



OFFICE OF THE
SPEAKER

Ref: 4/4/1

Date : 22 August 2022

THE SPEAKER COUNCIL ITEM

REPORT ON THE FF PLUS AND DA MOTION OF NO CONFIDENCE AGAINST COUNCILLOR VUMILE NIKELO OF THE MANGAUNG METRO MUNICIPALITY

1. PURPOSE

The purpose of this report is to appraise the Municipal Council on the two motions of vote of no confidence received against the Council Whip, councillor Vumile Nikelo, and secondly to put forward this motions in line with the Standing Rules and Orders.

2. BACKGROUND

On 19th August 2022, The first motion from **Freedom Front Plus (FF PLUS)** was submitted by Councillor **Snyman van Deventer** and seconded by Councillor **B Vorster** (the motion is marked as **annexure A**). The second motion from **Democratic Alliance (DA)** was submitted on the **18th August 2022** by Councillor **Maryke Davies** and seconded by Councillor **Johan Pretorius** (the motion is marked as **annexure B**) and. The two motions of no confidence against Councillor Vumile Nikelo, the Council Whip of the Mangaung Metropolitan Municipality, are submitted within the provisions of the Standing Rules and Orders are fully compliant to the provisions of Rule 29.

The detailed motions are enclosed in this report as indicated above and an excerpts of recommendations made separately is as follows, namely;

The **Freedom Front Plus** recommend in their motion that the Mangaung Metropolitan Municipality Council must resolve:

- a) that the Council Whip, brought the Council into disrepute for his gross dereliction of duty, due to non-compliance in fulfilling his duties, obligations and responsibilities in terms of section 41B of the Municipal Structures Act 117 of 1998 as amended;

- b) that the Council Whip, ignoring the separation between his political party and its governing structures and the government being the Council and the Mangaung Metropolitan Municipality;
- c) that the Council Whip acting outside the scope and authority of his position as council whip;
- d) the Council Whip abusing his oath of office for party-political purposes; and
- e) the Council Whip contravening the Code of Conduct of Councillors.

The **DA key highlights** in their motion that the Mangaung Metropolitan Municipality Council must resolve as follows,

- 1) the Council Whip failed to perform his duties in line with the provisions of the amended Structures Act;
- 2) the Council Whip has failed to provide leadership and convene multi party whips prior to Council meetings, which is consistent with the functions he is expected to perform and thus collapsing the functioning of the Whippery system;
- 3) the Council Whip has failed to assist the Speaker regarding voting procedures in the Council;
- 4) the Council Whip is compromised as he is also the Chief Whip of the ruling party and thus is unable to differentiate between party and governance responsibilities;
- 5) that the Council Whip is unable to separate his responsibilities and those of the Speaker and thus conflating Municipal Council and party political responsibilities.

The **DA recommend** in their motion that the Mangaung Metropolitan Municipality Council must resolve:

- i) that the Council Whip, brought the Council into disrepute for unlawful issuing instruction to the Speaker to suspend all Council activities and sittings;
- ii) that the Council Whip, actions compromises the credibility and integrity of the Municipal Council;
- iii) that the Council Whip, actions contribute to maladministration in the Council, which creates instability and the risk of putting the Municipal Council towards dissolution.
- iv) That the actions of the Council Whip are self-serving and advancing factional battles within the ANC and thus disregarding the interests of the residents of Mangaung;

- v) Given the above-mentioned factors, the **DA request a secret ballot**, to ensure that councillors are not intimidated or victimized for voting according to their conscience.

3. LEGAL ASPECTS

3.1. Standing Rules and Orders of Council

Rule 29 of the Standing Rules and Orders of the Mangaung Metropolitan Municipality stipulate the following:

- "29.1 No matter shall be brought before the council or a committee by any member of the council except upon a notice of motion, which shall be in writing and signed by the member giving the notice as well as the member seconding it: Provided that a person who has a personal electronic mail address from where he or she can be identified by the City Manager, can submit such motion by electronic mail.
- 29.2 Any notice of motion shall be submitted to the Speaker or chairperson before 12:00, ten days prior to the meeting of the council or committee.
- 29.3 A motion shall lapse if the member who submitted the motion is not present at the meeting where the motion is to be debated.
- 29.4 A member submitting a motion shall introduce such a motion and shall have the right of reply thereto.
- 29.5 When a member introduces a motion which is intended to rescind or amend a resolution passed by the council in the preceding three months or which has the purpose as a motion that was not supported within the three preceding months shall not be entertained.
- 29.6 When dealing with motions the motion shall be read out together with the number thereof and the name of the mover.
- 29.7 The Speaker or chairperson shall ascertain which motions are unopposed and these shall be passed without debate and thereafter the opposed motions shall be called in accordance with the order of the agenda.
- 29.8 All notices of motion shall be dated and numbered as received by the City Manager and shall be entered on the agenda paper in the order in which it was received, save and except that notices of amendment to motions shall be entered immediately after such notice of motion, irrespective of the time at which the notice shall have been received.
- 29.9 No member shall have more than two notices of motion on the same agenda at the same time.

29.10 Before any notice of motion is placed on the agenda paper it shall be submitted to the City Manager who must obtain the written technical input from the various heads of department of the municipality, if it is required, and, who, if he/she be of the opinion that it is ultra vires existing legislation,

shall cause the giver of the notice to be so informed. The giver of the notice shall, however, have the right to appeal to a sub-committee comprised of the Speaker, Executive Mayor and Whip of the Council, who shall review the matter and decide whether or not such notice of motion be placed on the agenda paper.

29.11 A motion affecting the making or amending of a by-law shall be submitted to the Speaker for a report before the council passes a resolution in this regard.

29.12 The Speaker may disallow a motion which:

- May lead to discussions of a matter already dealt with on the agenda.
- Addresses a matter where the Council has no jurisdiction.
- Addresses a matter where a decision of a judicial or quasi-judicial body is pending.
- Has not been seconded.
- If passed, would be contrary to the law.

29.13 The mover with the consent of the seconder may withdraw a motion or amendment.

29.14 The Speaker or chairperson may call upon any mover of an amendment to a motion to reduce the same to writing, and, after signing it, to hand it to the Municipal Manager to read the amendments for the meeting to either adopt or reject such amendment.

29.15 Except upon the recommendation of the committee to which the council has delegated powers or duties to deal with the particular subject matter, no resolution passed at any meeting of the council shall be revoked or altered at any subsequent meeting unless notice of motion so to revoke or alter such resolution shall have been given to the City Manager at least seven days before such subsequent meeting and the City Manager shall, at least two days before such subsequent meeting, have forwarded a copy of such notice of motion to each councillor.

3.2. Amended Municipal Structures Act (Act No. 3 of 2021) and Constitutional Court Determination

Section 41E. of the Amended Municipal Structures Act (Act 117 of 1998) specifically addresses the issue of the removal of the Council Whip from Office. This section read as follows:

- 41E. (1) A municipal council, may remove its Whip from office.
- 41E. (2) Prior notice of an intention to move a motion for the removal of the Whip must be given. "

The Constitutional Court in its judgement in June 2017 (**The UDM versus the Speaker of Parliament**) made the following ruling regarding the request for a secret ballot in a motion of no confidence:

"The Speaker has such powers (powers to prescribe secret ballot) but these powers "belong to the people" and they cannot be exercised for the interests of the Speaker of their party. "

"That is the Speakers judgment call to make, having due regard to what would be best procedure to ensure that members (of Parliament) exercise their oversight powers most effectively. "

"As in the case with general elections, where a secret ballot is deemed necessary to enhance the freeness and fairness of the elections, so it is with the election of the president by the National Assembly. This allows members to exercise their vote freely and effectively, in accordance with the conscience of each, without undue influence, intimidation or fear of disapproval by others. "

"The power lies with the Speaker. It is declared the Speaker has the power to prescribe the kind of vote in a motion of no confidence"

4. RECOMMENDATION

- a) the FF PLUS and the DA had submitted their motions of no confidence against the Council Whip, Councillor Vumile Nikelo according to all relevant applicable legislation.
- b) the Speaker must now according to the stipulation of Rule 29 of the Standing Rules and Orders, place this motion on the agenda of the next Council meeting, and allow the FF PLUS and DA to debate their motion in Council. The Speaker must also allow the Council Whip to respond in writing to the allegations against him, before allowing the Council to vote on this motions.
- c) according to the Constitutional Court case of The UDM vs the Speaker of Parliament, the Speaker must preside over this motion process and she must also decide if she is going to allow a secret ballot in this motion, or not. If the Speaker decides that she is not going to allow a secret ballot, then according to the Constitutional Court ruling, she must provide the Council with a report regarding her fair and valid reasons, of why she has decided against a secret ballot vote in favour of a vote of show of hands.


- d) In line with the provisions of Rule 13(6) of the Standing Rules and Orders, if the Speaker decides on a secret ballot vote, then she must ensure that the process of voting is free, fair and transparent.
- e) that the entire deliberations regarding the motion of no confidence must be considered in the in-committee Council meeting.

SUBMITTED BY:



.....
ADV. NKATEKO MPANGANE
HOD: CORPORATE SERVICES

SUPPORTED/ ~~NOT-SUPPORTED~~



.....
MR TEBOGO MOTLASHUPING
ACTING CITY MANAGER

RECOMMENDED/ ~~NOT RECOMMENDED~~



.....
MR. PAUL MASEKO
NATIONAL CABINET REP

APPROVED/ ~~NOT APPROVED~~



.....
CLLR. SB LOCKMAN-NAIDOO
SPEAKER

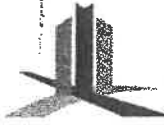


"ANNEXURE A"

Office of the City Manager

12-08-2022

Mangaung Metropolitan
Municipality



MANGAUNG

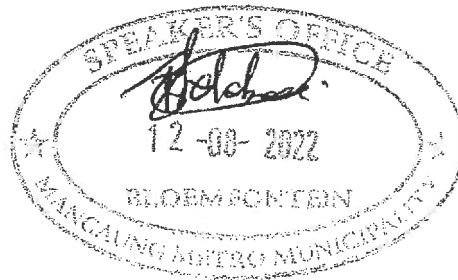
METRO MUNICIPALITY
METRO MUNISIPALITEIT
LEKGOTLA LA MOTSE

DIRECTORATE
CORPORATE SERVICES

11 August 2022

Mr. Motlashuping
The Acting City Manager
Mangaung Metro Municipality
Bram Fischer Building
Bloemfontein

Cllr S Lockman
The Speaker
Mangaung Metro Municipality
Bram Fischer Building
Bloemfontein



BY HAND AND E-MAIL

MOTION OF NO CONFIDENCE IN THE COUNCIL WHIP

In terms of rule 29 of the Standing Rules and Orders, the Freedom Front Plus hereby submits a motion of no confidence in the Council Whip of the Mangaung Metro Municipality, councillor Vumile Nikelo. The motion is submitted by councillor Elizabeth Snyman-Van Deventer and seconded by councillor Braam Vorster.

The motion of no confidence is based on

- i) the non-compliance of the council whip to fulfill his duties, obligations, and responsibilities in terms of section 41B of the Municipal Structures Act 117 of 1998 as amended;
- ii) the council whip ignoring the separation between his political party and its governing structures and the government being Council and the Mangaung Metro Municipality;
- iii) the council whip acting outside the scope and the authority of his position as council whip;
- iv) the council whip abusing his office for party-political purposes;
- v) the council whip contravening the Code of Code of Councillors.

The motion is based on evidence from

- i) the letter freely available on social media;
- ii) the media; and
- iii) complaints from councillors.

A. The Council Whip did not comply with the following legislation:

Municipal Structures Act 117 of 1998 as amended

Functions of whip 41B.

The whip of a municipal council—

- (a) liaises with the different political parties to ensure representation in council and council committees;
- (b) maintains sound relations between the various political parties;
- (c) informs the whips of all parties on important matters on the council agenda;
- (d) assists the Speaker to count votes in the council meeting;

(e) facilitates the interaction between the executive and legislative oversight structures in the municipality; and

(f) resolves disputes between the Speaker, mayor or executive mayor, or members of the mayoral committee.

The council whip fails in his duties as set out in section 41B as he:

a) fails to comply with his duties as set out in section 41B;

b) does not inform whips of all the parties regularly before all council meetings on important matters on the council agenda, e.g., there are no whipper meetings before every council meeting;

c) does not facilitate the interaction between the executive and legislative oversight structures in the municipality, e.g., he did not assist MPAC with its original problems of establishing an office to fulfill its legislative duties; he does not assist Council in its oversight duties and does not support Council in investigating corrupt officials.

B. Ignoring separation between party and government/state; acting outside the scope of his authority; and contravening the Code of Conduct of Councillors

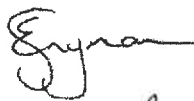
The letter, dated 5 August 2022, written to the elected Speaker, Executive Mayor, and Deputy Executive Mayor of Council by the Council Whip, illustrates his ignorance of i) his duties and functions (as already set out above) and ii) the separateness between his party, the ANC, as governing party and Council as a separate organ of state.

In the letter, the absolute disregard for legislation and ignorance displayed by the Interim Regional Committee of Mangaung and the Council Whip, is totally against the duties and responsibilities of the Council Whip as well as the division of power between the ruling party and the state/government. ANC is not the government but only the ruling party within the government. The Interim Regional Committee of Mangaung and the Council Whip blatantly ignored the division between party and government, and the Interim Committee also placed itself above the elected councillors. To instruct the Speaker to not convene council meetings because of the internal ANC faction

fightings, impede the working of Council and the duly elected councillors representing the community. The interim committee was not elected by the residents of Mangaung and should therefore not intervene in the workings of the Mangaung Metro Council.

Using a Mangaung Metro official letterhead for his letter, he is abusing his position as council whip and instructing the Speaker to act unconstitutionally. The Council Whip (and the Interim Committee) does not have the authority, either through legislation or the Standing Rules and Orders of Council, to give instructions to the Speaker (and the Executive Mayor and the Deputy Executive Mayor). The Council Whip is not only acting outside his authority as council whip in terms of the Structures Act, but he is also requesting the Speaker to act in such a way that can lead not only to the collapse of Council but may also to the further deterioration of basic service delivery in Mangaung. If Council can not be convened as necessary, whether for special council meetings or ordinary council meetings, it can be detrimental to the working of Council and the Metro and may lead to non-compliance and impact on service delivery. This can also be seen as a breach of the Code of Conduct of Councillors.

Signed:



Cllr E Snyman-Van Deventer



Cllr B Vorster

ANNEXURE B



Date: 18 August 2022

THE SPEAKER
MANGAUNG METROPOLITAN MUNICIPALITY
Cllr Stefani Lockman-Naidoo

THE MUNICIPAL MANAGER
MANGAUNG METROPOLITAN MUNICIPALITY
Mr Tebogo Motlashuping

MOTION OF NO CONFIDENCE: COUNCIL WHIP, CLLR NIKELO (VUMILE EDWIN)

The Democratic Alliance in accordance with rule 29 of the council's standing rules and orders hereby table a Motion of No Confidence against the Council Whip, Cllr Vumile Edwin Nikelo, by Cllr Maryke Davies and seconded by Cllr Johan Pretorius.

We request a secret ballot, to ensure Councillors are not intimidated or victimised for voting according to their conscious.

The following reasons are tabled:

A) Failing duties according to the Municipal Structures Act – Part 3, ss 41B (b)
The whip of a municipal council maintains sound relations between the various political parties; Since the inauguration of Council in November 2021 and the election of Cllr Nikelo as Council Whip, only four multi-party whippery meetings have taken place. No minutes of these meetings have been supplied to whips, even though it has been requested on numerous occasions and the Council Whip, Cllr Nikelo confirmed it will be supplied. Tasks assigned to the Council Whip, Cllr Nikelo to assist political parties in their daily functions are not performed and no feedback is supplied on the progress i.e. Political Party office space, the appointment of Personal Assistants of Political Parties etc. Invitations to whips to attend meetings or deliberations sessions are sent on short notice i.e. the Ministerial Task Team visit 24 February 2022. We only received an invitation the prior evening at 20:00 to attend at 14:00 the following day.

B) Failing duties according to the Municipal Structures Act – Part 3, ss 41B (c)
The whip of a municipal council informs the whips of all parties on important matters on the council agenda; Since the inauguration of Council in November 2021 and the election of Cllr Nikelo as Council Whip, only one multi-party whippery meeting took place to discuss matters relating to the Budget and IDP on 13 June 2022. During previous terms, prior to a Council Meeting, a multi-party whippery meeting was called. Which ended with the tenure of the current Council Whip, Cllr Nikelo.



Instead of discussing matters with the whips of all political parties, the Council Whip, Cllr Nikelo invites ANC political party allies to “multi-party” whippy meetings to discuss voting on matters.

C) Failing duties according to the Municipal Structures Act – Part 3, ss 41B (d)

The whip of a municipal council assists the speaker to count votes in the council meeting; Since the inauguration of Council in November 2021 and the election of Cllr Nikelo as Council Whip, has not once gotten out of his council seat, to assist and ensure the counting of votes are correct. Instead during voting the Council Whip, Cllr Nikelo intimidates Council Members to vote in accordance with the ANC faction he belongs to.

D) Biased

The Council Whip, Cllr Nikelo sits on two chairs;

1. ANC Chief Whip
2. Mangaung Metro Council Whip

The mere fact that he occupies, both these seats, makes him biased in favour of the ANC. If the Council Whip, Cllr Nikelo was serious about being unbiased, he would have stepped down as ANC Chief Whip.

All political parties are allocated a Personal Assistant and office space, to assist with day to day functioning. This includes the ANC, even though they do not have ANC representation on the multi-party whippy, except for the Council Whip, Cllr Nikelo.

E) Conflation of State and Party

According to the Constitution of the Republic of South Africa – Chapter 10: Public Administration – Basic values and principles governing public administration:

195 (1) a: A high standard of professional ethics must be promoted and maintained.

195 (1) d: Services must be provided impartially, fairly, equitably and without bias.

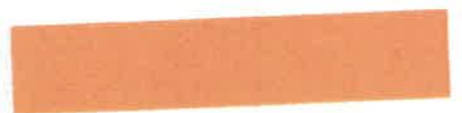
According to the Municipal Structures Act – Schedule 7 – Code of Conduct for Councillors:

Section 2: A councillor must-

- (a) perform the functions of office in good faith, honestly and in a transparent manner; and
- (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

Section 12: A councillor may not, except as provided by law-

- (b) give or purport to give any instruction to any employee of the council, except when authorised to do so;
- (d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.



The Public Protector also clearly states in the following reports that the conflation of state and party is improper and highly irregular.

1. Report No: 8 of 2011/12 - Report into the improper soliciting of businesses for donations to the ANC by the Executive Mayor of the Hessequa Municipality
2. Report No: 11 of 2015/16 – Political Ethics
3. Report No: 12 of 2015/16 – State and Party, blurred lines
4. Report No: 1 of 2016/17 – State and Party Colours

The letter dated, 5 August 2022 from the Council Whip, Cllr Nikelo immediately suspending all Council Meetings on instruction of the ANC Interim Regional Committee, is a complete conflation and even integration of party and state.

By doing so, the Council Whip, Cllr Nikelo ascribed the powers and functions of the Speaker, Cllr Lockman-Naidoo to himself, and transgressed the Constitution of the Republic of South Africa and the Municipal Structures Act.

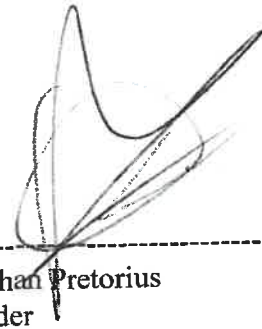
The Council Whip, Cllr Nikelo's actions compromises the credibility and integrity of Mangaung Metro and is not in the best interest of the municipality.

His actions contribute to maladministration in the Council, which creates instability, with the knock on effect of Council being dissolved.

The Council Whip, Cllr Nikelo has shown on numerous occasions he is not here to serve Council and the residents of Mangaung Metro, but rather to ensure the ANC faction, which he forms part of, gains control in Mangaung and their manifesto is enforced. He places his ANC Chief Whip position first (party) and his position as Mangaung Council Whip (state) on the backburner.



Cllr Maryke Davies
Proposer



Cllr Johan Pretorius
Secunder

ANNEXURE 'C'



OFFICE OF THE
SPEAKER

PO Box 3704, Bloemfontein, 9300
7th Floor, Bram Fischer Building, De Villiers Street, Bloemfontein
Tel: +27(0)51 405 8667/8642, Fax: +27(0)51 405 8676

Your Ref:

Our Ref: 4/4/1

Room 701, Bram Fischer Building

Date: 17 AUGUST 2022

**COUNCILLOR VUMILE NIKELO
COUNCIL WHIP
MANGAUNG MUNICIPALITY**

Dear Councillor

**REQUEST TO RESPOND TO THE MOTION OF NO CONFIDENCE AGAINST THE
COUNCIL WHIP SUBMITTED BY THE FREEDOM FRONT PLUS**

The office of the Speaker, received a written motion from the Freedom Front Plus on Monday, August 15, 2022. This motion had been submitted in line with the provisions of Rule 29, of the Standing Rules and Orders of the Mangaung Municipal Council. And you are therefore accorded an opportunity to reply in writing on the attached motion. Kindly further note that your written response should be circulated to all council members during the Municipal sitting.

As you would be eloquent of the program of Council, August is a compliance reporting month, and the Municipal Council will be considering all the compliance reports on the 31 August 2022 and thus this motion of no confidence is scheduled on the same Council sitting.

Your cooperation is appreciated in anticipation

Regards,

.....
**COUNCILLOR STEFANI LOCKMAN-NAIDOO
SPEAKER
AUGUST 17, 2022**

Copies to:

**Executive Mayor
Acting City Manager**

MANGAUNG METROPOLITAN MUNICIPAL COUNCIL



STANDING RULES AND ORDERS BY-LAWS

**Passed by Council on 30 June 2016, Item 108A
PUBLISHED IN PROVINCIAL GAZETTE NOTICE № 44 of 15 July 2016**

**Amended by Council on 14 December 2017, Item 119.3
PUBLISHED IN PROVINCIAL GAZETTE NOTICE № 125 of 13 March 2020**

**Further Amended by Council on 27 October 2020, Item 107.2
PUBLISHED IN PROVINCIAL GAZETTE NOTICE № 78 of 27 November 2020**

BY-LAWS RELATING TO STANDING RULES AND ORDERS

FOR THE MEETINGS OF THE COUNCIL AND ALL ITS COMMITTEES

To provide rules of order regulating the procedures and conduct of meetings of the Mangaung Metropolitan Municipal Council and its Committees; and to provide for matters incidental thereto.

PREAMBLE

WHEREAS a Municipal Council must strive within its capacity to achieve the objectives set out in section 152 of the Constitution which is to provide democratic and accountable government to local communities; to ensure the provision services to communities in a sustainable manner; to promote social and economic development; to promote a safe and healthy environment and to encourage the involvement of communities in the affairs of local government;

WHEREAS Councillors are elected to represent local communities on Municipal Councils to ensure that municipalities have structured mechanisms of accountability to local communities and to meet the priority needs of communities;

WHEREAS Councillors are elected to guide the development of policies, make by-laws, set service standards and priorities, and monitor the performance of the municipal administration;

AND THEREFORE BE IT ENACTED by the Council of the Mangaung Metropolitan Municipality as follows: -

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1. Application of rules

- 1.1 The rules of order contained herein apply to all meetings of the municipal council and any committee of the municipal council as well as any other committee of councillors established within the municipality, unless the terms of reference for a specific structure explicitly excludes the application of the rules for such structure.
- 1.2 The rules are aimed at allowing free, open and constructive debate during meetings. The rules are encouraged and promote freedom of expression in such a manner that orderly debate is ensured within the time constraints of time allocated to meetings.
- 1.3 The rules endeavour to create the opportunity for councillors serving in council structures to air their view on any matter of public importance.
- 1.4 The rules of order are applicable to:
 - 1.4.1 All councillors;
 - 1.4.2 Traditional Leaders participating in Council and its committees in terms of section 81 of the Municipal Structures Act;
 - 1.4.3 Any municipal official of the municipality; and
 - 1.4.4 Any member of the public while present in the council chamber and precinct.

2. Definitions

- 2.1 The following terms and phrases used in these rules shall have the meaning assigned to them hereunder:

“**Chief Whip**” shall mean the person elected as the Chief Whip of the Council;

“**City Manager / Municipal Manager**” shall mean the person appointed by the Council of the Municipality as Municipal Manager/City Manager and shall include any person acting in that position or to whom authority is delegated.

“**Committee**” shall mean any committee established in the municipality, including committees established in terms of section 79 and 80 of the Structures Act;

“**Constitution**” shall mean the Constitution of the Republic of South Africa, 1996;

“**Council**” shall mean the full complement represented/ reflective of all political parties within it;

“**Councillor**” shall mean a member of the council of the municipality;

“**Day**” shall refer to any day (period of 24 hours) of the week including a public holiday, Saturday or Sunday and for the calculation of days the first day will be excluded and the last day will be included;

“**Executive Mayor**” shall mean the Executive Mayor of the municipality as elected in terms of section 55 of the Structures Act;

“**Hour**” shall refer to any hour (period of 60 minutes) of the day, including any hour of a public holiday, Saturday or Sunday, and for the calculation of hours the first hour will be excluded and the last hour will be included;

“**In Committee**” shall mean the part of the meeting of the municipal council where the meeting will be closed and members of the public and press, and such municipal officials as determined by the Speaker, excluding the Municipal Manager, will be excluded from the meeting, based on the nature of the business being transacted;

“**Mayoral Committee**” means the committee appointed by the Executive Mayor in terms of section 60 of the Structures Act;

“Member” shall mean a councillor serving in the municipal council of the municipality;

“Motion” shall mean a matter submitted by a member in accordance with section 29 of this bylaw;

“Municipality” shall mean the Mangaung Metropolitan Municipality;

“Petition” means a written statement, proposal or grievance addressed to the municipality or an office-bearer or employee of the municipality and signed by more than five residents within the municipal area or a part thereof;

“Point of order” shall mean a point raised by a councillor during the council meeting and shall only relate to a matter of procedure and provided for in the rules of order;

“Privilege” shall mean the right of freedom of speech for councillors in council and committee meetings, subject to the rules of order of any ruling of the Speaker in terms thereof as well as the right not to be held liable for civil or criminal proceedings for anything they said, produced or submitted to the Council or Committee;

“Procedural motion” shall mean a matter raised by a member at a meeting in terms of section 29;

“Report” shall mean any item appearing on the agenda for consideration by the council or a committee;

“Sargent-at-arms” shall mean a person in the full time employment of the municipality entrusted to assist the Speaker to maintain order during council meetings and assisted by such staff members as the Speaker may direct;

“Senior managers” shall mean the persons appointed by the council as the municipal manager and all managers directly accountable to the municipal manager as approved on the official organisational structure of the municipality

“Speaker” shall mean the person as elected in terms of section 36 of the Structures Act;

“Special meeting” means a meeting called or convened to consider and decide on specific reports, motions or proposals relating to compliance issues and/or only urgent reports contained in the notice and agenda for such meeting;

“Structures Act” shall mean the Local Government: Municipal Structures Act, 1998;

“Sub-committee” means any other committee, other than the mayoral committee or committees appointed by the council;

“Systems Act” shall mean the Local Government: Municipal Systems Act, 2000;

“Traditional Leader” shall mean a Traditional Leader identified by the MEC to participate in the proceedings of a municipal council in terms of section 81 of the Structures Act;

“Whip” shall mean a member of the municipal council appointed by each political party represented in the council to perform the function

3. Meeting of council open to public

3.1 The Council shall conduct its business in an open manner and every meeting of the council and all committees, including the mayoral committee shall be open to the public; provided that this section shall not apply when it is reasonable to do so having regard to the nature of the business being transacted in terms of Section 20 (1)(a) and (b) of the Systems Act.

3.2 The Council will deal in Committee when discussing any of the following matters:

3.2.1 a trade secret or confidential commercial information of any supplier of the municipality or any person rendering a service to the municipality;

3.2.2 personal and private information of any councillor or an employee of the municipality;

3.2.3 the intention of the municipality to purchase or acquire land or buildings;

3.2.4 the price a municipality may offer for the purchase or acquisition of land or buildings;

3.2.5 any report addressing legal proceedings that the municipality is involved in or contemplating instituting or defending;

3.2.6 disciplinary proceedings or proposed disciplinary proceedings against any employee;

3.2.7 any matter that might not be disclosed in terms of legislation;

3.2.8 consideration of the minutes of previous in Committee discussions.

3.2.9 A councillor may, when an item in the agenda is put to order, other than a matter referred to in paragraph 3.2 above, and provided it is not a matter that is required in law to be dealt with in open council, propose with motivation, that the matter be further dealt with in Committee. The ruling of the Speaker in this regard will be final and no further discussion will be allowed.

4 Council meetings

4.2 The Council shall hold an ordinary meeting for the transaction of business not less than once in every three months/monthly.

5 Special council meetings

5.1 The Speaker may at any time of own accord and shall, upon request in writing of a majority of the councillors of the municipality, call a

special meeting of the council, provided that no such special meeting shall take place unless all councillors were given at least 48 hours' notice prior to the date and time set for the meeting.

5.2 In the event where the Speaker fails and/or refuses to call a special meeting when requested in accordance with 5.1 above, the City Manager of the municipality may call the meeting.

5.3 The Speaker shall explain prior to the commencement of the special meeting why matters in the agenda are of special nature and the rational reasons for convening the Council.

6 Service of notices

6.1 The City Manager must, unless otherwise provided for in these rules, at least forty eight (48) hours, give notice in writing of the date, venue and time for the holding of an ordinary or special meeting. All relevant and required documentation shall be delivered to all council members within the municipality as determined by the council from time to time, sent by electronic mail to an address provided by the councillor as his/her official address/mail address".

6.2 A request to call a Special meeting must set out the matter to be dealt at the Special meeting. No business other than specified in the notice convening a Special Council meeting as set out in the request referred to sub-rule 5.1. mentioned above.

6.3 The City Manager must fully comply with and issue relevant notice, documentation and annexures of the meetings referred to above, to enable members to prepare adequately.

7 Non-service of notices

7.1 Accidental omission to serve on any councillor a notice of meeting shall not invalidate the proceedings of that meeting.

8 Urgent matters

8.1 No business shall be transacted at a meeting of the council or any committee other than that specified in the agenda relating thereto, except any matters which the relevant chairperson considers urgent and the said chairperson has ruled the matter to be urgent.

8.2 The Speaker may raise matters which in his/her discretion is urgent, for decision by the council. A matter will be deemed urgent when the decision required, if delayed, would prejudice the Council and/ or its operations.

8.3 For all urgent matters a threshold of majority of members present at the meeting should vote in favour of the urgent matter in order to be deliberated.

8.4 The Speaker or chairperson of the meeting will determine an appropriate time when the City Manager may raise urgent matters and the time available for discussion thereof; Provided that the Speaker may rule that the matter is not urgent as defined in 8.2 above.

9 Conduct at meetings

The Speaker or the chairperson of the meeting in the event of a meeting other than a council meeting shall:

9.1 Maintain order during meetings.

9.2 Ensure compliance with the Code of Conduct for Councillors during meetings.

9.3 Ensure that meetings are conducted in accordance with the rules.

9.4 Ensure that members conduct themselves in a dignified and orderly manner during meetings.

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

9.6 Ensure that members of the public attending meetings are seated in areas designated for that purpose.

9.7 Ensure that members of the public attending meetings conduct themselves in an orderly manner and obey any ruling made by the Speaker or chairperson of the meeting.

9.8 Ensure that any councillor or member of the public refusing to comply with the ruling of the Speaker or chairperson leaves the meeting.

9.9 Ensure that the Whip of each political party represented in the municipal council as well as the Chief Whip of Council maintains discipline during any meeting.

10 General powers and duties of chairpersons

10.1 The chairperson at a meeting must-

(a) ensure that the meeting or hearing at which he or she presides is conducted in accordance with these rules and orders;

(b) when requested to do so, interpret these rules and orders;

(c) reject any motion, proposal or question which in his or her opinion-

i. may lead to the discussion of a matter already contained in the agenda for that meeting;

ii. advances arguments, expresses opinion or contains unnecessary tactless, incriminating, disparaging or improper suggestions;

iii. may encourage, engender, advocate or aggravate hatred, discrimination, exclusion, restriction, ridicule, contempt or preference based on colour, descent, race, ethnicity, gender or religion so as to cause harm, hostility, degradation, violence or which insults, degrades, defames or encourages abuse of any racial, ethnic, gender or religious group, through the uttering of words, whether in writing or orally, or the performance of deeds;

iv. contains unwelcome suggestions, innuendoes, remarks or hints of a sexual nature, sexual advances, comments with sexual overtones, sex-related jokes or insults or unwelcome graphic comments of another person's body;

- v. contains threatening, abusive or insulting language towards an employee which causes that employee harassment, alarm or distress due to any alleged, suspected or proven act, omission or statement by that employee in the exercise of any of his or her rights or the discharge of any of his or her duties so as to harass or cause or advocate unfair treatment of that employee;
 - vi. does not pertain to the governance, administration or management of, or the conditions in, the municipality;
 - vii. may be contrary to these rules and orders or any other law, including a bylaw of the municipality, or against the values generally existing in the community;
 - viii. may have an impracticable result or cause uneconomical, inefficient or ineffective use of resources or will be incapable of execution; or
 - ix. may result in unauthorised expenditure;
 - (d) reject any motion, proposal or question regarding a matter-
 - i. beyond the municipality's executive or legislative authority unless, on the face of it, the proposal intends to convince the meeting to make representations with regard to that matter to a body or institution which has such authority; or
 - ii. which a decision of a judicial or quasi-judicial body is being awaited;
 - (e) reject any motion, proposal or question which-
 - i. is not properly seconded;
 - ii. on the face of it, may threaten or affect a fundamental right of any person; or
 - iii. is unclear;
 - iv. any proposal that a part of a meeting or a meeting be closed that does not comply with rule 9)
 - (f) call the attention of any person at the meeting to-
 - i. irrelevance, tedious repetition or language unbecoming; or
 - ii. any breach of order by a councillor or such other person;
 - (g) submit every report, motion and proposal made and seconded to the vote;
 - (h) declare the result of any vote in terms of paragraph (h); and
 - (i) instruct any member of the public or media and any employee of the council who may be present at a meeting to leave the meeting when the meeting resolved to close any part of its session and not to return to it until the meeting continues in public.
- 10.2 The chairperson's ruling with regard to a report, motion, proposal or question is final. When a ruling is made, the chairperson must state the grounds for the ruling.
- 10.3 The chairperson's interpretation of the rules and orders or a ruling as to procedure is final, provided that-
- (a) if the interpretation or ruling is contested or called into question, the chairperson must, at the first meeting next ensuing, provide a written interpretation or ruling;
 - (b) a councillor may request that the chairperson provide a written interpretation or ruling at the first meeting next ensuing;
 - (c) the council or committee, as the case may be, may upon receipt of such written interpretation or ruling, consider the matter and amend or substitute the interpretation of the chairperson.
- 10.4 The chairperson may, in performing his or her functions and powers-
- (a) consult with the municipal manager;
 - (b) direct any person who is speaking to discontinue his or her speech or to desist from breaching the order or to discontinue making interjections;
 - (c) direct any person to apologise for or to apologise for and withdraw any allegation, statement or remark if it is unbecoming, unnecessarily tactless, incriminating, disparaging, improper, racist or sexist or inciting violence or injures or impairs the dignity or honour of a councillor or employee of the municipality;
 - (d) direct any person who persist in disregarding the chairperson or who obstructs the business at a meeting, to retire from the meeting; and
 - (e) instruct any person to leave a meeting if the meeting resolve to close its session or any part of it.
- 10.5 If a person refuses to retire from a meeting or hearing after having been directed in terms of sub-rule (9)(8) or (9), the chairperson may direct Sargent-at-arms to remove that person or cause his or her removal and to take steps to prevent that person from returning to the meeting or hearing.
- 10.6 The chairperson may change the order of business at the meeting despite any provisions to the contrary herein.
- 11 Interpretation of rules**
- 11.1 The ruling of the Speaker or the chairperson in the event of a meeting other than a council meeting, with regard to the application and interpretation of the rules as well as other procedural matters not dealt with in the rules shall be final and binding: Provided that the Speaker/chairperson may be required to provide reasons for a ruling.
- 11.2 Any ruling made by the Speaker must be made having due regard to the provisions of the Constitution, national and provincial legislation, municipal by-laws and policies, the rule of law and the rules of natural justice.
- 11.3 Any interpretation and ruling made by the Speaker should be registered by the City Manager in such register kept for this purpose by the City Manager and kept for safekeeping similar to the agendas and minutes of all meetings.
- 12 Quorum and acts of council**
- 12.1 A majority of the councillors must be present at a meeting of the council before any matter may be considered and/or voted on.

12.2 In the event of no quorum for a meeting, the meeting must be suspended for no more than 20 minutes, and if at the end of the said period there is still no quorum, the Speaker or chairperson may suspend the meeting for such a period he/she deems fit and thereafter adjourn the meeting to another date, time and/or venue.

13 Decisions and Voting

13.1 Subject to 13.3 below, all matters will be decided by a majority of councillors present at the meeting.

13.2 Before a formal vote is taken on any matter before the Council, the Speaker shall cause the bells to be rung for a period of 1 minute, after which all doors shall be closed and no member or other person shall be allowed to enter or leave the chamber.

13.3 Any matter referred to in section 160(2) of the Constitution shall be decided on by a majority of the councillors in the municipal council.

13.4 If on any question there is an equality of votes, the Speaker or chairperson of the Committee may exercise a casting vote in addition to that particular councillor's deliberative vote, provided that the casting of such vote shall fall within the ambit of the powers duly delegated to the relevant committee: Provided that for those matters listed in section 160(2) of the Constitution, there will be no provision for a casting vote.

13.5 If the Speaker or chairperson of a meeting asks the meeting if it is in agreement with the recommendations and if it is not opposed by any member present, the recommendations are adopted.

13.6 In the event of there being opposition to a recommendation, the proposal to be decided upon will be done by means of voting, either by show of hands or if requested and approved by the Speaker or chairperson, by way of secret ballot.

13.7 The City Manager or an official designated by him shall count the votes and declare to the chairperson the result of the divisions. In the event of a secret ballot, the municipal manager shall hand to each councillor a ballot paper bearing the official mark or logo of the municipal council, and having the alternates to be voted for clearly depicted thereon, substantially in accordance with the following:

Logo

Date:.....

Proposal or motion to be voted for	Councillor's vote (X) : For or against
1.	
2.	

13.8 The municipal manager shall collect all the ballot papers and count same in the presence of a representative from each party represented on the council or committee and present at such meeting.

13.9 The Speaker or chairperson shall thereupon declare the motion carried or lost, and it shall be entered upon the minutes.

13.10 The number of members voting will be recorded, and the general result of the vote. The outcome of the voting will be announced by the Speaker.

13.11 A member may abstain from voting without leaving the chamber.

13.12 A member/political party may request that his/her support, dissent and abstention be recorded in the minutes of the meeting.

14 When councillors may not attend and participate in the proceedings of the council, mayoral committee, portfolio committee or sub-committee

A councillor shall-

14.1 Disclose to the council, or to any committee of which that councillor is a member, any direct personal or private business interest that the councillor, or the spouse, partner or business associate of that councillor may have in any matter before the council or the committee.

14.2 Withdraw from the proceedings of the council or committee meeting when the matter is being considered by the council or committee, unless the council or the committee decides by resolution, that the councillor's direct or indirect interest in the matter is trivial or irrelevant. A councillor who has so disclosed his/her interest may, with the approval of majority of the members of the council or its committee, address the council or committee on the matter prior to the deliberation and vote on the matter taking place, subject always to the ruling of the Speaker or chairperson on the time to be allowed for such an address.

14.3 A councillor who, or whose spouse, partner or business associate or close family member, acquires or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council or committee of the council at which it is possible for the councillor to make a disclosure.

14.4 This provision does not apply to an interest or benefit which a councillor, or a spouse, partner or business associate or close family members, has or acquired in common with other residents and ratepayers of the municipality.

15 Walkout

15.1 If a councillor or group of councillors leave any meeting in protest, and the remainder of the councillors constitute a quorum the business of the meeting shall be proceeded with.

16 Count out

16.1 If during any sitting of the council or any committee, the attention of the Speaker or chairperson is called to the number of members present, he/she shall count them, and if found that there is not a quorum present, the matter shall be dealt with in accordance with 12 above.

17 Adjourned meetings

17.1 The council or a committee may adjourn a meeting to any date or hour, but no business shall be transacted at any adjourned meeting except such as was set out in the notice for the meeting of which it is an adjournment.

18 Notice of adjourned meeting

18.1 When a meeting is adjourned, notice of the adjourned meeting shall be sent out to each member of the council or committee, specifying the time, date and place of such adjourned meeting, except under the circumstances contemplated in 34 below.

19 Chairperson of meetings

19.1 At every meeting of the council the Speaker, or if he/she is not present, an Acting Speaker shall be the chairperson. An acting Speaker may be elected by the majority of councillors present at any meeting of the council where the Speaker is not present.

19.2 The Executive Mayor shall chair meetings of the Mayoral Committee and if not present, the Deputy Executive Mayor or if the Deputy Executive Mayor is also not available, any other councillor appointed by a majority members of the mayoral committee in attendance.

19.3 The chairperson appointed by the Executive Mayor shall chair meetings of the portfolio committees.

19.4 The person so nominated by the council or Executive Mayor shall chair meetings of committees and sub-committees; Provided that where no such person was nominated the members present may elect their own chairperson.

20 Agenda

20.1 Subject to 19.2 and 19.3 above, all meetings must be conducted in accordance with the order in which matters appear on the agenda and only matters which appear on the agenda may be debated.

20.2 The Speaker or chairperson may, after considering a duly motivated request, change the order of matters appearing on the agenda.

20.3 The Speaker or chairperson may, after considering a duly motivated request, direct that a matter be moved between the confidential and open parts of the agenda.

21 Business at council meetings

21.1 The order of business at every ordinary meeting of the council, the executive committee / mayoral committee or a committee is as follows:

Council	Mayoral Committee	Committee
<ul style="list-style-type: none"> • Opening: Moment of reflection. • Notice of the meeting. • Applications for leave of absence. • Acceptance of the agenda. • Declaration of interest. • <u>Announcements</u> • Presentations. • Confirmation of minutes from previous minutes. • Outstanding matters / Referred back • Reports from the Speaker • Reports of the Executive Mayor, under the sections: recommendations to the council, decisions under delegated authority and decisions of the Executive Mayor taken with the Mayoral Committee. • Reports from MPAC. • Report from the Audit Committee. • Reports on ward committees / consolidated report on ward committees. • Report on SALGA activities. • Monthly Activities. • Input by the Traditional Leader. • Reports for noting. • Reports for consideration. • Reports - In-Committee. • Notice of Motion. • Questions. • Urgent reports - allowed only with the consensus of the chairperson. 	<ul style="list-style-type: none"> • Opening: Moment of reflection. • Notice of the meeting. • Applications for leave of absence. • Acceptance of the agenda. • Declaration of interest. • <u>Announcements</u> • Presentations. • Confirmation of minutes from previous minutes. • Outstanding matters / Referred back • Reports from Portfolio Committees. • Reports from Audit Committees. • Reports for noting. • Reports for consideration. • In-Committee reports. • Urgent reports allowed-only with the consensus of the chairperson. 	<ul style="list-style-type: none"> • Opening: Moment of reflection. • Notice of the meeting. • Applications for leave of absence. • Acceptance of the agenda. • Declaration of interest. • <u>Announcements</u> • Presentations. • Confirmation of minutes from previous minutes. • Outstanding matters/ Referred back • Reports for noting. • Reports for consideration. • In-Committee reports. • Notice of Motion. • Urgent reports allowed only with the consensus of the chairperson.

22 Leave of absence

22.1 Applications for leave of absence from any council or committee meeting must be submitted to the Speaker or the chairperson in writing and signed by the member applying for leave.

- 22.2 All applications for leave must be submitted at least 12 hours before the starting time of the meeting.
- 22.3 The Speaker or chairperson shall grant leave at his or her discretion, and the Speaker is at liberty to reject such application for leave of absence.
- 22.4 Leave will be deemed to have been granted if a councillor has been delegated to attend a meeting or engagement on behalf of the council.
- 23 Minutes to be kept and confirmation thereof**
- 23.1 Minutes of the proceedings of every meeting of the council and committee, shall be electronically or otherwise recorded and be kept for that purpose by the Head: Corporate Services. The City Manager shall be responsible for the correctness of the same, and the minutes of every meeting shall be confirmed at the next ordinary meeting.
- 23.2 Minutes of the proceedings of every meeting of the council or a committee shall be word processed or typed and printed, and shall if confirmed, be signed at the next ensuing ordinary meeting by the chairperson. Minutes shall be bound and kept secure.
- 23.3 The City Manager must ensure that the minutes reflect the names of the members that attended the meeting, those that are absent and those that have been granted leave of absence.
- 24 No discussion on minutes under confirmation of minutes**
- 24.1 No motion or discussion shall be allowed upon the confirmation of the minutes, except as to its accuracy.
- 25 Petitions to be written, typed or printed**
- 25.1 Petitions, which must be clearly written, typed or printed, must be signed by not less than three citizens and must be couched in respectful language and presented to the office of the City Manager who shall, if he/she deems it necessary, bring the matter before the mayoral committee.
- 26 Deputations to submit memorandum**
- 26.1 Deputations wishing to be received by the mayoral committee shall be required, in the first instance to send a duly motivated memorandum in writing requesting same and the City Manager shall bring the memorandum before the mayoral committee, which it may authorise, if it sees fit to receive the deputation, and to report to the council forthwith.
- 27 Reception of deputations**
- 27.1 A deputation wishing to address the mayoral committee shall not exceed five in number, but only one member thereof shall be at liberty to address the committee (except in reply to questions from members of the committee) and only for a period not exceeding ten minutes. The committee shall not further consider the matter until the deputation shall have withdrawn itself from the meeting.
- 28 Moving a report**
- 28.1 The Speaker or chairperson shall move the recommendation contained in a report unless he/she shall have previously stated his/her disagreement with it. The chairperson of a committee or other member presenting a report may withdraw or amend any section with the consent of the committee, only if it has been established that a particular item or items in the original report was or were incorrectly recorded or it has been established that it would be in the best interest of the council not to adopt a recommendation or a part or parts thereof.
- 29 Motions**
- 29.1 No matter shall be brought before the council or a committee by any member of the council except upon a notice of motion, which shall be in writing and signed by the member giving the notice as well as the member seconding it: Provided that a person who has a personal electronic mail address from where he or she can be identified by the City Manager, can submit such motion by electronic mail/manual.
- 29.2 Any notice of motion shall be submitted to the Speaker or chairperson before 12:00, ten days prior to the meeting of the council or committee.
- 29.3 A motion shall lapse if the member who submitted the motion is not present at the meeting where the motion is to be debated.
- 29.4 A member submitting a motion shall introduce such a motion and shall have the right of reply thereto.
- 29.5 When a member introduces a motion which is intended to rescind or amend a resolution passed by the council in the preceding three months or which has the purport as a motion that was not supported within the three preceding months shall not be entertained.
- 29.6 When dealing with motions the motion shall be read out together with the number thereof and the name of the mover.
- 29.7 The Speaker or chairperson shall ascertain which motions are unopposed and these shall be passed without debate and thereafter the opposed motions shall be called in accordance with the order of the agenda.
- 29.8 All notices of motion shall be dated and numbered as received by the City Manager, and shall be entered on the agenda paper in the order in which it was received, save and except that notices of amendment to motions shall be entered immediately after such notice of motion, irrespective of the time at which the notice shall have been received.
- 29.9 No member shall have more than two notices of motion on the same agenda at the same time.
- 29.10 Before any notice of motion is placed on the agenda paper it shall be submitted to the City Manager who must obtain the written technical input from the various heads of department of the municipality, if it is required, and, who, if he/she be of the opinion that it is *ultra vires* existing legislation, shall cause the giver of the notice to be so informed. The giver of the notice shall however, have the right

to appeal to a sub-committee comprised of the Speaker, Executive Mayor and Whip of the Council, who shall review the matter and decide whether or not such notice of motion be placed on the agenda paper.

- 29.11 A motion affecting the making or amending of a by-law, shall be submitted to the Speaker for a report before the council passes a resolution in this regard.
- 29.12 The Speaker may disallow a motion which:
- May lead to discussions of a matter already dealt with on the agenda.
 - Addresses a matter where the Council has no jurisdiction.
 - Addresses a matter where a decision of a judicial or quasi-judicial body is pending.
 - Has not been seconded.
 - If passed, would be contrary to the law.
- 29.13 The mover with the consent of the seconder may withdraw a motion or amendment.
- 29.14 The Speaker or chairperson may call upon any mover of an amendment to a motion to reduce the same to writing, and, after signing it, to hand it to the Municipal Manager to read the amendments for the meeting to either adopt or reject such amendment.

30 Precedence of the Speaker

- 30.1 During the sitting of the council or a committee, members, except lady members and members in traditional, cultural or religious headdress shall have their heads uncovered.
- 30.2 When speaking, councillors shall stand, at all times, address their speech to the Speaker or chairperson of a committee meeting.
- 30.3 Whenever the Speaker or chairperson speaks, any member then speaking or offering to speak must be silent in order for the Speaker to be audible and speak without interruption.

31 Relevance

- 31.1 A member who speaks shall confine his/her speech strictly to the motion or matter under discussion or to an explanation or a question of order.

32 Councillor to speak one once

- 32.1 Except for otherwise provided for in these rules, no speaker shall speak more than once on any recommendation, motion or proposal, provided that the Executive Mayor or a member may reply in conclusion of a debate, but shall confine him/her to answering to previous speakers and shall not introduce any new matter into the debate.

33 Debate management

- 33.1 Time allocated to each political party or interest group will be determined by the Speaker, provided that all parties represented in Council have a right to speak on each item on the agenda relative to their representation in Council.
- 33.2 The Executive to be included in the allocated time proportion indicated above.
- 33.3 At least 24 hours before the meeting, the whip of each political party or interest group represented in the municipality will provide the Speaker or chairperson with a list indicating which items on the agenda are to be debated. (Only Budget meetings).
- 33.4 At least 12 hours before the meeting, the whip of each political party or interest group represented in the municipality will provide the Speaker or chairperson with a list indicating which members will speak on which item included in the agenda. (Only budget meetings).
- 33.5 Drawing items for deliberations by councillors during the Council meetings be allowed.
- 33.6 The Speaker will determine the allocation of time per item and inform the whips of the speaking time allowed to each member included in the list, based on the principle in 33.1 above.
- 33.7 Each political party or interest group represented in the municipality has the right to speak on each item on the agenda.

34 Length of speeches

- 34.1 No speech shall exceed five (5) minutes in length without the consent of the Speaker. This period shall exclude consecutive translation time required.
- 34.2 Except when a councillor or traditional leader is -
- (a) Delivering the speaker's or executive mayor's report; or
 - (b) Presenting the draft budget.
- 34.3 The Speaker or the chairperson shall be entitled to, at any time, to set, limit or extend reasonable time limits for the discussion of and/or any decision or any item or group of items on the relevant agenda.
- 34.4 The time limits shall be at the sole discretion of the Speaker or chairperson guided by the principles of fairness, democracy, efficiency and good governance.

35 Disorderly conduct of councillor and the duty of the chairperson

- 35.1 If at any meeting of the council or committee a councillor conducts himself or herself in an improper fashion, behaves in an unseemly manner or persistently obstructs business to be carried out or challenges the ruling of the Speaker or chairperson on any point of order or declines to withdraw an expression when required to do so by the chairperson or indulges in tedious repetition or unbecoming language or commits any breach of these rules, the chairperson shall direct such councillor to conduct himself or herself properly and, if speaking, to discontinue his/her speech and resume his/her seat, is he/she was standing.
- 35.2 In the event of persistent disregard of the directions of the Speaker or chairperson, the Speaker or chairperson shall direct such councillor to retire from the venue where the meeting is being held for the remainder of the meeting, and shall, if necessary, cause

him/her to be ejected there from.

- 35.3 The Speaker or a chairperson may exclude from a meeting, for such period of time during the meeting as he/she may deem fit, any member who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the chair, provided that a formal process will be initiated after the conclusion of the meeting.
- 35.4 Where a councillor refuses to retire or in the event of more than one councillor having to be ejected from the meeting, and such councillor/s refuse/s to leave the meeting, the Speaker shall request the Sargent at Arms to facilitate the removal of such councillor/s from the chamber. If this cannot be done orderly, the chairperson of a meeting may adjourn proceedings for a period not exceeding 15 minutes, in order for the relevant councillors to retire or to be ejected from the venue of the meeting. If, at the resumption of proceedings, the councillor/s have not left / been ejected, the meeting may be adjourned for another 10 minutes to address the situation. The chairperson may rule that after the second adjournment the meeting will re-convene at another venue and any councillor/s ordered to retire or so evicted or ordered to be evicted will be refused entry to the alternative venue. The Sargent at Arms of the council will ensure that such councillor/s do/does not enter such an alternative venue.

36 Obstruction by persons other than councillors

- 36.1 Any person, other than a councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the council or any committee at any meeting shall, if the Speaker or chairperson so directs, be removed from the chamber or the venue where the meeting is being held. If the person refuses to leave, the Sargent-at-arms will be responsible to remove such person from the meeting. The chairperson may exclude such person from further admittance to the council chamber or the meeting venue for such period as it may be deemed fit.

37 Points of order and personal explanation

- 37.1 Any member, regardless of whether he/she addressed the Council on the matter under debate or not, may:
- (a) Raise a point of order.
 - (b) Raise a point of personal explanation at the end of the debate.
- 37.2 Any point of order or personal explanation will not constitute a speech and will therefore not affect the right of any member to speak on a particular item, provided that the member will not be allowed to spend more than 2 (two) minutes on the point of order or personal explanation.
- 37.3 Any member contemplated in 36.1 shall be entitled to be heard and the councillor speaking at the time shall remain silent until a ruling has been made by the Speaker or chairperson.
- 37.4 The ruling of the Speaker or chairperson on a point of order or on the admissibility of a personal explanation shall be final and shall not be open to discussion, failure to adhere and respect the Speaker or chairperson, the Speaker may invoke 35.2 above
- 37.5 Any member persisting in a point of order or personal explanation after a ruling has been made by the Speaker will be subject to the provision of point 34 above.

38 Questions

- 38.1 Any member may submit a question requiring a written reply from any political office bearer, the municipal manager or senior manager of the municipality, concerning any matter related to the effective performance of the functions of the municipality and the exercise of its powers, provided that a written notice of such a questions has been submitted to the Speaker or chairperson and the municipal manager at least 10 (ten) days prior to the council or committee meeting and the political office bearer and the City Manager shall ensure that the member receive a written reply at the meeting.
- 38.2 If after the question has been replied to, a member is of the opinion that the reply is not clear or satisfactory, he or she may, with the permission of the Speaker or chairperson, request a follow up question, follow-up question should be in writing.
- 38.3 All questions duly given notice of and all responses submitted shall be recorded in the minutes of the meeting.

39 Terms of reference of sub-committees

- 39.1 Upon the appointment of any sub-committee the council a committee shall specifically determine the terms of reference of such sub-committee and shall fix the quorum of such sub-committee. The council's standing rules and orders shall apply to all sub-committees.

40 Council may increase or restrict powers

- 40.1 With the exception of the Mayoral Committee whose functions are determined in terms of the Structures Act, and the committees whose functions and powers are determined in terms of Section 80 of the Structures Act, the Speaker or the council may at any time extend, withdraw or modify the duties and powers of a committee or sub-committee appointed in terms of Section 79, respectively of the Structures Act. Extension or withdrawal of duties and powers of committees as contemplated should be within the Council policies and legislative provisions.

41 Minutes of Mayoral Committee, committees and sub-committees

- 41.1 Every committee, including the Mayoral Committee, except when specifically exempted from this provision by a resolution of the council in view of the sensitivity, confidentiality or otherwise of the subject matter of a particular meeting and provided the final resolution or recommendation is duly recorded in writing, shall record minutes of its proceedings and cause the same to be duly kept by the Head: Corporate Services.
- 41.2 At every ordinary meeting of a committee the unconfirmed minutes shall be taken as read, with a view to confirmation, provided that a

copy of such minutes shall have been sent to each member of the committee twenty-four hours previously. No discussion shall be allowed upon the minutes, except as to their accuracy save at portfolio committees and even then at the sole discretion of the chairperson.

42 Inspection of minute books by councillors

42.1 The minutes of every council or committee shall be open for inspection by every member of the council during office hours; provided the demands of duties of the registry and secretariat staff are taken into account.

43 Non-attendance of members of committees

43.1 Should any member of a committee fail to attend three consecutive meetings of the same committee of which he or she is a member, without leave of absence having been granted as contemplated in 22 above, he/she shall be required to submit a motivation for such absence and if the Speaker is not satisfied with such explanation, it shall be reported to the municipal council that the councillor is deemed to have forfeited his/her seat on such committee and such forfeiture shall be reported to the council or mayoral committee to the end that the vacancy may be filled by the council or mayoral committee.

44 Members of council attending committee meetings of which they are not members

44.1 Members of the municipal council may attend the meeting of any committee that they are not a member of, but will in all instances be granted the status of an observer and will not be allowed to participate or vote at such meetings.

44.2 The provisions of 44.1 will not be applicable to the Municipal Public Accounts Committee (MPAC) and members of the executive will be requested to attend the MPAC meeting and the request for attendance will specify the matters that the member of the executive will be expected to address the MPAC on.

44.3 The rules with regard to agendas as set out above will also be applicable to requests to attend MPAC and address it.

44.4 Any member of the executive requested to attend the MPAC may instruct the municipal manager or a senior manager to accompany him/ her to the MPAC meeting but may not instruct such official to appear and address the MPAC on his/her behalf.

45 Information to be obtained from municipal manager or the head of department concerned

45.1 Subject to the provisions of 38 above, members of the council who desire to obtain from any official of the council information with regard to the administrative work of the council, which is not accessible to the general public, should address their enquiries firstly to the Municipal Manager and then to the relevant senior manager.

46 Information to the press or other media: In-committee discussions

46.1 The Executive Mayor or in his/her absence, the Deputy Executive Mayor, Speaker and/or the City Manager in their discretion may, on application being made to him/her by any registered newspaper, radio station, television service or internet publisher, supply to such media or its representative, information and reports relating to the work of the municipality.

46.2 In view of the City Manager, the Speaker or the Executive Mayor being the authorised channel through which the media may receive information and reports, members of the council are therefore expected to refrain from sending to the media documents or information supplied to them with a view to their consideration by the council or any committee: Provided that this clause shall not be construed as abrogating a councillor's individual constitutional right to make press statements which reflect his/her own personal or political view and not that of the council, further provided however, that no discussion that took place in committee may be conveyed to the public or the press except by the Executive Mayor, Speaker or City Manager.

46.3 Chairpersons of committees must liaise with the Executive Mayor, Speaker and City Manager for the publication of any information relating to committee and the City Manager shall arrange, if approved, the publication of the relevant information.

47 Suspension of standing orders

47.1 No standing order shall be suspended without the vote of a majority of the members of the council; present which must be at least 60% of members present and a motion duly seconded to suspend the standing orders shall be put without debate.

48 Legal defence and indemnification of councillors and officers of the council

48.1 The council may determine the circumstances in which it will undertake the defence of or pay the legal costs or the total costs and the amount in respect of any legal proceedings, whether civil or criminal, a councillor or an official may have against any person, body, organisation or institution arising from the councillor's or official's capacity as a councillor or official of the Municipality.

49 Speaker may refer matters for legal advice

49.1 The Speaker shall be entitled, within the framework of the approved operational budget of the municipality and subject to the supply chain management policy, to refer any matter pertaining to the council and its proceedings, for legal opinion to the council's legal advisors.

50 Activities prohibited within the council chamber or a meeting venue and the use of the council chamber by other persons or institutions

50.1 The decorum of the council chamber as the official seat of governance of the Municipality shall at all times be respected and adhered to by any person or institution using the facilities.

- 50.2 The following activities are strictly prohibited from being conducted within the confines of the council chamber or a meeting venue of the council or its committees by any person:
- (a) Having a cellular telephone that is not on silent mode and speaking on a cellular phone during the meeting;
 - (b) Consuming any food or drink in his/her possession, excluding water provided at the meeting.
- 50.3 Caucus meetings of the various political parties may be held in the chamber provided it is booked with the Senior Committee Clerk prior to the meeting, and subject to such bookings to be on a rotational basis for all the parties.
- 50.4 The use of the council chamber by any other person or institution, other than a recognised committee, body of or person in the employ of the Municipality shall be subject to the approval by the Speaker and at all times subject to the availability thereof in terms of the council's calendar of use, and the purpose for which it is applied for. Applications for use shall be made in writing to the Speaker who shall confer with the Head: Corporate Services in making the venue available in writing.
- 50.A Determination of time and venue of meetings**
- 50A.1 Meetings not to be held on certain days and only at certain venues**
- (1) No meeting of the council or a committee of the council or a public hearing may be held on a Sunday or a public holiday.
 - (2) Meetings and hearings of the council and its committees must be held at a venue within the municipal area.
 - (3) When determining the venue for a meeting or hearing the relevant speaker or chairperson must take the following factors into account:
 - a) virtual meetings or hearings as an option and alternative to contact meetings or hearings in line with the provisions of the Disaster Management Act, 57 of 2002 and its Regulations;
 - b) the availability of room at the designated venue for members of the public and the media who wishes to attend the meeting;
 - c) the accessibility of the designated venue for members of the public and the media; and
 - d) reasonable steps that can be taken to regulate public access to such venue.
- 51 Ward committees**
- 51.1 The council may by resolution determine the rules of procedure for the election of ward committees, the procedures at meetings, the reporting rules, and the rendering of secretarial services to these committees.
- 52. Offences and Sanctions**
- 52.1 Any person who wilfully contravenes any provision of these rules shall be guilty of an offence and shall be subject to the following sanctions imposed by the council:
- 52.1.1 Having a fine imposed by the council as determined by it from time to time for the categories of offences as approved by it by resolution from time to time.
- 52.1.2 Be suspended from the attendance of council or committee meetings as the council may determine for such a period as the council may by resolution determine from time to time for the categories of offences as determined by it.
- 53. Dress code**
- 53.1 The Council may by resolution prescribe a dress code for councillors and traditional leaders attending meetings.
- 53.2 Councillors and other persons attending a meeting of the Council must be dressed in traditional or formal dress to the dignity of the Council. Provided that, if in the opinion of the Speaker, a councillor or any other person is not dressed properly, the Speaker may exclude that person from the Council meeting. No councillor shall be allowed to wear any clothing or accessory containing party political regalia to any Council or Committee meeting.
- 54. Repeal and Amendment of By-laws**
- 54.1 The Standing Rules and Orders By-laws as promulgated in the Local Government Notice No. 41 of 29 June 2001 are hereby repealed.
- 54.2 The Standing Rules and Orders By-laws as promulgated in the Provincial Gazette Notice No. 44 of 15 July 2016 are hereby amended.
- 55. Short Title and Commencement**
- 55.1 This By-law is called **Mangaung, Standing Rules and Orders By-law, 2016** and comes into operation on the date of publication thereof in the Free State Provincial Gazette.