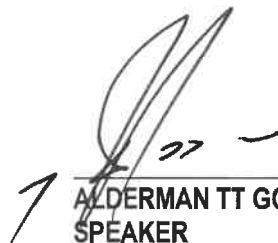


Kennis word hiermee gegee in terme van Artikel 29 van die Plaaslike Regering : Munisipale Strukture Wet, 1998 (Wet 117 van 1998) soos gewysig, dat 'n **Spesiale Raadsvergadering** van die Munisipaliteit Witzenberg gehou sal word op **Vrydag, 23 Augustus 2019 om 08:00** in die **Raadsaal, Munisipale Kantore, Voortrekkerstraat 50, Ceres.**

Notice is hereby given in terms of Section 29(2) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, that a **Special Council Meeting** of the Witzenberg Municipality will be held in the **Council Chambers, Municipal Offices, 50 Voortrekker Street, Ceres** on **Friday, 23 August 2019 at 08:00.**

Raadslede en Amptenare / Councillors and officials		
Councillor TE Abrahams	Alderman K Adams (Deputy Executive Mayor)	Councillor P Daniels
Councillor P Heradien	Councillor MD Jacobs	Councillor D Kinnear
Councillor BC Klaasen (Executive Mayor)	Councillor GG Laban	Councillor C Lottering
Councillor M Mdala	Councillor TP Mgoboza	Councillor ZS Mzauziwa-Mdishwa
Councillor MJ Ndaba	Councillor N Phatsoane	Alderlady JT Phungula
Alderman JW Schuurman	Councillor EM Sidego	Councillor RJ Simpson
Alderman HJ Smit	Councillor D Swart	Councillor HF Visagie
Alderman JJ Visagie		
Municipal Manager	Acting Director: Finance	Director: Technical Services
Director: Corporate Services	Head: Internal Audit	Manager: Projects and Performance
Manager: Administration	IDP Manager	Legal Advisor
Acting Principal Administrative Officer	Committee Clerk	



ALDERMAN TT GODDEN
SPEAKER

19 August 2019

A municipality that cares for its community, creating growth and opportunity!

'n Munisipaliteit wat omgee vir sy gemeenskap en groei en geleenthede skep!

Umasipala olukhathaleleyo uluntu lwakhe, odala ukukhula namathuba!

AGENDA

1. **OPENING AND WELCOME**
2. **LEAVE OF ABSENCE AND CONFIDENTIALITY AND CONFLICT OF INTEREST DECLARATION**
 - 2.1 **Consideration of application for leave of absence, if any (3/1/2/1)**
 - 2.2 **Confidentiality and Conflict of Interest Declaration**
3. **STATEMENTS, ANNOUNCEMENTS OR MATTERS RAISED**
 - 3.1 **Matters raised by the Speaker (09/1/1)**
 - 3.2 **Matters raised by the Executive Mayor (09/1/1)**
4. **RESERVED POWERS**
 - 4.1 **3rd Review IDP and Budget Process Plan for 2020/2021 and Spatial Development Framework Time Schedule (02/02/1)**

In terms of Section 28 of the Municipal Systems Act (Act 32 of 2000), Council must adopt an IDP and Budget Process Plan. The Municipal Finance Management Act (Act 56 of 2003) further stipulates that at least ten months before the start of the budget year, the Executive Mayor should table a time schedule outlining key deadlines in respect of the IDP/Budgetary process.

Section 29 of the Municipal Systems Act (Act 32 of 2000), specifies that such a Process Plan must include:

- Programs that set out timeframes for the different planning steps;
- Appropriate mechanisms, processes and procedures for consultation with:
 - Local communities, both in terms of needs and priorities as well as consultation during development;
 - Organs of state, traditional authorities, and other role-players in the drafting process; and
- Binding plans and planning requirements, i.e. policy and legislation.

National Treasury has provided further guidance by the issuing of MFMA Circular 10. That circular provides specific guidance with regard to six distinct steps in compilation of the IDP and the annual Budget. The table below highlights these steps, with a brief description of each step:

Steps	Process
1 Planning	Schedule dates, establish consultation forums, review previous processes
2 Strategizing	Review IDP, set service delivery objectives for next 3 years, consult on tariffs, indigents, credit control, free basic services etc., and consider local-, provincial- and national issues, the previous year's performance and current economic and demographic trends etc.
3 Preparing	Prepare Budget, revenue and expenditure projections; draft Budget policies; consult and consider local-, provincial and national priorities
4 Tabling	Table draft Budget, draft IDP and Budget-related policies before council; consult and consider local-, provincial and national inputs or responses
5 Approving	Council approves the IDP, the Budget and related policies
6 Finalising	Publish the IDP, Budget and approve the SDBIP and performance targets

In capturing the above steps, this IDP & Budget Process Plan seeks to address, *inter alia*, the:

- Identification of areas requiring additional attention in terms of legislative requirements, proper planning processes and sound financial management;
- Inclusion of the most current Census and own statistical data;
- Consideration and review of any other relevant and new information;
- Addressing comments received from the various role-players;
- Factor-in the shortcomings and weaknesses identified through self-assessment;
- Preparation and review of sector plans and its alignment with the IDP;
- Preparation and review of the Performance Management System (PMS);
- Updating of the 5-year Financial Plan; and
- Finalisation of the annual Budget and IDP in terms of the relevant legislation.

Pursuant to the above statutory requirements, the Process Plan for the 2020/2021 3rd Review IDP and Budget cycle as well as the Time Schedule for the Review of the Spatial Development Framework is attached as **annexure 4.1**.

RECOMMENDED

- (a) *That the 3rd Review IDP and Budget Process Plan for 2020/2021 and the Reviewed Spatial Development Framework be approved.*
- (b) *That in the event of any changes with regard to the dates of the Process Plan and Spatial Development Framework Time Schedule, the Municipal Manager be mandated to change same after consultation with the Executive Mayor.*

4.2 Finance: Adjustment budget 2019/2020 (5/11/18)

The following documents are attached:

- (a) Memorandum from Acting Director: Finance, dated 16 August 2019: **Annexure 4.2(a).**
- (b) Adjustment budget 2019/2020 to 2021/2022: **To be distributed at meeting.**

RECOMMENDED

That the adjustment budget of Witzenberg Municipality for the financial year 2019/2020 as set out in the budget documents be approved:

- (i) Table B1 - Budget summary;
- (ii) Table B2 - Adjustment Budget Financial Performance (by standard classification);
- (iii) Table B3 - Budgeted Financial Performance (Revenue and Expenditure) by Vote;
- (iv) Table B4- Adjustment Budget Financial Performance (revenue by source);
- (v) Table B5 - Budgeted Capital Expenditure by Vote, standard classification and funding.

**4.3 Witzenberg Municipality Firearm Policy
(17/7/1/P)**

The following documents are attached:

- (a) Memorandum from Manager: Traffic Services, dated 2 April 2019: **Annexure 4.3(a)**.
- (b) Firearm Policy: **Annexure 4.3(b)**.

The Firearm Policy was workshopped by Council to be approved and accepted.

RECOMMENDED

that the Firearm Policy for Witzenberg Municipality be approved and accepted.

**4.4 Settling of Rand Merchant Bank (RMB) loan for Koekedouw Dam
(16/2/1/1/1 & 5/4/R)**

The following items refer:

- (a) Item 7.1.3 of the Executive Mayoral Committee meeting, held on 27 May 2019.
- (b) Item 8.1.3 of the Council meeting, held on 30 May 2019.
- (c) Item 7.1.2 of the Executive Mayoral Committee meeting, held on 29 July 2019.
- (d) Item 8.1.2 of the Council meeting, held on 31 July 2019.

The following memorandum, dated 20 May 2019, was received from the Manager: Water and Sewerage:

"Purpose

The purpose of this report is to inform Council regarding the settling option of the Rand Merchant Bank loan which was taken up by KBR (Koekedouw Irrigation Board) for the construction of the Koekedouw Dam.

Background

The Koekedouw Dam was constructed in 1999 as a joint venture between Witzenberg Municipality and the Koekedouw Irrigation Board. Both parties to this venture incurred loans to pay for their share of the construction cost. The loan taken up by Witzenberg Municipality has been settled in 2017.

Currently KBR is still paying off on their loan and Witzenberg Municipality is part of this repayment agreement in terms of our allocation for Vredebes farm. See **annexure 4.4(a)**.

The KBR management has met with RMB in order to negotiate a new financing model in order to settle the loan and minimize cost. The new financing model agreed to between the parties, and approved by KBR, is attached as **annexure 4.4(b)**.

This new option entails the settling of the loan once-off in order to cut out huge interest on the loan. As can be seen on the attached spreadsheet if we stay with the old financing model, KBR will make a total repayment of R348 628 396 on the initial loan. Currently the outstanding amount is R54 687 042.00, but this amount will escalate to R78 944 608.00 before it starts to decrease and eventually be settled in 2044. With the new financing model total repayment will be R83 152 706.00 resulting in a total saving of R265 475 690.00.

Legal framework

Because Witzenberg Municipality is part of KBR in terms of our allocation for Vredebes, we are also liable for the repayment of our portion of the loan from Rand Merchant Bank.

Financial impact

With the new financing model we will have a huge saving on the repayment of the loan. In terms of the old financing model we will be responsible for repayment of R4 052 646.00 whereas with the new financing model we will make a once-off payment of R889 891.98 to settle the loan, resulting in a saving of R3 162 754.02."

The Municipal Manager gave a background with regard to the matter of settling the Rand Merchant Bank (RMB) loan for the Koekedouw Dam. Further investigation in terms of the agreement will be done. This matter only recently arose and the loan was done before the purchase of Vredebes. The water rights were part of the agreement.

The following recommendation was tabled to the Executive Mayoral Committee:

That the Executive Mayoral Committee recommends to Council:

- (a) that Council approves the new financing model option.
- (b) That Witzenberg Municipality settles their portion of the loan with a once-off payment.

The Executive Mayoral Committee resolved on 27 May 2019:

That the Executive Mayoral Committee recommends to Council:

that the matter in respect of the settling of the Rand Merchant Bank loan for the Koekedouw Dam be held in abeyance until the matter has been properly investigated.

Councillor BC Klaasen mentioned that the outstanding arrear amount is based on calculations made by the Koekedouw Irrigation Board and that further investigations are necessary.

Council unanimously resolved on 30 May 2019 that the matter in respect of the settling of the Rand Merchant Bank loan for the Koekedouw Dam be held in abeyance until the matter has been properly investigated.

Further report from Municipal Manager, dated 24 July 2019:

"Since the last Executive Mayoral Committee and council meetings Administration has attempted to obtain written agreements of Council's financial commitment towards the Koekedouw Irrigation Board. The Deed of Sale does not make mention of any such financial commitment towards the Board nor the Title Deed. The Title Deed reflects the water right that is registered and which is inherent to the farm. A meeting was requested with the Chairperson of the Irrigation Board, Mr Danie Goosen, which took place on 2 July 2019.

A summary of the meeting is contained in the email sent by Mr Goosen to the Municipal Manager's office, dated 2 July 2019 and is attached as **annexure 4.4(c)**. In terms of the discussion the Koekedouw Irrigation Board took up a loan with the Rand Merchant Bank on behalf of its members. The accountability of the members was pro rata with the water rights of their respective farms. All the members at that time agreed to the conditions which was later on also accepted by the municipality when Vredebes was purchased. The Irrigation Board used to send an invoice to its members on a yearly basis, which included the municipality and in terms of which they then were obliged to settle. The municipality has been paying regularly on an annual basis since they acquired the farm. The invoice was normally divided into an operational and capital contribution. In terms of the Irrigation Board's members meeting resolution taken, the members accepted the settlement as previously outlined. On the date of the discussion all the members have paid their contribution of the settlement towards the Rand Merchant Bank loan except for the municipality. The Koekedouw Irrigation Board went ahead to pay on the municipality's behalf, because of their commitment and legal obligation and has requested that the municipality repays the amount to them. The crux of the discussion is that the liability of the municipality is coupled to the water rights inherent to the property.

The Municipal Manager informed the meeting that he had consulted with the Chairperson of the Koekedouw Irrigation Board, Mr Danie Goosen, regarding the matter. The explanation from the Chairperson sounds acceptable, but he is awaiting documentation about the matter to submit to Council for consideration.

The following recommendation was tabled to the Executive Mayoral Committee:

That the Executive Mayoral Committee recommends to Council:

- (a) that Council approves the new financing model option.
- (b) that Witzenberg Municipality settles their portion of the loan with a once-off payment.

The Executive Mayoral Committee resolved on 29 July 2019:

That the Executive Mayoral Committee recommends to Council:

that the matter in respect of the Rand Merchant Bank (RMB) loan for the Koekedouw Irrigation Board be held in abeyance for further discussion by Council.

Council unanimously resolved on 31 July 2019 that the matter in respect of the Rand Merchant Bank (RMB) loan for the Koekedouw Irrigation Board be held in abeyance for further discussion by Council and to obtain more information.

The following documents are further attached:

- (a) Correspondence from Koekedouw Irrigation Board, dated 13 March 2019: **Annexure 4.4(d)**.
- (b) Letter from Grayston & Elliot, dated 13 March 2019: **Annexure 4.4(e)**.

RECOMMENDED

- (a) *that Council approves the new financing model option.*
- (b) *That Witzenberg Municipality settles their portion of the loan with a once-off payment.*

4.5 Project: Installation of CCTV cameras along Voortrekker Road, Vos Street, the R46 (Ceres to Nduli), Ceres as well as Voortrekker and Olienhout Streets in Prince Alfred's Hamlet (17/7/5)

The following items refer:

- (a) Item 7.3.5 of the Executive Mayoral Committee meeting, held on 27 May 2019.
- (b) Item 8.3.5 of the Council meeting, held on 30 May 2019.
- (c) Item 7.3.4 of the Executive Mayoral Committee meeting held on 29 July 2019.
- (d) Item 8.3.4 of the Council meeting, held on 31 July 2019.

The following documents are attached:

- (a) Memorandum from Municipal Manager, dated 22 May 2019: **Annexure 4.5(a)**.
- (b) Map of route identified: **Annexure 4.5(b)**.

The Executive Mayoral Committee resolved on 27 May 2019:

That the Executive Mayoral Committee recommends to Council:

- (a) that Tulbagh and Wolseley be included in the project in respect of the installation of CCTV cameras in Ceres, Nduli and Prince Alfred's Hamlet.
- (b) that the matter in respect of the installation of CCTV cameras be held in abeyance until the next meeting.

Council unanimously resolved on 30 May 2019:

- (a) that Tulbagh and Wolseley be included in the project in respect of the installation of CCTV cameras in Ceres, Nduli and Prince Alfred's Hamlet.
- (b) that the matter in respect of the installation of CCTV cameras be held in abeyance until the next meeting.

The Executive Mayoral Committee resolved on 29 July 2019:

That the Executive Mayoral Committee recommends to Council:

that the matter in respect of the installation of CCTV cameras along Voortrekker Road, Vos Street, the R46 (Ceres to Nduli), Ceres as well as Voortrekker and Olienhout Streets in Prince Alfred's Hamlet be held in abeyance until the next meeting.

Council unanimously resolved on 31 July 2019:

- (a) that the safety plans of the Cape Winelands District Municipality be incorporated in the Witzenberg Municipality plans.
- (b) that the matter in respect of the installation of CCTV cameras along Voortrekker Road, Vos Street, the R46 (Ceres to Nduli), Ceres as well as Voortrekker and Olienhout Streets in Prince Alfred's Hamlet be held in abeyance until the next meeting.

RECOMMENDED

For consideration.

5. ADJOURNMENT



2020 – 2021 3RD REVIEW IDP AND BUDGET PROCESS PLAN AND SDF REVIEW TIME SCHEDULE

Trim ref: 02/02/2/

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IDP & BUDGET PROCESS PLAN

SECTION ONE: INTRODUCTION & BACKGROUND

1.1. INTRODUCTION

The Integrated Development Plan (IDP), as the key tool for the Municipality to tackle its developmental role, represents a continuous cycle of development, planning, implementation and review. Implementation started after the adoption of the 1st - Generation IDP in 2006. Currently the municipality operates in the 2nd - Generation IDP. The IDP is the strategic plan with a cycle period of five years. During its five-year life cycle the IDP is reviewed and updated annually.

The Annual Budget, in turn, provides the Medium Term Revenue & Expenditure Framework (MTREF) which sets out the financial path for the ensuing three years.

These two documents, i.e. the IDP and the Budget – along with the Performance Management System (PMS) – provide a means to assess the progress and achievements with regard to the strategic objectives of the Municipality, thus informing its financial and institutional planning.

With the input of the Provincial authority, local municipalities are continuously in the process of reviewing, improving and updating its IDP, as well as ensuring alignment with the MTREF.

This IDP and Budget Process Plan seek to address, *inter alia*, the:

- Identification of areas requiring additional attention in terms of legislative requirements, proper planning processes and sound financial management;
- Inclusion of the most current Census and own statistical data;
- Consideration and review of any other relevant and new information;
- Addressing comments received from the various role-players;
- Shortcomings and weaknesses identified through self-assessment;
- Preparation and review of sector plans and its alignment with the IDP;
- Preparation and review of the Performance Management System (PMS);
- Updating of the 5-year Financial Plan; and
- Preparation and finalization of the annual Budget in terms of the relevant legislation.

1.2. LEGISLATIVE FRAMEWORK

1.2.1. PROCESS PLAN

In order to ensure minimum quality standards of the IDP and Budget process – and a proper coordination between and within spheres of government – the preparation of the IDP and Budget Process Plan has been regulated by both the Municipal Systems Act and the MFMA.

In terms of Section 28 of the MSA, Council must adopt an IDP and Budget Process Plan. And Section 29 of the MSA specifies that such a Process Plan must include:

- Programs that set out timeframes for the different planning steps;
- Appropriate mechanisms, processes and procedures for consultation with:
 - Local communities, both in terms of needs and priorities as well as consultation during development;
 - Organs of state, traditional authorities, and other role-players in the drafting process; and
- Binding plans and planning requirements, i.e. policy and legislation.

In terms of Section 21 of the MFMA, the Executive Mayor must co-ordinate the process for the adoption of the annual Budget and the review of the IDP and related policies so that he/she can ensure mutual consistency and credibility.

The second part of the afore-mentioned Section of the MFMA stipulates that a Process Plan with timeframes must be tabled to Council for consideration at least 10 months prior to implementation of the annual Budget.

National Treasury has provided further guidance by the issuing of MFMA Circular 10. That circular provides specific guidance with regard to six distinct steps in compilation of the IDP and Budget.

The table below highlights the six steps, with a succinct description of each step:

Steps		Process
1	Planning	Schedule key dates, establish consultation forums, review previous processes
2	Strategizing	Review the IDP, set service delivery objectives for next 3 years, consult on tariffs, indigents, credit control, free basic services etc., and consider local-, provincial- and national issues, the previous year's performance and current economic and demographic trends etc.
3	Preparing	Prepare the Budget, revenue and expenditure projections; draft Budget policies; consult and consider local-, provincial- and national priorities
4	Tabling	Table the draft IDP, the draft Budget and Budget-related policies before council; consult and consider local-, provincial- and national inputs or responses
5	Approving	Council approves the IDP, the Budget and related policies

6	Finalizing	Publish the IDP, Budget and approve the SDBIP and performance targets
----------	-------------------	---

Local municipalities are required by the Municipal System Act (Act 32 of 2000) to consult and report back to communities on their planned activities as well as their performances so that communities can be afforded an opportunity to voice their opinions on the day-to-day functioning of the Municipality.

Development of an IDP Framework Plan

In terms of Section 27 of the MSA, the District Municipality must develop a Framework Plan which provides the linkage and binding relationships between the district and local municipalities in its jurisdiction area. In doing so, proper consultation, coordination and alignment of the IDP review process of the district municipality and various local municipalities can be maintained.

1.2.2. OTHER LEGISLATIVE IMPERATIVES

In an effort to comply with the current legislative framework, the host of binding legislation to be taken into consideration in the formulation of the IDP & Budget Process Plan is listed hereinunder:

- The Constitution of the Republic of South Africa, (Act 108 of 1996)
- Local Government: Municipal Demarcation Act, (Act 27 of 1998)
- Local Government: Municipal Structures Act, (Act 117 of 1998)
- Public Finance Management Act (Act 2 of 1999)
- Promotion of Access to Information Act (Act 2 of 2000).
- Local Government: Municipal Systems Act, (Act 32 of 2000)
- Local Government: Municipal Finance Management Act, (Act 56 of 2003)
- Local Government: Property Rates Act, (Act 6 of 2004)
- Inter-governmental Relations Framework Act, (Act 13 of 2005)
- Division of Revenue Act (Act 1 of 2007)
- Development Facilitation Act, (Act 67 of 1995)
- Communal Land Rights Act, (Act 11 of 2004)
- National Land Transport Transitional Act, 1999
- Housing Act, (Act 107 of 1997)
- Water Services Act, (Act 108 of 1997)
- National Water Act, (Act 36 of 1998)
- National Water Amendment Act, (Act 45 of 1999)
- Environmental Conservation Act, (Act 73 of 1989)
- National Environmental Management Act, (Act 107 of 1998)
- National Environmental Management: Air Quality Act, (Act 39 of 2004)
- National Environmental Management: Protected Areas Act, (Act 57 of 2003)

- National Environmental Management Biodiversity Act, (Act 10 of 2004)
- National Forest Act (1998)

Provincial Policies

- Western Cape Growth and Development Strategy
- Western Cape Spatial Development Framework

National Policies

- Reconstruction and Development Program (RDP), 1994
- Growth, Employment And Redistribution (GEAR); 1996
- Urban Development Framework, 1997
- Rural Development Framework, 1996
- Accelerated and Shared Growth Initiatives for South Africa (ASGISA)

Abbreviations :	
IDP	- Integrated Development Plan
MFMA	- Municipal Finance Management Act, no 56 of 2003
MSA	- Local Government Municipal Systems Act, no 32 of 2000
MTBPS	- National Treasury, Medium Term Budget and Policy Statement
NT	- National Treasury
PT	- Provincial Treasury
SDBIP	- Service Delivery Budget Implementation Plan

SECTION TWO: ORGANIZATIONAL ARRANGEMENTS

2.1 IDP / BUDGET STEERING COMMITTEE

As part of the IDP & Budget preparation process, the Mayor must establish an IDP & Budget Steering Committee. This committee must at least consist of the persons mentioned in Section 4 of the Budget and Reporting Regulations.

Section 4 of the Local Government: Budget and Reporting Regulations states the following:

Budget Steering Committee

4. (1) *The mayor of a municipality must establish a Budget Steering Committee to provide technical assistance to the Mayor in discharging the responsibilities set out in Section 53 of the Act.*
- (2) *The Steering Committee must consist of at least the following persons:*
- (a) the councillor responsible for financial matters;*
 - (b) the municipal manager;*
 - (c) the chief financial officer;*
 - (d) the senior managers responsible for at least the three largest votes in the municipality;*
 - (e) the manager responsible for Budgeting;*
 - (f) the manager responsible for planning; and*
 - (g) any technical experts on infrastructure.*

This IDP / Budget Steering Committee will act as a support structure to the Executive Mayor in providing a platform for him/her to provide political guidance and to monitor progress made in the IDP and Budget process. This Steering Committee must be reconstituted each year.

2.1.1. Composition

In order to comply with the legislative requirements, the Mayoral Committee has constituted the Witzenberg IDP/Budget Steering Committee structure as follows (inclusive political representation):

Vacant	
Vacant	
Vacant	
Vacant	
Vacant	
Vacant	
Vacant	
Vacant	

2.1.2. Terms of Reference for the IDP / Budget Steering Committee

The Terms of Reference for the IDP / Budget Steering Committee are as follows:

- To provide terms of reference for the various planning activities
- To commission research studies
- Considers and comments on:
 - ➡ Inputs from sub-committee/s, study teams and consultants
 - ➡ Inputs from provincial sector departments and support providers
- To process, summarize and document the outputs
- Makes content recommendations, and
- Prepares, facilitates and minutes all meetings

2.2 IDP REPRESENTATIVE FORUM

2.2.1 Composition of IDP Representative Forum

The IDP Representative Forum (RF) is constituted as part of the preparation phase of the IDP, and will continue its functions throughout the annual IDP Review process. The composition of the IDP Representative Forum is as follows:

- MAYCO members
- Councillors
- Ward Committees
- Community Development Workers
- Municipal Manager and Senior Managers
- Stakeholder representatives of organised groups

The ward structure for Witzenberg is shown in the table below:

Ward	Status	Towns or Areas
1	Functional	N'duli
2	Functional	Wolseley farms (toward Botha and Breë Valley)
3	Functional	Ceres West
4	Functional	PA Hamlet (including Kliprug, and a portion of Bella Vista)
5	Functional	Ceres East
6	Functional	Bella Vista (including some farms in Warm Bokkeveld)
7	Functional	Wolseley (including Montana, Pine Valley, and section of Chris Hani)
8	Functional	Koue Bokkeveld farms (up until Op-Die-Berg)
9	Functional	Op-Die-Berg (including farms from Op-Die-Berg toward Citrusdal)
10	Functional	Agter Witzenberg rural (including Phase 3 & Phase 4 in PA Hamlet)
11	Functional	Tulbagh (including Chris Hani, Witzenville and surrounding farms)
12	Functional	Warm Bokkeveld rural

2.2.2 Terms of Reference for the IDP Representative Forum

The terms of reference for the IDP Representative Forum are as follows:

- Represents the interest of the municipality's constituency in the IDP process;
- Provides an organisational mechanism for discussion, negotiation and decision-making between all the stakeholders in municipal government;
- Ensures communication between all the stakeholder representatives in municipal government;
- Monitors the performance of the planning and implementation process;
- Forms a structured link between the Municipality and representatives of the public;
- Participates in decision-making within the Representative Forums;
- Analyzes and discusses issues being developed;
- Ensures that priority issues of their constituents are considered;
- Ensures that annual business plans and SDBIP are developed, based on the IDP priorities and municipal Key Performance Indicators;
- Participates in the designing of IDP project proposals; and
- Discusses and comments on the final IDP product.

Witzenberg has not as yet formally constituted an IDP Representative Forum. Council has resolved that until such time as an IDP Representative Forum is created, the current Ward Committee structures should perform the role and function assigned to the Rep Forum. This Process Plan takes cognizance thereof, and all engagements indicated in this plan as devolving upon the IDP Representative Forum will be channeled to, and administered by, the Ward Committee structures.

SECTION THREE: ROLE-PLAYERS

3.1 ROLE-PLAYERS

The following role-players have been identified:

3.1.1. External Role-players

The external role-players identified are:

- Provincial Government Departments, specifically through the LGMTEC engagements and IGR structures;
- National government, specifically DPLG and National Treasury via guidelines issued;
- Representative Forums / Civil Society; and
- The Cape Winelands District Municipality.

3.1.2. Internal Role-players

The main internal role-players, apart from all officials in the Municipalities, are identified as:

- Council
- IDP / Budget Steering Committee; and
- Manager responsible for IDP.

3.1.3 ROLES AND RESPONSIBILITIES

The responsibility of the other spheres of government is to:

- Ensure vertical alignment of the IDP and Budget with Provincial and National sector plans.
- Monitor development and review of IDP and Budget process.
- Ensure responsiveness of the IDP and Budget.
- Contribute relevant information of Provincial Sector Departments, and to
- Contribute sector expertise and technical know-how.

The responsibility of the IDP Representative Forum is to:

- Ensure that community needs and priorities are communicated
- Ensure responsiveness of the IDP and Budget
- Ensure communication lines with represented organizations, and to
- Ensure information flow.

The responsibilities of Council are to:

- Decide on and adopt the IDP & Budget Process Plan; and to
- Decide on and adopt the IDP and Budget documents.

The responsibilities of the IDP / Budget Steering Committee are to:

- Identify additional role-players to serve on the IDP Representative Forum;
- Ensure that all relevant role-players are involved;
- Ensure that the review process is undertaken in accordance with agreed timeframes;
- Ensure that the process is focused on priority issues;
- Ensure that it is strategic and implementation-orientated; and to
- Ensure that sector requirements are adhered to.

The responsibilities of the IDP Manager, with regard to this process, are to:

- Ensure that the Process Plan is finalised and presented to the IDP / Budget Steering Committee;
- Adjust the IDP according to the proposals of the MEC;
- Ensure the continuous participation of role-players;
- Monitor and record the participation of role-players;
- Ensure that appropriate procedures are followed;
- Ensure documentation is prepared properly;
- Carry out the day-to-day management of the IDP process;
- Co-ordinate inputs received such as comments and enquiries;
- Ensure responses to comments and enquiries;
- Ensure alignment of the IDP with the District Municipality's framework;
- Co-ordinate the preparation of the Sector Plans and their inclusion into the IDP documentation;
- Co-ordinate the inclusion of the Performance Management System (PMS) into the IDP; and to
- Ensure the timeous submission of IDP documents to the relevant authorities.

SECTION FOUR: MECHANISMS AND PROCEDURES FOR PARTICIPATION

4.1 FUNCTIONS AND CONTEXT OF PUBLIC PARTICIPATION

The four major functions in the public participation process are:

- ◆ Needs orientation;
- ◆ Appropriateness of solutions;
- ◆ Community ownership; and
- ◆ Empowerment.

Similar to the preparation of the IDP, the public participation process in the annual drafting of the IDP review and Budget must be institutionalized. This is done in order to ensure that all residents and stakeholders have a fair and equal right to participate in matters of governance.

4.2 MECHANISMS FOR PARTICIPATION

The following mechanisms for participation will apply:

4.2.1 IDP Representative Forum (RF)

This forum represents all stakeholders and is as inclusive as possible. Efforts will be made to bring additional organizations into the RF and ensure their continued participation throughout the process.

Until such time though that Witzenberg has established an IDP Representative Forum, the Ward Committee structure will be utilized to fulfill the RF's role.

4.2.2 Media

A vigorous communication and information-sharing or dissemination campaign aimed at reaching out to all the communities will be undertaken in terms of the annual IDP and Budget process.

The following means of communication will be utilized:

- Municipal Website & Intranet;
- Notices at all Municipal Offices,
- Municipal Accounts;
- Loud-hailing the day before local Imbizo's (Meetings); and
- Advertisements in local news papers.

4.2.3 Information sheets

Information sheets will be prepared in English, Afrikaans and Xhosa, and will be distributed via the Ward Committee structure and/or Representative Forum. Information sheets will also be displayed on the Municipal Notice Boards, Municipal Website, in local media, and included in monthly municipal accounts.

4.2.4 Sector engagements

Dates, time and venues will be communicated in writing to each stakeholder at least seven days prior to the meetings. It is the responsibility of stakeholders to notify the Municipality of any changes in representatives, or contact details.

4.2.5 Local Imbizo's (Meetings)

All venues will be selected in a manner that ensures and enhances easy access for all community members to attend. Meetings should be either ward-based or per town / neighborhood, considering the size and distance.

Times chosen for the meetings should ensure maximum attendance by all the households. Venues will be prepared half an hour before starting time to allow community members to be properly seated before commencement of the session.

The communication medium will be the predominant language of the community, with arrangements for translation / interpretation, as the need may be.

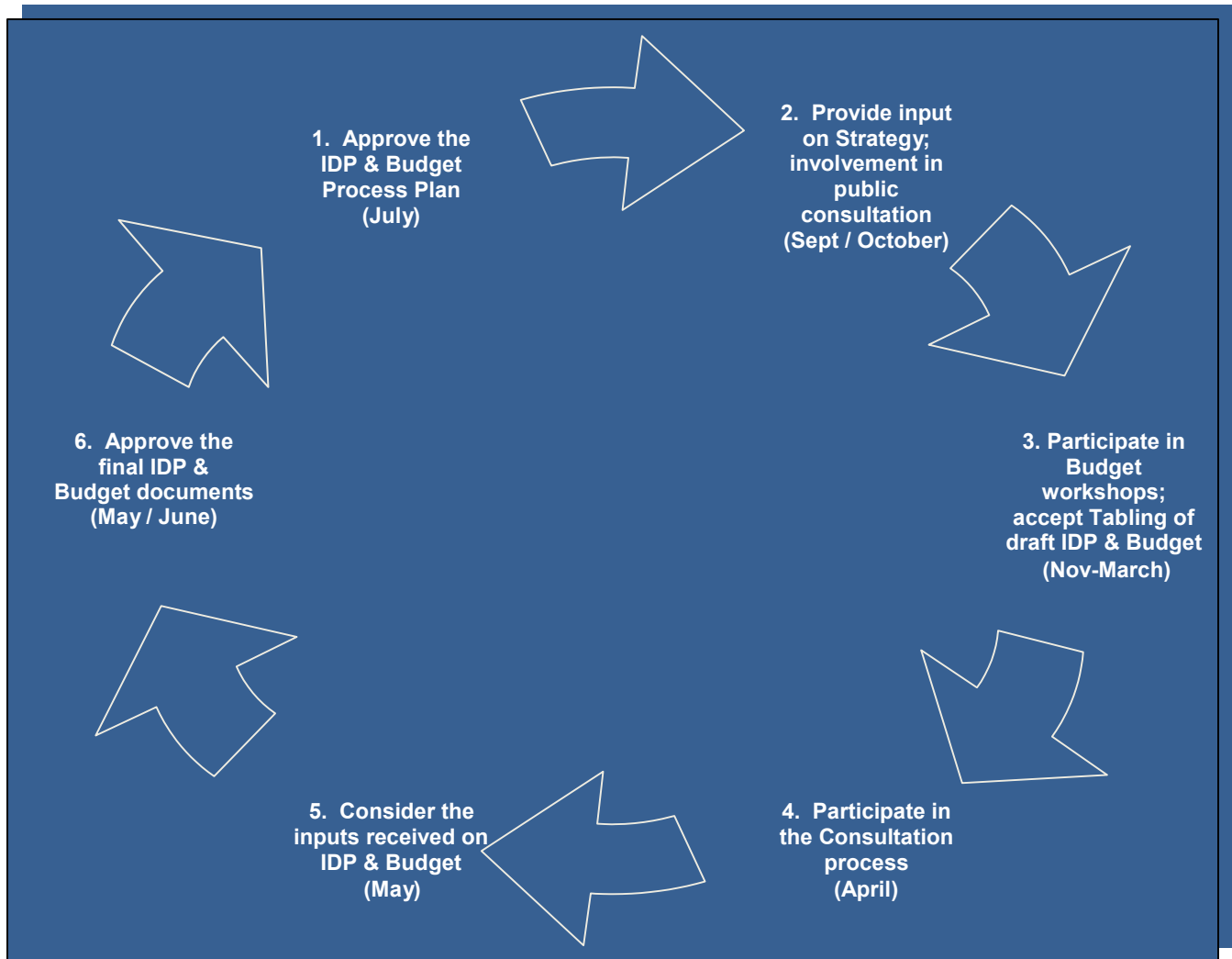
4.3 PROCEDURES / PROCESSES FOR PARTICIPATION

4.3.1 IDP Representative Forum

The IDP Representative Forum (when formally constituted and functional) will meet as indicated in the Process Plan.

4.3.2 Council Approval

The involvement of Council in the IDP and Budget compilation process is best illustrated in the process flow diagram below:



4.3.3 Newspapers

An outcome report will be submitted to the local newspaper on the completion of the adopted IDP and Budget documents, as well as an information spreadsheet on the key elements of the Final IDP and Budget.

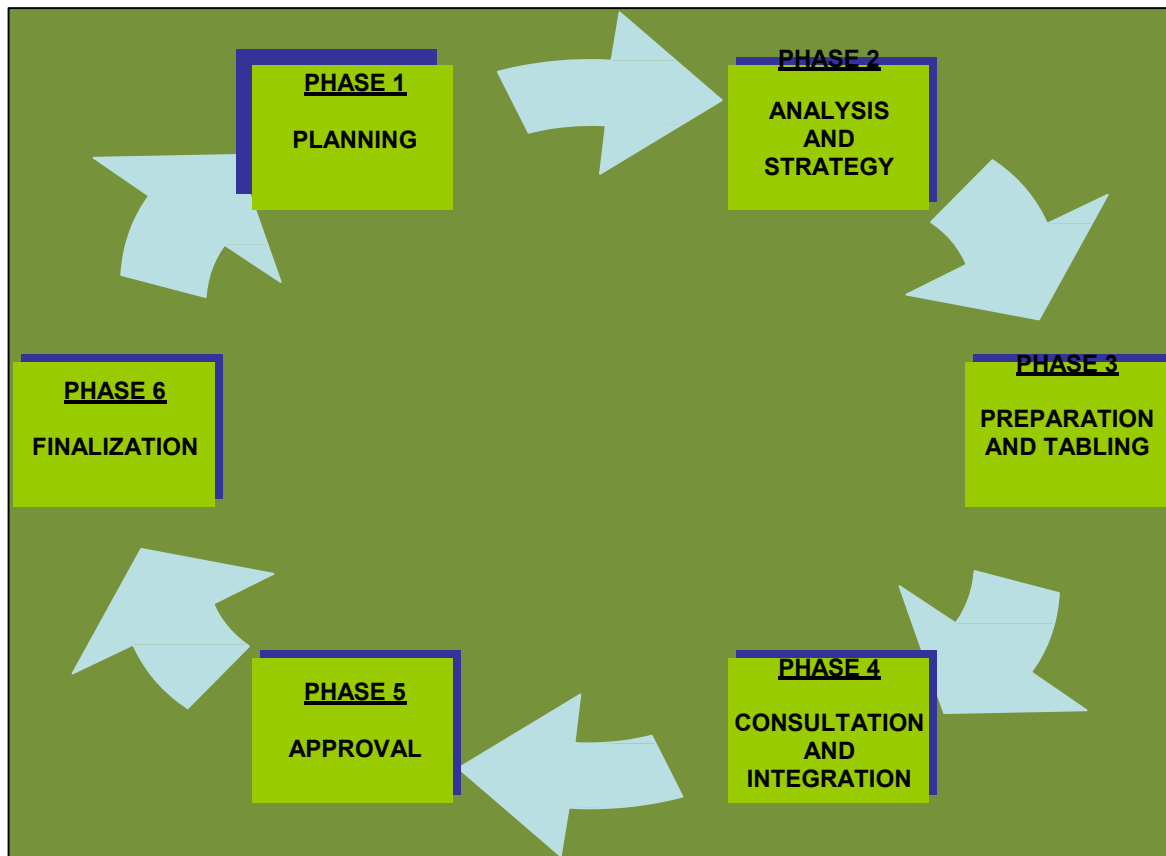
4.3.4 Information Sheets

At the completion of each phase an information sheet will be prepared in the three dominant languages, namely English, Afrikaans and Xhosa, providing an executive summary of the outcomes of the particular phase.

SECTION FIVE: ACTION PROGRAM

5.1 PHASES OF THE IDP AND BUDGET PROCESS

The IDP and Budget process speaks to Planning, Preparation, Implementation and Monitoring of the IDP, Budget, and the Performance Management System. The six distinct phases in the IDP and Budget process are indicated in the diagram below:



PHASE 1 - PLANNING

During this phase the Process Plan is divided into activities, and for each activity a timeframe is allocated as well as a linkage to the responsible person for each activity.

The Process Plan is compiled via a process of consultation with all the role-players.

PHASE 2 – ANALYSIS AND STRATEGY

Phase 2 comprises two stages, namely the Analysis and the Strategy formulation stages. For successful forward planning it is imperative to understand precisely what the current situation is as well as the historical trends. Therefore, both external and internal influences must be taken into account. And since all strategies and interventions are to be ward-based, all analyses, as far as possible, should speak to wards.

A proper analysis includes consultation with the whole spectrum of stakeholders, including the general public, as well as a thorough institutional assessment. It is important that all the stakeholders must have a common understanding of the gaps as well as the available resources – i.e. human, financial, property, plant and equipment.

Once the current resources and needs assessment has been completed, then only the formulation of a credible strategy to cover those gaps is possible.

PHASE 3 – PREPARATION AND TABLING

There are four distinct processes dealt with almost simultaneously in this phase, namely

- Preparation of draft Capital program (Next 3 years)
- Preparation of draft Operational Budget (Next 3 years)
- Preparation of draft Adjustment Budget, if necessary, and the
- Updating of the IDP.

And then the tabling of the following drafts is to be made, namely:

- Annual Report;
- Adjustment Budget;
- IDP; and
- Annual Budget.

PHASE 4 – CONSULTATION AND INTEGRATION

Consultation is done with three different types of stakeholders, namely: Government through LGMTEC's; structured civil society through IDP Representative Forum and/or Ward Committee structures, and with the community through Imbizo's/meetings in the different wards, neighborhoods or towns. All inputs, comments and objections received throughout this phase are considered, and recommendations are prepared. Thereafter the IDP and Budget is tabled to Council for consideration.

PHASE 5 – APPROVAL

Once the IDP and Budget documents are tabled, Council considers it for approval. Approval must take place before the start of the new financial year.

PHASE 6 – FINALIZATION

Once the IDP and Budget have been approved, the final documents are published. The Service Delivery and Budget Implementation Plan (SDBIP) is then developed. The performance agreements are also drafted, based on the approved documents.

5.2 TIME SCHEDULE: KEY DATES AND RESPONSIBILITIES IN THE PHASES OF THE PROCESS PLAN

The detailed activities in each phase are disclosed in the following matrix:

5.2.1 PHASE 1 - PLANNING	Start 01/07/2019	Finish 30/08/2019	Responsibility
Activities			
Compile the IDP & Budget draft Process Plan with time schedule	01/07/2019	15/07/2019	Manager: IDP
Senior Management to discuss the Draft Process Plan	15/07/2019	19/07/2019	Municipal Manager
MAYCO meeting to consider the Process Plan	22/07/2019	26/08/2019	Municipal Manager
Draft Process Plan to be tabled to Council	26/07/2019	31/07/2019	Executive Mayor
NATIONAL WOMEN'S DAY	09/08/2019		
Process Plan to be tabled to Council for adoption (At least 10 months before the Budget year)	19/08/2019	30/08/2019	Executive Mayor
Other activities during this phase			
Witzenberg Municipality Inter-Governmental Relations Forum	01/08/2019	30/08/2019	Dir. Community Development/ Manager IDP
Preparation of reports: ➡ 4 th Quarter SDBIP report ➡ June Section 71 Report / Grant Report			Man: Performance CFO CFO
Compilation of: ➡ Roll over Adjustment Budget (Capital only) ➡ Annual Financial Statements ➡ Draft Annual Report information			Manager: Budget Manager: Budget CFO
Provincial Integrated Development Plan Managers Forum	02/09/2019	30/09/2019	Department of Local Government

5.2.2 PHASE 2 – ANALYSIS AND STRATEGY	Start 02/09/2019	Finish 29/11/2019	Responsibility
Activities			
Stage 1(a): ANALYSIS	02/09/2019	01/10/2019	
Performance Analysis			
Assess the municipal performance (Strengths & Weaknesses)	02/09/2019	20/09/2019	Manager: Performance
Review the Performance Management System	02/09/2019	20/09/2019	Manager: Performance
Review the annual performance against SDBIP's	02/09/2019	20/09/2019	Manager: Performance
Financial Analysis	02/09/2019	20/09/2019	
Assess the municipal financial position and capacity (based on Financial Statements of previous Budget year)	02/09/2019	20/09/2019	CFO
Review Budget-related policies and set policy priorities for next 3 years	02/09/2019	20/09/2019	CFO
Determine the funding/revenue potentially available for next 3 years	02/09/2019	20/09/2019	Manager: Income
Determine the likely financial outlook and identify changes to fiscal strategies	02/09/2019	20/09/2019	Manager: Budget
Refine funding policies; review tariff structures	02/09/2019	20/09/2019	CFO
Situational Analysis	02/09/2019	20/09/2019	
Review current realities and examine changing conditions and information within each directorate: ➡ Spatial ➡ Legislative ➡ Institutional	02/09/2019	20/09/2019	SNR MANAGEMENT
Analyze the Strategic Calendar and Joint Planning Initiatives(JPI's) to determine interventions	02/09/2019	20/09/2019	Manager: IDP
Review Organogram to assess institutional capacity	02/09/2019	20/09/2019	Manager: HR
Closing of Analysis			
Management strategic workshop on analysis (All responsible persons to prepare 45 min presentations)	02/09/2019	20/09/2019	Manager: IDP
Strategic session with Mayco & Council on finalization of Analysis Phase	23/09/2019	04/10/2019	Snr Management

5.2.2 PHASE 2 – ANALYSIS AND STRATEGY	Start 02/09/2019	Finish 11/11/2019	Responsibility
Activities			
Stage 1(b): CONSULTATION	01/10/2019	31/10/2019	
Publish Public Consultation timetable	13/09/2019	27/09/2019	Manager: IDP
Mail invitations to Sector representatives / IDP Representative Forum (RF)	16/09/2019	28/09/2019	Manager: IDP
Media- & Awareness Campaign to encourage public and sector participation in the IDP/Budget process	13/09/2019	27/09/2019	Public Part. Officer Manager: IDP
Appoint service provider – for Review process of SDF	02/09/2019	28/09/2019	Manager: Town Planning
Notice of the proposal to compile an SDF must be published in two of the official languages of the Province, most spoken in the area, in two newspapers circulating in the area. The notices must indicate: a) The Municipal intention to compile an SDF b) The process to be followed for the compilation of the SDF	02/09/2019	27/09/2019	Manager: Town Planning
The Municipality must inform the Provincial Minister in writing of the intention to compile the SDF, indicate whether or not the ISC process will be undertaken and the process to be followed in the compilation	02/09/2019	27/09/2019	Manager: Town Planning
The Municipality must establish a project committee. The project committee should consist of: • the Municipal Manager (or a municipal employee designated by the Municipal Manager) • Municipal employees appointed by the Municipal Manager from at least the following municipal departments – IDP, Spatial Planning, Engineering, LED and Housing	02/09/2019	27/09/2019	Manager: Town Planning
HERITAGE DAY	24/09/2019		
If the Municipality has decided not to establish an ISC, then the project committee must draft a status quo report setting out an assessment of the existing levels of development and development challenges in the municipal area and submit it to the Council for adoption.	October 2019 / or as part of the IDP analysis phase		Manager: Town Planning
Once the status quo report has been adopted, the first draft of the municipal SDF should be prepared by the project committee and submitted to Council for approval for it to be published for public comment. Once approval is granted, the draft SDF must be submitted to the Provincial Minister for written comment.	27/09/2019	31/10/2019	Manager: Town Planning
The Council must give notice of the draft SDF in the Gazette and the media	27/09/2019	31/10/2019	Manager: Town Planning

The Council must invite the public to submit written representations on the draft SDF to the Council within 60 days after the publication of the notice. In addition, any organs of state or other role players must be identified and consulted on the proposed SDF. All representations received must be considered.	27/09/2019	31/10/2019	Manager: Town Planning
The Provincial Minister must submit written comment to the Municipality within 60 days (The period can be extended if the municipality agrees) The municipality may not adopt its SDF, until comment has been received from the Provincial Minister or 60 days have passed.	27/09/2019	31/10/2019	Manager: Town Planning
Finalize consultation presentations (Presentation based on outcome of analysis & linked to ward-based planning priorities)	23/09/2019	27/09/2019	Snr Management
Community Imbizo's / Jamboree Meetings:			
Prince Alfred's Hamlet	07/10/2019	07/10/2019	Exec. Mayor
N'duli	08/10/2019	08/10/2019	Exec. Mayor
Wolseley	09/10/2019	09/10/2019	Exec. Mayor
Bella Vista	10/10/2019	10/10/2019	Exec. Mayor
Ceres	14/10/2019	14/10/2019	Exec. Mayor
Op Die Berg	15/10/2019	15/10/2019	Exec. Mayor
Tulbagh	16/10/2019	16/10/2019	Exec. Mayor
Forum & sector meetings: Business & Agriculture	15/10/2019	15/10/2019	Exec. Mayor
Meetings with Ward Committees	17/10/2019	17/10/2019	Exec. Mayor
IGR engagement to obtain sector Budget commitments	14/10/2019	25/10/2019	Manager: IDP
INTER-GOVERNMENTAL ALIGNMENT: Presentation to District and Provincial Sector Departments		To be announced	Municipal Manager
Stage 2: STRATEGY	01/10/2019	31/10/2019	
Revise and update the Financial Plan	01/10/2019	31/10/2019	CFO
2-day Workshop: MAYCO & Management to incorporate the outcomes of the Analysis Phase and to determine any new developmental objectives	04/11/2019	15/11/2019	Municipal Manager
Workshop with Council to review the Vision, Mission, Strategic Objectives, and to refine the SDF	15/11/2019	22/11/2019	Municipal Manager
Other activities during this phase			
Preparation of reports: ➡ August Section 71 Report / Grant Report ➡ September Section 71 Report / Grant Report ➡ Witzenberg Municipality Inter-Governmental Relations Forum	18/11/2019	29/11/2019	CFO CFO Man: Performance Dir. Community Development/ Manager: IDP
Provincial Integrated Development Plan Managers Forum	02/12/2019	16/12/2019	Department of Local Government

5.2.3 PHASE 3 – PREPARATION AND TABLING	Start 25/11/2019	Finish 28/02/2020	Responsibility
Activities			
Stage 1: CAPITAL PROJECTS AND PROGRAMS	04/11/2019	29/11/2019	
Departments provide details of all newly identified projects.		25/11/2019	All Managers
Development of Ward/Area-based Project Plans	01/11/2019	15/11/2019	Manager: IDP; Manager: Budget
Dept Finance provide working papers for capital project prioritization	01/11/2019	15/11/2019	Manager: Budget
Management workshop to prioritize Capital Programs and Projects for next 3 years	25/11/2019	29/11/2019	Snr Management
Workshop with Council to finalize draft capital program	25/11/2019	29/11/2019	Municipal Manager
Stage 2(a): ADJUSTMENT BUDGET	02/12/2019	28/02/2020	
Dept Finance provide working papers for adjustment Budget	02/12/2019	13/12/2019	Manager: Budget
Departments provide responses to Adjustment Budget	16/12/2019	13/01/2020	All Managers
Dept Finance to consolidate all information received	13/01/2020	20/01/2020	Manager: Budget
Workshop with MAYCO to finalize draft Adjustment Budget	20/01/2020	27/01/2020	CFO
Tabling of Adjustment Budget	27/01/2020	31/01/2020	Exec. Mayor
Stage 2(b): OPERATIONAL BUDGET	02/12/2019	28/02/2020	
Dept Finance provide working papers for Operational Budget	02/12/2019	13/12/2019	Manager: Budget
Departments provide inputs on Operational Budget	16/12/2019	13/01/2020	All Managers
Dept Finance to consolidate all information received	13/01/2020	20/01/2020	Manager: Budget
1 st Workshop with MAYCO to finalize Operational Budget & Capital program	10/02/2020	17/02/2020	CFO
2 nd Workshop with MAYCO to finalize Operational Budget & Capital program, if needed	17/02/2020	28/02/2020	CFO

The project committee must consider the input received from the public and the Provincial Minister, make any amendments that are required and prepare the final draft of the municipal SDF for the adoption of Council	06/01/2020	31/01/2020	Manager: Town Planning
Once adopted by the Council, a notice of this adoption must appear in the media and the Provincial Gazette, within 14 days of the date of adoption.	06/02/2020	28/02/2020	Manager: Town Planning

5.2.3 PHASE 3 – PREPARATION AND TABLING	Start 02/11/2019	Finish 31/03/2020	Responsibility
Activities			
Stage 3: UPDATING OF IDP	06/01/2020	28/02/2020	
Update of IDP with most recent information	06/01/2020	31/01/2020	Manager: IDP
IDP Office to provide draft IDP document for scrutiny by departments	31/01/2020	10/02/2020	Manager: IDP
Departments provide inputs on draft IDP	10/02/2020	21/02/2020	All Managers
IDP Office to consolidate all information received and to compile the draft IDP	24/02/2020	06/03/2020	Manager: IDP
Workshop with Mayco on draft IDP, Operational Budget & Capital program	06/03/2020	16/03/2020	Exec. Mayor
Workshop with Council on IDP, Operational Budget & Capital program	16/03/2020	23/03/2020	Exec. Mayor
Tabling of Draft IDP & Budget	23/03/2020	31/03/2020	Exec. Mayor
Other activities during this phase			
Review Auditor- General's report			CFO
Witzenberg Municipality Inter-Governmental Relations Forum	16/03/2020	31/03/2020	Dir. Community Development/ Manager: IDP
Once adopted, the Municipal Manager must submit a copy of the SDF as adopted by the Council to the MEC for Local Government, within 10 days of the adoption. This submission must include: a) a summary of the public participation process b) a statement that the process set out in Section 29(1) of the MSA has been complied with c) a copy of the relevant Districts Framework for Integrated Development Planning (See Section 27 of the MSA)	01/02/2020	28/02/2020	Manager: Town Planning

<p>The Municipal Manager must also within 10 days of the adoption of the SDF, submit:</p> <ul style="list-style-type: none"> a) a written notice of the decision to adopt or amend a municipal spatial development framework, b) the adopted or amended SDF c) a report setting out the response of the municipality to the comments of the ISC or the Provincial Minister to the Provincial Minister. 	01/02/2020	28/02/2020	Manager: Town Planning
<p>Preparation/submission of reports:</p> <ul style="list-style-type: none"> ➔ October Section 71 Report / Grant Report ➔ November Section 71 Report / Grant Report ➔ Compilation of draft Annual Report ➔ December Section 71 Report / Grant Report ➔ 2nd Quarter SDBIP Report ➔ Half year performance assessment ➔ MinMay Tech/JPI's and MGRO 			<p>CFO CFO Mun. Manager CFO Man: Performance CFO Mun. Manager Mun. Manager CFO CFO</p> <p>Dept Local Government</p>
Provincial Integrated Development Plan Managers Forum	02/03/2020	31/03/2020	Department of Local Government

5.2.4 PHASE 4 – CONSULTATION & INTEGRATION	Start 01/04/2020	Finish 15/05/2020	Responsibility
Activities			
INTER-GOVERNMENTAL ENGAGEMENTS			
Submit and Publish the IDP, PMS, annual Budget and other required documents to relevant departments for comments and submissions	01/04/2020	10/04/2020	Manager: IDP
Council calls for inputs from sectors and community with closing date of 30 April 2019	10/04/2020	30/04/2020	Manager: IDP
LGMTEC engagement		To be announced	Prov. Government
Update information obtained during LGMTEC's	01/04/2020	30/04/2020	Manager: IDP
District municipality engagement with B-municipalities		To be announced	Municipal Manager
PUBLIC CONSULTATION			
Publish Public Engagement timetable in the media, and distribute internally	27/03/2020	10/04/2020	Manager: IDP

Mail invitations to Sector representatives / IDP Representative Forum	30/03/2020	10/04/2020	Manager: IDP
Community Imbizo's / Meetings:			
Prince Alfred's Hamlet	14/04/2020	14/04/2020	Exec. Mayor
N'dul	15/04/2020	15/04/2020	Exec. Mayor
Wolseley	16/04/2020	16/04/2020	Exec. Mayor
Bella Vista	20/04/2020	20/04/2020	Exec. Mayor
Ceres	21/04/2020	21/04/2020	Exec. Mayor
Op Die Berg	22/04/2020	22/04/2020	Exec. Mayor
Tulbagh	23/04/2020	23/04/2020	Exec. Mayor
Forum & sector meetings: Business & Agriculture	21/04/2020	21/04/2020	Exec. Mayor
Meetings with Ward Committees	17/04/2020	17/04/2020	Exec. Mayor
IGR engagement to obtain sector Budget commitments	06/04/2020	17/04/2020	Manager: IDP

5.2.4 PHASE 4 – CONSULTATION & INTEGRATION	Start 01/04/2020	Finish 17/05/2020	Responsibility
Activities			
INTEGRATION			
Dept Finance to consolidate all information, comments and objections received on Budget	01/04/2020	30/04/2020	Manager: Budget
Screen and refine all Project Proposals	01/04/2020	30/04/2020	Manager: Projects
Refine the Spatial Development Framework	01/04/2020	30/04/2020	Snr Town Planner
Compile all Business Plans	01/04/2020	30/04/2020	All departments
Populate the SDBIP templates	01/04/2020	30/04/2020	All departments
Management considers submissions made by community, National and Provincial Treasury	01/05/2020	15/05/2020	Manager: Budget
Prepare a summary of the revised IDP	01/05/2020	15/05/2020	Manager: IDP
MAYCO meeting to consider the submissions and, if necessary, to revise the IDP and Budget	11/05/2020	18/05/2020	Municipal Manager
Other activities during this phase			

<p>Within 30 days from the date of receipt of the adopted SDF , the MEC for Local Government must determine if:</p> <p>a) the drafting process and content of the SDF complies with the MSA</p> <p>b) whether the SDF is in line with any development plans and strategies of other affected municipalities or organs of state</p> <p>c) the public participation process outlined in Section 29 of the MSA has been complied with</p>	01/02/2020	29/02/2020	Manager: Town Planning
Witzenberg Municipality Inter-Governmental Relations Forum-	08/04/2020	18/04/2020	Dir. Community Development
<p>Preparation of reports:</p> <p>➡ 3rd Quarter SDBIP Report</p> <p>➡ March Section 71 Report / Grant Report</p>			Man: Performance CFO CFO
Should the adopted SDF not comply with the above, the MEC for Local Government should request the relevant municipal council to amend the SDF			
<p>The Municipal Council must consider the MEC's request to amend the SDF , and within 30 days of receiving the MEC's request, the Council must consider:</p> <p>i) If it agrees with the proposals to adjust the SDF in accordance with the MEC's request.</p> <p>ii) Object to the MEC's request and furnish the MEC with reasons in writing why it disagrees</p>			
If the Municipality objects to the MEC's request, the MEC may refer the municipality's objection to an ad hoc committee (see Section 33 of the MSA). The MEC must refer -an objection to the ad hoc committee within 21 days of -receiving the objection.			

5.2.5 PHASE 5 – APPROVAL	Start 20/05/2020	Finish 31/05/2020	Responsibility
Activities			
Council workshop on draft Reviewed IDP and Annual Budget	18/05/2020	25/05/2020	Municipal Manager
Council meeting to approve Revised IDP, Performance Management measures and targets and the Annual Budget (At least 30 days before the new Budget year)	25/05/2020	29/05/2020	Municipal Manager

5.2.6 PHASE 6 – FINALIZATION	Start 02/06/2020	Finish 30/06/2020	Responsibility
Activities			
Management workshop to finalize the SDBIP's	01/06/2020	12/06/2020	Manager: Budget
Publish the IDP, annual Budget, all Budget-related documents and policies on the municipal website	01/06/2020	12/06/2020	Manager: IDP
Publish the 2019/2020 tariffs for public comment	01/06/2020	12/06/2020	Manager: Budget
Submit a copy of the IDP to the MEC, DPLG and Treasury (within 10 days of adoption)	01/06/2020	12/06/2020	Manager: IDP
Give notice to the public of the adoption of the IDP (within 14 days of the adoption of the plan)	01/06/2020	12/06/2020	Manager: IDP
Publish a summary of the IDP and Budget in newspaper	01/06/2020	12/06/2020	Manager: IDP
Submit to Executive Mayor a draft SDBIP for the Budget year (within 14 days of approval of the Budget)	01/06/2020	12/06/2020	Municipal Manager
Submit to the Mayor drafts of the annual performance agreements (within 14 days of approval of Budget)	01/06/2020	12/06/2020	Municipal Manager
Make public the performance agreements of the Municipal Manager and senior managers (no later than 14 days after approval of the plan)	01/06/2020	12/06/2020	Municipal Manager
Submit the approved Budget to the National Treasury and the Provincial Treasury	01/06/2020	12/06/2020	CFO
Preparation of reports: ➤ May Section 71 Report ➤ Grant Reports	01/06/2020 01/06/2020	12/06/2020 12/06/2020	CFO CFO
Provincial Integrated Development Plan Managers Forum	01/06/2020	30/06/2020	Department of Local Government
The Mayor takes steps to ensure that the SDBIP is approved (within 28 days of approval of Budget)	15/06/2020	30/06/2020	Exec. Mayor
Make public the projections, targets and indicators in the SDBIP (within 14 days of approval of SDBIP)	15/06/2020	30/06/2020	CFO
Publish the performance agreements and service delivery agreements on the municipal website	22/06/2020	30/06/2020	Municipal Manager
Submit copies of the performance agreements to Council and the MEC for Local Government	22/06/2020	30/06/2020	Municipal Manager

6. CONCLUSION

The IDP and Budget Process Plan ensure that the role-players within the process are well prepared. All activities outlined within this document have been prepared in close inter-relation with the Framework that governs both the District and all local municipalities.

WITZENBERG

MUNISIPALITEIT UMASIPALA MUNICIPALITY

- MEMORANDUM -

AAN / TO: Municipal Manager
VAN / FROM: Acting Director: Finance
DATUM / DATE: 16 Augustus 2019
VERW. / REF.: 05/01/1/18

2019/2020 ADJUSTMENT BUDGET FOR CONSIDERATION

1. PURPOSE

The purpose of this report is to:

- Document the 2019/2020 adjustment budget for consideration to the Municipal Manager and Executive Mayor.
- Provide the background information regarding the consideration and approval of the budget.

2. LEGAL FRAMEWORK

Chapter 4 of the MFMA provides the legal framework for municipal budgets. Section 28 deals with adjustment budgets and is quoted below:

"28. Municipal adjustments budgets.—(1) *A municipality may revise an approved annual budget through an adjustments budget.*

(2) *An adjustments budget—*

- (a) *must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;*
- (b) *may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;*
- (c) *may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the mayor of the municipality;*
- (d) *may authorise the utilisation of projected savings in one vote towards spending under another vote;*
- (e) *may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council;*
- (f) *may correct any errors in the annual budget; and*
- (g) *may provide for any other expenditure within a prescribed framework.*

(3) *An adjustments budget must be in a prescribed form.*

- (4) *Only the mayor may table an adjustments budget in the municipal council, but an adjustments budget in terms of subsection (2) (b) to (g) may only be tabled within any prescribed limitations as to timing or frequency.*
- (5) *When an adjustments budget is tabled, it must be accompanied by—*
 - (a) *an explanation how the adjustments budget affects the annual budget;*
 - (b) *a motivation of any material changes to the annual budget;*
 - (c) *an explanation of the impact of any increased spending on the annual budget and the annual budgets for the next two financial years; and*
 - (d) *any other supporting documentation that may be prescribed.*
- (6) *Municipal tax and tariffs may not be increased during a financial year.*
- (7) *Sections 22 (b), 23 (3) and 24 (3) apply in respect of an adjustments budget, and in such application a reference in those sections to an annual budget must be read as a reference to an adjustments budget.”*

Section 23 of the Local Government: Municipal Finance Management Act: Municipal Budget and Reporting Regulations, regulates municipal adjustment budgets and is quoted below:

“Timeframes for tabling of adjustments budgets

- 23. (1) *An adjustment budget referred to in Section 28(2)(b),(d) and (f) of the act may be tabled in the municipal council at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year.*
- (2) *Only one adjustment budget referred to in sub regulation (1) may be tabled in the municipal council during a financial year, except when the additional revenues contemplated in section 28(2)(b) of the Act are allocations to a municipality in a national or provincial adjustments budget, in which case sub regulation (3) applies.*
- (3) *If a national or provincial adjustments budgets allocates or transfers additional revenues to a municipality, the mayor of the municipality must, at the next available council meeting, but within 60 days of the approval of the relevant national or provincial adjustments budget, table an adjustments budget referred to in section 28(2)(b) of the Act in the municipal council to appropriate these additional revenues.*
- (4) *An adjustments budgets referred to in section 28(2)(c) of the Act must be tabled in the municipal council at the first available opportunity after the unforeseeable and unavoidable expenditure contemplated in that section was incurred and within the time period set in section 29(3) of the Act.*
- (5) *An adjustment budget referred to in section 28(2)(e) of the Act may only be tabled after the end of the financial year to which the roll-overs relate, **and must be approved by the municipal council by 25 August** of the financial year following the financial year to which the roll-overs relate.*
- (6) *An adjustment budget contemplated in section 28(2)(g) of the Act may only authorise unauthorised expenditure as anticipated by section 32(2)(a)(i) of the Act, and must be –*
 - a) *dealt with as part of the adjustment budget contemplated in sub regulation (1); and*
 - b) *a special adjustment budget tabled in the municipal council when the mayor tables the annual report in terms of section 127(2) of the Act, which may only deal with unauthorised expenditure from the previous financial year which the council is being requested to authorise in terms of section 32(2)(a)(i) of the Act.”*

2 **Progress to date:**

The Budget for 2019/2020 was approved by Council on 30 May 2019.

3. **DISCUSSION**

Councils approval for the roll-over of the following funds are requested

Operational Budget

Department	Description	Funding	Amount
Solid Waste	Project Waste Ambassadors	Belgium	R 443 700
Environment	Project Alien & Invasive Trees	Belgium	R 159 802
Roads	Infrastructure and Planning	DBSA	R 1 156 938
Treasury Admin	Insurance Claims	OWN	R 500 000
Total Operational Budget Adjustment			R 2 260 440

Capital Budget

Department	Description	Funding	Amount
Solid Waste	Transfer Stations	Belgium	R 295 800
Water Distribution	Tulbagh Dam	RBIG	R 5 760 869
Public Toilets	Op-Die-Berg Public Toilet	OWN	R 200 000
Community Halls	Air conditioner Town Hall	OWN	R 500 000
Environment	Fencing	OWN	R 1 098 933
LED	Economic Hub	OWN	R 111 654
Library Services	John Steyn Library Restoration	LIBCG	R 400 000
Total Capital Budget Adjustment			R 8 367 256

4. **RECOMMENDATION**

- a) That the adjustment budget of Witzenberg Municipality for the financial year 2019/2020 as set out in the budget documents be approved:
- Table B1 - Budget summary;
 - Table B2 Adjustments Budget Financial Performance (by standard classification);
 - Table B3 – Budgeted Financial performance (Revenue and Expenditure) by Vote;
 - Table B4 Adjustments Budget Financial Performance (revenue by source); and
 - Table B5 – Budgeted Capital Expenditure by Vote, standard classification and funding.

Yours faithfully

AJ RAUBENHEIMER
ACTING DIRECTOR: FINANCE

WITZENBERG

MUNISIPALITEIT

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MUNICIPALITY

- MEMORANDUM -

AAN / TO : Municipal Manager
Director Corporate Services

VAN / FROM : Manager Traffic Services

DATUM / DATE : 02 April 2019

VERW. / REF : Firearm Policy
Identified deficiencies

17/7/19

Purpose

The purpose of this memorandum is for the Municipal Manager to approve the Standing Operating Procedures (SOP) for firearms to be utilised the Witzenberg Traffic Law Enforcement Services.

Reasoning

- The intention of this SOP is to give clear guidelines to the uniform component which is in line with the Firearms Control Act.
- To advise the Executive regarding identified deficiencies which relates to compliance in terms of the Firearms Control Act and Occupational Health & Safety Act.

Identified deficiencies:

Before full implementation, the following deficiencies in terms of firearms needs to be addressed and rectified:

- Employee Assistance Program (EAP) support needs to be in place, currently this system is not in place and is not formalized by HR.
- Officers need to undergo shooting refresher as prescribed, this training needs is not adhered to although it forms part of the annual training needs.
- The interpretation of Section 98 of the Firearms Control Act by The South African Police Service (SAPS) is a challenge which will restrict the issuing of firearms.

Recommendations for consideration:

- For the Municipal Manager to approve the Standing Operating Procedures with regards to firearms.
- The identified deficiencies in terms of the EAP and training needs to be finalised by HR.
- A legal opinion in terms of the interpretation of the Section 98 of the Firearms Control Act needs to be obtained or the Executive and myself need to be further advised by the appointed responsible person for firearms for the Witzenberg Municipality.

The contents of this memorandum is for your consideration and final approval.

Yours sincerely



M.J. Green
MANAGER TRAFFIC SERVICES

APPROVED / NOT APPROVED:

APPROVED / NOT APPROVED:

MONWABISI MPELUZA
DIRECTOR: CORPORATE SERVICES

DAVID NASSON
MUNICIPAL MANAGER



FIREARMS POLICY

Traffic and Law Enforcement Services
Compiled by
Chief: MJ Green



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1 STANDARD OPERATING PROCEDURE: Firearms

1.1 Purpose

To establish a procedure that provides for the effective control of firearms and to ensure that any use of a firearm by a member of the Service is legally and morally essential and will be the last resort under the circumstances.

1.2 Policy

Firearms are issued to Traffic and Law Enforcement Officers for –

- use in self-defense or during an emergency;
- protection of the Council's property;
- use within the conditions of the Criminal Procedure Act, Fire Arms Control Act and the Constitution of the Republic of South Africa

1.3 Definitions

In this Standard Operating Procedure unless the context otherwise indicates, the following terms will have the following meanings:

Member

Means a member of the Witzenberg Traffic and Law Enforcement Service and includes a Law Enforcement and Traffic Officers.

Service

Means the Witzenberg Traffic and Law Enforcement Service will have a corresponding meaning.

Chief

Means the Chief of the Witzenberg Traffic and Law Enforcement Service and shall include such persons designated by the Chief to fulfill specific functions.

1.4 The Order

This Standing Order is subject to the conditions of the Firearms Control Act as amended and where any conflict between the stipulations of this Standing Order and the above mentioned Act exists, the prescriptions of the Act will apply.

1.5 Weapons

The basic weapon of the Service is the 9mm Parabellum, semi-automatic pistol, hereafter referred to as the "basic weapon".

The basic auxiliary weapon of the Service is the 12 gauge pump-action shotgun, hereafter referred to as the "auxiliary weapon", and such other weapons approved by the responsible person from time to time.

1.6 Basic Weapons Qualification

All members of the Service are required to qualify with the basic weapon twice a year on the Service Qualification course and prescribed training as contained in the Fire Arms Control Act with a qualification score as prescribed.

1.7 Qualification for Proficiency Badges

Proficiency badges may be awarded to those members who attain a score of 80% or above based on an average of the two (2) highest scores for the year, shot on the Service Qualification Course. Qualification months shall be divided into the first six months and the second six months of the calendar year.

1.8 Qualification Scores

Master	95% or higher
Expert	90%
Marksman	80%

The award shall be worn by the member to whom issued until it is withdrawn due to his/her inability to qualify.

It will be the responsibility of the appointed responsible person for firearms to record all scores for record purposes and to maintain up-to-date records of all personnel trained with firearms.

1.9 Failing to qualify with Basic Weapon

1.9.1 Members who fail to qualify will return for additional training and qualification.

1.9.2 Members who fail to qualify after two (2) scheduled appearances will report for a retraining programme.

1.10 Penalties assessed during Retraining

1.10.1 Members who fail to qualify will forfeit their weapons until qualified and may be reassigned to non-enforcement duties.

1.11 Failure to report for training

1.11.1 Members who fail to report for training as scheduled and have not been excused may face disciplinary action.

1.11.2 Excuses for non-attendance other than the following will not be accepted:

- Emergency duty
- Verified sick or injury
- Subpoenaed court appearance
- Light duty

1.12 Firearm Procedures

1.12.1 The firearm shall remain holstered at all times except:

- a) for use in the scope of the officer's duties/authority
- b) for inspection;
- c) for use at schedule firearm practice;
- d) for cleaning or
- e) for storage

1.12.2 No member shall repair, modify or adjust any issued weapons.

1.12.3 All weapons in need of correction, maintenance or repair shall be taken to the appointed responsible person. The weapon will be held in the

Armory until such time as the repairs, corrections or maintenance have been affected.

- 1.12.4 It will be the responsibility of the responsible person to ensure that all non-issued auxiliary and spare weapons are maintained and kept clean and serviceable.
- 1.12.5 It will be responsibility of responsible person maintain, all the weapons of the Service.
- 1.12.6 No weapon other than departmentally issued weapons shall be used, or carried, or kept in an official vehicle, at any time.
- 1.12.7 Each immediate supervisor shall be responsible for the inspection of weapons, ammunition, permits and leather gear of all members under their supervision on a regular basis.
- 1.12.8 The immediate supervisor shall be held responsible for ensuring the cleanliness of each subordinate's weapon.
- 1.12.9 Officers will be issued with Service ammunition. No other ammunition may be carried, loaded in or fired from a Service issued weapon.
- 1.12.10 The carrying of Service issued firearms when outside of the area of jurisdiction of the Witzenberg Municipality is strictly forbidden unless specifically authorized by the Responsible person And Head of Operations or when acting in line with legislative powers and/or duties.
- 1.12.11 the carrying of Service issued firearms when in civilian clothing is strictly forbidden unless specifically authorized in writing by the responsible person.
- 1.12.12 The carrying of private firearms when on duty is forbidden.
- 1.12.13 Qualification/familiarization with the auxiliary weapon will be performed once a year.
- 1.12.14 Failure to qualify will exclude the officer from using the auxiliary weapon until qualified.
- 1.12.15 The carrying of additional firearms other than the issued or approved firearm is prohibited unless specifically authorized by the responsible person.

1.12.16 Refresher practical firearm training shall be done at least once a month.

1.12.17 Compulsory legislative training shall be done by all members annually.

1.13 Issue of Firearms

1.13.1 The Shift Leader shall ensure that all members are accounted for and are in possession of the required leather gear prior to the issue of firearms on commencement of their tour of duty.

1.13.3 The Shift Leader shall ensure that the firearms are safe and unloaded prior to issue. The designated Safe Zone (fumble zone) shall be solely used for this purpose.

1.13.4 Each member shall receive the firearm and magazines; visually ensure that it is safe; place it in the holster and sign the register and record the issue in their pocket books.

1.13.5 The Shift Leader counter sign the issue of each firearm as issued in both register and pocketbook.

1.13.6 When all firearms have been issued to his or her unit the Shift Leader shall ensure that all his or her members are present and shall ensure that the firearms are loaded, checked and holstered in accordance with safety procedures.

1.13.7 Firearms shall only be issued to members who have successfully completed the prescribed practical and theoretical tests and have been certified accordingly by the training service provider.

1.14 Return of Firearms

1.14.1 The Shift Leader shall ensure that all his or her members are present and all weapons are accounted for prior to return of firearms to the member on duty in the Control Room.

1.14.2 The Shift Leader will ensure that all firearms are unloaded and checked before they are handed in.

1.14.3 The Shift Leader shall receive all firearms, checking for conditions and shall sign their return in the register, and the officer's pocketbook, noting any defect or damage and returning them to their assigned lockup.

Inspection of Firearms

1.15.1 Firearms shall, over and above the normal care to preserve its appearance and condition, be serviced and be kept in a clean and usable condition and submitted for inspection if requested to do so. Before cleaning the firearm, the member shall ensure that it is not loaded. The barrel shall at all times be pointed away from the person handling the firearm and other people.

1.15.2 Shift Leaders shall do a daily firearm inspection to ensure that the firearm is serviced, clean and usable and that the conditions pertaining to the carrying of ammunition are met. For the purposes of this inspection, members shall line up, and the supervisor shall ensure that it is safe to continue with the inspection.

1.15.3 The responsible person shall inspect all firearms on a monthly basis. Record of these inspections will be kept in the prescribed format. The Operational Head will check the firearm register once a month to ensure compliance.

1.15 Use of Firearms

1.16.1 Whenever a situation arises in which use of a firearm has been threatened or actually taken by any person, whether discharged or not, a "Use of Firearm Report" shall be submitted before the end of duty.

1.16.2 The "Use of Firearm Report" shall be submitted to the member's immediate supervisor who shall forward it to the applicable responsible person and a copy to the Chief.

1.16.3 If the member is unable to submit the Report the responsibility rests with the immediate supervisor who shall submit the report within 24 hours of the incident.

1.16.4 Where a firearm has been discharged, whether a person has been injured or killed or not, the following procedure shall be followed:

1.16.4.1 The immediate supervisor and appointed responsible person shall be notified and shall proceed to the scene directly;

1.16.4.2 The SAPS shall be informed;

1.16.4.3 The Chief and Operational Head shall be notified promptly;

1.16.5 Each discharge of a firearm by a member shall be personally and thoroughly investigated by the officer's supervisor who shall be guided by the letter of

the law and the Service Policies and Rules. If the supervisor is not available, the Investigation shall be the responsibility of the applicable Operational Head.

1.16.6 The Investigating Officer shall forward copies of the report to the office of the Chief

1.16 Loss, Theft, or Unauthorized use of Service Weapon

1.17.1 Immediately following the loss, theft or unauthorized use of any issued firearm a report shall be submitted to the Chief through the chain of command setting forth the detailed circumstances of the loss, theft or unauthorized use of the firearm. In addition the officer shall ensure that the crime and incident report is prepared and entered into the Register at the relevant Police Station.

1.17.2 The loss, theft or misuse of the firearms shall be immediately reported to the SAPS;

1.17.3 The immediate supervisor shall investigate comprehensively and as objectively as possible obtaining statements where possible;

1.17.4 The immediate supervisor shall co-operate with the SAPS fully;

1.17.5 Should the firearm be required to be handed to the SAPS, the member and the immediate supervisor shall record the number of the firearm, the number of rounds and the name, rank and station of the receiving Police member; where possible a receipt should be received from the SAPS.

1.17.6 The use of Firearm Report shall be submitted promptly where the firearm has been discharged or withdrawn from the holster.

1.17.7 All information and statements shall be compiled and forwarded through the chain of command to the office of the Chief by the Operational Head.

1.17.8 Should enquiry indicate that there was any degree of negligence or failure to comply with laid down procedures, whether or not criminal charges are laid, disciplinary action may be instituted.

1.17 Handling of Firearms

1.18.1 Regard every firearm as loaded until the opposite is proved and handle it at all times with the necessary respect.

- 1.18.2 The firearm may not be displayed, waved about, irresponsibly handled or played with in any way. It should at all times be kept in the holster or in a safe position except for use within the limitations of the law which is The Fire Arms Control Act:
- for authorized inspections;
 - for use during a Departmentally authorized shooting (target) practice;
 - for cleaning the firearm under direct supervision by the by the Departmental Fire Arms Control Officer .
- 1.18.3 Firearms shall not be used after the use of intoxicating liquor or other agents.
- 1.18.4 A member shall never receive or clean a firearm before he or she has made certain that it is unloaded. First unload the firearm before you hand it to another person and keep the locking mechanism open.
- 1.18.5 A member shall never point a firearm at somebody he or she does not intend to shoot or in a direction where a shot that goes off accidentally may cause damage.
- 1.18.6 Before a member shoots, he or she shall first positively identify the target.
- 1.18.7 Be aware of the direction of the bullet and where it will end (remember to take distance, penetration and deflection into consideration).
- 1.18.8 A member shall keep his or her finger away from the trigger until the barrel is in line with the target and he or she is ready to fire.
- 1.18.9 The following uses of firearms shall be prohibited:
- The firing of warning shots where firearm force is not justified in terms of the Criminal Procedure Act or common law. Warning shots may also not be fired where innocent people may possibly be killed or injured. Warning shots will not be fired into the air.
 - Before firing shots, a member shall take into consideration location, and vehicle and pedestrian traffic. He or she shall also consider whether shots would endanger the lives of innocent bystanders. The courts require that warning shots be fired whenever possible.

1.18 Confiscation of Firearms

1.19.1 Should it come to the attention of a shift leader or any other officer of the Department that an officer has threatened to –

- commit suicide;
- shoot family members or other persons; or

- it is clear that the member is emotionally unstable or under the influence of intoxicating liquor or drugs;
- handles a firearm irresponsibly or contrary to this standard operating procedure;

he or she shall immediately confiscate the firearm and then inform the Head Operations of the member concerned.

1.19.2 The firearm shall remain impounded pending the outcome Of a Departmental investigation and Criminal Investigation, up to which time the member shall not be entitled to be issued with a firearm and his or her permit shall be withdrawn.

1.19.3 Any member who undergoes therapy for or who is diagnosed with stress, depression or any related disorder will not be issued with a firearm and his or her permit shall be withdrawn until such time as a registered psychiatrist declares that such person will not be a threat to themselves or any other person.

1.19 Safekeeping of Firearms

1.20.1 The lending, borrowing or exchange of firearms or ammunition between members shall be prohibited.

1.20.2 Under no circumstances may a firearm be handed to a civilian for whatever reason.

1.20.3 Where firearms are transported in an official vehicle and not carried on the person of the member, it shall be locked in the appropriate approved gunlock, or boot mounted gun safe.

1.20.2 The shift commander shall ensure that official firearms of members who have absconded or have been injured on duty, or for any other reason are absent are handed in.

1.20.3 Official firearms or ammunition will not be allowed to be kept or stored at the residence of a member without the written permission of the responsible person.

1.20 Carrying of Firearms

1.21.1 All qualifying members up to and including the rank of inspector whilst on duty shall carry firearms. Under no circumstances may an official firearm be taken to premises where alcohol is consumed except where the officer concerned is on duty and carrying out his/her official duties.

- 1.21.2 Uniformed officers shall, in terms of the Firearms Control Act, at all times carry firearms in the prescribed holster. No private firearms or ammunition will be carried whilst on duty.
- 1.21.3 Firearms carried by officers in civilian dress only whilst on duty shall be well concealed in terms of the
- 1.21.4 Because of the risk factor, firearms shall not be carried when loaded (with a round in the chamber, one up), unless in an emergency or on the instruction of a senior officer.

1.21 Certification

- 1.22.1 A permit authorising the holder to be in possession of a firearm is issued by the responsible person shall at all times be carried on the person while he or she is in possession of the firearm. A permit shall be valid for a period of one year only.
- 1.22.2 The holder of an official firearm shall annually qualify for certification by way of a firearm skills test, as prescribed by the Regulations of the Fire Arms Control Act. And also undergo at least one other shooting exercise per month during the year.
- 1.22.3 The Operational Head shall keep a record of members qualified to handle official firearms. This register shall contain the number of firearm exercises attended and the marks obtained.

2 STANDARD OPERATING PROCEDURE: Use of Force

2.1 Purpose

To establish a procedure that provides for the effective control of firearms and to ensure that any use of a firearm by a member of the Service is legally and morally essential and the last resort under the circumstances.

2.2 Policy

Firearms are issued to Traffic and Law Enforcement Officers for –

- use in self-defense or during an life threatening situation;
- protection of the Council's property;
- use within the conditions of the Criminal Procedure Act and the Constitution of the Republic of South Africa

2.3 Deadly force policy

In compliance with Section 49 of the Criminal Procedure Act, Act 51 of 1977 and bearing in mind the Constitution of the Republic of South Africa Officers will use deadly force only as a last resort and when the officer has reasonable belief that deadly force action is required:

- to prevent death or substantial harm to the officer or another person;
- to prevent the escape of an offender whose apprehension is deemed to be of an immediate and urgent nature;
- or to effect the apprehension of an offender, who poses a real and immediate threat of death or substantial harm to the community or other people or other police officers;

The Service does not expect officers to endanger their lives unnecessarily. To this end responsible actions are expected from all personnel and all personnel are encouraged to keep themselves up to date with the requirements of the law, the constitution, stopping procedures, and basic survival tactics.

When officers are confronted with any person whom they believe to be threatening physical violence they shall;

- identify themselves and attempt to take verbal control without impinging on the person's dignity;
- warn the person of the intention to use physical force if they fail to comply with instructions;
- attempt to gain physical control;
- warn of the intent to use non-lethal force (OC spray) where available;
- use the non-lethal force (OC Spray) as necessary to subdue the person;
- if ineffective, warn the person of the intention to use impact weapons (baton);
- use the impact, weapon where available, as necessary to subdue the person;
- Where the impact weapon is ineffective or not suitable, warn the person of the intention of escalating to lethal force.

This Force Continuum should be applied in every situation but depending on the conditions may have to be shortened. All personnel are encouraged to attempt to comply with this Force Continuum in the interest of the letter of the law. All officers must remember that they will be required to justify their actions in terms of the law.

2.3.1 Definitions

In this Standard Operating Procedure unless the context otherwise indicates, the following terms will have the following meanings:

Deadly Force

As defined by the Appellant Division of the High Court;

- any force which could lead to serious injury or death if applied to a person; and shall include:-
- the verbal threat of use of a firearm, whether the weapon is touched or not;
- the touching of a firearm, whether drawn or not, whether loaded or not, to act as a deterrent or threat;
- the drawing of a firearm, whether loaded or not;
- the pointing of a firearm, whether loaded or not;
- the firing of warning shots

Last Resort

All practical means available to the officer to avoid the use of deadly force must have been exhausted. Depending on the situation this may include verbal warnings, foot pursuit, use of lesser force, when these means can be accomplished without endangering the officer or any other person.

Non-Lethal Force

This shall include the use of OC pepper spray; batons; kubotans; unarmed hand strikes; physical restraining holds.

Reasonable Belief

A state of mind supported by circumstances strong enough to warrant a cautious and prudent officer to make a similar judgment. The elements shall include the officer's experience, training as well as the situation known to the officer at the time of the application of deadly force.

Substantial Harm

Any injury likely to result in death, permanent disability, permanent disfigurement, considerable and extensive injury to a person or persons. A fleeing suspect who would pose a real threat of death or substantial harm to the community could be:

- armed and dangerous threatening other persons whilst in flight;

- Indiscriminately attacking other persons whilst fleeing.

Suspect

Any person who is reasonably believed to have committed any offence, which is punishable by law.

Warning Shots

Any shots fired in an attempt to prevent the suspect from fleeing and to comply with directions without the intention of aiming or directing them at the suspect.

This **DEADLY FORCE POLICY** prohibits:

- the use of deadly force against unarmed, non-dangerous fleeing suspects;
- the use of deadly force against fleeing traffic offenders;
- the firing of warning shots due to possible danger to officers and other innocent parties;
- the use of deadly force when there exists a high probability of not striking the intended target or where there is substantial risk to bystanders or innocent parties;
- the firing of shots from or at a moving vehicle

The Service acknowledges the practical need for officers to upholster their firearms, in certain situations requiring caution, for the officer's safety. In these situations the officer must be cognizant of the legal risks involved in the drawing of a firearm and must be prepared to justify his or her actions objectively.

2.3.2 Shooting – Officer Involved

The following procedures shall be strictly followed and complied with where an officer has fired his weapon. This applies to all situations, other than at the range, where an officer has fired his weapon whether a suspect has been injured or not.

It must be made quite clear that the SAPS and the ICD are in charge of the scene and shall be given all the assistance possible.

The Involved officer:-

- will notify his supervisor and Control Room as soon as possible;
- will render such emergency aid as is necessary and they are capable of rendering;
- will not take an active part in the investigation;
- will submit a Use of Firearms Report before the end of the tour of duty;
- if required to do so, shall hand in the firearm to the CID for ballistic tests, recording the number of rounds handed in and the name and staff/force number of the member of the SAPS to whom handed.

First officer on scene:

- will secure the scene in terms of prescribed procedure;
- will check for injuries and request an ambulance if needed;
- will ensure that the supervisor has been notified;
- will assist investigating officials as required.

Supervisor/Commanding Officer on scene:

- will notify ICD to investigate
- will notify the Duty officer;
- will ensure that the Operational Head is notified;
- will ensure that the Chief has been informed with all relevant information;
- The employer shall provide any officer involved in a shooting incident immediately with trauma counselling.

The Duty Officer:

- Will inform the Chief, The Municipal Manager ,the Director responsible for Traffic and Law Enforcement, and Head of operations with all relevant details;
- Will ensure that the SAPS/ICD have been informed;
- Will ensure that an ambulance has been notified.

2.3.3 Non-Lethal Force

Officers shall only use that degree of force, which is, in the circumstances, reasonably necessary and proportional to the assault or resistance to affect an arrest or defend himself or herself or any other person.

When using non-lethal force, the officer shall:-

- only direct blows and jabs to the body of the offender and not to the face or head;
- use accepted come-along grips;
- use of non-lethal weapon only as reasonable and proportionally necessary to subdue the offender.

Where OC spray has been used, and the subject has been subdued and handcuffed, the officer shall:

- render such assistance or treatment as necessary to the person;
- ensure that the person is in a seated position whilst details are recorded;
- transport the person directly to the responsible police station;
- monitor the condition of the subject closely for a period of at least 45 minutes.

Where the person displays any long-term effects, or if they so request, the officer shall have medical attention provided immediately.

When a suspect has been arrested, they shall be handcuffed when in transit to a police station to prevent injury to themselves, the arresting officer or damage to the patrol vehicle. At no time shall a suspect be handcuffed to a vehicle or fixed object.

The use of a baton or the officer's torch as a baton or striking weapon other than to the body of the suspect is prohibited as they may cause serious or fatal injuries when applied to the head of a person.

Whenever an officer is called upon to use any force to affect an arrest he shall include a detailed description of their actions in the statement, which shall be forwarded through the Chain of Command to the Chief.

IRRIGATION BOARD KOEKEDOUW BESPROEIINGSRAAD

Telefoon: 0233155569 / 0832920590

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Posbus 804

CERES

6835

13 Maart 2019

Hiermee word verklaar dat onderstaande onderneming se KBR rekening vir die besproeiings-termyn van 1 Julie 2018 tot 30 Junie 2019, ten volle betaal is.

Aangeheg is die berekening van die uitstaande bedrag ten opsigte van die RAB-lening van die onderstaande onderneming:

Hierdie uitstaande bedrag is betaalbaar aan KBR teen die 25ste Junie 2019.

Entiteit	WITZENBERG MUNISIPALITEIT		
Plaas	VREDEBES		
	RAB Skuld / Ha	Ha'e	Bedrag
Winter	34,386.78	-	-
Somer	59,326.13	15.00	889,891.98
Drink	34,386.78	-	-
Totaal			889,891.98

Aannames:

1. KBR aanvaar die skriftelike bevestiging, van die uitstaande bedrag van R50 549 585.83 verskuldig aan RAB op 30 Junie 2019.
2. KBR lewer eenmalig 'n faktuur aan die betrokke onderneming vir sy gedeelte van die RAB skuld, in verhouding tot sy water-inlysting.
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5. Elke onderneming moet 'n persoon aanwys met wie Gerda Roux kan skakel tydens hierdie proses.
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8. KBR wil teen 31 Mei 2019 alle fakture aan ondernemings lewer, vir betaling teen die 25ste Junie 2019.

**RAB TERUGBETALINGSOPSIES
BESTAANDE vs NUWE VOORSTEL**

	OU FINANSIERINGSMODEL		NUWE FINANSIERINGSMODEL	
UITSTAANDE SKULD JUN 2019	54,687,042		50,549,586	
RENTEKOERS	16.63%		10.25%	
	PMT	KAPITAAL SALDO	PMT	KAPITAAL SALDO
JAAR 1 - 2019	6,820,678	52,239,059	8,315,271	47,415,648
JAAR 2	7,161,712	54,430,496	8,315,271	43,960,481
JAAR 3	7,519,797	56,685,260	8,315,271	40,151,160
JAAR 4	7,895,787	58,968,941	8,315,271	35,951,383
JAAR 5	8,290,576	61,267,933	8,315,271	31,321,129
JAAR 6	8,705,105	63,663,418	8,315,271	26,216,275
JAAR 7	9,140,360	65,887,726	8,315,271	20,588,172
JAAR 8	9,597,379	68,122,383	8,315,271	14,383,189
JAAR 9	10,077,247	70,278,468	8,315,271	7,542,196
JAAR 10 - 2028	10,581,110	72,355,397	8,315,271	-
JAAR 11	11,110,165	74,315,997	-	-
JAAR 12	11,665,674	75,995,898	-	-
JAAR 13	12,248,957	77,313,101	-	-
JAAR 14	12,861,405	78,376,761	-	-
JAAR 15	13,504,475	78,947,087	-	-
JAAR 16	14,179,699	78,944,608	-	-
JAAR 17	14,888,684	78,317,008	-	-
JAAR 18	15,633,118	76,706,169	-	-
JAAR 19	16,414,774	74,066,193	-	-
JAAR 20	17,235,513	70,131,395	-	-
JAAR 21	18,097,289	64,628,215	-	-
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JAAR 26 - 2044	23,097,236	-	-	-
Totale terugbetalings	348,628,396		83,152,706	

Notas :

- * bestaande finansieringsmodel is verkry van RAB
- * uitstaande skuld op 30 Junie 2019 is verkry van RAB
- * nuwe voorstel gebruik aanname van 10 jaar terugbetalingstermyn teen Prima rentekoers

David Nasson

From: Danie <danie@goosenboerdery.co.za>
Sent: Tuesday, 02 July 2019 9:52 PM
To: David Nasson
Cc: Gerda Roux; Peet du Plessis; Handri Conradie
Subject: FW: Witzenberg Munisipaliteit RMB Inv.pdf

Beste Mnr Nasson,

Dankie vir die gesprek en tyd van vanoggend.

Soos aan u verduidelik wil ek graag die volgende punte beklemtoon:

1. KBR het meer as 20 jaar gelede namens sy lede 'n lening by RAB aangegaan om die kapitaalkoste van die nuwe Koekedou dam, asook die verspreidingsnetwerk te betaal.
2. Die koste per lid is bereken volgens die betrokke eiendom se waterregte wat by BGCMA geregistreer is. Al hierdie inligting is tog die eiendomme se LBO's (lys van belasbare oppervlaktes) geregistreer en hierdie regte kleef aan die eiendom.
3. Bogenoemde koste per hektaar plus die jaarlikse bedryfskoste, vorm die totale rekening wat jaarliks aan elke lid gelewer is. Hierdie rekening het die afgelope seisoen R9036/ha beloop, waarvan R1400/ha die bedryfskoste uitgemaak het. Die Witzenberg Munisipaliteit het jaarliks hierdie rekening betaal, soos al die ander produsente wat water ontvang van KBR.
4. Met die huidige finansierings model by RAB, sou alle lede tot 2044 moes betaal om die lening af te los teen die rentekoers van 16.6%/jaar. Dit sou onbekostigbare koste vir elke lid tot gevolg hê.
5. KBR raad het toe met die betrokke banke gaan onderhandel. Die beste opsie wat toe geblyk het die volgende te wees.
 - 5.1 Elke lid reël sy eie finansiering en KBR doen 'n eenmalige heffing om die bestaande gesamentlike lening by RAB af te los.
 - 5.2 KBR hef dan daarna slegs bedryfskoste/ha en elke lid betaal sy eie finansiering van die kapitaalkoste.
 - 5.3 Bogenoemde reëlins is toe op 'n spesiale lede vergadering eenparig deur al die lede goedgekeur. Die Munisipaliteit was op die vergadering in Maart verteenwoordig.
6. Witzenberg Munisipaliteit is tans die enigste lid, wat nog nie sy verpligting nagekom het nie.
7. KBR se kontrak/ooreenkoms met RAB het ten einde geloop op die 30ste Junie, maar ons kon grasie kry tot Woensdag die 3de om die uitstaande bedrag te betaal. KBR het Vrydag die 28ste al die gelde betaal wat hy ontvang het, maar het 3 lede gehad wat nog nie betaal het nie. Die ander twee gevalle se gelde was nog uitstaande weens tegniese redes, wat hul Maandag en Dinsdag die 1ste en 2de Julie uitgesorteer het. Hierdie twee partye het nou hul betalings gedoen en is dit slegs die Witzenberg Munisipaliteit se rekening wat uitstaande is.
8. KBR gaan nou Woensdag die 3de die totale uitstaande bedrag betaal, sonder dat die Munisipaliteit se gelde betaal is.
9. KBR versoek dus dringend dat die Munisipaliteit se rekening vereffen word.

By voorbaat baie dankie.

Vriendelike groete / Kind regards

Danie Goosen
Voorsitter KBR

Email: danie@goosenboerdery.co.za
Office: +27(0) 23 313 3056
Fax: +27(0) 86 730 8853
Mobile: +27(0) 83 461 9933

**IRRIGATION BOARD
KOEKEDOUW BESPROEIINGSRAAD**

Telefoon: 0233155569/0832920590

Posbus 804

Email: Gerda.kbr@gmail.com

CERES
6835

13 Maart 2019

WIE DIT MAG AANGAAN

Volgens ons Lys van Belasbare Oppervlaktes, is daar vir
Witzenberg Munisipaliteit die volgende waterregte geregistreer:

-Gedeelte 72 van die plaas Rietvalley 364
15ha Somerwater

Ek hoop u vind dit in orde.

Vriendelik die uwe

Gerda Roux
Admin Bestuurder

IRRIGATION BOARD KOEKEDOUW BESPROEINGSRAAD

Telefoon: 0233155569 / 0832920590

Email: gerda.kbr@gmail.com

Posbus 804

CERES

6835

13 Maart 2019

Hiermee word verklaar dat onderstaande onderneming se KBR rekening vir die besproeiings-termyn van 1 Julie 2018 tot 30 Junie 2019, ten volle betaal is.

Aangeheg is die berekening van die uitstaande bedrag ten opsigte van die RAB-lening van die onderstaande onderneming:

Hierdie uitstaande bedrag is betaalbaar aan KBR teen die 25ste Junie 2019.

Entiteit	WITZENBERG MUNISIPALITEIT		
Plaas	VREDEBES		
	RAB Skuld / Ha	Ha'e	Bedrag
Winter	34,386.78	-	-
Somer	59,326.13	15.00	889,891.98
Drink	34,386.78	-	-
Totaal			889,891.98

Aannames:

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2nd Floor Ou Kollege Building
35 Kerk Street
Stellenbosch
7600

Telephone (021) 888 4304

13 March 2019

Rudiger Oberg
Fourie Oberg de Bruyn Inc

E-mail: rudiger.oberg@fodb.co.za

Dear Rudiger

KOEKEDOUW BESPROEIINGSRAAD

- 1 We refer to the above matter and your e-mail dated 6 March 2019 in this regard.
- 2 We have been requested to provide an opinion on the tax consequences relating to the refinancing of outstanding loan amounts that Koekedouw Besproeiingsraad ("KBR") and its members currently owe to Firststrand Bank Ltd ("Firststrand").
- 3 The purpose of this document is to provide the advice as requested.
- 4 All references to "section" are to sections of the Income Tax Act 58 of 1962 ('the Act') and references to "paragraph" are to paragraphs of the Eighth Schedule to the Act, unless indicated otherwise.

Background

- 5 The Ceres Municipality ("CM") and KBR entered into an agreement to construct the Koekedouw dam in Ceres.
- 6 It was agreed that the producers/ members of KBR ("the members") would be entitled to 59 per cent of the captured water, whilst the remaining 49 per cent of the water would be allocated to the Ceres town community. The cost of the construction of the dam was also financed in the same ratio (i.e. 59 per cent and 41 per cent by each of KBR and CM respectively).
- 7 KBR obtained its financing through Firststrand of which it still has an outstanding loan amount due.
- 8 Up until now KBR issued invoices to the members for the payment of levies (which included water levies for the utilisation of water) which levies was used to cover the costs of the loan payments together with any operational costs (such as maintenance of the dam) incurred by KBR.

- 9 The invoice for each member is determined as the sum of the abovementioned amounts (i.e. loan payment and operational costs for the month) apportioned in the ratio of the amount of hectares occupied/utilised by the member to the total amount of hectares occupied/utilised by all members, plus VAT.
- 10 Pursuant to a review of the existing funding arrangement by Firstrand, it has been proposed that the Firstrand loan be refinanced with new loan funding to be taken up by the individual members of KBR.
- 11 This will be done in order to obtain cheaper financing as the individual members will be able to obtain better interest rates and can provide direct security for the loan funding.
- 12 It is envisaged that KBR will invoice a 'special levy' for the outstanding loan amount (due to Firstrand) to the members in the same ratio/ proportion as their monthly invoices (calculated as mentioned above).
- 13 As such a once-off invoice is to be rendered by KBR to each of the relevant members that would be payable as an amount due for the utilisation of water in the future by the members. Such total invoice amount paid to KBR will be used to settle the outstanding loan amount owed to Firstrand.
- 14 We understand that KBR is registered with SARS as an exempt entity for normal tax.
- 15 Furthermore we understand that KBR is a registered value-added tax ("VAT") vendor.
- 16 We have been requested to provide an opinion on the tax consequences relating to the above, specifically the following matters:
- 16.1 The income tax deductibility of the 'once-off' advance invoice ('special levy') for the members ("Issue 1");
- 16.2 The deductibility of the interest incurred by the members on the 'refinance loans' ("Issue 2");
- 16.3 The tax treatment for KBR in respect of the 'once-off' invoice amount paid to it by the members ("Issue 3"); and
- 16.4 The VAT treatment of the 'once-off' invoiced amount ("Issue 4").

Issue 1: Deductibility of the once-off invoice for members

General deduction formula

- 17 Section 11(a) of the Act contains the so-called general deduction formula. To claim an expense as an income tax deduction, the expense must meet all the requirements of section 11(a) read together with section 23(g).
- 18 Section 11(a) provides that in determining the taxable income derived by any person from carrying on any trade, there shall be allowed as a deduction from the income of such person so derived, expenditure and losses actually incurred in the production of income, provided such expenditure and losses are not of a capital nature.

- 19 In terms of section 23(g) no deductions shall in any case be made in respect of any moneys, claimed as a deduction from income derived from trade, to the extent to which such moneys were not laid out or expended for the purposes of trade.
- 20 In terms of section 11(a) and 23(g) the requirements can be summarised as follows:
- expenditure and losses actually incurred;
 - in the production of income;
 - not of a capital nature; and
 - for the purpose of trade;
- 21 In what follows we discuss the relevant requirements to determine whether the expenditure in question will qualify as a deduction in terms of section 11(a), read with section 23(g). We accept that the amounts will be expenditure actually incurred by the members and do not elaborate on this requirement any further.

In the production of income

- 22 The phrase 'in the production of income' has been interpreted on numerous occasions by our courts to determine the deductibility of certain expenditure. All expenditure attached to the performance of a business operation *bona fide* performed for the purposes of earning income are deductible. This applies whether such expenses are necessary for the performance of the business operation or attached to it by chance or are *bona fide* incurred for the more efficient performance of such operation. The expenditure must however be closely connected with the business operation so that they may be regarded as part of the cost of performing it.¹
- 23 Expenditure incurred in the production of income does not mean that there may be no deduction unless income has been produced, but means that the expenditure must have been incurred for the purpose of earning income whether in the current or in any future year of assessment.²
- 24 In *CIR v Allied Building Society* it was also held that "the court is not concerned with whether a particular item of expenditure produced any part of the income, but with whether that item of expenditure was incurred for the purpose of earning income."³
- 25 In the current instance the members will ultimately incur the expense ('special water levy') for the utilisation of water in the future in a cost efficient manner. This would enable the members to further their enterprises/ farming activities as they would be able to use the water for their produce which is expected to produce income.
- 26 It is therefore our opinion that the expenditure relating to the water levy will be incurred for productive purposes (i.e. in order to produce output that would result in income). The question is not whether income was actually produced, but rather whether the expenditure was incurred for the purpose of earning income.⁴ Thus whether or not the

¹ See *Port Elizabeth Electric Tramway Co Ltd v CIR* (8 SATC 13).

² See *Sub-Nigel Ltd v CIR* 1948 (4) SA 580 (A), 15 SATC 381.

³ 1963 (4) SA 1 (A), 25 SATC 343 at 358; See also *CIR v Nemojim (Pty) Ltd* 1983 (4) SA 935 (A) 45 SATC 241.

⁴ The view is held by commentators that it is not a requirement of the general deduction formula (i.e. section 11(a)) that the taxpayer set out to achieve a 'profit' in an accounting or economic sense. See *Silke on South Africa Income Tax*, Butterworths electronic version, 2007, at 7.3

expenditure results in the production of greater income for the members is not the question. The question is whether it was incurred for the purpose of earning income, which we understand will be the case.

Capital or revenue

- 27 It is trite that the terms 'capital' and 'revenue' are not defined in the Act and therefore reliance needs to be placed on case law to provide guidance regarding the meaning of the terms. The true nature of each transaction must be examined in order to determine whether the expenditure in question is a capital or revenue expenditure and each case must be decided on its own facts and circumstances.⁵
- 28 Various tests have been formulated by our courts to determine the capital or revenue nature of expenditure and losses, including whether:
- 28.1 The expenditure adds to the income earning structure (capital) or the income earning operations (revenue) of the taxpayer;⁶
- 28.2 The expenditure creates or cause the taxpayer to acquire an income producing concern (capital) or is the expenditure incurred in working an income producing asset (revenue);⁷
- 28.3 The expenditure creates an enduring benefit (capital);⁸ and
- 28.4 The expenditure adds to the fixed capital of the taxpayer (capital) or the floating capital (revenue).⁹
- 29 As per the tests laid down above, one must determine whether payments will be made toward the acquisition of a capital asset or whether the payments are in respect of the income earning operations of the taxpayer. In the *New State Areas Ltd v CIR*, the court confirmed the principle that regard must be had to the consequence of the payment, i.e. does it produce an asset or right for the taxpayer or is it a payment for the right to use an asset. If it is the latter and the taxpayer incurs the expense as part of its income earning operations, it is regarded as being revenue in nature.
- 30 There is a great difference between money spent in creating or acquiring a source of profit, and money spent in working a source of profit. In the former case it is spent to enable the concern to yield profits in the future, in the latter case it is spent in working the concern for the present production of profit.¹⁰
- 31 It is submitted that the expenditure incurred by the members in respect of the advance water invoice will not create an income earning structure for the members and merely works the existing income earning structure. The members do not obtain additional water rights in exchange for making the advance payment of the special water levy but merely makes an advance payment for the utilisation of water based on the already existing water rights of the member. As such, the expenditure would in our opinion closely relate to the income-earning operations of the members rather than their income-earning structure.

⁵ *New State Areas Ltd v CIR* 1946 AD 610 at 627; *CIR v African Oxygen Ltd* 1963 (1) SA 681 (A) at 691.

⁶ *New State Areas Ltd v CIR* 1946 AD 610, 14 SATC 155.

⁷ *CIR v George Forest Timber Co Ltd* 1924 AD 516, 1 SATC 20.

⁸ *CIR v Manganese Metal Company (Pty) Ltd* 1995 TPD, 58 SATC 1.

⁹ *New State Areas Ltd v CIR* 1946 AD 610, 14 SATC 155.

¹⁰ *George Forest Timber Co Ltd* – case (*supra*).

- 32 It could furthermore not be said the expenditure incurred creates an enduring benefit for the /members. This is on the basis that the members do not obtain any additional water rights for making the payment (i.e. their existing water rights is not influenced in any way).
- 33 In **ITC 1764** 66 SATC 93 it was held that the mere fact that rent is paid upfront at the beginning of a lease period does not render the expenditure to be of a capital nature. In the current instance we are of the opinion that the mere advance payment for the water levy would similarly not make the expenditure capital in nature.
- 34 In our opinion therefore the expenditure relating to the special water levy will not create an enduring benefit or an income earning structure for the members. Based on the aforementioned we are of the opinion that the expenditure will not be capital in nature for the members.

For the purposes of trade

- 35 As indicated above, section 23(g) further provides no deductions shall in any case be made in respect of any moneys, claimed as a deduction from income derived from trade, to the extent to which such moneys were not laid out or expended for the purposes of trade.
- 36 We understand that each of the members would conduct a recognisable trade (e.g. farming enterprise) and the expenses in question will be paid in the course of such trade.
- 37 In our opinion, the crucial consideration is that the expenditure must be connected with the 'pursuit' of the taxpayer's trade and not for other objectives.
- 38 The question may be raised as to whether the members will incur the special water levy for the purposes of their trade (e.g. farming and related activities) or to assist the KBR to settle its financing obligations towards Firstrand. We are however of the opinion that although the invoiced/ levy amounts will ultimately be used by KBR to settle the funding provided by Firstrand, the purpose thereof is to pay for the utilisation of water (for their farming enterprises) in a more cost efficient manner. This is because the ultimate purpose of the special water levy is to obtain the water usage at a cheaper cost for the members.
- 39 We are therefore of the opinion that the payment of the special water levy will be done for the purpose of the trade of the members.

Conclusion on deductibility

- 40 Based on the above, we are of the opinion that the expenditure relating to the special water levy invoice would constitute expenditure actually incurred in the production of income, and which is not of a capital nature. The expenditure would in our opinion also be incurred in the carrying on of a trade of the members in a more efficient manner.
- 41 Consequently, it should in our opinion qualify as a deductible expenditure in the hands of the members in terms of section 11(a).

Section 23H

- 42 In terms of section 23H, where expenses were incurred during a year which is allowable as a deduction in terms of section 11(a) in respect of goods or services, all of which will not be supplied or rendered to the taxpayer during such year; or in respect of any other benefit, the period to which the expenditure relates extends beyond such year, the amount of expenditure which may be claimed as a deduction shall be limited.
- 43 Section 23H provides for the spreading of the expenditure over several tax periods where the benefits to which the expenditure relates are only enjoyed over future tax years.
- 44 Section 23H classifies the different types of expenditure in respect of the following:
- 44.1 Goods;
 - 44.2 Services; and
 - 44.3 Any other benefit.
- 45 In terms of section 23H the amount of expenditure that is to be deducted where 'goods' are supplied is so much of the expenditure as relates to goods actually supplied to such person in the year of assessment.
- 46 Where the expenditure relates to 'services' or 'any other benefit' the amount to be spread is based on a similar principle which states that the amount deductible is determined as the amount of expenditure incurred which bears to the same ratio as the number of months the services or such benefit is enjoyed in the current year to the total number of months during which the services or such benefit will be rendered/enjoyed.
- 47 In the case where the period of the services to be rendered or the other benefit to be enjoyed is not determinable, the period over which the services or such benefit is likely to be enjoyed must be used. There is no definition as to what is meant by 'likely to be rendered or enjoyed' but this would generally mean the probable period. All the relevant facts and circumstances should be taken into account with regards to the period of use or enjoyment in this instance.
- 48 Furthermore section 23H(2) states that where the apportionment does not reasonably represent fair apportionment of such expenditure in respect of the goods, services or benefits to which it relates, such apportionment must be made in such other manner as is fair and reasonable.
- 49 The provisions of section 23H does not apply (i) where the goods or services are supplied within six months after the year end; (ii) where the person will have the full enjoyment of such benefit within six months; (iii) where the aggregate of the amount of all the expenditure incurred by a person does not exceed R 100,000; (iv) to any expenditure to which sections 24K and 24L apply or (v) to any expenditure actually paid in respect of an unconditional liability to pay on an amount imposed by legislation.
- 50 As indicated, we are of the opinion that the water invoices would be deductible in terms of section 11(a) for the relevant members.
- 51 The question is however whether or not section 23H would apply to limit and spread the deduction over several tax years (assuming the expenditure will exceed R 100 000 for the particular member).

- 52 As we understand that the benefits of the water usage and advance payment will be provided and enjoyed over a period of time (which extends over several years of assessment), we are of the opinion that section 23H will apply to limit the deduction of the expenditure in question.
- 53 In the current circumstances we are of the opinion that the expenditure (i.e. advance payment) could be apportionment and spread over a period which is based on the total advance invoice amount issued to the member which bears to the same ratio as the invoice amount that would have been payable per year if the advance payment was not made to the total of all invoice amounts that would have been payable over the period (i.e. based on the following formula: $\text{Advance payment} \times \text{Payments per year} / \text{Total payments}$). This would in our opinion represent a fair and reasonable apportionment.
- 54 As indicated above where the invoice does not exceed R100,000 for a specific member, the deduction should not be limited in terms of section 23H. The relevant member will however need to take into account all the prepaid expenses (i.e. the water levy invoice as well as any other prepaid expenditure incurred) during that specific year of assessment.

Issue 2: Deductibility of interest for the producers/members

- 55 We understand that the members will incur interest-bearing loan funding (from a bank) to fund the payment of the special water levy.
- 56 To determine whether the interest is deductible in the calculation of taxable income of the members, the provisions of section 24J should in our opinion be considered.
- 57 In terms of section 24J(2) where any person is the issuer in relation to an instrument (as defined in section 24J) during any year of assessment, such person shall be deemed to have incurred an amount of interest during such year of assessment which is equal to the sum of all accrual amounts in relation to all accrual periods falling, whether in whole or in part, within such year of assessment in respect of such instrument, which must be deducted from the income of that person derived from the carrying on any trade, if that amount was incurred in the production of income.
- 58 An 'instrument' is defined in section 24J as meaning any form of interest bearing arrangement, including a bond, loan advance or debt.
- 59 The term 'issuer' in relation to an instrument means any person who has incurred any interest or has any obligation to repay any amount in terms of such instrument. The term 'interest' is in turn defined as to include the gross amount of any interest or related finance charges in relation to a financial arrangement. As the members will be liable to pay interest at a market related rate, it will incur an obligation to repay any amount in respect of the instrument and will therefore be the issuer in relation to such instrument.
- 60 The term 'accrual amount' is in essence the interest or finance charges determined on a yield to maturity basis over any given accrual period (i.e. in the current instance every 12 month period or part thereof between financial year ends).
- 61 To qualify for the deduction certain requirements must be satisfied before the members will be entitled to deduct the interest in the calculation of its taxable income.
- 62 The requirements in terms of section 24J is that the interest should be:

- In the carrying on of a trade; and
- In the production of income.

- 63 On the basis that the loan funding and interest thereon will be incurred in order to settle the advance water invoice in pursuance of the business conducted by the members, we are of the opinion that the interest incurred should be considered to be in the production of income and in the carrying on of a trade. The same principles discussed in the context of section 11(a) above should therefore in our opinion apply in respect of the above requirements.
- 64 Based on the aforementioned we are of the opinion that the interest incurred by members on loan funding used to settle the water levy invoice would be deductible in terms of section 24J for the members.

Issue 3: Tax consequences for KBR

- 65 We understand that the principle object of KBR is to provide the water rights/ usage to its members and that it is an exempt entity.
- 66 In this regard we understand that KBR would either be exempt from normal tax in terms of section 10(1)(cA) as a board established by law and which in the furtherance of its sole or principal object carries on activities designed to promote commerce, industry or agriculture or is exempt in terms of section 10(1)(t) as a water services provider. The receipts and accruals of such entities are exempt from normal tax.
- 67 Based on the aforementioned we are of the opinion that the 'once off' invoice for the special water levy should also be exempt from normal tax as falling within the ambit of the principal objects of KBR.

Issue 4: VAT consequences

- 68 The invoice issued by KBR for the special water levy would constitute a supply that forms part of the enterprise of KBR (being a mere advance payment for the supply of water or the usage thereof).
- 69 As such output VAT would in our opinion have to be accounted for on the amount at the standard rate.¹¹
- 70 The members should however be able to qualify for a corresponding VAT input if registered for VAT and where they incur the expenditure to make taxable supplies.

General

- 71 The opinion in this report is based on the facts at our disposal as provided to us, which we have not independently verified.
- 72 In accepting the advice contained in this writing you consent to our terms of business the details of which is available on www.graystonelliot.co.za.

¹¹ Section 7(1)(a) of the **Value-Added Tax Act 89 of 1991**.

We trust the above is of assistance. Please do not hesitate to contact us should you have any questions in regard to the above.

Kind regards

A handwritten signature in black ink, appearing to read 'Chemus Taljaard', with a long horizontal stroke extending to the right.

Chemus Taljaard

A handwritten signature in black ink, appearing to read 'Henry Isaacs', with a stylized 'H' and 'I'.

Henry Isaacs

WITZENBERG

MUNISIPALITEIT

UMASIPALA

MUNICIPALITY

- MEMORANDUM -

AAN / TO : Council

VAN / FROM : Municipal Manager

DATUM / DATE : 22 May 2019

VERW / REF : 17/07/5

PROJECT: INSTALLATION OF CCTV CAMERAS ALONG VOORTREKKER ROAD, VOS STREET CERES (R46 CERES TO NDULI) AND VOORTREKKER AND OLIENHOUT STREET IN PRINCE ALFRED HAMLET

PURPOSE

To consider recommending to Council that an agreement be entered into with the Ceres Business Initiative in terms whereof close circuit television cameras be installed along **VOORTREKKER ROAD, VOS STREET CERES (R46 CERES TO NDULI) AND VOORTREKKER AND OLIENHOUT STREET IN PRINCE ALFRED HAMLET** and to contribute to the operational cost thereof.

BACKGROUND

The Ceres Business Initiative, the Agricultural sector and Witzenberg Municipality identified the need for a joint venture to improve the security of its communities within the Ceres district. A task team consisting of the three the parties was appointed and tasked to investigate and present a report on how to address the security concerns. The tasked team, under the chairmanship of the Manager Traffic Services visited the control rooms of similar projects in Cape Town and Worcester and also visited a similar project although smaller in size in Bonnievale. They concluded that the only way to address the security concerns was by way of CCTV cameras on the main corridors of the Ceres area starting from the Zipslide in Ceres to Nduli and along Vos Street to Olienhout Street in Prince Alfred Hamlet.

In terms of the investigation there will be 22 sites and 45 cameras. A site will have more than one camera and is normally at a inter section of a particular road for example at the corner of Vos and Voortrekker Road. The purpose thereof is to cover all the areas for the effective security monitoring. Some of the cameras will have the number plate recognition facility and others the high vision IP (monitoring cameras). The whole idea with the cameras is to reduce crime related activities in Ceres, identifying drug trafficking activities, reducing vandalism activities to public structures / buildings and in general allowing residents and visitors to enjoy a safe environment. The route identified by the task team for the installation of the cameras is as per annexure "....." hereto. Solar panels will also be erected at the various cameras which will enable the system to be operational and effective in the event of Eskom downtime.

Quotations were requested and received from various Service Providers. LTS Security was selected as the preferred bidder because of their experience and involvement in a similar project. They are also involved in the Worcester project and will be responsible for the installation of the cameras as well as the control room and responsive unit. The control room will send a report to the relevant authorities and will also dispatch their responsive unit to the scene of an incident. The capital investment for the project will be R1.056 million and the operational cost R69 575,00 per month. CBI has accepted responsibility for the capital investment.

STRUCTURE AND DURATION

The proposal is that a private company namely Witzenberg Security Forum PTY (Ltd) be registered. The company will further be registered for VAT and SARS Tax exemptions in terms of Section 18 (a). The stakeholders of the company will be CBI, the Municipality and Agriculture. The company will consist of 5 directors, one from each stakeholder with an independent Chair and Vice Chair. The company will contract the services of the service provider. It will be the responsibility of the service provider to manage the activities of the project including SAPS and Law Enforcement. The directors will meet monthly with the service providers to discuss the progress and challenges. CBI will be responsible for the managing of the financial affairs from the stakeholder to the service provider.

LEGAL IMPLICATION

Council must approve of the project and provide for it in the budget. Provincial roads and transport must give approval for the installation of the cameras on the provincial roads.

FINANCIAL IMPLICATION

If Council so approves of the project the Municipality will be responsible for a monthly contribution in the amount of R50 000,00. This commitment will be for a period of three years. The amount will escalate with 7% for the outer two years.

RECOMMENDATION

For consideration.

