

MINUTES OF THE SPECIAL COUNCIL MEETING OF WITZENBERG MUNICIPALITY, HELD IN THE TOWN HALL, VOORTREKKER STREET, CERES ON WEDNESDAY, 10 AUGUST 2022 AT 10:00

PRESENT

Councillors

Councillor EM Sidego (Speaker) (DA)
Alderman HJ Smit (Executive Mayor) (DA)
Councillor FE Klazen (Deputy Executive Mayor) (GOOD)
Alderman K Adams (DA)
Alderman BC Klaasen (DA)
Councillor P Daniels (DA)
Councillor S de Bruin (DA)
Councillor G Franse (DA)
Councillor D Swart (DA)
Alderman JJ Visagie (DA)
Councillor AL Gili (ANC)
Councillor JS Mouton (ANC)
Councillor MJ Ndaba (ANC)
Councillor N Nogcinisa (ANC)
Councillor N Phatsoane (ANC)
Councillor K Yisa (ANC)
Councillor J Zalie (ANC)
Councillor J Cloete (PA)
Councillor JP Fredericks (FF Plus)
Councillor LA Hardnek (Witzenberg Party)
Councillor P Heradien (ICOSA)
Councillor GG Laban (Witzenberg Aksie)
Councillor IL Swartz (EFF)

Officials

Mr D Nasson (Acting Municipal Manager)
Mr HJ Kritzinger (Director: Finance)
Mr J Barnard (Director: Technical Services)
Mr M Mpeluzi (Director: Corporate Services)
Ms L Nieuwenhuis (Manager: Legal Services)
Mr A Hofmeester (IDP Manager)
Ms R Hendricks (Manager: Communication and Marketing)
Mr CG Wessels (Manager: Administration)
Ms M Arendse-Smith (Chief Administrative Officer)
Mr C Titus (Committee Clerk)
Ms MJ Prins (Word Processor Operator)
Mr J Pieterse (Senior ICT Officer)

Other representatives

Mr JJ Conradie (Ceres Business Initiative)

1. OPENING AND WELCOME / OPENING EN VERWELKOMING

The Speaker welcomed everyone present and requested Councillor JS Mouton to open the meeting with prayer.

NOTED

2. LEAVE OF ABSENCE AND CONFIDENTIALITY AND CONFLICT OF INTEREST DECLARATION

**2.1 Consideration of application for leave of absence, if any
Aansoeke om verlof tot afwesigheid, indien enige
(3/1/2/1)**

None

NOTED

**2.2 Confidentiality and Conflict of Interest Declaration
Vertroulikheid en Botsing van Belange Verklaring
(3/2/1)**

- (a) The Confidentiality and Conflict of Interest Declaration was duly signed by all Councillors.
- (b) Alderman BC Klaasen declared interest in terms of item 5.1(a): Recruitment and selection process for appointment of Municipal Manager.

Alderman Klaasen was excused from the meeting during the discussion of this item.

NOTED

3. STATEMENTS, ANNOUNCEMENTS OR MATTERS RAISED

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

Councillor L Hardnek conveyed Council's congratulations to the following Councillors and spouses on their birthdays:

❖	Councillor N Phatsoane	2 June
❖	Alderman K Adams	5 June
❖	Mrs C Swartz	17 June
❖	Mrs E Smit	29 June
❖	Councillor J Fredericks	13 July
❖	Councillor I Swartz	15 July
❖	Councillor F Klazen	18 July
❖	Mrs A Klaasen	4 August
❖	Councillor K Yisa	7 August
❖	Councillor P Heradien	28 August

NOTED

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

The Speaker mentioned that it is Women's Month and that women are celebrated yearly on 9 August, thus commemorating the women who marched to the Union Buildings in Pretoria to protest against legislation aimed at tightening the apartheid government's control over the movement of women in urban areas.

Furthermore, that all female Councillors are requested to attend the meeting following the Council meeting to discuss arrangements for a municipal Women's Day gathering.

NOTED

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

The Executive Mayor congratulated women for Women's Month as it is a celebration of social, economic, cultural and political achievements of women.

NOTED

3.4 Matters raised by the Municipal Manager

The Acting Municipal Manager highlighted the importance of Women’s Day and the celebration thereof and congratulated all women on behalf of Administration.

NOTED

4. RESERVED POWERS

4.1 Direktooraat Finansies / Directorate Finance

4.1.1 Draft IDP and Budget Process Plan for 2023/2024 (02/02/1)

In terms of Section 28 of the Municipal Systems Act (Act 32 of 2000), Council must adopt an IDP and Budget Process Plan. The Municipal Finance Management Act (Act 56 of 2003) further stipulates that at least ten months before the start of the budget year, the Executive Mayor should table a time schedule outlining key deadlines in respect of the IDP/Budgetary process.

Section 29 of the Municipal Systems Act (Act 32 of 2000), specifies that such a Process Plan must include:

- Programs that set out timeframes for the different planning steps;
- Appropriate mechanisms, processes and procedures for consultation with:
 - Local communities, both in terms of needs and priorities as well as consultation during development;
 - Organs of state, traditional authorities, and other role-players in the drafting process; and
- Binding plans and planning requirements, i.e. policy and legislation.

National Treasury has provided further guidance by the issuing of MFMA Circular 10. That circular provides specific guidance with regard to six distinct steps in compilation of the IDP and the annual Budget. The table below highlights these steps, with a brief description of each step:

Steps		Process
1	Planning	Schedule dates, establish consultation forums, review previous processes
2	Strategi-zing	Review IDP, set service delivery objectives for next 3 years, consult on tariffs, indigents, credit control, free basic services etc., and consider local-, provincial- and national issues, the previous year’s performance and current economic and demographic trends etc.
3	Preparing	Prepare Budget, revenue and expenditure projections; draft Budget policies; consult and consider local-, provincial- and national priorities

Minutes: Special Council meeting: 10 August 2022
Notule: Spesiale Raadsvergadering: 10 Augustus 2022

4	Tabling	Table draft Budget, draft IDP and Budget-related policies before council; consult and consider local-, provincial- and national inputs or responses
5	Approving	Council approves the IDP, the Budget and related policies
6	Finalising	Publish the IDP, Budget and approve the SDBIP and performance targets

In capturing the above steps, this IDP & Budget Process Plan seeks to address, *inter alia*, the:

- Identification of areas requiring additional attention in terms of legislative requirements, proper planning processes and sound financial management;
- Inclusion of the most current Census and own statistical data;
- Consideration and review of any other relevant and new information;
- Addressing comments received from the various role-players;
- Factor-in the shortcomings and weaknesses identified through self-assessment;
- Preparation and review of sector plans and its alignment with the IDP;
- Preparation and review of the Performance Management System (PMS);
- Updating of the 5-year Financial Plan; and
- Finalisation of the annual Budget and IDP in terms of the relevant legislation.

Pursuant to the above statutory requirements, a Draft IDP and Budget Process Plan for the 2023/2024 cycle is attached as **annexure 4.1.1**.

UNANIMOUSLY RESOLVED

- (a) *that notice be taken of the Draft IDP and Budget Process Plan for 2023/2024.*
- (b) *that the Draft IDP and Budget Process Plan for 2023/2024 be published for public comments and inputs.*

4.2 Direkoraat Tegnieuse Dienste / Directorate Technical Services

4.2.1 Small Scale Embedded Generation (SSEG) Policy: Methodology, allowable limit and motivation of renewable tariff (16/3/P)

The following documents are attached:

- (a) Memorandum from Senior Manager: Electro-Technical Services, dated 30 November 2021: **Annexure 4.2.1(a)**.
- (b) Review and Strategic Input report: **Annexure 4.2.1(b)**.

RESOLVED

- (a) *That Council rescinds Council resolution 8.2.8 "Approval of Energy Plan (Small Scale Embedded Generation – SSEG)" of 31 October 2018.*
- (b) *that Council takes notice of the co-authored inputs and documentation of the Association of Municipal Electrical Undertakings, Western Cape Provincial Government, Cape Town and Green Cape as the nationally accepted standardised policy related to the implementation of Renewable Energy (Small Scale Embedded Generation) within municipalities.*
- (c) *that Council adopts the NRS 097-2-1 (2010) and NRS 097-2-3 (2014) Grid Interconnection of Embedded Generation, Section 1 – Utility Interface, Section 2 – Simplified utility connection criteria for low-voltage connected generators as the basis of its Energy Plan and Small Scale Embedded Generation Policy.*
- (d) *that the supporting documents, including the undermentioned, are accepted as official documentation related to the application processes related to any consumer intending to install Renewable Energy:*
 - (i) *Requirements for Embedded Generation*
 - (ii) *Contract for Embedded Generation*
 - (iii) *Application Form*
 - (iv) *Commissioning Form*
 - (v) *Decommissioning Form*
- (e) *that any amendments to the relevant NRS standards automatically be included in the Council's Energy Policy.*
- (f) *that any amendment to the Electrical Bylaws as well as the implementation of a RENEWABLE energy tariff will automatically form part of Council's Energy Policy as and when approved by Council.*

- (g) *That the Municipality includes the principle of the RENEWABLE tariff as explained in the report for approval from NERSA in the 2022/2023 NERSA tariff application. This tariff will be additional and mandatory for new SSEG installations and new approvals and that Council considers the phasing in of the tariff on existing approved installations over a five year period.*

Category	Basic/ month	Refit / kWh
<i>Residential</i>	<i>R70.00</i>	<i>R0.50</i>
<i>Commercial, LPU</i>	<i>Solar Basic - Municipal mark-up on sales for the specific tariff x (Energy Generated per Year x 90% / 12) determined annually</i>	<i>One for One as per current existing tariff (Zeroed end of each financial year)</i>
	<i>As per undermentioned table, updated annually.</i>	

Municipal mark-up calculator

<i>2.3 COMMERCIAL CUSTOMERS</i>	
<i>2.3.1 Prepaid customers</i>	<i>100.00</i>
<i>2.3.2 Single phase</i>	<i>100.00</i>
<i>2.3.3 Three phase</i>	<i>87.00</i>
<i>2.4 AGRICULTURAL CUSTOMERS</i>	
<i>2.4 100.00</i>	
<i>2.5 BULK CONSUMERS</i>	
<i>2.5.1 Agricultural customers</i>	
<i>2.5.1.1 Time of use customers</i>	
<i>2.5.1.1.1 < 1 MVA High tension</i>	<i>15.00</i>
<i>2.5.1.1.2 Low tension</i>	<i>15.00</i>
<i>2.5.1.2 Normal</i>	<i>15.00</i>
<i>2.5.1.2.1 < 1 MVA High tension</i>	<i>15.00</i>
<i>2.5.1.2.2 < 1 MVA Low tension</i>	<i>15.00</i>
<i>2.5.2 Urban customers</i>	
<i>2.5.2.1 Time of use customers</i>	
<i>2.5.2.1.1 > 1 MVA High tension</i>	<i>24.00</i>
<i>2.5.2.1.2 < 1 MVA High tension</i>	<i>33.00</i>
<i>2.5.2.1.3 < 1 MVA Low tension</i>	<i>31.00</i>
<i>2.5.2.2 Normal</i>	
<i>2.5.2.2.1 > 1 MVA High tension</i>	<i>42.00</i>
<i>2.5.2.2.2 < 1 MVA High tension</i>	<i>40.00</i>
<i>2.5.2.2.3 < 1 MVA Low tension</i>	<i>49.00</i>

- (h) *that Council reserves the right to refuse or limit the installation of Small Scale Embedded Generation plants if it is determined that they are having an onerous technical effect on the Quality of Supply of the Electrical Network of the municipality.*

- (i) *that any Power Users (greater than 100kVA) applying for permission to install Small Scale Embedded Generation plants must supply proof of their facility having an average power factor of 0,85 or better before any application will be considered.*
- (j) *that all existing Small Scale Embedded Generation installations commissioned prior to the approval of this Energy Policy will be required to comply with the policy as amended from time to time, whilst the municipality reserves the right to install suitable bi-directional four quadrant meters to monitor that connection at the consumers cost.*
- (k) *that any meters currently installed and allowed in writing by the municipality to run in reverse, will be expected to comply with these requirements once the SSEG tariff is implemented.*
- (l) *that for future applicants successfully requesting permission to install Small Scale Embedded Generation plants, the costs of installing the required bi-directional four quadrant meters are for the applicants' costs.*
- (m) *that domestic conventional or pre-payment meters are not allowed to run backwards.*
- (n) *for continued participation in the SSEG program customers must always be NET consumers.*
- (o) *that permission to install Small Scale Embedded Generation will automatically lapse after 12 months from date of approval, if the installation process has not been started, unless an arrangement, in writing, has been agreed with the Municipality.*

4.2.2 Proposal to allow increased electrical connections without impacting on notified maximum demand (16/3/9)

A memorandum from the Senior Manager: Electro-Technical Services, dated 18 January 2022, is attached as **annexure 4.2.2**.

UNANIMOUSLY RESOLVED

- (a) *that Council notes the report of the Senior Manager Electro-Technical Services regarding the proposed measures to unlock development and increase electricity income despite the current limitation due to ESKOM not being able to supply additional capacity.*
- (b) *that consumers and developers requiring additional electrical capacity be allowed to apply for an 'out of Munic peak Maximum Demand' if they comply with the undermentioned criteria:*

- (i) A report from an Electrical Consultant to the Director: Technical Services explaining the concept and methodology of the proposed load reduction during the council's peak periods based on the consumers current allocated MD (Maximum Demand) versus anticipated 'out of season peak MD'*
- (ii) Confirmation by the Consultant proving that the proposed concept will prevent the exceeding of the consumers current allocated MD during the Councils Peak Demand.*
- (iii) That the consumer provides monthly data / graphs to the Director: Technical Services proving that they have not exceeded their allocated Maximum Demand during the municipality's 'in season peak demand period'.*
- (iv) Council's current peak times are currently 1 February to 30 April of every year, from 17:00 to 20:30 on weekdays, with Council reserving the right to adjust the dates and/or times as Council's NMD pattern may change, which change will have to be accommodated by the consumer or developer.*
- (v) Any proposed Demand Reduction solution must be approved by the Director: Technical Services.*
- (vi) The costs of the applicant's upgrade from their current allocated capacity (MD) to their requested 'out of season peak capacity (MD)' will be for the applicant's account.*
- (vii) The costs of the required Consultant's report regarding the applicant's proposal will be for the cost of the applicant.*
- (viii) These measures will remain in place until ESKOM has sufficiently upgraded their backbone network to such an extent that the Municipality can declare that it has sufficient NMD to supply all new and increased capacity requests.*
- (ix) Once this is achieved, the consumer's 'out of peak MD' will become that consumer's new MD.*

4.2.3 Partnership agreement of city-to-city partnership between Witzenberg (SA) and Essen (Belgium) relating to the VVSG Municipal International Cooperation 2022 to 2026 Multi-Annual Strategic Plan (10/2/3)

An annexure to the Partnership Agreement is attached as **annexure 4.2.3**.

UNANIMOUSLY RESOLVED

that the Partnership Agreement of the city-to-city partnership between Witzenberg (South Africa) and Essen (Belgium) relating to the VVSG Municipal International Cooperation 2022 to 2026 Multi-Annual Strategic Plan, subsidised by the Directorate-general for Development Cooperation (DGD), Belgium, be approved.

4.3 Direkoraat Korporatiewe Dienste / Directorate Corporate Services

4.3.1 International relations: Twinning agreement with Essen, Belgium: Approval for Witzenberg delegation to visit Essen (10/2/3)

A copy of the minutes of the meeting between the Mayoral Committees of Essen Gemeente and Witzenberg Municipality is attached as **annexure 4.3.1**

RESOLVED

Proposed by Alderman HJ Smit and seconded by Alderman JJ Visagie:

- (a) that the Executive Mayor (Alderman HJ Smit), Speaker (Councillor EM Sidego), Deputy Executive Mayor (Councillor FE Klazen), Councillor LA Hardnek and the Director: Technical Services (Mr J Barnard) be nominated as the delegation to visit Essen Gemeente, Belgium for the period 30 September 2022 until 7 October 2022.*
- (b) that the purpose of the invite is to coincide with the celebrations of the 20th anniversary of the Twinning Agreement between Essen and Witzenberg Municipality.*
- (c) that all the above-mentioned municipal representatives be paid the travel and subsistence allowances in terms of Council's policy.*
- (d) that the Municipal Manager ensures that in terms of the daily allowances the rand/euro exchange rate the prescriptions of the South African Revenue Services (SARS) be followed.*

4.3.2 Request for long term lease agreement for Nduli Pig Farming (Pty) Ltd (7/1/4/1)

Memorandum from Acting Municipal Manager, dated 19 July 2022:

1. Purpose

To consider a request from Nduli Pig Farming (Pty) Ltd for a long term lease agreement for a portion of land commonly known as farm 368/36 for purposes of pig farming.

2. Deliberation

Council resolved per Council resolution 9.7 of 21 August 2013 to lease a portion of land known as farm 368/36, as per **annexure 4.3.2(a)**, to the Nduli emerging farmers for the purpose of farming with animals. The emerging farmers have over a number of years used this property predominantly for pig farming.

The emerging farmers have, through the PALS Office, established themselves as a private company and are currently operating as the Nduli Pig Farming (Pty) Ltd. The company has applied to the Department of Agriculture Rural Development and Land Reform for funding to assist with cost for the infrastructure development to allow them to conduct the business of piggery on the said premises. A copy of the Department's internal memorandum is attached as **annexure 4.3.2(b)**. The indication is that Rural Development will assist the company subject to inter alia that a long term lease agreement be negotiated with the municipality for a period of between 20 to 30 years. The Department has also approved the upgrade of a sewer line of the municipality that runs adjacent to the property which create problems for the other farmers in the area. The Department of Environmental Management has given notice to the municipality of the contravention in terms of the Environmental Management Act as a result of the sewerage spills emanating from the area next to the Onder-Swaarmoed sub-divisional road. The infrastructure upgrade for the company will inter alia be for pigsties and fencing. The benefit of the aforesaid upgrade will be that the premises will be safer for road users of the R44 as well as presenting visually neater and acceptable.

3. Financial implication

There will be no financial implications for the municipality.

4. Legal implications

The property has been previously advertised for public comment. The value of the property is not substantial and does not fall within ambit of the asset transfer regulations of 2008.

In terms of Regulation 40 of the Municipal Finance Management Regulations Council may deviate from market related rates when the public interest or the plight of the poor demands otherwise. The shareholders of the company are all from the emerging farmers of Nduli who do not have access to other land."

UNANIMOUSLY RESOLVED

- (a) that a long term lease agreement of fifteen years be approved in favour of the Nduli Pig Farming (Pty) Ltd for a portion as indicated on the annexure of Farm 368/36, subject to resolving the concerns about the beneficiaries of the project.*
- (b) that a meeting be convened between Witzenberg Municipality, potential beneficiaries, PALS, the Department of Rural Development and Land Reform and Mr Lennox Plaatjies as the Project Manager.*
- (c) that an option to renew the lease for a further five years be granted to Nduli Pig Farming (Pty) Ltd.*

- (d) that the land made available to Nduli Pig Farming (Pty) Ltd is not required for basic service delivery in terms of Section 11 of the Municipal Finance Management Act.*
- (e) that an annual rental fee of R1 500,00, escalating with 7 % a year, be paid by Nduli Pig Farming (Pty) Ltd to the municipality.*
- (f) that the Municipal Manager be mandated to sign a long term lease agreement as determined by Council with Nduli Pig Farming (Pty) Ltd.*
- (g) that Council's intention to enter into a long term lease agreement be advertised to the local community for any input or objection.*

4.3.3 Council's immovable property: Long lease or alienation of Klip River Park Resort, Tulbagh (7/1/4/1)

The following report, dated 22 May 2019, was received from the Municipal Manager:

"Purpose

To recommend to Council to consider extending the lease period of Klip River Park from 15 years to 30 years or alienating the property known as Klip River Park together with adjacent land in terms of Council's Supply Chain process.

Background

Council resolved per item 8.1.3 on 28 August 2008:

- (i) That Klip River Park and surrounding land be retained as a holiday resort and a recreational area.
- (ii) That possible developments to be requested from interested parties for consideration by Council in future.
- (iii) That the report of the developers and interested parties be tabled to Council.

A Section 78 investigation as per the Municipal Systems Act of 2000 was then followed to look at the Council resolution with the view of entering into a private public partnership agreement. A report was compiled, which is attached as **annexure 4.3.3(a)**. The report recommended that Council should either alienate the said land or follow a PPP process. During discussions with various stakeholders and National Treasury the option of a PPP was eliminated because of the possible turnover of the project (was being regarded as too small). The item was referred back to Council and it was resolved to follow a Supply Chain process in terms whereof Klip River Park would be leased on a long term period of 30 years.

The Supply Chain process was advertised on two occasions in both the National and Provincial newspapers without any success. An extract from the tender document which was then advertised, is attached as **annexure 4.3.3(b)**. Site meetings during the advertisement process were compulsory and at all the meetings there were community members claiming that Council's process was flawed and that they would create problems for any successful bidder. At the last site meeting there were two company representatives who flew from Johannesburg and whom had shown genuine interest in as a potential lessee. They have, however, not submitted any bids after the said site meetings.

Some of the inputs received during the clarification meetings and also from potential interested parties were that the lease period was not long enough and that the capital investment required at the park would not make the park a viable option for the 15 year period.

The area for rental in terms of the said Council resolution is approximately 14.5 ha. A copy of a Google aerial photo is attached as **annexure 4.3.3(c)**.

The green section of Klip River Park is part of Galgeheuwel local nature reserve and cannot be developed whether the land is alienated or being part of a rental agreement. When the lease option was initially considered Council took into account the capital required to upgrade the park. At the time the park had to be re-electrified at a major cost. The swimming pool also required repairs which included a total replacement of the pump system. When the resort was operational it provided the following facilities:

- (i) 18 Chalets
- (ii) 69 Camping Sites
- (iii) 4 Ablution blocks
- (iv) Small office
- (v) Swimming pool

Although the resort is not in operation there are two security guards guarding the property on a 24-hour basis. The cost of the security is approximately R35 000,00 per month. All the previous staff members were transferred and/or placed to other departments within the municipality. The previous report of 2010 has placed an evaluation of R5.2 million on the resort as well as the adjacent land. The resort forms part of commonage of Tulbagh. The municipal valuer has been requested for an updated valuation of the property in question.

Legal implication

If Council considers approving the long term lease agreement the process must be advertised in the local newspaper and submitted to Provincial and National Treasury for their comments as well. Council already took a decision that the land in question is not required for basic services as per the requirements of Section 14 of the Municipal Finance Management Act of 2003. The value of the land might be such that it will fall within the threshold of a special process that needs to be followed when such asset is alienated. In the latter instance it must also be advertised and Treasury must also be notified for inputs.

Financial implication

Council is not deriving any financial benefit from the property. Council in fact is losing money on the security spent as well as loss of potential income. Resorts are not a core function of Council."

UNANIMOUSLY RESOLVED

(a) *that Council resolution 8.1.3 of 28 August 2008, which reads*

"that Klip River Park Resort and surrounding land be retained as a holiday resort and a recreational area"

be rescinded and changed to read:

"that Klip River Park Resort be retained as a holiday resort and a recreational area.

(b) *that the lease period of Klip River Park Resort be extended from 15 years to 20 years with an option to extend with a further 10 years on condition the project is a success.*

4.3.4. Questions raised by Councillors

Council enquired with regard to the provision of the promised Legislation libraries.

NOTED

5. COUNCIL-IN-COMMITTEE / RAAD-IN-KOMITEE