



Municipality of Walvis Bay

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NOTICE

His Worship the Mayor and Councillors
General Managers

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Date	03 June 2021

ORDINARY COUNCIL MEETING OF THE LOCAL AUTHORITY COUNCIL OF WALVIS BAY

Notice is hereby given that the Ordinary Council meeting of the Local Authority Council of Walvis Bay will be held at the Council Chambers, Civic Centre, Walvis Bay on: -

Tuesday 08 June 2021 at 18:00

Yours faithfully



F. I. Gonteb
Acting Chief Executive Officer



Agenda

1. **Opening by prayer** (File 3/1)
2. **Adoption of agenda and declaration of interest**
3. **Application for leave of absence by members of council** (File 3/3/1/4)
4. **Confirmation of minutes of previous meeting/s** (File 3/3/2/3/1)
 - 4.1 Minutes of the Ordinary Council meeting held on Wednesday 28 April 2021.
 - 4.2 Minutes of the Extra Ordinary Council meeting (Appeal) held on Monday 31 May 2021
 - 4.3 Minutes of the Extra Ordinary Council meeting (Budget) held on Monday 31 May 2021
5. **Matters arising from the minutes**
6. **Interviews with deputations or persons summoned or requested to attend meeting**
(File 3/3/2/3/2)

Tuesday, 27 April 2021

- LPG project
- Waterfront Development Company

Tuesday, 01 June 2021

- Clasox Petroleum by Mr Zedekias //Gowaseb
- Lease of land farm 37 – by Mr Ryan C Clarke
- Application for a plot to construct the International University of Management by Mr Gerry Munyama
- Walvis Bay Corridor by Mr Gilbert Boois

7. **Official announcements, statements and communications**

Announcements by His Worship the Mayor, Trevino Forbes.

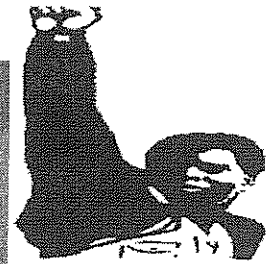
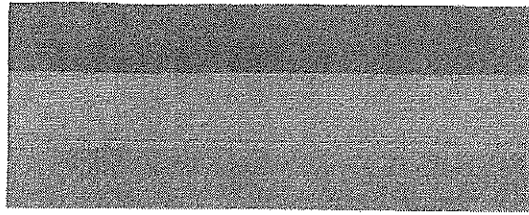
8. **Petitions** (File 3/2/1/6)

No petitions have been received.

9. **Motions of members** (File 3/3/1/1)

- 9.1 Acts contrary Local Authorities Act, 1992 and to code of conduct for members of the Local Authority Councils – Motion by Councillor Ephraim Shozi.
- 9.2 Assisting the fisherman with prepaid water meters and application of amnesty interest that has accumulated on their accounts and consider writing off their water accounts – Motion by Councillor Richard Hoaeb.
- 9.3 Rescind Council resolution dated 24 June 2014, under item 12.9 Narraville Extension 12 & 14 – Motion by Councillor Saara Ndapewoshali Mutondoka
- 9.4 To obtain the status of Council's developed and undeveloped land sold or leased in Walvis Bay Local Authority area – Motion by Councillor Saara Ndapewoshali Mutondoka.
- 9.5 To obtain legal clarity on Walvis Bay Waterfront property (Pty) Ltd. from an independent and professional legal expert: Erven 4939 & 4941 – Motion by Councillor Saara Ndapewoshali Mutondoka

SWAPO Party



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Fairway Estate
32 Protea Street

Private Bag 2436
Walvis Bay, Namibia

My Ref.: 2/4/21
Your Ref.:

April 22, 2021

ACEO Mr. F I !Gonteb
Office of Municipality Walvis Bay Chief Executive Officer
Private Bag 5017
Walvis Bay

Mr. F I !Gonteb

MOTION: ACTS CONTRARY LOCAL AUTHORITIES ACT, 1992 AND TO CODE OF CONDUCT FOR MEMBERS OF THE LOCAL AUTHORITY COUNCILS.

As explained in "Judicial review", different laws and court procedures apply to government. If it is made at local government level, it is likely to be reviewable as part of the government system. The government ombudsman will also be able to assist.

I have carefully read the relevant legislation. If the decision was made under a particular Act or Regulation, then you should read that legislation carefully. Check whether the decision-maker had the power to make the decision they made and whether the correct procedures have been followed. The decision was not made under an Act, I thought about how the decision-maker had any power at all.

I don't have a copy of the decision-makers written reasons for the decision. There are reasons for me not to do so, for example, if the error is so obvious that you can challenge the decision without obtaining their reasons.

Specific right of review on the merits is provided by an Act, as fresh evidence can be assessed by the reviewer, who will look at the case as a whole with fresh eyes. However, where merits review will not resolve a fundamental issue such as an entrenched and unlawful Act that is likely to be followed on merits review.

I am fully taking note of underline Section 10(3) of the Local Authorities Act, 1992 (Act No. 23 of 1992), A prescribe code of conduct for members of local authority councils is clearly set out in the Schedule;

Under Acts contrary to Code

6. (1) If a member acts contrary to the provisions of this Code, any other member or the chief executive officer may, in writing, report the matter to the chairperson of council or if the chairperson is involved the matter must be reported to the vice-chairperson of council or any member of the council who must bring the matter before council if he or she is of the opinion that the report has substance.

I am making reference to ORDINARY COUNCIL MEETING held at the Kuisebmund Council Chambers, Nathaniel Maxuillili Avenue, Kuisebmund on the Tuesday, March 30, 2021 at 18:00.

Under AGENDA item;

11. Reports of the Management Committee for March 2021

11.1 Appointment of Members to serve on internal committees and external institutions - Resubmission (add 5; M/C Meeting 09/03/2021; File 7/2P7/2/3/25)

And

12.5 Appointment of Members to serve on internal committees and external institutions - Resubmission (add 5; M/C Meeting 09/03/2021; File 7/2P7/2/3/25)

The resolvment of Powers, duties and functions of management committee in terms of the Local Authorities Act, 1992 (Act No. 23 of 1992), of

Section 26(1) A management committee shall be required -

(f) to exercise any power conferred upon the management committee under any provision of this Act or any other law;

And

(g) to exercise any power of the local authority council delegated to the management committee by the local authority council under section 31, and may establish from time to time such committees as it may deem necessary to advise it on the exercise of any of its powers or the performance of any of its

duties and functions and may appoint such members of the management committee or such other persons as it may deem fit to be members of such committees.

The above taken decision are POWERS, DUTIES, FUNCTIONS, RIGHTS AND OBLIGATIONS ARE THE MANDATE OF LOCALAUTHORITY COUNCILS as stipulated under Local Authorities Act, 1992 (Act No. 23 of 1992), of;

Powers, duties and functions of local authority councils

30.

(1) Subject to the provisions of subsections (2) and (3), a local authority council shall have the power -

w) to establish from time to time such committees as it may deem necessary to advise it generally or in relation to any particular matter in the exercise of any of its powers or the performance of any of its duties and functions and may appoint such members or such.

(2) If the chairperson, vice-chairperson or any other members referred to in subparagraph (1) omits or refuses to act on the report made in terms of that subparagraph, the member who made the report may refer the matter to the chief executive officer who must report the matter to the management committee.

(3) If the chief executive officer has made the report referred to in subparagraph (1) and the chairperson of council, the vice-chairperson of council or any other member omits or refuses to act on the report as contemplated in subparagraph (2), the chief executive officer may on his or her own initiative report the matter to the management committee.

(4) A management committee must consider the report referred to in subparagraph (2) or (3) and may, if it deems fit, report its finding to the council.

(5) If a motion is brought before the council in terms of subparagraph (1) or the management committee report its finding as contemplated in subparagraph (4) and the council finds that a member has contravened any provision of this Code the council may, by way of a two third majority vote of all members present at a meeting of council and after having afforded the member an opportunity to be heard in his or her defence, suspend the member from attending meetings of the council, committee or management committee for a period not exceeding one month.

(6) Despite subparagraph (5) and subject to section 13(2)(a) of the Act, a council may recommend to the Minister that a member referred to in that subparagraph who is found guilty of having contravened any provision of this Code be removed from the office under that section.

I confidently move the MOTION in Challenging administrative law interpretation;

I rely on administrative law of which I challenge the decision and any actions of the Management Committee officials taken. Decisions or actions governed by administrative law are called "administrative decisions".

Administrative law usually only enables decisions (or actions) that are "administrative" in nature to be challenged. Administrative decisions are usually made by government officers, if the decision involves "statutory power" then it is likely to be regulated by administrative law.

Reconsideration;

I always consider processes of options first, subject to any time limits that might restrict other forms of review. I therefore ask the Chairperson of Management Committee whether they are prepared to reconsider the matter. Generally speaking, if person's "rights" are violated, reconsideration may be undebatable.

Review on the merits;

Review "on the merits" generally means that a person will look again at a decision that has been made and make what they think is the "correct and acceptable" decision instead. The persons or relevant line authorities conducting the review will look at the matter as a whole, considering all the relevant facts, any relevant policy and the relevant law. They will make fresh findings of fact if they the original decision contains errors of fact. They will then be able to substitute their own decision for the decision originally made.

You will only have a right to a review of an administrative decision "on the merits" if an Act or Regulation gives you that right.

A right of review "on the merits" can be a very valuable right. If you are unhappy with an administrative decision or action you should carefully read the Act or Regulation under which the decision was made to see if it gives you an express right of review.

The laws give wide rights of merits review. The right of review may be to a higher official, a minister, a specialist tribunal.

It is important to understand this difference when analyzing the decision, I am challenging the potential basis for such a challenge.

One of the key distinctions between merits review and judicial review is that merits review allows the new decision-maker to make fresh findings of facts, and to exercise their discretion to make a different decision that is based on the facts as they find them.

On the opposite with judicial review, the courts generally cannot make fresh findings of facts or remake the decision based on those findings. Instead, the courts are restricted to the facts as found by the original decision-maker; the courts are concerned with whether the original decision contains an error of law (i.e. whether the decision is lawful).

Complaint to an ombudsman;

In addition to the above forms of review, you can often complain to a complaints body such as the relevant ombudsman. However, an ombudsman is usually a last resort – you should exhaust other merits or judicial review options first. Ombudsmen investigate complaints about decisions of government officers and agencies, as well as systemic issues, and can decide whether or not any complaint should be investigated.

It is best to try to solve the problem directly with the relevant agency first before approaching an ombudsman.

Yours faithfully,



E. Z. Shoji
Municipality of Walvis Bay - Local Authority Councillor

Cc: Chairperson of Council

Cc: Chairperson of Management Committee

28 May 2021

Motion

His Worship this motion is submitted in terms of standing rules of order no. 12 & 13, and its purpose is to assist the fisherman with prepaid water meters and application of amnesty interest that has accumulated on their accounts and consider writing off their water accounts.

1. Fisherman water accounts

In 2015, approximately 3000 fishermen were retrenched due to companies such as NAMSOV not receiving enough quotas from the government. This left a majority of fishermen unemployed with no means to sustain themselves or their families.

The fishermen have received hardship since their retrenchment. Everyone has been sympathizing with them but yet, no real assistance has been rendered to those fishermen who still find themselves unemployed 5 years later. Many have lost their homes, some have lost their lives, some lost their families, other personal belongings, difficult to find alternate jobs/unemployed ever since, hence due to these contributing factors a lot have accumulated bills that they are unable to pay for including water bills.

We a council should look deeper into their cry, and have some leniency towards their municipal obligations, in terms of prepaid water meter and accumulative interest

The fishermen have been peacefully gathering next to the Kuisebmund stadium without causing any havoc, neither disturbing any once peace for more than 6 years.

The purpose of my motion is for the theses fisherman who owns property, water bill in their name as well the one renting Municipal houses with water bill registered in their names to be awarded with pre-paid water meters and with regards to their outstanding water bills that the Amnesty interest that was approved by Council in February 2021 should be applied in terms of interest as they are not able and or afford to pay the capital amount outstanding to qualify for the interest amnesty.

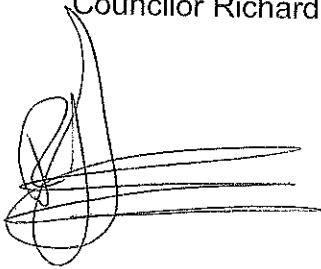
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Further to that, it is the purpose of this motion that Council also consider writing off their water accounts only to this motion.

I believe this motion will assist and or contribute to the plight of the fishermen who have been suffering for the past six years due to a number of national happenings that affects the nation as a whole and specifically and directly the fishermen.

SO I SUBMIT YOUR WORSHIP

Councilor Richard Hoaeb

A handwritten signature in black ink, consisting of a large, stylized 'R' followed by several horizontal strokes.

WALVIS BAY LOCAL AUTHORITY COUNCIL

Councillor: Cllr. Saara Ndapewoshali Mutondoka
Deputy Mayor (Vice Chairperson of council)

MOTION 1: TO RESCIND COUNCIL RESOLUTION DATED 24 JUNE 2014, UNDER ITEM 12.9:
NARRAVILLE EXTENSION 12 & 14.

YOUR WORSHIP, Honourable Councilors and management.

This motion is submitted in terms of rules of order number 12 & 13 made in terms of section 14 (6)(b) of the Local Authority Act, 1992 (Act No 23 of 1992) and specifically in terms of standing rule NO. 17.

YOUR WORSHIP, Honourable Councilors and management

This motion is intended to rescind council resolution as stated in the above subjected matter. With reference to the recent council resolution dated 28/04/2021 under item 12.6 which recommended that the item be withdrawn for further internal discussions between councilors and then be submitted to management committee for reconsideration and resubmitted to council.

During such deliberations which were held at informal discussions dated 18/05/2021 it became evident that there are some deficiencies as far as the sale of these blocks of land is concern, amongst others:

- land has been sold in 2014 with certain conditions;
- However the purchaser only signed the deed of sale recently in February 2021, while the council did not sign it yet.
- 10% deposit on the sale has been paid beginning this year only 2021.
- 10% contribution to landscaping was only recently paid on 19 May 2021.
- There are issues around the transfer of the properties as there are encroachment on the boundaries with the other properties,
- 21 days has lapsed from the date of payment of 10% deposit and signing of contract and up to date, this council did not receive the acceptable bank guarantee from the client as per the conditions of the sale. This is one of the most crucial conditions of sale as per the council's resolution in the above subject matter

YOUR WORSHIP, Honourable Councillors and management




This land will in total yield 674 single residential erven, 8 general erven, 2 business erven, 2 institutional erven and 13 public open spaces. It is therefore not fair to sell this size of land to a single developer while the masses are crying for land. It is a well known fact that developers do not cater for our suffering masses.

During this time of economic crises, it will not be viable to proceed with the sale of such size of land to developers, while council is in need of land for the development of affordable housing. It is against this background that the council considers legal awareness to rescind the council resolution in the above subject matter and council develops the land itself for the provision of housing at affordable prices to its residents. My request in this regard is clear and straight forward, council must not proceed with this sale and that this land be reserved for our people.

I SO MOVE YOUR WORSHIP!

Signed:

A handwritten signature in black ink, appearing to be 'M. S. ...' followed by a stylized flourish.

28/05/2021

WALVIS BAY LOCAL AUTHORITY COUNCIL

Cllr. Saara Ndapewoshali Mutondoka
Deputy Mayor (Vice Chairperson of council)

MOTION 2: TO OBTAIN THE STATUS OF ALL COUNCIL'S DEVELOPED AND UNDEVELOPED LAND SOLD OR LEASED IN WALVIS BAY LOCAL AUTHORITY AREA.

YOUR WORSHIP, Honourable Councilors and management

This motion is submitted in terms of rules of order, i.e. rule number 12 and 13 made in terms of section 14 (6)(b) of the Local Authority Act, 1992 (Act No 23 of 1992)

YOUR WORSHIP, Honourable Councilors and management

It came to my attention that there is quite a number of land/properties which still remain unproductive, which has either been sold, reserved or leased out, but still remain vacant, undeveloped and or unproductive.

It is therefore the purpose of this motion to obtain detailed information with regards to the following aspects:

- erf number/land identification
- location/area of that particular land
- Its Size
- beneficiary/allocated to
- date of allocation
- Original Councils resolution on the allocation
- latest council resolution with regards to the allocation, in case there was an amendment/rescinding on the original one
- purpose of allocation
- status of payment
- reason for the delay of intended development

YOUR WORSHIP ,Honorable Councilors and management



From the weekly informal discussions, it has become quite evident that land applications, be it for purchase or rental, this council has been inundated with such applications. Obtaining such information will enable this council to do proper and or detailed analysis of property stock and decide upon and or consider reallocating to those in needs as well as to potential applicants

that are serious about developing such land. It will also help the council accountability wise while validating for transparency purpose.

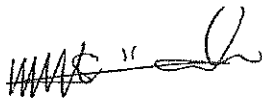
I hope and trust that this motion will receive the urgent attention it deserves from the administration to enable this council to map out the way forward. It is further requested that the ACEO ensures that this information be made available to council not later than 30 June 2021.

YOUR WORSHIP, Honourable Councilors and management

I have faith in the administration that the information as requested with this motion will be submitted on or before the stated due date as it will greatly assist with possible way forward/reallocation of land and will equally ease the burden this council currently face in terms of overwhelming land allocation.

I SO MOVE YOUR WORSHIP

Signed:

A handwritten signature in black ink, appearing to be 'WMS' followed by a flourish.

28/05/2021

WALVIS BAY LOCAL AUTHORITY COUNCIL

Cllr. Saara Ndapewoshali Mutondoka
Deputy Mayor (Vice Chairperson of council)

MOTION 3: TO OBTAIN LEGAL CLARITY ON WALVIS BAY WATERFRONT PROPERTY (Pty) Ltd.
FROM A INDEPENDENT AND PROFESSIONAL LEGAL EXPERT: ERVEN NO 4939 & 4941

YOUR WORSHIP, Honourable Councilors and management

This motion is submitted in terms of rule number 12 & 13 made in terms of Local Authority Act, 1992 (Act n0 23 of 1992)

YOUR WORSHIP, Honourable Councilors and management

It is the purpose of this motion to obtain detailed and clear legal opinion and information with regards to the Walvis Bay Waterfront Company.

The current known information is that, this council entered into a joint venture agreement with Afrikuumba Company in the above subject matter. Council holds 20% share in this agreement whereas Afrikuumba hold 80% share.

Council has contributed erven 4939 & 4941 in this joint venture whereas Afrikuumba has to bear development cost. The above two properties which were zoned as public open spaces were registered in new water front company on 13/10/2016.

YOUR WORSHIP, Honourable Councilors and management

No development of any kind has taken place since 2016 at the property, thus reliable clarity is sought in this regard. Clarity as to the cancellation of rental agreement (long lease) which has been cancelled and led to the transfer of property is hereby sought.

YOUR WORSHIP, Honourable Councilors and management

It came to my attention that, with the transfer of the properties, the payment of stamp duty was based on the amount of 14.8 million where as the property was valued at about 80 million. What is the source of 14.8 million?



Furthermore, any risk on the side of the council which is associated with 20% shareholding is not clear to this council. Moreover, in all fairness and for transparency sake, the directorship needs to be relooked at, as directors meetings are dormant and there is no sign of progress, this applies to shareholders committee as well.

As newly elected office bearers, we need to have comfort with shareholders agreement and joint venture agreement as this land in question as transferred is a huge size of land bearing public interest in terms of objections lodged at that time. The number of objections was lodged during the advert at that time. How these were objection resolved, were they all not valid?

Completeness of information on administrative files cannot completely be reliable as emanates from the informal discussions held with the administration. It is also a fact that this land was transferred while it was still a public open space whereas such could first have been rezoned before such transfer could have taken place, and indeed in line with the prescribed and relevant law. Was this property rezoned at first and then only transferred or was it the other way around?

As newly, vibrant, energetic and visionary elected office bearers, it is prudent to be well vested with this information and the council to be protected from any possible future risk, for the benefit of this community at large.

YOUR WORSHIP, Honourable Councilors and management

It is against this background that I am submitting this motion with the purpose of appointing an independent professional well knowledgeable legal expert to advice council on this issue, for possible withdrawal from this agreement depending on the outcome.

I SO MOVE YOUR WORSHIP!

Signed: 

28/05/2021

10. Answers to questions of which notice has been given (File 3/3/1/2)
11. Reports of the Management Committee for May 2021
- 11.1 None.

RECOMMENDATIONS OF THE MANAGEMENT COMMITTEE FOR MAY 2021

Proposing each item:

The chairperson of the Management Committee must propose each recommendation of the Management Committee for acceptance by the Council - Standing Rule 22(2).

Amendment of recommendations:

The chairperson of the Management Committee may, with the consent of at least two-thirds of the members of the Management Committee present, amend a recommendation of the management committee or withdraw an item for remission to the management committee - Standing Rule 22(3).

Seconding of each recommendation:

Any recommendation of the Management Committee is considered a proposal which has been seconded, and no further seconding is therefore required - Standing Rule 22(5).

12. Recommendations of the Management Committee for May 2021

12.1 Capital Budget 2020/2021 (Add. 1; M/C Meeting 31/05/2021; File Budget)

The purpose of the report is to obtain approval for an application in terms of Section 84(5) (a) of the Local Authorities Act (Act 23 of 1992) as amended, for the revised utilisation of budgeted capital funds in the current financial year and to obtain approval for the transfer of funds between Votes.

The Liquid Waste Section (LWS) continues to monitor, repair, and maintain its sewer reticulation network infrastructure. The aging and fragile sewer lines within the network continue to experience breaks (sinkholes). Sinkholes have negative effects on the sewer system including health and safety concerns to the public and contributes to the blockages as sand deposits within the network. The annual tender W/ONB/-59/2020 with reference number 8/26/59 was awarded to four Contractors on the 08 December 2020. The LWS experienced a high number of sinkholes which required point repairs, line replacements and Manhole reinstatement.

The section continues to experience these unplanned sewer sinkholes of which urgent repairs are required to restore the smooth flow of sewer. The section is currently having three sinkholes that need repairs, but this cannot be carried out due to insufficient funds on the allocated vote.

The current vote B613/9267/000 (Major replacements of defective lines) does not have sufficient funds for sinkhole repairs until the end of the financial year 2020/2021. The LWS have identified two capital votes B613/9805/0000 (Rehabilitate Jan Wilken Pump Station) and B613/5152/0000 (Redirect Welwitschia into Jan Wilken Pump Station) with a saving and repairs which is not required now, respectively. B613/9805/0000 will be an operation vote in the (FY) and would be ideal to utilise these saving in the current FY. B613/5152/0000 works will be carried concurrently under B613/9928/000 (Replace Rikumbi Kandanga sewer) in 2021/2022 FY as the sewer line where it currently discharges was recently upgraded from 315 mm (millimetre) AC (Asbestos-cement) to 500 mm uPVC (unplasticized Polyvinyl Chloride) under the same vote.

Thus, sewer line capacity was increased and will be able to accommodate the Welwitschia sewer. The funds are needed for the anticipated sewer line sinkhole repairs to be carried out and road reinstatement that are yet to be performed after the sewer line repairs.

The funds are to be transferred to B613/9267/000 (Major replacement of defective lines) where N\$ 2 000 000,00 was budgeted and an arrear of N\$ - 281 135,91 has accumulated.

RECOMMENDED:

- (1) That approval be granted to transfer N\$ 700 000,00 from Vote B613/9805/0000 where N\$ 750 000.00 was budgeted and N\$ 737 959.00 is still available to Vote B613/9267/0000 where N\$ 2 000 000.00 was budgeted and N\$ - 281 135,91 is in arrears, and where the funds will be utilised for sinkhole repairs and road reinstatement.
- (2) That approval be granted to transfer N\$ 600 000.00 from Vote B613/5152/0000 where N\$ 600 000.00 was budgeted and N\$ 600 000.00 is still available to Vote B613/9267/0000 where N\$ 2 000 000.00 was budgeted and N\$ - 281 135,91 is in arrears, and where the funds will be utilised for sinkhole repairs and road reinstatement.

12.2 **Residency requirement for Local Authority Councillors** (Add. 2; M/C_Meeting 31/05/2021; file 5/4/5)

The purpose of this report is for the Municipal Councillors of Walvis Bay to take note of the legal advice provided to the Ministry of Urban and Rural Development on the residency requirements for local authority councillors, as well as the legal requirements for the filling of vacancies.

The Ministry of Urban and Rural Development requested legal advice from the Office of the Attorney-General, which advice was conveyed to all local authorities on 7 May 2021 under cover of a letter dated 20 April 2021.

The essence of the advice is contained in paragraphs 14 to 17 of the legal advice, is as follows:

- In the event where a local authority councillor ceases to reside or only temporarily resides in the local authority are for which he or she was elected, they shall vacate their offices.
- The political party or organisation which such councillor represented must within the prescribed period of 3 months from date of vacancy, nominate a new member from its (2020) election list or any other member, to fill the vacancy. Failure to do so shall result therein that the vacancy van no longer be filled until the next general election of local authority councillors.

RECOMMENDED:

That the local authority councillors elected to the Municipal Council of Walvis Bay and representing the people of Walvis Bay, takes note of the letter from the Executive Director of the Ministry of Urban and Rural Development dated 20 April 2021 in response to the letter by the Attorney-General dated 28 January 2021.

12.3 **Inter-Municipal Partnership and cooperation with prefecture-level City of Xuzhou in Jiansu Province, People's Republic of China** (Add. 3; M/C Meeting 31/05/2021; File 2/17/30)

The Municipal Council, on 31 October 2019, adopted the following resolution after it considered the request from Xuzhou:

1. *That the request for a partnership and cooperation in the format of a Friendship City with the Prefecture-level City of Xuzhou in Jiangsu province in the People's Republic of China, be approved, provided that the Ministry of Urban and Rural Development and the Ministry of International Relations and Cooperation consent to such partnership.*
2. *That the modalities of the signing of the agreement and further specific cooperation projects be left to the administrations of both cities and that, the Chief Executive Officer be authorised to approve all matters relating to the execution of such projects where action and activities are required from the Municipality of Walvis Bay.*

On 18 November 2019, the City of Xuzhou as well as the Ministry of Urban and Rural Development and the Ministry of International Relations and Cooperation were informed of the Council decision. The City of Xuzhou responded on 22 January 2020, while the Ministry of Urban and Rural Development acknowledged receipt on 13 February 2020, and the Ministry of International Relations and Cooperation on 24 February 2020. To date no response had been forthcoming from the line Ministry.

The lack of response and feedback from the Ministry of Urban and Rural Development in particular, and also the Ministry of International Relations and Cooperation in general, has as a result the lack of progress and continuation with the cooperation.

RECOMMENDED:

That, due to the lack of a firm response on the Council decision item 12.1 dated 31 October 2019 by both the Ministry of Urban and Rural Development and the Ministry of International Relation and Cooperation, Council decision item 12.1 dated 31 October 2019 be rescinded and that the City of Xuzhou in the People's Republic of China be informed of the decision.

12.4 Inter-Municipal Partnership and Cooperation with la Possession in the French Territory of Reunion Island (Add. 4; M/C Meeting 31/05/2021; File 2/17/31)

The purpose of this report is to consider the request by the Namibian Ambassador to France, His Excellency Amb. Albertus Aochamub, for the Municipality of Walvis Bay to enter into a cooperation partnership with the town of La Possession in the French Territory of Reunion Island.

A letter dated 15 July 2019 (it should read 2020 as the letter that was attached, reflects the year 2020) was received from the Namibian Embassy, requesting the Municipality of Walvis Bay to consider forming an inter-municipal agreement (twinning) with the Ville (town) of La Possession in the Reunion Island. This letter is supported by a letter by the Mayor of La Possession to the Namibian Embassy dated 9 July 2020.

RECOMMENDED:

- (1) That the request for a partnership and cooperation in the format of a Friendship City with the town of La Possession in the Reunion Island, be approved, provided that the Ministry of Urban and Rural Development and the Ministry of International Relations and Cooperation, within a reasonable time, consent to such partnership.
- (2) That the modalities of the signing of the agreement and further specific cooperation projects be left to the administrations of both cities and that, the Chief Executive Officer be authorised to approve all matters relating to the execution of such projects where action and activities are required from the Municipality of Walvis Bay.

12.5 Tripartite agreement of partnership and cooperation with the City of Windhoek and the Municipality of Swakopmund (Add. 5; M/C Meeting 31/05/2021; File 2/17/1/1 & 2/17/1/3)

The purpose of this report is for the Council to enter into a new tripartite agreement of partnership and cooperation with the City of Windhoek (CoW) and the Municipality of Walvis Bay (MWB). Council in 2001 resolved that an inter-municipal agreement of partnership and cooperation be entered into with the City of Windhoek. A similar decision was taken by the Council in 2005 that an agreement of partnership and cooperation with the Municipality of Swakopmund also be approved.

These agreements came to an end in 2015 and meetings were held between the project coordinators from all 3 local authorities. Both the City of Windhoek and the Municipality of Swakopmund indicated that they wish to renew the agreement. A draft agreement was then compiled by the 3 delegates and in essence contains the following:

The Parties wish to strengthen, promote and foster the friendly relationship which exists between the local authorities and residents of Windhoek, Walvis Bay and Swakopmund, and to strengthen the Windhoek-Walvis Bay-Swakopmund relationship by means of co-operation in the following main areas:

1. Funding Business models for delivery of Social Services;
2. Human Resources, Capacity Building and Related Matters;
3. Policy Developments and Municipal Regulations;
4. Technical and Operational Assistance and Knowledge Sharing;
5. Urbanization, Land and Housing Experiences;
6. Corporate Governance;
7. Any other field which may become relevant from time to time and are agreed upon between the Parties.

In the broad co-operation framework, the parties are fully aware of the needs, challenges, strengths and opportunities which exist in the local government sphere and would therefore enter into a partnership and co-operation agreement in order to strengthen the existing bonds of friendship and collaboration, and also to develop various co-operation programmes as identified administratively under the main areas through the exchange of information, staff, and mutual co-operation.

The Office of the Chief Executive Officer at each Local Authority shall be responsible for the coordination of joint activities and interactions and each local authority shall be equally responsible for the costs incurred to execute this agreement.

The agreement shall become effective from the date of signing hereof by all the parties and shall be of force and effect for a period of five (5) years from the date of commencement thereof and may be renewed for successive periods of five (5) years by mutual agreement of all the parties.

RECOMMENDED:

That the proposed tripartite agreement of partnership and cooperation with the City of Windhoek and the Municipality of Swakopmund be approved and that a signing ceremony be arranged for the official and ceremonial signing of the agreement by the Mayors of all three the participating local authorities.

12.6 Narraville blocks 9, 10, 13 and 16 pledged for pilot PPP project (Add. 6; M/C Meeting 31/05/2021; File 17/28/2/5)

The purpose of this report is to rescind a pledge made by previous Council of four (4) blocks in the Narraville area for a pilot, affordable housing PPP project initiative of Government.

In 2016, prior to the new Public Private Partnership Act (Act 4 of 2017) was promulgated, and following a Cabinet Resolution, Council was approached by the Ministries of Finance and MURD to avail land for a mass, low-cost housing pilot project driven by PPP principles. Other local authorities identified to participate was Windhoek and Ondangwa. Hence Council resolved on 17 July 2018 (Item 5.4) that certain blocks in Narraville be availed/reserved for this purpose. Some blocks were later renumbered as part of Town Planning procedures.

The first step before embarking upon a PPP-project is a feasibility study. To this end, the Ministry obtained a pledge/funds from the Development Bank of Namibia to conduct the study in the identified towns.

In late 2019 Council was presented with a draft Project Preparation Facility Agreement (PPFA) which entailed funding to the tune of N\$2,5 million to undertake all necessary project preparation work by a dedicated project team. There was some uncertainty regarding the status quo of this Agreement and the involvement of the AG's Office to authorize the contents was sought and obtained after some time. However, this agreement was never signed.

During the course of 2020 no further progress was made other than backwards and forwards communications regarding the status quo of the PPF Agreement. In April 2020, we were reminded that the DBN financing offer would expire in September 2020. By the end of October 2020, Manager Housing and Properties reminded that we have not received the final Agreement to be signed.

In a follow-up e-mail from the General Manager RBC to the PPP Unit at the Ministry of Finance in March 2021 it was enquired as to what the status quo was in view of the suspension of three involved Council employees. The response from the PPP unit indicated that Walvis Bay has missed the opportunity to partake in the Project Preparation stage and would need to re-apply for participation.

In view of the known shortage of developable land in and around Walvis Bay and the need to fast track the development of these four blocks, it is advisable that the four blocks rather be retained by Council now and fast tracked for low- mid income housing.

RECOMMENDED:

- (1) That the delays experienced in the progress with regard to the pilot, low-cost housing PPP project on the new Narraville Extensions resulting in the lapse of the DBN financing of a Project Preparation Facility be noted.
- (2) That, in view of the acute shortage of land on the fringes of existing development in Narraville, the Council Resolution item 5.4 dated 17 July 2018 be rescinded to allow Council to pursue the development of these blocks in Narraville on its own terms, timelines and available funding.
- (3) That Government be advised that, should the pilot PPP project in Walvis Bay still be a priority, other available land, including possibly Farm 37, be identified for such purpose and feasibility studies.

12.7 Kuisebmond Extension 8: Namibia Housing Enterprise owned land, utilized for the Otweya relocation project (Add. 7; M/C Meeting 31/05/2021; File 17/5/1/1/ NHE)

The purpose of this report is to present an update on developments regarding the Otweya housing project on Kuisebmond Extension 8 and to rescind previous Council Resolutions on this matter.

As a result of the outbreak of Covid-19 in Namibia in March/April 2020, the initial targeting of this block was for a Temporary Covid-19 decongestion exercise as per Cabinet Directive: No. 9 of 7 July 2020. Amongst others, the intention was for every 2nd shack to be temporarily relocated from the Twaloloka Informal Settlement area onto the adjacent KS Ext 8 where communal water- and sewer facilities were to be constructed for temporary use.

The National Housing Enterprise (NHE), being the official landowners of this block as well as bordering KS Ext 9 (Erf 192 KS), was approached in this regard and responded positively, but with a number of reservations and requirements. Council resolved on 17 July 2020 (Item 5.1) to accept the following conditions as contained in the letter from NHE:

- Rates and Taxes of the properties be suspended for the period of intended occupation.
- Only temporary accommodation facilities may be erected on the land.
- The Municipality should be responsible for any and all preparations in making the land suitable for habitation.
- The Municipality should be responsible for any clearing of the site on completion of period.

- Land should be availed to NHE by January 2021, for the continuation of NHE's development on the land.
- Should, for unforeseen circumstances, the inability to return the land as expected occurs, alternative land should be made available to NHE with the consideration of all costs already incurred by NHE on the land.
- A binding agreement should be completed between the parties to cover the above or any other conditions.

The tragic Twaloloka fire of 26 July 2020, affecting 153 households, changed the arrangement from the initial 'temporary' one to permanent when, at higher political level, it was decided to service all erven in KS Ext 8 with water- and sewer connections (but excluding surfaced streets and electricity) in order to accommodate the affected families.

RECOMMENDED:

- (1) That the events leading up to the current situation with regard to the status of Kuisebmond Extension 8 be noted.
- (2) That the National Housing Enterprises' preference, namely, to retain the balance of erven on Kuisebmond Extension 8, after completion of the Government funded infrastructure- and housing project, be noted.
- (3) That Council's previous resolution in this matter under item 5.1 dated 17 July 2020 and 1item 5.1 dated 8 August 2020 therefore be rescinded.

12.8 Revision of Betterment fees for Walvis Bay Amendment Scheme No. 43 (Add. 8; M/C Meeting 31/05/2021; File 5/2/5)

The purpose of the report is to obtain the Municipal Council's approval for the revision of betterment fees for Amendment Scheme No. 43 (hereinafter referred to A.S. 43).

The Municipal Council and the Minister of Urban and Rural Development (MURD) previously approved betterment fees for A.S. 43. Such betterment fees were determined based on market values before the Municipal Council passed a resolution on 12 December 2019 to use municipal values. This resolution was revised on 27 February 2020. However, the aforesaid decision to use municipal values is only applicable to applications received as from 01 January 2020.

The valuation of the properties that form part of A.S. 43 by the external valuator based on 'market values' has resulted in extremely high betterment fees amounts. Verbal grievances against betterment fees for A.S. 43 have been on the rise since the Municipal Council granted approval on 23 February 2021 for the revision of betterment fees for A.S. 42 to be based on municipal and not market values. Legal practitioners representing some clients have voiced their concerns through e-mails, but no formal appeals have been lodged yet by legal practitioners.

However, the owner of Erf 942 Walvis Bay (being one of the erven in A.S. 43) submitted a formal appeal to the Ministry of Urban and Rural Development (the Ministry) against the higher betterment fees. In response, to the petition received, the Ministry granted approval for the reduction of betterment fees from 75% to 40%. The 75% betterment fee was imposed against Erf 942 Walvis Bay as a penalty for building illegal dwelling units prior to the approval of the rezoning of the subject erf. The *Policy on the Levying of Betterment Fees for Local Authorities in Namibia*, as approved by the Minister of Urban and Rural Development on 01 June 2009, makes provisions for charging 75% betterment fees for unauthorised land uses or buildings. Although the approval granted by the Ministry in respect of Erf 942 Walvis Bay relates to the waiving of a penalty, it is vastly expected that more appeals will be lodged by A.S. 43 clients and MURD will more likely reduce the betterment fees.

As mentioned above, at its meeting held on 23 February 2021, the Municipal Council granted approval for A.S. 42 betterment fees to be determined based on municipal values following the appeals received from Malherbe and Partners on behalf of their clients. Hence, it is important for betterment fees for A.S. 43 to be also revised from market to municipal values as it was done for A.S. 42 considering the increasing verbal requests to reduce betterment values for A.S. 43. For information purposes, the latest amendment scheme is A.S. 44 and this scheme is already based on municipal values.

The land values of the properties in A.S. 43 were re-evaluated based on municipal values. The summary of the revised betterment fees (based on municipal values) against approved betterment fees (based on market values).

RECOMMENDED:

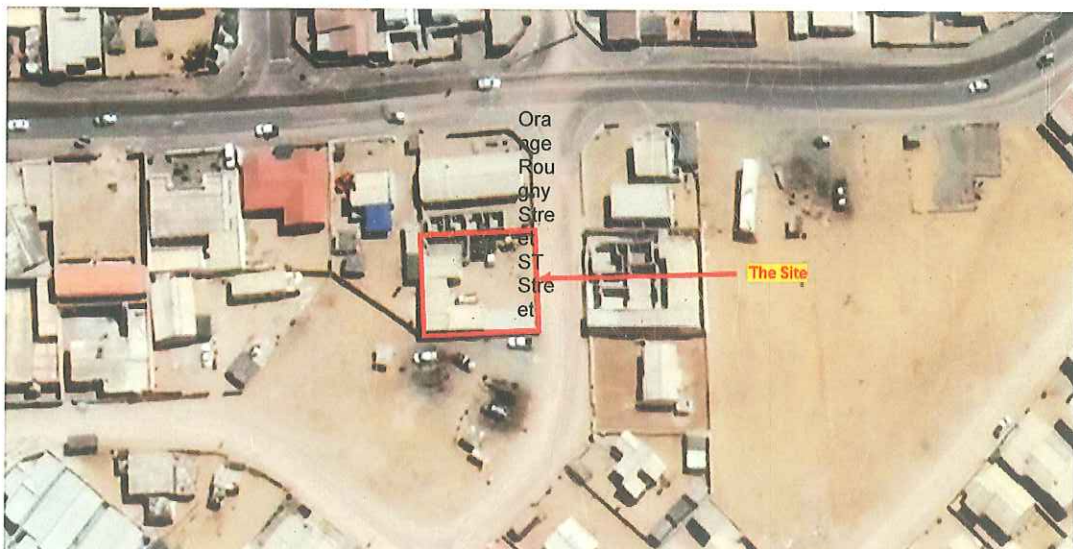
- (1) That the Municipal Council takes note of the Minister of Urban and Rural Development's decision to reduce betterment fees for Erf 942 Walvis Bay, which forms part in Walvis Bay Amendment Scheme No. 43.
- (2) That the betterment fees for Walvis Bay Amendment Scheme No. 43 be amended in accordance with municipal land values and the revised betterment fees be submitted to the Minister of Urban and Rural Development for approval.

12.9 Rezoning of Erf 1563 Kuisebmond and consent to commence with construction while rezoning is in progress (Add. 9; M/C Meeting 31/05/2021; File 1563 K)

The purpose of the report is to obtain the Municipal Council's recommendation for the rezoning of Erf 1563 Kuisebmond from Single Residential to General Residential 2, and consent to commence construction while the rezoning is in progress.

The application received is for the rezoning of Erf 1563 Kuisebmond from Single Residential with a density zoning of 1 per 300m² to General Residential 2 with a density zoning of 1 per 100m². The applicant and registered owner of Erf 1563 Kuisebmond is Joseph Haimbondi of P.O. Box 1569, Kuisebmond. The applicant has given the Power of Attorney to Kamau Town Planning and Development Specialist to submit the application on their behalf.

Erf 1563 Kuisebmond is situated along Orange Roughy Street, as illustrated below.



Erf 1563 Kuisebmond is zoned as Single Residential with a density of 1 per 300m² in terms of the Walvis Bay Town Planning Scheme. The size of Erf 1563 Kuisebmond is 500m².

The owner intends to retain the existing house and develop additional four dwelling units when the General Residential 2 rights are in place. The application was advertised for 21 days in the Namibian Newspaper. The closing date for objections was Friday, 22 March 2021. No written objection against the rezoning/consent application was received.

The application for rezoning/consent from Single Residential to General Residential 2 will be assessed from the town planning point of view based on:

- conformity of proposed development with the Walvis Bay Town Planning Scheme.
- conformity of proposed development with the Residential Density Policy; and
- influence of the land use on the neighbourhood.

Erf 1563 Kuisebmond is located in Zone 7 of the Walvis Bay Residential Density Policy. In terms of aforesaid Policy, sites that are 500m² or greater can accommodate a maximum of 1 unit per 150m². The subject site is 500m² and the property owners have applied for a density of 1 per 100m². The application therefore **does not comply** with the provision of the Residential Density Policy for Zone 7.

The application for rezoning of Erf 1563 Kuisebmond from Single Residential to General Residential 2 will conform with the provision of the Walvis Bay Town Planning Scheme. However, the application does not comply with the Walvis Bay Residential Density Policy.

RECOMMENDED:

- (1) That the Municipal Council does not recommend for approval the application for the rezoning of Erf 1563 Kuisebmond from Single Residential with a density of 1 per 300m² to General Residential 2 with a density of 1 per 100m² to the Urban and Regional Planning Board, as it is not in line with Walvis Bay Residential Density Policy.
- (2) That the applicant be advised that, in terms of Section 110 of the Urban and Regional Planning Act, 2018, if he/she is aggrieved by the decision of the local authority on the rezoning application, he/she may appeal against that decision to the Minister of Urban and Rural Development within twenty-one (21) business days of the notification of the Municipal Council's decision, and in the manner set out in Section 129 of the Urban and Regional Planning Act, 2018.
- (3) That the Municipal Council recommends for approval the application for the rezoning of Erf 1563 Kuisebmond from Single Residential with a density of 1 per 300m² to General Residential 1 with a density of 1 per 150m² to the Urban and Regional Planning Board, as this density is in line with the Walvis Bay Residential Density Policy, subject to the following conditions:
 - (a) That the rezoning of Erf 1563 Kuisebmond be included in the next Walvis Bay Amendment Scheme to be submitted to the Minister of Urban and Rural Development for approval.
 - (b) That, in terms of the Policy on the Levying of Betterment Fees for Local Authorities in Namibia, the applicant pays a betterment fee deposit of N\$8,400.00 being 20% of the increase in the municipal land value of the rezoned property, prior to the inclusion of the rezoning application into an Amendment Scheme or prior to the submission of the rezoning application to the Urban and Regional Planning Board, whichever is earlier.

- (c) That the imposed Betterment Fee be submitted to the Minister of Urban and Rural Development simultaneously with the submission of the Amendment Scheme for approval.
 - (d) That, in case the Minister of Urban and Rural Development approves a betterment fee lower or higher than the deposit paid, the Municipal Council shall refund or claim the difference between the betterment fee approved by the Minister of Urban and Rural Development and deposit paid by the applicant to the Municipal council.
 - (e) That the applicant notes that the payment of the betterment fee deposit should neither create an expectation nor bind the Minister of Urban and Rural Development to consider and approve the Amendment Scheme; and the provisions of the Urban and Regional Planning Act (Act No. 5 of 2018) therefore still apply.
- (4) That consent be granted for the applicant to proceed with the development while the rezoning is in progress, at own costs and risks, subject to the following:
- (a) That building plans be submitted to the Municipal Council and assessed in terms of the building regulations and municipal by-laws, and a building permit be issued prior to the commencement of development.
 - (b) That the applicant pays the required betterment fees, prior to the commencement of development.
 - (c) That the consent approval should not create an expectation or bind the Minister of Urban and Rural Development to consider and approve the rezoning application, and the provisions of the Urban and Regional Planning Act, 2018 (Act No. 5 of 2018), therefore still apply.

12.10 Disputed case: Consent renewal for the establishment of a service station on Erf 5433 Walvis Bay (Add. 10; M/C Meeting 31/05/2021; File 5433 W)

The purpose of the report is to obtain the Municipal Council's approval for the renewal of consent for the establishment of a Service Station on Erf 5433 Walvis Bay.

The application for consent was first advertised in June 2017 and notices of this application were sent to the owner of Erf 4449 Walvis Bay and other neighbouring owners. There were no objections received in 2017. The Municipal Council granted approval for the establishment of a Service Station on Erf 5433 Walvis Bay on 04 April 2019 as depicted.

In terms of Clause 10 of the Walvis Bay Town Planning Scheme, consents lapse if the land use applied for is not exercised within 24 months of granting such consent. The consent granted in 2019 therefore lapsed on 04 April 2021, hence, the re-application is required.

Although the approval was granted in 2019, the owner did not commence with the construction of the Service Station. The delay of this establishment was mainly due to the fact that the Ministry of Mines and Energy temporary suspended the construction/issuing of licenses for service stations nation-wide. The suspension was uplifted on 02 March 2021. Hence, the application is now re-submitted for the Municipal Council's consideration.

An application for consent (renewal) has been received from Stewart Planning on behalf of Dunes Mall (Pty) Ltd, to establish a Service Station on Erf 5433 Walvis Bay. Ownership of the property is vested under Dunes Mall (Pty) Ltd of P O Box 90757, Klein Windhoek. Dunes Mall (Pty) Ltd has granted Power of Attorney to Stewart Planning.

The site for the proposed service station is situated along the C14 Road, opposite the Weighbridge and next to the Dunes Mall's entrance gate. The proposed service station forms part of Stage 2 of the Dunes Mall development.

Erf 5433 Walvis Bay is currently zoned as "General Business" in terms of the Walvis Bay Town Planning Scheme. The site is in the proximity of the Light Industrial area of Walvis Bay (being Walvis Bay Extensions 12 and 14). Erf 5433 Walvis Bay currently houses the Dunes Mall.

The consent application was advertised once a week for two consecutive weeks in the *Namib Times* and *The Namibian* newspapers. The first and second notices appeared on 12 February 2021 and 19 February 2021, respectively.

An objection was received from St. Raphael Health Recovery Clinic during the advertising period. The objections received are centred around the following issues: Risks of Fire, Air Pollution and Noise Pollution. As a result of the objections received, the local authority decided to have a hearing. The hearing took place on 01 April 2021.

The site is situated on a "General Business" zoned erf, which permits a service station with consent. Furthermore, the location is somewhat 500 meters from any "Single Residential" or "Institutional" zoned erven. The erven in the surrounding area are zoned "Light Industrial" and thus are all deemed complimentary to the proposed service station.

On the contrary, the clinic which is considered as an "Institutional Building" in terms of the Walvis Bay Zoning Scheme is located on a "Light Industrial" which is in conflict with the Walvis Bay Zoning Scheme as such land uses are not allowed on the given zoning.

The application for consent has been evaluated from the town planning point of view based on conformity of the proposed development with the Municipal Council's regulatory framework (i.e. Town Planning Scheme), influence on the amenity of adjacent area, need of the proposed service station and the objections received.

In terms of Clause 17.1 of the Walvis Bay Town Planning Scheme, service stations are allowed on General Business erven as consent rights. The application is for a consent use (service station) and thus complies with General Business zoning requirements.

Based on the other provisions of the Walvis Bay Town Planning Scheme provisions, the proposed application will generally conform with the aforesaid scheme in terms of other control measures (such as coverage, bulk, building line, height, parking, etc). However, these control measures will be assessed in detail when the building plans are submitted for approval.

The establishment of a Service Station on Erf 5433 Walvis Bay will therefore not negatively affect the amenity of the adjacent Light Industrial area as well as the current Regional (Dunes Mall) site. The service station development will complement the existing Mall development.

RECOMMENDED:

- (1) That consent be granted in terms of Clauses 6.1.2 and 17.1 of the Walvis Bay Town Planning Scheme for the establishment of a Services Station on Erf 5433 Walvis Bay, subject to the following conditions:

- (a) That the applicant and/or developer provide(s) parking facilities to the satisfaction of the General Manager: Roads and Building Control.
 - (b) Access to and from the site shall be to the satisfaction of the General Manager: Roads and Building Control.
 - (c) That the applicant and/or developer shall provide grease and oil traps to the satisfaction of the General Manager: Water, Waste and Environmental Management.
 - (d) That all adherence to the Environmental Clearance Certificate and Environmental Management Plan be adhered to by the developer for the duration of this establishment.
 - (e) That Council requires the registration of this services station with the Ministry of Mines and Energy in terms of the Petroleum Products and Energy Act, 1990.
 - (f) That the applicant shall not construct the service station until the applicant has provided the General Manager: Roads and Building Control with a retail (or associated) license issued by the Ministry of Mines and Energy.
 - (g) That this permission lapses when the property is sold, leased or alienated in whatever process engaged.
- (2) That in accordance with Clause 9.5 of the Walvis Bay Town Planning Scheme, if the objectors and/or applicant is aggrieved by the decision of the Municipal Council, they may lodge written appeal with the Municipal Council, which will be referred to the Minister of Urban and Rural Development, which decision shall be final.
 - (3) That the written appeal as per Condition (2) shall be given within twenty-eight (28) days from the date of notification of the Municipal Council's decision.
 - (4) That, in accordance with Clause 9.6 of the Walvis Bay Town Planning Scheme, the decision of the Municipal Council, shall not take effect until the expiration of twenty-eight (28) days from the date on which the applicant and objectors are notified thereof; and if an appeal is lodged, until such appeal is disposed of.
 - (5) That all costs regarding the above conditions be borne by the applicant.

12.11 Sale of improved single residential erven under the Massive Urban Land servicing Project (MULSP) in Kuisebmond and Narraville by way of public bidding (Add. 11; M/C Meeting 31/05/2021; File 7/2/3/2/5 & 7/2/3/2/10)

The purpose of this report is to recommend amongst others that all Council's available improved erven under the Massive Urban Land Servicing (MULS) Project in Kuisebmond and Narraville be sold "voetstoots" by way of public bidding as per the conditions.

There are 15 houses from the 102 unallocated houses that have defects and are not readily available for occupation, but it will be sold "voetstoots". Valuations for accommodating defects must be made before the final sale prices are determined.

RECOMMENDED:

- (1) That the Municipal Council takes note of the report.
- (2) That approval be granted *in principle* for the following Council's available improved erven under the Massive Urban Land Servicing (MULS) Project in Kuisebmond and Narraville, to be sold "voetstoots" by way of public bidding:

#	Erf	Ext	Size (m²)	Erf price	House type
1	7192 K	K/mond 5	356	80,100.00	Type C
2	7193 K	K/mond 5	356	80,100.00	Type E
3	7194 K	K/mond 5	356	80,100.00	Type C
4	7195 K	K/mond 5	356	80,100.00	Type E
5	7204 K	K/mond 5	471	105,975.00	Type D
6	7207 K	K/mond 5	444	99,900.00	Type F
7	7208 K	K/mond 5	444	99,900.00	Type D
8	7218 K	K/mond 5	428	96,300.00	Type F
9	7219 K	K/mond 5	394	88,650.00	Type C
10	7220 K	K/mond 5	394	88,650.00	Type E
11	7221 K	K/mond 5	394	88,650.00	Type C
12	7222 K	K/mond 5	394	88,650.00	Type E
13	7224 K	K/mond 5	394	88,650.00	Type E
14	7225 K	K/mond 5	395	88,875.00	Type C
15	7226 K	K/mond 5	394	88,650.00	Type E
16	7227 K	K/mond 5	394	88,650.00	Type C
17	7228 K	K/mond 5	394	88,650.00	Type E
18	7250 K	K/mond 5	393	88,425.00	Type D
19	7251 K	K/mond 5	393	88,425.00	Type F
20	7252 K	K/mond 5	393	88,425.00	Type D
21	7253 K	K/mond 5	393	88,425.00	Type F
22	7254 K	K/mond 5	393	88,425.00	Type D
23	7255 K	K/mond 5	393	88,425.00	Type F
24	7256 K	K/mond 5	393	88,425.00	Type D
25	7257 K	K/mond 5	393	88,425.00	Type F
26	7319 K	K/mond 5	383	86,175.00	Type E
27	7321 K	K/mond 5	383	86,175.00	Type E
28	7323 K	K/mond 5	383	86,175.00	Type E
29	7340 K	K/mond 6	488	109,800.00	Type F
30	7341 K	K/mond 6	380	85,500.00	Type A
31	7342 K	K/mond 6	407	91,575.00	Type C
32	7470 K	K/mond 6	561	126,225.00	Type F
33	7480 K	K/mond 6	472	106,200.00	Type E
34	7481 K	K/mond 6	471	105,975.00	Type C
35	7482 K	K/mond 6	471	105,975.00	Type E
36	7483 K	K/mond 6	472	106,200.00	Type C
37	7484 K	K/mond 6	472	106,200.00	Type E
38	7519 K	K/mond 7	710	230,040.00	Type F
39	7551 K	K/mond 7	639	207,036.00	Type F
40	7553 K	K/mond 7	577	186,948.00	Type E
41	7558 K	K/mond 7	504	163,296.00	Type E
42	7563 K	K/mond 7	681	220,644.00	Type E
43	7568 K	K/mond 7	505	163,620.00	Type E
44	7574 K	K/mond 7	518	167,832.00	Type E
45	7578 K	K/mond 7	553	179,172.00	Type E
46	7579 K	K/mond 7	548	177,552.00	Type C
47	7580 K	K/mond 7	553	179,172.00	Type E
48	7581 K	K/mond 7	710	230,040.00	Type C
49	7582 K	K/mond 7	540	174,960.00	Type E
50	7583 K	K/mond 7	539	174,636.00	Type C
51	7587 K	K/mond 7	630	204,120.00	Type C
52	7589 K	K/mond 7	596	193,104.00	Type F
53	7604 K	K/mond 7	598	193,752.00	Type F
54	7614 K	K/mond 7	579	187,596.00	Type F

#	Erf	KM Ext	Size (m²)	Erf price	House type
55	7645 K	K/mond 7	540	174,960.00	Type C
56	7671 K	K/mond 7	439	142,236.00	Type E
57	3565 N	N/ville 7	437	159,068.00	Type E
58	3567 N	N/ville 7	416	151,424.00	Type F
59	3569 N	N/ville 7	476	173,264.00	Type C
60	3570 N	N/ville 7	867	315,588.00	Type F
61	3571 N	N/ville 7	570	207,480.00	Type F
62	3582 N	N/ville 7	405	147,420.00	Type E
63	3586 N	N/ville 7	405	147,420.00	Type E
64	3588 N	N/ville 7	405	147,420.00	Type F
65	3591 N	N/ville 7	512	186,368.00	Type F
66	3593 N	N/ville 7	427	155,428.00	Type F
67	3596 N	N/ville 7	427	155,428.00	Type E
68	3598 N	N/ville 7	427	155,428.00	Type F
69	3605 N	N/ville 7	399	145,236.00	Type F
70	3617 N	N/ville 7	427	155,428.00	Type E
71	3622 N	N/ville 7	427	155,428.00	Type F
72	3623 N	N/ville 7	399	145,236.00	Type E
73	3626 N	N/ville 7	383	139,412.00	Type F
74	3628 N	N/ville 7	300	109,200.00	Type D
75	3630 N	N/ville 7	300	109,200.00	Type D
76	3635 N	N/ville 7	302	109,928.00	Type F
77	3639 N	N/ville 7	300	109,200.00	Type C
78	3641 N	N/ville 7	300	109,200.00	Type C
79	3642 N	N/ville 7	300	109,200.00	Type D
80	3645 N	N/ville 7	300	109,200.00	Type F
81	3647 N	N/ville 7	300	109,200.00	Type E
82	3649 N	N/ville 7	300	109,200.00	Type F
83	3653 N	N/ville 7	300	109,200.00	Type F
84	3661 N	N/ville 7	300	109,200.00	Type E
85	3663 N	N/ville 7	300	109,200.00	Type F
86	3665 N	N/ville 7	300	109,200.00	Type E
87	3673 N	N/ville 7	303	110,292.00	Type D
88	3679 N	N/ville 7	303	110,292.00	Type D
89	3680 N	N/ville 7	303	110,292.00	Type C
90	3681 N	N/ville 7	399	145,236.00	Type F
91	3683 N	N/ville 7	303	110,292.00	Type D
92	3686 N	N/ville 7	303	110,292.00	Type C
93	3690 N	N/ville 7	303	110,292.00	Type C
94	3691 N	N/ville 7	303	110,292.00	Type D
95	3746 N	N/ville 7	428	155,792.00	Type E
96	3750 N	N/ville 7	428	155,792.00	Type E
97	3752 N	N/ville 7	428	155,792.00	Type F
98	3754 N	N/ville 7	428	155,792.00	Type E
99	3763 N	N/ville 7	301	109,564.00	Type C
100	3764 N	N/ville 7	301	109,564.00	Type D
101	3769 N	N/ville 7	301	109,564.00	Type D
102	3771 N	N/ville 7	301	109,564.00	Type E

- (3) That the municipal valuator, Messrs. Trust and Estate Company, be instructed to do a final valuation of all improvements on all these erven to determine defects and shortcomings, and that once that is received a submission be made with regards to upset prices for the improvements as well as to finalize then conditions of sale.

12.12 **Objections to the sale of unserviced/unsurveyed land: President's Links Estate (Pty) Limited** (Add. 12; M/C Meeting 31/05/2021; File 7/2//3/1/14)

The purpose of this report is to submit and discuss the objection received regarding the sale, by private transaction, of unserviced/unsurveyed land to President's Links Estate (Pty) Ltd (the applicant) and to make certain recommendations in this regard for submission to the Minister of Urban and Rural Development.

At its meeting held on 29 September 2020, Council, inter alia, resolved under item 11.7, as follows:

- (1) That a total of $\pm 1,110,495 \text{ m}^2$ ($\pm 111,0495 \text{ Ha}$) of unserviced/unsurveyed land, be alienated, to President's Links Estate (Pty) Ltd, for the purpose of developing a Golf Estate and course.
- (2) That Portions 217–219 of Portion 193 of Walvis Bay Town and Townlands No.1, and street portion to be closed, be sold by private transaction to President Links Estate (Pty) Ltd.
- (3) That Portions 217–219 of Portion 193 of Walvis Bay Town and Townlands No.1, be surveyed and the purchase price of that portion be set at N\$ 50.06/m².
- (4) That the street portion to be closed, be surveyed and the purchase price of that portion be set at N\$ 50.06/m².
- (5) That the surveying of the above erven be for the cost of the applicant.
- (6) That the applicant, at own cost, advertise the sale by private transaction for objections in terms of the provisions of Section 63(2)(b) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended.
- (7) That, in terms of section 30(1)(t) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended, the approval of the Minister of Urban and Rural Development be obtained.
- (8) That the Ministry of Urban and Rural Development be consulted on the proposed sale and its conditions in terms of Section 63 of the Local Authorities Amendments Act, 2018 (Act 3 of 2018).

In terms of section 63(2)(b) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended, the above sale by private transaction was advertised for objections.

By the closing date for objections to the sale, an objection was received from Mr. Luke V. K. Shindjabuluka.

The unserviced/unsurveyed land to be sold known as Portions 217, 218 and 219 of Portion 193 of Walvis Bay Town and Townlands No.1 and a street portion is in a predominantly residential area with partial allocations of learning institutions. The portions are zoned "Undetermined", in terms of the Walvis Bay Town Planning Scheme, as amended.

The objector raised several objections as follows:

- (1) Unlawful decision against Management Resolution
- (2) Policy directives
- (3) Reasons and motivating for selling at a high price
- (4) Supply and demand
- (5) Unduly influence

- (6) Balancing of management between the current and proposed golf course
- (7) President's Links Estate (Pty) Ltd Corporate Social Responsibility (CSR) pledge
- (8) Demand for bulk services

Each of the above objections are explained and discussed as follows:

Unlawful decision against Management Resolution

Objection

The objector does not pronounce his concern under this objection, but only state that it was resolved by Management Committee: May 1998 "that tenders first be invited for prime property where Council receives a unique proposal from a developer and that the paragraph be included in the sale of land policy.

However, the policy was reviewed over the years and the current policy indicates that Council can on an ad-hoc basis for unique proposals sell prime property through private transaction.

Policy directives

Objection

The objector mainly states that Council has a moral and legal obligation to obtain a fair and realistic price for the sale of its assets.

The land was allocated in terms of the Local Authorities Act (Act 23 of 1992) as amended and the Sale/Lease of Land Policy. The price of N\$ 50.00 is a comparable price for land that was previously sold by Council under mostly similar conditions, highlighting as unserved/unsurveyed prime land for unique development which includes a residential component.

Reasons and motivating for selling at a high price

Objection

Mr. Luke V. K. Shindjabuluka objects that the proposed selling price of N\$ 50.00 per square meter is unrealistically low. He further states that for Council to use the rate per square meter of land sold to Wakuna Investments as a benchmark upset price is an error as that sale transaction is under investigation.

The applicant has offered Council to purchase at N\$ 25.00 per square meter, which is almost equivalent to a price that Council sold prime land at during 2013. It was only fair that Council did not accept the offer of President's Link and to escalate the rate over the years. Bearing in mind that the applicant must attend to township establishment, conveyancing and engineering cost, the approved rate of N\$ 50.00 is not unrealistically low as objected.

The rate per square meter for the sale of land between the Municipal Council of Walvis Bay and Wakuna Investments was not used as a benchmark to set the price for President's Links. It was noted that the price that the applicant was offering is equivalent to a price that was sold at during 2013.

Supply and demand

Objection

The objector addressed two issues in the objection. First is the 70% of the housing backlog comparing to size of the land being sold.

Secondly, the objector states that if the land allocated to President's Links could be sold as improved property, it will have a great potential to secure additional income to Council as well works prospects for the community of Walvis Bay.

It should be noted that Council is not only, with the sale of 1 110 495 square meters of land to Presidents Links, provide land for high income groups. The fact that Council is making provision of single residential erven in Green Valley and Green Valley Extensions 1 to 4 on Farm 37 plus planning and budgeting to develop Narraville Ext 8 and KS Erf 8635 as soon as possible, is a clear indication that Council is catering to all income groups of its Town.

Notably President's Links proposal does not only come primarily as residential development. The development brings along a much bigger and up to required international standards golf course than the existing one. Part of the land will be occupied by the Golf Course and the rest by single residential, general residential, general business and institutional erven. Also note that there will be internal road that will constitute part of the land.

Also, with the Golf Course adding value to the surrounding property, Council will benefit on the rates and taxes and other municipal charges which will incur from the development of the residential and business component.

Unduly influenced

Objection

The objection states that it is not a coincidence that the sale of land to President's Links was approved before the amendment of the Sale/Lease of Land Policy. The objector further debates that the policy was amended before the previous Council term of office to create a loophole or back door to favor the applicant.

There were only certain clauses amended to the policy. The sale to President's Links was guided under paragraph 6 of the Sale/Lease of Land Policy with conditions.

Therefore, the above objection is not substantive to the sale of President's Links.

Balancing of management between the current and proposed golf course

Objection

The objector indicates that Walvis Bay Golf Club should by logic be supportive of the relocation, hence they are contrary bound with until the expiration of their lease agreement with Council unless they form part of President's Links.

The objection further states, President's Links did not from the get-go indicate their interested in purchasing a portion of erf 449 Meersig that the Walvis Bay Golf Club is currently leasing.

The objection rather seems unclear. Nonetheless Walvis Bay Golf Club can upon written notice to Council terminate the lease. The lease agreement does provide an escape clause if either party intent to terminate before the end of the lease period (**Annexure G**) Furthermore, the lease agreement does not bind the Club to commit to any business relationships with any individual or company that intent to go into a business relationship with Council.

The initial application of President's Links was to purchase a portion of erf 449 Meersig too, however that was not considered.

President's Links Estate (Pty) Ltd Corporate Social Responsibility (CSR) pledge

The objector comment that the N\$ 6 000 000.00 that the applicant is pledging as part of the Corporate Social Responsibility is too ambitious. The other concern that the pledge was not imposed as a condition and that no timeframe for payment is established.

President's Links have stated that CSR investment of N\$ 6 000 000.00 out of a total project cost of N\$ 438 000 000.00 is not beyond capacity for them and that the pledge be made explicit with timeframes and financial guarantees. Given this, it is recommendable that Council recommends to the Minister that the applicant pays the N\$ 6 000 000.00 on date of registration of the property in the Deeds Office.

Demand for bulk services

Objection

The objector state that by own admission the applicant will require significant amount of effluent water, and that such request will put a serious strain on the aging water infrastructure and the Kuiseb river underground water aquifers.

Further the objector states that Council has a legal obligation in terms of the Local Authorities Act (Act 23 of 1992) as amended to provide each household in Walvis Bay with appropriate water and sewer connection. That Council should not outsource this function as it did with electricity.

Firstly, the reference to the amount of effluent water required by the applicant and the strain it puts on the aging water infrastructure cannot be established. The client would like to obtain effluent water, of which a significant amount is disposed of unused at present into the wetlands, to purify it at their own cost and not demand from Council potable water for watering of the Golf Course. President's Links does not intend to water the Golf Course with potable water that is much need for residential use.

Therefore, the client applied for establishment a treatment plant that will only cater for purified effluent water for the golf course. Not taking away the function of Council to provide purified effluent water to the community.

Moreover, as approved by Council, the applicant's concept, design, construction, operation and maintenance of planned wastewater treatment or recycle facilities on or off the property for irrigation purposes, shall be approved by the Department of Water, Waste and Environmental Management prior to any finalization of the development.

RECOMMENDED:

- (1) That Council resolution item 11.7 dated 29 September 2020, be re-affirmed.
- (2) That, in terms of section 63(3)(b) of the Local Authorities Act, 1992 (Act 23 of 1992), the matter be referred to the Minister of Urban and Rural Development with the request to approve the decision taken by Council under item 117 on 29 September 2020, based on the following:
 - (a) That it be noted that as owner of Portions 217- 219 of Portion 193 Walvis Bay Town and Townlands No.1 and Remainder of Portion 193 Walvis Bay Town and Townlands, the Municipal Council of Walvis Bay holds the right and has the prerogative to allocate land for development, based on the needs and with the best interest of the town and its inhabitants, in mind.
 - (b) That the establishment of a Golf Estate of the size and grassed quality as proposed by the applicant, will be a first of its kind to the region and will significantly contribute to the growth and development of Walvis Bay.

- (c) That the proposed Golf Estate will provide a strategic recreational facility, meeting housing needs, provide business opportunities and augmenting Council revenue.
- (d) That the proposed Golf Estate development is deemed of major importance to stimulate the increase of property value in a predominantly middle to high income residential vicinity.
- (e) That the proposed design and size of the Golf Estate development, would represent an iconic site and bring great aesthetic value to the town of Walvis Bay.
- (f) That President's Links as part of their Corporate Social Responsibility contribute N\$ 6 million towards the development of Farm 37, on date of registration of the property in the Deeds Office.

12.13 Resubmission - Determination of the erf price and sale of a Portion of Portion 216 Walvis Bay Town and Townlands No.1: Prosperity School Properties (Pty) Ltd (Add. 13; M/C Meeting 31/05/2021; File PTN 216)

The purpose of this report is to recommend that 10 hectares of Portion 216 Walvis Bay Town and Townlands No.1 be sold by private transaction to Prosperity School Properties (Pty) Ltd (the applicant) and to confirm what the sale conditions should comprise of.

Council at its Ordinary Council meeting held on 28th April 2021 under item 12.16 resolved: *"That this item be withdrawn for internal discussions between Councillors and then resubmitted to the Management Committee for reconsideration and resubmission to Council"*

Council during 2019 reserved 10 hectares of Portion 216 Walvis Bay Town and Townlands No. 1 to Windhoek Gymnasium.

Following the above resolution, the item was then discussed in detail during the informal discussions of 11th May 2021. are the minutes of the of the latter discussions Motivations from the applicant as to the social responsibility issue discussed.

The land application was initially made and approved in principle by Council to Windhoek Gymnasium. However, the applicant has since registered a company known as Prosperity School Properties (Pty) Ltd who are going to be the owners.

Windhoek Gymnasium, as per the Council resolution (Item 11.3 of 29 Sept 2020), had to attend to the town planning procedures over the land which include subdivision, rezoning, consent use and incorporation of Portions of Portion 216 into the Meersig Township. of Council approval and requirements in this regard. The applicant, in consultation with our Town Planning Division, is busy with these planning procedures. Approval by the new Urban and Regional Planning Board is the only outstanding item.

During Informal discussions and in writing, the applicant indicated it is crucial that Council confirms the purchase price as such is needed for their financial planning and to move forward with the project. The applicant offered a purchase price of N\$ 5.00 per square meter - Nonetheless, two independent valuers were appointed that determine a rate who then concluded that the land is worth N\$15.00 per square meter and N\$ 30.00 per square meter.

In conclusion, the sale of a Portion of size 10ha of Portion 216 Walvis Bay Town and Townlands No. 1 by private transaction at a rate of N\$ 30.00 per square meter to Prosperity School Properties (Pty) Ltd. (the applicant) is supported but some previous conditions as well as new ones need to be confirmed.

RECOMMENDED:

- (1) That point 1 of Council resolution item 5.4 dated 12 December 2019, be amended to read as follows:
That approximate 10 hectares of Portion 216 Walvis Bay Town and Townlands No. 1, referred to as Portion B, on the layout (drawing CURRO-LPV4 as attached to Management Committee agenda as Annexure G), be sold by private transaction to Prosperity School Properties (Pty) Ltd. (the applicant) at a purchase price of N\$ 30.00 (Thirty Namibian Dollars) per m² in the approximate amount of N\$ 3,000,000.00.
- (2) That the Ministry of Urban and Rural Development be consulted on the proposed sale and its conditions in terms of Section 63 (2) of the Local Authorities Amendment Act, 2018 (Act No.3 of 2018).
- (3) That the applicant, at its own cost, advertises the sale by private transaction for objections in terms of the provisions of Section 63(2)(b) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended.
- (4) That after all approvals have been obtained, the agreement of sale be signed and a 10% deposit of the purchase price be paid on the date of sale, and the balance be paid within 90 days from the date of sale.
- (5) That the applicant shall commence with development within twenty-four (24) months from the date of transfer in the Deeds Office, and that such development be completed within thirty-six (36) months from such date of transfer; failing to comply would result in the undeveloped erf/erven to revert back to Council at the cost of the applicant.
- (6) That the applicant conducts a traffic impact assessment (TIA) of the proposed development and for approval by the General Manager Roads & Building prior to the approval of any building plans.
- (7) That electrical requirements/services and/or any other information in this regard, be taken up with Erongo Regional Electricity Distributor and be provided by the applicant to their satisfaction.
- (8) That the applicant will be responsible for the construction of a sewage pump station, rising mains and a street to the South of the property with details to be approved by the Engineering Departments of the Municipality of Walvis Bay.
- (9) That applicant attends to all outstanding Town Planning matters.
- (10) That the applicant be informed that the business relationship and transaction can only be concluded and become effective once Section 21 of the Financial Intelligence Act, 2012 (Act No.13 of 2012) read together with Section 26 of the said Act, is complied with, and that it is required from the applicant to provide such information at such time and in such format as instructed by the Anti-Money Laundering Compliance Officer of the Municipality of Walvis Bay.

12.14 **Land application for the construction of a LPG terminal in Walvis Bay: TIBA Gas Terminal (Pty) Limited** (Add. 14; M/C Meeting 31/05/2021; File Farm 39)

The purpose of this report is to recommend that Council “in-principle” support and approve the construction of a liquid petroleum gas (LPG) terminal on a portion of Remainder Farm 39 or any other suitable-acceptable-feasible site in Walvis Bay by Tiba Gas Terminal (Pty) Ltd (the applicant).

Tiba Gas Terminal (Pty) Ltd have identified Walvis Bay as entry point for LPG into the SADC region. The applicant would like to bring this project that will not only bring much needed employment and entrepreneurship opportunities but will put Walvis Bay on international platforms.

The applicant has identified and applied to purchase or lease a portion of Remainder Farm 39 measuring 35,000m² or any other suitable-acceptable-feasible site in Walvis Bay to construct a LPG Terminal and other related distribution hub.

The initial portion applied for is identified as “mariculture land” and located next to Farm 46, which is designed for aquaculture purposes. However, the applicant requested for an “own-risk” consent to commence with an Environmental Impact Assessment (EIA); Environmental Management Plan (EMP) and Risk Management Plan (RMP) and was provided with such consent.

It is recommendable that the applicant be allowed to conduct all necessary assessments and studies and present detailed well-informed application to Council on completion of such assessments and studies.

In conclusion, considering the magnitude of the project and potential economic boost it will bring locally and nationally, “in-principle” support and approval by granted to Tiba Gas Terminal (Pty) Ltd for the construction of an LPG terminal on a Portion of Remainder Farm 39 or any other suitable-acceptable-feasible site in Walvis Bay.

RECOMMENDED:

- (1) That support and approval *in-principle* be granted to TIBA Gas Terminal (Pty) Limited (the applicant) for the construction of an LPG terminal on 35,000m² of Remainder Farm 39 or any other suitable-acceptable-feasible site in Walvis Bay.
- (2) That the applicant at “own risk” conduct Environmental Impact Assessments (EIAs), Environmental Management Plans (EMPs), Risk Management Plans (RMPs) and any other statutory assessments, studies and processes, and present detailed comprehensive reports as well as a well-informed application to Council on completion of such assessments and studies for further consideration and discussions.
- (3) That point two (2) above be concluded by the applicant in a maximum of twelve (12) calendar months and Council be informed thereof, otherwise this *in-principle* support and approval be regarded as null and void.

12.14 **Land application for the construction of a LPG terminal in Walvis Bay: TIBA Gas Terminal (Pty) Limited** (Add. 14; M/C Meeting 31/05/2021; File Farm 39)

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In conclusion, considering the magnitude of the project and potential economic boost it will bring locally and nationally, “in-principle” support and approval by granted to Tiba Gas Terminal (Pty) Ltd for the construction of an LPG terminal on a Portion of Remainder Farm 39 or any other suitable-acceptable-feasible site in Walvis Bay.

RECOMMENDED:

- (1) That support and approval *in-principle* be granted to TIBA Gas Terminal (Pty) Limited (the applicant) for the construction of an LPG terminal on 35,000m² of Remainder Farm 39 or any other suitable-acceptable-feasible site in Walvis Bay.
- (2) That the applicant at “own risk” conduct Environmental Impact Assessments (EIAs), Environmental Management Plans (EMPs), Risk Management Plans (RMPs) and any other statutory assessments, studies and processes, and present detailed comprehensive reports as well as a well-informed application to Council on completion of such assessments and studies for further consideration and discussions.
- (3) That point two (2) above be concluded by the applicant in a maximum of twelve (12) calendar months and Council be informed thereof, otherwise this *in-principle* support and approval be regarded as null and void.

12 **Reports and recommendations of Advisory Committees and the Chief Executive Officer**

No reports have been received.

13 **Minutes of associations**

14.1 **Management Committee of the Association for Local Authorities (ALAN)** (File 12/1/2/1/2)

No minutes have been received.

14.2 **National Executive Committee of the Namibia Association of Local Authorities Officers (NALAO)** (File 12/1/2/1/11)

No minutes have been received.

14.3 **Namibia National Mayors' Forum** (File 12/1/2/1/17)

No minutes have been received.