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GENERAL APPEALS COMMITTEE MEETING

15 SEPTEMBER 2023

ITEM NUMBER: GENAP 04/09/23

SUBJECT / ISIHLOKO / ONDERWERP

CONFIRMATION OF MINUTES: 18 AUGUST 2023

UKUQINISEKISWA KWEMIZUZU: 18 EYETHUPHA 2023

BEKRAGTIGING VAN NOTULE: 18 AUGUSTUS 2023

The minutes are submitted for confirmation.

**ANNEXURE A: MINUTES OF THE GENERAL APPEALS COMMITTEE MEETING
HELD ON 18 AUGUST 2023 SUBMITTED FOR CONFIRMATION**

MINUTES

OF THE MEETING OF THE GENERAL APPEALS COMMITTEE HELD IN COMMITTEE ROOM D, 5th FLOOR, PODIUM BLOCK, CIVIC CENTRE, CAPE TOWN ON FRIDAY, 18 AUGUST 2023 AT 10H00.

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

ECONOMIC FREEDOM FIGHTERS (EFF)

Cllr B Yeko

OTHER COUNCILLORS

None

OFFICIALS

R Matthews	Environmental Health
Z Rudolph	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

Cllr J Cupido
Ald F Purchase

ABSENT WITHOUT APOLOGY

Cllr M Nikelo

GENAP 01/08/23 OPENING AND MOMENT OF SILENCE

In the absence of the Chairperson, Ald F Purchase, who submitted an apology for the 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 02/08/23 APPLICATIONS FOR LEAVE OF ABSENCE

It was noted that Ald F Purchase and Cllr J Cupido extended their apologies for this meeting.

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

ACTION: N MEISSENHEIMER

GENAP 03/08/23 DECLARATION OF INTEREST

None

NOTED.

GENAP 04/08/23 CONFIRMATION OF MINUTES: 23 JUNE 2023

RESOLVED that the minutes of the meeting held on 23 June 2023, be confirmed.

ACTION: N MEISSENHEIMER

GENAP 05/08/23 SCHEDULE OF INVALID APPEALS

It was noted that no late appeals were received since the previous meeting held on 23 June 2023.

NOTED.

GENAP 06/08/23 GENERAL DISCUSSION

Ald M Nieuwoudt 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.

NOTED.

At this stage, the Acting Chairperson indicated that Items 7 to 10 would be clustered for debate, but 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 07/08/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – WOOLWORTHS (KENILWORTH): ERF 54756, SHOP NO. 25, KENILWORTH MAIN ROAD SHOPPING CENTRE, CHICHESTER 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.

Cllr S Liell-Cock indicated 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.

Ald M Nieuwoudt was of the view that the reasons for refusal on these applications were generalised and that no assessment of these sites were done.

Ald S Moodley indicated that the Woolworths Retailers referred to in Items 7 to 10 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 input and content of these reports, the members present unanimously upheld the appeals in respect of Items 7 to 10. 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 after due consideration of these appeals. It was noted that Ward Councillor K Christie was not present at the meeting.

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

UNANIMOUSLY RESOLVED IN FAVOUR [Cllr B Yeko, Ald S Moodley, Cllrs W Harris, S Liell-Cock, Ald M Nieuwoudt, Cllrs 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, Woolworths (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 20 June 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 Woolworths (Kenilworth) for off-consumption on Erf 54756, Shop No 25 Kenilworth Main Road Shopping Centre, Chichester 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 Woolworths (Kenilworth) for off-consumption on Erf 54756, Shop No 25 Kenilworth Main Road Shopping Centre, Chichester Road, Kenilworth,, **BE APPROVED**, for the reasons as set out in (a) above.

ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON

GENAP 08/08/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – WOOLWORTHS (KENILWORTH MAIN ROAD): ERF 65378, SHOP NO. 1, KENILWORTH MAIN ROAD SHOPPING CENTRE, 321 MAIN ROAD, KENILWORTH

It be noted that this item was clustered for debate under Item GENAP 07/08/23.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Cllr B Yeko, Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, 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 [Cllr B Yeko, Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, 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, Woolworths (Kenilworth Main Road), **BE UPHOLD** 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 20 June 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 Woolworths (Kenilworth Main Road) for off-consumption on Erf 65378, Shop No 1, Kenilworth Main Road Shopping Centre, 321 Main 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 Woolworths (Kenilworth Main Road) for off-consumption on Erf 65378, Shop No 1, Kenilworth Main Road Shopping Centre, 321 Main Road, Kenilworth, **BE APPROVED**, for the reasons as set out in (a) above.

ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON

GENAP 09/08/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – WOOLWORTHS (BELVEDERE SQUARE): ERF 160464 AND 51224, CORNER OF BELVEDERE AND KEURBOOM ROADS, BELVEDERE SQUARE, CLAREMONT

It be noted that this item was clustered for debate under Item GENAP 07/08/23.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Cllr B Yeko, Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, 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 [Cllr B Yeko, Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, 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, Woolworths (Belvedere Square), **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 20 June 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 Woolworths (Belvedere Square) for off-consumption on Erf 160464 and 51224, Corner of Belvedre and Keurboom Roads, Belvedere Square, 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 Woolworths (Belvedere Square) for off-consumption on Erf 160464 and 51224, Corner of Belvedre and Keurboom Roads, Belvedere Square, Claremont, **BE APPROVED**, for the reasons as set out in (a) above.

ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON

GENAP 10/08/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – WOOLWORTHS (RONDEBOSCH VILLAGE): ERF 166779, SHOP NO. 1, RONDEBOSCH VILLAGE SHOPPING CENTRE, KLIPFONTEIN ROAD, RONDEBOSCH

It be noted that this item was clustered for debate under Item GENAP 07/08/23.

After due consideration of the inputs and the content of the report, the appeal was put to the vote, with results as follows: Cllr B Yeko, Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, 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 [Cllr B Yeko, Ald S Moodley, Cllrs W Harris, S Liell-Cock, 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, Woolworths (Rondebosch Village), **BE UPHELD** for the following reasons:
- the approval and grant of an extension of 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 20 June 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 Woolworths (Rondebosch Village) for off-consumption on Erf 166779, Shop No 1, Rondebosch Village Shopping Centre, Klipfontein Road, Rondebosch, **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 Woolworths (Rondebosch Village) for off-consumption on Erf 166779, Shop No 1, Rondebosch Village Shopping Centre, Klipfontein Road, Rondebosch, **BE APPROVED**, for the reasons as set out in (a) above.

ACTION: R MATTHEWS, Z RUDOLPH, A SAMPSON

GENAP 11/08/23 APPLICATION FOR EXTENDED LIQUOR TRADING HOURS – CLUB JAZZAY PUB AND RESTAURANT CC T/A CLUB 7 : ERF 7484, 201A VOORTREKKER ROAD, BELLVILLE

The Acting Chairperson informed the Committee that this item was postponed at the previous meeting, in order to afford the appellant, Adv W J van der Merwe [Capebar] the opportunity to comment on the remarks made by the Subcouncil Chairperson, Cllr M Kleinsmith. He further advised that the supplementary Heads of Argument received from the appellant is included on the agenda for the meeting for consideration.

Cllr S Liell-Cock mentioned that a site visit to the subject property was done by the members of the Committee, Officials and SAPS. He also could not find any justified reasons in the supplementary Heads of Argument submitted by the appellant, and therefore did not support the appeal. Ald S Moodley indicated that it is quite clear that the applicant of the subject property is not adhering to the current conditions in terms of the trading hours and that SAPS also did not support the application for extended liquor trading hours.

The Case Officer, Mr Z Rudolph mentioned that he and his colleagues also recently visited the subject property during the evening and witnessed that patrons were leaving the premises with alcohol in their hands at closing time. They therefore concurred with the findings of SAPS in this regard.

Ald M Nieuwoudt mentioned that the subject property is located in an area where high crime incidents are experienced. A lot of youth and students are also now residing in close proximity of the subject property and that the granting of extended liquor trading hours would have a detrimental impact on the surrounding environment.

Cllr S Liell-Cock further made reference to all the contraventions as reflected on pages 570 - 575 of the agenda, and indicated that

these contraventions should not be considered, as these incidents took place more than a year ago and which are currently irrelevant in considering this appeal. He was of the view that the evidence received from SAPS, the Environmental Health Officials and relevant Councillors are credible, in order to make an informed decision on subject application. Cllr B Yeko mentioned that extended liquor trading hours would definitely have a negative impact on students residing in the surrounding area and would therefore dismiss the appeal.

After due consideration of the inputs and content of the report, the appeal was put to the vote, with result as follows: Cllr B Yeko, Ald S Moodley, Cllr W Harris, Ald M Nieuwoudt, Cllrs S Liell-Cock, S Thompson, N Matutu and Ald J van der Merwe] dismissed the appeal.

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

- (a) the appeal submitted by the appellant, Adv W J van der Merwe (Capebar] on behalf of Club Jazzay Pub And Restaurant CC T/A Club 7, **BE DISMISSED** for the following reasons:
- Club Jazzay Pub+ Restaurant CC T/A Club 7 does not close on time;
 - Patrons leaves the premises with alcohol and drink outside the establishment.
 - SAPS did not support the renewal of extended liquor trading hours, due to complaints received by the Local Police Station
 - It would also not be in the public interest to grant extended liquor trading hours and would have a detrimental impact on the surrounding environment.
- (b) the decision taken by Subcouncil 6 on 13 March 2023 to refuse the application for extended liquor trading hours from 02H00 to 04H00 in respect of Club Jazzay Pub And Restaurant CC T/A Club 7 for on-consumption on Erf 7484, 201A Voortrekker Road, Bellville, **BE CONFIRMED**, for the reasons as set out in (a) above.

ACTION: S NGETHU, R MATTHEWS, Z RUDOLF A LUCAS

GENAP 12/08/23 OUTSTANDING MATTERS

None

THE MEETING ENDED AT 10:25.

**ALD J VAN DER MERWE
ACTING CHAIRPERSON**

DATE