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General Notice

MINISTRY OF REGIONAL AND LOCAL GOVERNMENT, HOUSING AND RURAL DEVELOPMENT

No. 139

2015

CODE OF CONDUCT FOR MEMBERS OF LOCAL AUTHORITY COUNCILS: LOCAL AUTHORITIES ACT, 1992

Under Section 10(3) of the Local Authorities Act, 1992 (Act No. 23 of 1992), I prescribe the code of conduct for members of local authority councils set out in the Schedule.

C. NAMOLOH
MINISTER OF REGIONAL AND LOCAL
GOVERNMENT, HOUSING AND RURAL
DEVELOPMENT

Windhoek, 16 March 2015

SCHEDULE

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Definitions

1. In this Code a word or an expression to which a meaning has been given in the Act has that meaning, and unless the context otherwise indicates -

“chairperson of council” means the chairperson of the council elected in terms of section 11 of the Act;

“chairperson of management committee” means the chairperson of the management committee elected in terms of section 25 of the Act;

“code” means the code of conduct for members of council contained herein;

“committee” means a committee of a council;

“council” means a local authority council;

“member” means a member of council of which he or she is a member;

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992); and

“vice-chairperson of council” means the vice-chairperson of the council elected in terms of section 11 of the Act.

General provisions

2. (1) A member must at all times comply with the provisions of the Act and, without detracting from the generality thereof, with sections 7, 13, 19 and 20 of the Act.

(2) A member may not -

- (a) use confidential information obtained in the course of his or her duties for his or her own personal gain or for the gain of any other person and he or she must respect the confidentiality of documents and information relating to a council;
- (b) make confidential information referred to in paragraph (a) public, except in a meeting of a council, committee or management committee or as he or she may be authorised by the council to make the information public;
- (c) interfere in the administrative procedures of a council in a way that does not relate to the powers or functions of the member;
- (d) engage in a transaction, acquire a position or function or have a financial or commercial interest which is incompatible with his or her office, functions or power or the discharge thereof;
- (e) either directly or indirectly receive or solicit a gift or favour that may influence his or her judgment, the exercise of his or her powers or the performance of his or her functions;
- (f) use his or her position for favouritism or allow his or her position to be used for personal gain or favouritism by any other person;

- (g) discriminate but must treat all persons equal in the exercise of his or her powers or the performance of his or her functions; or
- (h) seek any personal favour.
- (3) A member must
 - (a) place the interest of a council before his or her own interests and avoid private undertakings that interfere with optimum delivery of the business of the council and must, if he or she is with regard to a particular matter not able to do that, abstain from participating in that matter in his or her capacity as a member;
 - (b) adhere to the fundamental principle that he or she should rather serve than be served and must maintain a constructive, creative and practical attitude toward local government affairs and a deep sense of social responsibility as elected representative of all persons for which he or she is elected as a member;
 - (c) be an example to the community and must pay any monies due to a council timeously;
 - (d) ensure that he or she is prepared to deliberate in a constructive manner in the submissions appearing on the agenda of a meeting of a council, committee or management committee which he or she attends;
 - (e) in the execution of his or her power or in the performance of his or her function strive to promote the effectiveness and efficiency of a council and may not, through act, omission or in bad faith, hamper the operation of the council;
 - (f) enhance the quality and status of a council and must at all times be loyal to the council;
 - (g) at all times strive to enhance the image of a council;
 - (h) adhere to the principles of effective, democratic, cooperative and good governance at a local government level and accept that professional governance is essential to the achievement of this objective;
 - (i) be committed to the highest ideals of honesty, objectivity, professionalism and integrity in all public and personal relationship in order to command respect, trust and confidence of a community, staff members or other fellow members;
 - (j) not be a bureaucrat in the sense of an insensitive administrator but must instead be a caring and serving member;
 - (k) contribute actively and responsibly to the formulation and implementation of government policies at local government level;
 - (l) put the general welfare of his or her community above party politics and abstain from all partisan political activities that could impair his or her performance as a member;
 - (m) be attentive, fair, transparent and impartial in the performance of his or her functions or in the exercise of his or her powers and adhere to transparency, fairness and impartiality in all his or her recommendations and decisions;
 - (n) perform his or her functions and exercise his or her powers efficiently, effectively and with high integrity in accordance with the applicable laws, administrative policies,

- lawful instructions and ethical standards that apply to the performance of his or her functions or the exercising of his or her powers;
- (o) ensure that public properties, facilities, services and financial resources entrusted to him or her are managed and used effectively, efficiently and economically and not used for private purposes, except when permission is lawfully given;
 - (p) declare or disclose his or her personal assets if requested by a council;
 - (q) consider the social well-being of his or her community in the exercise of his or her power or the performance of his or her function;
 - (r) strive to work in the best interest of a council and ensure that the spirit of teamwork is maintained among the members;
 - (s) if a matter is before a council and the member has personal interest in the matter declare such personal interest to the council, committee or management committee; and
 - (t) be alert to actual or potential conflicts of interest and must take measures to avoid them.

Relationship with community

- 3.** (1) A member as a democratically elected representative of voters of a council -
- (a) represents the community of a local authority area as a whole and not only the voters of the political party, association or organisation that he or she represents;
 - (b) must resist any pressure, enticement or lobbying to advance the interests of a person or group of persons at the expense of the council or community;
 - (c) must at all times act in a manner that retains the trust of the community that he or she represents;
 - (d) may not, subject to subparagraph (2), negotiate, hold discussions or act in a manner that the council is compromised;
 - (e) must report complaints received from the public concerning the administrative procedures of the council to the chief executive officer or head of department concerned only if the affected member of the public had approached the relevant department section without success;
 - (f) must keep the community constantly informed about the local government matters and deliver courteous service to the public; and
 - (g) must at all times be committed to the improvement of the quality and image of the public service.
- (2) Subparagraph (1)(d) does not -
- (a) apply in a case where the chairperson of council is authorised as contemplated in section 30(4) of the Act;
 - (b) derogate from the duty of members to listen to, and consult with, members of the public in order to acquaint themselves with the views and attitudes of the community

with regard to matters before a council or matters that are desirable to be brought before the council.

(3) A member may not use his or her position as a member to obtain the directorship, shareholding or custodianship of interest in the business of a person or other like interests in the business.

Relationship between members

4. (1) A member must, subject to legal or moral restraints placed on him or her by the political party, association or organisation which nominated him or her or restraints required by his or her conscience, strive to work in the best interests of a council in conjunction with other members.

(2) A member may not criticise or question the integrity of other members in public or otherwise.

Relationship with staff members

5. (1) A member, in his or her capacity as an individual member, has no administrative or executive powers in the operation of a council.

(2) Subject to subparagraph (3), a member is entitled to information regarding the operation of a council as well as information which the member needs for the proper discharge of his or her function or for assisting the public, and there must be a constant flow of information from the administration to the council.

(3) A member must -

(a) address enquiries relating to matters contemplated in subparagraph (2) to the chief executive officer, the head of the department concerned or a staff member identified by the head of the department;

(b) take into consideration that a time spent in obtaining information referred to in subparagraph (2) may amount to unproductive time and must therefore limit enquiry to information that are relevant or pertinent; and

(c) before the matter is discussed in a meeting of a council, committee or management committee, obtain information with regard to the discussion of a matter.

(4) A member must refer any complaint about a staff member, which cannot be solved by an enquiry as contemplated in subparagraph (3)(a), to the chief executive officer for submission to the management committee or if the chief executive officer is the subject of the complaint to the chairperson of the management committee who must in that case submit the matter to the management committee.

(5) Members and staff members are part of a joint team and as such individual members -

(a) must strive to build a team spirit based on mutual understanding and respect;

(b) must promote the idea that members and staff members have joint common goals;

(c) may not humiliate or embarrass a staff member in public; and

(d) must share knowledge and information with each other.

(6) A member is not bound, whether in a meeting of council, committee or management committee, by the advice of a staff member and the member may not blame the staff member if any particular decision is later proved to have been wrong or incompletely considered.

(7) A member may not use his or her position to influence a report of a staff member, advice or decision but a member may give his or her opinion on a report, advice or decision at a meeting of a council, committee or management committee where the report, advice or decision is considered.

(8) A member may not require a staff member to give him or her preferential treatment in a matter as opposed to treatment given to members of the public in the matter.

(9) A member must endeavour to avoid ties of personal friendship with staff members which may result in an imbalance in the normal member-staff member relationship to the detriment of the public or in the preferential treatment of the member.

(10) A member may not allow a staff member to canvass for promotion, obtaining of benefits or preferential treatment in any way.

(11) A member must use the expertise and knowledge of a staff member by allowing and considering the inputs of the staff member before taking a decision on a matter as the staff member is an important input-giving functionary to a council.

Acts contrary to Code

6. (1) If a member acts contrary to the provisions of this Code, any other member or the chief executive officer may, in writing, report the matter to the chairperson of council or if the chairperson is involved the matter must be reported to the vice-chairperson of council or any member of the council who must bring the matter before council if he or she is of the opinion that the report has substance.

(2) If the chairperson, vice-chairperson or any other members referred to in subparagraph (1) omits or refuses to act on the report made in terms of that subparagraph, the member who made the report may refer the matter to the chief executive officer who must report the matter to the management committee.

(3) If the chief executive officer has made the report referred to in subparagraph (1) and the chairperson of council, the vice-chairperson of council or any other member omits or refuses to act on the report as contemplated in subparagraph (2), the chief executive officer may on his or her own initiative report the matter to the management committee.

(4) A management committee must consider the report referred to in subparagraph (2) or (3) and may, if it deems fit, report its finding to the council.

(5) If a motion is brought before the council in terms of subparagraph (1) or the management committee report its finding as contemplated in subparagraph (4) and the council finds that a member has contravened any provision of this Code the council may, by way of a two third majority vote of all members present at a meeting of council and after having afforded the member an opportunity to be heard in his or her defence, suspend the member from attending meetings of the council, committee or management committee for a period not exceeding one month.

(6) Despite subparagraph (5) and subject to section 13(2)(a) of the Act, a council may recommend to the Minister that a member referred to in that subparagraph who is found guilty of having contravened any provision of this Code be removed from the office under that section.
