

**MINUTES OF MEETING OF HERITAGE WESTERN CAPE,
COUNCIL COMMITTEE**
**Held on Wednesday, 30 May 2012, 1st Floor Boardroom at the Offices of the
Department of Cultural Affairs and Sport,
Protea Assurance Building, Greenmarket Square, Cape Town at 09H30**

1. Opening and Welcome

The meeting was officially opened at 10h03 by the chairperson, Adv Ronee Robinson, and she welcomed everyone present.

2. Attendance

Members

Adv Ronee Robinson
Dr Stephen Townsend
Ms Sharon de Gois
Ms Laura Robinson
Ms Sarah Winter
Mr Roger Joshua
Mr Floris Brown
Mr Patrick Fefeza

Members of Staff

Mr Andrew Hall
Ms Christina Jikelo
Mr Calvin van Wijk
Ms Lorelle Hutton
Ms Lithalethu Mshoti
Ms Naaila Karra

3 Apologies

- 3.1** Ms Ziyanda Manzana
Dr Matilda Burden
Ms Mary Leslie
Mr Magnus Steenkamp
Ms Maureen Wolters
Mr Olwethu Dlova (Secretariat)

4 Approval of minutes of previous meeting held on 29 February 2012

The Committee resolved that the minutes be rectified and approved at the next Council meeting.

5 Confidential Matters

- 5.1** None

6. Matters Arising from previous meeting

6. 1 Formal Protection of the Disused 1872 Hex River Railway Line, De Doorns, District of Worcester ito Section 27 of NHRA (Act 25 of 1999)

The Committee was informed that:

- Mr Nyuka contacted Mr Jordaan and requested him to submit a list of all property owners along the railway line who would have an interest in this matter.
- Nothing has been submitted, upon which Mr Nyuka reminded Mr Jordaan by resending him an email regarding this matter.

DECISION

The Council resolved that:

- Mr Nyuka will contact the owners listed in his report and will report back at the next meeting.

Ronny Nyuka

6.2 Response from SAHRA for Assessment of Heritage Western Cape

The matter was removed from the agenda.

Andrew Hall

6.3 Conservation Management Framework: Baboon Point PHS

Mr Andrew Hall presented a verbal report. I

It was noted that:

The tender closed on the 25 May 2012, three tenders were received and are in the process of being assessed.

DECISION

The Council resolved that Dr Townsend be invited to attend the Bid Evaluation Committee as Chairman of the Baboon Point Committee.

Andrew Hall

6.4 Governance Training

Ms Lorelle Hutton made a verbal report:

It was noted that quotations will be sourced and that more detailed information will be available at the next executive committee.

The Committee noted the report

Lorelle Hutton

6.5 Cape Town Zoning Scheme

Mr Andrew Hall presented his report

The meeting with the heads of planning of the City of Cape and DEA&DP has been set for the 28 June 2012.

Andrew Hall

6.6 Legal advice on applications involving unauthorized work

Mr Andrew Hall made a verbal report

The Council noted:

- The concern around the action that is to be taken when it is discovered that unauthorized work has been done in the course of an application being considered. That those members of the committee who have questions and

concerns on which they would appreciate legal advice will put those in writing to Mr Hall who will then request an opinion from the legal advisory service.

Andrew Hall

6.7 Legal Advice on administrative matters

Mr Hall made a verbal report.

DECISION

The Council resolved that Mr Hall would request the legal advisory services to instruct Adv Breytenbach SC. Before that is done the CEO will prepare a brief with the assistance of members of Council, noting various concerns including matters concerning PAJA and inspections *in loco*. The brief will be sent round to all members of Council before it is sent to the legal advisers

Andrew Hall

6.8 Mechanism for the capturing of data

Mr Hall made a verbal report on this matter.

The Council noted

- A request that statistics be kept of the number of times the members of committees recuse themselves from proceedings due to a conflict of interest or as a result of prior interest and that the results or outcomes of those decisions be tracked.
- That the grading as recorded in the electronic system would reflect the assessment of the decision maker about the significance of the resource in question (Dr. Townsend's view)
- That different committees have different views of the significance regarding the resource in question.
- The DRC recommendation of significance would bind other decision makers.

The Council adopts the policy decision that the assessment of the Committee or staff that has most recently considered the site be regarded as the standing grading of the site unless the Council has decided on a grading in which case such grading is binding on all decision makers.

The above decision be included at the end of the Short Guide to Grading.

Andrew Hall

7. Standard Items

7.1 Report and feedback from Executive Committee

Dr Townsend made a report back with regard to the Executive Committee meeting held on 4 May 2012.

Dr Townsend

7.1.1 Draft Executive Committee Minutes dated 4 May 2012

The Committee noted the draft minutes of Executive Committee meeting that was held on 4 May 2012

Dr Townsend

7.2 Report and feedback from the SAHRA Council

The Chairperson and Ms Laura Robinson made a verbal report

DECISION

The Council resolved that the CEO would write a letter to SAHRA, recording concerns about its intention to transfer assets to HWC; to reiterate a request that a visit by the MEC and CEO be set up to the properties in the Western Cape to request details regarding the funding of the properties and concomitant trust funds and full details of the liabilities that accompany the properties, and details of the tenancy, occupation and lease agreements, length thereof, any land claims against each of the properties, amongst others.

**Ronee Robinson
Laura Robinson**

7.3 Report and feedback on the BELCom

Ms Sarah Winter presented her verbal report that:

- The committee generally is functioning well. A number of improvements have been made with respect to the recording the decisions and the circulation of minutes.
- The secretariat is commended for improved efficiency in the recording of decisions. The timeous circulation of decisions within a day or two of a meeting enables Committee members to correct and finalize these before the following weekend. Furthermore, the current practice of circulating the draft minutes within two weeks after a meeting is beneficial
- BELCom agenda to be circulated by the Monday preceeding an upcoming meeting. This would give all committee members sufficient opportunity to visit a site and/or familiarize themselves with its context prior the meeting, irrespective of whether or not they have received the supporting documentation. However, this requires that the agenda provides clear information on the site location and the nature of the proposed intervention.
- Staff presentations at committee meetings have continued to improve
- It is noted that an assessment of heritage significance has become standard practice and that site inspections by staff members have become a more frequent occurrence than in the past. The contribution of presentations needs to be constructively reviewed on an ongoing basis.
- A recent matter that has arisen (applicable to all committees) relates to potential "conflict of interest" when committee members have had a previous interest in an application. It was agreed at the last BELCom meeting that committee members would routinely declare this interest ahead of any discussion.
- A number of issues (lack of clarity on HWC's requirements for consultation, site inspections by committee members and the condoning of applications involving unauthorized works) raised in the previous report to Council continue to impact the functioning of the committee.

DECISION

The Council resolved:

- That the declaration of interest should be a standard item in the agendas of all committees and Council.
- To await developments on the next tribunal and thereafter make recommendations concerning public representation at committee and appeals hearings, as well as the requirement of prior consultation, for the purposes of regulation.

Sarah Winter

7.4 Report and feedback on the IACom

Dr Stephen Townsend presented his report that:

- The re-registration of conservation bodies is still not yet able to be initiated
- As mentioned in the last IACom report to the Council, sites subject to applications are relatively seldom visited by committee members before the meeting which is especially problematic in those cases where significance is great and/ or where cultural significance is ephemeral or difficult to describe and whether it is difficult to identify any heritage resource which it is reasonable to believe will be affected by the proposed development, this matter was particularly controversial and the ways that committee members inspect sites has been given considerable attention and it has been agreed that HWC should develop a written policy in this respect,
- There is some uncertainty and increasing concern amongst some committee members regarding decisions being taken by the officials under their delegations,
- The collection of data regarding applications received, scrutinized and decided-on is not receiving attention and this is increasingly problematic and this must become a priority as the Council's reason for being cannot be properly accounted for without appropriately detailed and differentiated statistics,
- The controversy over jurisdictions and responsibilities in cases where developments is proposed in areas which SAHRA has deemed to be Grade I sites/areas has now been resolved and it is presumed that HWC will shortly announce this publically, and
- Recently, the issue of the prior or conflicting interests of members of permit committees in respect of applications before their committee has been raised. .

It is recommended that:

- The Council request the CEO, in concert with the chairs of the three 'permitting' committees (BELCom, IACom and APMcom) and of the Appeals Comm, develop a template for the capturing of data which can be used to develop statistics which explain our work,
- The delegations be circulated to all officials and committee members and be placed on the HWC website for the information of all, and
- The question of prior and/and conflict interest be canvassed with HWC's legal members and, if necessary, with the departmental legal adviser's office.

The Council noted the report.

Dr Townsend

7.5 Report and feedback on APMCom

The matter was deferred

Mary Leslie

7.6 Report and feedback on Appeals Committee

Chairperson of Appeals Committee presented a verbal report that:

- The CEO received an e-mail from a heritage practitioner who regularly appears at Appeals Committee meetings on behalf of various clients.
- The contents of the mail, (which oddly was not copied to the Chair of the Appeals Committee, but to the Chairs of the BELCom and IACom), in effect complained about a number of issues relating to the Committee but mostly about the lack of recording of proceedings of the meetings.
- Although it had been agreed previously that these meetings would not be recorded, after discussion at the recent meeting of the Executive Committee, it was suggested that the Committee record the open sessions of the meeting only, but the closed sessions of discussion between the Committee members would not be recorded. The Committee has not had the opportunity to discuss this as there has been no meeting since receiving the e-mail, this will occur at the next scheduled meeting of the Appeals Committee
- Due to the legal requirements relating to this Committee in particular, and the processes followed, the meetings are becoming increasingly lengthy, particularly when a number of appellant and applications bring their legal advisers to the meeting. It may become necessary to limit the number of matters held at a schedule sitting of the Committee given that some items can take over two hours to discuss, this will be mentioned in the future.
- In one of the cases heard recently (Highclere, Rancke Road, Blaauwbergstrand) consideration had to be given to the participation of parties who had not been involved in the original appeal but who wished to make representation during the course of the hearing. Legal advice was obtained on this and it was agreed that such persons should be heard if they could prove that they would be directly affected by the proposal.

The Council noted the verbal report presented by Ms Laura Robinson.

Laura Robinson

7.7 Report and feedback from the Survey Committee

The Council noted the verbal report presented by Ms Sharon de Gois.

Sharon de Gois

7.8 Report and feedback from the DRCom

The matter was deferred

Matilda Burden

7.9 Report and feedback on Independent Tribunals appointed by the Minister

The Council noted the verbal report made by the CEO, Mr Andrew Hall.

Andrew Hall

7.10 Report of the Assistant Director: Professional services 29 February – 30 May 2012

The Council noted the report made by Mr van Wijk.

Andrew Hall

7.11 Delegation of heritage resource management functions and local authorities.

Mr Andrew Hall made a verbal report.

The Council noted that within two weeks the CEO and a management team will meet with officials from the City of Cape Town to work through a proposed draft of the preliminary agreement and thereafter a formal draft will be discussed with a group from both Councils.

Andrew Hall

8. Financial Matters

8.1 Financial Report

Ms Anneline George presented her report

DECISION

The Council noted the report

Anneline George

8.2 Corporate Governance (Investigation and recommendations about appropriate Indemnity Cover)

DECISION

The Chairperson and Mr Magnus Steenkamp are to meet with the CEO, CFO and Mr Simema to discuss the issue of indemnity cover

Andrew Hall

8.3 Comparative Analysis for Application Costs

It was noted that the fees structure has been published for 3 months for comments to the public.

DECISION

The Committee noted the report

Andrew Hall

9. Policy Matters

9.1 Revised draft regulations on Conservation Bodies

Mr Hall reports that these matters are with the legal advisors

Andrew Hall

9.2 Administration of Committee Procedures

Mr Hall reports that these matters are with the legal advisors

Andrew Hall

9.3 Forms concerning Conservation Bodies

Mr Hall reports that these matters are with the legal advisors

Andrew Hall

10. New Matters

10.1 Commonwealth Finance Minister's

Mr Hall presented a verbal report

The Council noted the report.

Andrew Hall

10.2 Bonnievale Train Station

Mr Hall presented a verbal report

DECISION

The Council resolved that the CEO should write a letter to Transnet, recording concerns of the Council regarding the recent development in Bonnievale confirming Transnet's duties and responsibilities concerning the NHR act requesting a list of the approximately 400 properties affected. This Transnet plans of demolition without further delay and asking for the names and contact details of the contractors in question. The Council asks for a written undertaking from Transnet that it shall instruct all of the contractors appointed by WC as part of the demolition scheme to cease works until such time as necessarily approval under the Act has been obtained. Details must be requested of all these contractors whereupon the CEO will inform each of them of the duties under the NHRA. HWC records its disappointment (should this be the case) that the applications have not been submitted as promised in the letter of 29 May 2012.

Shaun Dyers

10.3 Bien Donne

The Council resolved to issue a compulsory repair order in terms of S45 (1) (b) to order the department of Public Works to repair the building known as Watergat on the property Bien Donne at Simondium to the satisfaction of the HWC within a period of 30 days of date of the delivery of the order to the department. The nature of the work to be conducted is to be such as specified by Ms Grover. Service of the compulsory order is to be affected to the director general of public works Pretoria; the Minister of public Works and the state attorney amongst the others.

11. Proposed Date of the next meeting: 29 August 2012

12. Adoption of decision and resolution

The Council formally adopts the decisions and resolutions taken today

13. CLOSURE

The meeting adjourned at 17H15

CHAIRPERSON _____

DATE _____

SECRETARY _____

DATE _____

Approved