



MSUKALIGWA MUNICIPALITY

FINANCIAL BY-LAWS

COUNCIL RESOLUTION LM 924/6/2010
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MSUKALIGWA LOCAL MUNICIPALITY

FINANCIAL BY-LAWS

The Council of Msukaligwa Local Municipality has in terms of section 156 of the Constitution, 1996 (Act No. 108 of 1996), read in conjunction with sections 11 and 98 of the Local Government: Municipal Systems Act, 2000, (Act No. 32 of 2000), made the following By-laws:

PURPOSE

In terms of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) municipalities shall have *inter alia* the following rights:

Section 151(3)

A municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution.

Section 156(2)

A municipality may make and administer By-laws for the effective administration of the matters which it has the right to administer.

Section 160(2)

A Municipal Council may make By-laws which prescribe rules and order for -

- (a) its internal arrangements;
- (b) its business and proceedings.

As the Council is accountable to its voters, it believes that in regularizing financial administration, it will ensure that sound administration prevails and that Council is satisfied that it complies with relevant legislation, and therefore issues these By-laws, acting under the authority of Section 11, read in conjunction with Section 98 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).

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1. DEFINITIONS

(1) In these By-laws, unless the context otherwise indicates –

“**Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“**Accounting Officer**” means the municipal official referred to in section 60 of the Local Government: Municipal Finance Management Act, (Act No. 56 of 2003);

“**Chief Financial Officer**” means the employee designated in terms of section 80(2)(a) of the Local Government: Municipal Finance Management Act, (Act No. 56 of 2003) or any amendment thereto, and any person duly authorised by the Council to act on its behalf;

“**committee**” means any committee established in terms of sections 79 or 80 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Council**” means a municipal council referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);

“**department**” means any department, section or branch of the Council of which the head reports directly to the Municipal Manager only;

“**GAMAP**” means Generally Accepted Municipal Accounting Practices;

“**GRAP**” means Generally Recognised Accounting Practices;

“**Head of Department**” means the person appointed or acting as head of any department of the Council;

“**Municipal Manager**” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

(2) Any other word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003, and the Local Government: Municipal Systems Act, 2000, unless inconsistent with the context shall, wherever such word or expression appears in the By-laws, bear the same meaning as that assigned to it in the said legislation.

(3) Words applying to any individual shall include persons, companies and corporations and the masculine shall include females as well as males and the singular shall include the plural and *vice versa*.

2. ESTIMATES AND BORROWING

(1) **BORROWING**

The Chief Financial Officer or delegated official shall be responsible for the raising of such loans required for the purpose of financing capital expenditure from external sources in accordance with such terms and conditions and from such sources approved by the Council after considering the Chief Financial Officer's report.

(2) PREPARATION OF ANNUAL BUDGET

- (a) Every Head of a Department shall, in respect of the activities of his department, and in consultation with the Chief Financial Officer, prepare –
 - (i) a draft annual budget to appropriate money for the requirements of the municipality;
 - (ii) a draft annual budget for an ensuing financial year; and
 - (iii) a draft capital programme for the following number of financial years as determined by Council's Integrated Development Plan.
- (b)
 - (i) The annual budget must be in the prescribed format and shall be prepared and completed at such date as determined by the Chief Financial Officer in consultation with the Mayor in terms of section 21 of the Local Government: Municipal Finance Management Act, 2003.
 - (ii) The Accounting Officer shall when necessary, in terms of section 69(2) of the Act, prepare an adjustments budget and submit it to the Mayor for consideration and tabling in the Council.
- (c) The Chief Financial Officer shall issue guidelines, after considering any growth factor determined annually by the National Treasury for municipalities generally with regard to the preparation and administration of the estimates, and Heads of Departments shall comply with such guidelines in the preparation of their estimates.
- (d) The Accounting Officer in conjunction with the Mayor in terms of section 21 of the Local Government: Municipal Finance Management Act, 2003 shall upon completion of the draft budget, follow a process of community participation in accordance with Chapter 4 of the Municipal Systems Act, and shall thereafter submit such draft, together with comments received, including his proposals for the funding thereof, to Council for approval.
- (e) The draft budget submitted to the Council for approval shall not reflect a deficit. If the aggregate operating income is less than the aggregate operating expenditure, the estimates shall contain proposals to cover such deficit.
- (f) The Council shall, prior to the beginning of a particular financial year, approve the estimates and determine the property rates, tariffs and rentals to be levied in order to balance the operating estimates: Provided that expenditure or income proposed shall not be increased or decreased unless the effects of such proposed changes have been discussed during the process of community participation.
- (g) The approved estimates may be amended by the Council during a financial year : Provided that the total estimates are not exceeded. Where expenditure is required in excess of the approved estimates, any necessary external approval shall be obtained.
- (h) The Mayor must on a monthly basis or as often as may be prescribed, submit reports in the prescribed format on the state of the municipality's budget.

(3) CAPITAL EXPENDITURE

- (a) A report submitted by a Head of a Department in which authority is sought to incur capital expenditure, shall be done in terms of section 19 of the Local Government: Municipal Finance Management Act, 2003, and shall include the following:

- (i) The total estimated costs with a complete analysis thereof, including any consequential expenditure which will arise as a result of the works or undertaking.
 - (ii) The estimated capital amount to be expended annually in respect of the works or undertaking.
 - (iii) The estimated annual income to be derived and the estimated annual expenditure of any kind, including expenditure on additional staff to be incurred when the works or undertaking are taken into use.
 - (iv) The estimated duration of life of the asset to be created in terms of GRAP, and as set out in the Asset Management Policy
 - (v) An indication whether the work shall be done departmentally, or by an external contractor.
 - (vi) Any other information required by the Accounting Officer.
- (b) No capital expenditure shall be incurred unless –
- (i) provision therefore has been made in the approved capital estimates; or
 - (ii) the Council has approved a report for additional funds for capital projects/items which were originally not budgeted for.
- If sufficient funds are not available within the approved budgeted quota for any additional amounts required, the Head of a Department shall indicate which other project/item of his department can be cancelled to cover the additional expenditure; or if such source is not available, the Chief Financial Officer will, after consultation with the respective Head of Department, make a recommendation how the shortfall will be financed;
- (iii) the Council has expressly approved such expenditure as mentioned in (i) or (ii); and
 - (iv) all approvals required by law have been obtained and all other requirements have been complied with.
- (c) No under-expenditure on any capital project shall be employed to cover additional expenditure on any other approved capital project without the approval of the Council: Provided that the Chief Financial Officer may, on recommendation of a Head of a Department, transfer a financial provision not exceeding the maximum amount as determined by Council and in accordance with the provisions of the Act, or approved policies.
- (d) If an approved capital estimate vote is exceeded, or is expected to be exceeded, the Head of a Department concerned, shall, subject to the provisions of section (3)(c), obtain at the first possible opportunity, appropriate authority from the Council for the additional expenditure, and such Head of a Department shall report the reasons –
- (i) for the additional expenditure; and
 - (ii) why timeous authority, where applicable, was not obtained for the additional expenditure.
- (e) A Head of a Department shall advise the Chief Financial Officer as soon as he becomes

aware of any amount on his capital estimates which is no longer required by his department, and the Chief Financial Officer shall report to the Council regarding such saving.

- (f) Subject to the approval of the Council, budgeted expenditure allocated to uncompleted projects from a previous financial year may be incurred during a current financial year : Provided that, if necessary, a corresponding under-expenditure must be effected by the Head of a Department in terms of the requirements of the Act.

(4) OPERATING ESTIMATES

(a) Excess expenditure

If the Mayor has reason to believe that any operating estimate provision is or will be insufficient, he shall forthwith report the matter to the Council: Provided that the Chief Financial Officer may, subject to such conditions as the Council may determine, authorise the transfer of an operating estimate provision, or part thereof from a vote or votes expected to be underspent to the abovementioned operating estimates provision. In the event where no under-expenditure is available, the reasons for the excess expenditure shall be stated and any decrease in other expenditure which may occur in order to meet the excess expenditure, shall be indicated. The matter shall be considered by the Council with a view to cover the excess expenditure by a decrease in expenditure or an increase in income.

When the full amount provided for a specific purpose in the estimates in respect of the operating account has not been spent for that purpose, the balance shall not, except as mentioned above or with the consent of the Council, be used for any other purpose.

(b) Shortfall in income

Where estimated income is unlikely to realise, the Head of the Department concerned shall, without delay, give an account for the reasons resulting to the shortfall in income to the Chief Financial Officer. The Mayor shall then report to the Council if the shortfall is, in his opinion, substantial and indicate how the shortfall will be met in terms of the requirements of the Act.

(5) REPORTS

- (a) No report containing financial implications shall be considered by the Council unless the report, including a financial report of the Chief Financial Officer in this regard, has been considered by the Executive Committee. The essence of the contents of the financial report of the Chief Financial Officer shall not be altered.
- (b) Where any expenditure is contemplated in a report submitted to the Council, the Head of the Department shall indicate the applicable provision on the capital or operating estimates and the vote against which the expenditure is to be charged.
- (c) Before instructions are given to a consultant with regard to any capital project, and before any expenditure is incurred, the Head of the Department concerned, having first obtained the approval of the Council or Executive Committee, where applicable, shall also see to it that adequate financial provision is made in the relevant estimates.

(6) VIREMENT

(a) The principle of virement is to allow departments a certain amount of freedom to manage the budget votes to approve limits and to provide flexibility so as to assist Council in meeting its objectives.

(b) The general principles of virement are:-

- i. **The transfer of the budget allocation does not involve a change of policy or extra spending in future years;**
- ii. **Virement are allowed within a “vote” which will not result in the adjustment of a “budget vote” (Adjustment of budget vote may only be approved in terms of section 29 of the MFMA or an adjustment budget approved by Council)**
- iii. **Virement are not permitted in relation to the revenue side of the budget.**
- iv. **Virement between votes should be permitted where the proposed shifts in funding facilitate sound risk and financial management.**
- v. **Virement from the capital budget to the operating budget are not permitted**
- vi. **Virement towards personnel expenditure are not permitted**
- vii. **Virement to or from the following items are not permitted: Bulk purchases; debt impairment; interest charges; depreciation; grants to individuals; revenue foregone; insurance and VAT.**
- viii. **Virement should not result in adding new projects to the capital budget**
- ix. **Virement of conditional grant funds to purposes outside of that specified in the relevant conditional grant are not permitted**
- x. **The cost centre from which the budget is being transferred has sufficient resources for the remainder of the financial year, taking into account all known commitments**
- xi. **The amount transferred between cost centres may not exceed the maximum amount as approved by Council resolution or its Delegated Powers of Authority**
- xii. **The Chief Financial Officer shall report to Council monthly on any virement made during a financial year in terms of the requirements of the Act.**

3. ACCOUNTING SYSTEMS AND COSTING

(1) The Chief Financial Officer, or a Head of a Department, when so requested by the Chief Financial Officer, shall maintain relevant accounting principles in respect of intergovernmental grants, capital and operating accounts and, except in so far as the form of such accounts may be prescribed by law, such systems shall be kept in whatever form the Chief Financial Officer or external grantor of funds should consider suitable.

(2) The system used by a department for the collection of revenue, the keeping of books or any records relating to financial matters, assets, stocks, as well as cost accounting, shall be subject to

the approval of the Chief Financial Officer and no such system shall be established, altered or deviated from without the Chief Financial Officer's approval.

- (3) The Chief Financial Officer shall keep the financial accounting records of the Council up to date, and the accounting systems which he has accepted in compiling such records shall, apart from complying with any prescribed law, adhere to any compulsory guidelines which National Treasury may from time to time after consultation with the Auditor-General determine.
- (4) The Chief Financial Officer or designated official shall continuously review all tariffs in respect whereof expenditure is taken into account elsewhere, in conjunction with a Head of a Department.
- (5) The Chief Financial Officer shall prepare financial statements in respect of each financial year in accordance with GAMAP, GRAP and/or any subsequent regulations/principles and be certified as correct by the Accounting Officer.
- (6) Except in respect of normal services for which the Council has determined tariffs, no goods of any kind belonging to the Council, or in respect of which it is taxable, shall be supplied to, and no work shall be carried out by it for any other person without the Council's approval and unless the Council is satisfied that the supplying of such goods or the executing of such work is to its advantage.
- (7) No material shall be supplied to and no work shall be carried out for a private individual, company, firm, organisation, state or parastatal body, unless the Head of the Department concerned has been notified by the Chief Financial Officer that the amount of the estimated cost or part of the cost of the work has been paid or otherwise been provided for: Provided that the Chief Financial Officer may in his discretion, in the case of state or parastatal bodies, deviate from this provision. If a payment has been made in advance in compliance with this section, and it nevertheless becomes evident to the Chief Financial Officer or the Head of the Department performing the work or supplying the material, that such payment in advance is likely to or will be exceeded by the cost of the work or material, such Head of a Department shall not continue with the performance of such work or the supply of such material without the prior consent of the Accounting Officer, and without thereafter complying with such terms and conditions as the Accounting Officer may determine.
- (8) No department shall carry out work or render services to another department or section unless such work or services are requisitioned on the Council's official departmental works order and signed by a duly authorised official. The document shall contain a description of the work or services, the estimated cost thereof, the authority for incurring the expenditure, and the vote or item or job number against which such expenditure should be debited.
- (9) Charges levied by one department in respect of another department, for work or services referred to in section 3(8) shall be submitted without delay to the latter department for approval and thereafter be submitted to the Chief Financial Officer for recharge purposes. Any objection to such a charge shall be referred to the Chief Financial Officer for a final decision.
- (10)
 - (a) Works, which have been provided for on the operating estimates, including the maintenance and repair of such works, of which the anticipated cost will, in the opinion of the Head of the Department concerned, exceed the amount mentioned in section 16(5) as well as such other work as may be determined by the Council, shall not be carried out departmentally unless the Chief Financial Officer has issued a work order for same on application by the Head of the Department concerned.
 - (b) The Chief Financial Officer may refuse to issue a work order as referred to in subsection (a) as he deems necessary if the application therefor is not supported by such information relating to material, labour, transport and other costs.

- (c) An application for the issue of a work order shall be submitted on a form prescribed by the Chief Financial Officer, and the vote against which the relevant expenditure is to be charged shall be stated therein.
- (11) No stocks and materials shall be transferred from one job to another, unless there has been complied with the provisions of section 13(10)(a).

4. INCOME

- (1) The Accounting Officer shall be responsible for the collection of all monies due to the Council in terms of the Council's Credit Control and Debt Collection By-laws.
- (2) All monies received shall be balanced and deposited daily, or at such regular intervals as the Chief Financial Officer may determine, at the department of the Chief Financial Officer or the Council's bankers. The Chief Financial Officer must be provided with the necessary proof that the monies have been balanced and deposited.
- (3) The Chief Financial Officer or designated official shall ensure that all monies received by any other department are paid over regularly to his department or otherwise in accordance with the provisions of section 4(1), and for that purpose he shall prescribe a system for the collection of income, and no such system shall be altered or deviated from without the Chief Financial Officer's approval.
- (4) Heads of Departments shall notify the Chief Financial Officer or designated official immediately of any monies becoming due to the Council, and such notification shall state the reasons why such monies are due.
- (5) No amount due to the Council shall be written off as irrecoverable without the approval of the Council, provided that the Chief Financial Officer shall be authorised to write off appropriate amounts in any one case not exceeding the amount as determined by Council, and a record of all amounts written off shall be kept by the Chief Financial Officer, in such form as he may decide.

(6) RECEIPTS

- (a)
 - (i) All monies received shall be recorded immediately by means of a numbered official receipt or in any other manner approved by the Chief Financial Officer.
 - (ii) Receipts shall not be altered in any way and the use of erasable ink, solvents or a similar device shall not be permitted and any error appearing thereon shall be rectified by the issue of a new acknowledgement of receipt and the cancellation of the erroneous receipt.
- (b) Every cancelled receipt form or other applicable acknowledgement document and all duplicates thereof shall be replaced in its proper place in the receipt book, or, in the absence of a receipt book, filed in accordance with instructions issued by the Chief Financial Officer.
- (c) Any surplus cash found shall immediately be declared as such and deposited without delay to the credit of the appropriate account and all cash shortages shall be dealt with in terms of section 32 of the Local Government: Municipal Finance Management Act, 2003: Provided that if the Council, considering the circumstances, is satisfied that the official was in no way to blame for the deficiency, he may decide that the mentioned official shall not be obliged to make the deficit good or that the amount of any deficit which he has made good, shall be refunded to him.

- (7) The determination and annual review of rentals, tariffs, fees and other charges shall be done and appropriate recommendations shall be made to the Council as agreed between the Chief Financial Officer and the applicable Head of the Department.

5. CONTROL OF RECORDS

- (1) Receipt books as well as all printed material offered for sale, except documents which any department controls and sells with the explicit authorisation of the Chief Financial Officer, shall be obtained only from the Chief Financial Officer, and the Chief Financial Officer or department so authorised shall keep a register with particulars of the quantities received from the printers and of the items issued, together with the signature of the recipient.
- (2) Every document containing a record of transactions which involves the receipt or payment of money, which is to be written up by hand, shall be completed in ink, and the use of pens with erasable ink is not allowed. Where an entry in such document has been audited, it shall not be altered in any way.
- (3) Any improvements or alterations to other records shall be made by crossing out the incorrect figures and inserting the correct figures at the top, and the person making the alteration shall affix his signature thereto.
- (4) It shall be the responsibility of every Head of Department to take the necessary steps to safeguard all documents of possible significance in legal proceedings and which fall under the control of his department and to store such documents as are necessary in terms of the Archives Act, 1962 (Act No. 6 of 1962), and the Director: Corporate Services may, from time to time, issue directives in this regard.
- (5) (a) All agreements and similar legal documents, shall upon completion, be placed in the safe custody of the relevant Directorate in terms of the Archives Act and record keeping policies.
- (b) The Director: Corporate Services shall maintain a register of all documents mentioned in subsection (a) in which the number, nature, period of validity and any other information of importance regarding each document, is recorded.

6. CONTROL OF PAYMENTS

- (1) Every payment from the funds of the Council, other than imprest money, shall be made by the Chief Financial Officer by means of the Council's bankers.
- (2) The signatures of at least two persons duly authorised by the Accounting Officer shall appear on all cheques issued by the Council.
- (3) Every Head of a Department shall maintain a register of persons to whom authority has been delegated to sign official documents, and such register shall indicate the nature of the documents to which such signing authority applies, and shall include specimen signatures.
- (4) A copy of the register referred to in section 6(3) shall be made available to the Chief Financial Officer, who shall be notified immediately of any changes to such register.
- (5) Every voucher submitted for payment shall be in the form prescribed by the Chief Financial Officer and shall be certified by an authorised official from the department concerned and shall, when submitted to the Chief Financial Officer, be accompanied by supporting documents, where applicable, and have the following information thereon:-
- (a) The name of the department against which it is to be charged.

- (b) The vote, item or account number from which it is to be paid.
- (c) That sufficient estimate provision exists.
- (d) The authority for the expenditure.
- (e) That the goods have been received or the services rendered.
- (f) The statutory authority, where relevant.
- (g) That the price charged is reasonable or according to contract.
- (h) Such other information as the Chief Financial Officer may direct.
- (i) The Chief Financial Officer or an official authorised by him to do so shall approve such voucher before settlement of the account.
- (j) Progress payments in respect of a contract shall be limited to the value of the work and the material supplied, as certified in terms of the aforesaid subsections, less the amount of previous payments made and the amount of retention money withheld in terms of the contract.

In the case where the Council makes use of the service of consulting engineers, architects etc., the certificate for payment must be co-signed by the Director: Technical Services or other responsible Head of a Department as applicable.

- (k) The Chief Financial Officer shall not in respect of any contract make any payment in excess of the total amount authorised by the Council unless the Council has resolved otherwise after considering a written report by the Head of the Department concerned stating the reasons why the excess expenditure should be incurred.
- (6) Notwithstanding the provisions of sections 6(5) (c) and (d), payment shall nevertheless be made where the Chief Financial Officer in conjunction with the Director: Corporate Services is of the opinion that the Council is under a legal obligation to do so : Provided that such payment is so certified and : Provided further that such payment shall forthwith be reported to the Council for notification.

(7) ***PETTY DISBURSEMENTS***

- (a) Imprest accounts for the making of petty disbursements shall only be established with the approval of the Chief Financial Officer, who shall prescribe the amount of such accounts and the nature and extent of payments to be made therefrom.
 - (b) Every voucher submitted by a department for the refund of petty disbursements shall be accompanied by supporting documents acceptable to the Chief Financial Officer for all such payments and a proper record shall be kept in a form approved by the Chief Financial Officer.
- (8) The Chief Financial Officer shall submit a monthly report in respect of the immediate preceding month reflecting the cash and bank balances as at the beginning of the month, the total amounts received and payments made during that month and the cash and bank balances as at the end of that month reconciled with the bank statements.

7. STAFF RECORDS, COUNCILLOR ALLOWANCES AND PAYMENTS

- (1) The Chief Financial Officer is responsible for the calculation of salaries, wages, allowances, leave payments due and shall keep the necessary records for this purpose.
- (2) The Chief Financial Officer shall be responsible for the verification of all calculations referred to in section 7(1).
- (3) The payment of all salaries, wages, allowances, leave payments and any other payments due shall be made by the Chief Financial Officer or designated official and the method of such payment shall be at his discretion.
- (4) The Chief Financial Officer shall be notified of all appointments, promotions, dismissals, resignations, transfers, leave of any description as well as any absence without leave of an employee and all matters affecting the emoluments of employees and councillors of the Council. The submission of such information to the Chief Financial Officer shall be in such form and at such date and time as the Chief Financial Officer may from time to time determine.
- (5) A Head of a Department shall be required to certify that, in respect of every employee reflected on the paysheet for each pay period, such employee was employed by the Council during such period, in a form as prescribed by the Chief Financial Officer.
- (6) In the event of salaries and wages having to be paid in cash due to unforeseen circumstances –
 - (a) the supervisor or a responsible official designated by the Head of the Department, and who shall be present, and the paymaster shall certify that the amounts reflected on the paysheet or pay tickets have been duly paid to the respective persons against their signatures or other marks of identification; and
 - (b) the paymaster or other responsible official designated by the Chief Financial Officer shall certify that all unclaimed salaries or wages have been paid into the designated account, in accordance with any relevant legislation, within the period specified by the Chief Financial Officer and appropriate record of such unclaimed monies shall be kept.

8. INTERNAL CONTROL

- (1) The following shall be the responsibility of a Head of a Department:-
 - (a) To establish and maintain internal control systems to ensure that the activities of his department are conducted in an efficient and well ordered manner; and that the control systems are as such that, where applicable, it will assist to reach the goals which must be obtained in sections 9(6) and 9(7).
 - (b) To ensure that adequate measures are taken to safeguard computer equipment, programs and all associated records.
 - (c) Generally to maintain and safeguard all assets, materials and records for which the department is responsible.
 - (d) Such financial control systems are subject to the approval of the Chief Financial Officer and for such purpose each Head of a Department must submit such control systems to the Chief Financial Officer. The Chief Financial Officer has the power of attorney to implement such control systems where the Head of the Department neglects to do so.

9. **AUDIT**

(1) The Accounting Officer shall be responsible for the auditing (on such a basis as he considers appropriate and subject to any legal prescriptions) of all records, transactions, undertakings or matters in general relating to the finance, stocks and assets of the Council. He shall establish an Audit Committee in terms of section 79 of the Local Government: Municipal Structures Act, 1998 read with section 166 of the Local Government: Municipal Finance Management Act, 2003.

(2) **Functions and duties of the Audit Committee**

The Audit Committee must, with regard to any audit performed by or on behalf of the Auditor-General,

(a) together with the Accounting Officer, the external auditor and such other employees of the Council as it may deem appropriate, assess the planning and scope of and approach to such audit;

(b) evaluate the findings of the external auditor especially:-

(i) significant transactions that do not fall within the normal activities of the municipality;

(ii) substantial deficiencies in internal control and the recommendations to improve them;

(iii) the reasonable reporting, presentation and publication of information in annual financial statements;

(iv) the relevance of the accounting policy followed in the compilation of annual financial statements;

(v) compliance with generally accepted municipal accounting practice;

(vi) compliance with the law;

(c) generally evaluate the report of the external auditor on the financial statements;

(d) evaluate substantial unsolved accounting or auditing problems experienced during such audit;

(e) evaluate the advice provided by the external auditor or any other person with regard to the objects of the Audit Committee; and

(f) assess the co-ordination and co-operation between the external auditors and the internal auditor, if any.

(3) **The Audit Committee must, with respect to internal auditing-**

(a) provide a forum for direct reporting of the findings of the internal auditor, if any;

(b) evaluate the efficiency and effectiveness of the internal audit function, if any;

(c) assess matters of significant importance reported by the internal auditor, if any;

(4) **The Audit Committee must, in respect of financial reporting-**

(a) assess the effectiveness of policies for and procedures of financial reporting; and

- (b) consider the way of fair presentation of the financial statements.
- (5) **The Audit Committee must, with respect to internal control-**
- (a) review the effectiveness of the accounting and control system;
 - (b) assess any deficiency in the accounting and internal control system;
 - (c) assess the measures implemented to address such deficiencies; and
 - (d) assess and confirm the policies and procedures for identifying areas of risk and the measures implemented to ensure adequate control of and security at such areas.
- (6) **The Audit Committee must-**
- (a) consider and submit a report on matters referred to it by the Accounting Officer; and
 - (b) perform such functions as the Accounting Officer may assign to it from time to time.
- (7) **Powers of the Audit Committee**
- (a) The Audit Committee may, to the extent necessary for the efficient and effective performance of its function and achievement of its objectives:-
 - (i) access and inspect any records, documents and information held otherwise by the municipality or an employee of the municipality;
 - (ii) access and inspect any premises on which or from where the activities of the municipality are performed;
 - (iii) conduct interviews with the Council or any committee thereof and summons any employee of the municipality to appear before it and interview him or her;
 - (iv) investigate or cause to be investigated by any employee of the municipality, after consultation with the Municipal Manager, any matter;
 - (v) ensure that effective accounting policies, systems and reporting are implemented and applied; and
 - (vi) facilitate improvement of the standard of financial reporting.
- (8) **Performance Audit Committee**
- (a) Functions and duties of the Performance Audit Committee
 - (i) Review the quarterly reports submitted to it.
 - (ii) Review the PMS focussing on economy, efficiency, effectiveness and impact in so far as the KPI's and performance targets as set by the municipality are concerned and make recommendations in this regard to the Council via the Executive Committee.
 - (iii) At least twice during a financial year submit an audit report to the Municipal Council via the Executive Committee.

(b) The Performance Audit Committee may-

- (i) communicate directly with the Council, Municipal Manager or the internal and external auditors of the municipality;
- (ii) access any municipal records containing information that is needed to perform its duties or exercise its powers;
- (iii) request any relevant person to attend any of its meetings, and if necessary, to provide information requested by the committee and investigate any matter it deems necessary for the performance of its duties and the exercise of its powers.

(9) **Loss and Damage**

- (a) If a person who is in the employ of the municipality caused the municipality a loss or damage because he –
- (i) failed to collect money owing to the municipality for the collection of which he was responsible;
 - (ii) is or was responsible for an irregular payment of money of the municipality or for a payment of such money not supported by a proper voucher;
 - (iii) due to an omission to carry out his duties, is or was responsible for fruitless expenditure of money of the municipality;
 - (iv) is or was responsible for a deficiency in, or for the destruction of or damage to money of the municipality, stamps, face value documents and forms having a potential value, securities, equipment, stores or any other property of the municipality; or
 - (v) due to an omission to carry out his duties, is or was responsible for a claim against the municipality;

then the Accounting Officer, or if the Accounting Officer was responsible for such loss or damage, the Council, shall determine the amount of such loss or damage and take disciplinary action where possible and in appropriate cases recover the loss or damage.

- (b) Any loss suffered by the municipality and which the Accounting Officer, or if the Accounting Officer is responsible, the Council, suspects to be due to any fraudulent or corrupt act or an act of bribery committed by any person, shall forthwith be reported by the Accounting Officer or the Council, as the case may be, to the South African Police Service and Auditor-General.

(10) **Unauthorised Expenditure**

Unauthorised expenditure shall be disallowed and shall not form a charge against a fund or account concerned until it has been approved by the responsible authority, in accordance with the normal budgetary procedure applicable to the fund or account concerned, and any unauthorised expenditure or part thereof as determined by the Minister, M E C or Council, as the case may be, which has not been authorised, shall be recovered from the Accounting Officer if he is unwilling to recover the amount concerned from the beneficiary or the person responsible for the unauthorised expenditure : Provided that where unauthorised expenditure has been effected –

- (a) on a written instruction of a Councillor notwithstanding the fact that he does not have the necessary authority; or

- (b) as a result of a Council resolution in favour of which a Councillor voted, unless it is recorded that such Councillor voted against such resolution; and after the Accounting Officer has recorded his objection against such instruction or resolution, such expenditure shall be recovered from the Councillor concerned : Provided further that all such unauthorised expenditure shall forthwith be reported by the Accounting Officer to the MEC for Local Government Affairs, the MEC responsible for Finance and the Auditor-General.

(11) **Audit Report**

The Internal Auditor shall report to the Accounting Officer quarterly on the audit activities of his section.

10. ASSETS

- (1) Every Head of a Department shall ensure the safeguarding and care of the assets including inventory items under his control.
- (2) Items according to description as determined by the Chief Financial Officer in his discretion or which value is less than the amount determined from time to time by the Chief Financial Officer, shall not be regarded as asset items but as inventory items. By the adaptation of such values or directions, the Chief Financial Officer shall be authorised to write off existing asset items in the register referred to in section 10(3) with a value less than the new value or the amended regulations and demand from the Head of the Department concerned to keep record of such written-off items on the inventory lists referred to in section 10(5).
- (3) The Chief Financial Officer shall maintain a record of all capital assets belonging to the Council which record shall contain at least a description of the asset concerned together with the original purchase price or other consideration relevant to the acquisition of the asset, as well as the source from which such acquisition was financed. Heads of Departments shall furnish the Chief Financial Officer with such further information which he considers necessary to compile and maintain such record.
- (4) A Head of a Department shall notify the Chief Financial Officer without delay of the acquisition, intended disposal, demolition or any other change in the status of any capital asset under his control and shall furnish the Chief Financial Officer with any information he may require from time to time regarding any assets of the Council.
- (5) (a) Every department shall keep inventories, in a form to be approved by the Chief Financial Officer, of all animals, plant, tools and furniture, details of which the Chief Financial Officer has not required to have recorded in the register referred to in section 10(3).
- (b) At such a date during every financial year of the Council as the Chief Financial Officer may decide, every Head of a Department shall cause a comparison to be made between the inventories referred to in subsection (a) and the assets in the possession of his department and shall report the result of such comparison to the Chief Financial Officer in writing.
- (c) If any asset referred to in the aforesaid inventories is found not to be in the department's possession, the Head of the Department shall include a statement of all the facts relating to the deficit in the report referred to in subsection (b).
- (d) The Head of the Department shall submit a written report to the Audit Committee and Council setting out the relevant facts relating to the absence of any asset as identified in accordance with subsection (c).

- (6) The Head of the Department concerned shall arrange for a complete check of all assets (as referred to in section 10(3)) shown on such records at least once during each financial year or as demanded by the Chief Financial Officer, and shall thereafter submit to the Chief Financial Officer a certificate of the existence or otherwise of such assets. The Head of the Department shall report any discrepancies which cannot, in the opinion of the Chief Financial Officer, be satisfactorily accounted for, to the Audit Committee and the Council.
- (7) Where, in the opinion of the Council, any asset should be scrapped or declared redundant or obsolete, such asset shall be kept in such a place as the Chief Financial Officer may direct, and the Chief Financial Officer shall dispose of such asset to the best advantage of the Council, in accordance with the stipulations of the Act and the Supply Chain Management Policy, provided that where such asset has been financed from a loan that is not fully redeemed, the Chief Financial Officer shall determine the method by which the unredeemed portion of the loan shall be repaid.
- (8) The Chief Financial Officer shall reconcile the capital assets and accounting records in respect of each financial year.
- (9) The regulations of section 9(10) is *mutatis mutandi* applicable on assets.

11. INVESTMENTS

- (1) The Chief Financial Officer in consultation with the Accounting Officer shall be responsible for the investment of the funds of the Council on such terms and conditions as may be prescribed by law and in accordance with a policy determined by the Council and shall in connection with such investments be empowered to buy or sell any securities and shall report monthly to the Council on all investments bought and/or withdrawn during the foregoing month.
- (2) The way in which surplus funds and other municipal funds must be invested, is controlled in terms of the Local Government: Municipal Finance Management Act, 2003, Municipal Investment Regulations.
- (3) The short-term investments should be made with an institution of minimum B rating (where B refers to higher risk institutions).

12. INSURANCE

- (1) The Chief Financial Officer shall be responsible for the placing of insurance in terms of the Supply Chain Management Policy. The Chief Financial Officer shall also be responsible for the management of the Council's self-insurance fund, if in operation, and shall in managing such fund, cover such risks as the Council may from time to time determine and ensure that adequate premiums are charged by the fund annually.
- (2) A self-insurance fund shall be protected by such reinsurance cover as the Council may determine.
- (3) The Chief Financial Officer may at any time require from a Head of a Department, a statement which he shall duly supply, reflecting the assets held by that department, the risks to be insured, and any other information which the Chief Financial Officer deems necessary.
- (4) A Head of a Department, where so required by the Chief Financial Officer, shall give prompt notice to the Chief Financial Officer of all property acquired, leased or rented, which should be insured against fire, accident or loss of any kind, and of any alterations in structure, or occupation of any buildings or items under insurance.

- (5) A Head of a Department shall advise the Chief Financial Officer of the amounts for which new insurance should be effected, or of any alterations in existing insurance's, having regard at all times to the replacement cost of assets.
 - (a) A Head of a Department shall give notice to the Chief Financial Officer within seven (7) working days after the occurrence of any fire or damage to or loss of the assets of the Council and shall as soon as possible, within the prescribed period and subject to the requirements of the insurances, after such incident, complete the appropriate claim forms and furnish quotations for the cost of making good such damage.
 - (b) A Head of a Department shall advise the Chief Financial Officer and the Director: Corporate Services immediately of any injuries to employees of the Council.
 - (c) A Head of a Department shall advise the Chief Financial Officer within forty-eight (48) hours of each case of any injuries or damage to third parties' property notwithstanding whether the Head of the Department is of the opinion that the case could give rise to a claim against the Council or not.
- (6) A Head of a Department shall promptly advise the Chief Financial Officer of any assets which in his opinion should be insured against political riot and insurance should be effected should the Accounting Officer deem it necessary.
- (7) Should the Council not operate a self-insurance fund to cover all risks, the Chief Financial Officer shall, unless the Council otherwise resolves, be responsible for the calling of tenders for the appointment of a suitable insurer, and shall ensure the placement of cover for such risks as the Council may from time to time determine, including cover for claims made against the Council by third parties.
- (8) The Chief Financial Officer shall keep a record of all insurance claims and policies of the Council, and be responsible for the payment of all premiums, and ensure that all claims which have been brought to his attention by the departments and which may arise under such policies are settled.
- (9) The Head of the Department who is in charge of a contract of work shall supply the Chief Financial Officer with all the information needed in order to enable the Chief Financial Officer to take out the necessary contract insurance before execution of the contract activities begins. The Head of the Department concerned also provides the Chief Financial Officer with the particulars of all risks which in his opinion must be ensured.

13. SUPPLY CHAIN MANAGEMENT

- (1) The Council shall have and implement a Supply Chain Management Policy in terms of section 111 of the Act which will give effect to the provisions of sections 110, 112, 113, 114, 115, 116, 117, 118 and 119 of the Act.
- (2) The Supply Management Policy shall also comply with the regulatory framework prescribed in Chapter 2 of the Local Government: Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations.

14. STOCKS AND MATERIAL

- (1) The Head of a Department authorised by the Council, on recommendation of the Chief Financial Officer, shall be responsible for the proper management of all stores under his control, for the safe custody of all goods and material contained therein, and shall keep such records of receipts and issues as the Chief Financial Officer may deem necessary to account for such stocks and material.

- (2) Maximum and minimum stock and reorder levels shall be determined in the manner prescribed by the Chief Financial Officer. Stocks shall not be held in excess of normal requirements, except where the Chief Financial Officer, or where the Chief Financial Officer does not manage purchases and supplies, the Chief Financial Officer and the Head of the Department responsible for stocks, agree that special circumstances exist.
- (3) Stocks and material shall only be issued against a requisition signed by an official authorised by the Head of the Department concerned.
- (4) A stores requisition shall not be executed unless particulars of the vote to be debited in respect of the goods or material supplied, are indicated thereon.
- (5) Subject to the provisions of section 14(4), no stores requisition in respect of an uniform or other clothing shall be executed unless it states in the case of an issue to a specific person, the name and official designation of the person for whom such uniform or clothing is required and unless the Head of Department has indicated thereon that it complies with the requirements of the Council regarding such issue.
- (6) With the exception of petty cash disbursements made from an imprest account in terms of section 6(7) all goods and material shall be purchased by the Head of Department and no goods or material so purchased shall be issued other than against a requisition signed by the Head of the Department or his assignee who requires the goods or material.
- (7) Except where the Chief Financial Officer is of the opinion that special circumstances exist, more material than is normally required, as ascertained by experience, shall not be kept by any department.
- (8) No stock items shall without the approval of the Head of Department be purchased out of imprest monies held by departments.
- (9) Every Head of a Department shall at least once in every financial year or as required by the Chief Financial Officer, carry out a stocktaking covering all stocks and material under his control and shall report to the Chief Financial Officer the quantity and value of any discrepancies and breakages in stocks revealed by such stocktaking, together with the reasons for such discrepancies and breakages. In addition, the Chief Financial Officer shall from time to time, and on such basis as he considers adequate, verify the existence of all stocks, whether under his control or under the control of another department.
- (10) Any adjustments to stock records, if it does not exceed the amount stipulated in section 16(5), shall be authorised in the manner prescribed by the Chief Financial Officer or the Council, as the case may be, provided that any adjustments which the Chief Financial Officer deems to be substantial, and all cases involving negligence or identifiable theft shall be reported to the Council and, if applicable, dealt with as prescribed by a higher authority and section 4(6)(c).
 - (a) All stocks and material available after the completion of the work or on fulfilment of the purpose for which they were issued, or recovered in the course of carrying out work, or on hand for any reason whatsoever, shall immediately, under cover of an advice note which adequately describes same, be returned to the store or such place as the Head of Department may direct. The advice note shall be in such form as the Chief Financial Officer may prescribe and, where applicable, the value placed on returned stocks and material shall be determined by the Head of the Department.
 - (b) The provisions of subsection 14(10) (a) shall also be applicable to any stock, goods, materials, assets etc., donated to the Council. The application or alienation of such goods etc. is subject to the normal stipulations as set out in these By-laws.

- (11) Where, in the opinion of the Council, any stocks and material should be scrapped or declared redundant or obsolete, the Chief Financial Officer or Head of a Department so authorised shall dispose of such stocks and material to the best advantage of the Council, in accordance with directives issued by the Chief Financial Officer or the Council, as the case may be.

15. INFORMATION AND COMMUNICATION SYSTEMS

- (1) The centralised corporate information and communication systems are the responsibility of the relevant Department and shall be maintained in such a way as to ensure the integrity and security of the systems and data.
- (2) The relevant Director shall take all reasonable measures to ensure adequate backup of programmes and data for recovery purposes.
- (3) All programme changes shall be recorded for audit purposes and be authorised by the relevant Director or his delegated representative.
- (4) A suitable disaster recovery plan shall be prepared and maintained by the relevant Director to cover all relevant aspects to maintain business continuity in the event of a disaster.
- (5) The relevant Director shall ensure that all reasonable steps are taken to prevent hardware and software from being infected by viruses. All workstations shall be supplied with the recommended software to assist in providing the necessary protection.
- (6) Information systems of any nature which generate financial results used to cost or estimate expenditure for recovery from third parties or which quantify levies, tariffs and other fees and charges must be certified by the Chief Financial Officer or his representative.

16. MISCELLANEOUS

(1) ***DELEGATIONS***

Wherever powers are delegated to an official in terms of these By-laws, the conditions whereunder such powers are delegated should be defined in the official Delegated Powers of Authority of the Council, including a condition that such official shall report to the Council at such intervals as the Council may determine.

(2) ***COMMITTEE MEETINGS, AGENDAS AND MINUTES***

Notices of all meetings of the Council shall be sent to the Chief Financial Officer, together with full agendas and reports.

(3) ***CIRCULARS, LETTERS AND OTHER WRITTEN COMMUNICATIONS FROM THE STATE AND OTHER INSTITUTIONS***

The Director: Corporate Services shall, immediately upon receipt of any circular, letter or other written communication, where the contents in any way relate to the financial administration, assets or stock of the Council, forward a copy of such communication to the Chief Financial Officer for attention.

(4) ***FINANCIAL PROCEDURES***

The Accounting Officer shall be empowered to prescribe procedures regarding financial matters including stocks and assets under these By-laws.

(5) **REVIEW OF MONETARY LIMITS**

The monetary limits in respect of these By-laws shall be as stipulated by the Supply Chain Management Policy as amended from time to time by the Council.

(6) **LEGAL EFFECT OF POLICIES**

The following Council policies are hereby given full legal effect and must be complied with:-

- Tariff Policy
- Rates Policy
- Supply Chain Management Policy and Procurement Policy
- Credit Control & Debt Collection Policy
- Indigent Policy
- Investment & Banking Policy
- Asset Management Policy
- Employment/Recruitment Policy
- ICT Policy and Record keeping Policy

(7) **REPEAL OF EXISTING MUNICIPAL FINANCIAL BY-LAWS**

The provisions of any By-laws relating to financial matters by the disestablished municipal entities or predecessors are hereby repealed insofar as they relate to matters provided for in these By-laws.

- (8) Any person who contravenes or fails to comply with any provisions of this By-law shall be dealt with in terms of the disciplinary procedures as set out in the relevant legislation and disciplinary code applicable to officials and councillors of the municipality.