



NOTULES VAN DIE / MINUTES OF THE

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

15 MAART / MARCH 2017

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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 15 MARCH 2017 IN THE COUNCIL CHAMBER AT 42 CHURCH STREET,
LAMBERTS BAY

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PRESENT AND IN ATTENDANCE:

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

ABSENT WITHOUT APOLOGY:

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.

The Chairperson, Cllr. W Farmer called the meeting to order and welcomed all present. Mr. E Alfred opened the meeting with a prayer.

1.1 Announcement of Councillors birthdays

On behalf of Council and the Administration, Cllr. B Zass and Mr. GF Matthyse congratulated Cllr. R Pretorius on his birthday and wished him well.

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. E Majikejela
- Cllr. N Qunta
- Mr. H Witbooi (Acting Director Corporate and Strategic Services)

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 their 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.

N/A

6. STATEMENTS AND COMMUNICATIONS BY THE SPEAKER

Geen / None

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.

N/A

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 MOTION OF EXIGENCY RECEIVED BY THE SPEAKER FROM CLLR J WHITE / MOSIE VAN DRINGENDHEID ONTVANG VAN RDL J WHITE

REF: 4/3/1

ACTING DIRECTOR CORPORATE & STRATEGIC SERVICES: H Witbooi

DOEL / PURPOSE :

To obtain Council's approval for an investigation into the motion as tabled by Cllr J White (ADC) pertaining to various issues as set out in item 3 below.

BACKGROUND

A motion of exigency was tabled by Councillor J White of the ADC, and discussed by Council during a special council meeting held on 28 February 2017.

It was resolved that an investigation must be lodged by the Speaker to get clarity on the statements and allegations made by Councillor White in his motion, and which resolution was proposed and seconded as follows:

Proposed: Cllr. L Scheepers

Seconded: Cllr. J Barnard

1. MOTION TABLED BY CLLR WHITE IN RESPECT OF THE MATTERS/ALLEGATIONS:

Councillor White tabled a motion in respect of the following matters:

- 1.1 The inaugural meeting did not meet the legal prescripts due to gross negligence or ill advice from the Council Administration.
- 1.2 The previous Executive Mayor did not have the delegated authority and or power to appoint mr. J France as the acting Municipal Manager of Cederberg Municipality.
- 1.3 That no extension exist for the appointment of mr. France as acting Municipal Manager.

- 1.4 That on 16 August 2016, Cederberg Municipality had no Municipal Manager and or Acting Municipal Manager or an appointment by the MEC to preside over the proceedings of 16 August 2016.
- 1.5 In the absence of a Municipal Manager or an appointed delegated authority by the MEC in the province, all decisions and appointments by this Council since 16 August 2016 to date are null and void.

FINANCIAL IMPLICATION

Cost of investigation to be determined, The Municipality has a panel of legal experts that was procured through tender process CED 20/2014-2015. After consultation with the Speaker, the administration will select a firm(s) of attorneys to assist the Speaker with legal matters in the office of the Speaker.

Provision was made for cost recovery during the special Council meeting of 28 February 2017, whereby the cost will be recovered from the party who tabled the motion, should it emanate that the motion has no grounds and may be seen as fruitless and or wasteful.

RECOMMENDATION

- a) That Council takes cognisance of the motion of exigency; and
- b) The speaker be mandated to drive the investigation into the matters / allegations as listed in item 2 above;
- c) That, if the outcome of the investigation lead to fruitless and wasteful expenditure for Cederberg Municipality, the monies spent on the investigation be recovered from the person who tabled the motion; and
- d) That if the statements and allegations are valid and correct in the motion that Cllr. White tabled, Cllr. J Barnard resigns as the Executive Mayor of Cederberg Municipality.
- e) That the appointed firm be instructed to investigate the matters listed below:

1. The inaugural meeting did not meet the legal prescripts due to gross negligence or ill advice from the Council Administration.
2. The previous Executive Mayor did not have the delegated authority and or power to appoint mr. J France as the acting Municipal Manager of Cederberg Municipality.
3. That no extension exist for the appointment of mr. France as acting Municipal Manager.
4. That on 16 August 2016, Cederberg Municipality had no Municipal Manager and or Acting Municipal Manager or an appointment by the MEC to preside over the proceedings of 16 August 2016.
5. In the absence of a Municipal Manager or an appointed delegated authority by the MEC in the province, all decisions and appointments by this Council since 16 August 2016 to date are null and void.

RESOLVED

- a. That Council takes cognisance of the motion of exigency; and
- b. The speaker be mandated to drive the investigation into the matters / allegations as listed in item 2 above;
- c. That, if the outcome of the investigation lead to fruitless and wasteful expenditure for Cederberg Municipality, the monies spent on the investigation be recovered from the person who tabled the motion; and
- d. That if the statements and allegations are valid and correct in the motion that Cllr. White tabled, Cllr. J Barnard resigns as the Executive Mayor of Cederberg Municipality.
- e. That the appointed firm be instructed to investigate the matters listed below:
 1. The inaugural meeting did not meet the legal prescripts due to gross negligence or ill advice from the Council Administration.

2. The previous Executive Mayor did not have the delegated authority and or power to appoint mr. J France as the acting Municipal Manager of Cederberg Municipality.
3. That no extension exist for the appointment of mr. France as acting Municipal Manager.
4. That on 16 August 2016, Cederberg Municipality had no Municipal Manager and or Acting Municipal Manager or an appointment by the MEC to preside over the proceedings of 16 August 2016.
5. In the absence of a Municipal Manager or an appointed delegated authority by the MEC in the province, all decisions and appointments by this Council since 16 August 2016 to date are null and void.

9.2 Urgent Matters submitted by the Municipal Manager

Resolved

- a) That Councillors must complete their risk analysis forms as soon as possible and submit it to the Office of the Municipal Manager.

Proposed: Cllr. R Pretorius

Seconded: Cllr. J Meyer

9.3 Matters for notification

Geen / None

9.4 Consideration of notices of motion

Geen / None

9.5 Consideration of notices of questions

a) Questions from Cllr. J White

1. What Delegated Authority does the Deputy Mayor have to sign MOU's on behalf of the Administration or Council. (Article in Newspaper pertaining to Cedarmill Mall)
2. Where does the Deputy Mayor get the Authority to instruct community members and then the Executive Mayor over rules the Deputy Mayor. When the Deputy comes to Graafwater he involves himself in Administration processes and then make statements to the Community that the Mayor is "dom en onnosel". Where does the Deputy Mayor get the authority to come and instruct community members in the Mayor's ward.
- 3 Mrs O Fransman gets an extra R16000.00 added to her salary as it occurs from time-to-time. What does she do for Council that gives her this benefit. Request for an investigation.

Response from the Administration on question a) 1:

The Municipal Manager, mr. GF Matthyse informed Cllr, White that the process of the Mall was driven and signed by the Administration. The MOU was signed by the Acting MM at that stage, mr. E Alfred.

Response from Speaker on question a) 2:

The Speaker informed Cllr. White that whenever making such statements he should please in future provide the Office of the Speaker with proof of such statements and/or allegations.. He also states that the Executive Mayor, Cllr. J Barnard is the Ward Councillor of Ward 4 and Cllr. B Zass is the Ward Councillor of Ward 3 and the Deputy Mayor.

Response from Speaker on question a) 3:

The Speaker rules that response on this matter will be tabled at the next Council Meeting.

9.6 Consideration of motions of exigency

Geen / None

10. CLOSURE

Meeting adjourned at 10h30.

VOORSITTER / CHAIRPERSON

DATUM / DATE