



ORDINARY MEETING OF THE COUNCIL
GEWONE VERGADERING VAN DIE RAAD
INTLANGANISO YESIQHELO YEBHUNGA

A G E N D A

I-AJENDA

**DATE / DATUM / UMHLA : 28 FEBRUARY / FEBRUARIE /
FEBHRUWARI 2018**

**VENUE / PLEK / INDAWO : AUDITORIUM / OUDITORIUM /
I-ODITHORIYAM**

**CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU
HERMANUS**

TIME / TYD / IXESHA : 11:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

23 February/Februarie/Febhruwari 2018

NOTICE TO ALL ALDERMEN & COUNCILLORS

ORDINARY MEETING OF THE OVERSTRAND MUNICIPAL COUNCIL

NOTICE IS HEREBY GIVEN that an **ORDINARY MEETING** of the **OVERSTRAND MUNICIPAL COUNCIL** will be held in the **Auditorium, Civic Centre, Hermanus**, on **WEDNESDAY, 28 FEBRUARY 2018** at **11:00** to consider the business set forth in the subjoined agenda.

The attention of Councillors is directed to the Code of Conduct for Councillors and Municipal Officials, Schedules 1 & 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

C GROENEWALD
MUNICIPAL MANAGER

KENNISGEWING AAN ALLE RAADSHERE & RAADSLEDE

GEWONE VERGADERING VAN DIE OVERSTRAND MUNISIPALE RAAD

KENNIS WORD HIERMEE GEGEE dat 'n **GEWONE VERGADERING** van die **OVERSTRAND MUNISIPALE RAAD** gehou sal word in die **Ouditorium, Burgersentrum, Hermanus**, op **WOENSDAG, 28 FEBRUARIE 2018** om **11:00** om die sake op meegaande sakelys te bespreek.

Raadslede se aandag word gevestig op die Gedragskode vir Raadslede en Munisipale Beampptes, Bylae 1 & 2 van die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000).

C GROENEWALD
MUNISIPALE BESTUURDER

ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA

INTLANGANISO YESIQHELO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND

OKU KUKWAZISA ukuba intlanganiso **YESIQHELO yeBHUNGA LIKAMASIPALA WE-OVERSTRAND**, iza kuba se **I-Odithoriyam, kwiZiko LoLUNTU, eHermanus** ngo**LWESITHATHU, Umhla we 28 FEBHRUWARI 2018** ngeye-**11:00** ukuqwalasela imicimbi ekule ajenda iqhotyoshelwe apha.

OoCeba bayacelwa ukuba baqwalasele isikhokelo sokuziphatha sooCeba namaGosa kamasipala, amaXwebhu 1 & 2 kaRhulumente wooMasipala: uMthetho weeNkqubo zikaMasipala, 2000 (UMthetho 32 wowama-2000).

C GROENEWALD
UMPHATHI KAMASIPALA

AGENDA/...

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of an **Ordinary Meeting** of the **Council** held on **Wednesday, 29 November 2017** at **11:00**

3.2 Minutes of a **Special Meeting** of the **Council** held on **Wednesday, 24 January 2018** at **11:00**

4. STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE SPEAKER / ACTING EXECUTIVE MAYOR

5. CONSIDERATION OF RECOMMENDATIONS MADE BY THE EXECUTIVE MAYOR TO COUNCIL, IN TERMS OF SECTION 160(2) OF THE CONSTITUTION, 1996, AND SECTION 59(1)(a) OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 2000 (ACT 32 OF 2000)

REMARK

Please note that the following recommendations contained in this agenda are subject to confirmation or amendment by the Executive Mayor in view of the fact that the **compilation of the Council agenda** was done before the Mayoral Committee of 28 February 2018 had formally sat.

**5.1
TELEPHONE POLICY AMENDMENT**

**(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 28 FEBRUARY 2018)**

RECOMMENDATION TO THE COUNCIL:

that the amendments to the Telephone Policy be approved with retrospective effect as from 1 July 2017.

RESPONSIBLE OFFICIAL :

J VAN ASPEREN

TARGET DATE FOR IMPLEMENTATION :

JANUARY 2018

5.2

TRANSFER OF ERF 1406 SANDBAAI ($\pm 198\text{M}^2$ IN EXTENT) TO JL & NJ HENZEN, S BROUWER AND J MARQUART FOR SECURITY AND GARDENING PURPOSES

(ITEM 2, PAGE 104 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 FEBRUARY 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the transfer of Erf 1406 Sandbaai (198m² in extent) to JL & NJ Henzen, S Brouwer and J Marquart for the amount of R63,500.00 (SIXTY THREE THOUSAND FIVE HUNDRED RAND) (VAT excluded) for security and gardening purposes, **be approved**;
2. that it be noted that the direct transfer is possible as Erf 1406 Sandbaai is classified as a non-viable property;
3. that it be noted that a condition for transfer will be that Erf 1406 Sandbaai must be consolidated with the adjoining property of JL & NJ Henzen, S Brouwer and J Marquart, being Erf 1405 Sandbaai;
4. that the transfer of Erf 1406 Sandbaai be subject to obtaining the necessary closure, rezoning and consolidation approvals;
5. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, consolidation, closure of public space, rezoning, transfer and related costs, advertisements, etc., be paid by the Applicants; and
6. that it be noted that the municipal property envisaged to be transferred is not required for the provision of the minimum level of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 56 of 2003).

RESPONSIBLE OFFICIAL :**W MURTZ****TARGET DATE FOR IMPLEMENTATION:****26 APRIL 2018****TARGET DATE TO INFORM APPLICANT:****28 MARCH 2018**

5.3

HERMANUS: TRANSFER OF A PORTION OF ERF 1253 EASTCLIFF, HERMANUS (±361M² IN EXTENT) TO MARTIN GERHARDUS DELPORT FOR GARDENING PURPOSES

(ITEM 5, PAGE 123 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 FEBRUARY 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the item **be referred back** so that all comments received can be included in the item;
2. that the calculations of how the price of land was determined, **be included** in the item; and
3. that the item **be submitted** during the next cycle.

RESPONSIBLE OFFICIAL :**W MURTZ****TARGET DATE FOR IMPLEMENTATION:****26 APRIL 2018****TARGET DATE TO INFORM APPLICANT:****28 MARCH 2018**

5.4

HERMANUS: AMENDMENT OF CONDITIONS 1 AND 5 OF THE IN PRINCIPLE APPROVAL DATED 25 OCTOBER 2017 FOR THE DIRECT ALIENATION OF UNREGISTERED ERF 9901 (A PORTION OF ERF 9894), VOËLKLIP, HERMANUS TO THE BERGRANT TRUST

(ITEM 6, PAGE 131 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 FEBRUARY 2018)

RECOMMENDATION TO THE COUNCIL:

that conditions 1 and 5 only of Council Resolution dated 25 October 2017 be amended to read as follows:

- (a) 1. that the direct alienation of unregistered Erf 9901 (a portion of Erf 9894) Hermanus ($\pm 244\text{m}^2$ in extent) to the owners of the adjoining erf, The Bergrant Trust, for an amount of R527 500.00 (FIVE HUNDRED AND TWENTY SEVEN THOUSAND FIVE HUNDRED RAND) (VAT excluded) be **approved in principle**; and
- (b) 5. that the abovementioned approval in principle be subject to the suspensive condition that the Applicant obtains approval for the consolidation and rezoning of the portion of property as well as the approval for the relaxation of the southern (rear) building line of the consolidated property.

RESPONSIBLE OFFICIAL :**W MURTZ****TARGET DATE FOR IMPLEMENTATION:****14 MARCH 2018****TARGET DATE TO INFORM APPLICANT:****7 MARCH 2018****TARGET DATE TO INFORM OBJECTOR:****N/A**

5.5

HERMANUS: AMENDMENT OF COUNCIL RESOLUTIONS DATED 25 NOVEMBER 2015 AND 30 MARCH 2016 FOR THE ALIENATION AND TRANSFER OF A PORTION OF ERF 4771 (ADJACENT TO ERF 4075) HERMANUS ($\pm 205\text{M}^2$ IN EXTENT)

(ITEM 7, PAGE 136 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 28 FEBRUARY 2018)

RECOMMENDATION TO THE COUNCIL:

1. that Condition 6 of the Council Resolution dated 25 November 2015 be deleted as it will not be necessary to register a servitude right of way;
2. that Condition 5 of the Council Resolution dated 30 March 2016 be deleted as it will not be necessary to register a servitude right of way; and
3. that Condition 1 the of Council Resolution dated 25 November 2015 be amended to stipulate as follows:

*that the transfer of a portion of Erf 4771 adjacent to Erf 4075, Hermanus (Voëlklip), $\pm 205\text{m}^2$ in extent, for gardening purposes and the erection of retaining walls for the boundary wall, to Mr Paul Mark and Mrs Beverley Lewin for the amount of R1,509.00/m² (ONE THOUSAND FIVE HUNDRED AND NINE RAND ALONE PER SQUARE METER) (VAT excluded), **be approved.***

RESPONSIBLE OFFICIAL :	A LE ROUX
TARGET DATE FOR IMPLEMENTATION:	9 MARCH 2018
TARGET DATE TO INFORM APPLICANT:	30 APRIL 2018
TARGET DATE TO INFORM OBJECTOR:	N/A

5.6

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR JANUARY 2018**

**(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING : 28 FEBRUARY
2018)**

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for January 2018, **be noted**; and
2. that the awards made in terms of Paragraph 16(1)(b) and 17(1)(c), approved in terms of the delegated authority for January 2018, **be noted**.

RESPONSIBLE OFFICIAL :**C LE ROUX****TARGET DATE FOR IMPLEMENTATION :****TO BE NOTED**

5.7

REPORT ON THE PROPOSED 2nd ADJUSTMENTS BUDGET FOR 2017/2018**(ITEM 6, PAGE 6 : MAYORAL COMMITTEE MEETING : 28 FEBRUARY 2018)****RECOMMENDATION TO THE COUNCIL:**

1. that, in terms of section 28(2)(b) to (g) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), the 2nd Adjustments Budget for 2017/2018 **be approved** as set out in the following schedules:

- Schedule 1:** Budgeted financial performance (revenue & expenditure by municipal vote)
- Schedule 2:** Budgeted financial performance (revenue by source & expenditure by type)
- Schedule 3:** Budgeted multi-year capital appropriations by standard classification (vote) and associated funding by source
- Schedule 4:** Budgeted financial position
- Schedule 5:** Budgeted cash flow
- Schedule 6:** Cash backed reserves and acc. surplus reconciliation
- Schedule 7:** Asset management
- Schedule 8:** Basic service delivery measurement

2. that the following schedules be noted:

- Schedule 9:** Budgeted financial performance (revenue & expenditure by standard classification)
- Schedule 10:** Budgeted capital appropriations by municipal vote

RESPONSIBLE OFFICIAL :**BA KING****TARGET DATE FOR IMPLEMENTATION :****28 FEBRUARY 2018**

5.8

**REVISED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)
FOR 2017/18****(ITEM 7, PAGE 101 : MAYORAL COMMITTEE MEETING :
28 FEBRUARY 2018)****RECOMMENDATION TO THE COUNCIL:**

1. that the revised SDBIP for 2017/18 **be approved**;
2. that the amendments to the Departmental and Top Layer SDBIP for 2017/18 **be approved**; and
3. that the revised SDBIP for 2017/18 **be made public**.

RESPONSIBLE OFFICIAL :**R LOUW****TARGET DATE FOR IMPLEMENTATION :****5 MARCH 2018**

6. CONSIDERATION OF REPORTS**6.1
ELECTION OF EXECUTIVE MAYOR****3/2/2/1****H van Tonder
20 February 2018****(028) 313 8037****Council Support Services**

1. Executive Summary

The purpose of the report is to grant Council an opportunity to elect an Executive Mayor.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Part 2 of Chapter 4 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) (Structures Act)
- Overstrand Municipality Third Establishment Amendment Notice, Notice no. 189/2003 dated 28 May 2003 (Third Amendment Notice)
- Code of Conduct for Councillors: Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

6. Discussion

Section 55 of the Structures Act read with the Overstrand Municipality Third Establishment Amendment Notice provides for an Executive Mayor to be elected if a vacancy occurs.

Section 56 to 59 of the Structures Act bears reference to the Executive Mayor.

The procedure to be followed for the election of an Executive Mayor is embodied in Schedule 3 of the Structures Act.

The Municipality's Third Amendment Notice provides that the Municipality may designate the Executive Mayor as a full-time councillor.

Item 8 of the Code of Conduct provides as follows:

"A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld."

Should recommendation 3 be adopted and the Executive Mayor to be elected is undertaking any other paid work, Council must consider **granting approval** for same.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A : Section 55 to 59 of the Structures Act

Annexure B : Schedule 3 of the Structures Act

Annexure C : Overstrand Municipality Third Establishment Amendment Notice

Annexure D : Nomination Form: Election of Executive Mayor

RECOMMENDATION TO THE COUNCIL:

1. that an Executive Mayor **be elected**;
2. that the Executive Mayor **be designated** as full-time Councillors in terms of Section 3 of the Overstrand Municipality (WC032) Third Establishment Amendment Notice, PN 189/2003 dated 28 May 2003; and
3. that, should recommendation 3 be adopted and the Executive Mayor to be elected is undertaking any other paid work, Council considers **granting approval** for same.

RESPONSIBLE OFFICIAL:

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION:

28 FEBRUARY 2018

Annexure A
1/3

55. Election of executive mayors.—(1) If a municipal council chooses to have an executive mayor it must elect an executive mayor and, if the MEC for local government in the province so approves, also an executive deputy mayor, from among its members at a meeting that must be held—

- (a) within 14 days after the council's election;
- (b) if it is a district council, within 14 days after the last of the local councils has appointed its representatives to the district council; or
- (c) within 14 days after the date with effect from which the type of the municipality has been changed from any of those mentioned in section 8 (a), (b), (c) or (d), 9 (a), (b), (e) or (f) or 10 (a) or (c) to any of those mentioned in section 8 (e), (f), (g) or (h), 9 (c) or (d) or 10 (b).

[Sub-s. (1) substituted by s. 4 of Act No. 1 of 2003.]

Wording of Sections

(2) A vacancy in the office of executive mayor or executive deputy mayor must be filled when necessary.

(3) The procedure set out in Schedule 3 applies to the election of an executive mayor and executive deputy mayor.

56. Functions and powers of executive mayors.—(1) An executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers.

(2) The executive mayor must—

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority;
- (c) recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
- (d) recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

(3) The executive mayor in performing the duties of office, must—

- (a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2) (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
- (b) evaluate progress against the key performance indicators;
- (c) review the performance of the municipality in order to improve—
 - (i) the economy, efficiency and effectiveness of the municipality;
 - (ii) the efficiency of credit control and revenue and debt collection services; and
 - (iii) the implementation of the municipality's by-laws;
- (d) monitor the management of the municipality's administration in accordance with the directions of the municipal council;
- (e) oversee the provision of services to communities in the municipality in a sustainable manner;

2/3

- (f) perform such duties and exercise such powers as the council may delegate to the executive mayor in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

[Para. (f) amended by s. 16 (a) of Act No. 51 of 2002.]

Wording of Sections

- (g) annually report on the involvement of communities and community organisations in the affairs of the municipality; and
- (h) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.
- (4) An executive mayor must perform a ceremonial role as the municipal council may determine.
- (5) An executive mayor must report to the municipal council on all decisions taken by the executive mayor.
- (6) The deputy executive mayor of a municipality exercises the powers and performs the duties of the executive mayor if the executive mayor is absent or not available or if the office of the executive mayor is vacant.
- (7) If the executive mayor is absent or not available and the municipality does not have a deputy executive mayor, or the deputy executive mayor is also absent or not available, the council must designate a councillor to act as executive mayor.

[Sub-s. (7) added by s. 16 (b) of Act No. 51 of 2002.]

57. Term of office of executive mayors.—(1) An executive mayor and a deputy executive mayor must be elected for a term ending, subject to sections 58 and 59, when—

- (a) the type of the municipality has been changed from any of those mentioned in section 8 (e), (f), (g) or (h), 9 (c) or (d) or 10 (b) to any of those mentioned in section 8 (a), (b), (c) or (d), 9 (a), (b), (e) or (f) or 10 (a) or (c); or
- (b) the next council is declared elected.

(2) (a) No person may hold office as executive mayor or both executive mayor and mayor for more than two consecutive terms in the same council.

(b) No person may hold office as deputy executive mayor or both deputy executive mayor and deputy mayor for more than two consecutive terms in the same council.

(c) If a person is elected—

- (i) to fill a vacancy in the office of executive mayor or deputy executive mayor, the period between that election and the next election of an executive mayor or deputy executive mayor is not regarded as a term; or
- (ii) as executive mayor or deputy executive mayor where the type of the municipality has been changed from any of those mentioned in section 8 (a), (b), (c) or (d), 9 (a), (b), (e) or (f) or 10 (a) or (c) to any of those mentioned in section 8 (e), (f), (g) or (h), 9 (c) or (d) or 10 (b) during the term of the municipal council concerned, the period between that election and the next election of an executive mayor or deputy executive mayor is not regarded as a term.

(3) An executive mayor whose two consecutive terms have expired as provided for in subsection (2) (a), may not immediately after the expiry be elected as deputy executive mayor.

[S. 57 substituted by s. 5 of Act No. 1 of 2003.]

Wording of Sections

58. Removal from office.—A municipal council, by resolution may remove its executive mayor or deputy executive mayor from office. Prior notice of an intention to move a motion for the removal of the executive mayor or deputy executive mayor must be given.

3/3

59. Vacation of office.—An executive mayor or deputy executive mayor vacates office during a term if that person—

- (a) resigns as executive mayor or deputy executive mayor;
- (b) is removed from office as executive mayor or deputy executive mayor; or
- (c) ceases to be a councillor.

Annexure B
1/1**Schedule 3**

[Schedule 3 amended by s. 34 of Act No. 51 of 2002.]

Wording of Sections

ELECTION OF MUNICIPAL OFFICE-BEARERS

1. Application.—The procedure set out in this Schedule applies whenever a municipal council meets to elect a speaker, an executive mayor, a deputy executive mayor, a mayor or a deputy mayor.

2. Nominations.—The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.

3. Formal requirements.—(1) A nomination must be made on the form determined by the municipal manager.

(2) The form on which a nomination is made must be signed by two members of the municipal council.

(3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

4. Announcement of names of candidates.—At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

5. Single candidate.—If only one candidate is nominated, the person presiding must declare that candidate elected.

6. Election procedure.—If more than one candidate is nominated—

- (a) a vote must be taken at the meeting by secret ballot;
- (b) each councillor present at the meeting may cast one vote; and
- (c) the person presiding must declare elected the candidate who receives majority of the votes.

7. Elimination procedure.—(1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.

(2) When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

8. Further meetings.—(1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.

(2) If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.

(3) If at the further meeting held in terms of subitem (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place.

[Subitem (3) added by s. 34 of Act No. 51 of 2002.]

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998
(ACT 117 OF 1998)

THE OVERSTRAND MUNICIPALITY (WCO32) THIRD ESTABLISHMENT AMENDMENT NOTICE

By virtue of the powers vested in me by section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended by the Local Government: Municipal Structures Amendment Act, 2000 (Act 33 of 2000), the Local Government: Municipal Structures Amendment Act, 2002 (Act 20 of 2002), Local Government Laws Amendment Act, 2002 (Act 51 of 2002) and the Local Government: Municipal Structures Amendment Act, 2003 (Act 1 of 2003), I hereby give notice of the third amendment of the Overstrand Municipality (WCO32) Establishment Notice, Provincial Notice 494 published in Provincial Gazette 5591 dated 22 September 2000 as previously amended in Provincial Notice 680 published in the Provincial Gazette Extraordinary No. 5643 dated 4 December 2000 and Provincial Notice 461 published in the Provincial Gazette Extraordinary No. 5969 dated 19 December 2002 on the terms set out in the Schedule hereto.

Dated this 28th day of May 2003.

J. J. DOWRY, PROVINCIAL MINISTER OF LOCAL GOVERNMENT

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
 _____ Words underlined with a solid line indicate insertions in existing enactments.

SCHEDULE

Amendment of section 1 of the principal Notice

1. Section 1 of the Schedule to the Overstrand Municipality Establishment Notice (hereafter referred to as the principal Notice) is hereby amended:—
- (1) by the deletion of the definition "collective executive system" in subsection (3), and
 - (2) by the insertion of the following subsections:—
 - “(13A) 'mayoral executive system' means a system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the Municipality is vested and who is assisted by a mayoral committee;”, and
 - “(22A) 'ward participatory system' means a system which allows for matters of local concern to wards to be dealt with by committees established for wards;”.

Amendment of section 6 of the principal Notice

2. Section 6 of the Schedule to the principal Notice is hereby amended by the substitution for section 6 of the following section:—

“Type

6. The Local Municipality is a municipality with a [collective] mayoral executive system combined with a ward participatory system as provided for in the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), as amended by the Western Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002).”.

Amendment of section 9 of the principal Notice

3. Section 9 of the Schedule to the principal Notice is hereby amended by the substitution for section 9 of the following section:—

“Full-time Councillors

9. The Local Municipality may designate the following councillors as full-time councillors:—
 - (a) the executive mayor;
 - (b) the members of the mayoral committee, and
 - (c) the speaker.”.

Insertion of section 25B to the text of the principal Notice

4. The Schedule to the principal Notice is hereby amended by the insertion of the following section after section 25A:—

“Executive Deputy Mayor

- 25B Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor.”.

Short title and commencement

5. This Notice is called the Overstrand Municipality Third Establishment Amendment Notice and comes into operation on 10 June 2003.

Annexure D
1/1



NOMINATION FORM: ELECTION OF EXECUTIVE MAYOR

We, the undersigned, hereby nominate the following Councillor:

FULL NAME OF NOMINEE:

Signed at Hermanus this day of20....

NAME OF NOMINATOR:

Nominator 1: Name:

Signature:

Nominator 2: Name:

Signature:

I, the undersigned, hereby accept the nomination/do not accept the nomination. *

Signed at Hermanus this day of20....

.....

SIGNATURE OF NOMINEE

**Delete that which is not applicable*

6.2 ELECTION OF A DEPUTY EXECUTIVE MAYOR

3/2/2/1

H van Tonder
20 February 2018

(028) 313 8037

Council Support Services

1. Executive Summary

The purpose of the report is to grant Council an opportunity to elect a Deputy Executive Mayor.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Part 2 of Chapter 4 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) (Structures Act)
- Overstrand Municipality Third Establishment Amendment Notice, Notice no. 189/2003 dated 28 May 2003 (Third Amendment Notice)
- Code of Conduct for Councillors: Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

6. Discussion

Section 55 of the Structures Act read with the Overstrand Municipality Third Establishment Amendment Notice provides for a Deputy Executive Mayor to be elected if a vacancy occurs.

Section 56 to 59 of the Structures Act bears reference to the Deputy Executive Mayor.

The procedure to be followed for the election of a Deputy Executive Mayor is embodied in Schedule 3 of the Structures Act.

The Municipality's Third Amendment Notice provides that the Municipality may designate the Deputy Executive Mayor as a full-time councillor.

Item 8 of the Code of Conduct provides as follows:

"A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld."

Should recommendation 3 be adopted and the Deputy Executive Mayor to be elected is undertaking any other paid work, Council must consider **granting approval** for same.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A : Section 55 to 59 of the Structures Act

Annexure B : Schedule 3 of the Structures Act

Annexure C : Overstrand Municipality Third Establishment Amendment Notice

Annexure D : Nomination Form: Election of Deputy Executive Mayor

RECOMMENDATION TO THE COUNCIL:

1. that a Deputy Executive Mayor **be elected**;
2. that the Deputy Executive Mayor **be designated** as a full-time Councillor in terms of Section 3 of the Overstrand Municipality (WC032) Third Establishment Amendment Notice, PN 189/2003 dated 28 May 2003; and
3. that, should recommendation 3 be adopted and the Deputy Executive Mayor to be elected is undertaking any other paid work, Council considers **granting approval** for same.

RESPONSIBLE OFFICIAL:

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION:

28 FEBRUARY 2018

Annexure A
1/3

55. Election of executive mayors.—(1) If a municipal council chooses to have an executive mayor it must elect an executive mayor and, if the MEC for local government in the province so approves, also an executive deputy mayor, from among its members at a meeting that must be held—

- (a) within 14 days after the council's election;
- (b) if it is a district council, within 14 days after the last of the local councils has appointed its representatives to the district council; or
- (c) within 14 days after the date with effect from which the type of the municipality has been changed from any of those mentioned in section 8 (a), (b), (c) or (d), 9 (a), (b), (e) or (f) or 10 (a) or (c) to any of those mentioned in section 8 (e), (f), (g) or (h), 9 (c) or (d) or 10 (b).

[Sub-s. (1) substituted by s. 4 of Act No. 1 of 2003.]

Wording of Sections

(2) A vacancy in the office of executive mayor or executive deputy mayor must be filled when necessary.

(3) The procedure set out in Schedule 3 applies to the election of an executive mayor and executive deputy mayor.

56. Functions and powers of executive mayors.—(1) An executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayor's delegated powers.

(2) The executive mayor must—

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority;
- (c) recommend to the municipal council strategies, programmes and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
- (d) recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

(3) The executive mayor in performing the duties of office, must—

- (a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2) (c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;
- (b) evaluate progress against the key performance indicators;
- (c) review the performance of the municipality in order to improve—
 - (i) the economy, efficiency and effectiveness of the municipality;
 - (ii) the efficiency of credit control and revenue and debt collection services; and
 - (iii) the implementation of the municipality's by-laws;
- (d) monitor the management of the municipality's administration in accordance with the directions of the municipal council;
- (e) oversee the provision of services to communities in the municipality in a sustainable manner;

2/3

- (f) perform such duties and exercise such powers as the council may delegate to the executive mayor in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

[Para. (f) amended by s. 16 (a) of Act No. 51 of 2002.]

Wording of Sections

- (g) annually report on the involvement of communities and community organisations in the affairs of the municipality; and
- (h) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.
- (4) An executive mayor must perform a ceremonial role as the municipal council may determine.
- (5) An executive mayor must report to the municipal council on all decisions taken by the executive mayor.
- (6) The deputy executive mayor of a municipality exercises the powers and performs the duties of the executive mayor if the executive mayor is absent or not available or if the office of the executive mayor is vacant.
- (7) If the executive mayor is absent or not available and the municipality does not have a deputy executive mayor, or the deputy executive mayor is also absent or not available, the council must designate a councillor to act as executive mayor.

[Sub-s. (7) added by s. 16 (b) of Act No. 51 of 2002.]

57. Term of office of executive mayors.—(1) An executive mayor and a deputy executive mayor must be elected for a term ending, subject to sections 58 and 59, when—

- (a) the type of the municipality has been changed from any of those mentioned in section 8 (e), (f), (g) or (h), 9 (c) or (d) or 10 (b) to any of those mentioned in section 8 (a), (b), (c) or (d), 9 (a), (b), (e) or (f) or 10 (a) or (c); or
- (b) the next council is declared elected.

(2) (a) No person may hold office as executive mayor or both executive mayor and mayor for more than two consecutive terms in the same council.

(b) No person may hold office as deputy executive mayor or both deputy executive mayor and deputy mayor for more than two consecutive terms in the same council.

(c) If a person is elected—

- (i) to fill a vacancy in the office of executive mayor or deputy executive mayor, the period between that election and the next election of an executive mayor or deputy executive mayor is not regarded as a term; or
- (ii) as executive mayor or deputy executive mayor where the type of the municipality has been changed from any of those mentioned in section 8 (a), (b), (c) or (d), 9 (a), (b), (e) or (f) or 10 (a) or (c) to any of those mentioned in section 8 (e), (f), (g) or (h), 9 (c) or (d) or 10 (b) during the term of the municipal council concerned, the period between that election and the next election of an executive mayor or deputy executive mayor is not regarded as a term.

(3) An executive mayor whose two consecutive terms have expired as provided for in subsection (2) (a), may not immediately after the expiry be elected as deputy executive mayor.

[S. 57 substituted by s. 5 of Act No. 1 of 2003.]

Wording of Sections

58. Removal from office.—A municipal council, by resolution may remove its executive mayor or deputy executive mayor from office. Prior notice of an intention to move a motion for the removal of the executive mayor or deputy executive mayor must be given.

3/3

59. Vacation of office.—An executive mayor or deputy executive mayor vacates office during a term if that person—

- (a) resigns as executive mayor or deputy executive mayor;
- (b) is removed from office as executive mayor or deputy executive mayor; or
- (c) ceases to be a councillor.

Annexure B
1/1**Schedule 3**

[Schedule 3 amended by s. 34 of Act No. 51 of 2002.]

Wording of Sections

ELECTION OF MUNICIPAL OFFICE-BEARERS

1. Application.—The procedure set out in this Schedule applies whenever a municipal council meets to elect a speaker, an executive mayor, a deputy executive mayor, a mayor or a deputy mayor.

2. Nominations.—The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.

3. Formal requirements.—(1) A nomination must be made on the form determined by the municipal manager.

(2) The form on which a nomination is made must be signed by two members of the municipal council.

(3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

4. Announcement of names of candidates.—At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

5. Single candidate.—If only one candidate is nominated, the person presiding must declare that candidate elected.

6. Election procedure.—If more than one candidate is nominated—

- (a) a vote must be taken at the meeting by secret ballot;
- (b) each councillor present at the meeting may cast one vote; and
- (c) the person presiding must declare elected the candidate who receives majority of the votes.

7. Elimination procedure.—(1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.

(2) When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

8. Further meetings.—(1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.

(2) If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.

(3) If at the further meeting held in terms of subitem (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place.

[Subitem (3) added by s. 34 of Act No. 51 of 2002.]

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998
(ACT 117 OF 1998)

THE OVERSTRAND MUNICIPALITY (WCO32) THIRD ESTABLISHMENT AMENDMENT NOTICE

By virtue of the powers vested in me by section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended by the Local Government: Municipal Structures Amendment Act, 2000 (Act 33 of 2000), the Local Government: Municipal Structures Amendment Act, 2002 (Act 20 of 2002), Local Government Laws Amendment Act, 2002 (Act 51 of 2002) and the Local Government: Municipal Structures Amendment Act, 2003 (Act 1 of 2003), I hereby give notice of the third amendment of the Overstrand Municipality (WCO32) Establishment Notice, Provincial Notice 494 published in Provincial Gazette 5591 dated 22 September 2000 as previously amended in Provincial Notice 680 published in the Provincial Gazette Extraordinary No. 5643 dated 4 December 2000 and Provincial Notice 461 published in the Provincial Gazette Extraordinary No. 5969 dated 19 December 2002 on the terms set out in the Schedule hereto.

Dated this 28th day of May 2003.

J. J. DOWRY, PROVINCIAL MINISTER OF LOCAL GOVERNMENT

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
 _____ Words underlined with a solid line indicate insertions in existing enactments.

SCHEDULE

Amendment of section 1 of the principal Notice

1. Section 1 of the Schedule to the Overstrand Municipality Establishment Notice (hereafter referred to as the principal Notice) is hereby amended:—
- (1) by the deletion of the definition "collective executive system" in subsection (3), and
 - (2) by the insertion of the following subsections:—
 - “(13A) 'mayoral executive system' means a system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the Municipality is vested and who is assisted by a mayoral committee;”, and
 - “(22A) 'ward participatory system' means a system which allows for matters of local concern to wards to be dealt with by committees established for wards;”.

Amendment of section 6 of the principal Notice

2. Section 6 of the Schedule to the principal Notice is hereby amended by the substitution for section 6 of the following section:—

“Type

6. The Local Municipality is a municipality with a **[collective]** mayoral executive system combined with a ward participatory system as provided for in the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), as amended by the Western Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002).”.

Amendment of section 9 of the principal Notice

3. Section 9 of the Schedule to the principal Notice is hereby amended by the substitution for section 9 of the following section:—

“Full-time Councillors

9. The Local Municipality may designate the following councillors as full-time councillors:—
- (a) the executive mayor;
 - (b) the members of the mayoral committee, and
 - (c) the speaker.”.

Insertion of section 25B to the text of the principal Notice

4. The Schedule to the principal Notice is hereby amended by the insertion of the following section after section 25A:—

“Executive Deputy Mayor

- 25B Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor.”.

Short title and commencement

5. This Notice is called the Overstrand Municipality Third Establishment Amendment Notice and comes into operation on 10 June 2003.

Annexure D

1/1



NOMINATION FORM: ELECTION OF DEPUTY EXECUTIVE MAYOR

We, the undersigned, hereby nominate the following Councillor:

FULL NAME OF NOMINEE:

Signed at Hermanus this day of20....

NAME OF NOMINATOR:

Nominator 1: Name:

Signature:

Nominator 2: Name:

Signature:

I, the undersigned, hereby accept the nomination/do not accept the nomination. *

Signed at Hermanus this day of20....

.....
SIGNATURE OF NOMINEE

**Delete that which is not applicable*

6.3 ANNOUNCEMENT OF MAYORAL COMMITTEE

3/2/3/4

H van Tonder
20 February 2018

(028) 313 8037

Council Support Services

1. Executive Summary

The purpose of this report is to grant the Executive Mayor the opportunity to announce his/her Mayoral Committee.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Not applicable. The executive mayor has original powers to appoint a mayoral committee.

5. Legal Requirements

- Section 60 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) (Structures Act)
- Section 160(8) of the Constitution of the Republic of South Africa, 1996 (Constitution)
- Section 4(2)(d) of the Overstrand Municipality Second Establishment Amendment Notice promulgated as per Provincial Notice PN 187/2002 dated 14 August 2002 (Second Establishment Notice)
- Overstrand Municipality Third Establishment Amendment Notice PN 189/2003 dated 28 May 2003 (Third Amendment Notice)
- Code of Conduct for Councillors: Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000)

6. Discussion

Section 60 of the Structures Act *inter alia* provides that an Executive Mayor must appoint a Mayoral Committee from among the Councillors to assist him/her.

Section 60 (2) furthermore *inter alia* provides that the Mayoral Committee must consist of the Deputy Executive Mayor and as many Councillors as may be necessary for effective and efficient government, provided that no more than 20 percent of the Councillors are appointed.

The aforementioned section 60(2) is ambiguous. The question arises whether a Deputy Executive Mayor is included or excluded in calculating the number of Councillors referred to in the said section. If the emphasis falls on the Deputy Executive Mayor, he/she should be included in the calculation. If the emphasis however falls on the Councillors to be appointed by the Executive Mayor, then the Deputy Executive Mayor should be excluded in the calculation.

The viewpoint of the former WECLOGO was that the Deputy Executive Mayor is in addition to the other Councillors and is not counted with these Councillors for purposes of determining the number. The state legal advisor (consulted by the Provincial Department of Local Government) holds an opposite and more conservative viewpoint, i.e. that the Deputy Executive Mayor must be counted for the purposes of determining the number.

Bearing the above in mind, it is suggested that the more conservative interpretation mentioned above, be followed. It thus follows that, apart from the Deputy Executive Mayor, who is in terms of the aforementioned interpretation regarded to be a member of the Mayoral Committee, no more than four (4) additional Councillors can be appointed on the Mayoral Committee.

Section 60(1) of the Structures Act furthermore provides for the Executive Mayor to appoint a Mayoral Committee from among the Councillors to assist him/her. Although section 160(8) of the Constitution provides for members of a Municipal Council to participate in Council's proceedings and those of its Committees in a manner that *inter alia* allows parties to be fairly represented, it should be borne in mind that the Mayoral Committee is appointed at the discretion of the Executive Mayor and he/she therefore need not include parties on a proportional basis. (Vide DA v Amos Masondo, No 2002, JOL 10476 (C.C.)).

The Municipality's Third Amendment Notice provides that the Municipality may designate members of the Mayoral Committee as full-time Councillors.

Item 8 of the Code of Conduct provides as follows:

"A Councillor who is a full-time Councillor may not undertake any other paid work except with the consent of a Municipal Council which consent shall not unreasonably be withheld."

Should recommendation 3 be adopted and the members of the Mayoral Committee to be designated are undertaking any other paid work, Council must consider granting approval for same.

The Executive Mayor will announce his/her Mayoral Committee members and the Portfolios they will be responsible for during the consideration of this item by Council.

7. Financial Implications

Members of the Mayoral Committee are regarded full time Councillors in terms of section 3 of the Second Establishment Notice and will receive remuneration as is provided for from time to time in terms of the Remuneration of Public Office Bearers Act, 1998 (Act No. 20 of 1998).

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A : Section 60 of the Structures Act

Annexure B : Section 160(8) of the Constitution

Annexure C : Overstrand Municipality Third Establishment Amendment Notice

RECOMMENDATION TO THE COUNCIL:

1. that the Executive Mayor's announcement of his/her Mayoral Committee and the Portfolio's they will be responsible for, **be noted**;
2. that the members of the Mayoral Committee **be designated** as full-time Councillors in terms of Section 3 of the Overstrand Municipality (WC032) Third Establishment Amendment Notice, PN 189/2003 dated 28 May 2003; and
3. that, should recommendation 2 be adopted and the members of the Mayoral Committee to be designated are undertaking any other paid work, Council considers **granting approval** for same.

RESPONSIBLE OFFICIAL:

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION:

28 FEBRUARY 2018

Annexure A
1/1

60. Mayoral committees.—(1) If a municipal council has more than nine members, its executive mayor—

- (a) must appoint a mayoral committee from among the councillors to assist the executive mayor;
- (b) may delegate specific responsibilities to each member of the committee;
- (c) may delegate any of the executive mayor's powers to the respective members; and
- (d) may dismiss a member of the mayoral committee.

(2) The mayoral committee must consist of the deputy executive mayor (if any) and as many councillors as may be necessary for effective and efficient government, provided that no more than 20 per cent of the councillors or 10 councillors, whichever is the least, are appointed.

(3) Those of the executive mayor's powers and functions as may be designated by the municipal council, must be exercised and performed by the executive mayor together with the other members of the mayoral committee.

(4) The members of a mayoral committee remain in office subject to subsection (5) and section 26, for the term of the executive mayor who appointed them.

(5) If the executive mayor vacates office, the mayoral committee appointed by that executive mayor dissolves.

Part 3: Metropolitan subcouncils

Annexure B
11

(8) Members of a Municipal Council are entitled to participate in its proceedings and those of its committees in a manner that—

- (a) allows parties and interests reflected within the Council to be fairly represented;
- (b) is consistent with democracy; and
- (c) may be regulated by national legislation.

28 Mei 2003

Provinsie Wes-Kaap: Provinsiale Koerant 6021

Annexure C

1/1

9

P.N. 189/2003

28 May 2003

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998
(ACT 117 OF 1998)

THE OVERSTRAND MUNICIPALITY (WCO32) THIRD ESTABLISHMENT AMENDMENT NOTICE

By virtue of the powers vested in me by section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended by the Local Government: Municipal Structures Amendment Act, 2000 (Act 33 of 2000), the Local Government: Municipal Structures Amendment Act, 2002 (Act 20 of 2002), Local Government Laws Amendment Act, 2002 (Act 51 of 2002) and the Local Government: Municipal Structures Amendment Act, 2003 (Act 1 of 2003), I hereby give notice of the third amendment of the Overstrand Municipality (WCO32) Establishment Notice, Provincial Notice 494 published in Provincial Gazette 5591 dated 22 September 2000 as previously amended in Provincial Notice 680 published in the Provincial Gazette Extraordinary No. 5643 dated 4 December 2000 and Provincial Notice 461 published in the Provincial Gazette Extraordinary No. 5969 dated 19 December 2002 on the terms set out in the Schedule hereto.

Dated this 28th day of May 2003.

J. J. DOWRY, PROVINCIAL MINISTER OF LOCAL GOVERNMENT

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
 _____ Words underlined with a solid line indicate insertions in existing enactments.

SCHEDULE

Amendment of section 1 of the principal Notice

1. Section 1 of the Schedule to the Overstrand Municipality Establishment Notice (hereafter referred to as the principal Notice) is hereby amended:—

- (1) by the deletion of the definition "collective executive system" in subsection (3), and
 (2) by the insertion of the following subsections:—

"(13A) '**mayoral executive system**' means a system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the Municipality is vested and who is assisted by a mayoral committee;" and

"(22A) '**ward participatory system**' means a system which allows for matters of local concern to wards to be dealt with by committees established for wards;"

Amendment of section 6 of the principal Notice

2. Section 6 of the Schedule to the principal Notice is hereby amended by the substitution for section 6 of the following section:—

"Type

6. The Local Municipality is a municipality with a [collective] mayoral executive system combined with a ward participatory system as provided for in the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), as amended by the Western Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002)."

Amendment of section 9 of the principal Notice

3. Section 9 of the Schedule to the principal Notice is hereby amended by the substitution for section 9 of the following section:—

"Full-time Councillors

9. The Local Municipality may designate the following councillors as full-time councillors:—

- (a) the executive mayor;
 (b) the members of the mayoral committee, and
 (c) the speaker."

Insertion of section 25B to the text of the principal Notice

4. The Schedule to the principal Notice is hereby amended by the insertion of the following section after section 25A:—

"Executive Deputy Mayor

25B Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor."

Short title and commencement

5. This Notice is called the Overstrand Municipality Third Establishment Amendment Notice and comes into operation on 10 June 2003.

6.4 REAPPOINTMENT OF COUNCILLORS ON PORTFOLIO COMMITTEES

3/2/3/5

H van Tonder
15 February 2018

(028) 313 8037

Council Support Services

1. Executive Summary

The purpose of the report is to grant Council an opportunity to reappoint Councillors on Portfolio Committees.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Section 79 and 80 of the Local Government: Municipal Structures Act, No 117 of 1998 (Structures Act)
- Section 160(8) of the Constitution of the Republic of South Africa, 1996 (Constitution)

6. Discussion

Council resolved on 24 January 2018 as follows:

RESOLVED (SUPPORTED BY 23 COUNCILLORS):

that Committees (so-called Portfolio Committees), in terms of section 80, read with section 79, of the Local Government : Municipal Structures Act, No 117 of 1998, **be reappointed** as follows:

Portfolio Committee :
Finance

Chairperson : Ald D Coetzee
Members : Cllrs G Cohen, K Brice,
S Tebele, X Msweli and B Molefe

Portfolio Committee :
Management Services

Chairperson : Cllr R de Coning
Members : Ald M Sapepa, Ald N Botha-Guthrie, Cllrs M Opperman and N Nqinata

Portfolio Committee :
Community Services

Chairperson : Cllr A Komani
Members : Ald N Botha-Guthrie, Cllrs L Ntsabo, V Pungupungu and S Kalolo

Portfolio Committee :
Protection Services

Chairperson : Cllr F Africa
Members : Cllrs K Brice, C May, V Macotha and S Kalolo

Portfolio Committee :
Economic Development & Tourism

Chairperson : Cllr E Gillion
Members : Cllrs F Krige, G Cohen, S Tebele and C Tafu-Nwonkwo

Portfolio Committee :
Infrastructure and Planning

Chairperson : Cllr D Botha
Members : Cllrs L Ntsabo, F Krige, S Tebele and V Pungupungu

Two new Councillors, to wit the newly elected Ward Councillor for Ward 13 and the filling of the vacancy on the Democratic Alliance's proportional list due to the passing of Ald R Smith, necessitate the reappointment of members to the Portfolio Committees.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A : Section 79 and 80 of the Structures Act

RECOMMENDATION TO THE COUNCIL:

1. that Committees (so-called Portfolio Committees), in terms of section 80, read with section 79, of the Local Government : Municipal Structures Act, No 117 of 1998, **be reappointed**; and
2. that a simple majority of members of any one of the Committees constitutes **a quorum**.

RESPONSIBLE OFFICIAL:**H VAN TONDER****TARGET DATE FOR IMPLEMENTATION:****28 FEBRUARY 2018**

Annexure A
1/1

79. Establishment.—(1) A municipal council may—

- (a) establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time.

(2) The municipal council—

- (a) must determine the functions of a committee;
- (b) may delegate duties and powers to it in terms of section 32;
- (c) must appoint the chairperson;
- (d) may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council;
- (e) may remove a member of a committee at any time; and
- (f) may determine a committee's procedure.

80. Committees to assist executive committee or executive mayor.—(1) If a municipal council has an executive committee or executive mayor, it may appoint in terms of section 79, committees of councillors to assist the executive committee or executive mayor.

(2) Such committees may not in number exceed the number of members of the executive committee or mayoral committee.

(3) The executive committee or executive mayor—

- (a) appoints a chairperson for each committee from the executive committee or mayoral committee;
- (b) may delegate any powers and duties of the executive committee or executive mayor to the committee;
- (c) is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and
- (d) may vary or revoke any decision taken by a committee, subject to any vested rights.

(4) Such a committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor.

6.5

APPOINTMENT OF MEMBERS: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)

3/2/3/7

H van Tonder

(028) 313 8037

Council Support Services

15 February 2018

1. Executive Summary

The purpose of this report is to appoint members to serve on the Municipal Public Accounts Committee (MPAC).

2. Service Delivery and Budget Implementation Plan - IGNITE

None

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Constitution of the Republic of South Africa, 1996 (Constitution)
- Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) (Structures Act)
- Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA)
- Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (Systems Act)

6. Background/Introduction/Discussion/Motivation/Proposal/Evaluation

Council resolved on 24 January 2018 as follows:

- “1. that the following members **be appointed** on the Municipal Public Accounts Committee:

Cllr K Brice, Ald N Botha-Guthrie, Cllrs G Cohen, S Tebele and B Molefe;

2. that Cllr S Tebele **be appointed** as Chairperson; and

3. that Cllr K Brice **be appointed** as **secundus** for the Chairperson.”

Paragraph 3.1 of the MPAC Charter provides as follows:

The MPAC comprises of five (5) Councillors excluding any Councillor who is serving as Executive Mayor or Deputy Executive Mayor, Speaker or a member of the Mayoral Committee.

Paragraph 4.3 of same provides as follows:

In deciding on the Chairperson, the Council may consider appointing Councillors from parties other than the majority parties in Council.

7. Financial Implications

The Chairperson of MPAC receives additional remuneration as is provided for annually in the Government Notice regarding the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that five (5) non-executive members for the Municipal Public Accounts Committee **be appointed**;
2. that a Chairperson **be appointed**; and
3. that a **secundus** for the Chairperson **be appointed**.

RESPONSIBLE OFFICIAL:

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION:

28 FEBRUARY 2018

**6.6
ESTABLISHMENT OF A DISCIPLINARY COMMITTEE FOR INVESTIGATION
REGARDING ANY ALLEGATION OF MISCONDUCT AGAINST A MEMBER OF
OVERSTRAND MUNICIPAL COUNCIL**

3/2/3/1

**H van Tonder
15 February 2018**

(028) 313 8037

Council Support Services

1. Executive Summary

The purpose of the report is to establish a Disciplinary Committee and to adopt further resolutions in this regard.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Local Government: Municipal Structures Act, No 117 of 1998 (Structures Act)
- Local Government: Municipal Systems Act, No 32 of 2000 (Systems Act)

6. Discussion

Item 14(1)(b) of the Code of Conduct for Councillors (Schedule 1 of the Systems Act) provides for the appointment of a Committee to investigate any contravention of or failure by Councillors to comply with any provision of the Code of Conduct for Councillors.

Besides the aforementioned, Council's By-law on Rules of Order for Internal Arrangements, 2015, as amended, also provide for the appointment of a Committee [*vide* Rule 10(3)] to investigate and make a finding on any breach by a Councillor with regard to the non-attendance of meetings [*vide* Rule 10(1)]. Likewise is paragraph 4 of the Procedure of Investigation regarding

any Allegation of Misconduct against a Member of the Overstrand Municipal Council relevant in this matter.

Regard should also be given to section 79 of the Structures Act.

The Chairperson of a Municipal Council (the Speaker) must *inter alia* ensure compliance in the Council and Council Committees with the Code of Conduct for Councillors and has specific duties as far as the policy with regard to the Procedure for Investigation regarding any Allegation of Misconduct against a Member of the Overstrand Municipal Council is concerned.

The current Disciplinary Committee consists of Ald D Coetzee as the Chairperson and Cllr A Komani as **secundus** for the Chairperson, with additional members: Cllrs A Komani, L Ntsabo, S Kalolo and X Msweli.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A : Code of Conduct for Councillors (Schedule 1 of the Systems Act)

Annexure B : Section 79 of Structures Act

Annexure C : Procedure for Investigation regarding any Allegation of Misconduct against a Member of the Overstrand Municipal Council

RECOMMENDATION TO THE COUNCIL:

1. that five (5) members of the Disciplinary Committee **be appointed**; and
2. that a **Chairperson** and his/her **secundi** be appointed for the Disciplinary Committee.

RESPONSIBLE OFFICIAL:

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION:

28 FEBRUARY 2018

Annexure A
115**Schedule 1****CODE OF CONDUCT FOR COUNCILLORS**

[Sch. 1 amended by ss. 45 and 46 of Act No. 51 of 2002 and by ss. 20 and 21 of Act No. 19 of 2008.]

Wording of Sections

Preamble.—Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality. In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Municipal Structures Act, the following Code of Conduct is established.

1. Definitions.—In this Schedule “partner” means a person who permanently lives with another person in a manner as if married.

2. General conduct of councillors.—A councillor must—

- (a) perform the functions of office in good faith, honestly and a transparent manner; and
- (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

3. Attendance at meetings.—A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when—

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
- (b) that councillor is required in terms of this Code to withdraw from the meeting.

4. Sanctions for non-attendance at meetings.—(1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:

- (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
- (b) failing to remain in attendance at such a meeting.

(2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 3, must be removed from office as a councillor.

(3) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

5. Disclosure of interests.—(1) A councillor must—

- (a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
- (b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor’s direct or indirect interest in the matter is trivial or irrelevant.

(2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.

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(3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

6. Personal gain.—(1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.

(2)

[Sub-item (2) deleted by s. 20 (a) of Act No. 19 of 2008.]

(3)

[Sub-item (3) deleted by s. 20 (a) of Act No. 19 of 2008.]

(4) No councillor may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

[Sub-item (4) added by s. 20 (b) of Act No. 19 of 2008.]

7. Declaration of interests.—(1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:

- (a) shares and securities in any company;
- (b) membership of any close corporation;
- (c) interest in any trust;
- (d) directorships;
- (e) partnerships;
- (f) other financial interests in any business undertaking;
- (g) employment and remuneration;
- (h) interest in property;
- (i) pension; and
- (j) subsidies, grants and sponsorships by any organisation.

(2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.

(3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1).

(4) The municipal council must determine which of the financial interests referred in subitem (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

8. Full-time councillors.—A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld.

9. Rewards, gifts and favours.—A councillor may not request, solicit or accept any reward, gift or favour for—

- (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
- (b) persuading the council or any committee in regard to the exercise of any power, function or duty;
- (c) making a representation to the council or any committee of the council; or

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- (d) disclosing privileged or confidential information.

10. Unauthorised disclosure of information.—(1) A councillor may not without the permission of the municipal council or a committee disclose any privileged or confidential information of the council or committee to any unauthorised person.

- (2) For the purpose of this item "privileged or confidential information" includes any information—

- (a) determined by the municipal council or committee to be privileged or confidential;
- (b) discussed in closed session by the council or committee;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of law.

(3) This item does not derogate from the right of any person to access to information in terms of national legislation.

11. Intervention in administration.—A councillor may not, except as provided by law—

- (a) interfere in the management or administration of any department of the municipal council unless mandated by council;
- (b) give or purport to give any instruction to any employee of the council except when authorised to do so;
- (c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
- (d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.

12. Council property.—A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.

12A. Councillor in arrears.—A councillor may not be in arrears to the municipality for rates and service charges for a period longer than 3 months.

[Item 12A inserted by s. 45 of Act No. 51 of 2002.]

13. Duty of chairpersons of municipal councils.—(1) If the chairperson of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the chairperson must—

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.

(2) A report in terms of subitem (1) (c) is open to the public.

(3) The chairperson must report the outcome of the investigation to the MEC for local government in the province concerned.

(4) The chairperson must ensure that each councillor when taking office is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.

14. Breaches of Code.—(1) A municipal council may—

- (a) investigate and make a finding on any alleged breach of a provision of this Code; or
- (b) establish a special committee—

- (i) to investigate and make a finding on any alleged breach of this Code; and
- (ii) to make appropriate recommendations to the council.

(2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may—

- (a) issue a formal warning to the councillor;
- (b) reprimand the councillor;
- (c) request the MEC for local government in the province to suspend the councillor for a period;
- (d) fine the councillor; and
- (e) request the MEC to remove the councillor from office.

(3) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of subitem (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the council.

(c) The council may within 14 days of receipt of the appeal referred to in paragraph (b) make any representation pertaining to the appeal to the MEC for local government in writing.

(d) The MEC for local government may, after having considered the appeal, confirm, set aside or vary the decision of the council and inform the councillor and the council of the outcome of the appeal.

(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation as to the appropriate sanction in terms of subitem (2) if a municipal council does not conduct an investigation contemplated in subitem (1) and the MEC for local government considers it necessary.

[Sub-item (4) substituted by s. 21 of Act No. 19 of 2008.]

(5) The Commissions Act, 1947 (Act No. 8 of 1947), or, where appropriate, applicable provincial legislation, may be applied to an investigation in terms of subitem (4).

[Sub-item (5) substituted by s. 46 of Act No. 51 of 2002.]

(6) If the MEC is of the opinion that the councillor has breached a provision of this Code, and that such contravention warrants a suspension or removal from office, the MEC may—

- (a) suspend the councillor for a period and on conditions determined by the MEC; or
- (b) remove the councillor from office.

(7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

15. Application of Code to traditional leaders.—(1) Items 1, 2, 5, 6, 9 (b) to (d), 10, 11, 12, 13 and 14 (1) apply to a traditional leader who participates or has participated in the proceedings of a municipal council in terms of section 81 of the Municipal Structures Act.

(2) These items must be applied to the traditional leader in the same way they apply to councillors.

(3) If a municipal council or a special committee in terms of item 14 (1) finds that a traditional leader has breached a provision of this Code, the council may—

- (a) issue a formal warning to the traditional leader; or
- (b) request the MEC for local government in the province to suspend or cancel the traditional leader's right to participate in the proceedings of the council.

(4) The MEC for local government may appoint a person or a committee to investigate any alleged breach of a provision of this Code and to make a recommendation on whether the right of the traditional

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leader to participate in the proceedings of the municipal council should be suspended or cancelled.

(5) The Commissions Act, 1947, may be applied to an investigation in terms of subitem (4).

(6) If the MEC is of the opinion that the traditional leader has breached a provision of this Code, and that such breach warrants a suspension or cancellation of the traditional leader's right to participate in the council's proceedings, the MEC may—

- (a) suspend that right for a period and on conditions determined by the MEC; or
- (b) cancel that right.

(7) Any investigation in terms of this item must be in accordance with the rules of natural justice.

(8) The suspension or cancellation of a traditional leader's right to participate in the proceedings of a council does not affect that traditional leader's right to address the council in terms of section 81 (3) of the Municipal Structures Act.

Annexure B
111**79. Establishment.**—(1) A municipal council may—

- (a) establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time.

(2) The municipal council—

- (a) must determine the functions of a committee;
- (b) may delegate duties and powers to it in terms of section 32;
- (c) must appoint the chairperson;
- (d) may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council;
- (e) may remove a member of a committee at any time; and
- (f) may determine a committee's procedure.

Annexure C
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PROCEDURE FOR INVESTIGATION REGARDING ANY ALLEGATION OF MISCONDUCT AGAINST A MEMBER OF OVERSTRAND MUNICIPAL COUNCIL

EMPOWERING PROVISIONS

Allegations of misconduct against Councillors are dealt with in Schedule 1, Code of Conduct for Councillors, of the Local Government: Municipal Systems Act, Act 32 of 2000 and the By-law on Rules of Order for Internal Arrangements, 2015, as amended.

STANDARD PROCEDURES

1. Whenever the Speaker becomes aware of any contravention of or failure to comply with any provision of the Code of Conduct as contained in Schedule 1 of the Local Government: Municipal Systems Act, Act 32 of 2000, he or she may of own volition, or whenever any allegation is made in a sworn or affirmed statement to the effect that a member of the council has contravened or failed to comply with any provision of the Code, he or she shall-
 - obtain the written comments of the member concerned; and
 - investigate the facts and circumstances informally.
2. If a member fails to furnish the Speaker with his or her comments within 14 days after being requested to do so by the Speaker or after such extension of time as permitted at the discretion of the Speaker, the Speaker may form his prima facie opinion without such comments.
3. If the Speaker is satisfied that a contravention or failure to comply has not prima facie occurred, he shall inform the person who made the allegation or statement and the member implicated of his or her decision.
4. If he or she is satisfied that a contravention or failure to comply has prima facie occurred, he or she shall call a meeting of the committee selected by the Council either in general or specifically for that purpose to consider the matter. Any member implicated in the matter shall not be entitled to serve in the committee.
5. The Speaker shall determine the procedure for the hearing of the matter, provided that the following rules be complied with-
 - (a) Any person giving evidence before the committee may be required to do so under oath or affirmation;
 - (b) The member implicated has the right to be present when any evidence is heard, except as set out in (e), and may ask relevant questions based on the statement to the person, as may the committee;
 - (c) The committee may ask questions from the member implicated;
 - (d) The member implicated will be entitled to representation by a legal representative or other representative approved by the committee as may any person appearing before the committee;

- (e) If the member implicated refuses to attend the meeting, does not attend the meeting or is instructed by the Speaker to leave because of his or her conduct at the meeting, the meeting may continue in the absence of such member;
 - (f) The Speaker and/or committee may be assisted during the proceedings by an official or other adviser;
 - (g) The member implicated will have the right to present evidence on the statements implicating him or her and to call witnesses;
 - (h) The committee may call witnesses to assist them in making a decision.
6. If the Speaker is implicated in any contravention of or failure to comply with the Code of Conduct, the functions in this procedure will be performed by the Mayor and if he or she is also implicated, then by a member appointed by Council.
 7. After consideration of all evidence the committee must make a finding whether the member contravened or failed to comply with the Code of Conduct and inform the person who made the allegation or statement and the member implicated of its finding.
 8. If the finding is that the member did contravene or fail to comply with the Code of Conduct, the committee must report its finding to Council and recommend an appropriate sanction.
 9. After deciding on the appropriate sanction by Council the Speaker must inform the member thereof and inform the member of his or her right of appeal in terms of the Code of Conduct.

Policy Section	Council Support Services
Current update	N/A
Previous review	N/A
Approval by Council	12 August 2016

6.7**APPOINTMENT OF COUNCILLORS ON SECTION 62 APPEALS COMMITTEE**

3/2/3/6

H van Tonder

(028) 313 8037

Council Support Services

15 February 2018

1. Executive Summary

The purpose of this report is to appoint Councillors on the Section 62 Appeals Committee.

2. Service Delivery and Budget Implementation Plan - IGNITE

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Section 62 of the Local Government: Municipal Systems Act, No 32 of 2000 (Systems Act)
- Section 79 of the Local Government: Municipal Structures Act, No 117 of 1998 (Structures Act)

6. Discussion

Section 62 of the Systems Act provides inter alia for a person whose rights are affected by a decision taken by a political structure, political office bearer or a Councillor to appeal to a Committee of Councillors who were not involved in the decision and appointed by the Municipal Council for this purpose.

Regard should also be given to section 79 of the Structures Act.

The function of the Committee shall be as provided for in section 62(3) of the Systems Act. It is recommended that five (5) Councillors be appointed on the Section 62 Appeals Committee.

Council resolved on 12 August 2016, *inter alia*, as follows:

“1. that a Section 62 Appeals Committee be established as follows:

Members : Ald A Coetsee, Cllrs D Botha, M Opperman, V Macotha and X Msweli;

2. that the Speaker, Ald A Coetsee, **be appointed** as Chairperson of the Section 62 Appeals Committee; and
3. that Cllr D Botha be appointed as **a secundus** for the Speaker as Chairperson of the Section 62 Appeals Committee.”

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A : Section 62 of the Systems Act

Annexure B : Section 79 of the Structures Act

RECOMMENDATION TO THE COUNCIL:

1. that members of the Section 62 Appeals Committee consist of five (5) Councillors;
2. that a **Chairperson** for the Section 62 Appeals Committee **be appointed**; and
3. that **a secundus** for the Chairperson of the Section 62 Appeals Committee **be appointed**.

RESPONSIBLE OFFICIAL:

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION:

28 FEBRUARY 2018

Annexure A
11

62. Appeals.—(1) A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of a municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the municipal manager within 21 days of the date of the notification of the decision.

(2) The municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).

(3) The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(4) When the appeal is against a decision taken by—

- (a) a staff member other than the municipal manager, the municipal manager is the appeal authority;
- (b) the municipal manager, the executive committee or executive mayor is the appeal authority, or, if the municipality does not have an executive committee or executive mayor, the council of the municipality is the appeal authority; or
- (c) a political structure or political office bearer, or a councillor—
 - (i) the municipal council is the appeal authority where the council comprises less than 15 councillors; or
 - (ii) a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority where the council comprises more than 14 councillors.

(5) An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.

(6) The provisions of this section do not detract from any appropriate appeal procedure provided for in any other applicable law.

[Sub-s. (6) added by s. 37 of Act No. 51 of 2002.]

Annexure B
11

79. Establishment.—(1) A municipal council may—

- (a) establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
- (b) appoint the members of such a committee from among its members; and
- (c) dissolve a committee at any time.

(2) The municipal council—

- (a) must determine the functions of a committee;
- (b) may delegate duties and powers to it in terms of section 32;
- (c) must appoint the chairperson;
- (d) may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council;
- (e) may remove a member of a committee at any time; and
- (f) may determine a committee's procedure.

7. URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER (IF ANY)

8. CONSIDERATION OF NOTICES OF MOTIONS / QUESTIONS

At the time of the closing of the agenda, no notices of motions/questions were received.

9. CONSIDERATION OF MOTIONS OF EXIGENCY (IF ANY)