

Mbizana, South Africa

Rules and Procedures of the Council and its Committee By-law, 2017

Legislation as at 24 April 2017

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Rules and Procedures of the Council and its Committee By-law, 2017
 Contents

1. Definitions 1

Chapter 1 – Order of business and related matters - Council meetings 2

 Part 1 – Order of business 2

 2. Commencement of meeting of Council 2

 3. Order of business 3

 4. Election of Speaker 3

 5. Statements and communications by Speaker 3

 6. Attendance at meetings 3

 7. Agendas and Minutes 4

 8. Deputations 5

 9. Notices of motion and notices of questions 5

 10. Absence of mover or questioner 5

 11. Motions and questions on matters dealt with by a Committee 6

 12. Rescission of resolution 6

 13. Recommendation of Committee 6

 14. Questions 6

 15. Motions of exigency 7

 Part 2 – Related Matters 7

 16. Motions of course 7

 17. Recording a protest 7

 18. Motion or question reintroduced or put again 8

 19. Member to address Speaker 8

 20. Length of speeches 8

 21. Order of precedence 8

 22. Precedence of Speaker 8

 23. Relevance 8

 24. Member may speak once only except mover or original motion 9

 25. Point of order and personal explanation 9

 26. Speaker's ruling on point of order 9

 27. Withdrawal of motion, amendment or question 9

 Part 3 – Order of debate: Motions 9

 28. Order of debate 9

 29. That the motion be amended 10

 30. That consideration of the question be postponed 10

31. That the Council do now adjourn	10
32. That the Council now adjourn for a caucus meeting	11
33. That the debate now be adjourned	11
34. That the question now be put	12
35. That the Council proceed to the next business	12
Part 4 – Council in Committee	12
36. Application of these by-laws in the case of special meetings and meetings of the Council in Committee	12
37. Committee of the whole Council	12
Part 5 – Unopposed Business	12
38. Unopposed business	12
Part 6 – Quorum	13
39. Quorum	13
Part 7 – Decisions and voting	13
40. Decisions by Council	13
41. Voting by show of hands	13
42. Voting by division	13
43. Procedure in conducting a ballot	14
Chapter 2 – Delegations	15
44. Delegation to Committees and other functionaries	15
45. Duty to report to delegating authorities	16
46. Review of delegations	17
Chapter 3 – Internal structures and Committees	17
Part 1 – Criteria for establishment of Committees	17
47. Criteria for establishment of Committees	17
Part 2 – Ward Committees	17
48. Object of Ward Committees	17
49. Establishment of Ward Committees	17
50. Functions and powers of Ward Committees	18
51. Term of office of members	18
52. Vacancies	18
53. Remuneration of members	18
54. Dissolution of Ward Committees	18
Part 3 – Other Committees	18
55. Establishment of other Committees	18

Part 4 – Advisory Committees	19
56. Establishment of advisory Committees	19
Part 5 – Incidental Matters	19
57. Incidental matters: Committees	19
Chapter 4 – Office bearers	20
58. Election of Speaker	20
59. Functions of Speaker	20
60. Term of office of Speakers	20
61. Vacation of office	20
62. Removal from office	20
63. Acting Speakers	21
Chapter 5 – Council and Committee meetings	21
64. Maintenance of order at Council and Committee meetings	21
Chapter 6 – Miscellaneous matters	22
65. Frequency of meetings of Council and Committees	22
66. Speaker to call Council meetings	22
67. Admission of public to meetings	22
68. Public notice of meetings	23
69. Attendance at Committee meetings	24
70. Legislative procedure	24
71. Procedurally fair administrative action	24
72. Reasons for administrative action	24
73. Privileges and immunities	24
74. Use of Language at Council and Committee meetings	25
75. Every Member to be in possession of a copy of these Rules and Procedures	25
76. Penalties	25
77. Repeal of By-Laws	26

Mbizana South Africa

Rules and Procedures of the Council and its Committee By-law, 2017

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The Municipal Manager hereby publishes, in terms of Section 13 of the Local Government Municipal Systems Act, 2000 ([Act 32 of 2000](#)) read with Section 162 of the [Constitution of the Republic of South Africa Act 1996 \(Act 108 of 1996\)](#) the By-Laws Relating to the Rules and Procedures of the Council and its Committee and for matters incidental thereto which by-laws shall come into operation on the date of publication thereof.

AND WHEREAS the [Constitution](#) establishes local government as a distinctive sphere of government;

AND WHEREAS section 160(6) of the said [Constitution](#) authorizes a Municipal Council to adopt policies and make by-laws which prescribe Rules and Procedures for:

- (a) Its internal arrangements
- (b) Its business and proceedings; and
- (c) The establishment, composition, procedures, powers and functions of its Committees;

AND WHEREAS the Municipal Structures Act, the Municipal Systems Act, as well as other legislation provides for certain matters which may be included in the Rules and Procedures of a Municipality and be incorporated in the by-laws of a Municipality.

The Council of the Municipality hereby adopts the following by-laws :

1. Definitions

In these Rules and Procedures, unless the context otherwise indicates

"**Accredited Organization**" means a community organization, excluding political parties, which in the opinion of the Council, has substantial support in the community, has a constitution, and is accredited by the Council;

"**Advisory Committee**" means a Committee established in terms of Section 17(4) of the Systems Act;

"**Code of Conduct for Councillors**" means the Code of Conduct for Councillors contained in Schedule 1 of the Systems Act

"**Chairperson**" means the Chairperson of a Standing or any other Committee established by the Council.

"**Chief Whip**" means the Whip of the ruling party in the Council who must, together with other Whips ensure the smooth functioning of the Council, or the member so designated by the political parties in the Council who do not enjoy an outright majority.

"**Committee**" means a Committee established in terms of sections 79 or 80 of the Structures Act;

"**Community**" means that body of persons comprising the residents, the ratepayers, any civic organization, non-governmental, private sector or labour organization or body which is involved in local affairs within the municipality;

"[Constitution](#)" means the [Constitution of the Republic of South Africa, Act 108 of 1996](#), as amended;

"**Council**" means the Municipal Council of the Municipality, as referred to in section 157 of the [Constitution](#);

"**Delegation**", in relation to a duty, includes an instruction to perform the duty, and "delegate" has a corresponding meaning;

"**MEC for local government**" means the member of the Executive Council responsible for local government in the Eastern Cape Province;

"**Member**" means a member of the Council of the Municipality;

"**Municipal Manager**" means a person appointed by the Council in terms of section 82 of the Municipal Structures Act as Municipal Manager and includes any person acting in this post;

"**Municipal Systems Act**" means the Local Government: Municipal Systems [Act, No 32 of 2000](#) as amended, herein referred to as the "Systems Act";

"**Municipal Structures Act**" means the Local Government: Municipal Structures [Act, No. 117 of 1998](#), as amended, herein referred to as the "Structures Act";

"**Municipality**" means the Municipality of Mbizana

"**Party**" means a party registered in terms of the Electoral Commission Act, 1996 ([Act No 51 of 1996](#))

"**Promotion of Access to Information Act**" means [Act 2 of 2000](#) as amended;

"**Promotion of Administrative Justice Act**" means [Act 3 of 2000](#) as amended;

"**Promotion of Equality and Prevention of Unfair Discrimination Act**" means [Act 4 of 2000](#);

"**Ratepayer**" means a person who is liable to the Municipality for the payment of rates on property in the Municipality, any other tax, duty or levy imposed by the Municipality or fees for services provided either by the Municipality or in terms of a services delivery agreement concluded with the Municipality;

"**Resident**" means a person who is ordinarily resident in the Municipality;

"**Speaker**" means a member elected in terms of section 36 of the Structures Act to be the Speaker of the Municipal Council and the Acting Speaker where applicable;

"**Structure**", means the Council of the Municipality or any Committee or other collective structures of the Municipality;

"**Ward**" means a Ward mentioned in item 2 of Schedule 1 of the Structures Act;

"**Whip**" means a member of a party in the Council appointed by that party as Whip to ensure, together with the Chief Whip, the smooth functioning of the proceedings of the Council in terms of these By-Laws.

Chapter 1

Order of business and related matters - Council meetings

Part 1 – Order of business

2. Commencement of meeting of Council

At each meeting of the Council, the chair shall be taken precisely at the time for which the meeting is convened as stated in the notice of the meeting and the business of the meeting shall be proceeded with immediately.

3. Order of business

The business at ordinary meetings of the Council shall be disposed of in the following order:

- (a) Opening and Welcoming;
- (b) Election of Speaker if necessary;
- (c) Consideration of applications for leave of absence from Council meetings received from members;
- (d) Confirmation of minutes of previous Council meeting(s);
- (e) Statements or Communications by the Speaker;
- (f) Interviews with deputations;
- (g) Statutory business;
- (h) Consideration of reports by Committees, delegates, deputations and officials of the Council;
- (i) Consideration of reports, communications, petitions and applications dealing with matters of urgency submitted by the Municipal Manager;
- (j) Consideration of notices of motion and notices of questions which shall appear on the agenda in order in which they have been received by the Municipal Manager; and
- (k) Consideration of motions of exigency;
- (l) Closure

provided that the Chief Whip, may, at any time during the proceedings, move as a motion of course that any item appearing on the agenda shall have precedence and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion, and if carried, such item shall have precedence accordingly.

4. Election of Speaker

The Speaker is the Chairperson of all Council meetings. If the Speaker is absent or not available to perform his/her functions, or during a vacancy, the Council must elect another member to act as Speaker.

5. Statements and communications by Speaker

The Speaker may, without notice, make any statement or read any communication at any meeting.

6. Attendance at meetings

- (1) Every member present at a meeting of the Council shall sign his/ her name in the attendance register which shall be in bound book form and made available by the Municipal Manager for this purpose.
- (2) The names of all members present at any Council meeting and of all members to whom leave of absence from any such meeting has been granted shall be recorded in the minutes of such meeting.
- (3) All applications for leave of absence from Council meetings must be submitted in writing to the Municipal Manager or his/her nominee, prior to the commencement of the relevant meeting and must be considered by Council.
- (4) If a member is absent from a Council meeting without the permission of the Council or if he/she fails to remain in attendance at such a meeting, the following fines may, subject to the provisions of subsection (6) be imposed and will automatically be deducted from the member's monthly allowance:

First meeting: R200 fine.

Second meeting: R500 fine.

- (5) A member who is absent from three or more consecutive meetings of the Council will, subject to compliance with the provisions of subsection (7) and the approval of the MEC for local government, be removed from office as a member.
- (6) Before imposing a fine in terms of subsection (4) above, the Speaker must
 - 6.1 inform the relevant member in writing of such member's absence from a specified meeting or of his/her failure to remain in attendance at such meeting;
 - 6.2 afford the relevant member the opportunity to submit, within 10 working days from date of such letter, written reasons for his/her failure to attend the meeting in question or remain in attendance thereat and why he/she could not apply for leave of absence, as stipulated in subsection (3), above.
 - 6.3 If no response is received from the member within the prescribed period, the fine referred to in subsection (4) will be imposed and will automatically be deducted from the member's allowance.
 - 6.4 In the event of a written response being received from the member, such response must be presented to the Speaker who shall decide on good grounds whether or not the fine should be imposed.
 - 6.5 In the event of the relevant member not being in agreement with the decision of the Speaker aforesaid, he/she may appeal, within 21 days of being informed of the decision of the Speaker, to the Council which shall make a final and binding decision on the matter.
- (7) Before the Council removes a member in terms of subsection (5) above, the Speaker must inform the relevant member in writing of such member's alleged breach of subsection (5) and of his/her intention to move that the member be removed from office.
 - 7.1 The relevant member must be afforded 10 working days from date of the letter to comment in writing to the Speaker on his/her alleged breach of subsection (5).
 - 7.2 The Speaker shall submit a written report on the alleged breach of subsection (5) by the member concerned together with the response, if any, from such member, to the next meeting of the Council or to a Special meeting of the Council which may be called to deal specifically with this matter.
 - 7.3 The Council shall, thereafter, deal with the matter in accordance with the rules and procedures pertaining to the enforcement of the Code of Conduct for Councillors.

7. Agendas and Minutes

- (1) All matters submitted for the consideration of the Council shall be contained in a written agenda signed by the Municipal Manager which agenda shall be circulated to all members by the Municipal Manager at least 7 working days before a meeting. Matters to be considered by the Council in open session shall be contained in an agenda separate to those matters to be considered by the Council in Committee.
- (2) Minutes of the proceedings of every meeting of the Council shall be in writing and shall be submitted for confirmation at the next ordinary meeting of the Council.
- (3) The minutes shall be taken as read for the purpose of confirmation if a copy thereof was sent to each member at least forty-eight hours prior to the meeting.
- (4) Except as to accuracy, no motion or discussion on the minutes shall be permitted.
- (5) A motion of course to correct the minutes shall be permissible and, if carried, the minutes shall be corrected accordingly.
- (6) If there is a dispute about the contents and accuracy of the minutes:
 - (a) the relevant debate, if it had been recorded, must be transcribed; or

- (b) if the debate had not been recorded, the Municipal Manager must submit a report to the Council setting out his or her recollection of the debate; and
 - (c) after considering the transcription of the relevant minutes or the report by the Municipal Manager as the case may be, the Council may, by vote, decide on the minutes with only those members who were present at the time of the disputed debate being entitled to vote in the event that the disputed debate was not recorded.
- (7) Except in respect of confidential minutes, copies of all minutes of the Council must be made available to the public, subject to payment of the prescribed fee for reproduction thereof, if any.
 - (8) The minutes of all meetings of the Council shall be compiled in book form with the pages numbered consecutively and, after confirmation thereof, they shall be signed by the Speaker on the last page and each other page shall be initialed by the Speaker.
 - (9) The Municipal Manager shall be responsible for the safekeeping of all the minutes of the Council.

8. Deputations

- (1) A deputation wishing to interview the Council shall give the Council at least seven days notice of its intention to do so and shall send a memorandum to the Municipal Manager setting out briefly the representations to be made and the source of the deputation.
- (2) The Municipal Manager shall submit the memorandum to the Speaker and, if the Speaker is of the opinion that it should be brought before the Council, the Municipal Manager shall notify the deputation to attend the Council meeting at a specified time. Should the request be refused by the Speaker, reasons for such refusal must be given by the Speaker and conveyed to the deputation by the Municipal Manager.
- (3) The Speaker may allow any deputation to address the Council without written notice having been given if, in his/ her opinion, the matter to be presented is of an urgent nature.
- (4) A deputation shall not consist of more than ten members.
- (5) Except with the consent of the Speaker or in reply to questions from members, only two members of a deputation shall address the Council.
- (6) Except with the consent of the Speaker, a member of a deputation shall not address the Council for more than ten minutes.

9. Notices of motion and notices of questions

- (1) The Speaker shall not accept any motion except a motion of exigency or a motion of course, unless notice thereof has been given in terms of subsection (3).
- (2) The Speaker shall not allow any question to be put except one put in terms of section 15 unless notice thereof has been given in terms of subsection (3).
- (3) Every notice of intention to introduce a motion or put a question shall be in writing, signed and dated by the member submitting the same and specifying in full the motion or question, and shall be delivered to the Municipal Manager at least seven working days before the date of the meeting at which it is intended to be introduced or put.

10. Absence of mover or questioner

In the event of the mover or questioner not being in attendance at the meeting of the Council when called upon by the Speaker to introduce a motion or put a question standing in his/her name on the agenda, any other member may introduce such motion or put such question in his/her own name, unless the original mover or questioner has notified the Municipal Manager in writing of a substitute member to introduce the relevant motion or put the relevant question.

11. Motions and questions on matters dealt with by a Committee

- (1) A member shall not give notice of a motion in regard to any matter assigned to a Committee, unless such motion has previously been submitted to such Committee or unless it is in the form of a reference to such Committee for consideration and report.
- (2) The Chairperson of a Committee may, if he/she is of the opinion that the matter is one of urgency, give notice of his/her intention to introduce a motion or put a question on a matter assigned to such Committee, notwithstanding the fact that such motion or question has not been considered previously by such Committee.

12. Rescission of resolution

- (1) If a member wishes to give notice of his/her intention to move the rescission or alteration of a resolution, or part thereof, of the Council, he/she shall give such notice by delivery to the Municipal Manager of a notice of motion in writing, which notice of motion shall be signed and dated by such member and shall state at which meeting of the Council it will be introduced, and it shall be in the hands of the Municipal Manager at least seven working days before the said meeting. Such notice of motion shall further state that the mover will move that the resolution, which shall be mentioned, be rescinded or altered, as the case may be, and stating, in the case of an alteration, the exact alteration desired.
- (2) If a Committee has resolved to recommend to the Council that a resolution, or part thereof, of the Council be rescinded or altered, notice of intention to move such rescission or alteration shall be given by the inclusion of such recommendation in a report of the Committee to the Council, and the Municipal Manager shall send a copy of such report as well as information concerning the meeting at which it will be considered to each member, at the address which each member is required to furnish to the Municipal Manager for the purpose of the delivery of official communications, to reach him/her as least twenty four hours before the meeting at which the recommendation will be considered.
- (3) Except upon the recommendation of a Committee, a resolution, or part thereof, shall not be reviewed at any meeting of the Council unless the permission of the majority of the members present at such meeting has been obtained.

13. Recommendation of Committee

- (1) The adoption of a recommendation contained in a report which is submitted to the Council by a Committee shall be deemed to have been moved pro forma by the Chairperson of such Committee or, in his/her absence or when he/she opposes such recommendation, by a member of such Committee deputed by him/her to act at the time when the Speaker of the meeting intimates that such recommendation is open for discussion, and such pro forma motion need not be seconded, nor shall it preclude the Chairperson of such Committee from exercising his/her right to speak thereon.
- (2) Any matter submitted for decision in terms of subsection (1) may be amended prior to a decision being taken thereon.
- (3) The proposal to amend must be seconded.
- (4) The Council must decide a proposal to amend first, and only thereafter take a decision on the substantive matter before it.
- (5) An amendment may not amount to a negation of the matter submitted for a decision.

14. Questions

- (1) After any motion or amendment has been moved and seconded, or at the conclusion of every speech thereon, a member may put any question relevant to such motion or amendment.

- (2) No supplementary questions shall be put except by the member who put the original question, and then only in respect of matters arising from the reply to such original question.
- (3) The Speaker shall not disallow any such question; provided that the member to whom such question is directed may either reply thereto forthwith or require that notice thereof be given in terms of section 9.

15. Motions of exigency

- (1) A member may direct the attention of the Council to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject and without comment thereon moving "that the question to which attention has been directed be considered forthwith as a matter of exigency".
- (2) For the purposes of these by-laws, such motion shall be referred to as a motion of exigency.
- (3) If such motion is seconded and carried by a two-thirds majority of the members present at the meeting, the mover shall be permitted, without notice, to have the matter considered by means of a motion or question; provided that no motion of exigency shall be in order while any other question is being considered.
- (4) No motions of exigency shall be put to any Committee.

Part 2 – Related Matters

16. Motions of course

In addition to the motions provided for elsewhere, the following shall be regarded as motions of course:

- (a) That the consideration of any particular item appearing on the agenda shall have precedence;
- (b) That any report referred to in the agenda be received, adopted, acted upon or referred back;
- (c) That any document before the Council be acted upon in the manner specified in the motion;
- (d) That action be taken in regard to any matter submitted for consideration in the manner specified in the motion;
- (e) That the Council do now resolve itself into Committee;
- (f) That certain persons proposed for appointment be eliminated as provided in section 43 and;
- (g) A motion referred to in section 28.

17. Recording a protest

- (1) A member may, when he/she is in the minority on a question which has been decided, forthwith request that his/her dissent or protest be entered in the minutes of the meeting in which the decision of the Council is recorded, and such dissent or protest shall be entered accordingly.
- (2) Dissent or protest which casts an improper reflection on or imputes any improper motive to the Council or any member or employee of the Council shall be entered verbatim in the minutes to enable the accused member or employee to respond thereto and, in the event of the accused member or employee being in a position to respond to such accusation at the meeting, such response shall also be included verbatim in the minutes.
- (3) In the event of the accused member or employee not being available at the meeting referred to in subsection (2), the Municipal Manager shall forward a copy of the said verbatim minutes to the accused member or employee for comment and such comment shall be submitted to the next meeting of the Council for consideration.

- (4) The Council shall decide whether or not the allegation is substantiated and, in the event of such substantiation, action shall be taken against the accused member or employee in terms of the Code of Conduct for Councillors or the employee disciplinary code of the Council as the case may be.
- (5) In the event of the Council deciding that the allegation is not or cannot be substantiated, the member making such allegation shall be called upon to apologize to the accused member or employee and such apology shall be entered in the minutes.
- (6) In the event of the member making the accusation refusing to apologize aforesaid, the Council shall take disciplinary action against such member in terms of the Code of Conduct for Councillors on the grounds that such member has brought the Council in disrepute.
- (7) Nothing contained in this section shall prohibit a member or employee from taking legal action on the basis of the infringement of a personal right against the member making the relevant accusation.
- (8) This section shall not be interpreted in a manner which negates any privileges and immunities which members may enjoy in terms of Section 28 of the Structures Act or Section 72 of these by-laws.

18. Motion or question reintroduced or put again

No motion which has been rejected by the Council or a Committee of the Council and no question put in accordance with the provisions of section 9 and replied to at any meeting of the Council or a Committee of the Council shall again be moved or put within a period of three months of such meeting, except with the consent of the majority of the whole Council.

19. Member to address Speaker

A member speaking at a meeting of the Council or any person addressing the Council shall address the chair.

20. Length of speeches

- (1) Except with the consent of the Speaker, a member shall not speak for more than five minutes on any subject.
- (2) The mover of an original motion or of any amendment may, however, speak for ten minutes on such motion or amendment, or for such extended period as the Speaker may permit.

21. Order of precedence

If two or more members rise to speak at the same time, the Speaker shall determine who shall have precedence.

22. Precedence of Speaker

Whenever the Speaker wishes to speak during a debate, any member then speaking or offering to speak shall keep quiet and all members shall be silent so that the Speaker can be heard without any interruption.

23. Relevance

A member who speaks shall confine his/her speech strictly to the motion or question under discussion or to an explanation or a point of order.

24. Member may speak once only except mover or original motion

- (1) A member shall not address the Council more than once on any motion or amendment unless with the consent of the majority of members present at the meeting.
- (2) The mover of an original motion may, however, speak to the motion and reply to the debate, but in so replying, he/she shall confine him / herself strictly to replying to the questions of previous speakers and shall not introduce any new points of discussion into the debate.
- (3) The right of reply to a debate shall not extend to the mover of an amendment which, having been carried, has become the substantive motion.

25. Point of order and personal explanation

A member or the Municipal Manager may seek the permission of the Speaker to address the meeting -

- (a) On a point of order with a view to calling attention to any departure from these by-laws; or
- (b) In personal explanation, in order to explain some material part of his/her former speech which may have been misunderstood, and any person so asking shall be heard forthwith, unless the Speaker rules the point of order or explanation to be inadmissible.

26. Speaker's ruling on point of order

- (1) The ruling of the Speaker on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion.
- (2) The ruling of the Speaker upon any point of order raised as to the interpretation of these by-laws shall be entered in the minutes.

27. Withdrawal of motion, amendment or question

- (1) A motion, amendment or question may, without discussion and with the permission of the seconder, be withdrawn by the mover.
- (2) A member shall not speak upon such motion or amendment after the mover has indicated its withdrawal.

Part 3 – Order of debate: Motions**28. Order of debate**

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

- (a) That the motion be amended;
- (b) That consideration of the question be postponed;
- (c) That the Council do now adjourn;
- (d) That the Council do now adjourn for a caucus meeting;
- (e) That the debate now be adjourned;
- (f) That the question now be put, and;
- (g) That the Council proceed to the next business.

29. That the motion be amended

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

30. That consideration of the question be postponed

- (1) A member may at the conclusion of a speech, move that consideration of the question be postponed to a fixed date.
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover of such motion may speak for not more than ten minutes, but the seconder shall not be permitted to speak beyond formally seconding it.
- (4) Upon such motion being moved, the mover of the question under discussion may, without prejudice to his/her ultimate right to reply to the debate if the motion that the question be postponed is not carried, be heard in reply for five minutes, after which the motion shall be put without further discussion.
- (5) If postponement to a fixed date is agreed to, the question shall be placed first on the list of points of discussion for the day on which the postponed motion shall be considered.

31. That the Council do now adjourn

- (1) A member may, except during the course of a speech by another member or while a vote is being taken, may move "that the Council or the Committee do now adjourn".
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover may speak to the motion for five minutes, but the seconder shall not speak beyond formally seconding the motion.
- (4) If the motion is carried, the Council shall forthwith adjourn; provided that the Speaker may direct that the meeting proceed first to dispose of unopposed business.
- (5) If a motion that the Council do now adjourn is not carried, the Speaker shall not accept another such motion until a period of half an hour has elapsed.
- (6) A specific member shall not, on the same day, during the course of any one meeting of the Council move or second more than one motion to adjourn.
- (7) Save as provided in subsection (3), no discussion on a motion to adjourn shall be permitted, except that the member who first rises for that purpose may speak against such motion for not more than five minutes.
- (8) No amendment to such motion shall be moved except in relation to the period of adjournment.

- (9) If a motion to adjourn a meeting of the Council has been carried during a debate and prior to the closure thereof, then upon consideration of the subject of such debate at the adjourned meeting, the member who moved the adjournment shall be entitled to speak first.
- (10) No business shall be transacted at an adjourned meeting except such as is set out on the agenda for the meeting.
- (11) The Speaker has the right to adjourn a meeting at any time after every two hours for a maximum of 10 minutes, but not during the taking of a vote.

32. That the Council now adjourn for a caucus meeting

- (1) A party whip may, at any time, except while a vote is being taken, move "that the Council now adjourn for a caucus meeting".
- (2) Such motion shall be seconded but need not be put in writing.
- (3) The mover may speak to the motion for five minutes, but the seconder shall not speak beyond formally seconding the motion.
- (4) The Speaker shall decide whether or not to allow the request for a caucus meeting. If the request is refused by the Speaker, he/she shall give reasons for refusing such request, which reasons shall be entered into the minutes. The ruling of the Speaker on the request will be final and not be open for discussion. If the request for a caucus meeting is approved by the Speaker, the Council shall forthwith adjourn, provided that the Speaker may direct that the meeting proceed first to dispose of other business.
- (5) The Speaker shall impose a time limit for the proposed caucus meeting.
- (6) The caucus requesting the adjournment, shall gather at another venue.
- (7) If the caucus members have not taken their seats at the time when the Council is required to reconvene, the Council shall proceed with its normal business, provided a quorum of members is present.
- (8) If a quorum of members is not present, the meeting will adjourn for 10 minutes. If the caucus members do not return within 10 minutes, the meeting will be closed by the Speaker and the reasons for such closure will be stated in the minutes.

33. That the debate now be adjourned

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

- (8) A specific member shall not, during the course of any one debate, move or second more than one motion to adjourn the debate.

34. That the question now be put

- (1) After 30 minutes of debate on a specific matter, a member may at the conclusion of a speech, move, without discussion, that the question now be put, and the motion, if seconded, shall be put forthwith. If the motion is carried, the motion or amendment under discussion shall be put forthwith.
- (2) A second motion that the question now be put shall not be moved within fifteen minutes.

35. That the Council proceed to the next business

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

Part 4 – Council in Committee

36. Application of these by-laws in the case of special meetings and meetings of the Council in Committee

These by-laws (excluding the provision that a member may only speak once) shall, insofar as the conduct of meetings is concerned, apply to Special Council meetings and meetings of the Council in Committee.

37. Committee of the whole Council

- (1) A member may at any time after the confirmation of the minutes during a meeting of the Council move “that Council/Committee do now resolve itself into Committee”, and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion.
- (2) If such motion is carried, the place of meeting shall be cleared of all members of the public and the press.
- (3) A member may during the course of the discussion in Committee move “that the Council / Committee do now resume” and may briefly state the reasons for such motion. If such motion is seconded, it shall be put to the vote forthwith without discussion.
- (4) If the Council resumes without the question in Committee having been disposed of, the debate shall resume at the point at which the Council resolved itself into Committee.

Part 5 – Unopposed Business

38. Unopposed business

- (1) When a meeting of the Council has been in progress for not less than two hours, the Speaker may interrupt the proceedings and direct that the Council proceed forthwith to dispose of unopposed business.

- (2) After the disposal of such business, the proceedings shall resume at the point at which they were interrupted, unless all other remaining business has been adjourned until a future meeting.
- (3) For the purposes of these by-laws, an item on the agenda shall be deemed to be opposed business if a member signifies his/her intention to discuss such item immediately after the Speaker has intimated to the meeting that such item is open for discussion; provided that no item shall be deemed to be opposed by reason only of questions being put in connection therewith.

Part 6 – Quorum

39. Quorum

- (1) A majority of members allocated to the Municipality must be present at a meeting of the Council before a vote may be taken on any matter.
- (2) All questions concerning matters mentioned in section 160(2) of the [Constitution](#) are determined by a decision taken by a Municipal Council with a supporting vote of a majority of the members.
- (3) A resolution to dissolve the Council in terms of Section 34(1) of the Structures Act must be taken by a supporting vote of at least two thirds of the members allocated to the Municipality.
- (4) All other questions before a Council are decided by a majority of the votes cast.
- (5) Whenever during a meeting of the Council there is no quorum, the Speaker shall adjourn the meeting temporarily and, if, within ten minutes thereafter, there is still no quorum, the names of the members present shall be entered in the minutes by the Municipal Manager and the Speaker shall declare the meeting to be closed.

Part 7 – Decisions and voting

40. Decisions by Council

- (1) If, on any question at a Council meeting, except those mentioned in sections 39 (2) and (3) of these by-laws, there is an equality of votes, the Speaker must exercise a casting vote in addition to his/her deliberative vote as a member.
- (2) Before the Council takes a decision on any of the under-mentioned matters, it must first require the responsible Committee or a Special Committee established by the Council for such purposes, to submit to it a report and recommendation on the matter -
 - (a) Any matter mentioned in section 160(2) of the [Constitution](#);
 - (b) The approval of an integrated development plan for the Municipality and any amendment to an approved plan; and
 - (c) The appointment of and conditions of service of the Municipal Manager and a head of a department of the Municipality.

41. Voting by show of hands

- (1) Except as otherwise provided in any law or resolved by the Council, the decision of the Council on any question before it shall be determined by a show of hands.

42. Voting by division

- (1) Immediately after a question has been put to a meeting of the Council for the purpose of being voted upon, put to the vote, or immediately after the decision upon a show of hands has been

declared by the Speaker, any two members may demand a division, and the Speaker shall, thereupon, request those members who desire to support such demand to rise in their places.

- (2) Upon a division being about to be taken, the Speaker shall request all members who wish to participate in such a voting to remain in the venue of the meeting and those who do not wish to participate in such a voting to leave the venue of the meeting within two minutes, and thereafter, no member shall enter or leave such venue of the meeting.
- (3) Whenever a division is taken, the Municipal Manager shall call out the names of all members in alphabetical order and shall record the vote of every member present as "for" or "against" and shall record the names of absentee members.
- (4) The Speaker shall, from such record, declare the decision of the Council and the number of members who voted for or against the question.
- (5) All divisions shall be entered in the minutes.

43. Procedure in conducting a ballot

- (1) Where a question, other than the appointment or election of a person or persons, is to be decided by ballot, a ballot paper containing the question to be decided shall be handed to each member who shall signify his/her vote by means of a cross in the appropriate column according to whether he/she is in favour of or against the proposal.
- (2) Where the appointment or election of one or more persons from among a number of persons proposed is to be decided, each member shall be handed a ballot paper and he or she shall signify his or her vote or votes, as the case may be -
 - (a) In the case where the names of the persons proposed appear on such ballot paper, by means of a cross opposite the name or names of the person or persons whom he or she favours according to the number of vacancies to be filled, or
 - (b) In the case where the names of the persons proposed do not appear on such ballot paper, by writing the name or names of the person or persons whom he/she favours on the ballot paper according to the number of vacancies to be filled.
- (3) After the ballot papers have been marked as provided in subsection (1) or (2), they shall be folded and placed in a ballot box provided by the Municipal Manager.
- (4) The Municipal Manager and two members appointed by the Speaker for this purpose shall act as counters under direction of the Speaker and shall count the votes on a written and signed statement, and the Speaker shall thereafter announce such result.
- (5) Where any ballot is taken in terms of subsection (1), the Speaker shall declare the majority vote to be the decision of the Council on the question in respect of which such ballot has been taken; provided that, in the case of an equality of votes, the question in respect of which the ballot has been taken shall be determined by lot in accordance with the applicable regulations.
- (6) Where a ballot is taken in terms of subsection (2) and more than one vacancy is to be filled from among a number of persons proposed, the Speaker shall declare those persons appointed or elected to the vacancies, as the case may be, who have received the greatest number of votes; provided that -
 - (a) If all the persons in respect of whom the ballot has been taken have received an equal number of votes, the question shall be determined by lot in the manner prescribed by the applicable regulations, or
 - (b) If, owing to an equality of votes, all the vacancies have not been filled, the process of balloting shall continue in respect of those persons who remain un-appointed or unelected, and if, after any balloting as aforesaid, only one vacancy still requires to be filled, such vacancy shall be filled in accordance with the provisions of subsection (7).

- (7) Where a ballot is taken in terms of subsection (2) for the filling of one vacancy only and -
- (a) There are only two persons to fill the vacancy, the person who receives the votes of the majority of the members present shall be declared by the Speaker to have been duly appointed or elected, as the case may be; provided that in the case of an equality of votes, the question shall be determined by lot in the manner prescribed by the applicable regulations, or
 - (b) There are more than two persons to fill such vacancy, the person who receives the votes of the majority of the members present shall be declared by the Speaker to have been duly appointed or elected, as the case may be; provided that -
 - (i) If no person receives the votes of the majority of the members present, the person who has received the smallest number of votes shall be eliminated and a fresh ballot shall be taken in respect of the remaining persons, unless the Council has by resolution determined that the names of all persons but the person who has received the largest number of votes be eliminated and, in such event, such person shall be declared by the Speaker to have been duly appointed or elected, as the case may be;
 - (ii) Unless the Council has in terms of paragraph (i) of this proviso determined by resolution to eliminate all but the person who received the largest number of votes, the process of elimination as provided therein shall be repeated as often as is necessary until only two persons remain to fill the vacancy, and in such event the vacancy shall be filled in accordance with the provisions of sub-section (7)(a);
 - (iii) If, as a result of a ballot taken in respect of those persons who have not been eliminated in accordance with paragraphs (i) and (ii) of this proviso, two or more persons receiving the smallest number of votes in such ballot have received an equal number of votes, a separate ballot shall be taken in respect of such persons, and the person or persons, as the Council may decide, receiving the smallest number of votes in such separate ballot shall be eliminated and thereafter the process of balloting as hereinbefore provided shall, if necessary, be proceeded with, or
 - (iv) Notwithstanding the provisions of paragraphs (i), (ii) and (iii) of this proviso, if all the persons in respect of whom any ballot is taken in terms of subsection (7)(b) have received an equal number of votes in such ballot, the question shall be determined by lot in the manner prescribed by the applicable regulations.
- (8) If any ballot paper contains votes in favour of a larger number of persons than the number of vacancies to be filled, such ballot paper shall be rejected, and the votes appearing thereon shall not be counted.
- (9) A member may register one vote only in favour of a person, and if any ballot paper contains more than one vote in favour of any person, only one of such votes shall be counted.
- (10) All ballot papers issued to members shall be of equal size and of the same colour, and any ballot paper placed in the ballot box, not being a ballot paper handed to a member as hereinbefore provided, shall be rejected, and the votes appearing thereon shall not be counted.

Chapter 2 Delegations

44. Delegation to Committees and other functionaries

- (1) The Council must develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system may -
- (a) delegate appropriate powers, excluding a power mentioned in section 160(2) of the [Constitution](#), the power to set tariffs, the power to enter into a service delivery agreement in

terms of Section 76(b) of the Systems Act, and the power to approve or amend its integrated development plan which powers are herein referred to as reserved powers to its:

Standing Committees

Other Committees or elected office bearers; and

Municipal Manager or, with the consent of the Municipal Manager, any of its other officials;

- (b) instruct any such Committee or functionary to perform any of the Council's duties except in respect of reserved powers; and
- (c) withdraw any delegation or instruction.

(2) A delegation or instruction in terms of subsection (1) -

- (a) must be in accordance with the [Constitution](#); the Structures Act and the Systems Act;
- (b) must be in writing;
- (c) is subject to any limitations, conditions and directions the Municipal Council may impose;
- (d) may include the power to sub-delegate a delegated power;
- (e) does not divest the Council of the responsibility concerning the exercise of the power or the performance of the duty; and

(3) The Council -

- (a) Must –
 - (i) at the request in writing of at least one quarter of the members; or
 - (ii) at the request in writing of the Chairperson of a Committee; or
 - (iii) at the request in writing of the Municipal Manager on the grounds that a decision of the Council was administratively unfair, ultra vires, or has adversely affected the rights of the public; or
 - (iv) at the request in writing of a Whip; or
 - (v) at the request in writing of at least 300 ratepayers on the grounds that their rights have been adversely affected; or
 - (vi) when an appeal in terms of section 62 of the Systems Act is received in writing from a person, stating that his/her rights or legitimate expectations has been materially and adversely affected by a decision taken by a political structure, political office bearer or member in terms of a delegated authority –

review any decision taken by such political structure, political office bearer or member in consequence of a delegation or instruction, and either confirm, vary or revoke same without prejudice to any vested rights which will or have accrued to a person or persons in whose favour such decision was made or who will benefit from such decision.

45. Duty to report to delegating authorities

- 45.1 A political structure, political office bearer, member or official of a Municipality to whom a delegating authority has delegated or sub-delegated a power or duty, must report to the delegating authority at such intervals as the delegating authority may require, on decisions taken in terms of that delegated or sub-delegated power or duty. If no such intervals are specifically determined by the delegating authority, such reports shall be made at least bi-annually.
- 45.2 The Municipal Manager shall report to the Council on any power delegated to him/her and which he sub-delegates to another official of the Council.

46. Review of delegations

- (1) On the election of a new Council, the delegations of the Municipality must be reviewed in terms of Section 59(2)(f) of the Systems Act; and to this end-
- (2) The Municipal Manager must submit a report to the Council on existing delegations issued by the Council and other delegating authorities and recommendations on any changes thereto.

Chapter 3 Internal structures and Committees

Part 1 – Criteria for establishment of Committees

47. Criteria for establishment of Committees

The Municipality may establish Committees in terms of the Structures Act if the establishment of such Committees are necessary, taking into account:

- (a) The extent of the functions and powers of the Municipality;
- (b) The need for the delegation of those functions and powers in order to ensure efficiency and effectiveness in their performance;
- (c) The financial and administrative resources of the Municipality available to support the proposed Committees;
- (d) The need to develop a culture of Municipal governance that compliments formal representative government with a system of participatory government; and
- (e) The right of communities to participate in the decision making process of the Municipality.

Part 2 – Ward Committees

If the municipality is a type that must have Ward Committees, then the following rules and procedures will apply to such Committees:

48. Object of Ward Committees

The object of a Ward Committee is to enhance participatory democracy at local level.

49. Establishment of Ward Committees

- (1) The Council must establish Ward Committee for each of its Wards;
- (2) 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;
- (3) The Council must make rules 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;
- (4) The Council must, further, make rules regulating the circumstances under which members of Ward Committees vacate office and the frequency of Ward Committee meetings.
- (5) The Council must make administrative arrangements to enable 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;

50. Functions and powers of Ward Committees

- (1) A Ward Committee may make recommendations on any matter affecting its Ward to the Ward member or through the Ward member to the Council as the case may be;
- (2) The Council shall determine the method of communication between Ward Committees and the Council itself;

51. Term of office of members

Members of Ward Committees, excepting the Chairperson, are elected for a term of office determined by the Council.

52. Vacancies

If a vacancy occurs among the members of a Ward Committee, the vacancy must be filled in accordance with a procedure determined by the Council.

53. Remuneration of members

- (1) With the exception of the Chairperson of a Ward Committee who is a member of the municipality, no remuneration is payable to members of Ward Committees;
- (2) Subject to national legislation, the Council may pay to members of Ward Committees excepting its Chairperson out of revenue reasonable out-of-pocket expenses associated with their duties as members of Ward Committees.

54. Dissolution of Ward Committees

The Council may dissolve a Ward Committee if the Committee fails to fulfill its object.

Part 3 – Other Committees**55. Establishment of other Committees**

- (1) The Council may -
 - (a) establish one or more Committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers;
 - (b) appoint the members of such a Committee from among its members; and
 - (c) dissolve a Committee at any time.
- (2) The Council -
 - (a) must determine the functions of a Committee;
 - (b) may delegate duties and powers to a Committee;
 - (c) must appoint the Chairperson of a Committee;
 - (d) may authorize a Committee to co-opt advisory members who are not members of the Council within the limits determined by the Council;
 - (e) may remove a member of a Committee at any time; and
 - (f) may determine a Committee's procedures provided that, unless where specifically otherwise indicated, the rules and procedures pertaining to Council meetings as set out in these by-laws shall, with the necessary adjustments apply to meetings of committees of the Council

and any reference to the Speaker must be read as being a reference to the Chairperson of a Committee.

Part 4 – Advisory Committees

56. Establishment of advisory Committees

The Council may establish one or more advisory Committees consisting of persons who are not members to advise Council on any matter within the Council's competence.

Part 5 – Incidental Matters

57. Incidental matters: Committees

- (1) The members of a Standing Committee shall hold office until their successors have been appointed or until such Committee is dissolved, except as hereinafter provided.
- (2) The Council may at any time withdraw, extend or modify any reference to a Committee but any proposal to do so shall first be referred to that Committee for consideration and report.
- (3) A Committee may at any meeting grant leave of absence to any member; provided that leave of absence shall not be granted in respect of a period prior to such meeting, and
 - (a) A member who, without leave of absence, fails to attend three consecutive meetings of such Committee shall cease to be a member thereof provided that the provisions of section (7) of these by-laws shall, with the necessary adjustments, be applied prior to the removal of a member of a committee in terms of this subsection.
 - (b) Such a leave of absence must be in writing and submitted to the Municipal Manager before the commencement of the relevant meeting.
- (4) A member of a Committee may resign from such Committee by notice in writing, signed by him/ her and submitted to the Municipal Manager and such resignation shall take effect upon receipt thereof in the office of the Municipal Manager.
- (5) The Municipal Manager shall notify Council of a vacancy on a Committee at the first ordinary meeting of the Council after it has arisen and such vacancy shall, unless otherwise decided, be filled by the Council.
- (6) During the absence on leave granted to any member by the Council, any other member may be appointed to act in his/her place on any Committee of which he/ she is a member.
- (7) Except in the case of any emergency, members of a Committee shall be given notice of every meeting of such Committee by the Municipal Manager who shall send an agenda to each member so that the same may in the ordinary course of events be delivered at his/her address at least twenty-four hours before the hour of the meeting.
- (8) Failure to give notice of a Committee meeting shall not affect the validity of such meeting.
- (9) A member may attend any Committee meeting, and the Speaker may with the consent of such Committee permit such member to address such Committee.
- (10) The Chairperson of a Committee shall have a casting vote in addition to his/her deliberative vote.
- (11) The majority vote of the members of a Committee present and voting by show of hands shall constitute a decision of the Committee; provided that any two members present and voting may require the names of the persons voting and the votes cast to be minuted.
- (12) Every Committee shall submit a report or reports of its proceedings to the Council for consideration or noting, as the case may be.

- (13) The reports of a Committee shall be drawn up in consecutively numbered sections and shall contain the recommendations or decisions, as the case may be, on the matters reported upon by a Committee.

Chapter 4 Office bearers

Speaker

58. Election of Speaker

- (1) At its first sitting after its election, or when necessary to fill a vacancy, the Municipal Council must elect its Speaker from among the members.
- (2) The Municipal Manager of the Municipality or, if the Municipal Manager is not available, a person designated by the MEC for local government presides over the election of a Speaker.
- (3) The election of the Speaker shall take place in accordance with the procedures contained in Schedule 3 of the Structures Act
- (4) A member must hold office as Speaker and Mayor at the same time.

59. Functions of Speaker

The Speaker -

- (a) presides at meetings of the Council;
- (b) performs the duties and exercises the powers delegated to the Speaker in terms of section 32 of the Structures Act;
- (c) must ensure that the Council meets at least quarterly;
- (d) must maintain order during meetings;
- (e) must ensure compliance in the Council and Council Committees with the Code of Conduct for Councillors.
- (f) Must ensure that Council meetings are conducted in accordance with these By-Laws and any other relevant rules and procedures which the Council, by resolution, may adopt.

60. Term of office of Speakers

The Speaker is elected for a term ending, subject to section 39 of the Structures Act, when the next Council is declared elected.

61. Vacation of office

The Speaker vacates office during a term if that person -

- (a) resigns as Speaker;
- (b) is removed from office; or
- (c) ceases to be a Member.

62. Removal from office

62.1 The Municipal Council by resolution may remove its Speaker from office.

- 62.2 Prior notice of an intention to remove the Speaker shall be contained in a notice of motion to this effect signed by a majority of the members of the Council and be lodged with the Municipal Manager at least 21 days before the meeting at which it will be introduced.
- 62.3 The aforesaid notice of motion shall contain the grounds on which it is intended to remove the Speaker from office.
- 62.4 Upon receipt of the notice of motion referred to in subsection 62.2 the Municipal Manager shall forward a copy thereof to the Speaker and request the Speaker to comment on the contents thereof and advance written reasons with the Municipal Manager within a period of 7 days from the date of receipt of the said notice of motion by him/her, as to why he/she should not be removed from office
- 62.5 The notice of motion together with the comments of the Speaker shall be tabled at the meeting referred to in subsection 62.2.
- 62.6 Prior to the adoption of a resolution to remove the Speaker, the Council shall afford the Speaker if he/she so desires an opportunity to be heard on the matter and to make verbal representations on his/her submission submitted in terms of subsection 62.4.
- 62.7 At the same meeting that the Council resolves to remove its Speaker, it shall appoint a new Speaker or an acting Speaker provided that a new Speaker shall be elected at a Special Council meeting called specifically for this purpose no later than 30 days from the date the Speaker is removed from office in terms of this section.

63. Acting Speakers

If the Speaker of a Municipal Council is absent or not available to perform the functions of Speaker the Council must elect another member to act as Speaker.

Chapter 5 Council and Committee meetings

64. Maintenance of order at Council and Committee meetings

- (1) Any person other than a member who behaves in a disorderly or unseemly manner or interrupts the proceedings at any meeting shall, if the Speaker or Chairperson so directs, be removed from the place where the meeting is held.
- (2) If a member behaves in a disorderly or an unseemly manner, or obstructs the business of any meeting of the Council or any Committee thereof, or challenges the ruling of the Speaker or Chairperson on any point of order, or declines to withdraw any expression when required to do so by the Speaker or Chairperson, or indulges in tedious repetition or unbecoming language, or contravenes any provision of these by-laws the Speaker or Chairperson shall direct such member to behave properly, and, if speaking, to discontinue his/her speech and resume his seat.
- (3) In the event of a persistent disregard of the directions of the Speaker or Chairperson, the Speaker or Chairperson shall direct such member to retire from the place of meeting for the remainder of the meeting and may, if necessary, cause him/ her to be ejected there from.
- (4) Any such person or member who -
 - (a) refuses or fails to comply with a direction of the Speaker or Chairperson given in terms of these by-laws;
 - (b) returns to the place of meeting prior to the conclusion of the meeting from which he/she was directed to retire, or

- (c) offers resistance whilst being ejected from the place of meeting:
shall be guilty of an offence.

Chapter 6

Miscellaneous matters

65. Frequency of meetings of Council and Committees

- (1) The Council must meet at least quarterly
- (2) Other Committees and Advisory Committees must meet regularly , depending on the matters to be considered.

66. Speaker to call Council meetings

- (1) The Speaker of the Council decides when and where the Council meets, subject to the provision that a Council must at least meet once per quarter, but if a majority of the members requests the Speaker in writing to convene a meeting, the Speaker shall convene such meeting at a time set out in the request.
- (2) The Speaker of the Council who fails or refuses to call a meeting at the request of the members in terms of subsection (1) shall be guilty of an offence;
- (3) The Municipal Manager or, in the absence of a Municipal Manager, a person designated by the Provincial Minister, must call the first meeting of Council within 14 days after the Council has been declared elected.
- (4) Notwithstanding the provisions of subsection (1), the Municipal Manager may, in a case of an emergency, having obtained the consent of the Speaker, call a special meeting of Council. No business other than specified in the notice shall be transacted at such a special meeting and such a meeting may from time to time be adjourned; provided that if the total number of serving members is present at a special Council meeting and no objections are raised, an urgent matter not specified in such notice may be dealt with after disposal of the business of which notice has been given. The Municipal Manager shall give notice in writing to every member of the day and hour of every special or adjourned Council meeting, unless adjourned to any time on the same day, not less than 12 hours, or in an urgent case such short shorter period as may be agreed to by the Speaker. The notice shall specify the business to be transacted at the meeting.
- (4) The Municipal Manager may, in a case of an emergency, having obtained the consent of the relevant Chairperson, or in his/her absence, the consent of the majority of the relevant Committee, call a special meeting of a Standing Committee. No business other than specified in the notice shall be transacted at such a special meeting. The Municipal Manager shall give notice in writing to every member of the respective Standing Committee of the day and hour of every such special Committee meeting not being less than 12 hours, or such shorter period as may be agreed to by the Chairperson of the said Committee. The notice shall specify the business to be transacted at such meeting.

67. Admission of public to meetings

- (1) Subject to subsection (2), members of the public have the right to attend all Council meetings and Committee meetings.
- (2) Subject to the provisions of section 20 (2) of the Systems Act, the Speaker, in the case of the Council or the Chairperson, in the case of any other Committee, may close a meeting or part of

the proceedings of a meeting of the relevant body to the public if, in the opinion of the Speaker or Chairperson, as the case may be:

- (a) sensitive and personal staff matters are to be discussed at a meeting;
- (b) sensitive land matters are to be discussed at a meeting the disclosure of which would be prejudicial to the interests of the Council;
- (c) there might otherwise be unreasonable disclosure to the public of personal information regarding any person;
- (d) trade secrets of any person might otherwise be disclosed;
- (e) financial, commercial, scientific or technical information, other than trade secrets, of any person might otherwise be disclosed, and such disclosure would be likely to cause harm to the commercial or financial interests of such person;
- (f) information which had been supplied in confidence by any person might be disclosed, and such disclosure could reasonably be expected to put such person at a disadvantage in contractual or other negotiations or to prejudice such person in commercial competition;
- (g) information might be disclosed and such disclosure would give rise to an action for breach of a duty of confidence owed to any person in terms of an agreement;
- (h) information might be disclosed and such disclosure could reasonably be expected to endanger the life or physical safety of any person, or would be likely to prejudice or impair the security of a building, structure or system, means of transport or any other property;
- (i) information might be disclosed which is privileged from production in legal proceedings;
- (j) information might be disclosed which contains trade secrets of the Municipality or financial, commercial, scientific or technical information, other than trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the Municipality; or the disclosure of which could reasonably be expected to put the Municipality at a disadvantage in contractual and other negotiations or to prejudice it in commercial competition; or
- (k) information might be disclosed about research being or to be carried out by or on behalf of any person or the Municipality and the disclosure of such information would be likely to expose any person or the Municipality or the subject-matter of the research to serious disadvantage.

68. Public notice of meetings

The Municipal Manager must give public notice of the time, date and venue of every -

- (a) ordinary meeting of the Council;
- (b) standing Committee meeting of the Council; and
- (c) special or urgent meeting of the Council, except when time constraints make this impossible, by -
 - (i) annually publishing the program of Council and Standing Committee meetings for that year in the local press; and
 - (ii) publishing any amendments to the program referred to in subsection (i)
- (ii) advertising special or urgent meetings on the official notice board(s) of the Municipality; and
- (ii) if the Council so directs advertising such meetings in the press at least 7 days before a meeting is to be held.

69. Attendance at Committee meetings

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

70. Legislative procedure

- (1) Only a member or Committee of a Municipal Council may introduce a draft by-law in the Council.
- (2) A by-law must be made by a decision taken by the Council with a supporting vote of a majority of its members.
- (3) No by-law may be passed by the Council unless -
 - (a) all the members of the Council have been given reasonable notice thereof;
 - (b) the intention of Council to draft a by-law dealing with a specific issue has been advertised and the public, Ward Committees and Accredited Organizations have been invited to make representations thereon, and Council has indeed considered such representations when drafting the draft by-law; and
 - (c) the draft by-law has been published for public comment in a manner that allows the public, Ward Committees and Accredited Organizations an opportunity to make representations with regard to the draft by-law.
- (4) Subsections (1) to (3), with the exception of section 3(b), also apply when the Council incorporates by reference, as a by-law, the provisions of
 - (a) Legislation passed another legislative organ of state; or
 - (b) Standard draft by-laws made for local government by any organ of state, body or person.

71. Procedurally fair administrative action

Any administrative action which is taken by Council or any of its structures including political office bearers and officials acting under delegated power, or any decision adopted by the aforementioned which results in administrative action which materially and adversely affects the rights or legitimate expectations of the public or any person, must be procedurally fair.

72. Reasons for administrative action

Any person whose rights have been materially and adversely affected by administrative action and who has not been given reasons for such action, and who has applied in writing for such reasons, must be given adequate reasons for same, unless it is reasonable and justifiable in the circumstances not to give reasons. In such an instance, the applicant must be informed of such circumstances.

73. Privileges and immunities

- (1) Subject to the conditions as set out in subsection (2) and further subject to provincial legislation to be promulgated in terms of Section 28(1) of the Structures Act, members are not liable to civil or criminal proceedings, arrest or imprisonment or damages for -
 - (a) Anything that they have said in, produced before or submitted to the Council or any of its Committees; or

- (b) Anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its Committees, subject to the conditions set out in subsection (2);
- (2) The above-mentioned privileges and immunities are subject to the following:
- (a) anything that has been said in, produced before or submitted to the Council or any of its Committees by a member being the truth;
 - (b) adherence by members to the provisions of the Promotion of Access to Information Act, and particularly the provisions relating to the mandatory protection of -
 - Privacy of a third party who is a natural person;
 - Safety of individuals, and protection of property;
 - Police dockets in bail proceedings, and protection of law enforcement and legal proceedings;
 - The economic interests and the financial welfare of the Republic and commercial activities of public bodies;
 - (c) adherence by members to provisions of the Promotion of Equality and Prevention of Unfair Discrimination Act and particularly the requirement that no member may unfairly discriminate against any person on the grounds of -
 - Race
 - Gender
 - Disability
 - (d) no member may propagate, advocate or communicate words against any person that could reasonably be construed to demonstrate a clear intention to -
 - Be harmful;
 - Incite harm;
 - Promote or propagate hatred.
 - (e) no member may subject any person to harassment.
 - (f) adherence to the provisions of the Code of Conduct for Councillors.

74. Use of Language at Council and Committee meetings

- (1) Any member, official or member of the public may address Council in any of the languages determined by the Council in its language policy.

75. Every Member to be in possession of a copy of these Rules and Procedures

- (1) The Municipal Manager shall supply a copy of these by-laws to every member upon election to the Council.
- (2) A member shall acknowledge receipt of these by-laws in writing and shall undertake to bind him/herself to the provisions contained therein, including the Code of Conduct for Councillors

76. Penalties

Any person or member who contravenes a provision of these by-laws shall be guilty of an offence and be liable on conviction to a fine or imprisonment for a period of six months or to such imprisonment without the option of a fine or to both such fine and such imprisonment, and, in the event of such person being

a member, the Council shall taken disciplinary action against him/her for a contravention of the Code of Conduct for Councillors.

77. Repeal of By-Laws

Any by-laws relating to the rules and procedures of the Council and its Committees or any by-laws relating to the maintenance of order at meeting adopted by the municipality or any municipality now comprising an administrative unit of the municipality is repealed from the date of promulgation of these by-laws.