

HERITAGE WESTERN CAPE

MINUTES OF THE MEETING OF THE COUNCIL OF HERITAGE WESTERN CAPE

held at 09H30, on 10 November 2011,

in the 8th Floor Boardroom, at the Offices of the Department of Cultural Affairs and Sport, Cape Town.

ITEM	SUBJECT	DISCUSSION	DECISION	PERSON RESPONSIBLE FOR ACTION	TIME FRAME	FILE NO
1.	OPENING AND WELCOME	The Chairperson opened the meeting at 09h40 and welcomed everyone present.		RR		
2.	ATTENDANCE	The following Council members were present: Adv Ronee Robinson, (Chairperson) Dr Matilda Burden Mrs Mary Leslie Ms Sharon De Gois Ms Sarah Winter Ms Maureen Wolters Dr Stephen Townsend Mr Magnus Steenkamp Mr Patrick Fefeza Mr Roger Joshua Ms Laura Robinson Ms Ziyanda Manzana Mr Floris Brown				

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		The following staff of the DCAS (HWC) were present: Mr Andrew Hall Ms Christina Jikelo Mr Calvin van Wijk Ms Lithalethu Mshoti (secretariat)				
3.	APOLOGIES	None				
4.	APPROVAL OF PREVIOUS MINUTES OF COUNCIL MEETINGS					
4.1	Dated 3 August 2011	The Committee resolved to approve the minutes without amendments		OD		
5	CONFIDENTIAL MATTERS					
5.1	None					
6.	MATTERS ARISING FROM THE MINUTES					
6.1	Declaration and Official Announcement Declaration of Community House, Erf 16259, 41 Salt	Mr Ronny Nyuka presented his report	The Committee AGREED to: support the recommendation prepared by Mr Ronny Nyuka: • To await celebration of the declaration until	RN		

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	River Road, Salt River Division, For Provincial Heritage Status in terms of S.27 of the NHRA, 1999, Act 25 of 1999		the renovation work is completed			
6.2	Declaration and Official Announcement of Declaration of Farm Luipers Kop, Raltelgat, District van Rhynsdorp, for Provincial Heritage Status in terms of S.27 of the NHRA (Act 25 of 1999)	<p>The Council was informed that:</p> <ul style="list-style-type: none"> • HWC Council resolved to approve the gazette notice subject to clarification of the use of the term "Paramount Chief". • The Council approved the payment for gazetting and the publication of the gazette notice in the three official languages. • Portion 1 of the Farm Luipers Kop No.211 known as Ratelgat has been published in the <i>Provincial Gazette</i>. Documents have been sent to the Deeds Office for endorsement, 	<p>The Committee AGREED to support the recommendation prepared by Mr Zwelibanzi Shiceka that:</p> <ul style="list-style-type: none"> • The date for the public announcement of the declaration of Portion 1 of the Farm Luipers Kop No. 211 known as Ratelgat be arranged in consultation with the Griqua Community. • The Committee resolved to investigate whether the correct term is "Opperhoof", and whether it is appropriate to use the term "Paramount Chief" in the English translation. It is important to ensure 	RN		

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		but HWC have not yet received correspondence.	that the correct term is reflected in all three languages. The result of the investigation should be communicated to EXCO in December 2011.			
6.3	Management of Grade I Heritage Resources: Letter from SAHRA dated 4 November 2010	<p>The Committee was informed that:</p> <ul style="list-style-type: none"> • The Arniston judgment concerns a decision of the Western Cape Court which has been interpreted by SAHRA as meaning that all sites that SAHRA feels warrants Grade I status in terms of the NHRA fall under its jurisdiction. • HWC Executive Committee held a special meeting on 24 June to look at the Arniston judgment. • The issue of the Arniston judgment has 	<p>The Committee resolved to support the recommendation made by Mr Andrew Hall that:</p> <p>(a) HWC will not, in the future, deal with sites for which application is made under Section 35 of the NHRA which the SAHRA Council has resolved are Grade I sites and for which it has approved clearly defined boundaries.</p> <p>(b) HWC is the decision making authority in all other matters, but shall ensure that there is</p>	AH		

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		<p>been discussed on two occasions with the staff of SAHRA, which meetings have included representatives of both SAHRA's Head Office and Western Cape Office. The HWC Chairperson, Laura Robinson and the CEO have attended both meetings. SAHRA staff present at the last meeting agreed with the contention that the judgment has created a difficult situation for the public and they accepted the view of HWC subject to discussion with their senior legal advisor. It was agreed that if there was no reaction from SAHRA by 3 November 2011 it could be accepted that SAHRA remained in</p>	<p>consultation with SAHRA on all sites in which SAHRA has officially informed HWC it intends or has graded I and that such consultation may include discussions between SAHRA and HWC staff and SAHRA making representations at HWC Committee meetings.</p> <ul style="list-style-type: none"> • This decision be conveyed to the CEO of SAHRA and a letter be sent to all municipalities and all conservation and professional bodies setting out HWC's position on the matter. • The position of the Executive Committee as set out in this 			

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		accord with HWC's view.	submission be posted on the HWC website along with resolutions a & b above and an indication that the HWC position has been discussed with SAHRA and agreed to by its management.			
6.4	Response from SAHRA for Assessment of Heritage Western Cape	Mr Andrew Hall presented his report	The Council AGREED to: <ul style="list-style-type: none"> • Study the memorandum between the HWC and SAHRA concerning Section 36 and to refer it for consideration by EXCO. 	AH		
6.5	Comparative Analysis for Application Costs	Ms Lorelle Hutton presented her report	The Council resolved to support the recommendation prepared by Ms Lorelle			

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			<p>Hutton that:</p> <ul style="list-style-type: none"> • On the basis of a fee of R300 for permits and NIDs and R 1000 for HIAs. • The logistical implications should be explored with the Chief Financial Officer. • Whilst regulations are being amended for other reasons, regulation 2(3) of 29 August 2003, Provincial Notice 298 of 2003, be withdrawn. <p>The Council AGREED to:</p> <ul style="list-style-type: none"> • investigate exceptions will need to be made in terms of waivers for charitable and research application 			

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6.6	LUPO and Section 38 of the NHRA	Mr Hall presented a verbal report	The Council resolved to agree that: <ul style="list-style-type: none"> • Dr Townsend will re-draft the memorandum in the form of letter and will be circulated via email 	AH		
6.7	Approval of the Draft CMF Baboon Point PHS	Mr Andrew presented a verbal report	The Council noted the report	AH		
6.7.1	Draft Minutes of Baboon Point Committee		The Council noted the minutes of the Baboon Point Committee held on 15 August 2011	AH		
6.8	Review of Section 27, 34 and 35 Forms	Mr Andrew presented a verbal report	The Council thanks the City of Cape Town for use of its venue for the workshop of these forms and the NID forms	AH		
7.	STANDARD ITEMS					
7.1	Report and Feedback from Executive Committee	The Chairperson presented a verbal report	The Committee noted the report	RR		
7.1.1	Draft Executive Committee Minutes dated 14 September	It was noted that: <ul style="list-style-type: none"> • Item 2, under attendance, "Ronne 	The Committee noted the minutes of the Executive Committee held on 14	RR		

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	2011	Robinson” to be changed to “Ronee Robinson	September 2011			
7.2	Report and feedback on the BELCom	The Chairperson of BELCom presented her report	The Committee noted the report	SW		
7.3	Report and feedback on the IACom	The Chairperson of the IACom presented his report.	The Committee AGREED to support the recommendations made by Dr Townsend that: <ul style="list-style-type: none"> • The Council approve the appointment of an additional member of the IACom, Mr Quinton Lawson, and • The Council commend Mr Hall on his leadership and the staff on their achievements as we approach the end of his first year as CEO. 	ST		
7.4	Report and Feedback on APMCom	The Chairperson of the APM Committee spoke to her written report.	Noted	ML		

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7.5	Report and Feedback on Appeals Committee	The Chairperson of the Appeals Committee presented a verbal report.	Noted	LR		
7.6	Report and Feedback from the Survey Committee	Nothing to report	The Council AGREED that: <ul style="list-style-type: none"> The survey committee should assess inventories as soon as possible. 	SdG		
7.7	Report and Feedback from the DRCom	The Chairperson of DRCOM presented a verbal report	The Council AGREED to support the recommendation made by Dr Burden that: <ul style="list-style-type: none"> The declaration of Kasteelberg be put on hold for the time being, and that Mr Kotze, the owner, be informed of this. The boundaries of existing PHS of Langebaanweg be amended to include the West Coast Fossil Park consisting of several portions of 	MB		

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			<p>land as specified paragraph four in document Annexure NIV.</p> <ul style="list-style-type: none"> The oral consent from the owner to the amendments, given at the meeting of the trustees of the WCFP at Rust en Vreugd in Cape Town on 9 November 2011 			
7.7.1	Erf 95647, 1 Courville Street, Gardens	For Noting	The Committee noted the report	JW		
7.7.2	Elim Building Plans	For noting	The Committee noted the report	JW		
7.7.3	Kasteelberg Archaeological Sites, Roodeheuvel, Farm Boebezaks Kraal 40/4, Vredenburg	The item was dealt with under 7.1		JL		

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7.7.4	Extension of West Coast Fossil Park, Langebaan	The item was dealt under 7.1		JL		
7.7.5	Hex River Historic Railway Line, De Doorns	For noting	The Committee noted the report	RN		
7.7.6	Sites of Youth Activism in the Struggle for Liberation	For noting	The Committee noted the report	RN		
7.8	Report and Feedback on Independent Tribunals appointed by the Minister	The item was dealt under item 7.5	The Council noted the report	AH		
7.9	Report and Feedback from the SAHRA Council	For noting	The Committee noted the report	LR		
7.10	Delegation of Heritage Resources Management Functions to Local Authorities	For noting	The Council noted the report	AH		

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8.	Financial Matters					
8.1	Financial Report	For noting	The Committee noted the report	MS AG LMH		
8.2	Corporate Governance (Investigation and Recommendations about Appropriate Indemnity Cover)	Mr Hall presented an oral report	The Council AGREED that: <ul style="list-style-type: none"> The Chairperson and Mr Steenkamp to meet with CEO and Mr Simema to discuss the issue of indemnity cover 	AH MM		
8.3	Writing off of Legal Costs	Mr van Wijk presented on his report	The Council Agreed that: <ul style="list-style-type: none"> The amount be written off, subject to it being advised of the amount. Should HWC be a respondent or defendant in any legal proceedings, it will instruct its legal representatives to consider the 			

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			<p>advisability of applying for security for costs against the plaintiff or applicant, as the case may be, by way of protecting HWC against the eventuality of not being able to recover its costs, should it be successful.</p>			
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"> • A draft of the rules was circulated and discussed at a Council meeting earlier in the year and following discussion last year. • The draft was based on rules used by municipal councils and have since been substantially modified following a workshop 	<p>The Council AGREED to support the recommendations prepared by Mr Hall:</p> <ul style="list-style-type: none"> • To approve the rules for conduct of meetings with amendments suggested by the Chairperson. • Refer to legal services for checking and 			

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		<p>involving the CEO and Chairpersons of BELCom, APM and IACom and checking by a lawyer.</p> <ul style="list-style-type: none"> This has involved simplification and addition of matters specifically geared to the needs of the HWC Council and its Committee. 	<p>thereafter publication in the provincial gazette.</p> <ul style="list-style-type: none"> Rules be immediately adopted for use by Council and its Committees. The approved document to be circulated to Council and Committee members. 			
9.2	Guidelines for Conservation Management Plans	Deferred to EXCO		AH		
9.3	New Draft Regulations on Conservation Bodies	The Council noted the written report	The Council approved a sub-committee consisting of Dr Townsend, Ms Winter, Mr Steenkamp and the CEO to produce the working draft of the regulations to be referred to EXCO for consideration. The workshop to be held on Saturday, 10 December 2011.	AH		

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9.4	Legal Opinion on Erf 28024 & 28022, 35 & 39 William Street, Observatory, Cape Town	The item was dealt under item 7.5	<p>The Council noted that:</p> <ol style="list-style-type: none"> 1. The letter submitted by the appellant did constitute a valid letter of appeal as it conformed to the requirements of regulations that: <ul style="list-style-type: none"> • Clearly stated that he was appealing, irrespective of his word use • Clearly set out the grounds for his appeal. 2. As seeking a legal opinion in this regard would be a fruitless and wasteful expenditure, obtaining a legal opinion should not be pursued 	RN		
9.4.1	Appeal Form	Mr Hall presented his report	The Council resolved to approve the form	AH		
9.5	Policy on the Use of Materials Submitted to HWC	<p>The Council was informed that:</p> <ul style="list-style-type: none"> • HWC had been advised to adopt a 	The Council agreed to adopt the draft policy on submission of materials in principle subject to	AH		

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		<p>policy addressing matters of copyright and intellectual property rights that have been raised around submission of materials at HWC.</p> <ul style="list-style-type: none"> Issues relating to such matters have previously been discussed by the Council and Executive Committee as well as several other committees. 	<p>comments made by email.</p>			
9.6	Operational Protocol for Processing of Applications	For noting	The Committee noted the report			
9.7	Use of Registered Mail	Mr Hall presented his report	<p>The Council AGREED that:</p> <ul style="list-style-type: none"> the requirement that correspondence concerning applications be despatched by registered mail be dropped. 			
10.	NEW MATTERS					

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10.1	HWC Data-Base & GIS	For noting	The Committee noted the report	JL		
10.2	Amendment of Forms	Mr Hall presented his report	<p>The Council AGREED to support the recommendations prepared by Mr Hall that:</p> <ul style="list-style-type: none"> all existing HWC forms be amended to include the words “please check the HWC website for the latest version of this form” at the top of the form (in red lettering on colour forms) and that the same wording be included an all new forms and those forms will be <i>gazetted</i> once they are withdrawn from regulations. That the NID form and Section 38 Checklist amended to include the declaration contained in section 2.3 of the “Policy on the use of materials submitted to HWC”; that 	AH		

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			in the future the same declaration be included to in all HWC forms used for making of applications in terms of Chapter II of the NHRA that may require supporting documentation, and that those forms that have been <i>gazetted</i> will be amended accordingly once they are withdrawn from regulations.			
10.3	Nomination of Sites for Formal Protection	Mr Hall presented his report	The Council AGREED to approve the forms	AH		
10.4	Forms Concerning Conservation Bodies	Mr Hall presented his report	The Council AGREED that: <ul style="list-style-type: none"> the matter will be dealt with at the next Executive Committee meeting to be held on 7 December 2011 	AH		
10.5	Inventories and Proposal for Heritage Areas	Mr Hall presented his report	The Council AGREED to approve the forms	AH		

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10.6	Reducing Paper Consumption	Mr Hall presented his report	<p>The Council AGREED to support the recommendation prepared by Mr Hall that:</p> <ul style="list-style-type: none"> • in agreeing that it is possible and would be positive to reduce the environmental impact and costs involved in hardcopy reproduction • the Council requests the CEO to investigate possibilities for use of electronic media 	AH		
10.7	Governance Training	Deferred to EXCO meeting		AH		
10.8	Appointment of Heritage inspectors	Mr Hall presented his report	The Council AGREED to appoint certain heritage inspectors from the City of Cape Town and Ms H Du Preez.	AH		
10.9	HWC Meeting Schedule 2012	The Committee noted the HWC meeting	The Committee agreed to approve the HWC	AH		

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		schedule	meeting schedule 2012 with amendments.			
10.10	Appointment of IACom Member replacing Dr Almond	The item was dealt under 7.2		ST		
10.11	Ownership of Archaeological Material	Deferred to EXCO		ML		
10.12	Cape Town Zoning Scheme	Deferred to EXCO		ST		
11	Other Matters					
1.1	None					
12.	Adoption of the Decisions and Resolutions		The Committee agreed to adopt the decisions and the resolutions			
13	Proposed Date of the Next Meeting	29 February 2012				
14.	Closure	18H00				

CHAIRPERSON:

SECRETARY:

DATE:

DATE