

**DELEGATION OF POWERS**

**SIYATHEMBA MUNICIPALITY**

**FINAL**

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## PREAMBLE

**WHEREAS** section 160(1) (a) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) empowers the Council to make decisions concerning the exercise of all the power and the performance of all the functions of the municipality;

and

**WHEREAS** section 160 (6)(c) of the Constitution, 1996 empowers the Council to make by-laws which prescribe rules and orders for the establishment, composition, procedure, powers and functions of its committees;

and

**WHEREAS** section 160(2) of the Constitution, 1996 prohibits Council from delegating:

- (a) The passing of by-laws;
- (b) The approval of budgets;
- (c) The imposition of rates and other taxes, levies and duties; and
- (d) The raising of loans

and

**WHEREAS** the Council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances, and in accordance with such a system of delegation, may delegate appropriate powers in accordance with the provisions and requirements of Part 3 of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000);

**THEREFORE** Council formulates and approves its policy and the delegation of the powers, functions and responsibilities, as contained herein.

## 1. DEFINITIONS

[1] In this document, unless the context otherwise indicates:

**“Administration”** means the Accounting officer and the other employees of the Municipality;

**“After Consultation”** means with due regard to 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 1998];

**“Council”** means the Municipal Council of Siyathemba Local Municipality, its legal successors in title and its delegates;

**“Delegating authority”** in relation to a delegation of a power or duty 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 authorisation of a delegated body by a delegating authority to act in its stead, and in relation to a power, includes an instruction to exercise the power, and “delegates” 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 Offices “Bearer”** in relation to the Municipality, means the Mayor elected by the Council in accordance with the provisions of the Municipal Structures Act, 1998 [Act No. 117 of 1998];

**“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;

“**Municipal Structures Act**” means the Local Government: Municipal Structures Act, 1998 [Act No.117 of 1998];

“ **Municipal 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-

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

## 2. POWERS OF THE MUNICIPALITY

[1] The Municipality has all the powers assigned to it in terms of the Constitution as well as national and provincial legislation. The Municipality has the right to do anything reasonably necessary for or incidental to the effective exercise of its powers.

[2] The executive and legislative authority of the Municipality vests in the Council. The Council takes all the decisions of the Municipality except-

- (a) Decisions on those matters that it has delegated to a delegated body
- (b) Decisions on those matters that by law have been assigned to a political structure, political office-bearer or employee of the council, or a committee.

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

## 3. OBJECTIVES OF DELEGATION

The objectives of this system are the following:

- (a) To ensure maximum administrative and operational efficiency.
- (b) To provide for adequate checks and balances;
- (c) To delegate decision-making to the most effective level within the administration;

- (d) To involve employees in management decisions as far as practicable;
- (e) To promote a sense of collective responsibility for performance;
- (f) To assign clear duties for the management and co-ordination of administrative components, systems and mechanisms;
- (g) To define the duties of each political structure and political office-bearer and
- (h) 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. PRINCIPLES, CONDITIONS AND LIMITATIONS ON DELEGATED POWERS

- [1] The delegation of a power to a delegated body-
  - (a) Must not conflict with the Constitution, the Municipal Structures Act, the Municipal Systems Act or any other national or provincial legislation;
  - (b) Must be in writing under signature of the delegating authority;
  - (c) May at any time be withdrawn by the delegating authority in writing;
  - (d) May include the authority to sub-delegate a delegated power;
  - (e) Does not divest the delegating authority of the responsibility concerning the exercising of the power;
  - (f) Must be reviewed when a new Council is elected; and
  - (g) Is subject to any limitations, conditions and directions imposed by the delegating authority.
  
- [2] When a power has been delegated or assigned by a delegating authority to an employee, that employee may act thereon through another employee under his/her supervision.
  
- [3] The following conditions and limitations apply to any power that has been delegated by a delegating authority:
  - a. The delegated body must give effect to the policies of the municipality as approved by Council;
  - b. The delegated body may at any time decide not to exercise the delegated power, but to submit it to the delegating authority for a decision, in such an event, the delegated body must submit its report and recommendations on the matter to the delegating authority for consideration;
  - c. 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 authority;
- d. A delegated body may not incur expenditure in the exercising of a delegated power, that has not been provided for in the Budget;
  - e. The delegated body must exercise its delegated powers in terms of applicable laws;
  - f. A decision taken by a delegated body in the exercise of the Municipality's executive authority must be in writing; and
  - g. No decision by a delegated body may be contradictory to any decision of the Council.
- [4] 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 Accounting officer. Notice of appeal must be given within 21 days of the date of notification of the decision. The Accounting officer must promptly submit the appeal to the appropriate appeal authority, which must decide on the appeal in the manner and within the time set out in the Systems Act, 2000 [Act No 32 of 2000]
- [5] The Accounting officer must promptly submit the appeal to the appropriate appeal authority.
- [6] The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- [7] When the appeal is against a decision taken by-
- (a) A staff member other than the Accounting officer, the Accounting officer is the appeal authority;
  - (b) The Accounting officer, the council of the municipality is the appeal authority;
  - (c) A political structure or political office bearer, or a councillor, the council of the municipality is the appeal authority;
    - (i) The municipal council is the appeal authority where the council comprises less than 15 councillors;
- [8] An appeal authority must commence with an appeal within six weeks and decide the appeal within a reasonable period.
- [9] Whenever it becomes necessary to review these delegations, the Accounting officer must submit a report on the existing delegations with recommendations on any changes thereto that she/ he may consider necessary, to the Council.

- [10] The withdrawal, amendment or lapse of a delegated or sub-delegated power does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation.

## 5. ROLES AND RESPONSIBILITIES OF POLITICAL OFFICE-BEARERS, POLITICAL STRUCTURES AND THE ACCOUNTING OFFICER

- [1] The roles and responsibility of political office-bearers, political structures and the Accounting officer of the Council are defined to ensure the following is achieved.
- (a) Good relationships between these bodies and persons;
  - (b) Appropriate lines of accountability and reporting for these bodies and persons;
  - (c) An unnecessary overlap of responsibilities and duplication of powers between these bodies and persons are prevented or kept to the minimum;
  - (d) Disputes that may arise between these bodies and persons, are resolved amicably and on time; and
  - (e) Dynamic and productive interaction between these bodies and persons, and other councillors and employees of the Council.
- [2] **The Mayor**
- a) In consultation with the Accounting officer, the Mayor identifies those of the Municipality's activities that need a specific Committee of Councillors to investigate, discuss, evaluate, report and make recommendations to the Council;
  - b) In consultation with the Accounting officer, the Mayor ensures that a proper committee service responsible for the agendas and minutes is in place for the council and other committees, that all committees meet regularly and that they submit reports to the council on time;
  - c) Ensures that there is a sound relationships between the council, councillors and the administration;
  - d) Performs such ceremonial role as the council may determine.
  - e) Ensures that the Council and Committee Meetings are conducted effectively and efficiently;
  - f) Enforces Council's Standard Rules and Orders and the Code of conduct for councillors.

- g) Co-ordinates 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.

**[4] The Other Committees of the Council**

- a) Consist of councillors appointed by the council;
- b) Are established to assist the council;
- c) Are chaired by a member of the council appointed by the Council;
- d) Are given specific responsibilities and delegated powers by council;
- e) Report to council in accordance with its directions.

**[5] The Accounting officer**

- a. Heads the administration and is responsible for the effective day-to-day running of the Administration of the Municipality.
- b. Is responsible for the execution of resolutions taken by the Council and any delegated body;
- c. Plays a prominent role in building, maintaining and enhancing sound relationships between the Council, Councillors and the Administration;
- d. Ensures, after consultation with the Mayor, that a proper and effective committee service responsible for the agendas and minutes is in place for the council, and any other political structure of the Municipality;
- e. Receives reports with recommendations from the Departmental Heads on all matters that must be handled by any Committee or the Council in terms of these delegations.
- f. Matters, for which specific Committees have been established, are referred to such Committees for consideration.

**6. POWERS RESERVED FOR THE COUNCIL**

[1] The following powers are reserved for Council:

- (a) Powers provided for in section 160(2) of the Constitution, 1998;
- (b) Powers provided for in sections 54[1](a) and 53 of the Municipal Systems Act, 2000, which are powers, functions and duties reserved for the Council and may not be delegated. However, the Council may not take any decision in respect of these matters, unless it has

received and considered the report and recommendations of its committees;

- (c) The passing, amendment and repeal of by-laws;
- (d) The approval and amendment of budgets;
- (e) The imposition and amendment of rates and other taxes, levies and duties;
- (f) The raising of loans;
- (g) The approval or amendment of the Municipality's integrated Development Plan;
- (h) The expropriation of immovable property;
- (i) The determination or alteration or the remuneration, benefits or other conditions of service of the Accounting officer or Managers directly responsible to the Accounting officer.

[2] The Council further reserves the following powers;

1. The rationalisation of the by-laws, regulations and resolutions [including standing delegations] of the erstwhile Municipalities in terms of section 15 of the Municipal Structures Act 1998;
2. Making representations on behalf of the Municipality to the MEC responsible for Local Government and Housing in terms of sections 12(4) or 16(3) of the Municipal Structures Act 1998;
3. Consideration of any application of a councillor to perform other work for remuneration in terms of clause 8 of the Code of conduct for councillors;
4. The determination of mechanisms to consult the community and community organisations in the performance of the Municipality's functions and exercise of its powers consistent with section 19(3) of the Municipal Structures Act, 1998;
5. The appointment of the Municipality's representatives in the District Municipal Council.
6. The replacement of any of the Municipality's representatives in the District Municipal Council;
7. The closing of Council's sittings to members of the public and the media and the authorising of Committees of the Municipality to close their sittings in terms of section 31(1) of the Municipal Structures Act, 1998;
8. The establishment of Committees in terms of section 33 read with sections 79 and 80 of the Municipal Structures Act, 1998 including the determination of the functions and procedures of any such Committee and the appointment and removal of the members of such Committee;
9. Considering the dissolution of the Council in terms of section 34(1) of the Municipal Structures Act, 1998;

10. Determining whether or not to implement the Type of the Municipality in terms of section 54(2) of the Municipal Structures Act, 1998;
11. Determining the ceremonial role if any, that the Mayor must perform in terms of section 49(b) of the Municipal Structures Act, 1998;
12. Removing the Mayor from office in terms of section 53(1) of the Structures Act, 1998;
13. Deciding whether or not to establish Ward Committees in the municipal area in terms of sections 72 to 78 of the Municipal Structures Act, 1998, making rules in connection with any such Committee, determining the administrative arrangements that may be made regarding such committees and the dissolution of any Ward Committee;
14. The appointment of a Accounting officer and an acting Municipal Manager in accordance with section 82 of the Municipal Structures Act, 1998;
15. The lodging of an objection in terms of section 87(2) of the Municipal Structures Act, 1998 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;
16. Determining 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 Municipal Structures Act, 1998;
17. Making a request to the District Municipality for financial, technical and administrative support services in terms of section 88(2) of the Municipal Structures Act 1998;
18. The application of clause 4 of the Code of Conduct for Councillors [sanctions for non-attendance of meetings].
19. 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 consideration of a fee, consistent with clause 5 of the Code of Conduct for Councillors;
20. Determining the financial interests of Councillors that must be made public in terms of clause 7(4) of the code of Conduct for Councillors;
21. The consideration of a report of the Speaker in terms of clause 13 of the Code of Conduct for Councillors;
22. Consulting the MEC responsible for Local Government and Housing with regard to any proposed measure in terms of section 14(b) of the Structures Act, 1998 or in terms of section 15 of the Local Government Municipal Structures Amendment Act, 2000.

23. The acquisition and alienation of immovable property or rights in respect thereof, including the determination of the upset price or selling price and conditions of sale;
24. The establishment of and consultation with the relevant planning authority about the establishment or layout of a township in terms of applicable legislation;
25. The naming or renaming of streets, open areas, other public places and buildings of the Municipality consistent with the presented prerequisites and procedures;
26. Approving the outlay and development of public places, streets and other public facilities and amenities;
27. The appointment of appraisers, members of the Valuation Court, Legal Counsel, consulting Engineers and Town Planners, Land Surveyors and Professional service providers;
28. In consultation with the accounting officer, the appointment of Managers directly responsible to the Accounting officer;
29. The appointment or designation of
  - a) A building control officer in terms of section 5 of the National Building Regulations and Building Standards Act, 1977;
  - b) A fire Chief in terms of section 5(1) of the Fire Brigade Services Act, 1987;
  - c) The Head and Deputy Head(s) of Disaster Management in terms of section 4 of the Civil Defence Ordinance, 1977;
  - d) A Medical Officer of health in terms of section 24 of the Health Act, 1977;
30. Determining a policy framework for staff matters, in collaboration with the Local Labour Forum [remuneration, benefits and conditions of service];
31. Determining, in collaboration with the Local Labour Forum salary scales on the fixed establishment and conditions of Employment in accordance with collective agreements, for post levels 1 to 3;
32. Determining , in consultation with Local Labour Forum, which posts in the establishment would be fixed term and contractual appointments;
33. The approval and amendment of the Land Use Management Schemes, Structures Plans, Conditions of Establishment of new townships and Spatial Development Plans of the Municipality and applications for rezoning, special consent uses and removal or alteration of title conditions.

34. Approval of exceeding of budgets, where tenders result in exceeding the budget.
35. The erection of permanent municipal buildings;
36. The consideration of sub-divisions of land belonging to the Municipality;
37. The permanent closing of streets and other public places;
38. The introduction and lifting of water restrictions and the imposition of penalties for excess use during such restrictions;
39. The approval in principle of projects, with a view to the provision of funds on the capital budget, and the financing of projects from capital, loan, development and reserve funds;
40. Consideration of the Audit Report [Auditor-General] and the Reports of the Audit Committee;
41. The nomination of the Council's representatives in public bodies;
42. In consultation with the Accounting officer, the appointment of Councillors to attend congresses, workshops, seminars and similar events, except when invitations are addressed to specific office Bearers of the Council;
43. 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;
44. The consideration of draft national and provincial legislation and policies affecting the Municipality for the purpose of providing comments to the relevant legislature;
45. The consideration of reports of the respective Departments of the Council;
46. The decision on the appropriate mechanisms to provide municipal services in accordance with the provisions of sections 76 to 84 of the Municipal Systems Act, 2000;
47. The approval and amendment of a credit Control and Debt Collection Policy in accordance with the provisions of sections 95 to 103 of the Municipal Systems Act, 2000;
48. 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;
49. Approving the attendance of meetings, workshops seminars, conferences congresses and similar events conducted outside the national territory;
50. Determining the services that the Municipality provides and the functions it performs, the conditions for and the price of the provision of such services and the performance of such functions and the standard of service provision and performance;
51. Determining a language policy for the municipality;

52. The conclusion of any agreement in terms of sections 99,126 or 156(4) of the Constitution 1996;
53. The conclusion of a co-operation agreement with other municipalities;
54. The granting of honorary citizenship and the freedom of the Municipality;

## **7. POWERS DELEGATED TO THE UNDERMENTIONED FOUR COMMITTEES OF COUNCIL**

### **7.1 FINANCE, ADMINISTRATION, TECHNICAL AND SOCIAL AND ECONOMIC COMMITTEES**

- [1] These committees shall make recommendations to the council –
- by council resolution,
  - when the need occur,
  - on issues applicable to the specific committee.
- (a) Identification of the needs of the Municipality;
  - (b) Review and evaluation those needs in order of priority;
  - (c) Recommendations to the council regarding strategies, programmes and services to address priority needs through the Integrated Development Plan, the drafting of the IDP and estimates of revenue and expenditure, taking into account any applicable national and provincial development plans; and
  - (d) Recommendations regarding the best methods, including partnerships and other approaches, to deliver those strategies, programmes and services to the maximum benefit of the community;
  - (e) Identification and development of criteria in terms of which progress in implementation of the strategies, programmes and services recommended to the Council can be evaluated, including key performance indicators which are specific to the Municipality;
  - (f) Evaluation of progress against the key performance indicators;
  - (g) The implementation of the Municipality's by-laws, policies and resolutions;
  - (h) The submission of draft by-laws to the Council;

## 7.1 FINANCIAL COMMITTEE

1. The financial committee shall make recommendations to the council –
  - by council resolution,
  - when the need occur,
  - on issues applicable to the specific committee.
  - a) Monitor the implementation and enforcement of the Municipality’s Credit Control and debt Collection Policy and By-laws and the performance of the Accounting officer in implementing the Policy and By-Laws;
  - b) The evaluation or review of the Municipality’s Credit Control and Debt Collection Policy and By-Laws, or their implementation in order to improve efficiency of their mechanisms, processes and procedures;
  - c) Approval or ratification of overtime-work by employees;
  - d) Implement an Internal Audit Committee and oversee the performance of the Internal Audit committee;
  - e) Implement corrective measures according to recommendations from Internal Audit Committee
  - f) Oversee and monitor the monthly financial report, to council.

## 7.2 ADMINISTRATION COMMITTEE

- [1] The Administration Committee shall make recommendations to the council –
  - by council resolution,
  - when the need occur,
  - on issues applicable to the specific committee.
  - a) Arrangement, in consultation with the Mayor and Accounting officer processions and meetings;
  - b) Management of the development and drafting of the Municipality’s Performance Management System;
  - c) Make recommendations on the use of a coat of arms, flag and banner of any of the towns within the Municipality for commemorative and other purposes;

### 7.3 TECHNICAL COMMITTEE

- [1] The Technical Committee shall make recommendations to the council -
- by council resolution,
  - when the need occur,
  - on issues applicable to the specific committee.
- (a) Approval of the demolition and /or conversion of residences;
- (b) Approval of applications to close streets in residential areas for street “braais”, bashes and other similar occasions;
- (c) Granting of permission for temporary use of land, taking Council Policy Into account;
- (d) The sale of Industrial sites owned by the Municipality in terms of an approved deed of sale and an approved price;
- (e) Waiving of Council’s rights in respect of servitudes;
- (f) The consideration and approval of applications for the provision of water outside the municipal area;
- (g) At such intervals as may be determined by the Council, report to the council regarding all decisions and recommendations made by it;
- (h) 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 the which the servitude was registered;
- (i) Applications for the consolidation of land which does not belong to the Municipality and the setting of building-clause conditions to be registered against the titles of the stands concerned, as well as the determination of servitudes for the protection of services and their application in which subdivisions are made;
- (j) Approval applications for subdivisions 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;
- (k) Approval of rezoning applications in respect of land within the guidelines area; and
- (l) Approval of applications for the relaxing of street building lines in respect of single residential stands in terms of the Town Planning Scheme.

## 7.4 SOCIAL AND ECONOMIC COMMITTEE

[1] The Social and Economic Committee shall make recommendations to the council –

- by council resolution,
- when the need occur,
- on issues applicable to the specific committee.

(a) Local Economic Development.

b) Involvement of communities and community organisations in the affairs of the Municipality;

c) Ensuring that due regard is given to public views and report on the effect of consultation on the decisions of the council;

## 3. POWERS DELEGATED TO THE MAYOR

The following statutory powers and duties are delegated to the Mayor in accordance with the provisions of section 37 of the Municipal Structures Act, 1998;

1. Must preside at meetings of the Council;
2. Must ensure that the Council meets at least quarterly;
3. Must maintain order during meetings of the Council;
4. Must ensure compliance with the Code of Conduct for councillors in the meetings of the Council and Council's Committees;
5. Must ensure that Council Meetings are conducted in accordance with the standard Rules and Orders of the Council;
6. Must 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, 1998;
7. Must ensure that the provisions in respect of privileges and immunities of Councillors, as set out in section 28 of the Structures Act, 1998 or any other applicable legislation, are adhered to;
8. Must submit all required reports to Council.
9. Oversees that the Committees of Council exercise and fulfil all their powers and duties;
10. Is the official Councillor responsible for finances, unless otherwise decided
11. Promotes the image of the Municipality;
12. Leads and promotes social and economic development of the municipality;

13. Performs ceremonial duties as determined by Council;
14. Liases with the community.

#### **4. POWERS DELEGATED TO THE ACCOUNTING OFFICER AS HEAD OF THE ADMINISTRATION**

As Head of the Administration, the following statutory powers and duties are delegated to the Accounting officer in accordance with a the provisions of the Municipal Structures Act, 1998 and the Municipal Systems Act, 2000;

1. Forms and develops an economic, effective, efficient, accountable and performance driven administration for the Municipality in accordance with the provision s of section 55 of the Municipal Systems Act, 2000;
2. Manages the municipality's administration in accordance with the provisions of the Municipal Systems Act, 2000 and other legislation applicable to the Municipality;
3. Implement the Municipality's Integrated Development Plan, monitors and evaluates progress with the implementation of the Plan;
4. Manages the provision of services to communities, residents and ratepayers in a sustainable manner;
5. Controls and manages the effective utilisation and training of staff; Maintains discipline of staff;
6. Promotes sound labour relations and compliance by the municipality of labour legislation, conditions of service and collective agreement;
7. Advises political structures and functionaries of the municipality;
8. Manages the communication between the municipality's administration and its political structures and political office bearers;
9. Carries out the decisions of the structures and functionaries of the municipality;
10. Administers and implement the municipality's by-laws and other legislation;
11. Implements national and provincial legislation applicable to the municipality;
12. Facilitates participation by communities, residents, ratepayers and other stakeholders in the affairs of the municipality;
13. Implements and enforces the Municipality's Credit Control and Debt Collection Policy and relevant By-laws in accordance with the provisions of section 96 of the Municipal Systems Act, 2000;
14. Establishes effective administrative mechanisms, processes and procedures in accordance with the Credit Control and Debt Collection Policy and relevant by-laws of the Municipality, to collect money what is due and payable to the Municipality in accordance with the provisions of section 96 and 98 of the Municipal Systems Act, 2000;

15. Gives authorisation to officials concerned, to get access at all reasonable hours to premises in the Municipality in order to read, inspect, 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 101 of the Systems Act, 2000;
16. Is the custodian of all records and documents of the Municipality, except where otherwise provided, in accordance with the provisions of section 117 of the Municipal Systems Act, 2000.
17. On written request by staff member, to make a copy of or extract from the staff systems and procedures of the Municipality, including any amendments, available to that staff member in accordance with the provision of section 67 of the Municipal Systems Act 2000;
18. To provide a copy of the Code of Conduct, including any amendments, to every member of the staff of the municipality in accordance with section 70 of the Municipal Systems Act, 2000;
19. Ensures that the purpose, contents and consequences of the staff systems and procedures of the Municipality and the Code of Conduct for Officials are explained to staff members who cannot read in accordance with the provisions of section 67 and 70 of the Municipal Systems Act, 2000;
20. To promptly submit an appeal received by him/her from a person whose rights are affected by a decision taken by a delegated body in terms of a power or duty delegated or sub-delegated by a delegating authority to that delegated body against the decision, to the delegating authority concerned in accordance with the provisions of section 65 of the Municipal Systems Act 2000;
21. To report on the existing delegations issued by the Council and other delegating authorities of the Municipality, and to make recommendations on any changes that he may deem necessary whenever it becomes necessary to review the Municipality's delegations in accordance with the provisions of section 60 of the Municipal Systems Act, 2000;
22. In the event off legal proceedings by or against the Municipality, to sign certificate to the effect that the Municipality uses the best known, or only, or most practicable and available methods in exercising any power performing any duty assigned to it in terms of any legislation, which certificate must, in accordance with the provisions of section 110 of the Municipal Systems Act, 2000 on its mere production by any person be accepted by the Court as evidence of that fact;
23. The responsibility and accountability for all the Municipality's income, expenditure, assets and liabilities, and the proper and diligent compliance with the provisions of the Municipal finance management legislation and in accordance with the provisions of section 55 of the Municipal Systems Act, 2000;
24. To compromise or compound any legal, claim or proceedings, and to submit to arbitration any matter other that a matter involving a decision on

the status, powers or duties of the Municipality of the validity of its Acts or by-laws, in accordance with the provisions of section 109 of the Municipal Systems Act, 2000;

26. Within a policy framework determined by the Council-
  - (a) Approve a staff complement for the administration;
  - (b) Provide a job description for each post on the staff establishment for evaluation purposes;
  - (c) 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;
  - (d) Regularly evaluate the staff establishment and if necessary, review the staff establishment and the remuneration and Conditions of Service.
27. Appointment of personnel beneath managerial level in accordance with the Employment Equity Plan of the municipality, subject to the Employment Equity Act, 1998 (act No 55 of 1998) ;
28. Application of personnel conditions of service and implement labour legislation;

#### **29. OTHER POWERS DELEGATED TO THE ACCOUNTING OFFICER.**

1. The Accounting officer is responsible for-
  - a. All income and expenditure of the Municipality;
  - b. All assets and the discharge of all liabilities of the Municipality; and
  - c. Proper and diligent compliance with the Municipal Finance management legislation.
2. Ensuring that the Municipality has and maintains-
  - a. Effective, efficient and transparent systems of financial and risk management and internal control;
  - b. A system of internal audit;
  - c. An appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective; and
  - d. A system for properly evaluating and prioritising all major capital projects prior to a final decision on the project.
3. Keeping full and proper records of the financial affairs of the Municipality in accordance with any prescribed norms and standards;

4. The effective, efficient, economical and transparent use of the resources of the Municipality;
5. Taking effective and appropriate steps to-
  - a. Collect all money due to the municipality;
  - b. Prevent unauthorised expenditure;
  - c. Prevent losses resulting from possible criminal conduct; and
  - d. Manage available working capital efficiently and economically.
6. Without delay report all losses as result of suspected criminal conduct and irregular expenditure to the South African Police Service;
7. The management, including the safeguarding and the maintenance of the assets, and the managing of the liabilities of the Municipality;
8. Compliance by the Municipality with any tax, levy duty, pension and audit commitments as may be required by legislation;
9. On discovery of any unauthorised expenditure, must immediately report in writing, particulars of the expenditure to the Mayor, Members of the Executive Council of the province responsible for Finance, Local Government and the Auditor-General.
10. Taking effective and appropriate disciplinary steps against any employee who-
  - (a) Contravenes or fails to comply with a provision of the Municipal finance management legislation, financial by-laws, policies and procedures of the Municipality.
  - (b) Commits an act which undermines the financial management and internal control system of the Municipality; or
  - (c) Makes or permits any unauthorised or fruitless expenditure.
11. Enforce compliance with any prescribed conditions if the municipality gives financial assistance to any entity or person.
12. Ensure the submission by the Municipality of all reports, returns, notices, explanations and motivations and other information to the Provincial Treasury, the National Treasury, the Provincial Treasury or the Auditor-General, as may be required by the Municipal finance management legislation;
13. Comply and take all reasonable steps to ensure compliance by the Municipality with the provisions of the applicable Municipal finance management legislation;

14. Ensure that expenditure of the Municipality is in accordance with the approved budget and that effective and appropriate steps are taken to prevent-
  - a. Overspending of the approved budget;
  - b. Under collection of revenue due to the Municipality; and
  - c. Unauthorised and fruitless expenditure;
15. Within 10 days of the end of each month submit to the council:
  - a. Information in the format prescribed by the National Treasury on actual revenue and expenditure for that month;
  - b. A projection of expected expenditure and revenue collection for the remainder of the current financial year;
  - c. When necessary, an explanation of any material variances, and
  - d. A summary of the steps that are taken to ensure that the projected expenditure and revenue remain within the approved budget.
16. Report to the council, any impending-
  - a. Under collection of revenue due;
  - b. Shortfalls in budgeted revenue;
  - c. Overspending of the approved budget and
  - d. Any appropriate steps to be taken to rectify the situation.
17. Utilise a saving in the amount appropriated under a vote in a budget towards 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 utilisation of such a saving.
18. Prepare Financial Statements for each financial year in accordance with generally recognised accounting practices 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.
19. 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 the financial year, a copy of the (consolidated) Financial Statements and the Audit Report and Submit to the National Treasury and the Provincial Treasury-
  - a. Copies of the Annual Report, the (consolidated) financial Statements and the Audit Report; and

- b. Particulars of any corrective action taken in response to the findings of the Audit Report;
- 20. 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 Department responsible for Local Government.
- 21. 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.
- 22. When an annual Budget is tabled in the Council, the Accounting officer must submit measurable incomes and expenditure targets of the financial year to which the budget relates.
- 23. Enforce compliance with the provisions of relevant legislation regarding the revenue fund. If she or he is unable to comply with this responsibility, he or she must promptly report the inability, together with reasons, to the Council, the National Treasury and the Provincial Treasury.
- 24. Give public notice in a manner determined by the Council of the time, date and venue of every-
  - a. Ordinary Meeting of the Council and any Committee; and
  - b. Special or Urgent meeting of the council and any Committee.
- 25. Determine and recover the amount of any loss or damage incurred by the Municipality from the person who was responsible for the loss or damage 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-
  - a. Failed to collect money owing to the Municipality, the collection of which he/she was responsible for;
  - b. Is or was responsible for a payment of money without proper authority or without following the prescribed procedure or without a proper supporting voucher;
  - c. Due to an omission to carry out his/her duties, is or was responsible for fruitless expenditure;

- d. 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; and
  - e. Due to an omission to carry out his/her duties is or was responsible for a claim against the Municipality;
26. Recover the amount of any unauthorised expenditure from the person who was responsible for incurring such expenditure or the beneficiary thereof.  
Expenditure is unauthorised when-
- a. A payment had been made without provision, having been made in the approved budget, with due regard for any legal provisions governing payment;
  - b. A payment or part of any payment resulting in the total amount of the approved budget or a vote in the budget being exceeded;
  - c. Any external or internal authorisation required by law for a payment cannot be produced;
  - d. A payment had been made without proper legal authority or inconsistent with any legal requirements; and
  - e. Expenditure from a vote in the budget that is unconnected with the purpose of that vote.

#### **ADDITIONAL POWERS, FUNCTIONS AND DUTIES DELEGATED TO THE ACCOUNTING OFFICER**

1. 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;
2. 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;
3. In consultation with the Council, to incur expenses to appoint investigators to obtain evidence in cases of alleged irregularities or misconduct;
4. To advise the Council on the granting of legal aid to employees in terms of section 73b of the Local Government Ordinance, 1982;
5. To decide about the refunding of tender deposits in respect of those tenders where the Council has no contractual obligation to refund deposits;

6. The authority to sign the following documents-

- (a) Together with the Mayor, the granting of Honorary citizenship and freedom of the Municipality;
- (b) Documents for the transfer or acquisition of immovable property or rights in respect thereof;
- (c) 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;
- (d) Documents necessary 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; and
- (e) Any other contract or document not specified in respect of any Departmental Head.

9. 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;
10. To turn down any applications for donations, which cannot be considered in terms of Council Policy;
11. The closing of the Council's Libraries on a temporary basis;
12. The authority to perform the functions and exercise the powers vested in the council in terms of the provisions of-
  - (a) Sections 3(1) to 3(7) of the Civil Protection Ordinance, 1977 (Ordinance No 10 of 1977). Any financial implication in terms of this delegation must be submitted to the Council for approval.
13. The granting of permission for the free use of Council premises for departmental functions and other municipal-orientated activities/events;
14. In consultation with the Departmental Head concerned, to dismiss with proper notice, any employee, whether in a permanent or temporary post, if his or her services are no longer required, subject to the provisions of labour legislation;
15. 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;
16. In consultation with the Departmental Head concerned the authority to extend the validity of non-accumulative leave of an employee.

**30. POWERS DELEGATED TO THE ADMINISTRATION MANAGER**

1. Attendance of all Council and other committee meetings as may be determined from time to time.
2. The authority to allocate or re-allocate dates for street collections for which applications have been received.
3. The authority to sign official correspondence and employment certificates. \*\*
4. The authority to perform the applicable functions and exercise the powers that vest in the council in terms of the provisions of-

- (a) Standard Rules and Orders;

- (b) Library by-laws;
  - (c) Public Procession Regulations;
  - (d) Leave Regulations;
  - (e) Code of Conduct for Officials;
  - (f) Conditions of Service;
  - (g) Labour Legislation;
  - (h) Other legislation applicable to local government; and
  - (i) The Municipal Code.
5. Updating of all relevant legislation;
  6. 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, 1993 (Act No 85 of 1993);
  7. As Human Resources Manager, responsible for;
  8.
    - (a) Maintaining of Personal Files, Appointment Letters, Employment Certificates, Unemployment Fund cards, addressing labour queries, personnel circulars, recommendation of leave application;
    - (b) Skills Development and Employment Equity; and
    - (c) General human resource management.
  9. Committee services;
  10. Responsible for the overseeing of the Libraries;
  11. Support services to Mayor and Councillors;
  12. Execution of applicable Council Resolutions;
  13. Keeping of registers: Policy Register, Standing Resolutions Register, Leave Register and Attendance Registers of meetings;
  14. Daily administration of the Departments Council administration
  15. Budget control of the department;
  16. Legal matters (updating, briefing council/personnel of any changes, etc).
  17. Auxiliary Services: records (filing system), typing, switchboard, cleaning, photocopying, messenger services etc;

18. Management and maintenance of Archives including securities;
19. Drafting of Council Circulars to the community;
20. Secretarial Services: Disaster Management as well as other delegated Disaster Management Functions;
21. Editing of all official correspondence before forwarding;
22. Opening of daily mail and referral of items to HOD'S for comments/further information;
23. Compilation of legal notices see to it that they are published when and where necessary;
24. Public Relations;
25. The authority to consider applications for the licensing of businesses in accordance with the provision of the Business Act, 1991 (Act 71 of 1991).
26. The authority to take the necessary readings for the measurements of BA values and the performing of functions as contemplated in the noise control legislation/regulations;
27. The issuing of building clause and waiver certificates as well as certificates for the raising of property title conditions to bring it in line with the provisions of Council's Town Planning Schemes.
28. The authority to issue certificates of condonation in terms of the provisions of section 4(B) of the Sectional Titles Act 1988 (Act No 95 of 1988)
29. 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 Schemes in the event that owners or occupiers of land or premises fail to meet the requirements of the said Town Planning Scheme.
30. The authority (in conjunction with the chief technical officer) to make recommendations (for submission to the Council) 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 revisionary clause in favour of the Council exists in the Title Deed.

31. The authority (in conjunction with the chief technical officer) to consider applications for Home industries and House Cafes in terms of the Town Planning Scheme, in cases, which he/ she considers, the application to be of a controversial nature or that might have a significant impact on the surrounding community, must, in the case of objections being lodged by surrounding property owners, refer it to the Council for a decision.
32. Performing of any duties as may be delegated by the Accounting officer from time to time.
33. Publishing of general advertisements and promotions
34. Approval of advertisement signs in terms of council resolutions;
35. Approval of applications to exhibit and/or distribute posters and promotional material in terms of council directions;
36. Discipline within the Municipality;
37. Training and capacity building of employees;
38. Approval of acting allowances in terms of the Personnel Conditions of Service;
39. The creation of temporary posts in the event of the occurrence of bottlenecks or emergency situations;
40. The application of disciplinary measures;
41. In the case of a new appointment, if such an appointee has been obliged to change his/her place of residence as result of the appointment, the granting of permission in terms of 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;
42. Confirmation of appointments of employees employed on probation on an permanent basis or to extension of the probation period in the light of the performance and competence of appointees, subject to the provisions of labour legislation;

### 31. POWERS DELEGATED TO THE CHIEF FINANCIAL OFFICER

1. The authority to collect moneys owed to the council in terms of contract legislation, court orders and decision s off the Council or any other legal basis.
2. In consultation with the Accounting officer, 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 the signing of all necessary documents, This includes the power to instruct the Council's Attorneys to act on behalf of Council in such cases;
3. 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.
4. The claiming from and making of payments to professional persons or firms.
5. The authority to release funds in respect of capital items in terms of the approved capital budget.
6. The authority to deduct money, which an official owes to the Council from salaries or wages.
7. The handling of requests from financial institutions for service delivery in respect of the payment of Municipal accounts.
8. The authority (in conjunction with the Accounting officer) to make a ruling in respect of the commencement with legal process for the claiming of damaged 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.
9. The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of;
  - i. Dog Regulations;
  - ii. Financial Regulations;
  - iii. Regulations relating to the municipal Pension and Gratuity Funds; and
  - iv. Water Supply and the Electricity Supply Regulations with regard to financial matters.

10. 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.
11. The authority to sign the following documents;
  - (a) Share certificates in respect of approved loans;
  - (b) Documents concerning the collection of money owed to the Council, in either the Magistrate or the High Court; and
  - (c) Debt certificates.
  - (d) Cheques, Official orders and clearance certificates.
12. The authority to finalise insurance claims concerning the Council's internal insurance fund.
13. 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.
14. The maintenance of Council's Register for Lease Contracts and the submissions thereof to the Council on 30 June of each year for information.
15. Budget Control.
16. Attendance of Council and other relevant Committee Meetings.
17. The authority to appoint officials of his department as Health and Safety Representatives for his department in terms of the provisions of the Occupational Health and Safety Act, 1993 (Act No 85 of 1993).
18. The monitoring /exercise of all duties vested in the Finance Department.

### 32. POWERS DELEGATED TO THE CHIEF TECHNICAL OFFICER

1. 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, 1993 (Act no 85 of 1993).
2. The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of;
  - (a) Sewerage Regulations; and
  - (b) Water and Electricity Supply Regulations.
3. The authority, in consultation with the Accounting officer, to permit private persons or organisations to perform work on Council property: Provided that –
  - (a) This does not prejudice the council's interests; and
  - (b) The Council is indemnified in writing against any damages and claims that may arise or result from such activities.
4. The authority to grant permission for the excavation of gravel on commonage at a tariff as determined by Council from time to time, or at a standard tariff as determined by legislation, whichever is applicable.
5. In consultation with the Chief Financial Officer, the authority to enforce the penalty clauses contained in Council's contracts for the late delivery of goods and services.
6. The authority to 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.
7. Responsible for the proper functioning of Council's water Supply Network/water Reticulation.
8. Responsible for maintenance of Council's infrastructure, Buildings and Equipment.
9. The maintenance/upgrading of Council's Electricity Network.

10. 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, 1993 (Act No 85 of 1993).
11. The authority to perform the functions and exercise (in respect of Public Works) the powers that vest in the council in terms of the provisions of;
  - (a) Regulations Regarding cemeteries;
  - (b) Policies Regarding Control of Commonage; and
  - (c) Regulations Regarding Traffic.
12. The authority to erect traffic signs and to affect traffic measurements;
13. The responsibility for the maintenance and proper running of public toilets, facilities in parks;
14. The authority to decide whether the Fire Fighting equipment may be used for fire fighting purposes outside the boundaries of the municipal area;
15. 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, 1958 (Act No 26 of 1958);
16. The authority to perform the following diverse functions and exercise the powers that vest in the Council in terms of the provisions of:
  - (a) Regulations Regarding Fire Brigade;
  - (b) Regulations Regarding Petroleum Liquid and other substances; and
  - (c) Regulations Regarding Traffic.
17. The authority to perform the functions and exercise the powers (in respect of electricity) that vest in the Council in terms of the provisions of;
  - (a) Electricity Supply Regulations;
  - (b) Electricity Act, 1987 (Act No 41 of 1987); and
  - (c) Occupational Health and Safety Act, 1993(Act No 85 of 1993) and the Electricity Act, 1987 (Act, No 4 of 1987) as supplier of electricity within the municipal area.
18. The monitoring/exercise of all duties vested in the Technical Department.
25. The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of;
  - (a) Regulations regarding display of advertisements;

- (b) Regulations regarding Hawkers;
- (c) Provisions of regulations 7 and 8 of the Noise Control Regulations promulgated in terms of the Environment Conservation Act, 1988 (Act No 73 of 1988);
- (d) Regulations relating to bake-houses;
- (e) Regulations relating to barbers, hairdressers and beauty salons;
- (f) Regulations regarding boarding houses;
- (g) Regulations regarding cleanliness of plots;
- (h) Regulations regarding crèches or nursery schools;
- (i) Regulations regarding keeping of pigs;
- (j) Regulations regarding laundries and receiving depots;
- (k) Regulations regarding milk and dairies;
- (l) Regulations regarding noxious or offensive trades;
- (m) Regulations regarding public health and sanitation;
- (n) Regulations regarding refuse removal;
- (o) Regulations regarding the sale of meat, and
- (p) The Health Act, 1977 (act No 83 of 1977).

26. The authority to issue all statutory notices for the elimination of nuisances;
27. 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, 1977 are not contravened.
28. Regulation of Advertisement Boards/Signs and Posters erected/affixed within the Municipal area.
29. The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of;
- (a) The National Building Regulations and Building Standards Act, 1977 (Act No 103 of 1977) of any regulations promulgated in section 5 of the Act, and
  - (b) The provisions of regulations in respect of the numbering and renumbering of buildings and places and the assignment of names to and the display thereof on flat buildings.
30. Administration and related functions in respect of low cost (RDP) Housing.
- a) Approval of the placement of neighbourhood watch notice boards on Council property as well as restricting the number thereof,

### 33. CONDITIONS APPLICABLE TO THE DELEGATION OF POWERS

- In the execution of any properly delegated powers, no deviation from the meaning or intention of a decision of the Council is allowed.
- Expenditure out of the general income/expense account is restricted to the provision made in the Annual Budget.
- Notwithstanding the fact that a committee or an official has the delegated power to deal with a matter, the committee or the official can refer such matter, along with its recommendation to the Council, for a decision.
- The Council can, at any time, order the committee or an official not to deal with any matter in terms of its delegated power, but to submit such matter to the Council for consideration and a decision.
- The execution of any delegated power does not detract the right of appeal to the council from any third party that may be affected by such a delegation.
- The council may at any time request a report from any Official with regard to which a power was delegated to him/her.
- Where a power was delegated in writing to the Accounting officer or a Departmental Head, he/she can give execution thereto through an employee under his/her supervision: Provided that the first mentioned official must still assume responsibility within reasonable limits.