



LEPELLE-NKUMPI MUNICIPALITY
DELEGATION OF POWERS
POLICY

DELEGATIONS TO DEVOLVE CERTAIN POWERS AND FUNCTIONS TO ORGANS, FUNCTIONARIES AND/OR OFFICIALS LEPELLE-NKUMPI MUNICIPALITY

1. PURPOSE

The purpose of this report is to inform the Executive Committee and Council of the statutory powers and functions of certain organs, functionaries and/or officials of Council and to obtain approval from the Executive Committee and the Council for the revised devolution of other powers and functions to any one or more of the organs, functionaries and/or officials of the Council.

2. BACKGROUND

As a result of the change in the legislative environment that governs municipalities it has now become necessary to extend and where necessary restate, refine the existing delegated powers as approved by Council.

3. LEGISLATIVE FRAMEWORK

Since the approval of the existing delegations, various pieces of national legislation have come into operations which have assigned additional powers, duties and responsibilities to the Municipal Manager as the accounting officer and further powers and responsibilities to the Mayor, as the political head of the municipality. A review of the approved report is therefore necessary to align the previous delegations with the new legislation, namely:

- The Municipal Finance Management Act 56 of 2003 (MFMA) which came into effect on the 01st July 2004. (hereinafter referred to as the MFMA)
- The Local Government: Municipal Systems Act 32 of 2000. (hereinafter referred to as the MSA) and;
- The Municipal Systems Amendment Act 44 of 2003 (hereinafter referred to MSAA) which came into effect on the 01st August 2004.

Section 65 of the MSA determines the following:

65 Review of delegations:- “ (1) *Whenever it becomes necessary in terms of section 59(2)(f) to review a municipality’s delegations, the municipal manager must submit to the Council –*

- (a) *a report on the existing delegations issued in terms of Section 59 by the Council and other delegating authorities of the Municipality; and*
- (b) *recommendations on any changes to the existing delegations which the municipal manager may consider necessary.”*

It become necessary to review the existing delegations as a result of the changes that were brought about by the MFMA, MSA and the MSAA as well as the practical

need to fast track and expedite service delivery and facilitate administrative efficiency..

4. PROCUREMENT MATTERS

This report will not address procurement matters as a whole as these have already been addressed in other reports that were approved by Council.

5. CONSULTATIVE PROCESS

In order to complete this report the Office of the Municipal Manager and all Departments within Council were consulted in order to identify and advise on all powers and functions related to their respective key performance areas in an endeavour to ensure that a proper system of delegation is put into place that will contribute to the accountable empowerment of officials and functionaries and other organs of the Council in execution of their administrative and operational powers, functions and responsibilities in order to optimize efficiency in an accountable and transparent manner.

There are currently two main Acts that govern delegation of municipal powers to organs, officials and functionaries, i.e. MSA and the MFMA.

There are however other pieces of legislation that deal with specific matters (e.g. National Building Regulations, SAPS Act, - National Road Traffic Act etc.), that contain specific stipulations regarding the delegation of certain statutory powers without the necessity of Council resolution.

Section 59 of the MSA determines the following:

59. *Delegations.* –“ (1) *A municipal council must develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system, may –*

- (a) *delegate appropriate powers, excluding a power mentioned in section 160(2) of the Constitution and the power to set tariffs to decide to enter into a service delivery agreement in terms of section 76 (b) and to approve or amend the municipality's integrated development plan, to any of the municipality's other political structures, political office bearers, councilors, or staff members;*
- (b) *instruct any such political structure, political office bearer, councilor, or staff member to perform any of the municipality's duties; and*
- (c) *withdraw any delegation or instruction.*

(2) *A delegation or instruction in terms of sub-section (1) -*

- (a) *must not conflict with the Constitution, this Act or the Municipal Structures Act;*
- (b) *must be in writing;*

- (c) *is subject to any limitations, conditions and directions the municipal council may impose;*
 - (d) *may include the power to sub-delegate a delegated power;*
 - (e) *does not divest the council of the responsibility concerning the exercise of the power or the performance of the duty; and*
 - (f) *must be reviewed when a new council is elected or, if it is a district council, elected and appointed.*
- (3) *The municipal council -*
- (a) *in accordance with procedures in its rules and orders, may, or at the request in writing of at least one quarter of the councilors, must, review any decision taken by such a political structure, political office bearer, councilor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person; and*
 - (b) *may require its executive committee or the mayor to review any decision taken by such a political structure, political office bearer, councilor or staff member in consequence of a delegation or instruction.”*

The purpose of delegations is to optimize operational efficiency but at the same time maintain accountability through adequate checks and balances that are transparent.

Sections 79 and 82 of the MFMA address the powers of the Municipal Manager and the Chief Financial Officer to delegate certain powers and functions to officials and functionaries of Council.

Section 79 of the MFMA read as follows:

79. “(1) *The accounting officer of a municipality –*

- (a) *must, for the proper application of this Act in the municipality's administration, develop an appropriate system of delegation that will both maximize administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration;*
- (b) *may, in accordance with that system, delegate to a member of the municipality's top management referred to in section 77 or any other official of the municipality –*
 - (i) *any of the powers or duties assigned to an accounting officer in terms of this Act; or*
 - (ii) *any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate*

steps to ensure the achievement of the aims of a specific provision of this Act; and

- (c) must regularly review delegations issued in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.*
- (2) The accounting officer may not delegate to any political structure or political office-bearer of the municipality any of the powers or duties assigned to accounting officers in terms of this Act.*
- (3) A delegation in terms of sub-section (1) -
 - (a) must be in writing;*
 - (b) is subject to such limitations and conditions as the accounting officer may impose in a specific case;*
 - (c) may either be to a specific individual or to the holder of a specific post in the municipality.*
 - (d) may, in the case of a delegation to a member of the municipality's top management in terms of sub-section (1)(b), authorize that member to sub-delegate the delegated power or duty to an official or the holder of a specific post in that member's area of responsibility; and*
 - (e) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.**
- (4) The accounting officer may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.”*

Section 82 of the MFMA determines the following in respect of the powers of the Chief, Financial Officer:

- 82.** *“(1) The Chief Financial Officer of a municipality may sub-delegate any of the duties referred to in section 81(1)(b), (d) and (e) –*
- (a) to an official in the budget and treasury office;*
 - (b) to the holder of a specific post in that office; or*
 - (c) with the concurrence of the accounting officer, to –
 - (i) any other official of the municipality; or*
 - (ii) any person contracted by the municipality for the work of the office.**
- (2) If the Chief Financial Officer sub-delegates any duties in terms of sub-section (1) to a person who is not an employee of the municipality, the chief financial officer must be satisfied that effective systems and procedures are in place to ensure control and accountability.*
- (3) A sub-delegation in terms of sub-section (1) –*
- (a) must be in writing;*
 - (b) is subject to such limitations or conditions as the Chief Financial Officer may impose; and*

(c) *does not divest the Chief Financial Officer of the responsibility concerning the delegated duty.*

(4) *The Chief Financial Officer may confirm, vary or revoke any decision taken in consequence of a sub-delegation in terms of sub-section (1), but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.”*

5. COUNCIL POLICY

The Council's policy on delegations is contained in the principle as reflected in **Annexure A** attached to the report. In respect of sub-delegations the HOD's must keep a register containing all original documentation in respect of sub-delegations.

Regarding sub-delegations it is proposed that all sub-delegations of powers given prior to the date of the resolutions in terms of this report remain in full force until specifically repealed by the delegator in writing. Furthermore it is proposed that an additional principle be adopted to the effect that all powers to Head of Departments may be sub-delegated in writing unless specifically prohibited by either a Council resolution or legislation.

6. POWERS OF THE COUNCIL

The powers that are reserved for Council by way of legislation are contained in **Annexure B**.

7. POWERS OF THE MAYOR

Annexure C contains those powers and duties reserved for the Mayor by the legislation quoted in the said annexure.

Section 59 of the MFMA determines the following in respect of the delegation of powers and duties by the Mayor:-

Delegations of mayoral powers and duties

59.(1) *"The powers and duties assigned in terms of this Act to the mayor of a municipality, may-*

(a) *in the case of a municipality which has the mayor referred to in section 55 of the Municipal Structures Act, be delegated by the mayor in terms of section 60(1) of that Act to another member of the municipality's Executive Committee;*

(b) *in the case of a municipality which has an executive committee referred to in section 43 of that Act, be delegated by the council of the municipality to another member of the executive committee; or*

(c) *in the case of a municipality which has designated a councillor in terms of section 5(1) of this Act, be delegated by the council to any other councillor.*

(2) *A delegation in terms of subsection (1)-*

(a) *must be in writing;*

- (b) *is subject to any limitations or conditions that the mayor or council, as the case may be, may impose; and*
 - (c) *does not divest the mayor of the responsibility concerning the exercise of the delegated power of the performance of the delegated duty.*
- (3) *The mayor may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.*

Consequently the Mayor is at liberty to delegate any of his/her responsibilities in terms of **Section 59** of the MFMA read with Section 60(1) of the Local Government: Municipal Structures Act 117 of 1998 to any Member of the Executive Committee

8. POWERS OF COUNCIL EXECUTIVE COMMITTEE

- a. In terms of section 44 of the Structures Act 117 of 1998 the Executive Committee must:-
 - b. Identify the needs of the community
 - c. Review and evaluate those needs in order of priority
 - d. Recommend to the municipal Council strategies , programmes and services to address priority needs through the Integrated Development Plan and estimates of revenue and expenditure, taking into accounts any applicable national and provincial development plans and
 - e. Recommend or determine the best methods, including partnership and other approaches to deliver those strategies, programmes and services to the maximum benefit of the community
 - f. Identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to c can be evaluated including key performance indicators which are specific to the municipality and common to local government in general
 - g. Evaluate progress against the key performance indicators
 - h. Review performance of the municipality in order to improve :-
 - b) The economy ,efficiency and effectiveness of the municipality
 - c) The efficiency of credit control and revenue and debt collection services; and
 - d) The implementation of the municipality's by laws
 - a. Monitor the management of the municipality ;s administration in accordance with the directions of the municipal Council ;
 - b. Oversee the provision of services to communities in the municipality in sustainable manner
- e) Perform such duties and exercise such powers as the council may delegate to it in terms section 32
- f) Annually report on the involvement of communities and community organisations in the affairs of the municipality; and
- g) Ensure that regard is given to public views and report on the effect of consultation on the decisions of the council
- h) An executive committee must report to municipal council on all decisions taken by the committee

9. POWERS OF COUNCIL SPAEAKER

- 1) The functions of the Speaker are provided for in section 37 of the Municipal Structures Act and they are:
 - a) Presiding at meetings of the council.
 - b) Performing the duties and exercise the powers delegated to the speaker in terms of section 32 of the Act.
 - c) Ensuring that the council meets at least quarterly;
 - d) Maintaining order during meetings;
 - e) Ensuring compliance with the Code of Conduct as set out in Schedule 5 of the Act by councillors;
 - f) Ensuring that the council meetings are conducted in accordance with the rules and orders of the council.

- 2) The Speaker of a Municipal Council has the following further duties.
 - a) To take charge of the legislative arm of the municipal council and guard the integrity of the legislative process, as well as protect the “checks and balances” between the legislature and the executive.
 - b) To ensure that by-laws that are tabled comply with the constitution, structures act, systems act and other applicable National and Provincial legislation.
 - c) To ensure that the procedural requirements that apply specifically to the adoption of by-laws have been adhered to.
 - d) To guard the integrity of the council; which requires the speaker to guard against the abuse of councilor’s privileges and interests.
 - e) To deal with complaints lodged against councilors by members of the community.
 - f) To call council meetings and decide on their time and venue. However, if a majority of councilors request a meeting, the Speaker must convene a meeting accordingly.
 - g) Although the council is the ultimate decision maker on the rules of order, the Speaker should take the initiative in the policy formulation around the rules of order.

 - h) The Speaker must further ensure that:
 - i) Councilor’s freedom of speech in the council is protected, i.e that councilors are allowed to speak freely, that there is order in the meeting, that there are no interruptions
 - ii) Councilors freedom of speech is exercised subject to council rules of order.
 - i) The Speaker’s responsibility for presiding over council meetings implies that the Speaker must be involved in the preparation of the agenda that is circulated to the council members prior to a meeting. Council’s rules of order should provide for procedure that must be followed in preparing the agenda. The principle suggested should be a consultative process, including the Executive Mayor, Municipal Manager and Speaker.
 - j) To ensure the implementation of the provisions of the Act dealing with Council meetings, such as Section 30, which deals with quorums and decisions?
 - k) To allocate speaking time to members in terms of the council’s policy on that issue. The Speaker must also implement section 81(3) of the Act, which affords the participating traditional authorities an opportunity to address the council in particular circumstances.
 - l) To implement the voting procedures as determined by the council in its rules of order, subject to the Structures Act (quorum, abstentions, voting by the division, declaration of the result etc). If council cannot take a decision on any

matter, the councilor presiding, which would normally be the Speaker, can cast an extra vote to decide the matter. 30 (4) of the Act.

- m) To facilitate the implementation of section 20(1) and (2) of the Act in as far as it deals with the public's admission to council meeting. The council decides whether or not to close a meeting but the Speaker must be able to advise council to facilitate the decision making around the issue. The Speaker must ensure that members of the public are seated in designated areas and should have the authority to remove any person who refuses to comply with the Speakers ruling.

To maintain an attendance register in order to implement item 4(2) of the Code of Conduct. This provides for the removal of a councilor after a third consecutive absence from council meeting without having obtained leave of absence

10. POWERS OF CHIEF WHIP

- a) To ensure the allocation of Councillors of the political parties to the various Committees;
- b) To maintain sound relations between the various political parties (Convene the multiparty whippery meetings for effective and efficient political management); .
- c) To attend to disputes between political parties;
- d) To submit the programme of the various party caucus meetings to the programming committee;
- e) Presides at Council meetings when the Speaker is absent;
- f) Takes responsibility for drawing up Speakers' lists for the Council debates and determine the speaking time for Members after consultation with the respective chief whips of all political parties;
- g) Take responsibility for Councillor Affairs, and in particular as it relates to:
 - h)** Maintaining an up-to-date Councillor database and demography;
 - i)** Management of complaints relating to Councillor / alleged breaches of the Code of Conduct for Councillors;
 - j)** Ensuring training and capacity building of Councillors;
 - k)** Ensuring a skills development compliance programme;
 - l)** Coordination and oversight of constituency work by councillors;
 - m)** Deployment of Councillors to the Constituency Offices;

11. POWERS OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

- (a) To provide oversight over the financial statements and audit reports of the municipal and its entities
- (b) To provide oversight over the annual report of the municipality.
- (c) To monitor expenditure in terms of budget allocation against service delivery and performance
- (d) To monitor expenditure the extent to which recommendations of the audit committee and that of the auditor general have been implemented.
- (e) To review and investigate all matters referred to the committee by other Council Committees
- (f) To institute investigations on any matter if deemed necessary
- (g) To examine the accounting and financial administration, systems, and processes of the Lepelle-Nkumpi Municipality and its agencies
- (h) To ensure that the policies and programs of Lepelle-Nkumpi Municipality are implemented in an effective, efficient, and economical manner in accordance with the principle of value for money (best Business Practice).

- (i) To examine the following
 - Risk Assessment reports;
 - The Minutes of the audit committee
 - The Supply Chain Management reports
 - The Municipal Manager`s Report on the implementation of council resolutions
- (j) To require any person in the employ of the municipality, Council Committee, and agencies to refer any financial irregularity/impropriety to it.
- (k) To make recommendations to Council for corrective, remedial and/or disciplinary purposes that may be sanctioned in terms of the Municipal Finance Mangement Act, 56 of 2003 regarding the mismanagement of funds, unauthorised, irregular, fruitless and wasteful expenditure
- (l) To perform any other function assigned by resolution for council

12 POWERS OF THE MUNICIPAL MANAGER

Annexure D contains those powers of the Municipal Manager pursuant to legislation.

Section 14(2) of the MFMA provides as follows:-

Disposal of capital assets

14. (2) *“A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public –*

- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*
- (b) has considered the fair market value of the asset and the economic community value to be received in exchange for the asset.*

13. PROCUREMENT MATTERS

As stated in paragraph 3 of the report it is not the aim of this report to address procurement matter. In terms of the MFMA procurement matters vest with the Municipal Manager in his capacity as Accounting Officer. A Bid Committee was established to assist the Municipal Manager with his procurement tasks.

ANNEXURES:

- A POLICY FRAMEWORK FOR THE DELEGATION OF POWERS
- B POWERS RESERVED BY LEGISLATION FOR THE MUNICIPAL COUNCIL
- C POWERS AND DUTIES RESERVED BY LEGISLATION FOR THE MAYOR
- D POWERS AND DUTIES ASSIGNED TO THE MUNICIPAL MANAGER
- E DELEGATED POWERS OF THE CHIEF FINANCIAL OFFICER
- F POWERS DELEGATED TO THE HEAD OF DEPARTMENT: TECHNICAL SERVICES
- G DELEGATIONS TO THE HEAD OF DEPARTMENT: CORPORATE SERVICES
- H DELEGATIONS TO THE HEAD OF DEPARTMENT: COMMUNITY/SOCIAL SERVICES
- I POWERS TO BE DELEGATED TO THE HEAD OF DEPARTMENT TRAFFIC SERVICES

RECOMMENDED:

That the under-mentioned powers and functions be confirmed and approved in terms of section 59 of the Local Government: Municipal Systems Act, 2002 (Act 51 of 2002) read with sections 79 and 82 of the Local Government Municipal: Finance Management Act.

1. That cognisance be taken of the principles applicable to the system of delegation as outlined in Annexure A
2. That cognisance be taken of the powers and functions assigned to Council by legislation as outlined in Annexure B
3. That cognisance be taken of the powers and functions assigned to the Mayor – as outlined in Annexure C
4. That cognisance be taken of the powers and functions assigned to the Municipal Manager by legislation as outlined in Annexure D
5. The powers and functions as outlined in Annexure E be delegated to the Chief Financial Officer.
9. The powers and functions as outlined in Annexure F be delegated to the Head of Department: Technical Services.
10. The powers and functions as outlined in Annexure G be delegated to the Head of Department: Corporate Services.
11. The powers and functions as outlined in Annexure H be delegated to the Head of Department: Community/Social Services.
12. The powers and functions as outlined in Annexure I be delegated to the Head of Department: Traffic Services

ANNEXURE A **POLICY FRAMEWORK**

POLICY FRAMEWORK FOR THE DELEGATION OF POWERS IN LEPELLE-NKUMPI MUNICIPALITY

Principle 1: A delegated authority or power should have its roots in the enabling legislation, should be as specific as possible and preferably also refer to the specific provision in the applicable legislation from which an authority originates.

Principle 2: The functionary/official that is actually executing the activities in terms of the enabling legislation should as far as practical and possible be empowered by way of delegation to execute the delegated authority. In other words a delegated power should be vested as near as possible to the operational functionary, but at the same time the principles of transparency and accountability and proper governance should not be compromised.

Principle 3: Delegations should at all times be executed within and be subject to the Municipality's normal practices, procedures and other regulations and should be granted with the view of maximizing the Municipality administrative and operational efficiency. They should furthermore provide for adequate checks and balances to ensure responsible and accountable decision making.

Principle 4: All delegations including sub-delegations must be in writing.

Principle 5: Any power delegated to any of the Municipality's political structures, political office bearers or staff member may be further sub-delegated to any of the other political structures, political office bearers or staff members and to subsequent political structures, political office bearers or staff members on condition that the principles contained herein are adhered to and the sub-delegation of the specific power is not prohibited by legislation.

Principle 6: Any delegation or sub-delegation to a staff member of a power conferred on the Municipal Manager must be in accordance with the policy framework and must be approved by the Council.

Principle 7: All reports in respect of delegation of powers must be forwarded to the Legal Services Division for its perusal and comments to ensure that the same complies with the enabling legislation.

Principle 8: For purposes of duly maintaining the municipality's system of delegations, the Legal Services Division is responsible for the upkeep of the system and to ensure that all delegations are included in the system of delegations and meet the legal requirements. For this purpose the Legal Services should be furnished by the strategic executive officers with copies of all delegations that have been sub-delegated by them to subordinates. The relevant strategic officer should keep a register containing all original delegations and sub-delegations in respect of his/her department

Principle 9: All delegated powers prior to the date on which the Council resolution was adopted remain in full force and should be executed in accordance with any limitations, directives, applicable policies, conditions, enactment or other legal requirements, as

approved by Council however the same remains in force only until such time as it has been withdrawn in writing by the delegator.

Principle 10: A delegation that has financial implications for the Municipality should only be executed by the person who has a specific responsibility for incurring expenditure under a specific vote and who has the authority to do so.

Principle 11: No delegation may be executed if there are insufficient funds on a specific vote or if a specific item does not appear on the Municipal budget.

Principle 12: Delegated powers may be withdrawn or amended at any stage by the delegating authority.

Principle 13: Delegated powers do not absolve the Council of the Municipality from the responsibility of exercising powers or performing duties.

Principle 14: Delegated powers should always be reviewed when a new Council is elected in compliance with section 59(1)(f) of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000).

Principle 15: Any delegation by the Council, political officer-bearers, political structures, councillors or staff members does not divest the delegator of the responsibility or prerogative to exercise the specific delegated power.

Principle 16: That the respective Heads of Departments shall ensure that all sub-delegations conforms to the policy framework and sound control principles.

Principle 17: Any power bestowed upon Heads of Departments in terms hereof may be sub-delegated in writing unless specifically prohibited in terms of Council resolution of legislation.

ANNEXURE B

COUNCIL

1. POWERS RESERVED BY LEGISLATION FOR THE MUNICIPAL COUNCIL

- 1.1 The power(s) as referred to in Section 160(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) which **may not be** delegated by a Municipal Council:
- (a) The passing of by-laws
 - (b) The approval of budgets
 - (c) The imposition of rates and other taxes, levies and duties
 - (d) The raising of loans
- 1.2 The powers referred to in Section 59(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) (Act 32 of 2000) that may not be delegated by a Municipal Council.
- (a) The power to set tariffs
 - (b) The power to decide to enter into a service delivery agreement in terms of section 76(b) of the Act
 - (c) The power to approve or amend the integrated development plan.
- 1.3 The powers referred to in Section 37(1) of the Rationalisation of Local Government Affairs Act, 1998 (Gauteng Provincial Act 10 of 1998) that may not be assigned nor delegated by a Municipal Council:
- (a) When it is satisfied that required goods or services have to be procured as a matter of emergency, necessity or from a sole supplier, the power to resolve to dispense with the prescribed procurement procedure in section 36 of the Act and to appoint a person, body, organization or corporation to supply the prescribed goods or services.
 - (b) The power to convey its decision in writing to the appointee subject to the publishing requirements set out in Section 37(3) and 37(4) of the Act.
 - (c) The power in terms of Section 38(1) to resolve to extend or vary a tender agreement where the required goods or services have to be procured as a matter of emergency, necessity or from a sole supplier; or with due regard to administrative efficiency or effectiveness. This power regarding a specific agreement may only be exercised once, for a period not exceeding the duration of the original agreement, or for an amount not exceeding twenty (20) percent of the original tender value. The exercising of this power by Council is subject to the publishing requirements in Sections 38(3) and (4).

The exercising of this power by the Council is subject to the publishing requirements set out in section 38(3) and (4) of the Rationalisation of Local Government Affairs act, 1998.

2. POWERS RESERVED FOR COUNCIL

- 2.1 The power to approval of any excess expenditure on the approved budget
- 2.2 The power to donate immovable and movable property of the Municipality.
- 2.3 The power to sell immovable and movable property of the Municipality for less than the market value of the property.
- 2.4 The power to consider objections received in respect of the sale or long-term leasing of immovable property of the Municipality.
- 2.5 The power to acquire immovable property and servitudes through voluntary purchase or expropriation.
- 2.6 The power to name streets, public places and public resorts, sports grounds, stadiums, arenas, public swimming-baths, and buildings and halls belonging to the Municipality, and to change their names.
- 2.7 The power to accept, amend or reject original, joint amendment and draft schemes in terms of sections 28 and 29 of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), concerning municipal property.
- 2.8 The power to accept or amend structural and/or local guideline plans regarding the development of the Municipality, with the exception of amendments that arise from the approval of rezoning or consent-use applications.
- 2.9 The power, in terms of sections 44 and 45 of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), to pay compensation of an amount exceeding R10 000,00 to any person who has been disadvantaged by the scheme and to avoid the approval of steps in terms of sections 47 and 48 of the Ordinance or to reduce the amount of compensation.
- 2.10 The power to approve the establishment of municipal townships and all material amendments thereto in terms of section 109 of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986).
- 2.11 The power to approve the conditions of service of employees of the Municipality, the grading of job levels in the Municipality and the benefits payable to employees of the Municipality.
- 2.12 The power to approve and amend the Municipality's organizational and operational structure.
- 2.13 The power to approve all policy documents, guidelines and other procedures pertaining to any function that falls within the competencies of the Municipalities.
- 2.14. The power to approve service level agreements in terms of section 59 of the Structures Act 117 of 1998
- 2.15 To authorize members of the Executive Committee, other Councilors and officials to undertake official overseas trips/journeys on behalf of the Municipality.

2.15. The determination or alteration of the remuneration, benefits or other conditions of service of the Municipal Manager or managers directly responsible to the Municipal Manager

4.16 The power to withdraw any power delegated to a manager directly reporting to the Municipal Manager.

ANNEXURE C

MAYOR

1. POWERS AND DUTIES RESERVED BY LEGISLATION FOR THE MAYOR

Powers by law

Certain powers and responsibilities are assigned to the Mayor by law, and cognizance should be taken thereof:

1.1 Rationalisation of Local Government Affairs Act, 1998 (Gauteng Provincial Act 10 of 1998)

The procurement of goods or services in concurrence with the Municipal Manager, if the Municipal Manager is satisfied that for reasons of an emergency, a prescribed good or service has to be procured prior to the municipal Council resolving to dispense with the procurement procedure specified in section 36 of the Rationalisation of Local Government Affairs Act, 1998 (Gauteng Provincial Act 10 of 1998), and reporting this fact to the Council at its next meeting.

1.2 Local Government Municipal Structures Act, 1998 (Act 117 of 1998)

Section 56:

- (a) The power to receive reports from committees of the municipal Council and to forward these report together with a recommendation to the Council when the matter cannot be disposed of by the Mayor in terms of the Mayor's delegated powers.
- (b) The power to identify the needs of the municipality.
- (c) The power to review and evaluate those needs in order of priority;
- (d) The power recommend to the municipal Council strategies, programs and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans.
- (e) The power to recommend or determine the best way, including partnership and other approaches, to deliver those strategies, programs and services to the maximum benefit of the community.
- (f) The power to identify and develop criteria in terms of which progress in the implementation of the strategies, programs and services referred to in subsection (2)(c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general.
- (g) The power to evaluate progress against the key performance indicators.
- (h) The power to review the performance of the municipality in order to improve-

- (i) the economy, efficiency and effectiveness of the municipality;
 - (ii) the efficiency of credit control and revenue and debt collection services;
and
 - (iii) the implementation of the municipality's by-laws.
- (i) The power to monitor the management of the municipality's administration in accordance with the directions of the municipal Council.
 - (j) The power to oversee the provision of services to communities in the municipality in a sustainable manner;
 - (k) The power to perform such duties and exercise such powers as the Council may delegate to the Mayor in terms of section 32.
 - (l) The power to annually report on the involvement of communities and community organizations in the affairs of the municipality.
 - (m) The power to ensure that regard is given to public views and report on the effect of consultation on the decisions of the Council.
 - (n) The power to perform a ceremonial role as the municipal Council may determine.
 - (o) The power to the Mayor must report to the municipal Council on all decisions taken by the Mayor.

Section 60:

- (a) The power to appoint and dismiss Members of the Executive Committee;
- (b) The power to delegate responsibilities to each member of the committee;
- (c) The power to delegate any of his powers to the respective members.

Section 80

- (a) The power to appoint a member of the Executive Committee as chairperson of a section 80 committee appointed by the Council.
- (b) The power to delegate to a section 80 committee appointed by the Council any of the Mayor's powers, without being divested of the responsibility or prerogative concerning the exercise of the delegated powers.
- (c) The power to vary or revoke any decision taken by a section 80 committee appointed by the Council, subject to any vested rights.

1.3 **Municipal Systems Act, 2000**

Section 30:

- (a) Managing the drafting of the municipality's integrated development plan;
- (b) assigning responsibilities regarding the IDP to the Municipal Manager;
- (c) Submitting the draft plan to the municipal Council for adoption.

Section 39:

- (a) Managing the development of the municipality's performance management system;
- (b) assigning responsibilities in this regard to the Municipal Manager;
- (c) Submitting the proposed system to the municipal Council for adoption.

Section 99:

- (a) To oversee and monitor the implementation and enforcement of the municipality's credit control and debt collection policy and any by-laws enacted, as well as the performance of the Municipal Manager in implementing these.
- (b) When necessary, to evaluate and review the municipality's credit control and debt collection policy and by-laws, or the implementation of the policy and by-laws to improve the efficiency of existing credit control and debt collection mechanisms processes and procedures.
- (c) At intervals determined by the Council, report to the Council on the credit control and debt by-laws and their implementation.

2. RESPONSIBILITIES OF MAYORS AS DETERMINED BY THE MFMA

2.1 General responsibilities

52. The mayor of a municipality –

- (a) must provide general political guidance over the fiscal and financial affairs of the municipality;
- (b) in providing such general political guidance, may monitor and, to the extent provided in this Act, oversee the exercise of responsibilities assigned in terms of this Act to the accounting officer and the chief financial officer, but may not interfere in the exercise of those responsibilities;
- (c) must take all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;

- (d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality; and
- (e) must exercise the other powers and perform the other duties assigned to the mayor in terms of this Act or delegated by the council to the mayor.

2.2 Budget processes and related matters

- 53.** (1) The mayor of a municipality must –
- (a) provide general political guidance over the budget process and the priorities that must guide the preparation of a budget;
 - (b) co-ordinate the annual revision of the integrated development plan in terms of section 34 of the Municipal Systems Act and the preparation of the annual budget, and determine how the integrated development plan is to be taken into account or revised for the purposes of the budget; and
 - (c) take all reasonable steps to ensure –
 - (i) that the municipality approves its annual budget before the start of the budget year;
 - (ii) that the municipality's service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget; and
 - (iii) that the annual performance agreements as required in terms of section 57(1)(b) of the Municipal Systems Act for the municipal manager and all senior managers –
 - (aa) comply with this Act in order to promote sound financial management;
 - (bb) are linked to the measurable performance objectives approved with the budget and to the service delivery and budget implementation plan; and
 - (cc) are concluded in accordance with section 57(2) of the Municipal Systems Act.
- (2) The mayor must promptly report to the municipal council and the MEC for finance in the province any delay in the tabling of an annual budget, the approval of the service delivery and budget implementation plan or the signing of the annual performance agreements.
- (3) The mayor must ensure –
- (a) that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan; and
 - (b) that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the municipality's service delivery and budget implementation plan. Copies of such performance agreements must be submitted to the council and the MEC for local government in the province.

2.3 Budgetary control and early identification of financial problems

- 54.** (1) On receipt of a statement or report submitted by the accounting officer of the municipality in terms of section 71 or 72, the mayor must –
- (a) consider the statement or report;
 - (b) check whether the municipality's approved budget is implemented in accordance with the service delivery and budget implementation plan;
 - (c) consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget;
 - (d) issue any appropriate instructions to the accounting officer to ensure –
 - (i) that the budget is implemented in accordance with the service delivery and budget implementation plan; and
 - (ii) that spending of funds and revenue collection proceed in accordance with the budget;
 - (e) identify any financial problems facing the municipality, including any emerging or impending financial problems; and
 - (f) in the case of a section 72 report, submit the report to the council by 31 January of each year.
- (2) If the municipality faces any serious financial problems, the mayor must -
- (a) promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include –
 - (i) steps to reduce spending when revenue is anticipated to be less than projected in the municipality's approved budget;
 - (ii) the tabling of an adjustments budget; or
 - (iii) steps in terms of Chapter 13; and
 - (b) alert the council and the MEC for local government in the province to those problems.
- (3) The mayor must ensure that any revisions of the service delivery and budget implementation plan are made public promptly.

2.4 Report to provincial executive if conditions for provincial intervention exist

- 55.** If a municipality has not approved an annual budget by the first day of the budget year or if the municipality encounters a serious financial problem referred to in section 136, the mayor or the municipality -
- (a) must immediately report the matter to the MEC for local government in the province; and
 - (b) may recommend to the MEC an appropriate provincial intervention in terms of section 139 of the Constitution.

2.5 Exercise of rights and powers over municipal entities

- 56.** (1) The mayor of a municipality which has sole or shared control over a municipal entity, must guide the municipality in exercising its rights and powers over the municipal entity in a way -
- (a) that would reasonably ensure that the municipal entity complies with this Act and at all times remains accountable to the municipality; and
 - (b) that would not impede the entity from performing its operational responsibilities.
- (2) In guiding the municipality in the exercise of its rights and powers over a municipal entity in accordance with subsection (1), the mayor may monitor the operational functions of the entity, but may not interfere in the performance of those functions.

3. SPECIFIC RESPONSIBILITIES OF THE MAYOR IN TERMS OF THE MFMA

3.1 Budget preparation process

- 21.** (1) The mayor of a municipality must -
- (a) co-ordinate the processes for preparing the annual budget and for reviewing the municipality's integrated development plan and budget-related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget-related policies are mutually consistent and credible;
 - (b) at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for -
 - (i) the preparation, tabling and approval of the annual budget;
 - (ii) the annual review of -
 - (aa) the integrated development plan in terms of section 34 of the Municipal Systems Act; and
 - (bb) the budget-related policies;
 - (iii) the tabling and adoption of any amendments to the integrated development plan and the budget-related policies; and
 - (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).
2. When preparing the annual budget, the mayor of a municipality must -
- (a) take into account the municipality's integrated development plan;
 - (b) take all reasonable steps to ensure that the municipality revises the integrated development plan in terms of section 34 of the Municipal Systems Act, taking into account realistic revenue and expenditure projections for future years;
 - (c) take into account the national budget, the relevant provincial budget, the national government's fiscal and macro-economic policy, the annual

Division of Revenue Act and any agreements reached in the Budget Forum;

- (d) consult -
 - (i) the relevant district municipality and all other local municipalities within the area of the district municipality, if the municipality is a local municipality;
 - (ii) all local municipalities within its area, if the municipality is a district municipality;
 - (iii) the relevant provincial treasury, and when requested, the national Treasury; and
 - (iv) any national or provincial organs of state, as may be prescribed; and
- (e) provide, on request, any information relating to the budget -
 - (i) to the National Treasury; and
 - (ii) subject to any limitations that may be prescribed, to -
 - (aa) the national departments responsible for water, sanitation, electricity and any other service as may be prescribed;
 - (bb) any other national and provincial organ of states, as may be prescribed; and
 - (cc) another municipality affected by the budget.

3.2 Consultations on tabled budgets

- 23.** (1) When the annual budget has been tabled, the municipal council must consider any views of -
- (a) the local community; and
 - (b) the National Treasury, the relevant provincial treasury and any provincial or national organs of state or municipalities which made submissions on the budget.
- (2) After considering all budget submissions, the council must give the mayor an opportunity -
- (a) to respond to the submissions; and
 - (b) if necessary, to revise the budget and table amendments for consideration by the council.
- (3) The National Treasury may issue guidelines on the manner in which municipal councils should process their annual budgets, including guidelines on the formation of a committee of the council to consider the budget and to hold public hearings.
- (4) No guidelines issued in terms of subsection (3) are binding on a municipal council unless adopted by the council.

3.3 Non-compliance with provisions of this Chapter

27. (1) The mayor of a municipality must, upon becoming aware of any impending non-compliance by the municipality of any provisions of this Act or any other legislation pertaining to the tabling or approval of any annual budget or compulsory consultation processes, inform the MEC for finance in the province, in writing, of such impending non-compliance.
- (2) If the impending non-compliance pertains to a time provision, except section 16(1), the MEC for finance may, on application by the mayor and on good cause shown, extend any time limit or deadline contained in that provision, provided that no such extension may compromise compliance with section 16(1). An MEC for finance must -
- (a) exercise the power contained in this subsection in accordance with a prescribed framework; and
 - (b) promptly notify the National Treasury, in writing, of any extensions, given in terms of this subsection, together with the name of the municipality and the reasons.
- (3) The mayor of a municipality must, upon becoming aware of any actual non-compliance by the municipality of a provision of this Chapter, inform the council, the MEC for finance and the National Treasury, in writing, of -
- (a) such non-compliance; and
 - (b) any remedial or corrective measures the municipality intends to implement to avoid a recurrence.
- (4) Non-compliance by a municipality with a provision of this Chapter relating to the budget process of a provision in any legislation relating to the approval of a budget-related policy, does not affect the validity of an annual or adjustments budget.

3.4 Municipal adjustments budgets

28. (1) A municipality may revise an approved annual budget through an adjustments budget.
- (2) An adjustments budget -
- (a) must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
 - (b) may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
 - (c) may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the mayor of the municipality;
 - (d) may authorise the utilisation of projected savings in one vote towards spending under another vote;
 - (e) may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably

have been foreseen at the time to include projected toll-overs when the annual budget for the current year was approved by the council.

- (f) may correct any errors in the annual budget; and
 - (g) may provide for any other expenditure within a prescribed framework.
- (3) An adjustments budget must be in a prescribed form.
- (4) **Only** the mayor may table an adjustments budget in the municipal council, but an adjustments budget in terms of subsection (2)(b) to (g) may only be tabled within any prescribed limitations as to timing or frequency.
- (5) When an adjustments budget is tabled, it must be accompanied by -
- (a) an explanation how the adjustments budget affects the annual budget;
 - (b) an motivation of any material changes to the annual budget;
 - (c) an explanation of the impact of any increased spending on the annual budget and the annual budgets for the next two financial years; and
 - (d) any other supporting documentation that may be prescribed.
- (6) Municipal tax and tariffs may not be increased during a financial year except when required in terms of a financial recovery plan.
- (7) Sections 22(b), 23(3) and 24(3) apply in respect of an adjustments budget, and in such application a reference in those sections to an annual budget must be read as a reference to an adjustments budget.

3.5 Unforeseen and unavoidable expenditure

- 29.** (1) The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.
- (2) any such expenditure -
- (a) must be in accordance with any framework that may be prescribed;
 - (b) may not exceed a prescribed percentage of the approved annual budget;
 - (c) must be reported by the mayor to the municipal council at its next meeting; and
 - (d) must be appropriated in an adjustments budget.
- (3) If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

3.6 Budgets of Municipal entities

- 87.** (1) The board of directors of a municipal entity must for each financial year submit a proposed budget for the entity to its parent municipality not later than 150 days before the start of the entity's financial year or earlier if requested by the parent municipality.
- (2) The parent municipality must consider the proposed budget of the entity and assess the entity's priorities and objectives. If the parent municipality makes

any recommendations on the proposed budget, the board of directors of the entity must consider those recommendations and, if necessary, submit a revised budget to the parent municipality not later than 100 days before the start of the financial year.

- (3) The mayor of the parent municipality must table the proposed budget of the municipal entity in the council when the annual budget of the municipality for the relevant year is tabled.
- (4) The board of directors of a municipal entity must approve the budget of the municipal entity not later than 30 days before the start of the financial year, taking into account any hearings or recommendations of the council of the parent municipality.
- (5) The budget of a municipal entity must -
 - (a) be balanced;
 - (b) be consistent with any service delivery agreement or other agreement between the entity and the entity's parent municipality;
 - (c) be within any limits determined by the entity's parent municipality, including any limits on tariffs, revenue, expenditure and borrowing;
 - (d) include a multi-year business plan for the entity that -
 - (i) sets key financial and non-financial performance objectives and measurement criteria as agreed with the parent municipality;
 - (ii) is consistent with any service delivery agreement or other agreement between the entity and the entity's parent municipality;
 - (iii) is consistent with any service delivery agreement or other agreement between the entity and the entity's parent municipality; and
 - (iv) reflects actual and potential liabilities and commitments, including particulars of any proposed borrowing of money during the period to which the plan relates; and
 - (e) otherwise comply with the requirements of section 17(1) and (2) to the extent that such requirements can reasonably be applied to the entity.
- (6) The board of directors of a municipal entity may, with the approval of the mayor, revise the budget of the municipal entity, but only for the following reasons:
 - (a) To adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
 - (b) to authorise expenditure of any additional allocations to the municipal entity from its parent municipality;
 - (c) to authorise, within a prescribed framework, any unforeseeable and avoidable expenditure approved by the mayor of the parent municipality;
 - (d) to authorise any other expenditure within a prescribed framework.

- (7) Any project allocation to a municipal entity from its parent municipality must be provided for in the annual budget of the parent municipality, and to the extent not so provided, the entity's budget must be adjusted.
- (8) A municipal entity may incur expenditure only in accordance with its approved budget or an adjustments budget.
- (9) The mayor must table the budget or adjusted budget and any adjustments budget of a municipality entity as approved by its board of directors, at the next council meeting of the municipality.
- (10) A municipal entity's approved budget or adjusted budget must be made public in substantially the same way as the budget of a municipality must be made public.

3.7 Report in respect of Municipal Entities

- 127. (2) The mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control.
- (3) If the mayor, for whatever reason, is unable to table in the council the annual report or the municipality, or the annual report of any municipal entity under the municipality's sole or shared control, within seven months after the end of the financial year to which the report relates, the mayor must -
 - (a) *promptly* submit to the council a written explanation referred to in section 133(1)(a) setting out the reasons for the delay, together with any components of the annual report listed in section 121(3) and (4) that are ready; and
 - (b) submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.
- (4) The Auditor-General may submit the financial statements and audit report -
 - (a) of a municipality directly to the municipal council, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the mayor fails to comply with subsection (2) or (3);
 - (b) of a municipality directly to the parent municipality, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the accounting officer of the entity fails to comply with subsection (1).
- (5) Immediately after an annual report is tabled in the council in terms of subsection (2), the accounting officer of the municipality must -
 - (a) in accordance with section 21A of the Municipal Systems Act -
 - (i) make public the annual report; and

- (ii) invite the local community to submit representations in connection with the annual report; and
 - (b) submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial departments responsible for local government in the province.
- (6) Subsection (5), with the necessary modifications as the context may require, is also applicable if only components of the annual report are tabled in terms of subsection (3).

3.8 Consequences of non-compliance with certain provisions

133. (1) If the accounting officer of a municipality or municipal entity fails to submit financial statements to the Auditor-General in accordance with section 126(91) or (2), or if the mayor fails to table the annual report of the municipality or a municipal entity in the council in accordance with section 127(2).
- (a) the mayor must promptly table in the council a written explanation setting out the reasons for the failure;

4. POWERS DELEGATED TO THE MAYOR

All powers, except:

- a. those powers reserved by **legislation** to the Council, political office bearers or officials;
- b. those powers reserved by Council **Resolutions** for Council; and
- c. those powers **delegated** to the Municipal Manager, the Head: Legal and Secretarial Services and Municipal Courts, the Chief Financial Officer, the Procurement Committee, the City Planning Committee, and the respective Strategic Executive Officers, are delegated to the Mayor in terms of section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).

These powers specifically include but are not limited to the following:

- 4.1 The powers referred to in section 60 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) which may only be delegated to the Mayor within a policy framework determined by the Council:
- (a) the acquisition of immovable property or rights in or to immovable property through voluntary purchase or expropriation of which the value of the property or compensation for the acquisition of the right in or to immovable property is less than R50 000,00.
 - (b) the decision to make investments on behalf of the municipality within a policy framework determined by the Minister of Finance.

(NOTE: Powers (a) to (b) may not be delegated any further by the Mayor)

- 4.2 To make any press statements on behalf of Council.
- 4.3 The power to approve the Municipal Manager's and acting Municipal Manager's leave.
- 4.4 The power to authorise Members of the Executive Committee or other Councilors to attend seminars, congresses or meetings in cases where there is not sufficient time to obtain the approval together with the Executive Committee.
- 4.5 The power to approve the key performance areas of the Municipal Manager.
- 4.6 The power to review the performance contract of the Municipal Manager.
- 4.7 The power to request a report from the Municipal Manager on any matter relevant to Council's business.
- 4.8 The power to refuse applications that deviate from Council resolutions.
- 4.9 Performing the following ceremonial powers on behalf of Council:
- (a) Opening projects, civic functions and events and new buildings.
 - (b) hosting and welcoming dignitaries
 - (c) advocating Council policy
 - (d) representing the Council at civic events
 - (e) leading campaigns initiated by the Mayor or the Council
 - (f) representing the Council during disasters
 - (g) acting as patron of local organizations.
- 4.10 The power to identify, after consultation with the Municipal Manager, the activities of the Municipality that require that a specific committee of councilors investigate, discuss and evaluate the activities and report on them to the Mayor and make recommendations on them to the Council.
- 4.11 The power to establish, in consultation with the Municipal Manager, a proper committee service responsible for agendas and minutes of each section 80 Portfolio Committee meeting.
- 4.12 The power to instruct all section 80 Portfolio Committees appointed by the Council to meet regularly and to submit reports to the Mayor.
- 4.16 The power to receive reports with recommendations from departmental heads through the office of the Municipal Manager on all matters that must be dealt with by either the Mayor or the Council in terms of these delegations, and for which a specific committee has not been created to consider the matter beforehand.

- 4.17 The power to consider the matters raised in reports referred to in paragraph 15 and either dispose of them in terms of the Mayor's delegated powers or forward them with the Mayor's *recommendation* to the Council for consideration and finalization.
- 4.18 The power to receive reports with recommendations from the committees established for specific matters, consider the matters raised in these reports, and either disposing of them in terms of the Mayor's delegated powers or forward them with a recommendation to the Council for finalization.
- 4.19 All powers, necessary or incidental, to execute the following:
- (a) The responsibility for the quality and speed of decision-making.
 - (b) The responsibility to ensure that integration takes place between the various committees.
 - (c) The responsibility to play a prominent role, in consultation with the Municipal Manager, in building and maintaining a good relationship between the Council, councilors and the administration.
 - (d) The responsibility for political supervision of the administration.
 - (e) The responsibility for liaising with the community, ward committees, other committees and councilors, and political office-bearers in the different spheres of government.
 - (f) The responsibility to be available, on a regular basis, to grant interviews to the public and visitors to the municipal offices and to interact with prominent business people and developers.
- 4.20 In general, all other powers and functions, necessary or incidental, to enable the Mayor to discharge his or her duties as contemplated in section 56 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).
- 4.21 The power to accept grants and donations of movable or immovable property on behalf of the Municipality.
- 4.22 The appointment of the Municipality's representatives to external bodies.
- 4.23 The power to restrict the use of water and electricity within the distribution area of the Lepelle-Nkumpi Municipality.
- 4.24 The power to transfer funds from one vote to the other in line with the Virement Method Policy as approved by the Council.
- 4.25 The power in terms of Section 59 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) to appoint suspend or dismiss the Municipal Manager, an Acting Municipal Manager, Strategic Executive Officers and all other persons to be appointed as managers directly accountable to the Municipal Manager, provided that such appointments are in line with policy directions given by the Council.

ANNEXURE D

MUNICIPAL MANAGER

1. POWERS AND DUTIES ASSIGNED TO THE MUNICIPAL MANAGER BY LEGISLATION

1.1 The Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998) (Gauteng Provincial Act 10 of 1998)

Section 37(2)

If the chief executive officer (i.e. the Municipal Manager) is satisfied that for reasons of an emergency, a prescribed good or service has to be procured prior to the municipal Council taking the relevant resolution, the chief executive officer with the concurrence of the mayor may procure the goods or service and **report** this fact to the municipal Council at its next meeting.

1.2 Local Government: Municipal Systems Act, 2000 (Act 22 of 2000)

Section 55

1.2.1 This Section describes in detail the responsibility of the Municipal Manager:

- a. the formation and development of an economical, effective, efficient and accountable administration -
 - (i) equipped to carry out the task of implementing the municipality's integrated development plan in accordance with Chapter 5;
 - (ii) operating in accordance with the municipality's performance management system in accordance with Chapter 6; and
 - (iii) responsive to the needs of the local community to participate in the affairs of the municipality;
- b. the management of the municipality's administration in accordance with this Act and other legislation applicable to the municipality;
- c. the implementation of the municipality's integrated development plan, and the monitoring of progress with implementation of the plan;
- d. the management of the provision of services to the local community in a sustainable and equitable manner;
- e. the appointment of staff other than those referred to
- h. the promotion of sound labour relations and compliance by the municipality with applicable labour legislation;
- i. advising the political structures and political office bearers of the municipality;
- j. managing communications between the municipality's administration and its political structures and political office bearers;

- k. carrying out the decisions of the political structures and political office bearers of the municipality;
- l. the administration and implementation of the municipality's by-laws and other legislation;
- m. the exercise of any powers and the 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 59;
- n. facilitating participation by the local community in the affairs of the municipality;
- o. developing and maintaining a system whereby community satisfaction with municipal services is assessed;
- p. the implementation of national and provincial legislation applicable to the municipality; and
- q. the performance of any other function that may be assigned by the municipal Council.

1.2.2 As accounting officer of the municipality the Municipal Manager is responsible and accountable for:

- a. all income and expenditure of the municipality;
- b. all assets and the discharge of all liabilities of the municipality; and
- c. proper and diligent compliance with applicable municipal finance management legislation.

2. RESPONSIBILITIES OF THE MUNICIPAL MANAGER IN TERMS OF THE MFMA DELEGATED TO TOP MANAGEMENT

| SECTION | POWER, DUTY OR FUNCTION | RESPONSIBLE OFFICIAL |
|---|--|---|
| SECTION 62 | | |
| General financial management functions | | |
| 62(1)(a) | Effective, efficient and economical use of the Municipality's resources | CFO and HODs |
| 62(1)(b) | Proper and full record keeping of the financial affairs of the Municipality are kept in accordance with the prescribed norms and standards | CFO |
| 62(1)(c) | Maintaining of effective, efficient and transparent systems (i) of financial and risk management and internal control; and (ii) of internal audit operating in accordance with any prescribed norms and standards | CFO and HODs/ Manager: Internal Audit |
| 62(1)(d) | Prevention of unauthorised, irregular or fruitless and wasteful expenditure and other losses | CFO and HODs |
| 62(1)(f) | Keeping and implementation of (i) a tariff policy referred to in section 74 of the Municipal Systems Act (ii) a rates policy as may be required in terms of any applicable national legislation (iii) credit control and debt collection policy referred to in section 96(b) of the Municipal Systems Act; and (iv) a supply chain management policy in accordance with Chapter 11 | CFO |
| 62(2) | Accounting for all bank account of the Municipality, including any bank for (a) any relief, charitable, trust or other fund set up by the Municipality in terms of section 12; or (b) a purpose referred to in section 48(2)(d) | CFO |
| SECTION 63 | | |
| Asset and liability management | | |
| 63(1) | The accounting officer of a municipality is responsible for the management of- (a) the assets of the municipality, including the safeguarding and the maintenance of those assets; and (b) the liabilities of the municipality | CFO and /HODs |
| 63(2) | The accounting officer must for the purposes of subsection (1) take all reasonable steps to ensure – (a) that the municipality has and maintains a management, accounting and information system that accounts for the assets and | CFO |

| | | |
|---------------------------|---|-----|
| | <ul style="list-style-type: none"> (b) liabilities of the municipality; that the municipality's assets and liabilities are valued in accordance with standards of generally recognised accounting practice; and (c) that the municipality has and maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed | |
| SECTION 64 | | |
| Revenue management | | |
| 64(1) | The accounting officer of a municipality is responsible for the management of the revenue of the municipality | CFO |
| 64(2) | <p>The accounting officer must for the purposes of subsection (1) take all reasonable steps to ensure-</p> <ul style="list-style-type: none"> (a) that the municipality has effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection policy; (b) the revenue due to the municipality is calculated on a monthly basis; (c) that accounts for municipal tax and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical; (d) that all money received is promptly deposited in accordance with this Act into the municipality's primary and other bank accounts; (e) that the municipality has and maintains a management, accounting and information system which- <ul style="list-style-type: none"> (i) recognised revenue when it is earned; (ii) accounts for debtors; and (iii) accounting for receipt of revenue; (f) that the municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed; (g) that the municipality charges interest on arrears, except where the council has granted exemptions in accordance with its budget-related policies and within a prescribed framework; and (h) that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled at least on a weekly basis. | CFO |
| 64(3) | The accounting officer must immediately inform the National Treasury of any payments due by an organ of state to the Municipality in respect of | CFO |

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| | municipal tax or for municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days | |
| 64(4) | The accounting officer must take all reasonable steps to ensure- (a) that any funds collected by the municipality on behalf of another organ of state at least on a weekly basis; and (b) that such funds are not used for purposes of the municipality | CFO |
| SECTION 65 | | |
| Expenditure management | | |
| 65(1) | The accounting officer of a municipality is responsible for the management of the expenditure of the municipality. | CFO |
| 65(2) | The accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure- (a) that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds; (b) that the municipality has and maintains a management, accounting and information system which- (i) recognises expenditure when it is incurred; (ii) accounts for payments made by the municipality; (c) that the municipality has and maintains a system of internal control in respect of creditors and payments; (d) that payments by the municipality are made- (i) directly to the person to whom it is due unless agreed otherwise for reasons as may be prescribed; and (ii) either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit; (e) that all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure; | |
| 65(2) | (g) that the municipality complies with its tax, levy, duty, pension, medical aid, audit fees and other statutory commitments; | CFO |
| 65(2) | (g) that any dispute concerning payments due by the municipality to another organ of state is disposed of in terms of legislation | CFO and Head: Corporate Services |

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| | regulating disputes between organs of state; | |
| 65(2) | <p>(h) that the municipality's available working capital is managed effectively and economically in terms of the prescribed cash management and investment framework;</p> <p>(i) that the municipality's supply chain management policy referred to in section 111 is implemented in a way that is fair, equitable, transparent, competitive and cost-effective; and</p> <p>(j) that all financial accounts of the municipality are closed at the end of each month and reconciled with its records.</p> | CFO |
| SECTION 66 | | |
| Expenditure on staff benefits | | |
| 66 | <p>The accounting officer of a municipality must, in a format and for periods as may be prescribed, report to the council on all expenditure incurred by the municipality on staff salaries, wages, allowances and benefits, and in a manner that discloses such expenditure, namely-</p> <p>(a) salaries and wages;</p> <p>(b) contributions for pensions and medical aids;</p> <p>(c) travel, motor car, accommodation, subsistence and other allowances;</p> <p>(d) housing benefits and allowances;</p> <p>(e) overtime payments;</p> <p>(f) loans and advances; and</p> <p>(g) any other type of benefits or allowance related to staff.</p> | CFO |
| SECTION 67 | | |
| Funds transferred to organisations and bodies outside government | | |
| 67(1) | <p>Before transferring funds of the municipality to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organisation or body-</p> <p>(a) has the capacity and has agreed-</p> <p>(i) to comply with any agreement with the municipality;</p> <p>(ii) for the period of agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;</p> <p>(iii) to report at least monthly to the accounting officer on actual</p> | CFO |

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| | <p>expenditure against such transfer; and</p> <p>(iv) to submit its audited financial statements for its financial year to the accounting officer promptly;</p> <p>(b) implements effective, efficient and transparent financial management; and</p> <p>(c) has in respect of previous similar transfers complied with all the requirements of this section.</p> | |
| 67(2) | <p>If there has been a failure by an organisation or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection (1)(c) make further transfer to the organisation or body provided that-</p> <p>(a) subsection (1)(a) and (b) is complied with; and</p> <p>(b) the relevant provincial treasury has approved the transfer.</p> | CFO |
| 67(3) | <p>The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).</p> | CFO |
| 67(4) | <p>Subsection (1)(a) does not apply to an organisation or body serving the poor or used by government as an agency to serve the poor; provided-</p> <p>(a) that the transfer does not exceed a prescribed limit; and</p> <p>(b) that the accounting officer-</p> <p>(i) take all reasonable steps to ensure that the target beneficiaries receive the benefit of the transferred funds; and</p> <p>(ii) certifies to the Auditor General that compliance by the organisation or body with subsection (1)(a) is uneconomical or unreasonable.</p> | CFO |
| <p>SECTION 68 Budget Preparation</p> | | |
| 68 | <p>The accounting officer of a municipality must –</p> <p>(a) assist the mayor in performing the budgetary functions assigned to the mayor in terms of chapter 4 and 7; and</p> <p>(b) provide the mayor with the administrative support, resources and information necessary for the performance of those functions.</p> | CFO |
| <p>SECTION 69 Budgeted Implementation</p> | | |

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| 69(1) | The accounting officer of a municipality is responsible for implementing the municipality approved budget, including taking all reasonable steps to ensure – (a) that the spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan, and (b) the revenue and expenditure are properly monitored | CFO |
| 69(2) | When necessary, the accounting officer must prepare an adjustments budget and submit it to the mayor for consideration and tabling in the municipal council | |
| 69(3) | The accounting officer must no later than 14 days after the approval of an annual budget submit to the mayor – (a) a draft service delivery and budget implementation plan for the budget year, and (b) draft of the annual performance agreements as required in terms of section 57(1)(b) of the Municipal Systems Act for the municipal manager and all senior managers. | |
| SECTION 70 | | |
| Implementing shortfalls, overspending and overdrafts | | |
| 70(1) | (1) The accounting officer of a municipality must report in writing to the municipal council (a) any impending – (i) shortfalls in budgeted revenue; and (ii) overspending of the municipality's budget; and (b) any steps taken to prevent or rectify such shortfalls or overspending. | CFO |
| 70(2) | If a municipality's bank account, or if the municipality has more than one bank account the consolidated balance in those bank accounts, shows a net overdrawn position for a period exceeding a prescribed period, the accounting officer of the municipality must promptly notify the National Treasury in the prescribed format of – (a) the amount of which the account or accounts are overdrawn; and (b) the steps taken or to be taken to correct the matter. | |
| 70(3) | When determining the net overdrawn position for purposes of subsection (2), the accounting officer | |

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| | must exclude any amounts reserved or pledged for any specific purpose or encumbered in any other way. | |
| SECTION 71 | | |
| Monthly budget statements | | |
| 71(1) | <p>The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:</p> <ul style="list-style-type: none"> (a) Actual revenue, per revenue source, (b) actual borrowings; (c) actual expenditure per vote; (d) actual capital expenditure; per vote; (e) the amount of any allocations received; (f) actual expenditure on those allocations excluding expenditure on – <ul style="list-style-type: none"> (i) its share of the local government equitable share, and; (ii) allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and (g) when necessary, an explanation of – <ul style="list-style-type: none"> (i) any material variances from the municipality's projected revenue by sources, and from the municipality's expenditure projections per vote; (ii) any material variances from the service delivery and budget implementation plan; and (iii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget. | |
| 71(2) | <p>The statement must include –</p> <ul style="list-style-type: none"> (a) a projection of the relevant municipality's revenue and expenditure for the rest of the financial year, and any revisions from initial projections; and (b) the prescribed information relating to the state of the budget of each municipal entity as provided to the municipality in terms of section 87(10). | CFO |
| 71(3) | The amount reflected in the statement must in each case be compared with the corresponding | CFO |

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| | amounts budgeted for in the municipality's approved budget. | |
| 71(4) | The statement to the provincial treasury must be in the format of a signed document and in electronic format. | CFO |
| 71(5) | The accounting officer of a municipality which has received and allocation referred to in sub-section (1)(e) during any particular month must by no later than 10 working days after the end of that month, submit that part of the statement reflecting the particulars referred to in sub-section (1)(e) and (f) to the national or provincial organ of state or municipality which transferred the allocation. | CFO |
| 71(6) | The provincial treasury must by no later than 22 working days after the end of each month submit to the National Treasury a consolidated statement in the prescribed format on the state of the municipalities' budgets, per municipality and per municipal entity. | CFO |
| 71(7) | The Provincial treasury must, within 30 days after the end of each quarter, make public as may be prescribed, a consolidated statement in the prescribed format on the state of municipality's budget per municipality; and per municipal entity. The MEC for finance must submit such consolidated statement to the provincial legislature no later than 45 days after the end of each quarter. | CFO |
| SECTION 72 | | |
| Mid-year budget and performance assessment | | |
| 72 | <p>The accounting officer of a municipality must by 25 January of each year –</p> <p>(a) assess the performance of the municipality during the first half of the financial year, taking into account -</p> <p>(i) the monthly statements referred to in section 71 for the first half of the financial year;</p> <p>(ii) the municipality's service delivery performance during the first half of the financial year, and the service delivery target and performance indicators set in services delivery and budget implementation plan;</p> <p>(iii) the past year's annual report, and progress on resolving problems identified in the annual report; and</p> <p>(iv) the performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities; and</p> <p>(b) submit a report on such assessment to -</p> <p>(i) the mayor of the municipality;</p> | CFO/LED & IDP/ Manager: Internal Audit |

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| | (ii) the National Treasury; and (iii) the relevant provincial treasury. | |
| 72(2) | The statement referred to in section 71(1) for the sixth month of a financial year may be incorporated into the report referred to in sub-section (1)(b) of this section. | CFO |
| 72(3) | The accounting officer must, as part of the review – (a) make recommendations as to whether an adjustments budget is necessary; and (b) recommend revised projections for revenue and expenditure to the extent that this may be necessary. | CFO |
| SECTION 73 Reports on failure to adopt or implement budget-related and other policies | | |
| 73 | The accounting officer must inform the principal treasury, in writing, of – (a) any failure by the Council of the municipality to adopt or implement a budget-related policy or a supply chain management policy referred to in section 111; or (b) any non-compliance by a political structure or office-bearer of the municipality with any sub policy. | |
| SECTION 74 General reporting obligation | | |
| 74(1) | The Accounting Officer of a municipality must submit to the National Treasury, the Provincial Treasury, the Department for Local Government in the province or the Auditor General such information, returns, documents, explanations and motivations as may be prescribed or as may be required. | CFO |
| 74(2) | If the Accounting Officer of a municipality is unable to comply with any of the responsibilities in terms of this Act, he or she must promptly report the inability, together with reasons, to the Mayor and the Provincial Treasury. | CFO |
| SECTION 75 Information to be placed on websites of Municipalities | | |
| 75(1) | The Accounting Officer of a Municipality must place on the website referred to in section 21A of the Municipal Systems Act the following documents of the Municipality; (a) The annual and adjustments budget and all budget-related documents; (b) all budget-related policies; (c) the annual report; (d) all performance agreements required in | CFO |

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| | <p>terms of section 57(1)(b) of the Municipal system Act;</p> <p>(e) all service delivery agreements;</p> <p>(f) all long-term borrowing contracts;</p> <p>(g) all supply chain management contracts above a prescribed value</p> <p>(h) and information statement containing a list of assets over a prescribed value that have been deposited of in terms of section 14(2) or (4) during the previous quarter;</p> <p>(i) contracts to which sub-section (1) of section 33 apply, subject to sub-section (3) of that section;</p> <p>(j) public-private partnership agreements referred to in section 120;</p> <p>(k) all quarterly reports tabled in the Council in terms of section 52(d); and</p> <p>Any other applicable legislation, or as may be prescribed.</p> | |
| 75(2) | <p>A document referred to in sub-section (1) must be placed on the website not later than five days after tabling in the Council or on the date on which it must be made public, whichever occurs first.</p> | |

3. SPECIFIC RESPONSIBILITIES OF THE MUNICIPAL MANAGER IN TERMS OF THE MFMA

3.1 Publication of annual budgets

22. Immediately after an annual budget is tabled in a municipal council, the accounting officer of the municipality must –

- (a) in accordance with Chapter 4 of the Municipality Systems Act -
 - (i) make public the annual budget and the documents referred to in section 17(3); and
 - (ii) invite the local community to submit representations in connection with the budget; and
- (b) submit the annual budget -
 - (i) in both printed and electronic formats to the National Treasury and the relevant provincial treasury; and
 - (ii) in either format to any prescribed national or provincial organs of state and to other municipalities affected by the budget.

3.2 Approval of annual budgets

24.(1) The municipal council must at least 30 days before the start of the budget year consider approval of the annual budget -

- (a) must be approved before the start of the budget year;
 - (b) is approved by the adoption by the council of a resolution referred to in section 17(3)(a)(i); and
 - (c) must be approved together with the adoption of resolutions as may be necessary-
 - (i) imposing any municipal tax for the budget year;
 - (ii) setting any municipal tariffs for the budget year;
 - (iii) approving measurable performance objectives for revenue from each source and for each vote in the budget;
 - (iv) approving any changes to the municipality's integrated development plan; and
 - (v) approving any changes to the municipality's budget-related policies.
- (3) The accounting officer of a municipality must submit the approved annual budget to the National Treasury and the relevant provincial treasury.

3.3 Shifting of funds between multi-year appropriations

31. When funds for a capital programme are appropriated in terms of section 16(3) for more than one financial year, expenditure for that programme during a financial year may exceed the amount of that year's appropriation for that programme, provided that -

- (a) the increase does not exceed 20 per cent of that year's appropriation for the programme;
- (b) the increase is funded within the following year's appropriation for that programme;
- (c) the municipal manager certifies that -

- (i) actual revenue for the financial year is expected to exceed budgeted revenue; and
- (ii) sufficient funds are available for the increase without incurring further borrowing beyond the annual budget limit;
- (d) prior written approval is obtained from the mayor for the increase; and
- (e) the documents referred to in paragraphs © and (d) are submitted to the relevant provincial treasury and the Auditor-General.

3.4 Unauthorised, irregular or fruitless and wasteful expenditure

32(1) Without limiting liability in terms of the common law of other legislation -

- (a) the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to sub-section (3);
 - (b) any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or
 - (c) any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.
- (3) If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.
- (4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of -
- (a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
 - (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
 - (c) the steps that have been taken -
 - (i) to recover or rectify such expenditure; and
 - (ii) to prevent a recurrence of such expenditure.
- (6) The accounting officer must report to the South African Police Service all cases of alleged-
- (a) irregular expenditure that constitute a criminal offence; and
 - (b) theft and fraud that occurred in the municipality.

3.5 Contracts having future budgetary implications

- 33.(1)** A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if -
- (a) the municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved-
 - (i) has, in accordance with section 21A of the Municipal Systems Act-

- (aa) made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract; and
- (bb) invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and
- (ii) has solicited the views and recommendations of-
 - (aa) the National Treasury and the relevant provincial treasury;
 - (bb) the national department responsible for local government; and
- (cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;
- (b) the municipal council has taken into account-
 - (i) the municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;
 - (ii) the impact of those financial obligations on the municipality's future municipal tariffs and revenue;
 - (iii) any comments or representations on the proposed contract received from the local community and other interested persons; and
 - (iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a)(ii)(cc); and
- (c) the municipal council has adopted a resolution in which -
 - (i) it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;
 - (ii) it approves the entire contract exactly as it is to be executed; and
 - (iii) it authorises the municipal manager to sign the contract on behalf of the municipality.

3.6 Short-term debt

- 45.** (2) A municipality may incur short-term debt only if -
- (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
 - (b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.
 - (c) re-financing

3.7 Long-term in debts

- 46.** (2) A municipality may incur long-term debt only if -
- (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
 - (b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.
- (3) A municipality may incur long-term debt only if the accounting officer of the municipality-
- (a) has, in accordance with section 21A of the Municipal Systems Act-
 - (i) at least 21 days prior to the meeting of the council at which approval for the debt is to be considered, made public an information statement setting out particulars of the proposed

- debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided; and
- (ii) invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the proposed debt; and
- (b) has submitted a copy of the information statement to the municipal council at least 21 days prior to the meeting of the council together with particulars of -
 - (i) the essential repayment terms, including the anticipated debt repayment schedule; and
 - (ii) the anticipated total cost in connection with such debt over the repayment period.

3.8 Bank account details

- 86.(1) The accounting officer of a municipal entity must submit to the entity's parent municipality, in writing -
 - (a) within 90 days after the entity has opened a new bank account, the name of the bank where the account has been opened, and the type and number of the account; and
 - (b) annually before the start of a financial year, the name of each bank where the entity holds a bank account, and the type and number of each account.
- (2) The accounting officer of the municipal entity's parent municipality, or if there are more than one parent municipality, any one of the accounting officers of those municipalities as may be agreed between them, must upon receipt of the information referred to in sub-section (1), submit that information to the Auditor-General, the National Treasury and the relevant provincial treasury, in writing.
- 87.(1) The accounting officer of a municipal entity must by no later than seven working days after the end of each month submit to the accounting officer of the parent municipality a statement in the prescribed format on the state of the entity's budget reflecting the following particulars for that month and for the financial year up to the end of that month:
 - (a) Actual revenue, per revenue source;
 - (b) actual borrowings;
 - (c) actual expenditure;
 - (d) actual capital expenditure;
 - (e) the amount of any allocations received;

3.9 Mid-year budget and performance assessment

- 88.(1) The accounting officer of a municipal entity must by 20 January of each year -
 - (a) assess the performance of the entity during the first half of the financial year, taking into account -
 - (i) the monthly statements referred to in section 87 for the first half of the financial year and the targets set in the service delivery, business plan or other agreements with the entity's parent municipality; and
 - (ii) the entity's annual report for the past year, and progress on resolving problems identified in the annual report; and
 - (b) submit a report on such assessment to -
 - (i) The board of directors of the entity; and

- (ii) the parent municipality of the entity.
- (2) A report referred to in sub-section (1) must be made public.

3.10 Submission and auditing of annual financial statements

- 126.(1)** The accounting officer of a municipality-
- (a) must prepare the annual financial statements of the municipality and, within two months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing; and
 - (b) must in addition, in the case of a municipality referred to in section 122(2), prepare consolidated annual financial statements in terms of that section and, within three months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing.
- (2) The accounting officer of a municipal entity must prepare the annual financial statements of the entity and within two months after the end of the financial year to which those statements relate, submit the statements to -
- (a) the parent municipality of the entity; and
 - (b) the Auditor-General, for auditing.

3.11 Compliance to be monitored

- 128.** The accounting officer of a parent municipality must -
- (a) monitor whether the accounting officer of any municipal entity under the sole or shared control of the municipality has complied with sections 121(1) and 126(2);
 - (b) establish the reasons for any non-compliance; and
 - (c) promptly report any non-compliance, together with the reasons for such non-compliance, to the council of the parent municipality, the relevant provincial treasury and the Auditor-General.

3.12 Consequences of non-compliance with certain provisions

- 133.(1)** If the accounting officer of a municipality entity fails to submit financial statements to the Auditor-General in accordance with section 126(1) or (2) or if the mayor fails to table the annual report of the municipality or a municipal entity in the council in accordance with section 127(2) -
- (a) the mayor must promptly table in the council a written explanation setting out the reasons for the failure;
 - (b) the Auditor-General, in the case of any failure to submit financial statements for auditing, must promptly-
 - (i) inform the speaker of the council, the National Treasury and the MEC for local government and the MEC for finance in the province of such failure; and
 - (ii) issue a special report on the failure to the relevant provincial legislature; and
 - (c) the municipal council-
 - (i) must request the speaker or any other councillor to investigate the reasons for the failure and report to the council;
 - (ii) must take appropriate steps to ensure that the financial statements are submitted to the Auditor-General or that the

- annual report, including the financial statements and the audit report on those statements, is tabled in the council, as the case may be; and
- (iii) may order that disciplinary steps be taken against the accounting officer or other person responsible for the failure;

3.13 Internal audit unit

- 165.(1)** Each municipality and each municipal entity must have an internal audit unit, subject to sub-section (3).
- (2) The internal audit unit of a municipality or municipal entity must -
 - (a) prepare a risk-based audit plan and an internal audit program for each financial year;
 - (b) advise the accounting officer and report to the audit committee on the implementation of the internal audit plan and matters relating to -
 - (i) internal audit;
 - (ii) internal controls;
 - (iii) accounting procedures and practices;
 - (iv) risk and risk management;
 - (v) performance management;
 - (vi) loss control; and
 - (vii) compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; and
 - (c) perform such other duties as may be assigned to it by the accounting officer.
- (3) The internal audit function referred to in sub-section (2) may be outsourced if the municipality or municipal entity requires assistance to develop its internal capacity and the council of the municipality or the board of directors of the entity has determined that this is feasible or cost-effective.

4. POWERS DELEGATED TO THE MUNICIPAL MANAGER

- 4.1 The power to execute any power as contemplated in the relevant conditions of service as applicable to the various employees of the Municipality including but not limited to the suspension of any employee of the Municipality.
- 4.2 The power to take any actions necessary in order to execute a Council Resolution.
- 4.3 The power to sign any documents on behalf of the Municipality in accordance with Council Policy.
- 4.4 The power to revoke an official's excluding the Municipal Manager and managers directly accountable to the Municipal Manager, suspension at any time.
- 4.5 The power to authorize the payment of an acting allowance for officials directly accountable to the Municipal Manager.
- 4.6 The power to authorize the payment of medical or funeral expenses arising from an injury on duty.
- 4.7 The power to allocate office accommodation to the various departments.
- 4.8 The powers arising from section 2(1) of the Control of Access to Public Premises and Vehicles Act, 1985 (Act 53 of 1985).
- 4.9 The power to approve or refuse an application for burial in the honorary acre.
- 4.10 The power to decide whether a suspended official (excluding the Municipal Manager and Managers directly accountable to the Municipal Manager), should receive full or partial remuneration during the suspension period.
- 4.11 The power to approve applications by lower level officials (excluding the Municipal Managers and managers directly accountable to the Municipal Manager) to engage in remunerative work.
- 4.12 The power to ensure that any action necessary to ensure that a Council Resolution is executed.
- 4.13 The power to authorize all reports from the various Departments to Committees of the Council.
- 4.14 The power to appoint all staff below HOD level, subject to the policy directions of the Municipal Council.
- 4.15 All powers of Heads of Departments shall like wise be applicable to the Municipal Manager and have the right to overrule the decision of such officer or heads unless specifically prohibited in terms of a Council resolution or legislation.

ANNEXURE E
CHIEF FINANCIAL OFFICER

1. DELEGATED POWERS OF THE CHIEF FINANCIAL OFFICER

- 1.1 The power to enter into consumer agreements with members of the public for all services delivered by the Municipality.
- 1.2 The power to cut-off electricity supply to any person or to have it cut-off in terms of item 97(g) of the Municipal Systems Act, 2000 (Act 32 of 2000) read with section 5.2 of the Municipality's Credit Control By-laws and the Municipality's Collection Policy, if such a person fails to –
 - (a) pay any levies for the supply of electricity, or
 - (b) pay any other amount owed to the Municipality for the supply of electricity.
- 1.3 In respect of assessment rates, amounts payable for health services, water services and electricity services or any other amount owed to the Municipality.
 - (a) the power to, on behalf of the Municipality, institute a claim or to settle a claim or to accept payment and to do everything deemed necessary to finalise the claim in the best interests of the Municipality; and
 - (b) the power to, in terms of rule 52(1)(b) of the Rules of Court made under the Magistrates' Courts Act, 1944 (Act 32 of 1944), institute the necessary lawsuit or action personally, to appoint lawyers and advocates to finalise the lawsuit and, if a defendant is in default, to apply for sentence personally and to take all or any steps or issue process documents deemed necessary to obtain execution of the sentence.
- 1.4 The power to allocate street numbers to houses and premises.
- 1.5 The power to grant an extension for the payment of contributions to engineering services and open spaces or parks, or to allow payment by instalments in respect of such contributions.
- 1.6 The power to amend payment vouchers owing to calculation errors to an amount not exceeding R10,00 (ten rand).
- 1.7 The power, in terms of section 81 of the Town-planning and Townships Ordinance, 1986 (Ordinance 15 of 1986), to extend the period within which a township owner must pay a cash endowment in terms of an imposed condition for township establishment..
- 1.8 The power to authorise the payment of acting allowances, and ad hoc travel and subsistence allowances.
- 1.9 The power to write back irrecoverable levies and interest on levies in arrears.

- 1.10 The power to approve clearance certificates.
- 1.11 The power to approve valuation certificates.
- 1.12 The power to accept bank guarantees and letters of undertaking in respect of amounts payable for the issue of clearance certificates and certificates for consumption.
- 1.13 The power to approve the vacation, sick and special leave of the staff of their departments.
- 1.14 The power to utilise an official in another capacity.
- 1.15 The power to authenticate any order, notice or other document requiring authentication.
- 1.16 The power to sign any documents and/or contracts pertaining to his/her department and/or functions in accordance with the Municipality's policy.
- 1.17 The power to accept an official's written notice of termination of employment.
- 1.18 The power to instruct an official to temporarily report for duty outside his or her normal working hours.
- 1.19 The power to instruct an official to temporarily perform other duties than those normally assigned to him or her.
- 1.20 The power to cancel, postpone or interrupt an official's leave of absence.
- 1.21 The power to approve leave of absence (vacation leave) without remuneration.
- 1.22 The power to instruct an official to undergo a medical examination.
- 1.23 The power to instruct an official to submit a medical report.
- 1.24 The power to refuse an application for sick leave in consultation with Health Services.
- 1.25 The power to compel an official to take sick leave.
- 1.26 The power to approve maternity leave for female officials and paternity leave for male employees.
- 1.27 The power to authorise the medical examination of individuals claiming damages from the Municipality arising from bodily injuries.
- 1.28 The power to approve payment and payment certificates pertaining to a specific department or division.
- 1.29 The power to take all the necessary action to enforce statutory provisions.

- 1.30 The power to approve the use of official vehicles of the Municipality outside the municipal area.
- 1.31 The power to approve overtime.
- 1.32 The power to approve redemption of vacation leave credit.
- 1.33 The power to accept conditions imposed by statutory agencies.
- 1.34 The power to approve the transfer of funds within expenditure groups in the Operating Budget in accordance with approved municipal policy.
- 1.35 To exercise all powers in terms of the relevant By-laws falling within the ambit of the competencies of his/her department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with the said By-laws whereby a person is summoned to comply with a stipulation thereof.
- 1.36 The powers to execute all powers vested in terms of the Occupational Health and Safety Act and the General Machinery Regulations..
- 1.37 The power to take a decision to make short term investments on behalf of the Municipality within a policy framework determined by the Minister of Finance. This power is subject to the following conditions:
- (i) That monthly reports be submitted to the Mayor
- That the Council's approved policy on loans and investments be applicable until the policy framework, determined by the Minister of Finance, is promulgated.
- That this power not be sub-delegated by the Chief Financial Officer
- 1.38 The power to execute all powers vested in terms of the Occupational Health and Safety Act and the Regulations pursuant thereto.
- 1.39 The power to approve/reject requests from employees and non-employees to obtain specific information about the Municipality for research purposes or for obtaining a qualification, and to publish such information. This power must be executed in accordance with the Promotion of Access to Information Act, 2000 (Act 3 of 2000).
- 1.40 The power to approve clearance certificates.
- 1.41 The power to approve valuation certificates.
- 1.42 The power to accept bank guarantees and letters of undertaking in respect of amounts payable for the issue of clearance certificates and certificates for consumption.
- 1.43 The power to accept a guarantee and to require that the amount of the guarantee be increased in terms of section 11(5) and (6) of the By-laws and Regulations Governing the Supply and Use of Electricity and section 23(d) and (e) of the Pretoria's Water Supply By-laws governing the supply and use of water

2. POWERS DELEGATED TO THE CHIEF FINANCIAL OFFICER IN TERMS OF THE MFMA

| | Section | Power, duty or function |
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| | | Section 62 General financial management functions |
| 1. | 62(1)(a) | Effective, efficient and economical use of the Municipality's resources |
| 2. | 62(1)(b) | Proper and full record keeping of the financial affairs of the Municipality are kept in accordance with the prescribed norms and standards |
| 3. | 62(1)(c) | Maintaining of effective, efficient and transparent systems |
| | | (i) of financial and risk management and internal control; and |
| | | (ii) of internal audit operating in accordance with any prescribed norms and standards |
| 4. | 62(1)(d) | Prevention of unauthorised, irregular or fruitless and wasteful expenditure and other losses |
| 5. | 62(1)(f) | Keeping and implementation of |
| | | (i) a tariff policy referred to in section 74 of the Municipal Systems Act |
| | | (ii) a rates policy as may be required in terms of any applicable national legislation |
| | | (iii) a credit control and debt collection policy referred to in section 96(b) of the Municipal Systems Act, 2000 (Act 32 of 2000); and |
| | | (iv) a supply chain management policy in accordance with Chapter 11 |
| 6. | 62(2) | Accounting for all bank account of the Municipality, including any bank for |
| | | (a) any relief, charitable, trust or other fund set up by the municipality in terms of section 12; or |
| | | (b) a purpose referred to in section 48(2)(d) |
| | | Section 63 Asset and liability management |
| 7. | 63(1) | The accounting officer of a municipality is responsible for the management of - |
| | | (a) the assets of the municipality, including the safeguarding and the maintenance of those assets; and |
| | | (b) the liabilities of the municipality |
| 8. | 63(2) | The accounting officer must for the purposes of subsection (1) take all reasonable steps to ensure - |

| | Section | Power, duty or function |
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| | | (a) that the municipality has and maintains a management, accounting and information system that accounts for the assets and liabilities of the municipality |
| | | (b) that the municipality's assets and liabilities are valued in accordance with standards of generally recognised accounting practice; and |
| | | (c) that the municipality has and maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed |
| | | Section 64 Revenue management |
| 9. | 64(1) | The accounting officer of a municipality is responsible for the management of the revenue of the municipality |
| 10. | 64(2) | The accounting officer must for the purposes of subsection (1) take all reasonable steps to ensure - |
| | | (a) that the municipality has effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection policy; |
| | | (b) the revenue due to the municipality is calculated on a monthly basis; |
| | | (c) that accounts for municipal tax and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical; |
| | | (d) that all money received is promptly deposited in accordance with this Act into the municipality's primary and other bank accounts |
| | | (e) that the municipality has and maintains a management, accounting and information system which - |
| | | (ii) accounts for debtors; and |
| | | (iii) accounting for receipt of revenue; |
| | | (f) that the municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed; |
| | | (g) that the municipality charges interest on arrears, except where the council has granted exemptions in accordance with its budget-related policies and within a prescribed framework; and |
| | | (h) that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled at least on a weekly basis |
| 11. | 64(3) | The accounting officer must immediately inform the National Treasury of any payments due by an organ of state to the Municipality in respect of municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days |
| 12. | 64(4) | The accounting officer must take all reasonable steps to ensure - |
| | | (a) that any funds collected by the municipality on behalf of another organ of state is transferred to that organ of state at least on weekly basis; and (VAT) |

| | Section | Power, duty or function |
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| | | (b) that such funds are not used for purposes of the municipality |
| | | Section 65 Expenditure management |
| 13. | 65(1) | The accounting officer of a municipality is responsible for the management of the expenditure of the municipality |
| 14. | 65(2) | The accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure - |
| | | (a) that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds; |
| | | (b) that the municipality has and maintains a management, accounting and information system which - |
| | | (i) recognises expenditure when it is incurred; |
| | | (ii) accounts for creditors of the municipality; and |
| | | (iii) accounts for payments made by the municipality; |
| | | (c) that the municipality has and maintains a system of internal control in respect of creditors and payments; |
| | | (d) That payments by the municipality are made - |
| | | (i) directly to the person to whom it is due unless agreed otherwise for reasons as may be prescribed; and |
| | | (ii) either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit; |
| | | (e) that all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure; |
| | | (f) that the municipality complies with its tax, levy, duty, pension, medical aid, audit fees and other statutory commitments; |
| | | (g) that any dispute concerning payments due by the municipality to another organ of state is disposed of in terms of legislation regulating disputes between organs of state; |
| | | (h) that the municipality's available working capital is managed effectively and economically in terms of the prescribed cash management and investment framework; |
| | | (i) that the municipality's supply chain management policy referred to in section 111 is implemented in a way that is fair, equitable, transparent, competitive and cost-effective; and |
| | | (j) that all financial accounts of the municipality are closed at the end of each month and reconciled with its records |
| | | Section 66 Expenditure on staff benefits |
| 15. | 66 | The accounting officer of a municipality must, in a format and for periods as may be prescribed, report to the council on all expenditure incurred by the municipality on staff salaries, wages, allowances and benefits, and in a manner that discloses such expenditure, namely - |
| | | (a) salaries and wages; |
| | | (b) contributions for pensions and medical aid; |
| | | (c) travel, motor car, accommodation, subsistence and other allowances; |

| | Section | Power, duty or function |
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| | | (d) housing benefits and allowances; |
| | | (e) overtime payments; |
| | | (f) loans and advances; and |
| | | (g) any other type of benefit or allowance related to staff |
| | | Section 67 Funds transferred to organisations and bodies outside government |
| 16. | 67(1) | Before transferring funds of the municipality to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organisation or body - |
| | | (a) has the capacity and has agreed - |
| | | (i) to comply with any agreement with the municipality; |
| | | (ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement; |
| | | (iii) to report at least monthly to the accounting officer on actual expenditure against such transfer; and |
| | | (iv) to submit its audited financial statements for its financial year to the accounting officer promptly; |
| | | (b) implements effective, efficient and transparent financial management; and |
| | | (c) has in respect of previous similar transfers complied with all the requirements of this section |
| 17. | 67(2) | If there has been a failure by an organisation or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection (1)(c) make further transfer to the organisation or body provided that - |
| | | (a) subsection (1)(a) and (b) is complied with; and |
| | | (b) the relevant provincial treasury has approved the transfer |
| 18. | 67(3) | The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1) |
| 19. | 67(4) | Subsection (1)(a) does not apply to an organisation or body serving the poor or used by government as an agency to serve the poor, provided - |
| | | (a) that the transfer does not exceed a prescribed limit; and |
| | | (b) that the accounting officer - |
| | | (i) takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and |
| | | (ii) certifies to the Auditor-General that compliance by the organisation or body with subsection (1)(a) is uneconomical or unreasonable |
| | | Section 68 Budget preparation |
| 20. | 68 | The accounting officer of a municipality must - |
| | | (a) assist the mayor in performing the budgetary functions assigned to the mayor in terms of Chapters 4 and 7; and |
| | | (a) provide the mayor with the administrative support, resources and information necessary for the performance of those functions |

| | Section | Power, duty or function |
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| | | Section 69 |
| | | Budget implementation |
| 21. | 69(1) | |
| | | (a) that the spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan; and |
| | | (b) that revenue and expenditure are properly monitored |
| 22. | 69(2) | When necessary, the accounting officer must prepare an adjustments budget and submit it to the mayor for consideration and tabling in the municipal council |
| | | |
| 23. | 69(3) | The accounting officer must no later than 14 days after the approval on an annual budget submit to the mayor - |
| | | (a) a draft service delivery and budget implementation plan for the budget year; and |
| | | (b) drafts of the annual performance agreements as required in terms of section 57(1)(b) of the Municipal Systems Act for the municipal manager and all senior managers |
| | | Section 70 |
| | | Impending shortfalls, overspending and overdrafts |
| 24. | 70(1) | (1) The accounting officer of a municipality must report in writing to the municipal council - |
| | | (a) any impending - |
| | | (i) shortfall in budgeted revenue; and |
| | | (ii) overspending of the municipality's budget; and |
| | | (b) any steps taken to prevent or rectify such shortfalls or overspending |
| 25. | 70(2) | If a municipality's bank account, or if the municipality has more than one bank account, the consolidated balance in those bank accounts, shows a net overdrawn position for a period exceeding a prescribed period, the accounting officer of the municipality must promptly notify the National Treasury in the prescribed format of - |
| | | (a) the amount by which the account or accounts are overdrawn; |
| | | (b) the reasons for the overdrawn account or accounts; and |
| | | (c) the steps taken or to be taken to correct the matter |
| 26. | 70(3) | When determining the net overdrawn position for purposes of subsection (2), the accounting officer must exclude any amounts reserved or pledged for any specific purpose or encumbered in any other way |
| | | Section 71 |
| | | Monthly budget statements |
| 27. | 71(1) | The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month: |
| | | (a) actual revenue, per revenue source; |
| | | (b) actual borrowings; |
| | | (c) actual expenditure, per vote; |

| | Section | Power, duty or function |
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| | | (d) actual capital expenditure; per vote; |
| | | (e) the amount of any allocations received; |
| | | (f) actual expenditure on those allocations, excluding expenditure on - |
| | | (i) its share of the local government equitable share; and |
| | | (ii) allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and |
| | | (g) when necessary, an explanation of - |
| | | (i) any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote; |
| | | (ii) any material variances from the service delivery and budget implementation plan; and |
| 28. | 71(2) | The statement must include - |
| | | (b) the prescribed information relating to the state of the budget of each municipal entity as provided to the municipality in terms of section 87(10) |
| 29. | 71(3) | The amounts reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the municipality's approved budget |
| 30. | 71(4) | The statement to the provincial treasury must be in the format of a signed document and in electronic format |
| 31. | 71(5) | The accounting officer of a municipality which has received an allocation referred to in subsection (1)(e) during any particular month must, by no later than 10 working days after the end of that month, submit that part of the statement reflecting the particulars referred to in subsection (1)(e) and (f) to the national or provincial organ of state or municipality which transferred the allocation |
| 32. | 71(6) | The provincial treasury must by no later than 22 working days after the end of each month submit to the National Treasury a consolidated statement in the prescribed format on the state of the municipalities' budgets, per municipality and per municipal entity |
| 33. | 71(7) | The provincial treasury must, within 30 days after the end of each quarter, make public as may be prescribed, a consolidated statement in the prescribed format on the state of municipalities' budgets per municipality and per municipal entity. The MEC for finance must submit such consolidated statement to the provincial legislature no later than 45 days after the end of each quarter |
| | | Section 72 Mid-year budget and performance assessment |
| 34. | 72 | The accounting officer of a municipality must by 25 January of each year - |
| | | (a) assess the performance of the municipality during the first half of the financial year, taking into account - |
| | | (i) the monthly statements referred to in section 71 for the first half of the financial year |

| | Section | Power, duty or function |
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| | | (ii) the municipality's service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the service delivery and budget implementation plan; |
| | | (iii) the past year's annual report, and progress on resolving problems identified in the annual report; and |
| | | (iv) the performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities; and |
| | | (b) submit a report on such assessment to - |
| | | (i) the mayor of the municipality; |
| | | (ii) the National Treasury; and |
| | | (iii) the relevant provincial treasury |
| 35. | 72(2) | The statement referred to in section 71(1) for the sixth month of a financial year may be incorporated into the report referred to in subsection (1)(b) of this section |
| 36. | 72(3) | The accounting officer must, as part of the review - |
| | | (a) make recommendations as to whether an adjustments budget is necessary; and |
| | | (b) recommend revised projections for revenue and expenditure to the extent that this may be necessary |
| | | Section 73 Reports on failure to adopt or implement budget-related and other policies |
| 37. | 73 | The accounting officer must inform the provincial treasury, in writing, of - |
| | | (b) any non-compliance by a political structure or office-bearer of the municipality with any such policy |
| | | Section 74 General reporting obligation |
| 38. | 74(1) | The accounting officer of a municipality must submit to the National Treasury, the Provincial Treasury, the Department for local Government in the province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required |
| 39. | 74(2) | If the accounting officer of a municipality is unable to comply with any of the responsibilities in terms of this Act, he or she must promptly report the inability, together with reasons, to the mayor and the Provincial Treasury |
| | | Section 75 Information to be placed on websites of municipalities |
| 40. | 75(1) | The accounting officer of a municipality must place on the website referred to in section 21A of the Municipal Systems Act the following documents of the municipality: |
| | | (a) the annual and adjustments budgets and all budget-related documents; |
| | | (b) all budget-related policies; |
| | | (c) the annual report; |

| | Section | Power, duty or function |
|-----|----------------|--|
| | | (d) all performance agreements required in terms of section 57(1)(b) of the Municipal Systems Act; |
| | | (e) all service delivery agreements; |
| | | (f) all long-term borrowing contracts; |
| | | (g) all supply chain management contracts above a prescribed value |
| | | (h) an information statement containing a list of assets over a prescribed value that have been disposed of in terms of section 14(2) or (4) during the previous quarter; |
| | | (i) contracts to which subsection (1) of section 33 apply, subject to subsection (3) of that section; |
| | | (j) public-private partnership agreements referred to in section 120; |
| | | (k) all quarterly reports tabled in the Council in terms of section 52(d); and |
| | | any other applicable legislation, or as may be prescribed |
| 41. | 75(2) | A document referred to in subsection (1) must be placed on the website not later than five days after tabling in the Council or on the date on which it must be made public, whichever occurs first. |

ANNEXURE F
HEAD OF DEPARTMENT: TECHNICAL SERVICES

**POWERS DELEGATED TO THE HEAD OF DEPARTMENT: SERVICE DELIVERY
(TECHNICAL SERVICES)**

1. The power to accept conditions imposed by statutory agencies such as the State, Rand Water, Eskom and the National Roads Agency where the Municipality's services are to be installed inside, over or under the reserves of these agencies.
2. The power to approve work performed by other parties on municipal property, with specific reference to water and sewerage servitudes and road reserves, subject to the following conditions:
 - (a) The party may not begin executing the work on municipal property until an agreement with regard to the work has been concluded between the Municipality and the party.
 - (b) No work may begin until final approval of working drawings and specifications and proof of the party's accepted liability policy has been submitted.
3. The power to enter into service agreements to approve water sewerage and roads and stormwater schemes in new townships and rural areas, as well as other similar schemes in already approved townships or in rural areas, and to impose conditions in connection with such schemes and enter into amended service agreements, where necessary, for the upgrading of the water sewerage schemes' roads and stormwater standards in townships, subject to consultation by the HOD: Technical Services with the relevant municipal departments.
4. The power to act on behalf of the Municipality in respect of contracts in terms of the General and Special Conditions of Contract for works of Civil Engineering Construction, subject to the condition that this power excludes duties and functions which other holders of office execute ex officio on behalf of the Council, or duties and functions over which the HOD: Technical Services has no authority and for which the Council's approval is required before their execution.
5. The power to cut off or restrict the supply of water if the consumer fails to meet a supply condition of the Municipality or causes or permits the continued existence of a state which, in the opinion of the HOD: Technical Services, is dangerous or hinders the effective supply of water to another consumer.
6. In respect of surface and underground geological formations and the guidelines for engineering services, the power to prescribe materials and specifications to be used for civil engineering projects in new townships.
7. The powers granted under section 141(b)(i) of the Local Government Ordinance, 1939 (Ordinance 17 of 1939), to decide whether an erf, stand or lot or other area, with or without any improvements, is, or in the opinion of the Municipality can be, connected to any water main, drain or sewer and sewerage works.

8. The power to display temporary and essential road traffic signs in respect of any public road within the area of jurisdiction of the Municipality in terms of section 83(3) of the Road Traffic Act, 1989 (Act 29 of 1989).
9. The power to carry out engineering work to connect any land to the Municipality's water and/or sewer system and to recover the expenses incurred.
10. The power to serve on the owner, lessee or occupier of private property notice of the Municipality's intention to install services through across, under or over the private property and to make compensation or, failing to reach agreement on compensation, refer the matter for arbitration.
12. In respect of a street, road or thoroughfare of which ownership vests in the Municipality, the power to –
 - (a) close the street, road or thoroughfare temporarily to a specific type of traffic;
 - (b) close the street, road or thoroughfare temporarily to all traffic; or
 - (c) divert traffic from the street, road or thoroughfare temporarily,

if the Strategic Executive Officer: Service Delivery considers such a closure or diversion necessary for general construction work, for the installation of services that have to be provided by the Municipality, or for the carrying out of works by other authorities within the street reserve.
13. The power to appoint any official in his department as designated officer in terms of section 22 of the Rationalisation of Local Government Affairs Act 10 of 1998.
14. The power to institute disciplinary proceedings against any official of the Department who has allegedly committed an act of financial misconduct in terms of the Municipal Finance Management Act 56 of 2003.
15. The power to implement the supply chain management policy of the Municipality when procuring good services for the department.
16. The power to implement the Municipality's approved budget in respect of the Department and prepare an adjustment budget when requested to do so by the Municipal Manager.
17. The power in terms of section 62(1)(a) of the MFMA to ensure the effective, efficient and economic/use of the Municipality's resources.
18. All powers and ancillary powers thereto in order to maintain effective, efficient and transparent systems
 - (i) of financial and risk management and internal control; and
 - (ii) of internal audit operating in accordance with any prescribed norms and standards

in terms of section 62(1)(c) of the MFMA

19. The prevention of unauthorised irregular or fruitless and wasteful expenditure and other losses in terms of section 62(1)(d) of the MFMA.
20. The responsible management of -
 - (a) assets of the Council, including the safeguarding and maintenance of those assets; and
 - (b) liabilities of the municipality in terms of section 63(1) of the MFMA.
21. The power to approve or refuse the vacation, sick and special leave of the staff of their departments.
22. The power to utilise an official in another capacity.
23. The power to authenticate any order, notice or other document requiring authentication.
24. The power to accept an official's written notice of termination of employment.
25. The power to instruct an official to temporarily report for duty outside his or her normal working hours.
26. The power to instruct an official to temporarily perform other duties than those normally assigned to him or her.
27. The power to cancel, postpone or interrupt an official's leave of absence.
28. The power to approve leave of absence (vacation leave) without remuneration.
29. The power to instruct an official to undergo a medical examination.
30. The power to instruct an official to submit a medical report.
31. The power to refuse an application for sick leave in consultation with the Subsection Occupational Health.
32. The power to compel an official to take sick leave.
33. The power to approve maternity leave for female officials and paternity leave for male employees.
34. The power to authorise the medical examination of individuals claiming damages from the Municipality arising from bodily injuries on duty.
35. The power to approve payment and payment certificates pertaining to the Service Delivery Department and its divisions.
36. The power to take all the necessary action to enforce statutory provisions.
37. The power to approve overtime.

38. The power to approve redemption of vacation leave credit
39. The power to approve the payment or cancellation of payment of standby, telephone, transport, housing or cellphone allowances to employees within the department.
40. The power to approve the attendance of conferences, congresses, symposiums or training sessions by employees (excluding international conferences, congresses, symposiums, training sessions or visits).
41. To exercise all powers in terms of the relevant By-laws falling within the ambit of the competencies of the department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with the said By-laws whereby a person is summoned to comply with a stipulation thereof.
42. The powers to execute all powers vested in terms of the Occupational Health and Safety Act; 1993 (Act 85 of 1993) and the Mine Health and Safety Act; 1996 (Act 29 1996) and the Regulations pursuant thereto;
43. The power to approve reports to serve at the Portfolio Committee;
44. The power to approve applications to advertise for tenders;
45. The power to approve/reject requests from employees and non-employees to obtain specific information about the Municipality for research purposes or for obtaining a qualification, and to publish such information. This power must be executed in accordance with the Promotion of Access to Information Act, 2000 (Act 3 of 2000).

ANNEXURE G
CORPORATE SERVICES

DELEGATIONS TO THE HEAD OF DEPARTMENT: CORPORATE SERVICES (incl. LEGAL)

The following powers are delegated to the HOD: Corporate Services by the Council, to be exercised in respect of the Corporate Services Department and/or employees within the Department :

1. The power to approve or refuse the vacation, sick and special leave of the staff of their departments.
2. The power to utilise an official in another capacity.
3. The power to authenticate any order, notice or other document requiring authentication.
4. The power to withhold an official's annual salary increment.
6. The power to accept an official's written notice of termination of employment.
7. The power to instruct an official to temporarily report for duty outside his or her normal working hours.
8. The power to instruct an official to temporarily perform other duties than those normally assigned to him or her.
9. The power to cancel, postpone or interrupt an official's leave of absence.
10. The power to approve leave of absence (vacation leave) without remuneration.
11. The power to instruct an official to undergo a medical examination.
12. The power to instruct an official to submit a medical report.
13. The power to refuse an application for sick leave in consultation with the Subsection Occupational Health.
14. The power to accept /reject a medical certificate as proof of his/her inability to perform work due to illness or injury.
15. The power to compel an official to take sick leave.
16. The power to approve maternity leave for female officials and paternity leave for male employees.
17. The power to authorise the medical examination of individuals claiming damages from the Municipality arising from bodily injuries on duty.

18. The power to approve requisitions and payments pertaining to the Corporate Services Department and its divisions.
19. The power to take all the necessary action to enforce statutory provisions.
20. The power to approve overtime.
21. The power to approve redemption of vacation leave credit.
22. The power to approve the payment or cancellation of payment of standby, telephone, transport, housing or cellphone allowances to employees within the department.
- 23.. To exercise all powers in terms of the relevant By-laws falling within the ambit of the competencies of the department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with the said By-laws whereby a person is summoned to comply with a stipulation thereof.
24. The powers to execute all powers vested in terms of the Occupational Health and Safety Act and the General Machinery Regulations.
25. The power to approve reports to serve at the Portfolio Committee;
26. The power to approve applications to advertise for tenders;
27. The power to fill vacancies on a contract or permanent basis, provided that this delegation be executed only-
 - within the framework of the approved staff establishment (record of allocated posts);
 - within the framework of the approved staffing and employment equity policy;
 - if the person concerned is considered suitable in all respects and complies with the appointment requirements of the corresponding post as set out in the Grading Scheme;
 - if the remuneration agreed on with the prospective employee does not exceed the maximum remuneration package the Municipality can offer such service group in terms of the Grading Scheme; and
 - if the appointment concerned is not made on any of the managerial post levels (Deputy Manager and higher).
 - where the appointment/promotion is recommended by the Departmental Head concerned.
28. .The power to approve/reject requests from employees and non-employees to obtain specific information about the Municipality for research purposes or for obtaining a qualification, and to publish such information. This power must be executed in accordance with the Promotion of Access to Information Act ,2000 (Act 3 of 2000).
29. The power to, on recommendation of the Departmental Head concerned, withhold an official's yearly salary increment if the official's work performance is unsatisfactory on recommendation of the Departmental Head concerned

30. The power to, on recommendation of the Departmental Head concerned, approve employees' applications to perform private work in accordance with the approved policy.
31. The power to terminate the services of municipal employees and to re-appoint them in instances where it is required in order to deal effectively with industrial actions (Stay-aways included) in accordance with the approved policy.
32. 67.The powers arising from Section 2(1)(a) of the Control of Access to Public Premises and Vehicle Act, 1985 (Act 54 of 1985).
33. The power to authorise the payment of medical or funeral expenses arising from an injury on duty.
34. The power to approve/reject requests from employees and non-employees to obtain specific information about the Municipality for research purposes or for obtaining a qualification, and to publish such information. This power must be executed in accordance with the Promotion of Access to Information Act, 2000 (Act 3 of 2000).
35. Delegation to the HOD: Corporate Services (Legal) of the power to institute or defend claims and actions in the name of or against the municipality:
36. Delegation of the power to appear in Court on behalf of the Municipality in terms of Rule 52(1)(b) of the Magistrate's Court Rules promulgated in terms of the Magistrate Court Act, 1944 (Act 32 of 1944).
37. Delegation of the power to obtain a legal opinion from the attorneys of the Municipality.
38. The power to instruct attorneys to enter appearance on behalf of the Council in any matter instituted by or against the Municipality and to sign all necessary documents for this purpose, and to authorise the briefing of advocates
39. The power to instruct attorneys to collect any monies owed to the Municipality
40. The power to appear before a notary to execute any document or to appoint any other person to appear before the notary on behalf of the Municipality.
41. The power to appoint a person to serve legal documents, including but not limited to legal document of the Municipal Court.
42. The power to conduct any necessary action in any matter instituted by or against the Municipality, including the signature of the prescribed powers of attorney, affidavits and other documents in order to conduct the matter to its end
43. The power to institute or defend any legal action in a competent court in order to protect the interests of the Municipality.
44. The power to conduct all necessary action including the procurement of legal aid in a competent court to enforce all statutory provisions.
45. The power to institute a claim against an insolvent estate or company in liquidation for monies owed to the Municipality.

46. The power to cancel general servitudes that fall into disuse or, in so far as it pertains to the establishment of a township, where the servitude can be accommodated in the road reserves of the proposed township.
47. The power to approve the encroachment on or moving of the Municipality's servitudes.
48. The power to cancel a condition in a deed of title that the Municipality can claim re-transfer of an erf when buildings are not erected within the time-frame specified in the deed of title.
49. The power in terms of section 28(4) of the National Building Regulations and Building Standards Act, 1977 (Act 103 of 1977), to apply for a court order in any magistrate's court in terms of section 21 of the Act and in general to do everything or anything deemed necessary to finalise the application in the best interests of the Municipality, as well as the power to instruct the Municipality's attorneys in this regard.
50. The power to consent to the cancellation of servitudes for municipal purposes.
51. The power to enter into agreements on behalf of the Municipality regarding encroachments of the Municipality's servitudes.

ANNEXURE H

HEAD OF DEPARTMENT: COMMUNITY/SOCIAL SERVICES

POWERS DELEGATED TO THE HEAD OF DEPARTMENT COMMUNITY/SOCIAL SERVICES

1. The power to approve or refuse the vacation, sick and special leave of the staff of their departments.
5. The power to utilise an official in another capacity.
6. The power to sign any documents and/or contracts pertaining to the Department and/or functions in accordance with the Municipality's policy.
8. The power to instruct an official to temporarily perform other duties than those normally assigned to him or her.
12. The power to cancel, postpone or interrupt an official's leave of absence.
13. The power to approve leave of absence (vacation leave) without remuneration.
14. The power to instruct an official to undergo a medical examination.
15. The power to instruct an official to submit a medical report.
16. The power to refuse an application for sick leave in consultation with the Subsection Occupational Health.
17. The power to compel an official to take sick leave.
18. The power to approve requisitions and payments pertaining to the Social Development Department and its divisions.
21. The power to take all the necessary action to enforce statutory provisions.
22. The power to approve redemption of vacation leave credit
27. The power to accept conditions imposed by statutory agencies.
32. To exercise all powers in terms of the relevant By-laws falling within the ambit of the competencies of the department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with the said By-laws whereby a person is summoned to comply with a stipulation thereof.
33. The powers to execute all powers vested in terms of the Occupational Health and Safety Act and the General Machinery Regulations;
35. The power to approve reports to serve at the Portfolio Committee;

38. The power to accept an official's written notice of termination of employment.
39. The power to instruct an official to temporarily report for duty outside his or her normal working hours.
45. The power to refuse an application for sick leave in consultation with the Subsection Occupational Health.
46. The power to compel an official to take sick leave.
47. The power to approve maternity leave for female officials and paternity leave for male employees.
48. The power to authorise the medical examination of individuals claiming damages from the municipality arising from bodily injuries on duty.
49. The power to approve payment and payment certificates pertaining to the Metropolitan Police and its divisions.
50. The power to take all the necessary action to enforce statutory provisions.
51. The power to accept conditions imposed by statutory agencies.
52. To exercise all powers in terms of the relevant By-laws falling within the ambit of the competencies of the department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with the said By-laws whereby a person is summoned to comply with a stipulation thereof.
53. The power to the powers to execute all powers vested in terms of the Occupational Health and Safety Act and the General Machinery Regulations.
54. The power to approve reports to serve at the Portfolio Committee.
55. The power to approve applications to advertise for tenders.
56. The powers arising from Section 2(1)(a) of the Control of Access to Public Premises and Vehicle Act, 1985 (Act 54 of 1985).
57. The power to act as the responsible person as defined in the Gatherings Act, 1993 (Act 205 of 1993), and all powers incidents thereto.
58. The power to remove and/or impound a vehicle that has been left on a public road for more than 7 (seven) days.
59. The power to act as the responsible person as defined in the Fire Arms Control Act, 2000 (Act 60 of 2000, as amended).
60. The power to remove a vehicle that has been left in the same place on a public road for more than 7 days.
61. The power to display temporary and essential road traffic signs.

62. The power to act as the responsible officer appointed in terms of section 2(4) (a) of the Regulations of Gatherings Act, 1993 (Act 205 of 1993) and to perform the functions, exercise the powers and discharge the duties in terms of the Act.
63. The power to execute all powers, functions and duties in terms of the National Road Act, 1996 (Act 93 of 1996).
64. The power to execute all powers, functions and duties in terms of the South African Traffic
65. That the Executive Director: Protection Services be authorized to implement and comply with the conditions imposed by the Road Traffic Act 93 of 1993.
 - The Business Act, 71 of 1991;
 - Fire Services, Act 1987;
 - The Disaster Management Act.
66. Dog and Pest Control (in terms of the issuing of licensing and control thereof).
67. Approval in conjunction with the Municipal Manager of applications for public gatherings and demonstrations in terms of the Public Gatherings Act.
68. Approval of temporary road closures and traffic control.
69. Approval of hosting of sporting events on public roads.
70. Control of the use and selling of explosives in terms of the Explosives Act.
36. Entering into contracts with outside parties or companies in relation to fire fighting outside the jurisdiction of the municipality in terms of the tariff of charges.
71. Approval in conjunction with the Department of Support Services any landing within Council and jurisdiction of helicopters.
72. Approval and granting of permission of the display of temporary advertisements and signs.
73. Custody and control of Council's fire-arms and ammunitions.
74. Approval of the use of loud hailers within Council's jurisdiction.
75. Distribution of pamphlets.
76. Approval of the use of open fires.
76. Approval of the holding markets in public places in conjunction with Support Services.
77. Approval of applications to display goods on a side walk and the erection of structures on a side walk for the purpose of conducting business in compliance with Council policy.
78. Erection of booms.
79. Grant permission to deface, mark or paint any street or part thereof.

Adopted by Council at its meeting held on **28** day of **October 2011** per Council resolution number **MM01/05/08**

Signed at **LEPELLE-NKUMPI MUNICIPALITY** the day of **October 2011**

Signature:

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Municipal Manager