



NOTULES VAN DIE / MINUTES OF THE

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

10NOVEMBER 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 10 NOVEMBER 2017 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:

Cllr. J White

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. Cllr. J Meyer opened the meeting with a prayer.

1.1 Announcement of Councillors birthdays

The Speaker, on behalf of Council and the Administration, congratulated the Councillors who had birthdays.

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

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

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 informed Council that item 9.1.3 will stand over for the next Council Meeting and will be removed from this Agenda pack.

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 9.1.1 CONSIDERATION OF OVERDRAFT FACILITY

Ref.: 5/18/4

Chief Financial Officer: ER Alfred

PURPOSE

To obtain Council approval for an Overdraft Facility of R 6 000 000.00 set out as follows:

Overdraft Facility of R 6000 000 till 31 December 2017.

Overdraft Facility of R 3000 000 from 1 January 2018 till 31 March 2018.

BACKGROUND

During the annual review of the municipality facilities ABSA Bank Limited advise that financial products have been approved as set out below:

The Approved financial products are as follows:

- (i) Overdraft Facility: R 6 000 000 (Six million Rand)

Management will reduce the facility as follow:

- (i) R 3 000 000 (Three million Rand) reduction on 31 December 2017 and,
- (ii) R 3 000 000 (Three million Rand) reduction on 31 March 2018

LEGAL IMPLICATIONS

Short-term debt

45.(1) A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act and only when necessary to bridge---

- (a) shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or
- (b) capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

- (2) A municipality may incur short-term debt only if---
 - (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
 - (b) the accounting officer has signed the agreement or other document which creates or acknowledge the debt.
- (3) For the purpose of subsection (2)(a), a municipal council may ---
 - (a) approve a short-term debt transaction individually; or
 - (b) approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that---
 - (i) the credit limit must be specified in the resolution of the council;
 - (ii) the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and
 - (iii) if the council approves a credit facility that is limited to emergency use, the accounting officer must notify the council in writing as soon as practical of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as options for repaying such debt.
- (4) A municipality---
 - (a) must pay off short-term debt within the financial year; and
 - (b) may not renew or refinance short-term debt, whether its own debt or that of any other entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.
- (5)(a) No lender may wilfully extends credit to a municipality for the purpose of renewing or refinancing short-term debt that must be paid off in terms of subsection (4)(a).
- (b) If a lender wilfully extends credit to a municipality in contravention of paragraph (a), the municipality is not bound to repay the loan or interest on the loan.
- (6) Subsection (5)(b) does not apply if the lender---
 - (a) relied in good faith on written representations of the municipality as to the purpose of the borrowing; and
 - (b) did not know and had no reason to believe that the borrowing was for the purpose of renewing or refinancing short-term debt.

FINANCIAL IMPLICATIONS

Application fee of R 68 400.00 (Vat Included) will be charged and interest of prime from the financial institution.

RECOMMENDATION

That in respect of the:

CONSIDERATION OF OVERDRAFT FACILITY

discussed by Council at the Special Council meeting held on 10 November 2017

- a) That Council, in terms of section 45 of the MFMA, consider and approves the following:
 - (i) Overdraft Facility of R 6 000 000.00 set out as follows:
 - (a) Overdraft Facility of R 6000 000 till 31 December 2017.
 - (b) Overdraft Facility of R 3000 000 from 1 January 2018 till 31 March 2018.
- b) The Municipal Manager be mandated to sign all relevant documents with ABSA Bank.

RESOLVED

That in respect of the:

CONSIDERATION OF OVERDRAFT FACILITY

discussed by Council at the Special Council meeting held on 10 November 2017

- a) That Council, in terms of section 45 of the MFMA, consider and approves the following:
 - (ii) Overdraft Facility of R 6 000 000.00 set out as follows:
 - (c) Overdraft Facility of R 6000 000 till 31 December 2017.
 - (d) Overdraft Facility of R 3000 000 from 1 January 2018 till 31 March 2018.
- b) The Municipal Manager be mandated to sign all relevant documents with ABSA Bank.

Proposed: Cllr. J Barnard

Seconded: Cllr. R Pretorius

9.1.2 AANSTELLING VAN WAARNEMENDE MUNISIPALE BESTUURDER

Verw: (4/3/3)

Uitvoerende Burgemeester: J Barnard

DOEL / AIM :

Om goedkeuring te verkry vir die aanstelling van 'n geskikte kandidaat om waar te neem in die vakante posise van Munisipale Bestuurder totdat die nuwe Munisipale Bestuurder diens begin op 01 Desember 2017.

AGTERGROND / BACKGROUND :

Die proses van werwing van die Munisipale Bestuurder is byna afgehandel en 'n item vir goedkeuring van die aanstelling van 'n Munisipale Bestuurder sal binnekort voor die Raad dien. Intussentyd het die verlengingsperiode van die vorige Waarnemende Munisipale Bestuurder tot 'n einde gekom op 31 Oktober 2017. 'n Waarnemende Munisipale Bestuurder moes noodgedwonge aangewys word vanaf die 1ste November 2017, en was mnr E Alfred deur die Waarnemende Uitvoerende Burgemeester aangewys om waar te neem as Munisipale Bestuurder totdat die Raad 'n waarnemende Munisipale Bestuurder kan aanstel op 08 November 2017.

In die afwesigheid van 'n voltydse Munisipale Bestuurder moet:

- a) 'n geskikte persoon aangestel moet word om waar te neem as Munisipale Bestuurder; en
- b) dat sodanige waarneming moontlik die wetlike perk van drie (3) maande kan oorskry; en
- c) daar indien nodig, goedkeuring by die MEC verkry sal moet word om sodanige waarneming te verleng en welke verlenging nie drie maande mag oorskry nie.

FINANSIËLE IMPLIKASIE / FINANCIAL IMPLICATION :

Geen. Waarneming word nie betaal vir periodes korter as 10 dae nie.

REGSIMPLIKASIE / LEGISLATIVE IMPLICATION :

Die volgende stukke wetgewing asook omsendskrywes van SALGA het betrekking:

- **Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) ("The Systems Act"):**

Section 54A (1)(b) states that *"the municipal council must appoint an acting municipal manager under circumstances and for a period as prescribed"*.

Section 54A (2) states that *"a person appointed as municipal manager in terms of subsection (1) must at least have the skills, expertise, competencies and qualifications as prescribed."*

Section 54A (2A)(a) states that *"a person appointed in terms of subsection (1)(b) may not be appointed to act for a period that exceeds three [3] months."*

Section 54A (2A)(b) states that *"a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a), for a further period that does not exceed three [3] months."*

Section 54A (6)(a) states that *"the municipal council may request the MEC for local government to second a suitable person, on such conditions as prescribed, to act in the advertised position until such time as a suitable candidate has been appointed."*

- **SALGA Circular 6/2014**

In terms of Circular 6/2014 issued by the South African Local Government Association ("SALGA"), The Minister of COGTA has on 17 January 2014 promulgated the Local Government: Regulation on the Appointment and Conditions of Employment of Senior Managers, No 37245, dated 17 January 2014 ("the Regulations").

Circular 6/2014 indicates that the Regulations apply moreover to municipalities and the employment of municipal managers.

- **Local Government: Regulation on the Appointment and Conditions of Employment of Senior Managers**

Regulation 1 defines **"senior manager"** as *"a municipal manager or acting municipal manager, appointed in terms of section 54A of the [Systems] Act..."*;

Regulation 2 (1) states that *"These regulations apply to –*

- (a) Municipalities in the Republic of South Africa;*
- (b) Municipal entities; and*
- (c) Senior managers."*

Regulation 7 (1) states that *"when the post of senior manager becomes vacant, or is due to become vacant, the mayor, in the case of a municipal manager...must, upon receipt of official notification that the post of a senior manager will become vacant, obtain approval from the municipal council for the filling of such a post in its next council meeting or as soon as it is reasonably possible to do so."*

Regulation 7 (2)(a) states that *"a vacant senior manager post may not be filled, unless approval to fill the post has been granted by the municipal council"*.

AANBEVELING / RECOMMENDATION:

Dat die Raad:

- A. Die aanstelling van mnr E Alfred as Waarnemende Munispale Bestuurder kondoneer en goedkeur vanaf 01 November 2017.

BESLUIT:

- a) Dat die Raad die aanstelling van mnr E Alfred as Waarnemende Munispale Bestuurder kondoneer en goedkeur vanaf 01 November 2017.

Voorstel: Rdl. J Meyer

Sekondant: Rdl. B Zass

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.

Motion tabled by the DA. Cllr. R Pretorius gave a briefing as for the urgency of the matter and all councillors present casted their vote by a show of hands.

VOTE (FOR URGENCY)

FOR - 6	AGAINST - 4	ABSTAIN
Cllr. R Pretorius Cllr. R Witbooi Cllr. J Meyer Cllr. B Zass Cllr. J Barnard Cllr. W Farmer	Cllr. M Nel Cllr. E Majikejela Cllr. N Qunta Cllr. L Scheepers	-

RESOLVED

- a) That the Speaker be mandated to appoint a legal firm to investigate the allegations against Councillor J White;
- b) That Councillor White be informed about the investigation and he be given the opportunity to respond within 14 days to the Office of the Speaker;
- c) That the outcome report of the investigation pertaining to the allegations against Cllr. White be referred to the Disciplinary Committee; and
- d) That the Disciplinary Committee of Cederberg Municipality make a recommendation to Council regarding Councillor J White.

Proposed: Cllr. R Pretorius

Seconded: Cllr. J Barnard

10. CLOSURE

- The meeting adjourned at 10h15.

VOORSITTER / CHAIRPERSON

DATUM / DATE