

MINUTES OF THE SPECIAL COUNCIL MEETING, HELD ON TUESDAY, 6 JUNE 2023 AT 09:00 IN THE TOWN HALL, VOORTREKKER STREET, CERES

PRESENT

Councillors

Councillor EM Sidego (Speaker) (DA)
Alderman HJ Smit (Executive Mayor) (DA)
Alderman K Adams (DA)
Councillor J Cloete (PA)
Councillor P Daniels (DA)
Councillor S de Bruin (DA)
Councillor GJ Franse (DA)
Councillor JP Fredericks (FF Plus)
Councillor AL Gili (ANC)
Councillor LA Hardnek (Witzenberg Party)
Councillor P Heradien (ICOSA)
Alderman BC Klaasen (DA)
Councillor GG Laban (Witzenberg Action)
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 K Yisa (ANC)
Councillor J Zalie (ANC)

Officials

Mr D Nasson (Municipal Manager)
Mr HJ Kritzinger (Director: Finance)
Mr M Mpeluzi (Director: Corporate Services)
Mr J Kolkota (Deputy Director: Finance)
Ms L Nieuwenhuis (Manager: Legal Services)
Ms R Hendricks (Manager: Communication and Marketing)
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)

1. OPENING AND WELCOME

The Speaker welcomed everyone present and requested Councillor L Hardnek to open the meeting with prayer.

A special welcome was extended to Councillor K Robyn, the newly elected representative of GOOD to Council.

The Speaker, on behalf of Council, conveyed heartfelt condolences to Councillor J Cloete with the passing of his father and all those who had lost loved ones during this time.

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

3. RESERVED POWERS

**3.1 Council matters: Council recess for winter break 2023
(3/1/2/3)**

The following recommendation was tabled to Council:

- (a) that the recess period of Council for the 2023 winter break will be from 26 June 2023 until 17 July 2023.
- (b) that if the Speaker needs to call a Council meeting all Councillors must be available for a virtual Council meeting at all times.
- (c) that the Executive Mayor and Deputy Executive Mayor will be on standby during the recess period.

RESOLVED

that the item related to Council's recess for winter 2023 be held in abeyance.

Councillor P Heradien joined the meeting at 09:14.

3.2. 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 3.2**.

Councillor Ndaba raised concerns regarding the notice period of the Special Council meeting as the agendas were not received 48 hours prior to the meeting.

Speaker responded that in terms of the By-Law on the Rules of Order for the Meetings of the Witzenberg Council and its Committees in conjunction with the Interpretation Act 33 of 1957, "days" refer calendar days which includes weekends.

The receipt of agendas was received in good time, within 48 hours and as per the Rules of Order.

The Speaker called for nominations for the election of a Deputy Executive Mayor.

Alderman R Visagie (DA) nominated Councillor G Laban (Witzenberg Action) and the nomination was accepted.

Councillor M Ndaba (ANC) nominated Councillor P Heradien (ICOSA) and the nomination was accepted.

Councillor A Gili (ANC) nominated Alderman K Adams (DA), where after the nomination was declined.

The outcomes of the voting process were as follows:

- In favour of Councillor GG Laban: 11 votes
- In favour of Councillor P Heradien: 11 votes
- Abstain: 1 vote
- Total: 23 votes

The Speaker announced that the voting process resulted in a tie and that in terms of Section 8 of Schedule 3 of the Municipal Structures Act 117 of 1998:

"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."

The Speaker therefore ruled that the meeting be adjourned and that proceedings will continue on 13 June 2023.

RESOLVED

That in terms of Section 8 of Schedule 3 of the Municipal Structures Act 117 of 1998, a further meeting be held within seven days and that the proceedings will continue on 13 June 2023.

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

This item was not dealt with.

NOTED

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

This item was not dealt with.

NOTED

4. ADJOURNMENT

The meeting adjourned at 10:36.

Approved on 26 July 2024 without amendments.

COUNCILLOR EM SIDEGO
SPEAKER