



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/1/5

2016-08-11

**NOTICE OF THE FIRST MEETING OF
THE COUNCIL OF STELLENBOSCH MUNICIPALITY
MONDAY, 2016-08-15 AT 11:00**

TO ALL COUNCILLORS

Notice is hereby given in terms of Section 29, read with Section 18(2) of the *Local Government: Municipal Structures Act, 117 of 1998*, as amended, that the **FIRST MEETING** of the **COUNCIL** of **STELLENBOSCH MUNICIPALITY** will be held in the **TOWN HALL, PLEIN STREET, STELLENBOSCH** on **MONDAY, 2016-08-15** at **11:00** to consider the items on the Agenda.

**ACTING MUNICIPAL MANAGER
R BOSMAN**

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY**

2016-08-15

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CLOSURE		

1. OPENING AND WELCOME: ACTING MUNICIPAL MANAGER (3/4/1/6)

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 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 : 3/3/1/2

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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 2016-08-03, received from the IEC, is **APPENDED** hereto.

The Municipal Manager will introduce all elected Councillors.

RECOMMENDED

that cognisance be taken of the results of the election held on 2016-08-03.

(ACTING MUNICIPAL MANAGER TO ACTION)

3. APPLICATION FOR LEAVE OF ABSENCE (3/4/1/3)

In accordance with existing protocols, application for leave of absence from a meeting must be submitted in writing to the Single Whip of Council/The Speaker, or in their absence, to the Office of the Municipal Manager. The appropriate form is **APPENDED**.

4. NOTICES AND COMMUNICATIONS: ACTING MUNICIPAL MANAGER**4.1 TYPE OF MUNICIPALITY: SECTION 12 ESTABLISHMENT NOTICE**

File number : 3/1/1

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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;
- (e) a municipality with a plenary executive system; and
- (f) a municipality with a plenary 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 Stellenbosch Municipality (WCO24) Establishment Notice, read with the subsequent amendment notices:-

- (a) Stellenbosch Municipality is a municipality with a mayoral executive system combined with a ward participatory system, as provided for in Section 9 (d) of the Municipal Structures Act;
- (b) Stellenbosch Municipality has 43 Councillors; and
- (c) Stellenbosch Municipality may designate the following Councillors as full-time Councillors:-
 - the Executive Mayor;
 - the members of the Mayoral Committee;
 - the Speaker;
 - Single Whip; and
 - the Chairperson of MPAC (Municipal Public Accounts Committee).

Attached as **APPENDIX 1** is the original Establishment Notice dated 22 September 2000 as well as **APPENDIX 2** which is the Stellenbosch Municipality Establishment Notice amended as per Government Gazette no. 6852, 25 February 2011, P.N 55/2011.

The Provincial Gazette: no. 7460, dated 31 July 2015, attached as an Appendix under Agenda Item 6.5, confirms the designation of the full-time councillors.

RECOMMENDED

that cognisance be taken that in terms of the Section 12 Notice, Stellenbosch Municipality is a Type 9 (d) municipality, namely a municipality with an Executive Mayoral System with a Ward Participatory System, it has 43 (forty three) Councillors of which 22 (twenty two) are Ward Councillors (in its 22 wards), and 21 (twenty one) are proportionally elected councillors, and Stellenbosch Municipality has an Executive Mayoral Committee consisting of 8 members besides the Executive Mayor and the Deputy Executive Mayor.

(ACTING MUNICIPAL MANAGER TO ACTION)

ITEM 4.1

APPENDIX 1

ORIGINAL ESTABLISHMENT NOTICE
DATED 22 SEPTEMBER 2000

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**

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

Amended by:

*Provincial Notice 675 dated 4 December 2000
Provincial Notice 456 dated 19 December 2002
Provincial Notice 184 dated 28 May 2003
Provincial Notice 11 dated 3 January 2006
Provincial Notice 117 dated 28 March 2008
Provincial Notice 55 dated 25 February 2011
Provincial Notice 283 dated 24 October 2014
Provincial Notice 261 dated 31 July 2015*

ESTABLISHMENT OF THE STELLENBOSCH MUNICIPALITY (WCO24)

By virtue of the powers vested in me by section 12 and 14 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby give notice of the establishment of the Stellenbosch Municipality on the terms set out in the Schedule hereto.

Dated this 22nd day of September 2000.

P UYS, PROVINCIAL MINISTER OF LOCAL GOVERNMENT

SCHEDULE

Definitions and Interpretation

1. In this Schedule, unless the context otherwise indicates, the singular includes the plural and vice versa, the English text prevails in the event of an inconsistency between the different texts and a word or expression to which a meaning has been assigned in the Municipal Structures Act has the same meaning, and –
 - (1) **“Bargaining Council”** means the Western Cape division of the South African Local Government Bargaining Council which has applied for registration as a bargaining council in terms of General Notice 1513/1999 as published in Government Gazette No. 20282 of 16 July 1999;
 - (2) **“CEO”** means the chief executive officer of a disestablished municipality;
 - (3) *(subsection (3) deleted by PN.184/2003)*
 - (4) **“Constitution”** means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);
 - (5) **“disestablished municipalities”** means those existing municipalities disestablished in terms of section 3 of this Schedule;
 - (6) **“District Municipality”** means the Boland District Municipality, established in terms of section 4 of this Schedule;

- (6A) **“District Municipality IMM”** means the interim municipal manager of the District Municipality;
(subsection (6A) inserted by PN.675/2000)
- (6B) **“District Municipality Notice”** means Provincial Notice 486/2000 published in Provincial Gazette Extraordinary No. 5590 dated 22 September 2000;
(subsection (6B) inserted by PN.675/2000)
- (7) **“District Transformation forum”** means the Breede River/Winelands District Transformation Forum established in terms of the DTF Notice;
- (8) **“DTF Notice”** means Provincial Notice 78/2000 published in Provincial Gazette Extraordinary No 5435 dated 10 March 2000;
- (9) **“effective date”** means the commencement date of the election;
- (10) **“election”** means the first general election of Municipal Councils after the commencement of the Constitution;
- (11) **“inter-municipal budgetary transfers”** means the transfer of funds between municipalities to achieve revenue stability during the period of transition;
- (12) **“interim municipal manager”** means the interim municipal manager of the Local Municipality appointed in terms of section 21(1) who from the effective date shall be the acting municipal manager of the Local Municipality, or the acting municipal manager or municipal manager of the Local Municipality appointed by the Municipal Council of the Local Municipality after the effective date;
(subsection (12) amended by PN.675/2000)
- (13) **“Local Municipality”** means the Stellenbosch Municipality established in terms of section 4 of this Schedule;
- (13A) **“mayoral executive system”** means a system which allows for the exercise of executive authority through an executive mayor in whom the executive leadership of the Municipality is vested and who is assisted by a mayoral committee;
(subsection (13A) inserted by PN.184/2003)
- (14) **“Municipal Demarcation Act”** means the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);
- (15) **“Municipal Demarcation Board”** means the Municipal Demarcation Board established by section 2 of the Municipal Demarcation Act;
- (16) **“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- (16A) **“Municipal Structures Amendment Act”** means the Local Government: Municipal Structures Amendment Act, 2000 (Act 33 of 2000);
(subsection (16A) inserted by PN.675/2000)
- (16B) **“National Minister”** means the national Minister responsible for local government;
(subsection (16B) inserted by PN.675/2000)
- (17) **“Province”** means the Province of Western Cape;

- (18) **“Provincial Minister”** means the member of the Cabinet of the Province of Western Cape responsible for local government;
- (19) **“Rural Areas Act”** means the Rural Areas Act (House of Representatives), 1987 (Act 9 of 1987);
- (19A) **“section 18 notice”** means a notice promulgated in terms of section 18 of the Municipal Structures Amendment Act;
(subsection (19A) inserted by PN.675/2000)
- (19B) **“section 84(3) notice”** means a notice promulgated in terms of section 84(3) of the Municipal Structures Act;
(subsection (19B) inserted by PN.675/2000)
- (19C) **“staff”** means all staff, including operational, managerial and support staff, and includes budgeted vacant posts but not unbudgeted vacant posts;
(subsection (19C) inserted by PN.675/2000)
- (20) **“statutory plan”** means a plan required in terms of any legislation, including but not limited to, any structure plan, land use plan, zoning scheme, integrated development plan, water services plan, skills development plan and employment equity plan;
- (21) **“trade unions”** means the Independent Municipal and Allied Trade Union and the South African Municipal Workers Union;
- (21A) **“transfer process”** means the process as set out in this Schedule to effect the transfer of all staff, assets, liabilities and records of the disestablished municipalities to the District Municipality or the Local Municipalities, which process includes:-
- (a) the identification of all staff, assets, liabilities and records to be transferred;
 - (b) the application of the principles for effecting transfer as set out in this Schedule;
 - (c) the allocation of every staff member, asset, liability and record to either the District Municipality or a Local Municipality, and
 - (d) the putting into operation of the transfer;
- (subsection (21A) inserted by PN.675/2000)*
- (22) **“Transformation of Certain Rural Areas Act”** means the Transformation of Certain Rural Areas Act, 1998 (Act 94 of 1998);
- (22A) **“ward participatory system”** means a system which allows for matters of local concern to wards to be dealt with by committees established for wards;
(subsection (22A) inserted by PN.184/2003)
- (23) **“WECLOGO”** means the Western Cape Local Government Organisation, being the provincial organisation for the Western Cape recognised in terms of section 2(1)(b) of the Organised Local Government Act, 1997 (Act 52 of 1997).

- 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 of 3 March 2000 and amended by Provincial Notice 478/2000 published in Provincial Gazette Extraordinary No. 5587 of 18 September 2000 and Provincial Notice 258/2002 published in Extraordinary Provincial Gazette No. 5922 dated 15 August 2002. A copy of the map is republished in Annexure "1" to this Schedule.

(section (1) amended by PN.11/2006)

- (2) The Provincial Minister, acting in terms of section 12(4) of the Municipal Structures Act, has:-
- (a) given written notice of the proposed establishment of the Municipality to WECLOGO and to the disestablished municipalities by way of a circular letter dated 12 July 2000 and referenced AAO 509/1/4;
 - (b) consulted with WECLOGO and the disestablished municipalities;
 - (c) published particulars of this Notice in Provincial Notice 394/2000 published in Provincial Gazette Extraordinary No. 5571 dated 28 August 2000, and
 - (d) considered the comments received following the publication of the proposed Notice.
- (3) The Provincial Minister has also considered the advice of the District Transformation Forum given to him in terms of section 11(2) of the DTF Notice.
- (4) The Provincial Minister, acting in terms of section 12 and 14 of the Municipal Structures Act, as read with the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), now gives notice of the establishment of the Local Municipality on the terms set out herein.
- (5) The Provincial Minister, acting in terms of chapter 2 of the Municipal Structures Amendment Act as read with section 14(2)(b) of the Municipal Structures Act now gives notice of the regulation of the legal, practical and other consequences of the disestablishment of the disestablished municipalities, including:-
- (a) the principles determining, and the process for, effecting the transfer of staff to the Local Municipality, which process will commence on the publication date of this notice and will end on a date to be determined by the Provincial Minister;
 - (b) the principles determining, and the process for, effecting the transfer of assets, liabilities, rights and obligations and administrative and other records to the Local Municipality, which process will commence on the publication date of this notice and will end on a date to be determined by the Provincial Minister;
 - (c) the provision of transitional administrative arrangements for the period from the effective date to a date to be determined by the Provincial Minister to ensure continued service delivery and to ensure the integrity and financial viability of the Local Municipality.

(subsection (5) inserted by PN.675/2000)

Disestablishment of the Existing Municipalities

- 3.(1) With effect from midnight on the day before the effective date, the following municipalities shall be disestablished:-
- (a) Municipality for the Area of Franschhoek, established in terms of Proclamation No. 20/1995 dated 31 January 1995;
 - (b) Nuweberg Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 1996, to the extent that its area is included within the boundaries of the Local Municipality as determined by the Municipal Demarcation Board and referred to in section 2(1);
 - (c) Paarl Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 1996, to the extent that its area is included within the boundaries of the Local Municipality as determined by the Municipal Demarcation Board and referred to in section 2(1);
 - (d) Pniel Transitional Local Council, established in terms of Proclamation No. 142/1994 dated 30 December 1994;
 - (e) Stellenbosch Transitional Local Council, established in terms of Proclamation No. 28/1995 dated 31 January 1995, and
 - (f) Stellenbosch Transitional Representative Council, established in terms of Proclamation No. 18/1996 dated 26 April 1996, to the extent that its area is included within the boundaries of the Local Municipality as determined by the Municipal Demarcation Board and referred to in section 2(1).
- (2) The councillors of the disestablished municipalities must vacate their offices when the newly elected Council of the Local Municipality is declared elected and by midnight on that day must return to the CEO of the relevant disestablished municipality or his nominee any property in their possession which belongs to a disestablished municipality.

Establishment and Name

4. With effect from the effective date, a municipality shall be established, to be known in English as “Stellenbosch Municipality”, in Afrikaans as “Munisipaliteit Stellenbosch” and in isiXhosa as “U Masipala waseStellenbosch”.

Category

5. The Local Municipality is a local municipality as defined in section 1 of the Municipal Structures Act, being a municipality that shares municipal executive and legislative authority in its area with the District Municipality, and which is described in section 155(1) of the Constitution as a category B municipality.

Type

6. The Local Municipality is a municipality with a mayoral executive system combined with a ward participatory system as provided for in the Western Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), as amended by the Western Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002).

(section 6 amended by PN.184/2003)

Boundaries

7. The boundaries of the Local Municipality shall be the boundaries determined by the Municipal Demarcation Board and referred to in section 2(1).

Number of Councillors and Wards

- 8.(1) The Municipal Council of the Municipality has 43 (fourty three) councillors, as determined by the Provincial Minister in Provincial Notice 164/2000 published in Provincial Gazette Extraordinary No. 5468 dated 4 May 2000, repealed by Provincial Notice 100/2004 published in Provincial Gazette Extraordinary No. 6137 dated 8 June 2004 and Provincial Notice 261/2009 published in Provincial Gazette Extraordinary No. 6646 dated 31 July 2009, of which 22 (twenty two) are ward councillors and 21 (twenty one) are proportionally elected councillors.
- (2) The Municipality has 22 (twenty two) wards.

(section 8 amended by PN.11/2006 and PN. 55/2011)

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;
 - (d) a single whip appointed for Council, and
 - (e) Chairperson of Committee established in terms of section 79 (MPAC).

(section 9 amended by PN.456/2002, PN.184/2003, PN.283/2014 and PN.261/2015)

Functions and Powers

10. There will be no adjustment of the functions and powers of the Local Municipality in terms of section 85 of the Municipal Structures Act.

Exemptions

11. The Local Municipality is not exempted from any of the provisions of the Municipal Structures Act.

Principles determining the Transfer of Staff

- 12.(1) With effect from the effective date, and in accordance with the provisions of section 197 of the Labour Relations Act, 1995 (Act 66 of 1995):-
- (a) all staff of the disestablished municipalities associated exclusively with functions to be carried out by the Local Municipality shall be transferred to the Local Municipality;
 - (b) all staff of the disestablished municipalities associated exclusively with functions to be carried out by the District Municipality (which shall include functions to be carried out by the District Municipality in a District Management Area) shall be transferred to the District Municipality;
 - (c) any member of staff of a disestablished municipality associated with one or more functions which, with effect from the effective date, will be fulfilled by the Local Municipality and the District Municipality, shall be transferred according to the function taking up the largest portion of such staff member's time;
 - (d) all staff of the disestablished municipalities not associated with a particular function of functions to be carried out by the Local Municipality and the District Municipality shall be transferred to either the Local Municipality or

the District Municipality in proportions based on the total number of posts transferred in terms of paragraphs (a), (b) and (c);

- (e) all un-budgeted vacant posts of the disestablished municipalities shall be abolished.
- (2) Subject to any collective agreement, all the rights and obligations between the disestablished municipalities and each of their respective employees at the time of transfer shall continue in force as if they were rights and obligations between the Local Municipality or the District Municipality, as the case may be, and each of its employees, and anything done before the transfer by or in relation to the relevant disestablished municipality will be considered to have been done by or in relation to the Local Municipality or District Municipality, as the case may be.
- (3) The transfer does not interrupt an employee's continuity of employment and it continues with the Local Municipality or District Municipality, as the case may be, as if with the relevant disestablished municipality.
- (4) Subject to the human resource policies and procedures referred to in section 14(a) of this Schedule, any employee that is transferred to the Local Municipality, may be required to report to any of the offices of the Local Municipality and, unless otherwise agreed, will not be entitled to any additional remuneration as a result thereof.

(section 12 amended by PN.675/2000)

Process for Effecting the Transfer of Staff

12A.(1) Notwithstanding the provisions of section 12 and 16C, and pending the completion of the transfer process in terms of this section, all staff of the disestablished municipalities shall, to the extent necessary, be temporarily placed in the service of the Local Municipality, and accordingly all staff to be transferred to the District Municipality in terms of the provisions of sections 12 or 16C of this Schedule shall be deemed to be seconded to the Local Municipality in terms of an agency arrangement between the Local Municipality and the District Municipality to the effect that the Local Municipality will fulfill the function or functions with which the specific staff are associated on behalf of the District Municipality.

(2) In order to:-

- (a) accommodate any transitional arrangements in terms of the Municipal Structures Amendment Act, or
- (b) allow the Local Municipality and the District Municipality to enter into agreements, including operational agreements,

that may affect the transfer of staff in terms of this Schedule, no member of staff shall be finally allocated as provided for in subsection (4) before 30 June 2001, or such alternative date that may be determined by the Provincial Minister.

- (3) On or before a date to be determined by the Provincial Minister every CEO must prepare a schedule of all staff of his or her disestablished municipality in accordance with a format prescribed by the Provincial Minister, must provisionally allocate each staff member and budgeted vacant post of his or her disestablished municipality in accordance with the principles set out in

sections 12 and 16C, and must submit copies of the full schedule to the interim municipal manager and the District Municipality IMM.

- (4) On or before a date to be determined by the Provincial Minister, but subject to subsection (2), the interim municipal manager, in consultation the District Municipality IMM, must:-
 - (a) consolidate the schedule(s) referred to in subsection (1) into a single schedule and must finally allocate in his or her discretion each staff member and budgeted vacant post listed in the consolidated schedule to either the Local Municipality or the District Municipality for transfer on the effective date, in accordance with the principles set out in section 12 and 16C or any agreement referred to in subsection (2);
 - (b) submit a copy of the schedule to the District Municipality IMM and obtain from the District Municipality IMM the copy of the schedule prepared by the District Municipality IMM, and
 - (c) consolidate the schedule referred to in paragraph (a) with the schedule received from the District Municipality IMM referred to in paragraph (b) into a single schedule reflecting all staff to be transferred to the Local Municipality.
- (5) Notwithstanding the principles set out in section 12 and 16C, the interim municipal manager may, by agreement with the District Municipality IMM, adjust the allocation of staff in terms of subsection (2) to provide for a more effective overall allocation of staff between the Local Municipality and the District Municipality; provided that no such adjustment may be made after a member of staff has been notified in terms of subsection (8).
- (6) Should any dispute with regard to the allocation of staff arise between the interim municipal manager and the District Municipality IMM such dispute must be referred to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (7) The interim municipal manager shall, in writing, verify the consolidated schedule referred to in subsection (4)(c) and must submit the schedule to the Provincial Minister on or before a date to be determined by the Provincial Minister.
- (8) After preparation of the single consolidated schedule referred to in subsection (4)(c), the interim municipal manager must furnish each prospective member of staff of the Local Municipality with a written notice informing such staff member that he or she is employed by the Local Municipality with effect from the effective date.
- (9) Failure to receive the written notice referred to in subsection (8) shall not invalidate any transfer.
- (10) Should any member of staff ("the objector") contend that his or her transfer has not been effected in accordance with the principles set out in section 12 and 16C, any agreement referred to in subsection (2), or the process set out in this section, the objector may lodge a written objection with the interim municipal manager of the municipality to which he or she has been transferred within 14 days of being notified in terms of subsection (5). The interim municipal manager must refer the objection to the Provincial Minister for

determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.

- (11) Pending a determination by the Provincial Minister or his nominee in terms of subsection (10) the objector shall be transferred to the municipality as determined in accordance with this section. Should the Provincial Minister or his nominee determine that the objector should have been transferred to another municipality the objector will be transferred to that municipality, and his or her transfer will be deemed to have taken place on the effective date in accordance with section 12 and 16C.
- (12) Should any member of staff not be reflected in the schedule referred to in subsection (4)(a), or should any member of staff be allocated to more than one municipality with effect from the effective date, such member of staff must, immediately upon becoming aware of either of these facts, report to the interim municipal manager or the District Municipality IMM who must refer the matter to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (13) On or before a date to be determined by the Provincial Minister the Local Municipality must approve a staff establishment for the Local Municipality in terms of relevant legislation and must submit a copy of the document setting out the staff establishment to the Transformation Sub-Chamber of the Bargaining Council; provided that the Local Municipality shall not finally approve a staff establishment for the Local Municipality before the interim municipal manager has verified the consolidated schedule in terms of subsection (7).
- (14) On or before a date to be determined by the Provincial Minister, to the extent that agreement has not been reached before the effective date in terms of section 13(2) of this Schedule, the Local Municipality, as a member of the Transformation Sub-Chamber of the Bargaining Council, must endeavour to reach collective agreement in the Transformation Sub-Chamber of the Bargaining Council with the trade unions regarding the principles, procedures and criteria to be followed for making appointments to the posts flowing from the creation of a new organisational structure of the Local Municipality.
- (15) On or before a date to be determined by the Provincial Minister the Local Municipality shall make appointments to the positions on the staff establishment in accordance with the principles, procedures and criteria agreed to in the Transformation Sub-Chamber of the Bargaining Council.

(section 12A inserted by PN.675/2000)

Collective Agreements

13.(1) Any collective agreement entered into:-

- (a) at a national level, or
- (b) at the Bargaining Council, or
- (c) at a local level;

prior to the date of publication of this Schedule, shall remain of full force and effect until amended or terminated in accordance with the provisions of the relevant agreement.

- (2) Before the effective date the disestablished municipalities, as members of the Transformation Sub-Chamber of the Bargaining Council, must endeavour to reach agreement with the trade unions regarding:-
- (a) the process and criteria for the placement of staff into new organisational structures after the effective date;
 - (b) the process to be followed for the filling of new posts flowing from the creation of a new organisational structure for the Local Municipality;
 - (c) the adoption of terms and conditions of employment for the Local Municipality after the effective date, and
 - (d) any other labour matter relating to the establishment of the Local Municipality.

Human Resource Matters

14. Subject to any collective agreement:-

- (a) the human resource policies and procedures of the Local Municipality shall be the human resource policies and procedures that existed prior to the effective date and continue to be applicable to all employees in the same manner as was the case prior to the effective date, subject to any amendment or repeal by the Local Municipality;
- (b) the terms and conditions of employment of all employees of the Local Municipality shall be the terms and conditions of employment that applied to each employee prior to the effective date; provided that any employee appointed after the effective date shall be appointed on the terms and conditions of employment determined by the Local Municipality.

Consequences of Transition in Respect of Certain Staff Issues

- 15.(1) Subject to any collective agreement, an employee whose post is changed as a result of the transition will not be considered redundant for the purposes of any term or condition of employment or any pension fund rule that gives the employee the election to terminate his or her employment with benefits.
- (2) The provisions of this section apply only if the employee unreasonably refuses to accept the Local Municipality's offer of alternative employment.
- (3) For the purpose of this section, a change in post includes one or more of the following:-
- (a) the post no longer exists;
 - (b) the post is disestablished;
 - (c) the employee is required to apply for the post;
 - (d) the functions and powers of the post are changed;
 - (e) there is a change in the identity of the employer;
 - (f) the post is made subject to different reporting lines;
 - (g) the post is described differently.

Legal Succession

16. With effect from the effective date:-

- (1) the Local Municipality shall be the successor in law of the disestablished municipalities and the municipalities to be disestablished in terms of the District Municipality Notice in relation to the specific assets and liabilities allocated to the Local Municipality in terms of this Schedule.
- (2) Subject to subsection (1) and section 16D of this Schedule, all rights and obligations of the disestablished municipalities not allocated in terms of this Schedule shall be allocated to the Local Municipality, and the Local Municipality shall be the successor in law of the disestablished municipalities in relation to such rights and obligations.
- (3) All rates, revenue and other monies payable to or recoverable by any disestablished municipality shall be payable to and be recoverable by the successor in law to such disestablished municipality in accordance with the provisions of this Schedule.
- (4) Notwithstanding the provisions of any applicable law, any valuation rolls in force or arising from the introduction of interim or additional valuations, as the case may be, within the area of the Local Municipality shall, subject otherwise to the provisions of such law, remain of force and effect until the introduction of a general valuation roll for the area of the Local Municipality.
- (5) Notwithstanding subsection (1):-
 - (a) the Local Municipality shall be the successor in law of the disestablished municipalities with reference to the matters set out in the Transformation of Certain Rural Areas Act and the Rural Areas Act and, to that extent until transferred to an entity envisaged in section 3 of the Transformation of Certain Rural Areas Act:-
 - (i) land which is held in trust by the Minister for Agriculture and Land Affairs in terms of section 7 of the Rural Areas Act and which is subject to the provisions of section 3 of the Transformation of Certain Rural Areas Act will remain vested in the Minister for Agriculture and Land Affairs, and
 - (ii) land that has been acquired by the disestablished municipalities in terms of the Rural Areas Act and which is subject to the provisions of section 3 of the Transformation of Certain Rural Areas Act will vest in the Municipality with effect from the effective date;
 - (b) land referred to in paragraph (2)(a) shall, pending transfer in terms of section 3 of the Transformation of Certain Rural Areas Act, be managed by the Local Municipality in terms of the Rural Areas Act and the regulations made in terms of the Rural Areas Act.

(section 16 amended by PN.675/2000)

Principles determining the Transfer of Assets, Liabilities and Records

16A. With effect from the effective date:-

- (1) All assets, liabilities and records of the disestablished municipalities associated exclusively with functions to be carried out by the Local Municipality shall be transferred to the Local Municipality.
- (2) All assets, liabilities and records of the disestablished municipalities associated exclusively with functions to be carried out by the District Municipality (which shall include functions to be carried out by the District Municipality in a District Management Area) shall be transferred to the District Municipality.
- (3) Any movable asset of one of the disestablished municipalities associated with one or more functions which, with effect from the effective date, will be fulfilled by the Local Municipality and the District Municipality, and which can be divided between them, shall be divided amongst them according to:-
 - (a) the percentage of actual time the particular asset is utilised for the function in each area;
 - (b) the percentage of actual time the particular asset is utilised for the function for the benefit of each party, or
 - (c) on any other basis approved by the Provincial Minister.
- (4) All immovable assets of the disestablished municipalities associated with a function or functions to be carried out by the Local Municipality and the District Municipality, and all movable assets associated with a function or functions to be carried out by the Local Municipality and the District Municipality and which cannot be divided between them shall be transferred to the municipality that will be the major user of such asset, provided that any other municipality having an interest in such asset shall be entitled to continue to use such asset against payment of a proportional share of the costs and until its right of use is terminated by agreement.
- (5) Notwithstanding the provisions of subsection (4), the Local Municipality and the District Municipality may agree to subdivide any immovable asset referred to in subsection (4) capable of subdivision or to divide any group of assets referred to in subsections (3) and (4) on an equitable basis, having regard to the nature and purpose served by such an asset or assets, as agreed between them, and to allocate each portion thereof in accordance with such agreement.
- (6) All financial assets of the disestablished municipalities associated with a function or functions to be carried out by the Local Municipality and the District Municipality shall be equitably divided between them, having regard to the nature and purpose served by such an asset.
- (7) All financial assets and liabilities of the disestablished municipalities not associated with a particular function shall be divided between the Local Municipality and the District Municipality on the following basis:-
 - (a) accumulated provisions for employee benefits, such as accumulated leave funds, shall be transferred, in the event that the provision can be linked to a specific employee in accordance with the transfer of that employee in terms of this Schedule, and in all other instances in proportion to the total salary and wages provision to be transferred to the Local Municipality and the District Municipality;

- (b) reserves and provisions accumulated for a specific purpose shall be transferred on an equitable basis having regard to the nature and purpose served by each particular reserve or provision;
- (c) reserves and accumulated surpluses of a general nature shall be divided between the Local Municipality and the District Municipality on one of the following bases:-
 - (i) in proportion to the most recent consolidated financial statements of the Local Municipality and the District Municipality;
 - (ii) any other basis approved by the Provincial Minister.
- (8) All incorporeal assets of the disestablished municipalities associated with a function or functions to be carried out by the Local Municipality and the District Municipality shall be allocated to one municipality, provided that the other municipality with an interest in such incorporeal asset shall be entitled to:-
 - (a) equitable compensation, including financial, exchange or other compensation, as may be agreed, and
 - (b) continue to use such asset against payment of a proportional share of the costs until its right of use if terminated by agreement.
- (9) All records of the disestablished municipalities associated with a function or functions to be carried out by the Local Municipality and the District Municipality and which cannot be divided between the said municipalities shall be allocated to one municipality according to the function to which the records are the most closely connected; provided that the other municipality shall have the right of access to such records and the right to obtain copies thereof.
- (10) All liabilities of the disestablished municipalities associated with a function or functions to be carried out by the Local Municipality and the District Municipality shall be shared equitably between the Local Municipality and the District Municipality, taking account of the nature and purpose of the liability.
- (11) All assets and liabilities of the disestablished municipalities, other than those referred to in subsection (7) not associated with a particular function, shall be transferred to the Local Municipality.

(section 16A. inserted by PN.675/2000)

The Process for Effecting the Transfer of Assets, Liabilities and Records

- 16B.(1) Notwithstanding the provisions of section 16A and 16C, and pending the completion of the transfer process in terms of this section, all assets, liabilities and records of the disestablished municipalities shall, to the extent necessary, be temporarily transferred to the Local Municipality, and accordingly all assets, liabilities and records to be transferred to the District Municipality in terms of the provisions of sections 16A or 16C of this Schedule shall be deemed to be transferred to the Local Municipality in terms of an agency arrangement between the Local Municipality and the District Municipality to the effect that the Local Municipality will fulfill the function or functions with which the specific assets, liabilities and records are associated on behalf of the District Municipality.
- (2) In order to:-

- (a) accommodate any transitional arrangements in terms of the Municipal Structures Amendment Act, or
- (b) allow the Local Municipality and the District Municipality to enter into agreements, including operational agreements,

that may affect the transfer of assets, liabilities and records in terms of this Schedule, no asset, liability or record shall be finally allocated as provided for in subsection (4) before 30 June 2001, or such alternative date that may be determined by the Provincial Minister.

- (3) On or before a date to be determined by the Provincial Minister every CEO must prepare a schedule of all assets, liabilities and records of his or her disestablished municipality in accordance with a format prescribed by the Provincial Minister, must provisionally allocate all assets, liabilities and records of his or her disestablished municipality in accordance with the principles set out in sections 16A and 16C, and must submit copies of the full schedule to the interim municipal manager and the District Municipality IMM.
- (4) On or before a date to be determined by the Provincial Minister, but subject to subsection (2), the interim municipal manager, in consultation with the District Municipality IMM, must:-
 - (a) consolidate the schedules referred to in subsection (1) into a single schedule and must finally allocate all assets, liabilities and records listed in the consolidated schedule to either the Local Municipality or the District Municipality for transfer on the effective date, in accordance with the principles set out in section 16A and 16C or any agreement referred to in subsection (2);
 - (b) submit a copy of the schedule to the District Municipality IMM and obtain from the District Municipality IMM the copy of the schedule prepared by the District Municipality IMM, and
 - (c) consolidate the schedule referred to in paragraph (a) with the schedules received from the District Municipality IMM referred to in paragraph (b) into a single schedule reflecting all assets, liabilities and records to be transferred to the Local Municipality.
- (5) Notwithstanding the principles set out in sections 16A and 16C, the interim municipal manager may, by agreement with the District Municipality IMM, adjust the allocation of assets, liabilities and records in terms of subsection (4) to provide for a more effective overall allocation between the Local Municipality and the District Municipality.
- (6) Should any dispute with regard to the allocation of any assets, liabilities or records arise between the interim municipal manager and the District Municipality IMM, such dispute must be referred to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (7) The interim municipal manager shall, in writing, verify the consolidated schedule referred to in subsection (4)(c) and must submit the schedule to the Provincial Minister on or before a date to be determined by the Provincial Minister.
- (8) As soon as possible after verifying the consolidated schedule in terms of subsection (7), but by no later than a date to be determined by the Provincial

Minister, the interim municipal manager must put in operation the transfer of all assets, liabilities and records of the disestablished municipalities.

- (9) The Local Municipality shall audit the transfer of assets, liabilities and records no later than 12 months after the effective date, or by such later date as may be determined by the Provincial Minister.

(section 16B inserted by PN.675/2000)

Transfer of staff, assets and liabilities relating to functions other than those listed in section 84 of the Municipal Structures Act

16C. Notwithstanding the provisions of sections 12(1) and 16A of this Schedule, with effect from the effective date:-

- (a) all staff, assets, liabilities and records of the disestablished municipalities associated exclusively with:-

- (i) roads other than municipal roads;
- (ii) ambulance services;
- (iii) health services other than municipal health services;
- (iv) disaster management;
- (v) housing;
- (vi) libraries;
- (vii) museums;
- (viii) water supply systems other than potable water supply systems;
- (ix) nature and environmental conservation, including coastal control, environmental education, animal control and control over inland waters, and
- (x) traffic and law enforcement;

shall be transferred to the Local Municipality in terms of section 12(2), (3) and (4) and the process set out in sections 12A and 16B of this Schedule;

- (b) any member of staff, assets liabilities and records of the disestablished municipalities not associated with a function referred to in section 84(1) of the Municipal Structures Act or paragraph (a) shall be transferred, in terms of the principles and process set out in sections 12, 12A, 16A and 16B of this Schedule, to the Local Municipality that will fulfill the function with which it is associated, with effect from the effective date.

(section 16C inserted by PN.675/2000)

Transfer of staff, assets, liabilities and records relating to municipal service delivery agreements

16D.(1) Notwithstanding anything to the contrary contained in any municipal service delivery agreement entered into by a disestablished municipality in terms of which such disestablished municipality is the service provider, all staff, assets, liabilities and records of the disestablished municipalities shall be transferred in accordance with the provisions of this Schedule.

- (2) The Provincial Minister shall determine which municipality will be the successor in law of the disestablished municipality in terms of any municipal service delivery agreement entered into by a disestablished municipality in

terms of which such disestablished municipality is the service provider, and may direct the Local Municipality or the District Municipality to implement and administer any interim service delivery arrangements in terms of section 19 of this Schedule in order to ensure continued service delivery in terms of such agreement.

- (3) For the period from the effective date to the date on which the Provincial Minister has made a determination in terms of subsection (3), the Local Municipality shall be the successor in law of the disestablished municipalities with regard to any municipal service delivery agreement referred to in subsection (1) in accordance with the provisions of section 19.

(section 16D inserted by PN.675/2000)

Failure to implement certain provisions of this Schedule

- 16E. In the event that the interim municipal manager or any other person required to perform a task set out in section 12A or section 16B, fails or refuses to do so within the time periods specified in those sections, then the Provincial Minister may nominate any person to perform such tasks, in which event the Local Municipality or District Municipality shall be obliged to co-operate fully with such person.

(section 16E inserted by PN.675/2000)

Transitional Provisions Relating to By-Laws and Resolutions

- 17.(1) Any by-law in force in the area of a disestablished municipality immediately prior to the effective date shall, with effect from the effective date, and pending the review and rationalisation thereof in terms of section 15 of the Municipal Structures Act, remain of full force and effect within the area for which it was promulgated, subject to any amendment or repeal by the Local Municipality.
- (2) Unless inconsistent with the context or clearly inappropriate, a reference in any such by-law to:-
- (a) a disestablished municipality or its predecessor, must be construed as a reference to the Local Municipality, and
 - (b) a structure or functionary of a disestablished municipality, must be construed as a reference to the corresponding structure or functionary of the Local Municipality.
- (3) Subject to the provisions of this Schedule, and notwithstanding the disestablishment of the disestablished local municipalities, any:-
- (a) resolution taken;
 - (b) notice, certificate or other document issued;
 - (c) direction, approval, consent or authority given;
 - (d) exemption, license or permit granted or issued;
 - (e) appointment made;
 - (f) employee nominated;
 - (g) agreement or contract entered into;
 - (h) delegation of powers granted to an employee;
 - (i) rates, tariffs or charges levied or imposed;
 - (j) reservation of land made, and

(k) other action taken or thing done,

by a disestablished municipality shall, subject to the provisions of this Schedule, be deemed to have been taken, issued, given, made, nominated, entered into, granted, levied, imposed or done by the Local Municipality, pending the review and rationalisation thereof in terms of section 15 of the Municipal Structures Act.

- (4) Subject to section 20, 21, 22 and 23 of this Schedule, any person who on the effective date exercises a power or performs a duty or function by virtue of the office held by him or her or by the virtue of a delegation of power conferred upon him or her by a disestablished municipality, shall continue to exercise that power or perform that duty or function until such time as it may be decided to the contrary by the Local Municipality.
- (5) For the purposes of the Schedule to the Regulation relating to the Declaration of Peace Officers made in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), any law enforcement officer appointed by a disestablished municipality shall, from the effective date, be deemed to have been appointed by the Local Municipality for the area of jurisdiction of the Local Municipality.
- (6) Any statutory plan in force or in operation in the area of jurisdiction of the disestablished municipalities, shall remain in force or in operation in respect of the area to which it was intended to apply until amended, varied or repealed by the Local Municipality.

Financial Matters

- 18.(1) With effect from the effective date the existing budgets of the disestablished municipalities shall constitute the budget of the Local Municipality up to 30 June 2001, and inter-municipal budgetary transfers shall continue for the 2000/2001 financial year.
- (2) Notwithstanding the provisions of subsection (1), the Local Municipality may:-
 - (a) adjust the existing budgets, or
 - (b) resolve to close its accounts and rebudget for the remainder of the financial year;

provided that any such budget is adjusted or prepared and adopted, as the case may be, in accordance with relevant legislation.
- (3) Before the commencement of the 2001/2002 financial year the Local Municipality must consider the adoption of financial management plans and policies that deal with:-
 - (a) measures, including inter-municipal budgetary transfers, to ensure revenue stability for the period after the 2000/2001 financial year;
 - (b) medium term expenditure;
 - (c) equalisation of tariff structures;
 - (d) the preparation of a new general valuation roll for the Local Management area and the introduction of equitable property taxes;
 - (e) the introduction of consolidated billing system;
 - (f) the consolidation of financial accounting systems and budgetary systems;

- (g) credit control, and
- (h) procurement.

Transitional Administrative Arrangements

19.(1) From the effective date to the date that all staff, assets, liabilities and records have been finally allocated in terms of the provisions of this Schedule, or such alternative date as may be determined by the Provincial Minister, the Local Municipality:-

- (a) shall be obliged to deal with all staff, assets, liabilities or records:-
 - (i) temporarily placed in terms of section 12A(1);
 - (ii) temporarily transferred in terms of section 16B(1), and
 - (iii) provisionally allocated in terms of sections 12A(3) and 16B(3),
 in the utmost good faith having due regard to the interests of the District Municipality;
- (b) without derogating from the generality of subsection (1) and subject to section 12(2), shall not, with reference to paragraphs (i) and (vii) hereunder without the prior written approval of the Provincial Minister, which approval may be conditional, and with reference to paragraphs (ii), (iii), (iv), (v), (vi) and (viii) hereunder without the prior written approval of the Local Municipalities, which approval shall not be unreasonably withheld, make or effect any alteration to the staff establishment temporarily placed in terms of section 12A(1) or provisionally allocated in terms of section 12A(3) by:-
 - (i) creating or filling any new posts;
 - (ii) filling any vacancies;
 - (iii) initiating and implementing the regrading or upscaling of any posts;
 - (iv) promoting any member of staff;
 - (v) assigning any functions or duties to personnel other than on a temporary basis;
 - (vi) subject to any law, existing collective agreement or contract of employment:-
 - (aa) approving and implementing any allowance or acting allowance;
 - (bb) implementing any increase in salaries or wages;
 - (vii) implementing any permanent alteration to staff structures and organisational structures, and
 - (viii) entering into any collective agreement, other than a collective agreement negotiated and agreed to in the Bargaining Council, which will bind the District municipality in respect of any matter listed in this subsection;
- (c) without derogating from the generality of subsection (1), shall not, without the prior written approval of the District Municipality, which approval shall not be unreasonably withheld, make or implement any decision in relation to any assets, liabilities or records transferred in

terms of section 16B(1) or provisionally allocated in terms of section 16B(3) that will result in such municipality:-

- (i) selling or leasing immovable or movable assets to a value exceeding R20 000,00 (twenty thousand rand) other than in terms of existing contractual arrangements; provided that this provision shall not apply to the disposal of immovable property in terms of an approved housing scheme in terms of the Housing Act, 1997 (Act 107 of 1997);
 - (ii) purchasing immovable or movable assets to a value exceeding R20 000,00 (twenty thousand rand) other than in terms of existing contractual arrangements;
 - (iii) concluding new contracts with a duration longer than one year;
 - (iv) renewing contracts for a duration longer than three months;
 - (v) acquiring information technology systems, including hardware and software, and
 - (vi) using:-
 - (aa) statutory funds either for direct capital or other expenditure or to finance expenditure by taking up internal loans for purposes other than for committed and necessary infrastructural projects approved in the 2000/2001 budget;
 - (bb) trust funds (which does not include a council's own accounts) for any purpose other than that for which the funds are held;
 - (cc) reserve funds, reserve capital or reserve provisions for a purpose other than for necessary budgeted infrastructural maintenance, non-budgeted emergency infrastructural maintenance which cannot be financed from the operational budget or for the writing off of bad debts, and
 - (dd) any statutory trust, reserve or provision which is not cash funded other than for the writing off of bad debts;

provided that this subsection shall not apply in the case of an emergency, and
 - (d) shall not make or implement any decision that will result in the Local Municipality exceeding its approved capital or operating budget for the 2000/2001 financial year.
- (2) Should any dispute with regard to the provisions of subsection (1) arise between the Local Municipality and the District Municipality, such dispute must be referred to the Provincial Minister for determination by the Provincial Minister or his nominee in accordance with procedures determined by the Provincial Minister, and the decision of the Provincial Minister or his nominee shall be final and binding.
- (3) Any contract entered into in breach of the provisions of subsections (1) or (2) shall be null and void.

(section 19 amended by PN.675/2000)

Appointment of Acting Officers

20. Before the effective date the Provincial Minister, after considering any recommendations of the District Transformation Forum, shall where relevant to the Local Municipality appoint any person to any position that may be required in terms of relevant legislation, which appointment shall be in an acting capacity, and who shall assume office on the effective date and remain in office until the Local Municipality has made its own appointments in terms of the relevant legislation.

Appointment of Interim Municipal Manager

- 21.(1) Before the effective date the Provincial Minister, after considering any recommendations of the District Transformation Forum, appoint an interim municipal manager, who assume office upon appointment and remain in office until the Local Municipality has appointed its own municipal manager or acting municipal manager.
- (2) The duties of the interim municipal manager shall, subject to directions or resolutions to the contrary adopted by the Local Municipality, be the following:-
- (a) call the first meeting of the Council of the Local Municipality in terms of section 29(2) of the Municipal Structures Act;
 - (b) preside over the first meeting of the Council of the Local Municipality until the election of the speaker;
 - (c) after the effective date, act as the head of administration and chief accounting officer of the Local Municipality until the appointment by the Local Municipality of its own municipal manager or acting municipal manager;
 - (d) after the effective date, fulfill all duties required to be fulfilled by the CEO of a municipality in terms of relevant legislation;
 - (e) assume responsibility for effecting the transfer of all staff, assets, liabilities and administrative and other records to the Local Municipality;
 - (f) appoint such persons as are necessary to fulfill his or her obligations in terms of this Schedule;
 - (g) take all reasonable steps to ensure that service delivery continuity is maintained after the effective date;
 - (h) establish interim financial control mechanisms for the Local Municipality;
 - (i) establish interim reporting lines and delegations for the Local Municipality;
 - (j) review and recommend service contracts, agency arrangements and service delivery agreements;
 - (k) implement any interim service delivery arrangements between the Local Municipality and the District Municipality as well as between the Local Municipality and other local municipalities within the area of the District Municipality;
 - (l) delegate any of his or her powers or duties to any employee of the Local Municipality and amend or revoke any such delegation, and
 - (m) in the period prior to the effective date, prepare for the performance of the functions set out in paragraphs (a) to (l).

- (3) Prior to the effective date, the CEOs shall co-operate with the interim municipal manager in relation to all matters pertaining to the establishment of the Local Municipality.
- (4) From the effective date the CEOs shall act under the direction of, and be responsible to the interim municipal manager, and the interim municipal manager shall have all the powers of the CEOs.

Interim Assistant Municipal Managers

22. The Provincial Minister may, after considering any recommendation of the District Transformation Forum, appoint any number of interim assistants to the interim municipal manager who assume office upon appointment and remain in office until the Local Municipality has confirmed or terminated the appointment.

Senior Management Team

23. Any interim assistants appointed to the interim municipal manager, together with the interim municipal manager, shall form the senior management team of the Local Municipality to oversee the implementation of the establishment of the Local Municipality.

Appointments

24. Any person appointed in terms of section 20 or 21 shall, subject to the provisions of section 12 of this Schedule, be an employee of a disestablished municipality and shall fulfill his or her duties on a seconded basis.

First meeting of the Council of the Local Municipality

- 25.(1) The interim municipal manager shall, at least three days before the first meeting of the Council of the Local Municipality, send to each councillor at his or her place of residence or other place nominated by the councillor concerned, a notice specifying the place, date and time of the first meeting and an agenda; provided that the interim municipal manager may call the first meeting on shorter notice should it in his or her opinion be necessary to do so.
- (2) Notwithstanding any by-law in force, but subject to the provisions of the Municipal Structures Act, the rules of order for the first meeting of the Council of the Local Municipality are the rules of order as set out in Provincial Notice 411/1988 as promulgated in Provincial Gazette No. 4532 of 20 May 1988, which rules shall remain in force until the adoption of rules of order by the Council of the Local Municipality.
- (3) The venue for the first meeting of the Council of the Local Municipality shall be in Stellenbosch.

(subsection (3) amended by PN.675/2000)

- (4) The agenda of the first meeting shall be as follows:-
 - (a) the election of the speaker;
 - (b) whether the Local Municipality wishes to establish an executive committee, and if so, the determination of a system of representation for the election of the executive committee;
 - (c) the election of councillors to serve on the executive committee;
 - (d) the election of the mayor from the members of the executive committee;

- (e) the election of the deputy mayor, for which approval is granted by the Provincial Minister, from the members of the executive committee, and
- (f) any other business as determined by the interim municipal manager and set out in the agenda.

Application of this Notice

- 25A. If any conflict relating to the matters dealt with in this Notice arises between this Notice and the provisions of any section 84(3) notice promulgated by the National Minister or any section 18 notice promulgated by the Provincial Minister, the provisions of the section 84(3) notice or section 18 notice, as the case may be, shall prevail.

(section 25A. inserted by PN.675/2000)

Executive Deputy Mayor

- 25B. Approval is granted in terms of section 55 of the Municipal Structures Act, as amended, for the election of an executive deputy mayor.

(section 25B. inserted by PN.184/2003)

Short title and Commencement

26. This Notice is called the Stellenbosch Municipality (WCO24) Establishment Notice and comes into operation on the date of publication.

**URHULUMENTE WENGINQI: UMTHETHO WAMASEBE KAMASIPALA, KA1998
(UMTHETHO WE-117 KA-1998)**

Amended by:

*neSaziso sePhondo 675 dated we-4 kuDisemba 2000
neSaziso sePhondo 456 dated we-19 kuDisemba 2002
neSaziso sePhondo 184 dated we-28 kuMeyi 2003
neSaziso sePhondo 11 dated we-3 uJanuwari 2006
neSaziso sePhondo 117 dated we-28 kuMatshi 2008
neSaziso sePhondo 55 dated we-25 kuFebhuwari 2011
neSaziso sePhondo 283 dated we-24 KwyeyDwarha 2014
neSaziso sePhondo 261 dated we-31 kweyeKhala 2015*

UKUSEKWA KOMASIPALA WASE-STELLENBOSCH (WCO24)

Ngamandla andigunyazisayo aqulathwe licandelo-12 ne-14 loRhulumente waseKhaya: uMthetho owasekwa ngo-1998 wamaSebe ooMasipala, (uMthetho we-117 wonyaka we-1998) ukuba ndenze isaziso sokusekwa kukaMasipala waseStellenbosch ngokwemiqathango edweliswe kolu ludwe lweenkqubo.

Ngomhla wama-22 uSeptemba 2000.

P UYS, UMPHATHISWA WEPHONDO WORHULUMENTE WENGINQI

ULUNDWE LWEENKQUBO

Inkcazo yamagama

1. Kolu Xwebhu ngaphandle kokuba okuqulathiweyo kukuxelela enye into, isinye sibandakanya isininzi nesininzi sibandakanya isinye, isicatshulwa sesiNgesi siya kuma simi isiso esisetyenziswayo apho kuthe kwakho iyantlukwano kwizcatshulwa ezahlukeneyo okanye kwigama elinokuthi lahluke okanye isiqendwana ngentsingiselo esithe sanikwa yona kuMthetho wamaSebe ooMasipala, intsingiselo yesiNgesi-
 - (1) **“iQumrhu leeNgxoxo”** lithetha iCandelo leQumrhu leeNgxoxo loRhulumente weeNqila loMzantsi Afrika elifake isicelo sobhaliso njengeQumrhu leeNgxoxo ngokweSaziso esingunombolo 1513/1999 njengoko sipapashwe kwiGazethi kaRhulumente engunombolo 20282 somhla we- 16 kaJulayi 1999;
 - (2) **“uCEO”** sisishungulelo segama elingu-chief executive officer igosa eliyintloko yesigqeba solawulo lomasipala otshitshisiweyo;
 - (3) *(subsection (3) deleted by PN.184/2003)*
 - (4) **“uMgaqo-siseko”** uthetha uMgaqo-siseko weRiphabliki yoMzantsi Afrika, we-1996 (uMthetho we- 108 we- 1996);

- (5) **“ukutshitshiswa koomasipala”** kuthetha aba masipala bakhoyo nabaza kutshitshiswa ngokwemigaqo yecandelo-3 lolu ludwe lweenkqubo;
- (6) **“uMasipala weSithili”** uthetha uMasipala wesiThili saseBoland, oza kumiselwa ngomhla wokuqalisa unyulo;
- (6A) **“i-MM yoMasipala weSithili”** ithetha umphathi wethutyana kaMasipala weSithili;
(subsection (6A) inserted by PN.675/2000)
- (6B) **“iSaziso sikaMasipala weSithili”** Sithetha iSaziso sePhondo 486/2000, esapapashwa kwiGazethi yePhondo eyoNgezelelweyo nenguNombolo 5590 yomhla wama-22 kuSeptemba 2000;
(subsection (6B) inserted by PN.675/2000)
- (7) **“iQonga leNguqulelo leSithili”** lithetha iQonga leNguqulelo leSithili saseBreede River/Winelands elamiselwa ngokweSaziso seDTF;
- (8) **“iSaziso seDTF”** sithetha iSaziso sePhondo esingunombolo 78/2000 esapapashwa kwiGazethi yePhondo Eyongeselelweyo engunombolo 5435 yomhla we-10 kuMatshi 2000;
- (9) **“umhla wokuqala wonyulo”** uthetha umhla wokuqalisa unyulo;
- (10) **“unyulo”** luthetha unyulo lokuqala jikelele lwamaBhunga ooMasipala onyulwa emva kokusebenza koMgaqo-siseko;
- (11) **“inkqubo yoomasipala yokutshintshwa kohlahlo-lwabiwo-mali”** ithetha ukutshintshwa kwezibonelelo zemali phakathi koomasipala ukufezekisa uzinzo kwingeniso ngexesha lenguqu;
- (12) **“uMphathi weThutyana kaMasipala”** uthetha umphathi wethutyana kamasipala kuMasipala weNgingqi obekwe ngokwemiqathango yecandelo- 21(1) nozakuba ngumphathi obambeleyo kamasipala kuMasipala weNgingqi ukususela ngomhla wokuqalisa, okanye umphathi wethutyana obambeleyo okanye umphathi kamasipala kuMasipala weNgingqi nobekwe yiKansile yoMasipala weNgingqi emva komhla wokuqalisa;
(subsection (12) amended by PN.675/2000)
- (13) **“uMasipala weNgingqi”** uthetha uMasipala waseStellenbosch, owasekwa ngokwemigaqo yocandelo le-4 elikolu ludwe lweenkqubo;
- (13A) **“inkqubo yesigqeba solawulo secandelo losodolophu”** ithetha inkqubo evumela ukuba kusetyenziswe igunya lesigqeba solawulo, oko kusenziwa kudlulwe kusodolophu osemagunyeni apho inkqubo yokhokelo lwesigqeba yoMasipala igunyaziswe khona kwanocediswa yikomiti yecandelo losodolophu;
(subsection (13A) inserted by PN.184/2003)
- (14) **“UMthetho wokuCandwa kooMasipala”** uthetha uMthetho woRhulumente waeNgingqi we- 1998 (uMthetho 27 we-1998);
- (15) **“iBhodi yokuCandwa kooMasipala”** ithetha iBhodi yokuCandwa kooMasipala eyamiselwa phantsi kwecandelo -2 loMthetho wokuCandwa kooMasipala;

- (16) **“uMthetho wamaSebe kaMasipala”** ithetha uMthetho kaMasipala woRhulumente waseKhaya we-1998 (uMthetho we-117 we-1998);
- (16A) **“uMthetho-sihlomelo wamaSebe ooMasipala”** uthetha uMthetho-sihlomelo wooMasipala beeNgingqi, 2000 (uMthetho 33 wonyaka wama-2000);
- (subsection (16A) inserted by PN.675/2000)*
- (16B) **“Umphathiswa weSizwe”** uthetha uMphathiswa wesizwe osingethe imicimbi yoorhulumente beengingqi;
- (subsection (16B) inserted by PN.675/2000)*
- (17) **“iPhondo”** lithetha iPhondo leNtshona-Koloni;
- (18) **“uMphathiswa wePhondo”** uthetha ilungu lesiGqeba soWiso-mthetho wePhondo leNtshona-Koloni elinoxanduva lokujongana norhulumente wngingqi;
- (19) **“uMthetho weeNgingqi zasemaPhandleni”** uthetha uMthetho weeNgingqi zasemaPhandleni (iNdlu yabaMeli), we-1987 (uMthetho we-1987);
- (19A) **“Isaziso secandelo 18”** sithetha isaziso esibhengezwe ngokwemiqathango yecandelo 18 loMthetho wamaSebe ooMasipala;
- (subsection (19A) inserted by PN.675/2000)*
- (19B) **“Isaziso secandelo 84(3)”** sithetha isaziso esibhengezwe ngokwemiqathango yecandelo 84(3) loMthetho wamaSebe ooMasipala;
- (subsection (19B) inserted by PN.675/2000)*
- (19C) **“abasebenzi”** kuthethwa bonke abasebenzi, kuqukwa abo benza umsebenzi, abakwizikhundla zokuphatha nezincedisayo, kananjalo kubandakanywa nezikhundla ezingenamntu nezifakwe kwizicwangciso zovalozikhewu, kodwa zingabandakanywanga izikhundla ezingenamntu ezingafakwanga kwizicwangciso zovalozikhewu;
- (subsection (19C) inserted by PN.675/2000)*
- (20) **“uYilo oluseMthethweni”** uthetha uyilo oluyimfuneko ngokwemigaqo yowiso-mthetho kubandakanya, kodwa kungaphelelanga apho naluphi na olunye uyilo lokusetyenziswa komhlaba, inkqubo yokwahlulwa, uyilo lophuhliso oluhlanganisiweyo, uyilo lweenkonzo zamanzi, uyilo lophuhliso oluhlanganisiweyo, uyilo lophuhliso lwezakhono noyilo lolungiso kumathuba engqesho;
- (21) **“imanyano zabasebenzi”** zithetha ooMasipala abazimeleyo neemanyano zabasebenzi kunye nemanyano yabasebenzi bakaMasipala yoMzantsi Afrika;
- (21A) **“inkqubo yogqithiselo”** ithetha inkqubo, echazwe kule Shedyuli, yokugqithisela abasebenzi, impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo kuMasipala weSithili okanye kooMasipala beeNgingqi, nkqubo leyo iquka:
- (a) ukuchongwa kwabo bonke abasebenzi, yonke impahla, wonke amatyala nazo zonke ierekhodi eziza kugqithiselwa;
- (b) ukusetyenziswa kwemimiselo yokugqithiselwa njengoko ichazwe hule Shedyuli;

(c) ukunikezelwa kwabo bonke abasebenzi, yonke impahla, wonke amatyala nazo zonke iirekhodi kuMasipala weSithili kungenjalo kuMasipala weNgingqi, kananjalo

(d) ukuqaliswa kogqithiselo olo.

(subsection (21A) inserted by PN.675/2000)

(22) **“ukuGuqulwa kwemiThetho ethile yamaPhandle”** kuthetha ukuGuqulwa kweMithetho ethile yamaPhandle, we-1998 (uMthetho wama-94 we-1998);

(22A) **“inkqubo yothatho-nxaxheba yewadi”** ithetha inkqubo evumela imicimbi yezinto ezinxulumene neenqila ekuza kujonganwa nazo ziikomiti ezisekelwe ezi wadi;

(subsection (22A) inserted by PN.184/2003)

(23) **“uWECLOGO”** ligama elithetha uMbutho weNtshona-Koloni woRhulumente baseKhaya, ongumbutho wephondo leNtshona-Koloni onikwa ingqalelo ngokwemigaqo yecandelo 2(1)(b) lomthetho woRhulumente weNgingqi olungiselelweyo we-1997 (uMthetho –52 we 1997).

Intshayelelo

2.(1) Ngomhla wesi-3 kuMatshi ka-2000 iBhodi kaMasipala yokuMiswa kweMida, esebenza ngokubhekiselele kwicandela 21 leMunicipal Demarcation Act, yenza izigqibo ngemida yeBhunga loomasipala, njengoko kubonisiwe kwimephu ebonakala kwiSaziso sePhondo esingu-69/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5431 yomhla wesi-3 kuMatshi ka-2000 saza salungiswa siSaziso sePhondo esingu-478/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo enguNombolo 5587 yomhla wama-18 kuSeptemba ka-2000 neSaziso sePhondo esingu-258/2002 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo engunombolo 5922 yomhla we-15 ku-Agasti ka-2002. Ikopi yaloo maphu ipapashwe kwiSongezelelo “1” sale Shedyuli.

(subsection (1) amended by PN.11/2006)

(2) UMphathiswa wePhondo, esebenza ngokwecandelo le- 12(4) loMthetho wamaSebe ooMasipala:-

(a) ukhuphe isaziso esibhaliweyo sokusekwa kukaMasipala waseKhaya okusayilwayo i-WECLOGO nakoomasipala abathe batshitshiswa njengoko kumiselweyo kwisekyula yomhla we-12 kuJulayi 2000 nengqinisiswe kwiAAO 509/1/4;

(b) udlene indlebe neWECLOGO kunye noomasipala abathe batshitshiswa;

(c) upapashe iinkcukacha zesi Saziso kwiSaziso sePhondo 394/2000 esapapashwa kwiGazethi yePhondo eyoNgezelelweyo engunombolo 5571, yomhla wama-28 kuAgasti 2000, kwakunye

(d) uziqwalasele izimvo ezithe zamkelwa emva kopapasho lweSaziso ekulindeleke ukugba samkelwe.

(3) UMphathiswa uthe waziqwalasela iingcebiso zeQonga leNguqulelo leSithili athe wazinikwa ngokwesahluko se- 11(2) seSaziso seDTF.

- (4) UMphathiswa wePhondo, esebenza ngokwesahluko se- 12 nese- 14 loMthetho wamaSebe ooMasipala, njengoko ufundwa kunye noMthetho ka2000 wokuMiselwa kweNdidi zooMasipala eNtshona-Koloni (uMthetho we-9 ka2000), nekungoku nje ukhupha isaziso sokusekwa koMasipala weSithili ngokwemigaqo edweliswe kolu xwebhu.
- (5) Umphathiswa wePhondo, ngokugunyaziswa yimiqathango yesahluko 2 soMthetho-sihlomelo wamaSebe ooMasipala, xa sifundwa necandelo 14(2)(b) loMthetho wamaSebe ooMasipala kungoku nje wazisa ngeziphumo ezayamene nomthetho, ezinokwenzeka kanti nezinye iziphumo zokutshitshiswa koomasipala abatshitshisiweyo, nto leyo iquka:-
- (a) imimiselo emiselwe ukugqithiselwa, nenkqubo yokugqithiselwa ngokunjalo, kwabasebenzi kuMasipala weNgingqi, nkqubo leyo iya kuqala ngomhla wokupapashwa kwesi saziso neza kugqitywa ngomhla oya kumiselwa nguMphathiswa wePhondo;
- (b) imimiselo emiselwe nkugqithiselwa, nenkqubo yokugqithiselwa ngokunjalo, kwempahla, amatyala, amalungelo nezinyanzeliso neerekhodi zolawulo kanti nezinye, kuMasipala weNgingqi, nkqubo leyo iya kuqala ngomhla wokupapashwa kwesi saziso neza kugqitywa ngomhla oya kumiselwa nguMphathiswa wePhondo;
- (c) ukubonelelwa ngamalungiselelo olawulo ethuba ukususela ngomhla wokuqalisa ukuya kumhla oya kumiselwa nguMphathiswa wePhondo ukuqinisekisa ukuqhubeka kobonelelo ngeenkonga nokuqinisekisa ukuthembeka nokuma kakuhle koMasipala weNgingqi ngokwezimali.

(subsection (5) inserted by PN.675/2000)

Ukutshitshiswa kooMasipala abakhoyo

- 3.(1) Ukususela ezinzulwini zobusuku eziphambi komhla wokuseka, aba masipala balandelayo baya kutshitshiswa:-
- (a) uMasipal wommandla weFranschhoek, owasekwa ngokwemigaqo yoPapasho olungunombolo 20/1995 lomhla wama-30 kuJanuwari 1995;
- (b) Ibhunga labaMeli leThutyana laseNuweberg elasekwa ngokwemigaqo yoPapasho olungunombolo 18/1996 ngomhla wama-26 kuEpreli 1996, ukuya kummandla ososahlulo ophantsi kolawulo lukaMasipala, njengoko kusekiwe yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselelwe kuyo kwicandelo 2(1);
- (c) Ibhunga labaMeli leThutyana lasePaarl elasekwa ngokwemigaqo yoPapasho olungunombolo 18/1994 ngomhla we-26 kuEpreli 1996, ukuya kummandla osisahlulo ophantsi kolawulo lukaMasipala, njengoko kusekwe yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselelwe kuyo kwicandelo 2(1);
- (d) Ibhunga labaMeli leThutyana lasePniel elasekwa ngokwemigaqo yoPapasho olungunombolo 142/1994 ngomhla wama-30 kuDisemba 1994;
- (e) Ibhunga leNgingqi leThutyana laseStellenbosch elasekwa ngokwemigaqo yoPapasho olungunombolo 28/1995 ngomhla we-31 kuJanuwari 1995, kwakunye
- (f) Ibhunga labaMeli leThutyana waseStellenbosch elasekwa ngokwemigaqo yoPapasho olungunombolo 18/1996 ngomhla wama-26 kuEpreli 1996, ukuya kummandla osoahlulo ophantsi kolawulo lukaMasipala, njengoko

kusekiwe yiBhodi yokuCandwa kwemida yooMasipala ekubhekiselelwe kuyo kwicandelo 2(1).

- (2) OoCeba abatshishiswayo kufuneka xa ibhunga lomasipala weSithili elitsha linyuliwe ze lachazwa njengelimiselweyo ezinzulwini zobusuku zalo mhla bazishiye ii-ofisi zabo babuyisele kwigosa eliyintloko elilawulayo lomasipala CEO lowo utshitshisweyo okanye umnyulwa wakhe yonke impahla ekubo eselungelweni lalo masipala utshitshisiweyo.

Ukusekwa kunye neGama

4. Ukususela ngomhla wokuqalisa wanyulo umasipala oyokusekwa uyakwaziwa ngesiXhosa njengo "U Masipala waseStellenbosch", ze negisiNgesi aziwe njenge "Stellenbosch Municipality" ze ngesiBhulu aziwe njenge "Munisipaliteit Stellenbosch".

iCandelo

5. UMasipala weSithili uya kuba ngumasipala weSithili njengoko kuxeliwe kwicandelo 1 loMthetho wamaSebe kaMasipala, eya kuba ngumasipala onamagunya awodwa olawulo nokuphatha kwingingqi leyo ebandakanya oomasipala abaninzi, kwanochaziweyo kwicandelo 155(1) loMgaqo-siseko njengecandelo B lomasipala.

uDidi

6. UMasipala weSithili ngumasipala oneenkqubo zesigqeba secandelo losodolophu onazo zombini ezi nkqubo zothatho-nxaxheba, icandelwana lebhunga kunye nelewadi njengoko zimiselwe ngumthetho, iWestern Cape Determination of Types of Municipalities Act, 2000 (Act 9 of 2000), njengokuba zilungisiwe ngomthetho, iWestern Cape Determination of Types of Municipalities Amendment Act, 2002 (Act 4 of 2002).

(section 6 amended by PN.184/2003)

Imida

7. Imida kaMasipala weSithili iya kuba yimida esekwe yiBhodi yokuCandwa kwemida yooMasipala nekubhekiselelwe kuyo kwicandelo 2(1).

INani looCeba

- 8.(1) IKhansile kaMasipala kulo Masipala inooceba abangamashumi amane anesithathu (43), njengoko kwamiselwayo nguMphathiswa wePhondo kwiSaziso sePhondo esinguNomb. 164/2000 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 5468 yomhla we-4 Meyi 2000, saza satshitshiswa ngeSaziso sePhondo esinguNomb. 100/2004 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 6137 yomhla we-8 Juni 2004 nangeSaziso sePhondo esinguNomb. 261/2009 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 6646 yomhla wama-31 Julayi 2009, kwaye abangamashumi amabini anesibini (22) babo bangooceba beewadi, baze abangamashumi amabini ananye (21) babe ngooceba abanyulwe ngokwenani leevoti.
- (2) Lo Masipala uneewadi ezingamashumi amabini anesibini (22).

(section 8 amended by PN.11/2006 and PN.55/2011)

OoCeba abasebenza isigxina

9. uMasipala weSithili angamisela aba ceba balandelayo njengooceba besigxina:-

- (a) Usodolophu wesigqeba solawulo;
- (b) Amalungu ecandelo lekomiti yosodolophu;
- (c) Nosomlomo;
- (d) Umbhexeshi omnye onyulelewe iBhunga, kunye
- (e) Usihlalo wekomiti eyasekwa ngokwecandelo 79.

(section 9 amended by PN.456/2002, PN.184/2003, PN.283/2014 and PN. 261/2015)

IMisebenzi namaGunya

10. Akuyi kubakho luhlenga-hlengiso ngokubhekiselele kwimisebenzi nakumagunya kaMasipala weSithili ngokwecandelo 85 loMthetho wamaSebe ooMasipala.

ukuNgachaphazeleki

11. Umasipala weNqila akayi kungachatshazelwa nayiyiphi na imiqathango yoMthetho wamaSebe kaMasipala.

Imimiselo emisa uGqithiselo lwaBasebenzi

- 12.(1) uKususela ngomhla wokuqalisa nangokwemiqathango yecandelo 197 loMthetho wezoBudlelwane eMsebenzini,1995 (uMthetho-66 wonyaka we-1995:-

- (a) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo wayanyaniswa ngokukodwa nemisebenzi efanele ukwenziwa nguMasipala weNgingqi baya kugqithiselwa kuMasipala weNgingqi;
- (b) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo wayanyaniswa ngokukodwa nemisebenzi efanele ukwenziwa nguMasipala weSithili (misebenzi leyo ibandakanya imisebenzi efanele ukwenziwa nguMasipala weSithili kuMmandla woLawulo lweSithili) siya kugqithiselwa kuMasipala weSithili;
- (c) nawuphi na umntu ongomnye wabasebenzi bomasipala otshitshisiweyo owayanyaniswa nomnye okanye neminye imisebenzi eza kwenziwa nguMasipala weNgingqi noMasipala weSithili, ukususela ngomhla wokuqalisa, uya kugqithiselwa komnye wabo masipala, oko kusenziwa ngokobuninzi bexesha elidliwa ngumsebenzi lowo wenziwa nguloo mntu xa uthelekiswa nexesha elidliwa yeminye imisebenzi eyenziwa nguloo mntu;
- (d) bonke abasebenzi boomasipala abatshitshisiweyo nabamsebenzi wabo ungayanyanisiwayo nomsebenzi othile okanye nemisebenzi ethile efanele ukwenziwa nguMasipala weNgingqi noMasipala weSithili siya kugqithiselwa kuMasipala weNgingqi kungenjalo kuMasipala weSithili oko kusenziwa ngokwemilinganiselo esekelwe kwinani lezikhundla sezizonke ezigqithiselwe kwabo masipala ngokwemiqathango yemihlathi (a), (b) no-(c);
- (e) zonke izikhundla koomasipala abatshitshisiweyo ezingenamntu nezingenzelwanga zicwangiciso zovalozikhewu ziya kutshitshiswa.

- (2) Phantsi kwemiqathango yezivumelwano ezihlanganyelweyo onke amalungelo nezibophelelo eziphakathi koomasipala abatshitshisiweyo naphakathi kwabaqeshwa boomasipala abo ngelixa logqithiselo aya kuhlala esebenza ngokungana ngamalungelo okanye izibophelelo eziphakathi koMasipala

weNgingqi okanye uMasipala weSithili, nokuba nguwuphi kwabo masipala, nomqeshwa wakhe ngamnye, kananjalo nantoni na eyenziwa ngaphambi kogqithiselo olo ngumasipala otshitshisiweyo okanye ngokunxulumene nomasipala lowo utshitshiswayo iya kuthatyathwa njengento eyenziwayo okanye eyenziwa ngokunxulumene noMasipala weNgingqi okanye uMasipala weSithili, nokuba nguwuphi kwabo masipala.

- (3) Ukughubeka kwengqesho yomqeshwa akuyi kuphazanyiswa lugqithiso kananjalo ingqesho leyo iya kuqhubeka kuMasipala weNgingqi okanye uMasipala weSithili, nokuba nguwuphi kwabo masipala, ngokunga iqhubeka kumasipala lowo utshitshisiweyo.
- (4) Phantsi kwemigaqo-nkqubo neenkqubo zomsebenzi eziphathelele kubantu nekubhekiswe kuzo phaya kwicandelo 14(a) lale Shedyuli, kuse nokufuneka ukuba umqeshwa ogqithiselwe kuMasipala weNgingqi asebenzele nayiphi na i-ofisi kaMasipala weNgingqi kwaye, ngaphandle kokuba kuvunyelenwe ngenye indlela, akayi kuba nalungelo lakongezelwa umvuzo ngenxa yaloo nto.

(section 12 amended by PN.675/2000)

Inkqubo yoKugqithiselwa kwaBasebenzi

12A.(1) Ingatyeshelwanga imiqathango yecandelo 12 necandelo 16C, kananjalo ngeli lixa kusalindelwe ukufezekiswa kwenkqubo yogqithiselo ngokweli candelo, bonke abasebenzi boomasipala abatshitshisiweyo, xa kukho imfuneko yoko, baya kusebenzela okwethutyana uMasipala weNgingqi, kwaye ke ngoko bonke abasebenzi abafanele ukugqithiselwa kuMasipala weSithili ngokwemiqathango yecandelo 12 okanye eyecandelo 16C bona baya kuthatyathwa njengabasancedisayo kuMasipala weNgingqi oko kusenziwa ngokwamalungiselelo aphakathi koMasipala weNgingqi naloo Masipala weSithili, malungiselelo lawo achaza ukuba uMasipala weNgingqi uya kufezekisa umsebenzi okanye imisebenzi eyayamene nabo basebenzi oko ekwenza egameni loMasipala weSithili.

(2)Ukuze ku:-

- (a) kube nokulungiselelwa nawaphi na amalungiselelo ngokwemigaqo yoMthetho oHlonyelweyo wamaSebe ooMasipala; okanye
- (b) kube nokuvunyelwa uMasipala weNgingqi kwanoMasipala weSithili ukuba bangene kwizivumelwano, kuqukwa nezivumelwano ezimalunga nomsebenzi.

Ezinokuchaphazela utshintsho lwabasebenzi ngokwemigaqo yale Shedyuli, akukho nalinye ilungu eliya kunikezwa ngokupheleleyo ngaphambi komhla wama-30 kuJuni 2001, okanye olo suku luya kube lumiswe nguMphathiswa wePhondo.

- (3)Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo i-CEO nganye kuya kufuneka iqulunqe uxwebhu olunoludwe lwamagama abo bonke abasebenzi bomasipala wayo otshitshisiweyo ngokwendlela eyalelewe nguMphathiswa wePhondo, kwaye kuya kufuneka ukuba amisele okwethutyana ilungu ngalinye labasebenzi isikhundla esobelwe imali somasipala wakhe otshitshisiweyo ngokuhambelanayo nemithetho-siseko echaziweyo phaya kwicandelo 12 nele 16C, kananjalo anike umphathi wethutyana kamasipala ne-IMM yoMasipala weSithili iikopi ezipheleleyo zolo xwebhu.

- (4) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, kodwa ngokwemiqathango yecandelo (2), umphathi wethutyana kamasipala, ebonisene ne-IMM yoMasipala weSithili kuye kufuneka ukuba:-
- (a) ahlanganise amazwebhu ekudweliswe kuwo amagama nekubhekiswe kuwo phaya kwicandelwana (1) awenze abe luxwebhu olunye kanaanjalo ekugqibeleni abele ngokuthanda kwakhe uMasipala weNgingqi okanye uMasipala weSithili ngabasebenzi nezikhundla ezingenamntu ezikwizicwangciso nezidweliswe phaya kuxwebhu oluhlanganisiweyo, ngomhla wokuqalisa, oko kusenziwa ngokwenmimiselo echazwe phantsi kwecandelo 12 nele 16C okanye kuso nasiphi na isivumelwano ekubhekiswe kuso kwicandelwana (2);
 - (b) anike i-IMM kaMasipala weSithili ngamnye ikopi yolo zwebhu kanaanjalo afumane kwi-IMM yoMasipala weSithili nganye ikopi yoxwebhu oluqulunqwe yiloo IMM kaMasipala weSithili, kanaanjalo
 - (c) ahlanganise uxwebhu ekubhekiswe kulo phaya kumhlathi (a) noxwebhu olufunyenwe kwi-IMM yoMasipala weSithili ekubhekiswe kulo phaya kumhlathi (b) aze loo maxwebhu enziwe uxwebhu olunye olubonakalisa amagama abo bonke abasebenzi abaza kugqithiselwa kuMasipala weNgingqi.
- (5) Ingatyeshelwanga imimiselo echazwe kwicandelo 12 nele 16C, umphathi wethutyana kamasipala unokuthi evumelene ne-IMM yoMasipala weSithili, akuhlengahlengise ukwabiwa kwabasebenzi ngokwecandelwana (2) oko ekwenzela ukulungiselela ukwabelana ngabasebenzi, okufaneleke nangaphezulu, phakathi koMasipala weNgingqi noMasipala weSithili, kodwa olo hlengahlengiso aluyo kwenziwa emva ukuba umsebenzi azisiwe ngokwemiqathango yecandelwana (8).
- (6) Xa kunokubela nayiphi na impikiswano, emalunga nokwabelana ngabasebenzi, phakathi komphathi wethutyana kamasipala ne-IMM yoMasipala weSithili loo mpikiswano kuya kufuneka ukuba ibhekiswe kuMphathiswa wePhondo okanye kumtyunjwa wakhe ngokweenkqubo ezimiswe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye esomtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (7) Umphathi wethutyana kamasipala uya kuluqinisekisa ngenchwadi uxwebhu olunoludwe lwamagama oluhlanganisiweyo nekubhekiswe kulo phaya kwicandelwana (4)(c) kwaye kuya kufuneka ukuba olo xwebhu lunoludwe lwamagama alunike uMphathiswa wePhondo ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo.
- (8) Emva kokuqulunqwa koxwebhu olunye olunoludwe lwamagama noluhlanganisiweyo ekubhekiswe kulo phaya kwicandelwana (4)(c), kodwa ngapambi komhla wokuqalisa, umphathi wethutyana kamasipala kuya kufuneka ukuba anike umntu ngamnye oza kuba ngumsebenzi kaMasipala weNgingqi isaziso esibhaliweyo esichazela loo msebenzi ukuba uqeshwe nguMasipala aweSithili ukususela ngomhla wokuqalisa.
- (9) Ukungafunyanwa kwesaziso esibhaliweyo ekubhekiswe kuso phaya kwicandelwana (8) akuthethi kungasebenzi kwalo naluphi na ugqithiselo.
- (10) Xa nawuphi na umsebenzi ('umphikisi') esithi ugqithiselo lwakhe alwenziwanga ngokwemimiselo echazwe phaya kwicandelo 12 nele 16C,

ngokwaso nasiphi na isivumelwano ekubhekiswe kuso kwicandelwana (2) okanye ngokwenkqubo echazwe kweli candelo, lowo mphikisi angafaka incwadi yokuphikisa kumphathi wethutyana kamasipala womasipala lowo agqithiselwe kuye oko ekwenza kungagqithanga iintsuku ezili-14 emva kokwaziswa kwakhe ngokwemiqathango ephaya kwicandelwana (5). Loo ncwadi yokuphikisa kuya kufuneka ukuba umphathi wethutyana kamasipala ayigqithisele kuMpathiswa wePhondo okanye kumtyunjwa wakhe ukuze uMphathiswa wePhondo okanye umtyunjwa wakhe ibe nguye owenza isigqibo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye somtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.

(subsection (10) amended by PN 117/2008)

- (11) Ngeli lixa lusalindelwe isigqibo soMphathiswa wePhondo okanye somtyunjwa wakhe ngokwecandelwana (10) umphikisi uya kugqithiselwa kumasipala, oko kunsenziwa ngokweli candelo. Ukuba uMphathiswa wePhondo okanye umtyunjwa wakhe ufumanise ukuba umphikisi bekufanele agqithiselwe komnye umasipala umphikisi uya kugqithiselwa kuloo masipala kwaye ugqithiselo lwakhe luya kuthatyathwa njengolwenzeka ngomhla wokuqalisa ngokwecandelo 12 nele 16C.
- (12) Xa kunokwenzeka ukuba igama lomsebenzi lingaveli kuxwebhu olunoludwe lwamagama ekubhekisiwe kulo phaya kwicandelwana (4)(a), okanye xa kunokwenzeka ukuthi kanti umsebenzi wabelwe oomasipala abangaphezulu kwesinye ukususela ngomhla wokuqalisa, loo msebenzi kuya kufuneka, ngokukhawuleza emvane kokuva ngayo nokuba yiyiphi kwezo zinto, loo nto ayichaze kumphathi wethutyana kamasipala okanye kwi-IMM yoMisipala weSithili yena ke ekuya kufuneka ukuba loo mcimbi awugqithisele kuMphathiswa wePhondo ukuse ibe nguMphathiswa wePhondo okanye umtyunjwa wakhe oweneza isigqibo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo kwaye isigqibo soMphathiswa wePhondo okanye umtyunjwaa akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (13) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo uMasipala weNgingqi kuya kufuneka ukuba aluvume uphuhliso lwabasebenzi loMasipala weNgingqi ngokwemigaqo yomthetho osebenzayo kwaye kuya kufuneka ukuba ikopi yoxwebhu oluchaza olo phuhliso lwabasebenzi ayandlale phambi kweSebe leQonga leeNguqu leKansile yoThethwano; ngaphandle kokuba uMasipala weNgingqi uthe ekugqibeleni akaluvuma uphuhliso lwabasebenzi ukuba lube loloMasipala weNgingqi ngaphambi kokuba umphathiswa wethutyana kamasipala abe uye wayikhangela ishedyuli eqinisekisiweyo ngokwemigaqo yecandelwana (7).
- (14) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, xa kungekafikelelwa kwisivumelwano phambi komhla wokuqalisa ngokwemiqathango yecandelo (13)(2) lale Shedyuli, u Masipala weNgingqi, njengelungu leSebe leQonga leeNguqu leKansile yoThethwano kuya kufuneka ukuba azame ukufikelela kwisivumelwano esiqukanisayo kwiSebe leQonga leeNguqu leCandelwana leKansile yoThethathethwano neemanyano zabasebenzi ngokubhekiselele kwimimiselo, iinkqubo neendlela emazilandelwe xa kuqeshwa abantu abaya kungena kwizikhundla ezivele ngenxa yemo entsha yolawulo lukaMasipala weNgingqi.
- (15) Ngomhla okanye ngaphambi komhla omiselwe nguMphathiswa wePhondo, uMasipala weNgingqi uya kuqesha abantu abayakungena kwizikhundla ezikwi

uphuhliso lwabasebenzi ngokwemimiselo, iinkqubo neendlela ekuvunyelwene ngazo kwiSebe leQonga leeNguqu leKansile yoThethwano.

(section 12A inserted by PN.675/2000)

Izivumelwano zokusebenza ezithatyathwa kunye

13.(1) Nasiphi na isigq ibo kuso li Qumrhu lee ngxoxo:-

- (a) kurhulumente kazwelonke, okanye;
- (b) kwi Qumrhu leeNgxoxo, okanye
- (c) kurhulumente weedolophu,

siya kuhlala simi isesi setyenzi swayo de sihlo nyelwe okanye sitshitshiswe ngokokungqineland kni miqathango yesi sirumelwano.

(2) Phambi komhla wokuqala wonyulo oomasipala abatshutshisiweyo, njengamalungu eQonga lezokusebenza kufuneka bazame befikele esigq ibeni kunye nemanyano zaba sebenzi ngo kuphathelene nale miba ilandelayo:-

- (a) inkqubo eya kulandelwa xa kumiselwa abasebenzi ezikhundleni ngokwendlela entsha emva komhla wokuqala wonyulo;
- (b) inkqubo eya kulandelwa ekuzalisweni kwezikhundla ezitsha eziya kuba zikho emva kokusekwa ngokutsha kubume bezikhundla kuMasipala weNqila;
- (c) ukwamkelwa kwemimiselo nemiqathango yengqesho yoMasipala weNqila emva komhla wokuqala wonyulo, kwakunye
- (d) nawuphi na umcimbi obhekiselele kumiselo loMasipala weNqila.

Imicimbi yabasebenzi

14. Ngokuxhomekeke kuso naziphi na isivumelwano ezenziwe kunye:-

- (a) imigaqo-nkqubo kunye namanyathelo emicimbi yabasebenzi yoMasipala weNqila iya kuba yimigaqo-nkqubo namanyathelo emicimbi eyayisetyenziswa ngenx' engaphambi komhla wokuqala wonyulo kwaye iya kuhlala iyesityenziswayo ngabo bonke abasebenzi ngokufanayo naleyo yayisetyenziswa yayingaphambi komhla wokuqala wonyulo, kwanegahlolwa okanye ekutshitshiswe nguMasipala weNqila;
- (b) imimiselo nemiqathango yengqesho yabasenzi bonke bakaMasipala iya kuba yimimiselo nemiqathango eya kusebenza ngaphambi komhla wokuqala wonyulo isebenza kumqeshwa ngamnye nokuba uqeshwe emva komhla wokuqala wonyulo eqeshwa ngokwemimiselo nemiqathango yengqesho egqitywe nguMasipala.

IZiphumo zeNguqu ezibhekiselele kweminye imiba emalunga nabasebenzi

15.(1) Ngokwesivumelwano esiqukanisiweyo, umsebenzi osikhundla sakhe sitshintshwe ngenxa yenguqu akayi kuthathwa njengongafunekiyo ngokweenjongo zayo nayiphi na imimiselo okanye imiqathango yengqesho kungenjalo nawuphi na umgaqo wengxowa-mali yomhlala phantsi enika umsebenzi ithuba lokuba azinyulele ngokwakhe ukuwuyeka umsebenzi neemfanelo zakhe.

(2) Imiqathango yeli candelo isebenza kuphela xa umsebenzi athe wasikhaba ngaphandle kwesizathu asinikwayo umsebenzi nguMasipala.

- (3) Ngokwenjongo yeli candelo, utshintsho lwezikhundla lungaquka okunye koku kulandekayo:-
- isithuba eso somsebenzi asisekho;
 - isithuba eso somsebenzi sithe satshitshiswa;
 - umsebenzi kufuneka enze isicelo sesithuba ngokutsha;
 - inkqubo kunye namagunya esithuba eso athe atshitshiswa;
 - kuthe kwatshintshwa umqeshi;
 - xa isithuba eso sithe sanaphathi abaninzi ekufuneka umsebenzi esebenze phantsi kwabo;
 - xa kukho umahluko kwisithuba eso.

Ukuthabathelana koomasipala izikhundla ngokwaseMthethweni

16. Ukususela ngomhla wokuqalisa:-

- Umasipala weNgingqi uya kuba ngumasipala othabatha isikhundla ngokwasemthethweni sabo masipala batshitshiswayo kananjalo uya kuba ngumasipala oza kusekwa ngokwemiqathango yeSaziso sooMasipala beZithili ngokubhekiselele kwimpahla namatyala abelwe uMasipala weNgingqi ngokwemiqathango yale Shedyuli.
- Ngokwecandelwana (1) necandelo 16D lale Shedyuli wonke amalungelo nezibophelelo zoomasipala abatshitshisiweyo angabiwanga ngokwemiqathango yale Shedyuli ayakwabelwa uMasipala weNgingqi, kwaye kuya kuba nguloo Masipala weNgingqi othabatha isikhundla ngokwasemthethweni sabo masipala batshitshisiweyo, ngokubhekiselele kuloo malungelo nezibophelelo.
- Zonke iintlawulo, ingeniso nazo zonke ezinye iimali ekufanele zihlawulwe okanye ziqokelelwe nawuphina/nabaphina ziya kuhlawulwa okanye ziqokelelwe ongunmasipala onthabathe isikhundla ngokwasemthethweni somasipala otshitshisiweyo ngokwemiqathango yale Shedyuli.
- Ingatyeshelwanga imiqathango yawo nawuphina umthetho onxulumene noku, nawaphina amaxwebhu othelekelelo-maxabiso asasebenzayo okanye abekho ngenxa yokuqulunqwa kothelekelelo-maxabiso lwethutyana okanye olongeziweyo, nokuba yiyiphi kwezo zinto, kummandla woMasipala weNgingqi aya kuhlala esebenza, ngaphandle kokuba imiqathango yaloo mthetho itsho nto yimbi, de ummandla lowo woMasipala weNgingqi uqulunqelwe uxwebhu jikelele lothelekelo-maxabiso.
- Lingatyeshelwanga icandelwana (1):-
 - uMasipala uya kuthabatha iintambo ngokusemthethweni koomasipala abatshitshisiweyo ngokwezingqinisiso zemibandela ichaziweyo kuMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni kwanakuMthetho weeNgingqi zasemaPhandleni, ukuya kutsho kwizahlulo ekubhekiselelwe kuzo, de kube kutshintshelwa kwinkqubo ekubhekiselalwe kuyo kwicandelo le-3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni:-

- (i) umhlaba ophantsi kwegunya loMphathiswa wezoLimo neMicimbi yoMhlaba njengoko kuchaziweyo kwicandelo le-7 loMthetho weeNgingqi zasemaPhandleni noxhomekeke kwimiqathango equlathwe licandelo le- 3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni uya kuhlala phantsi kwegunya loMphathiswa wezoLimo neMicimbi yoMhlaba, kwakunye
- (ii) umhlaba obuphantsi kwegunya loomasipala abatshitshisiweyo ngokwemimiselo equlathwe nguMthetho weeNgingqi zasemaPhandleni noxhomekeke kwimiqathango yecandelo le- 3 loMthetho wokuGuqulwa kweMimandla ethile yasemaPhandleni uya kuhlala uphantsi kwegunya loMasipala ukususela kumhla wokuqala wonyulo;
- (b) umhlaba ekubhekiselelwe kuwo kwicandelwana (2)(a) uya, kuthi ngexesha lotshintshelo ngokwemimiselo yecandelo le-3 loMthetho woluGuqulwa kweMimandla ethile yasemaPhandleni, ube phantsi kolawulo loMasipala njengoko uMthetho weeNgingqi zasemaPhandleni uchaza.

(section 16 amended by PN.675/2000)

Imimiselo yoGaithiselo lweMpahla, amaTyala neeRekhodi

16A. Ukususela ngomhla wokuqalisa:

- (1) yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo neyayanyaniswa ngokukodwa nemisebenzi ekufanele yenziwe nguMasipala weSithili iya kugqithiselwa kuMasipala weSithili.
- (2) yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo neyayanyaniswa ngokukodwa nemisebenzi ekufanele yenziwe nguMasipala weSithili (misebenzi leyo iquka imisebenzi efanele ukwenziwa nguMasipala weSithili kuMmandla woLawulo lweSithili) ye nawuphina omnye wooMasipala beeNgingqi iya kugqithiselwa iya kugqithiselwa kuMasipala weSithili.
- (3) nayiphi na impahla yomasipala otshitshisiweyo enako ukususwa kwindawo ekuyo neyayanyaniswa nomsebenzi omnye okanye engaphezulu ekufanele ifezekiswe, ukusuela ngomhla wokuqalisa, nguMasipala weNgingqi noMasipala weSithili, nabanako ukwahlulelana ngayo baya kuyahlulelwa:-
 - (a) ngokwepesenti yelona xesha loo mpahla esetyenziswe ngalo kwindawo nganye;
 - (b) ngokwepesenti yelona xesha loo mpahla esetyenziswe ngalo ekwenzeni umsebenzi oya kuba luncedo macala omabini; okanye
 - (c) ngokwayo nayiphi na enye indlela evunywe nguMphathiswa wePhondo.
- (4) yonke impahla yoomasipala abatshitshisiweyo engenakususwa kwindawo ekuyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili, ndawonye nayo yonke impahla enokususwa kwindawo ekuyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili abangenakwahlulelana ngayo, iya kugqithiselwa kumasipala oya

kuyisebenzisa kakhulu ukugqitha abanye, kodwa nawuphi na umasipala osenomnqweno wokuyisebenzisa loo mpahla unelungelo lokuqhubeka ngokuyisebenzisa oko ekwenza ehlawula inxenye yeendleko zokuyisebenzisa ngokokuyisebenzisa kwakhe de ilungelo lakhe lokuyisebenzisa lipheliswe ngesivumelwano;

- (5) ingatyeshelwanga imiqathango yecandelwana (4), uMasipala weNgingqi noMasipala weSithili banokuvumelana ngokuyahlula phakathi, nayiphi na impahla engenakususwa kwindawo ekuyo nekubhekiswe kuyo phaya kwincandelwana (4), nenokwahluleka phakathi, okanye bohluke naliphi na iqela lempahla ekubhekiswe kulo phaya kumacandelwana (3) no-(4) ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo noncedo lwaloo mpahla okanye lwezo mpahla, ngokuvumelana kwabo, ze isahlulelo ngasinye saloo mpahla sabiwe ngokwesivumelwano eso;
- (6) yonke impahla eyimali yoomasipala abatshitshisiweyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili iya kwahlulelwa abo masipala ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo noncedo lwaloo mpahla;
- (7) yonke impahla eyimali namatyala emali oomasipala abatshitshisiweyo engenakwayanyaniswa nomsebenzi othile iya kwahlulelwa uMasipala weNgingqi noMasipala weSithili ngale ndlela ilandelayo:-
- (a) Izibonelelo ezingasetyenziswanga eziziimfanelo zabaqeshwa, ezifana neentsuku zekhefu ezingasetyenziswanga, ziya kugqithiselwa kwiimeko apho izibonelelo zinokunxulumaniswa nomqeshwa othile ngokuhambelanayo nenkqubo yogqithiselo lwaloo mqeshwa ngokwemiqathango yale Shedyuli kwanenezinye iimeko ngokomlinganiselo oya kuthelakiswa nezibonelelo ezilungiselelwe imivuzo seyiphelile neziza kugqithiselwa kuMasipala weNgingqi noMasipala weSithili;
- (b) Izibonelelo nezibonelelo ezingasetyenziswanga ngenjongo ethile ziya kugqithiselwa ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo nenjongo yesibonelelo okanye yesibonelelo ngasinye;
- (c) Izibonelelo nemali ezingasetyenziswanga eyintsalela yohlobo lwesiqhelo iya kwahlulelwa uMasipala weNgingqi noMasipala weSithili ngenye yezi ndlela zilandelayo:-
- (i) ngokuthelakanisekayo kweengxelo-mali ezihlanganisiweyo zakutsha nje zoMasipala weNgingqi noMasipala Sithili;
- (ii) nayiphi na enye indlela evunye nguMphathiswa wePhondo.
- (8) Yonke impahla engaphathekiyo yoomasipala abatshitshisiweyo neyayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili iya kwabelwa umasipala omnye, noko kunjalo nawuphi na omnye umasipala onomnqweno waloo mpahla ingaphathekiyo uya kuba nelungelo:-
- (a) lokuzuza imbuyekezo eyanelisayo, oko kuquka imali, ukutshintshiselwa okanye naluphi na olunye uhlobo lwembuyekezo ekunokuvunyelwana ngayo; kananjalo

(b) aqhubeke ngokuyisebenzisa loo mphahla xa athe wahlawula isabelo esithelekisekayo seendleko zokuyisebenzisa de elo lungelo lokuyisebenzisa lipheliswe ngokuvumelana.

(9) zonke iirekhodi zoomasipala abatshitshisiweyo nezayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili nabangenakwahlulelana ngazo, ziya kugqithiselwa kumasipala omnye ngokokusondela kwazo kumsebenzi iirekhodi ezo ezoyamene nawo noko kunjalo nabanye oomasipala baya kubanelungelo lokuzifikelela ezo rekhodi kananjalo baya kubanelungelo lokufunyaniswa iikopi zazo.

(10) wonke amatyala oomasipala abatshitshisiweyo nayanyaniswa nomsebenzi okanye imisebenzi ekufanele yenziwe nguMasipala weNgingqi noMasipala weSithili aya kwahlulelwa uMasipala weNgingqi noMasipala weSithili ngendlela eyanelisayo, oko kusenziwa kunikwe ingqalelo uhlobo nenjongo yaloo matyala.

(11) yonke impahla namatyala oomasipala abatshitshisiweyo, ngaphandle kwalawo achazwe phaya kwicandelwana (7), nangenakwayanyaniswa nomsebenzi othile, aya kugqithiselwa kuMasipala weNgingqi.

(section 16A. inserted by PN.675/2000)

Inkqubo yokuGqithisela iMpahla, amaTyala neeRekhodi

16B.(1) Ingatyeshelwanga imiqathango yecandelo 16A necandelo 16C, kananjalo ngeli lixa kusalindelwe ukufezekiswa kwenkqubo yogqithiselo ngokweli candelo, yonke impahla, wonke amatyala nazo zonke iirekhodi zoomasipala abatshitshisiweyo, xa kukho imfuneko yoko, ziya kugqithiselwa okwethutyana kuMasipala weNgingqi, kwaye ke ngoko yonke impahla, wonke amatyala nazo zonke iirekhodi ezifanele ukugqithiselwa kuMasipala weSithili ngokwemiqathango yecandelo 16A okanye 16C lale Shedyuli ziya kuthatyathwa njengezigqithiselwe kuMasipala weNgingqi oko kusenziwa ngokwamalungiselelo aphakathi koMasipala weNgingqi noMasipala weSithili, malungiselelo lawo achaza ukuba uMasipala weSithili uya kufezekisa umsebenzi okanye imisebenzi eyayamene nempahla, amatyala neerekhodi ezo oko ekwenza egameni loMasipala weSithili.

(2) Ukuze ku:-

- (a) kube nokulungiselelwa nawaphi na amalungiselelo ngokwemigaqo yoMthetho oHloniyelweyo wamaSebe ooMasipala; okanye
- (b) kube nokuvunyelwa uMasipala weNgingqi kwanoMasipala weSithili ukuba bangene kwizivumelwano, kuqukwa nezivumelwano ezimalunga nomsebenzi,

ezinokuchaphazela utshintsho lwabasebenzi ngokwemigaqo yale Shedyuli, akukho nalinye ilungu eliya kunikezelwa ngokupheleleyo ngaphambi komhla wama-30 kuJuni 2001, okanye olo suku luya kube lumiswe nguMphathiswa wePhondo.

(3) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo iCEO nganye kuya kufuneka qulunqe uxwebhu olunoludwe layo yonke impahla, amatyala neerekhodi zomasipala wayo otshitshisiweyo ngokwendlela eyalelwe nguMphathiswa wePhondo, kufuneka abe okwethutyana zonke iimpahla, amatyala, neerekhodi zomasipala otshitshisiweyo wakhe ngokuhambelanayo nemithetho-ssiseko echaziweyo

kwicandelo 16A nele 16C, kwaye kuya kufuneka ukuba inike umphathi wethutyana kamasipala ne-IMM yoMasipala weSithili iikopi ezipheleleyo zoxwebhu olunolo ludwe.

- (4) Ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo, kodwa ngokwemiqathango yecandelwana (2), umphathi wethutyana kamasipala, ebonisene ne-IMM zoMasipala weSithili kuya kufuneka ukuba:-
- (a) ahlanganise amaxwebhu ekubhekiswe kuwo phaya kwicandelwana (1) awenze abe luxwebhu olunye ze ekugqibeleni abe ngokwahlukeneyo impahla, amatyala neerekhodi eziza kugqithiselwa kuMasipala weSithili okanye kooMasipala beeNgingqi ngokwemiqathango yecandelo 16A nele 16C kanti nezo ekuya kufuneka ukuba zigqithiselwe ngokwesivumelwano ekubhekiswe kuso kwicandelwana (2);
 - (b) anike i-IMM yoMasipala weSithili ikopi yolo xwebhu kananjalo afumane kwi-IMM yoMasipala weSithili ikopi yoxwebhu oluqulunqwe yi-IMM yoMasipala weSithili; kananjalo
 - (c) ahlanganise uxwebhu ekubhekiswe kulo phaya kumhlathi (a) noxwebhu olufunyenwe kwi-IMM yoMasipala weSithili ekubhekiswe kulo phaya kumhlathi (b) aze loo maxwebhu enziwe uxwebhu olunye olubonakalisa yonke impahla, wonke amatyala nazo zonke iirekhodi eziza kugqithiselwa kuMasipala weNgingqi.
- (5) Ingatyeshelwanga imimiselo echazwe kwicandelo 16A no 16C, umphathi wethutyana kamasipala unokuthi evumelene ne-IMM yoMasipala weSithili, akuhlengahlengise ukwabiwa kwempahla, amatyala neerekhodi ngokwemiqathango yecandelwana (4) oko ekwenzela ukulungiselela ukwabelana, okufaneleke nangaphezulu, ngazo zonke ezo zinto phakathi koMasipala weNgingqi noMasipala weSithili.
- (6) Xa kunokubela impikiswano ngokubhekiselele kulwabiwo lwempahla, amatyala neerekhodi phakathi komphathi wethutyana kamasipala ne-IMM yoMasipala weSithili loo mpikiswano kuya kufuneka ukuba igqithiselwe kuMphathiswa wePhondo ukuze uMphathiswa wePhondo okanye umtyunjwa wakhe agqibe ngayo ngokweenkqubo ezimiswe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye somtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (7) Umphathi wethutyana kamasipala uya kuluqinisekisa ngenchwadi uxwebu loludwe oluhlanganisiweyo ekubhekiswe kulo phaya kwicandelwana (4)(c) kwaye kuya kufuneka ukuba uxwebhu olo olunoludwe alunike uMphathiswa wePhondo ngomhla okanye ngaphambi komhla oya kumiselwa nguMphathiswa wePhondo.
- (8) Nje ngokukhawuleza kangangoko emva kokuqinisekiswa koxwebhu loludwe oluhlanganisiweyo ngokwecandelwana (7), kodwa kungagqithanga umhla oya kumiselwa nguMphathiswa wePhondo, umphathi wethutyana kamasipala kuya kufuneka ukuba aqalise ugqithiselo layo yonke impahla, amatyala neerekhodi zoomasipala abatshitshisiweyo.
- (9) Umasipala weNgingqi uya kuliphicotha ugqithiselo lwempahla, amatyala neerekhodi kungagqithanga iinyanga ezili-12 emva komhla wokuqalisa, kungenjalo ngolo suku luya kumiselwa nguMphathiswa wePhondo.

Ugqithiselo lwabasebenzi, impahla, namatyala ayanyaniswa nemisebenzi engeyiyo leya idweliswe kwicandelo 84 loMthetho wamaSebe ooMasipala

16C. Ingatyeshelwanga imiqathango yecandelo 12(1) necandelo 16A lale Shedyuli, ukususela ngomhla wokuqalisa:-

(a) Bonke abasebenzi, yonke impahla, onke amatyala nazo zonke iirekhodi zoomasipala abatshitshisiweyo nezayanyaniswa ngokukodwa:-

- (i) lindlela ezingezizo ezomasipala
- (ii) neenkonzozo zeenqwelo-zigulane;
- (iii) linkonzozo zempilo ezingezizo ezomasipala
- (iv) ulawulo lweentlekelele;
- (v) ulwakhiwo lwezindlu;
- (vi) amathala eencwadi;
- (vii) umzi wocgino lwezinto zakudala;
- (viii) iinkqubo zokuzisa amanzi ingezizo ezo zamanzi alungele ukuselwa
- (ix) ulondolozo lwendalo nokusingqongileyo, kubandakanywa nolawulo lwamazibuko, imfundiso ngokusingqongileyo, ulawulo lwezilwanyana nolawulo lwamanzi angaphakathi elizweni; kananjalo ubuxhakaxhaka bokubonelela ngamanzi ngaphandle kobuxhakaxhaka bokubonelela ngamanzi alungele ukuselwa;
- (x) nemithetho yendlela nokuthotyelwa kwayo;

ziya kugqithiselwa kuMasipala weNgingqi ngokwenkqubo echazwe kwicandelo 12(2), (3) no (4) necandelo 12A no 16B lale Shedyuli;

(b) bonke abasebenzi, yonke impahla, onke amatyala nazo zonke iirekhodi zoomasipala abatshitshisiweyo ezingenakwayanyaniswa nemisebenzi ekubhekiswe kuyo phaya kwicandelo 84(1) loMthetho wamaSebe ooMasipala okanye umhlathi (a) okanye (b), ziya kugqithiselwa kuMasipala weNgingqi ngokwemimiselo neenkqubo ezichazwe kwicandelo 12, 12A, 16A no- 16B lale Shedyuli.

(section 16C. inserted by PN.675/2000)

Ugqithiselo lwabasebenzi, impahla, amatyala neerekhodi ezinxulumene nezivumelwano zobonelelo ngeenkonzozo zikamasipala

16D.(1) Kungatyeshelwanga nantoni na ephikisana noko kuqulethwe kuso nasiphi na isivumelwano sokubonelela ngeenkonzozo zoomasipala, esenziwa noomasipala abatshitshisiweyo, sivumelwano eso esithi umasipala lowo utshitshisiweyo kuya kuba nguye obonelela ngeenkonzozo; bonke abasebenzi, yonke impahla, onke amatyala nazo zonke iirekhodi zaloo masipala utshitshisiweyo ziya kugqithiselwa ngokwemiqathango yale Shedyuli

(2) Umphathiswa wePhondo nguye oya kugqiba ekubeni nguwuphi umasipala oya kuthabatha isikhundla somasipala otshitshisiweyo ngokubhekiselele kwisivumelwano sobonelelo ngeenkonzozo esenziwa ngumasipala otshitshisiweyo sivumelwano eso esithi umasipala lowo utshitshisiweyo nguye oya kubonelela ngeenkonzozo, kwaye unokuyalela uMasipala weNgingqi okanye uMasipala weSithili ukuba aqalise kananjalo alawule nawaphi na amalungiselelo ethutyana obonelelo ngeenkonzozo ngokwemiqathango

yecandelo 19 lale Shedyuli, ukuqinisekisa ukuqhubeka kubonelelo ngeenkonzo ngokubhekiselele kwisivumelwano eso.

- (3) Kwithuba ukususela ngomhla wokuqalisa ukuya kumhla uMphathiswa wePhondo enze ngawo isigqibo ngokwecandelwana (3), uMasipala weNgingqi kuya kuba nguye ongena esikhundleni somasipala otshitshisiweyo ngokwasemthethweni ngokubhekiselele kuzo naziphi na izivumelwano zobonenelelo ngeenkonzo ekubhekiswe kuzo kwicandelwana (1) ngokwemiqathango yecandelo 19.

(section 16D. inserted by PN. 675/2000)

Ukusilela ekufezekiseni imiqathango ethile yale Shedyuli

- 16E. Xa kunokwenzeka ukuba umphathi wethutyana kamasipala okanye nabani na ongomnye akufuneka enze umsebenzi othile ochazwe kwicandelo 12A okanye 16B, asilele okanye ale ukwenza oko kwithuba elichazwe kuloo macandelo, uMphathiswa wePhondo angatyumba nabani na ukuba enze loo msebenzi, xa kunjalo ke loo Masipala weNgingqi okanye loo Masipala weSithili uchaphazelekayo kuya kufuneka asebenzisane ngokupheleleyo naloo mntu.

(section 16E. inserted by PN.675/2000)

Imithetho yeNguqu ebhekiselele kwimithetho yenqila nemimiselo

- 17.(1) Nayiphi na imithetho yenqila esetyenziswayo kummandla womasipala otshitshisiweyo emvan nje komhla wokuqala wonyulo iya kusebenza ukususela ngalo mhla, de kube kuthe ngexesha likugwalasewa ngokutsha nokwenziwa kohlenga-hlengiso ngokwemiqathango yecandelo le-15 loMthetho weNgingqi kaMasipala, uhlale usebenza ngokupheleleyo kuloo mmandla umiselwe wona, ukwaxhomekeke nasekubeni uhlonyelwe okanye utshitshiswe nguMasipala.
- (2) Ngaphandle kokuba le mithetho ayingqinelani neemeko ekubhekiselelwa kuzo okanye ayicaciswanga ngokufanelekileyo, isingqinisiso kuyo nayiphi na imithetho yenqila enjengale esiya kwenza ukuba:-
- (a) umasipala otshitshisiweyo okanye owayengaphambili, kufuneka achazwe njengosingqiniso kuMasipala weNqila, kwakunye
 - (b) indlela ami ngayo okanye umsebenzi kamasipala otshitshisiweyo, melwe kukuchazwa njengesingqinisiso kubume ahambelana naso okanye umsebenzi kaMasipala.
- (3) Ngokuxhomekeke kwimiqathango yolu ludwe lweenkqubo nangokugatyanga kutshitshiswa koomasipala abatshitshiweyo, nasiphi na:-
- (a) isigqibo esithe sathatyathwa;
 - (b) isaziso, isiqinisekiso okanye amaxwebhu athe akhutshwa;
 - (c) isalathiso, ukwamkeleka, imvume okanye igunya elithe lanikezelwa;
 - (d) isaphulelo, iphepha-mvume okanye imvume ethe yanikwa okanye yakhutshwa;
 - (e) ukuqeshwa ukuthe kwenziwa;
 - (f) umqeshwa othe watyunjwa;
 - (g) isivumelwano okanye isibophelelo ekuthe kwangenwa kuso;
 - (h) amagunya athi anikweze umsebenzi;

- (i) amaxabiso, uluhlu lweentlawulo okanye iintlawulo exhibekiweyo;
- (j) umhlaba othe wabekelwa bucala, kwakunye
- (k) amanye amanyathelo athe athatyathwa okanye izinto ezenziweyo,

ngumasipala otshitshisiweyo oya kuthi, ngokwemiqathango yolu luhlu lweenkqubo, zithathwe ezi zinto ngokwzinto abezenza ezikhutshiweyo, ekunikiswe ngazo, ezenziweyo, abaqeshwa abatyunjiweyo, izivumelwano ekungenwe kuzo amagunya anikeziweyo, okumiselweyo, okanye okuthe kwenziwa nguMasipala de kube kuphindwe kwaqwalaselwa ngokutsha kusenziwa nohlenga-hlengiso ngokwemiqathango yecandelo le-15 loMthetho wamaSebe ooMasipala.

- (4) Ngokwemiqathango yesahluko sama-20, 21, 22 nese 23 ekolu luhlu lwenkqubo, nabani na ngomhla wokuqala wonyulo othe wasebenzisa amagunya okanye wenza umsebenzi wakhe kungenjalo esebenza ngokwegunya lesikhundla sakhe nokuba ligunya awayelinikwe ngumasipala otshitshisiweyo, uya kuthi gqolo ukulisebenzisa elo gunya okanye enze umsebenzi lowo kungenjalo asebenze de kufike elo xesha athe wagqiba ngandlela yimbi uMasipala omtsha.
- (5) Ngokwenjongo zoludwe lweenkqubo yeMiqathango eLawula ukuMiselwa kwamaGosa oxolo njengoko kuchaziwe kwimigaqo yecandelo 334 loMthetho weNkqubo yolwaPhulo-Mthetho ka1977 (uMthetho wama-51 ka1977), naliphi na igosa eliqinisekisa ngokuthotyelwa komthetho elamiselwa ngumasipala otshitshisiweyo, liya kuthi ukususela kumhla wokuqala wonyulo lithathwe njengeliqeshwe nguMasipala weSithili eso lisebenza kuso.
- (6) Nasiphi na isicwangciso esisemthethweni esisetyenziswayo okanye esilandelwayo kummandla wolawulo loomasipala abatshitshisiweyo, siya kuhlala sisetyenziswa kungenjalo kulandelwa sona kummandla lowo besilungiselelwe ukusetyenziswa kuwo de sibe sihlonyelwe, siguqulwe okanye sitshitshisiwe nguMasipala.

IMicimbi yeMali

- 18.(1) Ukususela kumhla wokuqala wonyulo uhlahlo-lwabiwo-mali olukhoyo loomasipala abatshitshisiweyo luya kusebenza kuhlahlo-lwabiwo-mali loMasipala de ibe ngumhla wama-30 kuJuni 2001.
- (2) Ngokungayigatyanga miqathango yecandelwana (1), uMasipala:-
 - (a) angenza uhlanga-hlengiso kuhlahlo-lwabiwo-mali olukhoyo, okanye
 - (b) angagqiba ekubeni azivale iincwadi ze uhlahlo-lwabiwo-mali alwenze ngokutsha ngentsalela yemali yonyaka wohlahlo-lwabiwo-mali;

lungenziwa uhlanga-hlengiso okanye ulungiselelo nokwamkelwa kohlahlo-lwabiwo-mali olunjengolu, ukuba oko kuya kuhambelana nomthetho osetyenziswayo.
- (3) Phambi kwesiqalo sonyaka-mali ka2001/2002 kuya kufuneka uMasipala ukuba alungiselele ukwamkela izicwangciso zokulawula imali kwanemigaqo-nkqubo esebenza:-
 - (a) nemiqathango nebandabakanya nenkqubo yoomasipala yokutshintshwa kohlahlo lwabiwo mali ukuqinisekisa uzinzo kwezezimali kwithuba lasemva konyaka mali ka2000/2001;
 - (b) neendleko zexesha eliphakathi;

- (c) ukulinganiswa kobume boluhlu lweerhafu loLawulo loMmandla weSithili;
- (d) ukwenziwa kwamalungiselelo abanzi oxwebhu olutsha loqikelelo-maxabiso kwanokuphakanyiswa kweimicimbi yeerhafu exifikeleleka nakubani kuLawulo loMmandla weSithili;
- (e) ukuziswa ngaphambili kwee-akhawunti eziqukanisiweyo;
- (f) ukuhlanganiswa kwenkqubo zocwangciso-mali neenkqubo zohlahlo-lwabiwo-mali;
- (g) ulawulo lwamatyala, kwakunye
- (h) neenkqubo zokuthenga.

Amalungiselelo eThutyana oLawulo

- 19.(1) Ukususela ngomhla wokuqalisa ukuya kumhla apho abasebenzi, iimpahla, amatyala neerekhodi zide ekugqibeleni zobiwa ngokwemimiselo ekule Shedyuli, okanye omnye umhla onokumiselwa nguMphathiswa wePhondo, uMasipala weNgingqi:
- (a) uya kunyanzeleka ukuba asebenzisane ngeyona ntembeko inkulu nabo bonke abasebenzi, iimpahla, amatyala okanye iirekhodi
 - (i) abaqeshwe ngokwemiqathango yecandelo 12A(1);
 - (ii) abagqithiselwe ngokwemiqathango yecandelo 16B(1) kananjalo
 - (iii) ezobiwe okwethutyana ngokwecandelo 12A(3) nele 16B(3) imo enokuthenjwa ngokubhekiselele kuMasipala weSithili
 - (b) engabujongelanga phantsi ububanzi becandelwana (1) kanto nangokwecandelo 12(2), ngokubhekiselele kwimihlathi (i) no (vii) elapha ngezantsi, akayi kuthi enganikwangwa nvume ngenchwadi nguMphathiswa wePhondo, mvume leyo inemiqathango ethile ekubhekiselelwe kuyo kwimihlathi (ii), (iii), (iv), (v), (vi) nowe-(viii) elapha ngezantsi, kuthintelwa ngaphandle kwesizathu esivakalayo enze okanye aqalise naziphi na inguqu zophuhliso lwabasebenzi abaqeshwe okwethutyana ngokwemiqathango yecandelo 12A(1), okanye enze izabiwo zethutyana ngokwemiqathango yecandelo 12A(3) ngokuthi:-
 - (i) adale okanye avale naziphi na izikhundla ezintsha;
 - (ii) avale izikhundla ezingenamntu;
 - (iii) aphakamisa okanye aqalise ukuguqula ngokutsha nokunyusa umgangatho wazo naziphi na izikhundla ezikhoyo;
 - (iv) anyusele abasebenzi kwizikhundla eziphezulu;
 - (v) anike abasebenzi nayiphi na imisebenzi yesigxina ngaphandle kwemisebenzi esetyenzwa okwethutyana;
 - (vi) ngokuxhomekeke kuwo nawuphi na umthetho, izivumelwano ezihlanganisiweyo okanye ingqesho engesosigxina:-
 - (aa) ukunika imvume kwanokusebenzisa nayiphi na imali evunyelweyo, kungenjalo imali evunyelweyo engunobambiso;
 - (bb) ukuqalisa ukubonelela ngonyuso mali lwemivuzo.

- (vii) aqalise naziphi na iinguqu kwimibutho yabasebenzi okanye kwiimo zokuphatha, kananjalo
 - (viii) angene nakwisiphi isivumelwano esihlanganyelweyo, ngaphandle kwesivumelwano esihlanganyelweyo ekubonisenwe ngaso kwavunyelwana ngaso kwiKansile yoThethwano nesiya kubophelela uMasipala weNgingqi ngokubhekiselele kuwo nawuphi na umba odweliswe kweli candelwano
- (c) engabujongelanga phantsi ububanzi becandelwana (1), akayi kwenza ngaphandle kokuba kokufumana imvume yoMasipala weSithili, mvume leyo ingasayi kuthintelwa ngaphandle kwesizathu esivakalayo, okanye ukuqalisa nasiphi na isigqibo esinxulumene nayo nayiphi na impahla, amatyala, iirekhodi ngokwemiqathango yecandelo 16B(1) okanyeeyabiwe okwethutyana ngokwemiqathango yecandelo 16B(3) esiya kwenza ukuba loo masipala:-
- (i) athengise okanye aqeshise ngempahla engenakususwa kwindawo ekuyo okanye enokususwa kwindawo ekuyo mpahla leyo exabiso layo lingaphezulu kwama-R20 000,00 (amawaka angamashumi amabini eerandi) ngaphandle xa oko kusenziwa ngokwemiqathango yezivumelwano ezikhoyo, nangona ke loo miqathango ingenakusebenza xa kuchithwa impahla engenakususwa kwindawo ekuyo ngokwenkqubo yolwakhiwo lwezindlu oluvunywe ngokwemiqathango yoMthetho woLwakhiwo lweZindlu, 1997 (Umthetho 107 wonyaka we-1997);
 - (ii) athenge impahla engenakususwa kwindawo ekuyo okanye enokususwa kwindawo ekuyo mpahla leyo exabiso layo lingaphezulu kwama-R20 000,00 (amawaka angamashumi amabini eerandi);
 - (iii) enze izivumelwano ezintsha zethuba elingaphezulu konyaka omnye;
 - (iv) avuselele izivumelwano zethuba elingaphezulu kweenyanga ezintathu;
 - (v) azifumanele ubuxhakaxhaka betekhnoloji obuquka oomatshini bohlobo lwekhompyuta neenkqubo abazisebenzisayo, kananjalo
 - (vi) asebenzise:-
 - (aa) iimali eziqingqwe ngokomthetho, ezisebenzisela ukuthenga impahla eyikapitali okanye enye inkcitho kungenjalo ukuhlawulela inkcitho ngokuvula amatyala angaphakathi emali-mboleko oko ekwenzela iinjongo ezingezizo ezeeprojekthi zolwakhiwo lwezinto ezisetyenziswa sisizwe eziqingqiweyo neziyimfuneko kwanezivunywe kuhlalo-lwabiwo mali lonyaka wama-2000/2001;
 - (bb) iimali ezigcinwe kwithrasti (ezingaquki ii-akhawunti zeKansile) ezisebenzisela naziphi na iinjongo ngaphandle kwezo ezo mali ezigcinelwe zona;
 - (cc) iimali ezibekelelweyo, ikapitali ebekelweyo okanye izibonelelo ezibekelelweyo ngenjongo engeyiyo yokulolonga izinto ezakhelwe isizwe nezifakwe

kuhlahlo-lwabiwo mali, ulolongo lwezinto zonzunguphalo ezikhelwe isizwe nezingafakwanga kuhlahlo-lwabiwo mali, lolongo olo olungenakuhlawulelwa ngemali ecwangciselwe ukwenza umsebenzi okanye ngokuthi kucinywe amatyala angasenakuhlawulwa; kananjalo

- (dd) nayiphi na ithrasti esekwe ngokomthetho, nasiphi na isibekelelo okanye isibonelelo esingeyo mali izinkozo exhaswa ngemali engeyiyo esisiphumo sokucinywa kwamatyala angasenakuhlawulwa.

Nangona ke eli candelwana lingenakusebenza kwiimeko zonzunguphalo; kwaye

- (d) akayi kwenza okanye kuqalisa nasiphi na isigqibo esiya kwenza ukuba uMasipala weNgingqi agqithise kwikapitali yakheto evunyiweyo okanye kwimali yonyaka-mali wama-2000/2001 ecwangciselwe ukwenza umsebenzi.
- (2) Xa kunokuvela impikiswano ngokubhekiselele kwimiqathango yecandelwana (1) phakathi koMasipala weNgingqi noMasipala weSithili, loo mpikiswano kuya kufuneka ibhekiswe kuMphathiswa wePhondo ukuze ibe nguMphathiswa wePhondo okanye umtyunjwa wakhe owenza isigqibo ngayo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo so Mphathiswa wePhondo okanye umtyunjwa wakhe owenza isigqibo ngayo ngokweenkqubo ezimiselwe nguMphathiswa wePhondo, kwaye isigqibo soMphathiswa wePhondo okanye umtyunjwa wakhe akuyi kugqithwa kuso kwaye siya kuba sesibophelelayo.
- (3) Nasiphi na isivumelwano esenziweyo nesiphikisana nemiqathango yecandelwana (1) okanye (2) asiyi kusebenza kwaphela.

(section 19 amended by PN.675/2000)

Ukuqeshwa kwamagosa abambeleyo

20. Phanbi komhla wokuqala wonyulo uMphathiswa wePhondo uya, kuthi akuba eziqwalasele iziphakamiso zeQonga leNguqulelo leSithili ezinxulumene noMasipala weNqila aqeshe nawuphi na umntu nokuba kukwesiphi na isikhundla uya kuqeshwa ngokwemigaqo yomthetho esetyenziswayo kwaye isikhundla eso siya kuba sesethutyana noya kuqalisa emsebenzini ngomhla wokuqala wonyulo ahlale kuwo de abe uMasipala uqesha ngokwakhe ngokwemigaqo yomthetho osetyenziswayo ekubhekiselelwe kuyo kwesi sahluko.

Ukuqeshwa koMphathi weThutyana kaMasipala

- 21.(1) Ngaphambi komhla wokuqala wonyulo uMphathiswa wePhondo, emva kokuqwalasela iziphakamiso zaQonga leNguqulelo leSithili, uya kutyumba umphathi wethutyana kamasipala noya kuhlala kweso sikhundla de abe uMasipala weNqila umisa owakhe umphathi okanye umphathi olibambela.
- (2) Imisebenzi yomphathiswa wethutyana kamasipala iya kuba yile ilandelayo:-
- (a) uya kubiza indibano yokuqala yeKansile kaMasipala weNqila ngokwesahluko sama- 29(2) soMthetho wamaSebe kaMasipala;
- (b) uya kongamela indibano yokuqala yeKansile kaMasipala de kube kunyulwe isithethi;

- (c) emva komhla wokuqala wonyulo, uya kusebenza njengentloko yolawulo kwananjengegosa eli loMasipala weSithili de abe uMasipala umisela owakhe umphathi nokuba
 - (d) emva komhla wokuqala wonyulo, uya kuyenza yonke imisebenzi efanele ukwenziwa yiCEO yomasipala ngokwemithetho wolawulo osetyenziswayo;
 - (e) ajongane noxanduva lwenkqubo yokutshintshwa kwabasebenzi, izixhobo zokusebenza, ingeniso, ulawulo kwanamanye amaxwebhu kuMasipala weSithili;
 - (f) amisele abantu abaya kufezekisa imfanelo azimiseleyo ngokwemigaqo ekule Shedyuli (g) athabathe amanyathelo afanelekileyo ukuqinisekisa ukuba inkonzo eqhutywayo isahamba ngendlela nasemva komhla wokuqala wonyulo;
 - (g) athabathe amanyathelo afanelekileyo ukuqinisekisa ukuba ubonelelo ngeenkono luya qhubeka nasemva komhla wokuqalisa ukusebenza;
 - (h) aseke inkqubo enobuchule yethutyana yolawulo lwemali kaMasipala weSithili (l) amisele iindawo zethutyana zeenkqubo zokwenza imxelo;
 - (i) amisele uMasipala waseKhaya imigaqo yobudlelwane bolawulo namagunya bethutyana;
 - (j) ukunika izimvo neziphakamiso ezimalunga nenkqubo yezivumelwano, amalungiselelo eenkqubo kwanezivumelwano ngenkqubo yeenkonzo ezenziwayo;
 - (k) ukufezekiswa kwenkqubo yamalungiselelo enkonzo yethutyana phakathi kooMasipala beeNgingqi noMasipala weSithili;
 - (l) anikeze naliphi na kumagunya akhe okanye imisebenzi yakhe kuye nawuphi na umqeshwa kaMasipala weNgingqi, kwakhona arhoxise, abuyisele kuye loo magunya, kwakunye
 - (m) Kwisithuba esiphambi komhla wokuqala wonyulo uya kwenza amalungiselelo eenkqubo ezikankanyiweyo ku (a) ukuya ku (l).
- (3) Phambi komhla wokuqala wonyulo, iiCEOs ziya kubambisana nomphathi komasipala weThutyana kuyo yonke imibandela enokwenza noku sekwa komasipala omtsha wengingqi.
- (4) Ukusukela ngomhla wokuqala kumhla wonyulo, iiCEO ziya kusebenza phantsi kwemiyalelo yomphathi wethutyana kamasipala, kanti nomphathi wethuyana kamasipala uya kuba negunya kubo.

Abaphathi abancedisayo bethutyana bakamasipala

22. UMphathiswa wePhondo unokuthi, emva kokuba ezinike ingqalelo naziphi na iziphakamiso zaQonga leNguqulelo leSithili, aqeshe nokuba bangaphi abancedisi bethutyana babe ngabaphathi betyhutyana bakamasipala nabaya kuqalisa emsebenzini emva nje kokuba beqeshiwe kwaye baya kuhlala kwezo zikhundla de uMasipala abe usiqinisekisile okanye usiphelisile isikhundla eso.

IQela loLawulo elikiSikhundla esiPhezulu

23. Nabaphi na abancedisi abamisela ukuba ngabaphathi bethuyana bakamasipala, bekunye nomphathi wethutyana kamasipala, baya kuba

yinxalenye yeqela lolawulo elikwisikhundla eziphezulu likaMasipala neliya kongamela iinkqubo zokufezikiswa ukusekwa koMasipala weNqila.

Inggesho

24. Nawuphi na umntu oqeshwe ngokwezahluko 20, 21 okanye 22, oya kuthi, ngexesha lokuqeshwa kwakhe abe ngumsebenzi womasipala otshitshisiweyo kungenjalo uMasipala weNqila oya, kuthi ngokwemiqathamngo ekwicandelo le-12 lale skedyuli, ahlale eqeshwe ngumasipala otshitshisiweyo okanye uMasipala weNqila, eya kufezekisa iimfuno zomsebenzi njengomntu othunyelweyo.

INdibano yokuqala yeKansile kaMasipala weSithili

- 25.(1) uMphathi wethutyana kamasipala uya kuthi, kwiintsuku ezintathu phambi kokuhlalalelwa kwendibano yeKansile kaMasipala weSithili, athumele kuceba ngamnye kwindawo ahlala kuyo nokuba kukwindawo ekhethwe nguceba lowo kubhekiselelwe kuye, isaziso esimalunga nendawo, umhla, ixesha lendibano yokuqala kwane-agenda; kuxhomekeke kumphathiswa wethutyana ukubiza indibano yokuqala ngesikhawu.

- (2) Ngokungayigatyanga nje imithetho yeengingqi esebenzayo, kodwa ngokuxomekeke kwizibonelelo zaMthetho wamaSebe kaMasipala, imiqathango nemimiselo yentlanganisano yokuqala yeKansile yoMasipala weNgingqi yimimiselo nemimiselo yentlanganisano yokuqala yeKansile yoMasipala weNgingqi yimimiselo nemimiselo ekhankanyiweyo kweiSaziso sePhondo esingu- 411/1988 njengongoko sichaziweyo kwiGazethi yePhondo enguNombolo 4532 yomhla wama- 20 kuMeyi 1998 eneenguqulelo ezifunekayo kwezinye iziqendu, loo mimiselo iya kuhlala iyesebenza de kusetyenziswe imiqathango nemimiselo nguMasipala weNgingqi.

(subsection (2) amended by PN.675/2000)

- (3) INdawo eya kubanjelwa kuyo indibano yokuqala yeKansile kaMasipala weNqila iya kuba yiNdlu yeKansile yeBhunga leThutyana leNgingqi laseStellenbosch etshitshisiweyo eStellenbosch.

- (4) I-agenda yendibano yokuqala iya kuba yile ilandelayo:-

- (a) Ukunyulwa kwesithethi;
- (b) ukuba ngaba uMasipala weSithili uyafuna na ukuseka ikomiti elawulayo, ukuba kunjalo, kuya kumiselwa umgaqo-nkqubo womelo lonyulo lwekomiti elawulayo;
- (c) ukunyulwa kooceba abaya kusebenzela ikomiti elawulayo;
- (d) ukunyulwa kukasodolophu kumalungu ekomiti elawulayo;
- (e) ukunyulwa kosekela-sodolophu, kumalungu ekomiti elawulayo nothianikwe imvume nguMphathiswa wePhondo, kwakunye
- (f) nayiphi na eminye imisebenzi esekwe ngumphathi wethutyana kamasipala ne-agenda emiselweyo.

Ukusetyenziswa kwesi Saziso

- 25A. Xa kunokuvela ukungavisisani, malunga nokufezekiswa kwemiba ekwesi Saziso, phakathi kwesi Saziso nemiqathango yaso nasiphi na isaziso secandelo 84(3) esabhengezwa nguMphathiswa wePhondo okanye nasiphi isaziso secandelo 18 esabhengeza nguMphathiswa wePhondo, nokuba sisiphi kwezo zaziso, imiqathango yesaziso ecandelo 83(3) yiyo eya kusebenza.

(section 25A inserted by PN. 675/2000)

USekela Sodolophu weSigqeba

- 25B Kunikezwe imvume ngokwemiqathango yecandelo 55 lomthetho, iMunicipal Structures Act, njengoko silungisiwe, kusenzelwa unyulo losekela sodolophu wesigqeba.

(section 25B inserted by PN.184/2003)

ISihloko esifutshane nokuqalisa

26. Esi Saziso sibizwa ngokuba nguMasipala waseStellenbosch (WCO24) ukuSekwa kweSaziso nesiqalise ukusebenza ngomhla esipapashwe ngawo.

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

Gewysig deur:

*Provinsiale Kennisgewing 675 van 4 Desember 2000
Provinsiale Kennisgewing 456 van 19 Desember 2002
Provinsiale Kennisgewing 184 van 28 Mei 2003
Provinsiale Kennisgewing 11 van 3 Januarie 2006
Provinsiale Kennisgewing 117 van 28 Maart 2008
Provinsiale Kennisgewing 55 van 25 Februarie 2011
Provinsiale Kennisgewing 283 van 24 Oktober 2014
Provinsiale Kennisgewing 261 van 31 Julie 2015*

INSTELLING VAN DIE MUNISIPALITEIT STELLENBOSCH (WCO24)

Uit hoofde van die gesag aan my verleen by artikels 12 en 14 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), gee ek hiermee kennis van die instelling van die Munisipaliteit Stellenbosch op die voorwaardes wat in die Bylaag hiervan uiteengesit is.

Gedateer op hierdie 22ste dag van September 2000.

P UYS, PROVINSIALE MINISTER VAN PLAASLIKE REGERING

BYLAAG

Woordomsrywings en Uitleg

1. In hierdie Bylaag, tensy uit die samehang anders blyk, omvat die enkelvoud die meervoud en omgekeerd, word voorkeur verleen aan die Engelse teks ingeval die verskillende tekste teenstrydig is, en het 'n woord of uitdrukking waaraan die Munisipale Strukturewet 'n betekenis geheg het, dieselfde betekenis, en beteken –
 - (1) **“afgeskafte munisipaliteite”** daardie bestaande munisipaliteite afgeskaf ingevolge artikel 3 van hierdie Bylaag;
 - (1A) **“artikel 18-kennisgewing”** 'n kennisgewing afgekondig ingevolge artikel 18 van die Munisipale Strukture Wysigingswet;
(subartikel (1A) ingevoeg deur PK 675/2000)
 - (1B) **“artikel 84(3)-kennisgewing”** 'n kennisgewing afgekondig ingevolge artikel 84(3) van die Munisipale Strukturewet;
(subartikel (1B) ingevoeg deur PK.675/2000)
 - (2) **“Bedingingsraad”** die Wes-Kaapse afdeling van die Suid-Afrikaanse Bedingingsraad vir Plaaslike Bestuur wat aansoek gedoen het om registrasie as 'n bedingingsraad ingevolge Algemene Kennisgewing 1513/1999, soos gepubliseer in Staatskoerant No. 20282 van 16 Julie 1999;

- (2A) **“burgemeesters-uitvoerende stelsel”** ‘n stelsel wat voorsiening maak vir die uitoefening van uitvoerende gesag deur ‘n uitvoerende burgemeester in wie die uitvoerende leierskap van die munisipaliteit berus en wie deur ‘n burgemeesterskomitee bygestaan word;
(subartikel (2A) ingevoeg deur PK.184/2003)
- (3) **“Distriksmunisipaliteit”** die Boland Distriksmunisipaliteit wat met ingang van die effektiewe datum ingestel moet word;
- (3A) **“Distriksmunisipaliteit se TMB”** die tussentydse munisipale bestuurder van die Distriksmunisipaliteit;
(subartikel (3A) ingevoeg deur PK.675/2000)
- (3B) **“Distriksmunisipaliteitskennisgewing”** Provinsiale Kennisgewing 486/2000, gepubliseer in Buitengewone Provinsiale Koerant No. 5590 van 22 September 2000;
(subartikel (3B) ingevoeg deur PK.675/2000)
- (4) **“Distrikstransformasieforum”** die Breërivier/Wynland Distrikstransformasieforum wat ingevolge die DTF-Kennisgewing ingestel is;
- (5) **“DTF-Kennisgewing”** Provinsiale Kennisgewing 78/2000 gepubliseer in Buitengewone Provinsiale Koerant No. 5435 van 10 Maart 2000;
- (6) **“effektiewe datum”** die datum waarop die verkiesing ‘n aanvang neem;
- (7) *(subartikel (7) geskrap deur PK.184/2003)*
- (8) **“Grondwet”** die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet 108 van 1996);
- (9) **“HUB”** die hoof uitvoerende beampte van ‘n afgeskafte munisipaliteit;
- (10) **“intermunisipale begrotingsoorplasinge”** die oordrag van fondse tussen munisipaliteite om inkomste stabiliteit te verkry tydens die periode van transformasie;
- (11) **“Munisipale Afbakeningsraad”** die Munisipale Afbakeningsraad wat by artikel 2 van die Munisipale Afbakeningswet ingestel is;
- (12) **“Munisipale Afbakeningswet”** die Wet op Plaaslike Regering: Munisipale Afbakenings, 1998 (Wet 27 van 1998);
- (13) **“Munisipale Strukturewet”** die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998);
- (13A) **“Munisipale Strukture Wysigingswet”** die Wysigingswet op Plaaslike Regering: Munisipale Strukture, 2000 (Wet 33 van 2000);
(subartikel (13A) ingevoeg deur PK.675/2000)
- (13B) **“Nasionale Minister”** die nasionale Minister verantwoordelik vir plaaslike regering;
(subartikel (13B) ingevoeg deur PK.675/2000)
- (13C) **“oordragproses”** die proses soos in hierdie Bylaag uiteengesit om die oordrag van alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite na die Distriksmunisipaliteit of die Plaaslike Munisipaliteite teweeg te bring, welke proses insluit:-

- (a) die identifisering van alle personeel, bates, laste en rekords wat oorgedra moet word;
- (b) die toepassing van die beginsels vir doeltreffende oordrag soos in hierdie Bylaag uiteengesit;
- (c) die toewysing van elke personeellid, bate, las en rekord aan óf die Distriksmunisipaliteit óf 'n Plaaslike Munisipaliteit, en
- (d) die inwerkingstelling van die oordrag;

(subartikel (13C) ingevoeg deur PK.675/2000)

- (13D) **“personeel”** alle personeel, insluitende funksionele, bestuurs- en steunpersoneel, en omvat dit vakante poste waarvoor begroot is, maar nie vakante poste waarvoor nie begroot is nie;

(subartikel (13D) ingevoeg deur PK.675/2000)

- (14) **“Plaaslike Munisipaliteit”** die Munisipaliteit Stellenbosch wat ingevolge artikel 4 van hierdie Bylaag ingestel word;

- (15) **“Provinsiale Minister”** die lid van die Kabinet van die Provinsie Wes-Kaap verantwoordelik vir plaaslike regering;

- (16) **“Provinsie”** die Provinsie Wes-Kaap;

- (17) **“Statutêre plan”** 'n plan wat ingevolge enige wetgewing vereis word, insluitende, sonder om beperk te wees tot, enige strukturplan, grondgebruikplan, soneringskema, geïntegreerde ontwikkelingsplan, waterdiensplan, vaardigheidsontwikkelingsplan en diensbillikheidsplan;

- (18) **“tussentydse munisipale bestuurder”** die tussentydse munisipale bestuurder van die Plaaslike Munisipaliteit wat ingevolge artikel 21(1) aangestel is en wat vanaf die effektiewe datum die waarnemende munisipale bestuurder van die Plaaslike Munisipaliteit sal wees, of die waarnemende munisipale bestuurder of munisipale bestuurder van die Plaaslike Munisipaliteit wat na die effektiewe datum deur die Munisipale Raad van die Plaaslike Munisipaliteit aangestel is;

(subartikel (18) gewysig deur PK.675/2000)

- (19) **“vakbonde”** die Onafhanklike Munisipale en Verwante Vakbond en die Suid-Afrikaanse Munisipale Werkersvereniging;

- (20) **“verkiesing”** die eerste algemene verkiesing van Munisipale Rade na die inwerkingtreding van die Grondwet;

- (21) **“WEKPRO”** die Wes-Kaapse Plaaslike Regeringsorganisasie, wat die provinsiale organisasie vir die Wes-Kaap waaraan erkenning verleen word ingevolge artikel 2(1) (b) van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet 52 van 1997) is;

- (22) **“Wet op Landelike Gebiede”** die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet 9 van 1987);

- (23) **“Wet op Transformasie van Sekere Landelike Gebiede”** die Wet op Transformasie van Sekere Landelike Gebiede, 1998 (Wet 94 van 1998).

- (24) **“wyk deelnemende stelsel”** 'n stelsel wat voorsiening maak vir aangeleenthede van plaaslike belang vir wyke, om deur komitees mee gehandel te word wat vir wyke ingestel is.

(subartikel (24) ingevoer deur PK.184/2003)

Aanhef

- 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 en gewysig deur Provinsiale Kennisgewing 478/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5587 van 19 September 2000 en Provinsiale Kennisgewing 258/2002 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5922 van 15 Augustus 2002. 'n Kopie van die kaart word in Aanhangsel "1" by hierdie Bylaag herpubliseer.

(artikel 2(1) gewysig deur PK.11/2006)

- (2) Die Provinsiale Minister, wat ingevolge artikel 12(4) van die Munisipale Strukturewet handel, het:-
- (a) skriftelike kennis van die voorgenome instelling van die Plaaslike Munisipaliteit aan WEKPRO en aan die afgeskafte munisipaliteite gegee by wyse van 'n omsendbrief gedateer 12 Julie 2000 en met verwysing AAO509/1/4;
 - (b) oorleg gepleeg met WEKPRO en die afgeskafte munisipaliteite;
 - (c) besonderhede van hierdie Kennisgewing gepubliseer in Provinsiale Kennisgewing 394/2000, wat in Buitengewone Provinsiale Koerant No. 5571 van 28 Augustus 2000 gepubliseer is, en
 - (d) die kommentaar wat na die publikasie van die voorgestelde Kennisgewing ontvang is, oorweeg.
- (3) Die Provinsiale Minister het ook die advies van die Distrikstransformasieforum oorweeg wat ingevolge artikel 11(2) van die DTF-Kennisgewing aan hom gegee is.
- (4) Die Provinsiale Minister, wat handel ingevolge artikels 12 en 14 van die Munisipale Strukturewet, soos saamgelees met die Wes-Kaapse Wet op Bepaling van Soorte Munisipaliteite, 2000 (Wet 9 van 2000), gee hiermee kennis van die instelling van die Plaaslike Munisipaliteit ingevolge die voorwaardes hierin uiteengesit.
- (5) Die Provinsiale Minister, wat ingevolge Hoofstuk 2 van die Munisipale Strukture Wysigingswet, soos gelees met artikel 14(2)(b) van die Munisipale Strukturewet, handel, gee hiermee kennis van die reëling van die wetlike, praktiese en ander gevolge van die afskaffing van die afgeskafte munisipaliteite, insluitende:-
- (a) die beginsels wat die oordrag van personeel na die Plaaslike Munisipaliteit bepaal, en die proses daarvan, welke proses op die datum van publikasie van hierdie kennisgewing begin en op 'n datum wat die Provinsiale Minister bepaal sal eindig;
 - (b) die beginsels wat die oordrag van bates, laste, regte en verpligtinge en administratiewe en ander rekords na die Plaaslike Munisipaliteit bepaal, en die proses daarvan, welke proses op die datum van publikasie van hierdie kennisgewing begin en op 'n datum wat die Provinsiale Minister bepaal sal eindig;
 - (c) die verskaffing van administratiewe oorgangsmatreëls vir die tydperk vanaf die effektiewe datum tot op 'n datum wat die Provinsiale Minister sal

bepaal, om voortgesette dienslewering te verseker en om die integriteit en finansiële lewensvatbaarheid van die Plaaslike Munisipaliteit te verseker.

(subartikel (5) ingevoeg deur PK. 675/2000)

Afskaffing van Bestaande Munisipaliteite

- 3.(1) Met ingang van middernag van die dag voor die effektiewe datum, sal die volgende munisipaliteite afgeskaf word:-
- (a) Munisipaliteit vir die Gebied van Franschoek, ingestel ingevolge Proklamasie No. 20/1995 gedateer 31 Januarie 1995;
 - (b) Nuweberg Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No. 18/1996 gedateer 26 Julie 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die Plaaslike Munisipaliteit, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word;
 - (c) Paarl Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No. 18/1996 gedateer 26 Julie 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die Plaaslike Munisipaliteit, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word;
 - (d) Pniel Plaaslike Oorgangsraad, ingestel ingevolge Proklamasie No. 142/1994 gedateer 30 Desember 1994;
 - (e) Stellenbosch Plaaslike Oorgangsraad, ingestel ingevolge Proklamasie No. 28/1995 gedateer 31 Januarie 1995, en
 - (f) Stellenbosch Verteenwoordigende Oorgangsraad, ingestel ingevolge Proklamasie No. 18/1996 gedateer 26 Julie 1996, in die mate wat die gebied daarvan ingesluit is binne die grense van die Plaaslike Munisipaliteit, soos deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word.
- (2) Die raadslede van die afgeskafte munisipaliteite moet hul ampte ontruim wanneer die pas verkose Raad van die Plaaslike Munisipaliteit verkose verklaar is en moet teen middernag van dié dag enige eiendom in hul besit wat aan 'n afgeskafte munisipaliteit behoort, aan die HUB van die betrokke afgeskafte munisipaliteit of sy benoemde terugbesorg.

Instelling en Naam

4. Met ingang van die effektiewe datum sal 'n munisipaliteit ingestel word wat in Afrikaans as "Munisipaliteit Stellenbosch", in Engels as "Stellenbosch Municipality", en in isiXhosa as "U Masipala waseStellenbosch" bekend sal staan.

Kategorie

5. Die Plaaslike Munisipaliteit is 'n plaaslike munisipaliteit soos omskryf in artikel 1 van die Munisipale Strukturewet, naamlik 'n munisipaliteit wat munisipale uitvoerende en wetgewende gesag in sy gebied deel met die Distriksmunisipaliteit, en wat in artikel 155(1) van die Grondwet as 'n kategorie B – munisipaliteit beskryf word.

Soort

6. Die Plaaslike Munisipaliteit is 'n munisipaliteit met burgemeesters-uitvoerende stelsel wat met 'n wykdeelnemende stelsel gekombineer is, soos uiteengesit in die Wes-Kaapse Wet op Bepaling van Soorte Munisipaliteite, 2000 (Wet 9 van

2000), soos gewysig deur die Wes-Kaapse Wysigingswet op Bepaling van Soorte Munisipaliteite, 2002 (Wet 4 van 2002).

(artikel 6 gewysig deur PK.184/2003)

Grense

7. Die grense van die Plaaslike Munisipaliteit sal die grense wees wat deur die Munisipale Afbakeningsraad bepaal is en in artikel 2(1) genoem word.

Getal Raadslede en Wyke

- 8.(1) Die Munisipale Raad van die Munisipaliteit het 43 (drie-en-veertig) raadslede, soos deur die Provinsiale Minister bepaal in Provinsiale Kennisgewing 164/2000 gepubliseer in Buitengewone Provinsiale Koerant Nr. 5468 van 4 Mei 2000, herroep deur Provinsiale Kennisgewing 100/2004 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6137 van 8 Junie 2004 en Provinsiale Kennisgewing 261/2009 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6646 van 31 Julie 2009, waarvan 22 (twee-en-twintig) wyksraadslede is en 21 (een-en-twintig) proporsioneel verkose raadslede is.

- (2) Munisipaliteit het 22 (twee-en-twintig) wyke.

(artikel 8 gewysig deur PK.11/2006 en PK.55/2011)

Voltydse Raadslede

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

- (a) die uitvoerende burgemeester;
- (b) lede van die burgemeesterskomitee;
- (c) die speaker;
- (d) 'n enkele sweep aangewys vir die Raad, en
- (e) Voorsitter van Komitee ingestel ingevolge artikel 79 ('MPAC').

(artikel 9 gewysig deur PK.456/2002, PK.184/2003, PK.283/2014 en PK.261/2015)

Funksies en Bevoegdhede

10. Daar sal geen aanpassing van die funksies en bevoegdhede van die Plaaslike Munisipaliteit ingevolge artikel 85 van die Munisipale Strukturewet wees nie.

Vrystellings

11. Die Plaaslike Munisipaliteit is nie van enige van die bepalings van die Munisipale Strukturewet vrygestel nie.

Beginsels wat die Oorplasing van Personeel bepaal

- 12.(1) Met ingang van die effektiewe datum en ooreenkomstig die bepalings van artikel 197 van die Wet op Arbeidsverhoudinge, 1995 (Wet 66 van 1995), sal:-

- (a) alle personeel van die afgeskafte munisipaliteite wat uitsluitlik betrokke is by funksies wat deur die Plaaslike Munisipaliteit verrig moet word, na die Plaaslike Munisipaliteit oorgeplaas word;
- (b) alle personeel van die afgeskafte munisipaliteite wat uitsluitlik betrokke is by funksies wat deur die Distriksmunisipaliteit verrig moet word (insluitende funksies wat deur die Distriksmunisipaliteit in 'n Distriksbestuursgebied verrig moet word), na die Distriksmunisipaliteit oorgeplaas word;

- (c) enige personeellid van 'n afgeskafte munisipaliteit wat betrokke is by een of meer funksies wat met ingang van die effektiewe datum deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig sal word, oorgeplaas word ooreenkomstig die funksie wat die grootste deel van so 'n personeellid se tyd in beslag neem;
 - (d) alle personeel van die afgeskafte munisipaliteite wat nie betrokke is by 'n bepaalde funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word nie, oorgeplaas word na óf die Plaaslike Munisipaliteit óf die Distriksmunisipaliteit in verhoudings wat gebaseer is op die totale getal poste wat ingevolge paragrawe (a), (b) en (c) oorgeplaas word;
 - (e) alle vakante poste van die afgeskafte munisipaliteite waarvoor nie begroot is nie, afgeskaf word.
- (2) Behoudens enige kollektiewe ooreenkoms, moet alle regte en verpligtinge tussen die afgeskafte munisipaliteite en elkeen van hul onderskeie werknemers ten tyde van die oorplasing voortgaan om van krag te bly asof dit regte en verpligtinge tussen die Plaaslike Munisipaliteit of die Distriksmunisipaliteit, na gelang van die geval, en elkeen van sy werknemers is, en enigiets wat voor die oorplasing deur of met betrekking tot die betrokke afgeskafte munisipaliteit gedoen is, sal geag word deur of met betrekking tot die Plaaslike Munisipaliteit of Distriksmunisipaliteit, na gelang van die geval, gedoen te gewees het.
 - (3) Die oorplasing onderbreek nie die kontinuïteit van 'n werknemer se indiensneming nie en dit gaan voort met die Plaaslike Munisipaliteit of Distriksmunisipaliteit, na gelang van die geval, asof dit met die betrokke afgeskafte munisipaliteit is.
 - (4) Behoudens die menslikehulpbronbeleid en –prosedure genoem in artikel 14(a) van hierdie Bylaag, kan daar van enige werknemer wat na die Plaaslike Munisipaliteit oorgeplaas word, vereis word om by enige van die kantore van die Plaaslike Munisipaliteit aan te meld en, tensy anders ooreengekom, sal so 'n werknemer, as gevolg daarvan; nie op enige bykomende vergoeding geregtig wees nie.

(artikel 12 gewysig deur PK. 675/2000)

Proses om Oorplasing van Personeel te bewerkstellig

12A.(1) Ondanks die bepalings van artikels 12 en 16C, en hangende die voltooiing van die oorplaasproses ingevolge hierdie artikel, moet alle personeel van die afgeskafte munisipaliteite, in soverre dit nodig is, tydelik in diens van die Plaaslike Munisipaliteit geplaas word en moet alle personeel wat na die Distriksmunisipaliteit oorgeplaas staan te word ingevolge die bepalings van artikel 12 of 16C van hierdie Bylaag, dienoooreenkomstig geag word na die Plaaslike Munisipaliteit gesekondeer te wees ingevolge 'n agentskapsreëling tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit ten effekte dat die Plaaslike Munisipaliteit die funksie of funksies waarby die spesifieke personeel betrokke is, namens die Distriksmunisipaliteit sal verrig.

(2) Ten einde:-

- (a) enige oorgangsbepalings ingevolge die Munisipale Strukture Wysigingswet te akkommodeer, of

- (b) die Plaaslike Munisipaliteit en die Distriksmunisipaliteit toe te laat om ooreenkomste te sluit, met inbegrip van bedryfsooreenkomste, wat die oordrag van personeel ingevolge hierdie Bylaag kan beïnvloed, sal geen personeellid finaal toegewys word, soos waarvoor voorsiening gemaak word in subartikel (4) voor 30 Junie 2001 nie, of sodanige alternatiewe datum as wat die Provinsiale Minister bepaal.
- (3) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet elke HUB 'n skedule van alle personeel van sy of haar afgeskafte munisipaliteit opstel in ooreenstemming met 'n formaat deur die Provinsiale Minister voorgeskryf, moet elke personeellid en 'n vakante pos van sy of haar afgeskafte munisipaliteit waarvoor begroot is in ooreenstemming met die beginsels uiteengesit in artikels 12 en 16C voorlopig toewys, en moet kopieë van die volle skedule aan die tussentydse munisipale bestuurder en die Distriksmunisipaliteit se TMB voorlê.
- (4) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, maar behoudens subartikel (2), moet die tussentydse munisipale bestuurder, in oorleg met die Distriksmunisipaliteit se TMB:-
- (a) die skedules genoem in subartikel (1) konsolideer tot 'n enkele skedule en moet hy of sy na goeëduke elke personeellid en vakante pos waarvoor begroot is en wat in die gekonsolideerde skedule gelys is, finaal aan óf die Plaaslike Munisipaliteit óf die Distriksmunisipaliteit toewys vir oorplasing op die effektiewe datum in ooreenstemming met die beginsels in artikels 12 en 16C uiteengesit of enige ooreenkoms in subartikel (2) bedoel;
 - (b) 'n kopie van die skedule aan die Distriksmunisipaliteit se TMB voorlê en van die Distriksmunisipaliteit se TMB die kopie van die skedule deur daardie Distriksmunisipaliteit se TMB opgestel, verkry, en
 - (c) die skedule genoem in paragraaf (a) met die skedules wat ontvang is van die Distriksmunisipaliteit se TMB genoem in paragraaf (b), konsolideer tot 'n enkele skedule wat alle personeel wat na die Plaaslike Munisipaliteit oorgeplaas moet word, aantoon.
- (5) Ondanks die beginsels wat in artikels 12 en 16C uiteengesit is, kan die tussentydse munisipale bestuurder, volgens ooreenkoms met die Distriksmunisipaliteit se TMB, die toewysing van personeel ingevolge subartikel (2) aanpas om voorsiening te maak vir 'n meer doeltreffende algemene toewysing van personeel tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit, met dien verstande dat geen aanpassing gedoen mag word nadat 'n personeellid ingevolge subartikel (8) in kennis gestel is nie.
- (6) Indien enige geskil met betrekking tot die toewysing van personeel tussen die tussentydse munisipale bestuurder en die Distriksmunisipaliteit se TMB ontstaan, moet sodanige geskil na die Provinsiale Minister verwys word vir beslissing deur die Provinsiale Minister of sy benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (7) Die tussentydse munisipale bestuurder moet die gekonsolideerde skedule in subartikel (4)(c) genoem, skriftelik verifieer en moet die skedule aan die Provinsiale Minister voorlê voor of op 'n datum wat deur die Provinsiale Minister bepaal moet word.

- (8) Na die opstelling van die enkele gekonsolideerde skedule genoem in subartikel (4)(c), moet die tussentydse munisipale bestuurder elke toekomstige personeellid van die Plaaslike Munisipaliteit voorsien van 'n skriftelike kennisgewing wat sodanige personeellid meedeel dat hy of sy met ingang van die effektiewe datum in diens van die Plaaslike Munisipaliteit is.
- (9) Die nie-ontvangs van die skriftelike kennisgewing genoem in subartikel (8) maak nie enige oorplasing ongeldig nie.
- (10) Indien enige personeellid ("die beswaarmaker") aanvoer dat sy of haar oorplasing nie in ooreenstemming met die beginsels uiteengesit in artikels 12 en 16C, enige ooreenkoms in subartikel (2) bedoel of die proses uiteengesit in hierdie artikel bewerkstellig is nie, kan die beswaarmaker binne 14 dae van inkennisstelling ingevolge subartikel (5) skriftelike beswaar aanteken by die tussentydse munisipale bestuurder van die munisipaliteit waarheen hy of sy oorgepaas is. Die tussentydse munisipale bestuurder moet die beswaar na die Provinsiale Minister verwys vir beslissing deur die Provinsiale Minister of sy of haar benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.

(subartikel (10) gewysig deur PK 117/2008)

- (11) Hangende 'n beslissing deur die Provinsiale Minister of sy benoemde ingevolge subartikel (10) moet die beswaarmaker oorgeplaas word na die munisipaliteit, soos in ooreenstemming met hierdie artikel beslis. Indien die Provinsiale Minister of sy benoemde beslis dat die beswaarmaker na 'n ander munisipaliteit oorgeplaas moes word, moet die beswaarmaker na daardie munisipaliteit oorgeplaas word, en sy of haar oorplasing word geag in ooreenstemming met artikels 12 en 16C op die effektiewe datum bewerkstellig te gewees het.
- (12) Indien enige personeellid nie aangetoon word in die skedule in subartikel (4)(a) genoem nie, of indien enige personeellid met ingang van die effektiewe datum aan meer as een munisipaliteit toegewys word, moet daardie personeellid onmiddellik nadat hy of sy van enige van hierdie feite bewus word, dit aanmeld by die tussentydse munisipale bestuurder of die Distriksmunisipaliteit se TMB, wat die aangeleentheid in ooreenstemming met prosedures deur die Provinsiale Minister bepaal, na die Provinsiale Minister vir beslissing deur die Provinsiale Minister of sy benoemde moet verwys, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (13) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet die Plaaslike Munisipaliteit 'n diensstaat vir die Plaaslike Munisipaliteit goedkeur ingevolge relevante wetgewing en 'n afskrif van die dokument waarin die diensstaat uiteengesit word, aan die Transformasiesubkamer van die Bedingingsraad voorlê; met dien verstande dat die Plaaslike Munisipaliteit nie 'n diensstaat vir die Plaaslike Munisipaliteit finaal sal goedkeur, voordat die tussentydse munisipale bestuurder die gekonsolideerde skedule ingevolge subartikel (7) geverifieer het nie.
- (14) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, in soverre daar nie voor die effektiewe datum ingevolge artikel 13(2) van hierdie Bylae 'n ooreenkoms bereik is nie, moet die Plaaslike Munisipaliteit, as 'n lid van die Transformasiesubkamer van die Bedingingsraad, poog om kollektiewe ooreenkoms met die vakbonde in die Transformasiesubkamer van die Bedingingsraad te bereik betreffende die beginsels, prosedures en

maatstawwe wat gevolg moet word om aanstellings te doen in die poste wat uit die skepping van 'n nuwe organisasiestruktuur vir die Plaaslike Munisipaliteit voortspruit.

- (15) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet die Plaaslike Munisipaliteit aanstellings doen in die poste op die diensstaat in ooreenstemming met die beginsels, prosedures en maatstawwe waarop daar in die Transformasiesubkamer van die Bedingingsraad ooreengekom is.

(artikel 12A ingevoeg deur PK.675/2000)

Kollektiewe Ooreenkomste

- 13(1). Enige kollektiewe ooreenkoms aangegaan:-

- (a) op 'n nasionale vlak, of
- (b) by die Bedingingsraad, of
- (c) op 'n plaaslike vlak;

voor die datum van publikasie van hierdie Bylaag, sal ten volle van krag bly totdat dit ooreenkomstig die bepalings van die betrokke ooreenkoms gewysig of beëindig word.

- (2) Voor die effektiewe datum moet die afgeskafte munisipaliteite, as lede van die Transformasiesubkamer van die Bedingingsraad, daarna streef om ooreen te kom met die vakbonde ten aansien van:-

- (a) die proses en kriteria vir die plasing van personeel in die nuwe organisatoriese strukture na die effektiewe datum;
- (b) die proses wat gevolg sal word vir die vul van nuwe poste voortvloeiend uit die skep van 'n nuwe organisatoriese struktuur vir die Plaaslike Munisipaliteit;
- (c) die aanneem van bepalings en voorwaardes van indiensneming vir die Plaaslike Munisipaliteit na die effektiewe datum, en
- (d) enige ander arbeidsaangeleentheid in verband met die instelling van die Plaaslike Munisipaliteit.

Menslikehulpbronaangeleenthede

14. Behoudens enige kollektiewe ooreenkoms:-

- (a) is die menslikehulpbronbeleid en –prosedures van die Plaaslike Munisipaliteit die menslikehulpbronbeleid en –prosedures wat voor die effektiewe datum bestaan het, en dit bly op alle werknemers van toepassing op dieselfde wyse as wat dit voor die effektiewe datum die geval was, behoudens enige wysiging of herroeping deur die Plaaslike Munisipaliteit;
- (b) is die bepalings en voorwaardes van indiensneming van alle werknemers van die Plaaslike Munisipaliteit, die bepalings en voorwaardes van indiensneming wat voor die effektiewe datum op elke werknemer van toepassing was; met dien verstande dat enige werknemer wat na die effektiewe datum aangestel word, aangestel sal word op die bepalings en voorwaardes van indiensneming soos vasgestel deur die Plaaslike Munisipaliteit.

Gevolg van Oorplasing ten opsigte van Sekere Personeelkwessies

- 15.(1) Behoudens enige kollektiewe ooreenkoms, word 'n werknemer wie se pos as gevolg van die oorpasing verander word, nie geag oortollig te wees vir die doel van enige bepaling of voorwaarde van indiensneming of enige pensioenfondsreël wat aan die werknemer die keuse bied om sy of haar indiensneming met voordele te beëindig nie.
- (2) Die bepalings van hierdie artikel is slegs van toepassing indien die werknemer onredelikerwys weier om die Plaaslike Munisipaliteit se aanbod van alternatiewe indiensneming te aanvaar.
- (3) Vir die doeleindes van hierdie artikel sluit 'n verandering van 'n pos een of meer van die volgende in:-
- (a) die pos bestaan nie meer nie;
 - (b) die pos is afgeskaf;
 - (c) die werknemer moet om die pos aansoek doen;
 - (d) die funksies en bevoegdhede van die pos het verander;
 - (e) daar is 'n verandering in die werkgewer se identiteit;
 - (f) die pos word aan ander verslagdoeningskanale onderwerp;
 - (g) die pos word anders beskryf.

Regsopvolging

16. Met ingang van die effektiewe datum:-
- (1) Sal die Plaaslike Munisipaliteit die regsopvolger van die afgeskafte munisipaliteite wees, en die munisipaliteite wat ingevolge die Distriksmunisipaliteitkennisgewings afgeskaf moet word, ten opsigte van die spesifieke bates en laste wat ingevolge hierdie Bylaag aan die Plaaslike Munisipaliteit toegewys word.
 - (2) Behoudens subartikel (1) en artikel 16D van hierdie Bylaag, word alle regte en verpligtinge van die afgeskafte munisipaliteite wat nie ingevolge hierdie Bylaag toegewys word nie, toegewys aan die Plaaslike Munisipaliteit, en die Plaaslike Munisipaliteit is die regsopvolger van die afgeskafte munisipaliteite ten opsigte van sulke regte en verpligtinge.
 - (3) Sal alle belasting, inkomste en ander gelde betaalbaar aan enige afgeskafte munisipaliteit of deur die afgeskafte munisipaliteit verhaalbaar is, betaalbaar wees aan en verhaalbaar wees deur die regsopvolger van so 'n afgeskafte munisipaliteit in ooreenstemming met die bepalings van hierdie Bylaag.
 - (4) Ondanks die bepalings van enige toepaslike wet, bly enige waardasielyste wat van krag is, of wat as gevolg van die instelling van tussentydse of bykomende waardasies ontstaan, na gelang van die van die geval, in die gebied van die Plaaslike Munisipaliteit, onderhewig andersins aan die bepalings van sodanige wet, van krag totdat 'n algemene waardasielys vir die gebied van die Plaaslike Munisipaliteit opgestel is.
 - (5) Ondanks subartikel (1):-
 - (a) sal die Plaaslike Munisipaliteit die regsopvolger van die afgeskafte munisipaliteite met betrekking tot die sake wat

uiteengesit word in die Wet op Transformasie van Sekere Landelike Gebiede en die Wet op Landelike Gebiede wees en in die mate, totdat dit oorgedra is na 'n entiteit wat in artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede beoog word:-

- (i) sal grond wat deur die Minister vir Landbou en Grondsake ingevolge artikel 7 van die Wet op Landelike Gebiede in trust gehou word en wat onderworpe is aan die bepalings van artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, steeds berus by die Minister vir Landbou en Grondsake, en
 - (ii) sal grond wat ingevolge die Wet op Landelike Gebiede deur die afgeskafte munisipaliteite verkry is en wat onderworpe is aan die bepalings van artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, met ingang van die effektiewe datum by die Plaaslike Munisipaliteit berus;
- (b) grond in subartikel (2)(a) genoem sal, hangende oordrag ingevolge artikel 3 van die Wet op Transformasie van Sekere Landelike Gebiede, deur die Plaaslike Munisipaliteit ingevolge die Wet op Landelike Gebiede en die regulasies ingevolge die Wet op Landelike Gebiede gemaak, bestuur word.

(artikel 16 gewysig deur PK. 675/2000)

Beginsels wat Oorplasing van Bates, Laste en Rekords bepaal

16A. Met ingang van die effektiewe datum:-

- (1) Alle bates, laste en rekords van die afgeskafte munisipaliteite wat uitsluitlik verband hou met funksies wat deur die Plaaslike Munisipaliteit verrig moet word, moet na die Plaaslike Munisipaliteit oorgeplaas word.
- (2) Alle bates, laste en rekords van die afgeskafte munisipaliteite wat uitsluitlik verband hou met funksies wat deur die Distriksmunisipaliteit verrig moet word (insluitende funksies wat deur die Distriksmunisipaliteit in 'n Distriksbestuursgebied verrig moet word), moet na die Distriksmunisipaliteit oorgeplaas word.
- (3) Enige roerende bate van een van die afgeskafte munisipaliteite wat in verband staan met een of meer funksies wat met ingang van die effektiewe datum deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig sal word en wat tussen hulle verdeel kan word, moet tussen hulle verdeel word:-
 - (a) ooreenkomstig die persentasie werklike tyd wat die betrokke bate in elke gebied vir die funksie gebruik word;
 - (b) ooreenkomstig die persentasie werklike tyd wat die betrokke bate vir die funksie tot voordeel van elke party gebruik word, of
 - (c) op enige ander grondslag deur die Provinsiale Minister goedgekeur.
- (4) Alle onroerende bates van die afgeskafte munisipaliteite wat verband hou met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word, en alle roerende bates wat verband hou met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die

Distriksmunisipaliteit verrig moet en wat nie tussen hulle verdeel kan word nie, moet oorgeplaas word na die munisipaliteit wat die hoofgebruiker van daardie bate sal wees; met dien verstande dat enige ander munisipaliteit wat 'n belang by daardie bate het, geregtig is om voort te gaan om daardie bate te gebruik teen betaling van 'n proporsionele deel van die koste en totdat sy gebruikersreg volgens ooreenkoms beëindig word.

- (5) Ondanks die bepalings van subartikel (4), kan die Plaaslike Munisipaliteit en die Distriksmunisipaliteit ooreenkom om enige onroerende bate genoem in subartikel (4) wat onderverdeelbaar is, te onderverdeel of om enige groep bates genoem in subartikels (3) en (4) op 'n billike grondslag te verdeel, met inagneming van die aard van en die doel wat gedien word deur so 'n bate of bates, soos tussen hulle ooreengekom, en om elke deel daarvan in ooreenstemming met daardie ooreenkoms toe te wys.
- (6) Alle finansiële bates van die afgeskafte munisipaliteite wat in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en Distriksmunisipaliteit verrig word, moet billik verdeel word tussen hulle, met inagneming van aard van en die doel wat gedien word deur daardie bate.
- (7) Alle finansiële bates en laste van die afgeskafte munisipaliteite wat nie in verband staan met 'n bepaalde funksie nie, moet tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit op die volgende grondslag verdeel word:-
 - (a) opgehoopte voorsienings vir werknemersvoordele, soos opgehoopte verloffondse, moet oorgeplaas word, indien die voorsiening gekoppel kan word aan 'n spesifieke werknemer in ooreenstemming met die oordrag van daardie werknemer ingevolge hierdie Bylaag, en in ander gevalle in verhouding tot die totale salaris- en loonvoorsiening wat na die Plaaslike Munisipaliteit en die Distriksmunisipaliteit oorgeplaas moet word;
 - (b) reserwes en voorsienings wat vir 'n spesifieke doel opgehoop is, moet op 'n billike grondslag oorgeplaas word, met inagneming van die aard van en doel wat gedien word deur elke bepaalde reserwe of voorsiening;
 - (c) reserwes en opgehoopte surplusse van 'n algemene aard moet tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verdeel word op die volgende grondslag:-
 - (i) in verhouding tot die mees onlangse gekonsolideerde finansiële state van die Distriksmunisipaliteit en Plaaslike Munisipaliteit;
 - (ii) enige ander grondslag deur die Provinsiale Minister goedgekeur.
- (8) Alle ontasbare bates van die afgeskafte munisipaliteite wat in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word, moet aan een munisipaliteit toegewys word; met dien verstande dat die ander munisipaliteit met 'n belang by daardie ontasbare bate geregtig is:-
 - (a) op billike kompensasië, insluitende finansiële, ruil- of ander kompensasië, soos ooreengekom, en
 - (b) om voort te gaan om daardie bate te gebruik teen betaling van 'n proporsionele deel van die koste totdat sy gebruiksreg volgens ooreenkoms beëindig word.

- (9) Alle rekords van die afgeskafte munisipaliteite wat in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word en wat nie tussen genoemde munisipaliteite verdeel kan word nie, moet toegewys word aan een munisipaliteit ooreenkomstig die funksie waarop die rekords die nouste betrekking het; met dien verstande dat die ander munisipaliteit die reg van toegang tot daardie rekords het en die reg om kopieë daarvan te verkry.
- (10) Alle laste van die afgeskafte munisipaliteite wat in verband staan met 'n funksie of funksies wat deur die Plaaslike Munisipaliteit en die Distriksmunisipaliteit verrig moet word, moet op billike wyse gedeel word tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit, met inagneming van die aard en doel van die las.
- (11) Alle bates en laste van die afgeskafte munisipaliteite, uitgesonderd dié genoem in subklousule (7) wat nie met 'n bepaalde funksie in verband staan nie, na die Plaaslike Munisipaliteit oorgeplaas word.

(artikel 16A ingevoeg deur PK. 675/2000)

Proses om Oorplasing van Bates, Laste en Rekords te bewerkstellig

- 16B.(1) Ondanks die bepalings van artikels 16A en 16C, en hangende die voltooiing van die oorplasingproses ingevolge hierdie artikel, moet alle bates, laste en rekords van die afgeskafte munisipaliteite, in soverre dit nodig is, tydelik na die Plaaslike Munisipaliteit oorgeplaas word en moet alle bates, laste en rekords wat na die Distriksmunisipaliteit oorgeplaas moet word ingevolge die bepalings van artikels 16A of 16C van hierdie Bylaag dienooreenkomstig geag word na die Plaaslike Munisipaliteit oorgeplaas te wees ingevolge 'n agentskapsreëling tussen die Plaaslike Munisipaliteit en die Distriksmunisipaliteit ten effekte dat die Plaaslike Munisipaliteit die funksie of funksies waarby die spesifieke bates, laste en rekords betrokke is, namens die Distriksmunisipaliteit sal verrig.
- (2) Ten einde:-
- (a) enige oorgangsbepalings ingevolge die Munisipale Strukture Wysigingswet te akkommodeer, of
- (b) die Plaaslike Munisipaliteit en die Distriksmunisipaliteit toe te laat om ooreenkomste te sluit, met inbegrip van bedryfsooreenkomste,
- wat die oordrag van bates, laste en rekords ingevolge hierdie Bylaag kan beïnvloed, sal geen bate, las of rekord finaal toegewys word, soos daarvoor voorsiening gemaak word in subartikel (4) voor 30 Junie 2001 nie, of sodanige alternatiewe datum as wat die Provinsiale Minister bepaal.
- (3) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, moet elke HUB 'n skedule van alle bates, laste en rekords van sy of haar afgeskafte munisipaliteit opstel in ooreenstemming met 'n formaat deur die Provinsiale Minister voorgeskryf, moet alle bates, laste en rekords van sy of haar afgeskafte munisipaliteit waarvoor begroot is in ooreenstemming met die beginsels uiteengesit in artikels 16A en 16C voorlopig toewys, en moet kopieë van die volle skedule aan die tussentydse munisipale bestuurder en die Distriksmunisipaliteit se TMB voorlê.
- (4) Voor of op 'n datum wat deur die Provinsiale Minister bepaal word, maar behoudens subartikel (2), moet die tussentydse munisipale bestuurder, in oorleg met die Distriksmunisipaliteit se TMB:-

- (a) die skedules genoem in subartikel (1) konsolideer tot 'n enkele skedule en moet finaal alle bates, laste en rekords gelys in die gekonsolideerde skedule toewys aan óf die Plaaslike Munisipaliteit óf die Distriksmunisipaliteit vir oordrag op die effektiewe datum in ooreenstemming met die beginsels uiteengesit in artikels 16A en 16C of enige ooreenkoms na verwys in subartikel (2);
 - (b) 'n kopie van die skedule aan die Distriksmunisipaliteit se TMB voorlê en van die Distriksmunisipaliteit se TMB die kopie van die skedule deur die Distriksmunisipaliteit se TMB opgestel, verkry, en
 - (c) die skedule genoem in paragraaf (a) en die skedules wat van die Distriksmunisipaliteit se TMB ontvang is, genoem in paragraaf (b), konsolideer tot 'n enkele skedule wat alle bates, laste en rekords wat na die Plaaslike Munisipaliteit oorgeplaas moet word, weergee.
- (5) Ondanks die beginsels in artikels 16A en 16C uiteengesit, kan die tussentydse munisipale bestuurder volgens ooreenkoms met die Distriksmunisipaliteit se TMB die toewysing van bates, laste en rekords ingevolge subartikel (4) aanpas om voorsiening te maak vir 'n doeltreffender algemene toewysing tussen die Distriksmunisipaliteit en die Plaaslike Munisipaliteit.
- (6) Indien enige geskil met betrekking tot die toewysing van enige bates, laste of rekords tussen die tussentydse munisipale bestuurder en die Distriksmunisipaliteit se TMB ontstaan, moet sodanige geskil na die Provinsiale Minister verwys word vir beslissing deur die Provinsiale Minister of sy benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (7) Die tussentydse munisipale bestuurder moet die gekonsolideerde skedule genoem in subartikel (4)(c) skriftelik verifieer en dit aan die Provinsiale Minister voorlê voor of op 'n datum wat deur die Provinsiale Minister bepaal word.
- (8) So gou moontlik nadat die gekonsolideerde skedule ingevolge subartikel (7) geverifieer is, maar nie later nie as 'n datum wat deur die Provinsiale Minister bepaal word, moet die tussentydse munisipale bestuurder die oorplasing van alle bates, laste en rekords van die afgeskafte munisipaliteite in werking stel.
- (9) Die Plaaslike Munisipaliteit moet die oorplasing van bates, laste en rekords nie later nie as 12 maande na die effektiewe datum oudit, of sodanige latere datum as wat deur die Provinsiale Minister bepaal word.

(artikel 16B ingevoeg deur PK. 675/2000)

Oorplasing van personeel, bates en laste met betrekking tot funksies uitgesonderd dié gelys in artikel 84 van die Munisipale Strukturewet

- 16C. Ondanks die bepalings van artikels 12(1) en 16A van hierdie Bylaag en met ingang van die effektiewe datum, moet:-
- (a) alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite wat uitsluitlik betrokke is by of verband hou met:-
 - (i) paaie, behalwe munisipale paaie;
 - (ii) ambulansdienste;
 - (iii) gesondheidsdienste, behalwe munisipale gesondheidsdienste;

- (iv) rampbestuur;
- (v) behuising;
- (vi) biblioteke;
- (vii) museums;
- (viii) watertoevoerstelsels, behalwe drinkbare watertoevoerstelsels;
- (ix) natuur- en omgewingsbewaring, insluitende kusbeheer, omgewingsopvoeding, dierebeheer en beheer oor binnelandse waters, en
- (x) verkeer en wetstoepassing,

na die Plaaslike Munisipaliteit oorgeplaas word ingevolge artikels 12(2), (3) en (4) en die proses uiteengesit in artikels 12A en 16B van hierdie Bylaag;

- (b) enige personeellid, bate, las en rekord van die afgeskafte munisipaliteite wat nie verband hou met 'n funksie genoem in artikel 84(1) van die Munisipale Strukturewet of paragraaf (a) nie, sal met inagneming van die effektiewe datum oorgedra word, ingevolge die beginsels en proses in artikels 12, 12A, 16A en 16B van hierdie Bylaag uiteengesit, na die Plaaslike Munisipaliteit wat die funksie waarby dit betrokke is sal verrig.

(artikel 16C ingevoeg by PK.675/2000)

Oorplasing van personeel, bates, laste en rekords met betrekking tot munisipale diensleweringsooreenkomste

- 16D.(1) Ondanks enige andersluidende bepaling van enige munisipale diensleweringsooreenkoms wat deur 'n afgeskafte munisipaliteit aangegaan is en ingevolge waarvan daardie afgeskafte munisipaliteit die diensverskaffer is, moet alle personeel, bates, laste en rekords van die afgeskafte munisipaliteite in ooreenstemming met die bepalings van hierdie Bylaag oorgeplaas word.
- (2) Die Provinsiale Minister moet bepaal watter munisipaliteit ingevolge enige munisipale diensleweringsooreenkoms wat 'n afgeskafte munisipaliteit aangegaan het ingevolge waarvan daardie afgeskafte munisipaliteit die diensverskaffer is, die regsopvolger sal wees, en kan die Plaaslike Munisipaliteit of die Distriksmunisipaliteit gelas om enige tussentydse diensleweringsooreenkomste ingevolge artikel 19 van hierdie Bylae te implementeer en te administreer ten einde deurlopende dienslewering ingevolge so 'n ooreenkoms te verseker.
- (3) Vir die tydperk vanaf die effektiewe datum tot die datum waarop die Provinsiale Minister 'n beslissing ingevolge subartikel (3) doen, is die Plaaslike Munisipaliteit die regsopvolger van die afgeskafte munisipaliteite met betrekking tot enige munisipale diensleweringsooreenkoms in subartikel (1) bedoel in ooreenstemming met die bepalings van artikel 19.

(artikel 16D ingevoeg deur PK. 675/2000)

Versuim om sekere bepalings van hierdie Bylaag te implementeer

- 16E. Indien die tussentydse munisipale bestuurder of enige ander persoon wat 'n taak moet verrig soos in artikel 12A of artikel 16B uiteengesit, versuim of weier om dit te doen binne die tydperke in daardie artikels bepaal, kan die Provinsiale Minister enige persoon benoem om sodanige take te verrig, in

welke geval die Plaaslike Munisipaliteit of die Distriksmunisipaliteit verplig is om ten volle met sodanige persoon saam te werk.

(artikel 16E ingevoeg deur PK. 675/2000)

Oorgangsbepalings met betrekking tot Verordeninge en Besluite

- 17.(1) Enige verordening wat onmiddellik voor die effektiewe datum in die gebied van 'n afgeskafte munisipaliteit van krag is, sal met ingang van die effektiewe datum en hangende die hersiening en rasionalisering daarvan ingevolge artikel 15 van die Munisipale Strukturewet ten volle van krag bly in die gebied waarvoor dit afgekondig is, behoudens enige wysiging of herroeping deur die Plaaslike Munisipaliteit.
- (2) Tensy onbestaanbaar met die sinsverband of duidelik ontoepaslik, moet 'n verwysing in so 'n verordening na:-
- (a) 'n afgeskafte munisipaliteit of sy voorganger, uitgelê word as sou dit 'n verwysing na die Plaaslike Munisipaliteit wees, en
 - (b) 'n struktuur of funksionaris van 'n afgeskafte munisipaliteit uitgelê word as sou dit 'n verwysing na die ooreenstemmende struktuur of funksionaris van die Plaaslike Munisipaliteit wees.
- (3) Behoudens die bepalinge van hierdie Bylaag en nieteenstaande die afskaffing van die afgeskafte plaaslike munisipaliteite, sal enige:-
- (a) besluit geneem;
 - (b) kennisgewing, sertifikaat of ander dokument uitgereik;
 - (c) opdrag, goedkeuring, verlof of magtiging gegee of verleen;
 - (d) vrystelling, lisensie of permit verleen of uitgereik;
 - (e) aanstelling gedoen;
 - (f) werknemer benoem;
 - (g) ooreenkoms of kontrak aangegaan;
 - (h) delegasie van bevoegdheid aan 'n werknemer verleen;
 - (i) belastinge, tariewe of heffings gehê of opgelê;
 - (j) reservering van grond gedoen; en
 - (k) ander handeling verrig of ding gedoen,
- deur 'n afgeskafte munisipaliteit, behoudens die bepalinge van hierdie Bylaag geag word deur die Plaaslike Munisipaliteit geneem, uitgereik, gegee, gedoen, benoem, aangegaan, verleen, gehê, opgelê of verrig te gewees het, hangende die hersiening en rasionalisering daarvan, ingevolge artikel 15 van die Munisipale Strukturewet.
- (4) Behoudens artikel 20, 21, 22 en 23 van hierdie Bylaag, sal enige persoon wat op die effektiewe datum 'n bevoegdheid uitoefen of 'n plig of funksie verrig uit hoofde van die amp wat hy of sy beklee of uit hoofde van 'n delegasie van bevoegdheid waarmee die afgeskafte munisipaliteit hom of haar beklee het, voortgaan om daardie bevoegdheid uit te oefen of daardie plig of funksie te verrig totdat die Plaaslike Munisipaliteit die teendeel besluit.
- (5) Vir die toepassing van die Bylaag van die Regulasie aangaande die Verklaring van Vredesbeamptes wat ingevolge artikel 334 van die Strafproseswet, 1977

(Wet 51 van 1977) gemaak is, sal enige wetstoepassingsbeampte wat deur 'n afgeskafte munisipaliteit aangestel is, na die effektiewe datum geag word deur die Plaaslike Munisipaliteit aangestel te gewees het vir die regsgebied van die Plaaslike Munisipaliteit.

- (6) Enige statutêre plan wat in die regsgebied van die afgeskafte munisipaliteite van krag of in werking is, sal van krag of in werking bly ten opsigte van die gebied waarop dit bedoel was om van toepassing te wees, totdat dit deur die Plaaslike Munisipaliteit gewysig, verander of herroep word.

Finansiële Aangeleenthede

18.(1) Met ingang van die effektiewe datum sal die bestaande begrotings van die afgeskafte munisipaliteite tot 30 Junie 2001 die begroting van die Plaaslike Munisipaliteit uitmaak, en intermunisipale begrotingsoorplasinge sal voortduur vir die 2000/2001 finansiële jaar.

- (2) Ondanks die bepalings van subartikel (1) mag die Plaaslike Munisipaliteit:-
- (a) die bestaande begrotings aanpas, of
 - (b) besluit om sy rekeninge te sluit en opnuut vir die res van die finansiële jaar te begroot;

mits enige so 'n begroting ooreenkomstig tersaaklike wetgewing aangepas of opgestel en goedgekeur word, na gelang van die geval.

- (3) Voor die aanvang van die 2001/2002 finansiële jaar moet die Plaaslike Munisipaliteit oorweeg om finansiële bestuursplanne en –beleide aan te neem betreffende:-
- (a) maatreëls, insluitende intermunisipale begrotingsoorplasinge, om inkomste stabiliteit vir die periode na die 2000/2001 finansiële jaar te verseker;
 - (b) mediumtermynuitgawe;
 - (c) gelykmaking van tariefstrukture;
 - (d) die opstel van 'n nuwe algemene waardasierol vir die Plaaslike Munisipaliteit en die ingebruikneming van billike eiendomsbelatings;
 - (e) die ingebruikneming van gekonsolideerde rekeninglieweringskemas;
 - (f) die konsolidasie van finansiële rekeningkundige stelsels en begrotingstelsels;
 - (g) kredietbeheer, en
 - (h) verkryging.

Administratiewe oorgangsreëlings

19.(1) Met ingang van die effektiewe datum tot die datum waarop alle personeel, bates, laste en rekords finaal toegewys is ingevolge die bepalings van hierdie Bylaag, of sodanige alternatiewe datum as wat die Provinsiale Minister bepaal, is die Plaaslike Munisipaliteit:-

- (a) verplig om met alle personeel, bates, laste en rekords:-
 - (i) wat tydelik geplaas is ingevolge artikel 12A(1);
 - (ii) wat tydelik oorgedra is ingevolge artikel 16B(1), en
 - (iii) wat voorlopig toegewys is ingevolge artikels 12A(3) en 16B(3),

in die uiterste goeie trou te behandel met inagneming van die belange van die Distriksmunisipaliteit;

- (b) sonder om afbreuk te maak aan die algemene aard van subartikel (1) en behoudens artikel 12(2), mag nie, met verwysing na paragrawe (i) en (vii) hieronder sonder die vooraf skriftelike goedkeuring van die Provinsiale Minister welke goedkeuring voorwaardelik mag wees, en met verwysing na paragrawe (ii), (iii), (iv), (v), (vi) en (viii) hieronder sonder die vooraf skriftelike goedkeuring van die Plaaslike Munisipaliteit, welke goedkeuring nie onredelik geweier mag word nie, geen verandering aan die dienstaat wat tydelik ingevolge artikel 12A(1) geplaas is, of voorlopig toegewys is ingevolge artikel 12A(3), maak of teweeg bring nie deur:-
- (i) enige nuwe poste te skep of te vul;
 - (ii) enige vakatures te vul;
 - (iii) die hergradering of opskaling van enige poste te inisieer of te implementeer;
 - (iv) enige personeellid te bevorder;
 - (v) enige permanente funksies of pligte aan personeel op te dra, uitgesonderd op 'n tydelike grondslag;
 - (vi) behoudens enige wet, bestaande kollektiewe ooreenkoms of dienskontrak:-
 - (aa) die goedkeuring en implementering van enige toelae of waarnemingstoelae;
 - (bb) die implementering van enige verhoging van salarisse of lone;
 - (vii) enige permanente verandering aan personeelstrukture en organisasiestrukture te implementeer, en
 - (viii) enige kollektiewe ooreenkoms aan te gaan, uitgesonderd 'n kollektiewe ooreenkoms wat in die Bedingingsraad onderhandel en aangegaan is, wat die Distriksmunisipaliteit sal bind ten opsigte van enige aangeleentheid wat in hierdie subartikel genoem word;
- (c) sonder om afbreuk te maak aan die algemene aard van subartikel (1), mag, sonder die vooraf skriftelike goedkeuring van die Distriksmunisipaliteit, welke goedkeuring nie onredelik geweier mag word nie, geen besluit neem of implementeer nie met betrekking tot enige bates, laste of rekords oorgedra ingevolge artikel 16B(1) of wat tydelik toegewys is ingevolge artikel 16B(3), wat daartoe sal lei dat sodanige munisipaliteit:-
- (i) roerende of onroerende bates verkoop of verhuur ter waarde van meer as R20 000 (twintig duisend rand), uitgesonderd as ingevolge bestaande kontraktuele reëlings; met dien verstande dat hierdie bepaling nie van toepassing is nie op die beskikking oor onroerende eiendom ooreenkomstig 'n goedgekeurde behuisingskema ingevolge die Behuisingswet, 1997 (Wet 107 van 1997);

- (ii) roerende of onroerende bates koop ter waarde van meer as R20 000 (twintig duisend rand), uitgesonderd as ingevolge bestaande kontraktuele reëlings;
 - (iii) nuwe kontrakte met 'n termyn van langer as een jaar sluit;
 - (iv) kontrakte vir 'n termyn van langer as drie maande hernu;
 - (v) inligtingstegnologiesels, insluitende programmatuur en apparatuur, verkry, en
 - (vi) gebruik maak van:-
 - (aa) statutêre fondse, hetsy vir regstreekse kapitaal- of ander besteding of om besteding te finansier deur interne lenings aan te gaan vir ander doeleindes as vir verbonde en noodsaaklike infrastruktuurprojekte wat in die 2000/2001-begroting goedgekeur is;
 - (bb) trustfondse (wat nie 'n raad se eie rekenings insluit nie) vir enige ander doel as dié waarvoor die fondse gehou word;
 - (cc) reserwefondse, reserwekapitaal of reserwevoorsienings vir 'n ander doel as vir noodsaaklike begrote instandhouding van infrastruktuur, nie-begrote noodinstandhouding van infrastruktuur wat nie uit die bedryfsbegroting gefinansier kan word nie of vir die afskryf van slegte skulde, en
 - (dd) enige statutêre trust, reserwe of voorsiening wat nie kontant befonds word nie, uitgesonderd vir die afskryf van slegte skulde;

met dien verstande dat hierdie subartikel nie in 'n noodgeval van toepassing is nie, en
 - (d) mag geen besluit neem of implementeer nie wat daartoe sal lei dat die Plaaslike Munisipaliteit sy goedgekeurde kapitaal- of bedryfsbegroting vir die 2000/2001 finansiële jaar sal oorskry.
- (2) Indien enige geskil met betrekking tot die bepalings van subartikel (1) tussen die Plaaslike Munisipaliteit en die Distrikmunisipaliteit ontstaan, moet sodanige geskil na die Provinsiale Minister verwys word vir beslissing deur die Provinsiale Minister of sy benoemde in ooreenstemming met prosedures wat deur die Provinsiale Minister bepaal word, en die besluit van die Provinsiale Minister of sy benoemde is finaal en bindend.
- (3) Enige kontrak wat aangegaan word in stryd met die bepalings van subartikel (1) of (2) is van nul en gener waarde.

(artikel 19 is vervang deur PK.675/2000)

Aanstelling van Waarnemende Beamptes

20. Voor die aanvang van die effektiewe datum, moet die Provinsiale Minister na die oorweging van enige aanbevelings deur die Distrikstransformasieforum, en waar toepaslik vir die Plaaslike Munisipaliteit, enige persoon in enige posisie wat ingevolge relevante wetgewing benodig word, aanstel, welke aanstelling in 'n waarnemende hoedanigheid sal wees, en wie die amp op die effektiewe datum moet aanvaar en dit moet beklee totdat die Plaaslike Munisipaliteit sy eie aanstellings gedoen het ingevolge die relevante wetgewing.

Aanstelling van Tussentydse Munisipale Bestuurder

- 21.(1) Voor die aanvang van die effektiewe datum, moet die Provinsiale Minister na die oorweging van enige aanbevelings deur die Distrikstransformasieforum, 'n tussentydse munisipale bestuurder aanstel wat die amp by aanstelling aanvaar en dit beklee totdat die Plaaslike Munisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het.
- (2) Die pligte van die tussentydse munisipale bestuurder sal, onderworpe aan voorskrifte of besluite tot die teendeel wat deur die Plaaslike Munisipaliteit aangeneem is, soos volg wees:-
- (a) om die eerste vergadering van die Raad van die Plaaslike Munisipaliteit ingevolge artikel 29(2) van die Munisipale Strukturewet byeen te roep;
 - (b) om op die eerste vergadering van die Raad van die Plaaslike Munisipaliteit voor te sit totdat die speaker verkies word;
 - (c) om na die effektiewe datum, as die hoof van administrasie en hoofrekenpligte beampte van die Plaaslike Munisipaliteit op te tree, totdat die Plaaslike Munisipaliteit sy eie munisipale bestuurder of waarnemende munisipale bestuurder aangestel het;
 - (d) om na die effektiewe datum, alle pligte wat deur die HUB van 'n munisipaliteit ingevolge betrokke wetgewing verrig moet word, te verrig;
 - (e) om verantwoordelikheid te aanvaar vir die bewerkstelling van die oorplasing van alle personeel, bates, laste en administratiewe en ander rekords na die Plaaslike Munisipaliteit;
 - (f) om sodanige persone aan te stel wat nodig is om sy of haar verpligtinge ingevolge hierdie Bylaag na te kom;
 - (g) om alle redelike stappe te doen om te verseker dat diensleweringkontinuiteit na die effektiewe datum gehandhaaf word;
 - (h) om tussentydse finansiële beheermeganismes vir die Plaaslike Munisipaliteit in te stel;
 - (i) om tussentydse verslagdoeningskanale en delegasies vir die Plaaslike Munisipaliteit in te stel;
 - (j) om dienskontrakte, agentskapsreëlings en diensleweringsooreenkomste te hersien en aan te beveel;
 - (k) om enige tussentydse diensleweringreëlings tussen die Plaaslike Munisipaliteite en die Distriksmunisipaliteit asook tussen die Plaaslike Munisipaliteit en ander plaaslike munisipaliteite binne die gebied van die Distriksmunisipaliteit in werking te stel;
 - (l) delegeer enige van sy of haar magte of pligte aan enige werknemer van die Plaaslike Munisipaliteit en wysig of herroep enige sodanige delegasie, en
 - (m) om in die periode voor die effektiewe datum, voor te berei vir die uitvoering van die pligte uiteengesit in paragrawe (a) tot (l).
- (3) Voor die effektiewe datum, moet die HUB's met die tussentydse munisipale bestuurder saamwerk ten aansien van al die aangeleenthede wat verbandhou met die instel van die Plaaslike Munisipaliteit.

- (4) Met ingang van die effektiewe datum, handel die HUB's onder die leiding van, en doen hulle verantwoording aan, die tussentydse munisipale bestuurder, en het die tussentydse munisipale bestuurder al die magte van die HUB's.

Tussentydse Munisipale Assistentbestuurders

22. Die Provinsiale Minister mag, na die oorweging van enige aanbeveling deur die Distrikstransformasieforum, enige aantal tussentydse assistente, vir die tussentydse munisipale bestuurder aanstel, wat hul ampte by aanstelling aanvaar en dit beklee totdat die Plaaslike Munisipaliteit die aanstellings bevestig of beëindig het.

Senior Bestuurspan

23. Enige tussentydse assistente wat vir die tussentydse munisipale bestuurder aangestel is, sal saam met die tussentydse munisipale bestuurder die senior bestuurspan van die Plaaslike Munisipaliteit uitmaak, wat toesig moet hou oor die implementering van die instelling van die Plaaslike Munisipaliteit.

Aanstellings

24. Enige persoon ingevolge artikel 21 of 22 aangestel sal, behoudens die bepalings van artikel 12 van hierdie Bylaag, 'n werknemer van 'n afgeskafte munisipaliteit wees en sal sy of haar pligte op 'n gesekondeerde grondslag verrig.

Eerste Vergadering van die Raad van die Plaaslike Munisipaliteit

- 25.(1) Die tussentydse munisipale bestuurder moet minstens drie dae voor die eerste vergadering van die Raad van die Plaaslike Munisipaliteit, 'n kennisgewing aan elke raadslid by sy of haar woonplek of 'n ander plek wat deur die betrokke raadslid bepaal is, stuur waarin die plek, datum en tyd van die eerste vergadering gespesifiseer word en wat die agenda bevat; met dien verstande dat die tussentydse munisipale bestuurder, as dit in sy of haar opinie nodig is, die eerste vergadering met 'n korter kennisgewing mag belê.
- (2) Behoudens enige verordening wat van krag is, maar onderhewig aan die bepalings van die Munisipale Strukturewet, is die reëls en orders vir die eerste vergadering van die Raad van die Plaaslike Munisipaliteit die reëls en orders soos uiteengesit in Provinsiale Kennisgewing 411/1988, soos afgekondig in Provinsiale Koerant No. 4532 van 20 Mei 1988, met die nodige wysigings soos vereis deur die konteks, welke reëls van krag sal bly totdat reëls en orders aangeneem word deur die Raad van die Plaaslike Munisipaliteit.

(subartikel (2) gewysig deur PK.675/2000 en PK. 117/2008)

- (3) Die vergaderplek vir die eerste vergadering van die Raad van die Plaaslike Munisipaliteit sal in Stellenbosch wees.

(subartikel (3) gewysig deur PK.675/2000)

- (4) Die agenda van die eerste vergadering sal soos volg wees:-

- (a) die verkiesing van die speaker;
- (b) of die Plaaslike Munisipaliteit die instelling van 'n uitvoerende komitee verlang, en indien wel, die bepaling van 'n stelsel van verteenwoordiging vir die verkiesing van die uitvoerende komitee;
- (c) die verkiesing van raadslede om op die uitvoerende komitee te dien;

- (d) die verkiesing van die burgemeester vanuit die geledere van die uitvoerende komitee;
- (e) die verkiesing van die onderburgemeester, waarvoor goedkeuring deur die Provinsiale Minister verleen word, vanuit die geledere van die uitvoerende komitee, en
- (f) enige ander sake deur die tussentydse munisipale bestuurder bepaal en in die agenda uiteengesit.

Toepassing van hierdie Kennisgewing

- 25A. Indien enige konflik rakende die aangeleenthede wat in hierdie Kennisgewing hanteer word sou ontstaan tussen hierdie kennisgewing en die bepalings van enige artikel 84(3)-kennisgewing afgekondig deur die Nasionale Minister of enige artikel 18-kennisgewing afgekondig deur die Provinsiale Minister, geniet die bepalings van die artikel 84(3)-kennisgewing of artikel 18-kennisgewing, na gelang van die geval, voorrang.

(artikel 25A ingevoeg deur PK.675/2000)

Uitvoerende Onderburgemeester

- 25B. Goedkeuring word verleen ingevolge artikel 55 van die Munisipale Strukture Wet, soos gewysig, vir die verkiesing van 'n uitvoerende onderburgemeester.

(artikel 25B ingevoeg deur PK.184/2003)

Kort titel en Inwerkingstreding

26. Hierdie Kennisgewing heet die Munisipaliteit Stellenbosch (WCO24) Instellingskennisgewing en tree in werking op die datum van publikasie.

ITEM 4.1

APPENDIX 2

STELLENBOSCH MUNICIPALITY
ESTABLISHMENT NOTICE (GG NO 6852
DATED 25 FEBRUARY 2011, PN 55/2011)

FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15

PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

6852

Friday, 25 February 2011

Buitengewone Provinsiale Koerant

6852

Vrydag, 25 Februarie 2011

Registered at the Post Office as a Newspaper

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(*Reprints are obtainable at Room M21, Provincial Legislature Building,
7 Wale Street, Cape Town 8001.)

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P.N. 55/2011

25 February 2011

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998**(ACT 117 OF 1998)****THE STELLENBOSCH MUNICIPALITY (WCO24) ESTABLISHMENT FIFTH AMENDMENT NOTICE**

In terms of section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby further amend the Stellenbosch Municipality (WCO24) Establishment Notice, Provincial Notice 489/2000 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 Stellenbosch Municipality (WCO24) Establishment Notice, Provincial Notice 489/2000 published in Provincial Gazette 5590 dated 22 September 2000, as amended by Provincial Notice 675/2000 published in the Provincial Gazette Extraordinary No. 5642 dated 4 December 2000, Provincial Notice 456/2002 published in the Provincial Gazette Extraordinary No. 5968 dated 19 December 2002, Provincial Notice 184/2003 published in the Provincial Gazette Extraordinary No. 6020 dated 28 May 2003, Provincial Notice 11/2006 published in the Provincial Gazette Extraordinary No.6333 dated 3 January 2006 and Provincial Notice 117/2008 published in the Provincial Gazette 6511 dated 28 March 2008.

Dated this 23rd day of February 2011.

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

SCHEDULE**Amendment of the Schedule to the principal Notice****1. The following subsections are substituted for subsections 8(1) and (2) of the principal Notice:-**

"8.(1) The Municipal Council of the Municipality has 43 (fourty three) councillors, as determined by the Provincial Minister in Provincial Notice 164/2000 published in Provincial Gazette Extraordinary No. 5468 dated 4 May 2000, repealed by Provincial Notice 100/2004 published in Provincial Gazette Extraordinary No. 6137 dated 8 June 2004 and Provincial Notice 261/2009 published in Provincial Gazette Extraordinary No. 6646 dated 31 July 2009, of which 22 (twenty two) are ward councillors and 21 (twenty one) are proportionally elected councillors.

(2) The Municipality has 22 (twenty two) wards."

Short title and commencement

2. This Notice is called the Stellenbosch Municipality (WCO24) Establishment Fifth Amendment Notice and has effect from the date of the next general election of municipal councils.

5. ELECTION OF THE SPEAKER**5.1 ELECTION PROCESS***File number : 3/3/2/3**Report by : Acting Municipal Manager**Compiled by : Director: Strategic & Corporate Services**Delegated Authority : Council***THE ACTING MUNICIPAL MANAGER CONDUCTS ELECTION AND HANDS OVER CHAIR TO SPEAKER AFTER ELECTION PROCESS IS CONCLUDED****1. LEGAL FRAMEWORK**

In terms of Section 36 of the Local Government: Municipal Structures Act, 117/98:-

- Each municipal Council must have a chairperson who will be called the Speaker;
- At its first sitting after its election, a municipal Council must elect its Speaker from among the Councillors;
- 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;
- The procedure set out in Schedule 3 of the Structures Act applies to the election of a Speaker; and
- A Councillor may not hold office as Speaker and 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.

2. ELECTION PROCEDURE

Schedule 3 of the said Act, which deals with the election of municipal office bearers, reads as follows:

"Application

1. *The procedure set out in this Schedule applies whenever a municipal council meets to elect a speaker.*

Nominations

2. *The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.*

Formal requirements

- 3.(1) *A nomination must be made on the form determined by the municipal manager.*
- (2) *The form on which a nomination is made must be signed by two members of the municipal council.*
- (3) *A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.*

Announcement of names of candidates

4. *At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.*

Single candidate

5. *If only one candidate is nominated, the person presiding must declare that candidate elected.*

Election procedure

6. *If more than one candidate is nominated-*
 - (a) *a vote must be taken at the meeting by secret ballot;*
 - (b) *each councillor present at the meeting may cast one vote; and*
 - (c) *the person presiding must declare elected the candidate who receives a majority of the votes.*

Elimination procedure

- 7.(1) *If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.*
- (2) *When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.*

Further meetings

- 8.(1) *If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.*
- (2) *If a further meeting is held in terms of subitem (1), the procedure in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.*
- (3) *If at the further meeting held in terms of subitem (1) only two candidates are nominated or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place."*

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*).

(ACTING MUNICIPAL MANAGER TO ACTION)

HAVING CONCLUDED THE ELECTION OF THE SPEAKER, THE ACTING MUNICIPAL MANAGER NOW HANDS OVER THE CHAIR TO THE DULY ELECTED SPEAKER OF THE STELLENBOSCH MUNICIPAL COUNCIL.

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

5.3 POLITICAL PARTIES' RESPONSES 3/3/2/3

An opportunity is afforded the political parties to offer brief responses.

ITEM 5

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE SPEAKER

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

**NOMINATION FORM:
ELECTION OF THE SPEAKER**

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Stellenbosch this day of 2016.

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 Stellenbosch this day of 2016.

.....
SIGNATURE OF NOMINEE

*delete the part that is not applicable

6. MATTERS FOR CONSIDERATION**6.1 RULES OF ORDER**

File number : 3/4/1/8

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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.

The existing Rules Of Order Regulating The Conduct Of Council And Council Committee Meetings of The Stellenbosch Municipality is **distributed under separate cover as an APPENDIX.**

RECOMMENDED

that the existing Rules of Order as set out in the **APPENDIX** be used as the Rules of Order applicable to the Stellenbosch Municipality's Council and Council Committee meetings.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.2 ELECTION OF THE EXECUTIVE MAYOR**6.2.1 ELECTION PROCESS***File number : 3/3/2/1**Report by : Acting Municipal Manager**Compiled by : Director: Strategic & Corporate Services**Delegated Authority : Council***1. LEGAL FRAMEWORK**

In terms of the Stellenbosch Municipality (WCO24) Establishment Notice, read with the subsequent amendment notices, Stellenbosch Municipality is a municipality with a mayoral executive system combined with a ward participatory system.

Section 55(1)(c) of the 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 of the Municipal Structures Act apply to the election of an Executive Mayor.

2. ELECTION PROCEDURE**"SCHEDULE 3*****Election of municipal office-bearers******Application***

1. *The procedure set out in this Schedule applies whenever a municipal Council meets to elect a Speaker, an Executive Mayor, a Deputy Executive Mayor, a Mayor or Deputy Mayor.*

Nominations

2. *The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.*

Formal requirements

3. (1) *A nomination must be made on the form determined by the Municipal Manager.*
- (2) *The form on which a nomination is made must be signed by two members of the Municipal Council.*
- (3) *A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.*

Announcement of names of candidates

4. At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate

Single candidate

5. If only one candidate is nominated, the person presiding must declare that candidate elected.

Election procedure

6. If more than one candidate is nominated –
- (a) a vote must be taken at the meeting by secret ballot;
 - (b) each Councillor present at the meeting may cast one vote; and
 - (c) the person presiding must declare elected the candidate who receives a majority of the votes.

Elimination procedure

7. (1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with Item 6. This procedure must be repeated until a candidate receives a majority of the votes.
- (2) When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

Further meetings

8. (1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.
- (2) If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.
- (3) If at the further meeting held in terms of subitem (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place."

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*).

(ACTING MUNICIPAL MANAGER TO ACTION)**6.2.2 ACCEPTANCE SPEECH BY THE NEWLY ELECTED EXECUTIVE MAYOR
11/2/3****(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 a 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 20 per cent of the councillors or 10 councillors, whichever is the least, are appointed.

In terms of the above, the Executive Mayor of Stellenbosch Municipality may appoint 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 Stellenbosch 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**3/3/3/2**

An opportunity is afforded the political parties to offer brief responses.

ITEM 6.2

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE EXECUTIVE MAYOR

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

**NOMINATION FORM:
ELECTION OF THE EXECUTIVE MAYOR**

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Stellenbosch this day of 2016.

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 Stellenbosch this day of 2016.

.....
SIGNATURE OF NOMINEE

*delete the part that is not applicable

6.3 ELECTION OF THE DEPUTY EXECUTIVE MAYOR**6.3.1 ELECTION PROCESS**

File number : 3/3/2/2

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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 for Local Government in the province so approves, also a Deputy Executive Mayor, from among its members at a meeting that must be held within 14 days after the Council's election, or within 14 days after the date with effect from which the type of the municipality has been changed.

In terms of Section 4 of the Section 16 Amendment Notice, Stellenbosch Municipality is authorised to elect a Deputy Executive Mayor.

The procedures set out in Schedule 3 of the Municipal Structures Act apply to the election of a Deputy Executive Mayor.

2. ELECTION PROCEDURE**"SCHEDULE 3*****Election of municipal office-bearers******Application***

1. *The procedure set out in this Schedule applies whenever a municipal Council meets to elect a Speaker, an Executive Mayor, a Deputy Executive Mayor, a Mayor or Deputy Mayor.*

Nominations

2. *The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.*

Formal requirements

3. (1) *A nomination must be made on the form determined by the Municipal Manager.*
- (2) *The form on which a nomination is made must be signed by two members of the Municipal Council.*

- (3) *A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.*

Announcement of names of candidates

4. *At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.*

Single candidate

5. *If only one candidate is nominated, the person presiding must declare that candidate elected.*

Election procedure

6. *If more than one candidate is nominated –*
- (a) *a vote must be taken at the meeting by secret ballot;*
 - (b) *each Councillor present at the meeting may cast one vote; and*
 - (c) *the person presiding must declare elected the candidate who receives a majority of the votes*

Elimination procedure

7. (1) *If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with Item 6. This procedure must be repeated until a candidate receives a majority of the votes.*
- (2) *When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.*

Further meetings

8. (1) *If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.*
- (2) *If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.*

- (3) *If at the further meeting held in terms of subitem (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place."*

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*).

(ACTING MUNICIPAL MANAGER TO ACTION)

6.3.2 ACCEPTANCE SPEECH BY THE NEWLY ELECTED DEPUTY EXECUTIVE MAYOR **11/2/3**

6.3.3 POLITICAL PARTIES' RESPONSES **3/3/3/2**

An opportunity is afforded the political parties to offer brief responses.

ITEM 6.3

APPENDIX 1

NOMINATION FORM:
ELECTION OF THE DEPUTY
EXECUTIVE MAYOR

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

**NOMINATION FORM:
ELECTION OF THE DEPUTY EXECUTIVE MAYOR**

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Stellenbosch this day of 2016.

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 Stellenbosch this day of 2016.

.....
SIGNATURE OF NOMINEE

*delete the part that is not applicable

6.4 DESIGNATION OF COUNCILLORS TO ACT IN THE ABSENCE OF THE EXECUTIVE MAYOR AND THE DEPUTY EXECUTIVE MAYOR

File number : 3/3/2/1 x 3/3/2/2

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate Services

Delegated Authority : Council

LEGAL FRAMEWORK

In terms of Section 56(6) of the 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) of the Act states that: "If the Executive Mayor is absent or not available and the Deputy Executive Mayor is also absent or not available, the Council must designate a Councillor to act as Executive Mayor".

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.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.5 DESIGNATION OF FULL-TIME COUNCILLORS

File number : 3/3/3/2

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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."¹

¹ Note selective quotation, based on applicability.

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 Stellenbosch Municipality (WCO24) Establishment Notice, read with the subsequent amendment notices:-

- (a) Stellenbosch 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) Stellenbosch Municipality may designate the following Councillors as full-time Councillors:-
- the Executive Mayor;
 - the members of the Mayoral Committee;
 - the Speaker;
 - the Single Whip; and
 - the Chairperson of MPAC (Municipal Public Accounts Committee).

Attached as **APPENDIX 2** is the Provincial Gazette: no. 7460, dated 31 July 2015, 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 Stellenbosch Municipality, the Deputy Executive Mayor of Stellenbosch 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; and
- the Chairperson of MPAC (Municipal Public Accounts Committee).

(ACTING MUNICIPAL MANAGER TO ACTION)

ITEM 6.5

APPENDIX 1

GOVERNMENT GAZETTE NO 34868
DATED 14 DECEMBER 2011

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**

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

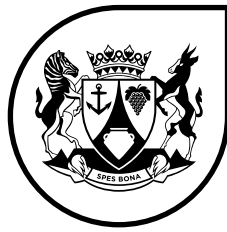
- Speaker;
- Executive Mayor;
- Mayor;
- Deputy Executive Mayor;
- Deputy Mayor;
- A member of an Executive Committee other than the Mayor and Deputy Mayor;
- A member of a Mayoral Committee;
- Chairperson of a Committee established in terms of section 79 in municipalities with 40 or more councillors;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

ITEM 6.5

APPENDIX 2

PROVINCIAL GAZETTE NO 7460
DATED 31 JULY 2015

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**



Western Cape Government • Wes-Kaapse Regering

PROVINCE OF WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette

Provinsiale Koerant

7460

7460

Friday, 31 July 2015

Vrydag, 31 Julie 2015

Registered at the Post Office as a Newspaper

As 'n Nuusblad by die Poskantoor Geregistreer

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(Vervolg op bladsy 1672)

PROVINCIAL NOTICES

The following Provincial Notices are published for general information.

ADV. B. GERBER,
DIRECTOR-GENERAL

Provincial Legislature Building,
Wale Street,
Cape Town.

PROVINSIALE KENNISGEWINGS

Die volgende Provinsiale Kennisgewings word vir algemene inligting gepubliseer.

ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaaipstad.

ISAZISO SEPHONDO

Ezi zaziso zilandelayo zipapashelwe ukunika ulwazi ngokubanzi.

ADV. B.GERBER,
UMLAWULI-JIKELELE

iSakhiwo sePhondo,
Wale Street,
eKapa.

P.N. 261/2015

31 July 2015

LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT 117 OF 1998)**THE STELLENBOSCH MUNICIPALITY (WCO24) ESTABLISHMENT SEVENTH AMENDMENT NOTICE**

In terms of section 16 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), I hereby further amend the Stellenbosch Municipality (WCO24) Establishment Notice, Provincial Notice 489/2000 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 Stellenbosch Municipality (WCO24) Establishment Notice, Provincial Notice 489/2000 published in Provincial Gazette 5590 dated 22 September 2000, as amended by Provincial Notice 675/2000 published in the Provincial Gazette Extraordinary No. 5642 dated 4 December 2000, Provincial Notice 456/2002 published in the Provincial Gazette Extraordinary No. 5968 dated 19 December 2002, Provincial Notice 184/2003 published in the Provincial Gazette Extraordinary No. 6020 dated 28 May 2003, Provincial Notice 11/2006 published in the Provincial Gazette Extraordinary No.6333 dated 3 January 2006, Provincial Notice 117/2008 published in the Provincial Gazette 6511 dated 28 March 2008, Provincial Notice 55/2011 published in the Provincial Gazette No. 6852 dated 25 February 2011 and Provincial Notice 283/2014 published in the Provincial Gazette No. 7320 dated 24 October 2014.

Dated this 21st day of July 2015.

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;
- (d) a single whip appointed for Council, and
- (e) Chairperson of Committee established in terms of section 79 (MPAC).”

2. Short title and commencement

This Notice is called the Stellenbosch Municipality (WCO24) Establishment Seventh Amendment Notice and comes into operation on the date of publication.

P.K. 261/2015

31 Julie 2015

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998 (WET 117 VAN 1998)**DIE MUNISIPALITEIT STELLENBOSCH (WCO24) INSTELLINGSKENNIGGEWING SEWENDE WYSIGINGSKENNIGGEWING**

In terme van artikel 16 van die Wet op Plaaslike Regering: Munisipale Strukture, 1998 (Wet 117 van 1998), wysig ek hierby verder die Munisipaliteit Stellenbosch (WCO24) Instellingskennigging, Provinsiale Kennigging 489/2000 gepubliseer in Provinsiale Koerant 5590 van 22 September 2000 (die hoofkennigging) soos uiteengesit in die Bylaag.

In hierdie kennigging beteken "hoofkennigging" die Munisipaliteit Stellenbosch (WCO24) Instellingskennigging, Provinsiale Kennigging 489/2000 gepubliseer in Provinsiale Koerant 5590 van 22 September 2000, soos gewysig deur Provinsiale Kennigging 675/2000 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5642 van 4 Desember 2000, Provinsiale Kennigging 456/2002 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 5968 van 19 Desember 2002, Provinsiale Kennigging 184/2003 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6020 van 28 Mei 2003, Provinsiale Kennigging 11/2006 gepubliseer in die Buitengewone Provinsiale Koerant Nr. 6333 van 3 Januarie 2006, Provinsiale Kennigging 117/2008 gepubliseer in die Provinsiale Koerant Nr. 6511 van 28 Maart 2008, Provinsiale Kennigging 55/2011 gepubliseer in die Provinsiale Koerant Nr. 6852 van 25 Februarie 2011 en Provinsiale Kennigging 283/2014 gepubliseer in die Provinsiale Koerant Nr.7320 van 24 Oktober 2014.

Gedateer op hierdie 21ste dag van Julie 2015.

AW BREDELL, PROVINISALE MINISTER VAN PLAASLIKE REGERING, OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING**BYLAAG****Wysiging van die Bylaag tot die hoofkennigging.****1. Artikel 9 van die hoofkennigging word gewysig deur die vervanging deur die volgende subartikel:**

"Voltydse Raadslede

9. Die Plaaslike Munisipaliteit mag die volgende raadslede as voltydse raadslede aanwys:
- die uitvoerende burgermeester;
 - lede van die burgermeesterskomitee;
 - die speaker;
 - 'n enkele sweep aangewys vir die Raad, en
 - Voorsitter van Komitee ingestel ingevolge artikel 79 ('MPAC')."

2. Korttitel en inwerkingtreding

Hierdie Kennigging word die Munisipaliteit Stellenbosch (WCO24) Instellingskennigging Sewende Wysigingskennigging genoem en tree in werking op die datum van publikasie.

I.S. 261/2015

31 kweyeKhala 2015

UMTHETHO OYILOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (UMTHETHO 117 KA-1998)**ISAZISO SESIXHENXE SOLUNGISO SEZICWANGCISO-ZIKHUNDLA U MASIPALA WASESTELLENBOSCH (WCO24)**

Ngokwemiqathango yecandelo 16 loMthetho oyiLocal Government: Municipal Structures Act, 1998 (uMthetho 117 ka-1998), apha ke ndenza ezinye izilungiso kwiSaziso esiyiStellenbosch Municipality (WCO24) Establishment Notice, iSaziso sePhondo esinguNomb. 489/2000 esapapashwa kwiGazethi yePhondo enguNomb. 5590 yomhla wama-22 Septemba 2000 (iSaziso satanci) njengoko kucaciswa kwiShedyuli.

Kwesi saziso "iSaziso satanci" sibhekisele kwiSaziso esiyiStellenbosch Municipality (WCO24) Establishment Notice, iSaziso sePhondo esinguNomb. 489/2000 esapapashwa kwiGazethi yePhondo enguNomb. 5590 yomhla wama-22 Septemba 2000, njengoko senziwa izilungiso ngeSaziso sePhondo esinguNomb. 675/2000 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 5642 yomhla we-4 Disemba 2000, iSaziso sePhondo esinguNomb. 456/2002 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 5968 yomhla we-19 Disemba 2002, iSaziso sePhondo esinguNomb. 184/2003 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 6020 yomhla wama- 28 Meyi 2003, iSaziso sePhondo esinguNomb. 11/2006 esapapashwa kwiGazethi yePhondo yeSikhawu enguNomb. 6333 yomhla we-3 Januwari 2006 neSaziso sePhondo esinguNomb. 117/2008 esapapashwa kwiGazethi yePhondo enguNomb. 6511 yomhla wama-28 Matshi 2008 yePhondo esinguNomb. 55/2011 esapapashwa kwiGazethi yePhondo enguNomb 6852 yomhla wama-25 kuFebhuwari 2011 neSaziso sePhondo esinguNomb. 283/2014 esapapashwa kwiGazethi yePhondo enguNomb 7320 yomhla wama-24 kuOktobha 2014.

Ngalo mhla wama-21 ku uJulayi 2015.

AW BREDELL, UMPHATHISWA WEPHONDO WOLAWULO LWEEDOLOPHU NEZITHILI, IMICIMBI YOKUSINGQONGILEYO NOCWANGCISO LOPHUHLISO**ISHEDULI****Izilungiso kwiShedyuli yeSaziso satanci****1. ICandelo 9 leShedyuli leSaziso esiyintloko siyalungiswa ngokufakela eli candelo lilandelayo endaweni yecandelo 9:**

"OoCeba abasebenza isigxina

9. Umasipala weSithili angamisela aba ceba balandelayo njengooceba besigxina
- Usodolophu wesigqeba solawulo;
 - Amalungu ecandelo lekomiti yosodolophu;
 - nosomlomo;
 - Umbhexeshi omnye onyulelewe iBhunga, kunye
 - Usihlalo wekomiti eyasekwa ngokwecandelo 79."

2. Isihloko esifutshane nomhla wokuqalisa

Saziso sibizwa ngokuba nguMasipala waseStellenbosch (WCO24) esisekiweyo ngokwesilungiso seSixhenxe kwaye siya kuqalisa ukusebenza ngomhla esiya kupapashwa ngaso.

6.6 APPOINTMENT OF SINGLE WHIP FOR STELLENBOSCH COUNCIL

<i>File number</i>	: 3/3/2/4
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. LEGAL FRAMEWORK

Section 18(4) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) prescribes that “A municipality has the power to designate councillors determined by the MEC for Local Government as full-time Councillors. An MEC’s determination must be in accordance with the policy framework, as may be determined by the Minister after consulting the MEC’s for Local Government.”

The relevant Proclamation Notice was published by the Minister for Co-operative Governance and Traditional Affairs, on 14 December 2011, in the Government Gazette no. 34868. (Refer APPENDIX 1 under Agenda Item 6.5). In terms of said notice “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.”²

Stellenbosch Municipal Council had sent a request to the Office of the MEC for Local Government for the appointment of a Single Whip. The MEC had responded and provided the requisite approval for the appointment of a single whip. (refer APPENDIX 2 under Agenda Item 6.5, the Provincial Gazette: 7460, dd 31 July 2015, confirming the designation of a Single Whip for Stellenbosch as a full-time councillor).

The majority party appoints the Single Whip.

RECOMMENDED

that a Single Whip for Stellenbosch Municipal Council be appointed.

(ACTING MUNICIPAL MANAGER TO ACTION)

² Note selective quotation, based on applicability.

6.7 ELECTION OF REPRESENTATIVES TO CAPE WINELANDS DISTRICT COUNCIL

File number : 3/3/1/7

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate Services

Delegated Authority : Council

**TO BE CONDUCTED BY THE INDEPENDENT ELECTORAL COMMISSION:
THE MUNICIPAL ELECTORAL OFFICER (MEO)**

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)-

$$\frac{A}{B} + 1$$

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 Stellenbosch 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*).

(ACTING 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**

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**



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

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

Provincial Gazette Extraordinary

Buitengewone Provinsiale Koerant

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

Provincial Notice

Provinsiale Kennisgewing

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended: Amendment of the existing Establishment Notices for Category B en C municipalities in the Province.

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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- 112 Witzenberg Municipality (WCO22) Sixth Amendment Notice to the Establishment Notice.....
- 113 Drakenstein Municipality (WCO23) Sixth Amendment Notice to the Establishment Notice.....
- 114 Stellenbosch Municipality (WCO24) Eighth Amendment Notice to the Establishment Notice.....
- 115 Breede Valley Municipality (WCO25) Seventh Amendment Notice to the Establishment Notice.....
- 116 Langeberg Municipality (WCO26) Seventh Amendment Notice to the Establishment Notice.....

- 111 Negende Wysigingskennisgewing van die Kaapse Wynland Distriksmunisipaliteit (DC2) Instellingskennisgewing.....
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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.

P.N. 111/2016

PROVINSIALE KENNISGEWING

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

ADV. B. GERBER,
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,
Waalstraat,
Kaapstad.

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.

P.K. 111/2016

8 April 2016

WET OP PLAASLIKE REGERING: MUNISIPALE STRUKTURE, 1998**(WET 117 VAN 1998)****DIE KAAPSE WYNLAND DISTRIKSMUNISIPALITEIT (DC2) INSTELLINGSKENNIGSEWING NEGENDE WYSIGINGSKENNIGSEWING**

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 (agt) 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. Korttitel 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 ADOPTION OF SYSTEM OF DELEGATIONS

<i>File number</i>	: 3/P/7
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: 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 separate cover as an APPENDIX.**

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.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.9 STRUCTURING OF COUNCIL: ESTABLISHMENT OF SECTION 79 COMMITTEES / STATUTORY COMMITTEES**6.9.1 CURRENT STATUS OF STATUTORY COMMITTEE: THE AUDIT AND PERFORMANCE AUDIT COMMITTEE**

File number : 3/3/3/4

Report by : Acting Municipal Manager

Compiled by : Chief Audit Executive

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.

3. 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 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.

3.1 **Functioning of the Audit and Performance Audit Committee**

In order to execute its responsibilities effectively, the Audit and Performance Audit Committee will have access to the financial records and all other relevant information of the municipality.

The Committee must have a minimum of three and a maximum of five members who must be appointed by Council. Stellenbosch's Audit and Performance Audit Committee Charter requires that there be five (5) 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 (attached as **APPENDIX 1**) as approved by Council in July 2015.

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 Stellenbosch Municipality performs the dual role of Audit and Performance Audit Committee.

3.2 **The Stellenbosch 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:
Ms. R Gani	15 January 2017 (term 1)
Ms. M Van der Merwe	23 March 2017 (term 2)
Ms RLC Strydom	23 March 2017 (term 2)
Mr. J Fairbairn	31 March 2019 (term 1)
Dr. NL Mortimer	31 March 2019 (term 1)

RECOMMENDED

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

(ACTING MUNICIPAL MANAGER TO ACTION)

ITEM 6.9.1

APPENDIX 1

**AUDIT AND PERFORMANCE AUDIT
COMMITTEE CHARTER**

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**



STELLENBOSCH
STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Audit and Performance Audit Committee Charter

(Terms of Reference)

June 2015

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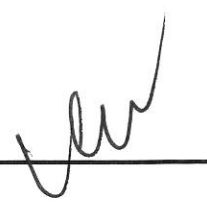
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1 OBJECTIVES

- 1.1 The objectives of the Audit Committee are to:
 - 1.1.1 Assist the Council in discharging its duties relating to the safeguarding of Council's assets;
 - 1.1.2 Develop and oversee the operation of an adequate system and internal controls and control processes;
 - 1.1.3 Oversee the preparation of accurate financial reporting and statements in compliance with all applicable legal requirements, corporate governance and accounting standards;
 - 1.1.4 Provide support to the Council on the risk profile and risk management of the Council; and
 - 1.1.5 Ensure that there is an internal audit function in place and that the roles of the internal and external audit functions are co-ordinated.

- 1.2 The membership, resources, responsibilities and authorities (composition, functions and operation) of the Audit Committee to perform its role effectively is stipulated in these terms of reference, which may be amended by Council in consultation with the Audit Committee Chairperson as and when required.

- 1.3 The Audit Committee is constituted in terms of the requirements of King III and sound corporate governance practices and operates within that framework.

2 MEMBERSHIP

- 2.1 The Audit Committee is Statutory Committee of Council and therefore Council should determine its composition.

- 2.2 The recommended composition is that the Audit Committee shall consist of at least 3 (three) and not more than 5 (five) independent audit specialists and/or professionals, who have a working knowledge of one or more of the fields of business, finance, legal, engineering, information technology, governance, auditing and/or performance management.

2.3 To ensure efficiency and transparency the Chairperson and other members shall be appointed by Council at a Council meeting.

2.4 Members shall be appointed for a term of 3 (three) years and, if re-appointed may only serve for one further 3 (three) year term. The terms of appointment of the members appointed in the first year will vary to ensure continuity of expertise in the future.

2.5 When a member of the Audit Committee cannot for any reason continue as a member he / she shall be forthwith replaced by Council. Such a replacement may either be for the balance of the period that the member being replaced would have served for, or a full 3 (three) year period. This shall be at the discretion of the Council on the recommendation of the Municipal Manager in conjunction with the Chief Audit Executive.

2.6 The Audit Committee members shall declare any conflict of interest that may arise and remove themselves from any proceedings and/or discussions in relation to the matter giving rise to that conflict.

2.7 An agenda with all supporting documents (meeting pack) shall be circulated, at least seven days prior to each meeting, to the members and invitees of the Audit Committee.

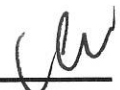
3 RESPONSIBILITIES AND DUTIES OF THE AUDIT COMMITTEE

3.1 The Audit Committee will be responsible for the oversight of internal controls, financial reporting and compliance with regulatory matters, mainly make recommendations to the Management and Council.

3.2 The committee must perform the following responsibilities:

3.2.1 Review the effectiveness of the councils system of internal controls and risk management;

3.2.2 Review the financial reporting;



- 3.2.3 Review of the financial statements;
- 3.2.4 Review the Internal Audit function;
- 3.2.5 Review the Auditor General's report;
- 3.2.6 Review the Council's compliance with legislation and regulation;
- 3.2.7 Review the Compliance with the Council's Code of Conduct and ethics;
- 3.2.8 Performance Management; and
- 3.2.9 Other Responsibilities as determined by legislation and by Council from time to time.

3.3 The Audit Committee shall advise Council, political office bearers, the accounting officer and management of the municipality on the matters pertaining to the duties listed above in accordance with section 166 of the Local Government: Municipal Finance Management Act 56 of 2003 (MFMA).

3.4 **INTERNAL CONTROL**


The Audit Committee shall:

- 3.4.1 Review whether management has implemented internal controls and business risk management as well as getting assurance from management that all employees have an understanding of their roles in executing these controls effectively;
- 3.4.2 Review whether management implemented internal controls, as recommended by internal and external auditors;
- 3.4.3 Review management's control of Council assets and the efficient and effective utilisation thereof; and
- 3.4.4 Review whether management has an efficient risk management policy in place as well as the necessary and appropriate personnel to implement same.

3.5 **FINANCIAL, GENERAL**

The Audit Committee shall:

- 3.5.1 Review any activity of the Council, with the full co-operation of all employees as requested by the members of the Committee;



- 3.5.2 Obtain the services of professionals if necessary to assist the Committee in the executing of its responsibilities; and
- 3.5.3 Discuss with management the Council's major financial risk exposures and the steps management has taken to monitor and control such exposures, including proposed future requirements

3.6 **FINANCIAL STATEMENTS**

The Audit Committee shall

- 3.6.1 Review and discuss with management and the Auditor General the annual audited financial statements and the results of the audit;
- 3.6.2 Review significant accounting and reporting issues and understand their impact on the financial statements. These issues include:
 - 3.6.2.1 Complex or unusual transactions and highly judgmental areas;
 - 3.6.2.2 Major issues regarding accounting principles and financial statement presentations, including any significant changes in the Council's selection or application of accounting principles;
 - 3.6.2.3 The effect of regulatory and accounting initiatives, as well as off-balance sheet structures, on the financial statements of Council;
 - 3.6.2.4 Review analyses prepared by management and/or the independent auditor setting forth significant financial reporting issues and judgments made in connection with the preparation of the financial statements, including analyses of the effects of alternative GRAP methods on the financial statements;
 - 3.6.2.5 Review with management and the external auditors the results of the audit, including any difficulties encountered. This review will include any restrictions on the scope of the independent auditor's activities or on access to requested information, and any significant disagreements with management;
 - 3.6.2.6 Discuss the annual audited financial statements with management and the external auditors; and
 - 3.6.2.7 Review disclosures made by Municipal Manager and Chief Financial Officer about significant deficiencies in the design or operation of internal controls or any fraud that involves management or other employees who have a significant role in the Council's internal controls.

3.7 INTERNAL AUDIT

The Audit Committee shall:

- 3.7.1 Review and approve the annual audit plan and charter of the Internal Audit Department and ensure that the audit plan makes provision for effectively addressing the risk areas;
- 3.7.2 Review the activities and organisational structure of the internal audit department and ensure that there are no unjustified restrictions or limitations and that they have independence;
- 3.7.3 Review audit reports by the Internal Auditors and determine whether management acted on recommendations that are made;
- 3.7.4 Determine whether the Internal Audit function is adequately resourced and has appropriate standing in the Municipality, and concur with the Municipal Manager in the appointment, replacement, reassignment or dismissal of the Chief Audit Executive;
- 3.7.5 Ensure that that Internal Audit function is subject to an independent quality review every 5 (five) years and complies with The Institute of Internal Auditors' International Standards for the Professional Practice of Internal Auditing;
- 3.7.6 Determine whether the Internal Auditors have an effective relationship with the Auditor General's staff;
- 3.7.7 Review significant differences of opinion between management and the Internal Audit function;
- 3.7.8 Review and evaluate the performance of the Internal Audit function and the Chief Audit Executive;
- 3.7.9 Review the independence and objectivity of the Chief Audit Executive; and
- 3.7.10 Meet with the Chief Audit Executive to discuss confidential matters.
- 3.7.11 The Chief Audit Executive shall have unrestricted access to the chairperson or any other member of the Audit Committee as required.
- 3.7.12 The Chief Audit Executive must ensure that sufficient funds are budgeted for the activities of the Audit Committee.



3.8 AUDITOR GENERAL

The Audit Committee shall:

- 3.8.1 Review the Auditor General's proposed audit scope and approach and ensure that no unjustified restrictions or limitations are placed on the scope;
- 3.8.2 Make suggestions as to risk areas that the audit can address;
- 3.8.3 Identify key matters arising in the current year's audit report and satisfy themselves that these are properly followed up by management;
- 3.8.4 Consider whether any significant ventures, investments or operations should be subjected to an independent audit;
- 3.8.5 Ensure the independence of the Auditor General;
- 3.8.6 Ensure direct access by the Auditor General to the Audit Committee, the Chairperson of the Audit Committee and the Municipal Manager;
- 3.8.7 Review reports of significant findings and recommendations made by the Auditor General, and management's response and follow-up actions to these reports;
- 3.8.8 Review audited annual financial statements and Auditor General's audit report, prior to submission to Council for approval; and
- 3.8.9 Meet with the Auditor General to discuss confidential matters.

3.9 COMPLIANCE WITH LAWS AND REGULATIONS

The Audit Committee shall:

- 3.9.1 Review the effectiveness of the system for monitoring compliance with laws and regulations and the result of management's investigation and follow up of any fraudulent acts (including disciplinary actions);
- 3.9.2 Ensure that all regulatory compliance matters have been considered in the preparation of the financial statements; and
- 3.9.3 The Committee will have the responsibility to discuss legal matters with management that may have a material impact on the financial statements or the Council's compliance policies.

3.10 COMPLIANCE WITH CODES OF CONDUCT AND ETHICS

The Audit Committee shall:

- 3.10.1 Advise the Municipal Manager and Speaker in ensuring that all councillors and staff are aware of the codes of conduct;
- 3.10.2 Review the process for monitoring compliance with the codes of conduct; and
- 3.10.3 Monitor the ethical conduct of the Council, executive and senior officials.

3.11 PERFORMANCE MANAGEMENT

The Audit Committee shall:

- 3.11.1 Review Council's performance management system, focusing on the key performance indicators and targets set by Council; and
- 3.11.2 Review reports from the Auditor General's audit and Internal Audit reports in respect of Performance Management and make recommendations to Council.

3.12 OTHER RESPONSIBILITIES

- 3.12.1 The Committee will have the power to investigate any matter, internal controls, fraud, misconduct and conflict of interest, brought to its attention within the scope of its duties, with the power to obtain outside advice or expertise if necessary.
- 3.12.2 The Audit Committee will review and reassess the adequacy of this Charter and report annually to Council any recommended changes for its (Council's) approval, if necessary.
- 3.12.3 The Audit Committee will annually review the Audit Committee's own performance and present such review to the Council.
- 3.12.4 The Audit Committee shall, with the approval of the Council and at the Council's expense, to the extent it deems necessary or appropriate, obtain the services of special independent legal, accounting or other consultants to advise the Audit Committee in fulfilling its obligations.
- 3.12.5 The Audit Committee shall have:

- 3.12.5.1 Direct access to the Chief Audit Executive;
- 3.12.5.2 Direct access to Council;
- 3.12.5.3 Access to the office of the Executive Mayor; and
- 3.12.5.4 Access to the office of the Municipal Manager.

3.12.6 Combined Assurance

- 3.12.6.1 The Audit Committee is responsible for ensuring that the combined assurance model introduced by King III is applied to provide a coordinated approach to all assurance activities.
- 3.12.6.2 In particular to King III, the Audit Committee:
 - 3.12.6.2.1 Will ensure that the combined assurance received is appropriate to address all the significant risks facing the Council; and
 - 3.12.6.2.2 Will monitor the relationship between external service providers and the Council.
- 3.12.6.3 The Audit Committee is an integral component of the risk management process and shall oversee:
 - 3.12.6.3.1 Financial reporting risks;
 - 3.12.6.3.2 Internal financial controls;
 - 3.12.6.3.3 Fraud risks as it relates financial reporting;
 - 3.12.6.3.4 IT risks as it relates to financial reporting; and
 - 3.12.6.3.5 Compliance risks

4 REPORTING

- 4.1 The Audit Committee must submit quarterly reports to Council for information.
- 4.2 The Committee must report annually to the Council, summarising the activities, recommendations and decisions, which can be included in the annual statements.

- 4.3 The chairperson of the Audit Committee or his/her nominee shall attend the Council meeting when the report is presented to answer questions concerning matters falling within the ambit of the Audit Committee.

5 MEETINGS

- 5.1 Council's Committee Secretariat Department or such other department as responsible for the function determined by the Council, will supply secretarial support to the Audit Committee, including the preparation and distribution of all agendas and minutes of meetings.
- 5.2 The Audit Committee shall meet as often as the Chairperson determines, but not less frequently than 4 (four) times during each a financial year.
- 5.3 The Municipal Manager, Chief Financial Officer and the Chief Audit Executive are obliged to attend all meetings of the Audit Committee, provided that the Chairperson of the Audit Committee may excuse any of these non-members from the meeting.
- 5.4 Other members of management may at the discretion of the Chairperson of the Audit Committee be invited to attend Audit Committee meetings, and shall be obliged to attend.
- 5.5 As necessary or desirable, the Audit Committee may invite such other persons, including a representative from the office of the Auditor General to attend a meeting of the Audit Committee, as it deems necessary and appropriate.
- 5.6 The Chairperson of the Audit Committee shall convene all meetings of the Audit Committee.
- 5.7 The Chairperson and the Chief Audit Executive shall be responsible to compile the agendas. An electronic or written agenda (meeting pack) for

each meeting should be sent to all persons who are to attend the meeting in advance, not less than seven days prior to the date of the Audit Committee meeting, along with any other relevant information or documentation for allowing adequate preparation to contribute to a more effective meeting.

5.8 Any member of the Audit Committee may add items to the agenda at least 8 (eight) working days prior to the date of the Audit Committee meeting. Such items shall be provided to the Chairperson or the Chief Audit Executive.

5.9 Special meetings of the Audit Committee may be convened with the Chairperson's approval. Any member of the Audit Committee, the Internal or External Auditors may request a special meeting if they consider that one is necessary.

5.10 3 (Three) members will form a quorum, and if the chairperson is absent, the members that are present, shall elect 1 (one) of those members present to serve as chairperson for that meeting.

5.11 If there is no quorum the meeting will be adjourned to a new date and time as determined by the Chairperson, not exceeding 2 (two) weeks.

5.12 The members of the Audit Committee as appointed by Council, and excluding the management of the Municipality, are the only persons with voting rights. Voting shall be by a show of hands unless decided by all members that it be by ballot. The Chairperson shall have a casting vote in the event that the votes are tied.

5.13 If a member wishes to dissent or protest against a decision he or she may request that it is recorded in the minutes.

6 PROCEEDINGS

6.1 Unless varied by these terms of reference, meetings and proceedings of the Committee will be governed by the Municipality's Rules of Order as adopted

by Council or any other municipal guidelines regulating the meetings and proceedings of committees as adopted by Council from time to time.

- 6.2 The minutes of meetings shall be reviewed and approved by the members of the Committee at the following meeting of the Audit Committee.

7 AUTHORITY OF THE COMMITTEE AND RESOURCES AVAILABLE TO IT


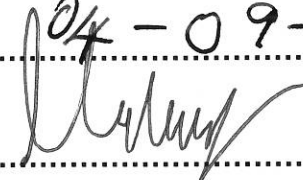
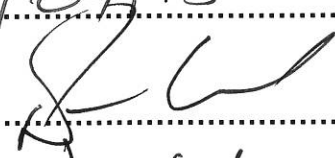
The Audit Committee, in carrying out its tasks under these terms of reference:

- 7.1 Is authorised to investigate any activity within its terms of reference;
- 7.2 May, at the discretion of the Audit Committee, require other employees of the municipality to attend its meetings or any part(s) of its meetings;
- 7.3 May consult with and seek any information it requires from any employee, and all employees shall be required to co-operate with any request made by the Audit Committee in the course of its duties. Such requests shall be directed to the Chairperson of the Audit Committee or the Chief Audit Executive;
- 7.4 Shall meet with external auditors without any officials / politicians in attendance at least once a year; and
- 7.5 Shall meet with the internal auditors without any officials / politicians in attendance at least once year.

8 REMUNERATION

- 8.1 Remuneration shall be on the basis of a fixed rate per meeting. This rate will include all preparation time utilised by members for meetings. The rate per meeting for ordinary members is R4 000,00 (four thousand Rand) per meeting and R5 000,00 (five thousand Rand) per meeting for the Chairperson of the Committee. Remuneration will be reviewed on an annual basis effective 1 July every year.

- 8.2 Travel cost will be paid for members travelling outside of the Greater Stellenbosch in line with the Municipality's Travel and Subsistence Policy.
- 8.3 Remuneration will be in accordance with the above tariff as approved by the Council.
- 8.4 The effectiveness of the Audit Committee will be monitored by Council, annually.

Executive Mayor	: 
Initials and Surname	: C.J. SIDOGO
Date:	: 04-09-2015
Chairperson: Audit Committee	: 
Initials and Surname	: L.C. NENE
Date	: 03/09/15
Municipal Manager	: 
Initials and Surname	: DUPRÉ LOMBARD
Date	: 03/07/2015

6.9.2 ESTABLISHMENT OF A MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC) AND OVERSIGHT COMMITTEE

File number : 3/3/3/6/7

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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 an 8-member Municipal Public Accounts Committee (MPAC), which was fully functional.

By virtue of the termination of the 2011-2016 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 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.

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 SALGA Guideline for the Establishment of MPACs (March 2012) **distributed under separate cover as an APPENDIX.**

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 Stellenbosch Municipality;
 - (ii) Financial statements of Stellenbosch 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 Stellenbosch Municipality; and
 - (vii) Performance information of Stellenbosch 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 Stellenbosch 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 Stellenbosch 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 Stellenbosch 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 (8 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

As per the amended Stellenbosch Establishment Notice, published in the Government Gazette 7460 on 31 July 2015 (P.N. 261/2015), the Chairperson of MPAC is a designated full-time Councillor.

Accordingly, at the 33rd Council Meeting held on 2015-08-25, Council resolved that the position of the Chairperson of MPAC be that of a full-time Councillor with effect from 31 July 2015.

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 below) during the election of the Chairperson for MPAC.

5.3 MSA Schedule 3 Election Procedure

"SCHEDULE 3

Application

1. *The procedure set out in this Schedule applies whenever a municipal Council meets to elect a Speaker, an Executive Mayor, a Deputy Executive Mayor, a Mayor or Deputy Mayor.*

Nominations

2. *The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.*

Formal requirements

3. (i) *A nomination must be made on the form determined by the Municipal Manager.*
(ii) *The form on which a nomination is made must be signed by two members of the Municipal Council.*
(iii) *A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.*

Announcement of names of candidates

4. *At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.*

Single candidate

5. *If only one candidate is nominated, the person presiding must declare that candidate elected.*

Election procedure

6. *If more than one candidate is nominated –*
 - (a) *a vote must be taken at the meeting by secret ballot;*
 - (b) *each Councillor present at the meeting may cast one vote; and*
 - (c) *the person presiding must declare elected the candidate who receives a majority of the votes.*

Elimination procedure

7. (i) *If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with Item 6. This procedure must be repeated until a candidate receives a majority of the votes.*
- (ii) *When applying sub item (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.*

Further meetings

8. (i) *If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.*
- (ii) *If a further meeting is held in terms of sub item (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.*
- (iii) *If at the further meeting held in terms of sub item (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place."*

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

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 “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 the Annual Report 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 11 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; and
- (d) that Council elects a Chairperson for the Municipal Public Accounts Committee (MPAC).

(ACTING MUNICIPAL MANAGER TO ACTION)

6.9.3 ESTABLISHMENT OF A RULES COMMITTEE

<i>File number</i>	: 3/P/8 x 3/4/2/6
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. PURPOSE OF REPORT

For Council to establish a Rules Committee for the Stellenbosch Council.

2. BACKGROUND

By virtue of the termination of the 2011-2016 Council's term of office, the former Rules Committee has also dissolved. It is prudent for the newly elected Council to establish a multi-party Rules Committee to be responsible for developing Rules of Order and amendments thereto, and to recommend same to Council for adoption.

The former Council had established an 8-member multi-party Rules Committee, with The Speaker serving as its Chairperson.

3. LEGAL FRAMEWORK**3.1 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 Committee members 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 proposed Rules Committee is to be a committee established in terms of Section 79 of the Structures Act. As such, the provisions of Section 79 referred to above are applicable, namely: that the municipal council determines the functions of the Rules Committee and may delegate powers and duties to it, that Council appoints the members of the Rules Committee, and that Council must also appoint the Rules Committee's Chairperson.

Section 79(2) further provides that Council may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council, may remove a member of a committee at any time, and may determine a committee's procedure.

3.2 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 Stellenbosch Municipality (WCO24) Establishment Notice, read with the Provincial Gazette: 7460, 31 July 2015, 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
- the Chairperson of MPAC (Municipal Public Accounts Committee).

RECOMMENDED

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

(ACTING MUNICIPAL MANAGER TO ACTION)

6.9.4 ESTABLISHMENT OF A DISCIPLINARY COMMITTEE

<i>File number</i>	: 3/3/3/6/16
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. PURPOSE OF REPORT

For Council to establish a Disciplinary Committee for the Stellenbosch Council.

2. BACKGROUND

By virtue of the termination of the 2011-2016 Council's term of office, the former 7-member Disciplinary Committee has also dissolved. It is prudent for the newly elected Council to establish a Disciplinary Committee to assist in the discipline of Councillors by conducting disciplinary hearings and to make recommendations to Council in terms of its findings.

3. LEGAL FRAMEWORK**3.1 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 proposed Disciplinary Committee is to be a committee established in terms of Section 79 of the Structures Act. As such, the provisions of Section 79 referred to above are applicable, namely: that the municipal council determines the functions of the Disciplinary Committee and may delegate powers and duties to it, that Council appoints the members of the Disciplinary Committee, and that Council must also appoint the Disciplinary Committee's Chairperson.

Section 79(2) further provides that Council may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council, may remove a member of a committee at any time, and may determine a committee's procedure.

3.2 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 Stellenbosch Municipality (WCO24) Establishment Notice, read with the Provincial Gazette: 7460, 31 July 2015, 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
- the Chairperson of MPAC (Municipal Public Accounts Committee).

RECOMMENDED

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

(ACTING MUNICIPAL MANAGER TO ACTION)

6.9.5 ESTABLISHMENT OF APPEAL AUTHORITY (SECTION 62: SYSTEMS ACT)

<i>File number</i>	: 3/P/8
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. PURPOSE OF REPORT

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

2. BACKGROUND

By virtue of the termination of the 2011-2016 Council's term of office, the former Council Appeal Committee has dissolved, which now necessitates the establishment of a new Appeal Committee. During the previous term, 7 (seven) Councillors were appointed to serve on the Council Appeal Committee, with the Speaker appointed as Chairperson.

3. LEGAL FRAMEWORK**3.1 MUNICIPAL SYSTEMS ACT, Section 62 APPEALS**

In the case of Stellenbosch 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..."*.

3.2 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 Stellenbosch Municipality (WCO24) Establishment Notice, read with the Provincial Gazette: 7460, 31 July 2015, 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
- the Chairperson of MPAC (Municipal Public Accounts Committee).

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.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.10 STRUCTURING OF COUNCIL: ESTABLISHMENT OF SECTION 80 COMMITTEES (PORTFOLIO COMMITTEES)

File number : 3/3/3/6/2
Report by : Acting Municipal Manager
Compiled by : Director: Strategic & Corporate 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.

2. Status Quo

The Portfolio Committees operational during the 2011-2016 term of office were:-

- Finance, Strategic and Corporate Services;
- Engineering Services and Human Settlements;
- Planning, Economic and Community Development; and
- Community and Protection Services.

RECOMMENDED

- (a) that the establishment of Section 80 portfolio committees be approved in principle;
- (b) that Council confirms that the currently existing Section 80 Portfolio Committees (with its functional areas) be retained, namely:
- Finance, Strategic and Corporate Services Committee;
 - Engineering Services and Human Settlements Committee;
 - Planning, Economic and Community Development Committee; and
 - Community and Protection 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.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.11 APPOINTMENT OF COUNCILLORS TO SERVE ON THE LOCAL LABOUR FORUM

File number : 3/3/3/6/4

Report by : Acting Municipal Manager

Compiled by : Director: Strategic & Corporate 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 2011-2016 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, 6 (six) Councillors were appointed to serve on the Local Labour Forum.

RECOMMENDED

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

(ACTING MUNICIPAL MANAGER TO ACTION)

6.12 APPOINTMENT OF REPRESENTATIVES ON SALGA – WESTERN CAPE

<i>File number</i>	: 3/6/3
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: 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 Stellenbosch 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.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.13 APPOINTMENT OF COUNCILLORS TO SERVE ON EXTERNAL BODIES

<i>File number</i>	: 3/6/3
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. PURPOSE OF REPORT

For Council to consider the appointment of Representatives of Council to serve on external bodies.

2. BACKGROUND

The table below indicates the various external bodies where the former Council was represented:

BODY/INSTITUTE	Number of Council Reps
Jan Marais Nature Reserve Advisory Committee	1
Mont Rochelle Nature Reserve Advisory Committee	2
Pension Fund and Retirement Fund	1
Stellenbosch Tourism and Information Bureau	2
Stellenbosch Museum Trustee	1
Franschhoek Museum	1
Franschhoek Valley Tourism	2
Community Police Forum Stellenbosch	3
Community Police Forum Kayamandi	3
Community Police Forum Franschhoek	2
Community Police Forum Klapmuts	2
Community Police Forum Cloetesville	2
Community Police Forum Groot Drankenstein	1
SWOKK (Stellenbosch Welsyns en Ontwikkelings-koördinerings Komitee)	3
FREMCO Trust	3
Hospital Board	1
University Board	1
Winelands Water Utilisation Association	1
Dilbeek Trust Committee	3

RECOMMENDED

that Council appoints representatives to serve on the external bodies.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.14 ESTABLISHMENT OF WARD COMMITTEES

<i>File number</i>	: 3/3/1/1
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. LEGAL FRAMEWORK**1.1 Establishment Notice**

In terms of Stellenbosch Municipality's Establishment Notice (as amended), it is a municipality with a mayoral executive system combined with a ward participatory system.

1.2 Choice to establish Ward Committees and its composition

In terms of section 73 of the Municipal Structures Act, if a local council decides to have Ward Committees, it must establish such Committees for each ward in the municipality.

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.

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

2. STATUS QUO

During the previous term, Ward Committees were operational in all 22 wards. However, Ward Committees cease to exist at the end of each term.

Taking into account that Stellenbosch Municipality (in terms of its Establishment Notice, as amended) is a Municipality with a Mayoral Executive System combined with a Ward Participatory System, new Ward Committees will have to be established.

RECOMMENDED

- (a) that Council notes that in terms of Section 73 of the Municipal Structures Act, Ward Committees must be established for each ward;
- (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
- (c) that the Speaker reports back to Council on the establishment of the Ward Committees within a period of 3 (three) months.

(ACTING MUNICIPAL MANAGER TO ACTION)

6.15 DISCLOSURE AND DECLARATION OF INTEREST

File number : 3/6/2/1 x 3/6/2/2
Report by : Acting Municipal Manager
Compiled by : Director: Strategic & Corporate Services
Delegated Authority : Council

1. LEGAL FRAMEWORK

In terms of Item 5 of the Code of Conduct for Councillors (Schedule 1 of the Municipal Systems Act), a Councillor must:-

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

In terms of Item 7 of the said Code, a Councillor must within 60 days after being elected as Councillor, declare in writing to the Municipal Manager the following interests held by that Councillor:-

- (i) shares and securities in any company;
- (ii) membership of any close corporation;
- (iii) interest in any trust;
- (iv) directorship;
- (v) partnership;
- (vi) other financial interests in any business undertaking;
- (vii) employment and remuneration;
- (viii) interest in property;
- (ix) pension; and
- (x) subsidies, grants and sponsorships by any organization.

Any change in the nature or detail of the financial interests of a Councillor must be declared in writing to the Municipal Manager annually.

Gifts received by a Councillor above a prescribed amount must also be declared.

The municipal Council must determine which of the financial interests referred to above must be made public, having regard to the need for confidentiality and the public interest for disclosure.

The Disclosure Form for Benefits and Interests is distributed under separate cover as an **APPENDIX**.

RECOMMENDED

that cognisance be taken of the provisions, and effect be given to the requirements, as stipulated in Item 5 of the Code of Conduct for Councillors in respect of Disclosure and Declaration of Interest.

(ACTING MUNICIPAL MANAGER TO ACTION)

7. MATTERS FOR NOTIFICATION**7.1 CODE OF CONDUCT FOR COUNCILLORS**

<i>File number</i>	: 3/6/4
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. PURPOSE OF REPORT

To bring to the attention of councillors the Code of Conduct as contained in Schedule 1 of the Municipal Systems Act 32 of 2000.

2. LEGAL FRAMEWORK

Schedule 1 of the Municipal Systems Act 32 of 2000 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.

A copy of the Code of Conduct for Councillors is distributed under separate cover as an **APPENDIX**.

RECOMMENDED

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

(ACTING MUNICIPAL MANAGER TO ACTION)

7.2 SECTION 53 ROLES AND RESPONSIBILITIES

File number : 3/5/1/1
Report by : Acting Municipal Manager
Compiled by : Director: Strategic & Corporate 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.

A copy of the Section 53 Roles And Responsibilities Manual is distributed under separate cover as an **APPENDIX**.

RECOMMENDED

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

(ACTING MUNICIPAL MANAGER TO ACTION)

7.3 HAND-OVER REPORT TO THE NEW COUNCIL

<i>File number</i>	: 1/1/1/1
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. PURPOSE OF REPORT

To submit to Council a consolidated Hand-over Report as required in terms of MFMA Circular 78 (dd 2015-12-07) issued by National Treasury.

2. BACKGROUND

Section 6.5 of MFMA Circular 78 (dd 2015-12-07) issued by National Treasury 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 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.

It is proposed that the hand-over report should include:

- *An overview of the demographic and socio-economic characteristics of the municipality;*
- *An overview of the organisational structure of the municipality, with the names and numbers of senior managers;*
- *An overview of key municipal policies that councillors need to be aware of, and where they can obtain the full text of such policies;*
- *An overview of issues that still need to be addressed in relation to the municipality’s turnaround strategy;*
- *An overview of the municipality’s financial health, with specific reference to:*
 - *Its cash and investments, and its funding of commitments (Table A8);*
 - *Cash coverage of normal operations (see Supporting Table SA10);*
 - *Creditors outstanding for more than 30 days, along with reasons for delayed settlement;*
 - *Current collection levels and debtors outstanding for more than 30 days; and*
 - *Extent of existing loans, and associated finance and redemption payments.*
- *The municipality’s 2014/15 audit outcome, and its strategy to address audit issues;*
- *An overview of the provision of basic services, including plans to address backlogs;*

-
- *An overview of the state of the municipality's assets, with particular reference to the asset management plan, and repairs and maintenance requirements;*
 - *A list of the main infrastructure projects planned for the 2016/17 budget and MTREF;*
 - *A list of key processes requiring council input over the next six months, e.g. revision of the IDP, approval of specific policies etc. and*
 - *Any other information deemed to be important.*

In addition to the hand-over report, each new councillor should be given the municipality's revised IDP, the adopted 2016/17 budget, the mid-year budget and performance assessment report for 2015/16, and the latest monthly financial statement, and the annual report for 2014/15".

3. KEY DOCUMENTS

Pursuant to the above guidelines, a **CONSOLIDATED HAND-OVER REPORT** as well as the following key documents are distributed separately:

- **IDP 2016/17**
- **2014/15 ANNUAL REPORT**
- **MEDIUM TERM REVENUE AND EXPENDITURE FRAMEWORK (2016/17 BUDGET)**
- **LATEST ANNUAL FINANCIAL STATEMENT**
- **MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT REPORT FOR 2015/16**

RECOMMENDED

that cognisance be taken of the Hand-Over Report and its Appendices.

(ACTING MUNICIPAL MANAGER TO ACTION)

7.4 DATES/FREQUENCY OF COUNCIL AND COMMITTEE MEETINGS

<i>File number</i>	: 3/4/1/1 x 3/4/2/1 x 3/4/3/1
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: 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 Stellenbosch Municipality is that Portfolio/Standing Committee meetings (4 Committees) are generally held on the first Tuesday and Wednesday and the 2nd Tuesday and Wednesday of a month, followed by a Mayoral Committee Meeting on the 3rd Wednesday of a month, and a Council meeting on the last Wednesday of a month.

The schedule of the 2016 calendar year meetings of Council, Mayco, Standing Committees and other Committees of Council as adopted by the former Council at its 35th Meeting on 2015-10-28, is distributed under separate cover as an **APPENDIX**.

RECOMMENDED

that the schedule of meetings as adopted by the former Council on 2015-10-28 be confirmed as applicable to the remainder of the current calendar year.

(ACTING MUNICIPAL MANAGER TO ACTION)

7.5 REMUNERATION OF COUNCILLORS

<i>File number</i>	: 5/22
<i>Report by</i>	: Acting Municipal Manager
<i>Compiled by</i>	: Director: Strategic & Corporate Services
<i>Delegated Authority</i>	: Council

1. BACKGROUND

On 2015-12-21, the National Minister for Cooperative Governance and Traditional Affairs, Mr. Des van Rooyen published the upper limits of salaries, allowances and benefits of different municipal councils with effect from 01 July 2015.

A copy of the said publication (**Government Notice No 1271, GG 39548**) and schedule is attached as **APPENDIX 1**.

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), Stellenbosch Municipality is a Grade 4 Municipality.

The above-mentioned matter was considered by Council on 2016-01-27. 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.

(ACTING MUNICIPAL MANAGER TO ACTION)

ITEM 7.5

APPENDIX 1

REMUNERATION OF COUNCILLORS

**FIRST MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY:
2016-08-15**

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. 1271

21 DECEMBER 2015

**REMUNERATION OF PUBLIC OFFICE BEARERS ACT, 1998
(ACT NO. 20 OF 1998)****DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND
BENEFITS OF DIFFERENT MEMBERS OF MUNICIPAL COUNCILS**

Under the powers vested in me by sections 7(1), 8(5)(a) and 9(5)(a) of the *Remuneration of Public Office-bearers Act, 1998* (Act No. 20 of 1998), I, David Douglas Des van Rooyen, Minister for Cooperative Governance and Traditional Affairs, hereby –

- (a) after consultation with the Member of the Executive Council responsible for local government in each province; and
- (b) after taking into consideration the matters listed in paragraphs (a) to (i) of section 7(1) of the Act,

determine the upper limits of the salaries, allowances and benefits of the different members of municipal councils as set out in the Schedule.



**DES VAN ROOYEN, MP
MINISTER FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

SCHEDULE

PREAMBLE

The salary and allowances of a member of a municipal council is determined by that municipal council by resolution of a supporting vote of a majority of its members, in consultation with the member of the executive council responsible for local government in the province concerned, having regard to the upper limits as set out hereunder, the financial year of municipal councils, and the affordability of municipal councils to pay within the different levels of remuneration to councillors.

For purposes of implementing this Government Notice, "in consultation with" means that municipalities must obtain concurrence of the member of the executive council responsible for local government in the province concerned before implementing the provisions contained herein, including the tools of trade.

1. Definitions

In this Schedule, unless the context otherwise indicates, a word or phrase to which a meaning has been assigned in the *Remuneration of Public Office-bearers Act, 1998* (Act No. 20 of 1998) (hereinafter referred to as "the Act") and the *Local Government: Municipal Structures Act, 1998* (Act No. 117 of 1998) (hereinafter referred to as "the Structures Act"), has that meaning and –

"**basic salary**" means the component of the salary that excludes a travel allowance as provided in items 9(1), a housing allowance as provided in items 9(2), the municipal contribution to a pension fund as provided in item 12(1) and the municipal contribution to a medical aid scheme as provided in item 12(2);

"**full-time councillor**" means a councillor who has been elected or appointed to an office which has been designated as full-time in terms of section 18(4) of the Structures Act;

"**governance structures of organised local government**" means the National Executive Committee, the Provincial Executive Committee and the National and Provincial Working Groups of organised local government;

“**grade**” means the grade of municipal council as determined in terms of item 4;

“**out of pocket expenses**” means actual and necessary expenses incurred by a councillor which have been specifically authorised or provided for in terms of the municipality’s policy, in connection with a specific official or ceremonial duty that has been delegated to the councillor in question;

“**part-time councillor**” means a councillor other than a full-time councillor;

“**section 79 committee**” means a committee of the municipal council established in terms of section 79 of the Structures Act;

“**SETAs**” means the Sector Education and Training Authorities established in terms of section 9 of the *Skills Development Act, 1998 (Act No. 97 of 1998)*;

“**special risk cover**” means an insurance cover to provide for the loss of or damage to a councillor’s personal property and assets, life or disability, arising from any riot, civil unrest, strike or public disorder, and excludes any property owned by a councillor for business purposes;

“**tools of trade**” means the resources provided by a municipal council to a councillor to enable such councillor to discharge his or her duties in the most efficient and effective manner, and at all times remain the assets of the municipality concerned;

“**total municipal income**” means gross income in respect of a metropolitan, local or district municipality based on actual income received as stated in the audited financial statements of that municipality for the 2014/ 2015 financial year. The gross income for the municipality will include the following:

- rates on property;
- fees for services rendered by the municipality, or on its behalf by a municipal entity;
- surcharges;
- other authorised taxes;
- levies and duties;
- income from fines for traffic offences and contravention of municipal by-laws or legislation assigned to the local sphere of government;
- regional services council replacement grant for district municipalities;
- interest earned on invested funds other than national and provincial conditional grants;

- rental for the use of municipal movable or immovable property; and
- amounts received as agent for other spheres of government.

The gross income excludes the following:

- transfers and / or grants from the national fiscus; and
- all value added tax (VAT) refunds.

“**total population**” means the official statistics of the population residing in the area of jurisdiction of a metropolitan, local or district municipality, as determined by the Statistician-General for the 2011 Census, in terms of the *Statistics Act*, 1999 (Act No. 6 of 1999); and

“**total remuneration package**” means the total cost to a municipality of a basic salary component, a travelling allowance as provided in items 9(1) a housing allowance as provided in items 9(2) the municipal contribution to a pension fund as provided in item 12(1) and the municipal contribution to a medical aid scheme as provided in item 12(2) to a councillor in a municipal financial year.

2. Allocation of number of points for total municipal income

The number of points allocated for the total municipal income of a municipality is as follows:

TOTAL MUNICIPAL INCOME			NUMBER OF POINTS
R 0	-	R 10,000,000	8.33
R 10,000,001	-	R 50,000,000	16.67
R 50,000,001	-	R 200,000,000	25.00
R 200,000,001	-	R 1,500,000,000	33.33
R 1,500,000,001	-	R 2,000,000,000	41.67
More than R2,000,000,000			50.00

3. Allocation of number of points for total population

The number of points allocated for the total population within a municipality, is as follows:

TOTAL POPULATION			NUMBER OF POINTS
0	-	50,000	8.33
50,001	-	100,000	16.67
100,001	-	250,000	25.00
250,001	-	550,000	33.33
550,001	-	1,800,000	41.67
More than 1,800,000			50.00

4. Determination of grade of municipal council

(1) The sum of the number of points allocated to a municipal council, other than a municipal council referred to in sub-item (2), in terms of items 2 and 3 respectively, determines the grade of such municipal council as follows:

GRADE OF MUNICIPAL COUNCIL	POINTS
1	0 to 16.66
2	16.67 to 33.33
3	33.34 to 50.00
4	50.01 to 66.67
5	66.68 to 83.35
6	83.36 and above

(2) A municipal council that does not have any municipal income is a grade 1 municipal council as envisaged in sub-item (1).

5. Upper limits of the annual total remuneration packages of full-time councillors

The upper limits of the annual total remuneration packages of full-time councillors are as follows:

GRADE	MAYOR OR EXECUTIVE MAYOR	SPEAKER, DEPUTY MAYOR OR DEPUTY EXECUTIVE MAYOR	MEMBER OF THE EXECUTIVE COMMITTEE OR MAYORAL COMMITTEE, WHIP OR CHAIRPERSON OF A SUBCOUNCIL	CHAIRPERSON OF A SECTION 79 COMMITTEE
	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE
6	1 242 409	1 003 393	940 680	877 968
5	921 912	737 529	691 433	645 339
4	787 061	629 647	590 296	550 942
3	758 012	606 410	568 510	530 608
2	709 765	567 812	532 323	496 835
1	689 087	551 266	516 811	482 357

The mayor of a plenary type municipality should be remunerated according to the total remuneration package column of mayor/ executive mayor.

If the amount received by a chairperson of a section 79 committee during the 2014/15 financial year is more than the upper limit of the 2015/16 financial year, as set out in this table, the chairperson will retain the higher amount, until such time that the amount received is less than the upper limit determined in the Notice.

6. Upper limit of remuneration or allowance in respect of appointed councillors

(1) The upper limit of the allowance of a councillor who has been appointed to a district council in terms of section 23(1)(b) of the Structures Act, is as follows:

- (a) If such councillor is elected or appointed as speaker, mayor, executive mayor, member of a mayoral committee, member of an executive committee, chairperson of a section 79 committee or part-time member of a district council, the upper limit of the remuneration to which such councillor is entitled to, is an amount equal to the difference between the total remuneration package that a councillor receives as a member of the local council and the total remuneration package allocated to that office in the district council in terms of items 5, 6, 7, 8, 9, 10, 11 and 12, as the case may be.
- (b) If the upper limit of the total remuneration package which a councillor receives is equal to or higher than the upper limit of the total remuneration package to which the councillor is entitled to as an appointed councillor to the district council, such councillor is entitled to receive in addition to the total remuneration package, an allowance of not more than R962 per sitting of the district council or any

committee of that council: Provided that this allowance is limited to R962 per day, regardless of the number of meetings of the district council or committees of that council that are attended by such councillor on a specific day.

(2) A district council is responsible for –

- (a) the payment of the remuneration or the allowance referred to in paragraphs (a) and (b) respectively;
- (b) the reimbursement of travel expenses incurred by a councillor during the performance of official duties on behalf of that district municipality, in terms of that district council's policy, and not exceeding the applicable tariffs prescribed by the national department responsible for transport for the use of privately-owned vehicles; and
- (c) the reimbursement of cell phone expenses incurred by a part-time appointed councillor during the performance of official functions on behalf of that district municipality, in terms of that district council's policy, and not exceeding 50% of the applicable allowances as prescribed under item 10.

7. Upper limit of allowance in respect of councillors appointed to governance structures of organised local government

(1) A councillor who has been elected or appointed to a governance structure of organised local government may be paid the following allowance in addition to the total remuneration package applicable to that councillor:

- (a) An allowance not exceeding R962 per sitting of any governance structure of organised local government: Provided that this allowance is limited to R962 per day, regardless of the number of meetings that are attended by such councillor on a specific day.
- (b) An allowance not exceeding R962 per sitting for the attendance of formal inter-governmental and governance structures where organised local government is

officially represented: Provided that this allowance is limited to R962 per day, regardless of the number of meetings that are attended by such councillor on a specific day.

(2) Organised local government is responsible for –

- (a) the payment of the allowance referred to in paragraphs (a) and (b) respectively; and
- (b) the reimbursement of travel expenses incurred by a councillor during the performance of official duties on behalf of organised local government, in terms of organised local government's travel policy, and not exceeding the applicable tariffs prescribed by the national department responsible for transport for the use of privately-owned vehicles.

8. Upper limits of the annual total remuneration packages of part-time councillors

The upper limits of the annual total remuneration packages of part-time councillors are as follows:

GRADE	MAYOR / EXECUTIVE MAYOR	SPEAKER, DEPUTY MAYOR OR DEPUTY EXECUTIVE MAYOR	MEMBER OF THE EXECUTIVE COMMITTEE OR MAYORAL COMMITTEE	CHAIRPERSON OF SECTION 79 COMMITTEE	OTHER PART-TIME MEMBERS
	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE
6	693 101	586 335	519 826	485 172	441 064
5	509 454	407 564	382 091	356 618	277 883
4	434 935	347 947	326 201	304 454	237 236
3	418 883	335 106	314 168	293 217	228 481
2	392 221	313 776	294 166	274 555	213 939
1	380 791	304 632	285 594	266 553	207 455

The mayor of a plenary type municipality should be remunerated according to the total remuneration package column of mayor/ executive mayor.

9. Upper limits of the allowances of full-time and part-time councillors

The upper limits of the allowances of full-time and part-time councillor, which form part of the total remuneration package, are as follows:

(1) Travelling allowance

- (a) An allowance of not more than 25% of the annual total remuneration package of a councillor concerned as determined in terms of items 5 and 8 may be included as part of the total package;
- (b) Official distances travelled may, in addition to the annual total remuneration package of a councillor as determined in terms of items 5 and 8 and the allowance referred to in paragraph (a), be reimbursed in accordance with the councils' applicable policy, and not exceeding the applicable tariffs prescribed by the national department responsible for transport for the use of privately owned vehicles;
- (c) For the purposes of claiming running and maintenance allowances, a logbook acceptable to the South African Revenue Service reflecting the official and private kilometres travelled per month must be kept;
- (d) A municipal council may, in addition to the allowance referred to in paragraph (a), provide a municipal-owned vehicle to a an executive mayor or mayor, deputy executive mayor or deputy mayor, or speaker, where applicable, for official purposes;
- (e) Where a municipal council makes a municipal-owned vehicle available to a councillor, other than an executive mayor or a mayor, deputy executive mayor or deputy mayor, or speaker, where applicable, for use on official business, the councillor would not be entitled to the 25% travelling allowance, as determined in terms of items 5 and 8; and
- (f) Nothing herein contained shall prevent any other councillor other than a mayor, deputy mayor or speaker from making use of a municipal-owned vehicle for attendance at a specific function which that councillor has been delegated to attend, outside of the ordinary scope of work of such councillor.

(2) Housing allowance

A councillor may structure his or her salary to include housing allowance as part of the total remuneration package.

(3) Out of pocket expenses

A councillor may, in addition to the total remuneration package, be reimbursed for reasonable and actual out of pocket expenses incurred during the execution of official and ceremonial duties, in accordance with a policy as approved by the municipal council.

10. Upper limits of cell phone allowance for councillors

A councillor may, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, be reimbursed a fixed cell phone allowance not exceeding the following amounts:

(1) R3485 per month to a full-time executive mayor or mayor, deputy mayors and speakers of only a grade 6 municipal council; and

(2) R1739 per month to a councillor, including executive mayor or mayor, deputy mayors and speakers of grade 1, 2, 3, 4 and 5 municipal councils.

11. Upper limits of mobile data bundles for councillors

A councillor may, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, be reimbursed for fixed mobile data bundles not exceeding R300 per month.

12. Upper limits of pension fund contributions and medical aid benefits of councillors

The following are also included in the total remuneration package of a councillor:

(1) The upper limit of the contribution to be made by a municipal council to the pension fund, of which a councillor is a member, is 15% of the basic salary of such councillor. The contributions by the municipal council and the councillor are included in the total remuneration package as a total cost to the municipality.

(2) The upper limit of the contribution to be made by a municipal council to the medical aid scheme of which a councillor is a member, is $\frac{2}{3}$ of the membership fee: Provided that a part-time councillor is not a member of a medical aid scheme by virtue of his or her employment in a capacity other than a councillor. The contributions by the municipal council and the councillor are included in the total remuneration package as a total cost to the municipality.

13. Special risk cover

(1) A municipality must, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, take out risk insurance cover, to provide for the loss of or damage to a councillor's property, assets, life or disability, excluding business property, arising from any riot, civil unrest, strike or public disorder. The special risk insurance on fixed property will be limited to R1,5 million while on vehicles it is limited to R750 000. The life and disability insurance cover is limited to 2 times the total remuneration package of a councillor.

(2) In the event where the residential property of a councillor was damaged or destroyed as a result of riot, civil unrest, strike or public disorder, the municipality may, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, provide alternative accommodation, affordable to the municipality, to such a councillor for a period of 30 days from the date of such an incident, which may be reviewed by the municipal council after expiry of the 30 days, on good cause shown, for not more than 30 days at a time.

(3) It is the responsibility of a councillor to furnish details of the councillor's property, assets and beneficiaries to be covered by the special risk insurance upon request. Failure by the councillor to furnish the municipality with the required information will forfeit the councillor's benefits from the special risk insurance cover. A councillor who already has their own special risk cover must also declare to the municipality such information.

14. Tools of trade

(1) A municipal council may extend the following tools of trade to a councillor as follows:

	TOOL OF TRADE	CONDITIONS
(i)	Braille reader	To be provided to all visually impaired councillors.
(ii)	Office space and furniture; Parking bay; Business cards; Calculators; Letter-heads; Stationery; Toner cartridges; Diaries; Postage costs; Office telephone; and Appropriate mobile technology and multi-digital office (excluding cell phones and mobile data card as per item 10 and 11), including laptop and or desktop computer, facsimile, printer, photocopier and scanner.	To be provided to full-time councillors, part-time Executive Mayors or Mayor, part-time Deputy Executive Mayors or Deputy Mayors, part-time Speakers, part-time Members of Mayoral Committee or Members of Executive Committee and part-time Chairpersons of Section 79 Committees.
(iii)	Business cards; Calculators; Letter-heads; Stationery; and Diaries.	To be provided to part-time councillors and the usage must comply with policy directives of the municipality.
(iv)	Postage costs; Office telephone; and Multi-digital office, facsimile, printer, photocopier and scanner.	Part-time councillors to have access to these tools of trade at the municipal offices.
(v)	Personal security to Executive Mayors or Mayors.	Subject to a threat and risk analysis conducted by the South African Police Service.
(vi)	Personal security to any other councillor.	Subject to a threat and risk analysis conducted by the South African Police Service.

TOOL OF TRADE	CONDITIONS
The extension and implementation of the above tools of trade must be done in consultation with the member of the executive council responsible for local government in the province concerned.	

(2) Where a municipal council makes available tools of trade in terms of sub-item (1) such a municipal council must take into account accessibility, affordability and cost control, equity, flexibility, simplicity, transparency, accountability and value of tools of trade.

15. Capacity building

(1) A municipality may, in addition to the annual total remuneration packages provided for in terms of items 5 and 8 respectively, contribute towards the payment of costs towards capacity building programmes of councillors.

(2) These capacity building programmes may include specific training conducted by national departments, associated government agencies and SETAs, provincial departments, municipalities and organised local government through institutions of higher learning and Further Education and Training Colleges.

(3) The training programmes must be informed by capacity building needs of councillors to fulfil their statutory obligations and affordability by a municipality.

16. Overpayment

(1) Any remuneration paid to a councillor of a municipality otherwise than in accordance with section 167(1) of the *Local Government: Municipal Finance Management Act, 2003* (Act No. 53 of 2003) including any bonus, bursary, loan, advanced or other benefit, is an irregular expenditure and the municipality –

(a) must, and has the right to, recover that remuneration from the political office bearer or member; and

(b) may not write-off any expenditure incurred by the municipality in paying or giving that remuneration.

(2) The MEC must report to the Minister –

(a) any transgression of subsection (1); and

(b) any non-compliance with this Notice.

17. Transitional measures

(1) If the total remuneration package of a councillor decreases as a consequence of the determination of the grade of municipal council as set out in item 4 of this Notice, such a councillor retains the total remuneration package as determined in terms of Government Notice No. R. 526 of 17 June 2015 and the councillor is entitled to the applicable cost of living adjustment: Provided that the data used by the municipality for determination of the grading of a municipal council was correct.

(2) If a municipality has not submitted the audited financial statements for 2014/15 financial year by the date of publication of this Notice, the audited financial statements for the 2013/14 financial year will apply.

18. Short title and commencement

This Notice is called the Determination of Upper Limits of Salaries, Allowances and Benefits of Different Members of Municipal Councils and takes effect from 1 July 2015.