



**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**

**22 September 2022**

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**MINUTES OF THE URGENT SPECIAL COUNCIL MEETING OF THE CEDERBERG  
MUNICIPALITY HELD ON 22 SEPTEMBER 2022 IN THE COUNCIL CHAMBER AT 2A  
VOORTREKKER STREET, CLANWILLIAM.**

*Index to resolutions taken on 22 September 2022*

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### **PRESENT AND IN ATTENDANCE:**

As per the attendance register:

W Farmer

F Kamfer

M Heins

J Van Heerden

A Scheepers

P Strauss

### **APOLOGIES:**

R Richards

F Berry

T waldeck

M Bergh

### **ABSENT WITHOUT APOLOGY:**

Geen / None

<b>1. OPENING AND WELCOMING</b>
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At 10h00 the Chairperson, Cllr. M Heins opened the meeting and welcomed all present.

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

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**

- Geen / None

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

- Geen / None

**5. STATEMENTS AND COMMUNICATION BY THE EXECUTIVE MAYOR**

None

**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**

None

**7. MATTERS FOR CONSIDERATION**

**7.1 ITEMS SUBMITTED BY OFFICIALS OF COUNCIL**

**RB7.1.1/22-09-2022**

**RE: OUTCOME: APPLICATION FOR EXEMPTION FROM IMPLEMENTATION OF THE SALARY AND WAGE COLLECTIVE AGREEMENT**

**ref: (4/1/5)**

***Municipal Manager: C Sheldon***

***Human Resources: Mr H Witbooi***

**PURPOSE:**

The purpose of this report is to:

1. Inform Council regarding the outcome of the exemption application, after the matter on 02 September 2022.

**BACKGROUND:**

On 26 May 2022, council resolved to apply for exemption from implementing the salary and wage collective agreement, and resolved to do so formally, and in line with the prescriptions, on 23 June 2022 as per Council item **6.1.4/23-06-2022**.

The exemption application was heard on 02 September 2022, under the auspices of the South African Local Government Bargaining Council.

The matter was heard by the Exemptions Panel, consisting of a Senior Panelist, namely Ms A Singh-Bhoopchand and a Financial Expert, namely, Krish Kumar, under case number Case No: **EX/HQ072201**.

The Applicant, Cederberg Municipality was represented by the South African Local Government Association (SALGA), represented by Mr Azwi Khampha from Khampha Attorneys Inc.

The first respondent was IMATU, represented by Advocate S. Harvey instructed by Francois Du Plessis Attorneys, and the second respondent was SAMWU, represented by Ms S. Osai, of Ndou Attorneys Inc. Both the respondents opposed the exemption application on behalf of their members, namely the employees of the Cederberg Municipality.

The exemptions panel heard and presided over the matter, and which outcome was handed down by Ms A Singh-Boopchand. The panel found in favour of the respondents, stating as follows:

1. *The applicant has failed to show that it is unable to afford the salary and minimum wage increase; the flat rate Homeowners Allowance increase; the increase in the employer's contribution to a medical scheme together with the other linked increases for the 2022/2023 financial year.*
2. *The application for exemption is dismissed.*
3. *I make no order as to costs*

Subsequent to the above outcome, SALGA's Jasper van der Westhuizen informed the municipality, that after studying the outcome, it was determined that there are grounds for review, and hence they advised that the municipality should in fact take the matter on review. The review application will be done at no cost to the municipality, as SALGA will carry the full cost of the review application.

Due to the fact that the municipality's financial situation is still in a dire state, SALGA recommended that Council take the matter on review and that Council would in the

meantime, not be obliged to implement the salary and wage agreement (salary increases) while the matter is taken on review. SALGA will assist the municipality with the review application, but it must be done as a matter of urgency.

Council must now decide whether or not SALGA may proceed with the review application. It is also advised that the municipality should make provision for a scenario where the outcome of the review application may not be in favour of the municipality, in which case, the municipality must implement the salary and wage agreement from 01 July 2022, which would mean back-pay for all employees.

### **LEGAL FRAMEWORK**

Salary increases are not regulated by labour legislation, except in as far as may be provided for in any collective agreement, or the specific clauses in the employment contracts of employees, where provision is usually made for annual wage or salary increases / negotiations. In the absence of any such agreement, salary increases remains a matter of mutual interest between employer and employee.

The legal framework specific to the salary and wages payable to employees in the Local Government sector, is the following:

- a) the Local Government: Municipal Systems Act (Act 32 of 2000);
- b) Salary and Wage Collective Agreement concluded by the South African Local Government Bargaining Council as negotiated from time to time.

### **ANNEXURES:**

- Exemption application outcome, case number **EX/HQ07220**.

### **COMMENTS:**

- 1. DIRECTOR TECHNICAL SERVICES**
  
- 2. DIRECTOR SUPPORT SERVICES**
  
- 3. DIRECTOR COMMUNITY SERVICES AND PUBLIC SAFETY**

#### 4. MUNICIPAL MANAGER

##### AANBEVELINGS / RECOMMENDATIONS

##### That Council:

- a. Approve the recommendation by SALGA, to take the (attached) outcome of the exemption application on review; and
- b. Prepare for a scenario where the review application in terms of exemption from the salary and wage agreement may not be granted

##### RESOLVED:

##### That Council:

- a. Approves the recommendation by SALGA, to take the (attached) outcome of the exemption application on review;
- b. Must prepare for a scenario where the review application in terms of exemption from the salary and wage agreement may not be granted;
- c. Should council's position improve, the wage agreement be implemented;
- d. Consultation must be held with the labour unions.

**Proposed:** Cllr. J Van Heerden

**Seconded:** Cllr. A Scheepers

**Counter Proposals:** None

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

Two urgent matters were placed on the agenda to be discussed under this section:

- Appointment of Acting Municipal Manager
- Extension of Contract of Chief Financial Officer

Councillor Van Heerden indicated that he will not vote on items other than the matters placed on the main agenda, and left the meeting at 10h41.

With Councillor Van Heerden's departure there was not a quorum present at the meeting, and therefore the items could not be dealt with.

### **7.3 MATTERS FOR NOTIFICATION**

- Geen / None

### **7.4 CONSIDERATION OF MOTIONS OF EXIGENCY**

- Geen / None

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

- None

### **7.6 CONSIDERATIONS OF NOTICES OF EXIGENCY**

- None

### **07. CLOSURE**

- Meeting adjourned at 10H46.