

RULES OF ORDER AND CONDUCT OF MEETINGS OF THE COUNCIL OF HERITAGE WESTERN CAPE AND ITS COMMITTEES

To provide rules for the conduct of meetings of the Council of Heritage Western Cape and its committees, and matters in connection therewith in terms section 25 (2) (h) of the National Heritage Resources Act, 1996 (Act 25 of 1999). The regulation also provides for the rules of order and the conduct of members of the public attending meetings of the Council or its committees in terms of section 10 (2) (b) of the Act.

Definitions

1. In this regulation, unless inconsistent with the context–

"Act" means the National Heritage Resources Act (Act 25 of 1999);

"CEO" means the Chief Executive Officer who is the accounting authority of Heritage Western Cape appointed by the Head of the provincial department responsible for cultural affairs in terms of sub-regulation 9 of Regulation P.N. 336 dated 25 October 2002 and published in the *Provincial Gazette* No 5937 dated 25 October 2002;

"Chairperson" means the member appointed by the Provincial Minister as chairperson of the Council or any other member appointed by Council as chairperson of a committee or acting as chairperson of the Council or its committees;

"Council" means the Council of Heritage Western Cape, the provincial heritage resource management authority of the Western Cape Province as contemplated in section 23;

"Code of Conduct" means the Code of Conduct referred to in regulation 5 of this notice;

"committee" means a committee established by the Council in terms of sub-regulation 7 of Regulation P.N. 336 dated 25 October 2002 and published in the *Provincial Gazette* No 5937 dated 25 October 2002;

"legal representative" means any individual providing legal support, representation, advice and/or assistance concerning a matter involving HWC.

"meeting" means a meeting of the Council or any of its committees;

"member" means a member of the Council appointed by the Provincial Minister responsible for cultural affairs or a member of a committee appointed by the Council;

"non-member" means any person not being a member, who attends a meeting, including dedicated staff of the provincial department responsible for cultural affairs or members of the public

"Provincial Minister" means the member of the Executive Council responsible for cultural affairs in the province of the Western Cape as identified in the Act;

"rules" means the rules of order and the conduct of meetings of the Council prescribed in the Schedule to this regulation;

Rules

2. The internal arrangements, the business and proceedings of the Council and its committees and the establishment, composition, procedures, powers and functions of its committees are subject to the rules and orders prescribed in the Schedule following or in terms of delegations made by Council to committees.

Application of rules

3. (1) The rules apply to all meetings.

(2) Except where it is clearly inappropriate, a rule applying to a member in any proceedings at a meeting, also apply to a non-member who takes part in those proceedings.

(3) Except where it is clearly inappropriate, the rules apply to committees, in which case any reference to the chairperson is regarded as a reference to the chairperson of the committee or member acting as chairperson of the committee.

Duty of members and non-members

4. The members and non-members must familiarise themselves with and abide by these rules.

Code of Conduct:

5. The Council shall adopt a 'Code of Conduct for Council, Committees and Members of Council and Committees' which shall be signed by all members of the Council and its committees before they may participate in the work of Heritage Western Cape. This code shall be reviewed and revised as and when needed being signed again by members on each occasion on which changes are made to it.

SCHEDULE

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CHAPTER 1

SUPPLEMENTATION OF RULES

Supplementation of rules

1. (1) In the event of a procedural matter arising in a meeting which is not provided for in these rules, the chairperson may make a ruling..
- (2) The ruling of the chairperson under sub-rule (1) must be entered into the minutes, and considered for inclusion in these rules at a subsequent Council meeting.

CHAPTER 2

MEETINGS

Commencement of meeting

2. (1) The chairperson must take the chair at the time the meeting has been scheduled for and, subject to a quorum being present, must proceed immediately with the order of business.
- (2) The chairperson must make a ruling in respect of all questions in relation to priority of the order of business.

Order of Business

3. (1) The business of ordinary meetings of the Council is disposed of in terms of either conventional order, or a standard order developed for the committee in question.
- (2) The order of business shall be adopted at the commencement of a meeting.
- (3) The CEO must ensure that all members are notified and reasonable notice is given to the public of any amendments made on the order of business in terms of sub-rule (2).

Amendment of the order to business

(4) For any amendments in the order of the business during a meeting in session, the chairperson must seek the agreement of the Council or committee.

Urgent matters

5. The chairpersons of the Council and committees may at any time, after consultation with the CEO or the CEO's representative at the meeting introduce an urgent matter at the meeting provided that a decision must first be taken by members present that the urgency is such that the postponement of consideration thereof to the next scheduled meeting will result in real prejudice to heritage significance.

Business to be transacted

6. Except as otherwise provided for in these rules, no matter not specified in the agenda of a meeting may be transacted at such meeting. The CEO is responsible for setting the deadlines for the submission of applications which are to be included in the agenda of the meeting, taking into account the volume of work and resources available.

Meetings

7. (1) The Council of Heritage Western Cape must meet at least four times per year.

(2) The Council shall on an annual basis decide when and where regular meetings of the Council and committees shall take place and subject to committees that do not meet regularly determining their schedule in discussion with the CEO and in accordance with workload.

(3) If a majority of the members of the Council request the chairperson in writing to convene a meeting, the chairperson must, after consultation with the CEO, convene a meeting at a time and place suitable to a quorum of members.

(4) The CEO must give notice of the annual schedule of meetings by circulating it to all members and using relevant mailing lists and the website to ensure public knowledge of time and place of meetings.

(5) A committee may, after discussion with the CEO and with due regard to resources required, reconvene, if it is unable to conclude the order of business and provided that there are outstanding matters that have to be dealt with in terms of timeframes set out in legislation or policy.

Attendance at Meetings

8. (1) A member attending a meeting of the Council or committee must sign his or her name in the attendance register kept for that purpose.

(2) A member must attend each meeting, except when—

(a) leave of absence is granted in terms of rule 9; or

(b) the member is required to withdraw in terms of this regulation, other laws or policies and procedures of the Council.

(3) The time when a member arrives or leaves the meeting must be recorded by the secretariat.

Leave of Absence

9. (1) Before a member absents himself or herself from a meeting, he or she must apply for leave of absence from the chairperson and CEO, stating the reasons therefor, at least five days prior to the meeting. In the case of an emergency, a member may apply on shorter notice stating the reasons for the emergency.

(2) The names of all members of Council or committees present at any Council or committee meeting and of all members to whom leave of absence from any such meeting has been granted must be entered into the minutes of that meeting.

(3) All applications for leave of absence from a meeting of the Council or committee must be communicated by the chairperson at the commencement of the meeting and recorded in the minutes.

Sanction for Non-attendance

10. (1) A member who without leave absents himself or herself from a meeting or who fails to be in attendance at the start of the meeting or fails to remain in attendance at such a meeting, is in breach of the rules.

(2) A member of Council who without leave of absence is absent from three or more consecutive meetings which he or she is required to attend in terms of rule 8, is in breach of the regulations under which HWC is established and in terms of Section 2(9)(b) thereof is considered to have vacated office.

(3) Similarly a member of a committee who is absent from three consecutive meetings without leave of absence is also considered to have vacated his or her position.

(4) In the event that three meetings are missed without leave of absence the chairperson of Council or the relevant committee chairperson should notify the member concerned that he or she is considered to have vacated office and provide seven days for a response.

(5) If a written response is received that disputes the contention of the chairperson, it must be presented to the Council or Executive Committee together with a report. The Council or Executive Committee must then resolve the matter and if it concludes that a member of Council has vacated office, should refer this to the Provincial Minister for consideration and in the case of a member of a committee must convey its decision to the individual concerned.

(6) If a member applies for leave of absence more than three times in a year, the Chairperson may report the matter to Council who may decide to request the member to explain their continued absence.

(7) Upon receiving the explanation of the member, the Council must prepare a report to the Provincial Minister for consideration and further action. may impose such sanction as it deems fit, which may include a decision that no further leave of absence will be granted by the Chairperson of the Council, or the Chairperson of the committee to which that member is appointed.

Minutes

11. (1) The CEO must compile the minutes of the proceedings of a Council or Executive Committee meeting and convey a draft to members within 14 days.

(2) Committees shall, in consultation with the CEO, determine their own rules for compilation and distribution of minutes.

(3) The minutes of a meeting must be confirmed by the Council or committee at the next meeting and signed by the chairperson.

(4) The minutes may be taken as read, for the purpose of confirmation in sub-rule (2), if a copy thereof was sent to each member within a reasonable period before the next meeting.

(5) No motion or discussion is allowed on the minutes, except in connection with the correctness thereof.

Quorum

12. (1) A simple majority of the members constitutes a quorum for the Council and Executive Committee.

(2) The quorum for a committee shall be established via a decision of the Council.

(3) If there is no quorum at the time for which the meeting is scheduled, the chairperson must take the chair as soon as a quorum is present.

(4) When there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the chairperson, or in his or her absence the deputy chairperson or CEO, in that order, must adjourn the meeting to another time, date and venue at his or her discretion and the secretariat must record the names of those members present.

(5) If the chairperson or deputy chairperson is absent and there is a quorum, the Council or the relevant committee must elect another member to act as chairperson.

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(6) When a meeting is adjourned owing to the absence of a quorum, the time of the adjournment, as well as the names of the members present, must be recorded in the minutes.

(7) The chairperson must investigate the absence of the members or report the names of the absentee members to the Council or Executive Committee established in terms of rule 10 for the purposes of an investigation of a breach of the rules.

Dealing with items for which there is no quorum

13. Where, due to reasons associated with recusal due to conflict of interest, there is no quorum for a particular item on the agenda of a committee, the members present and able to discuss the matter shall formulate a recommendation on which a decision according to the procedure for e-mail decision set out in Rule 15 shall be made and in the following ways:

(1) Where the lack of quorum would not have existed had all members of the committee been present at the meeting, the recommendation shall on the day following the meeting be conveyed to all members who do not have a conflict of interest.

(2) Where conflicts of interest involve sufficient members to make it impossible to obtain a quorum even when all members, both present and absent, are included, the recommendation shall on the day following the meeting be conveyed to the members of the Executive Committee, or if it too has difficulty with a quorum, the Council.

CHAPTER 3

DECISION MAKING

Making decisions

14(1) All decisions other than were these rules provide otherwise shall be decided by consensus or a majority of votes cast.

(2) Where consensus cannot be reached all members who are present at a meeting may vote on a matter, unless they have declared an interest in it.

(3) A member may vote for or against, abstain or refuse to vote, with the secretariat recording the numbers in each instance.

(4) When recording a decision of a committee in terms of which the rights of an interested or affected party may be affected, reasons for such decision must also be recorded.

Decisions by e-mail

15. Where it is necessary to take decisions that are urgent or in cases where for individual items on an agenda there was no quorum and a decision is necessary for administrative justice to be served, e-mail may be used in accordance with the following procedure:

(1) A request for Council or a committee to make a decision by e-mail may be initiated by the relevant chairperson or the CEO.

(2) The CEO or relevant staff in his office shall circulate by e-mail an outline of the issue concerned and the decision required, along with relevant documentation.

(3) Depending upon the level of urgency, a minimum of two working days must be allowed for response, which timeframe must be stipulated in the e-mail message.

(4) Responses shall be made according to normal voting procedure, ie: an indication of acceptance or rejection of the proposal or indication of abstention or unwillingness to vote.

(5) If by the end of the period stipulated responses have been received from sufficient members to constitute a quorum, the CEO or staff member responsible for the circular shall tally the responses and ensure that the decision taken is acted upon.

(6) If the required number of responses is not received within the timeframe set, members who have not responded must be contacted and requested to respond as a matter of urgency, with responses being tallied as soon as the number of responses corresponds to the required quorum.

(7) Decisions taken by e-mail must be included as an item on the next agenda of the next meeting of the Council or committee concerned and the decision taken and date on which it was taken must be minuted.

Provision of services to the Council

16. If more than a quarter of the members are against a motion to grant consent to a member to—

(1) be a party to or beneficiary under a contract for:

(a) the provision of goods or services to the Council; or

(b) the performance of any work otherwise than as a member for the Council

such consent may only be given to the member with the approval of the Provincial Minister.

CHAPTER 4

ATTENDANCE OF THE PUBLIC

Admission of the public to meetings

17. The chairperson must amongst other things, considering the capacity of the venue, take reasonable steps to encourage public access to, and regulate public conduct at meetings.

Opening of meetings to the public

18. In accordance with the provisions of section 10 (2) (b) of the Act, and the provisions of rules 19, 20, 21(3) & (4), 28 and 29 below, members of the public have the right to attend Council and committee meetings.

Exclusion of the public from meetings

19. The public may be excluded from a meeting where so directed by the chairperson, or when so resolved by the Council or the committee under the following conditions and circumstances:

(1) The Council and committees may have closed sessions to prepare for the matters to be discussed in the meeting and other issues which require confidentiality.

(2) Subject to section 10 (2) (b) of the Act, if the Chairperson is of the opinion that the public must be excluded from the meeting during a discussion of an item or items on the agenda or upon a motion from a member to that effect, the chairperson must —

(a) direct that all members of the public leave the venue of the meeting;
and

(b) direct the Council or the committee to consider and resolve whether it would be reasonable for any or all of the items on the agenda to be considered without the presence of the public having regard to the nature of the business being transacted and whether disclosure of proceedings is unreasonable under amongst others —

(i) disclosure of personal information or information supplied in confidence; financial, commercial, scientific or technical information; research interests; trade secrets and national security, etc. and

(ii) is likely to compromise an individual or organisation or otherwise puts them at a disadvantage that is unreasonably prejudicial to their business or other activities and which could result in legal actions.

(3) If a motion by a member to exclude the public from the meeting is seconded, the motion must be put to the vote, after discussion of the reasons but without discussion of the matter.

(4) If the motion in sub-rule (3) above is carried, the public is excluded from the meeting during a discussion of an item or items on the agenda, and the place of meeting must be cleared of all members of the public, including the media.

(5) The motivation for the exclusion of the public must be entered into the minutes.

Re-admission of the public to meetings

20. (1) If a meeting is closed for a particular discussion, the chairperson must at the conclusion thereof ensure that the public is readmitted.

(2) A member may during the course of the meeting from which the public and the media were excluded, move a motion "that the meeting again be opened" and state the reasons for the motion.

(3) If the motion under sub-rule (1) is seconded it must after discussion be put to the vote.

CHAPTER 5

CONDUCT

Conduct of members and non-members of Council or committees

21. (1) Members of Council and committees shall at all times conduct themselves in accordance with the Code of Conduct.

(2) If an individual—

(a) misconducts himself or herself;

(b) obstructs the business of a meeting;

(c) declines to withdraw any expression when required to do so by the chairperson;

(d) indulges in tedious repetition, unbecoming language or remarks which are irrelevant or of a defamatory nature; or

(e) commits any breach of the rules,

the chairperson may direct him or her to conduct himself or herself properly and, if speaking, to discontinue his or her speech.

(3) If a member or non-member disregards the directions of the chairperson, the chairperson may direct that person to retire from the place of meeting for a stipulated period, and, if necessary, cause that member to be removed therefrom.

(4) If the chairperson fails to act under sub-rules (1) and (2), any member may move a motion to require the chairperson to act in terms of sub-rule (2).

(5) A member may not without the consent of the chairperson leave a meeting while the meeting is in session.

CHAPTER 6

RULES OF DEBATE IN MEETINGS

Application of the conventional rules of committee

22. Meetings shall be conducted in a manner that is consistent with generally accepted conventions. Where there is a dispute as to convention the chairperson may rule on the matter provided that where this is disputed a vote on the interpretation may be called for if proposed and seconded by members.

Address to the chairperson

23. A member who speaks at a meeting must address the chairperson.

Address to the Council

24. Before a member addresses the Council or the committee, he or she must first obtain the permission of the chairperson.

Address by chairperson

25. When the chairperson addresses the meeting, all members must be silent so that the chairperson may be heard without any interruption.

Address by the CEO and his/her staff

(3) 26. The CEO and at his/her direction a member of his/her staff has a right to participate in the discussion of the Council or a committee and such rights must be reasonably afforded by the chairperson on a basis similar to that of a member.

Particular responsibilities of the CEO in meetings

27. The CEO or his/her representative at a meeting has a particular responsibility to ensure that the Council or committee is aware of the provisions of these rules, the Act and other policies rules, procedures, delegations and related documents, and precedents set by earlier decisions that pertain to the course of a debate, subject matter before the Council or committee or that govern its ability to make a decision.

Address by non-members

28. Non-members other than the CEO and his/her staff may address the Council or a committee on a matter pertaining to the business of the Council or committee and on the following basis:

(1) Provided that such non-member can demonstrate that he or she may be affected by a decision of the Council or a committee and as contemplated in Section 10(2)(c) of the Act,

and either

(2) by prior arrangement through the CEO and with the consent of the Chairperson in which case the matter to be addressed shall be included in the order of business and a time set for the address to take place,

or

(3) in the absence of a prior arraignment, if an individual is present at a meeting and the Chairperson or committee believes that it will assist the business being conducted if the individual addresses the meeting and/or questions are put to him/her.

Relevance to subject or matter

29. (1) A member or non-member who speaks must direct his or her speech to the subject or matter under discussion or to an explanation or to a point of order.

Voting procedure

30. (1) A member may, after opportunity has been allowed for some discussion, move that the matter be put to the vote. If there is a seconder, the motion shall be voted upon.

(2) No motion put to the vote in terms of sub-rule (1) above is open to further discussion.

(3) A matter may be voted upon by secret ballot should such a request be made by a third of the members entitled to vote.

CHAPTER 7

MISCELLANEOUS MATTERS

Conflicts of Interest

31. Conflicts of interest must be dealt with in terms of a code of conduct for members of the Council and its committees adopted by the Council.

Floor movement

32. Movement during a meeting may only take place on the following basis:

(1) A Council or committee member or member of the public must remain seated during the meeting session, unless the consent of the chairperson is granted to leave the venue or to approach the chairperson to adequately explain a point.

(2) A member of the public may not interfere with the proceedings of a meeting and may not without the consent of the chairperson converse with a member or non-member during the course of a meeting.

(3) A member of the public may only enter or leave the meeting session in such a manner that his or her movement does not disturb the meeting in session.

Banners, signs and placards

33. No banner, sign or placard which is disruptive may be displayed during a meeting in session.

Recording of proceedings

34. Recording of the proceedings of Council and committee meetings is subject to the following:

- (1) No communication devices, including, but not limited to cellular phones, pagers, magnetic tape or digital recording devices, cameras or video-recorders may be used during a meeting in session, except equipment used by the secretariat to assist it with the creation of the official record of the meeting or where a request has been made and agreed to by the chairperson.
- (2) A recording made by the secretariat does not constitute the official record of proceedings and must be destroyed once all members have advised that they no longer require the recording and in any event once the minutes have been adopted.
- (3) Any member or the CEO may at any point in proceedings request the chairperson to instruct that recording devices be switched off for the course of any part of proceedings and unless there is good reason not to do so, the chairperson shall instruct the secretariat accordingly.
- (4) If a non-member is found to record the proceedings without the necessary approval, the chairperson has the right to request that the recording device be confiscated and placed in safe storage until such time that the meeting has been concluded and the recording has been erased from the device.
- (5) All non-members who are not members of staff shall sign an undertaking:
 - (a) Not to record proceedings.
 - (b) Not to use any transcript made from any device unlawfully used at a meeting.
 - (c) To hand over and not to leave the premises with a recording that has been made unlawfully.

Use of official languages

35. The three official languages of the Western Cape recognised under the Western Cape Provincial Languages Act, 1998 (Act 13 of 1998), namely English, Afrikaans, and isiXhosa are used by Council and committees on the following basis:

- (1) The language of record for all decisions is English.
- (2) Any person who wishes to speak at a meeting may by sufficient prior arrangement with the CEO use any of the other two official languages.
- (3) Any person with an interest in a matter discussed at a meeting may apply to the CEO to have the minute in respect of the particular item translated into one of the other two official languages.

**ADOPTED BY THE COUNCIL OF HERITAGE WESTERN CAPE ON 3
DECEMBER 2016**