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Kennis word hiermee gegee ingevolge Artikel 29(2) van die Plaaslike Regering: Munisipale Strukture Wet, 1998 (Wet 117 van 1998) soos gewysig, dat 'n Spesiale Raadsvergadering van die Munisipaliteit Witzenberg gehou sal word op Maandag, 24 Julie 2023 om 09:00 in die Stadsaal, Voortrekkerstraat, Ceres.

Notice is hereby given in terms of Section 29(2) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended, that a **Special Council meeting** of the Witzenberg Municipality will be held in the **Town Hall, Voortrekker Street, Ceres** on **Monday, 24 July 2023** at **09:00**.

Raadslede en amptenare / Councillors and officials				
Councillor TE Abrahams	Alderman K Adams Councillor JJ Cloete			
Councillor P Daniels	Councillor S de Bruin Councillor GJ Franse			
Councillor JP Fredericks	ericks Councillor AL Gili Councillor LA Ha			
Councillor P Heradien	dien Councillor GG Laban Councillor JS Mo			
Councillor MJ Ndaba	Councillor MJ Ndaba Councillor N Nogcinisa Councillor N			
Councillor KA Robyn	Alderman HJ Smit	Councillor D Swart		
·	(Executive Mayor)			
Councillor IL Swartz	Alderman JJ Visagie Councillor K Yisa			
Councillor J Zalie				
Municipal Manager	Director: Finance	Director: Technical Services		
Director: Corporate Services	Deputy Director: Finance (Mr J Kolkota)	Head: Internal Audit		
Manager: Administration	Manager: Legal Services	Manager:		
Planager. Administration	inanager. Legal Services	Communication and		
		Marketing		
Chief Administrative Officer	Committee Clerk	Interpreter		

COUNCILLOR FM SIDEGO

COUNCILLOR EM SIDEGO SPEAKER

13.07.23

### AGENDA

#### 1. OPENING AND WELCOME

### 2. LEAVE OF ABSENCE AND CONFIDENTIALITY AND CONFLICT OF INTEREST DECLARATION

# 2.1 Consideration of application for leave of absence, if any (3/1/2/1)

An Application for leave of absence form is attached as **annexure 2.1**.

NOTED

# 2.2 Confidentiality and Conflict of Interest Declaration (3/2/1)

The Confidentiality and Conflict of Interest Declaration is attached as annexure 2.2.

**NOTED** 

#### 3. RESERVED POWERS

### 3.1 Election of Deputy Executive Mayor (03/1/1/4)

The procedures set out in Schedule 3 of the Structures Act apply to the election of an Executive Mayor and Deputy Executive Mayor and read as follows:

# "Act No 117, 1998 LOCAL GOVERNMENT : MUNICIPAL STRUCTURES ACT, 1998

#### **SCHEDULE 3**

The election of a Mayor and Deputy Mayor takes place when the Executive Committee is elected or when it is necessary to fill a vacancy.

#### **Election of municipal office-bearers**

#### **Application**

1. The procedure set out in this Schedule applies whenever a municipal Council meets to elect a Speaker, an Executive Mayor, an Executive Deputy Mayor, a Mayor or Deputy Mayor.

#### LEGAL BACKGROUND

In terms of Section 27(1)(c) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) a Councillor vacates office during a term of office if that Councillor was elected from a party list referred to in Schedule 1 or 2 and ceases to be a member of the relevant party.

Councillor FE Klazen was elected as the Deputy Executive Mayor of Council and vacated the office when her membership to her political party was terminated.

Section 55(2) of the aforesaid Act requires Council in the event of a vacancy in the office of Executive Mayor or Executive Deputy Mayor to fill the vacancy when necessary.

The procedures set out in Schedule 3 applies to the election of an Executive Mayor and Executive Deputy Mayor.

#### **Nominations**

2. The person presiding at a meeting to which this schedule applies must call for the nomination of candidates at the meeting.

#### **Formal requirements**

- 3. (1) A nomination must be made on the form determined by the Municipal Manager.
  - (2) The form on which a nomination is made must be signed by two members of the municipal Council.
  - (3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

#### **Announcement of names of candidates**

4. At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

### Single candidate

5. If only one candidate is nominated, the person presiding must declare that candidate elected.

### **Election procedure**

- 6. If more than one candidate is nominated
  - (a) a vote must be taken at the meeting by secret ballot;
  - (b) each Councillor present at the meeting may cast one vote;
  - (c) the person presiding must declare elected the candidate who receives a majority of the votes

#### **Elimination procedure**

- 7. (1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with Item 6. This procedure must be repeated until a candidate receives a majority of the votes.
  - (2) When applying sub item (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

#### **Further meetings**

- 8. (1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.
  - (2) If a further meeting is held in terms of sub item (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.
  - (3) If at the further meeting held in terms of sub item (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place."

The prescribed nomination form is attached as **annexure 3.1**.

#### **RECOMMENDED**

That the Speaker calls for nominations for Deputy Executive Mayor.

# 3.2 Inauguration of Deputy Executive Mayor by Speaker (3/1/1/4)

The inauguration of the Deputy Executive Mayor will be done by the Speaker.

#### **NOTED**

# 3.3 Acceptance speech by Deputy Executive Mayor (3/1/1/4)

#### **RECOMMENDED**

That the Deputy Executive Mayor be granted the opportunity to address the Council.

#### 4. ADDITIONAL ITEMS

# 4.1 Motion: No confidence and request for removal of Speaker from office (3/2/2)

A motion, dated 14 June 2023, is attached as **annexure 4.1**.

#### **RECOMMENDED**

For consideration.

# 4.2 Withdrawal from motion (3/2/2)

An email from Councillor G Laban is attached as annexure 4.2.

#### RECOMMENDED

For information.

# 4.3 Election of a Speaker (3/1/1/4)

#### LEGAL BACKGROUND

In terms of Section 36 of the Local Government: Municipal Structures Act, 1998 (Act 117/1998):

Each municipal Council must have a chairperson who will be called the Speaker. At its first sitting after its election, a municipal Council must elect its Speaker from among the Councillors.

The Municipal Manager of the municipality or, if the Municipal Manager is not available, a person designated by the MEC for local government in the province, presides over the election of a Speaker.

The procedure set out in Schedule 3 of the Structures Act applies to the election of a Speaker.

A Councillor may not hold office as Speaker and Mayor at the same time.

In terms of Section 38 of the said act, the Speaker is elected for a term ending when the next Council is declared elected, subject to that in terms of Section 39 a Speaker vacates office during a term if that person -

- Resigns as Speaker;
- Is removed from office by a resolution of Council; or

Ceases to be a Councillor

#### **PROCEDURE**

Schedule 3 of the said Act, which deals with the election of municipal officebearers, reads as follows:

#### "Application

1. The procedure set out in this Schedule applies whenever a municipal Council meets to elect a Speaker.

#### **Nominations**

2. The person presiding at a meeting to which this schedule applies must call for the nomination of candidates at the meeting.

#### Formal requirements

- 3. (1) A nomination must be made on the form determined by the Municipal Manager.
  - (2) The form on which a nomination is made must be signed by two members of the municipal Council.
  - (3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

#### Announcement of names of candidates

4. At a meeting to which this schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

### Single candidate

5. If only one candidate is nominated, the person presiding must declare that candidate elected.

#### Election procedure

- 6. If more than one candidate is nominated
  - a) a vote must be taken at the meeting by secret ballot,
  - b) each Councillor present at the meeting may cast one vote; and
  - c) the person presiding must declare elected the candidate who receives a majority of the votes.

### Elimination procedure

- 7. (1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.
  - (2) When applying sub item (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

### Further meetings

- 8. (1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.
  - (2) If a further meeting is held in terms of sub item (1), the procedure in this Schedule must be applied at that meeting as if it were the first meeting for the election in question."

The prescribed nomination form is attached as **annexure 4.3**.

#### **RECOMMENDED**

That the Speaker be elected.

# 4.4. Handing over the chair to the Speaker (3/1/1/4)

The Speaker takes the chair and addresses the Council.

The various political parties are granted the opportunity to congratulate the Speaker on his/her election.

#### **RECOMMENDED**

For information.

# 4.5 Motion: No confidence and removal of Executive Mayor from office (3/2/2)

A motion, dated 14 June 2023, is attached as annexure 4.5.

#### **RECOMMENDED**

For consideration.

# 4.6 Withdrawal from motion (3/2/2)

An email from Councillor G Laban is attached as annexure 4.6.

#### **RECOMMENDED**

For information.

# 4.7 Election of Executive Mayor (3/1/1/4)

If a Municipal Council chooses to have an Executive Mayor it <u>must</u>, in terms of Section 55(1) of the Structures Act, elect an Executive Mayor and, if the MEC for Local Government in the province so approves, also a Deputy Executive Mayor, from among its members at a meeting that must be held within 14 days of the Council election.

In terms of Section 4 of the Section 16 Amendment Notice, Witzenberg Municipality is authorised to elect a Deputy Executive Mayor.

If a municipality chooses to have an Executive Committee System in terms of Section 48 of the Structures Act, it must elect a member of its Executive Committee as the Mayor and, if the MED for Local Government in the province so approves, another member of the Executive Committee as the Deputy Mayor of the municipality.

The procedures set out in Schedule 3 of the Structures Act apply to the election of an Executive Mayor and Deputy Executive Mayor and read as follows:

### "Act No 117, 1998 LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998

#### **SCHEDULE 3**

The election of a Mayor and Deputy Mayor takes place when the Executive Committee is elected or when it is necessary to fill a vacancy.

#### **Election of municipal office-bearers**

#### **Application**

1. The procedure set out in this Schedule applies whenever a municipal Council meets to elect a Speaker, an Executive Mayor, an Executive Deputy Mayor, a Mayor or Deputy Mayor.

#### LEGAL BACKGROUND

In terms of Section 48(1) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) a municipal Council must elect a member of its executive committee as the Mayor of the municipality.

The election of a Mayor takes place when the executive committee is elected or when it is necessary to fill a vacancy.

A Mayor is elected for the duration of that person's term as a member of the executive committee, but vacates office during a term if that person-

- (a) resigns as Mayor;
- (b) is removed from office as a member of the Executive Committee in terms of Section 53 of the Local Government : Municipal Structures Act, 1998 (Act 117 of 1998) or

#### **Nominations**

2. The person presiding at a meeting to which this schedule applies must call for the nomination of candidates at the meeting.

#### Formal requirements

3. (1) A nomination must be made on the form determined by the Municipal Manager.

- (2) The form on which a nomination is made must be signed by two members of the municipal Council.
- (3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

#### **Announcement of names of candidates**

4. At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

#### Single candidate

5. If only one candidate is nominated, the person presiding must declare that candidate elected.

#### **Election procedure**

- 6. If more than one candidate is nominated -
  - (a) a vote must be taken at the meeting by secret ballot;
  - (b) each Councillor present at the meeting may cast one vote; and
  - (c) the person presiding must declare elected the candidate who receives a majority of the votes

#### **Elimination procedure**

- 7. (1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with Item 6. This procedure must be repeated until a candidate receives a majority of the votes.
  - (2) When applying sub item (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

#### **Further meetings**

8. (1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.

- (2) If a further meeting is held in terms of sub item (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.
- (3) If at the further meeting held in terms of sub item (1) only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, the person presiding at such meeting must determine by lot who of the two candidates will hold the office for which the election has taken place."

The prescribed nomination form is attached as **annexure 4.7**.

#### **RECOMMENDED**

That the Speaker calls for nominations for the election of Executive Mayor.

# 4.8. Acceptance speech by the Executive Mayor (03/1/1/4)

#### **RECOMMENDED**

That the Executive Mayor be granted the opportunity to address the Council.

#### 5. ADJOURNMENT

2.1

Verwysing / Reference: 3/1/2/1/

### MUNISIPALITEIT WITZENBERG MUNICIPALITY

AANSOEK OM VERLOF TOT AFWESIGHEID / APPLICATION FOR LEAVE OF ABSENCE (Moet by kantoor van Munisipale Bestuurder ingedien word voor aanvang van vergadering / Must be handed in at office of Municipal Manager before commencement of meeting)

Ref: 3/2/1



### CONFIDENTIALITY AND CONFLICT OF INTEREST DECLARATION

I, the undersigned, hereby declare:

- That as a Councillor and a participant of this meeting, I shall maintain strict confidentiality in respect of any
  information of a confidential nature to which I may become privy at meetings of the Witzenberg Council and shall
  only disclose such information as may become necessary or required for the proper performance of my duties
  and functions.
- That as a Councillor and a participant of this meeting, I shall declare any conflict of interest that may arise at every meeting and remove myself from any proceedings, in relation to that matter, giving rise to that conflict.

#### COUNCILLORS

Initials	Signature
К	
JJ	
Р	
S	
GJ	
JP	
AL	
LA	
Р	
BC	
GG	
	K  JJ  P  S  GJ  JP  AL  LA  P  BC

Surname	Initials	Signature
Mouton	JS	
Ndaba	MJ	
Nogcinisa	N	
Phatsoane	N	
Robyn	K	
Sidego	EM	
Smit	HJ	
Swart	D	
Swartz	IL	
Visagie	JJ	
Yisa	K	
Zalie	J	

16 3.1



### NOMINASIEVORM VIR DIE AMP VAN UITVOERENDE ONDERBURGEMEESTER NOMINATION FORM FOR OFFICE OF DEPUTY EXECUTIVE MAYOR

 ${\sf Ek}, die \, ondergetekende, \, nomineer \, hiermee \, die \, volgende \, raadslid \, vir \, die \, amp \, van \, Uitvoerende \, Onderburgemeester: \, van \, uitvoerende \, van$ 

I, the undersigned, hereby nominate the following councillor for the office of Deputy Executive Mayor:

Naam van nomineerder / Name of nominator	
Handtekening van nomineerder / Signature of	
nominator	
Datum / Date	

Ek, die ondergetekende, aanvaar hiermee my nominasie as Uitvoerende Onderburgemeester I, the undersigned, hereby accept my nomination as Deputy Executive Mayor

Naam van genomineerde / Name of nominee	
Handtekening van genomineerde / Signature of	
nominee	
Datum / Date	

The Speaker Witzenberg Municipality 50 Voortrekker Street Ceres 6835 3/2/2

Date: 14 June 2023

# REQUEST FOR URGENT MEETING TO TABLE A MOTION OF NO CONFIDENCE AND TO REQUEST THE REMOVAL OF THE SPEAKER FROM OFFICE

In terms of Section 29 of the Local Government Municipal Structures Act 117/1998, as amended, when the majority of Councillors requests the Speaker in writing to convene a Council Meeting, the Speaker must convene a Meeting at a time as set out in the request.

We, the undersigned majority of councillors of the Witzenberg Municipality hereby request you as Speaker to convene a urgent Special Council Meeting on the 21 5 une 2023 at 10 am in the Ceres Town Hall, 50 Voortrekker Street, Ceres, 6835. In terms of the said Act as well as Rule 6(a) of the Witzenberg Council's Rules of Order, the majority of council can request a Special Council Meeting by given 72hours notice which is regarded as reasonable notice.

You are requested to give instructions to the Municipal Manager before //hoo on /5 June 2023 to prepare the Council Agenda and for you to sign off failing which the Municipal Manager will be requested to comply with his responsibility in terms of Section 29 (1A) of the amended Municipal Structures Act.

The business of the day at the urgent Special Council Meeting will be:

- a) To table a motion of no confidence in the Speaker and have the Speaker removed.
- b) To elect a new Speaker of the Witzenberg Council.

Legislative Background

In terms of Section 40 of the Local Government Structures Act 117 of 1998, a municipal council by resolution may remove its Speaker from office. Prior notice of an intention to move a motion for the removal of the speaker must be given.

The reason for the vote of no confidence in the Speaker is a result of:

1. The Speaker being partial in Council Meetings.

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- The majority of Councillors having a total lack of trust and confidence in the Speaker to exercise her oversight and other responsibilities in terms of the said Structures Act.
- 3. The Speaker putting her political party interest before the interest of Council.

Dated and signed at Ceres on the 2023 -06-	-14
1. Nowing Nogenisa Name & Surname	Signature
2. Johnnerey Mouton	Signature
Name & Surname 3. Nonzigue Phatsoane	
Name & Surname  4. ANDILE GILI	Signature
Name & Surname	Signature
Name & Surname	Signature
6. Flanyiso Jisva Name & Surname	Signature
7. Jan Johannes Clock Name & Surname	Signature
8. Rev. Doc. PETRUS HERADIEN	Signature.
9. Miolisi Joseph Ndaso	Signature
Name & Surname  10. Jusk Swalz	Signature
Name & Surname	ignature
Name & Surname	Signature
Name & Surname	Signalure

19 4.2

### Elizabeth Sidego

From: Gert Laban

**Sent:** Thursday, 15 June 2023 16:37 **To:** David Nasson; Elizabeth Sidego

**Subject:** Onttrekking

Insake my ontrekking van Mosie van die oposisie

Geliewe kennis te neem dat ek myself onttrek van die mosie waarop ek as raadslid van WA geteken het.

Hierdie aksie moet as onmiddellik van krag wees.

Dankie

Raadslid G.Laban

Sent from my Galaxy



#### NOMINASIEVORM VIR DIE AMP VAN SPEAKER NOMINATION FORM FOR OFFICE OF SPEAKER

Ek, die ondergetekende, nomineer hiermee die volgende raadslid vir die amp van Speaker: I, the undersigned, hereby nominate the following councillor for the office of Speaker:

Naam van nomineerder / Name of nominator	
Handtekening van nomineerder / Signature of	
nominator	
Datum / Date	

Ek, die ondergetekende, aanvaar hiermee my nominasie as Speaker I, the undersigned, hereby accept my nomination as Speaker

Naam van genomineerde / Name of nominee	
Handtekening van genomineerde / Signature of	
nominee	
Datum / Date	

3/2/2

The Speaker
Witzenberg Municipality
50 Voortrekker Street
Ceres
6835

IS:S7

Date: 2023-06-14

# REQUEST FOR URGENT MEETING TO TABLE A MOTION OF NO CONFIDENCE AND TO REQUEST THE REMOVAL OF THE EXECUTIVE MAYOR FROM OFFICE

In terms of Section 29 of the Local Government Municipal Structures Act 117/1998, as amended, when the majority of Councillors requests the Speaker in writing to convene a Council Meeting, the Speaker must convene a Meeting at a time as set out in the request.

We, the undersigned majority of councillors of the Witzenberg Municipality hereby request you as Speaker to convene a urgent Special Council Meeting on the 21 June 2023 at 10 am in the Ceres Town Hall, 50 Voortrekker Street, Ceres, 6835. In terms of the said Act as well as Rule 6(a) of the Witzenberg Council's Rules of Order, the majority of council can request a Special Council Meeting by given 72hours notice which is regarded as reasonable notice.

You are requested to give instructions to the Municipal Manager before 1665 on 55 June 2023 to prepare the Council Agenda and for you to sign off failing which the Municipal Manager will be requested to comply with his responsibility in terms of Section 29 (1A) of the amended Municipal Structures Act.

The business of the day at the urgent Special Council Meeting will be:

- a) To table a motion of no confidence in the Executive Mayor and have the Executive Mayor Councillor Hendrik Johannes Smit removed.
- b) To elect a new Executive Mayor of the Witzenberg Council.

### Legislative Background

In terms of Section 58 of the Local Government Structures Act 117 of 1998, a municipal council by resolution may remove its Executive Mayor or Deputy Executive Mayor from office. Prior notice of an intention to move a motion for the removal of the Executive Mayor or Deputy Executive Mayor must be given.

1

The reason for the vote of no confidence in the Executive Mayor is a result of:

- The failure of the Executive Mayor to act in good faith, honesty and transparent according to the Code of Conduct set out in Schedule 7 of Act 117 of 1998 as per the Local Government Structures Amendment Act, 2021.
- The majority of Councillors having a total lack of trust and confidence in the Executive
   Mayor to exercise the Functions and Powers of executive mayor in terms of section 56 of
   the said Structures Act.
- 3. The Executive Mayor Cllr Smit has his own interest and that of his political party at heart and not the interest of the Municipality and the broader community of the Witzenberg

Dated and signed at Ceres on the 2023 - 06	-14
1. Johnnerey Mouton Name & Syrname	Gemouton · Signature
2. NOUTHANDO NOGENISA Name & Surname	Signature
3. Name & Surname	Signature
4. ANDILE GILI Name & Surname	Signature
5. Sex Surple Name & Surname	Signature
6. Slangso 184 Name & Surname	Signature
7. Jan Johannes Chete Name & Surname	Signature
8. Rev. Doc. PETRUS HERADIENS Name & Surname	Signature
9. Mxolisi Joseph Ndaba Name & Surname	Signature

10. Name & Surname

11. Name & Surname

12. Name & Surname

Name & Surname

Signature

Signature

### Elizabeth Sidego

From: Gert Laban

**Sent:** Thursday, 15 June 2023 16:37 **To:** David Nasson; Elizabeth Sidego

Subject: Onttrekking

Insake my ontrekking van Mosie van die oposisie

Geliewe kennis te neem dat ek myself onttrek van die mosie waarop ek as raadslid van WA geteken het.

Hierdie aksie moet as onmiddellik van krag wees.

Dankie

Raadslid G.Laban

Sent from my Galaxy



### NOMINASIEVORM VIR DIE AMP VAN UITVOERENDE BURGEMEESTER NOMINATION FORM FOR OFFICE OF EXECUTIVE MAYOR

Ek, die ondergetekende, nomineer hiermee die volgende raadslid vir die amp van Uitvoerende Burgemeester: I, the undersigned, hereby nominate the following councillor for the office of Executive Mayor:

Naam van nom	ineerd	er / Name of no	mii	nator	
Handtekening	van	nomineerder	/	Signature	of
nominator					
Datum / Date					

Ek, die ondergetekende, aanvaar hiermee my nominasie as Uitvoerende Burgemeester I, the undersigned, hereby accept my nomination as Executive Mayor

Naam van genomineerde / Name of nominee	
Handtekening van genomineerde / Signature of	
nominee	
Datum / Date	