

**NOTULE VAN 'N  
RAADSVERGADERING  
SOOS GEHOU OP  
3 DESEMBER 2013**

**MINUTES OF A  
COUNCIL MEETING  
HELD ON  
3 DECEMBER 2013**



# KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT

## RAADSVERGADERING DINSDAG, 3 DESEMBER 2013 OM 12:00

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# CAPE WINELANDS DISTRICT MUNICIPALITY

## COUNCIL MEETING TUESDAY, 3 DECEMBER 2013 AT 12:00

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# **KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT**

**NOTULE VAN DIE RAADSVERGADERING VAN DIE KAAPSE WYNLAND  
DISTRIKSMUNISIPALITEIT GEHOU OP DINSDAG, 3 DESEMBER 2013 OM 12:05 IN  
DIE RAADSAAL, KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT,  
TRAPPESSTRAAT, WORCESTER**

**A        TEENWOORDIG**

**(3/2/1/2)**

## **RAADSLEDE**

Rdl. G. Stalmeester (Waarnemende Speaker)  
Rdh. C.A. de Bruyn (Uitvoerende Burgemeester)  
Rdl. H.M. Jansen (Uitvoerende Onderburgemeester)

Rdl. J.J. Abrahams  
Rdl. M.B. Appolis  
Rdl. R.B. Arnolds  
Rdl. N.M. Bushwana  
Rdl. G.J. Carinus  
Rdl. A. Crombie  
Rdl. (Adv.) J.B. Cronje  
Rdl. C. Damens  
Rdl. S.W. Davids  
Rdl. J.J. du Plessis  
Rdl. Z.L. Gwada  
Rdl. N.D. Hani  
Rdl. D.A. Hendrickse  
Rdl. P. Heradien  
Rdl. D.D. Joubert  
Rdh. (Dr.) N.E. Kahlberg  
Rdl. X. Kalipa  
Rdl. P. Marran  
Rdl. J. Matthee  
Rdl. C. Mcako  
Rdl. L.X. Mdemka  
Rdl. S.J. Mei  
Rdl. J.S. Mouton  
Rdl. L.W. Niehaus  
Rdl. W.S. Nyamana  
Rdl. L.N. Siwakamisa  
Rdl. M.S. Tayitayi  
Rdl. J.R.F. Torr  
Rdl. (Dr.) H. von Schlicht  
Rdl. M.H. Yabo

## **AFWESIG:**

Rdl. C.C. Brink  
Rdl. S. Ross

# CAPE WINELANDS DISTRICT MUNICIPALITY

MINUTES OF THE COUNCIL MEETING OF THE CAPE WINELANDS DISTRICT MUNICIPALITY HELD ON TUESDAY, 3 DECEMBER 2013 AT 12:05 IN THE COUNCIL CHAMBER, CAPE WINELANDS DISTRICT MUNICIPALITY, TRAPPES STREET, WORCESTER

A            **PRESENT**

(3/2/1/2)

## **COUNCILLORS**

Cllr. G. Stalmeester (Acting Speaker)  
Ald. C.A. de Bruyn (Executive Mayor)  
Cllr. H.M. Jansen (Deputy Executive Mayor)

Cllr. J.J. Abrahams  
Cllr. M.B. Appolis  
Cllr. R.B. Arnolds  
Cllr. N.M. Bushwana  
Cllr. G.J. Carinus  
Cllr. A. Crombie  
Cllr. (Adv.) J.B. Cronje  
Cllr. C. Damens  
Cllr. S.W. Davids  
Cllr. J.J. du Plessis  
Cllr. Z.L. Gwada  
Cllr. N.D. Hani  
Cllr. D.A. Hendrickse  
Cllr. P. Heradien  
Cllr. D.D. Joubert  
Ald. (Dr.) N.E. Kahlberg  
Cllr. X. Kalipa  
Cllr. P. Marran  
Cllr. J. Matthee  
Cllr. C. Mcako  
Cllr. L.X. Mdemka  
Cllr. S.J. Mei  
Cllr. J.S. Mouton  
Cllr. L.W. Niehaus  
Cllr. W.S. Nyamana  
Cllr. L.N. Siwakamisa  
Cllr. M.S. Tayitayi  
Cllr. J.R.F. Torr  
Cllr. (Dr.) H. von Schlicht  
Cllr. M.H. Yabo

## **ABSENT:**

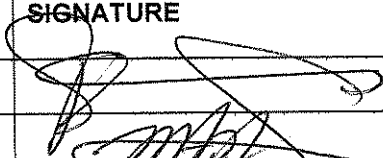
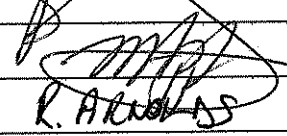

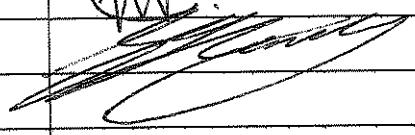
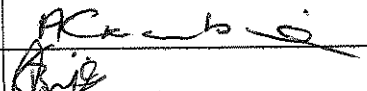


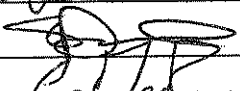
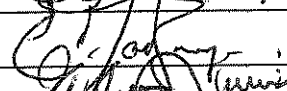
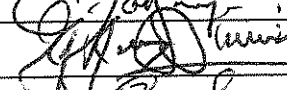
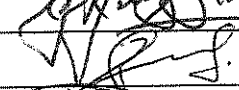


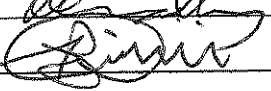

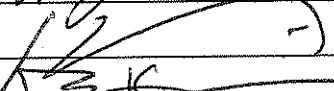
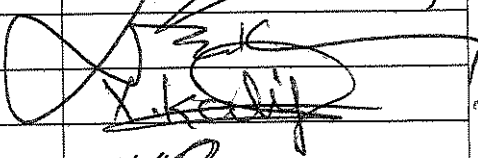
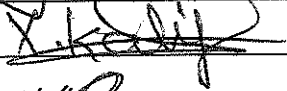
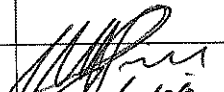

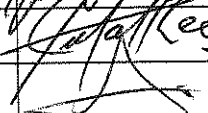
Cllr. C.C. Brink  
Cllr. S. Ross


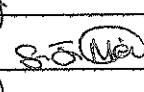
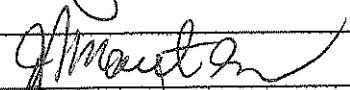
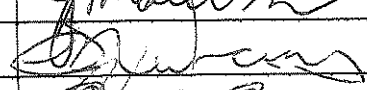
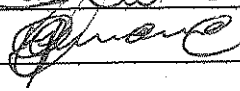



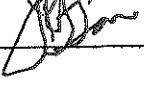
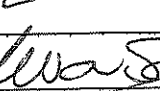
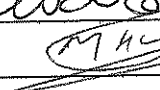
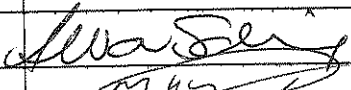
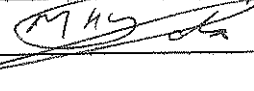

**KAAPSE WYNLAND / CAPE WINELANDS**  
**DISTRIKSMUNISIPALITEIT / DISTRICT MUNICIPALITY**

**LYS VAN VERTEENWOORDIGERS : RAADSVERGADERING**  
**LIST OF REPRESENTATIVES : COUNCIL MEETING**

3 Desember/December 2013  
 DATUM VAN VERGADERING  
 DATE OF MEETING

12:00  
 TYD / TIME  
 WORCESTER

VERTEENWOORDIGER / REPRESENTATIVE	HANDTEKENING / SIGNATURE
ABRAHAMS, JJ	
APPOLIS, MB	
ARNOLDS, RB	R. ARNOLDS
BRINK, CC	
BUSHWANA, NM	
CARINUS, GJ	
CHAABAN, WL	
CROMBIE, A	
CRONJE, JB	
DAMENS, C	
DAVIDS, SW	
DE BRUYN, CA	
DU PLESSIS, JJ	
GWADA, ZL	
HANI, ND	
HENDRICKSE, DA	
HERADIEN, P	
JANSE, DB	
JANSEN, HM	
JOUBERT, DD	
KAHLBERG, NE	
KALIPA, X	
KRIEGLER, BJ	
MARRAN, P	
MATTHEE, J	
MCAKO, C	

VERTEENWOORDIGER / REPRESENTATIVE	HANDTEKENING / SIGNATURE
MDEMKA, LX	
MEI, SJ	
MEYER, C	
MOUTON, JS	
NIEHAUS, LW	
NYAMANA, WS	
ROSS, S	
SIWAKAMISA, LN	
STALMEESTER, G	
TAYITAYI, MS	
TORR, JRF	
VAN ZYL, JDF	
VON SCHLICHT, H	
YABO, MH	

Mnr. M. Mgajo (Munisipale Bestuurder)  
Me. F.A. du Raan-Groenewald  
Mnr. C.V. Schroeder  
Mnr. F. van Eck  
Me. K. Smit  
Mnr. E.F.C. Beukes  
Dat Mnr. B.N. Nieuwoudt  
Me. W.M. Neethling  
Mnr. D.A. Heath  
Me. I. Willemse

(3/2/1/2)

Die Munisipale Bestuurder verwelkom almal teenwoordig.

Kapelaan A. Wanaar open die vergadering met Skriflesing en gebed (2 Timotheus 4 vers 7). Die Munisipale Bestuurder bedank Kapelaan Wanaar vir sy boodskap.

(Raadslid D.A. Hendrickse sluit om 12:10 by die vergadering aan)

**VERKIESING VAN WAARNEMENDE SPEAKER, INDIEN NODIG**

(3/2/1/2)

Die Munisipale Bestuurder deel die vergadering mee dat die Speaker van die Kaapse Wynland Distriksmunisipaliteit (KWDM), Raadslid C. Meyer, in die hospitaal opgeneem is en tans by die huis aansterk.

Die Munisipale Bestuurder vra benoemings vir Waarnemende Speaker aan.

Raadslid C. Mcako van die African National Congress (ANC), gesekondeer deur Raadslid S.W. Davids van die African National Congress (ANC), stel voor dat Raadslid N.D. Hani as Waarnemende Speaker benoem word.

Die Uitvoerende Burgemeester, Raadsheer C.A. de Bruyn van die Demokratiese Alliansie (DA), gesekondeer deur Raadsheer (Dr.) N.E. Kahlberg van die Demokratiese Alliansie (DA), stel voor dat Raadslid G. Stalmeester as Waarnemende Speaker benoem word.

Raadslid L.N. Siwakamisa van die African National Congress (ANC),  
gesekondeer deur Raadslid M.B. Appolis van die National Peoples Party (NPP),  
stel voor dat Raadslid L.X. Mdemka as Waarnemende Speaker benoem word.

Raadslid L.X. Mdemka van die Demokratiese Alliansie (DA) bevestig dat sy nie die benoeming as Waarnemende Speaker aanvaar nie.

Die voorstelle word tot stemming gebring.

## OFFICIALS

Mr. M. Mgajo (Municipal Manager)  
Ms. F.A. du Raan-Groenewald  
Mr. C.V. Schroeder  
Ms. F. van Eck  
Ms. K. Smit  
Mr. E.F.C. Beukes  
Mr. B.N. Nieuwoudt  
Ms. W.M. Neethling  
Mr. D.A. Heath  
Ms. I. Willemse

### C.1 OPENING (3/2/1/2)

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The Municipal Manager welcomed all present.

Chaplain A. Wanaar opened the meeting with scripture and prayer (2 Timothy Chapter 4 verse 7). The Municipal Manager thanked Chaplain Wanaar for his message.

(Councillor D.A. Hendrickse joins the meeting at 12:10)

### C.2 ELECTION OF ACTING SPEAKER, IF NECESSARY (3/2/1/2)

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The Municipal Manager informed the meeting that the Speaker of the Cape Winelands District Municipality (CWDM), Councillor C. Meyer, was hospitalized and are currently recovering at home.

The Municipal Manager requested nominations for Acting Speaker.

Councillor C. Mcako from the African National Congress (ANC), seconded by Councillor S.W. Davids from the African National Congress (ANC), proposed that Councillor N.D. Hani be nominated as Acting Speaker.

The Executive Mayor, Alderman C.A. de Bruyn from the Democratic Alliance (DA), seconded by Alderman (Dr.) N.E. Kahlberg from the Democratic Alliance (DA), proposed that Councillor G. Stalmeester be nominated as Acting Speaker.

Councillor L.N. Siwakamisa from the African National Congress (ANC), seconded by Councillor M.B. Appolis from the National Peoples Party (NPP), proposed that Councillor L.X. Mdemka be nominated as Acting Speaker.

Councillor L.X. Mdemka from the Democratic Alliance (DA) confirmed that she do not accept the nomination for Acting Speaker.

The proposals are put to the vote.

Die uitslae is soos volg:

Raadslid G. Stalmeester (DA)	17 stemme
Raadslid N.D. Hani (ANC)	12 stemme

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.2**

**BESLUIT** met 'n meerderheid van sewentien (17) stemme teenoor twaalf (12) stemme dat Raadslid G. Stalmeester van die Demokratiese Alliansie (DA) as Waarnemende Speaker verkies word ingevolge artikel 41 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998).

**R.3 AANSOEK OM VERLOF TOT AFWESIGHEID (3/2/1/2)**

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**RAADSLEDE**

Rdl. C. Meyer (Speaker)  
Rdl. W.L. Chaaban  
Rdl. D.B. Janse  
Rdl. B.J. Kriegler  
Rdl. J.D.F. van Zyl

**AMPTENARE**

Geen.

**R.4 VERKLARINGS EN MEDEDELINGS DEUR DIE WAARNEMENDE SPEAKER (3/2/1/3)**  
*(Verbatim)*

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Geen.

**R.5 VERKLARINGS EN MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER (3/2/1/3)**  
*(Verbatim)*

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Ek wil alle Raadslede en amptenare bedank vir hulle verbintenis om te alle tye 'n positiewe beeld van die Kaapse Wynland Distriksmunisipaliteit (KWDM) uit te dra. Mag u en u gesin 'n geseënde Kersfees hê. Indien u met vakansie gaan, bly asseblief veilig op die paaie.

Die Kaapse Wynland Distriksmunisipaliteit (KWDM) het 'n ongekwalifiseerde auditverslag vanaf die Kantoor van die Ouditeur-Generaal vir die finansiële jaar geëindig 30 Junie 2013 ontvang en ek wil die Munisipale Bestuurder, Hoof Finansiële Beampte en alle personeel bedank vir hulle harde werk en toewyding gedurende die auditproses.

The results were as follows:

Councillor G. Stalmeester (DA)	17 Votes
Councillor N.D. Hani (ANC)	12 Votes

**COUNCIL MEETING: 3 DECEMBER 2013 : ITEM C.2**

**RESOLVED** with a majority of seventeen (17) votes to twelve (12) votes that Councillor G. Stalmeester from the Democratic Alliance (DA) be elected as Acting Speaker in terms of section 41 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

**C.3 APPLICATION FOR LEAVE OF ABSENCE (3/2/1/2)**

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**COUNCILLORS**

Cllr. C. Meyer (Speaker)  
Cllr. W.L. Chaaban  
Cllr. D.B. Janse  
Cllr. B.J. Kriegler  
Cllr. J.D.F. van Zyl

**OFFICIALS**

None.

**C.4 STATEMENTS AND COMMUNICATIONS BY THE ACTING SPEAKER (3/2/1/3)**  
*(Verbatim)*

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None.

**C.5 STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR (3/2/1/3)**  
*(Verbatim)*

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I want to thank all Councillors and officials for their dedication in portraying a positive image of the Cape Winelands District Municipality (CWDM) at all times. May you and your family have a blessed Christmas. If you are going on holiday, please be safe on the roads.

The Cape Winelands District Municipality (CWDM) received an unqualified audit report from the Office of the Auditor-General for the financial year ending 30 June 2013 and I want to thank the Municipal Manager, Chief Financial Officer and all personnel for their hard work and dedication during the audit process.

**R.6 OORWEGING VAN KENNISGEWINGS VAN MOSIE**

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Geen.

**R.7 OORWEGING VAN KENNISGEWINGS VAN VRAE**

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Geen.

**R.8 OORWEGING VAN MOSIES VAN DRINGENDHEID**

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**R.8.1 VERKIESING VAN WAARNEMENDE HOOFSWEEP, INDIEN NODIG**  
(3/1/2/4)

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Raadslid M.H. Yabo van die African National Congress (ANC) versoek die Raad om 'n Waarnemende HoofswEEP te verkies, aangesien die HoofswEEP, Raadslid G. Stalmeester, onder Item R.2 van die agenda as Waarnemende Speaker verkies is.

**BESLUIT** eenparige dat 'n Waarnemende HoofswEEP verkies word as gevolg van die feit dat die HoofswEEP, Raadslid G. Stalmeester, onder Item R.2 van die agenda as Waarnemende Speaker verkies is.

Die Uitvoerende Burgemeester, Raadsheer C.A. de Bruyn van die Demokratiese Alliansie (DA), gesekondeer deur Raadsheer (Dr.) N.E. Kahlberg van die Demokratiese Alliansie (DA), stel voor dat Raadslid J.J. Abrahams as Waarnemende HoofswEEP benoem word.

Raadslid M.H. Yabo van die African National Congress (ANC), gesekondeer deur Raadslid C. Mcako van die African National Congress (ANC), stel voor dat Raadslid P. Marran as Waarnemende HoofswEEP benoem word.

Die voorstelle word tot stemming gebring.

Die uitslae is soos volg:

Raadslid J.J. Abrahams	18 stemme
Raadslid C. Mcako	12 stemme

**BESLUIT** met 'n meerderheid van agtien (18) stemme teenoor twaalf (12) stemme dat Raadslid J.J. Abrahams van die Demokratiese Alliansie (DA) as Waarnemende HoofswEEP verkies word.

**C.6 CONSIDERATION OF NOTICES OF MOTION**

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None.

**C.7 CONSIDERATION OF NOTICES OF QUESTIONS**

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None.

**C.8 CONSIDERATION OF MOTIONS OF EXIGENCY**

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**C.8.1 ELECTION OF ACTING CHIEF WHIP (3/1/2/4)**

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Councillor M.H. Yabo from the African National Congress (ANC) requested Council to elect an Acting Chief Whip as the Chief Whip, Councillor G. Stalmeester, was elected as Acting Speaker at Item C.2 of the agenda.

**RESOLVED** unanimously that an Acting Chief Whip be elected due to the fact that the Chief Whip, Councillor G. Stalmeester, was elected as Acting Speaker at Item C.2 of the agenda.

The Executive Mayor, Alderman C.A. de Bruyn from the Democratic Alliance (DA), seconded by Alderman (Dr.) N.E. Kahlberg from the Democratic Alliance (DA), proposed that Councillor J.J. Abrahams be nominated as Acting Chief Whip.

Councillor M.H. Yabo from the African National Congress (ANC), seconded by Councillor C. Mcako from the African National Congress (ANC), proposed that Councillor P. Marran be nominated as Acting Chief Whip.

The proposals were put to the vote.

The results were as follows:

Councillor J.J. Abrahams	18 Votes
Councillor C. Mcako	12 Votes

**RESOLVED** with a majority of eighteen (18) votes to twelve (12) votes that Councillor J.J. Abrahams from the Democratic Alliance (DA) be elected as Acting Chief Whip.

**R.9 NOTULE**

**R.9.1 BEKRAGTING VAN DIE NOTULE VAN DIE RAADSVERGADERING  
GEHOU OP DONDERDAG, 24 OKTOBER 2013 (3/2/1/6)**

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**BESLUIT:**

Dat die notule van die Raadsvergadering gehou op Donderdag, 24 Oktober 2013 as gelese beskou en behoorlik bekragtig word.

**R.9.2 VERSLAG DEUR DIE MUNISIPALE BESTUURDER: AKSIENOTULE VAN DIE  
RAADSVERGADERING GEHOU OP DONDERDAG, 24 OKTOBER 2013  
(3/2/1/6)**

---

**BESLUIT:**

Dat kennis geneem word van die aksienotule van die Raadsvergadering gehou op Donderdag, 24 Oktober 2013.

**R.10 ONDERHOUDE MET OF VOORLEGGINGS DEUR AFVAARDIGINGS**

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Geen.

**R.11 DRINGENDE SAKE VOORGELÊ DEUR DIE MUNISIPALE BESTUURDER  
(3/2/2/1)**

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**R.11.1 VOORLEGGING: GREAT WINE CAPITALS GLOBAL NETWORK 2013  
ALGEMENE JAARVERGADERING, SAN FRANCISCO/NAPA VALLEY,  
VERENIGDE STATE VAN AMERIKA GEHOU VANAF SONDAG,  
3 NOVEMBER 2013 TOT VRYDAG, 8 NOVEMBER 2013 (10/3/1)**

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Die Munisipale Bestuurder, Mnr. M. Mgajo, doen 'n voorlegging ten opsigte van die Great Wine Capitals Global Network 2013 Algemene Jaarvergadering gehou in San Francisco/Napa Valley, Verenigde State van Amerika vanaf Sondag, 3 November 2013 tot Vrydag, 8 November 2013.

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.11.1**

**BESLUIT:**

\*\*\*

Dat kennis geneem word van die voorlegging deur die Munisipale Bestuurder, Mnr. M. Mgajo, ten opsigte van die Great Wine Capitals Global Network 2013 Algemene Jaarvergadering gehou in San Francisco/Napa Valley, Verenigde State van Amerika vanaf Sondag, 3 November 2013 tot Vrydag, 8 November 2013, aangeheg as Bylae "A" by die notule.

**C.9 MINUTES**

**C.9.1 CONFIRMATION OF THE MINUTES OF THE COUNCIL MEETING HELD ON THURSDAY, 24 OCTOBER 2013 (3/2/1/6)**

---

**RESOLVED :**

That the minutes of the Council meeting held on Thursday, 24 October 2013 be taken as read and duly confirmed.

**C.9.2 REPORT BY THE MUNICIPAL MANAGER: ACTION MINUTES OF THE COUNCIL MEETING HELD ON THURSDAY, 24 OCTOBER 2013 (3/2/1/6)**

---

**RESOLVED :**

That cognisance be taken of the action minutes of the Council meeting held on Thursday, 24 October 2013.

**C.10 INTERVIEWS WITH OR PRESENTATIONS BY DEPUTATIONS**

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None.

**C.11 URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (3/2/2/1)**

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**C.11.1 PRESENTATION: GREAT WINE CAPITALS GLOBAL NETWORK 2013 ANNUAL GENERAL MEETING, SAN FRANCISCO/NAPA VALLEY, UNITED STATES OF AMERICA HELD FROM SUNDAY, 3 NOVEMBER 2013 TO FRIDAY, 8 NOVEMBER 2013 (10/3/1)**

---

The Municipal Manager, Mr. M. Mgajo, proceeds with a presentation regarding the Great Wine Capitals Global Network 2013 Annual General Meeting held in San Francisco/Napa Valley, United States of America from Sunday, 3 November 2013 to Friday, 8 November 2013.

**COUNCIL MEETING : 3 DECEMBER 2013 : ITEM C.11.1**

**RESOLVED:**

\*\*\*

That cognisance be taken of the presentation by the Municipal Manager, Mr. M. Mgajo, regarding the Great Wine Capitals Global Network 2013 Annual General Meeting held in San Francisco/Napa Valley, United States of America from Sunday, 3 November 2013 to Friday, 8 November 2013, attached as Annexure "A" to the minutes.

**R.12      VERSLAG      DEUR      DIE      UITVOERENDE      BURGEMEESTER:  
BURGEMEESTERSKOMITEEVERGADERING      GEHOU      OP      DINSDAG,  
15 OKTOBER 2013      (3/2/2/1)**

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Die onderstaande verslag gee 'n oorsig van die kwessies en besluite geneem deur die Burgemeesterskomitee.

Die tersaaklike notule wat aan alle Raadslede versprei is, het voor die Uitvoerende Burgemeester en Burgemeesterskomitee gedien op die datum soos aangedui -

**1                      VERGADERING GEHOU OP 15 OKTOBER 2013**

**SAKE WAARVAN KENNIS GENEEM IS:**

- BK.6.2      KENNISGEWING      AAN      DIE      BURGEMEESTERSKOMITEE:  
BESLUIT DEUR DIE UITVOERENDE BURGEMEESTER SAAM  
MET DIE BURGEMEESTERSKOMITEE EN UITVOERENDE  
BURGEMEESTER IN KONSULTASIE MET DIE UITVOERENDE  
ONDERBURGEMEESTER INGEVOLGE DIE STELSEL VAN  
DELEGASIES GOEDGEKEUR DEUR DIE RAAD BY ITEM R.4.12  
VAN 15 JUNIE 2011      (2/4/2)**
- 

**BESLUIT:**

Dat kennis geneem word van die item wat voor die Burgemeesterskomitee gedien het.

- BK.6.3      DEPARTEMENT:      GEMEENSKAPSONTWIKKELING      EN  
BEPLANNINGSDIENSTE: VERSLAG OOR DIE BYWONING VAN  
DIE "SPORTS EVENTS INDABA" GEHOU VANAF VRYDAG,  
6 SEPTEMBER 2013 TOT SATERDAG, 7 SEPTEMBER 2013 IN  
DURBAN, KWAZULU-NATAL      (17/15/5 & 6/23/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die item wat voor die Burgemeesterskomitee gedien het.

- BK.6.5      DEPARTEMENT:      GEMEENSKAPSONTWIKKELING      EN  
BEPLANNINGSDIENSTE: VERSLAG OOR DIE BYWONING VAN  
DIE "GAUTENG GETAWAY SHOW" GEHOU VANAF VRYDAG,  
30 AUGUSTUS 2013 TOT SONDAG, 1 SEPTEMBER 2013 IN  
JOHANNESBURG, GAUTENG      (17/15/5 & 6/23/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die item wat voor die Burgemeesterskomitee gedien het.

**C.12 REPORT BY THE EXECUTIVE MAYOR: MAYORAL COMMITTEE MEETING  
HELD ON TUESDAY, 15 OCTOBER 2013 (3/2/2/1)**

---

The following report outline the issues and decisions taken by the Mayoral Committee.

The relevant minutes that served before the Executive Mayor and Mayoral Committee on the date indicated have been distributed to all Councillors -

**1 MEETING HELD ON 15 OCTOBER 2013**

**MATTERS OF WHICH COGNISANCE WERE TAKEN:**

- MC.6.2 NOTIFICATION TO THE MAYORAL COMMITTEE:  
RESOLUTIONS BY THE EXECUTIVE MAYOR TOGETHER WITH  
THE MAYORAL COMMITTEE AND EXECUTIVE MAYOR IN  
CONSULTATION WITH THE DEPUTY EXECUTIVE MAYOR IN  
TERMS OF THE SYSTEM OF DELEGATIONS APPROVED BY  
COUNCIL AT ITEM C.4.12 OF 15 JUNE 2011 (2/4/2)**
- 

**RESOLVED:**

That cognisance be taken of the item that served before the Mayoral Committee.

- MC.6.3 DEPARTMENT: COMMUNITY DEVELOPMENT AND PLANNING  
SERVICES: REPORT ON THE ATTENDANCE OF THE SPORTS  
EVENTS INDABA HELD FROM FRIDAY, 6 SEPTEMBER 2013 TO  
SATURDAY, 7 SEPTEMBER 2013 IN DURBAN, KWAZULU-  
NATAL (17/15/5 & 6/23/1)**
- 

**RESOLVED:**

That cognisance be taken of the item that served before the Mayoral Committee.

- MC.6.5 DEPARTMENT: COMMUNITY DEVELOPMENT AND PLANNING  
SERVICES: REPORT ON THE ATTENDANCE OF THE GAUTENG  
GETAWAY SHOW HELD FROM FRIDAY, 30 AUGUST 2013 TO  
SUNDAY, 1 SEPTEMBER 2013 IN JOHANNESBURG, GAUTENG  
(17/15/5 & 6/23/1)**
- 

**RESOLVED:**

That cognisance be taken of the item that served before the Mayoral Committee.

- BK.6.7 KENNISGEWING AAN BURGEMEESTERSKOMITEE: NOTULE VAN DIE VERGADERING VAN DIE OPLEIDINGSKOMITEE GEHOU OP WOENSDAG, 21 AUGUSTUS 2013 (3/2/5/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die item wat voor die Burgemeesterskomitee gedien het.

**SAKE WAAROO BESLUTE GENEEM IS:**

- BK.3.1 MEDEDELINGS DEUR DIE MUNISIPALE BESTUURDER (Verbatim) (3/2/2/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- BK.6.4 DEPARTEMENT: GEMEENSKAPSONTWIKKELING EN BEPLANNINGSDIENSTE: VERSLAG OOR DIE BYWONING VAN DIE SUID-AFRIKAANSE PLAASLIKE REGERINGSVERENIGING (SALGA) BERAAD OOR MUNISIPALE GESONDHEIDSDIENSTE GEHOU OP DONDERDAG, 20 JUNIE 2013 IN PRETORIA, GAUTENG (12/1/1/10)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- BK.6.6 DEPARTEMENT: GEMEENSKAPSONTWIKKELING EN BEPLANNINGSDIENSTE: MAANDVERSLAE VIR AUGUSTUS 2013 (17/15/5 & 6/23/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- BK.7.1 KENNISGEWING AAN DIE BURGEMEESTERSKOMITEE: NOTULE VAN DIE VERGADERING VAN DIE OUDITKOMITEE GEHOU OP WOENSDAG, 28 AUGUSTUS 2013 (3/2/5/3)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

**MC.6.7 NOTICE TO MAYORAL COMMITTEE: MINUTES OF THE  
MEETING OF THE TRAINING COMMITTEE HELD ON WEDNES-  
DAY, 21 AUGUST 2013 (3/2/5/1)**

---

**RESOLVED:**

That cognisance be taken of the item that served before the Mayoral Committee.

**MATTERS OF WHICH RESOLUTIONS WERE TAKEN:**

**MC.3.1 COMMUNICATIONS BY THE EXECUTIVE MAYOR (*Verbatim*)  
(3/2/2/1)**

---

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

**MC.6.4 DEPARTMENT: COMMUNITY DEVELOPMENT AND PLANNING  
SERVICES: REPORT ON THE ATTENDANCE OF THE SOUTH  
AFRICAN LOCAL GOVERNMENT ASSOCIATION (SALGA)  
MUNICIPAL HEALTH SERVICES SUMMIT HELD ON  
THURSDAY, 20 JUNE 2013 IN PRETORIA, GAUTENG (12/1/1/10)**

---

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

**MC.6.6 DEPARTMENT: COMMUNITY DEVELOPMENT AND PLANNING  
SERVICES: MONTHLY REPORTS FOR AUGUST 2013  
(17/15/5 & 6/23/1)**

---

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

**MC.7.1 NOTICE TO THE MAYORAL COMMITTEE: MINUTES OF THE  
MEETING OF THE AUDIT COMMITTEE HELD ON WEDNESDAY,  
28 AUGUST 2013 (3/2/5/3)**

---

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

- BK.7.2      GEKONSOLIDEERDE VERSLAG VAN ALLE ONTTREKKINGS  
GEMAAK UIT DIE MUNISIPALE BANKREKENING INGEVOLGE  
ARTIKEL 11(4) VAN DIE WET OP PLAASLIKE REGERING:  
MUNISIPALE FINANSIËLE BESTUUR, 2003 (WET NO. 56 VAN  
2003) VIR DIE KWARTAAL GEËINDIG 30 SEPTEMBER 2013  
(9/1/2/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- BK.7.3      VERSLAG OOR UITGAWES AANGEGAAN VIR PERSONEEL-  
VOORDELE INGEVOLGE ARTIKEL 66 VAN DIE WET OP  
PLAASLIKE REGERING: MUNISIPALE FINANSIËLE BESTUUR,  
2003 (WET NO. 56 VAN 2003) VIR DIE TYDPERK 1 JULIE 2013  
TOT 30 SEPTEMBER 2013  
(9/1/2/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- BK.7.4      FINANSIËLE KWARTAALVERSLAG VIR DIE KWARTAAL  
GEËINDIG 30 SEPTEMBER 2013 INGEVOLGE ARTIKEL 52(d)  
VAN DIE WET OP PLAASLIKE REGERING: MUNISIPALE  
FINANSIËLE BESTUUR, 2003 (WET NO. 56 VAN 2003) (9/1/2/1)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- BK.7.5      STRATEGIESE AANPASSING VAN BRANDBESTRYDINGS-  
DIENSTE IN DIE KAAPSE WYNLAND DISTRIKS-  
MUNISIPALITEIT (KWDM)  
(17/5/B)**
- 

**BESLUIT:**

Dat kennis geneem word van die besluit wat deur die Uitvoerende Burgemeester saam met die Burgemeesterskomitee geneem is.

- MC.7.2**      **CONSOLIDATED REPORT OF ALL WITHDRAWALS MADE FROM THE MUNICIPAL BANK ACCOUNT IN TERMS OF SECTION 11(4) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003) FOR THE QUARTER ENDING 30 SEPTEMBER 2013**      **(9/1/2/1)**
- 

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

- MC.7.3**      **REPORT ON EXPENDITURE INCURRED ON STAFF BENEFITS IN TERMS OF SECTION 66 OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003) FOR THE PERIOD 1 JULY 2013 TO 30 SEPTEMBER 2013**      **(9/1/2/1)**
- 

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

- MC.7.4**      **FINANCIAL QUARTERLY REPORT FOR THE QUARTER ENDING 30 SEPTEMBER 2013 IN TERMS OF SECTION 52(d) OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (ACT NO. 56 OF 2003)**      **(9/1/2/1)**
- 

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

- MC.7.5**      **STRATEGIC ALIGNMENT OF FIRE FIGHTING SERVICES IN THE CAPE WINELANDS DISTRICT MUNICIPALITY (CWDM)**      **(17/5/B)**
- 

**RESOLVED:**

That cognisance be taken of the decision taken by the Executive Mayor together with the Mayoral Committee.

**R.13 SAKE VIR KENNISNAME**

**R.13.1 KENNISGEWING AAN DIE BURGEMEESTERSKOMITEE : NOTULE VAN DIE VERGADERING VAN DIE OUDITKOMITEE GEHOU OP DONDERDAG, 3 OKTOBER 2013 (3/2/5/3)**

---

**DOEL VAN VOORLEGGING**

Dat die Raad kennis neem van die notule van die vergadering van die Ouditkomitee gehou op Donderdag, 3 Oktober 2013.

**AGTERGROND**

By Item R.12 van 30 Augustus 2001 het die Raad besluit dat 'n Ouditkomitee vir die Kaapse Wynland Distriksmunisipaliteit (KWDM) ingestel word.

\*\*\* Ingesluit by die agenda onder aparte omslag as Bylae "A" is 'n afskrif van die notule van die vergadering van die Ouditkomitee gehou op Donderdag, 3 Oktober 2013.

**AANBEVELING DEUR MUNISIPALE BESTUURDER:**

Dat die Uitvoerende Burgemeester saam met die Burgemeesterskomitee oorweging daaraan skenk om by die Raad aan te beveel om kennis te neem van die notule van die vergadering van die Ouditkomitee gehou op Donderdag, 3 Oktober 2013.

**BURGEMEESTERSKOMITEE: 20 NOVEMBER 2013: ITEM BK.7.3**

**BESLUIT:**

Dat dit by die Raad aanbeveel word om kennis te neem van die notule van die vergadering van die Ouditkomitee gehou op Donderdag, 3 Oktober 2013, ingesluit by die agenda onder aparte omslag as Bylae "A".

**AANBEVELING DEUR BURGEMEESTERSKOMITEE:**

Dat die Raad kennis neem van die notule van die vergadering van die Ouditkomitee gehou op Donderdag, 3 Oktober 2013, ingesluit by die agenda onder aparte omslag as Bylae "A".

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.13.1**

**BESLUIT:**

Dat kennis geneem word van die notule van die vergadering van die Ouditkomitee gehou op Donderdag, 3 Oktober 2013, ingesluit by die agenda onder aparte omslag as Bylae "A".

**C.13 MATTERS FOR NOTIFICATION**

**C.13.1 NOTICE TO THE MAYORAL COMMITTEE: MINUTES OF THE MEETING OF THE AUDIT COMMITTEE HELD ON THURSDAY, 3 OCTOBER 2013 (3/2/5/3)**

---

**PURPOSE OF SUBMISSION**

That Council take cognisance of the minutes of the meeting of the Audit Committee held on Thursday, 3 October 2013.

**BACKGROUND**

At Item C.12 of 30 August 2001 Council resolved to establish an Audit Committee for the Cape Winelands District Municipality (CWDM).

\*\*\* Included with the agenda under separate cover as Annexure "A" is a copy of the minutes of the meeting of the Audit Committee held on Thursday, 3 October 2013.

**RECOMMENDATION BY MUNICIPAL MANAGER:**

That the Executive Mayor together with the Mayoral Committee consider to recommend to Council to take cognisance of the minutes of the meeting of the Audit Committee held on Thursday, 3 October 2013.

**MAYORAL COMMITTEE: 20 NOVEMBER 2013: ITEM MC.7.3**

**RESOLVED:**

That it be recommended to Council to take cognisance of the minutes of the meeting of the Audit Committee held on Thursday, 3 October 2013, included with the agenda under separate cover as Annexure "A".

**RECOMMENDATION BY MAYORAL COMMITTEE:**

That Council take cognisance of the minutes of the meeting of the Audit Committee held on Thursday, 3 October 2013, included with the agenda under separate cover as Annexure "A".

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.13.1**

**RESOLVED:**

That cognisance be taken of the minutes of the meeting of the Audit Committee held on Thursday, 3 October 2013, included with the agenda under separate cover as Annexure "A".

**R.14 SAKE VIR OORWEGING**

**R.14.1 KENNISGEWING AAN DIE RAAD: NOTULE VAN DIE VERGADERING VAN  
DIE MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR)  
GEHOU OP VRYDAG, 25 OKTOBER 2013 (3/2/5/17)**

---

**DOEL VAN VOORLEGGING**

Dat die Raad oorweging skenk aan die aanbevelings vervat in die notule van die vergadering van die Munisipale Komitee oor Openbare Rekeninge (MKOOR) gehou op Vrydag, 25 Oktober 2013.

**AGTERGROND**

By Item R.14.2(d) van 25 April 2012 het die Raad 'n Munisipale Komitee oor Openbare Rekeninge (MKOOR) vir die Kaapse Wynland Distriksmunisipaliteit (KWDM) ingestel.

**KOMMENTAAR**

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Ingesluit by die agenda onder aparte omslag as Bylae "A" is 'n afskrif van die aanbevelings vervat in die notule van die vergadering van die Munisipale Komitee oor Openbare Rekeninge (MKOOR) gehou op Vrydag, 25 Oktober 2013 met betrekking waarvan besluite benodig word.

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE  
REKENINGE (MKOOR):**

Dat die Raad oorweging skenk aan die aanbevelings vervat in die notule van die vergadering van die Munisipale Komitee oor Openbare Rekeninge (MKOOR) gehou op Vrydag, 25 Oktober 2013.

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1**

**BESLUIT:**

Dat oorweging geskenk word aan die aanbevelings vervat in die notule van die vergadering van die Munisipale Komitee oor Openbare Rekeninge (MKOOR) gehou op Vrydag, 25 Oktober 2013.

Raadslid S.W. Davids van die African National Congress (ANC) versoek 'n kousus. Die versoek deur Raadslid S.W. Davids van die African National Congress (ANC) word toegestaan.

(Die Raad verdaag om 13:38 en hervat verrigtinge om 13:50)

**C.14 MATTERS FOR CONSIDERATION**

**C.14.1 NOTICE TO THE COUNCIL: MINUTES OF THE MEETING OF THE  
MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) HELD ON FRIDAY,  
25 OCTOBER 2013 (3/2/5/17)**

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**PURPOSE OF SUBMISSION**

That Council consider the recommendations contained in the minutes of the meeting of the Municipal Public Accounts Committee (MPAC) held on Friday, 25 October 2013.

**BACKGROUND**

At Item C.14.2(d) of 25 April 2012 Council established a Municipal Public Accounts Committee (MPAC) for the Cape Winelands District Municipality (CWDM).

**COMMENT**

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Included with the agenda under separate cover as Annexure "A" is a copy of the recommendations contained in the minutes of the meeting of the Municipal Public Accounts Committee (MPAC) held on Friday, 25 October 2013 in respect of which resolutions is required.

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS COMMITTEE  
(MPAC):**

That Council consider the recommendations contained in the minutes of the meeting of the Municipal Public Accounts Committee (MPAC) held on Friday, 25 October 2013.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1**

**RESOLVED:**

That the recommendations contained in the minutes of the meeting of the Municipal Public Accounts Committee (MPAC) held on Friday, 25 October 2013, be considered.

Councillor S.W. Davids of the African National Congress (ANC) requested a caucus. The request by Councillor S.W. Davids of the African National Congress (ANC) was granted.

(Council adjourned at 13:38 and resumed its business at 13:50)

R.14.1.1

**(MKOOR 6.1) GELYKE INDIENSNEMINGVERSLAE VIR DIE TYDPERK  
1 APRIL 2013 TOT 30 SEPTEMBER 2013** **(3/2/5/17)**

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**DOEL VAN VOORLEGGING**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR), ingestel kragtens en in ooreenstemming met artikel 79 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), kennis neem van die maandelikse gelyke indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013.

**AGTERGROND**

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Aangeheg as Bylae "A" is die volgende maandelikse Gelyke Indiensnemingsverslae:

- (a) April 2013
- (b) Mei 2013
- (c) Junie 2013
- (d) Julie 2013
- (e) Augustus 2013
- (f) September 2013

**AANBEVELING DEUR MUNISIPALE BESTUURDER:**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR), ingestel kragtens en in ooreenstemming met artikel 79 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998), kennis neem:

- (a) Van die maandelikse Gelyke Indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013;
- (b) Dat die maandelikse Gelyke Indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013 ook aan die Burgemeesters-komitee en Raad voorgelê is as deel van die notule van die Plaaslike Arbeidsforum (PAF).

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE  
REKENINGE (MKOOR): 25 OKTOBER 2013: ITEM MKOOR.6.1**

**BESLUIT:** Dat-

- (a) By die Raad aanbeveel word dat kennis geneem word-
  - (i) Van die maandelikse Gelyke Indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013;
  - (ii) Dat die maandelikse Gelyke Indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013 ook aan die

**C.14.1.1**

**(MPAC.6.1) EMPLOYMENT EQUITY REPORTS FOR THE PERIOD  
1 APRIL 2013 TO 30 SEPTEMBER 2013 (3/2/5/17)**

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That the Municipal Public Accounts Committee (MPAC) established in terms of and in accordance with section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) takes cognisance of the monthly Employment Equity Reports for the period 1 April 2013 to 30 September 2013.

**BACKGROUND**

Attached as Annexure "A" is the following monthly Employment Equity Reports:

- (a) April 2013
- (b) May 2013
- (c) June 2013
- (d) July 2013
- (e) August 2013
- (f) September 2013

**RECOMMENDATION BY MUNICIPAL MANAGER:**

That the Municipal Public Accounts Committee (MPAC) established in terms of and in accordance with section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) takes cognisance:

- (a) Of the monthly Employment Equity Reports for the period from 1 April 2013 to 30 September 2013.
- (b) That the monthly Employment Equity Reports for the period from 1 April 2013 to 30 September 2013 have also been submitted to the Mayoral Committee and Council as part of the minutes of the Local Labour Forum (LLF).

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS  
COMMITTEE (MPAC): 20 MAY 2013: ITEM MPAC.6.1**

**RESOLVED: That-**

- (a) It be recommended to Council that cognisance be taken-
  - (i) Of the monthly Employment Equity Reports for the period 1 April 2013 to 30 September 2013;
  - (ii) That the monthly Employment Equity Reports for the period 1 April 2013 to 30 September 2013 have also been submitted to the Mayoral Committee and Council as part of the minutes of the Local Labour Forum (LLF);

Burgemeesterskomitee en Raad voorgelê is as deel van die notule van die Plaaslike Arbeidsforum (PAF);

- (b) In die toekoms daar in die agenda ook voorsiening gemaak moet word vir SAKE VIR KENNISNAME waaronder, inter alia, die Gelyke Indiensnemingsverslag vervat word.

#### **RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1.1**

**BESLUIT:** Dat kennis geneem word –

- (a) Van die maandelikse Gelyke Indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013;
- (b) Dat die maandelikse Gelyke Indiensnemingsverslae vir die tydperk 1 April 2013 tot 30 September 2013 ook aan die Burgemeesterskomitee en Raad voorgelê is as deel van die notule van die Plaaslike Arbeidsforum (PAF);
- (c) Dat daar in die toekoms in die agenda ook voorsiening gemaak sal word vir SAKE VIR KENNISNAME waaronder, inter alia, die Gelyke Indiensnemingsverslag vervat moet word.

**R.14.1.2**

**(MKOOR.6.2) MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): JULIANA RACHEL DANIELS (3/2/5/17)**

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#### **DOEL VAN VOORLEGGING**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR) kennis neem van die insident wat gelei het tot nienakoming van klousule 44 van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit en aanbevelings in hierdie verband aan die Raad maak.

#### **AGTERGROND**

'n Ouditondersoek, wat identiteitsnommers teen die betaalstaat van die Regering geverifieer het, het onthul dat die Kaapse Wynland Distriksmunisipaliteit (KWDM) sake gedoen het met Juliana Rachel Daniels wat in diens van die Wes-Kaap Onderwysdepartement is. Die Afdeling: Voorsieningskanaalbestuur en Verkryging het voor April 2013 geen beheer gehad om sulke gevalle op te spoor nie, gegewe die feit dat die inligting rakende die salarisdatabasis van die regering nie toeganklik was nie en verskaffers nie identiteitsnommers verskaf het nie. Die Distriksmunisipaliteit moes staatmaak op die Verklaring van Belang wat deur die verskaffer ingedien is.

#### **KOMMENTAAR**

Die Provinsiale Regering: Wes-Kaap het teen die einde van Maart 2013 'n proses geïmplementeer waardeur hierdie inligting nou met die

- (b) In future provision must also be made in the agenda for MATTERS FOR NOTIFICATION under which, inter alia, the Employment Equity Report must be contained.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1.1**

**RESOLVED:** That cognisance be taken-

- (a) Of the monthly Employment Equity Reports for the period 1 April 2013 to 30 September 2013;
- (b) That the monthly Employment Equity Reports for the period 1 April 2013 to 30 September 2013 have also been submitted to the Mayoral Committee and Council as part of the minutes of the Local Labour Forum (LLF);
- (c) That in future provision will also be made in the agenda for MATTERS FOR NOTIFICATION under which, inter alia, the Employment Equity Report must be contained.

**C.14.1.2**

**(MPAC.6.2) MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC):  
JULIANA RACHEL DANIELS (3/2/5/17)**

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**PURPOSE OF SUBMISSION**

That the Municipal Public Accounts Committee (MPAC) takes cognisance of the incident that resulted in non-compliance with clause 44 of the Cape Winelands District Municipality Municipal Supply Chain Management Policy and make recommendations to Council.

**BACKGROUND**

An audit investigation, verifying identity numbers against the payroll of the Government, revealed that the Cape Winelands District Municipality (CWDM) did business with Juliana Rachel Daniels who is employed in the Western Cape Education Department. Before April 2013 the Division: Supply Chain Management and Procurement had no control over detecting such cases, due to the fact that the information regarding the salary database of government could not be accessed and suppliers did not submit identity numbers. The District Municipality had to rely on the Declaration of Interest submitted by the supplier.

**COMMENT**

Provincial Government: Western Cape implemented a process by the end of March 2013 whereby this information can now be shared with the municipalities. Unfortunately it is not an "on demand" process. Data must be compiled into a file, sent to Provincial Government: Western Cape who verifies it and then checked back to the municipality's database. The Division: Supply Chain Management and Procurement endeavours to run

munisipaliteite gedeel kan word. Dit is ongelukkig nie 'n "op-aanvraag"-proses nie. Data moet in 'n lêer saamgestel word, gestuur word na die Provinsiale Regering: Wes-Kaap wat dit verifieer en dan terugstuur na die munisipaliteit se databasis. Die Afdeling: Voorsieningskanaalbestuur en Verkryging poog om hierdie proses op 'n maandelikse siklus toe te pas. Vanaf die tyd van registrasie tot verifikasie, kon 'n transaksie ongelukkig reeds plaasgevind het.

Nasionale Tesourie: Omsendbrief No. 62 verklaar egter dat munisipaliteite nie vir 'n eerste voorval gepeenaliseer sal word nie. In die geval dat dieselfde uitgawe in die volgende jaar se oudit opgemerk word en die regstellende maatreëls waarna in die Omsendbrief verwys word, nie ingestel is nie, sal die uitgawe dan as 'n onreëlmatige uitgawe geklassifiseer word.

#### Insident

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Die insident voor die Komitee is ten opsigte van 'n "Skoon en Groen"-projek wat in April 2013 in die bedrag van R8,920.00 aan 'n verskaffer toegeken is wat "in diens van die staat" is. Die verskaffer het 'n "Verklaring van Belang" ingedien en nagelaat om aan te dui dat sy in diens van die staat is (hierby aangeheg as Bylae "A".)

Toe die inligting aan die begin van Mei 2013 geverifieer is, is daar gevind dat die diensverskaffer in der waarheid vir die Wes-Kaap Onderwys-departement werk.

#### **KOMMENTAAR VAN DIE DEPARTEMENT: FINANSIËLE DIENSTE**

Benewens deelname aan die provinsiale platform wat onder "KOMMENTAAR" uiteengesit is, het die Departement: Finansiële Dienste –

- (a) Die verskafferregistrasievorm gewysig om meer besonderhede te verskaf, wat spesifiek 'n omvattende verklaring deur verskaffers insluit. Die genoemde vorms is gestuur aan alle verskaffers waarmee die Distriksmunisipaliteit oor die afgelope twee finansiële jare sake gedoen het, met die doel om weer te registreer en die Distriksmunisipaliteit se databasis ooreenkomstig by te werk.
- (b) 'n Bykomende databasis op die SAMRAS stelsel ontwikkel; en
- (c) Search Works Credit Bureau-sagteware verkry om vanaf Februarie 2012 potensiële nuwe verskaffers in diens van die staat op te spoor.

Die uitgawe word beskou as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) –

*"Onreëlmatige uitgawes ten opsigte van 'n munisipaliteit of munisipale entiteit, beteken — .... uitgawes aangegaan deur 'n munisipaliteit in stryd*

this process on a monthly cycle. Unfortunately, from time of registration to verification a transaction may have been concluded.

However, National Treasury: Circular No. 62 states that municipalities will not be penalised for a first occurrence. In the event that the same expenditure is detected in the following year's audit and the remedial measures referred to in the said Circular were not instituted, the expenditure will then be classified as irregular expenditure.

#### Incident

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The incident before the committee is in respect of a "Clean and Green" project that was awarded to a supplier who is "In the Service of the State" in the amount of R8,920.00 in April 2013. The supplier submitted a "Declaration of Interest" and omitted to indicate that she is in the service of the state (attached hereto as Annexure "A".)

When the information was verified in the beginning of May 2013 it was found that the service provider is in fact working for the Western Cape Education Department.

#### **COMMENT FROM THE DEPARTMENT: FINANCIAL SERVICES**

In addition to participation in the Provincial platform elaborated under "COMMENT", the Department: Financial Services –

- (a) Amended the supplier registration form to provide more details which specifically incorporates a comprehensive declaration from suppliers. The said forms were sent to all suppliers that the District Municipality conducted business with over the past two financial years with the purpose to re-register and to update the District Municipality's database accordingly;
- (b) Developed an additional database on the SAMRAS system; and
- (c) Acquired Search Works Credit Bureau software to detect potential new suppliers in service of the state from February 2012 onwards.

The expenditure is considered to be irregular as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) –

*"Irregular expenditure, in relation to a municipality or municipal entity, means— .... expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality, and which has not been condoned in terms of such policy."*

In accordance with regulation 36(1)(b) of the Municipal Supply Chain Management Regulations, 2005, the accounting officer can only ratify minor breaches of the procurement processes by an official or committee

*met, of wat nie in ooreenstemming is nie met, 'n vereiste van die voorsieningskanaalbestuursbeleid van die munisipaliteit en wat nie ingevolge sodanige beleid gekondoneer is nie."*

In ooreenstemming met regulasie 36(1)(b) van die Munisipale Voorsieningskanaalbestuursregulasies, 2005, kan die rekenpligtige beampte slegs mindere oortredings van die verkrygingsproses deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of funksies optree en wat suiwer tegnies van aard is, ratifiseer.

Hierdie aangeleentheid is in die aantekeninge tot die 2012/2013 finansiële jaarstate en toepaslike aanhangsel openbaar gemaak.

## **IMPLIKASIES**

### **PERSONEEL**

Die dissiplinering van personeel is 'n statutêre bevoegdheid van die Munisipale Bestuurder in sy hoedanigheid as Hoof van Administrasie ingevolge artikel 55(1)(g) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), behoudens die Dissiplinêre Prosedure en Kode Kollektiewe Ooreenkoms van toepassing op munisipale werknemers.

Die betrokke verskaffer is nie 'n amptenaar van die Kaapse Wynland Distriksmunisipaliteit (KWDM) nie en is dus nie aan die dissiplinêre kodes onderhewig nie. Daar moet egter bepaal word of die Afdeling: Voorsieningskanaalbestuur en Verkryging alles in hul vermoë gedoen het om insidente van hierdie aard te vermy.

*Kommentaar opgestel deur: Me. K. Smit*

### **REGS**

Gegronde op die feite soos vervat onder kommentaar hierbo, maak die onderhawige insident van hierdie verslag 'n *prima facie* nienakoming en/of afwyking van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit uit en maak dus ook 'n onreëlmatige uitgawe volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) uit.

Ingevolge die definisies soos vervat in die Munisipale Voorsieningskanaalbestuursregulasies, 2005, beteken "in diens van die staat" onder andere 'n werknemer van enige nasionale of provinsiale departement of grondwetlike instelling volgens die betekenis daarvan in die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, moet die rekenpligtige beampte die redes vir die afwyking by die volgende Raadsvergadering voorlê. Dieselfde regulasie

acting in terms of delegated powers or duties which are purely of a technical nature.

This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements and applicable appendix.

## **IMPLICATIONS**

### **PERSONNEL**

The discipline of staff is a statutory power of the Municipal Manager in his capacity as Head of Administration in terms of section 55(1)(g) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), subject to the Disciplinary Procedure and Code Collective Agreement applicable to municipal employees.

The supplier involved is not an official of the Cape Winelands District Municipality (CWDM) and therefore not subject to its disciplinary codes. However, it must be determined whether the Division: Supply Chain Management and Procurement did everything in its power to prevent incidents of this nature.

*Comment prepared by: Ms. K. Smit*

### **LEGAL**

Based on the facts as contained under comment above, the incident which forms the subject of this report constitutes a *prima facie* non-compliance and/or deviation of the Cape Winelands District Municipality Municipal Supply Chain Management Policy and thus also constitutes irregular expenditure as per the definition thereof in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

In terms of the definitions as contained in the Municipal Supply Chain Management Regulations, 2005 "in the service of the state" means to be, inter alia, an employee of any national or provincial department or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer must record the reasons for deviation to the next Council meeting. The same clause also requires that the reasons for deviation must be included as a note to the annual financial statements.

To address the problems pertaining to the non-compliance of regulation 44 of the Supply Chain Management Regulations, 2005 (Prohibition of awards to persons in the service of the state) by municipalities, Provincial Treasury has now created a platform whereby municipalities can check suppliers against the National Persal System in order to verify whether they are in the service of the state.

bepaal ook dat die redes vir afwyking as 'n aantekening by die finansiële jaarstate ingesluit moet word.

Ten einde probleme rakende die nienakoming van regulasie 44 van die Voorsieningskanaalbestuursregulasies, 2005 (verbod op toekenning aan persone in diens van die staat) deur munisipaliteite aan te spreek, het Provinsiale Tesourie nou 'n platform geskep waar munisipaliteite verskaffers teen die Nasionale PERSAL-stelsel kan nagaan om te verifieer of hulle in diens van die staat is.

*Kommentaar opgestel deur: Me. W.M. Neethling*

## **FINANSIEEL**

Die Afdeling: Voorsieningskanaalbestuur en Verkryging het die kontrak aan die diensverskaffer toegeken, wat die diens per instruksie gelewer het, en die koste aangegaan was tot voordeel van die Raad se sake-bedrywighede.

Die onreëlmatigheid is opgespoor nadat betaling geskied het en die verskaffer is vervolgens as 'n geakkrediteerde verskaffer van die databasis van die Distriksmunisipaliteit verwyder. Geen regstappe is egter ingestel nie.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

## **AANBEVELING: Dat –**

Die Munisipale Komitee oor Openbare Rekeninge (MKOOR), na 'n ondersoek kragtens artikel 32 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), oorweging daaraan skenk om by die Raad aan te beveel dat –

(a) Kennis geneem word dat:

- (i) Die Rekenpligtige Beampte die oortreding van die verkrygings-proses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
- (ii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking aan 'n Raadsvergadering voorgelê het;
- (iii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;

*Comment prepared by: Ms. W.M. Neethling*

## **FINANCIAL**

The Division: Supply Chain Management and Procurement awarded the contract to the service provider, who rendered the service as per instruction, and the cost incurred, was to the benefit of Council's business operations.

The irregularity was found after payment was effected and the supplier was subsequently terminated as an accredited supplier on the database of the District Municipality, however no legal action has been instituted.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## **RECOMMENDATION: That –**

The Municipal Public Accounts Committee (MPAC), after investigation in terms of section 32 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA), considers to recommend to Council that -

(a) Cognisance be taken that:

- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
- (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
- (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer, included this matter in the notes to the 2012/2013 Annual Financial Statements;
- (iv) All reasonable steps available to the District Municipality have been taken to ensure compliance with regulation 44 of the Municipal Supply Chain Management Regulations, 2005;
- (v) Although the expenditure is regarded as irregular, the expenditure was not in vain and value for money was received by the District Municipality;

(b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

- (iv) Alle redelike stappe tot die beskikking van die Distriksmunisipaliteit gedoen is om nakoming van regulasie 44 van die Munisipale Voorsieningskanaalbestuursregulasies, 2005 te verseker;
  - (v) Alhoewel die uitgawe as onreëlmatig beskou word, die uitgawe nie tevergeefs was nie en waarde vir geld deur die Distriksmunisipaliteit ontvang is;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): 25 OKTOBER 2013: ITEM MKOOR.6.2**

**BESLUIT:**

Dat by die Raad aanbeveel word dat –

- (a) Kennis geneem word dat:
- (i) Die Rekenpligtige Beampte die oortreding van die verkrygings-proses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
  - (ii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking aan 'n Raadsvergadering voorgelê het;
  - (iii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Alle redelike stappe tot die beskikking van die Distriksmunisipaliteit gedoen is om nakoming van regulasie 44 van die Munisipale Voorsieningskanaalbestuursregulasies, 2005 te verseker;
  - (v) Alhoewel die uitgawe as onreëlmatig beskou word, die uitgawe nie tevergeefs was nie en waarde vir geld deur die Distriksmunisipaliteit ontvang is;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word;

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS  
COMMITTEE (MPAC): 20 MAY 2013: ITEM MPAC.6.2**

**RESOLVED:**

That it be recommended to Council that-

- (a) Cognisance be taken that:
  - (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
  - (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
  - (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer, included this matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) All reasonable steps available to the District Municipality have been taken to ensure compliance with regulation 44 of the Municipal Supply Chain Management Regulations, 2005;
  - (v) Although the expenditure is regarded as irregular, the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (c) Preventative measures in the procurement process be implemented to ensure that no awards are made to persons in the service of the state.

- (c) Voorkomende maatreëls in die verkrygingsproses geïmplementeer word om te verseker dat geen toekennings aan persone in diens van die staat gemaak word nie.

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1.2**

**BESLUIT:** Dat –

- (a) Kennis geneem word dat –
- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratificeer het;
  - (ii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking aan 'n Raadsvergadering voorgelê het;
  - (iii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Alle redelike stappe tot die beskikking van die Distriksmunisipaliteit gedoen is om nakoming van regulasie 44 van die Munisipale Voorsieningskanaalbestuursregulasies, 2005 te verseker;
  - (v) Alhoewel die uitgawe as onreëlmstig beskou word, die uitgawe nie tevergeefs was nie en waarde vir geld deur die Distriksmunisipaliteit ontvang is;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word;
- (c) Voorkomende maatreëls in die verkrygingsproses geïmplementeer word om te verseker dat geen toekennings aan persone in diens van die staat gemaak word nie.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1.2**

**RESOLVED: That -**

- (a) Cognisance be taken that -
  - (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
  - (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
  - (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer, included this matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) All reasonable steps available to the District Municipality have been taken to ensure compliance with regulation 44 of the Municipal Supply Chain Management Regulations, 2005;
  - (v) Although the expenditure is regarded as irregular, the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (c) Preventative measures in the procurement process be implemented to ensure that no awards are made to persons in the service of the state.

**C.14.1.3**

**(MPAC.6.3) MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC):  
ISMAIL TOWING (3/2/5/17)**

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**PURPOSE OF SUBMISSION**

That the Municipal Public Accounts Committee (MPAC) takes cognisance of the incident that resulted in non-compliance with clause 44 of the Cape Winelands District Municipality Municipal Supply Chain Management Policy and make recommendations to Council.

R.14.1.3

**(MKOOR.6.3) MUNISIPALE KOMITEE OOR OPENBARE  
REKENINGE (MKOOR): ISMAIL TOWING (3/2/5/17)**

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**DOEL VAN VOORLEGGING**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR) kennis neem van die insident wat gelei het tot nienakoming van klousule 44 van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit en aanbevelings in hierdie verband aan die Raad maak.

**AGTERGROND**

'n Verklaring van Belang wat saam met die registrasiedokumente van die onderneming ontvang is, het onthul dat die eienaar van Ismail Towing 'n raadslid by Breede Vallei Munisipaliteit is.

Die diens is as 'n noodgeval gelever en alle toepaslike kontroles kon nie binne die beperkte tydraamwerk afgehandel word nie.

Die registrasie op die Distriksmunisipaliteit se databasis is vervolgens beëindig en die verskaffer is in kennis gestel om nie met enige sfeer van regering sake te doen nie.

**KOMMENTAAR**

Om hierdie probleem op te los, het die Provinsiale Regering: Wes-Kaap teen die einde van Maart 2013 'n proses geïmplementeer waardeur inligting oor identiteitsnommers met die munisipaliteite gedeel kan word. Dit is ongelukkig nie 'n "op-aanvraag"-proses nie. Data moet in 'n lêer saamgestel word, gestuur word na die Provinsiale Regering: Wes-Kaap wat dit verifieer en dan terugstuur na die munisipaliteit se databasis. Die Afdeling: Voorsieningskanaalbestuur en Verkryging poog om hierdie proses op 'n maandelikse siklus toe te pas. Vanaf die tyd van registrasie tot verifikasie, kon 'n transaksie ongelukkig reeds plaasgevind het. Hierdie proses is egter slegs ten opsigte van amptenare wat vir staatsinstellings werk en sluit nie amptenare en raadslede van munisipaliteite in nie.

Nasionale Tesourie: Omsendbrief No. 62 verklaar egter dat munisipaliteite nie vir 'n eerste voorval gepenaliseer sal word nie. In die geval dat dieselfde uitgawe in die volgende jaar se oudit opgemerk word en die regstellende maatreëls waarna in die Omsendbrief verwys word, nie ingestel is nie, sal die uitgawe dan as 'n onreëlmatige uitgawe geklassifiseer word.

Insident

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Die insident voor die Komitee is ten opsigte van "insleepdienste", wat 'n nooddiens is, wat in Augustus 2012 in die bedrag van R2,280.00 aan 'n verskaffer toegeken is wat "in diens van die staat" is. Die verskaffer se status was ten tye van die diens onbekend. Op versoek vir volle

## **BACKGROUND**

A declaration of interest received with the registration documents of the business revealed that the owner of Ismail Towing is a councillor at the Breede Valley Municipality.

The service was rendered as an emergency and all relevant controls could not be finalised in the restricted timeframe.

The registration on the District Municipality's database has subsequently been terminated and the supplier was informed not to do business with any sphere of government.

## **COMMENT**

To address the problem, Provincial Government: Western Cape implemented a process by the end of March 2013 whereby identity number information can be shared with the municipalities. Unfortunately it is not an "on demand" process. Data must be compiled into a file, sent to Provincial Government: Western Cape who verifies it and then checked back to the municipality's database. The Division: Supply Chain Management and Procurement endeavours to run this process on a monthly cycle. Unfortunately, from time of registration to verification a transaction may have been concluded. This process is however only in respect of officials working for government institutions and does not include officials and councillors of municipalities.

However, National Treasury: Circular No. 62 states that municipalities will not be penalised for a first occurrence. In the event that the same expenditure is detected in the following year's audit and the remedial measures referred to in the said Circular were not instituted, the expenditure will then be classified as irregular expenditure.

### Incident

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The incident before the Committee is in respect of "tow in services", which is an emergency service, that was awarded to a supplier who is "In the Service of the State" in the amount of R2,280.00 in August 2012. At the time of the service the supplier's status was unknown. On request for full registration, the supplier submitted a "Declaration of Interest" indicating that he is in the service of the state (attached hereto as Annexure "A"). The supplier's registration was subsequently terminated.

## **COMMENT FROM THE DEPARTMENT: FINANCIAL SERVICES**

In addition to participation in the Provincial platform elaborated under "COMMENT", the Department –

- (a) Amended the supplier registration form to provide more details which specifically incorporates a comprehensive declaration from suppliers. The said forms were sent to all suppliers that the District Municipality conducted business with over the past two financial years with the

registrasie, het die verskaffer 'n "Verklaring van Belang" ingedien wat aangedui het dat hy in diens van die staat is (hierby aangeheg as Bylae "A"). Die verskaffer se registrasie is vervolgens beëindig.

#### **KOMMENTAAR VAN DIE DEPARTEMENT: FINANSIËLE DIENSTE**

Benewens deelname aan die provinsiale platform wat onder "KOMMENTAAR" uiteengesit is, het die departement –

- (a) Die verskafferregistrasievorm gewysig om meer besonderhede te verskaf, wat spesifiek 'n omvattende verklaring deur verskaffers insluit. Die genoemde vorms is gestuur aan alle verskaffers waarmee die Distriksmunisipaliteit oor die afgelope twee finansiële jare sake gedoen het, met die doel om weer te registreer en die Distriksmunisipaliteit se databasis ooreenkomstig by te werk.
- (b) 'n Bykomende databasis op die SAMRAS stelsel ontwikkel;
- (c) Search Works Credit Bureau-sagteware verkry om vanaf Februarie 2012 potensiële nuwe verskaffers in diens van die staat op te spoor.

Die uitgawe word beskou as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) –

"onreëlmatige uitgawes ten opsigte van 'n munisipaliteit of munisipale entiteit, beteken — .... uitgawes aangegaan deur 'n munisipaliteit in stryd met, of wat nie in ooreenstemming is nie met, 'n vereiste van die voorsieningskanaalbestuursbeleid van die munisipaliteit en wat nie ingevolge sodanige beleid of verordening gekondoneer is nie."

In ooreenstemming met regulasie 36(1)(b) van die Voorsieningskanaalbestuursregulasies, kan die rekenpligtige beampte slegs mindere oortredings van die verkrygingsproses deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of funksies optree en wat suiwer tegnies van aard is, ratifiseer.

Hierdie aangeleentheid is in die aantekeninge tot die 2012/2013 finansiële jaarstate en toepaslike aanhangsel openbaar gemaak.

#### **IMPLIKASIES**

##### **PERSONEEL**

Die dissiplinering van personeel is 'n statutêre bevoegdheid van die Munisipale Bestuurder in sy hoedanigheid as Hoof van Administrasie ingevolge artikel 55(1)(g) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), behoudens die Dissiplinêre Prosedure en Kode Kollektiewe Ooreenkoms van toepassing op munisipale werknemers.

purpose to re-register and to update the District Municipality's database accordingly;

- (b) Developed an additional database on the SAMRAS system; and
- (c) Acquired Search Works Credit Bureau software to detect potential new suppliers in service of the state from February 2012 onwards.

The expenditure is considered to be irregular as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) –

"Irregular expenditure, in relation to a municipality or municipal entity, means— .... expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality, and which has not been condoned in terms of such policy."

In accordance with regulation 36(1)(b) of the Supply Management Regulations, the accounting officer can only ratify minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements and applicable appendix.

## **IMPLICATIONS**

### **PERSONNEL**

The discipline of staff is a statutory power of the Municipal Manager in his capacity as Head of Administration in terms of section 55(1)(g) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), subject to the Disciplinary Procedure and Code Collective Agreement applicable to municipal employees.

The supplier involved is not an official of the Cape Winelands District Municipality (CWDM) and therefore not subject to its disciplinary codes. However, it must be determined whether the Division: Supply Chain Management and Procurement did everything in its power to prevent incidents of this nature.

*Comment prepared by: Ms. K. Smit*

### **LEGAL**

Based on the facts as contained under comment above, the incident which forms the subject of this report constitutes a *prima facie* non-compliance and/or deviation of the Cape Winelands District Municipality Municipal Supply Chain Management Policy and thus also constitutes irregular expenditure as per the definition thereof in section 1 of the Local

Die betrokke verskaffer is nie 'n amptenaar van die Kaapse Wynland Distriksmunisipaliteit (KWDM) nie en is dus nie aan die dissiplinêre kodes onderhewig nie. Daar moet egter bepaal word of die Afdeling: Voorsieningskanaalbestuur en Verkryging alles in hul vermoë gedoen het om insidente van hierdie aard te vermy.

*Kommentaar opgestel deur: Me. K. Smit*

## **REGS**

Gegronde op die feite soos vervat onder kommentaar hierbo, maak die onderhawige insident van hierdie verslag 'n *prima facie* nienakoming en/of afwyking van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit uit en maak dus ook 'n onreëlmatige uitgawe volgens die omskrywing daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) uit.

Ingevolge die definisies soos vervat in die Munisipale Voorsieningskanaalbestuursregulasies, 2005, beteken "in diens van die staat", onder andere, om 'n lid te wees van enige munisipale raad.

Kennis moet ook geneem word dat ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte in 'n noodgeval afstand doen van die amptelike verkrygingsprosesse en enige vereiste goedere of dienste deur middel van enige gerieflike proses verkry, wat regstreekse onderhandelings kan insluit.

Ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, mag die rekenpligtige beampte mindere oortredings van die verkrygingsproses deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of funksies optree en wat suiwer tegniese van aard is, ratifiseer.

Voorts en ingevolge die bepalings van regulasie 36(2), moet die rekenpligtige beampte die redes vir afwyking aan die volgende Raadsvergadering voorlê. Dieselfde regulasie bepaal ook dat die redes vir afwyking as 'n aantekening by die finansiële jaarstate ingesluit moet word.

Ten einde probleme rakende die nienakoming van regulasie 44 van die Voorsieningskanaalbestuursregulasies (verbod op toekenning aan persone in diens van die staat) deur munisipaliteite aan te spreek, het Provinsiale Tesourie nou 'n platform geskep waar munisipaliteite verskaffers teen die Nasionale PERSAL Stelsel kan nagaan om te verifieer of hulle in diens van die staat is.

*Kommentaar opgestel deur: Me. W.M. Neethling*

Government: Municipal Finance Management Act, 2003  
(Act No 56 of 2003) (MFMA).

In terms of the definitions as contained in the Municipal Supply Chain Management Regulations, 2005 "in the service of the state" means to be, inter alia, a member of any municipal council.

Cognisance must also be taken that in terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes and procure any required goods or services through any convenient process, which may include direct negotiations, in an emergency.

In terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy the accounting officer may ratify minor breaches of the procurement process by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

Furthermore and in accordance with the provisions of regulation 36(2), the accounting officer must record the reasons for deviation to the next Council meeting. The same regulation also requires that the reasons for deviation must be included as a note to the annual financial statements.

To address the problems pertaining to the non-compliance of regulation 44 of the Supply Chain Management Regulations (Prohibition of awards to persons in the service of the state) by municipalities, Provincial Treasury has now created a platform whereby municipalities can check suppliers against the National Persal System in order to verify whether they are in the service of the state.

*Comment prepared by: Ms. W.M. Neethling*

## **FINANCIAL**

The Division: Supply Chain Management and Procurement awarded the contract to the service provider, who rendered the service as per instruction and the cost incurred, was to the benefit of Council's business operations. The irregularity was found after payment was effected and the supplier was subsequently terminated as an accredited supplier on the database of the District Municipality. However, no legal action has been instituted.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## **RECOMMENDATION: That –**

The Municipal Public Accounts Committee (MPAC), after investigation in terms of section 32 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA), considers to recommend to Council that -

## FINANSIEEL

Die Afdeling: Voorsieningskanaalbestuur en Verkryging het die kontrak aan die diensverskaffer toegeken, wat die diens per instruksie gelewer het en die koste aangegaan was tot voordeel van die Raad se sake-bedrywighede. Die onreëlmatigheid is opgespoor nadat betaling geskied het en die verskaffer is vervolgens as 'n geakkrediteerde verskaffer van die databasis van die Distriksmunisipaliteit verwyder. Geen regstappe is egter ingestel nie.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

### AANBEVELING:           Dat –

Die Munisipale Komitee oor Openbare Rekeninge (MKOOR), na 'n ondersoek kragtens artikel 32 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), oorweging daaraan skenk om by die Raad aan te beveel dat –

- (a) Kennis geneem word dat:
- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
  - (ii) Ingevolge klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
  - (iii) Ingevolge klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Die Rekenpligtige Beampte afstand gedoen het van die amptelike verkrygingsproses ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, aangesien 'n nooddiens gelewer is wat gelei het tot die benutting van 'n diensverskaffer wie se status onbekend was;
  - (v) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;

(a) Cognisance be taken that:

- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
- (ii) In accordance with the clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for the deviation to a Council meeting;
- (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included the matter in the notes to the 2012/2013 Annual Financial Statements;
- (iv) The Accounting Officer has dispensed with the official procurement process in terms of in terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, as an emergency service was rendered, resulting in the utilization of a service provider whose status was unknown;
- (v) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;

- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC): 20 MAY 2013: ITEM MPAC.6.3**

**RESOLVED:**

That it be recommended to Council that-

(a) Cognisance be taken that:

- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
- (ii) In accordance with the clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management

- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): 25 OKTOBER 2013: ITEM MKOOR.6.3**

**BESLUIT:**

Dat by die Raad aanbeveel word dat-

- (a) Kennis geneem word dat:
- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
  - (ii) Ingevolge klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
  - (iii) Ingevolge klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Die Rekenpligtige Beampte afstand gedoen het van die amptelike verkrygingsproses ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, aangesien 'n nooddiens gelever is wat gelei het tot die benutting van 'n diensverskaffer wie se status onbekend was;
  - (v) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

Policy, the Accounting Officer recorded the reasons for the deviation to a Council meeting;

- (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included the matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) The Accounting Officer has dispensed with the official procurement process in terms of in terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, as an emergency service was rendered, resulting in the utilization of a service provider whose status was unknown;
  - (v) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1.3**

**RESOLVED:** That -

- (a) Cognisance be taken that -
- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
  - (ii) In accordance with the clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for the deviation to a Council meeting;
  - (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included the matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) The Accounting Officer has dispensed with the official procurement process in terms of in terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, as an emergency service was rendered, resulting in the utilization of a service provider whose status was unknown;

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1.3**

**BESLUIT:** Dat –

(a) Kennis geneem word dat –

- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
  - (ii) Ingevolge klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
  - (iii) Ingevolge klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Die Rekenpligtige Beampte afstand gedoen het van die amptelike verkrygingsproses ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, aangesien 'n nooddiens gelewer is wat gelei het tot die benutting van 'n diensverskaffer wie se status onbekend was;
  - (v) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

**R.14.1.4**

**(MKOOR.6.4) MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): CONRADIE INCORPORATED – PROKUREURS VIR DIE INSTITUUT VIR BLINDES (3/2/5/17)**

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**DOEL VAN VOORLEGGING**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR) kennis neem van die insident wat gelei het tot vrugtelose en verkwiste uitgawes en 'n aanbeveling aan die Raad maak om die vrugtelose en verkwiste uitgawes as onverhaalbaar te sertifiseer.

- (v) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**C.14.1.4**

**(MPAC.6.4) MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) :  
CONRADIE INCORPORATED: ATTORNEYS FOR THE INSTITUTE FOR  
THE BLIND (3/2/5/17)**

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**PURPOSE OF SUBMISSION**

That the Municipal Public Accounts Committee (MPAC) takes cognisance of the incident that resulted in fruitless and wasteful expenditure and recommend to Council to certify the fruitless and wasteful expenditure as irrecoverable.

**BACKGROUND**

Sufficiently addressed under Legal Implications.

**COMMENT**

Incident and Findings

The incident pertains to attorneys Conradie Incorporated who acted on instruction of the Institute for the Blind in respect of goods supplied by a supplier who sourced the goods from the Institute of the Blind and failed to honour his obligation towards the said Institute.

**COMMENT FROM THE DEPARTMENT: COMMUNITY DEVELOPMENT  
AND PLANNING – FIRE SERVICES**

The supplier delivered the mattresses to the Eerste Begin Fire Station and one of the officers received the goods and signed the invoice.

At that stage all the personnel were busy at different fires and therefore it was not possible to properly inspect the mattresses for compliance to the specifications.

At the first opportunity, and before the mattresses were used, it was properly inspected by removing a cover of one of the mattresses. It was then found that the mattresses did not comply with the specifications. The Department: Financial Services, as well as the service provider, were immediately informed.

## **AGTERGROND**

Voldoende onder regsimplikasies aangespreek.

## **KOMMENTAAR**

### Insident en bevindings

Die insident hou verband met prokureurs Conradie Incorporated wat in opdrag van die Instituut vir Blindes opgetree het ten opsigte van goedere wat gelewer is deur 'n verskaffer wat die goedere van die Instituut vir Blindes verkry het en versuim het om sy verpligting teenoor die genoemde Instituut na te kom.

## **KOMMENTAAR VAN DIE DEPARTEMENT: GEMEENSKAPS-ONTWIKKELING EN BEPLANNINGS-DIENSTE – BRANDWEER-DIENSTE**

Die verskaffer het die matrasse by die Eerste Begin Brandweerstasie afgelewer en een van die offisiere het die goedere ontvang en die faktuur onderteken.

Op daardie stadium was al die personeel by verskillende brande betrokke en dit was dus nie moontlik om die matrasse behoorlik vir nakoming van die spesifikasies te inspekteer nie.

Met die eerste geleentheid en voordat die matrasse gebruik is, is dit behoorlik geïnspekteer deur 'n bedekking van een van die matrasse te verwyder. Daar is toe gevind dat die matrasse nie aan die spesifikasies voldoen nie. Die Departement: Finansiële Dienste, asook die diensverskaffer, is onmiddellik in kennis gestel.

Die Distriksmunisipaliteit is deur die verskaffer terugbetaal, waarna toestemming deur die Departement: Finansiële Dienste verleen is dat die matrasse aan die verskaffer terugbesorg kan word.

Kennis moet geneem word van die feit dat die Afdeling: Brandweerdienste nooit skakel met die vervaardigers wat goedere aan suksesvolle verskaffers lewer nie en die afdeling was dus onbewus van hierdie skema van die verskaffer.

*Kommentaar opgestel deur: Mnr. D.H. Wilds*

## **KOMMENTAAR VAN DIE DEPARTEMENT: FINANSIËLE DIENSTE**

Die Distriksmunisipaliteit het 'n betaling gedoen in 'n geval waar geen goedere of dienste ontvang is nie.

Vrugtelose en verkwiste uitgawes word in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), soos volg omskryf:

The District Municipality was refunded by the supplier where after permission was granted by the Department: Financial Services that the mattresses could be released to the supplier.

Note should be taken of the fact that the Division: Fire Services never deals with the manufacturers that supply goods to successful suppliers and the Division was thus not aware of this scheme by the supplier.

*Comment prepared by: Mr. D.H. Wilds*

#### **COMMENT FROM THE DEPARTMENT: FINANCIAL SERVICES**

The District Municipality effected payment in an instance where no goods or services were received.

Fruitless and wasteful expenditure is defined in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) as follows:

*“ ....means expenditure that was made in vain and would have been avoided had reasonable care been exercised.”*

Payment, in the amount of R37,500.00 was effected in order to settle this matter.

This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements.

#### **IMPLICATIONS**

##### **PERSONNEL**

The discipline of staff is a statutory power of the Municipal Manager in his capacity as Head of Administration in terms of Section 55(1)(g) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), subject to the Disciplinary Procedure and Code Collective Agreement applicable to municipal employees.

*Comment prepared by: Ms. K. Smit*

##### **LEGAL**

The Cape Winelands District Municipality (CWDM) procured mattresses for the Division: Fire Services in the amount of R26 827-50.

The mattresses were duly delivered to the District Municipality by JB Construction CC (the successful tenderer), but it was found that the mattresses did not comply with the specifications as set out in the tender document.

*".... beteken uitgawes wat tevergeefs aangegaan is en vermy kon word indien redelike sorg gedra is."*

Betaling in die bedrag van R37,500.00 is gemaak om hierdie aangeleentheid te skik.

Hierdie aangeleentheid is in die aantekeninge tot die 2012/2013 Finansiële Jaarstate openbaar gemaak.

## **IMPLIKASIES**

### **PERSONEEL**

Die dissiplinering van personeel is 'n statutêre bevoegdheid van die Munisipale Bestuurder in sy hoedanigheid as Hoof van Administrasie ingevolge artikel 55(1)(g) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), behoudens die Dissiplinêre Prosedure en Kode Kollektiewe Ooreenkoms van toepassing op munisipale werknemers.

*Kommentaar opgestel deur: Me. K. Smit*

### **REGS**

Die Kaapse Wynland Distriksmunisipaliteit (KWDM) het matrasse vir die Afdeling: Brandweerdienste ten bedrae van R26 827.50 verkry.

Die matrasse is deur JB Construction BK (die suksesvolle tenderaar) aan die Distriksmunisipaliteit gelever, maar daar is gevind dat die matrasse nie aan die spesifikasies, soos uiteengesit in die tenderdokument, voldoen het nie.

Die Distriksmunisipaliteit en die tenderaar, JB Construction, het ooreengekom dat die transaksie tussen hulle gekanselleer word en dat die matrasse aan JB Construction terugbesorg sal word, terwyl die betaalde bedrag aan die Kaapse Wynland Distriksmunisipaliteit (KWDM) terugbetaal sal word, welke kansellasië van die transaksie behoorlik geskied het.

Tot op daardie stadium het die Kaapse Wynland Distriksmunisipaliteit (KWDM) geen kennis gedra dat die diensverskaffer die matrasse van die Instituut vir Blindes verkry het nie en dus het die Distriksmunisipaliteit geen verhouding met die Instituut vir Blindes ten opsigte van hierdie verkryging gehad nie.

Die Distriksmunisipaliteit is op een of ander stadium gedurende die proses deur die regsverteenwoordigers van die Instituut vir Blindes, Conradie Inc., ingelig dat JB Construction die matrasse by die Instituut vir Blindes gekoop het vir 'n bedrag van R44,800.00, maar dat hulle nie die uitstaande betaalbare bedrag vir die verskaffing van die matrasse van JB Constructions ontvang het nie.

The District Municipality and the tenderer, JB Construction, agreed that the transaction between them be cancelled, whereby the mattresses would be returned to JB Construction, while the paid amount would be refunded to the Cape Winelands District Municipality (CWDM), which cancellation of the transaction was duly fulfilled.

Until that stage the Cape Winelands District Municipality (CWDM) had no knowledge that the service provider had sourced the mattresses from the Institute of the Blind and therefore the District Municipality had no relationship with the Institute of the Blind in relation to this procurement.

However, at some time during the process, the District Municipality was informed by the legal representatives of the Institute of the Blind, Conradie Inc., that JB Construction had purchased the mattresses from the Institute of the Blind for an amount of R44,800.00, but did not receive the outstanding amount due and payable pertaining to the supply of the mattresses from JB Construction.

In view of the aforementioned the Institute furthermore requested that the mattresses be returned to them as the legal owner, as ownership did not pass.

In the meantime and after the District Municipality was refunded by the tenderer, an official in the Department: Financial Services gave permission that the mattresses could be released to JB Construction.

Despite various requests by the former Director: Strategic Services, Mr. S. Johaar, the tenderer reneged on his verbal agreement to return the goods and a Combined Summons dated 1 April 2011 was served on the District Municipality accordingly with the Institute of the Blind as the plaintiff.

Cognisance should be taken of the fact that the *action ad exhibendum* was available to the Institute of the Blind as the Institute could prove that they were the rightful owner of the mattresses at the time the District Municipality wrongfully disposed of the mattresses, furthermore they could prove that the District Municipality had knowledge of the Institute of the Blind's claim to the mattresses and lastly, the Institute of the Blind could prove that they had suffered a loss and could indicate the extent of the loss.

In view of the aforementioned, the District Municipality decided to settle the matter.

It is clear from the above that fruitless and wasteful expenditure was incurred as per the definition thereof in Section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

The expenditure cannot be ratified by the Accounting Officer as the Accounting Officer may only ratify a minor breach of the procurement process provided for by clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy if that breach is

In die lig van voorgenoemde, het die Instituut verder versoek dat die matrasse aan hulle terugbesorg word as die wetlike eienaar, aangesien eienaarskap nie oorgedra is nie.

In die tussentyd en nadat die Distriksmunisipaliteit deur die tenderaar terugbetaal is, het 'n amptenaar in die Departement: Finansiële Dienste toestemming gegee dat die matrasse aan JB Construction terugbesorg kan word.

Ongeag verskeie versoeke deur die vorige Direkteur: Strategiese Dienste, Mnr. S. Johaar, het die tenderaar sy mondelinge ooreenkoms om die goedere terug te besorg, verbreek en 'n gesamentlike dagvaarding gedateer 1 April 2011 is diensvolgens op die Distriksmunisipaliteit beteken, met die Instituut vir Blindes as die klaer.

Kennis moet geneem word van die feit dat die *action ad exhibendum* tot die Instituut vir Blindes se beskikking was, aangesien die Instituut kon bewys dat hulle die regmatige eienaar van die matrasse was toe die Distriksmunisipaliteit verkeerdlik die matrasse terugbesorg het en hulle kon voorts bewys dat die Distriksmunisipaliteit kennis gedra het van die Instituut vir Blindes se aanspraak op die matrasse en, laastens, die Instituut vir Blindes kon bewys dat hulle 'n verlies gely het en kon die omvang van die verlies aandui.

In die lig van voorgenoemde, het die Distriksmunisipaliteit besluit om die saak te skik.

Dit is uit bogemelde duidelik dat vrugtelose en verkwiste uitgawes volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) aangegaan is.

Die uitgawe kan nie deur die Rekenpligtige Beampte geratifiseer word nie, aangesien die Rekenpligtige Beampte slegs 'n mindere oortreding van die verkrygingsproses ingevolge regulasie 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit kan ratifiseer as daardie 'n oortreding begaan is deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of pligte optree en waar dit suiwer tegnies van aard is.

In ooreenstemming met artikel 32(1)(d) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), "*is enige politieke ampsdraer of amptenaar van 'n Munisipaliteit wat doelbewus of op nalatige wyse 'n vrugtelose of verkwiste uitgawe aangegaan, gemaak of gemagtig het, aanspreeklik vir sodanige uitgawe.*"; en

Artikel 32(2) stipuleer verder dat –

*"n Munisipaliteit moet 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawe van die persoon wat vir sodanige uitgawe aanspreeklik is, verhaal tensy die uitgawe ... in die geval van 'n onreëlmatige of vrugtelose en verkwiste uitgawe, na ondersoek deur 'n raadskomitee, deur*

by an official or committee acting in terms of delegated powers or duties and where it is purely of a technical nature.

In accordance with section 32(1)(d) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), “any political office-bearer or official of a Municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.”; and

Section 32(2) furthermore stipulates that –

*“A Municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure ... in the case of irregular or fruitless and wasteful expenditure is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.”*

Should Council resolve that the expenditure is irrecoverable and that it must consequently be written off, sub-section 32(4) becomes effective, namely —

*“The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—*

- (a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the Municipality;*
- (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and*
- (c) the steps that have been taken—*
  - (i) to recover or rectify such expenditure; and*
  - (ii) to prevent a recurrence of such expenditure.”*

Comment prepared by: Ms. W.M. Neethling

## **FINANCIAL**

MFMA Circular No. 68 stipulates that –

*The concept of fruitless and wasteful expenditure is founded on public administration and accountability principles, to promote “efficient, economic and effective use of resources and the attainment of value for money”.*

*The idea is also founded on the fact that the council, the mayor and the accounting officer have a fiduciary responsibility to ensure that municipal resources are used in the best interests of the municipality and the local community.*

*die raad as onverhaalbaar gesertifiseer is en deur die raad afgeskryf word."*

Sou die Raad besluit dat die uitgawe onverhaalbaar is en dat dit gevolglik afgeskryf moet word, tree subartikel 32(4) in werking, naamlik —

*"Die rekenpligtige beampte moet onmiddellik die burgemeester, die LUR vir plaaslike regering in die provinsie en die Ouditeur-Generaal skriftelik in kennis stel —*

- (a) van enige ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawe wat deur die Munisipaliteit aangegaan is;*
- (b) of enige persoon verantwoordelik is of ondersoek word vir sodanige ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawe; en*
- (c) die stappe wat gedoen is om —*
  - (i) sodanige uitgawe te verhaal of reg te stel; en*
  - (ii) om die herhaling van sodanige uitgawe te voorkom."*

*Kommentaar opgestel deur: Me. W.M. Neethling*

## **FINANSIEEL**

MFMA Omsendbrief No. 68 stipuleer dat —

*Die begrip van vrugtelose en verkwiste besteding is gegrond op die beginsels van openbare administrasie en aanspreeklikheid om "die doeltreffende, ekonomiese en effektiewe aanwending van hulpbronne te bevorder en waarde vir geld te verkry".*

*Die idee is ook gegrond op die feit dat die raad, die burgemeester en die rekenpligtige beampte 'n fidusiêre verantwoordelikheid het om te verseker dat munisipale hulpbronne in die beste belang van die munisipaliteit en die plaaslike gemeenskap aangewend word.*

*In hierdie konteks verwys uitgawes in die breë na die prosesse wat gevolg moet word, transaksies met diensverskaffers of -voorsieners en die aanwending van ander hulpbronne wat aan die munisipaliteit behoort. Die term "tevergeefs aangegaan" dui daarop dat die munisipaliteit geen waarde vir geld van die uitgawes of die aanwending van ander hulpbronne verkry het nie. Vrugtelose en verkwiste uitgawes moet aan beide die voorwaardes in die definisie voldoen, naamlik dat dit tevergeefs gemaak is en dit kon vermy gewees het as redelike sorg uitgeoefen is.*

*Die koste aangegaan was nie tot voordeel van die Distriksmunisipaliteit se sakebedrywighede nie en die eis is betaal om regstappe te vermy, asook moontlike rente wat tot verhoogde uitgawes sou gelei het indien die regstappe onsuksesvol was.*

*In this context expenditure refers broadly to processes that must be followed, transactions with service providers or suppliers and the use of other resources belonging to the municipality. The phrase "made in vain" indicates that the municipality derived no value for money from the expenditure or the use of other resources. Fruitless and wasteful expenditure must fulfil both the conditions in the definition, namely, that it was made in vain and it would have been avoided had reasonable care been exercised.*

The cost incurred was not to the benefit of the District Municipality's business operations and the claim has been paid to avoid legal action and also possible interest which would have resulted in increased expenditure if the legal action was unsuccessful.

When the incident occurred the District Municipality was in the process of concluding another transaction with the supplier and the amount paid for the mattresses was deducted from payments still to be effected. The District Municipality therefore recovered the funds paid to the supplier in respect of acquiring the mattresses.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

**RECOMMENDATION:** That -

The Municipal Public Accounts Committee (MPAC), after investigation in terms of section 32 of the the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), considers to recommend to Council that -

- (a) Cognisance be taken that:
  - (i) The service provider has been paid an amount of R37,500.00 in order to avoid further legal action and possible expenditure;
  - (ii) This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements;
- (b) The fruitless and wasteful expenditure to the amount of R37,500.00 be certified by Council as irrecoverable;
- (c) The amount of R37,500.00 be written-off;
- (d) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

Toe die voorval plaasgevind het, was die Distriksmunisipaliteit in die proses om 'n ander transaksie met die verskaffer aan te gaan en die bedrag wat vir die matrasse betaal is, is afgetrek van betalings wat nog gedoen moes word. Die Distriksmunisipaliteit het dus die fondse verhaal wat aan die verskaffer ten opsigte van die verkryging van die matrasse betaal is.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

**AANBEVELING: Dat –**

Die Munisipale Komitee oor Openbare Rekeninge (MKOOR), na 'n ondersoek kragtens artikel 32 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), oorweging daaraan skenk om by die Raad aan te beveel dat –

- (a) Kennis geneem word dat:
  - (i) Die diensverskaffer 'n bedrag van R37,500.00 betaal is ten einde verdere regstappe en moontlike uitgawes te vermy;
  - (ii) Hierdie aangeleentheid in die aantekeninge tot die 2012/2013 Finansiële Jaarstate openbaar gemaak is;
- (b) Die vrugtelose en verkwiste besteding ten bedrae van R37,500.00 deur die Raad as onverhaalbaar gesertifiseer word;
- (c) Die bedrag van R37,500.00 afgeskryf word; en
- (d) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): 25 OKTOBER 2013: ITEM MKOOR.6.4**

**BESLUIT:**

Dat by die Raad aanbeveel word dat-

- (a) Kennis geneem word dat:
  - (i) Die diensverskaffer 'n bedrag van R37,500.00 betaal is ten einde verdere regstappe en moontlike uitgawes te vermy;
  - (ii) Hierdie aangeleentheid in die aantekeninge tot die 2012/2013 Finansiële Jaarstate openbaar gemaak is;
- (b) Die vrugtelose en verkwiste besteding ten bedrae van R37,500.00 deur die Raad as onverhaalbaar gesertifiseer word;
- (c) Die bedrag van R37,500.00 afgeskryf word;

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS  
COMMITTEE (MPAC): 20 MAY 2013: ITEM MPAC.6.4**

**RESOLVED:**

That it be recommended to Council that-

- (a) Cognisance be taken that:
  - (i) The service provider has been paid an amount of R37,500.00 in order to avoid further legal action and possible expenditure;
  - (ii) This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements.
- (b) The fruitless and wasteful expenditure to the amount of R37,500.00 be certified by Council as irrecoverable;
- (c) The amount of R37,500.00 be written-off;
- (d) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (e) Preventative measures be implemented in order to restrict future awards to non-performing service providers.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1.4**

**RESOLVED: That -**

- (a) Cognisance be taken that -
  - (i) The service provider has been paid an amount of R37,500.00 in order to avoid further legal action and possible expenditure;
  - (ii) This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements.
- (b) The fruitless and wasteful expenditure to the amount of R37,500.00 be certified by Council as irrecoverable;
- (c) The amount of R37,500.00 be written-off;
- (d) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (e) Preventative measures be implemented in order to restrict future awards to non-performing service providers.

- (d) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word;
- (e) Voorkomende maatreëls geïmplementeer moet word ten einde toekomstige toekennings aan diensverskaffers wat nie presteer nie, te beperk.

#### **RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1.4**

**BESLUIT:** Dat –

- (a) Kennis geneem word dat –
  - (i) Die diensverskaffer 'n bedrag van R37,500.00 betaal is ten einde verdere regstappe en moontlike uitgawes te vermy;
  - (ii) Hierdie aangeleentheid in die aantekeninge tot die 2012/2013 Finansiële Jaarstate openbaar gemaak is;
- (b) Die vrugtelose en verkwiste besteding ten bedrae van R37,500.00 deur die Raad as onverhaalbaar gesertifiseer word;
- (c) Die bedrag van R37,500.00 afgeskryf word;
- (d) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word;
- (e) Voorkomende maatreëls geïmplementeer moet word ten einde toekomstige toekennings aan diensverskaffers wat nie presteer nie, te beperk.

**R.14.1.5 (MKOOR.6.5) MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): BUSINESS ENGINEERING (PTY) LTD**  
**(3/2/5/17)**

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#### **DOEL VAN VOORLEGGING**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR) kennis neem van die insident rakende Business Engineering (Pty) Ltd wat gelei het tot nienakoming van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit en aanbevelings in hierdie verband aan die Raad maak.

#### **AGTERGROND**

'n Insident het plaasgevind wat tot die verlies van data in die Collaborator Elektroniese Dokumentinligtingsprogram gelei het. Dit het ernstige

C.14.1.5 (MPAC.6.5) MUNICIPAL PUBLIC ACCOUNTS COMMITTEE  
(MPAC): BUSINESS ENGINEERING (PTY) LTD (3/2/5/17)

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### **PURPOSE OF SUBMISSION**

That the Municipal Public Accounts Committee (MPAC) takes cognisance of the incident pertaining to Business Engineering (Pty) Ltd that resulted in non-compliance with the Cape Winelands District Municipality Municipal Supply Chain Policy and make recommendations to Council.

### **BACKGROUND**

An incident occurred resulting in the loss of data in the Collaborator Electronic Document Information programme. This caused high anxiety because the programme contained all the electronic data of the administration's official filing system. The service provider was subsequently called in to recover the data. Because it was not a system error the service provider supplied the District Municipality with a quotation to perform the work.

### **COMMENT**

Only the service provider is authorised to perform changes to the system and therefore no open quotation process needed to be followed. However, before any work can be performed the relevant department must obtain an estimate from the service provider indicating the cost involved. A requisition has to be completed by the department and submitted to the Division: Supply Chain Management and Procurement where an official order will be issued.

Although proper management of the relevant document system is the responsibility of Administrative Support Services, the request was received from and financed by Information and Communication Technology, which constitutes unauthorised expenditure.

### **Incident and Findings**

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When the documentation (Annexure "A"), which seems to be above board, was submitted to the Division: Supply Chain Management and Procurement to obtain an order, it was evident that the work was already performed.

1. The service provider's quotation is dated 22 November 2011.
2. The requisition from the Division: Information and Communication Technology is dated 06 December 2011.
3. Although the requisition was in the possession of the Division: Supply Chain Management and Procurement on 07 December 2011, the official order was only issued on 20 December 2011. (Reason for

kommer gewek, aangesien die program al die elektroniese data van die administrasie se amptelike liasseerstelsel bevat. Die diensverskaffer is vervolgens ingeroep om die data te herwin. Aangesien dit nie 'n stelselfout was nie, het die diensverskaffer 'n kwotasie vir die uitvoer van die werk aan die Distriksmunisipaliteit voorsien.

### **KOMMENTAAR**

Slegs die diensverskaffer is gemagtig om veranderinge aan die stelsel aan te bring en dus was dit nie nodig om 'n oop-kwotasieproses te volg nie. Voordat enige werk egter uitgevoer kan word, moet die toepaslike departement 'n skatting van die betrokke koste van die diensverskaffer bekom. 'n Rekwisie moet deur die departement voltooi en by die Afdeling: Voorsieningskanaalbestuur en Verkryging ingedien word, waar 'n amptelike bestelling uitgereik sal word.

Alhoewel die behoorlike bestuur van die betrokke dokumentstelsel die verantwoordelikheid van Administratiewe Ondersteuningsdienste is, is die versoek vanaf Inligting- en Kommunikasietegnologie ontvang en gefinansier, wat 'n ongemagtigde uitgawe daarstel.

### **Insident en bevindings**

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Toe die dokumentasie (Bylae "A"), wat in orde blyk te wees, by die Afdeling: Voorsieningskanaalbestuur en Verkryging ingedien is om 'n bestelling te bekom, was dit duidelik dat die werk reeds uitgevoer is.

1. Die diensverskaffer se kwotasie is 22 November 2011 gedateer.
2. Die rekwisie van die Afdeling: Inligting- en Kommunikasietegnologie is 6 Desember 2011 gedateer.
3. Alhoewel die rekwisie op 7 Desember 2011 in besit van die Afdeling: Voorsieningskanaalbestuur en Verkryging was, is die amptelike bestelling eers op 20 Desember 2011 uitgereik. (Die rede vir die oponthoud was oor 'n ondersoek na die vermoede dat die werk reeds uitgevoer is.)
4. Die diensverskaffer se faktuur is 13 Desember 2011 gedateer, wat een week voor die datum van die bestelling is.

### **KOMMENTAAR VAN DIE BETROKKE DIREKTORAAT: STRATEGIESE ONDERSTEUNINGSDIENSTE**

Business Engineering (Pty) Ltd is in kennis gestel van die verlies van data op die Collaborator Elektroniese Dokumentinligting-toepassing deur die vorige Bestuurder: Inligtingstegnologie, Mnr. A.M. Gabier, wat bystand in hierdie verband versoek het.

Die Uitvoerende Direkteur van Business Engineering (Pty) Ltd het bevestig dat, gegewe die erns van die situasie, hy nie met Mnr. A.M. Gabier geraadpleeg het voordat hy 'n opdrag aan hulle kant gegee het om met

delay due to investigation of the suspicion that the work had already been performed.)

4. The service provider's invoice is dated 13 December 2011, this is one week prior to the order date.

#### **COMMENT FROM THE RELEVANT DIRECTORATE: STRATEGIC SUPPORT SERVICES**

Business Engineering (Pty) Ltd was informed of the loss of data on the Collaborator Electronic Document Information application by the former Manager: Information Technology, Mr. A.M. Gabier, who has requested assistance in this regard.

It was confirmed by the Executive Director from Business Engineering (Pty) Ltd that, because of the seriousness of the situation, he did not consult with Mr. A.M. Gabier before he has issued an instruction from their side that the work should be proceeded with to retrieve the information. It was also confirmed that all the data have been recovered.

A quotation, which amounted to R9,348.00 (VAT included), was issued on 22 November 2011. The Executive Director from Business Engineering (Pty) Ltd has instructed his staff to proceed with the retrieval of the data without consulting with the former Manager: Information Technology, Mr. A.M. Gabier. The data was retrieved in totality. However, no requisition was submitted and no official order was issued to the service provider in advance for the required services.

*Comment prepared by: Ms. K. Smit*

#### **COMMENT FROM THE DEPARTMENT: FINANCIAL SERVICES**

In instances where officials and/or councillors who are barred from interfering with the procurement process (section 117 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA)), instruct a service provider to render a service and *no* official order had been issued for that service prior to the instruction, the expenditure is considered to be irregular as per the definition thereof in the section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), i.e.:

***“irregular expenditure”***, in relation to a municipality or municipal entity, means— .... expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a *requirement* of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law.

Requirements in the Cape Winelands District Municipality Municipal Supply Chain Management Policy refer to quotations, requisitions and orders amongst other approved processes.

die werk voort te gaan om die inligting te herwin nie. Dit is ook bevestig dat al die data herwin is.

'n Kwotasie ten bedrae van R9,348.00 (BTW ingesluit) is op 22 November 2011 uitgereik. Die Uitvoerende Direkteur van Business Engineering (Pty) Ltd het aan sy personeel opdrag gegee om voort te gaan met die herwinning van die data, sonder om met die vorige Bestuurder: Inligtingstechnologie, Mnr. A.M. Gabier, te raadpleeg. Die data is in sy geheel herwin. Geen rekwisisie is egter ingedien nie en geen amptelike bestelling is vooraf aan die verskaffer vir die diens uitgereik nie.

*Kommentaar opgestel deur: Me. K. Smit*

### KOMMENTAAR VAN DIE DEPARTEMENT: FINANSIËLE DIENSTE

In gevalle waar amptenare en/of raadslede wat verbied word om met die verkrygingsproses in te meng (artikel 117 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA)), aan 'n diensverskaffer opdrag gee om 'n diens te lewer en *geen* amptelike bestelling vir daardie diens uitgereik is voordat die opdrag gegee word nie, word die uitgawe as onreëlmatig beskou volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), naamlik:

**“onreëlmatige uitgawes”** ten opsigte van 'n munisipaliteit of munisipale entiteit, beteken — .... uitgawes aangegaan deur 'n munisipaliteit in stryd met, of wat nie in ooreenstemming is nie met, 'n *vereiste* van die voorsieningskanaalbestuursbeleid van die munisipaliteit of entiteit of enige van die munisipaliteit se verordeninge wat uitvoering gee aan sodanige beleid, en wat nie ingevolge sodanige beleid of verordening gekondoneer is nie.

Vereistes in die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verwys na kwotasies, rekwisisies en bestellings, benewens ander goedgekeurde prosesse.

In ooreenstemming met regulasie 36(1)(b) van die Munisipale Voorsieningskanaalbestuursregulasies, 2005, kan die rekenpligtige beampte slegs mindere oortredings van die verkrygingsproses deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of funksies optree en wat suiwer tegnies van aard is, ratifiseer. Indien geen amptelike bestelling verkry is nie, kan die amptenaar, wat nie in die verkrygingsomgewing in diens is nie en dus geen gedelegeerde bevoegdheid het om enige verkrygingsproses uit te voer nie, dus nie regulasie 36(1)(b) gebruik om die aanstelling van 'n diensverskaffer as 'n mindere oortreding deur die rekenpligtige beampte te laat ratifiseer nie.

Benewens bovermelde, indien 'n amptenaar vir die verlies van data verantwoordelik was, sou dit beteken het dat die munisipaliteit vrugtelose en verkwiste uitgawes aangegaan het wat vermy kon word. Die definisie

In accordance with regulation 36(1)(b) of the Municipal Supply Management Regulations, 2005, the accounting officer can only ratify minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature. Therefore, if no official order had been obtained, the official, who is not employed in the procurement environment and thus has no delegated powers to perform any procurement process, cannot use regulation 36(1)(b) to have the appointment of a service provider ratified as a minor breach by the accounting officer.

In addition to the above, had an official been responsible for the loss of data, it means that the municipality incurred fruitless and wasteful expenditure that could have been avoided. The definition thereof in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), i.e.:

**“fruitless and wasteful expenditure”** means expenditure that was made in vain and would have been avoided had reasonable care been exercised.

Payment, in the amount of R9,348.00, was effected in order to avoid the incurring of further fruitless and wasteful expenditure.

## IMPLICATIONS

### PERSONNEL

The discipline of staff is a statutory power of the Municipal Manager in his capacity as Head of Administration in terms of section 55(1)(g) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), subject to the Disciplinary Procedure and Code Collective Agreement applicable to municipal employees.

However, the official in question has left the service of the Cape Winelands District Municipality (CWDM) on 31 July 2013.

*Comment prepared by: Ms. K. Smit*

### LEGAL

In terms of clause 36(1)(a)(i) and (iv) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes established by the said Policy to procure any required goods or services through any convenient process, which may include direct negotiations, but only **in an emergency** or in any other exceptional case where it is **impractical or impossible** to follow the official procurement processes.

Furthermore, in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may ratify any minor breach of the procurement processes by an

daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), naamlik:

**“vrugtelose en verkwiste besteding”** beteken besteding wat tevergeefs aangegaan is en vermy kon word indien redelike sorg aan die dag gelê is.

Betaling in die bedrag van R9,348.00 is gemaak ten einde te vermy dat verdere vrugtelose en verkwiste uitgawes aangegaan word.

## IMPLIKASIES

### PERSONEEL

Die dissiplinerings van personeel is 'n statutêre bevoegdheid van die Munisipale Bestuurder in sy hoedanigheid as Hoof van Administrasie ingevolge artikel 55(1)(g) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), behoudens die Dissiplinêre Prosedure en Kode Kollektiewe Ooreenkoms van toepassing op munisipale werknemers.

Die betrokke amptenaar het egter op 31 Julie 2013 die diens van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verlaat.

*Kommentaar opgestel deur: Me. K. Smit*

### REGS

Ingevolge klousule 36(1)(a)(i) en (iv) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse wat deur die genoemde Beleid ingestel is om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar **slegs in 'n noodgeval** of in enige ander buitengewone geval waar dit **onprakties of onmoontlik** is om die amptelike verkrygingsprosesse te volg.

Voorts, ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte enige mindere oortreding van die verkrygingsprosesse deur 'n amptenaar wat ingevolge gedelegeerde bevoegdheid of funksies optree en wat suiwer tegniese van aard is, ratifiseer.

Kennis moet ook geneem word van die feit dat, alhoewel die Distriksmunisipaliteit ten tye van die insident geen Diensvlak-ooreenkoms met Business Engineering (Pty) Ltd gehad het nie, hulle die **alleenverskaffer** van die Collaborator Elektroniese Dokument-inligtingstelsel en die enigste maatskappy in die wêreld is wat die spesifieke aangeleentheid kon hanteer.

Ingevolge klousule 36(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygings-

official in terms of delegated powers or duties which are purely of a technical nature.

Note should also be taken of the fact that although the District Municipality had no Service Level Agreement with Business Engineering (Pty) Ltd at the time of the incident, they are the **sole supplier** of the Collaborator Foundation System and the only company in the world who were able to address the specific matter.

In terms of clause 36(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement process and procure goods or services from a sole supplier and the reasons for the deviation from inviting competitive bids must be recorded and approved by the accounting officer.

Although this incident constitutes a deviation from the Cape Winelands District Municipality Municipal Supply Chain Management Policy and constitutes irregular expenditure as per the definition thereof in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), cognisance must be taken of the fact that the Executive Director from Business Engineering (Pty) Ltd had acknowledged in writing that he had instructed his staff to proceed with the retrieval of the data as a matter of extreme urgency **without consulting** the former Manager: Information Technology, Mr. A.M. Gabier, and due to this action Mr. A.M. Gabier could not follow the procurement process as contained in the Cape Winelands Municipal Supply Chain Management Policy as he had **no knowledge** of the instruction.

The Executive Director from Business Engineering (Pty) Ltd also advised that his actions were guided by sound management principles and to serve the best interest of the Cape Winelands District Municipality (CWDM) as the District Municipality was on the verge to lose all the electronic data of the administration's official filing system.

After the data was recovered and the system's functionality restored and tested an invoice was processed for payment, based on standard time and material rates.

In view of the aforementioned section 32(1)(c) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) is not applicable as the irregular expenditure was not made deliberately or negligently by an official.

Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA), the expenditure was not in vain and value for money was received by the District Municipality

*Comment prepared by: Ms. W.M. Neethling*

prosesse en goedere of dienste van 'n alleenverskaffer verkry en die redes waarom daar afgewyk word van die uitnoodiging van mededingende bieder, moet deur die rekenpligtige beampte opgeteken en goedgekeur word.

Alhoewel hierdie insident 'n afwyking van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit uitmaak en onreëlmatige uitgawes volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) uitmaak, moet kennis geneem word van die feit dat die Uitvoerende Direkteur van Business Engineering (Pty) Ltd skriftelik erken het dat hy vir sy personeel opdrag gegee het om as 'n saak van uiterste dringendheid voort te gaan met die herwinning van die data, **sonder** dat hy die vorige Bestuurder: Inligtingstechnologie, Mnr. A.M. Gabier **geraadpleeg** het en as gevolg van hierdie optrede kon Mnr. A.M. Gabier nie die verkrygingsproses soos vervat in die Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit volg nie, aangesien hy **geen kennis** van die opdrag gedra het nie.

Die Uitvoerende Direkteur van Business Engineering (Pty) Ltd het ook te kenne gegee dat sy optrede deur grondige bestuursbeginsels gelei is en in die beste belang van die Kaapse Wynland Distriksmunisipaliteit was, aangesien die Distriksmunisipaliteit op die punt gestaan het om al die elektroniese data van die administrasie se amptelike liasseerstelsel te verloor.

Nadat die data herwin en die stelsel se funksionaliteit herstel en getoets is, is 'n faktuur vir betaling opgestel, gegrond op standaard tyd- en materiaal-tariewe.

In die lig van voorgenoemde, is artikel 32(1)(c) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) nie van toepassing nie, aangesien die onreëlmatige uitgawe nie opsetlik of nalatig deur 'n amptenaar aangegaan is nie.

Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang.

*Kommentaar opgestel deur: Me. W.M. Neethling*

## **FINANSIEEL**

Die diensverskaffer het die diens volgens opdrag en te goeder trou gelewer. Die koste wat aangegaan is, was tot voordeel van die Raad se sake-bedrywighede.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

## **FINANCIAL**

The service provider rendered the service as per instruction and in good faith. The cost incurred, was to the benefit of the District Municipality's business operations.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## **RECOMMENDATION: That -**

The Municipal Public Accounts Committee (MPAC), after investigation in terms of section 32 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), considers to recommend to Council that -

(a) Cognisance be taken that:

- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
- (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
- (iii) In accordance with the provisions of clause 36(2) Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included this matter in the notes to the 2012/2013 Annual Financial Statements;
- (iv) In terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes to procure any required goods or services through any convenient process, which may include direct negotiations, but only in an emergency;
- (v) In terms of clause 36(1)(a)(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes to procure any required goods or services through any convenient process, which may include direct negotiations, but only in the case of a sole supplier;
- (vi) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;

**AANBEVELING:** Dat –

Die Munisipale Komitee oor Openbare Rekeninge (MKOOR), na 'n ondersoek kragtens artikel 32 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), oorweging daaraan skenk om by die Raad aan te beveel dat –

(a) Kennis geneem word dat:

- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
- (ii) In ooreenstemming met die bepalinge van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
- (iii) In ooreenstemming met die bepalinge van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
- (iv) Ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar slegs in 'n noodgeval;
- (v) Ingevolge klousule 36(1)(a)(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar slegs in die geval van 'n alleenverskaffer;
- (vi) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;

- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC): 20 MAY 2013: ITEM MPAC.6.5**

**RESOLVED:**

That it be recommended to Council that-

- (a) Cognisance be taken that:
- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
  - (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
  - (iii) In accordance with the provisions of clause 36(2) Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included this matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) In terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes to procure any required goods or services through any convenient process, which may include direct negotiations, but only in an emergency;
  - (v) In terms of clause 36(1)(a)(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes to procure any required goods or services through any convenient process, which may include direct negotiations, but only in the case of a sole supplier;
  - (vi) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE  
REKENINGE (MKOOR): 25 OKTOBER 2013: ITEM MKOOR.6.5**

**BESLUIT:**

Dat by die Raad aanbeveel word dat-

(a) Kennis geneem word dat:

- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
- (ii) In ooreenstemming met die bepalinge van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
- (iii) In ooreenstemming met die bepalinge van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
- (iv) Ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar slegs in 'n noodgeval;
- (v) Ingevolge klousule 36(1)(a)(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar slegs in die geval van 'n alleenverskaffer;
- (vi) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;

(b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1.5**

**RESOLVED:** That -

(a) Cognisance be taken that -

- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
- (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
- (iii) In accordance with the provisions of clause 36(2) Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included this matter in the notes to the 2012/2013 Annual Financial Statements;
- (iv) In terms of clause 36(1)(a)(i) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes to procure any required goods or services through any convenient process, which may include direct negotiations, but only in an emergency;
- (v) In terms of clause 36(1)(a)(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes to procure any required goods or services through any convenient process, which may include direct negotiations, but only in the case of a sole supplier;
- (vi) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;

(b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1.5**

**BESLUIT:** Dat –

(a) Kennis geneem word dat –

- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
  - (ii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
  - (iii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Ingevolge klousule 36(1)(a)(i) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die rekenpligtige beampte afstand kan doen van die amptelike verkrygingsprosesse om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar slegs in 'n noodgeval;
  - (v) Ingevolge klousule 36(1)(a)(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die rekenpligtige beampte kan afstand doen van die amptelike verkrygingsprosesse om enige vereiste goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings kan insluit, maar slegs in die geval van 'n alleenverskaffer;
  - (vi) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

C.14.1.6

**(MPAC.6.6) MUNICIPAL PUBLIC ACCOUNTS COMMITTEE  
(MPAC): FIRST TECHNOLOGY (PTY) LTD (3/2/5/17)**

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**PURPOSE OF SUBMISSION**

That the Municipal Public Accounts Committee (MPAC) takes cognisance of the incident pertaining to First Technology (Pty) Ltd that resulted in non-compliance with the Cape Winelands District Municipality Municipal Supply Chain Policy and make recommendations to Council.

**BACKGROUND**

The service provider was sourced to perform software implementation work of a very technical nature on the District Municipality's information technology hardware.

A quotation was obtained from the said provider who is an intermediary between the District Municipality and Microsoft Ireland Operations Limited, the sole supplier of the software product. However, the relevant official neglected to obtain an official order prior to the instruction for the service to be performed.

**COMMENT FROM THE DIRECTORATE: STRATEGIC SUPPORT SERVICES**

The former Manager: Information Technology, Mr. A.M. Gabier, requested assistance for the installation and configuration of the Microsoft Forefront anti-virus program at the Cape Winelands District Municipality (CWDM) Information and Communication Technology (ICT) office in Stellenbosch from First Technology (Pty) Ltd, the intermediary between the District Municipality and Microsoft Ireland Operations Limited on 9 April 2013.

A quotation, which amounted to R75,240.00 (VAT included) was received on 15 April 2013. The service provider was instructed by the former Manager: Information Technology, Mr. A.M. Gabier, to commence with the aforementioned installation on 20 May 2013. The service was subsequently rendered in totality and was concluded on 30 May 2013. However, no requisition was submitted and no official order was issued to the service provider in advance for the required services.

The anti-virus program that was installed forms part of an Enterprise Agreement with Microsoft Ireland Operations Limited that was entered into by the Cape Winelands District Municipality (CWDM) during December 2012. For this reason, other service providers could not be considered.

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Payment was effected on 22 August 2013 in accordance with the invoice received and attached hereto as Annexure "A".

R.14.1.6

**(MKOOR.6.6) MUNISIPALE KOMITEE OOR OPENBARE  
REKENINGE (MKOOR): FIRST TECHNOLOGY (PTY) LTD (3/2/5/17)**

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**DOEL VAN VOORLEGGING**

Dat die Munisipale Komitee oor Openbare Rekeninge (MKOOR) kennis neem van die insident rakende First Technology (Pty) Ltd wat gelei het tot nienakoming van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit en aanbevelings in hierdie verband aan die Raad maak.

**AGTERGROND**

Die diensverskaffer is aangestel om sagteware-implementeringswerk van 'n hoogs tegniese aard op die Distriksmunisipaliteit se inligtingstegnologie-hardeware uit te voer.

'n Kwotasie is ontvang vanaf die genoemde verskaffer, wat 'n tussenganger is tussen die Distriksmunisipaliteit en Microsoft Ireland Operations Limited, die alleenverskaffer van die sagtewareproduk. Die betrokke amptenaar het egter versuim om 'n amptelike bestelling te bekom voordat die opdrag gegee is om die diens te verrig.

**KOMMENTAAR VAN DIE DIREKTORAAT: STRATEGIESE  
ONDERSTEUNINGSDIENSTE**

Die vorige Bestuurder: Inligtingstegnologie, Mnr. A.M. Gabier, het op 9 April 2013 bystand versoek van First Technology (Pty) Ltd, die tussenganger tussen die Distriksmunisipaliteit en Microsoft Ireland Operations Limited, vir die installering en samestelling van die Microsoft Forefront anti-virusprogram by die Kaapse Wynland Distriksmunisipaliteit (KWDM) se Inligting- en Kommunikasietegnologieskantoor (IKT) in Stellenbosch.

'n Kwotasie ten bedrae van R75,240.00 (BTW ingesluit) is op 15 April 2013 ontvang. Die diensverskaffer is deur die vorige Bestuurder: Inligtingstegnologie, Mnr. A.M. Gabier, opdrag gegee om op 20 Mei 2013 met voormelde installering te begin. Die diens is vervolgens in sy geheel gelewer en is op 30 Mei 2013 afgehandel. Geen rekwisisie is egter ingedien nie en geen amptelike bestelling is vooraf aan die verskaffer vir die diens uitgereik nie.

Die anti-virusprogram wat geïnstalleer is, vorm deel van 'n Ondernemings-ooreenkoms met Microsoft Ireland Operations Limited wat gedurende Desember 2012 deur die Kaapse Wynland Distriksmunisipaliteit (KWDM) aangegaan is. Om hierdie rede kon ander diensverskaffers nie oorweeg word nie.

\*\*\*

Betaling het op 22 Augustus 2013 geskied volgens die faktuur wat ontvang is; hierby aangeheg as Bylae "A".

## **COMMENT FROM THE DEPARTMENT: FINANCIAL SERVICES**

In instances where an official instructs a service provider to render a service and no official order had been issued for that service prior to the instruction, the expenditure is not in accordance with the Cape Winelands District Municipality Municipal Supply Chain Management Policy (standard operating procedures). Requirements in the said Policy refer to quotations, requisitions and orders amongst other approved processes.

The expenditure is considered to be irregular as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) –

*“Irregular expenditure, in relation to a municipality or municipal entity, means— .... expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality, and which has not been condoned in terms of such policy.”*

In accordance with clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may only ratify minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

This matter was disclosed in the notes to the 2012/2013 Annual Financial Statements.

## **IMPLICATIONS**

### **PERSONNEL**

The discipline of staff is a statutory power of the Municipal Manager in his capacity as Head of Administration in terms of section 55(1)(g) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), subject to the Disciplinary Procedure and Code Collective Agreement applicable to municipal employees.

However, the official in question has left the service of the Cape Winelands District Municipality (CWDM) on 31 July 2013.

*Comment prepared by: Ms. K. Smit*

### **LEGAL**

Based on the facts of the incident which forms the subject of this report constitutes a deviation from the Cape Winelands District Municipality Municipal Supply Chain Management Policy.

The nature of the incident constitutes irregular expenditure as per the definition thereof in section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

## KOMMENTAAR VAN DIE DEPARTEMENT: FINANSIËLE DIENSTE

In gevalle waar 'n amptenaar aan 'n diensverskaffer opdrag gee om 'n diens te lewer en geen amptelike bestelling word vir daardie diens uitgereik voordat die opdrag gegee word nie, is die uitgawe nie in ooreenstemming met die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit (standaard bedryfs-prosedures) nie. Vereistes in die genoemde Beleid verwys na kwotasies, rekwisities en bestellings, benewens ander goedgekeurde prosesse.

Die uitgawe word beskou as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) –

*“Onreëlmatige uitgawes ten opsigte van 'n munisipaliteit of munisipale entiteit, beteken — .... uitgawes aangegaan deur 'n munisipaliteit in stryd met, of wat nie in ooreenstemming is nie met, 'n vereiste van die voorsieningskanaalbestuursbeleid van die munisipaliteit en wat nie ingevolge sodanige beleid gekondoneer is nie.”*

In ooreenstemming met klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte slegs mindere oortredings van die verkrygingsproses deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of funksies optree en wat suiwer tegniese van aard is, ratifiseer.

Hierdie aangeleentheid is in die aantekeninge tot die 2012/2013 Finansiële Jaarstate openbaar gemaak.

## IMPLIKASIES

### PERSONEEL

Die dissiplinerings van personeel is 'n statutêre bevoegdheid van die Munisipale Bestuurder in sy hoedanigheid as Hoof van Administrasie ingevolge artikel 55(1)(g) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), behoudens die Dissiplinêre Prosedure en Kode Kollektiewe Ooreenkoms van toepassing op munisipale werknemers.

Die betrokke amptenaar het egter op 31 Julie 2013 die diens van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verlaat.

*Kommentaar opgestel deur: Me. K. Smit*

## REGS

Gegronde op die feite, maak die insident wat die onderwerp van hierdie verslag vorm, 'n afwyking van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit uit.

The Accounting Officer may ratify a minor breach of the procurement process provided for by clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, if that breach is by an official or committee acting in terms of delegated powers or duties and where it is purely of a technical nature, such as the non-obtaining of an order as happened in this case.

In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer must record the reasons for deviation to the next Council meeting. The same clause also requires that the reasons for deviation must be included as a note to the annual financial statements.

Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA), the expenditure was not in vain and value for money was received by the District Municipality.

*Comment prepared by: Ms. W.M. Neethling*

## **FINANCIAL**

The service provider rendered the service as per instruction and in good faith. The cost incurred, was to the benefit of the District Municipality's business operations.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## **RECOMMENDATION: That -**

The Municipal Public Accounts Committee (MPAC), after investigation in terms of section 32 of the the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), considers to recommend to Council that -

(a) Cognisance be taken that:

- (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
- (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
- (iii) In accordance with the provisions of clause 36(2), of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included this matter in the notes to the 2012/2013 Annual Financial Statements;

Die aard van die insident maak 'n onreëlmatige uitgawe volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) uit.

Die Rekenpligtige Beampte kan ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit 'n mindere oortreding van die verkrygingsproses ratifiseer indien daardie oortreding begaan is deur 'n amptenaar of komitee wat ingevolge gedelegeerde bevoegdheid of pligte optree en waar dit suiwer tegnies van aard is, soos byvoorbeeld in hierdie geval waar 'n bestelnommer nie bekom is nie.

In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, moet die rekenpligtige beampte die redes vir die afwyking aan die volgende Raadsvergadering voorlê. Dieselfde regulasie bepaal ook dat die redes vir afwyking as 'n aantekening by die finansiële jaarstate ingesluit moet word.

Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang.

*Kommentaar opgestel deur: Me. W.M. Neethling*

## **FINANSIEEL**

Die diensverskaffer het die diens volgens opdrag en te goeder trou gelewer. Die koste wat aangegaan is, was tot voordeel van die Raad se sakebedrywighede.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

## **AANBEVELING:           Dat –**

Die Munisipale Komitee oor Openbare Rekeninge (MKOOR), na 'n ondersoek kragtens artikel 32 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), oorweging daaraan skenk om by die Raad aan te beveel dat –

(a) Kennis geneem word dat:

- (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
- (ii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige

- (iv) In terms of clause 36(1)(a)(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only if such goods or services are produced or available from a single provider only;
- (v) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**RECOMMENDATION BY MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC): 20 MAY 2013: ITEM MPAC.6.6**

**RESOLVED:**

That it be recommended to Council that-

- (a) Cognisance be taken that -
  - (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
  - (ii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
  - (iii) In accordance with the provisions of clause 36(2), of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included this matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) In terms of clause 36(1)(a)(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only if such goods or services are produced or available from a single provider only;

Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;

- (iii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Ingevolge klousule 36(1)(a)(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse wat deur die beleid ingestel is en enige vereiste goedere of dienste deur middel van enige gerieflike proses verkry, wat regstreekse onderhandelings kan insluit, maar slegs indien daardie goedere of dienste deur 'n enkele diensverskaffer geproduseer word of verkrygbaar is;
  - (v) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

**AANBEVELING DEUR MUNISIPALE KOMITEE OOR OPENBARE REKENINGE (MKOOR): 25 OKTOBER 2013: ITEM MKOOR.6.6**

**BESLUIT:**

Dat by die Raad aanbeveel word dat-

- (a) Kennis geneem word dat:
  - (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratifiseer het;
  - (ii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
  - (iii) In ooreenstemming met die bepalings van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige

- (v) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.1.6**

**RESOLVED:** That -

- (a) Cognisance be taken that -
  - (i) The Accounting Officer has ratified the breach of the procurement process in terms of clause 36(1)(b) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy;
  - (iii) In accordance with the provisions of clause 36(2) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer recorded the reasons for deviation to a Council meeting;
  - (iii) In accordance with the provisions of clause 36(2), of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the Accounting Officer included this matter in the notes to the 2012/2013 Annual Financial Statements;
  - (iv) In terms of clause 36(1)(a)(ii) of the Cape Winelands District Municipality Municipal Supply Chain Management Policy, the accounting officer may dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only if such goods or services are produced or available from a single provider only;
  - (v) Although the expenditure is regarded as irregular, as per the definition in terms of section 1 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) the expenditure was not in vain and value for money was received by the District Municipality;
- (b) The matter be dealt with in accordance with section 32(4) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA).

Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;

- (iv) Ingevolge klousule 36(1)(a)(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, kan die rekenpligtige beampte afstand doen van die amptelike verkrygingsprosesse wat deur die beleid ingestel is en enige vereiste goedere of dienste deur middel van enige gerieflike proses verkry, wat regstreekse onderhandelings kan insluit, maar slegs indien daardie goedere of dienste deur 'n enkele diensverskaffer geproduseer word of verkrygbaar is;
- (v) Alhoewel die uitgawe beskou word as onreëlmatig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang;
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

#### **RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.1.6**

**BESLUIT:** Dat –

- (a) Kennis geneem word dat –
  - (i) Die Rekenpligtige Beampte die oortreding van die verkrygingsproses ingevolge klousule 36(1)(b) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit geratificeer het;
  - (ii) In ooreenstemming met die bepalinge van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte die redes vir die afwyking by 'n Raadsvergadering voorgelê het;
  - (iii) In ooreenstemming met die bepalinge van klousule 36(2) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die Rekenpligtige Beampte hierdie aangeleentheid by die aantekeninge tot die 2012/2013 Finansiële Jaarstate ingesluit het;
  - (iv) Ingevolge klousule 36(1)(a)(ii) van die Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit, die rekenpligtige beampte afstand kan doen van die amptelike verkrygingsprosesse wat deur die beleid ingestel is en enige vereiste goedere of dienste deur middel van enige gerieflike proses verkry, wat regstreekse onderhandelings kan

**C.14.2 STRATEGIC ALIGNMENT OF FIRE FIGHTING SERVICES IN THE CAPE WINELANDS DISTRICT MUNICIPALITY (CWDM) (17/5/B)**

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**PURPOSE OF SUBMISSION**

That Council take cognisance of the existing standard of service delivery and coordination of fire fighting services in the area of the Cape Winelands District Municipality (CWDM) and consider to approve the proposals on future improvement of service delivery and alignment of Fire Fighting Services.

**BACKGROUND**

**STATUTORY FUNCTIONS OF THE CWDM FIRE FIGHTING SERVICES**

The CWDM is delivering Fire Fighting Services in terms of Section 84(1)(j) of the Municipal Structures Act, 1998 (Act No. 117 of 1998). These functions are:

***Planning, Coordination and Regulation of District Fire Fighting Services***

This function includes, *inter alia*, the following tasks and activities –

- The establishment and dynamic management of a District Fire Service Department
- The development of fire fighting services operational standards using SANS 10090 as a basis
- The development of by-laws
- The development of standard operational procedures for fire fighting services
- The development of data collection, data analysis, risk analysis and reporting systems and procedures
- The standardization of infrastructure, vehicles, equipment and procedures
- The determination of service delivery standards including response times and weight of response (response units and manning levels)
- The structuring and day-to-day management and supervision of the operational division of the fire fighting services in terms of the specialised functions
- The establishment of the numbers and types of vehicles, machinery, equipment and materials required
- The establishment of service delivery points (fire fighting stations), networks and communications infrastructure
- Liaison functions and the facilitation of assistance from external service providers
- The establishment of Mutual Aid agreements

***Specialised Fire Fighting Services***

The District is responsible for operational fire fighting services such as:

- Mountain,

insluit, maar slegs indien daardie goedere of dienste deur 'n enkele diensverskaffer geproduseer word of verkrygbaar is;

- (v) Alhoewel die uitgawe beskou word as onreëlmstig volgens die definisie daarvan in artikel 1 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), was die uitgawe nie tevergeefs nie en waarde vir geld is deur die Distriksmunisipaliteit ontvang.
- (b) Die saak in ooreenstemming met artikel 32(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) hanteer word.

#### **R.14.2 STRATEGIESE AANPASSING VAN BRANDBESTRYDINGSDIENSTE IN DIE KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT (KWDM) (17/5/B)**

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##### **DOEL VAN VOORLEGGING**

Dat die Raad kennis neem van die bestaande standaard van dienslewering en koördinerings van brandbestrydingsdienste in die gebied van die Kaapse Wynland Distriksmunisipaliteit (KWDM) en oorweging daaraan skenk om die voorstelle vir toekomstige verbetering van dienslewering en aanpassing van brandbestrydingsdienste goed te keur.

##### **AGTERGROND**

##### **STATUTÊRE FUNKSIES VAN DIE KWDM BRANDWEERDIENSTE**

Die KWDM lewer brandweerdienste ingevolge artikel 84(1)(j) van die Wet op Munisipale Strukture, 1998 (Wet No. 117 van 1998). Hierdie funksies is:

##### ***Beplanning, koördinerings en regulering van Distrik Brandbestrydingsdienste***

Hierdie funksie sluit, onder andere, die volgende take en aktiwiteite in –

- Die vestiging en dinamiese bestuur van 'n Distrik Brandweerdepartement
- Die ontwikkeling van brandbestrydingsdienste- operasionele standaarde deur SANS 10090 as 'n grondslag te gebruik
- Die ontwikkeling van verordeninge
- Die ontwikkeling van standaard operasionele prosedures vir brandbestrydingsdienste
- Die ontwikkeling van stelsels en prosedures vir data-insameling, data-ontleding, risiko-ontleding en verslagdoening
- Die standaardisering van infrastruktuur, voertuie, toerusting en prosedures
- Die bepaling van diensleweringstandaarde, insluitend reaksietye en gewig van reaksie (reaksie-eenhede en bemanningsvlakke)
- Die strukturering en daaglikse bestuur en toesig van die operasionele afdeling van brandbestrydingsdienste met betrekking tot die gespesialiseerde funksies

- Veld ; and
- Chemical Fire Fighting Services

### ***Training of Fire Fighting Officers***

This function includes, inter alia, the following activities and tasks –

- The structuring of the training division of the fire fighting service
- The development and application of a training policy and training standards
- The development of personnel training policy relevant to training staff and members of the service
- Performance evaluation of members in terms of knowledge, skills and abilities
- The development of a training prospectus and the scheduling of training
- The development and management of administrative procedures and record keeping for training
- Liaison functions and the facilitation of training with external service providers
- The determination of material requirements for training and the establishment and equipping of training facilities in terms of vehicles, machinery, equipment and materials

### ***Other functions required to be performed by the CWDM Fire Services***

To give effect to the statutory functions listed above, the department is required to perform the following enabling support functions and activities.

Control Centre Operations and Administration including-

- Call-taking and emergency dispatch of operational units to emergencies;
- Radio communications;
- Logistical control and coordination during emergencies;
- Updating and maintenance of control centre systems, processes and procedures;
- The maintenance of fire fighting services communications, information technology and emergency databases; and
- Record keeping including an occurrence book for radio communications and operations.

Management and Administration-

- Community fire safety awareness and education
- Administration, liaison and facilitation for the coordination, regulation and standardization of fire fighting services in the district
- Organization and regulation of Fire Protection Associations
- Public relations (demonstrations and exhibitions)

- Die bepaling van die aantal en tipes voertuie, masjinerie, toerusting en materiaal wat benodig word
- Die vestiging van diensleweringspunte (brandweerstasies), netwerke en kommunikasie-infrastruktuur
- Skakelfunksies en die fasilitering van die bystand van eksterne diensverskaffers
- Die vestiging van onderlinge hulpoooreenkomste.

### ***Gespesialiseerde brandbestrydingsdienste***

Die distrik is verantwoordelik vir operasionele brandbestrydingsdienste soos:

- Berg-;
- Veld-; en
- Chemiese Brandbestrydingsdienste

### ***Opleiding van Brandbestrydingsbeampies***

Hierdie funksie sluit, onder andere, die volgende aktiwiteite en take in –

- Die strukturering van die opleidingsafdeling van die brandbestrydingsdiens
- Die ontwikkeling en toepassing van 'n opleidingsbeleid en opleidingstandaarde
- Die ontwikkeling van 'n beleid oor personeelopleiding van toepassing op die opleiding van werknemers en lede van die diens
- Prestasie-evaluering van lede ten opsigte van kennis, vaardighede en vermoëns
- Die ontwikkeling van 'n opleidingsprospektus en skedulering van opleiding
- Die ontwikkeling en bestuur van administratiewe prosedures en rekordhouding vir opleiding
- Skakelfunksies en die fasilitering van opleiding by eksterne diensverskaffers
- Die bepaling van materiaalvereistes vir opleiding en die vestiging en toerusting van opleidingsfasiliteite ten opsigte van voertuie, masjinerie, toerusting en materiaal.

### ***Ander funksies wat deur die KWDM Brandweerdienste uitgevoer moet word***

Om uitvoering te gee aan die statutêre funksies wat hierbo gelys is, word daar van die departement verwag om die volgende bemaagtigende ondersteuningsfunksies en aktiwiteite uit te voer.

Bedryf van die Beheersentrum en Administrasie, insluitend –

- Ontvangs van oproepe en noodversending van operasionele eenhede na noodgevalle;
- Radiokommunikasie;
- Logistieke beheer en koördinerings tydens noodgevalle;

## **CAPE WINELANDS JOINT FIRE SERVICES COMMITTEE (JFSC)**

The Cape Winelands District Municipality invested in the planning of fire fighting services in the whole of the district municipality since the inception of the legislation which endowed the CWDM with the planning responsibility for fire fighting services.

With the Section 78 investigation in terms of the Municipal Systems Act in 2003 and 2004 the JFSC was established and was given legal foundation in the Cape Winelands Fire Safety by-law. This mechanism is intended to serve as a strategic platform that would serve to harmonize the Fire Services in the District on behalf of the respective Councils.

### **COMMENT**

Since the 1<sup>st</sup> of July 2004 the CWDM Fire Services rendered only part of the operational fire fighting functions as stipulated in the Fire Brigade Services Act. The division of functions between the fire services negatively affect the equitable service delivery to the community of the Cape Winelands District.

The division of functions resulted in a number of serious problems and concerns listed as follows:

- Duplication of expensive specialized equipment and infrastructure
- Duplication and centralization of fire stations in the bigger towns which contradicts the purpose of risk mapping for fire stations in accordance with the national standard.
- Duplication of vehicles and too many vehicles concentrated in one area while the response time to other high risk areas are inadequate.
- Shortage of staff at the CWDM during the summer fire season where the wild lands fire fighting is the sole responsibility of the Cape Winelands Fire Services and our fire service being much busier and operationally active than the other Municipal Services due to functional responsibility.
- The Community are still confused about which authority to call when in need and unnecessary delays are caused when an emergency call must be handed over to another service when reported to the wrong municipality.
- Conflict between officers of different fire services when responding to the same incident due to wrong information provided by the caller.

Personnel are trained in all aspects of fire fighting, fire safety and rescue in accordance of national standards and the Occupational Health and Safety Act, but do not get the opportunity to gain the experience that are imperative for progress in their careers.

### **CAPE WINELANDS FIRE WORKING GROUP**

This working group consisting of members of CWDM, Cape Nature, Cape Pine and Fire Protection associations, all committed to cooperative fire fighting strategies, meet at least four times a year to analyse and identify high risk areas and plan the coordination of all major incidents.

- Opdatering en instandhouding van die stelsels, prosesse en prosedures van die beheersentrum;
- Die handhawing van kommunikasie vir brandbestrydingsdienste, inligtingstechnologie en databasisse van noodgevalle; en
- Rekordhouding, insluitend 'n insidentboek vir radiokommunikasie en operasies.

#### Bestuur en Administrasie –

- Opvoeding en bewusmaking oor brandveiligheid onder gemeenskappe
- Administrasie, skakeling en fasilitering van die koördinerende, regulering en standaardisering van brandbestrydingsdienste in die distrik
- Organiserende en regulering van brandbeskermingsverenigings
- Openbare betrekkinge (demonstrasies en uitstallings).

### **KAAPSE WYNLAND GESAMENTLIKE BRANDWEERDIENSTEKOMITEE (GBDK)**

Die Kaapse Wynland Distriksmunisipaliteit het, sedert die aanvang van wetgewing wat die verantwoordelikheid vir die beplanning van brandbestrydingsdienste aan die KWDM opla, met die beplanning van brandbestrydingsdienste in die hele distriksmunisipaliteit belê.

Met die artikel 78-onderzoek ingevolge die Wet op Munisipale Stelsels in 2003 en 2004, is die GBDK ingestel en is wetlike grondslag in die Kaapse Wynland Verordening op Brandveiligheid gegee. Hierdie meganisme is as 'n strategiese platform ingestel om die brandweerdienste in die distrik namens die onderskeie rade te bedien.

### **KOMMENTAAR**

Die KWDM Brandweerdienste het sedert 1 Julie 2004 slegs 'n gedeelte van die operasionele brandbestrydingsfunksies, soos uiteengesit in die Wet op Brandweerdienste, gelewer. Die verdeling van funksies tussen die brandweerdienste het 'n negatiewe invloed op billike dienslewering aan die gemeenskap van die Kaapse Wynland Distriksmunisipaliteit gehad.

Die verdeling van funksies het tot 'n aantal ernstige probleme en kommer gelei, naamlik:

- Duplisering van duur, gespesialiseerde toerusting en infrastruktuur
- Duplisering en sentralisering van brandweerstasies in die groter dorpe, wat in stryd is met die doel van risiko-kartering vir brandweerstasies ingevolge die nasionale standaard
- Duplisering van voertuie en te veel voertuie wat in een gebied gekonsentreer is, terwyl die reaksietyd na ander hoë-risiko gebiede onvoldoende is
- 'n Tekort aan personeel by die KWDM gedurende die somerbrandseisoen, wanneer brandbestryding van wildernis die uitsluitlike verantwoordelikheid van die Kaapse Wynland Brandweerdienste is en ons

## **MEMORANDUM OF UNDERSTANDING FOR WILDLAND FIRE RISK MANAGEMENT**

The Fire Services of the Cape Winelands District Municipality, Cape Nature and Cape Pine entered into a memorandum of agreement with the objective that the parties agree to co-operate in the optimization of their organizations and resources for systematically and expeditiously manage veld fires within the Cape Winelands District Municipal area.

## **MEMORANDUM OF UNDERSTANDING WITH LOCAL MUNICIPALITIES**

The present status quo and mutual aid agreements entered into between the Council and the Local municipalities need to be revisited to accommodate the circumstances and capabilities of the individual Municipalities.

**Drakenstein** and **Stellenbosch** are professional fire services, well equipped and comply with the requirements of the existing mutual aid agreement and the agreements are regularly implemented to the benefit of all parties.

**Breede Valley** Municipality has limited capacity to assist Cape Winelands during major Wildland Fires (No off-road vehicles) but no serious shortcomings or problems are experienced.

**Langeberg** Municipality's Fire Station is situated in Ashton and it was agreed by both parties that Langeberg Fire Services will be the first response to all types of fires in that region and Cape Winelands will be the first response to all fires in the Robertson region.

Witzenberg Municipality has very little capacity and experience major problems to render an effective service to the community. The Cape Winelands District Municipality (CWDM) is assisting Witzenberg Municipality on a continuous basis. A meeting attended by the Municipal Managers, Portfolio Holders, Councillors and senior management of Witzenberg Municipality and the Cape Winelands District Municipality (CWDM) was held at Ceres on the 17<sup>th</sup> of April 2013. Both parties committed themselves to better co-operation and service delivery in the future and the Municipal Manager of the Winelands District Municipality (CWDM) urged the parties to draw up a new Memorandum of Understanding (MOU).

Witzenberg Municipality requested that the structural fire fighting vehicle which was previously bought by the Cape Winelands District Municipality (CWDM) for the purpose to be used for structural fire fighting in Ceres be transferred to Witzenberg Municipality. The use of the high band radio frequency link to the existing repeaters in the Witzenberg area currently used by the Department: Infrastructure Development Services of the Cape Winelands District Municipality (CWDM) was also requested.

The vehicle CL71456, VIN ADMNR 75RF8G510427, was purchased in 2010.

brandweer baie besiger en operasioneel aktiewer as die ander munisipale dienste as gevolg van funksionele verantwoordelikheid is

- Die gemeenskap is steeds verward oor watter owerheid hulle in gevalle van nood moet skakel en onnodige verdragings word veroorsaak wanneer 'n noodoproep aan 'n ander diens oorhandig moet word nadat die verkeerde munisipaliteit gekontak is
- Konflik tussen beamptes van verskillende brandweerdienste wanneer hulle op dieselfde voorval reageer as gevolg van verkeerde inligting wat deur die oproeper verskaf is.

Personeel is opgelei in alle aspekte van brandbestryding, brandveiligheid en redding ingevolge nasionale standaarde en die Wet op Beroepsgesondheid en -veiligheid, maar kry nie die geleentheid om die ervaring op te doen wat noodsaaklik is vir vordering in hul loopbane nie.

### **KAAPSE WYNLAND BRAND-WERKGROEP**

Hierdie werkgroep, bestaande uit lede van die KWDM, Cape Nature, Cape Pine en brandbeskermingsverenigings, is almal verbind tot samewerkende strategieë oor brandbestryding, vergader minstens vier keer 'n jaar om hoë-risiko gebiede te ontleed en identifiseer en beplan die koördinering van alle groot insidente.

### **MEMORANDUM VAN VERSTANDHOUDING VIR BRANDRISIKOBESTUUR VAN WILDERNIS**

Die Brandweerdienste van die Kaapse Wynland Distriksmunisipaliteit, Cape Nature en Cape Pine het 'n memorandum van ooreenkoms aangegaan met die doel dat die partye ooreenstem om saam te werk aan die optimalisering van hul organisasies en hulpbronne vir die stelselmatige en spoedige bestuur van veldbrande in die gebied van die Kaapse Wynland Distriksmunisipaliteit.

### **MEMORANDUM VAN VERSTANDHOUDING MET PLAASLIKE MUNISIPALITEITE**

Die huidige status quo en onderlinge hulp-ooreenkomste wat tussen die Raad en die plaaslike munisipaliteite aangegaan is, moet hersien word om vir die omstandighede en vermoëns van die individuele munisipaliteite voorsiening te maak.

**Drakenstein** en **Stellenbosch** is professionele brandweerdienste, goed toegerus en voldoen aan die vereistes van die bestaande onderlinge hulp-ooreenkoms en die ooreenkoms word gereeld tot voordeel van alle partye toegepas.

**Brede Vallei** Munisipaliteit het beperkte kapasiteit om die Kaapse Wynland tydens groot wildernisbrande behulpzaam te wees (geen terreinvoertuie nie), maar geen ernstige tekortkominge of probleme word ondervind nie.

**Langeberg** Munisipaliteit se brandweerstasie is in Ashton geleë en daar is deur beide partye ooreengekom dat Langeberg Brandweerdienste die eerste reaksie op alle vorme van brande in daardie streek sal wees en dat die Kaapse Wynland die eerste reaksie op alle brande in die Robertson-streek sal wees.

## **STATUS OF CAPE WINELANDS FIRE SERVICES**

The key operational objectives are:-

- Mitigation of economic and other losses as a result of an incident;
- Prevention of injury, ill health or death of Fire and Rescue Service personnel or other emergency responders attending an incident;
- Prevention of injury, ill health, or death of people in or around an incident and as a results of the hazards posed by the incident;
- Prevention and limitation of damage to the environment, property and infrastructure occurring as a result of an incident.

## **VELD FIRE MANAGEMENT**

It must again be noted that the partnership between Cape Winelands District Municipality (CWDM), Cape Pine and Cape Nature is working well and will result in fires being secured in their incipient stages or the spread and impact of larger fires being reduced.

The Cape Winelands District Municipality (CWDM) through its fire services management have embarked on a proactive approach to managing veld fires, which occur mainly between the months of December and April each year. The aforesaid proactive approach to managing these fires includes the rapid response of helicopters which can be deployed to rapidly respond to fires in the incipient stages and commence an early fire attack with the objective of preventing extended attack operations and major fire spread. This was used with great success during the 2012/2013 summer season.

Please note that fire suppression is only one part of a veld fire management. Fire prevention is the most important component of fire services and combined with this is the safety of all our personnel during the fire fighting operations.

The management of emergencies is a shared responsibility involving many organisations and people in the community. Although some organisations have specialist roles, veld fire management is not something done by one single organisation.

An integrated organisational approach is the only way to ensure timely action to veld fires and provides a mechanism for achieving better outcomes by allowing the Fire Services, Cape nature, FPA's and landowners to effectively work together before, during and after a fire.

Chemical fires or incidents pose a serious risk to life and property and pollution would have major environmental consequences in agricultural and ecologically sensitive environments as are found in the Cape Winelands District.

Adequate fire fighting services will enable the early detection and combatting of mountain, veld and chemical fires, thereby reducing spread, associated destruction and losses in terms of life, property, production and tourism. Potential environmental pollution and degradation may also be mitigated.

**Witzenberg** Munisipaliteit het baie min kapasiteit en ervaar groot probleme met die lewering van 'n doeltreffende diens aan die gemeenskap. Die Kaapse Wynland Distriksmunisipaliteit (KWDM) staan Witzenberg Munisipaliteit op 'n deurlopende basis by. 'n Vergadering wat deur die Munisipale Bestuurders,

Portefeuljehouers, Raadslede en senior bestuur van Witzenberg Munisipaliteit en die Kaapse Wynland Distriksmunisipaliteit (KWDM) bygewoon is, is op 17 April 2013 in Ceres gehou. Beide partye het hulleself tot beter samewerking en dienslewering in die toekoms verbind en die Munisipale Bestuurder van die Kaapse Wynland Distriksmunisipaliteit (KWDM) het 'n beroep op die partye gedoen om 'n nuwe Memorandum van Verstandhouding (MVV) op te stel.

Witzenberg Munisipaliteit het versoek dat die strukturele brandbestrydingsvoertuig wat deur die Kaapse Wynland Distriksmunisipaliteit (KWDM) vir die doel van strukturele brandbestryding in Ceres aangekoop is, aan Witzenberg Munisipaliteit oorgedra word. Die gebruik van die hoë-band radiofrekwensieskakel na die bestaande versterkers in die Witzenberg-gebied, wat tans deur die Departement: Infrastruktuurontwikkelingsdienste van die Wynland Distriksmunisipaliteit (KWDM) gebruik word, is ook versoek.

Die voertuig CL71456, VIN ADMNR 75RF8G510427 is in 2010 aangekoop.

## **STATUS VAN DIE KAAPSE WYNLAND BRANDWEERDIENSTE**

Die belangrikste operasionele doelwitte is:-

- Versagting van ekonomiese en ander verliese as gevolg van 'n insident;
- Voorkoming van beserings, swak gesondheid of die dood van brandweer- en reddingspersoneel of ander persone wat in noodgevalle op 'n insident reageer;
- Voorkoming van beserings, swak gesondheid of die dood van mense in en rondom 'n insident en as gevolg van die gevare wat deur die insident gestel word;
- Voorkoming en beperking van skade aan die omgewing, eiendom en infrastruktuur wat as gevolg van 'n insident voorkom.

## **VELDBRANDBESTUUR**

Let asseblief daarop dat die vennootskap tussen die Kaapse Wynland Distriksmunisipaliteit (KWDM), Cape Pine en Cape Nature goed werk, met die gevolg dat brande in die aanvangstadium beheer word en dat die verspreiding en impak van groter brande verminder word.

Die Kaapse Wynland Distriksmunisipaliteit (KWDM) het deur die bestuur van sy brandweerdienste 'n proaktiewe benadering aangeneem tot die bestuur van veldbrande, wat hoofsaaklik elke jaar tussen Desember en April voorkom. Die genoemde proaktiewe benadering tot die bestuur van hierdie brande behels o.a. die vinnige reaksie van helikopters wat ontplooi kan word om snel op brande in die aanvangstadium te reageer en 'n vroeë aanval op die brande kan loods ten einde uitgebreide operasies en die grootskaalse verspreiding van

## **TRAINING**

It is essential that we ensure that all Cape Winelands District Municipality (CWDM) members are trained and skilled through continuous training, and are uniquely motivated to provide a quality and efficient service.

The Cape Winelands Fire and Rescue Training Academy is fully accredited with the Southern African Emergency Services Institute and the Local Government SETA to conduct the NQF 5 certificate in Fire Safety and a number of short courses. The courses are well attended by members of Municipalities not only in Cape Winelands but in the Province of the Western Cape.

## **PERSONNEL**

The most important asset the Cape Winelands District Municipality (CWDM) has is its staff and it is through our staff that we are able to render a service of an acceptable standard to the community.

The current reality is that the fire service department is serious understaffed. The present organisational structure and resources need to be assessed to determine the priorities in terms of adjusting the present fire fighting capacity to best fit the statutory responsibilities of the Cape Winelands District Municipality (CWDM).

We will continue to focus on infrastructure maintenance, meet continued community demands, utilize existing resources, and plan for growth which will continue to offer opportunities for the expansion of service delivery system. Strategies need to be developed and put in place to ensure change continues and those strategies address the focus areas that are important to the community and the organisation.

One of the major short comings of the Fire Services is the lack of proper Fire Station facilities which have a serious effect on the moral of the personnel.

With the decision of the Executive Mayor regarding the function and the request regarding the report on the alignment of the function, it is recommended that a strategic planning session be arranged to discuss, plan and deliberate all aspects of the Fire Services function, strategic objectives, co-ordination and future alignment of the function and services, fire station facilities and accommodation, the training academy and most importantly the organisational structure.

## **IMPLICATIONS**

### **FINANCIAL**

Complicating the recovery of fire fighting accounts is the determination of the origin of the fire, which in most instances is extremely difficult to determine. The uncertainty in determining the origin leads to liability disputes between Council and land owners. It is unlikely that the municipality will recover a major part of these accounts as these cases would have to be settled in the High Court resulting in further legal costs.

brande te voorkom. Dit is met groot sukses gedurende die 2012/2013 somerseisoen aangewend.

Neem asseblief kennis dat die onderdrukking van brande slegs een deel van veldbrandbestuur uitmaak. Brandvoorkoming is die belangrikste komponent van brandweerdienste, asook die veiligheid van al ons personeel gedurende die brandbestrydingsoperasies.

Die bestuur van noodgevalle is 'n gedeelde verantwoordelikheid waarby baie organisasies en mense in die gemeenskap betrokke is. Alhoewel sommige organisasies deskundige rolle speel, word veldbrandbestuur nie deur 'n enkele organisasie hanteer nie.

'n Geïntegreerde, organisatoriese benadering is die enigste manier om tydige reaksie op veldbrande te verseker en bied 'n meganisme vir die bereiking van beter uitkomst deur toe te laat dat die Brandweerdienste, Cape Nature, brandbeskermingsverenigings en grondeienaars doeltreffend voor, gedurende en na 'n brand saamwerk.

Chemiese brande of voorvalle hou 'n ernstige gevaar vir lewe en eiendom in en besoedeling sal 'n groot impak hê op die omgewing in landbou- en ekologies sensitiewe omgewings, soos in die Kaapse Wynland Distriksmunisipaliteit gevind word.

Voldoende brandbestrydingsdienste sal die vroeë opsporing en bekamping van berg-, veld- en chemiese brande verseker en sodoende die verspreiding, verwante vernietiging en verliese in terme van lewens, eiendom, produksie en toerisme verminder. Potensiële omgewingsbesoedeling en -agteruitgang kan ook verminder word.

## **OPLEIDING**

Dit is noodsaaklik dat ons verseker dat alle lede van die Kaapse Wynland Distriksmunisipaliteit (KWDM) deur middel van deurlopende opleiding vaardighede aanleer en uniek gemotiveer is om 'n kwaliteit- en doeltreffende diens te lewer.

Die Kaapse Wynland Brandweer- en Redding Opleidingsakademie is ten volle by die Suider-Afrikaanse Nooddienste-instituut en die Plaaslike Regering SETA geakkrediteer om die NKR 5-sertifikaat in Brandveiligheid en 'n aantal kort kursusse aan te bied. Die kursusse word goed deur lede van munisipaliteite bygewoon, nie slegs in die Kaapse Wynland nie, maar oor die hele provinsie van die Wes-Kaap.

## **PERSENEEL**

Die belangrikste bate van die Kaapse Wynland Distriksmunisipaliteit (KWDM) is sy personeel en dit is deur ons personeel dat ons in staat is om 'n diens van 'n aanvaarbare standaard aan die gemeenskap te lewer.

Die huidige realiteit is dat die brandweerdepartement ernstig onderbeman is. Die bestaande organisatoriese struktuur en hulpbronne moet geëvalueer word

Actual monies collected are accounted for on a cash basis upon receipt and disclosed in the statement on comprehensive income under service charges.

Adequate financial implications can only be provided upon receipt of comprehensive information regarding the function and the proposed alignment of the function.

The transfer of ownership of the fire fighting vehicle CL 62262, VIN ADMNR75 RF8G510427, bought for the purpose to be used for structural fire fighting in Ceres, to Witzenberg Municipality must be done in accordance with the MFMA and concomitant Municipal Supply Chain Management Regulations, 2005.

To ensure that a disposal is fair, equitable, transparent and competitive and before deciding on the method for disposal, the following need to be considered:

<b>The nature of the asset (i.e. a specialised asset or a common item)</b>	Fire Engine
<b>Its potential market value</b>	R390 994
<b>Other intrinsic value of the asset (i.e. cultural/heritage aspects, etc.)</b>	None
<b>Its location (with respect to its transportation or access)</b>	Ceres fire station (Cape Winelands)
<b>Its volume</b>	2500 l
<b>Its trade-in price</b>	Not Available
<b>Its ability to support wider Government programmes</b>	To support local municipalities with structural fire fighting
<b>Environmental considerations</b>	None
<b>Market conditions</b>	Not tested
<b>The asset's life</b>	12 years
<b>The physical condition of the asset</b>	Good
<b>The reason as to why the assets is up for disposal</b>	The vehicle was initially bought to assist Witzenberg Municipality with structural fire fighting
<b>The most cost effective manner in which the asset should be done away with</b>	In an attempt to avoid incurring auctioneer costs and to ensure market related income, the transfer of the Fire Engine to the Witzenberg Municipality seems to be more cost effective.
<b>Destruction of Asset</b>	Not Applicable
<b>Cannibalising the asset and selling the rest of the asset to the best advantage of the municipality</b>	Cape Winelands focus on veld fires amongst others and not structural fires
<b>Transferring the asset to other possible users/departments or even external institutions</b>	None, only other local municipalities within the Cape Winelands District.

om die prioriteite ten opsigte van die aanpassing van die huidige brandbestrydingskapasiteit te bepaal wat ten beste aan die statutêre verantwoordelikhede van die Kaapse Wynland Distriksmunisipaliteit (KWDM) kan voldoen.

Ons sal voortgaan om te fokus op die instandhouding van infrastruktuur, om aan die volgehoue eise van die gemeenskap te voldoen, bestaande hulpbronne aan te wend en vir uitbreiding te beplan ten einde geleenthede vir die verbetering van dienslewering te ondersoek. Strategieë moet ontwikkel en in plek gestel word om te verseker dat verandering plaasvind en daardie strategieë moet die fokusareas wat belangrik vir die gemeenskap en die organisasie is, aanspreek.

Een van die grootste tekortkominge van die Brandweerdienste is die gebrek aan behoorlike brandweerstasiefasiliteite, wat 'n ernstige uitwerking op die moraal van personeel het.

Met die besluit van die Uitvoerende Burgemeester rakende die funksie en die versoek met betrekking tot die verslag oor die aanpassing van die funksie, word dit aanbeveel dat 'n strategiese beplanningssessie gereël word om alle aspekte van die brandweeffunksie, strategiese doelwitte, koördinering en toekomstige aanpassing van die funksie en dienste, brandweerstasiefasiliteite en akkommodasie, die opleidingsakademie en, mees belangrik, die organisatoriese struktuur te bespreek, beplan en daaroor te beraadslaag.

## **IMPLIKASIES**

### **FINANSIEEL**

Wat die verhalings van brandbestrydingsrekeninge bemoeilik, is die bepaling van die oorsprong van die brand, wat in die meeste gevalle uiters moeilik is om te bepaal. Die onsekerheid oor die bepaling van die oorsprong lei tot dispute oor aanspreeklikheid tussen die Raad en grondeienaars. Dit is onwaarskynlik dat die munisipaliteit 'n groot gedeelte van hierdie rekeninge sal verhaal, aangesien die sake in die Hooggeregshof geskik sal moet word, wat tot verdere regskoste sal lei.

Werklike gelde wat ingesamel word, word op 'n kontantbasis by ontvangs verreken en word in die staat van omvattende inkomste onder dienskosse openbaar gemaak.

Voldoende finansiële implikasies kan slegs voorsien word na ontvangs van omvattende inligting oor die funksie en die voorgestelde aanpassing van die funksie.

Die oordrag van eienaarskap van die brandbestrydingsvoertuig CL 62262, VIN ADMNR75 RF8G510427, aangekoop vir die doel van strukturele brandbestryding in Ceres, aan Witzenberg Munisipaliteit, moet ingevolge die MFMA en die gepaardgaande Munisipale Voorsieningskanaalbestuursregulasies, 2005 plaasvind.

<b>Exchanging the asset for possible revenue.</b>	Market related income cannot be guaranteed.
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Should Council authorise the transfer of the asset under discussion to Witzenberg, the disposal should be dealt with by the Asset Adjudication Committee as per the approved asset Management Policy of the Municipality.

*Comment prepared by: Ms. F.A du Raan-Groenewald*

## **PERSONNEL**

*Comment prepared by: Ms. K. Smit*

## **LEGAL**

Fire fighting is listed as a local government function in Schedule 4 Part B of the Constitution of the Republic of South Africa, 1996. However, Section 156(1)(a) in the Constitution of the Republic of South Africa, 1996 does not differentiate between district and local municipalities. The division is indicated in Section 84 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended. Section 84(1)(j) of the said Act states the following:

- (j) Fire fighting services serving the area of the district municipality as a whole, which includes-*
  - (i) planning, co-ordination and regulation of fire services;*
  - (ii) specialised fire fighting services such as mountain, veld and chemical fire services;*
  - (iii) co-ordination of the standardisation of infrastructure, vehicles, equipment and procedures;*
  - (iv) training of fire officers.*

From the aforementioned it is clear that the matters listed in numerals i-iv are the functions which should be rendered by the district municipality for the area as a whole. According to an opinion obtained from Advocate P Kennedy SC by the Municipal Demarcation Board, the phrase "serving the district municipality as a whole" should be interpreted against exclusivity and rather be interpreted in favour of complementarity between the functions and powers of the district and local municipalities.

Furthermore, the reference to planning and co-ordination and regulations suggests the likely existence of various fire fighting services in different areas which would require co-ordination and regulation at the level of the district.

The reference to specialized fire fighting in Section 84(j)(ii) suggests that each of the local municipalities may undertake the conventional form of fire fighting within their own area, but where there are specialized services requiring special resources, skills, and equipment, this would be provided by the district municipality rather than the local municipality. The training of fire officers would be undertaken at the level of the district municipality rather than within each

Om te verseker dat 'n vervreemding regverdig, billik, deursigtig en mededingend is en voordat daar oor die metode van vervreemding besluit word, moet die volgende oorweeg word:

<b>Die soort bate (m.a.w. 'n gespesialiseerde bate of 'n algemene item)</b>	Brandweerwa
<b>Die potensieële markwaarde daarvan</b>	R390 994
<b>Ander intrinsieke waarde van bate (kulturele/erfenis-aspekte, ens.)</b>	Geen
<b>Die ligging daarvan (ten opsigte van die vervoer of toegang)</b>	Ceres-brandweerstasie (Kaapse Wynland)
<b>Die volume</b>	2500 l
<b>Die inruilprys</b>	Onbeskikbaar
<b>Die vermoë om breër regeringsprogramme te ondersteun</b>	Ondersteuning van plaaslike munisipaliteite in strukturele brandbestryding
<b>Omgewingsoorwegings</b>	Geen
<b>Marktoestande</b>	Nie getoets nie
<b>Die bate se lewensduur</b>	12 jaar
<b>Die fisieke toestand van die bate</b>	Goed
<b>Die rede waarom die bate vervreem word</b>	Die voertuig is aanvanklik gekoop om Witzenberg Munisipaliteit met strukturele brandbestryding by te staan
<b>Die mees kostedoeltreffende manier waarop die bate vervreem kan word</b>	In 'n poging om die koste van 'n afslaer te vermy en 'n markverwante inkomste te verseker, blyk die oordrag van die brandweerwa aan die Witzenberg Munisipaliteit meer kostedoeltreffend te wees
<b>Vernietiging van die bate</b>	Nie van toepassing nie
<b>Kannibalisering van die bate en verkoop van die res van die bate tot beste voordeel van die munisipaliteit</b>	Die Kaapse Wynland fokus onder andere op veldbrande en nie strukturele brande nie
<b>Oordrag van die bate na ander moontlike gebruikers/departemente of selfs eksterne instansies</b>	Geen, slegs ander plaaslike munisipaliteite in die Kaapse Wynland-regsgesied.
<b>Verruiling van die bate vir moontlike inkomste</b>	Markverwante inkomste kan nie gewaarborg word nie.

Indien die Raad die oordrag van die bate onder bespreking aan Witzenberg goedkeur, moet die vervreemding deur die Batebeoordelingskomitee ingevolge die goedgekeurde Batebestuursbeleid van die munisipaliteit hanteer word.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

## **PERSONEEL**

*Kommentaar opgestel deur: Me. K. Smit*

local municipality. Again this would suggest complementarity between the functions and powers of the district municipality and its local municipalities.

Advocate P Kennedy's opinion further notes that it would not be in the interests of achieving the constitutional objective of cost effective and efficient provision of resources if there were to be unnecessary duplication and additional cost. It is in this context that the district municipality would fulfil the function of planning, co-ordinating and regulating fire fighting services within the area of its district. The district municipality would also be required to act in accordance with the constitutional requirement of co-operative government in all spheres and at all levels.

It would appear that district municipalities perform the function within the rural areas whilst the local municipalities serve the urban areas. There are mutual aid agreements between the municipalities to facilitate the rendering of support in crisis situations.

The funding for the fire fighting service remains problematic as the service does not generate an income and only local municipalities have access to property taxes.

Donation of structural fire fighting vehicle (Registration No CL 71456):

In terms of Section 14(2) of the Local Government: Municipal Financial Management Act, 2003 (Act No. 56 of 2003), a municipality may transfer ownership or otherwise dispose of a capital asset only after the municipal council, in a meeting open to the public –

- (a) Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
- (b) Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

In terms of section 14(5) of the Local Government: Municipal Financial Management Act, 2003 (Act No. 56 of 2003), any transfer of ownership of a capital asset must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain.

In terms of Clause 40(2)(ii) of the Municipal Supply Chain Management Policy of the Cape Winelands District Municipality, which was adopted by Council at Item C.14.3 of 23 January 2006, assets may be disposed of by transferring the asset to another organ of state, either at market-related value or, where applicable, at no cost.

A contract or agreement will be need to be drawn up in which terms and conditions are stipulated and which specifically determines that the full risk pertaining to loss or damage of the structural fire fighting vehicle with registration No CL 62262 which damage may be as a result of forces of nature, unrest, strikes, hostilities or similar causes, or unavoidable and/or inevitable accidents or generally to damage or loss for any another reason of whichever nature, is transferred to Witzenberg Municipality upon both parties signing the

## REGS

Brandbestryding word in bylae 4, deel B van die Grondwet van die Republiek van Suid-Afrika, 1996 as 'n funksie van plaaslike regering gelys. Artikel 156(1)(a) van die Grondwet van die Republiek van Suid-Afrika, 1996 onderskei egter nie tussen distriks- en plaaslike munisipaliteite nie. Die verdeling word aangedui in artikel 84 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998) soos gewysig. Artikel 84(1)(j) van die genoemde Wet bepaal soos volg:

- (j) *Brandbestrydingsdienste wat die gebied van die distriksmunisipaliteit as 'n geheel bedien, insluitend—*
  - (i) *die beplanning, koördinerings en regulering van brandweerdienste;*
  - (ii) *gespesialiseerde brandbestrydingsdienste soos berg-, veld- en chemiese brandweerdienste;*
  - (iii) *koördinerings van die standaardisering van infrastruktuur, voertuie, toerusting en prosedures;*
  - (iv) *opleiding van brandweerbeamptes.*

Dit is uit die bogenoemde duidelik dat die aangeleenthede wat in punt i-iv gelys is, die funksies is wat deur die distriksmunisipaliteit aan die gebied as 'n geheel gelewer behoort te word. Volgens 'n mening verkry vanaf Advokaat P. Kennedy SC deur die Munisipale Afbakeningsraad, moet die term “die bediening van die distriksmunisipaliteit as 'n geheel” teen eksklusiwiteit geïnterpreteer word en eerder ten gunste van komplementariteit tussen die funksies en bevoegdhede van die distriks- en plaaslike munisipaliteite geïnterpreteer word.

Verder dui die verwysing na beplanning en koördinerings en regulering op die waarskynlike bestaan van verskeie brandweerdienste in verskillende gebiede, wat koördinerings en regulering op die vlak van die distrik sal vereis.

Die verwysing na gespesialiseerde brandbestryding in artikel 84(j)(ii) dui daarop dat elkeen van die plaaslike munisipaliteite die konvensionele vorm van brandbestryding in hul eie gebied kan onderneem, maar waar gespesialiseerde dienste benodig word wat spesiale hulpbronne, vaardighede en toerusting verg, dit deur die distriksmunisipaliteit eerder as die plaaslike munisipaliteit verskaf sal word. Die opleiding van brandweerbeamptes sal op die vlak van die distriksmunisipaliteit onderneem word, eerder as binne elke plaaslike munisipaliteit. Dit dui weereens op komplementariteit tussen die funksies en bevoegdhede van die distriksmunisipaliteit en sy plaaslike munisipaliteite.

Advokaat P. Kennedy se mening is verder dat dit nie in die belang van die bereiking van die grondwetlike doelwit van kostedoeltreffende en effektiewe voorsiening van hulpbronne sal wees as daar onnodige duplisering en bykomende koste sal wees nie. Dit is in hierdie konteks dat die distriksmunisipaliteit die funksie van beplanning, koördinerings en regulering van brandweerdienste in die gebied van die distrik sal vervul. Die distriksmunisipaliteit sal ook in ooreenstemming met die grondwetlike vereiste van koöperatiewe regering in alle sferes en op alle vlakke moet optree.

agreement. Furthermore it must be determined that the Cape Winelands District Municipality will not be liable to Witzenberg for any loss or damage caused by any defect in or which may result from the use of the structural fire fighting vehicle.

*Comment prepared by: Ms. W.M. Neethling*

**RECOMMENDATION BY MUNICIPAL MANAGER: That -**

- (a) The Executive Mayor together with the Mayoral Committee take cognisance of the report on the alignment and status of the Fire Services function;
- (b) The current co-operation agreements be extended where necessary to regulate the effectiveness of service delivery between the Local Municipalities and the District Municipality;
- (c) A strategic planning session be arranged to discuss, plan and deliberate all aspects of the Fire Services function, strategic objectives, coordination and future alignment of the function and services, Fire Station facilities and accommodation, the training academy and the fire services organizational structure;
- (d) The fire fighting vehicle CL 62262, VIN ADMNR75 RF8G510427, bought for the purpose to be used for structural fire fighting in Ceres be transferred to Witzenberg Municipality;
- (e) Permission be granted to Witzenberg Municipality to use the Cape Winelands high band frequency for the purpose of fire services activities for a period not exceeding two years reviewable before end of the term.

**MAYORAL COMMITTEE: 15 OCTOBER 2013 : ITEM MC.7.5**

**RESOLVED: That –**

- (a) Cognisance be taken of the report on the alignment and status of the Fire Fighting Services function of the Cape Winelands District Municipality (CWDM);
- (b) The current mutual aid agreements be extended where necessary to regulate the effectiveness of service delivery between the Local Municipalities in the area of the Cape Winelands District Municipality (CWDM) and the Cape Winelands District Municipality (CWDM);
- (c) A strategic planning session be arranged to discuss, plan and deliberate on the following aspects of the Fire Fighting Services function:
  - (i) Strategic objectives;
  - (ii) Co-ordination;
  - (i) Future alignment of the function and services;
  - (ii) Fire station facilities and accommodation;

Dit wil voorkom asof distriksmunisipaliteite die funksie in die landelike gebiede verrig, terwyl die plaaslike munisipaliteite die stedelike gebiede bedien. Daar bestaan onderlinge hulpooreenkomste tussen die munisipaliteite om die lewering van ondersteuning in krisisgevalle te fasiliteer.

Die befondsing van die brandweerdienste is steeds 'n probleem, aangesien die dienste nie 'n inkomste genereer nie en slegs plaaslike munisipaliteite toegang tot eiendomsbelasting het.

Skenking van strukturele brandbestrydingsvoertuig (Registrasie CL 71456)

Ingevolge artikel 14(2) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003), kan 'n munisipaliteit eienaarskap van 'n kapitale bate oordra of dit andersins vervreem slegs nadat die munisipale raad, op 'n vergadering wat oop was vir die publiek–

- (a) Besluit het dat die bate redelikerwys nie vir die lewering van die minimum vlak van basiese munisipale dienste nodig is nie;
- (b) Die billike markwaarde van die bate en die ekonomiese en gemeenskapswaarde wat in ruil vir die bate ontvang word, in ag geneem het.

Ingevolge artikel 14(5) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) moet enige oordrag van eienaarskap van 'n kapitale bate regverdig, billik, deursigtig, mededingend en konsekwent met die voorsieningskanaalbestuursbeleid wees wat die munisipaliteit moet hê en handhaaf.

Ingevolge Klousule 40(2)(ii) van die Munisipale Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit (KWDM) wat deur die Raad aanvaar is by Item R.14.3 van 23 Januarie 2006, kan bates vervreem word deur die bate teen markverwante waarde of, waar van toepassing, teen geen koste nie na 'n ander staatsorgaan oor te dra.

'n Kontrak of ooreenkoms sal opgestel moet word waarin die bepalinge en voorwaardes gestipuleer word en wat spesifiek bepaal dat die volle risiko ten opsigte van verlies of skade van die strukturele brandbestrydingsvoertuig met registrasienommer CL 62262, welke skade die gevolg van natuurmagte, onrus, stakings, vyandigheid of soortgelyke oorsake mag wees, vanweë onafwendbare en/of onvermydelike ongelukke of verlies of skade oor die algemeen om enige ander rede van watter aard ook al, na Witzenberg Munisipaliteit oorgeplaas word na ondertekening van die ooreenkoms deur albei partye. Verder moet daar bepaal word dat die Kaapse Wynland Distriksmunisipaliteit nie aan Witzenberg aanspreeklik sal wees vir enige verlies of skade wat veroorsaak word deur enige gebrek in of as gevolg van die gebruik van die strukturele brandbestrydingsvoertuig nie.

*Kommentaar opgestel deur: Me. W.M. Neethling*

- (iii) The training academy;
- (iv) The fire services organizational structure;
- (d) The 2011 Isuzu fire fighting vehicle with registration number CL 62262 (VIN ADMNR75 RF8G510427), bought for structural fire fighting in the Witzenberg area be transferred to Witzenberg Municipality;
- (e) The 2011 Isuzu fire fighting vehicle with registration number CL 62262 be removed from the asset register of the Cape Winelands District Municipality (CWDM);
- (f) Cognisance be taken that the transfer of the 2011 Isuzu fire fighting vehicle with registration number CL 62262 from the Cape Winelands District Municipality (CWDM) to Witzenberg Municipality is in terms of section 14(6) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (g) A Memorandum of Understanding (MOU) reflecting the objectives of the agreement and the obligations and rights of the parties be entered into between the Cape Winelands District Municipality (CWDM) and Witzenberg Municipality in respect of the transfer of the 2011 Isuzu fire fighting vehicle with registration number CL 62262;
- (h) An agreement be entered into in order to grant permission to Witzenberg Municipality to make use of the Cape Winelands District Municipality's (CWDM's) high band frequency for purposes of fire fighting services for a period not exceeding two years;
- (i) The agreement in (h) above be reviewed before the date of termination.

**RECOMMENDATION BY MAYORAL COMMITTEE:**

That Council consider that -

- (a) Cognisance be taken of the report on the alignment and status of the Fire Fighting Services function of the Cape Winelands District Municipality (CWDM);
- (b) The current mutual aid agreements be extended where necessary to regulate the effectiveness of service delivery between the Local Municipalities in the area of the Cape Winelands District Municipality (CWDM) and the Cape Winelands District Municipality (CWDM);
- (c) A strategic planning session be arranged to discuss, plan and deliberate on the following aspects of the Fire Fighting Services function:
  - (i) Strategic objectives;
  - (ii) Co-ordination;
  - (iii) Future alignment of the function and services;
  - (iv) Fire station facilities and accommodation;
  - (v) The training academy;
  - (vi) The fire services organizational structure;

**AANBEVELING DEUR MUNISIPALE BESTUURDER: Dat –**

- (a) Die Uitvoerende Burgemeester saam met die Burgemeesterskomitee kennis neem van die verslag oor die aanpassing en status van die Brandweerdienstefunksie;
- (b) Die huidige samewerkende ooreenkomste uitgebrei word, waar nodig, om die doeltreffendheid van dienslewering tussen die plaaslike munisipaliteite en die distriksmunisipaliteit te reguleer;
- (c) 'n Strategiese beplanningssessie gereël word om alle aspekte van die brandweerfunksie, strategiese doelwitte, koördinering en toekomstige aanpassing van die funksie en dienste, brandweerstasiefasiliteite en akkommodasie, die opleidingsakademie en die organisatoriese struktuur van brandweerdienste te bespreek, beplan en daaroor te beraadslaag;
- (d) Die brandbestrydingsvoertuig CL 62262, VIN ADMNR75 RF8G510427, wat aangekoop is vir die doel van strukturele brandbestryding in Ceres, na Witzenberg Munisipaliteit oorgedra word;
- (e) Toestemming aan Witzenberg Munisipaliteit verleen word om die Kaapse Wynland hoë-band frekwensie vir die doel van brandweerdienstefasiliteite te gebruik vir 'n tydperk wat nie twee jaar oorskry nie, wat voor die einde van die termyn hersien sal word.

**BURGEMEESTERSKOMITEE: 15 OKTOBER 2013: ITEM BK.7.5**

**BESLUIT: Dat –**

- (a) Kennis geneem word van die verslag oor die aanpassing en status van die Brandweerdienstefunksie van die Kaapse Wynland Distriks-munisipaliteit (KWDM);
- (b) Die huidige onderlinge hulpooreenkomste uitgebrei word, waar nodig, om die doeltreffendheid van dienslewering tussen die plaaslike munisipaliteite in die gebied van die Kaapse Wynland Distriksmunisipaliteit (KWDM) en die Kaapse Wynland Distriksmunisipaliteit (KWDM) te reguleer;
- (c) 'n Strategiese beplanningssessie gereël word om die volgende aspekte van die funksie van die Brandbestrydingsdienste te bespreek, beplan en daaroor te beraadslaag:
  - (i) Strategiese doelwitte;
  - (ii) Koördinering;
  - (iii) Toekomstige aanpassing van die funksie en dienste;
  - (iv) Brandweerstasiefasiliteite en akkommodasie;
  - (v) Die opleidingsakademie;
  - (vi) Die organisatoriese struktuur van brandweerdienste;
- (d) Die 2011 Isuzu brandbestrydingsvoertuig met registrasie CL 62262 (VIN ADMNR75 RF8G510427), wat aangekoop is vir die doel van strukturele brandbestryding in die Witzenberg-gebied, na Witzenberg Munisipaliteit oorgedra word;

- (d) The 2011 Isuzu fire fighting vehicle with registration number CL 62262 (VIN ADMNR75 RF8G510427), bought for structural fire fighting in the Witzenberg area, be transferred to Witzenberg Municipality;
- (e) The 2011 Isuzu fire fighting vehicle with registration number CL 62262 be removed from the asset register of the Cape Winelands District Municipality (CWDM);
- (f) Cognisance be taken that the transfer of the 2011 Isuzu fire fighting vehicle with registration number CL 62262 from the Cape Winelands District Municipality (CWDM) to Witzenberg Municipality is in terms of section 14(6) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (g) A Memorandum of Understanding (MOU) reflecting the objectives of the agreement and the obligations and rights of the parties, be entered into between the Cape Winelands District Municipality (CWDM) and Witzenberg Municipality in respect of the transfer of the 2011 Isuzu fire fighting vehicle with registration number CL 62262;
- (h) An agreement be entered into in order to grant permission to Witzenberg Municipality to make use of the Cape Winelands District Municipality's (CWDM's) high band frequency for purposes of fire fighting services for a period not exceeding two years;
- (i) The agreement in (h) above be reviewed before the date of termination.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.2**

**RESOLVED:** That -

- (a) Cognisance be taken of the report on the alignment and status of the Fire Fighting Services function of the Cape Winelands District Municipality (CWDM);
- (b) The current mutual aid agreements be extended where necessary to regulate the effectiveness of service delivery between the Local Municipalities in the area of the Cape Winelands District Municipality (CWDM) and the Cape Winelands District Municipality (CWDM);
- (c) A strategic planning session be arranged to discuss, plan and deliberate on the following aspects of the Fire Fighting Services function:
  - (i) Strategic objectives;
  - (ii) Co-ordination;
  - (iii) Future alignment of the function and services;
  - (iv) Fire station facilities and accommodation;
  - (v) The training academy;
  - (vi) The fire services organizational structure;

- (e) Die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262 van die bateregister van die Kaapse Wynland Distriks-munisipaliteit (KWDM) verwyder word;
- (f) Kennis geneem word dat die oordrag van die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262 vanaf die Kaapse Wynland Distriksmunisipaliteit (KWDM) na Witzenberg Munisipaliteit plaasvind ingevolge artikel 14(6) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA);
- (g) 'n Memorandum van Verstandhouding (MVV), wat die doelwitte van die ooreenkoms en die verpligtinge en regte van die partye weerspieël, aangegaan word tussen die Kaapse Wynland Distriksmunisipaliteit (KWDM) en Witzenberg Munisipaliteit ten opsigte van die oordrag van die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262;
- (h) 'n Ooreenkoms aangegaan word om toestemming aan Witzenberg Munisipaliteit te verleen om van die Kaapse Wynland hoë-band frekwensie vir die doel van brandweerdienste-aktiwiteite gebruik te maak vir 'n tydperk wat nie twee jaar oorskry nie;
- (i) Die ooreenkoms in (h) hierbo voor die datum van beëindiging hersien word.

#### **AANBEVELING DEUR BURGEMEESTERSKOMITEE:**

Dat die Raad oorweging daaraan skenk dat –

- (a) Kennis geneem word van die verslag oor die aanpassing en status van die Brandweerdienstefunksie van die Kaapse Wynland Distriksmunisipaliteit (KWDM);
- (b) Die huidige onderlinge hulpooreenkomste uitgebrei word, waar nodig, om die doeltreffendheid van dienslewering tussen die plaaslike munisipaliteite in die gebied van die Kaapse Wynland Distriksmunisipaliteit (KWDM) en die Kaapse Wynland Distriksmunisipaliteit (KWDM) te reguleer;
- (c) 'n Strategiese beplanningssessie gereël word om die volgende aspekte van die funksie van die Brandbestrydingsdienste te bespreek, beplan en daaroor te beraadslaag:
  - (i) Strategiese doelwitte;
  - (ii) Koördinerings;
  - (iii) Toekomstige aanpassing van die funksie en dienste;
  - (iv) Brandweerstasiefasiliteite en akkommodasie;
  - (v) Die opleidingsakademie;
  - (vi) Die organisatoriese struktuur van brandweerdienste;
- (d) Die 2011 Isuzu brandbestrydingsvoertuig met registrasie CL 62262 (VIN ADMNR75 RF8G510427), wat aangekoop is vir die doel van strukturele brandbestryding in die Witzenberg-gebied, na Witzenberg Munisipaliteit oorgedra word;

- (d) The 2011 Isuzu fire fighting vehicle with registration number CL 62262 (VIN ADMNR75 RF8G510427), bought for structural fire fighting in the Witzenberg area, be transferred to Witzenberg Municipality;
- (e) The 2011 Isuzu fire fighting vehicle with registration number CL 62262 be removed from the asset register of the Cape Winelands District Municipality (CWDM);
- (f) Cognisance be taken that the transfer of the 2011 Isuzu fire fighting vehicle with registration number CL 62262 from the Cape Winelands District Municipality (CWDM) to Witzenberg Municipality is in terms of section 14(6) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA);
- (g) A Memorandum of Understanding (MOU), reflecting the objectives of the agreement and the obligations and rights of the parties, be entered into between the Cape Winelands District Municipality (CWDM) and Witzenberg Municipality in respect of the transfer of the 2011 Isuzu fire fighting vehicle with registration number CL 62262;
- (h) An agreement be entered into in order to grant permission to Witzenberg Municipality to make use of the Cape Winelands District Municipality's (CWDM's) high band frequency for purposes of fire fighting services for a period not exceeding two years;
- (i) The agreement in (h) above be reviewed before the date of termination.

**C.14.3 CAPE WINELANDS DISTRICT MUNICIPALITY (CWDM) REVISED  
EMPLOYEE STUDY AID AND LEAVE POLICY (4/4/1)**

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**PURPOSE OF SUBMISSION**

That Council consider to approve the revised Employee Study Aid and Leave Policy of the Cape Winelands District Municipality (CWDM).

**BACKGROUND**

The revised Employee Study Aid and Leave Policy is aimed at –

- (a) Enabling full-time employees of the District Municipality to undergo formal part-time study, by means of financial assistance in the form of a study aid bursary and/or leave concessions in order to enable its employees to better qualify themselves for posts on Council's staff establishment and to facilitate personnel development;
- (b) Identifying expertise that Council has a need for and to develop this to the benefit of Council to ensure higher quality employees for Council; and Council shall undertake to annually budget, within its financial means, an amount to enable the training of its employees.

- (e) Die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262 van die bateregister van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verwyder word;
- (f) Kennis geneem word dat die oordrag van die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262 vanaf die Kaapse Wynland Distriksmunisipaliteit (KWDM) na Witzenberg Munisipaliteit plaasvind ingevolge artikel 14(6) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA);
- (g) 'n Memorandum van Verstandhouding (MVV), wat die doelwitte van die ooreenkoms en die verpligtinge en regte van die partye weerspieël, aangegaan word tussen die Kaapse Wynland Distriksmunisipaliteit (KWDM) en Witzenberg Munisipaliteit ten opsigte van die oordrag van die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262;
- (h) 'n Ooreenkoms aangegaan word om toestemming aan Witzenberg Munisipaliteit te verleen om van die Kaapse Wynland hoë-band frekwensie vir die doel van brandweerdienste-aktiwiteite gebruik te maak vir 'n tydperk wat nie twee jaar oorskry nie;
- (i) Die ooreenkoms in (h) hierbo voor die datum van beëindiging hersien word.

#### **RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.2**

##### **BESLUIT: Dat –**

- (a) Kennis geneem word van die verslag oor die aanpassing en status van die Brandweerdienstefunksie van die Kaapse Wynland Distriksmunisipaliteit (KWDM);
- (b) Die huidige onderlinge hulpooreenkomste uitgebrei word, waar nodig, om die doeltreffendheid van dienslewering tussen die plaaslike munisipaliteite in die gebied van die Kaapse Wynland Distriksmunisipaliteit (KWDM) en die Kaapse Wynland Distriksmunisipaliteit (KWDM) te reguleer;
- (c) 'n Strategiese beplanningssessie gereël word om die volgende aspekte van die funksie van die Brandbestrydingsdienste te bespreek, beplan en daaroor te beraadslaag:
  - (i) Strategiese doelwitte;
  - (ii) Koördinerings;
  - (iii) Toekomstige aanpassing van die funksie en dienste;
  - (iv) Brandweerstasiefasiliteite en akkommodasie;
  - (v) Die opleidingsakademie;
  - (vi) Die organisatoriese struktuur van brandweerdienste;
- (d) Die 2011 Isuzu brandbestrydingsvoertuig met registrasie CL 62262 (VIN ADMNR75 RF8G510427), wat aangekoop is vir die doel van strukturele-brandbestryding in die Witzenberg-gebied, na Witzenberg Munisipaliteit oorgedra word;

\*\*\*

Attached as Annexure "A" is a copy of Cape Winelands District Municipality (CWDM) revised Employee Study Aid and Leave Policy.

## **IMPLICATIONS**

### **PERSONNEL**

Study leave for the purposes of part-time studies as contained in the revised Employee Study Aid and Leave Policy will be granted in terms of clause 6 of the Collective Agreement on Conditions of Service for the Western Cape Division of the SALGBC, which determines as follows:

#### **6.1 Study Leave**

- (a) Study leave shall be granted in accordance with Council's policy. Where no policy exists by the Municipal Manager or his assignee which approval shall not be unreasonably refused;
- (b) Study leave shall be granted on the basis of one day paid special leave for each day that an employee writes an examination plus an equivalent amount of days for preparation for the examination, subject to clause 6.1(c);
- (c) When an employee is required to write only one examination on one day in a calendar year, he shall be entitled to three days' special paid leave which shall include the day of the examination;
- (d) The said leave for writing examinations in terms of clause 6.1 must be approved in advance by the Municipal Manager or his assignee.

#### **6.2 Leave of absence for obligatory course / study requirements**

- (a) The fields of study must be approved in advance in accordance with Council policy and must be in accordance with the requirements of the curriculum of the approved course. Where no policy exists, it shall be approved by the Municipal Manager or his assignee;
- (b) An employee attending a work-related training or study course shall be granted paid special leave for the full duration of the obligatory attendance requirements;
- (c) An employee attending a voluntary training or study course shall be granted up to ten (10) days' paid special leave and thereafter one day's paid special leave for every day's leave taken by the employee;
- (d) Leave referred to in clauses 6.1 and 6.2 shall be granted for a maximum of twice per subject/module to allow for supplementary examinations;

- (e) Die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262 van die bateregister van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verwyder word;
- (f) Kennis geneem word dat die oordrag van die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262 vanaf die Kaapse Wynland Distriksmunisipaliteit (KWDM) na Witzenberg Munisipaliteit plaasvind ingevolge artikel 14(6) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA);
- (g) 'n Memorandum van Verstandhouding (MVV), wat die doelwitte van die ooreenkoms en die verpligtinge en regte van die partye weerspieël, aangegaan word tussen die Kaapse Wynland Distriksmunisipaliteit (KWDM) en Witzenberg Munisipaliteit ten opsigte van die oordrag van die 2011 Isuzu brandbestrydingsvoertuig met registrasienommer CL 62262;
- (h) 'n Ooreenkoms aangegaan word om toestemming aan Witzenberg Munisipaliteit te verleen om van die Kaapse Wynland hoë-band frekwensie vir die doel van brandweerdienste-aktiwiteite gebruik te maak vir 'n tydperk wat nie twee jaar oorskry nie;
- (i) Die ooreenkoms in (h) hierbo voor die datum van beëindiging hersien word.

**R.14.3      KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT (KWDM)      HERSIENE  
BELEID OOR WERKNEMERSTUDIEHULP EN -VERLOF      (4/4/1)**

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**DOEL VAN VOORLEGGING**

Dat die Raad oorweging daaraan skenk om die hersiene Beleid oor Werknemerstudiehulp en –verlof van die Kaapse Wynland Distriksmunisipaliteit goed te keur.

**AGTERGROND**

Die hersiene Beleid oor Werknemerstudiehulp en -verlof is daarop gemik om –

- (a) Voltydse werknemers van die Distriksmunisipaliteit in staat te stel om formele, deeltydse studie te onderneem met behulp van finansiële bystand in die vorm van 'n studiehulpbeurs en/of -verlofvergunning, wat werknemers sal help om hulleself beter te kwalifiseer vir poste op die Raad se diensstaat en om vir personeelontwikkeling voorsiening te maak;
- (b) Kundigheid waaraan die Raad 'n behoefte het, te identifiseer en tot voordeel van die Raad te ontwikkel om hoër gehalte werknemers vir die Raad te verseker; en die Raad sal onderneem om jaarliks, binne sy finansiële vermoë, 'n bedrag vir die opleiding van sy werknemers te begroot.

- (e) Clause 6.2 does not apply to compulsory training initiated by the Employer.

*Comment prepared by: Ms. K. Smit*

## **FINANCIAL**

R359,300 of a total appropriation amounting to R360,500 in respect of study and examination fees is available on the 2013/2014 Annual Budget, Item Number: 1 1110 0319.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## **LEGAL**

The District Municipality's aim is to enable full-time municipal employees to, by means of financial assistance in the form of study aid, to undergo formal part-time study in order to enable such employees to better qualify themselves for posts on the District Municipality's staff establishment.

This policy must be read concomitant with the District Municipality's Integrated Development Plan, the Employment Equity Plan and Workplace Skills Plan.

In terms of section 71(3) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), municipalities must comply with any collective agreements concluded by organised local government within its mandate on behalf of local government in the bargaining council established for municipalities.

*Comment prepared by: Ms. W.M. Neethling*

## **RECOMMENDATION BY MUNICIPAL MANAGER:**

That the Local Labour Forum be consulted regarding the revised Employee Study Aid and Leave Policy.

## **MAYORAL COMMITTEE: 15 OCTOBER 2013: ITEM MC.6.1.2**

## **RESOLVED:**

That the Local Labour Forum (LLF) be consulted regarding the revised Employee Study Aid and Leave Policy, attached as Annexure "A" to the agenda item.

## **LOCAL LABOUR FORUM: 30 OCTOBER 2013: ITEM LLF.8**

## **AGREED:**

That the revised Employee Study Aid and Leave Policy of the Cape Winelands District Municipality be submitted to Council for final approval.

\*\*\*

Aangeheg as Bylae "A" is 'n afskrif van die Kaapse Wynland Distriksmunisipaliteit (KWDM) se hersiene Beleid oor Werknemerstudiehulp en -verlof.

## **IMPLIKASIES**

### **PERSONEEL**

Studieverlof vir die doel van deeltydse studie, soos vervat in die hersiene Beleid oor Werknemerstudiehulp en -verlof, sal toegeken word ingevolge klousule 6 van die Kollektiewe Ooreenkoms oor Diensvoorwaardes vir die Wes-Kaapse Afdeling van die SALGBC, wat soos volg bepaal:

#### **6.1 Studieverlof**

- (a) Studieverlof sal in ooreenstemming met die Raad se beleid toegeken word. Waar geen beleid bestaan nie, deur die Munisipale Bestuurder of sy gevolmagtigde, welke goedkeuring nie onredelik geweier sal word nie;
- (b) Studieverlof sal toegeken word op grond van een dag betaalde spesiale verlof vir elke dag wat 'n werknemer 'n eksamen skryf plus 'n gelyke hoeveelheid dae vir voorbereiding vir die eksamen, behoudens klousule 6.1(c);
- (c) Wanneer 'n werknemer slegs een eksamen op een dag in 'n kalenderjaar moet skryf, sal hy of sy op drie dae spesiale betaalde verlof geregtig wees, wat die dag van die eksamen insluit;
- (d) Genoemde verlof vir die skryf van eksamens ingevolge klousule 6.1 moet vooraf deur die Munisipale Bestuurder of sy gevolmagtigde goedgekeur word.

#### **6.2 Verlof tot afwesigheid vir verpligte kursus-/studievereistes**

- (a) Die studieverlof moet vooraf ingevolge die Raad se beleid goedgekeur word en moet in ooreenkoms met die vereistes van die kurrikulum van die goedgekeurde kursus wees. Waar geen beleid bestaan nie, sal dit deur die Munisipale Bestuurder of sy gevolmagtigde goedgekeur word;
- (b) 'n Werknemer wat 'n werkverwante opleidings- of studiekursus bywoon, sal betaalde spesiale verlof toegeken word vir die volle duur van die verpligte vereistes vir bywoning;
- (c) 'n Werknemer wat 'n vrywillige opleidings- of studiekursus bywoon, sal tot tien (10) dae betaalde spesiale verlof toegeken word, en daarna een dag betaalde spesiale verlof vir elke dag verlof wat deur die werknemer geneem word;
- (d) Verlof waarna in klousule 6.1 en 6.2 verwys word, sal vir 'n maksimum van twee maal per vak/module toegeken word om vir hereksamens voorsiening te maak;

**RECOMMENDATION BY MAYORAL COMMITTEE:**

That Council consider to approve the revised Employee Study Aid and Leave Policy of the Cape Winelands District Municipality (CWDM).

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.3**

The Executive Mayor, Alderman C.A. de Bruyn from the Democratic Alliance (DA), seconded by Alderman (Dr.) N.E. Kahlberg from the Democratic Alliance (DA), proposed that the revised Employee Study Aid and Leave Policy of the Cape Winelands District Municipality (CWDM), be approved.

Councillor C. Mcako from the African National Congress (ANC), seconded by Councillor N.M. Bushwana from the African National Congress (ANC), proposed that the matter be held in abeyance until a next Council meeting and that a multi-party committee be established to engage with Trade Unions regarding the proposed revised Employee Study Aid and Leave Policy of the Cape Winelands District Municipality (CWDM).

The proposals are put to the vote.

The results were as follows:

Proposal by the Executive Mayor, Alderman C.A. de Bruyn (DA)	Votes 18
Proposal by Councillor C. Mcako (ANC)	Votes 13

**RESOLVED** with a majority of eighteen (18) votes to thirteen (13) votes that the revised Employee Study Aid and Leave Policy of the Cape Winelands District Municipality (CWDM), attached as Annexure "A" to the agenda item, be approved.

The following Councillors requested that their counter votes be noted :

Cllr. M.B. Appolis  
Cllr. N.M. Bushwana  
Cllr. S.W. Davids  
Cllr. Z.L. Gwada  
Cllr. N.D. Hani  
Cllr. P. Marran  
Cllr. C. Mcako  
Cllr. J.S. Mouton  
Cllr. W.S. Nyamana  
Cllr. L.N. Siwakamisa  
Cllr. M.S. Tayitayi  
Cllr. M.H. Yabo

Cllr. P. Heradien abstained from voting.

- (e) Klousule 6.2 is nie van toepassing op verpligte opleiding wat deur die werkgewer geïnisieer is nie.

*Kommentaar opgestel deur: Me. K. Smit*

## **FINANSIEEL**

R359,300 van 'n totale begroting ten bedrae van R360,500 ten opsigte van studie- en eksamengelde is beskikbaar op die 2013/2014 Jaarlikse Begroting, Itemnommer: 1 1110 0319.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

## **REGS**

Die Distriksmunisipaliteit poog om voltydse munisipale werknemers in staat te stel om, met behulp van finansiële bystand in die vorm van studiehulp, formele, deeltydse studie te onderneem wat werknemers sal help om hulleself beter te kwalifiseer vir poste op die Distriksmunisipaliteit se diensstaat.

Hierdie beleid moet saam met die Distriksmunisipaliteit se Geïntegreerde Ontwikkelingsplan, die Billike Indiensnemingsplan en Werkplekvaardigheidsplan gelees word.

Ingevolge artikel 71(3) van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet No. 32 van 2000), moet munisipaliteite voldoen aan enige kollektiewe ooreenkomste aangaande deur georganiseerde plaaslike regering binne sy mandaat namens plaaslike regering in die bedingingsraad wat vir munisipaliteite ingestel is.

*Kommentaar opgestel deur: Me. W.M. Neethling*

## **AANBEVELING DEUR MUNISIPALE BESTUURDER:**

Dat die Plaaslike Arbeidsforum gekonsulteer word ten opsigte van die hersiene Beleid oor Werknemerstudiehulp en -verlof.

## **BURGEMEESTERSKOMITEE: 15 OKTOBER 2013: ITEM BK.6.1.2**

### **BESLUIT:**

Dat die Plaaslike Arbeidsforum (PAF) gekonsulteer word ten opsigte van die hersiene Beleid oor Werknemerstudiehulp en -verlof, aangeheg as Bylae "A" by die agenda item.

## **PLAASLIKE ARBEIDSFORUM: 30 OKTOBER 2013: ITEM PAF.8**

### **OOREENGEKOM:**

Dat die hersiene Beleid oor Werknemerstudiehulp en -verlof van die Kaapse Wynland Distriksmunisipaliteit vir finale goedkeuring aan die Raad voorgelê word.

**C.14.4 DIVISION: FIRE FIGHTING SERVICES: 2013/2014 VELD FIRE SEASON  
PREPAREDNESS PLANNING (17/5/2)**

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**PURPOSE OF SUBMISSION**

That Council consider to approve the report for the 2013/2014 Veld Fire Season Preparedness Planning of the Division: Fire Fighting Services.

**BACKGROUND**

\*\*\* Attached as Annexure "A" is a copy of the report for the 2013/2014 Veld Fire Season Preparedness Planning of the Division: Fire Fighting Services.

**RECOMMENDATION BY MUNICIPAL MANAGER: That -**

- (a) The Executive Mayor and Mayoral Committee take cognisance of the report for the 2013/2014 Veld Fire Season Preparedness Planning of the Division: Fire Fighting Services;
- (b) The Executive Mayor together with the Mayoral Committee consider to submit the report in (a) above to Council for consideration.

**MAYORAL COMMITTEE: 20 NOVEMBER 2013: ITEM MC.7.4**

**RESOLVED: That -**

- (a) Cognisance be taken of the report for the 2013/2014 Veld Fire Season Preparedness Planning of the Division: Fire Fighting Services, attached as Annexure "A" to the agenda item;
- (b) The report in (a) above be submitted to Council for consideration.

**RECOMMENDATION BY MAYORAL COMMITTEE:**

That Council consider to approve the report for the 2013/2014 Veld Fire Season Preparedness Planning of the Division: Fire Fighting Services, attached as Annexure "A" to the agenda item.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.4**

**RESOLVED:**

That the report for the 2013/2014 Veld Fire Season Preparedness Planning of the Division: Fire Fighting Services, attached as Annexure "A" to the agenda item, be approved.

**AANBEVELING DEUR BURGEMEESTERSKOMITEE:**

Dat die Raad oorweging daaraan skenk om die hersiene Beleid oor Werknemerstudiehulp en -verlof van die Kaapse Wynland Distriksmunisipaliteit (KWDM) goed te keur.

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM C.14.3**

Die Uitvoerende Burgemeester, Raadsheer C.A. de Bruyn van die Demokratiese Alliansie (DA), gesekondeer deur Raadsheer (Dr.) N.E. Kahlberg van die Demokratiese Alliansie (DA), stel voor dat die hersiene Beleid oor Werknemerstudiehulp en -verlof van die Kaapse Wynland Distriksmunisipaliteit (KWDM) goedgekeur word.

Raadslid C. Mcako van die African National Congress (ANC), gesekondeer deur Raadslid N.M. Bushwana van die African National Congress (ANC), stel voor dat die aangeleentheid oorstaan tot 'n volgende Raadsvergadering en dat 'n veelpartykomitee ingestel word om met Vakbonde samesprekings te hou oor die voorgestelde hersiene Beleid oor Werknemerstudiehulp en -verlof van die Kaapse Wynland Distriksmunisipaliteit (KWDM).

Die voorstelle word tot stemming gebring.

Die uitslae is soos volg:

Voorstel deur Raadsheer C.A. de Bruyn, Uitvoerende Burgemeester (DA)	Stemme 18
Voorstel deur Raadslid C. Mcako (ANC)	Stemme 13

**BESLUIT** met 'n meerderheid van agtien (18) stemme teenoor dertien (13) stemme dat die hersiene Beleid oor Werknemerstudiehulp en -verlof van die Kaapse Wynland Distriksmunisipaliteit (KWDM), aangeheg as Bylae "A" by die agenda-item, goedgekeur word.

Die volgende Raadslede versoek dat hulle teenstem aangeteken word:

Rdl. M.B. Appolis  
Rdl. N.M. Bushwana  
Rdl. S.W. Davids  
Rdl. Z.L. Gwada  
Rdl. N.D. Hani  
Rdl. P. Marran  
Rdl. C. Mcako  
Rdl. J.S. Mouton  
Rdl. W.S. Nyamana  
Rdl. L.N. Siwakamisa  
Rdl. M.S. Tayitayi  
Rdl. M.H. Yabo

Rdl. P. Heradien bly buite stemming.

**C.14.5 FIRE-FIGHTING TRAILERS**

**(17/5/1)**

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**PURPOSE OF SUBMISSION**

That Council consider to transfer ownership of all fire-fighting trailers distributed in the jurisdiction area of the Cape Winelands District Municipality (CWDM).

**BACKGROUND**

Since 1995, the District Municipality has been involved in the acquisition and placement of fire fighting trailers in strategic locations throughout the District to empower the community to become more active and involved in fire-fighting and fire protection.

To give expression to the above, it was resolved that an agreement be concluded between the Cape Winelands District Municipality (CWDM) and owners, stipulating the objectives and generally indicating the duties, responsibilities and obligations of all parties.

One of the major reasons why the District Municipality provided fire fighting trailers and equipment to members of the community was to assist the Fire Protection Associations (FPA's) to comply with the requirements of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998).

Fire Protection Associations (FPA's) came into existence through a provision in the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998), placing increased responsibility on landowners regarding prevention, protection and suppression of wildfires.

The Act stated that it is the responsibility of the landowner to provide appropriate protection (through firebreaks, trained staff, correct equipment etc.), to prevent wildfires from either spreading from within the farm boundaries to their neighbours, or to prevent/protect from a neighbours fire spreading over the boundary.

Fire Protection Associations (FPA's) are established by the landowners, with little financial support other than the levies they may choose to charge the landowners they serve.

Other reasons for distributing fire fighting trailers include the following:

- (a) The challenge to ensure a safe and secure environment
- (b) Trying to extend our service to all our communities within the CWDM and to deliver and equitable service.
- (c) The lack of ability to provide for protection against fire and related risk to the community in line with national standards.
- (d) Long distances of vulnerable areas from the closes fire station.
- (e) Self-sustaining fire fighting service by the land owners.

**R.14.4 AFDELING: BRANDWEERDIENSTE: 2013/2014 VELDBRANDSEISOEN  
GEREEDHEIDSBEPANNING (17/5/2)**

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**DOEL VAN VOORLEGGING**

Dat die Raad oorweging daaraan skenk om die verslag vir die 2013/2014 Veldbrandseisoen Gereedheidsbeplanning van die Afdeling: Brandweerdienste, goed te keur.

**AGTERGROND**

\*\*\*

Aangeheg as Bylae "A" is 'n afskrif van die verslag vir die 2013/2014 Veldbrandseisoen Gereedheidsbeplanning van die Afdeling: Brandweerdienste.

**AANBEVELING DEUR MUNISIPALE BESTUURDER: Dat -**

- (a) Die Uitvoerende Burgemeester en Burgemeesterskomitee kennis neem van die verslag vir die 2013/2014 Veldbrandseisoen Gereedheidsbeplanning van die Afdeling: Brandweerdienste;
- (b) Die Uitvoerende Burgemeester saam met die Burgemeesterskomitee oorweging daaraan skenk om die verslag in (a) hierbo aan die Raad voor te lê vir oorweging.

**BURGEMEESTERSKOMITEE: 20 NOVEMBER 2013: ITEM BK.7.4**

**BESLUIT: Dat -**

- (a) Kennis geneem word van die verslag vir die 2013/2014 Veldbrandseisoen Gereedheidsbeplanning van die Afdeling: Brandweerdienste, aangeheg as Bylae "A" by die agenda item;
- (b) Die verslag in (a) hierbo aan die Raad voorgelê word vir oorweging.

**AANBEVELING DEUR BURGEMEESTERSKOMITEE:**

Dat die Raad oorweging daaraan skenk om die verslag vir die 2013/2014 Veldbrandseisoen Gereedheidsbeplanning van die Afdeling: Brandweerdienste, aangeheg as Bylae "A" by die agenda item, goed te keur.

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.4**

**BESLUIT:**

Dat die verslag vir die 2013/2014 Veldbrandseisoen Gereedheidsbeplanning van die Afdeling: Brandweerdienste, aangeheg as Bylae "A" by die agenda-item, goedgekeur word.

- (f) The improvement of economic and social value to the community.

#### **COMMENT**

The Division: Fire Services have been under extreme pressure for the past two financial years to proof the existence and location of these items to the auditor and to comply with the asset control requirements of the District Municipality. The situation has now been reached where it is very difficult and time consuming to manage the control, administration and maintenance of these items.

The following difficulties and problems are experienced to manage and maintain the fire fighting trailers:

- Cost implications of the annual renewal of licenses.
- The delivery of the license disks to the location of the trailers.
- Maintenance of the trailers is the responsibility of the District Municipality and creates a major negative effect on the operational budget of the division: Fire Services
- Inspections and assets control (long distance to be travelled and trailers not always on the same farm and landowners not always available).

It is recommended that consideration be given to the transfer of all fire fighting trailers in the existing condition to the relevant landowners and that the Cape Winelands District Municipality (CWDM) do not continue with the service to provide fire fighting trailers to landowners.

The Division: Fire Services will still support the self-sustaining fire fighting operations of the community and will assist where possible within the boundaries of our legal mandate and financial constraints.

#### **IMPLICATIONS**

#### **PERSONNEL**

None.

*Comment prepared by: Ms. K. Smit*

#### **FINANCIAL**

The transfer of ownership of the fire fighting trailers to specific land owners must be done in accordance with the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA) and concomitant Municipal Supply Chain Management Regulations, 2005. Furthermore, it can be observed that the District Municipality intends to support the self-sustaining fire fighting operations of the community as elaborated on under "COMMENT".

**R.14.5    BRANDBESTRYDINGSLEEPWAENS**

**(17/5/1)**

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**DOEL VAN VOORLEGGING**

Dat die Raad oorweging daaraan skenk om eienaarskap oor te dra van alle brandbestrydingsleepwaens wat in die regsgebied van die Kaapse Wynland Distriksmunisipaliteit (KWDM) versprei is.

**AGTERGROND**

Die Distriksmunisipaliteit is sedert 1995 betrokke by die verkryging en plasing van brandbestrydingsleepwaens in strategiese liggings regoor die Distrik om die gemeenskap te bemagtig om meer aktief en betrokke te raak by brandbestryding en brandbeveiliging.

Om uiting aan bogenoemde te gee, is daar besluit dat 'n ooreenkoms tussen die Kaapse Wynland Distriksmunisipaliteit (KWDM) en eienaars aangegaan word, waarin die doelwitte gestipuleer word en die pligte, verantwoordelikhede en verpligtinge van alle partye uiteengesit word.

Een van die hoofredes waarom die Distriksmunisipaliteit brandbestryding-sleepwaens en -toerusting aan lede van die gemeenskap voorsien het, was om die Brandbeskermingsverenigings (BBV's) te ondersteun met die nakoming van die bepalings van die Wet op Nasionale Veld- en Bosbrande, 1998 (Wet No. 101 van 1998).

Brandbeveiligingsverenigings (BBV's) het tot stand gekom deur 'n bepaling in die Wet op Nasionale Veld- en Bosbrande, 1998 (Wet No. 101 van 1998), wat toenemende verantwoordelikheid op grondeienaars plaas met betrekking tot die voorkoming, beveiliging en onderdrukking van veldbrande.

Die Wet verklaar dat dit die verantwoordelikheid van die grondeienaar is om behoorlike beveiliging te verseker (deur brandpaaie, opgeleide personeel, die regte toerusting, ens.) om te verhoed dat veldbrande van binne die plaasgrense na bure versprei, of om te verhoed/beveilig dat 'n buurman se brand nie oor die grens versprei nie.

Brandbeskermingsverenigings (BBV's) word deur die grondeienaars ingestel, met min finansiële ondersteuning buiten die heffings wat hulle kan kies om van die grondeienaars wat deur hulle bedien word, te vra.

Ander redes vir die verspreiding van brandbestrydingsleepwaens sluit die volgende in:

- (a) Die uitdaging om 'n veilige en beskermende omgewing te verseker.
- (b) Om ons diens aan al ons gemeenskappe binne die KWDM te probeer uitbrei en om 'n billike diens te lewer.

In addition however, the District Municipality does not intend to continue with the service to provide fire fighting trailers to landowners and will thus not perform the function for which the above mentioned trailers were utilised for.

\*\*\* To ensure that a disposal is fair, equitable, transparent and competitive, the following should happen as disclosed in Annexure "A":

- (a) The supply chain management policy should state the mechanism for determining the market value for different types of assets.
- (b) The process should be open to the public and public scrutiny.
- (c) Consideration should be given to the fair market value of the asset and to the economic and community value to be received in exchange for the asset.
- (d) Reasonable efforts should be made to ensure that an appropriately competitive process for disposal is adopted.

Furthermore, various methods of disposal exist and different disposal methods apply for different types of assets. Before deciding on a particular disposal method, the following should be considered as disclosed in Annexure "A":

- (a) The physical condition of the asset;
- (b) The reason as to why the assets are up for disposal;
- (c) The most cost effective manner in which the asset should be done away with;
- (d) Destruction of Asset;
- (e) Cannibalising the asset and selling the rest of the asset to the best advantage of the municipality;
- (f) Transferring the asset to other possible users/departments or even external institutions;
- (g) Exchanging the asset for possible revenue;
- (h) The nature of the asset (i.e. a specialised asset or a common item);
- (i) Its potential market value;
- (j) Other intrinsic value of the asset (i.e. cultural/heritage aspects, etc.);
- (k) Its location (with respect to its transportation or access);
- (l) Its volume;
- (m) Its trade-in price;

- (c) Die gebrek aan vermoë om beskerming teen veldbrande en verwante risiko's aan gemeenskappe te bied wat met nasionale standarde ooreenstem.
- (d) Lang afstande van kwesbare gebiede vanaf die naaste brandweerstasie.
- (e) Selfvolhoubare brandbestrydingsdiens deur grondeienaars.
- (f) Die verbetering van ekonomiese en sosiale waarde vir die gemeenskap.

## **KOMMENTAAR**

Die Afdeling: Brandweerdienste was oor die afgelope twee finansiële jare onder uiterste druk om die bestaan en ligging van hierdie items aan die ouditeur te bewys en om aan die Distriksmunisipaliteit se vereistes vir batebeheer te voldoen. Die punt is nou bereik waar dit baie moeilik en tydrowend is om die beheer, administrasie en instandhouding van hierdie items te bestuur.

Die volgende knelpunte en probleme word ervaar in die bestuur en instandhouding van brandbestrydingsleepwaens:

- Koste-implikasies van die jaarlikse hernuwing van lisensies.
- Die aflewering van lisensieskyfies na die ligging van die sleepwaens.
- Die instandhouding van die sleepwaens is die verantwoordelik van die Distriksmunisipaliteit en veroorsaak 'n groot negatiewe effek op die bedryfsbegroting van die Afdeling: Brandweerdienste
- Inspeksies en batebeheer (lang afstande word gereis en die sleepwaens is nie altyd op dieselfde plaas nie en grondeienaars is nie altyd beskikbaar nie).

Daar word aanbeveel dat oorweging geskenk word aan die oordrag van alle brandbestrydingsleepwaens in die bestaande toestand aan die betrokke grondeienaars en dat die Kaapse Wynland Distriksmunisipaliteit (KWDM) nie voortgaan met die diens om brandbestrydingsleepwaens aan grondeienaars te voorsien nie.

Die Afdeling: Brandweerdienste sal steeds die selfonderhoudende brandbestrydingbedrywighede van die gemeenskap ondersteun en sal, waar moontlik, binne die grense van ons wetlike mandaat en finansiële beperkinge behulpzaam wees.

## **IMPLIKASIES**

### **PERSONEEL**

Geen.

*Kommentaar opgestel deur: Me. K. Smit*

- (n) Its ability to support wider Government programmes;
- (o) Environmental considerations;
- (p) Market conditions; and
- (q) The asset's life.

The market value of the assets under discussion, based on the book values as at 30 June 2013, amounts to R1 285 594 as disclosed in Annexure "A".

Should Council authorise the transfer of the asset under discussion to the relevant land owners as proposed by the Department: Community Development and Planning Services, the disposal thereof should be dealt with by the Asset Adjudication Committee as per the approved Asset Management Policy of the Cape Winelands District Municipality (CWDM).

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

## **LEGAL**

### Disposal of Assets:

The disposal of assets of a municipality is regulated by the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA), the Municipal Supply Chain Management Regulations, 2005 as well as the District Municipality's Asset Management policy.

In terms of section 14(2) of the Local Government: Municipal Financial Management Act, 2003 (Act No. 56 of 2003) (MFMA), a municipality may transfer ownership or otherwise dispose of a capital asset only after the municipal council, in a meeting open to the public –

- (a) Has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
- (b) Has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

In terms of section 14(5) of the Local Government: Municipal Financial Management Act, 2003 (Act No. 56 of 2003), any transfer of ownership of a capital asset must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain.

In terms of the regulation 40(2)(b)(ii) of the said Regulations a supply chain management policy must stipulate that movable 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.

### Contract

If it is resolved that all fire fighting trailers be transferred to the landowners, a contract or agreement will be need to be drawn up in which terms and

## FINANSIEEL

Die oordrag van eienaarskap van die brandbestrydingsleepwaens aan spesifieke grondeienaars moet plaasvind ingevolge die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA) en die gepaardgaande Munisipale Voorsieningskanaalbestuursregulasies, 2005. Soos onder "KOMMENTAAR" uiteengesit, beoog die Distriksmunisipaliteit om steeds die selfonderhoudende brandbestrydingbedrywighede van die gemeenskap te ondersteun.

Daarbenewens beoog die Distriksmunisipaliteit egter om nie voort te gaan met die diens om brandbestrydingsleepwaens aan grondeienaars te voorsien nie en sal dus nie die funksie verrig waarvoor bovermelde sleepwaens benut is nie.

\*\*\* Om te verseker dat 'n vervreemding regverdig, billik, deursigtig en mededingend is, moet die volgende plaasvind, soos in Bylae "A" uiteengesit:

- (a) Die voorsieningskanaalbestuursbeleid moet die meganisme vir die vasstelling van die markwaarde van verskillende soorte bates aandui.
- (b) Die proses moet oop vir die publiek en openbare insae wees.
- (c) Oorweging moet geskenk word aan die billike markwaarde van die bate en aan die ekonomiese en gemeenskapswaarde wat in ruil vir die bate ontvang sal word.
- (d) Redelike pogings moet aangewend word om te verseker dat 'n gepaste mededingende proses vir vervreemding aanvaar word.

Daarbenewens bestaan daar verskeie metodes vir vervreemding en verskillende metodes vir vervreemding is op verskillende soorte bates van toepassing. Voordat daar op 'n spesifieke metode vir vervreemding besluit word, moet die volgende oorweeg word, soos in Bylae "A" uiteengesit:

- (a) Die fisieke toestand van die bate;
- (b) Die rede waarom die bate vervreem word;
- (c) Die mees kostedoeltreffende manier waarop die bate vervreem kan word;
- (d) Vernietiging van die bate;
- (e) Kannibalisering van die bate en verkoop van die res van die bate tot beste voordeel van die munisipaliteit;
- (f) Oordrag van die bate na ander moontlike gebruikers/ departemente of selfs eksterne instansies;
- (g) Verruiling van die bate vir moontlike inkomste;
- (h) Die aard van die bate (m.a.w. 'n gespesialiseerde bate of 'n algemene item);

conditions are stipulated and which specifically determines that the full risk pertaining to loss or damage of the fire fighting trailer, which damage may be as a result of forces of nature, unrest, strikes, hostilities or similar causes, or unavoidable and/or inevitable accidents or generally to damage or loss for any another reason of whichever nature, is transferred upon both parties signing the agreement. Furthermore, it must be determined that the Cape Winelands District Municipality (CWDM) will not be liable for any loss or damage caused by any defect in or which may result from the use of the fire fighting trailer.

National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998):

The purpose of the said Act is to prevent and combat veld, forest and mountain fires throughout the Republic. Chapter 2 of the said Act provides for the establishment, registration, duties and functioning of Fire Protection Associations (FPA's) and the appointment and duties of a Fire Protection Officer (FPO). The purpose of these Fire Protection Associations (FPA's) is to predict, prevent, manage and extinguish veld fires. All landowners in effect become responsible for the management of fire on their own property.

In terms of section 7(a) of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) the Minister may give a loan, grant or other assistance to any fire protection association for any of its activities.

In terms of section 17(1)(i) and (ii) of the National Veld and Forest Fire Act, 1998 (Act No. 101 of 1998) every owner on whose land a veld fire may start or burn or from whose land it may spread must have such equipment, protective clothing and trained personnel for extinguishing fires as are prescribed or in the absence of prescribed requirements, reasonably required in the circumstances. From the aforementioned it is clear that there is a duty on landowners to have, inter alia, equipment available in the eventuality that there may be a fire on their property. Failure to meet this requirement is an offence in terms of section 25(4) of the said Act.

*Comment prepared by: Ms. W.M. Neethling*

**RECOMMENDATION BY MUNICIPAL MANAGER**

That the Executive Mayor together with the Mayoral Committee consider to recommend to Council that -

- (a) Approval be granted to transfer all the fire fighting trailers in their existing condition ("voetstoots") to the relevant landowners;
- (b) The all costs relating to the transfer and licensing of each fire fighting trailer be for the account of the responsible person;
- (c) The fire fighting trailers be removed from the asset register of the Cape Winelands District Municipality (CWDM);
- (d) An agreement be drafted in which the objectives as well as a broad outlay of the duties, responsibilities, obligations and rights of the respective parties are reflected, with specific reference to the risk pertaining to loss or

- (i) Die potensiële markwaarde daarvan;
- (j) Ander intrinsieke waarde van die bate (m.a.w. kulturele/erfenis-aspekte, ens.);
- (k) Die ligging daarvan (ten opsigte van die vervoer of toegang);
- (l) Die volume;
- (m) Die inruilprys;
- (n) Die vermoë om breër regeeringsprogramme te ondersteun;
- (o) Omgewingsoorwegings;
- (p) Marktoestande; en
- (q) Die bate se lewensduur.

Die markwaarde van die betrokke bates, gegrond op die boekwaarde soos op 30 Junie 2013, beloop R1 285 594, soos in Bylae "A" uiteengesit.

Indien die Raad goedkeuring verleen vir die oordrag van die betrokke bates aan die toepaslike grondeienaars, soos voorgestel deur die Departement: Gemeenskapsontwikkeling en Beplanningsdienste, moet die vervreemding daarvan deur die Batebeoordelingskomitee hanteer word ingevolge die goedgekeurde Batebestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit (KWDM).

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

## **REGS**

### Vervreemding van bates:

Die vervreemding van bates van 'n munisipaliteit word gereguleer deur die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) (MFMA), die Munisipale Voorsieningskanaalbestuursregulasies, 2005 asook die Distriksmunisipaliteit se Batebestuursbeleid.

Ingevolge artikel 14(2) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003), kan 'n munisipaliteit eienaarskap van 'n kapitale bate oordra of dit andersins vervreem slegs nadat die munisipale raad, op 'n vergadering wat oop is vir die publiek–

- (a) Besluit het dat die bate redelikerwys nie vir die lewering van die minimum vlak van basiese munisipale dienste nodig is nie;
- (b) Die billike markwaarde van die bate en die ekonomiese en gemeenskapswaarde wat in ruil vir die bate ontvang word, in ag geneem het.

damage of the fire fighting trailers or loss or damage caused by any defect which may result from the use of the fire fighting trailers.

**MAYORAL COMMITTEE: 20 NOVEMBER 2013: ITEM MC.7.6**

**RESOLVED:**

That it be recommended to Council that -

- (a) Approval be granted to transfer all the fire fighting trailers in their existing condition ("voetstoots") to the relevant landowners or Fire Prevention Associations (FPA's);
- (b) All costs relating to the transfer and licensing of each fire fighting trailer be for the account of the responsible landowner or Fire Prevention Association (FPA);
- (c) The fire fighting trailers be removed from the asset register of the Cape Winelands District Municipality (CWDM);
- (d) An agreement be drafted in which the objectives as well as a broad outlay of the duties, responsibilities, obligations and rights of the respective parties are reflected, with specific reference to the risk pertaining to loss or damage of the fire fighting trailers or loss or damage caused by any defect which may result from the use of the fire fighting trailers.

**ADDITIONAL LEGAL IMPLICATIONS**

One of the key principles that should be considered and implemented in the context of any asset transfer is the "continuity of service principle". A municipal service is a service that a municipality renders in terms of its powers and functions as set out in Schedule 4, Part B of the Constitution of the Republic of South Africa, 1996. However, section 156(1)(a) in the Constitution of the Republic of South Africa, 1996 does not differentiate between district and local municipalities. The division is indicated in section 84 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) as amended.

The "continuity of service principle" is the need to ensure the uninterrupted continuance of a municipal service when a municipal asset that is being used in the delivery of that service, is transferred or disposed of, particularly when the asset is used in the provision of a minimum level of basic municipal service. Thus, prior to the disposal of an asset, it must first be considered whether the disposal would impact on the delivery of a service.

As the firefighting trailers cannot be considered exempted capital assets in terms of section 14(6) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003), the transfer must be fair, equitable, transparent, competitive and consistent with the Supply Chain Management Policy of the Cape Winelands District Municipality (CWDM).

Ingevolge artikel 14(5) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) moet enige oordrag van eienaarskap van 'n kapitale bate regverdig, billik, deursigtig, mededingend en konsekwent met die voorsieningskanaalbestuursbeleid wees wat die munisipaliteit moet hê en handhaaf.

Ingevolge regulasie 40(2)(b)(ii) van die genoemde Regulasies, moet 'n voorsieningskanaalbestuursbeleid stipuleer dat roerende bates verkoop kan word by wyse van skriftelike pryskwotasies, 'n mededingende bieproses, veiling of teen markverwante pryse, wat ook al die voordeligste vir die munisipaliteit is.

### Kontrak

Indien daar besluit word dat alle brandbestrydingsleepwaens na die grondeienaars oorgedra word, moet 'n kontrak of ooreenkoms opgestel word waarin die bepalings en voorwaardes gestipuleer word en wat spesifiek bepaal dat die volle risiko ten opsigte van die verlies of skade van die brandbestrydingssleepwa, welke skade die gevolg van natuurmagte, onrus, stakings, vyandigheid of soortgelyke oorsaak mag wees, of vanweë onafwendbare en/of onvermydelike ongelukke of verlies of skade oor die algemeen om enige ander rede van watter aard ook al, oorgedra word na ondertekening van die ooreenkoms deur albei partye. Verder moet daar bepaal word dat die Kaapse Wynland Distriksmunisipaliteit (KWDM) nie aanspreeklik sal wees vir enige verlies of skade wat veroorsaak word deur enige gebrek in of as gevolg van die gebruik van die brandbestrydingsleepwa nie.

### Wet op Nasionale Veld- en Bosbrande, 1998 (Wet No. 101 van 1998):

Die doel van die genoemde Wet is om veld-, bos- en bergbrande regoor die Republiek te voorkom en bestry. Hoofstuk 2 van die genoemde Wet maak voorsiening vir die stigting, registrasie, pligte en funksionering van Brandbeskermingsverenigings (BBV's) en die aanstelling en pligte van 'n Brandbeskermingsbeampte (BBB). Die doel van hierdie Brandbeskermingsverenigings (BBV's) is om veldbrande te voorspel, verhinder, bestuur en blus. Alle grondeienaars word in wese verantwoordelik gehou vir die bestuur van brande op hul eiendom.

Ingevolge artikel 7(a) van die Wet op Nasionale Veld- en Bosbrande, 1998 (Wet No. 101 van 1998), kan die Minister 'n lening, toelaag of ander hulp aan enige brandbeskermingsvereniging vir enige van sy aktiwiteite skenk.

Ingevolge artikel 17(1)(i) en (ii) van die Wet op Nasionale Veld- en Bosbrande, 1998 (Wet No. 101 van 1998), moet elke eienaar op wie se grond 'n veldbrand kan begin of brand of van wie se grond dit kan versprei, oor sodanige toerusting, beskermende kleredrag en opgeleide personeel vir die blussing van brande hê soos wat daar bepaal word of in die afwesigheid van bepaalde vereistes, wat redelikerwys onder die omstandighede benodig word. Uit voorgemelde is dit duidelik dat daar 'n verpligting op grondeienaars is om, onder andere, toerusting beskikbaar te hê in die geval dat 'n brand op hul eiendom uitbreek. Versuim om aan hierdie vereiste te voldoen, maak ingevolge artikel 25(4) van die genoemde Wet 'n misdryf uit.

*Kommentaar opgestel deur: Me. W.M. Neethling*

Any capital assets that are transferred to a private sector party (i.e. a person who is not an organ of state, for instance, an individual or a private company etc.) must be done in accordance with the Asset Transfer Regulations, 2008 and the Supply Chain Management Policy of the Cape Winelands District Municipality (CWDM).

Once it has been determined that the asset to be transferred is a non-exempted capital asset, the value of the asset must be determined. If the asset is not considered to be high value, and if the total value of the asset transactions is not more than the 5% of the total value of Council's assets, then Council must, at a meeting open to public, reasonably decide and confirm that the asset is not needed to provide a minimum level of basic municipal service and also consider the fair market, economic and community value to be received in exchange for the asset.

Should the asset be considered to be needed to provide a minimum level of basic municipal service, then the asset cannot be transferred (regulation 5(1)(b) as well as section 14(2) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003)).

During the meeting and before approving to transfer the assets, Council must in terms of regulation 7 of the Asset Transfer Regulations, 2008, first consider, inter alia, the following factors:

- (a) Whether it may need the asset at a later date;
- (b) Expected gain or loss on transfer;
- (c) Compensation for the asset and if it will result in a cost or benefit for the municipality;
- (d) Management of any risk;
- (e) Impact on its credit rating and ability to raise further borrowings in the future;
- (f) Limitations or conditions attached to the asset;
- (g) Estimated cost of proposed transfer;
- (h) Transfer of any liabilities and reserves;
- (i) The impact on the municipality's own strategic, legal and economic interests

When Council takes an in-principle decision that a non-exempted capital asset may be transferred or disposed of, Council, in terms of regulation 11 of the Asset Transfer Regulations, 2008, may impose conditions on the transfer or disposal, including conditions to specify how the asset is to be sold or disposed of (within the framework set by the Supply Chain Management Regulations, 2005, minimum compensation and whether asset can be transferred or disposed of for less than fair market value).

Lastly, and in terms of regulation 17(1) all asset transfers may only take place by way of written transfer agreement which must include the terms and conditions of the transfer, the details of the capital asset and the liability to be transferred, compensation to be paid, terms and conditions for payment and the

### **AANBEVELING DEUR MUNISIPALE BESTUURDER:**

Dat die Uitvoerende Burgemeester saam met die Burgemeesterskomitee ooreweging daaraan skenk om by die Raad aan te beveel dat –

- (a) Goedkeuring verleen word om al die brandbestrydingsleepwaens in hulle bestaande toestand ("voetstoots") aan die betrokke grondeienaars oor te dra;
- (b) Alle koste verwant aan die oordrag en lisensiëring van elke brandbestrydingsleepwa vir die rekening van die verantwoordelike persoon is;
- (c) Die brandbestrydingsleepwaens van die bateregister van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verwyder word;
- (d) 'n Ooreenkoms opgestel word waarin die doelwitte en 'n breë uiteensetting van die pligte, verantwoordelikhede, verpligtinge en regte van die onderskeie party weerspieël word, met spesifieke verwysing na die risiko ten opsigte van die verlies of skade van die brandbestryding-sleepwaens of verlies of skade weens enige gebrek wat as gevolg van die gebruik van die brandbestrydingsleepwaens kan ontstaan.

### **BURGEMEESTERSKOMITEE: 20 NOVEMBER 2013: ITEM BK.7.6**

#### **BESLUIT:**

Dat dit by die Raad aanbeveel word dat –

- (a) Goedkeuring verleen word om al die brandbestrydingsleepwaens in hulle bestaande toestand ("voetstoots") aan die betrokke grondeienaars of Brandvoorkomingsverenigings (BBV's) oor te dra;
- (b) Alle koste verwant aan die oordrag en lisensiëring van elke brandbestrydingsleepwa vir die rekening van die verantwoordelike grondeienaar of Brandvoorkomingsvereniging (BBV) is;
- (c) Die brandbestrydingsleepwaens van die bateregister van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verwyder word;
- (d) 'n Ooreenkoms opgestel word waarin die doelwitte en 'n breë uiteensetting van die pligte, verantwoordelikhede, verpligtinge en regte van die onderskeie party weerspieël word, met spesifieke verwysing na die risiko ten opsigte van die verlies of skade van die brandbestryding-sleepwaens of verlies of skade weens enige gebrek wat as gevolg van die gebruik van die brandbestrydingsleepwaens kan ontstaan.

#### **BYKOMENDE REGSIMPLIKASIES**

Een van die sleutelbeginsels wat in ag geneem en geïmplementeer moet word in die konteks van 'n bate oordrag, is die "kontinuiteit van diens beginsel". 'n Munisipale diens is 'n diens wat 'n munisipaliteit het ingevolge sy bevoegdhede en funksies soos uiteengesit in Bylae 4, Deel B van die Grondwet van die Republiek van Suid-Afrika, 1996. Artikel 156(1)(a) van die Grondwet van die

effective date in which risk and accountability for the assets are to be transferred

*Comment prepared by: Ms. W.M. Neethling*

**RECOMMENDATION BY MAYORAL COMMITTEE:**

That Council consider that -

- (a) Approval be granted to transfer all the fire fighting trailers in their existing condition ("voetstoots") to the relevant landowners or Fire Prevention Associations (FPA's);
- (b) All costs relating to the transfer and licensing of each fire fighting trailer be for the account of the responsible landowner or Fire Prevention Association (FPA);
- (c) The fire fighting trailers be removed from the asset register of the Cape Winelands District Municipality (CWDM);
- (d) An agreement be drafted in which the objectives as well as a broad outlay of the duties, responsibilities, obligations and rights of the respective parties are reflected, with specific reference to the risk pertaining to loss or damage of the fire fighting trailers or loss or damage caused by any defect which may result from the use of the fire fighting trailers.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.5**

**RESOLVED:**

That the Item be withdrawn.

**C.14.6 DRAFT POLICY FOR FINANCIAL SUPPORT FOR THE REPLACEMENT AND CONSTRUCTION OF FENCING ALONG THE PROVINCIAL ROADS NETWORK IN THE JURISDICTION AREA OF THE CAPE WINELANDS DISTRICT MUNICIPALITY (CWDM) (16/1/1)**

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**PURPOSE OF SUBMISSION**

That Council considers to approve the draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality's (CWDM).

**BACKGROUND**

In terms of the roads agency's service delivery agreement entered into between the Cape Winelands District Municipality's (CWDM) and the Department of Transport and Public Works of the Provincial Government, Western Cape (Provincial Roads Network Management Branch) as well as the Memorandum

Republiek van Suid-Afrika, 1996 onderskei egter nie tussen distriks- en plaaslike munisipaliteite nie. Die verdeling word aangedui in artikel 84 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet No. 117 van 1998) soos gewysig.

Die "kontinuiteit van diens beginsel" is die behoefte om die ononderbroke kontinuiteit van 'n munisipale diens te verseker wanneer 'n munisipale bate wat in die lewering van daardie diens gebruik word, oorgedra of vervreem word, veral wanneer die bate in die voorsiening van 'n minimum vlak van basiese munisipale diens gebruik word. Voordat 'n bate dus vervreem word, moet dit eers oorweeg word of die vervreemding 'n invloed op dienslewering sal hê.

Aangesien die brandbestrydingsleepwaens nie ingevolge artikel 14(6) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003) as vrygestelde kapitale bates beskou kan word nie, moet die oordrag regverdig, billik, deursigtig, mededingend en in ooreenstemming met die Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit (KWDM) wees.

Enige kapitale bates wat aan 'n privaatsektorparty oorgedra word (d.w.s. 'n persoon wat nie 'n orgaan van die staat is nie, soos byvoorbeeld 'n individu of 'n private maatskappy, ens.), moet gedoen word ingevolge die Bate-Oordragregulasies, 2008 en die Voorsieningskanaalbestuursbeleid van die Kaapse Wynland Distriksmunisipaliteit (KWDM).

Sodra dit vasgestel is dat die bate wat oorgedra moet word 'n nie-vrygestelde kapitale bate is, moet die waarde van die bate bepaal word. Indien die bate nie geag word om van hoër waarde te wees nie en indien die totale waarde van die batetransaksies nie meer as 5% van die totale waarde van die Raad se bates is nie, dan moet die Raad, op 'n vergadering oop vir die publiek, redelikewyse besluit en bevestig dat die bate nie noodsaaklik is om 'n minimum vlak van basiese munisipale diens te lewer nie en ook die billike mark-, ekonomiese en gemeenskapswaarde oorweeg wat in ruil vir die bate ontvang sal word.

Indien die bate beskou word as noodsaaklik om 'n minimum vlak van basiese munisipale diens te lewer, kan die bate nie oorgedra word nie (regulasie 5(1)(b) asook artikel 14(2) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No. 56 van 2003)).

Tydens die vergadering en voor die goedkeuring van die oordrag van die bate, moet die Raad kragtens regulasie 7 van die Bate-Oordragregulasies, 2008 eerstens die volgende faktore, onder andere, oorweeg:

- (a) Of die bate moontlik op 'n latere datum benodig sal word;
- (b) Verwagte wins of verlies met die oordrag;
- (c) Vergoeding vir die bate en of dit tot 'n koste of voordeel vir die munisipaliteit sal lei;
- (d) Bestuur van enige risiko;
- (e) Impak op sy kredietgradering en vermoë om verdere lenings in die toekoms aan te gaan;
- (f) Beperkings of voorwaardes verbonde aan die bate;
- (g) Beraamde koste van die voorgestelde oordrag;

of Agreement for prepayments of envisaged monthly road agency expenditures, the said Branch may request district municipalities to manage projects on behalf of the Branch.

In this case, the identified project is the management of all applications for financial assistance for the replacement of old fencing between the provincial road network's road reserve boundary and the adjoining property. The policy will only apply for the replacement of old road reserve fences and will not replace the legal maintenance obligation of the adjacent landowners in terms of section 12(6) of Roads Ordinance, 1976 (Ordinance No. 19 of 1976).

\*\*\* Attached as Annexure "A") is a copy of a letter dated 23 August 2013 received from the Department of Transport and Public Works of the Provincial Government Western Cape (Provincial Roads Network Management Branch) requesting the Cape Winelands District Municipality (CWDM) to approve a policy to manage the project annually as part of the existing agency function.

\*\*\* Attached as Annexure "B" is a copy of the draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM).

\*\*\* Attached as Annexure "C" is a copy of the proposed subsidy that must be approved in the 2013/2014 financial year, but will only be implemented as from 1 July 2014.

## **IMPLICATIONS**

### **PERSONNEL**

None.

*Comment prepared by: Ms. K. Smit*

### **FINANCIAL**

The "BACKGROUND" above indicates that the financial support initiative for the replacement and construction of fences will be funded by the Provincial Government, Western Cape as part of the existing Roads Agency Function.

Furthermore, appropriation for the relevant subsidy will be dealt with during the 2014/2015 Integrated Development Plan/Budget process.

*Comment prepared by: Ms. F.A. du Raan-Groenewald*

### **LEGAL**

Schedule 5A of the Constitution of the Republic of South Africa, 1996 empowers provinces with exclusive legislative competencies over provincial roads and traffic management. Provinces are thus responsible for the management of the provincial road network, whilst Schedule 5B of the

- (h) Oordrag van enige laste en reserwes;
- (i) Die impak op die munisipaliteit se eie strategiese, regs- en ekonomiese belange.

Wanneer die Raad 'n in-beginsel besluit neem dat 'n nie-vrygestelde kapitale bate oorgedra of vervreem kan word, mag die Raad ingevolge regulasie 11 van die Bate-Oordragregulasies, 2008, voorwaardes vir die oordrag of vervreemding stel, insluitende voorwaardes wat spesifiseer hoe die bate verkoop of vervreem moet word (binne die raamwerk van die Voorsieningskanaalbestuursregulasies, 2005), die minimum vergoeding en of die bate vir minder as billike markwaarde oorgedra of vervreem kan word.

Laastens en ingevolge regulasie 17(1), kan alle bate oordragte slegs by wyse van 'n skriftelike oordragooreenkoms plaasvind, wat insluit die bepalinge en voorwaardes van die oordrag, die besonderhede van die kapitale bate en die las wat oorgedra moet word, vergoeding wat betaal moet word, bepalinge en voorwaardes vir betaling en die effektiewe datum waarop risiko en aanspreeklikheid vir die bates oorgedra moet word.

*Kommentaar opgestel deur: Me. W.M. Neethling*

#### **AANBEVELING DEUR BURGEMEESTERSKOMITEE:**

Dat die Raad oorweging daaraan skenk dat –

- (a) Goedkeuring verleen word om al die brandbestrydingsleepwaens in hulle bestaande toestand ("voetstoots") aan die betrokke grondeienaars of Brandvoorkomingsverenigings (BBV's) oor te dra;
- (b) Alle koste verwant aan die oordrag en lisensiëring van elke brandbestrydingsleepwa vir die rekening van die verantwoordelike grondeienaar of Brandvoorkomingsvereniging (BBV) is;
- (c) Die brandbestrydingsleepwaens van die bateregister van die Kaapse Wynland Distriksmunisipaliteit (KWDM) verwyder word;
- (d) 'n Ooreenkoms opgestel word waarin die doelwitte en 'n breë uiteensetting van die pligte, verantwoordelikhede, verpligtinge en regte van die onderskeie party weerspieël word, met spesifieke verwysing na die risiko ten opsigte van die verlies of skade van die brandbestrydingsleepwaens of verlies of skade weens enige gebrek wat as gevolg van die gebruik van die brandbestrydingsleepwaens kan ontstaan.

#### **RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.5**

#### **BESLUIT:**

Dat die item onttrek word.

Constitution assigns exclusive functions to municipalities for municipal roads, traffic and parking.

In view of the fact that the Cape Winelands District Municipality (CWDM) is performing the roads function on an agency basis on behalf of the Provincial Government: Western Cape (PGWC), the function must be performed within the financial (and any other) limits set by the Principal (Provincial Government Western Cape).

The authority to approve policy is the prerogative of Council.

*Comment prepared by: Ms. W.M. Neethling*

**RECOMMENDATION BY MUNICIPAL MANAGER:**

That the Executive Mayor together with the Mayoral Committee consider to recommend to Council to approve the following -

- (a) The draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM) attached hereto as Annexure "B";
- (b) A standard subsidy, applicable to minimum standards, as a unit subsidy that will apply to all approved applications, attached hereto as Annexure "C";
- (c) The annual adjustment of the subsidy in terms of the average prices for fencing material obtained from local suppliers (cooperatives) and/or tenders.

**MAYORAL COMMITTEE: 3 DECEMBER 2013: ITEM MC.7.2**

**RESOLVED:**

That it be recommended to Council to approve the following -

- (a) The draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM), attached as Annexure "B" to the agenda item;
- (b) A standard subsidy, applicable to minimum standards, as a unit subsidy that will apply to all approved applications, attached as Annexure "C" to the agenda item;
- (c) The annual adjustment of the subsidy in terms of the average prices for fencing material obtained from local suppliers (cooperatives) and/or tenders.

**R.14.6 KONSEP BELEID VIR FINANSIËLE ONDERSTEUNING VIR DIE  
VERVANGING EN OPRIGTING VAN OMHEININGS LANGS DIE  
PROVINSIALE PADNETWERK IN DIE JURISDIKSIEAREA VAN DIE  
KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT (KWDM) (16/1/1)**

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**DOEL VAN VOORLEGGING**

Dat die Raad oorweging daaraan skenk om die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Omheinings langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM) goedkeur.

**AGTERGROND**

Ingevolge die padagentskap se diensleweringooreenkoms aangegaan tussen die Kaapse Wynland Distriksmunisipaliteit (KWDM) en die Departement van Vervoer en Openbare Werke van die Provinsiale Regering, Wes-Kaap (Provinsiale Paaienetwerkbestuurtak) asook die Memorandum van Ooreenkoms vir vooruitbetalings van verwagte maandelikse padagentskap uitgawes, mag die gemelde Tak distriksmunisipaliteite versoek om projekte namens die Tak te bestuur.

In hierdie geval, is die geïdentifiseerde projek die bestuur van alle aansoeke vir finansiële hulp vir die vervanging van ou omheinings tussen die provinsiale padnetwerk se padreserwe grens en die aanliggende eiendom. Die beleid sal slegs van toepassing wees op die vervanging van ou padreserwe omheinings en sal nie die wettige onderhoudsverantwoordelikheid van die aanliggende grondeienaars ingevolge artikel 12(6) van die Ordonnansie op Paaie, 1976 (Ordonnansie No. 19 van 1976), vervang nie.

\*\*\* Aangeheg as Bylae "A" is 'n afskrif van 'n skrywe gedateer 23 Augustus 2013 ontvang vanaf die Departement van Vervoer en Openbare Werke, Provinsiale Regering Wes-Kaap (Provinsiale Paaienetwerkbestuurtak) waarin die Kaapse Wynland Distriksmunisipaliteit (KWDM) versoek word om 'n beleid goed te keur om die projek jaarliks te bestuur as deel van die bestaande agentskapsfunksie.

\*\*\* Aangeheg as Bylae "B" is 'n afskrif van die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Omheinings langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM).

\*\*\* Aangeheg as Bylae "C" is 'n afskrif van die voorgestelde subsidie wat in die 2013/2014 finansiële jaar goedgekeur moet word, maar slegs vanaf 1 Julie 2014 geïmplementeer sal word.

*Kommentaar opgestel deur: Mnr. A.C.A. Stevens*

**RECOMMENDATION BY MAYORAL COMMITTEE:**

That Council considers to approve the following -

- (a) The draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM) attached hereto as Annexure "B";
- (b) A standard subsidy, applicable to minimum standards, as a unit subsidy that will apply to all approved applications, attached hereto as Annexure "C";
- (c) The annual adjustment of the subsidy in terms of the average prices for fencing material obtained from local suppliers (cooperatives) and/or tenders.

**COUNCIL MEETING: 3 DECEMBER 2013: ITEM C.14.6**

Councillor (Dr.) H. von Schlicht from the Democratic Alliance (DA), seconded by Councillor L.W. Niehaus from the Democratic Alliance (DA), proposed that the following be approved:

- (a) The draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM) attached hereto as Annexure "B";
- (b) A standard subsidy, applicable to minimum standards, as a unit subsidy that will apply to all approved applications, attached hereto as Annexure "C";
- (c) The annual adjustment of the subsidy in terms of the average prices for fencing material obtained from local suppliers (cooperatives) and/or tenders.

Councillor J.B. Cronje from the Congress of the People (COPE), seconded by Councillor S.W. Davids from the African National Congress (ANC), proposed that the draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM), not be approved.

The proposals are put to the vote.

The results were as follows:

Proposal by Councillor (Dr.) H. von Schlicht (DA)	18 Votes
Proposal by Councillor J.B. Cronje (COPE)	13 Votes

## **IMPLIKASIES**

### **PERSONEEL**

Geen.

*Kommentaar opgestel deur: Me. K. Smit*

### **FINANSIEEL**

Die "AGTERGROND" hierbo dui aan dat die inisiatief vir die finansiële ondersteuning vir die vervanging en oprigting van omheinings deur die Provinsiale Regering Wes-Kaap befonds sal word as deel van die bestaande Paaie Agentskapsfunksie.

Voorts sal bewilliging vir die betrokke subsidie gedurende die 2014/2015 Geïntegreerde Ontwikkelingsplan/Begrotingsproses hanteer word.

*Kommentaar opgestel deur: Me. F.A. du Raan-Groenewald*

### **REGS**

Skedule 5A van die Grondwet van die Republiek van Suid-Afrika, 1996 bemagtig provinsies met eksklusiewe wetgewende bevoegdhede oor provinsiale paaie en verkeersbestuur. Provinsies is dus verantwoordelik vir die bestuur van die provinsiale paaienetwerk, terwyl Skedule 5B van die Grondwet eksklusiewe funksies aan munisipaliteite toeken ten aansien van munisipale paaie, verkeer en parkering.

In die lig van die feit dat die Kaapse Wynland Distriksmunisipaliteit (KWDM) die paaiefunksie op 'n agentskapsbasis namens die Provinsiale Regering Wes-Kaap verrig, moet die funksie verrig word binne die finansiële (en enige ander) perke gestel deur die Prinsipaal (Provinsiale Regering: Wes-Kaap).

Die bevoegdheid om beleid goed te keur, is die prerogatief van die Raad.

*Kommentaar opgestel deur: Me. W.M. Neethling*

### **AANBEVELING DEUR MUNISIPALE BESTUURDER:**

Dat die Uitvoerende Burgemeester saam met die Burgemeesterskomitee oorweging daaraan skenk om by die Raad aan te beveel dat die volgende goedgekeur word -

- (a) Die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Heining langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM), aangeheg hierby as Bylae "B";
- (b) 'n Standaard subsidie, toepaslik op minimum standarde, as 'n eenheidssubsidie wat op alle goedgekeurde aansoeke van toepassing sal wees, aangeheg hierby as Bylae "C";

**RESOLVED** with a majority of eighteen (18) votes to thirteen (13) votes that the following be approved :

- (a) The draft Policy for Financial Support for the Replacement and Construction of Fencing along the Provincial Roads Network in the jurisdiction area of the Cape Winelands District Municipality (CWDM) attached hereto as Annexure "B";
- (b) A standard subsidy, applicable to minimum standards, as a unit subsidy that will apply to all approved applications, attached hereto as Annexure "C";
- (c) The annual adjustment of the subsidy in terms of the average prices for fencing material obtained from local suppliers (cooperatives) and/or tenders.

The following Councillors requested that their counter votes be noted:

Cllr. M.B. Appolis  
Cllr. N.M. Bushwana  
Cllr. J.B. Cronje  
Cllr. S.W. Davids  
Cllr. Z.L. Gwada  
Cllr. N.D. Hani  
Cllr. D.A. Hendrickse  
Cllr. P. Marran  
Cllr. C. Mcako  
Cllr. J.S. Mouton  
Cllr. W.S. Nyamana  
Cllr. M.S. Tayitayi  
Cllr. M.H. Yabo

Cllr. P. Heradien abstained from voting.

## **C.15 CONCLUSION**

The Acting Speaker wished all present a blessed festive season and a prosperous new year.

The agenda was concluded at 14:47.

CONFIRMED ON THIS DAY OF 2014.

SPEAKER

DAH/iw

- (c) Die jaarlikse aanpassing van die subsidie ingevolge die gemiddelde pryse vir omheiningsmateriaal verkry vanaf plaaslike verskaffers (koöperasies) en/of tenders.

**BURGEMEESTERSKOMITEE: 3 DESEMBER 2013: ITEM BK.7.2**

**BESLUIT:**

Dat dit by die Raad aanbeveel word om die volgende goed te keur -

- (a) Die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Heinings langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM), aangeheg hierby as Bylae "B";
- (b) 'n Standaard subsidie, toepaslik op minimum standarde, as 'n eenheidssubsidie wat op alle goedgekeurde aansoeke van toepassing sal wees, aangeheg hierby as Bylae "C";
- (c) Die jaarlikse aanpassing van die subsidie ingevolge die gemiddelde pryse vir omheiningsmateriaal verkry vanaf plaaslike verskaffers (koöperasies) en/of tenders.

**AANBEVELING DEUR BURGEMEESTERSKOMITEE:**

Dat die Raad oorweging daaraan skenk om die volgende goed te keur -

- (a) Die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Heinings langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM), aangeheg hierby as Bylae "B";
- (b) 'n Standaard subsidie, toepaslik op minimum standarde, as 'n eenheidssubsidie wat op alle goedgekeurde aansoeke van toepassing sal wees, aangeheg hierby as Bylae "C";
- (c) Die jaarlikse aanpassing van die subsidie ingevolge die gemiddelde pryse vir omheiningsmateriaal verkry vanaf plaaslike verskaffers (koöperasies) en/of tenders.

**RAADSVERGADERING: 3 DESEMBER 2013: ITEM R.14.6**

Raadslid (Dr.) H. von Schlicht van die Demokratiese Alliansie (DA),  
gesekondeer deur Raadslid L.W. Niehaus van die Demokratiese Alliansie (DA),  
stel voor dat die volgende goedgekeur word:

- (a) Die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Heinings langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM), hierby aangeheg as Bylae "B";



- (b) 'n Standaard subsidie, toepaslik op minimum standarde, as 'n eenheidssubsidie wat op alle goedgekeurde aansoeke van toepassing sal wees, hierby aangeheg as Bylae "C";
- (c) Die jaarlikse aanpassing van die subsidie ingevolge die gemiddelde pryse vir omheiningsmateriaal verkry vanaf plaaslike verskaffers (koöperasies) en/of tenders.

Raadslid J.B. Cronje van die Congress of the People (COPE), gesekondeer deur Raadslid S.W. Davids van die African National Congress (ANC), stel voor dat die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Heininge langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM) nie goedgekeur word nie.

Die voorstelle word tot stemming gebring.

Die uitslae is soos volg:

Voorstel deur Raadslid (Dr.) H. von Schlicht (DA)	18 stemme
Voorstel deur Raadslid J.B. Cronje (COPE)	13 stemme

**BESLUIT** met die meerderheid van agtien (18) stemme teenoor dertien (13) stemme dat die volgende goedgekeur word:

- (a) Die konsep Beleid vir Finansiële Ondersteuning vir die Vervanging en Oprigting van Heininge langs die Provinsiale Padnetwerk in die jurisdiksiearea van die Kaapse Wynland Distriksmunisipaliteit (KWDM), hierby aangeheg as Bylae "B";
- (b) 'n Standaard subsidie, toepaslik op minimum standarde, as 'n eenheidssubsidie wat op alle goedgekeurde aansoeke van toepassing sal wees, hierby aangeheg as Bylae "C";
- (c) Die jaarlikse aanpassing van die subsidie ingevolge die gemiddelde pryse vir omheiningsmateriaal verkry vanaf plaaslike verskaffers (koöperasies) en/of tenders.

Die volgende Raadslede het versoek dat hulle teenstem aangeteken word:

Rdl. M.B. Appolis  
Rdl. N.M. Bushwana  
Rdl. J.B. Cronje  
Rdl. S.W. Davids  
Rdl. Z.L. Gwada  
Rdl. N.D. Hani  
Rdl. D.A. Hendrickse  
Rdl. P. Marran  
Rdl. C. Mcako  
Rdl. J.S. Mouton  
Rdl. W.S. Nyamana



Rdl. M.S. Tayitayi  
Rdl. M.H. Yabo

Rdl. P. Heradien bly buite stemming.

**R.15      AFSLUITING**

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Die Waarnemende Speaker wens almal teenwoordig 'n geseënde feestyd en 'n voorspoedige nuwe jaar toe.

Die agenda is om 14:47 afgehandel.

BEKRAGTIG OP HIERDIE

DAG VAN

2014.

SPEAKER

DAH/iw



# **GREAT WINE CAPITAL NETWORK**

**3 – 8 NOVEMBER 2013**

**SAN FRANCISCO/NAPA VALLEY**

**PRESENTED BY :**

**MUNICIPAL MANAGER : M. MGAJO**



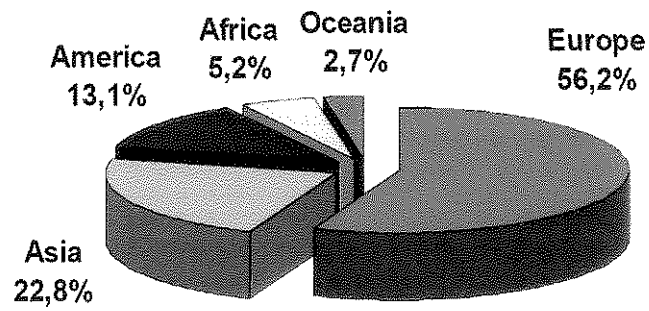
## **GREAT WINE CAPITAL NETWORK OF THE WORLD**

Delegation led by the Chairperson of the Cape Winelands Great Wine Capitals Network, Ald. C.A. de Bruyn, Municipal Manager and Manager in his office, André Morgenthal (Wines of South Africa) and Margi Biggs (Wine Tour Operator of SA).



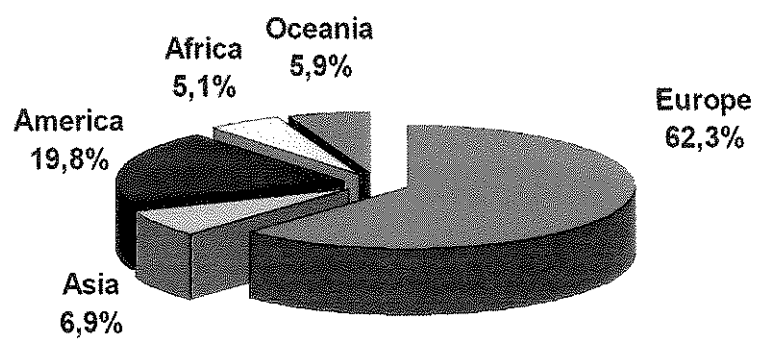
### Surface area of world vineyards

Total: 7.53 Million ha  
(Forecast 2012)

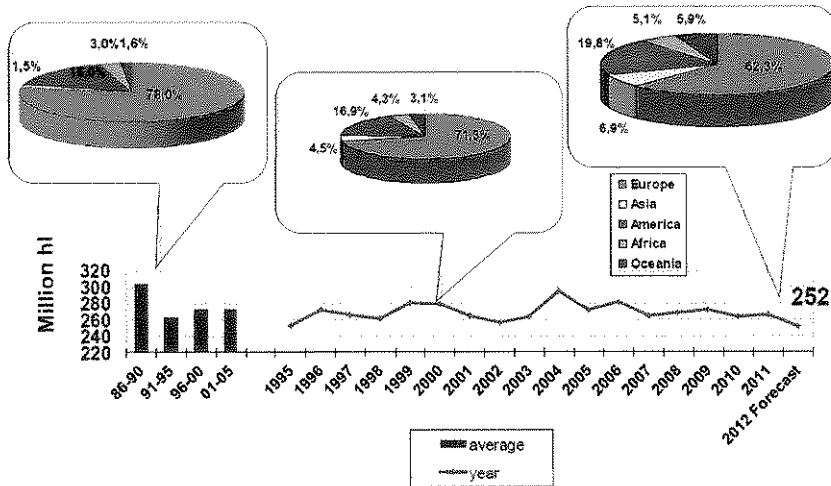


### Global Wine Production (Forecast 2012)

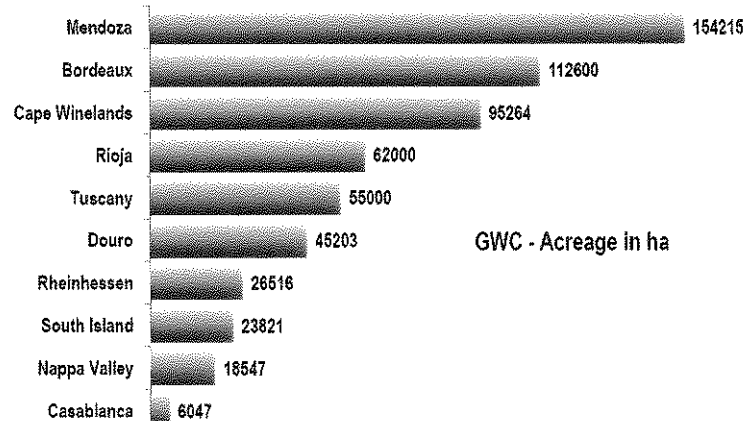
Total: 252 Million hl



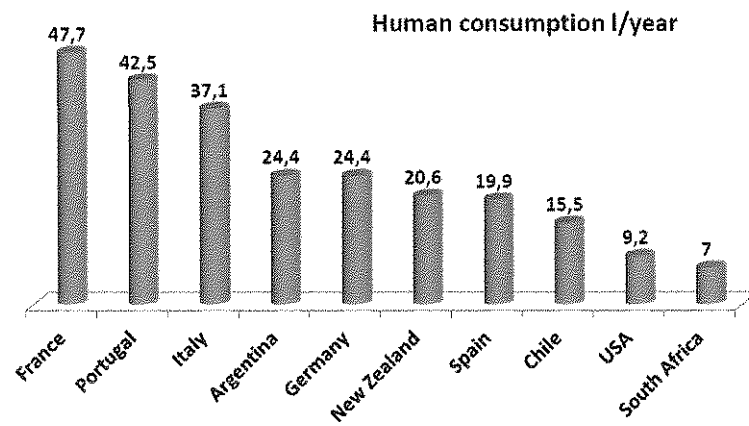
## Global Wine Production



## Great Wine Capital Winegrowing Areas



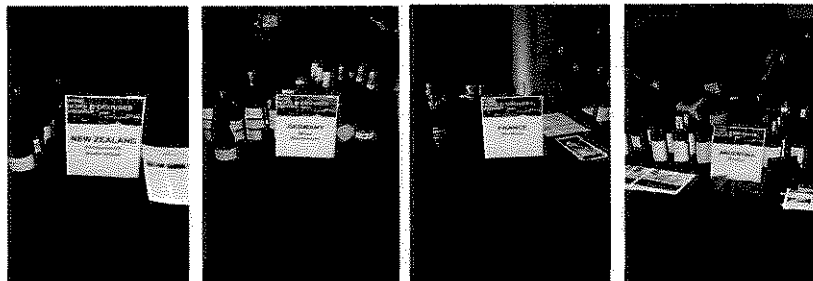
## Great Wine Capital Countries



## CONTEXTUAL BACKGROUND

Great Wine Capitals is a network of major wine producing  
Cities of the World

### Participating Cities



## CONTEXTUAL BACKGROUND

### Participating Cities



## CONTEXTUAL BACKGROUND

### Participating Cities

Bilbao-Rioja

Florence



## BACKGROUND

- Cape Winelands Economy 80% predominantly agricultural
- 70% Wine Producing Region in South Africa
- Cape Winelands/City of Cape Town - Best Wine Tourism Destination
- Proximity to Cape Town International Airport
- Cape Town/Cape Winelands name links

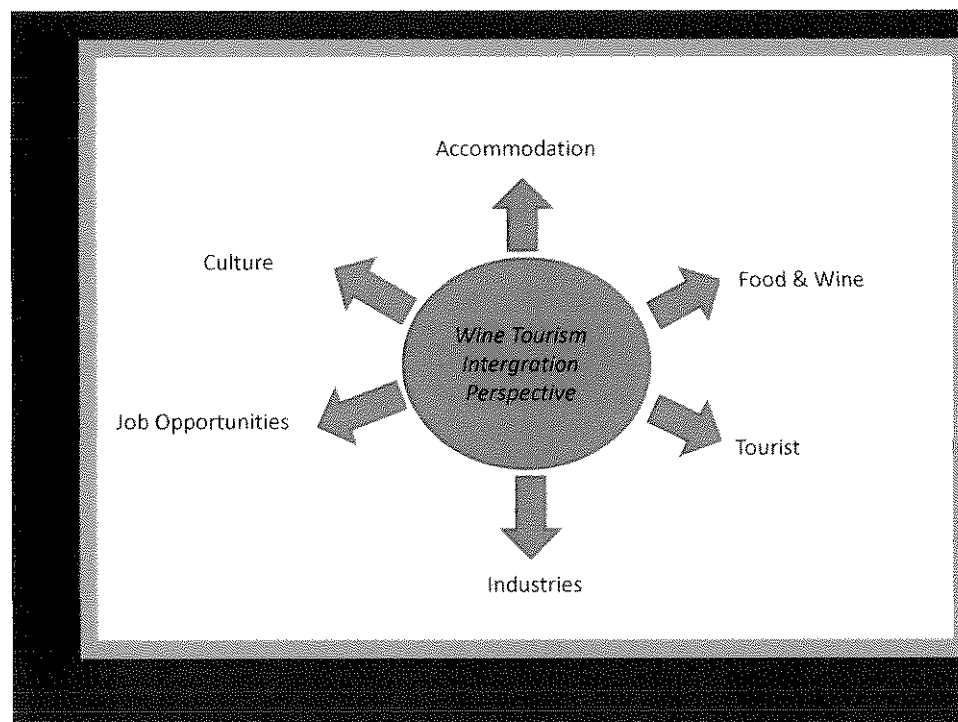
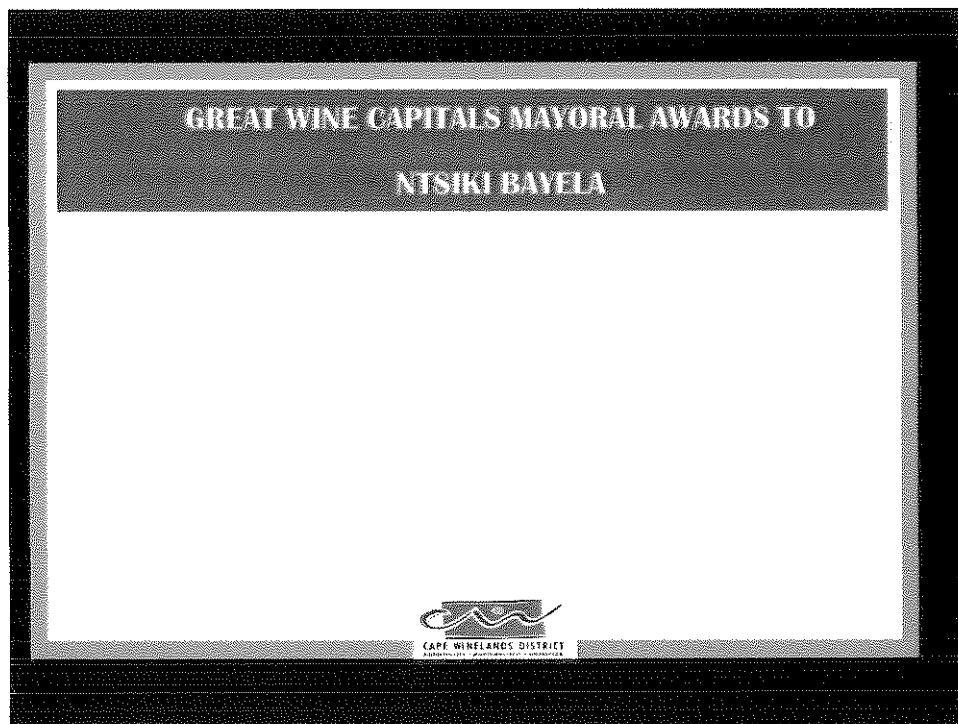


## GREAT WINE CAPITALS COMMITTEE SYSTEM

- ☐ Political Executive Committee - Represented by City Mayors
- ☐ Education and Research
- ☐ Business and Investment
- ☐ Marketing and Communication







## CWDM RELATED PROJECTS

- Journalists
- Educationals
- LTA's
- Mayoral Awards (Tourism, Sport, etc)



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- Journalists
- Educationals
- LTA's
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## WAY FORWARD

- Wine tourism perspective should feature on CWDM Economic Development and Marketing Strategy
- Develop a web link and webpage.
- Initiate engagements with wine industry partners for full participation on GWCN.