

**FUNCTIONS AND
DELEGATION OF
POWERS
OF
COUNCIL'S POLITICAL
STRUCTURES**

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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.

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.
- 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 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.
 - 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 delegatees 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 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.

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.
- 4.1.20 Designates Councillors, as determined by the Provincial Minister for Local government, as full-time Councillors.

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.
- 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 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.

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.
- 6.4.7 Appoints an Acting Municipal/City Manager for periods from 6-20 working days.

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.
- 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.
- 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

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 Determines policy for the organisation of Council's administrative functions, activities and work force into directorates and departments.

- 7.4.1.3 Deals with any breach of the code of conduct by Councillors.
- 7.4.1.4 Sets policy in respect of matters falling within the delegated powers of the Executive Committee or within the powers of the executive below itself.
- 7.4.1.5 Delegates powers in respect of any of its powers to committees established in terms of section 80 of the Municipal Structures Act.
- 7.4.1.6 Comments on proposed legislation and government policies.
- 7.4.1.7 Appoints Councillors to attend international, national and local meetings/conferences/ seminars, etc.
- 7.4.1.8 Appoints or nominates Councillors to represent Council on outside bodies.
- 7.4.1.9 Approves international co-operative agreements, such as twin city relationships.
- 7.4.1.10 Sets policy to guide the executive falling below the level of the Executive Committee in their decision-making process.
- 7.4.1.11 Determines the date of a general valuation.
- 7.4.1.12 Co-ordinates the operations of the executive councillors.
- 7.4.1.13 *Deleted (Council 30 May 2001) and replaced with* “the power to institute and defend 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 is delegated to the Interim Legal Advisor in consultation with the Mayor and the City Manager. The delegation is subject to any such decision being reported to the next available Executive Committee meeting.
- 7.4.1.14 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.
- 7.4.1.15 Grants leave of absence to members for meetings of the Executive Committee.
- 7.4.1.16 Determines the functional area of each portfolio of the executive councillors.
- 7.4.1.17 Assigns portfolios for executive councillors.
- 7.4.1.18 Assigns strategic objectives to executive councillors for implementation and oversight.

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- 7.4.1.19 Expropriates immovable property and rights in or to immovable property.
- 7.4.1.20 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 for periods above 20 working days, 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 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

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 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.

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:

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.

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 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:

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

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

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.
- 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.
- 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.

- 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
 - 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.
- 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.
- 11.3.2.6 Appoints an Acting Municipal/City Manager for periods up to 5 working days in consultation with the Mayor.

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 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.