

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)

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, 27 February 2024** at **10:00** in the **Council Chambers, Rhenius Street, Swellendam** to consider the items attached hereto.



J R VAN SCHALKWYK
SPEAKER

23 January 2023

DATE

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1. OPENING AND WELCOME

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

PART 3: MEETINGS

4. Commencement of Meeting

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

14. Quorum

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

2. ELECTION OF ACTING SPEAKER, IF NECESSARY

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

41. Acting speakers

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

3. APPLICATION FOR LEAVE OF ABSENCE

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

PART 3: MEETINGS

11. Leave of Absence

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

Item A2481: Council meeting of 21 November 2013:

PROPOSED AMENDMENTS – ITEM A2446 OF 7 OCTOBER 2013: RULES OF ORDER AND PROCEDURES WITH REGARDS TO ALLEGED 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:

Cllr. Elna J. Lamprecht 18 March

4.2 Announcements of deaths by Municipal Manager

January 2024

SWELLENDAM	
Elizabeth Williams	Swellendam
Gert Flink	Swellendam
Lena Pick	Swellendam
Brenzeleen Dawids	Swellendam
Edward Peter Fradie	Swellendam
Belinda Eleanor Maggerman	Swellendam
Paulinah Pick	Swellendam
Petrus Esau	Swellendam
Piet Botha	Swellendam
Gideon Samiel May	Swellendam
Ethan White	Swellendam
Robin Weber Hendrik Arendse	Swellendam
Abraham Van Zyl	Swellendam

Baby Mxhaphakane	Swellendam
Edward Isak Adelaar	Swellendam
Baby Makhaza	Swellendam
Warren Nassou	Swellendam
Tommy Resouw	Swellendam
G. Francis	Swellendam
D. Everton	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 A20. 27.02.2024

SUPPLY CHAIN MANAGEMENT MONTHLY REPORT – JANUARY 2024

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 January 2024 is attached **on pages 1 to 8 of the Annexures** to enable 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, 21 February 2024.

RECOMMENDED

that Council takes cognisance of the Supply Chain Management Report for January 2024 attached **on pages 1 to 8 of the Annexures.**

9.1.2

Item number A21. 27.02.2024

RELOCATION AND CONSERVATION OF THE REMAINING HISTORIC STREET LAMPS: DROSTDY MUSEUM

Report by the Manager Town Planning and Building Control

Department: Corporate Services

Section: Town Planning and Building Control

File number: 5/16/1/11

PURPOSE OF REPORT

To table a request from the Drostdy Museum to relocate and conserve the remaining historic streetlamps currently located in the central business district.

FACTS AND BACKGROUND

A request has been received from the chairperson of the Drostdy Museum that the remaining historic streetlamps in Voortrek Street be removed from their current location and donated to the museum – there are only some 5 remaining streetlamps, which each stand on their own pole and bolted to the ground. Said streetlamps are no longer operational, whilst only the core of the firehose reel remains – see **pages 9 to 11 of the Annexures**. Said items are located along Voortrek Street, in the Central Business District (CBD). The museum has offered to repair them and offer a suitable location within the Drostdy Museum complex gardens and buildings (possibly the rose garden), where they can be maintained and viewed.

DISCUSSION

Given the changing nature of the town, and specifically the CBD, the historic street lamps do not attract the attention and interest of residents and user groups, and are largely overshadowed by current, and more modern, fixtures – some of the street lamps are no longer even directly visible to the public.

It is considered that the museum's offer to fix / restore the small number of remaining historic streetlamps and to relocate these to the museum complex is a very positive one for the town's heritage conservation effort. Moreover, the initiative will ensure that the streetlamps are again used for their purpose and enjoyed in a location where people can appreciate their historic design and value.

If supported the museum will likely have to be assisted with the disconnection and relocation process. Details hereof will be discussed with the relevant parties at that time.

LEGAL IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

None.

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Service

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Wednesday, 21 February 2024.

RECOMMENDED

1. that the content of the report on the request of the Drostdy Museum to relocate and conserve the remaining historic street lamps in Voortrek Street in the CBD, be noted.
2. that it be noted that the municipality does not require the remaining historic street lamps in Voortrek Street in the CBD for the provision of essential services.
3. that it be approved that the historic street lamps in Voortrek Street, be lent to the Drostdy Museum for repair, maintenance, exhibition and safekeeping.
4. that the Drostdy Museum be assisted with the disconnection and relocation process, as necessary.

9.1.3

Item number A22. 27.02.2024

SUBDIVISION OF MUNICIPAL INDUSTRIAL LAND – ERF 8241 SWELLENDAM (2.5HA)

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

Department	Corporate Services
Section	Town Planning and Building Control
File number	15/2/3

PURPOSE OF REPORT

To set out a proposal for the subdivision of Erf 8241 Swellendam, and sale of the subsequent erven in the open market.

FACTS AND BACKGROUND

Erf 8241 Swellendam was generated on 11 February 2019, the result of a rezoning, consolidation and subdivision process relating to the rationalisation of various portions of municipal land located in the industrial area. It was created with a view to its sale on the open market – see SG Diagram **on pages 12 of the Annexures.**

Erf 8241 is zoned General Industrial in terms of the Integrated Zoning Scheme By-Law 2020 and measures approximately 2.5ha in extent. The property is located adjacent to the Traffic Services offices along Koorndlands Street, opposite SSK.

In April 2021 Council resolved as follows:

UNANIMOUSLY RESOLVED

Item A48/29/04/2021

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

6. *that the development proposals as per paragraphs 3 and 5 above be advertised for 60 days locally but also nationally making use of national marketing development platforms;*
 7. *that the Mayoral Committee be mandated to consider the development proposals on a report to be submitted to the Mayoral Committee by the Bid Evaluation Committee, interact and liaise with interested developers and submit a report with recommendations on the development proposals to Council for consideration;*
 8. *that the SWANSS Group of Companies be informed that there are no serviced erven available currently and that they will be informed as soon as the erven have been serviced and are ready for disposal, but if they wish to apply to rent a portion of the Traffic Services erf, the Mayoral Committee will favourably consider such an option; "*
2. that a two-phase bidding process be followed by the Supply Chain Management Unit for the subdivision and development of any or all three of the development blocks related to Erf 8240 on the basis of a right to develop with the aim to create a number of Industrial erven for industrial development but that interested industrialists also be allowed to submit bids for the purchase of a specific block or for all three blocks for own development and not for further subdivision;
 3. that a two-phase bidding process be followed by the Supply Chain Management Unit for the subdivision and development of Erf 8241 on the basis of a right to develop with the aim to create a number of Industrial erven for industrial development;
 4. that proposals for the right to develop be called in terms of a competitive tender process by the Supply Chain Management Unit;
 5. that the conditions as per paragraph 10 of the Council Resolution A35 dated 25 February be applicable to the process as per paragraphs 2 to 4 above;
 6. that the following reserve prices for offers be approved by Council:
 - 6.1 Erf 8240: R202 per square metre
 - 6.2 Erf 8241: R144.00 per square metre

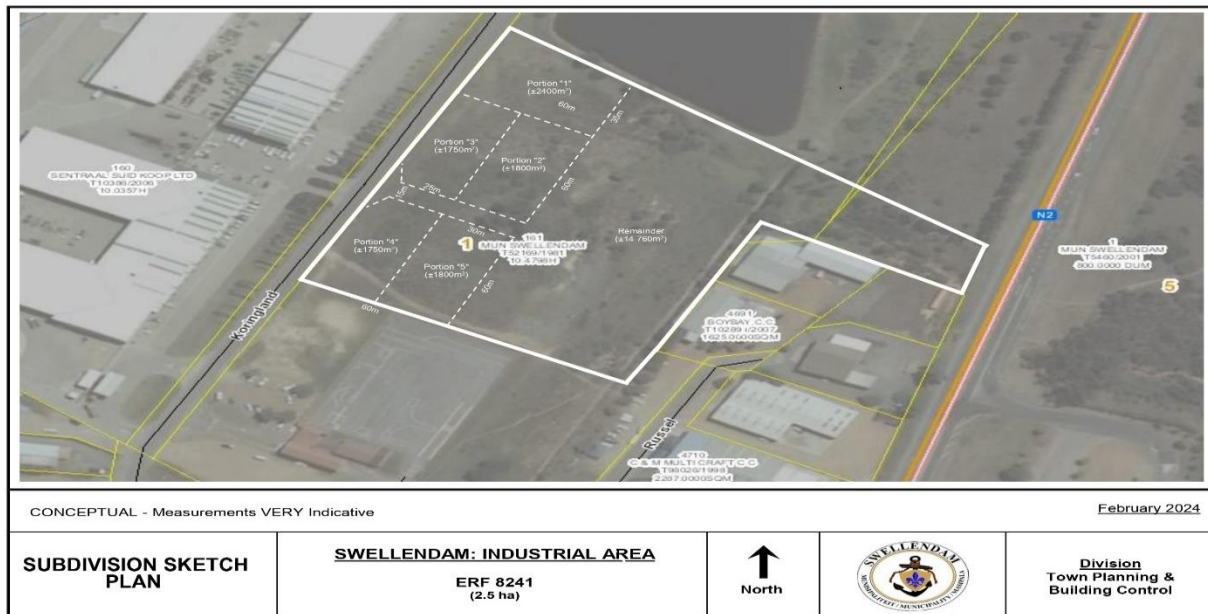
In keeping with the resolution, Erf 8241, Swellendam, was put out to tender in May 2021. No proposals for the 2 Stage Right-to-Develop strategy (as per Point 2 and Point 4 above) were received.

DISCUSSION

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

Accordingly, and after substantial further consideration by Senior Management, it is proposed that Erf 8241 Swellendam be subdivided into several smaller erven and a Remainder. The land use process is to be undertaken in-house, and a land surveyor is to be appointed for the survey work. The initial erven would likely vary in size from 1750m² to 2400m² in extent, with the remainder measuring some 1.4ha. The Remainder is proposed to be retained and subdivided

as a subsequent phase of development. It is noted that there have been a number of requests from the public for smaller industrial erven on which to establish workshops for a variety of business initiatives. Please refer to the indicative Subdivision Sketch Plan below, and **on page 13 of the Annexures.**



It is noted further that Council previously resolved to subdivide adjoining Erf 8240 into 3 portions each measuring in excess of 1ha, which are aimed at larger operators.

It is proposed that the new erven be sold on the basis of an open, competitive bidding process and that the remaining erven be sold out of hand.

LEGAL IMPLICATIONS

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

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

FINANCIAL IMPLICATIONS

Cost for the land survey process, which will be in the order of R75 000.00. The land use planning process will be completed in-house.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

Preparation of public advertisements.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

No comment received.

Director: Community Services

No comment received.

Director: Financial Services

No comment received.

Director: Infrastructure Service

At a meeting convened to discuss the proposal, the principle to further subdivide Erf 8241 was supported. However, it was requested that the number of disparate vehicular access points directly onto Koringlands Road be minimised.

Municipal Manager

No further comment received.

This item served on the Mayoral Committee meeting held on Wednesday, 21 February 2024.

RECOMMENDED

1. that the content of the report on the subdivision of Erf 8241, Swellendam, be noted.
2. that the previous Council resolutions A23/25/02/2021 and A48/29/04/2021, be rescinded.
3. that it be noted that Erf 8241, Swellendam, is not needed for the provision of basic municipal services in terms of Section 14 of the Municipal Finance Management Act, 2003 (Act 56 Of 2003).
4. that Erf 8241, Swellendam be subdivided into smaller erven and sold on the basis of an open, competitive bidding process and that the remaining erven become part of the municipal inventory of land that can be sold out of hand.
5. that a reserve price for each of the erven be determined on completion of the land use planning process and receipt of an approved General Plan, based on the findings of 2 independent valuation reports.

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

9.1.4

Item number A23. 27.02.2024

OVERBERG JDMA CONSOLIDATED REPORT AND OVERBERG JDMA PROJECT IMPLEMENTATION PLAN FOR OCTOBER 2023

Report of the Municipal Manager: Mrs. A. Vorster

Department Municipal Manager

Section Municipal Manager

File number 12/2/3/22

PURPOSE OF THE REPORT

The purpose of this report is to provide the Executive Mayor of Swellendam Municipality together with the Mayoral Committee and all other stakeholders with a progress report reflecting the status of the implementation of projects as well as challenges and risks identified in terms of the Joint District and Metro Approach (JDMA) projects in the Overberg. (See report **on pages 14 to 25 of the Annexures**).

FACTS AND BACKGROUND

The Joint District and Metropolitan Approach (JDMA) is premised on principles of co-planning, co-budgeting and co-implementation.

It provides a space where the three spheres of government and private sector can coordinate catalytic projects in a collaborative manner in order to positively impact the lives of citizens.

DISCUSSION

Since the introduction of the JDMA in 2019, the Overberg District had fully implemented and institutionalised the approach as well as the Overberg JDMA Implementation plan.

The Interface team have accordingly been established and implemented agreed upon catalytic projects in their budgeting and planning processes. Resultantly, a number of catalytic projects have been successfully completed and several others are still ongoing.

To facilitate the implementation of projects, the Overberg JDMA Interface team consisting of representatives of all spheres of government and other stakeholders have had several engagements to further sophisticate the institutionalisation of the JDMA processes in the Overberg.

Regular meetings are taking place to ensure that projects maintain their momentum and implementation are monitored on an ongoing basis. Attached please find a progress report reflecting the status of the implementation of projects as well as challenges and risks identified in terms of the Joint District and Metro Approach in the Overberg.

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Wednesday, 21 February 2024.

RECOMMENDED

1. that cognizance be taken of the Overberg Joint District Management Approach Consolidated Report as well as the Overberg JDMA Project Implementation Plan – progress report for October 2023.
2. that the following projects be added to the JDMA Projects:
 - 2.1 Overberg Task Force Tactical Team
 - 2.2 Re-establishment of Public Launch Site: Infanta

9.1.5

Item number A24. 27.02.2024

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

Report of the Municipal Manager: Mrs A. Vorster

Department Office of the Municipal Manager

Division Office of the Municipal Manager

File number 3/2/1/3

PURPOSE OF THE REPORT

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

The schedules for October 2023 to December 2023 **are attached on pages 26 to 49 of the Annexures.**

DISCUSSION

As under purpose of the report.

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Wednesday, 21 February 2024.

RECOMMENDED

that Council takes cognisance of the report on the implementation of Council Resolutions for the period October to December 2023.

9.1.6

Item number A25. 27.02.2024

WARD COMMITTEE POLICY

Report of the Municipal Manager

Department

Municipal Manager

Section

Committee Services

File number

3/3/3/15

PURPOSE OF REPORT

The purpose of the report is to submit to the Portfolio Committee a proposed policy on the ward committees.

FACTS AND BACKGROUND

Ward committees have an important role to play in bridging the gap between the Municipality, its Council, and the community. A Ward Committee may make recommendations on any matter affecting its ward to the Ward Councillor, or through the Ward Councillor, to the Local Council, the Executive Committee, or the Executive Mayor. A Ward Committee may have such duties and powers as may be delegated to it by the local Council of Swellendam Municipality in terms of Section 59 of the Municipality System Act.

The following represents duties and powers that may be delegated to Ward Committees by Swellendam Municipality:

- To create formal unbiased communication channels as well as co-operative partnership between the community and the Council;
- Assist the Ward Councilor in identifying challenges and needs of residents;
- Disseminate information in the ward concerning municipal affairs such as the Budget, Integrated Development Planning, Performance Management System (PMS), service delivery options and municipal properties;
- Receive queries and complaints from residents concerning municipal service delivery, communicate it via the Ward Councillor to the Executive Management and provide feedback to the community on their response;
- Ensure constructive and harmonious interaction between the Municipality and community through the use and co-ordination of ward residents' meetings and other community development forums; and
- Interact with other forums and organizations on matters affecting the ward.

A ward committee is to serve as a mobilizing agent for community action within the ward. This may be achieved as follows:

- I. Attending to all matters that affect and benefit the community.
- II. Acting in the best interest of the community.
- III. Ensure the active participation of the community in:
 - Service payment campaigns;
 - The Integrated Development Plan (IDP) process;
 - The Municipality's budgetary process;
 - Decisions about the provision of municipal services; and
 - Decisions about by-laws.

No executive powers may be delegated to Ward Committees.

DISCUSSION

Council's existing ward committee policy has been approved in 2020, but is not comprehensive. A new draft policy for Ward Committees is attached on **pages 50 to 79 of the Annexures** for consideration by Council. The Western Cape Local Government Department will be available to workshop said proposed policy with the Council and ward committee members.

LEGAL IMPLICATIONS

Constitution of RSA, 1996

Local Government: Municipal Structures Act, Act Nr 117 of 1998

Local Government: Municipal Systems Act, Act Nr 32 of 2000

White Paper on Local Government, 1998

National Policy Framework for Public Participation, 2007

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

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, 21 February 2024.

RECOMMENDED

that the proposed reviewed Policy for Ward Committees be recommended for approval for public participation, including workshops with the ward committees.

9.1.7

Item number A26. 27.02.2024

RULES OF ORDER POLICY

Report of the Municipal Manager

Department Municipal Manager

Section Committee Services

File number 17/3/R

PURPOSE OF REPORT

The purpose of the report is to submit to the Portfolio Committee a request that the proposed Rules of Order By-Law be changed to a policy as well as some amendments to the draft.

FACTS AND BACKGROUND

A by-law is a law that is passed by the Council of a municipality to regulate the affairs and the services it provides within its area of jurisdiction. It must be passed by a majority vote of a municipal council. In terms of the Constitution the executive and legislative authority of a municipality is exercised by the municipal council', and one of the methods by which this is done is by passing by-laws.

A municipality may only make by-laws on matters that it has the right to administer. These matters are set out in Schedules 4B and 5B of the Constitution.

However, passing by-laws without enforcing it, serves no purpose. Failure by a municipality to enforce its by-laws amounts to a failure to give effect to the obligations imposed upon a municipality by section 152 of the Constitution.

Any councillor or a committee of a municipal council may prepare a draft by-law. It is usually drafted by a municipal department on the instructions of a council committee. The Constitution, the Municipal Structures Act and the Municipal Systems Act set the framework in terms of which a municipal council must pass by-laws. Within this framework, a council may make a by-law to further regulate its internal procedures of lawmaking.

The Constitution sets two basic requirements for municipal lawmaking:

- First, a by-law must have the support of the majority of all the councillors.
- Second, the community must have enjoyed the opportunity to have its say with regard to that by-law. The making of a by-law entails the following steps:

Step 1: A draft by-law is prepared by a councillor or a committee of the council.

Step 2: The council must consult with the community with regard to the draft by-law. It must at least publish the by-law for comment by the public.

Step 3: The by-law is introduced in and debated by the council.

Step 4: The municipal council votes on the by-law.

Step 5: If passed by the council, the bylaw is published and becomes law on that date or a later date set in the by-law.

DISCUSSION

The draft Rules of Order By-Law is attached **on page 80 to 135 of the Annexures**. Council workshopped a draft by-law and approved it for publication, however changes to the by-law were requested. The changes include that calendar days be changed to work days for giving notice of meetings, as well as consideration be given to the number of people needed to submit a motion for removal of office bearers from office and that the by-law rather be made a policy.

Please note the following:

- If the municipality decides to adopt this by-law, the sanctions set out in rule 63 may remain as is.
- Every municipality must ensure that it has all the necessary policies in place. The rules refer to the uniform standing procedure relating to councillor discipline, which must be adopted by every municipal council in terms of item 4(3) of the Code of Conduct. In addition, the "Code of Conduct" calls for policy on a number of issues, including:
 - References to decorum in the rules are vague, and should be addressed in a separate policy document by every municipality.
 - The rules should be amended as soon as Khoi-San leaders are recognised in terms of the Traditional and Khoi-San Leadership Act, 2019 (Act 3 of 2019) to ensure their involvement in local government matters in the Province.

LEGAL IMPLICATIONS

Constitution of RSA, 1996

Local Government: Municipal Structures Act, Act Nr 117 of 1998

Local Government: Municipal Systems Act, Act Nr 32 of 2000

RISK AND AUDIT IMPLICATIONS

A By-Law should only be adopted, if Council has the ability and willingness to enforce it.

FINANCIAL IMPLICATIONS

By-Laws must be promulgated in the Government Gazette at a high cost.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per the resolution made by Council.

COMMENTS FROM DEPARTMENTS

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, 21 February 2024.

RECOMMENDED

1. that Council indicates if the Rules of Order should be a by-law or a policy.
2. that the following proposed changes to the draft Rules of Order be considered by Council:

Chapter 1,

- Section 2(1)(b): Application and Interpretation

Committees to be excluded from the application of the rules to be added:

- Mayoral Committee and Section 80 Committees.

Chapter 2,

- Section 5(1)(c): Agenda: the agenda for an ordinary Council meeting must be provided to councillors 7 calendar days (5 working days) prior to the day of the meeting.
- Section 5(1)(d): Agenda: Special Council meetings: add the following: if the approval of a budget is included in the agenda of a special council meeting, the notice period for such meeting shall be 7 calendar days (5 working days)

Chapter 7,

- Section 55: Removal of Office Bearers from Office: reconsider the number of councillors required to second a motion to remove the Speaker, Executive Mayor or Deputy Executive Mayor from Office.

3. that the existing Rules of Order By-law be rescinded as and when the newly approved by-law or policy comes into effect.

9.1.8

Item number A27. 27.02.2024

MONTHLY REPORT OF MUNICIPAL MANAGER: JANUARY AND FEBRUARY 2024

Report by the Municipal Manager, Mrs A. Vorster

AUDITOR-GENERAL

The annual 2022/2023 audit undertaken by the Auditor-General is still underway with the expected issuing of the final report mid to late February 2024 after which the Annual Report will be tabled to Council and advertised for public input.

LAND REFORM

The Municipality approved the cross-boundary service level agreement for law enforcement collaboration with municipalities in the Overberg. Signature of this agreement is still awaited from other municipalities.

An urgent law enforcement workshop was called with law enforcement and crime intelligence role players in the Overberg at Helderstroom on 6 February 2024 where the risk of land invasions has been highlighted. Swellendam Municipality is one of the high-risk areas according to crime intelligence reports. Labour brokering in the agricultural sector has been identified as one of the root causes for in-migration and an urgent intervention in this respect is needed.

The need for credible crime intelligence and fast response has been emphasized. The Municipality's administration is preparing against land invasions, including the verification of property ownership, the identification of open, vulnerable land and regular inspections. The next step would be to invite specific owners of open land to an information session on how to deal with land invasions and to raise general awareness around the need to report illegal structures and the processes to be rolled-out to address these issues.

TOURISM DEVELOPMENT

A tourism role player sector engagement is planned for the end of February.

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.

LOCAL ECONOMIC DEVELOPMENT

Swellendam Municipality partnered with Mr Charlie Thomas to train residents to obtain their learner driver's licence. 60 community members were trained in Swellendam on 6,7 and 8 February. 20 community members were trained in Buffeljagsrivier on 13 to 15 February 2024 and there are plans to roll this project out to the other towns as well.

A construction training session aimed at emerging contractors is scheduled for 22 February 2024 in Barrydale.

Since last year the Municipality's administration did door-to-door visits to spaza shops/ house shops to collect information on the operation and compliance of this sector. This study is finishing up now.

The Municipality partnered with SEFA to target house shop owners to roll out financial aid programs for house shops in the form of a R10 500 grant coupon to purchase stock. This workshop and information session is scheduled for 13 February 2024.

A presentation by Brenthurst Foundation on a commercial study that they did in Swellendam was attended by senior management on 8 February 2024 at Teatro. Possible collaboration with the foundation is being investigated.

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, subsequently Part A of the application was withdrawn by the applicant with the offer to carry the litigation cost of the Municipality. Part B of the application will continue.

FILLING OF VACANCY: DIRECTOR: TECHNICAL SERVICES

An offer was made to the successful candidate for the position of Director: Technical Services, but the offer was declined. A request was submitted to the Department of Local Government to deploy an official while the Municipality continue with the recruitment process.

STAFF COMPLEMENT

Mr Zander Wiese was appointed as Performance and Compliance Officer as of 5 February 2024. The focus is to ensure that performance management is rolled out in full by end of February 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.

COGTA ENGAGEMENT

A meeting with officials from national COGTA and the Department of Local Government in the Western Cape took place on 26 January 2024 on the Indigent Policy of Council and the Municipality's Institutional Resilience Plan.

A Vorster

MUNICIPAL MANAGER

This item served on the Mayoral Committee meeting held on Wednesday, 21 February 2024.

RECOMMENDED TO COUNCIL

1. that cognisance be taken of the monthly report of the Municipal Manager for January and February 2024.
2. that the Municipal Manager be requested to facilitate a discussion session on the implementation of the House Shop Policy.

9.1.9

Item number A28. 27.02.2024

PROVINCIAL, NATIONAL AND LOCAL GOVERNMENT ELECTIONS: PROPOSAL TO WAIVE CERTAIN STIPULATIONS OF THE BY-LAW ON OUTDOOR ADVERTISING AND SIGNAGE

Report of the Municipal Manager: Mrs. A. Vorster

Department Office of the Municipal Manager

Division Office of the Municipal Manager

File number 10/2/1/1

PURPOSE OF REPORT

The purpose of this report is to submit a proposal that Council waives certain stipulations of the By-Law on Outdoor Advertising and Signage for the display of posters for the national, provincial and local government elections.

Council's consideration of exemption from the payment of the deposit fee by the Independent Election Commission for the display of election registration posters during local government, provincial and national elections, is also tabled.

FACTS AND BACKGROUND

During the 2021 general local government election cycle, the Council has resolved as follows:

UNANIMOUSLY RESOLVED

Item A88/24/06/2021

1. that the following stipulations as per Annexure 11 of the By-Law on outdoor advertising and signage be waived for the national local government election on 27 October 2021
 - i. Posters, banners, tear-drop banners and flags may be displayed from the date of payment of the deposit of the posters and must be removed within 14 days from the date of the event or the last day thereof as applicable.
 - ii. Only one poster or flag per organisation may be erected on every second streetlight pole.
 - iii. The restriction of posters to be erected at a height of 2 metres be waived.
 - iv. No posters, banners, tear-drop banners and flags may be displayed within 30 meters of any road traffic sign or traffic signal.
 - v. Posters, banners tear-drop banners and flags may only be erected to advertise the event and the name or emblem of a sponsor may not cover more than 20% of the surface of the material. For elections the period be extended to 14 days after the date of the election.
 - vi. Posters, banners, tear-drop banners and flags, excluding election posters and flags, may only be erected in the roads, or places as indicated by the Municipality and may not be erected in residential areas or on bridges. No political banners will be allowed.
2. that for the national local government election on 27 October 2021, the period to remove the posters be extended to 14 days after the election day;
3. that for the national local government election on 27 October 2021, posters be erected on stipulated locations only

4. that for the national local government elections on 27 October 2021 political parties be allowed to place posters in all area except where it is prohibited to do so; such as traffic signs, traffic signals, central ridges, existing advertising signs or any municipal buildings, walls, fences or over hydrant identification signs or any public infrastructure so identified.
5. Where permission is granted by private property owners, such owners will be subjected to the outdoor signage and advertising by-law.

An enquiry on the means of obtaining a Council Resolution exempting the IEC from the payment of the deposit fee for the display of posters, was received from Cantare Schierholt of the IEC.

DISCUSSION

1. It is suggested that the following stipulations outlined in Annexure 11 of the By-Law on Outdoor Advertising and Signage for all provincial, national, and local government elections be waived:
 - i) Posters, tear-drop banners, and flags may be displayed from the deposit payment date but not earlier than 90 days before the event and must be removed within 14 days from the event date.
 - ii) Only one poster or flag per organisation may be erected on every second streetlight pole.
 - iii) No posters, banners, tear-drop banners, or flags may be displayed within 30 metres of a stop sign and may not obstruct the view of any stop sign or hinder pedestrian/vehicular traffic.
 - iv) Posters, banners, tear-drop banners, and flags, excluding election materials, may only be erected in locations designated by the Municipality, avoiding residential areas and bridges.
 - v) Posters and flags must be uniformly erected at a minimum height of approximately 2 meters.
 - vi) Posters measuring a maximum of 120 cm x 100 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damaged caused to the poles. No securing material with a metal content is permitted.
2. Posters are allowed in all areas except where prohibited, such as on traffic signs, central ridges, existing advertising signs, municipal buildings, walls, fences, or over hydrant identification signs or any public infrastructure.
3. It is suggested that the following stipulations of the By-Law will remain in effect:
 - i) The Municipality will levy a tariff to remove unauthorised material.
 - ii) All materials used for affixing posters must be removed along with the posters.
 - iii) The Municipality reserves the right to remove indecent, torn, or hazardous posters.

- iv) The Municipality is exempt from liability arising from the display of posters.
- v) Organisations or individuals must pay a deposit determined by the Municipality before displaying posters.
- vi) The Municipality may remove non-compliant posters.
- vii) Posters not removed by the due date may be removed by the Municipality, forfeiting the deposit.

Established in terms of Chapter 9 of the Constitution as a State Institution tasked with strengthening constitutional democracy, the Independent Election Commission's function is to manage free and fair elections of national, provincial and municipal legislative bodies in accordance with national legislation. Within this context it is suggested that the IEC be exempted from the payment of the deposit fee for the display of election registration posters during local government elections as well as provincial and national elections.

LEGAL IMPLICATIONS

- Local Government: Systems Act, 2000 (Act 32 of 2000).
- By-Law on Outdoor Advertising and Signage.

FINANCIAL IMPLICATIONS

Annexure 11 of the By-Law on Outdoor Advertising and Signage determines the rules regarding temporary posters. The display of posters during election campaigns is also subject to the stipulations of Annexure 11. A deposit of R5680.00 (until 30 June 2024, thereafter in accordance with the amended tariff schedule as provided in the 2024/25 Budget) must be paid by political parties/independent candidates who wish to erect posters. The deposit will only be refunded once the posters have been removed within a time frame specified in the By-Law.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENT FROM DEPARTMENTS

Director: Corporate Services

No further comment

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

The item is presented by the Municipal Manager

RECOMMENDED

1. that the following stipulations outlined in Annexure 11 of the By-Law on Outdoor Advertising and Signage be amended for all provincial, national, and local government elections be waived:
 - i) Posters, tear-drop banners, and flags may be displayed from the deposit payment date but not earlier than 90 days before the event and must be removed within 14 days from the event date.
 - ii) Only one poster or flag per organisation may be erected on every second streetlight pole.
 - iii) No posters, banners, tear-drop banners, or flags may be displayed within 30 metres of a stop sign and may not obstruct the view of any stop sign or hinder pedestrian/vehicular traffic.
 - iv) Posters, banners, tear-drop banners, and flags, excluding election materials, may only be erected in locations designated by the Municipality, avoiding residential areas and bridges.
 - v) Posters and flags must be uniformly erected at a minimum height of approximately 2 meters.
 - vi) Posters measuring a maximum of 120 cm x 100 cm must be mounted on a board and affixed securely with stout string or plastic fastening without damaged caused to the poles. No securing material with a metal content is permitted.
2. that posters be allowed in all areas except where prohibited, such as on traffic signs, central ridges, existing advertising signs, municipal buildings, walls, fences, or over hydrant identification signs or any public infrastructure.
3. that it be confirmed that the following stipulations of the By-Law will still apply in terms of the by-law:
 - i) The Municipality will levy a tariff to remove unauthorised material.
 - ii) All materials used for affixing posters must be removed along with the posters.
 - iii) The Municipality reserves the right to remove indecent, torn, or hazardous posters.

- iv) The Municipality is exempt from liability arising from the display of posters.
 - v) Organisations or individuals must pay a deposit determined by the Municipality before displaying posters.
 - vi) The Municipality may remove non-compliant posters.
 - vii) Posters not removed by the due date may be removed by the Municipality, forfeiting the deposit.
- 4) that approval be granted that the Independent Election Commission be exempted from the payment of the deposit fee for the display of election registration posters during all local government, provincial and national elections, however the stipulations of the Outdoor Advertising Signage By-Law to remain applicable.

9.1.10

Item number A29. 27.02.2024

GRANT IN AID TO ORGANISATIONS – 2023/2024

Report of the Director: Financial Services: Ms E Wassermann

Department Financial Services

Section Financial Services

File number 5/16/1/1

PURPOSE OF THE REPORT

The purpose of the report is to inform the Council of applications received from organisations for grant in aid for the 2023/2024 financial year.

FACTS AND BACKGROUND

Section 67 of the Local Government: Municipal Finance Management Act, 2003 (Act no 56 of 2003)-[MFMA] requires a municipality to ensure that certain criteria and conditions are met before funds are transferred to an organisation outside any sphere of government, otherwise than in compliance with a commercial transaction.

Supporting documents are attached **on pages 136 to 151 of the Annexures.**

DISCUSSION

The tables below provide a breakdown of the applications that were received and whether they qualified in terms of Council policy:

Applicant	Registration number	Amount applied for	Qualified
ACVV Barrydale	151-633	R 20,000	Yes
Barrydale Hospice	176-335	R 81 200	Yes
KAPS	020-910	R 50 000	Yes
SPCA Swellendam	005-485	R 60 000	Yes
Swellendam Buurtwag	Not provided	R 30 000	No
Railton Foundation	169-704	R 20 950	Yes
Total		R 262 150	

The following documentation is attached as Annexure A:

- Grant in Aid Pre-Screening Compliance Checklist.
- Grant in Aid Policy, Swellendam Municipality.

LEGAL IMPLICATIONS

Section 67 of the MFMA deals with funds transferred to organizations and bodies outside the government. The stipulations in this regard are as follows:

- "Section 67(1) - Before transferring funds of the municipality to an organization or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organization or body-
 - a) has the capacity and has agreed-
 - i. to comply with any agreement with the municipality;
 - ii. for the period of the agreement to comply with all reporting, financial management, and auditing requirements as may be stipulated in the agreement;
 - iii. to report at least monthly to the accounting officer on actual expenditure against such transfer; and
 - iv. to submit its audited financial statements for its financial year to the accounting officer promptly;
 - b) implements effective, efficient, and transparent financial management and internal control systems to guard against fraud, theft, and financial mismanagement; and
 - c) has in respect of previous similar transfers complied with all the requirements of this section.
- Section 67(2) - If there has been a failure by an organization or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection (1)(c) make a further transfer to that organization or body provided that-
 - a) subsection (1)(a) and (b) is complied with; and
 - b) the relevant provincial treasury has approved the transfer.
- Section 67(3) The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).
- Section 67(4) - Subsection (1)(a) does not apply to an organization or body serving the poor or used by the government as an agency to serve the poor, provided-
 - a) that the transfer does not exceed a prescribed limit; and
 - b) that the accounting officer-
 - i. takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and
 - ii. certifies to the Auditor-General that compliance by that organization or body with subsection (1)(a) is uneconomical or unreasonable"

FINANCIAL IMPLICATIONS

The financial implication for the applicants that did apply amounts to R 262 150. There is however only an amount of R 170 000 budgeted for this purpose. The breakdown of budgeted amounts and applications are as follows:

Budget 2023/2024:

Organisations assisting the municipality with functions - R 100,000

Other organisations - R 70,000

Applications 2023/2024:

Organisations assisting the municipality with functions - R 110,000

Other organisations - R 152,150

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

Only five organizations qualified in terms of council policy. It is proposed that the amount of R 170 000 be allocated as follows based on the previous year's allocations:

Applicant	Previous Allocation (2023)	Amount Requested	Amount Recommended
SPCA	R35 000	R60 000	R60 000
KAPS	R35 000	R50 000	R50 000
ACVV Barrydale	R0	R20 000	R20 000
Barrydale Hospice	R0	R81 200	R20 000
Railton Foundation	R3 000	R20 950	R20 000
Swellendam Buurtwag	R0	R30 000	Do not qualify

The applications for grant in aid allocations to organisations will be evaluated on an annual basis. The amounts allocated to organisations annually will therefore be determined based on the organisations that do qualify, the amounts requested as well as the available budgeted funds. Amounts allocated to organisations that do qualify can therefore vary from year to year.

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the Grant In Aid allocations for the 2023/2024 financial year; be approved as follows:

Applicant	Previous Allocation (2023)	Amount Requested	Amount Recommended
SPCA	R35 000	R60 000	R60 000
KAPS	R35 000	R50 000	R50 000
ACVV Barrydale	R0	R20 000	R20 000
Barrydale Hospice	R0	R81 200	R20 000
Railton Foundation	R3 000	R20 950	R20 000
Swellendam Buurtwag	R0	R30 000	Do not qualify

2. that the donations approved only be paid to organizations on receipt of their 2022/2023 financial statements.
3. that the donations approved only be paid to organizations on receipt of any outstanding information or documentation.

9.1.11

Item number A30. 27.02.2024

REQUEST TO CONDUCT PAID PRIVATE WORK BY OFFICIALS

Report of the Municipal Manager: Mrs. A. Vorster

Department Office of the Municipal Manager

Section Office of the Municipal Manager

File number SP file

PURPOSE OF REPORT

To obtain permission from Council for officials wanting to do private work to secure an additional income.

FACTS AND BACKGROUND

Two officials applied in writing to conduct paid private work which will provide him/her with an additional income, namely:

Name of applicant	Job Title	Department	Nature of private business / activity
Nadia Hendricks	Accountant: Budget and Reporting	Finance Department	• Compile financial statements for small businesses
Denzil Philander	Supervisor: Building Maintenance	Infrastructure Services	• General small building works

The applications are attached on **page 152 to 157 of the Annexures.**

The Director / Manager of the various departments agreed that providing this permission will not negatively impact the operations of the offices concerned.

DISCUSSION

Section 4(2)(c) of the Code of Conduct for employees, as contained in Schedule 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended, provides that:

"Except with the prior consent of the council of a municipality a staff member of the municipality may not be engaged in any business, trade, or profession other than the work of the municipality."

According to the applicants, the private work will take place on the following basis:

- It will be totally outside the context of the relevant official 'official duties, powers, responsibilities, and sphere of influence in Swellendam Municipality.
- It will not interfere with their official job duties, responsibilities, or activities.
- It will not occur during working hours; only on public holidays, weekends, and after hours.

- It will have no direct business- or other connections with Swellendam Municipality and/or any other state organ.

LEGAL IMPLICATIONS

The Code of Conduct for employees as mentioned above.

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 the applications to conduct paid private work as received from the following employees, be approved by Council subject to it not having an impact on the Municipality's operations and that no municipal equipment or time may be used.

Name of applicant	Job Title	Department	Nature of private business / activity
Nadia Hendricks	Accountant: Budget and Reporting	Finance Department	• Compile financial statements for small businesses
Denzil Philander	Supervisor: Building Maintenance	Infrastructure Services	• General small building works

9.1.12

Item number A31.

27.02.2024

AUDIT AND PERFORMANCE AUDIT COMMITTEE APPOINTMENTS

Report of the Municipal Manager: Ms. A Vorster

Department

Municipal Manager

Section

Internal Audit

File number

3/3/3/16

PURPOSE OF THE REPORT

The purpose of the report is to inform Council on the current status of the Audit and Performance Audit Committee (APAC) composition and to submit the applications received for the vacant Audit Committee positions to Council for consideration and appointment.

FACTS AND BACKGROUND

The Audit and Performance Audit committee currently consists of 4 members, namely:

- Chairperson: Mr. A. Dippenaar (Contract expires: 31 August 2025);
- Member 1: Mr. N. Hendricks (Contract expires: 31 January 2024);
- Member 2: Mr. P. Silbernagl (Contract expires: 31 March 2024); and
- Member 3: Mr. R. Rhoda (Contract expires: 30 June 2024)

The advertisement made provision for three Audit and Performance Audit Committee Members. In terms of the abovementioned, the contract of the Audit and Performance Audit Committee Members comes to an end on the respective dates: 31 January 2024, 31 March 2024 and 30 June 2024. In terms of MFMA Circular 65, audit committee members should serve at least a minimum of three years with an option to renew for another three years.

The abovementioned Circular also recommends that members be rotated as it enhances the independence of the audit committee.

DISCUSSION

Due to the above-mentioned, the administration placed an advertisement in the local newspaper and social media platforms in January 2024 to invite members of the public to serve on the Audit and Performance Audit Committee (APAC).

Seven (7) applications were received by the due date of 16 February 2024. Out of the seven applications received, five candidates possess extensive experience in both the public and private sectors, and have additionally served on an Audit and Performance Audit Committee.

Detailed information is listed in the long list of all applications received as attached **on page 158 to 167 of the Annexures.**

The advertisement is attached on **page 168 of the Annexures** and the CV's of applicants as well as currently serving members are attached on **page 169 to 299 of the Annexures**.

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

The remuneration of the Audit and Performance Audit Committee members takes place in accordance with the "Remuneration of Non-Official Members: Commissions and Committees of Inquiry and Audit Committees" as per the Minister of Finance's determination in terms of the Treasury Regulations, as issued on an annual basis.

Data allowance to be provided to the Audit and Performance Audit Committee member as per Council Resolution A52/28/05/2020.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

The applicants will be informed of the outcome of the Council decision.

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 resolves to appoint three members to serve on the the Audit and Performance Audit Committee for a fixed term of 3 years with effect from 01 March 2024, from the long list of applications received.

9.1.13

Item number A32. 27.02.2024

ERF 422 MALAGAS - DISPUTE

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

Department: Corporate Services
Section: Town Planning and Building Control
File number: 15/2/3

PURPOSE OF REPORT

To set out a request for the legal settlement of a dispute, as it applies to a portion of Erf 422 Malagas.

FACTS AND BACKGROUND

Erf 422 Malagas measures some 48.7ha in extent and formed part of a deceased estate. The property exists as a split remainder, meaning it comprises a remainder of a previous cadastral entity that was subdivided into new erven many years ago, but leaving 2 disparate land parcels: Land Parcel 1 and Land Parcel 2. Land Parcel 1 (0.8570ha) is located adjacent to the Breede River (where the pont is based), whilst Land Parcel 2 (47.86ha) is located some 3km to the south west and comprises a portion of Main Road 268 to Infanta, a portion of Divisional Road 1223, and a narrow strip of agricultural land – please refer to the aerial photo plans included on **Page 300 to 301 of the Annexures**.

Given the need to formally accommodate the new pont (which now requires a berth) and to make provision for a properly constructed public launch site, the Administration initiated a process to expropriate the property. The expropriation was completed recently and Erf 422 is now registered in the name of the Swellendam Municipality – from February 2024.

Notwithstanding, a property owner who farms in the area and who has been utilising the narrow strip of agricultural land which forms part of Erf 422 (land parcel 2) adjacent to his farm, for in excess of 30 years, has since declared a dispute with regards the expropriation. This dispute was lodged after all requisite legal process had been concluded. Said property owner has now approached the Administration with a view to a settlement.

DISCUSSION

The purpose of initiating the expropriation process was aimed at securing ownership of the land to accommodate the new motorised pont and to construct the proposed new public launch site (land parcel 1). This is a project that will be undertaken in a 3 way partnership between the Swellendam Municipality, the Overberg District Council and the Western Cape Government (Infrastructure Services).

In essence the Administration has no interest in retaining the ownership of Land Parcel 2 and we would look to subdivide off that parcel of land, with the relevant sections of road to be transferred to the Overberg District Council and the WCG (Infrastructure Services) all to be managed by the Overberg District Council, whilst the narrow strip of agricultural land being transferred to the noted adjoining landowner

Given the above, the request from the adjoining landowner works in favour of the Administration. It is considered that if he was to agree to pay for the required subdivision and transfer / registration processes that we ought to be willing to settle the dispute.

The noted rezoning and subdivision process will have to follow all requisite legislative processes including public participation.

LEGAL IMPLICATIONS

The following legislation regulates the management and disposal of Municipal property:

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

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None.

COMMUNICATIONS IMPLICATIONS

Preparation of public advertisements.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Service

None

Municipal Manager

None

RECOMMENDED

1. that the content of the report on the dispute regarding the expropriation of Erf 422, Malagas be noted.
2. that it be noted that the disputed portion of Land Parcel 2, is not needed for the provision of basic municipal services in terms of Section 14 of the Municipal Finance Management Act, 2003 (Act 56 Of 2003).
3. that the dispute be settled.
4. that the disputing party be required to pay all costs relating to the land survey, subdivision, rezoning and transfer / registration process, as it relates to separating Land Parcel 1 from Land Parcel 2 and ensuring that the affected portion of Main Road 268 and Divisional Road 1223 be registered in name of the Overberg District Council / WCG (Infrastructure Services) and the balance of Land Parcel 2 (the narrow strip of agricultural land) into his own name.

9.1.14

Item number A33. 27.02.2024

PUBLIC ART: POLICY

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

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

PURPOSE OF REPORT

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

FACTS AND BACKGROUND

On 31 October 2023 Council resolved unanimously as follows:

UNANIMOUSLY RESOLVED

Item A117/31/10/2023

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

The draft policy was duly advertised for public comment, with a closing date of 14 December 2023. One comment was received, that from Ms Mauchan – **attached on Page 302 of the Annexures.**

DISCUSSION

Ms Mauchan's comment was considered. The draft Policy on Public Art was adjusted to accommodate of her input. A copy of the adjusted draft Policy is included **on Page 303 of the Annexures.**

It is noted that as Council does not employ art specialists to adjudicate the standard of submissions, it must rely on CV's and membership of / association with recognised organisations to gauge the veracity of an artist's skills and the "quality" of the art to be installed.

Council may elect to introduce a tariff for the application and / or exhibition of Public Art. Whilst this is a consideration, it may be prudent to see how many applications are received before such a tariff is introduced.

In terms of risk and liability it is noted that Council's insurers must be advised of the intended installation of any public art on public land or structures, as it could impact on cost. Similarly, applicants must sign a waiver for any liability claim due to damages, theft, fire etc.

LEGAL IMPLICATIONS

None.

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None at this stage.

COMMUNICATIONS IMPLICATIONS

Publication of the final policy.

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

The Director's previous comment was noted and included in the final draft policy as now being tabled.

Director: Infrastructure Service

None

Municipal Manager

None

RECOMMENDED

1. that the content of the report be noted.
2. that the Policy be approved by Council for implementation from 1 March 2024
3. The Municipal Manager be authorised to finalise and implement the policy as necessary.
4. Applications for public art be circulated to all internal departments before being tabled for Council's consideration.

9.1.15

Item number A34. 27.02.2024

FEBRUARY 2024 - ADJUSTMENTS BUDGET 2023/2024

Report of the Director: Financial Services: Ms E Wassermann

Department Financial Services

Section Financial Services

File number 5/1/1

Annexures

Annexure A – February 2024 - Adjustment budget schedules for 2023/2024 is attached **on page 304 to 348 of the Annexures**. The SDBIP and Performance Agreements is attached **on page 349 to 533 of the Annexures**.

PURPOSE OF REPORT

The purpose of the report is to present the February Adjustments Budget for the 2023/2024 financial year following the midyear assessment as of 31 December 2023, together with the subsequent amendments to the Service Delivery Budget Implementation Plan (SDBIP).

FACTS AND BACKGROUND

Council resolved per item A15 on 30 January 2024:

“RESOLVED:

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”*

DISCUSSIONS

Capital Budget

The capital budget increased from R64,3 million (Nov 23 adjustment Budget) to R74,9 million. The main capital adjustments proposed are:

Function	Project Name	Funding Source	Amended Budget 2023/2024	Adjustments	Feb Mid-year Adjustments Budget 2023/2024	Comments
Information Technology	ICT network	Transfer from Operational Revenue	100 000	150 000	250 000	Additional Funds are needed to re-establish the ICT network between the various remote offices.
Property Services	Conversion of old Library into offices	Transfer from Operational Revenue	920 000	(920 000)	-	The project estimated cost on the bill of quantity amounts to +-R4.7m. Insufficient funds on the budget to complete the project. Project halted.
Property Services	Conversion of old Library into offices	Transfer from Operational Revenue	1 500 000	(1 500 000)	-	The project estimated cost on the bill of quantity amounts to +-R4.7m. Insufficient funds on the budget to complete the project. Project halted.
Property Services	Replace Airconditioners at various buildings 2023-2026	Transfer from Operational Revenue	50 000	160 000	210 000	Installation of air conditioning at various new remote offices to improve working conditions.
Housing	Emergency Housing alternative	Transfer from Operational Revenue	50 000	(2 000)	48 000	Project Completed, saving on budget
Community Halls and Facilities	Replace alarm system	Transfer from Operational Revenue	60 000	(60 000)	-	An alarm system was for Thusong, but no longer needed due riots to building. Will be implemented with the rebuild of Thusong.
Community Parks (including Nurseries)	Toilet and garage (Buffeljags)	Transfer from Operational Revenue	50 000	(50 000)	-	Project cost exceeds budget. The project can not continue. Will be re-budgeted.
Community Parks (including Nurseries)	Grass cutting equipment (Brush cutters)	Transfer from Operational Revenue	50 000	(1 500)	48 500	Project completed, saving.
Community Parks (including Nurseries)	Parks - Machinery and Equipment	Transfer from Operational Revenue	10 000	18 000	28 000	Additional equipment is needed for cutting and cleaning. (Chainsaws & Chan sharpeners)
Community Parks (including Nurseries)	Roller Mower 1.5M 2023-2026	Transfer from Operational Revenue	70 000	(12 000)	58 000	Project Completed. Savings
Solid Waste Removal	Skip for hazardous materials Bontebok, Infanta	Transfer from Operational Revenue	30 000	7 000	37 000	Additional funds are needed to complete the project.

Function	Project Name	Funding Source	Amended Budget 2023/2024	Adjustments	Feb Mid-year Adjustments Budget 2023/2024	Comments
Solid Waste Disposal (Landfill Sites)	Mini drop off sites for Railton	Transfer from Operational Revenue	100 000	(100 000)	-	Project scope to be revisited.
Municipal Manager, Town Secretary and Chief Executive	Cell phones x 5	Transfer from Operational Revenue	8 000	700	8 700	Additional funds are needed to replace broken cell phones.
Disaster Management	Fire skids	Transfer from Operational Revenue	35 000	(10 000)	25 000	Project Completed, saving.
Community Halls and Facilities	Community halls furniture and equipment 2023-2026	Transfer from Operational Revenue	40 000	(34 000)	6 000	Project Completed, saving.
Police Forces, Traffic and Street Parking Control	Traffic mascot for road safety	Transfer from Operational Revenue	15 000	(15 000)		Cost increased budget provision, the project to be re-considered.
Police Forces, Traffic and Street Parking Control	Tables for Barrydale learners classes 2023/24	Transfer from Operational Revenue	16 000	(3 500)	12 500	Project Completed, saving.
Police Forces, Traffic and Street Parking Control	New vehicle testing system	Transfer from Operational Revenue	300 000	15 000	315 000	The tender amount is more than the budgeted, Funds needed to complete the project.
Police Forces, Traffic and Street Parking Control	Traffic: Machinery and Equipment 2023_2024	Transfer from Operational Revenue	10 000	3 500	13 500	Additional Machinery and Equipment are needed for operations.
Police Forces, Traffic and Street Parking Control	2 x 4 seater Sedans (2023/2024)	Borrowing	35 000	(15 000)	20 000	Project rollover from the previous financial year. Project complete, savings
Water Treatment	Diesel Trailor 500l x1	Transfer from Operational Revenue	60 000	5 000	65 000	Quotations more than budget provision. Funds needed to complete the project.
Water Distribution	Swellendam (Railton): Bulk Water Reticulation and Distribution	Borrowing	1 599 000	2 300 000	3 899 000	An amount of R2 300 000 was originally budgeted for in 2023/2024 whilst an amount of R1 599 000 was unspent for the 2022/2023 financial year. With the Aug 2023 roll-over budget, the funds on this project were incorrectly rolled over to R1 599 000 instead of being added

Function	Project Name	Funding Source	Amended Budget 2023/2024	Adjustments	Feb Mid-year Adjustments Budget 2023/2024	Comments
						to the original budget amount of R2 300 000. The full rollover funds are required to complete the project.
Waste Water Treatment	Barrydale Pump Station Fencing 2023/2024	Transfer from Operational Revenue	92 000	136 000	136 000	Additional funds in the amount of R44,000 are required to complete the project. The project function is also corrected from water to wastewater pump station.
Water Distribution	Upgrade of Irrigation pump station Suurbraak	Transfer from Operational Revenue	250 000	50 000	300 000	The tender exceeds the budget provision, Additional funds are required to complete the project.
Water Treatment	Installation of chlorination system WTW	Borrowing		700 000	700 000	The original budget from CRR for this project was R1 400 000. Additional funds are required to implement the project based on the tenders received. Based on the tender insufficient funds are available to install both chlorination systems at the water and wastewater works. The waterworks were prioritised. The shortfall is allocated from the wastewater chlorination system. For 2023/2024 only the dosing system at the wastewater works will then be upgraded.
Water Treatment	Upgrade of Telemetry (Swellendam) Conversion from analogue to digital	Transfer from Operational Revenue	322 500	183 000	505 500	Additional funds are required to upgrade the telemetry system as the current system software cannot be upgraded anymore.
Street Lighting and Signal Systems	Replace 70 LED Streetlights: Barrydale	Transfer from Operational Revenue	180 000	(28 130)	151 870	Project completed, savings.
Sewerage	Barrydale - Manhole - wilge street	Transfer from Operational Revenue	30 000	(30 000.00)	-	Project scope change, Project to be reconsidered in 2024/2025 financial year.

Function	Project Name	Funding Source	Amended Budget 2023/2024	Adjustments	Feb Mid-year Adjustments Budget 2023/2024	Comments
Waste Water Treatment	Silo pump station manifold upgrade	Transfer from Operational Revenue	85 000	(85 000.00)		Manifold upgrade will be done with the upgrade to the Silo Pump Station. Included in the project scope for Silo Pump Station.
Waste Water Treatment	Installation of chlorination system WWTW 2023/24	Borrowing	1 298 050	(1 000 000)	298 050	The original budget from CRR for this project was R1 400 000. Additional funds are required to implement the project based on the tenders received. Based on the tender insufficient funds are available to install both chlorination systems at the water and wastewater works. The waterworks were prioritised. The shortfall is allocated from the wastewater chlorination system. For 2023/2024 only the dosing system at the wastewater works will then be upgraded.
Sewerage	Railton sanitation upgrade, street front sewers 2023-2026	Transfer from Operational Revenue	150 000	(150 000)		Sufficient funds on grant to complete the project.
Sewerage	Railton sanitation upgrade, street front sewers	JDMA		500 000	500 000	Confirmation from Province for the 2022/2023 roll over received on 28 Nov 2023.
Roads	Hermitage Gravel road Upgrade	Municipal Disaster Recovery Grant	1 752 620	(228 270)	1 524 350	Correction of vat recognition.
Water Storage	Access ladder and grids- Suurbraak	Transfer from Operational Revenue	47 500	(47 500)		Project scope change, to be re-budgeted.
Fleet Management	Fleet - Machinery and equipment	Transfer from Operational Revenue	10 000	10 000	20 000	Additional machinery and equipment are required for fleet maintenance.
Electricity	Machinery and Equipment - ELECTRICITY	Transfer from Operational Revenue	52 007	17 200	69 207	Additional funds are required for machinery and equipment for electricity.
Electricity	Electricicaiton of housing project 950 erven	Provincial Acceleration Housing Delivery	2 173 913	3 565 217	5 739 130	Additional funds were received in the provincial gazette for the electrification of the houses.

Function	Project Name	Funding Source	Amended Budget 2023/2024	Adjustments	Feb Mid-year Adjustments Budget 2023/2024	Comments
Electricity	Railton High mast light	Municipal service deliver and capacity building grant Provincial Grant		676 522	676 522	Additional funds were received in the provincial gazette for the electrification of the houses.
Housing	Purchase of Transnet land	Human Settlement Development		4 446 000	4 446 000	Transnet land funds relocated back to the municipality in the provincial gazette.
Finance	New Furniture (Insurance Claim)	Transfer from Operational Revenue		100 000	100 000	Capital replacements due to assets lost during the riots. (Insurance)
Finance	New Computer Equipment (Insurance Claim)	Transfer from Operational Revenue		600 000	600 000	Capital replacements due to assets lost during the riots. (Insurance)
Finance	Replace ICT Network and equipment (Insurance)	Transfer from Operational Revenue		400 000	400 000	Capital replacements due to assets lost during the riots. (Insurance)
Finance	Replace stolen Airconditioning Traffic Department (11)	Transfer from Operational Revenue		230 000	230 000	Air-conditioners vandalized and stolen at Traffic department. (Insurance claim to replace air conditioning.
Libraries	Paving at Desmond Tutu Library (Back entrance)	Municipal Library Replacement Fund		210 000	210 000	Capital project to be done from Municipal Library fund provided for under operational budget. Move to capital budget.
Libraries	Gate Motor back entrance	Municipal Library Replacement Fund		35 000	35 000	Capital project to be done from Municipal Library fund provided for under operational budget. Move to capital budget.
Libraries	Airconditioning Libraries	Municipal Library Replacement Fund		126 740	126 740	Capital project to be done from Municipal Library fund provided for under operational budget. Move to capital budget.
Town Planning, Building Regulations and Enforcement, and City Engineer	Railton Walkway Project	Transfer from Operational Revenue	-	135 000	135 000	The tender amount exceeds the available funds received from the province for the Railton Walkway. The relevant department was contacted, but they indicated they can only consider additional funds in

Function	Project Name	Funding Source	Amended Budget 2023/2024	Adjustments	Feb Mid-year Adjustments Budget 2023/2024	Comments
						the 2024/2025 financial year. The project scope was already reduced. To implement the project, it is requested that the shortfall be funded from own funds.
Electricity	Railton High mast light	Transfer from Operational Revenue	-	200 000	200 000	Counterfunding is required to implement the new allocation for a high mast in the Railton informal settlement.

The capital budget is fully funded considering all the adjustments. The proposed funding sources for the capital adjustment budget are indicated in the table below:

Funding Source	Adjustment Budget	Proposed Amendments	Febr 2024 Adjustment Budget
Agricultural in kind	R4 781 030	R0	R4 781 030
Borrowing	R3 732 050	R1 985 000	R5 717 050
Capital from own funds	R20 371 000	(720 230)	R19 650 770
Emergency Municipal load-shedding relief grant	R764 358	R0	R764 358
Human Settlement Development	R1 100 000	R4 446 000	R5 546 000
Joint District Municipal Forum	R0	R500 000	R500 000
Municipal Disaster Recovery Grant	R3 317 836	(R228 270)	R3 089 566
Municipal Infrastructure Grant	R10 745 966	R0	R10 745 966
Municipal Intervention Grant	R217 391	R0	R217 391
Municipal Library Replacement Fund	R0	R371 740	R371 740
Municipal Water Resilience Grant	R1 739 130	R0	R1 739 130
Overberg District Municipality	R26 087	R0	R26 087
Provincial Acceleration Housing Delivery	R6 7108 536	R3 565 217	R10 283 753
Regional socio-economic project programme	R782 609	R0	R782 609
Municipal service delivery and capacity building grant	R0	R676 522	R676 522
Water Services Infrastructure Grant	R10 010 612	R0	R10 010 612
Total	R64 306 605	R 10 595 979	R74 902 584

Operating Budget

The finance department faces challenges regarding the finalization of the operational adjustments budget, especially to balance the increased expenditure with the decreased revenue (excluding government grants) to keep the budget funded.

Overall, operating revenue increased from R 440,1 million to R 469,9 million and operating expenses increased from R 458,1 million to R 495,4 million.

The main adjustments to the operating budget are:

(i) Revenue

- Decrease in water revenue to the amount of R2,9 million. The projected water consumption decreased based on consumer trends and higher winter rains experienced. An error was also incurred on the budget for availability charges for water services which was corrected.
- Interest earned from current and non-current assets increases by R2,3m from R6,6 million to R9,1 million. More interest revenue is projected due to the municipality's favourable cash position.
- Operational revenue increased by R2,3 million which includes the refund for the replacement of damaged assets incurred to date.

- Property rates are projected to decrease by R1,1 million which is due to the objections and category changes in the roll.
- The gains on disposal of assets were removed as no auction is planned for this year.
- Transfers and subsidies increase with R34,4 million which includes additional grants as gazetted by the province on 16 January 2024:
 - R8,1 million from the provincial contribution towards acceleration of housing delivery grants for solar geysers at the housing development (R6.9m) and correction of vat recognition.
 - R16 million from the provincial contribution towards the acceleration of housing delivery grants for the upgrade of the Eskom bulk line for the housing electrification project.
 - R9,3 million from human settlement for the top structure on the Railton Housing project.
 - R428 000 additional for the informal settlements upgrading partnership grant for the formalization studies of the informal settlement.
 - R200 000 from the Western Cape financial management grant which is used for external bursaries.
 - R35 000 from the Overberg District Safety Forum for public safety equipment.

(ii) Expenditure

- Employee-related costs decrease by R2,3 million due to positions not being filled pending the organization structure.
- Bulk purchases increased by R2,3 million. Lessor levels of load shedding are experienced when compared to the previous financial year.
- A correction is made between debt impairment and bad debt written off per the Grap requirements. Thus certain accounting transactions on debtors have been shifted between debt impairment and bad debts written off.
- Depreciation increased by R4,2 million to adjust for increased capital and align with actual depreciation charges allocated in the 2022/2023 financial year-end. Depreciation is currently non-cash on the budget.
- Interest paid includes the projected actuarial calculations which were aligned with the 2022/2023 actuarial reports. These costs are accounting entries and non-cash.
- Contracted services increase with R14,5 million and include the expense items for the increased grants as follows:
 - R6 million from the provincial contribution towards the acceleration of housing delivery. See revenue above.
 - R9,3 million from Human Settlement for the construction of top structures on the Railton housing development. See revenue above.
- Operational Cost increase with R14,8 million which includes the grant received from the housing acceleration programme to increase the demand from Eskom through the upgrade of the bulk Eskom line.

(iii) Other key expenditure inputs which are funded from savings or re-allocation of funds are the following:

- An additional amount of R972 000 for security services;
- An amount of R1- million for SALGA fees;
- An additional amount of R2,1 million for bulk purchases;

- An additional amount of R500 000 for legal fees;

These adjustments are funded from savings between votes and categories of expenditure for the increased projected expenditures and additional grants received.

The February 2024 Adjustment Budget document is attached as Annexure A.

SDBIP

During January 2024 the implementation of the budget and financial performance of the municipality was assessed for the first half of the year taking into consideration the monthly budget statements.

Section 1 of the MFMA defines the SDBIP as a detailed plan approved by the Mayor of a municipality in terms of section 53 (1)(c)(ii) which must include projections for each month of:

- Revenue to be collected by source;
- Operational and capital expenditure by vote;
- Any other matters that may be prescribed.

The adjusted SDBIP and performance agreements in line with the adjustment budget are contained in the following tables:

- Supporting Table SB12 – Adjustment Budget on monthly revenue and expenditure by municipal vote;
- Supporting Table SB13 – Adjustment Budget on monthly revenue and expenditure by vote;
- Supporting Table SB14 – Adjustment Budget on monthly revenue and expenditure by revenue source and expenditure type;
- Supporting Table SB15 – Adjustment Budget on monthly cash flow;
- Supporting Table SB16- Adjustment Budget on monthly capital expenditure by municipal vote;
- Supporting Table SB17 – Adjustment Budget on monthly capital expenditure by vote;

The performance agreements of the section 57 employees and SDBIP will be circulated under Annexure C with the needed amendments indicated.

LEGAL IMPLICATIONS

MFMA Section 28 and National Treasury MFMA Circulars No. 28 and 54 provide directives and guidelines for submitting municipal adjustment budgets to the Council for adoption. The report of the Director Financial Services will represent the documentation in compliance thereof. In terms of Section 54 (1) (c), the mayor must consider and, if necessary, make any revisions to the SDBIP, 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 the approval of the adjustments budget.

FINANCIAL IMPLICATIONS

As per the report of the Director of Financial Services.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

The cost of materials on average has increased between 20% to 30% in the last twelve months. The impact of load-shedding still affects operations. Generators broke down due to the overutilization of these generators. Difficulties are experienced with the implementation of the capital budget where tendered prices are higher than the budget resulting in price shortfalls and delays.

The municipality payment rate is under pressure and has decreased from an average of above 98% to 96,4%. This is an estimated cash implication of +-R85 000 per month.

It is clear that the increased cost of fuel, food, interest rates, load shedding etc not only impact the municipality but also the residents and businesses of Swellendam Municipality.

Decisions had to be taken to reduce expenditure, on the one hand, to allow for increases in other more urgent demands. This includes the filling of vacant positions, eliminating non-essential expenditures etc to balance the budget.

From the adjustment budget framework, it can be expected that the next medium-term budget will be difficult to balance out all the service delivery demands.

Director: Infrastructure Services

None

Municipal Manager

As per report.

RECOMMENDED

1. That the Adjustments Budget of Swellendam Municipality be adjusted in terms of section 28(2) for the 2023/2024 financial year as set out in the schedules contained in annexure A circulated with the agenda, be considered and approved as contained in the following prescribed budget tables;

- 1.1 Table B1: Adjustments Budget Summary;
 - 1.2 Table B2: Adjustments Budget Financial Performance (expenditure by standard classification);
 - 1.3 Table B3: Adjustments Budget Financial Performance (expenditure by municipal vote);
 - 1.4 Table B4: Adjustments Budget Financial Performance (revenue by source);
 - 1.5 Table B5: Adjustment Budget Capital Expenditure;
 - 1.6 Table B6 – B10: Adjustment Budget Financial Position, Cash Flow, Asset Management and service delivery targets;
2. That the SDBIP and performance agreements as per Annexure B be approved by the Council, in terms of section 54(1)(c) of the Municipal Finance Management Act 2003.
 3. That the adjustment budget be made public and be placed on the municipal website.

9.1.16

Item number A35. 27.02.2024

COMPILATION OF THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)

Report of the Municipal Manager: Mrs. A Vorster

Department Office of the Municipal Manager

Section Office of the Municipal Manager

File number 3/3/3/1

PURPOSE OF REPORT

To correct the resolution made by Council during a meeting which was held on 30 January 2024 regarding the compilation of the MPAC when the DA member to be appointed as Deputy Chairperson of the committee, was not assigned.

FACTS AND BACKGROUND

On request of the Speaker, Councillor JR Van Schalkwyk a report regarding the review of the compilation of the MPAC, was tabled to Council per Item A8/30/01/2024 and Council resolved as follows;

RESOLVED

Item A8/30/01/2024

1. that the previous Council decision of Item A57/24/04/2023 be rescinded and that the following members be appointed to the Municipal Public Accounts Committee:
Chairperson: Councillor J.A. Matthyssen
Deputy Chairperson: DA Member
Member: D.J. Julius

DISCUSSION

Following deliberations on the Item, Councilor MTA Swart proposed that the composition of the MPAC be reviewed and be changed as follows:

- that Councilor J.A Matthyssen be appointed as Chairperson of the committee
- that the Deputy Chairperson be a member of the DA
- that Councilor D.J Julius be appointed as a member of the committee

The Executive Mayor, Councilor F. Du Rand proposed that Council A. Bokwana remained as Chairperson of the MPAC.

The matter was put to a vote and the proposal of Councilor MTA Swart was carried. As such the composition of the MPAC was resolved to be follows:

Chairperson: JA Matthyssen

Deputy Chairperson: DA member

Member: DJ Julius

The decision taken by Council is flawed in the sense that the DA member to serve as deputy chairperson has not been assigned

Composition: MPAC Terms of Reference, 2021:

In terms of the MPAC Terms of Reference:

- 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.

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 Resolution made per Item A8/30/01/2024 be rescinded and that the Municipal Public Accounts Committee be constituted as follows:
 - 1.1 Chairperson: Councillor J.A. Matthysen
 - 1.2 Deputy Chairperson: DA member (to be nominated by the DA)
 - 1.3 Member: Councillor D.J. Julius
2. that Council also considers the appointment of alternate member/s.

ESTABLISHMENT OF A DISCIPLINARY COMMITTEE FOR WARD COMMITTEE MEMBERS

Report by the Municipal Manager: Mrs. A. Vorster

Department: Municipal Manager

Section: Council Administration

File number:

PURPOSE OF REPORT

To consider the establishment of a Disciplinary Committee for ward committee members.

FACTS AND BACKGROUND

Swellendam Municipality has six ward committees, but no clear guidelines on handling disciplinary matters pertaining ward committees. When transgressions occur amongst ward committee members, it must be dealt with in a fair and transparent manner.

DISCUSSION

Swellendam Municipality is a South African local authority, enacted as such by notice in terms of section 12 of the Local Government: Municipal Structures Act (Act No. 117 of 1998), as amended. It is situated in the Overberg District in the Western Cape. The Municipality have six wards and six ward committees, duly elected by the community.

The ward committee members are paid by the municipality but are not members of staff or councillors and therefore the normal disciplinary codes do not apply to them.

A metro or local council may make administrative arrangements to enable ward committees to perform their functions and exercise their powers effectively. A ward committee has such duties and powers as the metro or local council may delegate to it in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

Item 11 of the Swellendam Municipality Ward Implementation Policy 2019, deals with the Conduct of Members and stipulates that a ward committee member must perform his/her function in good faith and may not act in any other way that compromises the credibility, impartiality, independence or integrity of the committee.

A complaint against two ward committee members was received by the Office of the Speaker and subsequently investigated by the independent investigator of Council, adv T Gilliomee. A report was presented to the Speaker and it was found that there is prima facie evidence.

According to said policy a ward committee member's term may be terminated if e.g. a member is involved in proven activities that undermine the council or ward councillor's authority and such person can be dismissed in accordance with a resolution of the ward committee or by the executive mayor in consultation with the ward councillor.

There are no prescribed disciplinary procedures contained in legislation and / or Council's policy on ward committees.

To ensure that the process is just and based on the natural principle of audi alteram partem, it is suggested that a formal disciplinary process be held before a decision is taken on if alleged conduct by a ward committee member constitutes a transgression or not. This approach is supported by the Western Cape Government's division responsible for ward committees.

In light of the above, it is suggested that Council establish a Disciplinary Committee to deal with ward committees' disciplinary matters.

LEGAL IMPLICATIONS

The following legislation regulates ward committees:

1. The Local Government: Municipal Structures Act, 1998, (Act Nr 117 of 1998) at section 37 deals with the functions of Speakers and sub-section 37(k) provides:

The speaker of a municipal council must ensure the effectiveness and functionality of ward committees and the public participation processes.

[S 37(k) ins by s 18(b) of Act 3 of 2021 wef 1 November 2021.]

2. The Council of the Swellendam Municipality, on 30 January 2020, adopted the Swellendam Municipality Ward Establishment Policy, 2019, for implementation from 1 February 2020.
3. Item 1.6 of the Ward Establishment Policy, 2019 mandates that the establishment and operation of a Ward Committee must be in accordance with sections 72 to 78 of the Local Government: Municipal Structures Act, 1998, (Act Nr 117 of 1998). These sections are quoted, for ease of reference, as:

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None.

COMMENTS FROM DEPARTMENTS

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 Council considers the establishment of a Disciplinary Committee for ward committees, that should have at least three members.
2. that in the absence of guiding legislation and rules on the disciplinary procedure for ward committee members, the principles of natural justice be followed.

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, 24 January 2024.

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 Tuesday, 30 January 2024.
- 11.2 Minutes of a Ordinary In-Committee Council Meeting as held on Tuesday, 30 January 2024.

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.

Swellendam Municipality

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, 27 February 2024

Time: 10:00.

Location: Council Chambers, Rhenius Street, Swellendam

A. VORSTER

MUNICIPAL MANAGER

Notice number: A4/2024

Swellendam Munisipaliteit

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, 27 February 2024

Tyd: 10:00.

Plek: Raadsaal, Rheniusstraat, Swellendam

A. VORSTER

MUNISIPALE BESTUURDER

Kennisgewingnommer: A4/2024

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