Mbhashe
Local Municipality
WILLOWVALE | BUTYWA | ELLIOTDALE

DELEGATION OF AUTHORITY

FINAL ADOPTION BY COUNCIL ON 27/05/2026

EFFECTIVE FROM 1 JULY 2026

Signed by Municipal Manager

Signed by Executive Mayor

DELEGATION OF AUTHORITY

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1. DELEGATION OF AUTHORITY DEFINED

Section 53 of the Systems Act prescribes that a municipality must define the "specific role and area of responsibility for each political structure and political office bearer of the municipality", which must be reduced to writing.

It is through delegation of authority that the municipality implements the terms of reference for each political structure and political office bearer, where applicable. Section 59 of the Systems Act prescribes that the municipality must develop a system of delegation that will "maximize administrative and operational efficiency and to provide for adequate checks and balances".

Furthermore, in terms of Regulation 30(4) of the Municipal Performance Regulations, the municipality must, "on the request of the employee, delegate such powers reasonably required by the employee to enable him/her to meet the performance objectives and targets established in terms of the agreement". From this it is clear that the onus rests with the Senior Management of the municipality to ensure and request the necessary delegated authority from Council as required to assist them in their day-to-day duties and responsibilities, over and above any delegated authority that the Council may confer upon them.

By delegating a power or duty, a municipal council is giving authority to another committee or individual to exercise that power or perform that function on its behalf. The municipal council as a whole, however, remains ultimately responsible for all its powers and duties.

The term "delegation" is defined in the Local Government: Municipal Structures Act (Structures Act) and the Local Government: Municipal Systems Acts (Systems Act) as "in relation to a duty, includes an instruction to perform a duty".

From the aforementioned definition, it is important to understand that once Council has endorsed a delegation to a specific political office bearer, committee or staff member, it is deemed to be an instruction by Council.

The principle rule of delegation is *delegates non potest delegare*. In brief, this legal rule means that an agent to whom an authority or decision-making power has been delegated by a principal or higher authority may not sub delegate it to another person unless the original delegator expressly authorize it, or there is an implied authority to do so.

2. PRINCIPLES OF DELEGATION

2.1 In terms of the Systems Act and the Municipal Finance Management Act, (MFMA), a Council must develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances.

2.2 All delegations must ensure that the Council retains all legislative powers and those executive powers, which cannot lawfully be delegated.

2.3 Policy formulation and determination process is as follows:

2.3.1 Any political office bearer or staff member may initiate the generation of proposed policy.

2.3.2 Policy must first be channeled via the mayoral committee for consideration and or recommendations.

2.3.3 Notwithstanding the aforementioned, if, in the view of the municipal manager in consultation with the mayoral committee, any proposed policy has a direct and significant impact on the community as a whole, then in that instance, the comments of that community must also be obtained prior to any consideration and or approval of such policy.

2.4 The Council, as the legislative and executive authority, may exercise no power and perform no function beyond that conferred upon it by law.

2.5 No political office bearer or staff member may exercise its authority contrary to any policy or delegations approved by Council.

2.6 The functions allocated to the municipality's political office bearers, committees or staff members as approved by council from time to time will form the basis for the allocation of delegations of executive decision making powers.

2.7 All delegations are conditional upon compliance with the municipality's policies, its Integrated Development Plan, and its budget.

2.8 All delegations must be aimed at empowering the relevant political office bearers, committees or staff members to perform their functions effectively, taking into account the different levels of decision-making.

2.9 All delegations must be in writing.

2.10 Delegations must provide for good governance and allow for adequate checks and balances.

2.11 All delegations must enhance service delivery without sacrificing accountability.

2.12 Delegations must not oblige a delegate to exercise his/her/its delegated power and must therefore allow to sub-delegate any of his/her/its powers to the most appropriate and effective level.

2.13 In exercising delegated authority, Council's political office bearers, committees and staff members must do so in the spirit of utmost good faith.

2.14 The political office bearers, committees and staff members must be empowered to perform their functions effectively and to take decisions in the management and administration of their functional areas within the maximum amount of delegated authority, subject to compliance with the following constraints:

2.14.1 Clear operational policies and terms of reference which are determined by Council, must govern the actions of the relevant political office bearers, committees or staff members in performing their respective functions and activities. Where it is necessary for the relevant political office bearers, committees and or staff members to operate, in exceptional cases, outside a

defined policy or delegation, the authority of either the executive mayor or the municipal manager, as the case may be, must be obtained.

2.14.2 The relevant political office bearers, committees or staff members must take decisions, implement policy, projects, and manage their functional areas in order to give effect to the requirements of their respective service delivery business and operational plans.

2.14.3 The relevant political office bearers, committees and staff members must ensure that their proposed service delivery business and operational plans give maximum effect to the achievement of the municipality's strategic objectives.

2.14.4 During the implementation of the municipality's service delivery business and operational plans, the relevant political office bearers, committees and staff members must, when exercising their delegated powers, ensure that Council's strategic objectives are achieved.

2.14.5 In giving effect to policies, projects and the requirements of service delivery business and operational plans, the relevant political office bearers, committees and staff members must take decisions and operate within the parameters of their respective operational and capital budgets.

2.14.6 The relevant political office bearers, committees and staff members must give effect to the enforcement and observation of all municipal by-laws and other relevant legislation, and where changing circumstances so dictate, must recommend the creation or amendment of municipal by-laws.

2.15 Council may freely participate in any commercial activity related to its local government functions unless expressly prohibited or regulated by Law. The functionary in whose functional field such activity resides, should be responsible for engaging in such commercial activity, provided that the value of such commercial activity falls within the limits set for such functionary in terms of any delegations.

- Commercial activity includes but is not limited to:-
- The buying, selling, hiring, letting of goods, property (both movable and immovable) or acquiring or providing services, the advertising of tenders for such goods or services, the awarding of such tender, the entering into and signing of contracts or agreements, the amendment and cancellation of such contracts or agreements, exceeding values on contract agreements and any activity incidental thereto (provided that the total contract price still falls within the delegated limits of the relevant functionary).

- The value of a commercial activity in respect of leases is the total estimated cost of the lease. If the period of the lease is not determined, then the annual cost of the lease will determine where the delegation lies. In respect of any other commercial activity, the total estimated contract sum applies. If the eventual amount payable for the commercial activity exceeds the delegated limit set for a functionary, the matter should be referred to the appropriate higher level of decision-making.

- The above delegations do not affect the function of the Supply Chain Management Unit or the Supply Chain Management Policy as they merely give effect to decisions made in terms of delegated authority.

3. CONDITIONS OF DELEGATION

3.1 **All decision-making powers delegated by the Council are subject to the following conditions:**

3.1.1 Delegated powers are conferred upon the various council committees, Political Structures and employment posts in the organization of the Municipality and not personally on incumbents.

3.1.2 These delegations also apply to acting positions. Persons acting in any positions have the same delegated powers as those serving in a permanent capacity, provided that the competent authority has duly appointed such acting persons and has not excluded certain powers.

3.1.3 In executing any delegated power, the delegate must comply with all relevant legislation, agreements and policy.

3.1.4 These delegations do not redefine Council's Powers and Functions.

3.1.5 The policies, whether existing or future, will determine the parameters of any delegation and the delegatee is bound to comply therewith. It is the duty of the delegator to ensure that clear and comprehensive policies are drafted.

3.1.6 In executing delegated powers, no expenditure may be incurred unless the delegatee is satisfied that the Council has budgeted for the expenditure and that the funds are still available on the relevant budget votes.

3.1.7 Council or its executive mayor, or any of the municipality's staff members above the delegate, may at any time, subject to applicable law, order a delegated matter not to be proceeded with by the delegatee and then deal with such matter.

3.1.8 The chain of authority from the Council to the Executive Mayor to the Municipal Manager and officials below must not be jeopardized by any delegation.

3.1.9 A delegation may set out special circumstances in which a delegatee is prohibited from exercising his/her delegated power.

3.1.10 Any sub-delegation must be reduced to writing and recorded in the delegation register, which must be kept updated at all times by the municipal manager, or by the person so delegated by the municipal manager.

3.1.11 All decisions affecting the rights of others must be in writing and reasons must be recorded for such decisions.

3.1.12 The Council or any other delegator, may at any time withdraw, qualify or amend a delegation made by itself.

3.1.13 Council must in accordance with the procedures of its Rules of Order review any decision taken under delegated powers if so requested in writing by at least a simple majority of the members of Council.

3.1.14 Provision must be made or a separation drawn between the evaluation and recommendation stage of any financial decision-making process and the actual approval decision itself. This must happen in all cases where the decision-making process is reasonably capable of being divided in terms of the Municipality's supply chain management policy.

3.1.15 All delegatee must report delegated decisions at quarterly intervals or at such intervals as the delegator may require and submit such motivation as otherwise may be required indicating that all legal and financial requirements have been met. These reports are to enable the delegator to determine whether the policies regulating the powers are adequate and/or whether the delegation is appropriate.

3.1.16 Appeals/Complaints against any decision taken in terms of any delegated authority must be dealt with in terms of the Local Government Municipal Systems Act or the Municipal Finance Management Act by an appropriate appeals/complaint authority, whichever is applicable.

3.1.17 Any delegator may require a selected sample of decisions taken by any person or committee below him/her/it to be audited.

3.1.18 The system of delegations must be reviewed in terms of the provisions of the Local Government Municipal Systems Act whenever a new Council is elected, or when it is appropriate to do so.

4. STATUTORY DUTIES AND FUNCTIONS OF THE COUNCIL

4.1 **The Statutory duties and functions of the Council are prescribed by:**

4.1.1 The Constitution;

4.1.2 The Local Government: Municipal Structures Act;

4.1.3 The Local Government: Municipal Property Rates Act;

4.1.4 The Local Government: Municipal Systems Act; and

4.1.5 The Municipal Finance Management Act.

COUNCIL

5. POWERS RESERVED FOR COUNCIL BY LEGISLATION

5.1 **The following powers may not be delegated by Council.**

5.1.1 Passing by-laws.

5.1.2 Adoption of Council's budget and any amendments thereto.

5.1.3 Imposition of rates, taxes, levies and duties.

5.1.4 Raising of loans.

5.1.5 Adoption of the Integrated Development Plan or any revision thereof.

5.1.6 The power to set tariffs.

5.1.7 The power to decide to enter into a service delivery agreement in terms of section 76(b) of the Systems Act.

5.1.8 Dissolution of Council.

5.1.9 Election of Speaker.

5.1.10 Removal of Speaker from office.

5.1.11 Election of another councilor to act as Speaker, whenever necessary.

5.1.12 Election of Executive Mayor

5.1.13 Removal of Executive Mayor.

5.1.14 Election and removal of Council Chief Whip

5.1.15 Appointment of building control officer.

5.1.16 Decision to dispose of capital assets.

5.1.17 To authorize the Municipal Manager to conduct a public participation process prior to the Council considering the transfer or disposal of a non-exempted capital asset of a value in excess of R50 million.

5.1.18 To authorize the Municipal Manager to conduct a public participation process prior to Council considering the proposed granting of a right to use, control or manage a municipal owned capital asset of a value in excess of R10 million and for a proposed period of longer than three years.

6. POWERS RESERVED BY COUNCIL BY WAY OF RESOLUTION

6.1 The power to approve any excess expenditure on the approved budget.

6.2 The power to approve and amend the Municipality's organizational and operational structure.

6.3 The power to delegate Council's powers, duties and functions.

6.4 The power to appoint and dismiss the municipal manager and a manager directly accountable to the municipal manager.

6.5 The power to approve all policy documents, guidelines and other procedures pertaining to any functions that fall within the competence of the Municipality.

6.6 The power to approve performance bonuses of the municipal manager and the managers directly accountable to the municipal manager.

6.7 The determination of Councillor allowances and salaries.

6.8 The determination of the Standing Orders and or Rules of Order of Council.

6.9 The determination of the political structures of Council.

6.10 Bestowing civic honours, including aldermanship and the naming of public streets, places and municipal buildings after persons.

6.11 The determination of a rating system for levying property rates on immovable property within the municipal area.

6.12 Delegating powers to the Executive Mayor.

6.13 Delegating powers to the Portfolio Committees (Section 79 & 80 – Structures Act).

6.14 Delegating powers to the ward committees.

6.15 Delegating powers to Council committees, any councilor or elected office bearers of Council.

6.16 Determining the terms of reference of the Council Committees.

6.17 Appointing chairpersons and members to Council Committees.

6.18 Delegating powers to the municipal manager or any other municipal officials.

7. MAYORAL COMMITTEE

7.1 General powers and duties delegated to the Mayoral Committee through the office of the Executive Mayor

7.1.1. The Mayoral Committee consists of no more than 10 Councillors appointed by the Executive Mayor in terms of Section 60 of the Municipal Structures Act, and is chaired by the Executive Mayor;

a) The Committee assists and advises the Executive Mayor in exercising the powers and function of the Executive Mayor as set out in Section 56 of the Municipal Systems Act or as delegated by Council to the Executive Mayor;

b) It advises the Executive Mayor on reports from Standing Committees;

7.1.2. Standing Committees:
Section 80 (1) of the Municipal Structures Act states that:

"If a municipal council has an executive committee or executive mayor, it may appoint in terms in terms of section 79, committees of councillors to assist the executive committee or executive mayor"

The Municipality has the following standing Committees:

a) Municipal Transformation and Organizational Development Committee;

b) Local Economic Development Committee;

c) Basic Service Delivery & Infrastructure investment Committee;

d) Municipal Financial Viability Committee;

e) Good Governance & Public Participation Committee;

7.1.3. The Council delegates all of its powers and duties to the Executive Mayor in consultation with his/her Mayoral Committee, except those powers and duties contained herein above or those that may not be delegated by Council by operation of law. Furthermore, the following powers are expressly delegated to the mayoral committee:

7.1.3.1. The Mayoral Committee is entitled to receive reports from committees of the Council and to make decisions thereon; or to forward these reports together with a recommendation to the Council when the Mayoral Committee, in terms of the Mayoral Committee's delegated powers cannot dispose of the matter.

7.1.3.2. Must assist the Executive Mayor in his/her responsibility to monitor the management of the municipality's administration in accordance with the directions of Council.

7.1.3.3. The Mayoral Committee must:

(a) Identify the needs of the Municipality;

(b) Review and evaluate those needs in order of priority;

(c) Recommend to the Council strategies, programs and service delivery priority needs through the Integrated Development Plan, and the estimates of

revenue and expenditure, taking into account any applicable national and provincial plans;

(d) Recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programs and services to the maximum of the community;

(e) Identify and develop criteria in terms of which progress in the implementation of the strategies, programs and services can be evaluated, including key performance indicators which are specific to the Municipality and common to local government in general;

(f) Monitor the operational functions of the municipality but in a way that does not interfere in the performance of those functions;

(g) Evaluate progress against the key performance indicators.

(h) Review the performance of the Municipality in order to improve:

(i) the economy, efficiency and effectiveness of the Municipality;

(ii) the efficiency of credit control and revenue and debt collection services; and

(iii) the implementation of the Municipality's by-laws.

(i) Monitor the management of the Municipality's administration in accordance with the directions of Council.

(j) Annually report on the involvement of communities and community organizations in the affairs of the Municipality; and

(k) Ensure that regard is given to public views and report on the effect of consultation on the decisions of council.

7.1.4. The Executive Mayor must report to Council on all decisions taken by the mayoral committee.

7.1.5. Furthermore, the Mayoral Committee has:

a) Delegated power to manage the drafting of the Municipality's Integrated Development Plan (IDP); and has the power to assign responsibilities regarding the IDP to the Municipal Manager.

b) The power to manage the development of the Municipality's performance management system.

c) The power to assign responsibilities with regard to the performance management system to the municipal manager.

d) The power to submit the proposed performance management system to Council for consideration and adoption.

e) The power to take decisions to expropriate immovable property or rights in or to immovable property.

f) The power to determine or alter the remuneration, benefits or other conditions of service of the municipal manager or managers directly responsible to the municipal manager.

g) The power to take a decision to make investments on behalf of the Municipality within a policy framework.

7.2 Powers that Cannot be Delegated further by the Executive Mayor or Mayoral Committee

7.2.1. The power to oversee and monitor the implementation and enforcement of the Municipality's credit control and debt collection policy, and any by-laws enacted, as well as the performance of the municipal manager in implementing them.

7.2.2. When necessary, the power to evaluate and make recommendations to Council reviewing the Municipality's credit control and debt collection policy and by-laws or the implementation of the policy and by-laws to improve the efficiency of the existing credit control and debt collection mechanisms, processes and procedures.

7.3. Specific Powers Delegated to the Mayoral Committee by Council

7.3.1. The power to receive reports with recommendations from Senior Managers through the office of the Municipal Manager on all matters that must be dealt with by either the Mayoral Committee or the Council in terms of these delegations, and or for which a specific committee has not been created to consider the matter beforehand.

7.4. All powers necessary or incidental to execute the following:

a) The responsibility to ensure that integration takes place between the various committees.

b) The responsibility to play a prominent role, through the office of the Executive Mayor and in consultation with the municipal manager, in building and maintaining a good relationship between the Council, Councillors, and the administration.

c) The responsibility of political supervision of the administration through the office of the Executive Mayor.

d) The responsibility for liaising with the community, other committees and councilors, and political office bearers in the different spheres of government through the office of the Executive Mayor.

e) The responsibility to be available, on a regular basis, and to grant interviews to the public and visitors to the Municipal offices, and to interact with prominent business people and developers.

f) In general, all other powers and functions, necessary or incidental, to enable the Mayoral Committee to discharge its duties as required.

g) To accept donations of movable property on behalf of the Municipality through the office of the Executive Mayor.

h) To determine the functional area of each portfolio committee and establish portfolio committees and its chair persons.

7.5. Additional powers expressly delegated to the Mayoral Committee

7.5.1. The power to consider and approve, reject and or refer back to the referring authority, all recommendations made to them by the Municipal Manager and the Portfolio Committees.

7.5.2. The power to receive reports with recommendations from Senior Managers through the office of the Municipal Manager on all matters that must be dealt with by either the Mayoral Committee or the Council in terms of these delegations, and for which a specific committee has not been created to consider the matter beforehand.

7.5.3. The power to consider the matters raised in aforementioned reports and either to dispose of them in terms of the Mayoral Committee's delegated powers or to forward them with the Mayoral Committee's recommendation to the council for consideration and finalization.

7.6. All powers, necessary or incidental to execute the following:

7.6.1. The responsibility for speedy and correct decision-making;

7.6.2. To determine policy for the organization of Council's administrative functions, activities and work force into directorates and departments;

7.6.3. To set policy in respect of matters that falls within the delegated powers of the Mayoral Committee or within the powers of the administration;

7.6.4. To comment on proposed legislation and government policies, if and when necessary;

7.6.5. To appoint Councillors to attend international meetings, conferences, seminars, etc.; subject to approval of the accounting officer in regard to expenditure to be incurred on such meetings;

7.6.6. To appoint or nominate Councillors to represent council on external bodies;

7.6.7. To approve international co-operative agreements, such as twin city relationships and agreements;

7.6.8. To approve international participation of the municipal manager, Section 56 managers or those persons acting as municipal manager or Section 56 managers, of meetings, conferences, seminars, etc.;

7.6.9. Take all reasonable steps to ensure that the annual performance agreements as required in terms of section 57 of the Systems Act for the municipal manager and managers reporting directly to the municipal manager require compliance with the Act in order to promote sound financial management; are linked to measurable performance objectives approved with the SDBIP; and that the annual performance agreements are concluded in accordance with Section 57 of the Systems Act;

8. STANDING COMMITTEES

8.1 Municipal Transformation and Organizational Development Committee

8.1.1. To assist the Executive Mayor in his/her responsibility to monitor the management of the municipality's administration in accordance with the directions of Council.

8.1.2. Areas of responsibility of the Committee:

a) Industrial Relations;
b) Personnel Administration;
c) Public Administration;
d) Occupational Health and Safety in respect of Council officials;
e) Conditions of Services and Staff Benefits;
f) Council Assets;
g) Building Maintenance and Administration;
h) Insurance of Council assets;
i) Security regarding staff and Council assets.
j) Monitor progress on the implementation of the SDBIP (projects).

8.1.3. Considers and make recommendations to the Mayoral Committee with regard to:

a) Human resource management of the municipality;

b) Matters regarding collective decision making; ie. Matters that cannot be dealt with at Bargaining Council level;

c) Customer care or satisfaction in the municipal area;

d) Bursary applications by municipal staff members relevant to their normal municipal duties or any municipal function;

e) The general administration and council support within the municipality;

f) Matters of a legal nature;

g) Industrial/labour relations;

h) Performance management;

i) Conditions of service of staff members;

j) Monitoring adherence to the principle of equity during employment processes;

k) The implementation of the performance management systems in accordance with the provisions of section 38 of the Municipal Systems Act;

l) Co-ordinating the formulation of by-laws/policies relevant to the corporate services department.

8.2. Local Economic Development Committee

8.2.1. To assist the Executive Mayor in his/her responsibilities to:

a) identify the social and economic needs of the municipality;
b) review and evaluate those needs in order of priority;
c) recommend to Council strategies, programs and services to address priority needs through the integrated development plan and the estimates of revenue and expenditure involved;
d) recommend to Council the best way to deliver those strategies, programs and services to the maximum benefit of the municipality;
e) identify and develop criteria in terms of which progress in the implementation of the recommended strategies, programs and services can be evaluated, including the key performance indicators.

8.2.2. Areas of Responsibility of the Committee:

a) Tourism;
b) Local Economic Development;
c) Land Reform and Settlement Planning;
d) Town and Regional Planning;
e) Land Use and Development;
f) Environmental Management;
g) Expanded Public Works Program.
h) Monitor progress on the implementation of the SDBIP(projects).
i) Agricultural projects;
j) Heritage.

8.3. Basic Service Delivery & Infrastructure Committee

8.3.1. To assist the Executive Mayor in his/her responsibility to oversee the provision of services to communities in a sustainable manner.

8.3.2. Areas of Responsibility of the Committee:

a) Water and Sanitation services;
b) Solid waste disposal services;
c) Regulation of passenger transport services;
d) Municipal Health services (including environmental pollution control);
e) Disaster Management;
f) Fire Services;
g) Building regulation services;
h) Monitor progress on the implementation of the SDBIP(projects).

8.4. Municipal Financial Viability Committee

8.4.1. To assist the Executive Mayor in his/her responsibilities to:

a) provide political guidance of the fiscal and financial affairs of the municipality, including the budget process and the priorities that must guide the preparation of the budget;

b) monitor and oversee the exercise of financial responsibilities assigned to the Accounting Officer and Chief Financial Officer in terms of the MFMA;

c) take reasonable steps to ensure the municipality performs its Constitutional and statutory functions within the limits to the municipality's approved budget;

d) submit a report to Council, within 30 days of the end of each quarter, on the implementation of the budget and the financial state of affairs of the municipality;

e) co-ordinate the annual revision of the Integrated Development Plan (IDP), and the preparation of the annual budget, and determining how the IDP is to be taken into account, or revised, for the purpose of the budget;

f) ensure that the budget is approved by Council before the start of the budget year;

g) ensure that revenue and expenditure projections for each month and service delivery targets and performance indicators for each quarter, as set out in the SDBIP, are made public within 14 days of the approval of the SDBIP;

h) check budget implementation is being done in accordance with the SDBIP; approve the Service Delivery and Budget Implementation Plan (SDBIP) within 28 days after the approval of the budget;

i) ensure that any revision of the SDBIP does not alter service delivery targets and performance indicators in the plan without the approval of Council after approving an adjustment budget;

j) ensure that the public are informed or any revisions to the SDBIP;

k) issue appropriate instructions to the Accounting Officer to ensure budget implementation with the SDBIP and to ensure spending of funds and revenue collection proceed in accordance with the budget;

l) submit a report on the mid-year budget and performance assessment to Council by 31 January each year;

m) review the performance of the municipality in order to improve:

i. the economy, efficiency and effectiveness of the municipality;
ii. the efficiency of credit control and revenue and debt collection services; and

iii. the implementation of the municipality's by-laws;

n) identify financial problems facing the municipality;

o) initiate remedial or corrective steps where financial problems are identified.

8.4.2. Considers and make recommendations to the Mayoral Committee with regard to:

a) Financial statements;

b) Municipal revenue and expenditure;

c) Insurance and investments;

d) Risk management;

e) Asset register;

f) Information technology;

g) Budgeting and audit reports;

h) All credit control and indigent matters;

i) The writing off of redundant municipal stock or equipment;

j) The indigent policy of the Municipality;

k) Grants in aid;

l) Over or under expenditure;

m) The draft municipal budget;

n) The writing off of debt;

o) Fruitless and wasteful expenditure;

p) Irregular expenditure;

q) The establishment of municipal entities;

r) Audit reports;

s) All trust and reserve accounts created for specific purposes;

t) Policies on all financial matters;

8.4.3. Co-ordinating the formulation of by-laws/policies relevant to the finance department;

8.4.4. Consider the monthly budget reports submitted by the accounting officer of the Municipality in terms of section 71 or 72 of the MFMA;

8.4.5. Check whether the budget is implemented in accordance with the budget and service delivery implementation plan;

8.4.6. Make recommendations to the Mayoral Committee, if needed, to issue any appropriate instructions to the accounting officer to ensure that the budget is implemented in accordance with the budget and service delivery implementation plan; and, that spending of funds and revenue collection proceed in accordance with the budget; and

8.4.7. Make recommendations to the Mayoral Committee with regards to any identified financial problem facing the municipality, including any emerging or impending financial problems.

8.4.8. Promptly recommend to the Mayoral Committee any remedial or corrective steps proposed by the accounting officer to deal with such problems aforementioned, which may include:

(a)Steps to reduce spending when revenue is anticipated to be less than projected in the budget;

(b) The tabling of an adjustments budget; or

(c) Any other steps in terms of the MFMA and alert the Council and MEC for local government in the Province to those problems.

8.4.9. Supply Chain Management: Monitor progress on the implementation of the SDBIP(projects).

8.5. Good Governance & Public Participation Committee

8.5.1. Primary Role:

To assist the Executive Mayor in his/her responsibilities to:

a) ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;
b) monitor the management of the municipality's administration in accordance with the directions of Council;
c) oversee the exercise of responsibilities assigned in law to the Accounting Officer and the Chief Financial Officer but in a manner that does not interfere in the exercise of those responsibilities.
d) ensure that regard is given to public views and report on the effect of consultation on the decisions of the Council;
e) annually report on the involvement on the involvement of communities and community organizations in the affairs of the municipality.

8.5.2. Areas of Responsibility:

a) Political & Administrative Structures of Council;
b) Ethics Management;
c) Inter-governmental relations;
d) Municipal Support Services;
e) Community participation;

f) Integrated Development Planning ;
g) Customer Care.
h) Internal Auditing
i) Special Programs (Gender, people with disabilities and Youth)
j) Performance management
k) Monitor progress on the implementation of the SDBIP(projects).

8.5.3. Role and responsibility of the Chairperson of Standing Committees

Each chairperson is responsible for:

a) chairing the meetings of that particular committee;
b) signing the agenda of a committee meeting;
c) ensuring that Rules of order are maintained in the meetings.
d) The chairperson has no authority to:

(i) to approve apologies for Councillors not in attendance at meetings. The Executive Mayor or Speaker where relevant (Cllrs) are responsible for approving apologies and the Municipal Manager is responsible in respect of officials;

a) to appoint an Acting Chairperson in his/ her absence and that responsibility lies with the Executive Mayor for Standing Committees and the Speaker in the case of a Council meeting.

9. OTHER COUNCIL COMMITTEES

9.1 Municipal Public Accounts Committee (MPAC)

9.1.1. Council hereby establishes and authorize the Municipal Public Accounts Committee to:

9.1.1.1 By way of a resolution of Council, to investigate any other matter that Council may refer to it for investigation;

9.1.1.2. Access information, records and personnel, via the office of the Executive Mayor and the Municipal Manager as it requires to fulfill its responsibilities;

9.1.1.3. Request the attendance of any relevant councillor or employee, at its meetings, via the officers of the Executive Mayor or the Municipal Manager.

9.1.1.4. Conduct meetings with External Auditors (Auditor-General) and Internal Auditors as necessary;

9.1.1.5. Obtain advice from external parties as necessary;

9.1.1.6. To consider and evaluate the content of the following reports submitted to Council by the Executive Mayor and to make recommendations to Council in respect of such reports:

a) Quarterly Supply Chain Management Reports;

b) Quarterly Performance Reports; and

c) Quarterly report on the implementation of the Service Delivery and Budget

d) Implementation Plan (SDBIP) to assess the effectiveness, efficiency and quality of services rendered and/or goods purchased; and to ascertain whether specific promised service delivery targets have been met;

9.1.1.7. To consider and evaluate the content of the annual report, and draft an oversight report in accordance with Section 129(1) of the MFMA, within two months of the annual report being tabled in Council. The oversight report must include a statement recommending that Council:

a) approve the annual report with or without reservations;

b) reject the annual report; and

c) refer the report back for revision of those components that can be revised;

9.1.1.8. At the instance of a Council resolution, examine the financial statements and audit report of the Municipality and Municipal entity, and in so doing, consider improvements made from the previous financial statement and audit reports; and to evaluate the extent to which the Audit Committee's and the A-G's recommendations in respect of the previous statements and audit reports, have been implemented;

9.1.1.9. To consider and evaluate the content of any other report referred to it by Council;

9.1.1.10. By way of a resolution of Council, to investigate the recoverability of unauthorized, irregular or fruitless and wasteful expenditure in terms of Section 32(2)(a) and (b) of the MFMA;

9.1.1.11. To make recommendations to Council regarding:

a) any aspect relevant to the oversight of the Executive and Administration;

b) good governance, transparency and accountability within the Municipality;

c) the use/abuse of municipal resources.

9.1.1.12. To provide an annual report to Council on the activities of MPAC for the year in accordance with its terms of reference;

9.1.1.13 To conduct Follow-Up reviews as provided for in its terms of reference;

9.1.1.14 To perform any other functions assigned to it through a resolution of Council within its area of responsibility.

9.1.1.15 The MPAC reports directly to Council through the Speaker of the municipality and interfaces with the other committees of council through the Speaker, where relevant.

9.1.1.16. The chairperson of the MPAC is appointed by Council by way of resolution

9.2. The Rules Committee

9.2.1 The Rules Committee comprises:

(i) The Speaker, who is also the Chairperson of the rules Committee;
(ii) The Chairperson of the Municipal Transformation & Organizational Development Standing Committee;
(iii) The Chairperson of any Committee the Council may determine;
(iv) The Whip of each political party represented on the Council;
(v) An attorney or advocate, (legal practitioner), as may be required by the Committee from time to time as an ex officio member;

9.2.2 The Rules Committee shall have the following functions and powers:

a) to develop and formulate draft policies concerning the exclusive business of the Council including its proceedings, procedures, rules, orders and practices;

b) to monitor and oversee the implementation of policy on all matters;

c) to make recommendations to the Council on any matter falling within the functions and powers of the Committee;

d) to lay down guidelines, issue directives, and formulate regulations regarding any aspect referred to in this paragraph;

e) to appoint sub-committees to assist it with the performance of any of its functions or the exercise of any of its powers; and

f) to perform any other functions assigned to it by the provisions of this policy, the Rules of Order and Procedures of the Council and/or the resolutions of the Council.

g) The Committee may only deal with a matter falling within its functions and powers:

(i) on its own initiative; or

(ii) when referred to it for consideration and report by:

- the Council; or
- the Speaker.

The responsibility for the implementation of policy determined by the Rules Committee and the control and management of all matters relating to the administration of the Council vests in the Speaker subject to resolution thereof by Council. The Municipal Manager in conjunction with the Speaker may appoint officials to assist the Committee in the performance of its functions. A question before the Rules Committee is decided when there is a quorum present and there is agreement on the question among the majority of the members of the Committee. The recommendations of the Rules Committee must be submitted to the Council for consideration in a separate report by the Speaker.

9.3. The Women's Caucus

9.3.1 The committee as established by the Council by way of a Council resolution, is a committee of Council composed of female Councillors.

9.3.2 It is chaired by a female Councillor nominated by Council.

9.3.3 It is classified as a Section 79 Committee as there are no external stakeholders serving on the Committee.

9.3.4 The formulation of the Committee is an emulation of best practice as seen from both National and Provincial Government. The committee is mainly responsible for dealing with issues affecting Women within the jurisdiction of ADM and also responsible for raising their plight.

10. AD-HOC COMMITTEES

These are committees set for specific functions or tasks. The completion of the task function means that the committees cease to exist. The Council and the Executive Mayor can establish these committees.

11. STATUTORY COMMITTEES

These committees are required to be established by law in terms of specific statutory provisions.

11.1. Audit and Performance Committee

The MLM hereby, in terms of the provisions below, establish a single committee to address both Audit and Performance Audit issues affecting the Municipality which is known as the Audit Committee

11.1.1 The Performance Audit Committee is hereby established in terms of Regulation 14(2) of the Municipal Planning and Performance Management Regulations (promulgated under the Municipal Systems Act).

11.1.2 In the MLM it is made up of persons independent of Council, to:

a) Advise and make recommendations to the Executive Mayor and/or Council regarding establishment of a Performance Management System;

b) Advise the Executive Mayor on the establishment of mechanisms to monitor and review the Performance Management System;

11.1.3 It monitors and oversees the auditing of performance measurements as provided for in terms of section 41(1)(c) of the Systems Act and submits a report to the Mayoral Committee of the results of the audit performed;

11.1.4 It helps the institution in identifying policy gaps; and

11.1.5 It assists to give early warnings about the performance of the institution,

11.1.6 It recommends and monitors the implementation of measures which may best serve to enhance the reliability, integrity, objectivity of financial statements and the performance activities within the municipality.

11.1.7 The Committee has the authority:

a) to interview members of Senior Management, Consultants and employees of Council and to deal directly with external auditing functionaries, the office of the Auditor General and any external parties it may deem necessary;

b) make recommendations to the Executive Mayor regarding the management of the valuation of the adequacy and efficiency of the Internal Control Systems, Risk Management, Accounting Practices, Information Systems and Auditing processes applied in the daily management of the Municipality.

11.2 Powers of the Audit Committee

11.2.1 The Audit Committee is established in terms of Section 166 of the Municipal Finance Management Act 56 of 2003.

11.2.2 The Audit Committee (AC) is an independent governance structure whose function is to provide an oversight role on the systems of internal control, risk management and governance.

11.2.3 The MFMA state that the AC must consist of at least three people, of whom the majority may not be in the employ of the municipality. No Councillor may be a member of the Audit Committee. The members of the AC must be selected from different areas of expertise to enhance the AC's overall knowledge of the organization. The AC needs to operate independent of management in order to ensure objective deliberations.

11.2.4 The roles and responsibilities of the AC are as follows:

a) risk management;

b) reviewing and recommending disclosures on matters of risk in the annual financial statements;

c) reviewing and recommending disclosures on matters of risk and risk management in the annual report;

d) providing regular feedback to the Accounting Officer / Authority on the adequacy and effectiveness of risk management in the Institution, including recommendations for improvement;

e) ensuring that the internal and external audit plans are aligned to the risk profile of the Institution;

f) satisfying itself that it has appropriately addressed the following areas:

g) financial reporting risks, including the risk of fraud;

h) internal financial controls; and

i) IT risks as they relate to financial reporting.

j) Internal Audit

(i) Act as a forum for communication between management, internal and external audit;

(ii) Review the IA Strategic and operational plan, ensure these plans are based on the organization's risk assessment;

(iii) Oversee the coordination of audit programs conducted by internal and external audit;

(iv) Review all audit reports and provide advice on significant issued identified in audit reports and action taken on issues raised;

(v) Monitor management's implementation of recommendations; and

(vi) Periodically review the performance.

k) External audit;

(i) Provide input and feedback on the financial statements and audit coverage proposed by external audit and provide feedback on the audit services provided;

(ii) Review all external audit plans and reports and monitor managements implementation of audit recommendations;

(iii) Provide advice on action to be taken on significant issues raised in the external audit reports;

(iv) Review external audit costs.

11.3 Budget Steering Committee

11.3.1 Regulation 4 of the Municipal Budget and Reporting Regulations (promulgated under the Municipal Finance Management Act) requires the Executive Mayor to establish a Budget Steering Committee to provide technical assistance to the Executive Mayor in discharging the responsibilities set out in Section 53 of the MFMA such as:

a) The Mayor must provide general political guidance over budget process;

b) Co-ordinate annual revision of the IDP, budget and SDBIP approval;

c) Ensure that performance agreements of the MM and Senior Managers are aligned to SDBIP;

d) Publication of SDBIP, performance agreements of MM and Sec 56 managers;

11.3.2 Such a committee must consist of the following:

a) the councillor responsible for financial matters;

b) the Municipal Manager;

c) the Chief Financial Officer;

d) the senior managers responsible for at least the three largest votes in the municipality;

e) the manager responsible for budgeting;

f) the manager responsible for planning;

g) any technical experts on infrastructure; and

h) Chairpersons of Standing Committees.

11.4 Local Labour Forum

11.4.1 Local labour Forum is a statutory forum established in terms of the Organizational Rights Agreement (ORA) and in terms of the Labour Relations Act.

11.4.2 The Forum is chaired on yearly rotational basis between Employer and Employee components within the MLM;

11.4.3 The membership of the LLF is constituted of the employer component and organised labour. The organised labour has 8 members and the employer component is consisted of 5 Councillors and 3 officials;

11.4.4 The purpose of the Local labour Forum is to provide a forum for engagement between employer and organised labour;

11.4.5 It also exists to negotiate and /or consult on matters of mutual concern pertaining to the employer/ employees; South African local Government Bargaining Council (SALGBC) and its divisions; and

11.4.7 Also to note is that, the LLF also deals with any other matters referred to it by the National SALGBC and its divisions.

11.4.8 The LLF meets quarterly.

11.5 Bid Committees

11.5.1 In terms of section 115 of the MFMA:

"115(1) The accounting officer of a municipality or municipal entity must—

(a) implement the supply chain management policy of the municipality or municipal entity; and

(b) take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimize the likelihood of fraud, corruption, favoritism and unfair and irregular practices.

(2) No person may impede the accounting officer in fulfilling this responsibility".

11.5.2 In terms of Regulation 26(1) of the Municipal Supply Chain management (SCM) Regulations a SCM policy must provide for a committee system for competitive bids consisting of at least –

(i) a bid specification committee;
(ii) a bid evaluation committee; and
(iii) a bid adjudication committee.

11.5.3 The Municipal Manager shall appoint the members of each committee subject to the condition that no Councillor of the Municipality may be a member of a bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids nor attend any meetings of such Committees as an observer.

11.5.4 The aforesaid committees shall function subject to the following conditions:

11.6 Bid specification committee

11.6.1 A bid specification committee must compile the specifications for each procurement of goods or services by the Municipality;

11.6.2 Specifications: -

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation or an authority accredited or recognised by the South African National

Accreditation System with which the equipment or material or workmanship should comply;

(c) where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Supply Chain Management Policy of the Municipality; and

(g) must be approved by the accounting officer prior to publication of the invitation for bids.

11.6.3 A bid specification committee must be composed of one or more officials of the Municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

11.6.4 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

11.7 Bid evaluation committee

11.7.1 A bid evaluation committee must evaluate bids in accordance with:

(a) the specifications for a specific procurement; and

(b) The points system contained in the Supply Chain Management Policy of the Municipality and as prescribed in terms of the Preferential Procurement Policy Framework Act 5 of 2000;

11.7.2 Evaluate each bidder's ability to execute the contract check in respect of the recommended bidder whether his/its municipal rates and taxes and municipal service charges are not in arrears.

11.7.3 Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

11.7.4 A bid evaluation committee must as far as possible be composed of:
a) officials from departments requiring the goods or services; and

b) at least one Supply Chain Management Practitioner of the Municipality.

11.8 Bid adjudication committee

11.8.1 A bid adjudication committee must:

(a) consider the report and recommendations of the bid evaluation committee and

(b) either depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or make another recommendation to the accounting officer how to proceed with the relevant procurement.

11.8.2 A bid adjudication committee must consist of at least four senior managers of the Municipality which must include:

a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;

b) at least one senior Supply Chain Management Practitioner who is an official of the Municipality; and

(c) a technical expert in the relevant field who is an official of the Municipality, if the Municipality has such an expert.

11.8.3 The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

11.8.4 Neither a member of a bid evaluation committee nor an advisor nor a person assisting the evaluation committee, may be a member of a bid adjudication committee. If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

(a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and

(b) notify the accounting officer who may, after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee and if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

11.8.5 The accounting officer may, at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

11.8.6 If a tender other than the one recommended in the normal course of implementing the Supply Chain Management Policy of the Municipality is approved, the accounting officer must, in writing, notify the Auditor- General, the provincial treasury and the National Treasury of the reasons for deviating from such recommendation, provided that the aforementioned requirement shall not apply if a different tender was approved in order to rectify an irregularity.

12. POWERS OF THE EXECUTIVE MAYOR

EXECUTIVE MAYOR (EM) STATUTORY POWERS

The EM has extensive statutory powers and duties. The most important source thereof is the Local Government: Municipal Structures Act, No 117 of 1998, the Local Government: Municipal Systems Act, 32 of 2000 and the Local Government: Municipal Finance Act, Act 56 of 2003.

The powers set out hereunder are assigned to the EM in terms of legislation, and reserved for his / her execution in accordance with his / her decision, and he / she may take a decision in respect of these matters with or without consulting any person.

12.1 Municipal Structures Act

12.1.1 To receive reports from the committees of the Council and to forward these reports together with a recommendation to the Council when the matter cannot be disposed of by him in terms of his delegated powers.

12.1.2 To identify the needs of the municipality.

12.1.3 To review and evaluate those needs in order of priority.

12.1.4 To make recommendations to the Council regarding strategies, programs and services to address priority needs through the IDP, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans

12.1.5 To make recommendations to the Council regarding the best way, including partnership and other approaches, to deliver those strategies, programs and services to the maximum benefit of the community.

12.1.6 To identify and develop criteria in terms of which progress in the implementation of those strategies, programs and services can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general.

12.1.7 To evaluate progress against the above-mentioned key performance indicators.

12.1.8 To review the performance of the municipality in order to improve the economy, efficiency and effectiveness of the municipality, the efficiency of credit control and revenue and debt collection services, and the implementation of the municipality's by-laws.

12.1.9 To monitor the management of the municipality's administration in accordance with the direction of the Council.

12.1.10 To oversee the provision of services to communities in the municipality in a sustainable manner.

12.1.11 To perform such duties and exercise such powers as the Council may delegate to

the Executive Mayor.

12.1.12 To annually report on the involvement of communities and community organizations in the affairs of the municipality.

12.1.13 To ensure that regard is given to public views and report on the effect of consultation on the decisions of the Council.

12.1.14 To perform a ceremonial role as the Council may determine from time to time.

12.1.15 To report to the Council on all decisions taken by him/her.

12.1.16 Appointment of mayoral committee from among Councilors to assist the Executive Mayor.

12.1.17 Delegation of specific responsibilities to each member of the mayoral committee.

12.1.18 Delegation of any of the Executive Mayor's powers to the respective members.

12.1.19 Dismissal of a member of the mayoral committee.

12.1.20 Appointment of a chairperson for each committee from the executive committee or mayoral committee.

12.1.21 Delegation of any powers and duties of the Executive Mayor to the committee.

12.1.22 To vary or revoke any decision taken by a committee, subject to any vested rights.

12.2 In Terms of The Municipal Systems Act

12.2.1 To perform a ceremonial role as Executive Mayor.

12.2.2 To make press statements on behalf of Council.

12.2.3 On behalf of the Municipality, to enter into an employment contract and a separate performance agreement with the Municipal Manager as contemplated in section 57 of the Systems Act and the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to the Municipality Managers, 2006.

12.2.4 The power to determine the remuneration, benefits or other conditions of service of the municipal manager and managers reporting directly to the municipal manager.

12.2.5 To appoint an acting municipal manager in the absence of the municipal manager if the period of acting does not exceed 30 days .

12.2.6 With regard to then evaluation of the performance of the Municipal Manager to serve as a member on the evaluation panel and to nominate a member of a Ward Committee to serve on such panel.

12.2.7 To request a report from the municipal manager on any matter relevant to the Municipality's business.

12.2.8 To institute and defend any proceedings of any nature whatsoever where the municipality is a party or has an interest, in any court of law, arbitration proceedings or similar forums, as and when necessary, in consultation with the Mayoral Committee and or the municipal manager.

12.2.9 To approve or reject an application by any councilor or the municipal manager for legal assistance in terms of section 109A of the Municipal Systems Act, using fair and objective criteria, and in consultation with the Mayoral Committee.

12.2.10 Either the Executive Mayor or Speaker may sign the payment authorizations for each other's travel and subsistence (S&T) allowance claims due payable, as and when necessary.

12.2.11 To report to the Council on all decisions taken by him/her.

12.2.12 Manages the drafting of the municipality's IDP.

12.2.13 Assigns responsibilities to the MM regard the drafting of the IDP process.

12.2.14 Submits the draft plan to the Municipal Council for adoption.

12.2.15 Manages the development of the municipality's PMS.

12.2.16 Assigns responsibilities to the MM in regard to the development of the PMS process.

12.2.17 Submits the proposed PMS system to the Municipal Council for adoption.

12.2.18 Is the appeal authority when an appeal is lodged against a decision taken by the MM.

12.2.19 Must commence with an appeal within six weeks and to decide the appeal within a reasonable period.

12.3 Municipal Finance Management Act

12.3.1 The exercise by the EM of the under-mentioned powers of the performance by him/her of the listed duties is subject to any exemptions granted by National Treasury or by any applicable law.

12.3.2 Must provide political guidance over the financial affairs of the municipality.

12.3.3 In providing such general political guidance, may monitor and, to the extent provided in the MFMA, oversee the exercise of responsibilities assigned in terms of the Act to the accounting officer and the chief financial officer, but may not interfere in the exercise of those responsibilities.

12.3.4 To co-ordinate the processes of preparing the annual budget of the municipality and the review of the Municipality's Integrated Development Plan and budget-related policies.

12.3.5 To table in the Council, a time schedule outlining key deadlines for the preparation, tabling and approval of the annual budget, the annual review of the Integrated Development Plan and the Municipality's budget-related policies, the tabling and adoption of any amendments to the Integrated Development Plan and the budget-related policies and any consultative processes forming part of these processes.

12.3.6 Take all reasonable steps to ensure:

a) That a credible and realistic budget is tabled accompanied by a report summarizing the local community's views and any comments received from National and Provincial Treasury, any organ of state, any affected municipality and any other stakeholder thereon.

b) That the Municipality approves its Annual Budget before the start of the financial year to which the budget relates.

c) That the Municipality's Budget and Service Delivery Implementation Plane is finalized within 28 days after the approval of the budget; and

d) That the annual performance agreements as required in terms of section 57 of the Systems Act for the municipal manager and managers reporting directly to the municipal manager require compliance with the Act in order to promote sound financial management; are linked to measurable performance objectives approved with the Budget and Service Delivery Implementation Plan; and that the annual performance agreements are concluded in accordance with Section 57 of the Systems Act.

12.3.7 The Executive Mayor must report any delay in the tabling of an annual budget, the approval of the Service Delivery and Budget Implementation Plan, and the signing of the annual performance agreement to the Council and the Provincial Minister (MEC) for Local Government.

12.3.8 The Executive Mayor must ensure that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the Service Delivery and Budget Implementation Plan, are made public no later than 14 days after the approval of the Service Delivery and Budget Implementation Plan.

12.3.9 The Mayor's report accompanying an annual budget must provide a summary of the medium-term service delivery objectives and the associated medium-term financial implications contained in the annual budget; a summary of linkages between the annual budget, the Integrated Development Plan and the political priorities at the national, provincial, district and local levels; a summary of infrastructure development objectives; a summary of material amendments and any other information considered relevant by the Mayor.

12.4 Budgetary control and early identification of financial problems (Section 54 MFMA)

12.4.1 On receipt of a monthly budget report submitted by the accounting officer of the Municipality in terms of section 71 or 72, the Executive Mayor must:

(a) Consider the report;

(b) Check whether the budget is implemented in accordance with the budget and service delivery implementation plan;

(c) Issue any appropriate instructions to the accounting officer to ensure that the budget is implemented in accordance with the budget and service delivery implementation plan; and, that spending of funds and revenue collection proceed in accordance with the budget; and

(d) Identify any financial problem facing the municipality, including any emerging or impending financial problems.

12.4.2 If the municipality faces any serious financial problems, the Executive Mayor must promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include:

a) Promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include steps to reduce spending when revenue is anticipated to be less than projected in the Municipality's approved budget

b) Table an adjustments budget or steps contemplated in terms of Chapter 13 of the Act;

c) To alert the Council and the MEC for local government of those problems.

12.5 Report to Provincial Executive if conditions for provincial intervention exist (Section 55 – MFMA)

12.5.1 If the Municipality has not approved an annual budget by the first day of the budget year or if the Municipality encounters a serious financial problem referred to section 136 of the MFMA, the Executive Mayor:

a) To determine the likelihood of the Municipality not being able to comply with the Act or other legislation relating to the tabling or approval of an annual budget or compulsory consultation processes.

b) To inform the MEC responsible for finance of any impending non-compliance
c) by the Municipality of any provisions of the Act or any other legislation pertaining to the tabling or approval of an annual budget or compulsory consultation processes.

d) To apply to the MEC responsible for finance to extend any time limit or deadline with regard to the preparation and approval of the annual budget

e) To inform the Council, the MEC responsible for finance and the National Treasury, in writing, of any actual non-compliance by the Municipality of a provision of Chapter 4 of the Act and any remedial or corrective measures the Municipality intends to implement in order to avoid a recurrence of such non-compliance.

12.6 Exercise of Ownership control over Municipal Entities (Section 56 – MFMA)

12.6.1 The Executive Mayor of the Municipality which has sole or shared ownership control over a municipal entity must guide the Municipality in exercising its ownership control powers over the municipal entity in a way that:

(a) Would ensure that the municipal entity complies with the MFMA and at times remains accountable to the Municipality; and

(b) Would not impede the entity from performing its operational responsibilities.

(c) To provide guidance to the Council regarding the exercise of its rights and powers over any municipal entity over which the Municipality has sole or shared control.

(d) In guiding the Municipal entity in the exercise of its rights and powers over a municipal entity, to monitor the operational functions of such entity.

(e) To exercise any powers delegated to him by the Council.

12.6.2 In emergency or other exceptional circumstances, authorize unforeseeable and avoidable expenditure for which no provision was made in an approved budget.

12.6.3 To report to the Council regarding the authorization of unforeseeable and unavoidable expenditure in terms of the aforesaid paragraph.

12.6.4 To give written approval for exceeding the amount appropriated in respect of a capital program.

12.6.5 To submit to the Provincial Treasury and the Auditor-General, the certificate issued by the Municipal Manager specifying that actual revenue for the financial year concerned is expected to exceed budgeted revenue and that sufficient funds are available for exceeding the amount appropriated for a specific capital program without incurring further borrowing beyond the annual budget limit.

12.6.6 To sign a Council resolution approving short-term debt agreement.

12.6.7 To sign a Council resolution approving long-term debt agreement.

12.6.8 To decide the nature and extend of, and manner in which political guidance over the fiscal and financial affairs of the Municipality will be provided.

12.6.9 To submit to the Council, within 30 days of the end of each quarter, a report on the implementation of the budget and the financial state of affairs of the Municipality.

12.6.10 To ensure that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, contained in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan.

12.6.11 To ensure that the performance agreements of the Municipal Manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the Municipality's service delivery and budget implementation plan.

12.6.12 To submit the annual performance agreements of the Municipal Manager, senior managers and any other categories of officials as may be prescribed, to the Council and the MEC responsible for local government.

12.6.13 To make arrangement for the receipt of a monthly statement on the state of the Municipality's budget and a mid-year corporate performance assessment report.

12.6.14 To consider and, if necessary, make any revisions to the service delivery and budget implementation plan.

12.6.15 To determine the instructions to be given to the Municipal Manager to ensure that the budget is implemented in accordance with the service delivery and budget implementation plan and that spending of funds and revenue collection proceed in accordance with the budget.

12.6.16 To make public any revisions of the service delivery and budget implementation plan.

12.6.17 To immediately report to the MEC for local government if the Municipality has not approved an annual budget by 1 July of any year or if the Municipality encounters a serious financial problem.

12.6.18 To table, in the Council, the Municipality's annual report and the annual performance report of any other Municipal Entity under the Municipality's sole or shared control.

12.6.19 To submit to the Council a written explanation setting out the reasons for any delay in tabling the Municipality's annual report and the annual report of any other Municipal Entity under the Municipality's sole or shared control.

12.6.20 To ensure that the municipality addresses all the issues raised in an audit report.

12.6.21 To table in the Council a written explanation setting out the reasons for the failure of the Municipal Manager or of the accounting officer of a Municipal entity under the Municipality's sole ort shared control to submit annual financial statements to the Auditor-General or his failure to table the annual report of the Municipality or Municipal Entity.

12.6.22 To participate in consultations with the MEC for local government regarding a serious financial problem in the Municipality.

12.6.23 To participate in consultations with the MEC for local government regarding the Municipality's co-operation in resolving any financial problem, and if applicable, the implementation of a financial recovery plan.

12.6.24 To participate in consultations with the MEC for local government regarding the Municipality's co-operation in implementing a recovery plan, including the approval of a budget and legislative measures giving effect to such recovery plan.

12.6.25 Receive a request made by the Provincial Executive to the Municipal Financial Recovery Service to determine the reasons for the crisis in the Municipality's financial affairs, to assess the Municipality's financial state and to prepare an appropriate recovery plan for the Municipality.

12.7 Budget process and financial control

12.7.1 To ensure that declarations from the Municipal Manager in terms of Regulation 45(2)(d) and (e) of the Municipal Supply Chain Regulations contained in Government Notice 868 of 2005 are recorded in the prescribed register

12.7.2 To establish a budget steering committee comprising the prescribed members provide technical assistance to him/her in discharging his responsibilities in terms of section 53 of the Act.

12.7.3 To ensure that, whenever an annual budget and supporting documentation, an adjustments budget and supporting documentation or an in-year report of the Municipality is submitted to him, tabled in the Council, made public or submitted to another organ of state, it is accompanied by a quality certificate complying with Schedule A, B or C of the Budget Reporting Regulations, as the case may be, and signed by the Municipal Manager.

12.7.4 At least 30 days before the start of the budget year and for purposes of section 23 of the Act, to table the following documents in the Council –

a) A report summarizing the local community's views on the annual budget;

b) Any comments on the annual budget received from the National Treasury and the relevant Provincial Treasury;

c) Any comments on the annual budget received from any other organ of state; and

d) Any comments on the annual budget received from any other stakeholders.

12.7.5 If a national or provincial adjustment budget allocates or transfers additional revenues to the Municipality, to table in the Council at the next available meeting, but within 60 days of the approval of the relevant national or provincial adjustments budget, and adjustments budget referred to in section 28(2)(b) of the Act in order to appropriate these additional revenues.

12.7.6 To ensure that an adjustment budget referred to in section 28(2)(c) of the Act is tabled in the Council at the first available opportunity after unforeseeable and unavoidable expenditure contemplated in this section is incurred and within the time period set in section 29(3) of the Act.

12.7.7 To table in the Council a monthly budget statement submitted to him in terms of section 71(1) of the Act and, if he does so, to ensure that such statement is accompanied by a report in a format set out in Schedule C of the Reporting Regulations.

12.7.8 To take all responsible steps to simultaneously table in the Council, when the min-year budget and performance assessment of the Municipality in terms of section 54(1)(f) of the Act is tabled, the reports on the mid-year budget and performance assessments of all municipal entities under the sole or shared control of the Municipality.

12.7.9 To sign an application made in terms of section 27(2) od the Act concerning an application for extension of time in meeting budgeting timeframes and ensure that such application is not only in a format prescribed by the Reporting Regulations but also contains the information prescribed in Regulation 60(1)(c) od the said Regulations.

12.7.10 To table a copy of any application referred to in Regulation 60(1) at the first meeting of the Council following the submission of such application.

12.7.11 To table the response of the MEC for finance to any application referred to in Regulation 60 at the first meeting of the Council following the receipt of response.

12.7.12 To table a notification made by the Municipal Manager in terms of Regulation 65(1) concerning a failure to comply with a time provision pertaining to an in-year report at the first meeting of the Council following the receipt of such notification.

12.7.13 To authorize unforeseen and unavoidable expenditure in terms of section 29 of the Act only if such expenditure could not have been foreseen at the time the annual budget of the municipality was passed and the delay that will be caused pending approval of an adjustments budget by the Council in terms of section 28(2)(c) of Act to authorize such expenditure may –

a) Result in significant financial loss for the Municipality;

b) cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;

c) Lead to loss of life and serious injury or significant damage to property; or

d) Obstruct the municipality from instituting or defending legal proceedings on an urgent basis: provided that such expenditure may not be authorized if the expenditure concerned –

1. Was considered by the Council, but not approved in the annual budget or an adjustment budget;

2. Is required for –
   I) Price increases of goods or services during the financial year;
   ii) New municipal services or functions during the financial year;

iii) The extension of existing municipal services or functions during the financial year;

e) The appointment of personnel during the financial year; or

f) Allocating discretionary appropriations to any vote during the financial year;

g) Would contravene any existing Council policy or

h) Is intended to ratify irregular or fruitless and wasteful expenditure; provided further that

i) The amount of expenditure that the Mayor may authorize in terms of the foregoing shall be limited to 5% of the Municipality own revenue.

12.7.14 To approve together with the board of Section 56 managers of a Municipal Entity, unforeseen and unavoidable expenditure in respect of such entity in terms of section 87(6) (c) of the Act only if:

a) The expenditure could not have been foreseen at the time the annual budget of the entity was passed; and

b) The delay that will be caused pending approval of an adjustment budget to authorize the expenditure may –

i) Result in significant financial loss for the entity;
ii) Cause of disruption or suspension, or a serious threat to the continuation, of a basic municipal service;
iii) Lead to loss of life or serious injury or significant damage to property; or
i) Obstruct the entity from instituting or defending legal proceedings on an urgent basis.

Provided that:

The board of Section 56 managers of a Municipal Entity and the Mayor Municipality may not approve expenditure in terms of section 87(6)(c) of the Act if such expenditure-

a) Was considered by the board but not included in the approved annual budget of the entity;

b) Is required for –
   1. Price increase of goods or services during the financial year;
   2. New municipal services or functions during the financial year;
   3. The extension of existing municipal services or functions during the financial year;
   4. The appointment of personnel during the financial year;
   5. Increasing the remuneration or allowances of board members; or
   6. Allocating discretionary appropriations to any vote during the financial year.

c) Would contravene any existing policy of the entity or its parent municipal;

d) Is intended to ratify irregular or fruitless and wasteful expenditure.

12.7.15 To respond to a notification by a Municipal Entity of its intention to incur unforeseen and unavoidable expenditure.

12.8 Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006

12.8.1 For purposes of the application of the regulations, to represent the Municipality as employer.

12.8.2 To participate in the proceedings of an evaluation panel constituted to assess the performance of the Municipal Manager.

12.8.3 To mediate any dispute about the nature of the performance agreement of a manager directly accountable to the Municipal Manager whether such dispute relates to key responsibilities, priorities, methods of assessment and/or a salary increment in the said agreement.

12.9 Disciplinary Regulations for Senior Managers, 2010

12.9.1 To table a report containing an allegation of misconduct against a senior manager at a meeting of the Council not later than 7 days after receipt thereof, failing which the Mayor may request the Speaker to convene a Special Council Meeting within 7 days to consider the said report.

12.9.2 To inform a senior manager in writing of the reasons for his suspension on or before the date on which he is suspended.

12.9.3 To notify the Minister and the MEC responsible for local government in writing of the suspension of a senior manager and the reasons for same within a period of 7 days after the suspension occurred.

12.9.4 If the Municipal Council decides that the alleged misconduct by the Municipal manager is of a less serious nature, to bring the alleged misconduct to his attention and give him an opportunity to respond to the allegations.

12.9.5 If after having considered the response from the Municipal Manager, the EM decides that the Municipal Manager is guilty of misconduct which does not warrant dismissal, to, only after due processes, impose any of the following sanctions with or without conditions: -

a) Corrective counselling

b) Verbal warning

c) Written warning in a format compliant with Annexure B to the Regulations;

d) Final written warning in a format compliant with Annexure C to the Regulations.

12.9.6 If the Municipal Manager refuses to sign the written warning, to hand over the warning to the Municipal Manager in the presence of a fellow staff member, who must sign as confirmation that the written warning was conveyed to the Municipal Manager.

12.9.7 If the Council has reason to believe that a Municipal Manager is not performing in accordance with the minimum performance standards of his post, to convene a meeting with him to order to give him feedback on his performance and to furnish him with reason why it is necessary to initiate this procedure.

12.9.8 In the meeting contemplated in Regulation16(1) above, to:

a) Explain to the Municipal Manager the requirements, level, skills and nature of his post;

b) Evaluate the Municipal Manager's performance in relation to the performance agreement;

c) Explain the reasons why the performance is considered substandard; and

d) Afford the Municipal Manager or his representative an opportunity to respond to the performance outcomes referred to in paragraph

12.9.9 After considering the senior manager's reasons in terms of Regulation 16(2), to initiate a formal program of counselling and training to enable the Municipal Manager to reach the required standard of performance, which must include –

a) Assessing the time that it will take for the Municipal Manager to deal with substandard performances;

b) Establishing realistic timeframes within which the Council will expect the Municipal Manager to meet the required performance standards;

c) Identifying and providing appropriate training for the Municipal manger to reach the required standard of performance; and

d) Establish ways to address any factors that may affect his performance and that lie beyond his control.

12.9.10 If the Municipal Manager fails to meet the required performance standard for the post after being subjected to a formal program of counselling and training as contemplated in Regulation 16(3), to regularly evaluate the Municipal Manager's performance or provide further remedial or developmental support to assist him to eliminate the substandard performance.

12.9.11 If the Municipal Manager's performance does not improve after he received appropriate performance counselling and the necessary support and a reasonable time to improve his performance as contemplated in Regulation 16(4) or if he refuses to follow a formal program of counselling and training contemplated therein, to bring the allegations of substandard performance against the Municipal Manager to the attention of the Council in the form of a report at a meeting to be held not later than 7 days after submission of such report failing which, the Speaker may be requested to convene a special Council meeting within 7 days to consider the said report.

12.9.12 If the Council, by resolution, is satisfied, that sufficient evidence exists to institute disciplinary proceedings against the Municipal Manager on the basis of his alleged substandard performance, to furnish him with written reasons why it is necessary to initiate such proceedings and invoke the provisions of Regulation 8 of the Regulations.

12.9.13 In terms of Section 59 of the Systems Act, the Municipal Manager is hereby authorized the perform the above duties and carry out the mentioned responsibilities, with the necessary changes, in respect of a manager directly accountable to him.

13. POWERS DELEGATED TO THE EXECUTIVE MAYOR BY COUNCIL

In terms of Section 59 of the Systems Act and subject to the provisions of the policy on roles and responsibilities adopted by the Council and applicable law, the Council to the Executive Mayor hereby delegates the following powers, functions and duties.

13.1 Subject to availability of funds, to approve the attendance by Councillors and the Municipal Manager at meetings, workshops, seminars, conferences, congresses and similar events which are in the interest of the Council and which are to be conducted within the boundaries of the Republic of South Africa.

13.2 To decide whether financial reports from Committees are only for the information of the Council or whether the council should be given an opportunity to discuss such reports.

13.3 To receive an approved financial recovery plan for the Municipality.

13.4 To declare the Municipality's willingness to fulfill an executive obligation in term of legislation or the Constitution and that gave rise to any discretionary intervention in the Municipality.

13.5 Subject to the availability of funds and compliance with Council policy, to approve the rendering of urgent assistance to traditional leaders on special events and in circumstances where it is not possible for him to obtain the prior approval of the Council.

13.6 To decide on the nature and scope of the Municipality's participation in national and provincial development programs.

13.7 To conclude an agreement for the assignment of a matter to the Municipality by the national and provincial government.

13.8 To oversee the preparation of the Municipality's annual performance report.

13.9 To grant leave to the Municipal Manager in accordance with the Staff Leave Policy of the Council, his employment contract and any applicable law and to appoint the Acting Municipal Manager if the leave granted is less than 30 days in consultation with the Municipal Manager.

13.10 To consider and resolve grievances lodged by the Municipal Manager and Managers accountable to the Municipal Manager in consultation with the Municipal Manager.

13.11 To appoint a mediator to resolve grievances lodged by the Municipal Manager and Managers accountable to the Municipal Manager in circumstances where he is unable to resolve such grievances himself and to report such action to the Council at its next ensuing meeting.

13.12 To decide in cases where administrative action materially and adversely affect the right of the public, whether to hold a public inquiry or to follow a notice and comment procedure or to hold a public inquiry and follow a procedure of notice and comment in order to give effect to the right to procedurally fair administrative action.

13.13 To determine the processes, mechanisms and procedures for consulting the community about the level of and quality of services rendered by the Municipality as well as the involvement of the community in the affairs of the Municipality.

13.14 To determine whether the accounting officer, Chief Financial Officer and financial officials of the Municipality meet the prescribed financial management competency levels and to recommend remedial action in this regard.

13.15 To approve internal and external requests for the incurring of the entertainment expenses up to a maximum amount per event as may be determined by resolution of the Council from time to time.

13.16 In consultation with the Municipal Manager, to authorize the early closure of the Municipality's offices during any celebration or festive occasion.

13.17 To represent the Council at the opening of projects and new buildings.

13.18 In accordance with Council authority, to sign a certificate conferring civic honours on any person.

13.19 To host and welcome dignitaries to the Municipality.

13.20 To represent the Council during disasters.

13.21 The decision to expropriate immovable property or rights in or to immovable property.

13.22 The determination or alteration of the remuneration, benefits or other conditions of service of the MM and Section 56 managers.

13.23 The formulation, developing and adopting of policies, plans, strategies and

programmes of the municipality, including setting of targets for service delivery.

13.24 The determination and development of mechanisms to consult the community organizations on the performance of the municipality's functions.

13.25 The lodging of an objection to the minister against the temporary allocation of a function or power of the municipality to the district municipality to restore or maintain any basic service that has or may collapse.

13.26 Determining the nature, extent, duration and conditions for providing assistance to the district municipality pursuant to a request for such assistance.

13.27 Making a request to the district municipality for financial, technical and administrative support services.

13.28 Determining a policy framework for staff matters.

13.29 Adopting an employment equity plan and skills development plan for the municipality consistent with the relevant legislation.

13.30 To decide himself on the attendance of meetings, workshops, seminars, conferences, congresses and similar events and special visits by him, which are in the interest of the Council and which are to be conducted within or outside the boundaries of the RSA.

13.31 A decision to obtain the authority in terms of the NPA to enable an employee to institute criminal proceedings and conduct prosecutions in respect of a contravention of by-laws and other legislation applicable to the municipality.

13.32 The approval of excess expenditure, covered by a saving, on the annual capital and operating budgets.

13.33 Receiving and considering the views of the communities and organs of state

received in connection with the budget.

13.34 Deciding to revise an approved budget by way of an adjustments budget.

13.35 Determining whether an alleged irregular expenditure incurred by the MM constitutes a criminal offence.

13.36 Determining whether the MM allegedly committed an act of gross misconduct.

13.37 Reporting alleged irregular expenditure incurred by the MM that constitutes a criminal offence and alleged theft and fraud perpetrated by the MM to the SAPS.

13.38 Entering into an agreement with the national or provincial government to assist the Municipality to build its capacity for efficient, effective and transparent financial management.

13.39 Considering the results of the provincial government's monitoring of the Municipality.

13.40 Considering a notification of the provincial government of any emerging or impending financial problems in the Municipality.

13.41 Determining the step, the Municipality must take to promote co-operative government with the national and provincial spheres of government and other municipalities in the Municipality's fiscal and financial relations.

13.42 Deciding the reasonable steps to settle a dispute of a financial nature between the Municipality and another organ of state out of court.

13.43 Reporting a dispute of financial nature between the Municipality and another organ of state (excluding the National Treasury) to the National Treasury.

13.44 Deciding whether to request the National Treasury to mediate or to appoint a

mediator to mediate a dispute of a financial nature between the municipality and another organ of state (excluding the National Treasury).

13.45 Determining the upper limits of the salary, allowances and other benefits of the CEO and senior managers of a municipal entity of which the Municipality is the parent municipality, where applicable.

13.46 Considering whether the Municipality is, or is likely to, encounter a serious financial problem in meeting its financial commitments.

13.47 Determining the manner of seeking solutions to any serious financial problem in meeting its financial commitments experienced or anticipated by the municipality.

13.48 Defining the solutions to be implemented to solve or avoid any serious financial problem in meeting its financial commitments experienced or anticipated by the municipality.

13.49 Receiving an approved financial recovery plan for the Municipality.

13.50 Declaring the Municipality's willingness to fulfill the executive obligation in terms of legislation or the Constitution that gave rise to any discretionary intervention in the Municipality.

13.51 Considering any guidelines issued by the minister of Finance in terms of section 168(1) of the MFMA.

13.52 Deciding whether an investigation of an allegation of financial misconduct against the MM revealed anything that warrants the institution of disciplinary proceedings.

13.53 To consult with the national and provincial spheres of government, the local and other district municipalities and organized local government in regard to the

division, assignment, delegation and agency powers and functions and to promote and defend council's views,

13.54 To decide the institute legal proceedings against other organs of state, in consultation with the municipal manager, in order to enforce the municipality's right, where all reasonable steps in terms of the principles of co-operative government has failed.

13.55 To formulate comments on proposed national and provincial legislation, regulations, policy frameworks, etc.

13.56 May sub-delegate, in writing, any power or duty which the Council has delegated to him/her.

13.57 To determine a short list of candidates for appointment as municipal manager, to interview such candidates and to make recommendations to Council on a preferred candidate in terms of the Local Government: Municipal Systems Act: Regulation on the appointment and Conditions of service of Senior Managers, or any other applicable legislation.

13.58 To determine a short list of candidates for appointments in those positions that are directly accountable to the municipal manager, to interview such candidates and to make recommendations to Council on the preferred candidates in terms of the Local Government: Municipal Systems Act Regulation on the appointment and Conditions of service of Senior Managers.

13.59 To determine the conditions of service and the terms of employment contracts of the MM and those members of staff directly accountable to the MM.

13.60 To exercise all the rights and duties of Council and to take all decisions regarding the privileges, right and duties of the MM and those members of staff directly accountable to the MM, in terms of their respective contracts.

13.61 To authorize the MM to attend congresses workshops meetings of institutes, etc. inside the borders of RSA.

13.62 To authorize legal proceedings against the MM as a result of any act or omission by the MM in the exercise of his powers in the performance of his duties.

13.63 To authorize the MM to attend, and authorize legal representation if needed, if he has been summoned to attend any inquest or inquiry arising from the exercise of his powers or the performance of his duties.

13.64 To consider audit reports and to make recommendations to Council.

13.65 To authorize audit investigations in circumstances where the MM may be implicated.

13.66 To authorize investigations into irregularities where the MM may be implicated.

13.67 To authorize the transfer of the operational expenditure over and above the maximum amount determined above from time to time but in line with applicable legislative and policy provisions.

13.68 To in accordance with applicable policy, incur expenditure necessary for the performance of the functions in connection with the office of Executive Mayor, subject to the approval of such expenditure by the accounting officer.

13.69 To consult affected municipalities and other organs of state and to advise Council on the method of aligning the municipality's planning with and supplement the development plans and strategies of such affected municipalities' and other organs of state.

13.70 To approve a process that guide the Council in the planning, drafting adoption and reviewing of an IDP, as required in terms of section 28 of the MSA.

13.71 To adopt a pre-determined program that reflects time scales for the various steps of the process.

13.72 To annually advise the Council on the review of the IDP in accordance to an evaluation of the municipality's performance measurement as required in terms of section 34 of the MSA.

13.73 To adopt a strategy for the promotion of a culture of Performance Management among municipality's political office bearers, political structures and Councillors and in the administration, as required in terms of section 38 of the MSA.

13.74 To adopt a mechanism for monitoring, and review of the municipality's PMS, as required in terms of section 40 of the MSA.

13.75 To consult the community on the development, implementation and review of the municipality's PMS, as required in terms of section 42 of the MSA.

13.76 To present the Council an annual report for approval, as required in terms of section 46 of the MSA.

13.77 To arrange for the protection of Councillors.

14. POWERS OF THE SPEAKER

SPEAKER STATUTORY POWERS

The powers set out hereunder are assigned to the Speaker in terms of the legislation, and reserved for his / her execution in accordance with his / her decision, and she / he may take a decision in respect of these matters with or without consulting any person

14.1 Municipal Structures Act (Section 37)

14.1.1 To decide when and where the Council meets.

14.1.2 To convene a meeting of the Council in compliance with a written request by a majority of Councillors for such a meeting and at the time set out in such request.

14.1.3 To convene a meeting of the Council when its composition has been changed as a result of the provisions of item 2, 3 or 7 of Schedule 6B to the Constitution for the purpose of dealing, inter alia, with the consequences of such change, provided that the first meeting shall take place within seven after the expiry of the period referred to in item 4(1) (a)(I) or (ii) of Schedule 6B of the Constitution.

14.1.4 Presides as chairperson at meetings of Council;

14.1.5 Must ensure that Council meets at least quarterly;

14.1.6 Must maintain order during Council meetings;

14.1.7 Must ensure compliance in the Council and Council Committees with the Code of Conduct as set out in Schedule 1 of the Systems Act;

14.1.8 Must ensure that the Council meetings are conducted in accordance with the rules and orders of Council.

14.1.9 If on any question there is an equality of votes, to exercise a casting vote in addition to his vote as Councillor.

14.1.10 To ensure that all procedural requirements pertaining to decisions which require a prior report and recommendation to the Council are complied with.

14.2 Municipal Systems Act

14.2.1 To ensure that each Councillor when taking office is given a copy of the Code of Conduct for Councillors and that a copy of this Code is available in every

room or place where the Council meets.

14.2.2 To, upon reasonable suspicion, authorize an investigation against any councillor for an alleged breach of the Code of Conduct for Councillors.

14.3 Municipal Finance Management Act

14.3.1 Determining the reasonable time period to be allowed during a council meeting at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken for the discussion of any written submissions received from the local community or organs of state on the annual report and for members of the local community or any organs of state to address the Council.

14.3.2 Receiving information from the A-G regarding the failure to submit annual financial statements.

14.3.3 Submitting information received from the A-G regarding the failure to submit annual financial statements to the Council.

14.4 General powers conferred on the Speaker by Council

14.4.1 The Speaker must ensure that draft by-laws that are tabled to council and the public for comment comply with the Constitution, Structures Act, Systems Act, MFMA and other applicable National and Provincial legislation.

14.4.2 The Speaker must ensure that the procedural requirements that apply specifically to the adoption of by-laws have been adhered to.

14.4.3 The abuse of Councillor's privileges and interests.

14.4.4 The Speaker must deal with complaints lodged against Councillors. If the complaint so lodged is against the Speaker, the Executive Mayor shall deal with such complaint.

14.4.5 The Speaker must exercise his/her duties within the rules and in terms of his/her delegated authority as determined by Council, and is therefore accountable to Council.

14.4.6 The Speaker convenes Council meetings and decides on its time and venue. However, if a majority of councilors request a meeting in writing, the Speaker must convene a meeting accordingly at the time and venue so requested by the majority of councilors.

14.4.7 The Speaker must ensure that:

(a)Councillor's freedom of speech in the Council meetings are protected; i.e. That Councillors are allowed to speak freely, that there is order in the meeting, and that there are no interruptions, etc.;

(b)Councillor's freedom of speech is exercised subject to council's Rules of Order.

14.4.8 The Speaker must be involved in the preparation of the council agenda that is circulated to the Council members prior to a meeting. Council's Rules of Order should provide for a procedure to follow in preparing the agenda. The suggested principle should be that it be a consultative process, including the Executive Mayor, Speaker and Municipal Manager.

14.4.9 The Speaker must ensure that the implementation of the Structures Act that deals with Council meetings are implemented, such as section 30 that deals with Quorums and decisions.

14.4.10 The Speaker is in charge of allocating speaking time to members in terms of Council's Policy or Rules of Order, on any issue. The Speaker must also implement section 81(3) of the Structures Act, which affords the participating traditional authorities an opportunity to address the council in particular circumstances.

14.4.11 The Speaker must implement the voting procedures as determined by Council's Rules of Order, subject to the Structures Act (quorum, abstentions, voting by division, declaration of the result, etc.). If Council cannot take a decision on any matter for want of an equality of votes, the Councillor presiding as chairperson, which is normally the Speaker, can cast an extra vote to decide the matter. (section 30(4) Structures Act).

14.4.12 The Speaker must facilitate the implementation of section 20(1) and (2) of the Systems Act in as far as it deals with the public's admission to council meetings. The Council decides whether or not to close a meeting, but the Speaker must be able to advise council and facilitate the decision-making around the issue. The Speaker must ensure that members of the public are seated in designated areas and has the authority to remove any person who refuses to comply with the Speaker's ruling, whose ruling is final when taken whilst Council is in session.

14.4.13 The Speaker must maintain an attendance register in order to implement item 4(2) of the Code of conduct for councilors as contained in Schedule 1 of the Systems Act. This provides for the removal of Councillors after three consecutive absence from a Council meeting without having obtained leave of absence.

14.4.14 The Speaker is responsible for, and must take responsibility for liaising with Ward Committees.

14.4.15 The Speaker must sign the payment authorizations for all Councillor subsistence and travel (S&T) allowance claims due payable, as and when necessary, except his/her own, of which the EM will sign any claims of the Speaker.

15. SPEAKER – DELEGATED POWERS

The powers set out hereunder are delegated by the Council to the Speaker.

In terms of section 59 (1) (a) of the Municipal Systems Act No. 118 of 2000, the under-mentioned functions and powers are delegated to the speaker, subject to compliance with the terms and conditions contained in this policy and any other applicable policy or law and such further conditions as the Council may, by resolution, from time to time determine.

15.1.1 To protect the integrity of the Council and be the guardian of members' privileges and interests as Councillors, including their freedom of speech and immunity in the Council as well as their use of municipal facilities, receipt of allowances, training and support, etc.

15.1.2 To guard against the abuse by Councillors of their privileges and interests.

15.1.3 To demonstrate impartiality and ensure that he is recognized by all parties and interest groups in the Council as the legitimate guardian of the integrity of the Council and of Councillors.

15.1.4 To ensure that Councillors are given adequate notice of meetings as required by the Council's Standing Rules and Orders.

15.1.5 To take the initiative in policy formulation around the Standing Rules and Orders and also chair the Committee that deals with the Standing Rules and Orders of the Council.

15.1.6 In conjunction with the EM and Municipal Manager, to oversee the preparation of the agenda for Council Meetings and also to ensure that it is circulated to Councillors prior to a meeting as provided for in the Standing Rules and Orders of the Council.

15.1.7 To ensure that all legal requirements pertaining to the submission of notice of motion, voting and the adoption of resolutions by the Council are complied with and that a quorum is always present at a Council Meeting.

15.1.8 To sign the confirmed minutes of the Council in the manner provided in the Standing Rules and Orders of the Council or applicable law, as the case may be.

15.1.9 In consultation with the Chief Whip, to allocate speaking times to the Councillors.

15.1.10 To ensure that the leaders of traditional authorities are afforded an opportunity to address the Council in particular circumstances.

15.1.11 The implement the voting procedures as determined by the Council in its Standing Rules and Orders, subject to the relevant provisions of the Structures Act, 1998.

15.1.12 To facilitate the implementation and application of sections 20 (1) and (2) of the Systems Act, 2000 in as far as they deal with the public's admission to Council Meetings.

15.1.13 To ensure compliance with all legal requirements pertaining to the granting of leave of absence to Councillors as contained in the Standing Rules and Orders of the Council.

15.1.14 To ensure that by-laws that are tabled in the Council comply with the Constitution, the Structures Act, the Systems Act, the Standing Rules and Orders of the Council and other applicable national and provincial legislation and that all prescribes process with regard to the consideration, adoption and promulgation of by-laws by the Council have been complied with.

15.1.15 To ensure that the EM and Chairpersons of Standing Committees apply the Standing Rules and Orders of the Council, with the necessary changes, during the deliberations of such Committees.

15.1.16 To ensure that the Council adopts a policy and standing procedures for the enforcement of the Code of Conduct for Councillors, the imposition of fines and penalties, the granting of leave of absence to the Councillors, the granting of consent to full-time Councillors to enable them to undertake outside work and the declaration of confidential information by Councillors.

15.1.17 To chair any committee which deals with ethical matters concerning Councillors.

15.1.18 To monitor whether or not Councillors report back at least quarterly to their communities on the performance of the Municipality and to take appropriate action in this regard.

15.1.19 To deal with all complaints lodged against Councillors.

15.1.20 Subject to applicable law and in conjunction with the Municipal Manager, to ensure that Councillors are enabled and assisted in their responsibilities as public representatives.

15.1.21 To oversee the establishment and operation of Ward Committees including the election of members of such Committees in accordance with the applicable rules and procedures adopted by the Council.

15.1.22 To facilitate the Municipality's representation on the Council of the District Municipality and ensure that the Council's representatives report back at regular intervals on the proceedings and decisions of the said Council.

15.1.23 To ensure that all decisions adopted by the Mayoral Committee are reported to the Council at the intervals prescribed by the Council.

15.1.24 To ensure that the Council, in its deliberations, complies with the provisions of the Promotion of Administrative Justice Act No. 3 of 2000 and the Regulations published in terms of this Act.

15.1.25 To grant leave of absence to Councillors in accordance with the Standing Rules and Orders of the Council and the Code of Conduct for Councillors.

15.1.26 To deal with and dispose of appeals in terms of the Promotion of Access to Information Act, 2 of 2000.

15.1.27 Make representations regarding draft legislation affecting the status, institutions, powers or functions of local government.

15.1.28 To make written representations to the Demarcation Board regarding the intended demarcation of the Municipality's boundaries.

15.1.29 To participate in consultations regarding an amendment of the notice establishing the Municipality.

15.1.30 Subject to the Standing Rules and Orders of the Council, to determine the manner in which the Municipal Manager must give notice to the public of the time, date and venue of every Ordinary Meeting of the Council and every special or urgent meeting of the Council, except when time constraints make this impossible.

15.1.31 When so directed by the Council, to appoint an appeal authority consisting of a Committee of Councillors to consider an appeal against the decision adopted in terms if a delegated power by a political structure or political office bearer or Councillor of the Municipality, provided such Councillors were not involved in the decision being appealed against.

15.1.2 To arrange training and other capacitation programs for Councillors.

15.1.33 Subject to the Standing Rules and Orders of the Council, to impose a fine on a Councillor for not attending a meeting which that Councillor was required to attend or for failing to remain in attendance at such a meeting.

15.1.34 To make representations to the MEC for local government regarding an appeal by a Councillor that has been found guilty of a breach of the Code of Conduct for Councillors.

15.1.35 To grant permission to a Councillor to disclose privileged or confidential information of the Council or a Committee as required in law provided that such disclosure will not negatively affect the interest of the Council.

15.1.36 To attend meetings, workshops, seminars, conferences, congresses, special visits and similar events which are in the interest of the Council and which are to be conducted within the boundaries of the Republic: provided that the necessary funds are available to cover the expenditure and that the Council is informed quarterly by means of a written report of such attendance.

15.1.37 Together with EM and in accordance with Council authority, to sign a certificate conferring civic honours on any person.

16. CHIEF WHIP OF COUNCIL

16.1 Implied Functions, Duties and Powers

16.1.1 To advise Councillors of important items on the agendas of Council and Committee meetings which may be convened by the Speaker, Mayor or Chairperson of a Standing Committee.

16.1.2 To advise the speaker in what order important issues should be dealt with if some Councillors must leave a meeting early or attend a meeting late and how much time should preferably be allocated to such issues.

16.1.3 To arrange, after consulting other whips, the allocation of times for speakers and the order in which such speakers may be permitted to address the Council on an item and to supply a list of scheduled speakers to the Speaker of the Council.

16.1.4 To ensure that motions by Councillors are prepared properly and timeously given to the Council in terms of the Standing Rules and Orders of the Council and that the Speaker is advised of urgent motions in writing prior to the commencement of a meeting at which they will be considered.

16.1.5 To decide how to deal with important items not disposed of at a meeting pending its resolution or the withdrawal of items that need political clarity or which need to be caucused or investigated.

16.1.6 To liaise with other whips in respect of items to be added to a meeting agenda, debates on motion and what matters should be interrupted to give precedence to others and similar matters.

16.1.7 To allocate official seats to Councillors or parties after consultation with opposite Whips.

16.1.8 In consultation with the Speaker, to prepare the Council's calendar of meetings and the approval of any amendment thereto.

16.1.9 To approve in consultation with the responsible chairpersons, the changes to meeting times and/or dates.

16.1.10 To assist the Speaker with the counting of votes and other delegated matters.

16.1.11 To ensure that there is constant liaison between the various whips and that communication channels are kept open amongst themselves and other parties.

16.1.12 To liaise with the chief whip in the provincial legislature.

16.1.13 To contribute to the development of institutional policies, procedures and strategies, insofar as these relate to the functions of the office of the Chief Whip.

17. MUNICIPAL MANAGER

POWERS AND DUTIES CONFERRED ON THE MUNICIPAL MANAGER BY LEGISLATION

Municipal Systems Act (Section 55)

17.1. As head of administration of the Municipality, the municipal manager is, subject to the policy directions of council, responsible and accountable for:

(a) The formation and development of an economical, effective, efficient and accountable administration;

(b) Carrying out the task of implementing the Municipality's Integrated Development Plan in accordance with Chapter 5 of the Systems Act;

(c) Operating in accordance with the Municipality's performance management system in accordance with Chapter 6 of the Systems Act;

(d) Being responsive to the needs of the local community to participate in the affairs of the Municipality;

(e) The management of the Municipality's administration in accordance with the Systems Act and other legislation applicable to local government;

(f) The management of the provision of services to the local community in a sustainable and equitable manner;

(g) The management, effective utilization and training of staff;

(h) The maintenance of discipline of staff;

(i) The promotion of sound labour relations and compliance by the Municipality with applicable labour legislation;

(j) Advising the political structures and political office bearers of the Municipality;

(k) Managing communications between the Municipality's administration and its political structures and political office bearers;

(l) Carrying out the decisions of the political structures and political office bearers of the Municipality;

(m)The administration and implementation of the municipality's by-laws and other legislation;

(n) The exercising of any powers and the performing of any duties delegated by the Municipal council, or sub-delegated by other delegating authorities of the Municipality, to the municipal manager in terms of section 59 of the Systems Act;

(o) Facilitating participation by the local community in the affairs of the municipality;

(p) Developing and maintaining a system whereby community satisfaction with Municipal services is assessed;

(q) The implementation of national and provincial legislation applicable to the Municipality;

(r) The performance of any other function that may be assigned by the Municipal Council.

17.2. As accounting officer of the Municipality, the Municipal Manager is responsible and accountable for:

(a) All income and expenditure of the Municipality;

(b) All assets and the discharge of all liabilities of the Municipality; and

(c) Proper and diligent compliance with the MFMA.

Municipal Finance Management Act (Sections 60 – 79)

17.3. The Municipal Manager is the accounting officer of the Municipality for purposes of the MFMA, and, as accounting officer must:

(a) Exercise the functions and powers assigned to accounting officers in terms of the said Act, and

(b) Provide guidance and advice on compliance with the said Act to:-

- The political structures, political office-bearers and officials of the Municipality; and

- Any Municipality entity under the sole or shared ownership control of the Municipality.

Fiduciary responsibilities of accounting officer (Section 61 – MFMA)

17.4. The accounting officer of the Municipality must:-

(a) Act with fidelity, honesty, integrity and in the best interest of the Municipality in managing its financial affairs;

(b) Disclose to the Municipal Council and the Mayor all material facts which are available to the accounting officer or reasonably discoverable, and which in any way might influence the decisions or actions of the Council or the Mayor; and

(c) Seek, within the sphere of influence of the accounting officer, to prevent any prejudice to the financial interest of the Municipality.

17.5. An accounting officer may not:-

(a) Act in a way that is inconsistent with the duties assigned to accounting officer in terms of the MFMA; or

(b) Use the position and privileges of, or confidential information obtained as, accounting officer for personal gain or improperly benefit another person.

FINANCIAL MANAGEMENT

General Financial Management Functions (Section 62 – MFMA)

17.6. The accounting officer of the Municipality:

(a) Is responsible for the effective, efficient, economical and transparent use of the resources of the Municipality;

(b) Must keep full and proper records of the financial affairs of the Municipality in accordance with any prescribed norms and standards;

(c) Must ensure that the Municipality has and maintains:

- Effective, efficient and transparent systems of financial and risk management and internal control;

- A system of internal audit operating in accordance with any prescribed norms and standards;

(d) Must take all reasonable steps to prevent unauthorized, irregular and fruitless and wasteful expenditure and other losses; and

(e) Must take effective and appropriate disciplinary steps against any official of the Municipality who:

- Contravenes or fails to comply with a provision of this Act;
- Commits an act which undermines the financial management and internal control system of the Municipality; or
- Makes or permits and unauthorized, irregular or fruitfulness and wasteful expenditure.

17.7. The accounting officer of a Municipality must take all reasonable steps to ensure that the Municipality has and implements:

(a) Procurement and asset disposal policies which the Municipality must adopt in terms of section 166;

(b) A tariff policy referred to in section 74 of the Municipal Systems Act;

(c) A rates policy as may required in terms of any applicable national legislation;

(d) A credit control and debt collection policy referred to in section 96(b) of the Municipal Systems Act; and

(e) A supply chain management policy which gives effect to the provisions of Part 1 of Chapter 20 of the MFMA.

17.8. The accounting officer must maintain and regularly update the Municipality's official website and promptly, not later than 5 days after its tabling, place on the website:-

(a) The annual and adjustments budget and all budgets-related documents;

(b) All policies of the Municipality referred to in subsection;

(c) The annual report, financial statements and audit report;

(d) All performance agreements required in terms of section 57 (1) (b) of the Municipal Systems Act;

(e) All service delivery agreements and other agreements referred to in section 81;

(f) All long – term borrowing contracts;

(g) All procurement contracts above a prescribed value; and

(h) Any other documents that may be prescribed.

17.9. The accounting officer is responsible for and must account for all bank accounts of the Municipality, including any bank account opened for any relief, charitable or trust fund set up by the Municipality in terms of section 12.

17.10. The accounting officer of the Municipality:-

(a) Takes any appropriate action with regard to any loss of or shortage in fund or property belonging to or controlled by the council involving alleged fraud, theft or negligence on the part of all staff, members of council or any other structure of council. This action may only be instituted pursuant to relevant recommendations submitted by the relevant Portfolio Committee.

(b) Approves and reviews audit plans.

(c) Considers any deals with external audit report, and replies thereto and receive quarterly internal audit reports.

The Accounting Officer has the following further powers, duties or functions:

Municipal Bank Account (Section 10(2) – MFMA)

17.11. The accounting officer may delegate the duties referred to in subsection 10(1)(c) to the Municipality's chief financial officer only.

Delegations (Section 79 – MFMA)

17.12. In terms of section 79(1), the accounting officer of the Municipality, must-

(a) For the proper application of the MFMA, in the Municipality's administration, develop an appropriate system of delegation that will both maximize administrative and operational efficiency and provide adequate checks and balances in the Municipality's financial administration;

(b) May, in accordance with that system of delegations, delegate to a member of the Municipality's top management referred to in section 77 or any other official of the municipality:

- Any of the powers or duties assigned to an accounting officer in terms of the MFMA, or

- Any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of the MFMA; and

(c) Must regularly review delegations issued in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.

17.13. In terms of section 79(2), the accounting officer may not delegate to any political structure or political office bearer of the municipality any of the powers or duties assigned to accounting officers in terms of the MFMA.

17.14. In terms of section 79(3), a delegation in terms of subsection (1), must be in writing;

(a) Subject to such limitations and conditions as the accounting officer may impose in a specific case;

(b) May either be to a specific individual or to the holder of a specific post in the municipality;

(c) May, in the case of a delegation to a member of the municipality's top management in terms of subsection (1)(b), authorize that member to sub-delegate the delegated power or duty to an official or the holder of a specific post in that members area of responsibility; and

(d) Does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

17.15. In terms of section 79(4) the accounting officer may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

Asset and Liability Management (Section 63 – MFMA)

17.16. The accounting officer of a Municipality is responsible for the management of:-

(a) The assets of the Municipality, including the safeguarding and the maintenance of those assets; and

(b) The liabilities of the Municipality.

17.17. The accounting officer must for the purposes of subsection (1):

(a) Ensure that the Municipality maintains a management, accounting and information system that accounts for the assets and liabilities of the Municipality;

(b) Cause the Municipality's assets and liabilities to be valued in accordance with standards of generally recognized accounting practice; and

(c) Establish and maintain a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

Revenue Management (Section 64 – MFMA)

17.18. The accounting officer of a Municipality is responsible for the management of the revenue of the Municipality.

17.19. The accounting officer must for the purposes of subsection (1):

(a) Ensure that the Municipality has proper revenue collection systems consistent with section 95 of the Municipal Systems Act and the Municipality's credit control and debt collection policy;

(b) On a monthly basis calculate revenue due to the Municipality;

(c) Ensure that accounts for Municipal tax, and charges for Municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;

(d) Ensure that all money received is promptly deposited in accordance with this Act into the Municipality's primary and other banks accounts;

(e) Establish and maintain a management, accounting and information system which:

- Recognizes revenue when it is earned;
- Accounts for debtors; and
- Accounts for receipts of revenue;

(f) Establish and maintain a system of internal control in respect of debtors and revenue as may be prescribed;

(g) Charge interest on arrears, except where the Council has granted exemptions in accordance with its budget-related policies and within a prescribed framework; and

(h) Ensure that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled as least on weekly basis.

The accounting officer must immediately inform the National Treasury of any payments due by an organ of state to the Municipality in respect of Municipal tax or for Municipal services, if such payments are regularly in arrears for periods of more than 30 days.

17.20. The accounting officer must ensure:

(a) That any funds collected by the Municipality on behalf of another organ of state is transferred to that organ of state at least on a weekly basis; and

(b) Those funds are not used for other purposes.

Expenditure Management (Section 65 – MFMA)

17.21. The accounting officer of a Municipality is responsible for the management of the expenditure of the Municipality.

17.22. The accounting officer must for the purpose of subsection (1):

(a) Ensure that the Municipality has and maintains a proper system of expenditure control, including procedures for the approval, authorization, withdrawal and payment of funds.

(b) Ensure that the Municipality has and maintain a management, accounting and information system which:

- Recognises expenditure when it is incurred;
- Accounts for creditors of the Municipality; and
- Accounts for payments made by the Municipality;

(c) Ensure that the Municipality has and maintains a system of internal control in respect of creditors and payments;

(d) Ensure that payments are made:

- Directly to the person to whom it is due unless agreed otherwise or for good reason; and
- Either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed;

(e) Pay all money owing within 30 days of receiving the relevant invoices, unless where prescribed otherwise;

(f) Comply with tax, levy, duty, pension, and other commitments of the Municipality as required by legislation;

(g) Manage available working capital effectively and economically in terms of the prescribed cash management and investment framework;

(h) Implement the Municipality's procurement and asset disposal policies referred to in section 165 in a way that is fair, equitable, transparent, competitive and cost effective; and

(i) Ensure that all accounts of the municipality are closed at the end of each month and reconciled with its records;

Expenditure on Staff Benefits (Section 66 – MFMA)

17.23. The accounting officer of a Municipality must:-

17.23.1. In a format and at intervals as may be prescribed, report to the Council on all expenditure incurred by the Municipality on staff salaries, wages, allowances and benefits, and in a manner that discloses such expenditure per type of expenditure namely:-

(a) Salaries and wages;

(b) Contributions for pensioners and medical aid;

(c) Travel, motor car, accommodation, subsistence and other allowances;

(d) Housing benefits and allowances;

(e) Overtime payments;

(f) Loans and advances; and

(g) Any other type of benefit or allowance related to staff; and

17.23.2. Disclose such expenditure in the Municipality's annual report in a prescribed format.

Budget Preparation (Section 68 – MFMA)

17.24. The accounting officer of a Municipality must:-

(a) Assist the Mayor in performing the budgetary functions assigned to the Mayor in terms of Chapter 4; and

(b) Provide the Mayor with the administrative support, resources and information necessary for the performance of those functions.

Budget Implementation (Section 69 – MFMA)

17.25. The accounting officer of a Municipality is responsible for implementing the Municipality's approved budget, including taking all effective and appropriate steps to ensure that:-

(a) The spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the budget and service delivery implementation plan; and

(b) Revenue and expenditure are properly monitored.

17.26. When necessary, the accounting officer must prepare an adjustment budget and submit it to the Mayor for consideration and tabling in the Municipal Council.

17.27. The accounting officer must no later than 14 days after the approval of an annual budget submit to the Mayor:

(a) A draft budget and service delivery implementation plan for the budget year; and

(b) Drafts of the annual performance agreements as are required in terms of section 57(1)(b) of the Systems Act for the Municipal Manager and all managers directly accountable to he municipal manager.

Impending Shortfalls, Overspending and Overdrafts (Section 70 – MFMA)

17.28. The accounting officer of the Municipality must report in writing to the Municipal Council, via the Executive Committee:

(a) Any impending shortfalls in the budgeted revenue and overspending of the municipality's budget; and

(b) Any steps taken to rectify such shortfalls or overspending.

17.29. If the consolidated balance in the municipality's bank accounts shows a net overdrawn position for a period exceeding a prescribed period, the accounting officer of the municipality must promptly notify the National treasury in the prescribed format of:

(a) The amount by which the account or accounts is overdrawn;

(b) The reasons for the overdrawn account or accounts; and

(c) The steps taken or to be taken to correct the matter.

REPORT AND REPORTABLE MATTERS

Monthly Budget Statements (Section 71 – MFMA)

17.30. The accounting officer of the municipality must by no later than seven working days after the end of each month submit to the EM of the municipality and the National Treasury a report in the prescribed format on the state of the Municipality's budget during that month and during the financial year up to the end of that month reflecting:

(a) The actual revenue, per revenue source;

(b) Actual borrowings;

(c) The actual expenditure, per vote;

(d) The actual capital expenditure, per vote;

(e) The amount of any transfers received, from national organs of state in terms of the annual division of revenue act, and from provincial organs if state and other municipalities;

(f) The actual expenditure on those transfers, excluding expenditure on its share of the local government equitable share and on transfers which the annual division of revenue act exempts from this section;

When necessary, an explanation of: -

17.31. Any material variance from the municipality's projected revenue by source, and from the municipality expenditure projections per vote; and any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

17.32. A projected of revenue and expenditure for the rest of the financial year, and any revision from initial projections.

17.40. The accounting officer of a municipality must submit to the national treasury, the MEC for local government in the province or auditor-general such information, return, documents, explanations and motivations as may be prescribed or as the notational treasury, the MEC or the auditor general may require.

Protection of Accounting Officer

17.41. Any action taken by a political structure or officer-bearer of a municipality against the accounting officer of the municipality solely because of that accounting officers compliance with a provision of any applicable legislation, is an unfair labour practice for the purpose of the labour relations act, 1995 (act no. 66 of 1995).

FINANCIAL ADMINISTRATION

TOP MANAGEMENT OF THE MUNICIPALITY – (Section 77 – MFMA)

17.42. The top management of a municipality's administration consist of: -

(a) The accounting officer;

(b) The chief financial officer;

(c) All managers referred to in section 56 of the municipality system act who are responsible for managing the respective votes and to whom powers and duties for this purpose have been delegated in terms of section 79 of this act; and

(d) Any other senior officials designated by the accounting officer.

17.43. The top management must assist the accounting officer in managing and co-coordinating the financial administration of the municipality.

traveling and accommodation expenses, material supplies, transport costs, pro rata salary and sundries, if any.

19.11. Notwithstanding the municipal managers powers to invoke disciplinary action, the power to enforce and invoke the disciplinary procedure to their subordinates in terms of the Disciplinary Code Collective Agreement within their directorates.

19.12. The Chief Financial Officer is delegated with authority to sign all contracts above R200 000 (two hundred thousand rands), which amount is inclusive of VAT, up to the value of R10m (ten million rands) inclusive of VAT, in consultation with the municipal manager.

20. GENERAL - RECESS

20.1 When Council goes into recess, the EM, in consultation with the municipal manager, takes decisions on behalf of council or any of its committees, where the failure to exercise such delegated authority as a matter of urgency would, in the view of the EM, prejudice the Council and or its services. Note, the Speaker must be informed of all such decisions in writing.

20.2 The Council furthermore delegates any power or function it has to execute which is provided for in any National or Provincial Act, Ordinance or By-Law, which is not dealt within their Delegations of Authority to the municipal manager, to be performed or exercised by the municipal manager in consultation with the EM, provided that any expenditure that may be incurred as a result thereof has been budgeted for.

21. DATE OF COMMENCEMENT OF THIS POLICY

This policy shall take effect on the date it is approved by way of resolution by the Council.