MINUTES

URGENT MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY

2018-07-30 AT 12:00

Detailed account of the meeting proceedings is available on audio recording, which is obtainable from The Municipal Manager’s Office per Request for Information (RFI)
# MINUTES

**URGENT MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY**

2018-07-30

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MINUTES OF AN URGENT MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY HELD ON 2018-07-30 AT 12:00 IN THE COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET, STELLENBOSCH

PRESENT
The newly elected Speaker, Cllr WC Petersen (Ms) [Chairperson]
The Executive Mayor, Ald G Van Deventer (Ms)
The Deputy Executive Mayor, Cllr N Jindela

ALDERWOMEN
JP Serdyn (Ms)

COUNCILLORS
FJ Badenhorst JK Hendriks
GN Bakubaku-Vos (Ms) MC Johnson
FT Bangani-Menziwa (Ms) NS Louw
PW Biscombe C Manuel
G Cele (Ms) NE Mcombring (Ms)
PR Crawley (Ms) XL Mdemka (Ms)
A Crombie (Ms) RS Nalumango (Ms)
JN De Villiers N Olayi
MB De Wet SA Peters
R Du Toit (Ms) MM Pietersen
A Florence WF Pietersen
AR Frazenburg SR Schäfer
E Fredericks (Ms) N Sinkinya (Ms)
E Groenewald (Ms) Q Smit
JG Hamilton LL Stander
AJ Hanekom E Vermeulen (Ms)
DA Hendrickse

********************************************************************************************************

Officials:
Municipal Manager (G Mettler (Ms)
Chief Financial Officer (M Wüst)
Director: Community and Protection Services (G Esau)
Director: Infrastructure (D Louw)
Director: Strategic and Corporate Services (A De Beer (Ms))
Acting Director: Planning & Economic Development (T Mfeya)
Chief Audit Executive (F Hoosain)
Manager: Communications (S Grobbelaar)
Senior Manager: Governance (Ms S De Visser)
Head: Committee Services (EJ Potts)
Committee Clerk (T Samuels (Ms))
Interpreter (J Tyatyeka)

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MINUTES URGENT MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY 2018-07-30

OPENING AND WELCOME (3/6/2/2)

The Municipal Manager, Ms G Mettler, officiating as Chairperson for the election of Speaker as set out in Schedule 3 of the Structures Act, welcomed and acknowledged all dignitaries, Councillors, officials, media, and members of the public to the Urgent meeting of the Stellenbosch Municipal Council.


Collaborator No: IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 30 July 2018


2. PURPOSE

To elect a Speaker in terms of Section 36 of the Local Government Municipal Structures Act, no 117 of 1998.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Council elects a Speaker in terms of Section 36 of the Local Government Municipal Structures Act, no 117 of 1998 (further referred to as “the Act”) at the first meeting after its election or when necessary to fill a vacancy, from among the councillors.

The Speaker elected at the first meeting of Council, Councillor Donovan Joubert, resigned as Speaker from 25 July 2018. The letter sent to the Municipal Manager dated 23 July 2018, is attached as APPENDIX A. There is therefore a vacancy in terms of Section 39 of the Act, and Council must elect a Speaker to fill the vacancy from among the councillors.

Section 36 provides for the process to elect a Speaker for Council, inter alia, when a vacancy must be filled. The Municipal Manager must preside over the election of the Speaker and the procedure for the election is set out in Schedule 3 of the Act, a copy of an extract is attached hereto as APPENDIX B. Schedule 3 provides, inter alia, that a secret voting process must be followed after the nomination process, if more than one person is nominated. The nomination form on which the nomination must be made is attached hereto as APPENDIX C.

The filling of the vacancy will be for the duration of the term of Council. The position of Speaker is a full-time position as per the seventh amended Establishment Notice for Stellenbosch Municipality (WC024) dated 31 July 2015, read with the Council resolution dated 15 August 2016, copies of which are attached as APPENDICES D and E.
5. RECOMMENDATIONS

(a) that Council elects a Speaker in terms of Section 36 of the Local Government Structures Act, 117 of 1998, to fill the current vacancy; and

(b) that the elected Speaker will be remunerated as a full-time Speaker in accordance with the provisions of Notice 1440 dated 15 December 2017, as approved by Council on 24 January 2018.

6. DISCUSSION / CONTENTS

6.1 Background

Council elects a Speaker in terms of Section 36 of the Local Government Municipal Structures Act, no 117 of 1998 (further referred to as “the Act”) at the first meeting after its election or when necessary to fill a vacancy from among the councillors.

6.2 Discussion

The Speaker elected at the first meeting of Council, Councillor Donovan Joubert, resigned as Speaker from 25 July 2018, the letter sent to the Municipal Manager dated 23 July 2018, is attached as APPENDIX A. There is therefore a vacancy and Council must elect a Speaker to fill the vacancy from among the councillors.

Section 36 provides for the process to elect a Speaker for Council inter alia when a vacancy must be filled. The Municipal Manager must preside over the election of the Speaker and the procedure for the election is set out in Schedule 3 of the Act, a copy of an extract is attached hereto as APPENDIX B. Nominations must be made on a form as determined by the Municipal Manager and must be signed by two councillors and the nominee must indicate acceptance of the nomination. The form for the nominations is attached as APPENDIX C.

The filling of the vacancy will be for the duration of the term of Council. The position of Speaker is a full-time position as per the seventh amended Establishment Notice for Stellenbosch Municipality (WC024) dated 31 July 2015, read with the Council resolution dated 15 August 2016, copies of which are attached as APPENDICES D and E.

6.3 Financial Implications

Council meetings are funded from the approved budget. Additional Council meetings to those planned on the calendar will need to be called from time to time and Council must provide for such occasions on the budget. The Speaker position is a full-time councillor position and the newly elected Speaker will be paid according to the provisions of the Upper Limits as approved by Council on 24 January 2018.

6.4 Legal Implications

The provisions in the legislation are discussed above.

6.5 Staff Implications

As per the approved structure.
6.6 Previous / Relevant Council Resolutions

Resolution 5 – election of Speaker on 15-08-2016.
Resolution 6.5 – designation of Full-time councillors dated 15-08-2016.

6.7 Risk Implications

Non-compliance if the legislative prescriptions are not followed that may lead to court actions. The operations can be detrimentally affected if Council does not elect a Speaker.

6.8 Comments from Senior Management

The item was not circulated for comment.

Annexures:

Appendix A: Letter from Councillor Donovan Joubert dated 23 July 2018
Appendix B: Schedule 3 – extract from the Local Government Structures Act, 117 of 1998
Appendix C: Nomination form
Appendix D: 7th amendment Establishment Notice for Stellenbosch Municipality (WC024) dated 15 July 2015
Appendix E: Council resolution – designation of full-time councillors dated 15 August 2016


The Municipal Manager called for nominations for the office of Speaker as per Schedule 3 of the Structures Act. One duly signed nomination was received, namely that of Councillor WC Petersen. (form attached as APPENDIX 2).

In view of only one candidate being nominated, in terms of Schedule 3 (Clause 5), the Municipal Manager then declared Councillor WC Petersen (Ms) as duly elected Speaker.

RESOLVED (majority vote with abstentions)

(a) that Council elects Councillor WC Petersen (Ms) as Speaker of Stellenbosch Municipality, in terms of Section 36 of the Local Government Structures Act, 117 of 1998, to fill the current vacancy; and

(b) that the elected Speaker will be remunerated as a full-time Speaker in accordance with the provisions of Notice 1440 dated 15 December 2017, as approved by Council on 24 January 2018.
MINUTES URGENT MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY 2018-07-30


ACCEPTANCE SPEECH BY THE NEWLY ELECTED SPEAKER 3/3/2/3

“My dear colleagues and Councillors, it’s indeed a very humble moment in my life. Thank you very much for entrusting me with this position. Politicians are known to make promises, but rest assured, the mission and vision of the municipality will be my ultimate focus as your Speaker.

Good partners always think bigger than themselves. Partners who want to make a difference have expanded their worlds from me to we. They have broken out of their selfish “WHAT’S IN IT FOR ME” mind-set and have stretch beyond their own needs. Together we can strive to make a positive change through the 5 pillars of the municipality.

Allow me to thank our previous Speaker, Cllr. Joubert, for the time he has served Stellenbosch. I am looking forward to serve you in my term as the Speaker, which includes our Council, Administration and communities at large.

Councillors, what drives us when we get up in the morning? Most people settle into one of three areas: survival, success or significance. If you’re like many people you may be struggling just to keep your head above water. You’re in survival mode. Whether because of circumstances, setbacks or poor choices you have to put a tremendous amount of effort into just making it from day to day.

They don’t have to judge us by what we say. They can judge us by what we do. And what we’re already doing in the councils we run is the best advertisement there is. And my message to you today is simple. “You’ve got a winning team. Keep it!”

Let each one proceed peacefully and proudly to the task at hand.

And last but not least I would like to thank my family for their utmost support, through the good and the bad.

May God bless our nation and each and every one of you and grant us peace now, tomorrow and always. Thank you, thank you, thank you.”

FOR FURTHER DETAILS CONTACT:

<table>
<thead>
<tr>
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<th>Geraldine Mettler</th>
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</tr>
<tr>
<td>REPORT DATE</td>
<td>24 July 2018</td>
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The Speaker, Cllr WC Petersen requested nominations for acting Single Whip for the duration of the meeting. One nomination was received for Cllr WF Pietersen to act as Single Whip for the duration of the meeting. Cllr WF Pietersen accepted the nomination and was appointed as Acting Single Whip for the duration of the meeting.
2. APPLICATION FOR LEAVE OF ABSENCE

The following applications for leave of absence were approved in terms of the Rules of Order By-law of Council:-

- Cllr F Adams  – 30 July 2018
- Cllr LK Horsband (Ms)  – 30 July 2018
- Cllr DD Joubert  – 30 July 2018
- Cllr N Mananga-Gugushe (Ms)  – 30 July 2018
- Cllr MD Oliphant  – 30 July 2018
- Cllr P Sitshoti (Ms)  – 30 July 2018

3. DISCLOSURE OF INTERESTS

NONE
4. APPOINTMENT OF A SINGLE WHIP FOR THE STELLENBOSCH COUNCIL

Collaborator No: 
IDP KPA Ref No: Good Governance and Compliance 
Meeting Date: 30 July 2018 

1. SUBJECT: APPOINTMENT OF A SINGLE WHIP FOR THE STELLENBOSCH COUNCIL

2. PURPOSE

To appoint a Single Whip for Stellenbosch Council in the event that the position becomes vacant through the election of the Speaker.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

Municipalities with more than 40 members may appoint a Single Whip. Stellenbosch Council has the power in terms of the Establishment Notice to appoint a Single Whip and designate the post as a full-time councillor. In the Stellenbosch Municipality (WC024) Seventh Amendment Establishment Notice, dated 31 July 2015, the Provincial Minister of Local Government provided Council with the power to, inter alia, designate a Single Whip appointed by Council, as a full-time Councillor, copy attached as APPENDIX A.

Councillor Wilhelmina Petersen was appointed on 15 August 2016 as the Single Whip. Should she be elected as Speaker, Council should appoint another councillor as Single Whip.

The majority party appoints the Single Whip from among the councillors by a normal nomination process and a show of hands. The provisions of Schedule 2 in the Local Government Structures Act, 117 of 1998, are not applicable to the appointment of a Single Whip.

The appointment will be for the duration of the term of Council. The Single Whip councillor was designated as a full-time councillor as per the seventh amended Establishment Notice for Stellenbosch Municipality (WC024) dated 31 July 2015, read with the Council resolution dated 15 August 2016, copy of the latter attached as APPENDIX B.

5. RECOMMENDATIONS

(a) that Council may appoint a Single Whip, in the event that the current incumbent is elected as Speaker; and

(b) that the Single Whip will be remunerated as a full-time councillor in accordance with the provisions of Notice 1440 dated 15 December 2017, as approved by Council on 24 January 2018.
6. DISCUSSION / CONTENTS

6.1 Background

Municipalities with more than 40 members may appoint a Single Whip.

6.2 Discussion

Stellenbosch Council has the power in terms of the Establishment Notice to appoint a Single Whip and designate the post as a full-time councillor. In the Stellenbosch Municipality (WC024) Seventh Amendment Establishment Notice, dated 31 July 2015, the Provincial Minister of Local Government provided Council with the power to, inter alia, designate a Single Whip appointed by Council as a full-time Councillor, copy attached as APPENDIX A.

Councillor Wilhelmina Petersen (Ms) is the current Single Whip. Should she be elected as Speaker, Council should appoint another councillor as Single Whip.

The majority party appoints the Single Whip from among the councillors by a normal nomination process and a show of hands. The provisions of Schedule 2 in the Local Government Structures Act, 117 of 1998, are not applicable to the appointment of a Single Whip.

The appointment will be for the duration of the term of Council. The position of Single Whip is a full-time position as per the seventh amended Establishment Notice for Stellenbosch Municipality (WC024) dated 31 July 2015, read with the Council resolution dated 15 August 2016, copy of the latter attached as APPENDIX B.

6.3 Financial Implications

The Single Whip is a full-time councillor and the newly appointed Single Whip will be paid according to the provisions of the Upper Limits as approved by Council on 24 January 2018. A copy of an extract from the Upper Limit Notice is attached as APPENDIX C.

6.4 Legal Implications

The provisions in the legislation are discussed above.

6.5 Staff Implications

As per the approved structure.

6.6 Previous / Relevant Council Resolutions

Appointment of Single Whip for Stellenbosch Council dated 15-08-2016
Resolution 6.5 – designation of Full-time councillors dated 15-08-2016.

6.7 Risk Implications

Non-compliance if the legislative prescriptions are not followed that may lead to court actions.

6.8 Comments from Senior Management

The item was not circulated for comment.
Annexures

Appendix B: Council resolution – designation of full-time councillors dated 15 August 2016
Appendix C: Extract – Upper Limit Notice

URGENT COUNCIL MEETING: 2018-07-30: ITEM 4

By means of an amendment, Cllr Q Smit of the majority party, nominated Cllr PW Biscombe for the position of Single Whip.

RESOLVED (majority vote with abstentions)

(a) that Council appoints Cllr PW Biscombe as Single Whip for the Stellenbosch Municipal Council; and

(b) that the Single Whip will be remunerated as a full-time councillor in accordance with the provisions of Notice 1440 dated 15 December 2017, as approved by Council on 24 January 2018.

Cllr DA Hendrickse requested that his vote of dissent in terms of resolution (b) (the remuneration), be minuted.

Cllr G Cele (Ms) requested that it be minuted that she abstained from voting on the matter.

FOR FURTHER DETAILS CONTACT:

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<tr>
<td>REPORT DATE</td>
<td>26 July 2018</td>
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</table>
5. APPOINTMENT OF ACTING MUNICIPAL MANAGER WHEN THE MUNICIPAL MANAGER IS NOT AVAILABLE

Collaborator No: 
IDP KPA Ref No: Good Governance and Compliance
Meeting Date: 30 July 2018

1. SUBJECT: APPOINTMENT OF ACTING MUNICIPAL MANAGER WHEN THE MUNICIPAL MANAGER IS NOT AVAILABLE

2. PURPOSE

To approve the Directors who will act as the Municipal Manager when the Municipal Manager is not available.

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

The item served before Council on 25 July 2018 and was referred back for refinement. The upper limits that determine the remuneration of Section 56 Managers and the Municipal Manager determine the salaries for the positions they are appointed in. The Regulations on the conditions of service of senior managers and the Local Government Systems Act are silent on acting arrangements other than determining that Council must appoint a suitably qualified person to act when the Section 56 Managers and the Municipal Manager is not available. The collective agreement on Conditions of Service is not applicable to the Section 56 Managers and the Municipal Manager as the conditions of service of these employees are dealt with in the Regulations. As Council appoints the people acting as Municipal Manager, Council needs to determine the allowance applicable in such situations. Council already approved, in line with the Collective Agreement on Conditions of Service in the Western Cape (SALGBC), that people acting as Directors may receive an acting allowance. The only people excluded are Directors when acting as the Municipal Manager. It needs to be noted that when acting the incumbent is still responsible for own functions. An acting allowance is therefore paid for the additional workload and responsibilities taken on of a higher position given that the person in the higher position is paid a higher salary than the incumbent acting. The question of back pay of the Directors that have acted since the appointment of the current Municipal Manager in January 2017, will be addressed when the new policy is presented to Council.

In 2012 Council approved a roster of Directors to act when the Municipal Manager is out of office (APPENDIX 1). In the meantime, some of the individuals have left and the new organisational structure was approved in October 2017. The new structure has now officially been implemented on an operational level after placements and the acting arrangements must be updated and reviewed. Section 56 (1) (a) of the Municipal Systems Act provides that the Municipal Council must appoint an acting Municipal Manager under circumstances and for a period as prescribed. Section 56 (1) (b) provides that such an acting person must at least have the skills, expertise, competencies and qualifications as prescribed. The prescription is attached as per the APPENDIX 2. It must be noted that the NQF levels changed since the publication of the minimum requirements and what was a
NQF level 6 is now equivalent to a NQF level 7 that equates to at least a B degree. All the Directors had to adhere to this qualification when they were appointed, as NQF 7 has always been a requirement for them in terms of the regulations.

It can be anticipated that there will be occasions when the Municipal Manager will be away from office or not available due to a variety of reasons. An updated roster of acting arrangements is proposed as a pragmatic arrangement to manage this matter.

Council approved an acting allowance policy in terms of which no acting allowance is payable to Directors when they are acting as the Municipal Manager. A copy hereto is attached as APPENDIX 3. It is not clear on what basis Directors may not receive acting allowances, but the other employees are entitled to acting allowances when they act as Directors. Other municipalities pay their acting Municipal Managers an acting allowance. Given that it is expected of the Director to fulfil both functions at the same time it would be unfair that Directors take on the additional responsibility, which is the reason why an acting allowance is paid, without compensation.

5. RECOMMENDATIONS

(a) that the following Directors be appointed to act as Municipal Manager in the event of the Municipal Manager is not available:

   January to February : Corporate Services
   March to April : Financial Services (CFO)
   May to June : Infrastructure Services
   July to August : Planning and Economic Development
   September to October : Community and Protection Services
   November : Corporate Services
   December : Financial Services (CFO)

(b) that the Director next on the rotation schedule acts when the relevant Director is not available as per the schedule;

(c) that the salary component for determining the acting allowance of a Director acting as Municipal Manager be equal to the difference between the salary component of the incumbent’s remuneration package and the salary component of the remuneration package of the Municipal Manager;

(d) that an acting allowance only be paid if the Director acted for 10 consecutive days or longer; and

(e) that clause 6 of the current Acting Allowance Policy be rescinded.

6. DISCUSSION / CONTENTS

6.1 Background

In 2012 Council approved a roster of Directors to act when the Municipal Manager is out of office. In the meantime, some of the individuals have left and the new organisational structure was approved in October 2017. The new structure has now officially been implemented on an operational level after placements and the acting arrangements must be updated and reviewed.
6.2 Discussion

Section 56(1) of the Municipal Systems Act provides that the Municipal Council must appoint an acting Municipal Manager under circumstances and for a period as prescribed. Section 56(1) provides that such an acting person must at least have the skills, expertise, competencies and qualifications as prescribed. The prescription is attached as per the **APPENDIX 2**. It must be noted that the NQF levels changed since the publication of the minimum requirements and what was a NQF level 6 is now equivalent to a NQF level 7 that equates to at least a B degree. All the Directors had to adhere to this qualification when they were appointed, as NQF 7 has always been a requirement for them in terms of the regulations.

It can be anticipated that there will be occasions when the Municipal Manager will be away from office or not available due to a variety of reasons. An updated roster of acting arrangements is proposed as a pragmatic arrangement to manage this matter.

Council approved an Acting Allowance Policy (**APPENDIX 3**) in terms of which no acting allowance is payable to Directors when they are acting as the Municipal Manager. A copy hereto is also attached as appendix 3. It is not clear on what basis Directors may not receive acting allowances, but the other employees are entitled to acting allowances when they act as Directors. There are other municipalities in our area that pay their acting Municipal Managers an acting allowance. Given that it is expected of the Director to fulfil the functions of the Municipal Manager and of the Director at the same time it would be unfair that Directors take on the additional responsibility, which is the reason why an acting allowance is paid, without compensation.

Acting allowances for other employees are based on the difference between their salaries and the first notch of the salary scale of the acting post and where it is the same or the acting employee earns more that the first notch, the acting employee receives 5 % of his/her salary for a period of 10 days or more that the acting is in place. The Section 56 Managers and the Municipal Managers are paid on a cost to company package and may structure the package as they wish with the proviso that not less than 60% must be structured as the salary component. When payments are therefore calculated in relation to the remuneration packages of the senior managers, 60% of the package is seen as the salary component.

6.3 Financial Implications

It is very difficult to determine when the Municipal Manager will not be available for more than 10 consecutive days at a time. The acting allowance should be financed from the normal salary budget.

6.4 Legal Implications

Section 56 of the Municipal Systems Act provides that the Municipal Council must appoint an acting Municipal Manager under circumstances and for a period as prescribed. Section 56 (b) provides that such an acting person must at least have the skills, expertise, competencies and qualifications as prescribed.
6.5 **Staff Implications**

Directors take on the additional work load and responsibilities of the Municipal Manager when acting.

6.6 **Previous / Relevant Council Resolutions**

29 November 2012

6.7 **Risk Implications**

The Municipality cannot function without a Municipal Manager that is the Head of the Administration.

6.8 **Comments from Senior Management**

The item was not circulated for comment.

**Annexures:**

- Appendix 1 Council Resolution 29 November 2012
- Appendix 2 Minimum Competency levels for Accounting Officers
- Appendix 3 Acting allowance policy 2013/2014

**URGENT COUNCIL MEETING: 2018-07-30: ITEM 5**

**RESOLVED** (majority vote)

(a) that the following Directors be appointed to act as Municipal Manager in the event of the Municipal Manager is not available:

<table>
<thead>
<tr>
<th>Month to Month</th>
<th>Department</th>
</tr>
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<tbody>
<tr>
<td>January to February</td>
<td>Corporate Services</td>
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(b) that the Director next on the rotation schedule acts when the relevant Director is not available as per the schedule;

(c) that the salary component for determining the acting allowance of a Director acting as Municipal Manager be equal to the difference between the salary component of the incumbent’s remuneration package and the salary component of the remuneration package of the Municipal Manager;
(d) that an acting allowance only be paid if the Director acted for 10 consecutive days or longer; and

(e) that clause 6 of the current Acting Allowance Policy be rescinded.

Councillor DA Hendrickse requested that his vote of dissent be minuted.

FOR FURTHER DETAILS CONTACT:

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The meeting adjourned at 12:40.

CHAIRPERSON: ........................................

DATE: ........................................

Confirmed on ........................................ with/without amendments.