

SPECIAL COUNCIL MEETING AGENDA



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

Ex Officio: A.Vorster (Municipal Manager)
E. Wassermann (Director: Financial Services)
K. Stuurman (Director: Community Services)
W. Treurnicht (Acting Director: Infrastructure Services)

AGENDA FOR A SPECIAL COUNCIL MEETING

Notice is hereby given that a **Special Council meeting** of the Municipal Council of Swellendam Municipality will be held on **Monday, 03 February 2025** at **09:00** in the Council Chambers, Rhenius Street, Swellendam, to consider the item attached hereto.



J.R. VAN SCHALKWYK

SPEAKER

30 January 2025

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 raised 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 A22. 03.02.2025

ELECTION OF EXECUTIVE MAYOR

Report of the Municipal Manager: Mrs A. Vorster

Department Office of the Municipal Manager

Section Administrative Support

File number 3/2/2/1

PURPOSE OF REPORT

The purpose of the report is to facilitate the election of a new executive mayor following the removal of Councillor H.F. du Rand as executive mayor on 27 January 2025.

FACTS AND BACKGROUND

Council, during a special meeting held on 27 January 2025, has resolved as follows:

RESOLVED

Item A5/27/01/2025

1. that the motion of no-confidence in the Executive Mayor, Councillor H.F. Du Rand submitted by ANC Councillors M.T.A. Swart; G. Libazi; J.A. Matthysen; I.H. Ferguson and D.J. Julius be passed by Council and that Councillor H.F. du Rand be removed as Executive Mayor with immediate effect.
2. that the election of a new Executive Mayor for Swellendam Local Municipality be deferred to a Special Council meeting to be held within 7 days, i.e. Monday, 03 February 2025.

In terms of Section 55 (2) of the Structures Act, a vacancy in the office of executive mayor must be filled when necessary.

DISCUSSION

ELECTION PROCEDURE:

Section 56 to 59 of the Structures Act bears reference to the Executive. The procedure to be followed for the election of an Executive Mayor is embodied in Schedule 3 of the Structures Act:

2. Nominations. ---- The person presiding at a meeting to which the Schedule applies, must call for the nomination of candidates at the meeting.

3. Formal requirements. ----(1) A nomination must be made on the form determined by the municipal manager.

(The nomination form for the election of executive mayor is attached as **Annexure A.**)

(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.

4. Announcement of names of candidates. ---- 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.

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

6. Election procedure. ---- 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 at the meeting must declare elected the candidate who receives the majority of the votes.

7. Elimination procedure. ---- (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.

8. Further meetings. ---- (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 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.

PROCEDURE APPLYING TO FULL - TIME COUNCILLORS:

The Municipality's Third Establishment Amendment Notice No 191 dated 28 May 2003, provides that the Municipality may designate the executive mayor as full-time councillor. The Establishment Notice is attached as **Annexure B**.

Item 9 of the Code of Conduct for Councillors provides as follows:

"A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld."

Should recommendation 2 be adopted and the Executive Mayor, to be designated, is undertaking any other paid work, Council must consider granting consent for same. The application form to be completed in this regard is attached as **Annexure C**.

ANNEXURES ATTACHED:

Annexure A: Nomination form for the election of executive mayor.

Annexure B: Third Establishment Amendment Notice No 191 dated 28 May 2003

Annexure C: Application form to undertake any other paid work.

LEGAL IMPLICATIONS

- Part 2 of Chapter 4 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)
- Swellendam Municipality Third Establishment Amendment Notice No 191 dated 28 May 2003.
- Code of Conduct for Councillors: **Schedule 7** of the Local Government: Municipal Structures Act as amended.

FINANCIAL IMPLICATIONS

None

PERSONNEL IMPLICATIONS

None

COMMUNICATION IMPLICATIONS

None

COMMENTS FROM DEPARTMENTS

None

Director: Community Services

None

Director: Financial Services

None

Director: Infrastructure and Planning Services

None

Municipal Manager

As per the report.

RECOMMENDED:

1. that an executive mayor be elected in terms of Schedule 3 of the Local Government Municipal Structures Act;
2. that the executive mayor be designated as full-time councillor in terms of Section 9 of the Swellendam Municipality Third Establishment Amendment Notice;
3. that, should recommendation 2 be adopted and the executive mayor elect is undertaking any other paid work, Council considers granting the necessary consent.

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