

# **ELIAS MOTSOLEDI LOCAL MUNICIPALITY**



## **STANDING RULES AND ORDERS**

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## **PART ONE**

### **INTRODUCTORY PROVISIONS AND PROVISION IN CONNECTION OF SITTINGS**

#### **CHAPTER 1**

##### **1. Purpose of the Rules and Orders**

**(1) These rules and orders are intended to enable Council-**

- (a) To fulfill its responsibilities as enshrined in the Constitution Chapter 7 and the Local Government' Municipal Structures Act 117 of 1998 as amended.
- (b) Promote orderly conduct of Council and its Committees;
- (c) Promote the ability of Council to conduct its business of overseeing the executive and facilitation public participation;
- (d) Facilitate debate and discussions during Council meetings and its Committees;
- (e) Ensure that all parties and Councilors have an opportunity to participate in the work of Council in line with the Constitutional dispensation;
- (f) Ensure public access to Council, its proceedings and facilitate public participation in its processes ;and
- (g) Promote democratic order, non racialism and non-sexism, and exclude any other forms of discrimination.

**(2) These Rules endeavour to create an opportunity for Members of Council to air their views on other matters of public importance.**

## 2. Definitions

In these rules and orders, unless the context otherwise indicated, the following shall mean –

Adjournment”	break off, postpone, put off for later resumption
“Administration”	-as an entity means ‘the municipal manager and the other employees of the Council’; -as a functional activity, includes management and the tasks that employees perform to enable the council to make and implement policies and by-laws;
“Agenda”	a list of matters to be considered at a meeting including report regarding such matters; - the document that describes the business of Council or Committee and includes the proceedings for the meeting
Audit report”	any report submitted to 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	the chairperson of a meeting
“Chair of Chairs	the Chairperson of Chairpersons
Chief whip of Council”	the chief whip of the majority party
“Code of conduct”	the code of conduct for councilors as in schedule 1 of the Local Government: Municipal Systems Act 32 of 2000;
“Constitution	means the constitution of the Republic of South Africa Act 108 of 1996
“Constituency	means for the purpose of a public hearing ‘a political party that contested elections for councilors in the municipal area’; and ‘any readily identifiable group of residents in the municipal area whether organized or not, that share common economic or social interests or conditions’
Continuation meeting	-means a meeting that takes place to complete the unfinished business from a meeting that had not been concluded
“Council”	means the Elias Motsoaledi Local Municipality;
Council Precinct”	-any place de facto occupied by council or other boundaries of the municipality;
“Councilor	an elected or appointed member of the Council
“Executive committee	the committee consisting of councilors appointed by council in terms of the Local Government: Structures Act 117 of 1998 as amended
Formal Dress Code	Appropriate , presentable and professional image Clothing
“Gavel”	hammer for calling attention or order to be utilized by the Speaker or Presiding Officer
“IDP	means Integrated Development Plan

"Leader of Executive Business	A Councilor appointed by the Executive to manage the interface between the Executive and the legislature
"Mayor"	the councilor elected by council as the mayor;
"MEC"	means the member of the executive council of the Limpopo Province responsible for local government;
Meditation	Reflection or contemplation of beliefs
"MExco	Member of the Executive Committee;
"Motion	a written proposal to be debated by Council or Committee
"MPAC"	Municipal Public Accounts Committee
"Municipal area"	the area of jurisdiction of council demarcated in terms of the Local Government Municipal Demarcation Act 27 of 1998
"Municipal manager	the head of administration and accounting officer appointed by the council and includes any employee of the council who acts in her or his stead;
"Newspaper	a newspaper registered that is published at least weekly and circulates within the municipal area and had been determined as a newspaper of record;
"Party whip"	-a councilor elected and designated by their party to serve in that capacity;
"Petition"	a written statement; proposal or grievance addressed to council, committee, an office-bearer or employee of council and signed by more than five residents within the municipal area or part thereof;
"Prayer"	Solemn request or thanksgiving to God.
"Presiding Officer	or any person presiding over a meeting of Council
"Proposal"	a draft resolution submitted orally by a councilor during a debate on any matter at a meeting of council or any structure of council;
"Public hearing"	a meeting arranged by council or mayor to solicit the views and opinions of members of the public and specific constituencies on a matter affecting the interest of the residents within the municipal area;
"Public holiday	a public holiday contemplated in the Public Holiday Act 36 of 1994;
Public meeting of voters	means a meeting of which public notice had been given and which are open to all voters registered in the municipal segment of the national common voters roll relating to council;
"Question"	means a question in terms of rules 10.(3);asked during a meeting of the council or any of its structures;
Quorum"	means the minimum number of councilors and other members; if any; that must be present at a meeting before it may commence or continue with its business; means a total of 50% plus one(1) of Councilors elected or members of

	a committee, the total number of members of that committee or Council is determined as at its establishment;
"Remuneration"	in relation to a councilor; means the salary and allowances determined by the responsible Minister in conjunction with the MEC which is payable to a councilor;
Section 79-committee"	means a committee contemplated in terms of Section 79 of the Local Government: Municipal Structures Act 117 of 1998 as amended
Section 80- committee	means a committee contemplated in terms of Section 80 of the Local Government Municipal Structures Act 117 of 1998 as amended
Senior Manager	an employee of the council appointed by the council as head of a department and includes an employee acting in such stead;
"Speaker"	means the councilor elected as speaker of council and includes any councilor who had been elected by the council as acting speaker during the temporary incapacity or absence of the speaker;
Sustainable"	<p>in relation to the provision of municipal services; means the provision of a Municipal service in a manner-</p> <p>(a)aimed at ensuring that revenues from that service; including budgeted subsidies for the service; are sufficient to cover the cost of-</p> <p>(i)operating the service; and</p> <p>(ii)maintaining; repairing and replacing the physical assets used in the provision of the services;</p> <p>(iii)aimed at ensuring a reasonable surplus or in case of service provided by a service provider that is a business enterprise a reasonable profit;</p> <p>(b)aimed at ensuring that the council or other service providers generate sufficient capital requirements for the performance of the service;</p> <p>(c)that takes account of the current and anticipated future –</p> <p>(i) level and quality of that service</p> <p>(ii) demand for the service and;</p> <p>(iii) ability and willingness of residents to pay for the service aimed at ensuring that the risk of harm to the environment and to human health and safety is minimized to an extent reasonably possible under the circumstances.</p> <p>(d)aimed at ensuring that the potential benefits to the environment and to human health and safety are maximized to the extent reasonably possible under the circumstances;</p> <p>(e)aimed at ensuring that legislation intended to protect the environment and human health and safety is complied with</p>
"Structures Act"	means the Local Government: Municipal Structure Act 117 of 1998 as amended;

System Act”	means the Local Government: Municipal Systems act 32 of 2000
“Traditional authority”	means the authority of a community within the municipal area that traditionally observes a system of customary law recognized in terms of law and;
Traditional leader”	means the leader of a traditional authority that had been identified by MEC in terms of section 80 (2) of the Local Government: Municipal Structures Act to participate in the proceedings of Council

### **3. Authority, application, supplementing and suspension of rules**

- (1) These rules apply to –
  - (a) all Councilors;
  - (b) all parties represented in Council;
  - (c) all employees of the Municipality in the course and scope of their employment;
  - (d) any consultant or contractor to council, in the course of fulfilling their consulting or contractual obligations; and
  - (e) the public
- (2) the Speaker may give a ruling or frame a rule in respect of any eventuality for which these rules do not provide.
- (3) A rule framed by the Speaker remains in force until the Rules Committee has taken a decision on it.
- (4) If the rule is framed by the Speaker when Council is in session, the Rules Committee must decide on the rule within seven (7) working days.
- (5) If the rule is framed by the Speaker when Council is not in session, the Rules Committee must decide on the rule within seven (7) working days after its next ensuing meeting.
- (6) Any provision of these rules relating to the business or proceedings of Council or of a committee may be suspended by resolution of Council.
- (7) The suspension of a provision of these rules is limited in its operation to the particular purpose for which the suspension has been approved.

### **4. Precincts of Council**

- (1) The precincts of Council in the area of land and every building or part of a building under the Council's control including –
  - (a) The Chamber in which the proceedings of Council are conducted and the galleries and lobbies of the Chambers;
  - (b) Committee rooms and other meeting places provided or used primarily for Council's purposes;
  - (c) Every other building within the jurisdiction of Elias Motsoaledi Local Municipality.

## 5. Amending the Rules and Orders Council

- (1) A rule may be amended, revoked or added by a resolution of Council.
- (2) Any Councilor proposing a change to the Rules and Orders must submit the proposal in writing within ninety (90) days to the Rules Committee.
- (3) A resolution of Council to change the Rules and Orders must be introduced by the Speaker of Council and accompanied by a report of the Rules Committee.

## CHAPTER 2

### 6. General Provisions Relating To Meetings

- (1) Determination of time and venue of meeting
  - (a) Council must meet at least quarterly.
  - (b) The Speaker decides where and when the Council meets. However if a majority of the Councilors request the Speaker in writing to convene a meeting of the Council to debate any matter, the Speaker must convene a meeting as per the request.
  - (c) The Speaker may convene ordinary and special meetings.
  - (d) Special meetings are meetings which are convened for specific purposes and at which the order of business must be as stated in the notice.
  - (e) Meetings must be held at a venue within the municipal area.
  - (f) When determining the venue for a meeting or hearing the relevant person or body must take the following factors into account-
    - (i) the accessibility of the designated venue for members of the public and the media;
    - (ii) the availability of room at the designated venue for members of the public and the media who wish to attend the meeting;
- (2) Prayers and meditation
  - (a) The Presiding Officer must request a moment of silence to allow for individual prayer and/or meditation at the commencement of each meeting of the Council.
- (3) Notice and Agenda of meetings:
  - (a) Notice of Ordinary **Council** Meetings  
Notice of Ordinary meetings should be within four (4) days prior the date of such a meeting and can be done in writing, telephonically, small messages services (SMS).
  - (b) Notice of **Special Council** Meetings  
Notice of Special meetings should be within 24 hours prior the date of such a meeting and can be done in writing, telephonically and small text messages (SMS).
  - (c) Notice of Ordinary **Committee** Meetings



Notice of Ordinary Committee meetings should be within four (4) days prior the date of such a meeting and can be done in writing, telephonically, small text messages (SMS).

(d) Notice of public meetings of voters

The speaker must when so requested by petition signed by at least 250 voters or in terms of a council resolution-

- (i) convene a public meeting of voters to discuss and decide a matter affecting the interests of the residents within the municipal area.
- (ii) As soon as the speaker has determined the date, time and venue of a public meeting of voters, he or she must inform the municipal manager thereof.
- (iii) The date determined for a public meeting of voters may not be less than fourteen (14) days after the date of publication.
- (iv) A petition or resolution to convene a public meeting of voters must set out the matter to be dealt with at that meeting. No business other than that specified in the notice convening a public meeting of voters may be dealt with at such a meeting.
- (v) Should the speaker fail to convene a public meeting of voters in terms of the legislation provisions, the municipal manager must convene the meeting and may determine the date, time and venue of such a meeting.

(4) Meeting by telephonic- or video- conferencing

- (a) The council may hold a council committee meeting using telecommunications or video conferencing facilities.
- (b) A meeting in terms of rule 6.4(a) may only be held if-
  - (i) all the councilors and traditional leaders who are required to attend the meeting concerned have access to the required facilities;
  - (ii) practicable arrangements can be made of member of the public and the media to follow the proceedings of such a meeting;
  - (iii) practicable arrangements can be made for keeping the minutes of the meeting; and the chairperson of the meeting so directs.

(5) Suspensions ,interruptions and adjournment of proceedings

- (a) The proceedings of the Council may be interrupted, suspended or adjourned by the Speaker.
- (b) The Speaker may, with the concurrence of the Chairperson of the Programming Committee ,adjourn the Council until a later sitting day than the next sitting day provided –
  - (i) That the Speaker may during such adjournment, accelerate or postpone the date for resumption of business.

(6) Public hearings

- (a) Council must convene public hearings before it adopts a resolution for -
  - (i) amendment or adoption of the annual budget; integrated development plan (IDP), performance management system (PMS);
  - (ii) relating to the quilt, level and range of services provided;
  - (iii) regarding an appropriate mechanism for providing municipal services
  - (iv) determination of tariffs, debt collection, indigent support or credit control policy;
  - (v) confirmation a language policy.

- (b) Despite the provisions of rule 6.(6), council or the speaker or the mayor may at any time convene a public hearing on any matter affecting the interest of the residents within the municipal area.
  - (c) Whenever a public hearing is to be convened, the council or body convening such a hearing must determine a schedule of hearings setting out the different venues and dates for those hearings.
  - (d) If more than one public hearing is to be held at different venues in the municipal area or with different constituencies, the councilor or body convening the hearing must determine a schedule of hearings setting out the different venues and dates for those hearings.
  - (e) No public hearing may be convened on the same day as a council meeting.
  - (f) As soon as the date; time and venue of a public hearing or a schedule of dates; time and venues for hearing have been determined; the councilor or body convening the hearing must inform the municipal manager.
  - (g) The councilor or body convening a public hearing must determine the subject matter of that hearing and may identify the constituencies that must be specially invited to attend or to make representations at the hearing and supply their particulars to the municipal manager.
  - (h) Invitation to representatives of constituencies must be in writing and attendance be at the cost of invitees.
- (7) Attendance of Meetings :
- (a) Absence from meetings and applications for leave of absence  
A councillor who is unable to attend a meeting or hearing of which notice had been given; or is unable to remain in attendance at a meeting or hearing; or will arrive after the stipulated time for a meeting or hearing must, at least six (6) hours before the commencement of the meeting or hearing, lodge with the Presiding Officer, a written application for leave of absence from the whole or any part of the meeting or hearing concerned and at the same time finish reasons for his or her application for leave of absence.
  - (b) Appeal against refusal of applications for leave of absence  
A councilor or traditional leader whose application for leave of absence has been refused may appeal against the refusal.
    - (i) Such an appeal must be in writing, and be lodged with the municipal manager within fourteen (14) days after the date of the decision.
    - (ii) The council considers an appeal in terms of rule 6.(7)(b) in the case of absence from a council meeting, public or hearing, executive committee meeting or any council committee meeting, as the case may be.
    - (iii) A decision with regard to an appeal in terms of 6.(7)(b) is final.
  - (c) Removal of councilors from office due to absence from meetings without application of leave
    - (i) Whenever a councilor had been absent without leave of absence from three consecutive or more council meetings which such a councilor was required to attend; or a traditional leader had been absent without leave of absence from three consecutive or more council meetings which such a traditional leader was required to attend. The speaker must in writing report the matter to the council at the ensuing ordinary council meeting. The speaker must, in the case of a traditional leader, also report the matter in writing to the traditional authority that he/she represents.

- (ii) The council must consider the report of the speaker and must give the councilor or traditional leader concerned, an opportunity to state his or her case.
- (iii) As soon as a councilor or traditional leader has stated his or her case, he or she must leave the meeting whilst the council considers the matter.
- (iv) If, after consideration of the matter, the council is of the opinion that the councilor was absent without good reason, the municipal manager following council resolution recommending for removal of the councilor from serving in council must, in writing, request the MEC to remove the councilor from the council in terms of section 4(2) of the code of conduct applicable to councilors in terms of the Local Government Municipal System Act.
- (v) If the council finds that the reason for the absence from any of the meetings was with good reason, the council may issue a formal warning to the councilor or traditional leader and determine the period during which the warning will be valid. The warning should be signed by the Speaker of council.
- (vi) The councilor ceases to be a councilor on the date that the MEC informs the municipal manager that the councilor had been removed from office.
- (vii) The removal of a councilor from office or a warning does not exempt that councilor from paying a fine of one thousand rand (R1000,00) as determined by council per resolution to effect such a fine..

(8) Proceedings : First Council Meeting after elections

(a) Oath taking or solemn affirmation

- (i) At the first meeting of Council after an election, after the notice convening Council has been read and before Councilors may begin to perform their functions, they must swear or affirm faithfulness to the Republic and obedience to the Constitution before a Magistrate or Judge.
- (ii) Councilors who fill a vacancy in Council between elections must take an oath or affirm their faithfulness to the Republic and obedience to the Constitution prior to performing their functions in the Council.

(b) Election of the Speaker

- (i) After all Councilors have taken oath or affirmation, the Council must elect one of its Councilors as the Speaker of Council in accordance with the procedure set out in Section 36 of the Local Government: Municipal Structures Act 117 of 1998.
- (ii) The municipal manager must preside over the elections.

(c) Election of the Mayor

- (i) After the election of the Speaker, Council must elect one of its Councilors as the Mayor in accordance with Section 55 of the Local Government Municipal Structures Act.
- (ii) After the election of the Mayor, the Speaker must inform Council of the time at which the Mayor must deliver her/his speech address.

(d) Appointment of the Chief-Whip of Council

- (i) The Speaker must call for nominations from Councilors as soon as possible after an election or whenever the position of Chief Whip of Council is vacant and appoint a Councilor to this position.

(9) Official opening of Council and State of the Municipal Address by the Mayor

- (a) At the official opening of council for each financial year, the Mayor must deliver the State of the **Municipal** Address (SOMA) which must occur after the State of the **Nation** Address and **Province**, respectively.
- (10) Debate on the State of the Municipal Address and other speeches by the Mayor
  - (a) The Mayor's Address must be debated within seven (7) days after the address.
- (11) Documents to be available at meetings
  - (a) Attendance Registers
  - (b) Agenda
  - (c) Minutes
  - (d) Addendums
  - (e) Speakers List
  - (f) Declaration of interests forms
  - (g) Oath and affirmation forms in the First Council meeting
  - (h) And any other documents as may be deemed essential by the Speaker for the proceedings of Council and its structures' meetings.
- (12) Presiding at Meetings and Hearings
 

The chairperson at a meeting must-

  - (a) Ensure that the meeting or hearing at which he or she presides is conducted in accordance with these rules and orders;
  - (b) When requested to do so, interpret these rules and orders;
  - (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, incriminating, disparaging or improper suggestions;
    - (iii) May encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, or give 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 ;contains unwelcome suggestions innuendoes, remarks of a sexual nature, sexual advances comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
    - (iv) Contains threatening abusive or insulting language towards an employee which causes that employee harassment, alarm or distress due to any of his or her rights or the discharge of any 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;
    - (v) Are contrary to these rules and orders or any other law;
    - (vi) May have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution; or may result in unauthorized expenditure;

- (d) Reject any motion, proposal or question regarding a matter beyond the council's executive or legislation 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 in respect of which a decision of a judicial body is being awaited;
- (e) Reject any motion proposal or question which-
  - (i) Is not properly seconded; on the face of it, may threaten or affect a fundamental right of any person; or is unclear;
- (f) Reject any proposal that a part of a meeting or meeting be closed that does not comply with rule 6.(12)(a);
- (g) Call the attention of any person at the meeting whose irrelevance, tedious repetition of language or unbecoming; or any breach of order by a councilor or such other person;
- (h) Submit any motion and proposal made and seconded to the vote;
- (i) Declare the result of any vote.
- (j) Instruct any member of the public, media or an employee of the council who may be present at a meeting to leave the meeting when the meeting resolves to close any part of its session and not to return to it until the meeting continues in public.
- (k) If a person refuses to retire from a meeting or hearing after having been directed in terms of rule 6.(12)(j), the chairperson may direct an authorized employee of the council or other support mechanisms used by the municipality for security purpose to remove such a person from the meeting or hearing.
- (l) The chairperson's ruling with regard to a motion, proposal or question is final unless the ruling is contested or called into question, the debate will be suspended and the ruling referred to the Rules and Petitions Committee for recommendation to the council;
- (m) The ruling of the Rules and Petitions Committee must be submitted to council for consideration at the next ordinary meeting at which meeting,council must consider the recommendation and amend or substitute the interpretation of the chairperson after which the debate should be continued.
- (n) The chairperson may , in performing his or her functions and powers-
  - (i) Consult with the municipal manager
  - (ii) Direct any person who is speaking to discontinue his or her speech or to
  - (iii) desist from breaching the order or to discontinue making an interjection ;
  - (iv) Direct any person to apologies for and withdraw any allegation , statement or remark if it is unbecoming , unnecessarily tactless , incriminating ,disparaging , improper ,racist or sexist or in enact violence or injures or impairs the dignity or honour of a councillor or employee of the council;

(13)General powers and duties of chairpersons

A Committee Chairperson-

- (a) Presides at meetings of the Committee,
- (b) Represents the Committee on the Committee of Chairpersons;
- (c) Determine the agenda of each meeting of the Committee.

- (d) Performs the functions, tasks and duties and exercises the powers that the Committee, as per resolutions of Council may assign to the Chairperson;
  - (e) Must cast a deciding vote if there is an equal number of votes on each side of question before the Committee; and
  - (f) May act in any matter on behalf of and in the best interest of the Committee when it is not practical to arrange a Committee meeting to discuss the matter, if the matter concerns-
    - (i) A request by a person to give evidence or make an oral representation to the Committee;
    - (ii) Any other request to the Committee, or
    - (iii) Decision or the initiation of any steps necessary for the Committee to perform its functions or exercise its powers.
  - (g) A Committee may set aside a decision made by its Chairperson in terms of Rule (f).
- (14) Failure or refusal to exercise the powers or discharge the duties by chairperson at a meeting or hearing.
- (a) Whenever a councilor or traditional leader who attends 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.
  - (b) An allegation in terms of rule 6.(14)(a) must quote the relevant rule that had been breached or not fulfilled and must state to what extent it had been breached or not fulfilled.
  - (c) The Municipal Manager must submit the allegation to -
    - (i) the speaker in the case of an allegation against the mayor;
    - (ii) the Speaker in the case of an allegation against the chairperson of a section 79 committee;
    - (iii) the Rules Committee in the case of an allegation against the Speaker.
  - (d) The relevant functionary or the council; as the case may be, must determine the time and place of the hearing when the matter will be considered.
  - (e) The Speaker or Municipal Manager must include the matter in the agenda as the case may be, for the ensuing council meeting after receipt of an allegation;
  - (f) The Municipal Manager must inform the councilor who made the allegation and the councilor against whom the allegation had been made of the time and venue where the matter will be heard.
  - (g) At the hearing the councilor making the allegation and the councilor against whom the allegation had been made must have the opportunity to state their case, to call witnesses, to examine any documents submitted and to cross examine any witness.
  - (h) After the matter had been heard the speaker or the council, as the case may be must make a ruling as to the most probable version of the event.
  - (i) Should it be found that an allegation against the speaker was true, the council must decide an appropriate penalty.

- (j) Whenever the speaker finds that an allegation against the mayor or Section -79 Committee Chairperson was true, he or she must submit his or her findings to council and recommend an appropriate penalty.
- (k) An appropriate penalty may include a formal warning or reprimand.

(15) Status of chairperson at a meeting.

- (a) 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.

(16) Presiding at the council meeting after general elections.

- (a) 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 councilors until a speaker is elected.

(17) Presiding at council meetings.

- (a) The speaker presides, with due regard for the provisions of these rules and orders, at every council meeting whenever he or she is present.
- (b) Whenever the speaker is absent from or unable to preside at or during any part of a council meeting, the council must elect from amongst the councilors present at the meeting an acting speaker for the duration of the speaker's absence or inability.
- (c) The municipal manager presides over the elect of an acting speaker.
- (d) Council may not elect the mayor or a member of the executive committee as acting speaker.

(18) Presiding at council meetings when the position of the speaker is vacant.

- (a) Whenever the office of speaker becomes vacant, 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, except if the office of speaker becomes vacant during a council meeting provided that such special council meeting must take place within fourteen days after the office of the speaker becomes vacant.
- (b) The municipal manager presides over the election of a speaker in terms of rule 6.(18)(a).
- (c) The speaker elected at a meeting in terms of rule 6.(18)(a) serves as speaker for the un-expired term of his or her predecessor.

(19) Presiding at Executive committee (Exco) meetings.

- (a) The mayor presides at meetings of the executive committee.

(20) Presiding at section 79-committee meetings.

- (a) The councilor appointed by the council as chairperson of a section 79-committee in this rules referred to as the chairperson, presides at the meetings of the committee whenever he or she is present.
- (b) Whenever the chairperson is absent from the meeting or is 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, presides at the meetings of the committee for the duration of the chairperson's absence or inability.

(21) Presiding at section 80-committee meetings.

- (a) The councilor appointed by the council as chairperson of a section 80-committee in this rules referred to as the chairperson, presides at the meetings of the committee whenever he or she is present.
- (b) Whenever the chairperson is absent from the meeting or is 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, presides at the meetings of the committee for the duration of the chairperson's absence or inability.

(22) Presiding at public meetings of voters, constituency meetings and public hearings.

- (a) The speaker presides at public meetings of voters and any public hearing convened by council.
- (b) The mayor presides at public hearings convened by him or her.
- (c) Whenever the councilor designated in terms of rules 6 (22) (a) & 6.(22)(b) 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 councilors present at such meeting or hearing must elect from amongst their members a chairperson for the meeting or hearing for the duration of that councilor's absence or inability.
- (d) The municipal manager presides over the election of a chairperson in terms of rule 6 (22)(c).

(23) Order in meeting and rules of debate

- (a) Conduct of members of the public at council or committee meetings

A member of the public or the media or an employee other than the municipal manager or a departmental head attending a councilors' committee meeting may not-

- (i) address the meeting at any time, unless he or she is a member of a deputation in terms of rule 9.(6)(a);
- (ii) obstruct the business of the meeting;
- (iii) make any interjections;
- (iv) make unwelcome suggestions; innuendoes, remarks or hints of a sexual nature, sexual advance comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;
- (v) encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction ridicule, contempt or preference based on colour race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insult, degraded, defame or encourage abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing, orally, or the performance of deeds;
- (vi) 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 exercises of any of his or her rights or be discharged of any of his or her duties so as to harass or causes or advocate unfair treatment of that employee; or make unwelcome or obscene gestures.

- (vii) Whenever a meeting resolves to close its session or a part thereof, any member of the public, media and employee must leave the meeting immediately and not return to that meeting until it resumes as a public meeting.
- (viii) A member of the public or media attending a councilor committee meeting is subject to the authority of the chairperson of the meeting.
- (ix) When Council is in session, members of the public may not walk between the Presiding Officer and a Councilor who is speaking; in front on the presiding podium or approach the presiding podium or engage in conduct or behavior that disturbs the proceedings.

(b) Conduct of Councilors at council or committee meetings

- (i) Councilor must address the Presiding Officer when speaking in a debate and may do so while sitting. A councilor or traditional leader may not during a meeting in terms of the code of conduct contained in the Local Government: Systems Act -
- (ii) make unnecessary tactless, incriminating, disparaging or improper suggestions or express such opinion;
- (iii) make unwelcome suggestion, innuendoes, remark 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;
- (iv) make unwelcome or obscene gestures;
- (v) make or second a proposal that may be contrary to these rules and orders or any other law, including a by-law of the council, or against the values generally existing in the community;
- (vi) make or second a proposal that may have an impracticable result or cause uneconomical inefficient or ineffective use of resources;
- (vii) make or second a proposal that may result in unauthorized expenditure;
- (viii) make or second a proposal on a matter on which the council has no executive or legislative authority unless the intention is to convince the meeting to make representation to an institution that has the required authority;
- (ix) make or second a proposal that is calculated to or may threaten or affect a fundamental right of any person;
- (x) encourage or aggravate hatred; discrimination; exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion 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;
- (xi) incite imminent violence;

- (xii) compel or attempt to compel employees or councilors by threats to partake in any actions against their will;
  - (xiii) breach these orders;
  - (xiv) disregard the chair;
  - (xv) 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 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;
  - (xvi) make an allegation, statement or remark that is unbecoming of a councilor or injures or impairs the dignity or honour of a councilor or employee;
  - (xvii) submit a motion or to request the municipal manager or any other employee of the council to formulate a motion that may be contrary to these rules and orders or any other law, including a by-law of the council, or against the value generally existing in the community or have an impracticable result or cause uneconomical, inefficient or ineffective use of resources; result in unauthorized expenditure; falls outside the council's executive or legislative authority;
  - (xviii) unless the intention is to convince the meeting to make representations to an institution that has the required authority;
  - (xix) A traditional leader may not second or vote on any motion, proposal or question before a meeting;
  - (xx) When Council is in session, Councilors may not walk between the Presiding Officer and a Councilor who is speaking, in front on the presiding podium or approach the presiding podium or engage in a conduct or behavior that disturbs the proceedings.
- (c) Precedence of Speaker/Presiding Officer
- (i) The Presiding Officer's right to speak takes precedence over the right of other Councilors to speak
  - (ii) The Presiding Officer should ensure that Councilors are allowed to speak and debate freely in the Council.
  - (iii) Councilors called to speak-  
A Councilor may speak in a debate only when called by the Presiding Officer.
- (d) Points of order
- (i) When a point of order is raised, the member called to order must stop speaking, while the member raising a point of order states it to the Speaker or Presiding Officer. The Speaker or Presiding Officer must give his or her ruling or decision forthwith or subsequently.
- (e) Irrelevance or repetition
- (i) The Speaker may, after having called the attention to the conduct of a member who persists in irrelevance or repetition of arguments, direct such a member to discontinue his or her speech.

**(f) Offensive language**

- (i) A member may not use offensive or unbecoming language.

**(g) Explanations**

- (i) An explanation during a debate is allowed only when a material part of the member's speech has been misquoted or misunderstood, but the member must not be permitted to introduce a new matter and no debate must be allowed on such explanation.
- (ii) A member may with prior concern from the Speaker or Presiding Officer, explain matters of personal nature, but such matters must not be debated and the member must confine him/herself strictly to the vindication of his/her own conduct and may not speak for more than three (3) minutes.

**(h) Naming or suspension of member**

- (o) If the Speaker/Presiding Officer is of the opinion that the disorderly conduct of a member is of a serious nature, he or she can direct that the person be withdrawn from the precincts of the Council for the remainder of the sitting time and the service of Protocol Officers or any authorized employee of the council or other support mechanisms used by the municipality for security purpose to remove such a person from the meeting or hearing.

The Presiding Officer may also-

- (i) If he or she is the Speaker, suspend the member;
- (ii) If he or she is not the Speaker, name the member;
- (iii) Or take such action as he or she considers necessary.
- (iv) If a member has been named, the Speaker may after consultation with the Presiding Officer concerned take no further action against that member or suspend him/her; or take such action as he or she may deem necessary.
- (v) Before a member is named or suspended in terms of rule 6.(23) (h), the member must be given reasonable opportunity to be heard.
- (vi) The suspension of a member must be announced in Council.
- (vii) A member may not enter the precincts of Council during the period of his or her suspension.

**(i) Expression of regret**

- (i) A member who has been suspended or named under rule 6.(23)(h), may submit to the Speaker a written expression of regret, and if the Speaker approves such expression of regret, he or she may discharge the suspension or the member to resume his or her seat.
- (ii) If the Speaker approves the expression of the regret, he or she must inform the Council and it must be recorded in the minutes of the proceedings.

**(j) Grave disorder**

- (i) In the event of a grave disorder at a sitting, the Presiding Officer or Speaker may adjourn the meeting or suspend it for a period to be stated by him or her.

**(24) Recording of proceedings during meetings.**

- (a) 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 and visual, of a meeting or any part thereof.

(25) Dress code.

- (a) Council prescribe a dress code for councilors and traditional leaders attending meetings as follows:
- (a) All Councillors , traditional leaders and officials, as representatives of the Elias Motsoaledi Local Municipality must at all times when attending any Council, Executive Committee, Portfolio Committee and public hearing meetings of the Municipality , dress appropriately to portray a professional and corporate image.
- (b) The following dress code must be adhered to :
- Regular meetings of council All Councillors should be appropriately and neatly dressed for a formal meeting, which may include religious and traditional dress.
  - Informal casual clothes such as T-shirts, any type of jeans, sweat pants and takkies will be considered as inappropriate for such meetings.
  - No councilor shall be allowed to wear any clothing or accessory containing partly political paraphernalia to any council structures' meeting
  - Inappropriate clothing for a council meeting includes a T-shirt, jeans, exercise clothing, takkies, political party branded clothing
  - , clothing which exposes the body such as shorts, cut-off jeans, see-through blouses, or clothing which shows parts of the body (without underwear), T-shirts printed with inappropriate messages or words
  - Provision is made for cultural or religious exceptions
  - Special occasions / events: The Speaker may advise the dress code for Council meetings for special occasions and/or events but which shall not be obligatory on those attending such meetings or events.
  - Non-compliance If the dress code is transgressed, the speaker of council must have the complaint investigated and make a ruling.
  - If a council member is found guilty, he/ she will be formally warned, reprimanded or fined R1000, 00 which will be deducted from his monthly salary following the verdict.

(26) Person speaking to address the chairperson.

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

(27) Councilor to sit while speaking.

- (a) Unless otherwise directed by the chairperson of a meeting or hearing a councilor or traditional leader addressing a meeting or hearing must sit while speaking.
- (b) If a councilor 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 councilor or traditional leader while another councilor is speaking, the councilor or traditional leader who is

speaking must remain silent until the chairperson has made a ruling on the point of order or the proposal.

(28)Duration and reading of speeches.

- (a) Unless expressly otherwise determined in these rules and orders a councilor and traditional leader may not speak longer than three(3) minutes on any matter except when a councilor or traditional leader is-
  - (i) delivering the speakers or mayor's report or
  - (ii) presenting the draft report
  - (iii) He or she may not read a speech but may refresh his or her memory by referring to notes.

(29)Councilor to speak once.

Unless expressly otherwise determined in this standing rules and orders, a councilor or traditional leader may speak only once on a matter.

- (a) The introducer of the motion or proposal may reply in conclusion of the debate but must confine his or her reply to answering previous speakers.
- (b) The council may allow the mayor or the chairperson of a section 79 committee, as the case may be, to make an explanatory statement prior to the consideration of any particular matter in the report of the mayor or section 79 committee or during the discussion of such a report in reply to a specific question.

(30)Relevance.

- (a) A councilor or traditional leader who speaks must strictly confine his or her speech to the matter under discussion.
- (b) No discussion may take place-
  - (i) 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 Secretary to Council indicated in the agenda that two or more items should be considered together or on any motion or proposal that had been rejected.

(31)Councilor's right to information.

- (a) A councilor has the right to request the municipal manager to supply such information as may be required for the proper performance of his or her duties as a councilor including the making of a speech at a meeting or hearing, provided that reasonable notice of the information required is given to the municipal manager, further that confidential information may not be made known by the relevant councilor.

(32)Personal explanation, point of order and clarification.

A councilor or a traditional leader may, at any time during a meeting whether or not he or she participated in a debate underway-

- (a) Raise point of order in the event of a departure from these rules and orders or any law or to explain any part of his or her speech that may have been misunderstood or;
- (b) Request that any part of a speech that he or she may have misunderstood be explained.
- (c) A councilor or traditional leader referred to in rule 6.(32), must be heard forthwith.

- (d) The ruling of the chairperson of the meeting on a point of order or a personal explanation is final and may not be discussed.

(33) Right of municipal manager to have advice recorded in minutes.

- (a) 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 on the eligibility of any proposal or motion before the meeting.
- (b) The municipal manager has the right to have his or her advice regarding any motion or proposal which may-
  - (i) Cause unauthorized expenditure or;
  - (ii) Be beyond the authority of the council recorded in the minutes of the meeting where the advice was given.

(34) Adjournment and continuation of meetings.

- (a) Adjournment of meeting in absence of a quorum.
  - (i) If there is no quorum for the meeting within 30 minutes after the time stipulated in the notice, such a meeting is not held but a continuation meeting is held.
  - (ii) If at any time during the course of a councilor committee meeting it is suspected that there is not a quorum present
  - (iii) The chairperson must discontinue the proceedings immediately and cause the councilors present to be counted and if the suspicion is proved correct, the chairperson must instruct the Secretary to Council to ring the bell for one minute. if there is still no quorum for five minutes after the bell had been rung, the chairperson must adjourn the meeting forthwith
  - (iv) If the shortfall of councilors is owing to the withdrawal of one or more councilors in compliance with the code of conduct the chairperson must arrange that such matter be dealt with at the ensuing meeting and the unfinished business be dealt with.
  - (v) If a sufficient number of councilors are present after the bell had been rung, the meeting continues and the councilor who was speaking when the proceeding were discontinued must be given an opportunity to start his or her speech afresh.
  - (vi) Any business except a matter which had not been dealt with at a meeting that had been adjourned must be considered at a continuation meeting contemplated in rule 6.(34)(c) provided that any unfinished business arising from a special meeting must be considered at the ensuing meeting.
- (b) Adjournment of meeting before it completed its business.
  - (i) A councilor may at any time during a meeting propose that the meeting be adjourned and must state the reason for the proposal provided that no councilor may more than twice during the same meeting propose that it be adjourned
  - (ii) A proposal in terms of rule 6.(34)(b)(i) must be seconded by at least three councilors present provided that a councilor may not second a proposal to adjourn more than twice during the same meeting. Such a proposal lapses if it is not properly seconded.

- (iii) A proposal in terms of rule 6.(34)(b)(i) is carried if a majority of the members present at a meeting vote in favour thereof.
- (iv) Whenever a meeting adjourns in terms of rule 6.(34)(b)(i) before it had finished the business stated in the agenda, that meeting must resume as a continuation meeting in terms of 6.(34)(c) to deal with any unfinished business.
- (c) Continuation of an adjourned meeting.
  - (i) A continuation meeting should be held at the same time and venue as a meeting that had been adjourned within seven days of the adjournment.
  - (ii) The agenda for a continuation meeting is the agenda for the meeting that had been adjourned.
- (d) Temporary adjournment of meeting.
  - (i) A councilor may at any time during a meeting propose that the meeting be temporarily adjourned for a period proposed by him or her and must state the reasons for the proposal provided that not more than two such proposal may be made in the same meeting and that such adjournment may not exceed thirty minutes.
  - (ii) Despite the provision of rule 6.(34)(d)(i), the chairperson at a meeting may if she or he 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 .
  - (iii) A proposal in terms of rule 6.(34)(d)(i) must be seconded by at least three councilors present at the meeting provided that a councilor may not second a proposal to adjourn more than twice during the same meeting.
  - (iv) Such a proposal lapses if it is not properly seconded.
- (35) Urgent reports
  - (a) An urgent report received from the mayor may be tabled and considered during a council meeting with prior permission of the speaker.
  - (b) An urgent report received from a section 79-committee may be tabled and considered at a executive committee meeting with prior approval of the mayor.
- (36) Declaration of personal or pecuniary interest.
  - (a) A councilor or traditional leader wishing to declare personal or pecuniary interest in terms of the code of conduct must do so when the chairperson puts the relevant item in the agenda.
  - (b) No councilor or traditional leader may speak more than three (3) minutes on the question, whether his or her interest is so trivial or remote or irrelevant as to render a clash of interest unlikely.

## PART TWO

### CHAPTER 3

#### 7. Office Bearers and Councillors

##### (1) Speaker of Council

- (a) Must safeguard the independence of the Council and maintain the authority thereof.
- (b) Is the spokesperson for the Council in its relations with other arms of government and, with outside institutions and person. In representing Council, the Speaker is responsible to the Council.
- (c) Must ensure that these Rules are observed.
- (d) Must protect freedom of speech and debate in the Council and its Committees
- (e) Is responsible for the management of Council
- (f) Must discharge her/his responsible in an impartial way.
- (g) Must ensure public participation.

##### (2) Absence of the Speaker

- (a) If the Speaker is absent for more than seven consecutive days, and the Speaker is not available to undertake her/his duties, the Chairperson of Chairpersons will be the preferred candidate for acting Speaker. The delegation should be made to the Chairperson of Chairpersons to act as the Speaker during time which the Speaker is absent.

##### (b) Relief of the presiding officer

If the Presiding Officer needs to leave Council during a meeting, she or he must be relieved by the Chairperson of Chairpersons, or, if neither of them is present, by another Councilor identified by the Presiding Officer.

##### (3) Chiefwhip of Council

- (a) Is responsible of coordinating the Whippery.
- (b) Coordinates the deployment of Councilors to various Committees.
- (c) Coordinates the allocation of speaking times.
- (d) Ensure accountability of Councilors through the Whippery structures.
- (e) Is responsible for political interface among parties in the Council.

##### (4) Chairperson of Chairpersons

- (a) As soon as possible after the election or whenever the position of Chairperson of the Committee of Chairpersons (Chairs of Chairs) is vacant, Council must appoint a Councilor to this position.
- (b) The Chairperson of the Committee of Chairpersons (Chair of Chairs) is a member of the Programming Committee oversees the implementation of policy with regard to the coordination and management of the work of committees, except those Committees chaired by the Speaker.

##### (5) Chairpersons of Section-79 Committees

- (a) As soon as possible after the election or whenever the position of Chairperson of the Section -79 Committee of is vacant, the Speaker must appoint a Councilor to this position.



(b) In the absence of the Section-79 Committee meeting, the members must elect a Councillor to chair the meeting for that period.

(6) Removal of office-bearers and Councillors from office

(a) Removal of speaker

- (i) A councilor (hereafter called the initiator) may by written motion which must be seconded by at least three other councilors, move that the speaker be removed from the office. Such a motion must be submitted to the municipal manager may not be sent by electronic mail, telex or telegram, if such motion transmitted by facsimile, the original must be delivered to the municipal manager within seven days from the date of motion.
- (ii) The motion must contain a brief summary of the reasons for the motion
- (iii) A motion in terms of rule 7.(7)(a)(i) despite the provision of rule 10.(2)(g) cannot be withdrawn.
- (iv) The municipal manager must upon receipt of such a motion forthwith send a copy to the speaker
- (v) Unless the speaker resigns upon receipt of a motion in terms of 7.(7)(a)(i), he or she must upon receipt thereof determine the date and venue for special meetings in terms of rule 4. The date of such special meeting may not be less than fourteen to twenty-one days from the date the speaker has received a copy of the motion from municipal manager.
- (vi) Despite the provision of rule 6.(3)(a) &(b), at least seven days notice of the meeting must be given to every councilors and traditional leader.
- (vii) If the speaker resigns from office at any time before the meeting takes place, the motion lapses and the meeting does not go ahead.
- (viii) The meeting may not be closed for the public or media before a vote had been taken on a motion in terms of rule 7.(7)(a)(i).
- (ix) The municipal manager presides over proceedings on motion in terms of rule 7.(7)(a)(i) but he or she may not vote.
- (x) The speaker has the right and must be allowed the opportunity during the proceedings to respond to every allegation made in the motion during the proceedings, call witnesses and to cross-examine any witnesses called by the initiator, and/or submit documents and to examine any documents submitted by the initiator.
- (xi) The municipal manager must put the motion to the vote after the debate had been exhausted.
- (xii) If the motion is carried, the speaker is removed from the office with immediate effect and the council proceeds to elect a new speaker despite any provision contrary to these rules and orders.
- (xiii) If the motion is defeated, no motion forwarding the same allegations may be submitted within the next three months unless the council directs otherwise.
- (xiv) If the Speaker at anytime during the proceedings resigns, the proceedings are discontinued immediately and the motion lapses and council continues to elect a new speaker despite any provision contrary to these rules.
- (xv) A councilor elected as a speaker in terms of rule 7.(7)(a)(xiv) serves for the unexpired term of his or her predecessor.

- (b) Removal from office of the Mayor
  - (i) A Councilor (hereafter called the initiator) may by written motion which be seconded by at least three other councilors, move that the mayor be removed from the office. Such a motion must be submitted to the Speaker and may not be sent by electronic mail, telex or telegram, if such motion transmitted by facsimile, the original must be delivered to the Speaker office within seven days from the date of motion.
  - (ii) The motion must contain a brief summary of the reasons for the motion.
  - (iii) A motion in terms of rule 7.(7)(b)(i) despite the provision of 10.(2)(g) cannot be withdrawn.
  - (iv) The Speaker must upon receipt of such a motion in terms of rule 7.(7)(b)(i) forthwith convene a meeting of council.
  - (v) Despite the provision of rule 6.(3)(a) &(b) at least seven days notice meeting must be given to every councilors and traditional leader.
  - (vi) If the mayor resign from office at any time before a meeting in terms of rule 7.(7)(b)(i) takes place, the motion lapses and the meeting does not go ahead, if the mayor resigns the members of the executive committee are deemed to have resigned from the same date.
  - (vii) The meeting may not be closed for the public or media before a vote had been taken on a motion in terms of rule 7.(7)(b)(i).
  - (viii) The speaker presides over proceedings on motion in terms of rule 7.(7)(b)(i), but he or she may not cast vote.
  - (ix) The mayor has the right and must be allowed the opportunity during the proceedings to respond to every allegation made in the motion and during the proceedings, call witnesses and to cross-examine any witnesses called by the initiator, and/or submit documents and to examine any documents submitted by the initiator.
  - (x) The Speaker must put the motion to the vote after the debate had been exhausted.
  - (xi) If the motion is carried, the Mayor is removed from the office with immediate effect and council proceeds to elect a new Mayor despite any provision country to these rules and orders.
- (c) Removal of members of section -79 committees
  - (i) A Councilor (hereafter called the initiator) may by written motion which must be seconded by at least three other councilors, move that member(s) be removed from office. Such a motion must be submitted to the Speaker and may not be sent by electronic mail, telex or telegram, if such motion transmitted by facsimile, the original must be delivered to the municipal manager within seven days from the date of motion.
  - (ii) A motion for removal of the chairperson of the section -79 committee must be referred to and dealt with by the Speaker.
  - (iii) If the motion is not made in respect of all the members of the committee it must state the names of the councilors who must be removed.
  - (iv) The motion must contains a brief summary of the reasons for the motion.
  - (v) A motion in terms of rule 7.(7)(c)(i) despite the provision of rule 10.(2)(g) cannot be withdrawn
  - (vi) The speaker must forthwith upon receipt of the motion determine the time and venue for a special council meeting in terms of rule 4. The date of such special meeting may not be less

than fourteen and not more than twenty one days from the date speaker received a copy of the motion.

- (vii) At least seven days notice of the meeting in terms of 7.(7)(c)(i) must given, despite provisions of rule 6.(3)(a) &(b).
- (viii) If the members of the committee named in the motion resign from office at any time before a meeting in terms of rules 7.(7)(c)(i) takes place, the motion lapses and the meeting does not go ahead. The meeting not be closed for the public or media before a vote had been taken on a motion.
- (ix) The Speaker presides over proceedings on motion in terms of rule 7.(7)(c)(i) but he or she may not vote.
- (x) The Chairperson or member of a Section -79 Committee has the right and must be allowed the opportunity during the proceedings to respond to every allegation made in the motion and during the proceedings , call witnesses and to cross-examine any witnesses called by the initiator, and/or submit documents and to examine any documents submitted by the initiator.
- (xi) After the debate had been exhausted, the speaker must put the motion to the vote.
- (xii) The motion is put to the vote separately in respect of each of the councilors to which it relates.
- (xiii) If any councilor to whom a motion in terms of rule 7.(7)(c)(i) at any time during debates but before the motion is put to the vote, makes a declaration, the debate is discontinued immediately in respect of him or her and the motion lapses.
- (xiv) Every councilor in respect of whom the motion is called should be removed from office with immediate effect.
- (xv) As soon as the proceedings had been concluded the council proceeds to fill vacancies in the committee despite any provision contrary to these rule and orders.
- (xvi) A councilor elected as a member of the committee in terms of rule 7.(7)(c)(i) serves for the unexpired term of his or her predecessor.
- (xvii) If the motion is defeated, no motion naming a councilor in respect of whom it had been defeated, forwarding the same allegations may be submitted within the next three months unless the council directs otherwise.

## **8. Appointment of the Executive Arm of Council**

### **(1) Leader of Executive Business**

- (a) As soon as possible after an election or whenever the position of Leader of Executive Business is vacant, The Mayor must appoint a member of the Executive Committee as Leader of Executive Business in Council and inform the Presiding Officer of the appointment.
- (b) The Leader of Executive Business is responsible for managing the interface between the Executive and the Council Legislature.

### **(2) Duties of Members of the Executive Committee to the Legislature (council)**

Every member of the Executive Committee must submit to the legislature-

- (a) Quarterly reports on the performance of Departments within 30 days from the end of the quarter. Quarterly reports must include-
    - (i) All community inputs in participatory processes, received within the previous quarter and the response of the Department on each input;
    - (ii) The head of the Department's quarterly progress report; and
    - (iii) A breakdown of all reported service delivery failures recorded in the average time taken to close said failure(s)
  - (b) Any other report requested by Council or a Committee of Council, unless prescribed otherwise by the Committee.
  - (c) A suite of planning documents to accompany the annual budget, which must include -
    - (i) All community input participatory processes received within the annual cycle and the response of the Department on each input.
  - (d) Every Member of the Executive Committee must ensure that a reply is given to every question put to her/him by Council, a Councilor or a Committee.
  - (e) When Council or any of its Committees bring a matter to the attention of the Member of the Executive Committee, she//he must submit a response to the Council or Committee within the stipulated time, if a response is required.
  - (f) The receipt of the responses must be tracked by the relevant oversight committee and must be followed by correspondence sent to the relevant Member of the Executive Committee, if a reply was not received within the set timeframes and /or if additional information is required.
  - (g) The relevant Oversight Committee will report to Council on the outcome in terms of the sub-rules (e) and (f) above.
- (3) Matters affecting Members of the Executive Committee
- (a) Obligations of the Executive/Administration to attend and respond to question in Committee meetings must be in line with the Council approved guidelines on Attendance of Executive/Administration in Section 79 Committee meetings.
  - (b) When the Legislature or any of its Committees brings a matter to the attention of the Members of the Executive Committee, it must indicate-
    - (i) Whether or not it requires a response from the Member of the Executive Committee; and
    - (ii) That, where a response is required, this must be within thirty (30) days, unless otherwise stipulated by the Committee.
  - (c) The Secretary to Council must send any resolution affecting the Member of the Executive Committee to the Leader of the Executive Business within seven (7) days of the Council meeting.
- (4) Return on Implementation of Decisions of the Council
- (a) The Mayor must report on a quarterly basis on the implementation of all Council resolutions. The agenda of the meeting of the Council must include a return showing the status of the implementation of each resolution.
  - (b) On the recommendation of a Committee, Council may pronounce appropriate measures to be taken by the Mayor in the case of consistent failure to implement resolutions of Council.
  - (c) The mayor must report back at the next Council meeting on measures taken and the outcome thereof.

- (d) Council shall reserve the right to give that pronouncement on what further steps should be taken, if measures taken under sub-rule (b) above prove ineffective.

## **CHAPTER 4**

### **9 PUBLIC PARTICIPATION, DEPUTATIONS AND PETITIONS**

#### **(1) Public Access**

- (a) The Council meeting must be open to the public, including the media.
- (b) The Speaker must inform the public of the proceedings of the Council and its Committees by publishing in the press, on the website and other appropriate media, details of the time and place of meeting.

#### **(2) Regulating Public Access**

- (a) Council must take reasonable measures to regulate public access, including access by the media.
- (b) The regulation of public access to the precincts of Council, subject to these Rules, is the responsibility of the speaker.
- (c) In the interest of security or to prevent any other disruption of proceedings, the Speaker may provide for any person to be searched and refuse entry to, or remove any person.
- (d) A Committee may exclude the public, including the media and official, from meeting only when it is reasonable and justifiable to do so in an open and democratic manner.
- (e) Circumstances in which it is reasonable and justifiable to exclude the public from a Committee meeting may, but most not necessarily, occur when the Committee is considering a matter that-
  - (i) Should be discussed behind closed doors to avoid prejudicing a person unfairly; or
  - (ii) Is confidential in terms of legislation.

#### **(3) Public access to records and documents**

- (a) The records of Council and its committee and all documents tabled in Council and its Committees must be accessible to the public and media.
- (b) A decision to withhold records or other documents from the public may be made under this rule only and must be compatible with the protection of freedom to information in the Constitution and the Promotion of Access to Information Act, 2 of 2000.
- (c) Council may, by resolution, order that documents referred to in sub-rule (b) not be made public. Notwithstanding sub-rule (a), the following documents may not be made public unless they have been tabled in Council or the Speaker has given permission for them to be made public-
  - (i) The proceedings of, or evidence taken by, or placed before, a Committee while the public were excluded from a closed meeting;
  - (ii) Any report, or summary or record of proceedings, or evidence referred to in sub-rule (b) above;
  - (iii) Any document presented to the Committee as a confidential document and declared confidential by the Committee;

- (iv) Any document that the Chairperson declares confidential before it is submitted to members of the Committee;
- (d) A Committee may resolve to request a formal written consent of the Speaker to not include information listed in rule 9.(3)(a) in respect of a Committee report.
- (4) Access to Council and its Committees
  - (a) Council and all Committees of Council shall be normally open to the public and media subject to Section 20(1) of the Local Government: Systems Act.
  - (b) The Presiding Officer shall make every effort to facilitate access including the relocating of a meeting to an appropriate venue, especially with respect to access for person with disabilities and the anticipated interest in the Committee's agenda. Access is however restricted in terms of the relevant section prescribed in the Occupational Health and Safety Legislation.
- (5) Assistance for public participation
 

In order to provide effective opportunity for public participation, the Secretary to Council in the Speaker's Office may assist a person to-

  - (a) formulate a written submission to a Committee;
  - (b) appear before a Committee; or
  - (c) Present a verbal submission to a Committee.
- (6) Deputations
  - (a) Anybody who wishes to obtain an interview with the council or a committee of the council, must lodge a written application with the Municipal Manager. Such an application must state the representations the applicant wishes to make.
  - (b) The municipal manager must submit the application to the-
    - (i) Speaker in the case of an application for an interview with the council
    - (ii) Mayor in the case of an application of an interview with the mayoral committee; or
    - (iii) Chairperson of the relevant committee.
  - (c) Whenever the speaker, mayor or chairperson of a committee- Grants an interview, he or she must determine the date, time and venue of the interview and the size of the population that may attend the interview; or refuses an application, he or she must supply reasons for the refusal and inform the municipal manager of his or her decision.
  - (d) The municipal manager must inform the applicant of a decision in terms of rule 9.(6)(c).
  - (e) If the subject matter of an application in terms of rule 9.(6)(c) falls within the terms of reference of a committee the speaker may direct that the chairperson of the relevant committee consider the application.
  - (f) If a committee conducts an interview and that committee does not have the power to dispose of the matter, the committee must submit its report and recommendations to the Speaker for further consideration by Council.
  - (g) During an interview only one member of the deputation may address the meeting except when a councilor asks a question where upon any member of the deputation may respond.
  - (h) Unless the council or committee conducts an interview in closed session, a member of a deputation may remain in the meeting whilst the council or committee considers the matter after the interview had been completed.

(7) Petitions

- (a) The municipal manager must inform the Speaker of any petition he or she receives.
- (b) Any petition must be referred to the relevant committee or the mayor, as the case may be, who may dispose the matter.
- (c) If the committee or mayor to whom a petition had been referred to, does not have the power to dispose of the matter, the committee or the mayor as the case may be, must submit its report and recommendations to the council.

(8) Right to petition

- (a) A member of the public has the constitutional right to petition the Council.
- (b) The Petition Act applies with respect to the exercise of this right.

(9) Submission of petition

- (a) A petition must be submitted to the Speaker of Council in writing and in the form prescribed by the Petitions Act.
- (b) All petitions that meet the requirements of the act must be referred to the relevant Committee

(10) Assistance for petitions

- (a) Where a petition does not meet the prescriptions of the Petitions Act assistance shall be given by the Secretary to Council to the petitioners to ensure that the requirements are met.

(11) Consideration of petitions

- (a) The Committee must consider all petitions that are properly submitted in terms of the Petitions Policy.
- (b) The Committee may use all powers given to it to facilitate a conclusion to a petition in terms of the Petitions Act.
- (c) The Secretary to Council must inform the petitioner of the receipt of, progress and, decision of said Committee and of other action taken by the Committee of Council, in terms of the Petitions Act.

(12) Objections

- (a) Whenever council invites public comment, representations or objections with regard to any proposed resolution before the council or a resolution council that had been taken, the municipal manager must designate a person who will be responsible for the receipt of such comments, representations or objections.
- (b) The person designated in terms of rule 9.(12)(a), must within seven days after the closing date for comments, representation or objections make a summary of the comments representation and objections if any were received and submit it to the relevant departmental head.
- (c) The departmental head must consider the summary and submit it, together with his or her report and recommendation to the municipal manager who must refer it with his or her comments to the Mayor or the relevant Committee as the case may be.
- (d) The mayor or committee as the case may be, must consider the summary and report and recommendations of the departmental head and the comments of the municipal manager and submit the matter to Council together with their recommendations.

## PART THREE

### CHAPTER 5

#### 10 Business of Council

##### (1) Order Of Business At Meetings

All Councilors are to be seated fifteen (15) minutes prior to the starting time of Council meeting and following the announcements of the Presiding Officer, all Councilors and officials must rise when the Speaker and Mayor enters the Chamber at the beginning of a meeting and must remain standing quietly until instructed by the Speaker to be seated, following individual silent/meditation.

##### (a) Order of business at ordinary Council meetings.

1. Opening
2. Application for Leave of Absence
3. Official Announcements
  - 3.1 Announcements: The Speaker
  - 3.2 Announcements: The Mayor
  - 3.3 Announcements: Councillors
  - 3.4 Announcements: Municipal Manager
4. Notice of the Meeting and Determination of Quorum
5. Motion of Sympathy and Congratulations
6. Disclosure of Interests
7. Petitions
8. Minutes of the Previous Meetings
9. Progress on Implementation of Resolutions
10. Questions of which Notice has been given
11. Matters Deferred from the Previous Meetings
12. Reports of the Speaker
13. Reports of the Mayor
14. Deputations and Interviews
15. Closure



(b) Order of business at first council meeting after a general election of Councillors

1. Opening and Welcome
2. Oath or solemn affirmation by members of the Council
3. Application for leave of absence
4. Introduction of councillors and officials
5. Disclosure of interests
6. Election of the Speaker
7. Election of the Mayor
8. Appointment of the Chief Whip of Council
9. Reports:
  - 9.1. Reports of the Speaker.
  - 9.2. Reports of the Mayor
10. Deputations and Interviews
11. Official Announcements
12. Closure

(c) Order of business at special council meetings

1. Opening
2. Application for Leave of Absence
3. Official Announcements
  - 3.1. Announcements: The Speaker
  - 3.2. Announcements: The Mayor
  - 3.3. Announcements: Councillors
  - 3.4. Announcements: Municipal Manager
4. Notice of the Meeting and Determination of Quorum
5. Motion of Sympathy and Congratulations
6. Disclosure of Interests
7. Reports of the Speaker
8. Reports of the Mayor
9. Deputations and Interviews
10. Closure

(2) Motions

(a) Nature of motions

- (i) A Councillor who wishes the Council to adopt a resolution, either with or without debate, must introduce a motion.
- (ii) A motion may, among other things, propose that the Council resolves to adopt a report;
- (iii) make a recommendation to the executive;
- (iv) amend a motion before the Council;
- (v) Pass a motion pursuant to a specific section of the Constitution;
- (vi) censure a person or body ;
- (vii) A motion must be within the jurisdiction of Council.

(b) Form of Motions

- (i) A motion must be in writing in one of the languages of the Council and must be signed by the Councillor who introduces the motion.
- (ii) Another Councillor must second a motion, unless the Speaker decides otherwise or if it is proposed by the Mayor.
- (iii) If both the proposer and seconder are absent, then the motion falls away.
- (c) Admissibility of Motions
  - (i) A motion is admissible only if it complies with these Rules.
  - (ii) The speaker decides whether a motion is admissible.
  - (iii) A notice of a motion which breaches the practice these Rules may be amended or otherwise dealt with as the Speaker decides.
- (d) Motions without Notice
 

Every motion requires notice, except a motion

  - (i) By way of amendment to a draft resolution permitted in terms of these Rules;
  - (ii) Raising a point of order or a matter of privilege;
  - (iii) For the postponement or discharge or discharge of; or giving precedence to, an order of the day;
  - (iv) Referring a policy to a Committee;
  - (v) By the Member in charge of a policy, proposing a draft resolution on the report of a committee immediately after the debate on the report has been concluded;
  - (vi) Specially expected by these rules; or
  - (vii) In regard to which notice is dispensed with by the unanimous concurrence of all the members present.
- (e) Notice of motions
 

When giving notice of a motion, a member must-

  - (i) Read it loud and deliver it to the Secretary of Council a signed copy of the notice on any working day, for placing on the order paper.
  - (ii) Except with the unanimous concurrence of all the members present, no motion may be moved on the day on which notice thereof is given.
  - (iii) When Council is in recess, a Member who intends to move a motion after the resumption of business, must submit a written and a signed notice thereof to the Secretary of Council, no less than 14 days before the day on which it is to be discussed.
- (f) Selection of motions to be considered by Council
  - (i) Unless the Rules provide otherwise, a motion must be selected by the Programming Committee before it can be considered by the Council.
  - (ii) The Programming Committee must consider the selection of the motion for consideration by the Council at its first meeting after the motion was submitted to the Secretary to Council
  - (iii) A Councilor may withdraw a motion that has been selected by the Programming Committee by informing the Speaker in writing at least one (1) hour prior to the Council meeting.
- (g) Withdrawal and amendment of motions
 

With due regard for any provision to the contrary in these standing rules and orders-

- (i) The introducer of a motion may at any time before the motion is put to the order at a meeting withdraw it.
- (ii) A motion that has been withdrawn lapse without further discussion
- (iii) 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.
- (h) Referring the matter back.
  - (i) A proposal that a motion or proposal (hereafter the original motion) be referred back may only be made by councilor or traditional leader during his or her speech on the original motion.
  - (ii) A proposal in terms of rule 10.(2)(h)(i) may only be made during a council meeting in case of a recommendation by the mayor. A proposal in terms of rule 10.(2)(h)(i) may only be made during a executive committee meeting in case of a recommendation of section 79 committees.
  - (iii) If a proposal in terms of rule 10.(2)(h)(i) had been made no other proposal may be made until its introducer had addressed the meeting. The Councilor or traditional leader who made the proposal may address the meeting for three minutes on his or her proposal but he or she has no right to reply. The seconder may not address the meeting on the proposal.
  - (iv) The introducer of the original motion may when a proposal in rule address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected. If a proposal in terms of rule 10.(2)(h)(i) is rejected, a vote must be taken on the original motion without any further discussion.
  - (v) A proposal in terms of rule 10.(2)(h)(i) may not be put to the vote until the speaker or the Mayor or the chairperson of the relevant committee as case may be had addressed the meeting proceeds to the next matter.
- (i) Deferring consideration of the matter
  - (i) Any councilor or traditional leader may, at the end of a speech about the original motion propose that the matter be deferred.
  - (ii) The councilor or traditional leader who made the proposal in terms of rule 9.1. may address the meeting for five minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
  - (iii) A proposal similar to the proposal in terms of rule 10.(2)(i)(i) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
  - (iv) The introduction of the original motion may .when a proposal in rule 9.1. had been made and its introducer had spoken in terms of rule 10.(2)(i)(i) address the rejected.
  - (v) If a proposal in terms of rule 10.(2)(i)(i) is rejected, a vote must be taken on the original motion without any further discussion .
  - (v) If the proposals in terms of rule 10.(2)(i)(i) concerns a recommendation of the mayor or a section 79-committee the matter must, if that proposal is carried, be included in the next report of the mayor or section 79-committee to the council. If the proposal in terms of rule 10.(2)(i)(i) concerns another matter, the matter must be included in the agenda of the first ordinary council meeting.
- (j) Putting a matter to the vote

- (i) Any councilor or traditional leader may, at the end of a speech about the original motion, propose that the matter be put to the vote.
  - (ii) The councilor or traditional leader who made the proposal in terms of rule 10.(2)(j)(i) may address the meeting for three minutes on his or her proposal, but he or she has no right of reply. The seconder may not address the meeting on the proposal.
  - (ii) A proposal similar to the proposal in terms of rule 10.(2)(i)(i) may not be made within half an hour after the first proposal was defeated in respect of the same original motion.
  - (iii) The introducer of the original motion may, when a proposal in rule 10.(2)(i)(i) had been made and its introducer had spoken in terms of rule 10.2, address the meeting on that proposal without diminishing from his or her right to reply should that proposal be rejected.
  - (iv) If a proposal in terms of rule 10.(2)(i)(i) is rejected, a vote must be taken on the original motion without any further discussion.
  - (v) The introducer of the original motions has the right to reply before the matter is put to the vote.
- (3) Questions
- (a) Questions of which notice had been given
    - (i) A councilor or traditional leader may at any time submit a written question he or she intends to ask during a council meeting or a meeting of a committee of which he or she is a member to the Secretary of Council provided that such question is submitted at least fourteen (14) working days before the meeting where the question will be asked.
    - (ii) A councilor or traditional leader may request the Secretary of Council to assist him or her to formulate the question.
    - (iii) The Secretary of Council must immediately upon receipt of a question in terms of rule 10.(3)(a)(i) provide a copy thereof to the office of Leader of Business Executive at least ten(10) days prior to Council meeting who will then prepare a reply to the question.
    - (iv) Provided the question had been received at least ten workdays before the scheduled date of the meeting where the question would be asked the municipal manager must ensure that the question and the answer thereto is included in the agenda for the ensuing meeting of the council or committee where the question will be asked.
  - (b) Questions to the Mayor and Members of Executive Committee
 

A Councillor may put questions for oral or written reply to a Member of the Executive Committee relating to-

    - (i) Council affairs with which the Member of the Executive Committee is officially connected; or
    - (ii) Any matter of administration for which the Member of the Executive Committee is responsible.
    - (iii) Mayor's Question Time is a period of up to fifteen (15) minutes; during Council meetings, during which questions selected may be put to and answered by the Mayor.
    - (iv) The Speaker must indicate, based on the provisions of the year planner, the Question Time for the Mayor. There must be no Mayor's Question Time during the Council

meetings when the Mayor's opening address and the vote on the annual Budget are discussed in the Council.

- (v) A Councillor who wishes to put a question for Oral Reply to the Mayor must deliver a signed request to the Secretary to Council not more than ten (10) working days before the day of the Council meeting before the Mayor's question time during which she or he wishes to ask the topic or working of the intended question.
- (vi) The Speaker selects questions for the Mayor's Question Time.
- (vii) No more than two Councillors of the same party may ask a question during any given Mayor's Question Time.
- (viii) A Councillor may ask only one question for Oral Reply at any Mayor's Question Time.
- (ix) Councillors may read their question but may not read speeches during the Mayor's Question Time.
- (x) Immediately after the Mayor has replied to a question, the Councillor who asked the question may ask one supplementary question or make a short remark directly related to the original question or reply.
- (xi) At the discretion of the Presiding Officer, a Councillor may ask an additional supplementary question or make an additional remark related to the original question or reply.

(c) Form and content of questions

- (i) Questions must be in writing in one of the languages of the Council, brief and clearly worded.
- (ii) A question must specify whether it is for oral reply or for written reply.
- (iii) Questions may not contain a offensive ,disrespectful and abusive language, express a point of view, break a rule of law, seek only legal opinion , ask for excessive documentation, be based on hypothesis, hearsay, arguments or deduction; request a comment upon the merits of any matter pending before the courts in a way that could interfere with the administration of justice or infringe upon the independence of the courts; anticipate discussion of a matter appearing on the agenda; or refer to proceedings in Committee meetings that were closed to the Public until those proceedings are reported to Council.

(d) Admissibility

A question is not admissible if it-

- (i) Does not comply with the rules; or
- (ii) Seeks information that has been provided in response to a similar question in the previous six (6) months.

(e) Arrangement

- (i) Questions for oral reply must be placed on the Agenda of Council if received fifteen (15) working days prior to the Council Meeting and have been delivered to the Secretary to Council.

- (ii) A question for written reply delivered to the Secretary to Council by the close of business fifteen (15) days prior to the Council Meeting must be placed on the Question Paper.
- (iii) Questions are to be forwarded to the office of the Leader of Executive Business fourteen (14) days prior to the Council meetings.

(f) Replies

- (i) The relevant Member of the Executive Committee must answer a question for Written fourteen (14) working days of the question first appearing on the Question Paper and submit same to the Mayor for approval.
- (ii) A member of the Executive Committee may request more time to answer a question for Written Reply. The request must indicate the reasons for request extra time and must be received with seven (7) days after the initial receipt of the questions.
- (iii) The Speaker must decide whether or not to agree to the request.
- (iv) A member of the Executive Committee may decline to answer a question for Written Reply only when such a reply would be too costly or require inappropriate use of Council resources.
- (v) If the written replies are considered unsatisfactory these must be sent back to the relevant Member of Executive Committee requesting additional information and/or clarification.

(4) Decisions Of Questions

(a) Postponement of decisions

When the debate on question has been concluded in Council, the Speaker may postpone the decision of the question.

(b) Decision of postponed question

Whenever expedient, the Speaker may determine a day for the decision of question by Council.

(c) Postponed question put without further debate

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

(d) Question put again

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

(e) Question fully put

- (a) No member of Council, except a member who is permitted to make a declaration of vote, may speak to a question after it has been fully put by the Speaker.
- (b) A question is regarded to have been fully put when voices of both 'YESs' and 'NOs' have been given thereof.

(f) Declaration of vote

- (i) The Speaker may at any time after the question has been fully put, permit one member of each party to state on behalf of the party, in a speech not exceeding three (3) minutes, the reasons why the party in favour or against the question.
- (ii) A member so addressing the Chair may read aloud a formulation of his or her party's viewpoint, and deliver a signed copy thereof to the Secretariat table for inclusion in the minutes of the proceedings.

(5) Divisions

- (a) Recording of formal objection for approval of a motion

Any political party represented in council may exercise its democratic right to object to an approval of a motion and such objection should be recorded electronically and manually for future reference.

(b) Fewer than four members supporting demand for division

When a division is demanded, the Speaker must before ordering a division request that bells be rung to satisfy him/herself that at least four members support the demand for division.

(c) Division bells rung and doors locked

If the required number of members support the division, the division bells must be rung and doors locked as soon after the lapse of five minutes or as the Speaker may direct.

(d) Procedure after doors locked

(i) After the doors have been locked, the Speaker must again put the question.

(ii) The Speaker must indicate on which side the 'YESs' and 'NOs' must take their seats.

(iii) After having put the question again, the Speaker may declare afresh whether, in his or her opinion, the 'YESs' or the 'NOs' have it, in which case a division must take place only if such fresh declaration is challenged.

(e) Minority consisting of fewer than five members

When there is fewer than five members on one side, the Speaker must forthwith declare the decision on the question.

(f) Member calling for division to vote minority

A member demanding division may not leave the Chamber until the result of the division has been declared and must vote with those in the opinion of the Speaker are in minority.

(g) Members present must vote

All members present must vote.

(h) Points of order during division

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

(i) Result to be declared

The tellers must sign the division lists and hand the lists to the Speaker, who must declare the results of the division.

(j) Confusion or error concerning division

In the event of a confusion or error during a division, another division must take place unless the numbers can be corrected otherwise.

(k) Correction of minutes

If the numbers have been inaccurately reported or an error occurs in the names on the division lists, the Speaker must order that the minutes of such proceeding be corrected.

(6) Matters Of Public Importance And Urgent Public Importance

(a) Matters of public importance

(i) A Councillor who wishes the Council to discuss a matter of urgent public importance must make a request to the Speaker in writing in one of the languages of the Council. The Councillor must make the request at least four (4) hours before the beginning of a meeting of the Council.

- (ii) The proposer will be allowed to reply/respond to a debate.
- (iii) The Speaker may allow a debate on a matter of urgent public importance if it requires the urgent attention of the Council, is within the jurisdiction and competence of Council, not reflecting on matters that are sub-judice and actual.
- (iv) There may only be one urgent debate on a meeting day. However, the Speaker may allow more than one request; depending on the urgency and importance of the matter.
- (v) If the Speaker grants request, the Speaker must notify the Leader of Executive Business who in turn should inform the Mayor and the relevant Member of the Executive Committee.
- (vi) The Speaker must place the matter on the Council Agenda or, if the matter could not be placed on the Council Agenda, the Presiding Officer must announce it in the Council meeting.
- (b) Matters of urgent public importance
  - (i) The Speaker must decide when a debate on a matter of urgent public importance must start and the time allocated for it after consultation with the Chief Whip of Council.
  - (ii) The Councillor who moves for a debate on a matter of urgent public importance will open the debate and the Mayor or the relevant Member of the Executive Committee must be allocated time to speak to the debate.



## **CHAPTER 6**

### **11. Records of council**

(1) Duties to Secretary to Council

In addition to the duties mentioned in these Rules, the Secretary to Council is responsible for the regulation of all matters connected with the business of Council, subject to direction of the Speaker or Council.

(2) Minutes of Proceedings

The minutes of Proceedings must be taken by the Secretary to Council and, after having been perused by the Speaker, must be printed and sent to each Councillor.

(3) Agenda

The Secretary to Council must compile the Agenda for each Council Meeting and send it to each Councillor

(4) Custody of papers

The Secretary to Council has custody of all records and other papers of the Council.

Records or other papers of the Council cannot be removed from the precincts of the Council without the permission of the Speaker .

## **CHAPTER 7**

### **12. Committees**

(1) List of Committees

- (a) Section 79 Standing Committees; and
- (b) Section 79 Committees
- (c) Section 80 Committees
- (d) Ad-hoc committees

(2) Composition of committees

- (a) Committees must be established or dissolved by resolution of Council.
- (b) A Committee may establish a Sub-Committee, consisting of members of that Committee only.
- (c) An ad hoc Committee may be established to deal with a specific matter and it dissolves when it has reported on that matter.
- (d) An ad hoc committee may consist of members of the Committee and outside experts. Experts from outside the Council may not vote in the Committee.
- (e) The Rules Committee must determine the number of members of a Committee.
- (f) Political Parties are entitled to be represented on Committees in substantially the same proportion in which they are represented in the Council.

- (g) The Council and parties represented in the Council should, as far as possible ensure that women are represented on all Committees.
  - (h) Non-members and parties that are not represented on a Committee must inform the Chairperson of the Committee of their intention to attend the committee meeting to address a particular matter. The non-member may be granted speaking rights in the Committee but may not vote.
  - (i) If council authorizes the committee to appoint persons in terms of rule 12.(2)(d) 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 councilors who may serve on the committee is reduced with a corresponding number, and the number of councilors serving in a committee always exceeds the number of persons who are not councilors in that committee.
  - (j) No reduction of the number of councilors in terms of rule 12.(2)(d) may be done if the committee has only three councilors as members, provided that the number of committee members who are not councilors or employees may not exceed two persons.
- (3) Appointment of Committee members
- (a) The Chief Whip of Council in consultation with the Whips of political parties must nominate members of the Committees and submit the nominations to the Speaker.
  - (b) The Council must appoint the members of the Committees as soon as possible after the election of the Council or whenever a vacancy arises, on the recommendation of the Rules Committee
  - (c) Alternate members may be appointed for each member of a committee. An alternate acts as a member when the member for whom the alternate was appointed, is absent or has vacated office.
- (4) Committee Resignations
- (a) A member of a Committee wishing to resign from it, must tender her/his resignation in writing to the Whip of the party of which she/he is a Member and to the Speaker.
  - (b) The Speaker must report to the Council every vacancy.
- (5) Nominations of Committee Chairpersons
- (a) The Speaker must call for nominations by forwarding nomination forms to the Whips of political Parties, within 10 (ten) working days of Council elections or vacancy;
  - (b) The political parties must submit nominations to the Speaker five (5) working days prior to the Council meeting;
  - (c) The Speaker must table the proposed nominations in the form of a report with the nominations forms attached to the agenda for approval by Council.
- (6) Responsibilities of Committee Chairperson
- A Committee Chairperson-
- (a) Presides at meetings of the Committee;
  - (b) Represents the Committee on the Committee of Chairpersons;
  - (c) Determine the agenda of each meeting of the Committee;
  - (d) Performs the functions, tasks and duties and exercises the powers that the Committee, as per resolutions of the Council may assign to the Chairperson;

- (e) Must cast a deciding vote if there is an equal number of votes on each side of question before the Committee; and
- (f) May act in any matter on behalf of and in the best interest of the Committee when it is not practical to arrange a Committee meeting to discuss the matter, if the matter concerns-
  - (i) A request by a person to give evidence or make an oral representation to the Committee;
  - (ii) Any other request to the Committee; or
  - (iii) Decision or the initiation of any steps necessary for the Committee to perform its functions or exercise its powers;
  - (iv) A Committee may set aside any decision taken by its Chairperson in terms of sub-rule 12.(6)(f).
- (7) **Absence of Committee Chairperson**  
In the absence of the Chairperson, the Committee must elect one of its members to act on behalf of the Chairperson. The Committee secretariat is to facilitate the election of the Acting Chairperson.
- (8) **Joint Committees**
  - (a) The Speaker may combine two or more Committees to form a new Committee for a specific purpose.
  - (b) The Speaker must appoint one of the Chairpersons involved as the Chairperson of the combined Committees.
  - (c) The Chair of Chairs may convene joint committees' meeting on consultation with the Speaker to deal with specific issues.
  - (d) Joint Committee meeting can be convened not more than six (6) times in a financial year.
- (9) **Term of office for Committees**
  - (a) A Committee continues to exist until the Council is dissolved or its term expires unless the Speaker, with good reason, or the Council resolves that the Committee should be disestablished.
  - (b) Despite rule 12.(9)(a) an ad hoc Committee and a joint Committee formed by the Speaker under rule 12.(2)(c) continues to exist only until it has completed its business.
- (10) **Powers of Committees**
  - (a) Determine its own procedures, subject to these Rules
  - (b) Determine its annual programme, subject to the programme of Council
  - (c) Consider items referred to it;
  - (d) Investigate and report on issues that are referred to it or on its own initiative;
  - (e) Exercise oversight of the executive;
  - (f) Call for evidence, summon persons to appear before it and require them to produce any documents that it requires or respond to questions;
  - (g) Publish an item that is before the Committee for written and oral representation from and comments by the public;
  - (h) Receive submissions from the public;
  - (i) Establish sub-Committees ;and
  - (j) Exercise any other powers granted to it by resolutions of the Council.
- (11) **Matters referred to Committees**

- (a) A matter may be referred to a Committee by the Speaker, Programming Committee or by a resolution of the Council.
  - (b) If there is a dispute about which Committee should deal with a matter, the Speaker must decide.
- (12) Meetings of Committees
  - (a) The Speaker must convene the first meeting of Committees within fourteen (14) working days after the appointment of its members.
  - (b) With the consent of the Speaker, a Committee may meet at a venue outside the precincts of the Council.
- (13) Proceedings of Committees
  - (a) Quorum and decision making
 

The quorum must be composed of fifty percent (50%) plus one of members of that Committee.
  - (b) Decisions
    - (i) A decision must be reached by fifty percent (50%) plus one (1) of the Committee members present.
    - (ii) Questions before a Committee are decided by majority of the votes cast.
    - (iii) The Councillor chairing the Committee must cast a deciding vote if there is equal number of voters on each side of a question before the Committee.
  - (c) Order in Committee meetings
    - (i) The right of the member chairing the Committee to speak takes precedence over the right of other members to speak.
    - (ii) Committee members must be allowed to speak and debate freely in Committee meetings but they may not discredit the Council by using disrespectful words; use offensive language; or comment upon the merits of any matter or unsubstantiated matter pending before the Courts in a way that would interfere with the administration of justice or infringe upon the independence of the Courts.
- (14) Vertical meetings between Council and other spheres of government
  - (a) A Committee may meet with other spheres of government in order to consider a matter of mutual interest.
  - (b) The Chairpersons of the Committees involved must determine the agenda for a meeting.
  - (c) Minutes of the meeting must be compiled and distributed.
  - (d) The Committee of Council must report back on its interactions with the other spheres of government in Council.
- (15) Informing Members of the Executive Committee
 

When a Committee requests an official of Council, to attend a meeting, the responsible Member of Executive Committee must be informed in writing ten (10) working days prior or earlier to the Committee meeting .
- (16) Committee Reports
  - (a) Annual Committee performance reports to Council

- (i) The Chairperson should submit an annual report to Council. The Committee's annual report should include an assessment of the way in which the Committee has fulfilled its oversight responsibility; and the goals identified in its annual programme
  - (ii) The Chairperson may not purport to reflect a Committee's view when she/he has not been mandated accordingly.
- (b) Reports on study visits
  - (i) Committees must table a report to Council within a month of any study visits that they have undertaken.
- (c) Contents of Committee oversight reports
  - (i) Every report of a Committee must reflect the agreement reached in the Committee. In the absence of agreement, the report must reflect the decision of the Committee and dissenting views.
  - (ii) When there is substantial disagreement on policy issues, a minority report must accompany the Committee report.
  - (iii) Every Committee report must be set out in the approved report format.
  - (iv) A minority report must identify clearly the policy issues on which there is substantial disagreement and the reasons for the disagreement; set out the view of the minority on the policy issues, and set out the alternative approach that the minority proposes.
  - (v) Every Committee report must-
    - a. Summarise the Committee process including reflecting in the report-
    - b. The number of meetings held in dealing with the matter,
    - c. the extent of involvement and participation by the Administration in the Committee's processes, including reflecting the views of the Executive on the matter.
    - d. The extent of involvement and participation by the public and primary stakeholders in the Committee's process, including reflecting the submissions or inputs of the public or stakeholders on the matter; and
    - e. The degree to which the matter fulfills the municipality's obligation to promote, advance and fulfill the principles in Chapter 3 of the Constitution (Bill of Rights) and, particularly, gender equality and socio-economic rights of the citizens of the Elias Motsoaledi Local Municipality.
    - f. Provide a detailed explanation of the position of the Committee on the matter based on among other things, the requirements in sub-rule (f) above.
- (17) Bills and other matters from National or Provincial spheres for Council decision
  - (a) Referral of matters from Parliament or Provincial Legislature
    - (i) When a bill or any matter affecting local government is introduced or tabled in parliament or the provincial legislature, the Secretary to Council must immediately deliver particulars of the bill or matter and any accompanying papers to the Speaker.
    - (ii) The Speaker must refer the bill or matter and any accompanying papers to the relevant Committee if she or he believes that the matter is of importance to the municipality and should be considered by a Committee for its views.

- (iii) The referral of the bill or matter to the Committee must be published on the website and Secretary to Council must take copies available on request to any Councillor.
  - (iv) The relevant member of executive committee must be invited to express the views of the Executive on the bill as well as the implementation and funding plan.
  - (v) Provision must be made for national and /or provincial Committee public hearings by the relevant Council Committees.
  - (vi) The Committee to which the bill or matter is referred under this rule, must report back recommend in its report whether Council should take a formal position to-
    - a. Support the bill or matter;
    - b. Support the bill with amendments or alternative to the matter;
    - c. Not support the bill or matter ;and
    - d. Mandate a suitable Councillor to represent the municipality's position in the deliberations on the bill or matter at SALGA.
  - (vii) The report of the Committee on the bill or matter must-
    - a. Summarize the Committee process at which the bill or matter was discussed ;
    - b. Summarize the participation of the Executive ,the public and primary stakeholder
    - c. Deal in separate sections with the policy and detail of the bill or matter ;
    - d. Provide an explanation of the position of the Committee on the bill or matter;
    - e. Explain in general terms any amendments or alternatives being proposed by the Committee on the bill or matter ;and
    - f. In respect of disagreement in the Committee, reflect compliance with and application of the requirements of rule 12(17)(vii).
  - (viii) The Speaker must submit to SALGA the resolution of Council and the report of the Committee on the matter as soon as possible.
  - (ix) The designated Councillor must report back to Council or to the Committee the outcome of the deliberations at SALGA at the next Council or Committee meeting after SALGA's meeting on the bill or matter.
- (18) Terms of Reference of all Committees
- All Committees of Council will perform specific functions as provided for in the Committees' Terms of Reference as developed by the Secretary to council.

## CHAPTER 8

### 13. Ethics, privilege and contempt

#### (1) Legislative mandate

Provisions of –

- (a) Section 161 of Act 108,1996 (Constitution);
- (b) Section 28 of Act 117,1998 (Municipal Structures Act);
- (c) Schedule 1 of Act 32, 2000 (Code of Conduct –Municipal Systems Act),must inform and guide the interpretation and application of the Rules in this Chapter.

#### (2) Privilege and contempt

##### (a) Ethics of Council

To protect the powers, privileges and immunities of Council. Its business must be conducted in a free manner that reflects independence to enable its role of representing the public and all its members should act ethically.

##### (b) The privileges of members of the Municipal Council include-

- (i) The privilege of freedom of speech in Council and any of its Committees as enshrined in the Constitution
- (ii) Any other privileges or immunities conferred by the Constitution and the Local Government: Municipal Structures Act.

##### (c) Contempt of the Council

- (i) Contempt of Council is conduct which potentially or actually interferes improperly with the ability of the Council, its Committees or any of its members to perform their functions.
- (ii) A breach of privilege is contempt of the Council.
- (iii) Contempts include ,but are not limited to-
  - a. Failing to attend Council or one of its Committee meetings when summoned to do so;
  - b. Failing to report to Council or one of its Committees when requested;
  - c. knowingly giving false evidence to Council or any of its Committees ;
  - d. Giving someone an inducement not to give evidence to Council or any of its Committees;
  - e. Making injurious comments and false statements when speaking in Council or any of its Committees;
  - f. A breach of the Rules, including a breach of the Code of Conduct;
  - g. Failing to obey the Presiding Officer's ruling, order and/or resolution of Council; and
  - h. Deliberately and/or recklessly and knowingly providing inaccurate misleading information to Council or any of its Committees.
  - i. Failing to submit disclosure of interest forms in time.

##### (d) Raising a breach of privilege or contempt

- (i) A Councillor may raise a matter relating to contempt, including a breach of privilege in writing to the Speaker.

- (ii) The matter must be raised as soon as possible after it has occurred and, in any case, before the next plenary meeting of Council.
- (iii) If a matter is raised in writing with the Speaker concerns another Councillor, a copy of the matter must be concurrently provided to the Councillor against whom the contempt is alleged.
- (e) Formulation of the allegation
  - An allegation of contempt must be formulated as precisely as possible, providing but not limited to-
    - (i) the name of the Councillor alleging the contempt;
    - (ii) the name of the Councillor against whom the contempt is leveled;
    - (iii) the nature of the contempt; and
    - (iv) the specific rule which the allegation is based
- 1. Consideration of the Speaker
  - (i) In determining whether contempt is involved, the Speaker must take into account the importance of the matter.
  - (ii) If the matter is technical or trivial and does not warrant the further attention of Council, the matter does not constitute contempt.
- (2) Speaker's decision
  - (i) If in the opinion of the Speaker, the matter constitutes contempt, she/he must refer the matter to the Ethics Committee for processing in accordance with the Committees Terms of Reference and the Rules in Part 3 below in this Chapter.
- (3) Proceedings of the Ethics Committee
  - (a) Councillor making an allegation not to serve on inquiry
    - (i) A Councillor, who has made an allegation of a breach of privilege or of attempt, including an alleged breach of the Code of Conduct, may not serve on an inquiry by the Ethics Committee.
- (4) Inquiry
  - (a) The Ethics Committee will conduct the enquiry on its own and compile a report with clear recommendations to Council for approval.
  - (b) The Council may approve or refer the matter back to the committee for re consideration
- (5) Rights of an alleged offender
  - (a) The Councillor against whom the contempt is leveled must be granted an opportunity to make representation in person to the Committee.
  - (b) The Committee in dealing with the matter must ensure that the enquiry is conducted in accordance with the Rules and principles of just and fair administrative requirements.
- (6) Evidence
  - (a) The Committee may not receive hearsay evidence, that is witness may testify only to matters that are their direct and personal knowledge.
- (7) Report of the Ethics Committee
  - (a) When the Committee has completed its proceedings on the matter, it must table a report on its findings with recommendations for consideration and decision by Council.
  - (b) If the Committee finds that the Councillor concerned has committed a breach of privilege or contempt, the report must recommend an appropriate sanction as authorized by the provisions of the Code of Conduct for Councillors.



- (c) If the Committee considers it necessary and not prejudicial to the rights of any party to the matter, it may append submitted evidence to its report for Council's information.
- (8) Decision by the Council
  - (a) The Committee must refer its report with recommendations to Council for approval.
  - (b) The report of the Committee may not be debated in Council.
  - (c) Council may only approve or refer the report back to the Committee for reconsideration and report back.
  - (d) Should Council not approve the reconsidered report of the Committee, the matter falls away.

## **CHAPTER 9**

### **14. APPLICATIONS, POLICIES, SUPPLEMENTING AND SUSPENSIONS**

#### **(1) APPLICATIONS**

- (a) Applications by councilors to obtain financial interest in council business.
  - (i) A councilor or traditional leader must lodge a written application with the municipal manager to obtain the council's consent in terms of the code of conduct.
  - (ii) A councillor or traditional leader who lodges an application may not be present in the council meeting when the application is considered.
  - (iii) The municipal manager must submit an application to the council at the earliest opportunity.
  - (iv) Council may not close its meeting whilst it considers an application.
  - (v) The council may grant or refuse an application and may impose condition when it grants the approval in respect of any application.
  - (vi) Whenever council refuses an application, it must state the reasons of its refusal.
- (b) Disclosure of declared interests.
  - (i) The register of the financial interests of councilors and traditional leaders declared in terms of code of conduct must be compiled.
  - (ii) As soon as the register is completed it must be submit to the council.
  - (iii) Council must upon receipt of the register during a closed meeting determine which of the declared financial interest must be made public having regard for the need for confidentially and for public disclosure.
  - (iv) A councilor or traditional leader who has declared an interest that is recorded in the register may not be present during the consideration of the matter.
  - (v) Any interest declared in terms of these rules that had not been made public is confidential.
  - (vi) The first disclosure must be within 60 days of the opening of the Council after elections
  - (vii) After the first disclosure, members/councilors must annually disclose their registrable interests before the end of first quarter of every financial year or within 90 days of the first quarter of every financial year.

- (viii) If a Member/councilor has no registrable interests, a “nil” return must be submitted
- (ix) Failure to submit disclosure of interest forms constitute contempt of Council and breach of code of good conduct

(c) Resignations of councilors and vacancies in offices.

- (i) A councilor may by written notice signed by him or her and delivered to the speaker, resign as councilor or from any office he or she holds.
- (ii) A councilor 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, provided that the she or he will immediately after such a declaration resign in writing.
- (iii) A declaration in terms of rule 14.(1)(c)(ii) may not be withdrawn.
- (iv) If the resignation was that of the speaker or mayor, council must as soon as the resignation of the councilor concerned in terms of rule 14.(1)(c)(ii) had been reduced to writing, signed and given to the presiding officer/speaker elect a speaker or mayor.
- (v) A resignation in terms of rule 14.(1)(c)(iv) may not be withdrawn and takes effect upon receipt thereof by the presiding officer/speaker. If the mayor resigns the members of the Executive committee are deemed to have resigned from the same date of resignation by the mayor.
- (vi) When a resignation of a councilor or when a vacancy arises in council in any other manner it must be reported to the speaker except when the resignation or vacancy is that of the speaker which should be send to the municipal manager and to the mayor in the case of a resignation of a member of the Executive Committee.
- (vii) Any resignation or a report of any vacancy arising in another manner should be included in the agenda for the next ordinary council meeting after the vacancy arose.
- (viii) Council must except in the case of a vacancy arising in the executive committee at the meeting where a vacancy in an office of the council is reported elect from amongst the councilors a successor for the councilor who left the vacancy.
- (ix) A councilor elected to an office in terms of this rule serves for the un-expired term of his or her predecessor.

(2) Supplying information to the media

- (a) The municipal manager may make confirmed minutes (excluding any part of such minutes with regard to matter dealt with in terms of rule 9.(3)(b) and official agendas. available to any interested person or registered newspaper at such fees as the council may determine or free of charge.
- (b) The municipal manager may and if so instructed by the council or a committee make the confirmed minutes (excluding any part of such minutes regarding a matter dealt with in terms of rule 9.(3)(b) and official agendas available in the reference section of public library in the municipal area.
- (c) The speaker or the mayor in respect of the executive committee or chairperson of a section 79 committee, may hold media conferences and briefings and issue media statements.
- (d) 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.
- (e) A departmental head may in consultation with the municipal manager in respect of any matter within his or her department, issue media statement and call media conferences.

(3) Application of the Code of conduct

- (a) Investigating suspected breaches of the code.
  - (i) Whenever a written or oral allegation is made to the speaker/presiding officer or when he or she has reason to believe that a councilor 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 council.
  - (ii) Upon receipt of such a report and when the speaker has reason to believe that a provision of the code has been breached, he or she must refer such report to the Ethics committee for investigation and report to council.
- (b) Consideration of the Ethics committee's report by the council.
  - (i) The speaker must vacate the chair during any council meeting when a report in terms of rule 14.(3)(a)(ii), is put to order.
  - (ii) Whenever a speaker vacates the chair in terms of rule 14.(3)(a)(ii), the municipal manager must preside over the debate on the report.
  - (iii) The proceedings in terms of rule 14.(3)(b)(ii) may not be closed for the public and the media.
  - (iv) After the chairperson of the Ethics Committee has introduced his or her report, the municipal manager must allow the councilor or traditional leader concerned to reply to the allegations and findings.
  - (v) As soon as the councilor or traditional leader concerned has spoken, the matter is debated in terms of these rules.
  - (vi) Despite any provisions contrary to these rules and orders, the councilor or a traditional leader concerned has a right to reply to all the allegations made during the debate before the speaker replies;
  - (vii) examine any documents submitted by the speaker or any other councilor or traditional leader and submit documents in his / her defense; and/or call witnesses and to cross-examine any witness called by the speaker.
  - (viii) The chairperson of the Ethics committee must, after the debate had been exhausted, reply and propose-
    - (ix) that the report, findings and recommendation be accepted.
    - (x) A proposal in the terms of rule 14.(3)(b)(x) needs to be seconded.
    - (xi) After the proposal in terms of the rule 14.(3)(a)(x) had been made, the presiding officer must put the proposal to the vote.
    - (xii) If the proposal in terms of rule 14.(b)(a)(x) is deferred, the matter is discontinued;
    - (xiii) If the proposal in terms of rule 14.(3)(b)(x) is carried, the municipal manager must forthwith implement the resolution.
- (c) Implementing the results of the vote.
  - (i) If a proposal in terms of rules 14.(3)(b)(x) is carried and a fine is imposed, the municipal manager must deduct the amount of such fine from the first next payment of council to the councilor or traditional leader unless he or she has paid the fine in cash before such payment is due.
  - (ii) If a proposal in terms of rules 14.(3)(b)(x) is carried that the councilor or traditional leader must be suspended or the councilor or traditional leader must be removed from council, the municipal manager must forthwith make such an application to the MEC.

- (iii) If the MEC on application of the council suspends the councilor 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.
- (iv) Where an allegation against a traditional leader is found to be true, the municipal manager must inform the relevant traditional authority accordingly.
- (d) Effect of appeal on a resolution.
  - (i) A councilor or traditional leader may appeal against the findings or the penalty imposed by the council or against both such findings and penalty as described in these rules and orders or legislation relating to privileges and immunities.
  - (ii) Any alleged breach of the provisions of these rules and orders for which a specific procedure and penalty had not been prescribed or of legislation regulating the privileges and immunities of councilors, must be dealt in accordance with the provision of rules 14.(3)(a) to 14.(3)(d).
- (4) Supplementing
  - (a) Unforeseen eventualities
    - (i) The speaker may give a ruling or frame a rule in respect of any eventuality for which these rules do not provide.
    - (ii) A rule framed by the speaker remains in force until the Rules and Petitions Committee has taken a decision on it.
    - (iii) If a rule is framed by the speaker when council is in session, the rules committee must decide on the rule within seven working days after the rule was framed.
    - (iv) If a rule is framed by the speaker when council is not in session, the rules committee must decide on the rule within seven days after its next ensuing sitting day.
- (5) Suspensions
  - (a) Suspension of rules
    - (i) Any provision of these rules relating to the business of council or its proceedings may be suspended by resolution of council.
    - (ii) The suspension of a provision of these rules is limited in its operation to the particular purpose for which the suspension has been approved.
- (6) Policies
  - (a) Language policy of Council
    - (i) Determination of language policy.  
Council must at its first meeting after a general election for councilors review the language policy of council and where such policy do not exist, instruct the municipal manager to develop a draft policy and submit it to the council.
    - (ii) Differentiation between languages for different purposes.  
Council may determine that one or more languages be used-
      - a. for internal written communication relating, to the operations of the council;
      - b. for the preparations of agendas and minutes of meetings;
      - c. during debates in council and committee meetings;
      - d. during public meetings of voters, constituency meetings and public hearings;

- e. for written communication with persons communicating with the council, including the language or language used for billing the council's debtors;
- f. for public announcement and courtesy and official notice of the council;
- g. for the promulgation of its by-laws;
- h. for the compilation of the municipality code in terms of the Systems Act; and
- i. on forms used or issued by the council.

(iii) Factors to be taken into account

When the council determines a language policy it must take the following factors into account-

- a. The need to take practical positive steps to elevate the status use of indigenous languages that are official languages in terms of sections 6(1) of the constitution.
- b. Language usage and preferences of the residents within the municipal area.
- c. The practicability and expense of choosing any particular language or languages.
- d. The right of an employee accused of misconducts to state his or her case during a disciplinary enquiry in a language of his or her choice and to have the proceedings at such enquiry translated to such languages.
- e. The dominant languages used by newspapers circulating in the area.
- f. The right of everyone to use the language of their choice.
- g. The economical, efficient and effective use of resources.

(iv) Review of language policy

- a. Council may at any time review and amend its language policy having due regard for the factors referred to in rule 14.(6)(a)(i) .
- b. Council must review its language policy upon receipt of written request demanding such a review signed by at least one-third of the councilors.
- c. A request in terms of rule 14.(6)(a)(iv)b. must state the reason for the demand and must contain proposals for any amendment, taking into account matters referred to in rule 14.(6)(a)(iii).
- d. A request in terms of rule 14.(6)(a)(iv)b. must be submitted to the municipal manager.
- e. The Municipal manager must submit a copy of the request to the speaker and must ensure that the request is contained in the agenda for the first ordinary council meeting next ensuing.
- f. The speaker must submit a written report and recommendation about the request to the secretary to council, who must include it in the agenda for the meeting referred to in rule 14.(6)(a)(iv)e.

## **PART FOUR**

### **CHAPTER 10**

#### **15. PRESIDING OFFICER AND OTHER POLITICAL OFFICE BEARERS**

##### **(1) Roles and Responsibilities**

###### **(a) Chairperson of Chairpersons**

Is a member of the Programming Committee and oversees the implementation of policy with regard to the coordination and management of the work of committees, except those Committees chaired by the Speaker.

###### **(b) Leader of Executive Business**

The Leader of Executive Business is responsible for managing the interface between the Executive and the Council Legislature.

###### **(c) Absence of Presiding Officer/Speaker**

If the Speaker is absent for more than seven consecutive days, and the Speaker is not available to undertake her/his duties, the Chairperson of Chairpersons will be the preferred candidate for acting Speaker. The delegation should be made to the Chairperson of Chairpersons to act as the Speaker during time which the Speaker is absent

###### **(d) Chiefwhip of Council**

Is responsible of coordinating the Whippery

(i) Coordinates the deployment of Councilors to various Committees.

(ii) Coordinates the allocation of speaking times.

(iii) Ensure accountability of Councilors through the Whippery structures.

(iv) Is responsible for political interface among parties in the Council.

## CHAPTER 11

### 16. Dissolution of Council

- (1) Conditions for dissolution
  - (a) Council may at any time after two years have lapsed since it was elected consider the dissolution of the council;
  - (b) Council must consider the dissolution of the council if two years have lapsed after council had been elected-
    - (i) upon receipt of a petition proposing the dissolution signed by not less than 500 voters; or
    - (ii) upon receipt of a recommendation proposing the dissolution from the speaker, executive mayor or section 79-committee;
    - (iii) when so directed by resolution of a public meeting of voters in terms of rule 9; or
    - (iv) upon receipt of a motion proposing the dissolution from a councilor signed by at least one third of the councilors in addition to the introducer of the motion ;
    - (v) when section 139 of the Constitution is invoked in respect of the council.
- (2) Procedure for considering the dissolution of the council.
  - (a) Whenever any of the circumstances referred to in rule 16.(1) arise, the speaker 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 fourteen and not more than twenty-one days from the date the petition was delivered, recommendation was made, resolution was taken, motion was submitted or instruction received referred to in rule 16.(1)(ii), as the case may be.
  - (c) At least four days' notice of a meeting in terms of rule 16.(2)(b) must be given despite the provisions of the rule 6.(3).
  - (d) A meeting in terms of rule 16.(2)(b) may not be closed to the public and the media.
  - (e) Despite any provision contrary to these rules and orders, the municipal manager presides over the debate of the petition, recommendation, resolution or motion, as the case may be.
  - (f) The proposal is carried if two thirds of the councilors of the council vote in favour of such proposal.
  - (g) All councilors vacate their seats immediately if the proposal is carried.

## CHAPTER 12

### 17. Delegated powers

(1) Reporting on the exercise of delegated powers

- (a) A committee, councilor or employee to whom power had been delegated must report to the delegating authority on all decisions taken in terms of its delegated powers.
- (b) A report in terms of rule 17.(1)(a) must be submitted-
  - (i) by the mayor to the council ;
  - (ii) by the municipal manager to the mayor or the appropriate section 79- committee as the case may be, within fourteen days of the end of each month;
  - (iii) by the departmental head to the municipal manager within seven days of the end of each month.
- (c) A report in terms of 17.(1)(a)(ii)rule must be incorporated into the report of the mayor to the council;
- (d) A report in terms of rule 17.(1)(a)(iii) must be incorporated into the report of the municipal manager.

(2) Review of decisions under delegated powers

The speaker must, after a report in terms of rule 17.(1)(a) had been disposed of, put the matter disposed of by the committee or the mayor, as the case may be, in terms of its delegated or statutory powers, one after the other.

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