



NOTULES VAN DIE / MINUTES OF THE

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

13 DESEMBER / DECEMBER 2016

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SPECIAL COUNCIL MEETING OF THE CEDERBERG MUNICIPALITY, HELD ON

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**MINUTES OF THE SPECIAL COUNCIL MEETING OF THE CEDERBERG MUNICIPALITY
HELD ON 13 DECEMBER 2016 IN THE COUNCIL CHAMBER AT 2A VOORTREKKER
STREET, CLANWILLIAM.**

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PRESENT AND IN ATTENDANCE:

As per the attendance registers copied into the minutes after the final item:

ABSENT WITHOUT APOLOGY:

Geen / None

1. OPENING

Rules of Order for Internal Arrangement

PART 3: MEETINGS

4. Commencement of meetings of Council

- 4.1 The meeting must commence precisely at a time it is convened for.
- 4.2 The Speaker must assume the chair provided that a quorum is constituted.
- 4.3 The business of the meeting must be outlined at the onset.

5. Quorum

- 5.1 The presence of a majority of the members constitutes a quorum.
- 5.2 In the event that no quorum is present at the time at which the meeting was convened, the commencement of the meeting may be delayed for no longer than 30 minutes on the basis that no quorum exists.
 - 5.2.1 Should a quorum exist within this period, the Speaker must assume the chair immediately upon establishing that the quorum exists.
 - 5.2.2 Should no quorum continue to exist at the end of this period, the meeting must be adjourned by the Speaker to an alternate date, time and if applicable venue at his/her discretion., In this instance, the names of members present must be recorded.
- 5.3 In the event that there is no quorum and the Speaker is absent, the commencement of the meeting must be delayed for no more than 30 minutes and if there is no quorum at the end of this period, the meeting shall be cancelled. In this instance, the municipal manager must record the names of the members present.
- 5.4 A quorum is to be sustained during the course of proceedings of a meeting. Should there be a lack of quorum subsequent to the commencement of the meeting, the Speaker must suspend the proceedings until a quorum is again present, provided that if after 10 minutes there is still no quorum the speaker must adjourn the meeting.
- 5.5 In any instance when a meeting is adjourned as a result of the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.
- 5.6 Names of absentee members are to be recorded and provided by the Speaker to the committee established in terms of section 6 for the purposes of an investigation of a breach of these rules.

At 13h00 the Chairperson, Cllr. W Farmer called the meeting to order and welcomed all present.

1.1 Announcement of Councillors birthdays

N/A

2. ELECTION OF (ACTING) SPEAKER, IF NECESSARY
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N/A

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3. APPLICATIONS FOR LEAVE OF ABSENCE

Rules of Order for Internal Arrangement

Part 3

7. Leave of absence

- 7.1 Leave of absence may be obtained from Municipal Council by a member who wishes to absent himself or herself from meetings. Should a member be prevented from obtaining leave of absence based on special circumstances, the Speaker has the discretion to on grant such leave.
- 7.2 A written application for leave of absence from a meeting of the Municipal Council or a Committee must be addressed to the Speaker by the Member applying for leave.
- 7.3 Written applications include emails sent to the Speaker.
- 7.4 In certain instances, the granting of applications for leave is deemed. These instance include:
 - 7.4.1 the Member is acting on behalf of the Municipal Council on other matters elsewhere based on instructions of Council or the Mayor.
 - 7.4.2 the Member is required to remove himself/herself from a meeting by the Municipal Council, Mayor or Committee in circumstances envisaged in item 3(b) of Schedule 1 to the Systems Act, or the member recuses him/herself.
- 7.5 The Speaker may also grant leave of absence to a member for the following reasons:
 - 7.5.1 illness or any other valid reasonable reason making it impossible for the member to attend;
 - 7.5.2 business, personal commitments, or personal circumstances of the member.
 - 7.5.3 The failure to deliver notice of a meeting or the delivery of notice less than 72 hours prior to commencement provided that this does not relate to an ordinary meeting of the Council or Committees or changes of addresses of members.
 - 7.5.4 The lack of informing the Municipal Manager of a revised address for the service of documentation at least 7 days before the relevant meeting;
 - 7.5.5 Where circumstances envisaged in item 3(b) of the Code of Conduct for Councillors in Schedule 1 to the Systems Act occur which prevent the Member from attendance;
 - 7.5.6 Other circumstances where the member is prevented from attending the meeting.

3.1 A blank Application for Leave of Absence form is enclosed

- Cllr. D Smith

3.2 The Attendance Registers will be available at the meeting

Rules of Order for Internal Arrangement

Part 3

6. Attendance at meetings

- 6.1 An attendance register must be kept in relation to all meetings. Such register is to be signed by every member that attends the meeting/s.
- 6.2 Instances when a member may be absent from a meeting include the following:
 - 6.2.1 upon leave of absence being granted in terms of rule 7; and
 - 6.2.2 upon withdrawal on the basis of a legal requirement.

4. INTERVIEWS WITH OR PRESENTATIONS BY DEPUTATIONS

Rules of Order for Internal Arrangement

Part 6

6. Deputations

Should deputations seek an interview with council, the municipal manager must be provided with ten working days written notice of the intent of the deputation with details of the representations that are to be made as well as its source. The notice must be submitted to the Speaker by the Municipal Manager with recommendations and comments. The Speaker has the discretion to then grant the interview and instate conditions.

Geen / None

5. CONFIRMATION OF MINUTES

Rules of Order for Internal Arrangement By-Law 2013 (Provincial Gazette 7118 dated 12 April 2013)

Part Four

1. Minutes

- 1.1 Minutes of the proceedings of meetings must be recorded in writing in a minute book;
- 1.2 Such minutes shall be compiled in printed form and be confirmed by the council at the following meeting of Municipal Council and signed by the speaker.
- 1.3 The minutes shall be deemed to have been read for the purpose of confirmation provided a copy thereof was sent to each member within a reasonable period prior to the following meeting.
- 1.4 Discussions or motions in relation to the accuracy of minutes shall be entertained. No further discussion or motions in relation to any other matters forming part of the minutes shall occur.
- 1.5 Minutes shall consist of recordings of all business discussed as well as the names of members that were in attendance, absent, and granted leave of absence.
- 1.6 Should any member have requested that there dissent, abstention or support be recorded during voting, these are to be recorded in the minutes.
- 1.7 Audio recordings of all meetings of Municipal Council must be kept for a period of three years for administrative purposes.

Geen / None

6. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

The Speaker expresses his discontent over the promptness of Councillors and Officials for the start of Council Meetings.

7. STATEMENTS AND COMMUNICATION BY THE EXECUTIVE MAYOR

Geen / None

8. 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

Rules of Order for Internal Arrangement

Part 5

9. REPORTS OF THE MAYOR

- 9.2 Debate must be allowed by the Speaker in accordance with the rules relating to debate contained herein. Decisions made by the Mayor by way of delegated authority and those made by the Mayor and Mayoral Committee may be debated upon should consent be granted by the Mayor to the Speaker. A member shall request in writing such debate at least 24 (twenty four) hours prior to the meeting. Such request must be issued to the Speaker. The business of meetings of the Council will appear in the following order on the agenda.

The Executive Mayoral Committee resolved on 08 December 2015 as follows:

1. The Executive Mayor reports to the municipal council on all decisions taken by the Executive Mayor (excluding Special Council Meetings).
2. The reports of the Executive Mayor shall be for information and nothing by council and no debate, question, motions, points for information, clarity or points of order on the report shall be allowed save where motions or questions are raised in compliance with the provisions of the Council's Rules of Order.

Geen / None

9. MATTERS FOR CONSIDERATION

Rules of Order for Internal Arrangement

Part Four:

2. DECISIONS AND VOTING

- 2.1 In the event that the Speaker enquires from the attendees at a meeting if they are in agreement with recommendation/s and there is no opposition by any member present, recommendations are adopted.
- 2.2 The Speaker must put every apposed motion to the vote by calling upon the members to indicate by a raising of hands unless otherwise prescribed by law, whether they are in favour of or against such motion. The result of the vote must thereafter be declared by the Speaker.
- 2.3 The number of members voting in favour of or against an item, is to be recorded in the minutes. Members may abstain from voting without leaving the meeting and may request that his/her abstention be recorded in the minutes of that meeting. Consequently, subsequent to the speaker's declaration of the result, a member may demand that his or her opposition or support of a decision be recorded in the minutes and the Municipal Manager must accordingly arrange for the same.
- 2.4 All decisions must be taken by a supporting vote of the majority of the members present at any meeting of the Council.
- 2.5 The Municipal Council must reconsider a decision taken if the majority of members lodge a request in writing with the Municipal Manager. This shall apply unless such reconsideration adversely affects existing rights. Motions for the reconsideration of decision must be submitted in terms of Rule 5 of the Rules of Order.
- 2.6 Notwithstanding the provision of this Rule, the Council may at any time following a recommendation by the Mayor, rescind or amend any resolution passed by it.

Part 5

4. Councillor to address chair

A member who speaks at a meeting must address the chair.

Part 5

16. Order of priority

- 16.1 The Speaker must ensure that there is maintenance of order. To this end, the Speaker may, if he / she deems it necessary, at any time in a meeting direct an officer to remove or cause the removal of any person, excluding a member, from the Council Chamber. The Speaker may also direct that the public gallery be vacated.
- 16.2 The removal of any person or persons who refuse to carry out any reasonable instruction given by the Speaker or obstructs the carrying out of such instruction may be ordered by the Speaker.

Part 5

3. Precedence of the Speaker

Silence must be observed by all present in meeting when the Speaker addresses meetings in order for the Speaker to be heard without interruption. Whenever the speaker addresses the meeting, all members must be silent so that the speaker may be heard without any interruption. Council must be addressed by members through the Speaker.

13. Relevance

Speeches by members must address the subject or matter under discussion or to an explanation or to a point of order. In this regard, no discussion shall be tolerated in relation to the anticipation of any matter on the agenda or in respect of any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of inquiry, whether instituted in terms of legislation or not, is pending, provided that such matter may be considered with the permission of Council.

Part 5

5. Right to speak

A member is provided with an opportunity to speak with the permission of the Speaker only once for no longer than 5 (five) minutes on a matter before the meeting unless authorised by the Chairperson.

A member is entitled to speak once on any recommendation, motion or proposal, provided that the Mayor or Member may reply to conclude a debate and shall restrict himself/herself to answering previous speakers rather than the introduction of new matters.

Prior to the consideration of any item contained in the report of the mayor in reply to a specific question or during discussion of the same, the Speaker shall permit the Mayor, MMC or Chairperson of the Committee in terms of section 79 and 80 of the Local Government Municipal Structures Act 117 of 1998 who made the proposal in terms of rule 9 or rule 14 of part 5 of these Rules to make an explanatory statement.

6. Length of speeches

- 6.1 A member may (unless authorised otherwise by the Speaker) only speak once to-
 - 6.1.1 the matter and any amendments to that matter that is before the council;
 - 6.1.2 any motion before the council;
 - 6.1.3 to a matter or an amendment proposed or to be proposed by himself or herself;
 - 6.1.4 a point of order or a question of privilege, unless authorised by the speaker or as provided for in terms of these rules.
- 6.2 No new matters may be introduced by a mover that speaks to a motion and replies to previous speakers in a debate. The right of reply shall not extend to the mover of an amendment which, having been carried, has become substantive motion.

9.1 Items submitted by Officials of Council

9.1.1 ESTABLISHMENT OF A DISCIPLINARY BOARD AS PER THE MUNICIPAL REGULATIONS OF FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS

Ref.: 3/2/2/73

Chief Financial Officer: ER Alfred

PURPOSE

To inform Council that a Disciplinary Board must be established in terms of the Local Government Municipal Finance Management Act, 2003 and the Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings.

BACKGROUND

In terms of the Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings:

Establishment of disciplinary board and its functioning

- (1) A municipal council or board of directors of a municipal entity must establish a disciplinary board to investigate allegations of financial misconduct in the municipality or municipal entity, and to monitor the institution of disciplinary proceedings against an alleged transgressor.
- (2) A disciplinary board is an independent advisory body that assists the council or the board of directors with the investigation of allegations of financial misconduct, and provide recommendations on further steps to be taken regarding disciplinary proceedings, or any other relevant steps to be taken.
- (3) A disciplinary board must consist of maximum five members appointed on a part- time basis by the council or board of directors for a period not exceeding three years, in accordance with a process as determined by the municipal council or board of directors.
- (4) A member of a disciplinary board must-
 - (a) be a natural person;

- (b) be a citizen or permanent resident of the Republic and resident in the province where the municipality is situated; and
 - (c) not be disqualified under sub-regulation (5).
- (5) The following persons are disqualified from membership of a disciplinary board:
- (a) a person who has been convicted of an offence in terms of this regulation or any other legislation;
 - (b) a person who, whether in the Republic or elsewhere, has been convicted of theft, fraud, forgery, the uttering of a forged document or any offence of which dishonesty is an element;
 - (c) a person who has at any time been removed from any office of trust on account of misconduct or dishonesty;
 - (d) an accounting officer of a municipality or municipal entity;
 - (e) a political office-bearer or a member of a board of directors; and
 - (f) a person who is an office-bearer in a political party.
- (6) A disciplinary board may consist of-
- (a) the head of the internal audit unit within the municipality or municipal entity or representative of an organisation performing internal audit functions for the municipality or municipal entity if the internal audit function is outsourced;
 - (b) one member of the Audit Committee of the municipality or municipal entity;
 - (c) a senior manager from the legal division in the municipality or municipal entity;
 - (d) a representative of the National Treasury or the provincial treasury; and
 - (e) any other person as may be determined by the municipal council or board of directors of a municipal entity.
- (7) If an official referred to in sub-regulation (6)(a) or (c) is implicated in the financial misconduct, the municipality or municipal entity may co-opt a senior manager in another unit, who does not have a conflict of interest.
- (8) If a municipality or municipal entity does not have sufficient capacity to establish a disciplinary board, a disciplinary board established by a district municipality or an equivalent provincial or national structure established for a similar purpose may, with approval of the district municipality or provincial or national structure, be used as a disciplinary board for the municipality or municipal entity.

APPLICABLE LEGISLATION

Local Government Municipal Finance Management Act, 2003(Act No.56 of 2003)

Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings

FINANCIAL IMPLICATIONS

None

Comment of Directorates / Departments concerned

Municipal Manager:	Recommendation Supported
Director: Corporate and Strategic Services:	Recommendation Supported
Director: Financial Services:	Recommendation Supported
Director: Engineering and Planning Services:	Recommendation Supported
Director: Community Development Services:	Recommendation Supported

RECOMMENDATION

That in respect of the

ESTABLISHMENT OF A DISCIPLINARY BOARD AS PER THE MUNICIPAL REGULATIONS OF FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS

As discussed by Council at the Special Council meeting held on 13 December 2016:

1. That Council, in terms of the Regulation Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings establishes a disciplinary board.
2. That a disciplinary board consist of-
 - (a) the head of the internal audit unit within the municipality or municipal entity or representative of an organisation performing internal audit functions for the municipality or municipal entity if the internal audit function is outsourced;
 - (b) one member of the Audit Committee of the municipality or municipal entity;
 - (c) a senior manager from the legal division in the municipality or municipal entity;
 - (d) a representative of the National Treasury or the provincial treasury; and
 - (e) any other person as may be determined by the municipal council or board of directors of a municipal entity.

RESOLVED

**That in respect of the
ESTABLISHMENT OF A DISCIPLINARY BOARD AS PER THE MUNICIPAL
REGULATIONS OF FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL
PROCEEDINGS
As discussed by Council at the Special Council meeting held on 13 December 2016:**

That Council, in terms of the Regulation Municipal Regulations of Financial Misconduct Procedures and Criminal Proceedings establishes a disciplinary board.

2. That a disciplinary board consists of-

- (a) the head of the internal audit unit within the municipality or municipal entity or representative of an organisation performing internal audit functions for the municipality or municipal entity if the internal audit function is outsourced;
- (b) one member of the Audit Committee of the municipality or municipal entity;
- (c) a senior manager from the legal division in the municipality or municipal entity;
- (d) a representative of the National Treasury or the provincial treasury; and
- (e) That Henry Witbooi be determined by Council to serve on the Disciplinary Board.

VOTE

FOR	AGAINST	ABSTAIN
6	3	-
Cllr. J Barnard	Cllr. M Nel	
Cllr. B Zass	Cllr. N Qunta	
Cllr. R Witbooi	Cllr. E Majikejela	
Cllr. R Pretorius		
Cllr. J Meyer		
Cllr. J Farmer		

Proposed: Cllr. J Barnard

Seconded: Cllr. R Pretorius

9.1.2 PERFORMANCE REVIEWS REPORT OF MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER

Ref.: 4/8/1

Acting Director Corporate and Strategic Services: H Witbooi

Compiled: O Fransman

PURPOSE

To inform Council of the annual performance reviews of the municipal manager and managers directly accountable to the Municipal Manager.

BACKGROUND

In terms of section 57 of the Systems Act a person to be appointed as a municipal manager or manager directly accountable to the municipal manager may only be appointed in that position in terms of an employment contract and a separate performance agreement.

In terms of Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, Notice 805 of 2006, the Employment Contract of Section 57 managers, subject to labour legislation, specifically delineates the terms of employment such as:

- a) details of duties;
- b) remuneration; and
- c) benefits

The Performance Agreement provides assurance to the municipal council of what can and should be expected from their municipal manager and managers directly accountable to the municipal manager. The purpose thereof is to:

- Comply with the provisions of Sections 57(1)(b), (4A), (4B) and (5) of the Systems Act as well as the employment contract entered into between the parties;
- Specify objectives and targets defined and agreed with the employee and to communicate to the employee the employer's expectations of the employee's performance and accountabilities in alignment with the IDP, SDBIP and the budget of the municipality;
- Specify accountabilities as set out in a performance plan, which forms an annexure to the performance agreement;
- Monitor and measure performance against set targeted outputs;
- Use the performance agreement as the basis for assessing whether the employee has met the performance expectations applicable to his or her job;
- In the event of outstanding performance, to appropriately reward the employee; and
- Give effect to the employer's commitment to a performance-orientated relationship with its employee in attaining equitable and improved service delivery.

The Local Government Municipal Systems Amendment Bill, No 7 of 2011 makes specific provision for the evaluation of the performance of the municipal manager and managers directly accountable to the municipal manager.

Comment:

A copy of the performance reviews report is attached as Annexure "A"

Financial Implications:

A Performance bonus be paid out to section 56 and 57 managers in terms off Section 8 of regulation 805 of the Local Government: Municipal Performance regulations for municipal managers and managers directly accountable to municipal managers, 2006

Applicable Legislation/Council Policy:

Chapter 7 of the Local Government: Municipal Systems Act 32 of 2000

Local Government: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, Notice 805 of 2006

Local Government Municipal Systems Amendment Bill, No 7 of 2011

RECOMMENDATION:

The panel recommend that Council approve the payment of an 8% bonus of the all-inclusive remuneration package to managers as indicated below:

Name	Bonus % Payable
Municipal Manager ¹	8%
Director: Corporate Services	8%
Acting Director: Community Services ²	8%
Director: Financial Services	8%
Director: Engineering and Planning Services	8%
¹ Pro rata calculation for the period 1 January to 30 June 2016	
² The annual bonus paid to Mr. Titus must be reconciled with the calculated bonus as per the recommendation of the panel and the difference be paid to or refunded by him	

RESOLVED

That in respect of the

PERFORMANCE REVIEWS REPORT OF MUNICIPAL MANAGER AND MANAGERS DIRECTLY ACCOUNTABLE TO THE MUNICIPAL MANAGER
discuss by Council at the Special Council Meeting held on 13 December 2016:

- a) The panel recommend that Council approve the payment of an 8% bonus of the all-inclusive remuneration package to managers as indicated below:

Name		Bonus % Payable
Municipal Manager ¹		8%
Director: Corporate Services		8%
Acting Director: Community Services ²		8%
Director: Financial Services		8%
Director: Engineering and Planning Services		8%
¹ Pro rata calculation for the period 1 January to 30 June 2016		
² The annual bonus paid to Mr. Titus must be reconciled with the calculated bonus as per the recommendation of the panel and the difference be paid to or refunded by him		

Proposed: Cllr. B Zass

Seconded: Cllr. J Meyer

9.2 Urgent matters submitted by the Municipal Manager

-Geen / None

9.3 Matters for notification

-Geen / None

9.4 Consideration of notices of motion

Rules of Order for internal Arrangement

Part 4

4. Notice of motion

- (1) Unless contained otherwise in these Rules, written notice of intent by a member to introduce a motion must be provided accompanied with a motivation, signature of mover and member seconding the motion as well as the date. Such notice must be delivered to the Municipal Manager at least six working days prior to the date of the meeting on which it is intended to be introduced. It shall incorporate a motivation, signature and date. The speaker may not accept any motion other than motion/s of exigency or motion/s of course unless notice has been provided.

-Geen / None

9.5 Consideration of notices of questions

Rules of Order for internal Arrangement

Part 4

3. Notice of question

Unless contained otherwise in these Rules, written notice must be provided of intention by a member to introduce a question. Such notice shall be effected at least six working days before the date of the meeting on which it is intended to be introduced. It shall incorporate a motivation, signature and date.

Geen / None

9.6 Consideration of motions of exigency

Rules of Order for internal Arrangement

Part 4

8. Motion of exigency

- 8.1 A motion of exigency exists when the attention of Municipal Council is directed to any matter not appearing on the agenda for which no notice was provided. The subject of the matter is briefly stated as well as reference to the fact that the motion to which attention has been directed be considered a matter of exigency.
- 8.2 The attention to the matter is drawn by a member. The matter is brought under the consideration of council by way of motion or question only if the motion is seconded and carried by a majority of the members present.

Geen / None

10. CLOSURE

- The meeting adjourned at 13h40.

VOORSITTER / CHAIRPERSON

DATUM / DATE