

**KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI**

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

GAZETTE EXTRAORDINARY—BUITENGEWONE KOERANT—IGAZETHI EYISIPESHELI

(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)
(Irejistiwee njengephaphandaba eposihhovisi)

Vol. 2

PIETERMARITZBURG,

23 MAY 2008
23 MEI 2008
23 UNHLABA 2008

No. 102

<i>No.</i>		<i>Page</i>
	MUNICIPAL NOTICE	
24	Constitution of the Republic of South Africa (108/1996): Umdoni Municipality: Rules and procedures of the Umdoni Municipal Council.....	3
<i>No.</i>		<i>Ikhasi</i>
	ISAZISO SIKAMASIPALA	
24	Imithetho nenqubo yomkhandlu dolobha umdoni.....	39

MUNICIPAL NOTICES—IZAZISO ZIKAMASIPALA**No. 24****23 May 2008****MN 97 of 2007**

The Municipal Council for the Umdoni Municipality has adopted the following bylaws at its meeting held on 25 July 2007 in terms of section 160(6)(b) of the Constitution of the Republic of South Africa (Act No 108 of 1996) read with section 31(2) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and hereby publishes the subjoined bylaws in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000) to come into effect on the date of publication in the Provincial Gazette.

DD Naidoo
Municipal Manager

RULES AND PROCEDURES OF THE
UMDONI MUNICIPAL COUNCIL

(Note: In these Rules, words that appear in *italics* are quoted or paraphrased from the legislation regulating local government)

1. Definitions

In these rules, unless the context otherwise indicates -

"Absent" in relation to a meeting of the Council or a committee of the Council, means absent without having obtained leave from the meeting of the Council or the committee.

"mend a motion" means to make minor alterations or modifications to a motion without changing the original meaning or intention of the motion.

"Code of Conduct" means the Code of Conduct for Councillors as provided for in Schedule 1 of the Systems Act [see Schedule 5 of the Rules].

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

"Council" means the Umdoni Municipal Council.

"Council-in-committee" means that the Council may, during the course of its deliberations, resolve to sit as a committee in circumstances where matters of a confidential or legal nature are to be debated or in circumstances where, in the opinion of the majority of the members of the Council, the presence of the media or members of the public would prevent free and open discussion on the matter under consideration.

"Councillor" means a member of the Umdoni Municipal Council.

"delegating authority":-

- (a) *in relation to a delegation of a power or duty by the Council, means the Council; or*
- (b) *in relation to a sub-delegation of a power or duty by another political structure, or by a political office bearer, Councillor or staff member of the Council, means that political structure, political office bearer, Councillor or staff member.*

"division" means a detailed count of those for and against a motion.

"An Executive Committee" means the Executive committee established in terms of section 43 of the Structures Act.

"Ex-officio members of Committees":- The municipal council shall at the first and every subsequent appointment of a committee determine the chairman and deputy chairman of that committee. Except for committees on which the Mayor, Deputy Mayor and the Speaker are ordinary members, the Mayor, Deputy Mayor and the Speaker shall be ex-officio members of all other committees by virtue of their office and shall not be included in the quorum of such committees. The Mayor, Deputy Mayor and the Speaker as ex officio members of committees, shall not be subject to deduction of allowance for non-attendance at committee meetings.

"General Manager" means a person appointed by the Council, after consultation with the Municipal Manager, and who is directly accountable to the Municipal Manager.

"motion" means a formal proposal submitted to a meeting of the Council, or a committee, for consideration. When the motion is agreed to, or unopposed, it becomes a resolution.

"Municipal Manager" means the person appointed in terms of section 82 of the Structures Act and, when necessary, the person appointed to act on that person's behalf.

"person" means and includes a juristic person such as a registered company or a registered close corporation.

"point of clarification" means an interpretation or explanation of some material part of a Councillor's speech which is, or might have been, misunderstood, unclear or vague.

"point of order" means a question raised at a meeting for the purpose of calling attention to a departure from the Rules, an irregularity in the proceedings or conduct of the meeting or to a breach of some statutory requirement(s). Points of order may draw attention to any of the following:

- (a) a quorum has not been maintained;
- (b) a motion or an amendment to a motion is not within the scope of the meeting;
- (c) there is no motion before the meeting;
- (d) there has been a violation of a statutory, constitutional or common law requirement;
- (e) any other irregularity in the proceedings.

"political office bearer" means the Speaker, Mayor, Deputy Mayor or a member of the Executive Committee as referred to in the Structures Act.

"political structure" means the Council or any committee or other collective structure of the Council elected, designated or appointed in terms of a specific provision of the Structures Act.

"portfolio committee" shall include a joint committee of portfolio committees.

"privilege and immunity means:-

- that Councillors have freedom of speech at meetings of the Council and its committees, subject to the Council's Rules; and

- that Councillors are not liable to civil or criminal proceedings, arrest, imprisonment or damages for -
 - (i) anything that they have said in, produced before or submitted to the Council or any of its committees; or
 - (ii) anything revealed as a result of anything that they have said in, produced before or submitted to the Council or any of its committees.

"quorum" means that a majority of members of the Council is required to be present at a meeting of the Council for the business considered at such meeting to be valid.

"Rule or Rules" means the Rules and Procedures of the Umdoni Municipal Council.

"Speaker" means a councillor elected in terms of section 36 of the Structures Act to be the chairperson of the Council as envisaged in section 160(1)(b) of the Constitution.

"The Structures Act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).

"The Systems Act" means the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000).

"The MFMA" means the Municipal Finance Management Act.

2. Election of Speaker, Mayor and Deputy Mayor

- (1) The election of the Speaker shall be regulated by section 36 and Schedule 3 of the Structures Act;
- (2) The election of the Mayor and the Deputy Mayor shall be regulated by section 48 and Schedule 3 of the Structures Act.

3. Functions of the Speaker

- (1) *The Speaker shall -*
 - (a) *preside at meetings of the Council;*
 - (b) *perform the duties and exercise any powers delegated to the Speaker in terms of section 32 of the Structures Act;*
 - (c) ensure that the Council meets at least once in every month unless otherwise resolved by the Council;
 - (d) *maintain order during meetings;*
 - (e) *ensure compliance in the Council and Council committees with the Code of Conduct set out in Schedule 1 of the Systems Act [Schedule 5 of the Rules];*
 - (f) *ensure that Council meetings are conducted in accordance with the Rules of the Council.*
- 2) The Speaker shall be responsible for the correctness of the minutes of every meeting.
- 3) Minutes of the proceedings of a meeting of the Council, or of a committee of the Council, signed by the Speaker, or the Chairperson of the committee, as the case may be, or an extract from such minutes certified as correct by the Speaker, or the Chairperson of the committee, or by an officer authorised by the Speaker, shall be received in evidence in a Court without further proof.

4. Term of office of Speaker

The Speaker shall, subject to section 28 of the Structures Act, hold office until such time as the next Council is declared elected. [See Rule 5]

5. Vacation of office of Speaker

The Speaker shall vacate office during a term if that person -

- (a) resigns as Speaker;*
- (b) is removed from office;*
- (c) ceases to be a Councillor.*

6. Removal of Speaker from office

The Council may by resolution of a majority of the votes cast at a meeting, remove the Speaker from office, provided that prior notice (14 days) of an intention to move a motion for the removal of the Speaker is given.

7. Acting Speakers

If the Speaker of the Council is absent or not available to perform the functions of Speaker, or during a vacancy, the Council shall elect another Councillor to act as Speaker.

8. Meetings of the Council

- (1) The Speaker shall, subject to section 18 (2) of the Structures Act [See Rule 3(c)], decide when and where the Council meets, but if a majority of the Councillors requests the Speaker in writing to convene a Council meeting, the Speaker shall convene a meeting at a time set out in the request. The ordinary meetings of Council shall be held not less than once every three (3) months.*
- (2) The Municipal Manager or, in the absence of the Municipal Manager, a person designated by the MEC for Local Government, shall call the first meeting of the Council within fourteen (14) days after the Council has been declared elected.*
- (3) The Speaker/ Chairperson shall, at least seventy-two (72) hours before any ordinary meeting of the Council and at least forty-eight hours before any portfolio committee, and at least twenty-four (24) hours in the event of a special or urgent meeting of the Council or a portfolio committee, give written notice to all Councillors, specifying the date, time and venue of the meeting and the business to be transacted at such meeting, and such notice shall be left or delivered to Councillors in their Constituency offices or to councillors directly. Accidental omission to serve on any councillor a notice of meeting shall not invalidate the proceedings of that meeting.*
- (4) In the event of a special or urgent meeting, when it is not possible to give notice in writing, the Speaker shall advise the Municipal Manager to contact Councillors, telephonically, at least twenty-four (24) hours before the meeting, to notify them of the meeting.*
- (5) The Municipal Manager shall give notice to the public, in a manner determined by the Council, of the time, date and venue of every ordinary meeting of the Council and any special or urgent meeting of the Council, except when time constraints make this impossible.*
- (6) The Council shall recess in accordance with the KwaZulu-Natal school recesses.*

9. Admission of public to meetings

- (1) *Meetings of the Council and those of its committees shall be open to the public, including the media, and the Council or such committee may not exclude the public, including the media, from a meeting, except when -*
- (a) it is reasonable to do so having regard to the nature of the business being transacted; and
 - (b) a by-law or a resolution of the Council specifying the circumstances in which the Council or such committee may close a meeting and which complies with paragraph (a), authorises the Council or such committee to close the meeting to the public.
- (2) *The Council, or a committee of the Council, may not exclude the public, including the media, when considering or voting on any of the following matters:*
- (a) *a draft by-law tabled in the Council;*
 - (b) *a budget tabled in the Council;*
 - (c) *the Council's draft integrated development plan, or any amendment of the plan, tabled in the Council;*
 - (d) *the Council's draft performance management system, or any amendment of the system, tabled in the Council;*
 - (e) *the decision to enter into a service delivery agreement referred to in section 76(b) of the Systems Act ; or*
 - (f) *any other matter prescribed by regulation.*
- (3) *The Council's Executive committee may, subject to section 20(1)(a) of the Systems Act [see Rule 9(1)(a)], close any or all of its meetings to the public, including the media.*

10. Procedure at Council meetings

- (1) At the commencement of each Council meeting the bell shall be rung when the meeting is due to start. All Councillors shall take their places.
- (2) Any person, including a Councillor, an official or a member of the public who wishes to speak at a meeting of the Council must observe the Rules and conform to the directions determined by the Speaker, who may impose any reasonable restrictions on any person wishing to speak.
- (3) A member of the public who wishes to speak at a Council meeting may only speak on those matters mentioned in Rule 9(2)(a) to (f).
- (4) A member of the public who wishes to speak at a Council meeting shall obtain the permission of the Speaker to do so, prior to the commencement of the meeting.
- (5) The Council's policy on public participation (Schedule 2), shall apply to members of the public wishing to speak at Council meetings.
- (6) The Council may resolve into Committee at any time during any of its sittings by the passing of a resolution.
- (7) A motion to that effect shall not be debated and shall be seconded.
- (8) The Speaker, or the acting Speaker, shall act as Chairperson of the Council-in-committee.
- (9) The Council will resume on the passing of a resolution that the Council now resume.

- (10) When the Council has resumed, a councillor shall move that the action of the Council-in-committee be confirmed. Such a motion shall not be debated and shall be seconded.
- (11) In the event that the Council resolves to close any of its sittings or that any of the proceedings at a Council meeting shall be heard in closed session, the Speaker shall order any non-members of the Council to withdraw from the Chamber until such time as such matters have been completed.

11. Attendance at Council and committee meetings

- (1) A councillor shall attend each meeting of the Council and of a committee of which that councillor is a member unless that councillor is granted leave of absence from such meetings.
- (a) An application for leave of absence from a Council or committee meeting shall be made on the prescribed form and shall be signed by the councillor applying for leave. The application shall be submitted to the Municipal Manager who shall ensure that the application is tabled at the meeting from which leave of absence is being applied, or the application shall be tabled at the commencement of the meeting of the Council or the committee, as the case may be (Schedule 4).
- (b) The councillor applying for leave of absence shall furnish detailed reasons for such request. If the Council or the committee is satisfied that the reasons furnished by the councillor do not warrant a deduction for non-attendance, the councillor shall be granted leave of absence from that meeting of the Council or the committee.
- (c) In the event that the Council or the committee declines to grant a councillor leave of absence from a Council or committee meeting, or a councillor fails to apply for leave of absence from such meetings, the Municipal Manager shall deduct from that councillor's allowance, the sum of money specified in item (1) of Schedule 1 of the Rules. The councillor shall have the right to contest the decision by means of a written submission to the Speaker or the Municipal Manager.
- (d) A councillor shall remain in attendance at a meeting of the council or a committee for a minimum period of three (3) hours, provided that the Council or committee meeting continues for that period of time or longer, unless the Speaker or the Chairperson of the committee agrees to the councillor's attendance for a lesser period, concerned.
- (e) A councillor who fails to remain in attendance at a meeting of the Council or a committee for three hours and leaves such meeting without having obtained the consent of the Speaker or the Chairperson of the committee, shall be liable to have the sum of money specified in item (1) of Schedule 1 of the Rules, deducted from that councillor's allowance.
- (f) When a councillor is absent from three or more consecutive meetings of the Council which that councillor is required to attend, the Municipal Manager shall commence proceedings for the removal of that councillor from office as a councillor in accordance with the procedures specified in items (3) to (12) of Schedule 1 of the Rules.
- (g) When a councillor is absent from three or more consecutive meetings of a committee which that councillor is required to attend, the Municipal Manager shall commence proceedings for the removal of that councillor from office as a councillor in accordance with the procedures specified in items (3) to (12) of Schedule 1 of the Rules.

- (h) Councillors wishing to apply for leave of absence shall hand their completed application forms to the Committee Clerk, not less than thirty (30) minutes prior to the commencement of the relevant meeting.

12. Quorum and acts of Council

- (1) A majority of the Council shall constitute a quorum of the Council and shall be present at a meeting of the Council before a vote may be taken on any matter.
- (2) If a quorum is not present at the expiration of ten (10) minutes after the time appointed for the meeting, the Speaker may, with the consent of a majority of the members present, allow further time in order to enable a quorum to assemble, or the Speaker may adjourn the meeting to a date and time agreed upon by a majority of the members present.
- (3) If a meeting has to be adjourned to another date and time, any councillor who is not present when the meeting is adjourned and who has not applied for leave, shall be liable to have the sum of money specified in item (1) of Schedule 1 of the Rules deducted from that Councillor's allowance.
- (4) If a councillor or group of councillors leave any meeting in protest, the remainder of the councillors shall constitute a quorum in order to carry on with the business of the meeting, provided that the remainder of the councillors then present in the meeting venue shall not be less than a majority of the total number of councillors.
- (5) If during a sitting of the Council or any of its committees, the attention of the chairperson is called to the number of members present, he shall count them, and if found that there is no quorum present, the Council or the committee shall stand adjourned for the period prescribed in section 12(2) whereafter all of the provisions of section 12 shall apply.
- (5) All questions concerning matters mentioned in section 160(2) of the Constitution are determined by the Council with a supporting vote of the majority of its councillors. All other questions before the Council shall be decided by a majority of the votes cast subject to section 34 on the Municipal Structures Act pertaining to the dissolution of the Council

13. Order of Business

- (1) The order of business at every ordinary meeting of the Council shall be as follows:
- Dedication and brief period of silence (If any)
 - Notice convening the meeting
 - Apologies and applications for leave from the current meeting of the Council
 - Approval of the agenda
 - Announcements
 - Confirmation of minutes of previous meeting of the Council
 - Report back by councillors as allowed by the Speaker
 - Mayoral report
 - Reports of the Executive Committee
 - Full-time Councillors' Activity Reports
 - The Speaker may, at any stage, bring forward any business that is on the agenda.
- (1) The order of business at every ordinary meeting of the portfolio committee shall be as follows:

- Dedication and brief period of silence (If any)
- Notice convening the meeting
- Apologies and applications for leave from the current meeting of the Council
- Approval of the agenda
- Confirmation of minutes of previous meeting
- Matters arising from the minutes (Only at the discretion of the chairperson and provided that no further discussion on the matter will be allowed that will lead to a resolution being overturned)
- Reports from Heads of Department
- Miscellaneous in the order to be determined by the chairperson

The chairperson may in his/her discretion bring forward any business that is on the agenda paper at any stage. For reasons of proper record keeping and a standardised numbering system, any matter so dealt with at any earlier stage than the sequence indicated on the agenda paper shall be recorded in the minutes of the meeting in the sequence it originally appeared on the agenda paper.

14. Decisions

- (1) *All matters concerning the following shall be determined by a decision taken by the Council with a supporting vote of a majority of the Council:-*
 - (a) *the passing of by-laws;*
 - (b) *the approval of budgets;*
 - (c) *the imposition of rates and taxes, levies and duties; and*
 - (d) *the raising of loans.*
- (2) *All other questions before the Council shall be decided by a majority of the votes cast.*
- (3) *If on any question there is an equality of votes, the councillor presiding (the Speaker) shall exercise a casting vote in addition to that councillor's vote as a councillor.*
- (4) *Before the Council takes a decision on any of the following matters it shall first require the Executive Committee to submit to it a report and recommendation on the matter:-*
 - (a) *the passing of by-laws;*
 - (b) *the approval of budgets;*
 - (c) *the imposition of rates and taxes, levies and duties;*
 - (d) *the raising of loans;*
 - (e) *the approval of an integrated development plan for the Municipality and any amendment to that plan;*
 - (f) *the appointment and conditions of service of the Municipal Manager and a head of department of the Council.*

15. Conduct of councillors, officials and other persons and Rules of Debate

- (1) At the commencement of a meeting, all cellular telephones shall be switched off.
- (2) During the meeting no councillor, official or other person shall converse aloud.
- (3) No councillor shall interrupt another councillor while speaking, except to call attention:-

- (a) to a point of order;
 - (b) to a point of clarification;
 - (c) to a question of privilege as provided for in section 28 of the Structures Act;
 - (d) to the presence of non-councillors, where the meeting is a closed meeting.
- (4) Except for the Chairperson of the Executive Committee, no councillor shall be permitted to speak more than once to any item on the agenda and not for longer than three (3) minutes; provided that the Council may, upon a motion, duly seconded, suspend this rule. Such a motion shall be put to the meeting without debate. The time limits shall be at the sole discretion of the chairperson guided by the principles of fairness, democracy, efficiency and good governance.
- (5) The Chairperson of the Executive Committee, or any other member of the Executive Committee, as agreed, shall introduce reports of the Executive Committee and all members of the Executive Committee shall have a right of reply on any items included in those reports.
- (6) When the Speaker rises or calls for order, any councillor then speaking or offering to speak shall stop speaking and shall allow the Speaker to be heard without interruption.
- (7) The Speaker, after having called attention to the conduct of a councillor or official who persists in irrelevance or repetition of arguments, may direct the councillor or official to stop speaking.
- (8) If the Speaker is of the opinion that a councillor is deliberately contravening a provision of the Rules; or that a councillor is in contempt of, or is disregarding, the authority of the Chair, or that a councillor's conduct is grossly disorderly, the Speaker may order the councillor to withdraw immediately from the Chamber for the remainder of the meeting, or for such period of time as the Speaker may deem appropriate and if necessary cause him/her to be ejected therefrom.
- (9) The Speaker/Chairperson may exclude from a meeting, for such period of time as he/she may deem fit, any councillor who has so committed an act of misconduct or behaved in an unseemly manner or persistently obstructed the business of the meeting or disregarded the authority of the Chair.
- (10) Any person other than a councillor, who misconducts himself or herself, behaves in an unseemly manner or interrupts the proceedings of the council, portfolio committees or any sub-committees of the Council at any meeting shall, if the Chairperson so directs, be removed from the chamber or venue where the meeting is being held, and the chairperson may exclude such person from further admittance to the Council chamber or the meeting venue for such period as it may deem fit.

16. Voting and Divisions

- (1) When the Council is required to vote on a motion or a proposal, those councillors in favour of the motion or proposal and, thereafter, those against it shall be called upon by the Speaker to indicate their vote by a show of hands. The Speaker shall then declare the motion carried or lost, as the case may be.
- (2) The Municipal Manager shall cause to be recorded in the minutes, the names of the Councillors present and whether they voted for or against the motion.
- (3) Every councillor shall endeavour, in the interest of good governance to give his/her vote on every division at which at which he/she is present and no councillor shall leave the council chamber during the time the chairperson is putting the question. A councillor may abstain from voting and

such intention may be indicated by being stated on record.

- (4) When councillors wish to abstain from voting, it will not be necessary for those councillors to leave the chamber.
- (5) When voting, the Municipal Manager or an official designated by him shall act as teller and declare to the chairperson the result of the divisions. In the event of a secret ballot, the Municipal Manager shall hand to each councillor a ballot paper bearing the official mark or logo of the municipal council and having the alternatives to be voted for clearly depicted thereon, substantially in accordance with the following:

LOGO

DATE:

Proposal or Motion to be voted for	Councillor's Mark

The Municipal Manager shall collect all the ballot papers and count same in the presence of a representative from each party represented on the Council or committee and present at such meeting. The chairperson shall thereupon declare the motion carried or lost and it shall be entered upon the minutes. If any member requests, the names shall also be recorded, save in the case of a secret ballot.

- (6) The chairperson shall have a second or casting vote in cases on an equality of votes.

17. Notices of motion

- (1) Except as provided for in Rule 13, no subject shall be brought before the Council unless upon notice of motion.
- (2) Any Councillor may submit a motion on a matter, which that councillor would like discussed.
- (3) A notice of motion shall -
 - o be in writing;
 - o be signed by the member giving notice;
 - o deal with one subject only;
 - o relate to some matter affecting the Council.
- (4) No member shall have more than two notices of motion on the agenda at the same time.
- (5) Every notice of motion shall be delivered to the Municipal Manager fourteen (14) days before the meeting who must obtain the written technical input from the various heads of department, if so required, and who, if he/she be of the opinion that it is ultra vires existing legislation, shall cause the giver of the notice to be so informed. The giver of the notice shall however have the right to appeal to the Rules Committee nominated by the Council, who shall review the matter and decide whether or not such notice of motion be placed on the agenda paper.
- (6) All notices of motion shall be dated and numbered as received and shall be entered by the Municipal Manager on the agenda in the order in which they are received, except that notice of an amendment to a motion shall be entered immediately after such notice of motion, irrespective of the time at which the amendment to the motion shall have been received.

- (7) Prior to including a notice of motion on the Council agenda, the Speaker shall ensure that the notice of motion complies with the requirements of Rule 17(3). The Speaker shall reject any motion –
- which, in the Speaker's opinion, does not comply with Rule 17(3);
 - in respect of which the Council does not have jurisdiction;
 - in respect of which a decision by a judicial or quasi-judicial body is pending;
 - which, if adopted, would be contrary to any law or incapable of execution.
- (8) An amendment to a notice of motion, shall be included in the Council agenda if it is received on or before 13h00 on the day preceding the distribution date of the agenda.
- (9) A motion shall lapse if the member who submitted it is not present at the meeting when such motion is scheduled for debate.
- (10) A motion or amendment may be withdrawn by the mover without the consent of the seconder or the Council in which event it shall fall away.
- (11) In dealing with motions, the Speaker shall ascertain which motions are unopposed and these shall be passed without debate.
- (12) Those motions that are opposed, shall be dealt with in the order in which they appear on the agenda.
- (13) No motion or amendment shall be discussed or put to the Council until it is seconded.
- (14) When a motion is under debate at a meeting of the Council, no further proposal shall be received except to amend the motion.
- (15) The mover of a motion may speak to the motion and shall have the right of reply, but the reply shall be confined to answering previous speakers and shall not introduce any new matter into the debate.

18. Amended motions

- (1) An amendment which is moved shall be relevant to, and shall not be a contradiction of, the motion on which it is moved.
- (2) The Speaker may call upon any mover of an amendment to commit the proposed motion to writing and to sign it.
- (3) Every amendment to a motion shall be read to the members present before being moved or put to the vote.
- (4) No more than two amendments to any motion may be moved and the second amendment shall be disposed of first.
- (5) If an amendment is carried, the amended motion shall take the place of the original motion and shall become the motion upon which any further amendments may be moved.
- (6) The right of reply shall not extend to the mover of an amendment to a motion.

19. Executive committee

- (1) The Council shall establish an Executive Committee consisting of three (3) Councillors or more if determined by the Minister.
- (2) *The Committee shall be elected from among the members of the Council at a meeting, which shall be held within fourteen (14) days of the Council's election.*
- (3) *The Committee shall be composed in such a way that parties and interests represented in the Council are represented in the Executive Committee in substantially the same proportion as they are represented in the Council.*
- (4) *The members of the Executive Committee shall remain in office, subject to section 47 of the Structures Act [see Rule 19(5)], until such time as the next Council is declared elected.*
- (5) *A member of the Executive Committee shall vacate office during a term if the member:--*
 - (a) *resigns as a member of the Committee;*
 - (b) *is removed from office as a member of the Committee in terms of section 53 of the Structures Act;*
 - (c) *ceases to be a Councillor.*
- (6) *A vacancy in the Executive committee shall be filled in accordance with section 53 of the Structures Act [see Rule 19(3)].*
- (7) *The Mayor or, in the absence of the Mayor, the Deputy Mayor, shall preside at meetings of the Committee.*
- (8) *If both the Mayor and the Deputy Mayor are absent from a meeting, and there is a quorum, the members present shall elect another member to preside at the meeting.*

20. Date and Time of meetings

- (1) *The Mayor shall decide when and where the Executive Committee shall meet, but if a majority of the members of the Committee requests the Mayor, in writing, to convene a meeting, the Mayor shall convene such a meeting at the time set out in the request.*
- (2) Meetings of the Executive Committee shall be convened in accordance with the procedures set out in Schedule 3 of the Rules.

21. Procedures of the Executive Committee

- (1) *The Committee, by resolution taken with a supporting vote of a majority of its members, may determine its own procedures, subject to any directions and the Rules of the Council.*
- (2) Recommendations of each portfolio committee shall be presented to the Executive Committee for discussion by the Chairperson of the portfolio committee.
- (3) All resolutions of the Executive Committee shall be moved and seconded.
- (4) Councillors may speak more than once on any item at meetings of the Executive Committee.

- (5) *All decisions taken by the Executive Committee shall be reported to the Council.*
- (6) Decisions and resolutions of the Committee shall be presented to the Council by the Chairperson of the Committee.

22. Quorum and decisions

- (1) *A majority of the members of the Committee shall constitute a quorum of the meeting.*
- (2) *Any question before the Committee shall be decided if there is agreement among at least the majority of the members present at the meeting.*
- (3) *If on any question before the meeting there is an equality of votes, the member presiding shall exercise a casting vote in addition to that member's vote as a member.*

23. Functions of the Executive Committee

The functions and powers of the Executive Committee are set out in section 44 of the Local Government: Municipal Structures Act, No 117 of 1998 and are quoted under Schedule 4 of these Rules.

24. Review of Executive Committee decisions

- (1) *The Council, in accordance with procedures set out in its Rules, may, or at the request in writing of at least one quarter of the councillors, shall, review any decision taken by the Committee in consequence of a delegation or instruction, and either confirm, vary or revoke the decision, subject to any rights that may have accrued to any person.*
- (2) *The Council may require the Committee to review any decision taken in consequence of any delegation or instruction.*
- (3) If, after having made a decision on a matter, the Committee wishes the Council to review that decision, it shall make a recommendation to the Council that such decision be reviewed, whereupon the Council may review such decision and either confirm, vary or revoke the decision.
- (4) No recommendation for the review of a decision taken by the Committee may be made to the Council where the decision taken by the Committee has resulted in the accrual of any rights to any person and where such person has been informed of such and award.
- (5) The Council shall review a decision taken by the Executive Committee if at least one quarter of the councillors, request the Council, in writing, to review such decision in the circumstances envisaged in rule 24(1).
- (6) The written request, signed by the requisite number of councillors [1/3], shall cite the resolution to be reviewed and should be accompanied by a detailed motivation for the review of the decision.
- (7) The written request shall be delivered to the Municipal Manager on or before 13h00 on the day preceding the distribution date of the Council agenda.
- (8) A decision by the Council to review a decision of the Executive Committee or to confirm, vary or revoke a decision of the Executive Committee shall be decided by a majority of the votes cast at the meeting of the Council.

NOTE: Rule 24(1) provides that the Council may confirm, vary or revoke a decision taken by the Executive Committee subject to any rights that have accrued to any person.

Basically, there are two categories of resolution of the Executive Committee. The one category is where the Executive Committee is exercising a quasi-judicial function and the other where it exercises a purely administrative function.

When exercising a quasi-judicial function, the Executive Committee exercises a discretion which, affects the rights, privileges and liberties of an individual or of a legal persona such as a company or a close corporation.

When the Committee is acting in a quasi-judicial capacity, its resolution may not be varied, amended or revoked since rights will have accrued to a third party.

For example, where the Committee awards a contract to a person or a company, the person or company to whom a contract has been awarded, acquire certain rights which, the Council may not subsequently remove by varying, amending or revoking the decision which created those rights.

25. Appeals against decisions taken by political structures, political office bearers, councillors or members of staff of the Council

- (1) *A person whose rights are affected by a decision taken by a political structure, political office bearer, councillor or staff member of the Council in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councillor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within twenty – one (21) days of the date of notification of the decision.*
- (2) *The Municipal Manager shall promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4)(Systems Act) [see Rule 25(4)].*
- (3) *The appeal authority shall consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.*
- (4) *When the appeal is against a decision taken by -*
 - (a) *a staff member other than the Municipal Manager, the Municipal Manager shall be the appeal authority;*
 - (b) *the Municipal Manager, the Executive Committee shall be the appeal authority; or*
 - (c) *a political structure or political office bearer, or a Councillor , a committee of Councillors who were not involved in the decision and appointed by the Council for this purpose shall be the appeal authority.*
- (5) *An appeal authority shall commence with an appeal within six weeks and decide the appeal within a reasonable period.*

26. The Emergency and Recess committee

- (1) The Emergency and Recess Committee shall be a committee of the Executive Committee and shall consist of the Mayor, Deputy Mayor and the Speaker.
- (2) The Emergency and Recess Committee shall be chaired by the Mayor or, in the absence or unavailability of the Mayor, by the Deputy Mayor.
- (3) Any two members of the Emergency Committee shall constitute a quorum of the committee.
- (4) In the event that the Mayor is not present to chair the committee, and there is a quorum, the Deputy Mayor shall preside at that meeting.
- (5) The Emergency and Recess Committee shall be convened by the Mayor or, in the absence of the Mayor, by the Deputy Mayor, in consultation with the Municipal Manager.
- (6) The Mayor, or the Deputy mayor, as the case may be, may convene the Emergency and Recess Committee in cases where an emergency has arisen and it is considered that it would be prejudicial to the Council's interests to await the next scheduled meeting of the portfolio committee which would otherwise have jurisdiction in the matter under that committee's terms of reference.
- (7) The Emergency and Recess Committee shall, in the circumstances envisaged in rule 26(6), have plenary powers to do any of the following:-
 - (a) Authorise expenditure and the use of Council assets and staff to alleviate conditions consequent upon any civil protection disaster, or other event of like character, occurring in its area of jurisdiction.
 - (b) Authorise expenditure and the use of Council assets and staff in the circumstances envisaged in subsection (d) where these occur outside its area of jurisdiction, provided that a request for such assistance has been made by the Municipal Manager of the relevant local authority or by a head of a department of the provincial or national government.
 - (c) Authorise expenditure and the use of Council assets and staff to prevent or minimise the effects of any anticipated civil protection disaster, or other event of like character, which it is considered likely to occur in its area of jurisdiction.
 - (d) Take such steps as it may deem necessary for the protection of Council assets and staff against any existing or anticipated unlawful activity.
 - (e) Take such steps within its powers, as it may deem necessary, for the protection of the public or any sector thereof against any condition dangerous to life or property, existing or anticipated, within its area of jurisdiction.
 - (f) Authorise the issue and service of any notice required by any law, bylaw, rule, regulation or town planning provision and prescribe the time for compliance with the requirements of any such notice.
 - (g) Nothing contained in this subsection (7) shall be construed as permitting the expenditure of funds of the Council in any amount as will result in the budget of the Council being exceeded.
 - (h) The powers governing arrangements during recess shall only be applicable in extraordinary

cases and shall be exercised in conformity with any applicable policy of the Council and shall not be exercised in a way, which shall bind the Council to any new policy.

- (l) The arrangements referred to in 26(7)(a) to (h) above shall be confirmed at the next meeting of the Executive Committee.

RULES, FUNCTIONS AND DELEGATIONS OF PORTFOLIO AND OTHER COMMITTEES OF THE UMDONI MUNICIPAL COUNCIL

(Note: The Rules and Procedures of the Umdoni Municipal Council shall not apply to portfolio and other committees of the Council unless invoked by the Chairperson of the committee for a specified period and purpose)

27. Establishment

- (1) *A municipal council may -*
establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers; appoint the members of such a committee from among its members; and dissolve a committee at any time.
- (2) The municipal council -
- (a) must determine the functions of a committee;
 - (b) may delegate duties and powers to it in terms of section 32;
 - (c) must appoint the chairperson;
 - (d) may authorise a committee to co-opt advisory members who are not members of the council within the limits determined by the council;
 - (e) may remove a member of a committee at any time; and
 - (f) may determine a committee's procedure.

28. Committees to assist the Executive Committee

- (1) *If a municipal council has an executive committee, it may appoint in terms of section 79, committees of councillors to assist the executive committee.*

- a. Such committees may not in number exceed the number of members of the executive committee.

- (3) The executive committee -
- appoints a chairperson for each committee from the executive committee;
 - may delegate any powers and duties of the executive committee to the committee;
 - is not divested of the responsibility concerning the exercise of the power or the performance of the duty; and
 - may vary or revoke any decision taken by a committee, subject to any vested rights.

- (4) Such a committee must report to the executive committee in accordance with the directions of the executive committee.

29. Committee structure

There shall be an Executive Committee and three (3) other portfolio committees of the Council, namely:

- Finance and Administration
- The Planning and Development Committee
- Community Services Committee

30. Membership

- (1) Members of the portfolio committees shall be appointed by the Council, in accordance with rule 28 of the rules.
- (2) The Mayor, Deputy Mayor and the Speaker shall be members of all portfolio committees, ex - officio save that they will be voting members on those committees that they have been appointed to serve on.

31. Chairpersons and alternate chairpersons

- (1) The Council shall elect the chairperson and alternate chairperson of each portfolio committee.
- (2) In the absence of both the chairperson and alternate chairperson those members of the committee present shall elect an acting chairperson from amongst their number, provided that should the Mayor or Deputy Mayor be present, and so wish, the Mayor or Deputy Mayor may take the chair.
- (3) The Speaker shall chair every joint meeting of portfolio committees, provided that -
 - (a) the Speaker may delegate the right to chair the meeting to any of the chairpersons of the committees concerned, and
 - (b) in the absence of the Speaker, one or other of the chairpersons of the committees in question shall chair the meeting.
- (4) In the absence of agreement as to which of the two or more chairpersons should chair the meeting, the matter shall be decided by a majority of the members of the relevant committees present.
- (5) The Chairperson shall maintain order during meetings of the committee, ensure compliance with the Code of Conduct and ensure that meetings are conducted in accordance with the Rules of the Council to the extent that such Rules are applicable to committees of the Council.

32. Quorum

- (1) The quorum of every portfolio committee shall be a majority of the members of the committee, i.e., more than half of the members of the committee, and no portfolio committee shall transact any business without a quorum.
- (2) In the case of a joint meeting of portfolio committees the quorum shall be a majority of the members of each of the portfolio committees, which constitute the joint meeting.
- (3) In the event that there is no quorum at the commencement of a meeting of a portfolio committee or a joint meeting of portfolio committees, those members of the meeting who are present shall wait for a period of ten minutes. Thereafter, if there is still no quorum, the meeting shall be abandoned, unless the members present unanimously allow further time in order to enable a quorum to be constituted.
- (4) If a meeting has to be adjourned to another date and time, any Councillor who is not present when the meeting is adjourned and who has not applied for leave, shall be liable to have the sum of money specified in item (1) of Schedule 1 of the Rules deducted from that Councillor's allowance.

33. Delegations

- (1) *A municipal council must develop a system of delegation that will maximise 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, councillors or staff members;*
 - (b) *instruct any such political structure, political office bearer, councillor 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 subsection (1) -*
 - a. *must not conflict with the Constitution, this Act or the Municipal Structures Act; must be in writing;*
 - b. *is subject to any limitations, conditions and directions the municipal council may impose;*
 - c. *may include the power to sub-delegate a delegated power;*
 - d. *does not divest the council of the responsibility concerning the exercise of the power or the performance of the duty; and*
 - e. *must be reviewed when a new council is elected.*
- (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 councillors, must, review any decision taken by such a political structure, political office bearer, councillor 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 the executive committee to review any decision taken by such a political structure, political office bearer, councillor or staff member in consequence of a delegation or instruction.

34. Certain delegations restricted to Executive Committee

- (1) The following powers may, within a policy framework determined by the municipal council, be delegated to the Executive Committee only:
 - a. decisions to expropriate immovable property or rights in or to immovable property; and
 - b. 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.
- (2) The council may only delegate to the Executive Committee or chief financial officer decisions to make investments on behalf of the municipality within a policy framework determined by the Minister of Finance.

35. Referral of matters to delegating authorities for decision

- (1) A political structure, political office bearer, councillor or staff member of a municipality to whom a delegating authority has delegated or sub-delegated a power to dispose of matters falling within the area of responsibility of that political structure, political office bearer, councillor or staff member may, or must, if instructed to do so by the relevant delegating authority, refer a matter before the political structure, political office bearer, councillor or staff member to the relevant delegating authority for a decision.
- (2) The terms of reference and delegated plenary powers of the Executive and portfolio committees of the Council are contained in Schedule 4 of the Rules.
- (3) Except in the case of the Executive Committee, a delegated plenary power shall not include the right to make a decision binding the Council to any new policy and the Chairperson of the Executive Committee may require that any matter on the agenda of any portfolio committee which in his opinion anticipates a new council policy, shall not be the subject of a final decision by that committee but shall be referred to the Executive Committee with a report and recommendation of the portfolio committee in question.
- (4) Every decision made in terms of a delegated plenary power shall be made in the name of the Council and shall be binding on the Council.
- (5) Other than those matters expressly reserved to the Council, referred to in rules 14(1) and 34(1)(a) of the Rules or delegated as plenary powers to other portfolio committees, and subject to rule 37(7),

the Executive Committee shall have delegated plenary powers to exercise every right, duty and function of the Council and no other portfolio committee shall have authority to exercise any right, duty or function of the Council except upon express delegation to it by the Council or in terms of rules 37(5) or 37(6) of the Rules.

- (6) The Executive Committee may not delegate to any other portfolio committee or sub committee of itself, the right to make any final decision in respect of any right, duty or function with which it is vested, provided that it may delegate a power to any other portfolio committee, or a sub committee of itself, to consider and make a report and recommendations to it concerning any such right, duty or function, and it alone may make delegations to officials in terms of rule 38. Where a delay may prejudice the Council, the Executive Committee may delegate the right to make a final decision to any Portfolio Committee or official.
- (7) The Executive Committee shall not be bound to make any final decision in respect of any matter within its plenary powers, or in respect of any recommendation duly made to it by any other portfolio committee or any matter referred to it in terms of rule 37(2), but may instead make a report and recommendation thereon to the Council.
- (8) Notwithstanding the plenary powers of the Executive Committee, it shall not have authority to make any decision which will have the result of incurring any expenditure in any matter which is not expressly provided for in the Council's approved budget, or which shall exceed that provided for any matter in such budget, provided that it may approve the reallocation of funds from one approved vote to another or to a new vote, provided the total amount of the votes in question is not thereby exceeded.
- (9) Notwithstanding the plenary powers of a portfolio committee, no portfolio committee shall have authority to make any decision which will have the result of incurring any expenditure in any matter which is not expressly provided for in the Council's approved budget, or which shall exceed the sum provided for in any vote approved in such budget.
- (10) Where a portfolio committee other than the Executive Committee considers it necessary to appoint a sub-committee, such committee shall make the necessary recommendation to the Executive Committee and the Executive Committee shall decide whether or not such sub-committee shall be appointed.
- (11) In respect of the Executive Committee, before appointing or, in the case of other portfolio committees, recommending to the Executive Committee that a sub-committee be appointed, the committee concerned shall confirm with the Municipal Manager's representative that no other sub-committee has already been set up with the same or similar terms of reference.
- (12) In respect of the Executive Committee, before appointing or, in the case of other portfolio committees, before recommending to the Executive Committee that sub-committees be appointed, the portfolio committee concerned shall define the terms of reference, the members together with the convenor, the quorum and the time period by which such sub-committee shall report with recommendations to the portfolio committee concerned.
- (13) In appointing a sub-committee, the Executive Committee shall nominate a member of the sub-

committee as Chairperson thereof, or in the case of a recommendation from a portfolio committee on the establishment of a sub-committee, such recommendation shall include a recommendation on the nomination of a member of the sub-committee as Chairperson of the sub-committee.

- (14) In the event that a portfolio committee fails to make a final decision in respect of any matter within its terms of reference, or unreasonably delays in making such a final decision, the committee may, upon the recommendation of the Municipal Manager's representative, in the first instance refer such matter to the Executive Committee which may make a final decision in the matter.
- (15) In any case where the Municipal Manager's representative has any doubt as to whether a matter before a portfolio committee is properly within its terms of reference, the Municipal Manager's representative may refer such matter to the Executive Committee for direction as to which committee is to deal with the matter, either before or after the committee has made a decision. If such referral is made after the portfolio committee has made a decision, such decision shall not take effect unless and until, the Executive Committee approves it.
- (16) The Executive Committee may decline to approve any such decision and remit the matter for a final decision to such portfolio committee as it considers having jurisdiction under its terms of reference.
- (17) Any Councillor attending meetings of any portfolio committee may require that any decision of any such committee involving the exercise, or a refusal to exercise any, of its plenary powers be referred to the Municipal Council; it being noted that where such action is taken, the decision on the matter may not be resolved upon by the portfolio committee but becomes a recommendation to the Municipal Council.
- (18) The rules relating to notices of motion under Rule 17 of the Rules shall apply to portfolio committees, modified as necessary for the purposes of such committees.

36. Delegations to officials

Every existing delegation of powers to an official in any matter falling generally within the terms of reference of any portfolio committee shall continue to be exercised by such official unless revoked or varied by the Executive Committee, provided that in the case of any appeal against a decision of an official made under such delegated powers, or in the event of any official declining to exercise such delegated powers, such portfolio committee may itself make a final decision provided further that the portfolio committee concerned has the delegated powers to make such a decision.

37. Urgent matters

No business shall be transacted at a meeting of the council or any of its committees other than that specified in the summons relating thereto, except any matters which the relevant chairperson considers urgent and for which the said chairperson has signed a certificate of urgency, or any matter which the Municipal Manager or his duly authorised deputy considers urgent and for which he/she has signed a certificate of urgency as depicted on Annexure "A" to these bylaws.

38. When councillors may not attend and participate in the proceedings of the council, portfolio committee or sub-committee

A councillor shall-

- (1) Disclose to the council, or to any committee of which that councillor is a member, any direct personal or private business interest that the councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and
- (2) Withdraw from the proceedings of the council or committee meeting when the council or committee is considering the matter, unless the council or the committee decides by resolution that the councillor's direct or indirect interest in the matter is trivial or irrelevant. A councillor who has so disclosed his/her interest may, with the approval of majority of the members of the council or its committee, address the council or committee on the matter prior to the deliberation and vote on the matter taking place, subject always to the ruling of the chairperson on the time to be allowed for such an address.

A councillor who, or whose spouse, partner or business associate or close family member, acquires or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the council or committee of the council at which it is possible for the councillor to make a disclosure.

This section does not apply to an interest or benefit which a councillor, or a spouse, partner or business associate or close family members, has or acquired in common with other residents and ratepayers of the municipality.

39. Petitions to be written, typed or printed

Petitions, which must be clearly written, typed or printed, must be signed by not less than three citizens and must be couched in respectful language and presented to the office of the Municipal Manager who shall, if he/she deems it necessary, bring the matter before the Council.

40. Deputations to send memorandum

Deputations wishing to be received by the Council shall be required, in the first instance to send a memorandum in writing, and the Municipal Manager shall bring the memorandum before the Council, which it may authorise, if it sees fit to receive the deputation.

41. Reception of deputations

A deputation wishing to address the Council shall not exceed five in number, but only one member thereof shall be at liberty to address the Council (except in reply to questions from members of the Council) and that only for a period not exceeding ten (10) minutes. The committee shall not further consider the matter until the deputation shall have withdrawn itself from the meeting.

42. Inspection of minute books by Councillors

The minutes of every committee shall be open for inspection by every member of the council during office hours, provided the exigencies of duties of the registry and committee staff are taken into account.

43. Member may resign seat on committee

Any member of a committee may resign his seat on the committee by a notice in writing signed by him and sent to the Municipal Manager. Any such resignation shall be reported to the Council to

the end that the vacancy may be filled.

44. Information to be obtained from Municipal Manager or the head of department concerned

Members of the council who desire to obtain from any official of the council information with regard to the administrative work of the council, which is not accessible to the general public, should address their enquiries firstly to the Municipal Manager and then to the relevant head of department.

45. Information to the press or other media: In-committee discussions

The Mayor, or in his/her absence the Deputy Mayor, and the Municipal Manager in their discretion may, on application being made to him/her by any registered newspaper, radio station, television service or internet publisher, supply to such media or its representative, information and reports relating to the work of the municipality. In view of the Municipal Manager, or the Mayor being the authorised channel through which the media may receive information and reports, members of the council are therefore expected to refrain from sending to the media documents or information supplied to them with a view to their consideration by the council or any committee, provided that this clause shall not be construed as abrogating a councillor's individual constitutional right to make press statements which reflect his/her own personal view and not that of the council, provided, however, that no discussion that took place in-committee may be conveyed to the public or the press except by the Mayor, or Municipal Manager.

Chairpersons of portfolio and other committees must liaise with the Senior Committee Clerk for the publication of any information relating to his/her portfolio committee and the Senior Committee Clerk shall arrange, if approved by the Municipal manager, the publication of the relevant information.

46. Personal canvassing for appointment: a disqualification

Personal canvassing of councillors/officials for appointments is strictly prohibited. Proof shall disqualify a candidate for appointment.

47. Section to be quoted in human resource advertisements

The abovementioned standing order shall be quoted in advertisements calling for application for appointments.

48. Suspension of standing orders

No standing order shall be suspended without the vote of a majority of the members of the council or of three-fourths ($\frac{3}{4}$) of the members present and a motion duly seconded, to suspend the standing orders shall be put without debate.

49. Legal defence and indemnification of councillors and officers of the council

The council may determine the circumstances in which it will undertake the defence of or pay the legal costs or the total costs and the amount in respect of any legal proceedings, whether civil or criminal, a councillor or an official may have against any person, body, organisation or institution arising from the councillor's or official's capacity as a councillor or official of the Umhlanga Municipality.

50. Mayor may refer matters for legal advice

The Mayor shall be entitled, within the framework of the approved operational budget of the municipality, to refer any matter pertaining to the council and its proceedings, for legal opinion to the council's legal advisors.

51. Activities prohibited within the council chamber or a meeting venue and the use of the council chamber by other persons or institutions

The decorum of the council chamber as the official seat of government of the Umdoni Municipality shall at all times be respected and adhered to by any person or institution using the facilities.

The following activities are strictly prohibited from being conducted within the confines of the council chamber or a meeting venue of the council or its committees by any person:

- (1) Having a cellular telephone switched on;
- (2) Consuming any food or drink in his/her possession, excluding the water provided within the chamber from the water dispenser;

Caucus meetings of the various political parties may be held in the chamber provided it is booked with the Senior Committee Clerk prior to the meeting, and subject to such bookings being on a rotational basis for all the parties.

The use of the council chamber by any other person or institution, other than a recognised committee, body of or person in the employ of the Umdoni Municipality shall be subject to the approval by the Municipal Manager, and at all times subject to the availability thereof in terms of the council's calendar of use, and the purpose for which it is applied for. Applications for use shall be made in writing to the Municipal Manager who shall confer with the Senior Committee Clerk in making the venue available in writing.

52. Ward committees

The council may by resolution determine the rules of procedure for the election of ward committees, the procedures at meetings, the reporting rules, and the rendering of secretarial services to these committees

53. Visitors, delegations and public are bound to observe rules that contribute to the general decorum of the house

All meetings of the municipal council and portfolio committees thereof shall be open to the public, except where matters are being discussed in committee, in which case all the members of the public must leave the meeting venue.

The general public, visitors and delegations are always subject to observe such rules, as adopted by the municipal council from time to time by resolution, that will ensure that their actions, including dress code, contribute to the general decorum of the council chamber or meeting venue and that such action or dress codes will not constitute a breach of any of the provisions of these bylaws.

The general public, visitors and delegations shall always be subject to the provisions of these bylaws and any breach of these bylaws shall constitute an offence and be subject to sanction as per section 54 of these Rules.

54. Sanctions and offences

Any person who wilfully contravenes any provision of these bylaws shall be guilty of an offence and shall be subject to the following sanctions imposed by the council:

- (1) Having a fine imposed by the council as determined by it from time to time for the categories of offences as approved by it by resolution from time to time;
- (2) Be suspended from the attendance of council or committee meetings as the council may determine for such a period as the council may by resolution determine from time to time for the categories of offences as determined by it; or
- (3) Be subject to the investigation by a special committee as envisaged in the code of conduct for councillors contained in Schedule 5 to the Structures Act, and the sanction flowing there from.

55. Interpretation

The English text of this document entitled Umdoni Municipality's Rules of Order will apply in the event of conflict between the English and Zulu texts.

SCHEDULE 1

A: NON-ATTENDANCE AT COUNCIL MEETINGS:

STANDING PROCEDURE FOR THE DEDUCTION OF MONIES AND REMOVAL FROM OFFICE

*(formulated in terms of item 4 of Schedule 5 of the Local Government:
Municipal Structures Act, 1998)*

The following is an extract from Schedule 1 of the Code of Conduct of the Local Government: Municipal Systems Act, 2000:

Attendance at meetings

3. A Councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when -

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
- (b) that councillor is required in terms of this Code to withdraw from the meeting.

Sanctions for non-attendance at meetings

4. A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for:

- (a) not attending a meeting which that councillor is required to attend in terms of item 3; or
- (b) failing to remain in attendance at such meeting.

2. A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of

item 3, must be removed from office as a councillor.

3. Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure, which each council must adopt for the purposes of this item. The uniform standing procedure must comply with the rules of natural justice.

(b) Deduction of monies for non-attendance at Council and committee meetings or for failing to remain in attendance at such meetings

- (1) When the Council or a committee declines to grant leave of absence to a councillor for failing to attend a meeting of the Council or a committee, or a councillor fails to apply for leave of absence from such meetings, the sum of R300 –00 (three hundred rands) shall be deducted from that councillor's allowance.*
- (2) When a councillor fails to remain in attendance at a Council or committee meeting for three hours, and leaves such meeting without having obtained the consent of the Council or the committee, the sum of R300 –00 (three hundred rand) shall be deducted from that councillor's allowance.*

(c) Procedure for removal of Councillor from office

- (1) Upon becoming aware that a councillor has been absent from three or more consecutive meetings of the Council or from three or more consecutive meetings of a committee which that councillor is required to attend, the Municipal Manager shall commence proceedings for the removal of that councillor from office as a councillor.*
- (2) For the purposes of (3) above, the councillor concerned shall be required to attend a hearing before a committee established by the Council for that purpose and which shall be chaired by the Speaker.*
- (3) The Municipal Manager shall give notice of the hearing to the councillor.*
- (4) The notice shall -*
 - (a) be in writing;*

- (b) *inform the councillor -*
- (i) *of the date, time and venue of the hearing;*
 - (ii) *of the circumstances upon which the allegations are founded;*
 - (iii) *that no legal representation shall be permitted;*
 - (iv) *that the councillor has the right to give evidence including the right to call witnesses;*
 - (v) *that the councillor may put questions to any witnesses called by the committee;*
 - (vi) *that the decision of the committee is final.*
- (5) *In the event that the councillor fails to attend the hearing after delivery of the notice, the Municipal Manager shall attempt to establish the reasons for such failure to attend the hearing, prior to the commencement of the proceedings.*
- (6) *If the Municipal Manager is unable to establish the reasons why the councillor has failed to attend the hearing, the committee shall commence the proceedings in the absence of the councillor.*
- (7) *At the hearing -*
- (a) *the Municipal Manager, or the person appointed by the Municipal Manager for the purposes of the hearing, shall produce the necessary evidence to establish that the councillor -*
 - *has been absent from three (3) or more consecutive meetings of the Council; or*
 - *has been absent from three (3) or more consecutive meetings of a committee which that councillor is required to attend.*
 - (b) *the councillor shall have the right to put questions to the witnesses called by the Municipal Manager;*
 - (c) *the committee shall have the right to put questions to the witnesses called by the Municipal Manager for the purposes of clarifying any issues.*
 - (d) *the councillor shall have the right to call other witnesses in support of the councillor's case;*
 - (e) *the Municipal Manager and the councillor concerned may address the committee after all the evidence has been heard and before the committee makes a decision.*
- (8) *If a majority of the members of the committee find that, on a balance of probabilities -*
- (a) *the councillor has been absent from three (3) or more consecutive meetings of the Council;*
or
 - (b) *the councillor has been absent from three (3) or more consecutive meetings of a committee which that councillor is required to attend,*
the councillor concerned shall be removed from office as a councillor.

(9) *The committee shall inform the councillor of its decision, in writing.*

(10) *The Municipal Manager shall report the decision of the committee to the Executive Committee.*

SCHEDULE 2

PUBLIC PARTICIPATION

A: COUNCIL MEETINGS

(1) *A member of the public who wishes to speak at a Council meeting may only speak on those matters specified in Rule 9(2)(a) to (f) of the Rules.*

(2) *A member of the public who wishes to speak at a Council meeting shall obtain the permission of the Speaker to do so, prior to the commencement of the meeting.*

(3) *When speaking at a Council meeting, a member of the public shall comply with any directions or orders given by the Speaker.*

(4) *A member of the public -*

- (a) *may be permitted to address the Council for a maximum of three minutes, or for such further period of time as the Speaker may allow;*
- (b) *shall not engage in personal attacks on any person while addressing the Council;*
- (c) *shall not use abusive or vulgar language while addressing the Council.*

B: EXECUTIVE AND PORTFOLIO COMMITTEE MEETINGS

(1) *Executive and Portfolio Committee meetings are open to the public.*

(2) *Members of the public are permitted to address these committees but are restricted to speaking on items which are contained in the agendas of the committees which they wish to address.*

(3) *At the commencement of a meeting the Chairperson will ask members of the public who are present whether they wish to address the committee.*

(4) *Members of the public shall furnish their names and specify the number of the item on the agenda in respect of which they wish to address the committee.*

(5) *Those members of the public who address the committee -*

- *may only speak for a maximum of three (3) minutes;*
- *may only speak on the item specified by them;*
- *may not engage in personal attacks on any person;*
- *may not use abusive or vulgar language while addressing the committee.*

SCHEDULE 3

A: PROCEDURE FOR COMPILATION AND DISTRIBUTION OF AGENDAS

The following procedures shall apply to the compilation, printing and distribution of agendas for all scheduled full Council, Executive and Portfolio Committee meetings of the Umdoni Municipal Council.

Changes to the dates, times or venues of Committee meetings must be made in consultation with the General Manager: Corporate Services.

1. CLOSING DATE FOR RECEIPT OF AGENDA ITEMS

The closing date for receipt of items to be included in the agendas for committee meetings shall be ten (10) working days prior to the date of the meeting.

2. DEADLINE FOR PRINTING OF AGENDAS

In order to ensure that agendas are available several days prior to the date of the meeting, the deadline for receipt of agendas for printing shall be six (6) working days prior to the date of the meeting.

3. DISTRIBUTION OF AGENDAS

Agendas shall be available for collection at least two (2) days or forty – eight (48) hours prior to the date of the meeting.

4. LATE ITEMS AND TABLED ITEMS

Items received after the closing date for the receipt of items shall be treated as items for the next agenda of the relevant committee.

In the event that a late item is deemed to be urgent, the Head of Department is required to motivate and obtain permission to table the item from either the Municipal Manager, or his representative. Upon signature of approval by the Municipal Manager or his representative, the Head of Department must ensure that the report is distributed at least one day prior to the meeting, with a covering note of explanation, to all committee members, the Municipal Manager or his representative, and the Committee Clerk/Officer. The Head of Department must ensure that extra copies of the report are made available at the meeting.

SCHEDULE 4
TERMS OF REFERENCE AND DELEGATED PLENARY POWERS OF THE EXECUTIVE AND
OTHER COMMITTEES OF THE UMDONI MUNICIPAL COUNCIL

EXECUTIVE COMMITTEE

A. SPECIFIC TERMS OF REFERENCE

1. Compliance with Section 44 of the Municipal Structures Act 117 of 1998.

44. Functions and powers of executive committees.

(1) An executive committee is:-

- (a) the principal committee of the council if a municipality of a type that is entitled to establish an executive committee; and
- (b) the committee of a municipal council which receives reports from the other committees of the council and which must forward these reports together with its recommendations to the council when it cannot dispose of the matter in terms of its delegated powers.

(2) The executive committee must:-

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority;
- (c) 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 account any applicable national and provincial development plans; and
- (d) 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.

(3) The executive committee in performing its duties must:-

- (a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes 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;
- (b) evaluate progress against the key performance indicators;

(c) 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;

(d) monitor the management of the municipality's administration in accordance with

- | | |
|--|--|
| | <p><i>the policy directions of the municipal council;</i></p> <p>(e) <i>oversee the provision of services to communities in the municipality in a sustainable manner;</i></p> <p>(f) <i>perform such duties and exercise such powers as the council may delegate to it in terms of section 32;</i></p> <p>(g) <i>annually report on the involvement of communities and community organisations in the affairs of the municipality; and</i></p> <p>(h) <i>ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.</i></p> |
|--|--|

(4)	<i>An executive committee must report to municipal council on all decisions taken by the committee.</i>
-----	---

- (5) *Formulation and determination of all new policies and the review and revision of existing policies, including, especially financial matters e.g. policies governing credit control and meter tampering/theft of electricity, the acceptance of grants and loans from other sources and financial regulations.*
- (6) *Preparation and consideration of the capital and operating budgets, including the assessment of rates and related tariff amendments, for recommendation to the Umdoni Municipal Council.*
- (7) *Matters concerning the collection and writing off of rates and other revenues.*
- (8) *Matters concerning insurance of municipal assets, councillors and employees of Umdoni Municipal Council.*
- (9) *Matters concerning the boundaries of Umdoni Municipal Council, including incorporations, exceptions and alterations.*
- (10) *Matters concerning the determination of ward boundaries.*
- (11) *Matters concerning elections.*
- (12) *Monitoring of various Boards affiliated to Umdoni Municipal Council.*
- (13) *Matters of policy relating to the control of pension funds operated by the Council, including amendments to their provisions.*
- (14) *Matters concerning organisational restructuring/re-engineering/realignment and the redeployment of staff and other resources as a result of the process.*
- (15) *The creation and award of civic honours.*
- (16) *Matters concerning public relations for Council and the dissemination of information to the public.*
- (17) *Matters concerning disaster management.*

- (18) *Finalisation and awarding of contracts.*
- (19) *Civic entertainment and courtesies provided that this function may be delegated to the mayor as chairperson of the Executive Committee.*
- (20) *Review and amendment of Standing Rules and Orders.*
- (21) *Legal and arbitration matters, including the institution of proceedings by, and the defence of proceedings against the Council and the right to compromise, withdraw and settle any such proceedings.*
- (22) *Matters concerning all local government legislation and other support/complimentary legislation and promotion thereof to give effect to the provisions of the Constitution.*
- (23) *Matters concerning the review making and amendment of bylaws, regulations and tariffs falling within the terms of reference of the committee.*
- (24) *Matters relating to funding for the Integrated Development Plan (IDP).*
- (25) *Any particular matters or issue or any matter of policy referred to the Executive committee or by the Municipal Manager.*
- (26) *All matters pertaining to organised local government e.g. Kwanaloga, Salga.*
- (27) *Matters pertaining to councillor's allowances and any other benefits.*
- (28) *Issues relating to funding of project by bodies such as MIG, DPLG, traditional and local government affairs.*
- (29) *Issues pertaining to partnerships with other institutions and contracting out of municipal services in consultation with the unions.*
- (30) *Approval of council representatives for appointment to all other institutions, boards and bodies.*
- (31) *Any matters not falling within the terms of reference of any other committee.*

N.B. Ensuring that proper consultation has been adhered to which relate to the said terms of reference and delegating plenary powers.

EXECUTIVE COMMITTEE

B. DELEGATED PLENARY POWERS

- 1) *The Executive Committee shall have delegated plenary powers to exercise any of the powers, duties and functions of the Council excluding those plenary powers expressly delegated to other standing Committees and those powers set out hereunder which are wholly reserved to the Umdoni Municipal Council.*
 - a) *the framing and approval of estimates;*
 - b) *the assessment and fixing of rates and grant of exemptions and rebates of rates;*
 - c) *the expropriation of or the temporary taking of the right to use immovable property;*
 - d) *the approval of tariffs;*
 - e) *the making of rules and bylaws under any law;*
 - f) *any power, duty or function which can be exercised or performed by the Council only in accordance with a resolution passed by either two-thirds or a majority of the total number of councillors of the Umdoni Municipal Council.*
- 2) *Notwithstanding the provision of 1 above, the Executive Committee is authorised to exercise any of those plenary powers delegated to other Standing Committees in circumstances where any matters from other Standing Committees are referred to the Executive Committee.*
- 3) *Finalisation of policy directives, as per the MFMA.*
- 4) *Matters pertaining to the Alienation / Acquisition of Land shall be considered by the Planning and the Environment Committee with recommendations to be made to the Executive Committee; the Executive Committee to have delegated authority to exercise the Council's powers, functions and duties in terms of the following sections of the Local Authorities Ordinance:*
 - 4.1 *section 233 (Alienation of land by sale, grant, lease, exchange).*
 - 4.2 *section 236 (Alienation in special cases).*
 - 4.3 *section 237 (Restrictions imposed on conditions of alienation).*
 - 4.4 *section 238 (Approval of alienation by public auction).*
 - 4.5 *section 240 (Acquisition of immovable property).*

Provided that the power to acquire immovable property shall be exercised only within limits of the amounts budgeted by the Council and, in any particular case where the price, has not already been approved by the Council, to expenditure not exceeding, R300 000 (three hundred thousand rands).

- 5. *The Executive Committee shall have delegated authority to exercise powers on any matters not falling within the plenary powers of any other committee; excluding those powers wholly reserved for the Umdoni Municipal Council.*



APOLOGY LETTER

**I, THE UNDERSIGNED DO HEREBY MAKE
APPLICATION FOR LEAVE OF ASCENCE FOR THE MEETING OF:**

.....
SCHEDULED FOR

1. THE REASON FOR MY APPLICATION IS AS FOLLOWS:

.....
.....
.....
.....
.....
.....
.....
.....
.....

**2. I CONFIRM THAT THE FACTS STATED HEREIN ARE TRUE AND CORRECT AND THAT
THE SUBMISSION OF FALSE INFORMATION WILL SUBJECT ME TO DISCIPLINARY
ACTION.**

DATED AND SIGNED THIS DAY OF 2007.

.....

No. 24

23 kuNhlaba 2008

MN 97 ku 2007

Umkhandlu-Dolobha Umdoni uvumelane ngemithetho yedolobha elandelayo emhlanganweni wawo owawubanjwe ngomhlaka 25 July 2007 njengokuyalela kwesigaba 160 (6)(b) soMthethosisekelo waseNingizimu Afrika (umthetho 108 ka 1996), ufundwa nesigaba 31(2) soMthetho wokuMiswa koMasipala ka 1998 (umthetho 117 ka 1998) futhi ngalokho usakaza lemithetho yedolobha njengokuyalela kwesigaba 13 (a) soMthetho wokuHlelwa koMasipala (umthetho 32 ka 2000) ukuba iqale ukusebenza ngosuku ezosakazwa ngalo okokuqala kwiphephandaba likaHulumeni wesiFunda.

Mnu. DD Naidoo
Umphathi-Dolobha

IMITHETHO NENQUBO YOMKHANDLU DOLOBHA UMDONI

(Qaphela: Kulemithetho, lawo magama abhalwe ngama *-italics* acashunwe kwimithetho engamele ohulumeni bendawo)

1. Izincazelo

Kulemithetho, ngaphandle uma ingqikithi isho okuhlukile-

"Ongekho" lapho kuqondiswe kumhlangano womkhandlu noma ikomidi lawo, kusho ukuphutha ngaphandle kokuthola imvume yelivu.

"ukuchibiyela isiphakamiso" kusho ukwenza izinguquko ezingatheni kwisiphakamiso, ezingaphamisi obekuyinhloso ngqangi noma obekuqondwe isiphakamiso kwasekuqaleni

"Imigomo yokuziPhatha" kusho imigomo yokuziphatha eqondene namakhansela njengoba kuchazwe kuHla 1 lomthetho wokuPhathwa koMasipala. [bheka uHla 5 kwimithetho].

"Umthethosisekelo" kusho umthethosisekelo waseNingizimu Afrika ka 1996.

"umkhandlu" kusho umkhandlu dolobha Umdoni

"Umkhandlu ungena ekhusi" kusho ukuthi umkhandlu ungathatha isinqumo sokuxoxa udaba ngasese uma ngabe ngokombono wamalunga amaningi, kungudaba olubucayi okanye oluthinta ezomthetho, noma lungeke luxoxeke kahle phambi kwamalunga omphakathi okanye abezindaba.

"Ikhansela" kusho ilungu lomkhandlu kamasipala waseMdoni

"abaphathise ngamandla"-

(a) lapho kungamandla aphathiswe umkhandlu, kusho umkhandlu; noma

(b) lapho kungamandla noma imisebenzi ephathiswe ngolunye uhlaka lwezepolitiki, okanye onesikhundla ngokwezepolitiki, ikhansela noma umsebenzi womkhandlu, kusho lolo

hlaka, lowo muntu ophethe isikhundla kwezepolitiki , lelo khansela, noma lowo msebenzi mkhandlu.

"inhlukano" kuso ukubala ngokuphelele labo abahambisana kanye nalabo abaphikisana nesiphakamiso.

"IsiGungu esiPhezulu" kusho isigungu esisungulwe kulandelwa isigaba 43 somthetho wokuPhathwa koMasipala.

"amalunga ahlala ngokwezikhundla zawo kumakomidi"- Umkhandlu uyoqoka usihlalo nesekele kasihlalo wekomidi kumhlangano wokuqala noma uma kumiswa ikomidi elisha. Ngaphandle kwalawo makomidi lapho uMeya, uSekela Meyi kanye noSomlomo bengamalunga ajwayelekile, bayohlala kuwo wonke amanye amakomidi ngokwamandla ezikhundla zabo kanti ngeke bafakwe lapho kubalwa isibalo sabadingekayo ukuze umhlangano uqhubekwe. uMeya, uSekela Meyi noSomlomo ngeke badonselwe izimali ezidonswa ngokujwayelekile uma ilunga lihlulekile ukuhambela umhlangano wekomidi, kulawo makomidi abahlala kuwo ngokwezikhundla zabo.

"Imenenja" kusho umuntu oqashwe umkhandlu emva kokubonisana noMphathi kaMasipala, nophethwe uMphathi kaMasipala ngqo.

"isiphakamiso" kusho isiphakamiso esisemthethweni esithulwe emhlanganweni womkhandlu okanye wekomidi lomkhandlu ngenhloso sokuthi sicutshungulwe. Uma kuvunyelwana ngesiphakamiso ngaphandle kwempikiswano, sibe sesiphenduka isinqumo somkhandlu.

"uMphathi kaMasipala" kusho umuntu oqashwe kulandelwa isigaba 82 somthetho wokuHlelwa koMasipala, kanye nalowo oqashwe ukubamba okwesikhashana lapho kunesidingo.

"umuntu" kusho nanoma imuphi umuntu ngaphansi komthetho, kuhlanganisa nezinkampani ezisemthethweni.

"ukucela incazelo" kusho incazelo kokuthize kulokho okubalulekile okushiwo ikhansela, okungenzeka ukuthi akuqondakali noma akucacile kahle.

"ukuqondisa umhlangano" kusho ukuveza okuthize emhlanganweni okukhomba ukuthi imithetho ayilandeliwe ngendlela, okanye indlela umhlangano oqhutshwa ngayo ushayisana nemithetho ebekiwe. Umhlangano ungabhekiswa kumaphuzu alandelayo:

- (a) uma isibalo samalunga singenele;
- (b) uma kwenziwa isiphakamiso noma kuchitshiyelwa isiphakamiso esingeyona ingxeneye yomhlangano;
- © uma kungekho siphakamiso esenziwe phambi komhlangano;
- (d) uma kwenziwe okuphambene nokunqunywe kumthetho noma umthethosisekelo;
- (e) nanoma ikuphi okunye okuphambene ngenkathi kuqhutshwa umhlangano.

"onesikhundla sezepolitiki" kusho uSomlomo, uMeya, uSekela Meyi okanye ilunga lesiGungu esiPhezulu njengoba kuchazwe kumthetho ongamele ukuHlelwa koMasipala.

"uhlaka lwezopolitiki" kusho umkhandlu okanye inoma iliphi ikomidi noma olunye uhlaka lomkhandlu elikhethwe noma eliqokwe kulandelwa imigomo yomthetho ongamele ukuhlelwa koMasipala.

"ikomidi lomkhandlu" kuhlanguanisa nenhlanganyela yamakomidi amiswe umkhandlu.

"ukuvikeleka" kuchaza ukuthi:

- Amakhansela angakhuluma ngokukhululekile kuyo yonke imihlangano yomkhandlu namakomidi alo, nokumele kuhambisane nemigomo yokuziphatha; futhi
- Amakhansela ngeke athathelwe izinyathelo zomthetho, aboshwe okanye agwetshwe -
 - (i) nganoma iyiphi into ayisho, okanye ayithule phambi komhlangano womkhandlu noma elinye lamakomidi awo; noma
 - (ii) nanoma iyiphi into eqhamuka ngenxa yento abayisho okanye abayiveze phambi komkhandlu okanye elinye lamakomidi awo.

"isibalo esanele" kusho ukuthi iningi lamalunga omkhandlu kumele libe khona emhlanganweni ukuze umhlangano uthathwe njengosemthethweni.

"Umthetho noma imithetho" kusho imithetho nemigomo yokuziphatha ngaphansi komkhandlu kamasipala waseMdoni.

"uSomlomo" kusho ikhansela elikhethwe kulandelwa isigaba 36 somthetho ongamele ukuhlelwa koMasipala eliqokelwe ukuba usihlalo womkhandlu njengoba kubhekwe kwisigaba 160(1)(b) somthethosisekelo.

"UMthetho wokuhlelwa koMasipala" kusho umthetho ongamele ukuhlelwa komasipala ka 1998 (umthetho no. 117 ka 1998)

"UMthetho wokuPhathwa koMasipala" kusho umthetho ongamele ukuphathwa komasipala ka 2000 (umthetho No. 32 ka 2000).

"i- MFMA" kusho umthetho ongamele ukuPhathwa kweZezimali koMasipala.

2. Ukukhethwa kukaSomlomo, uMeya noSekela Meyi

- (1) Ukukhethwa kukaSomlomo kunganyelwe isigaba 36 soHlelo 3 kuMthetho wokuhlelwa koMasipala;
- (2) Ukukhethwa kukaMeya noSekela Meyi kunganyelwe isigaba 48 soHlelo 3 kuMthetho wokuhlelwa koMasipala;

3. Imisebenzi kaSomlomo

- (1) *USomlomo kumele-*

- (a) angamele imihlangano yomkhandlu;
- (b) enze yonke imisebenzi apha the namandla awanikwe ngaphansi kwesigaba 32 soMthetho wokuHlelwa koMasipala;
- © aqinisekise ukuthi umkhandlu ubamba umhlangano kanye ngenyanga, ngaphandle uma wona umkhandlu unqume ngokunye;
- (d) agcine umthetho ngenkathi kuqhubeka umhlangano;
- (e) aqinisekise ukuthi umkhandlu kanye namakomidi awo balandela imigomo ebekwe kuHlelo 1 loMthetho wokuPhathwa koMasipala [uHlelo 5 kwiMthetho];
- (f) aqinisekise ukuthi imihlangano yomkhandlu iqhutshwa kulandelwa imithetho nemigomo yomkhandlu.

2) uSomlomo kumele aqinisekise ukuthi amaminithi ayo yonke imihlangano abhalwe ngendlela eliqiniso.

3) Amaminithi emihlangano yomkhandlu noma ekomidi lomkhandlu asayinwe uSomlomo okanye uSihlalo wekomidi, noma okucashunwe kulawo maminithi okusayinelwe uSomlomo noma uSihlalo wekomidi, okanye yinoma imuphi umsebenzi ojutshwe uSomlomo, ayokwamukeleka enkantolo ngaphandle kokwethulwa kobunye ubufakazi.

4. Isikhathi sokuba uSomlomo

uSomlomo uyobamba isikhundla kuze kufike isikhathi lapho kukhethwa kabusha umkhandlu, nokuncike kokuchazwe kwisigaba 28 soMthetho wokuHlelwa koMasipala. [bheka umthetho 5]

5. Ukushiya isikhundla kukaSomlomo

uSomlomo uyoshiya isikhundla uma lowo muntu-

- (a) esula ukuba uSomlomo;
- (b) esuswa esikhundleni;
- © eyeka ukuba ikhansela.

6. Ukususwa kukaSomlomo esikhundleni

uMkhandlu ungathatha isinqumo sokususa uSomlomo esikhundleni kumhlangano womkhandlu, nokumele kusekelwe iningi lamalunga, uma nje kukhishwe isaziso kusasele izinsuku eziyi-14 esichaza izinhloso zokwenza isiphakamiso sokususa uSomlomo esikhundleni.

7. oSomlomo abangamaBamba

Uma uSomlomo engekho noma engenakho ukwenza imisebenzi yakhe, umkhandlu uyooqoka elinye ikhansela ukuba libambe isikhundla sokuba uSomlomo.

8. Imihlangano yomkhandlu

- (1) *USomlomo unamandla okunquma ukuthi umkhandlu uhlangana nini nakuphi, nokuncike kokuhlinzekwe kwisigaba 18(2) soMthetho wokuHlelwa koMasipala [bheka umthetho 3©], kodwa uma iningi lamakhansela lifaka isicelo somhlangano, uSomlomo kuyomele awubize ngosuku oluchazwe kwisicelo.*
Imihlangano yomkhandlu ejwayelekile iyobanjwa okungenani kanye ezinyangeni ezintathu.
- (2) *uMphathi kaMasipala okanye omunye umsebenzi oqokwe uNgqongqoshe ophethe oHulumeni baseKhaya lapho uMphathi kaMasipala engekho, uyobiza umhlangano wokuqala womkhandlu kungakapheli izinsuku eziyi-14 emva kokhetho.*
- (3) *uSomlomo uyokhipha inothisi yezinsuku ezintathu (amahora angu-72) ngaphambi komhlangano womkhandlu ojwayelekile, eyezinsuku ezimbili (amahora angu-48) ngomhlangano wekomidi lomkhandlu kanye neyosuku olulodwa (amahora angama-24) ngomhlangano oyisipesheli. Inothisi iyochaza usuku, isikhathi nendawo yomhlangano iphinde ibeke ngokusobala okuyobe kuxoxwa emhlanganweni, bese ihanjiswa kumalunga okanye ishiywe emahhovisi awo ezeopolitiki.*
- (4) *Uma kunomhlangano oyisipesheli noma ophuthumayo, uSomlomo angacela uMphathi kaMasipala ukuba athinte amakhansela ngocingo uma ingekho indlela yokukhipha inothisi, okungenani kusasele usuku (amahora angu-24) ngaphambi komhlangano.*
- (5) *uMphathi kaMasipala uyokhipha izaziso eziqodiswe kumphakathi ngemihlangano yomkhandlu ejwayelekile, ephuthumayo neyisipesheli ngendlela ekuvunyelwene ngayo kumkhandlu, ngaphandle uma isimo siphuthuma kakhulu.*
- (6) *uMkhandlu uyoya ekhefina ngendlela ehambisana nekhofu lezikole kwaZulu-Natal.*

9. Ukuthamela kwamalunga omphakathi imihlangano yomkhandlu

- (1) *Imihlangano yomkhandlu neyamakomidi awo ivuleleke kumphakathi, kuhlenganisa abezindaba, futhi umkhandlu awunalo igunya lokukhiphela amalunga omphakathi ngaphandle uma-*
- (a) *kufanelekile ngenxa yesimo sezingxoxo ezizobe zixoxwa; futhi*
- (b) *uma kunomthetho noma isinqumo somkhandlu esihambisana nokuchazwe kwindima (a) esigunyaza umkhandlu ukuba uvalele amalunga omphakathi ngaphandle.*
- (2) *Umkhandlu awuvunyelwe ukukhiphela ngaphandle umphakathi, kuhlenganisa abezindaba lapho kuxoxwa ngokulandelayo:*
- (a) *isivivinyo somthetho-dolobha ozothulwa phambi komkhandlu;*
- (b) *isabiwo-zimali esithulwa phambi komkhandlu;*
- © *uhlelo lomkhandlu lwentuthuko edidiyelwe (IDP), noma isichibiyelo kulolo hlelo, okuzothulwa phambi komkhandlu;*

- (d) uhlelo lokuhlaziya ukusebenza komkhandlu olusavivinywa, noma isichibiyelo kulolo hlelo, okuzothulwa phambi komkhandlu;
- (e) isinqumo sokungena kwisivumelwano sokuthenga izidingo zikamasipala esichazwe kwisigaba 76(b) soMthetho wokuPhathwa koMasipala;
- (f) noma iyiphi enye into enqunywe ngumthetho.

(3) IsiGungu somkhandlu esiPhezulu singanquma ukuvalela amalunga omphakathi, kuhlanganisa nabezindaba ngaphandle kwimihlangano yawo, nokuncikene nemigomo yesigaba 20(1)(a) soMthetho wokuPhathwa koMasipala [bheka umthetho 9(1)(a)]

10. Inqubo yokuqhutshwa kwemihlangano yomkhandlu

- (1) Kuyoshaywa insimbi uma sekuzoqala umhlangano womkhandlu. Wonke amakhansela kuyomele ahlale phansi.
- (2) Nanoma imuphi umuntu ofisa ukukhuluma emhlanganweni womkhandlu, kuhlanganisa amakhansela, abasebenzi noma ilunga lomphakathi, kumele alandele imigomo nemiyalelo kaSomlomo, onelungelo lokubeka imibandela efanele kulowo ofisa ukukhuluma.
- (3) lungu lomphakathi elifisa ukukhuluma kumhlangano womkhandlu lingakhuluma kuphela ngalezo zinto ezichazwe kumthetho9(2)(a) kuya ku (f).
- (4) lungu lomphakathi elifisa ukukhuluma kumhlangano womkhandlu kumele lithohe invume kaSomlomo kungakaqali umhlangano.
- (5) Kuyosetshenziswa inqubomgomo yomkhandlu eqondene neqhaza lomphakathi (uHlelo 2) lapho kunamalunga omphakathi afisa ukukhuluma emhlanganweni womkhandlu.
- (6) Umkhandlu ungathatha isinqumo sokuya ekhusi nganoma isiphi isikhathi emhlanganweni wawo.
- (7) Isiphakamiso esichaza lokho ngeke sivuleleke ngezinhloso zempikiswano kodwa kumele sisekelwe.
- (8) uSomlomo, noma ibamba lakhe, liyoba usihlalo womkhandlu lapho usekhusi.
- (9) Umkhandlu uyothatha isinqumo uma sewubuyela kumhlangano ngokujwayelekile.
- (10) Uma umhlangano usuqalile ngokujwayelekile, ikhansela liyophakamisa ukuthi isinqumo ezithathwe ekhusi ziqinisekise. Leso siphakamiso ngeke sivuleleke ngezinhloso zempikiswano kodwa kumele sisekelwe.
- (11) Uma umkhandlu uthatha isinqumo sokuvala amalunga omphakathi kumhlangano, okanye unquma ukuthi ingxenye ethize ixoxwe ekhusi, uSomlomo uyoyalela bonke abangesiwo amalunga omkhandlu ukuba baphume kuze kuphothulwe lolo daba.

11. Ukuhambela imihlangano yomkhandlu namakomidi awo

- (1) Ikhansela liyohambela imihlangano yomkhandlu neyamakomidi lelo khansela eliyilunga lawo, ngaphandle uma lifake isicelo selivu esisemthethweni.
- (a) Isicelo selivu siyokwenziwa ngefomu elisemthethweni bese lisayinwa umfakisicelo. Ifomu liyobe selidluliselwa kuMphathi kaMasipala, oyoqinisekisa ukuthi isicelo sithulwa phambi kwalowo mhlango othintekayo, noma ekuqaleni komhlangano womkhandlu okanye wekomidi. (uhlelo 4).
- (b) Ikhansela elifake siicelo selivu liyochaza ngokuphelele izizathu zesicelo. Uma umkhandlu wenelisekile ngezizathu, kangangoba ubona singekho isidingo sokudonsa izimali zekhansela ngokungafiki kwalo emhlanganweni, lelo khansela liyobe selinikwa imvume yokuphutha emhlanganweni.
- (c) Uma kwenzeka umkhandlu ungasemukeli isicelo selivu esifakwe ikhansela, okanye ikhansela lingasifaki isicelo selivu, uMphathi kaMasipala uyodonsa isamba semali esichazwe kuHlamvu (1) loHlelo 1 lwemithetho eholweni lalelo khansela. Ikhansela liyoba nelungelo lokukhalaza ngaloludaba ngokubhala incwadi liyiqondise ehhovisi likaSomlomo noma likaMphathi kaMasipala.
- (d) Ikhansela kulindeleke ukuba lithamele umhlangano womkhandlu noma wekomidi isikhathi esingekho ngaphansi kwamahora amathathu, nokuncike ekutheni umhlangano uqhubeka isikhathi esingako noma cha, ngaphandle uma uSomlomo okanye usihlalo womhlangano ekhiphe imvume yokuthi ikhansela lingasheshe likhululeke.
- (e) Lelo khansela elishiya umhlangano kungakapheli isikhathi esinqunyiwe nangaphandle kwemvume kasomlomo okanye usihlalo womhlangano, liyodonselwa imali echazwe kuHlamvu (1) loHlelo 1 kwimithetho.
- (f) Uma ikhansela liphuthwa imihlangano emithathu ilandelana, uMphathi kaMasipala uyoqalisa amalungiselelo okususa lelo khansela esikhundleni ngokulandela inqubo echazwe kuHlamvu (3) kuya ku (12) loHlelo 1 lwemithetho.
- (g) Uma ikhansela liphuthwa imihlangano emithathu ilandelana, uMphathi kaMasipala uyoqalisa amalungiselelo okususa lelo khansela esikhundleni ngokulandela inqubo echazwe kuHlamvu (3) kuya ku (12) loHlelo 1 lwemithetho.
- (h) Amakhansela afisa ukufaka izicelo zelivu ayothumela amafomu awo kumabhalane (Committee Clerk) okungenani kusasele imizuzu engamashumi amathathu (30) phambi kokuqalisa komhlangano.

12. Isibalo esanele nezenzo zomkhandlu

- (1) Uma isibalo samalunga omkhandlu seqile kwingxenye kuyobe sanele ukuze umhlangano uqhubeke futhi kumele kube nesibalo esanele ngaphambi kokuba kuvotwe kunoma iluphi udaba.
- (2) Uma isibalo samalunga singaneli kuze kudlule imizuzu eyishumi emva kwesikhathi ebesinqunyelwe umhlangano, uSomlomo anganquma ukuba kwengezwe isikhathi ngokuvumelana namalunga akhona, okanye uSomlomo anganquma ukuba umhlangano uhlehlele usuku okuvunyelwana ngalo namalunga akhona.
- (3) Uma umhlangano uhlehlela olunye usuku, nanoma iliphi ikhansela elingekho nelingazange lifake isicelo selivu liyodonselwa imali eholweni lalo njengoba kuchazwa kuHlamvu (1) loHlelo 1 kwimithetho.
- (4) Uma kwenzeka kunamakhansela aduba umhlangano, uma labo abasele behlanganisa isibalo eseqile kwingxenye yenani lawo wonke amakhansela ehlangene, bayoqhubeka nomhlangano ukuphuthula umsebenzi womkhandlu.
- (5) Uma ngabe usihlalo womkhandlu noma wekomidi ethola umhlangano usuqalile ukuthi amalunga awenele, kuyomele abale abakhona bese umhlangano uyawuhlehlisa njengoba kuchazwe kwisigaba 12(2); emva kwalokho kuyobe sekulandelwa yonke inqubo echazwe isigaba 12.
- (6) Zonke izinto ezithinta isigaba 160(2) kumthethosisekelo ziyonqunywa umkhandlu ngokwesekwa ngamavoti amalunga amaningi. Ezinye izinto ziyonqunywa ngokwesekwa ngamavoti amaningi kulabo abakhona, ngaphandle kwalezo ezinchazwe kwisigaba 34 soMthetho wokuHlelwa koMasipala oqondene nokuhlakazwa komkhandlu.

13. Okuqhutshwa emhlanganweni

Umhlangano womkhandlu ojwayelekile uyoqhutshwa ngendlela elandelayo:

- Umthandazo nokuthula ngesizotha okwesikhashana (lapho kunemfanelo)
- Ukufundwa kwenothisi ebiza umhlangano
- Ukufundwa kwezixoliso kanye nezicelo zelivu ngomhlangano oqhubekayo
- Ukwemukelwa kohla lwezinto ezizoxoxwa
- Izimemezelo
- Ukuqinisekiswa kwamaminithi omhlangano odlule
- Imibiko ethulwa amakhansela ngemvume kaSomlomo
- Umbiko kaMeya
- Imibiko yesiGungu esiPhezulu
- Imibiko yamakhansela aqashwe ngokuphelele
- uSomlomo unamandla okuhlela kabusha uhla lwezinto ezizoxoxwa kumhlangano nganoma isiphi isikhathi.

(1) Umhlangano ojwayelekile wekomidi lomkhandlu uyoqhutshwa ngokulandelayo:

- Umthandazo nokuthula ngesizotha okwesikhashana (lapho kunemfanelo)
- Ukufundwa kwenothisi ebiza umhlangano
- Ukufundwa kwezisoliso kanye nezicelo zeivu kumhlangano oqhubekayo
- Ukwemukelwa kohla lwezinto ezizoxoxwa
- Ukuqinisekiswa kwamaminithi omhlangano odlule
- Okuqubuka kumaminithi (ngemvume kasihlalo kuphela futhi akuvunyelwe izingxoxo ezingaholela ekubeni kuze kuchithwe isinqumo esenziwe ngaphambilini)
- Imibiko yabaQondisi abaphethe iMinyango kamasipala
- Nanoma ikuphi okunye okuyochazwa usihlalo

uSomlomo unamandla okuhlela kabusha uhla lwezinto ezizoxoxwa kumhlangano nganoma isiphi isikhathi. Ngenxa yezizathu zokuqopha ngendlela efanele, udaba oluxoxwe ngaphambi kwesikhathi ebesechazwe kuhla lwezingxoxo zosuku, luyiqoshwa luvele kumaminithi endaweni ebeluhlelelwe yona ekuqaleni.

14. Izingqomo

(1) *Zonke izingqomo ezithinta okulandelayo ziyothathwa umkhandlu ngokusekelela ngamavoti eqile kwingxenye yamalunga omkhandlu:*

- (a) *ukuphasiswa kwemithetho yedolobha;*
- (b) *ukuphasiswa kwesabiwo-zimali;*
- © *ukuphasiswa kwezintela nama-rates, izinhlawulo nokunye; kanye*
- (d) *nezimali ezibolekwayo.*

(2) *Zonke ezinye izinto ziyonqunywa ngokusekelwa ngamavoti amaningi.*

(3) *Uma amavoti elingana, usihlalo womhlangano (uSomlomo) uyophinde avote okwesibili ukuze kuphothulwe udaba.*

(4) *Umkhandlu uyolindela ukuthi isiGungu esiPhezulu sithule umbiko phambi kwawo ngaphambi kokuba kuthathwe izingqomo ngezinto ezilandelayo:*

- (a) *ukuphasiswa kwemithetho yedolobha;*
- (b) *ukuphasiswa kwesabiwo-zimali;*
- © *ukuphasiswa kwezintela nama-rates, izinhlawulo nokunye; kanye*
- (d) *izimali ezibolekwayo.*
- (e) *ukuphasiswa kohlelo lukamasipala lwentuthuko edidiyelwe kanye nanoma isiphi isichibiyelo kulelo hlelo;*
- (f) *ukuqashwa kanye nemibandela okuzosebenza ngaphansi kwayo uMphathi kaMasipala nezinhloko zeminyango kamasipala.*

15. Imigomo yokuziphatha eqondene namakhansela, abasebenzi nabanye abantu kanye nemithetho engamele izimpikiswano

- (1) Kuyocishwa bonke omakhalekhukhwini ngenkathi kuqala umhlangano.
- (2) Akekho ovunyelwe ukukhulumela phezulu ngenkathi kuqhubeka umhlangano.
- (3) Alikho ikhansela eliyophazamisa elinye lisakhuluma, ngaphandle uma eqondise:-
 - (a) ukuchaza into engahambi ngokwemigomo;
 - (b) ukubuza incazelo;
 - © ukukhuluma ngokuvikelekile njengoba kuchazwe kwisigaba 28 soMthetho wokuHlelwa koMasipala;
 - (d) ukubuza ngabantu abangewona amakhansela emhlanganweni ovalelekile kumphakathi.
- (4) Alikho ikhansela elivunyelwe ukukhuluma kweqe kwisihlandla esisodwa ephuzwini ngalinye futhi kungeqi kwimizuzu emithathu, ngaphandle kukasihlalo wesiGungu esiPhezulu. Kepha umkhandlu ungathatha isinqumo sokumisa lomthetho okwesikhashana, nokuyomele kusekelwe ngaphandle kwempikiswano. Usihlalo womhlangano kuphela onamandla okubeka isikhathi asinika amalunga lapho ephfumula, nayokwenza elandela imigomo yokungenzeleli, intando yeningi, ukuzimisela kanye nokuphatha ngendlela efanele.
- (5) Imibiko yesiGungu esiPhezulu iyokwethulwa usihlalo waso noma elinye ilunga lesigungu okuvunyelwene ngalo futhi wonke amalunga esiGungu esiPhezulu ayoba nelungelo lokuziphendulela ngokuthulwe kuleyo mibiko.
- (6) Lapho uSomlomo esukuma noma ethulisa umhlangano, kumele lelo khansela ebelikhuluma noma ebeselizokhuluma limlinde lingamphazamisi.
- (7) Uma uSomlomo esekhuze ephindelela ikhansela, umsebenzi noma omunye umuntu ngokuphindaphinda into eyodwa noma ngokukhuluma into engathintene nephuzu ekukhulunywa ngalo, unamandla okuyalela lowo muntu ukuba athule.
- (8) Uma kungumbono kaSomlomo ukuthi ikhansela lenza okuphambene nemithetho yomkhandlu ngenhloso, noma lidelela isithunzi sikasihlalo, okanye liziphatha ngendlela ephazamisa umhlangano, angayalela ukuba lelo khansela lishiye umhlangano futhi athathe izinyathelo zokuthi likhishwe uma lingaphumi.
- (9) uSomlomo unamandla okuvalela ngaphandle komhlangano ikhansela elenze okuphambene nemithetho yomkhandlu ngenhloso, noma elidelele isithunzi sikasihlalo, okanye eliziphathe ngendlela ephazamisa umhlangano, isikhathi esiyonqunywa nguye.
- (10) Nanoma imuphi umuntu ongesilo ikhansela oziphatha ngendlela ephambene nemigomo yomkhandlu nophazamisa umhlangano womkhandlu noma welinye lamakomidi awo,

angakhishwa kwigumbi ekubanjelwe kulo umhlangano ngokwemiyalelo kasihlalo womhlangano, futhi usihlalo uyoba nelungelo lokunquma isikhathi azomvatelela sona ngaphandle komhlangano.

16. Ukuvota

- (1) Uma umkhandlu kumele uvotele isiphakamiso esithize, kuyoqale kuphakamise izandla amakhansela esekela isiphakamiso, emva kwalokho kuphakamise amakhansela aphikisa isiphakamiso. uSomlomo uyobe ememezela ukuthi isiphakamiso siphasile noma cha.
- (2) uMphathi kaMasipala uyoqinisekisa ukuthi kuqoshwa emamanithini wonke amakhansela akhona, kanye nokuthi bavote kanjani.
- (3) Wonke amakhansela ayokwenza okusemandleni awo ukuqinisa ukuphathwa komkhandlu ngendlela ngokuba avote lapho kunehlukwano yombono futhi alikho ikhansela eliyovunyelwa ukuba liphume ngenkathi sekuthulwa udaba. Ikhansela linalo ilungelo lokungabambi iqhaza ngenkathi kuvotwa, nokuyinto okumele liyichaze ukuze kuqoshwe emaminithini.
- (4) Ngeke kube nesidingo sokuthi lawo makhansela angafisi ukuvota ashiye umhlangano.
- (5) Lapho kuvotwa, uMphathi kaMasipala noma umsebenzi ojutshwe nguye uyobala amavoti besé echazela usihlalo ngomphumela. Uma kuvotwa ngasese, uMphathi kaMasipala uyonika ikhansela ngalinye ipheshana elinophawu lukamasipala phezulu, neliyobe lichaza ngokuphelele okuvotelwayo, nokuyohamba ngendlela efana nelandelayo:

Uphawu lukamasipala
Usuku.....

Isiphakamiso esovotelwayo	Uphawu lwekhansela (X)
1.	
2.	

uMphathi kaMasipala uyobe eseqoqa wonke amaphepha, awabale phambi kwabamele amaqembu epolitiki amelelekile kumkhandlu nakhona kulowo mhlangano. Usihlalo uyobe esechaza umphumela, noyoqoshwa kumaminithi. Kuyoqoshwa namagama abavotile uma kukhona ocela kanjalo, ngaphandle uma kuvotwa ngasese.

- (6) Usihlalo uyena oyoba nevoti elingunqamlajuqu uma amavoti elingana.

17. Inothi yokwenza isiphakamiso

- (1) Akukho okuyoxowa kumhlangano womkhandlu kungazange kuthunyelwe inothi, ngaphandle kwalokho okuqokethwe kuMthetho 13.

- (2) Nanoma iliphi ikhansela linelungelo lokuthumela inothisi ngesiphakamiso salokho elifisa ukuba luxoxwe umkhandlu.
- (3) Inothisi kumele --
- Ibhalwe phansi
 - Isayinwe ikhansela eliyithumele
 - Ithinte lelo phuzu kuphela
 - Ikhulume ngento ethinta umkhandlu.
- (4) Alikho ilunga eliyoba nelungelo lokufaka amanothisi eqile kwamabili kumhlangano owodwa.
- (5) Amanothisi kumele athunyelwe kwihhovisi likaMphathi kaMasipala kusasele izinsuku eziyi-14 ngaphampi komhlangano, bese exoxisana nabaphethe iminyago ngokuqokethwe kuyo uma kunesidingo futhi uma kungumbono wakhe ukuthi inothisi ithintene nokuphambene nomthetho, uyobe esazisa umbhali wayo. Umbhali wenothisi unelungelo lokudlulisela udaba kwiKomidi leMithetho, eliyobuyekeza isinqumo sikaMphathi kaMasipala linqume nokuthi udaba kumele lungene kuhlu lokuzoxoxwa noma cha.
- (6) Amanothisi ayofakwa kuhlu lokuzoxoxwa uMphathi kaMasipala ngokulandelana kwawo ngokwezinsuku afika ngazo, ngaphandle kwesichibiyelo esiyothulwa emva kwaleso siphakamiso, kungakhathalekanga ukuthi sifike nini.
- (7) Ngaphambi kokufaka inothisi kuhlu, uSomlomo uyoqinisekisa ukuthi ihambisana nemigomo yoMthetho 17(3). uSomlomo uyochitha nanoma iyiphi inothisi-
- ephambene noMthetho 17(3) ngokombono kaSomlomo;
 - eqondene nokungekho ngaphansi kwamandla omkhandlu;
 - eqondene nodaba olusezithebeni zenkantolo;
 - okungathi uma iphasiswa, kube nomphumela wokwenza okuphambene nomthetho noma okungeke kufezeke
- (8) Isichibiyelo senothisi siyofakwa kuhlu lokuzoxoxwa uma sifike engakashayi u 13h00 kusuku olwandulela ukukhishwa kwama-*agenda*.
- (9) Udaba oluqokethwe kwinothisi ngeke luxoxwe uma umniniyo engafiki emhlanganweni okuhlelwe ukuba kuxoxwe kuwo ngalo.
- (10) Inothisi yesiphakamiso noma isichibiyelo singahoxiswa umniniso ngaphandle kokulindela ukusekelwa, okuyokwenza bese seyihoxa.
- (11) Uma sekubhekwa amanothisi, uSomlomo uyothola ukuthi imaphi okungenampikiswano ngawo, bese ephasiswa kuqala.
- (12) Lawo manothisi okunempikiswano ngawo, ayoxoxwa ngokulandelana kwayo kwi- *agenda*.

- (13) Ayikho inothisi okuyoxoxwa ngayo kumkhandlu ngaphambi kokuba ithole ukusekelwa.
- (14) Asikho esinye isiphakamiso esiyokwamukelwa lapho kuxoxwa ngokuqukethwe inothisi, ngaphandle uma kuyisichibiyelo saleyo nothisi.
- (15) Umbhali wenothisi uyoba nelungelo lokuziphendulela, ebhekise kwimibuzo kuphela; akakwazi ukuqhamuka nento entsha.

18. Iziphakamiso ezichitshiyelwe

- (1) Isichibiyelo siyohambisana nokuqukethwe isiphakamiso futhi ngeke sishayisane nokushiwo yiso.
- (2) uSomlomo unelungelo lokucela owenza isichibiyelo ukuba akwenze ngokubhala phansi asisayine.
- (3) Zonke izichibiyelo ziyofundelwa amalunga akhona ngaphambi kokuba zisekelwe noma zivotelwe.
- (4) Akuvunyelwe ukuba kwenziwe izichibiyelo ezeqile kwezimbili, kanti kuyoxoxwa ngesichibiyelo sesibili kuqala.
- (5) Uma kuvunyelwana ngesichibiyelo siyobe sesithatha indawo yesiphakamiso ebesifakwe ngaphambilini, kanti zonke ezinye izinguquko emva kwalokho ziyobe seziquondene naleso sichibiyelo.
- (6) Umuntu ochibiyele isiphakamiso akanalo ilungelo lokuziphendulela.

19. isiGungu esiPhezulu

- (1) Umkhandlu uyomisa isiGungu esiPhezulu esiyoba namakhansela amathathu noma ngaphezu kwalokho uma uNgqongqoshe eyalela kanjalo.
- (2) *Amalunga esiGungu ayokhethwa phakathi kwamalunga omkhandlu, emhlanganweni oyobanjwa kungakapheli izinsuku eziyi-14 emva kokhetho.*
- (3) *Ukukhethwa kwesiGungu koyoqinisekisa ukuthi amaqembu ezepolitiki amaleleke ngendlela efanayo njengakumkhandlu.*
- (4) *Amalunga esiGungu ayobamba izikhundla kuze kube ukhetho olulandelayo, nokuncike kwimigomo yesigaba 47 soMthetho wokuHlelwa koMasipala [bheka umthetho 19(5)].*
- (5) *Ilunga lesiGungu esiPhezulu liyoyeka ukuba ilunga uma lelo lungu:-*

- (a) *lisula kwisiGungu;*
 - (b) *lukhishwa kwisigungu kulandelwa isigaba 53 soMthetho wokuHlelwa koMasipala;*
 - © *liyeka ukuba ikhansela.*
- (6) *Ukugcwaliswa kwesikhala kwisiGungu esiPhezulu koyokwenziwa kulandelwa isigaba 53 soMthetho wokuHlelwa koMasipala [bheka umthetho 19(3)].*
- (7) *uMeya uyoba usihlalo kwimihlangano yesiGungu esiPhezulu; uma engekho uSekela Meyu uyokwenza lowo msebenzi.*
- (8) *Uma bengekho bobabili uMeya nesekele lakhe, kodwa isibalo samalunga akhona senele ukuthi umhlangano uqhubeke, kuyokhethwa usihlalo womhlangano phakathi kwamalunga akhona.*

20. Usuku nezikhathi zemihlangano

- (1) *uMeya unelungelo lokunquma izinsuku nezikhathi zemihlangano yesiGungu, kepha uma iningi lamakhansela libhala incwadi licela umhlangano, uyowubiza lowo mhlango ngosuku oluchazwe encwadini.*
- (2) *Imihlangano yesiGungu iyobanjwa kulandelwa imigomo echazwe kuHlelo 3 kwiMithetho.*

21. Inqubo kumhlangano wesiGungu

- (1) *IsiGungu singathatha isinqumo ngokusekelwa iningi lamalunga ngenqubo yemihlangano yaso, nokuyoncika kwiMithetho yomkhandlu.*
- (2) *Usihlalo wekomidi lomkhandlu uyokwethula iziphakamisso zekomidi lakhe emhlanganweni wesiGungu.*
- (3) *Zonke izinqumo zesiGungu kumele ziphakanyiswe ngokusemthethwehi ziphinde zeseke*
- (4) *Amakhansela anelungelo lokukhuluma ngaphezu kwehlandla elilodwa emhlanganweni wesiGungu.*
- (5) *Zonke izinqumo zesiGungu esiPhezulu ziyobikelwa umkhandlu.*
- (6) *Usihlalo wesiGungu esiPhezulu uyokwethula iziphakamisso zekomidi lakhe emhlanganweni womkhandlu.*

22. Isibalo esanele nezinqumo

- (1) *Uma isibalo samalunga esigungu seqile kwingxenywe kuyobe sanele ukuze umhlangano uqhubeke.*

- (2) *Udaba oluphambi kwesigungu luyonqunywa uma kunesivumelwano phakathi kweningi lamalunga.*
- (3) *Uma kunempikiswano ngodaba oluthize, usihlalo womhlangano uyovota kabili ukuxazulula udaba.*

23. Imisebenzi yesiGungu esiPhezulu

Imisebenzi namandla esiGungu esiPhezulu kuchazwe kwisigaba 44 soMthetho ongamele ukuhlelwa koMasipala, No. 117 ka 1998 kanti icashunwe kuHlelo 4 lwalwMithetho.

24. Ukubuyekeza kwezinqumo zesiGungu esiPhezulu

- (1) *Umkhandlu ungathatha isinqumo esiyobhalwa phansi, nesiyosekelwa okungenani ikota yamalunga omkhandlu sokuba ukubuyekeze isinqumo sesiGungu esiPhezulu ngokwamandla esiwaphathisiwe noma umyalelo esiwukhiphile bese uyasiqinisekisa, usiguqule okanye usichithe isinqumo, nokuyoncika nakumalungelo okungenzeka ukuthi abesetholwe umuntu othize.*
- (2) *Umkhandlu ungayalela isiGungu ukuba sibuyekeze nanoma isiphi isinqumo esithathwe ngokwamandla esiwaphathisiwe noma umyalelo esiwukhiphile.*
- (3) *Uma isiGungu sifisa ukuba umkhandlu ubuyekeze isinqumo esisithathile, siyophakamisa lokho kumkhandlu bese wona uthatha isinqumo sokuthi uyasiqinisekisa, uyasiguqula okanye uyasichitha leso sinqumo.*
- (4) *IsiGungu ngeke sikwazi ukuphakamisa ukuthi isinqumo saso sibuyekwezwe umkhandlu uma leso sinqumo sinike omunye umuntu amalungelo okanye umklomelo othize naye esazisiwe ngalokho.*
- (5) *Umkhandlu kumele ubuyekeze isinqumo esithathwe isiGungu esiPhezulu ngokubhekela imibandela yomthetho 24(1) uma ikota yamakhansela ibhala icela ukuba sibuyekwezwe.*
- (6) *Leso sicelo esibhalwe phansi kumele sisayinwe inani lamakhansela elanele bese sichaza ngokusobala isinqumo okumele sibuyekwezwe kanye nezizathu eziphelele zokuba kwenziwe njalo.*
- (7) *Isicelo esibhalwe phansi kumele sifike ehhovisi likaMphathi kaMasipala engakashayi u 13h00 ngosuku olwandulela ukukhishwa kwe-agenda yomhlangano womkhandlu.*
- (8) *Isinqumo somkhandlu sokuqinisekisa, ukuguqula okanye ukuchitha okunqunywe isiGungu esiPhezulu siyothathwa ngokuvotelwa amavoti eqile kwingxenywe emhlanganweni womkhandlu.*

QAPHELA: Umthetho 24(1) uhlizeka amandla kumkhandlu ukuqinisekisa, ukuguqula okanye uhoxise izinqumo ezithathwe isiGungu esiPhezulu, nokuncike kumalungelo okungenzeka ukuthi asedlulele kumuntu othize.

Kafishane, isiGungu esiPhezulu senza imisebenzi emikhakha ehlukeno kabili. Owokuqala umsebenzi oncikene nezomthetho kanti omunye uncike kwezokuphatha.

Lapho isiGungu senza umsebenzi othinta ezomthetho, lokho kungathinta amalungelo omuntu othize okanye inkampani thize.

Uma isiGungu sisebenza ngokuncikene nezomthetho, izinqumo zaso azinakuguqulwa okanye zishintshwe nganoma iyiphi indlela ngoba zisuke zithinta amalungelo abanye abantu.

Isibonelo, uma isiGungu sinikizele ngomsebenzi othize enkampanini, leyo nkampani ibe seyithola amalungelo athize asemthethweni umkhandlu ongeke ukwazi ukuyiphuca ngokuthi uguqule, uchibiyele okanye uhoxise isinqumo sesiGungu.

25. Izikhalazo ngezinqumo ezithathwe izinhlaka zezepolitiki, abasemagunyeni emaqenjini ezepolitiki, amakhansela okanye abasebenzi bomkhandlu

- (1) *Umuntu omalungelo akhe aphazanyiswe isinqumo esithathwe izinhlaka zezepolitiki, osemagunyeni eqenjini lezepolitiki, ikhansela okanye umsebenzi womkhandlu ngokwamandla noma umsebenzi awuphathiswe ilolo hlaka lwezepolitiki, osemagunyeni eqenjini lezepolitiki, ikhansela okanye umsebenzi womkhandlu, angabhala incwadi yesikhalazo ngaleso sinqumo ayiqondise ehhovisi likaMphathi kaMasipala kungakapheli izinsuku ezingama-21 ethole isaziso ngaso.*
- (2) *UMphathi kaMasipala uyobe esedlulisela lesi sikhalazo kwiziko elifanele elichazwe kwisigatshana (4) kuMthetho wokuPhathwa koMasipala [bheka uMthetho 25(4)].*
- (3) *Isigungu siyocubungula isikhalazo bese siqinisekisa, siguqule noma sihoxise isinqumo, kodwa ukuhoxiswa nokuguqulwa kwesinqumo ngeke kuphazamise amalungelo okungenzeka ukuthi abasetholwe umuntu othize.*
- (4) *Uma isikhalazo ngesinqumo sifakwa-*
 - (a) *umsebenzi womkhandlu kepha kungesiye uMphathi kaMasipala, isikhalazo siyolalelwa uMphathi kaMasipala;*
 - (b) *uMphathi kaMasipala, isikhalazo siyolalelwa isiGungu esiPhezulu; noma*
- © *uhlaka kwezepolitiki, osemagunyeni eqenjini lezepolitiki, ikhansela okanye ikomidi lamakhansela, isikhalazo siyolalelwa ikomidi*

Iamakhansela eliyooqokwa umkhandlu nelingathinteki ekuthathweni kwaleso sinqumo.

- (5) *Isigungu esilalela isikhalazo siyohlangana kungakapheli amasonto ayisithupha sibuye siphothule umsebenzi waso ngesikhathi esifanele.*

26. IKomidi ngesikhathi sekhefu nalapho kunesimo esiphuthumayo

- (1) IKomidi langesikhathi sekhefu kuyoba isiGungu esiPhezulu esinoMeya, uSekela Meyu noSomlomo.
- (2) Usihlalo wekomidi kuyoba nguMeya noma uSekela Meyu uma engekho.
- (3) Isibalo esanele ukuze kuqhubeke umhlangano wekomidi yinoma imaphi amalunga amabili.
- (4) Uma uMeya engekho emhlanganweni kepha isibalo sivuma ukuthi umhlangano uqhubeke, uSekela Meyu uyophatha umhlangano.
- (5) Imihlangano yekomidi iyobizwa nguMeya noma uSekela Meyu uma engekho, ngokubonisana noMphathi kaMasipala.
- (6) uMeya noma uSekela Meyu uma uMeya engekho, unelungelo lokubiza umhlangano wekomidi uma kunesimo esiphuthumayo kanti ngokombono wabo ukulinda umhlangano wekomidi elifanele kungabeka umkhandlu engcupheni.
- (7) IKomidi ngesikhathi sekhefu noma lapho kunesimo esiphuthumayo liyoba namandla okwenza okulandelayo, njengoba kubhekwe kumthetho 26(6):
- (a) Ligunyazise izindleko nokusetshenziswa kwemphahla nabasebenzi bakamasipala ukusiza esimweni esibucayi imbangela yaso okuyinhlekelele noma okufana nayo endaweni engaphansi kukamasipala.
- (b) Ligunyazise izindleko nokusetshenziswa kwemphahla nabasebenzi bakamasipala ukusiza esimweni esichazwe kwisigatshana (d) endaweni engaphandle kwemingcele kamasipala uma isicelo sosizo sifakwe uMphathi kaMasipala othintekayo noma inhloko yomnyango efanele emazingeni kahulumeni kwisifundazwe noma kuhulumeni kazwelonke.
- © Ligunyazise izindleko nokusetshenziswa kwemphahla nabasebenzi bakamasipala ukusiza ukugwema noma ukunciphisa umonakalo esimweni esibucayi imbangela yaso okuyinhlekelele noma okufana nayo okulindeleke endaweni engaphansi kukamasipala.
- (d) Lithathe izinyathelo ezifanele ukuvikela imphahla nabasebenzi bomkhandlu uma kunobungozi bokuthi kwenzeka bezenzo eziphambene nomthetho.

- (e) Lithathe izinyathelo ukuvikela umphakathi endaweni engaphansi kukamasipala kunoma iyiphi into engase ibe nobungozi.
- (f) Ligunyazise ukukhishwa kwanoma iyiphi inothisi ehlinzekelwe umthetho okanye umthetho oqondene nezokwakha, liphinde linqume nezikhathi ekumele kuthathwe izinyathelo ezifanele ngaso.
- (g) Akukho okuqukethwe yilesigatshana(7) okuyogunyazisa ukuchithwa kwezimali zomkhandlu ngendlela eyokweqa isabelo-zimali.
- (h) Amandla anikwe ikomidi ayosetshenziswa ngezinkathi ezifanele kuphela futhi akukho okuyonqunywa okuyoba nomthelela wokubophezela umkhandlu kwimigomo emisha.

IMITHETHO, IMISEBENZI NAMANDLA APHATHISWE AMAKOMIDI ANGAPHANSI KUKAMASIPALA UMDONI

(Qaphela: Imithetho engamele umkhandlu waseMdoni ngeke isetshenziswe emakomidini amancane ngaphandle uma usihlalo enquma ukuyisebenzisa ngenxa yesizathu esithize futhi nangaleso sikhathi kuphela)

27. Ukumiswa kwamakomidi

- (1) *Umkhandlu kamasipala unamandla okuthi-*
Usungule amakomidi ukwenza ngcono ukusebenza komkhandlu uphinde uqoke amalunga phakathi kwawo azoba ingxenye yamakomidi asunguliwe; uphinde ube nelungelo lokuhlakaza ikomidi nganoma isiphi isikhathi.
- (2) *Umkhandlu kamasipala-*
 - (a) kumele uchaze imisebenzi yekomidi;
 - (b) ungaphathisa ikomidi amandla athize ngokulandela isigaba 32;
 - (c) kumele liqoke usihlalo wekomidi;
 - (d) unganika ikomidi amandla okumema abanye abantu abangesiwo amalunga omkhandlu ukuzocobisa ikomidi, kulandelwa imigomo ebekiwe;
 - (e) ungasusa ilunga lekomidi esikhundleni nganoma isiphi isikhathi;
 - (f) unganquma inqubo ikomidi elizoqhuba ngayo.

28. Amakomidi asizana nesiGungu esiPhezulu

- (1) *Uma umkhandlu kamasipala unesiGungu esiPhezulu, ngokulandela isigaba 79, unganquma ukumisa amakomidi amakhansela azosizana nesiGungu.*
 - a. Amakomidi amiswe kanjalo akumele isibalo samalunga awo seqe kwesamalunga esiGungu esiPhezulu.
- (3) *Isigungu esiphezulu-*
 - siqoka usihlalo wekomidi phakathi kwamalunga esigungu esiphezulu;

- singaphathisa amandla athize esigungu esiphezulu kwelinye ikomidi;
- asiphucwa imisebenzi yokuphatha nokusebenza imisebenzi yaso
- singaguqula noma sihoxise nanoma isiphi isinqumo sekomidi, nokuncike kumalungelo athize okungenzeka abesetholwe ngabathize.

(4) Ikomidi elimiswe kanjalo kumele lethule imibiko kwisigungu esiphezulu ngendlela ebekiwe.

29. Uhlobo lwamakomidi

Kuyoba nesiGungu esiPhezulu kanye namakomidi amathathu, okuyi:

- iKomdi lezeZimali neZokuphatha
- iKomidi elibhekele ezoKwakha neNthuthuko
- iKomidi elibhekele ezoMphakathi

30. Ubulunga

- (1) Amalunga amakomidi ayoqokwa umkhandlu, kulandelwa umthetho 28 kulemithetho.
- (2) uMeya, uSekela Meyu noSomlomo bahlala kuwo wonke amakomidi ngokwezikhundla zabo, kepha banamandla okuvota kulawo makomidi abaqokelwe ubulunga kuwo kuphela.

31. oSihlalo nabashintshana nabo

- (1) Umkhandlu uyoqoka usihlalo nelinye ilunga eliyoba ngosihlalo ngokushintshana naye.
- (2) Uma bobabili osihlalo bengekho, amalunga akhona angaqoka usihlalo phakathi kwawo, kepha uma kukhona uMeya noma isekela lakhe, bangawuphatha umhlangano uma benesifiso sokwenze njalo.
- (3) uSomlomo uyophatha umhlangano uma amakomidi ehleli ngokuhlanganyela, nokuncike ekuthini-
- (a) uSomlomo angadlulisela komunye wosihlalo bamakomidi ukuba apha the umhlangano, futhi
 - (b) uma uSomlomo engekho, omunye wosihlalo bamakomidi kuyomele apha the umhlangano.
- (4) Uma kunempikiswano ngosihlalo okumele apha the umhlangano, udaba luyoxazululwa ngokuvota kwamalunga akhona emhlanganweni.
- (5) uSihlalo uyoqinisekisa ukuthi umhlangano uhamba ngokufanele, abhekele ukuthi kulandelwa yonke imigomo yokuziphatha kanye nemithetho efanele, kuhlanganisa imithetho engamele umkhandlu

32. Isibalo esanele kumhlango

- (1) Isibalo esanele kumhlango wekomidi kuyoba isibalo eseqile kwingxeny yamalunga ekomidi futhi awukho umhlango oyoqhubeka uma isibalo singenele.
- (2) Uma umhlango uyinhlanganyela yamakomidi, isibalo esanele kuyoba amalunga eqile kwingxeny kwikomidi ngalinye ukuze umhlango uqhubeke.
- (3) Uma kushaya isikhathi sokuqala umhlango isibalo samalunga singenele, amalunga akhona ayolinda imizuzu elishumi. Emva kwalokho, umhlango uyohlakazwa ngaphandle uma amalunga akhona evumelana ukuthi kulindwe isikhathi esingeziwe ngezinhloso zokuhlanganisa isibalo.
- (4) Uma umhlango uhlehlela olunye usuku, nanoma iliphi ikhansela elingekho nelingazange lifake isicelo selivu liyodonselwa imali eholweni lalo njengoba kuchazwa kuHlamvu (1) loHlelo 1 kwimithetho.

33. Ukuphathiswa kwamandla

- (1) *Umkhandlu kamasipala kumele usungule izinhlelo zokuphathiswa kwamandla ngezinhloso zokwenza ngcono ukusebenza komkhandlu, futhi ukufeza lokho unga-*
 - (a) *phathisa amandla afanele kumakhansela, abasebenzi kanye nezinhlaka zepolitiki nabasemagunyeni emaqenjini ezipolitiki, ngaphandle kwalawo achazwe kwisigaba 160(2) somthethosisekelo kanye namandla okuqoqa intela, ukwenza izivumelwano ngokukhokhelwa kwemisebenzi edingwa umkhandlu ngokwesigaba 76(b) kanye namandla okuphathisa uhlelo lwentuthuko edidiyelwe;*
 - (b) *ungayalela lolo hlaka lwezepolitiki, osesikhundleni eqenjini, ikhansela noma umsebenzi ukuba enze nanoma imiphi imisebenzi yomkhandlu; futhi*
 - © *uhoxise nanoma imuphi umyalelo noma amandla aphathisiwe.*
- (2) *Umyalelo noma amandla aphathisiwe achazwe kwisigatshana (1)-*
 - a. *akumele kuphambane nokuqokethwe umthethosisekelo, yiloMthetho noma uMthetho wokuHlelwa koMasipala; futhi abhalwe phansi*
 - b. *kuncike kunoma imiphi imibandela nemiyalelo engakhishwa umkhandlu*
 - c. *kungahlanganisa nomyalelo wokuphinde kudluliswe amandla aphathisiwe lolo hlaka.*
 - d. *awuphuci umkhandlu ilungelo lokusebenzisa amandla noma ukwenza umsebenzi othize; futhi*
 - e. *kumele kubuyezwe uma kukhethwa umkhandlu omusha.*
- (3) *Umkhandlu kamasipala –*
 - (a) *ungabuyezwe isinqumo esithathwe yileso siphathimandla, khansela, msebenzi, iqembu lezipolitiki ngokwamandla abaphathisiwe wona ngokuthi ulandele imithetho nemigomo yawo, noma lapho okungenani isibalo esiyikota yamakhansela sibhale incwadi yesicelo esinjalo, nokincike kumalungelo okungenzeka asetholwe umuntu othize; futhi*

- (b) ungacela isigungu esiphezulu ukuba sibuyekeze isinqumo esithathwe yilabo bantu ngokwamandla abawaphathisiwe.

34. Amandla aphathisiwe isiGungu esiPhezulu kuphela

- (1) Amandla achazwe ngezansi angaphathiswa isiGungu esiPhezulu kuphela kulandelwa imigomo ekuvunyelwene ngayo umkhandlu:
- a. izinqumo eziqondene nokudliwa komhlaba noma amalungelo omhlaba; kanye
 - b. nokunqunywa noma ukubuyekizwa kamaholo nemibandela yokusebenza kaMphathi kaMasipala nabaphethwe nguye ngqo.
- (2) Umkhandlu ungalandela imigomo ebekwe uNgqongqoshe wezeZimali ukuphathisa isiGungu esiPhezulu noma umphathi wezimali kuphela amandla okutshala izimali zikamasipala.

35. Ukudluliselwa kodaba kwabaphathise amandla ukuthatha isinqumo

- (1) Iqembu lezopolitiki, isiphathimandla, ikhansela noma umsebenzi ophathisiwe amandla okwenza imisebenzi ethize angasebenzisa ilungelo lakhe noma ngokulandela umyalelo okhishwe uhlaka olumphathise lawo mandla, adlulisele nanoma iluphi udaba kulolo hlaka ngezinhloso zokuba kuthathwe isinqumo.
- (2) Imigomo yokusebenza kanye namandla aphathisiwe isiGungu esiPhezulu kuqokethwe kuHlelo 4 kwiMithetho.
- (3) Ngaphandle kwamandla esiGungu esiPhezulu, amandla aphathisiwe ngeke ahlanganise amandla okuthatha isinqumo esiyobophezela umkhandlu kwimigomo emisha, kanti usihlalo wesigungu esiPhezulu angayalela umhlangano wekomidi lomkhandlu lokuba ungathathi isinqumo, kepha udlulisele umbiko onezincomo kwisiGungu esiPhezulu uma kungumbono wakhe ukuthi udaba oluxoxwa emhlanganweni walelo komidi lungase lubophezele umkhandlu kwimigomo emisha.
- (4) Zonke izinqumo ezithathwe ngokwamandla aphathisiwe ziyobe zenziwa egameni lomkhandlu futhi ziyobe zibophezela kuwo.
- (5) Ngaphandle kwamandla abekelwe umkhandlu kuphela nachazwe kumthetho 14(1) no 34(1)(a) noma lawo aphathisiwe amakomidi omkhandlu, isiGungu esiPhezulu siyoba nelungelo lokusebenzisa nanoma imaphi amandla nokwenza nanoma imiphi imisebenzi yomkhandlu futhi alikho elinye ikomidi lomkhandlu eliyoba namandla okwenza nanoma yini lingayaleliwe umkhandlu noma ngokoMthetho 37(6).
- (6) IsiGungu esiPhezulu asinalo ilungelo lokudlulisela amandla okwenza izinqumo kunoma iliphi ikomidi elincane elingaphansi kwaso ngemisebenzi namalungelo esiphathisiwe wona, kepha singayalela lelo komidi ukuba licubungule udaba bese lithula umbiko ohambisana nezincinane kuso, futhi isiGungu esiPhezulu kuphela esinamandla okuphathisa amandla kubasebenzi ngokomthetho 38. Uma ukubambezileka kwesikhathi

kungabeka umkhandlu engcupheni, isiGungu esiPhezulu singadlulisela amandla okuthatha isinqumo kunoma iliphi ikomidi okanye umsebenzi.

- (7) isiGungu esiPhezulu asinaso isibobephezelo sokuthatha isinqumo sokugcina nganoma iluphi udaba oluphambi kwaso okanye olulethwa ikomidi lomkhandlu noma olufika ngenxa yomthetho 37(2), kunalokho singabhala umbiko ohambisana nezincwadi kumkhandlu.
- (8) Nakuba isiGungu esiPhezulu sinikwe amandla, kepha asinalo igunya lokuthatha isinqumo esiyoba nomphumela wokuthi umkhandlu uthwale izindleko ezingafakiwe kwisabiwo-mali, okanye kusetshenziswe isamba eseqile kuleso esihleliwe kwisabiwo-mali; kodwa isigungu sinalo igunya lokususa izimali eseziphasisiwe esikhwameni esithize sizifake kwesinye, uma nje lokho kungeke kube nomphumela wokuthi isamba sezimali seke kuleso ebesivele sihleliwe lesi sikhwama.
- (9) Nakuba amakomidi omkhandlu enikwe amandla, kepha awanalo igunya lokuthatha isinqumo esiyoba nomphumela wokuthi umkhandlu uthwale izindleko ezingafakiwe kwisabiwo-mali, okanye kusetshenziswe isamba eseqile kuleso esihleliwe kwisabiwo-mali.
- (10) Uma ikomidi lomkhandlu, kungesiso isigungu esiphezulu, libona isidingo sokuqoka elinye ikomidi elincane ngaphansi kwalo, lelo komidi kumele lenze izincwadi kwisiGungu esiPhezulu, okuyisona esiyothatha isinqumo ngesidingo sokusungula lelo komidi elincane.
- (11) Ngaphambi kokuba kuqokwe ikomidi elincane, kuyokwenziwa isiqiniseko nomele uMphathi kaMasipala ukuthi alikho elinye ikomidi eselivele lisunguwe ngezinhloso ezifanayo.
- (12) Ngaphambi kokuba kuqokwe ikomidi elincane, noma kunconywa ukuba kusungulwe lelo komidi, ikomidi elihlongoza lokho kuyomele lichaze ngokuphelele izinhloso zekomidi elincane, amalunga kanye nosihlalo walo, isibalo sabantu abenele ukuqhuba umhlangano walo kanye nesikhathi elinqunyelwe sona ukwethula umbiko walo phambi kwalelo komidi elilisingulile.
- (13) Lapho isiGungu esiPhezulu simisa ikomidi elincane ngaphansi kwaso, liyoqoka nosihlalo walo. Uma ikomidi liqokwa ngokwesiphakamiso sekomidi lomkhandlu, isiphakamiso sokumisa ikomidi kuyomele sihambisane negama likasihlalo wekomidi.
- (14) Lapho ikomidi lomkhandlu lehluleka ukuthatha isinqumo ngodaba olusemandleni alo, okanye libambezela isikhathi eside, umsebenzi omele uMphathi kaMasipala unelungelo lokuncoma ukuba udaba ludluliselwe kwisiGungu esiPhezulu ukuze kutholakale isinqumo.
- (15) Uma umsebenzi omele uMphathi kaMasipala engenaso isiqiniseko sokuba udaba lungaphansi kwekomidi eludingidayo, unelungelo lokudlulisela lokho kwisiGungu esiPhezulu ukuze sikhuphe isinqumo ngaphambi noma emva kokuba ikomidi selihlangene. Uma udaba ludluliselwe kwisiGungu emva kokuba ikomidi selikhuphe isinqumo, lesi sinqumo ngeke sibe namthelela kuze kube isigungu siyakuphasisa lokho.

- (16) isiGungu esiPhezulu singanquma ukungasithathi isinqumo ngodaba, kunalokho siluphindisele kwikomidi esibona lifanele ukuludingida.
- (17) Nanoma iliphi ikhansela elithamele umhlango wekomidi lomkhandlu linokucela ukuthi udaba oluthize ludluliselwe kumkhandlu; uma lokho kwenzeka lolo daba ngeke kunqunywe ngalo kepha kuyokwethulwa iziphakamiso ngalo kumkhandlu kamasipala.
- (18) Imithetho engamele ukufakwa kwamanothi echazwe kuMthetho 17 iyasebenza nasemakomidini omkhandlu, kuphela iguqulwe ukuhambisana nesimo sokusebenza kwekomidi. .

36. Ukuphathiswa kwamandla kwabasebenzi

Wonke umsebenzi kamasipala ophathiswe amandla ngomsebenzi ongaphansi kwekomidi elithize uyoqhubeka nokusebenzisa lawo mandla ngaphandle uma leso sinqumo siguqulwa okanye sihoxiswa isiGungu esiPhezulu; kepha uma kunesikhalazo ngesinqumo esithathwe umsebenzi ngokwamandla awaphathiswe okanye lowo msebenzi enqaba ukusebenzisa lawo mandla, ikomidi lingazithathela ngokwalo isinqumo uma linawo amandla okwenze njalo.

37. Okuphuthumayo

Akukho okanye okuyoxoxwa emhlanganweni womkhandlu noma wekomidi lomkhandlu ngaphandle kwalokho okubela kuhlu lwezingxoxo, ngaphandle uma kungumbono kasihlalo womhlango noma woMphathi kaMasipala ukuthi kunodaba oluphuthumayo okumele luxoxwe futhi esayine isitifiketi esifanele ngalokho nesivezwe kwi Sixhumelelo "A" salemithetho.

38. Izinkathi lapho amakhansela engavumelekile ukuba ingxenywe yemihlangano yomkhandlu, yamakomidi omkhandlu noma eyamakomidi amancane

Ikhansela kuyomele:

- (1) Libike ngokuphelele uma ngabe lona, umlingani walo, noma obambisene nalo kwezebhizinisi bethinteka kudaba oluxoxwa phambi komkhandlu noma ikomidi lomkhandlu; bese
- (2) lihoxa lingabi ngxenywe yezingxoxo ezithinta lolo daba, ngaphandle uma umkhandlu noma ikomidi lelo lithatha isinqumo sokuthi liqhubeke nokubamba iqhaza ngenxa yokuthi ukuthinteka kwalo kungabalulekile odabeni. Ikhansela elikuvezile ukuthinteka kwalo odabeni oluthize, lingabeka okuthize uma lithola imvume kasihlalo phambi komkhandlu noma kwekomidi lomkhandlu ngalolodaba, ngaphambi kokuba lolo daba luxoxwe luthathelwe nezinqumo.

Uma ngabe ikhansela, noma umlingani walo, ilunga lomndeni eliseduze, okanye ababambisene naye kwezebhizinisi kukhona abangakuzuza ngomsebenzi okuxoxwa

ngawo emhlanganweni, lelo khansela kufanele lidalule lolo lwazi ngethuba lokuqala elilitholayo kumhlangano womkhandlu okanye wekomidi.

Lesi sigaba asisebenzi uma leyo inzuzo etholwa ikhansela, umlingani walo, ilunga lomndeni eliseduze noma obambisene naye kwezebhizinisi beyithola ngokuhlanganyela namanye amalunga omphakathi.

39. Izinxuso kumele zibhalwe phansi

Zonke izinxuso noma izikhalo kumele zibhalwe ngendlela enenhlonipho, zisayinwe okungenani ngamalunga omphakathi amathathu, bese zidluliselwa kuMphathi-Dolobha, oyo zidlulisela kumkhandlu lapho ebona kunesidingo.

40. Amathimba afanele ukuthumela incwadi

Amathimba afisa ukuvela phambi komkhandlu kumele aqale ngokuthumela isicelo sawo kuMphathi-Dolobha ngokubhala incwadi, oyosiletha phambi komkhandlu, wona bese unquma noma uyasemukela isicelo noma cha.

41. Ukwemukelwa kwamathimba

Ithimba elizovela phambi komkhandlu kumele libe amalunga angeqi kwayisihlanu, likhulunyelwe oyedwa (ngaphandle lapho sekuphendulwa imibuzo) futhi lithathe isikhathi esingeqi kwimizuzu eyishumi. Umkhandlu uyobe usuxoxa udaba lwalo emva kokuba selihambile ithimba.

42. Ukuhlolwa kwencwadi yamaminithi amakhansela

Amalunga omkhandlu anelungelo okuhlola amaminithi anoma iliphi ikomidi lomkhandlu ngezikhathi zokusebenza ezijwayelekile; kuphela nje uma kuzobhekiswa izidingo zokuxakeka ngokomsebenzi kwalabo abasebenza ukuqopha nokugcinwa kwamaminithi.

43. Ikhansela linelungelo lokushiya isikhundla kwikomidi

Nanoma iliphi ilunga lomkhandlu linelungelo lokushiya phansi isikhundla kwikomidi ngokuthumela incwadi esayiniwe kuMphathi-Dolobha. Lokho kuyobe sekudluliselwa phambi komkhandlu ngenhloso yokugcwalisa lesi sikhala.

44. Abafisa ulwazi kumele balucele kuMphathi-Dolobha noma ophethe umnyango othintekayo

Amalunga omkhandlu afisa ukuthola ulwazi oluthinta ukusebenza kukamasipala olunganikezelwa kumalunga omphakathi, kumele athumele izicelo zawo kuMphathi-Dolobha kuqala, bese ezidlulisela kumphathi womnyango othintekayo.

45. Ulwazi oluthunyelwa kwabezindaba: Izingxoxo ezikhulunywa ngasese

UMeya, okanye uSekela-Meya uma uMeya engekho, noMphathi-Dolobha bangaquma ukunikezela ngolwazi oluthinta ukusebenza kukamasipala kunoma iliphi iphephandaba, umsakazo, umabonakude noma abadlulisa izindaba nge-internet abasemthethweni. Ngenxa yokuthi uMphathi-Dolobha noMeya ibona migudu ethumela imibiko noma ulwazi kwabezindaba, amakhansela ayacelwa ukuba angathumeli izingxoxo ezixoxwa emkhandlwini kwabezindaba, okungasho ukuthi ikhansela liphucwa ilungelo lalo elisemthethweni lokubeka uvo lwalo, kodwa kulindeleke ukuba lokho likwenze ngesingalo, lingakhulumeli egameni lomkhandlu; ngaphandle kwezingxoxo noma izinqumo ezenziwe kuxoxwa ngasese (in-committee), eziyodluliselwa kwabezindaba nguMeya noma uMphathi-Dolobha kuphela.

Osihlalo bamakomidi omkhandlu kumele baxhumane nomabhalane womkhandlu uma befisa ukuthi ulwazi oluthile oluthinta amakomidi abo ludluliselwe kwabezindaba, okuyokwenziwa ngemvume kaMphathi-Dolobha.

46. Ukunxenxa amakhansela

Ukunxenxa amakhansela lapho kufakwe izicelo zomsebenzi akuvumelekile. Uma kutholakala ubufakazi bakho lowo muntu uyokhishwa kuhla labahlungelwa umsebenzi.

47. Ukubhalwa kwesigaba esingenhla ezikhangisweni zomsebenzi

Zonke izikhangiso zomsebenzi ziyobhalwa isigaba esichazwe ngenhla.

48. Ukumiswa kwemithetho yomkhandlu okwesikhashana

Awukho umthetho womkhandlu oyomiswa ngaphandle kokuvotelwa iningi lamalunga asemhlanganweni noma isibalo esingamalunga amathathu kwamane, futhi uma leso siphakamiso sokumisa umthetho okwesikhashana sisekelwe ngokufanele, ngeke sivuleleke ukuthi kuxoxiswane ngaso.

49. Ukumelwa ecaleni kanye nokuvikeleka kwamakhansela nabasebenzi bakamasipala

Umkhandlu uyothatha isinqumo sokuthi iziphi izindleko zomthetho ongazikhokhela lapho omunye wamakhansela noma umsebenzi ebekwe amacala noma ebeke nanoma imuphi umuntu, inhlango noma isikhungo amacala athinta umsebenzi awenzela umkhandlu.

50. uMeya angadlulisela izinkinga kwabazomthetho

UMeya unelungelo lokudlulisela noma iluphi udaba oluthinta umkhandlu kubameli ngenhloso yokuthola izeluleko, kusetshenziswa izimali ezihlelewe lokho kusabelo-zimali.

51. Okungavunyelwe endlini yokuhlanganyela umkhandlu noma emhlanganweni kanye nokusetshenziswa kwayo ngabanye abantu

Isithunzi sendlu yokuhlanganyela umkhandlu njengesishayamthetho sikamasipala Umdoni siyohlonishwa yiwo wonke umuntu oyisebenzisayo ngaso sonke isikhathi.

Akuvunyelwe ukuba kwenziwe izinto ezilandelayo endlini yokuhlanganyela umkhandlu nakunoma imuphi umhlangano wawo kanye namakomidi awo:

- (1) Ukuvula ucingo olungumakhale-khukhwini
- (2) Ukudla noma ukuphuza, ngaphandle kwamanzi asesigujini ngaphakathi endlini

Amaqembu ezezipolitiki kumkhandlu angayisebenzisa indlu yomkhandlu ngokuyibekisa kumabhalane, uma izosetshenziswa yiwo wonke amaqembu ngokushintshana.

Abanye abantu abangathintene nomasipala Umdoni nabafisa ukusebenzisa indlu yomkhandlu, kuyomele bafake isicelo ngokubhalela uMphathi-Dolobha, kubhekelwe ukuthi akukho okunye okwenzekayo ngalolo suku kanye nenhloso ozosetshenziselwa yona. UMphathi-Dolobha uyoxhumana nomabhalane ngesicelo asitholile ukuze kubhalwe incwadi esamukelayo noma esichithayo.

52. Amakomidi ezigceme

Umkhandlu ungathatha insinqumo mayelana nokukhethwa kwabantu kumakomidi ezigceme, uhlelo lokuqhuba imihlangano, kanye nendlela okuyonikezelwa ngayo ngosizo lokuqopha amaminithi emihlangano.

53. Izivakashi, amathimba nomphakathi kumele bahloniphe imithetho ephethe indlu ehlanganyela umkhandlu

Yonke imihlangano yomkhandlu noma amakomidi awo, ivulelekile kumphakathi, ngaphandle uma kuzokhulunywa okuthize ngasese, lapho kulindeleke ukuba amalunga omphakathi awushiye umhlangano.

Umphakathi, kuhlanganisa izivakashi namathimba, ulindeleke ukuba ulalele izinqumo ezithathwa umkhandlu ukuqinisekisa ukuhlonishwa kwesithunzi sendlu yokuhlanganyela umkhandlu noma esomhlangano, kubalwa nendlela yokugqoka futhi bangakwenzi okuyophula lemithetho yomkhandlu.

Zonke izivakashi, kuhlanganisa namalunga omphakathi, baboshwe ngokuqukethwe kwisigaba 32 salemithetho, futhi ukwephula izigaba 32 no 62 zalemithetho kuyicala eliyोजेजिसwa njengoba kuchazwe kusigaba 63 salemithetho.

54. Amacala nezijezo

Nanoma imuphi umuntu ophula lemithetho uyobe wenza okuyicala, aphinde ajeziswe umkhandlu ngendlela elandelayo:

- (1) Anikwe inhlawulo ehambisana necala njengokunquma komkhandlu
- (2) Amiswe ukuhambela imihlangano yomkhandlu noma eyamakomidi omkhandlu isikhathi esifanele ngokunquma komkhandlu; noma
- (3) aphenywe ikomidi eliyisipesheli elichazwe kumthetho wokuMiswa koMasipala, ngaphansi kwemigomo yokuziphatha kwamakhanslea, eliyobe selithatha isinqumo ngesijezo.

55. Ukuhunyushwa kwemithetho

Lapho kunokushayisana phakathi kokuqukethwe kulemithetho ngesiZulu nokushiwo ngesiNgisi, kuyosebenza imithetho yesiNgisi, esihloko sayo sithi- Umdoni Municipality's Rules of Order.

UHLELO 1**A: UKUNGAHAMBELI IMIHLANGANO YOMKHANDLU:****INQUBO YOKUDONSWA KWEZIMALI KWIHOLO NOKUSUSWA ESIKHUNDLENI**

(isungulwe kulandelwa uhlamvu 4 kuHlelo 5 loMthetho ongamele ukuHlelwa koMasipala ka 1998)

Okubhalwe ngezansi kucashunwe kuHlelo 1 leMigomo yokuZiphatha kuMthetho ongamele ukuPhathwa koMasipala ka 2000

Ukuhambela imihlangano

3. *Ikhansela kumele lihambele yonke imihlangano yomkhandlu namakomidi eliyilunga kuwo, ngaphandle uma -*

(a) lithole imvume yelivu kulandelwa imithetho ejwayelekile noma yomkhandlu; noma

(b) lelo khansela limele ukungabikhona kumhlangano ngokwemithetho yomkhandlu.

Izizeziso ngokuphutha imihlangano

4. *Umkhandlu dolobha ungahlawulisa ikhansela imali enqunywe kwimithetho nemigomo yomkhandlu uma:*

(a) liphuthe kumhlangano okumele liwuhambele ngokohlamvu 3; noma

(b) lishiye umhlangano ungakapheli.

2. *Ikhansela eliphutha imihlangano emithathu yomkhandlu noma yekomidi eliyilunga lalo ilandelana, lelo khansela kumele likhishwe esikhundleni.*

3. *Inqubo yokuhlawuliswa kwamakhansela neyokuwasusa esikhundleni kumele kuvunyelwane ngayo kumkhandlu ibuye isebenze ngendlela efanayo neyohambisana nemithetho yezwe.*

(b) Ukudonswa kwezimali ngenxa yokuphutha emhlanganweni noma lapho umhlangano ushiywa ungakapheli

(1) *Uma umkhandlu ungasamukeli isicelo selivu sekhansela eliphuthe emhlanganweni womkhandlu noma wekomidi lomkhandlu, noma lapho ikhansela liphutha kumhlangano ngaphandle kokufaka isicelo selivu, kuyodonswa isamba esingu R300-00 (amakhulu amathathu amarandi) kwiholo lalo.*

(2) *Uma ikhansela lishiya umhlangano womkhandlu noma wekomidi ngaphambi kokuba kuphele amahora amathathu, ngaphandle kokuthola imvume yomkhandlu noma yalelo*

komidi, kuyodonswa isamba esingu R300-00 (amakhulu amathathu amarandi) kwiholo lalo.

© Inqubo yokususa ikhansela esikhundleni

- (1) Uma uMphathi kaMasipala ethola ukuthi ikhansela liphuthe imihlangano emithathu yomkhandlu noma yekomidi eliyilunga lalo ilandelana, uyobe eseqala amalungiselelo lokuba lisuswe esikhundleni.
- (2) Ngezinhloso zokufeza u-(3) ngenhla, ikhansela elithintekayo kuyomele livele phambi kwekomidi elisungulwe umkhandlu ngalezo zinhloso neliyophathwa uSomlomo.
- (3) uMphathi kaMasipala uyonika lelo khansela inothisi ngomhlangano.
- (4) Inothisi-
 - (a) iyobhalwa phansi;
 - (b) iyochazela ikhansela-
 - (i) usuku, isikhathi ndendawo okuzobanjelwa khona umhlangano;
 - (ii) izizathu ngezinsolo ezikhona;
 - (iii) ukuthi ngeke avunyelwe ummeli kumhlangano;
 - (iv) ukuthi ikhansela linelungelo lokwethula ubufakazi, nokubiza ofakazi balo;
 - (v) ukuthi ikhansela linelungelo lokuhloma imibuzo kofakazi abayobizwa ikomidi;
 - (vi) ukuthi isinqumo sekomidi singunqamlajuqu.
- (5) Uma kwenzeka ikhansela lingafiki emhlanganeni ukuzolalela udaba lwalo, uMphathi kaMasipala uyothatha izinyathelo ukuthola izizathu zalokho ngaphambi kokuba kuqhutshekwe.
- (6) Uma uMphathi kaMasipala ehluleka ukuthola izizathu ngokuphutha kwekhansela, ikomidi liyoqhubeka nokulalela udaba lingekeho ikhansela.
- (7) Emhlanganweni-
 - (a) uMphathi kaMasipala noma omunye umuntu oqokwe nguye, uyoveza ubufakazi bokuthi ikhansela-

➤ liphuthe imihlangano yomkhandlu emithathu(3) ilandelana

- *liphuthe imihlangano yekomidi lomkhandlu eliyilunga kulo emithathu (3) ilandelana*
- (b) *ikhansela liyoba nelungelo lokuhloma imibuzo kofakazi abayobizwa uMphathi kaMasipala;*
- © *ikomidi liyoba nelungelo lokuhloma imibuzo kofakazi abayobizwa uMphathi kaMasipala ngenhloso yokuthola incazelo;*
- (d) *ikhansela liyoba nelungelo lokubiza ofakazi balo;*
- (e) *ikhansela noMphathi kaMasipala bayoba nelungelo lokwenza izethulo kwikomidi ngaphambi kokuba kuthathwe isinqumo esingunqmlajuqu.*
- (8) *Uma ngokubhekela okuphambi kwalo, iningi lekomidi libona ukuthi-*
- (a) *ikhansela liphuthe imihlangano yomkhandlu emithathu(3) ilandelana; noma*
- (b) *ikhansela liphuthe imihlangano yekomidi lomkhandlu eliyilunga kulo emithathu (3) ilandelana, Ikhansela liyosuswa esikhundleni sobukhansela.*
- (9) *Ikomidi liyokwazisa ikhansela isinqumo salo ngokubhala incwadi.*
- (10) *uMphathi kaMasipala uyobikela isiGungu esiPhezulu ngesinqumo sekomidi.*

.....

UHLELO 2

UHLELO LOKUBAMBA IQHAZA KOMPHAKATHI A: IMIHLANGNAO YOMKHANDLU

- (1) *Ilunga lomphakathi elifisa ukuphefumula emhlanganweni womkhandlu lingakhuluma kulezo zinto ezithintwa uMthetho 9(2)(a) kuya ku (f) kuphela.*
- (2) *Ilunga lomphakathi elifisa ukuphefumula emhlanganweni womkhandlu kumele litole imvume kaSomlomo ngaphambi kokuba kuqale umhlangano.*
- (3) *Lapho ilunga lomphakathi selikhuluma, liyolandela yonke imigomo nemiyalelo kasomlomo.*

(4) Ilunga lomphakathi-

- (a) liyonikwa isikhathi esingeqile kwimizuzu emithathu, okanye leso sikhathi esiyokwengezwa uSomlomo.
- (b) ngeke livunyelwe ukusebenzisa amazwi ahlasele umuntu othize ngenkathi likhuluma phambi komkhandlu
- © ngeke lisebenzise inhlamba noma ulimi olungamukelekile ngenkathi likhuluma phambi komkhandlu.

B: IMIHLANGANO YESIGUNGU ESIPHEZULU NEYAMAKOMIDI OMKHANDLU

(1) Imihlangano yesiGungu esiPhezulu neyamakomidi omkhndlu ivulelekile emphakathini.

(2) amalunga omphakathi avunyelwe ukukhuluma emhlanganweni, kepha kumele akhulume ngezindaba ezikhona kuhlu lokuzoxoxwa ikomidi.

(3) Usihlalo wekomidi uyobuza amalunga omphakathi akhona ngenkathi uqala umhlangano ukuthi ngabe azoba naso yini isifiso sokukhuluma emhlanganweni.

(4) Amalunga omphakathi ayonika amagama awo, bese echaza nodaba abafisa ukukhuluma ngalo kwi-agenda.

(5) Lawo malunga omphakathi akhuluma emhlanganweni wekomidi-

- ayonikwa isikhathi esingeqile kwimizuzu emithathu;
- ayokhuluma kulolo daba abeluchazile kuphela;
- ngeke avunyelwe ukusebenzisa amazwi ahlasele umuntu othize ngenkathi ekhuluma
- ngeke asebenzise inhlamba noma ulimi olungamukelekile ngenkathi ekhuluma phambi kwekomidi.

.....

UHLELO 3**A: INQUBO YOKUHLANGANISWA NOKUKHISHWA KWAMA-AGENDA**

Inqubo elandelayo iyosetshenziswa lapho kuhlanganiswa, kugaywa futhi kusatshaliswa ama-agenda ayo yonke imihlangano yomkhandlu, isiGungu esiPhezulu kanye namakomidi omkhandlu dolobha wase Mdoni.

Ushintsho oluhlongozwa kwizikhathi, indawo nosuku lomhlangano kumele kuboniswane ngalo noMenerja: Corporate Services.

1. **IZINSUKU OKUVALWA NGAZO UKWEMUKELWA KALOKHO OKUIZONGENA KWI-AGENDA**

Ukwemukelwa kwezinto ezizongena kwi-agenda kuyovalwa kusasele izinsuku ezilishumi phambi kosuku olunqunyiwe uma kungumhlangano wekomidi.

2. **USUKU LOKUGCINA LOKUGAYWA KWE-AGENDA**

Ukuze kube nesikhathi esenele sokugaywa kwe-agenda, ukwemukelwa kwayo ngezinhloso zokugaywa kuyovala kusasele izinsuku eziyisithupha phambi kosuku lomhlangano

3. **UKUKHISHWA KWAMA-AGENDA.**

Ama-agenda aayobe eselungele ukulandwa kusasele izinsuku ezimbili (amahora angu-48) ngaphambi kosuku lomhlangano.

4. **IZINTO EZIFIKE EMVA KWESIKHATHI**

Lokho okufike emva kosuku lokuvala ukwemukela okungena kwi-agenda kuyothwathwa njengokomhlangano olandelayo.

Uma kuwudaba oluphuthumayo, uMphathi woMnyango othintekayo kuyomele achaze izizathu zalokho, athole nemvume kuMphathi kaMasipala noma ommele. Uma uMphathi kaMasipala esesayinile, aqinisekise ukukhishwa kwalowo mbiko oyobe ihambisana nencazelo emfishane ayithumele kuwo wonke amalunga ekomidi, kuMphathi kaMasipala nakumabhalane. uMphathi woMnyango kuyomele aqinisekise ukuthi ayotholakala amanye amakhophi ombiko emhlanganweni.

.....

UHLELO 4

**IMIGOMO YOKUSEBENZA KANYE NAMANDLA APHATHISWE ISIGUNGU ESIPHEZULU
NAMANYE AMAKOMIDI OMKHANDLU DOLOBHA UMDONI**

ISIGUNGU ESIPHEZULU**A: IMIGOMO YOKUSEBENZA**

1. UKuthobela umyalelo wesigaba 44 soMthetho wokuHlelwa koMasipala No. 117 ka 1998.

44. Imisebenzi namandla esiGungu esiPhezulu.

(1) IsiGungu esiPhezulu:-

- (a) ikomidi elikhulu kunawo wonke kulowo masipala onelungelo lokusungula lelo komidi; futhi
(b) yilona komidi elamukela imibiko yamanye amakomidi bese lithumela imibiko ehambisana nezincomo kumkhandlu ngalezo zinto elingenawo amandla okuzithathela izinqumo .

(2) IsiGungu esiPhezulu kumele:-

- (a) sizazi izidingo zikamasipala;
(b) sibuyekeze siphinde sicubungule lezo zidingo ngokubaluleka kwazo;
(c) sincomele umkhandlu amasu, izinhlelo nezindlela zokubhekana nezidingo ngohlelo lwentuthuko edidiyelwe kanye nezilinganiso zezindleko nengeniso yomkhandlu sibhekela imithetho esetshenziswayo emazingeni kahulumeni wesifundawze nakuzwelonke.;futhi
(d) senze izincomo noma sisungule amacebo angasebenza kangcono ukuze umphakathi uhlomule kakhulu ngezidingo onazo, okungahlanganisa nokusebenza nezinye izinhlelo.

(3) Lapho isiGungu esiPhezulu senza umsebenzi waso kumele:-

- (a) Sisungule izindlela nezinkomba okuzohlolwa ngazo ukuthi izinhlelo ezichazwe kwisigatshana (2)(c) ziyasebenza na, kuhlanganisa lezo zinkomba eziqondene nomasipala kuphela kanye nalezo ezibhekiswa kohulumeni bendawo jikelele.;
(b) sisebenzise izinkomba ukucubungula indima esihanjiwe;
(c) sibuyekeze ukusebenza kukamasipala ukuze kwenziwe ngcono:-

- (i) umnotho, ukusebenza kukamasipala
(ii) ukuqoqwa kwezikweletu nokungeniswa kwezimali kumasipala; kanye

(iii) nokusetshenziswa kwemithetho yedolobha eshaywa umkhandlu;

- (d) sibhekele ukuphathwa nokusebenza kukamasipala kulandelwa imigomo enqunywe umkhandlu;;
- (e) siqinsekise ukulethwa kwezidingo zomphakathi ngendlela efanele;
- (f) senze imisebenzi siphinde sisebenzise namandla esiwaphathiswe umkhandlu ngokwesigaba 32;
- (g) sithule imibiko njalo ngonyaka ngeqhaza lomphakathi nezinhlangano ezizumele ezinhlelweni zikamasipala; futhi
- (h) siqinisekise ukuthi imibono yomphakathi iyabhekelwa siphinde sethule imibiko ngomphumela wezingxoxo zokubonisana nomphakathi kwizinqumo zomkhandlu.

(4) isiGungu esiPhezulu kumele sibikele umkhandlu ngazo zonke izinqumo ozithathayo.

- (5) Ukusungulwa kwemigomo emisha nokubuyekeza ekhona ikakhulukazi engamele ezezimali, isb. Imigomo eqondene nokuqoqwa kwezikweletu nokuntshontshwa kukagesi, ukwemukelwa kwezipo zemali nezimali ezibolekwa kwezinye izindawo.
- (6) Ukulungiswa nokucutshungulwa kwezabiwo zemali, kuhlanganisa ukucubungula uhlelo lokuqoqa ama-rates nezinhlawulo ezikhokwayo bese kwenziwa izincomo kumkhandlu dolobha waseMdoni.
- (7) Okuthinta ukuqoqwa nokwesulwa kwezikweletu zama-rates kanye nezinye izimali.
- (8) Okuthinta umshwalense wempahla kamasipala, amakhansela nabasebenzi bomkhandlu dolobha Umdoni.
- (9) Okuthinta imingcele yomkhandlu dolobha Umdoni, kuhlanganisa ukuhlanganiswa nokukhishwa kwezindawo kanye nezinguquko.
- (10) Okuthinta ukuklanywa kwemingcele yezigceme.
- (11) Okuthinta ukhetho.
- (12) Ukubhekela amaBhodi axhumene nomkhandlu dolobha Umdoni.
- (13) Okuthinta imigomo yokuphathwa kwezikhwama zempesheni ezingapahnsi komkhandlu, kuhlanganisa izinguquko.

- (14) *Okuthintene nokuhlela kabusha umasipala/izinhlelo ezintsha kanye nezinguquko kwisimo sabasebenzi ngenxa yalokho.*
- (15) *Ukusungulwa nokukhishwa kwezindondo ezihlonipha amalunga omphakathi.*
- (16) *Okuthinta ezokuxhumana nomphakathi kanye nokusakazwa kolwazi emphakathini.*
- (17) *Okuthinta ezokubhekela isimo senhlekelele.*
- (18) *Ukunikezelwa kwemisebenzi kamasipala.*
- (19) *Okuthinta ezokungebeleka okuqondene nomphakathi, okungumsebenzi ongadluliselwa kwimeya njengosihlalo wesiGungu esiPhezulu.*
- (20) *Ukubuyekeza nokuguqula imithetho yomkhandlu*
- (21) *Okuthinta ezomthetho nezokulamula, kuhlanganisa ukuthatha izinyathelo zomthetho nokuvikela umkhandlu lapho uthathelwa izinyathelo zomthetho, kanye nelungelo lokungena ezingoxweni, ukuhoxisa nokwenza isivumelwano kuleso simo.*
- (22) *Okuthinta imithetho engamele ohulumeni bendawo kanye neminye ehambisana nayo, kuhlanganisa ukuyigquguzela emphakathini ukuze kufezeke izinjongo zomthethosisekelo.*
- (23) *Okuthinta ukushaywa, ukubuyekezwa nokuguqulwa kwemithetho yedolobha, imithethonqubo kanye nezinhlawulo ezingaphansi kwamandla ekomidi.*
- (24) *Okuthinta izimali zokukhokhela uhlelo lwentuthuko edidiyelwe*
- (25) *Nanoma iluphi udaba, noluthinta imigomo oludluliselwe uMphathi kaMasipala kwisiGungu esiPhezulu.*
- (26) *Okuthinta izinhlangano zohulumeni bendawo isb. Kwanaloga, Salga.*
- (27) *Okuthinta izibonelelo zamakhansela kanye neminye imiklomelo.*
- (28) *Okuthinta izimali zama-projekthi eziphuma kwizinhlangano ezifana ne-MIG, DPLG, uMnyango wezeNdabuko noHulumeni baseKhaya.*

- (29) *Okuthinta ukusebenza ngokuhlanganyela nezinye izinhlaka kanye nokuqashisa ngemisebenzi kamapsipala emva kokubonisana nezinyunyana.*
- (30) *Ukugunyaziswa ukuqokelwa kwamalunga omkhandlu kwezinye izinhlangano, amaBhodi nezikhungo.*
- (31) *Nanoma iyphi enye into engekho ngaphansi kwamandla elinye ikomidi.*

ISIGUNGU ESIPHEZULU**B. AMANDLA APHATHISWE ISIGUNGU**

- (1) *IsiGungu esiPhezulu siyoba namandla ngalezo zinto ezingaqondene namanye amakomidi kanye nalezo amandla azo aphethwe umkhandlu dolobha Umdoni nezichazwe ngezansi.*
- a) *ukwenza nokukugunyaziswa kwezilinganiso zezimali;*
 - b) *ukuhlaziywa nokunqunywa kwama-rates kanye nezaphulelo ezihambisana nawo;*
 - c) *ukudliwa noma ukuphuca okwesikhashana ilungelo ngezomhlaba;*
 - d) *ukuvunywa kohlelo lwezimali ezikhokhelwa imisebenzi kamasipala;*
 - e) *ukushaywa kwemithetho kuhlenganisa neyedolobha*
 - f) *nanoma imaphi amandla noma umsebenzi ongenziwa kuphela uma kuvunyelwene ngamavoti ayisibalo esingokubili kokuthathu noma ngokweningi lamakhansela omkhandlu dolobha Umdonni.*
- 2) *Nakuba kuchaziwe kwisihlinzeko (1) ngenhla, isiGungu esiPhezulu sinelungelo sokusebenzisa amandla amanye amakomidi omkhandlu uma ngabe lawo makomidi edlulisela okuthize kuso.*
- 3) *Ukufezekisa imiyalelo yemigomo efana ne MFMA.*
- 4) *Okuqondene nokudayiswa nokuthengwa kwemihlaba kuyoxoxwa I Planning and Environment Committee bese lenza izinqumo kwisiGungu esiPhezulu; isigungu siyoba namandla okuthatha izinqumo ngezigaba ezilandelayo kuMthetho:*
- 4.1 *isigaba 233 (ukudayiswa, ukuphiwa, ukuqashisa, nokushintshisana,*
 - 4.2 *isigaba 236 (ukudayiswa komhlaba ezimweni ezingajwayelekile)*
 - 4.3 *isigaba 237 (imibandela ebekiwe lapho kudayiswa umhlaba)*
 - 4.4 *isigaba 238 (ukugunyazisa ukudayiswa kwempahla ngendali yomphakathi.*

4.5 *isigaba 240 (ukuthengwa komhlaba)*

Kubhekelwa ukuthi amandla okuthenga umhlaba ayosetshenziswa kulandelwa isabiwo-mali esiphasiswe umkhandlu, futhi lapho umkhandlu ubungakalinqumi inani, kusetshenziswe imali engeke yeqe ku R300 000.

5. *IsiGungu esiPhezulu siyoba namandla ngalezo zinto eziqondene namanye amakomid, ngaphandle kwalezo amandla azo aphethwe umkhandlu dolobha Umdoni.*

.....

INCWADI YOKUFAKA ISIXOLISO

**MINA,OSAYINE NGEZANSI NGIFAKA ISICELO
SELIVU NGOBA NGEKE NGIPHUMELELE UKUTHAMELA UMHLANGANO WE:**

.....
OHLELELWE UMHALAKA.....

1. ISIZATHU ESILANDELAYO ESENZA NGINGAPHUMELELI EMHLANGANWENI:

.....
.....
.....
.....
.....
.....
.....
.....
.....
.....

**2. NGIYAQINISEKISA UKTHI OKUBHALWE LAPHA KUYIQINISO NOKUTHI UMA
KUTHOLAKALA UKUTHI KUKHONA ULWAZI OLUNGELONA IQINISO
NGIYOTHATHELWA IZINYATHELO ZOKUQONDISWA KWEZIGWEGWE.**

ISAYINWE NGOSUKU LWE KWINYANGA KA 2007.
