

MINUTES OF THE SPECIAL COUNCIL MEETING OF WITZENBERG MUNICIPALITY, HELD IN THE TOWN HALL, VOORTREKKER STREET, CERES ON MONDAY, 24 JULY 2023 AT 09:00

PRESENT

Councillors

Councillor EM Sidego (DA) (Speaker)
Alderman HJ Smit (DA) (Executive Mayor)
Councillor GG Laban (Witzenberg Aksie) (Deputy Executive Mayor)
Councillor TE Abrahams (DA)
Alderman K Adams (DA)
Councillor JJ Cloete (PA)
Councillor P Daniels (DA)
Councillor S de Bruin (DA)
Councillor G Franse (DA)
Councillor JP Fredericks (FF Plus)
Councillor AL Gili (ANC)
Councillor L Hardnek (Witzenberg Party)
Councillor P Heradien (ICOSA)
Councillor JS Mouton (ANC)
Councillor MJ Ndaba (ANC)
Councillor N Nogcinisa (ANC)
Councillor N Phatsoane (ANC)
Councillor K Robyn (GOOD)
Councillor D Swart (DA)
Councillor IL Swartz (EFF)
Alderman JJ Visagie (DA)
Councillor P Yisa (ANC)
Councillor J Zalie (ANC)

Officials

Mr. D Nasson (Municipal Manager)
Mr HJ Kritzinger (Director: Finance)
Mr J Barnard (Director: Technical Services)
Ms L Nieuwenhuis (Manager: Legal Services)
Ms R Hendricks (Manager: Communication and Marketing)
Mr CG Wessels (Manager: Administration)
Ms M Arendse-Smith (Chief Administrative Officer)
Mr C Titus (Committee Clerk)
Ms MJ Prins (Word Processor Operator)
Mr J Pieterse (Senior ICT Officer)
Mr M Njokweni (Interpreter)

Other attendees

Mr O Ndesi (Deputy Director: Department of Local Government)
Mr K Makan (Department of Local Government)
Ms W Philander (Provincial Legislature)
Mr P Merran (Provincial Legislature)

1. OPENING AND WELCOME

The Speaker welcomed everyone present and requested Councillor T Abrahams to open the meeting with prayer.

A special welcome was extended to Councillor T Abrahams, who has recently been elected to Council; Ms W Philander and Mr P Merran from the Provincial Legislature, as well as Mr Ndesi and Mr Makan from the Department of Local Government.

NOTED

2. LEAVE OF ABSENCE AND CONFIDENTIALITY AND CONFLICT OF INTEREST DECLARATION

**2.1 Consideration of application for leave of absence, if any
(3/1/2/1)**

None

NOTED

**2.2 Confidentiality and Conflict of Interest Declaration
(3/2/1)**

The Confidentiality and Conflict of Interest Declaration was duly signed by all Councillors. No conflict of interest was declared.

NOTED

Alderman JJ Visagie, on behalf of the DA alliance, requested a caucus break from 09:10 until 09:40.

Councillor JP Fredericks, on behalf of the DA alliance, requested a caucus break from 09:40 until 10:20.

Councillor L Hardnek, on behalf of the DA alliance, requested a caucus break from 10:20 until 11:07.

3. RESERVED POWERS

3.1 Election of Deputy Executive Mayor (03/1/1/4)

The procedures set out in Schedule 3 of the Structures Act apply to the election of an Executive Mayor and Deputy Executive Mayor and read as follows:

"Act No 117, 1998 LOCAL GOVERNMENT : MUNICIPAL STRUCTURES ACT, 1998

SCHEDULE 3

The election of a Mayor and Deputy Mayor takes place when the Executive Committee is elected or when it is necessary to fill a vacancy.

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, an Executive Deputy Mayor, a Mayor or Deputy Mayor.*

LEGAL BACKGROUND

In terms of Section 27(1)(c) of the Local Government : Municipal Structures Act, 1998 (Act 117 of 1998) a Councillor vacates office during a term of office if that Councillor was elected from a party list referred to in Schedule 1 or 2 and ceases to be a member of the relevant party.

Councillor FE Klazen was elected as the Deputy Executive Mayor of Council and vacated the office when her membership to her political party was terminated.

Section 55(2) of the aforesaid Act requires Council in the event of a vacancy in the office of Executive Mayor or Executive Deputy Mayor to fill the vacancy when necessary.

The procedures set out in Schedule 3 applies to the election of an Executive Mayor and Executive 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 sub item (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.*

Further meetings

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

The prescribed nomination form is attached as **annexure 3.1**.

The Speaker called for nominations for a Deputy Executive Mayor.

Councillor AL Gili, on behalf of the ANC alliance, nominated Councillor GG Laban.

Councillor P Daniels, on behalf of the DA alliance, nominated Alderman K Adams. Alderman Adams declined the nomination.

Councillor P Daniels requested a caucus break in order to prepare a new nomination. A lengthy debate followed between Councillors and Speaker with regard to the matter. The ANC alliance was of the opinion that nominations had closed and that the nomination of Councillor Laban was uncontested. The DA alliance argued that the Speaker did not close the nominations.

The Speaker granted a caucus break from 11:12 until 11:30 after which Speaker informed Council that there was an unsigned nomination form for Councillor P Heradien for the position of Deputy Executive Mayor. Councillor Heradien declined the nomination.

RESOLVED

that Councillor GG Laban be elected as the Deputy Executive Mayor of Witzenberg Municipality after an uncontested election.

**3.2 Inauguration of Deputy Executive Mayor by Speaker
(3/1/1/4)**

The Speaker congratulated the newly elected Deputy Executive Mayor and bestowed the Political robe to him.

NOTED

**3.3 Acceptance speech by Deputy Executive Mayor
(3/1/1/4)**

An acceptance speech was delivered by the Deputy Executive Mayor, Councillor G Laban as follows:

"Firstly I would like to give thanks to my lovely wife as well as my executive committee.

To all present, the current Speaker and coalition partners, this is the day that the people have been waiting for, for so long.

I had to reduce myself from my emotions to take an informed decision, to the benefit of Witzenberg.

I am the newly elected Deputy Mayor, whether you like it or not, and will preside over the affairs of this Municipality and over the Administration and request everyone in Administration to please adjust themselves to this new reality. The sooner, the better.

This is a moment for me, after being in Council for eight years. Today is the day.

To the ordinary people out there, I want to say that change is coming.

Thank you."

NOTED.

4. ADDITIONAL ITEMS

**4.1 Motion: No confidence and request for removal of Speaker from office
(3/2/2)**

A motion, dated 14 June 2023, is attached as **annexure 4.1**.

The Speaker mentioned that Councillor G Laban had withdrawn his signature from the motion of no confidence and request for the removal of Speaker from office by means of an email. The motion is therefore only for information for Council.

The Speaker commended with the meeting to the next item on the agenda while various Councillors from the ANC coalition loudly complained and protested against the decision.

The Speaker mentioned that due to the withdrawal of Councillor G Laban, the following items are also only for information:

Item 4.2: Withdrawal from motion

Item 4.3: Election of a Speaker

The Speaker mentioned that the motion of no confidence in the Speaker and removal from office is for information and invalid.

Item 4.4: Handing over the chair to the Speaker

Item is for information.

Item 4.5: Motion: No confidence and removal of Executive Mayor from office

Item is for information

Item 4.6: Withdrawal from motion

Item is for information.

Item 4.7: Election of Executive Mayor

Item is for information.

Councillor A Gili argued that Councillor Laban cannot withdraw from the motion by email. The Councillor is present in the meeting and must withdraw in the meeting.

Alderman JJ Visagie was of the opinion that the decision and the process followed by Speaker are legal. Although Councillor Laban had signed the motion, he withdrew his signature from the list of Councillors who had signed the motion. The process and decision are therefore legal.

The Speaker mentioned that it consequently meant that the motion was only for information. With the withdrawal of the signature of Councillor Laban there was not a majority of Councillors who had signed the motion.

Councillor Gili responded that the purpose of the motion was to call for a meeting. Councillor Laban had signed the motion and withdrew afterwards. The meeting must therefore proceed to attend to the withdrawal of Councillor Laban. The purpose of the meeting was all about the motion.

Councillor K Yisa argued that in terms of the Rules of Order for Council meetings of Witzenberg Municipality, a Councillor must withdraw in a meeting from a motion. The Councillor mentioned that the opinion of Alderman J Visagie that the decision and process which the Speaker had followed were legal, is indeed invalid and therefore not legal. Councillor Yisa challenged that Alderman Visagie must come forward and proof his opinion.

Alderman J Visagie mentioned that he had referred to clause 11 in the Rules of Order. Note from Secretariat: Due to much noise the recording became inaudible.

Councillor MJ Ndaba mentioned that Councillor Laban withdrew from the motion that he had signed. His withdrawal was, however, with an email that was not signed. All the signatures were still on the list. The meeting was now the place where the Councillor had to withdraw.

Councillor Laban mentioned that he wanted to see his withdrawal set aside and reinstated his signature on the motion.

Alderman JJ Visagie requested a caucus break of twenty minutes on behalf of the DA alliance.

Various Councillors from the ANC coalition loudly requested for Speaker a vote on the request for a caucus break in terms of majority and democracy. Councillor A Gili mentioned that the DA caucus is playing for time and is in the minority.

Loud arguments followed between the two coalitions with regard to who is in the majority.

The Speaker allowed a caucus break from 11:45 until 11:55.

After the caucus break the Speaker mentioned that the motions of no confidence in the Speaker and Executive Mayor were in terms of Section 29 of the Municipal Structures Act (No. 117 of 1998) and on request of the majority of Councillors that the Speaker should call such a meeting. However, Councillor G Laban, in the meantime, withdrew from the motion and consequently the motion did not have a majority of Councillors anymore. Therefore the two items were only on the agenda for information of Council.

The Speaker adjourned the meeting.

5. ADJOURNMENT

The meeting adjourned at 12:04.

Approved on 26 July 2024 without amendments.

**COUNCILLOR EM SIDEGO
SPEAKER**

MJ Prins