

SPECIAL COUNCIL MEETING AGENDA



To: Councillors:

J.R. van Schalkwyk (Speaker)
H.F. Du Rand (Executive Mayor)
E. J. Lamprecht
F. Kees
G. Libazi
M.T.A. Swart
J.A. Matthysen
D.J. Julius
A. Bokwana
D. Julius
I.H. Ferguson

Ex Officio:

A. Vorster (Municipal Manager)
E. Wassermann (Director: Financial Services)
K. Stuurman (Director: Community Services)
J. Bester (Acting Director: Infrastructure Services)

AGENDA FOR A SPECIAL COUNCIL MEETING

Notice is hereby given that a **special meeting** of the Municipal Council of Swellendam Municipality will be held on **Thursday, 16 May 2024** at **10:00** to consider the items attached hereto.

A handwritten signature in black ink, appearing to be 'J.R. van Schalkwyk', written over a horizontal line.

J.R. VAN SCHALKWYK

SPEAKER

A handwritten date '10 May 2024' written in black ink.

DATE

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1. OPENING AND WELCOME

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

4. Commencement of Meeting

The speaker must take the chair precisely at the time for which the meeting is convened and must proceed immediately with the business of the meeting subject to section 14.

14. Quorum

- (1) A majority of the members constitutes the quorum.
- (2) If there is no quorum at the time for which the meeting is scheduled, the speaker must take the chair as soon as a quorum is present.
- (3) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of the period, there is no quorum, the speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- (4) Whenever the speaker is not present and there is no quorum, the municipal manager must act in accordance with the procedure prescribed in terms of subsection 14(3).
- (5) Whenever during a meeting there is no quorum, the speaker must suspend the proceedings until a quorum is again present or adjourn the meeting if a longer time has passed than the speaker has allowed and there is still no quorum.
- (6) Whenever a meeting is adjourned owing to the absence of a quorum, the speaker must convene a meeting within seven (7) days where the rest of the matters on the agenda must be dealt with.

2. ELECTION OF ACTING SPEAKER, IF NECESSARY

Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

41. Acting speakers

If the speaker of a municipal council is absent or not available to perform the functions of speaker, or during a vacancy, the council must elect another councillor to act as speaker.

3. APPLICATION FOR LEAVE OF ABSENCE

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

11. Leave of Absence

A member who wishes to absent himself or herself from meetings must act in accordance with the rules relating to the leave of absence from the council as determined by council.

Item A2481: Council meeting of 21 November 2013:

PROPOSED AMENDMENTS – ITEM A2446 OF 7 OCTOBER 2013: RULES OF ORDER AND PROCEDURES WITH REGARDS TO ALLEDGED TRANSGRESSION OF THE CODE OF CONDUCT FOR COUNCILLORS

1. That the following procedures be reconfirmed by means of which councillors may apply for leave of absence from 'n council meeting:

LEAVE OF ABSENCE

1. Application for leave of absence from a meeting of the Council must be addressed to the Speaker of Council in writing and signed by the member who is applying for such leave.
2. The Speaker of Council may only consider applications for leave of absence which are in writing. Applications for leave of absence which are not in writing may not be considered.
3. Notwithstanding Section 2 above, applications for leave of absence from a meeting are deemed to have been granted if:
 - 3.1 the Council or Mayor delegated the relevant member to act elsewhere on behalf of the Council in a matter; or
 - 3.2 if the Council requests the member to leave the relevant meeting in circumstances envisaged in Item 3(b) of the code of conduct of Schedule 1 to the Systems Act, or the member recuses him/herself.

4. The Speaker may, subject to Sections 2 and 3 above, grant leave of absence to a member for the following reasons:
 - 4.1 illness of the member a medical certificate must be handed to the office of the Speaker in this regard within 5 working days after the Council meeting, for which leave of absence was applied by the member as proof of illness.
 - 4.2 essential business or personal commitments, or personal circumstances of the member.
 - 4.3 When the member is not permitted to attend the meeting due to circumstances envisaged in item 3(b) of the Code of Conduct for Councillors in Schedule 1 to the Systems Act;
 - 4.4 Any other circumstances where the member is prevented from attending the meeting.
2. That the following revised fines are imposed in respect of situations where councillors fail to remain in attendance of council meetings:

FINES IN TERMS OF PARAGRAPH 4(2)(b) OF THE CODE OF CONDUCT FOR COUNCILLORS

In the case where the accused councillor was convicted that he or she failed to remain in attendance at a meeting of the Council, the Council may impose the following penalties:

 - a. 1st transgression, 10 % of the Councillor's monthly remuneration;
 - b. 2nd transgression, 15 % of the Councillor's monthly remuneration;
 - c. 3rd transgression, 20 % of the Councillor's monthly remuneration;
 - d. 4th transgression, 25%of the Councillor's monthly remuneration; and
 - e. 25% for each subsequent transgression.
3. That the disciplinary committee, as established, handles complaints against councillors who are guilty of paragraph 4(2)(b) of the code of conduct Councillors as per schedule 1 of Municipal Systems Act, 2000 (Act 32 of 2000).

3.1 A blank application for leave of absence form is enclosed

3.2 The attendance registers will be available at the meeting

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 3: MEETINGS

10. Attendance of meetings

- (1) Every member attending a meeting of the council must sign his or her name in the attendance register kept for such purpose.
- (2) A member must attend each meeting except when-
 - (a) leave of absence is granted in terms of section 11; or
 - (b) the member is required to withdraw in terms of the law.

4. DISCLOSURE OF INTERESTS BY COUNCILLORS
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Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

5. Disclosure of interests

- (1) 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.
- (2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council at which it is possible for the councillor to make the disclosure.
- (3) This section does not apply to an interest or benefit that a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

5. SPEECHES AND SUBMISSION

6. MATTERS FOR CONSIDERATION

Rules of Order regulating the conduct of Meetings of the Council of the Municipality of Swellendam (Provincial Gazette 6347 dated 3 March 2006)

PART 4: DECISION

15. Unopposed Matters

Whenever council is called upon to consider a matter before it and there is no opposition from any member, a unanimous vote will be recorded in the minutes.

16. Opposed Matters

- (1) After attempts to reach consensus on certain matters have failed, the speaker must put the matter under discussion to the vote. Motions must be moved and seconded by members. Hereafter the speaker must call upon the members to indicate by a show of hands whether they are for such motions or against it, whereupon he or she declare the result of such vote.
- (2) Upon the speaker's declaration of the result of a vote, a member may demand for his or her vote to be recorded against the decision concerned and the municipal manager shall ensure that such vote is recorded in the minutes.
- (3) If there is an equality of votes in respect of a matter on which voting takes place, the speaker must exercise his or her casting vote, in addition to his or her deliberative vote, provided that the speaker may not exercise a casting vote in terms of any matter set out in section 160(2) of the Constitution.

PART 7: RULES OF DEBATE

23. Member to address the chair

A member who speaks at a meeting must address the chair and may do so in any one of the three official languages of the Province of the Western Cape.

24. Order or priority

When a member wishes to address the council, he or she must first have the permission of the speaker.

25. Precedence of speaker

Whenever the speaker addresses the meeting, all members must be silent so that the speaker may be heard without any interruption.

26. Relevance

- (1) A member who speaks must direct his speech strictly to the subject or matter under discussion or to an explanation or to a point of order.
- (2) No discussion may be permitted-
 - (a) which will anticipate any matter on the agenda;
 - (b) on any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of enquiry is pending.

27. Right to speak

A member or non-member may speak on any matter before the council as determined by the speaker, provided that speeches of all members and non-members are allocated in a fair manner.

28. Length of speeches

The speaker determines the length of speeches.

31. Speaker's ruling on points of order and explanation

- (1) The ruling of the speaker on a point of order or an explanation shall be final and not open to discussion.
- (2) The ruling of the speaker on any point of order required as to the interpretation of these rules must be entered in the minutes.

6.1 Items submitted by officials of Council:

6.1.1

Item number A69. 16.05.2024

OVERSIGHT ON THE ANNUAL REPORT FOR THE 2022/2023 FINANCIAL YEAR

Department Municipal Manager

Section

File number 9/1/1

PURPOSE OF REPORT

The purpose of the report is to table the Annual Report and Oversight Report for the 2022/2023 financial year for adoption and approval. **(See Annexure A and B attached)**

FACTS AND BACKGROUND

Annual Report 2022/23

The Draft Annual Report for 2022/23 was tabled to Council on 27 March 2024. Council resolved per Item number A48 and the draft Annual Report was advertised for public comment and submitted to the relevant authorities.

DISCUSSION

Public Comments

The Annual report was made public by advertisement in the local newspapers on 27 March 2024. The closing date for public comments was 30 April 2024. No comments have been received from the public.

Audit- and Performance Audit Committee

The Audit Committee met on 16 April 2024 to inter alia discuss the Annual Report and Oversight Report. The inputs from the Audit Committee are also herewith tabled to Council.

Oversight Report

The Oversight Report on the 2022/2023 Annual Report was prepared for adoption by the Council. The Municipal Public Accounts Committee prepared the Oversight Report on the 2022/2023 financial year,

The draft Oversight Report on the Annual Report for 2022/2023 as well as the comments from the Audit Committee and the AGSA is included in the Oversight Report and contained input on grammar.

No comments were received from Provincial Treasury.
The Annual Report were distributed to all Councillors.

The MPAC committee met on 7 May 2024 and approved an Oversight Report as **attached as Annexure B.**

LEGAL IMPLICATIONS

1. Section 127(2) of the MFMA stipulates that the annual report must be tabled in the municipal council within seven months after the end of the financial year.
2. Section 121 of the MFMA stipulates that every municipality must for each financial year prepare an annual report in accordance with Chapter 12 of the MFMA. The Council must within 9 months after the end of the financial year deal with the annual report.
3. Section 129(2) of the MFMA stipulates that the minutes of the meetings where the Annual Report was discussed, in the presence of the accounting officer (Municipal Manager) be submitted to the Auditor-General, the Provincial Treasury and the Western Cape Department for Local Government.
4. Section 129(3) of the MFMA stipulates that the Oversight report be made public.
5. Section 132(1) of the MFMA stipulates that the Annual- and Oversight reports must be submitted to the Western Cape Legislature.

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure Services

None

Municipal Manager

None

This item served on the Municipal Public Accounts Committee meeting held on Tuesday, 7 May 2024

RECOMMENDED

That MPAC recommends to Council:

1. that, having fully considered the 2022/2023 Annual Report and representations thereon, the 2022/ 2023 Oversight Report be adopted as attached;
2. that Council approves the 2022/ 2023 Annual Report without reservations;
3. that the minutes of the meetings where the 2022/2023 Annual Report was discussed, in the presence of the accounting officer (Municipal Manager) be submitted to the Auditor-General, the Provincial Treasury and the Western Cape Department for Local Government, in terms of section 129(2) of the MFMA; and

4. that the 2022/2023 Oversight Report of Swellendam Municipality be made public in terms of Section 129(3) of the MFMA and be submitted to the Western Cape Legislature in terms of Section 132(1) of the MFMA.

6.1.2

Item number A70. 16.05.2024

COMMENCEMENT: RECRUITMENT AND SELECTION PROCESS FOR THE POSITION OF DIRECTOR INFRASTRUCTURE SERVICES

Report of the Municipal Manager:	A. Vorster
Department	Corporate Services
Section	Human Resources
File number	4/3/3/4

PURPOSE OF REPORT

To consider the acting position as Director Infrastructure Services while the position is in the process of filling.

The vacancy was advertised for the third time and seven applications were received. These applications were sent to the consultant for vetting before a shortlisting meeting will be held at the end of May, with interviews in June 2024.

FACTS AND BACKGROUND

Council during a meeting which was held on 28 July 2023, has resolved as follows per item A112/2023:

UNANIMOUSLY RESOLVED

Item A112/28/07/2023

1. that Council approves the commencement of the recruitment and selection process of the Director of Infrastructure Services position that will become vacant on 1 September 2023.
2. that Council approves the advertisement for the position of Director of Infrastructure Services as attached, for a permanent position.
3. that Council appoints a Selection Panel for the vacancy mentioned in (1) above as per the Regulations on the Appointment and Conditions of Employment of Senior Managers as promulgated in Government Gazette 37245 dated 17 January 2014, with the panel members being the Municipal Manager, Mrs A. Vorster as the Chairperson, the Chairperson of the Infrastructure Services Portfolio Committee, Councillor H.F. Du Rand and that the Municipal Manager consult with Mossel Bay Municipality to get Mr. Dick Naidoo as the specialist on the selection panel.
4. that Council make use of a recruitment agency to facilitate the filling of the vacancy.
5. that Mr. W Treurnicht be appointed to act in the position of Director of Infrastructure Services from 24 August 2023 for a period of three months. Should the vacancy not be filled within the three-month acting period, the MEC of Local Government be approached to extend the acting period of Mr. Treurnicht with a further three months or until the vacancy is filled.

The recruitment and selection process for a Director Infrastructure Services position in terms of the Regulations on Appointment and Conditions of Employment of Senior Managers, GN.R 21, published in GG 37245, dated 17 January 2014, together with the provisions of the Municipal Regulations on Minimum Competency Levels, GNR 493, GG 29967 dated 15 June 2017 and as

amended by GN 1146, published in GG 41996 dated 26 October 2018 is underway. It is foreseen that it will take at least till August 2024 to fill the vacancy. The PMU Manager is currently acting in this position.

DISCUSSION

The Provincial Government was approached to second a staff member to Swellendam for the interim period to fill the vacancy but they have no such official available. The Provincial Government provided three CV's of retired Technical Directors. Council during a meeting which was held on 27 March 2024 has resolved that the candidates supplied by the Department of Local Government be invited to an interview process by the selection panel to identify a suitable candidate for appointment on a three-month period, whereafter it be tabled to Council for approval. Two indicated that they are interested and attended the interviews. Both are retired and older than 65 years. See CV's attached **as Annexure F and G**.

The Selection Panel consisting of the Municipal Manager, the Technical Portfolio Chairperson and Mr D Naidoo, Mosselbay Municipality's Technical Director, interviewed the candidates and recommend that based on experience, both candidates can be appointed, but that Mr Delport is the preferred candidate due to his wider experience and hands-on experience.

LEGAL IMPLICATIONS

1. Constitution of South Africa, 1996 (Act no 108 of 1996).
2. Section 55 and 56 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
3. Local Government: Municipal Staff Regulations, 2021,
4. Employment Equity Act, 1998 (Act no 55 of 1998);
5. Basic Conditions of Employment Act, 1997 (Act no 75 of 1997);
6. Labour Relations Act, 1995 (Act no 66 of 1995);
7. Minimum competency requirements for Senior Managers as laid down in Government Notice R493 dated 15 June 2007, as amended by Government Notice 1146 dated 26 October 2018
8. Regulations on the Appointment and Conditions of Employment of Senior Managers as promulgated in Government Gazette 37245 dated 17 January 2014
9. The Upper Limits of total remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers

FINANCIAL IMPLICATIONS

As per the Upper Limits of total remuneration packages payable to Municipal Managers and Managers directly accountable to Municipal Managers.

PERSONNEL IMPLICATIONS

As per discussion above.

COMMUNICATION IMPLICATION

Advertising in a national newspaper.

COMMENTS FROM DEPARTMENTS

Director: Community Services

None

Director: Financial Services

None

Municipal Manager

As per report

RECOMMENDED

1. that Mr. E Delpont be appointed to act in the position of Director of Infrastructure Services from 1 June 2024 for a period of three months or until the Director Infrastructure to be appointed, takes office. Should the vacancy not be filled within the three-month acting period, the MEC of Local Government be approached to extend the acting period of Mr. Delpont with a further three months or until the vacancy is filled.

7. CLOSURE

8. BLANK APPLICATION FOR LEAVE OF ABSENCE FORM

SWELLENDAM MUNICIPALITY



APPLICATION FOR LEAVE OF ABSENCE FROM MEETING

(Note: To be submitted to the Chairperson before the start of the meeting)

Name of Councillor

Herewith I apply for leave of absence from the following meeting(s):

MEETING	DATE
Council Meeting	
Special Council Meeting	
Executive Mayoral Committee Meeting	
Any other Committee/Forum/Workshop (Please specify)	
Reason for absence	

SIGNATURE

DATE