

WAENHUISKRANS ARNISTON RATEPAYERS' ASSOCIATION

WAENHUISKRANS ARNISTON BELASTINGBETALERSVEREENIGING

22 December 2015

Dear Members,

CHAIRMAN'S REPORT DECEMBER 2015

During January 2015 some of your committee members attended a meeting with Mr Dion O'Neill, the Municipal Manager of the Cape Agulhus Municipality ("CAM") to discuss issues with him that were raised at the annual general meeting.

The situation relating to the sewerage and the stench thereof was once again raised, as it was raised at the meeting the year before. We informed him that a permanent solution and not merely a temporary "fix" was required. Mr Deon Wasserman, an engineer representing CAM stated that there are products which remove the smell from the system, he being of the view that there is nothing wrong with the system. Apparently the smell is not related to the installation of the sewerage system but a "by product" of it! We were informed that the Municipal Infrastructure Grant funding can only be used for previously disadvantaged communities and to upgrade the sewerage system funds have to come from CAM's own budget, but no funds were available for this.

The issue of access to the various beaches and the condition of the steps and railings was raised. CAM accepted that there are inadequate sets of steps at Bikini beach, the slipway (harbour) and Kassiesbaai and undertook to attend thereto. There was reference to the possible paving of the Roman beach parking area. CAM was informed that the residents of Arniston strongly opposed this and it was requested that before any work is undertaken in this regard that the association be informed thereof. Your committee is of the view that the parking area should remain as it is as it preserves the natural sea/dune geography and setting.

With regard to the building of memorial benches it was suggested to CAM that a policy be implemented. The association was informed that all requests for benches are submitted to the WARD committee and that they deal therewith.

Considerable debate took place about the rezoning of Erf 599 and it was clear that CAM's understanding regarding the sensitivity of Erf 599 did not agree with the majority of the association members.

The question of parking at the Arniston hotel was once again raised with the municipal manager and he did not have a solution therefore. The municipal manager was informed that he had a legal obligation to ensure that the law was followed and that CAM were obliged to do so.

A complaint was raised with the municipal manager that traffic policing in Arniston over the holiday period is non-existent. The traffic police come to Arniston only to check whether car licenses are valid and if not, to ticket the vehicles to receive an income for the municipality. The traffic police do not remain and do proper traffic policing, they do not attempt to control the use of quadbikes on the public roads. The municipal manager indicated that in future traffic officers will spend more time in Arniston doing traffic policing and not merely checking for valid licenses.

The lack of police patrols and the lack of a police presence in Waenhuiskrans/Arniston was raised. The municipal manager informed us that land had been set aside for a satellite office but the Bredasdorp police were understaffed (17 vacancies). CAM undertook to discuss the matter with SAPS Bredasdorp to see if a resolution could be reached.

Unfortunately most of the issues referred to appear not to have been resolved or acted upon. There are however new hand rails at some of the beaches. It is suggested to members that if they have anything that they wish to raise with CAM that they do it directly with CAM and then circulate the secretary of the association with the details of the issue and CAM's response thereto. We must all put pressure on CAM to ensure that proper services are provided for the extremely high rates we pay. Municipal rates increased by 15% this year.

The Arniston Shipwreck Bicentenary Weekend: took place from Friday 29 May 2015 to Sunday 31 May 2015. There was a wreath laying ceremony, a procession to the Arniston Shipwreck Monument, and the first Arniston Openwater Mile swim took place on Saturday 30 May 2015, a 1.6km swim from Roman beach to the Main beach, a "*Captains Dinner*" was held at the Arniston Hotel. Members will also recall that the book "The Arniston – A Village Remembers", written by Marius Diemont was published in late 2014.

The sinking of the Mrs H: During October 2015 one of the local fishing boats, the "Mrs H" belonging to Gerald Swart sank off the Baken. The Arniston Hotel put out an appeal for donations and our members donated R7 050.00 towards this fund. Our members also donated an amount of R48 300.00 to Gerald Swart, who is busy building a new boat which will shortly be put to use. Members are thanked for their generosity in this regard.

Ward 5: Christa Joubert has kindly agreed to be WARA's representative on the Ward Council and she is thanked for her time and effort in this regard. Christa attends the executive committee meetings and her reports of the Council meetings are of immeasurable value.

Crime: During September/October 2015 the problem relating to crime in Arniston, which has been increasing over the years, spiked to a new level and over some weekends 10 – 12 houses were broken into. The crimes usually were theft from houses when small items such as cellphones and laptops were stolen from the one side of the house while the residents were relaxing at the other side of the house. Unfortunately a new tendency of break-ins, where the houses were physically broken into, also increased drastically. The *modus operandi* in these cases was that regardless of whether the house was occupied or not, the perpetrators would physically break into the house, by breaking open a door or breaking a window, and small items such as cellphones and laptops would be stolen, if there was enough time, flat screen TV's and other valuable large items would be removed.

During October members of your executive committee met with the Commanding Officer of the Bredasdorp police station and have since held many discussions with the owner of Suidpunt Security, Mariaan Jansen Van Rensburg, further discussions will be held prior to the annual general meeting. The refrain of the Commanding Officer of SAPS was again that of the police being understaff (at the time of discussion the police were understaff by 14 members), that the police had an inadequate number of vehicles for the area covered and that there were no facilities at Waenhuiskrans/Arniston for the police should they be in Arniston for an extended period. A complaint of the police was that it is also difficult to obtain convictions as very few of the home owners are prepared to go to court to give evidence.

Members of the executive committee met with a businessman from Bredasdorp together with Mr Peter Potgieter of Millennium Management who is trying to put together a proposal to address the issue of crime, not only in Waenhuiskrans/Arniston, but the entire CAM area.

The businessman has established a non-profit company CASA (Pty) Ltd, to take on the responsibility, if possible, to appoint Millennium Management to address the criminal activities in the CAM area. CASA's objectives are to secure the environment and people, address social components such as drug and alcohol abuse and poaching and to increase security measures such as the installation and monitoring of cameras. We were informed that the police force in all probability is about to become more understaffed in that the police are doing away with lumpsum pension payments and police members who have long service may still receive lumpsum pension payments should they retire before a certain date. It appears that some of the more senior policemen are going to accept this.

Millennium Management have three objectives, they seek to stabilise the community and ascertain the problem areas (such as crime and drug abuse), then to spend a period of time to normalise the community by developing the appropriate risk management assistance to deal with problems and once these are operative and the destabilising aspects have been dealt with, to maintain the system. The appointment of Millennium Management however requires a long-term commitment to which all sub-areas (such as Arniston, Struisbaai, Napier etc.) will be required to contribute. The estimated cost of Millennium Management would be in the vicinity of in excess of R500 000.00 per month and the contribution of the various areas will have to be calculated. Assuming that the ratepayers of WARA are to raise R100,000.00 this would in all probability amount to approximately R1,000.00 per month per ratepayer. A rough calculation was that if every ratepayer in the CAM area contributed to the project, the monthly contribution would be R17 per month! Millennium Management has apparently been successful in the Robertson Valley (the various winefarms) and has recently submitted a report to the Betty's Bay Ratepayers Association to manage their area.

I have also spoken to Mr Bryan Kelly of Mitigate Risk Consultancy who informed me that he is preparing a report setting forth proposals to deal with the crime issue. A copy of this report will be made available to members.

I suggest that a committee be formed to deal with the issue of crime.

General planning and management proposals for the area once again took up much of your executive committee's time and in this regard I refer to a few aspects:

Coastal Management for the Western Cape: This program, (started Jan 2014) is being finalised by Consultants, a public participation process took place and a presentation to interested parties has recently been held. Our coast falls within the Overberg District based at Hermanus. Essentially coastal management strategies deal with pollution and preservation of environments and sea life, in terms of restrictions on human settlement activity: building, roads, general usage, fishing or mining. An 'activity' already legally in place cannot be affected.

Cape Nature: The Committee has queried with CAM the apparent lack of interface with Cape Nature. The latter's plans to restrict or charge fees for access to their land, the building of chalets etc., in Die Mond reserve remain unknown.

General Town Planning and SPLUMA: The old Waenhuis-Arniston Town Planning Scheme fell away in July 2014 to be replaced by the CAM Integrated Zoning Scheme. Some of you may be aware that the right of appeal to the Province, where objections to planning applications for waivers were denied or granted, was found to be unconstitutional and fell away in 2014. This year new provincial municipal regulations came into effect being: The Spatial and Land Use Management Act or SPLUMA. A right of appeal has been included in SPLUMA, but it is to a TRIBUNAL, created by each municipality. Where skills capacity is lacking, adjacent municipalities are permitted to create a shared Tribunal. Tribunals are supposed to be made up of officials as well as an undefined number of members of the

public. CAM has decided to have no members of the public! They have also decided to form a combined Tribunal with Swellendam municipality. Time will tell whether this will function fairly and effectively!

Ou dorp road system: An application for Taillard street and Uys street to become cul de sacs and to close a portion of Taillard street, was referred to WARA for comment. We advised that CAM engineers should present a traffic flow study, to show how the very narrow Uys street can become a two-way road, conforming to safe driving and pedestrian standards before meaningful comment can be given.

Seaside Cottages: An application by Seaside Cottages to approve the three houses in Harbour Street as guest accommodation (in reality three blocks of holiday flats) some 18 years after they were built in contravention of the old planning scheme, was made to CAM in March 2015. The application persisted in referring to these as Guest Accommodation, (as though a “granny Flat”). WARA objected that a re-zoning application was required for the building of Flats. However, CAM approved the development notwithstanding the numerous objections and with virtually no conditions.

Vishuis: An application by the Fisherman’s Union for the subdivision, consolidation and rezoning of the land on which the Vishuis Heritage Centre is to be built by the Waenhuiskrans/Arniston Trust was again submitted to CAM due to technical objections to the previous submission by the Arniston Hotel.

Audited financial statements: Members were sent a circular on 23 September 2015, a copy of which is annexed to the electronic copy of this report as **annexure “1”**. In essence, and shortly after litigation was instituted by your association against Verreweide in 2008, Robert Haarburger has insisted upon audited financial statements being presented at the annual general meeting. He did not require this when he was a member of the association and when he for a time was the treasurer of the executive committee, before 2008. At the annual general meeting of December 2014, this issue was again debated and considered and a motion was accepted, virtually unanimously, that the financial statements which had been prepared by the same firm of accountants for the past 17 years are adequate and that in the context of an association such as WARA the members did not require “*an audit*” whatever that might mean, to be performed.

Unfortunately your executive committee received correspondence from attorneys representing Haarburger, the Arniston Hotel, Arniston Seaside Cottages (Pty) Ltd and the Haarburger Trust, wherein they were informed that unless the committee agreed to an audit that Haarburger and his entities would apply to Court for an order compelling an audit. As set out in **annexure “1”** it was decided that even though the executive committee was of the view that such an application would be successfully opposed, it would in all probability cost the association more to oppose it successfully than to have an audit done and your executive committee agreed to an audit which cost the association R25 000.00, approximately 40% of all its funds. A copy of the audited financial statements is an annexure to **annexure “1”** hereto.

Settlement agreement between CAM, Haarburger, The Arniston Bay Consortium (Pty) Ltd and other entities: On 25 November 2015 a circular was sent to members relating to the proposed sale of Erf 599, Arniston. A copy of the circular is annexed to the electronic copy of this report as **annexure “2”**. The facts pertaining to the settlement are fully set out in **annexure “2”** and members interested are requested to have regard to the full facts therein set out. In essence an agreement was reached in which certain claims that the liquidators of Verreweide had instituted against CAM and another matter between CAM and Haarburger relating to the eviction of Haarburger from Erf 599 and the demolition of the construction thereon were settled. CAM agreed to settle Verreweide’s claims (now ceded to

Arniston Bay Consortium (Pty) Ltd of which Haarburger is the sole director by Verreweide's liquidators for R50 000.00) on the basis that CAM undertook to transfer Erf 599 for no compensation to the Arniston Bay Consortium (Pty) Ltd (or its nominee) should Erf 599 on public auction be sold to it for less than R9.5 million and if it is sold for more than R9.5 million that the Arniston Bay Consortium (Pty) Ltd would receive credit of R9.5 million should it be the successful bidder and should it not be the successful bidder it would receive payment of R9.5 million. In essence CAM agreed that it would only receive compensation on the sale of Erf 599 if the sale price exceeded R9.5 million.

As set out in **annexure "2"** hereto, and to look after the interest of all ratepayers under the CAM administration, as well as the members of the association, your executive committee resolved to institute legal proceedings to stop the auction sale of the property on 9 December 2015 and to set aside this settlement which the association's legal representatives advised was irregular and unlawful.

CAM refused to withdraw the property from the auction sale advertised for 9 December 2015 and it was only on the morning of the hearing of 7 December 2015 that the parties came to an arrangement that the sale of the property will be postponed until the final determination of the application to review and set aside the settlement agreement. It is difficult to understand why CAM, threatened with an interdict, refused to withdraw the property from the auction sale. CAM has valued Erf 599 at R5.3 million and the probabilities dictate that the auction price will not exceed R9.5 million and as such there will be no financial benefit to CAM from the sale of the property and accordingly CAM had nothing to lose should the auction sale be postponed. CAM has been the owner of the property since 2011. Members will recall the rezoning notice given by CAM at an inappropriate time over the festive season of December 2014 relating to the rezoning of Erf 599 and that Court action had to be threatened for them to extend the time for objections to be submitted. CAM also formally opposed the application for an interdict of the auction, thereby exposing itself to a cost order against them, as well as it incurring its own costs, when it should not have done so.

At an executive committee meeting on Sunday 20 December 2015 it was resolved that the legal proceedings already instituted to review and set aside the settlement agreement be extended to review and set aside the zoning decision taken on 31 March 2015 in terms of which the business zoning of Erf 599 was granted.

An electronic copies of the founding affidavit, without annexures, in the application is available for members should they require it. Please request it from the WARA secretary (warasecretary@gmail.com).

At the executive committee meeting on 20 December 2015 and after a request by Haarburger's attorneys that a letter sent by them in reply to my circular of 25 November 2015 (**annexure "2"** hereto) be circulated to the members it was resolved to circulate his reply to the members. I was initially against the circulation of Haarburger's reply as in my mind it was factually incorrect in certain material respects and it also includes personal attacks on me and the previous chairman, Colin Bird. Colin Bird and I will be dealing with these personal attacks through attorneys and at this stage I do not regard them as being relevant. After the launching of the interdict application, and in correspondence addressed to the association's attorneys I have again been subject to unjustified personal attacks. I and the executive committee act on the will of the majority of the association's members and to uphold the objects of the Constitution of the association. We have no personal grudges against any one. Your committee is not against the development of Erf 599 and supports a development which is in keeping with the character of the area and that it is not detrimental to the unique character and natural beauty of the township.

In the circular to members of 25 November 2015, members were requested to make donations to pay for the costs of the proposed litigation. The members came out overwhelmingly in favour of the proposed litigation and a significant majority of the members expressly supported the litigation or made donations towards the litigation. Members are profusely thanked for their support. Litigation however is costly and the funds received are not adequate to complete the litigation and members will be requested to make substantial further donations in the future.

Constitution: The current constitution is out of date and does not deal with many aspects which need to be included therein. I have asked certain members of the association to consider how the constitution can be improved. This aspect in my view should be dealt with by the incoming committee. The AGM will however be requested to agree to the amendment of the current Constitution by replacing the existing clause 13, which requires that the books of the Association must be audited with the following:

13. Annual Financial Statements

"13. A member of a recognised Accounting Body is appointed annually by the Executive Committee to act as the Accountant of the Association, which Accountant will compile and issue an income statement and balance sheet (financial statements) of the assets and liabilities of the Association for presentation each year by the Executive Committee to the Annual General Meeting, as well as any other financial reports required by the members."

Casey Hofmeyr, Rod Lloyd, Peter Hofmeyr and I remain on as members of the executive committee for 2016. In terms of the Constitution, Trish Robertson, Christine Craven, Sam Lawrence and Rovina Europa must step down, but are available for re-election.

I thank the committee for their unstinting support throughout the past year and also those not on the committee who gave so generously of their time and advice to the association and on matters considered by the association.

May I, personally, and on behalf of your committee, wish you and those closest to you good health and much happiness over the vacation and through 2016.

MURRAY VAN HEERDEN