MINUTES OF AN ORDINARY MEETING OF THE SWARTLAND MUNICIPAL COUNCIL HELD IN THE COUNCIL CHAMBER, MALMESBURY ON THURSDAY, 30 OCTOBER 2025 AT 10:00

PRESENT:

Speaker, Ald M A Rangasamy
Executive Mayor, Ald J H Cleophas
Executive Deputy Mayor, Ald J M de Beer

COUNCILLORS:

Bess, D G (DA)
Booysen, A M (VF+)
Gaika, M F (EFF)
Jooste, R J (DA)
Nel, M (DA)
Ngozi, M (ANC)
O'Kennedy, E C (DA)
Papier, J R (GOOD)
Penxa, B J (ANC)
Pieters, C (ANC)
Pypers, D C (DA)
Smit, N (DA)
Van Essen, T (DA)
Vermeulen, G (VF+)
Warnick, A K (DA)
Williams, A M (da)
White, G E (PA)

Officers:
Municipal Manager, Mr J J Scholtz
Director: Civil Engineering Services, Mr L D Zikmann
Director: Electrical Engineering Services, Mr T Möller
Director: Protection Services, Mr H Witbooi
Director: Corporate Services, Ms M S Terblanche
Senior Manager: Budget Office and Costing, Ms H Papier
Manager: Secretariat and Records, Ms N Brand

1. OPENING

The Speaker welcomed the Executive Mayor, Executive Deputy Mayor, aldermen and alderladies, councillors, officials and members of the public.

Mrs H Koopman, an official from the Department: Corporate Services, opened the meeting with scripture reading and prayer at the invitation of the Speaker.

The Speaker conveyed his congratulations to councillors and officials who have recently celebrated birthdays.

The Speaker sympathised with councillors and officials who have lost loved ones in recent times.

2. LEAVE OF ABSENCE

Leave of absence is granted to Cllrs, C Fortuin, I S le Minnie and P E Soldaka, the Director: Development Services, Ms J S Krieger and the Director: Financial Services, Mr M Bolton.

3. DEPUTATIONS / STATEMENTS AND COMMUNICATIONS / PRESENTATIONS

3.1 SPECIAL COUNCIL MEETING, 3 DECEMBER 2025

NOTICE IS GIVEN by the Speaker of a Special Council Meeting scheduled for Wednesday, 2025 at 10:00.

3.2 AWARDS RECEIVED BY SWARTLAND MUNICIPALITY

The Municipal Manager gave background to the recent award received by Swartland Municipality, namely:

(1) *MIRA (Municipal Innovation Recognition Award)* – 3rd place award for the judgement of the Highlands Landfill;
(2) *Cape Chamber's Award* – award for the most innovative project for the environment created by the Municipality for the development of the Crestcare Hospital and De Zwartland Markt with associated job creation;
(3) *Premier's Awards* – various awards in particular categories;
(4) *Auditor General's Award* – for obtaining a clean audit for the previous financial year;
(5) *Ratings Africa/SAPOA (South Africa Property Owners' Association)* – joint winner with Saldanha Bay Municipality as most financially sustainable municipalities.

The Municipal Manager emphasised that the awards are the result of the Municipality's drive to do what is expected of a local authority and to serve the community with integrity, dedication and excellence. The honours are the result of a combined effort, a shared vision and dedication to create the right culture.

Cllr B J Penxa expressed his gratitude with regards to the awards and to being a part of the collective effort and culture. However, concerns are expressed about the increasing crime in the Swartland municipal area and the lack of service delivery by Provincial and National Departments, e.g. there is no progress in the construction of the new hospital, the need for a Satellite Police Station between Ilinge Lethu and Saamstaan has been repeatedly brought to the attention of the South African Police Service (SAPS), but no support is obtained from the SAPS.

Cllr Penxa mentioned that the public wrongly blames the Municipality for this poor service delivery and lack of support from Provincial and National Departments.

FOR INFORMATION

4. MINUTES FOR RATIFICATION

4.1 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 31 JULY 2025

RESOLUTION
(proposed by cllr A K Warnick, seconded by cllr E C O'Kennedy)

That the minutes of an Ordinary Council Meeting held on 31 July 2025 be approved and signed by the Speaker.

4.2 MINUTES OF AN ORDINARY COUNCIL MEETING HELD ON 27 AUGUST 2025

RESOLUTION
(proposed by cllr M Nel, seconded by cllr D C Pypers)

That the minutes of an Ordinary Council Meeting held on 27 August 2025 be approved and signed by the Speaker.

5. FEEDBACK ON RESOLUTIONS TAKEN BY THE EXECUTIVE MAYOR IN TERMS OF DELEGATED POWER

RESOLUTION

That notice be taken of the Executive Mayor's decisions in terms of delegated power, as contained in the minutes below:

5.1 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYORAL COMMITTEE HELD ON 17 JULY 2025

5.2 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYORAL COMMITTEE HELD ON 21 AUGUST 2025
read with
MINUTES OF PORTFOLIO COMMITTEE MEETINGS HELD ON 13 AUGUST 2025

5.3 MINUTES OF AN ORDINARY MEETING OF THE EXECUTIVE MAYORAL COMMITTEE HELD ON 17 SEPTEMBER 2025
read with
MINUTES OF PORTFOLIO COMMITTEE MEETINGS HELD ON 10 SEPTEMBER 2025

6. FEEDBACK ON RESOLUTIONS TAKEN BY THE MUNICIPAL MANAGER IN TERMS OF DELEGATED POWER

RESOLUTION

That notice be taken of the Municipal Manager's decisions in terms of delegated power, as contained in the minutes below:

6.1 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 23 JULY 2025
6.2 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 8 AUGUST 2025
6.3 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 18 AUGUST 2025
6.4 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 3 SEPTEMBER 2025
6.5 MINUTES OF A BID ADJUDICATION COMMITTEE MEETING HELD ON 22 SEPTEMBER 2025

7. MATTERS ARISING FROM THE MINUTES

None.

8. MATTERS FOR DISCUSSION

8.1 POSSIBLE IMPLEMENTATION OF THE ADMINISTRATIVE ADJUDICATION OF ROAD TRAFFIC OFFENCES ACT (AARTO) IN THE SWARTLAND MUNICIPALITY (17/6/B)

The Municipal Manager gave background to the possible implementation of the Administrative Adjudication of Road Traffic Offences Act (AARTO) of which the public participation process was concluded way back in October 2020. The Municipal Manager referred to the Service Level Agreement dated 2024, with amendments, that must be entered into between municipalities and the South African Post Office.

The Municipal Manager raised some of the concerns regarding the implementation of AARTO effective from 1 December 2025, amongst other, the involvement of the South African Post Office (which is under business rescue), the fact that there is no budget for the implementation of AARTO (due to the proclamation done in August 2025, outside of local government's budget cycle), the loss of income, regulations that must still be promulgated, the readiness of the back office, etc.

The Municipal Manager mentioned the actions of the City of Cape Town to declare an inter-governmental dispute, as well as to obtain and interdict for the postponement of the implementation of AARTO to a later date than 1 December 2025 and that Swartland Municipality supports these actions.

The Speaker brought the possible implementation of AARTO in the Swartland Municipality effective from 1 December 2025 to vote and it is –

UNANIMOUSLY RESOLVED

(a) That cognisance be taken that a revised draft Service Level Agreement, to be entered into by the Municipality with the South African Post Office (SAPO) was received from the Road Traffic Infringement Agency (RTIA) on 26 January 2024;

(b) That the following concerns with regards to the draft Service Level Agreement to be entered into with SAPO, be noted, namely:

(i) That several obligations relating to data processing are placed on the RTIA, which is not a party to the agreement. As a result, enforceability is not possible, and the Municipality will have no legal remedy in the event of non-performance by the RTIA.
(ii) That no provision is made for the reconciliation of infringement notices issued by the issuing authority and transmitted by the RTIA to SAPO, nor for the payment of any amounts due to the issuing authority. This may potentially result in loss of revenue for the Municipality and mismanagement of funds.
(iii) That it be noted that the Municipality will only receive a quarterly report on the tracing outcomes of notices dispatched by SAPO.
(iv) That it be noted that the draft SLA merely refers to an effective date as agreed upon by the parties, without any indication of how such agreement will be reached.
(v) That it be noted that the provisions of the Local Government: Municipal Finance Management Act (MFMA) must be complied with regarding disputes relating to payments and the conclusion of any agreement.
(vi) That it be noted with concern that the draft SLA requires the Municipality to open an account with SAPO, subject to the terms and conditions of the account application, of which no copy has been provided.
(vii) That it be noted that the draft SLA further requires the Municipality to maintain a deposit equivalent to at least three (3) months' usage costs in advance, which is inconsistent with the MFMA.
(viii) That it be noted that the draft SLA contains numerous errors, such as incomplete definitions, inconsistencies between the main agreement and its annexures or other clauses, incorrect cross-references, and numerical errors.
(ix) That the Municipality expresses concern regarding SAPO's capacity to meet the obligations of an agreement of this nature and scope, and that care should be taken to ensure such an agreement is not used as a business rescue mechanism for SAPO.
(x) That it be noted that the draft SLA includes several provisions protecting SAPO from performing its duties during strikes or business rescue proceedings, which would result in notices not being dispatched within prescribed timeframes, leaving the Municipality without any recourse for the associated revenue loss.

(c) That, after determining which of the eight aspects are being met or not met, and based on the Municipality's lack of readiness to implement AARTO, an application for postponement be submitted to join the next group of municipalities for implementation, as Swartland Municipality is not yet ready for implementation, mainly due to:

(i) a lack of budgeting provision because the proclamation was made amid a financial year (August 2025), and therefore could not be budgeted for in advance;
(ii) the readiness of the "back office";
(iii) the unavailability of Regulations and any SOP (Standard Operating Procedures); and
(iv) the South African Post Office not being functional and currently under business rescue.

(d) That the Municipal Manager be authorised to send a letter to the RTIA highlighting the Municipality's concerns, stating that due to the prevailing uncertainties, the Municipality will not be able to implement AARTO until all the abovementioned concerns have been addressed; that no service level agreement regarding AARTO will be entered into until clarity has been obtained on the outstanding issues; and that the Municipality is not willing to sign a service level agreement with SAPO due to the conflict with the MFMA;

(e) That, if the City of Cape Town decide to obtain an interdict against the implementation of AARTO effective from 1 December 2025, it be supported by Swartland Municipality;

(f) That the Executive Mayor be authorised to send a letter to the President of South Africa and the Minister of Transport, Barbara Creecy, on the concerns of the Municipality regarding the implementation of AARTO effective 1 December 2025.

8.2 MEMORANDUM OF UNDERSTANDING WITH THE WESTERN CAPE GOVERNMENT: SUSTAINABLE INFRASTRUCTURE, DEVELOPMENT AND FINANCIAL FACILITY (SIDAFF)

The Director: Civil Engineering Services gave background to the *Sustainable Infrastructure Development and Financial Facility* (SIDAFF) programme coordinated by the Department of Local Government. The aim of this programme is to pool water and sanitation projects from selected municipalities into one portfolio to attract investments from large international funding institutions that would not normally support smaller, individual projects.

The Director: Civil Engineering Services further stated that the Consulting Engineer, Zutari Consulting Engineers, who was appointed by the Department of Local Government, are already involved in the planning of water and sanitation networks in the Swartland municipal area and is therefore familiar with local conditions.

A further advantage of the SIDAFF programme is that it can be brought in as a partner when applying for BFI (*Budget Facility for Infrastructure*) funding from the National Government, the application of which may not be less than R1 billion, given that ±R2,5 billion is required for the upgrade of the total municipal water network.

The Director: Civil Engineering Services expressed his gratitude that Swartland Municipality has been selected to be part of the SIDAFF programme.

RESOLUTION
(proposed by ald T van Essen, seconded by cllr N Smit)

(a) That the following be authorised by Council in respect of the SIDAFF Programme:
   (i) The undertaking of long-term debt that extends beyond the current political term (5-year electoral cycle), in compliance with Section 46 of the MFMA;

   (ii) Participation in a joint, inter-municipal pooled-blended financing approach under the SIDAFF Programme, subject to due diligence, affordability, and regulatory compliance;

   (iii) The Municipality undertakes to submit a certified copy of the signed Council Resolution to the Department of Local Government, Western Cape Government, for inclusion as Annexure A to this MoU. The Municipality further acknowledges that its participation in the SIDAFF Programme Phase 3 is conditional upon the submission of this certified resolution within 30 days of signing the MoU;

(b) That cognisance be taken that Zutari is the preferred bidder for the upgrade of the Swartland Water Treatment Works and bulk pipeline under the SIDAFF Programme.

8.3 PROPOSED OUT-OF-HAND ALIENATION OF PORTION OF THE REMAINDER OF ERF 138, RIEBEEK KASTEEL (12/2/5/2-11/4)

The firm, CK Rumboll & Partners were appointed by the Municipality in 2018 to manage the subdivision and rezoning application of Erf 138, Riebeek Kasteel. During the surveying process, it was determined that an existing building (historic dwelling) and existing boundary fence of Erf 137 exceeds Riebeek Kasteel on Erf 138.

An application was received from the owner of Erf 137, Riebeek Kasteel to acquire the relevant portion (size 115 m²) of Erf 138, Riebeek Kasteel.

Resolution/…

RESOLUTION
(proposed by cllr D G Bess, seconded by cllr A M Booysen)

(a) That, in terms of Section 14 of the Municipal Finance Management Act (Act No. 56 of 2003) Council resolves that:
   (i) The subject property is not needed for the provision of a minimum level of basic municipal services; and
   (ii) That the fair market value of the asset and the economic and community value to be received for the asset has been considered;

(b) That approval be granted by Council in terms of the applicable By-law as well as Section 14 of the Municipal Finance Management Act, 2003 for the out-of-hand alienation of a portion, ± 115 m² in extent, of Remainder Erf 138, Riebeek Kasteel to the owner of adjoining Erf 137 at a selling price of R28 750.00 excluding VAT, subject to the standard conditions of sale and the following further conditions:
   (i) That the process for obtaining the required land use/development rights (i.e. subdivision and consolidation) be undertaken by and at the cost of the purchaser;
   (ii) The purchaser, in addition to the purchase price, shall be responsible for all costs ancillary and incidental to this transaction, including advertisement and transfer costs;
   (iii) That the proposed transaction be advertised in the media for public comments and/or potential objections, and the Executive Mayor (in consultation with his committee) be authorized to deal with any objections that may be forthcoming;

(c) That the following reasons be recorded for the out-of-hand alienation of the subject property, and for not undergoing a competitive process, with reference to paragraph 12.1.1 of the Municipal Asset Transfer Policy:
   (i) The identified portion of Remainder Erf 138 is already functionally integrated with Erf 137, Riebeek Kasteel, due to the existing building and boundary fence encroachments, and therefore qualifies as ‘non-viable asset’ in that due to physical constraints it cannot be developed sensibly as a separate entity within the development parameters of the existing zoning, and therefore only becomes functional if alienated to the adjoining owner as proposed;
   (ii) The acquisition will regularize the integration of the subject property with Erf 137 by formalising the property boundary, thereby ensuring consistency between cadastral records and the actual use of the land;
   (iii) The existing encroachment situation and any potential land use or legal disputes that may arise in future, will be eliminated, and will ensure certainty for both the Municipality and the property owner.

8.4 CONSTRUCTION OF ROADS IN CHATSWORTH: PROPOSED EXPROPRIATION OF PORTIONS OF PRIVATE LAND FOR SPLAYS (12/2/1-2/4)

In 2022 the Council considered the various options for transferring portions of private land for splays in order to complete the construction of roads in Chatsworth.

An expropriation process was decided upon, which was successfully completed during 2022/2023. The proposal is to follow the same process for the 2025/2026 financial year and beyond.

The completed road designs affect 38 properties, five of which belong to the municipality. The required splays cover an average of approximately 12,5 m² and will now be measured to prepare final diagrams for attachment to the Expropriation Notices.

RESOLUTION
(proposed by cllr R Jooste, seconded by ald T van Essen)

(a) That approval be granted for the expropriation, for public purposes (roads), of those portions of private land required as splays for the continued construction of roads in Chatsworth, to ensure that the expropriations can be completed during the 2025/26 financial year for the construction programme ahead, taking into account the complexity, increased costs, and other implications of the normal transfer process as outlined;

(b) That the payment of compensation, as contained in Annexure A to the report, be approved;

(c) That the affected parties be informed in writing of the steps to be taken and the process to be followed;

(d) That the Director: Corporate Services be authorised to sign all documents related to these transactions.

8.5 QUARTERLY REPORT (SECTION 52 OF MFMA): JULY TO SEPTEMBER 2025 (7/1/2/2-2)

The presentation of the quarterly report to Council is prescribed by Section 52(d) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003).

The Section 52 MFMA Quarterly Report also contains non-financial information in the form of the performance measured against the targets in the Top-Level Service Delivery and Budget Implementation Plan.

The aforementioned report was considered by the Municipal Public Accountability Committee (MPAC) on 28 October 2025 for recommendation to Council.

RESOLUTION
(proposed by cllr E C O'Kennedy, seconded by cllr D C Pypers)

That cognisance be taken that the quarterly report was tabled at the MPAC on 28 October 2025 and that the MPAC, by way of reporting to the Council, recommends that the Council takes note of the quarterly report as required by Section 52 of the Municipal Finance Management Act, Act 56 of 2003 in respect of the implementation of the budget as well as the performance against the Top Layer Service Delivery and Budget Implementation Plan of the municipality for the period 1 July to 30 September 2025.

SIGNED:
SPEAKER