

HERITAGE WESTERN CAPE

Minutes of the meeting of the Council of Heritage Western Cape held at 9:00 on 2 February 2011, in the first floor Boardroom at the offices of the Department of Cultural Affairs and Sport, Cape Town at 09H00

ITEM	SUBJECT	DISCUSSION	DECISION	PERSON RESPONSIBLE FOR ACTION	TIMEFRAME	FILE NO
1.	OPENING AND WELCOME	The Chairperson, Adv Ronee Robinson opened the meeting at 9H15 and welcomed all Council members and staff present. The Chairperson welcomed the new Director: Museums, Heritage and Geographical Names, Mr Andrew Hall.				
2.	ATTENDANCE	The following Council members were present: Adv Ronne Robinson (Chairperson) Dr Matilda Burden Ms Mary Leslie Ms Laura Robinson Ms Sharon De Gois Ms Sarah Winter Ms Ziyanda Manzana Ms Maureen Wolters Dr Stephen Townsend Mr Magnus Steenkamp Mr Patrick Fefeza Mr Floris Brown Mr Roger Joshua				

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		<p>The following staff of the DCAS were present:</p> <p>Ms Hannetjie Du Preez Mr Andrew Hall Ms Christina Jikelo Mr Olwethu-Oz Dlova Mr Ronny Nyuka Ms Lithalethu Mshoti</p>				
3.	APOLOGIES	<p>Mr Calvin van Wijk Mr Derrick Grootboom Ms Lorelle Hutton</p>				
4.	APPROVAL OF PREVIOUS MINUTES OF COUNCIL MEETINGS					
4.1	Approval of minutes of 5 May 2010	The Council agreed to rectify the minutes		OD		
4.2	Approval of minutes of 5 August 2010		The Council AGREED to approve the minutes with the following corrections: page 3, item 5.3, under 'decision', 3 rd bullet should read as follow <i>"The agenda will close 8 days before BELCom and</i>	OD		

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			<i>two weeks before the Section 38 and APM committee meetings to allow enough time to study the documents"</i>			
4.3	Approval of minutes of 17 November 2010		<p>The Council AGREED to approve the minutes with the following corrections:</p> <p>Page 9, item 6.4, under 'discussion', 1st bullet should read as follow <i>"Heritage Western Cape had been requested by City of Cape Town to appoint all City council members of City of Cape Town as Heritage Inspectors"</i></p> <p>Page 9, item 6.4, under 'discussion', 2nd bullet should be deleted.</p> <p>Page 24, item 7.4.1, under 'decision' should read as follows: <i>"The Committee agreed to accept Ms Nonofho Ndobhochane as the final APM member"</i></p> <p>Page 35, item 11.1, under 'discussion', 6th bullet</p>	OD		

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			should read as follows: "Heritage Western Cape Council members to assess the document and circulate comments"			
5	CONFIDENTIAL MATTERS					
5.1	Resignation of the Council Member, Mr Derrick Grootboom	The Council was informed that: <ul style="list-style-type: none"> Mr Derrick Grootboom has resigned as a member of the Council of Heritage Western Cape due to work commitments. 	The Council NOTED the resignation of Mr Grootboom.	RR		
6.	MATTERS ARISING FROM THE MINUTES					
6.1	Nomination of farm Luiperskop, Ratelgat, District van Rhynsdorp as Division for Provincial Heritage Status in Terms of S.27 of the NHRA, 1999 (Act 25 of 1999)	The Council was informed that: this matter was tabled in the Council meeting on the 17 November 2010 and the Council AGREED to endorse the recommendations, dated 1 November 2010, prepared by Mr Z Shiceka that: <ul style="list-style-type: none"> The survey be approved and that the site be formally declared as a Provincial Heritage Site The Director: Museums, Heritage and Geographical Names develop a framework and guidelines for the compilation of conservation management plan for potential provincial heritage sites The Heritage Western Cape Council considers the request to 	<ul style="list-style-type: none"> It was AGREED to endorse the recommendations that: Therefore, since this site is the property of a private owner a conservation management plan cannot be required. A formal letter notifying the owners of the intent of the Council to formally declare the site be sent to the owners, local authority and DEA&DP, If positive responses are received the site be <i>Gazetted</i>. 	ZS		

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		<p>the owners for the official announcement of the proposed declaration on 14 May 2011</p> <p>It was noted that:</p> <ul style="list-style-type: none"> • the second bullet in recommendations “The letter should be a formal letter as prescribed in Section 27(8) of the Act, and the time frame to be attached which is 60 days • In terms of Section 9 of the National Heritage Resources Act only organs of state are obliged to prepare management plans for specified heritage resources. • Heritage Western Cape does not have the resources to prepare management plans for private owners. 				
6.2	<p>Declaration and Official Announcement of Community House, Erf 16259, 41 Salt River Road, Salt River Division, For Provincial Heritage Status in terms of S.27 of the NHRA, 1999 Act 25 of 1999</p>	<p>The Council was informed that:</p> <ul style="list-style-type: none"> • A letter, dated 26 January 2011, was received indicating that this date was no longer possible as conservation work was still in progress. • It was postponed to a later mutually agreed date. • They also confirm that they are still committed to the Formal announcement of Community House as Provincial Heritage 	<p>It was AGREED to endorse the recommendations prepared by Mr R Nyuka, the case officer that he liaise regarding possible dates and report back to the EXCO for approval</p>	RN		

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		Site.				
6.3	Nomination of Bot River Station Precinct, Erf 2110, Theewaterkloof Municipality, as a Provincial Heritage Site	<p>The Council was informed that:</p> <ul style="list-style-type: none"> • At the Council meeting of 17 November 2010 the Council decided to adopt the recommendations dated 1 November 2010, prepared by Mr. Z Shiceka that: <ul style="list-style-type: none"> a) The Local Municipality and Local organization need to work closer in the drafting of inventories, b) Once they have identified heritage resources, they must use the Heritage Western Cape Guide to Grading to grade their sites, and c) Once proposed grading has been formally adopted by Heritage Western Cape, formal protection measures should be considered • Mr. Z Shiceka has not yet received any correspondence from Ms Barbara Townsend <p>It was noted that:</p> <ul style="list-style-type: none"> • Ms Sharon de Gois has declared her involvement in this special 	<ul style="list-style-type: none"> • Noted 	ZS		

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		development project for Local Municipality and the Council agreed she may remain in the discussions				
6.4	Management of Grade I heritage resources: Re- letter from SARAH that was dated 4 November 2010	<p>The Council was informed that:</p> <ul style="list-style-type: none"> • The Chief Director and Director could not meet with C.E.O of SARHA, as she was on leave. • The concern of Heritage Western Cape is that there is not consultative process around grading and that it seems that some SAHRA officials believe that if they apply Grade 1 status to a site it then falls under their control, even if the mechanism for protection resorts under the PHRA. There is also no formal mechanism by which SAHRA informs PHRAs that they have applied grade 1 status and it is often not known that this has happened and that SAHRA should be consulted should any application concerning such sites come before a PHRA. The uncertainties around grade 1 status cause great confusion for members of the public and also allow unscrupulous developers 	<p>It was AGREED that:</p> <ul style="list-style-type: none"> • This matter to be tabled at the SAHRA Council meeting by the Chairperson, Adv R Robinson. • Adv Robinson and Ms Robinson to be briefed on the matter by the CEO prior to raising it with SAHRA 	AH RR		

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		<p>to exploit the situation of multiple authorities claiming responsibility.</p> <p>It was noted that:</p> <ul style="list-style-type: none"> In terms of Section 8(2) of the NHRA, SAHRA is responsible for identification of grade I sites The Heritage Western Cape should be informed of the boundaries of Provincial Heritage Sites graded as grade I sites so that it could accurately determine how to treat applications. 				
7.	STANDARD ITEMS					
7.1	Report and feedback from Executive Committee	The Chairperson presented an oral report	<p>It was AGREED that:</p> <ul style="list-style-type: none"> The claim form be amended to provide for time spent on preparatory reading of documents Minutes of the Executive Committee be included in the Council agenda even if these have not yet been approved by the Executive Committee The first draft of minutes must be circulated to the Chairperson within a 	RB		

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			week of a meeting with the final edited version circulated to members thereafter for comments and electronic approval			
7.2	Report and feedback on the BELCom	The Chairperson of BELCom presented an oral report.	The Council agreed to <ul style="list-style-type: none"> • Adopt the report • The statistical needs of BELCom, IARCom and APM to be discussed at the next meetings of those committees. 	ST		
7.3	Report and feedback on the IARCom	The Acting Chairperson of the IARCom presented an oral report.	The Council agreed to <ul style="list-style-type: none"> • Adopt the report 	DG		
7.4	Report and feedback on APMCom	The Chairperson of the APM Committee spoke to her written report. It was noted that: <ul style="list-style-type: none"> • The 'Co Permit' policy which was approved at the November Council meeting pending a change in terminology, has been finalised • The APM database, which records reports, permits and correspondence and generates the responses to applications, is currently being stored on a removable hard drive. This is a 	The Council resolved to adopt recommendations dated 27 January 2011, prepared by Mrs Mary Leslie that: <ul style="list-style-type: none"> • The Co-Permit Procedures is finalised and is attached for It was noted that: • the upgrade of a C: drive on one of the APM unit computers would ease the work of staff, as would a 	ML		

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		<p>matter of concern because it is integral to the management processes of the unit but the staff cannot both use it at once. It also increases the risk of losing the data. An expanded C: drive is needed on one of the computers.</p> <ul style="list-style-type: none"> • Access to a dedicated laptop/computer for use at APM meetings would be a great advantage. Staff have sometimes brought in their own laptops to expedite minute-taking but should not have to continue to do so. 	<p>dedicated laptop for taking notes at the meeting.</p> <ul style="list-style-type: none"> • although the APM Unit works well, the staff perceive the salaries as low relative to related posts and the skills involved, and they perceive the workload as high. In the past, this has meant that there has been regular turnover of staff rather than retention of staff, which is unfortunate for heritage practice. <p>The Council further agreed to</p> <ul style="list-style-type: none"> • Adopt the report 			
7.5	Report and feedback on Appeals Committee	<p>The Chairperson of the Appeals Committee spoke to her written report. It was noted that:</p> <ul style="list-style-type: none"> • Only three Appeals were tabled during the course of the last two meetings. One of these has been postponed twice due to the appellant being out of the country, but will be heard at the next meeting on 15 February 	<p>The Council agreed to endorse the recommendations dated 28 January 2011, prepared by Ms Laura Robinson that:</p> <ul style="list-style-type: none"> • A pro-forma record sheet be developed which should contain 	LR		

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		<p>2011</p> <ul style="list-style-type: none"> • The Appeals Committee decided to formulate the minutes of the meeting during course of the meeting, and has been able to do so due to the limited number of items heard at any one time. • In doing so the secretariat is in a position to accurately capture what are often quite complex debates, it also ensures that the appellants receive a response timeously. • The final minutes are circulated within 24 hours of the meeting, are checked for any grammatical errors by the members, and are then adopted via round robin e-mail. The minutes then are then ratified at the following meeting. The system has worked well to date. • There still has not been a legal advisor present at any of the meetings of the new Appeal Committee, but fortunately there has as yet been no need for one. 	<p>information specific to the heritage significance of the property that is subject to an appeal.</p> <ul style="list-style-type: none"> • Adopt the report. 			
7.6	Section 34 (2): Backlog of refusals of demolition application from BELCom and	<p>The Council was informed that:</p> <ul style="list-style-type: none"> • At the last Heritage Western Cape Council meeting, a discussion was held with regard 	<p>The Council agreed</p> <ul style="list-style-type: none"> • That all cases be followed up by staff as a routine continuation 	CJ		

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	<p>Appeals Committee and required formal protection recommendations by Council</p>	<p>to a need to review all Section 34(4) refusal decisions taken by Heritage Western Cape since its establishment in 2003 with a view to implementing Section 34(2) .which require that consideration be given to formal protection of such sites.</p> <ul style="list-style-type: none"> • After deliberating on the subject, the Council resolved to start with the latest applications dealt with by the new BELCOM in order to comply with the legislative prescripts while it gradually addresses the backlog <p>It was noted that:</p> <ul style="list-style-type: none"> • The Council delegated authority and responsibility for this process to the Declarations Review Committee • It had been decided by the management that if BELCom refuses any applications, the case officer concerned is required to take the formal protection forward. • A Secretariat is to be made available for Declaration Review Committee. The process applies not only to total demolitions, but to all applications that are turned 	<p>of the process of dealing with such applications</p> <ul style="list-style-type: none"> • A standard wording be developed for inclusion in the record of decision requesting the owner to consider the implications of the formal protection under consideration for the site and requesting a response thereto. • Thereafter a recommendation should be made to the DRCom. • All cases of permit refusals since the appointment of the present Council are to be followed up with a similar letter and thereafter referred to the DRCom. 			

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		down, including those for alteration an/or partial demolition				
7.7	Report and feedback on Independent Tribunals appointed by the Minister	<ul style="list-style-type: none"> Although there had been several cases handled by the Tribunal, documentation had not been received from the Ministry. There was also discussion of the need, in the absence of ability to enforce many aspects of the NHR Act on the ground, to ensure that cases of violation are brought before the courts 	<p>The Council AGREED that:</p> <ul style="list-style-type: none"> The reports be circulated to members when they become available and be tabled in the next Council meeting to be held on 4 May 2011. Cases of violation of the NHR Act that are considered winnable and which would send important messages to those who may be consider that HWC is unable to enforce the legislation be identified by officials and considered for laying of charges after authorisation by members of the legal profession serving on the Council, i.e.: Adv Robinson and Mr Steenkamp. 	AH		

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7.8	Report and feedback from the SAHRA Council	The Chairperson presented an oral report	The Council agreed to Adopt the report	RR		
8.	Draft Annual Performance Plan for HWC 2011/12 and Financial Matters					
8.1	Financial Report: 2 nd Quarterly Report: 2010/11		Noted	ZT		

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8.2	Draft Annual Performance Plan for HWC 2011/12	<p>The Council was informed that:</p> <ul style="list-style-type: none"> The CEO was not ready to present the Draft Annual Performance Plan as it had not yet been finalised. 	<p>It was AGREED that:</p> <ul style="list-style-type: none"> The APP be presented to the Executive Committee and circulated to members. Heritage Western Cape to investigate charges to the permit application form Provide a report benchmarking Heritage Western Cape against other functional PHRA's 	AH		
9	POLICY MATTERS					
9.1	Draft regulations for meetings of the Council and committees of HWC	<p>The Council was informed that:</p> <ul style="list-style-type: none"> The new CEO had not yet had a chance to deal with the many policy matters raised at the last Council meeting. A start has been made with initial investigation of several of the areas that need attention and that a work plan was set out in the submission for consideration of the Council 	<p>The Council agreed to that:</p> <ul style="list-style-type: none"> Proposals for matters to be addressed by such regulations be submitted to the next meeting of the Council to be held on 4 May 2011. 	AH		
9.2	The appointment of Heritage Inspectors	<ul style="list-style-type: none"> This matter was discussed in the same context as Item 9.1. 	<p>The Council agreed to that:</p> <ul style="list-style-type: none"> A draft policy be submitted for consideration at the next meeting of the 	AH		

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			Council.			
9.3	Registration of Conservation Bodies	<ul style="list-style-type: none"> This matter was discussed in the same context as Item 9.1. 	<p>The Council agreed that:</p> <ul style="list-style-type: none"> A draft policy be submitted for consideration at the next meeting of the Council 			
9.4	Interpretation on the definition 'change of character' of a site i.t.o. section 38 of Act 25 of 1999	<p>This matter was discussed in the same context as Item 9.1.</p> <p>It was noted that:</p> <ul style="list-style-type: none"> Section 49(1) states that there is an internal system of appeals, but that there is an apparent contradiction in that Section 38(6) provides for appeals against section 38 decisions to go directly to the Minister The regulations in turn provide that all appeals go to the appeals committee before going to a tribunal. <p>It was further noted that:</p> <ul style="list-style-type: none"> The IARCom, APMC and BELCom members should not serve on the Appeals Committee as they cannot instance case on which they have sat in prior judgement. in terms of the Regulations the 	<p>The Council agreed that:</p> <ul style="list-style-type: none"> This matter be considered at the next meeting of the Council in light of the legal opinion that has been requested Adv R. Robinson and Mr M. Steenkamp consider the matter and submit their legal opinions to the next Council meeting. Council to consider appointment of alternative members to the Appeals Committee. 	AH RB MS		

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		<p>Appeals Committee should consist of at least two members of HWC Council and not more than three additional members who need not be members of the Council.</p> <ul style="list-style-type: none"> If a member serves on both the Appeals Committee and another s/he should be reuse her/himself. On occasion this may mean that there are not two members of Council available to serve on the Appeals Committee. 				
9.5	Delegation of heritage resource management functions to local authorities	<p>The Council was informed that:</p> <ul style="list-style-type: none"> A 86% of the applications currently processed by Heritage Western Cape originate from sites in the City of Cape Town. A directive has been received from political level that the process for devolution of powers to the City be attended to. A very fruitful meeting was held with delegates from City of Cape Town's Heritage and Environmental Section with regard to delegating heritage resources management functions to the City of Cape Town on 24 January 2011. Mesdames Hanneljie du Preez and Christina Jikelo and Messrs 	<p>The Council agreed to endorse the recommendations dated 27 January 2011, prepared by Mr Calvin van Wijk</p> <ul style="list-style-type: none"> Council endorses the decision to meet with the City of Cape Town on a fortnightly basis. This matter is to be a standard item for HWC Council and EXCO meetings until the process has been concluded 	CvW		

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		<p>Andrew Hall and Calvin van Wijk attended on behalf of Heritage Western Cape.</p> <ul style="list-style-type: none"> • The City of Cape Town was very positive about assuming this responsibility. • They have the necessary personnel available in each of their district to assist in carrying out these duties. • It was further resolved to meet every two weeks to systematically work through the legally required processes to make this happen. • It is envisaged that the process be concluded sometime in the second half of the year. 				
9.6	<p>Draft Policy Document on Conservation Management Plan Framework of Heritage Sites</p>	<ul style="list-style-type: none"> • This matter was discussed in the same context as Item 9.1 	<p>It was AGREED that;</p> <ul style="list-style-type: none"> • The draft Policy Document on Conservation Management Plan Frameworks for Heritage Sites be submitted to HWC Council for approval by the end year • Council member who wish to submit suggestion do so within two weeks 	AH		

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10.	NEW MATTERS					
10.1	Vice Chairperson of HWC Council and Executive Committee	<p>It was noted that:</p> <ul style="list-style-type: none"> In terms of regulations, in the absence of the chairperson, an acting chairperson should be elected for duration of the meeting 	<p>After a vote, it was AGREED that:</p> <ul style="list-style-type: none"> No vice-Chairperson would be appointed for the duration of the term of office of the Council. 	RR		
10.2	Chairperson of IARCom	<p>It was noted that:</p> <ul style="list-style-type: none"> Since Mr Derrick Grootboom has very recently resigned as a member of the Council and hence also as Chairperson and member of the Impact Assessment Review Committee and member of the Appeals Committee. 	<p>It was AGREED that:</p> <ul style="list-style-type: none"> Mr Magnus Steenkamp was appointed as the Chairperson of the IARCom Mr David Hart be appointed to the IAR Committee or if he was unable to serve in that capacity, to the Appeals Committee. Mr Nicolas Bauman be appointed to whichever of the above two positions Mr Hart did not take up. 	RR		
10.3	Cultural Awards Ceremony	<p>It was proposed that: Mr Patrick Fefeza to represent Heritage Western Cape Council in Cultural Awards on behalf of the Chairperson, Adv Ronee Robinson.</p>	<p>It was AGREED that;</p> <ul style="list-style-type: none"> Mr Patrick Fefeza will represent Heritage Western Cape Council at the 	RR		

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			Cultural Awards ceremony on 11 February, on behalf of the Chairperson, Adv R Robinson			
10.4	Assessment of Heritage Western Cape by SAHRA	<p>It was noted that:</p> <ul style="list-style-type: none"> Heritage Western Cape has not been assessed by SAHRA since it was established The heritage resources authorities should be assessed at least every two years Heritage Western Cape should be assessed before it was able to assess local authorities Heritage Western Cape does not have criteria or procedures for assessment The credibility of decisions and other actions undertaken by HWC could be questioned if assessment did not occur as per legal requirements. SAHRA needs to assess HWC as a matter of some urgency. There is a need for regular communication between senior officials in the heritage sector to deal with matters of this nature 	<p>It was AGREED that:</p> <ul style="list-style-type: none"> Adv R. Robinson and Ms L. Robinson will address this matter with SAHRA and report back to Council Adv Robinson and Ms Robinson to request SAHRA to arrange regular, scheduled meetings between the CEO's of the functional PHRAs and the CEO of SAHRA 	CJ RR LR		
10.5	Notification of Intent to Develop (NID)	<p>It was noted that:</p> <ul style="list-style-type: none"> The draft NID form needs to be 	<p>It was AGREED that:</p> <ul style="list-style-type: none"> The workshop to take 	AH		

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	workshop	<p>updated</p> <ul style="list-style-type: none"> • Heritage Western Cape to organise the workshop to engage stake holders around this issue • Some work has already been done on revision of the NID form 	<p>place on the morning of 12 March 2011 from 9am</p> <ul style="list-style-type: none"> • The existing NID form to be circulated to those attending along with changes suggested • The CEO to facilitate the workshop • Mr D Halket and Dr S Townsend to provide formal inputs as members of the relevant HWC committees • DEADP, AHAP and ASAPA to be invited to make formal inputs • Members of those organisations and other consultants and stakeholders in the sector to be invited. 			
10.6	Proposal to deproclaim the Clifton and Bakoven Heritage Area	<ul style="list-style-type: none"> • Dr Townsend explained the history of the involvement of various heritage authorities in the regulation of new construction in this part of Cape Town and the agreement with the City of Cape Town that currently governs involvement of HWC there. He 	<p>It was AGREED that:</p> <ul style="list-style-type: none"> • The matter be referred to the Declarations Committee for consideration 	ST		

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		was of the opinion that for a variety of reasons this agreement was no longer necessary and that the suburbs should not continue as a Heritage Area in terms of the National Heritage Resources Act.				
11	Other Matters					
11.1	None					
12	Date of the next meeting	4 May 2011				
13.	Closure	16H00				

CHAIRPERSON:

SECRETARY:

DATE:

DATE