

## MINUTES

OF THE MEETING OF THE GENERAL APPEALS COMMITTEE HELD IN COMMITTEE ROOM D, 5<sup>th</sup> FLOOR, PODIUM BLOCK, CIVIC CENTRE, CAPE TOWN ON FRIDAY, 15 SEPTEMBER 2023 AT 10H00.

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

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

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

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

Cllr N Matutu  
Cllr S C Thompson

### **GOOD**

Cllr J Cupido

### **OTHER COUNCILLORS**

None

### **OFFICIALS**

T Hassan	Environmental Health
R Matthews	Environmental Health
A Mahlati	Environmental Health
N A Mayekiso	Environmental Health
S Mpikampi	Environmental Health
K Nicol	Office of the Speaker
X Erasmus	Legal Services
N Meissenheimer	Executive Committee Services

### **PRESS**

None

### **PUBLIC**

Mr D Cronje [Danie Cronje Attorneys]  
Ms L Visser [Danie Cronje Attorneys]



### **ABSENT WITH APOLOGY**

Ald F Purchase  
Cllr B Yeko (Sick Leave)

**ABSENT WITHOUT APOLOGY**

Cllr M Nikelo

**GENAP 01/09/23 OPENING AND MOMENT OF SILENCE**

In the absence of the Chairperson, Ald F Purchase, who submitted an apology for this meeting, nominations for an Acting Chairperson were requested. Cllr S Liell-Cock nominated Ald J van der Merwe to act as Chairperson for the meeting. The nomination was duly supported.

Ald J van der Merwe was duly elected to act as Chairperson.

The Acting Chairperson, Ald J van der Merwe welcomed the members and officials present at the meeting, whereupon a moment of silence was observed.

**GENAP 02/09/23 APPLICATIONS FOR LEAVE OF ABSENCE**

It was noted that Ald F Purchase extended her apology for this meeting.

At conclusion of the meeting, the Secretariat was informed via the Chief Whip's Office that Cllr B Yeko is on sick leave.

No further applications for leave of absence were received via the Office of the Chief Whip.

**ACTION: N MEISSENHEIMER****GENAP 03/09/23 DECLARATION OF INTEREST**

Cllr J Cupido declared that he was present when Item 12 on the agenda was considered by Subcouncil 15.

It be noted that Cllr J Cupido would recuse himself from the discussion of Item 12 on today's agenda.

**NOTED.****GENAP 04/09/23 CONFIRMATION OF MINUTES: 18 AUGUST 2023**

**RESOLVED** that the minutes of the meeting held on 18 August 2023, be confirmed, subject to the following correction as indicated in bold:

**Pg. 14 GENAP 11/08/09 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – CLUB JAZZAY PUB AND RESTAURANT CC T/A CLUB 7 : ERF 7484, 201A VOORTREKKER ROAD, BELLVILLE**

Cllr S Liell-Cock mentioned that a site visit to the subject property was done by the members of the ~~Committee~~ **Subcouncil 6** Officials and SAPS.

**ACTION: N MEISSENHEIMER**

**GENAP 05/09/23 SCHEDULE OF INVALID APPEALS**

It was noted that no late appeals were received since the previous meeting held on 18 August 2023.

**NOTED.**

**GENAP 06/09/23 GENERAL DISCUSSION**

Ald M Nieuwoudt again requested the Legal Advisor to provide the members with a copy of the guidelines relating to the consideration of applications for extended liquor trading hours by Subcouncils.

The Legal Advisor indicated that he would circulate the guidelines to the members of the Committee and all Subcouncils.

**NOTED.**

**At this stage, Cllr S Liell-Cock proposed that Items 7 to 10 be clustered for debate. The Committee agreed, whereupon the Acting Chairperson mentioned that the decisions on these applications would be recorded separately under the respective items. He further advised that the appellant would simultaneously motivate his appeals, namely Items 7 to 10 during his interview timeslot.**

**GENAP 07/09/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – PICK N PAY KENILWORTH: ERF 54756, KENILWORTH CENTRE, DONCASTER ROAD, KENILWORTH**

The Acting Chairperson, Ald J van der Merwe indicated that the applications for extended liquor trading hours in respect of Items 7 to 10 were all considered by Subcouncil 11 in terms of their Sub-delegated Authority by the Subcouncil Chairperson, - Manager and Ward Councillor.

Ald S Moodley and Cllr S Liell-Cock concurred that Ward Councillor K Christie's argument or reasons to refuse these applications for extended liquor trading hours in respect of Items 7 to 10 were not sufficient, as it only made reference to the Western Cape Government's White Paper on the abuse of alcohol, which refers to studies showing that the level of alcohol related crimes, violence and accidents are directly related to the number of hours during which alcohol is available for sale.

Ald M Nieuwoudt mentioned that the contents of the White Paper were taken into consideration, but could not align the circumstances with these specific sites referred to in Items 7 to 10 on the agenda. The reasons for refusal on these applications were generalised and no assessment of these sites were done. The Pick n Pay Retailers are located in shopping malls or complexes and that their trading would not have a detrimental impact on the surrounding environment.

After due consideration of the inputs and content of these reports, the members present unanimously upheld the appeals in respect of Items 7 to 10 on the agenda. However, the decisions are recorded separately under these respective items.

The Acting Chairperson welcomed the appellant, Mr D Cronje of Danie Cronje Attorneys and his colleague, Ms L Visser, whereupon he informed the appellant that the Committee considered these appeals as reflected under Items 7 to 10 of the agenda, and was in favour of these appeals, after after due consideration thereof. It was noted that Ward Councillor K Christie indicated that she would not attend the meeting.

The Chairperson thanked the appellant and his colleague for their presence, whereupon they were excused.

**UNANIMOUSLY RESOLVED IN FAVOUR** [Ald S Moodley, Cllrs W Harris, S Liell-Cock, Ald M Nieuwoudt, Cllrs J Cupido, S Thompson, N Matutu and Ald J van der Merwe] that:

- (a) the appeal submitted by the appellant, Mr D Cronje of Danie Cronje Attorneys on behalf of his client, Pick n Pay (Kenilworth), **BE UPHELD** for the following reasons:
- the approval and grant of extended liquor trading hours would not have a potential impact on the surrounding environment
  - the liquor outlet has the appropriate zoning approval to operate a liquor outlet from subject property with a valid liquor licence.
- (b) the decision taken under Subdelegated Authority by Subcouncil 11 on 25 July 2023 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 Pick n Pay (Kenilworth) for off-consumption on Erf 54756, Kenilworth Centre, Doncaster Road, Kenilworth, **BE REVOKED**,
- (c) the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Pick n Pay (Kenilworth) for off-consumption on Erf 54756, Kenilworth Centre, Doncaster Road, Kenilworth, **BE APPROVED**, for the reasons as set out in (a) above.

**ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON**

**GENAP 08/09/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – PICK N PAY LIQUOR KENILWORTH: ERF 54756, KENILWORTH CENTRE, DONCASTER ROAD, KENILWORTH**

It be noted that this item was clustered for debate under Item GENAP 07/09/23.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, J Cupido, S Thompson, N Matutu and Ald J van der Merwe were in support of the appeal for the reasons as set out in Item 7.

**UNANIMOUSLY RESOLVED IN FAVOUR** [Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, J Cupido, S Thompson, N Matutu and Ald J van der Merwe] that:

- (a) the appeal submitted by the appellant, Mr D Cronje of Danie Cronje Attorneys on behalf of his client, Pick n Pay Liquor (Kenilworth Centre), **BE UPHeld** for the following reasons:
  - the approval and grant of extended liquor hours would not have a potential impact on the surrounding environment
  - the liquor outlet has the appropriate zoning approval to operate a liquor outlet from subject property with a valid liquor licence.
- (b) the decision taken under Subdelegated Authority by Subcouncil 11 on 25 July 2023 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 Pick n Pay Liquor (Kenilworth Centre) for off-consumption on Erf 54756, Kenilworth Centre, Doncaster Road, Kenilworth, **BE REVOKED**,
- (c) the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Pick n Pay Liquor (Kenilworth Centre) for off-consumption on Erf 54756, Kenilworth Centre, Doncaster Road, Kenilworth, **BE APPROVED**, for the reasons as set out in (a) above.

**ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON**

**GENAP 09/09/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – PICK N PAY ROSMEAD: ERF 175137, SHOP 1, ROSMEAD CENTRE, ROSMEAD AVENUE, CLAREMONT**

It be noted that this item was clustered for debate under Item GENAP 07/09/23.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, J Cupido, S Thompson, N Matutu and Ald J van der Merwe were in support of the appeal for the reasons as set out in Item 7.

**UNANIMOUSLY RESOLVED IN FAVOUR** [Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, J Cupido, S Thompson, N Matutu and Ald J van der Merwe] that:

- (a) the appeal submitted by the appellant, Mr D Cronje of Danie Cronje Attorneys on behalf of his client, Pick n Pay Rosmead, **BE UPHELD** for the following reasons:
- the approval and grant of extended liquor hours would not have a potential impact on the surrounding environment
  - the liquor outlet has the appropriate zoning approval to operate a liquor outlet from subject property with a valid liquor licence.
- (b) the decision taken under Subdelegated Authority by Subcouncil 11 on 25 July 2023 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 Pick n Pay Rosmead for off-consumption on Erf 175137, Shop No 1, Rosmead Centre, Rosmead Avenue, Claremont, **BE REVOKED**,
- (c) the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Pick n Pay Rosmead for off-consumption on Erf 175137, Shop No 1, Rosmead Centre, Rosmead Avenue, Claremont, **BE APPROVED**, for the reasons as set out in (a) above.

**ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON**

**GENAP 10/09/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – PICK N PAY LIQUOR ROSMEAD: ERF 175137, SHOP 2, ROSMEAD CENTRE, ROSMEAD AVENUE, CLAREMONT**

It be noted that this item was clustered for debate under Item GENAP 07/09/23.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, J Cupido, S Thompson, N Matutu and Ald J van der Merwe were in support of the appeal for the reasons as set out in Item 7.

**UNANIMOUSLY RESOLVED IN FAVOUR** [Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, J Cupido, S Thompson, N Matutu and Ald J van der Merwe] that:

- (a) the appeal submitted by the appellant, Mr D Cronje of Danie Cronje Attorneys on behalf of his client, Pick n Pay Liquor Rosmead, **BE UPHELD** for the following reasons:



- the approval and grant of extended liquor hours would not have a potential impact on the surrounding environment
  - the liquor outlet has the appropriate zoning approval to operate a liquor outlet from subject property with a valid liquor licence.
- (b) the decision taken under Subdelegated Authority by Subcouncil 11 on 25 July 2023 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 Pick n Pay Liquor Rosmead for off-consumption on Erf 175137, Shop No 2, Rosmead Centre, Rosmead Avenue, Claremont, **BE REVOKED**,
- (c) the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Pick n Pay Liquor Rosmead for off-consumption on Erf 175137, Shop No 2, Rosmead Centre, Rosmead Avenue, Claremont, **BE APPROVED**, for the reasons as set out in (a) above.

**ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON**

**GENAP 11/09/23**

**APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – SECRETS: ERF 3410, 229C LONG STREET, CAPE TOWN**

Mr T Hassan of the Environmental Health Department elaborated on the content of the subject report and gave a brief background of the appeal for extended liquor trading hours.

Ald S Moodley was of the view that if the Committee is in support of the appeal, it could be upheld subject to the imposition of a condition, namely for the subject property to have the appropriate licenses to operate. He further mentioned that the time factor in considering such applications, with reference to unemployment in the country and economic circumstances, should not be delayed, but rather to promote these businesses.

Ald J van der Merwe made reference to the report on the agenda where the appellant requested the Committee to refer this application back to the relevant Subcouncil with the instruction to postpone it until the business licence has been approved. Cllr S Liell-Cock indicated that the applicant was well aware of the fact that being in possession of a trading license and other necessary licenses from the City of Cape Town, is a pre-requisite for the application for extended days and hours and therefore could not be referred back to the Subcouncil. Ald M Nieuwoudt concurred with Cllr Liell-Cock, as the applicant did not comply with the Business Act and Liquor Bylaw. She further stated that based on the subject property not being in possession of the required Business License, the subject property does not qualify due to non-compliance with the requirements of an extension application as required in the Liquor Bylaw.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Ald S Moodley, Cllrs W Harris and S Thompson supported the appeal, subject to the approval of a business license for the subject property.

Cllr J Cupido, Ald M Nieuwoudt, Cllrs S Liell-Cock, N Matutu and Ald J van der Merwe dismissed the subject appeal and advised that the applicant submits a new application for extended liquor trading hours to the relevant Subcouncil, when the business license for the subject property has been approved.

**RESOLVED WITH 5 VOTES IN FAVOUR** [Cllr J Cupido, Ald M Nieuwoudt, Cllrs S Liell-Cock, N Matutu and Ald J van der Merwe] that:

- (a) the appeal submitted by the appellant, Mr D M Hoogenhout on behalf of Secrets, **BE DISMISSED** for the following reason:
- The subject property is not in possession of a Business Licence for Entertainment nor Sale and Supply of meals.
- (b) the decision taken by Subcouncil 16 on 16 May 2023 to refuse the application for extended liquor trading hours from 02h00 to 04h00 in respect of Secrets, for onsite consumption on Erf 3410, 229C Long Street, Cape Town, **BE CONFIRMED**.

**ACTION: C HELDSINGER, T HASSAN, G HEUGH**

**GENAP 12/09/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – GOOD NEWS DRIVE THRU BOTTLE STORE : ERF 107950, 389 VOORTREKKER ROAD, MAITLAND**

It was that Cllr J Cupido recused himself from the discussion of this item and for the remainder of the meeting.

Mr T Hassan of the Environmental Health Department elaborated on the content of the subject report and gave a brief background of the appeal for extended liquor trading hours.

Ald J van der Merwe made reference to the comments of support and non-support of the adjacent businesses and residential surrounded community as reflected in the report on the agenda. Ald S Moodley stated that in most instances the public comments contained in the report are replications to the outcome of community consultations, which concern was also expressed by the applicant. He further indicated that the subject property is in a business hub and located in Voortrekker Road. Ald M Nieuwoudt expressed that the sentiments of the surrounding community against liquor outlets in their area should also be respected. In view of the renewal application, she would support this appeal.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows:



Ald S Moodley, Ald M Nieuwoudt, Cllr S Thompson and Ald J van der Merwe were in support of the subject appeal. Cllrs W Harris, S Liell-Cock and N Matutu dismissed the appeal.

**RESOLVED WITH 4 VOTES IN FAVOUR** [Ald S Moodley, Ald M Nieuwoudt, Cllr S Thompson and Ald J van der Merwe] that:

- (a) the appeal submitted by the appellant, Mr Alfred Crous on behalf of Good News Drive Thru Bottle Store, **BE UPHeld** for the following reasons:
- the approval and grant of extended liquor hours would not have a potential impact on the surrounding environment
  - the liquor outlet has the appropriate zoning approval to operate a liquor outlet from subject property with a valid liquor licence.
- (b) the decision taken by Subcouncil 15 on 18 January 2023 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 Good News Drive Thru Bottle Store for off-consumption on Erf 107950, 389 Voortrekker Road, Maitland, **BE REVOKED**,
- (c) the application for extended liquor trading hours on Monday to Saturday from 18H00 to 20H00 and Sunday from 11H00 to 18H00 in respect of Good News Drive Thru Bottle Store for off-consumption on Erf 107950, 389 Voortrekker Road, Maitland, **BE APPROVED**, for the reasons as set out in (a) above.

**ACTION: C HELDSINGER, T HASSAN, G HEUGH**

**GENAP 13/09/23 OUTSTANDING MATTERS**

None

**THE MEETING ENDED AT 10:35.**

  
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**ALD J VAN DER MERWE**  
**ACTING CHAIRPERSON**

  
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**DATE**