Swartland, South Africa

Conduct of meetings By-law, 2022

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Swartland
South Africa

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Chapter 1
Introduction

1. Definitions

In this by-law, the English text prevails in the event of any conflict with the Afrikaans text, and unless inconsistent with the context—

"**Code**" means the Code of Conduct for Councillors set out in Schedule 7 to the Structures Act;

"**committee**" means a committee established by the Council in terms of section 79 of the Structures Act, and includes a committee appointed in terms of section 80 of the Structures Act;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**Council**" means the municipal council of the municipality;

"**councillor**" means a member of the Council, and includes a political office bearer as defined in section 1 of the Systems Act;

"**hybrid meeting**" means a meeting where some councillors are physically present in the meeting venue and some councillors attend the meeting virtually;

"**meeting**" means any meeting of the Council or a committee, as the case may be;

"**member of the public**" means a person who is not a councillor or a municipal employee and who attends a meeting, and includes—

(a) the media;

(b) a dignitary; and

(c) a representative of a sphere of government;

"**municipal employee**" means an employee of the municipality;

"**Municipal Manager**" means the municipal manager of the municipality as defined in the Systems Act;

"**municipality**" means the municipality of Swartland;

"**ordinary Council meeting**" means an ordinary meeting of the Council convened in accordance with section 6;

"**party whip**" means a councillor appointed by the councillor's party to perform the duties attached to the position of a party whip as contemplated in this by-law;

"**physical meeting**" means a meeting where councillors are physically present in the same venue;

"**platform**" means the virtual platform where a virtual meeting is held;

"**Provincial Minister**" means the member of the Provincial Cabinet responsible for local government matters in the Province of the Western Cape;

"**quorum**" in relation to—

(a) the Council, means a majority of the incumbent councillors; and

(b) a committee, means a majority of the incumbent members appointed to that committee by the Council;

"**Speaker**" means the Speaker of the Council elected in terms of section 36 of the Structures Act or the Acting Speaker elected in terms of section 41 of the Structures Act;

"**special Council meeting**" means a special meeting of the Council convened in accordance with section 7;

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

"**venue**" means the Council chamber or committee room where a physical meeting is held, unless otherwise determined by the Speaker or chairperson, as the case may be;

"**virtual**" means streamed live to the internet, using any or all of the following:

(a) Video;

(b) Text;

(c) Audio;

"**virtual meeting**" means a meeting where councillors are not physically present in the same venue and the meeting is conducted utilising virtual technology;

"**Whip**" means the councillor elected in terms of section 41A of the Structures Act; and

"**working day**" means any day of the week except—

(a) a Saturday, Sunday and public holiday; and

(b) when the Council is in recess.

2. Application and interpretation

(1) (a) Subject to paragraph (b), this by-law applies to all meetings of the Council and its committees.

(b) This by-law does not apply to the following committees:

(i) a committee established in terms of item 16(1)(b) of the Code;

(ii) a committee contemplated in section 62(4)(c)(ii) of the Systems Act; and

(iii) a mayoral committee contemplated in section 60 of the Structures Act.

(2) Unless it is inconsistent with the context or clearly inappropriate, a reference in this by-law to—

(a) the Council must be construed as a reference to a committee;

(b) the Speaker must be construed as a reference to the chairperson of a committee; and

(c) a councillor must be construed as a member of a committee.

(3) Except where it is clearly inappropriate, a section applying to a councillor in any proceedings also applies to a municipal employee and a member of the public who takes part in those proceedings.

(4) If, in terms of this by-law, a notice, motion, question, or request is required or permitted to be given in writing to any councillor or person, it is sufficient if it is transmitted electronically directly to that councillor or person.

(5) If, in terms of this by-law, a document is required to be published, provided or delivered, it is sufficient if an electronic original or reproduction thereof is published, provided or delivered by electronic communication: Provided that this sub-section does not apply to any publication to inform the public.

(6) If, in terms of this by-law, a document is required to be signed by—

(a) a single councillor or person, signing may be effected in any manner provided for in the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002); or

(b) two or more councillors or persons, it is sufficient if—

(i) all of those councillors or persons sign a single original of the document, in person or as contemplated in paragraph (a); or

(ii) each of those councillors or persons signs a separate duplicate original of the document, in person or as contemplated in paragraph (a), and in such a case, the signed duplicate originals, when combined, constitute the entire document.

(7) (a) In instances of urgency, during an emergency or where the Council considers that adherence to a section would be unreasonable and would prejudice the operation of a meeting, the Council may, with the approval of the majority of the incumbent councillors and for the duration of that meeting, temporarily suspend or relax the provisions of that section: Provided that the suspension or relaxation of a section—

(i) may not be in contravention of any national or provincial legislation or any by-law of the municipality; and

(ii) must relate to an item on the agenda for the meeting.

(b) The reasons for the suspension of the section must be recorded in the minutes.

(c) This sub-section does not apply to a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office contemplated in section 55.

3. Duty of Speaker, councillors, municipal employees and members of public

The Speaker, councillors, municipal employees and members of the public must familiarise themselves with this by-law.

Chapter 2
Meetings

4. Transaction and order of business

(1) The Council transacts its business at ordinary Council meetings and special Council meetings, convened for that purpose in terms of this by-law.

(2) The order of business in ordinary Council meetings is as follows, unless the order has been changed in terms of sub-section (4):

(a) election of Acting Speaker, if necessary;

(b) application for leave of absence;

(c) confirmation of minutes;

(d) statements and communications by Speaker;

(e) statements and communications by Whip, where applicable;

(f) statements and communications by Executive Mayor or Executive Mayoral Committee, if applicable;

(g) urgent matters submitted by the Municipal Manager;

(h) consideration of reports on delegated powers;

(i) consideration of reports;

(j) motions;

(k) questions;

(l) motions of exigency; and

(m) adjournment.

(3) The order of business of a special Council meeting is as follows, unless the order has been changed in terms of sub-section (4):

(a) election of Acting Speaker, if necessary;

(b) application for leave of absence;

(c) consideration of matters contained in the notice convening a special Council meeting or set out in the request contemplated in section 7; and

(d) adjournment.

(4) The Speaker may change the order of business appearing on the agenda or the Council may resolve accordingly.

(5) A councillor who wishes to have the order of business on the agenda changed, must approach the Speaker in this regard prior to the meeting.

5. Agenda

(1) (a) The Speaker or a person designated by the Speaker must prepare the agenda for a meeting in liaison with the Whip, where applicable, and the Municipal Manager.

(b) The Municipal Manager must assist the Speaker in preparing the agenda.

(2) The Speaker may at any time during a meeting introduce an urgent matter which does not appear on the agenda, unless—

(a) a councillor indicates the councillor's opposition to the introduction of the matter;

(b) the procedure contemplated in section 19 is followed; and

(c) the Council resolves otherwise with a supporting vote of a majority of the votes cast.

(3) Except as otherwise provided in this by-law or in terms of sub-section (2), a matter not appearing on the agenda may not be transacted at a meeting.

(4) The Speaker may refuse an item, motion or question to the agenda if such item, motion or question —

(a) falls outside the jurisdiction of the municipality;

(b) is racist in nature or advocates hate speech;

(c) is *sub judice*;

(d) does not comply with procedural requirements for submission of agenda items as provided for in this by-law;

(e) lacks sufficient information;

(f) violates legislation or is contrary to the law; or

(g) is of defamatory nature,

in which event the procedure in sections 37(3) and (4) must be followed.

6. Meetings

(1) The Speaker must—

(a) at least quarterly convene ordinary Council meetings; and

(b) ensure that the Council meets at least quarterly in accordance with section 18(2) of the Structures Act.

(2) The Speaker must decide whether a meeting should be a—

(a) physical meeting;

(b) virtual meeting; or

(c) hybrid meeting.

(3) All physical and hybrid meetings must be open to members of the public, unless members of the public are excluded as contemplated in section 25.

(4) Subject to sub-section (1) and section 7(3), the Speaker must decide when and where the Council must meet.

(5) At least 48 hours before an ordinary Council meeting, the Municipal Manager must give written notice to each councillor of the date, time and venue or platform of that meeting.

(6) (a) At least 48 hours before an ordinary Council meeting, the Municipal Manager must give written notice to the public, in accordance with section 29A of the Structures Act, of the date, time and venue or platform of that meeting.

(b) The notice contemplated in paragraph (a)—

(i) must be posted on—

(aa) the landing page of the municipality's website; and

(bb) a notice board at the municipality's head office;

(ii) may be published in a local newspaper determined by the Municipal Manager; and

(iii) must provide the details of a contact person, to whom any queries may be addressed.

(7) (a) The Speaker may, during an emergency or in exceptional circumstances, change the date, time, venue or platform of an ordinary Council meeting which has been convened.

(b) The Municipal Manager must give reasonable notice in line with this section of any change to the date, time, venue or platform of a meeting.

(8) Councillors must carefully check the agenda with which they have been provided in accordance with section 6(5) and prepare themselves thoroughly for the scheduled meeting.

(9) On acceptance of his or her office as councillor, a councillor must provide the Municipal Manager with a physical address within the municipal area of jurisdiction to which the agendas for meetings can be delivered, and must submit in writing, where possible, an electronic mail address and

a mobile telephone number for instant messaging where he or she can receive notification of meetings and other official correspondence.

(10) A councillor must inform the Municipal Manager without delay of any changes in the information provided in terms of sub-section (9).

7. Special Council meetings

(1) (a) The Speaker may call a special Council meeting on a date, time and venue or platform determined by the Speaker.

(b) When the Speaker has determined the date, time and venue or platform of a special Council meeting, the Speaker must inform the Municipal Manager thereof.

(2) If the position of Speaker is vacant or the Speaker is absent, unavailable, unwilling or unable to perform the Speaker's functions—

(a) the Municipal Manager; or

(b) a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable,

must convene a special Council meeting to elect a Speaker or an Acting Speaker, as the case may be, and preside over such election.

(3) The Speaker must, if a majority of councillors requests the Speaker in writing to convene a special Council meeting for the consideration of a specified matter or matters and if the request complies with the requirements set out in this section and the Structures Act—

(a) convene a special Council meeting on the date and at the time set out in the request and at a venue or using a platform determined by the Speaker; and

(b) inform the Municipal Manager of the date, time and venue or platform and supply the Municipal Manager with a copy of the request.

(4) A request to call a special Council meeting must indicate the matter or matters, as the case may be, to be dealt with at that special Council meeting, and indicate the date and the time of the special Council meeting, which date may not be less than six working days from the date the request is submitted to the Speaker.

(5) For the purposes of sub-section (3), a majority of councillors must be construed as reflected in the municipality's establishment notice, notwithstanding any declared vacancies.

(6) If the Speaker, for whatever reason, fails to convene a special Council meeting in terms of sub-section (3) within three working days of receipt of the request, the Municipal Manager, or in the absence or refusal by the Municipal Manager, a person designated by the Provincial Minister, may convene and chair the special Council meeting on the date and at the time set out in the request and at a venue or using a platform determined by the Municipal Manager or person designated by the Provincial Minister, as the case may be.

(7) (a) If the Speaker is absent, unavailable, unwilling or unable to chair the special Council meeting, the Municipal Manager or a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable, must preside at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.

(b) The Acting Speaker may only preside over the special Council meeting concerned.

(8) Only the matter or matters specified in the notice convening a special Council meeting or set out in the request contemplated to in sub-section (3), may be dealt with at a special Council meeting.

(9) Section 55 applies to a special Council meeting to vote on a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office.

(10) The Municipal Manager must give notice of a special Council meeting at least 24 hours prior to the meeting, in the manner contemplated in sections 6(5) and (6).

(11) (a) The Speaker may, on reasonable grounds, determine that a special Council meeting is an emergency meeting, in which event the time periods specified in this section do not need to be complied with.

(b) The Municipal Manager must take all reasonable steps to notify each councillor and the public of a special Council meeting that is an emergency meeting.

8. Functions of Speaker regarding meetings

(1) Subject to section 15(2), the Speaker must take the chair at the time the meeting has been scheduled for.

(2) In addition to the functions contemplated in section 37 of the Structures Act and any other law, the Speaker—

(a) must give a ruling in respect of—

(i) a point of order raised by a councillor; and

(ii) a question in relation to the priority of business; and

(b) may, with due regard to the common law, give a ruling in respect of any procedural eventuality for which this by-law does not provide.

(3) The rulings contemplated in sub-section (2) must be recorded in the minutes and may not be debated.

9. Attendance by councillor

(1) Subject to item 4 of the Code and section 11, a councillor must—

(a) attend each meeting;

(b) sign the councillor's name in the attendance register if the councillor is physically attending the meeting, or verbally identify the councillor when directed to do so by the Speaker if the councillor is virtually attending the meeting; and

(c) remain in attendance, unless the councillor is required in terms of the Code, sub-section (4), section 10, 27(4) or 34(7), or any other law to withdraw from the meeting.

(2) A councillor who attends—

(a) a virtual meeting; or

(b) a hybrid meeting virtually,

is deemed present for establishing a quorum, taking a decision, voting on a matter, and for any other purposes.

(3) For purposes of this by-law, a councillor is—

(a) present at, and attending, a virtual meeting; or

(b) virtually present at, and attending, a hybrid meeting,

if the councillor is able to hear the proceedings, and the Speaker can hear the councillor.

(4) (a) A councillor must disclose an interest in any matter before Council as contemplated in item 6 of the Code and withdraw from proceedings when that matter is considered, unless the Council decides that the councillor's interest is trivial or irrelevant.

(b) If a councillor withdraws from proceedings as contemplated in paragraph (a), the Speaker must ensure that virtual access by the councillor to the meeting must be denied for the duration of the consideration of that matter.

10. Order for councillor to withdraw from meeting

If the Speaker is of the opinion that a—

(a) councillor is deliberately contravening a provision of this by-law or the Code;

(b) councillor is in contempt of or is disregarding the authority of the Speaker; or

(c) councillor's conduct is grossly disorderly,

the Speaker may—

(i) order the councillor to withdraw immediately from the chamber or committee room for the remainder of the day's meeting if the councillor is physically attending the meeting; or

(ii) deny the councillor virtual access for the remainder of the meeting if the councillor is attending the meeting virtually.

11. Procedure for leave of absence

(1) A councillor who cannot attend a meeting must submit his or her apology at the office of the Municipal Manager or his or her delegate at least one hour before the meeting commences.

(2) The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub-section (1), which may include, amongst others, illness of the councillor, or illness or death of a member of the councillor's family.

(3) The names of all councillors—

(a) present at a meeting;

(b) absent from a meeting or a part of a meeting; and

(c) to whom leave of absence from the meeting has been granted,

must be recorded in the minutes.

(4) Leave is deemed to have been granted if a councillor—

(a) has been delegated to attend a meeting or engagement on behalf of the Council; or

(b) withdraws from proceedings as contemplated in section 9(4).

(5) A councillor who fails to remain in attendance at a meeting shall be regarded as being absent without leave.

(6) Sub-sections (1) to (5) also apply with the necessary changes to leave of absence of the Speaker: Provided that a reference in this section to the Speaker is regarded to be a reference to the Council.

12. Sanctions for non-attendance

(1) A councillor who is absent without leave from a meeting or who is deemed absent in terms of section 11(5), is in breach of this by-law: Provided that, if a councillor is temporarily suspended from meetings or committees in terms of section 27, he or she is deemed absent with leave for the purposes of this section.

(2) A councillor who violates the provisions of sub-section (1) may be fined by an amount as determined by the Council, which fine shall be recovered directly from such councillor's remuneration.

(3) An investigation into any repeated violation of sub-section (1) must be conducted in accordance with the uniform standing procedure relating to councillor discipline adopted by the Council.

(4) If the Council finds that a councillor has breached this by-law as contemplated in sub-section (1), the Council may –

(a) issue a formal warning to the member;

(b) reprimand the member; or

(c) fine the member, in addition to the fine determined in sub-section (2), a maximum of –

(aa) 10 per cent of the councillor's gross monthly salary for the first breach; and

(bb) 25 per cent of the councillor's gross monthly salary for every subsequent breach.

(4) If a councillor is absent from three or more meetings without permission, as contemplated in the Code, the Council must request the Provincial Minister to remove the councillor from office.

13. Recording of virtual meetings and hybrid meetings

The Municipal Manager must ensure that every virtual meeting and every hybrid meeting is digitally recorded and that the recording is stored for a period of not less than three years from the date of the meeting.

14. Minutes

(1) The Municipal Manager must—

(a) compile the minutes of the proceedings of a meeting in writing within two weeks of the meeting; and

(b) provide each councillor with a copy of the minutes within a reasonable period.

(2) The minutes of a meeting must be considered by the Council at its next meeting and, if confirmed, must be signed by the Speaker.

(3) The minutes are taken as read, for the purpose of sub-section (2), if they were provided to each councillor within a reasonable period before the meeting considering them.

(4) No motion or discussion is allowed on the confirmation of the minutes, except in connection with the correctness thereof.

(5) If a councillor is dissatisfied with the correctness of the minutes, the councillor must—

(a) state the item with which the councillor is dissatisfied; and

(b) propose a motion clearly outlining the alternative wording to amend the minutes.

(6) The minutes of a meeting must set out the date, time and venue or platform of the meeting and the decisions or other action taken at the meeting.

(7) The Municipal Manager must keep and store a record of the signed minutes.

15. Quorum

(1) A meeting may not commence until a quorum is present.

(2) If there is no quorum at the time for which the meeting is scheduled, the Speaker must take the chair as soon as a quorum is present.

(3) If there is no quorum, the start of the meeting must be delayed for not longer than 30 minutes and if at the end of that period, there is still no quorum, the Speaker must—

(a) adjourn the meeting to another time, date and venue or platform at the Speaker's discretion; and

(b) record the time of such adjournment and the names of those councillors present.

(4) If the Speaker is not present and there is no quorum, the start of the meeting must be delayed for not more than 30 minutes and if there is still no quorum at the end of that period, the meeting may not take place and the Municipal Manager must record the time of such adjournment and the names of the councillors present.

(5) If during a meeting there is no quorum, the Speaker must suspend the proceedings until a quorum is again present: Provided that if after 10 minutes or such longer time as the Speaker may allow, there is still no quorum, the Speaker must—

(a) adjourn the meeting to another time, date and venue or platform at the Speaker's discretion; and

(b) record the time of such adjournment and the names of those councillors present.

(6) No technical failure on the part of a councillor or group of councillors during a virtual meeting or a hybrid meeting that leads to a break in the virtual connection for a total period of not more than five minutes invalidates any action taken by a majority of the councillors attending the meeting.

16. Adjournment of proceedings

(1) The Speaker may only adjourn a meeting—

(a) after the Council has transacted all of its business on the agenda;

(b) in the absence of a quorum as contemplated in section 15;

(c) upon a successful motion to adjourn as contemplated in section 45 or 46;

(d) when a meeting has fallen into disarray and has become unruly;

(e) in the event of a resignation as contemplated in section 55(11); or

(f) in the event of *vis major*.

(2) When the Speaker adjourns a meeting, the members may leave the venue or platform.

17. Continuation of meeting if Speaker unlawfully adjourns meeting

(1) If the Speaker has adjourned a meeting in circumstances other than those contemplated in section 16, such adjournment is improper and the remaining councillors may proceed with the remainder of the agenda: Provided that a quorum is still present.

(2) The remaining councillors must elect an Acting Speaker to preside over the proceedings to conclude the agenda.

(3) The Municipal Manager or, if the Municipal Manager is absent, unavailable, unwilling or unable, a person designated by the Provincial Minister, presides at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.

(4) The Acting Speaker may only preside over the remainder of the meeting that was improperly adjourned by the Speaker.

Chapter 3
Decisions

18. Unopposed matters

If the Council is called upon to consider a matter before it, the Speaker must ask the Council if there is any opposition to the matter from any councillor, and if there is none, a unanimous vote must be recorded in the minutes of the meeting.

19. Opposed matters

If the Council is called upon to consider a matter before it, the Speaker must ask the Council if there is any opposition to the matter from any councillor, and if there is opposition—

(a) the Speaker must put the matter to the vote as contemplated in this by-law;

(b) the Speaker must announce the result of the vote; and

(c) upon the announcement of the result of the vote, a councillor may demand that the councillor's dissenting vote, abstention or supporting vote be recorded in the minutes of the meeting.

20. Decisions by voting

(1) As contemplated in section 160(3)(a) of the Constitution and section 30(1) of the Structures Act, a quorum must be present before a vote may be taken on any matter.

(2) A supporting vote of a majority of incumbent councillors is necessary to decide on any matter prescribed by legislation, or, in accordance with section 160(3)(b) of the Constitution and section 30(2) of the Structures Act, on the—

(a) passing of a by-law;

(b) approval of the budget;

(c) imposition of rates and other taxes, levies and duties; and

(d) raising of loans.

(3) A supporting vote of at least two-thirds of incumbent councillors is necessary to adopt a decision to dissolve the Council, in accordance with section 34 of the Structures Act.

(4) All other questions before the Council are decided by a majority of the votes cast, as contemplated in section 160(3)(c) of the Constitution.

(5) If on any question other than a matter contemplated in section 160(2) of the Constitution, there is an equality of votes, the Speaker must exercise a casting vote in addition to the Speaker's vote as a councillor as contemplated in section 30(4) of the Structures Act.

(6) Where applicable, the Executive Mayor must submit a report and recommendations before the Council takes a decision on the following matters:

(a) Any matter contemplated in sub-section (2);

(b) the approval of an integrated development plan or any amendment thereof; and

(c) the appointment and conditions of service of a Municipal Manager and a Senior Manager directly reporting to a Municipal Manager.

(7) As contemplated in item 3 of the Code, a councillor may not vote in favour of, or agree to, a resolution which is before the Council and conflicts with any legislation applicable to local government.

21. Method of voting

(1) Voting must take place in the manner contemplated in section 22(2) or (3), unless—

(a) (i) the law prescribes otherwise; or

(ii) the Speaker determines that voting must take place by a secret ballot, in which case voting must take place in the manner contemplated in section 22(4); or

(b) the Speaker determines that—

(i) a virtual meeting must take place, in which case voting must take place in the manner contemplated in section 22(5); or

(ii) a hybrid meeting must take place, in which case voting must take place in the manner contemplated in section 22(6).

(2) When the Speaker exercises the power to determine the appropriate voting procedure or method, the following factors must be taken into account:

(a) the subject and content of the matter to be voted on;

(b) the prevailing circumstances relating to the matter to be voted on;

(c) the weight to be afforded to the advancement of the principles of transparency, accountability, and good governance, and enabling councillors to vote according to their conscience and in the furtherance of the best interest of the people;

(d) which voting procedure or method would ensure that councillors exercise their powers, perform their functions, and carry out their duties most effectively;

(e) the imperative of the Speaker's impartiality;

(f) the possible consequences of the resolution on the municipality, members of the public, and councillors;

(g) the possibility of corruption if voting takes place by way of a secret ballot; and

(h) any other relevant factors.

(3) A councillor may not leave the venue or platform during the taking of a vote.

22. Casting of votes

(1) Unless any law provides otherwise, voting takes place in accordance with an electronic, manual or virtual voting system.

(2) At a meeting held in a chamber or committee room where an electronic voting system is in operation, questions are decided by the utilisation of such system, unless the Speaker directs otherwise and—

(a) councillors may vote only from the seats allocated to them individually in the chamber or committee room;

(b) councillors must vote by pressing the "Yes", "No" or "Abstain" button on the electronic consoles at their seats when directed by the Speaker to cast their votes;

(c) a councillor who is unable to cast a vote, must draw this to the attention of the Speaker and may in person or through the relevant party whip inform the Speaker of the councillor's vote;

(d) after all councillors have cast their votes, the Speaker must immediately announce the result of the division; and

(e) the result of the vote shall be recorded in the minutes.

(3) Where no electronic voting system is in operation, and unless it is a virtual meeting, a manual voting system must be used whereby voting shall take place by a show of hands, unless otherwise prescribed, and –

(a) only councillors who are in attendance when the vote is called are permitted to vote;

(b) councillors must vote in the order indicated by the Speaker; and

(c) councillors must record their vote by stating "Yes", "No" or "Abstain" when directed by the Speaker to cast their votes; and

(d) the result of the vote must be recorded in the minutes of the meeting.

(4) A secret ballot may be held in a physical meeting, in which case—

(a) the Municipal Manager must hand to each councillor a ballot paper having the alternates to be voted for clearly depicted thereon;

(b) the Municipal Manager must collect all the ballot papers and count them in the presence of a representative of each party represented on the Council, or the committee, as the case may be, and present at such meeting; and

(c) the Speaker must immediately announce the result of the division.

(5) Where a virtual meeting is held—

(a) only councillors who are in attendance when the vote is called are permitted to vote;

(b) the Speaker must give a councillor who is in attendance but experiences a technical failure that leads to a break in the virtual connection, one other opportunity to vote after a period of five minutes have lapsed since first calling such councillor to vote;

(c) councillors may vote in the order indicated by the Speaker;

(d) councillors must switch on their video function, clearly identify themselves and record their votes by stating "Yes", "No" or "Abstain" when directed by the Speaker to cast their votes;

(e) a councillor who is unable to cast the councillor’s vote, must draw this to the attention of the Speaker and may in person or through the relevant party whip inform the Speaker of the councillor’s vote;

(f) after all councillors have cast their votes, the Speaker must immediately announce the result of the division;

(g) the result of the voting must be recorded in the minutes of the meeting;

(h) councillors must ensure that their votes are correctly recorded.

(6) Where a hybrid meeting is held—

(a) the Speaker must direct which voting system must be utilised by the councillors who are physically attending the meeting; and

(b) the councillors who are virtually attending the meeting must vote in the manner contemplated in sub-section (5).

Chapter 4
Attendance at and participation in meetings

23. Attendance of and address by municipal employee or member of public

(1) The Speaker must—

(a) take reasonable steps to regulate public access to, and public conduct at, meetings as contemplated in section 20(4)(b) of the Systems Act; and

(b) ensure that meetings are accessible to persons with disabilities.

(2) The Council must conduct its business in an open manner and may close its meetings as contemplated in section 25 only when it is reasonable to do so, having regard to the nature of the business being transacted as contemplated in section 160(7) of the Constitution.

(3) The Speaker may invite a municipal employee or member of the public to address the Council or to attend a meeting to state his or her views on a matter before the Council.

(4) (a) A municipal employee or member of the public who was not invited by the Speaker to address the Council, but wishes to do so, must give the Speaker six working days written notice of his or her request and must provide details of the presentation that will be made and the source of the deputation;

(b) The Speaker may decide to grant or refuse the request, and if granted, upon which conditions, provided that

(i) in the case of a deputation, such deputation shall consist of no more than ten members, and

(ii) only two members of a deputation may address the Council, except with the consent of the Speaker, or in reply to questions from councillors.

(5) The Speaker may allocate reasonable time to any municipal employee or member of the public to address the Council upon granting an application contemplated in sub-section (4).

24. Arrangements relating to attendance

A councillor, municipal employee or member of the public who virtually attends a meeting, must—

(a) switch on the video function, unless otherwise directed by the Speaker;

(b) mute the microphone when not speaking; and

(c) wait for the Speaker to be called upon to speak or unmute the microphone.

25. Exclusion of members of public from meeting

(1) Subject to section 20(1) of the Systems Act and sub-sections (2) and (3), members of the public may be excluded from a meeting—

(a) if so directed by the Speaker;

(b) if so decided by Council upon a motion from any councillor to that effect; or

(c) where matters are marked confidential.

(2) Members of the public may not be excluded when considering or voting on a matter contemplated in section 20(2) of the Systems Act.

(3) Members of the public may be excluded when the Council, due to the nature of the business being transacted or when the disclosure of any matter may be prejudicial to the interests of the municipality, deems it reasonable and justifiable to do so, having regard to the principles of an open and democratic society.

(4) If a motion to exclude members of the public from the meeting as contemplated in sub-section (1)(b) is seconded, the motion must be put to the vote, after a discussion of the reasons, but without discussion of the matter.

(5) If members of the public are excluded from—

(a) a physical meeting, the venue must be cleared of all members of the public;

(b) a virtual meeting, virtual access by the public must be denied; or

(c) a hybrid meeting, the venue must be cleared of all members of the public and virtual access by the public must be denied.

26. Re-admission of members of public

(1) A councillor may during the course of a meeting from which members of the public were excluded, move a motion "that the meeting again be opened" and state the reasons for the motion.

(2) If the motion is seconded, it must be put to the vote forthwith without debate.

(3) If the motion is carried, the Speaker must ensure that members of the public are permitted—

(a) physical access to a physical meeting;

(b) virtual access to a virtual meeting; or

(c) physical and virtual access to a hybrid meeting.

Chapter 5
Conduct in meetings

27. Conduct of councillors, municipal employees and members of public

(1) Councillors, municipal employees and members of the public must preserve order at meetings, and may not—

(a) behave in an unseemly manner;

(b) obstruct the business of a meeting;

(c) commit any breach of the by-law;

(d) indulge in an irrelevant argument or the tedious repetition of arguments; or

(e) use offensive or unbecoming language or remarks which are of a defamatory nature.

(2) Councillors may not challenge a ruling of the Speaker as contemplated in section 8(2).

(3) If a councillor, municipal employee or member of the public breaches sub-section (1), the Speaker must direct such councillor, municipal employee or member of the public to refrain from the breach.

(4) If a councillor, municipal employee or member of the public disregards the direction of the Speaker contemplated in sub-section (3), the Speaker may—

(a) direct the councillor, municipal employee or member of the public if speaking, to discontinue the councillor, municipal employee or member of the public's speech;

(b) direct the councillor, municipal employee or member of the public to withdraw from the chamber or committee room for the remainder of the meeting if the councillor, municipal employee or member of the public is physically attending the meeting; or

(c) mute the microphone of the councillor, municipal employee or member of the public for the remainder of the meeting if the councillor, municipal employee or member of the public is virtually attending the meeting.

(5) If the Speaker fails to act under sub-section (3) or (4), any councillor may move a motion to require the Speaker to do so.

(6) The motion contemplated in sub-section (5) must be moved without notice, and if the motion is seconded, it must be put to the vote forthwith without debate.

(7) The use of cellular phones during meetings is prohibited. Cellular phones should be switched off during the meeting unless prior arrangements were made with the Speaker. Fines can be imposed should this section be ignored and fines should also be minuted.

(8) A councillor may not leave the venue where the meeting is held without the consent of the Speaker.

Chapter 6
Debate and motions

28. Address to Speaker

(1) A councillor, or a municipal employee or member of the public contemplated in section 23(4)(a), who is recognised to speak at a meeting, must address the Speaker.

(2) A member of the public who is recognised by the Speaker must state the member of the public's name, and if the member of the public is representing an organisation or group, identify such organisation or group.

29. Right to speak and limitation

(1) As contemplated in section 160(8)(a) and (b) of the Constitution, a councillor is entitled to participate in Council proceedings in a manner that—

(a) allows the parties and interests reflected within the Council to be fairly represented; and

(b) is consistent with democracy.

(2) A councillor has freedom of speech in any meeting of the Council and in any committee of which the councillor is a member in accordance with section 28 of the Structures Act and section 2 of the Western Cape Privileges and Immunities of Councillors Act, 2011 (Act 7 of 2011): Provided that the councillor must—

(a) confine the councillor's speech to matters on the agenda;

(b) avoid personal attacks on other councillors; and

(c) refrain from defaming another councillor, a person or an institution.

(3) The right to freedom of speech of a councillor contemplated in sub-section (2)—

(a) includes participation in the deliberations and voting on any resolution, decision, report, paper or minutes adopted or approved by the Council or any of its committees; and

(b) is subject to this by-law.

(4) A councillor who is not a member of a committee has the right to speak at a meeting of that committee: Provided that such councillor has been permitted by the chairperson to speak to a specific item on the agenda.

(5) A councillor may speak or proceed to speak at a meeting after being recognised by the Speaker.

(6) A councillor may speak only once to—

(a) a matter before the Council;

(b) any motion before the Council;

(c) any amendments to a motion before the Council; or

(d) a point of order or a question,

unless authorised by the Speaker or as provided for in this by-law.

(7) A councillor may not be interrupted while speaking, unless called to order by the Speaker or a point of order is raised by any other councillor.

(8) The Speaker may not recognise a councillor to speak on a matter once that matter has been voted on.

(9) The Speaker may not allow a debate on a matter—

(a) which may anticipate any matter on the agenda; or

(b) in respect of which a decision by a judicial or administrative body or a commission of inquiry is pending.

30. Duration of speeches

(1) Except with the consent of the Speaker, no councillor may speak for more than five minutes on any subject or matter.

(2) The mover of an original motion or of any amendment may, however, speak for five minutes on such motion or amendment.

31. Participation by Speaker in debate

(1) If the Speaker wishes to take part in a debate, the Speaker may do so from the floor and must—

(a) request the meeting to elect an Acting Speaker in the manner contemplated in section 17(3) for the duration of the debate in which the Speaker wishes to take part; and

(b) in the event of a physical meeting, or a hybrid meeting where the Speaker is physically attending the meeting, vacate the chair and take up a seat amongst the other councillors.

(2) The Speaker does not have to vacate the chair if the Speaker is reporting on matters relating to the Council and its administration.

32. Questions

(1) Subject to section 39, the Speaker may not accept any question unless notice thereof has been given in terms of sub-section (2).

(2) Every notice of intention by a member to introduce a question shall be in writing, signed and dated and delivered to the Municipal Manager at least six working days before the date of the meeting on which it is intended to be introduced.

(3) The councillor to whom such question is posed, may answer the question at the meeting referred to in sub-section (2) or, if the councillor elects to answer the question in writing, he or she may do so within six work days after the meeting.

(4) If a question served before the Council, a similar question may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

(5) A debate will not be allowed on a question, except a question of clarity from the councillor who posed the question.

33. Content of debate

A councillor who speaks, must direct the councillor's speech to the matter before the Council.

34. Point of order

(1) A councillor may interject during a meeting to raise a point of order to call the attention of the Speaker to a breach of this by-law, the Code or a statutory provision.

(2) A point of order may be raised in relation to—

(a) a procedural matter; or

(b) the conduct of a councillor, municipal employee, or member of the public.

(3) A councillor raising a point of order must immediately be heard, and the councillor must state—

(a) the point of order; and

(b) the section, item in the Code or statutory provision that is allegedly being breached.

(4) (a) A councillor who is speaking when a point of order is raised must immediately stop speaking until the point of order is ruled on by the Speaker.

(b) All other matters before the Council must be suspended until the point of order is ruled on.

(5) If ruled to be—

(a) in order, the councillor must be allowed to proceed with the councillor's speech; or

(b) out of order, the councillor must remain silent or must retract or change any remarks so as to comply with the ruling.

(6) The Speaker's ruling on a point of order—

(a) is final and not open to debate; and

(b) must be recorded in the minutes.

(7) (a) If a councillor persists in irrelevant, frivolous or unsubstantiated points of order, the Speaker may—

(i) rule that the councillor must withdraw immediately from the chamber or committee room for the remainder of the day's meeting if the councillor is physically attending the meeting; or

(ii) mute the microphone of the councillor if the councillor is virtually attending the meeting.

(b) If the Speaker fails to act under paragraph (a), any councillor may move a motion to require the Speaker to do so.

35. Explanation

(1) The Speaker may allow a councillor to explain a previous speech, but only when and to the extent that a material part of the speech may have been misunderstood.

(2) The councillor giving the explanation may not introduce any new matter, and no debate on the explanation may be allowed.

36. Motion

A councillor may move a motion only when the councillor is recognised by the Speaker and if seconded by another councillor, unless provided otherwise in this by-law.

37. Notice of motion

(1) The Speaker may not accept any motion, except a motion of exigency or a motion of course, unless notice thereof has been given in terms of sub-section (2).

(2) Every notice of intention by a member to introduce a motion shall be in writing, signed and dated and delivered to the Municipal Manager at least six working days before the date of the meeting at which it is intended to be introduced.

(3) Subject to rule 5(4), the Speaker may refuse an item, motion or question, in which event the Speaker must refer the item, motion or question—

(a) back to the councillor concerned, with the reason why it cannot be placed on the agenda;

(b) to the committee that is mandated by the Council to deal with the matter; or

(c) to the Executive Mayor, if by law such motion or question must first be considered by the Executive Mayor.

(4) If an item, motion or question was put before, and refused by, the Council, a similar item, motion or question may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

38. Question for debate

(1) During a debate and—

(a) after a motion has been moved and seconded; or

(b) at the conclusion of any speech on a motion,

any councillor may ask any question relevant to the motion to another councillor.

(2) Only the councillor who asked the question may ask a supplementary question, and then only in respect of matters arising out of the reply to that question.

(3) The councillor to whom the question is directed may—

(a) reply thereto forthwith; or

(b) require that notice be given of the question, in which event the Speaker must ensure that the reply is placed on the agenda of the next meeting.

39. Motion of exigency

(1) A councillor may direct the attention of the Council to any matter which does not appear on the agenda and of which no notice has been given, by stating briefly the subject of the matter and,

without comment thereon, moving a motion "that the motion to which attention has been directed be considered forthwith as a matter of exigency".

(2) If the motion in sub-section (1) is seconded and carried, the councillor who moved the motion may be permitted without notice to have the matter considered.

(3) This section does not apply to a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office as contemplated in section 55.

40. Motion of course

(1) The following are regarded as motions of course:

(a) That precedence be given to the consideration of any particular matter appearing on the agenda;

(b) that any report referred to in the agenda be noted, adopted, acted upon or referred back;

(c) that any document before the Council be acted upon in the manner specified in the motion;

(d) that action be taken with regard to any matter submitted for consideration in the manner specified in the motion;

(e) that the Speaker must direct that a councillor, municipal employee or a member of the public withdraw from the meeting; and

(f) any motion contemplated in section 41.

(2) If a motion of course is seconded, it must be put to the vote forthwith without debate.

41. Precedence of debate

When a motion is under debate, no further motion may be received, except that—

(a) the motion be amended as contemplated in section 42;

(b) the consideration of the matter be postponed to a fixed or undetermined date as contemplated in section 43;

(c) members of the public be excluded as contemplated in section 25;

(d) members of the public be re-admitted as contemplated in section 26;

(e) the meeting be adjourned to another date as contemplated in section 44;

(f) the meeting be adjourned for a specified time as contemplated in section 45;

(g) the debate on the matter be adjourned for a specified time as contemplated in section 46;

(h) the motion be put to the vote as contemplated in section 47;

(i) the motion be removed from the agenda as contemplated in section 48;

(j) the motion be referred to a committee as contemplated in section 49; or

(k) the motion be withdrawn as contemplated in section 50.

42. Amendment motion

(1) A councillor may move an amendment motion by stating—

(a) "that the motion be amended"; and

(b) how the original motion should be amended.

(2) Subject to sub-section (6), the motion contemplated in sub-section (1)—

(a) need not be in writing; and

(b) must be seconded.

(3) The amendment must be relevant to the original motion on which it is moved, and must be moved while the original motion is under consideration.

(4) (a) The amendment may not amend, in a material way, the principle embodied in the original motion, but may vary its terms in one or more particulars.

(b) The Speaker must decide whether or not the amendment complies with paragraph (a), and must rule accordingly.

(5) The amendment must be considered before considering the original motion.

(6) If the Speaker so requires, a proposed amendment must be in writing, signed by the councillor who moved it, and—

(a) handed to the Speaker; or

(b) delivered to the Speaker by electronic communication.

(7) (a) If there is more than one amendment to the original motion, the last proposed amendment must be put to the vote first, and if carried, the matter must be resolved accordingly.

(b) If the last proposed amendment is rejected, the amendment proposed immediately before the last amendment must be put to the vote.

(c) When all amendments have been disposed of, the original motion must be put to the vote.

(8) No further amendment to the original motion may be moved after the Speaker has commenced to take the vote on the original motion.

43. Motion for postponement of matter

(1) A councillor may at the conclusion of a speech move "that the consideration of the matter be postponed to a fixed or undetermined date".

(2) The motion—

(a) need not be in writing; and

(b) must be seconded.

(3) The councillor who moved the motion may speak to the motion.

(4) The councillor who moved the original motion in respect of the matter under debate may reply, after which the motion contemplated in sub-section (1) must be put to the vote without further debate.

(5) If the motion contemplated in sub-section (1) is carried, the matter must be placed first on the agenda of matters to be considered at the meeting to which it has been postponed.

(6) If the motion contemplated in sub-section (1) is not carried, the meeting must proceed as though no interruption occurred.

44. Motion for adjournment of meeting to another date

(1) A councillor may, at any time during the meeting, except during the course of a speech by another councillor or when a vote is being taken, move "that the meeting adjourn to another date".

(2) The motion—

(a) need not be in writing; and

(b) must be seconded.

(3) The councillor who moved the motion may speak to the motion.

(4) A debate on the motion may not be permitted: Provided that the first councillor to indicate the councillor's opposition to the motion, may speak in opposition thereof.

(5) An amendment to the motion may not be moved, except in relation to the period of adjournment.

(6) If the motion is carried, the meeting must forthwith adjourn and be reconvened on the date specified in the motion or amended motion, unless the Speaker directs that the meeting proceed first to dispose of business other than the opposed business.

(7) If the motion is not carried, the meeting must proceed as if no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.

(8) Before the conclusion of a motion that is carried during a debate, the councillor who moved the adjournment is entitled to speak first when the matter is reopened for discussion at the adjourned meeting.

(9) No business may be transacted at an adjourned meeting other than the business that was on the agenda for the meeting of which it is an adjournment.

45. Motion for adjournment of meeting for specified time

(1) A councillor may at any time, except during the course of a speech by another councillor or when a vote is being taken, move "that the meeting adjourn for a specified time", which may not exceed 60 minutes.

(2) The motion—

(a) need not be in writing; and

(b) must be seconded.

(3) If the motion is carried, the meeting must forthwith adjourn for the specified time and reconvene on the time specified in the motion.

(4) If the motion is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.

(5) The Speaker may at any time adjourn a meeting for a specified time, on good cause shown.

46. Motion for adjournment of debate on matter for specified time

(1) A councillor may, at the conclusion of any speech on a matter, move "that the debate on the matter be adjourned for a specified time".

(2) The motion—

(a) need not be in writing; and

(b) must be seconded.

(3) The councillor who moved the motion may speak to the motion.

(4) No debate is permitted on the motion, except that the first councillor to indicate the councillor's opposition to the motion, may speak in opposition thereto.

(5) No amendment to the motion may be moved, except in relation to the period of adjournment.

(6) (a) If the motion is carried, the meeting proceeds to the next item on the agenda, and the adjourned debate is resumed at the time specified in the motion.

(b) On the resumption of the adjourned debate, the councillor who moved the adjournment is entitled to speak first.

(7) If the motion is not carried, the debate on the matter proceeds as though no interruption occurred, and the Speaker may not accept a similar motion until 30 minutes has lapsed.

(8) A councillor may not move or second more than one motion for the adjournment of the debate on the matter during the course of that debate.

(9) The Speaker may at any time adjourn a debate for a specified time, on good cause shown.

47. Motion that matter be put to vote

(1) A councillor may, at the conclusion of any speech on a matter, move "that the matter be put to the vote".

(2) If a motion contemplated in sub-section (1) has been adopted, the motion must be put to the vote without any further debate.

48. Motion to remove matter from agenda

(1) A councillor may, at the conclusion of any speech during a debate, move that the matter be removed from the agenda.

(2) Subject to the provisions of sub-section (3), no motion put in terms of sub-section (1) shall be open for discussion.

(3) The mover of a matter under discussion may, when a motion has been put in terms of sub-section (1), speak on such motion for not more than five minutes, whereupon the said motion shall be put to the vote without any further discussion.

(4) If such a motion is carried, the matter under discussion shall not be discussed further.

49. Motion to refer matter to committee

(1) A councillor may, at the conclusion of any speech on a matter, move "that the matter be referred to a committee".

(2) The motion—

(a) need not be in writing; and

(b) must be seconded.

(3) Subject to sub-section (4), a motion contemplated in sub-section (1) is not open to debate.

(4) The councillor who moved the original motion under debate may, when a motion contemplated in sub-section (1) has been moved, speak on that original motion, whereupon the motion contemplated in sub-section (1) must be put to the vote without any further debate.

(5) If the motion contemplated in sub-section (1) is carried, the matter under debate may not be further pursued at the meeting.

(6) If the motion contemplated in sub-section (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion on that item.

50. Withdrawal of motion or question

(1) (a) A councillor who has moved a motion may at any time withdraw it.

(b) A councillor may not speak on a motion after the Council has permitted the withdrawal of the motion.

(c) If a motion is withdrawn, a similar motion may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

(2) (a) A councillor who has asked a question may withdraw it at any time before the question is answered.

(b) If a question is withdrawn, a similar question may not be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

51. Absence of councillor who gave notice of motion or question

(1) If the councillor who gave notice of a motion or a question is not present when called upon by the Speaker, the motion may be moved or the question may be asked by any other councillor.

(2) If the motion contemplated in sub-section (1) is not moved, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion on that item.

52. Re-introduction of motion or question

A motion which has been rejected by the Council or a question which has been answered, may not again be moved or asked within a period of three months of the meeting at which it was rejected or answered, unless the Council directs otherwise.

53. Motion or question on matter referred to committee

(1) A councillor may not give notice of a motion or question with regard to any matter that is before a committee for consideration, unless notice thereof has also been—

(a) submitted to that committee; or

(b) referred to that committee for consideration and report.

(2) The chairperson of a committee may, if the member of the committee is of the opinion that the matter is one of urgency, give notice of a motion or question on a matter referred to the committee, despite the fact that the motion or question has not been submitted to or considered by that committee.

54. Report on delegated powers

An Executive Mayor, Speaker, committee or Municipal Manager must report to the Council on decisions taken with respect to a delegated or sub-delegated power or duty at such intervals as the Council may require.

Chapter 7
Removal of office-bearer from office

55. Removal of Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office

(1) (a) A councillor may, by written motion addressed to the Speaker, move that the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor be removed from office.

(b) A motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office contemplated in paragraph (a) must be seconded by at least three other councillors.

(2) A motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office must contain a brief summary of the reasons for the removal, and indicate the date and the time of the special Council meeting, which date may not be less than—

(a) six working days from the date that the motion is submitted to the Speaker; or

(b) four working days from the date the request is submitted to the Speaker if the matter is regarded as an urgent matter, in which event the reasons for urgency must be stated in the request.

(3) The Speaker must, upon receipt of a motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office—

(a) forthwith send a copy to the Whip, Municipal Manager and the Executive Mayor, if applicable; and

(b) if the motion complies with the requirements set out in this section and the Structures Act—

(i) convene a special Council meeting on the date and at the time set out in the motion and at a venue or using a platform determined by the Speaker; and

(ii) inform the Municipal Manager of the date, time and venue or platform.

(4) If the Speaker, for whatever reason, fails to convene the special Council meeting in terms of sub-section (3) within three working days of receipt of the motion, the Municipal Manager, or in the absence or refusal by the Municipal Manager, a person designated by the Provincial Minister, may convene and chair the special Council meeting on the date and at the time set out in the motion and at a venue or using a platform determined by the Municipal Manager or person designated by the Provincial Minister, as the case may be.

(5) (a) If the Speaker is absent, unavailable, unwilling or unable to chair the special Council meeting, the Municipal Manager or a person designated by the Provincial Minister if the Municipal Manager is absent, unavailable, unwilling or unable, must preside at the election of an Acting Speaker in accordance with section 36(3) of the Structures Act.

(b) The Acting Speaker may only preside over the special Council meeting concerned.

(6) Only the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office contemplated in sub-section (1) may be dealt with at the special Council meeting.

(7) (a) The Municipal Manager must give notice of the special Council meeting at least two working days prior to the meeting, in the manner contemplated in section 6(5) and (6).

(b) If the Speaker determines that the special Council meeting is an urgent meeting, the Municipal Manager must, at least one working day before the meeting, give written notice as contemplated in section 6(5) and (6), except if time constraints make this impossible.

(c) If the Municipal Manager accidentally omits to give notice to any councillor, such omission does not invalidate a meeting.

(8) If the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, resigns from office at any time before the special Council meeting takes place, the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office lapses and the meeting does not go ahead.

(9) The Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, has the right and must be allowed the opportunity during the special Council meeting to respond to every allegation made—

(a) in the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office; and

(b) during the meeting.

(10) If the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, is not present during the special Council meeting, the Council may continue with the proceedings in the absence of such office-bearer.

(11) If the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, at any time during the special Council meeting, but before the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office is put to the vote, resigns from office, the—

(a) special Council meeting is adjourned immediately; and

(b) motion lapses;

despite any provisions to the contrary in this by-law: Provided that if the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office concerns the Speaker, the Council must proceed to elect a new Speaker.

(12) If the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office is carried, the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor to whom the motion relates, is removed from office with immediate effect and the Council proceeds to elect a new Speaker, Whip (where applicable), Deputy Executive Mayor or Deputy Executive Mayor, as the case may be, despite any provisions to the contrary in this by-law.

(13) A councillor elected as Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor in terms of sub-section (11) or (12), as the case may be, serves for the unexpired term of the predecessor.

(14) If the motion to remove the Speaker, Whip (where applicable), Executive Mayor or Deputy Executive Mayor from office is not carried, no motion forwarding the same allegations may be put before the Council until a period of three months has lapsed, unless the Council directs otherwise.

Chapter 8
Legislative process

56. Introduction of draft by-law

A draft by-law may be introduced only by a councillor or a committee, as contemplated in section 12 of the Systems Act.

57. Introduction of draft by-law by councillor

(1) A councillor may introduce a draft by-law by submitting it, together with a memorandum on its objects, to the Municipal Manager.

(2) If one or more committees deal with the subject of the draft by-law, the Municipal Manager must submit a report with the Municipal Manager's comments on the draft by-law to such committee or committees, as the case may be, for comment.

(3) (a) The Municipal Manager must submit a report on the draft by-law, together with any comments received from the committee or committees, as the case may be, as contemplated in sub-section (2), if applicable, to the Executive Mayor for a report and recommendation to the Council as contemplated in section 30(5) of the Structures Act.

(b) The Executive Mayor must within three months of receipt of a draft by-law from the Municipal Manager, consider the draft by-law and decide to either support it with or without amendments, or not support it.

(4) After the Executive Mayor has made a decision as contemplated in sub-section (3)(b), the Executive Mayor must submit a report to the Council which sets out the following:

(a) an executive summary of the draft by-law;

(b) a memorandum on the objects of the draft by-law;

(c) the contents of the draft by-law;

(d) other by-laws that will have to be repealed or amended if the draft by-law is adopted;

(e) the reasons why the draft by-law is supported with or without amendments or not supported, as the case may be;

(f) any relevant comments or proposals, which may include proposals for amendments; and

(g) a recommendation or recommendations.

(5) (a) After considering the report contemplated in sub-section (4), the Council must decide to either reject the draft by-law or to approve it with or without amendments.

(b) If the Council rejects the draft by-law, a by-law of the same substance may not be introduced until a period of six months from the date of rejection has lapsed, unless the Council directs otherwise.

(c) If the Council approves the draft by-law, the draft by-law must be published for public comment in accordance with section 59.

58. Introduction of draft by-law by committee

(1) A committee may introduce a draft by-law by submitting it, together with a memorandum on its objects, to the Municipal Manager for comment.

(2) The committee must consider the comments received from the Municipal Manager as contemplated in sub-section (1), and submit it again to the Municipal Manager.

(3) (a) If any other committee deals with the subject of the draft by-law, the Municipal Manager must submit a report on the need for the by-law for consideration to such committee.

(b) If the committee contemplated in paragraph (a) agrees that the by-law is necessary, the Municipal Manager must submit the draft by-law to that committee for comment.

(4) The Municipal Manager must submit the draft by-law with the comments contemplated in sub-section (3)(b), if applicable, to the Executive Mayor.

(5) The process contemplated in section 57(3)(b) to (5) applies to the introduction of a draft by-law by a committee.

59. Publication of draft by-law

(1) (a) The Municipal Manager must, as soon as possible after the Council has granted approval for a by-law contemplated in section 57 or 58, in terms of section 57(5)(c) publish the draft by-law for public comment.

(b) The comment period must be at least 30 working days from the date of publication, unless the Council has approved a shorter period.

(2) Publication for public comment must be in a manner that allows the public the opportunity to make representations with regard to the proposed by-law as contemplated in section 12(3)(b) of the Systems Act.

60. Consideration of draft by-law

(1) The Municipal Manager must as soon as possible after the closing date for public comment contemplated in section 59, submit a report to the Executive Mayor together with—

(a) a copy of the draft by-law;

(b) a copy of the publication contemplated in section 59;

(c) comments received from the public; and

(d) comments or recommendations from the Municipal Manager.

(2) The Executive Mayor must consider the report by the Municipal Manager and must—

(a) submit a report to the Council which sets out the following:

(i) An executive summary of the draft by-law; and

(ii) any relevant comments or proposals; and

(b) recommend to the Council to pass the by-law with or without amendments, to postpone the passing of the by-law, or to reject the by-law.

(3) If the Council rejects the draft by-law, a by-law of the same substance may not be introduced until a period of six months from the date of rejection has lapsed, unless the Council directs otherwise.

(4) As contemplated in section 20(2)(a), a supporting vote of a majority of incumbent councillors is necessary to decide on the passing of a by-law.

(5) The Council may not pass a by-law unless all the councillors were given reasonable notice as contemplated in section 160(4)(c) of the Constitution and section 12(3)(a) of the Systems Act.

(6) When a by-law has been passed, it must be published in accordance with section 13 of the Systems Act.

(7) This by-law also apply to the adoption of standard draft by-laws as contemplated in section 14(4) of the Systems Act.

Chapter 9
Miscellaneous matters

61. Official languages

Any person who speaks at a meeting may use any of the three official languages recognised by the Constitution of the Western Cape, 1997 (Act 1 of 1998), namely English, Afrikaans and isiXhosa.

62. Municipal employees

A municipal employee must attend a meeting if requested to do so by the Municipal Manager or the Speaker.

63. Breaches and offences

(1) A councillor, municipal employee or member of the public who physically attends a meeting and who—

(a) refuses to withdraw from the chamber or committee room in the circumstances contemplated in section 9(4) or when directed to do so by the Speaker in terms of section 10, 27(4), or 34(7); or

(b) returns to a meeting from which the councillor, municipal employee or member of the public has withdrawn or was removed for the duration of the meeting in terms of this by-law;

may be removed by a person designated by the Speaker.

(2) A councillor, municipal employee or member of the public may not—

(a) interfere or impede the Council when the Council is exercising its powers, performing its functions, or carrying out its duties;

(b) interfere with or impede the exercise, performance or carrying out by a councillor of the councillor's powers, functions and duties as a councillor;

(c) threaten or obstruct a councillor proceeding to or going from a meeting;

(d) assault or threaten a councillor;

(e) fail or refuse to comply with an instruction by the Speaker; or

(f) fail or refuse to comply with an instruction by a duly authorised municipal employee regarding—

(i) the presence of persons at a particular meeting; or

(ii) the possession of any article, including a firearm, on the premises where a meeting takes place or on municipal land.

(3) A person, excluding a councillor, who contravenes sub-section (2) is guilty of an offence and is liable on conviction to—

(a) a fine;

(b) imprisonment as determined by the presiding officer; or

(c) both such fine and such imprisonment.

(4) Sub-sections (1) and (3) do not derogate from any other criminal or civil sanctions, or, in the case of councillors, sanctions regarding a transgression of the Code.

(5) A councillor who contravenes any section of this by-law during a meeting compromises the integrity of the municipality and must also be dealt with in accordance with the Code.

64. Repeal of by-laws

The Swartland Municipality: By-Law Relating to the Rules for the Conduct of Meetings as published in *Provincial Gazette* Extraordinary 7501 of 2 October 2015 is hereby repealed as a whole.

65. Short title and commencement

This by-law shall be known as the Swartland Municipality: By-law relating to the Conduct of Meetings and shall come into operation on the date of publication thereof in the *Provincial Gazette*.