



## **LOCAL GOVERNMENT NOTICE**

### **BY-LAW RELATING TO STANDING ORDERS FOR COUNCIL**

The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], read with Section 162 of the Constitution of the Republic of South Africa Act 1996 [Act No. 108 of 1996], the By-law relating to Standing Orders for Council.

#### **Purpose of By-law**

The purpose of this by-law is to prescribe rules and orders for the internal arrangements, business and proceedings of the Municipality and to regulate the establishment, composition, procedures, powers and functions of its Committees.

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**CHAPTER 1  
DEFINITIONS**

**1.      Definitions**

In this by-law, words used in the masculine gender include the feminine, the singular includes the plural and vice versa and unless the context otherwise indicates –

**'authorised official'** means –

- [a] an official of the Municipality who has been authorised by it to administer, implement and enforce the provisions of this by-law;
- [b] a traffic officer appointed in terms of section 3A of the National Road Traffic Act, 1996 [Act No. 93 of 1996];
- [c] a member of the police service, as defined in terms of section 1 of the South African Police Service Act, 1995 [Act No. 68 of 1995]; or
- [d] a peace officer, contemplated in terms of section 1 of the Criminal Procedure Act, 1977 [Act No. 51 of 1977];

**'Accounting Officer'** means the municipal official referred to in section 60 of the Local Government: Municipal Finance Management Act, 2003 [Act No. 56 of 2003];

**'Chief Financial Officer'** means a person designated in terms of section 80(2)(a) of the Local Government: Municipal Finance Management Act, 2003;

**'Chief Whip'** means the chairperson or designated leader of the political party having a majority representation on the Council;

**'Code of Conduct'** means the Code of Conduct for Councillors contained in Schedule 1 to the Local Government : Municipal Systems Act, 2000 [Act No. 32 of 2000];

**'Constitution'** means the Constitution of the Republic of South Africa Act, 1996 [Act No. 108 of 1996];

**'Council'** means the Municipal Council of the Municipality and as contemplated in terms of section 157 (1) of the Constitution;

**'MEC for Local Government'** means the member of the Executive Council of the Province of the Eastern Cape responsible for local government in the said province;

**'Municipal Structures Act'** means the Local Government: Municipal Structures Act, 1998 [Act No. 117 of 1998], as amended;

**'Municipal Systems Act'** means the Local Government: Municipal Systems Act, 2000 [Act No. 32 of 2000], as amended; and

**'Municipality'** means the Municipality of \_\_\_\_\_, established in terms of section 12 of the Municipal Structures Act, 1998 and includes any political structure, political office bearer, councillor, duly authorized agent thereof or any employee thereof acting in connection with this by-law by virtue of a power vested in the Municipality and delegated to such political structure, political office bearer, councillor, agent or employee; and

**'Party Whip'** means the chairperson or designated leader of any political party having representation on the Council such, representation not constituting a majority.

## **CHAPTER 2 APPLICATION OF RULES**

### **2. Suspension of rules**

The Council may by resolution dispense with or suspend a provision of these rules for a specific period or purpose.

### **3. Application of rules to non-member participants**

Except where clearly inappropriate, these rules apply to a Council member, a local government representative or an official in the national or provincial executive participating in the proceedings of the Council and shall apply to all meetings of the Council.

4. **Attendance register for Council meetings**

Every member attending a Council meeting shall sign his or her name in the attendance register kept for this purpose.

5. **Adjournment in the event of no quorum**

- (1) At a meeting of the Council, a majority of members must be present before a vote may be taken on any matter.
- (2) All questions concerning matters mentioned in section 160(2) of the Constitution are determined by a decision taken by the Council with a supporting vote of a majority of the Councillors.
- (3) A resolution to dissolve the Council in terms of section 34(1) of the Municipal Structures Act must be taken by a supporting vote of at least  $\frac{2}{3}$  (two thirds) of the members at a meeting called specifically for this purpose.
- (4) All other questions before the Council are decided by a majority of the votes cast.
- (5) If there is no quorum either at the commencement of or any stage during a meeting of Council, then –
  - (a) the Speaker shall adjourn the meeting temporarily and for a maximum of 15 (fifteen) minutes; and
  - (b) in the event that there is still no quorum upon the expiry of the said adjournment –
    - (i) the names of the members present shall be entered in the minutes by the Municipal Manager; and



- (ii) the Speaker shall declare the meeting to be closed.

**6. Public participation**

- (1) Members of the public may participate in the proceedings of the Council by –
  - (a) attending sittings of the Council or meetings of Council Committees;
  - (b) submitting petitions to the Council on any matter within the Council's competence;
  - (c) responding to invitations –
    - (i) to comment in writing on by-laws or other matters before or which are due to come before the Council;
    - (ii) to make representations or recommendations in writing on such by-laws or other matters; or
    - (iii) to give evidence or to make representations or recommendations before Council Committees on such by-laws or other matters, either in person or through a representative.
- (2) Public participation in terms of sub-rule (1) is subject to and must be exercised in accordance with the applicable provisions of these rules.

- (3) The public shall have access to all official notices to members and to all documents tabled in the Council, subject to reasonable measures taken by the Speaker to regulate such access.

### **CHAPTER 3 SITTINGS OF THE COUNCIL**

#### **7. Election of Speaker**

- (1) At the first sitting of Council after its election or when necessary to fill a vacancy, the Municipal Manager or, where he or she is not available, a person designated by the MEC for Local Government presides over the election of the Speaker.
- (2) The Municipal Manager or the duly designated person must call for the nomination of candidates for the position of Speaker at the meeting contemplated in terms of sub-rule (1).
- (3) The nomination must be made on the form contained in Schedule A to these rules.
- (4) The nomination form must be signed by two members of the Council.
- (5) The person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.
- (6) At the meeting contemplated in terms of sub-rule (1), the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

- (7) If only one candidate is nominated, then the person presiding must declare that candidate elected.
- (8) If more than one candidate is nominated –
  - (a) a vote must be taken at the meeting by secret ballot;
  - (b) each member 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.
- (9) If no candidate receives a majority of the votes, then the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with sub-rule (8). This procedure must be repeated until a candidate receives a majority of the votes.
- (10) When applying sub-rule (9), if two or more members each have the lowest numbers of votes, then 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.
- (11) 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, then a further meeting must be held within 7 (seven) days, at a time determined by the person presiding.
- (12) If a further meeting is held in terms of sub-rule (11), then the procedure prescribed in this rule must be applied at that

meeting as if it were the first meeting for the election in question.

#### 8. **The role of the Speaker**

- (1) The Speaker decides when and where the Council meets, provided that the Council shall meet at least once every quarter.
- (2) If a majority of the members request the Speaker in writing to convene a meeting, then the Speaker must convene a meeting at the date, time and venue set out in the request.
- (3) Where the Speaker fails or refuses to convene a meeting contemplated in terms of sub-rule (2), for whatever reason, the Municipal Manager must convene a meeting at the date, time and venue set out in a written request submitted to the Municipal Manager on behalf of a majority of the members.
- (4) All meetings of the Council are chaired by the Speaker.
- (5) In the event that the Speaker is absent or not available to perform the functions of the Speaker, or during a vacancy -
  - (a) the Deputy-Speaker shall perform the said functions; and
  - (b) where there is no Deputy-Speaker or where he or she is absent or not available, or during a vacancy, the Council must elect another member to act as Speaker and perform the said functions.
- (6) The election of an Acting Speaker, as contemplated in terms of sub-rule (5)(b), must comply with the following requirements –
  - (a) no election of an Acting Speaker may take place until either the Speaker or the Deputy-Speaker, as the case

may be, has confirmed his or her unavailability in writing or a period of 1 (one) hour has elapsed since the time stipulated for the commencement of the meeting, whichever is the sooner;

- (b) the Municipality Manager or, where he or she is not available, the Acting Municipal Manager, failing which a person designated by the MEC for Local Government, shall preside over the election of an Acting Speaker; and
  - (b) the election of an Acting Speaker shall be effected by a supporting vote of a majority of the members present at the meeting.
- (7) Upon the election of an Acting Speaker, the meeting may proceed without further adjournment and as if the Speaker or Deputy-Speaker, as the case may be, was neither absent nor unavailable.
- (8) The Speaker shall –
- (a) perform the duties and exercise the powers delegated to the Speaker in terms of Section 59 of the Municipal Systems Act;
  - (b) prepare the agenda for Council meetings, in consultation with the Mayor and Municipal Manager;
  - (c) maintain order during meetings;
  - (d) ensure compliance in the Council and Council Committees with the Code of Conduct and the Council's rules of order as adopted from time to time;

- (e) ensure that Council meetings are conducted in accordance with this by-law;
  - (f) ensure that members conduct themselves in a dignified and orderly manner;
  - (g) ensure that members of the public attending any meetings of the Council conduct themselves in an orderly manner and obey any rulings made by the Speaker.
- (9) The ruling of the Speaker in regard to the application of this chapter and any other procedural matter is final and binding on a meeting.
- (10) The Speaker may give a ruling or determine a rule in respect of any eventuality for which these rules do not provide, provided that such a ruling or determination shall not be in conflict with the Constitution.
- (11) A rule determined by the Speaker remains in force until a meeting of Council has decided thereon at its next scheduled meeting or an earlier meeting if a majority of councillors so request.

**9. Conduct of business and proceedings**

The Council must conduct its business and proceedings in accordance with the Constitution, these rules and resolutions of the Council in –

- (a) plenary sittings; and
- (b) Committees and Sub-Committees.

**10. Business limited by notice of meeting**

- (1) Subject to the provisions of sub-rule (2) and with the exception of an urgent report of the Executive Committee, no business not specified in the notice of a meeting shall be transacted at the said meeting.
- (2) A member may, during a meeting, propose that the provisions of sub-rule (1) be suspended to enable him or her to make a written proposal and to read out the said proposal at the meeting.
- (3) The written proposal shall be signed by the proposer and seconder and handed to the Speaker and shall be dealt with in terms of the provisions of these rules.
- (4) The proposer contemplated in terms of sub-rule (2) shall have the right to reply.

#### **11. Order of business of ordinary meeting**

- (1) The order of business of an ordinary meeting convened in terms of rule 8 shall be as follows –
  - (a) opening;
  - (b) applications for leave of absence;
  - (c) official notices;
  - (d) proposals of condolence or congratulations by the Speaker;
  - (e) proposals of condolence or congratulations by other members;

- (f) minutes of previous meeting;
  - (g) report of the Mayor;
  - (h) report of the Municipal Manager;
  - (i) report of the Executive Committee;
  - (j) questions in respect of which notice has been given;
  - (k) motions or proposals deferred from previous meetings;
  - (l) petitions; and
  - (m) new motions.
- (2) After the matters referred to in paragraphs (a) to (b) of sub-rule (1) have been considered, the Council may at its discretion bring forward any business which is on the agenda.
- (3) If a proposal in terms of sub-rule (1) (d) or (e) is opposed, then such proposal shall lapse without further discussion.

## 12. **Sitting days**

The sitting time of the Council is 10h00 or any other time as the Speaker may determine, until the Council is adjourned for the day.

## 13. **Venue**

- (1) The Council sits at the seat of Council.



- (2) The Council may sit at a place other than the seat of Council on the basis of public interest, security or convenience, provided the Council, by resolution –
  - (a) identifies the public interest, security or convenience that is the basis for the change of venue;
  - (b) approves the change of venue to a specified place and for a specified period; and
  - (c) specifies the estimated costs of effecting the change of venue and maintaining it for the specified period.
- (3) The business of the Council to be attended to at a sitting of the Council must be set out on in agenda arranged by the Speaker and notice thereof dispensed by the Municipal Manager to the members at least 7 (seven) days prior to the meeting.

**14. Public notice of meetings of Council**

The Municipal Manager must give 5 (five) days' notice to the public of the date, time and venue of every –

- (a) ordinary meeting of the Council; and
- (b) special or urgent meeting of the Council, except when time constraints make this impossible.

**15. Minutes of proceedings**

- (1) The Municipal Manager must ensure that all resolutions of the Council are recorded in a minute book and that resolutions

adopted by the Council in closed meetings are recorded in a separate minute book.

- (2) The accuracy of the minutes must be considered at the next meeting, failing which, at the meeting thereafter.
- (3) If there is a dispute about the contents of the minutes, then –
  - (a) the relevant debate, if it was recorded, must be transcribed;
  - (b) in the absence of a transcription, the Municipal Manager must submit a report to the Council, setting out his or her recollection of the debate; and
  - (c) after considering the transcription or report, as the case may be, the Council may by vote decide on the accuracy of the minutes, with only those members who were present at the time of the disputed debate being entitled to vote.
- (4) The Municipal Manager must ensure that the names of members attending any meeting, members who are absent and members who have been granted leave of absence are recorded in the minutes.

**16. Opportunity for prayer or meditation**

At the start of the proceedings of the Council the Speaker must afford members an opportunity for silent prayer or meditation.

**17. Interruption, suspension or adjournment of proceedings**

- (1) The Speaker may interrupt, suspend or adjourn proceedings of the Council, provided that –
  - (a) prior consultation takes place with the Mayor, Chief Whip and Party Whips; and
  - (b) good cause exists for such interruption, suspension or adjournment.
- (2) During an adjournment the Speaker may change the date, time or venue for the resumption of proceedings.

**18. Orders to leave sittings**

The Speaker may, at a sitting of the Council, order a member of the public to leave the Chamber when it is necessary to give effect to the measures taken by the Speaker under rule 8(8)(g).

**19. Removal of persons**

When instructed by the Speaker, an authorised official must remove or arrange for the removal of a person –

- (a) who, without permission, is present in that part of the Chamber designated for members only or in another place which is out of bounds for that person; or
- (b) who disrupts the proceedings of the Council, causes a nuisance, does not leave the Chamber when ordered to leave in terms of rule 18, or in any other way contravenes a material provision of this by-law.

**20. Visiting provincial or national government representatives**

The Speaker, after consultation with the head of a delegation, may invite any representative of the provincial or national government, who is on a visit to the Council, to address the Council.

#### **CHAPTER 4**

#### **ORDER IN MEETINGS AND RULES OF DEBATE**

#### **21. Order of Business**

When a motion is under discussion at any meeting of the Council no further motion shall be received except the following: that –

- (a) the motion be amended;
- (b) consideration of the question be postponed;
- (c) the Council adjourns;
- (d) the Council adjourns for a caucus meeting;
- (e) the debate be adjourned;
- (f) the question be put; and
- (g) the Council proceeds to the next business.

#### **22. That the motion be amended**

- (1) Every amendment shall be relevant to the motion in respect of which it is moved.

- (2) An amendment shall be placed in writing, signed by the mover, handed to the Speaker or Municipal Manager and read out before being moved.
- (3) An amendment shall not be discussed or put to the Council until it has been seconded.
- (4) If there are any amendments to a motion then the amendment last proposed shall be put to the vote first, and if carried then the question shall be resolved accordingly.
- (5) If the amendment last proposed is not carried, then the amendment proposed immediately prior to such amendment shall be put to the vote.
- (6) No further amendment shall be moved in respect of a motion or amendment after the Speaker has commenced to take a vote on such motion or amendment.

**23. That consideration of the question be postponed**

- (1) A member may, at the conclusion of a speech, move that consideration of the question be postponed to a fixed date.
- (2) Such motion shall be seconded but need not be placed in writing.
- (3) The mover of such motion may speak for no more than 10 (ten) minutes, but the seconder shall not be permitted to speak beyond formally seconding it.
- (4) Upon such motion being moved, the mover of the question under discussion may, without prejudice to his or her ultimate right to reply to the debate if the motion that the question be

postponed is not carried, be heard in reply for five minutes, after which the motion shall be put without further discussion.

- (5) If postponement to a fixed date is agreed upon, then the question shall be placed first on the list of points of discussion for the day on which the postponed motion shall be considered.

**24. That the Council adjourns**

- (1) A member may, except during the course of a speech by another member or while a vote is being taken, move that the Council or the Committee adjourns.
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover may speak to the motion for 5 (five) minutes, but the seconder shall not speak beyond formally seconding the motion.
- (4) If the motion is carried then Council shall adjourn immediately, provided that the Speaker may direct that the meeting proceed first to dispose of unopposed business.
- (5) If a motion that the Council adjourns is not carried then the Speaker shall not accept another such motion until a period of 30 (thirty) minutes has elapsed.
- (6) A specific member shall not, on the same day and during the course of any one meeting of the Council, move or second more than one motion to adjourn.
- (7) No discussion on a motion to adjourn shall be permitted, provided that –

- (a) the mover may speak to the motion, as contemplated in terms of sub-rule (3); and
  - (b) the member who first rises for such purpose may speak against the motion for no more than 5 (five) minutes.
- (8) No amendment to such motion shall be moved except in relation to the period of adjournment.
- (9) If a motion to adjourn a meeting of the Council has been carried during a debate and prior to the closure thereof, then upon consideration of the subject of such debate at the adjourned meeting, the member who moved the adjournment shall be entitled to speak first.
- (10) No business shall be transacted at an adjourned meeting except such as may be set out in the agenda for the meeting.
- (11) Notwithstanding the provisions of rule 17(1), the Speaker has the right to adjourn a meeting at any time after every 2 (two) hours for a maximum of 10 (ten) minutes, but not during the taking of a vote.

**25. That the Council adjourns for a caucus meeting**

- (1) A Party Whip may, at any time, except while a vote is being taken, move that the Council adjourns for a caucus meeting.
- (2) Such motion shall be seconded but need not be placed in writing.
- (3) The mover may speak to the motion for 5 (five) minutes, but the seconder shall not speak beyond formally seconding the motion.

- (4) The Speaker shall decide whether or not to allow the request for a caucus meeting. In this regard –
  - (a) if the request is refused by the Speaker then he or she shall give reasons for refusing such request, the said reasons to be entered in the minutes;
  - (b) the ruling of the Speaker on the request will be final and shall not be open for discussion; and
  - (c) if the request for a caucus meeting is approved by the Speaker then the Council shall adjourn immediately, provided that the Speaker may direct that the meeting proceeds first to dispose of other business.
- (5) The Speaker shall impose a time limit for the proposed caucus meeting.
- (6) The caucus requesting the adjournment shall gather at another venue.
- (7) If the caucus members have not taken their seats at the time when the Council is required to reconvene, then the Council shall proceed with its normal business, provided that a quorum of members is present.
- (8) If a quorum of members is not present, then meeting shall adjourn for 10 (ten) minutes and where the caucus members do not return within 10 (ten) minutes the meeting will be closed by the Speaker and the reasons for such closure will be stated in the minutes.

26. **That the debate now be adjourned**



- (1) After 30 (thirty) minutes of debate on a specific matter or matters a member may, at the conclusion of any speech, move that the debate be adjourned.
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover of such motion may speak to it for 5 (five) minutes, but the seconder shall not speak beyond formally seconding it.
- (4) Save as provided in sub-rule (3), no discussion on such motion shall be permitted except in relation to the period of adjournment and the member who first rises for that purpose may speak against it for 5 (five) minutes.
- (5) If such motion is carried, then the meeting shall proceed to the next business on the agenda and discussion of the adjourned debate, unless otherwise resolved, shall be resumed at the next ordinary meeting.
- (6) On the resumption of the adjourned debate, the member who moved the adjournment shall be entitled to speak first.
- (7) If a motion that a debate be adjourned is not carried, the Speaker shall not accept another such motion until half an hour has elapsed.
- (8) A specific member shall not, during the course of any one debate, move or second more than one motion to adjourn the debate.

**27. That the question be put**

- (1) After 30 (thirty) minutes of debate on a specific matter, a member may move, without discussion, that the question be put. In this event –
  - (a) the motion, if seconded, shall be put immediately; and
  - (b) if the motion is carried then the question with regard to the motion under discussion shall be put immediately.
- (2) A second motion that the question be put shall not be moved within a period of 15 (fifteen) minutes of a decision in respect of the first motion.

**28. That the Council proceeds to the next business**

- (1) After 30 (thirty) minutes of debate on a specific matter, a member may move, without discussion, that the Council proceeds to the next business and the motion, if seconded, shall be put immediately.
- (2) When a motion is carried that the Council proceeds to the next business, the question under discussion shall be deemed to have lapsed.
- (3) During a debate on the same question, a second motion that the Council proceed to the next business shall not be moved within 15 (fifteen) minutes of such first motion.

**29. Freedom of speech**

Members –

- (a) shall have freedom of speech in the Council, in its Committees and Sub-Committees, subject to these rules; and

- (b) shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for-
  - (i) anything that they have said in, produced before or submitted to the Council or any of its Committees or Sub-Committees; or
  - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any such Committee or Sub-Committee.

30. **Movement in Chamber**

A member of the Council may not –

- (a) pass between the Speaker and a member addressing the Speaker;
- (b) pass between the Speaker and the Table; or
- (c) stand in any of the passages in the Chamber.

31. **Members may not be interrupted**

No member may interrupt another member who is addressing the Speaker, except to call attention to a point of order or a question of privilege.

32. **Precedence of the Speaker**

Whenever the presiding Speaker rises during a debate in the Council, a member addressing or seeking to address the Speaker must sit down and allow the Speaker to be heard without interruption.

**33. Member ordered to leave**

- (1) The Speaker may order a member to leave the Chamber immediately for the remainder of the day's sitting if the Speaker is of the opinion that-
  - (a) the member is deliberately contravening a provision of these rules;
  - (b) the member is in contempt of or is disregarding the authority of the Speaker; or
  - (c) the member's conduct is grossly disorderly.
- (2) A member ordered to leave the Chamber may not participate in any Council activities during that day.

**34. Censure of member**

If the Speaker is of the opinion that the behaviour of a member is of so serious a nature that an order to leave the Chamber for the remainder of the day's sitting is inadequate, then the Speaker may order the offending member to leave the Chamber until the Speaker has announced what action is to be taken against the member.

**35. Grave disorder**

In the event of grave disorder at a sitting of the Council, the Speaker may suspend the proceedings or adjourn the sitting.

**36. Members to address Speaker**

A member must address the Speaker when speaking and, if possible, must stand while doing so.

**37. Calling of members**

- (1) A member may speak in a debate in the Council only when called by the Speaker.
- (2) The Speaker must call members in accordance with –
  - (a) a list of scheduled speakers for the debate; and
  - (b) the times allocated for speeches by members representing different wards or parties.
- (3) The list of scheduled speakers must be prepared by the Party Whips, in consultation with each other.

**38. Time limits for speeches**

- (1) Except where these rules provide otherwise, members may not speak in a debate in the Council longer than the time allocated to them in the list of scheduled speakers.
- (2) If or in so far as times have not been allocated, then –
  - (a) the Council member in charge of the business before the Council may speak for as long as may be needed; and
  - (b) other members may not speak on a budget vote for longer than 5 (five) minutes at a time or on any other business before the Council for longer than 3 (three) minutes at a time.

**39. Offensive and unbecoming language**

No member may –

- (a) use offensive or unbecoming language in the Council; or
- (b) deliberately make a statement in the Council which the member knows is false.

40. **Rule of anticipation**

- (1) No member, while addressing the Council, may anticipate the discussion of a matter appearing on the agenda.
- (2) In determining whether an address to the Council is out of order on the ground of anticipation, the Speaker must consider whether it is probable that the matter anticipated will be discussed in the Council within a reasonable time.

41. **Explanations**

- (1) During a debate in the Council a member may be allowed to explain a previous speech but only when and to the extent that the speech has been misquoted or misunderstood in a material respect.
- (2) The member giving the explanation may not introduce any new matter.
- (3) No debate on the explanation may be allowed.
- (4) A member may, with the prior consent of the Speaker, explain a matter of a personal nature to the Council.
- (5) The member may not speak for longer than 3 (three) minutes and is strictly confined to vindicating his or her own conduct.

42. **Points of order**

When a point of order is raised, the member addressing the Speaker must stop speaking and sit down and after the point of order has been stated the Speaker may summarily give or reserve his or her ruling or decision.

43. **Acting for absent member**

If the member in charge of a motion is absent from the Council, then another member authorised by the absent member may take charge of the motion.

44. **Rights of member to speak**

A member may speak in the Council –

- (a) when called by the Speaker; or
- (b) to a point of order.

45. **When reply allowed**

A reply must be allowed to a member –

- (a) who introduced a subject for discussion; or
- (b) who is in charge of the order of the day under discussion.

46. **Debate closed**

A reply to a debate closes the debate in the Council unless the Speaker allows further discussion.

47. **Postponed questions put without further debate**

A question that was postponed after the debate on it was concluded in the Council must be put without further debate.

**48. Questions put again**

If the Speaker has put a question and it is not heard or understood, then the question must be put again.

**49. Question fully put**

(1) No member, except a member who is permitted to make a declaration of vote, may speak to any question after it has been fully put by the Speaker.

(2) A question to be decided by the votes of individual members is fully put when both the "Yes" and the "No" votes have been given on it.

**50. Absence of quorum for decisions**

(1) When a question before the Council is to be decided by the votes of individual members and fewer than  $\frac{1}{3}$  (one third) of the members are present when the vote is to be taken, the bell must be rung for 3 (three) minutes.

(2) If at least  $\frac{1}{3}$  (one third) are still not present after the bell has been rung then the Speaker must postpone the decision of the question.

**51. Declaration of vote**



- (1) When a question to be decided by the votes of individual members has been fully put, the Speaker, on request, may allow a member of each political party to state the reasons why the party is in favour of or against the question.
- (2) Such reasons shall be restricted to a speech of no more than 3 (three) minutes.

## 52. **Recording of opposition**

- (1) Where a question to be decided by the votes of individual members is put by the Speaker, a member may request that his or her opposition to the question, or the opposition of his or her political party, be recorded in the minutes.
- (2) The recording of a member's or political party's opposition shall not preclude the said member's or party's participation in any discussion or debate pertaining to the question.
- (3) The Speaker may determine the manner in which a vote is to be conducted in the event of the recording of opposition.

## 53. **Unopposed business**

- (1) When a meeting of the Council has been in progress for not less than 2 (two) hours, the Speaker may interrupt the proceedings and direct that the Council proceed immediately to dispose of unopposed business.
- (2) After the disposal of such business, the proceedings shall resume at the point at which they were interrupted, unless all other remaining business has been adjourned until a further meeting.

- (3) For the purposes of this by-law, an item on the agenda shall be deemed to be opposed business if a member has indicated his or her intention to discuss such item immediately after the Speaker has informed the meeting that such item is open for discussion, provided that no item shall be deemed to be opposed by reason only of questions being put in connection therewith.

54. **Demand for division**

- (1) After a question has been put and the Speaker has indicated whether either the "Yes" or the "No" vote has carried it, any member may demand a division.
- (2) If fewer than 4 (four) members support the demand for a division, then the Speaker must immediately declare the decision on the question.
- (3) If 4 (four) or more members support the demand, then a division must take place and without debate.

55. **Procedure for divisions**

A division shall take place in accordance with the following procedure –

- (a) the Speaker must order the bell to be rung and, after the bell has rung for 3 (three) minutes, order the doors to the Chamber to be locked;
- (b) when the doors have been locked, no member is allowed to enter or leave the Chamber until the result of the division has been declared;

- (c) the Speaker must put the question again and instruct the "Yes" votes, the "No" votes and the members abstaining to take their seats in areas designated by the Speaker;
- (d) the Secretary must record the names and numbers of the members in the various designated areas, provided that the Speaker may appoint tellers from among the members present to assist in recording the names and numbers; and
- (e) when the names and numbers have been recorded the Speaker must declare the result of the division.

**56. Points of order during division**

While a division is in progress, members may speak to a point of order arising out of or during the division.

**57. Confusion or error during division**

In the event of confusion or error in a division, the procedure set out in rule 55 must be repeated, provided that if there is an inaccuracy in the numbers of the votes and these numbers can accurately be corrected in another, less cumbersome way, then the procedure need not be repeated.

**58. Correction of minutes**

If the numbers have been inaccurately reported or any errors occur in the names on the division list, then the Speaker must order the minutes of the proceedings to be corrected.

**59. Same question rule**

- (1) A matter proposed for discussion in the Council may not in substance be the same as a matter that has been discussed in the Council during the preceding 6 (six) months.
- (2) A draft resolution proposed for approval by the Council may not in substance be the same as a draft resolution which has been approved or rejected by the Council during the preceding 6 (six) months.
- (3) Sub-rule (2) does not prevent the Council from amending or rescinding any order, resolution or vote of the preceding 6 (six) months.

**60. No amendment to draft resolution**

No amendment to a draft resolution may be proposed, except an amendment –

- (a) on a question of privilege;
- (b) to replace the name of a member in the draft resolution with the name of another member; or
- (c) allowed by the Speaker.

**61. Rescission of resolution**

- (1) If a member wishes to give notice of his or her intention to move the rescission or alteration of a resolution, or part thereof, then –
  - (a) the member shall deliver a written notice of motion to the Municipal Manager, which shall be –
    - (i) signed and dated by the said member; and

- (ii) state at which meeting of the Council it will be introduced;
  - (b) the notice of motion shall be delivered to the Municipal Manager at least 10 (ten) working days before the meeting; and
  - (c) in addition to the requirements of sub-rule (a), the notice of motion shall state that –
    - (i) the member will move that the stated resolution be rescinded or altered, as the case may be; and
    - (ii) in the case of an intended alteration, the exact alteration desired shall be stipulated.
- (2) If a Committee has resolved to recommend to the Council that a resolution or part thereof be rescinded or altered, then –
- (a) notification to move such rescission or alteration shall be given by including a recommendation to this effect in a report of the Committee to Council;
  - (b) the Municipal Manager shall send a copy of such report and details of the meeting at which it will be considered to each member –
    - (i) at the address furnished by the member for delivery of notices and documents; and
    - (ii) at least 24 (twenty-four) hours before such meeting.

- (3) Subject to the recommendation of a Committee, a resolution or part thereof shall not reviewed at any meeting of the Council unless the permission of the majority of the members present has been obtained.

## 62. **Recommendation of Committee**

- (1) The adoption of a recommendation included in a report of a Committee shall be deemed to have been moved by the chairperson of such Committee.
- (2) In the absence of a chairperson or when he or she opposes a recommendation, the adoption of a recommendation contemplated in terms of sub-rule (1) shall be deemed to have been moved by a member of such Committee duly delegated to do so.
- (3) The motion to adopt the recommendation need not be seconded and the chairperson of the Committee in question shall not be precluded from exercising his or her right to speak thereon.
- (4) Any matter submitted for decision in terms of sub-rule (1) may be amended prior to a decision being taken thereon.
- (5) Notwithstanding sub-rule (3), a recommendation to amend must be seconded.
- (6) The Council must decide a recommendation to amend first and only thereafter take a decision on the substantive matter before it.
- (7) An amendment may not result in the negation of the matter submitted for a decision.

**63. Motions without notice**

Notice of motion must be given, except when –

- (1) an amendment to a draft resolution is proposed in terms of these rules;
- (2) a motion arises out of a question of privilege;
- (3) the postponement or discharge of or giving precedence to an order of the day is proposed;
- (4) the referral of a by-law to a committee is proposed;
- (5) the member in charge proposes a draft resolution on the report of a committee immediately after the debate on the report has been concluded;
- (6) all the members present unanimously concur that the motion be dispensed without notice;
- (7) these rules specifically provide otherwise; or
- (8) the Speaker rules that notice may be dispensed with in any particular case.

**64. Notice of motion**

- (1) When giving notice of a motion a member must –

- (a) read it aloud and deliver at the Table a signed copy of the notice; or
  - (b) deliver to the Secretary a signed copy of the notice, on any working day, for inclusion on the agenda.
- (2) A written notice of motion delivered to the Secretary after 12h00 on any working day may be placed on the agenda only after the expiry of 24 (twenty four) hours unless the Speaker directs otherwise.
- (3) No motion may be proposed on the day on which notice is given, except if all the members present unanimously concur.

**65. Acting for absent member**

A member authorised by an absent member may give notice of a motion on behalf of the absent member.

**66. Speaker may amend notices**

A notice of motion which offends against practice or these rules may be amended or otherwise dealt with as the Speaker may decide.

**67. Question of privilege**

An urgent motion directly concerning the privileges of the Council shall take precedence over other motions and orders of the day.

**68. Withdrawal and lapsing of motion**

- (1) A member who has proposed a motion may propose without notice that it be withdrawn.



- (2) A motion on the agenda which has not been disposed of when Council concludes business on the last sitting day in any year shall lapse upon the said conclusion of business.

69. **Matters of public importance**

- (1) A member may, on any sitting day of the Council, request the Speaker in writing to allow a matter of public importance to be discussed by the Council.
- (2) If the matter affects the Council, then the Speaker may grant the request and –
  - (a) place the matter on the agenda or, if it is an urgent matter and the Council is sitting, allow the discussion to take place on the day the request is made after having considered the availability of members to participate in the debate;
  - (b) allocate a period of time for the discussion; and
  - (c) arrange for a member or other person to reply to the debate.
- (3) Such a discussion may not exceed the time allocated to it by the Speaker.
- (4) At least 15 (fifteen) minutes before the expiration of the allocated time, if a member, other than the person replying to the debate, is still speaking then the Speaker must interrupt the said member and allow that person to reply if that person so wishes.
- (5) Questions of privilege may not be discussed under this rule.

- (6) Matters already discussed by the Council during an annual session may not be discussed under this rule during the same session.
- (7) Rule 26 shall not apply to a debate contemplated in terms of this rule.

## **CHAPTER 5 PUBLIC ACCESS**

### **70. Meetings open to the public**

- (1) Subject to sub-rule (4), members of the public have the right to attend all Council meetings and Committee meetings.
- (2) The Municipal Manager must put up a notice outside the town hall on which appear, in the languages designated by Council, the time, date, place and agenda, subject to sub-rule (5), of all Council meetings and all Committee meetings.
- (3) Save where he or she is precluded by the urgency of the meeting from doing so, the Municipal Manager must give notice, by publication in at least the local or regional newspaper and in the languages designated by Council, of the time, place, date and agenda, subject to sub-rule (5), of all Council meetings.
- (4) Subject to the provisions of section 20 (2) of the Municipal Systems Act, the Speaker, in the case of the Council, or the Mayor, in the case of the Executive Committee, or the chairperson, in the case of any other Committee, may close a meeting or part of the proceedings of a meeting to the public if, in his or her reasonable opinion –

- (a) there may be unlawful disclosure to the public of personal information regarding any person;
- (b) trade secrets of any person may be disclosed;
- (c) financial, commercial, scientific or technical information, other than trade secrets of any person, may be disclosed and such disclosure would be likely to cause harm to the financial or commercial interests of such person;
- (d) information which has been supplied in confidence by any person may be disclosed and such disclosure could reasonably be expected to place such person at a disadvantage in contractual or other negotiations or to prejudice such person in commercial competition;
- (e) information may be disclosed and such disclosure would give rise to an action for breach of a duty of confidence owed to any person in terms of an agreement;
- (f) information may be disclosed which could reasonably be expected to endanger the life or physical safety of any person or would be likely to prejudice or impair the security of a building, structure or system, means of transport or any other property;
- (g) information, privileged from production in legal proceedings, may be disclosed;
- (h) information may be disclosed which contains trade secrets of the Municipality, or financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the financial or commercial interests of the

Municipality, or the disclosure of which could reasonably be expected to put the Municipality at a disadvantage in contractual and other negotiations or to prejudice it in commercial competition; or

- (i) information may be disclosed about research being or to be carried out by or on behalf of any person or the Municipality and the disclosure of such information would be likely to expose any person or the Municipality or the subject matter of the research to serious disadvantage.
- (5) The agendas of Council and Committee meetings contemplated in terms of sub-rules (2) and (3) hereof need not reflect those items in respect of which the meeting will be closed to public.
- (6) A decision in terms of sub-rule (4) to exclude the public must be taken by the Committee or Sub-Committee concerned, provided that the chairperson of the committee or Sub-Committee may at any time –
- (a) before the start of the meeting, rule that the meeting must take place in closed session, provided that the Committee or Sub-Committee may at any time after the start of the meeting open the meeting; or
  - (b) close the meeting for a decision by the Committee or Sub-Committee as to whether the Committee or Sub-Committee should consider any matter in closed session.
- (7) The Municipal Manager must-
- (a) set aside places for the public during Committee and Sub-Committee meetings; and

- (b) determine the entrances and routes in respect of which the public can obtain access to the places where Committees and Sub-Committees meet.
- (8) The Municipal Manager may take reasonable and lawful measures to –
- (a) regulate public access, including access of the media, to Committees and Sub-Committees;
  - (b) prevent and control misconduct of the public during Committee and Sub-Committee meetings; and
  - (c) provide for the searching of any person, including that person's vehicle or other property in that person's possession, and, where appropriate, the refusal of entry to or the removal of any person

**71. Exclusion of members of the public from meetings**

The member presiding at a meeting of a Committee or Sub-Committee may order a member of the public to leave the meeting –

- (a) when the public is excluded from a meeting in terms of rule 70 (4); or
- (b) when necessary to give effect to the measures taken by the Municipal Manager under rule 70 (8).

**72. Removal of persons**

When instructed by the Speaker or by a person duly delegated thereto, an authorised official must remove or arrange for the removal of any person who –

- (a) without permission, is present in that part of a Committee room designated for members of the Committee or Sub-Committee only;
- (b) disrupts the proceedings of a Committee or Sub-Committee or causes a nuisance; or
- (c) does not leave when ordered to leave in terms of rule 71.

**73. Reports of the Executive Committee**

- (1) A report submitted by the Executive Committee shall first contain the matters in respect of which recommendations are made and where no powers have been delegated to the Executive Committee and thereafter the matters which have been delegated to the Executive Committee.
- (2) Unless an item is submitted to the Council for information only, every item relating to matters in respect of which the Executive Committee has no delegated powers shall contain a recommendation which may be adopted by the Council.

**74. Delivery of reports of Executive Committee**

A report of the Executive Committee, with the exception of a report accepted by the chairperson as a matter of urgency, shall for the purposes of a meeting be served in the manner provided in these rules.

**75. Moving of report of the Executive Committee**

- (1) The chairperson of the Executive Committee, or a member called upon by the chairperson to do so, shall submit a report of the Executive Committee to a meeting by requesting that the report be considered and such request shall not be discussed.

- (2) Where the report of the Executive Committee is considered, the chairperson shall order the recommendations, in that part of the report in respect of which the Executive Committee has no delegated powers, point by point unless he or she sees fit to vary the order.
- (3) The recommendations in the report of the Executive Committee, as discussed in terms of sub-rule (2), shall be deemed to have been proposed and seconded.
- (4) If a recommendation, contemplated in terms of sub-rule (2), has been adopted, then such recommendation shall become a resolution of the Council.
- (5) After the conclusion of matters in respect of which the Executive Committee has no delegated powers, the Speaker shall permit debate on the matters delegated to the Executive Committee, provided that-
  - (a) such debate shall be limited to a period not exceeding 1 (one) hour or such extended period as the Council may determine;
  - (b) a member, except the chairperson of the Executive Committee, shall not speak on such matters for longer than 10 (ten) minutes;
  - (c) no other proposal shall be submitted during such debate, except a proposal that the Executive Committee be requested to reconsider its recommendation; and
  - (d) during such debate a member may request that his or her opposition to a recommendation, in respect of which the Executive Committee has delegated powers, be

minuted after which the Municipal Manager shall cause to be minuted such opposition and any reasons therefor.

**76. Consideration of the budget**

Notwithstanding anything to the contrary in these rules, the following provisions shall apply when the budget is considered by the Council –

- (a) no proposal which is designed to increase or decrease the estimated revenue or expenditure of the Council shall be put to the vote before the debate on the budget has closed;
- (b) after the debate on the budget has been closed, the Speaker shall put to the vote the proposals contemplated in terms of sub-rule (a) in the order in which they were proposed;
- (c) if any proposal contemplated in terms of sub-rule (a) is accepted, then –
  - (i) the meeting may be adjourned to a date and time determined by the Speaker, in which event the budget shall not be deemed to have been amended by said proposal; or
  - (ii) where a Speaker does not adjourn the meeting, the budget shall be deemed to have been amended in accordance with the said proposal;
- (d) subsequent to an adjournment in terms of sub-rule (c)(i), the Executive Committee shall investigate the implications of every proposal accepted and shall report thereon to the Council when the meeting resumes;



- (e) after the Executive Committee has reported in terms of sub-rule (d), the Speaker shall permit debate on the proposals accepted; and
- (f) thereafter, the Speaker shall put every such proposal to the vote again and if such proposal is accepted then the budget shall be amended in accordance with that resolution.

#### **77. Petitions**

- (1) A petition may be submitted by a member in the course of a meeting and he or she shall not be obliged to mention or divulge the contents or the title thereof when it is submitted.
- (2) A petition as contemplated in terms of sub-rule (1) shall be referred to the Executive Committee for a report to the Council.

#### **78. Publication of proceedings, evidence, reports, etc**

- (1) Any document produced or under consideration by a Committee or Sub-Committee shall be accessible to the public, provided that the documents or information listed hereunder may not be published or disclosed –
  - (a) the proceedings of or information placed before a Committee or Sub-Committee from which the public were excluded in terms of rule 70 (4);
  - (b) any report or summary of such proceedings or information;
  - (c) any document placed before or presented to the Committee or Sub-Committee as a confidential document;

- (d) any document –
  - (i) submitted or to be submitted to members of the Committee or Sub-Committee as a confidential document by order of the chairperson of the Committee or Sub-Committee; or
  - (ii) subsequent to its submission to members, declared by the chairperson as a confidential document.
- (2) Notwithstanding the provisions of sub-rule (1), permission may be given by the Committee or Sub-Committee in question, the Speaker or the Council for the said documents or information to be published or disclosed.
- (3) The permission authorising the publication or disclosure of the documents or information contemplated in terms of sub-rule (1) may provide that specific parts of or names mentioned in a document or information may not be published or disclosed.
- (4) For the purposes of sub-rule (1) a document is under consideration by a Committee or Sub-Committee when –
  - (a) the presiding member places the document or permits the document to be placed before the Committee or Sub-Committee; or
  - (b) a person, appearing before the Committee or Sub-Committee, presents the document to the Committee or Sub-Committee.
- (5) Sub-rule (1) shall apply to documents or information that –

- (a) contain private information that is prejudicial to a particular person;
- (b) are for any other reason privileged or confidential in terms of the law;
- (c) are subject to a media embargo, until the embargo expires; or
- (d) are of such a nature that their privileged or confidential treatment is reasonable and justifiable in an open and democratic society.

## **CHAPTER 6 COUNCIL COMMITTEES**

### **79. Establishment of Committees**

Council shall have the following Committees:-

- (a) an Executive Committee;
- (b) a Mayoral Committee
- (c) an Audit Committee;
- (d) an Administration Committee;
- (e) a Finance Committee;
- (f) a Human Resources Committee;
- (g) a Public Works and Services Committee;

- (h) a Socia-Economic Development Committee; and
- (i) any other Committee that Council may appoint.

**80. Executive Committee**

In giving effect to the powers and functions set out in section 44 of the Municipal Structures Act, the Executive Committee must-

- (a) meet as often as is reasonably required in order to exercise and perform its powers and functions effectively, but no less often than once every month;
- (b) ensure that it receives monthly reports from the Committees referred to in rule 79 and report a defaulting Committee to Council if no report has been received in any particular month from such Committee;
- (c) consider monthly reports at a meeting convened for the succeeding month and –
  - (i) dispose of the matters raised in such reports to the extent that it is able to do so pursuant to its delegated powers; and
  - (ii) make recommendations on such matters as it is unable to dispose of and forward the reports together with such recommendations to the Council;
- (d) keep minutes of all its meetings, which minutes it must, after they have been adopted at the next meeting, be forwarded to the Council.

**81. Mayoral Committee**

- (1) The Mayor shall appoint a Mayoral Committee from amongst the members of the Council where the Council has more than 9 (nine) members.
- (2) In appointing a Mayoral Committee, the Mayor shall exercise the powers and perform the functions contemplated in terms of Section 60 of the Municipal Structures Act.
- (3) The Mayoral Committee shall consist of –
  - (a) the Deputy-Mayor, if any; and
  - (b) as many members as may be necessary for effective and efficient government, provided that no more than 20% (twenty percent) of the members or 10 (ten) members, whichever is the least, are appointed.
- (4) The Mayor and members of the Mayoral Committee shall exercise and perform the powers and functions designated by the Council.

**82. Audit Committee**

The audit committee shall be responsible for -

- (a) internal audits;
- (b) accounting policies;

- (c) the adequacy, reliability and accuracy of financial reporting and information;
- (d) compliance with applicable legislation; and
- (e) any other matter referred to it by Council.

**83. Administration Committee**

The Administration Committee shall be responsible for the following -

- (a) to ascertain that the administration of the Council is responsive to the needs of the local community;
- (b) to facilitate a culture of public service and accountability amongst its staff;
- (c) to ensure that the administration of the Council is performance orientated and focused on the objects of local government set out in section 152 of the Constitution and the developmental duties as required by section 153 of the Constitution;
- (d) ensuring that Council's political structures, political office bearers and managers and other staff members align their roles and responsibilities with the priorities and objectives set out in the Municipality's integrated development plan;
- (e) establishing clear relationships and facilitate co-operation, coordination and communication between -
  - (i) the Council's political structures, political office bearers and administration;

- (ii) the parties indicated in terms of sub-rule (e)(i) and the local community;
- (f) assigning clear responsibilities for the management and coordination of Council's administrative units and mechanisms;
- (g) to hold the Municipal Manager accountable for the overall performance of the administration;
- (h) maximising efficiency of communication and decision-making within the administration;
- (i) to delegate responsibility to the most effective level within the administration; and
- (j) to ensure that an equitable, fair, open and non-discriminatory working environment is provided.

#### 84. **Finance Committee**

The Finance Committee shall be responsible for the following -

- (a) internal financial control;
- (b) risk management;
- (c) performance management;
- (d) effective financial governance;
- (e) compliance with the Local Government : Municipal Finance Management Act, 2003 [Act No. 56 of 2003] and any other applicable legislation;

- (f) performance evaluation; and
- (g) any other matter referred to it by Council.

**85. Human Resources Committee**

- (1) The Human Resources Committee shall be responsible for formulating the Municipality's policy on –
  - (a) the administration of the Municipality, including information services and information technology;
  - (b) the appointment, dismissal and retrenchment of municipal employees;
  - (c) the preparation of job descriptions and employment contracts of municipal employees;
  - (d) the resolution of disputes between employees, and between employees and the Municipality.
- (1) The Human Resources Committee shall also be responsible for ensuring that the Municipal Manager properly performs his or her functions in terms of section 55 of the Municipal Systems Act, in so far as those functions relate to the matters set out in sub-rule (1), and for reporting to Council on any concerns it has regarding the Municipal Manager's performance in this regard.

**86. Public Works and Services Committee**

- (3) The Public Works and Services Committee shall be responsible for -



- (a) the provision and maintenance of municipal services such as bulk water, electricity, sewage disposal and solid waste disposal;
- (b) fire and health services;
- (c) markets, abattoirs and cemeteries;
- (d) local amenities;
- (e) the establishment, regulation, operation, management and control of passenger transport services;
- (f) the establishment, operation, management, control and regulation of roads within the municipal area; and
- (g) the control of traffic and provision, regulation and control of parking.

**87. Socio-Economic Development Committee**

The Socio-Economic Development Committee shall be responsible for-

- (a) economic and social development;
- (b) tourism, sport and recreation;
- (c) libraries and museums;
- (d) health services;
- (e) environmental management;
- (f) housing and planning;

- (g) air pollution; and
- (h) civil protection.

**88. The appointment of Committees**

- (1) The members and chairperson of the Committees set out in sub-rule 79 shall be appointed by the Council.
- (2) The Council must first determine the number of members for each Committee, having due regard to the need to ensure a fair distribution of the work load among its members.
- (3) Thereafter the Speaker must call for nominations for appointment to each Committee.
- (4) If there are more nominations for a Committee than seats available on such Committee, then an election must be held by a show of hands.
- (5) The Speaker shall retain the power to alter the outcome of an election in order to ensure fair representation of all political parties and interests on each Committee, but may do so only on the following basis –
  - (a) a member representing any particular political party or interest group may not be replaced by a member of another political party or interest group where the latter member's political party or interest group is already fairly represented on the Committee in question; and
  - (b) a member may not be appointed to a Committee by the Speaker unless the said member obtained more votes

then any other member of the same political party or interest group.

**89. The duties of Committees**

- (1) The Executive Committee must regularly report in writing to the Council with regard to its activities and no less often than once a month.
- (2) The other Committees must report in writing to the Executive Committee with regard to their activities and -
  - (a) in the case of the Human Resources Committee, whenever it has met;
  - (b) in the case of the remaining Committees, no less often than once a month.
- (3) The Municipal Manager must ensure that minutes are kept of all meetings of Committees, copies of which must, once adopted, be forwarded –
  - (a) in the case of the Executive Committee, to the Council; and
  - (b) in the case of the other Committees, to the Executive Committee.

**90. Voting in Committees**

- (1) A Committee shall be deemed to have obtained a quorum where a majority of its members are present.

- (2) Decisions must be made on the basis of the majority vote of members present.
- (3) In the event of any equality of votes, the chairperson must exercise a casting vote.

91. **Attendance at Committee meetings**

- (1) The Speaker, the Mayor and members have the right to attend meetings of any Committee of which they are not members.
- (2) Such persons may only address the Committee with the leave of the chairperson and have no right to vote.

**CHAPTER 7**  
**THE CONDUCT OF COMMITTEE MEETINGS**

92. **The chairperson**

- (1) The chairperson of the Executive Committee shall be the Mayor, or in the event that he or she is for any reason not available, a member amongst those who shall be nominated and appointed by the Mayor to act as chairperson.
- (2) All other Committees will be chaired by the person elected by Council to do so.
- (3) Subject to sub-rule (1), in the event that the chairperson is for any reason not available to chair a meeting, an acting chairperson must be elected from amongst the members present.
- (4) The chairperson must –

- (a) maintain order during meetings;
  - (b) ensure compliance with the Code of Conduct and the Council's rules of order as adopted from time to time;
  - (c) ensure that meetings are conducted in accordance with this by-law;
  - (d) ensure that members conduct themselves in a dignified and orderly manner; and
  - (e) ensure that members of the public attending any meetings conduct themselves in an orderly manner and obey any rulings made by the chairperson.
- (5) The ruling of the chairperson with regard to the application of this chapter and any other procedural matters shall be final and binding on the meeting.

**93. Notice of meetings**

- (1) Meetings of all Committees, as contemplated in terms of rule 79, shall take place once every month, unless Council determines otherwise.
- (2) A chairperson must give at least 48 (forty-eight) hours' notice of such meeting to the Committee members.
- (3) In the case of any urgent meeting, the chairperson must give the Committee members notice as far in advance as he or she is practically able to do.

- (4) The chairperson must determine whether any meeting is urgent or not.
- (5) The chairperson must, after receiving a written request signed by a majority of the members of any Committee, call a meeting of that Committee.

94. **Quorum**

- (1) The quorum for a meeting of any Committee is a majority of its members.
- (2) Where there is no quorum –
  - (a) the commencement of the meeting must be suspended for no more than 30 (thirty) minutes or until a quorum is obtained, whichever is the sooner;
  - (b) at the end of the 30 (thirty) minute period and where there is still no quorum, the chairperson may –
    - (i) further suspend the meeting for such period as he or she deems appropriate; or
    - (ii) adjourn the meeting to another date, time and venue, at his or her discretion.
- (3) In the absence of the chairperson, the meeting shall be adjourned, by operation of this sub-rule, 30 (thirty) minutes after the commencement time.
- (4) In the event of the adjournment of a meeting and before the date to which the meeting is adjourned, the chairperson may refer a

matter to the Executive Committee or Mayoral Committee, subject to any directions given by Council in this regard and provided that –

- (a) the matter is deemed urgent enough by the chairperson;  
and
- (b) the Executive Committee or Mayoral Committee, as the case may be, may refuse such referral and insist that the matter be discussed at the next meeting of the Committee in question.

**95. Agenda**

- (1) Subject to sub-rule (2), all meetings must be conducted according to the order in which matters appear on the agenda before the Committee and only matters that are on the agenda may be debated.
- (2) The chairperson, on good cause shown, may change the order of the matters appearing on the agenda and may allow further matters to be added to the agenda.

**96. Decisions**

- (1) All decisions shall be taken by a supporting vote of the majority of the members present at any Committee meeting.
- (2) The dissent, opposition or abstention of any Committee member must, if that member so requests, be recorded in the minutes of the meeting.

**97. Minutes**

- (1) The chairperson must ensure that all resolutions of the Committee are recorded in a minute book and that resolutions adopted by the Committee in closed meetings are recorded in a separate minute book.
- (2) The accuracy of the minutes must be considered at the next meeting, failing which, at the meeting thereafter.
- (3) The chairperson must ensure that the names of Committee members attending any meeting, members who are absent and members who have been granted leave of absence are recorded in the minutes.

**98. Recommendations**

- (1) All recommendations must be submitted to the chairperson of the relevant Committee and must be received by him or her at least 3 (three) days before the Committee meeting.
- (2) The member who submits the recommendation must sign it.
- (3) The recommendation must –
  - (a) set out in precise terms the decision required of the Committee as well as a motivation as to why such decision is required;
  - (b) require a decision which is legal and within the Committee's executive or legislative power; and
  - (c) provide sufficient information to enable a decision to be taken.

**99. Amendments to recommendations**



- (1) Any matter submitted for a decision in terms of rule 99 may be amended prior to a decision being taken thereon.
- (2) The proposal to amend must be seconded.
- (3) The Committee must decide a proposal to amend first and only thereafter take a decision on the substantive matter before it.
- (4) An amendment may not amount to a negation of the matter submitted for decision.

**100. Procedural recommendations**

When a matter is under discussion at any Committee meeting, no further debate must be allowed if any of the following procedural recommendations are accepted; that –

- (a) consideration of the matter be adjourned and resumed at a time determined by the chairperson;
- (b) the meeting of the Committee be adjourned and reconvened at a date and time determined by the chairperson;
- (c) the matter be referred to another Committee; or
- (d) the matter be decided immediately.

**101. The right of the public to address a Committee**

- (1) The chairperson may, at his or her discretion, grant any person the opportunity to address any meeting of the Committee, provided that –
  - (a) any request to do so by the said person shall be –

- (i) in writing; and
  - (ii) clearly state the matter in respect of which the said person wishes to address the meeting;
- (b) the chairperson may dispense with the requirements of sub-rule (1)(a) where –
  - (i) the request is deemed urgent enough by the chairperson; or
  - (ii) the said person is invited to address the meeting by the chairperson.
- (2) In exercising his or her discretion in terms of sub-rule (1), the chairperson should give particular consideration to the question of whether an address by such person will substantially assist the Committee in coming to a decision on any particular matter before it.
- (3) In granting a person such an opportunity, the chairperson may impose such conditions as he or she may deem fit.
- (4) If the chairperson is of the view that the person should rather address another Committee, then –
  - (a) the chairperson must refer any request to the chairperson of the relevant Committee or the Speaker, as he or she deems appropriate; and
  - (b) the chairperson of the relevant Committee or the Speaker, as the case may be, shall exercise his or her discretion with regard to –

- (i) permitting such an address; and
- (ii) imposing such conditions as may be necessary in the event that the address is permitted.

**102. Application of chapter to special Council meetings and Council in Committee**

This chapter shall apply to special Council meetings and meetings of Council in Committee, provided that a member may speak more than once at such meetings.

**103. Council in Committee**

- (1) A member may, at any time after the confirmation of the minutes during a meeting of the Council, move that Council now resolves itself into Committee, in which event –
  - (a) the member shall briefly state the reasons for such motion; and
  - (b) subject to the seconding of such motion, it shall be put to the vote immediately and without discussion.
- (2) If such motion is carried, then the place of meeting shall be cleared of all members of the public and the press.
- (3) A member may, during the course of discussion by Council in Committee, move that Council resumes, in which event –
  - (a) the member shall briefly state the reasons for such motion; and

- (b) subject to the seconding of such motion, it shall be put to the vote immediately and without discussion.
- (4) Where the Council resumes without the question before Council in Committee having been disposed of, the debate shall resume at the point at which the Council resolved itself into Committee.

## **CHAPTER 8 PROBITY**

### **104. Application**

The provisions of this chapter shall apply to all members, whether in their capacity as members of the Council or of any Committee of the Council.

### **105. Attendance at meetings**

- (1) A member who is unable to attend a meeting of the Council or of a Committee must apply to the Speaker or the chairperson, as the case may be, for leave not to attend such meeting.
  - (2) Any application contemplated in terms of sub-rule (1) must be –
    - (a) in writing; and
    - (b) submitted to the Speaker or chairperson no later than –
      - (i) 48 (forty-eight) hours in the case of a Council meeting; and
      - (ii) 24 (twenty-four) hours in the case of a Committee meeting,
- before the meeting takes place.

- (3) If for any reason it is not possible to give notice of absence as contemplated in terms of sub-rule (2), then the application must be given as soon as possible, together with a written explanation as to why the application could not be given timeously.
- (4) It is in the sole discretion of the Speaker or chairperson, as the case may be, as to whether or not such application should be granted.

**106. Sanctions for non-attendance at meetings**

- (1) Where a member fails to attend a meeting and either failed to apply for leave in terms of rule 105 or made application but leave was refused, the member –
  - (a) shall be guilty of a contravention of this by-law; and
  - (b) may be sentenced to a fine not exceeding R1 000.00.
- (2) In the event that a member is absent from 3 (three) consecutive meetings of the Council or of the relevant Committee, he or she shall, if found guilty, be removed from office as a member.
- (3) For the purposes of determining whether or not a member has contravened this by-law and what sanctions should be imposed, as contemplated in terms of sub-rules (1) and (2) –
  - (a) the Speaker shall appoint a committee of 3 (three) members to –
    - (i) investigate the alleged contravention;

- (ii) invite the said member to make representations;  
and
    - (iii) decide whether or not the member is guilty of the contravention, whereupon the committee shall -
      - (aa) advise the Speaker of its finding; and
      - (bb) recommend a fine or other sanction, including removal from office;
  - (b) a recommendation by a committee appointed in terms of sub-rule (a) that the member be removed from office shall be referred by the Speaker to the MEC for Local Government;
  - (c) any recommendation made by the said Committee must be considered by the Speaker and referred to Council for discussion if he or she deems it necessary, provided that-
    - (i) the Speaker may impose a fine or other sanction, as recommended, without referring the recommendation to Council; and
    - (ii) a recommendation that the member be removed from office may not be effected by the Speaker unless confirmed by the MEC for Local Government after its referral to him or her in terms of sub-rule (3)(b).
- (4) With regard to the time limits applicable in terms of this rule –

- (a) the Speaker shall appoint a committee, contemplated in terms of sub-rule 3(a), within 10 (ten) working days of a member's alleged contravention;
- (b) the said committee shall advise and make a recommendation to the Speaker, as contemplated in terms of sub-rule (3)(a)(iii), within 20 (twenty) working days of its appointment;
- (c) the imposition of a fine or other sanction by the Speaker or Council, as the case may be, shall be effected as soon as possible by the Speaker or Council, but by no later than 20 (twenty) working days after referral of the recommendation by the Committee or confirmation thereof by the MEC for Local Government; and
- (d) a recommendation that the member be removed shall be-
  - (i) referred to the MEC for Local Government by the Speaker, as contemplated in terms of sub-rule (3)(b), within 5 (five) working days of its referral by the committee; and
  - (ii) confirmed or refused by the MEC for Local Government within 20 (twenty) working days of its referral to him or her by the Speaker, as contemplated in terms of sub-rule (3) (b).

#### 107. **Declaration of interests**

All gifts received by members from any person other than the said member's immediate family and having a value in excess of R250-00 must, within 2 (two) weeks from date of receipt, be declared by such member in writing to the Municipal Manager.

**108. Full time member**

- (1) Any full time member who wishes to undertake any other paid work must apply in writing to do so to the Municipal Manager.
- (2) The application must include at least the following information –
  - (a) the name of the person for whom the work will be done;
  - (b) the nature of work;
  - (c) the duration of work; and
  - (d) the amount of remuneration for the work.
- (3) Upon receipt of such an application, the Municipal Manager must ensure that it is tabled at the next meeting of the Council for consideration.

**CHAPTER 9  
GENERAL PROVISIONS**

**109. Regulations**

The Council may make regulations not inconsistent with any provision of this by-law, prescribing –

- (a) Any matter that may or must be prescribed in terms of this by-law; and



- (b) Any matter that may facilitate the application of this by-law.

110. **Repeal of by-law**

Any by-laws relating to the standing orders for Council adopted by the Municipality or any erstwhile municipal council now comprising an administrative unit of the Municipality shall be repealed from the date of promulgation of this by-law.

111. **Short title**

This by-law is called the By-law Relating to Standing Orders for Council, 2004 and takes effect on a date determined by the Municipality by proclamation in the Provincial Gazette.

Schedule A

**NOMINATION FORM FOR ELECTION OF SPEAKER**

We, the undersigned members of the Municipal Council of \_\_\_\_\_ Municipality, hereby nominate the following person as a candidate for election as Speaker:

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(Full name of person nominated in block letters)

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(Address)

First Proposer .....

(Name in block letters and signature)

Second Proposer .....

(Name in block letters and signature)

I, the abovementioned nominee, do hereby accept the nomination.

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Signature

