



CITY OF CAPE TOWN
ISIXEKO SASEKAPA
STAD KAAPSTAD

Making progress possible. Together.

RULES & ETHICS COMMITTEE
KOMITEE OOR REËLS EN ETIEK
IKOMITI ENGEMIGAQO NENDLELA EYAMKELEKILEYO YOKUZIPHATHA

1. **ITEM NUMBER: RLE 03/05/22**

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

CONFIRMATION OF THE MINUTES: 14 APRIL 2022
BEKRAGTIGING VAN NOTULE: 14 APRIL 2022
ISIQINISEKISO SEMIZULU: 14 EKATSHAZIIMPUZI 2022

 3. **DISCUSSION**

The minutes are submitted for noting.
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Annexure 1: Minutes of Rules & Ethics Committee meeting held on Thursday,
14 April 2022

MINUTES

OF THE RULES & ETHICS COMMITTEE MEETING HELD IN COMMITTEE ROOM D, 5TH FLOOR, PODIUM, CIVIC CENTRE, CAPE TOWN ON THURSDAY, 14 APRIL 2022 AT 10:00

PRESENT DEMOCRATIC ALLIANCE (DA)

Cllr. P Swart (Chairperson)
Ald. F Purchase (Speaker)
Ald. B Watkyns
Cllr. D Visagie
Cllr. G Gordon
Cllr. M Raise
Cllr. C Cerfontein
Cllr. H Terblanche

AFRICAN NATIONAL CONGRESS (ANC)

Ald. X Sotashe

ECONOMIC FREEDOM FIGHTERS (EFF)

NIL

GOOD

Cllr. P Marman

PATRIOTIC ALLIANCE (PA)

NIL

CAPE COLOURED CONGRESS (CCC)

Cllr. S Frenchman

APOLOGIES

Cllr. P Tause
Cllr. P Sono
Cllr. M Dambuza

LEGAL ADVISORS

P Qalazive
Z Kasker

OFFICIALS

R Razack
K Nicoll
M Levendall

RLE 01/04/22 OPENING OF MEETING/MOMENT'S SILENCE

The Chairperson welcomed everyone present and thereafter a moment of silence was observed.

RLE 02/04/22 APOLOGIES/LEAVE OF ABSENCE

An apology was submitted for Cllr. Tause. Additionally, apologies were received, after the meeting via the Chief Whip's Office, for Cllr. Dambuza and Cllr. Sono.

It was noted that Cllr Visagie would arrive late.

RESOLVED that the above be noted.

ACTION: M LEVENDALL

RLE 03/04/22 CONFIRMATION OF MINUTES: 10 MARCH 2022

The minutes of the ordinary meeting of the Rules & Ethics Committee, held on 10 March 2022 was confirmed.

[Proposed by Cllr. Gordon and seconded by Ald. Purchase].

RESOLVED that the minutes of the Rules & Ethics Committee meeting held on 10 March 2022 be **CONFIRMED**.

ACTION: M LEVENDALL

RLE 04/04/22 CHAIRPERSON'S ADDRESS

The Chairperson informed the members that the Whips Forum Workshop was postponed, therefore no progress, in terms of the Code of Conduct and Rules of Order for the Whips Forum, was made. The Chairperson indicated that he would keep the members informed in this regard.

RESOLVED that the Chairperson's address be noted.

ACTION: M LEVENDALL

RLE 05/04/22 PROGRESS REPORT: MATTERS RECEIVING ATTENTION

The Chairperson pointed out that the "Code of Ethics for Councillors" was omitted from the matters receiving attention (MRA) scheduled and requested that it be included. Additionally, it was noted that the "target dates for submission" on the MRA schedule were incorrect.

Cllr Cerfontein requested that the MRA schedule be updated to include the history of the items and not just the resolution.

RESOLVED that:

- a) The “Code of Ethics for Councillors” item be included in the matters receiving attention schedule;
- b) The matters receiving attention scheduled be updated to include the history of the items;
- c) The “target dates for submission” on the matters receiving attention schedule be amended;
- d) The matters receiving attention schedule be noted.

ACTION: M LEVENDALL

RLE 06/04/22

PRACTICAL IMPLEMENTATION OF RULE 9.1.13 OF THE RULES OF ORDER

Ms Qalazive submitted a proposed amendment to Rule 9.1.13 to the Rules & Ethics Committee for consideration.

The members were in agreement with the proposed amendment subject to the following:

1. Remove the words “programming committee” from the proposed amendment;
2. Capitalize the letter “F” for Whips Forum.

The members agreed that the proposed Rule 9.1.13 will read as follows:

“Matters for noting to be included on the agenda. Matters for noting may be debated at Council Meetings, upon decision by the Whips Forum.”

RESOLVED that:

- a) Rule 9.1.13 be amended as follows:

“Matters for noting to be included on the agenda. Matters for noting may be debated at Council Meetings, upon decision by the Whips Forum.”

- b) The proposed amended Rule 9.1.13, be submitted to the various caucus for comment;

- c) The Whips Forum will decide on which matters for noting will be debated at Council meetings.
- d) The item remain on the matters receiving attention schedule until it has been agreed to at full Council.

ACTION: M LEVENDALL

RLE 07/04/22 LEGAL BRIEFING ON THE AMENDED STRUCTURES ACT

Ald. Sotashe noted that the Amended Structures Act had no impact on the functions, role and mandate of the Rules and Ethics Committee. However, he noted that additional responsibilities were given to the Speaker of a Municipal Council under Section 37 of the Act. Ald. Sotashe proposed that the Speaker's Office facilitate a workshop with the various caucuses to brief Councillors on the amendments to ensure that there is a broad understanding of these amendments.

RESOLVED that:

- a) The Speaker's Office facilitate a workshop with the various caucuses to brief Councillors on the Amended Structures Act, particularly Section 37 of the Act, pertaining to the additional responsibilities given to the Speaker of a Municipal Council;
- b) That the item be placed on the matters receiving attention schedule until a report has been received to indicate that the workshop has taken place.

ACTION: ALD. PURCHASE / M LEVENDALL

RLE 08/04/22 COUNCILLOR DEVELOPMENT

Ald. Purchase indicated that her office along with the Policy Unit were in the process of updating the policy and will circulate it thereafter.

RESOLVED that:

- a) The report be noted;
- b) The item remain on the matters receiving attention schedule until the policy has been updated.

ACTION: ALD. PURCHASE

RLE 09/04/22 REVIEW THE TERMS OF REFERENCE FOR THE RULES & ETHICS COMMITTEE AND WARD COMMITTEES

The Chairperson proposed that the review of the Terms of Reference for the Rules & Ethics Committee and the Ward Committees be split into two separate items. Additionally, he requested that Ms Razack do a presentation on the Terms of Reference for the Rules & Ethics Committee at the next meeting. Thereafter, the members will indicate if there was a need to review the document.

After an in-depth discussion regarding the Terms of Reference for Ward Committees, the members agreed that the Subcouncils should advise if there was a need to review the Terms of Reference for Ward Committees. Additionally, the members agreed that the review of the Terms of Reference for Ward Committees not be added to the matters receiving attention schedule at this stage.

RESOLVED that:

- a) Ms Razack present the Terms of Reference for the Rules & Ethics Committee to the members with the understanding that the document be reviewed if required;
- b) The matter be included on the matters receiving attention schedule.

ACTION: R RAZACK / M LEVENDALL

RLE 10/04/22 CODE OF CONDUCT FOR COUNCILLORS

Mr Nicol did a presentation on the Code of Conduct for Councillors, attached to the minutes as Annexure A.

It was noted that the Schedule on the agenda was outdated. The Secretariat was requested to provide the members with the updated document (i.e. Schedule 7).

After a brief discussion, it was agreed that the legal advisor would submit a report to the next meeting highlighting the amendments between Schedule 1 (Municipal Systems Act) and Schedule 7 (Structures Act). Thereafter the members will debate and identify which aspects need to be included in the ongoing training for Councillors.

RESOLVED that:

- a) The legal advisor submit a report to the next meeting highlighting the amendments between Schedule 1 (Municipal Systems Act) and Schedule 7 (Structures Act).

- b) The matter be included on the matters receiving attention schedule.

ACTION: Z KASKER / M LEVENDALL

RLE 11/04/22 COUNCILLOR LEAVE POLICY

Ald. Purchase indicated that the leave policy will be reviewed and submitted to the Rules & Ethics Committee once finalized.

RESOLVED that the item be included on the matters receiving attention schedule.

ACTION: ALD. PURCHASE / CLLR. D VISAGIE

RLE 12/04/22 THE ROLE OF PEACE OFFICERS

Ald. Sotashe indicated that he had no problem with the report submitted by the legal advisor. However, he stated that he had a problem with the fact that, previously, the use of the protection personal of the Executive Mayor (VIPs) and the Law Enforcement Officers were called upon as peace officers.

Ald. Sotashe indicated that the current arrangement, in terms of peace officers, must be rectified. He proposed that, going forward, peace officers be identified and sent for relevant training. Additionally, Ald. Sotashe requested that these personnel, after undergoing the relevant training, be introduced to Council so that the Councillors are aware of them. Once this process has been rectified, the Speaker, in her capacity can exercise her authority in accordance with the Rules of Order.

After a brief discussion, the members agreed that an opinion be obtained on the powers and functions of a peace officer. Thereafter, Ald. Purchase would engage the MAYCO member for Safety & Security in terms of identifying personnel from Metro Police (both males and females) to be trained as peace officers at Council meetings.

RESOLVED that:

- a) A legal opinion be obtained on the powers and functions of a peace officer;
- b) That the matter be included on the matters receiving attention schedule.

ACTION: Z KASKER / M LEVENDALL

RLE 13/04/22 RULES & ETHICS COMMITTEE WORK PROGRAMME: 2022

RESOLVED that the work programme for the Rules & Ethics Committee for 2022 be noted.

ACTION: M LEVENDALL

~~~The meeting concluded at 11:20~~~

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**CLLR. P SWART: CHAIRPERSON**

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**DATE**

# Code of Conduct for Councillors

**Schedule 7 Structures Act**

# Preamble - Role of councillors

**Represent local communities**

**Ensure accountability to local communities**

**Meet priority needs by providing services**

**Equitably, effectively and sustainably**

**Accountable to local communities**

**- Report back to constituencies at least quarterly**

## **Item 2 General conduct of councillors**

- Perform functions in good faith, honestly, transparently**
- At all times act in municipality's best interest and  
not compromise municipality's credibility and  
integrity**

## Item 3 Voting at meetings

- **may not vote in conflict with legislation**

# Item 4 Attendance at meetings

- Must attend meetings, except when-**
- leave of absence is granted, or**
  - must recuse**

# Item 5 Sanctions for non-attendance of meetings

**Council may impose a fine for**

- **Not attending, or**
- **Failing to remain in attendance**

# Item 5 Sanctions for non-attendance of meetings

**If absent from three or more consecutive meetings of council or committee**

**- “must be removed from office as a councillor”.**

# Item 6 Disclosure of interests

**Must –**

**disclose any direct or indirect personal or private business interest**

**of councillor, spouse, partner or business associate in any matter before council or committee; and withdraw when matter is considered, unless trivial or irrelevant**

# Item 6 Disclosure of interests

**Must disclose**

**full particulars of benefit**

**acquired by spouse, partner, business associate or  
close family member**

**in a contract concluded with the municipality**

**at first meeting of council**

**Item 6 does not apply to interests in common with  
other residents**

# Item 7 Personal gain

**May not use position for private gain or to improperly benefit another person**

**May not be a party to a contract for goods or services to any municipality or municipal entity**

# Item 8 Declaration of interests

**Within 60 days of election/appointment, must declare financial interests in writing to CM**

**Shares in company; membership of CC;**

**interest in any trust;**

**directorships; partnerships;**

**other financial interests in business undertaking;**

**employment and remuneration;**

**interest in property; pension;**

# Item 8 Declaration of interests

**Changes declared annually**

**Declare gifts above prescribed amount  
(R1 000)**

**Financial interests may be made public**

# Item 9 Full-time councillors

**May not undertake any other paid work  
without Council consent**

# Item 10 Rewards, gifts and favours

**May not request or accept any reward, gift or favour for-**

- **voting in a particular manner**
- **persuading council or committee to exercise a power, function or duty**
- **making representation**
- **disclosing privileged or confidential information**

# Item 11 Unauthorised disclosure of information

**May not disclose confidential information  
without permission. Speaker may allow.**

**'privileged or confidential information'  
includes information**

- **so determined by council or  
committee**
- **discussed in closed session**
- **violating a right to privacy, or**
- **so declared in terms of law**

# Item 12 Interference in administration

**May not -**

- **interfere in any municipal department unless mandated by council;**
- **give instruction to employee unless authorised**
- **obstruct employee implementing Council decision**
- **encourage any conduct which would cause maladministration**

# Item 13 Municipal property

**May not use or take municipal property to  
which councillor has no right**

# Item 14 Councillor in arrears

**May not be in arrears for rates and service charges for longer than three months**

# Item 15 Breaches of Code

**If Speaker on reasonable suspicion, is of opinion that Code has been breached, must -**

- **authorise investigation**
- **give councillor reasonable opportunity to reply in writing**
- **report to council**

**Report is open to public**

**Report outcome to MEC**

# Item 16 Breach investigation

## Disciplinary Committee

- investigates and makes a finding
- makes recommendations to council

If guilty, council may-

- issue formal warning
- reprimand
- request MEC to suspend for period
- fine councillor
- request MEC to remove from office

# Item 16 Investigation of breach

**Speaker informs MEC of finding and sanction, within 14 days**

- **Councillor may appeal to MEC within 14 days**
- **Appeal must be provided to council**
- **Council may make representations to MEC**
- **MEC may confirm, set aside or vary the Council decision**