



Western Cape Government • Wes-Kaapse Regering • URhulumente weNtshona Koloni

PROVINCE OF THE WESTERN CAPE

PROVINSIE WES-KAAP

# Provincial Gazette Extraordinary

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## CONTENTS

## INHOUD

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### Provincial Notices

### Provinsiale Kennisgewings

276 Provincial Intervention in the Oudtshoorn Municipality in terms of Section 139(1)(b) of the Constitution .....	2
277 Support and Good Governance Package, in terms of Section 164 of the Constitution. ....	6

276 Provinsiale Ingryping in Oudtshoorn Munisipaliteit ingevolge Artikel 139(1)(b) van die Grondwet .....	4
277 Support and Good Governance Package, in terms of Section 164 of the Constitution: English Only.....	6

**PROVINCIAL NOTICE**

The following Provincial Notice is published for general information.

ADV. B. GERBER,  
DIRECTOR-GENERAL

Provincial Legislature Building,  
Wale Street,  
Cape Town.

**PROVINSIALE KENNISGEWING**

Die volgende Provinsiale Kennisgewing word vir algemene inligting gepubliseer.

ADV. B. GERBER,  
DIREKTEUR-GENERAAL

Provinsiale Wetgewer-gebou,  
Waalstraat,  
Kaapstad.

P.N. 276/2015

**WESTERN CAPE PROVINCIAL GOVERNMENT****PROVINCIAL INTERVENTION IN THE OUDTSHOORN MUNICIPALITY IN TERMS OF SECTION 139(1)(b) OF THE CONSTITUTION**

I, Anton Wilhelm Bredell, Provincial Minister for Local Government, duly authorized thereto by the Provincial Executive, hereby give notice of a provincial intervention in the Oudtshoorn Municipality in terms of section 139(1)(b) of the Constitution, as set out hereunder –

1. The appointment of Mr Kamalasen Chetty as Administrator, for a period of six (6) months with effect from 31 July 2015 with the powers and functions as set out in paragraph 2 herein below.
2. The Administrator is vested with all the powers and functions reasonably necessary to ensure that the proper functioning of the Municipal Council of Oudtshoorn is restored, excluding the following:
  - (a) Legislative powers
  - (b) Approval of policies
  - (c) The delegation of powers and functions to political office bearers, political structures and officials.
- 2.1 In the implementation of the Provincial Executive's intervention in the Council under section 139 of the Constitution and in terms of paragraph 2 above, the Administrator shall also assist in the implementation of the Support and Good Governance Package as was proposed by the National Minister of Cooperative Governance and Traditional Affairs and supported by the Provincial Minister for Local Government in terms of section 154 of the Constitution, and as was accepted by the Council on 17 July 2015. To this end the terms of the Support and Good Governance Package that has now been accepted by the Council shall be published by Notice simultaneously with the publication of this Notice.
- 2.2 In the implementation of the powers and functions vested in the Administrator by the Provincial Executive:
  - 2.2.1 The Administrator shall ensure that the Municipal Council is enabled to take all and any decisions as may be necessary for the restoration of the proper executive functioning of the Municipal Council.

- 2.2.2 In the event of a refusal or failure by the Municipal Council to take any decision referred to in paragraph 2.2.1 above, then the Administrator shall be entitled to take such decision himself; after consultation with the Municipal Council.
- 2.2.3 Any decision that is taken by the Municipal Council, in terms of paragraph 2.2.1 above, shall be valid and binding.
- 2.2.4 Any decision taken by the Administrator in terms of paragraph 2.2.2 above, after having afforded the Municipal Council an opportunity to be consulted, shall be valid and binding.
3. The Administrator shall be supported by a team of officials, the identity and expertise of which I shall determine as necessary and appropriate to that support from time to time.
4. Members of Municipal Council shall retain their current membership and salaries.
5. The Administrator is accountable to the Provincial Executive as represented by the Provincial Minister for Local Government and the Provincial Minister will in turn report to the National Minister of Cooperative Governance and Traditional Affairs as and when requested to do so.
6. The Administrator must on a monthly basis report in writing to the Provincial Minister for Local Government as well as to the National Minister of Cooperative Governance and Traditional Affairs on the progress made in achieving the proper fulfillment of the executive obligation by the Municipal Council.
7. The terms and duration of this intervention are subject to amendment by the Provincial Executive as and when deemed necessary, after consultation with the National Minister of Cooperative Governance and Traditional Affairs.
8. Provincial Notice 263 published in Provincial Gazette 7462 dated 31 July 2015 is hereby repealed.

AW Bredell  
Provincial Minister for local government  
17 August 2015

**WES-KAAPSE PROVINSIALE REGERING****PROVINSIALE INGRYPING IN OUDTSHOORN MUNISIPALITEIT INGEVOLGE ARTIKEL 139(1)(b) VAN DIE GRONDWET**

Ek, Anton Wilhelm Bredell, Provinsiale Minister vir Plaaslike Regering en behoorlik daartoe gemagtig deur die Provinsiale Uitvoerende Gesag, gee hiermee kennis van 'n provinsiale ingryping in die Oudtshoorn Munisipaliteit, ingevolge artikel 139(1)(b) van die Grondwet, soos verder hieronder uiteengesit –

1. Die aanstelling van Mnr Kamalasan Chetty as Administrator beklee met die bevoegdhede en funksies soos uiteengesit in paragraaf 2 hieronder, vir 'n tydperk van ses (6) maande, met ingang vanaf 31 Julie 2015.
2. Die Administrator beskik oor al die magte en funksies wat redelikerwys nodig is om te verseker dat behoorlike funksionering van die Munisipale Raad herstel word, met die uitsluiting van die volgende:
  - a) Wetgewende magte
  - b) Goedkeuring van beleid
  - c) Die delegasie van bevoegdhede en funksies aan politieke strukture, politieke ampsbekleërs en amptenare.
- 2.1 Met die implementering van die Provinsiale Uitvoerende Gesag se intervensie in die Raad ingevolge artikel 139 van die Grondwet en ingevolge paragraaf 2 hierbo, sal die Administrator ook hulp verleen met die implementering van die Ondersteuning en Goeie Regeringspakket soos deur die Nasionale Minister van Samewerkende Regering en Tradisionele Sake voorgestel is en deur die Provinsiale Minister vir Plaaslike Regering ondersteun is ingevolge artikel 154 van die Grondwet, en verder deur die Raad op 17 Julie 2015 aanvaar is. Vir hierdie doel word die voorwaardes van die Ondersteuning en Goeie Regeringspakket wat nou deur die Raad aanvaar is, terselfdertyd saam met hierdie kennisgewing gepubliseer.
- 2.2 In die uitvoering van die bevoegdhede en funksies wat die Provinsiale Uitvoerende Gesag aan die Administrator verleen:
  - 2.2.1 moet die Administrator verseker dat die Munisipale Raad toegerus word om enige of alle besluite te neem wat nodig mag wees om behoorlike uitvoerende funksionering van die Munisipale Raad te herstel
  - 2.2.2 mag die Administrator, in geval van 'n weiering of versuim van die Munisipale Raad om 'n besluit, ingevolge paragraaf 2.2.1 te neem, sodanige besluit na konsultasie met die Raad neem.
  - 2.2.3 Enige besluit deur die Munisipale Raad geneem ingevolge paragraaf 2.2.1 hierbo is geldig en bindend.
  - 2.2.4 Enige besluit deur die Administrator geneem ingevolge paragraaf 2.2.2, nadat die Munisipale Raad die geleentheid gebied is om aangehoor te word, is geldig en bindend.

3. Die Administrator word ondersteun deur 'n span amptenare wat ek sal identifiseer en aanwys na gelang van kundigheid wat ek van tyd tot tyd vir die ondersteuning as nodig en gepas sal bepaal.
4. Lede van die Munisipale Raad behou hul huidige lidmaatskap en salarisse.
5. Die Administrator is verantwoordbaar aan die die Provinsiale Uitvoerende Gesag, soos verteenwoordig deur die Provinsiale Minister vir Plaaslike Regering en die Provinsiale Minister sal op sy beurt verslag doen aan die Nasionale Minister van Samewerkende Regering en Tradisionele Sake soos en wanneer versoek.
6. Die Administrator moet maandeliks skriftelik aan die Provinsiale Minister vir Plaaslike Regering sowel as aan die Nasionale Minister van Samewerkende Regering en Tradisionele Sake, verslag doen oor vordering wat die Munisipale Raad gemaak het om volkome nakoming van die uitvoerende verpligtinge te verseker.
7. Die voorwaardes en termyn van ingryping kan soos en wanneer nodig deur die Provinsiale Uitvoerende Gesag gewysig word na konsultasie met die Nasionale Minister van Samewerkende Regering en Tradisionele Sake.
8. Provinsiale Kennisgewing 263 soos gepubliseer in Provinsiale Koerant 7462 van 31 Julie 2015 word hiermee herroep.

AW Bredell  
Provinsiale Minister vir Plaaslike Regering  
Datum: 17 Augustus 2015

P.N. 277/2015

Herewith the Support and Good Governance Package proposed by the Minister of Cooperative Governance and Traditional Affairs in terms of section 154 of the Constitution and accepted by the Oudtshoorn Municipal Council on 17 July 2015.

## **OUTDSHOORN LOCAL MUNICIPALITY**

### **"SUPPORT AND GOOD GOVERNANCE PACKAGE, IN TERMS OF SECTION 154 OF THE CONSTITUTION"**

#### **1. INTRODUCTION**

The Oudtshoorn Local Municipality has been experiencing political instability through fragile coalition council governance and polarization that has also led to administrative dysfunctionality and breakdown in the delivery of basic services, negative media reports and loss of confidence in the municipality by residents of Oudtshoorn.

In this regard, Minister consulted with the Premier and MEC of Local Government in the Western Cape regarding the state of governance and service delivery in the Oudtshoorn Local Municipality, and there was agreement on the need for support and intervention to bring stability.

The Minister of COGTA paid a surprise visit on the 20 February 2015 to assess the functionality of Oudtshoorn Municipality. The objective was:

- To fulfill COGTA's constitutional mandate of monitoring, supporting and if needs be intervening in Oudtshoorn Municipality;
- To observe and receive both a political oversight report and administrative/managerial sense of what's happening in Oudtshoorn Municipality; and
- To assess the community temperature and citizen satisfaction by listening to ordinary citizens, key stakeholders and community representative on how they perceive the performance of Oudtshoorn Municipality.

The Minister engaged various stakeholders during the visit of the 20 February 2015, the interactions included engagement with the following stakeholders: ordinary people on the streets, Afriforum, political parties, business and community leaders, Audit Committee Chairperson, Councillors of the municipality, Mayor, Deputy Mayor and Acting Municipal Manager.

## 2. BASIC FACTS

There was general consensus about the facts of the challenges- in terms of nature and extent of the challenges that are still prevalent in Oudtshoorn Municipality. These challenges range from:

- Political and administrative instability;
- Non-functional council structures;
- Irregular acting appointments in senior positions;
- Water Pollution and refuse removal and general breakdown in delivery of services to communities;
- Irregular appointment of service providers and procurement processes;
- Poor communication with communities;
- Eskom debt and decline of tourism industry; and
- Racial polarization in the municipality and communities of Oudtshoorn

## 3. OBJECTIVES

In line with the national roll out of the "Back to Basics" (B2B) campaign and programme, the National Minister and MEC of Local Government in Western Cape working with the political and administrative leadership of the municipality shall work towards achieving the following objectives:

- Create a functional and responsive municipality;
- Bring municipality to state of normalcy;
- Conduct an audit of state of services in communities;
- Ensure sound financial management system and processes; and
- Regain the community's trust.

## 4. SUPPORT AND GOOD GOVERNANCE PACKAGE

The National and Provincial "Support and Good Governance Package" is predicated on Section 154 of the Constitution, aimed at resolving the current state of dysfunctionality in the municipality of Oudtshoorn. The above mentioned objectives will be achieved through the work to be undertaken by national and provincial joint teams working with the municipal political and administrative leadership. The measures consist of four critical work-streams:

a) PERFORMANCE

The performance work-stream will focus on the following areas:

- Back to Basics diagnostic assessment using the 5 key performance indicators and development of an action plan on B2B (4 months priorities and priorities for 15/16 IDPs);
- Audit of the general provision of services and assess the implementation of the infrastructure projects in particular, including assessing capacity of the Technical Unit of the municipality;
- Resuscitate the functionality of all council structures;

Develop community outreach programme, complaints and enquiries management system

b) FORENSIC AND FINANCE

The SIU, Audit Committee and AG reports confirms evidence of blatant and deliberate financial misconduct, flouting of procurement processes and unauthorized, irregular and wasteful expenditure at the municipality. This work- stream team will work with National and Provincial Treasuries to initiate an independent forensic investigation over the past 3 years covering:

- financial management,
- supply chain processes,
- appointment of service providers and appointment of staff;
- Sale and disposal of land.

A financial recovery plan should be prepared to address issues of revenue generation, debt owed to Eskom and other third parties, post audit action plan, asset management, etc.



c) STAFFING AND HR MATTERS

THE FOLLOWING MATTERS ARE TO BE DEALT WITH:

- i) Secondment of an Acting MM assisted by a team with finance, technical and legal expertise;
- ii) All Acting managers to revert back to their original positions;
- iii) Speed up the filling of vacant positions;
- iv) National and Provincial team will assist with the verification of qualifications and relevant experience of Senior Managers and Acting Senior Managers to ensure full compliance with regulations on minimum competency requirements for section 56 managers as per the amendments of the Municipal System Act;
- v) This work-stream will also take into consideration of all cases of misconduct, disciplinary cases and any other pending HR cases instituted before implementation of the support and intervention measures;

d) LEGAL

The legal work-stream will undertake a review of all the court cases and provide advice on legal status of these cases, including the development of a plan to dispose all court cases impacting on the functionality of council and the administration of the municipality.

## 5. TIMELINES

The National and Provincial Teams based on the comprehensive assessment done will develop a roadmap that identifies immediate actions and medium actions aimed at restoring stability, delivery of services and building community-trust. *Due to the nature challenges to be addressed, the timelines for the secondment of the Acting Municipal Manager and the Support and Good Governance Team shall be for a minimum period of six months and reviewed collectively by Minister, MEC and leadership of the municipality.*





