

**MINUTES OF A SPECIAL COUNCIL MEETING OF THE WITZENBERG MUNICIPALITY, HELD IN
THE TOWN HALL, VOORTREKKER STREET, CERES ON MONDAY, 16 JANUARY 2017 AT 09:00**

PRESENT

Councillors

TT Godden (Speaker)
BC Klaasen (Executive Mayor)
K Adams (Deputy Executive Mayor)
TE Abrahams
P Daniels
P Heradien
SJ Hugo
DM Jacobs
D Kinnear
GG Laban
C Lottering
M Mdala
TP Mgoboza
ZS Mzauziwa
N Phatsoane
JT Phungula
EM Sidego
RJ Simpson
D Swart
HF Visagie
JJ Visagie

Alderman

JW Schuurman

Officials

Mr D Nasson (Municipal Manager)
Mr J Barnard (Director: Technical Services)
Ms J Krieger (Director: Community Services)
Mr HJ Kritzingen (Director: Finance)
Mr M Mpeluza (Director: Corporate Services)
Mr A Raubenheimer (Deputy Director: Finance)
Mr G Louw (Head: Internal Audit)
Ms L Nieuwenhuis (Legal Advisor)
Mr A Hofmeester (IDP Manager)
Mr CG Wessels (Manager: Administration)
Mr C Titus (Committee Clerk)
Ms S Gibbs (Senior Public Relations Officer)

Other representatives

Mr J Mepomie (Department of Justice)
Mr Mike Goss (Afripanel)

1. OPENING AND WELCOME

The Speaker welcomed everyone present, after which he requested the Director: Corporate Services to open the meeting with prayer.

NOTED

**2. CONSIDERATION OF APPLICATION FOR LEAVE OF ABSENCE, IF ANY
(3/1/2/1)**

Application for leave of absence from the meeting was received from Alderman H Smit.

UNANIMOUSLY RESOLVED

that the application for leave of absence from the meeting, received from Alderman H Smit, be approved and accepted.

3. STATEMENTS, ANNOUNCEMENTS OR MATTERS RAISED

**3.1 Gratitude, Congratulations and Commiseration
(11/4/3)**

- (a) The Executive Mayor welcomed Mr J Mepomie, chief magistrate for the district of Ceres, all councillors and officials at the meeting.
- (b) The Executive Mayor expressed best wishes to all councillors and officials for 2017.
- (c) The Executive Mayor mentioned that 2017 is a year of opportunities and that Witzenberg Municipality will make the best of it.
- (d) The Executive Mayor thanked the standby teams of Water and Fire Services for duties rendered under difficult circumstances.
- (e) The Executive Mayor referred to the swearing in of councillors and requested everybody to take hands and work together.

NOTED

**3.2 Matters raised by the Speaker
(09/1/1)**

- (a) The Speaker introduced Mr Mike Goss of Messrs Afripanel Housing and mentioned that a presentation in respect of new material for housing projects will be made.
- (b) Mr Goss made a presentation, attached as **annexure 3.2** and highlighted the following:
 - Afripanel is an expert with modular buildings and steel structures.

- The company focuses on material, designing, manufacturing and construction.
- The company market schools, houses, factories, offices etc.
- Examples of buildings done are ESKOM at Chloorkop, Kruger Nature Reserve and a school in honour of Nelson Mandela at Qunu.
- Structures are also built in African countries such as Zambia and Zimbabwe.

NOTED

**3.3 Matters raised by the Executive Mayor
(09/1/1)**

None

NOTED

**4. OATH OR SOLEMN AFFIRMATION BY MEMBERS OF THE COUNCIL
(03/R)**

The ANC informed the meeting that the party's councillors will not participate in taking the oath and will leave the meeting for the period of the swearing in.

The ANC councillors left the meeting at 09:21.

Councillor P Heradien joined the meeting at 09:23.

Mr J Mepomie, Magistrate from the Department of Justice, swore the following councillors in:

- (a) Speaker, Councillor TT Godden (COPE)
- (b) Executive Mayor, Councillor BC Klaasen (DA)
- (c) Deputy Executive Mayor, Councillor K Adams (DA)
- (d) Councillor JJ Visagie (DA)
- (e) Councillor D Swart (DA)
- (f) Councillor TE Abrahams (DA)
- (g) Councillor EM Sidego (DA)
- (h) Councillor P Daniels (DA)
- (i) Councillor D Kinnear (DA)
- (j) Councillor C Lottering (DA)
- (k) Councillor ZS Mzauziwa (DA)
- (l) Councillor DM Jacobs (EFF)
- (m) Councillor GG Laban (Witzenberg Aksie)
- (n) Councillor P Heradien (ICOSA)

The councillors of the ANC joined the meeting again at 09:45.

NOTED

5. RESERVED POWERS

**5.1 Appointment of Chairperson and members of Municipal Public Accounts Committee (MPAC)
(2/1/2)**

Item 8.4.3 of the council meeting, held on 13 December 2016, refers.

The following memorandum, dated 6 December 2016, was received from the Municipal Manager:

"Purpose

To consider the appointment of the Chairperson and members of the Municipal Public Accounts Committee of the Witzenberg Municipal Council.

Deliberation

The Municipal Public Accounts Committee is a Section 79 Committee of Council as established per council resolution 8.1.7 of 23 August 2012, attached as **annexure 5.1(a)**.

In terms of the said resolution Council resolved:

- "(a) That the Municipal Public Accounts Committee be established in terms of Section 79 of the Municipal Structures Act.
- (b) That the Municipal Public Accounts Committee consists of five councillors represented by each political party.
- (c) That in the case of Witzenberg Municipality the chairperson of the Municipal Accounts Committee not be a full-time councillor."

In terms of the guidelines published by National Treasury on the establishment of Municipal Public Accounts Committees, the Chairperson of the committee will be appointed by a council resolution. The Minister for Cooperative Governance and Traditional Affairs published a notice in the Government Gazette 904 of 2011 in terms of which a Chairperson of a committee established in terms of Section 79 with forty or more councillors may be designated as fulltime. The Chairperson of the Municipal Public Accounts Committee of the Witzenberg Council will in terms of this notice not be fulltime. The actual size of the Municipal Public Accounts Committee is determined by the number of councillors in the municipality. Municipalities between fifteen and thirty councillors may nominate up to nine councillors for the Municipal Public Accounts Committee.

Council adopted a Municipal Public Accounts Charter per council resolution 8.1.15 of 10 December 2014. A copy of the charter is attached as **annexure 5.1(b)**. The charter prescribes the roles and responsibilities of the committee which are as follows:

- '(a) MPAC has no executive powers.
- (b) The oversight role of MPAC is to review the Municipality of Witzenberg's Annual Report with specific focus on the financial aspects as contained in the Auditor-general's Report on the Annual Financial Statements of the Municipality and also when instructed by Council to advise Council in respect of unauthorised, irregular or fruitless and wasteful expenditure.

- (c) The Municipality's oversight report as envisaged in Section 129 of the MFMA is prepared for adoption by Council by following due process. MPAC's due process entails –
 - (i) consider and make recommendations on the report to Council regarding specific reports of the Auditor-general; and queries, comments and responses in respect thereof;
 - (ii) investigate the alleged financial misconduct by Councillors and report thereon to Council as the case may be;
 - (iii) recommend on any proposals in respect of the oversight process for improving efficiency, effectiveness and economy in the financial sphere of the Municipality; and
 - (iv) liaise with the Performance, Risk and Audit Committee and any other relevant combined assurance committees and role-players.
- (d) Investigate unauthorised, irregular or fruitless and wasteful expenditure in terms of Section 32 of the MFMA, as instructed by Council, and as guided by the National Treasury Circular 68: Unauthorised, Irregular and Fruitless and Wasteful Expenditure. The purpose being to recommend to Council whether such expenditure –
 - (i) resulted in the Municipality receiving "value-for-money" (i.e. services received within a reasonable price);
 - (ii) is irrecoverable or not (financial implications);
 - (iii) resulted from non-compliance in following due process and subsequent disciplinary action is necessary, including whether legal action (common law) is appropriate; and / or
 - (iv) was as a result of control failures or gaps and what remedial and disciplinary actions are proposed.
- (e) To follow up that corrective action has been taken in respect of the comments and resolutions of MPAC during the oversight reporting process.
- (f) To promote good governance, transparency and accountability on the use of municipal resources.' "

The following recommendation was tabled to Council:

Council is requested to consider:

- (i) The appointment of the Chairperson.
- (ii) The ratification of the number as well as members of the Municipal Public Accounts Committee.

Council resolved on 13 December 2016 that the matter in respect of the appointment of a chairperson and members of the Municipal Public Accounts Committee (MPAC) be held in abeyance until the next meeting.

Councillor JJ Visagie proposed and Councillor D Swart seconded that Councillor DM Jacobs be appointed as Chairperson of the Municipal Public Accounts Committee (MPAC).

Councillor J Phungula proposed and Councillor RJ Simpson seconded that Alderman JW Schuurman be appointed as Chairperson of the Municipal Public Accounts Committee.

The Speaker called for a vote and the outcomes were:

- Votes in favour of Councillor DM Jacobs: 11
- Votes in favour of Alderman JW Schuurman: 8
- Votes abstained: 3
- Votes absent: 1

The Speaker declared Councillor DM Jacobs (EFF) as Chairperson of the Municipal Public Accounts Committee.

The meeting unanimously decided that one member of each political party will serve on the Municipal Public Accounts Committee.

The following councillors were nominated:

- Councillor P Heradien (ICOSA)
- Councillor GG Laban (Witzenberg Aksie)
- Councillor C Lottering (DA)
- Councillor JW Schuurman (ANC)

RESOLVED

- (a) *that the Municipal Public Accounts Committee be established in terms of Section 79 of the Municipal Structures Act.*
- (b) *that the Municipal Public Accounts Committee consists of five councillors represented by each political party.*
- (c) *that in the case of Witzenberg Municipality the Chairperson of the Municipal Public Accounts Committee not be a full-time councillor.*
- (d) *that Councillor DM Jacobs (EFF) be appointed as Chairperson of the Municipal Public Accounts Committee in terms of Section 79 of the Municipal Structures Act.*
- (e) *that the following councillors be appointed as members of the Municipal Public Accounts Committee:*
 - (i) *Councillor P Heradien (ICOSA)*
 - (ii) *Councillor GG Laban (Witzenberg Aksie)*
 - (iii) *Councillor C Lottering (DA)*
 - (iv) *Alderman JW Schuurman (ANC)*

5.2 Interim adoption of the Section 8 Zoning Scheme and amendment of the “Agriculture” and “Agricultural Industry” definitions (15/4/P)

The following items refer:

- (a) Item 8.2.2 of the council meeting, held on 18 May 2016.
- (b) Item 7.2.1 of the Executive Mayor and Mayoral Committee meeting, held on 6 October 2016.
- (c) Item 8.2.2 of the council meeting, held on 26 October 2016.
- (d) Item 7.3 of the meeting of the Committee for Technical Services, held on 23 November 2016.
- (e) Item 7.2.4 of the Executive Mayor and Mayoral Committee meeting, held on 9 December 2016.
- (f) Item 8.2.4 of the council meeting, held on 13 December 2016.

Council resolved on 18 May 2016:

- (a) that in terms of section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that the Scheme Regulations in terms of Section 8 of the Draft Land Use Planning Ordinance, 1985 promulgated under P.N. 1048/1988 be adopted as a By-Law;
- (b) that simultaneous with the adoption of the Draft By-Law that the definition of Agricultural industry under P.N. 1048/1988 be substituted with the following:

Agricultural Industry means an enterprise or structure on a farm, of which the building footprint exceeds 2 000 m², constructed for the purpose of packing, packaging, cold storage, preparing or transforming agricultural produce, or goods for non-food use, for final or intermediate consumption.
- (c) that in terms of section 12(3)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the proposal under A. and B. will be published for public comment,
- (d) that any representations received be submitted to Council for consideration prior to publication of the Draft By-Law.

The Executive Mayor and Mayoral Committee unanimously resolved on 6 October 2016 to recommend to Council that, as no objections were received from the public and other interested parties, Council's resolution 8.2.2 of 18 May 2016 be published in the Provincial Gazette.

The following recommendation was tabled to Council:

that, as no objections were received from the public and other interested parties, Council's resolution 8.2.2 of 18 May 2016 be published in the Provincial Gazette.

Council re-discussed the matter and was initially of the opinion that the size of the facility is not more than 2 000 m². The meeting decided that the Committee for Technical Services must re-look at the matter to make the facility smaller in order to be considered as a bona fide agri facility.

Council resolved on 26 October 2016:

- (a) that the matter be referred to the Committee for Technical Services for further deliberation.
- (b) that the Committee for Technical Services re-look at the facility and consider to make it smaller in order to qualify as a bona fide agri-facility.

The following documents are attached:

- (a) A memorandum from the Manager: Town Planning and Building Control, dated 14 November 2016: **Annexure 5.2(a)**.
- (b) Circular 3/2016 from the Department Environmental Affairs and Development Planning, dated 24 February 2016: **Annexure 5.2(b)**.

The Committee for Technical Services unanimously resolved on 23 November 2016 to recommend to the Executive Mayor and Mayoral Committee and Council:

- (i) that in terms of Section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Scheme Regulations in terms of Section 8 of the Land Use Planning Ordinance, 1985 promulgated under P.N. 1048/1988 be adopted as a By-Law.
- (ii) that simultaneous with the adoption of the By-Law, the definition of Agricultural industry under P.N. 1048/1988 be substituted with the following:

Agricultural Industry means an activity or structure on a farm, of which the footprint exceeds 1000 m², for the purpose of packing, packaging, cold storage, preparing or transforming agricultural produce, or goods for non-food use, for final or intermediate consumption.

Landbouwywerheid beteken 'n aktiwiteit of struktuur op 'n plaas, waarvan die voetspoor 1000 m² oorskry, vir die doel van pak, verpakking, koelstore, om landbouproduk voor te berei of te verwerk, wat nie-voedsel verwante goedere insluit, vir finale of intermediêre verbruik.

- (iii) that in terms of Section 12(3)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the proposal under (i) and (ii) will be published for public comment.
- (iv) that any representations received be submitted to Council for consideration prior to publication of the By-Law.

The Executive Mayor and Mayoral Committee resolved on 9 December 2016 to recommend to Council:

- (i) that in terms of Section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Scheme Regulations in terms of Section 8 of the Land Use Planning Ordinance, 1985 promulgated under P.N. 1048/1988 be adopted as a By-Law.
- (ii) that simultaneous with the adoption of the By-Law, the definition of Agricultural industry under P.N. 1048/1988 be substituted with the following:

Agricultural Industry means an activity or structure on a farm, of which the footprint exceeds 1000 m², for the purpose of packing, packaging, cold storage, preparing or transforming agricultural produce, or goods for non-food use, for final or intermediate consumption.

Landbounywerheid beteken 'n aktiwiteit of struktuur op 'n plaas, waarvan die voetspoor 1000 m² oorskry, vir die doel van pak, verpakking, koelstore, om landbouproduk voor te berei of te verwerk, wat nie-voedsel verwante goedere insluit, vir finale of intermediêre verbruik.

- (iii) that in terms of Section 12(3)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the proposal under (i) and (ii) will be published for public comment.
- (iv) that any representations received be submitted to Council for consideration prior to publication of the By-Law.

The following recommendation was tabled to Council:

- (a) that in terms of Section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Scheme Regulations in terms of Section 8 of the Land Use Planning Ordinance, 1985 promulgated under P.N. 1048/1988 be adopted as a By-Law.
- (b) that simultaneous with the adoption of the By-Law, the definition of Agricultural industry under P.N. 1048/1988 be substituted with the following:

Agricultural Industry means an activity or structure on a farm, of which the footprint exceeds 1000 m², for the purpose of packing, packaging, cold storage, preparing or transforming agricultural produce, or goods for non-food use, for final or intermediate consumption.

Landbounywerheid beteken 'n aktiwiteit of struktuur op 'n plaas, waarvan die voetspoor 1000 m² oorskry, vir die doel van pak, verpakking, koelstore, om landbouproduk voor te berei of te verwerk, wat nie-voedsel verwante goedere insluit, vir finale of intermediêre verbruik.

- (c) that in terms of Section 12(3)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the proposal under (i) and (ii) will be published for public comment.
- (d) that any representations received be submitted to Council for consideration prior to publication of the By-Law.

Council resolved on 13 December 2016 that the matter in respect of the Interim adoption of the Section 8 Zoning Scheme and amendment of the "Agriculture" and "Agricultural Industry" definitions be held in abeyance until the next meeting.

UNANIMOUSLY RESOLVED

(a) *that in terms of Section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), the Scheme Regulations in terms of Section 8 of the Land Use Planning Ordinance, 1985 promulgated under P.N. 1048/1988 be adopted as a By-Law.*

(b) *that simultaneous with the adoption of the By-Law, the definition of Agricultural industry under P.N. 1048/1988 be substituted with the following:*

Agricultural Industry means an activity or structure on a farm, of which the footprint exceeds 1000 m², for the purpose of packing, packaging, cold storage, preparing or transforming agricultural produce, or goods for non-food use, for final or intermediate consumption.

Landbouwywerheid beteken 'n aktiwiteit of struktuur op 'n plaas, waarvan die voetspoor 1000 m² oorskry, vir die doel van pak, verpakking, koelstore, om landbouproduk voor te berei of te verwerk, wat nie-voedsel verwante goedere insluit, vir finale of intermediêre gebruik.

(c) *that in terms of Section 12(3)(b) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) the proposal under (i) and (ii) will be published for public comment.*

(d) *that any representations received be submitted to Council for consideration prior to publication of the By-Law.*

6. ADJOURNMENT

The meeting adjourned at 10:20.

Approved on _____ with / without amendments.

COUNCILLOR TT GODDEN
SPEAKER

/MJ Prins