

NOTICE

Ref no. 2/1/4/4/2

Date distributed: 09/12/2024.

**NOTICE OF A SPECIAL COUNCIL MEETING OF 2024/2025
FINANCIAL YEAR OF THE COUNCIL OF BREEDE VALLEY MUNICIPALITY
THURSDAY, 2024-12-12 AT 10:00**

TO The Speaker, Alderman J.F. Van Zyl [Chairperson]
The Executive Mayor, Alderman A. Steyn (Ms)
The Deputy Executive Mayor, Cllr J.J. von Willingh

COUNCILLORS

V.A. Bedworth
W.M. Blom
E. Botha
M.N. Bushwana
G.L. Daames
Alderman R. Farao
M.A. Goedeman
E.N. Isaacs
Alderman C. Ismail
J.R. Jack
M. Jacobs
R.T. Johnson
I.J. Joseph
D. Judge
J.P. Kritzinger
S.K. Madlolo
Z.M. Mangali
T. S. Manuel
P.H. Marais

S.J. Mei
Alderman W.R. Meiring
J. M Mokgosi
P.C. Moso
N. Nel
C.T. Nyithana
J. Pieters
A. Pietersen
O. Ralehoko
Alderman M. Sampson
T. P. Sibozo
S. S. T. Steenberg
M. Swartz
H.C Titus
F. Vaughan
M.T. Williams
C.F. Wilskut
N.J. Wullschleger
L.R. Yayi

Notice is hereby given in terms of Section 29, read with Section 18(2) of the *Local Government: Municipal Structures Act, 117 of 1998*, as amended, that a **SPECIAL COUNCIL MEETING** of the **2024/2025 FINANCIAL YEAR of the COUNCIL of BREEDE VALLEY MUNICIPALITY** will be held at **CAPE WINELANDS DISTRICT MUNICIPALITY, TRAPPE STREET WORCESTER** on **THURSDAY, 2024-12-12** at **10:00** to consider the items on the agenda.

**SPEAKER: ALDERMAN J.F. VAN ZYL**

BREEDE VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

A caring valley of excellence.

TABLE OF CONTENTS

ITEM	SUBJECT	PAGE
1.	OPENING AND WELCOME	3
2.	OFFICIAL NOTICES	3
2.1	Disclosure of interests	3
2.2	Applications for leave of absence.	3
3.	COMMUNICATION	3
3.1	Interviews or presentations by deputations	3
4.	CONSIDERATION OF MATTERS SUBMITTED BY THE ADMINISTRATION	4
4.1	SUBMISSION OF FINAL ANNUAL REPORT, ANNUAL FINANCIAL STATEMENTS, AUDITOR GENERAL'S REPORT, AUDIT AND PERFORMANCE AUDIT COMMITTEE REPORT; AND THE ADOPTION OF THE OVERSIGHT REPORT FROM THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR THE PERIOD 2023-2024 FINANCIAL YEAR	4
4.2	SPECIAL COMMITTEE: CODE OF CONDUCT FOR COUNCILLORS	7
5.	CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER	14
6.	CLOSURE	14

1. OPENING AND WELCOME

In terms of the Rules of Order for Internal Arrangement By-Law 2012 (as amended) the chairperson must take the chair at the time stated in the notice of the meeting or as soon thereafter as is reasonably possible: provided that the meeting does not commence later than 30 (thirty) minutes after the time stated in the notice of the meeting and must proceed immediately with the business of the meeting.

2. OFFICIAL NOTICES

2.1 DISCLOSURE OF INTERESTS

Item 6 of Schedule 7 of the Municipal Structures Amendment Act 3 of 2021 states:

A councillor must –

- (a) disclose to the council, or any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
- (b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillors' direct or indirect interest in the matter is trivial or irrelevant.

2.2 APPLICATIONS FOR LEAVE OF ABSENCE

In terms of the Rules of Order for Internal Arrangement By-Law 2012 (as amended).

- 2.2.1 Every Councillor attending a meeting of the Council must sign his or her name in the attendance register kept for such purpose.
 - 2.2.2 A Councillor must attend each meeting except when –
 - (a) Leave of absence is granted in terms of Clause 10; or
 - (b) The Councillor is required to withdraw in terms of law.
 - 2.2.3 The Attendance Registers will be available at the meeting.
 - 2.2.4 A blank Application for Leave of Absence form is enclosed.
-

3. COMMUNICATION

3.1 INTERVIEWS OR PRESENTATIONS BY DEPUTATIONS

In terms of the Rules of Order for Internal Arrangement By-Law 2012 (as amended).

*“A deputation seeking an interview with Council must give the Municipal Manager **6 (six) days** written notice of its intention and furnish details of the representations to be made and the source of the deputation. The Municipal Manager must submit a request by a deputation for an interview with Council to the Speaker, who may decide to grant or refuse an interview and under what conditions*

4. CONSIDERATION OF AGENDA ITEMS

4.1 SUBMISSION OF FINAL ANNUAL REPORT, ANNUAL FINANCIAL STATEMENTS, AUDITOR GENERAL'S REPORT, AUDIT AND PERFORMANCE AUDIT COMMITTEE REPORT; AND THE ADOPTION OF THE OVERSIGHT REPORT FROM THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR THE PERIOD 2023-2024 FINANCIAL YEAR

File No/s: 3/15/1

Directorate: Municipal Manager

Responsible person: Cllr. H.C Titus

Portfolio: Municipal Public Accounts Committee

PURPOSE

To submit to Council the final Annual Report, Financial Statements, Auditor General's Report, Audit and Performance Audit Committee Report and Oversight report for the period 2023-2024, for approval.

BACKGROUND

In terms of the Municipal Finance Management Act, 56 of 2003, section 127 (2), the Mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality. Section 129(1) of the MFMA prescribes that the council of a municipality must consider the Annual Report (as tabled) and by no later than two months from the date on which the Annual Report was tabled, adopt an oversight report containing the council's comments on the Annual Report. In the event that a municipality choose to table the Annual Report earlier, the adoption moves forward by two months from the date of tabling the Annual Report in Council.

We have therefore drafted the said document with relevant submissions received from our respective departments in accordance with the applicable legal prescripts. The said draft document was advertised for community inputs and the Municipal Public Accounts Committee (MPAC) has exercised its oversight role in terms of the roles and responsibilities.

Five meetings were held by the MPAC in order to fulfill its oversight mandate.

Members of the MPAC agreed to recommend that the Council approve the Annual Report, Annual Financial Statements, Auditor General's Report, and the Oversight Report, without reservations. The MPAC also want to congratulate the Council and Administration on the achievement of a clean audit report for the financial year 2023-2024.

Attached hereto are the following documents:

- **Annexure 1** – Inclusive Annual Report 2023-2024 (AR, AFS, AGSA Report, Audit and Performance Audit Committee); and
- **Annexure 2** – Municipal Public Accounts Committee (MPAC) Oversight Report 2023-2024.

FINANCIAL IMPLICATIONS

- Compilation of the Annual Report.
- Quality review on the Annual Financial Statements.
- Oversight review from the Audit Committee.
- Oversight from the Municipal Public Accounts Committee; and
- Audit fee for the period under review 2023-2024 financial year.

APPLICABLE LEGISLATION / COUNCIL POLICY

Municipal Systems Act, 32 of 2000 (as amended 2021).

Municipal Finance Management Act, 56 of 2003.

MFMA Circular 11 (Annual Report Guidelines – 14 January 2005);

MFMA Circular 32 (The Oversight Report – 15 March 2006).

MFMA Circular 68 (Unauthorised, irregular, fruitless and wasteful expenditure).

MFMA Circular 92 (Municipal Public Accounts Committees (MPAC) – Guide and Toolkit);
and

Local Government, National Treasury & Salga's Guidelines on the functioning of the MPAC.

COMMENT OF DIRECTORATES / DEPARTMENTS CONCERNED

Municipal Manager:	Noted
Director: Strategic Support Services:	Noted
Director: Financial Services:	Noted
Director: Engineering Services:	Noted
Director: Planning, Development and Integrated Services:	Noted
Director: Community Services:	Noted

RECOMMENDATION

That in respect of –

SUBMISSION OF FINAL ANNUAL REPORT, ANNUAL FINANCIAL STATEMENTS, AUDITOR GENERAL'S REPORT, AUDIT AND PERFORMANCE AUDIT COMMITTEE REPORT; AND THE ADOPTION OF THE OVERSIGHT REPORT FROM THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE FOR THE PERIOD 2023-2024 FINANCIAL YEAR

discussed by Council at the Council meeting held on 12 December 2024

1. That MPAC having fully considered the 2023-2024 Annual Report of the Breede Valley Municipality and the representations thereon, recommends the adoption of the Oversight Report and the approval of the Annual Report without reservations.

The MPAC further recommends the following points to Council for review and improvement by the Administration:

- a. Improvement of expenditure of budgets and capital projects.
- b. Review of housing backlogs and the maintenance of rental units.
- c. Improvement on the maintenance of sports facilities with specific reference to RSEP facilities.
- d. Acceleration of upgrading of the municipal sewer system.
- e. Review and improvement of filling of permanent positions and EPWP opportunities.
- f. Development of informal settlement areas and improvement on provision of basic services.

4.2 SPECIAL COMMITTEE: CODE OF CONDUCT FOR COUNCILLORS

File no.: 9/2/3/1/33

Portfolio: Office of the Speaker

1. PURPOSE

The purpose of this item is for Council to address the establishment of a Special Committee to investigate alleged breaches of the Code of Conduct for Councillors in terms of the Local Government: Municipal Structures Amendment Act, 2021 (*“the Act”*).

2. BACKGROUND

The Act stipulates in Schedule 7, Code of Conduct for Councillors, Item 16:

“Investigation of breach

16(1)A municipal council may-

(a) *Investigate and make a finding on any alleged breach of a provision of this Code;*
or

(b) *establish a special committee-*

- (i) *to investigate and make a finding on any alleged breach of this Code; and*
- (ii) *to make appropriate recommendations to the council”*. [Own emphasis]

Cognisance should be had that Council previously resolved to establish a similar committee in accordance with item 16, it being the *“Disciplinary Committee for Investigation of Breaches of the Code of Conduct for Councillors”*.

Various items served and were resolved upon by Council, repeated below for ease of reference.

2.1 Council meeting: 31 March 2022

“RESOLVED

C40/2022

That in respect of -

***DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE
CODE OF CONDUCT FOR COUNCILLORS***

as discussed by Council at the Council meeting held on 31 March 2022:

1. *That Council establish a Disciplinary Committee in compliance with Item 16(1)(b) of Schedule 7 of the Local Government: Municipal Structures Amendment Act.*
2. *The Disciplinary Committee cannot at its own discretion investigate alleged breaches of the Code of Conduct for Councillors but can only consider matters referred to it by the municipal council.*
3. *That council shall at the time when it refers a matter to the Disciplinary Committee set the terms of reference of each investigation into an alleged breach and*

-
4. *That Council can at that stage when it refers matters to the committee, substitute any member of the committee should a councillor be implicated or have a conflict of interest or should the committee member be a potential witness at the hearing.*
 5. *Safe as provided above the Disciplinary Committee shall be comprised of a representative of all political parties.*
 6. *The Disciplinary Committee may be assisted by external experts”.*

2.2 COUNCIL MEETING: 12 DECEMBER 2022

“RESOLVED

That in respect of -

PROPOSED REVIEW AND RESCISSION: DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE CODE OF CONDUCT FOR COUNCILLORS

as discussed by Council at the Council meeting held on 12 December 2022, resolution number C128/2022, Council decided:

1. *That Council resolution C40/2022 be reviewed and rescinded;*
2. *that Council in compliance with section 79 of the Structures Act and item 16(1)(b) of Schedule 7 of the Local Government: Municipal Structures Amendment Act establish a Disciplinary Committee;*
3. *that Council appoint the members of the Disciplinary Committee from among its members;*
4. *that Council appoints the Chairperson of the Disciplinary Committee, as a chairperson of a part-time section 79 committee;*
5. *To ensure the effective and efficient operations of the Disciplinary Committee with due regard to the rules of natural justice, Council delegates the following powers and functions to the Speaker:*
 - 5.1 *to refer disciplinary matters of councilors directly to the Disciplinary Committee without submitting the matter first to the municipal council for consideration.*
 - 5.2 *to decide whether an initiator or assessor shall be needed during the disciplinary process. The assessor shall be an independent legally qualified and experienced person who shall with no voting rights advise members of the committee on analysing and evaluating evidence and an appropriate outcome and sanction if needed.*
 - 5.3 *to direct the Municipal Manager to procure the services of external experts if needed to assist as initiators or assessors during the disciplinary process or the speaker may consult with SALGA or another organ of state to assist in the roles of initiator or assessor.*

-
- 5.4 to at the time when the speaker refers the matter to the Disciplinary Committee, he shall set the terms of reference of each investigation into an alleged breach
- 5.5 to direct the Municipal Manager to make arrangements for assistance services such as translation services, recording services, witness transport, refreshments, etcetera during or in anticipation of the disciplinary inquiry.
- 5.6 to with the chairperson of the committee set the date, time, and venue of every disciplinary inquiry against a councilor.
- 5.7 to distribute the formal notice to a councilor to appear at a disciplinary inquiry. The notice must inter alia set out:
- 5.7.1 The date, time, and venue of the inquiry.
- 5.7.2 The allegations to which the councilor will be required to answer.
- 5.7.3 Enquire from the councilor whether interpretation services will be required.
- 5.7.4 inform the councilor that the hearing can proceed should he/she fail to attend the inquiry without a valid reason.
- 5.7.5 inform the councilor of the format and style of the inquiry as well as his rights during the proceedings.
- 5.8 to in addition to the powers and duties stated above, the speaker shall do such things and take such actions as may be necessary to assist the Disciplinary Committee to ensure effective and efficient disciplinary procedure against any councillor whilst observing the rules of natural justice and any applicable legal prescripts.
- 5.9 to at that stage when he refers matters to the Disciplinary Committee, the speaker shall assess if any members of the Disciplinary Committee are implicated or have a conflict of interest or maybe a potential witness at the hearing
6. In the event that a member of the Disciplinary Committee in the assessment of the speaker is conflicted as stated in 5.9 the speaker must submit an item to the Council to replace the conflicted member on the committee for that specific matter.”

2.3 COUNCIL MEETING 31 OCTOBER 2023

“RESOLVED

That in respect of –

DISCIPLINARY COMMITTEE FOR INVESTIGATION OF BREACHES OF THE CODE OF CONDUCT FOR COUNCILLORS

as discussed by Council at the Council meeting held on 31 October 2023, resolution number **C100/2023**:

1. That Alderman Reginald Farao is appointed as a member and the chairperson of the disciplinary committee replacing Cllr Naomi Nel who is no longer a member of the committee”.

3. DISCUSSION

It is proposed that **Council Resolutions C128/2022 and C100/2023** be reviewed and rescinded in their entirety to avoid any dissension and that a Special Committee to investigate alleged breaches of the Code of Conduct for Councillors be established.

4. FINANCIAL IMPLICATIONS

Only the chairperson of the Special Committee will be entitled to remuneration as set out in the Upper Limits as the chairperson of a part-time section 79 committee.

5. APPLICABLE LEGISLATION

Local Government: Municipal Structures Amendment Act, 2021

RECOMMENDATION

That in respect of -

SPECIAL COMMITTEE: CODE OF CONDUCT FOR COUNCILLORS

as discussed by Council at the Council meeting held on **12 December 2024**, Council decide:

1. RESCISSION OF PREVIOUS RESOLUTIONS:

That **Council Resolutions C128/2022 and C100/2023**, be reviewed and rescinded in its entirety.

2. ESTABLISHMENT OF THE SPECIAL COMMITTEE:

2.1 that a Special Committee be established in compliance with section 79 of the Municipal Structures Act, read with Schedule 7, Code of Conduct for Councillors, Item 16 to investigate alleged breaches of the Code of Conduct for Councillors;

2.2 that the Special Committee be composed of five (5) members, including the chairperson;

2.3 that Alderman Farao be appointed as the chairperson and a member of the Special Committee;

2.4 that the following councilors be appointed as the members of the Special Committee:

2.4.1 Alderman Meiring (Secundi: Councillor Pieters)

-
- 2.4.2 Councillor Jacobs (Secundi: Councillor Pietersen)
 - 2.4.3 Councillor Johnson (Secundi: Councillor Judge)
 - 2.4.4 Councillor Wullschleger (Secundi: Alderman Ismail)

- 2.5 that a quorum of the Special Committee will be a majority of its members (3/5);
and
- 2.6 that the Special Committee may proceed with its functions when a quorum is in attendance.

3. DELEGATIONS TO THE SPEAKER:

That to ensure the effective and efficient operations of the Special Committee with due regard to the rules of natural justice, Council delegates the following powers and functions to the Speaker:

- 3.1 to refer disciplinary matters of councilors directly to the Special Committee without submitting the matter first to the municipal council for consideration;
- 3.2 to decide whether an initiator or assessor shall be needed during the disciplinary process. The assessor shall be an independent legally qualified and experienced person who shall with no voting rights advise members of the committee on analysing and evaluating evidence and an appropriate outcome and sanction if needed. The assessor may assist the Special Committee to write the draft outcome for the committee's approval;
- 3.3 to direct the Municipal Manager to procure the services of external experts if needed to assist as initiators or assessors during the disciplinary process or the speaker may consult with SALGA or another organ of state to assist in the roles of initiator or assessor;
- 3.4 to at the time when the speaker refers the matter to the Special Committee, he shall set the terms of reference of each investigation into an alleged breach;
- 3.5 to direct the Municipal Manager to make arrangements for assistance services such as translation services, recording services, witness transport, refreshments, etcetera during or in anticipation of the disciplinary inquiry;
- 3.6 to with the chairperson of the committee set the date, time, and venue of every disciplinary inquiry against a councilor;
- 3.7 to distribute the formal notice to a councilor to appear at a disciplinary inquiry. The notice must inter alia set out:
 - 3.7.1 The date, time, and venue of the inquiry.
 - 3.7.2 The allegations to which the councilor will be required to answer.
 - 3.7.3 Enquire from the councilor whether interpretation services will be required.
 - 3.7.4 Inform the councilor that the hearing can proceed should he/she fail to attend the inquiry without a valid reason.
 - 3.7.5 Inform the councilor of the format and style of the inquiry as well as his rights during the proceedings.

-
- 3.8 to in addition to the powers and duties stated above, the speaker shall do such things and take such actions as may be necessary to assist the Special Committee to ensure effective and efficient disciplinary procedure against any councillor whilst observing the rules of natural justice and any applicable legal prescripts;
- 3.9 to at that stage when he refers matters to the Special Committee, the speaker shall assess if any members of the Special Committee are implicated or have a conflict of interest or maybe a potential witness at the hearing; and
- 3.10 In the event that a member of the Special Committee in the assessment of the Speaker is conflicted as provided for in 3.9, the Speaker must replace the conflicted member with the secundi of the conflicted member.

4. PURPOSE, DUTY AND AUTHORITY OF THE SPECIAL COMMITTEE:

The Special Committee is established as a committee of the Council comprising councillors to conduct disciplinary proceedings against municipal councillors in accordance with the relevant legislative and regulatory frameworks, including the Municipal Structures Act and the Code of Conduct for Councillors.

5. DECISION-MAKING BY THE SPECIAL COMMITTEE:

The following rules shall apply to the Special Committee's decision making:

- 5.1 Decisions of the Committee shall be based on the balance of probabilities.
- 5.2 The Chairperson shall preside over the proceedings, ensure procedural fairness, and maintain decorum.
- 5.3 The hearing shall be conducted in a manner that upholds the principles of natural justice, including:
- 5.3.1 The right to a fair hearing;
 - 5.3.2 The presumption of innocence until proven otherwise; and
 - 5.3.3 The opportunity to present evidence and respond to allegations.
- 5.4 The Special Committee shall render its decisions by a majority vote of its members in support thereof.
- 5.5 The Chairperson of the Special Committee shall not possess a casting vote. In the event of an equality of votes, all recommendations receiving an equal number of votes shall be submitted to the Council for its consideration and determination.
- 5.6 A written finding shall be issued detailing:
- 5.6.1 The facts established during the hearing;
 - 5.6.2 The Committee's reasons for a decision; and
 - 5.6.3 Any sanctions or recommendations.
- 5.7 Any finding or sanction issued committee shall be referred to council for consideration.

6. RIGHTS OF THE COUNCILLOR:

The councillor shall have the right to:

- 6.1 Be represented by a fellow councillor or a legal practitioner of their choice; and
- 6.2 Be heard and present evidence in their defence; cross-examine witnesses; and access all documentation and evidence related to the proceedings at least seven (7) days before the hearing.

7. CONDUCT OF PROCEEDINGS AND EVIDENCE:

- 7.1 Evidence shall be admitted in accordance with the applicable rules of evidence and must be relevant to the matter at hand.
- 7.2 The proceedings shall be recorded electronically for record-keeping purposes.

8. CONFIDENTIALITY:

All proceedings, documentation, and any related materials shall be treated with the utmost confidentiality. No member of the committee is permitted, under any circumstances, to disclose, communicate, or disseminate any information, evidence, or material presented during the hearing or in preparation thereof to any unauthorized individual or third party. Any breach of this obligation will be considered a serious violation and may result in disciplinary and/or legal action.

5. CONSIDERATION OF REPORTS, COMMUNICATIONS, PETITIONS AND APPLICATIONS DEALING WITH MATTERS OF URGENCY SUBMITTED BY THE MUNICIPAL MANAGER

At its last meeting, the council noted the performance evaluation outcomes for the Municipal Manager and Directors for 2023/24 (C89/2024). The item in its annexure and body had an erroneous brief statement on provision 11.4 of the Director: Planning, Development & Integrated Services' performance agreement, as it concluded that he is not entitled to a *pro-rata* bonus. Note that provision 11.3, indeed, permits a *pro-rata* bonus for his 2 months' service. This notification does not affect nor amend the council resolution of item C89/2024.

6. CLOSURE
