



SPECIAL MEETING OF THE COUNCIL

SPEZIALE VERGADERING VAN DIE RAAD

INTLANGANISO EKHETHEKILEYO YEBHUNGA

A G E N D A

I-AJENDA

**DATE / DATUM / UMHLA : 13 OCTOBER / OKTOBER /
OKTOBHA 2021**

VENUE / PLEK / INDAWO : VIRTUAL

TIME / TYD / IXESHA : 14:00

MUNICIPALITY / MUNISIPALITEIT / UMASIPALA WE-OVERSTRAND

Office of the Municipal
Manager
Municipal Offices
HERMANUS

7 October / Oktober / Oktobha 2021

NOTICE TO ALL ALDERMEN & COUNCILLORS

SPECIAL MEETING OF THE OVERSTRAND MUNICIPAL COUNCIL

NOTICE IS HEREBY GIVEN that, due to the Covid-19 Lockdown, a **SPECIAL MEETING** of the **OVERSTRAND MUNICIPAL COUNCIL** will be held by means of a virtual platform on **WEDNESDAY, 13 OCTOBER 2021** at **14:00**, of which the agenda will be available on the Overstrand Website (www.overstrand.gov.za).

The attention of Councillors is directed to the Code of Conduct for Councillors and Municipal Officials, Schedules 1 & 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

D O'NEILL
MUNICIPAL MANAGER

KENNISGEWING AAN ALLE RAADSHERE & RAADSLEDE

SPEZIALE VERGADERING VAN DIE OVERSTRAND MUNISIPALE RAAD

KENNIS GESKIED HIERMEE dat, weens die Covid-19 grendeltydperk, 'n **SPEZIALE VERGADERING** van die **OVERSTRAND MUNISIPALE RAAD** gehou sal word by wyse van 'n virtuele platform op **WOENSDAG, 13 OKTOBER 2021** om **14:00**, welke agenda op die Overstrand Webtuiste (www.overstrand.gov.za) beskikbaar sal wees.

Raadslede se aandag word gevestig op die Gedragskode vir Raadslede en Munisipale Beamptes, Bylae 1 & 2 van die Wet op Plaaslike Regering : Munisipale Stelsels, 2000 (Wet 32 van 2000).

D O'NEILL
MUNISIPALE BESTUURDER

ISAZISO ESIYA KUBO BONKE OOCEBAKHULU NOOCEBA

INTLANGANISO EKHETHEKILEYO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND

OKU KUKWAZISA ukuba, ngenxa yokuvakwa okubangelwe yintsolongwana i-COVID-19, **INTLANGANISO EKHETHEKILEYO YEBHUNGA LIKAMASIPALA WE-OVERSTRAND**, iyakubanjwa ngeqonga elibonakalisayo **NGOLWESINE UMHLA, 13 OKTOBHA 2021** ngeye-**14:00**. I-ajenda iya kufumaneka yona kwiwebhusayithi ye-Overstrand (www.overstrand.gov.za).

OoCeba bayacelwa ukuba baqwalasele isikhokelo sokuziphatha sooCeba namaGosa kamasipala, amaXwebhu 1 & 2 kaRhulumente wooMasipala: uMthetho weeNkqubo zikaMasipala, 2000 (UMthetho 32 wowama-2000).

D O'NEILL
LOMPHATHI KAMASIPALA

AGENDA/...

1. **OPENING**

2. **APPLICATIONS FOR LEAVE OF ABSENCE**

3. **STATEMENTS AND COMMUNICATIONS BROUGHT FORWARD BY THE
SPEAKER / EXECUTIVE MAYOR**

4. CONSIDERATION OF REPORTS**4.1****APPOINTMENT OF MEMBERS : OMBUDSMAN COMMITTEE****3/2/3/9****D Arrison****Director : Management Services****5 October 2021****(028) 313 8004****1. Executive Summary**

The purpose of this report is to afford Council an opportunity to establish an Ombudsman Committee in terms of sections 33 and 79 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and to appoint members on the aforementioned Ombudsman Committee.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate Management Services

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

None

5. Legal Requirements

Constitution of the Republic of South Africa 1996 ("The Constitution")
 Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)
 Local Government : Municipal Structures Act, 1998 (Act 117 of 1998)

6. Background/Discussion/Evaluation/Conclusion

Constitution of the Committee

Council may establish a Committee in terms of Section 79 of the Local Government: Municipal Structures Act 117 of 1998, to be called the Ombudsman. Council must appoint the Chairperson and two other non-executive councillors to investigate matters referred to it by the Executive Mayor. In terms of Section 160(8) of the Constitution of the Republic of South Africa 1996, the members of the Committee must be fairly representative of the parties and interests reflected in Council.

Delegation

Council must delegate functions to the Committee, specifically to gather information and conduct a preliminary investigation into matters referred to it by the Executive Mayor and thereafter to report to Council as to what it has done pertaining to the instruction received by the Executive Mayor, by means of a recommendation. The final decision will rest with Council.

Advisory Members

Council may authorise the Committee to co-opt advisory members who are not members of Council. Such co-option to be done in consultation with the Municipal Manager.

The procedure to be followed

- The Ombudsman must have a discretion to adopt its own procedure. Notwithstanding the aforesaid the procedure should at all times be lawful, reasonable and fair and should therefore at least consist of that which follows below.
 - The Mayor forward a complaint to the Chairperson of the Ombudsman together with all information obtained.
 - The Chairperson call the committee together to consider the complaint and information obtained.
 - The Ombudsman consider in the first instance whether the information is sufficient to decide the issue, alternatively whether there are factual disputes which should be amplified by oral evidence.
 - The Ombudsman consider in the second instance whether it is necessary to co-opt advisory members.
 - If the information is sufficient to decide the issue, then the Ombudsman may decide the issue and make a written recommendation to Council supported by sound reasons.
 - If the information is insufficient, and/or there are factual disputes and/or it is necessary to co-opt advisory members, then the Ombudsman must stand down to a further date in order for the Municipal Manager to appoint the advisory members and to arrange a date for the complainant and members of the administration to appear before the Ombudsman.
 - On the further date both parties must be afforded an opportunity to place evidence before the Ombudsman. The members of the Ombudsman must be afforded the opportunity to ask questions of clarity.

- After all the evidence was gathered [on documents and oral representation] the Ombudsman must come to its decision by means of a written recommendation to Council.

Administrative Support

The Municipal Manager must ensure that the Ombudsman have sufficient administrative support in order to do their work.

Timeframes

The timeframes within which each matter is to be dealt with fall within the discretion of the Chairperson of the Ombudsman. Notwithstanding the aforesaid each dispute must be dealt with expeditiously.

7. Financial Implications

Members of the committee will receive no additional remuneration.

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

N/A

10. Annexures

None

RECOMMENDATION TO THE COUNCIL:

1. that a committee be established in terms of Section 79 of the Local Government: Municipal Structures Act 117 of 1998, to be called the Ombudsman;
2. that a Chairperson and two other non-executive councillors **be appointed**;
3. that the Ombudsman be tasked to investigate complaints from members of the public referred to it by the Executive Mayor and to make a recommendation to Council;
4. that the Ombudsman be authorised to co-opt advisory members in consultation with the Municipal Manager;

5. that the Ombudsman determine its own procedure, which must at all times adhere to the Rules of Natural Justice;
6. that matters be dealt with expeditiously; and
7. that it be noted that, in the cases of complaints against a municipal services account, any punitive actions must be kept in abeyance until such time as the Ombudsman has delivered its recommendation to Council and Council has taken a decision thereon.

RESPONSIBLE OFFICIAL :

D ARRISON

TARGET DATE FOR IMPLEMENTATION :

IMMEDIATELY