

ENDUMENI MUNICIPALITY

DELEGATION OF POWERS

1. Definitions

In this document, unless the context otherwise indicates:

- “**administration**” means the Municipal manager and the other employees of the Municipality;
- “**after consultation**” means with due regard for the views of any person with whom a delegated body is required to consult before he/she exercises a delegated or sub-delegated power;
- “**Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- “**Council**” means the Municipal Council of the Endumeni Municipality, its legal successors in title and its delegates
- “**delegating authority**”, in relation to a delegation of a power by the Council, means the Council, and in relation to a sub-delegation of a power by a delegated body, means that delegated body;
- “**delegation**” means the authorization of a delegated body by a delegating authority to act in his/her stead, and in relation to a power includes an instruction to exercise the power, and “**delegate**” has a corresponding meaning;
- “**delegated body**” in relation to the delegation of a power means the political structure, political office-bearer or employee to whom a power has been delegated in writing by the delegating authority;
- “**in consultation**” means with the concurrence of the person with whom a delegated body must consult before exercising a delegated or sub-delegated power;
- “**power**” includes a duty and a function;
- “**political office-bearer**”, in relation to the Municipality, means the Speaker and the Mayor elected by the Council in accordance with the provisions of the Structures Act;

- “**political structure**”, in relation to the Municipality, means the Council or any Committee or other collective structure of the Municipality elected, designated or appointed in accordance with the provisions of legislation;
- “**Structures Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and
- “**Systems Act**” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

In this document, unless the context otherwise indicates, words and expressions denoting:

- The singular includes the plural and vice versa; and
- A reference to a natural person includes a legal person and vice versa.

2. **Powers of the Municipality**

The Municipal Manager should ensure the documentation of the delegation of functions or tasks to appropriate levels of staff in the employ of the Municipality.

The Municipality has all the powers assigned to it in terms of the Constitution as well as other relevant legislation. The Municipality has the right to do anything reasonably necessary for or incidental to the effective exercise of its powers;

The executive and legislative authority of the Municipality vests in the Council. The Council takes all the decisions of the Municipality except:

- Decisions on those matters that it has delegated to a delegated body; and
- Decisions on those matters that by law have been assigned to a political structure, political structure, political office-bearer or employee of the Council.

The Council may exercise executive and legislative authority within the Municipal area only. The Council may, by written agreement with another Municipality, exercise executive authority in the area of that other Municipality.

All the powers of the Municipality that have not been reserved for the Council, or that have not been delegated to a political structure, political office-bearer or employee of the Council are delegated to the Executive Committee of the Council.

3. **Objectives of Delegation**

The objectives of this system of delegation are:

- To ensure maximum administrative and operational efficiency;
- To provide for adequate checks and balances;
- To delegate decision-making to the most effective level within the administration;
- To involve employees in management decisions as far as practicable;
- To promote a sense of collective responsibility for performance;
- To assign clear duties for the management and co-ordination of administrative components, systems and mechanisms;
- To define in precise terms the duties of each political structure and political office-bearer; and
- To determine the relationships amongst the political structures, political office-bearers and the administration, and the appropriate lines of accountability and reporting for each of them.

4. **Roles and Responsibilities of Political Office-Bearers, Political Structures and the Municipal Manager**

4.1 The specific roles and areas of responsibility of each political office-bearer, political structure and the Municipal Manager of the Council are defined to ensure:

- Good relationships between these bodies and persons;
- Appropriate lines of accountability and reporting for these bodies and persons;
- That unnecessary overlapping of responsibilities and duplication of powers between these bodies and persons are prevented or kept to the minimum;
- That disputes that may arise between these bodies and persons, are resolved amicably and timely; and
- Dynamic and productive interaction between these bodies and persons, and other Councillors and employees of the Council.

4.2 The Executive Committee

- Is the principal committee of the Council;
- Is the Committee which receives reports from other committees of the Council and which must forward such report together with its recommendations to the Council when it cannot dispose of the matter in terms of its delegated or statutory powers;
- Receives reports with recommendations from Departmental Heads through the office of the Municipal Manager on all matters that must be handled by either the Executive Committee or the Council in terms of these delegations and for which a specific committee has not been created to consider the matter beforehand;

- Must consider the matters raised in any report submitted to it and must either dispose of it in terms of its delegated or statutory powers, or must forward them with its recommendations to the Council for consideration;
- Must ensure that integration between the various committees that may exist take place;
- Is responsible for political supervision of the administration in terms of Council resolutions and the law;
- Is responsible for liaison with the community, ward committees, other committees and Councillors and political office-bearers in the different spheres of government; and
- Performance of their IDP function.

4.3 The Mayor:

In terms of the Municipal Structures Act, Section 49, the two principle functions of the Mayor:

- Presides at meetings of the Executive Committee; and
- Performs the duties, including any ceremonial functions, and exercises the powers delegated to the Mayor by the municipal council or the executive committee.

However, the Mayor may be accorded other functions and powers by the Municipal Council or the Executive Committee, which may include the following:

- Must, after consultation with the Municipal Manager/Council, identify those of the Municipality's activities that need a specific committee of Councillors to investigate, discuss, evaluate and report and make recommendations to the Executive Committee and the Council;
- Must ensure, in consultation with the Municipal Manager/Council, that a proper committee service responsible for the agendas and minutes is in place for the executive and other committees, that all committees meet regularly and that they submit reports to the Executive Committee timeously;
- Is responsible for the quality and speed of decision-making in the Executive Committee;
- Plays a prominent role, in consultation with the Municipal Manager, in building, maintaining and enhancing sound relationships between the Council, Councillors and the administration;
- Should be available on a regular basis to interview the public and visitors to the Municipal offices, and to interact with prominent business people as well as developers;
- Performance of their IDP function. The Mayor is the champion of the IDP forum, but the driver of the IDP process is the Municipal Manager or his delegate.

4.4 The Speaker:

- Must ensure that the Council and Committee meetings are conducted in an orderly manner;
- Must enforce the Council's rules and orders and the code of conduct for Councillors;
- Must liaise closely with the Committee responsible for the agenda and minutes of each Council meeting, in consultation with the Mayor and Municipal Manager as and when necessary;
- Must co-ordinate the arrangements regarding venues and dates for meetings and the circulation of agendas and minutes of all the meetings of the Council and its Committees;
- Must liaise with Councillors, as well as members of the public and media who attend Council meetings, regarding proper conduct during such meetings to ensure compliance with the Council's rules and orders; and
- Must ensure that ward Councillors regularly have ward meetings and report thereon to the Council and that proportionally elected Councillors regularly report to their constituencies and report back to the Council.

4.5 The other committees of the Council:

- Consist of Councillors appointed by the Council;
- Are established to assist the Executive Committee;
- Are chaired by a member of the Executive Committee appointed by it;
- May receive specific responsibilities and delegated powers from the Executive Committee, which must be exercised strictly in accordance with the conditions and limitations of delegation, if any;
- Report to the Executive Committee in accordance with its directions; and
- Performance of their IDP function.

4.6 The Municipal Manager:

- Is the head of the administration and is responsible for the effective day-to-day running of the administration of the Municipality;
- Is responsible for the execution of resolutions taken by the Council and any delegated body;
- Plays a prominent role, together with the Executive Committee, in building, maintaining and enhancing sound relationships between the Council and the administration;

- Must ensure, after consultation with the Mayor and Speaker, that a proper and effective committee service responsible for the agendas and minutes in place for the Council, Executive Committee and any other political structure of the Municipality, that committees meet on a regular basis and submit reports to the Executive Committee timeously;
- Receives reports with recommendations from the Departmental Heads on all matters that must be dealt with by any committee or the Council in terms of these delegations. Those matters, for which specific committees have been established, are referred to such committees for consideration and report. Those matters, for which a specific committee has not been established, are referred to the Executive Committee for consideration; and
- Performance of their IDP function. The Mayor is the champion of the IDP forum, but the driver of the IDP process is the Municipal Manager or his delegate.

5. **Principles, Conditions and Limitations on Delegated Powers**

The Delegation of a Power to a Delegated Body

- Must not conflict with the Constitution or any other law;
- Must be in writing under signature of the delegating authority;
- May at any time be withdrawn by the delegating authority in writing;
- May include the authority to sub-delegate a delegated power;
- Does not divest the delegating authority of the responsibility concerning the exercising of the power;
- Must be reviewed when a new Council is elected; and
- Is subject to the limitations and directions imposed by the delegating authority, if any.

When a power has been delegated or assigned by a delegating authority to an employee, that employee may act thereon through any employee under his/her control;

The following conditions and limitations apply to any power that had been delegated by a delegating authority or sub-delegated by a delegated body:

- The delegated body must give effect to the policies of the Municipality as approved from time to time by the Council;

- The delegated body may at any time decide not to exercise the delegated power, but to submit it to the delegating authority for decision. In such event the delegated body must submit its report and recommendations on the matter to the delegating authority for consideration;
- The delegating authority may at any time instruct the delegated body not to act on a delegation, but to submit the matter to it for decision and execution. In such an event the delegated body must submit its report and recommendations on the matter to the delegating authority;
- Delegated body may not incur expenditure in the exercising of the delegated powers that had not been provided for in the budget;
- The delegated body must exercise its delegated powers in terms of the applicable law;
- A delegated body must report to the delegating authority at such intervals as the delegating authority may require, on all decisions taken in terms of that delegated or sub-delegated power since the last report; and
- A decision taken by a delegated body in the exercise of the Municipality's executive authority must be in writing.

A person, whose rights are affected by a decision taken by a delegated body, may appeal against that decision by giving written notice and the reasons for the appeal to the Municipal Manager. Notice of appeal must be given within 21 days of the date of notification of the decision. The Municipal Manager must promptly submit the appeal to the appropriate appeal authority that must decide on the appeal in the manner and within the time set out in the Systems Act.

The withdrawal, amendment or lapse of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation before such withdrawal amendment or lapse.

Whenever it becomes necessary to review these delegations, the Municipal Manger must submit a report on the existing delegations with recommendations on any changes thereto that she/he may consider necessary, to the Council through the Executive Committee.

6. **Powers Reserved for the Council**

In accordance with the provisions of Section 160(2) of the Constitution, and Sections 60(1) of the Systems Act:

The powers, functions and duties set out hereunder are reserved for the Council and may not be delegated:

- The passing, amendment and repeal of by-laws;
- The approval and amendment of budgets;
- The imposition and amendment of rates and other taxes, levies and duties;
- The raising of loans;
- The approval or amendment of the Municipality's integrated development plan;
- Setting of tariff charges;
- Entering into Municipal Service Partnerships; and
- Appointment of the Municipal Manager (Municipal Structures Act).

Although the Council reserves the following powers, certain of these may be delegated. The Council may not take any decision in respect of these matters, unless it has received and considered the report and recommendations of the Executive Committee in this regard:

- The rationalization of the by-laws, regulations and resolutions (including standing delegations) of the former Municipalities in terms of Section 15 of the Structures Act;
- Making representations on behalf of the Municipality to the MEC responsible for local government in terms of Section 12(4) or 16(3) of the Structures Act;
- Designating Councillors determined by the MEC responsible for local government as full-time Councillors and considering any application of a Councillor so designated to perform other work for remuneration in terms of item 8 of the Code of Conduct for Councillors (Municipal Structures Act);
- Appointment of the Municipality's representatives in the district Municipal Council in accordance with Section 23(1)(b) of the Structures Act;
- Replacement of any of the Municipality's representatives in the district Municipal Council in terms of Section 27(e) of the Structures Act;
- Closing the Council's sittings to members of the public and the media and authorizing committees of the Municipality to close their sittings in terms of Section 31(1) of the Structures Act;

- The establishment of committees in terms of Section 33 read with Section 79 and 80 of the Structures Act, including the determination of the functions and procedures of any such committee, the appointment and removal of the members of such committee;
- Considering the dissolution of the Council in terms of Section 34(1) of the Structures Act;
- Electing a Speaker in terms of Section 36(2) of the Structures Act;
- Removing the Speaker from office and filling any vacancy in the office of Speaker in terms of Section 40 of the Structures Act;
- Electing an acting Speaker according to Section 41 of the Structures Act;
- Determining whether or not to implement the type of the Municipality in terms of Section 54(2) of the Structures Act;
- Determining the size of the Executive Committee;
- Determining the election system for electing the members of the Executive Committee;
- The expropriation of immovable property or rights in or to immovable property;
- The determination or alteration of the remuneration, benefits or other conditions of service of the Municipal Manager or managers directly responsible to the Municipal Manager;
- Electing the members of the Executive Committee;
- Electing a Mayor from amongst the members of the Executive Committee;
- Supplementing any vacancy that may occur in the Executive Committee;
- Determining the ceremonial role, if any, that the Mayor must perform in terms of Section 56(4) of the Structures Act;
- Removing the Mayor from Office in terms of Section 58 of the Structures Act;
- Deciding whether or not to establish ward committees in the Municipal area in terms of Section 72 to 78 of the Structures act, making rules in connection with any such committees, determining the administrative arrangements that may be made available to such committees and the dissolution of any ward committee;
- The appointment of a Municipal Manager and an acting Municipal Manager and Heads of Departments in accordance with Section 82 of the Structures Act;
- Considering an application by a Councillor to be a party to, beneficiary under or obtain a financial interest in any contract with the Council or to appear before the Council or any structure of the Council for any consideration or a fee, consistent with item 6 of the code of conduct for Councillors;

- Consideration of a report of the Speaker in terms of item 13 of the code of conduct for Councillors;
- Consulting the MEC responsible for local government with regard to any proposed measure in terms of Section 14(5) of the Structures Act, or in terms of Section 15 of the Local Government: Municipal Structures Amendment Act 2000;
- The appointment of managers directly responsible to the Municipal Manager;
- The appointment or designation of:
 - A building control officer in terms of the National Building regulations and Building Standard Act;
 - A fire chief in terms of the Fire Brigade Services Act;
 - The head and deputy head(s) of disaster management/civil protection in terms of the Civil Defence Ordinance;
 - The appointment of a medical officer of health in terms of the Health Act.

- The decision whether reports from committees are only for the information of the Council or whether the Council should be given an opportunity to discuss such reports;
- The approval of excess expenditure on the annual capital and operating budgets;
- The consideration of draft national and provincial legislation and policies affecting the Municipality for the purpose of providing comments to the applicable legislature;
- The consideration of reports of the respective departments of the Council;
- The decision on the appropriate mechanisms to provide Municipal services, in accordance with the provisions of Section 73 to 84 of the Systems Act;
- The approval and amendment of a credit control and debt collection policy in accordance with the provisions of chapter 4 of the Systems Act;
- The approval and amendment of a tariff policy for the levying of fees for Municipal services provided by the Municipality itself or by way of service delivery agreements, in accordance with the provisions of Section 74-75 of the Systems Act;
- The approval and amendment of a policy to make provision for the consolidation of separate accounts of persons liable for payments to the Municipality, to credit a payment by such person against any account of that person and to implement any of the debt collection and credit control measures of the Municipality to any arrears on of the accounts of such a person in accordance with the provisions of chapter 9 of the Systems Act;

- Determining the salaries, allowances and other benefits of Councillors in terms of the Remuneration of Public Office-bearers Act;
- Determining the services that the Municipality provides and the functions it performs, the conditions of and price for the provision of such services and the performance of such functions and standard of service provision and performance;
- The conclusion of any agreement in terms of Section 99, 126 or 156(4) of the Constitution;
- The conclusion of an agreement with any other Municipality to co-operate with that Municipality;
- The imposition and lifting of water restrictions;

7. **Powers Delegated to the Executive Committee**

The following statutory powers and duties are delegated to the Executive Committee in accordance with the provisions of Section 49 and Chapter 4 of the Structures Act;

7.2 The Executive Committee must:

- Identify the needs of the Municipality;
- Review and evaluate those needs in order of priority;
- Recommend to the Council strategies, programmes and services to address priority needs through the integrated development plan; and estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
- Recommend or determine the best methods, including partnership and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community.

7.3 The Executive Committee in performing its duties must:

- Identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services it recommended to the Council can be evaluated, including key performance indicators which are specific to the Municipality and common to local government in general;
- Evaluate progress against the key performance indicators;
- Review the performance of the Municipality in order to improve:
 - The economy, efficiency and effectiveness of the Municipality;
 - The efficiency of credit control and revenue and debt collection services;
 - The implementation of the Municipality's by-laws.

- Monitor the management of the Municipality's administration in accordance with the policy directions of the Municipal Council'
- Oversee the provision of services to the community in a sustainable manner;
- Ensure that regard is given to public views and report on the effect of consultation on the decisions of the Council;
- To report to the Council on all decisions taken by it;
- Oversee and monitor the implementation and enforcement of the Municipality's credit control and debt collection policy and by-laws and the performance of the Municipal Manager in implementing the policy and any by-laws;
- When necessary, evaluate or review the Municipality's credit control and debt collection policy and by-laws, or the implementation of the policy and by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and
- At such intervals as may be determined by the Council report to the Council;
- Rationalize the by-laws, regulations and resolutions (including standing delegations) of the former Municipalities in terms of Section 15 of the Structures Act;
- Determine mechanisms to consult the community and community organizations in the performance of the Municipality's functions and the exercise of its powers consistent with Section 19(3) of the Structures Act;
- Where necessary, lodge an objection in terms of Section 87(2) of the Structures Act against the temporary allocation of a function or power of the Municipality to the district Municipality to restore or maintain any basic service that has collapsed or may collapse;
- Determine the nature, extent duration and conditions for providing assistance to the district Municipality pursuant to a request for such assistance in terms of Section 88(2) of the Structures Act;
- Where necessary, make a request to the district Municipality for financial, technical and administrative support services in terms of Section 88(2) of the Structures Act;
- Monitor application of item 4 of the Code of Conduct for Councillors;
- Approve the provision of funds for unforeseen road improvements during the execution of a project to a prescribed amount per project;
- Where necessary, enter and inspect any site or premises within the Municipal area and to question any person found on such a site or premises in respect of any matter which may be relevant at such a time;
- Approve applications for the provision of water outside the Municipal area;

- Where necessary, lodge objections against the proposed re-determination or alteration of the Municipality's boundaries in terms of Section 21(4) of the Local Government: Municipal Demarcation Act 1998 and lodging any application to alter the Municipality's boundaries;
- Appoint of appraisers, members of the valuation court, legal counsel, consulting engineers and town planners, land surveyors and other professional service providers;
- Determining a policy framework for staff matters in accordance with the provisions of Section 61 of the Systems Act;
- Adopt an employment equity plan and skills development plan for the Municipality consistent with the relevant legislation;
- Create and abolish departments and other organizational units and posts on the permanent establishment;
- Determine the educational requirements, competencies, experiential and other attributes for appointment in the Council's service;
- Determine salary scales on the fixed establishment and conditions of employment;
- Determine which posts in the establishment would be fixed term contractual appointments;
- Approve of all donations and grants-in-aid by the Municipality;
- Approve and amend the town planning schemes, structure plans, conditions of establishment of new townships and land development objectives of the Municipality and applications for rezoning;
- Authorize expenditure for entertainment of persons exceeding 10% of the amount provided in the budget;
- Where necessary, deal with the erection of permanent Municipal buildings;
- Deal with the consideration of sub-divisions of land belonging to the Municipality;
- Decide on the permanent closing of streets and other public places;
- Decide on the introduction and lifting of water restrictions and the imposition penalties for excess use during such restrictions;
- Grant approval in principle of projects, with a view to the provision of funds on the capital budget;
- Grant approval of tenders resulting in the budget being exceeded;
- Consider of the audit report and the reports of the audit committee;
- Decide on the acquisition and maintenance of insurance of the Municipality's property, including the appointment of insurance brokers;
- Nominate the Council's representatives in public bodies and the Provincial Executive Committee Kwanaloga;

- Appoint Councillors to attend congresses, workshops, seminars and similar events;
- Approve the attendance of meetings, workshops, seminars, conferences, congresses and similar events conducted outside the national territory;
- Determine a language policy for the Municipality; and
- Determine signatories on the Municipality's bank account, official orders and other documents that must be executed on behalf to the Municipality.

8. **Sub-Committees of Council and Executive Committee (All recommendations to be submitted to the Executive Committee/Council)**

Labour Forum Sub-Committee

The Local Labour Forum shall have powers and functions of negotiation and/or consulting that all recommendations be referred to Executive Committee/Council for comment:

- On matters of mutual concern pertaining to the workplace and which does not form the subject matter of negotiations at the SLGBC or its divisions;
- On such matters as may from time to time be referred to such Forum by the Council or SALGB or its Divisions;
- Provided that it may not negotiate on any matter, which has been reserved for exclusive bargaining in the SALGBC or its divisions;

Human Resources Development Committee

Shall be responsible for consultation and technical preparing work on education and training, employment equity and all such other related human resources issues.

Workplace and Service Restructuring Committee

Shall deal with all and any proposed changes relating to any service restructuring including the introduction of new technology, proposals for privatization or alternations methods for service delivery or other work re-organization proposal.

Basic Conditions Committee

Shall deal with matters relating to working conditions, arrangement of working hours, health and safety proposals.

The Sport, Youth, Gender, Arts & Culture Sub-Committee

Shall deal with matters relating to the above.

The Staff Disciplinary Sub-Committee

Shall deal with staff disciplinary matters as prescribed in the Council's Conditions of Employment and the relevant Labour legislation.

The Staff Disciplinary Appeal's Committee

Shall deal with disciplinary appeals in terms of the Council's Conditions of Employment and the relevant Labour legislation.

The Hostels and Health Sub-Committee

Shall deal with all matters relating to the Council's hostels and health matters.

The Tender Sub-Committee

Shall consider the allocation of all tenders.

The Audit, Finances & Services Sub-Committee

Shall deal with all financial matters referred to it by the Executive Committee/Council.

The Housing Sub-Committee

Shall deal with all Council's housing matters.

9. **Powers Delegated to the Speaker**

The following statutory powers and duties are delegated to the Speaker in accordance with the provisions of Section 37 of the Structures Act:

- To preside at meetings of the Council where she/he is present;
- To ensure that the Council meets at least quarterly;
- To maintain order during meetings of the Council;
- To ensure compliance with the Code of Conduct for Councillors in the meetings of the Council and Council's committees;
- To ensure that Council meetings are conducted in accordance with the rules and orders of the Council;
- To determine the date and venue of ordinary Council meetings;
- To convene special meetings of the Council at the venue determined by her/him and at the time set out in any request that such a meeting be convened in terms of Section 29(1) of the Structures Act;
- Ensure that the provisions in respect of privileges and immunities of Councillors, as set out in Section 28 of the Structures Act or any other applicable legislation, are adhered to; and

- Ensure that ward committees meet regularly, if any, and that Councillors report to their constituencies at least once during every three months.

10. **Powers Delegated to the Municipal Manager**

10.1 As Head of Administration, the following statutory powers and duties be delegated to the Municipal Manager subject to Council approval and in accordance with the provisions of the Structures act and the Systems Act:

- To form and develop an economical, effective, efficient, accountable and performance driven administration for the Municipality in accordance with the provisions of Section 51 of the Systems Act;
- To manage the Municipality's administration in accordance with the provisions of the Systems Act and other legislation applicable to the Municipality;
- To implement the Municipality's integrated development plan and to monitor the progress with implementation of the plan;
- To manage the provision of services to communities, residents and ratepayers in a sustainable manner;
- To control and manage the effective utilization and training of staff;
- To maintain discipline of staff;
- To promote sound labour relations and compliance by the Municipality of applicable labour legislation conditions of service and collective agreements;
- To advise the structures and functionaries of the Municipality;
- To manage the communication between the Municipality's administration and its political structures and political office-bearers;
- To carry out the decisions of the structures and functionaries of the Municipality
- To administer and implement the Municipality's by-laws and other legislation;
- To implement national and provincial legislation applicable to the Municipality;
- To facilitate participation by communities, residents, ratepayers and other stakeholders in the affairs of the Municipality;
- To implement and enforce the Municipality's credit control and debt collection policy and applicable by-laws in accordance with the provisions of Section 92 of the Systems Act;
- To establish effective administrative mechanisms, processes and procedures in accordance with the credit control and debt collection policies and any such by-laws of the Municipality, to collect money that is due and payable to the Municipality in accordance with the provisions of Section 92 of the System Act;

- To give written authorization to officials concerned, to get access at all reasonable hours to premises in the Municipality in order to read, install or repair any meter or service connection for reticulation, or to disconnect, stop or restrict the provision of any service in accordance with the provisions of Section 93 of the Systems Act;
- Within a policy framework determined by the Council:
 - Approve a staff establishment for the administration;
 - Provide a job description for each post on the staff establishment;
 - Align the remuneration and other conditions of service for each post on the staff establishment in accordance with applicable labour legislation and any collective agreement; and
 - Regularly evaluate the staff establishment and, if necessary, review the staff establishment and the remuneration and conditions of service and
- Performance of their IDP function. The mayor is the champion of the IDP forum, but the driver of the IDP process is the Municipal Manager or his delegate;

10.2 As accounting officer the following statutory powers, functions and duties are delegated to the Municipal Manager in terms of the Municipal Finance Management Bill 2000:

- Responsibility for:
 - All income and expenditure of the Municipality;
 - All assets and the discharge of all liabilities of the Municipality; and
 - Proper and diligent compliance with the Municipal Finance Management Act.
- Ensuring that the Municipality has and maintains:
 - Effective, efficient and transparent systems of financial and risk management and internal control;
 - A system of internal audit;
 - An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
 - A system for properly evaluating and prioritizing all major capital projects prior to a final decision on the project;
- Keeping full and proper records of the financial affairs of the Municipality in accordance with any prescribed norms and standards;
- The effective, efficient, economical and transparent use of the resources of the Municipality;

- Taking effective and appropriate steps to:
 - Collect all money due to the Municipality;
 - Prevent unauthorized expenditure;
 - Prevent losses resulting from possible criminal conduct; and
 - Manage available working capital efficiently and economically.

- Without delay report all losses as a result of suspected criminal conduct to the South African Police Services;
- The management, including the safeguarding and the maintenance of the assets, and the managing the liabilities, of the Municipality;
- Compliance by the Municipality with any tax, levy, duty, pension and audit commitments as may be required by legislation;
- Setting all contractual obligations of, and pay all money owing by the Municipality within the prescribed or agreed period;
- On discovery of any unauthorized expenditure, must immediately report, in writing, particulars of the expenditure to the Mayor, the members of the Executive Council of the province responsible for finance and for local government and the Auditor-General;
- Taking effective and appropriate disciplinary steps against any employee who:
 - Contravenes or fails to comply with a provision of the Municipal Finance Management Bill, financial by-laws, policies or procedures of the Municipality;
 - Commits an act which undermines the financial management and internal control system of the Municipality; or
 - Makes or permits any unauthorized or fruitless expenditure.

- Before transferring any funds otherwise than in terms of a commercial or other business transaction to an entity outside the Municipality, obtain a written assurance from the entity that that entity implements effective, efficient and transparent financial management and internal control systems. If such written assurance is not or cannot be given, render the transfer of the funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems;
- Enforce compliance with any prescribed conditions if the Municipality gives financial assistance to any entity or person;

- Take into account all relevant financial considerations, including issues of propriety, regularity and value for money, when policy proposals affecting his or her responsibilities are considered and bring those considerations to the attention of the Municipality;
- Promptly inform the Provincial Government and National Treasury in writing of any new entity, which the Municipality intends to establish, or in the establishment of which it takes the initiative, or in which it intends to acquire an interest;
- Ensure the submission by the Municipality of all reports, returns, notices, explanations and motivations and other information to the Provincial Government, the National Treasury, the provincial treasury or the Auditor-General, as may be required by the Municipal Finance Management Bill;
- Comply, and take all reasonable steps to ensure compliance by the Municipality with the provisions of the Municipal Finance Management Bill;
- Ensure that expenditure of the Municipality is in accordance with the approved budget and that effective and appropriate steps are taken to prevent:
 - Overspending of the approved budget;
 - Under collection of revenue due to the Municipality; and
 - Unauthorized and fruitless expenditure.
- Report to the Executive Committee, any impending:
 - Under collection of revenue due;
 - Shortfalls in budgeted revenue;
 - Overspending of the approved budget; and
 - Any appropriate steps to be taken.
- Utilize a saving in the amount appropriated under a vote in a budget toward the defrayment of excess expenditure under another vote in the same budget, unless the Council directs otherwise and must as soon as possible table in the Municipal Council a report containing the prescribed particulars concerning the utilization of such a saving;
- Prepare financial statements for each financial year in accordance with generally recognized accounting practice reflecting any financial stake the Municipality may have in any other undertakings and submit those financial statements to the Auditor-General for auditing within two months after the end of the financial year;
- Within two months of receiving the audit report from the Auditor-General, table in the Council an annual report on the activities of the Municipality and the Municipal entities concerned during that financial year, a copy of the (consolidated) financial statements and the audit report and submit to the Provincial Government:

- Copies of the annual report, the (consolidated) financial statements and the audit report;
 - Particulars of any corrective action taken in response to the findings of the audit report; and
 - Copy of the minutes of the meeting within one month.
- Give reasonable written notice of any meetings where the financial statements and audit report will be considered to the Auditor-General, the provincial treasury and the provincial department responsible for local government and submit copies of the minutes of these meetings to the Auditor-General, the provincial treasury and the provincial department responsible for local government;
 - If she/he fails to submit financial statements to the Auditor-General or to table financial statements and the Auditor-General's audit report on those statements in the Council he or she must promptly table in that Council a written explanation setting out the reasons why they were not submitted;
 - When an annual budget is tabled in the Municipal Council, the Municipal Manager must submit measurable income and expenditure targets of the financial year to which the budget relates;
 - Enforce compliance with the provisions of relevant legislation regarding the revenue fund;
 - Give public notice in a manner determined by the Council of the time, date and venue of every:
 - Ordinary meeting of the Council and any committee; and
 - Special or urgent meeting of the Council and any committee.
 - Determine and recover the amount of any loss or damage incurred by the Municipality on the person who was responsible for the loss or damage and, in appropriate cases institute disciplinary action. An employee who is or was employed by the Municipality is responsible for a loss or damage if it is proven during a disciplinary enquiry that he/she:
 - Failed to collect money owing to the Municipality the collection of which he/she was responsible for;
 - Is or was responsible for a payment of money without proper authority or without following the prescribed procedure or without a proper supporting voucher;
 - Due to an omission to carry out his/her duties, is or was responsible for fruitless expenditure;
 - Is or was responsible for damage to or the destruction of money of the Municipality, stamps or other face value documents or securities or other property of the Municipality;
 - Due to an omission to carry out his/her duties is or was responsible for a claim against the Municipality.

- Recover the amount of any unauthorized expenditure on the person who was responsible for incurring such expenditure or the beneficiary thereof. Expenditure is unauthorized when:
 - A payment had been made without provision having been made in the approved budget, with due regard for any legal provisions governing payment;
 - A payment or part of any payment resulting in the total amount of the approved budget or a vote in the budget being exceeded;
 - Any external or internal authorization required by law for a payment cannot be produced;
 - A payment had been made without proper legal authority or inconsistent with any legal requirement;
 - An expenditure from a vote in the budget, which is unconnected with the purpose of that vote.

10.3 The following powers, functions and duties are delegated to the Municipal Manager:

- To commence with any legal process, whether criminal or civil, on behalf of the Council and to defend or oppose any legal process, whether criminal or civil, against the Council;
- To submit or oppose an appeal to a higher court or other body in respect of a judgement given by a lower court or body concerned;
- To obtain the services of an attorney or advocate for any official purpose;
- In consultation with the Manager Finances, to incur expenses to appoint investigators to obtain evidence in cases of alleged irregularities or misconduct;
- In consultation with the Manager Finances to apply contractual penalty clauses in the event of late delivery of goods or services to the Council;
- To decide on the granting of legal aid to employees in terms of Section 73B of the Local Government Ordinance 1962;
- In consultation with the human resources manager and the relevant manager to grant study bursaries to employees;
- To decide on the replacement, at the Council's expense, of an official's tools, which are damaged or broken while used in the service of the Council in cases where an official is expected to provide her or his own tools. Replacement tools will be of similar quality and identical nature;
- To allocate official telephones to the private homes of officials;

- Provided that the necessary funds are available, to approve the attendance by officials of meetings, workshops, seminars, conferences, congresses and similar events and visits which are in the interest of the Council and which are to be conducted within the national territory. If the presence of Councillors is necessary, the Municipal Manger in consultation with the Mayor will do the nomination of which Councillors must attend;
- To decide about the refunding of tender deposits in respect of those tenders where the Council has no contractual obligation to refund deposits;
- To make recommendation on the use of coat of arms, flag and banner any of the towns within the Municipality, for commemorative and other purposes;
- To decide whether costs incurred by the civil protection organization for the provision of assistance, must be recovered by the Council;
- The authority to sign the following documents:
 - Together with the Mayor/Council, the granting of honorary citizenship and freedom of the Municipality;
 - Documents for the transfer or acquisition of immovable property or rights in respect thereof;
 - Documents to commence with any legal process, whether criminal or civil, on behalf of the Council and to defend or oppose any legal process, whether criminal or civil, against the Council;
 - Documents necessary to submit or oppose an appeal to a higher court or other body in respect of a judgment given by a lower court or body concerned;
 - Any other contract or document not specified in respect of any departmental head.
- To grant permission to persons and bodies to examine the records of the central registration of the Council for research purposes;
- In his or her discretion, not to lease a hall of the Council if he or she is of the opinion that the risk involved is too high;
- To turn down any applications for donations, which obviously cannot be considered in terms of Council policy;
- To grant special leave to employees who are sportsmen and women, coaches and referees/umpires, for the purpose of participation in sports events and tournaments at provincial and national level;
- The closing of the Council's libraries on a temporary basis;
- The authority to perform the functions and exercise the powers vested in the Council in terms of the provisions of the relevant Civil Protection Act and Hazardous Substances Act;
- Finalizing all returns of premises from the State to the Municipality;

- The granting of permission for the free use of Council premises for departmental functions and other Municipal-orientated activities/events;
- In consultation with the Departmental Heads concerned:
 - To create temporary posts in the event of the occurrence of bottlenecks or emergency situations;
 - To appoint and discharge employees, with the exception of the Municipal Manager, Departmental Heads and deputy Departmental Heads, in compliance with the relevant legislation and with the right to grant further delegations to the human resources manager;
 - To apply disciplinary measures in terms of the conditions of service and, with the exception of Departmental Heads and deputy Departmental Heads, to suspend and discharge officials, provided that the personnel/legal department is represented at the hearings or appeals of such officials; and
 - To deal with and finalize the fitting of antennas to existing masts and structures in consultation with the Departmental Heads concerned.

11. **Powers Delegated to the Manager Corporate Services**

- 11.1 The authority to allocate or re-allocate dates for street collections for which formal applications have been received;
- 11.2 The authority to sign the following documents:
- A declaration by the seller for the payment of transfer duties in connection with property transactions excluding declarations concerning buildings which were erected with funds obtained from any state department;
 - Lease contracts in respect of the leasing of Council property as well as property leased by the Council, excluding documents concerning the leasing of buildings erected with funds received from national or provincial government;
 - Contracts for the maintenance of lifts in Municipal buildings as well as maintenance contracts in respect of Council equipment which are under the control of the Corporate Services;
 - Contracts concerning the installation of telephones for official purposes or concerning applications made by persons occupying Council premises;
 - All documents which are necessary for the registration of erven or other immovable property alienated by the Council, excluding documents for the registration of erven or other immovable property alienated by the Council on which buildings are erected with funds received from national or provincial government;

- All documents which may be necessary for the registration of immovable property in the Council's name irrespective of the way in which the Council acquired such immovable property;
- Contracts which may be necessary for the alienation of any rights in immovable property owned by the Council;
- All documentation necessary for compliance with the provisions of the relevant Expropriation Act;
- All documents which may be necessary for the registration of servitudes or notarial contracts to which the Council is a party;
- Contracts regarding branch-railway lines and third party rights; and
- Any other documents for which authority has been delegated by the Executive Committee or by the Municipal Manager.

11.3 The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of:

- The by-laws for the lease of Municipal halls;
- The by-laws for the control of street collections;
- The library by-laws;
- The by-laws for the control of public nuisances and breaches of the peace; and
- Any other by-laws set out in terms of the Constitution.

11.4 In consultation with the Manager Technical Services, to waive Council's rights in respect of servitudes;

11.5 The authority to appoint officials of his or her department as health and safety representatives for his or her department in terms of the provisions of the relevant Occupational Health and Safety Act;

11.6 The authority to decide on the form of transport that should be used by officials of whom it is required to attend meetings, workshops, seminars, conferences, congresses and similar events and special visits in the interest of the Council, and which are to be conducted within the boundaries of the Republic of South Africa;

11.7 As Human Resources Manager:

- In the case of a new appointment, if such an appointee has been obliged to change his or her place of residence as a result of the appointment, to grant permission in terms of the Council's employment policy for the payment of removal costs in respect of the appointee's movable property: Provided that sufficient proof of such costs that had been incurred, is furnished;

- In consultation with the departmental head concerned, to decide about confirming the appointment of an employee that was appointed on probation, on a permanent basis or to extend the probation period in the light of the performance and competence of the appointee, subject to the provisions of the labour legislation;
- In consultation with the departmental head concerned, to dismiss with proper notice, any temporary employee, whether in a permanent or temporary post, if his or her services are no longer required, subject to the provisions of the labour legislation;
- In consultation with the departmental head concerned, to decide about the acceptance or not of a notice of termination of service received from an employee on a shorter period than the period set in the conditions of service of the employee;
- In consultation with the departmental head concerned, to grant specific permission to an employee to reside outside the Municipal area;
- In consultation with the departmental head concerned, the authority to extend the validity of non-accumulative leave of an employee;
- The authority to make recommendations to the Labour Forum in respect of the termination of the services of an employee due to ill health, subject to the provisions of the labour legislation.

12. **Powers Delegated to the Financial Manager**

The authority to collect moneys owed to the Council in terms of a contract, legislation, court orders and decisions of the Council or any other legal basis;

The authority to obtain an interim property valuation from the Council's appraisers as and when the need arises, in respect of any property within the Municipal area;

The authority to commence with a legal process on behalf of Council in respect of the recovering of any money owed to the Council for whatever reason and in any court, which has jurisdiction, with the inclusion of the signing of all necessary documents. This includes the power to instruct the Council's attorneys and an advocate when necessary, to act on behalf of Council in such cases;

The issuing of a clearance certificate, which certifies that the rates, fees, amounts and interest in respect of a certain property in the Municipal area, have been paid to the Council as required by the applicable legislation;

The claiming from and making of payments to professional persons or firms;

In consultation with the Human Resources Manager, the granting of study loans to officials in terms of Council policy. For loans of a maximum limit set by Council, the Municipal Manager and Financial Manger approve the loan. For loans greater than this limit, the Executive Committee must approve the loan;

The authority to release funds in respect of capital in terms of the approved capital budget;

The authority to deduct money, which an official owes to the Council from forfeited salaries or wages;

The handling of requests from financial institutions for service delivery in respect of the payment of Municipal accounts;

The authority to make a ruling in respect of the commencement with a legal process for claiming of damages to Council property caused by a third party, and for expenses in respect of injuries sustained by an official while on duty, which the Council must incur in terms of the Workmen's Compensation Act and leave agreements, in the event that another party causes the accident or incident;

The authority to give permission for a deferment concerning the meeting of a building clause provision in respect of residential stands in the Municipal area, subject to the payment of a penalty by the applicant;

The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of:

- The financial regulations;
- The regulations regarding housing loans to employees;
- The regulations relating to the Municipal pension and gratuity fund;
- The conditions of sale as set out in the contract concerned in all cases where buyers of immovable property in the Municipal area fail to meet their obligations with regard to the said conditions of sale;
- The water supply and the electricity supply regulations with regard to financial matters; and
- Any other regulations set out in the Constitution.

The consideration of all requests for the making available of name and address lists of water and electricity consumers and the taxation ledger, in the light of the applicable legislation and Council's own administrative circumstances and requirements which take precedence at all times;

The authority to sign the following documents:

- Share certificates in respect of approved loans;
- All documents concerning the collection of money owed to the Council, in either the Magistrates or the High Court;
- Debt certificates.

The utilization of the rent reserve for payment of losses sustained for leases: Provided that a motivated report is submitted for audit purposes in respect of each residential unit;

The authority to purchase movable goods for the amount as determined by the applicable legislation without having to invite tenders;

The authority to finalize insurance claims concerning the Council's internal insurance fund;

In consultation with the departmental head concerned, the authority to enforce the penalty clauses contained in Council's contracts for the late delivery of goods and services;

The authority to act as the Council's authorized agent in entering into loan and donation contracts with other Municipalities;

In consultation with the Human Resources Manager, the authority to approve applications for educational assistance submitted by employees are to be effected in accordance with the existing policy and the agreement of that Council;

The authority to appoint officials of his department as Health and Safety Representatives for his department in terms of the provisions of the relevant Occupational Health and Safety Act;

The authority to sign the purchaser's declaration to pay transfer duties as well as the documents for the cession of buildings erected for residential purposes with State funds.

13. **Powers Delegated to the Manager Technical Services**

In consultation with the Municipal Manager, to obtain the services of a consultant with regard to any of the matters under his or her control, where the consultants fees and expenses do not exceed a prescribed amount set by Council per project or occasion;

In consultation with the Human Resources Manager, to authorize consultants that were appointed by the Council to appoint site staff to supervise contract works;

The authority to appoint officials of his or her department as Health and Safety Representatives for his or her department in terms of the provisions of the relevant Occupational Health and Safety Act;

The authority to sign the following documents:

- Contracts concluded by the Council for building and civil works;
- Contracts concluded by the Council with consultants in respect of projects executed by her/his department;
- All documents and contracts in respect of applications for exploitation authority (mining licences) to excavate gravel and stone within the Municipal area, in terms of the provisions of the relevant Minerals Act; and
- Contracts concluded by the Council for building and civil works.

The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of:

- The sewerage regulations; and
- The water supply regulations.

The authority to approve the appointment of consultants by private township developers;

The authority to permit private persons or organizations to perform work on Council property. Provided that:

- This does not prejudice the Council's interests; and
- The Council is indemnified in writing against any damages and claims, which may arise or result from such activities.

The authority to adjust the tariffs contained in the contracts concluded with consultants from time to time, in accordance with the applicable tariffs as published in the Government Gazette in terms of the legislation concerned;

In consultation with the Manager Finance, the authority to enforce the penalty clauses contained in Council's contracts for the late delivery of goods and services;

The authority to approve or reject all building plans and to decide about building line concessions, lateral and rear spaces as set out in the Town Planning Scheme;

To approve or reject requests for the use of servitude areas created for Municipal purposes, for building purposes or for the erection of other structures. Provided that such use of the servitude area does not prejudice the purpose for which the servitude was registered;

The authority to approve applications for subdivision of land which does not belong to the Municipality and also the approval of applications for the abrogation of a title condition which prohibits such a subdivision and, where necessary, the setting of building-

clause conditions to be registered against the titles of the stands concerned, as well as the determination of servitudes to protect services and their application in cases in which subdivisions are made;

The authority to grant a postponement for the period in which the vested rights, as determined by the Council, must be exercised in cases in which a consent use has been approved by the Council in terms of its Town planning Schemes and other relevant legislation;

In consultation with the Manager Finance, the authority to enforce the penalty clauses contained in Council's contracts for the late delivery of goods and services;

The authority to take the necessary steps to secure a suitable court order which obliges the owner or occupier of land or premises to meet the requirements of the Town Planning Scheme in the event that owners of land or premises fail to meet the requirements of the said Town Planning Scheme;

The authority to approve rezoning applications in respect of land within the guideline areas;

The authority to make recommendations and commentary in respect of applications for the cancellation, suspension or amendment of title conditions which are restrictive, to bring the title deed of a premises into line with the Town Planning Scheme, except in cases in which a reversionary clause in favour of the Council exists in the title deed;

In consultation with the medical officer of health, to make recommendations to the relevant government departments concerned in respect of the approval of or rejection of applications to demolish or reconstruct houses;

14. Powers Delegated to the Electrical Engineer

The authority to extend the electricity supply network of the Council, to make connections thereto in terms of the electricity supply regulations and to authorize repayments in connection therewith;

In consultation with the Municipal Manager, the authority to obtain the services of a consultant with regard to any of the matters under his or her control, where the consultant's fees and expenses do not exceed a prescribed amount per project or occasion;

The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of:

- The electricity supply regulations;
- The Electricity Act; and

- The Occupational Health and Safety Act, and the Electricity Act, as supplier of electricity within the Municipal area.

In consultation with the Manager Technical Services and the Municipal Manager, the provision of technical assistance and training to other Municipalities, private persons and organizations that are deemed necessary and essential, without prejudice to the training of the Council's own personnel.

15. **Powers Delegated to the Manager of Health Services**

The authority to suspend permits for the importing of any milk or dairy products that appear to be diluted or unhealthy in any way, until such time as the Council considers a report in this connection;

The authority to issue all statutory notices for the elimination of nuisances;

The authority to sanction a relaxation in respect of any structural changes to buildings in terms of the provisions of the regulations governing crèches and crèches-cum-nursery schools. Provided that the provisions of the National Building Regulations are not contravened;

The authority to consider applications for the licensing of businesses in accordance with the provisions of the Business Act;

The authority to take the necessary readings for the measurements of dBA values as contemplated in regulation 6 of the noise control regulations;

The authority to appoint officials of his or her department as Health and Safety Representatives for his or her department in terms of the provisions of the Occupational Health and Safety Act.

16. **Powers Delegated to the Manager Security Services**

The authority to erect traffic signs and to affect traffic measurements;

The authority to consider and finalize applications for temporary advertisements and posters, the placing of banners and posters in respect of functions and other events, as well as other ways of advertisement, amongst other things, by using balloons, in accordance with the provisions of the regulations for the display of advertisements;

The authority to grant permission for the use of loudspeakers in the streets to advertise functions and events, which may take place in terms of Council policy;

The authority to act on a complaint received from a member of the public or a police officer about an alleged irregularity in respect of fund raising, to request any person who is raising funds to produce the concession or special concession in terms of which the raising of funds is taking place in compliance with the provisions of relevant legislation;

The authority in consultation with the Municipal Manager to decide whether the fire brigade may be used for fire fighting purposes outside the boundaries of the Municipal area;

The authority to recover payments for removal and storage costs in respect of motor vehicles impounded by the Department;

The authority to grant permission for parades, athletic and other events to be conducted in streets within the Municipal area, as well as for the temporary closing of a street;

The authority to act as responsible officer in terms of the provisions of the Regulation of Gatherings Act;

The authority to perform the functions and exercise the powers that vest in the Council in respect of the use or discharge of fireworks, firearms or similar devices as contained in the provisions of the Explosives Act, and the provisions of the noise control regulations, promulgated in terms of the Environment Conservation Act;

The authority to approve participation of the brigade division in public demonstrations, public displays and welfare functions;

The authority to appoint officials of his or her department as Health and Safety Representatives for his or her department in terms of the provisions of the Occupational Health and Safety Act.