

AGENDA

Ordinary Council Meeting

on

THURSDAY

23 MAY 2019

at

19:00



MUNICIPALITY OF SWAKOPMUND



2
Ordinary Council Meeting – 23 May 2019
MUNICIPALITY OF SWAKOPMUND

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14 May 2019

The Mayor and Councillors
Municipality
SWAKOPMUND

Dear Sir / Madam

NOTICE: ORDINARY COUNCIL MEETING

Notice is hereby given of an **ORDINARY COUNCIL MEETING** to be held in the Council Chambers, Municipal Office Building, Swakopmund on:

THURSDAY, 23 MAY 2019 AT 19:00,


A. Boujarsch
CHIEF EXECUTIVE OFFICER
AK

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None.
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12. **REPORTS AND RECOMMENDATIONS OF COMMITTEES OR THE CHIEF EXECUTIVE OFFICER**

None.

13. **DRAFT REGULATIONS AND TARIFFS, IF ANY**

None.

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MINUTES

of an Ordinary Council Meeting held in the Council Chambers, Municipal Head Office, Swakopmund on Thursday, 25 April 2019 at 19:15.

PRESENT:

Councillor M Elago	:	Deputy Mayor
Councillor K N Jason	:	Alternate Chairperson of MC
Councillor A M Marsh	:	Member of Management Committee
Councillor W O Groenewald	:	Alternate Member of MC
Councillor U Kaapehi	:	Member of Council
Alderman E JKhoaseb	:	Member of Council

OFFICIALS:

Mr A Benjamin	:	Chief Executive Officer
Mr M N Ipinge	:	GM: Community Development Services
Mr M P C Swarts	:	GM: Corporate Services & HR
Mr C McClune	:	GM: Engineering Services
Mr H Inaruseb	:	GM: Finance
Ms L Mutenda	:	Acting GM: Health
Ms M Bahr	:	Manager: Human Resources
Mr A Ploorje	:	Manager: Corporate Services
Mr V S Kaulinge	:	Manager: Community Development Services
Mr J Heita	:	Manager: Town Planning
Ms A Gebhardt	:	Corporate Officer: M & C
Ms L Shangadi	:	Job Attachment Student: M & C
Ms W Kaurpeke	:	Switchboard Operator

ALSO PRESENT:

Also present was the Constituency Councillor, Honourable Juuso Kambueshe, five (5) members of the Media, Twenty Three (23) Members of the public.

1. **OPENING BY PRAYER**

Honourable Juuso Kambueshe opened the meeting with a prayer.

2. **ADOPTION OF THE AGENDA OF THE MEETING OF COUNCIL**

On proposal of K N Jason seconded by Councillor A M Marsh it was:

RESOLVED:

That the agenda be adopted.

3. **APPLICATIONS FOR LEAVE OF ABSENCE AND DECLARATION OF INTEREST BY MEMBERS OF COUNCIL**

3.1 Application for leave of absence:

Councillor P Nashilundo
 Councillor E Shitana
 Councillor E K Hangula
 Councillor N N Salomon

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3.2 Declaration of interest:

None

4. CONFIRMATION OF MINUTES

(C/M 2019/04/25 - A 2/3/5)

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 28 MARCH 2019

On proposal of Councillor U Kaspehi seconded by Councillor K N Jason it was:

RESOLVED:

That the minutes of the Ordinary Council Meeting held on 28 March 2019, be confirmed as correct.

5. OFFICIAL ANNOUNCEMENTS, STATEMENTS AND COMMUNICATIONS

(C/M 2019/04/25 - A 2/3/5)

5.1 Her Worship, the Mayor, also announced as follows:

Council Meeting 25 April 2019

Honourable Councillors, Pastor Bamm, The Chief Executive Officer, Mr Alfred Benjamin, General Managers, Managers, Officials, Junior Town Council, Members of the Community, Members of the Media, Ladies and Gentlemen

All Praises observed

A very good evening, and welcome to our April Council meeting. Before I proceed with my speech please allow me to quote from the Frontline leader by Saki T. Nkodemus:

"All true leaders depend totally on God for guidance, direction and inspiration."

Honourable Councillors, Ladies and Gentlemen

The Mayoral office is a public office our purpose here remains that of serving our community and as a result this office always needs to attend to other duties and we have been involved in the following engagements for the month:

- Meeting with Abisai Theoflus, community member on behalf of Built Together Beneficiaries.
- Meeting with Schackdealers Federation & Committee
- Mr N P Davids – Rahab Investment
- Budget Presentation at Erongo Regional Council
- Funeral of the late Ondonga King Immanuel Kautuma Eliza in Ondjiva was represented by some of the Councillors
- Various internal administrative meetings
- Crayfish Festival currently attended by the Mayor & Chairperson of Management Committee
- This coming weekend the Wkuenkuru Gala Dinner & Expo will be attended by myself and the Councillor Ngweni

Ladies and Gentlemen

On behalf of the Community of Swakopmund, I offer my deepest sympathy to the two citizens of Swakopmund, who was shot in the wake of the Easter Weekend and was brutally murdered at their work place in Arandis, our neighbouring town.

During 2009 the Federal Republic of Germany awarded the Cross of Order of Merit to Mr Eckhart Mueller, the honour bestowed on him was a true and fair reflection of the person who fully deserves this award and he showed the same commitment towards Swakopmund. Late Mr Mueller also formed part of the CHAIN board, a

Ordinary Council Meeting: 25 April 2019

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person who really cared for the handicapped children of our community. Late Mr Mueller is a well known public figure in education. Education was his passion, the same passion and commitment he had for all the community members, young and old. Late Mr Mueller served on various advisory committees for Council in the past. One of the committees has been the committee to establish the Swakopmund Memorial Park; he was the vehicle who encouraged the previous Council to establish the well-known and established Swakopmund Memorial Park next to the Swakop River bed.

As Deputy Mayor of Swakopmund, I condemn this cowardly, hateful and senseless act of shooting that took innocent lives. May the Namibian Police be successful and bring the person who did such meaningless crime be brought to justice. This tragedy hits home, as the two victims, Late Mr Eckhart Mueller and Late Mr Herms Helberg lived in Swakopmund and Late Mr Helberg used to be a staff member of Swakopmund Municipality many years ago and used to work at Council's vehicular workshop.

Swakopmund is committed to fostering diversity, understanding and mutual respect. One of our greatest strengths is tolerance and acceptance. Ours is a community that is welcoming, inclusive and compassionate. We continue to reach out with love, concern and prayers for Mr Eckhart Mueller and Mr Herms Helberg family.

Our thoughts and prayers are with both of them who were killed and with the families and friends that are affected. May their souls rest in eternal peace.

Ladies and Gentlemen

The Volunteer Beach Ambassador Program is one part of our pronged approach to furthering our mission of promoting our beach conservation through education and awareness during high tourist seasons.

Volunteer Beach Ambassadors, being appointed High School Learners acting as beach ambassadors, wearing visible T-shirts, interact with the public in a positive and friendly way, while they're on the beach, stationed at beach areas. By wearing a T-shirt, the public knows to know that they can approach them with their questions about beach cleaning.

What does it take to be a Volunteer Beach Ambassador? A willingness to help people, and a desire to be a part of a positive presence on and off the beach.

Swakopmund's Beach Ambassadors have the following responsibilities:

- Encourage visitors to the beach to keep our beaches clean.
- Monitor and Control designated areas on the beach.
- Minimize/prevent the illegal dumping of waste.
- Promote a clean and healthy environment.

We encourage our community and tourist the support Council Beach Ambassador programme in beach conservation through-out the year.

Ladies and Gentlemen

Tonight, Swakopmund Municipality's annual budget for 2019/2020 will be tabled. For the 2019/2020 financial year, a proposed amount of N\$237 million has been allocated for capital expenditure.

The budget of this municipality, and is an expression of the objectives of the Swakopmund Council in quantifiable outcomes that will be implemented by the administration for the 2019/2020 financial period.

This budget provides the detail of the funded commitments of the Municipality to deliver on projects and other initiatives, to ultimately improve the lives of all in Swakopmund. The Alternate Chairperson of Management Committee, Councillor Klopas Ngeza will cover the proposed budget in more detail shortly after the announcements.

What we are tabled today will require the public's input, because as an open, transparent and accountable Local Authority, we work together with our residents.

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7. PETITIONS

None.

8. MOTIONS OF MEMBERS

None.

9. ANSWERS TO QUESTIONS OF MEMBERS OF WHICH NOTICE WAS GIVEN

None.

10. REPORT OF THE MANAGEMENT COMMITTEE REFERRED TO IN SECTION 26(1) (E) OF THE ACT10.1 REPORT TO COUNCIL ON RESOLUTIONS TAKEN BY MANAGEMENT COMMITTEE DURING APRIL 2019

10. Minutes of Ordinary Management Committee meeting held on 11 April 2019.

11. RECOMMENDATIONS BY THE MANAGEMENT COMMITTEE11.1 ORDINARY AND SPECIAL MANAGEMENT COMMITTEE MEETINGS HELD DURING APRIL 201911.1.1 CANCELLATION CONFIRMATION: ERF 356, EXTENSION 1, MILE 4

(C/M 2019/04/25 - M 4 E 356)

RESOLVED:

That the transaction of Mr Ageshe-Pombili A Shapumba for the purchase of Erf 356, Extension 1, Mile 4 be extended until 31 July 2019.

11.1.2 MR AND MS N & J HANGULA: APPLICATION TO PURCHASE THE REMAINDER OF A STREET LOCATED ON THE CORNER OF ERF 358, MILE 4 AND TO CONSOLIDATE IT WITH ERF 358, MILE 4

(C/M 2019/04/25 - M 4 E358, 19/03/09)

RESOLVED:

That the application of Mr N and Ms J Hangula to purchase a portion of the street located on the corner of Emerald Street and Baobab Avenue and to consolidate the said portion with Erf 358, Mile 4 Swakopmund not be approved, due to the following reasons:

- (i) Sight distance will not be sufficient
- (ii) Insufficient sight distance may hamper vehicular and pedestrian safety.

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11.1.3 **SALE OF 14 DECEMBER 2018: CANCELLATIONS BY THE PURCHASERS**

(C/M 2019/04/25 - E 4914, E 4915, E 4923, G 3/3/2/14, 19/03/08)

RESOLVED:

- (a) That the Council approves the following cancellations of the sale transactions by the purchasers:

	Erf No	Purchaser	Purchase Price	Annexure
1	4914	Mr G E Meyer	N3641 900.00	"A"
2	4915	Ms M De Lange	N3830 000.00	"B"
3	4923	Ms H W Meyer	N3873 900.00	"C"

- (b) That the Property Section proceeds with the allocation of the allocation of these erven to the next qualifying bidder in terms of the conditions of sale.
- (c) That point (d) of Council's resolution, item 11.1.3 passed on 31 January 2019 be amended as follows:

Current wording:

(d) That, in future, all close bid auction cancellations be submitted to Council for approval.

Amended wording:

- (d) That, in future, all close bid auction cancellations by Council (the seller) for closed bid auctions be submitted to Council for approval.

11.1.4 **DETERMINATION OF PURCHASE PRICE FOR THE MEDULETU HALL ON ERF 1802, MONDESA**

(C/M 2019/04/25 - M 1802, 19/03/02)

RESOLVED:

- (a) That Council approves the sale of Erf 1802, Mondesa for the land and building as "voetstoots" at an average purchase price of N\$1 381.00/m² x 1 439m² = N\$1 987 525.00 (15% VAT excluded) to Mr Paulus Jonas.
- (b) That Mr Paulus Jonas confirms in writing the acceptance of the purchase price whereafter the sale be advertised as required in terms of the Local Authorities Act, Act 23 of 1992, as amended, at his cost.
- (c) That the purchaser be responsible for the rezoning of Erf 1802, Mondesa from "institutional" to "Local Business".
- (d) That the sale be subject to Council's standard conditions of sale by private treaty:
- (i) That the purchaser pays a deposit of N\$10 000.00 towards the statutory costs relating to the transaction including, but not limited to advertising cost, compilation of the agreement of sale, rezoning as well as any legal costs that may arise from this transaction.

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- (i) That the above deposit be paid within 90 days from the Council resolution approving the purchase price, failing which Council's resolution will be revoked at the next Council meeting following the expiry of the 90 days.
- (ii) That any remainder of the deposit in (i) above be refunded to the purchaser on completion of the transfer of the erf.
- (iii) That once the statutory process of rezoning is finalized, Council's intention to sell the erf be advertised for possible objections as required in terms of the Local Authorities Act, Act 23 of 1992 at the cost of the purchaser.
- (iv) That the transaction be concluded within 120 days from approval being granted by the Ministry of Urban and Rural Development to proceed with the intended transaction.
- (v) That payment of the purchase price be secured either in cash or bank guarantee in favour of the Swakopmund Municipality within 120 days from the Honourable Minister's favourable response.
- Failure to secure the purchase price within the required period will result in cancellation without the need to place the purchaser on terms.
 - Should the purchase price be secured by a bank guarantee the transfer must be effected on / before the 120th day, else interest will be levied as from the date of Ministerial approval (date of sale) until the date of registration of transfer at a rate as confirmed with Council's bank on the date of sale.
- (vi) That the purchasers accept that no rights will accrue to them from Council's resolution unless all the relevant conditions of the Property Policy are complied with in full and all the relevant authorities have given the necessary permission, if applicable.
- (vii) The erf is sold "voetstoots" or "as is" with the Council giving no warranty or guarantee, whether express or implied, oral or tacit, as to the suitability of the lay-out or situation or subterranean composition of the property or any improvements thereon. The Council also does not warrant that the services installed at the property are suitable for the use intended by the Purchaser. It is therefore the obligation of the purchaser to verify that the installed electricity, sewage and water connections are suitable for the intended use of the property.
- (ix) That the property or any portion thereof may not be alienated without being offered to Council at the purchase price it was obtained from Council.
- (x) That no development or additions to the property be permitted to commence until the statutory processes have been completed and the erf is transferred.
- (xi) The agreement of sale be signed and returned to the Swakopmund Municipality, by the purchaser within 21 days of receipt thereof.
- (xii) That the purchaser indemnifies Council against any claims resulting from blasting, should blasting need to be done.

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11.1.5 **CANCELLATION CONFIRMATION: VARIOUS ERVEN OF THE SALES OF EXTENSIONS 34 AND 35 (2017)**

(C/M 2019/04/25 - E 9027, E 9037, E 9094, E 8953, E 9069, 9073)

RESOLVED:

That Council confirms the extension of the following transactions until 30 April 2019:

ErV#	Purchaser	Due Date	Comments
1	Ms L Shupki	26 Feb 2019	Cancellation letter was issued dated 27 February 2019.
2	Mr S Unueb	31 Jan 2019	Cancellation letter was issued dated 04 February 2019.
3	Ms C De Jay	26 Feb 2019	Cancellation letter was issued dated 27 February 2019.
4	Ms D V Dandago	26 Feb 2019	Cancellation letter was issued dated 27 February 2019.
5	Ms A K Uushana	12 Mar 2019	Cancellation letter was issued dated 12 March 2019.
6	Ms J Kazombanvu	12 Mar 2019	Cancellation letter was issued dated 12 March 2019.

11.1.6 **INVITATION AND REQUEST: THE SWAKOPMUNDER KARNEVALSVEREIN (KÜSKA)**

(C/M 2019/04/25 - J 9/3)

RESOLVED:

- That Council takes note of the request for assistance with regards to the hosting of the Swakopmunder Karnevalsverein (Küska) that will take place as from 21 -29 June 2019 in Swakopmund.
- That the organizers be granted permission to erect a banner between the palm trees at the corner of Daniel Tjongarerero and Tobias Haiyeko Street as from 5 May -29 June 2019.
- That the organizers be granted permission to host the *Narrenwecker* in the Main Street (Sam Nujoma Avenue) and that the lane in front of Nedbank will be closed as from 8h00 until 20h00 on 25 May 2019.
- That the General Manager: Health Services avail ten (10) rubbish bins to the organizers.
- That the Mayor indicates her availability to attend one of the evening programs during the carnival.
- That the organizers liaise with the Traffic Services with regard to the closure of the lane in Sam Nujoma Avenue on 25 May 2019 and float procession which will take place on 29 June 2019.
- That Council participates in the float procession at the Swakopmunder Karnevalsverein (Küska) on 29 June 2019.

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- (h) That the Isuzu 250 Carrier - N 3546 S be used during the float procession and that six (6) municipal employees voluntarily participate and be provided with refreshments.
- (i) That the funds for the refreshments be defrayed from the Corporate Service's Publicity Vote: 102010212700 where N\$58 297.34 is available and for the decorations from the Promotional Items Vote: 102010212000 where N\$76 510.81 is available.

11.1.7 **APPLICATION FOR LAND FOR ESTABLISHMENT OF A QUARRY**
(C/M 2019/04/25 - G 4/1/1)

RESOLVED:

That Mr Hambelela Anyolo be informed that his application to establish a quarry will be kept in abeyance until the Strategic Structural Plan is approved by Council.

11.1.8 **PERMISSION TO CONDUCT SEGWAYS TOURS IN SWAKOPMUND**
(C/M 2019/04/25 - N 8/15/5, 16/29/1/3)

RESOLVED:

- (a) That both applications from Messrs Kool Segway Tours and Messrs Absolute Adventure Namibia to conduct tours with Segways devices in Swakopmund on the bicycle lane in Strand Street from Wurstbude up to the Aquarium be approved.
- (b) That the applicants be requested to obtain all relevant licences and permissions as may be required by other external authorities.
- (c) That the Engineering Services Department identifies a suitable site for the placement of the Segways charging facilities.
- (d) That the applicants indemnify Council from all and any claims in respect of damages to property or injury to people, which may arise from the tour activities.
- (e) That the Engineering Services Department considers routes for such activities in the Structure Plan of the town for future use.

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11.1.9 AUDITED FINANCIAL REPORT FOR 2016 / 2017 FINANCIAL YEAR

(C/M 2019/04/25 - D 11)

RESOLVED:

- (a) That the report of the Auditor General for the financial year 2016 / 2017 in terms of Section 87 (1) (3) of the Local Authorities act (Act 23 of 1992) be noted.
- (b) That the General Manager: Finance gives a presentation to Councillors regarding the audited report on a date to be determine by the Chief Executive Officer.

11.1.10 ADOPTION OF NEW REPORTING STANDARDS

(C/M 2019/04/25 - D 11, D 12/1)

RESOLVED:

- (a) That Council approves the change of the account structure for the Solar Financial system to be in compliance with the IPSAS reporting framework standards.
- (b) That the changes be implemented in phases.
- (c) That the cost of the system changes be incorporated as part of the current agreement with Messrs Business Connexion, as it will be within the allowable 15% limit as prescribed in section 62 (3) of the Procurement Act.
- (d) That the costs be defrayed from surplus funds.
- (e) That the costs of the account structure be submitted to the Procurement Committee for approval thereof.

11.1.11 APPLICATION TO ESTABLISH A FLEA MARKET AS A COLLABORATIVE INITIATIVE WITH THE SWAKOPMUND MUNICIPALITY

(C/M 2019/04/25 - G 4/1/1)

RESOLVED:

- (a) That Council approves the request of Messrs Ndeshi Fikameni to organise a flea market on 27 July 2019 at Thomas Hamunyela Amphitheatre including the parking area where the summer holiday fair is annually held, at a daily rental fee of N\$309.00 plus refundable deposit of N\$724.00.
- (b) That the Health Services Department avails enough wheelie bins free of charge to assist with the disposal of waste for the duration of the flea market (27 July 2019).
- (c) That the applicant indemnifies Council against all and any claims in respect of damage to property and / or bodily injury to / loss of life of people that may arise from the utilization of the property.

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- (d) That Messrs Ndeshi Fikameni ensures that there is security during the event, and that the site be restored to its original state after use.
- (e) That Messrs Ndeshi Fikameni ensures that there is sufficient power supply for the event, and should additional electricity be required, it be supplied at her cost.
- (f) That Messrs Ndeshi Fikameni provides adequate ablution facilities during the event.

11.1.12 REQUEST FOR SPONSORSHIP: WOMEN ROCK SHOW
(C/M 2019/04/25 - 7/2/3, 14/2/7/1/2, 5/5/1)

RESOLVED:

- (a) That the request for sponsorship from Messrs Windhoek Spin City for the hosting of the 3rd Annual Women's Spin Show scheduled to take place in Swakopmund on the 01 June 2019, be noted.
- (b) That the Mayor and the female Councillors attends the official opening of the event on 1 June 2019.
- (c) That Messrs Windhoek Spin City be informed to apply for Traffic escorts with the Traffic Services Section for the parade prior to the event and be responsible for the payment of the overtime charges of the Traffic Officers.
- (d) That Messrs Windhoek Spin City be responsible for the transportation of 6 pavilions, if required, to and from the venue at their cost.
- (e) That permission be granted for the Fire Brigade to be present and on standby.
- (f) That the applicant confirms in writing the sponsorships obtained from other sources.

11.1.13 REQUEST FOR SPONSORSHIP: SWAKOPMUND FOOD, MUSIC AND FASHION FESTIVAL

(C/M 2019/04/25 - N 7/3/4, 14/2/2/1/3, N 7/3/1/2, 14/2/7/1/1)

RESOLVED:

- (a) That the request for sponsorship towards the hosting of the Swakopmund Food, Music and Fashion festival scheduled to take place on 20 April 2019 in Swakopmund be condoned.
- (b) That Mr R Shalulu pays for the rental cost of N\$5 914.00 for the venue (Vineta North Sport Stadium) and be exempted from paying the refundable deposit of N\$17 742.00.
- (c) That permission be granted to Mr R Shalulu to have access to the venue from 19 April 2019 in order to set up and prepare for the event and be exempted from the payment of the venue during the set up period.

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- (d) That the exhibition space which will be offered by the organisers to Council be granted to the Swakopmund Municipal Sports & Social Club to exhibit at the festival in order to raise funds for the NALASRA games.
- (e) That the noise level of the music not to be more than 85 dB (Decibel) at the noise source (thus the speakers) and not more than 60 dB at a distance of 200m and should valid complaints be received, permission can be withdrawn forthwith.
- (f) That Mr R Shalulu ensure that the facilities including the parking area are cleaned within 24 hours and be restored to its original conditions and to the satisfaction of the Swakopmund Municipality after the event.
- (g) That Council be indemnified against any claims that may arise from using the stadium.
- (h) That Mr R Shalulu be responsible for the provision and arrangement of public ablution facilities on site, if required.
- (i) That the gates be closed by 02:00 AM and no person should overnight on the premises, except for the security personnel.
- (j) That Council reserves the right to cancel the use of the stadium should Council needs it for its own purposes.
- (k) That Mr R Shalulu make prior arrangements with Erongo-RED for electricity connection at their own cost should it be required.
- (l) That Mr R Shalulu submit proof that the following arrangements have been made:
- Emergency Services
 - Traffic Control and Parking
 - Waste removal
 - Security Services
 - Liquor license (if required)

11.1.14 REDUNDANT VEHICLES OF THE FIRE BRIGADE BY PUBLIC AUCTION

(C/M 2019/04/25 - A 1/3/8, L 2)

RESOLVED:

- (a) That the following redundant items from Community Development Services Department be written off:

Fleet No.	Reg No	Make	Model
RD 0087	N 2800 S	Coit 4X4	1995
FB 0191	N 15352 S	Big Boy Quad Bike	2010
FB 0091	N 1159 S	Jurgens Caravan	1976

- (b) That the Chairperson of the Management Committee and the Chief Executive Officer determine the upset prices for the redundant items.

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11.1.15 **WRITING OFF OF OLD AND REDUNDANT VEHICLES - HEALTH SERVICES DEPARTMENT**

(C/M 2019/04/25 - A 13/6, L 2)

RESOLVED:

- (a) That the following redundant vehicles from the Health Services Department be written off:

No	Reg No	Make	Year Model	Fleet No	Engine No	Remarks
1.	N88593	Hino Compector	2012	CL0241	J98 CP 22293	Engine faulty, costs exceeds R2100 000.00
2.	N108993	Hino Compector	2012	CL0218	F85214195 0	P.T.O and hydraulic pump faulty
3.	N02993	Hino Compector	2008	CL0181	J98CT730542	Gear selector faulty and truck is too old
4.	NV17993	Mercedes Atego	2009	CL0106	90481100480037	Mechanical problems, P.T.O and hydraulic slow

- (b) That the Chief Executive Officer and the Chairperson of the Management Committee determines the upset prices for the redundant equipment.

11.1.16 **PERMISSION TO TRANSFER FUNDS FROM 2018 / 2019 TO 2019 / 2020 FINANCIAL YEAR**

(C/M 2019/04/25 - N 7/2/1)

RESOLVED:

That permission be granted to the General Manager: Finance to transfer funds of the following projects in the Health Services Department to the new financial year as continuation projects:

PROJECT	VOTE NO	AMOUNT	REASON
Construction of new public toilets, showers and dressing rooms at Mole	104831633300	1 500 000.00	Project could not be completed because the draughtsman was not appointed by the Engineering Services Department.
Construction of new public toilets at Klip Jetty	104831633400	1 500 000.00	Project could not be completed because the draughtsman was not appointed by the Engineering Services Department.
Mobile Bins Storage facility	301034027200	500 000.00	Project could not be completed because the draughtsman was not appointed by the engineering department.
Wash bay for Refuse Trucks	301034027400	600 000.00	Project could not be completed because the draughtsman was not appointed by the engineering department.
Clock and alarm System at Cleansing Section Restrooms	301034027300	300 000.00	Delays experienced with Procurement of defined products.

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- 11.1.17 APPLICATION FOR AN ADDITIONAL EXTENSION OF TIME TO SECURE PURCHASE PRICE: NAMIBIA DESERT GIANT (PTY) LTD
(C/M 2019/04/25 - Erf 365, M4)

RESOLVED:

- (a) That Messrs Namibia Desert Giant Group (Pty) Ltd be granted an extension of time to secure the purchase price for Erf 365, Extension 1, Mile 4, until 30 November 2019, subject thereto that they return the duly signed addendum to the agreement recording the first extension of time.
- (b) That Messrs Namibia Desert Giant Group (Pty) Ltd be reminded that the purchase price for the property is N\$7 419 225.00 and interest calculated from 01 June 2018 until 30 November 2019 amounts to N\$1 299 787.24.
- (c) That Messrs Namibia Desert Giant Group (Pty) Ltd be informed that the purchase price must be secured by 30 November 2019 as no further extensions will be granted, the transaction will be cancelled.
- (d) That an addendum to the deed of sale be compiled effecting the above extension of time.
- (e) That the purchaser provides proof of attempts to obtain funding.

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- 11.1.18 APPLICATION FOR PARKING RELAXATION TO PROVIDE PARKING ON ANOTHER SITE IN LIEU OF ON-SITE PARKING
(C/M 2019/04/25 - E 210)

RESOLVED:

- (a) That the application by Messrs Mackintosh Lautenbach Architects to construct parking bays at the Tug and the Jetty area in lieu of on-site parking be turned down as Council has already committed to construct parking bays at the Tug and Jetty area.
 - (b) That the developer takes note that it is his responsibility to provide parking for the proposed development, preferably on-site.
 - (c) That no building plans be approved if parking provision is insufficient.
 - (d) That the proposed development be scaled down in order to ensure that adequate on-site parking is provided as per the requirements of the Swakopmund Town Planning Scheme.
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11.1.19 BEACH HOUSE OWNERS OF MOLEN WEG STREET;
APPLICATION TO PURCHASE OPEN SPACE LOCATED ON THE
NORTHERN AND SOUTHERN SIDE OF THE PROPERTIES
(C/M 2019/04/25 - G 4/2/2, 16/14/2/1)

RESOLVED:

That the sale of the open spaces located on the northern and southern sides of the beach house owners in Molen Weg Street, to the interested beach house owners be turned down.

11.1.20 EXTENSION 2, MATUTURA SALE OF 26 OCTOBER 2018;
CANCELLATIONS
(C/M 2019/04/25 - G 1/1/2, 8/9/8, 10/4, 12/5, 14/3, 16/3, 18/3, 20/3, 22/3, 24/3, 26/3, 28/3, 30/3, 31/3, 32/3, 33/3, 34/3, 35/3, 36/3, 37/3, 38/3, 39/3, 40/3, 41/3, 42/3, 43/3, 44/3, 45/3, 46/3, 47/3, 48/3, 49/3, 50/3, 51/3, 52/3, 53/3, 54/3, 55/3, 56/3, 57/3, 58/3, 59/3, 60/3, 61/3, 62/3, 63/3, 64/3, 65/3, 66/3, 67/3, 68/3, 69/3, 70/3, 71/3, 72/3, 73/3, 74/3, 75/3, 76/3, 77/3, 78/3, 79/3, 80/3, 81/3, 82/3, 83/3, 84/3, 85/3, 86/3, 87/3, 88/3, 89/3, 90/3, 91/3, 92/3, 93/3, 94/3, 95/3, 96/3, 97/3, 98/3, 99/3, 100/3)

RESOLVED:

- (a) That the transactions in respect of the following erven sold on 26 October 2018, be extended until 31 May 2019:

Erven	Surname	Name	Comments	Purchase price	
4	9999	Pieterse	Lieswylde Ruter	No payment. Submitted an application dated 25 March 2019 for 1.3 month extension.	261 871.81
4	114	Amotwa	Jason Sipepe	no payment	251 000.00
8	116	Khutlwani	Albertus Amos	no payment	405 120.00
14	142	San	Magg	Home loan application (not guaranteed) was provided on 21 Feb 2019.	362 500.00
16	144	Shaba	Oscar	no payment	241 400.00
17	145	Ahikamer	Lorraine	no payment	231 000.00
20	149	Afana	Mokhele	no payment	258 999.00
21	149	Gwanoo	Anna	no payment	124 200.00
22	150	Mutwa	Edith	no payment	200 000.00
22	161	Moye	Shana	no payment	271 000.00
27	160	Van Wyk	Jerome Martin	No payment. Submitted an application dated 20 March 2019 for an extension.	130 800.00
48	178	Ojima	Wetjen	No payment. Submitted an application dated 26 March 2019 requesting extension of time until 26 March 2019. Friends to pay cash. Guarantees received day after the due date on 26 March 2019.	200 000.00
51	179	Chauwen	Ramona Dama	Guarantees received day after the due date on 26 March 2019.	130 000.00
62	190	Hendricks	Babulo	no payment	350 000.00
63	191	Andi	Frederick	No payment. Letter from bank dated 21 March on file.	180 000.00
66	192	Lefas	Paulina	no payment	210 000.00
68	199	Rangombe	David	no payment	200 070.00
71	201	Zwaruka	Benedict Potany	no payment	200 000.00
77	207	Mokhele	Shaunika	no payment	170 000.00
78	208	oKhoso	Christiana	no payment	144 000.00
79	208	Pelula	Marie Pehidula	No payment. Submitted a letter from the bank on 24 March 2019.	177 031.00
81	211	vankeulen	Israel Nyehopola	no payment	210 000.00
83	213	Gooze	Brigitte	no payment	140 000.00

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	EF	Surname	Name	Comments	Purchase price
87	817	Kuzajibe	Edmund Lutheni	no payment	250 000.00
88	829	Sheurje	Josua Hwangi	no payment	200 800.00
89	823	Ngwenake	Aini Mkhawo	No payment. Submitted a letter dated 08 March 2019 requesting an extension to pay until August 2019.	204 400.00

- (b) That the purchasers be requested to provide reasons for their non-performance in writing.

- 11.1.21 **REQUEST FOR ADDITIONAL FUNDS: PROVISION OF SECURITY SERVICES**
(C/M 2019/04/25 - E 1 / 12, 14/2/1/2)

RESOLVED:

That permission be granted to the General Manager: Finance to transfer an amount of N\$1 300 000.00 from the Surplus Funds to the Provision of Security Services Vote: 102010214980.

- 11.1.22 **AMENDMENT TO THE PROPERTY POLICY: ALLOCATION OF STAFF ERVEN**
(C/M 2019/04/25 - C 3/1, G 4/1)

RESOLVED:

That Section 6 point 3 of Council's Property Policy be amended to provide that erven reserved for staff members be sold at the upset price approved for a specific extensions / neighbourhood in which such erven are located as set-out in section 7.5.2:

- (i) **Commercial Auction:**
The upset price is determined by Council, but not less than the cost for the installation of services + at least 25%.
- (ii) **Community Auction:**
The upset price is determined by Council, using the cost for the installation of services as reference. Council reserves the right to reduce the upset price at its' discretion.
- (iii) **First Time Property Owner Auction:**
The upset price is determined by Council, but not less than the cost for the installation of services + at least 10%.

- 11.1.23 **APPLICATION FOR THE SUBDIVISION OF THE REMAINDER OF PORTION B OF THE SWAKOPMUND TOWN AND TOWNLANDS NO. 41 INTO PORTION 164 AND REMAINDER, THE TOWNSHIP ESTABLISHMENT ON PORTION 164 OF SWAKOPMUND TOWN AND TOWNLANDS NO. 41 AND APPROVAL OF THE PROPOSED TOWNSHIP LAYOUT**
(C/M 2019/04/25 - G 3/2/2)

RESOLVED:

- (a) That the Remainder of Portion B of the Swakopmund Town and Townlands Number 41 be subdivided into Portion 164

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(approximately 282.1472 ha) and Remainder in terms of Section 21 of the Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963), free of conditions.

- (b) That the Need and Desirability for the township establishment on Portion 164 of Swakopmund Town and Townlands Number 41 in terms of Section 5(5) (a) (i) of Townships and Division of Land Ordinance, 1963 (Ordinance 11 of 1963) be approved.
- (c) That approval be granted for application to be made in terms of Section 5 of the Township and Division of Land Ordinance No. 11 of 1963 for the establishment of an extension of Swakopmund (to be allocated by Surveyor General) on Portion 164 as shown on the subdivisional layout plan (on file).
- (d) That the Engineering Services Department be authorized to make minor changes to the layout, to accommodate infrastructure, improve layout dimensions or meet Townships Board and NABPAB requirements should it be necessary.
- (e) That a thirty two (32) metres wide servitude be surveyed and registered over the proposed Erf 122 of Portion 164 of the Remainder of Portion B of the Swakopmund Town and Townlands No. 41 in favour of Namwater.
- (f) That a three (3) metres wide servitude be surveyed and registered over the proposed Erven 1, 93, 101, 102, 110, 111, 113, 118, 119, 122, 123 and 125 of Portion 164 of Swakopmund Town and Townlands No. 41 in favour of Telecom Namibia.
- (g) That a three (3) metres wide servitude be surveyed and registered over the proposed Erven 1, 82, 83, 84, 85, 100, 101, 102, 103 and 123 of Portion 164 of Swakopmund Town and Townlands No. 41 in favour of Erongo RED.
- (h) That the zoning shown on the layout plan tabled at the meeting be approved.
- (i) That the maximum building heights in Portion 164 should not exceed 5 metres.
- (j) That the conditions of Establishment be as follows:
 - (i) The following conditions shall be registered against the title deeds of all erven except those reserved as public open space and those zoned Local Authority:

The erf must only be used or occupied for purposes which are in accordance with and the use or occupation of the erven shall at all times be subject to the provision of the Swakopmund Town Planning Scheme prepared and approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954) as amended.
 - (ii) The following conditions be registered against the title deeds of Light Industrial Erven:

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The building value of the main building, excluding the outbuilding to be erected on the erf shall be at least Equal the municipal valuation of the erf.

- (iii) The following conditions shall be registered against the title deeds of Business Zoned Erven:

The building value of the main building, excluding the outbuilding to be erected on the erf shall be at least four (4) times the municipal valuation of the erf.

11.1.24 **QUINTESSENTIAL TRADING CONSULTANCY CC: BUILDING CONTRACT FOR PORTION 141 A PORTION OF PORTION 137 OF THE TOWN AND TOWN AND TOWNLANDS NO.41**

(C/M 2019/04/25 - G 3/9/15, A 2/3/15, G3/9, H5, H5/4, H5/7)

During the discussion of this item, Councillor U Kaspehl requested that should any changes be required to the agreement, the staff and Council's attorneys be empowered to finalize it, without having to resubmit it to Council.

RESOLVED:

- (a) That Council approves the Building Agreement (on file).
- (b) That the type and number of each house be agreed to and subsequently added as an addendum to the agreement.
- (c) That the developer's offer to build houses on Council's erven be declined.
- (d) That Council's resolution of 31 May 2018 paragraph 1.1.5.5 be amended from:
- (a) *The Houses to be constructed shall consist of one (1) to two (2) to three bedroom houses, but structures to the value of not less than ~~N\$500 000.00~~ but not more than N\$800 000.00. This excludes the cost of the land.*
- To read:*
- (b) *The Houses to be constructed shall consist of two (2) to three bedroom houses, but structures to the value of not less than ~~the value provided for in the township establishment~~ but not more than N\$800 000.00 including the cost of the land.*
- (e) That the authority be delegated to the Chief Executive Officer to deal with any changes to the agreement in order to finalize it.

11.1.25 **BLOCK 9 ENDOWMENT TRUST: APPROVAL OF THE AGREEMENT OF SALE**

(C/M 2019/04/25 - G 3/9/9)

RESOLVED:

That Council approves the agreement (on file) for the sale and development of Extension 39 to Block Nine Endowment Trust, subject thereto that the Minister of Urban & Rural Development approves Council's request contained in the letter dated 14 March 2019.

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- 11.1.26 **BUILDING CONTRACT FOR SOCIAL GRANT HOUSES**
(C/M 2019/04/25 - G 3/9/15, A 2/3/15, G3/9, H5, H5H,
H5/7)

RESOLVED:

- (a) That Council approves the pro forma Building Contract (on file) for the construction of Social Grant Housing.
- (b) That a clause be added to the contract to allow / permit Council to terminate the contract should Council's available funds be depleted.
- (c) That in order to avoid a scenario where land is saddled with houses which cannot be sold, the Community Development Services Department identifies qualifying purchasers for each house before it is constructed.

- 11.1.27 **CAPITAL AND OPERATIONAL BUDGETS FOR 2019 / 2020 FINANCIAL YEAR**
(C/M 2019/04/25 - D 2/1)

During this discussion Councillor Greenwald mentioned on behalf of the Development Residents Association, that they do not support the 6% increase in rate & taxes.

RESOLVED:

- (a) That the capital budget amounting to N\$237 153 100.00 be approved.
- (b) That the Operational budget reflecting a surplus of N\$330 630.00 approved.
- (c) That the service related tariffs be increased as indicated below:
- | | | |
|---|---|----|
| (1) Rates and Taxes | - | 8% |
| (2) Refuse removal | - | 7% |
| (3) Sewerage | - | 8% |
| (4) Basic water increased from N\$101.75 to N\$125.70 | | |
| (5) Staggered tariffs: | | |
| 9m ² - 30m ² | - | 8% |
| 31m ² - 60m ² | - | 8% |
| 61m ² and above | - | 8% |
| (6) Special tariff (Agricultural) - Smallholdings | | |
| 9m ² - 30m ² | - | 8% |
| 31m ² - 60m ² | - | 8% |
| 61m ² and above | - | 8% |
- (d) That all other tariffs as per attached schedule be approved.
- (e) That General Managers ensures availability of funds prior to embarking upon approved major projects.

13. **DRAFT REGULATIONS AND TARIFFS, IF ANY**

None

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The meeting adjourned: 20:50

Minutes confirmed on: 29 May 2019

Councillor M Elago
DEPUTY MAYOR

A Benjamin
CHIEF EXECUTIVE OFFICER

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11. RECOMMENDATIONS OF THE MANAGEMENT COMMITTEE MEETINGS HELD DURING MAY 2019
10. REPORT TO COUNCIL ON RESOLUTIONS TAKEN BY PREVIOUS MANAGEMENT COMMITTEE MEETING HELD DURING APRIL 2019

- 10 (A) MINUTES OF AN ORDINARY MANAGEMENT COMMITTEE MEETING HELD ON 09 MAY 2019

7. MATTERS REFERRED BY PREVIOUS COUNCIL- AND MANAGEMENT COMMITTEE MEETINGS

- 7.1 LETTER FROM O'B DAVIDS PROPERTIES CC

⊗ RESIDENTIAL LAND

⊗ BRICK MAKING MANUFACTURING APPROVAL

(M/C 2019/05/09 - H 5, E 4883, S)

RESOLVED:

That this item be referred back and that the various matters pertaining to this applicant be addressed separately.

- 7.2 URBAN EDGE PROPERTIES: APPLICATION FOR LAND FOR A SERVICE STATION AND ONE STOP CONVENIENCE SHOP

(M/C 2019/05/09 - H 5, 19.03.12)

During the discussion of this item, the Deputy Mayor declared her interest and left the Chambers.

RESOLVED:

- (a) That the upset price for the "Business" Erf at Extension 13, Matutura be submitted to the next Special Management Committee meeting to be held on a date to be determined by the Chief Executive Officer.
- (b) That as the various extensions are serviced and the erven returned to Council, Council approves the future sale thereof by closed bid sale as resolved by Council on 30 August 2018 under item 11.1.5.

- 7.3 LENTIN ARCHITECTS: OFFER TO PURCHASE - DEVELOPMENT PROPOSAL IN RESPECT OF UNNUMBERED ERF SWAKOPMUND

(M/C 2019/05/09 - G 4/1/1)

RESOLVED:

- (a) That this item be kept in abeyance until the future of the railway line is determined, in consultation with Central Government.
- (b) That an in loco inspection be conducted, on a date to be determined by the Chief Executive Officer, for Councillors to familiarise themselves with the area

- (c) That the Engineering Services Department include a dual carriage road in the designs.

7.5 COMPLAINTS REGARDING FORK 'N NICE, OLD SKATEBOARD RAMP - STRAND STREET

(M/C 2019/05/09 - F 21, G 3/10/2)

RESOLVED:

- (a) That Messrs Klein be informed that the site is demarcated for food kiosks; however tenants at this site will be requested to device ways to reduce the smell emitted from the mobile kiosks.
- (b) That the Health Services Department investigates the allegation regarding the disposal of waste water and ensure that all mobile food kiosks adhere to Public Health Regulations.

8. POLICY MATTERS

8.1 INTERNAL AUDIT PLAN 2019 / 2020

(M/C 2019/05/09 - D 10/1 {12/3/1})

RESOLVED:

That the Internal Audit's with scope of focus for 2019/2020 be executed as follows:

Internal Audit	Scope of Focus	Budgeted Hours
Human Resources	<ul style="list-style-type: none"> • Laws and Regulations Compliance (Labour, Tax, Pension, SSC, VET, AA); • Recruitment and Terminations; • Remuneration and Deductions (confidentiality); • Job Grading and Salary Scales (market competitiveness); • Promotions and Acting Allowances; and • Trade Union Relations. 	60
Cash Collections and Administration	<ul style="list-style-type: none"> • Laws and Regulations Compliance (Labour, Tax, Pension, SSC, VET, AA); • Recruitment and Terminations; • Remuneration and Deductions (confidentiality); • Job Grading and Salary Scales (market competitiveness); • Promotions and Acting Allowances; and • Trade Union Relations. 	60

Internal Audit	Scope of Focus	Budgeted Hours
Sewerage and Waterworks	• Sewerage discharge permits and certificates	80
	• Water works connections and disconnections; and	
	• Emergency stock and repairs.	
Fleet management	• Acquisition and disposal;	80
	• Vehicle usage and log books	
	• Fleet monitoring system; and	
	• Repair and maintenance.	
Health Services	• HSE Compliance;	60
	• Business registration and inspections;	
	• Waste management; and	
	• Animal control and licences.	
Follow up	• Follow up on audits conducted in the previous financial year.	40
IA Project Management	• General consultation and regular update meetings with management;	10
	• Preparation and attendance at Audit Committee Meetings; and	
	• Draft and review internal audit plan; etc.	
Annual Budgeted Hours		390 hrs
Rate per hour		R3900.00
Total Annual Costs (excluding VAT and disbursements)		R3 351 000.00

8.2 INTERNAL AUDIT REPORT: MUNICIPAL ADMINISTRATION

(M/C 2019/05/09 - D 10/1 {12/3/1} / A 4/S1(2/P))

RESOLVED:

- (a) That the observation made, being a medium risk, correspondence/letters not completely filed and not easily retrievable from the physical files and / or Orbit system, not adequately addressed and partially implemented, be noted.
- (b) That the General Manager: Corporate Services & HR and General Managers implement the following control improvement:
- Providing adequate training to all users of the electronic filing system.
 - System user rights to be aligned to the functional roles and responsibilities on the system and the user rights should be reviewed on a periodic basis.
 - Continuously monitor all the matters that have been assigned to management to ensure that the matters are resolved in a timely manner.

- *An independent check be performed on a periodic basis to ensure that all documents are accurate and completely filed on the system.*
- (c) That the observation made, being a low risk, a lack of a consolidated master list of all municipal regulations and by-laws of the Municipality, not adequately addressed and partially implemented, be noted.
- (d) That the General Manager: Corporate Services & HR implement the following control improvement:-
- *A complete list of applicable regulations is maintained by the municipality and reviewed periodically by Council.*
 - *Ensure that approved regulations have been tabled and vetted by the National Assembly.*
- (e) That the observation made, being a low risk, of incomplete supporting documents recorded and filed for the Management Committee meetings, not adequately addressed and partially implemented, be noted.
- (f) That the General Manager: Corporate Services & HR ensures that Archives adopts a checklist of documentation that should remain in the custody of the Municipality for a predetermined period before the disposal thereof.
- (g) That the retention and destruction activities of municipal documentation should be reviewed on a periodic basis

8.3 INTERNAL AUDIT REPORT: HUMAN RESOURCES: LEAVE & OVERTIME

(M/C 2019/05/09 - D 10/1 (12/3/1) / / B1/16 (4/2/2/2 / 3/2/8/12))

RESOLVED:

- (a) That the observation made, being a high risk, of overtime hours worked exceeds Labour Act provisions, not adequately addressed, be noted.
- (b) That the General Manager: Corporate Services & HR & Manager: Human Resources implement the following control improvements:
- *General Managers, Managers and Supervisors must keep accurate and complete record of all overtime worked by all staff members in the department to ensure that proactive measures are put in place in order not for staff members to exceed the overtime limit prescribed in the Labour Act; and*
 - *Human Resources must ensure that overtime agreements with all the relevant staff members that are exempted from the overtime limits that are prescribed in the Labour Act be signed and must ensure that the agreements are kept updated for the duration of the exemption that was granted by the Ministry of Labour.*
- (c) That the observation made, being a medium risk, that the actual overtime expenditure exceeded the budgeted overtime amount for the past two financial years, not adequately addressed, be noted.

- (d) That the General Manager: Corporate Services & HR & Manager: Human Resources implement the following control improvements:
- Consider actual costs of the previous financial year when determining the financial budget for the next financial year and make adequate provision for emergency situations.
 - Analyse budget variances on a monthly basis and proactively implement cost control measures, where appropriate; and
 - Consistently pre-approve all overtime worked under normal circumstances and retrospectively approve all overtime worked under exceptional circumstances / emergencies to ensure that all overtime expenditure is adequately justified.
- (e) That the observation made, being a medium risk, that the approved night shift allowance was incorrectly calculated and paid to the employees, being completed and adequately addressed, be noted.
- (f) That the General Manager: Corporate Services & HR & Manager: Human Resources implement the following control improvement:
- Ensure that all night shift allowances are accurately calculated in accordance with the Labour Act; and
 - The amount for the night shift allowances should be reviewed and recalculated by a person senior and independent from the initial preparer before payment is done.
- (g) That the observation made, being a low risk, that inaccurate leave balances are captured and / or computed in the ESS system, being completed and adequately addressed, be noted.
- (h) That the General Manager: Corporate Services & HR & Manager: Human Resources implement the following control improvement:
- Address leave balance discrepancies and / or system limitations with the IT administrators to ensure that the leave discrepancies are resolved in a timely manner.

8.4 INTERNAL AUDIT REPORT: TRAFFIC OPERATIONS

(M/C 2019/05/09 - D 10/1 (12/3/1) / B 1/1/9 (4/3/4/1/2/1))

RESOLVED:

- (a) That the observation made, being a high risk, inaccurate and incomplete recording of the allocation of firearms and other traffic equipment to the Traffic Officers, being completed and adequately addressed, be noted.
- (b) That the General Manager Community Developments Services & Manager: Traffic implement the following control improvements:
- Traffic Officers to sign off and / or date the register to acknowledge receipt of the firearms.

- *Manager: Traffic to sign off and / or date the register as evidence of approval.*
 - *A complete and updated inventory lists of fire arms and traffic equipment should be maintained by the traffic division; and*
 - *inventory lists should be reviewed and signed off by custodians of the equipment as well as management.*
- (c) That the observation made, being a medium, risk of ineffective control over the issuing and recording of traffic fines, being completed and adequately addressed, be noted.
- (d) That the General Manager: Community Developments Services and the Manager: Traffic implement the following control improvements:
- *Completed traffic fine booklets should be reviewed by the Senior Traffic Offices and / or Manager after the completed booklets are returned by the Traffic Officers.*
 - *The accuracy, completeness and legality of the traffic fines issued should be reviewed by Senior Traffic Offices and / or Manager after the tickets were issued.*
 - *The accuracy and completeness of the traffic fine information captured on the ACB system should be reviewed by the Senior Traffic Officers and / or Manager; and*
 - *The traffic fines issued should be closed off by either recording the warrant of arrest number or payment status on the ACB system.*
- (e) That the observation made, being a medium risk, of ineffective control over the allocation and the reporting of fuel usage for traffic vehicles, being completed and adequately addressed, be noted.
- (f) That the General Manager Community Developments Services & Manager: Traffic as well as General Manager: Finance implement the following control improvements:
- *Accurate tracking of vehicle usage and fuel dispense be monitored and reviewed by management;*
 - *The fuel expenditure recorded on the Solar System should be reconciled to the logbook entries recorded by Traffic Officers; and*
 - *Clear assignment of responsibility and segregation of duty concerning fuel dispense and the record of the fuel expense onto the Solar System at Stores.*

8.5 INTERNAL AUDIT REPORT: PROCUREMENT & STORES

(M/C 2019/05/09 - D 10/1 (12/3/1) / D 16/2 {B/P})

RESOLVED:

- (a) That the observation made being a medium risk, of ineffective control over the procurement practices at the Municipality, partially implemented, be noted.
- (b) That the Accounting Officer and General Managers restrict the number of staff members that can issue purchase orders to only the authorized parties in terms of the internal procurement guidelines of the Municipality and / or the Public Procurement Act, to ensure that only authorized parties can commit the

Municipality to procurement transactions to service providers or suppliers.

- (c) That the General Manager: Finance and the Head of Procurement identify non-compliant procurement transactions at either the initiation or the payment stage and they should consistently report all non-compliant procurement transactions to the Procurement Management Unit and / or the Management Committee for decision making.
- (d) That the Accounting Officer and Head of Procurement institute remedial action against all staff members that repeatedly fail to adhere to internal procurement guidelines and / or the Public Procurement Act.
- (e) That the observation made, being a medium risk that the Procurement Management Unit do not fully comply with the requirements of the Public Procurement Act No. 15 of 2015, partially implemented, be noted.
- (f) That Accounting Officer and Procurement Management Unit implement the following control improvements:
- *Formalizing procurement guidelines as separate Procurement Policy which are aligned to the Public Procurement Act and obtain exemption from the Ministry for all non-compliance issues / not applicable matters.*
 - *The draft procurement guidelines are submitted to Management Committee for review and approval.*
 - *Establish appropriate measures to continuously monitor compliance to the procurement policy.*
 - *Institute remedial action against all staff members that repeatedly fail to adhere to internal procurement guidelines and / or the Public Procurement Act; and*
 - *Establish procurement structures and staff capability that are appropriate for the nature, complexity and the size of the operations of the Municipality.*
- (g) That the observation made, being a low risk, that open purchase orders are not followed up and closed off in the Solar system on a quarterly basis, being implemented and completed, be noted.
- (h) That the General Manager: Finance implement the following control measures:
- *Outstanding purchase orders are reviewed at least on a quarterly basis; and*
 - *Long outstanding purchase orders are followed up by the Finance Department and deactivated when no longer required by the Stores and / or the end user departments.*
- (i) That the observation made, being a medium risk, that inadequate control over the stock quantities maintained in the Stock Management system for all stock items held at the Stores, being implemented and completed, be noted.
- (j) That the General Manager: Finance implement the following control improvements:

- Stock list and the applicable reorder quantities are periodically reviewed by management and approved by Council.
 - Suppliers List Master files (Stores) and the Vendor Master file (PMU) be periodically reviewed and approved by the Accounting Officer.
 - The Solar System user access rights are reviewed by management to appropriately assign and segregate system duties in accordance with the requirements of Municipal operations.
-

8.6 INTERNAL AUDIT REPORT: MUNICIPAL REST CAMP
(M/C 2019/05/09 - D 10/1 (12/3/1), N 7/3/1/3 (3/11/1/2/2/5))

RESOLVED:

- (a) That the observation made, being a medium risk, that the Municipal Rest Camp Standard Operating Procedure is not effectively implemented, being implemented, be noted.
 - (b) The policies and procedures should be reviewed by management on a regular basis (at least annually or as required) and amendments required should be drafted and communicated for approval, to ensure alignment to current practices.
 - (c) That the approved Standard Operation Procedures (SOP) must clearly outline the parties responsible for preparing, reviewing and approving and the frequency of the review.
 - (d) That all Policy and Procedures documentation, be reviewed as a group in order to mitigate the risk of inconsistencies and contradictions across multiple documents.
 - (e) That all policies and procedures including any amendments should be approved and communicated to relevant employees and stored in a location that they are accessible to the employees (i.e. intranet / shared folder).
 - (f) That the observation made, being medium risk, that invoices are not raised in a timely manner at the Rest Camp, not implemented, be noted.
 - (g) That the General Manager: Community Development Services closely monitor bookings to ensure that invoices are raised in a timely manner.
 - (h) That the General Manager: Community Development Services ensures that the Rest Camp Management periodically follow up (document efforts i.e. email) on outstanding debts / invoices.
-

8.7 INTERNAL AUDIT REPORT: OFFICE EQUIPMENT & TOOLS

(M/C 2019/05/09 - D 10/1 {12/3/1} // B 2/5 {3/18/1})

RESOLVED:

- (a) That the observation made, being a low risk, that discrepancies relating to the fixed asset policies and procedures relating to Tools & Office Equipment, being implemented, be noted.
- (b) That the administrative controls with regards to policies and/or procedures should be improved:
- Be approved.
 - Be communicated to all relevant staff.
 - Be stored on central server/shared drive for accessibility.
 - Should be reviewed frequently as specified by management i.e. annually, every two years, etc. and should be revised when a need has been identified.
 - Should outline personnel responsible for performing the review.
- (c) That the General Manager: Finance draft one comprehensive governance document that will cover all of the following control processes (refer to the other findings below):
- Asset acquisitions; disposals/ scrapping and transfers.
 - Maintenance and repairs.
 - Asset safeguarding and verification; and
 - Segregation of duties and master file amendments (Fixed Asset Register).
- (d) That the observation made, being a medium risk, of inadequate controls to ensure the existence of assets and the completeness of asset records, not implemented, be noted.
- (e) That the Chief Executive Officer and General Managers provide guidance to define the roles and responsibilities with regards to office equipment, each department is responsible for safeguarding and verifying existence of assets and the Finance Department is responsible for the verification and accuracy as well as completeness of the assets records.
- (f) That all departments inventory listing be outlined with the following information:
- Asset description (office equipment).
 - Assets unique company reference number.
 - Location; and
 - Employee asset is allocated to.
- (g) That the General Manager: Finance at an annual basis physical verify assets / inventory list of all the departments and that the process be formalised and strictly implemented.

- (h) That the observation made, being a low risk, that tool box inspections are not conducted on a regular basis and not documented, not being implemented, be noted.
- (i) That all department's Section Heads / Supervisors conduct regular toolbox inspections of staff and document the inspection on a check list to ensure the completeness of tools.

8.8 INTERNAL AUDIT REPORT: FINANCE

(M/C 2019/05/09 - D 10/1 {12/3/1} / A 2/2/8 {1/1/2/9})

RESOLVED:

- (a) That the observation made, being a medium risk, that the discrepancies relating to the finance policies and procedures partially implemented, be noted.
- (b) That the General Manager: Finance review the Financial Regulations on a regular basis (at least annually or as required) and amendments required should be drafted and communicated for approval, to ensure that documented controls remain relevant to the current business practices.
- (c) That the General Manager: Finance ensures that all finance related policies and procedures reviewed together in order to mitigate the risk of inconsistencies and contradictions across multiple documents.
- (d) That the General Manager: Finance ensures that amendments to the Policy and Procedures be approved and communicated to relevant employees and stored in a location that they are accessible to the employees (i.e. intranet / shared folder).
- (e) That the observation made, being a high risk, that inadequate management of staff profiles and user rights on the Solar System, not being implemented, be noted.
- (f) That the General Manager: Finance ensures to conduct once of reviews of all the profiles and user rights of staff members on the Solar System by an independent party.
- (g) That the General Manager: Finance arrange for informal training for finance management on the basic IT user profiles, user rights and functionalities of Solar System, as management is ultimately responsible for the integrity of the financial information.
- (h) That the General Manager: Finance together with Business Connexion conduct a periodic review of the user profiles and access rights on the Solar System to ensure that:-

- Employee user rights are aligned to the roles and responsibilities of staff within the Department.

- The system configuration allows for adequate segregation of duties and
 - The user profiles on the Solar System are adequately controlled for staff movements (i.e. terminations, appointments and promotion / transfers, etc.).
- (i) That the observation made, being a high risk, that inadequate controls over capturing and approval of journal entries, not implemented be noted.
- (j) That the General Manager: Finance explores the possibility and practicality of configuring the system to separate the right to capture and post of journal transactions.
- (k) That should the above mentioned recommendation not feasible or implementable, the General Manager: Finance strictly implements the following compensating manual controls:
- That the manual journal entry forms and supporting documents should be consistently reviewed and approved by a secondary party (preferably Finance Manager or General Manager: Finance).
 - A periodic review should be performed between the manual journal entry forms and journal entry listings report from the system to check the validity, accuracy and completeness of all transactions and the preparer and checker of the review should be documented.
- (l) That the observation made, being a low risk, that Departmental Operational and Capital budgets are not submitted to the General Manager: Finance in a timely manner, partially implement, be noted.
- (m) That the General Manger: Finance reiterates the importance of timely budget submissions as per the budget planner and nature the support of Council and / or the Chief Executive Officer.
- (n) That application for extension of budget timeline should be formalised and approval granted on reasonable merits.
- (o) That the observation made, being a low risk, that Cash Analysis Sheet not signed off by the Cashiers, not implemented, be noted.
- (p) That the General Manager: Finance reemphasizes the importance of Cashiers signing off on the Cash Analysis Sheet.
- (q) That the General Manager: Finance institute reasonable corrective actions against staff members that repeated not comply with the control measure.
- (r) That the observation made, being a medium risk, that no documented evidence exist that a secondary review was performed on some of the finance reconciliations for control accounts, partially implemented, be noted.
- (s) That the General Manager: Finance establishes a process to ensure that all key reconciliations / control measures are reviewed by a secondary party and evidence of review is appropriate documented.
-

8.9 INTERNAL AUDIT REPORT: REVENUE: PROPERTY SALES & LEASES
(M/C 2019/05/09 - D 10/1 {12/3/1} / D 19 {3/1/1/2/2/4})

RESOLVED:

- (a) That the observation made, being a medium risk, that the Municipality lack a consolidated master database which accurately and completely records the transactional details for the selling of Municipal property and erven, not adequately addressed, be noted.
- (b) That the General Manager: Corporate Services & HR ensures to maintain a centralised master lists (electronic spread sheet) which records the end to end processes and the current status for both the property sales and leases transactions.
- (c) That the General Manager : Corporate Services & HR ensures that the capturing rights to make updates to the master list be restricted to the relevant staff in the Property Section and real time viewing rights to the relevant staff members in the Finance department on the share drive.
- (d) That the General Manager: Corporate Services & HR ensures that all updates to the master list be substantiated by valid supporting documents and should be reviewed by senior staff member in the Properties Section on a monthly basis.
- (e) That the General Manager: Corporate Services & HR ensures that the progress of the property sale transactions and current status of the leases transactions be reported to management on a monthly or be reflected in the monthly report.
- (f) That the observation made, being a medium risk, that incomplete supporting documents are kept on the hardcopy files which record the sale and lease of municipal property and erven, not adequately addressed, be noted.
- (g) That the General Manager: Corporate Services & HR define the mandatory documents that should be placed on file for both the property sales and lease transactions.
- (h) That the General Manager: Corporate Services & HR ensures to reconcile the master list to the supporting documents on a monthly basis, to confirm that the supporting documents and transactional records are readily available for scrutiny by an independent secondary party.
- (i) That the observation made, being a medium risk, that misalignment and / or overlapping functional roles and responsibilities between the Finance department and the Property section in the Corporate Services department, not adequately addressed, be noted.
- (j) That clearly defined roles and responsibilities between key staff members in the Finance department and the Corporate Services

department be made to confirm that adequate segregation of duties are maintained.

- (k) That the General Manager : Finance consults with Business Connexion on the possibility of creating sub-accounts on the Service Accounts raised on an erf once a Deed of Sale is concluded to facilitate the following:
- Accurate record of outstanding debtors pertaining to erven / property sales is maintained.
 - Reconciliation of the Sale of Erven / Property Vote (960120321601) could be performed against the sub-accounts created.
 - Accurate tracking of interest applicable to outstanding balances could be performed by the Finance Department, mitigating the risk of computation error; and
 - Appropriate records of the audit trail could be extracted by management for periodic analysis.

8.10 ERONGO WATER FORUM - PROPOSED TARIFF STRUCTURE INCREASE

(M/C 2019/05/09 - N 10/1)

RESOLVED:

- (a) That Council takes note of the principle of a five-year infrastructure plan and approve such a tariff structure increase, subject to the appointment of an independent auditor to review the proposed plan and its cost effects over the periods of supply.
- (b) That Namwater be requested to carry the cost for the appointment of the auditor and that the appointment be approved by Namwater and its clients (EWF) as and when required.
- (c) That a meeting be scheduled with Erongo Water Forum to discuss and agree on the way forward.

8.12 FORMULATION OF THE SWAKOPMUND STRUCTURE PLAN 2020 - 2040 (CS/RP/SM-002/2018)

(M/C 2019/05/09 - G 3/2/2)

RESOLVED:

That the progress made with respect to the formulation of the Swakopmund Structure Plan (2020 - 2040) be noted.

8.13 COMMUNICATION POLICY: EXTERNAL COMMUNICATION (PUBLIC MEETINGS)

(M/C 2019/05/09 - 7/P)

RESOLVED:

- (a) That Council approves the draft Communication Policy and that it be re-submitted after amendments are made.

- (b) That Council promotes community involvement and public participations by creating a calendar for public meetings / sessions with various target groups in the community such as Pensioners, Churches, Business owners, Developers, Residents in the various suburbs of town, Schools and Youth groups as part of the Communication Policy.
- (c) That Heads of Departments identify matters to be discussed at these public meetings.
- (d) That the Marketing and Communications Section be responsible to arrange such meetings.
- (e) That available Councillors be requested to communicate information regarding the meetings through the media.

8.18 RENDERING OF SPECIAL SERVICES TO THE COMMUNITY OF SWAKOPMUND
(M/C 2019/05/09 - N 3)

RESOLVED:

- (a) That Council continues rendering cat rescue services to Swakopmund residents on the understanding that such operations will be carried out during office hours only.
- (b) That should a cat be trapped in a tree over weekends or public holidays rescue services be rendered at the owners account at a fixed fee of N\$350.00.

8.19 REQUEST FOR SPONSORSHIP: SWAKOPMUND FOOD TRUCK FESTIVAL
(M/C 2019/05/09 - D 5)

RESOLVED: (For Condonation by Council)

- (a) That the request for sponsorship towards the Swakopmund Food Truck Festival scheduled to take place from 31 May 2019 to 01 June 2019 in Swakopmund, be noted.
- (b) That permission be granted to Messrs DJS & CO to utilize the Amphitheater from 31 May 2019 to 01 June 2019 and the Council cover the cost of N\$618.00 (= 2 x N\$309.00 daily rental rate) for the venue.
- (c) The costs mentioned above in (b), be defrayed from the Corporate Services Publicity Vote: 102010212700 where N\$58 297.34 is available.
- (d) That the noise level of the music not to be more than 85 dB (Decibel) at the noise source (thus the speakers) and not more

than 60 dB at a distance of 200m and should valid complaints be received, permission can be withdrawn forthwith.

- (e) That Messrs DJS & CO ensure that the facilities including the parking area are cleaned within 48 hours be restored to their original conditions and to the satisfaction of the Swakopmund Municipality after the event.
- (f) That Council be indemnified against any claims that may arise from using the venue.
- (g) That Messrs DJS & CO be responsible for the provision and arrangement of public ablution facilities on site, if required.
- (h) That Messrs DJS & CO make prior arrangements with Erongo-RED for electricity connection at their own cost should it be required.
- (i) That food vendors be registered with the Health Services Department, similar to the Christmas Fair registration.
- (j) That Messrs DJS & CO be required to pay a refundable deposit on N\$..... for the cleaning of the Amphitheater after the event.
- (k) That Messrs DJS & CO submit proof that the following arrangements have been made:
 - *Emergency Services*
 - *Traffic Control and Parking*
 - *Waste removal*
 - *Security Services*
 - *Liquor license (if required)*

8.20 REQUEST FOR SPONSORSHIP TOWARDS THE REGIONAL JUNIOR NETBALL TEAM

(M/C 2019/05/09 - 5/2/4/2)

RESOLVED:

- (a) That the sponsorship of ten (10x) crates of water to the Erongo Regional Netball Association (ERNA), be condoned.
- (b) That the amount of N\$1 059.00 for the water be defrayed from the Corporate Services Publicity Vote: 102010212700 where N\$39 416.32 is available.
- (c) That it should be noted that the Erongo Regional Junior Netball Team won the trophy at the Namibian Newspaper Cup tournament held in Mariental from 19-22 April 2019.

8.21 TRANSFER OF FUNDS

(M/C 2019/05/09 - 16/2/6/3)

RESOLVED: (For Condonation by Council)

That the GM: Finance be granted permission to transfer an amount of N\$45 000.00 from Vote: 305932828300 - Replace TATTA Tipper N13134S and N\$45 000.00 from Vote: 305932828400 - Replace TATTA Tipper N15969S to Vote: 302533032600, this will ensure that sufficient funds are available to complete the planned project.

8.22 ERONGO DEVELOPMENT AGENCY: OFFICE OF THE GOVERNOR

(M/C 2019/05/09 - 11/1/5/4)

RESOLVED:

That the establishment of the Erongo Development Agency by the Office of the Governor of the Erongo Region, be noted.

9. PERSONNEL MATTERS**9.2 9TH TKC (TRANS KALAHARI CORRIDOR) JOINT LAW ENFORCEMENT OPERATION IN MOATLE, BOTSWANA**

(M/C 2019/05/09 - N 8/1/1)

RESOLVED:

- (a) That permission be granted to Senior Traffic Officer, (Mr T Shindume) and Traffic Officer (Mr P Nomiseb) to attend the 9th TKCMC Joint Law Enforcement Operation from 26 May - 02 June 2019 in Moatle, Botswana.
- (b) That the cost of the subsistence and travelling allowance (N\$34 600.00) be defrayed from the Conference Vote: 202010206500 where N\$77 732.28 is available.
- (c) That special leave be granted to the two officials during this period.
- (d) That permission be granted to the two officials to use one patrol vehicle to Windhoek as transport expense from Windhoek to Moatle, Botswana will be covered by the Ministry of Work and Transport.
- (e) That the General Manager: Community Development Services provides a feedback report regarding the visit to Moatle, Botswana.

9.3 LETTER OF APPRECIATION

(M/C 2019/05/09 - 5/2/4/1, B 1/1/9)

RESOLVED:

That the letter received from the Murere, Uirab & Awarab's family, expressing their appreciation towards the Traffic Section for rendering professional escort services for their son Bradley Murere who is a disabled athlete and a resident of the community in Swakopmund be noted.

10. MATTERS NOT ON THE AGENDA, BUT DISCUSSED WITH PERMISSION OF THE CHAIRPERSON

10.1 OUTSTANDING INCOME DUE TO GRANTING OF EXTENSIONS OF TIME TO PERFORM

(M/C 2019/05/09 - 3/11/1/2/2/4)

RESOLVED:

That the outstanding amount of N\$67 472 289.97 resulting from extensions being granted to secure the purchase price of land by the purchasers, be noted.

10.3 ERF 540, EXTENSION 2, MATUTURA: WAIVER OF INTEREST CHARGES

(M/C 2019/05/09 - MAT 540)

RESOLVED: (For Condonation By Council)

That the penalty interest levied on the late transfer of Erf 540, Extension 2, Matutura, be waived.

10.8 APPLICATION TO PURCHASE 50HA OF LAND NEXT TO HENTIES BAY ROAD: MR PAUL ROOI

(M/C 2019/05/09 - G 4/1/1)

RESOLVED:

- (a) That the Chief Executive Officer determines an alternative solution to the application of Mr Paul Rooi and report back to the Management Committee.
- (b) That consideration be given to reduce the size of land to 5 hectare.

10.20 INVITATION TO PARTICIPATE IN THE "WORKING TOWARDS A CLEANER TOWN IN NAMIBIA" - NATIONAL COMPETITION

(M/C 2019/05/09 - G 1/1)

RESOLVED:

- (a) That Council participates in the "Working towards a cleaner town in Namibia" competition which will take place from 5-8 June 2019 at the Namibia Tourism Expo, Windhoek Show Grounds, in Windhoek.
- (b) That permission be granted to the following staff members to represent Swakopmund at the "Working towards a cleaner town in Namibia" Competition at the Namibia Tourism Expo in order to promote Swakopmund:
 - Head: Solid Waste

- *Local Economic Development Officer*
 - *Corporate Officer: Marketing and Communications*
- (c) That subsistence and travel allowance be defrayed from the Conference and Expenses votes of the relevant departments and that special leave be granted to the staff members during this period.
- (d) That the relevant Heads of Department collaborate and avail funds to purchase the branding material and décor of the stand.
- (e) That the various radio services and the print media (newspapers) be approached to advertise and attract more voters to participate in the voting activations taking place from 5-8 June 2019.
- (f) That the Local Tourism Operators in Swakopmund be approached to avail prizes that can be won at the exhibitors stand by voters.
- (g) That the funds for advertising and promotion of Swakopmund be defrayed from the Corporate Service's Publicity Vote: 102010212700 where N\$42 002.49 is available and from the Conference and Expenses votes of the relevant departments.

10.21 AUDIENCE: MS H MUPUPA: SALE OF A PORTION OF THE REMAINDER OF PORTION 5 OF SWAKOPMUND TOWN AND TOWNLANDS NO. 41

(M/C 2019/05/09 - H 5/1)

During the discussion of this item, Ms Helvi Mupupa presented her proposal for the development of a Portion of the Remainder of Portion 5 of Swakopmund Town and Townlands No. 41.

RESOLVED:

- (a) That the presentation by Ms Helvi Mupupa for the development of a Portion of the Remainder of Portion 5 of Swakopmund Town and Townlands No. 41, be noted.
- (b) That it be recorded that Ms Helvi Mupupa stated that she will accept any other piece of land for the implementation of her housing project.
- (c) That this item be resubmitted to the next Management Committee meeting.

10.22 AUDIENCE: PURCHASER OF ERF 115, MONDESA

(M/C 2019/05/09 - 115 M)

During the discussion of this item, Mr S Maletzky made a presentation to the Management Committee and confirmed that he is the legal owner of Erf 115, Mondesa.

RESOLVED:

- (a) That the presentation by Mr S Maletzky and the confirmation that he is the legal owner of Erf 115, Mondesa, be noted.
 - (b) That Ms Auguste Maletzky be invited to the next Management Committee meeting to hear her version regarding the legal ownership of Erf 115, Mondesa.
-

10.23 AUDIENCE: APPLICATION BY MESSRS HAPPYDU CHARITY ORGANISATION

(M/C 2019/05/09 - M 4324)

During the discussion of this item, representatives Messrs Happydu Charity Organisation presented their development proposal for Erf 4324, Mondesa to the Management Committee.

RESOLVED:

- (a) That the presentation by representatives Messrs Happydu Charity Organisation for the development of Erf 4324, Mondesa, be noted.
 - (b) That this item be resubmitted to the next Management Committee meeting.
-

11. **RECOMMENDATIONS BY THE MANAGEMENT COMMITTEE**
- 11.1 **ORDINARY AND SPECIAL MANAGEMENT COMMITTEE MEETINGS HELD ON 09 MAY 2019**
- 11.1.1 **CONFIRMATION OF STATUS OF JOINT VENTURE BETWEEN DELTA GROUP AND JATTIES GROUP**
(C/M 2019/05/23 - A2/3/15, H5, H5/7, G3/9, G4/1/1)
- Ordinary Management Committee Meeting of 09 May 2019, Addendum 7.4 page 20 refers.

- A. The following item was submitted to the Management Committee for consideration:

1. **Introduction**

Council on 31 May 2018 while discussing the above, resolved amongst others:

- (j) That it be recorded that 1 986 serviced erven are available in the Matutura Area
- (k) That consideration be given to allocate 40 erven to each local / Swakopmund based developer and that the surplus be equitably distributed to the remaining developers from outside Swakopmund taking their date of application into account.

2. **Discussion**

Based on the above resolution invitations were sent to various contractors or developers including Messrs Delta Holding Group. It however transpired later that Delta Group Namibia applied as a Joint Venture together with Jatties Group (**Annexure "A"**). Unfortunately the list received from Corporate Services Department did not reflect the latter's name therefore invitations was addressed to Delta Group Namibia. Only, excluding Jatties Group

The attached letter hereto (**Annexure "B"**) was lately received from Delta Holding Group's Chief Executive Officer confirming that the two companies have entered into a Joint Venture Agreement for the development and execution of the affordable houses for the Swakopmund Municipality.

3. **Proposal**

In view of the above, it's therefore proposed that council rather enters into agreement with both Messrs Delta Group Namibia and Jatties Group.

- B. After the matter was considered, the following was:-

RECOMMENDED:

That Council withdraws the initial letter of offer directed to Messrs Delta Group Namibia to construct 40 houses and instead issue a new letter of offer directed to both Messrs Delta Group Namibia and Jatties Group.

**Due to the
voluminous
content -
the
attachments
are
available on
file.**

11.1.2 **CONDITION OF LEASE FOR MOBILE FOOD KIOSKS**

(C/M 2019/05/23 - F 21; G3/10/2)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 7.6 page 27 refers.

A. The following item was submitted to the Management Committee for consideration:

Introduction

Attached (Annexure "A") letter from Food Truck Committee of Swakopmund, pleading with Council to not evict them from the trading sites and give them an extension period till 31 March 2019, to enable them to bring forth their concerns as to why it is difficult to adhere to the specified condition of lease.

Background

Council first approved the allocation of specific sites for mobile food kiosks on 26 April 2001. This decision followed applications that were regularly received from members of the public to allow them to sell food from mobile kiosks throughout town. It was then decided to demarcate various sites in town for this purpose. These mobile kiosk sites are regulated as per the following conditions set in the Council's property policy.

Point (iv) of the section 9.2.6 of the Property Policy, specifically deals with the purpose for which the sites may be utilised as highlighted below:

- (iv) *Additional conditions as contained in the standard lease agreement for temporary periods:*
- (a) *The HIRED PROPERTY shall be utilized by the LESSEE for the purpose of parking a mobile kiosk in order to trade in foodstuff as per license issued by the Health Department and in accordance*
 - (b) *Mobile kiosk shall mean a roadworthy and licensed vehicle rigged for towing by a motor vehicle and approved by the Health Department of the LESSOR.*
 - (c) *In case the LESSEE does not use the HIRED PROPERTY for the duration of the month period, no claim to be refunded, in part or in full, will be considered.*
 - (d) *The trading hours shall only be between 06:00 and 20:00. The LESSEE shall not be allowed to overnight on the HIRED PROPERTY.*
 - (e) *The mobile kiosk shall be to the satisfaction of the standards and conditions set by the Fire Brigade of the LESSOR. No open fires will be allowed.*
 - (f) *No preparation of foodstuff outside the mobile kiosk will be allowed.*
 - (g) *The mobile kiosk will serve as a service point and now seating will be allowed.*
 - (h) *Should the area not be kept to the satisfaction of the Health and Engineer's Departments, the contract will be cancelled with immediate effect.*
 - (i) *The LESSEE shall not be allowed to cede or assign this agreement or any portion thereof, nor shall it be allowed to sublet in any manner any portion of the HIRED PROPERTY, without the written consent of the LESSOR first being had and obtained.*
 - (j) *The LESSOR or his duly authorised representative, shall at all reasonable time have the right to enter the HIRED PROPERTY for the purpose of carrying out an inspection and to ensure that all applicable regulations and by-laws are being adhered to by the LESSEE.*

- (k) The LESSEE shall indemnify and keep indemnified the LESSOR during the full period of this agreement against possible claims, which may arise from the use of the HIRED PROPERTY by the LESSEE.

Discussion

Over years, it has been noted that most of the mobile food kiosks are not adhering to condition (d) of the above listed lease conditions. Efforts have been done to remind the tenants to adhere to the conditions of lease and the latest letters of notice that were sent in January 2019. As requested by the Food Truck Committee of Swakopmund, a meeting was held on 03 April 2019 with the Mobile food kiosks tenants (attendance register attached as Annexure "B"), and the following are concerns raised regarding the conditions of lease.

a. Seating arrangement

About 6 out of 13 mobile kiosks are providing folded tables and chairs at site. Tenants argued that 30 % – 40% of their clientele includes senior citizens, pregnant women and small children whom cannot stand in the sun while waiting to be served. In an effort to offer best possible service and comfort to their customer they provide seating and shades for waiting purposes. They further claimed that most of the time, apart from few percentage of tourists that sit and eat at the site, the majority do take away and do not necessarily seat and dine from this area.

b. Moving of the Kiosks every night

All tenants argued that despite having signed the agreement, they realized after start operating that it is not economical and practical to move their kiosks every night. They further stated that all the food they offer be it chips, burger, fish, sea food etc are freshly prepared in the kiosk. In preparation of the food, they use frying oil which cannot be moved immediately after closing, but one has to wait for 2 – 4 hours for the oil to completely cool down depending on how much oil used to be safe to transport the kiosk. The condition of moving the kiosks from the hired property becomes very difficult and challenging for most of the tenants as their operation hours is up to 20h00, meaning after waiting for the oil to cool down, kiosks can only be moved by 00h00 at night. Other issues identified regarding moving of kiosks every night is the lack of parking area at home and the fact that most the tenants do not have own vehicles hence rely on hiring transport to move the kiosk.

Determining the relevancy of condition (d)

In an effort to find amicable solution to the raised concerns of the tenants, CDS did an investigation to find out why condition (d) of lease was made. After going through archived files, the department could not find any information justifying for instance why the kiosks should be moved from the hired property every day or why seating is not allowed. To expand the knowledge and learn from our counterpart, City of Windhoek was contacted to

find out how the mobile foods kiosks are regulated in the City. We were informed by the City official that their current regulation also does not allow overnighting of mobile food kiosks on site; however the City has noted that most of their tenants are finding it difficult to adhere to this condition and they are in process of reviewing the regulation.

In conclusion, it has been taken note that the current conditions in the lease agreement which requires mobile food kiosks tenants to move every day actually leads to economic burdens for these SMEs. Sometime making only N\$ 100 per day, hiring of transport to move the kiosks on a daily basis is unaffordable to most of the tenants. The current tables and seating arrangement to allow customers wait for their meals create a conducive environment and contribute to the attraction of the area for as long as it is kept neat and well presented.

The matter was discussed at the Planning Forum on 23 April 2019

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That the letter of Food Truck Committee be noted.
- (b) That Council review section 9.2.6 of the Property Policy regarding demarcated mobile food kiosk sites to include bigger food carts / vans / trucks / semi-restaurant structures, and the following conditions be included.
 - (1) Bigger food kiosks be defined as any food cart, truck / semi-restaurant structure that requires area bigger than 16m² (including waiting /seating area)
 - (2) No food kiosk / van / truck stand will be allowed in the central business district (CBD).
 - (3) No food kiosk / van / truck stands are to be endorsed in front or next to formal shopping centres where similar products are provided for by existing formal businesses.
 - (4) Site must not be close to any source of contamination or pests.
 - (5) No food kiosk / van / truck stand are to be sanction within 15 meters of any intersection which might lead to hindrance of traffic flow.
 - (6) No food kiosks carts / van / truck stand will be endorsed along major roads, unless safe parking is available.
 - (7) Food kiosk / van / truck must be fitted with fat traps.
 - (8) Facilities must be provided for safely disposing of grease, used water and solid waste.
 - (9) These kiosks can provide folding outdoor seating facilities which can be packed away at the end of business day.
 - (10) The trading hours shall be between 06:00 and 20:00.
 - (11) The lease of the site must not be transferrable to a third party without written consent of the Lessor obtained.
 - (12) The food kiosks / van / truck may overnight on the facility subject to the condition that they are well maintained and not an eye sore to the community.

- (13) *Sound must be restricted to the immediate surrounding area. On receipt of any complaints due to noise or misbehaviour, the use of the area will be cancelled immediately.*
- (14) *The area and immediate surrounding should be at all times kept in a clean and hygienic condition.*
- (c) That bigger kiosks be categorised as vehicles / caravans / trucks / moveable structures that has been modified to be used as food stalls and redefined as semi restaurants (these exclude immovable structures such as containers, Wendy houses etc.)
- (d) That the structures of these food kiosks remain temporary and moveable.
- (e) That a monthly rental fee for the bigger food kiosks / vans / trucks / semi -restaurants be based on the rates for lease of Municipal Land (Public Open Spaces) as per required size.
- (f) That the Health Services Department investigates how these kiosks dispose of waste water and ensure that all mobile food kiosks adhere to Public Health Regulations.
-

**Due to the
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11.1.3 **CONSTRUCTION OF LOW COST HOUSES IN THE MATUTURA AREA BY SMALL CONTRACTORS**

(C/M 2019/05/23 - A 2/3/15, H 5, H 5/4, H 5/7, G 3/9, G 4/1/1)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 7.7 page 32 refers.

A. The following item was submitted to the Management Committee for consideration:

1. **Introduction**

Council on 31 May 2018 while discussing the above subject matter, resolved amongst others:

- (d) That it be recorded that 1 985 serviced erven are available in the Matutura Area.
- (e) That consideration be given to allocate 40 erven to each local / Swakopmund based developer and that the surplus be equitably distributed to the remaining developers from outside Swakopmund taking their date of application into account.

Based on the above resolution invitations were sent to various contractors or developers as per the list of applicants provided by the Corporate Services Department (**Annexure "A" and "B"**). The said contractors or developers were invited to an information session whereby they would be briefed about Council plans regarding the construction of low cost housing units in the Matutura Area.

The table below depicts the number of invitations sent out, the dates and the responses.

Date of meeting	Number of invitations sent out	Number of companies shown up	Number of companies not shown up
11 December 2018	39	14	25
25 January 2019	25	10	15
8 February 2019	15	0	15
16 February 2019	15	7	8
1 March 2019	8	4	4

2. **Feedback about the 39 contractors**

- (a) As can be seen in the table below, four companies namely, Messrs Montheo Construction, AAK Trading Investment, Keller Zabel Investment cc and Bright Idea Construction have thus far failed to show up, despite concerted effort by the office to reach them. The same table, gives a detailed account of the status of the four companies and the subsequent actions taken.

Company Name	Remarks	Subsequent action taken	Proposed course of action
Motheo Construction	No contact number or e-mail address provided	Letter sent via registered mail, requesting them to respond within 30 calendar days from the date of the letter.	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019
AAK Trading Investment	All three numbers provided not reachable	Letter sent via registered mail, requesting them to respond within 30 calendar days from the date of the letter	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019
Keller Zabel Investments cc	Client not reachable on both numbers provided	Letter sent via registered mail, requesting them to respond within 30 calendar days from the date of the letter.	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019
Bright idea construction	Telephone number provided belongs to Boco Building Material Supplier who informed us that the company is no longer operational in Namibia (Moved to South Africa).	Letter sent via registered mail, requesting them to respond within 30 calendar days from the date of the letter.	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019

Apart from the four companies which failed to turn up, there are also five (5) other companies which appear to be experiencing challenges or having disputes with the running of their business entities. The details are reflected in the table below.

Company Name	Issue	Subsequent action taken	Proposed cause of action
Tide Wave Investments Sixty Seven (Pty) Ltd	Mr Steven Scoppellitus, the Chairman indicated that the company is in the process of being dissolved, therefore they would not participate in this venture. When requested to confirm this in writing he said it can only be done when his administrator returns and he does not know when, since she is on sick leave.	Letter sent via registered mail, requesting them to respond within 30 calendar days from the date of the letter.	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019
Hardenberg Investment Namibia	Mr Brian Basson informed us that the business is no longer operational in Namibia, as it was an international Company. Client was requested to confirm this in writing, but nothing received as yet.	Letter sent via registered mail, requesting them to respond within 30 calendar days from the date of the letter.	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019
Ongoshi Trading Enterprises	Ongoshi trading enterprises applied via a letter dated 13 September 2018. It would appear that the company is experiencing challenges due to disputes among its members.	Company bosses encouraged to sort out their differences, as the Municipality can only work with the initial applicant being Ongoshi Trading Enterprises	Council to continue dealing with the initial applicant, Ongoshi Trading Enterprises and should members fail to sort out their differences, offer be revoked. In the meantime, a letter dated 18 April 2019 and the Amendment to the Founding Statement were received advising that the dispute between shareholders has been resolved as a result of the resignation of Messrs. E Beukes, AH Stefanus and E Beukes from the company (Annexure C).

Namibia Property Group	Namibia Property Group has changed their name to Atevu	Company bosses advised that the Municipality will only work with initial applicant being Namibia Property Group	Council to continue dealing with the initial applicant, being Namibia Property Group and that should members fail to sort out their differences, offer be revoked
Namgreenwood Enterprises	Business sold to new owner in 2018.	Letter sent via registered mail, requesting the new owner to submit documents showing change of ownership within 30 calendar days from the date of the letter.	Council to consider granting opportunity to the next applicant on the list, as the applicant failed to respond within the given timeframe of 30 calendar days, of which the deadline was on 18 April 2019

During the briefing meetings, contractors were requested to submit their conceptual plans to the Engineering services before construction could start and their responses were as follows - twenty six (26) contractors submitted their plans as per the request, three (3) contractors namely JPPS Trading Enterprise cc, Bawon and Aradio Concrete Developers Pty. Ltd) did not respond though attended the meeting, One (1) contractor withdrew from the projects.

3. Unongo Technology CC and Cheetah Capital Community Settlement Project

In a process of implementing the above resolution, a list consisting of 61 applicants/ contractors was obtained from Corporate Services Department. Among the list were **Unongo Technology CC** and **Cheetah Capital Community Settlement Project**. As such, the two companies were invited together with other contractors to the information session. A few days later, CDS came across another Council resolution dated 30 November 2017 item 11.1.22 (c) which stated **that the following applicants be removed from the list**”:

No.	Company	Number on list
1	NWE	No. 10
2	Ministry of Veterans Affairs	No. 11
3	Power Oyeno-Namibia	No. 21
4	Namibia Economic Freedom Fighters	No. 28
5	Cheetah Capital Community Settlement Project	No. 40
6	Unongo Technology CC	No. 50
7	Hali/ om San Traditional Authority	No. 58

It would appear that the above names were never removed from the list in line with the above resolution. Realizing the above situation, Community Development Services Department informed the two contractors that their companies were erroneously invited as they were not supposed to be on the waiting list. Consequently, a number of meetings took place between Community Development Services Department and the two contractors to clarify the issue, where after it appeared as though the two contractors understood the situation. Unfortunately, it later transpired that the two applicants continue to

demand to be included in the list of companies to construct houses. As mentioned above, four contractors failed to respond to our invitations, thus presented a good opportunity to cancel the offer (*if they fail to respond to our letter by 18 April 2019*) and allow the two contractors to participate in the scheme.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council takes note of the feedback report about the 39 contractors invited to participate in the construction of houses at Matutura.
- (b) That Council's offer to Messrs Motheo Construction, AAK Trading and Investment, Keller Zabel Investments cc and Bright Idea Construction, Tidle Wave Investments Sixty Seven (Pty) Ltd, Hardenberg Investment Namibia be cancelled, as these companies have failed to respond to letters sent to them by the stipulated date, being the 18 April 2018.
- (c) That Council continues dealing with Namibia Property Group as the initial applicants, but should the members fail to resolve their respective differences, Council offer be revoked.
- (d) That Council takes note of the Amended Founding Statement of Messrs Onghoshi Trading Investment CC inter alia resignation Edwin Beukes, AH Stefanus and Errol Beukes from the company, and continue doing business with the same entity.
- (e) That the offer to Messrs Namgreenwood Enterprises, be revoked, as they have failed to submit the required documents pertaining to the change of owners.
- (f) That the offer from Messrs JJPPS Trading Enterprise cc, Bawon and Aradio Concrete Developers Pty. Ltd be cancelled, should they failed to submit their conceptual plans within 30 days.
- (g) That Council takes note of Messrs JDVK Trading Enterprises cc withdrawal from the project due to their commitments to other projects outside of Swakopmund.
- (h) That Council remains with its resolution dated 30 November 2017 item 11.1.22 (c) in respect of Messrs Uunongo Technology cc and Cheetah Capital Community Settlement Project and allocated them land to construct houses in the places of contractors who failed to show up or perform.
- (i) That it be recorded that the following companies met the requirement for the construction of 40 houses:

- (1) Magnetix Investments CC
- (2) BAY Engineering & Construction
- (3) Alfresco Developers CC
- (4) Matutura Investment CC

- (5) Hadago Investments cc
 - (6) Guther's Maintenance
 - (7) Namibia Property Group (NPG)
 - (8) Haler Investments CC
 - (9) Kashona Properties CC
 - (10) PD Bricks & Property
 - (11) Dingoohi Trading Investment CC
 - (12) Solkan Enterprise CC
 - (13) Trencon Pty Ltd
 - (14) Versatile Trading CC
 - (15) Diputa Investment (Pty) Ltd
 - (16) Yoshi Trading
 - (17) Pawa Business Solutions CC
 - (18) JDVK Trading Enterprises CC
 - (19) Delta Group Namibia and Jetties Group
 - (20) NCO Investments Number Eight (Pty) Ltd
 - (21) Ehangano Building Construction CC
 - (22) Life House One Investment (Pty) Ltd
 - (23) Dalt Investment CC
 - (24) Kenneth Investment CC
 - (25) Embamba Investments CC
-

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11.1.4 **MESSRS NAMIBIA OYSTERS (PTY) LTD: APPLICATION TO DEVELOP A TOWNSHIP**
(C/M 2019/05/23 - G 4/1/1(7))

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.11 page 07 refers.

A. The following item was submitted to the Management Committee for consideration:

1. **Introduction**

This submission was discussed on 09 April 2019 at the Planning Forum under item 5.3 and is now submitted to the Management Committee for consideration.

Summarized the sequence of events following the application dated 28 March 2018 (Annexure "A") for an audience received from Namibia Oysters (Pty) Ltd (hereinafter referred to as "Nam Oysters") to allow townships establishment on Portion 96:

- A presentation was made to the Planning Forum of 29 May 2018 under item 5.1
- A presentation was made to the Special Management Committee of 13 July 2018 under item 5.1
- A submission was tabled to the Planning Forum on 07 August 2018 under item 5.9
- A meeting was held with the Ministry of Fisheries and Marine Resources on 15 August 2018, whereafter their comments dated 09 January 2019 were received
- The matter was resubmitted to the Planning Forums of:
 - 08 January 2019 under item 5.4
 - 12 February 2019 under item 5.8
 - 09 April 2019 under item 5.3

Summary of attachments:

Annexure "A"	: Namibia Oysters (Pty) Ltd letter dated 28 March 2018
Annexure "B"	: Valuation from Ludwig Schröder Estate Agents CC
Annexure "C"	: Valuation from The Trust & Estate Co (Pty)
Annexure "D"	: Namibia Oysters (Pty) Ltd letter dated 18 January 2019
Annexure "E"	: Minutes of the Planning Forum of 12 February 2019 (point 2.2 below)
Annexure "F"	: Ministry of Fisheries and Marine Resources dated 21 Jan 2019
Annexure "G"	: Map indicating the subdivision of the area
Annexure "H"	: Title Deed
Annexure "I"	: Background of the Transaction (point 4 below)
Annexure "J"	: Ministry of Fisheries and Marine Resources dated 20 April 2018

1.1 **Proposal from the Planning Forum of 09 April 2019**

The application by Nam Oysters for townships establishment was again discussed at the Planning Forum of 09 April 2019 after obtaining valuations for the improvements as was concluded at the Planning Forum of 12 February 2019. The following was concluded as a recommendation to the Management Committee:

- (a) That the application by Namibia Oysters (Pty) Ltd to establish a township on Portion 96 not be approved.
- (b) That should Namibia Oysters (Pty) Ltd offer Portion 96 to Council, Council repurchases Portion 96 in terms of clauses 7.2 and 7.4 of the deed of sale and the conditions contained in the title deed at a purchase price as follows:
- N\$ 675 000.00 (purchase price for the land)
 - N\$ 2 010 000.00 (value of useful improvements)
 - N\$ 2 685 000.00 (total)
- (c) That Council considers the future use of Portion 96 as "aquaculture" should it be repurchased from Namibia Oysters (Pty) Ltd.

With reference to point (b) above valuations were obtained as set-out under point 1.2 below.

- Ⓢ Nam Oysters applied to establish a township on Portion 96 and did not offer the property to Council to acquire. Permission to establish a township will result in a change in the zoning and the sale of the subdivided portions (point (c) of the title deed). Council can therefore pass a decision not to allow township establishment without an offer to repurchase the land.

1.2 Valuations Obtained

The agreement between Council and Nam Oysters prescribes how the purchase price should be determined in the event Council decides to repurchase the property, summarized:

- The original purchase price paid to Council in terms of clause 4.2, i.e. N\$675 000.00; plus
- The market value of useful improvements effected after the signature date of the agreement (the current owner per e-mail dated 25 February 2019 confirmed that no new improvements or developments have been made since the agreement was signed). The agreement was signed on 31 July 2007. Therefore Council is not obliged to refund the current owner the cost of useful improvements on the property.

To determine the value of useful improvements two valuations were obtained as follows:

Annexure "B"	Ludwig Schroder Estate Agents	N\$ 2 250 000.00
Annexure "C"	The Trust & Estate Co	N\$ 1 770 000.00

The average of the two valuations amounts to N\$2 010 000.00

The improvements consist of a large workshop, 2 prefabricated dwellings, 1 park home dwelling and a substation.

Therefore, should Council offer to repurchase the land the following price will be applicable:

N\$ 675 000.00	-	price of the land
N\$ 2 010 000.00	-	value of useful improvements
N\$ 2 685 000.00	-	total

2. Background of Previous Submissions to the Planning Forum during 2019

2.1 The application was discussed on 08 January 2019 by the Planning Forum under item 5.4 and the following was concluded:

Resolved

That the Corporate Services & HR Department determines the selling price from Messrs Namibia Oysters (Pty) Ltd and include such confirmation in the submission to the Management Committee.

Recommended:

That Council repurchases Portion 96 in terms of the deed of sale and the conditions contained in the title deed (the purchase price and market value of the improvements which Council in its sole discretion deems useful).

A letter from Namibia Oysters (Pty) Ltd dated **18 January 2019** was received confirming the value of the property and the current shareholders (**Annexure "D"**).

2.2 On **12 February 2019** the Planning Forum concluded the recommendation as per **Annexure "E"**.

2.3 The most recent discussion of the application was **09 April 2019** at the Planning Forum is quoted under point 1.1 above.

2.4 Prior to the above Planning Forums, a meeting was held on **Wednesday, 15 August 2018** with the following officials:

- Permanent Secretary, Dr Moses Maurithungirine
- Director of Aquaculture and Inland Fisheries, Mr Rudi Cloete
- Chief Fisheries Biologist for Marine Aquaculture, Mr Frickie Soles
- The Acting General Manager, Corporate Services & HR, Mr Andre Pfaatje
- The Corporate Officer, Properties, Ms Stephry Bruwer and
- The Property Officer, Ms Aina Utshona

Following the above meeting a letter from the Ministry of Fisheries and Marine Resources dated **09 January 2019** was received confirming that they object to the proposed rezoning and establishment of a township on Portion 96 (a portion of Portion B) (**Annexure "F"**). The Ministry of Fisheries and Marine Resources only provides their stance regarding the application, but do not have any authority in Council's decisions.

The following documents were also received from the said ministry

1. **MFMR HIGH LEVEL STATEMENTS**
2. **AQUACULTURE ACT, 2002**
3. **MFMR STRATEGIC PLAN 2017/18-2021/22**
4. **VISION 2030**
5. **NCP3**
6. **NESAP 3**

3. **Application by Namibia Oysters (Pty) Ltd**

3.1 A letter dated **28 March 2018** (**Annexure "A"**), was received from Nam Oysters regarding their developmental proposals for the future of Portion 96.

A presentation was made on **13 July 2018** to the Management Committee by Lithon Project Consultants (Pty) Ltd on behalf of Nam Oysters.

The presentation at the Management Committee of **13 July 2018** is available on file.

3.2 In addition to the sale of Portion 96 to Nam Oysters, Council allocated portions as follows:

- on **28 September 2006** under item 11.1.3 Portion 1 was allocated to Gemini Aquaculture (Proprietary) Limited (Mr Essau); and

5. on 25 February 2019 under item 11.1.17 Portion 130 was allocated to Nautilus Aquaculture CC (Mr G F Murta, W G Jorge & A J Manalho).

It was later determined that Portion 130 is located on an area falling within the salt mining claims. Therefore, once the subdivision is finalized an alternative area must be identified for Nautilus Aquaculture CC. These transactions were not finalized due to delays with the subdivision.

Council on 24 September 2015 under item 11.1.5 approved the subdivision of the area as indicated on Annexure "G".

4. Background

Attached as Annexure "I" is the background of the transaction.

5. Relevant Contractual Clauses

From a Municipal point of view the applicant is not honouring the terms and conditions of the Deed of Sale.

Clause 6.3 *"The Purchaser shall, as soon as possible after the date of transfer but in any event not later than 24 (twenty-four) months after the date, at its own expense, procure the rezoning of the property so as to provide for the mariculture usage of the Property".*

This was never done.

Clause 6.4 *"In respect of whether or not the Purchaser has successfully procured the rezoning of the Property as stipulated in clause 6.3 above, the Purchaser shall at all times only be entitled to utilize the Property for mariculture usages".*

Messrs Lithon Project Consultants' emphasis was that the permitted use is not viable due to environmental conditions experienced during the year. Although the use can apparently not be exercised according to the application, the Deed of Sale provides the following:

Clause 7.2 *"The sale of the Property is subject to and conditional upon a restraint of alienation in favour of the Seller in terms whereof the Purchaser shall be prohibited from alienating the property or any subdivision thereof until and unless the property has first been offered to the Seller in writing at a price as determined in clause 7.4. below and the Seller has rejected the offer in writing, which restraint of alienation shall also, on transfer of the Property into the name of the Purchaser, be simultaneously imposed against the title deed of the Property".*

Clause 7.4 *"The price referred to in clause 7.2. shall be equal to the purchase price as stipulated in Clause 4.2. and the market value of those improvements effected by the Purchaser to the Property after the signature date, which the seller, in its sole discretion deems useful, and which discretion shall not be exercised unreasonably. For purpose of this clause, improvements to the Property as at the signature date are recorded in the document annexed hereto marked "D"."*

Clause 4.2 *"The purchase price is the amount of N\$675 000.00 (SIX HUNDRED AND SEVENTY FIVE THOUSAND NAMBIAN DOLLARS), and shall be paid free of any bank costs or other deductions to the Seller on the date of transfer.*

No record could be found on file that the above process was ever initiated by the new owners. The purpose of these clauses was to ensure that someone does not obtain prime beach front land under false pretences at an extremely low price and then develop it into a township.

Although the property belongs to the applicant, it is clear from the above that the proposal will be in breach of the sales agreement as a township

development entails the sale of subdivided erven which are also not in compliance with the zoning.

6. Latest Application

As stated under point 1 above, Nam Oysters on 28 March 2018 again applied for Council's permission to establish a township on Portion 96.

In addition to the above, a letter dated 20 April 2018 was received from the Ministry of Fisheries and Marine Resources (Annexure "J") requesting Council to provide them with information on activities conducted on Portion 96 as the use of the portion is prescribed in the Deed of Transfer T 1683/2009 as aquaculture. The said ministry observed that no aquaculture activities are taking place on the property.

7. Discussion

It is recommended that Council declines the application of Namibia Oysters (Pty) Ltd to establish a township in line with the recommendation of the Planning Forum of 09 April 2019. The above proposal is supported by the conditions registered in the title deed.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That the application by Namibia Oysters (Pty) Ltd to establish a township on Portion 96 not be approved.
 - (b) That, in future, applications to purchase land in that area not be considered.
-

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11.1.5 APPROVAL OF THE REVIEW AND AMENDMENT OF THE SWAKOPMUND TOWN PLANNING SCHEME (CS/RP/SM-001/2018)
(C/M 2019/05/23 - G 3/2/2)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.14 page 61 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Purpose

The purpose of this submission is for the Council to consider the endorsement for the review and amendment of the Swakopmund Town Planning Scheme as required in terms of Section 16 (2) of the Town Planning Ordinance No. 18 of 1954.

2. Introduction and Background

The Swakopmund Town Planning Scheme has not been updated for about sixteen years since the last update in 2002. This situation has resulted in a large volume of variations made to the Swakopmund Town Planning Scheme over aforesaid period not being incorporated into the main document.

Variations to the Swakopmund Town Planning Scheme undertaken by Council for over a decade and half years ago need to be integrated into one document. In addition, a number of the Swakopmund Town Planning Scheme clauses needs to be reviewed so as to fit the current situation.

2.1 Legal provision

In terms of Section 27(4) of the Town Planning Number 18 of 1954, as amended, it is required that *“Every approved scheme shall be reviewed periodically at intervals of not more than five years with a review to its variation or revocation in terms of subsection (1); provided that the minister may on application extend the interval in any case upon such conditions as he may deem proper.*

The Town Planning Ordinance No. 18 of 1954 as amended, is still the applicable legislation for creation and amendment of town planning schemes.

New replacement legislation was promulgated under Notice No. 125 as the Urban and Regional Planning Act, 2018 (Act No. 5 of 2018). Regulations to accompany the Act have not yet been finalised and as a result, a date of commencement has not been promulgated.

Once promulgated, schemes and processes that have been carried out in terms of the present legislation will be incorporated under the new Act.

2.2 Review

Swakopmund Municipal Council may therefore proceed with the review and amendment of the Swakopmund Town Planning Scheme in terms of Ordinance 18.

It is against this background that Council appointed Telios Namibia Consulting Engineers (Pty) Ltd, through its Procurement Committee under Resolution Number (P/C 2019/01/16 - G3/2/2) to undertake the review and amendment of the Swakopmund Town Planning Scheme. The Procurement Committee resolution is attached as **Annexure A**.

3. Discussion

In order to incorporate and comply with the provisions of the law (Town Planning Ordinance 18 of 1954) the Swakopmund Town Planning Scheme is due for a five yearly review.

3.1 Legal requirement

Requirement pertaining to the decision to prepare a scheme by a local authority as spelt out in terms of Section 16 of the Town Planning Ordinance are outlined below.

"16 (1) Subject to the provisions of this Ordinance, a local authority or a joint committee duly authorized in that behalf may, by resolution, decide to prepare a scheme with respect to any land within the area of such local authority or, as the case may be, the areas of the constituent local authorities.

(2) A resolution passed under the foregoing subsection shall not take effect unless and until it is approved by the Minister, and the Minister in giving his approval may vary the extent of the land to be included in the area to which the resolution applies, but the Minister shall not approve any such resolution unless he is satisfied –

(a) in the case of any land already built upon, that public improvements are likely to be made, or other development is likely to take place, within such a period of time and on such a scale as to make the inclusion of the land in a scheme expedient or that the land comprises buildings or other objects of architectural, historic or artistic interest, or that the land is so situated that the general object of the scheme would be better secured by its inclusion; and

(b) in the case of land which is neither already built upon nor in course of development, not likely to be developed, that the land is so situated in relation to land which is already built upon, or in course of development, or on which development is likely to take place, as to make its inclusion in a scheme expedient, or that it comprises objects or places of natural interest or beauty."

The whole Municipal Area of Swakopmund met the criteria for inclusion in the current Scheme and the Swakopmund Town Planning Scheme was compiled accordingly.

The proposed town planning scheme review and update (5-year review) will maintain the same boundaries as the present Swakopmund Town Planning Scheme.

An application must therefore be made to the Minister of Urban and Rural Development for permission to "prepare a scheme" in terms of Section 16 (2).

3.2 Exemptions

Since the Swakopmund Town Planning Scheme is an approved Scheme, exemption may be granted by the Minister of Urban and Rural Development from compliance with certain provisions that accompany the first creation of a town planning scheme. This provision is contained in Section 27 (1) of the Town Planning Ordinance No. 18 of 1954.

3.2.1 Variation and revocation of approved scheme

In terms of Section 27(1) provision has been made that "an approved scheme may be varied, otherwise than by way of extension of the area to which the scheme applies, or it may be revoked, by a subsequent scheme prepared and approved in accordance with this Ordinance and any regulations made thereunder: Provided that the Minister may, at the request of the local authority or joint committee as the case may be, in respect of any such variation or revocation, grant exemption from compliance with the provisions of sections 7(2) and 15, subject to such conditions as the Minister may deem necessary."

In terms of the aforesaid section, the minister must be asked to grant exemption from compliance with the provision of Section 7(2) (notice of intention to prepare a scheme) and Section 15 (a survey of the matters set out in the First Schedule hereto, and deal in detail with the matters set out in the Second Schedule) of the ordinance.

In addition, exemption is usually granted from certain provisions of the Town Planning Regulations set out under Government Notice 102 of 1st June, 1974 in terms of Regulation 8, namely Regulation 2 (map of outer boundary of scheme), Regulation 5 (notice of preliminary draft scheme) and Regulation 3 (civic survey map).

3.3 Request for additional amendment scheme numbers

Because of the fast pace of change in the urban areas, it has become normal for a local authority to request approval to compile more than one scheme at a time. Approval for 10 scheme numbers has been granted by the Minister in the past. It is been suggested that application be made for an additional 10 schemes, one of which will become the 5-yearly review. The next ten schemes should be numbered 71 – 80.

3.4 Approvals required to enable the consultant make necessary submissions

In terms of Section 17, it is required that notice of preparation of a scheme be first be obtained "where a resolution to prepare a scheme has taken effect the local authority or, as the case may be, the joint committee which passed the resolution shall publish a notice of the resolution in two consecutive issues of the gazette and in a new paper circulating in the area or areas of the local authority or authorities concerned, at least once during each of two consecutive weeks, with an interval between each publication of at least six clear days, the first publication being not more than fourteen days after the receipt of the Minister's Approval" and "a notice required by subsection (1) shall contain a concise statement of the effect of the resolution, together with information as to the place and times at which a map defining the area to which the resolution applies, may be applied."

In order to enable the consultant to make correct submissions to the Minister of Urban and Rural development, Council must resolve for such action to be undertaken so as to obtain a Ministerial approval. After obtaining a Ministerial approval, Council via its consultant shall publish a notice as set out in Section 17 within 14 days of receipt of the Ministerial approval.

4. Conclusion

Council should resolve as required by law in terms of applicable sections and regulations so as to enable necessary applications to be made for the successful review of the Swakopmund Town Planning Scheme.

B. After the matter was considered, the following was:-

RECOMMENDED:

That this submission before Council be approved, to include the following items:

- (i) That the application be made in terms of Section 16(2) of the Town Planning Ordinance, 1954, to compile Swakopmund Town Planning Amendment Schemes No's 71 to 80.
 - (ii) That application be made for exemption from the provisions of Section 7(2) and Section 15 of the Town Planning Ordinance, 1954, (Ordinance 18 of 1954) in terms of Section 27(1) of the said Ordinance.
 - (iii) That exemption be granted from the following provisions of the Town Planning Regulations promulgated under Government Notice No. 102 of 1st June 1974 in terms of Regulation 8:
 - (a) Regulation 2 and 5 in their entirety,
 - (b) Regulation 3 in respect of the provision that a civic survey map to be submitted.
-

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11.1.6 **REZONING OF ERF 5 VINETA, FROM "SINGLE RESIDENTIAL" WITH A DENSITY OF 1:600M² TO "GENERAL BUSINESS"**
(C/M 2019/05/23 - V 5)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.15 page 66 refers.

A. The following item was submitted to the Management Committee for consideration:

1. **Purpose**

The purpose of this submission is for the Council to consider the application for the rezoning of Erf 5 Vineta, from "Single Residential" with a density of 1:600m² to "General Business".

2. **Introduction and Background**

An application for the rezoning of Erf 5 Vineta, from "Single Residential" with a density of 1:600m² to "General Business" was received by the Engineering Services from van der Westhuizen Town Planning and Properties on behalf of the registered owner, Fischreier Investments Proprietary Limited. The application is attached as **Annexure A**.

3. **Zoning, Locality and Size**

Erf 5 Vineta is currently zoned "single residential" with a density of one dwelling per 600m². The Erf is located along First Avenue in Vineta Extension 1, in a predominately residential area. Erf 5 Vineta, measures 720m² in extent. The property has an incomplete semi-constructed building on it.

4. **Ownership**

Ownership of Erf 5 Vineta, vests with Fischreier Investments (Pty) Ltd Ltd as indicted in the Deeds of Transfer T992/200 (**Annexure B**).

5. **Access and parking**

Access to the property is obtained via the existing street which is 25 meter wide. Parking for the proposed development will be provided on-site in accordance with the provision of the Swakopmund Town Planning Scheme.

6. **Advertisement**

The proposed rezoning was advertised in the Namib Times of 8 and 15 June 2018. Neighbouring property owners were notified via registered mails. The closing dated for objections to the proposal was 29 June 2018, and two (2) objections were received by closing time of objections.

7. **Proposal**

There is an incomplete semi-constructed building on the property in question. It is the intention of the owner to complete the

incomplete building structure on the erf so as to be used as an "exclusive boutique hotel" catering for tourists that would want accommodation outside of the CBD.

This development will contribute to the local economy and will have no detrimental impacts on the existing character of the area.

8. Objections

Objections that have been received are concerned with nuisances aspects such as not well informed and inadequate provision of information on the nature of the intended business operations, increase in traffic and congestion, overclouding, both noise and air pollution, property values, infringing of constitutional rights, parking problem and disturbance of the general characteristic of the area.

9. Evaluation

9.1 Traffic congestion

Upon the establishment of the Platz Am Meer on Erf 73, Swakopmund Waterfront, First Avenue has become a major traffic route as a result of the aforementioned development and will never be a quiet road any longer.

9.2 Notice on-site

The procedure is that the public is notified by serving the notice to immediate neighbours by the applicant or via registered mails, place an advert in the newspapers and by placing a notice on-site.

Proof that a notice placed and displayed on site is attached to the application. In most cases, notices on site are removed from the site by unknown persons.

Removal of notices on site is a challenge that the applicant has little control over it, hence multiple forms of notifications as stated above. It is evident that the owner of Erf 6, Vineta was informed of the intensions as per notification letter attached to the application.

9.3 Existing Development

The structures on Erf 5, Vineta have been incomplete since 2013 and being occupied by the homeless. Council received also complaints about the untidy condition of the site and in some instances, harassment in the neighbourhood by the homeless. (Annexure C).

9.4 Neighbourhood Characteristics

Development is time bound and changes take place as population and economic activities grows and town physically expand. The rezoning option has been put in place to accommodate such changes and demanding in land-uses.

Regarding the parking, the Swakopmund Town Planning Scheme made provision that developments should be accompanied by on-site.

9.5 Environmental Impact assessment

The area was assessed in terms of the Environmental Management Act, Act 7 of 2007 and in conjunction with the Delegation of Power by the Environmental Commissioner to the Swakopmund Municipal Council. The consultants were required to do public consultations according to the Environmental Management Act No 7 of 2007. Proof of the public consultations done by the consultants were attached to the application form received. No objections were received during this process as stated by the applicant.

The assessment has established that the proposed development and operational activities will have limited significant environmental effects during the construction phase only, in terms of the building rubbles.

The proponent did address this concern and did follow the right procedure in obtaining the ECC. The application documentation, with a copy of the ECC for rezoning of erf 5 was sent to the Environmental Commissioner's Office.

The proposed rezoning has been cleared by the General Manager: Health Services subject to certain conditions, particularly on management and monitoring of the building waste. The Environmental Clearance Certificate is attached as (Annexure D).

10. Conclusion

The proposed zoning is in line with the Swakopmund Town Planning Scheme and it can be supported. The proposed rezoning will make better use of the site where there is currently a semi-constructed structure that has been standing for years.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Erf 5 Vineta, be rezoned from "Single Residential" with a density of 1:800m² to "General Business".
- (b) That the rezoning of Erf 5 Vineta, be included in the next Swakopmund Amendment Scheme.
- (c) That Erf 5 Vineta, be subject to a betterment fee calculated according to the betterment fee policy of 2009 and be paid by the applicant before any submission of building plans to the Engineering Services Department for approval.

- (d) That the objectors be informed of their rights to appeal against the Council decision (in terms of Clause 8 of the Swakopmund Town Planning Scheme) to the Minister, within 28 days of this notice against Council's decision, provided that written notice of such an appeal shall be given to the Ministry, as well as the Council within the said period, and
 - (e) That all the parking be provide on-site in line with the Swakopmund Town Planning Scheme.
-

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11.1.7 **ESTABLISHMENT OF THE NONIDAS INDUSTRIAL TOWNSHIP ON PORTION 23 OF FARM NUMBER 163 SWAKOPMUND AND APPROVAL OF THE LAYOUT**

(C/M 2019/05/23 - G2 (23))

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.16 page 03 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Purpose

The purpose of this submission is for the Council to consider the Need and Desirability for the establishment of the Nonidas Industrial Township on Portion 23 of Farm Number 163, Swakopmund and approval of the Township Layout and a 50m wide Servitude over the Remainder of Farm Number 163, Swakopmund.

2. Introduction and Background

An application was received from WINPLAN Town and Regional Planning Consultants on behalf of Nonidas Industrial (Proprietary) Limited for the Need and Desirability and establishment of the Nonidas Industrial Township and request for the approval of the proposed township on Portion 23 of Farm 163, Swakopmund.

In addition, a request has been made for the approval of fifty (50) metres wide servitude on the Remainder of Farm 163, Swakopmund.

In order to enable the establishment of the proposed township of Portion 23 of Farm 163, Swakopmund, Swakopmund Municipal Council consent is a prerequisite.

It is against this background that this item is submitted to the Management Committee for Consideration.

3. Ownership

In Terms of the Title Deed Number T1650/2012, Portion 23 of Farm 163, Swakopmund belongs to Nonidas Industrial (Proprietary) Limited. The title deed is attached as **Annexure A**.

4. Location and zoning

Portion 23 of Farm 163, Swakopmund is located east of Swakopmund built-up area, approximately 10 kilometres from the Swakopmund Central Business District (CBD) and about a kilometre north of the B2 main road between Swakopmund and Arandis, adjacent to the Nonidas Railway Siding along the Swakopmund-Usakos railway line.

In terms of the Swakopmund Town Planning Scheme, Portion 23 of Farm 163, Swakopmund is zoned undetermined.

5. Access

Access to Portion 23 of Farm 163, Swakopmund is obtained from B2 over the Swakopmund Town Lands.

6. Topography

Portion 23 of Farm 163, Swakopmund is relatively flat with a gradient ranging from 1:200 to 1:400. Vegetation is limited and small numbers of rocky outcrops are found on the portion.

7. Service Infrastructure

Apart from the railway line which is situated on the northern border of Portion 23 of Farm 163, Swakopmund and the B2 Highway, there is no municipal infrastructure on or in the vicinity of the site.

8. Layout

The area for the proposed development bears the shape of a curved triangle and borders the railway line on its northern boundary. The proposed layout consists of four main land uses and is comprised of 130 erven. The number of erven and proposed land uses are as follows:

- 59 "light industrial" erven,
- 27 "general industrial" erven,
- 36 "general business" erven and
- 8 "public open spaces" erven

The layout has been designed in such a way that the physical attributes and the natural features of the terrain are taken into consideration in order to limit construction costs. It should however be noted that the plans submitted by WINPLAN on behalf of Nonidas Industrial (Proprietary) Limited indicate proposed developments which fall outside of Portion 23 of Farm 263, Swakopmund, that area does not belong to Gecko Namibia or Nonidas Industrial (Proprietary) Limited. The proposal falling out of Portion 23 of Farm 263, Swakopmund should be disregarded from the approval of the layout as it is included to indicate potential developments that can take place in that area.

Design Features**8.1 Access and street width**

Access to the site is obtained from the B2 road over the Swakopmund Town Lands. The internal streets are envisaged to be between 20 and 50 meters wide and will be surfaced with either tarmac or paving. Fifty (50) metres servitude needs to be registered over the Remainder of Farm 163, Swakopmund so as to facilitate access to Portion 23. This servitude could be incorporated as a street into future establishments.

8.2 Infrastructure Design and provision

Portion 23 of Farm 163 is currently not serviced, however Lithon Consulting Engineers were appointed by the owners to ensure that the proposed bulk engineering and internal services in the layout comply with the specifications of the municipality. Due to the location of the proposed development from the CBD and existing Industrial area, the distance does not permit for service integration.

Services design and provision should be done to the satisfaction of the General Manager: Engineering Services. All the costs involved should be for the applicant's account.

8.3 General Industrial

Provision was made for larger sites for "general industrial" zoned erven.

8.4 Light Industrial

Provision was made for more "Light Industrial" zoned erven as their sizes vary and are in greater demand and are more favourable. The "General Industrial" erven are usually larger.

8.5 General Business

Provision was made for a number of business sites positioned closer to the main street and forms an edge of the main boulevard leading up to the Nonidas Railway Siding. The need arose from an observation made in industrial areas where sites zoned for industrial purposes are usually taken up by general business uses.

8.6 Public and Private Open Spaces

Sites for Public Open Spaces were created in the layout to not only serve a visual enhancement purpose but for these spaces to be functional as well for use by workers in the area as well as the general public. A "Private Open Space" was also created to host a sports complex.

9. Need and Desirability

The initiative for the establishment of an Industrial township on Portion 23 of Farm 163 Swakopmund by Nonidas Industrial (Proprietary) Limited was driven by the market and economic opportunity based on the town's population and growth. The market demonstrated a high demand for industrial erven, both general and light industrial. Additional to the industrial erven, general business erven are also in short supply, which is not only evident in Swakopmund, but also in towns such as Windhoek as well as industrial erven are often used for general business purposes relating to industries. Nonidas Industrial (Proprietary) Limited therefore took advantage of the skewed relationship between demand and supply and decided to fill this gap through the proposed development.

Given the growth rate of Swakopmund at 5.4%, the town is anticipated to grow significantly with its economically active population also

anticipated to increase. The establishment of an industrial township is therefore necessary and will ensure that employment opportunities are created by the industries to be established on the proposed development to contain this deficit in the labour force.

In addition to the aforementioned, the statutory processes for the establishment of townships usually take time to be completed. Nonidas Industrial (Proprietary) Limited thus desires to ensure that the market's demand for industrial and business erven is met by being proactive in its endeavour to avail industrial and business erven. The process is as a result being started earlier as this will increase the chances of expediting land delivery.

10. Environmental Clearance

A full environmental impact assessment was conducted as prescribed by the law however the Environmental Clearance Certificate has not supplied to Council as yet.

11. Conclusion

The need for erven zoned for industrial purposes was anticipated as provision was made for land earmarked for industrial purposes in the long term plan of Swakopmund dated January 2008. The current demand for erven of this nature simply confirms this fact, the proposed development by Nonidas Industrial (Proprietary) Limited therefore not only responds to the market's needs, it is also in line with the long term plans of Council and should be supported.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That the Need and Desirability for the Township Establishment on Portion 23 of Farm 163 Swakopmund be approved.
- (b) That the layout as indicated on Plan Number SWB_SUB25-re2 for the township establishment on Portion 23 of Farm 163 Swakopmund be approved.
- (c) That the future proposal that falls outside of Portion 23 of Farm 163 Swakopmund be turned down and the applicant revise the layout plan to be confined to Portion 23 of Farm 163 Swakopmund only before submission to the Namibia Planning Advisory Board (NAMBAP).
- (d) That approval be granted for application to be made in terms of Section 5 of the Township and Division of Land Ordinance No. 11 of 1963 for the establishment of a new township on Portion 23 of Farm 163 as shown on the subdivisional plan.
- (e) That a fifty (50) meters wide servitude to be registered over the Remainder of Farm 163, Swakopmund be approved.

- (f) That the Engineering Services Department be authorized to consent for minor amendments to the plans in order to accommodate land surveyor requirement, those of the Townships Board and infrastructure accommodation.
- (g) That an Environmental Clearance Certificate from the Environmental Commissioner for the proposed township establishment on Portion 23 of Farm 163, Swakopmund be obtained prior to the submission of the application to the Namibia Planning Advisory Board (NAMBAP) and Townships Board.
- (h) That the conditions of establishment be as follows:

The following conditions shall be registered against the title deeds of all erven, except those reserved as "Public Open Space".

- (i) *That the erven shall only be used or occupied for purposes which are in accordance with and the use or occupation of the erven shall at all times be subject to the provisions of the Swakopmund Town Planning Scheme prepared and approved in terms of the Town Planning Ordinance, 1954 (Ordinance 18 of 1954).*
 - (ii) *The building value of the main building, excluding the outbuilding to be erected on the erf shall be at least four times the municipal valuation of the erf.*
 - (j) That all services design and construction be done to the satisfaction of the General Manager: Engineering Services.
 - (k) That all costs involved for the proposed development be for the applicant's account.
-

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- 11.1.8 REZONING OF ERF 5831, SWAKOPMUND EXTENSION 18, FROM "SINGLE RESIDENTIAL" WITH A DENSITY OF 1:600M² TO "GENERAL RESIDENTIAL 2" WITH A DENSITY OF 1:100M² AND CONSENT TO OPERATE A SELF-CATERING ACCOMMODATION ESTABLISHMENT FROM ERF 5831, SWAKOPMUND, EXTENSION 18 WHILE THE REZONING IS IN PROCESS
(C/M 2019/05/23 - E 5831)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.17 page 26 refers.

- A. The following item was submitted to the Management Committee for consideration:

1. **Purpose**

The purpose of this submission is for Council to consider the application for the Rezoning of Erf 5831 Swakopmund Extension 18, from "Single Residential" with a density of 1:600m² to "General Residential 2" with a density of 1:100m² and Consent to operate a self-catering accommodation establishment from Erf 5831, Swakopmund while the rezoning is in process.

2. **Introduction and Background**

An application for the rezoning of Erf 5831, Swakopmund Ext 18 from single residential with a density of 1:600m² to general residential with a density of 1:100m² and consent to operate a self-catering accommodation establishment while the rezoning is in process was received from Van der Westhuizen Town Planners and Properties. The application has been attached as **Annexure A**.

3. **Ownership**

The ownership of Erf 5831 Swakopmund, Extension 18 vests with Mr B F Geldenhuys and Mrs A S W Geldenhuys. Ownership of Erf 5831 Swakopmund is held by Deeds of Transfers T1245/2018 and T1246/2018.

4. **Zoning, Locality and Size**

Erf 5831 Swakopmund is located in Extension 18, also known as Kramersdorf. The Erf is located along Ekuma Street. According to the Swakopmund Town Planning Scheme, Erf 5831, Swakopmund is currently zoned "Single Residential" and is approximately 875m² in extent.

5. **Access and parking**

Access to Erf 5831, Swakopmund is currently obtained via Ekuma Street; access to the erf will be maintained. Ekuma Street is approximately 15 metres wide. Parking for the proposed development will be provided on-site in accordance with the provision of the Swakopmund Town Planning Scheme.

6. Proposal

It is the intention of the owners of Erf 5831, Swakopmund to operate a self-catering accommodation establishment on the Erf. According to the applicant, the owners purchased the Erf for this very reason in order for them to generate some income as the one is on pension and the other is due for pension. Erf 5831, Swakopmund currently hosts a building that contains six (6) self-catering units; this is in contravention with the Swakopmund Town Planning Scheme. According to the applicant, the owners of Erf 5831 were not aware of the fact that they were not permitted to construct this number of units. The applicant claims that the municipality issued a completion certificate.

According to the applicant, it only came to the attention of the owners of Erf 5831, Swakopmund that the building on the erf was in contravention with the Swakopmund Town Planning Scheme when they tried to register the self-catering accommodation establishment and the application was turned down by the Town Planning Section. The applicant has stated that due to financial constraints currently experienced by the owners of Erf 5831 given the time and money spent during the construction phase of the building, the demolition of the buildings cannot be afforded.

According to the Swakopmund Town Planning Scheme No 12, Section C: General Residential 2 Zone, paragraph 2, subparagraph 2.3 (b):

"... Council may in certain cases, beyond the control of the applicant, give its special consent for the erection of a block of flats or residential buildings on an erf smaller than the prescribed area"

The prescribed area in this case is 900m² to 1000m² Erf 5831, Swakopmund is approximately 875m², the applicant therefore requests that Council considers this application in terms of the aforementioned clause. The applicant has further stated that Council has in the past approved several rezoning's of erven in the area such as Erf 9632, Swakopmund which was resultant of a rezoning and consolidation of six (6) Single Residential erven located right next to Erf 5831, Swakopmund.

The applicant has motivated that the proposed rezoning will not be out of context with the current characteristics of the area as the area is slowly changing into a mixed density residential area. The applicant has further motivated that since no objections were received from any of the surrounding property owners or the general public during the public participation stages of the rezoning, it is a clear indication that the proposed rezoning is welcomed by not only the surrounding erf owners but by the general public too.

According to the applicant, the owners of Erf 5831, Swakopmund do not intend to make any changes to the building on the erf as the building was constructed in such a way that from the street one would consider it to be a normal free standing house and not flats or apartments. The applicant also stated that the proposed

development will not have any negative or detrimental impacts on the existing character of the area in question; it will as a matter of fact contribute positively to the current character of the area and the town of Swakopmund as a whole.

7. Advertisement

The proposed rezoning of Erf 5831 Swakopmund was advertised on the 15th and 26 February 2019 in the Namib Times newspaper. A notice was also placed on site and the comments of neighbouring property owners were requested via registered mail. The closing date for objections to the proposal was the 12 March 2019. No objections were received.

8. Discussion

Council has over the past few years received a few applications for rezoning in Swakopmund Extension 18 for increases in residential densities. Newly created Erf 9632, Swakopmund is a reference in this regard as pointed out by the applicant. The proposed development will therefore not have significant negative impacts on the area.

The applicant has however made unsupported claims in their application. The applicant stated that the building section approved the building with the six (6) units and issued a completion certificate. This is not true; the building inspectorate section only issued a completion certificate on the building as per the approved building plans which were signed off by the General Manager: Engineering Services on the 22 June 2018. These plans have been attached as **Annexure B**. The owners of Erf 5831 Swakopmund thereafter submitted AS-Built drawings depicting 6 units each with a kitchen, these plans have been attached as **Annexure C**. Under normal circumstances, AS-built drawings are permitted to allow for minor amendments and changes to buildings during construction. These AS-built drawings are then received and approved by the building inspectorate. When approved, the plans bear a stamp. These plans have however not been approved and this was detected when the owners of Erf 5831 applied for business registration. It is clear that after the completion certificate was issued, the owners of Erf 5831 Swakopmund deviated from the approved plans, by closing off the internal connectivity and making provision for a kitchen in each unit. As a result, there are now six (6) dwelling units on a single residential erf.

The additions of the kitchens in the units were done without the Council's approval. According to the Swakopmund Town Planning Scheme, the primary use of an Erf that is zoned "single residential" is a dwelling house. The aforementioned scheme defines a dwelling house as:

'a dwelling with or without an outbuilding consisting of mutually adjacent rooms with a kitchen and with at least a bathroom and toilet facilities and designed for occupation by a single household, and may, subject to approval of the Council,

include an additional dwelling, on condition that the density zoning can be adhered to”

The building on Erf 5831, Swakopmund currently contravenes the scheme in every sense of this definition. Firstly, the building has more than one kitchen which is not permitted, secondly, it does not comply in terms of density and lastly, major changes were made to the structure without the approval of the Council.

The proposed development can be supported by the Council as it will not have a significant negative impact on the area; furthermore, Council's approval is essential for the rectification of the current situation. The contravention of the scheme however needs to be addressed. According to the Betterment Fee policy of 2009, attached as **Annexure D**,

A betterment fee levied at 75% is applicable where an unauthorized activity or illegal building works is being legalized on any zone

The aforementioned therefore applies to this application.

9. Conclusion

The proposed rezoning of Erf 5831, Swakopmund from "Single Residential" with density of 1:600m² to "General Residential 2" with a density of 1:100 m² is not foreseen to have any negative impacts on the area. Furthermore, no objections have been received for the proposed rezoning. It is a clear indication that the general public support the proposal.

The special consent of the Council to operate the self-catering accommodation establishment while the rezoning is in process cannot be considered at this stage given the fact that the proposed rezoning is submitted for rectification and legalization of the situation on the ground. Council's approval of this application will be interpreted as Council's consent to a use that contravenes the Town Planning Scheme which nullifies the purpose of this application.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Erf 5831, Swakopmund be rezoned from "Single Residential" with a density of one dwelling per 600m² to "General Residential" with a density of one dwelling per 100m² in terms of Section C: General Residential 2 Zone, paragraph 2, sub-paragraph 2.3 (b).
- (b) That Consent to operate an accommodation establishment on Erf 5831, Swakopmund while the rezoning is in process be turned down.
- (c) That the rezoning of Erf 5831, Swakopmund be included in the next Swakopmund Amendment Scheme.

- (d) That the rezoning of Erf 5831, Swakopmund be subject to a 75% betterment fee calculated according to the betterment fee policy of 2009 and be paid by the applicant before any approval of the AS-built plans by the Engineering Department.
 - (e) That parking be provided on-site in line with the Swakopmund Town Planning Scheme.
 - (f) That the applicant be informed that he may appeal the Council decision to the Minister of Urban and Rural Development with valid reasons within twenty eight (28) days from the date of the decision in accordance with clause 8 of the Swakopmund Town Planning Scheme.
-

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11.1.9 **REQUEST FOR SPONSORSHIP: SWAKOPMUND FOOD TRUCK FESTIVAL**

(C/M 2019/05/23 - D 5)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.19 page 77 refers.

A. The following item was submitted to the Management Committee for consideration:

Attached letter received from Ms Dalene T Stephanus, of Messrs DJS & Co, requesting for permission to use the Amphitheater as their venue to host the Swakopmund Food Truck Festival as from **31 May-01 June 2019**.

Messrs DJS & Co is a consulting agency based in Swakopmund. The company has been in the advertising, branding and marketing for 5 years and has branched out into events and retainer consulting in 2018 and now creates niche events.

Messrs DJS & Co is planning to host the Swakopmund Food Truck Festival from **31 May-01 June 2019** with the aim of giving Swakopmund locals and visitors the opportunity to experience Swakopmund's culinary side. Their first request was to host the event during the Easter weekend but due logistic involved, they changed the dates. The company also plans to make this event an annual event in order to create a lively and connective atmosphere in Swakopmund.

The Swakopmund Food Truck Festival event will mainly cater for mobile kiosks (food caravans / trucks) parked next to each other, which will sell cuisines varying from sea food, soft serves, hotdogs, etc. At the event there will also have a beer tent and music (at a controlled sound) available.

Council is hereby requested to assist Messrs DJS & Co in hosting the Swakopmund Food Truck Festival by:

- Covering the cost of the Amphitheater which is N\$309.00 per day (Total cost is N\$618.00 = 2 x N\$309.00 daily rental rate);
- Providing extra bins at the venue;
- Advertise the event on Council's website, Facebook page and notice boards.

Messrs DJS & Co will offer the following branding opportunities to Council:

- Branding on all artwork (Tickets, Flyers and posters)
- Outdoor branding
- Council will be announced as one for the main sponsors in the media and broadcasting engagements.

B. After the matter was considered, the following was:-

RESOLVED: (For Condonation By Council)

- (a) That the request for sponsorship towards the Swakopmund Food Truck Festival scheduled to take place from 31 May 2019 to 01 June 2019 in Swakopmund, be noted.
 - (b) That permission be granted to Messrs DJS & CO to utilize the Amphitheater from 31 May 2019 to 01 June 2019 and the Council cover the cost of N\$618.00 (= 2 x N\$309.00 daily rental rate) for the venue.
 - (c) The costs mentioned above in (b), be defrayed from the Corporate Services Publicity Vote: 102010212700 where N\$58 297.34 is available.
 - (d) That the noise level of the music not to be more than 85 dB (Decibel) at the noise source (thus the speakers) and not more than 60 dB at a distance of 200m and should valid complaints be received, permission can be withdrawn forthwith.
 - (e) That Messrs DJS & CO ensure that the facilities including the parking area are cleaned within 48 hours be restored to their original conditions and to the satisfaction of the Swakopmund Municipality after the event.
 - (f) That Council be indemnified against any claims that may arise from using the venue.
 - (g) That Messrs DJS & CO be responsible for the provision and arrangement of public ablution facilities on site, if required.
 - (h) That Messrs DJS & CO make prior arrangements with Erongo-RED for electricity connection at their own cost should it be required.
 - (i) That food vendors be registered with the Health Services Department, similar to the Christmas Fair registration.
 - (j) That Messrs DJS & CO be required to pay a refundable deposit on N\$724.00 for the cleaning of the Amphitheater after the event.
 - (k) That Messrs DJS & CO submit proof that the following arrangements have been made:
 - *Emergency Services*
 - *Traffic Control and Parking*
 - *Waste removal*
 - *Security Services*
 - *Liquor license (if required)*
-

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11.1.10 **TRANSFER OF FUNDS**
(C/M 2019/05/23 - 16/2/6/3)

Ordinary Management Committee Meeting of 09 May 2019,
Addendum 8.21 page 92 refers.

A. The following item was submitted to the Management Committee for consideration:

Purpose

The purpose of this submission is to attain permission to transfer savings from capital vote number 305932828300 to 302533032600 and 305932828400 to 302533032600 respectively, this will ensure that sufficient funds are available to de-rust various vehicles.

Introduction

The request for sealed quotations for the procurement of de-rusting and re-spray services, De-rust and Re-spray Various Vehicles, was invited **22 February 2019** and closed on **Wednesday, 20 March 2019** at 16h00.

The lowest, compliant and responsive bid received is higher than the approved capital budget amount of N\$215 000.00.

A saving on the approved 2018/2019 Capital budget was realised for votes 305932828300 and 305932828400.

B. After the matter was considered, the following was:-

RESOLVED: (For Condonation by Council)

That the GM: Finance be granted permission to transfer an amount of N\$45 000.00 from Vote: 305932828300 - Replace TATTA Tipper N13134S and N\$45 000.00 from Vote: 305932828400 - Replace TATTA Tipper N15969S to Vote: 302533032600, this will ensure that sufficient funds are available to complete the planned project.

11.1.11 **ERONGO RED: BOARD OF DIRECTORS: APPOINTMENT OF AN ALTERNATE**

(C/M 2019/05/23 - A 4/3/1/16/1)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 9.1 page 03 refers.

A. The following item was submitted to the Management Committee for consideration:

Council on 22 November 2018, item 11.1.38 resolved:

That the Council resolution of 27 September 2018 under item 11.1.36 be repealed and replaced with the following:

- (a) *That it be recorded that the term of office of the Board of Directors of Erongo RED is not determined in any governing statutes.*
- (b) *That the term of office of the current Board of Directors of Erongo RED expires on 31 March 2019.*
- (c) *That the following representatives and alternates represents Council as non-executive members on the Board of Directors of Erongo RED as from 01 April 2019:*

	Director	Alternate
1	Mr Eonia Petrus	Ms Elizabeth Manga
2	Ms Natalia //Goagoses	To be nominated

In terms of the provisions of the Board Charter approved during their tenure of office, of the board, the directors and their alternates are limited to a maximum of two 3-year terms.

Council still needs to consider to nominate and appoint an alternate member for Ms Natalia //Goagoses.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council appoints Mr Paul Rooi as an alternate member for Ms Natalia //Goagoses to represent Council as non-executive members on the Board of Directors of Erongo RED.
 - (b) That the Chief Executive Officer invites the Directors on regular basis to give feedback to council on matters of importance.
-

11.1.12 **APPLICATION BY MESSRS CHEETAH CAPITAL COMMUNITY RESETTLEMENT PROJECT FOR THE REFUND OF COSTS INCURRED FOR THE TERMINATED LEASE**

(C/M 2019/05/23 - H 5)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.13 page 03 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Introduction

On 23 April 2019 the Planning Forum considered the following matter under item 5.11 and it is now submitted to the Management Committee for consideration.

The attached letter (Annexure "A") was received from Messrs Cheetah Capital Community Resettlement Project (hereinafter referred to as Messrs CCCRCP) requesting Council to:

- ✓ write off the rental arrears in respect of Site J at the Light Industrial Incubation Area as the lease was terminated and,
- ✓ refund them the monies paid for rental and for the registration of business fitness certificate of the terminated site for the period between 03 May 2015 to July 2018.

The application of Messrs CCCRCP was acknowledged on 14 January 2019 and a copy of the letter was forwarded to the Finance Department for information.

Subsequent to the above, another letter dated 15 January 2019 (Annexure "B") was received from Messrs CCCRCP requesting a refund of the money paid to the Municipality as they never utilised the site and the agreement was eventually terminated by the Municipality.

CCCRP is a company (incorporated association not for gain) in terms of Section 70 (1) (Regulation 17 (3)) of the Namibian Companies Act 2004.

2. Background

The Light Industrial Incubation Area (previously known as the Informal Brick Making Area) at Portion 5 of Swakopmund Town and Townlands No 41 was established to support and sustain informal small-scale SME's such as brick makers on a temporary incubation basis.

On 19 January and 01 February 2011 (Annexure "C") Messrs CCCRCP applied for a brick making site, their application was listed on the waiting list for future allocation once a site becomes available. Site J become available shortly thereafter.

On 29 April 2015, Council approved under item 11.1.8 the allocation of Site "J" at the Light Industrial Incubation Area to Messrs CCCRCP to lease for a period of one year commencing 01 August 2015 until 31 July 2016.

(a) ...

(b) That Council approves to lease Site "B and J" at the Light Industrial Incubation Area each measuring 1 000m² at N\$368.00 (320.00x N\$0.32 m² + 15% VAT) per month to:

- Messrs V. P. Brick Works and Messrs CCCR Project Welfare Organization respectively for the purpose of making bricks; and
 - That the lease period of 5 years be changed to a period of (one) 1 year and the lease be reviewed after one (1) year to determine whether the lessees are fully operational.
- (c) That should the applicants in (b) decline the offer, the sites be offered to the next applicants listed.
- (d) That the lease of the above mentioned sites be subject to the conditions of lease as stipulated in the Property Policy and any further conditions that Council will deem fit.

The lease agreement was signed on **06 July 2015**. Finance Department was informed to levy the monthly rental as from August 2015. The lessee however never took possession of the site.

After signing the lease agreement, Messrs CCCRP applied to lease a general industrial plot measuring 8 000m² on **24 August 2015** in exchange for Site J at the Light Industrial Incubation Area. In their letter they indicated that they are planning on investing N\$ 4 000 000.00 in their business and require a lease term of 10 years with a first option to purchase the leased land in order to recover their cost and generate profit, although they are a non-profit company.

Based on their motivation for a bigger erf and after research on the company profile, it was established that Messrs CCCRP is not a small scale business since they are a registered company involved in massive projects even though they are registered as a company not for gain.

Information retrieved from their website at the time indicated that, due to the financial situation of the Messrs CCCRP, the directors decided to focus the limited financial resources available on the key area of Windhoek, and all rights and interests of Messrs CCCRP which fall outside of Windhoek were ceded to Umntu Investments CC.

Council decided to terminate the lease of Messrs CCCRP on **02 February 2016**, under item 11.1.2:

- (a) That the application of Messrs Cheetah Capital Community Resettlement Project for a General Industrial erf measuring 8 000m² in exchange for "Site J" measuring 1000m² at the Light Industrial Incubation Area be turned down.
- (b) That Messrs Cheetah Capital Community Resettlement Project be advised to take part in the closed bid sale for industrial erven once the rezoning is finalized.
- (c) That the lease in respect of "Site J" at the SME industrial incubation area be terminated as Messrs CCCRP is not an SME and the size of the allocated site does not meet their requirements of 8 000m².

Following the above decision, the lease agreement was terminated by notice on **03 May 2016** as required in terms of Clause 2 of the agreement Annexure "D".

Finance Department was also informed to stop levying monthly rentals as from **03 May 2016**.

3. Discussion

3.1 Allocation and termination of the lease agreement

The application of Messrs CCCRП for the brick making site was considered and Council acted in good faith and allocated the lease site to them on the basis that they are a non – profit organisation.

Messrs CCCRП accepted the site which was reserved for SME ventures while they were aware that they are an established company. They also agreed to the terms and conditions of lease as prescribed in the lease agreement. Therefore they were liable for any payments and for any charges in respect of the lease while the lease agreement was active.

The lease agreement was terminated after it transpired that Messrs CCCRП is not a Small Medium Enterprises (SME's) but an established company that can afford an industrial erf for manufacturing of bricks.

3.2 Application for refund

Messrs CCCRП has now applied for the refund of the monies that they have paid on the allocated site J at the Light Industrial Incubation area as they never utilised the site. These include monies for rental and payment for the registration of a fitness certificate.

In addition to the refund, they also request that Council writes off the outstanding balance on the lease account.

Finance Department confirmed as per attached printout of the debtor transaction (**Annexure "E"**) that they have made payment of a total amount of **N\$ 2 271.20** (N\$ 652 for the refundable deposit and N\$ 1619.20 for the rental) on the lease account. In addition to the rental payment they also paid an amount of N\$ 569.00 on 21 August 2015 for business registration a copy of the receipt is attached as **Annexure "F"**.

In terms of the Prescription Act, Act 68 of 1969, Messrs CCCRП has not instituted action within 3 years. Therefore the claim to be refunded has lapsed.

Council has an obligation and fiduciary duty to exercise their power in good faith and to the benefit of the rate payers and to exercise their power with care and skill.

3.2 Payments received on the rental account are as follows:

	Payment date	Reference/ Receipt No	Amount (N\$)	
⊕	22/07/2015	0409104201	150.00	} refundable deposit
⊕	22/07/2015	0409104101	150.00	
⊕	22/07/2015	0409104001	352.00	
⊕	13/10/2015	0214602501	1619.20	
Total			2 271.20	
⊕	21/08/2015	136201	569.25	
Overall sum			2840.45	

Messrs CCCRП also claim the amount of **N\$ 63.10** paid to Messrs Formula Courier Services for delivering their application letter to

Council (attached Annexure "G"). The payment made to Messrs Formula Courier Services cannot be refunded as it was not paid to Council and they decided to use the courier services on own initiative. It is unheard of that applicants claim costs for an unsuccessful application.

Following the termination of the lease, the rental account was closed on 03 May 2015 with an outstanding balance of N\$ 2 024.00. On 06 March 2019, Finance Department as per attached Annexure "H" credited the rental account with an amount of N\$ 652.00 being a refundable deposit that was paid by Messrs CCCRП on 22 July 2015. The balance on the rental account now amounts to N\$ 1 374.00 (N\$ 2 024.00 minus N\$ 650.00 - deposit).

Messrs CCCRП is liable to pay the outstanding balance of N\$ 1372.00 in terms of the terminated lease agreement. Although the agreement was terminated Council is obliged to enforce the contract in order to ensure that the outstanding balance is recovered from Messrs CCCRП. Since Council was not at fault when allocation was done hence the contract has to be enforced. It is therefore proposed that Messrs CCCRП be informed to pay the outstanding amount on the rental account, should they fail to pay Council will take legal action against them.

3.3 Proposal

In view of the above, it is proposed that Council does not approve the application of Messrs CCCRП for the refund of monies resulted from the lease agreement of the allocated Site J at the SME Industrial Incubation area and the payment they made for the business registration in respect of the allocated site at the light Industrial Incubation area. Since the outstanding balance of N\$ 1 374.00 can be recovered from Messrs CCCRП and that Council was not at fault when allocated the site to them, it is proposed that Messrs CCCRП be informed to settle the account, failure of which legal action will be taken against them.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council does not approve the application of Messrs Cheetah Capital Community Resettlement Project for the refund of monies paid in respect of the termination of allocated "Site J" at the Light Industrial Incubation Area as the claim is no longer valid in terms of the Prescription Act, Act 68 of 1969.
 - (b) That Messrs Cheetah Capital Community Resettlement Project's request to write off the outstanding balance on the rental account and the claim for the refund of N\$63.10 in respect of courier costs not be approved.
 - (c) That Messrs Cheetah Capital Community Resettlement Project be informed to settle the outstanding balance of N\$1 374.00 on the rental account for Site J at the Light Industrial Incubation Area, failure of which, legal action will be taken against them.
-

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11.1.13 **CURRENT STATUS OF TRANSACTIONS OF CLOSED BID SALE OF 16 NOVEMBER 2018: APPLICATIONS FOR EXTENSIONS OF TIME TO PERFORM**

(C/M 2019/05/23 - M 4327, M 4330, M 4341 and M 4342 & 19.03.02)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.1 page 03 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Introduction

Council on 16 November 2018 had a closed bid sale for 4 erven zoned "general business" created by the subdivision of the Remainder of Erf 138, Mondesa.

The due date to secure the purchase prices was Monday, 18 March 2019. None of the purchasers performed whereafter a default notice was issued on 25 March 2019 for the purchasers to perform on / or before 15 April 2019.

The sale is subject to interest at 10.5% from 19 March 2019 until date of transfer in the case where the transfer is not registered on 15 April 2019 (lapsing of the additional 21 days' notice period).

The status of the four transactions is as follows:

Erf No	Size	Purchaser	Purchase Price	Status
4327	1192	Alexander J Trading CC	1 200 001.00	Applies for an extension of time of an additional 45 days to secure the purchase price per letter dated 11 April 2019 (Annexure "A")
4330	600	A N Hafeni	313 555.00	Paid, awaiting transfer.
4341	703	L T Situmbapo	410 000.00	Applies for an extension of time until 30 July 2019 to secure the purchase price, per letter dated 06 March 2019 (Annexure "B").
4342	587	S S T Amutenya	313 577.00	Bank guarantee in place. Awaiting transfer.

A locality map is attached as **Annexure "C"**.

2. Applications for Extension of Time to Perform

As indicated above, two applications for the extension of the payment period was received.

2.1 Erf 4327, Mondesa – Alexander J Trading CC

As per **Annexure "A"** the applicant states that he has submitted his application to the Development Bank of Namibia and received an acknowledgement from them dated 15 March 2019. The bank has a tedious process to follow prior to approving the application. The applicant requests an additional 45 days from 15 April 2019, i.e until Monday, 10 June 2019.

The following bidders are listed as next qualifying bidders for the specific erf:

#	Bidder	Bid Amount	Comments
1	Alexander J Trading CC	1 120 001.00	Accepted
2	Lucas Tuhafeni Shitumbapo	750 000.00	Allocated M 4341
3	Aina N Tuhafeni & Opouo Gambling House	652 555.00	Allocated M 4330
4	Linus D Kayawala	570 968.00	
5	Sakaria Shikongo T Amulanya	551 985.34	
6	Bank Workers Union Of Namibia	550 000.00	
7	Oyoye Accounting Services CC	530 000.00	
8	Thomas Victory	520 000.99	
9	Adamic Christian Ministries	512 666.40	
10	Leonard T Amadhila	511 000.95	
11	COM Investments CC	503 000.00	

2.2 Erf 4341, Mondesa – L T Shitumbapo

A letter dated 7 March 2019 (Annexure "B") was received from Mr L T Shitumbapo. He is requesting Council to consider allowing him extension of time to secure the purchase price for Erf 4341, Mondesa until

30 July 2019. He motivates his request for an extension of time based on the difficult economic situation in our country.

The purchase price (NS 410 000.00 plus 15% (VAT) NS 61 500.00 = NS471 50.00).

The following bidders are listed as next qualifying bidders for the specific erf:

#	Bidder	Bid Amount	Comments
1	Alexander Josef Trading CC	600 001.00	Allocated M 4327
2	Lucas Tuhafeni Shitumbapo	410 000.00	Accepted
3	Linus D Kayawala	372 590.00	
4	Aina N Hafeni & Opouo Gambling House	356 555.00	Allocated M 4330
5	Bank Workers Union of Namibia	330 000.00	
6	Oyoye Accounting Services CC	320 000.00	
7	Leonard T Amadhila	316 010.95	
8	Sakaria Shikongo T Amulanya	313 455.16	
9	Victory Thomas	310 000.99	
10	Adamic Christian Ministries	310 000.00	
11	Ere N Mukokosi	305 000.00	
12	COM Investments CC	301 000.00	

3. Conditions of Sale

With reference to securing the purchase price the standard conditions of sale provide that the purchase price be secured by either:

- Ⓐ A cash payment or
- Ⓑ An electronic fund transfer or a
- Ⓒ Bank guarantee (subject to penalty interest being levied should the property not be transferred by the lapsing of the 21 days' notice period to be issued after 18 March 2019).

The conditions further provide as follows:

No negotiations will be entered into after the bids have been opened and prospective purchasers are cautioned to make adequate provision with their financial institutions prior to the proceedings, as no other arrangement will be accepted than indicated herein.

Paragraph 3 and 5 of Annexure "B" of the Deed of Sale are quoted for ease of reference:

...this Agreement shall be deemed to have been cancelled and shall be of no further force and effect, without any obligation on the SELLER to place the PURCHASER on terms to make payment and without the obligation on the SELLER to inform the PURCHASER that the agreement has indeed become cancelled.

4. **Discussion**

At the closed bid sale, the public was assured that next qualifying bidders will be considered for allocation immediately after the final due date for payment lapses.

All bidders for each erf were listed according to the bid amounts and are therefore eligible for consideration in cases where the initial purchaser did not perform in terms of the conditions of sale. The allocation of erven to the next qualifying bidders is also a condition of the sale document.

The transactions for Erven 4327 and 4341 listed under point 1 were automatically cancelled upon expiry of the 21 days' notice period.

In terms of the conditions of sale the erven will be offered to the next qualifying bidders listed.

B. **After the matter was considered, the following was:-**

RECOMMENDED:

That the outstanding amount of N\$67 472 289.97 resulting from extensions being granted to secure the purchase price of land by the purchasers, be noted.

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11.1.14 **APPLICATION TO PURCHASE LAND ADJACENT TO ROSENDAL FARMING, SMALLHOLDING 180**
(C/M 2019/05/23 - G 2, G 2 (15))

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.4 page 18 refers.

A. The following item was submitted to the Management Committee for consideration:

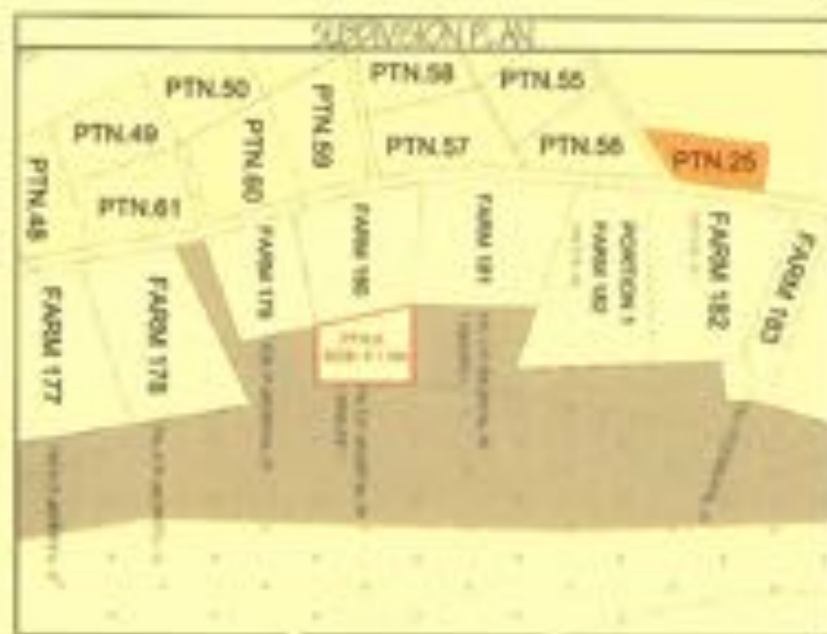
1. Introduction

On **23 April 2019** the following application was discussed at the Planning Forum under item 5.8 and is now submitted to the Management Committee for consideration.

An application dated **10 August 2018** was received from Mr Sakkie Nolte of Rosendal Farming Farm 180 to purchase land adjacent to their property (**Annexure "A"**). It was confirmed that Farm 180 is registered in the name of Rosendal Farming CC.

In order to consider the application, valuations were already obtained and are listed below under point 5.

Should Council consider to sell the portion applied for it will create a constant / straight border with Portions 178 and Portion 1 of Farm 182.



Two previous applications by Rosendal Farming for larger portions of land were considered by Council. On **31 May 2016** under item 11.1.3 decided to not consider the sale, but to offer a lease instead:

- (a) That Council does not sell the portion of land situated between the southern boundary of Portion 180 and the northern boundary of the Swakop River to Messrs Rosendal Farming.
- (b) That Council leases a portion of land adjacent to portion 180 and extending into the Swakop River as per the diagram (on file) of $\pm 120\,000\text{m}^2$ to Messrs Rosendal Farming.

- (c) That the lease be subject to the approval of the Ministry of Urban and Rural Development in terms of the provisions of the Local Authorities Act.
- (d) That the area in (b) be made available to the applicant to lease for a period of 9 years and 11 months for the exclusive purposes of fresh produce farming operations.
- (e) That either party can give 6 calendar months prior written notice of the cancellation of the agreement.
- (f) That lease amount of N\$0.11/m² per month (excluding 15% VAT) be applicable and it be subject to a 10% escalation in July annually.
- (g) That the exact area and size of the portion to be leased be determined by a land surveyor at the applicant's cost.
- (h) That the applicant indemnifies Council against any potential loss or damages that he may suffer as a result of any flooding or by virtue of his occupation of the leased land.
- (i) That the applicant takes note of the provisions of Section 90 of the Local Authorities Act which prohibits the erection of any structures on land in the Swakop River or that may cause the deviation of the flow of the river.
- (j) That all costs relating to the lease be for the account of the applicant.
- (k) That Council's standard conditions of lease be applicable.

The applicant did not take up the lease of the land at the time.

2. Application for land

Mr Nolte of Rosendal Farming CC (owner of Portion 180) wants to purchase a portion of land adjacent to his smallholding on the banks of the Swakop River. The applicant currently produces eggs, milk, asparagus and other fresh produce from his farming operations. The products are all sold to local markets. The applicant intends to plant nut trees. These trees take approximately 4 years to mature and in order to generate income. The lease option is not financially viable to the applicant as he will not generate any income for 4 years.

3. Land Usage and Location

The smallholdings are zoned "agriculture" and were intended for purposes of farming enterprises such as Rosendal Farming. The applicant has an established enterprise and is an experienced farmer who produces for the local and Namibian market.

It has been confirmed by the Town Planner during 2016 that the portion in question forms part of the townlands under Council's jurisdiction. No formal flood line study has been undertaken to determine where the Swakop River flood marks are and whether there would be any risk of flooding to the land in question. Should it be decided to sell the land to the applicant, Council will not be the owner and will be indemnified for any loss or damage as a result of any potential river flooding.

Should the land fall within the flood line, section 90 of the Local Authorities Act 23 of 1992, as amended will be relevant which prohibits the erection of any artificial or natural obstructions on the banks of watercourses situated in the local authority area; within the lines indicating the maximum level likely to be reached on an average every 50 years by flood waters.

4. Property Section Comments

The purpose for which Mr Nolte requires the land can be supported as this is in line with the zoning of the adjacent smallholdings. It is a well-known fact that farming on the smallholdings is mostly limited to areas where fresh water from the river bed and boreholes can be obtained. The smallholdings directly on the northern banks of the Swakop river are also the only properties that have soil conducive to agricultural farming and can also often source ground water for these practices. The availability of farmable land in the area is limited and the applicant will in all probability not be able to easily obtain a larger smallholding to allow him to extend his farming business.

Rosendal Farming also applied to Council in 2015 for the allocation of land in the vicinity of the Rossmund Golf Course, but on **26 February 2015** Council under item 11.1.4 resolved:

That Council does not approve the sale of a 10 hectare portion of land, of the Remainder of Farm 166 of the Remainder of Portion B (situated south of Portion D) of the Swakopmund Town and Townlands 41 to Messrs Rosendal Farming for the purpose of agriculture.

It was established that amongst other factors, the land in question was earmarked for residential development according to Council's long term plan.

As the applicant requires the land for the purposes of planting nut trees, no permanent structures will be erected on the land.

The portion of land does not serve any purpose to Council and cannot be sold as a separate small holding due to access and the minimum size of a smallholding being 10ha.

The size of Portion 180 is 9,049 ha. The size of the additional area applied for is 4,100 ha. It will be required that the purchaser consolidates the portion with his existing smallholding.

5. Purchase Price

Council's Property Policy prescribes the purchase price to be determined on the average of valuations received.

Valuations were requested on **27 February 2019** from two valuers to determine a market related purchase price, based on an assumed zoning of "agriculture", and was received as per **Annexures "B"** and **"C"** respectively.

The average price of portion of land, measuring 4.1ha (41 000m²), located adjacent to Portion 180 is calculated as follows:

Valuator	Price/ha	Total price
The Trust & Estate Co	N\$110 000.00	N\$450 000.00
Ludwig Schroder Estate Agents CC	N\$ 70 000.00	N\$290 000.00
Average	N\$ 90 000.00	N\$ 370 000.00

Applying the above average price it is estimated to be sold at a purchase price of:

$$N\$ 90\,000.00 \times 4.1\text{ha} = N\$370\,000.00$$

In addition to the above, the Property Policy prescribes and follows:

- should a period of more than one year, but less than 5 years, lapse since Council approved a purchase price, the purchase price be escalated with 5% per annum and be submitted to Council for approval.

- (ii) should a period of more than five years lapsed since approval by Council of the purchase price, fresh valuations be obtained and submitted to Council for approval.

6. Proposal

It is proposed to consider the sale of a portion of land measuring approximately 4.1ha and located adjacent to Portion 180 to Rosendal Farming to be consolidated with Portion 180.

That the sale be subject to Council's standard conditions of sale and a purchase price of N\$ 90 000.00 / ha amounting to a total of N\$370 000.00.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council approves the sale of a portion of land measuring approximately 4.1 ha located adjacent to Portion 180 to Rosendal Farming CC.
- (b) That the purchase price be determined at N\$90 000.00 / ha x 4.1 amounting to N\$370 000.00, subject to the standard increase prescribed in Council's Property Policy.
- (b) That Mr S Nolte of Rosendal Farming CC confirms in writing the acceptance of the purchase price whereafter Ministerial approval be obtained in terms of the Local Authorities Act, Act 23 of 1992, as amended.
- (c) That the purchaser be responsible for appointment of a town planner to attend to the required statutory processes with regard to the subdivision of the portion and subsequent consolidation thereof with Portion 180, the surveying of the subdivided portion; and rezoning to "Agriculture".
- (d) That the sale be subject to Council's standard conditions of sale by private treaty:
- (i) That the purchaser pays a deposit of N\$ 10 000.00 towards the statutory costs relating to the transaction including, but not limited to advertising cost, compilation of the agreement of sale, rezoning as well as any legal costs that may arise from this transaction.
 - (ii) That the above deposit be paid within 90 days from the Council resolution approving the purchase price, failing which Council's resolution will be revoked at the next Council meeting following the expiry of the 90 days.
 - (iii) That any remainder of the deposit in (i) above be refunded to the purchaser on completion of the transfer of the erf.
 - (iv) That the transaction be concluded within 120 days from the date of a Surveyor-General diagram being issued.
 - (v) That payment of the purchase price be secured either in cash or bank guarantee in favour of the Swakopmund Municipality within 120 days from the date on which a Surveyor-General approved diagram is issued.
 - Failure to secure the purchase price within the required period will result in cancellation without the need to place the purchaser on terms.
 - Should the purchase price be secured by a bank guarantee the transfer must be effected on / before the 120th day, else interest will be levied as

from the date of the Surveyor-General approved diagram being issued (date of sale) until the date of registration of transfer at a rate as confirmed with Council's bank on the date of sale.

- (vi) That the purchaser accepts that no rights will accrue to it from Council's resolution unless all the relevant conditions of the Property Policy are complied with in full and all the relevant authorities have given the necessary permission, if applicable.
 - (vii) The erf is sold "voetstoots" or "as is" with the Council giving no warranty or guarantee, whether express or implied, oral or tacit, as to the suitability of the lay-out or situation or subterranean composition of the property or any improvements thereon.
 - (viii) That the property or any portion thereof may not be alienated without being offered to Council at the purchase price it was obtained from Council.
 - (ix) The agreement of sale be signed and returned to the Swakopmund Municipality, by the purchaser within 21 days of receipt thereof.
 - (x) That the purchaser be informed that should it be determined that the portion of land is located within the floodline of the Swakop River, section 90 of the Local Authorities Act, Act 23 of 1991, as amended will be applicable.
-

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11.1.15 **CANCELLATION CONFIRMATION: ERF 4889, SWAKOPMUND – PRO HOUSING CC (INDUSTRIAL AREA)**
(C/M 2018/05/23 - E 4889)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.5 page 31 refers.

A. The following item was submitted to the Management Committee for consideration:

1. INTRODUCTION

Following an application by Mr P R Ockhuizen of PRO Housing CC requesting an extension of time to secure the purchase price of Erf 4889, Swakopmund, Council passed the following decision on **28 March 2019** under item 11.1.6:

- (a) That Council approves the extension of due date for P.R.O Housing to secure the purchase price for Erf 4889 Swakopmund.
- (b) That exception be made due to the challenging financial situation in the country.
- (c) That the applicant confirm that funds are available.
- (d) That the General Manager: Corporate Services & HR forward any cancellation item to Council.
- (e) That the applicant be informed to settle the purchase price within 14 days from the date of the Council Resolution.

On Friday, **29 March 2019** the Property Section informed the purchaser telephonically of the above decision in terms of which extension was granted until **11 April 2019**. The decision was also conveyed to the purchaser in writing on **01 April 2019**.

1	Aidan Patrick Jeremiah De Lange	4 312 800.00	Already allocated an Erf (4873)
2	VD Developers cc	4 000 000.00	Second allocated (cancelled)
3	Shaoman Investment Namibia cc	3 773 700.00	No attached proof of payment
4	Charl Frederick Baard	3 342 420.00	Already allocated an Erf (4874)
5	Imgard Fifty Six cc	3 217 500.00	Decline
6	Gerold John Claassen	3 021 900.00	Already allocated an Erf (4871)
7	Horst- Uwe Weimann	2 720 000.00	Already allocated an Erf (4862)
8	Stefts Trust	2 706 000.00	decline
9	West Coast Engineering & Welding Services CC	2 695 500.00	Successful bidder (cancelled)
10	PRO Housing	2 686 960.00	Current purchaser
11	Quiver Tree Investment	2 587 680.00	Unsuccessful bidder
12	Gideon Kapote	2 300 804.00	Unsuccessful bidder
13	Albertus Van Niekirk	2 194 000.00	Already allocated an erf (4890)
14	DG Fritze Joinery	2 167 152.00	Already allocated an erf (4870)
15	Leigh Jean Skoppellus	2 144 670.00	Unsuccessful bidder
16	CYC Investment Six cc	2 114 350.20	Bid form not placed in a separate envelope
17	Northern Carriers cc	2 102 063.00	Unsuccessful bidder
18	Quantum Investment Number Fourteen cc	2 100 000.00	Already allocated an erf (4891)

19	Atlantic Seaboard Property Development	2 009 670.00	Unsuccessful bidder
20	The Old Power Station Investment	2 027 016.00	Unsuccessful bidder
21	B Construction	2 011 111.99	Unsuccessful bidder
22	Garth C Mouton	2 005 490.00	Already allocated an Erf (4887)
23	Steven Dippellius	2 000 500.00	Unsuccessful bidder
24	Samuel Venter	2 000 000.00	Already allocated an Erf (4893)
25	Isack J Visser (Aipo)	2 000 000.00	No attached proof of payment

On **10 April 2019** the purchaser visited the Property Section and stated that 14 days are a very short period to revive an aborted project. Due to the current financial situation he has to source investors abroad afresh. The current investors financed another project in the meantime. The purchaser was requested to provide his comments in writing. To date no response in writing was received.

2. CURRENT SITUATION

At the due date of **11 April 2019** no written comments were received from the purchaser requesting a further extension. A confirmation of cancellation letter was issued on **12 April 2019**.

At the day of the closed bid sale, the bids were received and next qualifying bidders for the specific erf were as follows:

- ▶ All the above bidders submitted bids above the upset price of **N\$1 994 760.00**.

3. DISCUSSION

It is proposed that Council confirms the cancellation of the transaction of Erf 4889, Swakopmund to PRO Housing CC and the erf be offered for sale to the next qualifying bidders listed for the closed bid sale of **02 December 2016**.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council takes note of the cancellation of Erf 4889, Swakopmund to P. R. O Housing CC due to failure to comply with the due date to secure the purchase price.
 - (b) That P.R.O Housing CC be encouraged to take part in the future closed bid sale of industrial erven.
 - (c) That Erf 4889, Swakopmund be offered chronologically to the next qualifying bidders listed.
-

Due to the voluminous content - the attachments are available on file.

11.1.16 **APPLICATION TO ACQUIRE A BUSINESS ERF LOCATED IN EXTENSION 25**
(C/M 2019/05/23 - E 6949 M)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.6 page 34 refers.

A. The following item was submitted to the Management Committee for consideration:

The following submission was tabled to the Planning Forum of 08 January 2019 under item 5.2 and the following was concluded:

That a township establishment / land development programme be compiled annually and that it be communicated to the public

In addition to the above, the submission to the Planning Forum focused on the availability of Extension 25 in general and not on the lease application received. Therefore the submission was resubmitted to the Planning Forum under item 5.10 on 23 April 2019 to consider the lease proposal.

1. Introduction

Attached as Annexure "A" is an application by Optimum Trading Enterprises CC to lease Erf 6949, Mondesa to provide liquid petroleum gas to the residents of the surrounding neighbourhoods.

The purpose of this submission is to consider a consistent manner in which to deal with applications (to purchase or lease) received for development purposes in the northern suburbs.

Council's Property Policy provides that land not be reserved for future sales. Allocating land to a third party for the eventual sale thereof results in the land remaining undeveloped for years, the applicant gains an unfair advantage to obtain the land and keeping record of land allocated for the future sale thereof poses administrative challenges. In most cases the applicants delay the sale thereof for as long as possible and then motivate the sale at a value lower than the current value thereof, or based on the value the land had when the lease commenced.

2. Erf 6949, Extension 25, Mondesa

As per Annexure "B", on 31 May 2018 Council under item 11.1.25, among other extensions, allocated Extension 25 to Lherix Investments CC and Momporisa Trading Enterprises CC for the installation of services.

Erf 6949 is located in Extension 25, which was proclaimed as a township on 14 September 2018 in Government Gazette 6710 (CRT 4882/2017):



As stipulated in the table below a number of erven will be returned to Council upon completion of services:

Zoning	Total Number of Erven	Erven Sharing Ratio	
		Developer	Council
Single Residential	288	173	115
General Residential 1	0	0	0
General Residential 2	3	0	0
Local Business	0	0	0
General Business	14	6	6
Public Open Space	3	0	3
Institutional	5	0	5
Local Authority	4	0	4
Undetermined	1	0	1
Private Open Space	0	0	0

- From the above decision, of the 14 erven zoned "general business" 6 will remain in Council's ownership. Of these 6 erven Council already allocated 2 to political parties (NUDO and DTA) in terms of Council's resolution passed on 27 October 2016 under item 11.1.8. Council allocated Erf 6683, Mondesa to Mr S S Nuuyoma on 31 March 2016 under item 11.1.6.

The remaining 3 erven are not yet identified.

3. Lease Application

Optimum Trading Enterprises CC is applying to lease Erf 6949, Mondesa for the establishment of a liquid petroleum gas business for a lease period of 12 years.

The erven to be returned to Council are not yet identified. In order to establish a business the lessee requires a 12 year lease period which is subject to notarial registration. The lessee has a claim to the land which might affect Council's planning for the said area. The lessee will not be allowed to erect permanent structures, however past experience show that once land is allocated to lease, the lessee assumes a strong right to acquire the land.

Rental charged is usually very reasonable and Council will not be able to levy rates and taxes. By leasing the erf Council will generate income over a long period; whereas should the erf be sold Council will generate capital from the purchase price, income rates and taxes and consumption of services.

4. Relevant Council Resolutions

Quoted for ease of reference the following Council decisions relevant to applications for business land:

Item 11.1.20 of 27 October 2016

- (a) That Council enters into Private Treaty sales agreements with applicants who applied for a particular erf for which no other person or entity applied for.
- (b) That closed bid sales be held for erven where two or more applicants applied for the same erven and that the closed bid auction be held amongst the applicants only.
- (c) That all applicants for business land in Mondesa be informed that such erven only become available after being serviced and proclaimed as townships.

Item 11.1.2 of 26 January 2017

- (a) That Council remains with its decision passed on 27 October 2016 under item 11.1.20
- (b) That no new applications for land be entertained in Extensions that are planned but not serviced.
- (c) That it be recorded that point (b) above is only applicable to residential and business erven.
- (d) That applications from investors with sufficient capital / funds to service land at their own cost be considered.

Item 11.1.2 of 25 January 2018

- (b) That this application be regarded as special due to the essential service rendered to the community and that no applications for business land in the DRC be considered until the statutory processes are finalised.

Item 11.1.5 of 30 August 2018

- (a) That all applicants be informed as resolved by Council for Extensions 1 and 2 Matutara on 28 March 2018 that available erven will be sold by closed bid sale once the installation of services is finalized and the townships proclaimed.
- (b) —
- (c) —
- (d) That the Engineering Services Department provides zoning maps of the various extensions once serviced in order for the Property Section to sell by closed bid sale the business / general residential and institutional erven (or identified erven).

- The above resolution was passed following consideration of various applications for closed bid sales in the northern areas.

Item 11.1.14 of 28 March 2019

- (a) —
- (b) —
- (c) That applicants for business land in the northern suburbs be informed of Council's latest decision passed on 25 January 2018 under item 11.1.2.
That no applications for business land in the DRC be considered until the statutory processes are finalised.
- (d) That Council inform the public that no ranking list (as per date of application) will be maintained in future.
- (e) —

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Optimum Trading Enterprises CC be informed that their application to lease Erf 6949, Mondesa was turned down as the erf is located in Extension 25 which is being serviced by a third party in terms of an agreement whereby serviced erven will be returned to Council.
 - (b) That Optimum Trading Enterprises CC be informed that Council on 30 August 2018 under item 11.1.5 (d) resolved that the erven being returned to Council by the private developers be sold by closed bid sale.
-

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11.1.17 **MESSRS OKAHEKE INVESTMENT CC: EXTENSION OF TIME TO PAY
N\$10 000 DEPOSIT**

(C/M 2019/05/23 - T 626)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.7
page 98 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Introduction

The attached letter dated 08 April 2019 (Annexure "A") was received from Messrs Okaheke Investment CC requesting an extension of 10 months to secure payment for the Remainder of Erf 626, Tamariskia.

From the letter it was not clear what payment is referred to as the purchase price is not yet due. On 31 January 2019 Council under item 11.1.9 approved the purchase price for the sale of the Remainder of Erf 626, Tamariskia to Messrs Okaheke Investment CC. Quoted from the resolution is point (b) (i):

(b) That the following standard conditions be applicable:

(i) That the purchaser pays a deposit of N\$10 000.00 towards the statutory costs relating to the transaction including but not limited to advertising costs, compilation of the agreement of sale as well as any legal costs that may arise from this transaction, within 90 days from the Council resolution approving the purchase price, *falling which Council's resolution will be revoked at the next Council meeting following after the expiry of the 90 days.*

Mr B Kazombaruru of the close corporation was contacted on 10 April 2019 and confirmed that they are actually referring to the payment of the N\$10 000.00 deposit. An amended letter clarifying their request as an extension to pay the deposit was received dated 11 April 2019 (Annexure "B").

On 11 February 2019 (Annexure "C"), the developer was informed of Council's resolution passed on 31 January 2019 and that the deposit is payable on / before 13 May 2019.

Council cannot proceed with the advertising of the sale if the deposit is not paid.

The Remainder of Erf 626, Tamariskia is located as indicated below:



The Remainder of Erf 626, Tamariskia measures 7 522m² and is zoned "public open space". On 23 February 2017 Council under item 11.1.7 approved the closure of the erf as a public open space.

2. Discussion

Council's resolution states that if the N\$10 000.00 deposit is not paid within 90 days the allocation of land be revoked at the following Council meeting.

The applicant is now requesting an extension of time to secure the N\$10 000.00 deposit for the transaction.

The purchase price for the portion of land was approved in the amount of N\$3 761 000.00 excluding 15% VAT.

The concern is if securing the payment of the N\$10 000.00 deposit poses difficulties for the developer, it is unknown how they intend to secure the purchase price.

In addition to the above, the developer is prohibited from selling the development until a completion certificate is issued. In this respect point (b) (x) is quoted:

(b) That the following standard conditions be applicable:

(x) That the property may not be alienated unless a completion certificate is issued in respect of the structural improvements, referred to in (vi) above. This restraint of alienation is to be registered against the title deed of the property.

The above resolution is in line with the Council resolution, item 11.1.10 passed on 27 April 2017:

(a) That Council takes note of the name change to DRC Property Group (Pty) Ltd and that all future correspondence / documents read DRC Property Group (Pty) Ltd.

(b) That, in future, the Corporate Services and HR Department requests applicants / companies applying to purchase land to provide details of their shareholders / members for record purposes.

(c) That the shareholders / members must be cautioned that the company remain the same until the transfer takes place and they have complied with all conditions of sale when name change of the entity is requested.

The purchaser does not mention what efforts were made to raise the funds for the deposit or purchase price.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Messrs Okaheke Investment CC be given an extension until 30 June 2019 to commit to the sale of the Remainder of Erf 626, Tamariskia by paying the N\$10 000.00 deposit.
 - (b) That the purchaser provides proof of his attempts to obtain funding for the project.
-

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11.1.18 **UNIK CONSTRUCTION ENGINEERING (PTY) LTD: RENEWAL OF LEASE**
(C/M 2019/05/23 - G 4/1/1)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.9 page 60 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Introduction

On 30 June 2016 under item 11.1.18 Council approved the lease of a portion of land to UNIK Construction Engineering Namibia (Pty) Ltd (hereinafter referred to as "UNIK") for a period of 36 months for a construction site.

The lease commenced on 01 July 2016 and will lapse on 31 June 2019.

UNIK confirmed in writing on 17 April 2019 that they intend to renew the lease period for a further three years (Annexure "A"). The additional lease period is required for them to complete the project and fulfil the defects liability period.

On 18 April 2019 the Finance Department confirmed that the lease account is paid up to date.

2. Brief Background

Various decisions were passed by Council in respect of the lease with UNIK and are chronologically listed and attached as Annexure "B" for information.

The following decisions are listed and briefly summarized:

1.	Council of 30 Jun 2016, item 11.1.16	The lease application was approved for a period of 36 months for the exclusive purpose of establishing a construction site to store equipment and establish a workshop necessary for the execution of their project for the construction of the Seskopmund-Walvis Bay road.
2.	Council of 31 Aug 2017, item 11.1.24	Following an application from UNIK dated 11 July 2017, Council approved that staff members may be accommodated on site subject to an increased rental and various conditions. Council also approved that the rehabilitation deposit be increased from N\$100 000.00 to N\$250 000.00, meaning UNIK had to secure an additional N\$150 000.00.
3.	Council of 31 May 2018, item 11.1.5	Council repealed the requirement of the additional payment for the rehabilitation deposit. Roads Authority in their letter dated 05 March 2018 confirmed their responsibility for the satisfactory rehabilitation of the lease area in terms of the Environmental Management Plan which forms part of the Construction Contract Agreement Document with UNIK.

The Ministry of Urban and Rural Development approved the lease of the portion of land to UNIK on 16 December 2016.

On 05 February 2018 the Ministry of Urban and Rural Development was informed of the amendment approved by Council on 31 August 2017

under item 11.1.24 to allow the accommodation of staff members on site.

Due to the staff being accommodated on site, the rental amount during 2018 was applicable as follows:

- 14 250m² - total area being leased at N\$1.65 / m² / month = N\$23 512.50 / month
- 6 x accommodation units at N\$250.00 / unit / month = N\$ 1 500.00 / month

Therefore, in addition to the monthly rental, the rental tariff for the staff accommodation units back dated from October 2016 apply. The rental is subject to an annual escalation of 10% on 1 July.

3. Discussion

It is proposed that Council approves the application by UNIK Construction Engineering Namibia (Pty) Ltd for an additional lease period of 3 years commencing on 1 July 2019 until 30 June 2022, subject to the lease conditions approved by Council on 30 June 2016, item 11.1.16; 31 August 2017, item 11.1.24 and 31 May 2018, item 11.1.5.

Attached as Annexure "C" a copy of the lease agreement

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council approves the application by UNIK Construction Engineering Namibia (Pty) Ltd for an additional lease period of 3 years commencing on 1 July 2019 until 30 June 2022, subject to the lease conditions approved by Council on:
 - 30 June 2016, item 11.1.16;
 - 31 August 2017, item 11.1.24 and
 - 31 May 2018, item 11.1.5.

 - (b) That the lease tariffs applicable from 1 July 2019 amounts as follows:
 - 14 250m² - total area being leased at N\$2.00 / m² / month = N\$28 500.00 / month
 - 6 x accommodation units at N\$302.50 / unit / month = N\$1 815.00 / month
-

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- 11.1.19 ERF 4971, EXTENSION 14, SWAKOPMUND: WAIVER OF INTEREST CHARGES
(C/M 2019/05/23 - ERF 4971)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.10 page 69 refers.

- A. The following item was submitted to the Management Committee for consideration:

1. Introduction

On 16 April 2019 an e-mail to which a letter was attached was received from Mr Kenneth Nghipevali requesting Council to waive the penalty interest charged on his erf transaction (**Annexure "A"**).

The applicant requests that Council waives the interest charged on the late transfer of his transaction as the funds were already transferred to the trust account of the conveyancers before the due date of 15 April 2019.

2. Brief Background

Mr K Nghipevali was allocated Erf 4971, Swakopmund at the closed bid sale of 14 December 2019 in the amount of N\$520 400.00.

On 08 January 2019 instruction was given to the conveyancer to attend to the transfer of the erf to the purchaser. The purchaser was in the meantime in the process of selling Erf 4971 to Mr D Shiponeni in the amount of N\$530 000.00. The third party secured payment at the conveyancers for the purchase price to be released on transfer of the property in his name (trust account).

As explained by the attorney, Mr A Potgieter of ENSAfrica although the money was secured in the trust account of the conveyancer, the law prevents attorneys from transferring money paid in respect of a purchase price to the seller before the property is transferred (**Annexure "B"**). Therefore the money could only be released upon transfer from Mr K Nghipevali to Mr D Shiponeni as this ensures that Mr D Shiponeni obtains ownership of the property simultaneous with the release of his funds.

Transfer of the property registered on 16 April 2019, on the same day the purchase price was paid into Council's account and the N\$109 600.00 profit on the sale was paid to Mr K Nghipevali.

Payments received:

- N\$515 400.00 per receipt # 373505 (purchase price less N\$5 000 registration fee)
- N\$ 18 236.69 per receipt # 373506 (interest)

In terms of the deed of sale the funds must reflect on Council's account and interest is payable backdated from 14 December 2019 until date of payment of the purchase price. It is therefore not illegal to collect interest from Mr K Nghipevali.

Mr K Nghipevali is liable for payment of interest in the amount of N\$18 236.69. He is requesting that the said amount be paid to him instead.

On 18 April 2019 the conveyancer confirmed that the third party only paid the balance of the purchase price in their trust account on 08 April 2019 (Annexure "B"). The conveyancer was legally and contractually precluded from transferring the purchase price to Council as legally speaking the money still belonged to the third party.

3. Discussion

It is proposed that the interest in the amount of N\$18 236.69 not be waived as the deed of sale between Council and Mr K Nghipevali states that should the transfer / payment of the purchase price be done after the due date of 15 April 2019 the purchase price will attract interest.

The delay of the transfer was caused due to the agreement between Mr K Nghipevali and Mr D Shiponeni. Mr D Shiponeni secured the purchase price by the agreement that the funds will only be released upon transfer of ownership of the property in his name.

Although the final payment was made into the trust account of the conveyancer on 08 April 2019, it was too late for transfer to take place in the Deed's Office for that week, therefore transfer could only be registered on 16 April 2019.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council does not waive the payment of the interest for Erf 4971, Extension 14, Swakopmund on the purchase price of N\$520 400.00, in the amount of N\$18 236.69.
 - (b) That it be noted that the transfer of ownership was delayed due to the sale of Erf 4971, Extension 14, Swakopmund to a third party, Mr D Shiponeni and Mr K Nghipevali can therefore claim the refund of the interest paid from the third party.
-

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- 11.1.20 **① FEEDBACK REGARDING THE LEASE OF MS E CARSTENS AND MS O LABUSCHAGNE AT THE MARTIN LUTHER HISTORICAL SITE**
② CANCELLATION OF LEASE AGREEMENT
 (C/M 2019/05/23 - J 8/3, 13/3/1/13)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.11 page 74 refers.

A. The following item was submitted to the Management Committee for consideration:

On 23 April 2019 the Planning Forum discussed the issue below under item 5.2 and is now submitted to the Management Committee for consideration.

1. Introduction

On 26 January 2017 Council approved the proposal of Ms E Carstens and Ms O Labuschagne to lease the Martin Luther Historical Site under item 11.1.5 as follows:

- (a) That the proposal by Ms E Carstens and Ms O Labuschagne to lease a portion of the Martin Luther Historical Site measuring ±2 000m², where the historical locomotive is housed, situated on the Remainder of a portion B of Ganskopmund Town and Townlands No. 41, next to the B2 main Road to Windhoek be approved.
- (b) That the lease be for a period of five (5) years with an option to renew for a further five (5) years at a rental tariff of N\$0.45cents/m²; if is 2 000m² x N\$0.45c = N\$900.00 + 15% VAT (N\$135.00) which amounts to N\$1 035.00 / month with an annual escalation of 10% be applicable from 1 July 2017.
- (c) That Ms Carstens and Ms Labuschagne may arrange additional mobile ablution facilities, at their cost (if required).
- (d) That the lease agreement be subject to the amended conditions as contained in the invitation: Lease Proposals for Martin Luther Site, as Annexure "C" (on file) and any further conditions that Council may require upon consideration.

Conditions quoted from the invitation document:

1. Lease Period

2. Payments

2.1

- (f) That all the lessees in the area be informed to ensure that their activities are complementary to each other and that access be granted to the site for all lessees.

List of Annexures:

- | | |
|---------------------|---|
| Annexure "A" | : locality map |
| Annexure "B" | : proposal received Ms E Carstens and Ms O Labuschagne dated 01 April 2016 and 03 February 2016 |
| Annexure "C" | : lay-out of the structure |
| Annexure "D" | : final proposal dated 23 November 2016 |
| Annexure "E" | : letter from Ministry of Urban and Rural Development |
| Annexure "F" | : letter dated 28 September 2018, proof of delivery of the letter and the lease agreement |
| Annexure "G" | : rental account |

2. Purpose

The purpose of this submission is to inform Council that Ms E Carstens and Ms O Labuschagne have to date not signed and return the lease agreement that was hand delivered on **28 September 2018**. The delays experienced in this respect are stated under point 4 below. Also, that consideration be given to invite new proposals from the public to express their interest to lease the monument should Council cancel the lease agreement.

3. Background

During 2016 and 2017 Ms Carstens and Ms Labuschagne submitted a proposal to lease the Martin Luther Historical Site. Attached as **Annexure "A"** the locality map, the proposal received (**Annexure "B"**) and the structure (**Annexure "C"**).

They were invited to present their proposal to lease the Martin Luther Historical Site. On **31 October 2016** they made a presentation at a Special Management Committee Meeting. Various questions were raised and answered to the satisfaction of the Management Committee and the following was resolved:

- (a) That the presentation by Ms Carstens in collaboration with her partner Ms Odette Labuschagne to lease the Martin Luther Historical Site be noted.
- (b) That Ms Carstens in collaboration with her partner Ms Odette Labuschagne submit a formal proposal to the Management Committee.

On **23 November 2016** they submitted the final proposal via email, attached as **Annexure "D"**. On **28 January 2017** under item 11.1.5 Council approved the proposal. Ministerial approval was requested and granted on **03 July 2017 (Annexure "E")**.

The lessees also applied to host various events whereafter Council on **31 May 2018** approved their request under item 11.1.6:

That Council approves the application by Ms Carstens and Ms Labuschagne to host various events on an ad hoc basis at the Martin Luther Historical site, on condition that:

- (i) *Additional ablution facilities be provided to comply with the requirements of the Health Services Department.*
- (ii) *They do not use the direct access to Martin Luther Site, but instead the access at the circle on the B2 Road, once confirmation is received from the Engineering Services Department that the circle is opened.*
- (iii) *The monument is not obscured and the stalls be arranged and managed to be aesthetically pleasing.*

4. Discussion

The amended lease agreement (compiled by Mazisa Law Chambers) was sent to the lessees on **1 June 2018**, whereafter they called for a meeting. Various issues were raised at meeting held on **13 August 2018** between themselves and the municipal officials. The issues were addressed at the Council meeting of **27 September 2018**, item 11.1.8. The commencement date of the lease was amongst other things and was amended to read 3 July 2018 (the date on which the Ministry of Urban and Rural Development gave approval to proceed with the lease agreement).

The amended lease agreement was hand delivered to the lessees on **28 September 2018**; attached as **Annexure "F"** is the proof. However, the signed lease agreement has not been returned to date after numerous follow ups by telephone and e-mail communication. The rental account is also in

arrears in the amount of N\$15 525.00 as on 15 April 2019 (Annexure "G"). The lessees are occupying the premises.

5. **Proposal**

It is proposed that the lease agreement of Ms E Carstens and Ms O Labuschagne be cancelled and new proposals be invited from the public to express their interest and the premises be vacated by 31 August 2019.

B. **After the matter was considered, the following was:-**

RECOMMENDED:

- (a) That Council takes note that Ms E Carstens and Ms O Labuschagne have not signed and returned the lease agreement for the Martin Luther Historical Site and the arrears on the rental account amounts to N\$15 525.00 as on 15 April 2019.
 - (b) That Ms E Carstens and Ms O Labuschagne be given notice of termination and that they vacate the premises by 30 June 2019.
 - (c) That the arrear rental from the commencement of the lease until the date the site is handed back to Council be recovered from Ms E Carstens and Ms O Labuschagne.
 - (d) That lease proposals be invited in terms of the Local Authorities Act, Act 23 of 1992 from the public to express their interest to lease a portion of land measuring $\pm 2\,000\text{ m}^2$, where the historical steam engine is housed on the Remainder of a portion B of Swakopmund Town and Townlands No. 41, situated next to the B2 main Road to Windhoek.
-

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11.1.21 **MOTORSPORT, COASTAL SPINNING & DRIFTING CLUB: ADJUSTMENT OF MONTHLY RENTAL CHARGE TO ANNUAL RENTAL CHARGE**
(C/M 2019/05/23 - G 4/1/1 (1))

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.12 page 98 refers.

A. The following item was submitted to the Management Committee for consideration:

This matter was discussed at the Planning Forum of 9 April 2019 under item 5.6.

1. Introduction

On 2 February 2016 Council approved the application by Coastal Spinning and Drifting to lease a portion of land measuring 6 000m² under item 11.1.6 as follows:

- (a) That the application of Messrs Spinning & Drifting Club to lease 6 000m² portion of land west of the Go-Kart area for a period of 5 years be approved in principle subject to the approved layout from the Engineering Services Department.
- (b) That Ministerial approval be applied for in terms of section 30 (1) (f) of the Local Authorities Act, Act 23 of 1992 as amended as the proposed portion is undivided Townlands.
- (c) That prior to occupying the portion of land, Messrs Coastal Spinning Drifting Club complies with the requirements of the Environmental Management Act, 2007, item 10.1 (h) & (i).
- (d) That Council's standard lease conditions and the comments received from our Engineering Services Department, dated 14 November 2013 be applicable; which include the payment of a deposit equal to one month's rental; Annexure "F" (on file)
- (e) That a comparable rental amount be considered, i.e. N\$0.108/m², therefore 6 000m² x N\$0.108/m² = N\$ 648.00 + N\$ 97.20 (15% VAT) = N\$ 745.20 per month.
- (f) That the applicant be allowed to erect removable structures on the leased property with the prior written approval of the General Manager: Engineering Services.
- (g) That all structures be removed and the land be rehabilitated to its present condition on the termination of the lease.
- (h) That the General Manager: Engineering Services determine the value of a refundable deposit payable by the lessee on the commencement of the lease according to an estimate of rehabilitation costs should the lessee not rehabilitate the area on the conclusion of the lease.
- (i) That Council takes note that a separate submission will be tabled for consideration when Messrs Mud Trax's comply with the following:
 - Affiliation to the Namibia Motor Sport Federation
 - The Registration of the Entity
 - A list of members
- (j) That Council takes note that Messrs Abundance Trading Enterprises did not respond to the conclusion of the Planning Forum's decision of 26 May 2016 and therefore its' assumed after 6 months that they no longer intend to lease a portion of land for the proposed venture.

The area is located west of the Go-Kart area, attached as **Annexure "A"** a map. **Annexure "B"** is a copy of the submission dated 2 February 2016.

2. Purpose

The purpose of this submission is for Council to amend point (e) of the Council resolution passed on **2 February 2016** to read as follows:

Current Wording

That a comparable rental amount be considered, i.e. N\$0.108/m², therefore 6 000 m² x N\$0.108/m² = N\$648.00 + N\$97.20 (15%VAT) = N\$ 745.20 per month

Amended Wording

That a comparable rental amount be considered, i.e. N\$0.108/m², therefore 6 000m² x N\$0.108/m² = N\$648.00 + N\$97.20 (15%VAT) = N\$ 745.20 per annum

4. Discussion

The application to lease a portion of land by Coastal Spinning & Drifting Club was submitted to the Planning Forum of **8 April 2014** under item 4.8 where the comparisons of the following lessees were cited:

Messrs Practical Shooting Club is leasing a portion of land measuring 241 196 000m² north east of the Municipal Refuse Site and Quarry Site at N\$ 500.00 per annum for a period of 9 years 11 months.

Messrs ReiterVerein Swakopmund is leasing 22 500m² portion of Erf 1307, Swakopmund at N\$ 3 000.00 per annum for a three year period.

An error occurred in the submission of Coastal Spinning & Drifting in January 2016 by proposing a monthly rental instead of an annual rental as per clause 9.5 of the Property Policy. The item was not recommended to the following Management Committee meeting and approval to lease the area was only granted on **2 February 2016** under item 11.1.6.

1. Proposal

The error needs to be rectified to bring it in line with clause 9.5 of the Property Policy. The rental must therefore be amended from per month to rental per annum. Furthermore, it be kept in mind that Coastal Spinning & Drifting is a club.

Quoted for ease of reference is clause 9.5.2 of the Property Policy:

(iii) land is leased at a nominal rental amount between N\$500.00 and N\$5 000.00 (+15% VAT) per annum in Council's discretion, subject to an annual escalation of 10% on 1 July;

(iv) a deposit equal to the annual lease be paid in advance by the entity;

(v) when considering the annual rental amount, the following will be taken into consideration:

(a) number of members

(b) size of the portion applied for

(c) location of the portion applied for"

Finally, that the Finance Department performs the necessary adjustments and credit the account of Coastal Spinning & Drifting accordingly.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That point (e) of the Council resolution passed on 2 February 2016 be amended as follows:

Current Wording

That a comparable rental amount be considered, i.e. N\$0.108/m², therefore
 $6\,000\text{m}^2 \times \text{N}\$0.108/\text{m}^2 = \text{N}\$648.00 + \text{N}\$97.20 \text{ (15\% VAT)} = \text{N}\745.20 per month .

Amended Wording

That a comparable rental amount be considered, i.e. N\$0.108/m², therefore
 $6\,000\text{m}^2 \times \text{N}\$0.108/\text{m}^2 = \text{N}\$648.00 + \text{N}\$97.20 \text{ (15\% VAT)} = \text{N}\745.20 per annum .

- (b) That upon approval of point (a) above, the Finance Department performs the necessary calculations to adjust the rental account and credit the account of Coastal Spinning & Drifting from February 2016 to date, accordingly.
-

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- 11.1.22 ERF 4829, SWAKOPMUND: APPLICATION TO WAIVE PRE-EMPTIVE RIGHT
(C/M 2019/05/23 - E4829)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.14 page 19 refers.

- A. The following item was submitted to the Management Committee for consideration:

1. Introduction

On 09 April 2019 the Planning Forum considered the following matter under item 5.7 and it is now submitted to the Management Committee for consideration.

The attached letter dated 31 January 2019 (Annexure "A") was received from DLA Piper Africa and Ellis Shilengudwa Incorporated on behalf of Mr Dirk Uys de Vos, the owner of Erf 4829, Swakopmund (hereinafter referred as Mr De Vos). Mr De Vos is requesting permission to sell Erf 4829, Swakopmund (unimproved) to Mr W J Schoeman (being a third party).

The application of Mr De Vos was acknowledged on 19 February 2019 attached (Annexure "B") and was informed that the erf may not be sold to a third party unless it is developed.

Erf 4829, Swakopmund is situated at Extension 10, industrial area, a map indicating the location of the erf is attached as Annexure "C".

2. Background

Mr De Vos bought Erf 4829, Swakopmund measuring 1220m² at the closed bid sale on 04 October 2013 in the amount of N\$ 612.000.00 plus N\$ 91.800.00 (15% VAT). The erf was transferred to him on 16 May 2014 in the deeds office.

Industrial erven in Extension 10 are registered with a pre-emptive right condition in favour of Council in order to avoid speculation by purchasers. The properties cannot be transferred to 3rd parties prior to Council issuing a completion certificate for the improvement thereon. Should the purchaser intend to sell the undeveloped property, he / she must first offer it to Council to purchase.

Following are conditions that were registered against the title and shall be binding on any successor-in-title:

- 7.1.3 that the ERF may not be alienated unless it has been improved at the minimum value stipulated in paragraph 4 of Annexure "A". "Improved" shall be construed to mean the construction of a building or buildings designed commensurate with the use-zoning of the Erf. In the case of the PURCHASER being a corporate entity or a trust, "alienate" in the context of this clause shall include the alienation of the equity in the corporate entity, or any part thereof, or the replacement of the majority trustees and / or the beneficiaries or changing the aim of the trust.
- 7.3 The PURCHASER is obliged prior to or on the date referred to in paragraph 4 of Annexure "A" hereto, to erect and complete a main

building together with necessary boundary fence in accordance with approved plans and specifications in terms of the SELLER'S building regulations. The building value of such main building (outbuilding and fencing excluded) shall be at least the amount referred to in the aforementioned paragraph 4 and Annexure "A" hereto and shall thereafter be maintained at the said value. The improvement of the ERF shall not be considered completed until such time as the SELLER has issued a Completion Certificate in respect of the improvements at the ERF.

- 7.1.4 the condition that should the PURCHASER fail to improve the ERF (as more fully referred to in 7.1.3 above) within the said 24 months period, the PURCHASER shall – on demand thereto by the SELLER – be obliged to retransfer the ERF to the SELLER at the PURCHASER'S cost and expense, or, in the case where the ERF has not yet been registered in the name of the PURCHASER, to surrender possession of the ERF in favour of the SELLER. In such an event the SELLER shall be obliged to repay to the PURCHASER –

With reference to point 7.1.4, Council on **24 September 2015** under item 11.1.10 considered to abolish the restriction of repossession, and increase the period for development and reduce the minimum building value equivalent to the municipal value. This condition concession was introduced with the intention for purchasers not to sell their properties unless developed. This was done in an effort to prevent the speculation of unimproved land and afford purchasers to establish business on the land.

Quoted the said resolution:

- (a) That Council approves the following in order to both safeguard Council's intention to prevent purchasers from speculating with the erven sold in Extension 10 during 2013, while maintaining its goals of encouraging commerce:
- (i) That the development period of 2 years (subject to the conditions of re-possession) from date of transfer be amended to state that the property may not be sold unless it is developed (as defined in the deed of sale), for a period of 48 months.
 - (ii) That the clause regarding the repossession of the erven be abolished.
 - (iii) That the minimum building value be amended to be in line with the requirement of the Conditions of Establishment for Extension 10, i.e.:

"The building value of the main building, excluding the outbuilding to be erected on the erf shall be at least equal the municipal valuation of the erf."

- (b) That the following be approved on the Application:
- (i) That all purchasers be informed of the above concession and that they can apply for such waiver by submitting an application to the Chief Executive Officer to that effect.
 - (ii) That all costs for implementing the concession such as the cancellation of the condition in the title deed (if applicable) and the compilation of an addendum to the agreement, be for the account of the property owner.
- (c) That the existing contractual conditions of those property owners who do not apply for the concession be strictly imposed.

The above conditions were incorporated in the addendum to the deed of sale which Mr De Vos signed on 17 February 2017. Messrs Conradie & Damaseb on 07 March 2017 was instructed to amend the conditions in the Title Deed. According to Conradie & Damaseb the amended conditions was never registered as Mr De Vos failed to provide the title deed to effect the amendments. Therefore Erf 4829, Swakopmund retain the original conditions as prescribed in the main deed of sale.

3. Similar applications

Three applications so far have been received from owners of industrial erven in Extension 10 who are interested to sell their erven.

- 3.1 Messrs Beucorp Property Developers (Pty) Ltd on **28 June 2017** applied to subdivide Erf 4887, Swakopmund Extension 10 in order to sell one portion of the erf to a 3rd party. The erf was also sold with the condition not to be alienated unless it is developed. The applicant was advised that although the property may be subdivided, the conditions that prohibit the alienation as referred in clause 7.1.3 of the deed of sale will apply to the additionally created erven and permission will not be granted to sell the erven unless they are developed.

- 3.2 Another application dated **09 July 2018** was received from KS Properties Namibia (PTY) Ltd requesting Council to waive the conditions of sale and allow them to sell Erf 4812, Swakopmund to a 3rd party as they are unable to develop the erf due to the current economic crisis and downscaling in uranium mines. Their application was submitted to Council who on **25 October 2018** under item 11.1.13 passed the following resolution:

(a) *That Council does not waive its condition by allowing Messrs KS Properties Namibia (Pty) Ltd to sell Erf 4812, Swakopmund to a 3rd party; unless it is developed.*

(b) *That Council accepts the offer of Messrs KS Properties Namibia (Pty) Ltd to purchase Erf 4812, Swakopmund at the purchase price N\$1 173 000.00 plus N\$175 950.00 (15% VAT).*

Messrs KS Properties is still to confirm whether they have accepted the Council's resolution.

- 3.3 A letter dated **14 January 2019** was also received from Robberts Legal Practitioners & Notaries on behalf of Mr Horst – Uwe Weimann, the owner of Erf 4892, Swakopmund requesting Council's consent to waive the pre-emptive right registered against the title of Erf 4892, Ext.10 Swakopmund and to cancel the condition of providing a completion certificate for the improvements on the property and allow them to exchange the property with a third party.

The application of Mr Weimann was submitted to Council, who on **28 March 2019**, under item 11.1.13 passed the following resolution:

That Robberts Legal Practitioners & Notaries on behalf of Mr Horst-Uwe Weimann be informed that Council does not waive its pre-emptive right in respect of Erf 4892, Swakopmund until the property is developed and a building completion certificate is in place.

The above application is serving before the Council meeting of 28 March 2019.

4. Current Situation

Mr De Vos intends to sell Erf 4829, Swakopmund (undeveloped) to a third party. Mr De Vos' Attorney is of the opinion that the restriction is limited to 4 years (48 months) period within which the erf should have been developed has lapsed thus Council entitled to cancel the conditions registered against the title deed.

Quoted from their letter:

"It is our reading and interpretation of these conditions that the parties can proceed with the sale and purchase of the property by virtue of the fact that the 4 year period has lapsed, irrespective of the fact the property has not yet been developed by the owner.

Clause 7.1.3 of the Deed of sale makes it clear that, the erf may not be alienated unless it is developed irrespective whether the period has lapsed or not. The statement made by the applicant only focuses on the period and not on the full condition which includes the requirement to erect of improvements. Therefore the interpretation of the applicant is incorrect and it cannot be supported. In view of the aforesaid, it will be inconsistent and unfair to others that were denied in the past, if the restraint is waived.

Should Mr De Vos no longer intend to develop the erf, Council retains a first right of refusal to purchase the land at the purchase price of N\$ 912 000,00 being the purchase price (excluding 15% VAT) he bought the erf from Council.

B. After the matter was considered, the following was:-

RECOMMENDED:

That Mr Dirk Uys De Vos be informed that Council does not waive its pre-emptive right in respect of Erf 4829, Swakopmund until the property is developed and a building completion certificate is in place.

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**11.1.23 PARATUS TELECOMMUNICATION PROPRIETARY LIMITED;
APPLICATION FOR AN ERF**

(C/M 2019/05/23 - 13/3/1/5)

Ordinary Management Committee Meeting of 09 May 2019,
Addendum 10.10 page 69 refers.

A. The following item was submitted to the Management Committee for consideration:

On 11 April 2019, the following submission was tabled to the Planning Forum of under item 5.9 and is now table to the Management Committee for consideration.

1. Introduction

The purpose of this submission is to consider the application for a base transceiver station site for Paratus Telecommunication (Pty) Ltd (herein referred to as "Paratus"), measuring approximately 400 m².

A letter dated 04 March 2019 (Annexure "A") was received from Paratus requesting Council to buy a portion of land as indicated on the google map attached as Annexure "B", in order to house their equipment. The area indicated is zoned "underdetermined".

Attached as Annexure "C" is a locality plan.

A memo was sent to the Engineering Department requesting their input regarding this matter, attached as Annexure "D".

2. Brief Background

On 28 September 2017, Council under item 11.1.18 approved an application by MTC to lease a portion of Erf 2854 Extension 10, Matutura. It is proposed that the same standard conditions be applicable for this new site.

In addition to the above, on 27 September 2018, Council under item 11.1.6 approved the renewal of the lease agreement for MTC at the portion of land east of Block 55. This is the same area/ location as for which Paratus applies.

3. Area / Location Applied for

Paratus applies to be allocated a portion of land located to the east of Block 55. The portion is known as the Remainder of Portion B of the Farm Swakopmund Town and Townlands No. 41.

A separate submission will be tabled to Council for the subdivision of this portion of land to provide separate erven for MTC and Paratus.

4. Tower Height

Council entered into various lease agreements with telecommunication companies for the leasing of land for the hosting of Base Transceiver Sites (BTS). These sites host the towers that the telecommunications provider needs to transmit its digital signals. For the erection of BTS towers in town Council normally allows palm-tree type towers to be a maximum height of 25m. An exception is the lattice type towers that are situated on Erf 507, Tamariskia which exceed this height.

5. Lease Tariff and Period

Council further approved a standard rental per square meter for BTS sites which currently amounts to N\$ 33.68/m² (1 July 2018) and a standard lease period of 9 years and 11 months. The lease period will commence after the lessee complies with point (b) and the successful publication in terms of point (f) in the recommendation below.

6. Proposal

Currently all the mobile telecommunication service providers are leasing land from Council as the lease sites are not formally subdivided to create transferable erven.

Although Paratus did not request to lease land, it is proposed that they are offered a portion of land which can be leased for a period of 9 years 11 months pending the finalization of the subdivision of the land.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That a portion of land measuring 400m² located on the Remainder of Portion B of the Farm Swakopmund Town and Townlands No. 41. (located to the east of block 55), be leased to Paratus Telecommunication (Pty) Ltd.
- (b) That Messrs Paratus Telecommunication (Pty) Ltd adheres to the following requirements:
 - A maximum height of 25m
 - Consent letter from the neighbours
 - Environmental Impact Assessment (EIA)
- (c) That the following standard lease conditions be applicable to the leasing of the lease portion in (a) above.
 - (i) Lease period of 9 years and 11 months, pending the subdivision of the lease area.
 - (ii) That building plans of all proposed buildings must be submitted to the Engineering Services Department.
 - (iii) That the portion of land is leased on the explicit condition that the lessee indemnifies Council against any claim for damages resulting from its occupation by the lessee.

- (iv) That the lease be at the current tariff of N\$ 33.66/m² per month with an annual escalation of 10% every July (first being 1 July 2019).
- (d) That the Engineering Services Department provides a layout plan for the exact location on the identified erf to be used for the tower.
- (e) That Messrs Paratus Telecommunication (Pty) Ltd installs their own electrical meter so that any expenses and costs generated be allocated to Messrs Paratus.
- (f) That the proposed lease of the site be published in terms of Local Authorities Act 23 of 1992 as amended.
- (g) That Council's standard lease conditions be made applicable to the lease.
- (h) That all costs relating to the lease, including, but not limited to advertising costs, be for the account of the lessee.
- (i) That the following conditions be made applicable in addition to points (b) to (h) above to the lease:
- (i) That Council will not reimburse Paratus Telecommunication (Pty) Ltd for any costs relating to the installation or removal of its properties or any other expense incurred during or after the termination of the lease agreement.
- (ii) That any damages that may be caused to the lease site be for the account of Paratus Telecommunication (Pty) Ltd and shall be repaired at their cost and on demand.
- (iii) That Paratus Telecommunication (Pty) Ltd will be responsible for the proper maintenance of the equipment and should such equipment not be well maintained and thus rust and become unsightly, the lease be cancelled and equipment removed at the cost of the lessee.
-

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11.1.24 **CESSION OF THE RIGHT TO HANGAR 28**
(C/M 2019/05/23 - Hangar 28)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.16 page 33 refers.

A. The following item was submitted to the Management Committee for consideration:

On 01 March 2015 Council entered into a lease agreement with Mr Birgit Becker-Strolo for Hangar 28 at the Swakopmund Aerodrome.

The attached letter dated 15 April 2019 was received from Mr Birgit Becker-Strolo (Annexure "A") wherein Council's permission is requested for the approval of the cession of the right to the hangar to a successor-in-title, being Mr Matthias Röttcher.

The lease agreement entered into between Council and Mr Birgit Becker-Strolo, in terms of clause 7.3, provides that:

7.3 *Notwithstanding the provisions of the preceding sub-clauses, the LESSEE shall be entitled (as far as same is possible in law and without representing to the LESSEE, alternatively his or its successor-in-title that the LESSEE or his or its successor-in-title shall acquire any proprietary rights in and to the improvements) to alienate and cede his rights, title and interest in and to any improvements at the PREMISES to any successor-in-title (and thus be relieved of the obligation placed upon him in accordance with the provisions of sub-clause 7.2), provided that -*

7.3.1 *The LESSOR has approved such successor-in-title, which approval will not be withheld unreasonably and*

7.3.2 *The successor-in-title has entered into a lease agreement with the LESSOR on terms similar to the terms contained herein.*

Permission is required from Council before a new lease agreement can be concluded with the successor-in-title of the existing hangar.

The General Manager: Corporate Services and Human Resource has no objection to the above mentioned cession of rights to the existing hangar and the conclusion of a new lease agreement with the successor-in-title based on the standard lease terms for the Swakopmund Aerodrome. The above cession should however be conditional on the confirmation by the General Manager: Finance that the lease account of Hangar 28 is paid up to date before a new lease agreement is entered into with the successor-in-title.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council approves the cession of the rights of Hangar 28 from Mr Birgit Becker-Strolo to Mr Matthias Röttcher, subject to the standard lease conditions for hangars at the aerodrome.

 - (b) That the approval be subject to Birgit Becker-Strolo's lease account is up to date (at the closing date for submissions the hangar rental account was fully paid up).
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- 11.1.25 **CONSOLIDATION AND REZONING OF ERVEN 2847, 2848, 2849, 2878 AND 2879 SWAKOPMUND EXTENSION 9 FROM SINGLE RESIDENTIAL WITH A DENSITY OF ONE DWELLING PER 900M² TO GENERAL RESIDENTIAL 2 WITH A DENSITY OF ONE DWELLING PER 250M²**
(C/M 2019/05/23 - E 2847, E 2848, 2849, E 2879 and E 2878)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.17 page 36 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Purpose

The purpose of this submission is for the Council to consider the application for consolidation of Erven 2847, 2848, 2849, 2878 and 2879, Rittersporn Street, Swakopmund Extension 9 into consolidated Erf X, and subsequently, rezoning of the consolidated Erf X from "single residential" with a density of one dwelling per 900m² to "general residential 2" with a density of one dwelling per 250m².

2. Introduction and Background

An application for the consolidation and rezoning of Erven 2847, 2848, 2849, 2878 and 2879, Rittersporn Street, Swakopmund Extension 9 was received by the Engineering Services from Du Toit Town Planning Consultant on behalf of the registered owner Anita Lolita Nikanor. The application is attached as **Annexure A**.

3. Ownership

Ownership of Erven 2847, 2848, 2849, 2878 and 2879 Rittersporn Street, Swakopmund Extension 9 vests with Anita Lolita Nikanor as held under Title Deed Numbers T8245/2016, T2551/2016, T2552/2016, T2550/2016 and T2549/2016 respectively. Proofs of ownerships have been attached as **Annexure B**.

4. Zoning, Locality and Size

Erven 2847, 2848, 2849, 2878 and 2879 are zoned "single residential" with a density of one dwelling per 900m². The erven are situated in Rittersporn Street, Swakopmund Extension 9. Erven 2847, 2848, 2849, 2878 and 2879, Swakopmund, measures 893m², 1 371m², 1 674m², 1 511m² and 1 349m² respectively. The consolidated Erf X would be measuring approximately 6798m² in extent.

5. Access and parking

Access to Erven 2847, 2848, 2849, 2878 and 2879, Swakopmund is obtained from Rittersporn Street, a 15 meter wide cul-de-sac street. Parking for the proposed development will be provided on-site in accordance with the provision of the Swakopmund Town Planning Scheme.

6. Proposal

The owner of Erven 2847, 2848, 2849, 2878 and 2879, Swakopmund Extension 9 intends to consolidate and rezone the erven from "single residential" to "general residential 2" in order to construct and

accommodate 27 dwelling units, given the density of 1:25 and the size of the consolidated erf (6 798m²).

7. Advertisement

The proposed rezoning was advertised on the 6th and 13th of February 2018, in the New Era and The Namibian newspapers. A notice was placed on site for public comments and the neighbouring property owners were notified by registered letters informing them of the intent.

The owners of Erven 3130, 2846, 2877, 2865, 2868 and 2845, Swakopmund lodged objections towards the proposed development. Objections are attached on the application (**Annexure A**).

8. Discussion

8.1 Objections

The objectors have raised a number of objections towards the proposed consolidation and rezoning of Erven 2847, 2848, 2849, 2878 and 2879 Swakopmund Extension 9 from "single residential" with a density of one dwelling per 900m² to "general residential 2" with a density of one dwelling per 250m². The objections received are summarised and discussed below.

The objections are centred on increased traffic, increased noise, low density area and not high density, reduction in sense of place, reduction in property value, security issues, possibility of cars parking in the street, road width cannot handle increased traffic, negative impact on the service infrastructure, water pressure reduced in the neighbourhood, emergency services access risked and low occupation of residential flats in close proximity.

8.2 Applicant response

Increased traffic, road width cannot handle increased traffic and possibility of parking on the street

It is subjective to argue that there may be congestion from the addition 27 units assuming that every unit will have two cars and that all units will be occupied all the time. The applicant argues that the addition of 27 units should not be viewed as a negative impact considering that the 5 existing erven could potentially also add onto the traffic when/if occupied as single residential properties. The number of parking bays should strictly be adhered to in terms of the number and size of the parking bays.

Increased in noise

The main concern highlighted was the noise generated from traffic. However, there is no real evidence that the addition of cars from the 27 units would generate a noticeable difference in traffic noise. The proposed development is located in a cul-de-sac which prevents traffic from driving through the neighbourhood at higher speeds, which could normally be considered as generating higher noise levels.

In terms of noise generated besides traffic, it is very subjective to assume that additional households in a neighbourhood would generate noise levels that would be disturbing to the surrounding neighbours. There is a chance that noisy neighbours might move into one of the

units, but this could also be true if these properties would be occupied as "single residential" erven.

Exponential increase in households/low density area not high density area:

The applicant agrees that the area could generally be considered as a single residential area however, provision is made by the local authority to allow for higher densities, especially on large erven. The general character of the area and the surroundings would remain low density in nature and the proposed development is not expected to change this. The applicant stated that it is common practice to mix higher density residential developments in a predominantly low residential area.

In addition, the proposed development is surrounded by a number of similar developments and it is not foreseen to negatively affect the area.

Reduction in sense of place:

The applicant is of the opinion that there is no evidence to suggest that the addition of 27 units in Rittersporen Street would result in the reduction in the sense of place of the neighbourhood. It is important to keep in mind that should the proposed development of 27 units not realise, the 5 properties would be developed in any case. The proposed residential development would not change the residential nature of the neighbourhood and would therefore change very little in the sense of place of the area. A well planned and designed sectional title complex complements and generally blends in well with single residential erven.

Security issues:

The applicant argues that with the increase in the number of people does not necessarily translate into a security threat. In fact, the addition of eyes and ears might even add to the security of the neighbourhood.

Reduction in property values:

The applicant stated there is no proof that a development of this nature will lower the value of properties in the area. The new units will be of the high standard and will therefore be sold at high prices as well. This would imply the same growth in value as that of the surrounding properties.

Negative impact on services infrastructure/ reduced water pressure in the neighbourhood:

The applicant acknowledges that the addition of 27 units would most certainly put additional pressure on the services infrastructure and water pressure of the neighbourhood. However, the applicant is of the opinion that this is something that should be investigated by the engineers of the Swakopmund Municipality.

Emergency service access:

The applicant argues that the erven would be developed regardless of the outcome of this consolidation and rezoning application. Access to emergency services would remain the same and would not change as a result of the intended development.

Existing low occupation rate of residential flats in close proximity:

One of the objectors indicated that the Monotoka Street flats, approximately 500m from Rittersporn Street had an occupation rate of 20% for the last two years. The applicant stated that even if the above is the case, it remains objective since the intended development might differ substantially from the one referred above.

8.3 Evaluation

Increased traffic, road width cannot handle increased traffic and possibility of parking on the street/ Emergency service access:

Traffic in the area is expected to increase from the 27 units proposed. Assuming that every unit will have two cars and that all units will be occupied all the time, this would amount to 54 vehicles for the units and excludes provisions for visitors parking. Considering the above, traffic flow will be affected at the intersections. However, Rittersporn Street is 15m wide enough to accommodate the additional traffic that might be generated by the proposed development.

On-site parking provision will be in line with the Swakopmund Town Planning Scheme which recommend for one parking bay per dwelling unit. Parking of vehicles in the street should not happen if there are sufficient parking bays on site.

The proposed development would not change the initial arrangements in place in case of an emergency. Access to emergency services would be accommodated on the exiting street.

Increased in noise/ Reduction in sense of place/ Exponential increase in households/low density area not high density area/ Security issues:

Swakopmund is identified as a fast growing town that will draw more people to it. Given the ever increasing population in Swakopmund, the property demand has increased drastically causing an increase in demand for affordable and diverse housing options. As a result thereof, one cannot guarantee the tranquility and quietness of a neighbourhood, thus making it difficult to eliminate fears of increased noise pollution. However, the proposed development remains residential in nature and thus maintains its sense of place.

Therefore, there is no deviation from the Town Planning Scheme as the scheme makes provision for property owners to make alterations through rezoning their properties if such properties meet requirements. The proposed consolidated Erf X meets the requirements.

Mixed use developments are the essence of sustainable urban areas. They provide for diversity of housing types and offer residents choice of housing in accordance to their levels of affordability. Mixed developments contribute to the safety and surveillance of an area and are likely to provide the extra safety measures within a neighbourhood.

Reduction in property values:

The applicant specified that the new units will be of the same high standard and will therefore be sold at high prices as well. These would imply that the property values of surrounding properties will show the same growth in value.

Negative impact on services infrastructure/ reduced water pressure in the neighbourhood:

Betterment fees that are payable to the Municipality after the approval of a rezoning ensures that services are improved in order to accommodate changes in terms of the new demand on services.

Existing low occupation rate of residential flats in close proximity:

It is important to note that this is a different application and cannot be object to other developments in the surrounding neighbourhood. As a result, the applicant could thus have a different target audience (market) from that of the Monotoka Street flats mentioned by the objector.

It is therefore imperative that Council serves to reduce the housing backlog and aims to accommodate all residents of the town. Additionally, although Extension 9 was initiated to be a low density residential area, the changing dynamic of the environment requires planning to be flexible and accommodative.

Although the objectors have raised some valid points in their arguments, the proposed consolidation of Erven 2847, 2848, 2849, 2878 and 2879, Swakopmund Extension 9 into consolidated Erf X and subsequent rezoning from single residential to general residential 2 will have no significant negative impact on the surrounding area.

However, in order to maintain the nature of the area and to minimize possible undesirable impact that might emerge from the proposed development of 27 units, it is rather appropriate that the proposed consolidated Erf X be rezoned to "general residential 2" with a density of one dwelling per 300m² instead of "general residential 2" with a density of one dwelling per 250m² as per the applicant's request. The density of 1:300 will bring the number of units down with five less, from 27 dwelling units to 22 dwelling units.

9. Conclusion

The consolidation of Erven 2847, 2848, 2849, 2878 and 2879 Swakopmund Extension 9 into consolidated Erf X and subsequent rezoning of consolidated Erf X is not foreseen to have a significant negative impact on the area.

It is suggested that Council consider rezoning consolidated Erf X from single residential to "general residential 2" with a density of one dwelling per 300m² instead of a density of one dwelling per 250m².

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That the consolidation of Erven 2847, 2848, 2849, 2878 and 2879 Rittersporn Street, Swakopmund Extension 9 into consolidated Erf X be approved.
- (b) That rezoning of consolidated Erf X from single residential with a density of one dwelling per 300m² to "General Residential 2" with a density of one dwelling per 250m² be turned down.

- (c) That consolidated Erf X be rezoned from single residential with a density of one dwelling per 900m² to "General Residential Z" with a density of one dwelling per 300m²,
 - (d) That the rezoning of consolidated Erf X be included in the next Swakopmund Amendment Scheme.
 - (e) That the rezoning of consolidated Erf X be subject to a betterment fee calculated according to the betterment fee policy of 2009 and be paid by the applicant before any submission of building plans to the Engineering Department for approval.
 - (f) That all the parking provided on-site be in line with the Swakopmund Town Planning Scheme.
 - (g) That the applicant be informed of their right to appeal to the Minister against Council's Resolution in respect of resolution (c) above in terms of Clause 8 of the Swakopmund Town Planning Scheme within 28 days of receipt of notice of this Resolution, provided that written notice of such an appeal shall be given to the Ministry, as well as Council within the said period.
 - (h) That the objectors be informed of their right to appeal to the Minister of Urban and Rural Development with valid reasons within twenty eight (28) days from the date of the decision in accordance with clause 8 of the Swakopmund Town Planning Scheme.
-

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11.1.26 APPLICATION TO WAIVE PRE-EMPTIVE RIGHT: ERF 1124, TAMARISKIA
(C/M 2019/05/23 - T 1124)

Ordinary Management Committee Meeting of 09 May 2019,
Addendum 10.18 page 98 refers.

A. The following item was submitted to the Management Committee for consideration:

1. Introduction

A letter dated 25 April 2019 was received from Mr Paul T Ndjambula applying to sell Erf 1124, Tamariskia to a third party (Annexure "A").

Mr P T Ndjambula states that he was under the impression that the pre-emptive right registered against the title of the property was for a period of 3 years. His transaction for the transfer to the third party is in the final stage at the Deeds Registry Office in Windhoek and the third party already transferred the purchase price in the trust account of the conveyancer.

Erf 1124, Tamariskia (measuring 668m²) was sold at a public sale on 03 July 2015 in the amount of N\$183 700.00. In terms of the conditions of sale a pre-emptive period of 5 years were registered from date of transfer during which period the purchaser may not sell the property. The property was transferred to the owner on 01 October 2015.

Council sold 103 erven zoned "single residential" located in Extension 3, Tamariskia in two batches on 29 May and 03 July 2015, subject to the same pre-emptive period.

Should Council allow the applicant to sell his property to a third party, it is likely that various similar applications from the remaining 102 owners might follow.

2. Conditions of Sale

Council in the past sold various erven at reasonable prices, subject to a five year pre-emptive period in order to avoid speculation and having thereby providing an opportunity for first time property owners to construct a dwelling, without being lured by speculators.

Clause 8.3 of the deed of sale provides as follows:

"The owner, his/her heirs or successors-in-title may not sell the aforesaid property for a period of 5 (five) years from date of first registration, except after offering it for sale in writing to the Municipal Council of Swakopmund at the same price the PURCHASER bought the property from the Municipal Council of Swakopmund and the Municipal Council of Swakopmund to accept or reject such offer within 60 (sixty) days of receipt of the PURCHASER's written offer made in terms hereof.

As stated above, Mr P T Ndjambula was under the impression that the pre-emptive period was for only 3 years. He therefore proceeded with the sale to a third party without offering the property to Council.

3. Similar Application for the Sale of an Erf in Extension 3, Tamariskia Considered by Council

With reference to an application by Mr S G January for Erf 1123, Tamariskia (adjacent to Erf 1124) the following decision was passed on **14 February 2019** by the Management Committee under item 8.9:

That Mr S G January be engaged to consider alternative options and if successful, Council will revoke its decision to purchase.

On **28 February 2019**, Council passed the following decision under item 11.1.22:

- (a) *That Council does not waive its condition by allowing Mr S G January to sell Erf 1123, Tamariskia to a third party.*
- (b) *That Council accepts the offer of Mr S G January to purchase Erf 1123, Tamariskia at the purchase price N\$174 500.00.*
- (c) *That Ministerial approval be obtained in terms of Section 64 of the Local Authorities Act, Act 23 of 1992, as amended in order for Council to proceed with the purchase Erf 1123, Tamariskia from Mr S G January.*
- (d) *That Erf 1123, Tamariskia be transferred to Council at Council's costs.*
- (e) *That Council sells Erf 1123, Tamariskia by closed bid sale at an upset price equal to the costs incurred of acquiring the property.*

4. Similar Sales in the Past

A similar sale was held on **25 October 2005** whereby 125 erven zoned "single residential" were sold publicly subject to a pre-emptive right. With reference to an application by a purchaser to sell a vacant erf due to financial hardship, Council on **24 August 2006** passed the following resolution:

- (a) *That the Municipality exercises it's right to purchase Erf 4508, (Extension 9), Swakopmund measuring 800m² from Mr D A & Ms K J Bessinger for the price obtained at the auction, being N\$121 000.00 and all costs related to the transfer back into Council's name.*
- (b) *That Erf 4508, (Extension 9), Swakopmund be added to the list of erven available for sale by way of private transaction and be offered for sale to applicants on the waiting list at an increased purchase price in order to cover all Council's cost.*
- (c) *That the Municipal Council reserves the right of first refusal to obtain Erf 4508, (Extension 9), Swakopmund from successors-in-title.*

For interest sake, a submission was tabled to the Management Committee of 16 February 2012 in order to provide statistics on the sale of 25 October 2005 after the 5 year period lapsed, the following is quoted as during 2012:

% of erven still in ownership of the first time property owner	:	58%
% of erven sold as vacant land within one year from the lapsing of the restrictive period	:	36%
% of erven sold as developed (houses) land within one year from the lapsing of the restrictive period	:	6%

With reference to the sale of smallholdings during 2008, following various applications to waive the pre-emptive right to sell the undeveloped property to third parties, Council on **25 February 2010** under item 11.1.14 passed the following decision:

- (a) That Mr W R Clarke be informed that Council will not waive the five (5) year restriction on alienation for Portion 95.
- (b) That the General Manager: Corporate Services informs all First Time Smallholding and Property owners that Council will not waive the five (5) year restraint on alienation on any property.
- (c) That the General Manager: Corporate Services conveys the decision in (b) above to the public through the media.

Furthermore, with reference to more recent applications requesting Council's permission to sell subject to a pre-emptive right, Council passed the latest decision on **22 November 2018** under item 11.1.5:

That Ms Ismarelda Ruhumba be informed that Council does not waive its pre-emptive right and that the property may not be sold until the lapsing of the 5 year period on 06 May 2020.

With reference to the above property, a house is constructed and the owner can lease such for additional income.

From the above, Council consistently does not waive the pre-emptive period for the sale of the property to third parties.

4. Offer to Council to Purchase the Property

Council on **25 October 2018** under item 11.1.3 considered an offer to buy back an erf zoned "industrial" which is also subject to a pre-emptive right of first refusal; the following resolution was passed:

- (c) That Council does not waive its condition by allowing Messrs KS Properties Namibia (Pty) Ltd to sell Erf 4812, Swakopmund to a 3rd party, unless it is developed.
- (d) That Council accepts the offer of Messrs KS Properties Namibia (Pty) Ltd to purchase Erf 4812, Swakopmund at the purchase price N\$1 173 000.00 plus N\$175 950.00 (15% VAT).
- (e) That Ministerial approval be obtained in terms of Section 64 of the Local Authorities Act, Act 23 of 1992, as amended in order for Council to proceed with the purchase Erf 4812, Swakopmund from Messrs KS Properties Namibia (Pty) Ltd.
- (f) That Erf 4812, Swakopmund be transferred to Council at Council's costs.
- (g) That Council sells Erf 4812, Swakopmund by closed bid sale at an upset price equal to the costs incurred of acquiring the property.

5. Proposal

It is proposed that Council does not waive its right and conditions to allow Mr P J Ndjambula to sell Erf 1124, Tamariskia as it will create a precedent.

B. After the matter was considered, the following was:-

RECOMMENDED:

That Council does not waive its rights and conditions by allowing Mr P T Ndjambula to sell Erf 1124, Tamariskia to a third party prior to the expiry of the pre-emptive period which will lapse on 01 October 2020.

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- 11.1.27 ERF 9099, EXTENSION 35, SWAKOPMUND: WAIVER OF INTEREST CHARGES
(C/M 2019/05/23 - Erf 9099)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 10.19 page 103 refers.

- A. The following item was submitted to the Management Committee for consideration:

1. Introduction

A letter dated 03 April 2019 (Annexure "A") was received from Ms L Naimwala, the purchaser of Erf 9099, Swakopmund requesting Council to consider waiving the penalty interest charged on the late transfer of her erf.

Ms L Naimwala states in her letter that Council should reduce the amount of penalty interest since allegedly delays were caused by Council for not returning the duly signed power of attorney document promptly. The transfer document was received by Council on 5 February 2019 and the signed document has despatched to Masiza Law Chambers on 20 February 2019.

2. Brief Background

Ms L Naimwala was a bidder for Erf 9099, Swakopmund at the closed bid of 27 January 2017 sale (allocation date 20 August 2018) in the amount of N\$200 000.00. She was listed accordingly, and the erf was offered to her on 20 August 2018.

Following is the sequence of events:

20 Aug 2018	: date of sale
19 Sep 2018	: purchaser signed the deed of sale
21 Sep 2018	: Council signed the deed of sale
31 Jan 2019	: due date (interest become applicable)
19 Feb 2019	: guarantee issued by purchaser's Bank
19 Feb 2019	: transfer documents signed and returned to the conveyancer
05 Mar 2019	: transfer registered

An e-mail attached as Annexure "B" from Masiza Law Chambers confirmed that even though the documents took some time to be returned to their office it would have not made any difference as they still had to wait for their cost to be paid as well as for the bond attorney's to confirm that lodgment at the Deeds Registry office can be proceeded with. The guarantee was issued by the bank on 19 February 2019 and the bond lawyers only confirmed on the 20 February 2019 that they were ready for lodgment whereby all documents were sent to Windhoek for lodgment and the transaction was lodged on the 25th of February 2019. Therefore the time spent by Council on the transfer document did not delay the transfer. It took the purchaser more than 4 months from 21 September 2018 to 19 February 2019 to get the guarantee document.

The conveyancers confirmed that the property was transferred to Ms L Naimwala after the extended due date on 05 March 2019.

therefore in terms of paragraph 2 of Annexure "B" the purchaser is required to pay penalty interest levied from 20 August 2018 until date of transfer, and this amounts to N\$ 11 488.07.

3. Similar application

With reference to an application for Council to waive the penalty interest, Council under item 11.1.3 passed the following resolution on **27 September 2018**:

- (a) That the request by Ms L Mwetako to repay the penalty interest over an extended period due to her being retrenched be noted.
- (b) That the purchaser be given an opportunity to pay off the outstanding penalty interest in 36 monthly instalments.

It is proposed not to waive the interest due on the transaction of Erf 9099, Swakopmund as the delay in the transfer was caused by the guarantee only being issued on **19 February 2019**, therefore Ms L Naimwala be granted 36 months to repay her interest penalty.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council does not waive the payment of the interest for Erf 9099, Swakopmund on the purchase price of N\$200 000.00, in the amount of N\$11 488.07
 - (b) That the purchaser be given an opportunity to pay off the outstanding penalty interest calculated from 20 August to the date of transfer in 36 equal monthly instalments as per the standard practice.
-

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11.1.28 **INCREASED BULK PURCHASE PRICES BY MESSRS NAMWATER**
(C/M 2019/05/23 - D 2/1/1)

Ordinary Management Committee Meeting of 09 May 2019, Addendum 8.23 page 98 refers.

A. The following item was submitted to the Management Committee for consideration:

Attached correspondences were received from Messrs Namwater, regarding its increases for the bulk purchase price of water for Swakopmund town for the 2019 / 2020 financial year.

The current bulk purchase price will be increase from **N\$14.75** to **N\$14.87 per cubic meter**.

The monthly basic charges for our water supply to the residents of Swakopmund are linked to bulk price of Messrs Namwater.

Therefore, the basic charges for water are only adjusted after such communication has been received from Messrs Namwater.

Current monthly basic charges are as indicated below:

1. Swakopmund Town & Smallholdings:

	N\$
Basic (N\$ 14.75 X 8m ³)	118.00
Meter Rental Fee	7.70
Total	125.70

The new basic charges are as follows:

Swakopmund (N\$ 14.87 X 8m ³)	118.96
Meter Rent Fee	7.70
Total Charges	126.66

The bulk purchase price of N\$14.75 per m³, which was approved by Council during **April 2019** was slightly less than the bulk price purchase as per attached correspondence which is N\$14.87 per m³, hence the reason that we are seeking Council's approval accordingly.

The tariffs for the 2019 / 2020 financial year have been submitted for Ministerial approval therefore we are requesting that this item be condoned by Management Committee so that the Ministry can be informed accordingly.

B. After the matter was considered, the following was:-

RECOMMENDED:

- (a) That Council approves the new basic tariff amounting to **N\$126.66** for water supply.
- (b) That water savings campaigns be continuously placed in printed media and other social media platforms.

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