

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

COA/02/01

EX 60 24/02/01

COUNCIL'S POLITICAL STRUCTURES, THEIR FUNCTIONS AND DELEGATIONS**(BEN KIESER)**
(400-1220)**1. EXECUTIVE SUMMARY**

It has now become essential for Council to establish its political structures as a matter of urgency. These structures must be agreed to. It must be decided how they will function and what functions they will perform. They must simultaneously be delegated powers to perform their functions and they must be appointed.

This report aims to have Council's portfolio committees up and running during February 2001 and the subcouncils up and running during April 2001. This report is therefore submitted for consideration.

2. BUSINESS PLAN REFERENCE

Directorate: Office of the Acting Municipal Manager
Department: Legal Services

Business Plan Heading: To support the creation of the new City of Cape Town

3. DELEGATION

Council must establish its political structures and delegate powers thereto.

4. ANNEXURES/ADDENDA

Annexure A – Document : Political structures of the City of Cape Town (broad overview)

Annexure B – Document : Functions of Council's political structures and delegation of powers

Annexure C – Document : Proposal on the creation of subcouncils

Annexure D – Draft by-law : Creation of subcouncils

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

5. POLICY

This report constitutes Council's overall policy in respect of its political structures and decision-making powers thereof.

6. LEGAL REQUIREMENTS

In terms of the Constitution, Council may now:

"Make decisions concerning the exercise of all the powers and the performance of all the functions of the municipality" – see section 160(1)(a).

Council is now constitutionally empowered to decide on its structures. Relatively few restrictions of this power remain. This newfound constitutional status of local government being an autonomous sphere of government, represents a complete break with the past. It is now for this Council to decide on good governance and to structure itself accordingly.

In respect of good governance, section 152(1) of the Constitution requires local government to **"provide democratic and accountable local government for local communities"** and to **"encourage the involvement of the community and community organisations in the matters of local government"**.

In respect of subcouncils, it must be borne in mind that they must be established after a process of public participation by way of a by-law.

A temporary legal impediment against the delegation of decision-making powers to certain members of Council, is the delay by the Minister of Local Government and Constitutional Development to implement the Local Government : Municipal Systems Act, 2000. Although this act is already promulgated, it will come into operation on a date determined by the Minister who has so far not done so. Section 1 of Schedule 3 of that Act, will repeal section 32 of the Local Government : Municipal Structures Act, 1998 which currently does not specifically allow delegations to councillors, except to elected office bearers. It does, however, allow for Council's delegations to office bearers to allow subdelegation. The most expedient way of overcoming this temporary obstacle, is to delegate the powers intended for the executive councillors to the Mayor (who is an elected office bearer) and for him to immediately subdelegate these powers to the respective executive councillors with the understanding that once the relevant sections of the Local Government : Municipal Systems Act come into play, Council agrees to from that point onwards, make the delegations to the executive councillors directly. From that point the powers delegated to the Mayor

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

not forming part of his delegations referred to in Annexure B, are terminated automatically.

7. BACKGROUND/INTRODUCTION

On the 15th of December 2000, Council adopted an interim set of delegations and elected members to the executive, taking into account their skills. It was agreed that they "should be regarded as the political leaders tasked with certain functional responsibilities by Council as a whole". It was further envisaged that they would play a key role in providing the link between Council's Executive Committee and its committees. At the time it was foreseen that they would in fact be chairing Council's committees. Council decided that the Executive Committee once elected "must under the leadership of the Mayor, prepare a report recommending the finalisation of the political structures of Council".

The mandate of the Executive Committee in this regard is perhaps best documented in the following paragraph of the motion submitted by Cllr Erleigh:

"The Executive Committee must also, when designing these political structures, have due regard to facilitating further integration and co-ordination between these committees, specifically with regard to the promotion of safety and security, equity, health and socio-economic development. The Executive Committee must also have regard to accelerated decision-making, having due regards to appropriate checks and balances".

Extensive technical investigation inter alia focused on the constitutional position of local government, principles of good governance, best practice and the problems experienced with the political structures of the previous dispensation. It was consequently proposed that the new City of Cape Town in line with the other spheres of government agrees to a separation of powers between Council's legislature and executive. For this reason, it is inappropriate for members of the Executive Committee to be chairpersons of legislative committees. It was further proposed that certain executive powers be entrusted to members of the executive to speed up the decision-making processes, but appropriate checks and balances to these powers, be built into the system. Most notably of these are the policy development role of the legislative committees, which will determine the scope within which the executive members will have to exercise their powers.

With this background, the Executive Committee convened a bosberaad during the period 21 – 23 January 2001. The Executive Committee workshopped different options for its political structures. The members of the Executive Committee unanimously agreed with the above principles and with the principles contained in this report.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

Dr D L Craythorne, a consultant appointed for this purpose, prepared a report on the creation of subcouncils containing proposals on the terms of reference of these councils, their geographical boundaries and their composition. This report was presented to a workshop for members of the Executive Committee. In view of the fact that the law requires a fairly extensive public participation process and the fact that there are political imperatives to expedite the creation of subcouncils, it is proposed to publish for comment the proposals of the consultant in order to start the public participation process. Council's political processes will therefore run concurrently with the public process.

8. DISCUSSION/MOTIVATION/PROPOSAL/EVALUATION/ASSESSMENT

A summary of the rationale and philosophy underpinning the proposed political structures and a summary of the structures and their role within the decision-making processes is attached hereto as annexure A.

The proposal is motivated by three main objectives:

1. To achieve Council's political strategies.
2. To achieve good governance.
3. To improve operational efficiency.

To achieve Council's political strategies:

This requires the strategies to be identified, measured and responsibility to be assigned to an appropriate structure that can be held accountable for implementation thereof.

To achieve good governance:

This requires a separation of the structures responsible for determining the rules from the structures responsible for its implementation.

To improve operational efficiency:

This requires the implementation of processes to ensure speedy decision-making. This also requires a closer interface between the political decision-making structures and the administration.

The terms of reference contained in annexures A and B in respect of subcouncils and portfolio committees should be regarded as the interim guiding policy for these structures. Once these structures are established, their first task should be to make final proposals to Council in this regard.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

In respect of subcouncils, the public participation process must commence and the draft by-law must be published for comment.

The interim tenders committee established by Council on 15 December 2000 is disestablished by the implementation of the recommendations contained in this report. The interim town planning applications committee will, however, remain in operation until the formal establishment of subcouncils.

9. RECOMMENDATION

- 9.1 That Council agrees to a separation of powers between its legislative and executive political structures.
- 9.2 That Council agrees to the following as its executive structures above the level of municipal manager:
 - 9.2.1 the Mayor,
 - 9.2.2 the Executive Committee,
 - 9.2.3 the executive councillors (members of the Executive Committee) within the portfolio areas as set out in annexure B
- 9.3 That Council determines the following political structures constituting its legislative structures:
 - 9.3.1 the portfolio committees as set out in annexure B,
 - 9.3.2 any ad hoc portfolio committee,
 - 9.3.3 the audit committee,
 - 9.3.4 subcouncils
- 9.4 That Council adopts the contents of annexure B being the functions and delegation of powers in respect of its political structures and Municipal Manager subject to the temporary arrangement referred to in paragraph 6 above being implemented until the relevant provisions of the Local Government : Municipal Systems Act becomes operational.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 9.5 That Council establishes and appoints members to the 10 Portfolio Committees proposed in annexure B on the following basis:
- 9.5.1 Each committee will have 15 members of which one will be a chairperson and another a deputy chairperson.
 - 9.5.2 The Democratic Alliance will nominate 9 members on each of the Portfolio Committees.
 - 9.5.3 The African National Congress will nominate 5 members on each of the Portfolio Committees.
 - 9.5.4 The other parties together may nominate 1 person on each of the Portfolio Committees, provided further that the United Democratic Movement, the Africa Muslim Party, the Inkatha Freedom Party, the Middle Party and the Pan Africanist Congress of Azania may each nominate 1 member to serve on the Portfolio Committees and provided further that the African Christian Democratic Party may nominate 5 members to serve on the Portfolio Committees.
 - 9.5.5 The 10 members provided for in paragraph 9.5.4, must be nominated at a meeting to be held on Tuesday, the 13th of February 2001 at 10h00 at Committee Room A, 1st Floor, Paul Sauer Building, under chairmanship of the Acting Municipal Manager. Should this meeting fail to reach consensus on the appointment of these 10 members, the Mayor will nominate these 10 members to the 10 Portfolio Committees.
- 9.6 That Council appoints a chairperson and deputy chairperson to each of these Portfolio Committees as elected by the said Portfolio Committee. These appointments to become effective upon their election.
- 9.7 That Council establishes a Rules Portfolio Committee to be chaired by the Speaker and which consists of the Speaker plus 8 members nominated by the Democratic Alliance and 1 member nominated by each of the other parties represented in Council. The other parties must make their nominations in this respect at the meeting referred to in paragraph 9.5.5 above.
- 9.8 That in respect of subcouncils, Council:
- 9.8.1 establishes an ad hoc Portfolio Committee tasked with the obligation to make recommendations to Council on the creation of subcouncils including but not limited to:

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- the role of subcouncils
- their terms of reference
- their geographical boundaries
- their composition
- public participation in respect of the creation of subcouncils
- the by-law required to create subcouncils

9.8.2 That Council appoints a chairperson for this ad hoc Portfolio Committee.

9.8.3 That the proposals of Dr Craythorne in respect of the establishment of subcouncils be published for public comment as determined by the relevant Portfolio Committee.

9.8.4 That the by-law on the establishment of subcouncils as proposed by Dr Craythorne be published for public comment as determined by the relevant Portfolio Committee.

9.9 That in the event of a conflict between the provisions of the interim delegations adopted by Council on 15 December 2000 and the delegations contained in annexure B, the contents of annexure B will prevail.

9.10 That the Acting Municipal Manager be requested to submit regular reports to Council, in order to further develop the separation of powers between Council's legislature and Council's executive.

9.11 That the Executive Committee be requested to extend the policy framework on the staff establishment to make provision for administrative support for Council's legislative structures.

ANNEXURE A

THE POLITICAL STRUCTURES OF THE CITY OF CAPE TOWN

INTRODUCTION:

Vision

By the end of this year, Cape Town will be well on its way to becoming a world-class city, with political structures that are successful in guiding the City in achieving its vision. The community will be well informed and supportive of the City's policies and programmes as they will have been properly involved in the decision-making processes. Service delivery will have significantly improved as decision-making on the implementation of the City's objectives will not only have speeded up but will also have become focused on achieving these objectives.

The members of Council will be enthusiastically performing their functions and participating in the City's structures in a well-informed manner. The Mayor and the members of Council's Executive Committee will have taken bold initiatives resulting in a marked improvement in the quality of life for the people of Cape Town. The level of co-operation between the executive of the City, the provincial government and other spheres of government will be better than ever before, resulting in an integration of policies and programmes which will lead to far-reaching benefits.

Council's legislature will have established itself as a responsible body determining the legislative and macro policies of the City, a body well respected by both the community and Council's executive. The community and all stake holders will be carefully following the debate in the relevant legislative committee, on the extent to which the executive was able to implement the Integrated Development Plan of the City.

The subcouncils will have accurately advised the legislature and the executive on the actual needs and expectations of their communities as they will have vigorously embarked on public participation processes. The community will be excited about the results of the latest referendum undertaken by their subcouncil and will be looking forward to a speedy decision on the matter.

The City's administration's efficiency will have markedly improved, not only from a service delivery perspective, but also from the perspective of the political structures as they will have been clearly informed of the City's objectives and the political decisions taken in respect thereof. These decisions will have been implemented effectively and without delay, as the administration will have given the appropriate

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

professional advice required by the relevant political structures to take these decisions.

To what extent this vision will be realised will depend on the success of the political institutions of the City.

Strategies to achieve this vision:

Council's decision-making process must be speeded up, especially in respect of the implementation of policies, programmes and projects. In this process, scope must be provided to encourage creative and innovative decision-making on the part of the members of the executive in fulfilling their task of implementing Council's policies.

Decisions must not be taken on an ad hoc basis, but must rather form part of a holistic approach focused on achieving Council's objectives.

Council's objectives must be set in a professional and transparent process assuring maximum buy-in from the community. In this process, the real needs of the community must be catered for.

A separation of powers between the executive and the legislature must be introduced to ensure accountability, focused service delivery, focused policy development and to foster good governance.

DISCUSSION:

Background:

Recent legislation has significantly changed the way municipalities are structured and the way they will function. The Local Government Structures Act, 1998 (the Structures Act) is already in operation, the Local Government : Municipal Systems Act, 2000 (the Systems Act) will shortly come into operation, and the Local Government : Municipal Finance Management Bill (the Finance Management Bill) is already far advanced in its drafting.

Previous difficulties with the municipal decision-making process can now be addressed. Even during the period of the former local government dispensation, comprising of comparatively smaller municipalities, it was difficult to implement Council's policies where the operational decision-making and supervision thereof was subject to political control. This was so as all political control had to be exercised by a committee comprising of at least three councillors meeting in a fairly formal situation. This necessitated several reports being submitted on an issue prior to any actual work being undertaken.

In the new dispensation, this problem would be greatly exacerbated by the phenomenal increase in this municipality's size and budget. It would become

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

extremely difficult, if not impossible to manage Council's affairs and implement its budget and IDP using outdated, cumbersome systems. In this respect, the failure of many former municipalities to fully implement their capital budgets, bears testimony to the above.

To illustrate the point, a typical decision-making process for a capital project, would have involved:

- Project identification
- Approval of the capital budget reflecting the project
- Approval of the relevant business plan
- Project approval for the release of funds
- Approval for the appointment of consultants
- Tender approval
- Approval of additional funds or change in the scope of the project

Typically, the above process would take from prior to the start of the financial year to the point where work could commence, often co-inciding with the builders holiday. This would leave the project to be completed during the last few months of the financial year which was often not feasible.

The second major problem was the lack of policy direction to guide the executive processes. This was either caused by an unwillingness to address matters on a principalist approach or the fact that policy development was not entrusted as a clear responsibility of an identified political structure.

This problem could also have been caused by the fact that committees were tasked to look at policy matters on the same agenda where certain operational decisions were to be taken. In the nature of things operational/executive type decisions, always seemed to gain the most attention of the committee. It was also difficult to motivate why policy matters should receive preference as, in many instances, the policy would be drafted by the very same committee responsible for the implementation thereof.

In other words, the monitoring of the municipality's performance was left to the same structures responsible for the performance in the first place.

With the increase in the size of some municipalities, a concomitant increase in the workload of their committees followed. The fact that councillors were part-time members of Council caused meetings to be held on a monthly basis, sometimes starting in the afternoon and always with a heavy workload. This did not allow time for proper debate and timeous decision-making. The Unicity commission cautioned against the possible increase in the workload of Council's committees.

The new legislation referred to above opens up the following possibilities:

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- The appointment of full-time councillors
- The delegation of executive authority to individual members of Council
- The creation of committees to advise and support specific political structures (Council versus the executive)
- The ability of Council to meet quarterly
- The ability of Council to delegate all but a few powers
- The requirement of Council to be systems and policy-driven
- The creation of subcouncils to interact with communities
- The new requirements in respect of public participation

With the above in mind, the following key principles are proposed for consideration when creating the new political structures,

Principles

- A proper separation between the legislative and executive branches of the Council must be achieved.
- Once high-level policy or principle approval has been given in any matter, the implementation thereof becomes a matter for the executive and, where political oversight is necessary for the administration, being part of Council's executive arm, such oversight could best be given by the full-time councillors. This oversight could take place either through a committee or through executive members individually.
- Dedicated committees must be made responsible for policy formulation. These committees should not be the same committees to which this policy will apply.
- The executive must be made responsible and held accountable for achieving specific Council objectives and must therefore be empowered to deliver on these objectives.
- With the delegation of executive powers to individual members of Council, appropriate checks and balances must be put in place to achieve good governance.
- Monitoring of Council's performance must be separated from the structures responsible for achieving the objectives.

PROPOSAL:

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

Council's legislature

1. Council

- Council should only retain its legislative powers and any other power that cannot be delegated. In addition, Council should set overall strategic policy applicable to the City as a whole and which gives macro direction to its other structures. Council must be the ultimate legislative body.
- Council must meet as and when required at least on a quarterly basis.

2. Portfolio Committees

- The other part of Council's legislative structures must consist of portfolio committees advising Council on its legislative and policy setting functions. These committees must be dedicated to the legislative process and must focus on legislative matters, the development of policy and the monitoring of Council's performance.
- These committees must, in addition to formulating policies, take responsibility for investigating and proposing by-laws, Council's IDP, Council's budget and business plans.
- Although most of the policies formulated by these committees would be strategic policies applicable to Council as a whole, requiring approval by Council, any part of the executive may approach these committees to formulate other policies for approval by the executive arm of Council in terms of their delegated powers. See annexure A attached explaining the processes for the generation of policy.
- In performing these functions, these committees must interact with not only Council's administration and the executive, but also with civil society either directly or through subcouncils.
- These committees must be representative of all political parties within Council complying with the provisions of section 160(8) of the Constitution which requires fair representation of all parties and interest groups.
- Members of the Executive Committee must not serve on these committees. However, their guidance to the committee is essential and for this reason, there must be close consultation between the chairs of these committees and the Executive Committee

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- These committees' terms of reference must be defined in such a manner that the entire field of the municipal operation is recovered and must be aligned with the portfolios entrusted to the members of the Executive Committee.
- These committees must meet on a monthly basis.
- These committees must be entrusted with the responsibility of monitoring Council's performance in meeting its objectives and they must be empowered to call officials and members of the executive to give information to the committees in respect of Council's performance.
- The legislative committees should have broad representation across political lines, but they must not become too large and unwieldy.

Council's executive

The executive arm of Council consists of the Mayor, the Executive Committee, members of the Executive Committee and Council's administration.

1. The Mayor
2. The Executive Committee:
 - The Executive Committee must be that part of the executive ultimately responsible for the implementation of Council's policies and programmes.
 - It must receive significant and high-level executive powers, including the power to set policy for the executive structures below itself and to recommend to Council on the formulation of city-wide strategic policy.
 - The executive powers exercised by this committee must relate to those matters concerning more than one portfolio area or that could have a major strategic impact on the existence, composition, operation or financing of the Council.
 - The Executive Committee must meet regularly, or at least fortnightly.
 - The Executive Committee must be visible and should hold meetings at subcouncils and it should also hold meetings with subcouncils and other role-players.
 - The Executive Committee must also play a role in the co-ordination of the individual members of the Executive Committee.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

3. Members of the Executive Committee

- Each member of the Executive Committee must be assigned the political responsibility for a functional area. These areas must be allocated in such manner that the entire field of municipal operations is recovered. This responsibility must include the obligation to develop strategies and policies for their functional area, to at a high level ensure the implementation and political oversight of all Council's programmes and policies within the relevant functional area.
- In addition, some members of the Executive Committee may be assigned the responsibility for the delivery of the major strategic priorities agreed to by Council. These strategic priorities must receive preference over the other portfolio responsibilities. Certain of these strategic priorities will require co-operation between members of the Executive Committee.
- For them to be held accountable, the members must receive sufficient decision-making power to empower them to properly perform their functions. They would therefore receive executive powers between the levels of those powers given to the Executive Committee and the Municipal Manager.
- Members of the Executive Committee must take responsibility for developing policy within their portfolio areas and must make recommendations to the legislature's Portfolio Committees where appropriate. In this regard, they must ensure that the relevant Portfolio Committee receives sufficient and timeous information to take informed decisions.
- The members of the Executive Committee must be allowed and encouraged to appoint subcommittees to advise them. These subcommittees could consist of academics, advisers and other councillors.
- As full-time members, they must be available to take those political decisions delegated to them and to consult with executive management on the implementation of Council's policies and programmes.
- The members of the Executive Committee must ensure an integrated approach to the implementation of Council's programmes and policies relevant to his/her functional area.
- The members of the Executive Committee must also be responsible for political monitoring of the progress made on the implementation of Council's policies and programmes.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- The members of the Executive Committee must always remain sensitive to the actual needs of the community. In this respect, they must utilise the subcouncils as an interface between them and specific community, assessing public opinion on a continuous basis. They must also utilise the Portfolio Committee's for obtaining input from other stake holders at the policy level.
4. The Municipal Manager
- The Municipal Manager must remain head of the administration and will have the statutory duties provided for in inter alia, section 55 of the Local Government : Municipal Systems Act, 2000.
 - The role of the Municipal Manager would further be as provided for in the Interim Delegations as already approved by Council.
5. Subcouncils
- See Annexures C and D – To be submitted by Dr Craythorne for tabling at the Council meeting.

ANNEXURE B

FUNCTIONS AND DELEGATION OF POWERS OF COUNCIL'S POLITICAL STRUCTURES

TABLE OF CONTENTS

1. PRINCIPLES OF DELEGATION
2. CONDITIONS OF DELEGATION
3. STATUTORY OBJECTIVES, DUTIES AND FUNCTIONS OF THE COUNCIL
4. POWERS RESERVED BY THE COUNCIL
 - 4.1 General Powers
 - 4.2 Financial Powers
5. THE SPEAKER
 - 5.1 Statutory Functions of the Speaker
 - 5.2 Other Functions of the Speaker
 - 5.3 Line of Authority
 - 5.4 Powers Delegated to the Speaker
6. THE MAYOR
 - 6.1 Statutory Functions of the Mayor
 - 6.2 Other Functions of the Mayor
 - 6.3 Line of Authority
 - 6.4 Powers Delegated to the Mayor
7. THE EXECUTIVE COMMITTEE
 - 7.1 Statutory Functions of the Executive Committee
 - 7.2 Other Functions of the Executive Committee
 - 7.3 Line of Authority
 - 7.4 Powers Delegated to the Executive Committee
 - 7.4.1 General Powers
 - 7.4.2 Human Resource
 - 7.4.3 Financial Powers
- 8.1 PORTFOLIOS OF EXECUTIVE COUNCILS
- 8.2 Functions and Delegations to all portfolios applicable to executive councillors
- 8.3 Line of Authority
- 8.4 Functions and Delegations applicable to each individual executive

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

councillor

- 8.4.1 Amenities and Community Support Portfolio
- 8.4.2 Corporate Services Portfolio
- 8.4.3 Economic Development and Tourism Portfolio
- 8.4.4 Finance Portfolio
- 8.4.5 Health and Safety Portfolio
- 8.4.6 Housing Portfolio
- 8.4.7 Planning Portfolio
- 8.4.8 Trading Services Portfolio
- 8.4.9 Transport and Roads Portfolio

9.1 PORTFOLIO COMMITTEES OF COUNCIL

9.2 Functions of the Portfolio Committees

10. SUBCOUNCILS

- 10.1 Statutory Functions of Subcouncils
- 10.2 Other Functions of Subcouncils

11. THE MUNICIPAL MANAGER

- 11.1 Statutory Functions of the Municipal Manager
- 11.2 Line of Authority
- 11.3 Powers Delegated to the Municipal Manager
 - 11.3.1 General Powers
 - 11.3.2 Human Resource Powers
 - 11.3.3 Financial Powers
 - 11.3.4 Emergency Powers

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

DEFINITIONS

"Business Plan" – means that portion of the Council's Integrated Development Plan which defines projects and action plans of each functional area of the council.

"Commercial Activity" – means any commercial activity referred to in clause 1.15 of this document.

"Constitution" – means the Constitution of the Republic of South Africa, 1996.

"Delegation" – means the granting of power to take executive decisions and to perform duties as contemplated in section 59 of the Systems Act.

"Executive" – means the Council, the Executive Committee, the Executive Councillors, including the Mayor, the Municipal Manager and any official who has been delegated powers of decision-making.

"Executive Committee" – means an executive committee established in terms of section 43 of the Structures Act.

"Executive Councillor" – means a councillor elected as a member of the Executive Committee in terms of section 45 of the Structures Act.

"Finance Management Act" – means the Local Government : Municipal Finance Management Act (when passed).

"Legislature or Legislative Functions" – means the Council when taking decisions on its Budget, its IDP, by-laws and policy determination, and the Portfolio Committees and subcouncils when formulating comment and recommendations on the Budget, the IDP, by-laws and policy.

"Portfolio Committee" – means a policy and legislative committee established in terms of section 79 of the Structures Act.

"Portfolio of an Executive Councillor" means those functions of the Council assigned to an executive councillor for executive oversight.

"Structures Act" – means the Local Government : Municipal Structures Act No. 117 of 1998.

"Subcouncils" – means a metropolitan subcouncil established in terms of section 62 of the Structures Act.

"Systems Act" – means the Local Government : Municipal Systems Act No. 32 of 2000.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

PRINCIPLES OF DELEGATION

- 1.1 In terms of the Systems Act a Council must develop a system of delegation that will maximise administrative and operational efficiency and provide for adequate checks and balances.
- 1.2 The Constitution empowers a municipal council to make by-laws which prescribe rules and orders for the powers and functions of its committees, and further prescribes those functions which may not be delegated by Council.
- 1.3 All delegations must ensure that the Council retains all legislative powers and those executive powers which cannot be lawfully delegated.
- 1.4 Policy formulation and determination process is as follows:
 - 1.4.1 Policy is determined by the body that has the authority to do so in terms of Council's delegations system.
 - 1.4.2 Any political structure or branch of the executive may initiate the generation of proposed policy. The procedure to follow in determining the policy will depend on which body has the final authority to approve it.
 - 1.4.3 Policy which is required to be approved by Council, the Executive Committee and any executive councillor, must first be channeled via the executive councillor concerned for his/her consideration who must refer it to the appropriate Portfolio Committee for its recommendations. The Portfolio Committee will then submit its recommendations to the executive councillor. He or She may approve of such policy if it is within his/her delegated power to do so, alternatively if it is for decision for a higher body, the executive councillor will forward it to such body for its consideration and approval.
 - 1.4.5 Policy which is delegated for approval by any level of the administration, may either be referred to a Portfolio Committee or a subcouncil/s at the discretion of the delegatee for comment and recommendation, alternatively the delegatee may set the policy him- or herself.
 - 1.4.6 Notwithstanding the above, if any proposed policy has a direct and significant impact on the community of a specific subcouncil, then the comments of that subcouncil must be obtained prior to the approval of the policy.
- 1.5 The Council as the legislative and executive authority may exercise no power and perform no function beyond that conferred upon it by law. The executive may not exercise its authority contrary to any policy approved by Council or any other level of the executive higher than itself.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- 1.6 All delegations must be aimed at empowering the relevant executives to perform their functions effectively, taking into account the different levels of decision-making.
- 1.7 The functions allocated to Council's executive as may be approved by Council from time to time will form the basis for the allocation of delegations of executive decision-making power.
- 1.8 All delegations are conditional upon compliance with Council policies, its Integrated Development Plan and budget.
- 1.9 All delegations must be in writing.
- 1.10 All delegations must provide for good governance and allow for adequate checks and balances.
- 1.11 All delegations must enhance service delivery without sacrificing accountability.
- 1.12 The Municipal Manager is authorised to sub-delegate any of his/her powers to the most appropriate and affective level.
- 1.13 Delegations must not oblige a delegatee to exercise his/her delegated power and must therefore allow for the decision to be taken at the next higher level.
- 1.14 In exercising delegated authority, Council's executive must do so in the spirit of utmost good faith.
- 1.15 Council may freely participate in any commercial activity related to its local government functions unless expressly prohibited or regulated by Law. The functionary in whose functional field such activity resides, should be responsible for engaging in such commercial activity, provided that the value of such commercial activity falls within the limits set for such functionary in terms of these delegations.

Notes in respect of 1.15 above:

- Commercial activity includes but is not limited to:-

The buying, selling, hiring, letting of goods, property (both movable and immovable) or acquiring or providing services, the advertising of tenders for such goods or services, the awarding of such tender, the entering into and signing of contracts or agreements including insurance contracts, the amendment and cancellation of such contracts or agreements, exceeding values on contract agreements and any activity

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

incidental thereto (provided that the total contract price still falls within the delegated limits of the relevant functionary).

- The value of a commercial activity in respect of leases is the total estimated cost of the lease. If the period of the lease is not determined, then the annual cost of the lease will determine where the delegation lies. In respect of any other commercial activity, the total estimated contract sum applies. If the eventual amount payable for the commercial activity exceeds the delegated limit set for a functionary, the matter should be referred to the appropriate higher level of decision-making.
- The above delegations do not affect the function of the Procurement Department or the procurement policy as they merely give effect to decisions made in terms of delegated authority.

2. CONDITIONS OF DELEGATION

- 2.1 All decision-making powers delegated by the Council are subject to the following conditions:
 - 2.1.1 Delegated powers are conferred upon the Mayor, the Speaker, executive councillors and posts in the organisation of the Council and not personally on incumbents.
 - 2.1.2 These delegations also apply to acting positions. Persons acting in these positions have the same delegated powers as those serving in a permanent capacity, provided that the competent authority has duly appointed such acting persons.
 - 2.1.3 In executing any delegated power, the delegatee must comply with all relevant legislation, agreements and policy.
 - 2.1.4 These delegations do not redefine Council's Powers and Functions.
 - 2.1.5 The policies whether existing or future will determine the parameters of any delegation and the delegator is bound to comply therewith. It is the duty of the delegator and Council's legislative arm to ensure that clear and comprehensive policies are drafted.
 - 2.1.6 In executing delegated powers, no expenditure may be incurred unless the delegatee is satisfied that the Council has budgeted for the expenditure and that the funds are still available on the relevant budget votes.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- 2.1.7 Council or any part of Council's executive above the delegatee may at any time, subject to applicable law, order a delegated matter not to be proceeded with by the delegatee and then deal with such matter.
- 2.1.8 The chain of authority from the Council to the Mayor to the Executive Committee to the executive councillors, the Municipal Manager and officials below must not be jeopardised by any delegation.
- 2.1.9 The executive delegated to take a decision, may determine whether a report is needed motivating the decision and whether the decision must be reduced to writing. If a report is required then it must indicate that all legal and financial requirements have been met.
- 2.1.10 A delegation may set out special circumstances in which a delegatee is prohibited from exercising his/her delegated power, for example if the delegatee is recommending the rejection of the most financially beneficial tender offer.
- 2.1.11 Any sub-delegation must be reduced to writing and recorded in the delegation register, which must be kept updated at all times by the Municipal Manager.
- 2.1.12 All decisions affecting the rights of others must be in writing and reasons must be recorded for such decisions.
- 2.1.13 The Council or any other delegator, may at any time withdraw, qualify or amend a delegation made by itself.
- 2.1.14 Council must in accordance with the procedures of its Rules of Order review any decision taken under delegated powers if so requested in writing by at least a quarter of the members of Council. It may also require its Executive Committee to review any decision taken in terms of delegated powers.
- 2.1.15 Provision must be made for a separation between the evaluation and recommendation stage of the decision-making process and the actual decision itself. This must happen in all cases where the decision-making process is reasonably capable of being divided as set out above.
- 2.1.16 All delegates must report delegated decisions at such intervals as the delegator may require. These reports are to enable the delegator to determine whether the policies regulating the power are adequate and/or whether the delegation is appropriate.
- 2.1.17 Appeals against any decision taken in terms of any delegated authority, must be dealt with in terms of the Systems Act by an appropriate appeals authority. This authority could either be the Executive Committee, a special

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

committee set up for this purpose or the Municipal Manager depending on the level where the decision originated.

- 2.1.18 Any delegator may require a selected sample of decisions taken by a part of the executive below him/her to be audited.
- 2.1.19 The system of delegations must be reviewed in terms of the provisions of the Systems Act whenever a new Council is elected.

3. STATUTORY DUTIES AND FUNCTIONS OF THE COUNCIL

- 3.1 The Statutory duties and functions of the Council are prescribed by:

- 3.1.1 The Constitution;
- 3.1.2 The Local Government : Municipal Structures Act;
- 3.1.3 The Local Government : Municipal Systems Act; and
- 3.1.4 The Municipal Finance Management Bill.

4. POWERS RESERVED BY THE COUNCIL

4.1 General Powers

- 4.1.1 Passes by-laws
- 4.1.2 Determines overall strategic policy applicable to the municipality as a whole which gives macro direction to its executive and which guides the formulation of all other policies.
- 4.1.3 Approves the integrated development plan.
- 4.1.4 Approves annual business plans.
- 4.1.5 Elects members of the Executive Committee, the Mayor, Deputy Mayor and Speaker.
- 4.1.6 Delegates executive powers to Council's executive.
- 4.1.7 Enters into service delivery agreements in terms of section 76 (b) of the Systems Act.
- 4.1.8 Removes the speaker, mayor and/or deputy mayor and one or more or all of the members of the Executive Committee from office.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- 4.1.9 Establishes Portfolio Committees.
- 4.1.10 Appoints members to Council's Portfolio Committees.
- 4.1.11 Appoints chairpersons to Council's Portfolio Committees.
- 4.1.12 Determines the terms of reference of Council's Portfolio Committees.
- 4.1.13 Establishes subcouncils by way of a by-law.
- 4.1.14 Appoints additional members to subcouncils subject to applicable legislation.
- 4.1.15 Grants leave of absence to councillors for meetings of the Council.
- 4.1.16 Approves Rules of Order for meetings of Council and Council's Portfolio Committees.
- 4.1.17 Determines political structures of Council.
- 4.1.18 Bestows civic honours, including aldermanship and the naming of public streets, places and municipal buildings after persons.
- 4.1.19 Determines councillor allowances and salaries.
- 4.2 Financial Powers**
 - 4.2.1 Approves Council's budget and any amendment thereto.
 - 4.2.2 Imposes rates, taxes, levies and duties. (Housing rentals for Council housing schemes are included within the definition of "levies").
 - 4.2.3 Raises loans.
 - 4.2.4 Determines a rating system for levying property rates on immovable property.
- 5. THE SPEAKER**
 - 5.1 Statutory Functions of the Speaker**
 - 5.1.1 Presides at meetings of the Council and signs the minutes of the Council meetings.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 5.1.2 Ensures that the Council meets at least quarterly.
- 5.1.3 Maintains order during meetings of the Council and ensures that the meetings are conducted in compliance with the Council's Rules of Order.
- 5.1.4 Performs all other duties assigned to him/her in the Council's Rules of Order.
- 5.1.5 Ensures compliance in the Council with the Code of Conduct as set out in Schedule 1 to the Municipal Systems Act.
- 5.2 Other functions of the Speaker**
 - 5.2.1 Chairs committees such as the Appeals Committee, the Ethics Committee, the Nominations Committee and Rules Committee, if such committees are established.
- 5.3 Line of Authority**
 - 5.3.1 Reports to the Council.
- 5.4 Powers Delegated to the Speaker**
 - 5.4.1 Initiates any investigation or enquiry into suspected or alleged impropriety by Councillors or any alleged breaches of the Council's Code of Conduct.
 - 5.4.2 Determines policy for the use of Council's facilities by members of Council in accordance with recommendations made by the Rules Portfolio Committee.
- 6. THE MAYOR**
 - 6.1 Statutory Functions of the Mayor**
 - 6.1.1 Presides at meetings of the Executive Committee and signs the minutes of its meetings.
 - 6.1.2 Designates appropriate duties to the Deputy Mayor.
 - 6.1.3 Decides when and where the Executive Committee will meet, but if a majority of the members requests the Mayor in writing to convene a meeting of the Committee, the Mayor must convene a meeting at a time set out in the request.
 - 6.1.4 Receives input on Council's integrated development plan from the Municipal Manager, tables this in the Executive Committee, conveys the

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

recommendations of the Executive Committee to the relevant portfolio committee, tables the recommendations of the portfolio committee in the Executive Committee, makes the final recommends to Council for approval of an integrated development plan.

- 6.1.5 Receives the Auditor-General's reports and deals with it in terms of the relevant legislation.
- 6.1.6 Performs all duties in terms of the Municipal Finance Management Act once passed relative to the processing of the draft annual budget.
- 6.1.7 Certifies the annual budget.
- 6.2 Other functions of the Mayor**
 - 6.2.1 Is the political head driving Council's policies and strategies.
 - 6.2.2 Performs the duties, including any ceremonial functions, and exercises the powers delegated to the Mayor by the Municipal Council or the Executive Committee.
 - 6.2.3 Interacts with the public.
 - 6.2.4 Receives and interviews representatives and delegations from public interest groups, and makes recommendations to the executive in this regard.
 - 6.2.5 Represents the Council at meetings and functions.
 - 6.2.6 Makes press statements on behalf of Council.
 - 6.2.7 Leads the City Development Strategy process.
 - 6.2.8 The public relations and external communications function.
 - 6.2.9 The legal services function – including litigation, by-laws and court services.
 - 6.2.10 The internal audit function.
- 6.3 Line of Authority**
 - 6.3.1 Reports to the Council.
- 6.4 Powers Delegated to the Mayor**
 - 6.4.1 Takes all decisions in the execution of the functions of the Mayor.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 6.4.2 Approves leave for the Municipal Manager.
- 6.4.3 When the Council goes into recess, he/she in consultation with the Municipal Manager takes decisions on behalf of the Executive Committee or executive councillors which if not taken would in some manner prejudice the Council.
- 6.4.4 Takes any necessary decisions if an executive councillor is physically unable to do so which if not taken, would in some manner prejudice the Council.
- 6.4.5 Exercises any of the executive councillor's powers subject to any council or executive policy.
- 6.4.6 Approves the use of Council's facilities by members of Council in accordance with policy determined by the Speaker.

7. THE EXECUTIVE COMMITTEE**7.1 Statutory Functions of the Executive Committee**

- 7.1.1 Reviews the performance of the municipality in order to improve:
 - 7.1.1.1 the economy, efficiency and effectiveness of the municipality;
 - 7.1.1.2 the efficiency of credit control and revenue and debt collection services; and
 - 7.1.1.3 the implementation of the municipality's by-laws.
- 7.1.2 Monitors the management of the municipality's administration in accordance with the policy directions of the municipal council (output monitoring).
- 7.1.3 Oversees the provision of services to communities in the municipality in a sustainable manner.
- 7.1.4 Annually reports on the involvement of communities and community organisations in the affairs of the municipality.
- 7.1.5 Considers recommendations on the alignment of the IDP and the budget received from the relevant executive councillor.
- 7.1.6 Makes recommendations via the Mayor to the relevant portfolio committee in respect of the IDP and the budget.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- 7.1.7 Ensures that regard is given to public views and reports on the effect of consultation on the decisions of the Council.
- 7.1.8 Makes recommendations to Council regarding:
 - 7.1.8.1 the adoption of the Estimates of Revenue and Expenditure, as well as Capital Budgets and the imposition of rates and other taxes, levies and duties;
 - 7.1.8.2 the passing of by-laws
 - 7.1.8.3 the raising of loans
 - 7.1.8.4 the approval of an integrated development plan and any amendment thereto.
- 7.1.9 Appoints and determines conditions of service of the Municipal Manager and managers reporting directly to the Municipal Manager.
- 7.1.10 Deals with any matter referred to it by the Council and submits a recommendation thereon for consideration by the Council.
- 7.1.11 Attends to and deals with all matters delegated to it by the Council in terms of the Local Government Municipal Structures Act and the Systems Act.
- 7.1.12 Appoints a chairperson from the members of the Executive Committee for any section 80 committees established by Council to assist the Executive Committee from its members.
- 7.1.13 Delegates any powers and duties of the Executive Committee to any section 80 committee.
- 7.1.14 Varies or revokes any decision taken by a section 80 committee, subject to vested rights.
- 7.1.15 Develops strategies, programmes and services to address priority needs of the municipality through the integrated development plan and estimates of revenue and expenditure, taking into account any applicable national and provincial plans and submit a report and recommendations thereon to the Council.
- 7.1.16 Subject to applicable legislation, determines and/or recommends the best methods, including partnerships and other approaches to deliver services, programmes and projects to the maximum benefit of the community.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 7.1.17 Identifies and develops criteria in terms of which progress in the implementation of services, programmes and projects to address the priority needs of the municipality can be evaluated which includes key performance indicators which are specific to the municipality and common to local government in general.
- 7.1.18 Evaluates progress against the key performance indicators.
- 7.1.19 Receives and considers reports from the Committee in accordance with the directives as stipulated by the Executive Committee.
- 7.1.20 Elects a chairperson to preside at meetings if both the Mayor and the Deputy Mayor are absent from a meeting in the event of there being a quorum present at such a meeting.
- 7.1.21 Considers appeals from a person whose rights are affected by a decision of the Municipal Manager provided that the decision reached by this Committee may not detract from any rights that may have accrued as a result of the original decision. Where appropriate the views of the Standing Committee responsible for the function concerned must be furnished to the Executive Committee.

7.2 Other functions of the Executive Committee

- 7.2.1 Recommends to Council policies where Council has reserved the power to make the policies itself.
- 7.2.2 Recommends Rules of Order for the control of Council meetings and approves Rules of Orders for meetings of itself and any other committee within the executive, except for subcouncils and Portfolio Committees.
- 7.2.3 Makes recommendations to Council on proposed political structures of Council.
- 7.2.4 Makes recommendations to Council in respect of its legislative powers.
- 7.2.5 Gives political direction to the executive management team.
- 7.2.6 Determines strategic approaches, guidelines and growth parameters for the Draft Budget including tariff structures.

7.3 Line of Authority

- 7.3.1 Reports to the Council

7.4 Powers Delegated to the Executive Committee

EXECUTIVE COMMITTEE**06 FEBRUARY 2001****7.4.1 General Powers**

- 7.4.1.1 Establishes any committee within Council's executive, the appointment of members to such committee and the appointment of a chairperson to such committee.
- 7.4.1.2 Designates Councillors, as determined by the Provincial Minister for Local government, as full-time Councillors.
- 7.4.1.3 Determines policy for the organisation of Council's administrative functions, activities and work force into directorates and departments.
- 7.4.1.4 Deals with any breach of the code of conduct by Councillors.
- 7.4.1.5 Sets policy in respect of matters falling within the delegated powers of the Executive Committee or within the powers of the executive below itself.
- 7.4.1.6 Delegates powers in respect of any of its powers to committees established in terms of section 80 of the Municipal Structures Act.
- 7.4.1.7 Comments on proposed legislation and government policies.
- 7.4.1.8 Appoints Councillors to attend international, national and local meetings/conferences/ seminars, etc.
- 7.4.1.9 Appoints or nominates Councillors to represent Council on outside bodies.
- 7.4.1.10 Approves international co-operative agreements, such as twin city relationships.
- 7.4.1.11 Sets policy to guide the executive falling below the level of the Executive Committee in their decision-making process.
- 7.4.1.12 Determines the date of a general valuation.
- 7.4.1.13 Co-ordinates the operations of the executive councillors.
- 7.4.1.14 Institutes and defends any action in the High Court, or court of equal or higher stature, with the exception of claims relating to recovery of debt owed to Council.
- 7.4.1.15 Institutes and defends arbitration proceedings in matters where it otherwise would have been dealt with in the High Court or court of equal or higher stature.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- 7.4.1.16 Grants leave of absence to members for meetings of the Executive Committee.
- 7.4.1.17 Determines the functional area of each portfolio of the executive councillors.
- 7.4.1.18 Assigns portfolios for executive councillors.
- 7.4.1.19 Assigns strategic objectives to executive councillors for implementation and oversight.
- 7.4.1.20 Expropriates immovable property and rights in or to immovable property.
- 7.4.1.21 Mandates the metropolitan labour forum in respect of all salary and wage disputes.
- 7.4.2 Human Resource Powers**
 - 7.4.2.1 Appoints the Municipal Manager and an Acting Municipal Manager, and determines their conditions of service.
 - 7.4.2.2 Appoints, after consultation with the Municipal Manager, managers or acting managers directly accountable to the Municipal Manager and determines their conditions of service.
 - 7.4.2.3 Approves international participation of meetings, conferences, seminars etc by the Municipal Manager.
 - 7.4.2.4 Determines a policy framework in respect of the staff establishment, post description, conditions of service, and the evaluation of the staff establishment of the municipality.
- 7.4.3 Financial Matters**
 - 7.4.3.1 Decides on any commercial activity with a value above R5m. Decides on any commercial activity falling within the delegated authority of the executive councillors where such councillors do not recommend the acceptance of the most financially beneficial offer to Council.
 - 7.4.3.2 Virement funds of any operational amount above R5m on the budget.
 - 7.4.3.3 Decides on the choice of a commercial bank and the opening of bank accounts.
 - 7.4.3.4 Determines the amount of loss or damage suffered by Council where the Municipal Manager or any other Manager reporting directly to him or her

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

has been responsible for such loss or damage, and recovers the loss or damage from them.

- 7.4.3.5 Approves any commercial activity, irrespective of the value, involving a Councillor or a member of staff or his or her spouse, partner or business associate, except where the commercial activity forms part of council's normal service delivery and such transaction takes place in the normal course of business.
- 7.4.3.6 Establishes and oversees the management of a capital development fund, consolidated capital development and loan fund and/or a consolidated loans fund.
- 7.4.3.7 Takes any appropriate action with regard to any loss of or shortage in funds or property belonging to or controlled by the Council involving alleged fraud, theft or negligence on the part of all staff, members of Councils or any other structure of Council. This action may only be instituted pursuant to relevant recommendations submitted by the relevant Portfolio Committee.
- 7.4.3.8 Approves and reviews audit plans.
- 7.4.3.9 Considers and deals with external audit reports and replies thereto and receive quarterly internal audit reports.
- 7.4.3.10 Approves the virement of funds of any capital amount above R5m on the budget.

8. PORTFOLIOS OF EXECUTIVE COUNCILLORS

- 8.1 The following portfolios are assigned to 9 members of the Executive Committee (referred to hereinafter as executive councillors):
 - 8.1.1 Amenities and Community Support
 - 8.1.2 Corporate Services
 - 8.1.3 Economic Development and Tourism
 - 8.1.4 Finance
 - 8.1.5 Health and Safety
 - 8.1.6 Housing
 - 8.1.7 Planning and the Environment
 - 8.1.8 Trading Services
 - 8.1.9 Transport and Roads

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

8.2 Functions and delegations applicable to all portfolios of executive councillors**8.2.1 Functions**

- 8.2.1.1 Formulates policy falling within the functional area of the portfolio for adoption by Council or the Executive Committee where these powers do not fall within his or her delegated executive power.
- 8.2.1.2 Receives and considers annual Business Plans falling within the functional area of the portfolio and makes recommendations thereon.
- 8.2.1.3 Monitors the implementation of the Business Plans of the functional areas of the portfolio. Oversees the review of financial performance against approved budgets relating to prior and current years including dealing with reports from the Auditor-General.
- 8.2.1.4 Formulates and prepares the Draft Budget in respect of the functional areas of the portfolio.
- 8.2.1.5 Recommends tariffs for services provided in respect of the functional areas of the portfolio.
- 8.2.1.6 Receives and considers reports and recommendations submitted in respect of the functional areas of the portfolio.
- 8.2.1.7 Receives and considers reports on International, National and Provincial Policy relevant to the operations of the functional areas of the portfolio.
- 8.2.1.8 Recommends legislation, norms and standards in respect of the functional areas of the portfolio.
- 8.2.1.9 Recommends the passing or amendment of By-laws pertaining to the functions of the portfolio.
- 8.2.1.10 Evaluates and recommends on prioritising projects falling within the functional areas of the portfolio for the allocation of discretionary funds.

8.2.2 Delegations

- 8.2.2.1 Determines policy falling within the functional area of the portfolio and within his/her delegated executive power or within powers delegated lower down.
- 8.2.2.2 Decides on any commercial activity with a value above R2m up to R5m falling within the functional area of the portfolio and considers any

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

commercial activity falling within the delegated authority of the Municipal Manager where the Municipal Manager does not recommend the acceptance of the most financially beneficial offer to Council.

- 8.2.2.3 Virements funds of an operational amount above R2m up to R5m falling within the functional area of the portfolio appearing on the budget.

8.3 Line of authority of executive councillors

- 8.3.1 Report to the Executive Committee

8.4 Functions and delegations applicable to each individual portfolio of executive councillors

8.4.1 Functions of the executive councillor in the Amenities and Communities Support Portfolio

- 8.4.1.1 The Community Support Services Committee's functional areas include, but are not limited to the following:

8.4.1.1.1 the Libraries function

8.4.1.1.2 the Community Facilities function – including halls, pools, beaches, nodal points and resorts, public bathhouses and toilets.

8.4.1.1.3 the Sports and Recreation function.

8.4.1.1.4 the Cemeteries and Crematoria function

8.4.1.1.5 the Open Space Management (fields, parks, etc.) function

8.4.1.1.6 the Social Development function

8.4.2 Functions and delegations of the executive councillor in the Corporate Services Portfolio

- 8.4.2.1 The Corporate Services Portfolio's functions include but are not limited to:

8.4.2.1.1 the Information Technology function – including WAN, PC Co-ordination, Architecture and Software.

8.4.2.1.2 the Human Resources function – including Human Resource Administration, Industrial Relations, Recruitment and Selection, Training and Development, Occupational Health and Safety, Employment Equity, Grading and Remuneration.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 8.4.2.1.3 the Administrative Support function – including General Administration, Auxillary Services, Committee Secretariat, Councillor Support, Printing Services and Graphic Services.
- 8.4.2.1.4 the Technical Support services – including Vehicle and Plant Management, Mechanical Services, Building Maintenance, Project Management, Electrical and Electronic Services and Survey Services.
- 8.4.2.1.5 the Management Services function,
- 8.4.2.1.6 the Internal Communication function.
- 8.4.2.1.7 the Transformation function
- 8.4.2.2 The following are specific delegations of the executive councillor in the corporate services portfolio
 - 8.4.2.2.1 Mandates the metropolitan labour forum in respect of labour disputes (other than that related to salary and wage disputes).
- 8.4.3 **Functions and delegations of the executive councillor in the Economic Development and Tourism Portfolio**
 - 8.4.3.1 The Economic Development and Tourism functional areas include but are not limited to:
 - 8.4.3.1.1 the Economic Development function – including SMME, empowerment support and job creation, the support and regulation of informal trading, sector support, investment and export, trade promotion and facilitation, the facilitation of partnerships between the City and public, private and community groups, economic co-ordination and facilitation, business area management and community skills development.
 - 8.4.3.1.2 the Municipal Property Management function
 - 8.4.3.1.3 the Tourism function
 - 8.4.3.1.4 major events
- 8.4.4 **Functions and delegations of the executive councillor in the Finance Portfolio**
 - 8.4.4.1 The Finance functional areas include but are not limited to:

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

8.4.4.1.1 the finance functions including Revenue and Debt Management, Procurement and Stock Management, Expenditure, Budgets and Budgetary Control, Accounting, Finance, Financial Administration, Insurance and Housing Finance

8.4.4.1.2 the General and Interim Valuations function.

8.4.4.2 The following are specific **functions** of the Finance Portfolio:

8.4.4.2.1 Considers the Draft Annual Operational Budget and Capital Budgets of the Council and to make recommendations to the Executive Committee for the alignment of the budget and the IDP.

8.4.4.2.2 Recommends strategic approaches, guidelines and growth parameters for the Draft Budget including tariff structures.

8.4.4.2.3 Investigates and recommends to the Executive Committee funding options for the prioritised objectives and projects identified in the Integrated Development Plan.

8.4.4.2.4 Oversees the review of financial performance against approved budgets relating to prior and current years including reports from the Auditor-General of Council as a whole and the finance portfolio in particular.

8.4.4.2.5 Considers and submits to Council, if required, recommendation/s by a Committee for the incurring of Capital Expenditure not included in the estimates for the current year and not being able to be met by way of virement.

8.4.4.3 The following are specific **delegations** to the executive councillor in the Finance Portfolio:

8.4.4.3.1 Decides on grants and donations other than to staff provided that such grants or donations fall within a functional area of Council.

8.4.4.3.2 Approves the virement of funds of any capital amount above R100 000,00 and below R5m on the budget.

8.4.4.3.3 Save as otherwise provided, the writing off of irrecoverable debt.

8.4.4.3.4 After appropriate enquiry, blacklists companies or persons with whom Council has contracted and authorises the withdrawal of such blacklisting.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

8.4.4.3.5 Writes off any loss arising from an improper payment, fruitless expenditure or failure to collect any monies due to the Council.

8.4.4.3.6 Approves contributions to emergency relief funds.

8.4.5 The functions and delegations of the executive councillor in the Health and Safety Portfolio

8.4.5.1 The functions of the executive councillor in the Health and Safety services portfolio includes but are not limited to the following:

8.4.5.1.1 the Emergency Services and Disaster Management function – including disaster management, fire services, ambulance services and the 107 call centre.

8.4.5.1.2 the Traffic Control, Law Enforcement and Security Services function – including traffic law enforcement, traffic licencing, security services and law enforcement and crime prevention.

8.4.5.1.3 the Health function – including district health services and specialised health services and environmental health.

8.4.6 The functions and delegations of the executive councillor in the Housing Portfolio

8.4.6.1 The Housing Portfolio's functional areas include but are not limited to:

8.4.6.1.1 the housing services function – including housing services co-ordination,

8.4.6.1.2 existing housing,

8.4.6.1.3 new housing and informal settlement (design of houses and management of informal settlements)

8.4.6.1.4 the provision of the housing information service

8.4.6.1.5 facilitate the provision of housing for the homeless.

8.4.7 The functions and delegations of the executive councillor in the Planning Portfolio

8.4.7.1 The planning functional areas include but are not limited to:

8.4.7.1.1 the Planning function – including spatial planning and growth management, design services, land use management, building

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

development management, development projects, land information and planning legislation and enforcement.

8.4.7.1.2 the Spatial Data Management (including geographic information systems)

8.4.7.1.3 the Environment Planning function – including environmental planning, environmental planning policy, environmental impact assessment, coastal planning, outdoor advertising and signage (environmental controls), heritage resource management and nature reserve planning.

8.4.7.1.4 the Transportation Planning function – including transportation policy, traffic impact assessments and integrated transport plans.

8.4.7.1.5 the Housing Planning function – including land identification, approval of planning and design and subdivision and rezoning.

8.4.7.2 The following are specific functions of the executive councillor in the Planning Portfolio:

8.4.7.2.1 Ensures that the urban development and management of the municipal area is consistent with established national, provincial and metropolitan development and planning policies and principles.

8.4.7.2.2 Ensures that the urban development and management of the municipal area is consistent with the Council's Integrated Development Plan processes.

8.4.7.2.3 Monitors the work of and consults with other committees of Council to ensure alignment and consistency in policy formulation and decision-making in relation to urban development and management.

8.4.7.2.4 Ensures that urban development and management processes are participative and facilitate the development of partnerships.

8.4.7.2.5 Makes recommendations to other spheres of government in respect of matters concerning his/her portfolio.

8.4.7.3 The following are specific **delegations** of the executive councillor in the Planning Portfolio:

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

8.4.7.3.1 Sets policy in respect of matters falling within the functional area of his/her portfolio and within its delegated authority or authority delegated lower down.

8.4.7.3.2 Guides spatial development frameworks, structure plans, zoning schemes

8.4.7.3.3 Decides on all town planning and building control matters where subcouncils make recommendations which are not supported by the executive below the level of the executive councillor or where the subcouncils have no role to play.

8.4.7.3.4 Makes recommendations to other spheres of government in matters falling within his/her portfolio.

8.4.7.3.5 Except as otherwise provided, deals with matters relating to Environmental Management including the serving of notices in terms of section 31(a) of the Environmental Conservation Act (Act 73 of 1989).

8.4.7.2.6 In terms of the National Heritage Resources Act, No. 25 of 1999, designates any area land to be a heritage area.

8.4.8 Functions of the executive councillor in the Trading Services Portfolio

8.4.8.1 The functions include, but are not limited to the following:

8.4.8.1.1 the Electricity and energy function – including network operations, generation, distribution and sales and customer services.

8.4.8.1.2 the Water and Sanitation function – including bulk water, catchment-management, wastewater treatment, water and wastewater reticulation, water and sanitation technical services, stormwater and river management.

8.4.8.1.3 the Solid Waste Management function – including refuse removal, refuse disposal, illegal dumping and street sweeping.

8.4.8.1.4 the Abattoir function.

8.4.8.1.5 the Markets function.

8.4.9 Functions and delegations of the executive councillor in the Transport and Roads Portfolio

8.4.9.1 The following Transport and Roads functions include but are not limited to:

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 8.4.9.1.1 Transport plans in concurrence with the executive councillor in the Planning Portfolio,
- 8.4.9.1.2 Systems monitoring and information management
- 8.4.9.1.3 Demand and access management
- 8.4.9.1.4 Infrastructure planning and budgeting
- 8.4.9.1.5 Infrastructure construction and project and asset management
- 8.4.9.1.6 Public transport service design, contracts and regulations,
- 8.4.9.1.7 Public transport, management and passenger security,
- 8.4.9.1.8 Customer information and marketing,
- 8.4.9.1.9 Traffic infrastructure management,
- 8.4.9.1.10 Traffic signalisation and robot maintenance
- 8.4.9.1.11 Transportation fund management
- 8.4.9.1.12 Regulatory and direction signage
- 8.4.9.1.13 Receiving and considering reports from outside bodies such as Modalink and MTAB

- 8.4.9.2 The following are specific delegations of the executive councillor in the Transport and Roads Portfolio

- 8.4.9.2.1 Decides on the permanent closure of all streets and roads where are objections have been received.

9. PORTFOLIO COMMITTEES OF COUNCIL

9.1 The following portfolio committees are established by Council:

- 9.1.1 Amenities and Community Support
- 9.1.2 Corporate Services
- 9.1.3 Economic Development and Tourism
- 9.1.4 Finance
- 9.1.5 Health
- 9.1.6 Housing
- 9.1.7 Planning and Environment
- 9.1.8 Trading Services
- 9.1.9 Transport and Roads
- 9.1.10 Safety Committee
- 9.1.11 Ad hoc committees (such as an IDP Portfolio Committee constituting the chairs of all the other Portfolio Committees)

9.2 The functions of the Portfolio Committees

- 9.2.1 Develops and recommends policy within the functional area of their respective committee.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 9.2.2 Develops and recommends on the content and drafting of by-laws within the functional area of their respective committee.
- 9.2.3 Develops and recommends the business plans within the functional area of their respective committee.
- 9.2.4 Makes recommendations in regard to the draft IDP and budget to the IDP portfolio committee within the functional area of their respective committee.
- 9.2.5 Makes recommendations in regard to the setting or revision of tariffs, levies, taxes and duties within the functional area of their respective committee.
- 9.2.6 Ensures public participation in the development of policy, legislation, IDP's and budget within the functional area of their respective committee.
- 9.2.7 Monitors the implementation of Council's IDP, budget, business plans, strategic objectives, policies and programmes within the functional area of their respective committee.
- 9.2.8 Assesses the performance of service delivery generally within the functional area of their respective committee (outcomes monitoring).

9.3 Delegation to the Portfolio Committees

- 9.3.1 Elects its chairperson and deputy chairperson for appointment by Council.
- 9.3.2 Grants leave of absence to members for meetings of the committees.
- 9.3.3 Determines its own rules of order subject to any recommendations made by the Rules Portfolio Committee.
- 9.3.4 Summons members of the Executive Committee and officials to appear before the Committee to give evidence in order to enable the Committee to perform its functions.

9.4 The Rules Portfolio Committee**9.4.1 The functions of the Rules Portfolio Committee**

- 9.4.1.1 Recommends on rules of order for Portfolio Committees.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 9.4.1.2 Investigates breaches of Council's rules and make recommendations in this regard to the executive for implementation.
- 9.4.1.3 Recommends the policy for the use of Council's facilities by members of Council for determination by the Speaker.
- 9.4.2 Delegations to the Rules Portfolio Committee**
 - 9.4.2.1 Summonses members of Council and officials to appear before the committee to give evidence or to enable the committee to perform its functions.

10. SUBCOUNCILS**10.1 Statutory Functions of Subcouncils**

- 10.1.1 Performs such duties and powers as Council may delegate to it.
- 10.1.2 Makes recommendations to Council on any matter affecting its area.
- 10.1.3 Advises Council on what duties and powers should be delegated to it.

10.2 Other Functions of Subcouncils (to be determined)

Detail to be inserted once subcouncils have been formally established.

10.3 Delegation to subcouncils

- 10.3.1 Grants leave of absence to members for meetings of subcouncils.

11. THE MUNICIPAL MANAGER**11.1 Statutory Functions of the Municipal Manager**

- 11.1.1 The Municipal Manager has the following functions in terms of the Municipal Structures Act:
 - 11.1.1.1 calls the first meeting of the Municipality in terms of section 29(2) of the Municipal Structures Act;
 - 11.1.1.2 presides over the election of the Speaker.

EXECUTIVE COMMITTEE

06 FEBRUARY 2001

- 11.1.2 The Municipal Manager, as head of administration of the Municipality, has the following functions in terms of the Municipal Systems Act:
- 11.1.2.1 the formation and development of an economical, effective, efficient, accountable and performance driven administration;
 - 11.1.2.2 the management of the Municipality's administration in accordance with this Act and other legislation applicable to the Municipality;
 - 11.1.2.3 the implementation of the Municipality's integrated development plan, and the monitoring of progress with implementation of the plan;
 - 11.1.2.4 the management of the provision of services to communities, residents and ratepayers in a sustainable manner;
 - 11.1.2.5 the control, management, effective utilisation and training of staff;
 - 11.1.2.6 the maintenance of discipline of staff;
 - 11.1.2.7 the promotion of sound labour relations and compliance by the Municipality with applicable labour legislation;
 - 11.1.2.8 advising the structures and functionaries of the Municipality;
 - 11.1.2.9 managing communications between the Municipality's administration and its structures and functionaries;
 - 11.1.2.10 carrying out the decisions of the structures and functionaries of the Municipality;
 - 11.1.2.11 the administration and implementation of the Municipality's by-laws and other legislation;
 - 11.1.2.12 the exercise of any powers and performance of any duties delegated by the Municipal Council, or sub-delegated by other delegating authorities of the Municipality, to the Municipal Manager in terms of section 54;
 - 11.1.2.13 the implementation of national and provincial legislation applicable to the Municipality;
 - 11.1.2.14 facilitating participation by communities, residents and ratepayers in the affairs of the Municipality; and

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

11.1.2.15 the performance of any other function that may be assigned by the Municipal Council;

11.1.2.16 makes press statements on behalf of Council.

11.1.3 In terms of the Finance Management Bill, the Municipal Manager must, as a financial year progresses, submit regular reports in the prescribed format on the state of the Municipality's budget to the :

11.1.3.1 National Treasury and the relevant Provincial Treasury, in case of a metropolitan or a district municipality; and

11.1.3.2 the Municipal Manager must in writing inform the National Treasury and the relevant provincial treasury of:

11.1.3.3 any unauthorised expenditure that has occurred in the municipality; and

11.1.3.4 the steps taken to recover or rectify the unauthorised expenditure and to prevent a recurrence of such expenditures.

11.2 Line of Authority

11.2.1 The Municipal Manager is responsible to the Mayor.

11.3 Powers Delegated to the Municipal Manager

11.3.1 General Powers

11.3.1.1 Determines policy on any matter falling within his/her delegated authority and the delegated authority of the executive below himself.

11.3.1.2 Decides on sub-delegation of any of his/her powers.

11.3.1.3 Decides on appeals in respect of decisions taken by other officials.

11.3.1.4 Decides on the instituting or defending of any action in the Lower Court or Court of similar stature or any arbitration and mediation which would otherwise have been heard in a Lower Court.

11.3.1.5 Decides on the instituting of legal action in the High Court for the recovering of debt owed to Council provided that the institution of such proceedings is in accordance with an approved debt collection policy.

11.3.1.6 Appoints officials to attend international and national meetings, conferences and seminars etc.

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

- 11.3.1.7 Instituting or defending of any action in a High Court in respect of the recovery of debt, if not the delegatee lower down cannot recover in terms of the credit control and debt collection policy.
- 11.3.1.8 Appoints officials to attend local meetings, conferences and seminars etc, where such officials are required to represent the municipality.
- 11.3.1.9 Appoints or nominates officials to represent Council on outside bodies.
- 11.3.1.10 Appoints Secretary and/or Acting Secretary of Valuation Courts, as and when necessary.
- 11.3.1.11 Exercises all powers provided for in the Property Valuation Ordinance 148 of 1993 and its Regulations.
- 11.3.1.12 Approves scholarship and bursaries administered or awarded by the Council.
- 11.3.1.13 Concludes or renewal of lease agreements without inviting tenders for periods not exceeding 12 months.
- 11.3.2 Human Resources Powers**
 - 11.3.2.1 Determines, subject to Council policy, the staff establishment, post descriptions, conditions of service, and the evaluation of the staff of the establishment of the Council, excluding the Municipal Manager and officials reporting directly to him/her.
 - 11.3.2.2 Appoints staff to the municipality, excluding those managers reporting directly to him/her.
 - 11.3.2.3 Makes statutory appointments of a Chief of Civil Defence, Deputy/s of Civil Defence, a Chief Fire Officer, a Medical Officer of Health and any acting appointments to these positions.
 - 11.3.2.4 Considers in terms of Council policy any grants or donations to staff including ex gratia pension benefits.
 - 11.3.2.5 Settles disputes under Labour Legislation.
- 11.3.3 Financial Powers**
 - 11.3.3.1 Decides on any commercial activity with a value above R1m and up to R2m and to consider any commercial activity falling within the delegated

EXECUTIVE COMMITTEE**06 FEBRUARY 2001**

authority of any other official where such official does not recommend the acceptance of the most financially beneficial offer to Council.

- 11.3.3.2 Accepts annual and periodic tenders for stock items, subject to the procurement policy and where officials do not recommend the acceptance of the most financially beneficial offer to Council.
- 11.3.3.3 Writes off bad debts or other assets, subject to the Council policy in this regard.
- 11.3.3.4 Authorises the virement of funds of any capital amount up to R100 000,00 on the budget.
- 11.3.3.5 Authorises the virement of funds of any operational amount above R1m up to R2m on the budget.
- 11.3.3.6 Authorises officials to sign cheques on behalf of the Council.
- 11.3.3.7 Determines development levies/contributions other than RSC levies.
- 11.3.3.8 Decides on the investment of surplus funds in terms of Council policy.

11.3.4 Emergency Powers

- 11.3.4.1 Decides on and acts in cases requiring an immediate decision in consultation with the Mayor or the appropriate executive councillor or both. If neither the Mayor nor the relevant executive councillor is available, then the Municipal Manager may act on his/her own initiative.
- 11.3.4.2 This delegation is subject to the following conditions:
 - 11.3.4.2.1 Council should be able legally to cope with any emergency without detracting from the principle of accountability.
 - 11.3.4.2.2 Whenever this power is executed, a comprehensive report must be tabled with that branch of the executive which would ordinarily have been responsible for making the decision.

DRAFT BY-LAW

(To be technically examined
by outside legal Counsel)

CITY OF CAPE TOWN

BY-LAW
2 OF 2001Adopted by
the Council:Date of
Commencement:

To provide for various means of public participation and consultation in pursuance of the provisions of the Local Government : Municipal Systems Act 32 of 2000; to provide for public consultation on other matters not referred to in legislation; to provide for the registration of interested organisations; and to provide for those matters reasonably necessary for, or incidental to, matters of public participation and consultation.

INTRODUCTORY PROVISIONS

1. DIVISION OF BY-LAW

This By-law is divided as follows:

- PART 1 : METHODS FOR PUBLIC PARTICIPATION
PART 2 : REGISTRATION OF INTERESTED ORGANISATIONS
PART 3 : GENERAL

2. DEFINITIONS

- (1) In this By-law, unless the context otherwise indicates -

"administration" means the administration for the Municipality of the City of Cape Town contemplated in section 51 of the Systems Act;

"Executive Committee" means the Executive Committee of the Municipality of the City of Cape Town, the members of which were duly elected by the Council;

"integrated development plan" means the integrated development plan contemplated in section 25 of the Systems Act;

-2-

"interested party" without limiting the generality of the term, means a voluntary association, a company or close corporation registered according to law, a partnership, a trust or any other entity of a like nature;

"Municipal Manager" means the Municipal Manager referred to in section 82 of the Structures Act or any person lawfully acting as Municipal Manager;

"Structures Act" means the Local Government : Municipal Structures Act 117 of 1998;

"subcouncil" means a metropolitan subcouncil referred to in section 62 of the Structures Act.

"Systems Act" means the Local Government : Municipal Systems Act 32 of 2000.

- (2) Any other word or expression used in the Structures Act or the Systems Act which is used in this By-law has the meaning assigned to it in those Acts.

3. APPLICATION

The provisions of this By-law apply to and are binding on -

- (a) The Council as a body, the political structures of the Council and councillors.
- (b) The Council's administration as contemplated in section 51 of the Systems Act.
- (c) The subcouncils established by the Council in terms of the Structures Act.

4. OBJECT

The object of this By-law is to ensure openness, transparency and accountability on the part of the Council, its political structures and its administration by providing for citizens to exercise their right to public participation and to provide mechanisms for public consultation.

PART 1 : METHODS FOR PUBLIC PARTICIPATION

5. PUBLIC MEETINGS

- (1) The Council shall arrange for the convening of a public meeting or more than one public meeting to obtain the views of the public on any matter affecting the Municipality as a whole.

-3-

- (2) The councillors representing the wards to be included in a proposed subcouncil, assisted by the councillors elected according to proportional representation allocated to such proposed subcouncil, shall convene one or more public meeting within the proposed subcouncil area for the following purposes:
 - (a) To inform the public generally about the nature, role and responsibilities of subcouncils.
 - (b) To inform the public about the following matters:
 - (i) the area of and proposed name for the subcouncil concerned;
 - (ii) the functions, powers and duties of the subcouncil concerned;
 - (iii) the equitable financial framework.
 - (c) to obtain the views of the public on the foregoing.
- (3) Whenever the area, name, functions, powers, duties and equitable financial framework of subcouncils are to be amended, the councillors referred to in subsection (2) shall carry out the actions referred to in such subsection.
- (4) When the Council commences the process of drafting its integrated development plan, each subcouncil shall on notification to that effect by the Executive Committee, arrange sufficient public meetings at venues in the subcouncil area for the following purposes -
 - (a) to consult the community of the subcouncil area on its development needs and priorities.
 - (b) To invite the community concerned to participate in the drafting of the integrated development plan by informing the subcouncil about the following:
 - (i) lack of access in any community to basic municipal services;
 - (ii) the most critical development needs of the community or a part thereof;
 - (iii) a spatial development framework, including basic guidelines for a land use management system, for the area concerned.
 - (c) To report to the Executive Committee on the outcomes of paragraph (b).

- (5) Each councillor representing a ward shall, at such intervals as may be determined by the Executive Committee, convene public meetings in their wards for the purpose of reporting to the citizens of that area on the activities of the Council and of the subcouncil in which that ward is situated.

6. PORTFOLIO COMMITTEES

- (1) Portfolio committees shall as the occasion warrants hold open sessions to which members of the public and interested organizations shall be invited to submit their views and comments on any of the following matters -
- (a) The identification of the needs of the communities within the Municipal area, including the prioritisation of those needs for the purpose of assisting the Executive Committee in terms of its functions under section 44(2)(a) and (b) of the Structures Act.
 - (b) The views of the public and interested organizations on strategies, programmes and services to address priority needs through the integrated development plan for the purpose of assisting the Executive Committee in terms of its functions under section 44(2)(c) of the Structures Act.
 - (c) The views generally of the public and interested organizations in regard to the matters referred to in section 5(4) for the purpose of assisting the Executive Committee in terms of its functions under section 30 of the Systems Act.
 - (d) The involvement of the community in the development, implementation and review of the Council's performance management system, including the setting of appropriate key performance indicators and performance targets for the Municipality for the purpose of assisting the Executive Committee in terms of its functions under section 39 of the Systems Act.
 - (e) The views and comments of the public and interested organisations on the drafting of a tariff policy as contemplated in section 74 of the Systems Act.
 - (f) Decisions on mechanisms for the provision of services as provided for in section 76 of the Systems Act, the review of such mechanisms and decisions on the appropriate mechanisms as provided for in sections 77 and 78 of the Systems Act and the provision of services through service delivery agreements with external mechanisms as provided for in section 80 of the Systems Act.

-5-

- (g) The development for adoption of a policy framework for internal municipal service districts as contemplated in section 86 of the Systems Act and the establishment in parts of the Municipality of internal municipal service districts in terms of section 85 of the aforesaid Act.
- (2) A Portfolio Committee which holds open sessions on any matter contemplated in subsection (1) shall after the conclusion of the session concerned, formulate and submit a full report thereon together with any advice or recommendations it may deem necessary or desirable.

7. (1) NOTIFICATION THROUGH THE MEDIA

Whenever -

- (a) a public meeting is held in terms of section 5(1) to (4);
- (b) any Portfolio Committee holds a session about any matter in section 6(1);
- (c) any land use or transport or similar plan has been prepared and is awaiting adoption;
- (d) any draft By-law is to be passed;
- (e) the integrated development plan has been compiled in a final form, or an already approved integrated development plan is to be amended;
- (f) the Council's performance management system is in the course of preparation and also once a final draft has been prepared for adoption;
- (g) subcouncils are to be established, or having been established, are to be amended;
- (h) the Council is to consider a draft tariff policy;
- (i) the Council proposes to enter into an agreement with an external service delivery mechanism;
- (j) the Council proposes to adopt a policy framework for internal municipal service districts or to establish one or more of such districts; or
- (k) any other matter determined by the Executive Committee as falling within the provisions of this section,

-6-

the aforesaid matters shall be advertised twice in the daily newspapers as well as community newspapers circulating in the Municipal area in English, Afrikaans and Xhosa for a period not less than twenty-one days: Provided that in any particular case the Executive Committee may determine a longer period of notice, and in emergency situations, it may determine a shorter period.

- (2) Copies of all notices contemplated in subsection (1) shall be posted at -
 - (a) The notice board at the Cape Town Civic Centre.
 - (b) The offices of every subcouncil.
 - (c) All libraries in the Municipal area.
 - (d) Other places as may be available.
- (3) The Municipal Manager shall each month cause to be published a notice in the daily newspapers as well as community newspapers circulating in the Municipal area informing the public of -
 - (a) The date, time and venue of each ordinary meeting of the Council.
 - (b) The date, time and venue of the meetings of the Executive Committee and the sessions of each Portfolio Committee.
- (4) Whenever the Council, the Executive Committee or a Portfolio Committee meet specially or on an urgent basis, the Municipal Manager shall endeavour to give public notice of such meetings if this is practically possible.
- (5) In addition to the publication of a notice as provided for in subsections (1) and (2) and in order to provide for persons who cannot read or write, the Municipal Manager shall arrange for the gist of all such notices to be announced in English, Afrikaans and Xhosa over community broadcasting stations operating in the Municipal area.

PART 2 : REGISTRATION OF INTERESTED ORGANISATIONS

8. WHO MAY REGISTER

Any organisation -

- (a) based in the Municipal area which has an interest in the matters of local government; or
- (b) which is not based in the Municipal area but which does or may want to do business with the Council or which owns property in the Municipal area, may register as an interested organisation.

9. REQUIREMENTS FOR REGISTRATION

- (1) An organisation referred to in section 7(a) shall be registered if it lodges with the Municipal Manager -
 - (a) copy of its constitution;
 - (b) a statement of its membership;
 - (c) names and addresses of office-bearers;
 - (d) a contact address and person, contact telephone and/or facsimile number and, if it exists, an e-mail address.
- (2) An organisation referred to in section 7(b) shall be registered if it lodges with the Municipal Manager -
 - (a) a statement of its actual or potential involvement with local government in the Municipal area;
 - (b) its registered address;
 - (c) the name of a contact person, contact telephone and/or facsimile number, if it exists, an e-mail address.
- (3) Subject to subsection (4) the Municipal Manager shall cause to be compiled a register of interested organisations referred to in subsection (1) and a separate register in respect of subsection (3).
- (4) The Municipal Manager shall not be obliged to place in any register the name of any organisation in respect of which the details given do not comply with the requirements of subsection (1) or subsection (2) as the case may be.
- (5) The onus of ensuring that the entries in a register in respect of a registered interested organisation are accurate and current rests on the organisation concerned.
- (6) If after being sent at least three public participation requests, a registered interested organisation does not respond, the Municipal Manager shall cause the name of that organisation to be removed from the register concerned.
- (7) The representative of a registered interested organisation or any member of the public may scrutinise the registers referred to in subsection (3).

10. THE CONSEQUENCES OF REGISTRATION

- (1) Subject to subsection (2), the registered interested organisations have the right to be given invitations to attend the public meetings referred to in section 5, to be invited to attend the sessions of Portfolio Committees referred to in section 6 and to have sent to their registered address copies of the notices referred to in section 7(1).
- (2) An interested organisation registered in terms of section 9(2) shall not be entitled to any notification concerning -
 - (a) the establishment of subcouncils and matters related thereto;
 - (b) the processes connected with the integrated development plan;
 - (c) the matters referred to in section 6(1)(a), (b), (c) and (d).

PART 3 : GENERAL**11. COST OF PUBLIC MEETINGS**

- (1) The public meetings referred to in section 5 shall as far as possible be convened in halls or other suitable venues under the ownership or control of the Council and the councillors concerned shall not be required to pay for the hire or use thereof.
- (2) Where a public meeting is to be convened at a place where there is no hall or other suitable venue under the ownership or control of the Council but there is a suitable place for hire, the councillor or subcouncil convening the meeting may hire such premises and the Council will pay the cost of hire and nothing more, subject to the Mayor giving prior written approval for such cost to be incurred.

12. SHORT TITLE

This By-law shall be called the City of Cape Town Public Participation By-law 2 of 2001.