



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

**A G E N D A**

**I-AJENDA**

**DATE / DATUM / UMHLA : 25 SEPTEMBER / SEPTEMBER**  
**2019**

**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

20 September / Septemba 2019

## **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, 25 SEPTEMBER 2019** 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, 25 SEPTEMBER 2019** 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 **I-Banqueting Hall, kwiZiko LoLUNTU, eHermanus ngoLWESITHATHU, Umhla we 25 SEPTEMBER 2019 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, 28 August 2019** 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 25 September 2019 had formally sat.

**5.1**

**REVIEW OF THE OVERSTRAND MUNICIPALITY: DISASTER MANAGEMENT PLAN**

**(ITEM 2, PAGE 10 : PROTECTION SERVICES PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 SEPTEMBER 2019)**

**RECOMMENDATION TO THE COUNCIL:**

that the Overstrand Municipality Disaster Management Plan **be adopted**.

**RESPONSIBLE OFFICIAL :**

**L SMITH**

**TARGET DATE FOR IMPLEMENTATION :**

**OCTOBER 2019**

## 5.2

RESCISSION OF COUNCIL'S IN PRINCIPLE DECISION FOR THE DIRECT ALIENATION OF AND COUNCIL'S APPROVAL FOR THE TRANSFER OF A PORTION OF ERF 1 HAWSTON ( $\pm 370\text{M}^2$  IN EXTENT) TO HAWSTON SERVICE STATION (PTY) LTD FOR ADDITIONAL PARKING AND DRIVEWAY PURPOSES

(ITEM 7, PAGE 91 : INFRASTRUCTURE & PLANNING PORTFOLIO - MAYORAL COMMITTEE MEETING : 25 SEPTEMBER 2019)

**RECOMMENDATION TO THE COUNCIL:**

1. that the entire Council resolution dated 27 November 2017 in respect of the in principle approval for the direct sale of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd, **be rescinded**; and
2. that the entire Council resolution dated 28 March 2018 in respect of the approval for transfer of a portion of Erf 1 Hawston ( $\pm 370\text{m}^2$  in extent) to Hawston Service Station (Pty) Ltd, **be rescinded**.

**RESPONSIBLE OFFICIAL :****W MURTZ****TARGET DATE FOR IMPLEMENTATION :****31 OCTOBER 2019****TARGET DATE TO INFORM APPLICANT:****17 OCTOBER 2019**

## 5.3

**MONTHLY REPORT TO COUNCIL ON SUPPLY CHAIN MANAGEMENT (SCM)  
POLICY: PARAGRAPH 36, 16(1)(b) AND 17(1)(c) FOR AUGUST 2019**

**(ITEM 5, PAGE 1 : MAYORAL COMMITTEE MEETING :  
25 SEPTEMBER 2019)**

**RECOMMENDATION TO THE COUNCIL:**

1. that the deviations from the procurement processes, approved in terms of the delegated authority for August 2019, **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 August 2019, **be noted**.

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

**6. CONSIDERATION OF REPORTS****6.1  
DISCIPLINARY HEARING: ALD A COETSEE**

3/2/3/1

H van Tonder  
5 September 2019

(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 recommendations of the Disciplinary Committee in respect of the above matter.

**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 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, 12 and 12A of Schedule 1 of the Systems Act provide as follows:

“2 *General conduct of councillors.—A councillor must—*

(a) ...

(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.*

12 *A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.*

12A *A councillor may not be in arrears to the municipality for rates and service charges for a period longer than 3 months."*

Section 10(4) of the By-law on Rules of Order for Internal Arrangements provides as follows:

*"10(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."*

The duty of the Chairperson 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) ... “

Paragraph 6 of the Procedure for Investigation regarding any Allegation of Misconduct against a member of a Municipal Council provides as follows:

*“6. If the Speaker is implicated in any contravention of or failure to comply with the Code of Conduct, the functions in this procedure will be performed by the Mayor and if he or she is also implicated, then by a member appointed by Council.”*

In executing the aforementioned duty, the Executive Mayor (initiator) charged Ald A Coetsee (defendant) as per Annexure A.

The Disciplinary Committee of Council consisting of Cllr E Gillion (Chairperson), Cllrs A Komani (Secundus), L Ntsabo and V Macotha considered the aforementioned charges on 29 August 2019. Based on an application of the defendant, Cllr E Gillion recused herself as chairperson and Cllr A Komani took the chair.

As the wrong meter number (C-CRM 2185) was referred to in Charge 1, the Committee resolved to recommend that the case be dismissed. (The water meter which has allegedly been bypassed was meter number HRL 2538. The meter referred to in the charge sheet, C-CRM 2185, is in fact the replaced water meter.)

## **7. Financial Implications**

Ald A Coetsee paid an amount of R6 529,00 for a first tampering offence in terms of section 12(3)(b)(i) of the Municipality’s Water Supply and Sanitation Services By-law, 2009. The average water consumption, calculated as prescribed, was subsequently levied over the period (November 2015 – February 2019) to the amount of R4 994,04 and settled accordingly.

## **8. Staff Implications**

None

## **9. Comments from other Departments, Divisions and Administrations**

None

## **10. Annexure**

Annexure A : Notice of Disciplinary Hearing and Charge Sheet

**RECOMMENDATION TO THE COUNCIL:**

1. that the outcome of the Disciplinary Hearing of Ald A Coetsee which was held on 29 August 2019 **be noted**;
2. that the charge against Ald A Coetse be dismissed; and
3. 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 :****14 OCTOBER 2019**

OFFICE OF THE EXECUTIVE MAYOR  
KANTOOR VAN DIE UITVOERENDE BURGEMEESTER  
Rdh / Ald Dudley Coetsee



**COPY**

NAVRAE :  
ENQUIRIES : Ald Dudley Coetsee

LEËRVERWYSING:  
FILE REFERENCE: Ald Anton Coetsee

DATUM :  
DATE : 25 July 2019

To:  
Name : Ald A Coetsee

Address : Overstrand Municipality  
: Coetsee Van Zyl Attorneys  
: 27 Main Road  
: Onrust River

Delivery : By Hand

Received  
10/8/20

26/7/19

NOTICE OF DISCIPLINARY HEARING AND CHARGE SHEET

- Subsequent to a decision taken by the Executive Mayor of the Overstrand Municipality, you are hereby called upon to appear before a disciplinary committee in the Mayoral Committee Room, Corporate Head Office, Overstrand Municipal Offices, Magnolia Street, Hermanus on 8 August 2019 at 10h00.

The Charges levelled against you are as follows:

Charge No 1:

That you contravened the provisions of sections 12(1)(a) and 128(1)(q) read with the provisions of sections 102(1)(c); 102(2); 128(1)(b); 128(1)(n) and 129 of the Overstrand Municipality Water Supply and Sanitation Services by-law in that during the period October/November 2015 to 7 February 2019, you tampered with, or caused to be tampered with, water meter number C-CRM 2185, at all relevant times the property of the Overstrand Municipality ((hereinafter the OM), allocated to and installed at Erf 2689 Onrus River, a suburb in the Overstrand jurisdiction of which erf you were at all relevant times, and still are, the registered owner, in the alternative, the joint registered owner, by having disconnected or caused to be disconnected, the water supply, managed and distributed by the OM in terms of the by-law referred to above and authorised to do so in terms of the Water Services Act number 108 of 1997 ( as amended), from said water

meter and in so doing diverted and bypassed the water meter by means of illegal pipe connections directly to your erf and the dwelling situated on the erf, which resulted in the water consumption by and of Erf 2689 not having been measured and paid for by you as required in terms of the by-law referred to above.

**Charge 2:**

Based on the same facts and allegations contained in Charge 1, you contravened the following provision of Schedule 1 of the Municipal Systems Act, No 32 of 2000 ( as amended): Code of Conduct for Councillors:

Item 2(b): "A councillor must at all times act in the best interests of the municipality and in such a way that the credibility and integrity of the municipality are not compromised", in that by having tampered with the water meter as alleged in Charge 1, and by having failed to pay for water supplied to you and consumed by you, you, as a Councillor and Speaker of the OM municipal Council, failed to act in the best interests of the OM by having deprived it of income it was entitled to, and by having necessitated the OM to incur costs and expenses to replace the water meter referred to above and to remove and regularise the illegal pipe connections to and from the meter, and so doing also compromised the credibility and integrity of the OM.

**First Alternative to Charge 2:**

Based on the same facts and allegations contained in Charge 1, you contravened the following provision of Schedule 1 of the Municipal Systems Act, No 32 of 2000 ( as amended): Code of Conduct for Councillors:

Item 12: "A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right", in that you, by not having had a right not to pay for water supplied to you, benefitted financially from said non-payment for water supplied to you.

**Charge 3:**

It is alleged that you contravened the following provision of Schedule 1 of the Municipal Systems Act, No 32 of 2000 ( as amended): Code of Conduct for Councillors:

Item 12A: A councillor may not be in arrears to the municipality for rates and service charges for a period longer than 3 (three) months", in that you were in arrears with payment for water supplied to you for 40 (forty) months.

The charges levelled against you above must furthermore be read with the provisions of Item 14 of the Code: Breaches of Code.

**You are furthermore entitled to the following:**

1. To be represented at the hearing by a colleague or a legal representative, the latter for your account;
2. To request further particulars to the charges levelled against you. Should you request further particulars said request must be delivered to the Office of the Executive Mayor of the OM within 5 (five) working days calculated from date of receipt of this Notice, failing which it will be assumed that you do not require further particulars.
3. To lead evidence before the Committee; to call your own witnesses and question them and to cross examine witnesses of the municipality;

- 4. Should you intend calling any witnesses to testify on your behalf a list of said witnesses must be delivered to the Office of the Executive Mayor at least 3 (three) working days prior to the hearing;
- 5. Should you require the services of an interpreter you must inform the Executive Mayor thereof at least 3 (three) days prior to the hearing.
- 6. Should you fail to appear at the hearing at the place and on the date and time as stipulated, the hearing may be proceeded with in your absence except if a valid reason for your failure to attend is proffered.

Yours sincerely,



Alderman Dudley P. Coetzee  
Executive Mayor

Received by:..... *M Coetzee*

On:..... *26/7/19*

Signature..... 

**6.2**

**REPORT OF THE DISCIPLINARY BOARD REGARDING THEIR FULL INVESTIGATION PERTAINING TO ALLEGATIONS OF FINANCIAL MISCONDUCT: OFFICIAL EMPLOYED AT LOCAL ECONOMIC DEVELOPMENT**

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**

The following motion was submitted by the Executive Mayor, Ald D Coetzee, in terms of Section 26 of the By-Law on Rules of Order for Internal Arrangements for consideration:

Violence and abuse against women and children should stop

Our country and more specifically the Western Cape has over the last few months witnessed the increase in Gender Based Violence (GBV). Violence where women and children became the victims.

It is important that we do not miss the opportunity to not only expose this scourge, but also to take concerted action to ensure that women and particularly young girls feel safe in our country, in our province and more specifically in our Overstrand area.

As a Council through this motion we want to add our voices against any act of gender based violence that results in physical, sexual or psychological harm or suffering to women and children, whether in public or private life, and we resolve as such.

**9. CONSIDERATION OF MOTIONS OF EXIGENCY (IF ANY)**