

**AGENDA OF THE INAUGURAL MEETING OF THE COUNCIL 17 NOVEMBER 2021**

**6.  
ELECTION OF EXECUTIVE AND DEPUTY EXECUTIVE MAYOR**

**3/2/2/1**

**H van Tonder**

**Manager : Council Support Services**

**4 November 2021**

**(028) 313 8037**

**1. Executive Summary**

The purpose of the report is to grant Council an opportunity to elect an Executive Mayor and 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 7 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

**6. Discussion**

Section 55 of the Structures Act read with the Overstrand Municipality Third Establishment Amendment Notice provides for an Executive Mayor and Deputy Executive Mayor to be elected within 14 days after the Council's election.

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

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

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The Municipality's Third Amendment Notice provides that the Municipality may designate the Executive Mayor and Deputy Executive Mayor 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 Executive Mayor and Deputy Executive Mayor to be elected are 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

Annexure E : Nomination Form: Election of Deputy Executive Mayor

### RECOMMENDATION TO THE COUNCIL:

1. that an Executive Mayor **be elected**;
2. that a Deputy Executive Mayor **be elected**;
3. that the Executive Mayor and Deputy 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
4. that, should recommendation 3 be adopted and the Executive Mayor and Deputy Executive Mayor to be elected are undertaking any other paid work, Council considers **granting approval** for same.

**AGENDA OF THE INAUGURAL MEETING OF THE COUNCIL 17 NOVEMBER 2021****RESPONSIBLE OFFICIAL:****H VAN TONDER****TARGET DATE FOR IMPLEMENTATION:****17 NOVEMBER 2021**

**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) or 10 (a) 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. Para. (c) amended by s. 32 of Act No. 3 of 2021 with effect from 1 November, 2021.]

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 council referred to in section 80, 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.

[Sub-s. (1) substituted by s. 26 of Act No. 3 of 2021 with effect from 1 November, 2021.]

Wording of Sections

(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;
- (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) or 10 (a); or  
 [Para. (a) amended by s. 32 of Act No. 3 of 2021 with effect from 1 November, 2021.]  
Wording of Sections
- (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) or 10 (a) 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.

[Sub-para. (ii) amended by s. 32 of Act No. 3 of 2021 with effect from 1 November, 2021.]  
Wording of Sections

(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.]

**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.

**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.

SCHEDULE 3

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.

**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 whip, 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.]

28 Mei 2003

Provinsie Wes-Kaap: Provinsiale Koerant 6021

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.



Annexure D  
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**NOMINATION FORM: ELECTION OF EXECUTIVE MAYOR**

We, the undersigned, hereby nominate the following Councillor:

**FULL NAME OF NOMINEE:** .....

Signed at Hermanus this ..... day of .....20....

**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 of .....20....

.....

**SIGNATURE OF NOMINEE**

*\*Delete that which is not applicable*



Annexure E  
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**NOMINATION FORM: ELECTION OF DEPUTY EXECUTIVE MAYOR**

We, the undersigned, hereby nominate the following Councillor:

**FULL NAME OF NOMINEE:** .....

Signed at Hermanus this ..... day of .....20....

**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 of .....20....

.....

**SIGNATURE OF NOMINEE**

*\*Delete that which is not applicable*