



**DELEGATION POLICY**  
2021/22

## Summary

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<b>Related Legislation/Applicable Section of Legislation</b>	<ul style="list-style-type: none"> <li>• The Constitution of the Republic of South Africa, 1996, Act No 108 of 1996;</li> <li>• The Municipal Finance Management Act, 2003, No 56 of 2003;</li> <li>• Municipal Systems Act, 2000, Act No 32 of 2000;</li> <li>• The Local Government: Municipal Property Rates Act of No 6 of 2004</li> <li>• Act means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003),</li> </ul>
<b>Related Policies, Procedures, Guidelines, Standards, Frameworks</b>	

<b>Replaces/ Repeals (whichever is relevant, if any)</b>	
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**REVISION RECORD**

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## **TITLE**

### **Delegation Policy**

#### **1. BACKGROUND**

Section 53 of the Systems Act prescribes that a municipality must define the "specific role and area of responsibility for each political structure and political office bearer of the municipality", which must be reduced to writing.

It is through delegation of authority that the municipality implements the terms of reference for each political structure and political office bearer, where applicable. Section 59 of the Systems Act prescribes that the municipality must develop a system of delegation that will "maximize administrative and operational efficiency and to provide for adequate checks and balances".

Furthermore, In terms of Regulation 30(4) of the Municipal Performance Regulations, the municipality must, "on the request of the employee, delegate such powers reasonably required by the employee to enable him/her to meet the performance objectives and targets established in terms of the agreement". From this, it is clear that the onus rests with the Senior Management of the municipality to ensure and request the necessary delegated authority from Council as required assisting them in their day-to-day duties and responsibilities, over and above any delegated authority that the Council may confer upon them.

By delegating a power or duty, a municipal council is giving authority to another committee or individual to exercise that power or perform that function on its behalf. The municipal council as a whole, however, remains ultimately responsible for all its powers and duties.

The term "delegation" is defined in the Local Government: Municipal Structures Act (Structures Act) and the Local Government: Municipal Systems Acts (Systems Act) as "in relation to a duty, includes an instruction to perform a duty".

From the aforementioned definition, it is important to understand that once Council has endorsed a delegation to a specific political office bearer, committee or staff member, it is deemed to be an instruction by Council.

The principle rule of delegation is *delegates non potest delegare*. In brief, this legal rule means that an agent to whom an authority or decision making power has been delegated by a principal or higher authority may not sub delegate it to another person unless the original delegator expressly authorize it, or there is an implied authority to do so.

## 2. PURPOSE

- The purpose of this policy is to establish a framework for delegating authority within Ngqushwa Local Municipality in a manner that facilitates efficiency and effectiveness and increases the accountability of staff for their performance.
- Delegations of authority within Ngqushwa Local Municipality are intended to achieve four objectives:
  - (i) to ensure the efficiency and effectiveness of the organisation's administrative process;
  - (ii) to ensure that the necessary officials have been provided with the level of authority necessary to discharge their responsibilities; and
  - (iii) to ensure that delegated authority is exercised by the most appropriate and best informed individuals within the Municipality; and
  - (iv) to ensure internal controls are effective.



### **3. SCOPE**

This policy applies to:

- Technicians
- Middle Managers (except managers on CTC)
- Senior Managers/HOD's will be based on CTC breakdown of employee choice
- Councillors (as per the Determination of upper limits for public office bearers)

### **PROCEDURE DETAIL**

#### **4. PRINCIPLES OF DELEGATION**

- 4.1 In terms of the Systems Act and the Municipal Finance Management Act, (MFMA), a Council must develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances.
- 4.2 All delegations must ensure that the Council retains all legislative powers and those executive powers, which cannot lawfully be delegated.
- 4.3 Policy formulation and determination process is as follows:
  - 4.3.1 Any political office bearer or staff member may initiate the generation of proposed policy.
  - 4.3.2 Policy must first be channeled via the executive committee for consideration and or recommendations.
  - 4.3.3 Notwithstanding the aforementioned, If, In the view of the municipal manager in consultation with the executive committee, any proposed policy has a direct and significant impact on the community as a whole, then in that instance, the comments of that community must also be obtained prior to any consideration and or approval of such policy.

- 4.4 The Council, as the legislative and executive authority, may exercise no power and perform no function beyond that conferred upon it by law.**
- 4.5 No political office bearer or staff member may exercise its authority contrary to any policy or delegations approved by Council.**
- 4.6 The functions allocated to the municipality's political office bearers, committees or staff members as approved by council from time to time will form the basis for the allocation of delegations of executive decision making powers.**
- 4.7 All delegations are conditional upon compliance with the municipality's policies, its Integrated Development Plan, and its budget.**
- 4.8 All delegations must be aimed at empowering the relevant political office bearers, committees or staff members to perform their functions effectively, taking into account the different levels of decision-making.**
- 4.9 All delegations must be in writing.**
- 4.10 All delegations must provide for good governance and allow for adequate checks and balances.**
- 4.11 All delegations must enhance service delivery without sacrificing accountability.**
- 4.12 Delegations must not oblige a delegate to exercise his/her/its delegated power and must therefore allow to sub-delegate any of his/her/its powers to the most appropriate and effective level.**
- 4.13 In exercising delegated authority, Council's political office bearers, committees and staff members must do so in the spirit of utmost good faith.**

- 4.14 The political office bearers, committees and staff members must be empowered to perform their functions effectively and to take decisions in the management and administration of their functional areas within the maximum amount of delegated authority, subject to compliance with the following constraints:**
- 4.14.1 Clear operational policies and terms of reference which are determined by Council, must govern the actions of the relevant political office bearers, committees or staff members in performing their respective functions and activities. Where it is necessary for the relevant political office bearers, committees and or staff members to operate, in exceptional cases, outside a defined policy or delegation, the authority of either the mayor or the municipal manager, as the case may be, must be obtained.**
  - 4.14.2 The relevant political office bearers, committees or staff members must take decisions and implement policy, projects and manage their functional areas in order to give effect to the requirements of their respective service delivery business and operational plans.**
  - 4.14.3 The relevant political office bearers, committees and staff members must ensure that their proposed service delivery business and operational plans give maximum effect to the achievement of the municipality's strategic objectives.**
  - 4.14.4 During the implementation of the municipality's service delivery business and operational plans, the relevant political office bearers, committees and staff members must, when exercising their delegated powers, ensure that Council's strategic objectives are achieved.**
  - 4.14.5 In giving effect to policies, projects and the requirements of service delivery business and operational plans, the relevant political office bearers, committees and staff members must take decisions and operate within the parameters of their respective operational and capital budgets.**

**4.14.6** The relevant political office bearers, committees and staff members must give effect to the enforcement and observation of all municipal by-laws and other relevant legislation, and where changing circumstances so dictate, must recommend the creation or amendment of municipal by-laws.

**4.15** Council may freely participate in any commercial activity related to its local government functions unless expressly prohibited or regulated by Law. The functionary in whose functional field such activity resides, should be responsible for engaging in such commercial activity, provided that the value of such commercial activity falls within the limits set for such functionary in terms of any delegations.

**Notes in respect of 4.15 above:**

- Commercial activity includes but is not limited to:-
- The buying, selling, hiring, letting of goods, property (both movable and immovable) or acquiring or providing services, the advertising of tenders for such goods or services, the awarding of such tender, the entering into and signing of contracts or agreements, the amendment and cancellation of such contracts or agreements, exceeding values on contract agreements and any activity incidental thereto (provided that the total contract price still falls within the delegated limits of the relevant functionary).
- The value of a commercial activity in respect of leases is the total estimated cost of the lease. If the period of the lease is not determined then the annual cost of the lease will determine where the delegation lies. In respect of any other commercial activity, the total estimated contract sum applies. If the eventual amount payable for the commercial activity exceeds the delegated limit set for a functionary, the matter should be referred to the appropriate higher level of decision making.

- The above delegations do not affect the function of the Supply Chain Management Unit or the Supply Chain Management Policy as they merely give effect to decisions made in terms of delegated authority.

## **5 CONDITIONS OF DELEGATION**

### **5.1 All decision-making powers delegated by the Council are subject to the following conditions:**

- 5.1.1 Delegated powers are conferred upon the Executive Committee, and employment posts in the organization of the Municipality and not personally on Incumbents.
- 5.1.2 These delegations also apply to acting positions. Persons acting in any positions have the same delegated powers as those serving in a permanent capacity, provided that the competent authority has duly appointed such acting persons and has not excluded certain powers.
- 5.1.3 In executing any delegated power, the delegate must comply with all relevant legislation, agreements and policy.
- 5.1.4 These delegations do not redefine Council's Powers and Functions.
- 5.1.5 The policies, whether existing or future, will determine the parameters of any delegation and the delegatee is bound to comply therewith. It is the duty of the delegator to ensure that clear and comprehensive policies are drafted.
- 5.1.6 In executing delegated powers, no expenditure may be incurred unless the delegatee is satisfied that the Council has budgeted for the expenditure and that the funds are still available on the relevant budget votes.

- 5.1.7 Council or its executive committee, or any of the municipality's staff members above the delegate, may at any time, subject to applicable law, order a delegated matter not to be proceeded with by the delegatee and then deal with such matter.
- 5.1.8 The chain of authority from the Council to the Executive Committee to the Municipal Manager and officials below must not be jeopardized by any delegation.
- 5.1.9 A delegation may set out special circumstances in which a delegatee is prohibited from exercising his/her delegated power.
- 5.1.10 Any sub-delegation must be reduced to writing and recorded in the delegation register, which must be kept updated at all times by the municipal manager, or by the person so delegated by the municipal manager.
- 5.1.11 All decisions affecting the rights of others must be in writing and reasons must be recorded for such decisions.
- 5.1.12 The Council or any other delegator, may at any time withdraw, qualify or amend a delegation made by itself.
- 5.1.13 Council must in accordance with the procedures of its Rules of Order review any decision taken under delegated powers if so requested in writing by at least a simple majority of the members of Council.
- 5.1.14 Provision must be made or a separation drawn between the evaluation and recommendation stage of any financial decision-making process and the actual approval decision itself. This must happen in all cases where the decision-making process is reasonably capable of being divided in terms of the Municipality's supply chain management policy.
- 5.1.15 All delegatees must report delegated decisions at quarterly intervals or at such intervals as the delegator may require and submit such motivation as otherwise

may be required indicating that all legal and financial requirements have been met. These reports are to enable the delegator to determine whether the policies regulating the powers are adequate and/or whether the delegation is appropriate.

- 5.1.16 Appeals/Complaints against any decision taken in terms of any delegated authority must be dealt with in terms of the Local Government Municipal Systems Act or the Municipal Finance Management Act by an appropriate appeals/complaint authority, whichever is applicable.
- 5.1.17 Any delegator may require a selected sample of decisions taken by any person or committee below him/her/it to be audited.
- 5.1.18 The system of delegations must be reviewed in terms of the provisions of the Local Government Municipal Systems Act whenever a new Council is elected, or when it is appropriate to do so.

## **6 STATUTORY DUTIES AND FUNCTIONS OF THE COUNCIL**

### **6.1 The Statutory duties and functions of the Council are prescribed by:**

- 6.1.1 The Constitution;
- 6.1.2 The Local Government: Municipal Structures Act;
- 6.1.3 The Local Government: Municipal Property Rates Act;
- 6.1.4 The Local Government: Municipal Systems Act; and
- 6.1.5 The Municipal Finance Management Act.

## **COUNCIL**

### **7 POWERS RESERVED FOR COUNCIL BY LEGISLATION**

#### **7.1 The following powers may not be delegated by Council**

- 7.1.1 Passing by-laws.
- 7.1.2 Adoption of Council's budget and any amendments thereto.
- 7.1.3 Imposition of rates, taxes, levies and duties.
- 7.1.4 Raising of loans.
- 7.1.5 Adoption of the Integrated Development Plan or any revision thereof.
- 7.1.6 The power to set tariffs.
- 7.1.7 The power to decide to enter into a service delivery agreement in terms of section 76(b) of the Systems Act.
- 7.1.8 Dissolution of Council.
- 7.1.9 Election of Speaker.
- 7.1.10 Removal of Speaker from office.
- 7.1.11 Election of another councilor to act as Speaker, whenever necessary.
- 7.1.12 Election of Mayor and or Deputy Mayor.
- 7.1.13 Removal of Mayor and or Deputy Mayor from office.



**7.1.14** Decision to dispose of capital assets.

**7.1.15** To authorise the Municipal Manager to conduct a public participation process prior to the Council considering the transfer or disposal of a non-exempted capital asset of a value in excess of R50 million.

**7.1.16** To authorise the Municipal Manager to conduct a public participation process prior to Council considering the proposed granting of a right to use, control or manage a municipal owned capital asset of a value in excess of R10 million and for a proposed period of longer than three years.

**7.1.17** Appointment of a municipal manager and managers reporting directly to the municipal manager.

## **8 POWERS RESERVED BY COUNCIL BY WAY OF RESOLUTION**

**8.1** The power to approve any excess expenditure on the approved budget.

**8.2** The power to approve and amend the Municipality's organizational and operational structure.

**8.3** The power to delegate Council's powers, duties and functions.

**8.4** The power to appoint and dismiss the municipal manager and a manager directly accountable to the municipal manager.

**8.5** The power to approve all policy documents, guidelines and other procedures pertaining to any functions that fall within the competence of the Municipality.

**8.6** The power to approve performance bonuses of the municipal manager and the managers directly accountable to the municipal manager.

- 8.7 The determination of Councillor allowances and salaries.**
- 8.8 The determination of the Standing Orders and or Rules of Order of Council.**
- 8.9 The determination of the political structures of Council.**
- 8.10 Bestowing civic honours, including aldermanship and the naming of public streets, places and municipal buildings after persons.**
- 8.11 The determination of a rating system for levying property rates on immovable property within the municipal area.**
- 8.12 Delegating powers to the Executive committee.**
- 8.13 Delegating powers to the Portfolio Committees (Section 79 & 80 – Structures Act).**
- 8.14 Delegating powers to the ward committees.**
- 8.15 Delegating powers to Council committees, any councillor or elected office bearers of Council.**
- 8.16 Determining the terms of reference of the Council Committees.**
- 8.17 Appointing chairpersons and members to Council Committees.**
- 8.18 Delegating powers to the municipal manager or any other municipal officials.**
- 8.19 Determining out of pocket expenses for ward committee members and traditional leaders in council.**

## **EXECUTIVE COMMITTEE**

### **9 POWERS AND DUTIES RESERVED FOR THE EXECUTIVE COMMITTEE BY LEGISLATION**

#### **9.1 General**

**9.2** The Council delegates all of its powers and duties to the Executive Committee, except those powers and duties reserved for Council herein or that may not be delegated by Council in terms of law, and those that are further delegated herein.

**9.2.1** The Executive Committee is entitled to receive reports from committees of the Council and, if needs be, to forward these reports together with a recommendation to the Council when the Executive Committee, in terms of the Executive Committee's delegated powers cannot dispose of the matter.

**9.2.2** The Executive Committee must:

- (a)** Identify the needs of the Municipality.
- (b)** Review and evaluate those needs in order of priority.
- (c)** Recommend to the Council strategies, programs and service delivery priority needs through the Integrated Development Plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial plans; and
- (d)** Recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programs and services to the maximum of the community.

**9.2.3** The Executive Committee must:

- (a) Identify and develop criteria in terms of which progress in the implementation of the strategies, programs and services can be evaluated, including key performance indicators which are specific to the Municipality and common to local government in general.
- (b) Evaluate progress against the key performance indicators.
- (c) Review the performance of the Municipality in order to improve:
  - (i) the economy, efficiency and effectiveness of the Municipality;
  - (ii) the efficiency of credit control and revenue and debt collection services; and
  - (iii) the implementation of the Municipality's by-laws.
- (d) Monitor the management of the Municipality's administration in accordance with the directions of Council.
- (e) Oversee the provision of services to communities in the Municipality in a sustainable manner.
- (f) Annually report on the involvement of communities and community organizations in the affairs of the Municipality; and
- (g) Ensure that regard is given to public views and report on the effect of consultation on the decisions of council.

**9.2.4 The Executive Committee must report to Council on all decisions taken by it.**

**9.2.5 Furthermore, the Executive committee has:**

- 9.2.5.1 Delegated the power to manage the drafting of the Municipality's Integrated Development Plan (IDP); and has the power to assign responsibilities regarding the IDP to the Municipal Manager.**
- 9.2.5.2 The power to manage the development of the Municipality's performance management system.**
- 9.2.5.3 The power to assign responsibilities with regard to the performance management system to the municipal manager.**
- 9.2.5.4 The power to submit the proposed performance management system to Council for consideration and adoption.**
- 9.2.5.5 The power to take decisions to expropriate Immovable property or rights in or to Immovable property.**
- 9.2.5.6 The power to determine or alter the remuneration, benefits or other conditions of service of the municipal manager or managers directly responsible to the municipal manager.**
- 9.2.5.7 The power to take a decision to make investments on behalf of the Municipality within a policy framework determined by the Minister of finance.**

**9.3 Powers that Cannot be Delegated further by the Executive Committee**

- 9.3.1 The power to oversee and monitor the implementation and enforcement of the Municipality's credit control and**

debt collection policy, and any by-laws enacted, as well as the performance of the municipal manager in implementing them.

9.3.2 When necessary, the power to evaluate and make recommendations to Council reviewing the Municipality's credit control and debt collection policy and by-laws or the implementation of the policy and by-laws to improve the efficiency of the existing credit control and debt collection mechanisms, processes and procedures.

9.3.3 At intervals as determined by the Council, the power to report to the Council on the debt collection policy and credit control by-laws and their implementation.

#### **9.4 General Powers Delegated to the Executive Committee by Council**

9.4.1 The power to make any press statements on behalf of Council through the office of the Mayor.

9.4.2 The power to receive reports with recommendations from Directors through the office of the Municipal Manager on all matters that must be dealt with by either the Executive Committee or the Council in terms of these delegations, and or for which a specific committee has not been created to consider the matter beforehand.

9.4.3 **All powers necessary or incidental to execute the following:**

9.4.3.1 The responsibility to ensure that integration takes place between the various committees.

9.4.3.2 The responsibility to play a prominent role, through the office of the Mayor and in consultation with the municipal manager, in building and maintaining a

good relationship between the Council, Councillors, and the administration.

- 9.4.3.3 The responsibility of political supervision of the administration through the office of the Mayor
- 9.4.3.4 The responsibility for liaising with the community, other committees and councillors, and political office bearers in the different spheres of government through the office of the Mayor.
- 9.4.3.5 The responsibility to be available, on a regular basis, and to grant interviews to the public and visitors to the Municipal offices, and to interact with prominent business people and developers.
- 9.4.3.6 In general, all other powers and functions, necessary or incidental, to enable the Executive Committee to discharge its duties as required.
- 9.4.3.7 To accept donations of movable property on behalf of the Municipality through the office of the Mayor.
- 9.4.3.8 To determine the functional area of each portfolio committee and establish portfolio committees and its chair persons.

#### **Additional powers delegated to the Executive Committee**

- 9.5 The power to consider and approve, reject and or refer back to the referring authority, all recommendations made to them by the Municipal Manager and the Portfolio Committees.
- 9.6 The power to approve applications in terms of the Land Use Planning Ordinance, (Ordinance 15 of 1985), or its successor in law.

- 9.7 Bestowing of civic honours, including aldermanship and the naming of public streets, places and municipal buildings after persons.
- 9.8 The power to receive reports with recommendations from Directors through the office of the Municipal Manager on all matters that must be dealt with by either the Executive Committee or the Council in terms of these delegations, and for which a specific committee has not been created to consider the matter beforehand.
- 9.9 The power to consider the matters raised in aforementioned reports and either to dispose of them in terms of the Executive Committee's delegated powers or to forward them with the Executive Committee's recommendation to the council for consideration and finalization.
- 9.10 All powers, necessary or incidental to execute the following:
- 9.10.1 The responsibility for speedy and correct decision-making;
  - 9.10.2 To determine policy for the organization of Council's administrative functions, activities and work force into directorates and departments;
  - 9.10.3 To set policy in respect of matters that falls within the delegated powers of the Executive Committee or within the powers of the administration;
  - 9.10.4 To comment on proposed legislation and government policies, if and when necessary;
  - 9.10.5 To appoint Councillors to attend international meetings, conferences, seminars, etc.;
  - 9.10.6 To appoint or nominate Councillors to represent council on external bodies;



- 9.10.7 To approve international co-operative agreements, such as twin city relationships and agreements;
- 9.10.8 To determine the date of general valuation of property;
- 9.10.9 To approve international participation of the municipal manager, directors or those persons acting as municipal manager or directors, of meetings, conferences, seminars, etc.;
- 9.10.10 Take all reasonable steps to ensure that the annual performance agreements as required in terms of section 57 of the Systems Act for the municipal manager and managers reporting directly to the municipal manager require compliance with the Act in order to promote sound financial management; are linked to measurable performance objectives approved with the SDBIP; and that the annual performance agreements are concluded in accordance with Section 57 of the Systems Act;
- 9.11 If the municipality faces any serious financial problems, the Executive Committee must promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include:
  - (a) Steps to reduce spending when revenue is anticipated to be less than projected in the budget;
  - (b) The tabling of an adjustments budget; or
  - (c) Any other steps in terms of the MFMA and alert the Council and MEC for local government in the Province to those problems.

## **10. POWERS DELEGATED TO THE MAYOR**

### **10.1 Powers Delegated to the Mayor**

**The Mayor has the authority, where necessary and applicable:**

- 10.1.1 To perform a ceremonial role as Mayor.**
  - 10.1.2 To make press statements on behalf of Council.**
  - 10.1.3 On behalf of the municipality, enter into an employment contract with the municipal manager as contemplated in Section 57 of the Systems Act.**
  - 10.1.4 On behalf of the municipality, enter into a separate performance agreement with the Municipal Manager as contemplated in Section 57 of the Systems Act.**
  - 10.1.5 The power to determine the conditions of service of the municipal manager and managers reporting directly to the municipal manager.**
  - 10.1.6 To appoint, in consultation with the municipal manager, acting directors reporting directly to the municipal manager, in the absence of any particular director for whatever reason.**
  - 10.1.7 To appoint, in the absence of the municipal manager, a suitably qualified person as acting municipal manager.**
  - 10.1.8 To request a report from the municipal manager on any matter relevant to the Municipality's business.**
- 10.2 To institute and defend any proceedings of any nature whatsoever where the municipality is a party or has an interest, in any court of law, arbitration proceedings or similar forums, as and when necessary, in consultation with the Executive Committee and municipal manager.**

- 10.3 To approve or reject an application by any councilor or the municipal manager for legal assistance in terms of section 109A of the Municipal Systems Act, using fair and objective criteria, and in consultation with the Executive Committee.
- 10.4 Either the Mayor or Speaker may sign the payment authorizations for each other's travel and subsistence (S&T) allowance claims due payable, as and when necessary.

**Delegated Powers to the Mayor on Financial Matters as regulated by Chapter 7 of the MFMA**

**10.5 General Responsibilities (Section 52 – MFMA)**

**10.5.1 The Mayor of the municipality:**

- 10.5.1.1 Must provide political guidance over the financial affairs of the municipality.
- 10.5.1.2 In providing such general political guidance, may monitor and, to the extent provided in the MFMA, oversee the exercise of responsibilities assigned in terms of the Act to the accounting officer and the chief financial officer, but may not interfere in the exercise of those responsibilities.
- 10.5.1.3 Must take all reasonable steps to ensure that the Municipality performs its statutory functions within the limit of the approved budget.
- 10.5.1.4 Must within thirty (30) days of each quarter submit a report to the Council on the implementation of the budget and the financial state of affairs of the Municipality; and

- 10.5.1.5 Must exercise the other powers and perform the other duties as assigned in terms of the MFMA or by the Council to the Mayor.

## **10.6 Budget process and related matters (Section 53 – MFMA)**

The Mayor of the Municipality must:

- 10.6.1 Provide general political guidance over the budget process and the priorities that must guide the preparation of the budget.
- 10.6.2 Co-ordinate the annual revision of the Integrated Development Plan and the preparation of the Annual Budget, and determine how the Integrated Development Plan is to be taken into account or revised for the purpose of the Budget; and
- 10.6.3 Take all reasonable steps to ensure:
  - (a) That the Municipality approves its Annual Budget before the start of the financial year to which the budget relates.
  - (b) That the Municipality's Budget and Service Delivery Implementation Plan is finalized within 28 days after the approval of the budget; and
  - (c) That the annual performance agreements as required in terms of section 57 of the Systems Act for the municipal manager and managers reporting directly to the municipal manager require compliance with the Act in order to promote sound financial management; are linked to measurable performance objectives approved with the Budget and Service delivery Implementation Plan; and that the annual performance agreements are concluded in accordance with Section 57 of the Systems Act.

- 10.6.4 The Mayor must report any delay in the tabling of an annual budget, the approval of the Service Delivery and Budget Implementation Plan, and the signing of the annual performance agreement to the Council and the Provincial Minister (MEC) for Local Government.
- 10.6.5 The Mayor must ensure that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the Service Delivery and Budget Implementation Plan, are made public no later than 14 days after the approval of the Service Delivery and Budget Implementation Plan.

#### **10.7 Budgetary control and early identification of financial problems (Section 54 – MFMA)**

- 10.7.1 On receipt of a monthly budget report submitted by the accounting officer of the Municipality in terms of section 71 or 72, the Mayor must:
  - (a) Consider the report;

(b) Check whether the budget is implemented in accordance with the budget and service delivery implementation plan;

(c) Issue any appropriate instructions to the accounting officer to ensure that the budget is implemented in accordance with the budget and service delivery implementation plan; and, that spending of funds and revenue collection proceed in accordance with the budget; and

(d) Identify any financial problem facing the municipality, including any emerging or impending financial problems.

10.7.2 the municipality faces any serious financial problems, the Mayor must promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include:

(a) Steps to reduce spending when revenue is anticipated to be less than projected in the budget;

(b) The tabling of an adjustments budget; or

(c) Any other steps in terms of the MFMA and alert the Council and MEC for local government in the Province to those problems.

#### **10.8 Report to Provincial Executive if conditions for provincial intervention exist (Section 55 – MFMA)**

10.8.1 If the Municipality has not approved an annual budget by the first day of the budget year or if the Municipality encounters a serious financial problem referred to section 136 of the MFMA, the Mayor:

(a) Must immediately report the matter to the MEC for Local Government in the Province; and

- (b) May recommend to the MEC an appropriate provincial intervention in terms of section 139 of the constitution.

## **10.9 Exercise of Ownership control over Municipal Entities (Section 56 – MFMA)**

10.9.1 The Mayor of the Municipality which has sole or shared ownership control over a municipal entity must guide the Municipality in exercising its ownership control powers over the municipal entity in a way that:

- (a) Would ensure that the municipal entity complies with the MFMA and at times remains accountable to the Municipality; and

- (b) Would not impede the entity from performing its operational responsibilities.

10.9.2 In guiding the Municipality in the exercise of its ownership control powers over a municipal entity, the Mayor may monitor the operational functions of the entity, but may not interfere in the performance of those functions.

## **SPEAKER**

## **11 POWERS AND DUTIES CONFERRED ON THE SPEAKER BY LEGISLATION**

### **In terms of the Municipal Structures Act (Section 37)**

### **11.1 The Speaker of Council:**

- (a) Presides as chairperson at meetings of Council;
- (b) Must ensure that Council meets at least quarterly;
- (c) Must maintain order during Council meetings;
- (d) Must ensure compliance in the Council and Council Committees with the Code of Conduct as set out in Schedule 1 of the Systems Act;
- (e) Must ensure that the Council meetings are conducted in accordance with the rules and orders of Council.

### **11.2 General Powers Conferred on the Speaker by Council**

- 11.2.1. The Speaker must ensure that draft by-laws that are tabled to council and the public for comment comply with the Constitution, Structures Act, Systems Act, MFMA and other applicable National and Provincial legislation.
- 11.2.2 The Speaker must ensure that the procedural requirements that apply specifically to the adoption of by-laws have been adhered to.
- 11.2.3. The Speaker has to guard the integrity of the Council, which requires the Speaker to guard against the abuse of Councillor's privileges and interests.



- 11.2.4** The Speaker must deal with complaints lodged against Councillors. If the complaint so lodged is against the Speaker, the Mayor shall deal with such complaint.
- 11.2.5** The Speaker must exercise his/her duties within the rules of order of council and in terms of his/her delegated authority as determined by Council, and is therefore accountable to Council.
- 11.2.6** The Speaker convenes Council meetings and decides on its time and venue as prescribed by council's rules and orders. However, if a majority of councilors request a meeting in writing, the Speaker must convene a meeting accordingly at the time and venue so requested by the majority of councilors.
- 11.2.7** The Speaker must ensure that:
- (a) Councillor's freedom of speech in the Council meetings are protected; i.e. That Councillors are allowed to speak freely, that there is order in the meeting, and that there are no interruptions, etc;
  - (b) Councillor's freedom of speech is exercised subject to council's Rules of Order.
- 11.2.8** The Speaker must be involved in the preparation of the council agenda that is circulated to the Council members prior to a meeting. Council's Rules of Order should provide for a procedure to follow in preparing the agenda. The suggested principle should be that it be a consultative process, including the Mayor, Speaker and Municipal Manager.

- 11.2.9** The Speaker must ensure that the implementation of the Structures Act that deals with Council meetings are implemented, such as section 30 that deals with Quorums and decisions.
- 11.2.10** The Speaker is in charge of allocating speaking time to members in terms of Council's Policy or Rules of Order, on that issue. The Speaker must also implement section 81(3) of the Structures Act, which affords the participating traditional authorities an opportunity to address the council in particular circumstances.
- 11.2.11** The Speaker must implement the voting procedures as determined by Council's Rules of Order, subject to the Structures Act (quorum, abstentions, voting by division, declaration of the result, etc). If Council cannot take a decision on any matter for want of an equality of votes, the Councillor presiding as chairperson, which is normally the Speaker, can cast an extra vote to decide the matter. (section 30(4) Structures Act).
- 11.2.12** The Speaker must facilitate the implementation of section 20(1) and (2) of the Systems Act in as far as it deals with the public's admission to council meetings. The Council decides whether or not to close a meeting, but the Speaker must be able to advise council and facilitate the decision-making around the issue. The Speaker must ensure that members of the public are seated in designated areas and has the authority to remove any person who refuses to comply with the Speaker's ruling, whose ruling is final when taken whilst Council is in session.
- 11.2.13** The Speaker must maintain an attendance register in order to implement item 4(2) of the Code of conduct for councillors as contained in Schedule 1 of the Systems Act. This provides for the removal of Councillors after a third consecutive absence from a Council meeting without having obtained leave of absence.
- 11.2.14** The Speaker must take responsibility for liaising with, and the establishment of Ward Committees.

11.2.15 The Speaker must comply with Item 13 of the code of Conduct for Councillors if he/she is of the reasonable suspicion that a councilor has breached a provision of the Code.

11.2.16 The Speaker must sign the payment authorizations for all Councillor subsistence and travel (S&T) allowance claims due payable, as and when necessary, subject to paragraph 7.15 herein above.

## **12. FINANCE STANDING COMMITTEE**

### **1.1 GENERAL POWERS AND DUTIES CONFERRED ON THE FINANCE STANDING COMMITTEE**

1.1.1 Considers and make recommendations to the Executive Committee with regard to:

1.1.2 Financial statements;

1.1.3 Municipal revenue and expenditure;

1.1.4 Insurance and Investments;

1.1.5 Procurement;

1.1.6 Risk management;

1.1.7 Asset register;

1.1.8 Information technology;

- 1.1.9 Budgeting and audit reports;**
- 1.1.10 All credit control and indigent matters;**
- 1.1.11 The writing off of redundant municipal stock or equipment;**
- 1.1.12 The Indigent policy of the Municipality;**
- 1.1.13 Grants in aid;**
- 1.1.14 Over or under expenditure;**
- 1.1.15 The draft municipal budget;**
- 1.1.16 The writing off of debt;**
- 1.1.17 Fruitless and wasteful expenditure;**
- 1.1.18 Irregular expenditure;**
- 1.1.19 Unauthorized expenditure;**
- 1.1.20 The establishment of municipal entities;**
- 1.1.21 Audit reports;**
- 1.1.22 All trust and reserve accounts created for specific purposes;**
- 1.1.23 Policies on all financial matters;**

- 1.1.24 Co-ordinating the formulation of by-laws/policies relevant to the finance department;**
- 1.1.25 Consider the monthly budget reports submitted by the accounting officer of the Municipality in terms of section 71 or 72 of the MFMA;**
- 1.1.26 Check whether the budget is implemented in accordance with the budget and service delivery implementation plan;**
- 1.1.27 Make recommendations to the Executive Committee, if needed, to issue any appropriate instructions to the accounting officer to ensure that the budget is implemented in accordance with the budget and service delivery implementation plan; and, that spending of funds and revenue collection proceed in accordance with the budget; and**
- 1.1.28 Make recommendations to the Executive Committee with regards to any identified financial problem facing the municipality, including any emerging or impending financial problems.**
- 1.1.29 Promptly recommend to the Executive Committee any remedial or corrective steps proposed by the accounting officer to deal with such problems aforementioned, which may include:**
  - (a) Steps to reduce spending when revenue is anticipated to be less than projected in the budget;**
  - (b) The tabling of an adjustments budget; or**
  - (c) Any other steps in terms of the MFMA and alert the Council and MEC for local government in the Province to those problems.**

## **2. DEVELOPMENT AND PLANNING STANDING COMMITTEE**

### **GENERAL POWERS AND DUTIES CONFERRED ON THE DEVELOPMENT AND PLANNING STANDING COMMITTEE**

2.1 Considers and make recommendations to the Executive Committee with regard to:

2.1.1 The IDP, SDBIP and Performance management;

2.1.2 Local Economic Development Initiatives and the overall performance management of the municipality;

2.1.3 Tourism and heritage;

2.1.4 Spatial planning and land use management;

2.1.5 Agricultural development;

2.1.6 Research and development;

2.1.7 Financial Resource and Mobilization;

2.1.8 Co-ordinating the formulation of by-laws/policies relevant to the development and planning department.

2.1.9 Town planning;

2.1.10 Encroachment applications;

2.1.11 Rezoning applications;

2.1.12 Departure applications;

2.1.13 Consent use applications;

2.1.14 Housing and Human Settlements;

**3. COMMUNITY SERVICES STANDING COMMITTEE**

**14.1 GENERAL POWERS AND DUTIES CONFERRED ON THE  
COMMUNITY SERVICES STANDING COMMITTEE**

3.1.1 Considers and make recommendations to the Executive  
Committee with regard to:

3.1.2 Applications for utilization of municipal owned land;

3.1.3 The leasing of municipal owned property;

3.1.4 The acquisition and or alienation of municipal owned property;

3.1.5 Libraries;

3.1.6 Traffic Services;

- 3.1.7 Fire and Emergency services;**
- 3.1.8 Applications for liquor licenses;**
- 3.1.9 Applications for removal of restrictions;**
- 3.1.10 Applications for closing of streets and open spaces;**
- 3.1.11 The approval of building plans;**
- 3.1.12 The naming of streets and parking areas;**
- 3.1.13 The planning of residential, industrial and business areas;**
- 3.1.14 The approves housing projects;**
- 3.1.15 Applications for housing and or erven to applicants;**
- 3.1.16 Applications for religious building sites;**
- 3.1.17 Municipal parks and gardens;**
- 3.1.18 Cleansing services;**



**3.1.19 Waste management;**

**3.1.20 Alien vegetation;**

**3.1.21 Cemeteries;**

**3.1.22 Sports, arts and culture;**

**3.1.23 Recreation and swimming pools;**

**3.1.24 Caravan parks and public open spaces;**

**3.1.25 Maintenance of municipal facilities;**

**3.1.26 Overgrown erven within the municipal area;**

**3.1.27 The environment and environmental health issues;**

**3.1.28 Allocation of sites for hawkers;**

**3.1.29 Car parking and car guards;**

- 3.1.30 The municipal pound and stray animals;
- 3.1.31 Disaster management;
- 3.1.32 Tariff fees of municipal halls;
- 3.1.33 The keeping of animals within the municipal area;
- 3.1.34 Co-ordinating the formulation of by-laws/policies relevant to the Community Services department;
- 3.1.35 Social development/upliftment projects in the municipal area;
- 3.1.36 Amenities for disabled persons in the municipal area.

#### **4. TECHNICAL SERVICES STANDING COMMITTEE**

##### **4.1 GENERAL POWERS AND DUTIES CONFERRED ON THE TECHNICAL SERVICES STANDING COMMITTEE**

- 4.1.1 Considers and make recommendations to the Executive Committee with regard to:
- 4.1.2 Water and sanitation;

- 4.1.3 The provision of engineering services to the community;**
- 4.1.4 Municipal Infrastructure;**
- 4.1.5 The implementation of water restrictions;**
- 4.1.6 The erection/removals of street signs and road markings;**
- 4.1.7 Advertising signs on road reserves;**
- 4.1.8 Matters regarding the erection of information and tourism signs within the municipal area;**
- 4.1.9 Electrification;**
- 4.1.10 Roads and Storm Water;**
- 4.1.11 The extended public works programme;**
- 4.1.12 Fleet management;**
- 4.1.13 Projects under the project management unit;**
- 4.1.14 Co-ordinating the formulation of by-laws/policies relevant to the technical services department.**

## **16. CORPORATE SERVICES & HUMAN RESOURCE MANAGEMENT STANDING COMMITTEE**

### **16.1.1 GENERAL POWERS AND DUTIES CONFERRED ON THE CORPORATE SERVICES & HUMAN RESOURCE MANAGEMENT STANDING COMMITTEE**

- 16.1.2 Considers and make recommendations to the Executive Committee with regard to:
- 16.1.3 Human resource management of the municipality;
- 16.1.4 Matters regarding collective decision making; ie. Matters that cannot be dealt with at Bargaining Council level;
- 16.1.5 Customer care or satisfaction in the municipal area;
- 16.1.6 Bursary applications by municipal staff members relevant to their normal municipal duties or any municipal function;
- 16.1.7 The general administration and council support within the municipality;
- 16.1.8 Matters of a legal nature;

**16.1.9 Industrial/labour relations;**

**16.1.10 Performance management;**

**16.1.11 Conditions of service of staff members;**

**16.1.12 Monitoring adherence to the principle of equity during employment processes;**

**16.1.13 The Implementation of the performance management systems  
In accordance with the provisions of section 38 of the  
Municipal Systems Act;**

**16.1.14 Co-ordinating the formulation of by-laws/policies relevant to  
the corporate services department.**

## **OTHER COMMITTEES OF THE COUNCIL**

### **17. The Rules Committee**

The Rules Committee comprises:

- (i) The Speaker, who is also the Chairperson of the rules Committee;
- (ii) The Chairperson of the Corporate Services Standing Committee;

- (iii) The Whip of each political party represented on the Council;
- (iv) Any other councillor as appointed by council;
- (v) A legal representative who is on the Council's panel, as may be required by the Committee from time to time as an ex officio member;

**The Rules Committee shall have the following functions and powers:**

- (a) to develop, formulate and adopt policy concerning the exclusive business of the Council including its proceedings, procedures, rules, orders and practices;
- (b) to monitor and oversee the Implementation of policy on all matters referred to in paragraph (a) above;
- (c) to make recommendations to the Executive Committee on any matter falling within the functions and powers of the Committee;
- (d) to lay down guidelines, issue directives, and formulate regulations regarding any aspect referred to in this paragraph;
- (e) to appoint sub-committees to assist it with the performance of any of its functions or the exercise of any of its powers; and
- (f) to perform any other functions assigned to it by legislation, the provisions of this policy, the Rules of Order and Procedures of the Council and/or the resolutions of the Council.

(g) The Committee may deal with a matter falling within its functions and powers:

(h) on its own initiative; or

(i) when referred to it for consideration and report by:

☐ the Council; or

☐ the Speaker.

The responsibility for the implementation of policy determined by the Rules Committee and the control and management of all matters relating to the administration of the Council vests in the Speaker subject to legislative provisions, the decisions of the Rules Committee and resolutions of the Council. The Municipal Manager in conjunction with the Speaker may appoint officials to assist the Committee in the performance of its functions. A question before the Rules Committee is decided when there is a quorum present and there is agreement on the question among the majority of the members of the Committee.

The recommendations of the Rules Committee must be submitted to the Council for consideration in a separate report by the Speaker.

## **18. Staff Remuneration Committee**

The Council delegates the establishment of the Staff Remuneration committee which functions as follows:

- (a) The Council shall appoint a Staff Remuneration Committee comprising the Speaker and at least 3 Councillors including the Chairperson of the Corporate and Human Resources Standing Committee. One Councillor shall preferably have financial or remuneration expertise.
- (b) The Committee shall be chaired by the Chairperson of the Corporate Services and Human Resource Standing Committee;
- (c) The Committee shall have the power to appoint external professional advisors to assist it with its deliberations. It may also be assisted by SALGA in its deliberations;
- (d) The Municipal Manager, the Chief Financial Officer and the Corporate Services Manager shall serve on the Committee in an advisory capacity;
- (e) Representative Trade Unions may be allowed to attend meetings of the Committee on an observer basis and may be permitted by the chairperson to comment on or make representations on any matter under consideration by the Committee;



- (f) The Municipal Manager shall provide administrative and logistical support to the Committee.**

**The Committee shall meet at least quarterly, business permitting, and shall have the following terms of reference:**

- (g) to prepare a staff remuneration policy for the Municipality taking into account any Bargaining Council Collective Agreements and directives, the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006 and any policies adopted by SALGA or directives issued by this association with regard to staff remuneration;**
- (h) to consider and recommend amendments to the aforementioned policy;**
- (i) to recommend the granting of annual increments to staff in accordance with any Bargaining Council Collective Agreement and the above Regulations;**
- (j) to recommend the granting of performance bonuses and/or other performance awards to staff other than managers in accordance with any Bargaining Council Collective Agreement or any policy adopted or recommended by SALGA in this regard;**

- (k) to make recommendations regarding an application to the Bargaining Council for exemption from any collective agreement pertaining to the remuneration and service benefits of staff;**
- (l) to recommend a policy on the granting of voluntary severance packages to staff;**
- (m) to recommend the payment of special allowances to staff;**
- (n) to recommend deviations from the Remuneration Policy in respect of individual employees to compensate them adequately in special and deserving circumstances;**
- (o) to recommend the payment of special incentives to staff in order to address serious skills shortages in the Municipality;**
- (p) to recommend a mandate for collective bargaining;**
- (q) to deal with any matter referred to it by the Council;**
- (r) No official may remain in attendance at a meeting of the Committee when his own salary or staff benefit is being discussed.**

- i. The Committee shall have access to all staff records and such financial information as it may require in order to perform its functions.
- ii. Matters pertaining to the remuneration and benefits of Councillors shall be dealt with by the Rules Committee.

### **19. Supply Chain Management Committees**

The Municipal Manager shall, in his capacity as accounting officer of the Municipality and in accordance with the Supply Chain Management Policy of the Council, establish a committee system for competitive bids consisting of at least:

- (i) a bid specification committee;
- (ii) a bid evaluation committee; and
- (iii) a bid adjudication committee.

The Municipal Manager shall appoint the members of each committee subject to the condition that no Councillor of the Municipality may be a member of a bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids nor attend any meetings of such Committees as an observer.

The aforesaid committees shall function subject to the following conditions:

**i. Bid specification committee**

A bid specification committee must compile the specifications for each procurement of goods or services by the Municipality;

Specifications:-

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those Issued by Standards South Africa, the International Standards Organisation or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Supply Chain Management Policy of the Municipality; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids.

A bid specification committee must be composed of one or more officials of the Municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

## **ii. Bid evaluation committee**

A bid evaluation committee must evaluate bids in accordance with:

- (a) the specifications for a specific procurement; and

- (b) the points system contained in the Supply Chain Management Policy of the Municipality and as prescribed in terms of the Preferential Procurement Policy Framework Act 5 of 2000;
- (c) evaluate each bidder's ability to execute the contract;
- (d) check in respect of the recommended bidder whether his/its municipal rates and taxes and municipal service charges are not in arrears; and
- (e) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

A bid evaluation committee must as far as possible be composed of:

- (f) officials from departments requiring the goods or services; and
- (g) at least one Supply Chain Management Practitioner of the Municipality.

### **III. Bid adjudication committee**

A bid adjudication committee must:

(a) consider the report and recommendation of the evaluation committee; and

(b) either depending on its delegations, make a recommendation to the accounting officer to proceed with the relevant procurement, or make another recommendation to the accounting officer to proceed with the relevant procurement.

A bid adjudication committee must consist of at least three managers of the Municipality which must include :

(c) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and reporting directly to the Chief Financial Officer; the Chief Financial Officer;

(d) at least one senior Supply Chain Manager who is an official of the Municipality; and

(e) a technical expert in the relevant field of the Municipality, if the Municipality has such an expert.

The accounting officer must appoint the chairperson. If the chairperson is absent from a meeting, the members who are present must elect one of them to preside.

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or make another recommendation to the accounting officer how to proceed with the relevant procurement.

A bid adjudication committee must consist of at least four senior managers of the Municipality which must include:

- (c) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
- (d) at least one senior Supply Chain Management Practitioner who is an official of the Municipality; and
- (e) a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.

The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.



Neither a member of a bid evaluation committee nor an advisor nor a person assisting the evaluation committee, may be a member of a bid adjudication committee.

If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid -

- (a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
- (b) notify the accounting officer who may, after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee and if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

The accounting officer may, at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

If a tender other than the one recommended in the normal course of implementing the Supply Chain Management Policy of the Municipality is approved, the accounting officer must, in writing, notify the Auditor-General, the provincial treasury and the National Treasury of the reasons for deviating from such recommendation, provided that the aforementioned requirement shall not apply if a different tender was approved in order to rectify an irregularity.

## **20. Ward Committees**

The object of a Ward Committee is to enhance participatory democracy at local level. The Council shall establish a Ward Committee for each delimited Ward in its Municipal area. A Ward Committee consists of the member representing a Ward in the Council who shall be Chairperson of the Committee and not more than 10 persons.

The Council shall make uniform rules:

- (a) regulating the procedure to elect the 10 members of a Ward Committee taking into account the need for women to be equitably represented thereon and for the Committee to reflect a diversity of interests in each Ward;
- (b) regulating the circumstances under which members of Ward Committees vacate office and the frequency of Ward Committee meetings.

The Council must, furthermore, make administrative arrangements to enable the Ward Committees to perform their functions and exercise their powers effectively and, to this end, shall make adequate provision in its operating budget for such expenditure.

A Ward Committee has the main function of making recommendations on any matter affecting its Ward to the Ward Councillor or through the Ward Councillor to the Council. Members of Ward Committees, excepting the

Chairperson, are elected for a term of office determined by the Council. In formulating rules relating to the composition, election and operation of Ward Committees, the Council shall take cognizance of any national guidelines issued in this regard.

## **21. Audit Committee**

Section 166 (1) of the MFMA provides that each Municipality must have an Audit Committee.

The Audit Committee is an independent advisory body which must advise the Council, the political office-bearers, the accounting officer and the management staff of the Municipality on matters relating to:

- (a) Internal financial control and internal audits;
- (b) risk management;
- (c) accounting policies;
- (d) the adequacy, reliability and accuracy of financial reporting and information;
- (e) performance management;

- (f) effective governance;**
- (g) compliance with the MFMA, the annual Division of Revenue Act and any other applicable legislation;**
- (h) performance evaluation; and**
- (i) any other issues referred to it by the Municipality;**
- (j) Information Communication Technology;**
- (k) Risk Management;**
- (l) review the annual financial statements to provide the Council with an authoritative and credible view of the financial position of the Municipality, its efficiency and effectiveness and its overall level of compliance with the MFMA, the annual Division of Revenue Act and any other applicable legislation;**
- (m) respond to the Council on any issues raised by the Auditor-General in an audit report;**
- (n) carry out such investigations into the financial affairs of the Municipality as the Council may request; and**

- (o) perform such other functions as may be prescribed.

In performing its functions, an Audit Committee:

- (p) has access to the financial records and other relevant information of the Municipality and must liaise with the internal audit unit of the Municipality and the person designated by the Auditor-General to audit the financial statements of the Municipality.

An Audit Committee must:

- (q) Consist of at least three persons with appropriate experience, of whom the majority may not be in the employ of the Municipality; and
- (r) Meet as often as is required to perform its functions, but at least four times a year.

The members of an Audit Committee must be appointed by the Council. One of the members who is not in the employ of the Municipality must be appointed as the chairperson of the Committee. No Councillor may be a member of an Audit Committee.

## **22. Municipal Public Accounts Committee**

Council hereby establishes and authorize the Municipal Public Accounts Committee (MPAC) to:

- (i) Conduct Investigations into any matters within its scope of responsibility;
- (ii) Access information, records and personnel as it requires to fulfill its responsibilities;
- (iii) Request the attendance of any relevant stakeholder or employee, at Committee meetings;
- (iv) Conduct meetings with External Auditors (Auditor-General) and Internal Auditors as necessary;
- (v) Obtain advice from external parties as necessary;
- (vi) Resolve any disagreements between management and the auditors regarding financial reporting;
- (vii) Pre-approve all auditing; and
- (viii) Enhance communication between the Audit Committee and the Council.

2. The MPAC reports directly to Council through the Speaker of the municipality and interfaces with the other committees of council through the Speaker, where relevant.

3. The chairperson of the MPAC is appointed by Council by way of resolution.

4. The MPAC must meet at least quarterly.

## **23. MUNICIPAL MANAGER**

### **23.1 POWERS AND DUTIES CONFERRED ON THE MUNICIPAL MANAGER BY LEGISLATION**

#### **Municipal Systems Act (Section 55)**

- a. As head of administration of the Municipality, the municipal manager is, subject to the policy directions of council, responsible and accountable for:
  - (a) The formation and development of an economical, effective, efficient and accountable administration;
  - (b) Carrying out the task of implementing the Municipality's Integrated Development Plan in accordance with Chapter 5 of the Systems Act;
  - (c) Operating in accordance with the Municipality's performance management system in accordance with Chapter 6 of the Systems Act;
  - (d) Being responsive to the needs of the local community to participate in the affairs of the Municipality;

- (e) The management of the Municipality's administration in accordance with the Systems Act and other legislation applicable to local government;**
- (f) The management of the provision of services to the local community in a sustainable and equitable manner;**
- (g) The management, effective utilization and training of staff;**
- (h) The maintenance of discipline of staff;**
- (i) The promotion of sound labour relations and compliance by the Municipality with applicable labour legislation;**
- (j) Advising the political structures and political office bearers of the Municipality;**
- (k) Managing communications between the Municipality's administration and its political structures and political office bearers;**
- (l) Carrying out the decisions of the political structures and political office bearers of the Municipality;**



- (m) The administration and implementation of the municipality's by-laws and other legislation;
  - (n) The exercising of any powers and the performing of any duties delegated by the Municipal council, or sub-delegated by other delegating authorities of the Municipality, to the municipal manager in terms of section 59 of the Systems Act;
  - (o) Facilitating participation by the local community in the affairs of the municipality;
  - (p) Developing and maintaining a system whereby community satisfaction with Municipal services is assessed;
  - (q) The implementation of national and provincial legislation applicable to the Municipality;
  - (r) The performance of any other function that may be assigned by the Municipal Council.
- b. As accounting officer of the Municipality, the Municipal Manager is responsible and accountable for:
- (a) All income and expenditure of the Municipality;

(b) All assets and the discharge of all liabilities of the Municipality; and

(c) Proper and diligent compliance with the MFMA.

### **Municipal Finance Management Act (Sections 60 – 79)**

c. The Municipal Manager is the accounting officer of the Municipality for purposes of the MFMA, and, as accounting officer must:

(a) Exercise the functions and powers assigned to accounting officers in terms of the said Act, and

(b) Provide guidance and advice on compliance with the said Act to:-

- The political structures, political office-bearers and officials of the Municipality; and
- Any Municipality entity under the sole or shared ownership control of the Municipality.

### **Fiduciary responsibilities of accounting officer (Section 61 – MFMA)**

The accounting officer of the Municipality must:-

- (a) Act with fidelity, honesty, integrity and in the best interest of the Municipality in managing its financial affairs;**
- (b) Disclose to the Municipal Council and the Mayor all material facts which are available to the accounting officer or reasonably discoverable, and which in any way might influence the decisions or actions of the Council or the Mayor; and**
- (c) Seek, within the sphere of influence of the accounting officer, to prevent any prejudice to the financial interest of the Municipality.**

**d. An accounting officer may not:-**

- (a) Act in a way that is inconsistent with the duties assigned to accounting officer in terms of the MFMA; or**
- (b) Use the position and privileges of, or confidential information obtained as, accounting officer for personal gain or improperly benefit another person.**

## **FINANCIAL MANAGEMENT**

### **General Financial Management Functions (Section 62 – MFMA)**

**e. The accounting officer of the Municipality:**

- (a) Is responsible for the effective, efficient, economical and transparent use of the resources of the Municipality;**
- (b) Must keep full and proper records of the financial affairs of the Municipality in accordance with any prescribed norms and standards;**
- (c) Must ensure that the Municipality has and maintains:**
  - Effective, efficient and transparent systems of financial and risk management and internal control;**
  - A system of Internal audit operating in accordance with any prescribed norms and standards;**

- (d) Must take all reasonable steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and other losses; and
- (e) Must take effective and appropriate disciplinary steps against any official of the Municipality who:
- Contravenes or fails to comply with a provision of this Act;
  - Commits an act which undermines the financial management and internal control system of the Municipality; or
  - Makes or permits an unauthorized, irregular or fruitfulness and wasteful expenditure.

f. The accounting officer of a Municipality must take all reasonable steps to ensure that the Municipality has and implements:

- (a) Procurement and asset disposal policies which the Municipality must adopt in terms of section 166;
- (b) A tariff policy referred to in section 74 of the Municipal Systems Act;

**(c) A rates policy as may required in terms of any applicable national legislation;**

**(d) A credit control and debt collection policy referred to in section 96(b) of the Municipal Systems Act; and**

**(e) A supply chain management policy which gives effect to the provisions of Part 1 of Chapter 20 of the MFMA.**

**g. The accounting officer must maintain and regularly update the Municipality's official website and promptly, not later than 5 days after its tabling, place on the website:-**

**(a) The annual and adjustments budget and all budgets-related documents;**

**(b) All policies of the Municipality referred to in subsection;**

**(c) The annual report, financial statements and audit report;**

**(d) All performance agreements required in terms of section 57 (1) (b) of the Municipal Systems Act;**

- (e) All service delivery agreements and other agreements referred to in section 81;
  - (f) All long – term borrowing contracts;
  - (g) All procurement contracts above a prescribed value; and
  - (h) Any other documents that may be prescribed.
- h. The accounting officer is responsible for and must account for all bank accounts of the Municipality, including any bank account opened for any relief, charitable or trust fund set up by the Municipality in terms of section 12.
- i. The accounting officer of the Municipality:-
  - (a) Takes any appropriate action with regard to any loss of or shortage in fund or property belonging to or controlled by the council involving alleged fraud, theft or negligence on the part of all staff, members of council or any other structure of council. This action may only be instituted pursuant to relevant recommendations submitted by the relevant Portfolio Committee.

(b) Approves and reviews audit plans.

(c) Considers and deals with external audit report, and replies thereto and receive quarterly internal audit reports.

The Accounting Officer has the following further powers, duties or functions:

**Municipal Bank Account (Section 10(2) – MFMA)**

j. The accounting officer may delegate the duties referred to in subsection 10(1)(c) to the Municipality's chief financial officer only.

**Delegations (Section 79 – MFMA)**

k. In terms of section 79(1), the accounting officer of the Municipality, must-

(a) For the proper application of the MFMA, in the Municipality's administration, develop an appropriate system of delegation that will both maximize administrative and operational efficiency and provide adequate checks and balances in the Municipality's financial administration;



**(b) May, in accordance with that system of delegations, delegate to a member of the Municipality's top management referred to in section 77 or any other official of the municipality:**

- Any of the powers or duties assigned to an accounting officer in terms of the MFMA, or**
- Any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of the MFMA; and**

**(c) Must regularly review delegations issued in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.**

**l. In terms of section 79(2), the accounting officer may not delegate to any political structure or political office bearer of the municipality any of the powers or duties assigned to accounting officers in terms of the MFMA.**

**m. In terms of section 79(3), a delegation in terms of subsection (1), must be in writing;**

**(a) Subject to such limitations and conditions as the accounting officer may impose in a specific case;**

(b) May either be to a specific individual or to the holder of a specific post in the municipality;

(c) May, in the case of a delegation to a member of the municipality's top management in terms of subsection (1)(b), authorize that member to sub-delegate the delegated power or duty to an official or the holder of a specific post in that member's area of responsibility; and

(d) Does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

n. In terms of section 79(4) the accounting officer may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

### **Asset and Liability Management (Section 63 – MFMA)**

o. The accounting officer of a Municipality is responsible for the management of:-

(a) The assets of the Municipality, including the safeguarding and the maintenance of those assets; and

**(b) The liabilities of the Municipality.**

**p. The accounting officer must for the purposes of subsection (1):**

**(a) Ensure that the Municipality maintains a management, accounting and information system that accounts for the assets and liabilities of the Municipality;**

**(b) Cause the Municipality's assets and liabilities to be valued in accordance with standards of generally recognized accounting practice; and**

**(c) Establish and maintain a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.**

## **Revenue Management (Section 64 – MFMA)**

**q. The accounting officer of a Municipality is responsible for the management of the revenue of the Municipality.**

**r. The accounting officer must for the purposes of subsection (1):**

- (a) Ensure that the Municipality has proper revenue collection systems consistent with section 95 of the Municipal Systems Act and the Municipality's credit control and debt collection policy;**
- (b) On a monthly basis calculate revenue due to the Municipality;**
- (c) Ensure that accounts for Municipal tax, and charges for Municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;**
- (d) Ensure that all money received is promptly deposited in accordance with this Act into the Municipality's primary and other banks accounts;**
- (e) Establish and maintain a management, accounting and information system which:**
- Recognizes revenue when it is earned;**
  - Accounts for debtors; and**
  - Accounts for receipts of revenue;**

- (f) Establish and maintain a system of Internal control in respect of debtors and revenue as may be prescribed;**
- (g) Charge Interest on arrears, except where the Council has granted exemptions in accordance with its budget-related policies and within a prescribed framework; and**
- (h) Ensure that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled at least on a weekly basis.**

**The accounting officer must immediately inform the National Treasury of any payments due by an organ of state to the Municipality in respect of Municipal tax or for Municipal services, if such payments are regularly in arrears for periods of more than 30 days.**

**s. The accounting officer must ensure:**

- (a) That any funds collected by the Municipality on behalf of another organ of state is transferred to that organ of state at least on a weekly basis; and**
- (b) Those funds are not used for other purposes.**

## **Expenditure Management (Section 65 – MFMA)**

t. The accounting officer of a Municipality is responsible for the management of the expenditure of the Municipality.

u. The accounting officer must for the purpose of subsection (1):

(a) Ensure that the Municipality has and maintains a proper system of expenditure control, including procedures for the approval, authorization, withdrawal and payment of funds.

(b) Ensure that the Municipality has and maintain a management, accounting and Information system which:

- Recognises expenditure when it is incurred;
- Accounts for creditors of the Municipality; and
- Accounts for payments made by the Municipality;

(c) Ensure that the Municipality has and maintains a system of internal control in respect of creditors and payments;

(d) Ensure that payments are made:

- Directly to the person to whom it is due unless agreed otherwise or for good reason; and
  - Either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed;
- (e) Pay all money owing within 30 days of receiving the relevant invoices, unless where prescribed otherwise;
- (f) Comply with tax, levy, duty, pension, and other commitments of the Municipality as required by legislation;
- (g) Manage available working capital effectively and economically in terms of the prescribed cash management and investment framework;
- (h) Implement the Municipality's procurement and asset disposal policies referred to in section 165 in a way that is fair, equitable, transparent, competitive and cost effective; and
- (i) Ensure that all accounts of the municipality are closed at the end of each month and reconciled with its records;

## **Expenditure on Staff Benefits (Section 66 – MFMA)**

v. The accounting officer of a Municipality must:-

l. In a format and at intervals as may be prescribed, report to the Council on all expenditure incurred by the Municipality on staff salaries, wages, allowances and benefits, and in a manner that discloses such expenditure per type of expenditure namely:-

(a) Salaries and wages;

(b) Contributions for pensioners and medical aid;

(c) Travel, motor car, accommodation, subsistence and other allowances;

(d) Housing benefits and allowances;

(e) Overtime payments;

(f) Loans and advances; and



(g) Any other type of benefit or allowance related to staff;  
and

ii. Disclose such expenditure in the Municipality's annual report in a prescribed format.

### **Budget Preparation (Section 68 – MFMA)**

w. The accounting officer of a Municipality must:-

(a) Assist the Mayor in performing the budgetary functions assigned to the Mayor in terms of Chapter 4; and

(b) Provide the Mayor with the administrative support, resources and information necessary for the performance of those functions.

### **Budget Implementation (Section 69 – MFMA)**

x. The accounting officer of a Municipality is responsible for implementing the Municipality's approved budget, including taking all effective and appropriate steps to ensure that:-

(a) The spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated

to be less than projected in the budget or in the budget and service delivery Implementation plan; and

(b) Revenue and expenditure are properly monitored.

y. When necessary, the accounting officer must prepare an adjustment budget and submit it to the Mayor for consideration and tabling in the Municipal Council.

z. The accounting officer must no later than 14 days after the approval of an annual budget submit to the Mayor:

(a) A draft budget and service delivery Implementation plan for the budget year; and

(b) Drafts of the annual performance agreements as are required in terms of section 57(1)(b) of the Systems Act for the Municipal Manager and all managers directly accountable to the municipal manager.

### **Impending Shortfalls, Overspending and Overdrafts (Section 70 – MFMA)**

aa. The accounting officer of the Municipality must report in writing to the Municipal Council, via the Executive Committee:

(a) Any impending shortfalls in the budgeted revenue and overspending of the municipality's budget; and

(b) Any steps taken to rectify such shortfalls or overspending.

bb. If the consolidated balance in the municipality's bank accounts shows a net overdrawn position for a period exceeding a prescribed period, the accounting officer of the municipality must promptly notify the National treasury in the prescribed format of:

(a) The amount by which the account or accounts is overdrawn;

(b) The reasons for the overdrawn account or accounts; and

(c) The steps taken or to be taken to correct the matter.

## **REPORT AND REPORTABLE MATTERS**

### **Monthly Budget Statements (Section 71 – MFMA)**

cc. The accounting officer of the municipality must by no later than seven working days after the end of each month submit

to the Mayor of the municipality and the National Treasury a report in the prescribed format on the state of the Municipality's budget during that month and during the financial year up to the end of that month reflecting:

- (a) The actual revenue, per revenue source;
- (b) Actual borrowings;
- (c) The actual expenditure, per vote;
- (d) The actual capital expenditure, per vote;
- (e) The amount of any transfers received, from national organs of state in terms of the annual division of revenue act, and from provincial organs of state and other municipalities;
- (f) The actual expenditure on those transfers, excluding expenditure on its share of the local government equitable share and on transfers which the annual division of revenue act exempts from this section;

When necessary, an explanation of: -

- dd. Any material variance from the municipality's projected revenue by source, and from the municipality expenditure

projections per vote; and any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

- ee. A projected of revenue and expenditure for the rest of the financial year, and any revision from Initial projections.
- ff. The amount reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the municipality's approved budget.
- gg. The statement to the national treasury referred to in subsection (1) may be in electronic format.
- hh. The accounting officer of the municipality which has received transfer referred to in subsection (1) (e) during any particular month must, by no later than seven (7) working days after the end of that month, submit that part of the statement reflecting the particulars referred to section (1) (e) and (f) to the national or provincial organ of state or municipality which made the transfer.

## **Mid-year budget and performance assessment (Section 72 – MFMA)**

- II. The accounting officer of a municipality must by 25 January of each year: -

**(a) Assess the performance of the municipality during the first half of the financial year, taking into account:**

- The monthly statements referred to in section 71 for the first half of the financial year;
- The municipality's service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the SDBIP;
- The past years annual report, and progress on resolving problems identified in the annual report; and
- The performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities; and

**(b) Submit a report on such assessment to:**

- The mayor of the municipality;
- The national treasury; and
- The relevant provincial treasury.

jj. The statement referred to in section 71(1) for the sixth month of a financial year may be incorporated into the report referred to in subsection (1)(b) of section 72 of the MFMA.

kk. The accounting officer must, as part of the review: -

- Make recommendations as to whether an adjustments budget is necessary; and
- Recommend revised projections for revenue and expenditure to the extent that this may be necessary.

**Reports on failure to adopt or implement budget-related and other policies (Section 73 – MFMA)**

ll. The accounting officer must inform the MEC for local government in the province and national treasury, in writing, have: -

- (a) Any failure by the council of the municipality to adopt or implement a budget related policy or a procurement or asset disposal policy referred to in section 111; or
- (b) Any non-compliance by political structures or office-bearers of the municipality with any such policy.

## **General Reporting Obligation (Section 74 – MFMA)**

mm. The accounting officer of a municipality must submit to the national treasury, the MEC for local government in the province or auditor-general such information, return, documents, explanations and motivations as may be prescribed or as the notational treasury, the MEC or the auditor general may require.

## **Protection of Accounting Officer**

nn. Any action taken by a political structure or officer-bearer of a municipality against the accounting officer of the municipality solely because of that accounting officers compliance with a provision of any applicable legislation, is an unfair labour practice for the purpose of the labour relations act, 1995 (act no. 66 of 1995).

## **FINANCIAL ADMINISTRATION**

### **TOP MANAGEMENT OF THE MUNICIPALITY – (Section 77 – MFMA)**

oo. The top management of a municipality's administration consist of: -



(a) The accounting officer;

(b) The chief financial officer;

(c) All managers referred to in section 56 of the municipality system act who are responsible for managing the respective votes and to whom powers and duties for this purpose have been delegated in terms of section 79 of this act; and

(d) Any other senior officials designated by the accounting officer.

pp. The top management must assist the accounting officer in managing and co-coordinating the financial administration of the municipality.

## **GENERAL POWERS DELEGATED BY COUNCIL TO THE MUNICIPAL MANAGER**

qq. The following powers are delegated to the municipal manager:

(a) To execute any power contemplated in the relevant conditions of service as applicable to the various employees of the municipality.

- (b) To take any action necessary to ensure that council resolutions are executed.
- (c) To sign any documents on behalf of the municipality.
- (d) To authorize staff, other than senior managers employed in terms of section 56 of the Municipal Systems Act, to act in higher positions and to authorize for the payment of acting allowances to such staff members so acting.
- (e) To authorize the payment of medical or funeral expenses of all staff arising from an injury or duty.
- (f) To allocate office accommodation to the various municipal departments.
- (g) To make recommendations to the Executive Committee on any application for burial in the honorary acre in any municipal cemetery, if applicable.
- (h) To authorize all reports from the various departments to committees of the council.

- (i) To appoint and dismiss all staff from the level below Director, subject to the policy directions of the municipal council, any collective agreement, and In compliance with labour law.
- (j) To withdraw any power delegated to a Director reporting directly to the municipal manager.
- (k) To approve time-off for trade union activities not catered for in the collective agreement.
- (l) To authorize all procurement of the municipality in compliance with the municipality's supply chain management policy.
- (m) To sign all contracts of the municipality, including contracts with a contractual value in excess of R10m (ten million rand).
- (n) To sign all requisitions for all purchases of the municipality.
- (o) To sign authorizations for the payment of all tax Invoices of service providers for the supply of goods and material and or for the rendering of services.

- (p) To institute and defend any proceedings of any nature whatsoever where the municipality is a party or has an interest, in any court of law, arbitration proceedings or similar forums, as and when necessary, in consultation with the Mayor.
- (q) To approve or reject an application for legal assistance in terms of section 109A of the Municipal Systems Act by any Ngqushwa municipal councillor or Ngqushwa municipal official, using fair and objective criteria.
- (r) Dealing with, and overseeing general communications.
- (s) Overseeing the internal audit function of the municipality.
- (t) Dealing with issues related to international and inter-governmental relations.
- (u) Overseeing special projects programmes.

## **24. GENERAL POWERS AND DUTIES CONFERRED ON ALL DIRECTORS BY LEGISLATION**

- a. A manager referred to in section 56 of the municipal systems act of a municipality so delegated: -

- (a) Must ensure that the system of financial management and Internal control established for the municipality is carried out within the area of responsibility of that "manager" (read "Director");
- (b) Must ensure the effective, efficient , economical and transparent use of financial and other resources within the area of responsibility of that manager;
- (c) Must take effective and appropriate steps to prevent, within the area of responsibility of that manager, any unauthorized, Irregular or fruitless or waste expenditure and any under-collection of revenue due;
- (d) Must comply with the provisions of this act to the extent applicable to that manager, Including any delegations in terms hereof;
- (e) Is responsible for the management, Including the safeguarding, of the assets and the management of the liabilities within the area of responsibility of that manager; and
- (f) Must perform these functions subject to the directions of the accounting officer of the municipality.

## **Delegations in terms of Section 79 - MFMA**

### **b. The accounting officer of the municipality:-**

- (a) Must for the proper application of this act in the municipality's administration develop an appropriate system of delegation that will both maximize administration and operation efficiency and provide adequate checks and balances in the municipality's financial administration;**
- (b) May, in accordance with that system, delegate any of the powers or duties assigned to an accounting officer in terms of this act:**
  - To a member of the municipality's top management referred to in section 72; and**
  - To any other official of the municipality;**
- (c) Must regularly review delegations in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.**

**c. A delegation in term of subsection (1):**

- (a) Must be in writing;**
- (b) Is subject to such limitations and conditions as the accounting officer may impose in a specific case;**
- (c) May either be to a special individual or to the holder of a specific post in the Municipality;**
- (d) May, in case of a delegation to a member of the Municipality's top management, authorize that member to sub delegate the delegated power or duty to an official or the holder of a specific post in the member's area of responsibility; and**
- (e) Does not divest the accounting officer and or the Director of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.**

**d. The accounting officer may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.**

## **GENERAL POWERS OF THE MUNICIPAL MANAGER DELEGATED TO ALL DIRECTORS OF THE MUNICIPALITY**

e. All Directors of the Municipality have delegated authority to: -

- i. Approve the use of official vehicles of the Municipality outside the Municipal area for official purposes.
- ii. Sign all requisitions for all procurement within his/her directorate, in consultation with and in agreement with the municipal manager, up to a maximum threshold value of R2m (two million rands, inclusive of VAT);
- iii. Recommend to the municipal manager the transfer of funds within expenditure groups in the operating budget in accordance with the Municipality's approved policy, or any directives from the Executive Committee in the absence of any policy.
- iv. Recommend payment of acting allowances for managers and staff within their directorates;
- v. Recommend to the municipal manager the payment or cancellation of payment for standby, telephone, transport, housing or cell phone allowances to managers in their directorates, within a policy framework;



- vi. Approve the payment or cancellation of payment for standby, telephone, transport, housing or cell phone allowances to employees below the level of managers in their directorates, within a policy framework;
- vii. Recommend to the municipal manager the approval for leave of absence for managers or staff within their directorates, other than themselves, or to postpone or deny such leave, or call back any such manager or staff from vacation leave;
- viii. Recommend to the municipal manager the approval of overtime worked by managers within their directorates, as well as the remuneration thereof;
- ix. Approve overtime worked by staff below the level of managers within their directorates, as well as the remuneration thereof;
- x. The power to claim the submission of medical certificates in accordance with the Service Conditions, in cases where applications for sick leave for period(s) of more than two working days are lodged by all employees within their directorates;

- h. Recommend to the municipal manager the sale of movable and immovable property of defaulters in lieu of property rates and service charges in the municipal area, if deemed necessary.**
- i. Should he/she regard it as being in the interest of the Council, a Director may grant approval to officials, including the Managers within their directorates, to undertake visits for a maximum of one week for official purposes and the attendance of lectures, courses and seminars for up to but not exceeding two weeks, he/she can authorize the payment for attendance and registration fees as well as travelling and accommodation expenses in such cases, or allow officials to make use of official transport, subject to consultation with the municipal manager.**
- j. To accept quotations and or tenders for the purchase of goods or services in accordance with the Municipality's supply chain policy, to a maximum amount of R200 000,00 (two hundred thousand rands), VAT inclusive, and to sign any contracts in terms thereof. Any expenditure made in terms of the operational budget shall be subject thereto that the necessary funds have been budgeted for. Monthly reports must be submitted to the municipal manager herein.**
- k. To grant approval for special leave to all officials within their directorates, including Managers, with or without remuneration, based on individual circumstances.**

- l. The appointment of casual workers within his/her directorate on a contractual and/or daily basis for the performance of specific tasks and goals, with due regard for the budget and subject thereto that appropriate funds are available.
- m. To sign on behalf of the Council any agreements pertaining to his/her directorate, after consultation with the Municipal Manager.
- n. In consultation with both the Municipal Manager and Director: Finance, grant approval for the rendering of non-recurrent or temporary assistance to other local authorities, subject thereto that the relevant local authority remunerates the Ngqushwa Municipality for traveling and accommodation expenses, material supplies, transport costs, pro rata salary and sundries, if any.
- o. Notwithstanding the municipal managers powers to invoke disciplinary action, the power to enforce the disciplinary procedure in terms of the Disciplinary Code Collective Agreement within their directorates.
- p. The Director: Finance is delegated with authority to sign all contracts above R200 000 (two hundred thousand rands), which amount is inclusive of VAT, up to the value of R10m (ten million rands) inclusive of VAT, in consultation with the municipal manager.

## **25. SUB-DELEGATION (ACTING AND NON ACTING POSITIONS)**

Council – Municipal Manager, Municipal manager to Senior Management, Senior Management to their respective officials. In the event that an official is working on an acting position basis, that official must sign the delegation letter stating the duties to performed by the official in his/her acting capacity.

## **26. DELEGATION LETTER FRAMEWORK**

Letter to be signed by the delegator and the official receiving the delegation. Letter to state the length and purpose of the delegation. The capacity and authority of the officials must be clearly stated in the letter.

## **27. SCHEDULE OF DELEGATIONS**

Summary of all the delegations and non- delegated powers subject to being reviewed annually upon approval by council. To avoid a situation of acting on previous delegation, which may not be applicable in following schedule.

## **28. DELEGATION MUST BE CONFIRMED BY DELEGATED OFFICIAL**

Official being delegated to confirm delegation in writing. This would assist in avoiding the risk of an official denying knowledge of his/ her actions by virtue of delegation.

## **29. ROLES AND RESPONSIBILITIES**

<b>Role</b>	<b>Authority</b>
Create, evaluate, review	Council
<ul style="list-style-type: none"><li>• Implement and enforce this policy</li><li>• Establish and control the administration necessary to fulfil this policy, and report efficiently and regularly to the Committee in this regard.</li></ul>	Municipal Manager
<ul style="list-style-type: none"><li>• Ensure that there is compliance with the Municipal Property Rates Policy</li></ul>	Municipal Manager

## **30. MONITORING, EVALUATION AND REVIEW**

- A report detailing the progress with the implementation delegation policy with specific reference to achievement of this policy has to be compiled every year by the person with the responsibility for implementation and monitoring. The policy must be made available to all consulting parties for perusal and comment and must be circulated to all staff members by means of circulars, notices and notice boards

## **31. DEFINITIONS AND ABBREVIATIONS**

<b>Term</b>	<b>Meaning</b>
Act	Means the Local Government: Municipal Finance Management Act No. 56 of 2003
Constitution	Means the Constitution of the Republic of South Africa Act No.108 of 1996;
Council	Means the council of the municipality as envisaged in section 157(1) of the Constitution and section 18 (3)

	of the Local Government: Municipal Structures Act No. 117 of 1998;
<b>MEC for local government</b>	" means the member of the Executive Council responsible for local government in the Eastern Cape Province;
<b>municipal council" or "council"</b>	Means the municipal council of Ngqushwa Municipality;
<b>Municipal manager"</b>	means a person appointed by the Council in terms of section 54A of the Municipal Systems Act No. 32 of 2000 and includes any staff member acting in this position and any staff member to whom duties and powers with regard to the implementation and enforcement of this policy have been lawfully delegated and any person seconded to the municipality to act as municipal manager and, in the event of the municipality being subject to an intervention in terms of section 139 of the Constitution or any other applicable law, the administrator appointed as a result of or pursuant to such intervention;
<b>organ of state</b>	" means an organ of state as defined in section 239 of the Constitution;
<b>Prescribed</b>	Means prescribed in terms of the Act or a regulation promulgated in terms of the Act;

## **32. SUPPORTING DOCUMENTS**

- Delegation of Authority letter framework (by Municipal Manager)
- Delegation of Authority letter Framework (Sub- Delegation)
- Delegation of Authority letter Framework (Sub- Delegation Acting positions)
- Delegation of Authority Schedule

## **33. REFERENCES**

- NONE

## **34. APPENDIX**

By virtue of the authority vested in me in terms of section 79 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) read in conjunction with section 59 of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000), I, ....., in my capacity as Municipal Manager of the Ngqushwa Local Municipality, hereby delegate the powers, duties, functions and responsibilities, contained in Annexure A (template), to the Chief Financial Officer. I authorise the Chief Financial Officer to sub-delegate those powers, duties, functions and responsibilities to the appropriate managers within the Budget and Treasury Office in the municipality.

### **GENERAL**

Further sub-delegation by the Chief Financial Officer to any other official outside the Budget and Treasury Office of the municipality can only be undertaken with my concurrence. The powers, duties, functions and responsibilities must be exercised according to Council's approved policies.

SIGNED AT ..... ON THIS ..... DAY OF ..... 20....

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### **ACCOUNTING OFFICER**

#### **DATE:**

I ....., in my capacity as the Chief Financial Officer of the ..... Municipality hereby accepts the delegations in Annexure A.

---

### **CHIEF FINANCIAL OFFICER**

#### **DATE:**

[Note: this is a pro forma template which must be used for the issuance, acceptance and implementation of delegations by the delegator and delegatee]

## **SUPPORTING DOCUMENT: 2**

**SUB-DELEGATION OF POWERS, DUTIES, FUNCTIONS AND RESPONSIBILITIES IN TERMS OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 AND ITS ASSOCIATED REGULATIONS; DIVISION OF REVENUE ACT; LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 BY THE CHIEF FINANCIAL OFFICER OF THE NGQUSHWA LOCAL MUNICIPALITY TO THE INCUMBENT THAT WILL BE ACTING IN THE POSITION MANAGER: MUNICIPAL BUDGETS WITHIN THE BUDGET AND**



**TREASURY OFFICE OF THE NGQUSHWA LOCAL MUNICIPALITY FOR  
THE PERIOD ..... TO ..... 20.....**

By virtue of the authority vested in me by section 82(1) of the Municipal Finance Management Act, 2003 (Act 56 of 2003), I, ....., In my capacity as Chief Financial Officer of the Ngqushwa Local Municipality, hereby sub-delegate the powers, duties, functions and responsibilities to the incumbent that will be acting in the position Manager: Municipal Budgets or the acting official of the indicated post.

It must be noted that the official acting in a temporary capacity in the position Manager: Municipal Budgets will be equally, jointly, severally and otherwise responsible for the agreed outcomes to be achieved and the performance of the tasks attached to the post for the period that he or she is acting in this post.

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**CHIEF FINANCIAL OFFICER**

**DATE:**

I ..... in my capacity as Acting Manager: Municipal Budgets of the Ngqushwa Local Municipality hereby accepts the delegations in the attached Annexure.

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**ACTING MANAGER: MUNICIPAL BUDGETS**

**DATE:**

**SUPPORTING DOCUMENTS: 3**

**SUB-DELEGATION OF POWERS, DUTIES, FUNCTIONS AND RESPONSIBILITIES IN TERMS OF THE LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 AND ITS ASSOCIATED REGULATIONS; DIVISION OF REVENUE ACT; LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 BY THE CHIEF FINANCIAL OFFICER OF THE ..... MUNICIPALITY TO THE**

**MANAGER: MUNICIPAL BUDGETS WITHIN THE BUDGET AND TREASURY OFFICE OF THE ..... MUNICIPALITY**

By virtue of the authority vested in me by section 82(1) of the Municipal Finance Management Act, 2003 (Act 56 of 2003), I, ....., In my capacity as Chief Financial Officer of the ..... Municipality, hereby sub-delegate the powers, duties, functions and responsibilities to the incumbent of the position Manager: Municipal Budgets.

It should be noted that further sub-delegation by the Manager: Municipal Budgets must only be undertaken with my concurrence.

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**CHIEF FINANCIAL OFFICER**

**DATE:**

I ..... in my capacity as Manager: Municipal Budgets of the ..... Municipality hereby accepts the delegations in the attached Annexure.

---

**MANAGER: MUNICIPAL BUDGETS**

**DATE:**

**[Note: this is a pro forma template which must be used for the issuance, acceptance and implementation of delegations by the delegator and delegatee. This therefore means that whenever the CFO or any other official sub-delegates, this template will have to be used and the relevant names will have to be inserted above.]**