



## RULES COMMITTEE

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1. **ITEM NUMBER: RL 03/06/20**

2. **SUBJECT / ONDERWERP / ISIHLOKO:**

**CONFIRMATION OF THE MINUTES: 12 MARCH 2020**

**BEKRAGTIGING VAN NOTULE: 12 MAART 2020**

**ISIQINISEKISO SEMIZULU: 12 EYOKWINDLA 2020**

3. **DISCUSSION**

The minutes are submitted for confirmation.

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Annexure 1: Minutes of Rules Committee meeting held on 12 March 2020

**OF THE RULES COMMITTEE MEETING HELD IN COMMITTEE ROOM D,  
5<sup>TH</sup> FLOOR, PODIUM BLOCK, CIVIC CENTRE, CAPE TOWN ON THURSDAY,  
12 MARCH 2020 AT 10:00**

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**PRESENT:            MEMBERS**

**DEMOCRATIC ALLIANCE**

Cllr. D Bryant            (Chairperson)  
Cllr. M Nikelo            (Deputy Chairperson)  
Ald. D Smit                (Speaker)  
Ald. B Watkyns  
Cllr. G Gordon  
Cllr. M Raise  
Cllr. P Swart

**AFRICAN NATIONAL CONGRESS**

Cllr. X Sotashe  
Cllr. N Makasi  
Cllr. E Theron

**ECONOMIC FREEDOM FIGHTERS (EFF)**

NONE

**APOLOGIES**

Cllr. J Mbolompo  
Cllr. Makeleni  
Cllr. C Mdleleni

**ABSENT WITHOUT AN APOLOGY**

None

**LEGAL ADVISERS**

P Qalazive

**OFFICIALS**

R Razack  
M Levendall

**RL 01/03/20      OPENING**

The Chairperson commenced the meeting with moment of silence.

**RL 02/03/20      APPLICATIONS FOR LEAVE OF ABSENCE**

Ms Levendall informed the members that a formal application for leave had been received for Councillor Mbolompo, via the office of the Chief Whip.

Formal applications for leave were received for Councillor Makeleni and Councillor Mdleleni after the Rules Committee meeting.

**RESOLVED** that the above be noted.

**ACTION: M LEVENDALL**

**RL 03/03/20      CONFIRMATION OF MINUTES: 13 FEBRUARY 2020**

**RESOLVED** that the Minutes of the meeting, held on 13 February 2020, be **CONFIRMED**.

**ACTION: M LEVENDALL**

**RL 04/03/20      CHAIRPERSON'S REPORT**

The Chairperson urged the members to take cognisance of the current Covert-19 outbreak and to ensure that the correct message is conveyed to communities in terms of the necessary precautions to be taken and not to spread fear.

In respect of the agenda, the Chairperson commented that the following items would be considered:

- Review of the Terms of Reference for the Rules Committee;
- Review of the Rules for Section 79 and 80 Committees;
- Consideration of the Term "Alderwoman"

In response to the Chairperson's opening remarks, Councillor Sotashe enquired about the City's readiness in terms of the current pandemic and what measures have been put in place to protect the citizens of Cape Town.

In response, the Chairperson commented that the Mayoral Committee Member for Community Services and Health,

Councillor Badroodien, would be releasing a media statement later that day.

Alderman Smit indicated that the current pandemic was a provincial matter and that it was being dealt with at that level. However, he requested the Chairperson to ask Councillor Badroodien to forward his media release to all the Councillors for information purposes.

**RESOLVED** that the Chairperson's report as well as the comments from the members, be noted.

**ACTION: M LEVENDALL**

**RL 05/03/20      PROGRESS REPORT: MATTERS RECEIVING ATTENTION**

**RESOLVED** that all items listed on the matters receiving attention schedule be removed as it has all been addressed.

**ACTION: M LEVENDAL**

**RL 06/03/20      REVIEW OF THE TERMS OF REFERENCE FOR THE RULES COMMITTEE**

Ms Razack addressed the item and informed the members that she had amended the document as agreed to at the previous meeting. At the Chairperson's request, Ms Razack then proceeded to present the document to the members highlighting the amendments and allowing the members to make further amendments to the document.

Page 16 – (Name of the Committee) the members agreed that, going forward, the name would be amended to "**The Rules and Ethics Committee**".

Page 17, item 4 – The members agreed that the names of the Councillors would be removed.

The members agreed that all reference to "**deputy chairperson**" be removed from the document. At this point Councillor Makasi commented that the exclusion of deputy chairpersons should be ratified at full Council. In response, the Chairperson indicated that once the amendments have been made to the Terms of Reference and the Rules for Section 79 and 80 Committees, it will be submitted to full Council for approval.

Page 17, paragraph 4, last line – The members agreed that “**The Speaker of Council shall be a standing member of this committee**” be included in the document

Page 17, paragraph 5.5, under the heading Committee, 2<sup>nd</sup> paragraph – the members agreed that “Besides control over amendments, the **Rules of Order...**” be included in the document.

Page 18, paragraph 5.7 – the members agreed that the following be included in the document.

**“The Rules committee must also consider and make recommendations to Council on the following matters:**

**5.8 Nominations for Civic Honours and Freedom of the City awards;**

**5.9 Outside/Private work applications for full-time councillors;**

**5.10 Naming and renaming of Council immovable assets, in line with public participation processes, (excluding new streets and unnamed streets which are covered by Subcouncil delegation Part 24: 12(1) delegations);**

After a brief discussion in terms of the implications of public participation processes for paragraph 5.10 above; the members agreed that Ms Razack obtain the terms of reference for the former Naming and Nominations Committee and compare how the public participation was dealt with. Furthermore, it was agreed that, should the wording/process be substantially different, Ms Razack would submit such wording/process to the members via the “round robin” system in order for the members to comment, before the document is submitted to full Council for approval.

**5.11 Review and propose amendments to Delegations of Council and its Committees**

This item was previously deferred for legal advice. Ms Qalazive, the legal advisor, confirmed that it was legally compliant for the Rules Committee to review and/or propose amendments to the Delegations of Council and its Committees.

**5.12 May request reports on specific court cases involving Council;**

### 5.13 Monitor the Office of the Ombudsman

This item was previously deferred for legal advice. Ms Qalazive, the legal advisor, confirmed that section 3.2 of the City Ombudsman By-Law, 2015 states that the Council, its political structures and the administration must not interfere with the functioning of the Office of the City Ombudsman.

After a brief discussion, the members agreed to amend paragraph 5.13 to **“May request reports from the Office of the Ombudsman”**

Page 18, paragraph 5.7 – the members agreed that item 5.14 **“Monitor Appeals submitted to Council the following be included in the document”** be removed.

Page 18, paragraph 5.7 – the members agreed that item 5.15 **“Development of guidelines/ frameworks for councillors on Ethics matters”** be included.

Page 18, paragraph 5.7 – the members agreed that item 5.16 **“Comment on National and Provincial Legislation”** be removed.

Page 19, paragraph 7.4.5 – the members agreed that **“legal advisor shall be present at all meetings of the committee”** be included at the end of the sentence.

Page 19, paragraph 7.4.6 – the members agreed that the entire paragraph be deleted.

Page 19, paragraph 7.5.3 – the members agreed that the words **“The Rules Committee must deal with all matters, within its delegations,...”** be included in paragraph 7.5.3

Page 20 paragraph 11 – the members agreed that the first sentence of the paragraph should read as follows: **“These** Terms of Reference **may** be reviewed as deemed appropriate.”

The members agreed that the following two items be moved to Section 2 of the document:

5.12 May request reports on specific court cases involving Council;

5.13 May request reports from the Office of the Ombudsman.

**RESOLVED** that:

1. The additional proposed amendments, as agreed to by the members, be made to the document;
2. That the amended Terms of Reference for the Rules Committee be submitted to full Council for approval.
3. The updated Terms of Reference for the Rules Committee, be circulated to the all Councillors prior to it being submitted to Council for adoption, in order for Councillors to familiarize themselves with the content.

**ACTION: R RAZACK**

RL 07/03/20

**REVIEW OF THE RULES OF ORDER REGULATING THE CONDUCT OF MEETINGS OF SECTION 79 AND 80 COMMITTEES OF THE COUNCIL OF THE CITY OF CAPE TOWN**

Ms Razack commented that all administrative amendments had been made and, where required, the document has been amended to align with the Council's rules of order.

Ms Razack then proceeded to present the amendments to the members as follows:

Page 23; and additional item was added to the index page namely "**Item 9 - Order of Business of Meeting**"

Page 25, paragraph 1.2 the words "**or the Conduct and Guidance Committee which is governed by the Rules of Natural Justice**" was deleted.

Page 25, section 2, paragraph 6 – the following paragraph was deleted. "**Conduct and Guidance Committee**" means **Committee established in terms of Schedule 1 Code of Conduct for Councillors in the Systems Act**".

Page 25, section 2, paragraph 8 – the following paragraph was inserted "**Designated Peace Officer**" means a **law enforcement officer of the City who has been declared a peace officer in terms of Section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977), acting when on duty and properly identified and trained to keep order during Committee meetings**"

Remove any reference to **“Deputy Chairperson”** from the document.

After a brief discussion, the members agreed that it be proposed to the Portfolio Committees that all reference to deputy chairpersons be removed from both the Rules for Section 79 & 80 Committees as well as the Terms of Reference documents for all committees. If all Portfolio Committees are in agreement, then the Chief Whip could present a report to Council for noting indicating that the position of deputy chairpersons be excluded from all Portfolio Committees membership.

Page 26 – include the definition for **“Electronic Communications Act” means the Electronic Communications and Transactions Act, no. 25 of 2002”**

Page 26 – include the definition for **“Electronic Communication” has the meaning ascribed thereto in terms of the Electronic Communications Act”**

Page 26 – include the definition for **“Electronic signature” means has the meaning ascribed thereto in terms of the Electronic Communications Act”**

Page 26 – include the definition for - **“In writing” includes an electronic communication”**

Page 26, paragraph entitled Municipal Manager – delete the words **“as mentioned in the regulations”** and include the words **“as mentioned in the Local Government Municipal Structures Act no. 117 of 1998 and regulations”**

Page 26 – include a definition for **“Quorum” means the minimum number of members required to be in attendance at a meeting to duly constitute same for decision-making”**.

Page 26 – include a definition for **“Sign” also includes an electronic signature”**

Remove any reference to **“Transversal or Cluster”** from the document.

Page 27, paragraph 3.6 - The members agreed that a legal opinion be obtained in respect of paragraph 3.6 (i.e. exact meaning). Additionally, it should be clarified in terms of which Act was being referred to.



Page 27, include additional paragraph **“3.7 Ensure that members of the public attending any open meetings of the committees conduct themselves in an orderly manner, and obey any ruling made by the Chairperson”**.

Page 27, paragraph 5.3 – include the words **“...request the committee to elect an Acting Chairperson”**

Page 27, paragraph 5.3 – include the words **“...for the duration of his/her absence at that meeting”**

Page 27, paragraph 5.3 – delete the word **“...for that meeting”**

Page 28, paragraph 6.3 – include the following sentence at the end of the paragraph **“In the event that a large percentage of members did not receive the notice of a meeting, members should make a decision on whether that meeting should proceed”**.

Page 28 – include an additional paragraph **“6.6 Where a notice of meeting is served to a member of the committee electronically via email, such notice of meeting would be deemed to have been received by the recipient. A delivery note serves as proof of service”**.

Page 29, paragraph 9.2.1 – delete the words **“these Rules of Order”** and replace it with the words **“Council’s System of Delegations”**

Page 29, paragraph 9.4 – delete the word **“urgency”** and replace it with **“urgent matters”**, then delete the word **“as”**

Page 30, paragraph 9.6.3 – delete the word **“on”** at the beginning of the sentence.

Page 30, paragraph 11 – delete the words **“these aspects”**

Page 30, paragraph 12.3 – add the words following words **“... in agreement with a proposal or...”**

Page 30, paragraph 12.3 – delete the word **“...the”**

Page 30, paragraph 12.3 – add the words following words **“...before the committee”**

Page 30, paragraph 12.3 – add the words following words **“...proposal(s) or...”**

Page 31, paragraph 12.9, last sentence – add the word “**deliberative**” and delete the words “**as a Chairperson**”.

Any reference made to “**his**” should be amended to read “**his/her**” throughout the document.

Page 31, – include an additional paragraph “**12.10 When a Committee considers legislation for recommendation it must consider each clause of the proposed legislation separately after allowing debate on each individual clause**”.

Page 31, paragraph 14.3 – amend the paragraph as follows “~~There will be~~ **No** proposal on or discussion **shall be allowed on** of the minutes, except as to ~~their~~ its accuracy”.

Page 31, paragraph 14.5 – delete the word “**Chairperson**” and replace it with “**Municipal Manager**”

Page 32, paragraph 14.6 – delete the word “**Chairperson**” and replace it with “**Municipal Manager**”

Page 32 paragraph 15.1.1 – add the words “signed **and dated**”

Page 31, paragraph 14.3 – amend the paragraph as follows “A motion ~~will~~ **shall** lapse if the member who submitted it is not present at the meeting when such motion is **scheduled for being** debate.

Page 32, paragraph 15.4 – amend the paragraph as follows “A member submitting a motion ~~must~~ **shall** introduce such motion and ~~must~~ **shall** have the right of reply thereto”

Page 32, paragraph 15.4 – delete the sentence “**When a member introduces a motion in terms of this rule**” and add the sentence “**The Chairperson may not entertain a motion introduced in terms of this rule:**”

Page 32, end of paragraph 15.5 – delete the note which reads “**such motion will not be entertained**”

Page 32, paragraph 15.6.1 – amend the paragraph as follows “the Chairperson ~~the motion~~ must be read out ~~together with~~ the report item number ~~thereof~~ and the name of the mover;

Page 33, – include an additional paragraph “15.6.3 The Chairperson must call on the member who submitted the motion to read out the motion”

Page 33, paragraph 17.1 – add the following sentence at the end of the paragraph “**A matter is urgent when the decision required, if delayed, could prejudice Council, or its operations, or threatens the general well-being and safety of the public**”

Page 33, paragraph 17.2 – amend the paragraph as follows “The Chairperson must determine an appropriate time during the Committee’s deliberations **when the Executive Director may raise to consider** the urgent matter, and he/she must determine the period of time available for discussion of any urgent matter.”

Page 34, paragraph 18.1.2 – add the words “signed **and dated**”

Page 34, paragraph 19, in the heading – delete the word “**PRECEDENT**” and replace it with “**PRECEDENCE**”

Page 35, paragraph 20.1.2 – add the following sentence at the end of the paragraph “**provided that such matter may be considered with the permission of the committee**”.

Page 35, sections 21 and 22 – to be aligned to the Council’s Rules of Order.

Include a section dealing with a political party taking a collective decision to leave the meeting.

Page 35, 23.2 – amend the paragraph as follows: “The Chairperson may, at any time during a meeting, if he /she deems it necessary for the maintenance of order, **adjourn the meeting and request the Executive Director to** direct an **unarmed designated peace officer(s)** to remove or cause the removal of any person, including a member from the meeting place, or order that the public **seating area** gallery be-vacated”

Page 37 – include an additional paragraph “**27.2 That a record be kept of all members of the public**”

Page 38, paragraph 30.1 amend the paragraph as follows “The Committee may, and at the direction of the Council, Mayoral Committee, ~~the Governance and Sustainability Cluster Committee,~~ the Executive Mayor, or **the Chairpersons**

**Section 79 Committees**, MMC, engage in appropriate public participation processes, as per Chapter 4 of the Systems Act”

**RESOLVED** that

1. The proposed amendments, as agreed to by the members, be made to the document;
2. A legal opinion be obtained in respect of the proposed amendments
3. That the document be circulated to all Councillors and Portfolio Committees for comment and then resubmitted to the Rules Committee for finalization before going to Council for adoption.

**ACTION: R RAZACK / LEGAL ADVISOR**

**RL 08/03/20**

**CONSIDERATION OF THE TERM “ALDERWOMAN”**

After a brief discussion, Councillor Gordon proposed that, having done extensive research, the term “Alderwoman” be used when female Councillors are bestowed with the honorary title.

The members were in support of the proposal made by Councillor Gordan.

In light of the above, the Chairperson requested that the Conferment of Civic Honours Policy be amended to include the term “Alderwoman”.

**RESOLVED** that the Conferment of Civic Honours Policy be amended to include the term Alderwoman.

**ACTION: R RAZACK / J VAN AS**

**~~~ MEETING CONCLUDED AT 12:50 ~~~**

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**COUNCILLOR D BRYANT  
CHAIRPERSON**

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**DATE**