



KAAP AGULHAS MUNISIPALITEIT  
CAPE AGULHAS MUNICIPALITY  
U MASIPALA WASECAPE AGULHAS

**NOTULE VAN DIE EERSTE VERGADERING VAN DIE NUUT VERKOSE RAAD GEHOUD OM 11:00 OP MAANDAG 22 NOVEMBER 2021 IN DIE GEMEENSKAPSAAL TE BREDASDORP**

***MINUTES OF THE FIRST MEETING OF THE NEWLY ELECTED COUNCIL HELD ON MONDAY, 22 NOVEMBER 2021 AT 11:00 IN THE COMMUNITY HALL, BREDASDORP***

**RAADSLEDE TEENWOORDIG / COUNCILLORS PRESENT**

Me J August-Marthinus  
Mnr D Burger  
Me K Donald  
Mnr D Jantjies  
Mnr R Louw  
Me M Matthysen  
Mnr R Mokotwana  
Mnr J Nieuwoudt  
Mnr G Olwage  
Mnr R Ross  
Mnr P Swart

**AMPTENARE TEENWOORDIG / OFFICIALS PRESENT**

Mnr E Phillips	Munisipale Bestuurder / Municipal Manager
Mnr H Van Biljon	Direkteur: Finansiële Dienste
Mnr A Jacobs	Direkteur: Infrastruktuurdienste
Mnr H Kröhn	Direkteur: Bestuursdienste
Mnr B Swart	Interne Ouditeur
Mnr M Moelich	Bestuurder: Admin Ondersteuning
Me N Mhlati-Musewe	Divisional Head: HR and OD
Me T Stone	Afdelingshoof: Strategiese Dienste
Me A Jonker	Snr Admin Beampete: Komiteedienste

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# **AGENDA**

## 1. **VERWELKOMING / WELCOME**

The Municipal Manager welcomed all the attendees and a special welcome to all the invited guests.

## 2. **OPENING / OPENING**

The meeting was opened with the National Anthem and afterwards with scripture and prayer by Reverend Mgeni.

The Municipal Manager briefly explained the “house rules” that will apply for this meeting.

## 3. **ONDERTEKENING VAN BYWONINGSREGISTER EN AANSOEK OM VERLOF TOT AFWESIGHEID DEUR RAADSLEDE / SIGNING OF ATTENDANCE REGISTER AND APPLICATIONS FOR LEAVE OF ABSENCE BY COUNCILLORS**

The Code of Conduct contained in Schedule 7 of the Local Government: Municipal Structures Act, No. 117 of 1998, applies to every member of the Council and is hereafter referred to as the Code of Conduct.

### **Item 4 of the Code of Conduct provides as follows:**

*Attendance at meetings:*

- “4. A Councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when -
- (a) leave of absence is granted in terms of any applicable law or as determined by the rules and orders of the council; or
  - (b) that councillor is required in terms of this Code to withdraw from the meeting.”

## **AANBEVELING / RECOMMENDATION**

That the Attendance Register be signed.

## **RESOLUTION 235/2021**

The Attendance Register was circulated and signed by all Councillors and Senior Management. No applications for leave of absence were received.

## 4. **TIPE MUNISIPALITEIT / TYPE OF MUNICIPALITY**

Cape Agulhas Municipality was established as a Category B Municipality per Provincial Gazette No. 5592 of 22 September 2000 and the Mayoral Executive System was later introduced in various forms - the latest being a Municipality with full-time Councillors, a Speaker, an Executive Mayor and a Ward Participating System.

The Eighth Establishment Amendment Notice No. PN 122/2021 determines the Council to comprise of 6 Ward Councillors plus 5 proportionally elected Councillors.

**AANBEVELING / RECOMMENDATION**

That cognisance be taken that in terms of the Eighth Establishment Amendment Notice No. PN 122/2021, Council comprises of 6 Ward Councillors plus 5 proportionally elected Councillors.

**RESOLUTION 236/2021**

That cognisance be taken that in terms of the Eighth Establishment Amendment Notice No. PN 122/2021, Council comprises of 6 Ward Councillors plus 5 proportionally elected Councillors.

**5. BEKENDSTELLING VAN RAADSLEDE EN SENIOR BESTUURDERS / INTRODUCTION OF COUNCILLORS AND SENIOR MANAGERS**

The Municipal Manager introduced the Councillors and Senior Managers.

**6. EED / OATH**

*"I swear that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other laws of the Republic of South Africa, and I will solemnly promise to perform my functions and duties as a Councillor of Cape Agulhas Municipality to the best of my ability. So help me God."*

*Solemn Affirmation:*

*I solemnly declare that I will be faithful to the Republic of South Africa and will obey, respect and uphold the Constitution and all other laws of the Republic of South Africa and I solemnly promise to perform my functions and duties as a Councillor of Cape Agulhas Municipality to the best of my ability."*

**RESOLUTION 237/2021**

Each Councillor took the Declaration of Oath, assisted by mr Stef Botha as Commissioner of Oaths.

**7. VERKIESING VAN SPEAKER / ELECTION OF SPEAKER**

Section 36 of the Local Government: Municipal Structures Act, No. 117 of 1998, provides as follows:

**"(36) Election of Speakers:**

- (1) *Each Municipal council must have a Chairperson who will be called the Speaker.*
- (2) *At its first sitting after this election, or when necessary to fill a vacancy, a Municipal Council must elect its Speaker from among the Councillors.*
- (3) *The Municipal Manager of the Municipality or, if the Municipal Manager is not available, a person designated by the MEC for Local Government in the province, presides over the election of a Speaker.*
- (4) *The procedure set out in Schedule 3 applies to the election of a Speaker.*
- (5) *A Councillor may not hold office as Whip, Speaker, Mayor or Executive Mayor at the same time."*

The Municipal Manager and IEC presides over the election process in terms of Schedule 3 as provided in the above quoted section. Once elected, the Speaker will preside over the remainder of the meeting and also act as Chairperson for all future meetings of the Council.

**AANBEVELING / RECOMMENDATION**

That a Speaker be elected in terms of Schedule 3 of the Local Government: Municipal Structures Act, No. 117 of 1998.

**After the distribution of prescribed nomination forms, the following nominations were received:**

1. **COUNCILLOR D BURGER**  
Nominated by Councillor P Swart and seconded by Councillor R Ross
2. **COUNCILLOR R LOUW**  
Nominated by Alderman D Jantjies and seconded by Councillor M Matthyssen

**RESOLUTION 238/2021**

After voting, Councillor D Burger was elected as Speaker.

8. **RULES REGULATING THE CONDUCT OF MEETINGS AS WELL AS VIRTUAL MEETINGS OF THE COUNCIL OF THE CAPE AGULHAS MUNICIPALITY**

The Rules Regulating the Conduct of Meetings as well as Virtual Meetings of the Council of Cape Agulhas Municipality which is at present in force (*copy attached*).

**AANBEVELING / RECOMMENDATION**

That the Rules Regulating the Conduct of Meetings as well as Virtual Meetings of the Council of Cape Agulhas Municipality be noted and accepted as applicable to the newly elected Council.

**RESOLUTION 239/2021**

That the Rules Regulating the Conduct of Meetings as well as Virtual Meetings of the Council of Cape Agulhas Municipality be noted and accepted as applicable to the newly elected Council.

9. **GEDRAGSKODE VIR RAADSLEDE / CODE OF CONDUCT FOR COUNCILLORS: SCHEDULE 7 OF THE LOCAL GOVERNMENT MUNICIPAL STRUCTURES ACT, NO. 117 OF 1998**

The Code of Conduct for Councillors is applicable to all Councillors (*copy attached*).

**AANBEVELING / RECOMMENDATION**

That cognisance be taken of the Code of Conduct for Councillors, Schedule 7 of the Local Government: Municipal Structures Act, No. 117 of 1998 (hereafter referred to as the Code of Conduct) will be applicable to all Councillors.

**RESOLUTION 240/2021**

That cognisance be taken of the Code of Conduct for Councillors, Schedule 7 of the Local Government: Municipal Structures Act, No. 117 of 1998 (hereafter referred to as the Code of Conduct) will be applicable to all Councillors.

10. **VERKIESING VAN UITVOERENDE BURGEMEESTER / ELECTION OF EXECUTIVE MAYOR**

Section 55 of the Local Government: Municipal Structures Act, No. 117 of 1998 provides as follows:

*"55.(1) If a municipal council chooses to have an executive mayor it must elect an executive mayor and, if the MEC for local government in the province so approves, also an executive deputy mayor, from among its members at a meeting that must be held -*

- (a) *within 14 days of the council's election; or*
- (b) *if it is a district council, within 14 days after the last of the local councils has appointed its representatives to the district council,*

- (2) *A vacancy in the office of executive mayor or executive deputy mayor must be filled when necessary.*
- (3) *The procedure set out in Schedule 3 applies to the election of an executive mayor and executive deputy mayor.*

#### **AANBEVELING / RECOMMENDATION**

That an Executive Mayor be elected in terms of Schedule 3 of the Local Government: Municipal Structures Act, No. 117 of 1998.

#### **After the distribution of prescribed nomination forms, the following nominations were received:**

1. **ALDERMAN D JANTJIES**  
Nominated by Councillor R Mokotwana and seconded by Councillor J August-Marthinus
2. **COUNCILLOR P SWART**  
Nominated by Councillor D Burger and seconded by Councillor K Donald

#### **RESOLUTION 241/2021**

After voting, Councillor P Swart was elected as Executive Mayor.

### 11. **VERKIESING VAN UITVOERENDE ONDER-BURGEMEESTER / ELECTION OF EXECUTIVE DEPUTY-MAYOR**

Section 55 of the Local Government: Municipal Structures Act, No. 117 of 1998 provides inter alia as follows:

- “(3) *The procedure set out in Schedule 3 applies to the election of an Executive Mayor and Executive Deputy Mayor.*

#### **AANBEVELING / RECOMMENDATION**

That Council elects an Executive Deputy-Mayor in terms of Schedule 3 of the Local Government: Municipal Structures Act, No. 117 of 1998.

#### **After the distribution of prescribed nomination forms, the following nominations were received:**

1. **COUNCILLOR M MATTHYSEN**  
Nominated by Councillor Mokotwana and seconded by Councillor J August-Marthinus
2. **COUNCILLOR R ROSS**  
Nominated by Councillor G Olwage and seconded by Alderman J Nieuwoudt

#### **RESOLUTION 242/2021**

After voting, Councillor R Ross was elected as Executive Deputy-Mayor.

### 12. **INHULDIGINGSTOESPRAAK DEUR DIE UITVOERENDE BURGEMEESTER / ACCEPTANCE SPEECH BY EXECUTIVE MAYOR**

The newly elected Executive Mayor, Councillor Paul Swart gave his acceptance speech to the community.

13. **AANKONDIGING VAN LEDE VAN DIE UITVOERENDE BURGEMEESTERSKOMITEE / ANNOUNCEMENT ON THE APPOINTMENT OF MEMBERS OF THE EXECUTIVE MAYORAL COMMITTEE BY THE MAYOR**

Section 60 of the Local Government: Municipal Structures Act, No. 117 of 1998, deals with the appointment of the Mayoral Committee and provides as follows:

- “(1) *If a Municipal Council has more than nine members, its Executive Mayor -*
- (a) *must appoint a Mayoral Committee from among the Councillors to assist the Executive Mayor;*
  - (b) *may delegate specific responsibilities to each member of the Committee;*
  - (c) *may delegate any of the Executive Mayor’s powers to the respective members; and*
  - (d) *may dismiss a member of the Mayoral Committee.*
- (2) *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.*
- (3) *Those of the Executive Mayor’s powers and functions as may be designated by the Municipal Council, must be exercised and performed by the Executive Mayor together with the other members of the Mayoral Committee.*
- (4) *The members of a Mayoral Committee remain in office subject to Sub-section (5) and Section 26, for the term of the Executive Mayor who appointed them.*
- (5) *If the Executive Mayor vacates office, the Mayoral Committee appointed by that Executive Mayor dissolves.*

The members of the Executive Mayoral Committee are **not** elected by the Council, but appointed by the Executive Mayor after his or her election.

**AANBEVELING / RECOMMENDATION**

That according to Circular C34 of 2021 the Executive Mayor appoints two (2) additional Councillors to serve on the Executive Mayoral Committee, together with the Executive Deputy-Mayor (**copy of Circular attached**).

**RESOLUTION 243/2021**

That the Executive Deputy-Mayor, Councillor R Ross together with Councillors K Donald and G Olwage will serve on the Executive Mayoral Committee.

14. **AANSTELLING VAN VOLTYDSE RAADSLEDE / APPOINTMENT OF FULL-TIME COUNCILLORS**

As per Establishment Notice No. PK 500/2000 (Item 9) and Circular C34 of 2021 the following members may be full-time Councillors:

1. Executive Mayor
2. Members of the Executive Mayoral Committee
3. Speaker

**In terms of Item 9 of the Code of Conduct:**

“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.”

**AANBEVELING / RECOMMENDATION**

- (i) That the following Councillors be appointed as full time Councillors:
1. Executive Mayor
  2. Members of the Executive Mayoral Committee
  3. Speaker

- (ii) That cognisance be taken that in terms of Item 9 of the Code of Conduct for Councillors, that 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.

#### **RESOLUTION 244/2021**

- (i) That the following Councillors be appointed as full time Councillors:
1. Executive Mayor (**Councillor Swart**)
  2. Members of the Executive Mayoral Committee (**Cllr's Ross, Donald and Olwage**)
  3. Speaker (**Councillor Burger**)
- (ii) That cognisance be taken that in terms of Item 9 of the Code of Conduct for Councillors, that 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.

#### 15. **STRUCTURING OF COUNCIL: APPOINTMENT OF SECTION 80 COMMITTEES**

Section 80(1) of the Local Government: Structures Act, No. 117 of 1998 determines that if a Municipal Council has an Executive Mayor, it may appoint in terms of Section 79, Committees of Councillors to assist the Executive Mayor.

Section 80(2) of the Structures Act prescribes that such members of the Committees may **not in number exceed the number of members of the Executive Mayoral Committee.**

#### **AANBEVELING / RECOMMENDATION**

- (i) That the following three Standing Committees be established in terms of Section 80 of the Municipal Structures Act, No. 117 of 1998:
1. Financial- and IT Services Committee
  2. Infrastructure Services Committee
  3. Management Services Committee
- (ii) That the Executive Mayor appoints a Chairperson for each Committee from the Executive Mayoral Committee.
- (iii) That 3 additional Councillors be appointed on a proportional basis to serve on the above-mentioned Standing Committees with two (2) secundi.
- (iv) That 3 Councillors present at a meeting constitute a quorum.

#### **RESOLUTION 245/2021**

- (i) That the following Councillors be appointed as chairpersons on the three Standing Committees in terms of Section 80 of the Municipal Structures Act, No. 117 of 1998:
1. **Financial- and IT Services Committee** : Councillor K Donald
  2. **Infrastructure Services Committee** : Councillor G Olwage
  3. **Management Services Committee** : Councillor R Ross
- (ii) That the following members be appointed on the three Standing Committees:
1. **Financial- and IT Services Committee**
    - Cllr Louw
    - Cllr Matthysen
  2. **Infrastructure Services Committee**
    - Cllr Louw
    - Ald Jantjies
  3. **Management Services Committee**
    - Cllr Augustus-Marthinus
    - Ald Jantjies



- (iii) That the DA appoints their representatives on the Standing Committees at the next Council Meeting.
- (iv) That 2 secundi's be appointed at the next Council Meeting.
- (v) That 3 Councillors present at a meeting constitute a quorum.

## 16. **AANWYS VAN MPAC / APPOINTMENT OF MPAC (MUNICIPAL PUBLIC ACCOUNTING COMMITTEE)**

### **PURPOSE**

To establish a Municipal Public Accounts Committee (MPAC) for the Cape Agulhas Council in terms of section 79 of the Local Government Structures Act, 1998 (Act No. 117 of 1998) (Structures Act).

### **BACKGROUND**

The newly amended Structures Act, section 79A, requires the Council to appoint a Committee called the MPAC. This section further sets out the high-level responsibilities and functions of the Committee as follows:

- “79A. (1) *A municipal council must establish a committee called the municipal public accounts committee.*
- (2) *The mayor or executive mayor, deputy mayor or executive deputy mayor, any member of the executive committee, any member of the mayoral committee, speaker, whip and municipal officials are not allowed to be members of the municipal public accounts committee.*
- (3) *The municipal council must determine the functions of the municipal public accounts committee, which must include the following:*
- (a) *review the Auditor-General's reports and comments of the management committee and the audit committee and make recommendations to the municipal council;*
  - (b) *review internal audit reports together with comments from the management committee and the audit committee and make recommendations to the municipal council;*
  - (c) *initiate and develop the oversight report on annual reports contemplated in section 129 of the Local Government: Municipal Finance Management Act;*
  - (d) *attend to and make recommendations to the municipal council on any matter referred to it by the municipal council, executive committee, a committee of the council, a member of this committee, a councillor and the municipal manager; and*
  - (e) *on its own initiative, subject to the direction of the municipal council, investigate and report to the municipal council on any matter affecting the municipality.*
- (4) *Reports of the municipal public accounts committee must be submitted to the speaker who must table such reports in the next meeting of the municipal council.*
- (5) (a) *For the purposes of this section "audit committee" means the audit committee envisaged in section 166 of the Local Government Municipal: Finance Management Act.*
- (b) *Each municipality and each municipal entity must establish an audit committee in accordance with that section.”*

The National Treasury and Department of Cooperative Government and Traditional Affairs guideline (guidelines) for the establishment of MPAC's, section 4.2, indicates that the Committee shall comprise of Councillors excluding any Councillor who is serving as Executive Mayor, Deputy Executive Mayor, Speaker, a member of MAYCO or any municipal official. Section 4.3 of the guidelines recommends that the Councillors appointed to the Committee should have a wide range of experience and expertise available in Council and represent various political affiliations.

Furthermore, section 5 of the guidelines requires that the Chairperson of the Committee must be appointed by Council Resolution. When appointing the Chairperson of the Committee, the Council must take into consideration the requirement of transparency, ethical behaviour and general good governance prescripts.

In deciding the Chairperson, the guidelines further indicates that the Council may consider appointing Councillors from parties other than the majority party. This is the general practice in South Africa.

### **LEGISLATIVE IMPLICATIONS**

Adherence to section 79 of the Local Government Structures Act, 1998 (Act No. 117 of 1998) (Structures Act).

### **AANBEVELING / RECOMMENDATION**

That Council appoints the MPAC in terms of the Structures Act.

### **RESOLUTION 246/2021**

- (i) That Alderman D Jantjies be appointed as Chairperson and Councillor R Louw as second member on the Municipal Public Accounting Committee (MPAC).
- (ii) That a third member be appointed at the next Council Meeting.

## 17. **VERKIESING VAN VERTEENWOORDIGERS TOT DIE OVERBERG DISTRIKSRAAD / ELECTION OF REPRESENTATIVES TO THE OVERBERG DISTRICT COUNCIL**

Section 23 of the Local Government: Municipal Structures Act, No. 117 of 1998, deals with the Election of Members of District Municipalities and provides as follows:

### **“(23) *Election and appointment of District Councils:***

- (1) *The Council of a District Municipality consists of -*
  - (a) *Councillors elected in accordance with Part 1 of Schedule 2 by voters registered on that Municipality’s segment of the national common voters roll, to proportionally represent the parties that contested the election in that District Municipality;*
  - (b) *Councillors appointed in accordance with Schedule 2 by the Councils of the respective Local Municipalities; and*
- (2) *The number of Councillors representing Local Municipalities in a district Council referred to in sub-section (1) (b) must be -*
  - (a) *equal to 60 per cent (fractions to be disregarded) of the number of Councillors determined for the Municipality in terms of Section 20 before any increase in terms of Section 20 (5), plus the increase; and*
  - (b) *allocated to the respective local Councils in accordance with Part 2 of Schedule 2.*
- (3) *The number of proportionally elected Councillors referred to in sub-section (1) (a) is determined by subtracting the number determined in terms of sub-section (2) (a) from the number of Councillors determined for the Municipality in terms of Section 20, including any increase in terms of Section 20 (5).*
- (4) *A local Council must appoint its representatives to the District Council within 14 days after the result of the election of the Local Council has been declared.*
- (5) *An elected councillor is deemed to assume office on the date the declaration of the results of an election by the Electoral Commission.”*

The election of representatives of the Local Municipality to serve on the District Municipality is managed by the IEC.

The Chief: Electoral Officer of the IEC or his or her representative determines the formula for the number of seats allocated to Local Municipalities in the District Municipality as well as the number of seats allocated to each of the Local Municipalities in the District Municipality, in accordance with Schedule 2 of the Local Government : Municipal Structures Act, 1998.

If only one seat is allocated to a Local Municipality, the procedure set out in Item 16 of Schedule 2 will apply, and where the Municipality is allocated more than one seat, the seats will be allocated on a proportional representation basis and filled from the lists submitted by the parties in the Council in accordance with Items 17-22 of Schedule 2 as aforesaid. The IEC will also facilitate this process.

According to Provincial notice P.N. 126 of 2021 (dated 15 October 2021) section 2, Cape Agulhas was allocated two directly representative seats on the Overberg District Municipality. This two members must be representative of the most votes counted (one from the DA and one from the ANC).

**AANBEVELING / RECOMMENDATION**

That the representatives to the District Council be elected in terms of Section 23 of the Local Government: Municipal Structures Act, No. 117 of 1998.

**RESOLUTION 247/2021**

After the nomination and voting, the IEC declared Councillor Raymond Mokotwana and Alderman Johan Nieuwoudt as Cape Agulhas Municipality's representatives to the Overberg District Council, in terms of Section 23 of the Local Government: Municipal Structures Act, No. 117 of 1998.

18. **HAND OVER REPORT: 2016 - 2021 (MAYOR)**

Each Municipal Manager, working together with the Chief Financial Officer and Senior Managers, is encouraged to prepare a Hand-Over Report that can be tabled at the first meeting of the newly elected Council. This Hand-Over Report aims to provide the new Councils important orientation information regarding the Municipality, the state of its finances, service delivery and capital programme, as well as key issues that need to be addressed.

**AANBEVELING / RECOMMENDATION**

That cognisance be taken that the Handover Report has been handed over to the new Executive Mayor for discussion at the next meeting.

**RESOLUTION 248/2021**

That cognisance be taken that the Handover Report has been handed over to the new Executive Mayor for discussion at the next meeting.

19. **SLUITING / CLOSURE**

Die vergadering verdaag om 13:40 / The meeting adjourned at 13:40

BEKRAGTIG op hierdie

dag van

2021

**SPEAKER**

**DATUM:**