

AGENDA OF THE INAUGURAL MEETING OF THE COUNCIL 17 NOVEMBER 2021

9. ANNOUNCEMENT OF MAYORAL COMMITTEE

3/2/3/4

**H van Tonder
4 November 2021**

Manager : Council Support Services

(028) 313 8037

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 7 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

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

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be necessary for effective and efficient government, provided that no more than 20 percent of the Councillors are appointed.

It thus follows that, apart from the Deputy Executive Mayor, who is to be a member of the Mayoral Committee, no more than five (5) additional Councillors can be appointed on the Mayoral Committee (20% of 27 = 5,4).

Section 4(2)(d) of the Second Establishment Notice provides *inter alia* that the appointment of the Mayoral Committee must be an item on the first meeting of Council.

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

Item 9 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.

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

AGENDA OF THE INAUGURAL MEETING OF THE COUNCIL 17 NOVEMBER 2021**RECOMMENDATION TO THE COUNCIL:**

1. that the Executive Mayor **be afforded** the opportunity to announce his/her Mayoral Committee;
2. that the Executive Mayor **indicates** which Portfolios will be handled by the individual members of the Mayoral Committee;
3. 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
4. that, should recommendation 3 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:****17 NOVEMBER 2021**

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.

(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.

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.