Notice is hereby given that a **SPECIAL MEETING** of the **MUNICIPAL COUNCIL** of Knysna Municipality will be held in the **COUNCIL CHAMBER, Clyde Street, Knysna** on **TUESDAY, 17 JULY 2018** at **09:00** to consider the business set forth in the attached agenda.

Kennis geskied hiermee dat ’n **SPESIALE VERGADERING** van die **MUNISIPALE RAAD** van Knysna Munisipaliteit in die **RAADSAAL, Clydestraat, Knysna** op **DINSDAG, 17 JULIE 2018** om **09:00** gehou sal word ten einde sake soos uiteengesit in die aangehegte agenda te oorweeg.

Isaziso **ESIBALULEKILEYO SENTLANGANISO yeBHUNGA likaMASIPALA waseKnysna eyakubanjelwa KWIGUMBI LEKHANSILE kwisitalato iClydee, Knysna lentlanganiso iyakuba NGOLWESIBINI, NGE 17 EYEKHALA 2018 ngentsimbi ye 09:00 umba iyakuba lushishino oluchazwe kwi-agenda.

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**CLLR G WOLMARANS**
The Speaker

**CLLR G WOLMARANS**
The Speaker

**MR K CHETTY**
Municipal Manager

**MR K CHETTY**
Munisipale Bestuurder

**Umanjalo KaMasipala**

**Umanjalo KaMasipala**

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Date: 10 July 2018
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1. OPENING AND WELCOMING

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5. DISCLOSURE OF INTERESTS BY COUNCILLORS
NEW MATTERS SUBMITTED BY THE MUNICIPAL MANAGER

6.1

SC01/07/18 REPORT ON THE REVIEWED TARIFF BY-LAW

REPORT FROM THE DIRECTOR: FINANCIAL SERVICES

PURPOSE OF THE REPORT

To request the Municipal Council to adopt the tariff by law in order to give effect to levying of Municipal tariffs in terms of the approved tariff policy.

BACKGROUND

In its meeting held on 6 June 2018, Council adopted and approved the tariffs policy to be implemented effectively from 1 July 2018. The currently approved tariffs policy was reviewed during the budget process as required in terms of the MFMA.

The attached (Annexure A) is the reviewed and amended tariff by law that must be adopted and published to give effect to the implementation the tariff policy.

FINANCIAL IMPLICATIONS

Contained in the adopted and approved budget for 2018/19 MTREF

RELEVANT LEGISLATION

Section 14 of the Municipal System Act, Act 32 of 2000
Section 5 and more specifically 5(1) of the Municipal Property Rates act, Act 6 of 2004.
Section 6 of the Municipal Property Rates act, Act 6 of 2004
Section 16(2) of the Municipal finance management act, Act 56 of 2003.

RECOMMENDATION OF THE MUNICIPAL MANAGER

That the revised tariff by-law attached to the Item, be adopted and approved in order to give effect to the tariff policy.

APPENDIX

Knysna Municipality: Tariff By-Law

File Number: 5/4/R
Execution: Director: Financial Services
KNYSNA MUNICIPALITY: TARIFF BY-LAW

Table of Contents
1. Interpretation
2. Principles and Objectives
3. Adoption and implementation of tariff policy
4. Contents of tariff policy
5. Enforcement of tariff policy
6. Operative Date

1. Interpretation
In this By-Law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates –

“Customer Care, Credit Control, Debt Collection, Indigent and Tampering Policy” means the municipality’s Customer Care, Credit Control, Debt Collection, Indigent and Tampering Policy as required by sections 96(b), 97 and 98 of the Systems Act;
“municipality” means the Municipality of Knysna, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
“municipality’s tariff policy” means a tariff policy adopted by the municipality in terms of this By-Law;
“Systems Act” means the Local Government: Municipal Systems Act, 32 of 2000;
“tariff” means fees, charges, or any other tariffs levied by the municipality in respect of any function or service provided by the municipality, excluding rates levied by the municipality in terms of the Local Government: Municipal Property Rates Act, 6 of 2004.

2. Principles and Objectives
(1) Section 229(1) of the Constitution authorizes a municipality to impose:
(a) rates on property and surcharges on fees for services provided by or on behalf of the municipality; and
(b) if authorized by national legislation, other taxes, levies and duties.
(2) In terms of section 75A of the Systems Act a municipality may:
(a) levy and recover fees, charges or tariffs in respect of any function or service of the municipality; and
(b) recover collection charges and interest on any outstanding amount.
(3) In terms of section 74(1) of the Systems Act, a municipal council must adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements and which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
(4) In terms of section 75(1) of the Systems Act, a municipal council must adopt by-laws to give effect to the implementation and enforcement of its tariff policy.
(5) In terms of section 75(2) of the Systems Act, by-laws adopted in terms of subsection 75(1) may differentiate between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination.

3. Adoption and implementation of tariff policy
(1) The municipality shall adopt and implement a tariff policy on the levying of fees for a municipal service provided by the municipality or by way of service delivery agreements which complies with the provisions of the Systems Act, the Local Government: Municipal Finance Management Act, 53 of 2003 and any other applicable legislation.
(2) The municipality shall not be entitled to impose tariffs other than in terms of a valid tariff policy.

4. Contents of tariff policy
The municipality tariff policy shall, inter alia:
(1) apply to all tariffs imposed by the municipality pursuant to the adoption of the municipality’s annual budget;
(2) reflect the principles referred to in section 74(2) of the Systems Act and specify any further principles for the imposition of tariffs which the municipality may wish to adopt;
(3) specify the manner in which the principles referred to in section 4(2) are to be implemented in terms of the tariff policy;
(4) specify the basis of differentiation, if any, for tariff purposes between different categories of users, debtors, service providers, services, service standards and geographical areas as long as such differentiation does not amount to unfair discrimination;
(5) include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care Credit Control, Debt Collection, Indigent and Tampering Policy.

5. Enforcement of tariff policy
The municipality’s tariff policy shall be enforced through the Customer Care, Credit Control, Debt Collection, Indigent and Tampering Policy and any further enforcement mechanisms stipulated in the municipality’s tariff policy.

6. Operative Date
This By-Law shall take effect upon publication in the Provincial Gazette.
REPORT FROM THE DIRECTOR: FINANCIAL SERVICES

PURPOSE OF THE REPORT

To request the Municipal Council to adopt the rates by law in order to give effect to levying of Rates.

BACKGROUND

During 2017 we received correspondence from the National Department of Cooperative Governance, Executive Manager: Municipal Property Rates Act Implementation that our Rates by-law needs to be reviewed. The department proposed that Council simplify its Rates by-law by using a specimen by-law which was provided.

Above-mentioned simplification will avoid any possible contradictions between the provisions of its rates by-law and the rates policy (which must rightly be detailed and specific about the municipality’s rating decisions).

The current Rates policy was reviewed during the budget process as required in terms of section 5 of the MPRA, Act 6 of 2004. The revised policy was adopted and approved by Council on 6 June 2018.

The attached (Annexure A) reviewed and amended Rates by law must be adopted and published to give effect to the implementation the rates policy in terms of section 6 of the MPRA, Act 6 of 2004.

FINANCIAL IMPLICATIONS

Contained in the adopted and approved budget for 2018/19 MTREF.

RELEVANT LEGISLATION

Section 14 of the Municipal System Act, Act 32 of 2000
Section 5 and more specifically 5(1) of the Municipal Property Rates act, Act 6 of 2004.
Section 6 of the Municipal Property Rates act, Act 6 of 2004
Section 16(2) of the Municipal finance management act, Act 56 of 2003.

RECOMMENDATION OF THE MUNICIPAL COUNCIL

That the revised Rates by-law attached to the item, be adopted and approved in order to give effect to the Rates policy.

APPENDIX / ADDENDUM

Annexure “A” - REVISED RATES BY-LAW
File Number: 9/1/2/10
Execution: Director : Financial Services
KNYSNA MUNICIPALITY: RATES BY-LAW

Table of Contents
1. Interpretation
2. Principles and Objectives
3. Adoption and implementation of rates policy
4. Contents of rates policy
5. Enforcement of rates policy
6. Repeal of By-laws
7. Short Title
8. Operative Date

1. Interpretation
In this By-Law, the English text prevails in the event of any conflict with the Afrikaans text, and, unless the context otherwise indicates –
“municipality’s rates policy” means a rates policy adopted by the municipality in terms of this By-Law;
“Constitution” means the Constitution of the Republic of South Africa 1996;
“Customer Care and Revenue Management By-Law” means the municipality’s Customer Care and Revenue Management By-Law as required by sections 96(b), 97 and 98 of the Municipal Systems Act, 32 of 2000;
“municipality” means the Municipality of Knysna, established in terms of Section 12 of the Municipal Structures Act, 117 of 1998, and includes any political structure, political office bearer, councillor, duly authorized agent or any employee acting in connection with this by-law by virtue of a power vested in the municipality and delegated or sub-delegated to such political structure, political office bearer, councillor, agent or employee;
“Property Rates Act” means the Local Government: Municipal Property Rates Act, 6 of 2004;
“rate” or “rates” means a municipal rate on property as envisaged in section 229 of the Constitution.

2. Principles and Objectives
(1) Section 229(1) of the Constitution authorizes a municipality to impose rates on property and surcharges on fees for services provided by or on behalf of the municipality.
(2) In terms of section 3 of the Property Rates Act, a municipal council must adopt a policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
(3) In terms of section 6(1) of the Property Rates Act, a municipality must adopt by-laws to give effect to the implementation of its rates policy.
(4) In terms of section 6(2) of the Property Rates Act, by-laws adopted in terms of section 6(2) may differentiate between different categories of properties; and different categories of owners of properties liable for the payment of rates.

3. Adoption and implementation of rates policy
(1) The municipality shall adopt and implement a rates policy consistent with the Property Rates Act on the levying of rates on rateable property in the municipality.
(2) The municipality shall not be entitled to levy rates other than in terms of a valid rates policy.
4. **Contents of rates policy**
The municipality’s rates policy shall, *inter alia*:
(1) apply to all rates levied by the municipality pursuant to the adoption of the municipality’s annual budget;
(2) comply with the requirements for: -
(a) the adoption and contents of a rates policy specified in section 3 of the Property Rates Act;
(b) the process of community participation specified in section 4 of the Property Rates Act;
(c) the annual review of a rates policy specified in section 5 of the Property Rates Act;
(3) specify any further principles, criteria and implementation measures consistent with the Property Rates Act for the levying of rates which the municipality may wish to adopt;
(4) include such further enforcement mechanisms, if any, as the municipality may wish to impose in addition to those contained in the Customer Care and Revenue Management By-Law.

5. **Enforcement of rates policy**
The municipality’s rates policy shall be enforced through the Customer Care and Revenue Management By-Law and any further enforcement mechanisms stipulated in the municipality’s rates policy.

6. **Repeal of By-laws**
The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality are hereby repealed as far as they relate to matters provided for in this by-law.

7. **Short Title**
This by-law shall be known as the Property Rates By-law of Knysna Municipality.

8. **Operative Date**
This By-Law shall take effect on 1 July 2018
REPORT FROM THE DIRECTOR: FINANCIAL SERVICES

PURPOSE OF THE REPORT

To report and inform the Municipal Council of the draft special rating area by law that must be advertised for public comment.

BACKGROUND

Numerous request have been submitted to the Municipal manager to consider certain areas as special rating areas. Knysna Municipality currently does not have a policy, by law or even a process in terms of considering and approving a special rating area. In order to give effect to these requests the first point of departure is to ensure that there is an amendment to the Rates policy, a special rating by law, which give effect to such special rating and the policy.

The currently approved Rates policy and tariffs do not make provision for such. It is intended to consider and respond to the request by having a formal process followed. In so doing, a public participation process becomes necessary in the application and approval of special rating areas.

The attached (Annexure A) is the draft special Rating by law that must be advertised for public comment in terms of MPRA, Act 6 of 2004.

LEGISLATION

Section 14 of the Municipal System Act, Act 32 of 2000
Section 5 and more specifically 5(1) of the Municipal Property Rates act, Act 6 of 2004.
Section 6 of the Municipal Property Rates act, Act 6 of 2004
Section 16(2) of the Municipal finance management act, Act 56 of 2003

RECOMMENDEDATION OF THE MUNICIPAL MANAGER

[a] That the draft special Rating area by-law be noted;

[b] That a public participation process regarding the by-law mentioned in [a] above, be followed to invite public comments; and

[c] That the by-law mentioned in [a] above, be resubmitted to Municipal Council after the conclusion of the process mentioned in [b] above.

APPENDIX / ADDENDUM

ANNEXURE “A” - REVISED RATING AREAS BY-LAW (By-Law)

File Number: 9/1/2/10
Execution: Director: Financial Services
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KNYSNA MUNICIPALITY SPECIAL RATING AREA BY-LAW

To provide for the establishment of special rating areas; to provide for additional rates; and to provide for matters incidental thereto.

BE IT ENACTED by Knysna Municipality as follows:

CHAPTER 1 ESTABLISHMENT OF SPECIAL RATING AREAS

1. DEFINITIONS

In this By-law words or expressions shall bear the meaning assigned to them and, unless context otherwise indicates —

“additional rate” means an additional rate contemplated in sections 19(1)(d) and 22(1)(b) of the Municipal Municipal Property Rates Act, 2004 (Act No. 6 of 2004) in section 12(2) of this By-Law;

“applicant” means any owner who makes an application for the determination of a special rating area in accordance with provisions of Chapter 1, or if a management body is established in terms of section 10 any reference to “the Applicant” means the management body;

“CFO” means the Chief Financial Officer of Knysna Municipality, or his or her nominee.

“Council” means Council of Knysna Municipality;

“Implementation Plan” means an Implementation Plan as contemplated in section 6;

“limited special rating area” means a limited special rating area approved by the Council in terms of section 9;

“majority” means the majority of property owners as contemplated in section 22 of the Municipal Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

“management body” means the management body of a special rating area to be establishment in accordance with the provision of section 10;

“motivation report” means a motivation report as contemplated in section 6;

“owner” has the meaning assigned to it in section 1 of the Municipal Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

“Policy” means the Policy for the determination of special rating areas, or any other policy
adopted by the Council in relation to special rating areas, as in force from time to time;

"Municipal Property Rates Act" means the Local Government: Municipal Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

"rateable property" has the meaning assigned to it in section 1 of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004);

"special rating area" means a special rating area approved by the Council in accordance with the provisions of section 22 of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004) and section 8 of this By-Law.

2. INTERPRETATION

In the event of any conflict with the Afrikaans or isiXhosa texts, the English text prevails.

3. DETERMINATION OF SPECIAL RATING AREAS

Knysna Municipality may by resolution of the Council determine special rating areas.

4. APPLICATION

(1) Any owner located within the area of jurisdiction of Knysna Municipality and who owns property within the proposed special rating area, may lodge an application to the Council for the determination of a special rating area.

(2) All costs incurred by the applicant in respect of the establishment of a special rating area shall be for his or her own account, provided that after implementation of the implementation plan the management body may reimburse the applicant for some or all of those costs.

(3) Any application contemplated in subsection (1) must –

(a) be in writing and be in the form as the CFO may determine;

(b) be submitted not more than nine months after the date on which the public meeting referred to in section 5 is held, or if a second public meeting is held as provided for in section 6(2), nine months after the date of the second public meeting;

(c) be accompanied by –

(i) a motivation report and an implementation plan;

(ii) the written consent of the at least 51 percent of the members of the local community in the proposed special rating area who will be liable for paying the additional rate, in a form determined by the CFO;

(iii) payment of such fee as the Council may determine.

5. PUBLIC MEETINGS

(1) An application for the determination of a special rating area must be preceded by the holding of a public meeting.
(2) The purpose of the public meeting is to enable the applicant to consult with those owners within the proposed special rating area with regard to the proposed boundaries of the area and the proposed improvement or upgrading of the area.

(3) Prior to the holding of the public meeting, the applicant must —

(a) give notice in writing and through public advertisements in the local media and any other additional manner approved by the CFO in terms of this By-law to owners of rateable property, who will be liable for payment of the additional rate, of the applicant’s intention to apply for the determination of a special rating area

(b) in the notice referred to in subsection (3)(a), give notice of a public meeting, which notice must —

(i) state the purpose of such meeting; and

(ii) contain details of the place, date and time when such meeting is to be held.

(4) The public meeting must be held not less than seven days and not more than 30 days after the date of the notice.

(5) The public meeting must be held at such place, date and time as stated in the notice, provided that it must be held at a place which is within the boundaries of the proposed special rating area unless the CFO approves another venue in writing before the public meeting is held.

(6) The public meeting must be chaired by a suitable qualified and experienced person.

(7) Interested persons must, at the public meeting, be —

(a) furnished with all relevant information relating to the proposed special rating area, including the information to be set out in the motivation report and implementation plan; and

(b) given an opportunity to ask questions, express their views and make representations.

6. MOTIVATION REPORT AND IMPLEMENTATION PLAN

(1) Any application for the establishment of a special rating area must include a motivation report and an implementation plan covering a period commencing 12 months starting on 1 July of a year and ending on 30 June.

(2) If the motivation report or the implementation plan are materially amended, as determined by the CFO, after the public meeting referred to in section 5, the applicant must call a second public meeting for approval of the special rating area as amended.

(3) The provision of section 5 applies with the necessary changes to the second public meeting.

7. ADVERTISING OF APPLICATION AND OBJECTIONS

(1) The applicant must within 14 days after the application is lodged in accordance with section 4, or within such further period which the CFO may approve —
(a) Cause a notice of the application to be published in a manner approved by the CFO;
and

(b) Either before or up to seven days after the date of publication of the notice, give written notice of the application to all owners within the proposed special rating area, who will be liable for payment of the additional rate, such notice to be given by prepaid registered post, hand delivery, appropriate electronic means or in any other manner approved of in writing by the CFO.

(2) Every notice contemplated in terms of subsection (1) must state that written objections to the determination of a special rating area or the provisions of the motivation report and implementation plan may be lodged with the Council by a date specified in the notice, which shall not be less than 30 days after the date of publication in terms of subsection (1)(a), and must state where the documentation specified in subsection (5) will be available for inspection.

(3) Any owner of rateable property who will be liable for paying the additional rate may submit written objections to the determination of the special rating area, which objections must be received by the Council not later than the date stipulated in the notice referred to in subsection (1).

(4) An application and any objection to the application who owns property within the proposed special rating area may make oral representation to Council.

(5) The application, including the motivation report and the implementation plan, and all objections must be available for inspection at the offices of Knysna Municipality and at a venue determined by the CFO within the proposed special rating area, for the period referred to in subsection (2).

8. DECISION

(1) After the provisions of sections 4 and 7 have been complied with, the Council must, at a formal Council meeting held no more than 90 days after the last date for the submission of objections in accordance with section 7(2), consider the application and –

(a) determine a special rating area which must be implemented in accordance with the motivation report and implementation plan;

(b) determine a special rating area with such amendments or conditions as the Council considers to be in public interest;

(c) determine a special rating area in respect of a limited area in terms of section 9;

(d) refuse the application, in which event the Council must, within 30 days, furnish the applicant with written reasons for not approving the determination of a special rating area; or

(e) refer the application back to the applicant for amendments in such manner as the Council may direct.

(2) If an application is refused by the Council in accordance with the provisions of subsection (1)(d) or referred back to the applicant in accordance with the provisions of subsection (1)(e), the applicant may, within six months of the Council’s decision, re –
apply to the Council for the determination of the special rating area, provided that such
re-application has been appropriately amended in the light of the reasons for refusal or
referral, as the case may be.

(3) If the motivation report or implementation plan is amended in any material respect at any
time before the determination, the Council may require that the application be re-advertised in accordance
with the provision of section 7, with the necessary changes.

9. DETERMINATION OF A LIMITED SPECIAL RATING AREA

If an application in terms of section 4 is not accompanied by a majority of at least 51 percent of the
members of the local community in the proposed special rating area required by section 4(3)(c), but the
applicant can demonstrate to the satisfaction of the Council, that –

(1) there are such confirmations from owners of rateable properties in a limited
geographical area within the proposed special rating area that would meet the
requirements of section 4(3)(c) if they were to be applied to that area; and

(2) the level of services to be provided will not be reduced and the budget will be
reduced accordingly as a result of the provision of those services in the limited area
alone, as compared to the provision of those services in the whole of the proposed
special rating area,

then the Council may, subject to the other requirements of this By-Law, determine a limited special rating
area.

CHAPTER 2 SPECIAL RATING AREAS – STRUCTURES AND FINANCES

10. COMMENCEMENT OF THE IMPLEMENTATION PLAN

Once the Council has approved the establishment of the special rating area, the
implementation plan may only be implemented after the management body has been
established in accordance with section 11.

11. ESTABLISHMENT, COMPOSITION, POWERS AND DUTIES OF MANAGEMENT BODY

(1) The applicant must establish a management body for the purposes of implementing the
provisions of the implementation plan.

(2) The management body must be a company incorporated in accordance with the

(3) Knysna Municipality shall monitor compliance by the management body with the
applicable provisions of this By-Law, any guidelines or policies adopted by Knysna
Municipality and any agreements entered into with the management body and
Knysna Municipality.

(4) The Council must nominate the relevant ward councillor and one other person, as
representatives to attend and participate, but not vote, at the meetings of the
management body.

(5) Within two months after receipt of the first payment of the additional rate, the
management body must begin carrying out the provisions of the implementation plan.
(6) Within two months of the end of each financial year, the management body must provide the CFO with—
(a) its audited financial statements for the immediately preceding year; and
(b) an annual report on its progress in carrying out the provisions of the implementation plan in the preceding year to improve and upgrade the special rating area.

(7) Within two months after the Annual General Meeting, the management body must provide the Finance Portfolio Committee with—
(a) its audited financial statements for the immediately preceding year; and
(b) an annual report on its progress in carrying out the provisions of the implementation plan in the preceding year to improve and upgrade the special rating area.

12. FINANCES

(1) The financial year of the management body must coincide with the financial year of the Council.

(2) Where a special rating area has been determined, the Council must levy in accordance with the provisions of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004), a property rate in addition to the rates that it already charges on the owners of rateable property in the special rating area for the purposes of realizing the implementation plan, provided that the Council may in terms of the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004), the Rates Policy, Credit Control and Debt Collection By-Law and the Credit Control and Debt Collection Policy, exempt the indigent, senior citizens, disabled persons or any other category of residents.

(3) When determining the additional rate referred to in subsection (2), the Council may give consideration to imposing differential additional rates on one or more of the categories set out in section 8 of the Municipal Property Rates Act, 2004 (Act No. 6 of 2004).

(4) The additional rate due in terms of this By-Law is a debt due to the Council and is payable and must be collected in the same manner as other property rates imposed by the Council.

(5) The Council may, for the purpose of carrying out the provisions of the implementation plan of special rating area and subject to section 67 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), make payment to the management body of a special rating area.

(6) The payment contemplated in subsection (5) is conditional upon the conclusion of a finance agreement to be entered into between the Council and the relevant management body, and such agreement must regulate, among other things—
(a) the mechanisms and manner of payment; and
(b) terms on which payment to the relevant management body is to be made.

(7) Subject to the provisions of its memorandum and articles of association, the management body is entitled to raise its own funds through commercial activities, donations or any other lawful means.
(8) The Council, may for the purposes of this By-law, determine and impose on the management body an administrative charge.

13. THE ROLE OF THE CFO

In addition to the other responsibilities and obligations of the CFO as set out elsewhere in this By-Law, the CFO must –

(1) Establish separate ring-fenced budget votes and other record-keeping systems regarding the revenue generated by the additional rate and the improvement and upgrading of the special rating area;

(2) Monitor compliance with the applicable legislation, including this By-Law and the Policy, by –

(a) receiving and considering the audited financial statements and reports regarding the carrying out of duties laid out in the implementation plan;

(b) if he or she elects to do so, nomination of representatives to attend and participate but not vote at meetings of the management body.

CHAPTER 3 AMENDMENT AND EXTENTION OF IMPLEMENTATION PLANS

14. AMENDMENT TO IMPLEMENTATION PLANS

(1) An implementation plan, including the geographical boundaries of the special rating area, may be amended by the Council in writing through an application by the management body at any time after the formation of the special rating area.

(2) The council may approve an application for an amendment referred to in subsection (1) where the Council considers it not likely to materially affect the rights or interests of any owner, provided that the Council may require the management body to cause a notice of the application for such amendments to be published as approved by the CFO.

(3) The Council may only approve an amendment in terms of subsection (1), with the changes required by the context, in accordance with the provisions of Chapter 1, which the Council considers is likely to –

(a) materially affect the rights or interests of any person;

(b) affect the approved budget for the special rating area; and

(c) change the boundaries of the special rating area.

(4) The Council may, for good reason, on written application by the management body, exempt the management body from complying with specified provisions, or accept a motivation in writing for any reasons of noncompliance with any provisions of Chapter 1.

15. EXTENTION OF IMPLEMENTATION PLANS

A management body must, if it elects to extend the term of the implementation plan for a further period, on or before January in the year in which the implementation plan is due to terminate, submit an application to Krynysna Municipality for approval of extension of the
term of the implementation plan, provided that –

(1) the extension of the implementation plan may only be approved by the Council in accordance with the provisions of Chapter 1, with the changes required by the context, and the Council may, for good reason, on written application by the management body, exempt the management body from complying, or condone any non-compliance, with any such provisions;

(2) the provisions of section 14 shall apply to any amendment of an implementation plan which has been extended in terms of this section.

CHAPTER 4  DISSOLUTION OF A SPECIAL RATING AREA

16.  DISSOLUTION

(1) The Council may dissolve a special rating area –

(a) Upon written application signed by the majority of owners within the boundaries of the special rating area who are liable for paying the additional rate; or

(b) After prior consultation by the CFO with the management body or the community, for any good cause, whereupon he or she may cause the management body to be wound up.

(2) Upon the winding of a management body, the assets remaining after the satisfaction of all its liabilities shall be utilized by the Council to provide additional municipal services in accordance with the provisions of the implementation plan for such areas.

CHAPTER 5  MISCELLANEOUS PROVISIONS

17.  TITLE

(1) This By-Law is called the Knysna Municipality: Special Rating Areas By-Law, 2018
REPORT FROM THE DIRECTOR : FINANCIAL SERVICES

PURPOSE OF THE REPORT

To request the Municipal Council to consider and approve a waiver on charging of availability charge to fire victims whose properties were destroyed by fire of June 2017.

BACKGROUND

Knysna Municipality area experienced one of the catastrophic fire disaster ever experienced in the country. The fire disaster happened last year June 2017 where many properties were destroyed as a result of the fire. This disaster has put a lot of people in our municipal area under severe trauma and financial loss.

Council in its decision in August 2017 intended to provide relief to all property owners whose property were totally destroyed. In that Council meeting, Council resolved to waive the rates payable on these properties for a period of twelve months.

DISCUSSION

Levying of Municipal Services is provided for in terms of Council Policy. Services are levied for services based on the category of property.

Knysna Municipal Property Rates Policy provide and define the categories of properties. The following classification and as categorization is applicable for the purpose of this discussion.

(b) Residential
(c) Business
(d) Vacant stand/property

The tariff for vacant stand is and has always been approved to be higher than the tariff on residential and or business properties (where there is a building structure). That has been implemented and applicable not only in Knysna Municipality, but by all Municipalities in the country. The intention is and has always been to (mitigate speculation by buyers of vacant stand) and encourage them to build as soon as possible and discourage them from speculating with land. Never has anyone thought of the implication of such tariff in a situation like the fire disaster that destroyed properties in Knysna Municipality area.

The following are tariffs applicable in terms of category of residential.

<table>
<thead>
<tr>
<th>SERVICE</th>
<th>MONTHLY BASIC CHARGE ON RESIDENTIAL PROPERTY</th>
<th>MONTHLY BASIC CHARGE ON VACANT STAND</th>
<th>YEARLY CHARGE ON RESIDENTIAL</th>
<th>YEARLY CHARGE ON VACANT STAND</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water</td>
<td>R148,68</td>
<td>R2 513,16</td>
<td>R1 784,16</td>
<td>R30 157,92</td>
</tr>
<tr>
<td>Sanitation</td>
<td>R857,90</td>
<td>R2 519,30</td>
<td>R10 294,80</td>
<td>R30 231,60</td>
</tr>
<tr>
<td>Refuse</td>
<td>R956,14</td>
<td>R1 469,30</td>
<td>R11 473,68</td>
<td>R17 631,60</td>
</tr>
</tbody>
</table>
Assuming a property with a valuation of R1 500 000,00 would have paid the following

<table>
<thead>
<tr>
<th></th>
<th>BEFORE RATES WAIVER AND ON RESIDENTIAL TARRIFFS FOR SERVICES</th>
<th>AFTER RATES WAIVER AND ON VACANT TARRIFFS FOR SERVICES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rates</td>
<td>R812,49</td>
<td>R0</td>
</tr>
<tr>
<td>Water (Monthly)</td>
<td>R148,68</td>
<td>R2 513,16</td>
</tr>
<tr>
<td>Sewer (Monthly)</td>
<td>R857,90</td>
<td>R2 519,30</td>
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<tr>
<td>Refuse (Monthly)</td>
<td>R956,14</td>
<td>R1 469,30</td>
</tr>
<tr>
<td>Total effective After fire and rates waiver resolution (Monthly)</td>
<td>R2 775,21</td>
<td>R6 501,76</td>
</tr>
</tbody>
</table>

R3 726,55 – More

The intention of Council has been to give relief to the fire victims and not penalise them. The above calculated effect is as a result of policy issue which has never had a consideration of a situation of a disaster like the one that Knysna had. Even thought Council waived the rates and correctly applied the tariff on service charges. The effect of applying the vacant stand tariff on the properties that were destroyed by fire, has undone the rates waiver and caused anger and animosity from the people who were affected.

**FINANCIAL IMPLICATIONS**

The difference between the billing of the two tariffs is R14 750 547, 55 million. Had Knysna not had the fire the billing would have been R8 493 063, 41 for the three services (water, refuse and sanitation). The billing was changed to vacant tariffs yielding a total billing of R23 243 610, 96. It must be noted that the revenue for these services were never adjusted though in the August and or the February adjustments budget.

**CONCLUSION**

In the August 2017 adjustment budget, rates were adjusted downward by almost R16,6 million. It must be noted that the three services charges (water, refuse and sanitation) were never adjusted upward because of higher tariffs on vacant stand availability. Only the properties were re-categorized to vacant stand and applicable tariff were applied.

Expenditure were adjusted downwards to cater for the loss of revenue. In essence Council did not budget to receive additional revenue due to vacant stand tariffs being higher than residential tariffs. It is against this background that Council can only now consider waiving of charging vacant stand tariffs to the properties that were affected, having a better view of the financial performance and impact this may have.

What complicates matters is that some of these properties were sold and the rate waiver benefitted the buyers of the property. Council intention is to give relief to the affected fire victims/people and not to the new owners of the property.

**RELEVANT LEGISLATION**

Property Rates Act  
MFMA Act  
Knysna Municipal Tariff
RECOMMENDEDATION OF THE MUNICIPAL MANAGER

[a] That the tariff structure, not be amended;

[b] That the charging of vacant stand tariffs on all properties that were totally destroyed by fire, be waived for the 2017/18 Financial year;

[c] That the properties mentioned in [b] above be charged as if they were residential properties;

[d] That credit on the difference between the residential and vacant stand tariff be allocated on the properties mentioned in [b] above, and be offset against revenue forgone;

[e] That where properties mentioned in [b] above, have been sold, the credit be only payable to the owner of the property before the sale; and

[f] That where necessary, adjustments be made to reflect the revenue lost.

File Number: 9/1/2/10
Execution: Director: Financial Services
6.5

C05/07/18  SCHEDULE OF MEETINGS: JULY 2018 TO JUNE 2019

REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To submit a schedule of meetings for July 2018 to June 2019 for consideration and approval. Attached is a copy of the schedule of meetings.

BACKGROUND

In terms of Section 19 of the Municipal Systems Act 32 of 2000 the Municipal Manager must give notice to the public, in a manner determined by the Municipal Council of the time, date and venue of every of Ordinary, Special or Urgent meeting of the Municipal Council.

RELEVANT LEGISLATION

Section 19 of the Municipal Systems Act 32 of 2000

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That the schedule of meetings for July 2018 to June 2019 be approved, subject to the following:

[i] That the Speaker in consultation with the Municipal Manager, may advance or postpone the date of scheduled Ordinary Municipal Council Meetings;
[ii] That the Executive Mayor may, in consultation with the Municipal Manager, advance or postpone the dates of scheduled Mayoral Committee Meetings;
[iii] That the Chairpersons of the respective Portfolio Committees (in consultation with the Executive Mayor) Audit Committee and Municipal Public Accounts Committee may advance or postpone the dates of relevant scheduled meetings in consultation with the Municipal Manager;

[b] That the advancement and/or postponement as mentioned in [a] [i], [ii] and [iii] above are subject to proper notice including reasons for the applicable advancement and/or postponement being given to members of such Municipal Council/ Committee;

[c] That the Speaker and Chairpersons of the Portfolio Committees (in consultation with the Executive Mayor), Audit Committee and Municipal Public Accounts Committee (in consultation with the Municipal Manager) and subject to [b] above, may call relevant Special Meetings if and when required to do so.

File Number: 9/1/2/14
Execution: Municipal Manager
Manager: Administration
<table>
<thead>
<tr>
<th>MON</th>
<th>TUE</th>
<th>WED</th>
<th>THUR</th>
<th>FRI</th>
<th>SAT</th>
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**KNYSNA MUNICIPALITY MEETING SCHEDULE - JULY 2018 TO JUNE 2019**

**2018**

<table>
<thead>
<tr>
<th>JULY</th>
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<td>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30</td>
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<tr>
<td>31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30</td>
</tr>
</tbody>
</table>

**AUGUST**

| 30 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |
| 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |

**SEPTEMBER**

| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |
| 30 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |

**OCTOBER**

| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |
| 30 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |

**NOVEMBER**

| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |
| 30 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |

**DECEMBER**

| 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |
| 30 31 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 23 24 25 26 27 28 29 30 |

**2019**

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<th>JANUARY</th>
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<th>MARCH</th>
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<tr>
<td>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31</td>
</tr>
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</table>
### Special Municipal Council Meeting Agenda

**Date:** 17 July 2018

<table>
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<tr>
<th>April</th>
<th>May</th>
<th>June</th>
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<tr>
<td>1</td>
<td>1</td>
<td>1&lt;br&gt;<strong>WNRDH Day</strong>&lt;br&gt;Municipal Council 9:00</td>
</tr>
<tr>
<td>2</td>
<td>3</td>
<td>4&lt;br&gt;<strong>Finance, Governance and Economic Development Committee Meeting</strong> (to commence at 9:00)</td>
</tr>
<tr>
<td>3</td>
<td>6</td>
<td>6&lt;br&gt;Planning &amp; Environment Committee Meeting (to commence at 9:00)&lt;br&gt;Mayoral Committee Meeting (to commence at 9:00)</td>
</tr>
<tr>
<td>4</td>
<td>9</td>
<td>8&lt;br&gt;Planning &amp; Environment Committee Meeting (to commence at 9:00)&lt;br&gt;Mayoral Committee Meeting (to commence at 9:00)</td>
</tr>
<tr>
<td>5</td>
<td>12</td>
<td>11&lt;br&gt;Planning &amp; Environment Committee Meeting (to commence at 9:00)&lt;br&gt;Mayoral Committee Meeting (to commence at 9:00)</td>
</tr>
<tr>
<td>6</td>
<td>15</td>
<td>14&lt;br&gt;Planning &amp; Environment Committee Meeting (to commence at 9:00)&lt;br&gt;Mayoral Committee Meeting (to commence at 9:00)</td>
</tr>
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<td>18</td>
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</table>
REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To recompose the Section 80 of the Local Government: Municipal Structured Act, 1998, Committees of the Municipal Council (Portfolio Committees) to assist the Executive Mayor. Furthermore, to recompose the Committee of the Municipal Council established in terms of Section 32(2)(a)(ii) and 32(2)(b) of the Local Government: Municipal Finance Management Act, 2003 (Municipal Public Accounts Committee – MPAC).

BACKGROUND

The Municipal Council appointed the members of the Portfolio Committee’s and MPAC per Item C01/08/16 during the Ordinary Municipal Council meeting held on 25 August 2016.

Since the mentioned meeting, the mentioned Committees composition changed a number of times due to the recomposition of the Mayoral Committee.

The composition and thus current members of said Committees, prior to the election of Cllr Willemse as the Executive Mayor, are as follows:

**MPAC**

**CURRENT MEMBERS**

Cllr Gombo – Chairperson
Cllr Croutz – [ANC]
Cllr Salaze [KUC]
Cllr Tyokolo [DA]
Cllr Willemse [DA]
Mr R Barrell – [Ex-Officio]

**FINANCE AND GOVERNANCE**

**CURRENT MEMBERS**

Cllr Weideman – [DA] – Chairperson
Cllr Tyokolo [DA]
Cllr Myers [DA]
Cllr Croutz [ANC]
Cllr Matiwane [ANC]
Cllr van Aswegen [COPE]
TECHNICAL SERVICES

CURRENT MEMBERS

Cllr Davis [DA] – Chairperson
Cllr Kwinana [DA]
Cllr Young [DA]
Cllr Tsengwa [ANC]
Cllr Naki [ANC]
Cllr van Aswegen [COPE]

PLANNING DEVELOPMENT AND INTEGRATED HUMAN SETTLEMENTS

CURRENT MEMBERS

Cllr Waxa – Chairperson
Cllr Kwinana [DA]
Cllr Pofadder [DA]
Cllr Arends [DA]
Cllr Molosi [ANC]
Cllr Skosana [ANC]

COMMUNITY SERVICES

CURRENT MEMBERS

Cllr Arends [ACDP] – Chairperson
Cllr Pofadder [DA]
Cllr Willemse [DA]
Cllr Skosana [ANC]
Cllr Gombo [ANC]
Cllr Salaze [KUC]

The current Executive Mayor, Cllr Willemse and the current Deputy Executive Mayor, Cllr van Aswegen were duly elected during a Special Municipal Council meeting held on 6 June 2018 as a result of a successful Motion of No Confidence passed against the former Executive Mayor, Cllr Bouw-Spies.

The current Executive Mayor appointed a new Mayoral Committee of which the Municipal Council noted the same per Item C14/07/18 during the Ordinary Municipal Council meeting held on 2 July 2018.

The current Mayoral Committee and their portfolios, are thus as follows:

Executive Deputy Mayor, Cllr E van Aswegen – Finance, Governance and Local Economic Development;
Cllr P Myers – Technical Services;
Cllr P Myers – Planning and Integrated Human Settlements; and
Cllr M Salaze – Community Services.

Due to the change in the Mayoral Committee (Chairpersons have changed) the Municipal Council needs to recompose the said Committees.
DISCUSSION

In order to adhere to the latest good governance practices, the following points of departure for the appointment of members to the Committees are proposed:

- Each part-time Councillor should only serve on 1 (one) Committee;
- The composition of Portfolio Committees should reflect parties and interests to be fairly represented (S160(8)(a) of the Constitution);
- Recommendations from Committee’s should ideally be on a consensus basis.

In order to assist in the appointment of members to the mentioned Committees, the following table is provided:

MPAC

<table>
<thead>
<tr>
<th>CURRENT MEMBERS</th>
<th>PROPOSED MEMBERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cllr Gombo – Chairperson</td>
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<tr>
<td>Cllr Croutz – [ANC]</td>
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FINANCE AND GOVERNANCE

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TECHNICAL SERVICES

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</tbody>
</table>
PLANNING DEVELOPMENT AND INTEGRATED HUMAN SETTLEMENTS

CURRENT MEMBERS PROPOSED MEMBERS
Cllr Waxa – Chairperson Cllr P Myers – Chairperson
Cllr Molosi [ANC] Cllr Skosana [ANC]

COMMUNITY SERVICES

CURRENT MEMBERS PROPOSED MEMBERS
Cllr Arends [ACDP] Cllr Salaze – Chairperson
Cllr Gombo [ANC] Cllr Salaze [KUC]

It should be noted that the above table only provide for 19 Councillors because the Executive Mayor and Speaker are not included in the same.

OTHER COMMITTEES OF THE MUNICIPAL COUNCIL

It must be noted that the composition of the following Committees of the Municipal Council are not addresses in this item:

Disciplinary Committee (Item 14(1)(b) of the Code of Conduct for Councillors)
Chairperson: Cllr Myers
Cllr Weideman
Cllr Tsengwa
Cllr Willemse
Cllr Pofadder
Cllr Arends

Audit Committee Selection Committee (Section 79 of the Local Government: Municipal Structures Act, 1998):
Chairperson: Cllr Myers
Cllr Willemse
Cllr Matiwane

Grant-in-Aid Committee (Section 79 of the Local Government: Municipal Structures Act, 1998):
Chairperson: Cllr Bouw-Spies
Cllr Davis
Cllr Waxa
Cllr Molosi
Appeals Committee (Section 62 of the Local Government: Municipal Structures Act, 1998):

Cllr Pofadder
Cllr Salaze
Cllr Skosana

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That the report on the recomposition of the Portfolio Committees and Municipal Public Accounts Committee (MPAC), be noted;

[b] That in terms of Section 79 of the Local Government Municipal: Structures Act, 1998, the following members of the Portfolio Committees, to assist the Executive Mayor as envisaged in Section 80 of the Act mentioned herein, are hereby appointed:

FINANCE AND GOVERNANCE

<table>
<thead>
<tr>
<th>FORMER MEMBERS</th>
<th>NEW MEMBERS</th>
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</table>
COMMUNITY SERVICES

FORMER MEMBERS

Cllr Arends [ACDP]
Cllr Pofadder [DA]
Cllr Willems [DA]
Cllr Skosana [ANC]
Cllr Gombo [ANC]
Cllr Salaze [KUC]

NEW MEMBERS

Cllr Salaze – Chairperson

[c] That the following Municipal Public Accounts Committee (MPAC) in terms of Section 79 of the Local Government: Municipal Structures Act, 1998, as the Committee envisaged in Sections 32(2)(a)(ii) and 32(b) of the Local Government: Municipal Finance Management Act, 2003, to perform the functions and duties mentioned in Part I of the Delegation Register, be hereby appointed:

MPAC

FORMER MEMBERS

Cllr Gombo – Chairperson
Cllr Croutz – [ANC]
Cllr Salaze [KUC]
Cllr Tyokelo [DA]
Cllr Willems [DA]
Mr R Barrell – [Ex-Officio]

NEW MEMBERS

…………………….. – Chairperson
………………………..
………………………..
………………………..
Mr R Barrell – [Ex-Officio]

[d] That if needed, the Municipal Manager submit a report regarding the recomposition of the following Committees of the Municipal Council, to a following meeting of the Municipal Council:

- Disciplinary Committee
- Audit Committee Selection Committee;
- Grant-in-Aid Committee; and
- Appeals Committee.

File Number: 9/1/2/14
Execution: Municipal Manager
Director: Planning and Development
Director: Financial Services
Acting Director: Corporate Services
Acting Director: Community Services
Acting Director: Technical Services
Manager: Administration
REPORT FROM DIRECTOR: PLANNING AND DEVELOPMENT

PURPOSE OF REPORT

To obtain the necessary approval from the Municipal Council to transfer funds within housing projects as per Council’s Virement Policy.

BACKGROUND

The provincial human settlements department approved multi-year projects to be implemented by Knysna Municipality in various areas. The provision of 359 service sites to the Hornlee community forms part of the approved Human settlements development grant.

The Provincial Department of Human Settlement approved the installation of services to 359 erven in Hornlee. The original approval from the Provincial Department of Human Settlements did not include any land rehabilitation on these erven.

An application was submitted to the Provincial Department of Human Settlements for the land rehabilitation on the erven and the application was approved on 30 January 2018 for the land rehabilitation on 312 erven. (See attached Resolution)

B&V Contractors were appointed for the installation of services and rehabilitation of 86 erven originally earmarked for BNG houses for the amount of R21,657,790.11 including VAT. The original number of sites earmarked for BNG houses also increased from 86 sites to 155 sites due to the Mayoral Committee’s decision taken after they had a site inspection.

DISCUSSION

- Due to steep topography, seepage and groundwater and soil erodibility land rehabilitation are of the utmost importance to protect property and human lives.
- Land rehabilitation on these erven will also create a safer environment for the beneficiaries of these erven.
- Terra force walls or gabion are not the desired retaining wall option because of the limited space between the erven, concrete retaining walls is therefore the preferred option.
- Land rehabilitation on some of the erven was included in the tender that was awarded to B&V Contractor.
- The rates for the construction of a further 91 erven will be same as the rates in the current tender.
- There would have been risks to the project if did not continue before funds were transferred but the contractor agreed to continue while funds needed to be transferred.
- The payment of funds is urgently needed to ensure that invoices can be paid so that the contractor does not incur cash flows problems for the remainder of the project.
Council’s Virement Policy Provides for the virement of funds where it does not change Council’s strategic outcomes. The project concerned is part of the IDP.

**FINANCIAL IMPLICATION**

Section 9.2 of Council’s Virement Policy Provides that the virement of funds in excess of R500 000 must be approved by Council. An amount of R 3,556,180.00 is required to settle the payment to the supplier. The department was unable to spend the entire grant allocation for the top structure projects due to unexpected delays in the materials procurement process and unspent operational allocations, as well as savings on the Vision 2002 projects will be able to cover this transfer.

**RELEVANT LEGISLATION**

Municipal Finance Management Act  
Virement Policy

**RECOMMENDATION OF THE MUNICIPAL MANAGER**

[a] That the contents of the report regarding the virement of funds within housing projects be noted; and

[b] That approval be granted for the transfer of R 3,556,180.00 within housing projects.

**ADDENDUM**

Virement Application

File Number: 9/1/2/13  
Execution: Director: Planning and Development  
Manager: Integrated Human Settlements  
Chief Financial Officer  
Manager: Budget
The Municipal Manager  
Knysna Municipality  
P O Box 21  
KNYSNA  
6570

Attention: Mr M Penxa

HORNLEE HOUSING PROJECT: 312 SUBSIDIES: APPLICATION FOR (I) THE INCREASE OF THE PLANNING APPROVAL FROM 359 TO 688 SITES (II) REDUCTION IN SITES FOR CONDITIONAL APPROVAL FROM 359 TO 312 AND (III) REVISED TRANCHE 1.1 PAYMENT AND TO APPLY THE PRINCIPLES OF THE UPGRADE OF INFORMAL SETTLEMENTS PROGRAMME ON AN INTEGRATED RESIDENTIAL DEVELOPMENT PROGRAMME (IRDP) PROJECT: PROJECT NO. 3482.01 W15120001

I have the pleasure to inform you that your application has been approved per resolution number 18/06 dated 30 January 2018 as set out below:

(a) The revised financial details for Planning and Conditional approval to the project for the installation of 312 “A Grade” services in the subsidy amount of **R 25 554 728.00**; [i.e. R16 765 703.62 previously approved INCREASED by **R 8 789 024.38**]; (based on the 2014/2015 subsidy quantum); comprised as follows:

<table>
<thead>
<tr>
<th>Phase</th>
<th>Units</th>
<th>Category</th>
<th>Quantum 2014/15</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Planning</em></td>
<td>688</td>
<td>Tranche 1.1 &amp; 1.2 (Indirect costs)</td>
<td>R 3 779.00</td>
<td>R 2 599 952.00</td>
</tr>
<tr>
<td>Services</td>
<td>177</td>
<td>Services (BNG) (Detailed design fees)</td>
<td>R 2 778.00</td>
<td>R 491 706.00</td>
</tr>
<tr>
<td>Services</td>
<td>135</td>
<td>Services (FLISP) (Detailed design fees)</td>
<td>R 2 778.00</td>
<td>R 375 030.00</td>
</tr>
<tr>
<td>Services</td>
<td>312</td>
<td>Direct costs</td>
<td>R 37 070.00</td>
<td>R 11 565 840.00</td>
</tr>
<tr>
<td>Services</td>
<td>312</td>
<td>Geo-tech Variance</td>
<td>R 8 725.00</td>
<td>R 2 722 200.00</td>
</tr>
<tr>
<td>Services</td>
<td>312</td>
<td>Land Rehabilitation</td>
<td>R 7 800 000.00</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>312</strong></td>
<td></td>
<td><strong>R 25 554 728.00</strong></td>
<td></td>
</tr>
<tr>
<td>Less funding previously paid as per HSS</td>
<td></td>
<td></td>
<td>R 13 423 727.00</td>
<td></td>
</tr>
<tr>
<td><strong>Total funding available to the project</strong></td>
<td></td>
<td></td>
<td><strong>R 12 131 001.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

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27 Wale Street, Cape Town, 8001  
tel: +27 21 483 8407  fax: +27 21 483 5433  
HUMAN SETTLEMENT PROJECT ADMINISTRATION

Private Bag X9083, Cape Town, 8000  
Nolusindiso.Bobelo@westerncape.gov.za  
www.westerncape.gov.za
(b) The increase and revised financial details of the Planning phase and the release of Tranche Payment 1.1 and 1.2 in the amount of R2 599 952.00; [i.e. R 1 356 542.53 previously approved INCREASED by R1 243 409.47]; (based on the 2014/2015 subsidy quantum);

Tranche 1.1: 688 x R1090.53
Tranche 1.2 688 x R2688.14
Total 688 x R3779.00 (rounded) = R2 599 952.00 (i)

**NOTE:**

Tranche 1.2 amount would be released upon receipt of the Conditional approval application or submission of proof containing amongst others, the following deliverables:

- Confirmation of Environmental Authorisation;
- Confirmation of LUPO approval;
- Social compact agreement and Project viability cost estimates; and
- Sustainability report including house typologies.

(c) Reduction from 359 to 312 sites, the inclusion of land rehabilitation costs and revised financial details for Conditional approval to the project for the installation of 312 “A Grade” services in the subsidy amount of R 22 954 776.00; [i.e. R16 765 703.62 previously approved INCREASED by R 6 189 072.38]; (based on the 2014/2015 subsidy quantum);

(ii) (BNG sites)

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>SITES</th>
<th>AMOUNT PER SITE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsidy (Indirect costs- detailed design)</td>
<td>177</td>
<td>R 2778.00</td>
<td>R 491 706.00</td>
</tr>
<tr>
<td>Subsidy (Direct costs)</td>
<td>177</td>
<td>R 37 070.00</td>
<td>R 6 561 390.00</td>
</tr>
<tr>
<td>Geo – Tech</td>
<td>177</td>
<td>R 8 725.00</td>
<td>R 1 544 325.00</td>
</tr>
<tr>
<td><strong>Sub-total</strong></td>
<td>177</td>
<td>R 48 573.00</td>
<td>R 8 597 421.00</td>
</tr>
</tbody>
</table>

**NOTE:**

An amount not exceeding R52 352.00 (R 48 573.00 + R 3779.00) may be utilised for servicing the erven. If this amount is exceeded, Your Council is liable for the difference and not the Beneficiary.

(ii) (FLISP sites)

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>SITES</th>
<th>AMOUNT PER SITE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsidy (Indirect costs- detailed design)</td>
<td>135</td>
<td>R 2778.00</td>
<td>R 375 030.00</td>
</tr>
<tr>
<td>Subsidy (Direct costs)</td>
<td>135</td>
<td>R37 070.00</td>
<td>R 5 004 450.00</td>
</tr>
<tr>
<td>Geo – Tech</td>
<td>135</td>
<td>R 8 725.00</td>
<td>R 1 177 875.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>135</td>
<td>R 48 573.00</td>
<td>R 6 557 355.00</td>
</tr>
</tbody>
</table>
NOTE:

An amount not exceeding R52 352.00 (R 48 573.00 + R 3779.00) may be utilised for servicing the erven. If this amount is exceeded, Your Council is liable for the difference and not the Beneficiary.

NOTE:

The Acting Director: Human Settlement Regional Support - Eden recommended a Geo-technical Variance of R8 725.00 per erf for services, based on the 2014/2015 quantum.

(iii) (Land Rehabilitation)

<table>
<thead>
<tr>
<th>CATEGORY</th>
<th>SITES</th>
<th>AMOUNT PER SITE</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subsidy</td>
<td>312</td>
<td>R25 000.00</td>
<td>R7 800 000.00</td>
</tr>
<tr>
<td>Total</td>
<td>312</td>
<td>R25 000.00</td>
<td>R7 800 000.00</td>
</tr>
</tbody>
</table>

TOTAL FOR = [i] + [ii] + [iii] +[iv]

R 2 599 952.00
R 8 597 421.00
R 6 557 355.00
R 7 800 000.00
R 25 554 728.00

WITH THE FOLLOWING STANDARD CONDITIONS:

(d) All the other previously approved conditions to remain unchanged and in effect;

(e) The existing Contract Agreement to be amended accordingly; and

WITH FURTHER CONDITIONS:

(f) Your Council to ensure that the upgrading of all bulk and connector services occur prior to occupation of the houses.

Yours sincerely

HEAD OF DEPARTMENT: HUMAN SETTLEMENTS
DATE: 30/01/2018
A saving on an amount budgeted for a specific purpose may be applied to meet budgeted expenditure for another purpose and such virement, not exceeding R200,000 in a specific case and within a service department, shall be permitted where the Head of Department and the Chief Financial Officer agree. No saving on an amount budgeted for a specific purpose, which exceeds R200,000 or which is not in the same department, may be applied to meet expenditure for another purpose, whether budgeted or not, without the approval of the Accounting Officer for amounts up to R500,000 and the Council for amounts exceeding R500,000. (Virement Policy adopted under SC/06/12)

**Multiple Virements:**

<table>
<thead>
<tr>
<th>Virement #</th>
<th>Old Vote Number</th>
<th>Old Description</th>
<th>New Vote Code</th>
<th>New Description</th>
<th>Budget</th>
<th>YTD ACTUAL</th>
<th>Commitments</th>
<th>AVAILABLE</th>
<th>TRANSFER IN</th>
<th>TRANSFER OUT</th>
<th>New Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td>05/07/2018</td>
<td>33-48-30-7726</td>
<td>Grant - W C P A</td>
<td>33-48-30-7726</td>
<td>Grant - W C P A</td>
<td>704,000</td>
<td>1,087,495</td>
<td>1,087,495</td>
<td>1,087,495</td>
<td>0</td>
<td>0</td>
<td>1,087,495</td>
</tr>
</tbody>
</table>

**Additional R5.2 Million for the additional scope of work on Hornlee Project was received after the February adjustments budget approved and tabled. This virement is to accommodate the urgent outstanding payments due 30 June and the Hornlee additional funds will be adjusted accordingly.**

**Proposed & Recommended: HCD**

**Direction:**

**Municipal Manager:**

**Mayor:**

**Verified by:**
REPORT ON THE CHANGES IN THE FUNCTIONS OF THE MAYORAL COMMITTEE AND SECTION 80 COMMITTEE FOR FINANCE AND GOVERNANCE

REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT
To report to the Municipal Council on changes in the functions of the Mayoral Committee and Section 80 Committee for Finance & Governance.

BACKGROUND
To inform the Municipal Council on changes in the functions of the Mayoral Committee. The following line departments which currently report directly to the Office Executive Mayor and to the Mayoral Committee, will in future directly report to the Finance & Governance Section 80 Committee, these changes will be accompanied with the relevant delegations:

- Tourism;
- Economic Development;
- Integrated Development Planning;

The following line departments which currently report directly to the Office Executive Mayor and to the Mayoral Committee, will in future directly report to the Community Services Section 80 Committee, these changes will be accompanied with the relevant delegations:

- Gender, Youth and Disability (Social Development).

The following functions revert from the Office of the Municipal Manager, to the Planning & Development Directorate:

- Tourism

RELEVANT LEGISLATION

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That the report on the changes in the functions of the Mayoral Committee, Section 80 Committees for Finance & Governance & Community Services be noted

[b] That the Tourism function revert to the Planning & Development Directorate; and;

[c] That the System of Delegations be amended accordingly to reflect the above changes.
APPENDIX / ADDENDUM

Annexure “A” Extracts from System of Delegation
File Number: 9/1/2/14
Execution: Municipal Manager
Manager: Legal Services
REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

The purpose of this report is to obtain a Municipal Council resolution to petition the Western Cape MEC of Local Government to amend the Establishment of the Knysna Municipality (WC048) in order to designate the Chairperson of MPAC as a full-time Councillor.

BACKGROUND

The Municipal Council resolved at its Inaugural Meeting held on 15 August 2016, per item C12/08/16, that only the following political office bearers be designated as full-time Councillors:

- Speaker
- Executive Mayor
- Deputy Executive Mayor
- Members of the Mayoral Committee as appointed by the Executive Mayor.

The above-quoted Item is attached hereto as “Annexure A”.

The above-mentioned Item concisely indicates that Paragraph 9 of the Knysna Municipality Establishment Notice (Section 12, Notice, also commonly referred to as our birth certificate), as amended, determines which political office bearers can be designated as full-time Councillors. Said paragraph 9 does not refer to the Chairperson of MPAC and therefore the same cannot be designated as a full-time Councillor.

Currently the establishment, functions, roles and responsibilities of MPAC (as a committee of the Municipal Council) can be found in Sections 32(2)(a)(ii) and 32(2)(b) and 129 (Oversight Report) of the Local Government: Municipal Finance Management Act, 2003, which is attached hereto as “Annexure B”.

In order to properly formalize the establishment and functions of MPAC, the National Minister of Cooperative Governance and Traditional Affairs publish a Local Government: Municipal Structures Amendment Bill of which a new Section 79A is proposed. The relevant portion of the Bill dealing with MPAC is attached hereto as “Annexure C”.

DISCUSSION

There can be no doubt that MPAC is an important committee of the Municipal Council as is evident from the proposed amendment (Bill) as referred to above.

In order to strengthen the importance of MPAC, the opinion is offered that the Chairperson of the same should be a full-time Councillor.
Therefor it is proposed that the Western Cape MEC for Local Government be petitioned to amend the Establishment Notice of Knysna Municipality (WC048) in order to enable the Municipal Council to designate the Chairperson of MPAC as a full-time Councillor.

FINANCIAL IMPLICATIONS

Currently the Mayoral Committee only consist of three (3) members. The relevant directions of the MEC implies that the Mayco can consist of five (5) members. Currently there is thus a saving of the remuneration of two (2) full-time Councillors (difference between part-time and full-time remuneration).

The designation of the Chairperson of MPAC will thus not create an additional expenditure because of the theoretical savings mentioned above.

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That the report regarding the designation of the MPAC Chairperson as a Full-time Councillor, be noted;

[b] That the Western Cape MEC for Local Government, the Honorable Minister Bredell, be petition to further amend the Knysna Municipality (WC048) Establishment Notice, Provincial Notice 504/2000 published in the Provincial Gazette Extraordinary No 5592 dated 22 September (the principal Notice) in terms of section 16 (1)(d) of the Local Government: Municipal Structure Act, 1998, for the 8th (Eighth) time as follows:

“Full-time Councillors

9. The Local Authority may designate the following Councillors as full-time Councillors:

(a) The executive mayor;
(b) Members of the mayoral committee (including the deputy executive mayor);
(c) The speaker; and
(d) The chairperson of the municipal public accounts committee.”

[c] That the petition mentioned in [b] above be submitted under the hand of the Executive Mayor.

APPENDIX / ADDENDUM

Annexure A – Item C12/08/16
Annexure B – MFMA Section 32 and 129
Annexure C – Local Government: Municipal Structures Amendment Bill

File Number: 9/1/2/14
Execution: Executive Mayor
Municipal Manager
Manager : Administration
12.

C12/08/16  APPOINTMENT OF FULL TIME COUNCILLORS

REPORT FROM THE DIRECTOR CORPORATE SERVICES

PURPOSE OF THE REPORT

The purpose of the report is for the Municipal Council to designate full-time Councillors.

BACKGROUND

The Establishment Notice referred to in an item earlier stated in Paragraph 9 that the Executive Mayor, members of the executive committee (read mayoral committee because of paragraph 6 thereof) and the Speaker may be designate as full-time Councillors.

DISCUSSION

Due to the fact that the Deputy Executive Mayor is, in terms of Section 60(2) [as quoted in a previous item] of the Structures Act, an ex officio member of the Mayoral Committee, he/she can thus also be designated as a full-time Councillor.

The opinion is herewith offered that the Speaker, Executive Mayor and Mayoral Committee (including the Deputy Executive Mayor) be designated as full-time Councillors in order to fulfill their respective functions and powers effectively and to provided executive leadership.

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That the report regarding the appointment of full-time Councillors, be noted;

[b] That the following political office bearers be designated as full-time Councillors in terms of paragraph 9 of the Establishment Notice of Knysna Municipality, as amended:

Speaker
Executive Mayor
Deputy Executive Mayor
Members of the Mayoral Committee as appointed by the Executive Mayor.

File Number:  9/1/2/9
Execution:  Municipal Manager
Director: Corporate Services
(3) If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

Unspent funds

30. The appropriation of funds in an annual or adjustments budget lapses to the extent that those funds are unspent at the end of the financial year to which the budget relates, except in the case of an appropriation for expenditure made for a period longer than that financial year in terms of section 16(3).

Shifting of funds between multi-year appropriations

31. When funds for a capital programme are appropriated in terms of section 16(3) for more than one financial year, expenditure for that programme during a financial year may exceed the amount of that year’s appropriation for that programme, provided that—
   (a) the increase does not exceed 20 per cent of that year’s appropriation for the programme;
   (b) the increase is funded within the following year’s appropriation for that programme;
   (c) the municipal manager certifies that—
      (i) actual revenue for the financial year is expected to exceed budgeted revenue; and
      (ii) sufficient funds are available for the increase without incurring further borrowing beyond the annual budget limit;
   (d) prior written approval is obtained from the mayor for the increase; and
   (e) the documents referred to in paragraphs (c) and (d) are submitted to the relevant provincial treasury and the Auditor-General.

Unauthorised, irregular or fruitless and wasteful expenditure

32. (1) Without limiting liability in terms of the common law or other legislation—
   (a) a political office-bearer of a municipality is liable for unauthorised expenditure if that office-bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;
   (b) the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);
   (c) any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or
   (d) any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

(2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—
   (a) in the case of unauthorised expenditure, is—
      (i) authorised in an adjustments budget; or
      (ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
   (b) in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

(3) If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, is—
expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

(4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—
(a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
(b) whether any person is responsible or under investigation for such unauthorised. irregular or fruitless and wasteful expenditure; and
(c) the steps that have been taken—
(i) to recover or rectify such expenditure; and
(ii) to prevent a recurrence of such expenditure.

(5) The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.

(6) The accounting officer must report to the South African Police Service all cases of alleged—
(a) irregular expenditure that constitute a criminal offence; and
(b) theft and fraud that occurred in the municipality.

(7) The council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if—
(a) the charge is against the accounting officer; or
(b) the accounting officer fails to comply with that subsection.

(8) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may regulate the application of this section by regulation in terms of section 168.

Contracts having future budgetary implications

33. (1) A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if—
(a) the municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved—
(i) has, in accordance with section 21A of the Municipal Systems Act—
(aa) made public the draft contract and an information statement summarising the municipality’s obligations in terms of the proposed contract; and
(bb) invited the local community and other interested persons to submit comments or representations in respect of the proposed contract; and
(ii) has solicited the views and recommendations of—
(aa) the National Treasury and the relevant provincial treasury; and
(bb) the national department responsible for local government; and
(cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;
(b) the municipal council has taken into account—
(i) the municipality’s projected financial obligations in terms of the proposed contract for each financial year covered by the contract;
(ii) the impact of those financial obligations on the municipality’s future municipal tariffs and revenue;
(iii) any comments or representations on the proposed contract received from the local community and other interested persons; and
(2) The mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality’s sole or shared control.

(3) If the mayor, for whatever reason, is unable to table in the council the annual report of the municipality, or the annual report of any municipal entity under the municipality’s sole or shared control, within seven months after the end of the financial year to which the report relates, the mayor must—

(a) promptly submit to the council a written explanation referred to in section 133(1)(a) setting out the reasons for the delay, together with any components of the annual report listed in section 121(3) or (4) that are ready; and

(b) submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.

(4) The Auditor-General may submit the financial statements and audit report—

(a) of a municipality directly to the municipal council, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the mayor fails to comply with subsection (2) or (3); or

(b) of a municipal entity directly to the parent municipality, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the accounting officer of the entity fails to comply with subsection (1).

(5) Immediately after an annual report is tabled in the council in terms of subsection (2), the accounting officer of the municipality must—

(a) in accordance with section 21A of the Municipal Systems Act—

(i) make public the annual report; and

(ii) invite the local community to submit representations in connection with the annual report; and

(b) submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.

(6) Subsection (5), with the necessary modifications as the context may require, is also applicable if only components of the annual report are tabled in terms of subsection (3).

Compliance to be monitored

128. The accounting officer of a parent municipality must—

(a) monitor whether the accounting officer of any municipal entity under the sole or shared control of the municipality has complied with sections 121(1) and 126(2); and

(b) establish the reasons for any non-compliance; and

(c) promptly report any non-compliance, together with the reasons for such non-compliance, to the council of the parent municipality, the relevant provincial treasury and the Auditor-General.

Oversight reports on annual reports

129. (1) The council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality’s sole or shared control, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing the council’s comments on the annual report, which must include a statement whether the council—

(a) has approved the annual report with or without reservations;

(b) has rejected the annual report; or

(c) has referred the annual report back for revision of those components that can be revised.

(2) The accounting officer must—

(a) attend council and council committee meetings where the annual report is discussed, for the purpose of responding to questions concerning the report; and
Act No. 56, 2003
LOCAL GOVERNMENT:
MUNICIPAL FINANCE MANAGEMENT ACT, 2003

(b) submit copies of the minutes of those meetings to the Auditor-General, the
relevant provincial treasury and the provincial department responsible for
local government in the province.

(3) The accounting officer must in accordance with section 21A of the Municipal
Systems Act make public an oversight report referred to in subsection (1) within seven
days of its adoption.

(4) The National Treasury may issue guidelines on—
(a) the manner in which municipal councils should consider annual reports and
conduct public hearings; and
(b) the functioning and composition of any public accounts or oversight
committees established by the council to consider an annual report.

(5) No guidelines issued in terms of subsection (4) are binding on a municipal council
unless adopted by the council.

(6) This section, with the necessary modifications as the context may require, is also
applicable if only components of the annual report were tabled in terms of section
127(3).

Council meetings open to public and certain public officials

130. (1) The meetings of a municipal council at which an annual report is to be
discussed or at which decisions concerning an annual report are to be taken, must be
open to the public and any organs of state, and a reasonable time must be allowed—
(a) for the discussion of any written submissions received from the local
community or organs of state on the annual report; and
(b) for members of the local community or any organs of state to address the
council.

(2) Representatives of the Auditor-General are entitled to attend, and to speak at, any
council meeting referred to in subsection (1).

(3) This section, with the necessary modifications as the context may require, is also
applicable if only components of the annual report were tabled in terms of section
127(3).

Issues raised by Auditor-General in audit reports

131. (1) A municipality must address any issues raised by the Auditor-General in an
audit report. The mayor of a municipality must ensure compliance by the municipality
with this subsection.

(2) The MEC for local government in the province must—
(a) assess all annual financial statements of municipalities in the province, the
audit reports on such statements and any responses of municipalities to such
audit reports, and determine whether municipalities have adequately ad-
dressed any issues raised by the Auditor-General in audit reports; and
(b) report to the provincial legislature any omission by a municipality to
adequately address those issues within 60 days.

Submissions to provincial legislatures

132. (1) The following documents must be submitted to the provincial legislature:
(a) The annual report of each municipality and each municipal entity in the
province, or if only components of an annual report were tabled in terms of
section 127(3), those components; and
(b) all oversight reports on those annual reports adopted in terms of section
129(1).

(2) The accounting officer of a municipality must submit the documents referred to in
subsection (1)(a) and (b) to the provincial legislature within seven days after the
municipal council has adopted the relevant oversight report in terms of section 129(1).

(3) The MEC for local government in a province must monitor whether municipalities
in the province comply with subsection (2).

(4) A provincial legislature may deal with the documents referred to it in terms of
subsection (1) in accordance with its constitutional powers.
LOCAL GOVERNMENT:
MUNICIPAL STRUCTURES
AMENDMENT BILL

(As introduced in the National Assembly (proposed section 75); prior notice of introduction and explanatory summary of bill published in Government Gazette No. 40017 of 25 May 2016)
(The English text is the official text of the Bill)

(MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS)

[B 19—2018]

ISBN 978-1-4850-0485-1
writing and on good cause shown, request the MEC, responsible for local
government in the province concerned, for an extension.

(b) The MEC must forward the request as well as the reasons for
granting or refusing the extension to the Minister within 14 days after
making the decision.”.

Insertion of section 79A in Act 117 of 1998

24. The following section is hereby inserted in the principal Act after section 79:

"Establishment of Municipal Public Accounts Committee

79A. (1) A municipal council must establish a committee called the
Municipal Public Accounts Committee.

(2) The mayor or executive mayor, deputy mayor or executive deputy
mayor, any member of the executive committee, any member of the
mayoral committee, speaker, whip and municipal officials are not allowed
to be members of the Committee;

(3) The municipal council must determine the functions of the
committee, which must include the following:

(a) review the Auditor-General reports and comments of the Management
and the Audit Committee and make recommendations to the municipal
council;

(b) review internal audit reports together with comments from the
Management and Audit Committee and make recommendations to the
municipal council;

(c) initiate and develop the oversight report contemplated in section 129
of the annual report as required in terms of section 129 of the Local
Government: Municipal Finance Management Act, 2003 (Act No. 56
of 2003);

(d) attend to and make recommendations to the municipal council on any
matter referred to it by the municipal council, executive committee, a
committee of the council, a member of this committee, a councillor
and the municipal manager; and

(e) on its own initiative but subject to the direction of the municipal
council, investigate and report to the municipal council on any matter
affecting the municipality.

(4) Reports of the Committee must be submitted to the speaker who must
table such reports in the next meeting of the municipal council.

(5) (a) For the purposes of this section “Audit Committee” means the
audit committee envisaged in section 166 of the Local Government

(b) Each municipality and each municipal entity must establish an audit
committee in accordance with that section.”.

Amendment of section 81 of Act 117 of 1998, as amended by section 121 of Act 32
of 2000, section 5 of Act 33 of 2000 and section 18 of Act 51 of 2002

25. Section 81 of the principal Act is hereby amended by the substitution in subsection
(5) for paragraph (a) of the following paragraph:

“(a) When participating in the proceedings of a municipal council, a traditional
leader is subject to the appropriate provisions of the Code of Conduct set out in
Schedule 1 of the Local Government: Municipal Systems Act, 2000].”.

Amendment of section 85 of Act 117 of 1998, as amended by section 7 of Act 33 of
2000 and section 10 of Act 19 of 2008

26. Section 85 of the principal Act is hereby amended by the deletion of subsections
(3) and (4).

Repeal of section 89 of Act 117 of 1998

27. Section 89 of the principal Act is hereby repealed.
6.10

REPORT FROM THE EXECUTIVE MAYOR

PURPOSE OF THE REPORT

To recommend to the Municipal Council to appoint an Acting Municipal Manager for a period of three months as provided for in Section 54A(1)(b) read with Section 54A(2) and Section 54A(2A)(a) of the Local Government: Municipal Systems Act, 2000.

BACKGROUND

The Municipal Manager, Mr Kam Chetty, resigned from his position, which necessitates the appointment of an Acting Municipal Manager.

FINANCIAL IMPLICATIONS

Funding to cover the expense is available as per the MTREF.

RELEVANT LEGISLATION


RECOMMENDATION OF THE EXECUTIVE MAYOR

[a] That the contents of the report for the appointment of the Acting Municipal Manager, be noted;

[b] That the Municipal Council notes the contents of Section 54A(1)(b) read with Section 54A(2) and Section 54A(2A)(a) of the Local Government: Municipal Systems Act, 2000.

[c] That . . . . . . . . . . . be appointed as Acting Municipal Manager for a period which does not exceed three months, commencing on . . . . . . . . . . . , subject to [d] below; and

[d] That the MEC for Local Government in the Western Cape Province be informed of the appointment in [c] above.

File number: 9/1/2/14
Execution: Acting Municipal Manager
Manager : Human Resource
6.11

**SC11/07/18  PROCESS FOR THE RECRUITMENT AND SELECTION OF THE POSITION OF MUNICIPAL MANAGER**

**REPORT FROM THE EXECUTIVE MAYOR**

**PURPOSE OF THE REPORT**

The purpose of this report is to propose to the Municipal Council the process to be followed with the filling of the position of Municipal Manager which is due to become vacant with effect from 7 August 2018 due to the resignation of Mr K Chetty. It is also to request the Municipal Council to appoint a selection panel for the Recruitment and Selection process for the above post due to become vacant.

**BACKGROUND**

It is of utmost importance that this position be filled as soon as possible to ensure that the top management is fully staffed.

The appointment of a Municipal Manager is regulated by Section 54A of the *Local Government: Municipal Systems Act*, Act 32 of 2000, as well as the *Local Government: Regulations on Employment and Conditions of Employment of Senior Managers*, as promulgated in Government Gazette No.37245, dated 17 January 2014, which sets out the process for recruitment and selection of senior managers (see Annexure A).

In terms of the Regulations, the following principles must be followed:

1. A Senior Manager position must be filled through public advertising, in accordance with the procedures contemplated in Regulation 10 of the mentioned Regulations.
2. Selection must be competence-based to enhance the quality of appointment decisions and to ensure the effective performance by municipalities of their functions.

The Regulations also state that as soon as the position of Municipal Manager becomes vacant, or are due to become vacant, the Executive Mayor must obtain approval from the Municipal Council for filling the post in its next Council Meeting or as soon as it is reasonably possible to do so. A vacant position may not be filled, unless approval to fill the position has been granted by the Municipal Council and the position is sufficiently budgeted for.

**Selection panel**

Council must appoint a selection panel to make recommendations for the appointment of candidates and the panel must consist of at least three and not more than five members, constituted as follows:

(a) The Executive Mayor, who will be the Chairperson or his or her delegate;
(b) A Councillor designated by the Municipal Council; and
(c) At least one other person, who is not a Councillor or a staff member of the Municipality, and who has expertise or experience in the area of the advertised post.
It is advised that the two representative unions, SAMWU and IMATU, be invited to attend the interview process to observe the process. Each union may have one member present during the interview process. It is further advised that representative observers of parties in Council, as well as Independent Councillors are invited to attend the interview process. Each party may have one member present during the interview process.

**APPOINTMENT OF SERVICE PROVIDER TO ASSIST WITH THE PROCESS**

It is proposed that a service provider be appointed to assist with the screening, Recruitment and Selection process, psychometric test and competency assessment.

**PROPOSED TIMEFRAME FOR FILLING OF THE VACANCY**

It is proposed that all attempts be made to adhere to the following proposed timeframes in order to assist with the expedient filling of this vacancy:

- Advertisement to be placed: Sunday 22 Jul 2018 with closing date Monday 6 August 2018
- Shortlisting to be scheduled: a date within two weeks from the 6 August 2018 to 20 August 2018
- Screening to be scheduled: from the 21st August 2018 to 4 September 2018
- Interviews to be scheduled: between 5 September and 21 September 2018

It should be noted that the abovementioned dates are proposed dates and may need to be amended due to practicality and availability of panel members. It should also be noted that the dates are minimum proposed dates within the maximum proposed dates as regulated within the regulations for appointment and conditions of senior managers.

**RELEVANT LEGISLATION**

Local Government: Municipal Systems Act, 2000
Local Government: Regulations on appointment and conditions of employment of Senior Managers

**FINANCIAL IMPLICATIONS**

The position is budgeted for in terms of the MTREF.
RECOMMENDATION OF THE EXECUTIVE MAYOR

[a] That the resignation of Mr Kam Chetty as Municipal Manager, be noted;

[b] That the report regarding the process for the recruitment and selection of the position of Municipal Manager, be noted;

[c] That the contents of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, 2014, as well as Government Gazette regarding the Upper Limits of Total Remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers, be noted;

[d] That it be hereby confirmed, in terms of Regulation 5(2)(a) of the Regulations mentioned in [c] above, that the post of Municipal Manager is required to fulfill the strategic objectives of the Municipal Council;

[e] That approval hereby be granted, in terms of Regulation 7 of the Regulations mentioned in [c] above, to fill the position of Municipal Manager;

[f] That it be noted that the Municipal Council will serve as the Appointment Authority, as stipulated in Regulation 17(2) of the Regulations mentioned in [c] above;

[g] That the selection process as set out in the report mentioned in [a] above, in terms of the Regulations mentioned in [c] above, be adopted;

[h] That the following Selection Panel for the Appointment of a Municipal Manager in terms of Regulation 12(3) of the Regulations mentioned in [c] above, be hereby appointed:

Executive Mayor – Chairperson ………………………
A Councillor designated by the Municipal Council …………………
A person who has expertise or experience as a Municipal Manager;
……………………………………;

[i] That the Municipal Manager be requested to advertise the post of Municipal Manager, as stipulated in Regulation 10 of the Regulations mentioned in [c] above.

File Number: 9/1/2/14
Execution: Executive Mayor
Manager : Human Resource
6.12

REPORT FROM THE MUNICIPAL MANAGER

PURPOSE OF THE REPORT

To request Council to nominate alternate Councillors to serve on the following HR related sub committees of Council which are established in terms of Collective Agreements and Legislation and need to include Councillors for consultative, discussion and oversight purposes.

(i) **Local Labour Forum**

The Local Labour Forum is a Forum consisting of Councillors, Management and Unions with the purpose of meeting monthly to discuss matters of mutual concern pertaining to the workplace.

4 Councillors need to be elected to serve on this Forum with 4 Alternative Councillors.

(ii) **Employment Equity Monitoring Committee**

The Employment Equity Monitoring Committee consists of Councillors, Management, Unions and representatives for designated representative groups with the purpose of meeting quarterly to monitor the implementation of Employment Equity within Knysna Municipality.

2 Councillors need to be elected to serve on the Committee with 2 Alternative Councillors.

(iii) **Training Committee**

The Training Committee consists of Councillors, Management and Unions with the purpose to meeting quarterly to monitor the implementation of the Workplace Skills Plan.

2 Councillors need to be elected to serve on the Committee with 2 Alternative Councillors.

Council at its meeting held on 25 August 2016 resolved to appoint the following representatives on the Human Resources related Committees:

**Labour Forum**

- Councillor V Waxa
- Councillor L Tyokolo
- Councillor C D Croutz
- Councillor E O van Aswegen

**Training Committee**

- Councillor L V Davis
- Councillor M Matiwane
Employment Equity Monitoring Committee

Councillor V Waxa
Councillor T Gombo

RECOMMENDATION OF THE MUNICIPAL MANAGER

[a] That the report from the Municipal Manager regarding the nomination of alternate members on the HR related sub committees of Council, be noted.

[b] That the following Councillors be nominated to serve on the specialist HR related Committees of Council namely:

(1) Labour Forum:

Primary Councillors:Alternate Councillors:
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .

(2) Employment Equity Monitoring Committee:

Primary Councillors:Alternate Councillors:
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .

(3) Training Committee:

Primary Councillors:Alternate Councillors:
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .
Councillor . . . . . . . . . . . . Councillor . . . . . . . . . . . .

File Number: 9/1/2/14
Execution: Municipal Manager
Manager : Human Resources
8. IN COMMITTEE ITEM (see separate agenda)

9. Adjournment

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