

AGENDA

Ordinary Council Meeting

on

THURSDAY

27 JUNE 2019

at

19:00



MUNICIPALITY OF SWAKOPMUND



MUNICIPALITY OF SWAKOPMUND

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Ref No A 2/3/5

Enquiries: *Aloysia Kahuka*

20 June 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, 27 JUNE 2019 AT 19:00,

MPC Swarts
ACTING CHIEF EXECUTIVE OFFICER

AK/-

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None.

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None.

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MINUTES

of an Ordinary Council Meeting held in the Council Chambers, Municipal Head Office, Swakopmund on Thursday, 23 May 2019 at 19:15.

PRESENT:

Councillor P Nashikundo	:	Mayor
Councillor M Elago	:	Deputy Mayor
Councillor K N Jason	:	Alternate Chairperson of MC
Councillor A M Marsh	:	Member of Management Committee
Councillor N N Salomon	:	Member of MC
Councillor W O Groenewald	:	Alternate Member of MC
Councillor E K Hangula	:	Member of Council
Councillor U Kaapehi	:	Member of Council
Alderman E //Khoaseb	:	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
Mr C Lawrence	:	GM: Health Services
Mr L Mutenda	:	Manager: Health
Ms M Bahr	:	Manager: Human Resources
Mr A Plaatje	:	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 A A Kahuka	:	Administrative Officer

ALSO PRESENT:

Also present was the seven (7) staff members receiving long service awards, three (3) members of the Media, members of Beach Ambassadors receiving awards, members of the Sports Club Receiving Metals and Toffees for the NALASRA Games which took place during May and Twenty Nine (29) Members of the public.

1. **OPENING BY PRAYER**

Mr A Benjamin opened the meeting with a prayer.

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

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

RESOLVED:

That the agenda be adopted.

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

3.1 Application for leave of absence:

Councillor E Shtana

3.2 Declaration of interest:

None

4. **CONFIRMATION OF MINUTES**
(C/M 2019/05/23 - A 2/3/5)

4.1 **MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 25 April 2019**

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

RESOLVED:

That the minutes of the Ordinary Council Meeting held on 25 April 2019, be confirmed as correct.

5. **OFFICIAL ANNOUNCEMENTS, STATEMENTS AND COMMUNICATIONS**
(C/M 2019/05/23 - A 2/3/5)

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

Honourable Councillors, Reverend Rose Lingenhoven, The Chief Executive Officer, Mr Afias Benjamin, General Managers, Managers, Officials, Junior Town Council, Members of the Community, Members of the Media, Ladies and Gentlemen, All Protocol observed

A very good evening, and welcome to our May Council meeting. Many of you have made a huge effort to join us this evening. On behalf of Council, we are deeply appreciative and offer you our most grateful welcome. Before I commence I wish to share quote from the book of wisdom - Psalm 37: 5 - 6 "Commit your way to the Lord; trust in Him and He will do this: He will make your righteousness reward shine like the dawn, your vindication like the noonday sun".

Honourable Councillors, Ladies and Gentlemen

The Office of the Mayor is tasked with various official engagements, myself and the Councillors attend to the following during May:

- Participated in the Kuska Karneval Clean-up campaign on 1 May
- Meetings with the Minister of Urban and Rural Development in Windhoek on the Mass Housing Master list
- Meeting with the Governor of Erongo Region on the Ministry's Food Bank Roll out Consultations in the Erongo Region.
- Working lunch with the Governor of Erongo Region and the Finnish Ambassador
- Structure Plan Brainstorming Session on Council envisaged Strategic Plan
- Various in-house meetings
- Also various official engagements has been confirmed for the following days until the end of the month

Thank you Honourable Councillors for the work and the support fulfilling some of the duties of the Mayor's Office.

Ladies & Gentlemen

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Swakopmund in 2009 developed a long term plan and Council wishes to finalize the plan and are busy consulting various stakeholders. Additionally, a new plan aimed at a time-horizon is needed. In order to overcome that challenge, the Swakopmund Municipal Council has decided to prepare an updated structure plan with policy guidelines that will build upon the foundations set by the current structure plan.

In order to create a sense of ownership of the Swakopmund Structure Plan, it is important to make sure that affected and interested parties are afforded an opportunity to contribute and this past week during May, Council's Town Planning division and Council's Consultant engaged in discussions with various focus groups. It give their input to ensure that it is aligned with the relevant legislation and supporting policies.

It is also imperative to note that the Swakopmund population growth rate is at 5.4% per annum, which translates to the more than doubling of the population by the year 2040. The aforesaid growth presents a challenge in terms of infrastructure, housing and services provision.

In order to overcome the challenge, proactive planning is desired so as to make sure that development is geared towards accommodating the ever-growing population, demand for services, infrastructure and well-coordinated spatial development.

The main objective is to prepare the Swakopmund Structure Plan to guide and direct long term spatial development planning and the making of informed and consistent decisions.

The formulation of the Swakopmund Structure Plan 2020 - 2040 has an ultimate goal of guiding and directing long term spatial development planning over this twenty year horizon. It is also aimed at assisting Council in making informed and consistent decisions. The plan will also serve as a tool for the promotion of economic and integrated development, which is one of the roles of the Swakopmund Municipal Council in the national development.

Hereafter, the Swakopmund Structure Plan 2020 - 2040 will become one of Council's important reference documents.

Ladies and Gentlemen

The Deputy Mayor during April 2019's Council announcements announced that the Volunteers Beach Ambassador Program is our mission of promoting our beach conservation through education and awareness during high festive seasons.

Volunteer Beach Ambassadors, being High School Learners acting as beach ambassadors has been appointed for the programme during the past Easter Weekend.

This is a very special time designated to thank our volunteers. There are not enough words to describe how amazed and grateful we are for their dedication, compassion and generosity of these individuals who have given of themselves to report for duty and participating in Council's Beach Ambassador campaign.

This Beach Ambassador Project would not be possible without the donation of funds and time from you, our "Army of Blue Shirts" who have seen the plight of the underserved and have decided to help informing the public on the beach and cleaning the beaches. You, our dedicated and compassionate volunteers, have decided to not only "talk the talk" but also "walk the walk" and give of yourselves in a most precious way, your time.

On behalf of our Council and the Swakopmund Community, I would like to say thank you for your unwavering support and generosity. I also would like to thank you for being my inspiration and for helping us actually change the world, starting on our beaches. Thank you for your kindness, compassion, and caring for our environment, our beaches and our lives.

Swakopmund's Volunteers have been as follows.

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- ◆ Senia Mwoonde
- ◆ Elliana Nkoyo
- ◆ Johanna Nambafu
- ◆ Victorina Impelaakena
- ◆ Tressa Moses
- ◆ Mohamed Bernhard
- ◆ Eivelina Haukongo

Ladies and Gentlemen

This past weeks Council's staff members represented various sports codes participated in the NALASRA GAMES 2019 which was held in Walvis Bay from 06 May 2019 - 10 May 2019. Swakopmund Municipality achieved 3rd place overall. A total of 37 Local Authorities (Municipalities / Town / Village Councils) participated.

The following results achieved by the Swakopmund Municipal sports club members:

Netball	-	Silver
Volleyball Male	-	Silver
Volleyball Mixed	-	Silver
Ring Board	-	Bronze
Fun walk	-	Gold, Silver and Bronze
Darts Team	-	Bronze
Tug of War	-	Gold

Swakopmund Municipality was also represented in the following sports codes: soccer, pool, golf and fishing. Unfortunately no medals were awarded for Fishing and Golf because only two local authorities participated in both sport codes, thus their participation was regarded as exhibitions.

We thank you for representing Swakopmund, for your time and effort you put in for practicing achieving such amazing results for fostering a real sense of team spirit.

Congratulations on the tremendous success you've achieved.

6. INTERVIEWS WITH DEPUTATIONS OR PERSONS SUMMONED OR REQUESTED TO ATTEND THE MEETING OF COUNCIL.

6.1 Long Service Awards

Ladies & Gentlemen

We acknowledge the following staff members and present them with long service awards, we want to thank them for their time and contributions to develop this Municipality and transform it into what it is today.

The staff members are as follows:

10 YEARS SERVICE

Abel Katondoruzu

15 YEARS SERVICE

Justus Kaaronda

Julia Hedimba

Nicolaas Goliath

30 YEARS SERVICE

Philippus Kambenge

35 YEARS SERVICE

Engelhardt Amporo

Nleutapo Namunyela

Jackson Matheus

Ladies & Gentlemen

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- (1) Bigger food kiosks be defined as any food cart, truck / semi-restaurant structure that requires area bigger than 18m² (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 enforced 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 sanctioned within 15 meters of any intersection which might lead to hindrance of traffic flow.
 - (6) No food kiosk carts / van / truck stand will be enforced 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 transferable to a third party without written consent of the Lessor obtained.
 - (12) The food kiosk / 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.

11.1.3 CONSTRUCTION OF LOW COST HOUSES IN THE MATUTURA AREA BY SMALL CONTRACTORS

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

RESOLVED:

- (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, Tide 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.

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- (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 Ongoshwi Trading Investment CC inter alia resignation of 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 to not allocate 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) Magnetize Investments CC
 - (2) BAY Engineering & Construction
 - (3) Alfresco Developers CC
 - (4) Maturu Investment CC
 - (5) Radago Investments cc
 - (6) Guther's Maintenance
 - (7) Namibia Property Group (NPG)
 - (8) Naler Investments CC
 - (9) Kashona Properties CC
 - (10) PD Bricks & Property
 - (11) Ongoshwi Trading Investment CC
 - (12) Selkan Enterprise CC
 - (13) Trecon Pty Ltd
 - (14) Versatile Trading CC
 - (15) Opota Investment (Pty) Ltd
 - (16) Yash Trading
 - (17) Fewa Business Solutions CC
 - (18) JDVK Trading Enterprises CC
 - (19) Delta Group Namibia and Jatties Group
 - (20) MCO Investments Number Eight (Pty) Ltd
 - (21) Etangane Building Construction CC
 - (22) Life House One Investment (Pty) Ltd
 - (23) Daft 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))

RESOLVED:

- (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.

- 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)

RESOLVED:

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 86.
- (ii) That application be made for exemption from the provisions of Section 7(2) and Section 11 of the Town Planning Ordinance, 1954, (Ordinance 12 of 1954) in terms of Section 21(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 6:
- (a) Regulation 7 and 8 in their entirety.
- (b) Regulation 7 in respect of the provision that a civic survey map to be

- 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)

RESOLVED:

- (a) That Erf 5 Vineta, be rezoned from "Single Residential" with a density of 1:600m² 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 - G 2 (23))

RESOLVED:

- (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, 1964 (Ordinance 18 of 1964).*
- (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.*

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- (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)

RESOLVED:

That the General Manager: 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)

RESOLVED:

- (a) That Council appoints Mr Paul Rool 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 a 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)

RESOLVED:

- (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 2018/05/23 - M 4327, M 4330, M 4341, M 4342, 19-03-02)

RESOLVED:

That this item be withdrawn from the agenda.

11.1.14 **APPLICATION TO PURCHASE LAND ADJACENT TO ROSENDAL FARMING, SMALL HOLDING 180**

(C/M 2018/05/23 - G 2, G 2 (15))

RESOLVED:

- (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.

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- 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.

- (v) 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.
- (vi) 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.
- (vii) 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.

11.1.15 CANCELLATION CONFIRMATION: ERF 4889, SWAKOPMUND - PRO HOUSING CC (INDUSTRIAL AREA)
(C/M 2019/05/23 - E 4889)

RESOLVED:

- (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.

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

RESOLVED:

- (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)

RESOLVED:

- (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.

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

RESOLVED:

- (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

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

RESOLVED:

- (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 Nghipevalli can therefore claim the refund of the interest paid from the third party.

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11.1.20 **FEEDBACK REGARDING THE LEASE OF MS E CARSTENS AND MS O LABUSCHAGNE AT THE MARTIN LUTHER HISTORICAL SITE: CANCELLATION OF LEASE AGREEMENT**

(C/M 2019/05/23 - J 8/3, 13/3/1/13)

RESOLVED:

- (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 $\pm 2\ 000$ m², 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.

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))

RESOLVED:

- (a) That point (a) 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 N\$0.108/\text{m}^2 = 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\ 000\text{m}^2 \times N\$0.108/\text{m}^2 = N\$648.00 + N\97.20 (15% VAT) = 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 2018/05/23 - E 4829)

RESOLVED:

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.

- 11.1.23 PARATUS TELECOMMUNICATION PROPRIETARY LIMITED: APPLICATION FOR AN ERF
(C/M 2018/05/23 - 13/3/15)

RESOLVED:

- (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\$ 33.58/m²/per month with an annual escalation of 10% every July (first being 1 July 2018).
- (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.

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- (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.

11.1.24 CESSION OF THE RIGHT TO HANGAR 28

(C/M 2019/05/23 - Hangar 28)

RESOLVED:

- (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).

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, E 2878)

RESOLVED:

- (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 900m² 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 2" with a density of one dwelling per 300m².
- (d) That the rezoning of consolidated Erf X be included in the next Swakopmund Amendment Scheme.

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- (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.

11.1.26 APPLICATION TO WAIVE PRE-EMPTIVE RIGHT: ERF 1124, TAMARISKIA

(C/M 2019/05/23 - T 1124)

RESOLVED:

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.

11.1.27 ERF 9099, EXTENSION 35, SWAKOPMUND: WAIVER OF INTEREST CHARGES

(C/M 2019/05/23 - Erf 9099)

RESOLVED:

- (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)

RESOLVED:

- (a) That Council Approves the New basic tariff amounts of N\$126.60 for water supply.
- (b) That water saving campaigns be continuously placed in printed media and other social media plat forms.

-
13. DRAFT REGULATIONS AND TARIFFS, IF ANY

None.

The meeting adjourned: 20:04

Minutes confirmed on: 27 June 2019

Councillor P Nashilundo
MAYOR

A Benjamin
CHIEF EXECUTIVE OFFICER

all

11. RECOMMENDATIONS OF THE MANAGEMENT COMMITTEE MEETINGS HELD DURING MAY AND JUNE 2019
10. REPORT TO COUNCIL ON RESOLUTIONS TAKEN BY PREVIOUS MANAGEMENT COMMITTEE MEETING HELD DURING MAY AND JUNE 2019
-
- 10 (A) MINUTES OF A SPECIAL MANAGEMENT COMMITTEE MEETING HELD ON 23 MAY 2019
5. DISCUSSION POINTS
- 5.1 AUDIENCE REQUEST FOR AN EXTENSION TO SECURE PURCHASE PRICE ON VARIOUS ERVEN
(S/M/C 2019/05/23 - E 8929, E 8930, E 8939, E 4874 and E 4899, Swk)
RESOLVED:
- (a) That the Management Committee takes note of the presentation by Mr Juuso Kambueshe on behalf of Pharlap Turnkey Investing and others.
 - (b) That Mr Juuso Kambueshe be invited to the Planning Forum of 21 June 2019.
-
- 5.2 AUDIENCE: MR S JANUARY, OWNER OF ERF 1123, TAMARISKIA
(S/M/C 2019/05/23 - T 1123)
RESOLVED:
- (a) That the Management Committee takes note of the presentation by Mr S January.
 - (b) That before Council waives the pre-emptive right registered against Erf 1123, Tamariskia, Mr January first consult with his purchaser and provide proof of such a sale that exist.
 - (c) That this matter be resubmitted to Management Committee for final consideration.
-
- 5.3 DEVELOPMENT PROPOSAL RECEIVED FOR ERF 4324, MONDESA: HAPPYDU CHILDREN CHARITY ORGANISATION
(S/M/C 2019/05/23 - M 4324)
RESOLVED:
- (a) That the Management Committee takes note of the presentation by HappyDu Children Charity Organisation and allocates Erf 4324, Mondesa to them in terms of Notice 42/2018.
 - (c) That the Management Committee takes note that once the additional documentation required in terms of the resolution passed under item 7.2 on 14 February 2019 is received from the religious institutions, the allocation of Erf 1327, Extension 3, Tamariskia will be submitted.
-

5.4 EXTENSION 14, SWAKOPMUND, SALE OF 14 DECEMBER 2018:Ø CANCELLATIONSØ APPLICATIONS FOR EXTENSION OF TIME

(S/M/C 2019/05/23 - G 3/3/14, E 2623 V, E 4912, 4913, 4916, 4917, 4921, 4955, 4956)

RESOLVED: (For Condonation June Council)

- (a) That the transactions in respect of the following erven sold on 14 December 2018, be cancelled due to non-performance by the due date of 13 May 2019:

Erf	Surname	Name	Comments	Purchase Price less N\$5 000.00 Reg. Fee
2623	Kambonde	Andreas Mekonjo	No Payment	907 000.00
4912	Olivier	Jaco Martin	No Payment	464 352.00
4913	Potgieter	Anita	No Payment	736 001.00
4916	Mayer	Trevor Douglas	No Payment	625 000.00
4917	Mayer	Edward	No Payment	625 000.00
4956	Janus	Enrico Jurgen Venancio & C Margaret	No Payment	812 000.00

- (b) That the above cancelled erven be offered to the next qualifying bidders listed for as provided for in the Conditions of Sale.
- (c) That extension be given to the following bidders for payment of the purchase price, subject to interest:

Erf	Surname	Name	Comments	Purchase price - N\$5 000.00 Reg. Fee
4921	Thomas	Victory	Request Ext of Time until 30 Sept 2018. 5 months, Annexure "A"	695 999.99
4955	Iyambo	Leana Mahenda	Made Part Payment of N\$70 875.30. Request Ext of Time until 30 Sep 2018. 5 months, Annexure "B"	637 877.73

5.5 ERF 4926, EXTENSION 14, SWAKOPMUND: DELAYS IN SIGNING OF TRANSFER DOCUMENTS RESULTING IN PENALTY INTEREST

(S/M/C 2019/05/23 - E 4926)

RESOLVED:

- (a) That it be noted that the interest charged on the late transfer of Erf 4926 calculated from 14 December 2018 until date of registration of transfer on 07 May 2019 amounts to N\$25 683.29.
- (b) That Mr D L and Ms M Miljo be exempted from payment of the interest for the delay of 9 days caused by the signing of the transfer documents by Council.

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

(S/M/C 2019/05/23 - E 9027, E 9037, E 9094, E 8953, E 9069, 9073)

RESOLVED: (For Condonation June Council)

- (a) That Council confirms the cancellation of the following transactions and the erven be offered to the next qualifying bidders:

	Erf #	Purchaser
1	9027	Ms L Shipiki
2	9037	Mr S Unaab
3	9094	Ms C De Jay
4	8953	Ms D V Dandago
5	9073	Ms J Kazombanvu

- (b) That Council accepts the payment of the balance on 10 May 2019:

	Erf #	Purchaser	Initial Due Date	Status
1	9069	Ms A K Uushova	12 Mar 2019	Made part payment before 30 April 2019, and paid the balance and interest on 10 May 2019.

5.7 **MS H MUPUPA: SALE OF A PORTION OF THE REMAINDER OF PORTION 5 OF SWAKOPMUND TOWN AND TOWNLANDS NO 41:**

(S/M/C 2019/05/23 - H 5/1)

RESOLVED:

- (a) That the reply received from the Ministry of Urban and Rural Development dated 15 May be noted.
- (b) That Council considers allocating a portion of Portion 161 (Annexure "E", on file) approximately 10ha in extend for township development to Ms H Mupupa on the same principles that were implemented with the developers in Matutura.
- (c) That once Council approves the above recommendation, a detailed submission be tabled to Council for further consideration.

5.8 **INVITATION TO THE FUNDRAISING GALA DINNER AND NKURENKURU EXPO 2019**

(S/M/C 2019/05/23 - J 10/2, J 9/3)

RESOLVED:

- (a) That the permission granted to the Deputy Mayor to pledge N\$2 000.00 at the Nkurenkuru fundraising gala dinner be condoned.
- (b) That the cost for the pledge be defrayed from the Council's Conference Expenses Vote 100510206500 where N\$140 000.00 is available.
- (c) That subsistence and traveling allowance be defrayed from the Council's Conference Expenses Vote 100510206500 where N\$74 000.00 is available.

5.9 SWAPO PARTY FUNDRAISING GALA DINNER

(S/M/C 2019/05/23 - 5/5/1)

RESOLVED:

That this matter be referred to the in camera session.

5.10 NAMIBIA NATIONAL MAYORS FORUM EXECUTIVE MEETING

(S/M/C 2019/05/23 - 5/5/6)

RESOLVED:

- (a) That the attendance of the Mayor, Councillor Pauline Nashilundo for the Namibia National Mayor's Forum, Executive Management Committee meeting, to be held in Gobabis 7 June 2019, be approved.
 - (b) That the use of the Mayoral vehicle and subsistence allowance to the amount of N\$6 700.00 for the Mayor and the driver, being a Traffic Officer, be approved.
-

5.12 PRESENTATION: MESSRS ROMPLEX INVESTMENT CC

(S/M/C 2019/05/23 - 14/1/5/1)

RESOLVED:

- (a) That the presentation by Messrs Romplex Investment CC be noted.
 - (b) That the General Manager: Community Development Services request the business proposal and the structural plan of Messrs Romplex Investment CC.
 - (c) That Messrs Romplex Investment CC provide proof that this matter was discuss with the Ministry of Safety and Security.
-

5.13 PRESENTATION: AIDS CARE TRUST'S DEVELOPMENT PROPOSALS IN RESPECT OF THE ENVISAGED ALIENATION OF ERF 1960 MONDESA

(S/M/C 2019/05/23 - M 1960)

RESOLVED:

- (a) That the presentation of AIDS Care Trust be noted.
 - (b) That the matter be referred back in order to re-assess the usage of Erf 1960 by Community Development Services and Engineering Services Departments
-

6.1 MS AUGUSTE MALETSKY: PRESENTATION, ERF 115

(S/M/C 2019/05/23 - E 115)

RESOLVED:

- (a) That the Management Committee takes note of the presentation by Messrs A Maletsky.
- (b) That this item be referred back and be resubmitted to the next Management Committee meeting.

6.2 FORUM OF TERRITORIAL MANAGERS AND TRAINING INSTITUTES TARGETING THE LOCAL LEVEL IN AFRICA.

(S/M/C 2019/05/23 - A 2/3/1/4/1)

RESOLVED:

- (a) That permission be granted to the Deputy Mayor to attend the 3rd Forum of Territorial Managers and Training Institutes targeting the Local Level in Africa in the Kingdom of Morocco, Al Akhawayn University of Ifrane, from 10 to 14 June 2019.
- (b) That the Office of the Chief Executive Officer obtains permission from the line Ministry to participate in this international event and that it be noted that all accommodation, meals and traveling costs will possibly be funded by UCLG Africa.
- (c) That in absence of any further funding as mention in (b) above , the following be approved:

<i>Total estimated costs if accommodation and meals are not covered</i>		
Registration fee	(300 Euros)	4 820.82
Subsistence & Travelling		7 850.00
Accommodation		5 613.00
TOTAL		18 283.82

10 (B) MINUTES OF AN ORDINARY MANAGEMENT COMMITTEE MEETING HELD ON 14 JUNE 2019**2. CONFIRMATION OF MINUTES**

(M/C 2019/06/13 - A 2/3/5)

2.1 MINUTES OF AN ORDINARY MANAGEMENT COMMITTEE MEETING HELD ON 09 MAY 2019

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

RESOLVED:

That the Minutes of the Ordinary Management Committee meeting held on 09 May 2019 be confirmed as correct.

2.2 MINUTES OF AN SPECIAL MANAGEMENT COMMITTEE MEETING HELD ON 23 MAY 2019

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

RESOLVED:

That the Minutes of the Special Management Committee meeting held on 23 May 2019 be confirmed as correct.

5. REPORTS: HEADS OF DEPARTMENTS

5.5 FINANCE

5.5.1 TOTAL EXPENDITURE

(M/C 2019/06/13 - D 7/3/2/1)

RESOLVED:

That the total expenditure of N\$36 326 749.84 and total revenue of N\$39 191 427.46 for the period 01-31 May 2019 be accepted and approved as correct.

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

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

(M/C 2019/06/13 - M 4327, M 4330, M 4341, M 4342, 19/03/02)

RESOLVED:

- (a) That Council remains with the conditions of sale for the sale of 4 erven zoned "General Business" located in Mondesa Lc. requiring the purchase price to be secured by the final due date of 15 April 2019 (an additional 21 days' notice period given), by either a cash payment, or electronic fund transfer or bank guarantee.
 - (b) That Alexander J Trading CC (Erf 4327, Mondesa) and Mr L T Shitumbapo (Erf 4341, Mondesa) be informed that their transactions are cancelled on 15 April 2019 due to failure to comply with the conditions of sale.
 - (c) That Council honours its undertaking to the next qualifying bidders and that the General Manager: Corporate Services and HR continues with the allocations of the cancelled transactions accordingly.
-

7.3 LETTER FROM O'B DAVIDS PROPERTIES CC~~ⓐ VERBAL OFFER TO PURCHASE RESIDENTIAL LAND~~~~ⓑ APPLICATION FOR RESIDENTIAL LAND SUBMITTED ON 07 MARCH 2013~~~~ⓒ BRICK MAKING MANUFACTURING APPROVAL~~

(M/C 2019/06/13 - H 5, E 4883, S)

RESOLVED:

- (a) That with regard to the verbal application to purchase land measuring 30ha, Messrs O'B Davids CC be informed that Council only attends to written applications.
- (b) That Messrs O'B Davids CC be informed of the Management Committee resolution passed on 22 February 2018 under item 5.1:
- (a) ---
- (b) *That Council only considers the current listed Public Private Partnership applications until they are exhausted, before consideration is given to new applications.*
- (c) *That new Public Private Partnership applications received be placed on file and only be considered in terms of (b) above.*

7.4 LETTER FROM O'B DAVIDS PROPERTIES CC~~ⓐ VERBAL OFFER TO PURCHASE RESIDENTIAL LAND~~~~ⓑ APPLICATION FOR RESIDENTIAL LAND SUBMITTED ON 07 MARCH 2013~~~~ⓒ BRICK MAKING MANUFACTURING APPROVAL~~

(M/C 2019/06/13 - H 5, E 4883, S)

RESOLVED:

- (a) That Messrs O'B Davids CC be informed that applications for residential land to alleviate the housing need were submitted to the Management Committee of 18 February 2014 which were discussed under items 7.4 and 7.16; it was concluded that the Government initiated mass housing initiative enjoys priority as a national project and various vacant blocks were allocated accordingly.
- (b) That all applications received prior to February 2014 were no longer considered by the new Council which commenced in January 2016.
- (c) That all applications received after February 2014 were submitted to Council on 30 November 2017 whereafter the allocations were approved by Council on 31 May 2018 under item 11.1.25 as an action plan.

7.5 LETTER FROM O'B DAVIDS PROPERTIES CC① VERBAL OFFER TO PURCHASE RESIDENTIAL LAND② APPLICATION FOR RESIDENTIAL LAND SUBMITTED ON 07 MARCH 2013③ BRICK MAKING MANUFACTURING APPROVAL

(M/C 2019/06/13 - H 5, E 4883, S)

RESOLVED:

That it be noted that the Engineering Services Department attended to the application for consent use for Erf 4883, Swakopmund as per the letter dated 15 January 2019.

7.6 REVIEW OF A NEW LAYOUT PLAN FOR ERF 673, TAMARISKIA: MESSRS EDDY ANGULA TRUST

(M/C 2019/06/13 - T 673, RE T 624)

RESOLVED:

- (a) That the request of Messrs Eddy Angula Trust for Council to approve the layout plan (on file) as Annexure "B" be noted.
- (b) That Council remains with its resolution of 25 October 2018, item 11.1.3.
- (c) That the ablution facility and boundary wall that encroaches on Erf 673, Tamariskia be demolished.
- (d) That an addendum to the agreement of sale be compiled to reflect Council resolution of 25 October 2018, item 11.1.3 and the above at the cost of the developer.
- (e) That Messrs Eddy Angula Trust provides proof of their attempts to finance the project.
- (f) That Messrs Eddy Angula Trust provides a timeline for the completion of the project, failing which Council will take the necessary steps to enforce the terms of the deed of sale.

7.8 PROPERTY OFFERED FOR SALE ERF 3657, MONDESA

(M/C 2019/06/13 - M 3657)

RESOLVED:

- (a) That it be noted that this will be the third application Ms Ismerelda Ruhumba is submitting to Council.
- (b) That Ms Ruhumba be invited for an audience to the Management Committee in July 2019.

8. POLICY MATTERS**8.2 SURVEY: PUBLIC'S VIEW ON AUTOMATIC ANSWERING SYSTEM**

(M/C 2019/06/13 - B 2/2/2)

RESOLVED:

- (a) That the challenges experienced by the public and the Switchboard Operator with the Switchboard Operation be noted.
- (b) That Heads of Departments ensures that all employees in their departments understand the importance of answering the calls from the public and assisting them as effective as possible with a friendly tone.
- (c) That the employees be informed to forward their calls to the employee in the next office who will be able to attend to the public enquiries when they are on leave, attending meetings, workshop, training, etc.
- (d) That the AA system only be used in the event where the Switchboard Operator is unavailable for short periods of time or when no one is available in the Corporate Services department due to departmental meeting, team building sessions, sectional meetings, etc.
- (e) That the General Manager: Corporate Services & HR submit a progress report to Management Committee after 3 (three) months.

8.7 FORMULATION OF THE SWAKOPMUND STRUCTURE PLAN 2020 - 2040

(CS/RP/SM-002/2018)

(M/C 2019/06/13 - G 3/2/2, 2/1/2/1)

RESOLVED:

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

8.9 REQUEST TO LEASE THE AREA SOUTH OF TIGER REEF

(M/C 2019/06/13 - 13/3/1/5)

RESOLVED:

That the application by Mr E Snyders to lease 16m² area south of Tiger Reef (Lease Area No.1 of Farm No. 165) to use as a base site for extreme water sports, rental and entertainment activities be turned down.

8.10 PROPOSAL TO DEVELOP SOUTH BEACH AREA
(M/C 2019/06/13 - G /3/3/2)

RESOLVED:

That Swakopmund Tourism forum be invited for an audience to the next Special Management Committee meeting.

8.11 REQUEST FOR PREPAID WATER METERS BY BUILD TOGETHER BENEFICIARIES
(M/C 2019/06/13 - H 5/3)

RESOLVED:

That permission be granted to the Engineering Services and Finance Departments to investigate the implementation of pre-paid water meter system at the 150 Build Together houses - Extension 26, Mondesa, with report back to the Management Committee Meeting.

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

10.2 MS H MUPUPA: SALE OF A PORTION OF THE REMAINDER OF PORTION 5 OF SWAKOPMUND TOWN AND TOWNLANDS NO. 41
(M/C 2019/06/13 - H 5/1)

RESOLVED:

That final letters be written to the following applicants:

- (1) Tapeye Investments
- (2) Ghetto Assistance CC
- (3) Riving Trading Enterprise CC
- (4) Immanuel Shikongo and Wendelinus
- (5) Lherix Investments CC And Momporisa Trading Enterprises CC

10.5 REQUEST OF SPONSORSHIP FOR ANNUAL SPORT EVENT - MINISTRY OF HOME AFFAIRS AND IMMIGRATION
(M/C 2019/06/13 - 14/2/7/1/1)

RESOLVED:

That the sponsorship request from Ministry of Home Affairs and Immigration not be approved.

10.6 PRESENTATION FOR ERONGO RED: TARIFFS 2019/2020 PROPOSAL
(M/C 2019/06/13 - A 4/3/1/16/1, 5/6/3)

RESOLVED:

That the presentation by Messrs Erongo RED regarding the tariffs for 2019 / 2020 be noted.

10.7 INVITATION TO THE EHAO CULTURAL EXPO- OKAHAO TOWN COUNCIL

(M/C 2019/06/13 - 5/5/1)

RESOLVED:

- (a) That approval be granted for Councillor A M Marsh to represent the Office of the Mayor at the official opening of the EHAO Cultural Expo, to be held in Okahao on 22 June 2019.
 - (b) That subsistence and travelling allowance be defrayed from the Council's Conference Expenses Vote: 100510206500 where N\$40 000.00 is available.
-

11. **RECOMMENDATIONS BY THE MANAGEMENT COMMITTEE**
- 11.1 **ORDINARY AND SPECIAL MANAGEMENT COMMITTEE MEETINGS HELD ON 23 MAY AND JUNE 2019**
- 11.1.1 **EXTENSION 14, SWAKOPMUND, SALE OF 14 DECEMBER 2018:**
 @ CANCELLATIONS
 @ APPLICATIONS FOR EXTENSION OF TIME
 (C/M 2019/06/27 - G 3/3/14, E 2623 V, E 4912, 4913, 4916, 4917, 4921, 4955, 4956)
- Special Management Committee Meeting of 23 May 2019, Addendum 5.4 page 27 refers.**

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

1. **INTRODUCTION**

The purpose of this submission is to submit the non-performance of the bidders listed under point 2 to Council in terms of the Council resolution passed on **31 January 2019** under item point (d) of item 11.1.3:

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

Various purchasers cancelled voluntarily and the following decision was passed on **25 April 2019** by Council under item 11.1.3 and the re-allocations to the next qualifying bidders are being attended to:

- (a) ...
- (b) *That the Property Section proceeds with the allocation of the allocation of these even 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.*

Council had a public closed bid sale on **14 December 2018** of 43 even mostly located in Extension 14, Swakopmund. The outcome of the sale was reported to the Management Committee of **10 January 2019** under item 8.7.

2. **CURRENT SITUATION**

The due date to secure the purchase price was **15 April 2019**.

A notice was issued to the non-performers of which the due date became 13 May 2019. The conditions of sale provide for 10.5% interest to be levied from 14 December 2018 until date of transfer (in cases where the purchase price is secured by a bank guarantee); or until date of receipt of payment if paid in cash.

On the 13th of May 2019 the progress was as follows:

43	total even sold on 14 Dec 2018
12	pending second allocations
18	paid in cash / transferred
5	guarantee on file in time
6	no response
2	request extension of time / have bank loan letter on file

Therefore 8 purchasers did not comply with the contractual conditions of securing the purchase price by the due date. In this regard, the deed of sale stipulates as quoted from Paragraph 3 and 5 of Annexure "B" of the Deed of Sale:

...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;

List of the 9 purchasers:

Erf	Surname	Name	Comments	Purchase price – N\$5 000.00 Reg. Fee
2823	Kambondo	Andreas Mekondjo	No Payment	607 000.00
4912	Olivier	Jaco Martin	No Payment	464 352.00
4913	Potgieter	Anita	No Payment	736 001.00
4916	Meyer	Trevor Douglas	No Payment	625 000.00
4917	Meyer	Edward	No Payment	625 000.00
4921	Thomas	Victory	Request Exit of Time until 30 Sept 2019, Annexure "A"	695 999.99
4955	Iyambo	Leana Nahenda	Made Part Payment of N\$70 875.30. Request Exit of Time until 30 Sep 2019, 5 months, Annexure "B"	637 877.73
4956	Juriss	Enrico Jurgen Venancio & C Margaret	No Payment	812 000.00

Various bidders are listed as next qualifying bidders for the above even.

3. RECENT DECISION PASSED WITH REFERENCE TO EXTENSION 2

On 25 April 2019, in addition to a previous extension granted for the purchasers of the Extension 2, Matutura sale until 30 April 2019, Council granted an additional extension of time until 31 May 2019 to secure the purchase prices under item 11.1.20.

4. CONDITIONS OF SALE

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

- ① A cash payment or
- ② An electronic fund transfer or a
- ③ 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 15 April 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.

The conditions of sale does not provide for payment being secured after the due date.

5. DISCUSSION

It is proposed to give consideration to cancel or not cancel the following transactions due to non-performance by due date of 13 May 2019, keeping in mind the recent decision passed by Council on **25 April 2019** for the extension of time to perform granted from 15 April until 31 May 2019:

Erf	Surname	Name	Comments	Purchase Price less R55 000.00 Reg. Fee
2623	Kambonde	Andreas Mekondjo	No Payment	907 000.00
4912	Olivier	Jaco Martin	No Payment	464 352.00
4913	Polzeler	Anita	No Payment	736 001.00
4916	Meyer	Trevor Douglas	No Payment	625 000.00
4917	Meyer	Edward	No Payment	625 000.00
4956	Junius	Enrico Jurgen Venancio & C Margaref	No Payment	812 000.00

Furthermore, that consideration be given to allow extension of time or not to allow the following 3 bidders to secure the purchase price as requested, keeping in mind Council on **25 April 2019** for the extension of time to perform granted from 15 April until 31 May 2019:

Erf	Surname	Name	Comments	Purchase Price less R55 000.00 Reg. Fee
4921	Thomas	Victory	Request Extension of Time until 30 Sep 2019, 5 months, Annexure "A"	695 999.99
4955	Iyambo	Leana Nahenda	Made Part Payment of R570 875.30, Request Extension of Time until 30 Sep 2019, 5 months, Annexure "B"	637 877.73

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

RESOLVED: (For Condonation By Council)

- (a) That the transactions in respect of the following erven sold on 14 December 2018, be cancelled due to non-performance by the due date of 13 May 2019:

Erf	Surname	Name	Comments	Purchase Price less N\$5 000.00 Reg. Fee
2623	Kambonde	Andreas Mekondjo	No Payment	907 000.00
4912	Olivier	Jaco Martin	No Payment	464 252.00
4913	Potgieter	Anita	No Payment	736 001.00
4916	Meyer	Trevor Douglas	No Payment	625 000.00
4917	Meyer	Edward	No Payment	625 000.00
4958	Junius	Enrico Jurgen Venancio & C Margaret	No Payment	812 000.00

- (b) That the above cancelled erven be offered to the next qualifying bidders listed for as provided for in the Conditions of Sale.
- (c) That extension be given to the following bidders for payment of the purchase price, subject to interest:

Erf	Surname	Name	Comments	Purchase price - N\$5 000.00 Reg. Fee
4921	Thomas	Victory	Request Ext of Time until <u>30</u> Sept 2019, 5 months, Annexure "A"	695 999.99
4955	Iyambo	Leana Nahenda	Made Part Payment of N\$70 875.30. Request Ext of Time until <u>30</u> Sep 2019, 5 months, Annexure "B"	637 877.73

**The
attachments
of this item
are available
on file - due
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11.1.2

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

(C/M 2019/06/27 - E 9027, E 9037, E 9094, E 8953, E 9069, 9073)

Special Management Committee Meeting of 23 May 2019, Addendum 5.6 page 36 refers.

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

On 26 April 2019 Council under item 11.1.5 resolved that the purchasers of the sales of Extensions 34 and 35, Swakopmund be granted extension until 30 April 2019 to secure the purchase prices.

At the closing date of 30 April 2019 the following can be reported:

	Erf #	Purchaser	Initial Due Date	Update
1	9027	Ms L Shipiki	25 Feb 2019	The purchaser was not reachable. No response was received by 30 April 2019. Cancellation letter issued dated 06 May 2019.
2	9037	Mr S Unseb	31 Jan 2019	Provided a guarantee for the sale to a third party after 30 April 2019 (on 06 May 2019). Email dated 07 May 2019 was sent to attorneys informing them that the guarantee is late and will only be considered by Council at the end of the month. The third party cancelled the transaction and therefore there is no further reason to continue with the transaction.
3	9094	Ms C De Jay	25 Feb 2019	The purchaser does not answer the phone call. No response was received by 30 April 2019. Cancellation letter issued dated 06 May 2019.
4	8953	Ms D V Dandago	25 Feb 2019	The purchaser was phoned and the extension of the payment period was explained. No further response was received by 30 April 2019. Cancellation letter issued dated 06 May 2019.
5	9069	Ms A K Ushona	12 Mar 2019	Made part payment before 30 April 2019, and paid the balance and interest on 10 May 2019.
6	9073	Ms J Kazombanuru	12 Mar 2019	The purchaser was informed of the extension and no further response was received from her by 30 April 2019. Cancellation letter issued dated 06 May 2019.

The respective conveyancers were also contacted to confirm whether they received any further response from the purchasers.

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

RESOLVED: (For Condonation By Council)

- (a) That Council confirms the cancellation of the following transactions and the erven be offered to the next qualifying bidders:

	<i>Erf #</i>	<i>Purchaser</i>
1	9027	Ms L Shipiki
2	9037	Mr S Unaab
3	9094	Ms C De Jay
4	8953	Ms D V Dandago
5	9073	Ms J Kazombaruru

- (b) That Council accepts the payment of the balance on 10 May 2019:

	<i>Erf #</i>	<i>Purchaser</i>	<i>Initial Due Date</i>	<i>Status</i>
1	9089	Ms A K Ushona	12 Mar 2019	Made part payment before 30 April 2019, and paid the balance and interest on 10 May 2019.

**The
attachments
of this item
are available
on file - due
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11.1.3 **POWERCOM (PTY) LTD: APPEAL TO COUNCIL REGARDING NEW RENTAL AND WAIVER OF BACKDATED INVOICE**
(C/M 2019/06/27 - T 507, G 4/2/2)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.1 page 03 refers.

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

1. Introduction

This item was discussed at the Planning Forum of 07 May 2019 under item 5.1 and is now submitted to Council for consideration.

On 12 March 2019, Messrs PowerCom (Pty) Ltd presented their proposal to the Planning Forum requesting Council to:

- ⊖ Amend erroneous backdating of invoice as per Council resolution of 26 July 2018.
- ⊖ To stay the monthly invoicing of new rental as they are currently honouring rental as per old agreement.
- ⊖ To pend the backdated invoices.

On 12 March 2019 Planning Forum under item 5.1 resolved the following:

- (a) That the presentation by Messrs PowerCom (Pty) Ltd be noted.
- (b) That Messrs PowerCom (Pty) Ltd be requested to submit audited financial statements to Council to substantiate their statement that the entity is struggling financially.

A letter dated 27 March 2019 (Annexure "A") was addressed to them requesting an audited financial statement. As reply, a letter dated 03 April 2019 was received (attached hereto as Annexure "B").

For ease of reference, Council's decisions passed on 26 July 2018 under item 11.1.3 and 22 November 2018 under item 11.1.8, are attached as Annexure "C".

2. Discussion

2.1 Messrs PowerCom (Pty) Ltd as per letter dated 03 April 2019 indicated that their financial statement does not reflect individual revenue. PowerCom (Pty) Ltd confirms that the revenue generated from the tower amounts to N\$ 17 000.00 and they use this money to pay rent.

It is Council's responsibility to apply lease tariffs consistently to all lessees and not provide one with a competitive advantage due to inconsistent application of policy.

In this regard section 23 (1) (3) (f) of the Competition Act, Act 2 of 2003 is quoted below:

- 23 (1) —
- (2) —

- (3) Without prejudice to the generality of the provisions of subsection (1), that subsection applies in particular to any agreement, decision or concerted practices which-
- (f) Applies dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at the competitive disadvantage "

Therefore, leasing land of similar purpose at a lower rental than others might result in prohibited commercial practice.

Below is the google map which clearly shows the size of the site for PowerCom (Pty) Ltd is, compared to others. They are not using the whole area meaning they do not need to pay for land they are not using.



2.2 Erroneous backdating of invoice as per Council resolution of 26 July 2018

As per their letter dated 14 December 2018 it is their view that the Swakopmund Municipality imposed the backdated tariff erroneously and the new rental prematurely without concluding the renewed lease agreement. They therefore are of the opinion that the rate of N\$5.50 / m² must be applicable for the lease period as the renewal was tacitly agreed upon and no new lease agreement is signed.

Comments:

The lessee was requested prior to the lapsing of the previous lease agreement on **31 May 2017** to indicate whether they intend to renew the lease period. The renewal was delayed by the lessee until Council received a letter dated **28 March 2018**.

Council tacitly agreed to continue with the lease by not requesting Messrs PowerCom (Pty) Ltd to vacate the lease site after **31 May 2017**; which demand would have been unreasonable taking into consideration that the lessee erected a tower and sub-lets space on the towers to users. Council as lessor acted in good faith.

Council can remain with the lease tariff in place on **31 May 2017** and that the increased standard tariff only be levied from the date Council approved the renewal and increased standard tariff, i.e. **26 July 2018**.

PowerCom (Pty) Ltd has not to date paid the advertising fee and the renewed lease period could therefore not be published as required in terms of the Local Authorities Act 23 of 1992, as amended. Of course it is to the lessee's advantage to delay any change in the conditions of lease especially an increase in price. A lease agreement can only be signed after the successful finalization of the statutory procedure.

The delay can be part of a negotiating tactic for them to continue paying as per the old agreement.

3. **Proposal**

In terms of clause 11 of the new lease agreement, Messrs PowerCom (Pty) Ltd is permitted to sublease. It is therefore proposed that they reduce the size of land they are leasing which will have an immediate effect on the lease amount, and allow Council to remain consistent.

It is also proposed that PowerCom (Pty) Ltd source more clients to sublet in order to get more profit as permitted.

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

RECOMMENDED:

- (a) That PowerCom (Pty) Ltd be informed that Council considered their application to be levied the rental tariff applicable to the expired lease period but resolved to remain with its decision passed on 26 July 2018 under item 11.1.3 and on 22 November 2018.
 - (b) That the increased lease tariff not be applicable from lapsing of the previous lease period of 31 May 2017, but from the date when Council approved the renewal, being 26 July 2018.
 - (c) That PowerCom (Pty) Ltd be advised to consider reducing the size of land they are currently leasing in order to acquire lower tariff.
 - (d) That PowerCom (Pty) Ltd be requested to pay the required advertising cost in order to proceed with the publication of the intention to renew the lease period as required in terms of the Local Authorities Act, Act 23 as amended.
-

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11.1.4 **PROPOSAL TO CANCEL THE SALE OF A PORTION OF THE REMAINDER OF ERF 577, TAMARISKIA TO BRG BIOKINETICS INC.**
(C/M 2019/06/27 - T 577; 19.03.03)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.7 page 65 refers.

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

1. Introduction

This submission concerns two matters:

- ⊖ to cancel the sale of a Portion of Erf 577, Tamariskia to BRG Biokinetics Inc. for the purpose of developing a Medical / Para-medical facility;
- ⊖ and as a separate submission to consider to sell the said portion of land to Coastal Veterinary Clinic CC for the same purpose.

The above two matters were discussed at the Planning Forum of 21 May 2019 under item 5.6 and it was proposed that separate submissions be tabled to the Management Committee.

2. Background

Council approved the application of Messrs BRG Biokinetics Inc. to purchase a portion of the Remainder of Erf 577, Tamariskia on **31 May 2017**, as follows under item 11.1.18:

That Council's decision of 29 September 2016 to not sell a portion of the Remainder of Erf 577, Tamariskia, measuring ±2 200m² to Messrs BRG Biokinetics Inc. ~~be repealed~~ and replaced with the following:

- (a) That the application of Messrs BRG Biokinetics Inc. to purchase a portion of the Remainder of Erf 577, Tamariskia measuring ±2 200m² be approved in principle.
- (b) That BRG Biokinetics Inc. extends all services from the existing infrastructure to the newly created Erf at their own expense.
- (c) That a Right of Way servitude be registered in favour of the newly created Erf against the existing access road giving access to the Remainder of Erf 577, Tamariskia.
- (d) That the following statutory processes be finalized by the Engineering Services Department:
 - (i) Closure of a portion of the Remainder of Erf 577, Tamariskia in terms of Section 50 of the Local Authorities Act.
 - (ii) Subdivision of Erf 577, Tamariskia into a newly created Erf.
 - (iii) Rezoning of the newly created Erf from "Local Authority" to "General Business".
- (e) That all costs related to the transaction (including the processes set-out in (d) above) be added to the purchase price.
- (f) That once the processes in (d) above are finalized, Council's intention to offer the newly created erf by Private Treaty Sale to Messrs BRG Biokinetics Inc., subject to Ministerial approval.
- (g) That the sale be subject to Council's standard conditions of Sale as contained in the Property Policy.
- (h) That closer to the finalisation of the statutory processes, valuations will be obtained in order to determine a purchase price in terms of the Property Policy.

- (g) That valuations be obtained from 3 valuers assuming a "General Business" zoning and the betterment fee accordingly be charged.
- (k) That the purchase price and betterment fee be submitted for approval.
- (l) That the purchaser accepts 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.

BRG Biokinetics Inc. intended to develop a Medical / Para-medical facility on the subject portion of land. A locality map is attached **Annexure "A"**.

On **5 June 2017** BRG Biokinetics Inc. was informed of the above Council's resolution (**Annexure "B"**) and confirmed acceptance of same on **20 June 2017 (Annexure "C")**.

The purchase price was approved by Council on **26 July 2018** as follows under item 11.1.5:

- (a) That Council determines the purchase price of a portion of the Remainder of Erf 577, Tamariskia at **N\$1 815 000.00** ($N\$825.00/m^2 \times 2\ 200m^2 = N\$1\ 815\ 000.00$), 15% VAT excluded to Messrs B R G Biokinetics Inc. for the development and establishment of a Medical / Para-medical Facility
- (b) That the Council resolution passed 31 May 2017, under item 11.1.18 be amended to read:
 - (i) That valuations be obtained from 3 valuers assuming a "General Business" zoning and the betterment fee accordingly be charged.
 - (k) That the purchase price and betterment fee be submitted for approval.
 - (c) That the Engineering Services Department, upon acceptance of the purchase price by the purchaser, finalize the following statutory processes as resolved by Council on 31 May 2017 under item 11.1.18:
 - (d) That the following statutory processes be finalized by the Engineering Services Department:
 - (i) Closure of a portion of the Remainder of Erf 577, Tamariskia in terms of Section 50 of the Local Authorities Act.
 - (ii) Subdivision of Erf 577, Tamariskia into a newly created Erf.
 - (v) Rezoning of the newly created Erf from "Local Authority" to "General Business".
 - (e) That point (f) of the Council resolution of 31 May 2017, under item 11.1.18 be amended to read:

That once the processes in (c) above are finalized, Council's intention to offer the newly created erf by Private Treaty Sale to Messrs BRG Biokinetics Inc., subject to Ministerial approval, and be advertised in terms of the Local Authorities Act, Act 23 of 1992 as amended.

- (f) 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, completion 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, failing which Council's resolution will be revoked at the next Council meeting following after 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 related statutory processes.
 - (iii) That the purchaser accepts that no rights will accrue to him 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.
 - (iv) 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 substructure

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.

- (v) Failure to pay the purchase price in cash or secure payment by formal bank guarantee on the 120th day will result in the transaction being cancelled without the need to place the purchaser on terms, should the purchase price be secured by a formal bank guarantee the transfer must be effected on or before the 120th day, else interest will be levied as from the date of allocation or Ministerial approval 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 constructs structural improvements worth at least 4 times the municipal valuation of the property. Structural improvements, for purposes of this condition, shall not include the construction of boundary walls or any changes to the subterranean composition of the property.
- (vii) That the said improvements be completed within 24 months (2 years) from date of transfer.
- (viii) That the property may not be alienated within 24 months (2 years) 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.
- (ix) No development or construction will be permitted to commence until the statutory processes have been completed and the oven is transferred.
- (x) The agreement of sale be signed and returned to the Swakopmund Municipality, by the purchaser within 21 days of receipt thereof.
- (xi) That the purchaser indemnifies Council against any claims resulting from blasting, should blasting need to be done.

On 31 July 2018, a letter was sent to them informing them of the above conditions, attached as Annexure "D".

3. Application by BRG Biokinetics Inc.

An application dated 25 February 2019 was received from BRG Biokinetics Inc. (Annexure "E") proposing that instead of selling the portion of land to them, it be sold to Coastal Veterinary Clinic CC so that Coastal Veterinary Clinic CC constructs the buildings and BRG Biokinetics Inc leases the improvements from them.

A separate submission will be tabled to Council regarding the application by Coastal Veterinary Clinic CC requesting Council's permission to purchase a Portion of the Remainder Erf 577, Tamariskia to develop a Medical / Para-medical facility.

BRG Biokinetics Inc. re-examined their financial position, hence the late response attached as Annexure "E" whereby they accept the above conditions. The letter was acknowledged on 12 March 2019 (Annexure "F").

As a result of the above, they are requesting Council's approval to substitute their name with Coastal Veterinary Clinic CC.

Brief Summary of their Motivation

BRG Biokinetics Inc. was forced to review their position due to the high price and the hard economic situation experienced locally and nationally. They have the capital available to pay the purchase price but not to develop the portion of land since the cost will escalate to N\$10 million which presents a high risk exposure for the partners.

As a result they approached Coastal Veterinary Clinic CC who have the financial means and are willing to assume the risk by purchasing the land and constructing units for BRG Biokinetics Inc and other partners practicing in the

medical and para-medical fields, which they will take up after the completion of the construction.

4. **Discussion**

From the application it is clear that the request is that Coastal Veterinary Clinic CC will purchase the Portion of the Remainder of Erf 577, Tamariskia instead of BRG Biokinetics Inc. Point (j) of the Council resolution dated 31 May 2017, item 11.1.18 is applicable and reads:

That the purchaser accepts 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.

Notwithstanding the above, the intention of BRG Biokinetics Inc. is not to speculate, they simply do not have the financial means to develop the property after re-examining their position.

5. **List of Annexures:**

- Annexure "A"** : Locality Map
- Annexure "B"** : Letter to BRG Biokinetics Inc dated 05 June 2017 re Council's resolution
- Annexure "C"** : Letter from BRG Biokinetics Inc dated 20 June 2017 accepting Council's conditions
- Annexure "D"** : Letter to BRG Biokinetics Inc dated 31 July 2018 re Council's resolution approving the purchase price
- Annexure "E"** : Letter from BRG Biokinetics Inc. dated 25 February 2019
- Annexure "F"** : Our Letter dated 12 March 2019 of Acknowledgement of receipt of their letter dated 25 February 2019

6. **Proposal**

Based on the financial situation of BRG Biokinetics Inc., it is proposed to cancel the sale of a Portion of the Remainder of Erf 577, Tamariskia to them.

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

RECOMMENDED:

That the sale transaction of BRG Biokinetics Inc. to purchase a Portion of the Remainder of Erf 577, Tamariskia be cancelled and they be informed accordingly.

**The
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of this item
are available
on file - due
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11.1.5 **ALLOCATION OF ERF 1239, EXTENSION 3, TAMARISKIA TO A QUALIFYING INSTITUTION**
(C/M 2019/06/27 - T 1239)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.9 page 93 refers.

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

1. Introduction

This item was discussed at the Planning Forum of **07 May 2019** under item 5.3 and is now submitted to Council for consideration for the allocation of Erf 1239, Extension 3, Tamariskia to a qualifying institution from two development proposals received.

Council under Notice 5/2019 called for development proposals for Erf 1239, Extension 3, Tamariskia zoned "institutional" from qualifying institutions. The closing date was Friday, **29 March 2019**.

Proposals from religious institutions were excluded due to the size of the erf and the parking requirements.

2. Brief Background

Council on **22 November 2018** passed the following resolution under item 11.1.22:

(a) That Council takes note that Salvation Ministry did not provide the required information to finalize the allocation of Erf 1239, Tamariskia to them, if it:

- Copies of financial statements for the last six months. In the case where it is not available, proof of financing from a financial institution will suffice.
- Proof that the church is operational in Namibia for at least two years before the sale of land to the church is considered.
- That churches applying for land shall provide proof of their financial ability to develop the erf immediately after transfer.

(b) That Council's resolution passed on 28 April 2016 under item 11.1.3 be revoked thereby cancelling the offer of Erf 1239, Tamariska to Salvation Ministry.

(c) That Erf 1239, Tamariskia (1 812m²) be added to the list of erven for which development proposals will be called for from qualifying entities, except religious institutions due to the size of the erf being smaller than 2 500m².

(d) That the purchase price remain N\$158 550.00 as provided for in the Property Policy.

3. Invitation for Development Proposals

Qualifying welfare organisations, schools, pre-primary schools, kindergartens and crèches were publicly invited to submit proposals for

6 Erf 1239, Extension 3, Tamariskia measuring 1 812m² at N\$ 158 550.00

in order to be considered the following requirements must be complied with.

Welfare Organisations	Private Schools, Pre-Primary Schools, Kindergartens & Creches
<ul style="list-style-type: none"> ✓ A constitution or proof of registration as a section 21 company ✓ A Power of Attorney granted to a particular person/s that he/she/they have the authority to sign on behalf of the institution. ✓ Welfare organisations applying for land shall provide proof of their financial ability to develop the erf immediately after transfer. ✓ Copies of financial statements for the last six months. In the case where it is not available, proof of financing from a financial institution will suffice. ✓ Proof that the welfare organisation is operational in Namibia for at least two years before the sale of land is considered. 	<p>The applicant must provide a conveyancer's certificate indicating that:</p> <ul style="list-style-type: none"> ✓ the institution is properly constituted, i.e. duly certified copy of the current constitution in English; ✓ The constitution clearly indicates the assignees who are empowered to sign the documentation on the institution's behalf; and ✓ The name or entity in which ownership of the property shall vest is an acceptable form for the Deeds Registry purposes. ✓ Provide proof of financial ability to develop the erf immediately after transfer.

A reverting clause will be registered against the title of the property to ensure the development of the property and control the future sale of the property. The applicants had to duly complete the proposal documents and attached the required documents. Only proposals attached to the municipal form are accepted.

4. Development Proposals received

The advert clearly stipulated the due date and time to be **29 March 2019** at 09:00 and on the closing of the above notice, Council received two development proposals on time as required and two development proposal were received by hand after the due time. The development proposals were received from below institutions:

Annexure "A" - Namibia Training Foundation
Annexure "B" - Mrs Charney Forbes (erf still to be registered)

Below the two development proposals which were received by hand on the same date, but after the due time.

Annexure "C" - ISANSO Students and Youth Empowerment Trust
(received by hand at 09:58)
Annexure "D" - Grant Taberai College (received by hand at 14:00)

5. Verification of received Development Proposals

The two development proposal that were received on time for the allocation were verified as follows:

Name of the Entity	Documents Provided
Namibia Training Foundation Annexure "A"	<ul style="list-style-type: none"> ✓ Development proposal and lay-out. ✓ Proof of the registration as a non-profit company (Memorandum of Association). ✓ Power of Attorney and copy of ID ✓ Letter of intent to assist with financing from Alpha and Omega Trading Enterprises. ✓ Another letter dated 01 April 2019 was received under cover of which the Memorandum of Association was attached and again confirmation from Alpha and Omega Enterprises CC that they will finance the project in the amount of N\$500 000.00 (Annexure "E"). ✓ Development proposal summary: <ul style="list-style-type: none"> • they accommodate children from 1 up to 7 years as full time learners providing early childhood development • offers afternoon classes from grades 1 up to 7 • they offer to develop the public open space adjacent to Erf 1238 as a playground to benefit the children in the area and of their project.
Mrs Charney Forbes	<ul style="list-style-type: none"> ✓ Covering letter as a development proposal for a

Name of the Entity	Documents Provided
(entity still to be registered) Annexure "B"	<ul style="list-style-type: none"> ✓ kindergarten / day care. ✓ A letter indicating that institution is still to be registered. ✓ As proof of financing the applicant attached her and her husband's pay slips.

6. Development Proposals received After the Due Time

Below development proposals was received by hand after the due time from:

Name of the Entity	Documents Provided
NAMSO Student and Youth Empowerment Trust Annexure "C" Proposal received by hand at 09:08 after due time of 09:00.	<ul style="list-style-type: none"> ✓ Development proposal. ✓ Proof of the registration as a trust and their constitution. ✓ Power of Attorney ✓ As proof of their financial ability a letter from the Development Bank of Namibia is attached stating that their application will be considered should property be allocated to them. ✓ Development proposal summary: <ul style="list-style-type: none"> • to establish an Improvement School and Incubation Centre to provide for the grade 10 and 12 failure results who have no access to higher education.
Grant Tutorial College Annexure "D" Proposal received by hand at 14:00 after due time of 09:00.	<ul style="list-style-type: none"> ✓ Development proposal. ✓ Financial statement reflecting a balance of N\$144 656 75. ✓ Proof of registration as a close corporation (does not qualify). ✓ Development proposal summary: <ul style="list-style-type: none"> • they are currently operating their institution from Erf 634, Mondesa under a lease agreement • they have 120 students and offer afternoon classes from grade 8 up to 12 and also to tertiary students • they assist grade 5 to 7 learners with homework • they offer afternoon classes to grade 8 to 12 • and offer classes to students who failed grades 10 and 12.

7. Proposal

That Council considers to allocate Erf 1239, Extension 3, Tamariskia to one of the institutions who submitted development proposals for the development of a private school, pre-primary school, kindergarten or a creche.

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

RECOMMENDED:

- (a) That Council takes note of all development proposals received.
 - (b) That Council takes note that only two development proposals were received on time (of the four, two were delivered after the closing time).
 - (c) That Council allocates Erf 1239, Tamariskia to Namibia Training Foundation.
 - (d) That the purchase price for Erf 1239, Ext 3, Tamariskia be N\$158 550.00 as provided for in the Property Policy.
 - (e) That the institution to be nominated is for the development of either a private school, pre-primary school, kindergarten or a crèche.
-

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are available
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11.1.6 **EXTENSION 13, MATUTURA; MATSI INVESTMENT CC**
(C/M 2019/06/27 - 16/1/4/2/1/14, 19.03.12, 14/1/1/4)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.10 page 100 refers.

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

1. Introduction

This submission was discussed by the Planning Forum on **21 May 2019** under item 5.7 and is now submitted to the Management Committee for consideration.

This submission deals with an application by Matsi Investment CC for 3 additional "general residential" erven (on **22 November 2018** Council under item 11.1.35 allocated 48 "single residential" erven to them). (**Annexure "A"**)

2. Decisions Passed by Council in respect of Extension 13, Matutura

On **22 November 2018** Council under item 11.1.35 passed the following resolution:

- (a) *That Extension 13, Matutura, Swakopmund be allocated to Messrs Matsi Investment cc in terms of the Public Private Partnership principle.*
- (b) *That Messrs Matsi Investment CC services the entire Extension 13, Matutura, Swakopmund and only be allocated 48 "Single Residential" to construct houses after the servicing is completed.*

Below a map indicating the location, lay-out and zonings of Extension 13, Matutura.



Erf 2809, Extension 13, Matutura is zoned "Institutional" and is an endowment erf reserved for the Government of Namibia.

Extension 13, Matutura was proclaimed as a township on **14 December 2018** (Government Gazette 6794).

3. Discussion

In addition to the 48 erven zoned "single residential" allocated to the entity, they now apply for an additional 3 erven indicated in their letter zoned "Residential Business". It is therefore not clear whether the applicant is referring to erven zoned "General Business" or "General Residential".

In either case, it is proposed to remain with the decision passed on **22 November 2018** under item 11.1.35 in terms of which 48 erven zoned "Single Residential" were allocated.

The reason being that Council needs to retain erven for sale to recover the value of the land given to the developer in return for serviced land.

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

RECOMMENDED:

- (a) That the request by Matsi Investment CC for the allocation of additional 3 erven located in Extension 13, Matutura be turned down.
 - (b) That Council remains with its decision passed on 22 November 2018 under item 11.1.35 in terms of which 48 erven zoned "Single Residential" were allocated to them.
 - (c) That Matsi Investment CC be advised to re-apply once they have performed in terms of their current objectives
-

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11.1.7 **EXTENSION 26, SWAKOPMUND: AMENDMENT OF COUNCIL RESOLUTION AND RESERVATION OF ERVEN FOR BUILD TOGETHER PROJECT**
(C/M 2019/06/27 - H 5/7, M 7101, M 7102, M 7104)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.11 page 109 refers.

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

1. **INTRODUCTION**

This item was discussed at the Planning Forum on **21 May 2019** under item 5.5 and is now submitted to the Management Committee for consideration.

The purpose of this submission is to repeal Council's resolution with reference to Erven 7101, 7102 and 7104, Swakopmund and reserve these erven for allocation under the Build Together Project.

2. **BRIEF BACKGROUND**

Council on **31 March 2016** under item 11.1.3 among other passed the following resolution:

- (a) That Council approves the allocation of the 120 smallest 'Single Residential' erven in Extension 26, Mondesa to the Build Together Programme as per Annexure "B" (on file) to ensure that the costs are kept as low as possible.
- (b) That the Engineering Services Department attends to the rezoning of Erf 7101, 7102, 7104 to 'Local Business' and if be sold by Closed Bid sale to the public following the completion of this process.
- (c) That Engineering Services Department attends to the rezoning of Erf 7103 to 'Local Authority'.

The lease area of Messrs Mervin Dennis Domestic Solution is located on Erf 7104 and 7105 and with reference to an application by the lessee to purchase the land, Council under item 11.1.11 of **31 May 2017** resolved:

- (a) That the application of Messrs Mervin Dennis Domestic Solution CC to expand the current lease area of 300m² to 1 200m² be noted.
- (b) That Messrs Mervin Dennis Domestic Solution CC identifies an alternative erf zoned for "Business".

In the submission tabled to Council of **25 January 2018** in respect of the application by Messrs Mervin Dennis Domestic Solution CC, it was erroneously mentioned that Erf 7104 is zoned "local business". Erf 7105, Mondesa is zoned "single residential" and allocated to the Build Together Project.

Council subsequently approved the allocation of two erven located in Extension 29 to Messrs Mervin Dennis Domestic Solution CC, but the future of the erven located at the current lease area was not addressed.

3. DISCUSSION

At the Management Committee meeting of January 2018 it was deduced that Council does not want to establish businesses on Erven 7101, 7102 and 7104 due to the need for single residential land. And as can be seen above, the erven are very small and more suitable as "single residential" erven.

The Engineering Services Department was requested to confirm the zoning of the relevant erven which is as follows (attached e-mail):

Erf 7101	-	400 m ²	- "Single Residential"
Erf 7102	-	414 m ²	- "Single Residential"
Erf 7103	-	400 m ²	- "Local Authority"
Erf 7104	-	400 m ²	- "Single Residential"



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

RECOMMENDED:

(a) That points (b) and (c) of Council's resolution under item 11.1.3 of 31 March 2016 be repealed:

(b) That the Engineering Services Department attends to the rezoning of Erf 7101, 7102, 7104 to 'Local Business' and it be sold by Closed Bid sale to the public following the completion of this process.

(c) That the Engineering Services Department attends to the rezoning of Erf 7103 to 'Local Authority'.

(b) That Erven 7101, 7102 and 7104 (once vacated by Messrs Mervin Dennis Domestic Solution CC) located in Extension 26 be allocated to the Build Together Project.

(c) That the allocation of Erven 7101, 7102 and 7104 to build together beneficiaries be re-submitted to Council.

**The
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of this item
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11.1.8 **REQUEST TO REDUCE SELLING PRICE FOR THE DECENTRALISED BUILD TOGETHER ERVEN SITUATED AT EXTENSION 26 MONDESA (C/M 2019/06/27 - H 5/3)**

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.12 page 112 refers.

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

1. Introduction:

This matter was discussed at a Build Together Committee Meeting held on 29 May 2019.

This addendum deals with the request from Build Together beneficiaries to reconsider the prices of the 120 erven at Extension 26, Mondesa which were sold to them during 2017.

On 31 August 2016 while discussing the selling price for residential erven to beneficiaries of the Build Together Programme, Council resolved as follows:

That Council applies the following rates for the sale of erven at Extension 26, Mondesa for Build Together beneficiaries:

LOAN AMOUNT	RATE
(i) N\$3 000.00 - N\$29 000.00	N\$37.00 /m ²
(ii) N\$30 000.00 - N\$59 000.00	N\$51.00 /m ²
(iii) N\$60 000.00 - N\$80 000.00	N\$65.00 /m ²

2. BACKGROUND AND DISCUSSION

The above erven are all provided with municipal services viz. roads, sewerage, electricity, etc. According to the Engineering Department, the cost of installing services at this area amounts to N\$109.91 (rounded off to N\$110.00) per m². These erven range from 338m² to 400m² in extent which translates into erf prices of between N\$37 180.00 and N\$44 000.00 per erf.

Following below is the detailed information in respect of Extension 26, Mondesa including the various costs incurred in developing the area:

		Price/ m ²
Tender price for Civil Services	N\$ 7 992 345.85	N\$ 37.60
Consultancy Fees	N\$ 370 000	N\$ 1.74
Electricity Reticalation	N\$ 12 899 349.75	N\$ 60.69
Survey Cost	N\$ 0.00	N\$ 0.00
Town planning Cost	N\$ 2 100 000.00	N\$ 9.88
Supervision Cost @ 2%	N\$ 0.00	N\$ 0.00
Total	N\$ 23 361 695.60	N\$109.91

Considering the increment of development costs as well as Build Together loan amounts having increased from a ceiling of N\$40 000.00 to N\$80 000.00, the selling price of erven to beneficiaries of the Build Together Programme were reduced from N\$109.91 to N\$65.00 per m².

Beneficiaries of these erven however expressed their dissatisfaction in the erf prices provided by Council comparing to their predecessors at Extensions 7, 8 and 9 Mondesa who paid N\$23 and N\$33 per m² respectively. In addition they are of the opinion that the cost of Build Together erven compared to other towns is also lower than the prices given by Council.

It is however apparent that, while some Town Councils used funds from the central government to service their Build Together erven, the Council of Swakopmund had to borrow funds to service the land in question which funds have to be reimbursed with interest. In spite of this actuality, Council remained consistent in offering subsidized erven to Build Together beneficiaries which are less than the development cost.

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

RECOMMENDED:

- (a) That Build Together Beneficiaries recognize the reduction on their erf prices given by Council from N\$109.91/m² to N\$65.00/m².
 - (b) That Council remains with the rates provided for the sale of erven at Extension 26, Mondesa for Build Together beneficiaries as per resolution of 31 August 2016 which rates have been projected considering the increased development costs as well as the loan Council used to service the erven in question which also have to be reimbursed.
-

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11.1.9 **SURRENDERING OF BUILD TOGETHER ERF BY APPLICANT WHO BENEFITED FROM MASS HOUSING DEVELOPMENT PROGRAMME**
(C/M 2019/05/27 - H 5/3)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.13 page 114 refers.

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

1. Introduction

This matter was discussed at a Build Together Committee Meeting held on 29 May 2019. A letter dated 11 January 2019 was received from Ms Nontrite Naris, in which she returns Erf 7121, Mondesa which was allocated to her through the Build Together Programme.

2. Background

Council on 31 August 2017 allocated erf 7121 Mondesa to Ms. Nontrite Naris (Ref. BT 323) after which she signed a deed of sale in respect of that particular erf. In the meantime, she was also invited by the National Housing Enterprise (NHE) for allocation of a house (house number 7739 Matutura) under the Mass Housing Development Programme (MHDP). Given the choice, Ms Naris therefore opted for a house on erf 7739 Extension 10 Matutura and therefore submitted a written notification to return erf 7121 Mondesa to Council (**Annexure "A"**).

In light thereof it has become necessary to cancel her award in accordance with the Build Together guidelines and allocate her loan and erf to the next qualifying applicant on the Build Together Waiting list being, Ms. Gustafine Kharuxas (Ref. BT 346) (**Annexure "B"**).

3. Conclusion

Ms Naris obtained a house under the MHDP and therefore surrendered erf 7121 Mondesa to Council. It is thus necessary to cancel her award so that the Erf concerned can be allocated to the next qualifying applicant on the Build Together list being Ms Gustafine Kharuxas.

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

RECOMMENDED:

- (a) That Council takes note of the written confirmation by Ms Nontrite Naris to cancel her agreement with regard to Erf 7121, Mondesa because she bought a house on Erf 2419, Matutura under the Mass Housing Development Programme.
 - (b) That all Municipal charges pertaining to Erf 7121 Mondesa for the period 26 January 2018 to 11 January 2019 be transferred to erf 2419, Matutura.
 - (c) That the loan and Erf 7121 Mondesa, initially allocated to Ms N Naris be allocated to Ms Gustafine Kharuxas, (ID 77090710173).
 - (d) That should the deed search prove that Ms Gustafine Kharuxas is not a first time property owner, all transactions between Council and her be cancelled and she be ordered to return the erf to Council.
-

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of this item
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- 11.1.10 **ERF 8932, SWAKOPMUND; APPLICATION FOR EXTENSION OF TIME TO PERFORM**
(C/M 2019/06/27 - M 8932)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 7.14 page 119 refers.

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

1. **Introduction**

The attached application dated **25 April 2019** was received from Ms H Shilumbu requesting extension to secure the purchase price of Erf 8932, Matutura until **31 October 2019** (Annexure "A"). Ms H Shilumbu motivates her application for the extension of time as she is currently in the process of getting divorced. She was a next qualifying bidder for the erf following the cancellation of the sale by Mr S B Kativa who was the successful purchaser at the closed bid sale of **26 October 2018**.

2. **Current Situation**

Ms H Shilumbu was allocated the erf in the amount of N\$380 845.00 on **03 January 2019** and she indicated her marital status as "Single". The due date to secure the purchase price for the said erf was **03 May 2019** pending the outcome of her application dated **25 April 2019**.

3. **Discussion**

It has now come to the light that she was married on the date of sale of Erf 8932, i.e. **03 January 2019**. Ms Shilumbu explains that she is busy with divorce proceedings and because of that wants the due date to be extended. Having a divorce finalized has never been a recognised reason for extending a due date. If Council agrees thereto, Council could be part of the manipulation of the value of the combined marital estate for distribution in the final divorce order.

With reference to the other non-performers of the sale of **26 October 2018** of which the due date was **25 February 2019**, Council on **25 April 2019** granted these purchasers extension until **31 May 2019**, therefore an additional 105 days (subject to interest). Council could therefore consider granting Ms H Shilumbu and extension of time of 105 days on the basis of equal treatment with the other purchasers of erven located in Extension 35, Swakopmund (Council on **26 October 2018** sold 5 erven in Extension 35, Swakopmund and 89 in Extension 2, Matutura). However, adding 105 days to the due date of **03 May 2019** will amount to 16 August 2019 which is 6 weeks less than the date she requires of **31 October 2019**. Furthermore, the final date cannot be predicted as any number of things could delay the finalization of the divorce. Attached to her letter is a letter from Appolos Shimakeleni Lawyers dated **25 April 2019** stating that a status hearing is scheduled for **26 June 2019** but the divorce might take 5 months to finalize.

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

RECOMMENDED:

That Council grants Ms H Shilumbu an extension of time until **31 August 2019** to secure the purchase price for Erf 8932, Swakopmund subject to interest.

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11.1.11 APPLICATION BY COASTAL VETERINARY CLINIC CC TO PURCHASE A PORTION OF THE REMAINDER OF ERF 577, TAMARISKIA
(C/M 2019/06/27 - T 577; 19.03.03)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 8.1 page 03 refers.

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

1. Introduction

This submission concerns two matters:

- ⊙ to cancel the sale of a Portion of Erf 577, Tamariskia to BRG Biokinetics Inc. for the purpose of developing a Medical / Para-medical facility (see previous separate submission);
- ⊙ and to consider to sell the said portion of land to Coastal Veterinary Clinic CC for the same purpose.

The above two matters were discussed at the Planning Forum of 21 May 2019 under item 5.6 and it was proposed that separate submissions be tabled to the Management Committee.

2. Application by Coastal Veterinary Clinic CC

Attached, Annexure "B" an application dated 16 April 2019 from Coastal Veterinary Clinic CC requesting Council's permission to purchase a portion of the Remainder of Erf 577, Tamariskia, measuring 2 200m². A locality plan is attached as Annexure "A".

They intend to develop a Medical / Para-medical facility on the subject portion of land. Therefore, the development will be for the same purpose as BRG Biokinetics Inc. Their application was acknowledged on 12 May 2019, (Annexure "C").

List of Annexures:

Annexure "A"	Locality Map
Annexure "B"	Letter of Coastal Veterinary Clinic CC dated 16 April 2019
Annexure "C"	Our Letter to them dated 12 May 2019

On 31 May 2017 under item 11.1.18 Council approved the sale of the said portion of land to BRG Biokinetics Inc. to develop a Medical / Para-medical facility. However BRG Biokinetics Inc. does have the capital to pay the purchase price, but not to develop the portion of land. A separate submission is tabled regarding the cancellation of the sale to BRG Biokinetics Inc.

3. Discussion

Coastal Veterinary Clinic CC intends to develop the portion of land for the same purpose subject to the same conditions as approved by Council on 31 May 2017, item 11.1.18 and 26 July 2018, item

11.1.5. The conditions of these resolutions are quoted under the recommendation.

They motivate their application by confirming they have the financial means to develop the land earmarked for medical and para-medical services, therefore the application. There is a need for such development in the particular area.

4. Proposal

It is proposed to consider the sale of a portion of the Remainder of Erf 577, Tamariskia, measuring 2 200m² to Coastal Veterinary Clinic CC based on the need of a medical and para-medical services in the particular area that will enhance the area, instead of the land lying dormant. Also, based on the financial capability they have.

It should be kept in mind that such development is an injection into the local economy to create jobs which is much needed considering the difficult economic situation.

It is further proposed that the sale of the portion of land in question be subject to the same conditions as approved by Council on 31 May 2017, item 11.1.18 and 26 July 2018, item 11.1.5.

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

RECOMMENDED:

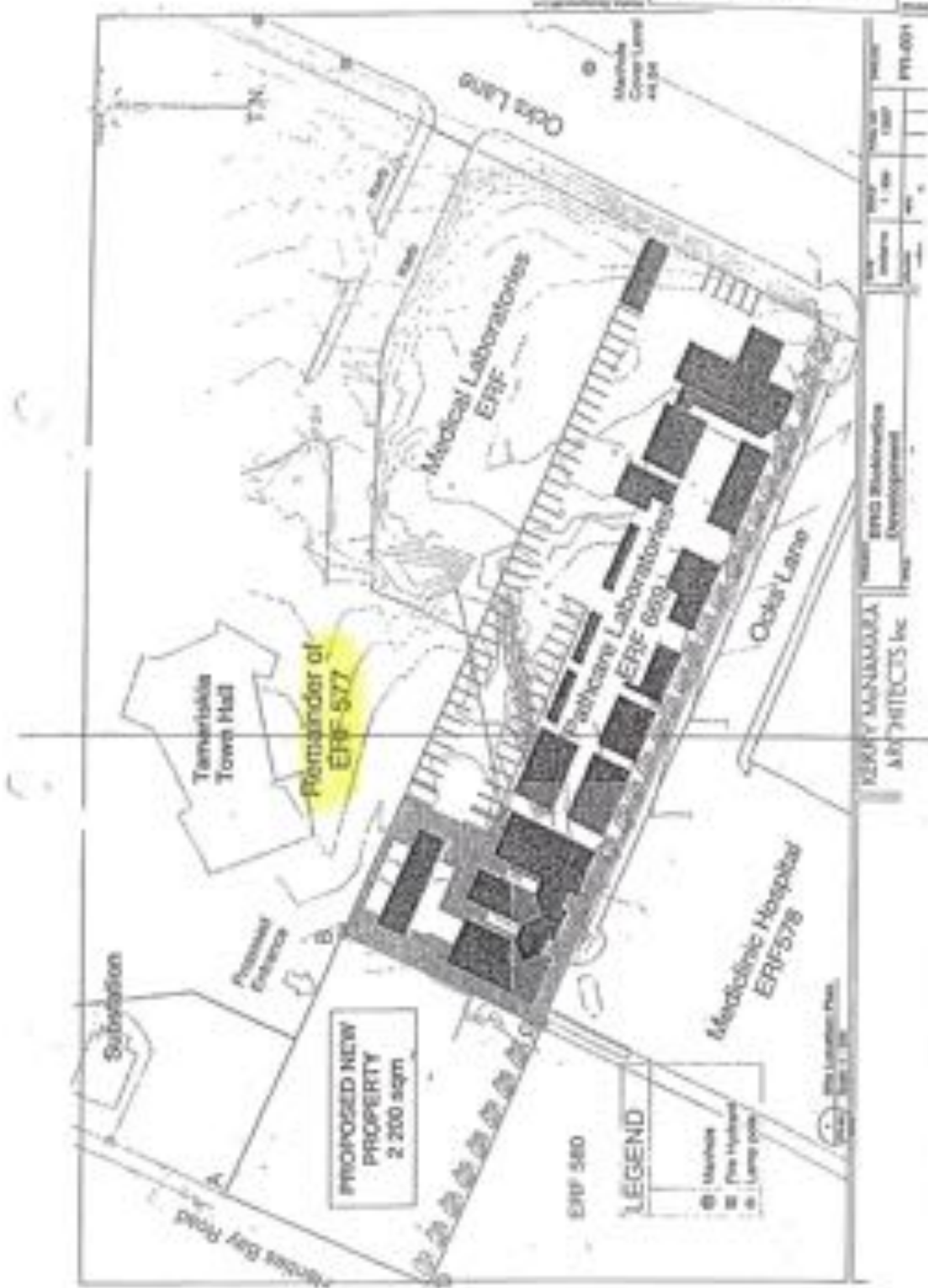
- (a) That Council approves the application by Coastal Veterinary Clinic CC to purchase a portion of the Remainder of Erf 577, Tamariskia measuring approximately 2 200m².
- (b) That the sale of the portion of land be for the development and establishment of a Medical / Para-medical Facility.
- (c) That the purchase price of a portion of the Remainder of Erf 577, Tamariskia be N\$1 815 000.00 (N\$825.00/m² x 2 200m² = N\$1 815 000.00), 15% VAT excluded.
- (d) That the transaction 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, 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 sale and 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 all costs related to the transaction be for the account of the purchaser.
 - (v) That upon finalization of the statutory process in point (d) (iii) below, 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.

- (v) 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.
 - (vi) That payment of the purchase price be secured either in cash or formal bank guarantee in favour of the Swakopmund Municipality within 120 days from the honourable Minister's favourable response.
 - (aa) Failure to secure the purchase price within the required period will result in cancellation without the need to place the purchaser on terms.
 - (bb) 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.
 - (vii) 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.
 - (ix) The erf is sold "voetsteeds" 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.
 - (x) That the property or any portion thereof may not be alienated without being offered to Council at the purchase price such was obtained from Council.
 - (xi) That no development or construction be permitted to commence until the statutory processes have been completed and the erf is transferred.
 - (xii) That the purchaser constructs structural improvements worth at least 4 times the municipal valuation of the property. Structural improvements, for purposes of this condition, shall not include the construction of boundary walls or any changes to the subterranean composition of the property;
 - (xiii) That the said improvements be completed within 24 months (2 years) from date of transfer.
 - (xiv) That the property may not be alienated unless a completion certificate is issued in respect of the structural improvements, referred to in (xi) above. This restraint of alienation is to be registered against the title deed of the property.
 - (xv) The agreement of sale be signed and returned to the Swakopmund Municipality, by the purchaser within 21 days of receipt thereof by the purchaser.
 - (xvi) That the purchaser indemnifies Council against any claims resulting from blasting, should blasting need to be done.
 - (xvii) That the purchaser being an entity provides the registration documentation of the entity (Council resolution of 27 April 2017 under item 11.1.10) and that the shareholders / members must be cautioned that the entity remains the same until the transfer takes place and they have complied with all conditions of sale.
- (e) That the following special conditions of sale approved by Council on 31 May 2017, item 11.1.18 and 26 July 2018, item 11.1.5; be applicable:

- (i) That Coastal Veterinary Clinic CC extends all services from the existing infrastructure to the newly created erf at their own expense.
 - (ii) That a Right of Way servitude be registered in favour of the newly created erf against the existing access road giving access to the Remainder of Erf 577, Tamariskia.
 - (iii) That the following statutory processes be finalized by the developer upon acceptance of the conditions of sale and purchase price by Coastal Veterinary Clinic CC at the cost of the purchaser:
 - (1) Closure of a portion of the Remainder of Erf 577, Tamariskia in terms of Section 50 of the Local Authorities Act.
 - (2) Subdivision of Erf 577, Tamariskia into a newly created Erf.
 - (3) Rezoning of the newly created Erf from "Local Authority" to "General Business"; that no betterment fee be charged as the purchase price was determined assuming a zoning of "General Business".
-

Annexure "A"



**The
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of this item
are available
on file - due
to
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11.1.12 **INTERLOCK PAVING OF THE APRON**
(C/M 2019/06/27 - 18/1)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 8.3 page 28 refers.

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

Purpose

The purpose of this submission is to request that the remaining funds in the following Votes 202631635700 (Fence Replacement), Vote 20631635600 (Upgrading of Terminal Building) and Vote 202633032200 (Upgrading Ablution Facilities and Electricity) be combined and that the funds be used to interlock the Apron at the Aerodrome.

Introduction

Swakopmund Aerodrome has been catering for commercial as well as private aircraft successfully and thus has caused increased number of tourist attraction at the Aerodrome. Since we are known to be the second busiest airports in Namibia, we, the Engineering Services would like to utilize the savings on the approved 2017 / 2018 Capital budget under Vote Numbers 202631635700 - Fence Replacement, Vote 20631635600 - Upgrading of Terminal Building and Vote 202633032200 - Upgrading Ablution facilities & electricity, to pave the apron with interlocks to maintain the standard image of the aerodrome and boost our professional image.

Discussion

Two projects recently completed successfully at the Aerodrome was replacing the fence and upgrading the terminal building. After the successful accomplishment of these projects, there are still funds available in the respective votes:

- Upgrading of terminal building (202631635600) has N\$375 818.52
- Fence replacement (202631635700) has N\$500 000.00
- Upgrading ablution facilities & electricity (202633032200) has N\$410 916.51

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

RECOMMENDED:

- (a) That permission be granted to the General Manager: Engineering Services to use the funds from the following votes to pave the Apron at the Aerodrome:
- 202631635600 - Upgrading of terminal building
 - 202631635700 - Fence replacement
 - 202633032200 - Upgrading ablution facilities & electricity
- (b) That the General Manager: Finance be granted permission to transfer the amount of N\$375 818.52 in vote 202631635600 -

Upgrading of terminal building from the 2018/2019 financial budget to the 2019 / 2020 financial budget.

- (c) That the General Manager: Finance be granted permission to transfer the amount of N\$500 000.00 in Vote 202631635700 - Fence replacement from the 2018/2019 financial budget to the 2019 / 2020 financial budget.
 - (d) That the General Manager: Finance be granted permission to transfer the amount of N\$410 916.51 in Vote 202633032200 - Upgrading ablution facilities & electricity from the 2018/2019 financial budget to the 2019 / 2020 financial budget.
-

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11.1.13 **CESSION OF THE RIGHT TO HANGAR 67**

(C/M 2019/06/27 - Hangar 67)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 8.4 page 29 refers.

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

On 01 October 2017 Council entered into a lease agreement with Mr Jurgen Paul Gossow for Hangar 67 at the Swakopmund Aerodrome.

The attached letter dated 02 May 2019 was received from Mr Jurgen Paul Gossow (**Annexure "A"**) requesting Council's approval of the cession of the right to the hangar to a successor-in-title, being Mr A P Ferreira.

The lease agreement entered into between Council and Mr Jurgen Paul Gossow, 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 LESSOR, affirmatively 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 must 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 Resources 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 67 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 67 from Mr Jurgen Paul Gossow to Mr A P Ferreira, subject to the standard lease conditions for hangars at the aerodrome.
- (b) That the approval be subject to Jurgen Paul Gossow's lease account is up to date (at the closing date for submissions the hangar rental account was fully paid up).

Annexure "A"

Mr. Jürgen Paul Gossow, P.O. Box 1067, Swakopmund
Tel 064 40 2034, Fax 064 40 4053, Cell 081 124 2713, Email
salzgossjpp@aol.com.na

2nd May 2019

The Chief Executive Officer
Municipality Swakopmund
P.O. Box 33,
Swakopmund.

For Attn. Ms. Mire Kandenge

Dear Madam,

RE: HANGAR NO. 67 - TRANSFER FROM J.P. GOSSOW TO Mr. A.P. FERREIRA

I herewith wish to inform you that I have sold my Aircraft Hangar No. 67 to Mr. A. P. Ferreira and therefore herewith wish to cancel my Lease Agreement with your Municipality and transfer same to Mr. A.P. Ferreira, c/o Ferreira's Garden Centre, P.O. Box 3162, Windhoek, Tel 061 23 6900, Fax 061 22 6854, Email apf@ferreiras.co

Kindly arrange for the necessary documentation for this transaction.

Thanking for your kind assistance I remain

Yours faithfully



Jürgen Paul Gossow

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11.1.14 **ENCROACHMENT OF THE STREET RESERVE BY A BALCONY OF THE BUILDINGS ON ERF 301, SWAKOPMUND**
(C/M 2019/08/27 - E 301)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 8.5 page 31 refers.

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

1. Purpose

The purpose of this submission is to review a previous council decision for the condonation, sale of air rights, and registration of a servitude in favour of the public for the portion of the street reserve by a balcony of the building on Erf 301, Swakopmund.

2. Introduction and Background

2.1 Council Decision

Council on **22 November 2018**, resolved as follows:

- (a) That Council condones the actions of the former General Manager: Engineering Services.
- (b) That it be noted that the Swakopmund Town Planning Scheme allows for encroachments only for the sites which are not zoned "General Business".
- (c) That only encroachments that are minor in nature and do not extend more than 0,5 metres over a street or other public space be accepted and permitted for sites which are zoned "General Business" during construction or approval of building plans.
- (d) That the owner of Erf 301, Swakopmund be informed and allowed to purchase air right equivalent to the surface area of the encroachment onto the street reserve.
- (e) That upon agreement and acceptance of the Council conditions, a purchase price for air right be determined by the Council's valuator and any other competent valuator to be nominated by the owner of Erf 301, Swakopmund.
- (f) That a servitude in favour of the adjacent property describing the allowed air rights be registered over the affected area by the balcony on the first floor which encroaches the street reserve, and that this servitude be advertised as a partial closure of the street in terms of Section 50 of the Local Authorities Act.
- (g) That all cost involved should be for the account of the owner of Erf 301, Swakopmund.

2.2 Legal Opinion

After the Council decision, the Manager: Corporate Services obtained a legal opinion from the ENSAfrica regarding the sale of "air right" in the Namibian context.

According to the legal opinion by ENSAfrica, in terms of the Namibian laws, the "air rights" concept is foreign and cannot be applied. The legal opinion is attached as **Annexure A**.

It is against this background that a review of the previous Council decision on the matter is being required.

3. Discussion

Generally, encroachments are not desirable and should only be allowed when there is a known benefit to both parties, the owner of the encroaching structure, and the owner of the land over which the encroachment occurs. When such situations occur, encroachments which are minor in nature, such as a projection not more than a 0.5m in depth, and more generally on sites zoned "General Business" may be condoned. In addition, encroachments such of the walls, roofs, balconies and canopies may serve as both benefits and danger. It may be a benefit to persons in the street such as providing shade or it may be a danger from falling objects. Both the aforesaid benefit and danger depend on the structure and purpose of a balcony or canopy.

Encroachments that are approved by Council should not be considered as minor in nature. Council must certify such encroachment preferably before they take place. An encroachment may be something planned and for which Council's in advance approval is required. Alternatively, an encroachment may have accidentally taken place and may need to be legally addressed. The certification may be undertaken by employing one of the following three options:

- o *Negotiating with the affected owner for a subdivision, notarial tie, purchase and consolidation of the land subject to encroachment with the site of such development.*
- o *Register a servitude to protect the building subject to encroachment, and*
- o *Condonement of the encroachment by the Council.*

It is imperative to note that the legal opinion by the ENSAfrica also provided three options in dealing with the encroachment of the Street reserve by the development on Erf 301, Swakopmund. These options are outlined as below as follows:

- (a) *The primary position in law apropos construction is that the owner of Erf 301, Swakopmund revisits their designs and ultimately breaks/demolish the sections of the building structures which constitute an encroachment at the cost of the applicant so as to bring the structure in conformity with minimum requirement.*
- (b) *Council could sign up a lease agreement in terms of which Council lets the surface area of the encroachments onto the street to the applicant with specific conditions securing right of way so as to make it safe to use.*
- (c) *Registration of a servitude over the property of Council in favour of the owner of Erf 301, Swakopmund with some penalty payable by the owner of the encroaching structures as compensation for the limitation of the Council's ownership rights as well as holding the encroaching party liable for the cost applicable to the registration of the servitude.*

The legal opinion further suggested that in respect of the safety consideration, it may be required that some awning be constructed cover the public area so as to protect the public against possible falling objects and limiting Council's delictual risk exposure. On the contrary, it worth mentioning that the legal opinion is not entirely correct as it is subject to misinterpretation of some provisions of the Swakopmund Town Planning Scheme. It stated that the sale of the affected portion was not an option, which is not the case. The affected portion could be closed to make the sale possible. However, proposals of the legal opinion are sound, helpful, and enable the town planning division to deal with matter with confidence.

4. Review of Options

Usage of the Condonement option is more appropriate and applicable to small projections of balconies or walls that extend for less than 0.5m in depth. In terms of the Swakopmund Town Planning Scheme there is a provision made for approval of minor encroachments but only for buildings on land zoned "General Business".

Given the magnitude of the encroachment at hand, sale of the encroached portion and subsequent registration of a right of way servitude to protect both the public and building subject to the encroachment is the most appropriate solution to the situation caused by the development on Erf 301, Swakopmund.

5. Proposal

It is proposed that in line with the Swakopmund Town Planning Scheme, encroachments should be first be certified by the Council before the opening of the Sectional Title Scheme.

It is recommended that as a general rule, encroachments which have occurred as construction errors, but which do not extend more than 0.5 metres may be condoned by Council. In such cases, Council may issue a letter of condonement which will accompany the application for the registration of the sectional title scheme. It may be that some encroachments that have been allowed by Council by approval of building plans should be subject to closure (in case of a street or public place), subdivision, consolidation and land alienation procedures.

In the events where consolidation is not feasible, servitude should be registered to properly protect any part of the building which encroaches on the adjoining land and any other parties that are affected by an encroachment so as to make sure the public's rights are safeguarded before sectional plans can be registered by the Registrar of Deeds. With specific reference to the development on Erf 301, Swakopmund, it is proposed that Council condones the action of the General Manager, Engineering Services for allowing a balcony which encroaches onto the street reserves.

Council should also allow the owner of Erf 301, Swakopmund to purchase the encroachment Portions (Portion A of Sam Nujoma Avenue and Portion B of Otavi Street) and register right of way servitudes over the affected areas (Portion A of Sam Nujoma Avenue and Portion B of Otavi Street) of the street in favour of the public.

To enable the sale and registration of a right of way servitudes of the affected street portions, the streets should first be subdivided into Portions A and B and Remainder Streets as depicted on the Subdivisional Plan attached as **Annexure B**. Subdivision of a street is a listed activity in terms of the Environmental Management Act, Act 7 of 2007, as amended. Therefore, an environmental study should be carried out for the proposed subdivision.

Thereafter, Portions A and B should be permanently closed as "street" in terms of Section 50 (1) of the Local Authorities Act, Act 23 of 1992, as amended. After successful closure and subdivision of Otavi Street and Sam Nujoma Avenue into Portions A and B and Remainder Streets, Portions A and B should be sold to the applicant for consolidation purposes with Erf 301, Swakopmund as depicted on the consolidation Plan attached as **Annexure C**.

Portion A of Sam Nujoma Avenue is approximately 11.31m² in extent and Portion B of Otavi Street is approximately 5m² resulting in a combination of approximately 16.31m² in extent. The aforementioned portions, both should assume the same zoning as Erf 301, Swakopmund. The right of way servitudes equal to the combined areas of Portion A of Sam Nujoma Avenue and Portion B of Otavi Street should be registered over Portions A and B in favour of the public.

Conclusion

Taking into consideration the legal opinion by the ENSAfrica and available options, it is more appropriate to alienate the encroached street portion as opposed to the lease. Alienation and the rest of the options are all within the legal framework. Therefore the most suitable option should be employed.

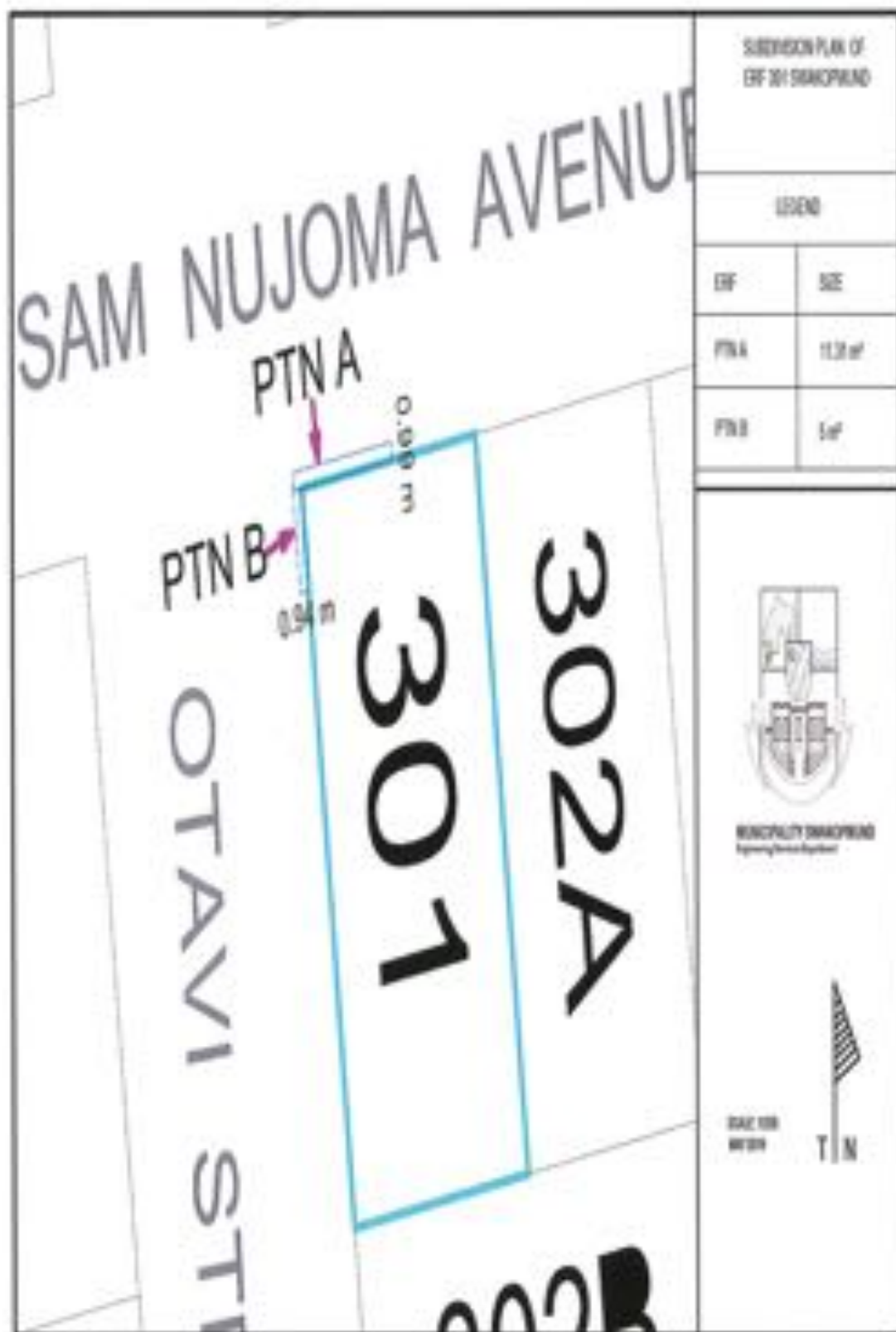
B. After the matter was considered, the following was:-

RECOMMENDED:

That the Council Resolution of 22 November 2018, under Item Number 11.1.14 be revoked and be replaced with this Council Resolution:

- (a) That Council condones the actions of the General Manager: Engineering Services.
- (b) That it be noted that the Swakopmund Town Planning Scheme allows for encroachments only for the sites which are zoned "General Business".
- (c) That only encroachments that are minor in nature and do not extent more than 0.5 metres over a street or other public space be accepted and permitted for sites which are zoned "General Business" during construction or approval of building plans.
- (d) That Sam Nujoma Avenue be subdivided into Portion A approximately 11.31m² in extent and Remainder Street as shown on the Subdivisional Plan dated May 2019.
- (e) That Otavi Street be subdivided into Portion B approximately 5m² in extent and the Remainder as shown in the Subdivisional Plan dated May 2019.
- (f) That the owner of Erf 301, Swakopmund be informed and allowed to purchase Portions A of Sam Nujoma Avenue and B of Otavi Street.
- (g) That the owner of Erf 301, Swakopmund be responsible for the Environmental Impact Assessment in terms of the Environmental Management Act, Act 7 of 2007, as amended.
- (h) That Portions A of Sam Nujoma Avenue and B of Otavi Street be permanently closed as "Street" in terms of Section 50 (1) of the Local Authorities Act, Act 23 of 1992, as amended.
- (i) That the owner of Erf 301, be responsible for the advertisement procedures which include preparing the adverts and inserting the notices in the media, including the Government Gazette, placing copy on site and distribution to affected neighbours and costs pertaining to these procedures be for the purchaser's account.
- (j) That proof of advertisement be provided to the General Manager: Engineering Services before the sale agreement is signed.

- (k) That Portions A of Sam Nujoma Avenue and B of Otavi Street be consolidated with Erf 301, Swakopmund.
 - (l) That Portions A of Sam Nujoma Avenue and B of Otavi Street assume the same zoning as Erf 301, Swakopmund.
 - (m) That a right of way servitude equivalent to Portions A of Sam Nujoma Avenue and B of Otavi Street in favour of the public be registered over the newly consolidated erf.
 - (n) That the owner of Erf 301, Swakopmund be responsible for all town planning and cadastral procedures such as application to Townships Board, land surveying and registration of the newly consolidated erf and a right of way servitude.
 - (o) That the current Title Deed conditions registered against Erf 301, Swakopmund be retained and be registered against the newly consolidated erf.
 - (p) That upon agreement and acceptance of the Council conditions, a purchase price for the Portions A of Sam Nujoma Avenue and B of Otavi Street be determined by the Council's valuator and any other competent valuator to be nominated by the owner of Erf 301, Swakopmund.
 - (q) That the owner of Erf 301, Swakopmund be granted a Power of Attorney to act on behalf of the Swakopmund Municipality Council to lodge all necessary planning, closure and cadastral procedures pertaining to the subdivision of Sam Nujoma Avenue and Otavi street and consolidation thereof.
 - (r) That all cost involved should be for the account of the owner of Erf 301, Swakopmund.
 - (s) That delegated powers be granted to the General Manager: Engineering Services and Manager: Town Planning, to condone minor encroachments (not more than 0.5 m in depth) for the purpose of Sectional Title Schemes registration on sites zoned "General Business".
-



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11.1.15 **ENCROACHMENT OF THE STREET RESERVE BY A BALCONY OF THE BUILDINGS ON ERF 113, SWAKOPMUND**
(C/M 2019/06/27 - E 113)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 8.6 page 44 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 review its previous decision for the condonation, sale of the air rights and registration of a servitude in favour of the public for the encroached portion of the street reserve by a balcony of the building on Erf 113, Swakopmund.

2. Introduction and Background

This matter served before Council during its ordinary meeting which was held on the 31st August 2017, where it was resolved under Item Number 11.1.19 as follows:

- (a) That Council condones the actions of the General Manager: Engineering Services herein
- (b) That note be taken that the Swakopmund Town Planning Scheme allows for encroachments only for the sites which are not zoned "General Business".
- (c) That only encroachments that are minor in nature and do not extend more than 0.5 metres over a street or other public space be accepted and permitted for sites which are zoned "General Business" during construction or approval of building plans.
- (d) That the owner of Erf 113, Swakopmund be informed and allowed to purchase air rights equivalent to the surface area of the encroachment onto the street reserve.
- (e) That upon agreement and acceptance of the Council conditions, a purchase price for air right be determined by the Council's valuator and any other competent valuer to be nominated by the owner of Erf 113, Swakopmund.
- (f) That a servitude in favour of the adjacent property describing the allowed air rights be registered over the affected area by the balcony on the first floor which encroaches the street reserve, and that this servitude be advertised as a partial closure of the street in terms of Section 50 of the Local Authorities Act.
- (g) That all cost involved should be for the account of the owner of Erf 113, Swakopmund.
- (h) That unauthorised encroachments when identified be rectified by employing one or other of the following options:
 - (x) Encroaching walls or projection should be demolished.

- (b) Minor encroachments which do not extend 0.5 metres for sites zoned "General Business" be condoned, where Council deems appropriate.
 - (c) That a purchase amount be determined for minor encroachment over Council land.
 - (d) Subject to planning, cadastral, closure and sales and registration procedures, encroached land be sold to the owner of the development at a market related price plus of the purchase price 10% penalty.
 - (e) In cases where subdivision and consolidation of the affected portion with the development in question is not possible, a servitude in favour of the abutting be sold to that owner and be registered over Council's land.
 - (f) That all cost involved be for the account of the developer.
- (i) That delegated powers be granted to the Manager: Town Planning, to condone minor encroachments (not more than 0.5 m in depth) for the purpose of Sectional Title Schemes registration.
 - (j) That the Engineering Services Department draft an "Encroachments Policy".

2.1 Legal Opinion

After the Council decision, the Manager: Corporate Services obtained a legal opinion from the ENSAfrica regarding the sale of "air right" in the Namibian context.

According to the legal opinion by ENSAfrica, in terms of the Namibian laws, the "air rights" concept is foreign and cannot be applied. The legal opinion is attached as **Annexure A**.

It is against this background that a review of the previous Council decision on the matter is being required.

3. DISCUSSION

Generally, encroachments are not desirable and should only be allowed when there is a known benefit to both parties, the owner of the encroaching structure, and the owner of the land over which the encroachment occurs. When such situations occur, encroachments which are minor in nature, such as a projection not more than a 0.5m in depth, and more generally on sites zoned "General Business" may be condoned. In addition, encroachments such of the walls, roofs, balconies and canopies may serve as both benefits and danger. It may be a benefit to persons in the street such as providing shade or it may be a danger from falling objects. Both the aforesaid benefit and danger depend on the structure and purpose of a balcony or canopy.

Encroachments that are approved by Council should not be considered as minor in nature. Council must certify such encroachment preferably before they take place. An encroachment may be something planned and for which Council's in advance approval is required. Alternatively, an encroachment may have accidentally taken place and may need to be legally addressed.

The certification may be undertaken by employing one of the following three options:

- o *Negotiating with the affected owner for a subdivision, notarial fee, purchase and consolidation of the land subject to encroachment with the site of such development,*
- o *Register a servitude to protect the building subject to encroachment, and*
- o *Condonement of the encroachment by the Council.*

It is imperative to note that the legal opinion by the ENSAfrica also provided three options in dealing with the encroachment of the Street reserve by the development on Erf 113, Swakopmund.

These options are outlined as below as follows:

- (a) *The primary position in law apropos construction is that the owner of Erf 113 Swakopmund revisits their designs and ultimately breaks/ demolish the sections of the building structures which constitute an encroachment at the cost of the applicant so as to bring the structure in conformity with minimum requirement.*
- (b) *Council could sign up a lease agreement in terms of which Council lets the surface area of the encroachments onto the street to the applicant with specific conditions securing right of way so as to make it safe to use.*
- (c) *Registration of a servitude over the property of Council in favour of the owner of Erf 113, Swakopmund with some penalty payable by the owner of the encroaching structures as compensation for the limitation of the Council's ownership rights as well as holding the encroaching party liable for the cost applicable to the registration of the servitude.*

The legal opinion further suggested that in respect of the safety consideration, it may be required that some awning be constructed cover the public area so as to protect the public against possible falling objects and limiting Council's delictual risk exposure.

On the contrary, it worth mentioning that the legal opinion is not entirely correct as it is subject to misinterpretation of some provisions of the Swakopmund Town Planning Scheme. It stated that the sale of the affected portion was not an option, which is not the case. The affected portion could be closed to make the sale possible.

However, proposals of the legal opinion are sound, helpful, and enable the town planning division to deal with matter with confidence.

4. Review of Options

Usage of the Condonement option is more appropriate and applicable to small projections of balconies or walls that extend for less than 0.5m in depth. In terms of the Swakopmund Town Planning Scheme there is a provision made for approval of minor encroachments but only for buildings on land zoned "General Business".

Given both the zoning of the property and magnitude of the encroachment at hand, sale of the encroached portion and subsequent registration of a right of way servitude to protect both the public and building subject to the encroachment is the most

appropriate solution to the situation caused by the development on Erf 113, Swakopmund.

5. Proposal

It is proposed that in line with the Swakopmund Town Planning Scheme, encroachments should be first be certified by the Council before the opening of the Sectional Title Scheme.

It is recommended that as a general rule, encroachments which have occurred as construction errors, but which do not extend more than 0.5 metres may be condoned by Council. In such cases, Council may issue a letter of condonment which will accompany the application for the registration of the sectional title scheme.

It may be that some encroachments that have been allowed by Council by approval of building plans should be subject to closure (in case of a street or public place), subdivision, consolidation and land alienation procedures.

In the events where consolidation is not feasible, servitude should be registered to properly protect any part of the building which encroaches on the adjoining land and any other parties that are affected by an encroachment so as to make sure the public's rights are safeguarded before sectional plans can be registered by the Registrar of Deeds.

With specific reference to the development on Erf 113, Swakopmund, it is proposed that Council condones the action of the General Manager: Engineering Services for approving the building plan with a balcony which encroaches onto the street reserves.

Council should also allow the owner of Erf 113, Swakopmund to purchase the encroachment Portion (Portion A of Werft Street) and register a right of way servitude over the affected area (Portion A of Werft Street) of the street in favour of the public.

To enable the sale and registration of a right of way servitude of the affected street portion, the street should first be subdivided into Portion A and Remainder as depicted on the Subdivisional Plan attached as **Annexure B**. Subdivision of a street is a listed activity in terms of the Environmental Management Act, Act 7 of 2007, as amended. Therefore, an environmental study should be carried out for the proposed subdivision.

Thereafter, Portion A should be permanently closed as "Street" in terms of Section 50 (1) of the Local Authorities Act, Act 23 of 1992, as amended.

After successful closure and subdivision of Werft Street into Portion A and Remainder Street, Portion A should be sold to the applicant for consolidation purposes with Erf 113, Swakopmund as depicted on the consolidation Plan attached as **Annexure C**.

Portion A of Werft Street, 2.28m² in extent should assume the same zoning as Erf 113, Swakopmund. The right of way servitude equal to the area of Portion A of Werft Street should be registered over Portion A in favour of the public.

Conclusion

Taking into consideration the legal opinion by the ENSAfrica and available options, it is more appropriate to alienate the encroached street portion as opposed to the lease. Alienation and the rest of the options are all within the legal framework. Therefore the most suitable option should be employed.

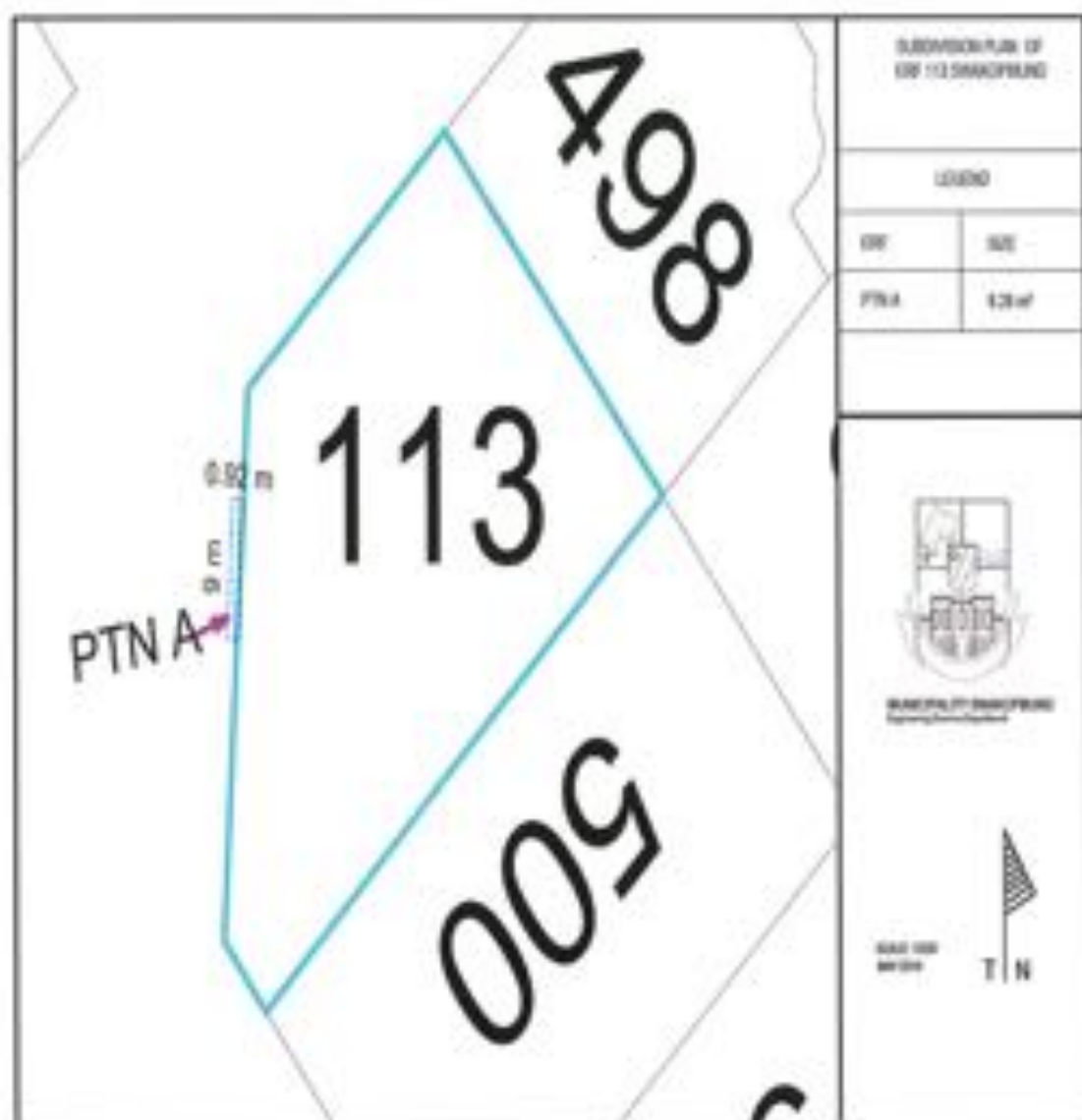
B. After the matter was considered, the following was:-

RECOMMENDED:

That the Council Resolution of 31 August 2017, under Item 11.1.19 be revoked and be replaced with this Council Resolution:

- (a) That Council condones the actions of the General Manager: Engineering Services.
- (b) That it be noted that the Swakopmund Town Planning Scheme does not allow for encroachments for the sites which are not zoned "General Business".
- (c) That only encroachments that are minor in nature and do not extent more than 0.5 metres over a street or other public space be accepted and permitted for sites which are zoned "General Business" during construction or approval of building plans.
- (d) That Werft Street be subdivided into Portion A approximately 2.28m² in extent and Remainder Street as shown on the subdivisional Plan dated May 2019.
- (e) That the owner of Erf 113, Swakopmund be informed and allowed to purchase Portion A of Werft Street.
- (f) That the owner of Erf 113, Swakopmund be responsible for the Environmental Impact Assessment in terms of the Environmental Management Act, Act 7 of 2007, as amended.
- (g) That Portion A of Werft Street be permanently closed as "Street" in terms of Section 50 (1) of the Local Authorities Act, Act 23 of 1992, as amended.
- (h) That the owner of Erf 113, be responsible for the advertisement procedures which include preparing the adverts and inserting the notices in the media, including the Government Gazette, placing copy on site and distribution to affected neighbours and costs pertaining to these procedures be for the purchaser's account.

- (i) That proof of advertisement be provided to the General Manager: Engineering Services before the sale agreement is signed.
 - (j) That Portion A of Werft Street be consolidated with Erf 113, Swakopmund.
 - (k) That Portion A of Werft Street venue assume the same zoning as Erf 113, Swakopmund.
 - (l) That a right of way servitude equivalent to Portion A of Werft Street in favour of the public be registered over the newly consolidated erf.
 - (m) That the owner of Erf 113, Swakopmund be responsible for all town planning and cadastral procedures such as application to Townships Board, land surveying and registration of the newly consolidated erf and a right of way servitude.
 - (n) That the current Title Deed conditions registered against Erf 113, Swakopmund be retained and be registered against the newly consolidated erf.
 - (o) That upon agreement and acceptance of the Council conditions, a purchase price for the Portion A be determined by the Council's valuator and any other competent valuator to be nominated by the owner of Erf 113, Swakopmund.
 - (p) That the owner of Erf 113, Swakopmund be granted a Power of Attorney to act on behalf of the Swakopmund Municipality Council to lodge all necessary planning, closure and cadastral procedures pertaining to the subdivision of Werft Street and consolidation thereof.
 - (q) That all cost involved should be for the account of the owner of Erf 113, Swakopmund.
-



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11.1.16 **APPLICATION FOR THE RELAXATION OF ON-SITE PARKING ON
ERF 3615 SWAKOPMUND**
(C/M 2019/06/27 - E 3615)

Ordinary Management Committee Meeting of 13 June 2019,
Addendum 8.8 page 60 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 relaxation of on-site parking on Erf 3615 Swakopmund.

2. Introduction and Background

An application was received from Messrs Brynard Kotze Architects Incorporated on behalf of Mr J Machado, the owner of Erf 3615 Swakopmund for the relaxation of on-site parking for the additional development on the erf. The application is attached as **Annexure A**.

3. Ownership

Ownership of Erf 3615 Swakopmund vests with Europa Hof Investments cc as held by Deed of Transfer No. T 1486/2002. It is attached as **Annexure B**.

4. Locality, Zoning and Size

Erf 3615 Swakopmund is located in the Central Business District (CBD) at the corner of Bismark Street and Anton Lubowski Avenue. It is zoned "General Residential 1" with a bulk factor of 2.0 and measures 1710m² in extent. The erf currently accommodates a hotel. The locality plan is attached as **Annexure C**.

5. Discussion

5.1 The Proposal

As mentioned above, the property in question accommodates a well-established existing hotel. It is the intention of the owner to additionally construct a second storey on Erf 3615, Swakopmund, comprising of six (6) rooms.

The Swakopmund Town Planning Scheme in Table D1 states that the parking requirement for hotels is 1 parking bay per 50m² of floor area. According to the building plans submitted, the proposed building has a total floor area of Two hundred and Sixty Five point Eight square metres (265.8 m²). This requires additional five (5) parking bays

(265 /50m²), of which the developer cannot provide onsite and as a result, the applicant herewith applies for relaxation of the amount of parking required for the proposed development and alternatively to purchase additional parking space from the municipality in lieu of the shortcoming.

5.2 Town Planning Scheme - Parking special provisions

The Swakopmund Town Planning Scheme made special provisions for parking in terms of Clause 8.20.3 and it reads as follow:

Notwithstanding the provisions of this Scheme, the Council may relax the parking requirements applicable to any zone and enter into a written agreement with the owner of the erf concerned whereby the owner shall either:

- (a) *pay an amount to the Council which in the opinion of the Council is sufficient to enable it to provide and maintain the same number of parking spaces within reasonable walking distance from the erf as are required in terms of the parking requirement for that zone, or*
- (b) *transfer a suitable site to the Council and pay an amount to the Council which will, in the opinion of the Council, be sufficient to enable it to construct and maintain the number of parking spaces required in terms of the parking requirement for that zone; or*
- (c) *construct and maintain the number of parking spaces required in terms of the parking requirement for that zone on any other property which is considered to be suitable by the Council."*

Council currently does not have available parking to be allocated and purchased by the developer; therefore option (a) of the Town Planning Scheme provisions is out of consideration. Furthermore options (b) of the aforementioned scheme can also not be considered as it has been observed that there is a shortage of parking particularly in this area.

Various parking requirements for land use activities listed under "General Business" in terms of the Swakopmund Town Planning Scheme are illustrated on the table below.

TABLE D1: Provision of Parking

Residential buildings	1 per dwelling unit
Hotels	1 per 50m ² of floor area
Pension & Bed & Breakfast	A minimum of 2 plus 1.5 per room
Shops and Offices	1 per 33,33m ² of floor area, or as arranged with Council according to Clause 8.D/7/2
Places of Public Worship and Places of Instruction	1 parking bay per 10 seats or 10 members Min: 15 bays for funeral chapels; 8 bays for other uses
Institutional	1 per 2 beds or as determined by Council
Service Stations	At least one parking bay per 50 m ² of the total floor area provided that the parking bays be clearly indicated for visitors.
All other uses	1 per 33,33m ² of floor area

6. Evaluation

According to the records on file, the same developer bought twelve (12) parking bays in 2004 at the total amount of N\$90 000.00.

ERF 3615 (o/b) ANTON LUBOWSKI - & BISMARCK STREETS, SWAKOPMUND: APPLICATION FOR APPROVAL OF EXTERNAL APPEARANCE OF PROPOSED DEVELOPMENT AND RELAXATION OF PARKING REQUIREMENTS (CIM 2004/0026 - ERF 3615)

RESOLVED:

- (a) That the drawings depicting the external appearance of the proposed development on Erf 3615, Swakopmund, (on file) be approved.
- (b) That Council approves the relaxation of the parking requirements on Erf 3615 if Messrs Europa Hof Hotel are willing to pay Council the amount of N\$90 000,00 for the shortfall of 12 parking bays according to the following formula:
 - The m² value of the property (unimproved value) ÷ the area of a standard parking bay × number of parking bays. (N\$500/m² × 15 m² × 12 parking bays).

However, the latest decision taken by Council turned down the application for the relaxation of parking on Erf 210 Swakopmund, of which decision will be used as interim policy to guide future similar applications.

Council at its meeting held on **25 April 2019** under item number 11.1.18, resolved the following:

- (a) That the application by Messrs Mackintosh Lauterbach 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.

Given the case presented above, it is evident that Council currently does not support applications for parking relaxation in lieu of on-site parking. Council can also not afford accepting money and obligation for the provision of parking.

It should be the responsibility of the developer to provide adequate parking for proposed developments, preferably on site. Failure to provide adequate parking on site results to the scale down of the development to the development size that can accommodate the required number of parking on site, or alternatively omit the development completed if there is no sufficient land on site to accommodate the required number of parking, as in this case.

7. Conclusion

The responsibility for the provision of on-site parking should be that of the developer. The developer should therefore be advised that no additional buildings should be constructed on Erf 3615, Swakopmund with the shortfall of five (5) parking bays.

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

RECOMMENDED:

- (a) That the application by Messrs Brynard Kotze Architects Incorporated for parking relaxation on Erf 3615, Swakopmund be turned down.
 - (b) That the developer takes note that it is his responsibility to provide parking for the proposed development, preferably on-site as per the requirements of the Swakopmund Town Planning Scheme.
 - (c) That no building plans shall be approved if parking provision is insufficient.
 - (d) That the parking site on Erf 3615, Swakopmund has already been exhausted therefore no further additions to the development.
-



HOTEL EUROPA HOF



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11.1.17 **WRITING OFF OF REDUNDANT AND DAMAGED FURNITURE AND GOODS - CORPORATE SERVICES DEPARTMENT**
(C/M 2019/06/27 - A 1/3/6, L 2)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 8.12 page 86 refers.

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

The furniture and goods under the recommendation are obsolete and / damaged and needs to be written off and sold at an auction:

No	Quantity	Object	Remarks
1.	4	Wooden Visitors' Chairs with Grey Seating	Chairs were replaced.
2.	1	Wooden Visitors' Chair with Brown Seating	Chair was replaced.
3.	2	Wooden Chairs with Maroon Seating	Chairs obsolete.
4.	5	Typist's / Operator's Chairs	Broken.
5.	2	Earns	Broken.
6.	1	Standing Fan	Broken.
7.	1	Projector	Obsolete.
8.	1	Asbestos Heater	Obsolete.
9.	2	Heater / Cooler	Broken.
10.	1	2 Door Steel Cabinet with Shelves (Grey)	Obsolete.
11.	2	Waste Paper Bins	Obsolete.
12.	1	HP Deskjet 5443, S/N: TH5BC16065	Obsolete.

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

RECOMMENDED:

- (a) That the following furniture and goods from the Corporate Services Department be written off:

No	Quantity	Object	Remarks
1.	4	Wooden Visitors' Chairs with Grey Seating	Chairs were replaced.
2.	1	Wooden Visitors' Chair with Brown Seating	Chair was replaced.
3.	2	Wooden Chairs with Maroon Seating	Chairs obsolete.
4.	5	Typist's / Operator's Chairs	Broken
5.	2	Earns	Broken
6.	1	Standing Fan	Broken
7.	1	Projector	Obsolete
8.	1	Asbestos Heater	Obsolete
9.	2	Heater / Cooler	Broken
10.	1	2 Door Steel Cabinet with Shelves (Grey)	Obsolete
11.	2	Waste Paper Bins	Obsolete
12.	1	HP Deskjet 5443, S/N: H5BC16065	Obsolete

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

11.1.18 **DETERMINATION OF A FEE FOR STREET CLOSURE FOR WEDDINGS, FUNERAL AND MEMORIAL SERVICES**
(C/M 2019/06/27 - N 8/10/2)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 10.1 page 03 refers.

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

Planning Forum on 09 April 2019 under item 5.4 discussed and resolved as follows:

- (a) That Council approves street closure for weddings, funeral and memorial services.
- (b) That a refundable deposit be applicable for the different road surfaces as follows:
- | | | |
|-----------------|---|-------------|
| (i) Gravel | - | N\$ 750.00 |
| (ii) Interlocks | - | N\$1500.00 |
| (iii) Bitumen | - | N\$2 000.00 |
- (c) That Council approves a rental / lease fee of N\$99.00 (Vat exclusive) per day for street closures to be escalated by 10% per year.
- (d) That the repair costs for the road surface as mentioned in (b) be defrayed from the refundable deposit.

The purpose for the above resolution is to determine a fee which is payable by an applicant for streets closures for wedding, funeral and memorial services.

Due to the nature of these events, tents are normally erected in streets; it is cordoned off for the duration of such events. History has proven that after such events the applicants are nowhere to be found especially if they did not comply with the terms and conditions with regard to cleanliness and repair in case of damages. As such, it is proposed that the closure of streets for weddings, funerals and memorial services be allowed, but the applicant must be held accountable for the damages, when a tent has been erected for such events.

According to the current Operational Budget 2018/19 the approved monthly tariff for lease of street space: per m², per month (Vat Exclusive) is N\$9.00 as set out in 2 (Attached).

Discussions:

(a) *Daily Rental Fee*

- Street front distance of the erf x road reserve width x tariff for the lease of street space x 30 days.

Example:

- 22 m² (erf width) x 15 m² (road reserve width) x N\$9.00 = N\$ 2 970.00/30 days = N\$ 99.00 per day (Vat Excluded).

(b) *Refundable deposit:*

In addition, it is proposed that a refundable deposit be charge for the account of the applicant to cover for damages to the road reserves. The table below indicate the different road surfaces:

	Road Surface	Amount
1	Gravel	N\$ 750.00
2	Interlock	N\$1 500.00
3	Bitumen	N\$2 000.00

It is therefore:

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

RECOMMENDED:

- (a) That Council approves street closure for weddings, funeral and memorial services.
- (b) That a refundable deposit be applicable for the different road surfaces as follows:
- Gravel - N\$ 750.00
 - Interlocks - N\$1500.00
 - Bitumen - N\$2 000.00
- (c) That Council approves a rental / lease fee of N\$99.00 (Vat exclusive) per day for street closures to be escalated by 10% per year.
- (d) That the repair costs for the road surface as mentioned in (b) be defrayed from the refundable deposit.
-

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- 11.1.19 **MS H MUPUPA: SALE OF A PORTION OF THE REMAINDER OF PORTION 5 OF SWAKOPMUND TOWN AND TOWNLANDS NO 41;**
(C/M 2019/06/27 - H 5/1)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 10.2 page 06 refers.

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

1. Introduction

On 09 May 2019 under item 10.21, Ms H Mupupa presented her development proposal for a Portion of the Remainder of Portion 5 of Swakopmund Town and Townlands No 41 to the Management Committee. The following decision was passed:

- (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.

Her initial letter dated 22 January 2014 is attached as Annexure "A".

Following the above, a submission was tabled to the Special Management Committee of 23 May 2019 under item 5.7 and the following was resolved:

- (a) That the reply received from the Ministry of Urban and Rural Development dated 15 May be noted.
- (b) That Council considers allocating a portion of Portion 161 (Annexure "E", on file) approximately 10ha in extent for township development to Ms H Mupupa on the same principles that were implemented with the developers in Mdutshana.
- (c) That once Council approves the above recommendation, a detailed submission be tabled to Council for further consideration.

2. Current Situation

At a meeting held in the Office of the Chief Executive Officer on 5 June 2019 it transpired that Portions 161, 162 and 163 (Annexure "B") consist of around 800 erven altogether and are required to accommodate more than 3 000 informal settlers that need to be urgently relocated.

Therefore these portions are not available for sale / development by private developers.

3. Discussion

Seeing that Portions 161, 162 and 163 are required by Council for the relocation of residents, it is proposed that Ms H Mupupa instead be considered to replace one of the non-performing developers which were allocated land as per the action plan approved by Council on 31 May 2018 under item 11.1.25, summarized:

	DEVELOPER AWARDED	BT
1	Tapeye Investments	3
2	Ghedo Assistance CC	4
3	Riving Trading Enterprise CC	5
4	Immanuel Shikongo and Wendelinus	24
5	Lherix Investments CC And Momporisa Trading Enterprises CC	25
6	Gheron Building Contraction CC and Too Extreme Developers (Pty) Ltd	38
7	Teofelus Uvanga and Quintessential Trading & Consultancy CC	Proper
8	Messrs Matai Investment CC	13 Block 26

The General Manager: Engineering Services has requested a progress report from the developers and will submit a separate item to deal with the non-performing developers.

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

RECOMMENDED:

- (a) That the Management Committee resolution passed on 23 May 2019 under item 5.7 be repealed.
 - (b) That Ms H Mupupa replaces one of the non-performing developers which were allocated land as per the Action Plan approved by Council on 31 May 2019 under item 11.1.25 and on 22 November 2018 under item 11.1.35.
 - (c) That it be noted that the application of Ms H Mupupa applied for land during 2014 and regarded as an exception based on the directive received from the Ministry of Urban and Rural Development stating that an alternative portion of land be allocated to her. Therefore, although she does not appear on the list of applicants submitted to Council on 30 November 2017, land be allocated to her.
-

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11.1.20 **PURCHASER OF ERF 115, MONDESA**
(C/M 2019/06/27 - 115 M)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 10.3 page 13 refers.

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

1. Introduction

On 10 January 2019, the Management Committee considered item 8.2 whereafter the following decision was passed:

- (a) That this item be referred back and that proof of cancellation by Mr S Maletzky be submitted to the Management Committee.
- (b) That Mr S Maletzky be invited for an audience with the Management Committee on a date to be determined by the Chief Executive Committee.

Mr S Maletzky, his wife and son attended the Management Committee meeting of 09 May 2019 to state their stand in the matter regarding Erf 115, Mondesa.

The decision passed at the meeting under item 10.22 is quoted below:

- (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.

Following the above, Ms A Maletzky was given the opportunity to state her side of the case at the Special Management Committee meeting held on 23 May 2019. The following decision was passed under item 6.1:

- (a) That the Management Committee takes note of the presentation by Ms A Maletzky
- (b) That this item be referred back and be resubmitted to the next Management Committee Meeting.

2. Current Situation

Council's record in respect of Erf 115, Mondesa is incomplete, accordingly National Housing Enterprises was requested to provide a copy of the content of their property file.

On 03 June 2019 National Housing Enterprise delivered the following documents (among other):

- Annexure "A" :** an acknowledgement of debt signed by Ms S Maletzky on 10 June 1993
- Annexure "B" :** a copy of a "warrant of eviction" served by the Magistrate Court for the District of Seakopong on Mr S Maletzky (dated 15 June 1993)

Annexure "C" : *an official form of National Housing Enterprise confirming that Erf 115, Mondesa was repossessed from Mr S Maletzky and that the new owner is Ms A Maletzky (dated 16 May 1995).*

Mr S Maletzky was fully aware of the process of eviction and was aware that he was officially evicted from the property following the formal process resulting in a "warrant of eviction". Therefore he could not be the owner of the property. National Housing Enterprise entered into a deed of sale and acknowledged that Ms A Maletzky has paid the full purchase price; she is the rightful owner of the property.

Summarized from Council's Record:

- Ownership of Erf 115, Mondesa is registered in Council.
- On 13 September 1983 Council entered into a deed of sale with Mr S Maletzky. According to Council's records he was constantly in arrears with his payments.
- Although no records are available on file, National Housing Enterprise provided the document attached as Annexures "A" and "B" confirming that the property was repossessed from Mr S Maletzky and he was evicted from the house.
- NHE provided a copy of the Deed of Sale entered into between them and Ms Auguste Maletzky on 12 May 1995.
- On 11 May 2017 NHE confirmed that Ms Auguste Maletzky settled her home loan with them for Erf 115, Mondesa and the property can be transferred to her.

The erf belongs to Council and NHE provided a loan for the purchasing of the property.

3. Discussion

NHE provided an official confirmation letter stating that the loan amount was settled in full by Ms A Maletzky and since the erf still belongs to Council, NHE requested Council to transfer it to Ms A Maletzky. Messrs Kinghorn Associates was accordingly instructed by Council on 18 May 2018 to attend to the transfer. A copy of the deed of sale of Mr Sem Maletzky was attached being the only document on Council's file, therefore this caused a delay to finalize the registration process. Although NHE entered into a deed of sale with Ms Maletzky, there is no deed of sale between Council and Ms Auguste Maletzky; as Council is owner of Erf 115, Mondesa, an agreement must be entered into by and between Council and Ms Auguste Maletzky. NHE requested that the property be transferred directly from Council to Ms Auguste Maletzky in order to not incur an additional transfer cost.

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

RECOMMENDED:

- (a) That it be noted that Mr S Maletzky was formally evicted from Erf 115, Mondesa following a process resulting in a warrant of eviction being issued dated 15 June 1993 (Annexure "B").
 - (b) That Council accepts the request by Messrs National Housing Enterprise to proceed with the signing of a deed of sale and with the transfer Erf 115, Mondesa to Ms Auguste Maletzky as the rightful owner.
 - (c) That Council enters into an agreement with Ms A Maletzky with the same terms and conditions as the agreement she entered into on 12 May 1995 with the National Housing Enterprise.
-

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11.1.21 **EXEMPTION FROM PAYMENT OF ASSESSMENT RATES**
(C/M 2019/06/27 - D 3/2)

Ordinary Management Committee Meeting of 13 June 2019, Addendum 10.4 page 24 refers.

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

1. Introduction

1.1 Provision is made in Section 75 of the Local Authorities Act 23 of 1992, as amended, that Council, subject to certain conditions, may exempt certain organisations or institutions from the payment of assessment rates.

A copy of Section 75 is attached as Annexure "A"(on file)

1.2 According to the stipulations of subsection (3) of the Local Authorities Act (as amended), a local authority shall not grant any exemption under subsection (1), unless the application referred to in that subsection has been lodged to, or actually received by it on or before **31 May** in the year immediately preceding the financial year to which the application relates.

2. Proposed Amendments to the Local Authorities Act, Act 23 of 1992 as amended

As previously stated Council on **31 March 2010** under item 11.1.18 resolved to propose the following amendment to the Local Authorities Act, Act 23 of 1992, as amended, to the Minister of Regional and Local Government, Housing and Rural Development:

That the proposed amendments be submitted to the Permanent Secretary of the Ministry of Regional and Local Government, Housing and Rural Development for consideration, subject to following corrections:

(i) ...

(ii) ...

(iii) Section 75 be amended as: That only those rectories which are registered in the name of the church / mission be exempted.

Should the above proposed amendment be approved, pastors / reverends / priests / preachers will no longer be able to claim exemption for private residences as manses / parsonages / rectories. To date no reply was received from the said Ministry. And the said amendment was not included in the recently amended act (25 April 2018).

3. Applications Received

A notice was published in the **Namib Times** and **New Era** respectively as prescribed in the Local Authorities Act 23 of 1992 with closing date **31 May 2019**.

The relevant application form was also posted to those organisations or institutions that previously applied for exemption from the payment of assessment rates.

The applications listed under the recommendation and attached as (Annexure "B") (on file) were received in terms of Section 75 (3) of the Local Authorities Act 23 of 1992 (as amended), for the exemption from payment of Assessment Rates for 2019/2020. An application was received in respect of Erf 115, Swakopmund from ELCRN Erholungsheim (Annexure "C") (on file. This clearly lists the activities as accommodation and self-catering which is a commercial activity and not subject to Section 75 exemption. Council is advised not to exempt it.

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

RECOMMENDED:

- (a) That exemption from payment of assessment rates in terms of Section 75 of the Local Authorities Act, Act 23 of 1992 (as amended), be granted in respect of the following properties:

<i>Erf Number</i>	<i>Organisation / Body</i>	<i>Purpose for which the Erf is Used</i>
<i>Erf 2709, S</i>	<i>Seventh Day Adventist Church</i>	<i>place of worship</i>
<i>Erven 4206,508 & 2936, S</i>	<i>Ned. Gerel. Kerk Swakopmund</i>	<i>place of worship and rectory</i>
<i>Erf 4369, M</i>	<i>Morewag Church of Namibia</i>	<i>place of worship</i>
<i>Erven 1544 & 4347</i>	<i>COSDEC Swakopmund</i>	<i>Training</i>
<i>Erven 206 & 538, T</i>	<i>Congregational Church Swakopmund</i>	<i>place of worship and rectory</i>
<i>Erven 4235, 4236, 4237 & Ext 21, Swk</i>	<i>Pro-Ed Akademie</i>	<i>Educational</i>
<i>Erf 5158, S</i>	<i>Nederduitsch Hervormde Kerk</i>	<i>place of worship</i>
<i>Erf 5845, S</i>	<i>Believers' Fellowship Church</i>	<i>place of worship</i>
<i>Erf 776</i>	<i>African Methodist Episcopal Church Swakopmund, Arandis & Nenties</i>	<i>place of worship</i>
<i>Erf 309 & 763</i>	<i>New Apostolic Church Swakopmund Baptist Church</i>	<i>place of worship and rectory</i>
<i>Erf 4264 & 1729</i>	<i>Swakopmund Baptist Church</i>	<i>place of worship and rectory</i>
<i>Re of Erf 63, M</i>	<i>Mondesa Youth Opportunities</i>	<i>Educational</i>
<i>Erf 8680</i>	<i>A G S Filadelfia</i>	<i>place of worship</i>
<i>Erf 5824</i>	<i>Shofar Christian Church Swakopmund Methodist Church</i>	<i>place of worship</i>
<i>Erf 2649</i>	<i>Swakopmund Methodist Church</i>	<i>place of worship</i>
<i>Erf 1111</i>	<i>Evangelical Mission Church</i>	<i>place of worship</i>
<i>Erf 614 & 567 & 4633</i>	<i>A.F.M Church</i>	<i>place of worship and rectory</i>
<i>Erf 6845, M</i>	<i>DWC Womens Project</i>	<i>charitable institution</i>
<i>Erf 1759, S</i>	<i>Evangelische Stadtmission Swakopmund</i>	<i>place of worship</i>
<i>Erf 4371, M</i>	<i>Evangelical Bible Church</i>	<i>place of worship</i>
<i>Erf 801, 2791 & 4200</i>	<i>Lions Old Age & Retirement Village</i>	<i>retirement village / old age home</i>
<i>Erf 602, M</i>	<i>Evangelical Lutheran Church</i>	<i>place of worship</i>
<i>Erven 183 & 491</i>	<i>Deutsche Evang-Luth Gemeinde</i>	<i>place of worship & kindergarten</i>
<i>Erven 4368, M</i>	<i>Ebenezer Pentecostal Church of Namibia</i>	<i>place of worship</i>
<i>Erf 3758</i>	<i>S.P.C.A (Tierschutzverein)</i>	<i>animal care / charitable</i>
<i>Erven 949 E, 24 T, 284, M</i>	<i>Sigill Ecclesiae Catholic</i>	<i>place of worship</i>
<i>Erf 521, S</i>	<i>Blood Transfusion Services</i>	<i>collecting blood from</i>

Erf Number	Organisation / Body	Purpose for which the Erf is Used
	of Namibia	blood donors
Erf 3355, S	Pain Court Retirement Village	retirement village / old age home
Erf 3534 & 4234	Deutsche Pfadfinder	youth organization
Erven 723, 724, 725, 726 & 728	Deutscher Schulferein Swakopmund	hostel, kindergarten and backpackers
Erf 3669	Asterius Residence Trust	old age home
Re of Erf 196	Stella Maria	Convent
Erf 455	St. Boniface Anglican Church	place of worship
Erf 620	The Rossing Foundation	after school classes
Erf 305, 801, 809 & 588, T	Unity Reformed Church	place of worship and rectory
Erf 195 & 196, 5065, 5064, 5063	The Missionary Benedictine Sisters	convent & rectory
Erf 657, T	Christian Assembly Church Swakopmund	place of worship
Erf 782, T	Jehovah's Witnesses	place of worship
Erven 2864	Emanuel Church Swakopmund	place of worship
Erven 449	Owato Elcin Parish Church	place of worship
Erven 1772 - 1774, S	Private School Swakopmund	Educational
Erven 927, 1613 & 900	Scientific Society Swakopmund	educational
Erf 1513, S	Die Voortrekkers	youth organisation
Erf 2605	West Side High School	Educational
Erf 1624	Namib High School	Educational
Erf 461	Swakopmund Secondary School	Educational
Erf 247	Namib Primary School	Educational
Erf 47, T	Tamariskia Primary School	Educational
Erf 1	Vrede Rede Primary School	Educational
Erf 1	Festus Gonteb Primary School	Educational
Erf 3648	Manganani Primary School	Educational
Erf 540	Atlantic Primary School	Educational
Erf 1968	Swakopmund Primary School	Educational
Erf 629	Herman Gemainer School	educational
Erf 127	Teachers Resource Centre	educational
Erf 461	House Akasia	school hostel
Erf 3565	Ernst Rumpf Hostel	school hostel
Erf 1308	Woermann House	library
Erf 461	Namib Hostel	school hostel
Erf 1624	House Romi Hostel	school hostel
Erf 255 & 256	Hofmeyer Hostel	school hostel
Erf 1327, 1949 & 2589	Regional Director of Education, Arts and Culture	educational

- (b) That the exemption of payment of assessment rates be credited with effect 1 July 2019 where applicable.
- (c) That the following application not be exempted as it does not comply with the requirements of Section 75 of the Local Authorities Act 1992, as amended:

Erf Number	Organisation / Body	Purpose for which the Erf is Used
Erf 110	ELCRN Erholungsheim	accommodation & self-catering apartment

**The
attachments
of this item
are available
on file - due
to
voluminous
content.**