

## MINUTES

OF THE MEETING OF THE GENERAL APPEALS COMMITTEE HELD IN COMMITTEE ROOM D, 5<sup>TH</sup> FLOOR, PODIUM, CIVIC CENTRE, CAPE TOWN ON FRIDAY, 20 MAY 2022 AT 10:00.

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**PRESENT:**                    **COMMITTEE MEMBERS**

### **DEMOCRATIC ALLIANCE (DA)**

Ald F Purchase                    (Chairperson)  
Cllr W Harris  
Cllr S P Liell-Cock  
Ald S Moodley  
Ald M Nieuwoudt  
Ald J van der Merwe

### **AFRICAN NATIONAL CONGRESS (ANC)**

Cllr N Matutu  
Cllr S C Thompson

### **GOOD**

Cllr J Cupido

### **OTHER COUNCILLORS**

Cllr H Terblanche

### **OFFICIALS**

A Lucas	Environmental Health
X Oliphant	Environmental Health
A Maseko	Transport Network Development
G Elliot	Transport Network Development
K Nicol	Office of the Speaker
N Meissenheimer	Executive Committee Services

### **PRESS**

None

### **PUBLIC**

F C Viljoen

### **ABSENT WITH APOLOGY**

None

**ABSENT WITHOUT APOLOGY**

Cllr M Nikelo  
Cllr B Yeko

**GENAP 01/05/22 OPENING AND MOMENT OF SILENCE**

The Chairperson, Ald F Purchase welcomed the members and officials present at the meeting, whereupon a moment of silence was observed.

**GENAP 02/05/22 APPLICATIONS FOR LEAVE OF ABSENCE**

No applications for leave of absence were received for this meeting:

It was noted that Ald M Nieuwoudt would join the meeting via Skype, due to traffic congestion on the N1 as result of an accident.

**NOTED.**

**GENAP 03/05/22 DECLARATION OF INTEREST**

Cllr S Liell-Cock indicated that he was present during the discussion of Items 8 and 9 when it was considered by Subcouncil 19.

It was noted that Cllr S Liell-Cock would recuse himself from the discussion of these items on today's agenda.

**GENAP 04/05/22 CONFIRMATION OF MINUTES OF THE MEETING HELD ON 08 APRIL 2022**

**RESOLVED** that the minutes of the meeting held on 08 April 2022, be confirmed.

*[Confirmation of minutes proposed by Cllr W Harris and seconded by Cllr J Cupido.]*

**ACTION: N MEISSENHEIMER**

**GENAP 05/05/22 SCHEDULE OF INVALID APPEALS**

It was noted that no late appeals were received since the previous meeting held on 08 April 2022.

**NOTED**

**GENAP 06/05/22 GENERAL DISCUSSION**

No matters were discussed under the subject item.

**GENAP 07/05/22 APPLICATION FOR TRAFFIC CALMING (TC) IN RESPECT OF ERVEN 16083- 16088, Nos. 19 - 29 GILLIAN STREET, EVERSDAL, DURBANVILLE**

Mr G Elliot of the Department: Transport Network Development elaborated on the report.

He mentioned that the current Council approved traffic calming policy was amended in 2016, as the volume of sites being approved via the previous (more lenient) policy, exceeded the City's ability to sustainably fund and implement these. The approach of the previous policy resulted in a backlog in excess of 500 sites which will cost many millions to systematically implement over many years.

Mr Elliot explained that in terms of the current traffic calming policy, it was therefore deemed appropriate for limited departmental funds to be focussed primarily on addressing Schools citywide. This approach ensures a measure of protection for the most vulnerable road users, where they typically regularly occur in their highest numbers. The aim of phase one of this approach being to provide a basic level of protection at the primary pedestrian access points to each of more than 1000 schools citywide. There is also a policy provision which allows for the slow, but steady eradication of previously approved backlog sites, once a pre-determined annual minimum of school sites have been constructed. Thus far approximately 700 schools have been addressed. With current limited budget allocations, it will however still take a number of years before all schools citywide have been addressed.

Mr Elliot also indicated that speeding in residential streets is unfortunately a citywide problem and it is simply not sustainable for the City to "engineer away" all bad driver behaviour. The current Traffic Calming Policy does however allow for Ward Councillors or private individuals to fund sites which meet the policy criteria relating to exceptional circumstances (i.e. recent and serious incidents) which would otherwise not meet the schools-related criteria. In addition to the above, the installation of any raised traffic calming measures involves an increase in maintenance costs as these typically have to be reconstructed whenever roads are resurfaced. Reconstruction of a speed hump or similar raised measure would be a similar cost to the initial installation costs, excluding signage.

Should a site be found to meet the "Exceptional Circumstances" criteria relating to a recent and serious incident, the options for implementation are as follows:

- a) Ward Councillor may choose to fund the site from his/her

limited ward allocation budget. Allocation of budget to specific projects is typically planned a few years in advance and would therefore not be a quick solution.

- b) The private parties concerned may choose to fund the design and construction of the measure/s – which shall be in accordance with the CCT specifications and standards. As indicated above, the costs can be upwards of R80 000 per raised intersection. By comparison, normal speed humps can cost in the region of R25 000 each. The decision as to which measure is appropriate would however rest with the Transport Department for ultimate approval by the relevant Subcouncil.

Mr Elliot further mentioned that at the time of evaluation, however the site was not deemed to meet abovementioned criteria, even though the fatal collision was included in the crash statistics.

The Chairperson welcomed the appellant, Mr Francois Viljoen and Ward Councillor H Terblanche.

The appellant, Mr F Viljoen motivated his appeal by indicating that rat-run traffic is taking place in Gillian Street, which is used as a shortcut from Mountain View to Kendal (and then Durban Road). He further made reference to a recent fatal collision, a near miss involving a child exiting the play school, non-compliance with 4-way stop and the difficulty exiting his driveway at 29 Gillian Street. The appellant furthermore indicated that all residents are in support of traffic calming in Gillian Street. The appellant was also of the view that all previous incident statistics had not been considered and that Rosendal Dam as a local recreational attraction / public facility in the immediate area should be considered.

The Ward Councillor, Cllr H Terblanche indicated that there is an Early Childhood Development Centre in the vicinity close to a park and a dam, which attracts a lot of pedestrians. He suggested that the option of a raised intersection should be considered at the three way stop to force motorists to stop. He was of the view that it is a dangerous intersection, as speeding motorists seek for alternative routes to get to Eversdal.

The Chairperson thanked the appellant and the Ward Councillor for their presence, whereupon they were excused.

The inputs and the appeal submitted by the appellant as contained in the report on the agenda, were duly considered by the members of the General Appeals Committee.

Ald M Nieuwoudt stated that the appeal is not against spending of the budget, but to safeguard the road. She expressed the view

that it is really unsafe in this area, as approximately 180 to 220 vehicles per hour make use of Gillian Street during peak hours and therefore proposed that the appeal should be upheld, in order to create safer road conditions in the area. Cllr S Liell-Cock mentioned that the residents in the area should be given the option to fund traffic calming measures themselves or whether the Ward Councillor wants to contribute from his ward allocations budget. He further suggested that the relevant Department should also liaise with Google Maps to relocate the satellite GPS points, in order to re-route traffic. Cllrs S Liell-Cock and S Thompson supported Ald Nieuwoudt's proposal that the appeal be upheld.

Ald S Moodley proposed that the appeal be dismissed, on condition that the Ward Councillor, in consultation with the Line Department continues to monitor the area and relook at the situation at a later stage. Cllr J Cupido, Ald J van der Merwe, Cllrs W Harris, N Matutu and Ald F Purchase supported Ald Moodley's proposal that the appeal be dismissed, subject to aforementioned condition.

**RESOLVED WITH 6 VOTES IN FAVOUR** that:

- (a) the appeal submitted by the appellant, Mr Francois Christo Viljoen, on behalf of the residents in Gillian Street, Eversdal, Durbanville, **BE DISMISSED** for the following reasons, subject to the condition mentioned in (c) below:
- The road in question is a class 5 residential which is designed to carry local residential traffic,
  - The road has the potential to be used as a rat-run for external traffic connecting Durbanville Avenue in the north and Old Oak Road in south,
  - The traffic calming policy does not provide support for remedial measures to address rat-running traffic,
  - While rat-running traffic is uncomfortable for local residents, this does not necessarily mean that a road is critically unsafe, and therefore further motivation is required in terms of pedestrian activity or accident potential,
  - All-way stops are spaced at approximately 250m intervals at strategic locations in the interest of traffic control and traffic safety,
  - Motorists ignoring stop controls is a behavioural issue which cannot not be prioritized in the traffic calming policy,
  - There are no schools or public facilities which may attract significant volumes of vulnerable pedestrian activity directly into the road and therefore traffic

- calming cannot be justified in terms of section 7(3) of the traffic calming policy,
- It can be concluded that this is a reasonably low risk environment for vulnerable pedestrians.
- (b) the decision taken by Subcouncil 7 on 20 September 2021 to refuse the application for traffic calming between 19 and 29 Gillian Street, Eversdal, Durbanville, **BE CONFIRMED**
- (c) the Ward Councillor, in consultation with the relevant Line Department, continues to monitor the area, revisit the issue of the educational facility in the area and to relook at the situation, in order to re-evaluate for a suitable solution in respect of traffic calming at the respective intersections at a later stage.

**ACTION: G ELLIOT, S GLASS**

**At this stage, the Chairperson announced that Item 10 would be considered, in order for Cllr Liell-Cock to take part in the discussion, whereupon he should be recused from the discussion of Items 8 and 9.**

**The decisions are however recorded in numerical sequence.**

**GENAP 08/05/22**

**APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – TOPS KALK BAY LIQUOR SHOP: ERF 89860, OLYMPIA BUILDING, 138 MAIN ROAD, KALK BAY**

Cllr S Liell-Cock recused himself from the discussion of this item.

Mr X Oliphant of the Environmental Health Department elaborated on the report.

Ald M Nieuwoudt made reference to Section 6 of the Control of Undertakings that sell Liquor to the Public By-Law, 2013, which states that the City must, before approving an application for the extension of trading days and hours, reasonably and fairly consider further factors which must include, *inter alia* –

- the outcome of community consultation;
- the potential impact on the surrounding environment; or
- any other relevant factors

Ald Nieuwoudt mentioned that taking cognizance of the consequences of the environment, as well as the relevant factor of social behaviour, the problematic behaviour around alcohol abuse should be recognized, especially in tourism attraction areas. Residents in such areas are also severely impacted with the extended trading hours and not the visitors. Ald Nieuwoudt therefore proposed that the appeal be dismissed.

Cllr W Harris suggested that Ward Councillors, Local Communities, Non-Governmental Organisations, Community Police Forums and Law Enforcement Agencies should make an effort to comment or give their inputs on applications for extended liquor trading hours, in order to see what they are experiencing in their respective communities.

Cllr S Thompson stated that Kalk Bay is a very popular beach, especially in summer, and people are provoked to excessively abuse alcohol, although drinking of alcohol on beaches is not allowed.

The inputs and the appeal submitted by the appellant as contained in the report on the agenda, were duly considered by the members of the General Appeals Committee. Cllrs J Cupido, Ald J van der Merwe, Ald S Moodley, Cllrs W Harris, S Thompson, N Matutu and Ald F Purchase dismissed the appeal.

**UNANIMOUSLY RESOLVED** that:

(a) the appeal submitted by the appellant, Mr D M Hoogenhout on behalf of Tops Kalk Bay for off-consumption, **BE DISMISSED** for the following reasons:

- The close proximity of the liquor store to the night shelter;
- The anti-social and criminal element that occurred under the railway arches when under the influence of alcohol.

(b) the decision taken by Subcouncil 19 on 25 March 2022 to refuse the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Tops Kalk Bay on Erf 89860, Olympia Building, 138 Main Road, Kalk Bay, **BE CONFIRMED**.

**ACTION: X OLIPHANT, P KETANI-POORT, A SAMPSON**

**GENAP 09/05/22 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – SIMON'S TOWN BOTTLE STORE: ERF 2299, 98 ST GEORGE'S STREET, SIMON'S TOWN**

Cllr S Liell-Cock recused himself from the discussion of this item.

Mr X Oliphant of the Environmental Health Department elaborated on the report.

Ald M Nieuwoudt again made reference to in Section 6 of the Control of Undertakings that sell Liquor to the Public By-Law, 2013, which criteria is used to consider applications for extended liquor trading hours. She was of the view that appellants are

allowed to trade during normal trading hours, but during the extended trading hours, problems are being experienced by surrounding residents.

Ald Nieuwoudt therefore proposed that the appeal be dismissed.

The inputs and the appeal submitted by the appellant as contained in the report on the agenda, were duly considered by the members of the General Appeals Committee. Cllrs J Cupido, Ald J van der Merwe, Ald S Moodley, Cllrs W Harris, S Thompson, N Matutu and Ald F Purchase dismissed the appeal.

**UNANIMOUSLY RESOLVED** that:

(a) the appeal submitted by the appellant, Mr D M Hoogenhout on behalf of Simon's Town Bottle Store for off-consumption, **BE DISMISSED** for the following reasons:

- The application for extended trading hours is not desirable in terms of the criteria as set out in Section 6 of the Control of Undertakings that sell Liquor to the Public By-Law, 2013
- It was not deemed to be in the public interest to extend the hours beyond what it provided in the liquor licence
- There are significant challenges with street people and alcohol abuse in Simon's Town
- There are significant challenges with rowdy behaviour of some of the Navy personnel and alcohol abuse in the Waterfall barracks
- Intoxicated vagrants sleep, urinate and defecate all over the town and naval personnel under the influence of alcohol cause noise disturbances and motor vehicle accidents.

(b) the decision taken by Subcouncil 19 on 25 March 2022 to refuse the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Simon's Town Bottle Store on Erf 2299, 98 St George's Street, Simon's Town, **BE CONFIRMED**.

**ACTION: X OLIPHANT, P KETANI-POORT, A SAMPSON**

**GENAP 10/05/22 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – HEYNES LIQUOR STORE: ERF 36770, 11 WATERBERRY CRESCENT, GREENLANDS, BELLVILLE**

Mr A Lucas of the Environmental Health Department elaborated on the report.

Ald M Nieuwoudt mentioned that applications for extended liquor



trading days and hours is based on Section 6 of the Control of Undertakings that sell Liquor to the Public By-Law, 2013 pertaining to the proximity of the licensed premises to surrounding residential zoned area, cultural, religious and educational facilities. She indicated that this premises is not located in a CBD area and that the temporary land use right to conduct a liquor shop from the subject property (Erf 36770, Greenlands, Bellville) has lapsed on 31 August 2021. Ald Nieuwoudt further mentioned that liquor stores in residential areas detrimentally contributes to the social decay and problematic behaviour in communities. Ald Nieuwoudt therefore proposed that the appeal be dismissed.

Ald S Moodley was of the view that the application should not only be refused as result of and expired temporary land use departure, as it could be supported subject to the approval of a temporary land use departure. Ald Moodley mentioned that despite the positive response from SAPS, the residents in the area should be considered and therefore dismissed the appeal.

The inputs and the appeal submitted by the appellant as contained in the report on the agenda, were duly considered by the members of the General Appeals Committee. Cllrs W Harris, J Cupido, S Liell-Cock, S Thompson, N Matutu and Ald F Purchase dismissed the appeal.

**UNANIMOUSLY RESOLVED** that:

- (a) the appeal submitted by the appellant, Adams Carew Keyster Attorneys on behalf of Mr Robert Heynes in respect of Heynes Liquor Store for off-consumption, **BE DISMISSED** for the following reasons:
  - The temporary land use departure has lapsed and the renewal of the temporary land use departure is not yet concluded
  - The liquor outlet is located in a residential area and within 50m of a creche
  - Social decay and problematic behaviour experienced in the area
- (b) the decision taken by Subcouncil 6 on 16 February 2022 to refuse the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Heynes Liquor Store: Erf 36770, 11 Waterberry Crescent, Greenlands, Bellville, **BE CONFIRMED.**

**ACTION: C ROSS, A LUCAS**

**GENAP 11/05/22    OUTSTANDING MATTERS**

None

**THE MEETING ENDED AT 11:25.**

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**ALD F PURCHASE  
CHAIRPERSON**

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**DATE**