

**APPROVED MINUTES OF THE MEETING
OF COUNCIL OF HERITAGE WESTERN CAPE,
Held on Wednesday, 13 September 2018, 1st Floor Boardroom at the Offices of the
Department of Cultural Affairs and Sport,
Protea Assurance Building, Greenmarket Square, Cape Town at 10H00**

1. Opening and Welcome

The meeting was officially opened at 10H00 by the Chairperson, Dr Antonia Malan, and she welcomed everyone present.

2. Attendance

Members

Dr Antonia Malan (AM)
Mr Siphiso Mavumengwana (SM)
Mr Chris Snelling (CSn) left at 14:00 and returned at 15:00
Mr Graham Jacobs (GJ) left at 14:00
Dr Ignatius de Swardt (IdS)
Mr Rowen Ruiters (RR)
Ms Quahnita Samie (QS) arrived at 10:40 and left at 15:15
Ms Katherine Dumbrell (KD) left at 15:00

Members of Staff

Ms Colette Scheermeyer (CSc)
Ms Penelope Meyer (PM)
Ms Nuraan Vallie (NV)
Mr Jonathan Windvogel (JW)
Ms Waseefa Dhansay (WD)
Mr Olwethu Dlova (OD)
Ms Yolanda Moya (YM)

Visitors

Mr David Hart (DH)
Mr Clive James (CJ)
Ms Harriet Clift (HC)
Mr Osman Asmal (OA)

Observers

None

3. Apologies

Ms Karin Dugmore Ström (KDS)
Ms Corlie Smart (CSm)
Dr Rolf Annas (RA)
Dr Mxolisi Dlamuka (MD)

Approval of Agenda

The Committee approved the agenda dated 13 September 2018 without additional items.

4 Approval of Minutes of the Previous Council Meeting

5.1 Dated 13 September 2018

The Committee resolved to approve the minutes dated 13 September 2018.

5.2 Confidential Minutes of 13 September 2018

The Council resolved to approve the confidential minutes of the Council meeting dated 13 September 2018.

6. Disclosure of Interest

- CSn: item 7.1
- QS: item 7.1

7. Confidential Matters

7.1 See separate minutes.

8 Appointment

8.1 The Council noted the appointment for item 12.2.2 set for 12:30.

9. Administration Matters

9.1 Code of Conduct

PM presented the submission, which was noted by Council.

Among other things, the following was discussed:

- The submission related to Rule 11(2) of the Order and Conduct of Meetings of HWC.
- It was submitted that, as the accounting authority, the CEO is accordingly accountable for the content of minutes of Council and Committees. An amendment was proposed to require the CEO to “endorse” all minutes of meetings of HWC before confirmation at the next meeting. Council was not sure of the meaning of “endorse” (to make changes as well as confirm?).
- The independence of Council and Committees is crucial. The roles of DCAS and HWC Council need clarity. The Council acknowledged that the CEO is the accounting authority. However, it is the role and responsibility of the Council and its expert Committees to record the proceedings of the meetings and provide reasons for the decisions in the minutes (the content).
- It was noted that under the King IV Report on corporate governance for South Africa (2016), it is assumed that there is a Board Secretary who attends meetings and takes responsibility for minutes. HWC Council and Committee Chairs currently perform this role. The CEO rarely attends sub-committee meetings.
- There are ongoing issues around minute taking, full drafting, circulation for endorsement, and communicating comments and records of decision. Chairs of committees are overburdened and delays are experienced in communicating decisions and reasons for decisions to applicants. Another step in the process will have implications for workflow.
- Council is unable to approve the recommendation at present.

RECOMMENDATION

The matter to be further explored when the CEO is present to take part in the discussion, such as during the forthcoming HWC Council Strategic Planning Session.

PM

10. Matters Arising from Previous Minutes

10.1 Heritage Information Management Services

CSc presented a verbal report, which was noted by Council.

Amongst other things, the following was noted by Council:

- SAHRA has confirmed that HIMS can be integrated into SAHRIS. Council welcomes the progress that has been made.
- The System Integration Report and proposed agreement between HWC and SAHRA will be circulated to Council after further discussions about the implications are completed. In particular, the proposed timeframes for online applications are too tight for HWC to comply with.
- Council further pointed out that some people who make applications to HWC, especially those without IT access and online capacity, will continue to require personal attention and assistance from HWC staff.

CSc

10.2 SOP between HWC and DEA&DP

PM presented a verbal report, which was noted by Council.

Among other things, the following was noted by Council:

- It was noted that HWC's request to Province for legal opinion regarding the relationship between HWC and DEADP is still awaited. The appointee must have the relevant expertise in environmental and heritage law. Council expressed the need for extreme urgency in this matter.
- A 'composite' SOP was received from DEA&DP for approval by HWC but, unlike the other sectors involved, HWC was not party to the drafting process. As a result HWC is unable to comply with the request. The document must first be considered and commented on by Council with advice from its expert Committees.

PM

10.3 Publication of Policy on Public Consultation

Nothing to report.

PM

11. Decisions arising from previous ExCo minutes

11.1 Council Vacancies

CSc presented a verbal report on behalf of the CEO, which was noted by Council.

Among other things, the following was noted by Council:

- A legal opinion has been requested as to whether members of Council who resign can be replaced during the current term of office.

CSc

12. Standing Items

12.1 CEO's Report

CSc presented the report. Council noted the CEO's report.

Among other things the following was noted:

- The agenda for the HWC Council Strategic Planning Session on 27th September will be circulated next week.
- The CEO and Chair of Council will attend the annual Western Cape Provincial Parliament on 16 October 2018 when it considers the HWC Annual Performance Plan, followed by a briefing by the Auditor-General on audit outcomes.

CSc

12.2 Local Government Matters

12.2.1 Delegations of Powers to Local Authorities

Nothing to report.

CSc

12.2.2 Competency of City of Cape Town

PM presented the report, which was noted by Council.

Mr David Hart, Ms Harriet Clift, Mr Clive James and Mr Osman Asmal were present and took part in the discussion.

Among other things, the following was discussed:

- The City has provided sufficient information to support its application to be assessed and considered competent, with only minor issues to resolve. Council further reiterated that the willingness of both parties to move forward is welcome.
- With reference to Mr Asmal's covering letter, in brief,
 - There is still a difference of opinion between HWC and CoCT regarding the status of previous agreements, and the relationship between HWC's legal framework and Municipal Planning ByLaw (2015);
 - Council agrees that Regulations of criteria for the assessment of local authorities for competence in terms of the NHRA must be promulgated.
 - The current delegations at CoCT are not acceptable. HWC requires a review and amendment of the delegations so that they reside in the sections with heritage assessment expertise and approved competence.
- Council warmly commended the City of Cape Town, inter alia, on the quality and accessibility of its mapping system (DAMS), the ongoing inventory work, on the skills and dedication of its heritage sectors and staff, the good service provided to the public and institutions, and the quality and usefulness of comments received on heritage applications.
- Heritage-related decisions at CoCT may be no longer independent. Under the previous dispensation, and before internal restructuring within City management, heritage identification, assessment, management and decision-making used to reside in the Environment and Heritage Resource Management section. Transferring this delegation to the Transport & Urban Development Authority has placed heritage in an inappropriate and conflicting context. For instance, the final

decision to approved proposals/applications is now an 'integrated' comment on a development proposal, whereas procedurally it requires independent expert heritage comment.

- Given the changed administrative context in the City and HWC's endeavours to standardize Municipal Heritage Surveys and Inventories, Council does not consider that previous agreements (2010-2013) are still appropriate or binding, and recommends that HWC and CoCT review them.
- It is acknowledged that there are many thousands of heritage resources within the Municipal boundary and these have to be graded and managed under extremely complex social and financial pressures.
- In the longer term, in order to assist with the management of complex issues, and in the interests of setting common standards across municipalities in the Western Cape, Council suggested that a Heritage Survey Report is prepared for the Cape Town Municipality and submitted for approval by HWC. This ensures compliance with the NHRA requirements and HWC Guidelines for Surveys and Inventories at the municipal tier of government. A public participation and consultation process should take place. The result will be agreement regarding the implementation of spatial heritage management tools (CMPs, HPOZs, Heritage Areas, etc.), more certainty in decision-making, expansion of exclusions, and improvement in public perception.
- Any outstanding issues regarding the appeals system to be resolved.

DECISION

1. The request from HWC that delegations are amended to ensure that decision-making is informed by those with heritage expertise is required before competence is finalised.
2. The suggestion that a workshop is held, inter alia to review and update the 2011/2012 initiatives, is supported.
3. The suggestion that regulations are promulgated to establish criteria for assessment of competence is supported, but is not a prerequisite for assessment in this case.

PM

12.3 Report and Feedback from Executive Committee

AM reported on the ExCo meeting held on 27 July 2018 and Council noted the report.

AM

12.4 Report and Feedback on SAHRA Council

AM presented her report, which was noted by Council.

AM

12.5 Report and Feedback on BELCom

GJ presented the report on behalf of KDS, which was noted by Council.

Among other things, the following was noted by Council:

- It would be useful to have the following information in order to achieve consistency in decision making and implementation of formal protections:

- An analysis of grading, recommendations and formal protections arising from cases where demolition applications have been refused, and grading recommendations made in HIAs.
- An analysis of BELCom decisions that are overturned on Appeal.
- Difficulties in drafting, circulating, approving and finalising minutes. It was noted that the basic content writing should be done by staff. The task of taking notes and drafting minutes could be shared among Committee members.
- Number and length of meetings. Some discussion could be avoided at the outset by addressing what is significant and what is the impact on the significance.
- The draft report from the Committees' workshop will be considered at the Council Strategic Planning workshop on 27 September 2018.

KDS

12.6 Report and Feedback on IACom

CSn presented his report, which was noted by Council.

Among other things, the following was noted:

- Under item 3.1 of the IACom submission, it was stated that discussion had taken place regarding Ms Samie's request to join the Committee. Ms Samie pointed out that this could be seen as inappropriate because Council had previously recommended that the Chair of Council and the CEO would discuss the matter (see Item 12.1, 13 June 2018). Mr Snelling responded by pointing out that it is normal practice for him to supply feedback to his Committee from Council meetings.

CSn

12.7 Report and Feedback on APMCom

AM presented her report, which was noted by Council. See also Item 15.1.

AM

12.8 Report and Feedback on Appeals Committee

RR gave a verbal report on behalf of CSm, which was noted by Council.

CSm

12.9 Report and Feedback from IGICom

SM presented his report, which was noted by Council.

Among other things, the following was discussed by Council:

- Ms Achmat's resignation letter still to be finalised. It was reiterated that Council and Committee members are appointed in their personal capacity by the MEC and Council respectively. It is recommended that the website referring to HWC Council and Committees should have a note to this effect.
- World Heritage Sites nomination applications and dossiers are submitted to the SA World Heritage Convention Committee, but the ICMPs are monitored by the responsible authority (HWC in the case of Early Cape Farmsteads).

- A PHS that retains heritage significance at another level can only be de-proclaimed after it appears on the Heritage Register.
- The comments on public perceptions regarding HWC were noted and Council recommended further discussion at the forthcoming HWC Council Strategic Planning Session.

SM

12.10 Report and feedback on Independent Tribunals appointed by the MEC

PM presented a verbal report, which was noted by Council.

PM

12.11. Conservation Management Plans

12.11.1 None

12.12 Proposed PHS

12.12.1 Proposed sites to be considered for nomination as PHS

JW presented a verbal report, which was noted by Council.

Among other things, the following was discussed by Council:

- The working document to be circulated to Council members as soon as possible and the updated document to be made available at the HWC Council strategic planning session. It should include a preface indicating the motivation / reasons for the proposals, methodology regarding selection of sites and assessment of significance, and recommended next steps.

JW

13. Policy Matters

13.1 Amendment of Delegations

PM presented the report, which was noted by Council.

Among other things, the following was noted by Council:

- Sections 34(3) and 38(9) to be delegated to IGIC.
- Section 27, where in the opinion of HWC management, cultural landscapes will be impacted to be delegated to IACom with the understanding that there is an option to co-opt BELCom members if required.

DECISION

The delegations of the Council of HWC be amended as per the submission by PM in terms of Sections 34(3) and 38(9) of the NHRA to IGIC and Section 27 to IACom.

PM

14 Conservation Bodies

14.1 De Rust Heritage Conservation Association

JW presented the report, which was noted by Council.

Among other things the following was discussed:

- A new application for registration as a Conservation Body was made due to a misunderstanding between Oudtshoorn Municipality and the Association regarding roles and responsibilities, whereby their registration lapsed for several years.

DECISION

The Council approved the application of De Rust Heritage Conservation Association as a conservation body.

De Rust Heritage Conservation Association to be invited to submit a copy of their conservation guidelines to HWC to ensure consistency between the heritage-related requirements of the Association and HWC.

JW

14.2 Registration of the Associated Bibbeyshoek Conservancy as a Conservation Body

JW presented the report, which was noted by Council.

Among other things, the following was discussed by Council:

- It was suggested that, being a coherent and heritage rich area, the Conservancy could consider applying for protection as a Heritage Area in terms of Section 31 of the NHRA.
- The Conservancy is strongly encouraged to adopt and pursue the Further Studies as recommended in the Draft Rheenendal Structure Plan (Heritage Report) by Perception Heritage Planning, dated 19 May 2013.

DECISION

The Council approved the application of the Associated Bibbeyshoek Conservancy as a conservation body.

JW

15. New Matters

15.1 Temporary Section 36 Application

WD presented the report, which was noted by Council.

Among other things, the following was noted by Council:

- The temporary application form is for use until the forthcoming HWC Policy, Standards and Guidelines are put in place for the management of burials. It is based on the existing SAHRA form and has been approved by APM.
- A note to the effect that if necessary the permit can be transferred to another appropriate practitioner is included on the permit.

DECISION

Council approved the Temporary Section 36 Application Form.

WD

16 Adoption of decisions and resolutions

The HWC Council unanimously adopted the decisions taken.

17 Proposed date of the next meeting: 14 November 2018

18 Closure: The meeting adjourned at 15:40.

CHAIRPERSON _____

DATE:

SECRETARY _____

DATE:

Approved