

## **MUNICIPALITY OF WALVIS BAY**

# **AGENDA**

### **ORDINARY COUNCIL MEETING**

**To be held in the  
Civic Centre Council Chambers,  
Nangolo Mbumba Drive, Walvis  
Bay**

**ON WEDNESDAY  
08 JUNE 2022  
AT 18:00**



# Municipality of Walvis Bay

Civic Centre • Nangolo Mbumba Drive • Private Bag 5017 • Walvis Bay • Namibia  
Phone +264 (0)64 201 3111 • Fax +264 (0)64 204 528 • [www.walvisbaycc.org.na](http://www.walvisbaycc.org.na)

Enquiries	Gwenneth !Gaoses
Phone	064 – 201 3236
Fax	064 – 201 3216
E-mail	<a href="mailto:ggaoses@walvisbaycc.org.na">ggaoses@walvisbaycc.org.na</a>
Date	02 June 2022

## NOTICE

His Worship the Mayor and Councillors  
General Managers

### 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 in the Civic Centre Council Chambers, Nangolo Mbumba Drive, Walvis Bay on: -

**Wednesday 08 June 2022 at 18:00**

Yours faithfully,

**D Uushona**  
Acting Chief Executive Officer

Date	Time
03/06/2022	09:30

Official	Date	Time	Signed off
Compiler	02/06/2022	12:10	
MCS	02/06/2022	12:10	



**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 Thursday 12 May 2022 to be confirmed and approved.
  - 4.2 Minutes of the Special Council Meeting held on Tuesday 24 May 2022 to be confirmed and approved.
  - 4.3 Minutes of the Special Council Meeting held on Tuesday 31 May 2022 to be confirmed and approved.
5. **Interviews with deputations or persons summoned or requested to attend meeting** (File 3/3/2/3/2)

Tuesday 10 May 2022 - Windhoek Engineers / Road Rehabilitation

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

Announcements by His Worship the Mayor, Trevino Forbes.

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

No petitions have been received.

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

Motion: Affordable serviced plots for residential use

Submitted by Councillor Ryan Gordon



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*To submit a motion for consideration by the Municipal Council of Walvis Bay, please complete and sign this form and submit it to the Chief Executive Officer at least 6 working days prior to the date of the next ensuing Council meeting as contemplated in Rule 13 of the Standing Rules of Order*

Motion sequence number: 14  
(to be completed by the administration)

**MOTION:** Affordable serviced plots for residential use

**Motion submitted Councillor Ryan Gordon**

### **Objective of Motion:**

*To request financial commitment from the Municipality of Walvis Bay to make available serviced plots for the very low income group in Walvis Bay for example taxi drivers, domestic workers, petrol attendees, security guards and the list go on and on. They are people with no possibility to empower themselves economically. Land is the ultimate resource.*

**Rationale and motivation: What is an erf? It means, a portion of land registered in Deeds registry as an erf**

**We need to plan with the people, they know best. As in the Constitution of the Republic of Namibia under Property Article 16 Section 1 and I quote All persons shall have the right in any part of Namibia to acquire or own property under housing schemes part 12.**

### **Section 57 subsection**

**1(a) Construct or acquire dwelling and maintain sell or subject to such conditions as may be determined by the Local Authority Council.**

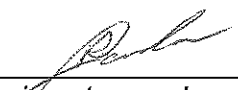
**The Namibian Constitution support access to secure land tenure.**

**Flexible land Tenure Act 2012, Act no 4 of 2012**

The Bill seeks to accelerate access to and delivery of secure tenure in informal urban areas to people without any rights to the land that they are presently occupying.

**Proposal to be considered by Council:** *The purpose of this motion is for the Municipality to avail land. To service the land with the revenue accumulated from the mentioned income group.*

Chairperson of Council. I so move.

  
Cllr *insert name here*

Ryan Gordon

30 / 05 / 2021  
Date



9. **Answers to questions of which notice has been given** (File 3/3/1/2)

No questions received.

10. **Report of the Management Committee for May 2022**

[Report referred to in section 26(1)(e) of the Local Authorities Act]

*No items on which the Management Committee must report, were discussed.*

11. **Recommendations of the Management Committee for May 2022**

*The Chairperson of the Management Committee must individually propose the recommendations of the Management Committee to the Council for consideration - Rule 22(2), and unless there are dissentient votes against a recommendation each recommendation is regarded as seconded (Rule 22(5) and adopted by general consensus.*

11.1 **Historic overview of representation of the Municipality of Walvis Bay on the Erongo Regional Electricity Distributor Board of Directors** (Add. 1; M/C Meeting 05/05/2022; File, Motion 1/2/2/4/1)

The purpose of this report is to provide a historic background and overview on the representation of the Municipality of Walvis Bay on the Erongo Regional Electricity Distributor (hereinafter referred to as ERED) board of directors.

The Namibian Cabinet has approved the establishment of Regional Electricity Distributors (RED) in Namibia in 2000. The owners/shareholders of the RED are the beforementioned distributors in the RED's geographic area. The various distributors undertook to transfer their electricity networks, vehicles, staff and other assets, as well as its customers to the RED. In exchange for such transfer, they received shares in the RED proportionate to their contributions towards the new RED.

ERED was formed by merging the service of electricity distribution from the various municipalities and town councils in the Erongo region namely:

- the municipalities of Walvis Bay, Swakopmund, Henties Bay and Omaruru,
- the town councils of Karibib, Usakos and Arandis,
- the Erongo Regional Council (for the rural areas), and
- NamPower.

ERED started trading as an independent legal entity on 1 July 2005 (to coincide with the end and start of the financial years of the participating local authorities). It was created under the Companies Act, 1973 (Act 61 of 1973) with 9 board members (hereinafter referred to as "directors") as prescribed in clause 4.3.1.1 of the Shareholders Agreement read with article 49 of the Articles of Association. Under clause 4.3.1.1(e) of the Shareholders Agreement the Municipality of Walvis Bay can have representation by 2 persons (and their alternates) and under subclause (d) the same applies to Swakopmund. All the other shareholders only have 1 representative on the board, with the 3 smallest local authorities combined having only 1 representative.

Moreover, clause 4.1.5 determines that any shareholder only has 1 vote. The 2 seats on the Board of Directors does not have any relevance to the 1 vote per shareholder at shareholder meetings. Clause 4.1.6 determines that the chairperson of any shareholders meeting shall be the duly authorised person of the Municipality of Walvis Bay.

Clause 4.3.1.7 determines that any shareholder may remove any of its directors and to replace them at any time during the term of office of such director.

Clauses 4.3.1.4 and 4.3.1.7 is clear that the fiduciary duties rests with the directors, who under any law has the full, complete and exclusive authority and discretion to manage the affairs of the company and to make all decisions regarding the business of the company. This means that no single shareholder, irrespective of the number of shares held by it, has any control of the ERED. Clause 3.2.1.1 only attaches the right of entitlement to shareholders to receive dividends on the number of share that it holds.

**RECOMMENDED:**

- (1) That the Municipal Council of Walvis Bay take note, with great concern, of the lack of formal and documented annual feedback by its duly appointed representative (chairperson of the shareholders' meetings) to the Council on the status/activities of the Erongo RED.
- (2) That the Municipal Council also, due to the tenure of Cllr R Hoaeb as Board Member, appoint the Chief Executive Officer by virtue of his position as duly appointed representative (chairperson of shareholders' meetings) under Clause 4.1.6 of the Shareholders Agreement, and that the decision adopted under item 12.3 at the Ordinary Council meeting of 25 August 2015 that the Chairperson of the Management Committee shall be the duly authorised representative of the Municipality of Walvis Bay, be rescinded.

**11.2 Amendment to the policy on the sale/lease of land and improvements. (Add. 2; M/C Meeting 05/05/2022; File 7/2/3/2/5)**

To recommend, amongst others, that certain amendments to the current policy on the Sale/Lease of Land and Improvements be approved, to stimulate interest in the purchase of available land/erven within Walvis Bay.

The policy on the Sale/Lease of Land and Improvements (hereinafter referred to as the policy), was for the first time adopted on 30 June 1994. Thereafter, it was amended during September 1994, December 1998, December 2000, October 2002, November 2020, and February 2021.

The current policy, as amended, was approved by Council at its meeting held on 21 September 2021, under item 14.8.

The policy is a comprehensive document which outlines specific procedures to be followed pertaining to the sale/lease of land, methods of payments, etc.

It has been observed during the past six (6) months that the property market has not improved significantly especially on the open market and the entrepreneurs/developers and individuals still find it difficult to obtain financing from financial institutions. Moreover, during the period, financial institutions also indicated that the risk for financing businesses, industrial land and mortgages is carefully considered by them and takes up to four (4) months, if not longer for their applications to be approved.

The current economic downturn and the COVID-19 pandemic is still influencing the property market and these circumstances had dire effects on the sale of erven by Council. Council is however in need to generate income for the delivering of services and although we are facing difficult economic times, there is a need to offer available land to the public with possible incentives.

In modern society the set procedures are constantly under pressure to adapt to changing socio-economic dynamics and the opinion is therefore held that it would be opportune to, at this time, introduce amendments to the current policy on the Sale/Lease of Land and Improvements to stimulate interest in the purchase of land within Walvis Bay.

**RECOMMENDED:**

- (1) That the initiative to amend the current Policy on the Sale/Lease of Land and Improvements with certain incentives to stimulate interest in the purchase of land in Walvis Bay, be approved.
- (2) That the current Policy on the Sale/Lease of Land and Improvements, be amended as follows:

**5.3 Land for residential Purposes**

5.3.4 All residential erven offered under 5.3.1, 5.3.2 and 5.3.3, and not sold, be sold thereafter by private transaction at the upset price and only one erf per person.

Number 5.3.4 of the current policy becomes 5.3.5

**7. Method of payment**

**7.1 By way of public bidding**

7.1.1 The total purchase price to be paid in cash or electronic fund transfer.

OR

7.1.2 An amount equal to 10% of the purchase price shall be paid as a deposit in cash / electronic fund transfer on date of sale and the balance be secured by an acceptable bank guarantee within one hundred and twenty (120) days from date of sale.

**7.2 Sale by public bidding / Private Transaction**

7.2.1 The total purchase price to be paid by cash or electronic fund transfer.

OR

7.2.2 An amount equal to 10% of the purchase price shall be paid as a deposit in cash / electronic fund transfer on date of sale and the balance be secured by an acceptable bank guarantee within one hundred and twenty (120) days from date of sale.

OR

7.2.3 That an amount equal to 10% of the purchase price shall be paid as a deposit in cash / electronic fund transfer on date of sale and the balance of the purchase price be settled within a period of thirty six (36) months in equal monthly installments at an interest rate of 5%, provided that an agreement be signed on date of sale, and further provided that the purchaser may start with the development on date of the sale and on own risk and indemnify Municipality of Walvis Bay against any loss and damages that may result as a result of property not being transferred in their name.

- (3) That the amendments on the Sale/Lease of Land and Improvements Policy come into force with immediate effect.
- (4) That all the Sale/Lease of Land and Improvements that were concluded with their conditions before these policy amendments, remain in force.



11.3 **Application to acquire industrial land at heavy industrial area east of Dune 7: Farm 58 for the construction of a hydrogen pilot plant: Cleanergy Namibia (Pty) Limited** (Add. 3; M/C Meeting 05/05/2022; File 7/2/3/2/5)

The purpose of this report is to recommend that in-principle approval be granted to reserve 20 Ha of Portion 8 of Remainder Farm 58 for Cleanergy Namibia (Pty) Ltd (the applicant), for the establishment of a Hydrogen Pilot Plant in Walvis Bay.

The application letter dated 12 April 2022, indicates that the applicant intends to establish a Hydrogen Pilot Plant in Namibia, and in particular Walvis Bay. Cleanergy Namibia (Pty) Ltd is a Namibian company with a registration number 2021/0414 as illustrated in the Certificate of Change of Name, as well as Special Resolution of the change of company name from BIPA and Taxpayer Registration Certificate.

The applicant has presented their development proposal for the envisaged Hydrogen project to Council and technical department at various occasions, which gave a good insight of the proposed project.

The applicant, Cleanergy Namibia (Pty) Ltd is a joint venture between Ohlthaver & List (O&L) Group and CMB.TECH (Belgium Company) to explore and develop green hydrogen production projects in Namibia. They have identified Walvis Bay for the pilot hub with the aim to construct the plant by the end of 2023.

This initiative responds to the second Harambee Prosperity Plan as announced by the Government of Namibia while investigating the feasibility of green hydrogen as a strategic intent.

The process of township establishment of Farm 58 has been partially completed and the registration of portions is now with the Deeds Office. However, the 20 Ha required by the applicant must be subdivided from Portion 8 of Remainder Farm 58 before final allocation can be considered by Council for long term lease or alienation.

**RECOMMENDED:**

- (1) That approval in-principle be granted that an area measuring 20 Ha of Portion 8 of Remainder Farm 58 be reserved for Cleanergy Namibia (Pty) Ltd (the applicant) for the envisaged Hydrogen Pilot Plant.
- (2) That the applicant at own risk and at own cost conduct an Environmental Impact Assessment (EIA), Environmental Management Plan (EMP), Risk Management Plan (RMP) and any other statutory assessment, studies and processes, and obtain clearance from the Environmental Commissioner.
- (3) That, the applicant attends to subdivision of 20 Ha of Portion 8 of Remainder Farm 58 at own cost.
- (4) That once (2) and (3) above have been completed, a further comprehensive report with recommendations be submitted to Council for consideration.

11.4 **Application to acquire portion of Fifth Street, Walvis Bay: Bindemann Associates Professional Land Surveyors** (Add. 4; M/C Meeting 05/05/2022; File 3048 W)

The purpose of this report is to recommend, amongst others, that in-principle approval be granted for a portion of the fifth street to be sold, by private transaction, to Bindemann Associates Professional Land Surveyors.

The far end of fifth street is currently being used as illegal parking and repair of trucks by the truck drivers in transit. These operations by truckers have become an eyesore for the adjacent property owner that happen to operate his business from erf 3048, Walvis Bay.

The applicant's initiative is to build parking garages and storage facilities for his own use on the street portion he applied for from Council. Furthermore, the applicant has acquired more equipment for his business and current storage area have limited space. The applicant has to attend to the closure of the street portion, surveying as well as all town planning and other related legal procedures at his own cost.

The applicant has not made any offer to purchase the street portion from Council. However, Council has recently alienated business erven in Walvis Bay for N\$1049.25/m<sup>2</sup> and this can be set as the benchmark price for the purchase of the street portion.

The application to purchase a portion of fifth street (road reserve) (±933 m<sup>2</sup> in extent) can be considered by way of private transaction for N\$978,950.00 plus 15% VAT. The applicant as an adjacent landowner is the only one that can optimally utilize this portion of land. Erf 3040, Walvis Bay got their entrance from Sixth Street West.

Seeing that the road reserve is to be sold by private transaction, the standard 10% contribution towards the landscaping fund, which is N\$97,895.00 and calculated on the purchase price, will also apply.

**RECOMMENDED:**

- (1) That approval in principle be granted that a portion of the road reserve (Fifth Street) be sold, by private transaction, to Bindemann Associates Professional Land Surveyors (the applicant) for N\$978,950.00 plus 15% VAT.
- (2) That the applicant, at own cost, advertise the sale by private transaction in terms of Section 63(2)(b) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended.
- (3) That the applicant, at own cost, attend to all town planning and other related legal procedures, such as permanent closure of the street portion, surveying, subdivision, rezoning, etc.
- (4) That, in terms of Section 30(1)(t) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended, and Section 63 of the Local Authorities Amendments Act, 2018 (Act 3 of 2018), the approval of the Minister of Urban and Rural Development be obtained.
- (5) That, once all town planning and other related legal procedures have been attended to, 10% of the purchase price be paid on date of sale, plus 15% VAT, and the balance of the purchase price be secured by an acceptable bank guarantee within ninety (90) days from date of sale.
- (6) That, on date of sale, an additional 10% calculated on the purchase price, be paid by the applicant as a contribution to the landscaping and establishment of green belt funds.
- (7) That, in the event that the applicant fails to pay the 10% deposit and secure the balance of the purchase price by means of an acceptable bank guarantee within ninety (90) days from date of notice, the sale be regarded as null and void.
- (8) That the applicant, at own cost, provide all and/or any outstanding services and adhere to the guidelines/standard requirements for all services, i.e. water connection, water/sewerage/electrical reticulation and transfer the services free of charge to the Municipality of Walvis Bay.

- (9) That the applicant consults Erongo RED regarding electrical requirements/services and/or any other information in this regard.
- (10) That the applicant, at own cost, relocate known and/or unknown services.
- (11) That the applicant shall commence with development within twelve (12) months from date of sale, and that such development be completed within twenty-four (24) months from such date of sale, failing to comply would result in the undeveloped portions of land to revert to Council at the cost of the applicant.
- (12) 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.
- (13) That no informal structures (shebeens, bars and such illegal structures) be allowed on any part of the development, and that this condition be registered as a title condition.
- (14) That the applicant provides a turning circle, at own cost, and transfer the street to Council free of charge.

**11.5 Application to acquire unserviced Portion 4 (Green Valley Proper) of Remainder Farm 37 Walvis Bay (Add. 5; M/C Meeting 05/05/2022; File Farm 37, 17/5/3/1/1 NHE)**

The purpose of this report is to recommend amongst others that unserviced Portion 4 (Green Valley Proper) of Remainder Farm 37, Walvis Bay, 60672 m<sup>2</sup> in extent, be sold by private transaction to National Housing Enterprise (NHE) (the applicant), for construction of low-income houses.

In an application dated 28 March 2022, the applicant indicated that they wish to acquire land on Farm 37 to build houses for Namibians as per their mandate.

Portion 4 of Remainder Farm 37 consist of two hundred and eighty-three (283) erven that comprises of the following:

- 243 single residential erven
- 4 General residential erven
- 6 Government
- 6 institutional
- 2 Local business
- 4 General Business
- 3 Urban Agriculture
- 10 Public Open Spaces
- 2 Utility
- 3 Municipal

The planning matters regarding establishment of township on Portion 4 of Remainder Farm 37 has been completed and diagrams are registered in the Deeds Office. The applicant only must attend to civil works to provide infrastructure to Portion 4 of Remainder Farm 37.

The applicant in their application has requested Council to avail not less than 200 plots for the envisaged housing project in Walvis Bay. Therefore, the opinion is held that the two hundred forty-three (284) single residential erven be allocated to the applicant.

The NHE technical team requested an urgent meeting with the Municipality staff, which was held on 15 March 2022 with the aim to stress their seriousness in terms of housing delivery and also to discuss the allocation of land to them. In the discussions held with the applicants they want to build affordable houses for the low-income earners in Walvis Bay area. This proposal must be seen as a unique development proposition as NHE will be delivering on their mandate that will ultimately significantly contribute to the growth and development of Walvis Bay.

This development will uplift the much talk Farm 37 and set a trend for other developments to follow. Therefore, the application by National Housing Enterprise is supported as it will bring about much needed job opportunity to Walvis Bay.

Regarding the alienation of unserviced Portion 4 of Remainder Farm 37 (Green Valley Proper), the opinion is held that unserviced land is strategically positioned for the members of the community.

The applicant, in their proposal, has not made any offer to purchase land from Council. However, Council at its meeting held on 3<sup>rd</sup> November 2020 under item 11.6 sold unsurveyed/unserviced Portions 1 and 2 of Remainder Farm 37 at N\$50.06/m<sup>2</sup>. Therefore, opinion is held that the unserviced Portion 4 (Green Valley Proper) of Remainder Farm 37 be offered to the applicant at N\$50.06/m<sup>2</sup>.

**RECOMMENDED:**

- (1) That 60672 m<sup>2</sup> of unserviced Portion 4 of Remainder Farm 37 (Green Valley Proper), be sold by private transaction to National Housing Enterprise (NHE) (the applicant), at N\$50.06/m<sup>2</sup>
- (2) That all erven not zoned single residential erven revert back to Council.
- (3) 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.
- (4) That, in terms of Section 30(1)(t) of the Local Authorities Act, 1992 (Act 23 of 1992), as amended, and Section 63 of the Local Authorities Amendments Act, 2018 (Act 3 of 2018), the approval of the Minister of Urban and Rural Development be obtained.
- (5) That the applicant submits the necessary Environmental Impact Assessment Study (EIA) and Environmental Clearance Certificate, in terms of Section 56 of the Environmental Management Act, Act 7 of 2007, from the Ministry of Environment, Forestry and Tourism, Directorate: Environment Affairs, for the development of Portion 4 of Remainder Farm 37.
- (6) 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.
- (7) That the applicant pays 10% of the purchase price towards the landscaping fund at the date of sale.
- (8) That the applicant contributes to the actual cost of the provision of bulk services. The Department Roads and Building Control should determine the exact contribution when final designs of bulk services are approved.
- (9) That the applicant, at own cost, do all and/or any required ground works, provides all outstanding services and adheres to the guidelines/standard requirements for all services, i.e. water connection, water/sewerage/electrical reticulation, tarred roads and that such services be donated to Council, free of charge.

- (10) That electrical requirements/services and/or any other information in this regard, be taken up with ERONGO RED.
- (11) 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; and that failing to comply would result in the undeveloped erf/erven to revert back to Council at the cost of the applicant.
- (12) 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.
- (13) That clause 11 above be registered against the title deed.

**11.6 Sale of Institutional Erf 7092, Kuisebmond to Protestant Church (Oruano) (Add. 6; M/C Meeting 05/05/2022; Ref 7092 K)**

To recommend that sale of Erf 7092, Kuisebmond dated 29 April 2019 between the Municipality of Walvis Bay and Protestant Unity Church (Oruano) (the applicant), not be concluded.

Council on 2 March 2018 advertised an Expression of Interest to submit proposals for the development of institutional erven 2800 Walvis Bay, 1413 & 1539 Meersig, 3781 Narraville, 7092,7270,7554,7727 & 7853 Kuisebmond and 7092 Kuisebmond.

The applicants secured the erven on 26 November 2018 and paid N\$ 72 000.00 instead of the required 10% deposit of N\$ 36 201.51 and the agreement of sale was signed on 29 April 2019. The applicant breached clause 2.2 of the agreement of sale and instructions to cancel the sale were forwarded to the Department of Finance but have not been concluded.

In the meantime, the applicant paid the purchase price of the erf in full and requesting on discussions in concluding the sale of Erf 7092, Kuisebmond.

It is important to note that Council recently cancelled three sale transactions of a similar nature. These had also entered into sale agreements with Council and defaulted on their payments, but eventually settled the purchase price in full. Irrespective, Council cancelled those sales due to non-performance.

**RECOMMENDED:**

- (1) That the conclusion of the sale of Erf 7092 Kuisebmond to Protestant Unity Church (Oruano) not be approved due to the breach of clause 2.2 of the agreement of sale by the purchaser.
- (2) That an Expression of Interest be called for the sale of Erf 7092 Kuisebmond to provide an opportunity to all citizens/institutions.
- (3) That the applicants be advised accordingly.

**11.7 Transfer of funds between capital votes for the construction of the informal market on Erf 2188 Kuisebmond (Add. 7; M/C Meeting 05/05/2022; File 17/1/5/2)**

The purpose of this report is to request approval from Council for the transfer of funds, between capital votes.

A total of N\$ 795 541.49 needs to be transferred from Vote B330/5376/0000 Light Industrial Wall Portion (N\$300 000.00) and Vote B330/9561/0000 stalls K/mond Erf 3994 (N\$495 541.49) to Vote B330/9209/0000 Shading -Trading Area Kuisebmond, for the construction of the informal market on Erf 2188, Kuisebmond.

In June 2020, the Department of Community and Economic Development (CED) applied for financial assistance from the Ministry of Urban and Rural Development (MURD) to build an informal market in compliance with Covid-19 health and regulatory requirements. This request was then channeled by MURD to Deutsche Gesellschaft für Internationale-Zusammenarbeit (GIZ) who had a programme to fund these activities.

The application was eventually approved with the following conditions;

- That GIZ will procure building materials to the tune of N\$ 900 000.00 and MURD will cover labor to the tune of N\$450 000.00.
- That the Municipality of Walvis Bay submits a bill of quantity and quotation for materials to GIZ (the bill of quantity was compiled by the Department; Road & Building Control (RBC) and RBC also sourced the quotation.
- That the Municipality of Walvis Bay appoints a Project Manager.
- That GIZ will procure and deliver the material.

That the Municipality of Walvis Bay advertises the bid and appoint a Contractor by March 2021. This however did not materialize due to procurement challenges, and Council only manage to appoint a Contractor in October 2021.

In December 2020, the building materials were delivered by the suppliers appointed by GIZ. However, upon verification in January 2021, CED and RBC realized that not all the material was delivered, and this was communicated to GIZ who subsequently delegated a representative to come and inspect the consignment. After the inspection it was confirmed that the correct material was delivered but not enough items as per the submitted bill of quantity. Moreover, what Council did not know was that GIZ did not study the supplied bill of quantity comprehensively and which requires them to multiply the supplied unit cost with the number of structures to be built. The misinterpretation thus resulted in the short supply of material. This however was only confirmed in November 2021 after Council appointed the Contractor who requested that all material should be supplied first before he starts with the construction. This unfortunate situation was then communicated to GIZ and MURD.

On 22 November 2021, a meeting was held between GIZ, Municipality of Walvis Bay and MURD where it was agreed that there was a misinterpretation of the bill of quantity which resulted in the procurement of inadequate material. At the same meeting GIZ promised that they will request for additional fund to pay for the shortfall, but at the same time indicated that the programme has already ended, and that the Municipality of Walvis Bay took too long to implement the project. GIZ's concern was also that there was a bigger chance that they might not secure sufficient funds required to purchase all materials.

GIZ further requested the Municipality of Walvis Bay to compile a new bill of quantity for all the missing materials and submit it to their office before 10 December 2021. Subsequently the RBC Division, in December 2021, compiled a list of building materials still required to complete the project, the cost of which is estimated at N\$ 926 557.81 (excl. VAT).

After the Bill of Quantity was reviewed by the Engineering Division it was forwarded to GIZ in December 2021. GIZ responded on 13 February 2022 via email and indicated that their funds were time bound and Walvis Bay failed to use the material during the allocated time. They also explained that they have no additional fund for this project anymore. GIZ therefore proposed three options for Municipality of Walvis Bay to choose from, as cited below;

- 1) *The materials delivered to Walvis Bay are used for the intended purpose. As GIZ has fulfilled all its commitments and has no access to additional funds, this would need to be done by the municipality. The municipality was advised by GIZ to inquire with MURD whether there is any possibility for additional funds to purchase material.*
- 2) *If the material cannot be used for the intended purpose in the foreseeable future, two options come into consideration:*
  - a. *We jointly identify an alternative use of the building material within the objectives of the Integrated Sustainable Urban Development (ISUD) project. As the project's objective is to improve the living and housing conditions of the residents of informal settlements, we would suggest identifying a use of the material in this regard. While we are bound to specific partner towns, we would make an exception for Walvis Bay, given the tricky situation we're all presented with here. We would appreciate any suggestion in this regard from your side.*
  - b. *Alternatively, Walvis Bay municipality would need to refund GIZ for the provided materials, as we cannot reverse the procurement process. As the Municipality has used parts of the building materials in the past for other local measures and replaced them through own procurements, we could find a respective solution (meaning payment is made for used materials to GIZ for the purchase price, but not replaced). We would see this option as a last resort and would much prefer a meaningful use of the building materials in Walvis Bay.*

Since the Contractor is already appointed, the Department of Community and Economic Development (CED) has deemed it fit to opt for GIZ's option one (1) as option two (2) might compromise the procurement process in terms of allocation. Council is therefore requested to avail additional funds, so that the project can be completed.

**RECOMMENDED:**

- (1) That Council takes note that the material for the construction of the informal market on Erf 2188, Kuisebmond is insufficient due to the misinterpretation of the bill of quantity.
- (2) That Council takes note that the estimated value of building material required to complete the construction of the Informal Market at Erf 2188, Kuisebmond is N\$ 1 065 541.48 (incl. VAT), plus 15% variation, as estimated in December 2021.
- (3) That Council takes note that the main funder for the project, GIZ, declines to spend more money on the project due to time lapse. However, Council should further note that GIZ has already bought 50% of the then required material.
- (4) That Council avails an additional N\$ 795 541.49.00 towards the construction of the Informal Market on Erf 2188, Kuisebmond.
- (5) That the amount of N\$300 000.00 be transferred from Vote B330/5376/0000 (Light Industrial Stalls -Boundary Wall Portion 208 W) where N\$300 000.00 is currently available to Vote B330/9209/0000 (shading at trading area-additions, K/M Stadium) to allow for procurement of the material.
- (6) That the amount of N\$495 541.49 be transferred from Vote B330/9561/0000 (stalls K/mond Erf 3994) where N\$6 820 429.93 is currently available to Vote B330/9209/0000 (shading at trading area-additions, K/M Stadium) for procurement of the material.
- (7) That Council takes note that the Ministry of Urban and Rural Development is still committed to paying N\$ 450 000.00 for labour as per its letter dated 23 September 2020.

11.8 **Offences and fines in terms of the Urban and Regional Planning Act** (Add. 8; M/C Meeting 05/05/2022; File 15/1/P)

The purpose of the report is to obtain the Municipal Council's approval for the offences and Fines in terms of the Urban and Regional Planning Act (Act No. 5 of 2018).

Section 130 of the Act makes provisions to issue fines to a person who is convicted of an offence in terms of this Urban and Regional Planning Act (Act No. 5 of 2018).

The offences are committed if a person:

- (a) knowingly submits a town planning application with false or misleading information,
- (b) develops, subdivides or consolidates land without the approval in terms of the Act,
- (c) develops, subdivides or consolidates land contrary to a condition of approval or the town planning scheme, etc.

Section 130(2) of the Urban and Regional Planning Act (Act No. 5 of 2018) states that the fine amount should not exceeding N\$ 100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

Furthermore, Section 131(3) of the Urban and Regional Planning Act (Act No. 5 of 2018) states that "Regulations made under subsection (1) may prescribe penalties for any contravention of a regulation or failure to comply of a regulation, of a fine not exceeding N\$ 2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment." Sections 130(2) and 131(3) of the Urban and Regional Planning Act (Act No. 5 of 2018) appear to contradict each other. Nevertheless, it is therefore important for the Municipal Council to come up with a set of reasonable and specific fees to enable the fines to be enforced.

**RECOMMENDED:**

That the Municipal Council adopts the following fines and associated offences in accordance with Section 130 of the Urban and Regional Planning Act (Act No. 5 of 2018):

Section	Offence	Fine (N\$)
130(1)(a)	A person provides information which is false or misleading, knowing that it is false or misleading	2,000.00
130(1)(b)	A person develops, subdivides or consolidates land contrary to a provision of a zoning scheme (if it can be allowed with Council's consent)	1,500.00
130(1)(b)	A person develops land contrary to a provision of a zoning scheme (if it is prohibited)	2,000.00
130(1)(c)	A person develops land without having obtained approval in terms of the Act (if the land use is allowed with Council's consent)	1,500.00
130(1)(c)	A person develops land without having obtained approval in terms of the Act (if the land use is prohibited)	2,000.00
130(1)(d)	A person subdivides or consolidates land without having obtained approval in terms of this Act	2,000.00
130(1)(e)(i)	A person develops, subdivides or consolidates land contrary to a condition, including a condition of approval for the rezoning	2,000.00
130(1)(e)(ii)	A person develops, subdivides or consolidates land contrary to a condition, including a condition of approval for the subdivision or consolidation of land	2,000.00
130(1)(e)(iii)	A person develops, subdivides or consolidates land contrary to a condition, including a condition of approval for the alteration, suspension or deletion of conditions in relation to land	2,000.00



11.9 **Agreement of partnership and cooperation with the City of Windhoek** (Add. 1; M/C Meeting 24/05/2022; File 2/17/1/1)

An agreement of partnership and cooperation was entered into with the City of Windhoek on 8 October 2002, which cooperation continued ever since then. As the agreement had lapsed, the need to formally renew the cooperation is required.

The basis of the framework of cooperation, in broad terms, are:

1. Water security and management
2. Emergency services
3. Land delivery and housing
4. Human Resources exchange programmes
5. Economic development, tourism and business promotion
6. Public health, urbanization and environmental management
7. Crime prevention and maintenance of law and order

This broad co-operation framework, with full awareness of the needs, challenges, strengths and opportunities which exist in the local government sphere, would strengthen the existing bonds of friendship and collaboration, and also 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 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 Municipal Council of Walvis Bay approves the proposed agreement of partnership and cooperation between the Municipality of Walvis Bay and the City of Windhoek.

11.10 **Request by Erongo Regional Council for donation of filing cabinets** (Add. 2; M/C Meeting 24/05/2022; File 5/16/1/1/1 & 6/1/3/1/8)

With the conversion of the storage units at the Archives from the conventional filing cabinets to bulk filers, both for saving space and for fire safety, several filing cabinets became redundant. Some cabinets were transferred to other departments, while the Erongo Regional Council now requested that the rest be donated to it.

Such donations require the approval of the Minister of Urban and Rural Development under section 30(1)(z)(ii) of the Local Authorities Act, 1992 (Act No 23 of 1992).

**RECOMMENDED:**

- (1) That the request by the Erongo Regional Council for the donation of filing cabinets be approved subject to the final approval of the Minister of Urban and Rural Development.
- (2) That the Municipal Council of Walvis Bay under section 30(1)(z)(ii) of the Local Authorities Act, 1992 (Act No 23 of 1992), request the Minister of Urban and Rural Development for an approval for donating 5 redundant filing cabinets to the Erongo Regional Council, as per their request.

**11.11 Appointment of member of the Valuation Court for the remainder of the 2021/2026 valuation period** (Add. 3; M/C Meeting 24/05/2022; File 5/2/2/1 & 5/2/4/2/1-2021/2026)

The purpose is to consider the appointment of a member of the Valuation Court in terms of section 68(1)(c) of the Local Authorities Act, 1992 (Act 23 of 1992).

Section 68(1) of the Local Authorities Act, 1992 (Act 23 of 1992), provides for the establishment of a valuation court for each municipal area. Each such valuation court shall consist of:

- The magistrate of the district in which area such local authority is situated, who shall be the presiding officer of the valuation court,
- one person nominated by the Minister of Urban and Rural Development, and
- one person appointed by the local authority council.

Mr JH Potgieter, Quantity Surveyor, is the appointed member of the Minister of Urban and Rural Development.

Mr H Page of the local estate agency HomePage is the appointed the member representing the Municipality of Walvis Bay.

An email indicating his resignation from the tribunal was received from Mr Page, indicating his further unavailability as member of the tribunal due to his current business activities.

The Council need to appoint a new member of the public who is qualified to serve as member of the Valuation Court for the remainder of the current term of office (until 2026). The member to be nominated and appointed must:

- have a knowledge and experience of the sale of properties (land and buildings);
- have knowledge of construction costs and methods; and
- have knowledge of the principles of property valuations.

Such an appointee may be remunerated for services provided, although the previous incumbent offered his services, namely, to attend sittings of the Valuation Court, as a community service. This happens at intervals of once a year and usually lasts no more than 2 hours for interim valuation rolls (5 times during the term of office) and about 4 hours for general valuation rolls (once only during the term of office).

**RECOMMENDED:**

- (1) That the resignation of Mr Harrold Page as Council's representative on the 2021/2026 Valuation Court, be accepted.
- (2) That the Municipal Council of Walvis Bay, in terms of section 68(1)(c) of the Local Authorities Act, 1992 (Act 23 of 1992), considers appointing Mr Chet van Wyk as a member of the public qualified for such purpose, and if he declines appoint Ms Claudia Loftie-Eaton, as member of the Walvis Bay Valuation Court for the remainder of the current period ending on 30 June 2026.

**11.12 Application for consent use (Funeral Parlour) on Erf 2940 Walvis Bay** (Add. 4; M/C Meeting 24/05/2022; File 2940 W)

An application for consent use to operate a funeral parlour of Erf 2940 Walvis Bay was received from Mr Tommy Jarman and the property owner, Mr Wynand Swart. The property is located on the corner of Nangolo Mbumba Drive and Gertrud Kandanga Road, diagonally across from the Civic Centre, behind the service station.

An objection was received from the adjacent property owner, Ms Latitia Ruiz, citing fear (people are uncomfortable with a funeral parlour near them), possible smell and hygiene. Clause 17.1 of the Walvis Bay Town Planning Scheme states that funeral parlours can be established on erven with a General Business zoning, with the Council's consent. The erf in question is zoned as such.

**RECOMMENDED:**

- (1) That the Municipal Council of Walvis Bay grants approval in principle for a consent use to operate a funeral parlour on Erf 2940 Walvis Bay, for a period of 1 year, provided that all the relevant requirements of the Health Division be complied with as well as the requirements of Council's Regulations relating to funeral undertakers' premises (Notice No. 237 of 8 February 1985).
- (2) That, in accordance with clause 9.5 of the Walvis Bay Town Planning (Zoning) Scheme, the objector be advised that if she is aggrieved by the decision of the Council, she may lodge a written appeal within twenty-eight (28) days from the date of notification of the Council's decision, with the Municipal Council, which will be referred to the Minister of Urban and Rural Development for a final decision.

**11.13 Community-based projects in the Department of Roads and Building Control (Add. 5; M/C Meeting 24/05/2022; File 17/18/2/4)**

The Department of Roads and Building Control had been requested to consider the outsourcing of some of its basic street maintenance functions, in particular small and routine maintenance. The alternative is to create a number of new positions for this purpose, which would be very costly.

The proposal was therefore that a pilot project be launched to outsource some routine small maintenance to SMME's owned and operated by permanent residents of the areas where the maintenance is needed.

**RECOMMENDED:**

- (1) That it be noted that there will be significant cost saving to the Council by outsourcing to community-based SMMEs some of its traditional street sweeping activities, including some small repairs/replacements of interlocks, curb stones, traffic- and road signs, and even road markings and minor pothole repairs.
- (2) That, as a trial run, provision be made in the 2022/2023 and 2023/2024 operating budgets and in the next Annual Procurement Plan for the appointment of five (5) such SMME contractors for a trial period of one year, to assist the Council in these activities.
- (3) That it be made an express condition of this project that the bidding document must reflect the Municipal Council's desire that the projects be reserved for Walvis Bay based and operated SMMEs with preference to such SMMEs being owned and operated by permanent residents of the suburbs where the projects will be executed, as contemplated in section 72 of the Public Procurement Act, 2015 read with regulation 54 of the Public Procurement Regulations, 2017.
- (4) That, with the current revision of the superstructure, the Human Resources Division be tasked to also look at the internal strengthening of the supervisory levels on Bands B and C in the structure through a restructuring process rather than the creation of new positions, with the objective to achieve the optimum productivity in service delivery by the staff of the Municipality of Walvis Bay.

**11.14 Request to amend the title and point (2) of Council's resolution for item 11.13 dated 6 November 2018: Narraville Extension 15** (Add. 6; M/C Meeting 24/05/2022; Ref 15/2/2/8)

Some amendments to the initial Council resolution that established Narraville Extension 15 is required to enable the application to be submitted to the Urban and Regional Planning Board's sub-committee and subsequently to the Minister of Urban and Rural Development for approval

**RECOMMENDED:**

- (1) That the Municipal Council approves the amendment of the title of its resolution for Narraville Extension 15 adopted on 6 November 2018 under item 11.13, to read as follows:

*Consent: Township establishment on Farm 69 (a Portion of the Farm Wanderdünen No. 23) to be known as Narraville Extension 15; approval to incorporate Farms 72 to 74, 88, 89 and Farm 91 as even to be included into the new proposed Narraville Extension 15, and subsequent approval of the layout plan of the proposed Narraville Extension 15.*

- (2) That the Municipal Council approves the amendment of point (2) of its resolution for Narraville Extension 15 adopted on 6 November 2018 under item 11.13, to read as follows:

*(2) Township establishment on Farm 69 and incorporate Farms 72 to 74, 88, 89 and Farm 91 in terms of Section 5(5)(a)(i) of the Township and Division of Land Ordinance, 1963 (Ordinance 11 of 1963) as depicted on the layout plan.*

- (3) That this approval comes into effect immediately after the Municipal Council has taken the resolution and prior to the confirmation of the Municipal Council's minutes.

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

*No reports have been received.*

**13. Minutes of associations**

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

*No minutes have been received.*

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

*No minutes have been received.*

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

*No minutes have been received.*