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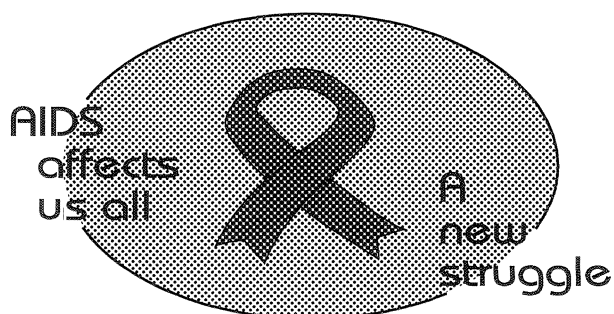
Vol. 5

PIETERMARITZBURG,

22 AUGUST 2011
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No. 620

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MUNICIPAL NOTICE

No. 89

22 August 2011



STANDING RULES BY-LAWS

SCHEDULE**STANDING RULES BY-LAWS**

Be it enacted by the Council of the uPhongolo Local Municipality, in terms of section 156 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), read with section 11 of the Local Government Municipal Systems Act 2000 (Act No. 32 of 2000) as follows:

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CHAPTER 1

DEFINITIONS

Definitions

1. In this by-law, any word or expression shall have the meaning assigned thereto in the relevant legislation, unless the context indicates otherwise-

"Chairperson" means the Speaker in relation to any meeting of Council, the Mayor in relation to the Executive Committee and the elected chairperson in relation to any meeting of any committee of the Council;

"Council" means the Council of the uPhongolo Local Municipality;

"Code of Conduct" means the Code of Conduct for Councillors contained in Schedule 1 of the Systems Act;

"Executive Committee" means the Councillors Executive Committee established in terms of section 42 of the Structures Act;

"Mayor" means the councillor of the Executive Committee elected by the Council as the Mayor;

"Meeting" means a meeting of the Council or any one of its Committees;

"Councillor" means a councillor of Council;

"Municipal Manager" the person appointed as administrative head of the Municipality or a person acting in such a capacity;

"notice of motion" means the instrument by which councillors may bring items on to the agenda of a Council meeting in terms of rule 20 of these by-laws;

"explanation" means the clarification of some material part of a councillor's former speech which may have been misunderstood;

"point of order" means the pointing out of any deviation from, or anything contrary to, in the conducting of proceedings or any other irregularity in the proceedings, and

"Speaker" means the chairperson of the Council elected in terms of section 36 of the Systems Act;

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

"the Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act no 117 of 1998)

CHAPTER 2**FREQUENCY AND NOTICE OF MEETINGS****2. Council meetings**

The Council shall hold an ordinary meeting of the Council not less than once in every three months.

3. Special Meetings

(1) The Speaker may at any time and shall, at the request of a majority of the councillors of the Municipality, call a special meeting of the Council.

(2) A request for the calling of a special meeting, as contemplated in sub-rule (1), shall-

- (a) Be signed by no less than 50% (fifty per centum) plus one if all councillors of the municipality; and
- (b) Be accompanied by –
 - (i) A duly signed notice of motion; and
 - (ii) A statement giving reasons as to why the intended business of the special meeting is urgent and cannot wait for an ordinary meeting of the council.

4. Notice to attend a Council Meeting

(1) The Speaker convenes the meetings of the Council through a duly signed "Notice of Council Meeting", stating the date, place and time of the meeting and accompanied by or containing the agenda of the proposed meeting

(2) Notice to attend a meeting in terms of sub-rule (1) shall be given at the least –

- (a) seven days prior to an ordinary meeting, and
- (b) seventy-two hours prior to a special meeting.

5. Service of notice

(1) Notice to attend a meeting, and any other official communication from the Council, shall be delivered to –

- (a) A physical address within the area or jurisdiction of the municipality; or
- (b) An e-mail address,

Supplied by each councillor to the Municipal Manager in writing within two working days of their election and, thereafter, whenever the councillor wishes to change either address.

2 in addition, Notice to of meeting shall be displayed on the public notice board of Municipal office namely Pongola, Ncotshane and Belgrade.

6. Non-receipt of notice

Non receipt of a notice to attend a meeting shall not affect the validity of any meeting or proceedings of council or any of its committees.

CHAPTER 3

QUORUM

7. Quorum

A majority of the councillors must be present at a meeting of the Council before a vote may be taken on any matter.

8. Adjournment in absence of quorum

- (1) No meeting shall take place, if no quorum has assembled at the expiry of ten minutes after the time at which the meeting is due to commence, unless it is unanimously agreed by the councillors present to allow further time not exceeding ten minutes for a quorum to assemble.
2. If during any meeting of Council or any of its committees the attention of the chairperson is called to the number of councillors present, he or she shall –
 - (a) count the councillors present, and
 - (b) if it is found that there is not a quorum present, the Chairperson shall allow an interval of five minutes and if there is still no quorum, the Chairperson shall forthwith adjourn the meeting.
- (3) When a meeting is adjourned as a result of no quorum, the meeting shall be convened as continuation meeting in terms of rule 5 of these by-laws.

CHAPTER 4

ATTENDANCE

9. Attendance register

Each councillor attending a meeting of the Council or a committee of the Council shall sign an attendance register provided for that purpose.

10. Leave of Absence

- (1) If a councillor –
 - (a) Is unable to attend a meeting of which notice had been given; or
 - (b) Is unable to remain in attendance at a meeting
 - (c) Will arrive after the stipulated time for a meetingHe or she shall, at least forty eight hours before the commencement of the meeting concerned forward any application for leave of absence from the whole or any part of the meeting concerned.
- (2) The Municipal Manager must as soon as possible inform the chairperson of the meeting concerned of any application for leave of absence received in terms of sub-rule (1).
- (3) The Chairperson of the meeting concerned must as soon as possible consider an application for leave of absence and either grant or reject the application with reasons.

- (4) The Municipal Manager must as soon as possible inform a councillor who has applied for leave of absence of the chairperson's decision.
- (5) The councillor shall be deemed absent without leave from the meeting concerned where an application for leave of absence has not been granted and he or she –
 - (a) Failed to attend a meeting; or
 - (b) Failed to remain in attendance at a meeting.

11. Sanctions for non-attendance

- (1) Subject to compliance with the procedure set out in sub-rule (2), a councillor who is absent from a meeting of which notice has been given without good cause shall be liable to pay a fine equivalent to one week's salary, which fine may be deducted from remuneration due to the councillor concerned.
- (2) Where a councillor has been absent without leave from a meeting –
 - (a) The chairperson of the meeting concerned shall invite the councillor to provide a written explanation of his or her absence;
 - (c) the chairperson shall consider the explanation and decide whether or not the councillor was absent with good cause, providing appropriate reasons for the decision;
 - (i) the council, in respect of his or her absence from a council or executive committee meeting, and
 - (ii) the executive committee, in respect of his or her absence from any other meeting, and
 - (d) the council or executive committee, as the case may be, shall –
 - (i) consider the councillor's appeal, together with any comments from the chairperson of the meeting concerned
 - (ii) allow the councillor an opportunity to make representations; and
 - (iii) make a finding as to whether the councillor was absent with good cause.
- 3 The Municipal Manager shall keep a record of all incidents in respect of which councillors have been found to be absent without leave and without good cause and shall submit a written report thereon to the speaker at least once during every three month period.
- 4. Whenever a report submitted to the speaker in terms of sub-rule (3) identifies a councillor as having been absent from three or more consecutive meetings which the councillor was requested to attend the speaker must –
 - (a) Submit the report to council;
 - (b) Allow the councillor an opportunity to make any representations; and
 - (c) Recommend to council that the Member of the Executive Council responsible for local government whether or not the councillor should be removed from the council.
- 5. The councillor ceases to be a councillor on the date that the Member of the Executive Council informs the Municipal Manager that the councillor had been removed from office.

CHAPTER 5**ADJOURNMENT****12. Adjournment**

A council meeting or a meeting of any committee of Council may be adjourned to another day or hour.

13. Continuation of meeting

- (1) When a meeting is adjourned, notice of the continuation meeting shall be served in terms of rule 2 of this by-law.
- (2) No business shall be transacted at a continuation meeting except such as is specified in the notice of the meeting which was adjourned.

CHAPTER 6**PROCEEDING****14. Chairperson of Meetings**

- (1) At every meeting of the council, the Speaker, or if he or she be not present, an Acting Speaker, shall be Chairperson.
- (2) Meetings of the Executive Committee shall be chaired by the Mayor and if he is not present, the Deputy Mayor.

15. Minutes

Minutes of the proceeding of every meeting shall be recorded and be kept for that purpose by the Municipal Manager.

16. Order of business

The order of business at every ordinary meeting of the council or Executive Committee is as follows:

- (a) Notice of meeting
- (b) Application for leave of absence
- (c) Confirmation of minutes of previous meeting
- (d) Announcements by the chairperson
- (e) Deputations
- (f) Reports
- (g) Notice of motion
- (h) Questions of which notice has been given; and
- (i) General matters of an urgent nature

17. Confirmation of minutes of previous meeting

- (1) the minutes of every meeting shall be confirmed at the next ordinary meeting and shall be signed by the chairperson.
- (2) No motion or discussion shall be allowed upon the minutes of previous meeting, other than relating to the accuracy of those minutes.

18. Deputations

- (1) A deputation wishing to address the council or a committee of Council shall submit a memorandum to the Municipal Manager in which is set out the representations it wishes to make.
- (2) The Municipal Manager shall submit the memorandum contemplated in sub-rule 1 to the committee, which may receive the deputation, if it is authorized to do so.
- (3) Any matter requiring consideration arising from a deputation, shall not be further considered by the committee until the deputation has withdrawn.

19. Reports

- (1) A report of the Executive Committee or any of its committees shall, with the exception of a report accepted by the Chairperson as a matter of urgency, be served in the manner provided in rule 17 of these by-laws.
- (2) the chairperson of a committee shall move the recommendations contained in the report expressing if appropriate, his or her disagreement therewith.

20. Motions

- (1) No subject shall be brought before council or a committee of Council by a councillor except by way of notice of motion.
- (2) Every notice of motion must be –
 - (a) in writing; and
 - (b) signed by the councillor submitting it and by another councillor acting as seconded.
- (3) a notice of motion shall be lodged with the Municipal Manager before 12H00 seven days prior to the next meeting, failing which the notice will be considered at the next ensuing meeting.
- (4) the Municipal Manager shall –
 - (a) date and number each notice of motion
 - (b) enter each notice of motions lodged in a register, which shall be open to inspection by any councillor and public, and
 - (c) enter each notice of motion on the agenda in the order received.
- (5) the Chairperson shall –
 - (a) Read out the number of every motion and the name of the mover and seconder;
 - (b) Ascertain which motions are unopposed and these shall be passed without update; and
 - (c) Call the movers of the opposed motion in the order they appear on the agenda.
- (6) A councillor submitting a motion shall move such motion and shall have the right of reply.
- (7) A motion shall lapse if the councillor and seconder who submitted it is not present at the meeting when such motion is being debated.
- (8) A councillor shall be allowed no more than three notices of motion on the same agenda
- (9) The speaker or Chairperson shall reject a motion which, in his or her opinion –
 - (a) Relates to a matter over which Council has no jurisdiction;
 - (b) Has no bearing on the administration of or conditions in the municipality,
 - (c) Will lead to discussion of a matter already dealt with in the agenda.

21. Questions

A councillor may, at a meeting, put a question-

- (a) on a matter arising out or connected with any item of any report serving before the Council or a committee of Council, as the case may be, when such item has been called or during discussion thereon;
- (b) concerning any matter not arising out of or connected with any item of the report of the Executive Committee Provided that-
 - (i) such question shall only be put if at least seven days' written notice has first been lodged with the Municipal Manager; and
 - (ii) the Municipal Manager shall forthwith furnish a copy thereof to the Speaker and the Chairperson of the Executive Committee, and
- (d) concerning any matter which, in the opinion of the chairperson, is urgent and cannot wait for the lodging of a question in terms of sub-rule (2)

22. General matters of an urgent nature

General items of an urgent nature may be placed on the agenda by the Municipal Manager with the prior consent of the chairperson.

23. Order of business

The Chairperson may, in his or her discretion at any stage bring forward any business that is on the agenda paper.

24. Interpretation

An interpreter will be used in meetings of the Council and the Executive Committee, unless the majority of councillors present decide otherwise.

25. Council-in Committee

- (1) Subject to provisions of the law, the Council may, at any time, resolve to proceed as Council-In-Committee.
- (2) All officials and the public, except the Municipal Manager and an official exempted from this rule by the chairperson, shall be excluded from the meeting of the Council-in-Committee.
- (3) All proceedings of the Council-in-Committee or its committees shall be confidential.

CHAPTER 7**VOTING****26. Decision by voting**

All matters shall be decided by a vote which –

- (a) In relation to matters mentioned in section 160(2) of the Constitution, shall require a Supporting vote of a majority of councillors, and
- (b) In relation to any other matter, shall require a majority of the votes cast.

27. Method of voting

(1) Voting shall be by a show of hands, unless a councillor requests a secret, written ballot.

(2) The Municipal Manager or his or her nominee, shall count the votes cast and shall record the result of voting, but the Speaker shall announce the result.

28. Casting of Vote

The Chairperson shall have a second casting vote in cases of an equality of votes.

29. Dissenting votes

A councillor may request that his or her dissenting vote be minuted as evidence of how he or she voted on the motion.

CHAPTER 8

DEBATE

30. Opportunity to speak

(1) A councillor can only speak when so directed by the Chairperson.

(2) A councillor may indicate a desire to speak by raising his or her hand and awaiting the direction of the chairperson.

(3) Councillors and officials shall stand when speaking and shall direct their address to the chairperson.

31. Relevance

Every speaker must restrict him or herself strictly to the matter under consideration.

32. Length of speeches

Other than the delivery of the mayoral report or the presentation of the estimates of income and expenditure, no speech shall exceed ten minutes in length without the consent of the meeting.

33. Councillors to speak only once

Councillor may not speak more than once on any motion or proposal unless permission to do so is granted by the Chairperson.

34. Precedence of the Chairperson

Whenever the Chairperson rises during a debate, any councillor then speaking or offering to speak shall seat himself and the councillor shall be silent, so that the Chairperson may be heard without interruption.

35. Point of order

(1) Any councillor may raise a point of order at any time by standing to draw attention of the chairperson.

(2) The point of order takes precedence over everything else in the meeting and the chairperson must grant immediate hearing to the councillor raising the point of order and rule accordingly.

(3) The ruling of the Chairperson on a point of order shall be final and shall not be open to discussion.

36. Explanation

Any councillor may speak in explanation, provided that such explanation shall be confined to some material that is part of the discussion which may have been misunderstood.

CHAPTER 9

CONDUCT

37. General conduct

Councillor and officials-

- (a) must conduct the business of the Council in the highest decorum and integrity that the occasion deserves;
- (b) must be dressed appropriately for the dignity of the meeting of the Council;
- (c) must not use an offensive or objectionable language, use a cellphone during, or bring a firearm into, a meeting of Council or any of its committees.

38. Misconduct

(1) if a councillor commits misconduct during a meeting of Council or any of its committees, the Chairperson shall direct the councillor to conduct himself properly and, if speaking, to stop speaking and resume his or her seat.

(2) In the event of persistent disregard of the directions of the Chairperson, the Chairperson shall direct such councillor to retire from the meeting until the item under discussion has been finalized, if necessary, shall cause him or her to be ejected therefore.

(3) Any misconduct by a councillor may be dealt with in terms of Council's Code of Conduct and the Code of Conduct attached as Schedule 1 to the Systems Act.

CHAPTER 10

COMMITTEES

39. Own rules

Every committee of the Council shall determine its own procedures subject to any direction from Council and these standing orders.

40. The Chairperson

(1) The chairperson of a committee shall –

- (a) preside at every meeting of the committee at which he or she is present; and
- (b) be entitled to vote in the first instance and in the case of an equality of votes; shall give a second or casting vote.

(2) In his or her absence, the Acting or Deputy Chairperson shall have the same powers and rights of voting as those possessed by the Chairperson.

CHAPTER 11**PECUNIARY INTEREST****41. Declaration of pecuniary interest**

A councillor wishing to declare a pecuniary interest in respect of any item before Council or any committee of Council, shall do so forthwith after the item or motion in respect of which such interest exists, has been called.

42. Debate of pecuniary interest

No councillor shall speak for more than five minutes on the question of whether his pecuniary interest as contemplated in section 40, is so small or remote as to render a clash of interests unlikely, unless the Speaker or Chairperson allows the councillor to continue his or her speech for a further five minutes.

CHAPTER 12**GENERAL PROVISIONS****43. Short title and commencement**

These by-laws shall be called the Standing Rules and orders By-Laws, and shall come into operation on the 29th November 2010 as per resolution number EC/A/170/2010 taken on at a Full Council Meeting held on the 29th November 2010.

