

BY-LAW

To provide for standing orders for the dispatch of business by the Council of the EMTHANJENI municipality; and for matters connected therewith.

BE IT ENACTED by the Emthanjen municipality, as follows:-

Definitions

1. In this By-law, unless the context otherwise indicates –

“**Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**budget**” means the estimate of the revenue and expenditure of the Council drawn up and presented by the Executive Committee in terms of national legislation;

“**chairperson of the Executive Committee**” means the Mayor;

“**Council**” means the Emthanjeni Local Municipal Council;

“**Executive Committee**” means the committee as contemplated in section 42 of the Act;

“**Mayor**” means the person presiding at Executive Committee meetings as contemplated in section 49 of the Act;

“**meeting**” means a meeting of the Council or the Executive Committee, as the case may be;

“**member**” means a member of the Council or the Executive Committee, as the case may be;

“**motion**” means a motion introduced in writing in terms of section 21 or 50;

“**Municipality**” means the Emthanjeni municipality;

“**Municipal Manager**” means a person appointed in terms of section 82 of the Act;

“**proposal**” means any proposal with the exception of a motion, moved and seconded during a meeting of the Council or a committee thereof; and

“**Speaker**” means the Speaker of the Council as contemplated in sections 36 and 37 of the Act; and

“**Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

Removal of persons from Council chamber

2. The Speaker may, subject to section 160(7) of the Constitution, at any time during a meeting, if for the maintenance of order he or she deems it necessary, direct the removal of any person other than a member from the Council chamber.

Signing of attendance register and wearing of robe during meetings

3. Every member attending a meeting shall –
 - (a) sign his or her name in the attendance registers; and
 - (b) wear a robe, if the Council so resolves, which robe is provided for that purpose.

Adjournment in event of no quorum

4. If at the expiration of fifteen minutes after the hour at which a meeting is appointed to be held a quorum has not assembled, no meeting shall take place unless the members present agree to allow further time not exceeding an additional ten minutes in order to enable a quorum to assemble. The members present may at any time after the expiry of the ten minutes aforesaid, by a majority of votes, request the Municipal Manager to convene a meeting at a convenient date and time, notice of which shall be given as provided for in section 115 of the Systems Act, and the provisions of section 7 shall apply *mutatis mutandis* to such meeting.

Count out of members

5. If during any meeting, the attention of the Speaker is directed 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 this fact to be recorded in the minutes and the call bell to be rung for at least one minute and, if after an interval of five minutes a quorum has not yet assembled, the members present may by a majority of votes resolve to adjourn the meeting. If no such resolution be taken and after an interval of ten minutes there is no quorum, the meeting shall be considered adjourned until a time to be determined by the Municipal Manager.

Notice of adjourned meeting

6. When a meeting is adjourned, notice of the adjourned meeting shall be served as provided for in section 115 of the Systems Act unless a proposal fixing the date and hour of such an adjourned meeting is adopted by at least three quarters of the members present (fractions to be reduced to the nearest number).

Adjourned meeting

7. Subject to the provisions of section 8, no business shall be transacted at an adjourned meeting, except such as specified in the notice of the meeting which is adjourned.

Business limited by notice

8. Subject to the provisions of section 50(1), no matter not specified in the notice of a meeting shall be transacted at that meeting, save an urgent report of the Executive Committee.

Order of business of meeting

9. (1) The order of business of an ordinary meeting shall be as follows:
 - (a) Opening;
 - (b) Acceptance of notice of the meeting as read;
 - (c) Applications for leave of absence;
 - (d) Official notices –
 - (i) by the Speaker;
 - (ii) by members;
 - (iii) by the Municipal Manager;
 - (e) Speaker's unopposed proposals;
 - (f) Confirmation of minutes of previous meeting;
 - (g) Questions of which notice has been given;
 - (h) Motions or proposals referred from previous meetings;
 - (i) Report of the Executive Committee;

- (j) New motions;
 - (k) Petitions;
 - (l) Closure.
- (2) After the matters referred to in paragraphs (a) to (f) of subsection (1) have been considered, the Council may at its discretion change the order of the other business appearing on the agenda.

Minutes of meeting

10. (1) Unless the minutes of a meeting are confirmed at the same meeting, the minutes shall be taken as read with a view to confirmation: Provided a copy thereof has been served on each member in the manner as provided for in section 115 of the Systems Act.
- (2) No motion, proposal or discussion shall be allowed on the minutes, except as to their accuracy.

Questions by members

11. (1) A member may put a question at a meeting –
- (a) on a matter arising out of or connected with any item of a report of the Executive Committee when such item has been called or during discussion thereon;
 - (b) concerning the general work of the Council not arising out of or connected with any item of a report of the Executive Committee: Provided that such question may only be asked if at least seven day's prior notice in writing has been lodged with the Municipal Manager, who shall forthwith furnish a copy thereof to the Speaker and the chairperson of the Executive Committee.
- (2) A question on a matter which, in the opinion of the Speaker, is of urgent public importance, shall only be asked at a meeting after notice in writing thereon in duplicate has been lodged with the Municipal Manager at least ten minutes before the commencement of the meeting, and the Municipal Manager shall immediately furnish a copy thereof to the Speaker and the chairperson of the Executive Committee.
- (3) Any question put in terms of this section shall be replied to by or on behalf of the chairperson of the Executive Committee.
- (4) After a member's question has been replied to, he or she may ask for elucidation thereof and the question whether it has been decisively or fully replied to shall not be debated, except with the consent of the Speaker.

- (5) The Speaker may disallow a question if he or she is of the opinion that it is out of order or not put clearly.

Reporting to the Executive Committee

12. (1) A report of a head of department shall be directed to the Municipal Manager who must submit it to the Executive Committee.
- (2) The Municipal Manager may refer a report back to a head of department for factual amendment or amplification and he or she may, if he or she deems it necessary, comment on and make a recommendation in respect of any report contemplated in subsection (1).

Composition of a report of the Executive Committee

13. (1) A report submitted by the Executive Committee in terms of the Act, read with section 160(6)(a) to (c) of the Constitution, shall first contain the matters in respect of which recommendations are made (hereinafter referred to as the “first part”) and thereafter those matters which have been delegated to –
- (a) the Executive Committee; and
- (b) committees contemplated in section 79 of the Act.
- (2) Unless any item is submitted to the Council for information only, every item of the first part shall contain a recommendation which may be adopted by the Council.

Report shall be delivered

14. A report of the Executive Committee, with the exception of a report accepted by the Speaker as a matter of urgency, shall be delivered in the manner provided for in the Act.

Submission on report

15. (1) The chairperson of the Executive Committee or member called upon by him or her to do so, shall submit a report of the Executive Committee, and in doing so, shall move:
- “that the report be considered”.**
- (2) A proposal referred to in subsection (1) shall not be discussed, and if the Council accepts such proposal, the Speaker shall put the recommendations contained in the first part of the report seriatim, unless for a good cause he or she sees fit to vary the order.

- (3) When a recommendation referred to in subsection (2) is accepted, it shall become a resolution of the Council.
- (4) At the conclusion of the first part of the report referred to in subsection (2), the Speaker shall permit discussion of the ensuing parts of the report: Provided that –
 - (a) such discussion shall be limited to –
 - (i) one hour in respect of the matters contemplated in section 13(1)(a); and
 - (ii) 30 minutes per part in respect of the matters contemplated in section 13(1)(b);
 - (b) a member, excluding the chairperson of the Executive Committee, shall not, unless permitted by the Council, speak for more than ten minutes, and when a member is permitted to speak for more than ten minutes, the Council shall decide on the period of time;
 - (c) during such discussion, no other proposal shall be submitted, except a proposal that the Executive Committee or a committee contemplated in subsection 13(1)(b), as the case may be, be requested to reconsider its decision;
 - (d) a member may during such discussion request that his or her opposition to any resolution in such ensuing part, and the reason therefor, be recorded, whereupon the Municipal Manager shall record or have such opposition recorded.

Recommendations of Executive Committee shall be regarded as proposals

- 16. It shall be deemed that the member who has made a proposal in terms of section 15, moves each recommendation contained in the report and that such proposal has been seconded.

Withdrawal or amendment of recommendation

- 17. The member who has made a proposal in terms of section 15, may withdraw or amend any recommendation contained in a report with the consent of the Council.

Reply to debate

- 18. (1) The chairperson of the Executive Committee or the member who has made a proposal in terms of section 15, shall reply to and close the debate on any item in a report of the Executive Committee, without introducing new matters.

- (2) Notwithstanding the provisions of subsection (1), the Speaker or the member therein mentioned may make an explanatory statement or an announcement prior to the consideration of any particular item contained in the report of the Executive Committee or during the discussion of such a report.

Deputation

- 19.** (1) (a) A deputation desiring an interview with the Council shall submit a memorandum setting out the representations it wishes to make.
- (b) The Municipal Manager shall place the memorandum before the Executive Committee which may receive the deputation and deal with the matter raised in the memorandum in terms of the power delegated to it: Provided that the Executive Committee may dispense with the necessity of submitting a memorandum.
- (c) If the Executive Committee is of the opinion that the matter is one which should be placed before the Council, it shall so report to the Council and, if the Council so orders, an interview shall be granted to the deputation.
- (2) A deputation shall not exceed three in number and only one member thereof shall be at liberty to speak, except in reply to a question of a member. The matter shall not be further considered until the deputation has withdrawn.

Petition

- 20.** A petition may be presented by a member, but when presenting it, he or she shall not deliver a speech or comment thereon to the Council. Such a petition shall be referred to the Executive Committee who shall report to Council thereon.

Form of giving notice of motion

- 21.** (1) Every notice of motion shall be in writing and such motion shall be signed by the member submitting it.
- (2) A motion shall be given to the Municipal Manager, who shall enter it in a book to be kept for this purpose, which book shall be open to the inspection of members. The Municipal Manager shall without delay furnish each member with a copy of the motion.
- (3) At the request of the member who gave notice of the motion, the Municipal Manager shall acknowledge receipt thereof in writing.
- (4) Unless a notice of motion is received at least ten days before a meeting, it shall not be specified in the notice of such meeting.

- (5) Every motion shall be relevant to some question relating to the administration or conditions in the Municipality.
- (6) The member who introduces a motion may reply: Provided that when a proposal in terms of section 43(1)(b), (c), (d), (e), (f) or (g) is carried in respect of such motion, such member may reply for not more than ten minutes.

Order of motions

- 22. Every motion shall on receipt be dated and numbered and shall be entered by the Municipal Manager to the agenda in the order in which it is received, except in the case of notice of an amendment, which shall be entered immediately after such notice of motion, irrespective of the time upon which notice of motion to amend is received.

Limitation of notices

- 23. No member shall have more than one motion other than a deferred motion on the agenda paper and no member shall move more than six motions, which includes a motion contemplated in section 50(1), in any year.

Motion to rescind any resolution passed within the preceding three months

- 24. (1) When a member proposes a motion in terms of the provisions of section 21 which –
 - (a) is aimed at the revocation or amendment of a resolution of the Council taken within the preceding three months; or
 - (b) has the same purport as a motion which has been negatived within the preceding three months,

such motion shall be placed on the agenda only if the notice of such a motion is signed by three members in addition to the member who proposes such motion.
- (2) A motion similar to the one which was disposed of in terms of subsection (1), shall not again be proposed by a member before the expiry of six months after such disposal.
- (3) Notwithstanding the provisions of subsections (1) and (2), the Council may at any time rescind or amend a resolution in pursuance of a recommendation of the Executive Committee contained in a report in accordance with section 15.

Procedure in respect of putting of motions

25. (1) When motions come up for discussion, the Speaker shall read out the number of each motion and the name of the mover and shall ascertain which motions are unopposed.
- (2) An unopposed motion shall be carried immediately and without discussion.
- (3) If there is an opposed motion, the Speaker shall call for a seconder and he or she shall thereafter in turn put each such seconded motion.
- (4) A member who seconded a motion may subsequently speak upon such motion unless a proposal in terms of subsection 43(1)(b), (c), (d), (e), (f) or (g) in respect of such motion has been made and carried before the seconder has spoken.
- (5) A motion which is not put by the proposer thereof, or which is not seconded, shall lapse.

Irregular motions or proposals

26. The Speaker shall disallow a motion or proposal –
- (a) which in his or her opinion –
- (i) might lead to the discussion of a matter already contained in the agenda or which is not relevant to some question relating to the administration or conditions in the Municipality; or
- (ii) advances argument, expresses an opinion or contains unnecessary factual, incriminating, derogatory or improper allegations;
- (b) in respect of which –
- (i) the Council has no jurisdiction; or
- (ii) a decision by a judicial or *quasi*-judicial body is pending; or
- (c) which, if carried, will be in conflict with the provisions contained in these Standing Orders or of any other law, or will be unenforceable.

Matter serves before Council by way of proposal

27. (1) Subject to the provisions of sections 15(2) and 16, a matter shall not be deemed to be put to the Council for a decision, unless a proposal on such matter has been made and duly seconded.

- (2) The provisions of section 25(4) shall apply *mutatis mutandis* to a member seconding a proposal.

Provisions relating to the consideration of the budget

28. Notwithstanding anything to the contrary contained herein, the following provisions shall apply when the Council considers the budget:
- (a) A proposal, which will have the effect that estimated revenue or expenditure of the Council is increased or decreased, shall not be put before the debate on the budget has been closed.
 - (b) After the debate on the budget has been closed the Speaker shall put every proposal contemplated in paragraph (a) *seriatim*.
 - (c) If any such proposal is accepted, the budget shall not be deemed to be amended in accordance with that resolution and the meeting shall be postponed to a date and time determined by the Speaker, unless the chairperson of the Executive Committee or a member of that committee designated by him or her, decides that such postponement is not necessary.
 - (d) If, in terms of paragraph (c), it is decided that a postponement of the meeting is not necessary, the budget shall be deemed to have been amended in accordance with a resolution contemplated in that paragraph.
 - (e) After a postponement contemplated in paragraph (c), the Executive Committee shall investigate the implication of every such resolution and shall report to the Council thereon at the resumption of the meeting.
 - (f) After the Executive Committee has reported in terms of paragraph (e), the Speaker shall –
 - (i) allow a debate thereon;
 - (ii) thereafter again put every proposal contemplated in paragraph (c) and if any such proposal is accepted, the budget shall be amended in accordance with that resolution.

Referral to Executive Committee of proposal affecting budget

29. A motion or proposal, other than a proposal contemplated in section 16, which will have the effect that the approved budget is increased or decreased, shall not be accepted before the Executive Committee has reported thereon.

Referral to the Executive Committee of motion or proposal affecting any matter contemplated in section 30(5) of the Act

30. A motion or proposal, other than a recommendation of the Executive Committee, affecting a matter contemplated in section 30(5) of the Act shall, before the Council adopts a resolution thereon, be submitted to the Executive Committee to report and make a recommendation thereon.

Withdrawal or amendment of motion or proposal

31. (1) A mover may, with the Council's permission, withdraw or amend a motion or proposal, and only the mover shall be allowed to explain his or her request for such permission.
- (2) After permission has been requested in this way, no further discussion shall be held on the respective motion or proposal and the permission requested shall be granted or refused without further discussion.

Addressing the meeting

32. A member may sit when speaking and shall address the Speaker.

Precedence of Speaker

33. Whenever the Speaker speaks, any member then speaking or offering to speak shall sit down, if standing, and the members are to be silent so that the Speaker may be heard without interruption.

Length of speeches

34. (1) Subject to the provisions of sections 15 and 43, a member may not speak for longer than ten minutes: Provided that –
- (a) a member who submits a motion may speak for a period not exceeding fifteen minutes when elucidating his or her motion; and
- (b) the Council may permit a speech to be continued for a further period or periods of 5 minutes.
- (2) The Council may waive the provisions of subsection (1) in regard to a statement made with the consent of the Council by the chairperson or any other member of the Executive Committee in relation to any matter arising from a report.
- (3) A member participating in any debate may, during the course of his or her speech, refer to notes, but he or she shall not be permitted to read his or her speech. The Speaker may require a member reading his or her speech to discontinue his or her speech.

- (4) The provisions of this section shall not apply to –
- (a) the chairperson of the Executive Committee, when he or she presents the budget and opens the debate thereon;
 - (b) the chairperson of the Executive Committee, when he or she or a member of that committee designated by him or her, delivers the budget speech, or replies to the debate in connection with the consideration of the budget;
 - (c) the chairperson of the Executive Committee, when he or she closes the debate in connection with the consideration of the budget; and
 - (d) the person, who in terms of section 18(1), replies to and closes the debate contemplated in that section.

Relevance

- 35.** (1) A member who speaks, shall direct his or her speech strictly to the matter under discussion or to an explanation or to a point of order.
- (2) The Speaker shall not allow a discussion –
- (a) which will anticipate any matter on the agenda; or
 - (b) on any matter in respect of which a decision by a judicial or *quasi-judicial* body is pending.

Irrelevance, repetition and breach of order

- 36.** (1) If, in the opinion of the Speaker, a member –
- (a) does not abide by the provisions of section 35(1) or is guilty of irrelevance or tedious repetition while he or she addresses the Council, the Speaker may direct him or her to abide by the said provisions or to discontinue such irrelevancies or tedious repetition;
 - (b) endeavours a discussion in breach of section 35(2), the Speaker shall direct him or her to cease that discussion;
 - (c) while he or she is in the Council chamber and irrespective of whether he or she addresses the Council –
 - (i) uses offensive or unbecoming language;

- (ii) makes an incriminating, libelous or derogatory remark, allegation or insinuation in respect of another member or person;
- (iii) breaches the order or disregards the authority of the Speaker; or
- (iv) is improperly dressed,

the Speaker shall direct such member to cease or remedy such conduct immediately.

- (2) If a member fails to comply with a direction contemplated in subsection (1), the Speaker may –
 - (a) in a case contemplated in subsection (1)(a) or (b), direct the member concerned to discontinue his or her speech; or
 - (b) in a case contemplated in subsection (1)(c), direct the member concerned to withdraw from the meeting for the further duration thereof.

Chairperson may have member removed

- 37. (1) Should any member fail to comply with a direction given in terms of section 36(2)(a) or (b), the Speaker may call upon an officer to remove the member and to take steps to ensure that the member does not return to the meeting.
- (2) Section 36(1)(c), 36(2) and subsection (1) shall *mutatis mutandis* be applicable to a member of the public.

Exclusion of members

- 38. (1) The Council may exclude from meetings of the Council, for such period as it may fix, but not exceeding forty-five days, a member who wilfully disregards the authority of the Speaker or who wilfully obstructs the business at any meeting: Provided that the member concerned may, within 7 days from the Council meeting at which the exclusion decision was taken, direct an appeal in writing to the Mayor, who must convene a special Council meeting to consider the appeal within 7 days from date of receiving such appeal.
- (2) The Council at the said special meeting may confirm, reject or amend the original Council resolution.
- (3) In the considering of the appeal, the Council must comply with the rules of natural justice.

- (4) A proposal to exclude a member may be moved at any stage of the meeting.

Member to speak only once

39. (1) Subject to any provisions to the contrary, or the prior approval of the Speaker, no member shall speak more than once on any motion or proposal and the Speaker's decision whether or not to allow the member to speak again, is final and shall not be open for discussion.
- (2) The provisions of subsection (1) shall not apply to a member of the Executive Committee when the Council considers the budget.

A point of order and personal explanation

40. (1) Any member may rise to a point of order or explanation, but such explanation shall be confined to the material content of his or her former speech.
- (2) Such a member shall be called upon to speak forthwith.

Speaker's ruling on a question of order

41. The ruling of the Speaker on a point of order or on the admissibility of an explanation shall be final and shall not be open for discussion.

Mode of voting

42. (1) Every opposed motion or proposal shall be submitted to the Council by the Speaker who shall call upon the members to indicate by a show of hands, unless the Council decides otherwise, whether they are for or against it or abstained from it, and he or she shall thereupon declare the result of the voting.
- (2) After the Speaker has declared the result of the voting in accordance with subsection (1), a member may demand –
- (a) that his or her vote be recorded against a decision; or
- (b) a division by rising and putting such demand to the Speaker.
- (3) When a division has been duly demanded in accordance with subsection (2)(b), the Speaker shall accede thereto; the division bell shall be rung for at least one minute, whereupon every entrance to the Council chamber shall be closed, and no member shall leave or enter the Council chamber until the result of the division has been declared.

- (4) After the expiry of the period of time referred to in subsection (3), the Speaker shall again put the motion or proposal to the vote as provided in subsection (5) and thereafter declare the result of the division.
- (5) A division shall take place as follows: The Municipal Manager shall read out the name of each member alphabetically. Each member shall indicate by means of a clearly audible “for” or “against” or “abstained”, whether he or she votes in favour of or against or abstained on the motion or proposal and the Municipal Manager shall record each such vote, as well as the name of each absent member.
- (6) When a division takes place in accordance with the preceding provisions, every member present, including the Speaker, shall be obliged to record his or her vote for or against the motion or proposal or abstained.
- (7) A member demanding a division shall not leave the Council chamber before such division has been taken.
- (8) Should there be an equality of votes in respect of a motion or proposal on which voting takes place in accordance with subsection (1) or (4), the Speaker shall record his or her casting vote as contemplated in section 30(4) of the Act.

Proposals which may be made

43. (1) When a motion or proposal is under debate at a meeting, no further proposal shall be received, except a proposal –
 - (a) that the motion or proposal be amended;
 - (b) that consideration of the question be postponed;
 - (c) that the meeting be adjourned;
 - (d) that the debate be adjourned;
 - (e) that the question be put;
 - (f) that the Council proceeds to the next matter;
 - (g) that the question be referred back for further consideration;
 - (h) that, for the purpose of dealing with the matter, the Council resolves itself in committee in terms of section 54; or
 - (i) that the consideration of the matter be held over until the Council has dispatched all the other matters on the agenda:

Provided that the proposals referred to in paragraphs (b) to (g), may not be made to the Council until the mover of the motion or proposal under debate has spoken thereon: Provided further that a second proposal in terms of paragraphs (b) to (f) shall not be made within half-an-hour of a similar proposal under the same item, unless, in the opinion of the Speaker, the circumstances are materially altered.

- (2) A member who has not participated in the debate or proposal may, during that debate at the conclusion of any speech, move –
 - (a) that consideration of the question be postponed to any stated date; or
 - (b) that the meeting be now adjourned: Provided that the meeting shall not be adjourned until the debate on a motion or proposal has first been adjourned; or
 - (c) that the debate be adjourned.
- (3) A member who has made a proposal mentioned in subsection (2) may speak thereon for not more than five minutes, but the seconder shall not be allowed to speak thereon.
- (4) Upon a proposal mentioned in subsection (2) being made, the mover of the question under debate may speak on such proposal for not more than 5 minutes and subsequently the proposal shall be put without further debate.

Consideration of a matter to be held over

44. A member who makes a proposal in terms of section 43(1)(i), may speak thereon for not more than 3 minutes, but the seconder shall not be allowed to speak thereon, and thereafter the proposal shall be put to the vote without further debate.

Amendment of a motion or proposal

45. (1) An amendment which is moved shall be relevant to the motion or proposal on which it is moved.
- (2) Such amendment shall be reduced to writing, signed by the mover and handed to the Speaker.
- (3) An amendment shall be clearly stated to the meeting by the Speaker before it is put.

- (4) (a) Whenever an amendment upon a motion or proposal has been moved and seconded, no further amendment shall be moved until a resolution has been adopted upon which a further amendment may be moved.
- (b) If the amendment is carried, the amended motion or proposal shall take the place of the original motion or proposal and shall become the substantive motion or proposal upon which an amendment may be moved.
- (5) A member shall not move more than one amendment of a proposal or motion.
- (6) The mover of an amendment of a proposal or motion shall have no right to reply.

Postponement of consideration of question

- 46. If a motion is carried that the consideration of the question be postponed to a stated date, the motion or proposal shall be placed first among the motions or proposals to be contained in the report of that committee to the Council on the day in question.

Adjournment of meeting

- 47. No member shall at any meeting move or second more than one proposal for the adjournment of the meeting.

Adjournment of the debate

- 48. (1) If the proposal that the debate be adjourned is carried, the Council shall deal with the next question appearing on the agenda and the question in respect of which the debate has been adjourned, shall be placed first on the list of motions or proposals of the next meeting and the discussion thereof shall be resumed at that meeting.
- (2) On resuming an adjourned debate, the member who moved its adjournment shall be entitled to speak first.
- (3) No member shall move or second more than one proposal for the adjournment of the same debate.

Putting of the question

- 49. (1) Subject to the provisions of subsection 43(1), a member who has not participated in the debate on a motion or proposal may, at the conclusion of a speech, move that the question be now put.
- (2) Subject to the provisions of subsection (3), a proposal made in terms of subsection (1) shall not be open to discussion.

- (3) The mover of a question under debate may, when a proposal has been made in terms of subsection (1), speak on such a proposal for not more than five minutes and subsequently the proposal shall be put without further discussion.

The Council shall proceed to next business

50. (1) Subject to the provisions of subsection 43(1), a member who has not participated in the debate on a motion or proposal may, at the conclusion of a speech, move that the Council do now proceed to the next matter.
- (2) Subject to the provisions of subsection (3), a proposal made in terms of subsection (1) shall not be open to discussion.
- (3) The mover of a question under discussion may, when a proposal has been made in terms of subsection (1), speak on such proposal for not more than 5 minutes, and subsequently the proposal shall be put without any further debate.
- (4) If a proposal made in terms of subsection (1) is carried, the question under discussion shall be dropped.

Question to be referred back for further consideration

51. (1) When a recommendation of the Executive Committee is before the Council, a member may move that the question be referred back to the Executive Committee for further consideration.
- (2) The mover of such a proposal shall have no right of reply.
- (3) Such a proposal shall not be put until the provisions of section 18 have been complied with.
- (4) If such a proposal is carried, the debate on the recommendation shall end and the Council shall proceed to the next matter.

Suspension of section 8

52. (1) Notwithstanding anything to the contrary contained in these Standing Orders, but subject to the provisions for this section, a member may move at an ordinary meeting or an adjournment thereof, that the provisions of section 8 be suspended to enable him or her to propose a motion whereof notice could not be given in terms of section 21 owing to the urgency thereof.

- (2) The proposal and motion referred to in subsection (1) shall be reduced to writing, shall be signed by the proposer and at least one seconder and shall be handed to the Speaker at least 10 minutes before the commencement of the meeting whereat it is proposed to move the proposal and motion, unless the Speaker allows a shorter period of time.
- (3) The Speaker shall disallow both if he or she could have disallowed such motion in terms of section 26.
- (4) Immediately before the report of the Executive Committee is submitted in terms of section 15, the Speaker shall make known that a proposal and motion in terms of subsection (1), if any, have been handed to him or her and whether he or she is disallowing or allowing them, and in the event of them being allowed, whether they shall be proposed before or after the dispatch of the report of the Executive Committee.
- (5) If the Speaker allows the proposal and motion in terms of subsection (4), the member concerned shall, when called upon to do so by the Speaker, read out the motion and after he or she has spoken on only the reason for the urgency of the consideration of that motion for not more than 5 minutes, which includes the reading of the motion, he or she shall propose that the provisions of section 8 be suspended.
- (6) The seconder of the proposal and motion contemplated in subsection (1) shall not speak on them, except to formally second them.
- (7) The proposal to suspend shall be deemed to be carried if the members voting in favour thereof constitute a majority of all the members of the Council.
- (8) If the proposal to suspend is carried, the motion shall be deemed to be duly put and thereafter the debate thereon shall proceed in accordance with the provisions of these Standing Orders.

Interpretation of Standing Orders

53. (1) (a) Any member may request the ruling of the Speaker as to the interpretation of the Standing Orders to be embodied in the minutes, and a register of such rulings shall be kept by the Municipal Manager.
- (b) The Speaker shall sign the entry of each ruling given by him or her.
- (2) A member who has made a request in terms of subsection (1) may, during that meeting orally or within 5 days thereof, in writing require the Municipal Manager to submit the matter to the Executive Committee and in such event the Executive Committee shall consider the ruling and report thereon to the Council.

Discussion of matter in committee

54. (1) When a member moves that the Council resolve itself in committee to consider a matter on the agenda, including a proposal in terms of subsection 52(1), he or she may speak on such proposal for not more than 3 minutes, but the seconder shall not speak thereon.
- (2) After a proposal contemplated in subsection (1) has been carried, the Speaker shall, after consideration if it is reasonable and necessary to protect the rights of the person or subject under discussion, order the press, the public and every other person whose presence will in his or her opinion not be required during the discussion, to leave the Council chamber, and upon satisfying himself or herself that his or her order has been complied with, he or she shall put the matter concerned again.
- (3) A discussion of a matter in committee shall not suspend any other provisions of these Standing Orders.
- (4) If, after the Council has dispatched the matters dealt with in committee, there still remain other matters on the agenda, the Speaker shall allow the press, the public and others to re-enter the Council chamber.
- (5) Any decision by the Council to resolve itself in committee must be taken with due consideration of section 160(7) of the Constitution.

Quorum of the Council or the Council as committee

55. The quorum of the Council or the Council as committee shall be a majority of all the members of the Council.

Resignation of seat on committee

56. Any member of a committee who wishes to resign his or her seat on the committee, shall submit his or her resignation to the Municipal Manager in writing and thereafter such resignation may not be withdrawn.

Filling of a vacancy on a committee

57. Every vacancy on a committee, other than the Executive Committee, shall be notified by the Executive Committee to the Council not later than the second meeting after the meeting of the committee at which such vacancy is notified and the Council may fill the vacancy.

Filling of a vacancy on a committee during absence of a member

58. When any member who is not a member of the Executive Committee is granted leave of absence from a meeting of a committee, the Council may appoint another member to act during his or her absence on any committee on which the absent member serves.

Dates and times of Executive Committee meetings

59. (1) The Chairperson of the Executive Committee shall fix the dates, times and venues of meetings.
- (2) No meeting of the Executive Committee shall be held during a meeting of the Council without the Council's consent.

Notice of Executive Committee meetings

60. (1) The Municipal Manager shall issue a notice calling a meeting of the Executive Committee and specify the business to be entertained by that committee.
- (2) The notice shall be delivered to each member of that committee or left at his or her business or residential address at least 24 hours before the commencement of any ordinary meeting and should the notice accidentally not be so delivered or left, the validity of the meeting shall not be affected thereby.
- (3) Notice of any special meeting of the Executive Committee convened by the Speaker in terms of the Act, shall be given in writing under the hand of the Municipal Manager.
- (4) When the Executive Committee has failed to meet twice in any month in which an ordinary meeting of the Council is held, the Municipal Manager shall report the circumstances to the Council at its next meeting.

Attendance register for Executive Committee meetings

61. (1) The Municipal Manager shall keep an attendance register in which every member of the Executive Committee attending a meeting of that committee shall sign his or her name.
- (2) Any member who is not an Executive Committee member shall whenever he or she attend a meeting of that committee, enter his or her name in the attendance register and shall write after his or her name the words "not a member".

Participation in discussions at Executive Committee meeting

62. Any person requested or allowed by the Executive Committee to attend a meeting of such committee may, with the permission of the chairperson of the Executive Committee, speak thereat.

No quorum at Executive Committee meeting

63. If, after expiration of ten minutes after the time at which a meeting of the Executive Committee is due to commence there is no quorum, the meeting shall be held on a day and at an hour determined by the Municipal Manager.

Manner of voting at meetings of Executive Committee

64. The chairperson of the Executive Committee shall allow the members of the Executive Committee to vote by show of hands and any member of that committee then present and voting may call for a division in which event the provision of section 42(5), (6) and (7) shall apply *mutatis mutandis*: Provided that no provision hereof shall affect the right of any member to have his or her vote recorded against the resolution.

Approval of minutes of Executive Committee meeting

65. (1) At any ordinary meeting of the Executive Committee, after considering applications for leave of absence, the minutes of any previous meeting of the committee not yet confirmed shall be read, approved with or without amendments and signed by the chairperson of the Executive Committee.
- (2) The minutes mentioned in subsection (1) may be taken as read if they have been open to inspection of the members of the committee not less than an hour prior to the commencement of the meeting: Provided that the minutes shall be read if a member so required, unless the committee decides to defer consideration thereof until its next meeting: Provided further that if the minutes have been circulated in a manner as provided for in section 115 of the Systems Act, it shall not be competent for any member to require them to be read, unless a majority of the members present so resolves.

Minutes may be held over owing to pressure of work

66. The minutes of a meeting of the Executive Committee may owing to pressure of work or any other appropriate reason be held over for confirmation at any subsequent meeting.

Discussion of minutes of Executive Committee meeting

67. No proposal or discussion shall be allowed upon the minutes, except as to their accuracy.

Reports may be supplied to press

68. The Municipal Manager may, on application being made to him or her by any registered newspaper, supply the agenda of the Council to a representative of such newspaper at the commencement of a meeting: Provided that the Executive Committee or the Mayor may instruct him or her not to supply any particular agenda or item in an agenda or to withhold it until the conclusion of the relevant meeting.

Exclusion of members disclosing documents

69. (1) A member who publishes or discloses or causes to be published or disclosed any document or record of the Council or of the proceedings of any committee of the Council or of the Council in committee, relating to a matter referred to in section 10 of the Code of Conduct for Councillors as annexed as Schedule 1 to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), shall be guilty of a contravention of this subsection.
- (2) The Council may exclude for such period, but not exceeding 45 days, as it may determine, any member who in its opinion is guilty of a contravention of subsection (1): Provided that the appeal procedures contemplated in section 38 shall *mutatis mutandis* apply to the provisions of this section.
- (3) If a member attends any meeting despite a decision in terms of subsection (2) to exclude such member, the Speaker may call upon an officer to remove such member and to take steps to ensure that such member does not return to the meeting.

Return of attendance of meetings

70. (1) The Municipal Manager shall prepare annually a return on the number of Council meetings attended by each member and of the number of meetings of the Executive Committee, attended by each member of such committee.
- (2) The Municipal Manager shall include the return in the agenda of the ordinary meeting to be held in January of each year.

Secretariate

71. (1) The Municipal Manager shall be responsible for the effective functioning of the activities of the Council and its committees.
- (2) The Municipal Manager may designate a number of officers in the fulltime employ of the Municipality to serve as a secretariate for the Council.

- (3) The Municipal Manager may assign a function such as the taking of minutes or the distribution of documents to any member of the secretariate, but shall remain responsible to the Council for the effective execution of any function entrusted to him or her by or under these Standing Orders.

Repeal of laws and savings

72. (1) The following laws are hereby repealed:

All previous by-laws with regard to this matter are hereby repealed.

- (2) Any permission obtained, right granted, condition imposed, activity permitted or anything done under a repealed law, shall be deemed to have been obtained, granted, imposed, permitted or done under the corresponding provision (if any) of this By-law, as the case may be.

Short title

73. This By-law shall be called the Standing Orders, 2008