

PROVINCIAL NOTICE 123 OF 2020**JB MARKS LOCAL MUNICIPALITY****RULES OF ORDER BY - LAW**

Notice is hereby given in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) that Council adopted the Rules of Order By – Law with effect from publication hereof.

RULES OF ORDER**I N D E X**

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RULES OF ORDER

The JB Marks Local Municipality hereby publishes the Rules of Order of the Municipality in terms of Section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) which rules were accepted as by-laws in terms of Section 156 of the Constitution and Section 12 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended.

1. DEFINITIONS

In these by-laws, unless the context otherwise indicates -

- 1.1 "announcements" contain feedback of an office-bearer with regard to the execution of ceremonial duties only and shall not create any contractual relationship that could bind Council. Written reproduction thereof must be made available during the meeting;
- 1.2 "committee" means a portfolio committee, the rules and disciplinary committee, the whips committee representative of the political parties or a group (groups) in the council represented by means of proportional representation of council or any other committee established in terms of sections 79 and 80 of the Structures Act;
- 1.3 "caucus" means an informal discussion of members of a group or party with a view to reach a resolution; provided that the report back phase shall form part of the caucus adjournment;
- 1.4 "chairperson" means a person chairing a meeting other than a council meeting or such person elected during that particular meeting;
- 1.5 "council" means the elected members of the council of the municipality;
- 1.6 "council in closed session" means consideration of any matter that serves before council or a committee of council, being considered in the presence of members, the Municipal Manager, and any other official of council whose presence is crucial in the opinion of the Speaker or chairperson, to provide critical information that needs to be taken into consideration when the matter is considered, when considering such an item in an open meeting to the public and officials could lead to prejudicing council, a member, an official or any other person or institution;
- 1.7 "council whip" means a full-time member elected by council in terms of the section 12 establishment notice of the Structures Act to perform the duties attached to the position as determined by council;
- 1.8 "day" excludes a Saturday, Sunday and a public holiday;
- 1.9 "Division of Votes" means to record individually every member or person's vote for or against any proposal;
- 1.10 "Executive Mayor" means the Executive Mayor contemplated in part 2 of Chapter 4 of the Structures Act;
- 1.11 "gender" refers to issues affecting both males and/or females;
- 1.12 "Land Development Officer" (LDO) means the authorised official defined in Regulation 1 of the Regulations in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013) to whom delegated power was assigned to adopt resolutions;
- 1.13 "meeting" means a meeting of the council or a committee established in terms of the Structures Act;
- 1.14 "member" means a member of the council;
- 1.15 "motion" means a formal motion introduced in writing in terms of these orders as well as a motion in terms of other legislation, to change position to act in a specific way;

- 1.16 "Municipal Finance Management Act" or "MFMA" means the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003);
- 1.17 "Municipal Manager" means the head of administration and accounting officer for the municipality in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), section 55 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and section 60 of the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) and any other word or expression shall have the meaning assigned thereto;
- 1.18 "municipality" means the JB Marks Local Municipality inclusive of the meaning thereto as ascribed by the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- 1.19 "municipal council" means the Council of the JB Marks Local Municipality;
- 1.20 "Municipal Public Accounts Committee (MPAC)" means the committee established in terms of guidelines issued by National Treasury, based on the Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003) (MFMA) and Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);
- 1.21 "official notices" contain institutional notices or communication binding on members or the administration only with regard to those delegated or legislative powers of an office-bearer's instruction on requested action or a programme of events;
- 1.22 "opening" means the Speaker or Chairperson has the discretion to resolve to open or close a meeting by means of a prayer, alternatively with or without the singing or playing of the National Anthem;
- 1.23 "party" means a political party or grouping represented in council;
- 1.24 "petition" means a written request for consideration of urgent action by council or granting relief in a matter of public interest;
- 1.25 "proposal" means any proposal with the exception of a motion, moved and seconded during a meeting;
- 1.26 "quorum" means the total number of Councillors present at a meeting to constitute that meeting is 50% plus one of all Councillors;
- 1.27 "serve" or "service" means (proof of) delivery of a notice or document at the address for service chosen by the Councillor concerned or personally;
- 1.28 "Speaker" means the chairperson of the council as contemplated in part 2 of Chapter 3 of the Structures Act;
- 1.29 "Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) as amended;
- 1.30 "Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) as amended;
- 1.31 "the report" means the report of the Executive Mayor to the council as contemplated in section 56(5) of the Structures Act or any other report submitted by a delegate and/or established committee by council;
- 1.32 "whip" means a person appointed by a specific political party or grouping in council to *inter alia* represent such party or grouping in the whips committee of Council.
- 1.33 "format of report" means a report in the format as determined by Council from time to time and set out in Policy V.40 (Council Resolution C207/2007-07-31).

2. APPLICATION OF RULES OF ORDER

- 2.1 The Rules of Order contained herein apply to all meetings of the JB Marks Local Municipality (hereinafter also referred to as "Municipal Council") and any committee of the Municipal Council as well as any other committee of Councillors established within the Municipality, unless the terms of reference for a specific structure explicitly excludes the application of the rules and orders for such structure.
- 2.2 The Rules of Order are aimed at allowing free, open and constructive debate during meetings. The rules are encouraged and promote freedom of expression in such a manner that orderly debate is ensured within the time constraints of time allocated to meetings.
- 2.3 The Rules of Order endeavour to create the opportunity for Councillors serving in Council structures to air their view on any matter of public importance.
- 2.4 The Rules of Order are applicable to -
- 2.4.1 all Councillors;
 - 2.4.2 any municipal official of the Municipality; and
 - 2.4.3 any member of the public while present in the Council Chamber and precinct.

3. NOTICE OF MEETINGS AND ATTENDANCE REGISTER FOR MEETINGS

- 3.1 The Speaker shall convene meetings of the Council, normally on a Tuesday excluding December, for which the Speaker may determine a date, but –
- (a) if a majority of Councillors requests the Speaker in writing to convene a Council Meeting, or;
 - (b) where the Executive Mayor or Municipal Manager calls for a Council Meeting to consider agenda items, which if not considered urgently or cannot be considered during an ordinary or routine council meeting convened by the Speaker, could prejudice the municipality,
- the Speaker shall convene a Special Council Meeting for a date and time in the request, or in the absence of any date and time specified in the request, a date and time as may be determined by the Speaker and as reasonable in the circumstances.
- 3.2 The municipal council shall conduct its business in an open manner and every meeting of the Council and all committees, including the Executive Committee/Mayoral Committee shall be open to the public; provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of sections 20 (1) (a) and (b) of the Systems Act.
- 3.3 The chairperson of a committee shall, after consultation with the Office of the Speaker, convene meetings of such committee, normally on a predetermined workday, but if the majority of members of the relevant committee request a meeting, the chairperson of the relevant committee must convene a meeting at a time set out in the request.
- 3.4 Notice of the time and place of every ordinary meeting including the complete and final agenda (Section 8) shall be served on every Councillor at least 7 working days before the meeting.
- 3.5 If the Executive Mayor/Municipal Manager has any item that he deems urgent to present to the council for the purpose of noting or consideration on any day after the 7th day, he may do so after consultation with the Speaker and the Whippery; provided that such item(s) is not delivered later than 2 days before such Council meeting.
- 3.6 Every member attending a meeting shall sign his name and indicate his time of arrival in the attendance register kept for this purpose, immediately before commencement of the meeting and if late, on arrival.

- 3.7 In the event of any scheduled meeting of council being rescheduled or postponed, the Speaker must provide reasons thereof to Councillors in writing, within 7 days of his/her decision to reschedule or postpone such meeting.

4. ADJOURNMENT IN THE EVENT OF NO QUORUM

- 4.1 If at the expiry of fifteen (15) minutes after the commencement time at which a meeting is scheduled a quorum has not assembled, no meeting shall take place unless it is resolved with the majority consent of the members present to allow further time not exceeding fifteen minutes in order to enable a quorum to assemble.
- 4.2 The members present shall after the expiry of the fifteen minutes contemplated in subsection 4.1, if no quorum was obtained by then, request the Speaker or elected chairperson to convene a meeting, notice of which shall be given in terms of Section 29 of the Structures Act and such meeting shall be deemed to be an adjourned meeting for the purpose of Section 6.

5. COUNT OF MEMBERS AND WALKOUT/PROTESTS

- 5.1 If, during any council meeting, the attention of the Speaker is drawn to the number of members present, such members shall be counted and if it is found that there is no quorum, the Speaker shall cause the call bell to be rung for at least fifteen seconds, and if after an interval of five minutes there is still no quorum, the Speaker shall forthwith adjourn the meeting.
- 5.2 Business not disposed of at a meeting adjourned in terms of subsection 6.1 shall be dealt with at a continuation meeting convened by the Speaker for this purpose: provided that such business not dealt with and which originated from a ~~special~~ meeting convened at the request of members in terms of section 29(1) of the Structures Act, may be held over until the next ordinary meeting.

6. ADJOURNED MEETINGS

- 6.1 When a meeting is adjourned, notice of the continuation meeting shall be served as if for any ordinary meeting as contemplated in section 3.
- 6.2 Subject to the provisions of section 7, no business shall be transacted at a continuation meeting except such as specified in the notice of the meeting which is adjourned.

7. BUSINESS LIMITED BY AGENDA OF MEETING

- 7.1 With the exception of an urgent report of the Executive Mayor or the Municipal Manager, no business not specified in the agenda of the meeting, shall be considered at that meeting.
- 7.2 The Speaker is responsible for the preparation of the Council agenda as per administrative procedures that are circulated to the members prior to the Council meeting in consultation with the Executive Mayor and Municipal Manager.
- 7.3 The Municipal Manager may, after consultation with the Speaker and Executive Mayor, raise any urgent matter for resolution by council, when the resolution required could, in the opinion of the Municipal Manager, prejudice the council or community in the event that it is delayed; provided that sufficient caucus time is afforded by the Speaker or chairperson in order for the caucuses to prepare for the consideration thereof.
- 7.3.1 The resolution required must be informed by means of a report in writing and must be submitted to the Speaker at the meeting for distribution to members.

8. AGENDA

8.1 The order of business of an ordinary meeting of Council shall be as follows:

(a) OPENING AND WELCOME

(i) Prayer / moment of silence / moment of reflection

(ii) Lighting of a candle in commemoration of persons affected by HIV, AIDS, TB and other diseases.

(b) LEAVE OF ABSENCE

(c) OFFICIAL NOTICES

(d) ANNOUNCEMENTS

Single Whip of the Council

Speaker

Executive Mayor

(e) MESSAGES OF ENCOURAGEMENT AND SUPPORT RELATING TO SERIOUS ILLNESS, HOSPITALISATION, *ET CETERA*, PROPOSALS OF CONDOLENCES, PROPOSALS OF CONGRATULATIONS

(f) CONSIDERATION OF THE MINUTES OF PREVIOUS MEETING(S)

(g) MATTERS ARISING OUT OF PREVIOUS MINUTES

(h) REPORT OF THE EXECUTIVE MAYOR

(i) REPORT OF THE SPEAKER

(j) REPORT OF THE MEMBERS OF THE MAYORAL COMMITTEE

(k) REPORT OF THE SINGLE WHIP OF THE COUNCIL

(l) REPORT OF THE MUNICIPAL MANAGER

(m) REPORT OF THE LAND DEVELOPMENT OFFICER

(n) MOTIONS OR PROPOSALS DEFERRED FROM PREVIOUS MEETINGS

(o) NEW MOTIONS OR PETITIONS

(p) QUESTIONS REFERRED TO IN SECTION 10

(q) DISCUSSION OF MATTERS DELEGATED TO THE EXECUTIVE MAYOR OR ANY OTHER DELEGATEE AND DEALT WITH BY HIM

8.2 After the matters referred to in points (a) to (k) of subsection 8.1 have been considered, the council may at its discretion bring forward any business which is on the agenda.

8.3 If a proposal in terms of subsection 8.1 (e) is opposed, such proposal shall lapse without further discussion.

8.4 The signature of the Speaker (or his delegatee in his absence and for this purpose) shall be appended to the agenda of council before distribution.

9. MINUTES OF MEETINGS

- 9.1 If a copy of the minutes of a meeting has been served on every member, the minutes shall be taken as read with a view to confirmation.
- 9.2 No proposal or discussion shall be allowed on the minutes except as to its accuracy or as provided for in subsection 8.1(f).
- 9.3 The minutes in relation to any item considered by the council in closed session and/or as contemplated in section 20 of the Systems Act, shall be recorded and kept separately from other minutes of the council unless consideration of that item was finalised in open council, and the council in closed session shall approve such minutes. In addition to keeping minutes of meetings of council or any other committee empowered to make resolutions, by means of hard copies, all the proceedings at such meeting must be recorded electronically.

10. QUESTIONS

- 10.1 A member may at a meeting put a question, and by doing so, not exceed 10 minutes -
- 10.1.1 on a matter arising out of or connected with any item of the report of the Executive Mayor, Speaker, Single Whip of the Council, Member of the Mayoral Committee or Municipal Manager, when such item has been called or during discussion thereof, only if such question has been submitted in writing or electronically to the Municipal Manager at least 7 working days prior to such meeting;
- 10.1.2 concerning the general work of the council not arising out of or connected with any item of the report of the Executive Mayor: provided that such question shall only be asked if at least ten days' notice in writing has first been lodged with the Manager Office of the Speaker who shall forthwith furnish a copy thereof to the Speaker and the Executive Mayor and the Municipal Manager.
- 10.1.3 Questions for clarity purposes are not subject to subsection 10.1.1.
- 10.2 A member who has put a question in terms of subsection 10.1.2 shall be entitled to be furnished promptly with a written reply.
- 10.3 The Executive Mayor, or any other member appointed by him, Speaker or Municipal Manager shall at the next ordinary meeting of the council reply to questions in terms of subsection 10.1.2.
- 10.4 If, after the question has been replied to, a member is of the opinion that the reply to the question is not clear, he may with the consent of the Speaker request elucidation thereof, and no additional questions shall be put without the consent of the Speaker.
- 10.5 The Speaker may disallow a question if he is of the opinion that it is out of order or not put clearly.

11. REPORTS

- 11.1 Unless an item is submitted for information only, every item relating to matters in respect of which there are no delegated powers shall contain a recommendation to be considered for adoption.
- 11.2 The agenda contemplated in subsection 3.3 shall contain the clear recommendations of the Executive Mayor, Speaker or Municipal Manager or any committee, that have been taken at a meeting prior to the delivery of the said notices.
- 11.3 That reports for Council agenda be submitted to the Directorate Corporate Services 12 days before the Council meeting.

12. REPORT OF THE EXECUTIVE MAYOR

A report submitted by the Executive Mayor in terms of section 56 of the Systems Act, shall contain the resolutions adopted by the Executive Mayor in respect of which council must take note or recommendations that are made by him to council for consideration.

13. REPORT OF THE SPEAKER

A report submitted by the Speaker in terms of section 63 of the Systems Act, shall contain the resolutions adopted by the Speaker in respect of which council must take note or recommendations that are made by him to council for consideration.

14. REPORT OF THE MUNICIPAL MANAGER

A report submitted by the Municipal Manager in terms of section 63 of the Systems Act, shall contain the resolutions adopted by the Municipal Manager in respect of which council must take note or recommendations that are made by him/her to council for consideration.

15. REPORT OF THE SINGLE WHIP OF THE COUNCIL

A report submitted by the Single Whip of the Council in terms of section 63 of the Systems Act, shall contain the resolutions adopted by the Single Whip in respect of which council must take note or recommendations that are made by him/her to council for consideration.

16. REPORT BY -**16.1 Land Development Officer (LDO)**

A report submitted by the Land Development Officer in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), shall contain the resolutions adopted by the Land Development Officer in respect of which council must take note.

16.2 Municipal Planning Tribunal

A report submitted by the Municipal Planning Tribunal in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013), shall contain the resolutions adopted by the Municipal Planning Tribunal in respect of which council must take note.

17. DELIVERY OF REPORTS

Any report with the exception of a report accepted by the Speaker as a matter of urgency, shall for the purpose of a meeting be considered in the manner provided in section 18 hereof.

18. MOVING OF REPORTS ON THE AGENDA

18.1 The Executive Mayor, Council Whip, a member, or the Municipal Manager called upon by the Speaker to do so, shall submit his/her report to a meeting.

18.2 When a report is being considered, the Speaker shall put the recommendations in the order as they appear on the agenda (*seriatim*) to Council unless he has a good reason not to do so.

18.3 The recommendations in the reports as mentioned in subsection 18.2 shall be deemed to have been proposed and seconded.

- 18.4 When a recommendation contemplated in subsection 18.2 has been adopted, such recommendation shall become a resolution of the council.
- 18.5 After the matters in respect of which the Executive Mayor has no delegated powers have been dealt with, the Speaker shall permit debate of the matters delegated to the Executive Mayor or any delegatee reporting to Council: Provided that -
- 18.5.1 such debate shall be limited to a period not exceeding twenty (20) minutes or such extended period as the Speaker may determine;
- 18.5.2 a member, except the Executive Mayor, shall not speak on such matters for longer than ten (10) minutes, except with the consent of the Speaker.
- 18.5.3 no other proposal shall be submitted during such debate, except a proposal requesting the Executive Mayor, Speaker or delegatee to reconsider his resolution in instances where Council's resolution already established any right and/or obligation (is not *functus officio* yet);
- 18.5.4 during such debate a member may request that his opposition to a resolution in respect of which the Executive Mayor or a delegatee has delegated powers, and his reason(s) therefore, be minuted after which the Manager Office of the Speaker shall minute or cause to be minuted such opposition and reason(s).
- 18.6 If the Speaker, Executive Mayor or any delegatee reporting back on any delegated power, notwithstanding participating in a debate concerning any item in his report, indicates that conclusion has been reached, such member shall close the debate on such item: Provided that the Executive Mayor, member concerned or Municipal Manager may nominate another member who, in his opinion, is more conversant with the item which is being debated, to close the debate on his behalf, irrespective of whether or not such member had previously taken part in the debate on that item.

19. CONSIDERATION OF THE BUDGET AND THE IDP ADDITIONAL TO AND AS PRESCRIBED BY THE MFMA, 2003

- 19.1 Although it is the responsibility of the Executive Mayor to deliver his budget speech, it shall be his prerogative to nominate a Member of the Mayoral Committee to deliver the budget speech on his behalf.
- 19.2 Notwithstanding anything to the contrary in these by-laws contained, the following provisions shall apply when the council considers the budget:
- 19.2.1 No proposal designed to increase or decrease the estimated revenue or expenditure of the council, shall be put to the vote before the debate on the budget has been closed.
- 19.2.2 After the debate on the budget has been closed, the Speaker shall put to the vote the proposals contemplated in paragraph 19.2.1 in the order in which they were proposed.
- 19.2.3 After all the amendments have been dealt with and if any proposal contemplated in subsection 19.2.1 has been accepted, the budget shall be deemed to have been amended as previously accepted.
- 19.2.4 The budget shall be deemed to have been amended in accordance with the proposal accepted in terms of paragraph 19.2.3.

20. DEPUTATIONS

- 20.1 A deputation desiring an interview with the council or a committee shall submit a memorandum to the Municipal Manager on the issue it wishes to take up with council.

- 20.2 The Municipal Manager shall submit the memorandum contemplated in subsection 20.1 to the Executive Mayor who may receive the deputation and deal with the matter raised in the memorandum or refer it to a committee or person.
- 20.3 If the Executive Mayor is of the opinion that the matter raised in the memorandum is one which should be submitted to the council, he shall so report to the council and, if the council agrees, an interview shall be granted to the deputation.
- 20.4 A deputation shall not exceed ten (10) in number and at an interview contemplated in subsection 20.3, only one person shall speak on behalf of the deputation except when a member puts a question in which case any person from the deputation, may reply to such question.
- 20.5 The matter shall not be further considered until the deputation has withdrawn.

21. MOTIONS AND PETITIONS

21.1 Types of motions

21.1.1 Motions of exigency

- (a) A councillor may direct the attention of the council or committee to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject and without comment there on moving "that the question to which attention has been directed be considered forthwith as a matter of exigency".
- (b) For the purposes of this set of rules and procedures such motion shall be referred to as a motion of exigency.
- (c) If such motion is seconded and carried by a two-thirds majority of the Councillors present at the meeting, the mover shall be permitted without notice to have the matter considered by means of a motion or question; provided that no motion of exigency shall be in order while any other question is being considered.]
- (d) No motions of exigency shall be put to any committee.

21.1.2 Motions of course

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

- (a) That the consideration of any particular item appearing on the agenda shall have precedence.
- (b) That any report referred to in the agenda be received, adopted, acted upon or referred back.
- (c) That any document before the council be acted upon in the manner specified in the motion.
- (d) That action is taken in regard to any matter submitted for consideration in the manner specified in the motion.
- (e) That the council do now resolve itself into closed session.
- (f) That certain persons proposed for appointment be eliminated as provided for.
- (g) A motion referred to in subsection 1.15.

- 21.2 Subject to the provisions of any other law -
- 21.2.1 every notice of a motion shall be in writing and such notice shall be signed by the member submitting it;
- 21.2.2 a motion shall be given to the Manager Office of the Speaker who shall enter it in a book kept for that purpose which book shall be open for inspection by any member;
- 21.2.3 notice of a motion shall not be specified in the summons for a meeting unless it is received at least ten (10) working days prior to such a meeting;
- 21.2.4 a motion shall lapse if the member who submitted it or a member assigned by him in writing, is not present at the meeting when such motion is being debated.
- 21.3 At the request of a member who gave notice of a motion, the Manager Office of the Speaker shall acknowledge receipt thereof in writing.
- 21.4 Every motion shall be relevant to the administration of or conditions in the municipality or shall deal with a matter in respect of which the council has jurisdiction.
- 21.5 A motion shall only be regarded as having been submitted to the council for decision if the proposal introducing that motion was duly seconded.
- 21.6 A member submitting a motion or a member assigned by him in writing shall move such motion and shall have the right of reply.
- 21.7 Every motion as contemplated in subsection 21.2.1, shall on receipt be dated and numbered and shall be entered by the Manager Office of the Speaker upon the agenda in the order in which it is received.
- 21.8 No member or party shall have more than one motion as contemplated in subsection 21.3.1 entered upon the agenda with the exception of a deferred motion, and no member or party shall move more than six motions during any mayoral term.
- 21.9 No member or party may move a motion in terms of this section -
- 21.9.1 which is intended to rescind or amend a resolution passed by the council within the preceding three months; or
- 21.9.2 which has the same purpose as a motion which was concluded within the preceding three months.
- 21.10 Notwithstanding the provisions of subsections 21.9, the council may at any time, following a recommendation by the Executive Mayor, rescind or amend any resolution passed by it.
- 21.11 In dealing with motions the Speaker shall ascertain which motions are unopposed and these shall be passed without debate and thereafter the Speaker shall call the opposed motions in the order in which they were received (*seriatim*).
- 21.12 A petition may be submitted by a member in the course of a meeting and he may not mention or divulge the contents or the title thereof when it is submitted.
- 21.12.1 A petition as contemplated in subsection 21.11 shall be referred to the Executive Mayor for a report to Council.

22. IRREGULAR MOTIONS OR PROPOSALS

- 22.1 The Speaker shall disallow a motion or proposal -
- 22.1.1 which in his opinion -

(a) might lead to the discussion of a matter already dealt with in the agenda or which has no bearing on the administration of or conditions in the municipality; or

(b) advances arguments, expresses an opinion, or contains unnecessary factual, incriminating, disparaging or improper suggestions;

22.1.2 in respect of which -

(a) the council has no jurisdiction;

(b) a decision by a judicial or quasi-judicial body is pending; or

(c) which has not been duly seconded;

22.1.3 which, if passed, would be contrary to the provisions of these by-laws or of any other law, or impractical: Provided that if such motion or proposal, in the opinion of the council, justifies further investigation, it shall be referred to the Executive Mayor.

23. WITHDRAWAL OF MOTIONS OR PROPOSALS

The mover of a motion or a proposal may withdraw it without the support of the seconder, or amend such motion or proposal if the amendment is supported by the seconder.

24. MOTIONS OR PROPOSALS AFFECTING A BY-LAW, LAW OR THE BUDGET TO BE REFERRED TO THE EXECUTIVE MAYOR AND THE SPEAKER

A motion or proposal other than a recommendation of the Executive Mayor which is designed to increase or decrease the budget of council or that will affect the making or amendment of a law or a by-law shall, before the council adopts a resolution thereon, be submitted to the Executive Mayor and/or Speaker for a report.

25. PROPOSALS WHICH MAY BE RECEIVED

25.1 Save for the provisions of section 41 when a motion or proposal is under debate at a meeting, no further proposal shall be received except the following:

25.1.1 To amend the motion or proposal.

25.1.2 That the question be referred back to the Executive Mayor or a delegatee reporting to Council for further consideration.

25.1.3 That consideration of the question be postponed.

25.1.4 That the meeting now adjourns.

25.1.5 That the debate be adjourned temporarily for purposes of a caucus.

25.1.6 That the question be put to the vote.

25.1.7 That the council proceeds to the next business:

Provided that such proposal shall only be deemed to have been submitted to the council for decision, if it was duly seconded.

25.2 A proposal in terms of subsections 25.1.1 and 25.1.2 may only be put by a member while he is speaking on a motion or proposal under debate.

- 25.3 If a proposal is put in terms of subsection 25.1.1 or 25.1.2, no further proposal may be put in terms of subsection 25.1 before the mover and seconder of the motion or proposal under debate have spoken thereon.
- 25.4 A proposal in terms of subsection 25.1.3, 25.1.4, 25.1.5, 25.1.6 or 25.1.7 by a member who did not take part in the debate on the motion or proposal under discussion, may only be put at the conclusion of a speech.
- 25.5 Save as provided for in subsections 25.2 and 25.3, a member who has made a proposal in terms of subsection 25.1, may speak thereon for not more than ten (10) minutes and there shall be no right of reply.
- 25.6 A proposal in terms of subsection 25.1 shall be dealt with in terms of the provisions of section 27 or 37.

26. AMENDMENT OF A MOTION OR PROPOSAL

- 26.1 An amendment which is moved in terms of subsections 26.1 - 26.5
- 26.1.1 shall be relevant to the motion or proposal on which it is moved;
- 26.1.2 shall be submitted in writing, signed by the mover and a seconder and handed to the Speaker; and
- 26.1.3 shall be stated to the meeting by the Speaker before it is put to the vote.
- 26.2 Subject to the provisions of section 26.3, more than one amendment of a motion or proposal may be moved and, save as provided in subsection 26.5, every amendment proposed shall at the close of the debate on such motion or proposal, be put to the vote.
- 26.3 If more than one amendment to a motion or proposal has been moved, such amendments shall be put to the vote in the order that they were received (*seriatim*).
- 26.4 No member shall move more than one amendment of the same motion or proposal.
- 26.5 If an amendment is carried, the amended motion or proposal shall take the place of the original motion or proposal and shall then become the motion or proposal in respect of which any further proposed amendments shall be put: Provided that the Speaker may, if he is of the opinion that an amendment which has been carried renders another amendment unnecessary or pointless, rule with the consent of council that such other amendment need not be put, after which the latter amendment shall lapse.

27. THE QUESTION SHALL BE REFERRED BACK FOR FURTHER CONSIDERATION

- 27.1 A proposal in terms of subsection 25.1.2 shall only be made in respect of a recommendation by the Executive Mayor or a delegatee reporting to Council which is being considered by the council.
- 27.2 A proposal in terms of subsection 25.1.2 shall not be put until the Executive Mayor has spoken on it, and if such proposal is carried, the debate on the recommendation shall end and the council shall proceed to the next business.

28. POSTPONEMENT OF CONSIDERATION OF QUESTION

If a motion is carried that consideration of a question be postponed until a future meeting as contemplated in subsection 25.1.3, the motion or proposal, if the question did not arise from a recommendation of the Executive Mayor, shall subject to the provisions of section 29, be placed first among the motions or proposals contemplated in subsection 8.1(r), which are to be considered on the particular date, or if such a question arises from a recommendation of the

Executive Mayor, it shall be contained in the report of that committee to the council on the day in question.

29. ADJOURNMENT OF MEETING

The Speaker or chairperson may at any time during a meeting upon the request of a member or if he is of the opinion that it should be done, direct the meeting to stand adjourned.

30. ADJOURNMENT OF DEBATE TEMPORARILY FOR PURPOSES OF CAUCUS

30.1 A proposal in terms of subsection 25.1.6 is only submitted in respect of a matter during the discussion thereof which serves before the council.

30.2 A request in terms of subsection 25.1.6 is limited to two occasions per party per meeting, but the Speaker may grant further caucus opportunity in his discretion to a maximum of five opportunities.

30.3 On the resumption of an adjourned debate, the Speaker must allow the member who moved its adjournment to speak first or elect another member or his party whip to report back.

30.4 No member shall move or second more than one proposal for adjournment of the same debate.

31. PUTTING OF THE QUESTION

The mover of a motion or proposal under debate shall, notwithstanding the fact that the proposal has been adopted in terms of subsection 25.1.6 have the right to reply in terms of section 36 before the question is put to the vote.

32. PROPOSAL THAT COUNCIL PROCEED TO NEXT BUSINESS

32.1 A proposal in terms of section 25.1.7 may be carried unless the council is required on legal grounds, or failure to adopt such a resolution may prejudice council to pass a resolution on a particular question.

32.2 If a proposal in terms of section 25.1.7 is carried, the matter then be referred to the Executive Mayor to be discussed at the next Council meeting.

33. PRECEDENCE OF THE SPEAKER

Whenever the Speaker or in his absence the elected chairperson speaks, any member then speaking or offering to speak, is to discontinue and the members are to be silent so that the Speaker or in his absence the elected chairperson may be heard without interruption. All members must adhere to the ruling of the Speaker, and are not allowed thereafter to speak anymore on the issue subject to section 40.

34. TURN TO SPEAK AND MEMBERS TO SIT WHILE SPEAKING

34.1 A member who wishes to speak, shall indicate to the Speaker or chairperson by raising his hand and shall only speak with the permission of the Speaker or chairperson.

34.2 A member shall remain seated when speaking and shall address the Speaker or chairperson.

34.3 If a member, who is not speaking, indicates to make a point of order in terms of section 40 or to make a proposal and such member is seen and addressed by the Speaker or chairperson, the member then speaking shall stop speaking until the Speaker has made a ruling.

- 34.4 The Municipal Manager in his capacity as accounting officer and head of administration, must on request of Council, answer questions which may arise from the discussion of the report at hand and may, in consultation with the Executive Mayor and with the permission of the Speaker, address the Council in respect of any other matter.

35. LENGTH OF SPEECHES

- 35.1 Subject to the provisions of sections 18, 25 and 44 a member may speak for no longer than ten (10) minutes on a motion or proposal: provided that the Speaker may permit a speech to be continued for a further period or periods of five (5) minutes.
- 35.2 The Speaker may waive the provisions of subsection 35.1 in regard to a statement made with the consent of the council by the Executive Mayor or a member of the Mayoral Committee elected by the Executive Mayor to address council in relation to any matter arising from a report.

36. MEMBER TO SPEAK ONLY ONCE

- 36.1 Subject to provisions to the contrary in these by-laws contained, no member shall speak more than once on any motion or proposal: Provided that the mover may reply in conclusion of the debate, but shall confine himself to answering to previous speakers and shall not introduce any new matter into the debate.
- 36.2 The Speaker may permit the Executive Mayor or a member who made a proposal in terms of section 31 to make an explanatory statement prior to the consideration of any particular item contained in the agenda, in reply to such a specific question.

37. RELEVANCE

A member who speaks shall direct his speech strictly to the matter under discussion or to a point of order and no discussion shall be permitted -

- 37.1 which will anticipate any matter on the agenda in the opinion of any member;
- 37.2 in respect of any matter that is *sub judicæ* or could, in the opinion of any member or the Municipal Manager, prejudice council; provided that such matter may be discussed in closed session with the permission of the Speaker.

38. IRRELEVANCE, TEDIOUS REPETITION, UNBECOMING LANGUAGE AND BREACH OF ORDER

- 38.1 The Speaker or chairperson shall call the attention of the members to irrelevance, tedious repetition, unbecoming language or any breach of order on the part of a member or any person participating in the meeting and shall direct such member or person if speaking to discontinue his speech or, in the event of persistent disregard of the authority of the Speaker, to retire from the meeting.
- 38.2 The Speaker or chairperson shall direct a member or any other person to apologise or withdraw a remark if it is unbecoming or injures or impairs the dignity or honour of a member or official of the council or any other person or institution. The Bill of Rights enshrined in the Constitution of the Republic of South Africa must be respected.

39. REMOVAL OR EXCLUSION OF MEMBERS OR ANY OTHER PERSON

- 39.1 If a member or any other person refuses to comply with a direction in terms of Section 38, the Speaker or Chairperson may cause the removal of such a member and take steps to prevent his return to the meeting. Contracted Security Personnel of the Municipality may be called to effect such removal.

39.2 The council may exclude from meetings of the council or any committee for such period as it may determine, but not exceeding sixty (60) days, a member or any other person who willfully disregards the authority of the Speaker or chairperson or who willfully obstructs the business at any meeting.

39.3 A ruling to exclude any person may be made at any stage of the meeting.

40. POINTS OF ORDER

40.1 For the purposes of this section -

“a point of order” means pointing out any deviation of order and anything contrary to these by-laws or other by-laws of the council or any law;

“an explanation” means the explanation of some material part of a member’s former speech which may have been misunderstood.

40.2 Any member, whether he has addressed the council on the matter under debate or not, may -

40.2.1 make a point of order;

40.2.2 give an explanation that is based on the Rules of Order.

40.3 A member contemplated in subsection 40.2 shall be entitled to be heard forthwith.

40.4 Subject to the provisions of section 42, the ruling of the Speaker or chairperson on a point of order or on the admissibility of a personal explanation shall be final and shall not be for discussion.

41. MODE OF VOTING

41.1 Every motion or proposal shall be submitted to the council or committee by the Speaker or chairperson who shall call upon the members who are for the motion or proposal, one by one and if a division is declared, to call out their name aloud and indicate whether they are for the motion or proposal, whereafter those members who are against the motion or proposal will be called one by one to call out their name aloud and indicate that they are against the motion/proposal, and the Speaker shall thereupon declare the result of the voting.

41.2 After the Speaker or chairperson has declared the result of the voting in terms of subsection 41.1, a member or the Municipal Manager may -

41.2.1 effect in the case of a member, that his vote be recorded against the decision; or in the case of the Municipal Manager his concern or remark; or

41.2.2 demand a division of votes to record individually every member or person’s vote for or against any proposal, and/or the withdrawal from the meeting by a member or person during the thirty (30) seconds allowed; or

41.2.3 if approved by the Speaker, by way of secret ballot.]

41.3 When a division in terms of subsection 41.2.2 is demanded, the Speaker or chairperson shall accede thereto, and a period of at least thirty (30) seconds shall lapse, during which thirty seconds, members or persons wishing to abstain from voting must leave the meeting, whereupon their names will be recorded, and whereupon all entrances to the meeting venue shall be closed and no member or person shall thereafter leave or enter the meeting venue until after the result of the division has been declared.

41.4 After expiry of the period specified in subsection 41.3, the motion or proposal shall again be put to the vote by the Speaker or chairperson in the manner provided for in subsection 40.1 and thereafter he shall declare the result of the division.

- 41.5 A division shall take place in the manner prescribed in subsection 41.1 and the vote of each member shall be taken separately by name and recorded in the minutes by the Manager Office of the Speaker.
- 41.6 When a division takes place in accordance with the preceding provisions, every member present, including the Speaker or the chairperson, shall be obliged to record his vote and in the case of the Municipal Manager, his objection against, or concern in respect of the motion or proposal.
- 41.7 A member demanding a division shall not leave the meeting venue before such division has been taken.
- 41.8 Should there be an equality of votes in respect of a proposal, the Speaker or chairperson shall record his casting vote and if he refuses, the matter shall be referred back.

42. INTERPRETATION OF RULES OF ORDER

- 42.1 Any member may request that the ruling of the Speaker or chairperson as to the interpretation of the Rules of Order be recorded in the minutes and the Municipal Manager shall keep a register of such rulings.
- 42.2 The Speaker or chairperson shall sign the entry in the register referred to in subsection 42.1 of each ruling given by him.

43. MAINTENANCE OF ORDER

- 43.1 The Speaker or chairperson may at any time during a meeting, if he deems it necessary for the maintenance of order, instruct a member to stop speaking or direct a member or any other person to leave the meeting venue or order that members of the public leave the meeting venue.
- 43.2 No person shall enter or remain in any meeting venue unless suitably and presentably dressed in the opinion of the Speaker or chairperson, and the following will be the

Formal Dress Code for Council meetings:

Males: Traditional wear/[work wear] or long-sleeve shirt, tie (optional), long trousers and shoes.

Females: Traditional wear/[work wear] or lady's suit.

Informal Dress Code for other meetings of Council

Males: Long or short-sleeve shirt, long trousers and shoes[/traditional wear/work wear].

Females: Lady's suit or traditional wear/[work wear].

- 43.3 (a) No member, official or person may at any time during a meeting make use of a cellular phone unless otherwise arranged with the Speaker or chairperson.
- (b) All cellular phones/tablets/electronic equipment/devices that will have an effect in interfering and/or disturbing the recording system of council when in session will and shall be required to be switched off or be technically equipped to not interfere and/or disturb the recording system.
- 43.4 No member or official of Council may at any time during a meeting, leave the meeting venue, without indicating as such to the Speaker or chairperson, for a period of longer than ten minutes without obtaining the prior consent of the Speaker or chairperson to such a written request setting out the reason and circumstances forcing such person to be absent. The period of absence and the reason therefore of such a member or official of council shall be recorded as such.

- 43.5 The Speaker or chairperson shall ensure that the Codes of Conduct for Councillors and Officials respectively are adhered to.
- 43.6 Any person who refuses to carry out any instruction given in terms of subsection 43.1 or who willfully obstructs the carrying out of such instruction or otherwise, shall be subject to disciplinary action.
- 43.7 The Speaker will ensure that Councillors, officials and members of the community attending council meetings, at all times be able to attend these meetings in a safe and healthy environment.

44. COUNCIL OR COMMITTEES OF COUNCIL IN CLOSED SESSION

Refer to Sections 34 – 41 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) (PAIA).

- 44.1 Council must conduct its business in closed session whenever –

44.1.1 any –

- (a) legal proceedings;
- (b) arbitration proceedings;
- (c) negotiations in connection with property,

to which Council is or may become a party;

44.1.2 the appointment, emoluments, of any officer or member of Council, and only in instances where such reports are being considered or discussed under subsection 8.1(r) (excluding section 56 Managers);

44.1.3 any other matter which, in council's opinion may be prejudicial to council or the inhabitants of the municipality,

are discussed.

- 44.2 Notwithstanding anything to the contrary in these by-laws contained, a member or the Municipal Manager in consultation with the Speaker or chairperson may –

44.2.1 at any time after an item on the agenda has been called or during consideration thereof, move that the council conducts its business in closed session for the further consideration of that item; or

44.2.2 if the council or committee is in closed session as contemplated in subsection 44.2.1, move that, for the further consideration of the item under debate, the council or committee resolve to consider the matter openly: Provided that the Speaker or chairperson, may at any time move that the council or committee conducts its business in closed session for consideration of one or more items on the agenda.

- 44.3 No seconder is required for a motion in terms of subsection 44.2.

- 44.4 Notwithstanding anything to the contrary in these by-laws contained, only the member moving a motion in terms of subsection 44.2 may speak on such motion for a period not exceeding ten (10) minutes and shall restrict his speech to the reasons why the council or committee should resolve itself into committee or discuss the matter in open council or committee, as the case may be without prejudice to council: Provided that, if a motion is moved in terms of subsection 44.2, the member concerned may speak for a period not exceeding five (5) minutes on each item in respect of which such proposal is made.

- 44.5 The Speaker or chairperson may, if in his opinion information is disclosed or is about to be disclosed in the course of a speech which may be prejudicial to the council or committee or any person, direct the member concerned to forthwith discontinue his speech.

- 44.6 If the council or committee is in closed session, the provisions of these by-laws, except in so far as they are in conflict with this subsection, shall apply.
- 44.7 If the council or committee agrees that further debate on the item in question be conducted in closed session in terms of subsection 44.2, the further debate on the item in question, whether in or out of committee, shall for all purposes be deemed to be a continuation of the preceding debate on that item.
- 44.8 If a proposal in terms of the proviso to subsection 44.2 is carried, the Speaker or chairperson shall determine when the items concerned shall be considered.
- 44.9 At the conclusion of the consideration of items in closed session, the council or committee shall revert to the consideration of further items in open council or committee.
- 44.10 When the council or committee agrees to conduct its business in closed session, all members of the public and council officials except the Municipal Manager and such other officials as the Speaker or chairperson may require to remain, shall leave the meeting venue and shall not return to the meeting venue for the duration of the proceedings in closed session unless otherwise instructed by the Speaker.
- 44.11 The Speaker or chairperson may direct an official to remove or cause to be removed any person who remains in the meeting venue in contravention of subsection 44.10, or take steps to prevent the entry of any person into such venue in contravention of that subsection.

45. REPORTS AND RESOLUTIONS MAY BE PROVIDED TO THE MEDIA AND PUBLIC

- 45.1 The Municipal Manager may in terms of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) provide to the media or member of the public, the agenda of the council or committee of council: Provided that the Executive Mayor may instruct him to withhold from the press or any person any particular agenda or item in an agenda.
- 45.2 The Speaker or Chairperson during a meeting and/or the Municipal Manager, at any time may withhold the public disclosure of a resolution or any information thereon, when such a resolution or information -
- 45.2.1 contains the trade secrets of a third party or information on intellectual property of which Council is the owner; or
- 45.2.2 contains financial, commercial, scientific or technical information, when the disclosure thereof is likely to cause harm to any third party; or
- 45.2.3 was provided in confidence by a third party, the disclosure of which could reasonably be expected to disadvantage any third party in contractual competitions or other negotiations; or
- 45.2.4 contains information subject to a duty of confidence owed to a third party, which could lead to an action being instituted; or
- 45.2.5 which could lead to the unreasonable disclosure of personal information with regard to a third party, employee or Councillor inclusive of an individual who has passed on; or
- 45.2.6 which could prejudice Council in any negotiations or other bargaining process; or
- 45.2.7 could frustrate the finalisation of proposed policy or strategy by premature disclosure; or
- 45.2.8 could jeopardise the effectiveness of an audit.

46. REPORTS

- 46.1 For the purpose of this clause, "a director" means a manager as contemplated in Section 56/57 of the Systems Act.

- 46.2 A report of a director, co-signed by the relevant Mayoral Committee member, shall be submitted to the Department Corporate Services (Administration): Provided that the Municipal Manager in consultation with the Executive Mayor may submit such report to Council, the Executive Mayor, Mayoral Committee, relevant committee or relevant delegatee of Council.
- 46.3 The Municipal Manager may refer a report back to any Director for amendment or any addition thereto and may, if he deems it necessary, comment or make a recommendation in respect of any report which he submits.
- 46.4 All policies and/or instructions by the Council or Municipal Manager with regard to processes, procedures, time-lines and formats relating to reports for agendas must be strictly adhered to and any person who does not comply, shall be subject to disciplinary action.
- 46.5 In respect of resolutions that issued an instruction or requests minuted in the minutes of the previous meeting, the Municipal Manager must submit a progress report listing such items that do not appear on the agenda for discussion and the reasons for it.

47. COMMITTEES OF THE COUNCIL

- 47.1 A member of a committee wishing to resign from a committee, shall tender his resignation in writing to the Speaker with regard to committees established in terms of section 79 of the Structures Act, and to the Executive Mayor in terms of committees established in terms of section 80 of the Structures Act. Such tendered resignation may not be withdrawn after receipt thereof is registered by the Manager Office of the Speaker.
- 47.2 The Speaker and/or Executive Mayor respectively may appoint another member to serve on any respective committee if long leave of absence is granted to a member or for any other reason in the opinion of the Executive Mayor or Speaker with regard to political representation on any committee, in consultation with the Whip.

48. DECLARATION OF PECUNIARY INTEREST

Subject to Clause 5 of the Code of Conduct for Councillors, a member wishing to declare a pecuniary interest in terms of sections 7(1), (2), (3) and (4) of the Code of Conduct, shall do so forthwith after the item or motion in respect of which such interest exists, has been called.

49. ATTENDANCE OF MEETINGS AND TRANSGRESSIONS OF MEMBERS

- 49.1 A member must attend each meeting of the council and or a committee of which he is a member unless there is good reason for absence. Leave of absence may be granted if such application for leave of absence is done in writing and submitted to the Speaker or Manager Office of the Speaker or the chairperson or secretary of any committee of the council before the commencement of the meeting.

Any verbal indication, or where a member or official of council indicated that he would arrive late for a meeting, or where a member or official of council is absent from a meeting unless the written application is submitted within 7 days of the date of the meeting, will not be accepted as an official application for leave of absence.

- 49.1 Any member failing to remain in attendance at such meetings, without good reason, is guilty of transgressing section 4(1)(b) of the Code of Conduct.
- 49.3 Failing to comply with the above or in circumstances where continuous leave of absence is requested by a specific member and in instances which seem to be abusive of the Clause, a disciplinary investigation shall be instituted by the Speaker against such a member.

50. ESTABLISHMENT OF DISCIPLINARY COMMITTEE FOR MEMBERS AND THE DELEGATION TO DEAL WITH ALLEGED TRANSGRESSIONS OF THE CODE OF CONDUCT AND THE RULES OF ORDER

50.1.1 In compliance with section 54 of the Local Government: Municipal Systems Act, 1998 (Act 117 of 1998) (the Act) read with Schedule 1 thereof, a disciplinary committee is hereby established to consider any alleged breach of the Code or the Rules of Order by any member.

50.1.2 The disciplinary committee shall consist of the Speaker and two members of Council or any other Councillor from the Dr Kenneth Kaunda District Municipality to be appointed by him. In the event of the Speaker being unable to form part of the disciplinary committee as a result of having a clash of interests in the alleged behaviour to be addressed, the Council Whip in consultation with the Executive Mayor may nominate any other member of Council to constitute the disciplinary committee.

50.1.3 Notwithstanding the provisions contained in subsection 50.1.2 above, the Council Whip in consultation with the Executive Mayor may nominate any suitable qualified person or another Councillor in the Dr Kenneth Kaunda District Municipality to preside over the disciplinary committee in the event of the Speaker being unable to form part of the disciplinary committee for any reason whatsoever including by reason of the Speaker's clash of interests in the alleged behaviour to be addressed.

50.1.4 Prior to the intended disciplinary process to be instituted against any Councillor for any breach of the Code of Conduct contained in Schedule 1 of the Act, *supra*, the following steps shall be taken:

A notice shall be issued to the alleged offending Councillor containing the following information:

- (i) The date, time and venue of the disciplinary meeting to be conducted.
- (ii) A notice that the alleged offending Councillor shall have the right to disprove any or all of the charges leveled at him or her and call witnesses.
- (iii) The charges shall be set out with sufficient clarity to enable the alleged offending Councillor to understand the nature of the charges leveled at him/her.
- (iv) A notice that the disciplinary meeting shall continue in the alleged offending Councillor's absence should he/she fail to appear at the disciplinary committee meeting on the date and time stipulated in the notice.
- (v) The notice shall be served on the alleged offending Councillor at least five working days prior to the intended date of the disciplinary meeting.

50.1.5 The disciplinary committee shall have all such powers as are afforded to a municipal council in terms of section 4(2) of Schedule 1 of the Act *supra*.

50.2 The rules of natural justice must be complied with during the proceedings of this committee.

50.2.1 If the transgressing member raises illness as a defense for non-attendance he must produce a legally signed medical certificate indicating date and time of consultation stating that his illness was of such a serious nature that he was not able to submit a timeous application for leave of absence in writing.

50.3 Upon finding a member guilty of transgressing item 4(1) of the Code of Conduct the committee will impose the following sanctions -

Non-attendance of any meeting or part thereof without leave:

50.3.1 a written warning in the case of a first transgression or a fine of R1 200.00;

50.3.2 a fine of R1 500.00 in the case of a second transgression, and in the event of a member continuously submitting apologies which may seem to cause abuse hereof, the Speaker will investigate the matter and act in terms of the Rules of Order.

Non-attendance of three or more consecutive meetings:

50.3.4 Steps to be taken in terms of item 14 of the Code of Conduct to have the member removed from office.

51. PENALTY CLAUSE

Any person, who contravenes or fails to comply with any provision contained in these by-laws, shall be guilty of an offence and liable, on conviction in terms of the Code of Conduct, to such penalty as prescribed.

52. PRIVILEGES AND IMMUNITIES

52.1 Subject to provincial legislation to be promulgated in terms of section 28(1)(b) of the Structures Act, Councillors are not liable to civil or criminal proceedings, arrest or imprisonment or damages for -

- (a) anything that they have said in, produced before or submitted to the council or any of its committees; or
- (b) anything revealed as a result of anything that they have said in, produced before or submitted to the council or any of its committees, subject to the conditions as set out in subsection 52.2.

52.2 The following privileges and immunities are subject to the following:

- (a) Anything that has been said in, produced before or submitted to the council or any of its committees by a Councillor must be the truth;
- (b) Councillors are bound by sections 34(1), 35(1), 36(1), 37(1)(a), 38(a), 39(1)(a), 40 and 43(1) of the Promotion of Access to Information Act, 2000 (Act 2 of 2000) subject to the provisions of section 46 of the said Act. This means that there is a mandatory protection of -
 - (i) privacy of a third party who is a natural person;
 - (ii) safety of individuals and protection of property;
 - (iii) police dockets in bail proceedings, and protection of law enforcement and legal proceedings;
 - (iv) economic interest and financial welfare of the Republic of SA and commercial activities of public bodies;

unless -

- (i) the disclosure of information would reveal evidence of a substantial contravention of, or failure to comply with law, or an imminent and serious public safety or environmental risk; and
- (ii) the public interest in the disclosure of records or information clearly outweighs the harm contemplated in the provision in question.

53. MISCONDUCT BY PERSONS OTHER THAN COUNCILLORS

Any person, other than a Councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the council or any committee at any meeting shall, if the Speaker or chairperson so directs, be removed from the venue where the meeting is being held. If the person refuses to leave, the Speaker or Chairperson shall instruct the Minimum Information Security Standard (MISS) Manager to remove such person from the meeting. The Speaker or chairperson may exclude such person from further admittance to the meeting venue for such period as he/she may be deemed fit.

ANNEXURE B**RULES OF VIRTUAL MEETINGS AND SITTINGS****1. GENERAL**

- 1.1 These rules are supplementary to and must be read in conjunction with the Rules of Order / Rules and Orders / Standing Orders for Council.
- 1.2 For the purposes of these Rules, “virtual meetings or sittings” mean meetings or sittings conducted by any form of technology.
- 1.3 These Rules shall remain in force for the period of the National State of Disaster and may be extended beyond this period by the Municipal Council.
- 1.4 These Rules shall be referred to as Rules of Virtual Meetings and Sittings.

2. APPLICATION OF THE RULES

- 2.1 These Rules apply to virtual –
- (a) meetings or sittings of the Municipal Council; and
 - (b) meetings of the Committees of Council.

3. NOTICE AND DOCUMENTS

- 3.1 All meetings of Council or Committees of Council shall be in accordance with the Notice of Meetings as prescribed by the Rules of Order for Council.
- 3.2 All documents relating to Council and Committee meetings shall be distributed by any electronic means to which Councillors have access.

4. QUORUM

- 4.1 The quorum requirements for Council and Committee meetings shall be a majority of the Councillors, present at the meeting.

5. DECISIONS AND VOTING

- 5.1 The decision-making requirements for Council and Committee meetings shall be a majority of the Councillors to be present at the meeting before a vote may be taken on any matter.
- 5.2 Decisions shall be taken by a majority of the votes cast by the Councillors present in the meeting, in the case of an equal number of votes, the presiding councillor shall have a casting vote.
- 5.3 In a Council or Committee meeting councillors shall be entitled to cast their votes either electronically or by voice.
- 5.4 For the purposes of voting the Municipal or City Manager of the Council shall maintain a system that is capable of verifying the votes of delegates cast either electronically or by voice.

6. MINUTES AND RECORDS

- 6.1 The Municipal / City Manager must maintain the minutes and records of the proceedings.

- 6.2 The minutes referred to in 6.1 above shall constitute the records of that Council or Committee meeting.
- 6.3 The correctness of the minutes of the Council or Committee meeting must be considered at its next meeting, failing which, at the following meeting.

7. HOUSEKEEPING

- 7.1 During video meetings Councillors must:- (a) make use of the video function; (b) Mute the mic when not speaking;
- (c) Use the chat to raise a hand to engage in the dialogue; and
- (d) Wait for the chairperson of the meeting to be called upon to speak or unmute the mic.

8. POWERS, PRIVILEGES AND IMMUNITIES

- 8.1 Councillors have the same powers, privileges and immunities which they ordinarily enjoy in Council and Committee proceedings.

9. FACILITATION OF PUBLIC INVOLVEMENT

- 9.1 Subject to section 160(7) of the Constitution and the Rules of Orders, Council and /or Committees must facilitate public involvement on matters before it, by electronic means.

Councils Property Rates By – Law published in the Provincial Gazette 6653 dated 30 June 2009 under notice 215 is hereby repealed.

**L RALEKGETHO
MUNICIPAL MANAGER**

Notice 60/2020
/sm