



MUNISIPALITEIT THEEWATERSKLOOF MUNICIPALITY

[19 OKTOBER / OCTOBER 2022]

KENNISGEWING / NOTICE

RAADSVERGADERING / COUNCIL MEETING

A G E N D A

DATUM / DATE : 27 OKTOBER / OCTOBER 2022

**PLEK / VENUE : RAADSAAL / COUNCIL CHAMBERS:
CALEDON**

TYD / TIME : 14:00

MUNISIPALITEIT THEEWATERSKLOOF

**Kantoor van die Munisipale
Bestuurder
Munisipale Kantore
CALEDON**

19 Oktober 2022

KENNISGEWING AAN ALLE RAADSLEDE

RAADSVERGADERING VAN DIE THEEWATERSKLOOF MUNISIPALE RAAD

Kennis geskied hiermee dat 'n Raadsvergadering geskeduleer is vir Donderdag, 27 Oktober 2022 om 14:00 in die Raadsaal, Munisipale Kantore, Caledon, om die onderstaande agenda te bespreek.

Raadslede se aandag word gevestig op die Gedragkode vir Raadslede, Skedule 7 van die Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2021 (Wet 3 van 2021) en Munisipale Beampies, Skedule 2 van die Wet op Plaaslike Regering: Munisipale Stelsels, 2000 (Wet 32 van 2000).

BM Ngubo
WAARNEMENDE MUNISIPALE BESTUURDER

THEEWATERSKLOOF MUNICIPALITY

**Office of the Municipal
Manager
Municipal Offices
CALEDON**

19 October 2022

NOTICE TO ALL COUNCILLORS

COUNCIL MEETING OF THE THEEWATERSKLOOF MUNICIPAL COUNCIL

Notice is hereby given that a Council Meeting is scheduled for Thursday, 27 October 2022 at 14:00 in the Council Chambers, Municipal Offices, Caledon, to discuss the undermentioned agenda.

The attention of Councillors is directed to the Code of Conduct for Councillors, Schedule 7 of the Local Government: Municipal Structures Amendment Act, 2021 (Act 3 of 2021) and Municipal Officials, Schedule 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

BM Ngubo
ACTING MUNICIPAL MANAGER

MUNISIPALITEIT THEEWATERSKLOOF MUNICIPALITY
RAADSVERGADERING / COUNCIL MEETING

AGENDA

[27 OKTOBER / OCTOBER 2022]

ITEM NR	ITEM BESKRYWING / DESCRIPTION	BLADSY / PAGE NR
A.	<u>OPENING: VERWELKOMING / OPENING: WELCOME</u>	
B.	<u>VERKIESING VAN SPEAKER</u> <i>(indien nodig)</i> <u>ELECTION OF SPEAKER</u> <i>(if necessary)</i>	
C.	<u>BYWONINGSREGISTER</u> <u>ATTENDANCE REGISTER</u>	
C.1	Teenwoordig / Present	
C.2	Aansoek(e) om verlof tot afwesigheid / Application(s) for leave of absence	
D.	<u>NOTULES VAN DIE UITVOERENDE BURGEMEESTER EN SY KOMITEE VIR KENNISNAME VAN DIE RAAD</u> <u>MINUTES OF THE EXECUTIVE MAYOR AND HIS COMMITTEE FOR COUNCIL'S COGNISANCE</u>	
D.1	Notule van UBK Vergadering: 16 Augustus 2022 Minutes of EMC Meeting: 16 August 2022	
D.2	Notule van UBK Vergadering: 23 September 2022 Minutes of EMC Meeting: 23 September 2022	
E.	<u>BEKRAGTING VAN NOTULES/VERSLAE VAN DIE RAAD</u> <u>CONFIRMATION OF MINUTES/REPORTS OF THE COUNCIL</u>	
E.1	Notule van 'n Spesiale Raadsvergadering: 10 Oktober 2022 Minutes of a Special Council Meeting: 10 October 2022	

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F. **VERKLARINGS EN MEDEDELINGS DEUR DIE SPEAKER / STATEMENTS AND COMMUNICATIONS BY THE SPEAKER**

G. **VERKLARINGS EN MEDEDELINGS DEUR DIE UITVOERENDE BURGEMEESTER / STATEMENTS AND COMMUNICATIONS BY THE EXECUTIVE MAYOR**

H. **VOORLEGGINGS / PRESENTATIONS**

Presentation by Chairperson of Performance- and Audit Committee – 2021/2022 Annual Report of the Performance and Audit Committee – Mr E Lakey

Minutes: Governance and Intergovernmental Relations Provincial Working Group – 16 August 2022

I. **VERSLAE VOORGELê DEUR DIE KANTOOR VAN DIE MUNISIPALE BESTUURDER / REPORTS PRESENTED BY THE OFFICE OF THE MUNICIPAL MANAGER**

C158/2022 Department Internal Audit: Performance- and Audit Committee Report: 01 July 2022 – 30 September 2022 [5/14/1/2]

J. **VERSLAE VOORGELê DEUR DIE DIREKTORAAT KORPORATIEWE DIENSTE / REPORTS PRESENTED BY THE DIRECTORATE CORPORATE SERVICES**

R159/2022 Administrasie: Sluiting van munisipale kantore vir die tydperk tussen Kersfees en Nuwejaar (27 – 30 Desember 2022) [4/8/1]

C159/2022 Administration: Closure of municipal offices for the period between Christmas and New Year (27 - 30 December 2022)

R160/2022 Administrasie: Goedkeuring van kwartaallikse verslag rakende besluite geneem tydens Raadsvergaderings: 01 Julie 2022 tot 30 September 2022 [5/1/3]

C160/2022 Administration: Approval of quarterly report regarding resolutions taken at Council Meetings: 01 July 2022 to 30 September 2022

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R161/2022 Administrasie: Raadslede in reses vir die Desember 2022/ Januarie 2023 skoolvakansie [3/2/1/R]

C161/2022 Administration: Councillors in recess during the December 2022 / January 2023 School Holidays

K. **VERSLAE VOORGELê DEUR DIE DIREKTORAAT
TEGNIËSE & INFRASTRUKTUUR
IMPLEMENTERINGSDIENSTE /
REPORTS SUBMITTED BY THE DIRECTORATE
TECHNICAL & INFRASTRUCTURE
IMPLEMENTATION SERVICES**

C162/2022 Electrical Services: Termination of streetlight maintenance contracts by Eskom and handover of street lights to Theewaterskloof Municipality [16/2/14]

**VERSLAE VOORGELê DEUR DIE DIREKTORAAT
EKONOMIESE ONTWIKKELING EN BEPLANNING /
REPORTS PRESENTED BY THE DIRECTORATE
ECONOMIC DEVELOPMENT AND PLANNING**

C163/2022 Property Management: Eluxolweni Educare: Application to Lease Erf 3430 Grabouw for the operation of a Early Childhood Development Services [7/2/3/1/4]

C164/2022 Property Management: To Lease a portion of Portion 7 of the Farm Radyn No.24, known as Phillipsdale, Villiersdorp [7/2/3/1/6]

C165/2022 Property Management: Villiersdorp Play School: Application to renew lease agreement for the Lease of a portion of Erf 12 Villiersdorp for the operation of a Play School, Pre School and Aftercare Education [7/2/3/1/6]

C166/2022 Town Planning and Building Control: Building Plan Submission Initiative [15/4/R]

C167/2022 Human Settlements: Appointment of Housing Development Agency via an implementation protocol/agreement between Theewaterskloof Municipality and the Housing Development Agency (HDA) [17/7/3/R]

C168/2022 Human Settlements: Purchase of Erf 459, Riviersonderend for provision of RDP housing [7/2/1/1; 17/7/3/8]

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M. **VERSLAE VOORGELê DEUR DIE DIREKTORAAT GEMEENSKAPSDIENSTE / REPORTS PRESENTED BY THE DIRECTORATE COMMUNITY SERVICES**

- C169/2022 Statutory Appointment: Head of Municipal Disaster Management Centre [17/4/1]
- C170/2022 The purpose of this item is to request for the approval of Council to make available a piece of land ±4 hectare, for construction of the Overberg Soccer Academy at Uitsig (Caledon) [17/8/1/1]

N. **VERSLAE VOORGELê DEUR DIE DIREKTORAAT FINANSIES / REPORTS PRESENTED BY THE DIRECTORATE FINANCE**

- C171/2022 Withdrawals from Municipal Bank Accounts: July - September 2022 [5/15/R]
- R171/2022 Onttrekking uit Munisipale Bankrekening: Julie - September 2022
- C172/2022 Supply Chain Management: Deviation Report for September 2022 [6/3/3/6]
- R172/2022 Voorsieningskanaalbestuur: Afwykingsverslag vir September 2022
- C173/2022 Financial Report Item: First Quarter 2022/2023 (July 2022 - September 2022) [5/16/R]
- C174/2022 For Council to consider reinstating the Mayor's Pro Poor Initiative for the period 01 November 2022 until 30 November 2022 [5/11/1]
- C175/2022 Council to resolve on issue related to Japie Groenewald Trust Accounts caused by previous Municipal Valuers [5/11/1] [*Agenda-item will be discussed In-Committee*]
- C176/2022 Council to consider adjustment and write-off of irrecoverable debts for Elgin Tavern Pty Ltd [5/11/1] [*Agenda-item will be discussed In-Committee*]
- C177/2022 Request by Rosalia Trust to implement correction on valuation of its property retrospectively [5/11/1] [*Agenda-item will be discussed In-Committee*]

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- C178/2022 Request by the Moravian Church of South Africa to implement a retrospective rate rebate on a) cemetery properties and b) Moravian Mission Station [5/11/1]
[Agenda-item will be discussed In-Committee]
- C179/2022 Request by Theewaterskloof Country Club to implement a rate rebate retrospectively [5/11/1]
[Agenda-item will be discussed In-Committee]
- C180/2022 Reporting on the performance of Contractors: July 2022 to September 2022 [8/1/R]
- C181/2022 Consideration and approval of the Adjustment Budget 2022/2023 and indicative for the projected two outer Years 2023/2024 and 2024/2025
[5/1/1-2022/2023; 5/1/1-2023/2024; 5/1/1-2024/2025]

- O. **DRINGENDE VERSLAE VOORGELê DEUR DIE
MUNISIPALE BESTUURDER /
URGENT REPORTS SUBMITTED BY THE
MUNICIPAL MANAGER**
- P. **OORWEGING VAN KENNISGEWINGS VAN MOSIES /
CONSIDERATION OF NOTICES OF MOTIONS**
- Q. **OORWEGING VAN KENNISGEWINGS EN VRAE /
CONSIDERATION OF NOTICES AND QUESTIONS**
- R. **OORWEGING VAN DRINGENDE MOSIES /
CONSIDERATION OF URGENT MOTIONS**
- S. **IN-KOMITEEVERGADERING AGENDA-ITEMS
VIR BESPREKING
IN-COMMITTEE MEETING AGENDA-ITEMS
FOR DISCUSSION**

ITEM HEADING

C158/2022 OFFICE OF THE MUNICIPAL MANAGER: DEPARTMENT INTERNAL AUDIT: PERFORMANCE- AND AUDIT COMMITTEE REPORT: 1 JULY 2022 – 30 SEPTEMBER 2022

[English version of the report is the original]

FILE NUMBER

5/14/1/2

PURPOSE / AIM OF REPORT

The purpose of the report is to report to Council on the functions of the Performance- and Audit Committee (PAC) performed for the period 1 July 2022 – 30 September 2022.

BACKGROUND

According to the MFMA (Municipal Financial Management Act) No.56 of 2003, Section 166 (2):

- (2) An audit committee is an independent advisory body which must-
- (a) advise the municipal council, the political office-bearers, the accounting officer and the management staff of the municipality, or the board of directors, the accounting officer and the management staff of the municipal entity, on matters relating to-
1. internal financial control and internal audits;
 2. risk management;
 3. accounting policies;
 4. the adequacy, reliability and accuracy of financial reporting and information;
 5. performance management;
 6. effective governance;
 7. compliance with this Act, the annual Division of Revenue Act and any other applicable legislation;
 8. performance evaluation; and
 9. any other issues referred to it by the municipality or municipal entity;

DISCUSSION

The revised Performance- and Audit Committee Charter was approved by Council on 25 February 2022.

Paragraph 3.1.1 of the Charter states: It is required from the PAC to quarterly, update the Council about committee activities and make appropriate recommendations where needed.

The quarterly PAC report for the period 1 July 2022 – 30 September 2022 is attached to this item.

LEGAL RESPONSIBILITIES

Municipal Financial Management Act, No.56 of 2003, Section 166(2)

FINANCIAL RESPONSIBILITIES

None

CLIENT CARE IMPLICATION

None

RISK MANAGEMENT IMPLICATION

None

RECOMMENDATION BY ITEM AUTHOR TO COUNCIL:

It is recommended that Council takes note of the Performance- and Audit Committee Report for the period 1 July 2022 – 30 September 2022.

ITEM OPSKRIF/ITEM HEADING

R159/2022 **DIREKTORAAT KORPORATIEWE DIENSTE: DEPARTEMENT ADMINISTRASIE: SLUITING VAN MUNISIPALE KANTORE VIR DIE TYDPERK TUSSEN KERSFEES EN NUWEJAAR (27 – 30 DESEMBER 2022)**

C159/2022 **DIRECTORATE CORPORATE SERVICES: DEPARTMENT ADMINISTRATION: CLOSURE OF MUNICIPAL OFFICES FOR THE PERIOD BETWEEN CHRISTMAS AND NEW YEAR (27 - 30 DECEMBER 2022)**

[Verslag saamgestel in beide tale / Report compile in both languages]

LÊERNOMMER/FILE NUMBER

4/8/1

DOEL VAN VERSLAG

Dat die Raad daaraan oorweging skenk of die Munisipale Kantore van Theewaterskloof Munisipaliteit gedurende die tydperk tussen Kersfees en Nuwejaar (27 - 30 Desember 2022) gesluit sal wees vir besigheid.

PURPOSE / AIM OF REPORT

That Council considers whether the municipal offices of Theewaterskloof Municipality are to be closed for business for the period between Christmas and New Year (27 - 30 December 2022).

AGTERGROND

Tydens 'n Raadsvergadering gehou op 09 Desember 2021 het die Raad per Raadsbesluit R191/2021 die volgende besluit geneem:

- 1. Die Raad verleen goedkeuring dat alle munisipale kantore, verkeerskantore en biblioteke vir die tydperk 28 Desember 2021 tot 31 Desember 2021 gesluit sal wees.**
- 2. Dat alle werksaamhede van die Raad hervat word op Maandag, 03 Januarie 2022.**
- 3. Dat spesiale verlof aan alle Amptenare toegestaan word vir die tydperk 28 – 31 Desember 2021 wat die kantore gesluit sal wees.**
- 4. Dat 4 dae spesiale verlof tot die Amptenare se verlof gevoeg word wat essensiële dienste gedurende die tydperk 28 – 31 Desember 2021 moet verrig.**

5. **Dat die munisipale kantore, verkeerssentrums en biblioteke op Vrydag, 24 Desember 2021 om 12:00 sluit en dat die onderskeie Kassiere om 11:00 transaksies sluit.**
6. **Dat die salarisse ten opsigte van Desember 2021 op Woensdag, 22 Desember 2021 uitbetaal word aan die Amptenary en Raadslede.**
7. **Dat alle essensiële dienste, soos omskryf in die essensiële dienste ooreenkoms, nie onderbreek mag word gedurende voorgemelde tydperk nie.**
8. **Dat die goedkeuring slegs vir hierdie jaar geldig is en dat die sluiting van die kantore jaarliks opnuut oorweeg sal word.**

Punt 8 van die besluit is belangrik in die geval.

BACKGROUND

During a Council meeting held on 09 December 2021, Council resolved the following as per Council Resolution C191/2021:

1. **Council grants approval that all municipal offices, traffic offices and libraries be closed for the period 28 December 2021 to 31 December 2021.**
2. **That all operations of the Council be resumed on Monday, 03 January 2022.**
3. **That special leave be granted to all Officials for the period 28 – 31 December 2021 while the offices are closed.**
4. **That 4 days special leave be added to the leave of the Officials who need to perform essential services for the period 28 – 31 December 2021.**
5. **That the municipal offices, traffic centres and libraries close at 12:00 on Friday, 24 December 2021 and that the respective cashiers close off transactions at 11:00.**
6. **That the salaries in respect of December 2021 be paid to officials and Councillors on Wednesday, 22 December 2021.**
7. **That all essential services, as defined in the essential services agreement, may not be interrupted during the aforementioned period.**
8. **That the approval is valid for this year only and that the closure of the offices will be reconsidered every year.**

Point 8 of the resolution is important in this regard.

BESPREKING

Die Raad moet 'n besluit neem of die munisipale kantore, verkeersentrums en biblioteke gesluit sal wees vir die tydperk tussen Kersfees en Nuwejaar, naamlik 27 – 30 Desember 2022.

DISCUSSION

Council needs to take a decision whether the municipal offices, traffic centres and libraries will be closed for the period between Christmas and New Year, namely 27 – 30 December 2022.

WETLIKE VERANTWOORDELIKHEID

Geen

LEGAL RESPONSIBILITY

None

FINANSIËLE VERANTWOORDELIKHEID

Geen

FINANCIAL RESPONSIBILITY

None

KLIËNTESORG IMPLIKASIE

Geen

CLIENT CARE IMPLICATION

None

RISIKOBESTUUR IMPLIKASIE

Geen

RISK MANAGEMENT IMPLICATION

None

AANBEVELING DEUR BESTUUR AAN UBK: 11 OKTOBER 2022

Daar word aanbeveel:

1. Dat die Raad goedkeuring verleen dat alle munisipale kantore, verkeerskantore en biblioteke vir die tydperk 27 Desember 2022 tot 30 Desember 2022 gesluit sal wees.

2. **Dat alle werksaamhede van die Raad hervat word op Dinsdag, 03 Januarie 2023.**
3. **Dat spesiale verlof aan alle Amptenare toegestaan word vir die tydperk 27 – 30 Desember 2022 wat die kantore gesluit sal wees.**
4. **Dat 4 dae spesiale verlof tot die Amptenare se verlof gevoeg word wat essensiële dienste gedurende die tydperk 27 – 30 Desember 2022 moet verrig.**
5. **Dat die munisipale kantore, verkeerssentrums en biblioteke op Vrydag, 23 Desember 2022 om 12:00 sluit en dat die onderskeie Kassiere om 11:00 transaksies sluit.**
6. **Dat die salarisse ten opsigte van Desember 2022 op Woensdag, 21 Desember 2022 uitbetaal word aan die Amptenary en Raadslede.**
7. **Dat alle essensiële dienste, soos omskryf in die essensiële dienste ooreenkoms, nie onderbreek mag word gedurende voorgemelde tydperk nie.**
8. **Dat die goedkeuring slegs vir hierdie jaar geldig is en dat die sluiting van die kantore jaarliks opnuut oorweeg sal word.**

RECOMMENDATION BY MANAGEMENT TO EMC: 11 OCTOBER 2022

It is recommended:

1. **That Council grants approval that all municipal offices, traffic offices and libraries be closed for the period 27 December 2022 to 30 December 2022.**
2. **That all operations of the Council be resumed on Tuesday, 03 January 2023.**
3. **That special leave be granted to all Officials for the period 27 – 30 December 2022 while the offices are closed.**
4. **That 4 days special leave be added to the leave of the Officials who need to perform essential services for the period 27 – 30 December 2022.**
5. **That the municipal offices, traffic centres and libraries close at 12:00 on Friday, 23 December 2022 and that the respective cashiers close off transactions at 11:00.**
6. **That the salaries in respect of December 2022 be paid to officials and Councillors on Wednesday, 21 December 2022.**
7. **That all essential services, as defined in the essential services agreement, may not be interrupted during the aforementioned period.**
8. **That the approval is valid for this year only and that the closure of the offices will be reconsidered every year.**

AANBEVELING VAN DIE UBK AAN DIE RAAD: 18 OKTOBER 2022

Nadat die Voorsitter die Raadslede geleentheid gegee het, en die item deeglik bespreek is, op voorstel van Raadslid M Mathews en gesecondeer deur Raadslid RL Mienies, is dit soos volg aanbeveel:

- 1. Dat die Raad goedkeuring verleen dat alle munisipale kantore, verkeerskantore en biblioteke vir die tydperk 27 Desember 2022 tot 30 Desember 2022 gesluit sal wees.**
- 2. Dat alle werksaamhede van die Raad hervat word op Dinsdag, 03 Januarie 2023.**
- 3. Dat spesiale verlof aan alle Amptenare toegestaan word vir die tydperk 27 – 30 Desember 2022 wat die kantore gesluit sal wees.**
- 4. Dat 4 dae spesiale verlof tot die Amptenare se verlof gevoeg word wat essensiële dienste gedurende die tydperk 27 – 30 Desember 2022 moet verrig.**
- 5. Dat die munisipale kantore, verkeerssentrusse en biblioteke op Vrydag, 23 Desember 2022 om 12:00 sluit en dat die onderskeie Kassiere om 11:00 transaksies sluit.**
- 6. Dat die salarisse ten opsigte van Desember 2022 op Woensdag, 21 Desember 2022 uitbetaal word aan die Amptenare en Raadslede.**
- 7. Dat alle essensiële dienste, soos omskryf in die essensiële dienste ooreenkoms, nie onderbreek mag word gedurende voorgemelde tydperk nie.**
- 8. Dat die goedkeuring slegs vir hierdie jaar geldig is en dat die sluiting van die kantore jaarliks opnuut oorweeg sal word.**

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

- 1. That Council grants approval that all municipal offices, traffic offices and libraries be closed for the period 27 December 2022 to 30 December 2022.**
- 2. That all operations of the Council be resumed on Tuesday, 03 January 2023.**
- 3. That special leave be granted to all Officials for the period 27 – 30 December 2022 while the offices are closed.**
- 4. That 4 days special leave be added to the leave of the Officials who need to perform essential services for the period 27 – 30 December 2022.**

5. That the municipal offices, traffic centres and libraries close at 12:00 on Friday, 23 December 2022 and that the respective cashiers close off transactions at 11:00.
6. That the salaries in respect of December 2022 be paid to officials and Councillors on Wednesday, 21 December 2022.
7. That all essential services, as defined in the essential services agreement, may not be interrupted during the aforementioned period.
8. That the approval is valid for this year only and that the closure of the offices will be reconsidered every year.

AANBEVELING AAN RAAD:

Daar word aanbeveel:

1. Dat die Raad goedkeuring verleen dat alle munisipale kantore, verkeerskantore en biblioteke vir die tydperk 27 Desember 2022 tot 30 Desember 2022 gesluit sal wees.
2. Dat alle werksaamhede van die Raad hervat word op Dinsdag, 03 Januarie 2023.
3. Dat spesiale verlof aan alle Amptenare toegestaan word vir die tydperk 27 – 30 Desember 2022 wat die kantore gesluit sal wees.
4. Dat 4 dae spesiale verlof tot die Amptenare se verlof gevoeg word wat essensiële dienste gedurende die tydperk 27 – 30 Desember 2022 moet verrig.
5. Dat die munisipale kantore, verkeerssentrums en biblioteke op Vrydag, 23 Desember 2022 om 12:00 sluit en dat die onderskeie Kassiere om 11:00 transaksies sluit.
6. Dat die salarisse ten opsigte van Desember 2022 op Woensdag, 21 Desember 2022 uitbetaal word aan die Amptenary en Raadslede.
7. Dat alle essensiële dienste, soos omskryf in die essensiële dienste ooreenkoms, nie onderbreek mag word gedurende voorgemelde tydperk nie.
8. Dat die goedkeuring slegs vir hierdie jaar geldig is en dat die sluiting van die kantore jaarliks opnuut oorweeg sal word.

RECOMMENDATION TO COUNCIL:

It is recommended:

1. That Council grants approval that all municipal offices, traffic offices and libraries be closed for the period 27 December 2022 to 30 December 2022.

- 2. That all operations of the Council be resumed on Tuesday, 03 January 2023.**
- 3. That special leave be granted to all Officials for the period 27 – 30 December 2022 while the offices are closed.**
- 4. That 4 days special leave be added to the leave of the Officials who need to perform essential services for the period 27 – 30 December 2022.**
- 5. That the municipal offices, traffic centres and libraries close at 12:00 on Friday, 23 December 2022 and that the respective cashiers close off transactions at 11:00.**
- 6. That the salaries in respect of December 2022 be paid to officials and Councillors on Wednesday, 21 December 2022.**
- 7. That all essential services, as defined in the essential services agreement, may not be interrupted during the aforementioned period.**
- 8. That the approval is valid for this year only and that the closure of the offices will be reconsidered every year.**

ITEM OPSKRIF/ITEM HEADING

**R160/2022 DIREKTORAAT KORPORATIEWE DIENSTE: DEPARTEMENT
ADMINISTRASIE: GOEDKEURING VAN KWARTAALLIKSE
VERSLAG RAKENDE BESLUTE GENEEM TYDENS
RAADSVERGADERINGS: 01 JULIE 2022 TOT 30 SEPTEMBER 2022**

**C160/2022 DIRECTORATE CORPORATE SERVICES: DEPARTMENT
ADMINISTRATION: APPROVAL OF QUARTERLY REPORT
REGARDING RESOLUTIONS TAKEN AT COUNCIL MEETINGS: 01
JULY 2022 TO 30 SEPTEMBER 2022**

[Verslag in beide tale opgestel / Report compiled in both languages]

LÊER NOMMER/FILE NUMBER

5/1/3

DOEL VAN VERSLAG

Dat die Raad kennis neem van die meegaande verslag van besluite geneem tydens Raadsvergaderings vir die tydperk 01 Julie 2022 tot 30 September 2022 en dit goedkeur.

AIM/PURPOSE OF REPORT

That Council notes and approves the attached report reflecting the resolutions taken at Council meetings for the period 01 July 2022 to 30 September 2022.

AGTERGROND

Volgens Korporatiewe Dienste se Departementele Dienslewering- en Begrotingsimplementeringsplan (SDBIP), moet 'n verslag van alle besluite geneem tydens Raadsvergaderings kwartaalliks aan die Raad voorgelê word vir kennisname en goedkeuring.

BACKGROUND

In terms of Corporate Services Departmental Service Delivery and Budget Implementation Plan (SDBIP), a report of all decisions taken during Council meetings must be submitted to Council for cognizance and approval.

BESPREKING

Na voltooiing van die eerste kwartaal van die 2022/2023 Dienslewering- en Begrotingsimplementeringsplan (SDBIP) word die skedule aangeheg as bylae tot die Agenda-item.

DISCUSSION

After completion of the first quarter of the 2022/2023 Service Delivery and Budget Implementation Plan (SDBIP), the schedule is attached as annexure to this Agenda-item.

WETLIKE VERANTWOORDELIKHEID/LEGAL RESPONSIBILITIES

Geen / None

FINANSIËLE IMPLIKASIES/FINANCIAL IMPLICATIONS

Geen / None

KLIËNTESORG IMPLIKASIES/CLIENT CARE IMPLICATIONS

Geen / None

RISKOBESTUUR IMPLIKASIES/RISK MANAGEMENT IMPLICATIONS

Geen / None

AANBEVELING DEUR ITEM OUTEUR:

Daar word aanbeveel dat die Raad die skedule ten opsigte van alle besluite geneem tydens Raadsvergaderings vir die eerste kwartaal (01 Julie 2022 tot 30 September 2022), goedkeur.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that Council approves the schedule regarding decisions taken during Council meetings for the first quarter (01 July 2022 to 30 September 2022).

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

That Council approves the schedule regarding decisions taken during Council meetings for the first quarter (01 July 2022 to 30 September 2022).

AANBEVELING UBK AAN RAAD: 18 OKTOBER 2022

Nadat die Voorsitter geleentheid aan die Raadslede gegee het, en die item behoorlik bespreek is, word op aanbeveling van Raadslid M Mathews, gesecondeer deur Raadslid RL Mienies, as volg aanbeveel:

Dat die Raad die skedule ten opsigte van alle besluite geneem tydens Raadsvergaderings vir die eerste kwartaal (01 Julie 2022 tot 30 September 2022), goedkeur.

AANBEVELING AAN RAAD:

Daar word aanbeveel dat die Raad die skedule ten opsigte van alle besluite geneem tydens Raadsvergaderings vir die eerste kwartaal (01 Julie 2022 tot 30 September 2022), goedkeur.

RECOMMENDATION TO COUNCIL:

It is recommended that Council approves the schedule regarding decisions taken during Council meetings for the first quarter (01 July 2022 to 30 September 2022).

ITEM OPSKRIF/ITEM HEADING

**R161/2022 DIREKTORAAT KORPORATIEWE DIENSTE: DEPARTEMENT
ADMINISTRASIE: RAADSLEDE IN RESES VIR DIE DESEMBER
2022 / JANUARIE 2023 SKOOLVAKANSIE**

**C161/2022 DIRECTORATE CORPORATE SERVICES: DEPARTMENT
ADMINISTRATION: COUNCILLORS IN RECESS DURING
DECEMBER 2022 / JANUARY 2023 SCHOOL HOLIDAYS**

[Verslag saamgestel in beide tale / Report compile in both languages]

LÊER NOMMER/FILE NUMBER

3/2/1/R

DOEL VAN VERSLAG

Om toestemming te verleen dat die volle Raad en UBK in reses gaan vir die Desember 2022 / Januarie 2023 skoolvakansie.

AIM OF REPORT

To grant approval for the full Council and EMC to take a recess for the December 2022 / January 2023 school holidays.

AGTERGROND

Die Raad en UBK gaan elke jaar in reses vir die tydperk waarbinne die skoolvakansie vir Desember/Januarie val en is in die verlede ondervind dat etlike van die raadslede gedurende hierdie tydperk weens die skoolvakansie nie beskikbaar is nie.

BACKGROUND

Council and the EMC annually take a recess for the December/January school holiday period as it was found in the past that several councillors are not available during this period due to the school holidays.

BESPREKING

In die lig van bovermelde word die mening gehuldig dat die Raad dit moet oorweeg dat die Raad en UBK vir die periode vanaf Woensdag, 14 Desember 2022 tot en met Vrydag, 13 Januarie 2023 in reses gaan.

DISCUSSION

In view of the above, the opinion is held that Council should consider approving that Council and the EMC take a recess for the period from Wednesday, 14 December 2022 until and including Friday, 13 January 2023.

WETLIKE VERANTWOORDELIKHEID

Die funksionering van die Munisipaliteit asook dienslewering sal nie deur die reses tydperk nadelig geraak word nie.

LEGAL IMPLICATIONS

The functioning of the Municipality as well as service delivery will not be adversely affected during the recess period.

FINANSIËLE IMPLIKASIES

Geen

FINANCIAL IMPLICATIONS

None

KLIËNTESORG IMPLIKASIE

Geen

CLIENT CARE IMPLICATION

None

RISIKOBESTUUR IMPLIKASIE

Geen

RISK MANAGEMENT IMPLICATION

None

AANBEVELING DEUR ITEM OUTEUR AAN RAAD:

Daar word aanbeveel:

1. Dat die Raad kennis neem van bovermelde inligting.
2. Dat die Raad in reses gaan vir die Desember 2022 / Januarie 2023 skoolvakansie vanaf Woensdag, 14 Desember 2022 tot en met Vrydag, 13 Januarie 2023 en dat alle werksaamhede as die volle Raad weer voortgesit word op Maandag, 16 Januarie 2023.

3. **Dat dringende aangeleenthede deur die Uitvoerende Burgemeester, na konsultasie met sy Komitee, binne die bepaalde beleide van die Raad, afgehandel word sodat dienslewering nie nadelig deur die reses periode geaffekteer word nie.**
4. **Dat die Uitvoerende Burgemeester volmag het om in dringende gevalle, waar die Uitvoerende Burgemeester en haar Komitee nie volmag het nie, met die kousleiers van die partye te konsulteer rakende dié aangeleentheid.**

RECOMMENDATION BY ITEM AUTHOR TO COUNCIL:

It is recommended:

1. **That Council notes the above information.**
2. **That Council takes a recess for the December 2022 / January 2023 school holidays from Wednesday, 14 December 2022 until and including Friday, 13 January 2023 and that all activities of the full Council be resumed on Monday, 16 January 2023.**
3. **That urgent matters be dealt with by the Executive Mayor after consultation with her Committee within the applicable policies of Council in order to ensure that service delivery is not adversely affected during the recess period.**
4. **That in urgent cases, in which the Executive Mayor and her Committee do not have full powers, the Executive Mayor be mandated to consult with the caucus leaders of the parties concerning those matters.**

ITEM HEADING

**C162/2022 DIRECTORATE TECHNICAL AND INFRASTRUCTURE
IMPLEMENTATION SERVICES: DEPARTMENT ELECTRICAL
SERVICES: TERMINATION OF STREETLIGHT MAINTENANCE
CONTRACTS BY ESKOM AND HANDOVER OF STREET LIGHTS
TO THEEWATERSKLOOF MUNICIPALITY**

[English version of the report is the original]

FILE NUMBER

16/2/14

PURPOSE / AIM OF REPORT

For Council to approve the service level agreement between Eskom and Theewaterskloof Municipality regarding the maintenance of streetlight networks.

BACKGROUND

Eskom is the license holder for the distribution of electricity in the towns of Grabouw, Botrivier, greater Genadendal and part of Riviersonderend. Eskom did the maintenance of the streetlights under contract with the Municipality. Eskom informed the Municipality in March 2022 that they terminate all the streetlight maintenance contracts in the Western Cape effective from 07 February 2022. The streetlights networks will be handed over to the Municipalities.

DISCUSSION

Eskom owns and operate the distribution network in the areas and we need to separate the streetlight networks from distribution networks . This is required to adhere to safety regulations in the Occupational Health and Safety amendment Act No 181 of 1993. It is therefore critical to clearly define ownership of each portion of the network to distinguish between the accountabilities of Eskom versus that of the Municipality in terms of the act. We need to agree and sign a service level agreement to provide to all parties a single and easily referenced document to cater for objectives as listed in the attached draft SLA documents. Council made provision in the budget to appoint additional staff and acquire necessary equipment to do maintenance in Grabouw and Botrivier.

COMMENTS FROM THE OFFICE OF THE MUNICIPAL MANAGER

Supported.

COMMENTS FROM THE DIRECTORATE FINANCE

Supported.

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

Support the recommendations, however the funds set aside to pay ESCOM for the maintenance of said streetlights, be used to fund any additional resource needs

COMMENTS FROM THE DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING

Recommendation supported

COMMENTS FROM THE DIRECTORATE COMMUNITY SERVICES

That the Deputy Director: Electrical Services is authorised by Council under Delegation TECH.012: to administer street lighting and to determine the locality and most effective method of street lighting; and under TECH.015: To exercise all the powers and, duties of the Council as lessee and lessor in terms of the provisions of agreements in regard to the supply of electricity, overhead and underground uses and encroachments. Recommendation: that Council to consider whether the Municipal Manager or Deputy Director Electrical Services be authorised to enter into the agreement.

COMMENTS FROM TOWN MANAGER: BOTRIVER

The risk of taking over the streetlight will add additional strain on the Electrical Department, but will improve outstanding issues with the Streetlights that are not operating. We will no longer be the messenger, but we will be able to deal with the problem without retention time. This is the right step.

COMMENTS: LEGAL SERVICES

Noted

LEGAL RESPONSIBILITIES

We need to comply with the Regulations of the Occupational Health and Safety Act.

FINANCIAL RESPONSIBILITIES

Provision was made in the budget to appoint staff and procure vehicles and equipment to do the maintenance.

CLIENT CARE IMPLICATION

Public Lighting plays an important role in creating a safe environment for communities.

RISK MANAGEMENT IMPLICATION

Risk to be managed in terms of the Regulations in the Occupational Health and safety Act.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended:

1. That Council takes cognizance of the termination of streetlight maintenance contracts by Eskom.
2. That Council endorses the draft SLA document attached here.
3. To give Deputy Director Electrical services a mandate to sign attached SLA with Eskom.

RECOMMENDATION BY MANAGEMENT TO THE TECHNICAL- AND INFRASTRUCTURE IMPLEMENTATION SERVICES COMMITTEE: 05 SEPTEMBER 2022

It is recommended:

1. That Council takes cognizance of the termination of streetlight maintenance contracts by Eskom.
2. That Council endorses the draft SLA document attached here.
3. To give Deputy Director Electrical Services a mandate to sign attached SLA with Eskom.

RECOMMENDATION BY THE TECHNICAL- AND INFRASTRUCTURE IMPLEMENTATION SERVICES COMMITTEE TO THE EMC: 07 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor MA Nomkoko, and seconded by Alderman BB Mkhwibiso, it was recommended as follows:

1. That Council takes cognizance of the termination of streetlight maintenance contracts by Eskom.
2. That Council endorses the draft SLA document attached here.
3. To give Deputy Director Electrical Services a mandate to sign attached SLA with Eskom.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

1. That Council takes cognizance of the termination of streetlight maintenance contracts by Eskom.
2. That Council endorses the draft SLA document attached here.

3. To give Deputy Director Electrical Services a mandate to sign attached SLA with Eskom.

RECOMMENDATION TO COUNCIL:

It is recommended:

1. That Council takes cognizance of the termination of streetlight maintenance contracts by Eskom.
2. That Council endorses the draft SLA document attached here.
3. To give Deputy Director Electrical services a mandate to sign attached SLA with Eskom.

ITEM TITLE

**C163/2022 DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING:
DEPARTMENT PROPERTY MANAGEMENT: ELUXOLWENI
EDUCARE: APPLICATION TO LEASE ERF 3430 GRABOUW FOR
THE OPERATION OF A EARLY CHILDHOOD DEVELOPMENT
SERVICES**

[English version of the report is the original]

FILE NUMBER

7/2/3/1/4

PURPOSE OF REPORT

To submit an application to Council to consider an application for the lease of Erf 3430 Grabouw, for the operation of an Early Childhood Development Centre.

BACKGROUND

Eluxolweni Educare Centre (the Applicant) occupies a building situated on Erf 3430 Grabouw for more than 12 years. The building was built by the applicant in collaboration with various external stakeholders in the community. Council awarded the property to the applicant in 2010, which at that time the applicant struggled with their management and could not provide all the relevant supporting documentation which were required to conclude a lease agreement.

The purpose of the applicant is to provide Early Childhood Development service to the children in the community by laying a solid foundation of lifelong learning on an ongoing voluntary self-motivated pursuit of knowledge which enhance social inclusion, active citizenship and self-sustainability. Their objective is to develop all children in the community holistically and to create a healthy stimulating environment for all children.

The school is currently hosting approximately 130 children between the age grounds of 6 month to 72 months and has 7 permanent employees.

The applicant is applying to conclude a lease agreement to be able to continue with their operation and teaching their children. By obtaining a signed lease agreement they would be eligible for further application towards fundraising which is imperative for sustainability of any Non-profit organisation.

DISCUSSION

The property is approximately 1600m² in size and is zoned Single Residential Zone 1, which does not accommodate the operation as an Early Childhood Development Centre. The property must therefore be rezoned to the appropriate community Zoning which the cost must be for the account of the applicant. The applicant takes full responsibility for the payment of municipal services rendered at the property and they take full responsibility for the maintenance and upkeep of the property.

The applicant has presented relevant financial and bank statements, which has been submitted to department finance for perusal, which indicates that they are financial sustainable for the general operational expenses.

The fair market related rental is determined at approximately R2000.00 per month. Early childhood development is a function delegated to local authorities by Schedule 4 B in the Constitution of the Republic of South Africa, 1996. The municipality is not in a position to provide monetary support but are in the position to provide the facility at a minimum rental of R120.00 per year which is seen as public interest as supported by Paragraph 40 (3)(b) of the Municipal Supply Chain Policy, regulated by the approved directive for allocation of fixed property to Non-profit and social care organisations. In this case, the plight of the poor also demands the deviation from a market related rent as the crèche is delivering services to children within underprivileged areas.

It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.

The leasing of property is considered as the granting of rights, which is regulated by The Asset Transfer Regulations (MATR). Regulation 34(1)(a) states that public participation, in terms of Regulation 35 is only applicable if the capital asset in respect of which the proposed right is to be granted has a value in excess of R10million and a long term right is proposed to be granted.

It is therefore recommended that Erf 3430, of approximately 1600m² be leased to Eluxolweni Educare Centre at a minimal rental of R120.00 per annum as supported by the approved directive for the allocation of fixed property to non-profit and social care organisations for a period of 9 years and 11 months.

COMMENTS FROM THE OFFICE OF THE MUNICIPAL MANAGER

Recommendation supported.

COMMENTS FROM THE DIRECTORATE FINANCE

The occupation of the Centre took place without the municipality intervening or objecting; and it can therefore be argued that the municipality indirectly gave consent to such a lease arrangement?

The building cannot be insured by the municipality as handover documents was never submitted to the Asset Department to add the building to the municipality's asset register and also to the insurance portfolio. Therefore the risk will be on the Centre.

The ECD Centre has exist for the last 12 years which indicate that there is a need for this service by the community, but the sustainability of the ECD Centre still remains in question; as the fundraising will not guarantee additional income. This is due to covid protocols that should be adhered and could affect the fundraising capability and its sustainability to remain open. The accounts receivable also raise concerns as to whether the community can afford the services of the ECD Centre.

A directive regulating the lease amount of R120 is mentioned, but the directive has only been partly quoted in the “legal implications section” of the item nor is the undersigned document attached. It also does not state the date when this amount has been set and if any consideration has been given to increasing cost of years past. According to the Asset Management Policy section 7.6.3 the Council or by delegations the Municipal Manager can approve rental amounts below market value. The rental is only a flat rate of R120 per year. The market value will increase and therefore should the municipal contribution in relation to rental paid also be considered over the proposed 9 years and 11 Months.

Before this item goes to council it must be advertised according to the Asset Management Policy state in 7.6.11 to be fair, equitable, transparent, competitive and be consistent and supply chain management policy and give Council the opportunity to consider the comments and representation from the local community, other interested persons, the National Treasury and the relevant provincial treasury before making a discussion.

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

Support the recommendation

COMMENTS FROM THE DIRECTORATE TECHNICAL AND INFRASTRUCTURE IMPLEMENTATION SERVICES

Recommendation is supported.

COMMENTS FROM THE DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING

Item is supported

COMMENTS FROM THE TOWN MANAGER: GRABOUW

Recommended for approval

COMMENTS FROM LEGAL SERVICES

Recommendation supported, provided all legislative requirements are complied with.

ADDITIONAL COMMENTS FROM ITEM AUTHOR

Feedback on comments received:

Directorate finance:

Q: The occupation of the Centre took place without the municipality intervening or objecting; and it can therefore be argued that the municipality indirectly gave consent to such a lease arrangement?

A: A tacitly implied lease agreement can only be assumed if no effort was made to approach the educare to encourage them to formally apply. With their application received, it can be accepted that the educare acknowledges that a lease agreement is subject to approval from Council.

Q: The building cannot be insured by the municipality as handover documents was never submitted to the Asset Department to add the building to the municipality's asset register and also to the insurance portfolio. Therefore the risk will be on the Centre.

A: This is noted and can be amended that the ECD accept liability and insurance for the property, with proof of such insurance to be provided to the Municipality.

Q: The ECD Centre has exist for the last 12 years which indicate that there is a need for this service by the community, but the sustainability of the ECD Centre still remains in question; as the fundraising will not guarantee additional income. This is due to covid protocols that should be adhered and could affect the fundraising capability and its sustainability to remain open. The accounts receivable also raise concerns as to whether the community can afford the services of the ECD Centre.

A: Regulations has since been lowered with the effect that normal operation may continue. The ECD is a non-profit organization and is relying on fundraising, sponsorships and grants from Department social development. With a valid lease agreement the ECD may approach additional external funding and stakeholders which contribute towards being financially sustainable.

Q: A directive regulating the lease amount of R120 is mentioned, but the directive has only been partly quoted in the "legal implications section" of the item nor is the undersigned document attached. It also does not state the date when this amount has been set and if any consideration has been given to increasing cost of years past. According to the Asset Management Policy section 7.6.3 the Council or by delegations the Municipal Manager can approve rental amounts below market value. The rental is only a flat rate of R120 per year. The market value will increase and therefore should the municipal contribution in relation to rental paid also be considered over the proposed 9 years and 11 Months.

A: Early Childhood development is a function mandated to a municipality by schedule 4 B of the Constitution of Republic of South Africa, 1996. The municipality cannot contribute financially to the organization, but can provide access to office space or access to immovable property at a minimum financial contribution from the organization.

The directive was approved by Council to provide Non-profit social care organisations and sport clubs the opportunity to apply at minimum rental of R120.00 per annum as the contribution from Council. The directive will be attached to the report for reference purposes.

Q: Before this item goes to council it must be advertised according to the Asset Management Policy state in 7.6.11 to be fair, equitable, transparent, competitive and be consistent and supply chain management policy and give Council the opportunity to consider the comments and representation from the local community, other interested persons, the National Treasury and the relevant provincial treasury before making a discussion.

A: In terms of Regulation 34(2) of the Transfer regulations it is only required for public participation, in terms of Regulation 35, if the asset value is in excess of R10million and a long term right is considered. The value of the building was determined at between R1.5 and R2.0 million.

LEGAL RESPONSIBILITY

1. Section 34 of the MFMA (Act 56 / 2003): Municipal Asset Transfer Regulations, which reads as follows:

(1) A municipality may grant a right to use, control or manage a capital asset only after-

- a. The accounting officer has in terms of regulation 35 conducted a public participation process regarding the proposed granting of the right; and**
- b. The municipal council has approved in principle that the right may be granted.**

(2) Sub-regulation (1)(a) must be complied with only-

- a. The capital asset in respect of which the proposed right is to be granted has a value in excess of R 10 million; and**
- b. A long term right is proposed to be granted in respect of the capital asset.**

(3) (a) Only the municipal council may authorise the public participation process must be accompanied by an information statement stating –

- i. The reason for the proposal to grant a long term right to use, control or manage the relevant capital asset;**
- ii. Any expected benefit to the municipality that may result from the granting of the right;**
- iii. Any expected proceeds to be received by the municipality from the granting of the right; and**

- iv. **Any expected gain or loss that be realised or incurred by the municipality arising from the granting of the right.**

(4) A municipal council may delegate to the accounting officer its approval power referred to in sub-regulation (1)(b) excluding the power to grant long term rights to use, control or manage capital assets of value in excess of R 10 million.

- 2. **The lease of Council property must be considered in terms of Section 36 of the MFMA (Act 56 / 2003): Municipal Asset Transfer Regulations, which reads as follows:**

The municipal council must, when considering in terms of regulation 34(1)(b) approval for any proposed granting of a right to use, control or manage a capital asset, take into account –

- (a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;**

The property will not be needed for own use during the period of the lease agreement as this property was constructed for the purpose of the operation of an ECD centre by the applicant and relevant stakeholders.

- (b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality;**

Leasing the proposed Erf to the Organisation will not result in a direct significant economic or financial benefit to the municipality. Through renting out the property provision will be made for proper after- and social care.

- (c) the risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;**

*The organisation is a community organisation that serves the community and contributes to the social wellbeing of the community.
A lease is never without risks, but they are limited as far as possible by the conditions contained in the lease agreement.*

- (d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;**

No comments have been received to date, but the proposed lease will be advertised for comments in the local newspaper.

- (e) **any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant provincial treasury;**

None.

- (f) **the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and**

The lease is in the strategic, legal and economic interest of the municipality as well as the local community.

- (g) **compliance with the legislative regime applicable to the proposed granting of the right.**

All legislation known to the author has been complied with.

3. TWK ASSET MANAGEMENT POLICY

7.6. General principles relating to management of immovable property:

- 7.6.1. The municipality may acquire, use, alienate, let or permit to be occupied, built upon or cultivated any immovable property owned by the municipality unless it is precluded from so doing by law or the conditions under which such property was acquired by the municipality.
- 7.6.2. The municipality may not sell property, let or alienate rights in immovable property which is required for the provision of the minimum level of basic municipal services.
- 7.6.3. Sales and alienation of rights in immovable property as well as the letting of immovable property below market value shall be approved by Council. In terms of the relevant delegation, letting of immovable property at market related value shall be approved by the Municipal Manager.
- 7.6.4. Before deciding to let or sell immovable property or alienate rights in immovable property, the Council or Municipal Manager (as the case may be) shall consider the fair market value thereof as well as the economic and community value to be received in exchange for such property or right.
- 7.6.5. When selling or leasing immovable property, the general rule shall be that a market related value or rental should be charged (except when the public interest or the plight of the poor demands otherwise and documented proof can be provided to substantiate the aforementioned).

- 7.6.6. In the case of immovable property referred to in the Housing Act (107 of 1997) and its amendments, such property shall be sold or leased as provided for in that Act.
- 7.6.7. The market value of property or market rental shall be determined by the Director: Development Services or delegated authority (with substantiating proof) where the valuation costs exceeds the anticipated revenue to be derived from the transaction or is not justifiable or through the use of an independent registered and suitably qualified valuer.
- 7.6.8. Council may impose any condition of sale in respect of a sale agreement, inclusive but not limited to:
- 7.6.8.1. Affordable or low cost housing or in respect of social and development projects prohibiting the property to be resold within a fixed period from the date of transfer.
- 7.6.8.2. Public comment
- 7.6.8.3. Any condition considered by Council to be good practice and corporate governance.
- 7.6.8.4. Any condition considered to be beneficial to the council or to protect its rights.
- 7.6.9. Immovable property let by the municipality, must be inspected regularly by officials of the municipality to ensure compliance with the terms and conditions of the agreement of lease.
- 7.6.10. Non-profit organizations may receive purchase price or rental discounts at the discretion of Council or Management (as the case may be). Applications will be dealt with on the merit of each application. The discounted amount shall be regarded as a social contribution towards such organization. Non-profit organizations must submit proof of registration as well as proof of sufficient funding for the project. Provision must be made for a suitable reversionary clause or cancellation of the lease should the property no longer be used for the specific purpose intended.
- 7.6.11. As a rule, all sales or letting of an immovable property shall be subject to public participation and shall be fair, equitable, transparent, competitive and be consistent with this and supply chain management policy. Public competition and participation may be by means of tender, proposal call, qualified tender, auction, advertisement or other appropriate procedure.

Advertisement shall be done as determined by Council or the Municipal Manager (as the case may be), by inter alia an advertisement in Afrikaans and English in a local newspaper, relevant town noticeboard and the Municipal website. Where required, advertisement may also be done in an Afrikaans or English provincial newspaper.

The advertisement must contain all the relevant information as to price and terms (in the case of out-of-hand sales), future usage of the property, infrastructure required and identify the parties to the agreement (if relevant) and type of sale (i.e. auction or tender) and must be open for comment for a period of 30 days. The municipality shall consider and rule on any objections received, giving written reasons for its decision.

- 7.6.12. The assessment of tenders, qualified tenders or assessment calls will be done in line with the Supply Chain Management regulations.
- 7.6.13. Auctions will be done in public through a suitable qualified Auctioneer, where a property must be sold to the highest bidder, subject however to such terms and conditions Council may impose as to reserve price and terms and conditions of sale.
- 7.6.14. Where immovable property is made available by Council for a specific type of development project, the municipality may consider an out-of-hand sale or call for development proposals, which may include a monetary offer. In such a case, the price offered for the immovable property by the developer may form part of the total package, provided that the process in terms of paragraph 7.6.11 have been followed.
- 7.6.15. Where the municipality considers it appropriate it may consider unsolicited bids for the lease or sale of property subject to compliance with the relevant legislation, this policy and Regulation 37 of the SCM Policy. Environmental or heritage benefits may also be taken into consideration by the municipality when deciding whether or not to consider unsolicited bids
- 7.6.16. Where the immovable property to be sold or leased cannot be viably used on its own but only as part of an adjacent property because of size, location, access, zoning or other good reason, Council may sell or lease the property directly to the owner of the adjacent property, subject to the process prescribed by paragraph 7.6.11 hereof.
- 7.6.17. The municipality may sell or lease property directly to another municipality or to a municipal entity or to another organ of state in terms of applicable legislation.

- 7.6.18. The municipality may enter into a direct lease of a temporary nature of no longer than a year without a renewal option where it is in the public interest to do so and condoned by Council.
- 7.6.19. Sports facilities may be leased directly to formally constitute non-professional, non-profit-making sporting bodies according to the tariffs determined by the municipality from time to time and in line with this policy, the tariff policy and sport facility by-law.
- 7.6.20. The out-of-hand lease of land for outdoor seating adjoining to restaurant owners is permitted.
- 7.6.21. The principles which apply to the sale of immovable property also apply to the granting of other real rights such as servitudes.
- 7.6.22. Existing leases may be renewed without recourse to public competition provided the lessee has consistently complied with the lease conditions and the rental is reassessed to a market-related level where applicable. The municipality may impose additional conditions for the renewal period in its sole discretion. Unless the initial lease contained a renewal right, the proposed renewal shall be advertised for comment as set out in paragraph 7.6.11 above. Contracts will be renewed once-off in this manner. If objections are received after placement of an advertisement it must be referred to the Executive Mayoral Committee to deal with it. The delegation will be given to the Director: Development Services to approve such applications.
- 7.6.23. The municipality may impose any terms and conditions of sale, title conditions, title restrictions or servitudes in its sale transactions, and any lease conditions in its lease conditions in its lease transactions, at the sole discretion of the municipality in its own interests and for its own benefit and that of the community.
- 7.6.24. Where the municipality is the seller, the grantor of real rights or the lessor, it shall ensure that all sale terms and conditions, title conditions, title restrictions or servitudes and all lease terms and conditions are complied with. The municipality shall take appropriate legal action if necessary to enforce these terms and conditions including in the case of leases eviction proceedings as a last resort.

4. Supply chain management policy:

Paragraph 40

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

(3) The accounting officer must ensure that –

- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

5. The Directive for the allocation of immovable property to non-profit social care/service organisations and churches

A. NON-PROFIT SOCIAL CARE ORGANISATIONS

1. SOCIAL CARE PRACTICES

Social care are defined as services that is rendered by registered welfare, charitable, non-profit, cultural and religious organisations.

Social care includes the following types of uses, but is not limited to:

1.1. SOCIAL CARE PRACTICES THAT FALLS UNDER THE MANDATE OF MUNICIPALITIES

1.1.1. Child care facilities in as far as it contributes to the functionality of multipurpose child care facilities and that it is utilized on a non-profit basis

1.1.2. Youth activity centres (as the Girl Guides / Voortrekkers and after care centres)

1.1.3. Facilities for the housing, care and burying of animals

1.1.4. Local sport clubs / centres (only one sport code per town will be allowed)

1.2. SOCIAL CARE PRACTICES THAT DOES NOT FALL UNDER THE MANDATE OF MUNICIPALITIES

1.2.1 A place of worship to the extent it is used for purposes of social care and purposes of religious gatherings and that provides social/pastoral assistance to worshippers and the broader community.

1.2.2 Retirement villages for that portions of the building or facilities that is available for the general public use at subsidised or nominal prices;

1.2.3 Schools or centres that is used as facilities for disabled people;

1.2.4 Non-profit rehabilitation centres;

1.2.5 Houses or centres for poor, abused or needy people;

1.2.6 Organisations for homeless and elderly people;

2. REQUIREMENTS FOR THE ALLOCATION OF FIXED PROPERTY

2.1 Purpose of organisation.

To provide ECD services to children of the age 6 month to 72 months.

2.2 Proof of registration as non-profit organisation.

2.2.1 That in the case of a local sport club, proof must be submitted that the club is affiliated with a bigger recognised sport body.

Proof of registration was provided

2.3 Constitution of organisation.

The Constitution was provided.

2.4 Audited financial statements of organizations that is registered for longer than a year and financial income statements of organisations that is registered for a period shorter than a year.

Proof of financial statements has been provided to Department Finance for perusal and further comments.

2.5 6 months bank statements – stamped by the bank.

Bank statement was provided.

2.6 Business plan that includes proof of feasibility.

Business plan was provided and is found to be sufficient.

2.7 Proof of work already done by the organisation.

Existing organisation since 2010. The property was built by the organisation and maintained for the past several years.

2.8 Proof of funding of project:

2.8.1 Letter from funder to confirm that project is going to be funded.

2.8.1.1 That in case of a crèche, a letter from the funder is needed to state that the funder is interested in funding the project.

2.8.1.2 That in the case of a crèche, proof must be submitted of funding within one year of allocation of the property, where after the option will expire.

The applicant is applying to lease an existing premises. No construction or development cost is required. Proof of income was supplied together with financial sustainability plan compiled.

2.8.2 Bank statements as proof that funding is available for the project.

Organisations own bank statements were provided.

3. FACTORS TAKEN INTO ACCOUNT WHEN SELECTING AND AWARDING FIXED PROPERTY

3.1 Does the organisation serve the broader community?

The school is open to all children between the ages of 6 months and 72 months.

3.2 Does the organisation serve a certain sector of the community?

The organisation serves the child sector and the parents of preschool children.

3.3 How many staff are employed by the organisation?

7 staff in total. Principal, 4 ECD Practitioners, 1 ECD Caregiver and 1 Cook.

3.4 How many people are served by the organisation?

Approximately 130 households

3.5 What is the community value of the organisation?

The organisation provides healthy meals, education and safety to the children.

3.6 Does the organisation have the necessary funding for the construction of the facility as well as the operation of the facility/project?

No construction is required. Existing premises. Financial statements have been provided to proof monthly income. Organisation is financed through school fees and fundraising where required.

3.7 Is the organisation a financial risk to Council?

No

4. LEASE (excluding the lease of community halls) AND SALES TARIFFS

- 4.1 Non-profit **local sport clubs, child and animal care organisations** that qualify, shall pay a nominal lease tariff of R120,00 per year with regards to property that is **leased**. The difference between the market related lease amount and the nominal tariff shall be regarded as a social contribution that Council grants to the organisation and community.
- 4.2 Non-profit **child and animal care organisations** that qualify, shall pay a nominal purchase tariff of R120,00 per year with regards to property that is **sold**. The difference between the fair market value of the property and the nominal tariff shall be regarded as a social contribution that Council grants to the organisation and community.
- 4.3 Non-profit **social care/service organisations** (excluding local sport clubs, child and animal care organisations), that qualify, shall pay 50% of the market related rent with regards to property that is **leased**. The difference between the market related lease amount and the lowered tariff shall be regarded as a social contribution that Council grants to the organisation and community.
- 4.4 Non-profit **social care/service organisations** (excluding child and animal care organisations) that qualify, shall pay 50% of the fair market value of the property with regards to property that is **sold**. The difference between the fair market value of the property and the lowered tariff shall be regarded as a social contribution that Council grants to the organisation and community.

A. CHURCHES

In the light of the quest for church premises within the Theewaterskloof area, the sale of fixed property to churches will be handled as follows:

5. REQUIREMENTS TO QUALIFY FOR THE AWARDING OF FIXED PROPERTY

- 5.1 Proof of membership of at least 100 local people (living in the Municipal area / or relevant town) that is a member of the involved Church / Congregation / Religious society. (List of names, addresses, identity numbers and cell numbers)
- 5.2 Proof of Constitution of deed of establishment of Church / Religious society.
- 5.3 Proof of registration of Church / Religious society at a recognised representative body.
- 5.4 Proof must be provided in case the Church provides community service facilities over and above worship facilities.
- 5.5 Proof must be provided of availability of funding to buy the property

6. CONDITION FOR THE AWARDING OF FIXED PROPERTY

- 6.1 Only one premise per town will be awarded to a specific congregation of a Church / Religious society.
- 6.2 A building clause which places an obligation on the church to complete the church building within two years of purchasing the property, will be included in the deed of sale.
- 6.3 A premise is only awarded for the construction of a place of worship as a primary right. Approval must be obtained from the Department Planning for any consent uses on the premises.
- 6.4 That the property be developed for church purposes within a period of 5 years.

7. SALES

- 7.1 Sales will be conducted in such a way that will ensure equality and transparency and will make provision for the following actions and procedures:
 - 7.1.1 Invitations are published as per public notice where interested Churches / Congregations / Religious societies are invited to register their information and intention to acquire land, on a Municipal database.
 - 7.1.2 The purchase price of a premise is determined as a once off sale of a premise per individual Church / Congregation of a Church / Religious society, at a discount price determined at 50% of the fair market value.
 - 7.1.3 The premises and building thereon may only be used for religious and other related social care purposes. In case it is used for other purposes, it will revert to the Municipality for reallocation to another Church denomination.

FINANCIAL IMPLICATIONS

Advertising costs: +- R1000.00
Rezoning fees +- R 360.00
All cost for the account of the applicant.

CLIENT CARE IMPLICATIONS

A proposed lease agreement for operation of an Early Childhood Development Centre

RISK MANAGEMENT IMPLICATION

Potential risk will be managed by a signed lease agreement

RECOMMENDATION BY ITEM AUTHOR:

It is recommended:

- 1. That Council considers the following legislation:**
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches.**
 - 1.2. Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.3. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.4. TWK Asset Management Policy**
 - 1.5. Par 40 (3) (d) of TWK Supply Chain Management Policy**
- 2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.**
- 3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.**
- 4. It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.**
- 5. That the proposed lease be advertised for objections/comments for the account of the lessee.**
- 6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.**
- 7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant be responsible for all relevant costs.**
- 8. That permission be obtained that the Municipal Town planning cost be reduced to an amount as determined on an annual basis in terms of the municipal tariff structure due to the Non- profit status of the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the application.**
- 9. That the applicant be responsible for the upkeep and maintenance of the property.**
- 10. That the applicant be responsible for the insurance of the inside of the property and their personal property.**

11. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.
12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.
13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.
14. That the Agenda-item be referred to the ward committee for their inputs/comments.

RECOMMENDATION BY MANAGEMENT TO PORTFOLIO COMMITTEE: 16 MAY 2022

1. That Council considers the following legislation:
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches.
 - 1.2. Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.4. TWK Asset Management Policy
 - 1.5. Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.
4. It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.
5. That the proposed lease be advertised for objections/comments for the account of the lessee.
6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.

7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant be responsible for all relevant costs.
8. That permission be obtained that the Municipal Town planning cost be reduced to an amount as determined on an annual basis in terms of the municipal tariff structure due to the Non- profit status of the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the application.
9. That the applicant be responsible for the upkeep and maintenance of the property.
10. That the applicant be responsible for the insurance of the inside of the property and their personal property.
11. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.
12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.
13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.

RECOMMENDATION BY THE ECONOMIC DEVELOPMENT AND PLANNING COMMITTEE TO THE WARD COMMITTEE: 01 JUNE 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor S Fredericks and seconded by Councillor M Mathews, it was recommended as follows:

1. That Council considers the following legislation:
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches.
 - 1.2. Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.4. TWK Asset Management Policy
 - 1.5. Par 40 (3) (d) of the TWK Supply Chain Management Policy

- 2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.**
- 3. That the lease period will be for a period of 30 years.**
- 4. It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.**
- 5. That the proposed lease be advertised for objections/comments for the account of the lessee.**
- 6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.**
- 7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant be responsible for all relevant costs.**
- 8. That permission be obtained that the Municipal Town planning cost be reduced to an amount as determined on an annual basis in terms of the municipal tariff structure due to the Non- profit status of the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the application.**
- 9. That the applicant be responsible for the upkeep and maintenance of the property.**
- 10. That the applicant be responsible for the insurance of the inside of the property and their personal property.**
- 11. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.**
- 12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.**
- 13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.**

RECOMMENDATION BY THE WARD 12 COMMITTEE: 18 AUGUST 2022

- 1. That Council considers the following legislation:**
 - 1.1 Directive for the allocation of immovable property to non-profit social care/ service organisations and churches**
 - 1.2 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.3 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.4 TWK Asset Management Policy**
 - 1.5 Par 40(3)(d) of the TWK Supply Chain Management Policy**
- 2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R120,00 per year.**
- 3. That the lease period will be for a period of 30 years.**
- 4. It is confirmed that the property is not needed by the municipality to provide the minimum level of basic services.**
- 5. That the proposed lease be advertised for objections/ comments for the account of the lessee.**
- 6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.**
- 7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the applications.**
- 8. That the applicant be responsible for the upkeep and maintenance of the property.**
- 9. That the applicant be responsible for the insurance of the inside of the property and their personal property.**
- 10. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.**
- 11. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.**

12. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.

RECOMMENDATION TO THE ECONOMIC DEVELOPMENT COMMITTEE AFTER THE ITEM SERVED AT THE WARD COMMITTEE

It is recommended:

1. That Council considers the following legislation:
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches.
 - 1.2. Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.4. TWK Asset Management Policy
 - 1.5. Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 30 years.
4. It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.
5. That the proposed lease be advertised for objections/comments for the account of the lessee.
6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.
7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant be responsible for all relevant costs.
8. That permission be obtained that the Municipal Town planning cost be reduced to an amount as determined on an annual basis in terms of the municipal tariff structure due to the Non- profit status of the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the application.
9. That the applicant be responsible for the upkeep and maintenance of the property.

10. That the applicant be responsible for the insurance of the inside of the property and their personal property.
11. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.
12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.
13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.

**RECOMMENDATION FROM ECONOMIC DEVELOPMENT COMMITTEE TO EMC:
07 OCTOBER 2022**

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor MR Nongxaza and seconded by Alderman BB Mkhwibiso, it was recommended as follows:

1. That Council considers the following legislation:
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches.
 - 1.2. Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.4. TWK Asset Management Policy
 - 1.5. Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 30 years.
4. It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.
5. That the proposed lease be advertised for objections/comments for the account of the lessee.
6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.

7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant be responsible for all relevant costs.
8. That permission be obtained that the Municipal Town planning cost be reduced to an amount as determined on an annual basis in terms of the municipal tariff structure due to the Non- profit status of the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the application.
9. That the applicant be responsible for the upkeep and maintenance of the property.
10. That the applicant be responsible for the insurance of the inside of the property and their personal property.
11. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.
12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.
13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.
14. That the Acting Director: Economic Development and Planning must draft a policy regarding the cost of leasing and selling of properties to NGO's and submit it to be Workshopped by Council.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

1. That Council considers the following legislation:
 - 1.1 Directive for the allocation of immovable property to non-profit social care/service organisations and churches.
 - 1.2 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.4 TWK Asset Management Policy
 - 1.5 Par 40 (3) (d) of the TWK Supply Chain Management Policy

2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.
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12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.
13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.
14. That the Acting Director: Economic Development and Planning must draft a policy regarding the cost of leasing and selling of properties to NGO's and submit it to be Workshopped by Council.

RECOMMENDATION TO COUNCIL:

It is recommended:

- 1. That Council considers the following legislation:**
 - 1.1 Directive for the allocation of immovable property to non-profit social care/service organisations and churches.**
 - 1.2 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.3 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.4 TWK Asset Management Policy**
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- 2. That the facilities situated on Erf 3430, Grabouw, approximately 1600m² in size, be leased to the non-profit organisation, namely Eluxolweni Educare Centre, for the operation of ECD service for the rental amount of R 120,00 per year.**
- 3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.**
- 4. It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.**
- 5. That the proposed lease be advertised for objections/comments for the account of the lessee.**
- 6. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.**
- 7. That approval be obtained that the property goes through the appropriate town planning and building control permissions to render it suitable for conducting ECD activities and that the applications be submitted within 6 months after allocation of the properties by Council and that the applicant be responsible for all relevant costs.**
- 8. That permission be obtained that the Municipal Town planning cost be reduced to an amount as determined on an annual basis in terms of the municipal tariff structure due to the Non- profit status of the applicant and that such cost exclude the cost for placement of any advertisements pertaining to the application.**
- 9. That the applicant be responsible for the upkeep and maintenance of the property.**
- 10. That the applicant be responsible for the insurance of the inside of the property and their personal property.**

- 11. That the applicant supply the municipality with annual operational costs and financial statements to guarantee that the property is used for the purposes stated in the application.**
- 12. That the applicant be responsible to safeguard the property to prevent any vandalism and damages to the property.**
- 13. That the applicant be responsible for compliance to all relevant health and safety regulations and all other regulations pertaining to the operation of the organisation.**
- 14. That the Acting Director: Economic Development and Planning must draft a policy regarding the cost of leasing and selling of properties to NGO's and submit it to be Workshopped by Council.**

ITEM TITLE

**C164/2022 DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING:
DEPARTMENT PROPERTY MANAGEMENT: TO LEASE A
PORTION OF PORTION 7 OF THE FARM RADYN NO.24, KNOWN
AS PHILLIPSDALE, VILLIERSDORP**

[English version of the report is the original]

FILE NUMBER

7/2/3/1/6

PURPOSE OF REPORT

To submit a report for Council's consideration concerning the lease of a portion of portion 7 of Farm Radyn No.24, known as Phillipsdale, Villiersdorp.

BACKGROUND

Council resolved the following on 03 March 2011:

1. That Mr PJH le Roux's application for a further lease not be approved.
2. That the portion of the farm Radyn 24/7, known as Phillipsdale, Villiersdorp, approximately 3,7728 hectares in extent, be leased voetstoots for cultivating safe agricultural crops, for a period of 5 years, with a further option of 4 years and 11 months, by means of a tender process.
3. That a market-related lease amount of R3 960,00 per Hectare per year with an escalation of 5% be used as reserve lease amount.
4. That the lessee be responsible for paying municipal services, as well as the 5,6 hectares water as listed with the Elandskloof Irrigation Board.
5. That the lessee receives 12 months' notice in writing if the land or a portion thereof is required for municipal purposes.
6. That the portion of the farm Radyn 24/7, known as Phillipsdale, Villiersdorp, approximately 0,4439 hectare in extent, be utilised as municipal pound, and that it won't form part of this lease agreement.
7. That as an interim arrangement, the existing contract with Mr PJH le Roux, which had expired on 31 March 2010, be extended for the period 1 April 2010 to 31 January 2011 for only the 0,965 hectares portion of land with young trees en then be made available to the tenderer who is to lease the 2,3639 Hectares of land as from 1 February 2011.

(please see attached copy of council decision)

DISCUSSION

The property was advertised on a competitive bidding process in 2011 and a contract was concluded to Hugodore Boerdery CC for a period of 5 years with the option to renew for a further period of 4 years and 11 months, with the final period ending 30 June 2021. Notice was issued to the current tenant that the municipality will not extend the lease period and that the lease will be advertised on a competitive bidding process.

During the drafting and approval of a new tender process, the Bidding Specification Committee made a decision which recommended that the current Council should take cognizance of the previous Council decision and if required to make alternative recommendations before the committee will proceed with the new tender process.

The possibility was investigated to use the land for housing purposes, but the portion of land is situated within the 500-metre safety zone for sewage plants.

The land is only safe for cultivating certain agricultural crops such as peaches and olives and no other crops may be allowed as contamination may be caused by the nearby sewage works.

A revised market related rental was obtained from an external valuer which determined the market related rental for the proposed property of approximately 3.4Hectares, at R 2552.00 per month which is equal to R 10 358.11 (VAT inclusive) per Hectare per year. (Please see attached valuation report)

It is confirmed that the property is not needed by the Municipality to provide the minimum level of basic services.

The leasing of property is considered as the granting of rights, which is regulated by The Asset Transfer Regulations (MATR). Regulation 34(1)(a) states that public participation, in terms of Regulation 35 is only applicable if the capital asset in respect of which the proposed right is to be granted has a value in excess of R10million and a long term right is proposed to be granted.

It is therefore recommended that the proposed property, a portion of portion 7 of the farm Radyn No.24, known as Phillipsdale, Villiersdorp of approximately 3,4Hectares in size, be advertised on a Tender process at the reserve price of R 10 358.11 per Hectares per year for a period of 9 years and 11 month with the option to renew for a further period of 9 years and 11 months subject to written approval from the municipality.

COMMENTS FROM THE OFFICE OF THE MUNICIPAL MANAGER

Recommendation supported

COMMENTS FROM THE DIRECTORATE FINANCE

Supported

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

That a formal bidding process be followed

COMMENTS FROM THE DIRECTORATE TECHNICAL AND INFRASTRUCTURE IMPLEMENTATION SERVICES

Recommendation supported.

COMMENTS FROM THE DEPARTMENT ELECTRICAL SERVICES

Support recommendation

COMMENTS FROM THE DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING

Item and its content is supported for approval by council.

COMMENTS FROM THE DIRECTORATE COMMUNITY SERVICES

Take note of the report and support the recommendation.

COMMENTS FROM THE TOWN MANAGER: VILLIERSDORP

Supported

COMMENTS FROM LEGAL SERVICES

Recommendation supported.

LEGAL RESPONSIBILITY

1. **Section 34 of the MFMA (Act 56 / 2003): Municipal Asset Transfer Regulations, which reads as follows:**
 1. **A municipality may grant a right to use, control or manage a capital asset only after-**
 - a. **The accounting officer has in terms of regulation 35 conducted a public participation process regarding the proposed granting of the right; and**
 - b. **The municipal council has approved in principle that the right may be granted.**
 2. **Sub-regulation (1)(a) must be complied with only-**
 - a. **The capital asset in respect of which the proposed right is to be granted has a value in excess of R 10 million; and**

- b. A long term right is proposed to be granted in respect of the capital asset.**
- 3. (a) Only the municipal council may authorise the public participation process must be accompanied by an information statement stating –**
- i. The reason for the proposal to grant a long term right to use, control or manage the relevant capital asset;**
 - ii. Any expected benefit to the municipality that may result from the granting of the right;**
 - iii. Any expected proceeds to be received by the municipality from the granting of the right; and**
 - iv. Any expected gain or loss that be realised or incurred by the municipality arising from the granting of the right.**
- 4. A municipal council may delegate to the accounting officer its approval power referred to in sub-regulation (1)(b) excluding the power to grant long term rights to use, control or manage capital assets of value in excess of R 10 million.**
2. The lease of Council property must be considered in terms of Section 36 of the MFMA (Act 56 / 2003): Municipal Asset Transfer Regulations, which reads as follows:
- The municipal council must, when considering in terms of regulation 34(1)(b) approval for any proposed granting of a right to use, control or manage a capital asset, take into account –
- (a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;
- The property will not be needed for own use during the period of the lease agreement as this property is fully operative with the production of fruit. A termination clause will apply if the land is required for municipal purposes.
- (b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality;
- The Municipality will receive a market-related rental fee which would contribute to its financial benefit.
- (c) the risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;
- No risk can be foreseen. The reward associated with the rental shall be the rental fees generated as well as job creation which would benefit to the community. All potential risks would be managed as far as possible by means of a signed lease agreement.

- (d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;

The comments of the local community and other interested persons have not been invited as it is not required in terms of Regulation 34 as mentioned above.

- (e) any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant provincial treasury;

None.

- (f) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and

The lease is in the strategic, legal and economic interest of the municipality as well as the local community.

- (g) compliance with the legislative regime applicable to the proposed granting of the right.

All legislation known to the author has been complied with.

3. TWK ASSET MANAGEMENT POLICY

1. **General principles relating to management of immovable property:**

1. The municipality may acquire, use, alienate, let or permit to be occupied, built upon or cultivated any immovable property owned by the municipality unless it is precluded from so doing by law or the conditions under which such property was acquired by the municipality.
2. The municipality may not sell property, let or alienate rights in immovable property which is required for the provision of the minimum level of basic municipal services.
3. Sales and alienation of rights in immovable property as well as the letting of immovable property below market value shall be approved by Council. In terms of the relevant delegation, letting of immovable property at market related value shall be approved by the Municipal Manager.
4. Before deciding to let or sell immovable property or alienate rights in immovable property, the Council or Municipal Manager (as the case may be) shall consider the fair market value thereof as well as the economic and community value to be received in exchange for such property or right.
5. When selling or leasing immovable property, the general rule shall be that a market related value or rental should be charged (except when the public interest or the plight of the poor demands otherwise and documented proof can be provided to substantiate the aforementioned).

6. In the case of immovable property referred to in the Housing Act (107 of 1997) and its amendments, such property shall be sold or leased as provided for in that Act.
7. The market value of property or market rental shall be determined by the Director: Development Services or delegated authority (with substantiating proof) where the valuation costs exceeds the anticipated revenue to be derived from the transaction or is not justifiable or through the use of an independent registered and suitably qualified valuer.
8. Council may impose any condition of sale in respect of a sale agreement, inclusive but not limited to:
 1. Affordable or low cost housing or in respect of social and development projects prohibiting the property to be resold within a fixed period from the date of transfer.
 2. Public comment
 3. Any condition considered by Council to be good practice and corporate governance.
 4. Any condition considered to be beneficial to the council or to protect its rights.
9. Immovable property let by the municipality, must be inspected regularly by officials of the municipality to ensure compliance with the terms and conditions of the agreement of lease.
10. Non-profit organizations may receive purchase price or rental discounts at the discretion of Council or Management (as the case may be). Applications will be dealt with on the merit of each application. The discounted amount shall be regarded as a social contribution towards such organization. Non-profit organizations must submit proof of registration as well as proof of sufficient funding for the project. Provision must be made for a suitable reversionary clause or cancellation of the lease should the property no longer be used for the specific purpose intended.
11. As a rule, all sales or letting of an immovable property shall be subject to public participation and shall be fair, equitable, transparent, competitive and be consistent with this and supply chain management policy. Public competition and participation may be by means of tender, proposal call, qualified tender, auction, advertisement or other appropriate procedure. Advertisement shall be done as determined by Council or the Municipal Manager (as the case may be), by inter alia an advertisement in Afrikaans and English in a local newspaper, relevant town noticeboard and the Municipal website. Where required, advertisement may also be done in an Afrikaans or English provincial newspaper. The advertisement must contain all the relevant information as to price and terms (in the case of

out-of-hand sales), future usage of the property, infrastructure required and identify the parties to the agreement (if relevant) and type of sale (i.e. auction or tender) and must be open for comment for a period of 30 days. The municipality shall consider and rule on any objections received, giving written reasons for its decision.

12. The assessment of tenders, qualified tenders or assessment calls will be done in line with the Supply Chain Management regulations.
13. Auctions will be done in public through a suitable qualified Auctioneer, where a property must be sold to the highest bidder, subject however to such terms and conditions Council may impose as to reserve price and terms and conditions of sale.
14. Where immovable property is made available by Council for a specific type of development project, the municipality may consider an out-of-hand sale or call for development proposals, which may include a monetary offer. In such a case, the price offered for the immovable property by the developer may form part of the total package, provided that the process in terms of paragraph 7.6.11 have been followed.
15. Where the municipality considers it appropriate it may consider unsolicited bids for the lease or sale of property subject to compliance with the relevant legislation, this policy and Regulation 37 of the SCM Policy. Environmental or heritage benefits may also be taken into consideration by the municipality when deciding whether or not to consider unsolicited bids
16. Where the immovable property to be sold or leased cannot be viably used on its own but only as part of an adjacent property because of size, location, access, zoning or other good reason, Council may sell or lease the property directly to the owner of the adjacent property, subject to the process prescribed by paragraph 7.6.11 hereof.
17. The municipality may sell or lease property directly to another municipality or to a municipal entity or to another organ of state in terms of applicable legislation.
18. The municipality may enter into a direct lease of a temporary nature of no longer than a year without a renewal option where it is in the public interest to do so and condoned by Council.
19. Sports facilities may be leased directly to formally constitute non-professional, non-profit-making sporting bodies according to the tariffs determined by the municipality from time to time and in line with this policy, the tariff policy and sport facility by-law.
20. The out-of-hand lease of land for outdoor seating adjoining to restaurant owners is permitted.

21. The principles which apply to the sale of immovable property also apply to the granting of other real rights such as servitudes.
22. Existing leases may be renewed without recourse to public competition provided the lessee has consistently complied with the lease conditions and the rental is reassessed to a market-related level where applicable. The municipality may impose additional conditions for the renewal period in its sole discretion. Unless the initial lease contained a renewal right, the proposed renewal shall be advertised for comment as set out in paragraph 7.6.11 above. Contracts will be renewed once-off in this manner. If objections are received after placement of an advertisement it must be referred to the Executive Mayoral Committee to deal with it. The delegation will be given to the Director: Development Services to approve such applications.
23. The municipality may impose any terms and conditions of sale, title conditions, title restrictions or servitudes in its sale transactions, and any lease conditions in its lease conditions in its lease transactions, at the sole discretion of the municipality in its own interests and for its own benefit and that of the community.
24. Where the municipality is the seller, the grantor of real rights or the lessor, it shall ensure that all sale terms and conditions, title conditions, title restrictions or servitudes and all lease terms and conditions are complied with. The municipality shall take appropriate legal action if necessary to enforce these terms and conditions including in the case of leases eviction proceedings as a last resort.

4. Supply chain management policy:

Paragraph 40

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:
 - (3) The accounting officer must ensure that –
 - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

FINANCIAL IMPLICATIONS

Advertising costs: +- R 3000.00

CLIENT CARE IMPLICATIONS

None

RISK MANAGEMENT IMPLICATION

Risk will be managed as best as possible by means of a signed lease agreement

RECOMMENDATION BY ITEM AUTHOR:

1. That Council considers the following legislation:
 - 1.1. Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.2. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. TWK Asset Management Policy
 - 1.4. Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the portion of portion 7 of farm Radyn No.24, known as Phillipsdale, Villiersdorp, approximately 3.4 Hectares in size be leased voetstoots for cultivating safe agricultural crops, for a period of 9 years and 11 months, with the option to renew the lease for a further period of 9 years and 11 months, subject to written approval from the municipality.
3. That a market-related amount of R 10 358,11 per Hectares per year with an escalation of 5% be used as reserve lease amount.
4. That the lessee be responsible for paying municipal services, as well as the 5,6 Hectares water as listed with the Elandskloof Irrigation Board.
5. That the Lessee receive 12 months` notice in writing if the land or a portion thereof is required for municipal purposes.
6. That as an interim arrangement, the existing contract with Hugodore Boerdery CC which has expired 30 June 2021, be extended to 31 January 2023 to ensure the maintenance and upkeep of the current fruit orchards.
7. That the Agenda-item be referred to the Ward Committees for their inputs/comments.

RECOMMENDATION BY MANAGEMENT TO WARD COMMITTEE: 16 MAY 2022

1. That Council considers the following legislation:
 - 1.1 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the portion of portion 7 of farm Radyn No.24, known as Phillipsdale, Villiersdorp, approximately 3.4 Hectares in size be leased voetstoots for cultivating safe agricultural crops, for a period of 9 years and 11 months, with the option to renew the lease for a further period of 9 years and 11 months, subject to written approval from the municipality.
3. That a market-related amount of R 10 358,11 per Hectares per year with an escalation of 5% be used as reserve lease amount.
4. That the lessee be responsible for paying municipal services, as well as the 5,6 Hectares water as listed with the Elandskloof Irrigation Board.
5. That the Lessee receive 12 months` notice in writing if the land or a portion thereof is required for municipal purposes.
6. That as an interim arrangement, the existing contract with Hugodore Boerdery CC which has expired 30 June 2021, be extended to 31 January 2023 to ensure the maintenance and upkeep of the current fruit orchards.

WARD 5 COMMITTEE MEETING: 20 JUNE 2022

The Ward Committee take note
Proposal by Cllr M Botes
Seconded by Ms J Nicholls

RECOMMENDATION TO ECONOMIC DEVELOPMENT COMMITTEE AFTER THE ITEM SERVED AT THE WARD COMMITTEE:

1. That Council considers the following legislation:
 - 1.1 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy

2. That the portion of portion 7 of farm Radyn No.24, known as Phillipsdale, Villiersdorp, approximately 3.4Hectares in size be leased voetstoots for cultivating safe agricultural crops, for a period of 9 years and 11 months, with the option to renew the lease for a further period of 9 years and 11 months, subject to written approval from the municipality.
3. That a market-related amount of R 10 358,11 per Hectares per year with an escalation of 5% be used as reserve lease amount.
4. That the lessee be responsible for paying municipal services, as well as the 5,6 Hectares water as listed with the Elandskloof Irrigation Board.
5. That the Lessee receive 12 months` notice in writing if the land or a portion thereof is required for municipal purposes.
6. That as an interim arrangement, the existing contract with Hugodore Boerdery CC which has expired 30 June 2021, be extended to 31 January 2023 to ensure the maintenance and upkeep of the current fruit orchards.

**RECOMMENDATION FROM ECONOMIC DEVELOPMENT COMMITTEE TO EMC:
07 OCTOBER 2022**

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimous recommended as follows:

1. That Council considers the following legislation:
 - 1.1 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the portion of portion 7 of farm Radyn No.24, known as Phillipsdale, Villiersdorp, approximately 3.4Hectares in size be leased voetstoots for cultivating safe agricultural crops, for a period of 9 years and 11 months, with the option to renew the lease for a further period of 9 years and 11 months, subject to written approval from the municipality.
3. That a market-related amount of R 10 358,11 per Hectares per year with an escalation of 5% be used as reserve lease amount.
4. That the lessee be responsible for paying municipal services, as well as the 5,6 Hectares water as listed with the Elandskloof Irrigation Board.
5. That the Lessee receive 12 months` notice in writing if the land or a portion thereof is required for municipal purposes.

6. That as an interim arrangement, the existing contract with Hugodore Boerdery CC which has expired 30 June 2021, be extended to 31 January 2023 to ensure the maintenance and upkeep of the current fruit orchards.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

1. That Council considers the following legislation:
 - 1.1 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the Directorate: Economic Development and Planning (Property Management) issue a letter to Hugodore Boerdery CC to inform them that with immediate effect, no further plantation of produce will be allowed on the property and that the Municipality will allow them to harvest the current seasonal crops.
3. That the Directorate: Economic Development and Planning (Property Management) must start with the competitive bidding process immediately after the harvest season.
4. That the portion of portion 7 of farm Radyn No.24, known as Phillipsdale, Villiersdorp, approximately 3.4 Hectares in size be leased voetstoots for cultivating safe agricultural crops, for a period of 9 years and 11 months, with the option to renew the lease for a further period of 9 years and 11 months, subject to written approval from the municipality.
5. That a market-related amount of R 10 358,11 per Hectares per year with an escalation of 5% be used as reserve lease amount.
6. That the lessee be responsible for paying municipal services, as well as the 5,6 Hectares water as listed with the Elandskloof Irrigation Board.
7. That the Lessee receive 12 months` notice in writing if the land or a portion thereof is required for municipal purposes.

RECOMMENDATION TO COUNCIL:

It is recommended:

- 1. That Council considers the following legislation:**
 - 1.1 Section 34 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.3 TWK Asset Management Policy**
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy**
- 2. That the Directorate: Economic Development and Planning (Property Management) issue a letter to Hugodore Boerdery CC to inform them that with immediate effect, no further plantation of produce will be allowed on the property and that the Municipality will allow them to harvest the current seasonal crops.**
- 3. That the Directorate: Economic Development and Planning (Property Management) must start with the competitive bidding process immediately after the harvest season.**
- 4. That the portion of portion 7 of farm Radyn No.24, known as Phillipsdale, Villiersdorp, approximately 3.4Hectares in size be leased voetstoots for cultivating safe agricultural crops, for a period of 9 years and 11 months, with the option to renew the lease for a further period of 9 years and 11 months, subject to written approval from the municipality.**
- 5. That a market-related amount of R 10 358,11 per Hectares per year with an escalation of 5% be used as reserve lease amount.**
- 6. That the lessee be responsible for paying municipal services, as well as the 5,6 Hectares water as listed with the Elandskloof Irrigation Board.**
- 7. That the Lessee receive 12 months` notice in writing if the land or a portion thereof is required for municipal purposes.**

ITEM TITLE

**C165/2022 DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING:
DEPARTMENT PROPERTY MANAGEMENT: VILLIERSDORP
PLAY SCHOOL: APPLICATION TO RENEW LEASE
AGREEMENT FOR THE LEASE OF A PORTION OF ERF 12
VILLIERSDORP FOR THE OPERATION OF A PLAY SCHOOL,
PRE SCHOOL AND AFTERCARE EDUCATION**

[English version of the report is the original]

FILE NUMBER

7/2/3/1/6

PURPOSE OF REPORT

To submit an application to Council to consider an application for the renewal of the lease agreement for the lease of a portion of Erf 12 Villiersdorp to Villiersdorp Play School, for the operation of a play school, pre-school and aftercare education.

BACKGROUND

Villiersdorp Play School ('the Applicant') leases a building and facilities situated on a portion of Erf 12 (please refer to portion A on attached site plan) since 1 January 2012. The School has maintained the property and applied various improvements to the property and installed a security system during the lease period.

The purpose of the school is to provide early childhood development, a safe environment for children between the ages of 3 and 5, to learn and play and to prepare them for school and Grade R. The school is a Christian based pre-school care through the medium of Afrikaans and English. The school is open for everyone between the ages of 3 and 5 years old and are currently hosting 20 children on a daily basis. The school employees 3 permanent employees.

The applicant is applying to renew their lease agreement to be able to continue with their operation and teaching their children. By obtaining a signed lease agreement they would be eligible for further application towards fundraising which is imperative for sustainability of any Non-profit organisation.

DISCUSSION

The property is approximately 550m² in size and is zoned Business Zone 2, which accommodates the operation as a play school and pre-school development. The applicant takes full responsibility for the payment of municipal services rendered at the property and they take full responsibility for the maintenance and upkeep of the property. The applicant has presented relevant financial and bank statements, which has been submitted to department finance for perusal, which indicates that they are financial sustainable for the general operational expenses.

The fair market related rental is determined at approximately R2000.00 per month. Early childhood development is a function delegated to local authorities by Schedule 4 B in the Constitution of the Republic of South Africa, 1996. The municipality is not in a position to provide monetary support, but are in the position to provide the facility at a minimum rental of R120.00 per year which is seen as public interest as supported by Paragraph 40 (3)(b) of the Municipal Supply Chain Policy, regulated by the approved directive for allocation of fixed property to Non-profit and social care organisations

It is thus recommended that a proportion of Erf 12, of approximately 550m² be leased to Villiersdorp Play School at a minimal rental of R120.00 per annum as supported by the approved directive for the allocation of fixed property to non-profit and social care organisations for a period of 9 years and 11 months.

COMMENTS FROM THE OFFICE OF THE MUNICIPAL MANAGER

Approved for consideration.

COMMENTS FROM THE DIRECTORATE FINANCE

The second addendum to the contract stated that it was a once-off renewal ending 31 December 2021. Therefore according to section 7.6.22 of the Asset Management policy a lease renewal shall be advertised for comment and rental reassessed to market-related level where applicable. The advertisement is to encourage public participation so that the municipality can be fair, equitable, transparent and competitive.

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

Support the recommendation, provided that all legal requirements are met.

COMMENTS FROM THE DIRECTORATE TECHNICAL AND INFRASTRUCTURE IMPLEMENTATION SERVICES

Recommendation is supported.

COMMENTS FROM THE DEPARTMENT ELECTRICAL SERVICES

Support recommendation

COMMENTS FROM THE DIRECTORATE COMMUNITY SERVICES

Recommendations supported.

COMMENTS FROM THE TOWN MANAGER: VILLIERSDORP

Supported.

COMMENTS FROM LEGAL SERVICES

Recommendation supported.

ADDITIONAL COMMENTS FROM ITEM AUTHOR

Feedback on internal comment:

Directorate Finance

The second addendum to the contract stated that it was a once-off renewal ending 31 December 2021. Therefore according to section 7.6.22 of the Asset Management policy a lease renewal shall be advertised for comment and rental reassessed to market-related level where applicable. The advertisement is to encourage public participation so that the municipality can be fair, equitable, transparent and competitive.

Feedback:

The comments are noted. The second addendum refers to a renewal in terms of the Delegation and thereafter a new application is required for consideration by Council. This application is thus a new application in terms of the Directive for the allocation of immovable property to non-profit social care organisations and sport clubs.

The Asset Management policy does refer to the placing of an advertisement which in this case will be placed in the local news paper and it further refers to rental to be reassessed to market-related level where applicable. In this case the applicant is still a non-profit social care organization which complies in terms of the relevant approved directive and therefore the reassessment of market-related rental is not applicable.

LEGAL RESPONSIBILITY

- 1. The lease of Council property must be considered in terms of Section 36 of the MFMA (Act 56 / 2003): Municipal Asset Transfer Regulations, which reads as follows:**

The municipal council must, when considering in terms of regulation 34(1)(b) approval for any proposed granting of a right to use, control or manage a capital asset, take into account –

- (a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;**

The property will not be needed for own use during the period of the lease agreement.

- (b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit to the municipality;**

Leasing the proposed Erf to the Organisation will not result in a direct significant economic or financial benefit to the municipality. Through renting out the property provision will be made for proper after- and social care.

- (c) the risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;**

*The organisation is a community organisation that serves the community and contributes to the social wellbeing of the community.
A lease is never without risks, but they are limited as far as possible by the conditions contained in the lease agreement.*

- (d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;**

No comments have been received to date, but the proposed lease will be advertised for comments in the local newspaper.

- (e) any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant provincial treasury;**

None.

- (f) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and**

The lease is in the strategic, legal and economic interest of the municipality as well as the local community.

- (g) compliance with the legislative regime applicable to the proposed granting of the right.**

All legislation known to the author has been complied with.

2. TWK ASSET MANAGEMENT POLICY

7.6. General principles relating to management of immovable property:

- 7.6.1. The municipality may acquire, use, alienate, let or permit to be occupied, built upon or cultivated any immovable property owned by the municipality unless it is precluded from so doing by law or the conditions under which such property was acquired by the municipality.

- 7.6.2. The municipality may not sell property, let or alienate rights in immovable property which is required for the provision of the minimum level of basic municipal services.
- 7.6.3. Sales and alienation of rights in immovable property as well as the letting of immovable property below market value shall be approved by Council. In terms of the relevant delegation, letting of immovable property at market related value shall be approved by the Municipal Manager.
- 7.6.4. Before deciding to let or sell immovable property or alienate rights in immovable property, the Council or Municipal Manager (as the case may be) shall consider the fair market value thereof as well as the economic and community value to be received in exchange for such property or right.
- 7.6.5. When selling or leasing immovable property, the general rule shall be that a market related value or rental should be charged (except when the public interest or the plight of the poor demands otherwise and documented proof can be provided to substantiate the aforementioned).
- 7.6.6. In the case of immovable property referred to in the Housing Act (107 of 1997) and its amendments, such property shall be sold or leased as provided for in that Act.
- 7.6.7. The market value of property or market rental shall be determined by the Director: Development Services or delegated authority (with substantiating proof) where the valuation costs exceeds the anticipated revenue to be derived from the transaction or is not justifiable or through the use of an independent registered and suitably qualified valuer.
- 7.6.8. Council may impose any condition of sale in respect of a sale agreement, inclusive but not limited to:
- 7.6.8.1. Affordable or low cost housing or in respect of social and development projects prohibiting the property to be resold within a fixed period from the date of transfer.
- 7.6.8.2. Public comment
- 7.6.8.3. Any condition considered by Council to be good practise and corporate governance.
- 7.6.8.4. Any condition considered to be beneficial to the council or to protect its rights.

- 7.6.9. Immovable property let by the municipality, must be inspected regularly by officials of the municipality to ensure compliance with the terms and conditions of the agreement of lease.
- 7.6.10. Non-profit organizations may receive purchase price or rental discounts at the discretion of Council or Management (as the case may be). Applications will be dealt with on the merit of each application. The discounted amount shall be regarded as a social contribution towards such organization. Non-profit organizations must submit proof of registration as well as proof of sufficient funding for the project. Provision must be made for a suitable reversionary clause or cancellation of the lease should the property no longer be used for the specific purpose intended.
- 7.6.11. As a rule, all sales or letting of an immovable property shall be subject to public participation and shall be fair, equitable, transparent, competitive and be consistent with this and supply chain management policy. Public competition and participation may be by means of tender, proposal call, qualified tender, auction, advertisement or other appropriate procedure.

Advertisement shall be done as determined by Council or the Municipal Manager (as the case may be), by inter alia an advertisement in Afrikaans and English in a local newspaper, relevant town noticeboard and the Municipal website. Where required, advertisement may also be done in an Afrikaans or English provincial newspaper. The advertisement must contain all the relevant information as to price and terms (in the case of out-of-hand sales), future usage of the property, infrastructure required and identify the parties to the agreement (if relevant) and type of sale (i.e. auction or tender) and must be open for comment for a period of 30 days. The municipality shall consider and rule on any objections received, giving written reasons for its decision.

- 7.6.12. The assessment of tenders, qualified tenders or assessment calls will be done in line with the Supply Chain Management regulations.
- 7.6.13. Auctions will be done in public through a suitable qualified Auctioneer, where a property must be sold to the highest bidder, subject however to such terms and conditions Council may impose as to reserve price and terms and conditions of sale.
- 7.6.14. Where immovable property is made available by Council for a specific type of development project, the municipality may consider an out-of-hand sale or call for development proposals, which may include a monetary offer. In such a case, the price offered for the immovable property by the developer may form part of the total package, provided that the process in terms of paragraph 7.6.11 have been followed.

- 7.6.15. Where the municipality considers it appropriate it may consider unsolicited bids for the lease or sale of property subject to compliance with the relevant legislation, this policy and Regulation 37 of the SCM Policy. Environmental or heritage benefits may also be taken into consideration by the municipality when deciding whether or not to consider unsolicited bids
- 7.6.16. Where the immovable property to be sold or leased cannot be viably used on its own but only as part of an adjacent property because of size, location, access, zoning or other good reason, Council may sell or lease the property directly to the owner of the adjacent property, subject to the process prescribed by paragraph 7.6.11 hereof.
- 7.6.17. The municipality may sell or lease property directly to another municipality or to a municipal entity or to another organ of state in terms of applicable legislation.
- 7.6.18. The municipality may enter into a direct lease of a temporary nature of no longer than a year without a renewal option where it is in the public interest to do so and condoned by Council.
- 7.6.19. Sports facilities may be leased directly to formally constitute non-professional, non-profit-making sporting bodies according to the tariffs determined by the municipality from time to time and in line with this policy, the tariff policy and sport facility by-law.
- 7.6.20. The out-of-hand lease of land for outdoor seating adjoining to restaurant owners is permitted.
- 7.6.21. The principles which apply to the sale of immovable property also apply to the granting of other real rights such as servitudes.
- 7.6.22. Existing leases may be renewed without recourse to public competition provided the lessee has consistently complied with the lease conditions and the rental is reassessed to a market-related level where applicable. The municipality may impose additional conditions for the renewal period in its sole discretion. Unless the initial lease contained a renewal right, the proposed renewal shall be advertised for comment as set out in paragraph 7.6.11 above. Contracts will be renewed once-off in this manner. If objections are received after placement of an advertisement it must be referred to the Executive Mayoral Committee to deal with it. The delegation will be given to the Director: Development Services to approve such applications.

7.6.23. The municipality may impose any terms and conditions of sale, title conditions, title restrictions or servitudes in its sale transactions, and any lease conditions in its lease conditions in its lease transactions, at the sole discretion of the municipality in its own interests and for its own benefit and that of the community.

7.6.24. Where the municipality is the seller, the grantor of real rights or the lessor, it shall ensure that all sale terms and conditions, title conditions, title restrictions or servitudes and all lease terms and conditions are complied with. The municipality shall take appropriate legal action if necessary to enforce these terms and conditions including in the case of leases eviction proceedings as a last resort.

3. Supply chain management policy:

Paragraph 40

40. (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

(3) The accounting officer must ensure that –

(d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

4. The Directive for the allocation of immovable property to non-profit social care/service organisations and churches

A. NON-PROFIT SOCIAL CARE ORGANISATIONS

1. SOCIAL CARE PRACTICES

Social care are defined as services that is rendered by registered welfare, charitable, non-profit, cultural and religious organisations.

Social care includes the following types of uses, but is not limited to:

1.1. SOCIAL CARE PRACTICES THAT FALLS UNDER THE MANDATE OF MUNICIPALITIES

1.1.1. Child care facilities in as far as it contributes to the functionality of multipurpose child care facilities and that it is utilized on a non-profit basis

1.1.2. Youth activity centres (as the Girl Guides / Voortrekkers and after care centres)

1.1.3. Facilities for the housing, care and burying of animals

1.1.4. Local sport clubs / centres (only one sport code per town will be allowed)

1.2. SOCIAL CARE PRACTICES THAT DOES NOT FALL UNDER THE MANDATE OF MUNICIPALITIES

1.2.1 A place of worship to the extent it is used for purposes of social care and purposes of religious gatherings and that provides social/pastoral assistance to worshippers and the broader community.

1.2.2 Retirement villages for that portions of the building or facilities that is available for the general public use at subsidised or nominal prices;

1.2.3 Schools or centres that is used as facilities for disabled people;

1.2.4 Non-profit rehabilitation centres;

1.2.5 Houses or centres for poor, abused or needy people;

1.2.6 Organisations for homeless and elderly people;

2. REQUIREMENTS FOR THE ALLOCATION OF FIXED PROPERTY

2.1 Purpose of organisation.

To provide pre-school education and aftercare to children of the age 3 to 5.

2.2 Proof of registration as non-profit organisation.

2.2.1 That in the case of a local sport club, proof must be submitted that the club is affiliated with a bigger recognised sport body.

Proof of registration was provided

2.3 Constitution of organisation.

The Constitution was provided.

2.4 Audited financial statements of organizations that is registered for longer than a year and financial income statements of organisations that is registered for a period shorter than a year.

Proof of financial statements has been provided to Department Finance for perusal and further comments.

2.5 6 months bank statements – stamped by the bank.

Bank statement was provided.

2.6 Business plan that includes proof of feasibility.

Business plan was provided and is found to be sufficient.

2.7 Proof of work already done by the organisation.

Existing organisation since 2011. Improvements and security was done on the property by the applicant during the current lease period.

2.8 Proof of funding of project:

2.8.1 Letter from funder to confirm that project is going to be funded.

2.8.1.1 That in case of a crèche, a letter from the funder is needed to state that the funder is interested in funding the project.

2.8.1.2 That in the case of a crèche, proof must be submitted of funding within one year of allocation of the property, where after the option will expire.

The applicant is applying to lease an existing premises. No construction or development cost is required. Proof of income was supplied together with financial sustainability plan compiled.

2.8.2 Bank statements as proof that funding is available for the project.

Organisations own bank statements were provided.

3. FACTORS TAKEN INTO ACCOUNT WHEN SELECTING AND AWARDED FIXED PROPERTY

3.1 Does the organisation serve the broader community?

The school is open to all English and Afrikaans learners between the ages of 3 and 5. Aftercare is also provided.

3.2 Does the organisation serve a certain sector of the community?

The organisation serves the child sector and the parents of preschool and primary school children.

3.3 How many staff are employed by the organisation?

3 staff in total. One educator, one assistant and one cleaner.

3.4 How many people are served by the organisation?

Approximately 20 households

3.5 What is the community value of the organisation?

The organisation provides healthy meals, education and safety to the children.

3.6 Does the organisation have the necessary funding for the construction of the facility as well as the operation of the facility/project?

No construction is required. Existing premises. Financial statements have been provided to proof monthly income. Organisation is financed through school fees and fundraising where required.

3.7 Is the organisation a financial risk to Council?

No

4. LEASE (excluding the lease of community halls) AND SALES TARIFFS

4.1 Non-profit **local sport clubs, child and animal care organisations** that qualify, shall pay a nominal lease tariff of R120,00 per year with regards to property that is **leased**. The difference between the market related lease amount and the nominal tariff shall be regarded as a social contribution that Council grants to the organisation and community.

4.2 Non-profit **child and animal care organisations** that qualify, shall pay a nominal purchase tariff of R120,00 per year with regards to property that is **sold**. The difference between the fair market value of the property and the nominal tariff shall be regarded as a social contribution that Council grants to the organisation and community.

4.3 Non-profit **social care/service organisations** (excluding local sport clubs, child and animal care organisations), that qualify, shall pay 50% of the market related rent with regards to property that is **leased**. The difference between the market related lease amount and the lowered tariff shall be regarded as a social contribution that Council grants to the organisation and community.

- 4.4 Non-profit **social care/service organisations** (excluding child and animal care organisations) that qualify, shall pay 50% of the fair market value of the property with regards to property that is **sold**. The difference between the fair market value of the property and the lowered tariff shall be regarded as a social contribution that Council grants to the organisation and community.

FINANCIAL IMPLICATIONS

Advertising costs: +- R1000.00

CLIENT CARE IMPLICATIONS

The application is in public interest

RISK MANAGEMENT IMPLICATION

All risk will be reduced and managed in terms of a signed lease agreement.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended:

1. That Council considers the following legislation:
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches
 - 1.2. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. TWK Asset Management Policy
 - 1.4. Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on a portion of Erf 12, Villiersdorp, approximately 550m² in size, be leased to the non-profit organisation, namely the Villiersdorp Playschool, for the operation of Pre-school and aftercare education for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.
4. That the proposed lease be advertised for objections/comments for the account of the lessee.
5. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.
6. That the applicant be responsible for the upkeep and maintenance of the property.

7. That the applicant be responsible for the insurance of the inside of the property and their personal property.
8. That the Agenda-item be referred to the Ward Committee for their inputs/comments.

RECOMMENDATION BY MANAGEMENT TO THE WARD COMMITTEE: 11 APRIL 2022

It is recommended:

1. That Council considers the following legislation:
 - 1.1. Directive for the allocation of immovable property to non-profit social care/service organisations and churches
 - 1.2. Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3. TWK Asset Management Policy
 - 1.4. Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on a portion of Erf 12, Villiersdorp, approximately 550m² in size, be leased to the non-profit organisation, namely the Villiersdorp Playschool, for the operation of Pre-school and aftercare education for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.
4. That the proposed lease be advertised for objections/comments for the account of the lessee.
5. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.
6. That the applicant be responsible for the upkeep and maintenance of the property.
7. That the applicant be responsible for the insurance of the inside of the property and their personal property.
8. That the Agenda-item be referred to the Ward Committee for their inputs/comments.

WARD 5 COMMITTEE MEETING: 20 JUNE 2022

After discussion of all the members, in terms of policy comes from the regulation amended as NPO, the amount of rent was accepted.

Proposed by Ms C Nel

Seconded by Cllr J Mckenzie

RECOMMENDATION TO ECONOMIC DEVELOPMENT COMMITTEE AFTER THE ITEM SERVED AT THE WARD COMMITTEE:

It is recommended:

1. That Council considers the following legislation:
 - 1.1 Directive for the allocation of immovable property to non-profit social care/service organisations and churches
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on a portion of Erf 12, Villiersdorp, approximately 550m² in size, be leased to the non-profit organisation, namely the Villiersdorp Playschool, for the operation of Pre-school and aftercare education for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 9 years and 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.
4. That the proposed lease be advertised for objections/comments for the account of the lessee.
5. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.
6. That the applicant be responsible for the upkeep and maintenance of the property.
7. That the applicant be responsible for the insurance of the inside of the property and their personal property.

**RECOMMENDATION FROM ECONOMIC DEVELOPMENT COMMITTEE TO EMC:
07 OCTOBER 2022**

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor MR Nongxaza and seconded by Alderman BB Mkhwibiso, it was recommended as follows:

1. That Council considers the following legislation:
 - 1.1 Directive for the allocation of immovable property to non-profit social care/service organisations and churches
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy

1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy

- 2. That the facilities situated on a portion of Erf 12, Villiersdorp, approximately 550m² in size, be leased to the non-profit organisation, namely the Villiersdorp Playschool, for the operation of Pre-school and aftercare education for the rental amount of R 120,00 per year.**
- 3. That the lease period will be for a period of 30 years with an option to renew the agreement for a further period, subject to the approval from the Municipality.**
- 4. That the proposed lease be advertised for objections/comments for the account of the lessee.**
- 5. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.**
- 6. That the applicant be responsible for the upkeep and maintenance of the property.**
- 7. That the applicant be responsible for the insurance of the inside of the property and their personal property.**

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

- 1. That Council considers the following legislation:**
 - 1.1 Directive for the allocation of immovable property to non-profit social care/service organisations and churches**
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations**
 - 1.3 TWK Asset Management Policy**
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy**
- 2. That the facilities situated on a portion of Erf 12, Villiersdorp, approximately 550m² in size, be leased to the non-profit organisation, namely the Villiersdorp Playschool, for the operation of Pre-school and aftercare education for the rental amount of R 120,00 per year.**
- 3. That the lease period will be for a period of 9 years 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.**
- 4. That the proposed lease be advertised for objections/comments for the account of the lessee.**

5. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.
6. That the applicant be responsible for the upkeep and maintenance of the property.
7. That the applicant be responsible for the insurance of the inside of the property and their personal property.

RECOMMENDATION TO COUNCIL:

It is recommended:

1. That Council considers the following legislation:
 - 1.1 Directive for the allocation of immovable property to non-profit social care/service organisations and churches
 - 1.2 Section 36 of the MFMA (Act 56/2003): Municipal Asset Transfer Regulations
 - 1.3 TWK Asset Management Policy
 - 1.4 Par 40 (3) (d) of the TWK Supply Chain Management Policy
2. That the facilities situated on a portion of Erf 12, Villiersdorp, approximately 550m² in size, be leased to the non-profit organisation, namely the Villiersdorp Playschool, for the operation of Pre-school and aftercare education for the rental amount of R 120,00 per year.
3. That the lease period will be for a period of 9 years 11 months with an option to renew the agreement for a further period, subject to the approval from the Municipality.
4. That the proposed lease be advertised for objections/comments for the account of the lessee.
5. That the applicant be responsible for the payment of monthly municipal services delivered to the property and the installation thereof.
6. That the applicant be responsible for the upkeep and maintenance of the property.
7. That the applicant be responsible for the insurance of the inside of the property and their personal property.

ITEM HEADING

**C166/2022 DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING:
DEPARTMENT TOWN PLANNING AND BUILDING CONTROL:
BUILDING PLAN SUBMISSION INITIATIVE**

[English version of the report is the original]

FILE NUMBER

15/4/R

PURPOSE / AIM OF REPORT

The purpose of the report is to present a solution to Management and Council in order to assist beneficiaries of subsidized housing projects to compile and submit building plans to the municipality for any construction activities that are planned or have been illegally completed.

BACKGROUND

The Town Planning and Building Control Section was presented with a challenge by the Mayor on how the municipality can be of assistance to beneficiaries of subsidized housing projects, who want to submit building plans to the municipality for additions to their original subsidized houses. The challenge that these homeowners face is that it can be a very expensive exercise to compile building plans. The homeowners have very limited means to pay for the compilation of plans and more often than not, the construction activities are done illegally for this particular reason.

DISCUSSION

To address the above situation, three possible solutions were discussed within the Building Control Section.

The first possibility that was discussed was exemption in terms of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977)(NBR). However, Section 4(1) of the NBR reads as follows:

“No person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.”

Furthermore, the objective of the NBR is to promote uniformity in the law relating to the erection of buildings in the areas of jurisdiction of local authorities, for the prescribing of building standards and for matter connected therewith. It is therefore evident that the intent of the NBR is to ensure that construction will take place in accordance with certain specifications in order to protect the residents of a building as well as the general public.

It is therefore evident that it is not desirable to provide exemption in terms of the above act. Although the legislation allows for the granting of exemptions in certain circumstances, the municipality still has a responsibility to ensure that buildings and additions are safe for the occupants and the general public.

The second alternative that was discussed was for the municipality to provide a building plan drafting service to the community in question.

Schedule 4, Part B of the Constitution states that the municipality is responsible for matters relating to Building Regulations and therefore the NBR by extent. However, the submission of building plans on behalf of an owner of a property does not fall within the mandate of the municipality. Part A of the National Building Regulations furthermore tasks the owner of a property to appoint a suitably qualified professional for the submission of plans to the local authority.

It is therefore evident that this particular option is not a possibility.

The third and preferred alternative that was discussed, is the possibility of concluding an agreement with tertiary institutions, where architectural students provide a service to local communities as part of their in-service training requirements. There are three tertiary institutions that provide architectural courses within the Western Cape, which includes the University of Cape Town, Stellenbosch University and the Cape Peninsula University of Technology.

The proposal will be for the students to draft the plans for members of the community who wish to make use of the opportunity and then to submit the plans under the supervision of a lecturer/mentor who has the necessary registration with the South African Council for Architectural Professionals (SACAP). In doing so, the students obtain practical experience in the compilation and submission of plans, and the owners of the properties in question can obtain approved building plans from the municipality for their proposed construction.

The aforementioned tertiary institutions have not been approached with the above proposal as the author thought it would be prudent to first obtain a mandate to do so from Management and Council. If the initial discussions prove to be fruitful, formal engagements between representatives of the tertiary institutions and the municipality will be scheduled in order to iron out the details of such an agreement.

COMMENTS FROM THE DIRECTORATE FINANCE

Recommendations supported. The proposed approach will result in less illegal building work and will be beneficial to the community.

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

It is proposed that a policy be drafted to guide this process i.e.

- what criteria will be used to establish who can afford and who cannot.
- how to prevent possible abuse / misuse

There will be a financial impact to the stipend to be paid and for that budgetary provision must be made

COMMENTS FROM THE DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING

The item is supported for approval by council.

COMMENTS FROM THE DIRECTORATE COMMUNITY SERVICES

Supported

COMMENTS: DEPARTMENT INTERNAL AUDIT

The initiative is supported, however the coordination of the plans submission to the municipality or institution, the follow-up and payments by the client or municipality seem not clear.

COMMENTS: LEGAL SERVICES

Initiative supported

ADDITIONAL COMMENTS FROM ITEM AUTHOR

The comments received from the Directorate: Corporate Services and Internal Audit is noted. In order to address the comments, the following is proposed:

1. Should the initial engagement with the tertiary institutions indicate that there is a possibility for the initiative to be implemented, a policy will be developed and presented to Council for approval, which will set out the beneficiary criteria.
2. The financial implication can be fully investigated, should there be interest from the tertiary institutions to proceed with the initiative.
3. With the development of the policy, a standard operating procedure will be developed clearly setting out roles and responsibilities of the different stakeholders, the submission protocol, etc.

LEGAL RESPONSIBILITIES

As stated above, the Municipality is responsible for the implementation of the NBR as per Schedule 4, Part B of the Constitution and not for the submission of building plans on behalf of property owners. However, the preferred proposal discussed above, allows for the municipality to put measures in place that will assist the affected communities to comply with the provisions of the NBR, without the municipality offering a service that it is not mandated to provide.

FINANCIAL RESPONSIBILITIES

At this point in time, no financial implications have been identified with regard to the initial discussions with the tertiary institutions. Should any such implications be identified through the discussions, the details of the implications will be presented to Council for consideration.

CLIENT CARE IMPLICATION

It is foreseen that the implementation of such an initiative will have a positive impact on the overall built environment within the municipality.

RISK MANAGEMENT IMPLICATION

The risk that has been identified with such an initiative, is the possibility for the misuse thereof. The intention is to assist beneficiaries of subsidized housing projects that cannot afford to appoint professionals for the drafting of building plans.

It is recommended that should the discussions with the tertiary institutions be fruitful, that qualification criteria for the initiative be developed and presented to Council for approval.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that:

- 1. Council takes note of the proposed building plan drafting and submission initiative;**
- 2. Council mandate the Building Control Section to approach the aforementioned tertiary institutions to determine if there is interest to partner with the municipality in the initiative;**
- 3. Formal negotiations be organized between Management and the tertiary institutions, should there be interest from the institutions to partner with the Municipality.**

RECOMMENDATION BY MANAGEMENT TO HUMAN SETTLEMENTS & PLANNING COMMITTEE: 23 SEPTEMBER 2022

It is recommended that:

- 1. Council takes note of the proposed building plan drafting and submission initiative;**
- 2. Council mandate the Building Control Section to approach the aforementioned tertiary institutions to determine if there is interest to partner with the municipality in the initiative;**

3. **Formal negotiations be organized between Management and the tertiary institutions, should there be interest from the institutions to partner with the Municipality.**

RECOMMENDATION BY HUMAN SETTLEMENTS AND PLANNING COMMITTEE TO THE EMC: 07 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor H Syster, and seconded by Alderman BB Mkhwibiso, it was recommended as follows:

1. **That Council takes note of the proposed building plan drafting and submission initiative;**
2. **That Council mandate the Building Control Section to approach the aforementioned tertiary institutions to determine if there is interest to partner with the municipality in the initiative;**
3. **That formal negotiations be organized between Management and the tertiary institutions, should there be interest from the institutions to partner with the Municipality.**

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor H Syster and seconded by Councillor R Mienies, it was recommended as follows:

1. **That Council takes note of the proposed building plan drafting and submission initiative;**
2. **That Council mandate the Building Control Section to approach the aforementioned tertiary institutions to determine if there is interest to partner with the municipality in the initiative;**
3. **That formal negotiations be organized between Management and the tertiary institutions, should there be interest from the institutions to partner with the Municipality.**

RECOMMENDATION TO COUNCIL:

It is recommended that:

1. **Council takes note of the proposed building plan drafting and submission initiative;**
2. **Council mandate the Building Control Section to approach the aforementioned tertiary institutions to determine if there is interest to partner with the municipality in the initiative;**

- 3. Formal negotiations be organized between Management and the tertiary institutions, should there be interest from the institutions to partner with the Municipality.**

ITEM HEADING

**C167/2022 DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING:
DEPARTMENT HUMAN SETTLEMENTS: APPOINTMENT OF
HOUSING DEVELOPMENT AGENCY VIA AN IMPLEMENTATION
PROTOCOL/AGREEMENT BETWEEN THEEWATERSKLOOF
MUNICIPALITY AND THE HOUSING DEVELOPMENT AGENCY (HDA)**

[English version of the report is the original]

FILE NUMBER

17/7/3/R

PURPOSE OF REPORT

To obtain approval in terms of Section 110 of the Municipal Finance Management Act No. 56 of 2003 for appointment of the Housing Development Agency (HDA) via an Implementation Protocol/Agreement.

BACKGROUND

The HDA is a national public sector development agency that acquires and prepares land as well as develop the land and project to manage the development of integrated human settlements. The HDA carries out activities in partnership with a range of stakeholders including national, provincial, and local government and municipalities, as well as with communities, developers, financiers, and other affected parties. Established in 2009, the Agency is established by an Act of Parliament in 2008 and is accountable through its board to the Minister of Human Settlements.

The HDA has two primary objectives. The first is to identify, acquire, hold, develop, and release well-located land and buildings for human settlement. The second is to provide project delivery services in the form of planning, capacity support and capability, and project management on projects in particular areas at the specific request of provinces and local municipalities, these services of which are required by the Theewaterskloof Municipality.

The HDA states that as they carry out the above objectives, they ensure that human settlement developments are sustainable, viable and appropriately located, that job creation is also optimized throughout the process, and that the local community is actively involved.

Section 7(1) of the Housing Development Agency Act No. 23 of 2008 outlines the HDA's functions. More specifically, the subject Implementation Protocol stipulates three categories for which the HDA may be appointed by the Theewaterskloof Municipality, i.e., Technical and Professional Resource, Programme Management, and/or Implementing Agent, the definitions, roles and responsibilities of which are fully described in the Implementation Protocol.

DISCUSSION

Theewaterskloof Municipality, Human Settlements Department, seeks the appointment of the Housing Development Agency through signing an Implementation Protocol for the planning, management, and implementation of certain housing projects within the Theewaterskloof municipal area, especially relating to challenging and blocked projects, the properties and scope of work of which will be described in the Implementation Protocol.

The Implementation Protocol is compiled taking into consideration the following:

- The Constitution, the Housing Act, the Intergovernmental Relations Framework Act, and the Municipal Systems Act gives all three spheres of government various responsibilities for the provision of access to adequate housing and basic services and the mandate to all spheres of government to co-operate with one another in mutual trust and good faith in matters of common interest.
- Municipalities are required, within the process of municipal integrated development planning process, to take all reasonable and necessary steps within the framework of national and provincial housing legislation and policy, to ensure that people who live within a municipal jurisdiction have access to adequate housing, on a progressive basis.
- The Comprehensive Plan, approved by Cabinet in September 2004, require all three spheres of government to collaborate to ensure the development of sustainable human settlements that provide residents with safe environment and adequate access to economic opportunities, basic services, transport nodes, education, health, and community facilities.
- The parties agree to conclude this Implementation Protocol with the intention to overcome systemic challenges impacting negatively on human settlements service delivery within the Theewaterskloof Local Municipality, subject to the appointment of the Housing Development Agency being approved as per Section 110 of the Municipal Finance Management Act No. 56 of 2003.

The three categories for which the HDA may be appointed by the Theewaterskloof Municipality, as fully described in the Implementation Protocol, are defined below.

- Technical and Professional Resource, which means services rendered by persons while carrying on legal, engineering, town planning, financial, architectural professions or in accountancy or development management.
- Programme Management, which means the planning and management of different but related built environment projects with a strategic oversight function responsible for consistent delivery of the initiatives contained in the National Housing Code.
- Implementing Agent means an agent of the client who is a government department or state-owned enterprise which implements a program or project on a client's behalf.

Although three categories are specified, the current urgency is for the HDA to facilitate the upgrading of informal settlements. Thereafter, the relevant sites will be prepared for housing projects, the activities of which include but are not limited to obtaining funding approval, conducting the required studies, compiling site development plans, and obtaining the required land use approvals and other authorizations as may be required.

Should it become essential to appoint the HDA to attend to activities and functions additional to the scope of work as set out in the Implementation Protocol, an Annexure or amendment to the Implementation Protocol will be submitted for approval.

COMMENTS FROM THE DIRECTORATE FINANCE

The financial implications must first be clarified in order to lead informed decision making.

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

Noted

COMMENTS FROM THE DIRECTORATE TECHNICAL AND INFRASTRUCTURE IMPLEMENTATION SERVICES

The housing pipeline should be unpacked so that the holistic view of projects can be seen in detail. The HDA is an excellent tool to expedite the housing delivery, but we should make sure that all requirements of contract principals and legislative requirements should be adhered to. We should discuss this in detail at our management forum to establish and debate the risks associated with such a contract and to get the assurance from the end-user regarding the concerns raised. Concerns: The duration of the contract / Responsibilities of the parties / Clear definition of project individually Exit clauses....remedies for under performance.... To name but a few.

COMMENTS FROM THE DEPARTMENT ELECTRICAL SERVICES

Support recommendation

COMMENTS FROM THE DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING

Item is supported for approval by council.

COMMENTS FROM THE DIRECTORATE COMMUNITY SERVICES

Supported in principle. The Housing Development Agency (HDA) is an established national public sector development agency. That it be considered that HDA assist the administration to address the major backlogs and challenges with housing development projects to accelerate its implementation and up-scale and expedite the delivery of housing opportunities.

That it be considered that the HDA assist the municipality in the development of a greater municipal housing delivery plan aligned to the Integrated Development Plan (IDP), Built Environment Performance Plan (BEPP), Municipal Spatial Framework (MSDF) and other relevant policies and strategic frameworks. That the assignment of work packages and scope of works that will be embarked upon be subject to funding availability.

COMMENTS FROM INTERNAL AUDIT

The matter was discussed amongst management on 22 February 2022. It was my recommendation not to appoint the agency without following the municipality's SCM processes as there are private companies that can render similar services. TWK has appointed housing agents in the past to manage housing developments. The report does not address the financial implication, which land or blocked projects specifically are applicable and it is important to understand the protocol referred to prior to consideration. It was also not mentioned how long a housing agent will be needed. This information must be clear even if the SCM process is followed.

COMMENTS FROM LEGAL SERVICES

The information provided in this item is not sufficient to provide an informed comment. Information that are not provided inter alia includes:

- The duration of the contract. The duration of the contract will also determine whether applicable sections in the MFMA finds application. Does section 33 of the MFMA find application.
- Does section 120 of the MFMA finds application.
- In terms of what procedure will this agency be procured. Does section 217 of the Constitution find application.
- What is the obligations of the Municipality.
- What are the risks attached and how will it be mitigated by the Municipality.

COMMENTS FROM DIRECTORATE

The contents of the agreement can be finalised and presented once permission is given for the Directorate to further engage the HDA.

It is requested that the HDA present to Management so that they can careful understand the scope, benefits, risk, mitigators and way forward, and then give the Directorate permission to engage on this and establish a proposed Agreement/SLA.

LEGAL RESPONSIBILITIES

None

FINANCIAL IMPLICATIONS

To be clarified

CLIENT CARE IMPLICATIONS

None

RISK MANAGEMENT IMPLICATIONS

None

RECOMMENDATION BY ITEM AUTHOR TO COUNCIL:

It is recommended:

1. That approval be obtained from Council in terms of Section 110 of the Municipal Finance Management Act No. 56 of 2003 for appointment of the Housing Development Agency (HDA) via an Implementation Protocol to plan and implement integrated human settlements in the Theewaterskloof municipal area.
2. That all planned human settlements pipeline projects be included in the Implementation Protocol between the Theewaterskloof Municipality and the HDA.
3. That the Municipal Manager be granted Power of Attorney to sign the Implementing Protocol on behalf of the municipality

DISCUSSION DURING THE MEETING:

Mr HM Gxoyiya mentioned that members of HDA are present in the meeting and he requested permission from Council that they do a presentation to Council.

Mr. JJ Jonkers

- Requested that the Agenda-item be withdrawn as no costs are indicated in the item.
- Item must first be circulated to the Directorates for their comments, whereafter it must be submitted to Management, Portfolio Committee, EMC and Council for discussion.

Councillor MR Nongxaza requested a 10 minutes caucus break which was granted by the Speaker.

After the caucus break Councillor MR Nongxaza responded as follows:

They do not have a problem that the agenda-item be withdrawn but must it form part of the Council Meeting of Friday, 25th February 2022. Waiting for 2 years to assist with the unblocking of projects. The Acting Director Economic Development and Planning, Mr. H Gxoyiya, must discuss this item with the Municipal Manager.

Councillor MR Nongxaza proposed that the Agenda-item be withdrawn.

Proposal was seconded by Alderman KIJ Papier.

RESOLVED BY COUNCIL: 22 FEBRUARY 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor MR Nongxaza, and seconded by Alderman KIJ Papier, it was resolved as follows:

- 1. That the Agenda-item be withdrawn and circulated to all the directorates to provide comments.**
 - 2. That the Acting Director Economic Development and Planning must discuss this item with the Municipal Manager.**
 - 3. That the item be presented at the Council Meeting scheduled for the 25th of February 2022.**
- 1. Agenda-item be withdrawn.*
 - 2. For finalization by the Acting Director: Economic Development and Planning, Mr. H Gxoyiya.*

ADDITIONAL COMMENTS FROM ITEM AUTHOR

- Response on the Directorate Finance's comment:

Section 238(b) of the RSA Constitution make provision for the appointment of the Agency. Subsequently the MFMA make provision for the disbursements of the funds to HAD. HDA is subjected to all the government prescripts including the National Treasury and Auditor General.

- Response on the Directorate Technical and Infrastructure Implementation Services' comment:

The IP is a broad agreement which allows the LM to instruct the Agency through a Service Level Agreement (SLA) to perform a specific task with clear timeframe. The SLA also help the LM to measure the performance and accountability of the Agency. The LM always reserve the right to withdraw the SLA should it be evident that the Agency is failing to deliver in line with the agreement. The IP is mostly aligned with MTSF, to allow the planning process that take most of the time before the actual project implementation.

- Response on the Directorate Community Services' comment:

The points that were made are particularly important, especially the financial implication for the Theewaterskloof Municipality, however the benefits are greater for both the LM and its residents. Working with WCDHS and Department of Local Government in a well-coordinated way, the funds may not be a challenge. The IP can be approved without funding being available to enable the process of funding sources are taken to cover the work to be performed by the Agency.

- Response on the Department Internal Audit's comment:

As indicated by the above department, HDA is an entity of government, established in terms of Act 23 of 2008 and it is appointed and governed in terms of section 238 (b) of the RSA constitution, which empowers any state organ to delegate function that is to be exercised or performed in terms of legislation.

- Response on the Legal Services' comment:

- As indicated in the item, HAD will be appointed in terms of section 238 of the RSA constitution.
- The obligations of the Municipality are outlined in the Implementation Protocol.(Example attached)

RECOMMENDATION BY ITEM AUTHOR:

Point 2 and 3 of the recommendation that reads as follows:

- 2. That all planned human settlements pipeline projects be included in the Implementation Protocol between the Theewaterskloof Municipality and the HDA.**

must change to the following:

- 2. That HDA assist the Municipality with both planning and implementation of programmes identified by the Municipal Manager in consultation with Council**
- 3. That the Municipal Manager be granted Power of Attorney to sign the Implementing Protocol on behalf of the municipality**

must change to the following:

- 3. That the Municipal Manager be granted Authority to sign the Implementing Protocol on behalf of the Municipality.**

RECOMMENDATION BY MANAGEMENT TO HUMAN SETTLEMENTS AND PLANNING COMMITTEE: 23 SEPTEMBER 2022

Point 2 and 3 of the recommendation that reads as follows:

2. That all planned human settlements pipeline projects be included in the Implementation Protocol between the Theewaterskloof Municipality and the HDA.

must change to the following:

2. That HDA assist the Municipality with both planning and implementation of programmes identified by the Municipal Manager in consultation with Council
3. That the Municipal Manager be granted Power of Attorney to sign the Implementing Protocol on behalf of the municipality

must change to the following:

3. That the Municipal Manager be granted Authority to sign the Implementing Protocol on behalf of the Municipality.

RECOMMENDATION BY HUMAN SETTLEMENTS AND PLANNING COMMITTEE TO THE EMC: 07 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Alderman BB Mkhwibiso, and seconded by Councillor H Syster, it was recommended as follows:

Point 2 and 3 of the recommendation that reads as follows:

2. That all planned human settlements pipeline projects be included in the Implementation Protocol between the Theewaterskloof Municipality and the HDA.

must change to the following:

2. That HDA assist the Municipality with both planning and implementation of programmes identified by the Municipal Manager in consultation with Council
3. That the Municipal Manager be granted Power of Attorney to sign the Implementing Protocol on behalf of the municipality

must change to the following:

3. That the Municipal Manager be granted Authority to sign the Implementing Protocol on behalf of the Municipality.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor H Syster, it was recommended as follows:

Point 2 and 3 of the recommendation that reads as follows:

- 2. That all planned human settlements pipeline projects be included in the Implementation Protocol between the Theewaterskloof Municipality and the HDA.**

must change to the following:

- 2. That HDA assist the Municipality with both planning and implementation of programmes identified by the Municipal Manager in consultation with Council**
- 3. That the Municipal Manager be granted Power of Attorney to sign the Implementing Protocol on behalf of the municipality**

must change to the following:

- 3. That the Municipal Manager be granted Authority to sign the Implementing Protocol on behalf of the Municipality.**

RECOMMENDATION TO COUNCIL:

Point 2 and 3 of the recommendation that reads as follows:

- 2. That all planned human settlements pipeline projects be included in the Implementation Protocol between the Theewaterskloof Municipality and the HDA.**

must change to the following:

- 2. That HDA assist the Municipality with both planning and implementation of programmes identified by the Municipal Manager in consultation with Council**
- 3. That the Municipal Manager be granted Power of Attorney to sign the Implementing Protocol on behalf of the municipality**

must change to the following:

- 3. That the Municipal Manager be granted Authority to sign the Implementing Protocol on behalf of the Municipality.**

ITEM HEADING

**C168/2022 DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING:
DEPARTMENT HUMAN SETTLEMENTS: PURCHASE OF ERF
459, RIVIERSONDEREND FOR PROVISION OF RDP HOUSING**

[English version of the report is the original]

FILE NUMBER

7/2/1/1; 17/7/3/8

PURPOSE / AIM OF REPORT

To get approval for the purchase erf 459 for the provision of integrated housing in Riviersonderend.

BACKGROUND

The housing backlog currently stands at approximately 1000 with the new registrations during the housing demand roadshow still to be captured. The town is an agricultural village with a rapid growing housing demand. The agricultural sector surrounding the town is moving to citrus farming which attracts seasonal workers which further increases the demand.

The first housing project completed in 2002 provided for 200 housing units, the second phase, completed in 2009 provided for 295 units. Since 2009 the only other housing project in the town was the upgrading of the informal settlement which provides for 135 housing units. The town of Riviersonderend is earmarked for a next housing development in 2025. The town is surrounded by farms and the surrounding river and a mountain, which forms a natural barrier for housing development. Should the municipality not procure land we will be unable to meet our constitutional mandate.

The Constitution states that: “everyone has the right to have access to adequate housing “. In this regard the “State must take reasonable legislative and other measures within its available resources to achieve the progressive realisation of this right.” Therefore, the Constitution creates obligations for government to take all reasonable actions to ensure that all its people can acquire a home. The Local Government Municipal Systems Act of 2000 puts in place mechanisms and principles to ensure all of government moves towards social and economic upliftment and ensures access to essential services.

Legislation puts housing development squarely within the realm of each municipality's integrated development plan (IDP). In fact, housing development will undoubtedly be one of the most pertinent areas of each municipality's IDP. Municipalities must take all the reasonable and necessary steps within the framework of national and provincial housing legislation to achieve the following:

1. enabling residents of the municipal area to have access to adequate housing on a progressive basis.
2. preventing or removing conditions that are not conducive to health and safety; and
3. providing a package of water, sanitation, electricity, roads, stormwater drainage, and transport services in an economically sustainable way.

The municipality must set housing delivery goals for its area and designate land for housing development. It must plan and manage land use and development and create and maintain a public environment conducive to housing development, which is also financially and socially viable. The Act further expects municipalities to initiate, plan and coordinate appropriate housing development in their area of jurisdiction

Local authorities must contribute to the realization of the right to housing, within their constitutional mandate, by making land available, by ensuring provision of services such as water, sanitation, electricity, roads, storm water drainage and transport, by ensuring access to housing for its Inhabitants etc. Without local government performing these tasks, the right to housing is meaningless.

The owner of the property offers the land for an amount of R15 000 000.00 without the procurement of land the municipality will not be able to fulfil its constitutional obligations.

DISCUSSION

The procurement of suitable land for housing development is a priority as it is highly likely that there will be no land available for housing development soon.

The following factors should be noted

- 1.High increase in the housing demand of the town
- 2.Influx into the informal settlements
- 3.The mountain and river which is natural barriers to development

Erf 459, Riviersonderend, 8.60ha in size will likely become the only remaining vacant land suitable for housing development but it is owned privately. The property is ideal for residential development and it is easy to access and can conveniently connect to the existing municipal services networks because it is surrounded by existing and planned residential areas. Bulk water and sewer services will be available. Furthermore, the bio-physical site characteristics of the property are conducive to a cost-effective development. The topography is even which will result in minimum cut and fill. Although the site is situated in a low-lying valley, it is not subject to flooding.

This proposal responds to the need for housing in Riviersonderend and will contribute to job creation and economic growth in the town. The development of vacant land within the urban edge resonates with spatial planning policies at every level of government.

PROPERTY INFORMATION

The property is situated on Erf 459, Riviersonderend, directly between Riviersonderend High School on the west and Riviersonderend Primary School, the industrial area are to the south and the phase 2 low cost housing to the east. The municipal golf course is on the the northern side of the site. (See **Diagram 1: Locality Plan**). The property can be accessed from Muller Street which intersects with the N2.

There is already existing residential erven in the surrounding area, the location of the site allows for integration between middle and low cost housing developments.

The Phase 2 RDP Development is direct to the west. This property is currently vacant land.

PROPERTY DESCRIPTION

TITLE DEED DESCRIPTION	DEED OF TRANSFER
TITLE DEED NR	T80701/2012
SG DIAGRAM NR	T7226/1975
PROPERTY SIZE	8,6055HA
PROPERTY OWNER	BADEROEN RUDOWAAN

DEVELOPMENT POTENTIAL

The property was previously intended to be developed as an hub for social development in the community. The development intended to host the following services on the property:

- a) Educational- FET College (**F**urther **E**ducational **T**raining **C**ollege), Entrepreneurship
- b) Recreational - Indoor Sports Facilities, Outdoor Sports Facilities, Swimming Pools
- c) Multipurpose Centre (Early Childhood Development, Youth Development, Women and Elderly Care)
- d) Convenient store & Cinema
- e) Housing – 150 Houses plus 15 Lifestyles & Retirement Village of 130 Rooms.
- f) Resort & Lodge
- g) 50 Frail Care Units & 20 Specially designed units for Disabled.
- h) Healthcare – Community Healthcare Clinic & Day Hospital with General Medicine, Radiology, Dental Care, Eye -and Ear Care, Psychiatric Care. Minor Surgery including Orthopaedics, Private Ambulance Services, Hospice & Pharmacy.

(See Diagram 2 and Diagram 3)

- **The development included a nature area of 2.83HA**

Based on the above, we envisage that we can construct at least 260 single residential housing units on the property.

LEGAL RESPONSIBILITIES

Section 26(1) and (2) of the Constitution

FINANCIAL RESPONSIBILITIES

± R 15 000 000.00

CLIENT CARE IMPLICATION

None

RISK MANAGEMENT IMPLICATION

All pre-feasibility studies to be conducted before purchase of the land to determine the developable areas suitable for Human Settlements purchases.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended:

1. That council purchase the said property Erf 459 Riviersonderend.
2. That the property be utilized for Integrated Housing Development.
3. That the Municipal Manager apply to the Department of Human Settlements for the said purchase amount.
4. That the said property be added to the Municipal business plan.

RECOMMENDATION BY HUMAN SETTLEMENTS AND PLANNING COMMITTEE: 29 SEPTEMBER 2022

Councillor S Fredericks, Alderman M Plato-Mentoor and Councillor M Mathews proposed that the Agenda-item must serve at the next Human Settlements and Planning Committee of 07 October 2022.

Councillor MR Nongxaza don't agree and are of the view that the Agenda-item must go to the EMC.

RECOMMENDATION BY HUMAN SETTLEMENTS AND PLANNING COMMITTEE TO THE EMC: 07 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor H Syster, and seconded by Alderman BB Mkhwibiso, it was recommended as follows:

1. That council purchase the said property Erf 459 Riviersonderend.
2. That the property be utilized for Integrated Housing Development.
3. That the Municipal Manager apply to the Department of Human Settlements for the said purchase amount.
4. That the said property be added to the Municipal business plan.
5. That the Spatial Development Framework (SDF) be amended.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor RL Mienies and seconded by Councillor H Syster, it was recommended as follows:

1. That council purchase the said property Erf 459 Riviersonderend.
2. That the property be utilized for Integrated Housing Development.
3. That the Municipal Manager apply to the Department of Human Settlements for the said purchase amount.
4. That the said property be added to the Municipal business plan.
5. That the Spatial Development Framework (SDF) be amended

RECOMMENDATION TO COUNCIL:

It is recommended:

1. That council purchase the said property Erf 459 Riviersonderend.
2. That the property be utilized for Integrated Housing Development.
3. That the Municipal Manager apply to the Department of Human Settlements for the said purchase amount.
4. That the said property be added to the Municipal business plan.
5. That the Spatial Development Framework (SDF) be amended

ITEM HEADING

**C169/2022 DIRECTORATE COMMUNITY SERVICES: STATUTORY
APPOINTMENT: HEAD OF MUNICIPAL DISASTER
MANAGEMENT CENTRE**

[English version of the report is the original]

FILE NUMBER

17/4/1

PURPOSE / AIM OF REPORT

The purpose of the report is to outline the statutory requirements for the appointment of the head of the municipal disaster management centre.

BACKGROUND

In accordance with Section 45 of the Disaster Management Act, No. 57 of 2002, it directs municipal councils, subject to the applicable provisions of the Local Government – Municipal Systems Act, No. 32 of 2000, to appoint a person as head of the municipal disaster management centre.

DISCUSSION

The head of the municipal disaster management centre performs the functions of office within the disaster management and related legislation, national disaster management framework, the provincial disaster management framework concerned and the disaster management framework of the municipality; subject to the municipality's integrated development plan (IDP) and other directions of the municipal council.

Section 45 (1) of the Disaster Management Act, No. 57 of 2002, prescribes that a municipal council must, subject to the applicable provisions of the Local Government – Municipal Systems Act, No. 32 of 2000, to appoint a person as head of the municipal disaster management centre.

Section 45 (2) of the Disaster Management Act, No. 57 of 2002, further describes that the head of the municipal disaster management centre –

- (a) is responsible for the exercise by the centre of its powers and the performance of its duties; and
- (b) in accordance with the directions of the council, takes all decisions of the centre in the exercise of its powers and the performance of its duties, except decisions taken by another person in consequence of a delegation by the head of the centre.

Section 45 (3) of the Disaster Management Act, No. 57 of 2002, further prescribes that the head of the municipal disaster management centre must perform the functions of office subject to Section 44 (3) of the said Act.

Therefore, the municipal council has the delegated authority i.t.o. Section 45 (1) of the Disaster Management, No. 57 of 2002, to appoint the head of the Municipal Disaster Management Centre of the Theewaterskloof Municipality.

POSITION PROFILES:

a. Director: Community Services

The position purpose of the Director: Community Services is to lead and direct the Community Services Directorate in the Theewaterskloof to ensure the efficient and effective provision and management of the Town Administration, Public Safety (Traffic, Law Enforcement, Registration & Licensing, Fleet Management, Environmental Management, Disaster Management, Sustainable Development (Thusong Centre, Libraries, Sport & Recreation, Social Development and Resource Centres), Environment and Disaster Management

Mandate

- Maintenance of streets and stormwater
- Maintenance of water and sewer networks, sewer tanker services
- Operating water and wastewater purification plants
- Solid waste management: refuse removal, street cleaning, cleaning open public spaces, operate and maintain waste facilities (refuse dumping sites, waste transfer stations and drop-off facilities)
- Informal Settlements: maintenance of toilets, water taps, cleaning open spaces
- Maintenance of buildings
- Maintenance of Cemeteries
- Maintenance of parks, grounds, public open spaces, and sport facilities
- Town Administration
- Ward Committees,
- Complaints and Client Care,
- Supply Chain Management: Inventory & Stores Management

b. Manager: Environment & Disaster Management

The position purpose of the Manager: Environment & Disaster Management manages, administrate, control, execute and conduct the implementation, activities, monitoring, evaluation and reporting sequences of outcomes associated with the with plans and programme design to accomplish key service delivery objectives with respect to maintenance of the Environment with specific reference to nature reserves, conservation areas, rivers and all commonage, cemeteries and the green environment (trees and plants) and disaster management to ensure the provision of a clean, healthy, safe and sustainable environment conducive to and supporting a better quality of life in the Theewaterskloof municipal area.

Disaster Management Functions:

1. Manage and administer, disaster management activities
2. Provide guidance to other departments and Town Managers with regards to disaster management issues
3. Attend, manages, guide and administer disaster meetings with regards to fires, floods, river management, river and environmental rehabilitation, and control of alien vegetation as fire risk
4. Participate as key member of a joint operational centre (JOC) during a disaster in conjunction with other emergency departments
5. Represent the Council on disaster management meetings such as Overberg District Municipality, provincial and Red Cross meetings
6. Plan, manage, guide, evaluate, programs regarding alien eradication, rehabilitation and river management to prevent and minimise disasters
7. Plan and compile standard operating procedures, management documentation and relevant strategic management documentation as well as by-law related documentation for council relating to disaster management
8. Respond to enquiries and complaints regarding disaster management
9. Plan, manage, administrate and control the effective expenditure for disaster management related to disaster management, fires, floods, community relieve with food, blankets and shelter, helicopter relief and rescue and water
10. Coordinate and manage, advise and facilitate, fire protection associations, being the chairperson of the Caledon Fire Protection Association, attending the Nuweberg and Groenland Fire Protection Associations
11. Manage and control volunteer firefighters
12. Plan, manage, administrate and control project with external service providers related to disaster management projects, e.g., alien vegetation control, fire breaks, flood control measurements, etc.

Therefore, the Director: Community Services is to provide strategic direction relating to the disaster management functions, whereas the Manager: Environment & Disaster Management are operationally responsible for the key performance areas and functions.

The report therefore requires the municipal council to confirm the statutory appointment of the Director: Community Services, in line with the statutory requirements as prescribed by the Disaster Management Act, No. 57 of 2002.

LEGAL RESPONSIBILITIES

1. Constitution of the Republic of South Africa Act, No. 108 of 1996
2. Local Government – Municipal Systems Act, No. 32 of 2000
3. Disaster Management Act, No. 57 of 2002
4. Disaster Management Act: Policy framework for disaster risk management in South Africa

FINANCIAL RESPONSIBILITIES

Not applicable

CLIENT CARE IMPLICATION

The following provisions are prescribed in terms of the disaster management legislation applicable to municipalities:

Disaster Management Act, No. 57 of 2002:

Section 47 (2): A municipal disaster management centre must promote formal and informal initiatives that encourage risk-avoidance behaviour by organs of state, the private sector, non-governmental organisations, communities, households and individuals in the municipal area to:

- determining levels of risk
- assessing the vulnerability of communities and households to disasters that may occur
- increasing the capacity of communities and households to minimise the risk and impact of disasters that may occur; and
- monitoring the likelihood of, and the state of alertness to, disasters that may occur
- the development and implementation of appropriate prevention and mitigation methodologies
- the integration of prevention and mitigation methodologies with development plans, programmes and initiatives; and
- the management of high-risk developments

Disaster Management Act: Policy framework for disaster risk management in South Africa

Enabler 2 of the National Disaster Management Framework addresses disaster risk management priorities in education, training, public awareness and research. This enabler describes mechanisms for the development of education and training programmes for disaster risk management and associated professions and the incorporation of relevant aspects of disaster risk management in primary and secondary school curricula. It addresses requirements to promote and support a broad-based culture of risk avoidance through strengthened public awareness and responsibility. It also discusses priorities and mechanisms for supporting and developing a coherent and collaborative disaster risk research agenda.

- Section 3.2.5.1: Core disaster risk reduction principles of disaster prevention and mitigation

Disaster Mitigation

Disaster mitigation refers to structural and non-structural measures that are undertaken to limit the adverse impact of natural hazards, environmental degradation and technological hazards on vulnerable areas, communities and households. These efforts can target the hazard or threat itself (for example, a fire break that stops a fire spreading close to residential areas). This is often referred to as “structural mitigation” since it requires infrastructure or engineering measures to keep the hazards away from those at risk.

Disaster mitigation efforts can also target people who are at risk, by reducing their vulnerability to a specific threat (for instance, promoting community responsibility for controlling fire risk in an informal settlement). This is often called “non-structural mitigation”, as it promotes risk-avoidance behaviours and attitudes.

Section 3.3: Scoping and development of disaster risk reduction

Sub-section 3.3.1.7: Planning point 7: Avoid unintended consequences that undermine risk-avoidance behaviour and ownership of disaster risk

- The disaster risk reduction planning process must anticipate and manage unintended consequences that increase disaster risk. Well-intentioned disaster risk reduction programmes that 'deliver' external services to at-risk areas, communities and households can inadvertently reward risk-promotive behaviour and undermine existing capabilities.
- For example, the repeated distribution of relief for recurrent threats such as fire, flooding and drought can discourage ownership of disaster risk by reinforcing the expectation of external support and transferring individual and/or household risk on to governmental and humanitarian assistance agencies.

Sub-section 3.4.2: Incorporation of disaster risk reduction planning into integrated development planning

That the municipality must investigate new approaches to promoting risk-avoidance attitudes and behaviour (for example, exploring a system of community or household incentives for 'well-managed' risks rather than creating dependence on external relief).

RISK MANAGEMENT IMPLICATION

Not applicable

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that Mr Wilfred Schrevian Evan Solomons-Johannes, the Director: Community Services, be appointed by the municipal council as the as the “Head of municipal disaster management centre” for the Theewaterskloof Municipality i.t.o. Section 45 of the Disaster Management Act, No. 57 of 2002.

RECOMMENDATION BY MANAGEMENT TO COMMUNITY SERVICES COMMITTEE: 05 SEPTEMBER 2022

1. Management recommends that Mr Wilfred Schrevian Evan Solomons-Johannes, the Director: Community Services, be appointed by the municipal council as the “Head of municipal disaster management centre” for the Theewaterskloof Municipality i.t.o. Section 45 of the Disaster Management Act, No. 57 of 2002.
2. Accountability lies with the Director, but it’s still the responsibility of the Manager: Disaster Management to perform the operational side of the said Act.

RECOMMENDATION BY COMMUNITY SERVICES COMMITTEE TO EMC: 12 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor RL Mienies, and seconded by Councillor J Mckenzie, it was recommended as follows:

1. The Community Services Portfolio Committee recommends that Mr Wilfred Schrevian Evan Solomons- Johannes, the Director: Community Services, be appointed by the municipal council as the “Head of municipal disaster management centre” for the Theewaterskloof Municipality i.t.o. Section 45 of the Disaster Management Act, No. 57 of 2002.
2. The Committee noted that the accountability lies with the Director, but it’s still the responsibility of the Manager: Disaster Management to perform the operational side of the said Act.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

1. That the Director: Community Services be appointed by the municipal council as the “Head of municipal disaster management centre” for the Theewaterskloof Municipality i.t.o. Section 45 of the Disaster Management Act, No. 57 of 2002.

2. The Committee noted that the accountability lies with the Director, but it's still the responsibility of the Manager: Disaster Management to perform the operational side of the said Act.

RECOMMENDATION TO COUNCIL:

It is recommended:

1. That the Director: Community Services be appointed by the municipal council as the "Head of municipal disaster management centre" for the Theewaterskloof Municipality i.t.o. Section 45 of the Disaster Management Act, No. 57 of 2002.
2. The Committee noted that the accountability lies with the Director, but it's still the responsibility of the Manager: Disaster Management to perform the operational side of the said Act.

ITEM HEADING

C170/2022 DIRECTORATE COMMUNITY SERVICES: THE PURPOSE OF THIS ITEM IS TO REQUEST FOR THE APPROVAL OF COUNCIL TO MAKE AVAILABLE A PIECE OF LAND ±4 HECTARE, FOR CONSTRUCTION OF THE OVERBERG SOCCER ACADEMY AT UITSIG (CALEDON)

[English version of the report is the original]

FILE NUMBER

17/8/1/1

PURPOSE / AIM OF REPORT

The Overberg Soccer Federation has engaged with Theewaterskloof Municipality to make available a piece of land at Uitsig for the construction of a Soccer Sport Academy.

The aim of this academy will be for development of young potential soccer players who with the right support, both academically as well as physical training, can hopefully advance into super stars in their future sport career.

BACKGROUND

The Overberg Soccer Federation has engaged with Theewaterskloof Municipality to make available a piece of land at Uitsig for the construction of a Soccer Sport Academy.

The aim of this academy will be for development of young potential soccer players who with the right support, both academically as well as physical training, can hopefully advance into super stars in their future sport career.

DISCUSSION

A portion of Remainder of Erf 1 in Uitsig has been earmarked for the construction of this Sport Academy. This site has also been identified for future housing development and the idea is to have this sport academy amongst the community, hence the request to have a part of this site for the project.

The proposed site for construction of this sport academy is in Chavonnes Way opposite the cemetery.

The total size of this site is ±40hectare with 4hectare required for the Sport Academy and the balance of 35hectare will be for construction of the RDP houses.

Apart from the Soccer academy that will deal with the sporting side there will also be the following services available:

1. A boarding school for all the scholars at this academy.

2. Cinema with Food Court for the community.
3. The soccer fields will be available to any sporting body who is interest to hire this facility for events.

This sport academy will be the first of this kind in the Western Cape and will create a huge opportunity for our youth from the rural area, where they apart from enhancement of their soccer skills, will also receive schooling/ training as part of academic enhancement.

A formal request to have a piece of land at the size of ±4hectare was receive from the Overberg Soccer Federation. The cost to construct this facility will be source from external sponsors by this Federation.

COMMENTS FROM THE DIRECTORATE FINANCE

We support such an important initiative.

However, we need to know the total project cost and we need the project implementation plan to ensure the procurement and budgetary processes has been accounted for.

COMMENTS FROM THE DIRECTORATE CORPORATE SERVICES

Recommendation is supported

COMMENTS FROM THE DIRECTORATE TECHNICAL AND INFRASTRUCTURE IMPLEMENTATION SERVICES

Recommendation support subject to that legislative requirements have been met and adhered to.

COMMENTS FROM THE DEPARTMENT ELECTRICAL SERVICES

To obtain wayleave from Eskom for existing 11kv and 66KV powerlines running in that area

COMMENTS FROM THE DIRECTORATE ECONOMIC DEVELOPMENT AND PLANNING

1. The Property Management Department must administer this proposal.
2. The Proposal application must be done in terms of the Guideline for non-profit organisations.
3. The application must indicate if it is to rent or to buy.
4. Confirmation must be given by Dept Human Settlements what is the status of the RDP development on the located land.
5. Confirmation must be given by the applicant of available funding of such a project.

COMMENTS FROM THE DIRECTORATE COMMUNITY SERVICES

Supported.

COMMENTS FROM THE TOWN MANAGER: CALEDON/TESSELAARSDAL

The application is supported by the Town Office.

COMMENTS: DEPARTMENT INTERNAL AUDIT

No comments.

COMMENTS: LEGAL SERVICES

This item deals with the immovable property of the Municipality. The Municipality is a creature of statute and must comply with all applicable legislation. In this case the following legislation inter alia finds application; MFMA, MATR, SCM Policy, Asset Management Policy. A contract concluded in contravention of the legislation will be unlawful. None of the above-mentioned legislation are mentioned nor applied within this item. Nor is it clear what type of contract will be concluded, example will it be a lease contract, will there be rental payable to the municipality, will there be conditions to this contract. It is therefore clear that this item is incomplete and the Legal Department can therefore not provide comment.

ADDITIONAL COMMENTS FROM ITEM AUTHOR

As per comment from Directorate Development and Planning: Property Management department will now be the administrator of this proposal. The Directorate Community Service: Sport and Recreation department will liaise between Property Management and SAFA Overberg.

LEGAL RESPONSIBILITIES

All MFMA regulations as well as legal processes to be followed.

FINANCIAL RESPONSIBILITIES

All costs will be covered by the Soccer Federation.

CLIENT CARE IMPLICATION

This project will benefit the entire community in TWK as well as beyond our borders.

RISK MANAGEMENT IMPLICATION

No risks to the Municipality.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended:

1. That the context of this item for the application of ±4 hectare land to construct a Soccer Academy BE CONSIDERED.
2. That the application for ±4 hectare land for construction of a Soccer Academy at Uitsig (Caledon) BE APPROVED.

RECOMMENDATION BY MANAGEMENT TO COMMUNITY SERVICES COMMITTEE MEETING: 23 SEPTEMBER 2022

1. Management noted the comments from the Director: Community Services, Mr WSE Solomons-Johannes, that the administration of the proposal will be handed over to Property Management after Council granted approval to proceed with the proposal.
2. Management noted the comments from the Deputy Director: Technical- and Infrastructure Implementation Services, Mr D Damons, that the new graveyard is next to this piece of land and must be taken into consideration.

It is recommended:

3. That the context of this item for the application of ±4 hectare land to construct a Soccer Academy BE CONSIDERED.
4. That the application for ±4 hectare land for construction of a Soccer Academy at Uitsig (Caledon) BE APPROVED.

RECOMMENDATION BY COMMUNITY SERVICES COMMITTEE TO EMC: 12 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor RL Mienies, and seconded by Councillor J Mckenzie, it was recommended as follows:

1. That the context of this item for the application of ±4 hectare land to construct a Soccer Academy BE CONSIDERED.
2. That the application for ±4 hectare land for construction of a Soccer Academy at Uitsig (Caledon) BE APPROVED.
3. The Committee noted that a Public Participation Process will be followed after Council considers and approves the application.

RECOMMENDATION BY THE EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mathews and seconded by Councillor RL Mienies, it was recommended as follows:

- 1. That the context of this item for the application of ±4 hectare land to construct a Soccer Academy BE CONSIDERED.**
- 2. That the application for ±4 hectare land for construction of a Soccer Academy at Uitsig (Caledon) BE APPROVED.**
- 3. The Committee noted that a Public Participation Process will be followed after Council considers and approves the application.**

RECOMMENDATION TO COUNCIL:

It is recommended:

- 1. That the context of this item for the application of ±4 hectare land to construct a Soccer Academy BE CONSIDERED.**
- 2. That the application for ±4 hectare land for construction of a Soccer Academy at Uitsig (Caledon) BE APPROVED.**
- 3. The Committee noted that a Public Participation Process will be followed after Council considers and approves the application.**

ITEM TITEL/ITEM TITLE

**C171/2022 DIRECTORATE FINANCE: WITHDRAWALS FROM MUNICIPAL
BANK ACCOUNTS: JULY - SEPTEMBER 2022**

**R171/2022 DIREKTORAAT FINANSIES: ONTTREKKING UIT MUNISIPALE
BANKREKENINGE: JULIE - SEPTEMBER 2022**

[Report compiles in both languages / Verslag saamgestel in beide tale]

LÊER NOMMER/FILE NUMBER

5/15/R

PURPOSE / AIM OF REPORT

To report on specific withdrawal from municipal bank account in terms of the Local Government: Municipal Finance Management Act, 2003.

DOEL VAN VERSLAG

Om verslag te doen van bepaalde onttrekkings uit munisipale bankrekeninge ingevolge die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003.

BACKGROUND

As per attach report.

AGTERGROND

Soos per meegaande verslag.

DISCUSSION

A consolidated list of withdrawals in terms of Section 11(1)(b) to (j) of the Local Government: Municipal Financial Management Act, 2003, during the quarter from July to September 2022, is attached hereto.

The following information is supplementary to the list of withdrawals:

Section 11(1) (b): Expenditures that were authorised in terms of Section 26(4)

No withdrawals

Section 11(1) (c): Unforeseeable and unavoidable expenditures

No withdrawals

Section 11(1) (d): Withdrawals in respect of Trust, and so forth

No withdrawals

Section 11(1) (e): Overpayment of monies received on behalf of a person or state body

Withdrawals were made for conversion of drivers' licenses and CPA motor license monies. Complete details can be found on the list of withdrawals.

Section 11(1) (f): Monies erroneously deposited into bank account

No withdrawals

Section 11(1) (g): Guarantees, sureties and security deposits refunded

No withdrawals

Section 11(1) (h): Cash management and investments

Withdrawals were made for investment purposes. Complete details can be found on the list of withdrawals.

Section 11(1) (i): Increased expenditure in terms of Section 31

No withdrawals

Section 11(1) (j): Other purposes as prescribed

No withdrawals

BESPREKING

'n Gekonsolideerde lys van onttrekkings ingevolge Artikel 11(1)(b) tot (j) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003, gedurende die kwartaal Julie tot September 2022, is hierby aangeheg.

Die volgende inligting is aanvullend tot die lys van onttrekkings:

Artikel 11(1) (b): Bestedings wat ingevolge Artikel 26(4) gemagtig is

Geen onttrekkings

Artikel 11(1) (c): Onvoorsiene en onvermydelike bestedings

Geen onttrekkings

Artikel 11(1) (d): Onttrekkings ten opsigte van Trustfondse, ensovoorts

Geen onttrekkings

Artikel 11(1) (e): Oorbetaling van gelde ontvang namens 'n persoon of staatsorgaan

Onttrekkings was gedoen vir kaartomskakelings en KPA motorlisensiegelde. Volledige besonderhede is op lys van onttrekkings aangeheg.

Artikel 11(1) (f): Gelde foutiewelik in bankrekening gedeponeer

Geen onttrekkings

Artikel 11(1) (g): Waarborge, borge en sekuriteitsdeposito's terugbetaal

Geen onttrekkings

Artikel 11(1) (h): Kontantbestuur en beleggings

Onttrekkings was gedoen vir beleggingsdoeleindes. Volledige besonderhede is op lys van onttrekkings aangeheg.

Artikel 11(1) (i): Verhoogde besteding ingevolge Artikel 31

Geen onttrekkings

Artikel 11(1) (j): Ander doeleindes soos voorgeskryf

Geen onttrekkings

LEGAL RESPONSIBILITIES

Section 11(4) of the Local Government: Municipal Financial Management Act, 2003 reads as follows:

“The Accountable Officer must, within thirty (30) days after the end of every quarter-

4. Table in the municipal council a consolidated report of all withdrawals made in terms of sub-section (1)(b) to (j) during the quarter, and
5. Submit a copy of the report to the relevant provincial treasury and the Auditor-General”

WETLIKE VERANTWOORDELIKHEID

Artikel 11(4) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 lees as volg:

“Die Rekenpligtige Beampte moet binne dertig (30) dae na die einde van elke kwartaal –

4. 'gekonsolideerde verslag in die Munisipale Raad ter tafel lê van alle onttrekkings ingevolge subartikel (1)(b) tot (j) gedurende daardie kwartaal gedoen, en

5. 'n afskrif van die verslag aan die betrokke Provinsiale Tesourie en die Ouditeur- Generaal voorlê.”

FINANCIAL RESPONSIBILITIES

As per attach report.

FINANSIËLE VERANTWOORDELIKHEID

Soos per meegaande verslag.

CLIENT CARE IMPLICATION/KLIËNTESORG IMPLIKASIE

None/Geen

RISK MANAGEMENT IMPLICATION/RISIKOBESTUUR IMPLIKASIE

None/Geen

RECOMMENDATION BY ITEM AUTHOR:

It is recommended:

1. That the Council confirms the list of withdrawals in terms of the Section 11(1)(b) to (j) of the Local Government: Municipal Financial Management Act, 2003 for the quarter ended 30 September 2022 .
2. The report accordingly be presented to the Provincial Treasury: Western Cape and Auditor – General, as determined by Section 11(4)(b) of the Local Government: Municipal Finance Management Act, 2003.

AANBEVELING DEUR ITEM OUTEUR:

Daar word aanbeveel:

1. Dat die Raad die lys van onttrekkings ingevolge Artikel 11(1)(b) tot (j) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 vir die kwartaal eindig 30 September 2022 bekragtig.
2. Die verslag ooreenkomstig aan Provinsiale Tesourie: Wes-Kaap en die Ouditeur-Generaal voorgelê word, soos bepaal deur Artikel 11(4)(b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003.

RECOMMENDATION BY THE FINANCE COMMITTEE TO EMC: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

- 1. That the Council confirms the list of withdrawals in terms of the Section 11(1)(b) to (j) of the Local Government: Municipal Financial Management Act, 2003 for the quarter ended 30 September 2022 .**
- 2. The report accordingly be presented to the Provincial Treasury: Western Cape and Auditor – General, as determined by Section 11(4)(b) of the Local Government: Municipal Finance Management Act, 2003.**

AANBEVELING VAN FINANSIES KOMITEE AAN UBK: 18 OKTOBER 2022

Nadat die Voorsitter geleentheid aan die Raadslede gegee het, en die item behoorlik bespreek is, word dit eenparig as volg aanbeveel:

- 1. Dat die Raad die lys van onttrekkings ingevolge Artikel 11(1)(b) tot (j) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 vir die kwartaal eindig 30 September 2022 bekragtig.**
- 2. Die verslag ooreenkomstig aan Provinsiale Tesourie: Wes-Kaap en die Ouditeur-Generaal voorgelê word, soos bepaal deur Artikel 11(4)(b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003.**

RECOMMENDATION BY EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

- 1. That the Council confirms the list of withdrawals in terms of the Section 11(1)(b) to (j) of the Local Government: Municipal Financial Management Act, 2003 for the quarter ended 30 September 2022 .**
- 2. The report accordingly be presented to the Provincial Treasury: Western Cape and Auditor – General, as determined by Section 11(4)(b) of the Local Government: Municipal Finance Management Act, 2003.**

AANBEVELING UBK AAN RAAD: 18 OKTOBER 2022

Nadat die Voorsitter geleentheid aan die Raadslede gegee het, en die item behoorlik bespreek is, word eenparig as volg aanbeveel:

- 1. Dat die Raad die lys van onttrekkings ingevolge Artikel 11(1)(b) tot (j) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 vir die kwartaal eindig 30 September 2022 bekragtig.**
- 2. Die verslag ooreenkomstig aan Provinsiale Tesourie: Wes-Kaap en die Ouditeur-Generaal voorgelê word, soos bepaal deur Artikel 11(4)(b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003.**

RECOMMENDATION TO COUNCIL:

It is recommended:

- 1. That the Council confirms the list of withdrawals in terms of the Section 11(1)(b) to (j) of the Local Government: Municipal Financial Management Act, 2003 for the quarter ended 30 September 2022 .**
- 2. The report accordingly be presented to the Provincial Treasury: Western Cape and Auditor – General, as determined by Section 11(4)(b) of the Local Government: Municipal Finance Management Act, 2003.**

AANBEVELING AAN RAAD:

Daar word aanbeveel:

- 1. Dat die Raad die lys van onttrekkings ingevolge Artikel 11(1)(b) tot (j) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 vir die kwartaal eindig 30 September 2022 bekragtig.**
- 2. Die verslag ooreenkomstig aan Provinsiale Tesourie: Wes-Kaap en die Ouditeur-Generaal voorgelê word, soos bepaal deur Artikel 11(4)(b) van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003.**

ITEM TITEL/ITEM TITLE

**C172/2022 DIRECTORATE FINANCE: SUPPLY CHAIN MANAGEMENT
DEVIATION REPORT FOR SEPTEMBER 2022**

**R172/2022 DIREKTORAAT FINANSIES: VOORSIENINGSKANAALBESTUUR:
AFWYKINGSVERSLAG VIR SEPTEMBER 2022**

[Report compiles in both languages / Verslag saamgestel in beide tale]

LÊER NOMMER/FILE NUMBER

6/3/3/6

PURPOSE / AIM OF REPORT

To present a report to Council consisting of the reasons for deviating in terms of subparagraphs 36(1)(a) and (b) of the SCM Policy for the month of September 2022.

DOEL VAN VERSLAG

Om aan die Raad 'n verslag voor te lê met die redes vir afwyking ingevolge subparagraaf 36(1)(a) en (b) van die Voorsieningskanaalbestuursbeleid vir die maand van September 2022.

BACKGROUND

(1) The Accounting Officer may –

- a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency; (An emergency is an unforeseeable sudden event with harmful or potential harmful consequences for the municipality which requires urgent action to address.)

Circumstances that warrant emergency dispensation, includes but are not limited to –

- a) the possibility of human injury or death,
- b) the prevalence of human suffering or deprivation of rights,
- c) the possibility of damage to property, or suffering and death of livestock and animals, the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole, the possibility of serious damage occurring to the natural environment,
- d) the possibility that failure to take necessary action may result in the municipality not being able to render an essential community service,

- e) the possibility that the security of the state could be compromised.

The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.

- (i) if such goods or services are produced or available from a single source or sole provider only (as per definition);
 - (ii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iii) acquisition of animals for zoos and/or nature and game reserves; or
 - (iv) in any other exceptional case where it is impractical or impossible to follow the official procurement processes;
 - (v) ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids; and
- b) ratify any 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.

AGTERGROND

- 1. Die Rekenpligtige Beampte kan –

- a) afsien van die amptelike verkrygingsprosesse wat deur hierdie Beleid ingestel is en om enige nodige goedere of dienste deur middel van enige gerieflike proses te verkry, wat regstreekse onderhandelings mag insluit, maar slegs –
 - (i) in 'n noodgeval; ('n Noodgeval is 'n onvoorsiene, skielike gebeurtenis met skadelike of potensieel skadelike gevolge vir die munisipaliteit wat vereis dat daar dringend opgetree word.)

Omstandighede wat noodbedeling regverdig sluit die volgende in maar is nie daartoe beperk nie –

- a) die moontlikheid van menslike besering of dood,
- b) die voorkoms van menslike lyding of ontneming van regte,
- c) die moontlikheid van skade aan eiendom, of lyding en dood van vee en diere, die onderbreking van noodsaaklike dienste, insluitend vervoer- en kommunikasiefasiliteite of ondersteuningsdienste van kritieke belang vir die doeltreffende funksionering van die munisipaliteit as 'n geheel, die moontlikheid van ernstige skade aan die natuurlike omgewing,
- d) die moontlikheid dat versuim om die nodige stappe te doen daartoe kan lei dat die munisipaliteit nie in staat is om 'n noodsaaklike gemeenskapsdiens te lewer nie,
- e) die moontlikheid dat die veiligheid van die staat in die gedrang kan kom.

Die heersende situasie of dreigende gevaar moet van so 'n omvang en aard wees dat dit nie geredelik deur tussentydse maatreëls verminder kan word om tyd vir die formele tenderproses toe te laat nie.

- (i) Indien sodanige goedere of dienste slegs vervaardig word deur / beskikbaar is vanaf 'n enkele bron of alleenverskaffer (soos per definisie);
 - (ii) vir die aankoop van spesiale kunswerke of historiese voorwerpe, waar dit moeilik is om spesifikasies saam te stel;
 - (iii) verkryging van diere vir dieretuine en/of natuur- en wildreservate; of
 - (iv) in enige ander buitengewone geval waar dit onprakties of onmoontlik is om die amptelike verkrygingsprosesse te volg;
 - (v) ad-hoc herstelwerk aan aanleg en toerusting waar dit nie moontlik is om die aard of omvang van die vereiste werk te bepaal ten einde kwotasies aan te vra nie; en
- b) enige kleiner oortredings van die verkrygingsprosesse deur 'n amptenaar of komitee wat volgens gedelegeerde bevoegdheid of pligte optree, wat bloot van 'n tegniese aard is, bekragtig.

DISCUSSION

The report in terms of subparagraph 36(1)(a) can be found attached. Also note that the Accounting Officer did not ratify minor breaches of the procurement process in terms of subparagraph 36(1)(b).

BESPREKING

Die verslag ingevolge subparagraaf 36(1)(a) is hierby aangeheg. Let asseblief daarop dat die Rekenpligtige Beampte nie ingevolge subparagraaf 36(1)(b) kleiner oortredings van die verkrygingsproses bekragtig het nie.

LEGAL RESPONSIBILITIES

Regulation 36 of the Supply Chain Management Policy.

WETLIKE VEREISTES

Regulasie 36 van die Beleid oor Voorsieningskanaalbestuur

FINANCIAL RESPONSIBILITIES

As per attachment.

FINANSIËLE IMPLIKASIES

Soos per die aanhangsel.

CLIENT CARE IMPLICATION

Not applicable.

KLIËNTESORG IMPLIKASIES

Nie van toepassing nie.

RISK MANAGEMENT IMPLICATION

Not applicable.

RISIKOBESTUUR IMPLIKASIES

Nie van toepassing nie.

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that Council takes cognisance of the report.

AANBEVELING VAN ITEM OUTEUR:

Daar word aanbeveel dat die Raad kennis neem van die verslag.

RECOMMENDATION BY THE FINANCE COMMITTEE TO EMC: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor M Mpambani and seconded by Councillor J Mckenzie, it was recommended as follows:

That Council takes cognisance of the report.

AANBEVELING VAN FINANSIES KOMITEE AAN UBK: 18 OKTOBER 2022

Nadat die Voorsitter geleentheid aan die Raadslede gegee het, en die item behoorlik bespreek is, word op aanbeveling van Raadslid M Mpambani, gesekondeer deur Raadslid J Mckenzie, as volg aanbeveel:

Dat die Raad kennis neem van die verslag.

RECOMMENDATION BY EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

That Council takes cognisance of the report.

AANBEVELING UBK AAN RAAD: 18 OKTOBER 2022

Nadat die Voorsitter geleentheid aan die Raadslede gegee het, en die item behoorlik bespreek is, word eenparig as volg aanbeveel:

Dat die Raad kennis neem van die verslag.

RECOMMENDATION TO COUNCIL:

It is recommended that Council takes cognisance of the report.

AANBEVELING AAN RAAD:

Daar word aanbeveel dat die Raad kennis neem van die verslag.

ITEM TITLE

**C173/2022 DIRECTORATE FINANCE: FINANCIAL REPORT ITEM: FIRST
QUARTER 2022/2023 (JULY 2022 - SEPTEMBER 2022)**

[English version of the report is the original]

FILE NUMBER

5/16/R

PURPOSE OF REPORT

The purpose of this report is to inform the Council on the current financial state as at 30 September 2022.

BACKGROUND

Attached is the Financial Report for the month of September 2022, which reflects the implementation of the budget, and the state of the municipality's financial affairs.

The Financial Report consists of the following financial reports:

1. Executive Summary
2. Capital Expenditure
3. Operating Revenue and Expenditure
4. Cash and Investments
5. Borrowings
6. Grants
7. Debtors
8. Creditors

DISCUSSION

As per attached report.

LEGAL RESPONSIBILITY

The report for the first quarter (July 2022 – September 2022), prepared in terms of Section 71 of the Municipal Finance Management Act, Act 56 of 2003, is submitted to Council in terms of Section 52 (d) of the Municipal Finance Management Act, Act 56 of 2003 which reflects the implementation of the budget and the financial state of affairs of the municipality.

FINANCIAL IMPLICATIONS

As per attached report.

CLIENT CARE IMPLICATIONS

None

RISK MANAGEMENT IMPLICATION

None

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that Council notes the Monthly Budget Statement, Performance and supporting documentation as at 30 September 2022.

RECOMMENDATION BY THE FINANCE COMMITTEE TO EMC: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, on a proposal by Councillor J Mckenzie and seconded by Councillor M Mpambani, it was recommended as follows:

That Council notes the Monthly Budget Statement, Performance and supporting documentation as at 30 September 2022.

RECOMMENDATION BY EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

That Council notes the Monthly Budget Statement, Performance and supporting documentation as at 30 September 2022.

RECOMMENDATION TO COUNCIL:

It is recommended that Council notes the Monthly Budget Statement, Performance and supporting documentation as at 30 September 2022.

ITEM TITLE

**C174/2022 DIRECTORATE FINANCE: FOR COUNCIL TO CONSIDER
REINSTATING THE MAYOR'S PRO POOR INITIATIVE FOR THE
PERIOD 01 NOVEMBER 2022 UNTIL 30 NOVEMBER 2022**

[English version of the report is the original]

FILE NUMBER

5/11/1

PURPOSE OF REPORT

To report to the Mayor on reinstating the Mayor's Pro Poor Initiative for the period 01 November 2022 until 30 November 2022.

BACKGROUND

Following the success of the Mayor's Pro Poor Initiative for the period June 2022 – July 2022, there appears to be a need for a follow-up initiative due to popular demand. Queries have been received from applicants that missed the deadline due to unforeseen circumstances with some applicants only becoming aware of the drive after the initial period or some applicants who wanted to apply, but fell ill during the initial period.

The Mayor's Pro Poor Initiative addressed certain social issues that included assisting poor households. It also enabled the Municipality to obtain vital client details and information on households that are in dire need of assistance. It added to clearing irrecoverable debt that the Municipality have been carrying for years and created a payment culture from rates payers, who now no longer have an excuse not to pay their municipal accounts.

DISCUSSION

A. ASSISTING POOR HOUSEHOLDS

1. Valuation Approach

The Mayor's Pro Poor Initiative assisted households where the property is valued lower than R200,000.00. These households can be seen as poor households. Requiring applicants to complete an application form affords the Municipality details on the debtors, enabling the Municipality to update its records where required. Requiring the applicant to pay, at least their current account, when applying for the Initiative, gives the Municipality a cash injection from account payers who would've normally ignored their accounts.

Financial impact

During the initial drive an estimated total of R17 198 909.95 were written off for properties that were valued at less than R200 000.00. A total of about 556 account holders applied for this initiative.

2. Income Approach

The income approach incentive offered clients assistance with a combined household income of less than R20,000.00 per month. Again by completing an application form the Municipality updated client details and given another cash injection from account payers who would've normally ignored their accounts.

Financial impact

During the initial drive an estimated total of R40 994 979.33 were written off for households that had a combined income of less than R20 000.00. An estimated total of 1011 households applied for this initiative.

November 2022

As stated above, some applicants missed the deadline on the initial Mayor's Pro Poor Initiative due to unforeseen circumstances. It could be considered to again run the same Initiative as a last attempt to assist debtors, for one month only, beginning 01 November 2022 until 30 November 2022.

LEGAL RESPONSIBILITY

In terms of Section 96 of the Local Government Municipal Systems Act 2000, a municipality

- 1. must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and**
- 2. for this purpose, must adopt, maintain and implement a credit control and debt collection policy, which is consistent with rates and tariff policies and complies with the provisions of this Act.**

The Municipal Writing-Off of Irrecoverable Debt policy allows for the following debt write-offs

4 Policy Principles to the Writing Off of Irrecoverable Debt:

Debt will only be considered as irrecoverable and only be written off after all reasonable steps have been taken to recover the debt, in accordance with this policy, and the municipality is convinced that

- 4.1 recovery of the debt would be uneconomical
- 4.2 recovery would cause undue hardship to the debtor or his/her dependents; and

- 4.3 it would be an advantage to the municipality to effect a settlement of its claim or to waive the claim
- 4.4 qualify for consideration as follow:
- (d) a deceased estate has no liquid assets to cover the outstanding amount following the final distribution of the estate; or
 - (i) where the estate has not been reported to the Master and there are no assets of value to attach; or
 - (ii) it has been proven that the debt has prescribed;

5.5 Irrecoverable debt not catered for in the policy

Should there be any irrecoverable debt cases that the administration cannot dispose of in terms of this policy, particulars of the irrecoverable debt cases shall be submitted to the Debt Write-Off Committee of Council for consideration.

FINANCIAL IMPLICATIONS

Write-offs will improve Council's outstanding debtor figures and will ease further debtors administration.

CLIENT CARE IMPLICATIONS

None

RISK MANAGEMENT IMPLICATION

None

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that Council resolves on:

- 1. Considering whether the Mayor's Pro Poor Initiative is reinstated on the same terms as before, for the period 01 November 2022 until 30 November 2022;**
- 2. To make any further recommendations on the Initiative should Council require.**

RECOMMENDATION BY THE FINANCE COMMITTEE TO EMC: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

That Council resolves on:

- 1. Considering whether the Mayor's Pro Poor Initiative is reinstated on the same terms as before, for the period 01 November 2022 until 30 November 2022.**

RECOMMENDATION BY EMC TO COUNCIL: 18 OCTOBER 2022

After the Chairperson had given the Councillors an opportunity, and the item had been thoroughly discussed, it was unanimously recommended as follows:

That Council resolves on:

- 1. Considering whether the Mayor's Pro Poor Initiative is reinstated on the same terms as before, for the period 01 November 2022 until 30 November 2022.**

RECOMMENDATION TO COUNCIL:

It is recommended that Council resolves on:

- 1. Considering whether the Mayor's Pro Poor Initiative is reinstated on the same terms as before, for the period 01 November 2022 until 30 November 2022.**

ITEM TITLE

**C175/2022 DIRECTORATE FINANCE: COUNCIL TO RESOLVE ON ISSUE
RELATED TO JAPIE GROENEWALD TRUST ACCOUNTS
CAUSED BY PREVIOUS MUNICIPAL VALUERS**

[English version of the report is the original]

Agenda-item will be discussed during the In-Committee Meeting.

ITEM TITLE

**C176/2022 DIRECTORATE FINANCE: COUNCIL TO CONSIDER
ADJUSTMENT AND WRITE-OFF OF IRRECOVERABLE DEBTS
FOR ELGIN TAVERN PTY LTD**

[English version of the report is the original]

Agenda-item will be discussed during the In-Committee Meeting.

ITEM TITLE

**C177/2022 DIRECTORATE FINANCE: REQUEST BY ROSALIA TRUST TO
IMPLEMENT CORRECTION ON VALUATION OF ITS PROPERTY
RETROSPECTIVELY**

[English version is the original]

FILE NUMBER

5/11/1

Agenda-item will be discussed during the In-Committee Meeting.

ITEM TITLE

C178/2022 DIRECTORATE FINANCE: REQUEST BY THE MORAVIAN CHURCH OF SOUTH AFRICA TO IMPLEMENT A RETROSPECTIVE RATE REBATE ON A) CEMETERY PROPERTIES AND B) MORAVIAN MISSION STATION

[English version of the report is the original]

FILE NUMBER

5/11/1

Agenda-item will be discussed during the In-Committee Meeting.

ITEM TITLE

C179/2022 DIRECTORATE FINANCE: REQUEST BY THEEWATERSKLOOF COUNTRY CLUB TO IMPLEMENT A RATE REBATE RETROSPECTIVELY

[English version of the report is the original]

FILE NUMBER

5/11/1

Agenda-item will be discussed during the In-Committee Meeting.

ITEM HEADING

C180/2022 DIRECTORATE FINANCE: REPORTING ON PERFORMANCE OF CONTRACTORS: JULY 2022 TO SEPTEMBER 2022

[English version of the report is the original]

FILE NUMBER

8/1/R

PURPOSE / AIM OF REPORT

To present a report to Council in terms of the contract and performance management of the Financial Departments contractors for the period from July 2022 to September 2022.

BACKGROUND

S116 (2) of the Municipal Finance management Act (No.56 of 2003) states that:

The accounting officer of a municipality or municipal entity must –

1. take all reasonable steps to ensure that a contract or agreement procured through the supply chain management policy of the municipality of municipal entity is properly enforced;
2. monitor on a monthly basis the performance of the contract under the contract or agreement;
3. establish capacity in the administration of the municipality or municipal entity –
 - (i) to assist the accounting officer in carrying out the duties set out in paragraphs (a) and (b); and
 - (ii) to oversee the day-to-day management of the contract or agreement; and
4. regularly report to Council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contract.

DISCUSSION

Reporting pattern of the Financial Department:

DEPARTMENT	JULY 2022	AUGUST 2022	SEPTEMBER 2022
Financial Services	Submitted	Submitted	Submitted

The table below illustrates that no blockages occurred on any of our contracts.

BLOCKAGES	SERVICE PROVIDERS
None	None

Find attached checklists consisting of the summaries done for the various departments.

LEGAL RESPONSIBILITIES

Chapter 8 MFMA.

FINANCIAL RESPONSIBILITIES

Refer to Annexure A of the report.

CLIENT CARE IMPLICATION

Not applicable.

RISK MANAGEMENT IMPLICATION

Not applicable.

RECOMMENDATION BY ITEM AUTHOR TO COUNCIL:

It is recommended that Council takes cognisance of the report.

ITEM HEADING

C181/2022 DIRECTORATE FINANCE: CONSIDERATION AND APPROVAL OF THE ADJUSTMENT BUDGET 2022/2023 AND INDICATIVE FOR THE PROJECTED TWO OUTER YEARS 2023/2024 AND 2024/2025

[English version of the report is the original]

FILE NUMBER

5/1/1-2022/2023; 5/1/1-2023/2024; 5/1/1-2024/2025

PURPOSE / AIM OF REPORT

This report serves to submit the 2022/2023 and indicative two outer year's annual adjustment budget for approval.

BACKGROUND

Section 29 of the Municipal Finance Management Act. No 56 of 2003 states:

4. The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.

In accordance with section 71 (1) of the Municipal Budget and Reporting Regulation:

6. *The mayor of a municipality may authorise expenditure in terms of section 29 of the Act only if:*
 - i) *the expenditure could not have been foreseen at the time the annual budget of the municipality was passed*
 - j) *the delay that will be caused pending approval of an adjustment budget by the municipal council in terms of section 28(2)(c) of the Act to authorise the expenditure*

DISCUSSION

The National load shedding program caused the municipal Water Treatment and Waste Water Treatment infrastructure including pumps and distribution to shutdown, which in turn means no drinking water and no sanitation services for the community of Theewaterskloof municipality.

Eskom introduced stage 6 load shedding during this time which means shutdowns of up to 4 hours per load shedding slot, 3 times per day. This does not give the pumps and treatment process enough time to fill reservoirs and distribute water to the communities. The bulk drinking water supplier, Overberg Water (specific for Caledon), also falls under the same water crisis situation when load shedding occurs and is busy with their own interventions to supply water.

The expenditure from July, September up until the 11th of October 2022 for the hiring of water tankers was R 516 thousand (VAT incl.). The provisional estimated amount for the hiring of water tankers from the 17th of October 2022 until the 31st of October 2022 will amount to R 2 million (VAT incl.).

During this period the water supply was not sufficient for the sanitation services as well. This situation is continuing and is having an adverse effect on the municipality to implement its mandate to provide portable water i.t.o SANS 241.

This in turn is becoming a health risk due to the lack of water to accommodate proper sanitation services and treatment. The municipality's biggest industrial user SABM also had to decrease their production as well as other businesses due to insufficient water supply which in turn will have an extremely negative effect on our economy.

Non provision of this basic services is in contradiction of "The Constitution of the Republic of South Africa of 1996" and the Water Services Act 108 of 1998 – which states the following:

"Chapter 3 – Water Services Authority

Duty to provide access to water services

11..(1) Every water services authority has a duty to all consumers or potential consumers in its area of jurisdiction to progressively ensure efficient, affordable, economical and sustainable access to water services."

A quotation was obtained for the hiring and installation of four (4) generators with Change-Over Switches (to run automatically when load shedding occurs) for Caledon and Myddleton at strategic points for raw water supply, purification and distribution to consumers. A quotation was also obtained for the procurement of a 37kW Submersible Borehole pump for the conveyance of raw water supply to the Purification Plants. The one quotation was requested as there is currently a huge need for generators all over the Western Cape and is this infrastructure becoming a scarce commodity.

The expenditure at mention will be funded from various expenditure votes.

LEGAL RESPONSIBILITIES

Section 28 of the Municipal Finance Management Act, 56 of 2003 and section 23 (4) of the Municipal Budget and Reporting Regulations.

Section 29 of the Municipal Finance Management Act. No 56 of 2003.

FINANCIAL RESPONSIBILITIES

As contained in the detail report.

CLIENT CARE IMPLICATION

None

RISK MANAGEMENT IMPLICATION

None

RECOMMENDATION BY ITEM AUTHOR:

It is recommended that the Council considers the report and adopts the Adjustment Budget report.