



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

**A G E N D A**

**I-AJENDA**

<b>DATE / DATUM / UMHLA :</b>	<b>29 NOVEMBER / NOVEMBA 2017</b>
<b>VENUE / PLEK / INDAWO :</b>	<b>BANQUETING HALL / BANKETSAAL CIVIC CENTRE / BURGERSENTRUM / IZIKO LOLUNTU HERMANUS</b>
<b>TIME / TYD / IXESHA :</b>	<b>11:00</b>

# **MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND**

Office of the Municipal  
Manager  
Municipal Offices  
HERMANUS

24 November / Novemba 2017

## **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, 29 NOVEMBER 2017** 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**

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## **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, 29 NOVEMBER 2017** 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**

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## **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 29 NOVEMBA 2017** 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, 25 October 2017** 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 29 November 2017 had formally sat.

**5.1**

**WRITING OFF OF IRRECOVERABLE DEBT**

**(ITEM 1, PAGE 1 : FINANCE PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

that the irrecoverable debt to the value of R511 216.02 as listed below, be written off as bad debt:

A	First time write off – Indigent Households	R 63 112.85
B	Indigent water leakages irrecoverable	R303 257.79
C	Final accounts equal or less than R1,500.00	R 3 463.76
D	Other irrecoverable Debt	R141 381.62
	<b>TOTAL</b>	<b><u>R511 216.02</u></b>

**RESPONSIBLE OFFICIAL :**

**EM HOONEBERG**

**TARGET DATE FOR IMPLEMENTATION :**

**08 DECEMBER 2017**

**5.2**

**DRAFT TIME AND ATTENDANCE POLICY**

**(ITEM 1, PAGE 1 : MANAGEMENT SERVICES PORTFOLIO -  
MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

that the Overstrand Municipality: Time and Attendance Policy **be adopted**.

**RESPONSIBLE OFFICIAL :**

**L BUCCHIANERI**

**TARGET DATE FOR IMPLEMENTATION :**

**NOVEMBER 2017**

## 5.3

**CODE OF ETHICS FOR MUNICIPAL STAFF****(ITEM 2, PAGE 9 : MANAGEMENT SERVICES PORTFOLIO -  
MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that the Code of Ethics for Municipal Staff **be approved**; and
2. that the Code of Ethics Roll-Out Plan **be noted**.

**RESPONSIBLE OFFICIAL :****A RIDDLES****TARGET DATE FOR IMPLEMENTATION :****3 JANUARY 2017**

**5.4****TRANSFER: OVERSTRAND MUNICIPALITY TO ELIZABETH JANE HANSEN:  
ERF 1082, HAWSTON****(ITEM 1, PAGE 1 : COMMUNITY SERVICES PORTFOLIO - MAYORAL  
COMMITTEE MEETING : 29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that the permission **be granted** to transfer of erf 1082, Hawston to Elizabeth Jane Hansen; and
2. that the aforementioned approval furthermore be subject to Elizabeth Jane Hansen accepting responsibility for the outstanding municipal services account in respect of erf 1082, Hawston.

**RESPONSIBLE OFFICIAL:****FW FRANS****TARGET DATE FOR IMPLEMENTATION:****01 JANUARY 2018**

**5.5****TRANSFER: OVERSTRAND MUNICIPALITY TO ISAK JACOBUS AND THERESA CATHERINA ALEXANDER : ERF 645, HAWSTON****(ITEM 2, PAGE 9 : COMMUNITY SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that permission be granted to transfer erf 645, Hawston to Isak Jacobus Alexander and Theresa Catherina Alexander;
2. that the aforementioned approval be subject to Isak Jacobus Alexander and Theresa Catherina Alexander accepting responsibility for the municipal services account;
3. that the aforementioned consent to transfer be subject to a usufruct being registered in favour of Mr Richard Alexander; and
4. that it be recommended to the Department of Human Settlements : Western Cape that the original beneficiary, namely Mr Richard Alexander, not be considered for future housing opportunities in the Overstrand.

**RESPONSIBLE OFFICIAL :****FW FRANS****TARGET DATE FOR IMPLEMENTATION :****01 JANUARY 2018**

## 5.6

**ERF 5553, 30 WALLERS ROAD, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA: AMENDMENT OF THE OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK : MESSRS PLAN ACTIVE ON BEHALF OF BETTYSBAAI JEUGSENTRUM**

**(ITEM 2, PAGE 26 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

that the application for the amendment of the Spatial Development Framework, 2006 in order to utilise Erf 5553, Betty's Bay for Community Facility (Frail Care Centre for Alzheimer and Dementia), in terms of the provisions of the Municipal Systems Act, 2000 (Act 32 of 2000), **be approved.**

**RESPONSIBLE OFFICIAL :****H VAN DER STOEP****TARGET DATE FOR IMPLEMENTATION :****13 DECEMBER 2017****TARGET DATE TO INFORM APPLICANT :****13 DECEMBER 2017****TARGET DATE TO INFORM OBJECTOR :****13 OCTOBER 2017**

## 5.7

**KLEINMOND: PORTION OF ERF 4812 KLEINMOND – MR PETER REIN:  
APPLICATION TO PURCHASE**

**(ITEM 3, PAGE 76 : INFRASTRUCTURE & PLANNING PORTFOLIO -  
MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

that the application of Mr Peter Rein to purchase a portion of Erf 4812 Kleinmond **not be approved** for the following reasons:

- a) the said municipal property will be needed to provide a basic service to the community; and
- b) the said municipal property is assigned for road purposes as per condition of the subdivision.

**RESPONSIBLE OFFICIAL:****N LIEBENBERG****TARGET DATE FOR IMPLEMENTATION:****N/A****TARGET DATE TO INFORM APPLICANT:****N/A****TARGET DATE TO INFORM OBJECTOR:****N/A**

## 5.8

**HERMANUS, APPLICATION BY THE MALAN FAMILY TRUST AND PELICAN TRUST TO PURCHASE A PORTION OF THE REMAINDER OF ERF 4771 HERMANUS, ADJACENT TO ERVEN 7149, 7617 & 7618 VOËLKLIP HERMANUS**

**(ITEM 4, PAGE 82 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

that the application to purchase a portion of the remainder of Erf 4771 Voëlkliip Hermanus (portion of Sixth Avenue) adjacent to Erf 7149 and Erven 7617 and 7618 Hermanus received from the Malan Family Trust and the Pelican Trust **not be approved** on the following reasons:

- (a) The applicants already have a guaranteed right of access over the portion of remainder of Erf 4771 Hermanus as it is a public road (extension of Sixth Avenue);
- (b) The applicants have adequate, uninterrupted, unrestricted access to their respective properties as the public is prevented from parking on the public road access by means of the bollards and no parking signage;
- (c) The Municipality currently has a sewerage works pipe line running diagonally across the road and the fencing off of this portion will disturb the Municipality's free access to the pipe line; and
- (d) Should future development in the adjacent area be envisaged in the form of much needed parking, the road could serve as an access road to the public area.

**RESPONSIBLE OFFICIAL:**

**N LIEBENBERG**

**TARGET DATE FOR IMPLEMENTATION:**

**N/A**

**TARGET DATE TO INFORM APPLICANT:**

**N/A**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

## 5.9

**HERMANUS: IN PRINCIPLE APPROVAL FOR THE DIRECT ALIENATION OF A PORTION OF ERF 1 HAWSTON ( $\pm 370\text{M}^2$  IN EXTENT) TO HAWSTON SERVICE STATION (PTY) LTD**

**(ITEM 5, PAGE 92 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the direct alienation of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$ ) in extent, to the owner of the adjoining erf, Hawston Service Station (Pty) Ltd, at a market related purchase price as determined by a registered valuer be **approved in principle**;
2. that it be noted that the direct alienation is possible as the subject portion of Erf 1 Hawston is classified as a non-viable property;
3. that, subject to the approval in 1. above, a public participation process be followed at the cost of the Applicant;
4. that it be noted that a condition for the alienation will be that the subject portion of Erf 1 Hawston be consolidated with the adjoining property of Hawston Service Station (Pty) Ltd, being Erf 412 Hawston;
5. that the alienation of a portion of Erf 1 Hawston furthermore be subject to a suspensive condition that the Applicant obtains approval for the road closure, subdivision, consolidation and rezoning of the portion of property;
6. that all the costs pertaining to the transaction, e.g. application fee, valuation costs, road closure, subdivision, consolidation, , rezoning, transfer and related costs, advertisements, etc., be paid by the Applicant; and
7. that it be noted that the municipal property herewith envisaged to be 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 :**

**W MURTZ**

**TARGET DATE FOR IMPLEMENTATION:**

**28 FEBRUARY 2017**

**TARGET DATE TO INFORM APPLICANT:**

**22 DECEMBER 2017**

**TARGET DATE TO INFORM OBJECTOR:**

**N/A**

**5.10****HERMANUS: TRANSFER OF ERF 189 ZWELIHLE ( $\pm 252\text{M}^2$  IN EXTENT) TO ST & S TYELINZIMA FOR RESIDENTIAL PURPOSES****(ITEM 9, PAGE 120 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that the transfer of Erf 189 Zwelihle (252m<sup>2</sup> in extent) to Samkelo Theophilus Tyelinzima and Sikelelwa Tyelinzima for the amount of R80,100.00 (EIGHTY THOUSAND ONE HUNDRED RAND ALONE) (VAT included) for residential purposes, **be approved**;
2. 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); and
3. that Samkelo Theophilus Tyelinzima and Sikelelwa Tyelinzima be responsible for all the cost pertaining to the advertisement of the transfer and all costs involved with the registration of the transfer in the Deeds Office.

**RESPONSIBLE OFFICIAL :****W MURTZ****TARGET DATE FOR IMPLEMENTATION :****28 FEBRUARY 2018****TARGET DATE TO INFORM APPLICANT :****22 DECEMBER 2017**

**5.11****APPOINTMENT OF MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL****(ITEM 10, PAGE 126 : INFRASTRUCTURE & PLANNING PORTFOLIO  
- MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that, in order for the Municipal Manager (Accounting Officer) to lodge appeals against resolutions of the Municipal Planning Tribunal and the Authorised Official, the Municipal Manager's membership of the Municipal Planning Tribunal be terminated forthwith;
2. that the Director : Infrastructure and Planning be appointed as Chairperson and the Director : Community Services as Deputy Chairperson of the Municipal Planning Tribunal; and
3. that the Director : Management Services be appointed as the fifth member of the Municipal Planning Tribunal.

**RESPONSIBLE OFFICIAL :****R KUCHAR****TARGET DATE FOR IMPLEMENTATION :****13 DECEMBER 2017**

## 5.12

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)  
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR OCTOBER 2017**

**(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING :  
29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for October 2017, **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 October 2017, **be noted**.

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

**5.13**

**AMENDMENTS TO THE 2017/2018 SUPPLY CHAIN MANAGEMENT POLICY**

**(ITEM 6, PAGE 7 : MAYORAL COMMITTEE MEETING :  
29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

that the amended Supply Chain Management Policy for 2017/2018 **be adopted.**

**RESPONSIBLE OFFICIAL :**

**C LE ROUX**

**TARGET DATE FOR IMPLEMENTATION :**

**1 DECEMBER 2017**

**5.14****WRITING OFF OF NON-TECHNICAL WATER AND ELECTRICITY LOSSES****(ITEM 7, PAGE 78 : MAYORAL COMMITTEE MEETING :  
29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that the non-technical electricity losses to the value of R4 002 006 for the 2016/17 financial year be written off; and
2. that the non-technical water losses to the value of R2 210 719 for the 2016/17 financial year be written off.

**RESPONSIBLE OFFICIAL :****BA KING****TARGET DATE FOR IMPLEMENTATION :****30 NOVEMBER 2017**

## 5.15

**RENEWAL OF THE LEASE AGREEMENT BETWEEN OVERSTRAND MUNICIPALITY (THE LESSEE) AND THE OVERBERG DISTRICT MUNICIPALITY (THE LESSOR) FOR THE LETTING OF A PORTION OF PORTION 79 (A PORTION OF PORTION 1) OF THE FARM AFDAKSRIVIER NO. 575**

**(ITEM 8, PAGE 85 : MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)**

**RECOMMENDATION TO THE COUNCIL:**

1. that Council takes cognisance of the response received from Overberg District Municipality to the request for comments, representations, views and recommendations in respect of the renewal of the lease agreement between Overstrand Municipality as the lessee and Overberg District Municipality in respect of a portion of Portion 79 (a portion of Portion 1) of the farm Afdakrivier no. 575, in terms of the enabling provisions of Section 33 of the Local Government: Municipal Finance Management Act 2003 (Act 56 of 2003);
2. that Council determines that Overstrand Municipality will secure a significant capital investment and derive a significant economic financial benefit from the renewal of the lease agreement;
3. that Council approves the renewed lease agreement; and
4. that Council authorises the Municipal Manager to sign a renewal of the lease agreement on behalf of Overstrand Municipality, if necessary.

**RESPONSIBLE OFFICIALS :**

**H BLIGNAUT  
J VAN TAAK**

**TARGET DATE FOR IMPLEMENTATION :**

**1 JULY 2017**

**TARGET DATE TO INFORM APPLICANT :**

**N/A**

**TARGET DATE TO INFORM OBJECTOR :**

**N/A**

## 5.16

**ADJUSTMENTS BUDGET 2017/2018 (WESTERN CAPE ADJUSTED ESTIMATES, 2017)****(ITEM 9, PAGE 125 : MAYORAL COMMITTEE MEETING : 29 NOVEMBER 2017)****RECOMMENDATION TO THE COUNCIL:**

1. that, in terms of section 28(2)(b) of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003), the Adjustments Budget (WC Provincial allocations and adjusted estimates) 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 :**

**30 NOVEMBER 2017**

## 5.17

**REVISED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)  
FOR 2017/18****(ITEM 10, PAGE 217 : MAYORAL COMMITTEE MEETING :  
29 NOVEMBER 2017)****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 :****4 DECEMBER 2017**

**6. CONSIDERATION OF REPORTS****6.1****DEED OF SETTLEMENT : CLLR B MOLEFE****3/2/3/1****H van Tonder****(028) 313 8037****Corporate Head Office****22 November 2017**

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**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 B Molefe's failure to attend the Portfolio Committee meeting of 22 May 2017.

**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 signing a leave form and delivering the completed leave form to the Municipal Manager at least 72 hours before the meeting.*
- (2) *The Municipal Manager must submit the application to the Speaker before the commencement of the meeting.*
- (3) *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.*
- (4) *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).*
- (5) *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.*
  - (6) *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.*
  - (7) *If the Speaker rejects the application referred to in sub rule (1) he or she must provide a reason there for.*
  - (8) *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, Ald A Coetsee (initiator) and Cllr B Molefe resolved as follows at a meeting held on Tuesday, 21 November 2017:

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 Overstrand Municipality and Cllr B Molefe

#### **RECOMMENDATION TO THE COUNCIL:**

1. that the Deed of Settlement between Overstrand Municipality and Cllr B Molefe, 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 :**

**4 DECEMBER 2017**

In the matter between:

**OVERSTRAND MUNICIPALITY**

**PLAINTIFF**

And

**CLR. B MOLEFE**

**IMPLICATED CLR.**

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**DEED OF SETTLEMENT**

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**I, Clr. B Molefe**

1. Acknowledge that I failed to attend the Portfolio Committee Meeting on 22 May 2017, as I was busy with my Exams.
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<sup>6</sup> months

X.M. S.V.  
L.N.  
A.S.

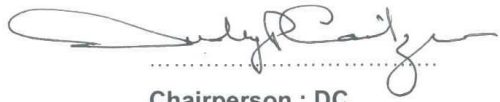
**DATED AT HERMANUS ON THIS 27 DAY OF September 2017.**

**AS WITNESSES:**

X.M. S.V. A.S. S.V. L.N.

1.  .....

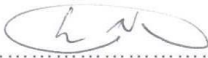
2.  .....



Chairperson : DC

**AS WITNESSES:**

1.  .....

2.  .....

  
Clr B Molefe

**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)**