



**NOTULES VAN DIE / MINUTES OF THE**

**DRINGENDE SPESIALE RAADSVERGADERING VAN DIE CEDERBERG  
MUNISIPALITEIT SOOS GEHOU OP**

**URGENT SPECIAL COUNCIL MEETING OF THE CEDERBERG MUNICIPALITY, HELD  
ON**

**15 NOVEMBER 2022**

.....

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**MINUTES OF THE URGENT SPECIAL COUNCIL MEETING OF THE CEDERBERG  
MUNICIPALITY HELD ON 15 NOVEMBER 2022 IN THE COUNCIL CHAMBER AT 2A  
VOORTREKKER STREET, CLANWILLIAM.**

*Index of resolutions taken by council on 15 November 2022*

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**PRESENT AND IN ATTENDANCE:**

As per the attendance register:

Cllr. M Heins  
Cllr. W Farmer  
Cllr. F Kamfer  
Cllr. A Scheepers  
Cllr. P Strauss  
Cllr. R Richards  
Cllr. T Waldeck  
Cllr. J Van Heerden  
Cllr. J Hayes  
Cllr. L Venter

Mr. B Kannemeyer (Acting Municipal Manager)  
Mr. C Appel (Acting Chief Financial Officer)  
Mr. C Sheldon (Manager: Legal Services)  
Mr. N Mercuur (Manager Administration)  
Miss. J Cloete (Secretariate)

**ABSENT WITHOUT APOLOGY:**

Geen / None

**1. OPENING AND WELCOMING**

- The Chairperson, Cllr. M Heins welcomed all present and Cllr. Hayes opened the meeting with a prayer.

**2. ELECTION OF (ACTING) SPEAKER, IF NECESSARY**

- N/A

**3. APPLICATIONS FOR LEAVE OF ABSENCE**

- Geen / None

**3.1 The Attendance Registers will be available at the meeting**

- Attendance register enclosed.

#### 4. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

- Speaker informed Council that he received a letter the previous night at 20h35  
And asked that Mr. Sheldon read it to Council.

##### **Letter from M Shapiro:**

**Dear Mr. Heins**

##### **RE:SPECIAL COUNCIL MEETING 15 NOVEMBER 2022**

1. *The notice of an Urgent Special Council Meeting to be held at 10h00 on 15/11/2022 transmitted on 14/11/2022 refers:*  
*We (four Councillors Richards, Waldeck, Bergh and Van Heerden )*
2. *We note that the first item on the Agenda is a report to Council: Outcome of Disciplinary Proceedings against Councillors Richards, Waldeck, Bergh and Van Heerden.*
3. *Our clients reasonably apprehend the possibility that you will report to remove our clients from office as Councillors during this item or suspend them from office.*
4. *We draw your attention to the facts that this would be patently unlawful.*
  - 4.1 *Item 14(2) c and e schedule 1 to the Local Government Municipal Systems Act 32 of 2000. The Systems Act is clear on the MEC for Local Government may remove a Councillor from office or suspend him or her for a violation of the (Code) of Conduct for Councillors. Regardless of the outcome of any disciplinary process undertaken by Council, a Council does not have the right to remove a Councillor.*
  - 4.2 *This was confirmed by Judge Rodgers as he then was, in the case Democratic Alliance with vs Oudtshoorn Municipality: paragraph 85 – What is beyond doubt however, is that parliament by way of a National Law, the Systems Act has decreed that at least for all breaches of the Code apart from item 4(2), a Council or a Special Committee has the power to make findings of a breach and to issue a formal warning, reprimand or fine whereas suspension and removal are the exclusive domain of the MEC.*
  - 4.3 *Furthermore, a Speaker does not have a right to suspend a Councillor's right/voting rights. This was confirmed by Judge Scheepers as he then was in Mcperson and others vs Stoffels and Others: paragraph 88 – The Speaker's conduct was a violation of the principle of legality was (inaudible) and unlawful. The motion in terms of which this conduct purportedly was sanctioned by the Council is likewise unlawful.*
5. *We place you on notice that if you or Council purports to suspend or remove our clients from office, that appropriate urgent relief will be sought from the High Court and that a punitive personal cost order will be sought against you.*

**a. COMMENTS ON CORRESPONDENCE**

- The Mayor (William Farmer) mentioned that this correspondence contains a few fundamental flaws such as quoted:

1. “Daardie wetgewing is nie meer in die Stelselwet nie, maar in die Strukture wet.
2. Council het nie die prerogative om te skors nie, maar slegs aan te beveel aan die MEC om dit te doen, as dit so sou kom.
3. Nowhere Speaker, het Council gesê dat Councillors moet geskors word nie, want so ‘n report was nog nooit ge-table nie.”

4. So die fundamental flaws in daardie skrywe is dan:

4.1 Die Prokureur verwar haar met wat in die Stelselwet is en wat in die Strukture wet is. Dit was in die Stelselwet, maar die Stelselwet is amended; it is geskuif na die Strukture Wet toe.

4.2 Council maak ‘n aanbeveling aan die MEC wat dan sy mind moet apply en dan ‘n besluit neem.

4.3 Ons het nêrens gesê dat ons mense gaan skors nie, want die report was nog nooit ge-table in Council nie.

5. So ek sal vra Speaker, dat u as die Speaker van die Raad moet reageer op daardie letter en haar vergewis van die ware feite sodat sy daardie skrywe weer kan stuur met die korrigasie wat gemaak was in die feite”.

6. The Speaker infomed the public, that special permission be granted from the office of the Speaker, should anybody wish to make recordings and take fotos of this Council Meeting. The public is not allowed if not granted permission.

<b>5. STATEMENTS AND COMMUNICATION BY THE EXECUTIVE MAYOR</b>
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- Geen / None

<b>6. REPORT BY THE EXECUTIVE MAYOR ON DECISIONS TAKEN BY THE EXECUTIVE MAYOR, THE EXECUTIVE MAYOR TOGETHER WITH THE DEPUTY EXECUTIVE MAYOR AND THE EXECUTIVE MAYOR TOGETHER WITH THE MAYORAL COMMITTEE</b>
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- Geen / None

## 7. MATTERS CONSIDERED BY COUNCIL

RB7.1.1/15-11-2022

### REPORT TO COUNCIL: OUTCOME OF DISCIPLINARY PROCEEDINGS AGAINST COUNCILLORS RICHARDS, WALDECK, BERGH, VAN HEERDEN

- Numbered RB7.1.1/07-11-2022 on the Agenda of 07/11/2022

**A:**

#### **Ruling by the Speaker:**

1. that Cllrs, Richards, Waldeck, Bergh and Van Heerden recuse themselves for the purpose of this item, and
2. the Speaker, Cllr. M Heins, on request of abovementioned Cllrs., also recused himself, voluntarily, for the purpose of this item.

**B:**

#### **ELECTION / APPOINTMENT OF ACTING SPEAKER**

#### **RESOLVED:**

1. That Councillor A Scheepers be appointed as Acting Speaker for the purpose of this item

**Proposed:** Cllr. F Kamfer

**Seconded:** Cllr. P Strauss

**C:**

#### **RESOLVED:**

1. That the Council noted the Disciplinary report; and
2. That Councillor J Van Heerden be fined 10% of his gross salary due to the reason that he failed to

remain in attendance at the Council Meeting of 22  
September 2022;

It was further resolved that:

3. The following recommendations be made to the  
MEC of Local Government and Environmental  
Affairs and Development Planning:

a) That Councillors R Richards and M Bergh  
must by operation of law, be removed as  
Councillors, as provided for by item 4(2) of  
the Code of Conduct;

b) That Councillor J Van Heerden must be  
removed *ex lege* as a Councillor, as  
provided for by item 4(2) of the Coded of  
Conduct;

c) That Councillor T Waldeck be removed *ex  
lege* as Councillor, as provided for by item  
4(2) of the Code of Conduct for his  
contravention of item 3 read with 3(a) of the  
Code of Conduct; and

d) That Councillor T Waldeck also be removed  
as Councillor for his failure to declare his  
business interest.

e) It be noted that the implicated Councillors  
have a 14 day period for appeal regarding  
this matter.

**Proposed:** Cllr. F Kamfer  
**Seconded:** Cllr. P Strauss  
**Counter Proposal:** Cllr. J Hayes  
**Seconded:** Cllr. L Venter

**VOTE**

<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
ANC – 3 PA - 1	DA - 2	-

**RB7.1.2/15-11-2022**

**IMPLEMENTATION OF SALARY AND WAGE COLLECTIVE AGREEMENT**

- Numbered RB7.1.1/09-11-2022 on the Agenda of 09/11/2022

**RECOMMENDED:**

1. To request Council to rescind Council Resolution RB7.1.1/22-09-2022: Council Resolution RB7.1.1/22-09-2022 with regards to the Review Application on the outcome of the exemption to implementation of the Salary and Wage Collective Agreement.
2. Council approve the implementation of the salary and wage collective agreement backdated from 01 July 2022 till 30 November 2022.
3. For Council to pay the annual bonuses with the increase by the end of 30 November 2022.

**Proposed:** Cllr. F Kamfer

**Seconded:** Cllr. A Scheepers

**Counter Proposal:** Cllr. R Richards

(The item be deferred until all Information needed is provided to make an informed decision)

**Seconded:** Cllr. L Venter



**VOTE**

<b>FOR</b>	<b>AGAINST</b>	<b>ABSTAIN</b>
ANC – 4 PA - 1	CE - 3 DA – 2 FF+ - 1	-

**RESOLVED:** The Speaker read out the vote for record purposes and stated, the item will then be deferred.

**RB7.1.3/15-11-2022**

**QUARTERLY BUDGET INCLUSIVE OF TOP LAYER SERVICE DELIVERY IMPLEMENTATION PLAN (SDBIP) AND SUPPLY CHAIN MANAGEMENT REPORTS: JULY 2022 – SEPTEMBER 2022**

- Numbered RB7.1.2/09-11-2022 on the Agenda of 09/11/2022

**RESOLVED:**

A. That Council takes note of the:

- 1) Take note of the Quarterly Budget Statement inclusive of the Top Layer Service Delivery Implementation Plan (SDBIP),
- 2) Take note of the Virements Report for the first quarter, and
- 3) Take note of the Supply Chain Management Report for the first quarter.

**RB7.1.4/15-11-2022**

**MONTHLY BUDGET STATEMENT: AUGUST 2022**

- Numbered RB7.1.3/09-11-2022 on the Agenda of 09/11/2022

**RESOLVED:**

1. Council takes note of the Monthly Budget Statement for the month August 2022.

**RB7.1.5/15-08-2022**

**MONTHLY BUDGET STATEMENT: SEPTEMBER 2022**

- Numbered RB7.1.4/09-11-2022 on the Agenda of 09/11/2022

**RESOLVED:**

1. Council takes note of the Monthly Budget Statement for the month September 2022.

Cllr. Van Heerden asked for a 5 minute caucus break which the Speaker permitted.  
After 5 minutes the meeting convened.

**RB7.1.6/15-11-2022**

**MOTIONS OF NO CONFIDENCE DENIED**

*AS DIRECTED TOWARDS:*

**A- EXECUTIVE MAYOR:                      CLLR. W FARMER**  
**B- DEPUTY EXECUTIVE MAYOR:        CLLR. F KAMFER**

**C- SPEAKER:**

**CLLR. M HEINS**

**D- MPAC CHAIRPERSON:**

**CLLR. T WALDECK**

- Numbered RB7.1.5/09-11-2022 on the Agenda of 09/11/2022

The Speaker read out the following as received:

a) The Speaker informed the meeting that:

1. On 17 October 2022 a motion, from the majority of Councillors, was received, requesting an Urgent Special Council Meeting within 72hours for the removal of the Executive Office Bearers.
2. He, as Speaker, responded to this correspondence and informed the relevant Councillors that he takes cognisance but he is obligated to perform his duties within the Rules of Order and cannot grant permission for their request.
3. The Rules of Order is clear: If a motion of this nature is to be considered, a period of 7 days must pass and on the eighth day be tabled before Council or handled by the discretion of the Speaker of Council.
4. That he also wants to make it very clear, the rumours going around that the Speaker refused to grant these Councillors their request, is unfounded because the reasons for his decisions was that the Rules of Order wasn't followed.

Date : 21 October 2022

To : The Municipal Manager  
Cederberg Municipality  
Private Bag X2  
Clanwilliam  
8135  
[craigs@cederbergmun.gov.za](mailto:craigs@cederbergmun.gov.za)

To: Cllr M Heins  
The Speaker  
Cederberg Municipality  
Private Bag X2  
Clanwilliam  
8135  
[maxwellh@cederbergmun.gov.za](mailto:maxwellh@cederbergmun.gov.za)



**REQUEST FOR URGENT SPECIAL COUNCIL MEETING**

We, the majority of councillors of the Cederberg Municipality hereby request a council meeting to be held on 7 November at 14h00 in Clanwilliam Council Chambers to address the following matters:

1. Inauguration of new councillors (i.e. L Venter and J Hayes)
2. Processing of the motions of no confidence in the Executive Mayor (Cllr Farmer), Deputy Mayor (Cllr Kamfer) and the Speaker (Cllr Heins).
3. Motion of no confidence against Chairperson of MPAC.

We hereby request an acknowledgement of receipt of the above request. Thank you for your prompt attention.

  
..... Cllr Richards

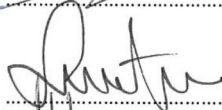
Date: 21-10-22

  
..... Cllr van Heerden

Date: 21/10/22

  
..... Cllr Waldeck


Date: 21/10/22

  
..... Cllr Venter

Date: 21/10/22

  
..... Cllr Hayes

Date: 21/10/22

  
..... Cllr Bergh

Date: 21/10/22

Duly signed on 21-10-22 Place Clanwilliam

## Speaker's ruling based on Rules of Order 5.1

Op die 7de November, het die indraer van die mosie gekies om nie terug te kom vir die ander sake van besighede van die Raad nie en dus is 5.1 effektief vandag dat daardie mosie op die 7de November, ge-lapse het.

### **5. MOTIONS**

- 5.1. All notices of motion shall be listed on the agenda and shall lapse if the member who submitted it is not present at the meeting when such a motion is being debated.

## Additional support from Chapter 11 for ruling made by Speaker

The Speaker further referred to Chapter 11 to support his ruling with reference to Rules of Order 5.1

### **11. RE-INTRODUCTION OF MOTION OR QUESTION**

No motion which has been rejected by the council and no question asked in terms of the rule and dealt with at any meeting may again be moved or asked within a period of three months of such meeting except with the consent of the Speaker.

Dit is dan daardeur, my ruling soos volg:

## Speaker's final ruling

Die mosie sal vanaf vandag se datum oorstaan vir 3 maande soos die Rules of Order dit so toelaat.

### **7.2 URGENT MATTERS SUBMITTED BY THE MUNICIPAL MANAGER**

- Geen / None

### **7.3 MATTERS FOR NOTIFICATION**

- Geen / None

#### **7.4 CONSIDERATION OF NOTICES OF MOTION**

- Geen / None

#### **7.5 CONSIDERATION OF NOTICES OF QUESTIONS**

Cllr. F Kamfer: Speaker, ek wil vra, daar is uitstaande werksaamhede van hierdie Raad. Ek wil vra Speaker dat ons die werksaamhede van hierdie Raad. Daar is uitstaande verslae van hierdie Raad, en ek wil op rekord gaan, ek wil vra, deur u, die Munisipale Bestuurder, dis tyd da tons die verslag van die grond na hierdie Raad toe moet terug bring Speaker. Wat het gebeur, wat is die uitkoms van die grond saak. Speaker kan jy asb. toesien dat hierdie verslag na die Raad toe kom.

Speaker, daar was 'n oudit kwalifikasies ondersoek wat gedoen was Speaker, Hierdie Raad het nog nie die finale verslag van die oudit gekry nie, Speaker. Kan jy dit na hierdie Raad toe terugbring Speaker.

Dan Speaker wil ek ook vra, daar was ook Speaker, en deur u na die Munisipale Bestuurder toe, daar was fruitless and wasteful expenditure en daar was 'n supplier aangestel vir 'n waterpomp vir amper R300 000.00. Munisipale Bestuurder kan ons hierdie ondersoek afhandel, want ek het gelees Speaker, ons het 'n fine gekry by die OG as gevolg van daai fruitless and wasteful expenditure. So ek versoek Speaker.

Die 4de verslag, is ook die verslag van die vorige Munisipale Bestuurderwaar dat daar 'n persoon aangestel is, mnr. De Swart, om Henry Slimmert se saak te doen. Dat daardie verslag na vore kom volgens my Speaker, is daar nog nie 'n

staatsaanklaer aangestel nie, 'n ondersoek beampte, mnr. Anton De Swart, daar is nog nie in Council 'n prosecution aangestel nie, Speaker. Kan u vir ons hierdie 4 verslae na Council toe binne 7 dae terug bring na Council toe deur die Munisipale Bestuurder. Dankie Speaker.

Speaker:                    Ons neem so kennis.

#### **7.6 CONSIDERATIONS OF MOTIONS OF EXIGENCY**

- Geen / None

#### **09. CLOSURE**

- Meeting adjourned.

\_\_\_\_\_  
**VOORSITTER/CHAIRPERSON**

\_\_\_\_\_  
**DATUM / DATE**