



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

A G E N D A

I-AJENDA

DATE / DATUM / UMHLA : 27 JUNE / JUNIE / JUNI 2018

**VENUE / PLEK / INDAWO : BANQUETING HALL /
BANKETSAAL**

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

TIME / TYD / IXESHA : 11:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

22 June / Junie / Juni 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 **Banqueting Hall, Civic Centre, Hermanus**, on **WEDNESDAY, 27 JUNE 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 **Banketsaal, Burgersentrum, Hermanus**, op **WOENSDAG, 27 JUNIE 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 **Banqueting Hall, kwiZiko LoLUNTU, eHermanus** ngo**LWESITHATHU, Umhla we 27 JUNI 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, 30 May 2018 at 11:00

4. STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE SPEAKER / 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 27 June 2018 had formally sat.

5.1

RISK MANAGEMENT STRATEGY AND POLICY 2018/2019

(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 27 JUNE 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the Risk Management Strategy **be approved**; and
2. that the Risk Management Policy **be approved**;

RESPONSIBLE OFFICIAL :

A RIDDLES

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2018

5.2

COMBINED ASSURANCE POLICY FRAMEWORK 2018/2019

**(ITEM 2, PAGE 67 : MANAGEMENT SERVICES PORTFOLIO -
MAYORAL COMMITTEE MEETING : 27 JUNE 2018)**

RECOMMENDATION TO THE COUNCIL:

that the Combined Assurance Policy Framework **be approved.**

RESPONSIBLE OFFICIAL :

A RIDDLES

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2018

5.3

HERMANUS: IN PRINCIPLE APPROVAL FOR THE ALIENATION OF A PORTION OF THE REMAINDER OF ERF 4771 HERMANUS ADJACENT TO ERF 2737 HERMANUS TO BRUCE NEIL ROYDEN HUXTER

(ITEM 6, PAGE 94 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 27 JUNE 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the direct alienation of a portion of the remainder of Erf 4771 Hermanus, adjacent to Erf 2737 Hermanus, ($\pm 295,8\text{m}^2$ in extent) to the owner of the adjoining erf, Bruce Neil Royden Huxter, at an amount of R666.78/m² (SIX HUNDRED AND SIXTY SIX RAND AND SEVENTY EIGHT CENTS PER SQUARE METER)(VAT excluded) for safety and access purposes be **approved in principle**;
2. that it be noted that a condition for alienation will be that there will be no construction allowed on the subject portion of the remainder of Erf 4771 Hermanus besides a boundary fence or wall;
3. that Council take cognisance of the fact that the direct alienation is only possible as subject portion of the remainder of Erf 4771 Hermanus applied for can be classified as a non-viable property;
4. that the abovementioned approval in principle be subject to a public participation process being followed at the cost of the Applicant due to the non-viability of the property;
5. that it be noted that a condition for alienation will be that the subject portion of the remainder of Erf 4771 Hermanus must be consolidated with the adjoining property of BNR Huxter, being Erf 2737 Hermanus;
6. that the alienation of the subject portion of the remainder of Erf 4771 Hermanus, be subject to obtaining the necessary closure of public place, subdivision and consolidation and rezoning approvals;
7. that all the costs pertaining to the transaction, e.g. application cost, valuation cost, subdivision and consolidation, closure of public space, rezoning, transfer and related costs, advertisement, etc., be paid by the Applicant; and
8. that it is confirmed that Council has taken cognisance of the fact that the Municipal property herewith alienated is not required for the provision 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 :	N LIEBENBERG
TARGET DATE FOR IMPLEMENTATION :	PROCESS
TARGET DATE TO INFORM APPLICANT:	11 JULY 2018
TARGET DATE TO INFORM OBJECTOR:	N/A

5.4

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

(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING : 27 JUNE 2018)

RECOMMENDATION TO THE COUNCIL:

1. that the deviations from the procurement processes, approved in terms of the delegated authority for May 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 May 2018, **be noted**.

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

5.5

CONTRACT SC 1660A/2015: PROPOSED AMENDMENT: PROVISION OF MULTI-FUNCTIONAL OFFICE MACHINES TO OVERSTRAND MUNICIPALITY FOR A CONTRACT PERIOD ENDING 30 NOVEMBER 2018

(ITEM 6, PAGE 7 : MAYORAL COMMITTEE MEETING : 27 JUNE 2018)

RECOMMENDATION TO THE COUNCIL:

1. that **cognisance be taken** of the reasons for the proposed amendment of Contract number SC1660/2015A: Provision of Multi-functional Office Machines to Overstrand Municipality for a contract period ending 30 November 2018, in terms of the enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the amendment be consented to;
2. that **cognisance be taken** that no recommendations or representations were received from the local community by closing date, 21 May 2018;
3. that the contract be terminated on 30 November 2018 or an earlier date when the successful bidder appointed on tender no. SC 1870/2018 has replaced all the existing machines in use; and
4. that the contract be terminated on the completion of the section 33 process of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) in the event that the successful bidder appointed on tender SC 1870/2018 is Konica Minolta South Africa a Division of Bidvest Office (Pty) Ltd.

RESPONSIBLE OFFICIAL :**J VAN ASPEREN
C ROETS****TARGET DATE FOR IMPLEMENTATION :****1 JULY 2018**

5.6

CONTRACT SC 1601A/2015: PROPOSED AMENDMENT: PROVISION AND ADMINISTRATION OF ELECTRICITY PRE-PAYMENT VENDING SYSTEM FOR A CONTRACT PERIOD ENDING 30 JUNE 2018

(ITEM 7, PAGE 38 : MAYORAL COMMITTEE MEETING : 27 JUNE 2018)

RECOMMENDATION TO THE COUNCIL:

1. that **cognisance be taken** that no recommendations or representations were received from the local community by closing date, 18 June 2018; and
2. that **cognisance be taken** of the reasons for the proposed amendment of Contract number SC1601A/2015: Provision and Administration of Electricity Prepayment Vending System to Overstrand Municipality for a contract period ending 30 June 2019, in terms of the enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the amendment be consented to.

RESPONSIBLE OFFICIAL :**EM HOONEBERG****TARGET DATE FOR IMPLEMENTATION :****01 JULY 2018**

5.7

CONTRACT SC 1675A/2016: PROPOSED AMENDMENT: UPGRADE,
MAINTENANCE AND SUPPORT OF
OVERSTRAND MUNICIPALITY'S RADIO
FREQUENCY NETWORK FOR A CONTRACT
PERIOD ENDING 30 JUNE 2021

(ITEM 8, PAGE 48 : MAYORAL COMMITTEE MEETING : 27 JUNE 2018)

RECOMMENDATION TO THE COUNCIL:

1. that **cognisance be taken** of the reasons for the proposed amendment of SC1675A/2016: Upgrade, Maintenance and Support of Overstrand Municipality's Radio Frequency Network for a contract period ending 30 June 2021, in terms of the enabling provisions of Section 116(3) of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003), and that the amendment be consented to; and
2. that **cognisance be taken** that no recommendations or representations were received from the local community by closing date, 18 June 2018.

RESPONSIBLE OFFICIAL :

**C JOHNSON
C ROETS**

TARGET DATE FOR IMPLEMENTATION :

1 JULY 2018

6. CONSIDERATION OF REPORTS**6.1****DEED OF SETTLEMENT: CLLR C MAY**

3/2/3/1

H van Tonder
28 May 2018

(028) 313 8037

Corporate Head Office

1. Executive Summary

The purpose of this report is to afford Council the opportunity to take note and confirm a Deed of Settlement in respect of Cllr C May's failure to attend the Portfolio Committee meeting of 17 April 2018.

2. Service Delivery and Budget Implementation Plan Reference

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (the Systems Act).
- Overstrand Municipality's Standard By-law on Rules of Order for Internal Arrangements
- Procedure for investigation regarding any allegation of misconduct against a member of Overstrand Municipal Council

6. Discussion

Items 2, 3 and 4 of Schedule 1 of the Systems Act provides as follows:

"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 of 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. ...
3. ...”

Rules 9 and 10 of the Standard By-law on Rules of Order for Internal Arrangements provide as follows:

- “9(1) *A councillor must, before absenting himself or herself from a meeting, make an application to the Speaker by submitting a written application for leave by means of e-mail, facsimile or hard copy to the Speaker at least 72 hours before the meeting.*
- (2) *Upon receipt of the application referred to in sub rule (1) the Speaker must consider the application, and may, approve or reject the application. The Speaker must notify the councillor of his or her decision at least 24 hours before the meeting.*
- (3) *The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub rule (1).*
- (4) *The special circumstances referred to in sub rule (4) may include –*
- (a) *Illness of the councillor; or*

- (b) Illness or death in the family of the councillor.*
- (5) The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted must be entered into the minutes.*
- (6) If the Speaker rejects the application referred to in sub rule (1) he or she must provide a reason there for.*
- (7) Sub rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application a reference in those sub rules to the Speaker is regarded to be a reference to the Mayor.”*
- “10(1) Except for the instances contemplated in rule 9(4) and (5), a councillor is in breach of the rules if he or she without leave –*
- (a) absents himself or herself from a meeting;*
- (b) fails to be in attendance at the commencement of a meeting; or*
- (c) fails to remain in attendance until the end of a meeting.*
- (2) ...*
- (3) ...*
- (4) When the Speaker becomes aware of an alleged contravention of the code he or she must commence with a preliminary investigation. The Speaker must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach. If the Speaker is not satisfied that the reasons provided is compelling enough, then the Speaker must refer the matter to a Disciplinary Committee to investigate the allegations, and to report the outcome of the investigation to the Council. In the event that the accused member is a ward committee member, the Speaker may in his or her sole discretion decide, after conclusion of the preliminary investigation, whether the member should be removed or not.*
- (5) The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the Disciplinary committee.*
- (6) If Council finds that a councillor has breached the rules as contemplated in sub rule (1), the Council must fine the councillor in an amount equal to 10% of his or her monthly salary.*
- (7) ...*

(8) ...”

The duty of the Chairperson (Speaker) of the Council in so far as the Code of Conduct of Councillors is concerned, is embedded in Item 13 of the Code and reads as follows:

“13(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) ... “

Item 14 of the Code of Conduct of Councillors provides as follows:

“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.”*

The Disciplinary Committee of Council resolved as follows at a meeting held on Wednesday, 23 May 2018:

that the Deed of Settlement attached as Annexure A, **be accepted**.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexure

Annexure A : Deed of Settlement between the Disciplinary Committee of Council and Cllr C May

RECOMMENDATION TO THE COUNCIL:

1. that the Deed of Settlement between the Disciplinary Committee of Council and Cllr C May, attached as Annexure A, **be accepted**; and
2. that, in terms of Item 13(3) of the Code of Conduct for Councillors, a copy of Council's decision be forwarded to the Minister of Local Government, Environmental Affairs and Development Planning.

RESPONSIBLE OFFICIAL :

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION :

9 JULY 2018

Annexure A
1/2

In the matter between:

OVERSTRAND MUNICIPALITY**PLAINTIFF**

And

CLR. C.A. MAY**IMPLICATED CLR.**

DEED OF SETTLEMENT

I, **Clr. C.A. MAY**

1. Acknowledge that I failed to attend the Portfolio Committee Meeting on 17 April 2018.
2. I acknowledge furthermore that I was obliged to obtain leave of absence from the Speaker prior to the meeting, which I failed to do.
3. I accept therefore that I am guilty of contravening Item 3 of Schedule 1 to the Local Government : Municipal Systems Act, and that in terms of the Standing Rules of Council I will be sanctioned.
4. In order to expedite the matter I wish to make an offer of settlement on sanction, similar to the sanction that was accepted by Council for councillors who previously was found to be absent from a meeting for the first time. My offer is as follows :
 - 4.1 I accept responsibility and undertake to pay to the Overstrand Municipality an amount equal to 10% of one month's remuneration
 - 4.2 That the aforesaid offer to pay be suspended for a period of 12 months

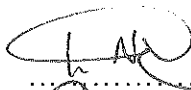
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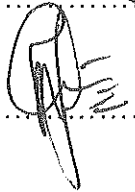
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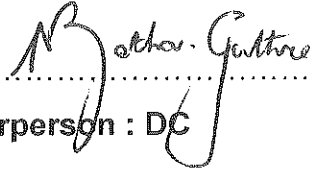
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2/2

AS WITNESSES:

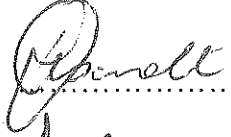
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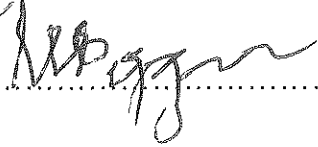
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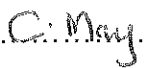


Chairperson : DC

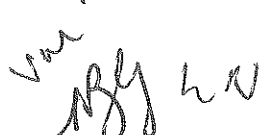
AS WITNESSES:

1. 

2. 



Clr C.A. May



6.2

DEED OF SETTLEMENT: CLLR J ORBAN

3/2/3/1

H van Tonder

(028) 313 8037

Corporate Head Office

28 May 2018

1. Executive Summary

The purpose of this report is to afford Council the opportunity to take note and confirm a Deed of Settlement in respect of Cllr J Orban's failure to attend the Portfolio Committee meeting of 17 April 2018.

2. Service Delivery and Budget Implementation Plan Reference

Not applicable

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

- Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (the Systems Act).
- Overstrand Municipality's Standard By-law on Rules of Order for Internal Arrangements
- Procedure for investigation regarding any allegation of misconduct against a member of Overstrand Municipal Council

6. Discussion

Items 2, 3 and 4 of Schedule 1 of the Systems Act provides as follows:

"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*
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5. *Sanctions for non-attendance of 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*
 - (c) *not attending a meeting which that councillor is required to attend in terms of item 3; or*
 - (d) *failing to remain in attendance at such a meeting.*
2. ...
3. ...”

Rules 9 and 10 of the Standard By-law on Rules of Order for Internal Arrangements provide as follows:

- “9(1) *A councillor must, before absenting himself or herself from a meeting, make an application to the Speaker by submitting a written application for leave by means of e-mail, facsimile or hard copy to the Speaker at least 72 hours before the meeting.*
- (2) *Upon receipt of the application referred to in sub rule (1) the Speaker must consider the application, and may, approve or reject the application. The Speaker must notify the councillor of his or her decision at least 24 hours before the meeting.*
 - (3) *The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub rule (1).*
 - (4) *The special circumstances referred to in sub rule (4) may include –*
 - (c) *Illness of the councillor; or*
 - (d) *Illness or death in the family of the councillor.*

- (5) *The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted must be entered into the minutes.*
- (6) *If the Speaker rejects the application referred to in sub rule (1) he or she must provide a reason there for.*
- (7) *Sub rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application a reference in those sub rules to the Speaker is regarded to be a reference to the Mayor.”*

“10(1) Except for the instances contemplated in rule 9(4) and (5), a councillor is in breach of the rules if he or she without leave –

(d) absents himself or herself from a meeting;

(e) fails to be in attendance at the commencement of a meeting; or

(f) fails to remain in attendance until the end of a meeting.

(2) ...

(3) ...

(4) *When the Speaker becomes aware of an alleged contravention of the code he or she must commence with a preliminary investigation. The Speaker must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach. If the Speaker is not satisfied that the reasons provided is compelling enough, then the Speaker must refer the matter to a Disciplinary Committee to investigate the allegations, and to report the outcome of the investigation to the Council. In the event that the accused member is a ward committee member, the Speaker may in his or her sole discretion decide, after conclusion of the preliminary investigation, whether the member should be removed or not.*

(5) *The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the Disciplinary committee.*

(6) *If Council finds that a councillor has breached the rules as contemplated in sub rule (1), the Council must fine the councillor in an amount equal to 10% of his or her monthly salary.*

(7) ...

(8) ...”

The duty of the Chairperson (Speaker) of the Council in so far as the Code of Conduct of Councillors is concerned, is embedded in Item 13 of the Code and reads as follows:

“13(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) ... “

Item 14 of the Code of Conduct of Councillors provides as follows:

“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.”*

The Disciplinary Committee of Council resolved as follows at a meeting held on Wednesday, 23 May 2018:

that the Deed of Settlement attached as Annexure A, **be accepted**.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexure

Annexure A : Deed of Settlement between the Disciplinary Committee of Council and Cllr J Orban

RECOMMENDATION TO THE COUNCIL:

1. that the Deed of Settlement between Disciplinary Committee of Council and Cllr J Orban, attached as Annexure A, **be accepted**; and
2. that, in terms of Item 13(3) of the Code of Conduct for Councillors, a copy of Council's decision be forwarded to the Minister of Local Government, Environmental Affairs and Development Planning.

RESPONSIBLE OFFICIAL :

H VAN TONDER

TARGET DATE FOR IMPLEMENTATION :

9 JULY 2018

Annexure A
1/2

In the matter between:

OVERSTRAND MUNICIPALITY

PLAINTIFF

And

CLR. J R ORBAN

IMPLICATED CLR.


DEED OF SETTLEMENT

I, **Clr. J R ORBAN**

1. Acknowledge that I failed to attend the Portfolio Committee Meeting on 17 April 2018.
2. I acknowledge furthermore that I was obliged to obtain leave of absence from the Speaker prior to the meeting, which I failed to do.
3. I accept therefore that I am guilty of contravening Item 3 of Schedule 1 to the Local Government : Municipal Systems Act, and that in terms of the Standing Rules of Council I will be sanctioned.
4. In order to expedite the matter I wish to make an offer of settlement on sanction, similar to the sanction that was accepted by Council for councillors who previously was found to be absent from a meeting for the first time. My offer is as follows :
 - 4.1 I accept responsibility and undertake to pay to the Overstrand Municipality an amount equal to 10% of one month's remuneration
 - 4.2 That the aforesaid offer to pay be suspended for a period of 12 months

DATED AT HERMANUS ON THIS 20 DAY OF April 2018.

JM.


 LN
 JRO
 LRO
 GC

2/2

AS WITNESSES:

1. L N J

2. [Signature]

 N. Althe-Guthrie
Chairperson : DC

AS WITNESSES:

1. [Signature]

2. [Signature]

 [Signature]
Clr J R Orban

 [Signature]
L N

6.3

ALLEGATIONS OF FINANCIAL MISCONDUCT: OFFICIAL EMPLOYED AT LOCAL ECONOMIC DEVELOPMENT, HERMANUS

This item was distributed under separate cover to Councillors for consideration.

In terms of Section 20(2) of the Local Government: Municipal Systems Act, No 32 of 2000, read with Rule 17 of the Overstrand Municipality's Standard By-law on Rules of Order for Internal Arrangements, this item must be considered "in committee".

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)