

**APPROVED MINUTES OF THE MEETING
OF COUNCIL OF HERITAGE WESTERN CAPE,
Held on Wednesday, 19 June 2019, George Museum, George at 08H30**

1. Opening and Welcome

The meeting was officially opened at 08:45 by the Chairperson, Dr Antonia Malan, and she welcomed everyone present.

2. Attendance

Members

Dr Antonia Malan (AM)
Dr Ignatius de Swardt (IdS)
Dr Rolf Annas (RA)
Mr Siphwo Mavumengwana (SM)
Mr Graham Jacobs (GJ)
Mr Rowen Ruiters (RR)
Ms Katherine Dumbrell (KD)

Members of Staff

Ms Colette Scheermeyer (CSc)
Ms Penelope Meyer (PM)
Mr Jonathan Windvogel (JW)
Ms Waseefa Dhansay (WD)
Mr Olwethu Dlova (OD)
Ms Owethu Mandlendoda (OM)
Ms Anita Shologu (AS)

Visitors

None

Observers

None

3. Apologies

Mr Chris Snelling (CSn)
Ms Corlie Smart (CSm)
Dr Mxolisi Dlamuka (MD)
Ms Nuraan Vallie (NV)

4. Approval of Agenda

The Committee approved the agenda dated 19 June 2019 with additional items.

5. Approval of Minutes of the Previous Council Meeting

5.1 Minutes of Council meeting of 13 March 2019

The Committee resolved to approve the Minutes dated 13 March 2019 without amendments.

5.2 Confidential Minutes of 13 March 2019

The Council resolved to approve the Confidential Minutes of the Council meeting dated 13 March 2019 without amendments.

6. Disclosure of Interest

None

7. Matters Arising from Previous Minutes

7.1 Heritage Information Management Services

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

Amongst other things, the following was noted by Council:

- Staff training has commenced, and KD requested to join the final session.
- A User Guide is to be developed.
- The revised Memorandum of Agreement between HWC and SAHRA has been received and will be send to legal advisor for checking and legal services for vetting.

CSc

7.2 Wupperthal

AM presented a report on behalf of EXCO members, which was noted by Council.

Amongst other things, the following was noted by Council:

- At the Exco meeting of 25 January 2019 it was recommended that HWC Exco acts as a coordinating, supervising and mediating body. The chairpersons of BELCOM, IACOM and APMCOM undertook the task and have attended several meetings.
- Planning:
 - emergency plans that have been implemented;
 - short-medium-term plans that include the Church werf reconstruction project (Rupert Foundation) and a voluntary team from the Cape Institute for Architecture (ClfA) preparing submissions to HWC for the reconstruction of dwelling houses; and
 - long-term plans that include the reconstruction and development of infrastructure and facilities, such as the school and hostel and power/water supplies.
- At the Council meeting of 13 March 2019, it was decided that applications to HWC would be channelled through the CEO and DD, but a longer-term and holistic plan for the heritage conservation of the whole property should be established.
- Communication with and between the Church administration and Wupperthal community bodies and other stakeholders has presented challenges.
- There are several complexities preventing effective and efficient implementation of assistance programmes, from government, public and private sectors. It was noted that considerable free expertise and offers of substantial financial support have been made from UK benefactors but these (urgently) await formal approval by the Church.
- A master plan is required, which includes heritage-related input, and which is overseen by a senior and experienced project manager.
- A successful Wupperthal restoration and redevelopment project would:
 - bring long-term socio-economic and heritage benefits to the Wupperthal community,
 - be in alignment with the strategy of inter-governmental and inter-departmental cooperation supported by Council members in November 2018 at the workshop in Hermanus; and
 - have the potential to be of considerable political value to DCAS.
- The recommendation is that Chair of Council, through the CEO, requests a meeting with the relevant provincial government departments, where a presentation is made regarding the need for a master plan supported at provincial level, and with

the recommendation that a dedicated 'champion' / project manager is appointed. Chair to ascertain the protocols and channels with the CEO.

DECISION

1. The recommendation that HWC requests a meeting with the relevant provincial government departments was supported by Council.
2. The CEO is requested that a member of HWC staff attends the ongoing discussions with stakeholders.

AM

8. Confidential Matters

8.1 See separate minutes.

9. Appointment

9.1 None

10. Administration Matters

10.1 Council Agenda Pack

Amongst other things, the following was noted by Council:

- The package of documents for the Council meeting was not received by email due to distribution problems, and the online link requires a pin number. The pack must be circulated to all members of Council, whether they send apologies or not.
- Council agreed that, where they are not confidential, Council minutes (not agendas) should be uploaded on the HWC blog in the same manner as other committees.

RECOMMENDATION

The CEO to consider the recommendation that Council minutes are uploaded onto the HWC blog site.

11. Standing Items

11.1 CEO's Report

No report was submitted.

MD

11.2 Local Government Matters

11.2.1 Delegations of Powers to Local Authorities

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

Amongst other things, the following was noted by Council:

- HWC is awaiting an application for competence from Drakenstein Municipality.

- Competence for sections 30 and 31 can be given, while section 34 can be delegated only if appropriate.

MD

11.2.2 Competency of City of Cape Town

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

Amongst other things, the following was noted by Council:

- Delegation is to CoCT Council and it cannot legally delegate further, except in terms of municipal regulations.
- Heritage-related decisions are currently taken by individual CoCT staff but HWC would prefer that a Heritage Committee is established and can be found competent to make decisions.
- Negotiations are continuing.

MD

11.3 Report and Feedback on SAHRA Council

AM and PM presented verbal reports, which were noted by Council.

Among other things, the following was noted:

- PM and Andrew September met with SAHRA and the Department of Environmental Affairs (DEA) to discuss 'screening tools', which are regarded as inadequate for assessing heritage sensitivity, in particular archaeology and palaeontology.
- The DEA is deciding whether Heritage Impact Assessments comply with the NHRA.
- SAHRA and HWC interpret section 38(1) of the NHRA differently, with the consequence that NIDs are not always being submitted.
- HWC to formally consult with SAHRA regarding the interpretation of s.38, and seek a resolution.
- Council strongly recommended that HWC is represented (staff or Council/Committee member) on the Provincial Planning and Development Forum, and that they attend meetings. Past minutes of PPDF meetings to be forwarded to CS for information, and the CEO to be informed.

DECISION

HWC to negotiate with SAHRA a solution regarding interpretation of Section 38 of the NHRA.

AM

11.4 Report and Feedback on BELCom

GJ presented his report, which was noted by Council.

Among other things, the following was discussed:

- There are several ongoing items that have been previously raised in BELCom submissions but have not received comment or action.

- The BELCom agenda is still too long despite HOMs' efforts, and some categories of complex submissions (such as museum site CMPS) require site inspections and careful scrutiny.
- Applicants, and heritage practitioners, look to the committee for guidance rather than providing the necessary information.
- A public interface and communication of HWC projects and clarification of topical issues is recommended.
- Emergency permits are intended only to make a site safe and secure so that any immediate threat to heritage resources is removed.
- The Council's committee structures and processes must be reviewed, possibly at the proposed workshop in September.

DECISION

The Council resolved to endorse the following recommendations, for HWC management to consider:

1. Standards for s.27, s.31 and s.34 applications:
 - a. The checklist for s.27, s.31 and s.34 applications be expanded to ensure that contextual issues are adequately addressed (i.e. supplying more than just uncaptioned images of context), particularly within declared and proposed Heritage Protection Overlay areas.
 - b. Heritage practitioners to be cautioned by staff to confine documentation to what is relevant to that application, to reduce the volume of general information, in the interests of focus and efficiency.
2. Warning notices relating to appropriate, respectful public conduct be placed in prominent locations at all standing committee meetings.
3. An in-house protocol for staff to follow when addressing emergency applications, in order to minimize delays in processing these applications.
4. A policy for heritage monitoring that clearly sets out the extent of a practitioner's discretion in authorizing on-site changes without having to revert back to HWC.
5. Formal protection of buildings refused for demolition must be compiled and listed ahead of the gazetting of the Provincial Regulations.
6. A database of instructive prior cases, i.e. cases brought to appeal and where BELCOM and IACOM committee decisions were overturned.

GJ

11.5 Report and Feedback on IACOM

AM presented the report, which was noted by Council.

Among other things, the following was noted:

- HWC and DEA&DP meet quarterly regarding s.38(8) processes. Agreement has been reached regarding public participation, final comments will be integrated, and NIDs will be applied.
- An appeal has been lodged with regard to the Proposed Juno Wind Energy Facility on the Remainder of Farm De Boom 273, Vredendal, as the decision taken ignores the provisions of s38(8) of the Act, in that the DEA did not ensure that the heritage evaluation fulfils the requirements of Heritage Western Cape in terms of s38(3) of the Act.

- PM confirmed that an appeal is to be lodged on the same grounds with regard to the Proposed Tooverberg Wind Energy Facility on Remainder & Portion 1 of Farm 244, Witzenberg.

DECISION

The Council supported the lodging of appeals against decisions that do not comply with s.38(8) and 38(3) of the NHRA.

CSn

11.6 Report and Feedback on APMCom

AM presented her report, which was noted by Council.

Among other things, the following was noted:

- HWC's application to SAHRA for renewal of competency is due in August. The appropriateness and capacity of the existing APM Committee's sole competency with regard to s.36 applications were discussed, and whether HWC should exclude that function.
- Monitoring and follow-up of APMCom decisions is being implemented, to ensure that further requirements are met and final reports are submitted to HWC.

DECISION

The Council resolved that delegated powers for making decisions in relation to NHRA section 36 applications (burial grounds and graves) to be further discussed. A workshop to be organized between relevant officials and representatives of HWC (APM and IACOM), SAHRA (APM and BEU) and Iziko Museums (collections managers).

AM

11.7 Report and Feedback on Appeals Committee

RR presented the report, which was noted by Council.

DECISION

The Council accepted the report as tabled and supported the recommendations that:

1. Applicants and Objectors should be informed that the version of decisions projected on the screen is in draft format and that the wording thereof might be amended. Alternatively, the committees must ensure that the decisions projected on the screen reflect all the elements of the decisions and the wording thereof correct.
2. Chairpersons should explain to committee members that a condition to provide plans for a proposed replacement building can only be requested if the committee finds that the area in which a property is situated has heritage value and is worthy of conservation, whether situated inside or outside an HPOZ or proposed HPOZ or not.
3. HPOZ's cannot be a determining factor whether an area is worthy of conservation as the committee must assess it within the framework of the NHRA.
4. It is important that the minutes should reflect the reasons why the committee is of the opinion that the area is conservation worthy.

CSm

11.8 Report and Feedback from IGICom

SM presented his report, which was noted by Council.

Among other things, the following was discussed:

- Conservation Management Plans must be approved by Council.
- Delays in finalising nominations and declarations are sometimes caused by delays in the process of legal vetting.
- Under Item 5: Elim heritage protection, it was noted that the consultant (Mr Scurr) is to make a presentation to the CEO.

DECISION

The Council resolved that the Conservation Management Plan for the Tangible Heritage Resources in the Stellenbosch Municipality, endorsed by IGIC in February 2019, must be circulated to Council members for approval via email.

SM

11.9 Report and feedback on Independent Tribunals appointed by the MEC

PM presented a report, which was noted by Council.

Among other things, the following was discussed:

- The tribunal dismissed the appeal against redevelopment of the Old Caltex Garage site, Main Road, Observatory, on the basis that that section of Main Road is not a heritage resource.

PM

11.10. Conservation Management Plans

11.10.1 See item 11.8.

11.11 Proposed PHS

11.11.1 None

12. Policy Matters

12.1 Guidelines for public consultation

PM presented her submission, which was noted by Council.

Among other things, the following was discussed:

- A task team drafted the guidelines as recommendations rather than policy.

DECISION

The Council resolved to approve the *Guidelines on Consultation in respect of Applications in terms of the NHRA* in principle, on condition that a revised draft, with minor amendments as discussed, to be circulated to all members of Council by email for final approval.

PM

13 Conservation Bodies

13.1 Registration of the Nelspoort Agency for Suitable Development

JW presented the application, which was noted by Council.

Among other things, the following was noted by Council:

- The cultural landscape of Nelspoort encompasses a settlement and rock engravings of unique heritage significance. The Agency is encouraged to conduct a survey and inventory of all the elements within the landscape and to formalise its protection.

DECISION

The Council resolved to approve the registration of the Nelspoort Agency for Suitable Development as a Conservation Body.

JW

13.2 Bo-Kaap Youth Movement

PM presented the matter, which was noted by Council.

Among other things, the following was discussed:

- HWC receives applications for registration as a Conservation Body (CB) for consultation purposes. It checks that the organisation meets all requirements (e.g. has heritage as a concern in its Constitution) before Council considers and approves the application. The CB then signs a Code of Conduct.
- The BKYM requests HWC to hold BOCRA accountable for their actions in terms of s.51 of the NHRA (Offences and Penalties), and to be afforded an opportunity to discuss the matter.
- In this case, Council could find no evidence of breach of the HWC Code of Conduct in the documents provided.
- Disrespectful behaviour at HWC meetings, and disputes in the public domain between some members of Conservation Bodies, including but not confined to those associated with the Bo-Kaap, are of ongoing concern to Council.
- The CEO should consider the BKYM request for a meeting to discuss the matter, or through a general CB workshop.

RECOMMENDATION

The Council advises the CEO to respond to the letter from BKYM dated 20 May 2019 that:

1. Council has assessed BOCRA as meeting the criteria for registration at HWC as a Conservation Body for consultation purposes.
2. There are no specific or sufficient grounds supplied for considering censure or sanctions of this organisation.

PM

14. New Matters

14.1 Werdmuller Task team Appointments

WD presented the report, which was noted by Council.

Among other things, the following was noted by Council:

- A condition of the ruling from the MEC Tribunal (September 2018) is that a task team will oversee the ongoing work during redevelopment of the Werdmuller site.
- HWC committee members, Mr Buttgens and Dr Baumann, were appointed and have been assisting, and two further appointees with specific understanding of Uytenbogaardt's concept and rationale for the Werdmuller Centre are proposed.

DECISION

The Council approved the appointments of Mr Luyanda Mpahlwa and Ms Heidi Zollner as members of the task team for the fulfilment of HWC's requirements as part of the MEC's Tribunal Ruling.

WD

14.2 IGIC Appointment

SM presented the submission, which was noted by Council.

Among other things, the following was noted by Council:

- Council noted the Chair's motivation for an additional member to enhance the diversity of the committee, and that Ms Muller already has experience of HWC committee work.

DECISION

The Council approved the appointment of Ms Cecilene Muller as a member of IGIC.

SM

14.3 Application to SAHRA: Competency Reassessment in terms of Section 8(6)(D) of the Heritage Resources Act, Act 25 Of 1999, (The NHRA)

PM presented her report, which was noted by Council.

DECISION

The Council decided that HWC must apply to SAHRA for reassessment to perform the functions listed in Sections 7(2), 27, 28, 29, 30, 31, 34, 35, 36, 37 and 38 of the NHRA insofar as they relate to Provincial competence.

PM

14.4 Application processes

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

Among other things, the following was discussed:

- This matter arose from stakeholder engagements, such as with the regional Southern Cape heritage bodies and local government officials on 18 June 2019.
- Consultation and communication of decisions and outcomes are generally satisfactory. However, Conservation Bodies have raised the problem of decisions that adversely impact local heritage resources being made without their knowledge or opportunity to comment. NID submissions do not require public participation in terms of the NHRA. This issue to be taken further as a matter of urgency.
- HWC should ensure that contact details of HWC staff, Conservation Bodies and local authorities are kept up to date. It was noted that the HWC blog site is being updated, including the Conservation Body information.

SM

15 Adoption of decisions and resolutions

The Council adopted all decisions and resolutions.

16 **Proposed date of the next meeting:** 14 August 2019

17 **Closure:** The meeting adjourned at: 13:30

CHAIRPERSON _____ **DATE:**

SECRETARY _____ **DATE:**