MINUTES FOR CONFIRMATION

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

11.1 Minutes of an Ordinary Council meeting as held on Wednesday, 31 July 2024.

ORDINARY COUNCIL MEETING
MINUTES

MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON WEDNESDAY, 31 JULY 2024 AT 10:00 IN THE COUNCIL CHAMBERS, RHENIUS STREET, SWELLENDAM.

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

Yours sincerely

22 August 2024

J.R. VAN SCHALKWYK

SPEAKER

DATE

INDEX

MINUTES OF AN ORDINARY MEETING OF THE MUNICIPAL COUNCIL OF SWELLENDAM MUNICIPALITY HELD ON WEDNESDAY, 31 JULY 2024 AT 10:00 IN THE COUNCIL CHAMBERS, RHENIUS STREET, SWELLENDAM.

PRESENT:	**Councillor**	J.R. van Schalkwyk	Speaker
		H.F. Du Rand	Executive Mayor
		E.J. Lamprecht	
		F. Kees	
		A. Bokwana	
		D. Julius	
		J.A. Matthysen	
		G. Libazi	
		D.J. Julius	
		M.T.A. Swart	
		I.H. Ferguson	

IN ATTENDANCE:	A. Vorster	(Municipal Manager) (until 13:38)
	K. Stuurman	(Director: Community Services) (until 13:38)
	E. Wassermann	(Director: Financial Services)
	E. Delport	(Acting: Director of Infrastructure Services) (until 13:38)
	J. Etzebeth	(Manager: Administrative Support

SECRETARIAT:

K. Opperman

RECORDING OFFICER:

K. Opperman

ALSO PRESENT:

B. De La Cruz – Syntell (until10:26)
N. Dramat – Syntell (until 10:26)
M. Du Plessis – Councillor: Overberg District Municipality
A. Hattingh – Office of the Speaker

1. OPENING AND WELCOME

At 10:00 the Speaker, Councillor J.R.van Schalkwyk welcomed everyone at the Council meeting and declared the meeting duly constituted with a quorum present. Counillor M.T.A. Swart rendered an opening prayer.

He addressed a word of welcome to the Executive Mayor, members of the Mayoral Committee, fellow Councillors, the Municipal Manager, Mrs A. Vorster, the Director of Community Services, Mr K. Stuurman, the Director Financial Services, Ms E. Wassermann, the new Acting Director of Infrastructure Services, Mr E. Delport, the Administrative Support personnel as well as members of the public in attendance.

2. ELECTION OF ACTING SPEAKER, IF NECESSARY

None

3. APPLICATION FOR LEAVE OF ABSENCE

None

4. MOTIONS OF JOY AND SORROW

4.1 Announcement of achievements and birthdays:

None

4.2 Announcements of deaths by Municipal Manager

May – June 2024

SWELLENDAM	
Nolin Moses	Swellendam
Desmond Rogers Jansen	Swellendam
Daniel Moodie	Swellendam
Elfranco Goliath	Swellendam
Winston Daybriaan September	Swellendam
Dorothea Alletta Scobie	Swellendam
John Snyman	Swellendam
John Windvogel	Swellendam
Irene Februarie	Swellendam
David Johannes Esau	Swellendam
Mina Thompson	Swellendam
Magdalena Arendse	Swellendam
Isak Daniel Taute	Swellendam
Simson Plaatjies	Swellendam
Pieter Janse	Swellendam
Jenetrue Burton Oerson	Swellendam
Onalerona Lesala (Baby)	Swellendam
Enoch Dlamini	Swellendam
John Johannes Jacobs	Swellendam
Frans van Zyl	Swellendam
Isaac Jacobus Hopp	Swellendam
Flip Janse	Swellendam
Johannes Jacobus Tom	Swellendam
Frederick Ross	Swellendam
Baby Senobia Fielies	Swellendam
Fumahekile Alfred Dyantyi	Swellendam

Gertruida Hartzenberg	Swellendam
Felix September	Swellendam
Freek Witbooi	Swellendam
Stephen Christian Merts	Swellendam
Edith Susan Davids	Swellendam
Hester Timmers	Swellendam
John Delepo	Swellendam
Lea Slingers	Swellendam
Johannes du Toit	Swellendam
Leon Booysen	Swellendam
Willem McLean	Swellendam
Getruida Hermanus	Swellendam
Baby of Natalie Erika Paulsen	Swellendam
Stanley Fortuin	Swellendam
Liza Kastoor	Swellendam
Johannes Jacobus September	Swellendam
Casper Baardman	Swellendam
SUURBRAAK	
Magdalene Siegelaar	Suurbraak
Wilhelmina October	Suurbraak
BARRYDALE	

The Municipal Manager, Mrs A. Vorster rendered a prayer in tribute to those who passed away.

5. SPEECHES AND SUBMISSIONS

Syntell Presentation by Mr N. Dramat and Mrs B. De La Cruz:

Mr N. Dramat gave an overview of the TID software and the issues identified during an investigation.
He explained the following:

- *Syntell initiated software development for TID compliance in August 2021.*

- *The software was released for production in July 2022.*

- *A detailed upgrade rollout plan was implemented to ensure all Syntell sites used the latest TID software.*

- *The initial sites, including Swellendam, were upgraded at the end of 2022 (Swellendam 05 September 2022).*

- *Following the implementation, it was discovered that tokens generated on the upgraded sites were referencing the base date of 1993 instead of 2014.*

- *Upon investigation, developers identified the issue and promptly implemented measures to prevent further token delivery with the incorrect base date. All meters receiving a TID token were placed in a ring-fenced table in the database, which linked back to the 1993 base date.*

- *Syntell launched a campaign to rectify the ring-fenced meters by re-issuing TID tokens, which reset the meter stack.*

He indicated that 1 of 2 approaches could be followed, either a customer approach or a field approach.

The Director Financial Services, Ms E. Wassermann said that the municipality did not have a choice but to op for a customer approach.

The Municipal Manager, Mrs A. Vorster indicated that it has to be acknowledged that this incident did however cause reputational demage to the municipality and that the process would require a considerable public relations effort to explain the situation to the community.

Mr Dramat said that Syntell was aware of the consequences and was willing to provide assistance in terms of the launch of the media campaign.

The Municipal Manager said that she had to report to COGTA and SALGA weekly and would require a full technical report to table to COGTA and SALGA to explain what caused the issue and why the municipality was back to square one.

6. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

The Speaker, Councillor J.R. van Schalkwyk wished the Director of Community Services a happy birthday which he celebrated on 30 June 2024.

He informed Councillors that when they attended training or workshops outside the municipality especially at the cost of the municipality, they ought to bring back reports to provide feedback on what was learned or what information was received. He said that he wanted to see more knowledge sharing in Council.

The Speaker said that up until the new Rules of Order could be workshopped and implemented, he would only allow two opportunities per party to speak on every item. He said that the only items he would allow for debate would be the Municipal Manager's report and the budget implementation item.

The Municipal Manager, Mrs A. Vorster informed Council of the Section 30 NEMA transgression that happened at the N2 pumpstation where a sewerage overflow occurred down to the river and SSK's property. She said that the issue was reported and addressed but the same occurrence happened the next day as well. She added that after a indepth investigation on the matter, it was discovered that the newly installed pump broke down due to waste material that was dumped into the sewerage network.

The Municipal Manager said that the matter has been reported to the relevant departments and the municipality liaised with Overberg District Municipality to assist in the monitoring process.

7. STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR

The Executive Mayor, Councillor H.F. Du Rand welcomed everyone back from the recess period and said he hoped that everyone was well rested as he was looking forward to a productive new financial year.

8. DISCLOSURE OF INTERESTS BY COUNCILLORS

None

9. MATTERS FOR CONSIDERATION

9.1 Items tabled by officials were considered by Council as reflected:

9.1.1

Item number A82. 31.07.2024

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

Report by	L. Baransky
Department	Corporate Services
Section	Property Management
File number	7/2/R

PURPOSE OF REPORT

To table two valuation reports to determine the purchase price for the proposed Erf 8485 (Portion 2) and proposed Erf 8486 (Portion 1), Swellendam.

FACTS AND BACKGROUND

On 24 February 2022 Council resolved as follows:

UNANIMOUSLY RESOLVED ***Item A26/24/02/2022***

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

On 31 October 2023 Council resolved as follows:

UNANIMOUSLY RESOLVED **Item A116/31/10/2023**

1. *"that the content of the report on SANParks's property proposal: Bontebok Park vis-à-vis Swellendam Industrial Area be noted.*
2. *that it be confirmed that portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) are not needed for the provision of a minimum level of basic municipal services, in terms of Section 14 of the Municipal Finance Management Act, 2003 (Act No.56 of 2003).*
3. *that Council's intention to alienate Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks, and for the use as proposed, be advertised for public comment prior to a final decision being taken.*
4. *that a reserve price for each erf based on the findings of 2 independent valuation reports be determined and that the cost of the valuation reports be for the applicant's account.*
5. *that the alienation of Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks be subject to the completion of requirements in terms of the Swellendam By-Law on Municipal Land Use Planning, 2020, more specifically: Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485), be rezoned to Natural Environment Zone (Nature Area) and simultaneously consolidated with Erf 5338 for the applicant's (SANPark's) account. Portion 1 (proposed Erf 8486) to also have Consent Use for "Tourist Facilities" as per the concept land use proposed.*
6. *that points 3 to 5 of Council's resolution dated 24 February 2022 be proceeded with."*

DISCUSSION

Notice V2/2024 was advertised for public comments, closing on 29 April 2024. No feedback was received.

The following valuation reports were received in July 2023:

Description	Per square metres (excluding VAT)		Average, per square metres, (excluding VAT)
	C.L. van Wyk	**M.L. Heyns**	
Erf 8485 (7.938 sqm)	R117.00	R120.00	R118.50
Erf 8486 (16.548 sqm)	R110.00	R120.00	R115.00

Find attached the valuation reports attached **as Annexure A.**

SANPARKS obtained their own valuation as per attached **Annexure A** and requested that this valuation be used.

LEGAL IMPLICATIONS

The following legislation regulates the management of municipal property:

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

- Municipal Policy in relation to the Management, Administration and Alienation of Immovable Property, 2014.
- Municipal Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Town Planning and Building Control:

Noted, no further comments.

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Service

None

Municipal Manager

SANPARKS submitted a request for a lower purchase price as per their obtained valuation. This is very valuable property and as there was interest in these properties from other entities, a lowering of the purchase price is not recommended.

This item served on the Corporate and Financial Services Portfolio meeting held on Wednesday, 12 June 2024.

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED

1. that Council confirms that the valuation and purchase price for Erf 8485 Swellendam, (7 938m²) is set at R118.50 and Erf 8486 Swellendam (16 548m²) is set at R115.00.
2. that SANPARKS be informed that the Municipality wants to engage with SANParks to consider a reduced purchase price.
3. that the sale of Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks be confirmed subject to the completion of requirements in terms of the Swellendam By-Law on Municipal Land Use Planning, 2020, more specifically: Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485), be rezoned to Natural Environment Zone (Nature Area) and simultaneously consolidated with Erf 5338 for the applicant's (SANPark's) account. Portion 1 (proposed Erf 8486) to also have Consent Use for "Tourist Facilities" as per the concept land use proposed.

DISCUSSION

The Municipal Manager, Mrs A. Vorster said that the municipality engaged with the valuers again and in terms of these portions of land, it was a prerequisite that if Council decided to alienate to SANParks, that the area be consolidated into SANParks property and the valuation of a national park was much lower as a national park did not pay rates and taxes. She added that the valuer has to provide new valuations based on a national park to the municipality before Council could make an informed decision on what the final valuation should be.

The Municipal Manager suggested that Council awaited the second valuation report from the valuers first before a decision was made.

The Speaker indicated that the other option was to give the authority to the administration to make the decision when the valuation was received. He said that if Council's appetite was already to alienate the land the administration could be trusted to follow procedure.

The Executive Mayor, Councillor H.F. Du Rand indicated that he was in support of the recommendation as-is and would rather give the Accounting Officer the authority to handle the matter.

The Municipal Manager, Mrs A. Vorster suggested the following amendment to the recommendation:

- *that Council confirms that the valuation and purchase price for Erf 8485 Swellendam, (7 938m²) is set at R118.50 and Erf 8486 Swellendam (16 548m²) is set at the average of the two valuations based on the valuation of the zoning of a park.*

The Executive Mayor, Councillor H.F. Du Rand proposed that point 1 and point 2 of the recommendation be removed and point 3 be amended as follows:

1. that the sale of Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks be confirmed subject to the completion of requirements in terms of the Swellendam By-Law on Municipal Land Use Planning, 2020, more specifically: Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485), be rezoned to Natural Environment Zone (Nature Area) and simultaneously consolidated with Erf 5338 for the applicant's (SANPark's) account. Portion 1 (proposed Erf 8486) to also have Consent Use for "Tourist Facilities" as per the concept land use proposed and that Council confirms that the valuation and purchase price for Erf 8485 Swellendam, (7 938m²) is set at R118.50 and Erf

8486 Swellendam (16 548m²) is set at the average of the two valuations based on the valuation of the zoning of a park and the Municipal Manager be authorised with the mandate to finalise the matter as soon as the new valuation is received.

The Speaker confirmed that all Councillors were in support of the recommendation by the Executive Mayor.

UNANIMOUSLY RESOLVED **Item A82/31/07/2024**

1. that the sale of Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485) to SANParks be confirmed subject to the completion of requirements in terms of the Swellendam By-Law on Municipal Land Use Planning, 2020, more specifically: Portion 1 (proposed Erf 8486) and Portion 2 (proposed Erf 8485), be rezoned to Natural Environment Zone (Nature Area) and simultaneously consolidated with Erf 5338 for the applicant's (SANPark's) account. Portion 1 (proposed Erf 8486) to also have Consent Use for "Tourist Facilities" as per the concept land use proposed and that Council confirms that the valuation and purchase price for Erf 8485 Swellendam, (7 938m²) is set at R118.50 and Erf 8486 Swellendam (16 548m²) is set at the average of the two valuations based on the valuation of the zoning of a park and the Municipal Manager be authorised with the mandate to finalise the matter as soon as the new valuation is received.

9.1.2

Item number A83. 31.07.2024

REVIEW OF THE BUILDING CLAUSE FOR ERF 8530, RAILTON *(RAILTON FOUNDATION)*

Report of	L Baransky
Department	Municipal Manager
Section	Property Management
Proposed File Number	5/13/4 – 15/4/R

PURPOSE OF REPORT

To consider reviewing the building clause for Erf 8530, Railton. (**See Annexure B)**

See Annexure C attached.

FACTS AND BACKGROUND

The following extract from Council minutes of 28 September 2017:

RESOLVED BY MAJORITY VOTE ***Item A159/28/09/2017***

1. *"that paragraph 4 of the Council Resolution as per Item A59 of 26 April 2017 be revised to read as follows:*

   that a building clause be included in the Agreement of Sale stipulating that as from one year after the transfer of the property has been finalized, rates will be payable on the property based on a value of R3,000,000.00. (As if there is a building on the property for the value of R3, 000,000.00).

2. *that Council Resolution as per Item A119/31/08/2017 on 31 August 2017 reflected below, be rescinded."*

DISCUSSION

Condition 1 of Council resolution A159/28/09/2017 and Planning Condition 19 of their Transfer agreement stipulates that if a building is not erected on Erf 8530, within a one-year period after registration, the building clause can be implemented.

A letter was sent to the Railton Foundation informing them that the one-year period expired at the end of March 2024 and that our Financial Department will amend the property rates for Erf 8530 from 1 April 2024, as if there were a building erected on the property for the value of R3 000 000.00.

The following letter was received from the Railton Foundation:

"With reference to the content of Ms Baransky's email communication dated 22 April 2024 in the above regard, I hereby wish to inform you that the Board of the Railton Foundation Swellendam,

at its meeting held on 10 May 2024, expressed the intent to submit a request to the municipality to consider a review of the building clause 19 of the deed of sale for the following reasons:

i. *The Foundation is in the process of fundraising to appoint an architect to draw up building plans for submission of approval.*

ii. *Engagements with potential donors/funders are ongoing to obtain the cost or material to fence the property prior to any structures being erected.*

iii. *As soon as the funds/donations are secured to fence the property, the municipal service connections will be paid.*

iv. *The Foundation, as an organization not for profit gain, currently has a financial challenge for the foreseeable future, to pay the monthly rates of R3175, due to a limited operational budget.*

In view of the aforesaid, the board hereby wishes to request that the municipality gives consideration to review the building clause by reducing the proposed value of R3 000 000.00 in order to affect a more affordable rates levy until such time that the Foundation secured sufficient funds for this matter.

Yours faithfully ....

Chairperson: Railton Foundation Swellendam"

LEGAL IMPLICATIONS

The following legislation regulates property management:

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Corporate Services

Town Planning & Building Control – Mr R. Brunings

Whilst aware of the Railton Foundation's role and valuable input into the community, I feel strongly that the clause should not be amended, and more particularly as there is not much that can be built today for R3mill, specifically a Community Hall etc. It is noted too that Erf 8530 was specifically created for the Railton Foundation, as part of the Railton Hub re-development (size etc) and sold on the strength of its vehement argument that it would be constructing a Community Hall etc. on the property as soon as possible - even though the Administration had conveyed its doubt about it at the time. The Foundation was aware of the clauses from the beginning. Also, if we lift the clause there is no ongoing motivation to actually establish a structure on the property, which was the purpose of the initial transaction. Finally, given its excellent, central location the Administration could easily have sold the property in the interim, or used it for other purposes.

Director: Community Services

I am of the opinion that there should be a building clause, but that this phased in must be over 3 years, to a maximum of R3 000 000.00. This is a community organization that has a big impact on the community.

Director: Financial Services

No comments received.

Acting Director: Infrastructure Services

No comments.

Municipal Manager

Council should carefully consider if they want to lift this requirement as the whole purpose of the condition is to prevent land from staying unutilised and not fulfilling the purpose for which the land was sold for. Cancelling the condition is not supported.

This item served on the Corporate and Financial Services Portfolio meeting held on Wednesday, 12 June 2024.

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED TO COUNCIL

1. that the request received from the Railton Foundation that the building clause of R3 million in respect of Erf 8530, Railton be reduced, be noted.
2. that the request be not granted as building clauses are specifically introduced to ensure that the land is used for the intended purposes and not left undeveloped for years and the Railton Foundation be advised accordingly.
3. that it be noted that in terms of the Property Rates Act, NGOs are exempted from property rates and that the Railton Foundation be advised accordingly.
4. that the municipality engages with Railton Foundation to secure an implementation plan in compliance with Section 19.5 of the Deed of Sale.

DISCUSSION

The Executive Mayor, Councillor H.F. Du Rand shared that a registered NGO did not pay property rates in terms of the Property Rates Act and the application to be exempted from property rates was therefore null and void.

The Municipal Manager, Mrs A. Vorster said that a meeting was scheduled with the Railton Foundation to discuss and find a solution on how they could address the requirement in the Deed of Sale to establish a facility on the property.

The Speaker confirmed that all Councillors were in support of the recommendation as-is:

UNANIMOUSLY RESOLVED **Item A83/31/07/2024**

1. that the request received from the Railton Foundation that the building clause of R3 million in respect of Erf 8530, Railton be reduced, be noted.
2. that the request be not granted as building clauses are specifically introduced to ensure that the land is used for the intended purposes and not left undeveloped for years and the Railton Foundation be advised accordingly.
3. that it be noted that in terms of the Property Rates Act, NGOs are exempted from property rates and that the Railton Foundation be advised accordingly.
4. that the municipality engages with Railton Foundation to secure an implementation plan in compliance with Section 19.5 of the Deed of Sale.

9.1.3

Item number A84. 31.07.2024

STATUS OF ERF 420, SUURBRAAK *(LIBRARY/MUNICIPAL OFFICES/POST OFFICE/CLINIC)*

Report of	L. Baransky
Department	Corporate Services
Section	Property Management
File Number	7/1/2

PURPOSE OF REPORT

To inform Council of the status of Erf 420 in Suurbraak.

FACTS AND BACKGROUND

In 2010/2011 all clinic buildings were transferred from local government to the provincial sphere of government, more particularly the Western Cape Department of Public Works.

Erf 420, Suurbraak, consisting of the Municipal Offices, Library, Clinic and Post Office *(at that stage)* was also part of the process, and was transferred in 2011. According to our records, only the clinic component of the property had to be subdivided off of Erf 420, with the balance being transferred back to the Municipality - this never happened. Therefore, the whole of Erf 420, including the structures which the Municipality utilizes and / or leases out, is currently still registered in the name of the Provincial Government of the Western Cape.

Various correspondence has been sent to the applicable Department over the years, with a view to finalizing the land processes and to transfer the municipal portion of the property back to the Municipality, with no tangible progress.

Find the applicable documents attached **as Annexure C.**

DISCUSSION

In light of the impasse, it was finally agreed with the Department that the Municipality would undertake the requisite land use process and subdivision – based on a Power of Attorney. This has been completed. The Administration is now awaiting the approved SG diagram from the land surveyor, whereafter the transfer and registration process can be initiated.

Provision will need to be made to separate the electricity and water service connections between the two newly created erven. The cost of this will need to be borne by the Provincial Department of Public Works.

LEGAL IMPLICATIONS

The following legislation regulates property management:

- The provisions of Section 14 of the Municipal Finance Management Act, 2003, (Act 56 of 2003);
- The By-Law relating to the Management and Administration of Immovable Property, 2018.

- The Asset Transfer Regulations, 2008.
- Land Disposal Policy, 2018

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control – Mr R. Brunings

The land use process and surveying has been completed. Once the approved SG Diagram has been received, the transfer and registration process can proceed.

Director: Financial Services

N/A

Acting Director: Infrastructure Services

N/A

Municipal Manager

Concur with the report.

This item served on the Corporate and Financial Services Portfolio meeting held on Wednesday, 12 June 2024 and on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED TO COUNCIL

1. that the content of the report on the status of Erf 420 in Suurbraak, be noted.

The Speaker confirmed that all Councillors took note of the report on the status of Erf 420, Suurbraak.

RESOLVED **Item A84/31/07/2024**

1. that the content of the report on the status of Erf 420 in Suurbraak, be noted.

9.1.4

Item number A100. 31.07.2024

2023/24 2nd QUARTER AUDIT AND PERFORMANCE AUDIT COMMITTEE (APAC) CHAIRPERSON REPORT FOR THE PERIOD ENDED 31 DECEMBER 2023 AND THE MINUTES OF THE APAC MEETING HELD ON 11 DECEMBER 2023.

Report of the Senior Internal Auditor: Mr. A Petersen

Department	Municipal Manager
Section	Internal Audit
Proposed File number	3/3/3/16

PURPOSE OF THE REPORT

The purpose of the report is to submit the 2nd Quarter Audit and Performance Audit Committee Chairperson Report for the 2023/2024 financial year and the Minutes of the Committee meeting held on 11 December 2023 to the Council for cognizance.

FACTS AND BACKGROUND

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

DISCUSSION

Based on this Circular, the committee drafted its 2nd quarterly report for the period ending 31 December 2023 which is now being submitted to the Council for discussion and consideration. Council should take cognisance that this report was submitted to the Administrative Support Office on 13 December 2023 and due to the considerable lapse of time was accidently not included in the January 2024 scheduled meetings and this oversight was only discovered recently.

Annexures are attached as Annexure D.1 – D.2:

1. 2023/24 2nd Quarter Audit and Performance Audit Committee Chairperson Report for the period ended 31 December 2023; and
2. Minutes of the Audit and Performance Audit Committee Meeting held on 11 December 2023.

LEGAL IMPLICATIONS

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

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED TO COUNCIL

1. that cognizance be taken of the 2023/24 2nd Quarter Audit and Performance Audit Committee Chairperson Report for the period ended 31 December 2023; and
2. that cognizance be taken of the minutes of the Audit and Performance Audit Committee Meeting held on 11 December 2023.

RESOLVED **Item A100/31/07/2024**

1. that cognizance be taken of the 2023/24 2nd Quarter Audit and Performance Audit Committee Chairperson Report for the period ended 31 December 2023; and
2. that cognizance be taken of the minutes of the Audit and Performance Audit Committee Meeting held on 11 December 2023.

9.1.5

Item number A101. 31.07.2024

2023/24 4th QUARTER AUDIT AND PERFORMANCE AUDIT COMMITTEE (APAC) CHAIRPERSON REPORT FOR THE PERIOD ENDED 30 JUNE 2024 AND THE MINUTES OF THE APAC MEETING HELD ON 26 JUNE 2024.

Report of the Senior Internal Auditor: Mr. A Petersen

Department	Municipal Manager
Section	Internal Audit
Proposed File number	3/3/3/16

PURPOSE OF THE REPORT

The purpose of the report is to submit the 4th Quarter Audit and Performance Audit Committee Chairperson Report and the minutes of the committee meeting held on 26 June 2024 to the Council for cognizance.

FACTS AND BACKGROUND

In terms of National Treasury's Circular 65 of 2003, the Audit and Performance Audit Committee must quarterly report to the Council on the performance of their functions and duties, as well as the functions of the Internal Audit department. This circular was amended in 2012, to adapt to the latest developments and expectations regarding Internal Audit.

DISCUSSION

Based on this Circular, the Audit and Performance Audit Committee drafted its quarterly report for the period ending 30 June 2024 which is now being submitted to the Council for discussion and consideration.

Annexures attached as Annexure E.1 - E.2:

1. 2023/24 4th Quarter Audit and Performance Audit Committee Chairperson Report for the period ended 30 June 2024; and
2. Minutes of the Audit and Performance Audit Committee Meeting held on 26 June 2024.

LEGAL IMPLICATIONS

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

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED

1. that cognizance be taken of the 2023/24 4th Quarter Audit and Performance Audit Committee Chairperson Report for the period ended 30 June 2024; and
2. that cognizance be taken of the minutes of the Audit and Performance Audit Committee Meeting held on 26 June 2024.

The Speaker confirmed that all Councillors took note of the2023/2024 4th Quarter APAC Chairperson report.

RESOLVED **Item A101/31/07/2024**

1. that cognizance be taken of the 2023/24 4th Quarter Audit and Performance Audit Committee Chairperson Report for the period ended 30 June 2024; and
2. that cognizance be taken of the minutes of the Audit and Performance Audit Committee Meeting held on 26 June 2024.

9.1.6

Item number A102. 31.07.2024

2024/2025 REVISED AUDIT AND PERFORMANCE AUDIT COMMITTEE CHARTER

Report of the Senior Internal Auditor: Mr A Petersen

Department	Municipal Manager
Section	Internal Audit
File number	3/3/3/16

PURPOSE OF THE REPORT

The purpose of the report is to submit the Revised Audit and Performance Audit Committee Charter for the 2024/2025 financial year to Council for consideration and approval.

FACTS AND BACKGROUND

The Audit and Performance Audit Committee (APAC) operates as a committee of the Council. The Audit and Performance Audit Committee performs the responsibilities assigned to it by the MFMA (sections 165 and 166), and the corporate governance responsibilities delegated to it under its charter by the Council. A charter is the written terms of reference approved by the Council which outlines the mandate of the audit committee. The charter becomes the policy of the audit committee which then informs the contracts of the Audit and Performance Audit Committee members.

A charter should be used to guide the activities of an Audit and Performance Audit Committee on an ongoing basis. A clear, well written charter should set out the objectives, roles and responsibilities, composition, structure and membership requirements, relationships with other stakeholders, authority for the Audit and Performance Audit Committee to conduct enquiries and access municipality and municipal entity's records and personnel, outlines procedures for meetings, addresses the confidentiality and independence of Audit and Performance Audit Committee members, and provides for ethical conduct and reporting.

Following approval, the Audit and Performance Audit Committee charter should be published on the municipal website to promote awareness to all stakeholders. The charter should be reviewed annually and updated to ensure relevance and consistency with the MFMA, Municipal Systems Act (No 32 of 2000) and other related regulations, guides and best practice.

The charter should be used as a basis for:

- Preparing the Audit and Performance Audit Committee annual work plan;
- Setting the agenda for meetings;
- Requesting skills and expertise;
- Making recommendations to the accounting officer and municipal council;

- Assessing the Audit and Performance Audit Committee performance by its members, municipal council, management, Auditor-General and internal auditors; and
- Contributions and participation at meetings.

DISCUSSION

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. Experience has shown that a properly constituted Audit and Performance Audit Committee can make an effective and valuable contribution to the process by which an organization is directed and controlled.

The Swellendam Audit and Performance Audit Committee is well established and functioning as required. All the members of the Audit and Performance Audit Committee are also members of the Performance Audit Committee.

The Revised Audit and Performance Audit Committee Charter for the 2024/2025 financial year was tabled to the Audit and Performance Audit Committee on 26 June 2024 for review and inputs. The Audit and Performance Audit Committee accepted the Charter, with the amendments as highlighted in track changes.

The Revised Audit and Performance Audit Committee Charter is hereby tabled for adoption.

Annexures attaches as Annexure F:

1. The Revised Audit and Performance Audit Committee Charter is attached for the 2024/25 financial year.

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

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

The charter should be published on the municipal website to promote awareness for all stakeholders.

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 Monday, 22 July 2024.

RECOMMENDED

1. that the Revised Audit and Performance Audit Committee Charter for the 2024/2025 financial year be adopted by Council.

The Speaker confirmed that all Councillors were in support of adopting the APAC Charter for 2024/2025.

UNANIMOUSLY RESOLVED **Item A102/31/07/2024**

1. that the Revised Audit and Performance Audit Committee Charter for the 2024/2025 financial year be adopted by Council.

9.1.7

Item number A103. 31.07.2024

PREVENTION AND ELIMINATION OF HARASSMENT IN THE WORKPLACE POLICY

Report by Municipal Manager	Name: Mrs. A. Vorster
Department	Municipal Manager
Section	Human Resources
File Number	4/1/1/B

PURPOSE OF REPORT

To obtain approval for a Prevention and Elimination of Harassment in the Workplace Policy in Swellendam Municipality.

FACTS AND BACKGROUND

Swellendam Municipality regards all forms of harassment as a form of unfair discrimination that constitutes a barrier to equity and equality in the workplace. Therefore, all forms of harassment such as sexual harassment, gender-based violence and harassment, bullying and racial, ethnic, or social origin harassment must be eliminated.

Harassment in generally understood to be unwanted conduct, which impairs dignity and which creates a hostile or intimidating work environment for one or more employees. Harassment also includes the use of physical force of power, threatened or actual, against another person, a group or a community, which either results in, or has a high likelihood of resulting in social injustice, economic harm, injury, death, physical and psychological harm, mal-development or deprivation.

DISCUSSION

Section 6 (3) of The Employment Equity Act states that "Harassment of an employee is a form of unfair discrimination and is prohibited on any one or a combination of grounds of unfair discrimination in section 6(1) of the Employment Equity Act, 55 of 1989. The Minister of Employment and Labour did promulgate The Code of Good Practice on The Prevention and Elimination of Harassment as Law in the Government Gazette 11409 dated 18 March 2022.

Subsequently a Prevention and Elimination of Harassment in the Workplace Policy were drafted by the Policy Committee and were accepted for approval by the Local Labour Forum on 15 April 2024.

The policy applies to the employer, councillors and employees of Swellendam Municipality, as provided for in the Employment Equity Act, Act 55 of 1998.

The Policy is attached as **Annexure G.**

LEGAL IMPLICATIONS

Employment Equity Act, 55 of 1998

Code of Good Practice: Prevention and Elimination of Harassment in the Workplace
Labour Relations Act, 85 of 1995
Promotion of Equality and Prevention of Unfair Discrimination Act, 4 of 2000

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

Applicable to all personnel

COMMUNICATION IMPLICATIONS

Awareness workshops to be attended by all personnel

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED

that the Prevention and Elimination of Harassment in the Workplace Policy, be approved by Council.

DISCUSSION

In response to a question by the Executive Mayor regarding the procedure for false claims of harassment against an employee, the Municipal Manager, Mrs A. Vorster indicated that if any claims of harassment were found to be false it could also be seen as harassment and disciplinary action should be instituted as covered by the policy.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A103/31/07/2024**

that the Prevention and Elimination of Harassment in the Workplace Policy, be approved by Council.

9.1.8

Item number A105. 31.07.2024

PROPOSAL FOR THE INTRODUCTION AND INSTALLATION OF PERMANENT BANNERS: THE SWELLENDAM FAMILY CREST PROJECT – VOORTREK STREET, SWELLENDAM

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

Department	Corporate Services
Section	Town Planning & Building Control
File number	10/2/1/1

PURPOSE OF REPORT

To table a report on the request for the extension of the Family Crest Project – the installation of permanent banners bearing family crests on municipal lamp poles located along a section of Voortrek Street -- received from the Swellendam Heritage Association, as finalized by the Executive Mayor in terms of his delegated authority.

FACTS AND BACKGROUND

On 22 August 2018 the Swellendam Heritage Association made a presentation to the Mayoral Committee in relation to a proposed Family Crest Project in Swellendam. The town of Steytlerville in the Eastern Cape was used as a point of reference, where a similar initiative was launched some time ago. Following the presentation, the Heritage Association made a formal proposal to the Mayoral Committee on 17 October 2018. The mayoral Committee resolved:

Item B30/17/10/2018 -

1. *"that the proposal lodged by the Swellendam Heritage Association in relation to the Family Crest Project be noted and the initial pilot project be approved, for a trial period of 12 months, subject to the following:*

   1.1 *The installation of the proposed banners be limited to identified municipal lamp poles along Voortrek Road, in the vicinity of erf 2599;*
   1.2 *The number of banners be limited to 6, meaning 2 banners per pole (3 poles) and further consideration by the Mayoral Committee after a trial period of 12 months.*
   1.3 *The public awarded the opportunity during the trial period to make comments and or lodge objections to be considered by the Mayoral Committee;*
   1.4 *The applicant takes cognisance of the comment of the Aesthetics Committee, acting in its advisory role to the Municipality.*
   1.5 *Waiver of the relevant conditions set out in the Municipal By-Law on Outdoor Advertising and Signage, subject to the applicable road, traffic and technical safety considerations required by the Director Infrastructure Services and the Director Community Services.*
   1.6 *Each banner to measure some 1.5m² in extent (615mm by 2450mm) and the Applicant to select the type of material for the structure – final specifications to be considered and approved by the Director Infrastructure Services prior to installation.*
   1.7 *Council to assist with the physical installation of the banners, to the satisfaction of the Director Infrastructure Services.*

1.8 *The Mayoral Committee to retain the right to review its decision at any time within the 12-month period, and to remove any of the banners without notice, should this be necessary for lamp pole maintenance, relocation and / or safety considerations.*

1.9 *The Applicant, or mandated representative, to be responsible for the maintenance of the banners in a good order and to a standard commensurate with such high visibility installations, in consultation with the Director Infrastructure Services.*

1.10 *that a Memorandum of Agreement be drawn up between the Swellendam Heritage Society and the Swellendam Municipality with regard to the respective roles and responsibilities for the installation, to be signed by the Municipal Manager in terms his delegations."*

DISCUSSION

The pilot project was launched on 6 July 2019. No comments or objections have been received from the public. No official advertisements were placed. However, the Swellendam Heritage Association published a preview of the first Swellendam Crests on their Facebook page on 16 July 2019 and an article in the Zuid Courant.

A letter dated 9 September 2019 was received from the Swellendam Heritage Association requesting formal approval for the project. The twelve (12) month trial period has not been exhausted at that stage, but considering the fact that no input has been received from the community, it was decided that the matter could be considered for final approval.

The request was tabled to the Executive Mayor for consideration in terms of his delegated authority and he resolved as follows:

"This is considered a Heritage Project.
Permission granted to expand project along lower end of Voortrek Street (between Bethelsaal and Ashton intersection until further notice"

In October 2019 Council resolved as follows:

<u>EXTRACT COUNCIL MINUTES: 23 OCTOBER 2019</u>

RESOLVED **Item B20/23/10/2019**

that it be noted that the Executive Mayor has resolved as follows in terms of his delegated authority:

1. that permission be granted to the Swellendam Heritage Association to expand the Family Crest Project along the lower end of Voortrek Street (between Bethelsaal and the Ashton intersection) until further notice.

The request is now to extend the project further in Voortrek Street, Swellendam.

LEGAL IMPLICATIONS

The Swellendam Municipal By-Law relating to Outdoor Advertising and Signage.

FINANCIAL IMPLICATIONS

None.

PERSONNEL IMPLICATIONS

None.

COMMUNICATION IMPLICATIONS

Placement of the public advertisement in the local media and on the municipal website.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

Concur with the recommendation.

Director: Community Services

No comments received.

Director: Financial Services

No comments.

Director: Infrastructure Services

No comments.

MUNICIPAL MANAGER

No comments.

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED

1. that permission be granted to the Swellendam Heritage Association to expand the Family Crest Project along the whole of Voortrek Street, Swellendam.

DISCUSSION

The Executive Mayor, Councillor H.F. Du Rand shared that the banners were available to anyone willing to pay for their family names to be displayed on municipal lamp poles, however, people were not well informed of the application process. He said that he wanted people to be well informed on the application process and the cost of a banner for everyone to have the opportunity to participate in the project.

PROPOSAL 1:

The Executive Mayor proposed the following amendment to the recommendation:

1. that permission be granted to the Swellendam Heritage Association to expand the Family Crest Project along the whole of Voortrek Street, Swellendam excluding the CBD.
2. that the application process be adequately advertised during a public participation process facilitated by Swellendam Municipality.

3. that Council approves the positions of banners until the approval of banner positions was accommodated in a Council Policy.
4. that the Swellendam Heritage Association indemnifies Swellendam Municipality of all risks associated with the display of the banners.

Proposer: Councillor H.F. Du Rand
Seconder: Councillor E. Lamprecht

Councillor J.A. Matthysen raised concerned with regard to the amount of money generated from this project by the Swellendam Heritage Association while not paying the municipality anything in the process. He said that there was no consistency when it came to putting up banners on street poles within the municipality and would therefore not support the recommendation to expand the Family Crest Project along the whole of Voortrek Street, Swellendam without making any contribution to Council.

The Executive Mayor explained that the Heritage Association was there to preserve the heritage of the town and the money paid was to pay for the design of the family crest and not to make profit from the project. He said that there would be a public participation process and the public would be able to decide whether they would like the project to be expanded or not.

Councillor J.A. Matthysen requested for a caucus at 11:15. The Speaker granted a 5-minute caucus.

The meeting reconvened at 11:25.

PROPOSAL 2:

Councillor J.A. Matthysen shared following proposal proposed by the ANC:
1. that the Swellendam Heritage Association used the project as a fund-raising initiative and should therefore be taxed to the minimum amount of R100 per lamp pole.
2. that a policy be put in place before a final decision was made on the expansion of the project.

Proposer: Councillor J.A. Matthysen
Seconder: Councillcor M.T.A. Swart

The TWO DULY seconded proposals were put to a vote by the Speaker by show of hands.

Proposal 1:

Six votes: Councillors: H.F. Du Rand; E.J. Lamprecht; F. Kees; A. Bokwana; D. Julius and J.R. van Schalkwyk

Proposal 2:

Five votes: Councillors: J.A. Matthysen; M.T.A. Swart; D.J. Julius; G. Libazi and I.H. Ferguson.

RESOLVED **Item A105/31/07/2024**

1. that permission be granted to the Swellendam Heritage Association to expand the Family Crest Project along the whole of Voortrek Street, Swellendam excluding the CBD.
2. that the application process be adequately advertised during a public participation process facilitated by Swellendam Municipality.
3. that Council approves the positions of banners until the approval of banner positions was accommodated in a Council Policy.

4. that the Swellendam Heritage Association indemnifies Swellendam Municipality of all risks associated with the display of the banners.

9.1.9

Item number A107. 31.07.2024

MONTHLY REPORT OF MUNICIPAL MANAGER: JULY 2024

The following report on activities for June and July 2024 is presented:

SKILLS AUDIT

In summary the status of the skills audit process at Swellendam Municipality is as follows:

- Several skills audits were done in the past and information was captured on the Gapskill system.
- The last skills audit was done manually after the system became inaccessible /unavailable.
  Agitominds, the consultant appointed by the Local Government (WC Province), had as part of their mandate the obligation to complete a skills audit in line with the MSR.
- Due to unavailability of the system and lack of progress. Agitominds could not perform the skills audit to date.

COGTA confirmed that the updated SKILLS reporting system is not accessible and available to Municipalities yet, with the first phase to commence from 1 July 2024 to 30 October 2024 for the following departments (Financial services, corporate services, administrative support staff in the offices of public office bearers (office of the MM, office of the Mayor). The second phase will commence from 1 November 2024 to 30 June 2025 for the following departments (Community services, Development and Town Planning Services; Public Works and Basic Services (Technical Services).
Swellendam Municipality is currently in the process of sourcing capacity to adhere to these time -frames and awaits the promised training sessions as mentioned in the presentation.

The intention to use staff e-mails as an access link to the system is a concern because approximately 70% of staff members do not have work e-mails, computers /laptops, or the level of computer literacy to update their profiles.

ACTING DIRECTOR: TECHNICAL SERVICES

The Acting Director: Technical Services took office on 1 July 2024. One of the candidates for the filling of the vacancy withdrew. It is recommended that the position be re-advertised. A report will be tabled to Council.

TRANSNET PROPERTY

The Municipality paid the purchase price to the transferring attorneys. The bank guarantee is thus in the process of cancellation. The Municipality is engaging the transferring attorneys on the Notarial Deed transfer.

The Municipality is struggling to obtain feedback from an appropriate person on the future development of the procured funding. The Department of Local Government: Western Cape was approached to help to establish contact.

Waste to Energy Tender

Stage 1 of the W2E tender is currently being evaluated by:

1. Johan van Niekerk
2. Sam du Preez (MISA - advisors)

3. Willem Treurnicht
4. Bartho Burger
5. Randall Theodore

Peter Silbernagl opted out of the process. Stage 1 should be complete by mid-August. Stage 2 will take 180 days, so the tender will then be finalised by February 2025.

With preliminary scrutiny in phase 1, it was decided to recommend that all five tenderers move to stage 2, during which more detailed presentations will be made and an external export will be appointed to evaluate the submissions.

The W2E project has the potential to generate between 2 and 12 MW, depending on which of our neighbouring municipalities join us.

SOLAR MAST LIGHTING MATJOKS

The two solar highmast lights were successfully erected in Matjoks as part of service delivery improvement that will contribute to a safer environment. The solar lighting highmast solution for outdoor open areas and rural applications provides a high-performing, robust option for off-grid solar lighting requirements.

REVIEW OF RIVER BY-LAW

The Swellendam and Hessequa Municipalities use the same By-Law which dates back to 1998, but was re-worked in 2012 / 2013.
Langeberg Municipality was approached and agreed to collaborate with Swellendam and Hessequa Municipalities on the review of the river by-law. Swellendam Municipality will drive this process. The river by-law will affect the management of the Breede River, with implications for day-to-day management and operations. Swellendam, in conjunction with the Hessequa Municipality, initiated the process to update/tweak the existing By-Law for the lower section of the use of rivers, specifically as applicable to the Breede River, and the BR estuary to the sea. Consultation will take place with all stakeholders, including the Lower Breede Conservation Trust

OVERBERG WATER ENGAGEMENT

Overberg Water's Chief Executive Officer, Dr Buthelezi, and Technical Director, visited Swellendam Municipality and met with the Municipal Manager, Technical Director, the Snr Manager Technical Services, and the Manager Water Services. During the meeting, the services provided by Overberg Water as a Water Service Provider, within the Water Service Authority of Swellendam Municipality's area was discussed. Overberg Water provides water to Stormsvlei, a portion of Malagas, Rietkuil and farmers. The farmers in the region complain about disruption to service, short notice of disruptions, poor water pressure, and poor maintenance. Overberg Water indicated that they are installing mechanisms to restrict water extraction along their network to allow for only the allocated amount to be extracted so that the water supply can be shared equitably. This project should be completed in November of this year.
Swellendam Municipality requested that Overberg Water become part of the discussions led by the Human Rights Commission in Stormsvlei on the supply of water to a private farm. The CEO indicated that he was unaware of these discussions. The information was shared with him by the Municipal Manager. Swellendam Municipality further requested that it should be explored if water from Overberg Water could be supplied directly to Nuwe Tarief, Malagas, and requested that everything possible must be done to ensure that Rietkuil has sufficient water during the summer months. A request was made that Overberg Water continues to engage with the farming communities and associations to ensure that service provision challenges are addressed timeously.

SUURBRAAK CPA

The Municipal Manager, Director Community Services, and the Senior Manager: Technical Services engaged with representatives of the CPA in Suurbraak on 18 July 2024 around Vatmaar, Rietkuil, and Oorkant die Rivier. Clarifications on ownership of property and right of way were sought and discussed. It was emphasized that there was no formal town establishment at Rietkuil and that this was just a sub-divided area. The upgrade to the water infrastructure at Rietkuil, undertaken by the Municipality, will take place on the existing footprint. There are no registered roads in the Rietkuil area and access to properties is guided by established right of way.

Property sales on Oorkant die Rivier are guided by property rights established in the Constitution. No development restriction prohibits building that complies with the National Building Act, in this area.

It was noted that the CPA does not support the extension of Vatmaar.

The CPA as well as the Municipality do not receive any feedback from the Department of Rural Development and it was agreed that the Municipal Manager approach the Department of Local Government to facilitate open communication with the relevant Department.

ASLA CSI CONTRIBUTION

A meeting was held with ASLA on their Corporate Social Investment contribution in terms of the current housing project. ASLA shared that they established a social trust to manage their contribution and that they appointed a person to liaise with the Municipality on the CSI project contained in the Integrated Development Plan. The establishment of a Place of Safety was identified as the primary project. Further discussions with the active Place of Safety in Bredasdorp will take place.

The possibility to contribute expertise or other support to the re-establishment of the Thusong Centre, was also discussed and will be followed up, closer to the implementation of the project.

SALGA PEC AT ARNISTON

The Executive Mayor, Municipal Manager, and Director: Community Services attended the SALGA Overberg PEC meeting at Arniston on 17 July 2024 where a presentation was done on backyard dwellers. Input on land invasion, unlawful land occupation, landfill sites, solid waste, and the impact of load shedding on finances, was also provided. The PEC requested that attendance of workshops improve and that relevant mandates must be provided to those who attend the necessary workshops.

ASSET COUNT

The Internal Audit Unit undertook an asset count for the Office of the Auditor General on 27 and 28 June 2024. This was a physical inventory count, with the necessary supporting documentation provided.

PIE AND ESTA WORKSHOP ON 27 JUNE 2024

SALGA held a PIE and ESTA workshop on 27 June that could not be attended by officials due to the attendance of the Council meeting. The Municipal Manager followed up with SALGA on the content of the meeting and it was confirmed that there have been incoherencies, misinterpretations, and intended misconceptions of the PIE Act. In interpreting and applying the PIE Act the Courts in their judgments appeared to have exercised the discretions towards interpreting the legislation to be inclusive of certain categories to which it was not intended. The

Minister of Human Settlements has been requested by Minister of Home Affairs to amend the act as it impacts issues of citizenship and rights.

The Department has set up a steering committee to assist in this regard. The committee is comprised of COGTA, SALGA, Provinces, Metros, DARDLR, DHA and Entities. The Department through its legal and policy services unit is appointing a service provider to assist in crafting the amendments. The Department had in the past crafted a policy framework that has the following key principles that should be used when crafting the amendments:

1.1.1. **Defaulting Mortgagors Cannot Be Sheltered Under the PIE Act:** Mortgagors are protected primarily by the terms and conditions of the signed credit agreement. Furthermore, they are comprehensively protected by the National Credit Act, 2005, Consumer Protection Act, 2009; the Financial Advisory and Intermediary Services Act, 2002, Housing Consumer Protection Measures Act of 1998 and Office of the Banking Ombudsman. Furthermore, for distressed homeowners, the big four banks have mechanisms to assist heavily indebted mortgage account holders to evade foreclosures and their devastating effects. ABSA has 'Help You Sell', First National Bank has the 'Quick Sell'; Nedbank has the 'Assisted Sales Programme' and Standard Bank offers 'Easy Sell' intervention.

1.1.2. **Defaulting Tenants Cannot be Subjected to PIE Act**: Principles for Protection Tenants with terminated lease contracts cannot be protected by the provision of the PIE Act but through pertinent legislative instruments and rental housing mechanisms Lease contracts and terminated lease contracts are primarily between Lessor and Lessee and disputes arising should be subjected to the Rental Housing Act of 1999; the Consumer Protection Act, 2009; the Rental Housing Tribunals, etc.

1.1.3. **The owner of land and landed properties must take reasonable measures to protect the land or property from unlawful occupation:** The policy principle is further underlined by the land and property owner's application of reasonable measures to protect the land or property from unlawful occupation. The land and property owner must take all reasonable steps to secure land, buildings and structures to prevent invasion or unlawful occupation. Thus, the government cannot be held liable if the land owner failed to take all reasonable steps to prevent unlawful occupation except in cases where law and order measures have when legally mobilised failed to execute their functions.

1.1.4. **Metros submissions on alternative accommodation versus resources as well as norms and standards are not merited:** The Courts have enjoined provinces and municipalities in respect of the provision of alternative accommodation. The protection can be carried through the provision of alternative accommodation. The Emergency housing assistance does provide the required relief. The assistance does not have to be equivalent to applicable national norms and building standards. From a policy practice perspective, any contrary submissions by provincial and local governments on alternative accommodation versus availability of resources are not merited. The overarching principle is that the Constitutional Court in some of its rulings (viz. Isak Baron and Others Versus Claytile (Pty) Limited and City of Cape Town) also recognised that the right to adequate housing is limited by the availability of resources at national, provincial and local government level. This means that illegal occupiers cannot avoid eviction simply by claiming that the alternative accommodation is unsuitable.

1.1.5. **The national, provincial, and local must promote meaningful engagements and participation as an intermediary mechanism** The first point of pursuit should rather be to promote the concept of meaningful engagement and participation in evictions by all parties involved to find one another. This principle carries an undertaking that before carrying out any evictions, and particularly those involving large groups all feasible alternatives should be explored in consultation with the affected persons.

1.2. The Department has crafted a White Paper for human settlements. In the White Paper the Department commits to ensure the prevention of homelessness.

1.2.1. It will ensure adequate emergency responsiveness with well-managed temporary facilities.

1.2.2. Municipalities will develop Integrated Spatial Human Settlement Plans that prioritise the establishment of Emergency Housing provisions to cater to the marginalised and vulnerable. Further, this plan will ensure that gender-specific considerations in terms of demand/need, as well as for people with disabilities, the aged, the homeless, and the displaced are made.

1.2.3. The White Paper includes the addressing record of rights, land audit and development of asset registers for land landed properties and creation of the transitional housing programme which will have its norms and rules.

1.3. The Department is also reviewing the Housing Code. An emergency housing programme review is in process. It started a few years back. The guidelines for dealing with evictions have been crafted. The work on norms and standards now includes the use of alternative technologies. The programme of accreditation of municipalities to deliver housing was considered by MinMec in September 2023 and does not include the assignment of housing functions to local authorities. Municipalities must work together with Provinces. The work of powers and function will be done by COGTA.

It will assist the Department in engaging around existing jurisprudence and their implementation over the years, get details of how municipalities have responded (as best practice case studies), and perhaps set up a platform of the institution for coordinating the response to evictions with the Department of Rural Development, set a system of recording evictions, conducting an implementation evaluation on EHAP and discussions on plans to look at the resources e.g. land and budget. There is a limit to available government funding and there has to be prioritisation.

SMALL TOWN REGENERATION:

Swellendam was selected as a pilot project for the small-town regeneration project. A kick-off meeting with four other towns will take place on 25 July where information will be shared on what to expect over the next six months. Ron Brunings will be the project manager for this project. Training sessions will take place from 1 August onwards.

COOPER STREET MEETING

A meeting was held with residents of Cooper Street on 11 July to engage on the keeping of livestock in contravention of the zoning requirements. The meeting was well attended. It was decided that the five properties that are keeping livestock will apply to the Municipality to continue with the keeping of the livestock, after which a public participation process will be followed to solicit input on the matter. All inputs will be collated and presented to Council for a resolution.

PUBLIC EDUCATION SESSIONS

The public education session scheduled for Matjoks and Infanta was cancelled due to the extreme weather. These meetings will take place in August.

DISASTER MANAGEMENT: EXTREME WEATHER OCCURRENCES

July saw severe weather occurrences with cold, rain, and wind. Swellendam partook in the Disaster Management meetings. During the extreme weather occurrences, the situation was monitored. Damage was limited to blown-off roofs and some stormwater challenges. Warnings were shared on the rising river levels. Malagas was adversely affected with several houses flooded.

TID TURN OVER

Syntell informed Management of challenges experienced with the TID changeover. Syntell will make a presentation directly to Council on this matter.

The above is a summary of activities for June/July 2024.

A Vorster
MUNICIPAL MANAGER

This item served on the Mayoral Committee meeting held on Monday, 22 July 2024.

RECOMMENDED

that Council takes note of the monthly report of the Municipal Manager for July 2024.

DISCUSSION

The Municipal Manager, Mrs A. Vorster reported on the following:

- *In terms of the Municipal Staff Regulations the municipality was supposed to do a staff Gapskill audit, however the reporting template has not been finalised by COGTA. There must be a skills plan for Councillors as well.*
- *Mr E. Delport has been appointed as the Acting Director of Infrastructure Services from 1 July 2024.*
- *One of the two candidates for the vacancy of the Director Infrastructure Services withdrew during the selection process and the advertising process would have to be repeated, however, headhunting would be the next option to find suitable candidates.*
- *Progress have been made with the Transnet property as the bank guarantee was in its final stages of being cancelled and one commitment was being finalised by the attorneys in the notarial deed before the municipality sign the contract.*
- *The Waste-2-Energy tender was in its evaluation stage and due to its technical nature, a consultant would have to be appointed to do the evaluation.*
- *The solar mass lights were installed in Matjoks.*
- *The review on the River By-Law was in process before it would be tabled to Council.*
- *The municipality had engagements with the Overberg Water Board to discuss the functioning of Overberg Water and the challenges experienced and asked for assistance in Rietkuil and Stormsvlei where there have been challenges.*
- *The municipality had a meeting with representatives of the Suurbraak CPA and one of the key issues remain the registration of the CPA when it came to the housing issue for the Suurbraak community. While no feedback has been received from the department, the municipality would now declare an intergovernmental dispute against the*

Department of Rural Development and Land Reform to respond to the municipality's request because the Department of Human Settlements indicated that they would not proceed with the housing project if the registration process of the CPA was not finalised.

- *The municipality had an engagement with ASLA regarding their Corporate Social Investment contribution in terms of the current housing project. ASLA would possibly be able to assist the municipality with the re-establishment of the Thusong Centre.*
- *An asset count has been done to prepare for audit purposes.*
- *There has been a PIE and ESTA meeting on 27 June 2024 and the Minister of Human Settlements has been requested by the Minister of Home Affairs to amend the act as it impacts issues of citizenship and rights. The Department has set up a steering committee to assist in this regard and the committee is comprised of COGTA, SALGA, Provinces, Metros, DARDLR, DHA and Entities.*
- *Swellendam has been selected as a pilot project for the small-town regeneration project.*
- *A meeting was held with Cooper Street residents on 11 July 2024 about livestock kept on residential properties after a complaint was received.*
- *Public education sessions scheduled in July 2024 was cancelled due to flooding in Infanta and Malagas area and would hopefully be rescheduled for August 2024.*

The Municipal Manager proposed the following recommendation to be considered by Council:

1. *that Council support Swellendam's participation in the Small-Town Regeneration Project as Swellendam was selected as a pilot project for the Small-Town Regeneration Project with the Municipal Manager, Mrs A. Vorster as the Project Manager with the support of the IDP Coordinator, Mrs D. Jonas.*

Councillor J.A. Matthysen raised concern with regard to the focus being on Cooper Street while livestock was kept on many other residential properties in Swellendam and Railton.

He also raised concern with regard to the insensitive and one-sided decision made by management to close the Railton Ward Offices despite a written letter to the Municipal Manager that the offices were needed for community engagement on a daily basis by Ward Councillors G. Libazi and himself. He said that the tools of trade approved by Council was not enough for Ward Councillors to do their work and that it was inconvenient for the public if Ward Councillors did not have an official office where they could be reached.

Councillor G. Libazi said that she shared this concern and requested that only one small office of the Railton Community Hall be allocated to them.

The Municipal Manager shared that Cooper Street became an issue due to a complaint received that had to be addressed. She said that if any such cases existed, it should be reported and it would be addressed accordingly.

The Municipal Manager indicated that the Railton Offices were now reserved to accommodate the Department of Home Affairs.

The Speaker said that the matter of offices for Ward Councillors were debated extensively in the past and the fact was that the Tools of Trade did not provide for it. He added that Ward Councillors should have access to printers and was in favour of a hot desk approach. He requested that the matter be discussed outside the meeting.

Councillor D. Julius asked that the headhunting process be done in an open and transparent manner. He thanked the municipality for the erection of the solar high mast lights in Matjoks and asked that Buffeljagsrivier also be considered in future for solar high mast lighting.

The Speaker urged Councillors to attend SALGA working groups meetings and shared that all SALGA meetings could now only be attended in person.

He added that he would like the Manager, Town Planning and Building Control, Mr R. Brunings to attend Council meetings when Town Planning items were on the agenda and to give updates on spatial planning matters to provide Council with more clarity.

Councillor F. Kees asked whether there would be Councillor representation in the Small-Town Regeneration Project whereby the Municipal Manager responded that the current stage of the project was an absolute administrative process but when it later came to stakeholder engagement, Councillors would be involved.

Councillor Kees raised concern with regard to the planning phase where Council would not have insight in the process but was asked to endorse the process. He said that he would like to suggest that at least one Councillor such as the Speaker or the Mayor be part of the planning phase.

The Executive Mayor, Councillor H.F. Du Rand requested a caucus at 12:14. The Speaker granted a 5-minute caucus.

The meeting reconvened at 12:18.

The Executive Mayor, Councillor H.F. Du Rand proposed the following recommendation:

1. that Council takes note of the monthly report of the Municipal Manager for July 2024.
2. that Council support Swellendam's participation in the Small-Town Regeneration Project as Swellendam was selected as a pilot project for the Small-Town Regeneration project.

Councillor J.A. Matthysen indicated that the administration had a mandate to execute and Council should trust them to do what they have to do in the best interest of the municipality.

The Speaker agreed that Council should enable the administration to do their job but within the framework of oversight.

The Speaker confirmed that all Councillors were in support of the recommendation by the Executive Mayor.

UNANIMOUSLY RESOLVED **Item A107/31/07/2024**

1. that Council takes note of the monthly report of the Municipal Manager for July 2024.
2. that Council support Swellendam's participation in the Small-Town Regeneration Project as Swellendam was selected as a pilot project for the Small-Town Regeneration Project.

Councillor F. du Rand left the Chambers at 11:48 and returned at 11:49.

Councillor M.T.A. Swart left the Chambers at 12:12 and returned at 12:14.

9.1.10

Item number A108. 31.07.2024

ICT POLICIES 2024

Report of the Director Financial Services: Ms E. Wasserman

Department	Financial Services
Section	Expenditure
File number	6/1/B

PURPOSE OF REPORT

The purpose of the report is to consider the review and new internal ICT policies to address the audit findings on ICT during the 2022/2023 audits. The policies are attached **as Annexure H.1 – H.9** and major changes are indicated in red.

FACTS AND BACKGROUND

The ICT policies were last reviewed and approved in June 2024. The ICT policies must be annually reviewed.

DISCUSSION

The following policies were reviewed:
1) ICT Backup and Recovery Policy
2) ICT Network Access and Monitoring Policy
3) ICT Patch Management Policy
4) ICT Security Controls Policy
5) ICT Steering Committee Terms of Reference
6) ICT Strategic Plan
7) ICT Governance Policy
8) ICT Firewall Rules Policy (New)
9) ICT Disaster Recovery Policy

The ICT Strategic Plan was reviewed and improved to include the following matters identified:
a) Upgrade Municipal Website;
b) New Server Building in Swellendam.

The ICT Security Controls Policy was reviewed to address the following AG Findings:
a) By amending par 20.4 to "every 42 days"
b) By amending par 21.2 to "three invalid"
c) By adding par 21.3 on screen timeout.
d) By adding par 24.7 and 24.8 to include reporting and management of security incidents.
e) By adding par 26.1 to 26.2.6 to include handling of forensic evidence.

The ICT Firewall Rules Policy was reviewed to address the following AG findings:
a) By adding under par 8, firewall rule management the reporting requirements;
The other policies have remained unchanged.
The draft policies were submitted to a special ICT steering meeting for consideration.

Following the meetings minor changes were made and the policies are submitted for council consideration. Because this is internal policy it does not need to be submitted for public participation.

LEGAL IMPLICATIONS

1) Municipal Finance Management Act No, 56 of 2003
2) Western Cape Municipal Information and Communication Technology Governance Policy Framework, 2014;
3) Control Objectives for Information Technology (COBIT) 5, 2012
4) ISO 27002:2013 Information technology — Security techniques — Code of practice for information security controls
5) King Code of Governance Principles IV, 2009

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council approves the reviewed internal ICT policies attached **as Annexure H.1 – H.9** to be implemented from 1 July 2024.
2. that the ICT policies be reviewed annually to align with the latest developments in the municipal ICT environment.

DISCUSSION

The Executive Mayor, Councillor H.F. Du Rand indicated that he was in support of the recommendation as-is.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A108/31/07/2024**

1. that Council approves the reviewed internal ICT policies attached **as Annexure H.1 – H.9** to be implemented from 1 July 2024.
2. that the ICT policies be reviewed annually to align with the latest developments in the municipal ICT environment.

9.1.11

Item number A109. 31.07.2024

SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP) AND PERFORMANCE QUARTERLY REPORT FOR PERIOD ENDED 30 JUNE 2024

Report of the Municipal Manager:	Mrs A Vorster
Department:	Municipal Manager
Section:	Performance Management
File number:	5/1/1/25 2/13

PURPOSE OF REPORT

The purpose of the report is to submit to Council the Service Delivery and Budget Implementation Plan (SDBIP) and Performance Quarterly Report for the quarter ended 30 June 2024

FACTS AND BACKGROUND

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

DISCUSSION

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

The Quarterly Budget Statement and Quarter SDBIP Report are **attached as Annexure I.1 – I.2.**

The key elements can graphically be presented as follows:

1. Implementation of Budget

   For the fourth quarter, the following are highlighted.

   The total revenue excluding capital transfers and contributions for June 2024 is R104,2 million, with a year-to-date revenue of R429,3 million.

   Property rates reflect at 100,4% of the budgeted amount, while the electricity amount raised represents 98,4% of the budgeted amount. The water revenue amount represents 108,1% of the budgeted amount.

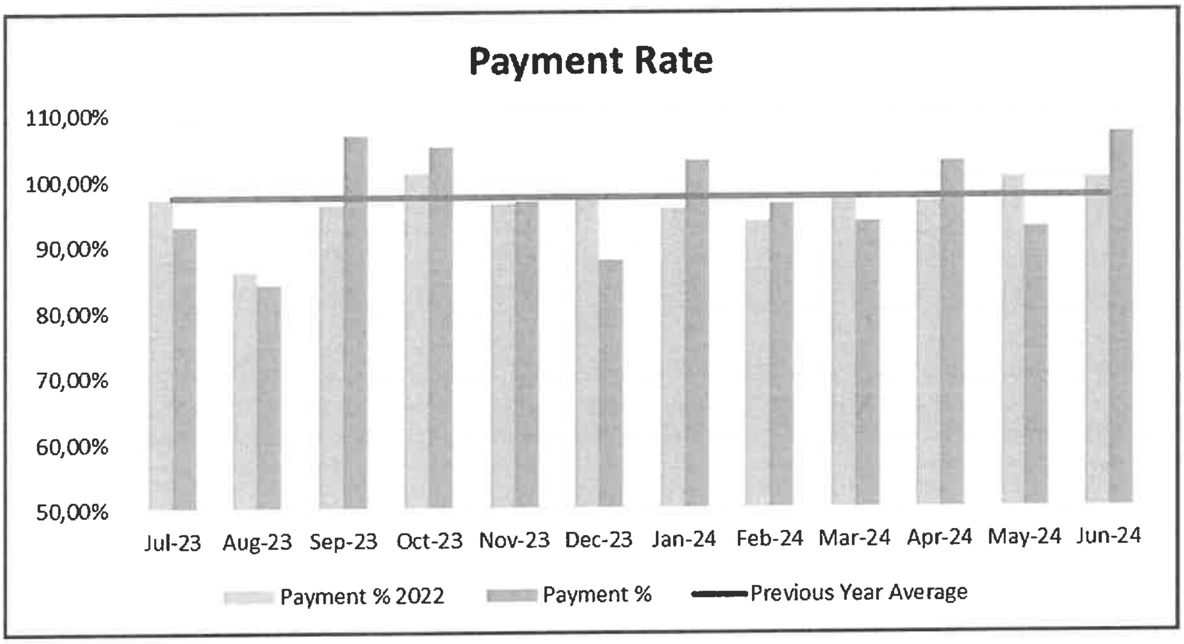
   The total expenditure budget is R495,7 million and the year-to-date actual is R399,9 million which is 80,7%.

   The budgeted amount for capital expenditure is R74.9 million of which R47,4 million has been expended to date, i.e. 63,3%.

   The actual total cash and equivalents on 30 June 2024 amounts to R156 million.

The liquidity ratio is 1.69:1, which means the Municipality can honour its short-term debt. The gearing ratio is 5%, while the payment percentage of debtors is at 97,1%.

The payment rate stabilized back to 97.1%. This is graphically presented below.



LEGAL IMPLICATIONS

Section 52(d) of the MFMA;

FINANCIAL IMPLICATIONS

No direct Financial implication.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

Comments on the municipality's financial position for quarter four are contained in the quarterly report. It should be noted that the figures presented are not final, as the final year-end payments (Creditors) and journals still need to be processed.

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council takes cognizance of the 2023/24 Top Layer Service Delivery and Budget Implementation Plan (SDBIP) and Performance quarterly report for the quarter ended 30 June 2024.
2. that the Council takes note of the report on the implementation of the budget and financial state of affairs of the municipality for the quarter ending June 2024, in terms of Section 52 (d) of the MFMA.

DISCUSSION

The Executive Mayor, Councillor H.F. Du Rand pointed out that page 37 of the report stated that only 63% was spent in terms of the capital expenditure which was very alarming and would not be allowed in the new financial year because if rates were increased to accommodate projects it was important that the administration must ensure that allocated funding be spent in time.

The Director Financial Services, Ms E. Wassermann shared that the quarterly report reflected the figures as of 30 June 2024 on which all invoices were not available for payment, however, after all invoices were received, the final percentage was 75%.

Referring to page 14 of the report, the Executive Mayor asked whether all the listed projects have realised whereby Ms Wassermann confirmed all projects have realised up to quarter four.

The Executive Mayor then referred to page 15 of the report outlining all the capital projects that have not realised up to quarter four compared to the SDBIP and said that it should be taken into account that all savings on capital projects would also be seen as money not spent and contribute to the percentage.

The Executive Mayor indicated that only 51% of the funds for the electrification of the 950-housing project has been used and asked whether the remaining amount has been rolled over, whereby the Municipal Manager, Mrs A. Vorster suggested that all the projects that have not been implemented be listed in a report to Council and the reasons be provided on why it has not been implemented.

The Speaker, Councillor J.R. van Schalkwyk said that he agreed with the suggestion made by the Municipal Manager as there were about 15 projects listed where it has been 100% not implemented with no money spent on those projects. He said that it was vital for Council to see whether projects were implemented with budgets allocated for such projects especially in areas where complaints were received.

The Municipal Manager said that the report could be tabled to Council at the August 2024 Council meeting with final figures presented in the report.

The Executive Mayor said that the reasons why there was no spending on certain projects and the current status of projects, must also be provided in the report.

In response to a question by the Executive Mayor regarding the reported indigent amount of 6658 on page 32 of the report that was incorrect, the Director of Financial Services confirmed that it was not the actual indigent figures and assumed it was based on an estimate number of people that should be on indigent support.

In response to a question by the Executive Mayor regarding what 'other benefits and allowances' on page 33 point 10 referred to, Ms Wassermann explained that it referred to the accounting treatment for post employee benefits, long services awards, medical benefits, SALGA Bargaining Council, Group Insurance which was arterial evaluations which was non-cash but accounting journals.

With regard to the Executive Mayor's question on outstanding debt older than 180 days, Ms Wassermann shared that she was in the process to look at an analysis of debtors where there were no movement to possibly take a report to Council to see whether attachment of property could be implemented to settle the debt of abandoned properties.

The Executive Mayor, Councillor H.F. Du Rand said that he took note of the report and looked forward to the report on capital project underspending.

Councillor M.T.A. Swart indicated that she acknowledged all the hard work done by the administration to provide Council with all the necessary information and documentation but that Council be mindful of the number of requests to administration to not overload them with more work than they were already tasked with.

The Speaker confirmed that all Councillors took note of recommendation as-is.

RESOLVED **Item A109/31/07/2024**

1. that Council takes cognizance of the 2023/24 Top Layer Service Delivery and Budget Implementation Plan (SDBIP) and Performance quarterly report for the quarter ended 30 June 2024.
2. that the Council takes note of the report on the implementation of the budget and financial state of affairs of the municipality for the quarter ending June 2024, in terms of Section 52 (d) of the MFMA.

At 14:38 all Senior Managers recused themselves from the meeting during the discussion of Item A110: Performance Evaluation Reports of Senior Managers for the 2022/2023 Financial Year.

9.1.12

Item number A110. 31.07.2024

PERFORMANCE EVALUATION REPORT OF SENIOR MANAGERS FOR THE 2022/23 FINANCIAL YEAR

Report of the Municipal Manager: Ms A Vorster

Department	Municipal Manager
Section	Developmental Services
File number	2/13

PURPOSE OF REPORT

The purpose of this report is to report on the performance evaluation of senior managers for the **2022/23** financial year.

FACTS AND BACKGROUND

The senior managers sign annual performance agreements as follows:

- Comply with the provisions of Section 57(1)(b), (4A), (4B) and (5) of the Systems Act as well as the Contract of Employment entered into between the parties;
- Specify objectives and targets established for the Employee and to communicate to the Employee the Employer's expectations of the Employee's performance expectations and accountabilities;
- Specify accountabilities as set out in the Performance Plan;
- Monitor and measure performance against set targeted outputs;
- Use the Performance Agreement and Performance Plan as the basis for assessing the suitability of the Employee for permanent employment and/or to assess whether the Employee has met the performance expectations applicable to his/her job;
- Appropriately reward the Employee in accordance with the Employer's Performance Management Policy in the event of outstanding performance; and
- Give effect to the employer's commitment to a performance-orientated relationship with the employee in attaining equitable and improved service delivery.

DISCUSSION

The Key Performance Areas of the senior managers are classified in categories as per prescribed key performance areas and make up 80 % of the employee's final assessment result. These categories are weighed in relation to the focus of the different KPA's and constitute 80% of the total rating. The criteria upon which the performance rating of the senior managers is assessed consist of two components. The employee is assessed against both components, with a weight of 80:20 allocated to the Key Performance Areas (KPA's) and the Core Managerial

Competencies (CMC's) respectively. Each area of assessment will be weighed and will contribute a specific part to the total score. KPA's covering the main areas of work will account for 80% and CMC's will account for 20% of the final assessment result.

Key Performance Indicators of directors are linked to the Key Performance Areas in line with the national strategic objectives. The Employee's assessment is based on his/ her performance in terms of the outputs/ outcomes (performance indicators) identified as per the annual performance plan which are linked to the KPA's, and will constitute 80% of the overall assessment result as per the weightings agreed to between the Employer and Employee. The CMCs make up the other 20% of the Employee's assessment result. In the case of the Municipal Manager, the Executive Mayor is the employer and in the case of the Directors, the Municipal Manager is the employer.

The performance assessment has been done in terms of the stipulations of the Municipal Systems Act by the panel as prescribed in terms of the Act. For purposes of evaluating the performance of the Municipal Manager a panel consisting of the following members, is established–

1. Executive Mayor as Chairperson;
2. Member of Mayoral Executive Committee
3. Chairperson of the Audit Committee;
4. Municipal Manager from another Municipality;
5. Member from a ward committee

The panel to assess the performance of directors consists of:

1. The Municipal Manager as Chairperson
2. Member of Mayoral Executive Committee
3. Chairperson of the Audit Committee;
4. Municipal Manager from another Municipality;

The rating scale of performance is as follows:

Level	Terminology	Description
5	**Outstanding performance**	Performance far exceeds the standard expected of an employee at this level. The appraisal indicates that the Employee has achieved above fully effective results against all performance criteria and indicators as specified in the PA and Performance plan and maintained this in all areas of responsibility throughout the year.
4	**Performance significantly above expectations**	Performance is significantly higher than the standard expected in the job. The appraisal indicates that the Employee has achieved above fully effective results against more than half of the performance criteria and indicators and fully achieved all others throughout the year.

Level	Terminology	Description
3	**Fully effective**	Performance fully meets the standards expected in all areas of the job. The appraisal indicates that the Employee has fully achieved effective results against all significant performance criteria and indicators as specified in the PA and Performance Plan.
2	**Not fully effective**	Performance is below the standard required for the job in key areas. Performance meets some of the standards expected for the job. The review/assessment indicates that the employee has achieved below fully effective results against more than half the key performance criteria and indicators as specified in the PA and Performance Plan.
1	**Unacceptable performance**	Performance does not meet the standard expected for the job. The review/assessment indicates that they employee has achieved below fully effective results against almost all of the performance criteria and indicators as specified in the PA and Performance Plan. The employee has failed to demonstrate the commitment or ability to bring performance up to the level expected in the job despite management efforts to encourage improvement.

Dispute resolution

- Any disputes about the nature of the Employee's performance agreement or assessments in terms thereof, whether it relates to key responsibilities, priorities, methods of assessment and/ or any other matter provided for, shall be mediated by –
- the MEC for local government in the province within thirty (30) days of receipt of a formal dispute from the Employee; or
- any other person appointed by the MEC.
- In the event that the mediation process contemplated above fails, the principles of contractual termination as set out in the Contract of Employment, shall apply.

Annual assessment

The assessment was concluded on 12 June 2024 and the report will be circulated **as Annexure J.1 – J.5.**

Performance bonus

In terms of the employment agreement concluded with senior managers, the Employee will be entitled to a maximum non-pensionable performance bonus of between 5% and 14% of the remuneration package, per annum. In accordance with regulation 8 read with regulation 32 of the Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006, a performance bonus must be paid to the employee, after the annual report for the financial year under review has been tabled and adopted by Council and in accordance with any other applicable statutory provisions. The annual report must be submitted to council in terms of section 127(2) of the MFMA that stipulates that the annual report must be tabled in the municipal council within seven months after the end of the financial year. The annual report was submitted to Council for adoption at the Council meeting scheduled for 16 May 2024 where after the performance bonuses can be paid out.

The Municipal Manager and Senior Managers will recuse themselves during discussion of the Item.

LEGAL IMPLICATIONS

Section 57(1) (b), (4A), (4B) and (5) of the Local Government: Municipal Systems Act as well as the Contract of Employment entered into between the parties read with the performance regulations.

FINANCIAL IMPLICATIONS

In terms of the performance agreements of senior managers performance bonuses are calculated as indicated below:

Percentage rating	Description	Performance bonus
0% - 64%	Poor	0
65% - 69%	Average	5%
70% - 74%	Fair	9%
75% - 79%	Good	11%
80% - 100%	Excellent	14%

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

The performance bonuses will be made public in the Annual Report for 2023/ 2024. The performance contract stipulates that the contents of the performance contract and the outcome of any review conducted in terms thereof may be made available to the public by the employer.

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council takes cognizance of the performance assessment results of the Municipal Manager and Directors for the 2022/23 financial year as per the results as circulated.
2. that performance bonuses be paid out to the relevant section 56 and 57 managers as per the performance scoring results reflected below:

Official	Performance Results (Rounded off)	Performance bonus Qualify
Ms A Vorster	65%	5%
Ms E Wassermann	71%	9%
Mr K Stuurman	67%	5%
Mr B Neale	46%	0%
Mr F Erasmus	62%	0%

DISCUSSION

The Executive Mayor, Councillor H.F. Du Rand indicated that the low scores of Senior Managers could be due to the positions that were not filled and staff who resigned from certain positions in the office of the Municipal Manager.

The Executive Mayor said that he was in support of paying out the bonusses to the three Senior Managers, the Municipal Manager, Mrs A. Vorster, the Director Financial Services, Ms E. Wassermann and the Director Community Services, Mr K. Stuurman.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A110/31/07/2024**

1. that Council takes cognizance of the performance assessment results of the Municipal Manager and Directors for the 2022/23 financial year as per the results as circulated as Annexure J.1 – J.5.
2. that performance bonuses be paid out to the relevant section 56 and 57 managers as per the performance scoring results reflected below:

Official	Performance Results (Rounded off)	Performance bonus Qualify
Ms A Vorster	65%	5%
Ms E Wassermann	71%	9%
Mr K Stuurman	67%	5%
Mr B Neale	46%	0%
Mr F Erasmus	62%	0%

9.1.13

Item number A111. 31.07.2024

SUPPLY CHAIN MANAGEMENT MONTHLY REPORT – JUNE 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 June 2024 is attached as **Annexure K** to enable the council to fulfil its oversight role. The report informs on the following matters:

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

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

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council takes cognisance of the Supply Chain Management Report for June 2024 attached as **Annexure K**.

The Speaker confirmed that all Councillors took note of the SCM report for June 2024.

RESOLVED **Item A111/31/007/2024**

1. that Council takes cognisance of the Supply Chain Management Report for June 2024 attached as **Annexure K**.

9.1.14

Item number A112. 31.07.2024

SUPPLY CHAIN MANAGEMENT QUARTERLY REPORT – JUNE 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 quarterly report for the Supply Chain Management (SCM) is prepared to update the Council on SCM's key activities for the quarter and to meet the reporting requirements of the Legislative Framework.

FACTS AND BACKGROUND

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

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

DISCUSSION

The attached **Annexure L** contains the SCM quarterly report for June 2024, which will help the council in its oversight role. The report covers the following: -

- Procurement statistics for the month -
- Awards above R 100 000 reported to National Treasury -
- SCM deviations -
- BBBE

There are no major problems with the implementation of the SCM policy. However, we are facing difficulties with the new preference point system, which is applied to all procurements above R2000. We are experiencing delayed implementation and reluctance from suppliers to quote for small amounts.

To address these challenges, the SCM unit is working on a more strategic approach, which will be rolled out in the 2024/2025 financial year. The main areas of focus are: -

- Increasing space at municipal stores to enable more strategic procurement and improve the turnaround time for goods and services;
- Achieving cost savings through bulk procurement;
- Centralizing buying from all departments to SCM.

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council takes cognisance of the Supply Chain Management Quarterly Report for June 2024 attached as **Annexure L**.

The Speaker confirmed that all Councillors took note of the SCM Quarterly report for June 2024.

RESOLVED **Item A112/31/07/2024**

1. that Council takes cognisance of the Supply Chain Management Quarterly Report for June 2024 attached as **Annexure L**.

9.1.15

Item number A113. 31.07.2024

STS ELECTRICITY PRE-PAID METERS CONVERSION PROGRESS

Report of the Director Financial Services: Me E. Wassermann

Department	Financial Services
Section	Finances
File number	16/2/3/2

PURPOSE OF REPORT

The purpose of the report is to inform the Councill on communication received from Syntell, the service provider on the STS electricity pre-paid meters conversion process. The letter is attached as **Annexure M.**

FACTS AND BACKGROUND

On September 5, 2022, Syntell commenced with the TID token change process of the Swellendam Vending Systems to upgrade the STS prepayment meters to Key Revision 2 (KRN2/STS6).

To date, 5359 meters were converted to STS6 and 1352 meters were still outstanding on STS5.

Upon reviewing the system, the Syntell team noticed a flaw in the code and promptly informed Swellendam about it on July 5, 2024.

It came to light that the credit tokens purchased after the TID key token was issued still referenced the base date of 1993 rather than the updated base date of 2014.

Syntell conducted an investigation and found that 4386 meters were affected. To address this issue, these meters have been isolated to allow them to continue vending based on the 1993 base date.

DISCUSSION

This means that of the 5359 meters initially converted, only 973 reflects the correct base date of 2014.

Syntell commits to a collaborative approach at no extra cost to the municipality to ensure that this matter is addressed in a timely manner. The approach proposed is:

- Consumer Approach: this is the preferred approach due to timing and "no access" concerns, pending relevant testing (engineering token and Municipality/customer testing) completed.
- Field Approach: this approach will be taken if the Consumer Approach is not possible.

LEGAL IMPLICATIONS

Electricity Act,
Electricity By-Laws

Local Government: Municipal Systems Act
Local Government: Municipal Finance Management Act

FINANCIAL IMPLICATIONS

There will be no extra cost for the municipality.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council notes the report on communication regarding challenges regarding the STS electricity pre-paid meters conversion process, received from Syntell.
2. that the residents be made aware of the TID token change challenge.
3. that the residents be informed through media, emails, and other communication channels on the consumer approach if the testing is successfully completed.

The Speaker confirmed that all Councillors were in support of the recommendation as-is:

UNANIMOUSLY RESOLVED **Item A113/31/07/2024**

1. that Council notes the report on communication regarding challenges regarding the STS electricity pre-paid meters conversion process, received from Syntell.
2. that the residents be made aware of the TID token change challenge.
3. that the residents be informed through media, emails, and other communication channels on the consumer approach if the testing is successfully completed.

9.1.16

Item number A114. 31.07.2024

TENDER NO: SMT59/20/21 – AMENDMENT OF AGREEMENT – PROVISION OF SHORT-TERM INSURANCE

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

Department	Financial Services
Section	Supply Chain Management
File number	8/2/1/3

PURPOSE OF REPORT

To inform Council about a proposed amendment of the existing agreement between Swellendam Municipality and Lateral Unison Insurance Brokers.

FACTS AND BACKGROUND

Lateral Unison Insurance Brokers was appointed through a competitive bidding process as Service Provider for the Provision of Short-Term Insurance for the period from 01 July 2021 to 30 June 2024.

A request was received from the user department to amend the agreement for a further 3-year period from 01 July 2024 to 30 June 2027.

MOTIVATION FOR AMENDMENT

- Due to the riots and subsequent SASRIA claims the insurance portfolio of the municipality is at risk.
- It will not be advisable to change to a different service provider after this incident as the risk contents have increased.
- The SASRIA claim is not finalized yet and it is proposed to extend the contract to have a more stable environment and build again on a new risk profile.

Notices about the proposed amendment was placed in the Langeberg Bulletin and on the municipal website on Thursday, 23 May 2024 with the closing date and time **Friday, 14 June 2024 at 11:00**.

On 05 June 2024 an objection from Opulentia Financial Services was received in terms of the Municipal Systems Act. It should be noted that the appellant did not indicate what relief is being sought, should the appeal be upheld.

Upon the receipt of the objection, the Municipality extended the current contract in terms of MFMA circular 62, which will lapse on 30 September 2024 and with no interim solution, this means that from 1 October 2024, the Municipality will be exposed to the unacceptable risk of not being insured for a period of 6-8 months.

Therefore, the decision to amend the current contract cannot be revoked, as it would result in a situation where the Municipality would not be insured.

The appeal was considered and upheld considering the below mentioned:

a) The appeal authority is confined to the subject matter of the appeal, i.e. the grounds of the appeal.

b) Where the appeal is upheld, the appeal authority's mandate is prescribed to only confirm, vary, or revoke its initial decision and it cannot execute any other action beyond this mandate.

It was resolved to vary the current decision to extend the contract, by removing the SASRIA related arguments and limiting the contract extension period from the initially stated 3-years, and replacing it with the following considerations to be incorporated in the decision:

a) Having to relocate premises because of the vandalism to the original municipal building, the Municipality needs to do a re-assessment of its current risk profile to determine its new risk exposure prior to compiling comprehensive tender specifications.

b) As a normal tender process commencing with the compilation of tender specifications, embarking on and concluding a competitive tender process, and making a final award, inclusive of the period to consider and address potential appeals/objections, takes at minimum 8-10 months to conclude, the extension period will be allowed for a maximum period of 12-months.

LEGAL IMPLICATIONS

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

A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—

(a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and

(b) the local community—

(i) has been given reasonable notice of the intention to amend the contract or agreement; and

(ii) has been invited to submit representations to the municipality or municipal entity.

FINANCIAL IMPLICATIONS

The total estimated cost for this amendment is R 2 000 000.00 (Incl. VAT).

COMMUNICATIONS IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the proposed amendment of the agreement between Swellendam Municipality and Lateral Unison Insurance Brokers for the Provision of Short-Term Insurance to the estimated amount of R2 000 000.00 (Incl. VAT) for the period from 01 July 2024 to 30 June 2025, be noted by Council.

DISCUSSION

Councillor M.T.A. Swart raised concern about amending contracts and not putting it out on tender. She requested the administration to put the service out on tender to be able to include and find more suitable service providers in the process.

The Municipal Manager, Mrs A. Vorster said that the request for the amendment of the agreement for such a short period was to provide time do an independent risk assessment of *the municipality's portfolios by looking what should be ensured and at what value, to be sure that when it was reflected in the tender, it would be the correct information.*

The Executive Mayor, Councillor H.F. Du Rand explained that the 12-month extension was to enable the municipality to get the actual value of its assets before going out on tender in the next 8 to 10 months.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A114/31/07/2024**

1. that the proposed amendment of the agreement between Swellendam Municipality and Lateral Unison Insurance Brokers for the Provision of Short-Term Insurance to the estimated amount of R2 000 000.00 (Incl. VAT) for the period from 01 July 2024 to 30 June 2025, be noted by Council.

9.1.17

Item number A115 31.07.2024

QUARTERLY WARD COMMITTEE REPORT

Report prepared by:	Juan van Schalkwyk
Department	Office of the Speaker
File number	3/3/15

PURPOSE OF REPORT

To provide a quarterly report to council surrounding ward committee activities for the period 1 May 2024 to 30 June 2024.

FACTS AND BACKGROUND

DISCUSSION

Section 72 of the Local Government: Municipal Structures Act of 1998 provides that local municipalities of certain types may have ward committees. The objective of a ward committee is to enhance participatory democracy in local government and acts as a communication channel between the community and council. Swellendam Municipality has 6 established ward committees. Meetings were held as follows:

WARD COMMITTEE MEETINGS:

Ward 1 – 22 May 2024
Ward 2 – 10 June 2024
Ward 3 – 12 June 2024 (cancelled due to no attendance)
Ward 4 – 10 June 2024 (cancelled due to no attendance)
Ward 5 – 10 June 2024
Ward 6 – 2 May 2024

COUNCILLOR REPORT-BACK MEETINGS:

Ward 1 – 13 June 2024 (cancelled due to no attendance)
Ward 2 – No report back meeting scheduled
Ward 3 – No report back meeting scheduled
Ward 4 – Scheduled for 18 June 2024 (cancelled due to presidential inauguration)
Ward 5 – 11 June 2024
Ward 6 – No report back meeting scheduled

CURRENT VACANCIES IN EACH WARD:

Ward 1 – 3 Vacancies
Active Members (have not missed 3 or more consecutive meetings):

1. Lestine Abrahams
2. Pieter Hopkins Uys
3. Scot John Bleasdale

4. Denville Jonkers
5. Mari-louise van der Merwe
6. Gerhardus Swanepoel

Ward 2 – 5 Vacancies

Active Members (have not missed 3 or more consecutive meetings) :

1. Renaldo Claassen
2. Conroy Williams
3. Daniel Southey
4. Joggom Tallies
5. Elton Esau

Ward 3 – 3 Vacancies

Active Members (have not missed 3 or more consecutive meetings):

1. Alan Thompson
2. Naomi van der Kolff
3. Ruwayne October
4. Karina Sauls
5. Marlene Classen
6. Ferdio Kestoor
7. Andrew Hendricks

Ward 4 – 4 Vacancies

Active members (have not missed 3 or more consecutive meetings):

1. Luchresia Pietersen
2. Mio Langenhoven
3. Lanville Cupido
4. Riaan Jonas
5. Hilton R.I. Hartnick
6. Catherine Martin

Ward 5 – 4 vacancies

Active members (have not missed 3 or more consecutive meetings) :

1. Francina Maneval
2. Monwabisi Mtyanga
3. Enrico Adams
4. Felicia Joseph
5. Jeffrey Matthysen
6. Erna Mpiyakhe

Ward 6 – 1 vacancy

Active members (have not missed 3 or more consecutive meetings) :

1. Edgar Gertse
2. Leslie Swarts

3. Bertie Pekeur
4. Kilene Lewis
5. Johannes Michaels
6. Dawid Markus
7. Barbara Witbooi
8. Hendrik Jamboe
9. Linda de Vie

The Ward Committee Model in the Swellendam Municipality has been improving over the past 2 quarters, both in terms of the frequency of Ward Committee and Ward Councillor Feedback Meetings, but there has also been an improvement in the communication and feedback loop between community members and the administration.

Most wards hosted or scheduled at least one Ward Committee and Councillor Feedback meeting during past the quarter. Election season and adverse weather conditions were the biggest contributors to meetings being cancelled or not being held at all.

Other than ensuring that all Ward Committee and Ward Councillor Feedback Meetings occur in the next quarter, the Speakers Office has three other goals for the fourth quarter.

1. **Ensure Sector/Geographical Representatives Liaise with Their Constituents.**
   During the past quarter, the speaker's office sent out ward resident feedback forms for comment from the ward councillors. These forms will encourage, enable and monitor the feedback between sector/geographical ward representatives and their constituents, within their sectors/geographical area. These forms will contain verifiable information and ensure that the sector needs and opinions are considered at Ward Committee Meetings.

   Once all comments and inputs have been finalised, the ward resident feedback forms will be distributed amongst ward committee members for completion in their respective wards and sectors.
2. **Ensuring Adequate Sector / Geographical Representation**
   It is a priority for the Speakers Office to ensure that Ward Councillors are adequately supported by motivated and committed ward committee members in all relevant portfolios or geographical areas. The Speakers Office will therefore work with each Ward Councillor to firstly fill the current vacancies and secondly to ensure that non-performing ward committee members are coached and/or disciplined.
3. **To Ensure the Correct Structure for Ward Councillor Feedback Sessions**
   The Ward Councillor Feedback Sessions are mandated quarterly feedback meetings that every Ward Councillor is responsible for hosting. In the past, these meetings have simply been used as another IDP meeting, when their actual goal is for the Ward Councillor to provide feedback to their ward community on **a)** Highlights of decisions taken in Council within the last quarter (especially decisions that impact the residents of that ward), **b)** Provide Feedback on Service Delivery and IDP/Budget Implementation Progress **c)** Provide Feedback on matters of concern, brought to the attention of the councillor, whether raised in a community meeting, via the Ward Committee Meeting or through the day to day activities of that councillor.

At every public meeting the community complains about public participation. The Ward Committee Model plays a vital and central role in public participation. It is therefore the responsibility of the ward councillor and ward committee members to take responsibility together with the administration and council for public participation. It is for this purpose that the Speaker wants to ensure that ward committee members are active in their community and that Ward Councillors are adequately supported in ensuring public participation. The resulting feedback loop ensures higher community participation and contentment.

See Annexure N.

LEGAL IMPLICATIONS

Local Government: Municipal Structures Act of 1998.

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS:

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

As per the report.

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that Council takes note of the quarterly ward committee report for 1 May 2024 to 30 June 2024.

DISCUSSION

The Speaker, Councillor J.R. van Schalkwyk said that he was of the opinion that the ward committees did not run as well as he would like it to be. He said that he would like to present a ward model within the next year indicating what the municipality was doing in terms of public participation.

The Speaker said that Councillors had until 30 July 2024 to submit their ward operational plans of which only 2 wards have submitted, ward 1 and ward 6. He added that the dates of ward committee meetings were important to follow through as Province was monitoring these meetings and might end up joining Councillor feedback meetings. He said that Councillors should focus on their meeting dates and projects as there has been an increase in funding for projects as well and Councillors should discuss these matters with their ward committees. He added that the ward operational plan was vital as it set the plan for the next year.

The Speaker shared that there were a few vacancies in wards and according to the policy it was clear that Council should follow a democratic process with vacancies or a consensus option within the ward committee.

Ward 1:

Councillor E.J. Lamprecht indicated that she only had five members on her ward committee and could not spend her funding for the previous year when asked for it in June 2024.

The Director of Financial Services shared that the finance department wrote a letter to all departments that all procurement stopped two weeks before 30 June 2024 to allow the administration to get all invoices in to process before 30 June financial year closing

The Speaker reminded Councillors to not leave projects to the end of the financial year as the funding could be forfeited.

Ward 2:

Councillor I.H. Ferguson indicated that his operational plan would be submitted to the Speaker's office by the end of 31 July 2024. He said that he had two vacancies of which one has been completed through due process and the other vacancy would be dealt with during the course of the following week.

Ward 3:

Councillor D.J. Julius indicated that he did not have any comments.

Ward 4:

Councillor H.F. Du Rand asked for follow up on the termination process of ward committee members who did not show up for meetings. The Speaker indicated that the current policy needed to be updated but the policy stated that if a member did not show up for a meeting three times in a row a letter has to be sent to them for which they got time to respond and the process would follow.

Ward 5:

Councillor G. Libazi shared that her ward had five vacancies. She said that when it came to feedback meetings, it was decided in her ward that the different blocks would be divided and meetings would then be held with the different sections of ward 5.

Ward 6:

Councillor J.A. Matthysen said that he has been struggling to fill the 1 vacancy in his ward and the challenge with ward committee members was that they did not do what they had to do and what was expected from ward committee members.

RESOLVED **Item A115/31/07/2024**

1. that Council takes note of the quarterly ward committee report for 1 May 2024 to 30 June 2024.

9.1.18

Item number A116. 31.07.2024

COUNCIL IN RECESS: JUNE – JULY 2024: REPORT ON DELEGATED AUTHORITY OF THE EXECUTIVE MAYOR

Report of the Municipal Manager: Mrs. A. Vorster

Department	Administrative Support
File number	3/2/2/1

PURPOSE OF THE REPORT

To report on the delegated authority, if any, exercised by the Executive Mayor during the recent Council recess in terms of Council Resolution A2374 of 5 June 2013.

FACTS AND BACKGROUND

Council was officially in recess for the period 18 June -15 July 2024 and during periods of recess, all urgent matters shall be dealt with by the Executive Mayor in consultation with the Municipal Manager, if and when required in terms of the delegations per Resolution A2374 taken on 5 June 2013, which reads as follows:

RESOLVED:

1. *that during periods of recess the Executive Mayor be delegated to exercise any power of the Council and/or its political structures, as well as designated powers, in consultation with the Municipal Manager or if the Municipal Manager is not available, the Acting Municipal Manager, Provided that:*
   - *(b) the failure to exercise such power as a matter of urgency would have a substantial detrimental impact on the municipality and/or its services; and/or its people;*
   - *(c) the delegation excludes the exercise of all powers reserved for Council in terms of Section 160 of the Constitution: Passing of By-Laws, Approval of Budget, Imposition of rates and taxes, Levies and Duties, raising of loans*
   - *(d) where the public interest so demands, this power be exercised after consultation with as many members of the Mayoral Committee as reasonably possible.*
2. *"Recess" means the period determined by Council resolution when all councillors shall be on official leave and such period shall commence at 17h00 and shall terminate at 08h00 on the dates determined.*
3. *All resolutions taken by the EM during recess must be tabled at the next meeting of the Council for ratification.*

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

Director: Corporate Services

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the report on the delegated authority of the Executive Mayor during the Council recess of 18 June -15 July 2024 be noted;
2. that it be noted that no resolution was taken by the Executive Mayor in terms of his delegated authority during the recess period in 1 above.

The Speaker confirmed that all Councillors took note of the item.

RESOLVED **Item A116/31/07/2024**

1. that the report on the delegated authority of the Executive Mayor during the Council recess of 18 June -15 July 2024 be noted;
2. that it be noted that no resolution was taken by the Executive Mayor in terms of his delegated authority during the recess period in 1 above.

The Speaker called for a short recess from 13:13 to 13:23.

9.1.19

Item number A117. 31.07.2024

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	3/2/2/1

PURPOSE OF THE REPORT

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

The schedules for April 2024 to June 2024 **are attached as Annexure O.**

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

RECOMMENDED

1. that Council takes cognisance of the report on the implementation of Council Resolutions for the period April to June 2024.

RESOLVED **Item A117/31/07/2024**

1. that Council takes cognisance of the report on the implementation of Council Resolutions for the period April to June 2024.

9.1.20

Item number A118. 31.07.2024

RE-ADVERTISING OF VACANCY OF DIRECTOR INFRASTRUCTURE SERVICES

Report of the Municipal Manager:	A. Vorster
Department	Corporate Services
Section	Human Resources
File number	4/3/3/4

PURPOSE OF REPORT

The Director Infrastructure Services vacancy has been advertised thrice. With the second round of advertisement, two candidates were shortlisted by the Selection Panel, but before the interviews and selection could take place, one of the candidates withdrew from the process, leaving only one candidate on the short list.

The recruitment and selection process for a Director Infrastructure Services position takes place in terms of the Regulations on Appointment and Conditions of Employment of Senior Managers, GN.R 21, published in GG 37245, dated 17 January 2014, together with the provisions of the Municipal Regulations on Minimum Competency Levels, GNR 493, GG 29967 dated 15 June 2017 and as amended by GN 1146, published in GG 41996 dated 26 October 2018.

FACTS AND BACKGROUND

As indicated at the Special Council meeting in June, Council approved the shortlisting of the candidates for the third round of Selection and Recruitment. The Screening Report for the candidates was received on July 4. After the Screening Report was received, one candidate, Mr Koopman, withdrew from the process.

DISCUSSION

A senior management position may only be filled after it has been advertised publicly in terms of Section 10 of the Regulations on Appointment and Conditions of Employment of Senior Managers, GN.R 21. The Council must approve the vacancy and give approval that the vacancy must be filled. It must also approve the advertisement for the position. The pro forma advertisement is attached **Annexure P**. An extract of the Local Government Systems Act, 2000 (Act No.32 of 2000)(Regulations on appointment and conditions of Senior Managers) can be found below.

Section 10 of the Regulations on Appointment and Conditions of Employment of Senior Managers, GN.R 21 stipulates as follows:

10. (1) The municipal manager must, within 14 days of receipt of the approval referred to in regulation 7, ensure that the vacant post is advertised.

(2) A vacant senior manager post must be advertised in a newspaper circulating nationally and in the province where the municipality is located.

(3) An advertisement for a vacant senior manager post must specify the—

(a) job title;
(b) term of appointment;
(c) place to be stationed;
(d) annual total remuneration package;
(e) competency requirements of the post, including minimum qualifications and experience required;
(f) core functions;
(g) need for signing of an employment contract, a performance agreement and disclosure of financial interest;
(h) the need to undergo security vetting;
(i) contact person;
(j) address where applications must be sent or delivered; and
(k) closing date which must be a minimum of 14 days from the date the advertisement appears in the newspaper and not more than 30 days after such date.

(4) A municipality may utilise a recruitment agency to identify candidates for posts: Provided that the advertising, recruitment and selection procedures comply with these regulations.

(5) The mayor, in the case of a municipal manager, or the municipal manager, in the case of a manager directly accountable to the municipal manager, must provide monthly reports to the executive committee regarding progress on the filling of the vacant senior manager post.

Section 12 of the above regulations stipulates the compilation of the Selection Panel for the Section 56 vacancies. Section 12 states as follows:

Selection panel

12. (1) A municipal council must appoint a selection panel to make recommendations for the appointment of candidates to vacant senior manager posts.

(2) In deciding who to appoint to a selection panel, the following considerations must inform the decision:

(a) the nature of the post;
(b) the gender balance of the panel; and
(c) the skills, expertise, experience and availability of the persons to be involved.

(3) The selection panel for the appointment of a municipal manager must consist of at least three and not more than five members, constituted as follows:

(a) the mayor, who will be the chairperson, or his or her delegate;
(b) a councillor designated by the municipal council; and
(c) at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.

(4) The selection panel for the appointment of a manager directly accountable to a municipal manager must consist of at least three and not more than five members, constituted as follows:

(a) the municipal manager, who will be the chairperson;
(b) a member of the mayoral committee or councillor who is the portfolio head of the relevant portfolio; and
(c) at least one other person, who is not a councillor or a staff member of the municipality, and who has expertise or experience in the area of the advertised post.

(5) A panel member must disclose any interest or relationship with shortlisted candidates during the shortlisting process.

(6) A panel member contemplated in subregulations (3) and (4) must recuse himself or herself from the selection panel if—

(a) his or her spouse, partner, close family member or close friend has been shortlisted for the post;

(b) the panel member has some form of indebtedness to a short-listed candidate or *vice versa*; or

(c) he or she has any other conflict of interest.

(7) A panel member and staff member must sign a declaration of confidentiality as set out in Annexure D to these regulations, to avert the disclosure of information to unauthorised persons.

(8) A staff member may provide secretarial or advisory services during the selection process, but may not form part of the selection panel.

For the Recruitment and Selection Process to commence the above processes must be followed.

The filling of the vacancy will take about three months if the Municipality is fortunate enough to attract a suitable candidate in the first round. Mr Eddie Delport was appointed from 1 July 2024 for a period of three months to act in the position of Director: Infrastructure Services. This person may not be appointed to act for a period that exceeds three months, provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for Local Government to extend the three-month acting period.

The Municipality advertised three times already and now it is recommended that the Municipality advertise again, but combine it with a head hunt activity. The candidate currently on the shortlist, will then be added to the shortlisting in the next round.

LEGAL IMPLICATIONS

1. Constitution of South Africa, 1996 (Act no 108 of 1996).
2. Section 55 and 56 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
3. Local Government: Municipal Staff Regulations, 2021,
4. Employment Equity Act, 1998 (Act no 55 of 1998);
5. Basic Conditions of Employment Act, 1997 (Act no 75 of 1997);
6. Labour Relations Act, 1995 (Act no 66 of 1995);
7. Minimum competency requirements for Senior Managers as laid down in Government Notice R493 dated 15 June 2007, as amended by Government Notice 1146 dated 26 October 2018
8. Regulations on the Appointment and Conditions of Employment of Senior Managers as promulgated in Government Gazette 37245 dated 17 January 2014
9. The Upper Limits of total remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers

FINANCIAL IMPLICATIONS

As per the Upper Limits of total remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers.

PERSONNEL IMPLICATIONS

As per discussion above.

COMMUNICATION IMPLICATION

Advertising in a national newspaper.

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Municipal Manager

It is suggested that the Municipality use a recruitment agency to facilitate the filling of the vacancy and that the candidate currently shortlisted be included in the next round and that the Municipal Manager be tasked to head hunt a suitable candidate in addition to the advertisement.

RECOMMENDED

1. that Council approves the re-advertisement of the Director of Infrastructure Services vacancy.
2. that Council approves the advertisement for the position of Director of Infrastructure Services as attached, indicating their term preference.
3. that the remaining shortlisted candidate be informed that he will be shortlisted and included in the next shortlisting round.
4. that the Municipal Manager be tasked to head-hunt suitable candidates to apply, in addition to advertising the position.

DISCUSSION

The Executive Mayor, Councillor H.F. Du Rand indicated that the item stated on page 68 of agenda that the position was advertised as a 5-year contract period which should be corrected as it was previously resolved that the position would be permanent.

The Municipal Manager suggested the following amendment to point 2 of the recommendation:

2. *that Council confirms the advertisement for the position of the Director of Infrastructure Services as attached, indicating the term of appointment as permanent.*

The Speaker confirmed that all Councillors were in support of the recommendation to re-advertise the position as indicated and that the Municipal Manager would try to head-hunt for suitable candidates to apply.

UNANIMOUSLY RESOLVED **Item A118/31/07/2024**

1. that Council approves the re-advertisement of the Director of Infrastructure Services vacancy.
2. that Council confirms the advertisement for the position of Director of Infrastructure Services as attached, indicating the term of appointment as permanent.

3. that the remaining shortlisted candidate be informed that he will be shortlisted and included in the next shortlisting round.
4. that the Municipal Manager be tasked to head-hunt suitable candidates to apply, in addition to advertising the position.

9.1.21

Item number A119. 31.07.2024

APPEAL AGAINST DECISION NOT TO WRITE OFF ARREAR ACCOUNT: ERF 45 SUURBRAAK

Prepared by:	A. Vorster
Department:	Municipal Manager
Section:	Administrative Support
File number:	5/5/1

PURPOSE OF REPORT

To table an appeal against a decision not to write off an amount of R10876.21 in outstanding fees levied for refuse removal in respect of Erf 45, Suurbraak lodged by Mr. T de Graaff.

FACTS AND BACKGROUND

Mr. T de Graaff paid a visit to the Municipal Manager on 11 June 2024 to request that the overdue fees in respect of refuse removal charged to his consumer account which has accumulated over a period of 5 years be written off on account of his claim that it was added to his account illegally and without his consent. He also added that he never made use of the service.

DISCUSSION

In response the Municipal Manager declined the request in terms of the Swellendam Municipal By-Law on Refuse Removal, Refuse Dumps and Solid Waste Disposal and Mr. de Graaff was advised accordingly.

Section 5 of the said By-Law reads as follows:

1. No one except the Municipality or a person authorised by the Municipality may remove any refuse from any premises or dispose thereof;
2. Each owner of premises must make use of the service provided by the Municipality for the removal of refuse, in respect of refuse originating from such premises;
3. The tariff as fixed by the Municipality as part of the budget process shall be payable to the Municipality by the owner, irrespective whether the service is being used, or not;
4. The provisions of this section do not apply to an owner of residential premises who occasionally wishes to dispose of garden refuse or building rubble generated on such premises;
5. A person who contravenes the provisions of subsections (1) and (2) commits an offence.

Mr. de Graaff was also advised of his right to appeal the decision and he has opted to lodge an appeal. His letter is attached as **Annexure Q.**

LEGAL IMPLICATIONS

Municipal By-Law on Refuse Removal, Refuse Dumps and Solid Waste Disposal, 2015.

Municipal Systems Act, Act 32 of 2000.

FINANCIAL IMPLICATIONS

R10876.21.

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

As per resolution.

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Acting Director: Infrastructure Services

None

Municipal Manager

The service was available irrespective if the resident used this or not. The Municipality cannot allow individual residents within an area to be excluded from refuse removal service as they are recycling and have less or no waste that is routed to the landfill site. The Municipality still has the expense to provide the service. The appeal is not supported.

RECOMMENDED

1. that the appeal against a decision not to write off an amount of R10876.21 in outstanding fees levied for refuse removal in respect of Erf 45, Suurbraak lodged by Mr. T de Graaff not be upheld and that the necessary settlement arrangement be made;
2. that the appellant be advised accordingly.

The Executive Mayor proposed that the recommendation be accepted as-is.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A119/31/07/2024**

1. that the appeal against a decision not to write off an amount of R10876.21 in outstanding fees levied for refuse removal in respect of Erf 45, Suurbraak lodged by Mr. T de Graaff not be upheld and that the necessary settlement arrangement be made;
2. that the appellant be advised accordingly.

9.1.22

Item number A120. 31.07.2024

REQUEST TO CONDUCT PAID WORK BY EMPLOYEE

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 an employee wanting to do private work to secure an additional income.

FACTS AND BACKGROUND

An official applied in writing to conduct paid private work which will provide her with an additional income, namely:

Name of applicant	Job Title	Department	Nature of private business / activity
Elmarie Lubbe	Senior Accountant: Salaries	Finance Department	• the recording of accounting transactions and general bookkeeping for Kolu Accounting

The application is attached as **Annexure R.**

The Director of the relevant department agreed that providing this permission will not negatively impact the operations of her office.

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 applicant, the private work will take place on the following basis:

- It will be totally outside the context of the relevant employee's official duties, powers, responsibilities, and sphere of influence in Swellendam Municipality.
- It will not interfere with her 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

The work will be done after hours and over weekends, and the application is supported.

Director: Infrastructure Services

None

Municipal Manager

None

RECOMMENDED

1. that the application as received from the following employee, 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

Elmarie Lubbe	Senior Accountant: Salaries	Finance Department	• the recording of accounting transactions and general bookkeeping for Kolu Accounting

The Executive Mayor, Councillor H.F. Du Rand proposed that the recommendation be accepted as-is.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A120/31/07/2024**

1. that the application as received from the following employee, 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
Elmarie Lubbe	Senior Accountant: Salaries	Finance Department	• the recording of accounting transactions and general bookkeeping for Kolu Accounting

9.1.23

Item number A121. 31.07.2024

REQUEST FOR A REBATE ON THE PURCHASE OF ERF 7106 SWELLENDAM

Municipal Manager	A. Vorster
Department	Municipal Manager
Section	Property Management
File Number	7/2/3/2/170

PURPOSE OF REPORT

The purpose of the report is to submit a request for a rebate on the tendered price for erf 7106 Swellendam.

FACTS AND BACKGROUND

Council resolved to put Erf 7106 Swellendam on tender as per the following Council resolution:

UNANIMOUSLY RESOLVED **Item A51/08/05/2023**

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

Table A

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

1689	Barrydale	232	**R53,00**
1690	Barrydale	200	**R55,00**
1691	Barrydale	200	**R55,00**
1692	Barrydale	200	**R55,00**

c. that each property be made available on tender, by way of a competitive bidding process;
d. that the reserve price for each property, as indicated in table A above, be valid for a twelve (12) month period;
e. that the properties not sold on completion of the tender process, be sold "out of hand" in a piecemeal manner, based on the reserve price and /or at the average tender price (per m^2) achieved for such property;
f. that the full purchase price for each property be settled on date of registration;
g. that the municipal rates and availability fees be payable, calculated from the date of registration;
h. that a building clause for a two (2) year period be included in the sales agreement;
i. that the Municipal Manager be mandated to sign the sales agreement, as drawn up by Council's attorney, in terms of the existing delegations.

1. that the objection from Mr M. Pieterse be noted and rejected as the current policy is adhered to in terms of alienation.
2. that erf 1715, 1717 and 1718 in Upington and Van Riebeeck Street, Barrydale be included in the alienation process and made available on tender, by way of the competitive bidding process.

Erf 7106 Swellendam was subsequently put on tender and the following tenders were received:

	BIDDERS	ERVEN NUMBER	TOTAL BID PRICE (INCL. VAT)
	RESERVE PRICE	**7106**	**R67 375.91**
1	Jeneveve Roman	7106	R67 375.91
2	Vernon Arendse	7106	R68 000.00
3	Samuela Riddles	7106	R90 000.00
4	Rotary Club Swellendam	7106	R86 250.00
5	The Aggregators Mind (Pty) Ltd	7106	R68 000.00

It should be noted that the bids of Samuela Riddles and Vernon Arendse did not meet the responsiveness criteria.

The Erf was sold to Rotary Club, Swellendam at a purchase price of R86 250.00 (VAT inclusive) in terms of Council's SCM and Land Disposal Policies. The Deed of Sale was concluded and the purchase price paid.

A request for a rebate on the paid purchase price is attached as **Annexure S.1 – S.3.**

DISCUSSION

The Supply Chain Management Policy of Council gives effect to sections 152(1)(c) and 152(2) of the Constitution that requires that local government must promote social and economic development and that the municipality must strive within its financial and administrative capacity, to achieve the objects set out in subsection 152(1). Section 217 of the Constitution requires that all procurement (and disposal) processes must be in accordance with a system which is fair, equitable, transparent, competitive and cost-effective manner.

Section 333 of said policy allows the Municipal Manager to authorise the negotiation of the final terms of a contract, including the authority to terminate such negotiations, with bidders identified through a competitive bidding process as preferred bidders provided that such negotiation:

- (i) does not allow any preferred bidder a second or unfair opportunity;
- (ii) is not to the detriment of any other bidder; and
- (iii) does not lead to a higher price than the bid as submitted.

Minutes of such negotiations must be kept for record purposes.

Section 342 and 343 states that any extension or variation of the contract, contract period or contract value must be submitted to and approved by the delegated authority in compliance with the latest directive in this regard as issued by the Municipal Manager. The extension or variation must be on the same deliverables than the original contract.

The Supply Management Chain Policy allows for Disposal Management as per section 412 that states that disposal is subject to the provisions of the Municipal Asset Transfer Regulations:

- (i) moveable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the Municipality;
- (ii) immovable property may:
  - a. be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - b. be let only at market related rates except when the public interest or the plight of the poor demands otherwise and provided that all charges, rates, tariffs, scales of fees or other charges relating to the letting of immoveable property are annually reviewed;

Council's 2018 Land Disposal Policy's principles govern the management and disposal of immovable property:

- The promotion of social integration
- The elimination of spatial inequalities
- The promotion of economic growth
- The building of strong, integrated and dignified communities
- The provision of access to housing, services, facilities and transport
- The provision of opportunities for job creation

In terms of section 14(5) of the Local Government: Municipal Finance Management Act (MFMA), the process regarding the disposal of municipal immovable assets must be fair, equitable, transparent, competitive and consistent with the supply chain management process.

Immovable property is sold/leased at market value, except in circumstances described in paragraph 7, provided that the immovable property referred to in the Housing Act, Act 107 of 1997 is sold/leased in terms of the provisions of the Act.
Council will take cognisance of the total cash value of the packages offered by the tenderers, where such packages are permissible in terms of the conditions of the tender. In other words, where the actual amounts tendered are roughly similar but a particular tenderer, for example, also offers to make improvements to the property, the cash value of such improvements must also be taken into consideration when the highest tender is determined. Where immovable property is disposed of or leased for some or other development project, including a business project, but the specific type of development Council is prepared to allow is of major importance, Council may call for development proposals, including a monetary offer. In such a case the price offered for the immovable property by the developer will only be a part of the total package. Should the municipality consider it desirable not to accept the highest tender or decide to accept a particular development proposal or package deal in which the amount tendered is not the highest offer, the reasons for this decision must be fully set out and recorded in the minutes of the Council and/or committee meeting concerned.

The out of hand sale of immovable property to social care organisations is permitted. The price is set at between 10% and 25% of the market value, subject to a reversionary clause registered against the title of the property.

A reversionary clause is applicable to immovable property transactions where property is sold below market value or in instances where the conditions of sale are not met.

Property may be sold or leased at fair market-related prices only, unless the plight of the poor or the public interest or local economic development goals dictates otherwise on the economic and community value that the municipality will receive.

Section 7.12 of the Disposal Policy allows that Immovable property for business or industrial purposes may in the following cases be sold out of hand at lower than market value prices:

- Promotion of social integration; • Elimination of spatial inequalities; • Promotion of economic growth; • Building strong, integrated and dignified communities; • Provision of access to housing, services, facilities and transport; • Provision of opportunities for job creation; • Creation of opportunities for the previously disadvantaged of the community; • Eradication of poverty; and • Redressing the imbalances of the past

Social care, which is defined as services provided by registered welfare, charity, non-profit, cultural and religious organisations, including childcare facilities on a non-profit basis, is not included under Section 7.12.

From the above, it is clear that Council may take community benefit in consideration when confirming a purchase price. This is normally done during the allocation process and not after the fact.

LEGAL IMPLICATIONS

The following legislation regulates property management:

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

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

According to the resolution.

COMMENTS FROM DEPARTMENTS

Town Planning & Building Control – Mr R. Brunings

No further comments.

Director: Community Services

No further comments

Director: Financial Services

No further comments.

Director: Infrastructure Services

No further comments.

Municipal Manager

It is my opinion that the lowering of the purchase price should have been considered during the bid evaluation process. To lower a purchase process of a competitive bid process after the bid award process, do not in my opinion comply to section 217 of the Constitution. Should Council wish to support this initiative on the basis of community interest, Council should consider alternative means of support.

RECOMMENDED

1. that Council takes note of the application from Rotary Club to reduce the purchase price of Erf 7106 Swellendam.
2. that Council does not accommodate the request to lower the original purchase price as awarded per competitive bid process as it would contravene the principles set out in Section 217 of the Constitution.
3. that, should Council wish to support the establishment of a community ECD facility on Erf 7106 Swellendam on the basis of community interest, Council should consider alternative means of support.
4. that the applicant be informed accordingly.

The Executive Mayor, Councillor H.F. Du Rand proposed that the recommendation be accepted as-is.

Councillor J.A. Matthysen indicated that the ANC was in support of the recommendation by the Executive Mayor, Councillor H.F. Du Rand.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A121/31/07/2024**

1. that Council takes note of the application from Rotary Club to reduce the purchase price of Erf 7106 Swellendam.
2. that Council does not accommodate the request to lower the original purchase price as awarded per competitive bid process as it would contravene the principles set out in Section 217 of the Constitution.
3. that, should Council wish to support the establishment of a community ECD facility on Erf 7106 Swellendam on the basis of community interest, Council should consider alternative means of support.
4. that the applicant be informed accordingly.

9.1.24

Item number A122. 31.07.2024

SUPPLY CHAIN MANAGEMENT: IMPLEMENTATION REPORT FOR 2023/2024

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

Department	Financial Services
Section	Financial Services
File number	9/2/1/5

PURPOSE OF REPORT

To report on supply chain management issues and activities in compliance with the Municipal Finance Management Act (MFMA), Supply Chain Management Regulations and with the Supply Chain Management Policy of the Council for the financial year 2023/2024.

FACTS AND BACKGROUND

In terms of paragraph 6(2)(a)(i) of the Supply Chain Management Regulations, Council reserves the right to maintain oversight over the implementation of the Supply Chain Management Policy.

For the purpose of such oversight, the Accounting Officer must submit at the end of each year a report on the implementation of the Municipality's Supply Chain Management Policy. **The report is attached as Annexure T.**

DISCUSSION

None

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

RECOMMENDED

1. that cognisance be taken of the Supply Chain Management Implementation Report for the 2023/2024 financial year, in terms of Paragraph 6(2)(a) of the SCM Regulations, 2005;

2. that the report be made public in accordance with Section 21A of the Municipal Systems Act, in terms of Paragraph 6(4) of the SCM Regulations, 2005.

The Executive Mayor, Councillor H.F. Du Rand indicated that he was in support of the recommendation as-is.

The Speaker confirmed that all Councillors were in support of the recommendation as-is.

UNANIMOUSLY RESOLVED **Item A122/31/07/2024**

1. that cognisance be taken of the Supply Chain Management Implementation Report for the 2023/2024 financial year, in terms of Paragraph 6(2)(a) of the SCM Regulations, 2005;

2. that the report be made public in accordance with Section 21A of the Municipal Systems Act, in terms of Paragraph 6(4) of the SCM Regulations, 2005.

9.2 Consideration of matters which require non-disclosure

None

9.3 Consideration of urgent matters

None

10. REPORTS OF COMMITTEES AND AD HOC COMMITTEES

None

11. CONFIRMATION OF MINUTES

Proposer: Councillor F. Kees
Seconder: Councillor H.F. Du Rand

11.1 that the minutes of an Ordinary Council meeting held on Thursday, 30 May 2024 which were sent to all Councillors within a reasonable time prior to the meeting, be taken as read and be hereby confirmed.
11.2 that the minutes of a Special Council meeting held on Tuesday, 11 June 2024 which were sent to all Councillors within a reasonable time prior to the meeting, be taken as read and be hereby confirmed.
11.3 that the minutes of a Special In-Committee Council meeting held on Tuesday, 11 June 2024 which were sent to all Councillors within a reasonable time prior to the meeting, be taken as read and be hereby confirmed.
11.4 that the minutes of a Special Council meeting held on Thursday, 27 June 2024 which were sent to all Councillors within a reasonable time prior to the meeting, be taken as read and be hereby confirmed.

12. MATTERS ARISING FROM THE MINUTES OF THE PREVIOUS MEETING

12.1 *Matters arising from the minutes:*

The Executive Mayor, Councillor H.F. Du Rand asked that the Municipal Manager provide an update on the insurance claims. The Municipal Manager, Mrs A. Vorster responded that a proposal was received from the insurers whereafter the municipality appointed a quantity surveyor to look at the proposal and who would report back to the municipality within two weeks.

In response to a question raised by the Executive Mayor with regard to feedback on the micro-organisational structure the Municipal Manager indicated that the micro-organisational structure has been submitted to the MEC and the municipality would proceed with the placements after feedback from the MEC.

13. CONSIDERATION OF MATTERS OF EXIGENCY

None

14. GENERAL

None

15. CLOSURE

The Speaker thanked everyone for their time and commitment to attend the meeting.

The meeting adjourned at 13:42.