

MINUTES OF COMMITTEES AND **AD HOC COMMITTEES** **(COGNISANCE)**

1. Minutes of an Ordinary Mayoral Committee meeting held on Wednesday, 24 January 2024. Pg.1 – 36.

MAYORAL COMMITTEE MEETING MINUTES



**MINUTES OF THE MAYORAL COMMITTEE MEETING
HELD ON WEDNESDAY, 24 JANUARY 2024 AT 08:00 IN
THE COUNCIL CHAMBERS, RHENIUS STREET,
SWELLENDAM.**

**PLEASE RETAIN THIS DOCUMENT FOR RECORD
PURPOSES AS IT WILL NOT BE CIRCULATED AGAIN.**

Yours sincerely,

**H.F. DU RAND
EXECUTIVE MAYOR**

DATE

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MINUTES OF AN ORDINARY MEETING OF THE MAYORAL COMMITTEE OF SWELLEN DAM MUNICIPALITY HELD ON WEDNESDAY, 24 JANUARY 2024 AT 08:00 IN THE COUNCIL CHAMBERS, RHENIUS STREET, SWELLEN DAM.

PRESENT:	Councillor	H.F. Du Rand	Executive Mayor
		E. Lamprecht	Member
		F. Kees	Member

IN ATTENDANCE:	A. Vorster	(Municipal Manager)
	E. Wassermann	(Director: Financial Services)
	K. Stuurman	(Director: Community Services)
	W. Treurnicht	(Acting Director: Infrastructure Services)
	J. Etzebeth	(Manager: Administrative Support Services)

SECRETARIAT:

K. Uys

RECORDING OFFICER:

K. Uys

1. OPENING AND WELCOME

At 08:10 the Executive Mayor, Councillor H.F. Du Rand welcomed everyone at the Mayoral Committee meeting and declared the meeting duly constituted with a quorum present. The Director Community Services, Mr K. Stuurman rendered an opening prayer.

2. ELECTION OF CHAIRPERSON, IF NECESSARY

None

3. APPLICATION FOR LEAVE OF ABSENCE
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None

4. SPEECHES AND SUBMISSIONS

None

5. CONFIRMATION OF MINUTES

Proposer: Councillor F. Kees
Seconded: Councillor E. J. Lamprecht

RESOLVED:

- 5.1 that the minutes of an ordinary meeting of the Mayoral Committee meeting held on Wednesday, 22 November 2023 copies of which were circulated prior to the meeting, be taken as read and be hereby confirmed.
- 5.2 that the minutes of a Special meeting of the Mayoral Committee meeting held on Thursday, 07 December 2023 copies of which were circulated prior to the meeting, be taken as read and be hereby confirmed.

6. MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING

6.1 Matters arising from the minutes: Wednesday, 22 November 2023.

In response to a question raised by the Executive Mayor, Councillor H.F. Du Rand with regard to page 25, Item A182: Donation of Fire Hydrants and Fire Truck, the Municipal Manager, Mrs A. Vorster indicated that the fire hydrants and fire truck has not been transferred to them.

The Executive Mayor requested the Municipal Manager to confirm in writing that Council approved the lending of the fire hydrants and antique fire truck to the Swellendam Heritage Association.

With regard to SARS' VAT levy on grants, the Director of Financial Services, Ms E. Wassermann said that there has been indication that there will be a VAT levy on the Library Grant retroactively for about 5 years payable by the municipality. She added that the municipality would know when this would be implemented before the completion of the next audit.

The Director of Community Services, Mr K. Stuurman reported that the Waste-to-Energy tender has been finalised and was being processed by the SCM division to be advertised.

In response to a question raised by the Executive Mayor with regard to the month-to-month specification process for the TNT tender, Ms Wassermann indicated that she would follow up on the matter and report back to the Committee.

The Director of Community Services, Mr K. Stuurman indicated that there was seven municipalities that was about to start with the AARTO process on 1 February 2024 as a

test run and the municipality made contact with these municipalities to make sure whether the municipality needed to go out on tender for the service again, and if so, what the specifications and requests would have to be included in such a tender.

The Director of Financial Services, Ms E. Wassermann requested that all the drivers of municipal vehicles be informed of the implementation of AARTO and the implications thereof.

6.2 Matters arising from the minutes: 07 December 2023.

In response to a question raised by the Executive Mayor, Councillor H.F. Du Rand with regard to whether the the contract with the name change of the Koornlandsrivier Pig Farmers to Swellendam Small Scale Farmers Primary Co-operative has been signed, the Director of Community Services, Mr K. Stuurman confirmed that the name has been changed and that the contract has been signed.

7 STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR

None

8 DISCLOSURE OF INTERESTS BY COUNCILLORS

None

9 FINANCIAL REPORTING

9.1 Section 71 Report for November – December 2023

RESOLVED

9.1.1 that cognisance be taken of the Section 71 Report for November 2023 to December 2023.

DISCUSSION

In response to a question raised by the Executive Mayor with regard to whether the administration was positive that the capital spending would be where it was supposed to be, the Director of Financial Services, Ms E. Wassermann indicated that she was positive that the capital spending percentage would be met and that the Municipal Manager requested for a implementation plan to be submitted in this regard. She said that the only concern at the moment was the electrification of the Railton Housing Project that might take longer than planned.

The Director of Community Services, Mr K. Stuurman added that the municipality received R6.6 million in additional funding for the electrification of the Railton Housing Project, R16 million for bulk services on the electricity with R6.9 million for the solar geysers of the first 300 houses. Ms Wassermann said that these amounts have been gazetted.

Ms Wassermann said that with own capital, the municipality was in process to finalise the last tender processess. She said that the renovation of the buildings was planned to be completed

by June 2024 but was now predicted to only be done by August 2024. The Municipal Manager, Mrs A. Vorster said that the specifications for the tender has been finalised and the tender will now be advertised by February 2024 to start with building and repairs by April 2024.

Ms Wassermann said that the finance department was in the process of revising the income for the adjustments budget. She added that due to the recent heavy rains the municipality experienced a challenge with water. She said that there was a projected shortage of R3 million that would have to be recovered from the adjustment budget where expenditure would need to be cut. She added that property rates also had a shortage of R700 000.

She said that other funding that would have to be incorporated into the adjustments budget, was costs that could not be claimed from the insurance such as the re-establishment of the offices. She added that the insurance claim will not cover the security matters and would have to be incorporated into the adjustments budget.

10	MATTERS FOR CONSIDERATION
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10.1 Items submitted by officials of the Council

10.1.1

Item number A1. 24.01.2024

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

RECOMMENDED

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

The Mayoral Committee took note of the Supply Chain Management Report for December 2023.

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.**

10.1.2

Item number A2. 24.01.2023

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 66 to 68 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

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 69 to 83 of the Annexures**. The track changes to the policy are included on **pages 8 to 65 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

RECOMMENDED

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.

DISCUSSION

The Municipal Manager, Mrs A. Vorster indicated that the current change in regulations would have a major impact on operations and there would be challenges with service providers who did not want to complete all the paperwork. She said that many service providers already chose not to do business with the municipality due to the administrative burden and now it would be even more challenging.

The Executive Mayor requested that all the risks be highlighted to Council in order for Councillors to understand the challenges that could have unintended consequences for the municipality and the community.

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 pages 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.

10.1.3

Item number A3 24.01.2024

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

RECOMMENDED

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.

The Mayoral Committee took note of the Supply Chain Management Quarterly Report for December 2023.

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.

10.1.4

Item number A4. 24.01.2024

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 Drostyd 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

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.

10.1.5

Item number A5.

24.01.2024

Resolved as Item B4/24/1/2024

LEASING OF A PORTION OF LAND TO HOST TRANSFER STATIONS: MALAGAS

Municipal Manager

A. Vorster

Department

Municipal Manager

Section

Property Management

File Number

7/2/R

PURPOSE OF REPORT

To consider leasing a piece of land, about 120 square metres, on two farms in Malagas to host refuse removal transfer stations.

FACTS AND BACKGROUND

Swellendam Municipality has two places in Malagas where transfer stations for refuse removal is hosted. There are no lease agreements in place for these transfer stations and it is needed to formalise the hosting of these transfer stations as these premises are needed to provide essential municipal services. There are no other places available at present to host these established transfer stations.

DISCUSSION

That the Municipality proceed to formalize the use of the current sites for the transfer stations, via a formalized lease agreement. It is impractical to follow a competitive bid process to lease the transfer stations as these transfer stations have existed for years and were taken over by the Municipality from the Overberg District Municipality, but there is no formalized lease agreement.

LEGAL IMPLICATIONS

The following legislation regulates property management:

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Corporate Services

Town Planning & Building Control – Mr R. Brunings

No further comments.

Director: Community Services

No further comments.

Director: Financial Services

No further comments.

Director: Infrastructure Services

No further comments.

Municipal Manager

No further comments.

RECOMMENDED

1. that two valuations of the affected areas to be leased to host two transfer stations for refuse removal in Malagas, be obtained and the average of said valuations be used to make a rental offer to the respective property owners.
2. that on agreement of the property owners to the proposed Lease Agreements, Council's intention to lease said premises be advertised for public comment.
3. that should no objection be received from the public, the Municipal Manager be mandated to sign the Lease Agreements with the property owners for the continued use of the transfer stations for a period of three years.

The Mayoral Committee was in support of the recommendation as-is.

RESOLVED

Item B4/24/01/2024

1. that two valuations of the affected areas to be leased to host two transfer stations for refuse removal in Malagas, be obtained and the average of said valuations be used to make a rental offer to the respective property owners.

2. that on agreement of the property owners to the proposed Lease Agreements, Council's intention to lease said premises be advertised for public comment.
3. that should no objection be received from the public, the Municipal Manager be mandated to sign the Lease Agreements with the property owners for the continued use of the transfer stations for a period of three years.

10.1.6

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.

RECOMMENDED

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.

The Executive Mayor, Councillor H.F. Du Rand nominated Alderman A. Franken to serve on the Board of the Breede-Olifants Catchment Management Agency.

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.

10.1.7

Item number B1. 24.01.2024

RESUBMISSION: BUFFELTJIES DAY CARE CENTRE SITUATED ON MUNICIPAL LAND: PORTION OF ERF 416 BUFFELJAGSRIVIER

Administrative officer

L Baransky

Department

Corporate Services

Section

Property Management

File Number

7/2/R

PURPOSE OF REPORT

To consider a request from the governing body of the Buffeltjies Day Care Centre regarding the amendments of the conditions of lease of the above-mentioned property.

FACTS AND BACKGROUND

EXTRACT: COUNCIL MINUTES: 30 MARCH 2023

UNANIMOUSLY RESOLVED

Item A21/30/03/2023

1. that, as no objections were received against the proposed leasing of a portion of erf 416 Buffeljagsrivier to Buffeltjies Day Care, the Administration proceed with the administrative processes to lease erf 416 Buffeljagsrivier to Buffeltjies Day Care.
2. that Council continues with the registering of the subdivision of the proposed erf 416, Buffeljagsrivier, at its own cost.
3. that Council leases a portion of erf 416 Buffeljagsrivier, as to be subdivided, to Buffeltjies Day Care Centre at an amount of R1000.00 per annum (excluding VAT), with a 10% annual escalation fee, for a period of three years.
4. that the applicant will be responsible for municipal services rendered."

DISCUSSION

The following feedback was received from Buffeltjies Creche (**see page 101 of the Annexures**):

"SWELLENDAM MUNISIPALITEIT ERF 417, BUFFELJAGSRIVIER MOTIVERINGSBRIEF

Geagte Mnr / Me

Die motivering word uitgedruk in terme van die behoefte en wenslikheid ten opsigte van die vakperseel. Die behoefte aan hierdie tipe fasiliteite spruit uit die feit dat gespesialiseerde lokale wat fasiliteite vir jong kinders op klein skaal bied, minder gereeld gevind word.

'n Nie-winsgewende organisasie word gedefinieer as 'n trust, maatskappy of ander vereniging van persone gestig vir 'n openbare doel, waarvan die inkomste en eiendom nie aan sy lede of kantoor uitkeerbaar is nie draers behalwe as redelike vergoeding vir dienste gelewer. Nie-winsgewende organisasies kom in aanmerking vir staatsondersteuning (bv. toelaes vir maatskaplike dienste en

infrastrukturbystand) en kan addisioneel fondse van die generaal insamel publiek, skenkers en besighede. Die aard hiervan hierdie fasiliteit is soortgelyk aan 'n dagsorgfasiliteit of crèche.

Dit is gestig as gevolg van die gebrek aan veilige, prettige en buitelugaktiwiteite in die area spesifiek op kinders gerig. As deel van 'n goed gebalanseerde en gesonde opvoeding is dit belangrik om kinders se selfbeeld 'n hupstoot te gee. Deur fees te vier, mylpale soos verjaarsdae, Ouers, voogde en versorgers verskaf 'n belangrike sielkundige stimulus vir kinders en om hulle belangrik en spesiaal te voel. Daar is baie voordele met betrekking tot holistiese ontwikkeling en sosiale ontwikkeling van kinders om fisies te speel aktiwiteite saam met vriende in buitelugomgewings.

Die fasiliteite aan die terrein is almal kindervriendelik en bied 'n oulike omgewing wat die ruimte maklik beheerbaar maak.

Met hierdie brief wil ons dus 'n paar bekommernisse aandui in die voorgestelde kontrak.

1. Huurkoste (kan ons dit verminder of kan ons hulp kry vanaf 'n borg)

2. Huurtermyn (kan huurtermyn verleng word)

3. Ontruimingstydperk (die tydperk is te kort en vra vir verlenging van tydperk)

Ons as raad vra dus dat Swellendam Munisipaliteit ons sal kan tegemoed kom met bogenoemde punte. Ons bely in hierdie tydperk ons afhanklik van ons ouers en gemeenskap om ons te help die Dagsorgsentrum 'n veilige hawe te maak vir die kinders, waar hulle dus voeding en opvoeding kry.

Dankie vir u tyd, oorweging en ondersteuning. Saam kan ons 'n betekenisvolle verskil maak en 'n beter toekoms vir ons kinders skep.

Met opregte dankbaarheid.
Buffeltjies Dagsorgsentrum Raad

The governing body is requesting that the lease amount be reduced, that the term of lease be extended and that the cancellation clause be expanded.

According to the draft lease agreement the lease period is for a three (3) year and the cancellation period is one (1) month for both parties involved. The lease amount is R1000.00 per annum with a 10% annual escalation.

LEGAL IMPLICATIONS

The following legislation regulates property management:

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None, already advertised for public comment/objections.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control

No further comment.

Director: Community Services

No further comment.

Director: Financial Services

No further comment.

Director: Infrastructure Services

No further comment.

Municipal Manager

There is no objection against extending the notice period to a period of at least six months. It is recommended that a private sponsor be approached to cover the rental amount which is less than R100 per month. Should the lease period be extended, the process of leasing the premises will have to be re-advertised, with the cost for the applicant.

RECOMMENDED

1. that a private sponsor for the rental amount be sourced by the applicant, as the lease amount is less than R100 per month and should not be changed.
2. that should Council be amenable to extend the lease period to that of nine (9) years and eleven (11) months, the alienation intention be re-advertised in terms of applicable legislation.
3. that the draft lease agreement be amended to give a six (6) month cancellation period for both parties involved;
4. that the advertisement costs incurred, be for the account of the applicant.
5. that the conditions of resolution A21 of 30 March 2023 remain valid, except for the amended conditions in 1-3 above;

PROPOSAL:

The Executive Mayor, Councillor Du Rand proposed the following amendment to point 2 of the recommendation:

1. that the lease be extended to a period of nine (9) years and eleven (11) months, the alienation intention be re-advertised in terms of applicable legislation.

RESOLVED**Item B1/24/01/2024**

2. that a private sponsor for the rental amount be sourced by the applicant, as the lease amount is less than R100 per month and should not be changed.
3. that the lease be extended to a period of nine (9) years and eleven (11) months, and that the alienation intention be re-advertised in terms of applicable legislation.
4. that the draft Lease Agreement be amended to give a six (6) month cancellation period for both parties involved;
5. that the advertisement costs incurred, be for the account of the applicant.
6. that the conditions of Resolution A21 of 30 March 2023 remain valid, except for the amended conditions in 1-3 above;

10.1.8

Item number B2. 24.01.2024

ENCROACHMENT APPLICATION: ERF 5175, WELTEVREDEN STREET, SWELLENDAM

Administrative Officer

L. Baransky

Department

Corporate Services

Section

Property Management

File Number

7/2/R

PURPOSE OF REPORT

To consider a historic encroachment on municipal land in Swellendam.

FACTS AND BACKGROUND

The owners of Erf 5175, Swellendam bought the property in 2015. The property is a very old building and the owners did not do any alterations onto the front of the house, until now. Plans were submitted to the building department, where it was found that the stoep and stairs, in front of the house, are encroaching on municipal land. The area of encroachment measures an estimate of 41.63 square metre.

An application was received to apply for the encroachment, find attached **on pages 102 to 106 of the Annexures.**

DISCUSSION

The application is supported. The land in question is not suitable for any other use and the lease will not have any effect on the area.

According to the applicable tariffs for the current financial year, encroachments are (*maximum of 80 square metre*) R230.00 (*including VAT*) per annum, and for every square metre above 80 square metre, R34.50 (*including VAT*) per square metre per annum extra.

LEGAL IMPLICATIONS

The following legislation regulates property management:

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control

The historical encroachment of the porch and steps onto municipal land can be accommodated. No further encroachment and / or additional development on the encroached land to be supported.

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the application for the historical encroachment on the remainder of Erf 1 (adjacent to Erf 5175, Swellendam), be approved in principle;
2. that an encroachment fee be charged according to the approved tariff schedule for 2023/2024;
3. that the encroachment fees be levied annually, as per approved tariff schedule;
4. that an encroachment period of nine (9) years and eleven (11) months, be approved;
5. that the applicant be responsible to provide a clear location map and size of the encroachment;
6. that the Mayoral Committee's intention to approve the encroachment be advertised for public comments;
7. that if no objections are received, the Municipal Manager be mandated to sign the encroachment agreement, according to her delegated powers, but if any comments or objections are received, the matter be referred back to the Mayoral Committee for consideration;

8. that the applicant be responsible for all costs incurred and emanating from this resolution;

The Executive Mayor confirmed that the Mayoral Committee was in support of the recommendation as-is and would be reported to Council accordingly.

RESOLVED

Item B2/24/01/2024

1. that the application for the historical encroachment on the remainder of Erf 1 (adjacent to Erf 5175, Swellendam), be approved in principle;
2. that an encroachment fee be charged according to the approved tariff schedule for 2023/2024;
3. that the encroachment fees be levied annually, as per approved tariff schedule;
4. that an encroachment period of nine (9) years and eleven (11) months, be approved;
5. that the applicant be responsible to provide a clear location map and size of the encroachment;
6. that the Mayoral Committee's intention to approve the encroachment be advertised for public comments;
7. that if no objections are received, the Municipal Manager be mandated to sign the encroachment agreement, according to her delegated powers, but if any comments or objections are received, the matter be referred back to the Mayoral Committee for consideration;
8. that the applicant be responsible for all costs incurred and emanating from this resolution;

10.1.9

Item number B3. 24.01.2024

APPLICATION TO LEASE A PORTION OF THE POWELL KELLY SPORT STADIUM – TUG OF WAR CLUB, SWELLENDAM

Report by Administrative Officer, Ms L. Baransky

Department

Corporate Services

Section

Property Management

File number

17/6/4/5

PURPOSE OF REPORT

To submit a request to lease a portion of the Swellendam Sports Grounds that was previously utilised by the Jukskei Club, Swellendam to the Tug of War Club in Swellendam.

FACTS AND BACKGROUND

A letter was received from the Swellendam Tug of War club to lease the area at the Powell Kelly Stadium, that the Jukskei Club previously leased. The lease since lapsed and the building is currently unused. They are willing to keep the area clean and in good repair.

Find the letter attached **on page 107 of the Annexures.**

DISCUSSION

The area was previously rented by the Jukskei Club (±1080 square metre), which has since dissolved. The area known as the Jukskei Club is fenced with no separate ablution facilities. They will have to enter into an agreement with the Pigeon- or Tennis Clubs to make use of their ablution facilities. There is also no electricity supply or a clubhouse.

LEGAL IMPLICATIONS

The following legislation regulates property management:

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

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

No objection against the lease.

Director: Financial Services

Not applicable

Acting Director: Infrastructure Services

Not applicable

Municipal Manager

The leasing of the facility is supported.

RECOMMENDED

1. that it be approved that the area previously leased by the Jukskei Club in extent 1080 square metre, Swellendam, is not needed for essential services and that the lease to Swellendam Tug of War Club, be approved in principle, subject to the following;
 - 1.1 that the lease period be for three (3) years;
 - 1.2 that the lease amount be as stipulated in the approved municipal tariffs for 2023/2024 (*R333.50 per annum, VAT included*);
 - 1.3 that municipal services rendered, be for the account of the lessee;
 - 1.4 that any arrangements with other lessees, for the use of ablution services and other amenities be the responsibility of the lessee;
 - 1.5 that no other part of the sport grounds be used for the purpose of tug of war practise and competitions.
2. that the Mayoral Committee's intention, as per paragraph 1 above, be advertised for public comment and that the cost be for the account of the applicant;

3. that should any objections be received in respect of this application, the matter be referred back to the Mayoral Committee, for consideration;
4. that should no objection be received, the Municipal Manager be mandated to sign the Lease Agreement, according to her delegated powers.

The Mayoral Committee was in support of the recommendation as-is.

RESOLVED

Item B3/24/01/2024

1. that it be approved that the area previously leased by the Jukskei Club in extent 1080 square metre, Swellendam, is not needed for essential services and that the lease to Swellendam Tug of War Club, be approved in principle, subject to the following;
 - 1.1 that the lease period be for three (3) years;
 - 1.2 that the lease amount be as stipulated in the approved municipal tariffs for 2023/2024 (R333.50 per annum, VAT included);
 - 1.3 that municipal services rendered, be for the account of the lessee;
 - 1.4 that any arrangements with other lessees, for the use of ablution services and other amenities be the responsibility of the lessee;
 - 1.5 that no other part of the sport grounds be used for the purpose of tug of war practise and competitions.
2. that the Mayoral Committee's intention, as per paragraph 1 above, be advertised for public comment and that the cost be for the account of the applicant;
3. that should any objections be received in respect of this application, the matter be referred back to the Mayoral Committee, for consideration;
4. that should no objection be received, the Municipal Manager be mandated to sign the Lease Agreement, according to her delegated powers.

10.2 Consideration of matters which require non-disclosure

None

10.3 Consideration of urgent matters

None

11 MINUTES OF THE PORTFOLIO COMMITTEES

None

12 GENERAL

None

13 CLOSURE

The Executive Mayor thanked everybody for their time and commitment to attend the meeting.

The meeting adjourned at 09:31.