

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

2021-11-17

AMENDED DATE

NOTICE OF THE FIRST MEETING OF THE 5TH TERM OF THE COUNCIL OF BREEDE VALLEY MUNICIPALITY AND ALSO THE 6TH COUNCIL MEETING OF THE 2021/2022 FINANCIAL YEAR TO BE HELD ON **WEDNESDAY, 2021-11-17 10:00**

TO ALL COUNCILLORS

Notice is hereby given in terms of Section 29(2) of the *Local Government: Municipal Structures Act, 117 of 1998*, as amended, that the **FIRST MEETING** of the **5TH TERM** of the **COUNCIL** of **BREEDE VALLEY MUNICIPALITY** and also the **6TH COUNCIL MEETING** of the **2021/2022 FINANCIAL YEAR** will be held by means of a virtual platform and in the **TOWN HALL, HIGH STREET, WORCESTER** on **WEDNESDAY, 2021-11-17** at **10:00** to consider the items on the Agenda.

Please note that the content of the Agenda as distributed yesterday remain unchanged and only the first page of the notice distributed yesterday is substituted with this page.



Mr. D. McTHOMAS
MUNICIPAL MANAGER



BREEDE VALLEY

MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

A caring valley of excellence.

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1. OPENING AND WELCOME

In terms of Section 29(2) of the *Local Government: Municipal Structures Act, 1998 (Act No 117 of 1998)*, the Municipal Manager must call the first meeting of a Council of a Municipality within fourteen (14) days after the Council has been declared elected.

The Municipal Manager will declare the meeting open and welcome all elected Councillors.

2. CONSTITUTING AND REPRESENTATION OF COUNCIL: INTRODUCTION OF COUNCILLORS

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF THE REPORT

To formally introduce the newly elected Councillors.

A schedule of the outcome of the elections held on 2021-11-01, received from the IEC, is **APPENDED** hereto.

RECOMMENDED

that cognizance be taken of the results of the election held on 2021-11-01.

(MUNICIPAL MANAGER TO ACTION)

3. APPLICATION FOR LEAVE OF ABSENCE

In terms of the Rules of Order for Internal Arrangement By-Law 2012.

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.

4. NOTICES AND COMMUNICATIONS: MUNICIPAL MANAGER

4.1 Type of Municipality: Section 12 Establishment notice (as amended)

File number : 2/1/1/1

Report by : Municipal Manager

Compiled by : Director: Strategic Support Services

Delegated Authority : Council

1. LEGAL FRAMEWORK

1.1 Types of category B Municipalities

In terms of Section 9 of the local Government: Municipal Structures Act, 117/1998, there are the following types of category B municipalities:

- (a) a municipality with a collective executive system;
- (b) a municipality with a collective executive system combined with a ward participatory system;
- (c) a municipality with a mayoral executive system;
- (d) a municipality with a mayoral executive system; combined with a ward participatory system;

1.2 Determination of types for provinces

In terms of Section 11 of the Structures Act, provincial legislation must determine for each category of municipality the different types of municipality that may be established in that category in the province.

In terms of the Western Cape Determination of types of municipalities Act, Act 9 of 2000, as amended by Amendment Act 4 of 2002, all the type of category B

municipalities as set out in Section 9 of the Structures Act, (*supra*) may be established in the Province.

1.3 Establishment Notice

In terms of Section 12 of the Structures Act, the MEC for Local Government in a province, by notice in the Provincial Gazette, must establish a municipality in each municipal area which the Demarcation Board demarcates in the province in terms of the Demarcation Act.

Such establishment notice must, *inter alia*, specify:-

- the type of municipality that is established;
- the number of Councillors as determined in terms of Section 20; and
- which Councillors of the municipality (if any) may be designated as full-time in terms of Section 18.

In terms of Section 16 of the Structures Act, the MEC for Local Government in a province, by notice in the Provincial Gazette, may amend a Section 12 notice to, *inter alia*,

- change the municipality from its existing type to another type;
- specify which Councillors of the municipality (if any) may be designated as full-time in terms of Section 18; and
- alter the number of Councillors.

In terms of the Breede Valley Municipality (WCO25) Establishment Notice, read with the subsequent amendment notices Breede Valley Municipality was established as a Category B Municipality per Provincial Gazette No. P.N. 490/2000 dated 22 September 2000 and the Mayoral Executive System was later introduced in various forms - the latest being a Municipality with full-time Councillors, a Speaker, an Executive Mayor and a Ward Participating System.

Distributed under a separate cover as ITEM 4.1 APPENDIX A, find the following:

- Establishment Notice per Provincial Gazette No. P.N. 490/2000 dated 22 September 2000.

- Fifth Amendment Notice per Government Gazette 6852 No. P.N. 56/2001 dated 25 February 2011, confirming the 21 (twenty-one) wards.
- Sixth Amendment Notice per Government Gazette 6907 No. P.N. 244/2011 dated 23 September 2011 confirming the designation of the full-time Councillors.
- Seventh Amendment Notice per Government Gazette 7597 No. P.N. 115/2016 dated 8 April 2016 amending Schedule 2(1) of the Principal Notice.

RECOMMENDED

that cognizance be taken that in terms of the Section 12 Notice, Breede Valley Municipality is a Type 9(d) municipality, namely a municipality with an Executive Mayoral System with a Ward Participatory System, it has 41 (forty one) Councillors of which 21 (twenty one) are Ward Councillors (in its 21 wards), and 20 (twenty) are proportionally elected Councillors, and Breede Valley Municipality has an Executive Mayoral Committee consisting of 8 members besides the Executive Mayor and the Deputy Executive Mayor.

(MUNICIPAL MANAGER TO ACTION)

5. ELECTION OF SPEAKER

5.1 Election Process

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

Section 36 of the Local Government: Municipal Structures Act, 1998, provides as follows:

(36) Election of Speakers:

- (1) Each Municipal council must have a Chairperson who will be called the Speaker.
- (2) At its first sitting after this election, or when necessary to fill a vacancy, a Municipal Council must elect its Speaker from among the Councillors.
- (3) The Municipal Manager of the Municipality or, if the Municipal Manager is not available, a person designated by the MEC for Local Government in the province, presides over the election of a Speaker.
- (4) The procedure set out in Schedule 3 (**distributed under a separate cover as ITEM 5.1 APPENDIX A**) applies to the election of a Speaker.
- (5) A Councillor may not hold office as Whip, Speaker and Mayor or Executive Mayor at the same time.

In terms of Section 38 of the said Act, the Speaker is elected for a term ending when the next Council is declared elected, subject thereto that a Speaker vacates office during a term if that person, in terms of Section 39:-

- resigns as Speaker;
- is removed from office by a resolution of Council; or
- ceases to be a Councillor.

Hereto attached as **APPENDIX 1** is the prescribed form for the nomination of the Speaker. Copies of the form, as well as ballot papers, will be available at the meeting.

RECOMMENDED

that Council elects a Speaker from among the Councillors in terms of the procedure set out in Schedule 3 of the Municipal Structures Act (*supra*).

(MUNICIPAL MANAGER TO ACTION)

**HAVING CONCLUDED THE ELECTION OF THE SPEAKER, THE MUNICIPAL
MANAGER NOW HANDS OVER THE CHAIR TO THE DULY ELECTED SPEAKER
OF THE BREEDE VALLEY MUNICIPALITY**

ITEM 5

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE SPEAKER

5.2 Acceptance Speech by the Speaker

5.3 Political Parties' Responses

6. MATTERS FOR CONSIDERATION

6.1 Rules of Order

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

To inform Council of the Rules of Order that will apply at the first and subsequent meetings of Council and its Committees, until amended by Council.

2. LEGAL FRAMEWORK

As provided for in Section 160(6) of the Constitution of The Republic of South Africa, a municipal council may make by-laws which prescribe rules and orders for –

- (a) its internal arrangements;
- (b) its business and proceedings; and
- (c) the procedures, powers and functions of its committees.

Such a set of Rules of Order, which governs the way meetings are to be conducted within a municipality, must be formally adopted by Council.

Distributed under a separate cover as ITEM 6.1 APPENDIX A, find the following:

- The Standard By-Law Relating to Rules of Order for Internal Arrangements per Provincial Gazette 7118 dated 12 April 2013.
- The Amendment Standard By-Law Relating to Rules of Order for Internal Arrangements per Government Gazette 7859 dated 12 January 2018.

RECOMMENDED

that the existing Rules of Order be used as the Rules of Order applicable to the Breede Valley Municipality's Council and Council Committee meetings.

(MUNICIPAL MANAGER TO ACTION)

6.2 Election of the Executive Mayor

6.2.1 Election Process

File number : 2/1/1/2
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

In terms of the Breede Valley Municipality (WCO25) Establishment Notice, read with the subsequent amendment notices, Breede Valley Municipality is a municipality with a mayoral executive system combined with a ward participatory system.

Section 55 (1) of the Local Government: Municipal Structures Act states that:-
“If a Municipal Council chooses to have an Executive Mayor it must elect an Executive Mayor from among its members at a meeting that must be held within 14 days after the Council’s election”. The procedures set out in Schedule 3 **(distributed under a separate cover as ITEM 5.1 APPENDIX A)** of the Municipal Structures Act apply to the election of an Executive Mayor.

In terms of Item 3(1) of Schedule 3, a nomination must be made on a form determined by the Municipal Manager. A pro-forma form for the nomination of an Executive Mayor is attached as **APPENDIX 1**. Ballot papers will be available at the meeting.

RECOMMENDED

that Council elects an Executive Mayor in terms of the procedures set out in Schedule 3 of the Municipal Structures Act (*supra*).

(MUNICIPAL MANAGER TO ACTION)

ITEM 6.2

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE EXECUTIVE
MAYOR

6.2.2 Acceptance speech by the newly elected Executive Mayor

- (i) Speech:**
- (ii) (Optional) Announcement of appointment of members of the Executive Mayoral Committee:**

Section 60(1) of the Local Government: Municipal Structures Act provides that if Municipal Council has more than nine members, its Executive Mayor must appoint a Mayoral Committee from among the Councillors to assist the Executive Mayor.

As per Section 60(2) of the Local Government: Municipal Structures Act the Mayoral Committee must consist of the Deputy Executive Mayor and as many councillors as may be necessary for effective and efficient government, provided that no more than twenty (20) percent of the councillors or ten (10) councillors, whichever is the least, are appointed.

In terms of the above, the Executive Mayor of Breede Valley Municipality may appoint eight (8) members (in addition to the Deputy Executive Mayor who is an *ex officio* member of the Mayoral Committee by virtue of being elected by the Municipal Council) to serve on the Mayoral Committee. Hence, the Breede Valley Municipality's Mayoral Committee consists of the Executive Mayor, the Deputy Executive mayor and eight (8) other councillors appointed by the Executive Mayor.

(The Executive Mayor may choose to announce the appointment of members of the Executive Mayoral Committee at this point, or at a later stage)

6.2.3 Political Parties' Responses

6.3 Election of the Deputy Executive Mayor

6.3.1 Election Process

File number : 2/1/1/2
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

If a Municipal Council chooses to have an Executive Mayor, it must in terms of Section 55(1)(c) of the Municipal Structures Act, elect an Executive Mayor and, if the MEC of Local Government in the province so approves, also a Deputy Executive Mayor, from among its members at a meeting that must be held within fourteen (14) days after the Council's election, or within fourteen (14) days after the date with effect from which the type of the municipality has been changed.

The procedures set out in Schedule 3 (**distributed under a separate cover as ITEM 5.1 APPENDIX A**) of the Municipal Structures Act apply to the election of a Deputy Executive Mayor.

In terms of Item 3(1) of Schedule 3, a nomination must be made on a form determined by the Municipal Manager. A pro-forma form for the nomination of a Deputy Executive Mayor is attached as **APPENDIX 1**. Ballot papers will be available at the meeting.

RECOMMENDED

that Council elects a Deputy Executive Mayor in terms of the procedures set out in Schedule 3 of the Municipal Structures Act (*supra*).

(MUNICIPAL MANAGER TO ACTION)

ITEM 6.3

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE DEPUTY
EXECUTIVE MAYOR



BREED VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NOMINATION FORM:

ELECTION OF THE DEPUTY EXECUTIVE MAYOR

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Worcester this day of2021.

Name of Mover

Nominator 1: Name:

Signature:

Second: Name:

Signature:

I, (full name)
(ID number) the undersigned, hereby accept the nomination / do not accept the
nomination *

Signed at Worcester this day of2021.

.....
SIGNATURE OF NOMINEE

* delete the part that is not applicable

6.3.2 Acceptance speech by the newly elected Executive Mayor

6.3.3 Political Parties' Responses

6.4 Designation of Councillor to act in the absence of the Executive Mayor and the Deputy Executive Mayor

File number : 2/1/1/2
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

In terms of Section 56(6) of the Local Government: Municipal Structures Act, the Deputy Executive Mayor of a municipality exercises the powers and performs the duties of the Executive Mayor if the Executive Mayor is absent or not available or if the office of the Executive Mayor is vacant.

Section 56(7) prescribes that if the Executive Mayor is absent or not available while the Deputy Executive Mayor is also absent or not available, the Council must designate a Councillor to act as Executive Mayor.

2. ELECTION PROCESS

Due to the fact that no other equivalent procedure has been promulgated in terms of relevant legislation, Council could opt to use any appropriate procedure to determine the appointment of a Councillor to act in the absence of the Executive Mayor and the Deputy Executive Mayor, or alternatively, Council could decide to use the procedures set out in Schedule 3 (**distributed under a separate cover as ITEM 5.1 APPENDIX A**) of the Municipal Structures Act.

In terms of Item 3(1) of Schedule 3, a nomination must be made on a form determined by the Municipal Manager. A pro-forma form for the nomination of a Councillor to act in the absence of the Executive Mayor and the Deputy Executive Mayor is attached as **APPENDIX 1**. Ballot papers will be available at the meeting.

RECOMMENDED

that Council designates a Councillor to, in terms of Section 56(7) of the Municipal

Structures Act, act as Executive Mayor in the absence of both the Executive Mayor and the Deputy Executive Mayor.

(MUNICIPAL MANAGER TO ACTION)

ITEM 6.4

APPENDIX 1

NOMINATION FORM:
ELECTION OF COUNCILLOR TO ACT
IN THE ABSENCE OF THE
EXECUTIVE AND DEPUTY
EXECUTIVE MAYOR



BREED VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

**NOMINATION FORM:
ELECTION OF A COUNCILLOR TO ACT IN THE ABSENCE
OF THE EXECUTIVE AND DEPUTY EXECUTIVE MAYOR**

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Worcester this day of2021.

Name of Mover

Nominator 1: Name:

Signature:

Seconder: Name:

Signature:

I, (full name)
(ID number) the undersigned, hereby accept the nomination / do not accept the
nomination *

Signed at Worcester this day of2021.

.....
SIGNATURE OF NOMINEE

* delete the part that is not applicable

6.5 Designation of full-time Councillors

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

In terms of Section 12 of the Structures Act, the MEC for Local Government in a Province, by notice in the Provincial Gazette, must establish a municipality in each municipal area which the Demarcation Board demarcates in the province in terms of the Demarcation Act.

Such establishment notice must, *inter alia*, specify:-

- the type of municipality that is established;
- the number of Councillors as determined in terms of Section 20; and
- which Councillors of the municipality (if any) may be designated as full-time in terms of Section 18.

In terms of Section 16 of the Structures Act, the MEC for Local Government in a Province, by notice in the Provincial Gazette, may amend a Section 12 notice to, *inter alia*,

- change the municipality from its existing type to another type;
- specify which Councillors of the municipality (if any) may be designated as full-time in terms of Section 18; and
- alter the number of Councillors.

A Proclamation Notice, published by the Minister for Co-operative Governance and Traditional Affairs, on 14 December 2011, in the Government Gazette no. 34868, attached as **APPENDIX 1**, states that “The member of the Executive Council of a Province responsible for Local Government may determine that Councillors who have been elected or appointed to any of the following offices in a municipal council, may be designated as full-time:

- The Speaker;
- The Executive Mayor;
- The Deputy Executive Mayor;

- A member of a Mayoral Committee;
- Chairperson of a committee established in terms of Section 79 in a municipality with 40 or more Councillors;
- A single Whip appointed for Council in municipalities with 40 or more councillors.

In terms of Section 18(4) of the Municipal Structures Act, Act 117/1998 a municipality has the power to designate Councillors determined by the MEC for Local Government as full-time.

2. SECTION 12 NOTICE

In terms of the Breede Valley Municipality (WCO25) Establishment Notice, read with the subsequent amendment notices:-

- (a) Breede Valley Municipality is a municipality with a mayoral executive system combined with a ward participatory system (type of municipality), as provided for in Section 9 (d) of the Municipal Structures Act;
- (b) Breede Valley Municipality may designate the following Councillors as full-time Councillors:-
 - the Executive Mayor;
 - the members of the Mayoral Committee;
 - the Speaker; and
 - the Single Whip.

Attached as **APPENDIX 2** is the Provincial Gazette: no. 6907, dated 23 September 2011, confirming the designation of the above as full-time councillors.

With reference to the status of the Deputy Executive Mayor, Section 60(2) of the Municipal Structures Act, 117 of 1998, states that *“the mayoral committee must consist of the deputy executive mayor (if any) and as many councillors as may be necessary for effective and efficient government, provided that no more than 20 per cent of the councillors or 10 councillors, whichever is the least, are appointed.”*

Hence, by virtue of section 60(2) of the Municipal Structures Act, a Deputy Executive Mayor must form part of the Mayoral Committee if one is elected. Therefore, based on this legal provision, read with Item 9(b) of the Establishment

Notice of Breede Valley Municipality, the Deputy Executive Mayor of Breede Valley Municipality is a full-time Councillor as he/she is a member of the Mayoral Committee.

3. CODE OF CONDUCT

In terms of Item 8 of the Code of Conduct for Councillors, a Councillor who is full-time may not undertake any other paid work, except with the consent of a municipal council, which consent shall not unreasonably be withheld.

RECOMMENDED

that the following Councillors as determined by the MEC be designated by Council as full-time Councillors:-

- the Executive Mayor;
- the members of the Mayoral Committee (including the Deputy Executive Mayor);
- the Speaker;
- the Single Whip.

(MUNICIPAL MANAGER TO ACTION)

ITEM 6.5

APPENDIX 1

GOVERNMENT GAZETTE NO 34868
DATED 14 DECEMBER 2011

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID-AFRIKA

Vol. 558

Pretoria, 14 December
Desember 2011

No. 34868

IMPORTANT NOTICE

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Cooperative Governance, Department of		
<i>General Notice</i>		
904	2	34868

GENERAL NOTICE**NOTICE 904 OF 2011****DEPARTMENT OF COOPERATIVE GOVERNANCE****POLICY FRAMEWORK FOR THE DESIGNATION OF
FULL-TIME COUNCILLORS**

The Minister for Cooperative Governance and Traditional Affairs has, under section 18(4) of the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998), and after consulting the MEC's for local government, determined the policy framework for the designation of full-time councillors, as set out in the Schedule.

SCHEDULE

The member of the Executive Council of a province responsible for local government may determine that councillors who have been elected or appointed to any of the following offices in a municipal council, may be designated as full-time:

CATEGORY A MUNICIPALITIES

- Speaker;
- Executive Mayor;
- Mayor;
- Deputy Executive Mayor;
- Deputy Mayor;
- A member of an Executive Committee other than the Mayor and Deputy Mayor;
- A member of a Mayoral Committee;
- Chairperson of a Sub-Council;
- Chairperson of a Committee established in terms of section 79; and
- A single whip appointed for council.

CATEGORY B MUNICIPALITIES

- Speaker;
- Executive Mayor;
- Mayor;
- Deputy Executive Mayor;
- Deputy Mayor;
- A member of an Executive Committee other than the Mayor and Deputy Mayor;
- A member of a Mayoral Committee;
- Chairperson of a Committee established in terms of section 79 in municipalities with 40 or more councillors; and
- A single whip appointed for council in municipalities with 40 or more councillors.

CATEGORY C MUNICIPALITIES

- Speaker;
 - Executive Mayor;
 - Mayor;
 - Deputy Executive Mayor;
 - Deputy Mayor;
 - A member of an Executive Committee other than the Mayor and Deputy Mayor;
 - A member of a Mayoral Committee;
 - Chairperson of a Committee established in terms of section 79 in municipalities with 40 or more councillors; and
 - A single whip appointed for council in municipalities with 40 or more councillors.
-

ITEM 6.5

APPENDIX 2

PROVINCIAL GAZETTE NO 6907,
DATED 23 SEPTEMBER 2011

PROVINCE OF WESTERN CAPE



PROVINSIE WES-KAAP

Provincial Gazette

Provinsiale Koerant

6907

6907

Friday, 23 September 2011

Vrydag, 23 September 2011

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INHOUD

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(Vervolg op bladsy 1868)

PN. 244/2011

23 September 2011

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998
(ACT 117 OF 1998)

THE BREEDE VALLEY MUNICIPALITY (WCO25) ESTABLISHMENT SIXTH AMENDMENT NOTICE

In terms of section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby further amend the Breede Valley Municipality (WCO25) Establishment Notice, Provincial Notice 490/2000 published in Provincial Gazette 5590 dated 22 September 2000 (the principal Notice) as set out in the Schedule.

In this notice "principal Notice" means the Breede Valley Municipality (WCO25) Establishment Notice, Provincial Notice 490/2000 published in Provincial Gazette 5590 dated 22 September 2000, as amended by Provincial Notice 676/2000 published in the Provincial Gazette Extraordinary No. 5642 dated 4 December 2000, Provincial Notice 457/2002 published in the Provincial Gazette Extraordinary No. 5968 dated 19 December 2002, Provincial Notice 185/2003 published in the Provincial Gazette Extraordinary No. 6020 dated 28 May 2003, Provincial Notice 12/2006 published in the Provincial Gazette Extraordinary No. 6333 dated 3 January 2006, Provincial Notice 118/2008 published in the Provincial Gazette 6511 dated 28 March 2008 and Provincial Notice 56/2011 published in the Provincial Gazette Extraordinary No 6852 dated 25 February 2011.

AW BREDELL, PROVINCIAL MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

SCHEDULE

Amendment of the Schedule of the principal Notice

1. Section 9 of the principal Notice is amended by the substitution of the following subsection:

"Full-time Councillors

9. The Local Municipality may designate the following councillors as full-time councillors:

- (a) the executive mayor;
- (b) the members of the mayoral committee;
- (c) the speaker; and
- (d) a single whip appointed for Council."

2. Short title and commencement

This Notice is called the Breede Valley Municipality (WCO44) Establishment Sixth Amendment Notice and comes into operation on the date of publication.

P.K. 244/2011

23 September 2011

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998
(WET 117 VAN 1998)

DIE MUNISIPALITEIT BREEDE VALLEI (WCO25) INSTELLINGSKENNIGEWING SESDE WYSIGINGSKENNIGEWING

In terme van artikel 16 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), wysig ek hierby verder die Munisipaliteit Breede Vallei (WCO25) Instellingskennisgewing, Provinsiale Kennisgewing 490/2000 gepubliseer in Provinsiale Koerant 5590 van 22 September 2000 (die hoofkennisgewing) soos uiteengesit in die Bylaag.

In hierdie kennisgewing beteken "hoofkennisgewing" die Munisipaliteit Breede Vallei (WCO25) Instellingskennisgewing, Provinsiale Kennisgewing 490/2000 gepubliseer in Provinsiale Koerant 5590 van 22 September 2000, soos gewysig deur Provinsiale Kennisgewing 676/2000 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5642 van 4 Desember 2000, Provinsiale Kennisgewing 457/2002 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5968 van 19 Desember 2002, Provinsiale Kennisgewing 185/2003 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6020 van 28 Mei 2003, Provinsiale Kennisgewing 12/2006 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6333 van 3 Januarie 2006, Provinsiale Kennisgewing 118/2008 gepubliseer in die Provinsiale Koerant 6511 van 28 Maart 2008 en Provinsiale Kennisgewing 56/2011 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6852 van 25 Februarie 2011.

?? 2011.

AW BREDELL, PROVINSIALE MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING

BYLAAG

Wysiging van die Bylaag tot die hoofkennisgewing

1. Artikel 9 van die hoofkennisgewing word gewysig deur die vervanging deur die volgende subartikel:

"Voltydse Raadslede

9. Die Plaaslike Munisipaliteit mag die volgende raadslede as voltydse raadslede aanwys.

- (a) die uitvoerende burgermeester;
- (b) lede van die burgermeesterskomitee;
- (c) die speaker, en
- (d) 'n enkele sweep aangewys vir die Raad."

2. Korttitel en inwerkingtreding

Hierdie Kennisgewing word die Munisipaliteit Breede Vallei (WCO25) Instellingskennisgewing Sesde Wysigingskennisgewing genoem en tree in werking op die datum van publikasie.

P.N. 244/2011

23 September 2011

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998
(ACT 117 OF 1998)

THE BREEDE VALLEY MUNICIPALITY (WCO25) ESTABLISHMENT SIXTH AMENDMENT NOTICE

In terms of section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby further amend the Breede Valley Municipality (WCO25) Establishment Notice, Provincial Notice 490/2000 published in Provincial Gazette 5590 dated 22 September 2000 (the principal Notice) as set out in the Schedule.

In this notice "principal Notice" means the Breede Valley Municipality (WCO25) Establishment Notice, Provincial Notice 490/2000 published in Provincial Gazette 5590 dated 22 September 2000, as amended by Provincial Notice 676/2000 published in the Provincial Gazette Extraordinary No. 5642 dated 4 December 2000, Provincial Notice 457/2002 published in the Provincial Gazette Extraordinary No. 5968 dated 19 December 2002, Provincial Notice 185/2003 published in the Provincial Gazette Extraordinary No. 6020 dated 28 May 2003, Provincial Notice 12/2006 published in the Provincial Gazette Extraordinary No. 6333 dated 3 January 2006, Provincial Notice 118/2008 published in the Provincial Gazette 6511 dated 28 March 2008 and Provincial Notice 56/2011 published in the Provincial Gazette Extraordinary No 6852 dated 25 February 2011.

AW BREDELL, PROVINCIAL MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

SCHEDULE

Amendment of the Schedule of the principal Notice

1. Section 9 of the principal Notice is amended by the substitution of the following subsection:

"Full-time Councillors

9. The Local Municipality may designate the following councillors as full-time councillors:
- (a) the executive mayor;
 - (b) the members of the mayoral committee;
 - (c) the speaker; and
 - (d) a single whip appointed for Council."

2. Short title and commencement

This Notice is called the Breede Valley Municipality (WCO44) Establishment Sixth Amendment Notice and comes into operation on the date of publication.

P.K. 244/2011

23 September 2011

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998
(WET 117 VAN 1998)

DIE MUNISIPALITEIT BREEDE VALLEI (WCO25) INSTELLINGSKENNIGSEWING SESDE WYSIGINGSKENNIGSEWING

In terme van artikel 16 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), wysig ek hierby verder die Munisipaliteit Breede Vallei (WCO25) Instellingskennisgewing, Provinsiale Kennisgewing 490/2000 gepubliseer in Provinsiale Koerant 5590 van 22 September 2000 (die hoofkennisgewing) soos uiteengesit in die Bylaag.

In hierdie kennisgewing beteken "hoofkennisgewing" die Munisipaliteit Breede Vallei (WCO25) Instellingskennisgewing, Provinsiale Kennisgewing 490/2000 gepubliseer in Provinsiale Koerant 5590 van 22 September 2000, soos gewysig deur Provinsiale Kennisgewing 676/2000 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5642 van 4 Desember 2000, Provinsiale Kennisgewing 457/2002 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5968 van 19 Desember 2002, Provinsiale Kennisgewing 185/2003 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6020 van 28 Mei 2003, Provinsiale Kennisgewing 12/2006 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6333 van 3 Januarie 2006, Provinsiale Kennisgewing 118/2008 gepubliseer in die Provinsiale Koerant 6511 van 28 Maart 2008 en Provinsiale Kennisgewing 56/2011 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6852 van 25 Februarie 2011.

??? 2011.

AW BREDELL, PROVINSIALE MINISTER VAN PLAASLIKE REGERING, OMGEWINGSKE EN ONTWIKKELINGSBEPLANNING

BYLAAG

Wysiging van die Bylaag tot die hoofkennisgewing

1. Artikel 9 van die hoofkennisgewing word gewysig deur die vervanging deur die volgende subartikel:

"Voltydse Raadslede

9. Die Plaaslike Munisipaliteit mag die volgende raadslede as voltydse raadslede aanwys.
- (a) die uitvoerende burgermeester;
 - (b) lede van die burgermeesterskomitee;
 - (c) die speaker, en
 - (d) 'n enkele skeep aangewys vir die Raad."

2. Korttitel en inwerkingtreeding

Hierdie Kennisgewing word die Munisipaliteit Breede Vallei (WCO25) Instellingskennisgewing Sesde Wysigingskennisgewing genoem en tree in werking op die datum van publikasie.

6.6. Election of a whip for Breede Valley Municipality Council

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

Section 41 A of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, prescribes that:

- (1) Each municipal council may elect a whip for the council who is also a municipal office bearer as set out in Schedule 3.
- (2) At its first sitting after its election, or when necessary to fill a vacancy, a municipal council may elect its whip from among the councillors.
- (3) The speaker of the municipality presides over the election of the whip.
- (4) The procedure set out in Schedule 3 applies to the election of the whip.
- (5) A councillor may not hold office as whip, speaker, mayor or executive mayor at the same time.

2. FUNCTIONS OF WHIP

Section 41 B of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, prescribes that the whip of a municipal council –

- (a) Liaises with the different political parties to ensure representation in council and council committees;
- (b) Maintains sound relations between the various political parties;
- (c) Informs the whips of all parties on important matters on the council agenda;
- (d) Assists the speaker to count votes in the council meeting;
- (e) Facilitates the interaction between the executive and legislative oversight structures in the municipality; and
- (f) Resolves disputes between the speaker, mayor or executive mayor, or members of the mayoral committee.

3. TERM OF OFFICE OF WHIP

Section 41 C of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, prescribes that the whip of a municipal council is elected

for a term ending, subject to section 41D, when the next council is declared elected.

4. VACATION OF OFFICE

Section 41 D of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, prescribes that the whip of a municipal council vacates office during a term if that person –

- (a) Resigns as whip;
- (b) Is removed from office; or
- (c) Ceases to be a councillor.

5. REMOVAL FROM OFFICE

Section 41 E of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, prescribes that a municipal council may remove, by resolution, the whip from office. Prior written notice of an intention to move a motion for the removal of the whip must be given.

6. ACTING WHIPS

Section 41 F of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended, prescribes that if the whip of a municipal council is absent or not available to perform the functions of a whip, or during a vacancy, the council must elect another councillor to act as whip.

7. ELECTION PROCESS

In terms of Item 3(1) of Schedule 3, a nomination must be made on a form determined by the Municipal Manager. A pro-forma form for the nomination of a Whip of Council is attached as **APPENDIX 1**. Ballot papers will be available at the meeting.

RECOMMENDED

that a Whip for Breede Valley Municipal Council be elected.

(MUNICIPAL MANAGER TO ACTION)

ITEM 6.6

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE WHIP



BREDE VALLEY
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

NOMINATION FORM: ELECTION OF THE WHIP

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Worcester this day of2021.

Name of Mover

Nominator 1: Name:

 Signature:

Seconder: Name:

 Signature:

I, (full name)
(ID number) the undersigned, hereby accept the nomination / do not accept the
nomination *

Signed at Worcester this day of2021.

.....
SIGNATURE OF NOMINEE

* delete the part that is not applicable

6.7 Election of representatives to Cape Winelands District Council

File number : 2/1/2/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. BACKGROUND

Sixty percent of the members of a District Council are representatives of local Councils and district management areas within its area of jurisdiction. District management area representatives are elected by voters from that area on voting day. Representatives from local Councils are however elected by the Councils themselves from amongst their members.

2. LEGAL FRAMEWORK

Schedule 2 of the Local Government: Municipal Structures Act is applicable. This election must be conducted by the Chief Electoral Officer who has delegated this task to the Municipal Electoral Officer (MEO) of every local municipality.

Every MEO for a local municipality must therefore at a meeting of the Council of that municipality (as soon as possible but within fourteen days after its election) conduct the election of that Council's representatives to the District Council in terms of Part 2 of Schedule 2 of the Local Government: Municipal Structures Act, which reads as follows:

"Allocation and election of representatives of local Councils and district management areas to district Councils".

16. Electing local Councils' representatives to district Councils

- (1) *The Chief Electoral Officer must manage the election of representatives of a local Council to the district Council.*
- (2) *If a local Council has been awarded one seat-*
 - (a) *any Councillor may nominate a candidate;*
 - (b) *each Councillor has one vote; and*
 - (c) *the candidate who receives the most votes is elected.*
- (3) *If the Council has been awarded more than one seat, the Council*

must elect that number of members according to proportional representation as set out in items 17 to 22.

17. Candidates lists

- (1) *Every party or independent Ward Council may submit a candidates' list containing the names of Councillors, accompanied by a written acceptance by each listed candidate.*

[Subitem (1) substituted by Section 31(1) of Act 51 of 2002].

- (2) *A party or independent Ward Councillor may not submit more than one list.*

[Subitem (2) substituted by Section 31(1) of Act 51 of 2002].

- (3) *The candidates' names must appear on the list in order of preference, starting with the first in order of preference and ending with the last.*

- (4) *The name of a Councillor may appear on one list only.*

- (5) *Every party or independent Ward Councillor must seek to ensure that fifty percent of the candidates on the candidates list are women and that women and men candidates are evenly distributed through the list.*

[Subitem (5) amended by Section 31(c) of Act 51 of 2002].

18. Number of votes

Each Councillor casts one vote for one list only.

19. Determining the quota

In a local Council, the quota of votes for a seat to the district Council must be determined in accordance with the following formula (fractions to be disregarded)-

+1 B A

Where-

- A represent the number of members of the local Council; and
B represents the number of seats that the local Council has been awarded on the district Council in accordance with Item 15.

20. Allocating seats

(1) The number of votes cast in favour of each list must be divided by the quota of votes for a seat and the result is the number of seats allocated to that list.

(2)(a) If the calculation in subitem (1) gives a surplus, that surplus must compete with other similar surpluses of any other lists, and any seat or seats not allocated under subitem (1) must be awarded in sequence of the highest surplus.

(b) If the surplus on one list is equal to the surplus on any other list, the seat or seats must be awarded in sequence of the highest number of votes cast for those lists.

[Paragraph (b) added by Section 32 of Act 51 of 2002].

21. Selecting names from the list

The Chief Electoral Officer, in accordance with the order of preference on a list, must select the number of candidates from the list that is equal to the number of seats allocated to that list.

22. Insufficient lists

In the case of a list containing fewer names than the number of seats allocated to that list, the corresponding provisions of Item 10 must be applied to the extent that that item can be applied.

23. Filling of vacancies

If a Councillor elected from a candidates' list ceases to hold office or the list has become exhausted, the corresponding provisions of Item 11 must be applied to the extent that that item can be applied.

24. Electing members representing a district management area

The Councillors representing a district management area must be elected

in accordance with the proportional electoral system set out in Part 1 of the Schedule."

The MEO must arrange with the Municipal Manager of the local municipality for a meeting of the newly elected Council to be called for the purpose of the election of representatives.

3. NUMBER OF REPRESENTATIVES TO BE ELECTED

Section 12 of the Local Government: Municipal Structures Act 1998, requires the MEC to specify in the notice establishing the municipality the number of representatives to be elected by each local Council to serve as representatives on the District Council. The MEO works on the number of representatives specified in the section 12 notices.

A copy of the ninth Establishment Amendment Notice (published in the Provincial Gazette No. 7597, promulgated on 2016-04-08) pertaining to the Cape Winelands District Municipality, is attached as **APPENDIX 1**.

In terms of this amendment notice:

- Cape Winelands District Municipality has 41 Councillors, of which
 - 17 proportionally represent the parties contesting the election; and
 - 24 directly represent the Local Municipalities, of which 5 directly represent Breede Valley Municipality.

4. ELECTION OF REPRESENTATIVES

Where a local Council has more than one representative in the District Council, every party or independent Ward Councillor may submit one candidates' list containing the names of Councillors in order of preference. Every list must be accompanied by a written acceptance by each listed candidate. A Councillor's name may appear on one list only.

In the election, each Councillor may cast one vote for one list only.

The number of votes cast for each list is divided by a prescribed quota of votes for a seat and the result indicates the number of seats allocated to that list. From

every list to which seats have been allocated, the number of candidates in order of preference is then selected and they are the local Council's representatives on the District Council.

In the case of a list containing fewer names than the number of seats allocated to that list, the corresponding provisions of item 10 of Schedule 2 of the Municipal Structures Act must be applied to the extent that the item can be applied.

5. ELECTION PROCEDURE

The following procedure is suggested:

- the quota of votes for a seat is determined beforehand. (The number of Councillors on the local Council divided by the number of seats that Council has on the District Council, plus one);
- on the day prior to the meeting for the election, the venue for the meeting is visited and prepared for the election by-
 - determining a voting route for Councillors to leave their seats from one side of the venue, approach a table where their names are marked off on a list of Council members and they are given a ballot paper, then move to a next table where a pencil is available for them to mark their ballot paper and a ballot box in which they place their marked ballot papers and move back to their seats from the other side of the venue;
- on the day of the meeting, the purpose of the election and the procedures thereof are explained to the Councillors;
- the Councillors are then given adequate time to prepare their nomination documents and the meeting is adjourned for that purpose; and
- on the resumption of the meeting nominations by the submission of lists on the appropriate form are called for and received by the MEO.

The relevant nomination forms and ballot papers will be available at the meeting.

RECOMMENDED

that Council elects 5 representatives to the Cape Winelands District Council in terms of the procedure set out in Part 2 of Schedule 2 of the Municipal Structures Act (*supra*).

(MUNICIPAL MANAGER TO ACTION)

ITEM 6.7

APPENDIX 1

**COPY OF NINTH ESTABLISHMENT
AMENDMENT NOTICE PUBLISHED
IN THE PROVINCIAL GAZETTE NO
7597, DATED 8 APRIL 2016**



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

7597

Friday, 8 April 2016

Buitengewone Provinsiale Koerant

7597

Vrydag, 8 April 2016

Registered at the Post Office as a Newspaper

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As 'n nuusblad by die Poskantoor Geregistreer

INHOUD

(*Afskrifte is verkrygbaar by Kamer M21, Provinsiale Wetgewergebou, Waalstraat 7, Kaapstad 8001.)

Provinsiale Kennisgewing

Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), soos gewysig: Wysigingskennisgewings van die bestaande Instellingskennisgewings vir Kategorie B en C munisipaliteite in die Provinsie.

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PROVINCIAL NOTICE

The following Provincial Notice is published for general information.

ADV. B. GERBER,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

P.N. 111/2016

8 April 2016

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998

(ACT 117 OF 1998)

THE CAPE WINELANDS DISTRICT MUNICIPALITY (DC2) ESTABLISHMENT NINTH AMENDMENT NOTICE

In terms of section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I further amend the Cape Winelands District Municipality (DC2) Establishment Notice, Provincial Notice 486/2000 published in the Provincial Gazette Extraordinary No. 5590 dated 22 September 2000 (the principal Notice), as set out in the Schedule.

In this notice "principal Notice" means the Cape Winelands District Municipality (DC2) Establishment Notice, Provincial Notice 486/2000 published in the Provincial Gazette Extraordinary No. 5590 dated 22 September 2000, as amended by Provincial Notice 672/2000 published in the Provincial Gazette Extraordinary No. 5642 dated 4 December 2000, Provincial Notice 453/2002 published in the Provincial Gazette Extraordinary No. 5968 dated 19 December 2002, Provincial Notice 181/2003 published in the Provincial Gazette Extraordinary No. 6020 dated 28 May 2003, Provincial Notice 162/2004 published in the Provincial Gazette No. 6160 dated 20 August 2004, Provincial Notice 8/2006 published in the Provincial Gazette Extraordinary No. 6333 dated 3 January 2006, Provincial Notice 91/2006 published in the Provincial Gazette Extraordinary No. 6346 dated 28 February 2006, Provincial Notice 114/2008 published in Provincial Gazette No. 6511 dated 28 March 2008, Provincial Notice 53/2011 published in Provincial Gazette Extraordinary No. 6852 dated 25 February 2011 and Provincial Notice 287/2011 published in the Provincial Gazette No. 6918 dated 21 October 2011.

Dated this 7th day of April 2016.

AW BREDELL, PROVINCIAL MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

SCHEDULE**Amendment of the Schedule of the principal Notice****1. Section 2.(1) of the principal Notice is amended by the substitution for subsection (1) of the following subsection:-**

"2.(1) On 3 March 2000 the Municipal Demarcation Board, acting in terms of section 21 of the Municipal Demarcation Act, determined the boundaries of the Municipality, as reflected in the map appearing in Provincial Notice 69/2000 published in Provincial Gazette Extraordinary No. 5431 dated 3 March 2000 (a copy of the map is republished in Annexure "1A" to this Schedule). Those boundaries were amended by Provincial Notice 165/2000 published in Provincial Gazette Extraordinary No. 5469 dated 5 May 2000, Provincial Notice 522/2000 published in Provincial Gazette Extraordinary No. 5597 dated 29 September 2000, Provincial Notice 258/2002 published in Provincial Gazette Extraordinary No. 5922 dated 15 August 2002, Provincial Notice 163/2008 published in Provincial Gazette No. 6518 dated 29 April 2008 read with Provincial Notice 263/2008 published in Provincial Gazette 6547 dated 31 July 2008 and Provincial Notice 339/2013 published in Provincial Gazette Extraordinary No. 7185 of 15 October 2013 read with Provincial Notice 417/2013 published in Provincial Gazette Extraordinary No. 7209 of 10 December 2013, Provincial Notice 248/2013 published in Provincial Gazette Extraordinary No. 7156 of 8 August 2013, Provincial Notice 1/2014 published in Provincial Gazette No. 7217 dated 10 January 2014, Provincial Notice 63/2014 published in Provincial Gazette No. 7236 dated 7 March 2014 and Provincial Notice 159/2014 published in Provincial Gazette No. 7277 dated 13 June 2014."

2. Section 8. of the principal Notice is amended by the substitution of the following section:-

"8. The Municipal Council of the District Municipality has 41 (forty one) councillors, as determined by the Provincial Minister in Provincial Notice 264/2014 published in Provincial Gazette Extraordinary No. 7314 dated 6 October 2014, of whom:-

(a) 17 (seventeen) proportionally represent the parties contesting the election in the District Municipality in terms of section 23(1) (a) of the Municipal Structures Act;

(b) 24 (twenty-four) directly represent the Local Municipalities in terms of section 23(1)(b) of the Municipal Structures Act, of whom:-

(i) 3 (three) directly represent the Witzenberg Municipality (WCO22);

(ii) 8 (eight) directly represent the Drakenstein Municipality (WCO23);

(iii) 5 (five) directly represent the Stellenbosch Municipality (WCO24);

(iv) 5 (five) directly represent the Breede Valley Municipality (WCO25), and

(v) 3 (three) directly represent the Langeberg Municipality (WCO26)."

3. Short title and commencement

This Notice is called the Cape Winelands District Municipality (DC2) Establishment Ninth Amendment Notice and has effect from the date of the next general election of municipal councils.

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998

(WET 117 VAN 1998)

DIE KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT (DC2) INSTELLINGSKENNIGEWING NEGENDE WYSIGINGSKENNIGEWING

In terme van artikel 16 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), wysig ek hierby verder die Kaapse Wynland Distriksmunisipaliteit (DC2) Instellingskennisgewing, Provinsiale Kennisgewing 486/2000 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5590 van 22 September 2000 (die hoofkennisgewing), soos uiteengesit in die Bylaag.

In hierdie kennisgewing beteken "hoofkennisgewing" die Kaapse Wynland Distriksmunisipaliteit (DC2) Instellingskennisgewing, Provinsiale Kennisgewing 486/2000 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5590 van 22 September 2000, soos gewysig deur Provinsiale Kennisgewing 672/2000 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5642 van 4 Desember 2000, Provinsiale Kennisgewing 453/2002 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5968 van 19 Desember 2002, Provinsiale Kennisgewing 181/2003 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6020 van 28 Mei 2003, Provinsiale Kennisgewing 162/2004 gepubliseer in die Provinsiale Koerant Nr. 6160 van 20 Augustus 2004, Provinsiale Kennisgewing 8/2006 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6333 van 3 Januarie 2006, Provinsiale Kennisgewing 91/2006 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6346 van 28 Februarie 2006, Provinsiale Kennisgewing 114/2008 gepubliseer in Provinsiale Koerant Nr. 6511 van 28 Maart 2008, Provinsiale Kennisgewing 53/2011 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6852 van 25 Februarie 2011 en Provinsiale Kennisgewing 287/2011 gepubliseer in die Provinsiale Koerant 6918 van 21 Oktober 2011.

Gedateer op hierdie 7de dag van April 2016.

AW BREDELL, PROVINSIALE MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING**BYLAAG****Wysiging van die Bylaag tot die hoofkennisgewing****1. Artikel 2.(1) van die hoofkennisgewing word gewysig deur die vervanging deur die volgende subartikel:**

"2.(1) Op 3 Maart 2000 het die Munisipale Afbakeningsraad, wat ingevolge artikel 21 van die Munisipale Afbakeningswet handel, die grense van die Munisipaliteit bepaal, soos aangetoon op die kaart wat voorkom in Provinsiale Kennisgewing 69/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5431 van 3 Maart 2000 ('n kopie word herpubliseer in Aanhangsel "1A" tot die Bylaag). Daardie grense was gewysig deur Provinsiale Kennisgewing 165/2000 gepubliseer in Buitengewone Provinsiale Kennisgewing Nr. 5469 van 5 Mei 2000, Provinsiale Kennisgewing 522/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5597 van 29 September 2000, Provinsiale Kennisgewing 258/2002 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5922 van 15 Augustus 2002, Provinsiale Kennisgewing 163/2008 gepubliseer in Provinsiale Koerant Nr. 6518 van 29 April 2008 saamgelees met Provinsiale Kennisgewing 263/2008 gepubliseer in Provinsiale Koerant 6547 van 31 Julie 2008 en Provinsiale Kennisgewing 339/2013 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7185 van 15 Oktober 2013 saamgelees met Provinsiale Kennisgewing 417/2013 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7209 van 10 Desember 2013, Provinsiale Kennisgewing 248/2013 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7156 van 8 Augustus 2013, Provincial Notice 1/2014 published in Provincial Gazette No. 7217 dated 10 January 2014, Provincial Notice 63/2014 published in Provincial Gazette No. 7236 dated 7 March 2014 and Provincial Notice 159/2014 published in Provincial Gazette No. 7277 dated 13 June 2014."

2. Artikel 8. Van die hoofkennisgewing word gewysig deur die vervanging deur die volgende subartikel:

"8. Die Munisipale Raad van die Distriksmunisipaliteit het 41 (een-en-veertig) raadslede, soos bepaal deur die Provinsiale Minister in Provinsiale Kennisgewing 264/2014 gepubliseer in Buitengewone Provinsiale Koerant Nr. 7314 van 6 Oktober 2014, van wie:-

(a) 17 (sewentien) die partye wat ingevolge artikel 23(1)(a) van die Munisipale Strukturewet aan die verkiesing in die Distriksmunisipaliteit deelneem, proporsioneel verteenwoordig;

(b) 24 (vier-en-twintig) die Plaaslike Munisipaliteite ingevolge artikel 23(1)(b) van die Munisipale Strukturewet regstreeks verteenwoordig, van wie:-

(i) 3 (drie) die Munisipaliteit Witzenberg regstreeks verteenwoordig (WCO22);

(ii) 8 (aght) die Munisipaliteit Drakenstein regstreeks verteenwoordig (WCO23);

(iii) 5 (vyf) die Munisipaliteit Stellenbosch regstreeks verteenwoordig (WCO24);

(iv) 5 (vyf) die Munisipaliteit Breede Vallei regstreeks verteenwoordig (WCO25), en

(v) 3 (drie) die Munisipaliteit Langeberg regstreeks verteenwoordig (WCO26)."

3. Kortttitel en inwerkingtreding

Hierdie Kennisgewing word die Kaapse Wynland Distriksmunisipaliteit (DC2) Instellingskennisgewing Negende Wysigingskennisgewing genoem en tree in werking vanaf die datum van die volgende algemene verkiesing van munisipale rade.

6.8 Nomination of a Councillor as Trustee of LA Retirement Fund

File number : 2/1/2/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. Background

Breede Valley Municipality is one of 57 participating employers in the LA Retirement Fund and is therefore eligible to nominate and vote for the Councillor Trustee constituency on the Board of Trustees.

The term of Alderman Wouter Meiring as current Councillor Trustee will end on 31 January 2022.

The Rules of the Fund allow for two Councillor Trustees, of whom one is appointed by the City of Cape Town and the other is elected by all the other local authorities participating in the Fund.

2. Requirements from LA Retirement Fund

Council may, after the results of the 2021 Municipal Elections are known, nominate one Councillor who wishes to serve on the Board as a Trustee.

The Trustees' term of office is 5 years and commences on 1 February 2022.

In terms of their Rules, any person who is ineligible to be, or disqualified from being a director of a company in terms of the Companies Act, 2008, may not be appointed, be elected or act as a Trustee. This includes, amongst others, the following persons:

- A juristic person;
- A minor or a person under legal disability;
- An un-rehabilitated insolvent;
- Any person who has been removed from an office of trust on account of misconduct; and
- Any person who has been convicted by a court of law, in South Africa or elsewhere, for theft, fraud, forgery, perjury or an offence involving fraud, misrepresentation or dishonest, or an offence in connection with the promotion, formation or management of a company, subject to relevant

legislation with regard to the disregarding of certain convictions which occurred prior to 1994.

A Councillor Trustee may not be a member of the LA Retirement Fund.

3. Nomination process

A Nomination form must be completed and returned to the Fund by no later than 16h00 on Wednesday 1 December 2021, at support@laretirementfund.co.za. The nominated candidate must accept their Council's nomination in writing.

Nomination forms will be available at the meeting.

RECOMMENDED

that Council nominates (one) Councillor to serve as Trustee of the LA Retirement Fund.

(MUNICIPAL MANAGER TO ACTION)

6.9 Adoption of System of Delegations

File number : 2/2/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

1.1 System of Delegation

In terms of Section 59 of the Local Government: Municipal Systems Act, Act 32/2000, a municipal council must develop a system of delegations that will maximize administrative and operation efficiency and provide for adequate checks and balances, and, in accordance with such system may:-

- (a) delegate appropriate powers, excluding a power mentioned in Section 160(2) of the Constitution and the power to set tariffs, to decide to enter into a service delivery agreement in terms of Section 76(b) and to approve or amend the municipality's IDP, to any of the municipality's political structures, political office bearers, councillors, or staff members;
- (b) instruct any such political structure, political office bearer, councillor, or staff member to perform any of the municipality's duties; and
- (c) withdraw any delegation or instruction.

A copy of Council's current approved System of Delegations is **distributed under a separate cover as ITEM 6.9 APPENDIX A.**

1.2 Review of Delegations

In terms of Section 59(2)(f), such System of Delegations must be reviewed when a new Council is elected.

In terms of Section 65, whenever it becomes necessary in terms of Section 59(2)(f)(supra) to review a municipality's delegations, the

Municipal Manager must submit to Council:-

- (a) a report on the existing delegations issued in terms of section 59; and
- (b) recommendations on any changes to the existing delegations which the Municipal Manager may consider necessary.

If the municipality has an Executive Committee or Executive Mayor, the Municipal Manager must submit such report and any recommendations to the Council through the Executive Committee or Executive Mayor.

RECOMMENDED

that Council adopts the existing System of Delegations.

(MUNICIPAL MANAGER TO ACTION)

6.10 Structuring of Council: Establishment of Section 79 Committees and Other Statutory Committees

6.10.1 Current status of the Audit and Performance Audit Committee

File number : 2/1/4/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

To inform Council of the functions and purpose, as well as the current composition, of the Audit and Performance Audit Committee.

2. LEGAL FRAMEWORK

In terms of Section 166 of the Municipal Finance Act (MFMA), Act No 56 of 2003, each municipality must have an Audit and Performance Audit Committee. The Audit and Performance Audit Committee is an independent advisory body which must advise Council, the political office bearers, the accounting officer, the management and staff of the municipality.

APPLICABLE LEGISLATION

- Section 166 of the Local Government: Municipal Finance Management Act (MFMA) 56 of 2003;
- National Treasury MFMA Circular No 65
- Section 14 of the Local Government: Municipal Planning and Performance Management Regulations, 2001.

DISCUSSION

In terms of Section 166 (2) (a) the Audit and Performance Audit Committee must provide advice on matters relating to:

- internal financial control and internal audit;
- risk management;
- accounting policies;
- the adequacy, reliability and accuracy of financial reporting and information;

- performance management;
- effective governance;
- performance evaluation;
- compliance with the MFMA and any other applicable legislation; and
- any issues referred to it by the Council.

The Audit and Performance Audit Committee will also review the annual financial statements in order to advise Council whether its finances are being managed efficiently and effectively. The Audit and Performance Audit Committee may respond to Council on issues raised by the Auditor-General in the audit report and carry out investigations into the financial affairs of the municipality if requested to do so by Council.

3. **Functioning of the Audit and Performance Audit Committee**

In order to execute its responsibilities effectively, the Audit and Performance Audit Committee:

- (a) will have access to the financial records and all other relevant information of the municipality.
- (b) must liaise with—
 - (i) the internal audit unit of the municipality; and
 - (ii) the person designated by the Auditor-General to audit the financial statements of the municipality or municipal entity.

The Committee must have a minimum of three and a maximum of five independent members who must be appointed by Council. Breede Valley's Audit and Performance Audit Committee Charter requires that there be three (3) independent members. The Audit and Performance Audit Committee must meet as often as may be needed but not less than four times a year. No Councillor may be a member of the Audit and Performance Audit Committee. The Audit and Performance Audit Committee is a politically neutral body. The terms of reference for the Audit and Performance Audit Committee is clearly outlined in the Audit and Performance Audit Committee Charter **(distributed under a separate cover as ITEM 6.10.1 APPENDIX A)** as approved by Council in July 2021.

The Audit and Performance Audit Committee should according to the Municipal

Planning and Performance Management Regulations include at least one (1) performance management expert as the Audit and Performance Audit Committee of Breede Valley Municipality, which performs the dual role of Audit and Performance Audit Committee.

4. The Breede Valley Municipality’s Audit and Performance Audit Committee

The council-appointed members currently serving on the Municipality’s Audit and Performance Audit Committee are:

Audit Committee Member	Term expires on:
Mariaan Roos (Chairperson)	01/07/2023
June Williams (Member)	01/03/2022
Shahied Allie (Member)	01/03/2022

RECOMMENDED

- (a) that cognisance be taken of the current composition of the Audit and Performance Audit Committee of Breede Valley Municipality; and
- (b) that Council notes the Terms of Reference of the Audit and Performance Audit Committee as outlined in the approved Charter.

(MUNICIPAL MANAGER TO ACTION)

6.10.2 Establishment of a Municipal Public Accounts Committee (MPAC) and Oversight Committee

File number : 2/1/4/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

For Council to establish a Municipal Public Accounts Committee (MPAC) and Oversight Committee.

2. BACKGROUND

The former Council had established a 10-member Municipal Public Accounts Committee (MPAC), which was fully functional.

By virtue of the termination of the 2016-2021 Council's term of office, the former MPAC has also dissolved. Council is obliged to re-establish MPAC as an oversight committee to exercise oversight over the executive obligations of council.

3. LEGAL FRAMEWORK

3.1 Section 79 Committees

An MPAC is generally a committee of Council established in terms of Section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

In terms of Section 79 (1) (a) of the Structures Act, a municipal council may establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers, and appoint the members of such Committee(s) from among its members.

If Council wishes to establish such Committees, it: -

1. must determine the functions of such Committees;
2. may delegate duties and powers to it in terms of Section 59 of the Systems Act;
3. must appoint the Chairperson(s); and

4. may authorised a Committee to co-opt advisory members who are not members of the Council, within the limits determined by Council.

3.2 Composition of Committees

In terms of Section 160(8) of the Constitution of the Republic of South Africa, members of a municipal Council are entitled to participate in its proceedings and those of its Committees in a manner that, *inter alia*: -

- (a) allows parties and interests reflected within the Council to be fairly represented; and
- (b) is consistent with democracy.

4. SCOPE OF MPAC OPERATIONS

The establishment, overarching purpose, function and Terms of Reference of the Municipal Public Accounts Committee are defined in the Municipal Finance Management Act, Circular 92 and is included in the Information Pack.

Notwithstanding what is contained in the above, the following specific Terms of Reference are highlighted:

1. MPAC shall not be responsible for policy formulation;
2. MPAC is authorised to co-opt members of the public with expertise in specific fields to assist and advise the Committee when deliberating before it, as and when necessary, taking note of the fact that such non-elected members shall enjoy no status in Council and will have no voting rights in any political structure of Council;
3. MPAC may engage directly with the public and consider public comments when received and will be entitled to request documents or evidence from the Accounting Officer;
4. MPAC shall have permanent referral of documents relating to:
 - (i) In-Year reports of Breede Valley Municipality;
 - (ii) Financial statements of Breede Valley Municipality as part of its oversight process;

- (iii) Audit opinion, reports and recommendations from the Audit Committee;
 - (iv) Information relating to compliance in terms of Section 128 and Section 133 of the Local Government: Municipal Finance Management Act, 2003 (MFMA);
 - (v) Information in respect of any disciplinary action taken in terms of the MFMA where it relates to an item that is currently serving or has served before it;
 - (vi) Any other audit report of Breede Valley Municipality; and
 - (vii) Performance information of Breede Valley Municipality;
5. MPAC shall consider and evaluate the content of the Annual Report and make recommendations to Council when adopting an Oversight Report on the Annual Report;
 6. In order to assist with the conclusion of matters that may not have been finalized, information relating to past recommendations made on the Annual Report, information relating to current in-year reports including quarterly, mid-year and Annual Reports, shall be reviewed by MPAC;
 7. MPAC shall examine the financial statements and audit reports of Breede Valley Municipality, and in doing so, consider improvements from previous statements and reports and evaluate the extent to which the Audit Committee's and the Auditor-General's recommendations have been implemented;
 8. MPAC shall promote good governance, transparency and accountability on the use of municipal resources;
 9. MPAC shall recommend or undertake any investigation in its area of responsibility, after reviewing any investigation report already undertaken by Breede Valley Municipality or the Audit Committee;
 10. MPAC shall request the support of both the internal and external auditors in an advisory capacity when necessary;

11. MPAC shall conduct investigations into unauthorized, irregular and/or fruitless and wasteful expenditure in accordance with Section 32(2)(a)(ii) of the MFMA and Regulation 74 of the Municipal Budget and Reporting Regulations;
12. MPAC shall perform any other functions within its area of responsibility assigned to it through a resolution of Council; and
13. The Rules of Order of Breede Valley Municipal Council shall be applicable to all meetings of MPAC.

5. PROCEDURE FOR THE APPOINTMENT OF MPAC MEMBERS AND MPAC CHAIRPERSON

5.1 Membership of MPAC

The previous MPAC membership (10 members) was determined along the following principles:

1. Membership of MPAC should consist of up to 11 Councillors selected from all parties represented in Council;
2. MPAC must be represented by a wide range of experience and expertise available in Council and should reflect the various political parties represented in Council;
3. The Executive Mayor, Deputy Executive Mayor, Speaker, Whip or a member of the Mayoral Committee must be excluded from membership of MPAC; and
4. Secundi for the members of MPAC should be designated by Council.

5.2 Chairperson of MPAC

In terms of the Act No. 3 of 2021: Local Government: Municipal Structures Amendment Act, 2021 and Municipal Finance Management Act, Circular 92, the Department of Co-operative Governance and the National Treasury have gazetted and published legislation and guidelines to all municipalities regarding the establishment of Municipal Public Accounts Committees (MPAC's); as well as the roles and responsibilities that MPAC's must fulfill.

Council resolved at the Council meeting held on 23 August 2016, Council resolution C64/2016 that the position of the Chairperson of MPAC be that of a part-time Councillor. Also, that the position of Chairperson of MPAC be remunerated in accordance with Government Notice 1271 dated 21 December 2015 (Determination of Upper Limits of salaries, allowances and benefits of Councillors) as a part-time Councillor Chairperson of section 79 Committee.

Taking into account the principles of transparency, ethics and good governance, it is recommended that the Chairperson of MPAC is appointed from members of the political parties represented in Council other than the majority Party.

Due to the fact that no other equivalent procedure has been promulgated in terms of relevant legislation, Council could opt to use any appropriate procedure to determine the appointment of the MPAC Chairperson, or alternatively, Council could decide to use the procedures set out in Schedule 3 of the Municipal Structures Act (see par 2 of Item 5 above) during the election of the Chairperson for MPAC.

In terms of Item 3(1) of Schedule 3 of the Local Government Structures Act, Act 117 of 1998, a nomination must be made on a form determined by the Municipal Manager. The nomination form will be distributed in Council.

Distributed under a separate cover as an ITEM 6.10.2 APPENDIX A, find the following:

- The Municipal Public Accounts Committee (MPAC) Guide and Toolkit.
- The Municipal Public Accounts Committee (MPAC) system of delegation.
- The Municipal Public Accounts Committee (MPAC) Policy.

RECOMMENDED

- (a) that Council establishes a Municipal Public Accounts Committee (MPAC) in accordance with Section 79 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and as per the “Legislation and Guideline for Establishment of Municipal Public Accounts

Committees” issued by the Department of Cooperative Governance (CoGTA) and National Treasury;

- (b) that the function of an oversight committee in relation to Oversight in terms of section 32 and the Annual Report as required in section 129 of the Municipal Public Finance Management Act, Act 56 of 2003 be incorporated into the roles and responsibilities of MPAC;
- (c) that Council appoints Councillors and their secundi to serve on the Municipal Public Accounts Committee (MPAC), based on the following principles:
 - (i) Membership of MPAC should consist of up to 10 Councillors selected from all parties represented in Council;
 - (ii) MPAC must be represented by a wide range of experience and expertise available in Council and should reflect the various political parties represented in Council;
 - (iii) The Executive Mayor, Deputy Executive Mayor, Speaker, Whip or a member of the Mayoral Committee be excluded from membership of MPAC;
 - (iv) that Council elects a Chairperson for the Municipal Public Accounts Committee (MPAC);
 - (v) that Council consider the type of MPAC chairperson appointed (Full-time or Part-time).
- (d) that Council approves the system of delegation together with the discrepancies as identified between the Circular 92 Guide and Toolkit for Municipal Public Accounts Committee and the system of delegations as approved by Council in 2014, Council resolution C6/2014.

(MUNICIPAL MANAGER TO ACTION)

6.10.3 Establishment of Appeal Authority (Section 62: Systems Act)

File number : 2/1/4/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

For Council to establish an Appeal Authority in terms of Section 62 of the Municipal Systems Act.

2. LEGAL FRAMEWORK

2.1 MUNICIPAL SYSTEMS ACT, Section 62 APPEALS

In the case of Breede Valley Municipality which comprises of more than 14 councillors, MSA Section 62(4)(c)(ii) is applicable, which states: *“when the appeal is against a decision taken by a political structure or political office bearer, a committee of councillors who were not involved in the decision and appointed by the municipal council for this purpose is the appeal authority...”*.

2.2 Section 79 Committees

In terms of Section 79 of the Structures Act, a municipal council may establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers, and appoint the members of such Committee(s) from among its members.

If Council wishes to establish such Committees, it:-

1. must determine the functions of such Committees;
2. may delegate duties and powers to it in terms of Section 59 of the Systems Act;
3. must appoint the Chairperson(s); and

4. may authorise a Committee to co-opt advisory members who are not members of the Council, within the limits determined by Council.

The Council Appeal Committee is established as per the provisions of Section 79 of the Structures Act. As such, the municipal council determines the functions of the Council Appeal Committee and may delegate powers and duties to it, and Council appoints the members as well as the Chairperson of the Council Appeal Committee.

3.3 Composition of Committees

Section 33 of the Structures Act stipulates that, with the establishment of committees, cognisance must be taken of the extent of the functions and powers of the municipality, as well as the need for the delegation of those functions and powers in order to ensure efficiency and effectiveness in their performance.

In terms of Section 160(8) of the Constitution of the Republic of South Africa, members of a municipal Council are entitled to participate in its proceedings and those of its Committees in a manner that, inter alia:-

- (a) allows parties and interests reflected within the Council to be fairly represented; and
- (b) is consistent with democracy.

Furthermore, attention is drawn to the fact that in terms of the Breede Valley Municipality (WCO25) Establishment Notice, read with the Provincial Gazette: 6907, 23 September 2011, only the following office bearers are designated as full-time councillors:-

- the Executive Mayor;
- the members of the Mayoral Committee;
- the Speaker;

- the Single Whip; and

RECOMMENDED

- (a) that Council appoints Councillors to serve on the Council Appeal Committee; and
- (b) that Council appoints a Chairperson for the Council Appeal Committee.

(MUNICIPAL MANAGER TO ACTION)

6.10.4 Establishment of Disciplinary Board: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings

File number : 9/2/3/1/33
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

The purpose of this item is for Council to establish a Disciplinary Board (hereinafter referred to as “a *DB*”) in terms of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

2. BACKGROUND

Section 175 of the Local Government: Municipal Finance Management Act, (No. 56 of 2003) grants the Minister of Finance the power to make regulations dealing with financial misconduct and related matters. The Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (hereinafter referred to as “*the Regulations*”) was promulgated and took effect on 01 July 2014.

The objective of the Regulations is to set out processes and procedures that municipalities must follow when dealing with financial misconduct. The Regulations apply to all officials and political office bearers within municipalities.

The Regulations consist of four chapters. Chapter one contains the definition of terms that are used in the Regulations.

Chapter two deals with the manner in which allegations of financial misconduct should be reported within municipalities including simultaneous reporting of all allegations to the South African Police Service for criminal investigation, the establishment and functioning of a DB, preliminary and full scale investigations

of allegations of financial misconduct and the submission of the necessary reports.

The Regulations require that the DB be an independent advisory body that will assist the municipal council with the investigation of allegations of financial misconduct. The DB will also make recommendations based on the findings of the investigation on further steps to be taken regarding disciplinary proceedings or any other relevant steps.

Chapter two also provides details with regard to the composition of the DB, including those persons that are disqualified from serving on the DB. By disqualifying certain persons on the DB, especially political office bearers, the Regulations ensure that there is clear separation of responsibilities and accountability between employer and employee. The chapter sets out the manner in which the Council must refer allegations of financial misconduct to the DB.

The rationale for the proposed composition of the board was to ensure that there is sufficient skills present to perform the activities of the DB. It is also important that appropriately experienced and skilled persons serve on the DB to ensure that the board conducts its activities in accordance with the applicable legal framework, thereby making sure that proceedings are procedurally fair.

In the event that the DB recommends that the allegation be further investigated by an external investigator, the Regulations provide for the framework within which the external investigator must be appointed. The Regulations further provide for the creation and submission of reports to the Council by the external investigator. The investigation must be concluded and a report submitted within thirty (30) days of referral by Council.

Chapter three deals with instances where a financial offence has been committed by a political office bearer of the municipality for purposes of section 173(4) and

(5) of the MFMA. The municipality has to deal with the allegations in accordance with the procedure set out in item 13 of Schedule 1 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

Chapter four of the Regulations makes provision for the Minister of Finance and the MEC's for Finance in the provinces to receive investigation reports and an information document that clearly sets out the name and position of the alleged wrongdoer, a summary of the facts of the allegation, including the monetary value involved, any disciplinary steps taken or to be taken against the alleged wrongdoer, or if no disciplinary steps have been taken, the reason for such a decision. The MEC for Finance, the National Treasury or the Provincial Treasury may intervene by directing that an allegation be investigated if the Council has failed to act on allegations or recommendations.

3. ESTABLISHMENT OF DISCIPLINARY BOARD

As per Regulation 4 of the Regulations, a Municipal Council must establish a DB to investigate allegations of financial misconduct in the Municipality and monitor the institution of disciplinary proceedings against an alleged transgressor.

A DB must consist of a maximum of five (5) members appointed on a part-time basis by Council for a period not exceeding three (3) years. A member of a DB must be a natural person, a citizen or permanent resident of the Republic and resident of the Province where the Municipality is situated.

The following persons are disqualified from membership of a DB:

- (a) a person who has been convicted of an offence in terms of this legislation or any other legislation;
- (b) a person who has been convicted of theft, fraud, forgery, the utter of a forged document or any offence of which dishonesty is an element;
- (c) a person who has at any time been removed from any office of trust on account of misconduct of dishonesty;

- (d) an accounting officer of a municipality;
- (e) a political office bearer or a member of a board of directors;
- (f) a person who is an office bearer in a political party.

A DB may consist of:

- (a) the head of the internal audit unit within the municipality or a representative of an organization performing internal audit functions for the municipality, if the internal audit function is outsourced,
- (b) one member of the audit committee of the municipality;
- (c) a senior manager from the legal division of the municipality;
- (d) a representative of the national or the provincial treasury; and
- (e) any other person as may be determined by the municipal council.

Distributed under a separate cover as ITEM 6.10.4 APPENDIX A, find the following:

- The Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings as published per Provincial Gazette No. 37699 dated 30 May 2014.

RECOMMENDED

1. That a Disciplinary Board be established on a part-time basis for a period of three (3) years, consisting of four (4) members, namely:
 - 1.1 Chief Audit Executive;
 - 1.2 Senior Manager: Legal Services;
 - 1.3 Chairperson of the Audit Committee; and
 - 1.4 any competent person seconded by Provincial Treasury
2. That the only remuneration payable to the Disciplinary Board will be in respect of the Chairperson of the Audit Committee in accordance with Council's approved Audit Committee Charter.

3. That the Disciplinary Board execute their duties in accordance with the prescripts of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
4. That the appointed Disciplinary Board members receive appointment letters under the hand of the Municipal Manager and the appointments be accepted in writing.

(MUNICIPAL MANAGER TO ACTION)

6.11 Structuring of Council: Establishment of Section 80 Committees (Portfolio Committees)

File number : 2/1/4/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

1.1 Section 80 Committees

In terms of Section 80 of the Structures Act, if a municipality has an Executive Committee or Executive Mayor, it may appoint Committees of Councillors to assist the Executive Committee or Executive Mayor.

Such Committees may not in number exceed the number of members of the Executive Committee or Mayoral Committee.

The Executive Committee or Executive Mayor, inter alia:-

- appoints a Chairperson for each Committee; and
- may delegate any powers and duties of the Executive Committee or Executive Mayor to the Committee.

Such Committee(s) must report to the Executive Committee or Executive Mayor in accordance with the directions of the Executive Committee or Executive Mayor.

1.2 Composition of Committees

In terms of Section 160(8) of the Constitution of the Republic of South Africa, members of a municipal Council are entitled to participate in its proceedings and those of its Committees in a manner that, inter alia:-

- (a) allows parties and interests reflected within the Council to be fairly represented; and
- (b) is consistent with democracy.

RECOMMENDED

- (a) that Council appoint the following Section 80 Portfolio Committees:
- Finance Committee;
 - Engineering Services Committee;
 - Public Services Committee;
 - Strategic Services Committee; and
 - Community Services Committee;
- (c) that Council appoints the members of the above-mentioned Section 80 Committees; and
- (d) that the Executive Mayor, in terms of Section 80(3) of the Municipal Structures Act, appoints a Chairperson for each of the Section 80 Committees from the Mayoral Committee.

(MUNICIPAL MANAGER TO ACTION)

6.12 Appointment of Councillors to serve on the Local Labour Forum

File number : 2/1/4/3/4
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

For Council to consider the appointment of Councillors to serve on the Local Labor Forum.

2. BACKGROUND

The termination of the 2016-2021 Council's term of office necessitates the appointment of Councillors to represent the Employer on the Local Labour Forum.

As per the SALGBC Main Collective Agreement, the Employer representatives shall consist of at least 2 (two) Councillors and Management.

During the previous term of office, 5 (five) Councillors were appointed to serve on the Local Labour Forum.

RECOMMENDED

that Council appoints Councillors to serve on the Local Labour Forum.

(MUNICIPAL MANAGER TO ACTION)

6.13 Appointment of Representatives on SALGA – Western Cape

File number : 2/3/2/13
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

For Council to appoint representatives and secundi to serve on the various SALGA Provincial Working Groups.

2. BACKGROUND

As prescribed in the SALGA Constitution, Provincial and National Conferences must be held within 60 and 90 days after elections respectively.

The Council must nominate representatives to attend the Provincial and National Conferences, as well as appoint representatives to serve on the various SALGA provincial working groups.

The following are the SALGA Working Groups on which a nominated councillor from Breede Valley Municipality served:

SALGA Provincial Working Groups	
1	Economic Development and Planning
2	Municipal Finance
3	Community Development
4	Human Resource Development and Collective Bargaining
5	Municipal Infrastructure and Related Services [which includes] – <ul style="list-style-type: none"> • Climate Change, Environmental Affairs and Sustainability • Municipal Infrastructure Planning • Municipal trading Services
6	Governance, Intergovernmental and International Relations

RECOMMENDED

that Council appoints a representative and secundi for each of the various SALGA Provincial Working Groups.

(MUNICIPAL MANAGER TO ACTION)

6.14 Appointment of Councillors to serve on external bodies

File number : 2/1/2/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

For Council to authorise the Executive Mayor to appoint Representatives of Council to serve on external bodies as and when the need arises.

2. BACKGROUND

It can, during the existence of the 2021-2026 Council, be expected by a range of outside bodies, including voluntary organisations, local government associations and companies formed to provide local services, that representatives of Council be appointed to serve on these bodies.

RECOMMENDED

that Council authorise the Executive Mayor to appoint Representatives of Council to serve on external bodies as and when the need arises.

(MUNICIPAL MANAGER TO ACTION)

6.15 Establishment of Ward Committees

File number : 2/1/1/3/4
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

In terms of section 73 of the Municipal Structures Act, as amended, a local council must establish a ward committee for each ward in the municipality within 120 days after the election of the municipal council, in accordance with section 22.

In terms of section 73 (1A) where a local council is unable to establish a ward committee(s), the speaker must, prior to the expiry of the 120 days after the elections, in writing and on good cause shown, request the MEC, responsible for local government in the province concerned, for an extension.

A Ward Committee consists of:-

- (a) the Councillor representing that ward in the Council, who must also be the Chairperson of the Committee; and
- (b) not more than 10 other persons.

1.3 Rules regulating election procedure, membership and frequency of meeting and term of office

In terms of section 73(3) of the Structures Act, a local council must make rules regulating:-

- (a) the procedure to elect the member of a Ward Committee, taking into account the need-
 - (i) for women to be equitably represented; and
 - (ii) for a diversity of interests in the ward to be represented;
- (b) the circumstances under which those members must vacate office; and
- (c) the frequency of meetings.

In terms of section 75 of the Structures Act a Ward Committee is elected for a term determined by the local Council.

Breede Valley Municipality has approved a policy dealing with the establishment of Ward Committees as well as the matters mentioned above.

RECOMMENDED

- (a) that Council notes that in terms of Section 73 of the Municipal Structures Act, Ward Committees must be established for each ward within 120 days after the election of the municipal council;

- (b) that Council designates the Speaker to facilitate the establishment of Ward Committees in line with the provisions and stipulations of the Municipal Structures Act and Council's policy for the establishment of Ward Committees; and

- (b) that the Speaker reports back to Council on the establishment of the Ward Committees within a period of 2 (two) months.

(MUNICIPAL MANAGER TO ACTION)

6.16 Disclosures of Financial Interests for Councillors, Municipal Manager and Directors

File number : 2/1/4/3
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

To submit to the Council the disclosures of financial interests' procedural code for Councillors, Municipal Manager and Directors for approval.

2. BACKGROUND

Schedule 1, Section 7 as well as Schedule 2, Section 5A of the Municipal Systems Act states that when a councillor is elected or appointed or a person appointed in terms of section 56 or a municipal manager, he or she must within 60 days declare in writing to the municipal manager or the chairperson of the municipal council the following financial interests held:

- shares and securities in any company;
- membership of any close corporation;
- interest in any trust;
- directorships;
- partnerships;
- other financial interests in any business undertaking;
- employment and remuneration;
- interest in property;
- pension; and
- subsidies, grants and sponsorships by any organisation.

Any change in the nature or detail of the financial interests of any councillor or official must be declared in writing to the municipal manager annually. Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1) of section 7 of the systems Act and section 8 of the

amended Structures Act. **The municipal council must determine which of the financial interests referred in the abovementioned list must be made public, having regard to the need for confidentiality and the public interest for disclosure.**

The following table lists the disclosure of financial interests of the administrative and strategic role players of the municipality which were deemed to be disclosed for public interest:

Disclosures of Financial Interests	
Name	Description of Financial interests*
Executive Mayor	
Member of Mayoral Committee / Executive Committee	
Councillor	
Municipal Manager	
Chief Financial Officer	
Directors	

Disclosures of Financial Interests	
Name	Description of Financial interests*
* Financial interests to be disclosed even if they incurred for only part of the year. See MBRR SA34A	

Disclosures of Financial Interests

RECOMMENDED

1. That Council take note of the Financial interests to be disclosed even if they incurred for only part of the year as per the Annual Report directive from National Treasury, See MBRR SA34A (Annual Report Volume 1: APPENDIX J – DISCLOSURES OF FINANCIAL INTERESTS);
2. That the Council approve the code on the following basis:

The Disclosures Financial Interests Register to have a confidential part and a public part;

Confidential part –

- (a) The value of financial interests in a private or public company;
- (b) The amount of any remuneration for any employment outside Council;
- (c) The amount of any remuneration for any directorate or partnership;
- (d) Address of private residence;
- (e) The value of any pension and any amount paid;
- (f) Details of all financial interests of a member's spouse, dependents, child or permanent companion to the extent that a member is aware of.
- (g) No person who has access to the confidential part of the Register, may disclose particulars of any entry in the confidential part except to the Speaker and the

Municipal Manager, and also as part of a report in respect of an alleged irregularity or when a court so orders.

Public part –

(a) All relevant details other than those in b (i-vii) above, of the registrable interests as for the public interest for disclosure;

- Councillor name
- Councillor status
- Political Party
- Interests in shares and security company
- Membership of any closed corporation
- Interest in any trust
- Directorships
- Partnerships
- Other financial interests in any business undertaking
- Employment other than Breede Valley Municipality
- Interests in property
- Pension
- Subsidies, Grants and Sponsorships by any organisation
- Interest in municipal contracts / suppliers
- Gifts received above prescribed amount of R 350.00 for Municipal Manager and Directors
- Gifts received above prescribed amount of R 1 000.00 for Councillors.

(b) Any person has access to the public part of the Register on a working day during office hours at the office of the Municipal Manager in terms of the application procedure as required by the provisions of the Promotion of Access of Information Act, Act 4 of 2013.

- (c) Councillors, Municipal Manager and Directors to disclose their financial interests annually between 01 July and 30 September; and any time when a material change occurs.

(MUNICIPAL MANAGER TO ACTION)

7. MATTERS FOR NOTIFICATION

7.1 Code of Conduct for Councillors

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

To bring to the attention of councillors the Code of Conduct as contained in Schedule 7 of the Municipal Structures Act, as amended.

2. LEGAL FRAMEWORK

Schedule 7 of the Municipal Structures Act, as amended contains the Code of Conduct which must be adhered to by all Councillors.

Specific attention is drawn to the provisions relating to the obligation to attend meetings, disclosure and declaration of interests, the prohibition on receiving rewards, gifts and favours, unauthorized disclosure of information, and the prohibition on intervention in the administration.

Distributed under a separate cover as ITEM 7.1 APPENDIX A, find the following:

- Schedule 7 Code of Conduct for Councillors as published per Provincial Gazette 44647 dated 1 June 2021.

RECOMMENDED

that cognisance be taken of the Code of Conduct for Councillors.

(MUNICIPAL MANAGER TO ACTION)

7.2 Section 53 Roles and Responsibilities

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

To bring to the attention of councillors the respective roles and areas of responsibility of each political structure, political office-bearer and the Municipal Manager.

2. LEGAL FRAMEWORK

Section 53 of the Systems Act requires a municipal Council to define the respective roles and areas of responsibility of each political structure, political office-bearer and the Municipal Manager.

Furthermore, as per Section 53(5) of the Systems Act, the municipality must determine-

- (a) the relationships among those political structures and political office-bearers and the Municipal Manager, and the manner in which they must interact;
- (b) the appropriate lines of accountability and reporting for those political structures and political office-bearers and the Municipal Manager;
- (c) the mechanisms, processes and procedures for minimising cross referrals and unnecessary overlapping of responsibilities between those political structures and political office-bearers and the Municipal Manager;
- (d) the mechanisms, processes and procedures for resolving disputes between those political structures and political office-bearers and the Municipal Manager; and
- (e) the mechanisms, processes and procedures for interaction, between-

- (i) those political structures and political office-bearers and the Municipal Manager and other staff members of the municipality;
and
- (ii) Councillors and the Municipal Manager and other staff members of the municipality.

On 26 August 2014 Council approved a Section 53 Roles and Responsibilities Manual of which a copy is **distributed under separate cover as ITEM 7.2 APPENDIX A.**

RECOMMENDED

that cognisance be taken of the Section 53 Roles and Responsibilities Manual.

(MUNICIPAL MANAGER TO ACTION)

7.3 Hand-Over Report to the New Council

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. PURPOSE OF REPORT

To submit to Council a consolidated Hand-over Report as required in terms of Joint Circular No. 1 issued by Department of Cooperative Governance, National Treasury and the South African Local government Association.

2. BACKGROUND

Clause 4.4 of the Circular contains the following guidelines in terms of the hand-over reports for the newly elected council: “The aim of the hand-over report is to provide the new councils with important orientation information regarding the municipality, the state of its finances, service delivery and capital programme; as well as key issues that need to be addressed.

In the Information Pack handed out with the Agenda find the Hand-Over Report to the New Council.

RECOMMENDED

that cognisance be taken of the Hand-Over Report

(MUNICIPAL MANAGER TO ACTION)

7.4 Dates/frequency of Council and Committee meetings

File number : 2/1/1/1
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

1.1 Council meetings

In terms of Section 29 of the Municipal Structures Act, the Speaker of a municipal Council decides when and where the Council meets, subject to Section 18(2), but if a majority of the Councillors requested the Speaker in writing to convene a Council meeting, the Speaker must convene a meeting at a time set out in the request. However, a municipal Council must meet at least quarterly.

1.2 Mayoral Committee meetings

Although the Municipal Structures Act is silent on the meetings of the Mayoral Committee, the Executive Mayor would determine when and where the Mayoral Committee will meet, as the Committee is established by the Executive Mayor to advise him/her.

1.3 Portfolio/Standing Committee meetings

In terms of Section 79(f), the municipal Council may determine a Committee procedure.

2. STATUS QUO

The current arrangement at Breede Valley Municipality is that Mayoral Committee Meetings are generally held on the 3rd Tuesday of a month followed by a Council meeting on the last Tuesday of a month.

RECOMMENDED

that council take note that the Speaker will give notice of the dates, times and venues of Council meetings by placing an advert in the local newspaper, the official municipal website, notice boards and other appropriate media.

(MUNICIPAL MANAGER TO ACTION)

7.5 Remuneration of Councillors

File number : 2/1/2/8
Report by : Municipal Manager
Compiled by : Director: Strategic Support Services
Delegated Authority : Council

1. BACKGROUND

On 24 April 2020, the National Minister for Cooperative Governance and Traditional Affairs, Nkosazana Clarice Dlamini Zuma published the upper limits of salaries, allowances and benefits of different municipal councils with effect from 01 July 2019.

Distributed under a separate cover as ITEM 7.5 APPENDIX A a, find the following:

- The Determination of Upper Limits of Salaries, Allowances and Benefits of different Members of Municipal Councils per Provincial Gazette 475 No. P.N. 43246 dated 24 April 2020.
- The Determination of Upper Limits of Salaries, Allowances and Benefits of different Members of Municipal Councils per Provincial Gazette 1465 No. P.N. 45420 dated 2 November 2021.

Please note that, in terms of the number of points for rates income and number of registered voters (see paragraph 2 and 3 of schedule attached), Breede Valley Municipality is a Grade 3 Municipality.

The above-mentioned matter was considered by Council on 28 May 2020. Council resolved to implement the maximum allowances.

The Provincial MEC for Local Government and Planning has subsequently approved the maximum allowances.

RECOMMENDED

that cognisance be taken of the upper limits of salaries, allowances and benefits

of different members of municipal councils.

(MUNICIPAL MANAGER TO ACTION)

8. CLOSURE
