Kannaland, South Africa

Rules of Order for Internal Arrangements By-law, 2013

Legislation as at 8 February 2013

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Rules of Order for Internal Arrangements By-law, 2013
Contents

1. Definitions 1

2. Application of rules 1

3. Duty of Speaker, councillors and members of public 1

4. Offences 2

5. Short title 2

Schedule 2

Kannaland
South Africa

Rules of Order for Internal Arrangements By-law, 2013

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To provide for rules of order for the internal arrangements and the business and proceedings of the Council of the municipality; to provide for the establishment, composition, procedures, powers and functions of the committees of the Council; and to provide for matters in connection therewith.

1. Definitions

In this By-law, including the rules, unless the context indicates otherwise—

"**committee**" means a committee established by the Council in terms of section 79 of the Structures Act;

"**Council**" means the municipal council of the Municipality of Kannaland;

"**councillor**" means a member of the Council, including a political office bearer as referred to in section 1 of the Systems Act;

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

"**meeting**" means any meeting of the Council;

"**member of the public**" means a person who is not a councillor and who attends a meeting of the Council or a committee;

"**municipality**" means the Municipality of Kannaland;

"**rules**" means the rules set out in the Schedule;

"**Speaker**"means the Speaker of the Council elected under section 36 of the StructuresAct or a councillor elected as acting Speaker under section 41 of the Structures Act;

"**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).

2. Application of rules

(1) These rules apply to all meetings.

(2) Except where it is clearly inappropriate, a rule applying to a councillor in any proceedings, also applies to a member of the public who takes part in those proceedings.

(3) Except where it is clearly inappropriate, the rules also apply to a committee meeting, in which case, unless clearly inappropriate, any reference to the Council is regarded as a reference to the committee, and any reference to the Speaker is regarded as a reference to the chairperson of the committee or a person acting as the chairperson of the committee.

3. Duty of Speaker, councillors and members of public

The Speaker, councillors and members of the public must familiarise themselves with these rules.

4. Offences

A councillor or a member of the public who—

(a) refuses to withdraw from a place of meeting of the council or a committee when directed to do so by the Speaker or chairperson of a meeting in terms of rule 16, or

(b) returns to a meeting from which he or she has withdrawn or was removed in terms of rule 16,

may be forcibly removed and is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

5. Short title

This By-law is called the Rules of Order for Internal Arrangements By-law, 2011.

Schedule

Chapter 1
Introduction

1. Definitions

In this Schedule, unless the context indicates otherwise—

"**Code**" means the Code of Conduct for Councillors set out in Schedule 1 to the Systems Act;

"**member**" means a member of a committee;

"**Municipal Manager**"means the person appointed as municipal manager by the Council in terms of section 54A of the Systems Act, or a person delegated by the Municipal Manager;

"**Provincial Minister**" means the Provincial Minister responsible for local government in the Province;

"**working day**" means any day of the week except Saturday or Sunday or a public holiday.

Chapter 2
Meetings

2. Order of business

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

(a) Election of acting speaker, if necessary;

(b) confirmation of minutes;

(c) statements and communications by the Speaker;

(d) statements and communications by Executive Mayor or Executive Committee;

(e) consideration of reports;

(f) urgent matters submitted by the Municipal Manager;

(g) consideration of motions;

(h) decision on questions;

(i) consideration of motions of exigency; and

(j) adjournment.

(2) The Speaker may change the order of business appearing on the agenda.

3. Agenda

(1) The Speaker or a person designated by the Speaker must prepare the agenda for a meeting.

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

(3) Except as otherwise provided in these rules or in terms of sub-rule (2), no matter not appearing on the agenda may be transacted at a meeting.

(4) Agendas for meetings must be distributed seven days before the meeting, and agendas for special meetings must be distributed 48 hours before the meeting.

4. Meetings

(1) The Council must meet at least quarterly, as required by section 18(2) of the Structures Act.

(2) All meetings must be open to members of the public, unless they have been excluded under rule 14.

(3) Subject to sub-rule (1), the Speaker decides when and where the Council meets, but if a majority of councillors request the Speaker in writing to convene a meeting, the Speaker must convene a meeting at a time set out in the request.

(4) The Municipal Manager or, in his or her absence, a person designated by the Speaker must give notice to each councillor and to the public of every meeting.

(5) If there is a vacancy of the Speaker's position, the Municipal Manager or, in the absence of the Municipal Manager, a person designated by the Provincial Minister, must—

(a) convene a special meeting to elect a speaker or an acting speaker; and

(b) give notice to each councillor and to the public of the meeting.

(6) The notice referred to in sub-rules (4) and (5) must state the date, time and venue of the meeting, and must be—

(a) given in writing, together with the agenda, to each councillor by any reasonable means to achieve the purpose;

(b) published in a local newspaper determined by the Municipal Manager or a person designated; and

(c) posted on a notice board at the municipality's head office.

(7) The Municipal Manager or a person designated under sub-rule (4) or (5) may depart from the requirement of sub-rule (6)(b) in the case of an urgent or special meeting when time constraints make it impossible to comply with the requirement.

(8) The Speaker may at any time change the date, time and venue of any meeting which has been convened, except in the case of a meeting requested by a majority of councillors in terms of rule 4(3).

(9) The Municipal Manager or a person designated under sub-rule (4) or (5) must give reasonable notice in accordance with sub-rule (6) of any change to the date, time or venue of a meeting.

5. Functions of Speaker regarding meetings

(1) The Speaker must take the chair precisely at the time the meeting has been scheduled for.

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

(a) must preserve decorum in meetings;

(b) must give a ruling in respect of a question of order raised by a councillor, including a question in relation to the priority of the business; and

(c) may give a ruling in respect of any procedural eventuality for which these rules do not provide.

(3) The ruling referred to in sub-rule (2) must be entered into the minutes.

6. Attendance by councillors

Subject to item 3 of the Code, rule 7 and rule 16, a councillor must attend each meeting and must sign his or her name in the attendance register.

7. Procedure for leave of absence

(1) A councillor must, before absenting himself or herself from a meeting, make an application to the Speaker by signing a leave form and delivering the completed leave form to the Municipal Manager.

(2) The Municipal Manager must submit the application to the Speaker before the commencement of the meeting.

(3) Upon receipt of the application referred to in sub-rule (1), the Speaker must consider the application, and may approve or reject the application if the Speaker is satisfied that the leave of absence may or may not have an impact on a meeting, and he or she must notify the councillor of his or her decision before the meeting.

(4) 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-rule (1), and the councillor could make an application by e-mail or sms.

(5) The special circumstances referred to in sub-rule (4) may include—

(a) illness of the councillor; or

(b) illness or death in the councillor's family.

(6) The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted must be entered into the minutes.

(7) If the Speaker rejects the application referred to in sub-rule (1) he or she must provide a reason therefor.

(8) Sub-rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application, a reference in those sub-rules to the Speaker is regarded to be a reference to the Council.

8. Sanctions for non-attendance

(1) Except for the instances contemplated in rule 16, a councillor is in breach of the rules if he or she without leave—

(a) absents himself or herself from a meeting;

(b) fails to be in attendance at the commencement of a meeting; or

(c) fails to remain in attendance until the end of a meeting.

(2) A councillor who is absent from three or more consecutive meetings which he or she is required to attend in terms of rule 6 is in breach of the Code.

(3) The Council may appoint a special committee comprising of councillors to investigate and report to the Council on any alleged breach referred to in sub-rule (1) or (2).

(4) The special committee must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach.

(5) The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the special committee.

(6) If the Council finds that a councillor has breached the rules as contemplated in sub-rule (1), the Council must fine the councillor in an amount determined by the Council.

(7) If the Council finds that a councillor has breached the Code as contemplated in sub-rule (2), the Council must request the Provincial Minister to remove the councillor from office.

(8) Sub-rules (1) to (7) apply, with the necessary changes, in respect of the Speaker.

9. 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 Municipal Manager must keep a record of the signed minutes.

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

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

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

(a) state the item with which he or she is dissatisfied; and

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

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

10. Quorum for vote

(1) If there is not a majority of councillors present at a meeting at the time when a vote must be taken on any matter, the voting must be delayed for not longer than 30 minutes, and if at the end of that period a majority is still not present, the Speaker must adjourn the voting on the matter to the next meeting.

(2) The Municipal Manager must enter the names of all councillors present when voting is adjourned in terms of sub-rule (2) in the minutes.

(3) A special committee as contemplated in rule 8(3) must investigate the absence of councillors and submit a report the Council.

(4) The next meeting referred to in sub-rule (2), must be held within seven days from the date of the adjournment of the voting.

(5) The Municipal Manager must give notice of the adjournment of the voting referred to in sub-rule (2) to all councillors.

Chapter 3
Decisions

11. Unopposed matters

(1) When a meeting has been in session for more than two hours, the Speaker may interrupt the proceedings and direct that the Council proceed forthwith to dispose of unopposed business.

(2) After the disposal of unopposed business, the proceedings must resume at the point at which they were interrupted, unless all other remaining business has been adjourned.

12. Opposed matters

(1) The Speaker must put every opposed matter to the vote by calling upon councillors to indicate by a show of hands, unless otherwise prescribed by any law or the Council resolves otherwise, whether they are for that matter or against it, whereupon the Speaker must announce the result of the vote.

(2) Upon the announcement of the result of a vote, a councillor may demand that his or her vote be recorded against the decision concerned.

(3) If there is an equality of votes on any matter, the Speaker must exercise a casting vote, as required by section 30(4) of the Structures Act.

(4) A matter on the agenda is regarded as opposed business if a councillor signifies the intention to discuss the matter immediately after the Speaker has intimated to the meeting that the matter is open for discussion. No matter is regarded as opposed by reason only of questions being asked in connection therewith.

13. Decisions

(1) In accordance with section 160(3) of the Constitution and section 30(2) of the Structures Act, a supporting vote of a majority of councillors is necessary to decide on—

(a) the passing of by-laws;

(b) the approval of the budget;

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

(d) the raising of loans.

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

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

(4) If there is an equality of votes on any matter, the Speaker must exercise a casting vote, as contemplated by section 30(4) of the Structures Act.

Chapter 4
Attendance of members of public

14. Attendance of members of public

(1) The Speaker must—

(a) take reasonable steps to regulate the attendance and conduct of members of the public at meetings; and

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

(2) The Speaker may allocate reasonable time to any member of the public who wishes to address the Council, having regard to—

(a) the nature of the matter to be discussed;

(b) priorities in relation to other Council business;

(c) other members of the public present who also wish to address the Council; and

(d) whether such an opportunity has already been provided to the member of the public.

(3) A member of the public who wishes to address the Council must apply in writing to the Speaker, stating the matter on which he or she wishes to speak.

(4) If the Speaker is of the opinion that members of the public must be excluded from a meeting or upon a motion from a councillor to that effect, the Speaker must—

(a) direct that all members of the public leave the venue of the meeting; and

(b) direct that the Council consider a motion whether it would be reasonable to exclude the public from the meeting having regard to the nature of the business being transacted, including whether—

(i) there might otherwise be unreasonable disclosure of personal information regarding any person;

(ii) trade secrets of any person might otherwise be disclosed;

(iii) financial, commercial, scientific or technical information, other than trade secrets, of any person might otherwise be disclosed, and the disclosure would likely cause harm to the commercial or financial interests of that person;

(iv) information which had been supplied in confidence by any person might be disclosed, and the disclosure could reasonably be expected to put that person at a disadvantage in contractual or other negotiations or to prejudice that person in commercial competition;

(v) information might be disclosed that would give cause for an action for breach of a duty of confidence owed to any person in terms of an agreement;

(vi) information might be disclosed that could reasonably be expected to endanger the life or physical safety of any person, or would likely prejudice or impair the security of a building, structure, system, means of transport or any other property;

(vii) information might be disclosed which is privileged from production in legal proceedings;

(viii) information might be disclosed which contains financial, commercial, scientific or technical information, the disclosure of which—

(aa) would likely cause harm to the financial interests of the municipality; or

(bb) could reasonably be expected to put the municipality at a disadvantage in contractual and other negotiations;

(ix) information might be disclosed about research being or to be carried out by or on behalf of any person or the municipality and the disclosure of the information would likely expose any person or the municipality or the subject-matter of the research to serious disadvantage; or

(x) the relevant item on the agenda pertains to any other matter which could be reasonably withheld from the public.

(5) If the motion referred to in sub-rule (4)(b) to exclude the public from the meeting is seconded, the motion must be put to the vote, after debate of the reasons for excluding the public, but without debate on the relevant item on the agenda.

(6) If the motion referred to in sub-rule (4)(b) is not carried, the Speaker must ensure that members of the public are allowed access to the meeting again.

(7) If the motion referred to in sub-rule (4)(b) is carried, no member of the public, including the media, may attend the proceedings concerned.

(8) The motivation for the exclusion of the public must be entered into the minutes, and the minutes must show the time at which the closed session starts and ends.

(9) This rule is subject to section 20(1) and (2) of the Systems Act.

15. Re-admission of members of public

(1) A councillor may during the course of a meeting from which 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 allowed access to the meeting again.

Chapter 5
Conduct in meetings

16. Conduct of councillors and members of public

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

(a) behave in an unseemly manner;

(b) obstruct the business of a meeting;

(c) challenge the ruling of the Speaker on any point of order; or

(d) commit any breach of the rules.

(2) If a councillor or member of the public breaches sub-rule (1), the Speaker must direct the councillor or member of the public to refrain from the breach.

(3) If a councillor or member of the public disregards the directions of the Speaker under sub-rule (2), the Speaker may direct the councillor or member of the public—

(a) if speaking, to discontinue his or her speech; or

(b) to withdraw from the place of meeting for the remainder of the meeting or, if necessary, to be removed by a person designated by the Speaker.

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

(5) The motion referred to in sub-rule (4) must be moved without notice, and if the motion is seconded, it must be put to the vote forthwith without debate.

Chapter 6
Debate and motions

17. Address to speaker

(1) A councillor or a member of the public 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 his or her name, and if he or she is representing an organisation or any group, identify the organisation or group.

18. Right to speak and limitation

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

(2) A councillor must avoid personal attacks on other councillors and must refrain from impugning the motives for any councillor's argument or vote.

(3) A councillor may speak only once to—

(a) the 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 these rules.

(4) 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.

(5) A councillor may not speak for more than five minutes on any matter, except with the permission of the Speaker.

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

(7) 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 enquiry is pending.

19. Content of debate

(1) A councillor who speaks must direct his or her speech to the matter before the Council.

(2) If a councillor persists in irrelevance after being requested by the Speaker to confine his or her speech to the matter before the Council, the Speaker must order him or her to be seated and not to speak further in respect of that matter.

(3) Councillors and members of the public must preserve order and decorum at meetings, and they may not indulge in tedious repetition of arguments, or unbecoming language or remarks which are of a defamatory nature.

20. Points 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 the rules 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, a member of the public, or an employee of the municipality.

(3) A councillor raising a point of order must immediately be heard, and he or she must—

(a) state the point of order; and

(b) the rule or statutory provision that is being breached.

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

(5) If ruled to be in order, the councillor must be allowed to proceed with his or her speech.

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

(7) The Speaker's ruling on a point of order is final and not open to debate, and it must be entered in the minutes.

21. Explanations

(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.

22. Motions

A councillor may move a motion only when it is put by the Speaker and if seconded by another councillor, except if provided otherwise in these rules.

23. Notice of motions

(1) Unless provided otherwise in these rules, a notice of motion must be in writing, motivated, signed by the relevant councillor, dated and delivered to the Speaker at least six working days before the date of the meeting at which it is to be moved.

(2) Sub-rule (1) does not apply to the following motions:

(a) A motion of exigency; or

(b) a motion of course.

24. Questions

(1) After a motion has been moved and seconded or at the conclusion of any speech on the motion, a councillor may ask any question relevant to the motion to any other councillor.

(2) No supplementary questions may be asked, except by the councillor who asked the 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 either reply thereto forthwith or require that notice be given of the question.

(4) The notice referred to in sub-rule (3), must be in writing, signed by the relevant councillor, dated and delivered to the Speaker and the Municipal Manager.

(5) When the Municipal Manager receives the notice, he or she must within five days forward the notice to the councillor to whom the question is directed and—

(a) request the councillor to submit a reply to the question in writing to the Municipal Manager; and

(b) notify the Speaker of any reply received in respect of the question.

(6) The Speaker must ensure that the reply is placed on the agenda of the next meeting.

(7) A councillor may ask a question requiring a written reply from another councillor concerning any matter related to the effective performance of the municipality's functions and the exercise of its powers.

(8) Notice of a question in sub-rule (7) must be given in writing, signed by the relevant councillor, dated and delivered to the Speaker and the Municipal Manager. The procedures in sub-rules (5) and (6) apply to the question.

25. Motions 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-rule (1) is seconded and carried, the member who moved the motion may be permitted without notice to have the matter considered.

26. Motions of course

(1) The following is 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 in regard to any matter submitted for consideration in the manner specified in the motion;

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

(f) any motion referred to in rule 27.

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

27. Precedence of debate

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

(a) that the motion be amended;

(b) that the consideration of the matter be postponed to a fixed or undetermined date;

(c) that members of the public be excluded;

(d) that members of the public be re-admitted;

(e) that the meeting adjourn to another date;

(f) that the meeting adjourn for a specified time;

(g) that the debate on the matter be adjourned for a specified time;

(h) that the matter be put to the vote;

(i) that the matter be removed from the agenda;

(j) that the matter be removed from the agenda; or

(k) that the question or motion be withdrawn.

28. Amendment motions

(1) A councillor may move an amendment motion by stating "that the motion be amended", and stating how the original motion should be amended.

(2) The motion referred to in sub-rule (1) must be seconded and need not be in writing.

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

(5) If the Speaker so requires, a proposed amendment must be in writing, signed by the councillor who moved it and handed to the Speaker.

(6) 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.

(7) If the last proposed amendment is rejected, the amendment proposed immediately before the last amendment must be put to the vote. When all amendments have been disposed of, the original motion or the original motion as amended, as the case may be, must be put to the vote.

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

(9) An 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.

(10) The Speaker must decide whether or not an amendment complies with sub-rule (9), and must rule accordingly.

29. 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 must be seconded and need not be in writing.

(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 referred to in sub-rule (1) must be put to the vote without further debate.

(5) If the motion referred to in sub-rule (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 referred to in sub-rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

30. Motion for adjournment of meeting to another date

(1) A councillor who has not yet participated in the debate on a matter may, at any time during the discussion of that matter, except during the course of a speech by another councillor or while a vote is being taken, move "that the meeting adjourn to another date".

(2) The motion must be seconded and need not be in writing.

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

31. 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 while a vote is being taken, move "that the meeting adjourn for a specified time", up to one hour.

(2) The motion must be seconded and need not be in writing.

(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 half an hour has elapsed.

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

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

(1) A councillor who has not yet participated in the debate on a matter may, at the conclusion of any speech on that matter, move "that the debate on the matter be adjourned for a specified time".

(2) The motion must be seconded and need not be in writing.

(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 his or her 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) 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.

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

(8) 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 half an hour has elapsed.

(9) 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.

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

33. Motion that matter be put to vote

(1) A councillor who has not yet participated in the debate on a matter may, at the conclusion of any speech on that matter, move "that the matter be put to the vote".

(2) The motion must be seconded and need not be in writing.

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

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

(5) If the motion referred to in sub-rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

34. Motion to remove matter from agenda

(1) A councillor who has not yet participated in the debate on a matter may, at the conclusion of any speech on that matter, move "that the matter be removed from the agenda".

(2) The motion must be seconded and need not be in writing.

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

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

(5) If the motion referred to in sub-rule (1) is carried, the matter must be removed from the agenda of the meeting, and may not be further pursued at that meeting.

(6) If the motion referred to in sub-rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

35. 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 must be seconded and need not be in writing.

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

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

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

(6) If the motion referred to in sub-rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

36. Withdrawal of motions or questions

(1) A councillor who has moved a motion may at any time withdraw it with the permission of the Council and the councillor who seconded it.

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

(3) A councillor who has asked a question may withdraw it, without the permission of the Council, at any time before the question is answered.

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

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.

38. Re-introduction of motions or questions

(1) 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, except with the permission of the Council.

(2) A councillor who wishes to re-introduce a motion or question must give notice in writing to the Speaker.

(3) If the Speaker receives a notice referred to in sub-rule (2), he or she must place the notice on the agenda of the next meeting.

39. Motions or questions on matters 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 of the motion or question—

(a) has also been submitted to that committee; or

(b) is part of the referral of the matter to that committee for consideration and report.

(2) A member of a committee may, if he or she 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.

40. Recommendation by Executive Mayor or Executive Committee

(1) A recommendation contained in a report submitted by the Executive Mayor or an Executive Committee to the Council is considered to have been moved by the Executive Mayor or Executive Committee, as the case may be.

(2) The motion does not need to be seconded.

(3) The Executive Mayor or any member of the Executive Committee may speak on the matter and reply, but in replying he or she must confine himself or herself to answer the matter and may not introduce any new matter into the debate.

Chapter 7
Legislative process

41. Introduction of draft by-laws

In accordance with section 12 of the Systems Act, a draft by-law may be introduced only by a councillor or a committee.

42. Introduction of draft by-laws by councillors

(1) A councillor introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker.

(2) The Speaker must obtain the comments of the Municipal Manager on the contents of the draft by-law and may solicit the comments of any other person.

(3) The Speaker must submit a draft by-law, together with any comments received in terms of sub-rule (2), to the Executive Mayor or the Executive Committee, if the municipality has such a mayor or committee, for a report and recommendation in accordance with section 30(5) of the Structures Act.

(4) The Executive Mayor or the Executive Committee must within three months of receipt of a draft by-law from the Speaker, consider the draft by-law and decide to either support or not support it.

(5) If the Executive Mayor or the Executive Committee decides to support the draft by-law, the Municipal Manager must publish the draft by-law for public comment in accordance with rule 44.

(6) If the Executive Mayor or the Executive Committee decides not to support the draft by-law, the Executive Mayor or the Executive Committee 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) any relevant comments or proposals;

(f) the reasons why the draft by-law is not supported; and

(g) a recommendation.

(7) After considering the report referred to in sub-rule (6), the Council must decide to either reject the draft by-law or to approve the commencement of the legislative process set out in rules 44 and 45 in respect of the draft by-law.

(8) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.

(9) When the commencement of the legislative process in respect of a draft by-law has been approved in terms of sub-rule (7), the draft by-law must be published for public comment in accordance with rule 44.

(10) If the municipality does not have an Executive Mayor or an Executive Committee, the councillor who introduced the draft by-law must submit a report setting out the matters referred to in sub-rule (6)(a) to (g) to the Council whereafter the procedures set out in sub-rules (7) to (9) apply.

43. Introduction of draft by-laws by executive mayor or executive committee

(1) An Executive Mayor or Executive Committee introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker and the Municipal Manager.

(2) The Municipal Manager must publish the draft by-law for public comment in accordance with rule 44.

44. Publication of draft by-laws

The Municipal Manager must as soon as possible after—

(a) the Executive Mayor or the Executive Committee has decided to support the draft by-law under section 42(5);

(b) the Council has given approval in terms of rule 42(7) for the commencement of the legislative process; or

(c) the Executive Mayor or Executive Committee has introduced a draft by-law in terms of rule 43(1),

publish the draft by-law for public comment in accordance with section 12(1)(b) of the Systems Act for at least 30 days, unless the Council has approved a shorter period.

45. Consideration of draft by-laws

(1) The Municipal Manager must as soon as possible after the closing date for public comment referred to in rule 44, submit a report to the Council or if the municipality has an Executive Mayor or an Executive Committee, to that mayor or committee, together with—

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

(b) copies of the advertisements in which the public was invited to make representations;

(c) any comments received from the public; and

(d) any other comments or recommendations from the Municipal Manager.

(2) The Executive Mayor or Executive Committee, if the municipality has such a mayor or committee 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;

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

(iii) the view of the Executive Mayor or Executive Committee on the need for the draft by-law;

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

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

(vi) any relevant comments or proposals; and

(b) recommend to the Council to pass the by-law, to pass the by-law in an amended form or to reject the by-law.

(3) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.

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

Chapter 8
Committees

46. Establishment of committees

(1) The Council may establish committees subject to sections 33 and 79 of the Structures Act.

(2) Membership of a committee must be determined by the Council, taking into consideration section 160(8) of the Constitution and the preference, willingness, and experience of each councillor.

(3) The Council must appoint the chairperson of a committee. If the chairperson is absent from a committee meeting, the committee must elect one of its members to preside at that meeting.

47. Powers and functions of chairperson

The chairperson of a committee must—

(a) preside at a committee meeting;

(b) decide when and where the committee meets;

(c) determine the agenda of a committee meeting;

(d) keep a record of the minutes of committee meetings;

(e) take reasonable steps to regulate the attendance of members of the public to committee meetings;

(f) ensure that meetings are accessible to persons with disabilities; and

(g) preserve decorum, and make a ruling in respect of all questions relating to a matter before the committee, including a point of order.

48. Powers and functions of committees

(1) A committee performs the functions assigned to it by legislation, these rules or a resolution of the Council.

(2) Having regard to the matters in rule 14(4)(b)(i) to (x), a committee may decide on whether members of the public are to be excluded from a meeting of the committee.

(3) A committee must strive to reach its decisions through consensus. If a committee cannot reach a decision through consensus, the chairperson must put the matter to vote in order to be decided by a majority of the votes cast. In the event of an equality of votes, the chairperson must exercise a casting vote.

(4) A committee must submit any report required by the Council within the time frame determined by the Council. If a committee does not submit a report within the time frame, the chairperson must request the Council for an extension of time and state the reason therefor.

(5) If the Council receives a request referred to in sub-rule (4), it must consider the request within seven days.

(6) All proceedings of committee meetings must be entered into the minutes, which must be approved by the committee and signed by the chairperson.

(7) A committee may adjourn any committee meeting to another date.

49. Committee secretaries

(1) The Municipal Manager must ensure that each committee has a secretary.

(2) The secretary of a committee must—

(a) take minutes of meetings of the committee;

(b) give notice of a committee meeting in writing to each member of the committee by any means reasonable to achieve the purpose; and

(c) publish a notice of a committee meeting which is open to members of the public in a local newspaper.

(3) The notice referred to in sub-rule (2) must be given at least seven days before the meeting and state the date, time, venue, and agenda of the meeting.

Chapter 9
Miscellaneous matters

50. Banners, signs and placards

The Speaker must decide which banners, signs or placards may be displayed at meetings. No banner, sign or placard which is disruptive may be displayed at meetings.

51. Prohibition of use of audible, portable communication devices

(1) Subject to sub-rule (2), no audible, portable communication devices, including, but not limited to cellular phones and pagers, may be used during a meeting.

(2) Microphones, electronic recording devices, video recording equipment or portable computers may be used for the purposes of recording the proceedings of a meeting, if used in a non-disruptive manner.

52. Official languages

Anyone who speaks at a meeting may use any of the three official languages recognised by the Constitution of the Western Cape, 1997, namely Afrikaans, English and isiXhosa.

53. Municipal employees

(1) The employees of the municipality who attend a meeting must observe the rules and decorum applicable to councillors.

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