

10.**DECLARATION OF INTERESTS : COUNCILLORS, MUNICIPAL MANAGER AND DIRECTORS**

2/1

S Reyneke-Naudé
4 November 2021**Director : Finance****(028) 313 8074**

1. Executive Summary

The purpose of the report is for Council to consider the provisions of Item 8 of Schedule 7 of the Local Government: Municipal Structures Act, No 117 of 1998 and Item 5A of Schedule 2 of the Local Government: Municipal Systems Act, No 32 of 2000.

2. Service Delivery and Budget Implementation Plan - IGNITE

Office of the Municipal Manager

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)
 Local Government: Municipal Finance Management Act, No 56 of 2003 (MFMA)
 Overstrand Municipality: Supply Chain Management Policy

6. Background/Discussion/Evaluation/Conclusion

Item 8 of Schedule 7 of the Structures Act provides as follows:

“8 (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by the 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 sub item (1).*
- (4) *The municipal council must determine which of the financial interests referred in sub item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.”*

Item 5A of Schedule 2 of the Systems Act provides as follows:

- “5A (1) *A person appointed in terms of section 56 or a municipal manager must within 60 days after his or her appointment declare in writing to the chairperson of the municipal council the following interests held by that person or municipal manager:*
- (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) *interest in property; and*
 - (h) *subsidies, grants and sponsorships by any organisation.*
- (2) *any change in the nature or detail of the financial interests of a staff member must be declared in writing quarterly to the chairperson of the municipal council.*
- (3) *The municipal council must determine which of the financial interests referred to in sub item (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.”*

In both the abovementioned instances it is for the Council to determine which of the financial interests referred to must be made public, having regard to the need for confidentiality and the public interest for disclosure.

Paragraph 44 of the Municipality’s Supply Chain Management Policy, which policy was drafted in accordance with the MFMA, Municipal Supply Chain Management Regulations published under GN 868 dated 30 May 2005, provides that the Municipality may not make any award to a person –

- (a) *who is in the service of the state;*
- (b) *if that person is not a natural person, of which any director, manager, principal shareholder, or stakeholder is a person in service of the state;*
or
- (c) *who is an advisor or consultant contracted with the municipality.*

“In service of the state” is defined as –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity, or constitutional institution within the meaning of the Public Finance Management Act, No 1 of 1999;
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature.

In order to comply with paragraph 44 of the Municipality’s Supply Chain Management Policy, it is important that the Supply Chain Management Department within the Directorate : Finance, has privy to the necessary information.

Thus when regard is had to the above-mentioned as far as Councillors, the Municipal Manager and Directors (i.e. persons appointed in terms of section 56 of the Systems Act) are concerned, it is recommended that the Municipal Manager and Speaker be authorised to make the item 7 and 5A information of the aforementioned office bearers and officials, available to the Head: Supply Chain Management and the Manager: Purchases, such information to be made available as and when same is submitted to the Municipal Manager and Speaker.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

None

RECOMMENDATION TO THE COUNCIL

that the **Speaker and Municipal Manager be authorised** to make the financial interests in respect of Councillors, the Municipal Manager and section 56 appointees (Directors) and as provided for respectively in item 8 of Schedule 7 of the Local Government: Municipal Structures Act, No 117 of 1998 and item 5A of Schedule 2 of the Local Government: Municipal Systems Act, No 32 of 2000, available to the Head: Supply Chain Management and the Manager: Purchases, such information to be made available as and when same is submitted to the Speaker and Municipal Manager.

RESPONSIBLE OFFICIAL :**D O'NEILL****TARGET DATE FOR IMPLEMENTATION :****17 NOVEMBER 2021**