



STEVE TSHWETE LOCAL MUNICIPALITY

**DRAFT
REVISED
RULES OF
ORDER**

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments
 _____ Words underlined with a solid line indicate insertions in existing enactments

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CHAPTER 1 DEFINITIONS

1. Definitions

In these Rules of Order, unless the context otherwise indicates –

- “administration”** (a) as an entity means the municipal manager and the other employees of the [council] municipality, or
(b) as a functional activity, includes management and means the tasks that employees perform to enable the council to make and implement policies and by-laws;
- “agenda”** means a list of matters to be considered at a meeting including reports regarding such matters;
- “audit report”** means any report submitted to the council by or on behalf of the Auditor-general with regard to the auditing of the council’s annual financial statements and accounting records;
- “chairperson”** means the chairperson of a meeting;
- “code of conduct”** means the code of conduct for councillors contained in Schedule 1 to the Systems Act;
- “constituency”** means, for the purpose of a public hearing –
(a) a political party that contested a general election for councillors in the municipal area; and
(b) any readily identifiable group of residents in the municipal area whether they are organised or not, that share common economic or social interests or conditions;
- “Constitution”** means the Constitution of the Republic of South Africa Act, 1996 (Act 108 of 1996);
- “continuation meeting”** means a council or committee meeting in terms of rule 42 that takes place to complete the unfinished business standing over from a meeting that had not been concluded;
- “council”** means the council of the municipality;
- “councillor”** means an elected or appointed member of the council;
- “council whip”** means the councillor appointed/elected [by the ruling party in council] in terms of a notice published by the MEC in terms of Section 12 of the Structures Act;
- “division of vote”** means that every councillor present shall be obliged to record his/her vote for or against the motion or proposal, abstention from the vote is not allowed and such vote shall be taken separately by name and recorded in the minutes;
- “employee”** means an employee of the council;

- “executive manager”** means an employee of the council appointed by the council as manager of a department or departments in terms of Section 57 of the Systems Act and includes an employee acting in the stead of such executive manager;
- “executive mayor”** means the councillor elected by the council as executive mayor in terms of the Systems Act;
- “mayoral committee”** means the committee consisting of councillors appointed by the executive mayor in terms of the Structures Act;
- “MEC”** means the member of the Executive Council of the Mpumalanga Province responsible for local government;
- “motion”** means a written proposal;
- “motion of sympathy or congratulations”** means a written motion of sympathy or congratulations submitted to the municipal manager at least six hours before an ordinary council or committee meeting in respect of the death of a councillor; employee, community leader, provincial or national disaster, or of an outstanding achievement by a councillor, employee, community leader or an exceptional event at provincial or national level;
- “municipal area”** means the area of jurisdiction of the council as demarcated in terms of the Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998);
- “municipal manager”** means the head of the administration and accounting officer appointed by the council and includes any employee of the council who acts in her or his stead;
- “newspaper”** means a registered newspaper that circulates within the municipal area and that had been determined as newspaper of record;
- “official announcement”** means any announcement made by the chairperson of a meeting or municipal manager and which may only relate to the governance, administration or management of, or in the conditions in the area of jurisdiction of the municipality or in respect of an event of provincial or national importance;
- “petition”** means a written statement, suggestion [**proposal**] or grievance addressed to the council or an office-bearer or employee of the council and signed by 50 representing households within the municipal area or a part thereof;
- “proposal”** means a draft resolution submitted in writing by a councillor during a debate and is duly seconded on any matter at a meeting of the council or any structure of the council;
- “public hearing”** means a meeting arranged by the council or executive mayor to solicit the views and opinions of members of the public and specific constituencies on a matter affecting the interests of the residents within the municipal area;
- “public holiday”** means a public holiday contemplated in the Public Holidays Act, 1994 (Act 36 of 1994);
- “public meeting of** means a meeting of which public notice had been given and which is open for

voters	all voters registered in the municipal segment of the national common voters' roll relating to the council;
"question"	means a question in terms of rules 51 or 52 asked during a meeting of the council or any of its structures;
"quorum"	means the minimum number of councillors and other members, if any, that must be present at a meeting before it may commence or continue with its business;
"section 79-committee"	means a committee contemplated in terms of section 79 of the Structures Act;
"section 80-committee"	means a committee contemplated in terms of section 80 of the Structures Act;
"speaker"	means the councillor elected as speaker of the council and includes any councillor who had been elected by the council as acting speaker during the temporary incapacity or absence of the speaker;
"Structures Act"	means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
"Systems Act"	means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);
"traditional authority"	means the authority of a community within the municipal area that traditionally observes a system of customary law recognised in terms of a law; and
"traditional leader"	means the leader of a traditional authority that had been identified by the MEC in terms of section 80(2) of the Structures Act to participate in the proceedings of the council.
"Traditional Leadership Act"	means the Traditional Leadership and Governance Framework Act 41 of 2003.

CHAPTER 2
GENERAL PROVISIONS RELATING TO MEETINGS

Part 1: Determination of time and venue of meetings

2. Days and venues of meetings

- (1) No meeting of the council or a committee of the council may be held on a Saturday, Sunday or public holiday.
- (2) Meetings and hearings of the council and its committees must be held at a suitable venue within the municipal area.

3. Determination of venue and time of ordinary council meeting

- (1) The municipal manager or, if there is no municipal manager, a person appointed by the MEC must, after a general election of councillors for the council, determine the date, time and venue of the first meeting of the council, and such meeting must be held within fourteen days after all the members had been appointed and details of such appointments had been furnished to the municipal manager.
- (2) The speaker must, **[in consultation with the municipal manager]**, determine a schedule of the dates, times and venues of ordinary council meetings, other than the meeting referred to in rule (1), for a period of at least 12 months in advance, provided that –
 - (a) the council must hold at least one ordinary meeting every three months; and
 - (b) not more than one ordinary council meeting may take place during any month.
- (3) The speaker may, in consultation with the municipal manager, at any time change the scheduled date, time or venue of a meeting provided that all councillors shall be advised of such amendment in writing at least 7 days prior to the meeting.

4. Determination of time and venue of special council meetings

- (1) The speaker decides when and where the Council meets subject to Section 18(2) of the Structures Act.
- (2) The speaker **[may, in consultation with the municipal manager]**, must at the request of the executive mayor at any time convene a special meeting of the council on a date, time and at a venue as required by the executive mayor.
- (3) The speaker must, if a majority of the councillors of the council request him or her in writing to convene a special council meeting, in consultation with the municipal manager, convene a special council meeting on the date set out in the request and at a time and venue determined in terms of such consultation.
- (4) A request to call a special meeting must set out the matter to be dealt with at that special council meeting and no business may be dealt with at a special council meeting other than that specified in the notice convening a special council meeting.

5. Determination of venue and time of ordinary committee meetings

- (1) The council [**speaker, in consultation with the municipal manager**], must determine a schedule of the date, time and venue of ordinary meetings of the section 79-committees or other council committees and the executive mayor, [**in consultation with the municipal manager,**] must determine a schedule of the date, time and venue of the mayoral committee meetings and section 80 committee meetings for a period of at least 12 months in advance, provided that –
- (a) the determination must take into account the schedule of ordinary council meetings referred to in rule 3(2);
 - (b) no section 79-committee or other committee meeting may take place during an ordinary or special council meeting [**except with the express approval of the council**]; and
 - (c) no mayoral committee meeting may be scheduled or convened for the same time as an ordinary or special council meeting.
- (2) The chairperson of a committee [**speaker**], in consultation with the municipal manager [**provided and after consultation with the chairperson of a section 79 or other committee**], may change the date, time or venue of a scheduled meeting of such committee.

[6. Determination of venue and time of special committee meetings

- (1) **The speaker or the executive mayor, as the case may be, in consultation with the municipal manager and after consultation with the chairperson of a section 79-committee or other committee, may convene a special meeting of the section 79-committee or other committee concerned at a venue, time and place so determined.**
- (2) **The speaker or executive mayor as the case may be must, in consultation with the municipal manager, if a majority of the members of a section 79-committee or other committee who are councillors requests him or her in writing to convene a special section 79-committee or other committee meeting convene such special 79-committee meeting or other committee on a date set out in the request and at a time and venue so requested.**
- (3) **As soon as the date, time and meeting of such special committee meeting has been determined as provided for in rule 6(2), the chairperson of the relevant committee must be informed thereof.**
- (4) **A request to convene a special Section 79-committee or other committee meeting must set out the matter to be dealt with at such special meeting and no business other than that specified in the notice convening a special meeting may be dealt with at such meeting.]**

7. Determination of time and venue of public meetings

- (1) The speaker, in consultation with the municipal manager, must convene a public meeting of voters within the municipal area in terms of a council resolution.

- (2) The date determined for a public meeting of voters may not be less than 14 days or more than 28 days after the date of the council resolution.
- (3) A resolution to convene a public meeting of voters must set out the matter to be dealt with at that meeting, and no business other than that specified in the notice convening a public meeting of voters may be dealt with at such a meeting.

8. Meeting using telecommunications or video conferencing facilities

- (1) The council may hold a council or committee meeting using telecommunications or video conferencing facilities if all the councillors and traditional leaders who are required to attend the meeting concerned have access to the required facilities.
- (2) A meeting in terms of rule (1) is subject to these Rules of Order, provided that the venue stated in the notice of the meeting must be the places where councillors and traditional leaders can access the facilities required for the meeting.

9. Public hearings

- (1) The council or the executive mayor may, in consultation with the municipal manager, at any time convene a public hearing on any matter affecting the interests of the residents within the municipal area.
- (2) Whenever a public hearing is to be convened, the council or the executive mayor must, in consultation with the municipal manager and subject to rule 9(3), determine the date, time and venue of such hearing.
- (3) If more than one public hearing is to be held at different venues in the municipal area or with different constituencies or with different constituencies at different venues, the council or executive mayor, in consultation with the municipal manager, must determine a schedule of hearings setting out the different venues and dates for those hearings.
- (4) No public hearing may be convened on the same day as a council meeting.
- (5) The council or executive mayor convening a public hearing must determine the subject matter of that hearing and may identify the constituencies that must be specifically invited to attend or to make representations at the hearing and supply their particulars to the municipal manager.
- (6) Any person invited, attending or participating in a public hearing, does so at his or her own cost except for exceptional circumstances where transport is provided by the council.

Part 2: Notice of meetings

10. Notice of council and committee meetings

- (1) Unless otherwise provided in these rules, the municipal manager must give notice of at least 72 hours in writing of the date, venue and time for the holding of an ordinary meeting -
 - (a) of the council, including a continuation meeting in terms of rule 42, to every councillor, traditional leader if necessary and executive manager; and

- (b) of a committee, including a continuation meeting in terms of rule 42, to every member of the committee concerned and executive manager.
- (2) The notice period referred to in rule (1) does not apply when the [**municipal manager**] executive mayor deems it necessary to table an urgent matter for the council's consideration.
- (3) A councillor, traditional leader and executive manager to whom notice had been given in terms of rule (1) is, until such date, venue or time is changed and written notice of such change has been given, required to attend the meeting stipulated in the notice without further notice.
- (4) A notice referred to in rule (1) given to a councillor, traditional leader and an executive manager must contain the agenda for the meeting concerned, except in the case of a continuation meeting in terms of rule 42.
- (5) In the case of a special meeting in terms of rule 4 or 6, the agenda may contain only the matter that must be dealt with at the meeting.
- (6) A notice in terms of rule 10 given to a councillor, traditional leader and executive manager is deemed read for the purpose of the meeting to which it applies.
- (7) The municipal manager must, unless otherwise provided in these rules, at least 24 (twenty four) hours or the last workday before the stipulated time, whichever is the earlier, give notice in writing of the date, venue and time for the holding of a special council meeting and the provisions of rules (1)(a) to (6) apply with the necessary changes in any such case.

11. Notice of public meetings and public hearings

- (1) The municipal manager must, with due regard to rules 11(3):
 - (a) by notice in the press and placed on the municipal notice board convene the meeting or hearing of the time, date and venue of a public meeting or hearing, and
 - (b) supply a copy of such notice to every councillor, traditional leader and executive manager.
- (2) A notice in terms of rule (1) must state the purpose of the meeting or hearing.
- (3) A councillor, traditional leader and executive manager to whom notice had been given in terms of rule 11(1) is, until such date, venue or time is changed and notice of such change has been given, required to attend, without further notice, the meeting or hearing stipulated in the notice.

10. Councillors to supply municipal manager with address

- (1) Every councillor must, within seven days after he or she had been declared elected or appointed, as the case may be, and thereafter as often as is necessary, supply the municipal manager in writing with a residential address within the municipal area or an electronic mail address to which official communications and notices must be sent.
- (2) Every traditional authority identified in terms of the Structures Act who will represent that traditional authority in the council must, within 14 days after the municipal manager requested such particulars, supply the municipal manager with the name, address and other particulars of that traditional leader to whom official communications and notices must be delivered.

- (3) The municipal manager may deliver a notice contemplated in rules 12(1) and 12(2) to a person that appears to be over the age of sixteen at the address supplied by such councillor or traditional leader.
- (4) Non-receipt of any official communication or notice sent to an address referred to in rules 12(1) and 12(2) or delivered in terms of rule 12(3) -
 - (a) does not affect the validity of any meeting or proceedings of the council or its committees; and
 - (b) is not sufficient reason to be absent from the meeting concerned without leave of absence.

Part 3: Attendance of meetings and hearings

13. Absence from meetings

- (1) A councillor or traditional leader must, at least six hours before the meeting, lodge with the **[municipal manager]** speaker or the executive mayor as the case may be a written application for leave of absence from the whole or any part of the meeting or hearing concerned and, at the same time, furnish reasons for his or her application for leave of absence, if he or she –
 - (a) is unable to attend a meeting or hearing of which notice had been given;
 - (b) is unable to remain in attendance at a meeting or hearing; or
 - (c) will arrive after the stipulated time for a meeting or hearing.
- (2) A councillor or traditional leader who did not apply for leave of absence in terms of rule 13(1) and who was absent from a meeting or hearing or a part thereof must, after that meeting or hearing and within 14 working days, lodge with the municipal manager a written application for leave of absence from that meeting or hearing and such an application for leave of absence must state the reasons for the late submission of the application and the reasons for his or her absence from the meeting or hearing.
- (3) The **[municipal manager]** speaker or executive mayor as the case may be must inform the chairperson of the meeting or hearing concerned of any application for leave of absence and submit a copy of the written application to the municipal manager for record purposes.
- (4) An application in terms of rules 13(1) or 13(2) is considered and granted or refused by –
 - (a) the speaker in the case of a council meeting or public hearing;
 - (b) the relevant chairperson in the case of any other committee meeting.
- (5) Whenever an application for leave of absence in terms of rules 13(1) or 13(2) was refused –
 - (a) the relevant functionary must supply the reasons for the refusal; and
 - (b) the municipal manager must immediately after the meeting or hearing in writing inform the councillor or traditional leader concerned accordingly and supply the reasons for the refusal.

- (6) A councillor or traditional leader is deemed absent without leave from the meeting concerned if –
 - (a) he or she fails to apply in terms of rule 13(1) or 13(2) and he or she is absent from a meeting or hearing he or she is required to attend;
 - (b) his or her application for leave of absence has been refused and he or she is absent from the meeting he or she is required to attend;
 - (c) his or her application for leave of absence has been refused and he or she does not appeal in terms of rule 14;
 - (d) his or her appeal has been turned down; or
 - (e) he or she did not sign the attendance register contemplated in rule 17(1).
- (7) A councillor delegated by the council to attend to other official duties at the time of a meeting he or she is required to attend, is deemed to have been granted leave of absence for the meeting he or she is required to attend.
- (8) The municipal manager must keep a record of all cases in terms of rule 13(6) and must submit a written report thereon to the speaker at least once every three months.

14. Appeal against refusal of application for leave of absence

- (1) A councillor or traditional leader whose application for leave of absence had been refused may appeal against the refusal, and such appeal must be in writing and lodged with the municipal manager within 14 days after the date of the decision; provided that the council or the committee who must consider the appeal may in exceptional circumstances condone the late submission of an appeal.
- (2) The council considers an appeal in terms of rule 14(1) in the case of absence from a council meeting, public meeting, [or] public hearing [or **mayoral committee meeting**] or any council committee meeting, as the case may be.
- (3) A decision with regard to an appeal in terms of rule 14(1) is final.

15. Removal of councillor and traditional leader from office as a result of absence from meetings without leave

- (1) Whenever a report submitted to the speaker in terms of rule 13(8) identifies a –
 - (a) councillor that had been absent without leave of absence from three or more consecutive council meetings or three or more consecutive committee meetings which that councillor was required to attend; or
 - (b) a traditional leader that had been absent without leave of absence from three or more council meetings which such traditional leader was required to attend,
 the speaker must in writing report the matter to the council at the first ordinary council meeting next ensuing, and must, in the case of a traditional leader, also report the matter in writing to the traditional authority represented by that traditional leader.

- (2) The council must consider the report of the speaker and must give the councillor or traditional leader concerned an opportunity to state his or her case. As soon as a councillor or traditional leader has stated his or her case, he or she must leave the meeting whilst the council considers the matter.
- (3) If, after consideration of the matter, the council –
- (a) finds that the councillor was absent without valid **[good]** reasons, the **[municipal manager]** council must, in writing, request the MEC to remove the councillor from the council in terms of the Code of Conduct applicable to councillors.
- [(b) finds that the reason for the absence from any of the meetings was a good reason, the council may issue a formal warning or a fine to the councillor or traditional leader and determine the period during which the warning will be valid.]**
- (4) A councillor ceases to be a councillor on the date that the MEC informs the municipal manager that the councillor had been removed from office.

16. Who may attend meetings

- (1) Until the council or a committee closes a meeting, and subject to rule 16(2), a meeting may be attended by members of the public, employees of the council and the media.
- (2) A public meeting of voters or a constituency meeting or a public hearing may not be closed.
- (3) Every councillor and traditional leader must, from the time stipulated in the notice convening the meeting, attend every meeting of the council, committee of which he/she is a member or every public meeting of voters and public hearing and remain in attendance at such meeting or hearing, unless –
- (a) leave of absence had been granted to him or her; or
- (b) he or she must leave a meeting or hearing in terms of the Code of Conduct.
- (4) The speaker and/or executive mayor, as the case may be, may by virtue of their offices, attend and participate in any section 79 and/or section 80 committee meeting, provided, the speaker or executive mayor may not vote on any matter at such a committee meeting.
- (5) Any councillor who is not a member of a committee or any traditional leader may only attend a meeting of a committee with the express prior permission of the chairperson of that committee, which permission may not be unreasonably withheld.
- (6) The speaker or the executive mayor or the chairperson of a committee, as the case may be, may invite any person to attend a meeting of the council or that committee, as the case may be.
- (7) The municipal manager and executive managers of the council must attend public meetings of voters, public hearings, council and committee meetings, provided that the chairperson of a committee may, after consultation with the municipal manager, exempt the municipal manager or any executive manager from attending any meeting of the committee concerned, or, if he or she is not exempted, grant leave of absence to him or her from any meeting of that committee.
- (8) Mayoral Committee meetings are not open to the public or the media.

17. Attendance register

- (1) The municipal manager must supply an appropriate attendance register at every meeting and hearing.
- (2) Every councillor, [**and**] traditional leader and member of the public who is present at a meeting or hearing must sign the attendance register.
- (3) Any councillor or traditional leader who had been present at a meeting or hearing but who failed to sign the attendance register, is deemed absent without leave from the meeting concerned.

Part 4: Documents to be available at meetings

18. Documents to be available at meetings

The municipal manager must ensure that a copy of the municipal code, [**referred to the Systems Act, is**] as well as relevant legislation are readily available at every meeting. [**The municipal code must include:**

- (a) **The Constitution of the Republic of South Africa;**
- (b) **the Municipal Finance Management Act;**
- (c) **the Structures Act;**
- (d) **the Systems Act;**
- (e) **the Municipal Property Rates Act;**
- (f) **the by-laws of the council; and**
- (g) **such other legislation as the council may determine from time to time.]**

Part 5: Presiding at meetings and hearings

19. General powers and duties of chairperson

- (1) The chairperson of a meeting must –
 - (a) ensure that the meeting or hearing at which he or she presides is conducted in accordance with these Rules of Order;
 - (b) when requested to do so, interpret these Rules of Order;
 - (c) reject any motion, proposal or question which in his or her opinion –
 - (i) may lead to the discussion of a matter already contained in the agenda for that meeting;
 - (ii) contains unnecessary tactless, incriminating, disparaging or improper suggestions;

- (iii) may encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insults, degrades, defames or encourages abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;
- (iv) contains unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
- (v) contains threatening, abusive or insulting language towards an employee which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee;
- (vi) does not pertain to the governance, administration or management of, or the conditions in, the council;
- (vii) is contrary to these Rules of Order or any other law;
- (viii) may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution; or
- (ix) may result in unauthorised expenditure;
- (d) reject any motion, proposal or question regarding a matter –
 - (i) beyond the council's executive or legislative authority unless, on the face of it, the proposal intends to convince the meeting to make representations with regard to that matter to a body or institution which has such authority; or
 - (ii) in respect of which a decision of a judicial or quasi-judicial body is being awaited;
- (e) reject any motion, or proposal [**or question**] which –
 - (i) is not properly seconded;
 - (ii) on the face of it, may threaten or affect a fundamental right of any person;
 - (iii) is unclear; or
 - (iv) which contains a preamble, statements or opinions or that does not commence with the word "that".
- (f) reject any proposal that a part of a meeting or a meeting be closed that does not comply with rule 92;
- (g) call the attention of any person at the meeting to –
 - (i) irrelevance, tedious repetition or language unbecoming; or
 - (ii) any breach of order by a councillor or such other person;
- (h) submit every motion and proposal made and seconded to the vote;
- (i) declare the result of any vote in terms of 19(1)(h); and

- (j) instruct any member of the public or media and any employee of the council who may be present at a meeting to leave the meeting when the meeting resolved to close any part of its session and not to return to it until the meeting continues in public.
 - (k) reject any question which is unclear, irrelevant or affects the fundamental rights of a person.
- (2) The chairperson's ruling with regard to a motion, proposal or question is final. **[provided that]**
- (3)(a)** If the ruling is contested or called into question, **[the debate is suspended and]** the ruling is referred to the Rules and Ethics Committee for recommendation to the council;
- (a)(b)** the ruling of the Rules and Ethics Committee must be submitted to the council for consideration at the next ordinary meeting at which meeting the council must consider the recommendation and confirm, amend or substitute the interpretation of the chairperson **[where after the debate is then continued]**.
- (3) The chairperson's ruling or interpretation of the Rules of Order is final; provided that –**
- (a) if the interpretation or ruling is contested or called into question, the debate is suspended and the ruling referred to the Rules and Ethics Committee for recommendation to the council;**
 - (b) the ruling of the Rules and Ethics Committee must be submitted to the council for consideration at the next ordinary meeting;**
 - (c) the council must upon receipt of such recommendation, consider the matter and confirm, amend or substitute the interpretation of the chairperson whereafter the debate is then continued.]**
- (4) The chairperson may, in performing his or her functions and powers –
- (a) consult with the municipal manager;
 - (b) direct any person who is speaking to discontinue his or her speech or to desist from breaching the order or to discontinue making interjections;
 - (c) direct any person to apologise for and withdraw any allegation, statement or remark if it is unbecoming, unnecessarily tactless, incriminating, disparaging, improper, racist or sexist or inciting violence or injures or impairs the dignity or honour of a councillor or employee of the council;
 - (d) direct any person who persists in disregarding the chair or who obstructs the business at a meeting, to retire from the meeting; and
 - (e) instruct any person to leave a meeting if the meeting resolves to close its session or any part of it.
- (5)** If a person refuses to retire from a meeting or hearing after having been directed in terms of rule 19(4)(d) or 19(4)(e), the chairperson may direct an employee of the council present at the meeting to remove that person or cause his or her removal and to take steps to prevent that person from returning to the meeting or hearing.

- (6) The chairperson may change the order of business at the meeting despite any provisions to the contrary contained herein.

20. Failure or refusal to exercise powers or discharge duties by chairperson at meeting or hearing

- (1) Whenever a councillor or traditional leader who attended a meeting or hearing is of the opinion that the chairperson at that meeting or hearing failed or refused to exercise any of his or her powers or to discharge any of his or her duties properly, he or she may direct a written allegation against the chairperson concerned to the municipal manager.
- (2) An allegation in terms of rule 20(1) must quote the relevant rule or convention that had been breached or not fulfilled and must state to what extent it had been breached or not fulfilled.
- (3) The municipal manager must submit the allegation to –
- (a) the speaker in the case of an allegation against the executive mayor;
 - (b) the executive mayor in the case of an allegation against the chairperson of a section 79-committee or other committee;
 - (c) the council in the case of an allegation against the speaker;
- and send a copy thereof to the councillor against whom the allegation had been made.
- (4) The relevant functionary or the council, as the case may be, must in consultation with the municipal manager, determine the time and place of the hearing when the matter will be considered, provided that in a case referred to in –
- (a) rule 20(3)(b), the municipal manager must, after receipt of the allegation, include the matter in the agenda of the next mayoral committee meeting;
 - (b) rules 20(3)(a) or 20(3)(c), the municipal manager must, after receipt of the allegation, include the matter in the agenda of the next ordinary council meeting.
- (5) The municipal manager must inform the councillor who made the allegation and the councillor against whom the allegation had been made of the time and place where the matter will be heard.
- (6) At the hearing the councillor making the allegation and the councillor against whom the allegation had been made must have the opportunity to state his or her case, to call witnesses, to examine any documents submitted and to cross examine any witness.
- (7) After the matter had been heard the speaker, executive mayor or the council, as the case may be, must make a ruling as to the most probable version of the event and make a finding.
- (8)
 - (a) Should it be found that an allegation against the speaker was true, the council must decide an appropriate penalty.
 - (b) Whenever the speaker finds that an allegation against the executive mayor was true, he or she must submit his or her finding to the council and recommend an appropriate penalty.
 - (c) Whenever the executive mayor finds that an allegation against the chairperson of a section 79-committee or other committee was true he or she must decide an appropriate penalty.

- (9) An appropriate penalty may include a formal warning or reprimand, and whenever a formal warning is issued, the council, the executive mayor or the speaker, as the case may be, must determine the period during which the warning is valid.

21. Status of chairperson at meeting

Whenever the chairperson at a meeting speaks, any person then speaking or offering to speak and all other persons in the meeting must remain silent so that the chairperson may be heard without interruption.

22. Presiding at the first council meeting after a general election

The municipal manager, or if there is no municipal manager, a person appointed by the MEC, presides at the first meeting of a council after a general election of councillors until a speaker is elected.

23. Presiding at council meetings

- (1) The speaker presides, with due regard to the provisions of these Rules of Order, at every council meeting where he or she is present.
- (2) Whenever the speaker is absent from or unable to preside at or during any part of a council meeting, the council must elect an acting speaker in terms of the Structures Act.

24. Presiding at council meetings when position of speaker is vacant

- (1) Whenever the office of speaker becomes vacant, except during a council meeting, the municipal manager must call a special council meeting for the purpose of electing a speaker on a date and at a time and venue determined by him or her, however, such special council meeting must take place within fourteen days after the office of the speaker became vacant.
- (2) The municipal manager presides over the election of a speaker in terms of rule 24(1).
- (3) The speaker elected at a meeting in terms of rule 24(1) serves as speaker for the un-expired term of his or her predecessor.

25. Presiding at mayoral committee meetings

The executive mayor presides at meetings of the mayoral committee.

26. Presiding at section 79-committee or other committee meetings

- (1) The councillor appointed by the council as chairperson of a section 79-committee or other committee (in this rule referred to as the "chairperson"), presides at meetings of such committee where he or she is present.
- (2) Whenever the chairperson is absent from or unable to preside at or during any part of the committee meeting, a member of that committee elected by the members of the committee present at that meeting, presides at the meetings of the committee for the duration of the chairperson's absence or inability.

- (3) The municipal manager presides over the election of a chairperson in terms of rule 26(2).
- (4) The committee may not elect the speaker or the executive mayor as chairperson in terms of rule 26(2).

27. Presiding at public meetings of voters and public hearings

- (1) The speaker presides at public meetings of voters and any public hearing convened by the council, with due regard to the provisions of rule 27(2).
- (2) The executive mayor presides at public hearings convened by him or her.
- (3) Whenever the councillor designated in terms of rules 27(1) or 27(2) is absent from or unable to preside at or during any part of a public meeting of voters or constituency meeting or a public hearing, the councillors present at such meeting or hearing must elect from amongst their number a chairperson for the meeting or hearing for the duration of that councillor's absence or inability.
- (4) The municipal manager presides over the election of a chairperson in terms of rule 27(3).

Part 6: Conduct of persons at meetings

28. Conduct of members of public at council or committee meetings

- (1) A member of the public or the media or an employee attending a council or committee meeting may not –
 - (a) at any time address the meeting, unless he or she is a member of a deputation in terms of rule 47;
 - (b) obstruct the business of the meeting;
 - (c) make any interjections;
 - (d) make unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
 - (e) encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insult, degrade, defame or encourage abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;
 - (f) use threatening, abusive or insulting language towards an employee or display any writing, sign or other visible presentation which is threatening, abusive or insulting which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee; or
 - (g) make unwelcome or obscene gestures.

(h) may not without the consent of the Chairperson enter the meeting venue once the meeting has commenced

- (2) Rule 28(1)(a) does not apply to the municipal manager or an executive manager.
- (3) Whenever a meeting resolves to close its session or a part thereof, any member of the public and the media [or employee] must leave the meeting immediately and not return to that meeting until it resumes as a public meeting.
- (4) A member of the public or media attending a council or committee meeting is subject to the authority of the chairperson of the meeting.

29. Recording of proceedings at meetings

- (1) Proceedings at Council meetings shall be electronically recorded exclusively for the purpose of writing the official minutes and shall not be used for any other purpose inclusive of disputes regarding the correctness of the minutes.
- (2) Except for the purpose of writing the official minutes of a meeting by an employee, nobody may, unless the express prior approval of the chairperson of a meeting had been obtained, make any recording, whether audio or visual or both audio and visual, of a meeting or any part thereof.

30. Conduct of councillors during meetings

In the case of any allegation of unbecoming conduct by a councillor, which shall be submitted to the Speaker in writing, the Rules and Ethics Committee must determine if such alleged conduct by a councillor contravenes the provisions of the Code of Conduct contained in the Systems Act.

31. Dress code

The council may by resolution prescribe a dress code for councillors and traditional leaders attending meetings.

32. Person speaking to address chairperson

A person addressing a meeting or hearing must address the chairperson of that meeting or hearing.

33. Councillor to [sit] stand while speaking

- (1) A councillor, traditional leader or person addressing a meeting or hearing must stand [sit] while speaking.
- (2) If a councillor or traditional leader who is not speaking raises his or her hand on a point of order or to make a proposal and the chairperson addresses such councillor or traditional leader while another councillor is speaking, the councillor or traditional leader who speaks must **[be seated]** stand and remain silent until the chairperson has made a ruling on the point of order or the proposal.

34. Duration of speeches

- (1) A Councillor may only speak on any matter included in the agenda of a Council Meeting if his/her name appears on a speakers list which has been prepared by the Municipal Manager and provided to the Speaker before the commencement of the meeting.
- (2) The speaker's list referred to in rule 34(1) above shall:
 - (a) Contain the name of every Councillor or Traditional Leader who wishes to speak during the Council meeting as well as the number(s) of the item(s) on the agenda on which he or she wishes to speak.
 - (b) Shall be prepared at a meeting convened by the Municipal Manager on the day of the Council meeting between herself/himself and the **[Chief] Whips** or a duly authorised Councillor of all the political parties represented on the Council together with all independent Councillors and a representative of the Traditional Leaders.
- (3) At the meeting referred to in rule 34(2)(b) above -
 - (a) the Municipal Manager, with due regard to the number of items on the agenda shall determine the approximate duration of the Council meeting, which determination shall be based on the average duration of the three previous Council meetings with approximately the same number of items; provided that the speaking time allocated per party or independent councillor shall not be less than 5 minutes per agenda and
 - (b) shall allocate speaking time to each political party, independent councillor or traditional leader on a percentage basis in accordance with their representation on the Council.

35. Councillor to speak only once

- (1) A councillor or traditional leader may speak only once on a matter, unless permission to speak more than once is granted by the chairperson of the meeting concerned.
- (2) The introducer of a motion or proposal may reply in conclusion of the debate, but must confine his or her reply to answering previous speakers.
- (3) The **[council may allow]** the executive mayor or the chairperson of a section 79-committee or other committee, as the case may be, can [to] make an explanatory statement prior to the consideration of any particular matter in the report of the executive mayor or section 79-committee or other committee or during the discussion of such report in reply to a specific question.

36. Relevance

- (1) A councillor or traditional leader who speaks must confine his or her speech strictly to the matter under discussion.
- (2) No discussion may take place –

- (a) on a matter which anticipates a matter on the agenda unless the chairperson has granted leave to discuss two or more items at the same time or the municipal manager indicated in the agenda that two or more items should be considered together; or
- (b) on any motion or proposal that had been rejected in terms of rule 19(1)(f).

37. Councillor's right to information

A councillor has the right to request **[the municipal manager to supply]** such information as may be needed for the **[required for the proper performance of his or her duties as a councillor, including]** making of a speech on an item which is included in the agenda of a meeting or hearing, provided that –

- (a) at least three working days' written notice of the information required is given to the municipal manager; and
- (b) such information shall be provided in accordance with the provisions of access to information legislation **[confidential information obtained in terms of this rule may not be made known by the relevant councillor]**.

38. Personal explanation, point of order and clarification

- (1) A councillor or a traditional leader may, at any time during a meeting, whether or not he or she participated in a debate underway, **[rise]** raise his or her hand –
 - (a) on a point of order in the event of a departure from these Rules of Order or any law;
 - (b) to explain any part of his or her speech that may have been misunderstood; or
 - (c) to request that any part of a speech that he or she may have misunderstood be explained.
- (2) **[A]**Once the councillor or traditional leader referred to in rule 38(1) is recognised by the chairperson, the councillor must be heard forthwith.
- (3) The ruling of the chairperson of the meeting on a point of order or a personal explanation is, subject to rule 19(2), final and may not be discussed.

39. Right of municipal manager to have advice recorded in minutes

- (1) The chairperson at a meeting must give the municipal manager an opportunity to address that meeting on any matter before the meeting in order to advise the meeting as to the eligibility of any proposal or motion before the meeting.
- (2) The municipal manager has the right to have his or her advice regarding any motion or proposal which may –
 - (a) cause unauthorised expenditure; or
 - (b) be beyond the authority of the council,
 recorded in the minutes of the meeting where the advice was given.

40. Adjournment of meeting in the absence of a quorum

- (1) If there is no quorum present within 30 minutes after the time stipulated in the notice of a meeting referred to in rule 10, such meeting is not held but a continuation meeting is held in terms of rule 42.
- (2) If at any time during the course of a council or committee meeting it is suspected that there is no quorum present –
 - (a) the chairperson must discontinue the proceedings immediately; and
 - (b) cause the councillors present to be counted, and if the suspicion is proved correct, the chairperson must instruct the municipal manager to ring the bell for one minute, and if there is still no quorum five minutes after the bell had been rung, the chairperson must adjourn the meeting forthwith.
- (3) If the shortfall of councillors contemplated in rule 40(2) is owing to the withdrawal of one or more councillors in compliance with the code of conduct, the chairperson must arrange that such matter be dealt with at the first meeting next ensuing.
- (4) If a sufficient number of councillors are present after the bell had been rung, the meeting continues, and the councillor who was speaking when the proceedings were discontinued, is, in his or her own discretion, entitled to start his or her speech from afresh.
- (5) Any business, except a matter referred to in rule 40(3) which had not been dealt with at a meeting that had been adjourned, must be considered at a continuation meeting contemplated in rule 42, however, any unfinished business arising from a special meeting must be considered at the first ordinary meeting next ensuing unless the date of such ordinary meeting is later than the date contemplated in rule 42.

41. Adjournment of meeting before it completed its business

- (1) A councillor may at any time during a meeting propose that the meeting be adjourned and must state the reasons for the proposal, however, no councillor may more than twice during the same meeting propose that it be adjourned.
- (2) A proposal in terms of rule 41(1) must be seconded by a councillor present at the meeting, however, a councillor may not more than twice during the same meeting second a proposal to adjourn, and such a proposal lapses if it is not properly seconded.
- (3) A proposal in terms of rule 41(1) is carried if a majority of the members present at a meeting vote in favour thereof.
- (4) Whenever a meeting adjourns in terms of rule 41(1) before it had finished the business stated in the agenda for that meeting, the meeting must resume as a continuation meeting in terms of rule 42 to deal with any unfinished business, unless the date of the first ordinary meeting next ensuing is earlier than the date referred to in rule 42, in which case the unfinished business of an adjourned meeting is dealt with at that ordinary meeting.

42. Continuation of adjourned meeting

- (1) A continuation meeting is held at the same time and venue as a meeting that had been adjourned in terms of rule 40 or 41, on a day at least seven days but not more than 14 days later.
- (2) The agenda for a continuation meeting is the agenda for the meeting that had been adjourned.

43. Temporary adjournment of meeting

- (1) A councillor may at any time during a meeting propose that the meeting be adjourned for a period proposed by him or her, provided that –
 - (a) not more than two such proposals may be made during the same meeting; and
 - (b) no such adjournment may exceed thirty (30) minutes.
- (2) Despite the provisions of rule 43(1)(a), the chairperson at a meeting may, if he or she is of the opinion that a third temporary adjournment of a meeting may facilitate the discussion and resolution of a matter, allow a third adjournment in terms of rule 43(1).
- (3) A proposal in terms of rule 43(1) must be seconded by a councillor present at the meeting, however, a councillor may not more than twice during the same meeting second a proposal to adjourn, and such a proposal lapses if it is not properly seconded.
- (4) A proposal in terms of rule 43(1) is carried if a majority of the members present at a meeting vote in favour thereof.
- (5) The meeting resumes after the expiry of the period referred to in rule 43(1), and deals with any unfinished business contained in its agenda.

Part 8: Agendas and minutes of meetings

44. Only matters included in agenda are dealt with

- (1) Subject to the provisions of rules 44(2) and 44(5) only matters included in an agenda for a meeting may be dealt with, however, the municipal manager may table an urgent matter for discussion if he or she deems it necessary.
- (2) A councillor may at any time during a meeting propose that rule 44(1) be suspended to allow discussion of any matter not included in the agenda, and must give reasons for his or her proposal.
- (3) A proposal in terms of rule 44(1) need not be seconded and no debate about the proposal is allowed.
- (4) A proposal referred to in rule 44(2) is carried if the councillors present at a meeting unanimously adopt it.
- (5) An urgent report received from the executive mayor may be tabled and considered during a council meeting.

45. Minutes of meetings and summary of evidence at hearings

- (1) The municipal manager must keep, or cause to be kept, minutes of the proceedings of every public meeting of voters, public hearing, council and committee meeting.
- (2) The minutes of a meeting must reflect –
 - (a) the names of the councillors and traditional leaders attending;
 - (b) the names of the councillors and traditional leaders absent with or without leave;
 - (c) the periods of absence during a meeting of a councillor or traditional leader;
 - (d) the names of the councillors voting respectively for and against any matter for the decision of which a division is called;
 - (e) the name of any councillor who demanded that his or her vote against any particular decision be recorded in the minutes;
 - (f) any adjournment of the meeting;
 - (g) any declaration of a personal or pecuniary interest by a councillor or a traditional leader;
 - (h) any advice of the municipal manager regarding possible unauthorised expenditure or resolutions beyond the authority of the council; and
 - (i) the resolutions taken.
- (3) The minutes of a meeting must be delivered to the councillors with the notice of the ensuing meeting or before such a notice is delivered.
- (4) Minutes delivered in terms of rule 45(3) are deemed read with a view to their approval.
- (5) No proposal regarding minutes, except a proposal relating to the accuracy thereof, is allowed.
- (6) The minutes of a meeting, if practically possible, must be approved at the next ordinary meeting of the council or committee, as the case may be.
- (7) The chairperson of the meeting must sign the minutes upon approval, and if the minutes are written on loose sheets, each sheet must be signed.
- (8) Any councillor or other person speaking at a meeting may request that his or her speech not be recorded, and upon receipt of such a request the municipal manager must cease such a recording.
- (9) The municipal manager must make, or cause to be made, a summary of the proceedings and evidence given at a public hearing and submit it at an ordinary meeting of the council or to the executive mayor, as the case may be.

46. Declaration of personal and pecuniary interest

- (1) A councillor or traditional leader wishing to declare a personal or pecuniary interest in terms of the code of conduct must do so at least 24 hours before the meeting when the relevant item is called the councillor or traditional leader involved must recuse himself or herself.

Part 9: Deputations, petitions, objections and representations

47. Deputations

- (1) Anybody who wishes to obtain an interview with the mayoral committee or a committee of council, must lodge a written request with the municipal manager and such an application must state the representations the applicant wishes to make in detail.
- (2) The municipal manager must submit the request to the relevant executive manager for investigation and submission of a comprehensive report to the municipal manager. The municipal manager must thereafter submit such a report to the mayoral committee or relevant committee as the case may be.
- (3) If its deemed necessary by the municipal manager for the mayoral committee or relevant committee, as the case may, to meet such deputation the municipal manager must inform the requester of the date, time and venue where the deputation is to address the mayoral committee or other committee, as the case may be.

48. Attendance of council meeting by Auditor-general

- (1) Whenever the audit report is included in the agenda for a council meeting, the municipal manager must in writing invite the Auditor-general, the provincial treasury and the department responsible for local government to that meeting.
- (2) Despite any provisions to the contrary in these Rules of Order, the speaker may change the order of business at a meeting referred to in rule 48(1) to allow the Auditor-general to address the council and councillors to ask questions with regard to the audit report and audit findings.

49. Petitions

- (1) A councillor or traditional leader must submit a petition received by him or her to the municipal manager.
- (2) The municipal manager must inform the executive mayor [**speaker**] of any petition he or she received.
- (3) Any petition received in terms of rules 49(1) or 49(2) must be referred to the relevant executive manager for investigation and submission of a comprehensive report to the municipal manager. The municipal manager must thereafter submit such petition and report to the [**council**], mayoral committee or relevant committee as the case may be.
- (4) If the committee or the executive mayor to whom a petition had been referred does not have the power to dispose of the matter, the committee or the executive mayor, as the case may be, must submit a report and recommendations to the council.

50. Objections and representations

- (1) Whenever the council invites public comment, representations or objections with regard to any proposed resolution before the council or a resolution the council had taken, the municipal manager must designate a person who will be responsible for the receipt of such comment, representations or objections.
- (2) The person designated in terms of rule 50(1) must make a summary of the comments, representations and comments, if any, that were received and submit it to the relevant executive manager.
- (3) The executive manager must consider the summary and submit it, together with his or her report and recommendations to the municipal manager who must refer it, with his or her comments, to **[the council or]** the executive mayor or the relevant committee, as the case may be.
- (4) The executive mayor or committee, as the case may be, must consider the summary, report and recommendations of the executive manager and the comments of the municipal manager and submit the matter to the council together with his or her or their recommendations.

Part 10: Questions

51. Questions of which notice had been given

- (1) A councillor or traditional leader may at any time submit, to the municipal manager, a written question that concerns the general work of the municipality he or she **[intends to ask during]** wishes to be included in the agenda of a council meeting or a meeting of a committee of which he or she is a member. However, such question must be submitted to the municipal manager at least **[10] 15** workdays before the said meeting **[where the question will be asked]** and no member may have more than one question to be included on a specific agenda and ask more than three questions during a financial year.
- (2) The municipal manager must immediately upon receipt of a question in terms of rule 51(1), provide a copy thereof to the relevant executive manager and instruct him or her to prepare a reply to the question, and the municipal manager may direct a executive manager to which he or she has sent the question to consult with any other executive manager before he or she prepares the answer.
- (3) **[If the question had been received at least 10 workdays before the scheduled date of the meeting where the question would be asked,]** The municipal manager must ensure that the question and the **[draft]** answer thereto is included in the agenda for the first ordinary meeting of the council or committee **[next ensuing where the question will be asked]**.
- (4) Any question put in terms of this section must be answered by or on behalf of the Executive Mayor.
- (5) Questions shall not contain any statements, preambles or opinions.
- (6) The municipal manager may reject a question if he or she is of opinion that the question is out of order or not put clearly.

52. Questions during meetings

- (1) A councillor or traditional leader may at a meeting of the council or a committee of which he or she is a member, ask a question subject to the provisions as contained in rule 34 regarding a matter arising from or pertaining to an item contained in the agenda.
- (2) A question –
 - (a) may only be asked during a meeting to solicit factual information;
 - (b) may not deal with matters of policy, except the implementation of policy; and
 - (c) may not seek to solicit an opinion or include or amount to a statement of fact.

Part 11: Motions

53. Motions to be in written form

- (1) A councillor or traditional leader may put a matter on the agenda of a committee of which he or she is a member or of the council by submitting a written motion to the municipal manager.

54. Submission and limitation of motions

- (1) With due regard to the provisions of rule 54(4) a motion in terms of rule 53 must be included in the agenda of the next ordinary meeting of council or the committee concerned; provided it had reached the municipal manager at least 10 working days before the date referred to in rule 10.
- (2) Only one motion of a councillor or traditional leader may be considered at a meeting and no member may move more than three (3) motions during any financial year.
- (3) If the introducer of a motion is absent during the meeting when the motion is put to the order, it lapses without further discussion.
- (4) Any motion which –
 - (a) contemplates the repeal or amendment of a resolution taken during the preceding three months; or
 - (b) has the same scope as a motion that had been rejected during the preceding three months may not be included in the agenda, unless it had been signed by a majority of all the members of the council.

55. Withdrawal and amendment of motions

- (1) With due regard to any provisions to the contrary in these Rules of Order, the introducer of a motion may, at any time before the motion is put to order at a meeting, withdraw it, and such withdrawn motion lapses without further discussion.
- (2) The introducer of a motion may, during a meeting where the motion is considered, request permission to amend the motion, which permission must be granted or denied without discussion.

Part 12: Subject matter and consideration of motions and proposals

56. Right of introducer of motion to speak and reply

The introducer of a motion in terms of rule 53 has the right, if the motion had not been rejected or withdrawn, to introduce the motion and to reply provided provision was made on the list of speakers as determined per rule 34(1).

57. Motion or proposal regarding budget

The executive mayor, or the member of the mayoral committee responsible for finance, must introduce, at a council meeting which may not be closed for the public and the press –

- (a) the draft budget;
- (b) a revised draft budget; or
- (c) a draft adjustment budget.

58. Motion or proposal regarding by-laws

A motion or proposal affecting the repeal, drafting or amendment of by-laws must, before the council considers it, be referred to and considered by the [**appropriate section 79-committee**] mayoral committee for report and recommendations.

59. Eligible proposals

- (1) With due regard to the provisions of rules 19(1)(c) to 19(1)(f), the following proposals may only be made during the discussion of any motion, proposal or matter contained in an agenda, namely:
 - (a) that the motion or proposal be amended;
 - (b) that the matter be referred back to the executive mayor or the relevant committee for further consideration;
 - (c) that consideration of the matter be deferred;
 - (d) that the debate be suspended;
 - (e) that the matter be put to the vote; and
 - (f) that the meeting continues to the next matter.
- (2) Any proposal in terms of rule 59(1) may only be put to the vote if it had been properly seconded.

60. Amendment of motion or proposal

- (1) A proposal that a motion or proposal (hereafter the “original motion”) be amended, may only be made by a councillor or traditional leader during his or her speech on the original motion provided that provision was made on the speakers list as per rule 34(1).
- (2) No councillor or traditional leader may make more than one proposal for the amendment of the same original motion.

- (3) A proposal in terms of rule 60(1) must be relevant to the original motion and the chairperson must clearly repeat it to the meeting before it is put to the vote.
- (4) With due regard to rule 60(5), more than one amendment of an original motion may be introduced, and every amendment introduced must be put to the vote at the close of the debate.
- (5) If a proposal in terms of rule 60(1) had been made –
 - (a) no other proposal may be made until its introducer had addressed the meeting;
 - (b) the councillor or traditional leader who made the proposal may address the meeting for a period as determined by the speakers list as per rule 34(1) on his or her proposal, but he or she has no right of reply; and
 - (c) the seconder may not address the meeting on the proposal.
- (6) (a) When a proposal in rule 60(1) had been made and its introducer had spoken in terms of rule 60(5), the introducer of the original motion may address the meeting on that proposal for a period of one (1) minute despite any other provisions to the contrary contained in these Rules of Order without diminishing from his or her right to reply should that proposal be rejected.
 - (b) If a proposal in terms of rule 60(1) is rejected, a vote must be taken on the original motion without any further discussion.
- (7) (a) If more than one amendment on an original motion had been introduced, they must be put to the vote in the order they were made.
 - (b) If any amendment is carried, the amended motion or proposal takes the place of the original motion and becomes the motion or proposal in respect of which any further proposed amendments must be put to the vote.

61. Referring matter back

- (1) A proposal that a motion or proposal (hereafter the “original motion”) be referred back, may only be made by a councillor or traditional leader during his or her speech on the original motion provided that provision was made on the speakers list as per rule 34(1).
- (2) A proposal in terms of rule 61(1) may only be made during a council meeting in the case of a recommendation by the executive mayor.
- (3) If a proposal in terms of rule 61(1) had been made –
 - (a) no other proposal may be made until its introducer had addressed the meeting;
 - (b) the councillor or traditional leader who made the proposal may address the meeting for a period as determined by the speakers list as per rule 34(1) on his or her proposal, but he or she has no right of reply; and
 - (c) the seconder may not address the meeting on the proposal.

- (4) (a) When a proposal in terms of rule 61(1) had been made and after its introducer had spoken in terms of rule 61(3), the introducer of the original motion may address the meeting on that proposal for a period of one (1) minute despite any other provisions to the contrary contained in these Rules of Order without diminishing from his or her right to reply should that proposal be rejected.
- (b) If a proposal in terms of rule 61(1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) (a) A proposal in terms of rule 61(1) may not be put to the vote until the speaker or the executive mayor or the chairperson of the relevant committee, as the case may be, had addressed the meeting.
- (b) If such proposal is carried, the debate on the recommendation ends and the meeting proceeds to the next matter.

62. Deferring consideration of matter

- (1) Any councillor or traditional leader may, at the end of a speech about the original motion, propose that the matter be deferred.
- (2) The councillor or traditional leader who made the proposal in terms of rule 62(1) may address the meeting for a period as determined by the speakers list as per rule 34(1) on his or her proposal, but he or she has no right of reply, and the seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of rule 62(1) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
- (4) (a) When a proposal in rule 62(1) had been made and its introducer had spoken in terms of rule 62(2), the introducer of the original motion may address the meeting on that proposal for a period of one (1) minute despite any other provisions to the contrary contained in these Rules of Order without diminishing from his or her right to reply should that proposal be rejected.
- (b) If a proposal in terms of rule 62(1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) If the proposal in terms of rule 62(1) concerns –
 - (a) a recommendation of the executive mayor, the matter must, if that proposal is carried, be included in the next report of the executive mayor to the council; and
 - (b) any other matter, the matter must be included in the agenda of the first ordinary council meeting next ensuing.

63. Suspending debate

- (1) Any councillor or traditional leader may at the end of a speech about the original motion propose that the debate be suspended, however, no councillor or traditional leader may move or second more than one proposal that a debate be suspended during any meeting.

- (2) The councillor or traditional leader who made the proposal in terms of rule 63(1) may address the meeting for a period as determined by the speakers list as per rule 34(1) on his or her proposal, but he or she has no right of reply, and the seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of rule 63(1) may not be made within thirty minutes after the first proposal was defeated in respect of the same original motion.
- (4)
 - (a) When a proposal in rule 63(1) had been made and after its introducer had spoken in terms of rule 63(2) the introducer of the original motion may address the meeting on that proposal for a period of one (1) minute despite any other provisions to the contrary contained in these Rules of Order without diminishing from his or her right to reply should that proposal be rejected.
 - (b) If a proposal in terms of rule 63(1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) A proposal in terms of rule 63(1) must be rejected if the council or committee, as the case may be, is required by law to pass a resolution on the matter at or before a particular date.
- (6) If a proposal in terms of rule 63(1) is carried, the meeting must deal with the next item on the agenda, and the item, in respect of which the debate had been suspended, must be placed first on the list of motions in the next agenda of the council.
- (7) At the resumption of a suspended debate, the introducer of the motion which caused the suspension must address the meeting first.

64. Putting matter to vote

- (1) Any councillor or traditional leader may, at the end of a speech about the original motion, propose that the matter be put to the vote.
- (2) The councillor or traditional leader who made the proposal in terms of rule 64(1) may address the meeting for a period as determined by the speakers list as per rule 34(1) on his or her proposal, but he or she has no right of reply, and the seconder may not address the meeting on the proposal.
- (3) A proposal similar to the proposal in terms of rule 64(1) may not be made within thirty minutes after the first proposal was defeated in respect of the same original motion.
- (4)
 - (a) When a proposal in rule 64(1) had been made and its introducer had spoken in terms of rule 64(2), the introducer of the original motion may, address the meeting on that proposal for a period of one (1) minute despite any other provisions to the contrary contained in these Rules of Order without diminishing from his or her right to reply should that proposal be rejected.
 - (b) If a proposal in terms of rule 64(1) is rejected, a vote must be taken on the original motion without any further discussion.
- (5) The introducer of the original motion has the right to reply before the matter is put to the vote.

65. Proceeding to next business

- (1) Any councillor or traditional leader may, at the end of a speech about the original motion, propose that the meeting proceed to the next business.
- (2) The councillor or traditional leader who made the proposal in terms of rule 65(1) may address the meeting for a period as determined by the speakers list as per rule 34(1) on his or her proposal, but he or she has no right of reply, and the seconder may not address the meeting on the proposal
- (3) A proposal similar to the proposal in terms of rule 65(1) may not be made within thirty minutes after the first proposal was defeated in respect of the same original motion.
- (4)
 - (a) When a proposal in rule 65(1) had been made and its introducer had spoken in terms of rule 65(2), the introducer of the original motion may address the meeting on that proposal for a period of one (1) minute despite any other provisions to the contrary contained in these Rules of Order without diminishing from his or her right to reply should that proposal be rejected.
 - (b) If a proposal in terms of rule 65(1) is rejected, a vote must be taken on the original motion or proposal without any further discussion.
- (5) A proposal in terms of rule 65(1) must be rejected if the council or committee, as the case may be, is required by law to pass a resolution on the matter at or before a particular date.
- (6) If the proposal in terms of rule 65(1) is carried, the matter under discussion lapses without further discussion.

Part 13: Applications by councillors and traditional leaders

66. Interest in council business

A councillor or traditional leader may not obtain any financial interest in any council business, irrespective of the procurement process followed.

67. Disclosure of declared interests

- (1) The municipal manager must compile a register of the financial interests of councillors and traditional leaders declared in terms of the code of conduct.
- (2) As soon as the municipal manager has completed the register referred to in rule 67(1) he or she must submit it to the council.
- (3) The council must, on receipt of the register in terms of rule 67(2), during a closed meeting determine which of the declared financial interests must be made public having regard to the need for confidentiality and the need for public disclosure.
- (4) A councillor or traditional leader who has declared an interest that is recorded in the register may not be present during the consideration of the matter.
- (5) Any interest declared in terms of this rule that had not been made public, is confidential.

68. Resignation of councillors and vacancies in offices

- (1) A councillor may, by written notice signed by him or her and delivered to the municipal manager, resign –
 - (a) as councillor; or
 - (b) from any office he or she holds.
- (2) A councillor may resign from office at any time during a council or committee meeting by making a declaration to the council or committee in that regard, however, he or she must immediately after such a declaration, resign in writing, and a declaration in terms of this rule may not be withdrawn.
- (3) If the resignation was that of the speaker or executive mayor, the council must as soon as the resignation of the councillor concerned in terms of rule 67(2) had been reduced to writing, signed and given to the municipal manager, elect a speaker or executive mayor despite the provisions of rules 23 or 24.
- (4)
 - (a) A resignation in terms of rules 68(1) or 68(3) may not be withdrawn and takes effect upon receipt thereof by the municipal manager.
 - (b) If the executive mayor resigns, the members of the mayoral committee are deemed to have resigned from the same date as the executive mayor.
- (5) Except when the resignation or vacancy is that of the speaker, the municipal manager must immediately upon receipt of a resignation of a –
 - (a) councillor or when a vacancy arises in the council in any other manner, report it to the speaker; and
 - (b) member of the mayoral committee, report it to the executive mayor.
- (6) The municipal manager must ensure that any resignation or a report of any vacancy arising in another manner is contained in the agenda for the next ordinary council meeting after the vacancy arose.
- (7) The council must, except in the case of a vacancy arising in the mayoral committee, at the meeting where a vacancy in an office of the council is reported, elect from amongst the councillors a successor for the councillor whose resignation caused the vacancy, and a councillor elected to an office in terms of this rule serves for the un-expired term of his or her predecessor.

Part 14: Full-time councillors

69. Designation of full-time councillors

Before the Council considers **[designating]** the election or appointment of any councillor identified by the MEC as a possible full-time councillor, it must obtain and consider a report from the municipal manager.

70. Report of municipal manager with regard to full-time councillors

A report in terms of rule 69, must include all the relevant information to enable the council to take an informed decision.

71. Applications by full-time councillors to undertake other paid work

- (1) A councillor who was designated as a full-time councillor may apply for permission of the council to undertake other paid work (in this rule "private work").
- (2) An application for private work must be lodged in writing with the municipal manager and must state all the relevant information to enable the council to take an informed decision.
- (3) The council may grant or refuse an application for private work on any conditions deemed necessary.
- (4) The meeting where an application for private work is considered may not be closed.
- (5) The applicant may not be present at a meeting during the discussion of the application; provided that the speaker may request the applicant to supply such information as the council may request during that meeting, and the applicant may supply the requested information orally during the meeting.
- (6) The council may, before it considers an application for private work, request that additional information with regard to the intended work as may be necessary for the proper consideration of the application be submitted in writing.
- (7) The granting of permission to undertake private work is valid for only 12 months after which the councillor concerned must submit a new application.
- (8) Any permission in terms of this rule –
 - (a) does not exempt a councillor from complying with the code of conduct; and
 - (b) is not a defence against any allegation of a breach of the code of conduct.

72. Traditional Leaders

- (1) Only traditional leaders identified by the MEC for Local Government in the Province and in accordance with Schedule 6 and by notice in the Provincial Gazette may, participate in the proceedings of Council;
- (2) The number of traditional leaders that may participate in the proceedings of Council may not exceed more than 20% of the total number of councillors in that council;
- (3) Before Council takes a decision on any matter affecting the area of the traditional authority, the leader of that authority must be allowed to express a view on the matter.
- (4) A traditional leader who is entitled to participate in the proceedings of Council is entitled to the payment of out of pocket expenses which should be determined by Council.

73. Powers, Functions and Duties of Council Whip

The council whip executes the powers, functions and duties delegated or assigned to him or her by the council.

**CHAPTER 3
LANGUAGE POLICY OF COUNCIL**

74. Determination of language policy

The council must at its first meeting after a general election for councillors review the language policy of the council in terms of rule 77 and, where such policy does not exist, instruct the municipal manager to develop a draft policy and submit it to the council.

75. Differentiation between languages for different purposes

The council may determine that one or more languages be used for different purposes.

76. Factors to be taken into account

When the council determines a language policy it must take all the relevant factors into account.

77. Review of language policy

The council may at any time review and amend its language policy.

**CHAPTER 4
ORDER OF BUSINESS AT MEETINGS**

78. Order of business at ordinary council meetings

The order of business at an ordinary council meeting, except the first meeting of the council after a general election of councillors, is as follows:

- (a) Opening;
- (b) applications for leave of absence;
- (c) official announcements;
- (d) reports of the speaker in terms of rules 15(1) **[and 96(4)]**;
- (e) applications and appeals from councillors in terms of rules 71 and 14**[(1)]**;
- (f) motions of sympathy and congratulations by the speaker;
- (g) motions of sympathy and congratulations by other councillors;
- (h) disclosure of interest;
- (i) minutes of the previous meetings;
- (j) questions of which notice had been given;
- (k) reports of the executive mayor;
 - (i) Non Delegated matters
 - (ii) Delegated matters
- (l) reports of section 79 committees reporting directly to Council
- [(i)](m) motions;
- [(m)](n) deferred items; and
- [(n)](o) closure.

79. Order of business at first council meeting after general election of councillors

The order of business at the first meeting of the council after a general election of councillors is as follows:

- (a) Opening;
- (b) applications for leave of absence;
- (c) election of speaker;
- (d) confirmation of type of municipality;
- (e) election of executive mayor;
- (f) designation of full-time councillors;
- (g) review of language policy;
- (h) review of delegated powers; and
- (i) closure.

80. Order of business at committee meetings

The order of business at an ordinary mayoral committee meeting or at any other committee of the council is as follows:

- (a) Opening;
- (b) applications for leave of absence;
- (c) official announcements;
- (d) **[motions of sympathy and congratulations];**
- (d)**[(e)]** disclosure of interests;
- (e)**[(f)]** minutes of the previous meetings;
- (f)**[(g)]** **[deputations and interviews];**
- (g)**[(h)]** reports of the municipal manager;
- (h)**[(i)]** closure.

CHAPTER 5
VOTING AND DECISION-MAKING

81. Public meetings or public hearings of voters

Proposals and suggestions made at public meetings or public hearings will be considered by council.

82. Decision only taken in certain circumstances

- (a) No decision may be taken unless the council or a committee has sufficient information before it to take an informed decision.
- (b) Information contemplated in rule 82(a) must be contained in a written report.

83. Voting at council and committee meetings

- (1) Voting in a council or committee meeting is by show of hands.
- (2) After the chairperson has declared the result of a vote a councillor may demand –
 - (a) that his or her vote against the decision be recorded; or
 - (b) a division.
- (3) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result of the vote.

84. When division is called

- (1) When a division is called in terms of rule 83(2)(b), the speaker shall accede thereto and a bell shall be rung for at least one minute whereupon all entrances to the venue of the meeting must be closed and no councillor may leave or enter the venue after the entrances had been closed until the result of the division was declared.
- (2) Immediately thereafter the chairperson of the meeting must repeat the motion or proposal, put the motion or proposal to the vote and take the vote of each councillor separately.
- (3) The chairperson must declare the result of the vote after all the councillors had been polled.
- (4) When a division is called, every councillor must vote for or against the proposal or motion in respect of which the division had been called.
- (5) A councillor who called for a division may not leave the venue of the meeting until the result of the vote had been declared.
- (6) An entry of the declaration of the result of a vote in the minutes of a meeting is conclusive evidence of the result.

85. Equality of votes

- (1) Unless a specific majority had been prescribed in respect of any matter or when expressly stated otherwise in these Rules of Order, the chairperson at a meeting may cast a casting vote where there is an equality of votes on any question in addition to his or her ordinary **[deliberative]** vote.
- (2) Should there be an equality of votes after a division had been called and the chairperson refuses to use his or her casting vote, the matter must be referred back **[to the executive mayor]**.
- (3) In all cases other than those mentioned in rules 85(1) and 85(2) where there is an equality of votes and the chairperson refuses to use his or her casting vote, the matter must be referred back **[to the executive mayor]**.

CHAPTER 6
REMOVAL OF OFFICE-BEARERS FROM OFFICE

86. Removal of speaker

- (1) (a) A councillor (hereafter called “the initiator”) may by written motion, which must be seconded by at least three other councillors, move that the speaker be removed from office.
- (b) Such a motion must be submitted to the municipal manager and may not be sent by electronic mail, telex or telegram.
- (2) The motion must contain a brief summary of the reasons for the motion.
- (3) A motion in terms of rule 86(1) may not be withdrawn.
- (4) The municipal manager must, upon receipt of a motion in terms of rule 86(1), forthwith send a copy to the speaker.
- (5) (a) Unless the speaker resigns upon receipt of a motion in terms of rule 86(1), the municipal manager must forthwith upon receipt thereof determine the date, time and venue for a special council meeting in terms of rule 4.
- (b) The date of such a special meeting may not be less than 14 and not more than 21 days from the date the speaker received a copy of the motion from the municipal manager.
- (6) Despite the provisions of rule 10 at least seven days’ notice of a meeting in terms of rule 86(5) must be given to every councillor and traditional leader.
- (7) If the speaker resigns from office at any time before a meeting in terms of rule 86(5) takes place, the motion lapses and the meeting does not go ahead.
- (8) The meeting may not be closed for the public or the media before a vote had been taken on a motion in terms of rule 86(1).
- (9) The municipal manager presides over the proceedings on a motion in terms of rule 86(1) but he or she may not vote.
- (10) The speaker has the right and must be allowed the opportunity during the proceedings to –
 - (a) respond to every allegation made in the motion and during the proceedings;
 - (b) call witnesses and to cross-examine any witnesses called by the initiator; and
 - (c) submit documents and to examine any documents submitted by the initiator,
- (11) If the speaker is not present during the proceedings contemplated in rule 86(10), the council may, in its sole discretion, continue with the proceedings, and a proposal to proceed in the absence of the speaker is carried if a majority of the councillors of the council vote in favour of such proposal.
- (12) With due regard to rules 34 and 35, the municipal manager must put the motion to the vote after the debate had been exhausted.

- (13) If the speaker at any time during the proceedings, but before the motion is put to the vote, make a declaration in terms of rule 68(2), the proceedings are discontinued immediately and the motion lapses and the council proceeds to elect a new speaker despite any provisions to the contrary contained in these Rules of Order.
- (14) If the motion is carried, the speaker is removed from office with immediate effect and the council proceeds to elect a new speaker despite any provisions to the contrary contained in these Rules of Order.
- (15) A councillor elected as speaker in terms of rule 86(13) or 86(14) serves for the un-expired term of his or her predecessor.
- (16) If the motion is defeated no motion, forwarding the same allegations, may be submitted within the next three months unless the council directs otherwise.

87. Removal of executive mayor from office

The provisions contained in rule 86 apply, with the necessary changes, to the removal of the executive mayor from office.

88. Removal of members of section 79-committee or other committee

The provisions of rule 86 apply, with the necessary changes, to the removal of a member of a committee from office.

89. Removal from office of chairperson of section 79-committee or other committee

The provisions of section 86 apply, with the necessary changes, to the removal of a chairperson of a committee from office.

CHAPTER 7 CLOSING OF MEETINGS

90. Circumstances that must be present to close meeting

Recognising the need for transparency and open and accountable government, the council or a committee may, with due regard to any provisions to the contrary in these Rules of Order or any other law, resolve to close any part of a meeting for the public and the media.

91. Procedure for closing meetings

- (1) A councillor may, when an item in the agenda is put to order or at any time during the debate on an item, propose that the matter be further dealt with in closed session.
- (2) No seconder is required for a proposal in terms of rule 91(1).
- (3) Despite anything to the contrary in these Rules of Order, only the introducer of the motion may speak on the proposal [**provided provision was made on the speakers list as per rule 34(1)**] and must [**during his or her speech**] state the reasons for the proposal.

- (4) The chairperson at the meeting, if he or she does not reject the proposal, must subject the proposal to the vote immediately after the introducer has spoken.
- (5) If the proposal is carried, the chairperson must determine when the matter concerned must be debated.
- (6) When the council or a committee, as the case may be, resolves to close a part of a meeting and subject to any determination of the chairperson in terms of rule 91(5), all members of the public and media and council employees present at the meeting, except such employees as the chairperson may require to remain, must leave the meeting and may not return for the duration of the closed proceedings.

92. Rules governing closed meetings

- (1) When a meeting is closed in terms of rule 91, the provisions of these Rules of Order apply to that meeting.
- (2) If a proposal in terms of rule 91 is carried, the further debate on the matter, whether in closed session or public, is deemed a continuation of the preceding debate on the matter.
- (3) At the conclusion of a closed debate, the meeting automatically reverts to a meeting in public.
- (4) The **[speaker]** chairperson must appoint a person responsible for keeping the minutes of the council while the council is in committee. The speaker must announce the resolution as soon as council comes out of committee unless the matter is of such a nature that an announcement can be to the detriment of the municipality.

93. Opening closed meeting

- (1) A councillor may, at any time during a meeting that is closed, propose that the meeting proceed in public.
- (2) No seconder is required for a proposal in terms of rule 93(1).
- (3) Despite anything to the contrary in these Rules of Order, only the introducer of the motion may speak on the proposal **[provided that provision was made on the speakers list as per rule 34(1)]** and must **[during his or her speech]** state the reasons for the proposal.
- (4) The chairperson at the meeting, if he or she does not reject the proposal, must subject the proposal to the vote immediately after the introducer has spoken.
- (5) If the proposal is carried, the meeting immediately resumes in public.

94. Supplying information to media

- (1) The municipal manager may make confirmed minutes, excluding any part of such minutes with regard to a matter dealt with in terms of rule 91, and official agendas available to any interested person or registered newspaper at such fees as the council may determine or free of charge.

- (2) The municipal manager may, and, if so instructed by the council or a committee, must make the confirmed minutes, excluding any part of such minutes regarding a matter dealt with in terms of rule 91, [**and official agendas**] available in the reference section of a public library in the municipal area as well as on Council's website.
- (3) The executive mayor may hold media conferences and briefings and issue media statements.
- (4) The municipal manager may, in respect of any matter included in the official agenda or the confirmed minutes of a meeting, issue media statements and convene media conferences and briefings.

CHAPTER 8

APPLICATION OF CODE OF CONDUCT

95. Investigating suspected breaches of code

- (1)
 - (a) Whenever a written allegation is made to the municipal manager or when he or she has reason to believe that a councillor or traditional leader has contravened or failed to comply with any provision of the code of conduct, he or she must report it in writing to the speaker.
 - (b) Whenever a written allegation is made to an executive manager, he or she must report it to the municipal manager.
 - (c) Whenever a written allegation is made against the speaker it must be reported to the council.
- (2) Upon receipt of a report in terms of rule 95(1)(a), and when the speaker or Council has reason to believe that a provision of the code had been breached, it must refer such report to the Rules and Ethics Committee for investigation and report to the council.

96. Consideration of Rules and Ethics Committee's report by council

- (1) The speaker must vacate the chair during any council meeting when a report in terms of rule 95 is put to order.
- (2) Whenever the speaker vacates the chair in terms of rule 96(1), the municipal manager must preside over the debate on the report.
- (3) The proceedings in terms of rule 96(2) may not be closed to the public and the media.
- (4) After the chairperson of the Rules and Ethics Committee has introduced his or her report, the municipal manager must allow the councillor or traditional leader concerned to reply to the allegations and findings.
- (5) As soon as the councillor or traditional leader concerned has spoken, the matter is debated in terms of these rules.
- (6) Despite any provisions to the contrary in these Rules of Order, the councillor or traditional leader concerned has a right to –
 - (a) reply to all the allegations made during the debate;
 - (b) examine any documents submitted and submit documents in his or her defence; and
 - (c) call witnesses and to cross-examine any witness.

- (7) With due regard to the provision of rules 34 and 35 the chairperson of the Rules and Ethics Committee must, after the debate had been exhausted, reply and propose –
 - (a) that the report, findings and recommendation be accepted; or
 - (b) that the report and findings and a different recommendation be accepted.
- (8) A proposal in terms of rule 96(7) need not be seconded.
- (9) After the proposal in terms of rule 96(7) had been made, the municipal manager must put the proposal to the vote.
- (10) If the proposal in terms of rule 96(7) is –
 - (a) defeated, the matter is discontinued; or
 - (b) carried, the municipal manager must forthwith implement the resolution.

97. Implementing result of vote

- (1) If a proposal in terms of rules 96(7)(a) or 96(7)(b) is carried and a fine is imposed, the municipal manager must deduct the amount of such fine from the next payment of the Council to the councillor or traditional leader, unless he or she has paid the fine in cash before such payment is due.
- (2) If a proposal in terms of rules 96(7)(a) or 96(7)(b) is carried that the councillor or traditional leader must be suspended or the councillor or traditional leader must be removed from the council, the municipal manager must forthwith make such an application to the MEC.
- (3) If the MEC on application of the council suspends the councillor or traditional leader concerned, he or she is, despite any rule to the contrary, deemed to be absent with leave from any meeting he or she would have been required to attend had he or she not been suspended.
- (4) Where an allegation against a traditional leader is found to be true, the municipal manager must inform the relevant traditional authority accordingly.

98. Effect of appeal on resolution

- (1) If the councillor or traditional leader concerned appeals against the finding or the penalty imposed by the council or against both such finding and penalty as described in rule 97(1) before the municipal manager had deducted the fine, the municipal manager must defer the matter until the result of the appeal is known.
- (2) If the councillor or traditional leader concerned appeals before the municipal manager could submit an application in terms of rule 97(2), the municipal manager must defer the matter until the result of the appeal is known.

99. Breaches of Rules of Order or legislation relating to privileges and immunities

Any alleged breach of the provisions of these Rules of Order for which a specific procedure and penalty had not been prescribed or of legislation regulating the privileges and immunities of councillors, must be dealt with in accordance with the provisions of rules 95 to 98.

CHAPTER 9
DISSOLUTION OF COUNCIL

100. Conditions for dissolution

- (1) The council may at any time after two years have lapsed since it was elected, consider the dissolution of the council.
- (2) The council must consider the dissolution of the council if two years have lapsed after the council had been elected –
 - (a) upon receipt of a petition proposing the dissolution signed by not less than 500 voters; or
 - (b) upon receipt of a recommendation proposing the dissolution from the speaker or executive mayor.
 - (c) when so directed by resolution of a public meeting of voters in terms of rule 9;
 - (d) upon receipt of a motion proposing the dissolution from a councillor signed by at least one-third of the councillors in addition to the introducer of the motion; or
 - (e) when section 139 of the Constitution is invoked in respect of the council.

101. Procedure for considering dissolution of council

- (1)
 - (a) Whenever any of the circumstances referred to in rule 100(2) arise, the municipal manager must determine the date, time and venue of a special council meeting.
 - (b) The date of such a special meeting may not be less than 14 days and not more than 21 days from the date the petition was delivered, recommendation was made, resolution was taken, motion was submitted or instruction received referred to in rule 100(2), as the case may be.
- (2) Despite the provisions of rule 10, at least seven days notice of a meeting in terms of rule 101(1) must be given,
- (3) A meeting in terms of rule 101(1) may not be closed to the public and the media.
- (4) Despite any provisions to the contrary in these Rules of Order, the municipal manager presides over the debate of the petition, recommendation, resolution or motion, as the case may be.
- (6) The proposal is carried if two-thirds of the councillors of the council vote in favour of such proposal.
- (7) If the proposal is carried, the council is dissolved and all councillors must vacate their seats immediately.

CHAPTER 10 COMMITTEES

Part 1: Section 79-committees and other committees

102. Report of municipal manager before establishment of committee

- (1) With due regard to the provisions of part 3 of this chapter, the council must, before it establishes and elects the members of a section 79-committee or other committee, consider a report from the municipal manager regarding the proposed committee.
- (2) The municipal manager in preparing a report contemplated in rule 102(1) must consider the need for the proposed committee, taking into account all relevant information to enable the council to take an informed decision.
- (3) The report of the municipal manager must contain recommendations with regard to the matters listed in rule 104 and the electoral system contemplated in rule 105, despite any recommendation that he or she may make that the proposed committee not be established.
- (4) The municipal manager must submit his or her report to the executive mayor.
- (5) The executive mayor must consider the report and recommendations of the municipal manager and submit it, together with his or her own comments and recommendations to the council.

103. Consideration of municipal manager's report

If the council decides to establish the committee, the council must determine all the relevant details to ensure that the committee is able to function effectively.

104. Determining size of committee

- (1) No more than 20% of the councillors of the council [**or 10 councillors, whichever is the least**], may be elected as members of the committee, however, the committee must have at least three members who are councillors.
- (2) If the council authorises the committee to appoint persons other than councillors as members of the committee, it must determine the upper limit of the number of appointments that may be made, provided that the number of councillors serving in a committee must always exceed the number of persons who are not councillors in that committee.

105. Election system and election of members of committee

- (1) The members of the committee who are councillors must be elected according to a system that ensures that the parties and interests reflected in the council are fairly represented in that committee.
- [(2) **The speaker or executive mayor, as the case may be, may not be elected as a member of the committee**].

[(3)] 2 Immediately after the council determined the election system in terms of rule 105(1), the council must elect the members of the committee.

106. Term of committee and filling of vacancies

- (1) Subject to rule 106(2), the members of the committee are elected and appointed for a term ending when the next municipal council is declared elected.
- (2) A member of the committee vacates office during the term of the council if that member –
 - (a) resigns as a member of the committee;
 - (b) is removed from office as a member of the committee in terms of rules 88 or 89; or
 - (c) ceases to be a councillor.
- (3) The council must, if it is deemed necessary and subject to rule 105(1), at the earliest opportunity after a vacancy occurred, elect and appoint another person to serve as member of the committee for the un-expired term of his or her predecessor.

107. Quorum and decision-making

- (1) A majority of the members of the committee must be present before a decision on any matter may be taken.
- (2) If on any question there is an equality of votes, the chairperson may exercise a casting vote in addition to his or her deliberative vote.

Part 2: Executive mayor

108. [Making] Taking a decision to establish office of executive mayor

- (1) The council must, at its first meeting after a general election of councillors, immediately after it elected the speaker, **[consider whether or not to]** elect an executive mayor.
- [(2) The council takes a decision in terms of rule 108(1) only after it considered a report of the municipal manager in terms of rule 109.]**

[109. Report of municipal manager about executive mayor

The report of the municipal manager in respect of the establishment of the office of executive mayor must contain all relevant information to enable the council to take an informed decision.]

[110. Considering municipal manager's report

The council must consider the municipal manager's report and, if the council decides to establish an office of the executive mayor, the council must determine all relevant details to enable the office of the executive mayor to function effectively.]

111. Establishment of mayoral committee

The executive mayor must establish the mayoral committee with due regard to the provisions of the Structures Act.

112. Term of mayoral committee and filling of vacancies

- (1) Subject to rule 112(2), the members of the mayoral committee are appointed for a term ending when the next municipal council is declared elected.
- (2) A member of the mayoral committee vacates office during the term of the council if that member –
 - (a) resigns as a member of the mayoral committee;
 - (b) is removed from office as a member of the mayoral committee [**in terms of rule 88**] by the executive mayor; or
 - (c) ceases to be a councillor.
- (3) The executive mayor must, unless he or she decides to reduce the size of the mayoral committee, at the earliest opportunity after a vacancy occurred, appoint another person to serve as member of the mayoral committee for the un-expired term of his or her predecessor.

113. Quorum and decision-making

- (1) A question before the mayoral committee is decided by the executive mayor in consultation with the member/s of the mayoral committee present.
- (2) Should the members of the mayoral committee not be present for whatever reason, the executive mayor may take decisions in the interest of the council.

Part 3: Ad hoc committees

114. Establishment and disestablishment of ad hoc committees

- (1) The council may at any time establish an ad hoc committee to deal with or advise it with regard to a particular matter.
- (2) An ad hoc committee ceases to exist when –
 - (a) it furnishes its final report to the council; or
 - (b) the council disestablishes it.

115. Terms of reference of ad hoc committees

The council must determine the terms of reference of that ad hoc committee when it establishes it.

116. Removal from office of members of ad hoc committees

The council may at any time remove one or more of the members from the ad hoc committee.

CHAPTER 11
REPORTS

117. Reports of executive mayor or a section 79 committees reporting directly to Council

- (1) The executive mayor or section 79 committee reporting directly to Council must, at every ordinary council meeting, submit a report on [his or her] its decisions and recommendations on the matters considered by [him or her] it.
- (2) The municipal manager may, in exceptional circumstances and with due regard to section 55 of the Systems Act, submit reports to the council for consideration.

118. Delivery of reports of committees

Except a report accepted by the speaker or chairperson in the case of a committee as a matter of urgency, a report in terms of rule 117 is delivered to the council or the executive mayor, as the case may be, together with the agenda for the meeting where it must be considered.

119. Submission of committee reports

- (1)(a) The report of the executive mayor is submitted for the consideration of the council by the executive mayor, or a member of the mayoral committee designated by her or him, as the case may be, by proposing: "I propose that the report of the executive mayor be considered".
- (b) The report of a section 79 committee reporting directly to Council is submitted for consideration of the Council by the chairperson of the relevant committee, or a member of the relevant committee designated by the chairperson by proposing: "I propose that the report of the section 79 committee be considered".
- (2) A proposal in terms of rule 119(1) may not be discussed and is deemed seconded once made.

120. Considering committee report

- (1) When a report in terms of rule 117 is considered, the speaker must –
 - (a) put the matters contained in that report not disposed of by the executive mayor or committee in terms of [his or her] its delegated or statutory powers, one after the other; and
 - (b) thereafter allow a discussion of the matters disposed of by the executive mayor or committee in terms of [his or her] its delegated or statutory powers.
- (2) The speaker may alter the sequence of the matters dealt with in a committee report at his or her own discretion.
- (3) The section of a report referred to in rule 120(1)(b) is considered in terms of rule 129.
- (4) The report and recommendation of the executive mayor or a committee or on a matter is deemed proposed and seconded.
- (5) When a recommendation referred to in rule 120(4) is adopted, it becomes a council resolution.
- (6) During the consideration of a matter in terms of rule 120(4) –

- (a) the executive mayor or chairperson of the committee or a member of the committee designated by them may speak for 5 minutes on any matter contained in such report despite any other provisions to the contrary herein contained; and
 - (b) a councillor may demand that his or her opposition to a recommendation or resolution be recorded in the minutes.
- (7) The executive mayor or chairperson of the committee concerned may at any time during the debate on a matter –
- (a) request that the matter be withdrawn and referred back to the committee or executive mayor for further consideration; or
 - (b) amend a recommendation contained in such report
- (8) Permission in terms of rule 120(7) must be granted or denied without discussion.
- (9) A matter that is withdrawn in terms of rule 120(7) lapses without further discussion.
- (10) Despite anything to the contrary herein contained, the executive mayor or chairperson of the committee may conclude the debate on the matter; provided that the executive mayor or chairperson of the committee may designate a member of the [mayoral] committee to conclude such debate provided further, that in concluding such debate the executive mayor or chairperson of the committee or the designated member [of the mayoral committee] may only speak for ten (10) minutes.

121. Reports on state of budget

- (1) The municipal manager must submit monthly reports on the state of the budget for that financial year to the executive mayor for information and consideration.
- (2) The report in terms of rule 121(1) must contain the particulars referred to in applicable legislation and must be in the format prescribed by legislation.
- (3) The executive mayor must consider the report and submit it to the council for noting.

122. Report on unauthorised expenditure

- (1) The municipal manager must, when a committee or a councillor of the council contemplates taking a resolution that may result in unauthorised expenditure, advise that committee or councillor of the reasons why the expenditure may be unauthorised.
- (2) Any advice of the municipal manager given in terms of rule 122(1) must be recorded in the minutes of the relevant meeting.
- (3) If the advice is not given during a meeting, the municipal manager must confirm his or her advice at the earliest possible opportunity in writing to the council.
- (4) Whenever it is brought to the attention of the municipal manager that a decision had been taken that would result in unauthorised expenditure, the municipal manager must refer that decision, together with his or her report there on to the council or the committee or the councillor or executive manager who took the resolution.

- (5) As soon as the municipal manager becomes aware that any unauthorised expenditure had been incurred, he or she must immediately report the matter to the executive mayor.
- (6) A report in terms of rule 122(5) must contain all the relevant details to enable the executive mayor to take an informed decision or to make an informed recommendation to the council.

123. Information statement on intended debt

Whenever the council contemplates incurring debt, the municipal manager must submit a report containing all relevant information to the council to enable the council to take an informed decision.

124. Financial report

Financial reports in terms of applicable legislation must be incorporated into the report of the executive mayor to the council.

125. Report about virement

- (1) Reports about virement in terms of applicable legislation must be incorporated into the report of the executive mayor.
- (2) A report referred to in rule 125(1) must contain all relevant information to enable the executive mayor to take an informed decision or to make an informed recommendation to the council.

126. Report on inability to comply with reporting requirements or other duty

- (1) The municipal manager must report immediately to the executive mayor or the council, if he or she is not able to comply with any of his or her reporting requirements or any duty in terms of –
 - (a) any legislation, including these Rules of Order; or
 - (b) his or her contract of employment.
- (2) A report in terms of rule 126(1) must state the reasons for the inability.
- (3) Whenever the reasons for the inability arise from inadequate guidance, instruction, training or counselling, the report must state the extent to which such guidance, instruction, training or counselling fell short of being adequate.
- (4) Whenever the reasons for the inability arise from a lack of co-operation from any executive manager or other employee of the council, the municipal manager must make appropriate recommendations to prevent such an occurrence in future.

127. Reporting about performance

- (1) The municipal manager must annually submit a report on the implementation and results of the council's performance management system to the executive mayor.
- (2) The report in terms of rule 127(1) must contain all relevant information to enable the executive mayor to take an informed decision or to make an informed recommendation to the council.

CHAPTER 12
DELEGATED POWERS

128. Reporting on exercise of delegated powers

A report of the executive mayor on decisions taken by him or her in terms of delegated powers in consultation with the mayoral committee, must be incorporated into the report of the executive mayor to the council.

129. [Review of] Decisions under delegated powers

- (1) The speaker must, after the report of the executive mayor in terms of non-delegated powers have been disposed of, put the matters disposed of by the executive mayor in terms of delegated or statutory powers for discussion.
- (2) The speaker may alter the sequence of the matters dealt with in a report in terms of rule 129(1) at his or her own discretion.
- (3) During the consideration of a matter in terms of rule 129(1) –
 - (a) the executive mayor may speak for five minutes on any matter contained in such report despite any other provisions to the contrary contained in these Rules of Order;
 - (b) no proposal other than a proposal, “That the executive mayor be requested to reconsider the resolution” may be made; and
 - (c) a councillor may request **[demand]** that his or her opposition to a resolution contained in such report be recorded in the minutes.
- (4) Despite anything to the contrary herein contained, the executive mayor may conclude the debate on the matter; provided that the executive mayor may designate a member of the mayoral committee to conclude such debate provided further, that in concluding such debate the executive mayor or the designated member of the mayoral committee may only speak for **[two]** one [(2)] (1) minute.

129A Review of resolution(s) in terms of delegated authority

- (1) A motion for the review of any delegated authority in terms of section 59(3) of the Municipal Systems Act shall be submitted in accordance with rule 52 of these rules of order provided that
 - (a) Such a motion shall contain an alternative proposed resolution;
 - (b) Vested rights shall not be affected

CHAPTER 13
EXERCISE OF POWERS

130. Exercising of powers

- (1) Whenever any matter of urgency arises –
- (a) (i) during any period when it is not practicable to obtain a decision of council, an emergency Mayoral Committee meeting may, on the recommendation of the municipal manager, be called; and
 - (ii) at such meeting the submission of written reports by the municipal manager may be renounced; and
 - (iii) a resolution of such emergency meeting shall be valid as if being a resolution by the entire council;
 - (b) during any period when the council is not constituted, such matter may be decided by the municipal manager.
- (2) The powers conferred upon the executive mayor or municipal manager in terms of rules 130(1)(b) and 130(1)(c) include the power to incur expenditure, however, a certificate must be furnished by the chief financial official of the council stating that provision has been made in the current estimates for such expenditure, before any expenditure is incurred.
- (3) All matters decided in terms of rule 130(1) must be reported for noting to the next ordinary meeting of the council, however, anything done pursuant thereto in the meantime, is deemed to have been duly authorised by the council.

CHAPTER 14
MISCELLANEOUS PROVISIONS

131. Revocation of by-laws

The following by-laws are hereby revoked:

132. Short title and commencement

These Rules of Order are known as the Steve Tshwete Local Municipality Rules of Order, and commence on the date of publication thereof in the Provincial Gazette.