



KWAZULU-NATAL PROVINCE  
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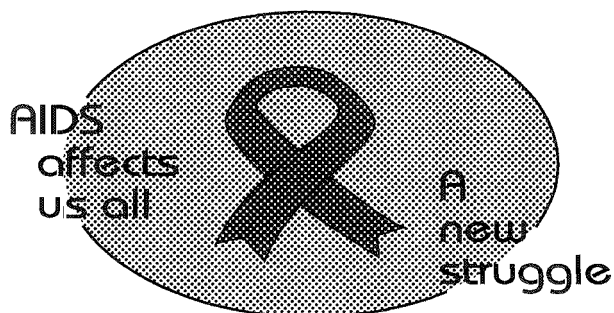
**Vol. 1**

**PIETERMARITZBURG,**

27 JULY 2007  
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**No. 21**

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**



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**MUNICIPAL NOTICES**

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**No. 19****27 July 2007****BYLAWS: RULES OF ORDER AND PROCEDURES****1. GENERAL**

- (a) The Council shall hold its Ordinary meeting quarterly and may hold a Special meeting at any time at the instance of the Speaker or on the request of EXCO or on a petition for a Special meeting of the COUNCIL ;
- (b) A petition of this nature must be signed by no less than 50% plus one of all Councillors of the Council, stating that it is a Requisition for a Special meeting of the Council to consider and deal with urgent matters which cannot wait for the Ordinary meeting of the Council and accompanied by a duly signed notice of motion, stating the intended business of the Special meeting and the proposed resolutions thereof ;
- (c) The Speaker convenes the meeting of the Council through a duly signed "NOTICE OF COUNCIL MEETING" stating the date , place and time of the meeting and stating whether it is an Ordinary or Special or "COUNCILLOR'S PETITION" Special meeting, and accompanied by or containing the agenda of the intended meeting ;
- (d) A quorum for every Council meeting shall be 50% plus one of all Councillors present in person throughout the meeting ; a lost quorum by the meeting shall render the unfinished portion of the agenda ; automatically adjourned to a date not later than the next ordinary meeting of the Council and place agreed to by the remainder of the Councillors present at the time of adjournment of the meeting ;
- (e) The Council may adjourn either a meeting or part thereof or a specific item on the agenda to a date not later than the next ordinary meeting of the council ;
- (f) The notice period of an Ordinary meeting of the Council is seven to twenty –one days; the notice period of a Special meeting of the Council is forty eight (48) hours to four (4) days ; the notice period for Councillor's petition Special meeting is three to seven working days .For the purpose of notice, adjourned business shall be treated like a Special meeting ;
- (g) The agenda of an Ordinary meeting of the Council shall be, as close as possible, as follows :
  - (i) Notice of the meeting ;
  - (ii) Opening remarks ;
  - (iii) Leave of absence ;
  - (iv) Confirmation of the previous meeting ;
  - (v) Announcements ;
  - (vi) EXCO reports ;

- (vii) Notice of Motion ;
- (viii) General matters of which notice has been given ;
- (ix) Questions ;
- (x) Outstanding matters ;

## 2. RULES OF GENERAL CONDUCT

- (a) All people present in chamber shall stand on their feet and in silence to receive the Speaker into the chamber ;
- (b) The Municipal Manager or an official designated by her/him shall inform the people in the chamber of the arrival of the Speaker ;
- (c) The Speaker, whilst standing at her/his seat on the Council podium shall call upon all present in the chamber to stand in silence for a solemn reflection and commitment. They must remain in this position until the Speaker says “Ngiyabonga /Thank you” ;
- (d) Councillors and officials must conduct the business of the Council in the highest decorum and integrity that the occasion deserves and be dressed appropriately for the dignity of the Council ;
- (e) Whilst Councillors are at liberty to speak and to debate any business serving before the Council, officials may only address the Council on a specific issue on the orders of the Speaker; the Municipal Manager is however obliged to advise the Speaker from time-to-time to ensure the legality of the Council’s proceedings ;
- (f) Speakers shall only speak to the motion under consideration and the Speaker shall allocate time to each political party proportionally according to their representation in Council. No Speaker shall exceed the time allocated to him/her by the Speaker (This excludes points of order and motions of order).
- (g) Councillors (and officials alike) may only refer to fellow Councillors as “*ikhansela elihloniphekileyo / The Honourable Councillor*” so and so and may not use an offensive or objectionable expression overtly or covertly in reference to a Councillor or an official ;
- (h) A Councillor shall only raise his/her hand to indicate his/her intention to speak or take part in the debate under consideration ;
- (i) A Councillor can only speak when directed by the Speaker to do so and must confine himself/herself strictly to the motion or the subject matter under consideration.

### 3. CODE OF CONDUCT

- (a) Without derogating from the generality of the Code of Conduct for Councillors as more fully set out in Schedule 1 of the Local Government : Municipal Systems Act, a Councillor shall not take part in a public protest or march or demonstration, overtly or covertly, of whatever nature against the municipality or structure/organ thereof. A breach of this rule shall be read into clause 2(b) of the Code of Conduct for Councillors and such clauses apply *mutatis mutandis* ;
- (b) Councillors shall not divulge the contents of discussion / debates which served before a Council's Committee meeting nor the contents of a resolution thereof unless the relevant committee gives specific permission for such public disclosure. This rule shall only apply to proceedings of the Council – in – Committee.
- (c) A Councillor shall be guilty of compromising the integrity and credibility of the municipality if he/she speaks ill of the Council, a committee of the Council or a functionary of the municipality in public, or if he/she makes a blatant misrepresentation(s) of facts of anything involving the municipality, or if he/she marches in public against the council, a committee of the council or a functionary of the municipality.

### 4. POWERS AND DUTIES OF THE SPEAKER

- (a) The Speaker has two capacities at a meeting of the council; namely the Speaker and a Councillor and he/she must be assumed to be speaking in Speaker capacity unless he/she informs the meeting otherwise ;
- (b) The Speaker, like all Councillors, is bound by the generality of the letter and spirit of these rules ;
- (c) The main duty of Speaker is to ensure and maintain order during the course of the proceedings of the meeting, using these rules as the instrument for the purpose ;
- (d) All the rulings and directions of the Speaker in these rules shall be final and not subject to debate ;
- (e) The Speaker is the symbol of the institution of the meeting and therefore never out of order but the giver of order;
- (f) If the Speaker is of the opinion that a Councillor or official or member of the public behaves in a manner that has the propensity to disrupting the order of the meeting , the Speaker may order the concerned person to discontinue or stop the behaviour including the speech in question ;
- (g) The Speaker shall ensure at all times, that Councillors transact the business of the meeting in terms of these rules of order and procedure ;
- (h) When the Speaker interrupts a Councillor whilst still speaking, the latter shall take her/his seat immediately and wait for the direction of the Speaker ;

- (i) When the Speaker stands up or calls the entire meeting to order, all Councillors must lower their hands and remain on their seats, waiting for the Speaker to give direction ;
- (j) In the event of any person showing a persistent disregard of the authority or orders of the Speaker, the Speaker may order that person, including a Councillor, to retire from the meeting for the remainder of the meeting ;
- (k) If a Councillor persistently disregards these rules and authority of the Speaker continuously at every Council meeting, the Speaker may give notice to the Council to convene a meeting of the Council-in-Committee for the purpose of the disciplinary proceedings against the Councillor concerned in terms of the Code of Conduct ;
- (l) If a Councillor is found to have been disrespectful of the authority of the Speaker, such behaviour shall be in breach of the Code of Conduct;
- (m) Any person not a Councillor who consistently misbehaves during the Council meeting may be prevented from further admittance into the Council Chamber by the Speaker; such an order of the Speaker must be placed before the following Council meeting for either approval or disapproval ;
- (n) The Speaker shall rule on any point of order and on the desirability of an explanation thereof; his/her ruling is final and not subject to a debate;
- (o) There shall be a "Speaker's Privilege Rule " which the Speaker shall exercise at his/her discretion from time-to-time;
- (p) The Speaker shall use this rule to afford any person of his/her choice, the opportunity to address the meeting of the council on a specific subject ;
- (q) The Speaker may used this rule to afford, amongst others, the chairperson of Council Committees to address the Council on their respective committee's report to Exco

## 5. NOTICE OF MOTION

- (a) Generally, a Notice of Motion is the instrument by which Councillors may bring items on the agenda of a Council meeting and as such, only Councillors may make use of the instrument ;
- (b) **A NOTICE OF MOTION** must be signed by the proposer and countersigned by the seconder who, both must be in attendance of meeting ;
- (c) The Municipal Manager shall keep a register of the Notices of Motion which register shall be open to the public for inspection ;
- (d) A Notice of Motion must be received by the Speaker and Municipal Manager seven (7) days before the day of the issue of the notice of the meeting ;

- (e) A Councillor shall be allowed not more than three Notices of Motion on the same agenda.

## **6. NOTICE OF GENERAL MATTERS**

- (a) The Municipal Manager with the consent of both the Speaker and the Mayor may place notice of general business of an urgent nature on the agenda.
- (b) Any Councillor requiring information on any business activities or procedure of the municipality on any matter, may raise the same by way of a question to the Municipal Manager, asking the Municipal Manager to furnish the council with specific information, which information with the consent of the Speaker and the Mayor, shall be provided; the Speaker may refer such questions to EXCO for a comprehensive report;
- (c) Such questions must be in writing and must be with the Municipal Manager and the Speaker seven (7) days before the day of the notice of the meeting is sent out to the Councillors;
- (d) Questions for which no prior notice has been given, may be verbally raised by any Councillor which questions shall be answered at the next Council meeting; for the purpose of this rule, a Councillor may not ask more than (3) verbal questions.

## **7. POINTS OF ORDER**

- (a) Any Councillor may raise a Point of Order at any time regardless of whether such Councillor has spoken on the matter or not ;
- (b) Any person raises a point of Order to draw the attention of the Speaker to a contravention of these rules. The Speaker is never out of order;
- (c) The Point of Order takes precedence over everything else in the meeting and the Speaker must grant immediate hearing to the councilor raising the Point of Order and rule accordingly;
- (d) The Speaker may either sustain the Point of Order or dismiss it; in case of the former, the Speaker shall rule as prayed for by the Point of Order and in case of the latter, the Speaker must dismiss the Point of Order and order the person raising it to take his/her seat; the Speaker's ruling on a Point of Order shall be final ;
- (e) The twin of a Point of Order is 'Point of Procedure'; this is an instrument used to assist the Speaker to follow the correct procedure in conducting the meeting; the Point of Procedure may be raised by any Councillor at any time against the Speaker ;
- (f) When a Councillor raises the Point of Procedure ,the Speaker must give him/her a hearing and rule on it immediately and his/her ruling is final ;

- (g) Both the Point Order and the Point of Procedure are not regarded as a Councillor's turn of speaking on the debate ;
- (h) Points of Order/Procedure shall be oral and shall not be seconded.

## **8. MOTION OF ORDER**

- (a) There are four Motions of Order:
  - (i) "That the matter now be put to the Council"  
(Take a vote on the debate).
  - (ii) "That the question be referred to a committee"  
(Refer the debate to a committee for consideration).
  - (iii) "That the consideration of the question be adjourned"  
(The adjournment is to a date not later than the next ordinary meeting of the Council).
  - (iv) "That the Council proceeds to the next business"
- (b) A Motion of Order may be raised by any Councillor either at the end of his/her speech or without any speech and must be seconded.
- (c) The Speaker shall allow a brief debate on a Motion of Order to determine whether there is support for or against the proposed Motion of Order to enable him/her to rule accordingly;
- (d) A Motion of Order may be withdrawn by the mover with the consent of the Council ;
- (e) No Motion of Order may be put before the preceding one is disposed of ;
- (f) Participation in the debate of a Motion of Order shall not be regarded as a turn to speak;
- (g) A Motion of Order need not be in writing;

## **9. VOTING**

- (a) Every duly proposed motion, and duly seconded, shall be put to the vote by the Speaker ;
- (b) A Councillor may vote either for the motion or against the motion or may abstain from voting ;
- (c) The Municipal Manager or his/her nominee, shall be teller and shall record the result of voting, but the Speaker shall announce the result;
- (d) There shall be two forms of voting; namely - "Show of hands", and "Secret Ballot",



- (e) The form of voting shall be by “Show of Hands” unless otherwise stipulated by an Act of Parliament.

#### **10. COUNCIL – IN – COMMITTEE**

- (a) Subject to Section 20 of Local Government : Municipal Systems Act, 2000 the Council may at any time of the proceedings resolve itself into a Council-in-Committee by resolution of the Council ;
- (b) The Speaker’s direction that the Council resolves itself into Committee, to which there is no objection, shall be regarded as the resolution of the Council;
- (c) All officials and the public, except the Municipal Manager and an official exempted from this rule by the Speaker, shall be excluded from the meeting of the Council-in-Committee;
- (d) All proceedings of the Council-in-Committee or its Committees shall be confidential.

#### **11. THE SPEAKERS’S EXTRA ORDINARY RULE**

- (a) The Speaker shall have the power to employ extra ordinary measures and procedures to ensure both the order of the meeting and the control of the debate, this power shall be known as “*The Speaker’s Extra-Ordinary Rule*” ;
- (b) The Speaker shall only activate this rule if in his/her opinion the issue under consideration is controversial and the debate has the propensity to degenerating into chaos;
- (c) The purpose behind this rule is to enable the Speaker to ensure a fair play and to be seen to be ensuring a fair play in managing the debate;
- (d) The Speaker shall formally declare that in his/her opinion the debate under consideration is potentially controversial and therefore the Speaker’s Extra-Ordinary Rule applies;
- (e) The Speaker shall determine the time for the debate and allocate such time proportionally to the political parties represented on the Council, and for this purpose any Party Whip may rise on a Point of Procedure and ask for a short break so that parties could decide on their respective speakers on the debate;
- (f) Any Party Whip may rise on a Point of Procedure and ask the Speaker to activate the Speaker’s Extra-Ordinary rule and the Speaker shall rule on the request accordingly and his/her ruling is final.

## 12. ATTENDANCE OF MEETINGS

- (a) A Councillor shall attend all meetings of the Council and of a Committee of which the Councillor is a member;
- (b) A Councillor may only be absent from a Council Meeting or a Committee Meeting of which Committee that Councillor is a member, if the council, in the case of a Council meeting or the committee in the case of a Committee meeting, has granted that Councillor a leave of absence from that specific meeting or meetings;
- (c) A Councillor shall apply for a leave of absence in writing to the Speaker in the case of a Council meeting or the Chairperson of the Committee in the case of a Committee Meeting;
- (d) Application for the leave of absence shall be tabled at the meeting of the Council or committee preceding from which the Councillor is to be absent. In the case where the Councilor has become aware of him/her being absent from Council meeting or Committee meeting after the last meeting Council or the Committee, such application, stating the reasons, shall be read at the meeting from which the Councillor will be absent,
- (e) The Speaker may approve such application if he/she is satisfied with the reasons. The speaker's approval shall be deemed to be the Council's granting of such leave of absence in retrospect. In the case of a committee meeting, the Speaker may only approve such leave of absence after consultation with the Chairperson of the committee;
- (f) There shall be a register of all the approved leave of absences for every financial year kept at the registry office;
- (g) Approved leave of absence shall be referred to the office of the Municipal Manager for the record purposes;
- (h) For the purpose of clause 4 ( 1) of the Code of Conduct, Schedule 1 of the Municipal Systems Act, the Council may impose either of the following fine penalties for any absence without an approved leave of absence;
  - (i) 20 % of the total monthly allowance payable to a Councilor for the first offence;
  - (ii) 30 % of the total monthly allowance payable to a Councillor for the second offence;
  - (iii) 50 % of the total monthly allowance payable to a Councilor for the third offence;
  - (iv) 75 % of the total monthly allowance payable to a Councilor for the forth offence;
- (i) All Councillors attending a meeting must sign the register of attendance, failing which such a Councillor shall deemed to have been absent from the meeting without a leave of absence.

- (j) Council meetings shall not start later than twenty five (25) minutes of the scheduled starting time of the notice of the meeting .If a quorum cannot be obtained the business of the day will be adjourned to a date not later than the next council meeting.
- (k) Councillors shall not be more than twenty five (25) minutes late for any scheduled Council meeting.

### 13 MISCELLANEOUS

- (a) These rules shall apply *mutatis – mutandis* to the proceedings of the Council's Committees and generally, rules 8, 9 and 10 shall not apply to the proceedings of the Council's Committees unless the Chairperson of the Committee directs otherwise; and any Councillor grieved by the Chairperson's direction may appeal to the Speaker; and if not satisfied with the Speaker's determination, appeal to the Council;
  - (b) The following items shall not be regarded as appropriate dressing for the purposes of a Council Meeting:-
    - (i) Jeans
    - (ii) Tackies or canvas shoes
    - (iii) Dark sunglasses except on medical grounds
    - (iv) Hats for males
    - (v) T-shirts
  - (c) Fire-arms shall not be allowed in the Council Chamber;
  - (d) These rules or a portion thereof, may be suspended by the majority of the members of the Council;
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