



STELLENBOSCH

STELLENBOSCH • PNIEL • FRANSCHHOEK

MUNICIPALITY • UMASIPALA • MUNISIPALITEIT

Ref no.3/4/1/5

2018-07-27

NOTICE OF AN URGENT MEETING OF THE COUNCIL OF STELLENBOSCH MUNICIPALITY MONDAY, 2018-07-30 AT 12:00

TO The Executive Mayor, Ald G Van Deventer (Ms)
The Deputy Executive Mayor, Cllr N Jindela

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

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 an **URGENT MEETING** of the **COUNCIL** of **STELLENBOSCH MUNICIPALITY** will be held in the **COUNCIL CHAMBER, TOWN HOUSE, PLEIN STREET, STELLENBOSCH** on **MONDAY, 2018-07-30** at **12:00** to consider the item on the Agenda.

**EXECUTIVE MAYOR
G VAN DEVENTER (MS)**

A G E N D A
URGENT MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY
2018-07-30
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3.	ELECTION OF A SPEAKER IN TERMS OF SECTION 36 OF THE LOCAL GOVERNMENT STRUCTURES ACT, ACT 117 OF 1998
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

30 July 2018

1. SUBJECT: ELECTION OF A SPEAKER IN TERMS OF SECTION 36 OF THE LOCAL GOVERNMENT STRUCTURES ACT, ACT 117 OF 1998

2. PURPOSE

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

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

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

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

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

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

5. RECOMMENDATIONS

- (a) that Council elects a Speaker in terms of Section 36 of the Local Government Structures Act, 117 of 1998, to fill the current vacancy; and
- (b) that the elected Speaker will be remunerated as a full-time Speaker in accordance with the provisions of Notice 1440 dated 15 December 2017, as approved by Council on 24 January 2018.

6. DISCUSSION / CONTENTS**6.1. Background**

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

6.2 Discussion

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

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

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

6.3 Financial Implications

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

6.4 Legal Implications

The provisions in the legislation are discussed above.

6.5 Staff Implications

As per the approved structure.

6.6 Previous / Relevant Council Resolutions

Resolution 5 – election of Speaker on 15-08-2016.

Resolution 6.5 – designation of Full-time councillors dated 15-08-2016.

Resolution 8.3 – Implementation of Upper limits dated 24 January 2018.

6.7 Risk Implications

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

6.8 Comments from Senior Management

The item was not circulated for comment.

Annexures:

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

FOR FURTHER DETAILS CONTACT:

<i>NAME</i>	<i>Geraldine Mettler</i>
<i>POSITION</i>	<i>Municipal Manager</i>
<i>DIRECTORATE</i>	<i>Municipal Manager</i>
<i>CONTACT NUMBERS</i>	<i>021 808 8025</i>
<i>E-MAIL ADDRESS</i>	<i>Geraldine.Mettler@stellenbosch.gov.za</i>
<i>REPORT DATE</i>	<i>24 July 2018</i>

APPENDIX A



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OFFICE OF THE SPEAKER

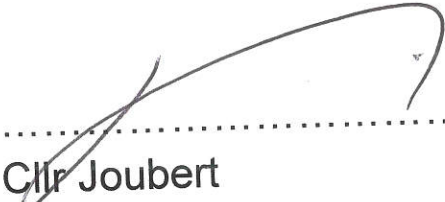
23 July 2018

The Municipal Manager
Stellenbosch Municipality

Dear MM

I herewith submit my resignation as Speaker of Stellenbosch Council effective 25 July 2018.

Regards


.....
Cllr Joubert

APPENDIX B

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 a 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.

APPENDIX C



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NOMINATION FORM:

ELECTION OF THE SPEAKER

We, the undersigned, hereby nominate the following person:

FULL NAME OF NOMINEE:

Signed at Stellenbosch this day of2018.

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 of2018

.....

SIGNATURE OF NOMINEE

*delete the part that is not applicable

In terms of Section 3(1) of Schedule 3 of the Structures Act

APPENDIX D

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.

APPENDIX E

6.5 DESIGNATION OF FULL-TIME COUNCILLORS

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

1st COUNCIL MEETING: 2016-08-15: ITEM 6.5**RESOLVED** (majority vote)

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).

The following Councillors requested that their votes of dissent be minuted:

Councillors F Adams; DA Hendrickse; and LK Horsband (Ms)

(ACTING MUNICIPAL MANAGER TO ACTION)

4.	APPOINTMENT OF A SINGLE WHIP FOR THE STELLENBOSCH COUNCIL
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

30 July 2018

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

2. PURPOSE

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

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

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

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

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

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

5. RECOMMENDATIONS

- (a) that Council may appoint a Single Whip, in the event that the current incumbent is elected as Speaker; and
- (b) that the Single Whip will be remunerated as a full-time councillor in accordance with the provisions of Notice 1440 dated 15 December 2017, as approved by Council on 24 January 2018.

6. DISCUSSION / CONTENTS**6.1 Background**

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

6.2 Discussion

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

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

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

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

6.3 Financial Implications

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

6.4 Legal Implications

The provisions in the legislation are discussed above.

6.5 Staff Implications

As per the approved structure.

6.6 Previous / Relevant Council Resolutions:

Appointment of Single Whip for Stellenbosch Council dated 15-08-2016

Resolution 6.5 – designation of Full-time councillors dated 15-08-2016.

Resolution 8.3 – Implementation of Upper Limits dated 24 January 2018.

6.7 Risk Implications

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

6.8 Comments from Senior Management

The item was not circulated for comment.

Annexures

Appendix A: 7th amendment Establishment notice for Stellenbosch Municipality (WC024) dated 15 July 2015.

Appendix B: Council resolution – designation of full-time councillors dated 15 August 2016

Appendix C: Extract – Upper Limit Notice

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	<i>Municipal Manager</i>
DIRECTORATE	<i>Municipal Manager</i>
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	<i>Geraldine.Mettler@stellenbosch.gov.za</i>
REPORT DATE	26 July 2018

APPENDIX A

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.

APPENDIX B

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)

1st COUNCIL MEETING: 2016-08-15: ITEM 6.5**RESOLVED** (majority vote)

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).

The following Councillors requested that their votes of dissent be minuted:

Councillors F Adams; DA Hendrickse; and LK Horsband (Ms)

(ACTING MUNICIPAL MANAGER TO ACTION)

APPENDIX C

GRADE	TOTAL REMUNERATION PACKAGE			
	EXECUTIVE MAYOR OR MAYOR	SPEAKER, DEPUTY EXECUTIVE MAYOR OR DEPUTY MAYOR	MEMBER OF THE EXECUTIVE COMMITTEE OR MAYORAL COMMITTEE, WHIP OR CHAIRPERSON OF A SUBCOUNCIL	CHAIRPERSON OF A SECTION 79 COMMITTEE
6	1,298,317	1,048,546	987,714	958,740
5	968,008	774,405	726,005	704,710
4	826,414	661,129	619,811	601,628
3	795,913	636,731	596,936	584,942
2	745,253	596,203	564,262	547,710
1	723,541	584,342	547,820	531,750

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

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

(1) A councillor appointed to a district council in terms of section 23(1)(b) of the Structures Act, may be paid the upper limit of the total remuneration package or allowance as follows:

- (a) If a 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, such councillor is entitled to 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 total remuneration package payable to a councillor as a member of the local council is equal to or higher than the total remuneration package that an appointed councillor to the district council receives, such a councillor is, in addition to the total remuneration package, entitled to a sitting allowance not exceeding R1020: Provided that this allowance is limited to R1020 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 municipality is responsible for –

- (a) the payment of the remuneration or the allowance referred to in sub-item (1);

5.	APPOINTMENT OF ACTING MUNICIPAL MANAGER WHEN THE MUNICIPAL MANAGER IS NOT AVAILABLE
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Collaborator No:

IDP KPA Ref No:

Meeting Date:

Good Governance and Compliance

30 July 2018

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

2. PURPOSE

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

3. DELEGATED AUTHORITY

Council

4. EXECUTIVE SUMMARY

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

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

NQF level 6 is now equivalent to a NQF level 7 that equates to at least a B degree. All the Directors had to adhere to this qualification when they were appointed, as NQF 7 has always been a requirement for them in terms of the regulations.

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

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

5. RECOMMENDATIONS:

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

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

- (b) that the Director next on the rotation schedule acts when the relevant Director is not available as per the schedule;
- (c) that the salary component for determining the acting allowance of a Director acting as Municipal Manager be equal to the difference between the salary component of the incumbent's remuneration package and the salary component of the remuneration package of the Municipal Manager;
- (d) that an acting allowance only be paid if the Director acted for 10 consecutive days or longer; and
- (e) that clause 6 of the current Acting Allowance Policy be rescinded.

6. DISCUSSION / CONTENTS

6.1 Background

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

6.2 Discussion

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

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

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

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

6.3. Financial Implications

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

6.4 Legal Implications

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

6.5 Staff Implications

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

6.6 Previous / Relevant Council Resolutions

29 November 2012

6.7 Risk Implications

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

6.8 Comments from Senior Management

The item was not circulated for comment.

Annexures:

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

FOR FURTHER DETAILS CONTACT:

NAME	Geraldine Mettler
POSITION	Municipal Manager
DIRECTORATE	Municipal Manager
CONTACT NUMBERS	021 808 8025
E-MAIL ADDRESS	Geraldine.Mettler@stellenbosch.gov.za
REPORT DATE	26 July 2018

APPENDIX 1

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MINUTES

11TH MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY

2012-11-29

8.2 **ACTING ARRANGEMENTS IN THE ABSENCE OF THE MUNICIPAL MANAGER**

<i>File number</i>	:	<i>4/4/1</i>
<i>Report by</i>	:	<i>Municipal Manager</i>
<i>Compiled by</i>	:	<i>Municipal Manager</i>
<i>Delegated authority</i>	:	<i>Council</i>

1. PURPOSE OF REPORT

For Council to approve a roster of Directors who will act as Municipal Manager when the Municipal Manager is out of office.

2. BACKGROUND

Section 54 of the Local Government: Municipal Systems Act 32 of 2000 has been amended and reads as follows:

“Appointment of municipal managers and acting municipal managers 54 A91) The municipal council must appoint – (a) a municipal manager as head of the administration of the municipal council; or

(b) an acting municipal manager under circumstances and for a period as prescribed

Instead of approving the appointment of an acting municipal manager on every occasion the municipal manager is out of office, it is recommended that an acting municipal manager roster be adopted.

3. DISCUSSION

The Municipal Manager, as part of his/her duties has to serve on several external bodies, such as the Premier’s Coordinating Forum and Minmay (together with the Executive Mayor), the District Coordinating Forum, the Municipal Managers Forum. In addition all senior managers in local government (including municipal managers) are required to complete a compulsory minimum competency level training programme conducted by the University of Stellenbosch on behalf of National Treasury. These courses are structured in modular form with each module requiring attendance on three (3) consecutive days.

The employment contract of the Municipal Manager also makes provision for various types of leave.

It can, therefore, be anticipated that there will be occasions when the Municipal Manager will be away from office. A roster of acting

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MINUTES

11TH MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY

2012-11-29

arrangements is proposed as a pragmatic arrangement to manage this matter.

RECOMMENDED

- (a) that the following Directors be appointed to act as Municipal Manager in the event of the Municipal Manager being out of office:

November, December	:	Planning and Economic Development
January, February	:	Financial Services
March, April	:	Engineering Services
May, June	:	Strategic and Corporate Services
July, August	:	Community and Protection Services
September, October	:	Human Settlement and Property Management
November, December	:	Planning and Economical Development

- (b) that the Director next on the rotation schedule acts when the relevant Director is not available as per the schedule; and
- (c) that the acting arrangements be approved by Council.

(MM)

11TH COUNCIL MEETING: 2012-11-29: ITEM 8.2**RESOLVED** (nem con)

- (a) that the following Directors be appointed to act as Municipal Manager in the event of the Municipal Manager being out of office:

November, December	:	Planning and Economical Development
January, February	:	Financial Services
March, April	:	Engineering Services
May, June	:	Strategic and Corporate Services

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MINUTES

11TH MEETING OF THE COUNCIL
OF STELLENBOSCH MUNICIPALITY

2012-11-29

-
- | | | |
|--------------------|---|--|
| July, August | : | Community and Protection Services |
| September, October | : | Human Settlement and Property Management |
| November, December | : | Planning and Economical Development |
- (b) that the Director next on the rotation schedule acts when the relevant Director is not available as per the schedule; and
- (c) that Council approve the acting arrangements.

(MM)

APPENDIX 2

(4) When determining for purposes of these Regulations the value of the annual budget of a municipality or municipal entity, the value must be taken as equal to total operating and capital expenditure authorised in the budget, and—

- (a) in the case of the annual budget of a parent municipality, include the value of the annual budgets of its entities; or
- (b) in the case of municipalities having shared control of a municipal entity, be taken as equal to the aggregated value of—
 - (i) the annual budget of any one of those municipalities, as may be agreed between those municipalities; and
 - (ii) the annual budget of the entity.

CHAPTER 2 ACCOUNTING OFFICERS OF MUNICIPALITIES AND MUNICIPAL ENTITIES

2. General competency levels for accounting officers.—

(1) The accounting officer of a municipality must generally have the skills, experience and capacity to assume and fulfil the responsibilities and exercise the functions and powers assigned in terms of the Act to the accounting officer of a municipality.

(2) The accounting officer of a municipal entity must generally have the skills, experience and capacity to assume and fulfil the responsibilities and exercise the functions and powers assigned in terms of the Act to the accounting officer of a municipal entity.

(3) An accounting officer must note that specific financial management responsibilities, functions and powers are entrusted by the Act to accounting officers and that any failure to comply with these may constitute financial misconduct.

3. Minimum competency levels for accounting officers.—
The accounting officer of a municipality or municipal entity must comply with the minimum competency levels required for higher education qualification, work related experience, core managerial and occupational competencies and be competent in the unit standards prescribed for financial and supply chain management competency areas as set out below.

MINIMUM COMPETENCY LEVELS FOR ACCOUNTING OFFICERS

Description	All Municipalities and Municipal Entities
Higher Education Qualification	At least NQF Level 6 or Certificate in Municipal Financial Management (SAQA Qualification ID No. 48965)
Work-Related Experience	Minimum of 5 years at senior management level
Core Managerial and Occupational Competencies	As described in the performance regulations
Financial and Supply Chain Management Competency Areas:	Required Minimum Competency Level in Unit Standards
Strategic leadership and management	116358
Strategic financial management	116361; 116342; 116362
Operational financial management	116345; 119352; 119341; 119331; 116364

<i>Description</i>	<i>All Municipalities and Municipal Entities</i>
Governance, ethics and values in financial management	116343
Financial and performance reporting	116363; 119350; 119348; 116341
Risk and change management	116339
Legislation, policy and implementation	119334
Stakeholder relations	116348
Supply Chain Management	116353

CHAPTER 3
CHIEF FINANCIAL OFFICERS OF MUNICIPALITIES
AND MUNICIPAL ENTITIES

4. General competency levels for chief financial officers.—

(1) The chief financial officer of a municipality must generally have the skills, experience and capacity to assume and fulfil the responsibilities and exercise the functions and powers assigned in terms of the Act to the chief financial officer of a municipality.

(2) If a municipal entity has appointed an official as its chief financial officer that official must generally have the skills, experience and capacity to assume and fulfil the responsibilities and exercise the functions and powers assigned in terms of the Act to that official as chief financial officer of the entity.

(3) A chief financial officer must note that any failure to comply with any financial management responsibilities, functions and powers entrusted to that officer may constitute financial

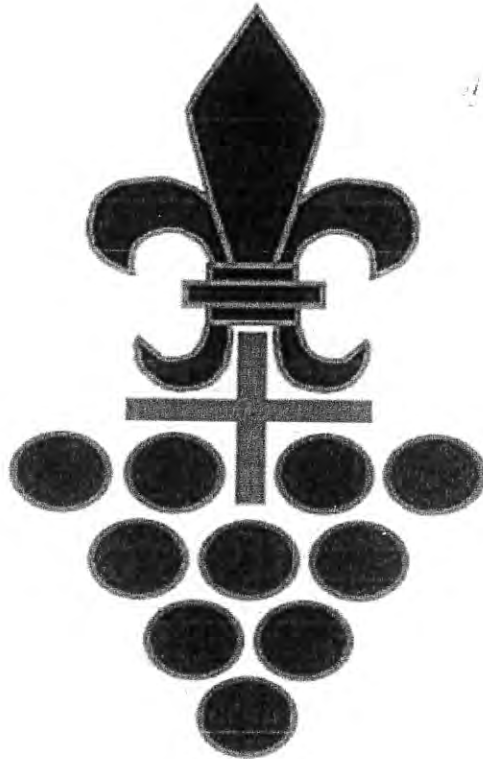
misconduct. In the case of chief financial officers of municipalities specific financial management responsibilities, functions and powers are entrusted by the Act to chief financial officers.

5. Minimum competency levels for chief financial officers.—The chief financial officer of a municipality or municipal entity must comply with the minimum competency levels required for higher education qualification, work related experience, core managerial and occupational competencies and be competent in the unit standards prescribed for financial and supply chain management competency areas as set out below.

continued on page 78

APPENDIX 3

STELLENBOSCHMUNICIPALITY



ACTING ALLOWANCE POLICY

2013/2014

- An employee who acts in another post is still responsible for his/her original duties, functions and powers. Said employee will then be vested with the delegations and responsibilities of the more senior post.
- No staff member shall be authorized to act in a higher specialist post without the requisite skill and experience.

6. ACTING AS MUNICIPAL MANAGER

- The Stellenbosch Municipal Council in consultation with the Executive Mayor may appoint a senior manager (director) to act as Municipal Manager during the absence of the Municipal Manager, in terms of delegation and in line with applicable legislation and policies, while Council has the discretion to appoint a Municipal Manager in terms of section 54A of the Local Government: Municipal Systems Act, 2000, Act 32 of 2000.
- Senior managers (directors) in the employ of Stellenbosch Municipality will not be paid for acting in the stead of the Municipal Manager during the absence of the Municipal Manager.

7. ACTING AS DIRECTOR

- The Municipal Manager must authorise the payment of an acting allowance to an employee who acts as Director of a Directorate during the absence of the Director of a Directorate, provided that all duties assigned to the acting employee, were attended to on the required standard
- An acting allowance is only payable when an employee acts as Director of a Directorate for a minimum of ten consecutive working days.
- The salary component for determining the acting allowance of an employee acting as Director will be equal to 60% of the remuneration package of the post in which the employee is acting.

8. ACTING IN ALL OTHER POSTS

- The Director may appoint an appropriately skilled person in writing to act in post of a Manager, as and when it is deemed necessary for operational efficiency.
- The Director must authorise the payment, subject to budgetary provision, of an acting allowance to a person acting in the more senior post.

- The acting incumbent shall be appointed in writing by the Municipal Manager or Director to the acting position prior to the commencement of the acting period.
- The key performance areas, for which the acting incumbent will be responsible, shall be clearly defined in writing.
- The latter requires that a job description exists for the current incumbent's post in which acting is proposed to take place.
- The acting incumbent shall sign a suitable undertaking committing to and assuming all the responsibilities normally associated with the post
- The payment of such acting allowances shall be subject to prior authorization by the Budget Office or Chief Financial Officer.
- The payment of such acting allowance shall further be subject to the proviso that the preferred employee meets the minimum criteria for the position.
- In very special cases where a need arises to extent acting beyond the periods prescribed by this policy, it must be made a specific condition of such further action periods, that no expectation is created or that eligibility exists for placement.

10. THE FOLLOWING GUIDELINES ARE TO BE CONSIDERED PRIOR TO MAKING A DECISION TO APPOINT A PERSON IN AN ACTING POSITION

- Consideration should be given as to whether an official, more senior to the post concerned, can absorb all or part of the critical duties and responsibilities associated to the post; and or whether any other persons are interested and have capacity to perform the dutie.
- The possibility of spreading the workload of the post amongst other employees operating at the same level;
- The need for supervision over sub-ordinates
- The need to maintain the daily output associated with the post

11. POLICY REVIEW AND REPORTING

This policy document shall be reviewed annually, when deemed necessary - especially if there is a change in collective agreements or legislation and submitted as part of the budget approval process.