escalation, currently totaling R271.14 per month.

The club is also billed for water (irrigation water), electricity, sewerage and refuse removal. The amount for water consumption averages from R8500.00 per month.

Sport clubs leasing sport facilities or portions thereof such as the Powell Kelly Stadium are responsible for water and sewerage cost per month, as per die annual municipal tariff, refuse removal is levied departmentally and is the responsibility of the municipality; metered water usage for irrigation is the responsibility of the municipality, and the clubs are responsible to purchase their own pre-paid electricity in terms of resolution B10/19/05/2021, as reflected below:

RESOLVED

Item B10/19/05/2021

1. *“that sports clubs leasing sport facilities from the municipality be responsible for the water and sewerage cost per month as per the municipal tariffs determined and approved with the annual budget.*
2. *that the clubs be responsible to purchase their own pre-paid electricity.*
 1. *that refuse removal be levied departmentally and be the responsibility of the municipality.*
 2. *that metered water usage for irrigation be levied departmentally and be the responsibility of the municipality.*

3. *that the new leases of the Rugby Clubs be with effect from 1 July 2021, and the lease amount be determined annually with the budget process.*
4. *that the lease amount be paid in advance for the year in July and should the club terminate their lease, during the year no pro-rata refunds be made.*
5. *that the principle in 6 above also be applied to all other sports clubs on expiry of their lease agreements;*
6. *that should a new club enter into a lease agreement during the year the lease amount be calculated pro-rata from the date of the lease agreement, whereafter it will be adjusted on the 1 July of each year per the approved tariffs.*
7. *that the determination of the water usage thresholds be re-considered and the water usage rates rather be managed by the relevant department. In the case of misuse, a penalty be imposed after the necessary processes have been followed with the club.*
8. *that the following proposed rental amounts for sports clubs be included in the annual tariff list during the annual budget for 2021/2022:*

<i>Clubhouse and sport facilities</i>	<i>2021/2022</i>
<i>Rugby Club</i>	<i>R500,00 / annum</i>
<i>Bowling Club</i>	<i>R500,00 / annum</i>
<i>Pigeon Club</i>	<i>R150,00 / annum</i>
<i>Netball Club</i>	<i>R250,00 / annum</i>
<i>Tennis Club</i>	<i>R250,00 / annum</i>
<i>Yoke Club</i>	<i>R250,00 / annum</i>

9. *that the rental amounts in 10 above be reviewed annually with the annual budget process.*
10. *that the current system of a 10% annual increase in rentals fall away and the lease agreements of the Rugby Clubs be amended according to the new system for rentals and service charges.*
11. *that all sports clubs be informed officially that they will start paying water and sewerage as from 1 July 2021."*

The above-mentioned resolution is not implemented in respect of the Swellendam Golf Club.

LEGAL IMPLICATIONS

Municipal Finance Management Act, 2003

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS

Corporate Services

Manager: Town Planning & Building Control

Not applicable

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Services

Not applicable

Municipal Manager

Though the rugby clubs receive irrigation water free, the extent of the water needed by the Gholf club, places a high financial burden on the Municipality and therefore a 50% rebate up to 30 June 2024 on irrigation water is suggested. The tariff should then be revisited during the 2024/25 budget compilation process.

RECOMMENDED

1. that the content of the letter dated 19 January 2024 regarding a request for a rebate on their municipal account as well as financial assistance with the fencing of the property received from the Swellendam Golf Club, be noted;
2. that Council express its appreciation toward the Swellendam Golf Club for their contribution to promoting the town as a tourism destination as well as their social investment;
3. that a rebate of 50% on the metered water usage for irrigation, be approved by Council;
4. that the request for financial assistance with the fencing of the property be not granted;
5. that the request for advice regarding funding/sponsorship opportunities be dealt with by the Municipal Manager's office.

9.1.9

Item number A10. 30.01.2024
OVERBERG DISTRICT MUNICIPALITIES – CO-OPERATIVE AGREEMENT ON SHARED SERVICES: SERVICE LEVEL AGREEMENT (SLA)

Report of the Municipal Manager: Ms A Vorster

Department	Municipal Manager
Section	Shared Service
File number	2/5

PURPOSE OF THE REPORT

The purpose of the report is to submit the Service Level Agreement (SLA) for the Shared Services arrangements between the Overberg District Municipalities for co-operative service delivery on various platforms to Council for cognizance and endorsement.

FACTS AND BACKGROUND

Due to limited resources within municipalities in the Overberg, there is a need to embark on a collaborative service level agreement. The agreement is intended to include the five municipalities in the Overberg, namely:

- Overberg District Municipality (ODM)
- Swellendam Local Municipality (SWE)
- Theewaterskloof Local Municipality (TWK)
- Cape Agulhas Local Municipality (CAM)
- Overstrand Local Municipality (OVER)

The proposed agreement would allow the Municipalities to provide support and operational services to each other in the following fields:

2.1 The parties record that this agreement is concluded in the spirit of cooperation, through provision of assistance to each other regarding public safety and public service delivery.

a. The said service areas will, *inter alia*, include assistance during;

- a. Protest actions;
- b. Taxi violence;
- c. VIP protection;
- d. Policing of illegal activities and businesses.

- e. Xenophobia.
- f. Disaster management.
- g. Land invasions;
- h. Proper protection;
- i. Traffic Specialized Municipal Law Enforcement - K9 Unit & LEAP Unit services
- j. Fire hazards;
- k. Service delivery areas as described in Part B of Schedule 4 and 5 of the
- l. Constitution
- m. Serving of Summonses/ Warrants
- n. Additional Court

b. This agreement shall be valid between all the other parties to the agreement.

DISCUSSION

The various municipalities have the powers and functions to provide a public service to its residents in terms of:

- (i)** Sections 156 and 229 of the Constitution;
- (ii)** Part B of Schedule 4 and 5 of the Constitution;
- (iii)** Section 83 of the Structures Act; and
- (iv)** Sections 6 and 9 of the Systems Act.

As the municipalities are geographically located close to one another and have agreed to support each other by sharing certain services resources amongst them, subject to the terms and conditions incorporated in the Service Level Agreement, it is proposed that Swellendam Municipality become a party to the agreement. This will allow the municipality to request assistance from the other municipalities where capacity is needed at a reduced rate, with faster response time and without having to follow a procurement process.

The proposed Service Level Agreement is attached as Addendum **on pages 106 to 128 of the Annexures.**

LEGAL IMPLICATIONS

Constitution of the Republic of South Africa, 1996
Local Government: Municipal Finance Management Act, No. 56 of 2003
Local Government: Municipal Systems Act, No. 32 of 2000
National Road Transport Act, Act 5 of 2009;
Transport Appeal Tribunal Act, Act 39 of 1998;
National Road Traffic Act, Act 93 of 1996;
Criminal Procedure Act, Act 51 of 1977;
Fire Brigade Services Act, Act 99 of 1987;
South African Police Services Act, Act 68 of 1995;
Firearms Control Act, Act 60 of 2000;
Legislation referred to in paragraph 1 (one) above;
Disaster Management Act;
Municipal legislation and By-Laws
The Constitution of the Republic of South Africa, Act 108 of 1996, especially section 41 of the said Act.
Public Administration Management Act (Act 11 of 2014)

FINANCIAL IMPLICATIONS

The borrowing municipality will be responsible for the operational cost. Services rendered by officials deployed as such will be charged at R250 per official per day. Travel cost and public liability and occupational health and safety insurance cost will be covered by the borrowing municipality. If the service is not used, there are no payments necessary.

PERSONNEL IMPLICATIONS

As per the agreement the borrowing municipality will take responsibility for the officials that are deployed to them for the applicable deployed period.

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

The recommendation is supported.

Director: Infrastructure Services

None

Municipal Manager

It is cost effective to make use of the shared services model.

RECOMMENDED TO COUNCIL

1. that Council approves the shared service option as contained in the attached Service Level Agreement to share resources in regard to the following services:
 - a) Protest actions;
 - b) Taxi violence;
 - c) VIP protection;
 - d) Policing of illegal activities and businesses.
 - e) Xenophobia.
 - f) Disaster management.
 - g) Land invasions;
 - h) Proper protection;
 - i) Traffic Specialized Municipal Law Enforcement - K9 Unit & LEAP Unit services
 - j) Fire hazards;
 - k) Service delivery areas as described in Part B of Schedule 4 & 5 of the
 - l) Constitution
 - m) Serving of Summonses/ Warrants
 - n) Additional Court

2. that the Municipal Manager be mandated to sign the Service Level Agreement and be mandated to represent the Municipality on the committee that oversees the implementation of the Shared Service, Service Level Agreement.

9.1.10

Item number A11. 30.01.2024

NOTICE IN TERMS OF SECTION 21 OF THE LOCAL GOVERNMENT MUNICIPAL DEMARCATION ACT, 1998, ACT NO.27 OF 1998

Report prepared by: A. Vorster
Department: Municipal Manager
Section: Administrative Support
File number: 12/2/2/59

PURPOSE OF REPORT

To table the Section 21 MDB Notice issued in terms of the Municipal Demarcation Act, 1998 by the Chairperson of the Municipal Demarcation Board (MDB) regarding the re-determination of the boundaries of municipalities listed in the Schedule contained in Provincial Gazette Extraordinary 8864 of 12 January 2024. Swellendam Local Municipality is one of the affected municipalities.

FACTS AND BACKGROUND

The MDB is mandated in terms of the Constitution to determine and re-determine municipal boundaries.

In terms of Section 21 of the Municipal Demarcation Act, the Board determines or re-determines a municipal boundary:

- On request of a municipality with the concurrence of any other municipality affected by the proposed determination or re-determination;
- On request by the National Minister responsible for Local Government;
- On request by an MEC for Local Government;
- On its own initiative.

DISCUSSION

The MDB has re-determined Swellendam Local Municipality's boundaries (WC034) by excluding portion 9 of Farm 457 from the municipal areas of Swellendam Local Municipality and Overberg District Municipality (DC03) and by including it into the municipal areas of Hessequa Local Municipality (WC042) and the Garden Route District Municipality (DC04)

The re-determined area is depicted on map number **DEM8262** on page 5 of the Provincial Gazette 8864 which is attached on **Pages 148 to 149 of the Annexures**.

Any person/organisation aggrieved by the re-determination may submit objections within 30 calendar days of publication of the Section 21 MDB Notice. (12/01/2024)

Objections must be based on the criteria provided for in Sections 24 and 25 of the Demarcation Act and must include the names and contact details of the person/organisation making representations.

The Demarcation Act is attached on **Pages 129 to 147 of the Annexures**.

LEGAL IMPLICATIONS

The Constitution of the RSA, 1996

The Local Government Municipal Demarcation Act, Act No. 27 of 1998.

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

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

The proposed amendment is supported by the Municipal administration.

RECOMMENDED

1. that the re-determination of Swellendam Local Municipality's municipal boundaries by excluding portion 9 of Farm 457 from the municipal areas of Swellendam Local Municipality (WC034) and Overberg District Municipality (DC03) and by including it into the municipal areas of Hessequa Local Municipality (WC042) and the Garden Route District Municipality (DC04) by the Municipal Demarcation Board as listed in the Section 21 MDB Notice dated 12 January 2024, Provincial Gazette Extraordinary 8864, be noted.
2. that it be noted that objections must be submitted within 30 calendar days of publication of the notice and must be based on the criteria provided for in Sections 24 and 25 of the Demarcation Act.

9.1.11

Item number A12. 30.01.2024

REPORT BY EXECUTIVE MAYOR ON DECISIONS TAKEN DURING RECESS: DECEMBER TO JANUARY 2024

Report of the Executive Mayor, Cllr Francois du Rand

Department Executive Mayor

Section Executive Mayor

File Number 2/5

PURPOSE OF THE REPORT

The purpose of the submission is to report on any decisions taken by the Executive Mayor, during the recess period of December to 15 January 2024.

FACTS AND BACKGROUND

Council was on recess for the period 11 December 2023 to 15 January 2024. During periods of recess, the Executive Mayor is delegated to exercise any power of the Council and/or its political structures, as well as designated powers, in consultation with the Municipal Manager or if the Municipal Manager is not available, the Acting Municipal Manager, Provided that:

- (a) the failure to exercise such power as a matter of urgency would have a substantial detrimental impact on the municipality and/or its services; and/or its people;
- (b) the delegation excludes the exercise of all powers reserved for Council in terms of Section 160 of the Constitution: Passing of By-Laws, Approval of Budget, Imposition of rates and taxes, Levies and Duties, raising of loans
- (c) where the public interest so demands, this power be exercised after consultation with as many members of the Mayoral Committee as reasonably possible.

"Recess" means the period determined by Council resolution when all councillors shall be on official leave and such period shall commence at 17h00 and shall terminate at 08h00 on the dates determined.

All resolutions taken by the EM during recess must be tabled at the next meeting of the Council for ratification.

DISCUSSION

No decision was taken by the Executive Mayor during the recess period of 11 December 2023 to 15 January 2024.

LEGAL IMPLICATIONS

Constitution of the Republic of South Africa, 1996
Local Government Municipal Structures Act, 117 of 1998
Local Government Municipal Systems Act, 32 of 2000
Local Government Municipal Finance Management Act, 56 of 2003
The delegations as per resolution A2374 dated 5 June 2013.

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Not applicable

RECOMMENDED

1. that Council note that no decision was made by the Executive Mayor as per his delegated powers during the recess period of 11 December 2023 to 15 January 2024.

9.1.12

Item number A13. 30.01.2024

SASRIA INSURANCE CLAIM PROGRESS: CIVIL UNREST AUGUST AND SEPTEMBER 2023

Report of the Municipal Manager	Anneleen Vorster
Department	Municipal Manager
Section	Finance
File Number	5/14/2/2

PURPOSE OF THE REPORT

The purpose of the submission is to report on the progress with the SASRIA claim for the damaged Thusong Service Centre and municipal administrative buildings in Swellendam.

FACTS AND BACKGROUND

Rioters caused the fire damage of the municipal administrative building and the Thusong Service Centre in August and September 2023. The insurance claims for both buildings were submitted to Swellendam Municipality's insurers and they referred the claim to SASRIA. SASRIA appointed a structural engineer, BVi Consulting Engineers, and the municipality also appointed a structural engineer as part of the processing of the claim.

An inspection by the structural engineers was undertaken on 23 and 24 November 2023 and a report was issued on their findings on 12 December 2023 as part of the insurance assessment.

DISCUSSION

Administrative Building

The structural report by BVi Consulting Engineers report recommended that the demolition and rebuilding of the severely damaged main section of the building is the best solution. The fire severely damaged about 70% of the brickwork and steel roof structure and roof covering, around the points of origin and there was direct heat exposure to about 70% of the beams and 10% of the external columns, in the main area of the building. The rest of the main building has severe smoke damage, mainly at head height level and above. The adjacent areas have extensive smoke and water damage. See attached report **on pages 150 to 174 of the Annexures.**

Thusong Service Centre

The fire destroyed the timber roof structure and severely damaged about 95% of the brickwork, around the point of origin. The heat severely affected the roof structure in the adjacent passage and also permeated through the openings in the roof level to the adjacent roofs, surrounding the point of origin, affecting mainly the insulation and finishes. The main hall roof at a higher level, only has one point where some smoke damage is visible.

Smoke infiltrated in the insulation and will remain even after cleaning and repair. Demolition of the fire affected areas, and walls that may become unstable as a result, is recommended.

See attached report **on pages 175 to 194 of the Annexures.**

The structural report was also supplied to the Provincial Government to inform the affected government departments.

A Quantity Surveyor is to be appointed by SASRIA to cost the damage and repair needed, before the claim can be further processed. An itemized inventory has been supplied by the municipality to SASRIA.

Municipal costs incurred remains as reported to Council as per the last report of the Municipal Manager.

LEGAL IMPLICATIONS

Constitution of the Republic of South Africa, 1996

Local Government Municipal Structures Act, 117 of 1998

Local Government Municipal Systems Act, 32 of 2000

Local Government Municipal Finance Management Act, 56 of 2003

FINANCIAL IMPLICATIONS

Determination by Quantity Surveyor to be used as baseline to determine further financial implications.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Not applicable

RECOMMENDED

1. that Council takes note of the progress report regarding the SASRIA claim for the Municipal administrative building and the Thusong Service Centre.

9.1.13

Item number A14. 30.01.2024

BARRYDALE SPORT CLUB CONTRACT

Report of the Municipal Manager

Anneleen Vorster

Department

Community Service

Section

Sport

File Number

17/6/1/2/1

PURPOSE OF THE REPORT

The purpose of the report is to inform Council of the conditions of the lease contract with Stryders Rugby Voetbal Club for the leasing of Erf 847 Barrydale.

FACTS AND BACKGROUND

Council concluded a lease agreement with Stryders Rugby Voetbal Club on 1 July 2021 for the leasing of erf 847 Barrydale for a period of five years at an annual lease amount of R500.00, payable in monthly installments.

The contract is attached for reference **on pages 195 to 206 of the Annexures.**

DISCUSSION

The Stryders Rugby Voetbal Club leases Erf 847 Barrydale, which includes the sport field, club house, ablutions and pavilion. They may not sub-let, without the prior permission of the municipality, and is also obligated to avail the facilities to other sporting codes as is agreed with them.

The Municipality provided permission to Stryders Rugby Voetbal Club to sub-let the premises to other sporting codes and to levy a basic fee to cover their cost. It is up to the club to manage the sub-leasing of the premises as they retain the overall responsibility for the club.

At present the facilities are not availed to any club as the municipality is preparing the facilities and field for a school zone athletics event, which will be held in Barrydale for the first time in years.

LEGAL IMPLICATIONS

Constitution of the Republic of South Africa, 1996
Local Government Municipal Structures Act, 117 of 1998
Local Government Municipal Systems Act, 32 of 2000
Local Government Municipal Finance Management Act, 56 of 2003

FINANCIAL IMPLICATIONS

All municipal expenditure at Erf 847 Barrydale must be included in the allocated budget. Capital expenditure must be prioritized via the IDP process.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Not applicable

RECOMMENDED

1. that Council notes the lease agreement conditions for Erf 847 Barrydale.

9.1.14

Item number A15. 30.01.2024

2023/24 MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT FOR THE PERIOD 1 JULY 2023 TO 31 DECEMBER 2023

Report by the Municipal Manager: Ms A Vorster

Department	Municipal Manager
Section	Developmental Services
File number	2/13

PURPOSE OF REPORT

To submit the Midyear Budget & Performance Assessment Report for 2023/2024 to Council for consideration.

FACTS AND BACKGROUND

In terms of Section 72 (1) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (hereinafter referred to as the MFMA), the accounting officer of a municipality must by 25 January of each year-

- a) Assess the performance of the municipality during the first half of the financial year, taking into account-
 - (i) The monthly statements referred to in section 71 for the first half of the financial year;
 - (ii) The municipality's service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the service delivery and budget implementation plan;
 - (iii) The past year's annual report, and progress on resolving problems identified in the annual report; and
 - (iv) The performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities; and
- (b) submit a report on such assessment to-
 - (i) the mayor of the municipality;
 - (ii) the National Treasury; and
 - (iii) the relevant provincial treasury.Thereafter, the mayor must, in terms of Section 54. (1)-
 - (a) Consider the report;
 - (b) Check whether the municipality's approved budget is implemented in accordance with the service delivery and budget implementation plan;
 - (c) Consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustment budget;
- (d) Issue any appropriate instructions to the accounting officer to ensure-
 - (i) That the budget is implemented in accordance with the service delivery and budget implementation plan; and
 - (ii) That spending of funds and revenue collection proceed in accordance with the budget;

- (e) Identify any financial problems facing the municipality, including any emerging or impending financial problems; and
- (f) Submit the report to the council by 31 January of each year.

DISCUSSION

The midyear report for 2023/24 will be tabled at the Council meeting of 31 January 2024. The Midyear Budget & Performance Assessment Report for 2023/2024 **is attached on pages 207 to 277 of the Annexures.**

LEGAL IMPLICATIONS

Municipal Finance Management Act, 2003 (Act 56 of 2003).

FINANCIAL IMPLICATIONS

It is necessary for an Adjustments Budget and to revise the revenue and expenditure as well as the SDBIP.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

The midyear report will be advertised in the local newspapers and on the municipal website and distributed to all municipal offices for scrutiny and comments.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

Based on the Mid-year assessment it is proposed that an adjustment budget be tabled in February 2024. This is mainly due to the increased expenditure incurred after the riots such as re-establishment cost and security, to account for the insurance claim and to address the decrease in revenue based on preliminary calculations as follows:

Revenue	Amount	Reason
Electricity Services Charges	R400 228	Increase revenue due to less load shedding.
Water Services Charges	(R3 000 000)	Consumption trends.
Sewerage Charges	(R722 000)	Industrial Effluent.
Property Rates:	(R962 000)	Objections and category changes

	R4 283 772	
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Although the capital expenditure is low at 23%, several awards were made of which the projects will commence in January 2024. These projects are:

- Railton 950 electrification – R4 544 623 and R2 173 913 – The project will commence by February 2024 to ensure completion by 30 June 2024;
- Landfill Site Bontebok Fencing – R4 781 030 – Project completed. Journal to be passed for donated asset expense on final completion certificate;
- Swellendam Bulk water – R1 599 000 – Second phase to commence end of January;
- Installation of Chlorination system WTW and WWTW – R2 698 050 – Await delivery end February 2024;
- Railton Street front sewers – R800 000 – Estimate completion end February 2024;
- Upgrade of Barrydale Water supply – R5 398 438 – Contract commences, in process;

Director: Infrastructure Services

None

Municipal Manager

Recommendation supported.

RECOMMENDED

1. that the Midyear Budget and Performance Assessment Report for 2023/24 be noted; and
2. that it be noted that an Amended Budget and a report on Revised Expenditure and Revenue will be tabled at the Council meeting scheduled for February 2024 together with the revised Service Delivery and Budget Implementation Plan (SDBIP).
3. that the Midyear Budget and Performance Assessment Report for 2023/24 be placed on the municipal website and submitted to the relevant authorities.

9.1.15

Item number A16. 30.01.2024

SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) AND PERFORMANCE QUARTERLY REPORT FOR PERIOD ENDED 31 DECEMBER 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 31 December 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 278 to 337 of the Annexures.**

The key elements can graphically be presented as follows:

1. Implementation of Budget

For the second quarter, the following are highlighted.

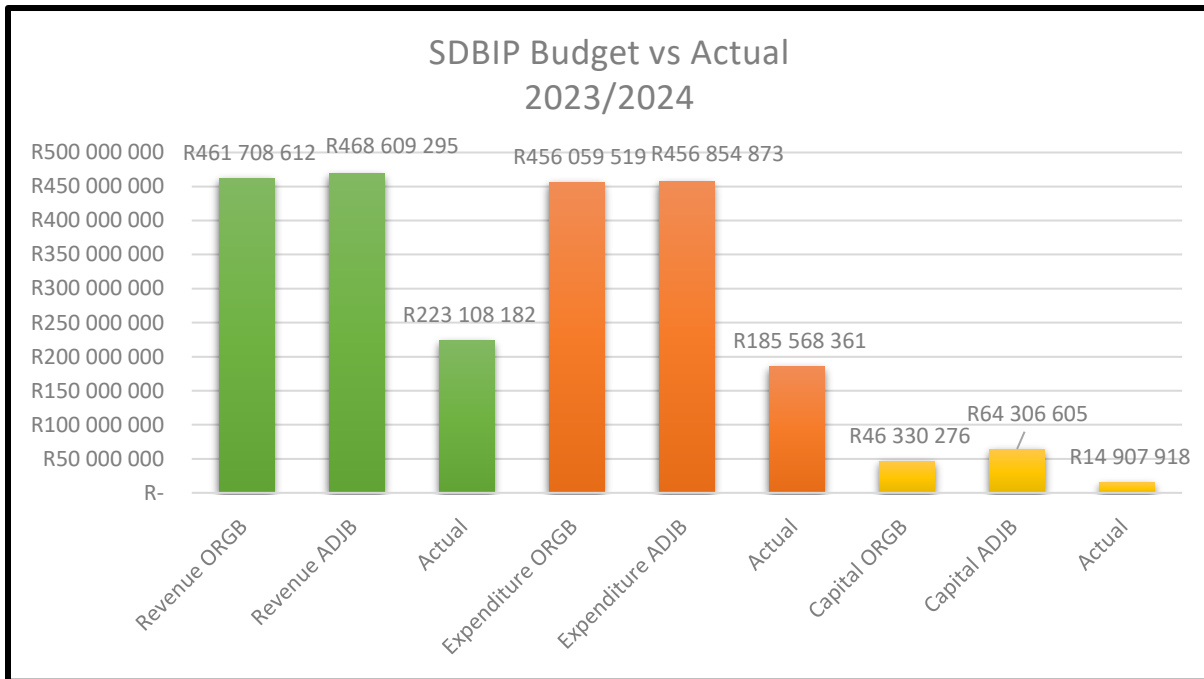
The total revenue excluding capital transfers and contributions for December 2023 is R50.2 million, with a year-to-date revenue of R212.4 million.

Property rates reflect at 52.1% of the budgeted amount, while the electricity amount raised represents 50.4% of the budgeted amount. The water revenue amount represents 43.3% of the budgeted amount and will have to be adjusted in the amendment budget.

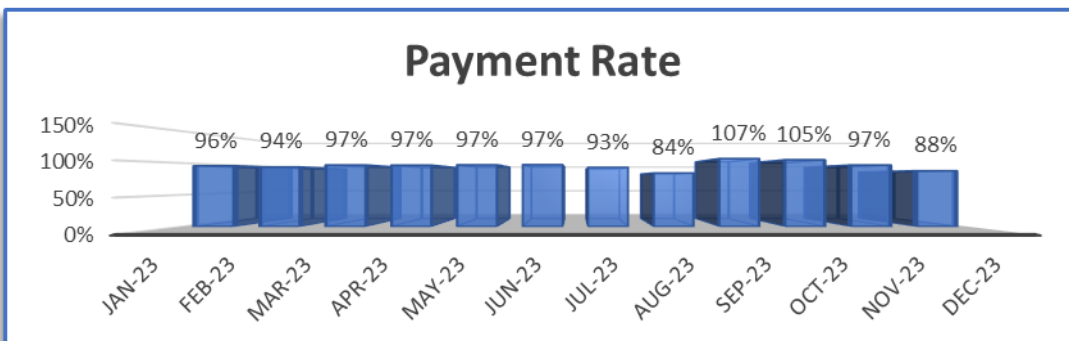
The operational revenue exceeds the budgeted amount due to additional operational funds being received. This will be amended in the amendment budget.

The total expenditure budget is R458.2 million and the year-to-date budget is R229.6 million. The budgeted amount for capital expenditure is R64.3 million of which R14.9 million has been expended to date, i.e. 23.2%. Capital commitments that amounts to R8 531 447.67 have been made and measures were implemented to improve capital expenditure.

The actual total cash available at 31 December 2023 amounts to R77.4 million. The liquidity ratio is 228:1, which means the Municipality can honour their short-term debt. The gearing ratio is 4%, while the payment percentage of debtors are at 87.87%.



The payment rate remains under pressure with fluctuations as seen in the previous financial year. The National Government Rates account was not paid by 31 December 2023. Continuous follow-ups are made for the payment.



2. Implementation of Performance

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

TL 27 – Achieve an unqualified audit for the 2022/23 financial year – the AG report is expected in February 2024.

TL33 – Spend 90% of the roads and stormwater maintenance budget by 2024 – contractor could not come on site in second quarter of the financial year. A total of R5.5 million will however be spent within February 2024.

TL35 – Spend 90% of the waste water maintenance budget by 30 June 2024 – Procurement process delayed – appointment to be made in February 2024.

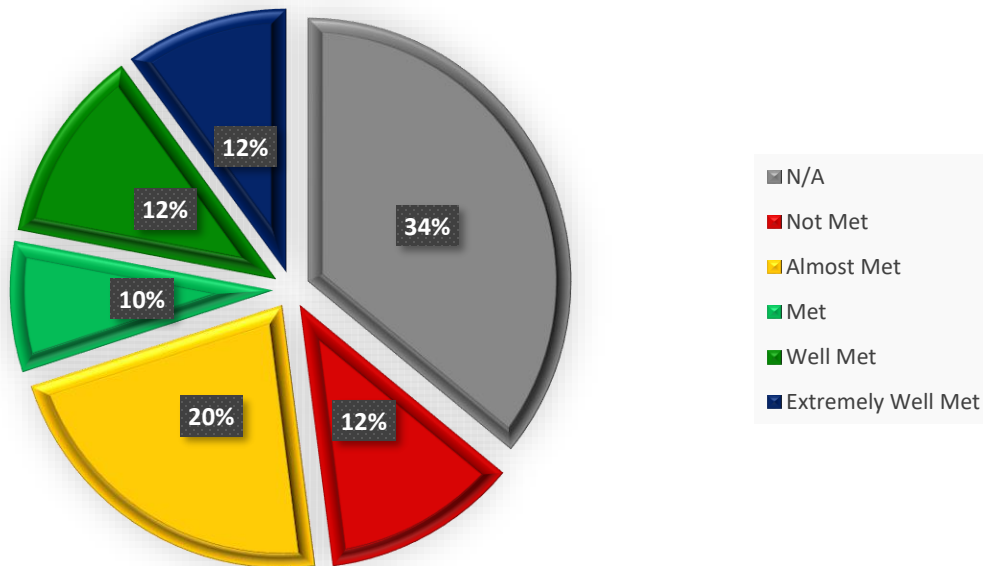
TL39 – Spend 95% of the capital budget allocated for the Railton Upgrading of Gravel Roads and Stormwater Phase 3 by 30 June 2024 – Project initiated on 18 January 2024 – survey, Geotech and design in progress

TL 40 – Spend 95% of the capital budget allocated for the rehabilitation of Van Riebeeck Street in Barrydale by 30 June 2024 – Design stage in progress. Tender document submitted to Bid Specification on 31 January 2024

TL 45 – Spend 95% of capital budget allocated for the rehabilitation of roads in Industrial area by 30 June 2024. - Design stage in progress. Tender document submitted to Bid Specification on 31 January 2024

The ten KPI's almost met is due to the amendment in the indigent policy, that will require an amendment of the SDBIP targets in February 2024.

Swellendam Municipality



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 two 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 31 December 2023.
2. that Council takes note of the report on the implementation of the budget and financial state of affairs of the municipality for the quarter ending December 2023, in terms of Section 52 (d) of the MFMA.

9.1.16

Item number A17. 30.01.2024

2023/2024 STRATEGIC AND OPERATIONAL RISK REGISTER

Office of the Municipal Manager

Department	Office of the Municipal Manager
Section	Risk Management
File number	3/3/3/16

PURPOSE OF REPORT

The purpose of the report is to submit the 2023/2024 Strategic and Operational Risk Register to Council for consideration and approval.

FACTS AND BACKGROUND

In order for the Municipal Manager to ensure that risk management is properly addressed, it is imperative to have a sound and updated Strategic and Operational Risk Register which record all the potential risks the municipality encounters. Additionally, on a quarterly basis, risk assessments are conducted with the various stakeholders to reassess the risks on the Strategic and Operational Risk Register.

DISCUSSION

2023/2024 STRATEGIC AND OPERATIONAL RISK REGISTER

The Strategic and Operational Risk Register is presented at the Fraud and Risk Management Committee on a quarterly basis. The Strategic and Operational Risk Register were tabled to the Fraud and Risk Management Committee on 29 November 2023, and will also be tabled to the Audit and Performance Audit Committee (APAC) on 11 December 2023 for review and comments.

The following 2023/24 Strategic and Operational Risk Register is hereby tabled for adoption:

- 2023/24 Strategic and Operational Risk Register

Annexures are attached as Annexure A:

1. 2023/2024 Strategic and Operational Risk Register

LEGAL IMPLICATIONS

In terms of section 62 of the Local Government: Municipal Finance Management Act 2003 [Act 56 of 2006] [MFMA] the Municipal Manager is responsible for managing the Municipality's financial administration. For this purpose, the Municipal Manager must take all reasonable steps to ensure, amongst others, that the Municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal control.

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 Public Accountc Committee meeting held on Tuesday, 12 December 2023.

RECOMMENDED TO COUNCIL

1. that cognizance be taken of the Strategic and Operational Risk Register for the 2023/24 financial year.
2. that Council highlights any risk that in their opinion, should be included, deleted or prioritized within the Risk Register.

9.1.17

Item number A18. 30.01.2024

REPORT ON THE IMPACT OF THE IMPLEMENTATION OF THE AARTO ACT

Section Community Services

File number 17/2/R

PURPOSE OF THE REPORT

To update Council on the latest on the implementation of the AARTO (Administrative Adjudication of Road Traffic Offences Act) and the effect it will have on Swellendam Local Municipality.

FACTS AND BACKGROUND

The AARTO Administrative Adjudication of Road Traffic Offences Act was originally approved in 1998 and was implemented as a pilot study in Gauteng for the past 10 years.

The President approved the implementation for the rest of the country in 2021. AARTO however could not be implemented due to a court judgement that AARTO was unconstitutional. This decision was however taken on review to the Constitutional Court and the decision was set aside.

Following the new judgement by the Constitutional Court a new date was set for AARTO implementation as the 1st of July 2024. In the meantime, a few changes were approved to the AARTO ACT and the Regulations.

DISCUSSION

Most western Cape municipalities are still not comfortable with AARTO and indicated that they are not ready for implementation and did not feel comfortable with the implementation of AARTO. They are also of the opinion that RTIA (Road Traffic Infringement Agency) is also not in a position to deal with the administrative burden it will cause.

AARTO aims to implement a demerit system for drivers, and decriminalizes all road traffic infringements and deal with it outside of the courts in an administrative capacity. The argument is that it will reduce road accidents. This however still need to be proven as it did not change any behavior in the province where it was piloted. The option to go to court is still available if all administrative processes have been exhausted

In Swellendam AARTO must be implemented from the 1st of July 2024.

In order for AARTO to function properly as it currently stands, the Municipality must also enter into an agreement with the South African Post Office (SAPO) for the issuing of notices to alleged infringers. This is also a huge stumbling block as we now know the post offices are closing down and they cannot guarantee sustainable delivery of mail. This cost is also for the municipality to cover. RTIA which is the infringement agency does not enter into this agreement at all and puts the financial burden on the municipality, which rightfully should be a 3-party agreement.

The flow of notices will be as follows:

- Infringement notice (Traffic fine)
This notice is issued by us, the issuing authority letting the infringer know he/she transgressed a traffic law. This can be hand drawn and issued next to the road or can be served via post or via electronic format. This notice gives the infringer 32 days to pay the fine and gets 50% discount
- Courtesy letter
If the infringer fails to act within 32 days the RTIA issue a courtesy letter. This letter removes the 50% discount and adds fees for the letter and makes the total amount payable. This letter gives the infringer the following options, pay in full, make written representation, arrange payment in installments
- Enforcement order
After 32 days with no response the enforcement order is issued by RTIA. This document has the following effect, its blocks issuing of driver's licence cards, vehicle disks and professional driving permits. It allocates demerit points to the infringer, If the threshold of 15 points is reached the drivers licence can be suspended or cancelled.

LEGAL IMPLICATIONS

In Terms of the Constitution, Traffic and Parking is a municipal competence. In terms of AARTO various infringement notices are developed which doubles the amount of writing an officer will have to do in the field and if any of the information produced by the transgressor does not agree with what is on record in e-Natis, the notice is discarded.

Any appeals will eventually go to the appeals tribunal, and the courts as a last resort. All traffic and transport related transgressions including municipal bylaws are part of the AARTO process. Arrests can be affected for serious infringements such as drunken driving, reckless or negligent driving and will as such be dealt with by the Criminal Procedure Act.

FINANCIAL IMPLICATIONS

Financial implication will be a high risk for all Municipalities.

The offender can pay his/her fines within 30 days and automatically get a 50% discount.

This money will have to be paid over to RTIA within 10 days and they will pay it back to the municipality. There is however no guarantee on payback time frames.

For all electronic payments received by the municipality, the municipality may reclaim 3% for administrative costs.

All payment will first be paid over to RTIA for reconciliation purposes and the Municipal part will be paid back.

The Municipality will have to procure new infringement books to correspond with AARTO infringement notices.

All new software and ICT equipment will have to be procured. It is still unclear if RTIA will supply Municipalities with speed cameras and handheld devices and when this will happen.

All provincial fines including the Weighbridge will go direct to the provincial government and not to Swellendam as is currently the case, which can be a loss of revenue of between R 5 000 000 to R7 000 000.

The flow of fines income will be as follows:

Per Hand:

Fines are handed to the transgressor and loaded onto the RTIA software. If the fine is paid within 32 days, a 50% discount is granted.

Should the infringer opt to pay somewhere else, the money is paid to RTIA minus 3% and after reconciliation at RTIA, it is paid into the municipality's account. The municipality has to pay over to RTIA all fines paid and they will pay back to the municipality (no time frames are set to pay back to the municipality but the municipality has to pay over within 10 days).

Electronic fines (cameras)

Fines get loaded onto RTIA software.

They issue a notice via post office for which we pay R32 per notice. If paid within 32 days, the same scenario comes into play as discussed above.

Should any fines be paid after 32 days all the funds go to RTIA and nothing gets paid back to the municipality.

All our fines however get handed to SAPO for action which we pay for.

1. The fine
2. Courtesy letter
3. Enforcement order

PERSONNEL IMPLICATIONS

We will have to train all personnel on the new software and officials on the issuing of fines. The municipality's agreement with TMT will come to an end as RTIA takes over that role.

COMMUNICATION IMPLICATIONS

None.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

The AARTO Act originally passed into law in 1998 and has been in force for more than twelve years in the jurisdiction of the Metropolitan Municipalities of Tshwane (from 1 July 2008) and Johannesburg (from 1 November 2008). Unfortunately, it is apparent that few people know much, if anything about the AARTO Act and how it affects them. The AARTO Act differs entirely from the Criminal Procedures Act which has been and still is used to prosecute road traffic offences everywhere in South Africa, except Tshwane and Johannesburg.

The AARTO Amendment Bill, 2015 was assented to and signed by the President on 13 August 2019 and is now the Administrative Adjudication of Road Traffic Offences Amendment Act, No 4 of 2019. On 2 October 2020 the Department of Transport published new draft regulations to accompany the AARTO Amendment Act. This was intended to be implemented nationally from 1 July 2021.

The National Department of Transport commenced on a process to roll out AARTO Service Outlets in support of the implementation of AARTO. Several municipalities in the Western Cape were identified as pilot sites. The Western Cape MEC, however was not approached to authorize operation in the Western Cape and due to the concern on the impact of AARTO on the finances of the Municipalities as well as the impracticality of AARTO, the MEC was requested by the Municipal Managers' Forum not to grant said approval.

Director: Community Services

None

Director: Financial Services

The implementation of AARTO will have a serious financial impact on the municipality:

The main revenue from traffic fines is on the N2 which is a provincial road. From the report, if the fine is not paid within 32 days, all the funds go to RTIA.

This means that Council can only retain traffic fines if paid within 32 days after an automatic discount of 50% was granted.

Based on the current traffic fines history, the paid municipality traffic fines will decline from ± R 7, 4 million to ± R360 000. This means that the traffic department budget net position will decline from a surplus of R3, 7 million to a deficit of (R1, 9 million).

Included in the calculation is the cost to be paid for the 32 days' notice, etc.

The revenue loss must then be recovered through cross subsidation with other tariffs to balance the budget, or alternatives expenditure must be reduced.

The municipality does not have the revenue base to absorb the revenue loss.

It is recommended that the impact be submitted to the relevant stakeholders and SALGA National to reconsider the implementation of AARTO

Director: Infrastructure Services

The AARTO process will not be problematic in so far as the TAXI industry only, but it will also be a problem to identify the driver of the infringing vehicle in fleet owners where a proxy will be fined in his personal capacity but not as the representor of the fleet owner. The general stewardship over the money trail documentation will be extremely difficult to audit, why must it be transferred just to the RTIA and just to be transferred back. If it is true that SALGA supports the AARTO process they should have gotten a mandate from SALGA members as they got no executive powers over municipalities. The proposal entails that SAPO will obtain a revenue stream from the process without the successful collection of the payment from the infringement. The obligation to make use of SAPO for the notices feels like a funding method to keep a failing state institution unduly alive.

Municipal Manager

The financial implications of AARTO are extremely significant and substantial to the financial sustainability of the Traffic Services and to the Municipality. The various scenarios show losses of between R 3.7 million to as much as R 5m and more. Currently the service generates a surplus and is crucial to the financial wellbeing of the Municipality. A loss of R 3 million to R 5 million will mean not just shutting down the Traffic Services but also a reduction in other posts and functions that are dependent on the surpluses generated by the Traffic Services Department.

This item served on the Public Accounts Committee meeting held on Tuesday, 12 December 2023.

RECOMMENDED TO COUNCIL

1. that Council takes note of the impact of the implementation of the AARTO Amended Act 4 of 2019 for Swellendam Municipality taking into effect on 1 July 2024.
2. that the Road Traffic Infringement Agency make a presentation to Council on the AARTO Amended Act of 2019.

9.1.18

Item number A19.

30.01.2024

MONTHLY REPORT: WATER SERVICES: OCTOBER 2023: WATER RESILIENCE

Municipal Manager

A. Vorster

Department

Municipal Manager

Section

Disaster Management

File Number

PURPOSE OF REPORT

To inform Council about the risks inherent to water provision in Swellendam Municipal area.

FACTS AND BACKGROUND

South Africa is, by some accounts, already 'out 'of water. In an already water-scarce country, demand outstrips supply, while water treatment plants falter and the country's climate continue to warm at unprecedented — and deadly — rates.

A perfect storm, experts warn, is coming.

During the first decade of South Africa's democracy, 13.4 million people gained access to basic water services. But a tap in a home or in the yard is no guarantee that clean water regularly flows through it.

Experts have spent more than a decade measuring the water South Africa has and comparing it to what it needs to fill the nation's kettles, water its crops and mine its riches.

By 2002, what South Africa used in water was already outstripping what it had, says Dr Anthony Turton, professor at the Centre for Environmental Management at the University of the Free State. In 2003, scientists believed South Africa possessed 53 billion cubic metres of water. Today, Turton says better modelling and declining rainfall have placed that figure at about 49 billion cubic metres.

"After all considerations, it was discovered that we had allocated about 98% of all the water available in the country. Effectively we became water-deficient in 2002," explains Turton.

He warns that South Africa is transitioning to a fundamentally water-constrained economy. Meanwhile, sewage management systems are collapsing and the country threatens to outstrip its capacity to process safe drinking water.

Turton concludes: "The South African water sector is entering the early phase of a 'perfect storm' driven by the convergence of significant drivers over which no [one] individual has any control."

The average annual temperature in South Africa has increased by at least 1°C during the last 50 years, almost twice the global average, according to a 2021 study published in the journal *Environmental Research*.

Temperatures in the country are projected to continue to rise at a greater rate than the global average. A child born in the next 20 years could grow old in a country that is up to six degrees hotter than average temperatures nearly a century before, the study warns. And heat, as the nation saw this past week, can be deadly.

The South African Medical Research Council's Dr Caradee Wright says the recent deaths of farmworkers in the Northern Cape should be a warning.

Emerging research also suggests that hotter temperatures may be linked with some types of birth defects, particularly holes in fetuses' hearts. And as more homes go without steady access to water, the public health threats only grow, Wright warns.

"When you don't have continuous water supply, you store water," she says, "and when you store water, you immediately start to run into trouble."

In many homes, families store water in open-air containers, often dipping in the same shared cup to collect water. With each cupful, new germs are introduced into bins that are rarely cleaned.

In an environment like this, diarrheal disease — which can be deadly in small children, the elderly and people with weaker immune systems — can spread like wildfire. And the country's health system — like its water infrastructure — may not be prepared to cope with new waves of disease that accompany a hotter, more water-scarce world.

Further drastic warming is projected in southern Africa for as long as global warming continues. This regional warming will be accompanied by more frequent and intense heat waves, increasingly impacting on human comfort, health and mortality.

"Over the next 20 years, it is likely that heat waves of unprecedented intensity and duration will occur in southern Africa."

2023 is highly likely to be the hottest year ever recorded. And climate change is to blame for one-quarter of the global population being exposed to dangerous levels of extreme heat.

We do get heatwaves in South Africa at this time of the year, as a result of high-pressure systems sitting over parts of the country that act like a heat dome, trapping sinking hot air at the surface.

We are used to getting it at this time of the year, but having a heatwave that's gone on for 10 days is definitely a little bit out of the ordinary and extreme.

Higher global temperatures mean that it's easier for temperatures to reach the heatwave threshold – and that we have entered El Niño, which tends to have warmer and drier conditions across the country. What we are looking at this year is the combined effects of ongoing global warming, with a strong El Niño event, and that has led to all these temperature records being broken across the world. Scientists have found that June, July, August, September and October 2023 were the hottest months since records began in the mid-1800s.

Therefore, we can now say with certainty that 2023 will be the warmest year ever recorded by humans, with records going back to roughly 1850," said Engelbrecht.

Swellendam Municipality experienced good rainfall over the past rainy season, but that does not necessarily mean that the Municipality is able to provide uninterrupted and sustainable water to the community.

On Friday 1 December 2023 Swellendam Municipality implemented level 2 water restrictions in Barrydale and Swellendam due to high water consumption and a disruption in water provision in the portions of Barrydale and Railton, Swellendam.

It is clear that water provision will remain a significant risk for municipalities and stringent water resilience programs and future planning will have to be implemented to address this.

A presentation will be made at the Council meeting on the water quality and current implementation plans to address the sustainable service delivery of water within the communities. **(See presentation attached as separate Annexure B)**

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The Municipal Finance Management Act, 2003, (Act 56 of 2003) (MFMA);
- The By-Law relating to Water Services, 2013
- The Water Services Act, 108 of 1997 as amended

This item served on the Municipal Public Accounts meeting held on Tuesday, 12 December 2023.

RECOMMENDED TO COUNCIL

1. that Council takes cognizance of the presentation made by the Municipal Manager, Mrs A. Vorster to improve water resilience.
2. that the municipality made provision in the staff component to be compliant in terms of the amount of Water Process Controllers that has to be appointed.
3. that initiatives be implemented to promote awareness.
4. that the municipality's Water Services Programme be updated in collaboration with SALGA.
5. that water restrictions be implemented to save water.

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.

See In-Committee Agenda.

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, 22 November 2023.
- 10.2 Minutes of a Special Mayoral Committee meeting held on Thursday, 07 December 2023.
- 10.3 Minutes of a Municipal Public Accounts Committee meeting held on Tuesday, 12 December 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 an Ordinary Council meeting as held on Thursday, 30 November 2023.
- 11.2 Minutes of a Special Council meeting as held virtually on Monday, 11 December 2023.
- 11.3 Minutes of a In-Committee Council Meeting as held virtually on Monday, 11 December 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, 30 Januarie 2024
Tyd:	10:00.
Plek:	Raadsaal, Rhenius straat, Swellendam
A. VORSTER/MUNISIPALE BESTUURDER Kennisgewing Nr: A02/2024	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, 30 January 2024
Time:	10:00.
Location:	Council Chambers, Rhenius Street, Swellendam
A. VORSTER/MUNICIPAL MANAGER Notice no.: A02/2024	PO. BOX 20, SWELLENDAM 6740

17. BLANK APPLICATION FOR LEAVE OF ABSENCE FORM

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