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ISIFUNDAZWE SAKWAZULU-NATALI

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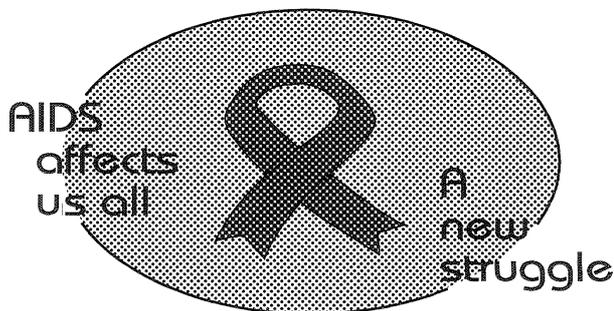
**Vol. 8**

**PIETERMARITZBURG,**

11 JULY 2014  
11 JULIE 2014  
11 kuNTULIKAZI 2014

**No. 1185**

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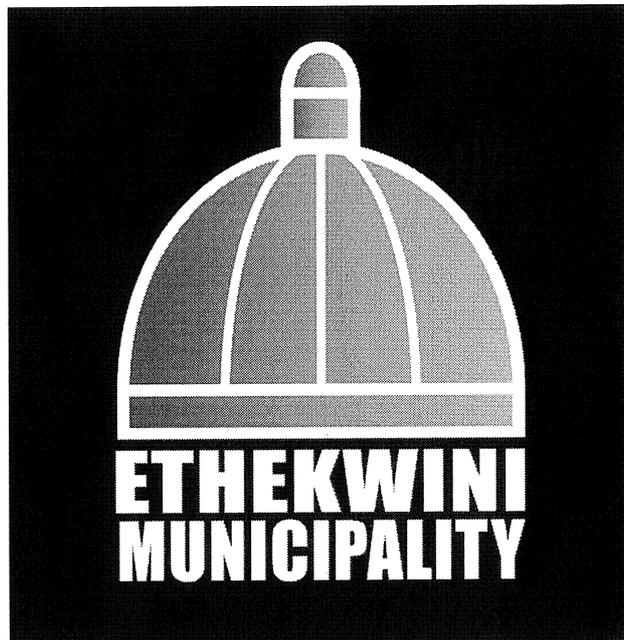
**MUNICIPAL NOTICE—ISAZISO SIKAMASIPALA**

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**No. 99**

**11 July 2014**

**eTHEKWINI MUNICIPALITY: RULES OF ORDER BY-LAW, 2014**



Adopted by Council on the:

Promulgated on:

## **RULES OF ORDER BY-LAW, 2014**

**To provide Rules of Order regulating the procedures and conduct of meetings of the Municipal Council and its committees; and to provide for matters incidental thereto.**

### **PREAMBLE**

**WHEREAS** a Municipal Council must strive within its capacity to achieve the objectives set out in section 152 of the Constitution which is to provide democratic and accountable government to local communities; to ensure the provision of services to communities in a sustainable manner; to promote social and economic development; to promote a safe and healthy environment and to encourage the involvement of communities in the affairs of local government;

**AND WHEREAS** Councillors are elected to represent local communities on Municipal Councils to ensure that municipalities have structured mechanisms of accountability to local communities and to meet the priority needs of communities;

**AND WHEREAS** Councillors must fulfill their obligations to the community, support the achievement by the municipality of its objectives, must adhere to the Code of Conduct for Councillors, comply with the Rules of Order and By-laws of the Municipality and at all times respect the rule of law;

**AND WHEREAS** it is necessary for the Municipal Council to prescribe Rules of Order for its internal arrangements and to regulate the conduct of its business and proceedings;

**NOW THEREFORE** the Municipal Council of the eThekweni Metropolitan Municipality, acting in terms of section 160(6) of the Constitution of the Republic of South Africa, 1996 hereby makes the following By-law:

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## CHAPTER 1 INTERPRETATION

### Definitions

1. In this By-law, unless the context indicates otherwise—

“**Act**” means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“**Access to Information Act**” means the Promotion of Access to Information Act, 2000 (Act. No. 2 of 2000);

“**Chairperson**” means the person who is appointed to chair a Committee of Council;

“**Chief Whip**” means the Councillor elected by the majority party who provides a supportive function to the Council, in conjunction with the Whips, to ensure the smooth functioning of Council meetings;

“**Code of Conduct**” means the Code of Conduct for Councillors set out in Schedule 1 to the Municipal Systems Act, 2000 (Act No. 32 of 2000);

“**committee**” means a committee of the eThekweni Municipal Council established in terms of –

- (a) sections 33, 79 or 80 of the Act; or
- (b) any other law;

“**Constitution**” means the Constitution of the Republic of South Africa, 1996;

“**contact details**” shall include a physical address, postal address, e-mail address, cellular number, telephone number and fax number;

“**Council**” or “**Municipal Council**” means the eThekweni Municipal Council, a Municipal Council referred to in section 157(1) of the Constitution. A reference made herein to Council may include a reference to a committee with the necessary modifications;

“**Councillor**” or “**Member**” means a Member of a Municipal Council;

“**day**” means any day of the week, excluding a Saturday, Sunday or Public Holiday;

“**EXCO**” means the Executive Committee of the Council established in terms of section 43 of the Act;

“**Mayor**” means the person elected by the Municipal Council in terms of section 48 of the Act;

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

“**Municipal Manager**” means a person appointed in terms of section 54A of the Systems Act as the head of administration of the Municipal Council;

“**municipality**” means eThekweni Municipality, a category A municipality as envisaged in terms of section 155(1) of the Constitution of South Africa, 1996 and established in terms of Provincial Notice No. 43 of 2000 (KZN);

“**notice of motion**” or “**motion**” means the instrument by which Councillors may bring items onto the agenda of a Council meeting;

“**Office of the Speaker**” means the administrative branch of the Speaker’s office and may include a person with delegated responsibility for management of the administration in the Speaker’s Office;

“**ordinary meeting**” means a scheduled meeting of Council or a committee in terms of Section 29 of the Act;

“**procedural motion**” means a matter raised by a Member in terms of Rule 20;

“**quorum**” means the majority (50% plus one) of the Councillors;

“**recommendation**” means a recommendation in the report of an executive committee in terms of Section 44(4) of the Act, in respect of a decision concerning a matter where EXCO has no delegated powers;

“**Report of EXCO**” means the report of EXCO as contemplated in Section 44 of the Act which requires that EXCO must report to the Municipal Council on all decisions taken by EXCO;

“**Speaker**” means the Chairperson of the Municipal Council elected in terms of Section 36 of the Act;

“**special meeting**” means a meeting other than an ordinary meeting which has been convened for a specific purpose, and where the order of business shall be stated in the notice convening the meeting;

“**Systems Act**” means the Local Government Municipal Systems Act, 2000 (No. 32 of 2000);

“**urgent meeting**” means a meeting which has been convened to deal with an urgent matter; and

“Whip” means the Member of Council appointed by each political party to perform the functions referred to in rule 23.

### **Interpretation of By-law**

2. (1) If there is a conflict of interpretation between the English version of this By-law and a translated version, the English version prevails

(2) The ruling of the Speaker or Chairperson with regard to the interpretation of these rules of order at a meeting of the Council or committee of the Council shall be final and binding.

(3) Any interpretation of these rules shall be made having due regard to the supremacy of the Constitution, national, provincial and municipal legislation, the rule of law and the rules of natural justice.

(4) The interpretation and the ruling of the Speaker or Chairperson on any of these rules of order must be recorded in the minutes of the Council or committee meeting.

(5) The Office of the Speaker must keep a register of the rulings and legal opinions.

### **Object of By-law**

3. (1) The object of this By-law is to prescribe Rules of Order for the Municipal Council and its committees for its—

- (a) internal arrangements; and
- (b) business and proceedings,

in compliance with the provisions of the Constitution, the Act and other applicable laws.

### **Application of By-law**

4. (1) This By-law applies to all meetings of the Municipal Council and its committees and must be complied with by—

- (a) Councillors;
- (b) traditional leaders;
- (c) members of the public;
- (d) officials of the municipality;
- (e) Government Ministers;

(f) Members of Executive Council;  
(g) officials from government departments; and  
(h) representatives from public bodies or the private sector,  
who address or attend the Council or committee meeting.

(2) A committee of Council is bound by this By-law unless the committee elects to draft their own Rules of Order.

(3) A committee which elects to draft its own Rules of Order in terms of sub-rule (2) must—

- (a) ensure that that the rules drafted do not conflict with this By-law; and
- (b) submit the draft rules to the Speaker and the party Whips for consideration and recommendation to Council.

(4) Rules of Order drafted in terms of sub-rule (2) must form part of these Rules of Order once they have been passed by the Municipal Council.

## CHAPTER 2 MEETINGS OF COUNCIL

### **Meetings of Council**

5. (1) The Municipal Council must have a minimum of 11 meetings in a calendar year.

(2) The Speaker must decide where and when the Council meets, but if a majority of the Councillors request the Speaker in writing to convene a meeting of the Council to debate any matter, the Speaker must convene a meeting at the time set out in the request in accordance with section 29(1) of the Act.

(3) The meetings referred to in terms of sub-rule (1) must be ordinary meetings at which the order of business must be as stated in rule 12.

(4) A separate special meeting of Council must be called to approve the annual budget.

(5) An urgent meeting may be called by the Speaker after consulting with the Mayor where there is any urgent matter that Council is required to consider before the next ordinary meeting.

(6) A special meeting may be called by the Speaker to debate any special issue, or to allow special guests to address Council.

### **Notice of Meeting**

**6.** (1) The Speaker must convene meetings of the Council through a duly signed "Notice of Meeting" stating the date, place and time of the meeting.

(2) Notice of the time and the place of every ordinary or special meeting and service of any other document signed by the Speaker in terms of these rules must be served on every Councillor—

- (a) personally;
- (b) by leaving the notice at the physical address provided by the Councillor at least 72 hours before such meeting;
- (c) by e-mail; or
- (d) by Short Message Service (SMS).

(3) A notice of an urgent meeting must be served on Councillors in accordance with sub-rule (2) above, at least 12 hours before the meeting.

(4) The failure to receive a notice of a Council or committee meeting by a Councillor shall not affect the validity of that meeting.

(5) A Councillor may request that an investigation be conducted regarding the non-receipt of a notice to attend a meeting referred to in sub-rule (4).

(6) A Councillor must provide his or her contact details to the Office of the Speaker—

- (a) within 2 days after his or her election; and
- (b) whenever there is a change in the Councillors contact details.

(7) The Municipal Manager must give notice to the public, in a manner determined by the Council, of the time, date and venue of every—

- (a) ordinary meeting of the Council; and
- (b) special or urgent meeting of the Council, except when time constraints make this impossible.

**Admission of the public to meetings**

7. (1) In terms of section 20 of the Systems Act, meetings of the Council and those of its committees are 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 resolution of the Council specifying the circumstances in which the Council or such committee may close a meeting and which complies with sub-rule (1)(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 for any reason, exclude the public when considering, voting or noting any of the following matters:

- (a) a draft By-law tabled in the Council;
- (b) a budget tabled in the Council;
- (c) the municipality's integrated development plan or any amendment of the plan tabled in the Council;
- (d) the municipality'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;
- (f) the disposal or acquisition of a municipal capital asset; or
- (g) any other matter prescribed by legislation.

**Attendance of Councillors**

8. (1) All Councillors must punctually attend and remain in attendance at each meeting of Council or committee of the Council unless-

- (a) leave of absence has been granted in terms of rule 9;
- (b) a matter is before the Council in which that Councillor or their spouse, partner or business associate has any direct or indirect personal or private business interest and that Councillor is required to withdraw in terms of item 3(b) of the Code of Conduct; or
- (c) that Councillor is absent with the knowledge of the Speaker or Chairperson.

(2) Every Councillor attending a Council or committee meeting must sign their name in the attendance register kept for that purpose in the Office of Speaker or attendance register kept by the Chairperson.

(3) A Councillor who is entitled to a leave of absence and no longer requires such leave may attend the meeting from which leave of absence was granted in terms of rule 9 and sign the attendance register.

### **Leave of absence**

9. (1) If a Councillor—

- (a) is unable to attend a meeting for which notice has been given;
- (b) is unable to remain in attendance at a meeting; or
- (c) will arrive after the stipulated commencement time of a meeting,

the Councillor must, as soon as is reasonably possible and prior to that meeting, lodge with the Speaker an application in writing for leave of absence with reasons from the whole or part of the meeting concerned.

(2) A leave of absence may not be granted in such a manner as to leave the meeting inquorate.

(3) Notwithstanding sub-rules (1) and (2) above, an application for leave of absence from a meeting is deemed to have been granted if the Council has delegated the relevant Councillor to represent the Council elsewhere.

(4) The Council or a committee may, subject to sub-rule (1) and (2) above, grant leave of absence to a Councillor for the following reasons, which may include—

- (a) the illness of a Councillor;
- (b) the essential business, personal commitments or personal circumstances of the Councillor;
- (c) where the notice of a special or urgent Council meeting was delivered in less than the time stipulated in this By-law, unless the failure to deliver was occasioned by the Councillor's own failure to keep the Speaker's Office informed of his or her updated contact details;
- (d) any circumstances beyond the control of the Councillor which prevented attendance at the meeting; or
- (e) any other circumstance where the Councillor is prevented by law from attending the meeting.

(5) The Speaker must keep a record of all incidents in respect of which Councillors have been found to have been absent without leave or without good cause.

(6) The Speaker must advise the relevant Whip if a Councillor has been absent without leave or without good cause from a meeting.

(7) Where a Councillor has been absent without leave or without good cause for 3 or more meetings, the Speaker must submit a report to Council and recommend that the matter be referred to the Ethics Committee.

### **Quorum**

**10.** (1) The quorum for a meeting of the Council or a committee is a majority of its Members.

(2) A majority of the Members of Council must be present before any vote may be taken on any matter.

(3) If there is no quorum at the expiration of 15 minutes after the time fixed for the meeting, the Speaker or the Chairperson of the committee must allow an extension of time not exceeding 15 minutes for the commencement of the meeting, following which the Speaker must rule that the meeting is cancelled.

(4) During any meeting of Council or committee, if the attention of the Speaker or Chairperson is drawn to the fact that the number of Councillors present is insufficient to constitute a quorum, the Speaker or Chairperson must cause a bell to be rung for a period not exceeding 2 minutes and, if thereafter there is still no quorum, the Speaker or Chairperson must adjourn the meeting.

(5) Where a meeting is adjourned because there is no quorum, the meeting must be reconvened within 7 days as a continuation of the adjourned meeting.

### **Joint meetings**

**11.**(1) A committee of Council may meet jointly with--

- (a) another committee of Council;
- (b) a committee of a Provincial Legislature;
- (c) a committee of Parliament;
- (d) an organ of state; or
- (e) an external stakeholder,

in order to discuss a matter of mutual interest.

(2) The Chairperson for the joint meeting shall be elected by a majority vote of the representatives present at the meeting.

(3) The minutes of the joint meeting must be—

- (a) compiled and circulated to all representatives; and
- (b) tabled together with a report at the next meeting of Council and the relevant committee.

### **CHAPTER 3**

#### **ORDER AND CONSIDERATION OF BUSINESS**

#### **Agenda**

**12.** (1) All meetings must be conducted according to the order in which the matters appear on the agenda before the Council and only matters which are on the agenda may be debated, subject to sub-rule (2).

(2) The Speaker may change the order in which the matters appear on the agenda after considering suitable motivation.

(3) The Speaker may, subject to rule 7—

- (a) if it is reasonable and justifiable to do so; and
- (b) after considering suitable motivation,

direct that any matter be discussed in a closed sitting of Council.

(4) A matter which is discussed in terms of a closed sitting of Council may not be disclosed to any unauthorised person in accordance with item 10 of the Code of Conduct.

(5) Where any matter is deferred for discussion in a closed meeting, the reasons for the deferral must be recorded in the register of rulings and legal opinions kept by the Speakers office.

#### **Order of business for an ordinary meeting**

**13.** (1) The order of business for an ordinary meeting convened in terms of rule 5 must be as follows:

- (a) notice convening the meeting;

- (b) opening;
- (c) national anthem;
- (d) opportunity for prayer/ meditation;
- (e) official announcements;
- (f) Speaker's report;
- (g) applications for leave of absence;
- (h) confirmation of minutes;
- (i) questions of which notice has been given;
- (j) reports, which may include:
  - (i) EXCO Reports;
  - (ii) MPAC Reports; and
  - (iii) reports of the Ethics Committee;
- (k) notices of motion;
- (l) report of the Mayor in terms of the MFMA;
- (m) report of the Municipal Manager in terms of the MFMA;
- (n) report of committee decisions;
- (o) items for noting; and
- (p) closing.

### **Reports**

**14.** (1) All reports of EXCO to Council must be as contemplated in section 44(4) of the Act, which requires that an Executive Committee must report to the Council on all decisions taken by the committee.

(2) The reports referred to in sub-rule (1) must be divided into two parts and—

- (a) the first part must contain the items in respect of which EXCO has no delegated powers; and
- (b) the second part must contain the items in respect of which EXCO has delegated powers and which are submitted to Council for noting.

(3) Every item contained in the first part of EXCO's report shall contain a recommendation which may or may not be adopted by Council.

(4) An item contained in the second part of the report may not be debated, but must only be noted.

(5) The Speaker shall permit debate on the reports referred to in sub-rule 2(a) in accordance with rule 23 and 24.

(6) The Council must, upon the written request of at least one quarter of Councillors, review any decision contained in a report submitted in terms of sub-rule 2(b) and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person as provided for in section 59(3) of the Systems Act.

### **Conduct of meetings**

**15.** (1) The Speaker, as the Chairperson of meetings of the Municipal Council must—

- (a) preside at meetings of the Council;
- (b) ensure that the Council meets as scheduled in terms of rule 5;
- (c) maintain order during Council meetings;
- (d) ensure compliance in the Council and in committees with the Code of Conduct;
- (e) ensure that Council meetings are conducted in accordance with this By-law and other applicable laws;
- (f) ensure that Councillors conduct themselves in a dignified and orderly manner and comply with the rulings of the Speaker;
- (g) ensure that Members of the public attending meetings of Council conduct themselves in an orderly manner and obey the rulings of the Speaker;
- (h) ensure that any person who refuses to comply with his or her ruling is directed to leave the meeting;
- (i) ensure that the Chief Whip and Whips maintain discipline amongst their party Members during Council meetings;
- (j) consider all points of order and rule on them; and
- (k) act in an impartial and fair manner to all parties and their Members.

(2) If the Speaker or Chairperson is not present at a meeting or is not otherwise available to perform the functions of their office or during a vacancy, the Council or committee must elect another Councillor to act as Speaker or Chairperson.

(3) A meeting of the Council or a committee of the Council may not commence or continue unless a Speaker or Chairperson presides at a meeting.

(4) If the Speaker is not present at a meeting, the Municipal Manager must preside over the process to elect an acting Speaker.

## CHAPTER 4 COUNCILLORS CONDUCT

### **Councillor's conduct at meetings**

- 16.** (1) During a Council or committee meeting, Councillors and officials must—
- (a) conduct business with the highest decorum and integrity that the occasion deserves;
  - (b) at all times adhere to the principles contained in the Code of Conduct and the rules contained in this By-law;
  - (c) at all times adhere to the By-laws of the municipality and the rule of law;
  - (d) not use offensive or objectionable language;
  - (e) not use a cellular phone during meetings; and
  - (f) not bring a firearm or any dangerous weapon into a meeting of Council or any of its committees.
- (2) Whenever the Speaker or Chairperson rises during a debate, any Councillor then speaking or offering to speak must remain silent and the Speaker or Chairperson must be heard without being interrupted.
- (3) During a debate a Councillor may not converse with another person loud enough to disrupt proceedings.
- (4) Other than the Speaker or Chairperson, a Councillor may not interrupt another Councillor while speaking, except to call attention to a Point of Order or explanation.
- (5) A Councillor may not use offensive or unbecoming language during proceedings.
- (6) The Speaker or Chairperson, after having called attention to the conduct of a Councillor who persists in irrelevant or repetition of arguments, must direct such Councillor to conduct themselves properly, or if speaking, to discontinue that speech and resume their seat.
- (7) If the Speaker or Chairperson is of the opinion that a Councillor is—
- (a) deliberately contravening a provision of this By-law;
  - (b) in contempt of or is disregarding the authority of the Speaker or Chairperson;
  - (c) challenging the ruling of the Speaker or Chairperson on a Point of Order;

(d) declining to withdraw any expression when required to do so by the Speaker or Chairperson; or

(e) behaving in a grossly disorderly manner,

the Speaker or Chairperson must order the Councillor to withdraw from the meeting for the remainder of the meeting or cause the Councillor to be ejected from the meeting.

(8) Any person who attends any meeting of the Council must be dressed in an appropriate manner to uphold the dignity of the Council. The recommended dress code for Councillors must be business or traditional attire.

(9) The Speaker or Chairperson may request or order the removal of any person who—

(a) refuses to carry out any reasonable instruction given by the Speaker or Chairperson; or

(b) willfully obstructs the carrying out of any reasonable instruction by the Speaker or Chairperson.

(10) In the event of grave disorder at a meeting, the Speaker or Chairperson may—

(a) adjourn the meeting; or

(b) suspend the proceedings for a period of time.

(11) If a meeting is adjourned, all persons who attend the meeting must rise and remain in their places until the Speaker has left the meeting.

(12) The privileges of a Councillor include—

(a) the privilege of freedom of speech in a Council or committee meeting; and

(b) any other privileges or immunities conferred by section 28 of Act or the Constitution.

(13) Councillors are not liable to civil or criminal proceedings, arrest, imprisonment or damages for anything—

(a) they have said in, produced before or submitted to Council or any of its committees; or

(b) revealed as a result of anything they have said in, produced before or submitted to the Council or any of its committees.

(14) The exercise of the privilege of freedom of speech is protected, but must be exercised in accordance with the Rules of Order.

**Declaration of interest**

17. (1) A Councillor wishing to declare that a matter is before the Council or committee of Council in which that Councillor or their spouse, partner or business associate has a direct or indirect personal or private business interest in terms of the provisions of the Code of Conduct must do so after the item or notice of motion in respect of which such interest exists, has been called.

(2) A Councillor must recuse himself or herself from a matter which is being discussed in which a Councillor or their spouse, partner or business associate has any direct or indirect personal or private business interest and which Councillor is required to withdraw in terms of item 3(b) of the Code of Conduct.

**CHAPTER 5  
DEBATE MANAGEMENT****Ordinary Notices of Motion**

18. (1) A matter may not be brought before Council by a Councillor except by way of a notice of motion.

(2) Every notice of motion must—

- (a) be in writing;
- (b) refer to one matter only;
- (c) be signed by the Councillor submitting it; and
- (d) be signed by the Councillor seconding it.

(3) A notice of motion must be lodged with the Speaker who must—

- (a) enter it into a book kept for that purpose; and
- (b) ensure that the book is open for inspection by any Councillor.

(4) A notice of motion may not be included in the agenda unless it was received at least 10 days prior to such meeting.

(5) At the request of the Councillor who submitted the notice of motion, the Office of the Speaker must acknowledge receipt of the notice of motion in writing.

(6) Every notice of motion must be relevant to the administration of the municipality or must deal with a matter in respect of which the Council has jurisdiction.

(7) Upon receipt of a notice of motion, the Office of the Speaker must date, number and enter the notices in the agenda in the order in which they were received: Provided that a notice amending another motion must be entered in the agenda immediately after the latter motion.

(8) A notice of motion shall not be competent unless it takes the form of a reference of the subject matter thereof to the relevant committee of Council for investigation or consideration and report back to Council.

(9) A Councillor may not have more than 1 notice of motion entered on the agenda, with the exception of a deferred Notice of Motion.

(10) A Councillor may not move more than 6 notices of motion within any calendar year.

(11) If a notice of motion which is specified on the agenda is called but is not moved, either by the Councillor who submitted it or by another Councillor who has been authorised in writing by the Councillor who submitted it, that notice of motion shall lapse.

(12) The Speaker must ascertain whether a notice of motion is opposed. An unopposed notice of motion must be passed without debate. In the event that a notice of motion is opposed, the Speaker must call upon the mover of the notice of motion to speak first.

(13) If a notice of motion is defeated, a similar subject may not be moved again, either by way of a notice of motion or a question until after the expiry of at least 3 months from the date of the defeat.

(14) All notices of motion must be submitted on the official Councillor letterhead.

(15) The Office of the Speaker must record and keep a register of all notice of motions received.

### **Disallowed Motions**

19. (1) The Speaker must disallow a notice of motion that—

- (a) may lead to the discussion of a matter already dealt with in the agenda;
- (b) deals with a matter which has no bearing on the administration of the municipality;

- (c) is longer than 150 words or contains unnecessary, factually incorrect, incriminating, disparaging or improper suggestions;
- (d) deals with a matter in respect of which the Council has no jurisdiction;
- (e) deals with a matter in respect of which a decision by a judicial or quasi-judicial body is pending;
- (f) has not been duly seconded;
- (g) if passed, would be contrary to this By-law or any other law or is impractical to perform;
- (h) concerns a matter in respect of which there is an official investigation and such discussion may compromise the investigation;
- (i) concerns an item which is already under discussion in a committee; or
- (j) is not moved in accordance with these rules.

### **Procedural Motions**

**20.** (1) Where a motion or recommendation has been moved and is under debate, no further motion may be received except a motion that—

- (a) the debate be adjourned;
- (b) Council proceed to the next business;
- (c) the matter be referred back;
- (d) amends the previous motion; or
- (e) the matter is put to the vote.

(2) Every procedural motion must be seconded before the motion may be discussed.

(3) Any procedural motion may be withdrawn by the mover with the consent of the Council, without debate.

(4) Where a motion to amend is moved, the amendment must be—

- (a) relevant to the original motion;
- (b) reduced to writing;
- (c) signed by the mover; and
- (d) handed to the Speaker to read to the meeting.

(5) The amendment referred to in sub-rule (4) may not alter the substance of the original motion.

(6) A Councillor may not move more than one amendment to any original motion.

(7) Whenever an amendment to an original motion has been moved and seconded, no other amendment may be moved until the first amendment has been disposed of. If that amendment is carried, the motion as amended must become the motion upon which any further amendment may be moved.

(8) Where the original motion relates to a By-law, any motion to amend must take the form of a reference back to the committee concerned.

(9) Any amendment which would have the effect of increasing expenditure or reducing the income of Council must take the form of a reference back to the relevant committee for consideration.

(10) A procedural motion that a matter be referred back, must indicate the committee to which the matter is to be referred and the point, or points on which the committee's advice or further advice is required. If a motion in terms of this rule is carried, the debate on the recommendation must end and the Council must proceed to the next agenda item.

(11) A motion for the adjournment of Council may not be moved while any item on the agenda is under consideration, but may only be moved immediately after the resolution on any item has been adopted, and before the next item on the agenda is brought under consideration.

(12) A motion for the debate to be adjourned with reasons for the request, or for a question to be put, or for Council to proceed to the next business must be moved at the close of any speech.

(13) A further motion in terms of sub-rules (11) or (12) may not be moved within half an hour of any similar preceding motion.

(14) A Councillor may not move or second more than one motion for adjournment of any one Council meeting.

(15) Where a motion to adjourn a meeting is moved, the Speaker may request the meeting to dispose of the unopposed business before adjourning.

### **Withdrawal of Motions**

21. (1) A motion may be withdrawn or amended by the mover with the consent of Council which must be given without debate.

(2) A Councillor may not speak on a motion after consent for the withdrawal of such motion has been granted.

### **Urgent Motions**

**22.** (1) A Councillor may move an application on an urgent basis provided that a—

- (a) notice of motion is handed to the Speaker at least 24 hours before the scheduled meeting; and
- (b) motivation for the urgency is attached to the notice of motion.

(2) The Speaker, after consulting with the Whips, must make a ruling on whether the motion should be tabled before Council. The ruling of the Speaker shall be final.

(3) Notwithstanding the provisions of sub-rule (1), a Councillor may request the Speaker to place an urgent motion which is in the public interest on the agenda at least an hour prior to a Council meeting.

(4) The Speaker must make a final decision to table the urgent motion referred to in sub-rule (3) after considering the motivation. The ruling of the Speaker shall be final.

### **Allocation of time for debate**

**23.** (1) All parties represented in Council have a right to speak on each item on the agenda relative to their representation in Council.

(2) The Speaker may allow a political party to give their allocated time to another political party on any item, provided that such arrangements are made with the Speaker before the commencement of the Council meeting.

(3) The Chief Whip must, after discussion with the Whips of other parties in Council and at least 24 hours prior to a meeting in Council, provide the Speaker and party Whips with a list showing—

- (a) items on the agenda for that meeting which will be debated;
- (b) the suggested total time to be allocated to the debate of each item; and
- (c) the time for debate to be allocated to each political party.

(4) All parties must have a minimum time allocation of 1 minute to debate on every item which is subject to debate. Additional time shall be allocated by the Whips to the parties represented in Council in accordance with the number of seats they hold.

(5) Each party must examine the list drawn up in terms of sub-rule (3) and deliver to the Speaker, at least 12 hours before a Council meeting, a list of its Members who will speak on an item and the time allocated to each Member, provided that the total time allocated to all such Members of a party, must not exceed the time allocated to that party in terms of sub-rule 3(c) above.

(6) The Speaker may reduce or extend the time allocated for debate on each item on the agenda on receipt of a list referred to in sub-rule (5).

(7) The Speaker must—

- (a) restrict or extend the time allocated to parties in a manner which is fair to all parties;
- (b) to the extent possible, give advance warning of such intention to the parties; and
- (c) advise the parties of the extension or reduction of the time allocated.

(8) A decision made in terms of sub-rules (6) and (7) must be conveyed to the relevant Whips within a reasonable time before the Council meeting.

(9) Where a report is laid on the table, the Speaker must note the Councillors who wish to speak on the item from the floor.

(10) The Speaker may upon request and upon the Speaker's discretion, allow an additional five minutes of response time to the mover of either a motion or a committee report. Such request must be conveyed to the Speaker at the commencement of the debate on that item.

(11) The Speaker may not, when exercising any discretion in terms of these rules, prejudice any party in respect of time allocated to that party.

#### **Rules of Debate**

**24.** (1) In any debate, the Speaker must call a Councillor to speak in accordance with the list referred to in rule 23(3).

(2) A Councillor may speak only when so directed by the Speaker.

(3) Where a report is laid on the table, a Councillor must indicate their desire to speak by raising a hand and awaiting the direction of the Speaker.

(4) A Councillor who speaks must confine their speech strictly to the matter under discussion.

(5) Whenever the Speaker rises during a debate, any Councillor then speaking, and all persons present in the Council Chamber must remain silent so that the Speaker may be heard without interruption.

(6) The mover of an original motion may reply to previous speeches in accordance with rule 23(10), but may not introduce any new matter into the debate.

#### **Points of Order and Explanation**

**25.** (1) A Councillor, whether they have spoken on the matter under consideration or not, may rise—

- (a) on a Point of Order, that is, with a view to calling attention to any departure from these rules or any other law; or
- (b) in explanation, that is, in order to explain some material part of that Councillor's former speech which may have been misunderstood.

(2) When a Point of Order is raised, the Councillor called to order must remain silent, and after the Point of Order has been stated to the Speaker by the person raising it, the Speaker must give the ruling or decision.

(3) The ruling of the Speaker on the admissibility of a Point of Order or an explanation shall be final and not open to discussion.

#### **Decision and Voting**

**26.** (1) A quorum must be present in order for a vote to be taken.

(2) The following matters must be determined by a decision taken by a supporting vote of a majority of Councillors, which include—

- (a) the passing of By-laws;
- (b) the approval of budgets;
- (c) the imposition of rates and other taxes, levies and duties;
- (d) the raising of loans;

- (e) the rescission of a Council resolution; and
- (f) any other matter prescribed by legislation.

(3) All other questions before the Council must be determined by a decision taken by the supporting vote of the majority of Councillors present at the Council meeting.

(4) Every recommendation of a committee and every competent motion or amendment duly moved and seconded must be put to the meeting by the Speaker who must call upon the Councillors in favour to say "Agreed" or "Yes" and those against to say "No".

(5) A recommendation which is not opposed by any Councillor present is deemed to be adopted.

(6) A recommendation to which any Councillor present says "No" must be put to the vote by the Speaker.

(7) Voting in terms of sub-rule (6) must be by a show of hands, unless the law prescribes otherwise.

(8) A Councillor may not vote on a question unless they were present when the question was put to the meeting.

(9) During the taking of a vote, a Councillor may not leave or enter the Council Chamber.

(10) A Councillor may abstain from voting without leaving the meeting.

(11) The votes must be recorded and the Speaker must announce the result.

(12) The number of Councillors who voted, and not the names of the Councillors who voted, must be recorded in the minutes.

(13) Any Councillor may request that their dissent, abstention or support in respect of the voting process be recorded in the minutes of that meeting.

(14) If on any question there is an equality of votes, the Councillor presiding must exercise a casting vote in addition to that Councillor's vote as a Councillor.

**Questions on Municipal Performance**

27. (1) Any Councillor may submit a question concerning any matter related to the effective performance or administration of the municipality's functions and the exercise of its powers, in order to solicit intentions, explanations or information. Such item must not violate item 11(a) of the Code of Conduct reproduced in sub-rule (2) below.

(2) In terms of item 11 of the Code of Conduct, a Councillor may not, except as provided by law—

- (a) interfere in the management or administration of any department of the Municipal Council unless mandated by Council;
- (b) give or purport to give any instruction to any employee of the Council except when authorised to do so;
- (c) obstruct or attempt to obstruct the implementation of any decision of the Council or a committee by an employee of the Council; or
- (d) encourage or participate in any conduct which would cause or contribute to mal-administration in the Council.

(3) A question to solicit information, including information which may be obtained through the Access to Information Act and other legislation, must be directed to the Municipal Manager's office.

(4) A Councillor must ensure that questions submitted in terms of this rule are submitted to the Office of the Speaker or Chairperson at least 10 days before the date of the next meeting.

(5) The Speaker or Chairperson must ensure that the questions are included in the agenda of the next Council meeting or committee meeting.

(6) The Speaker must decide, after consultation with the Whips, on the amount of time to be allocated to questions at each meeting.

(7) A Councillor may submit only one question at any meeting.

(8) Where questions are submitted to Council in terms of this rule, the Speaker must forward a copy of every question to the Chairperson of the relevant committee and the Municipal Manager who must ensure that a response is given at the next Council meeting.

(9) Where questions are submitted to a committee in terms of this rule, the Chairperson must forward a copy of every question to the relevant Department Head and Deputy City Manager,

who must ensure that a response is given at the next committee meeting. A response must be given by the relevant Deputy City Manager, Department Head or nominated official.

(10) If questions submitted in terms of sub-rules (1) and (3) have not been replied to at the next meeting, the minutes of the meeting must record these questions and that no reply was provided.

(11) A Councillor who, after their question has been replied to, is of the opinion that the reply to the question is not clear, must request elucidation thereof with the consent of the Speaker or Chairperson.

(12) If the Speaker consents to a question for elucidation being put, the Chairperson of the relevant committee or any Member of the committee must reply to the question at the meeting or at the next ordinary meeting.

(13) If the Chairperson in a committee meeting consents to a question for elucidation being put, the relevant Department Head or nominated official must reply to the question at the meeting or at the next ordinary meeting.

(14) The Speaker must disallow a question if the Speaker is of the opinion that the question is out of order, is not put clearly, is irrelevant or which has not been submitted in accordance with the provisions of these rules.

(15) A Councillor who has submitted a question in terms of sub-rules (1) and (3) and who has received no response from the Municipal Manager within 14 days, must bring the question before the Council.

(16) A Councillor may take charge of a question on behalf of an absent Councillor, provided that the absent Councillor has authorised that Councillor to do so in writing.

(17) Questions that have not been reached at the end of the time allocated for questions must be regarded as standing over.

(18) A question may not stand over more than once.

(19) A Councillor may not re-submit a question or a similar motion to any question which has been considered by Council or a committee during the previous 3 months.

(20) All questions must be submitted on the official Councillor letterhead.

## **CHAPTER 6 MISCELLANEOUS PROVISIONS**

### **Delegation of Powers during Recess and Emergencies**

**28.** (1) Whenever any matter of urgency arises—

- (a) during the period that Council is in session and it is not possible or practicable to obtain a decision of the relevant committee or of Council, such matter may, on the recommendation of the Deputy City Manager concerned, be decided by the Chairperson of the committee within whose terms of reference the matter falls;
- (b) during the period when the Council is in recess, such matter may be decided by the Municipal Manager, after consulting with the Mayor; or
- (c) during the period between the day on which election results are announced and the inaugural meeting of the new Council, such matter may be decided by the Municipal Manager.

(2) The power conferred upon the Chairperson and the Municipal Manager in terms of sub-rule (1) may include the power to incur expenditure, provided that the Deputy City Manager: Treasury or his nominee in the Treasury department certifies in writing that provision has been made for the expenditure in the current budget. If estimates for the financial year have not yet been adopted by the Council, it must be confirmed that provision for the expenditure has been or will be made in the estimates for that financial year.

(3) Notwithstanding the provisions of sub-rules (1) and (2), no expenditure may be incurred on the capital account, unless approved by the Mayor in his capacity as Chairperson of EXCO.

(4) All matters which are decided in terms of this rule must be reported at the next ordinary meeting of the committee within whose terms of reference the matter falls.

### **Records**

**29.** (1) The Municipal Manager must ensure that—

- (a) the minutes of meetings of Council and its committees are recorded; and
- (b) such records are kept for a minimum of 5 years.

(2) The minutes of the Council must, after having been perused by the Speaker, be printed and supplied to Councillors.

(3) Where a copy of the minutes has been served on every Councillor in the manner provided in rule 6(2), the minutes shall be taken as read with a view to confirmation at the next Council meeting.

(4) A proposal or discussion may not be allowed on the minutes, except for a proposal on or discussion of the accuracy of the minutes.

(5) The Municipal Manager must ensure that the names of the Councillors who—

- (a) attend any meeting;
- (b) are absent from any meeting; and,
- (c) have been granted leave of absence from any meeting,

are recorded in the minutes.

(6) The Municipal Manager must ensure that the minutes reflect the names of Councillors who requested that their dissent, abstention or support be recorded during voting, are recorded in the minutes.

(7) The Municipal Manager shall have custody of all records and other papers of Council and must neither remove nor permit such records to be removed without the leave of the Speaker.

(8) Audio recordings of all meetings of the Council must be kept at least until such time as the minutes are adopted.

### **Access to Information**

**30.** (1) The Municipal Manager may on application by—

- (a) any registered newspaper; or
- (b) interested person or entity,

supply confirmed copies of Council minutes, official agenda and confirmed minutes of all committees subject to the provisions of the Access to Information Act.

(2) Subject to sub-rule (1), a person may not—

- (a) have access to;
- (b) be entitled to take extracts from;

- (c) disclose;
- (d) publish; or
- (e) make copies of,

Council and committee minutes or official agendas of meetings which have been closed to the public in terms of rule 7.

(3) Any Councillor who publishes or discloses or causes any record of the Council or the proceedings of a committee to be published or disclosed when that meeting was closed to the public in terms of rule 7, shall be guilty of misconduct and shall be dealt with in terms of Council disciplinary processes.

(4) A Councillor may approach or communicate with a Head of Department or nominated official in order to obtain such information as he or she may reasonably require for the proper performance of his or her duties which information must—

- (a) be relevant to any matter on an agenda of the Council or its committee concerning the business of the municipality;
- (b) be relevant to any matter within the terms of reference of a committee or any other law; or
- (c) reasonably be required by him or her for performance of a duty imposed on him or her in terms of a resolution of Council or its committee or any other applicable law.

(5) A Councillor may not approach or communicate with a Head of Department or nominated official in order to obtain information—

- (a) relating to a situation where a Councillor or their spouse, partner or business associate has a direct or indirect personal or private business interest which may be in conflict with the provisions of the Code of Conduct;
- (b) which would require the Head of Department or a nominated official to act unlawfully;
- (c) which disclosure would defeat or be likely to defeat any privilege under any law entitling the Municipality not to disclose the information sought; or
- (d) where it is in the opinion of the Head of Department or delegated official that the information sought is of—
  - (i) a confidential nature, unless the release of the information has been authorised by the relevant committee and which committee must before reaching a decision, afford a hearing to the Councillor seeking such release of information; or

- (ii) such a nature that it would involve extensive research by officials, unless the relevant committee has authorised such research and release of information.

(6) A Head of Department must compile a list of officials that a Councillor may approach or communicate with for the purposes of obtaining information in sub-rules (4) and (5).

#### **Report on Implementation of Council Decisions**

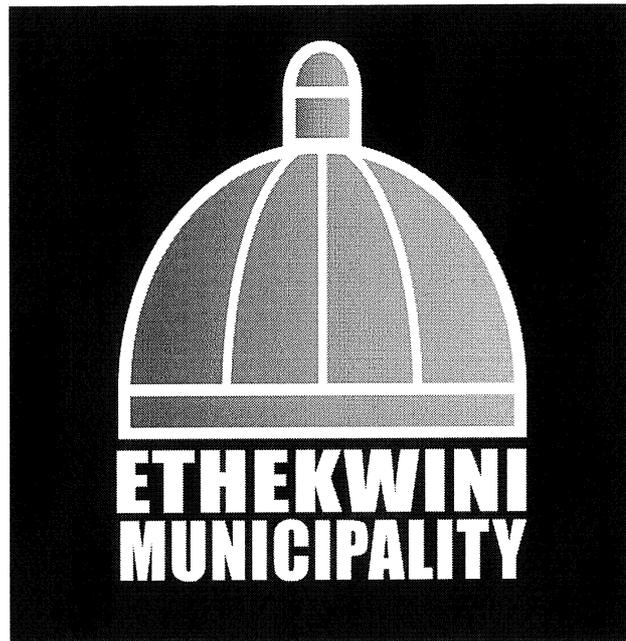
**31.** (1) The Municipal Manager must at the end of the first 6 months of a term of office of Council, and at 6 month intervals thereafter, submit to the Council a report on the implementation of each decision of Council.

#### **Short title and commencement**

**32.** This By-law is called the eThekweni Municipality: Rules of Order By-law, 2014 and takes effect on the date of the publication thereof in the Provincial *Gazette*.

No. 99

11 kuNtulikazi 2014

**IMITHETHO KAMASIPALA EQONDENE NEMITHETHO YENQUBO YOMKHANDLU, 2014**

Yamukelwa uMkhandlu mhla ka:

Yashawa mhlaka:

**IMITHETHO KAMASIPALA EQONDENE NEMITHETHO YENQUBO YOMKHANDLU, 2014**

Ukuhlinzekela iMithetho Yenqubo elawula izinqubo nokwenziwa kwemihlangano yoMkhandlu kaMasipala kanye namakomidi awo; kanye nokuhlinzekela izindaba ezihambisana nalokho.

**ISENDLALELO**

**NJENGOBA** uMkhandlu kaMasipala kufanele uzame ngawo wonke amandla awo ukufeza izinhloso ezibekwe esigabeni 152 soMthethosisekelo okuwukuhlinzekela imiphakathi yendawo ngohulumeni wentando yabantu futhi okwaziyo ukuphendula ngokwenzayo; ukuqinisekisa ukuhlinzeka imiphakathi ngezidingo ngendlela enokugcineka; ukukhuthaza inhlalohle nentuthuko yomnotho; ukukhuthaza ukuphepha nendawo enempilo kanye nokukhuthaza ukubamba iqhaza kwemiphakathi ezindabeni zohulumeni basekhaya;

**NANJENGOBA** amaKhansela ekhethelwe ukumela imiphakathi eMkhandlwini kaMasipala ukuze aqinisekise ukuthi omasipala banezindlela zokusebenza ezihlelekile zokuphendula emiphakathini kanye nokuhlangabezana nezidingo zemiphakathi;

**NANJENGOBA** amaKhansela kufanele agcine izibopho zawo emiphakathini, eseke umasipala ekufezeni izinhloso zawo, athobele iNdlela Yokuziphatha kwamaKhansela, athobele iMithetho kaMasipala eqondene neMithetho Yenqubo kaMasipala futhi ngaso sonke isikhathi athobele imithetho yezwe;

**NANJENGOBA** kudingekile ukuba uMkhandlu kaMasipala ubeke iMithetho Yenqubo yokusebenza kwawo ngaphakathi kanye nokulawula ukuziphatha kwawo ekwenzeni imisebenzi nezinqubo zawo;

**MANJE NGAKHO-KE** uMkhandlu kaMasipala waseThekwini, uMasipala Omkhulu waseTheku Namaphethelo, osebenza ngokwesigaba 160(6) soMthethosisekelo weRiphabhuliki yaseNingizimu Afrika, 1996 ngalokhu ushaya leMithetho kaMasipala elandelayo:

**OKUQUKETHWE****ISAPHLUKO 1  
UKUHUNYUSHWA**

1. Izincazelo
2. Ukuhunyushwa koMthetho kaMasipala
3. Izinhloso zoMthetho kaMasipala
4. Ukusebenza koMthetho kaMasipala

**ISAPHLUKO 2  
IMIHLANGANO YOMKHANDLU**

5. Imihlangano yoMkhandlu
6. Isaziso semihlangano
7. Ukuvunyelwa komphakathi emihlanganweni
8. Ukwethamela imihlangano kwamaKhansela
9. Ilivu
10. Ikhoramamu
11. Imihlangano yamakomidi ahlange

**ISAPHLUKO 3  
UHLELO NOKUCUTSHUNGULWA KWEZINDABA**

12. Uhlelo lomhlangano
13. Uhlelo lomhlangano owejwayelekile
14. Imibiko
15. Ukuphathwa kwemihlangano

**ISAPHLUKO 4  
UKUZIPHATHA KWAMAKHANSELA**

16. Ukuziphatha kwamaKhansela emihlanganweni
17. Ukudalula ukuthinteka

**ISAPHLUKO 5**  
**UKUSINGATHWA KWENKULUMO MPIKISWANO**

18. Isaziso sesiphakamiso esejwayelekile
19. Izaziso zeziphakamiso ezenqatshelwe
20. Iziphakamiso ezingokweNqubo
21. Ukuhoxiswa kwesaziso sesiphakamiso
22. Isaziso sesiphakamiso esiphuthumayo
23. Ukwabiwa kwesikhathi senkulumo mpikiswano
24. Imithetho eyengamele inkulumo mpikiswano
25. Iphuzu lokuqondisa nelokuchazelwa
26. Izinqumo nokuvota
27. Imibuzo ngokusebenza kukaMasipala

**ISAPHLUKO 6**  
**OKUYINGXUBEVANGE**

28. Ukwedluliselwa kwamandla ngesikhathi sekhefu nangesikhathi sezimo eziphuthumayo
29. Amarekhodi
30. Ukutholakala koLwazi
31. Umbiko ngokwenziwa kwezinqumo zoMkhandlu
32. Isihloko esifingqiwe nokuqala ukusebenza komthetho

**ISAPHLUKO 1**  
**UKUHUNYUSHWA**

**Izincazelo**

1. Kule Mithetho kaMasipala, ngaphandle uma ingqikithi isho okwehlukile –

“**uMthetho**” kushiwo uMthetho weziNhlelo zoMasipala woHulumeni Basekhaya, 1998 (uMthetho No. 117 ka 1998);

“**uMthetho Wokutholakala koLwazi**” kushiwo uMthetho Wokutholakala koLwazi, 2000 (uMthetho No. 2 ka 2000);

“**uSihlalo**” kushiwo umuntu oqokwe ukuba abe ngusihlalo womhlangano weKomidi loMkhandlu;

“**uSotswebhu Omkhulu**” kushiwo iKhansela eliqokwe yinhlangano ebusayo elenza umsebenzi wokweseka uMkhandlu, ngokubambisana noSotswebhu, ukuze baqinisekise ukusebenza kahle kwemihlangano yoMkhandlu;

“**iNdlela Yokuziphatha**” kushiwo iNdlela Yokuziphatha kwamaKhansela ebekwe kuSheduli 1 woMthetho Wezinhlalo Zomasipala (uMthetho No. 32 ka 2000);

“**iKomidi**” kushiwo ikomidi loMkhandlu kaMasipala waseThekwini elimiswe ngokwe –

- (a) zigaba 33, 79 noma 80 zoMthetho; noma
- (b) ngokwanoma imuphi omunye umthetho;

“**uMthethosisekela**” kushiwo uMthethosisekelo weRiphabhulikhi yaseNingizimu Afrika, 1996;

“**imininingwane yokuxhumana**” iyofaka ikheli lendawo, ikheli leposi, ikheli le e-mail, inombolo yeselula, inombolo yocingo kanye neyefeksi;

“**uMkhandlu**” noma “**uMkhandlu kaMasipala**” kushiwo uMkhandlu kaMasipala waseThekwini, uMkhandlu kaMasipala okukhulunywe ngawo esigabeni 157(1) soMthethosisekelo. Lapho kukhulunywa khona ngoMkhandlu lapha, kungasho futhi ikomidi loMkhandlu lapho kufanele kwehluke khona;

“**iKhansela**” noma “**iLungu**” kushiwo ilungu loMkhandlu kaMasipala;

“**usuku**” kushiwo noma iluphi usuku lweviki kodwa kungafaki uMgqibelo, iSonto noma iHolidi;

“**iKomidi Lesigungu Esiphezulu (EXCO)**” kushiwo iKomidi Lesigungu Esiphezulu loMkhandlu elakhiwe ngokwesigaba 43 soMthetho;

“**iMeya**” kushiwo umuntu okhethwe uMkhandlu kaMasipala ngokwesigaba 48 soMthetho;

“**MFMA**” kushiwo uMthetho woHulumeni baseKhaya Wezokuphathwa Kwezimali Zomasipala, 2003 (uMthetho No. 56 ka 2003);

**“iMenenja yeDolobha”** kushiwo umunti oqokwe ngokwesigaba 54A soMthetho weziNhlelo Zomasipala njengenhloko yezokuphatha eMkhandlwini kaMasipala;

**“uMasipala”** kushiwo uMasipala waseThekwini, umasipala osemkhakheni A njengoba kuchazwe esigabeni 155(1) soMthethosisekelo waseNingizimu Afrika wase usungulwa ngokweSaziso soMphakathi No. 343 sika 2000 (KwaZulu-Natali);

**“isaziso sesiphakamiso” noma “isiphakamiso”** kushiwo indlela amaKhansela angaletha ngayo izindaba okumele zingene ohlelweni lomhlangano woMkhandlu

**“iHhovisi likaSomlomo”** kushiwo iHhovisi lezokuphatha likaSomlomo futhi lingabala noma yimuphi umuntu odluliselwe amandla okwengamela nokuphatha eHhovisi likaSomlomo;

**“umhlangano owejwayelekile”** kushiwo umhlangano woMkhandlu noma wekomidi ohlelwe ngokwesigaba 29 soMthetho;

**“Isiphakamiso ngokweNqubo”** kushiwo udala oluvezwe yilungu ngokoMthetho weNqubo 20;

**“ikhoramu”** kushiwo iningi lamaKhansela (50% + 1);

**“isincomo”** kushiwo isincomo embikweni weKomidi Lesigungu Esiphezulu ngokweSigaba 44(4) soMthetho, esimayelana nesinqumo ngodaba leli komidi elingenawo amandla kulo;

**“umbiko we EXCO”** kushiwo umbiko we EXCO njengoba uchazwe eSigabeni 44 soMthetho odinga ukuba i- EXCO iwubike eMkhandlwini kaMasipala omayelana nezinqumo ezithathwe yileli komidi;

**“uSomlomo”** kushiwo uSihlalo woMkhandlu kaMasipala okhethwe ngokweSigaba 36 soMthetho;

**“umhlangano oyisipesheli”** kushiwo umhlangano ngale komhlangano owejwayelekile obizwe ngenhloso ethile, okuyothi okuzokwenzeka kuwo kubhalwe esazisweni esibiza lowo mhlango;

**“uMthetho weziNhlelo zoMasipala”** kushiwo uMthetho woHulumeni Basekhaya weziNhlelo Zomasipala, 2000 (uMthetho No. 32 ka 2000);

**“umhlangano ophuthumayo”** kushiwo umhlangano obizwe ngenhloso yokudingida udaba oluphuthumayo; futhi

**“uSotswebhu”** kushiwo ilungu loMkhandlu eliqokwe yinhlangao yezepolitiki ngayinye ukuba lenze imisebenzi ngokomthetho wenqubo 23.

### **Ukunyushwa kwalo Mthetho kaMasipala**

2. (1) Uma kukhona ukushayisana phakathi kombhalo wesiNgisi walo Mthetho kaMasipala nombhalo ohunyushiwe, kuyosebenza owesiNgisi.

(2) Ukunquma kukaSomlomo noma kukaSihlalo maqondana nokunyushwa kwale Mithetho yeNqubo emhlanganweni woMkhandlu noma wekomidi kuyothathwa njengokungujuqu futhi okubophezela wonke umuntu.

(3) Noma ikuphi ukunyushwa kwale Mithetho yeNqubo kuyokwenziwa ngokuhlonipha uMthethosisekelo, nemithetho kazwe lonke, yesifundazwe kanye neminye kamasipala, imithetho kanye nobulungiswa bezwe.

(4) Ukhumushwa nokuthatha isinqumo kukaSomlomo noma uSihlalo esebenzisa noma imiphi kule Mithetho yeNqubo kuyiqoshwa emaminithini omhlangano woMkhandlu noma ekomidi.

(5) IHhovisi likaSomlomo kufanele ligcine irejista yazo zonke izinqumo ezenziwe ngokwale Mithetho yeNqubo kanye nezeluleko zezomthetho.

**Inhloso yoMthetho kaMasipala**

3. (1) Inhloso yalo Mthetho kaMasipala ukubeka iMithetho yeNqubo okufanele ilandelwe uMkhandlu kaMasipala kanye namakomidi awo mayelana –

- (a) nezinhlelo zangaphakathi; kanye
- (b) nokusebenza nokuqhuba imihlangano,

ngokuhambisana nezihlinzeko zoMthethosisekelo, uMthetho kanye neminye imithetho esebenzayo.

**Ukusebenza kwalo Mthetho kaMasipala**

4. (1) Lo Mthetho kaMasipala usebenza kuyo yonke imihlangano yoMkhandlu kaMasipala kanye namakomidi awo futhi kufanele isetshenziswe –

- (a) amaKhansela;
- (b) abaholi bomdabu;
- (c) amalungu omphakathi;
- (d) abasebenzi bamasipala;
- (e) oNgqongqoshe baHulumeni;
- (f) amaLungu eKomidi Lesigungu Esiphezulu;
- (g) abasebenzi beminyango kahulumeni; kanye
- (h) nabamele izinhlaka zemiphakathi nezizimele,

abazokhuluma noma abethamele umhlangano woMkhandlu noma wekomidi.

(2) Ikomidi loMkhandlu libophezelwe yile Mithetho kaMasipala ngaphandle uma likhetha ukwenza iMithetho yeNqubo esebenza kulo lodwa.

(3) Ikomidi elikhetha ukwenza iMithetho yeNqubo esebenza kulo lodwa ngokwesigatshana

(2) kufanele –

- (a) liqinisekise ukuthi imithetho leyo ayiphikisani nale Mithetho kaMasipala; futhi
- (b) lithumele leyo mithetho ehlongozwayo kuSomlomo kanye noSotswebhu bezinhlangano ukuba bayibone bese benza izincomo eMkhandlwini.

(4) IMithetho yeNqubo ebhalwe ngokwesigatshana (2) kufanele ibe yingxenye yale Mithetho yeNqubo uma seyiphasiswe uMkhandlu.

## ISAHLUKO 2 IMIHLANGANO YOMKHANDLU

### Imihlangano yoMkhandlu

5. (1) UMkhandlu kaMasipala kufanele ube nemihlangano engekho ngaphansi kweyi 11 ngonyaka.

(2) USomlomo kufanele anqume ukuthi uMkhandlu uhlangana kuphi, nini, kepha uma iningi lamaKhansela licela kuSomlomo ngokumbhalela phansi ukuba enze umhlangano ukuze kudingidwe noma iluphi udaba, uSomlomo kufanele awubize lowo mhlangano oceliwe noma inini ngokuhambisana nesigaba 29(1) soMthetho.

(3) Imihlangano okukhulunywe ngayo esigatshaneni (1) kufanele kube imihlangano eyejwayelekile yokuqhuba umsebenzi kanti nohlelo losuku kufanele lubhalwe kumthetho 12.

(4) Kufanele kubizwe umhlangano woMkhandlu oyisipesheli ukuze kuphasiswe isabelomali sonyaka.

(5) USomlomo angabiza umhlangano ophuthumayo emva kokuxoxisana noMeya uma kukhona udaba oluphuthumayo oludinga isinqumo soMkhandlu ngaphambi kokuba kube nomhlangano owejwayelekile.

(6) USomlomo angabiza umhlangano oyisipesheli ukuze kuxoxwe nganoma iluphi udaba oluyisipesheli, noma uma kuzofika isivakashi esiqavile ukuzokhuluma noMkhandlu.

### Isaziso somhlangano

6. (1) USomlomo kufanele abize umhlangano woMkhandlu kaMasipala ngokukhipha "Isaziso Somhlangano" esisayinwe nguye, esinosuku, indawo kanye nesikhathi somhlangano.

(2) Isaziso sesikhathi nendawo yayo yonke imihlangano ejwayelekile neyisipesheli kanye nokuthunyelwa kwanoma imiphi imibhalo esayinwe uSomlomo ngokwale Mithetho yeNqubo kufanele kuthunyelwe kuwo wonke amaKhansela –

- (a) ngokunika umuntu esandleni;
- (b) ngokushiya isaziso ekhelini lokuhlala elahlinzekwa yiKhansela kusasele okungenani amahora ayi 72 ngaphambi kokuqala kwalowo mhlangano;
- (c) ngokuthumela i- e-mail; noma
- (d) ngokuthumela umyalezo omfushane kwiselula (SMS).

- (3) Isaziso somhlangano ophuthumayo kufanele sithunyelwe emaKhanseleni ngokwesigatshana (2) ngenhla, kusasele okungenani amahora ayi 12 ngaphambi kokuqala komhlangano.
- (4) Ukungasitholi isaziso somhlangano woMkhandlu noma wekomidi kwanoma iliphi iKhansela angeke kuphazamise ukuba semthethweni kwalowo mhlango.
- (5) IKhansela lingacela ukuba kwenziwe uphenyo maqondana nokungasitholi kwalo isaziso sokwethamela umhlangano okukhulunywe ngaso esigatshaneni (4).
- (6) IKhansela kufanele lihambise imininingwane yokuxhumana nalo eHhovisi likaSomlomo—
- (a) zingakapheli izisuku ezimbili likhethiwe; kanye
  - (b) nanoma kukhona noma iluphi ushintsho emininingwaneni yokuxhumana neKhansela.
- (7) IMenenja yeDolobha kufanele yazise umphakathi, ngendlela enqunywe nguMkhandlu, ngesikhathi, usuku kanye nendawo yayo yonke—
- (a) imihlangano yoMkhandlu eyejwayelekile; kanye
  - (b) nanoma yimuphi umhlangano woMkhandlu oyisipesheli noma ophuthumayo, ngaphandle uma isikhathi singakuvumeli lokhu ukuba kwenzeka.

#### **Ukuvunyelwa komphakathi emihlanganweni**

7. (1) Ngokwesigana 20 soMthetho weziNhlelo zoMasipala, imihlangano yoMkhandlu kanye naleyo yamakomidi awo ivulelekile emiphakathini, okufaka nabezindaba, kanti uMkhandlu noma lawo makomidi awuvumelekile ukuba uvimbele umphakathi, okufaka nabezindaba, ekwethameleni imihlangano ngaphandle uma—
- (a) kunesizathu sokwenza njalo ngenxa yodaba oluxoxwayo kulowo mhlango; kanye
  - (b) noma uMthetho kaMasipala noma isinqumo soMkhandlu sibeka izimo ezithile lapho uMkhandlu noma amakomidi awo engaba nomhlangano esithe futhi ngokuhambisana nesigatshana (1)(a) esigunyzaa uMkhandlu noma lelo komidi ukuba libe nomhlango esithe.
- (2) UMkhandlu noma ikomidi loMkhandlu, nganoma isiphi isizathu, angeke uvimbele umphakathi ngesikhathi udingida, uvota noma uqaphela noma iluphi kulezi zindaba ezilandelayo—
- (a) uMthetho kaMasipala ohlongozwayo obekwe ezithebeni zoMkhandlu;
  - (b) isabelomali esibekwe ezithebeni zoMkhandlu;

- (c) uhlelo lokamasipala lwentuthuko edidiyele noma ukuchitshiyelwa kwalolo hlelo okubekwe ezithebeni zoMkhandlu;
- (d) uhlelo lokamasipala oluhlongozwayo lokulawula ukusebenza kanye nokuchitshiyelwa kwalolo hlelo okubekwe ezithebeni zoMkhandlu;
- (e) isinqumo sokungena esivumelwaneni sokuletha izinsiza kubantu okukhulunywe ngaso esigabeni 76(b) soMthetho weziNhlelo Zomasipala;
- (f) ukuchithwa noma ukuthengwa kwempahla kamasipala; noma
- (g) iluphi olunye udaba olubalulwe umthetho.

### **Ukwethamela imihlangano kwamaKhansela**

8. (1) Wonke amaKhansela kufanele ethamele imihlangano futhi afike ngesikhathi futhi ahlale uze uphele umhlangano ngamunye woMkhandlu noma wekomidi lawo ngaphandle uma-

- (a) linikezwe ilivu ngokwesigaba 9 salo mthetho;
- (b) udaba oluphambi koMkhandlu luthinta lelo Khansela noma elishade naye, elisebenzisana naye noma elibambisene naye ebhizinisini, futhi lelo Khansela kudingeka ukuba lihoxe ngokwesigaba 3(b) seNdlela Yokuziphatha, uSheduli 1 woMthetho weziNhlelo Zomasipala; noma
- (c) iKhansela lingekho futhi noSomlomo noma uSihlalo ekwazi lokho.

(2) Wonke amaKhansela ethamele umhlangano woMkhandlu noma wekomidi kufanele asayine amagama awo kwirejista ebekelwe lokho eHhovisi likaSomlomo noma kwirejista kaSihlalo.

(3) IKhansela eliselivini kepha libe lingasayidingi leyo livu lingayethamela imihlangano ngesinsuku eyayinikwe ngazo iluvu ngokwesigaba 9 bese lisayina irejista yokuthi lalikhona.

### **Ilivu**

9. (1) Uma iKhansela—

- (a) lingakwazi ukwethamela umhlangano okhishelwe isaziso;
- (b) lingakwazi ukuhlala emhlanganweni uze uphele; noma
- (c) lizofika emva kwesikhathi sokuqala komhlangano,

iKhansela kufanele, ngokukhulu ukushesha okungenzeka ngaphambi kokuqala kwalowo mhlangano, lithumele kuSomlomo isicelo selivu esibhalwe phansi libeke nezizathu zokungabikho kulowo mhlangano noma engxenyeni yawo.

(2) Ilivu angeke igunyazwe ngendlela ezophazamisa ikhoramu yomhlangano.

(3) Ngale kokulandela isigatshana (1) no (2) ngenhla, isicelo selivu yokungabi bikho emhlanganweni siyothathwa njengesivunyiwe uma uMkhandlu ujube lelo Khansela ukuba liyomela uMkhandlu kwenye indawo.

(4) UMkhandlu noma ikomidi, ngaphansi kwesigatshana (1) no (2) ngenhla, ungagunyaza ilivu ekhanseleni ngalezi zizathu ezilandelayo, ezingafaka ukuthi—

- (a) iKhansela liyagula;
- (b) umsebenzi osemqoka, ukulungisa izinto eziqondene nalo iKhansela;
- (c) isaziso somhlangano oyisipesheli noma ophuthumayo sidilivwe esikhathini esingaphansi kwaleso esigagulwe kule Mithetho kaMasipala, ngaphandle uma ukungafiki ngesikhathi kwaso lesa saziso kudalwe ukwehluleka kweKhansela ukwazisa iHhovisi likaSomlomo ngemininingwane yokuxhumana nalo yakamuva;
- (d) kunezimo ezingaphezu kwamandla eKhansela ezidale ukuba lingakwazi ukwethamela lowo mhlango; noma
- (e) kunanoma isiphi isimo esivimbela iKhansela ngokomthetho ukuba lethamele umhlangano.

(5) USomlomo kufanele agcine amarekhodi azo zonke izigameko lapho amaKhansela kutholakale khona ukuthi abengekho emihlanganweni ngaphandle kwelivu noma kwesizathu esizwakalayo.

(6) USomlomo kumele azise iSotswebhu okhona uma kukhona iKhansela eliphuthile ngaphandle kokubika noma ngaphandle kwesizathu esizwakalayo emhlanganweni.

(7) Uma iKhansela seliphuthe ngaphandle kwelivu noma ngaphandle kwezizathu izikhathi ezintathu noma ngaphezulu, uSomlomo kufanele athumele umbiko eMkhandlwini bese enza izincomo zokuthi lolo daba aludluliselwe eKomidini Lokuziphatha kwamaKhansela i-Ethics Committee.

### **Ikhoram**

**10.** (1) Ikhoram yomhlangano woMkhandlu noma wekomidi yakhiwa yiningi lamalungu alowo mhlango.

(2) Kumele kube khona iningi lamalungu oMkhandlu ngaphambi kokuba kuvotelwe noma iluphi udaba.

(3) Uma ingahlangani ikhoramu emva kokuphela kwemizuzu engu 15 kudlule isikhathi sokuqala komhlangano, uSomlomo noma uSihlalo kufanele engeze isikhathi sokulinda ngeminye imizuzu engekho ngaphezu kwengu 15 ngaphambi kokuba kuqale umhlangano, emva kwalokho, uSomlomo usenganquma ukuba awukhasele lowo mhlango.

(4) Kunoma imuphi umhlangano woMkhandlu, uma uSomlomo noma uSihlalo aziswa ukuthi isibalo samaKhansela akhona kulowo mhlango kasanele ukuhlanganisa ikhoramu, uSomlomo noma uSihlalo kufanele ayalele ukuba kushawe insimbi isikhathi esingeqile emizuzwini emibili, uma futhi ingahlangani ikhoramu, uSomlomo noma uSihlalo kufanele awuguqise lowo mhlango.

(5) Uma umhlangano uguqa ngenxa yokungahlangani kwekhoramu, umhlangano kufanele uphinde ubizwe ezinsukwini eziwu 7 ukuze kuqhubeke lowo mhlango owaguqa.

#### **Imihlangano yamakomidi ahlange**

**11.(1)** Ikomidi loMkhandlu lingahlangana ngokuhlanganyela –

- (a) nelinye ikomidi loMkhandlu;
- (b) nekomidi lesiShayamthetho;
- (c) nekomidi lePhalamende;
- (d) nohlaka lombuso; noma
- (e) nabantu bangaphandle,

ukuze kudingidwe izindaba ezilithintayo.

(2) USihlalo womhlangano wamakomidi ahlange kumele akhethwe ngevoti leningi lamalungu akhona emhlanganweni.

(3) Amaminithi omhlangano wamakomidi ahlange kumele –

- (a) ahlanganiswe futhi athunyelelwe bonke abahambele umhlangano; futhi
- (b) ethulwe kanye nombiko emhlanganweni olandelayo woMkhandlu nekomidi elithintekayo.

**ISAHLUKO 3****UHLELO NOKUCUTSHUNGULWA KWEZINDABA****Uhlelo lomhlangano**

12.(1) Yonke imihlangano kufanele iphathwe ngokulandela nangokulandelana kwezindaba ezisohlelweni lomhlangano olungaphambi koMkhandlu, futhi kuzodingidwa kuphela izindaba ezisohlelweni lomhlangano, ngokulandela isigatshana (2).

(2) USomlomo angakushintsha ukulandelana kwezindaba ezisohlelweni lomhlangano emva kokucubungula izizathu zalokho.

(3) USomlomo, ngaphansi kwesigaba 7 —

(a) uma ebona kufanelekile ukuba kwenziwe njalo; futhi

(b) emva kokucubungula izizathu zalokho,

angayalela ukuba noma iluphi udaba luxoxwe esithe.

(4) Udaba oluxoxwa esithe emhlanganweni woMkhandlu akuvumelekile ukuba ludalulwe kwabanye abantu ngokuhambisana nesigaba 10 seNdlela Yokuziphatha.

(5) Uma kunodaba okunqunywe ukuba ludingidwe mhlanganweni oyinguyazana, isizathu saleso sinqumo kumele siqoshwe kwi-rejista yezinqumo kanjalo nezimvo zezomthetho egcinwe ehhovisi likaSomlomo.

**Uhlelo lomhlangano owejwayelekile**

13.(1) Uhlelo lwezindaba zanoma imuphi umhlangano owejwayelekile obizwe ngokwesigatshana 5 kufanele lume kanje:

(a) isaziso esibiza umhlangano;

(b) ukuvula;

(c) iculo lesizwe;

(d) ithuba lokuthandaza/dlinza;

(e) izimemezelo ezisemthethweni;

(f) umbiko kaSomlomo;

(g) izicelo zelivu yokungabibikho;

(h) ukuqinisekwa kwamaminithi;

(i) imibuzo okwafakwa izaziso zayo;

(j) imibiko, engafaka:

(i) Imibiko ye EXCO;

(ii) Imibiko ye MPAC; kanye

(iii) Nemibiko ye Ethics Committee;

(k) Izaziso zeziphakamiso;

(l) Umbiko weMeya ngokwe MFMA;

- (m) Umbiko weMenenja yeDolobha ngokwe MFMA;
- (n) Umbiko ngezinqumo zamakomidi;
- (o) Izindaba okufanele zazeke; kanye
- (p) nokuvala.

### **Imibiko**

**14.(1)** Yonke imibiko ye EXCO eya eMkhandlwini kufanele ibe njengoba kubekwe esibageni (4) soMthetho, odinga ukuba iKomidi Lesigungu Esiphezulu libikele uMkhandlu ngazo zonke izinqumo ezithathwe yileli komidi.

- (2) Imibiko okukhulunywe ngayo esigatshaneni (1) kufanele yehlukaniswe izingxenye ezimbili –
- (a) ingxenye yokuqala kufanele ibe nezindaba i- EXCO engenawo amandla phezu kwazo; kanti
  - (b) ingxenye yesibili yona kufanele ibe nezindaba i- EXCO enamandla phezu kwazo futhi ezilethwe eMkhandlwini ukwazisa amalungu nje.

(3) Zonke izindaba ezitholakala engxenyeni yokuqala yombiko we EXCO ziyoba nezincomo ezingavunywa noma zichithwe nguMkhandlu.

(4) Izindaba ezitholakala engxenyeni yesibili yombiko zona azizelanga ukuzoxoxwa, kepha zilethwelwe ukwazisa amaKhansela nje kuphela.

(5) USomlomo uyovumela inkulumo-mpikiswano ngombiko okukhulunywe ngawo ngaphansi kwesigatshana 2(a) ngokuhambasana nomthetho 23 no 24.

(6) UMkhandlu, uma uthole isicelo esibhalwe phansi okungenani sekota eyodwa yesibalo samaKhansela, ungabuyekeza noma isiphi isinqumo esisembikweni othunyelwe ngokwesigatshana 2(b) bese mhlambe uvume, wehluke noma usichithe isinqumo kanye nanoma imaphi amalungelo abetholakale kunoma imuphi umuntu njengoba kubekiwe esibageni 59(3) soMthetho weziNhlelo Zomasipala.

### **Ukuphathwa kwemihlangano**

**15. (1)** USomlomo, njengoSihlalo wemihlangano yoMkhandlu kufanele—

- (a) aphaathe imihlangano yoMkhandlu;
- (b) aqinisekise ukuthi uMkhandlu uyahlangana njengoba kubekiwe ngokomthetho 5;
- (c) ugcina kunokuthula emhlanganweni;

- (d) aqinisekise ukuthotshelwa kweNdelela Yokuziphatha emhlanganweni woMkhandlu kanye neyamakomidi;
- (e) aqinisekise ukuthi imihlangano yoMkhandlu iphathwe ngokwale Mithetho kaMasipala kanye nangokwanoma imiphi eminye imithetho esebenzayo;
- (f) aqinisekise ukuthi amaKhansela aziphatha ngendlela enokuthula nenesizotha futhi athobela izinqumo zikaSomlomo;
- (g) aqinisekise ukuthi amalungu omphakathi athamele umhlangano woMkhandlu aziphatha ngendlela enokuthula futhi athobela zonke izinqumo zikaSomlomo;
- (h) aqinisekise ukuthi noma imuphi umuntu owehluleka ukuthobela noma isiphi isinqumo uyalelwa ukuba aphume emhlanganweni;
- (i) aqinisekise ukuthi uSotshwebhu Omkhulu kanye noSotshwebhu bagcina amalungu abo eziphethe kahle ngesikhathi semihlangano yoMkhandlu;
- (j) ucubungula wonke amaphuzu okuqondisa bese ethatha izinqumo ngawo; futhi
- (k) uziphatha ngendlela engachemile kuzo zonke izinhlangano kanye namalungu azo.

(2) Uma uSomlomo noma uSihlalo engekho emhlanganweni noma engatholakali ukuba enze imisebenzi yesikhundla sakhe noma kunesikhala esivulekile, uMkhandlu noma ikomidi kufanele ukhethe elinye iKhansela ukuba libambe njengo Somlomo noma uSihlalao.

(3) Umhlangano woMkhandlu noma wekomidi loMkhandlu angeke uqale noma uqhubeke ngaphandle uma uSomlomo noma uSihlalo ephethe lowo mhlango.

(4) Uma uSomomolo engekho emhlanganweni, iMenenja yeDolobha kufanele iphathe uhlelo lokuqoka uSomlomo wesikhashana.

#### ISAHLUKO 4

#### UKUZIPHATHA KWAMAKHANSELA

##### Ukuziphatha kwamaKhansela emihlanganweni

16.(1) Ngesikhathi somhlangano woMkhandlu noma wekomidi, amaKhansela nabasebenzi kufanele—

- (a) baziphathe ngendlela ecokeme nenenhlonipho njengoba kufanelekile emhlanganweni;
- (b) ngaso sonke isikhathi bathobele imigomo nemithetho etholakala eNdloleni Yokuphatha kanye nakule Mithetho kaMasipala;
- (c) ngaso sonke isikhathi bathobele iMithetho kaMasipala kanye nemithetho yezwe;
- (d) bangasebenzisi ulimi olungafanelekile nolucasulayo;
- (e) bangawasebenzisi amaselula ngesikhathi semihlangano; noma

(f) baphathe izibhamu kanye nanoma isiphi isikhali esiwubungozi emihlanganweni yoMkhandlu noma yamakomidi awo.

(2) Njalo uma uSomlomo noma uSihlalo esukuma ngesikhathi senkulumo mpikiswano, noma iliphi iKhansela eslikhulumayo ngaleso sikhathi kufanele lithule bese uSomlomo noma uSihlalo alalelwe ngaphandle kokuphazanyiswa.

(3) Ngesikhathi senkulumo mpikiswano iKhansela alivumelekile ukuba likhulume nomunye umuntu kakhulu kuze kuphazamiseke ukuqhubeka komhlangano.

(4) Ngale kukaSomlomo noma uSihlalo, iKhansela angeke likwazi ukuphazamisa elinye iKhansela lisakhuluma, ngaphandle uma linephuzu lokuqondisa noma lokuchazelwa.

(5) IKhansela angeke lisebenzise ulimi olungavumelekile ngesikhathi somhlangano.

(6) USomlomo noma uSihlalo, emva kokuqwashisa iKhansela ngokukhuluma izindaba ezingekho ohlelweni noma ngokuphindaphinda kaningi into eyodwa, kufanele acele lelo Khansela ukuba liziphathe ngendlela, noma uma liqhubeka nokukhuluma, ayivale leyo nkulumo, bese elihlalisa phansi.

(7) Uma uSomlomo noma uSihlalo ebona ukuthi lelo Khansela—

- (a) liphula ngamabomu izihlinzeko zale Mithetho kaMasipala;
- (b) lidelela noma lishaya indiva amandla kaSomlomo noma uSihlalo;
- (c) liphikisana nesinqumo sikaSomlomo ngePhuzu Lokuqondisa;
- (d) lenqaba ukuhoxisa noma imaphi amazwi alo uma licelwa ukuba lenze njalo nguSomlomo noma uSihlalo;
- (e) liziphatha ngendlela engavumelekile,

kufanele aphoqe lelo Khansela ukuba liphume kulowo mhlangano osaqhubeka noma acele ukuba likhishwe kulowo mhlangano.

(8) Noma yimuphi umuntu owethamele noma imuphi umhlangano woMkhandlu kufanele agqoke ngendlela eyamukelekile negcina isithunzi soMkhandlu. Indlela yokugqoka yamaKhansela kufanele kube ngeyokuya emhlanganweni noma imvunulo yesintu.

(9) USomlomo noma uSihlalo angacela noma ayalele ukuba kukhishwe noma imuphi umuntu –

- (a) owenqaba ukuthobela umyalelo olula noqondile awunikwa uSomlomo noma uSihlalo; noma

(b) ngamabomu ovimbela ukuba kuthotshelwe ukwenziwa kwanoma imuphi umyalelo kaSomlomo noma uSihlalo.

(10) Uma kwenzeka kuba khona ukuphazamiseka okukhulu emhlanganweni, uSomlomo noma uSihlalo —

(a) angawuguqisa umhlangano; noma

(b) amise ukuqhubeka komhlangano okwesikhashana.

(11) Uma umhlangano uguqisiwe, bonke abantu abethamele lowo mhlangano kufanele basukume bame ezindaweni zabo kuze kuphuma uSomlomo emhlanganweni.

(12) Amalungelo amaKhansela afaka—

(a) ilungelo lokukhuluma ngokukhululeka emihlanganweni yoMkhandlu noma ayamakomidi; kanye

(b) nanoma imaphi amanye amalungelo awanikwe ngokoMthethosisekelo.

(13) AmaKhansela angeke abekwe cala, aboshe noma abhekane namademeshe—

(a) nganoma yini ayisho, ayiveze noma ayithumele eMkhandlwini noma kunoma iliphi ikomidi lawo; noma

(b) nganoma yini evele ngenxa yanoma yini evezwe ngaphambi koMkhandlu noma ekomidini lawo.

(14) Ukusebenzisa ilungelo lokukhuluma ngokukhululeka kuvikelekile, kepha lelo lungelo kufanele lisetshenziswe ngokweMithetho yeNqubo.

### **Ukudalula ukuthinteka**

17. (1) IKhansela elifisa ukudalula ukuthi kunodaba olusezithebeni zoMkhandlu noma zekomidi loMkhandlu oluthinta ngqo noma ngandlela thile lelo khansela ngqo, uwakwalo, uphathina walo noma ababambisene naye ebhizinisini kufanele lenze njalo njengokuyalela kweNdlala Yokuziphatha futhi lokho likwenze uma nje luqeda ukubizwa lolo daba noma iSaziso Sesiphakamiso esimthintayo.

(2) IKhansela kumele lizihoxise lona odabeni oludingidwayo lapho lona njengeKhansela, uwakwalo, uphathina noma elibambisene naye ebhizinisini ethinteka ngqo noma ngandlela thile noma ehlo mola ebhizinisini elizimele okumele ukuthi lelo Khansela lihoxe kulolo daba njengokulandisa kohlamvu 3(b) leNqubo yokuziPhatha.

**ISAPHLUKO 5**  
**UKULAWULWA KWENKULUMO-MPIKISWANO**

**Isaziso seziphakamiso ezejwayelekile**

**18.(1)** IKhansela ngeke likwazi ukwethula udaba eMkhandlwini ngaphandle kokukhipha isaziso sesishakamiso.

(2) Noma isiphi isaziso sesishakamiso kumele —

- (a) sibhalwe phansi;
- (b) sikhulume ngodaba olulodwa kuphela;
- (c) sisayinwe yiKhansela elisikhiphayo; futhi
- (d) sisayinwe yiKhansela elisisekelayo.

(3) ISaziso sesiphakamiso kumele sethulwe kuSomlomo oyokube —

- (a) esesifaka encwadini ebekelwe lokho; futhi
- (b) aqinisekise ukuthi leyo ncwadi ivulelekile ukuba ihlolwe yinoma iliphi iKhansela.

(4) ISaziso sesiphakamiso angeke sifakwe ohlelweni lomhlangano ngaphandle uma sitholakale kusasele okungenani izinsuku eziyi-10 kufike umhlangano.

(5) IHhovisi likaSomlomo kumele liphendule ngencwadi ukuthi lisitholile iSaziso sesiphakamiso uma iKhansela elilethe iSaziso sesiphakamiso licela kanjalo.

(6) Zonke izaziso zesiphakamiso kumele zikhulume ngezokuphatha kumasipala noma zikhulume ngezindaba ezingaphansi kolawulo loMkhandlu kaMasipala.

(7) Uma selithole isaziso sesiphakamiso, iHhovisi likaSomlomo kumele libhale phansi usuku, inombolo bese lifaka izaziso ohlelweni lomhlangano ngokulandelana ngendlela ezifike ngayo: Kuncike ekutheni isaziso esichibiyela isiphakamiso kumele sifakwe ohlelweni ngokushesha ngemuva kwaleso siphakamiso esisichibiyelayo.

(8) Isaziso sesiphakamiso siyobe singaphelele uma singasho ukuthi lolo daba kufanele lubuyiselwe emuva ekomidini elifanele loMkhandlu ukuze liphenywe noma lisicubungule bese libikela uMkhandlu uphelele.

(9) IKhansela alivumelekile ukufaka isaziso sesiphakamiso esingaphezu kwesisodwa ohlelweni lomhlangano, ngaphandle uma kuyisaziso sesiphakamiso esahlehliswa.

(10) IKhansela alivumelekile ukufaka izaziso zesiphakamiso ezingaphezu kweziyi-6 ngonyaka.

(11) Uma isaziso sesiphakamiso esifakwe ohlelweni lomhlangano sibizwa kepha singabekwa ezithebeni zoMkhandlu yiKhansela elisibhalile, noma elinye iKhansela eligunyazwe ngencwadi yiKhansela elisibhalile, lesi Saziso sesiphakamiso siyokhishwa.

(12) USomlomo kumele athole ukuthi ingabe isaziso sesiphakamiso siyaphikiswa yini. Isaziso sesiphakamiso esingaphikiswanga kumele siphasiswe ngaphandle kwenkulumo-mpikiswano. Uma kwenzeka isaziso sesiphakamiso siphikiswa, uSomlomo kumele acele lowo obhale isaziso sesiphakamiso ukuba akhulume kuqala.

(13) Uma isaziso sesiphakamiso sichithiwe, lolo daba akumele luphinde liphakanyiswe, okungaba ngesinye isaziso sesiphakamiso noma ngombuzo, kuze kuphele okungenani izinyanga ezintathu kusukela osukwini esachithwa ngalo.

(14) Zonke izaziso zesiphakamiso kumele zithunyelwe ngencwadi eneminingwane esemthethweni yalelo Khansela- ilethead.

(15) IHhovisi likaSomlomo kumele liqophe futhi ligcine irejista yezaziso zesiphakamiso ezitholakele.

#### **Isaziso sesiphakamiso esinqatshelwe**

**19.(1)** USomlomo akumele avumelene isaziso sesiphakamiso —

- (a) esingaholela ekutheni kudingidwe udaba oseluvele ludingidiwe ohlelweni;
- (b) kudingidwe udaba olungaphathelene nokuphathwa kukamasipala;
- (c) esinamagama evile ku-150 noma esiqukethe izimvo amaphuzu angenasidingo, angamanga, agxekayo, angakhi futhi angafanele;
- (d) esikhuluma ngodaba uMkhandlu ongenawo amandla okukhuluma ngalo;
- (e) esikhuluma ngodaba okusalindelwe isinqumo senkantolo noma somgwamanda wezomthetho;
- (f) esingasekwanga muntu;
- (g) uma siphasisiwe, esizoshayisana nalo Mthetho kaMasipala kanye nanoma imuphi omunye umthetho noma esingeke senzeke;
- (h) esikhuluma ngodaba olusaphenywa ngokusemthethweni futhi uma ukukhuluma ngalolo daba kungabeka engcupheni uphenyo;
- (i) esikhuluma ngodaba oluvele lusezithebeni zekomidi elithile; noma

(j) esingazange siphakanyiswe ngokuhambisana nale mithetho.

### **IziPhakamiso ezingokwenqubo**

20.(1) Uma sekwenziwe isiphakamiso noma isincomo futhi kusenenkulumo-mpikiswano eqhubekayo mayelana nalokho, akukho siphakamiso esiyokwemukelwa ngaleso sikhathi ngaphandle kwesiphakamiso sokuthi –

- (a) inkulumo-mpikiswano ithi ukuguqa;
- (b) uMkhandlu udlulele odabeni olulandelayo;
- (c) udaba lubuyiselwe emuva;
- (d) kuchitshiyelwe isiphakamiso esedlule; noma
- (e) udaba oludingidwayo luvotelwe.

(2) Zonke iziphakamiso ezingokwenqubo kumele zeseke kuqala ngaphambi kokuba lezo ziphakamiso zidingidwe.

(3) Noma isiphi isiphakamiso esingokwenqubo singahoxiswa osiphakamisile ngemvume yoMkhandlu, ngaphandle kokuthi kube nenkulumo-mpikiswano.

(4) Uma kuba nesiphakamiso sokuba kuchitshiyelwe isiphakamiso, isichibiyelo kumele –

- (a) sihambisane nesiphakamiso sokuqala;
- (b) sibhalwe phansi;
- (c) sisayinwe osiphakamisayo; futhi
- (d) sihanjiswa kuSomlomo ukuze asifunde emhlanganweni.

(5) Isichibiyelo okukhulunywe ngaso kwisigatshana somthetho (4) angeke sishintshe lokho okushiwo yisiphakamiso sokuqala.

(6) IKhansela angeke lifake isichibiyelo esingaphezu kwesisodwa kunoma isiphi isiphakamiso sokuqala.

(7) Uma isichibiyelo sesiphakamiso sokuqala sesethuliwe futhi sathola ukwesekwa, angeke kusaba khona esinye isichibiyelo esiyokwethulwa kuze kuqedwe ngesichibiyelo sokuqala. Uma sekuqedwe ngaleso sichibiyelo, isiphakamiso esichitshiyelwe siyoba yisona siphakamiso kanti kuyobe sekungaphakanyiswa ezinye izichibiyelo mayelana naso.

(8) Uma isiphakamiso sokuqala siphathelene noMthetho kaMasipala, noma isiphi isiphakamiso sokuchibiyela kumele sibuyiselwe emuva ekomidini eliphathelene nalokho.

(9) Noma isiphi isiphakamiso esizothinta ukwenyuswa kwezimali ezisetshenziswayo noma ukunciphisa amaholo oMkhandlu kumele sibuyiselwe emuva ekomidini eliphathelene nalokho liyosicubungula.

(10) Isiphakamiso esingokwenqubo esithi udaba alubuyiselwe emuva, kumele sisho ikomidi okumele kubuyiselwe kulona udaba kanjalo nephuzu noma amaphuzu okudingeka kuwona iseluleko noma izeluleko zekomidi. Uma siphumelela isiphakamiso ngokwalo mthetho, kumele ime inkulumo-mpikiswano mayelana nodaba futhi uMkhandlu kumele udlulele ephuzwini elilandelayo ohlelweni.

(11) Angeke kuphakanyiswe isiphakamiso sokuba kuguqe umhlangano woMkhandlu ngesikhathi kusekhona udaba olusadingidwa olusohlelweni, kodwa singaphakanyiswa kuphela ngokushesha ngemuva kokuba sekuphunywe nesisombululo mayelana nalolo daba, futhi kungakangenwa odabeni olulandelayo olusohlelweni.

(12) Isiphakamiso sokuthi kumiswe inkulumo-mpikiswano esihambisana nezizathu zaleso sicelelo noma sokufaka umbuzo noma sokuthi uMkhandlu udlulele odabeni olulandelayo kumele siphakanyiswe uma sekuphothulwe inkulumo.

(13) Esinye isiphakamiso esifuze lezi ezisesigatshaneni somthetho (11) noma (12) angeke siphakanyiswe singakapheli isigamu sehora kuphakanyiswe esinye isiphakamiso esifanayo.

(14) IKhansela angeke liphakamise noma leseke isiphakamiso esingaphezu kwesisodwa zokuthi kuguqe umhlangano woMkhandlu.

(15) Uma kuphakanyiswe isiphakamiso sokuthi kuguqe umhlangano woMkhandlu, uSomlomo kumele acele ukuba kuqedwe ngezindaba ezingeke ziphikiswe ngaphambi kokuba kuguqe umhlangano.

#### **Ukuhoxiswa kweSaziso sesiphakamiso**

21.(1) Isiphakamiso singahoxiswa noma sichitshiyelwe yilowo osiphakamisile ngemvume yoMkhandlu okumele ikhishwe ngaphandle kokuthi kube nenkulumo-mpikiswano.

(2) IKhansela angeke likhulume ngesiphakamiso ngemuva kokuba sekugunyazwe ukuhoxiswa kwaleso siphakamiso.

**Isaziso sesiphakamiso esiphuthumayo**

**22.(1)** IKhansela lingafaka isicelo mayelana nesimo esiphuthumayo kuncike ekutheni —

- (a) uSomlomo unikezwe isaziso sesiphakamiso kusasele okungenani amahora angu-24 kufike umhlangano; futhi
- (b) kufakwe izizathu zalokho kuphuthuma kwaleso saziso sesiphakamiso.

(2) USomlomo, ngemuva kokubonisana noSotswebhu, kumele athathe isinqumo mayelana nokuthi isiphakamiso siyethulwa yini phambi koMkhandlu. Isinqumo sikaSomlomo siyoba ngujuqu.

(3) Ngale kokulandela izinhlinzeko zesigatshana somthetho (1), iKhansela lingacela uSomlomo ukuba afake isiphakamiso esiphuthumayo esithinta umphakathi ohlelweni okungenani kusasele ihora ngaphambi kokuqala komhlangano woMkhandlu.

(4) USomlomo kumele athathe isinqumo esingujuqu mayelana nokwethulwa eMkhandlwini kwesiphakamiso esiphuthumayo okukhulunywe ngaso kwisigatshana somthetho (3) ngemuva kokucubungula isiphakamiso. Isinqumo sikaSomlomo siyoba ngujuqu.

**Ukwabiwa kwesikhathi senkulumo-mpikiswano**

**23.(1)** Zonke izinhlangano ezimelelekile eMkhandlwini zinelungelo lokukhuluma odabeni ngalunye olusohlelweni lomhlangano ngenxa yokumeleleka kwawo eMkhandlwini.

(2) USomlomo angavumela inhlangano yezepolitiki ukuba iphe enye inhlangano yezepolitiki isikhathi ebeyabelwe sona sokukhuluma kunoma yiluphi udaba, kuncike ekutheni lezo zinhlelo zenziwa noSomlomo ngaphambi kokuqala komhlangano woMkhandlu.

(3) USotswebhu Omkhulu, ngemuva kokubonisana noSotswebhu bazinye izinhlangano eMkhandlwini futhi kusasele okungenani amahora angu 24 kuqale umhlangano, kumele ahlinzekele uSomlomo noSotswebhu bezinhlangano ngohlu olukhombisa –

- (a) izihloko ohlelweni lwalowo mhlangano ezizoba nenkulumo-mpikiswano;
- (b) isikhathi okulindeleke ukuthi sabelwe inkulumo-mpikiswano esihlokweni ngasinye; kanye
- (c) nesikhathi senkulumo-mpikiswano esabelwe inhlangano yezepolitiki ngayinye.

(4) Zonke izinhlangano kumele zinikezwe okungenani umzuzu owodwa wokukhuluma ephuzwini ngalinye elinenkulumo-mpikiswano. Kungaphinde kwengezwe isikhathi sokukhuluma

kwezinhlangano ezimelelekile eMkhandlwini ngoSostwebhu ngokuhambisana nesibalo sezihlalo ezinazo.

(5) Inhlangano ngayinye kumele ihlole uhlu olungokwesigatshana somthetho (3) futhi inikeze uSomlomo kusasele okungenani amahora angu-12 uhlu lwamalungu ayo azokhuluma odabeni kanjalo nesikhathi esabelwe ilungu ngalinye, kuncike ekutheni isikhathi sesisonke sawo wonke amalungu enhlangano, aseqi isikhathi esabelwe leyo nhlangano ngokwesigatshana somthetho 3(c) ngenhla.

(6) USomlomo anganciphisa noma elule isikhathi esabelwe inkulumo-mpikiswano odabeni ngalunye olusohlelweni lomhlangano uma ethola uhlu okukhulunywa ngalo kwisigatshana somthetho (5).

(7) USomlomo kumele –

- (i) aqinisekise noma elule isikhathi esabelwe izinhlangano ngendlela engenzeleli kuzona zonke izinhlangano;
- (ii) azame ngayo yonke indlela ukwazisa izinhlangano mayelana nalokho kwelulwa kwesikhathi kusenesikhathi; futhi
- (iii) eluleke izinhlangano mayelana nokwelulwa noma nokuncishiswa kwesikhathi esabiwe.

(8) Isinqumo esithathwe ngokwesigatshana somthetho (6) no (7) kumele sidluliselwe koSostwebhu abafanele kusenesikhathi ngaphambi kokuqala komhlangano woMkhandlu.

(9) Uma sekwethulwe umbiko etafuleni, uSomlomo kumele abheke amaKhansela afuna ukukhuluma mayelana nalolo daba olusezithebeni.

(10) Uma kuba nesicelo nangokubona kwakhe, uSomlomo angavumela ukuba kwengezwe imizuzu emihlanu yokuphendula kulowo owenza isiphakamiso noma umbiko wekomidi. Leso sicelo kumele sidluliselwe kuSomlomo uma sekuqala inkulumo-mpikiswano mayelana naleso sihloko.

(11) USomlomo, uma esebenzisa amandla akhe ngokwale mithetho, angeke enzelele noma iyiphi inhlangano mayelana nesikhathi esabelwe izinhlangano.

#### **Imithetho eyengamele inkulumo-mpikiswano**

**24.(1)** Kunoma iyiphi inkulumo-mpikiswano, uSomlomo kumele abize iKhansela ukuba likhulume ngokuhambisana nohlu okukhulunywe ngalo emthethweni 23(3).

(2) IKhansela lingakhuluma kuphela uma liyalelwe uSomlomo.

(3) Uma sekwethulwe umbiko, iKhansela kumele liveze ukuthi lifuna ukukhuluma ngokuphakamisa isandla bese lilindela umyalelo kaSomlomo.

(4) IKhansela elikhulumayo kumele liqinisekise ukuthi likhuluma ngalolo daba oludingidwayo.

(5) Noma nini uma uSomlomo esukuma ngesikhathi kunenkulumo-mpikiswano, noma iliphi iKhansela elikhulumayo ngaleso sikhathi, nabo bonke abantu abakhona emhlanganweni woMkhandlu kumele bathule ukuze uSomlomo ezozwakala ngaphandle kokuphazanyiswa.

(6) Owenze isiphakamiso angaphendula kwezinye izinkulumo ezedlule ngokuhambisana nomthetho 23(10), kodwa angeke afake udaba olusha kwinkulumo-mpikiswano.

#### **IPhuzu lokuQondisa nelokuchazelwa**

**25.(1)** IKhansela, noma ngabe selike lakhuluma odabeni oludingidwayo noma liyaqala, lingaphakamisa —

- (a) iPhuzu lokuQondisa, okuhloswe ngalo ukukhuza ukuphambuka kwesikhulumi kule mithetho noma kweminye imithetho; noma
- (b) iphuzu lokuchazelwa, ngenhloso yokuchaza izingxenye ezithile zenkulumo yalelo Khansela yaphambilini okungenzeka ukuthi azizwakalanga kahle.

(2) Uma kuphakanyiswa iPhuzu lokuQondisa, iKhansela eliqondiswayo kumele lithule du, futhi uma uSomlomo eselizwile iPhuzu lokuQondisa kumuntu oliphakamisayo, uSomlomo kumele athathe isinqumo.

(3) Isinqumo sikaSomlomo mayelana nokuzwakala kwePhuzu lokuQondisa noma lokuchazelwa siyoba ngujuqu futhi angeke sidingidwe.

#### **Izinqumo nokuvota**

**26.(1)** Kumele kuhlangele iningi lamalungu oMkhandlu ukuze kukwazi ukuthi kuvotwe.

(2) Lezi zihloko ezilandelayo yizona okumele kunqunywe ngazo ngezinqumo ezithathwe ngevoti leningi lamaKhansela, kanti zibandakanya –

- (a) ukuphasiswa kweMithetho kaMasipala;
- (b) ukugunyazwa kwezabelomali;
- (c) ukunqunywa kwamarates nezinye izintela, izimali ezikhokhwayo nemisebenzi;
- (d) ukubolekwa kwezimali;
- (e) ukuchithwa kwezinqumo zoMkhandlu; kanye
- (f) nanoma iluphi udaba olunqunywe umthetho.

(3) Yonke eminye imibuzo eyethulwa eMkhandlwini kumele inqunywe ngesinqumo esithathwe ngevoti leningi lamaKhansela akhona emhlanganweni woMkhandlu.

(4) Zonke izincomo zekomidi nanoma isiphi isiphakamiso esifanele noma isichibiyelo esiphakanyiswe futhi sathola ukwesekwa kumele sethulwe emhlanganweni uSomlomo okumele anxuse amaKhansela ukuba avote ngokuthi “ayavuma” noma “yebo” nalawo aphikayo ngokuthi “cha”.

(5) Isincomo esingaphikiswa Khansela elikhona emhlanganweni kumele samukelwe.

(6) Isincomo okukhona iKhansela elisiphikisayo ngo “cha” kumele uSomlomo asifake evotini.

(7) Ukuvota ngokwesigatshana somthetho (6) kumele kwenziwe ngokuphakanyiswa kwezandla, ngaphandle uma umthetho usho okunye.

(8) IKhansela angeke livotele udaba oluthile ebelikade lingekho ngesikhathi lolo daba lwethulwa emhlanganweni.

(9) Ngesikhathi kuvotwa, iKhansela alivunyelwe ukuphuma noma ukungena lapho kuhlangele khona umhlangano.

(10) IKhansela lingenqaba ukuvota kodwa lingawushiya umhlangano.

(11) Amavoti kumele abalwe bese uSomlomo ethula imiphumela.

(12) Kumele kuqoshwe kumaminithi isibalo samaKhansela avotile, hhayi amagama awo.

(13) Noma iliphi iKhansela lingacela ukuthi ukuvuma kwalo, ukungavoti kwalo noma ukuphikisa kwalo kuqoshwe kumaminithi alowo mhlango.

(14) Uma kunoma iluphi udaba kuba nokulingana kwamavoti, iKhansela eliphethe umhlangano kumele lifake ivoti elingujuqu ngaphezu kwevoti lalo njengeKhansela elejwayelekile.

#### **Imibuzo ngokusebenza kukaMasipala**

27.(1) Noma iliphi iKhansela lingethula ezithebeni umbuzo mayelana nanoma iluphi udaba oluthinta ukusebenza noma ukwenziwa kwemisebenzi kamasipala nokusetshenziswa kwamandla akhe, ukuze kutholakale izizathu, izincazelo noma ulwazi. Lolo daba akumele lephule isigaba 11(a) seNdlela yokuziPhatha evezwe kwisigatshana somthetho (2) ngezansi.

(2) Ngokwesigaba 11 seNdlela yokuziPhatha, iKhansela angeke, ngaphandle uma kusho umthetho –

- (a) ligxambukele ekuphathweni nasekulawulweni kwanoma imuphi umnyango woMkhandlu kaMasipala ngaphandle uma lijutshwe uMkhandlu;
- (b) likhiphe noma lizame ukukhipha umyalelo kunoma imuphi umsebenzi woMkhandlu ngaphandle uma ligunyaziwe ukwenzenjalo;
- (c) liphazamise noma lizame ukuphazamisa ukufezekiswa kwanoma isiphi isinqumo soMkhandlu noma sekomidi yisisebenzi soMkhandlu; noma
- (d) ligqugquzele noma libe yingxenyeye yesenzo esingabangela noma esingaba nomphumela wokuphatha budlabha eMkhandlwini.

(3) Umbuzo ngenhloso yokuthola ulwazi, kubandakanya ulwazi olungatholakala ngokoMthetho wokuTholakala koLwazi nanoma imuphi omunye umthetho, kumele ubhekiswe eHhovisi leMenenja yeDolobha.

(4) IKhansela kumele liqinisekise ukuthi imibuzo ethunyelwe ngokwalo mthetho ithunyelwa eHhovisi likaSomlomo noma likaSihlalo kusasele okungenani izinsuku eziyi-10 kuhlale umhlangano olandelayo.

(5) USomlomo noma uSihlalo kumele aqinisekise ukuthi imibuzo iyafakwa ohlelweni lomhlangano olandelayo woMkhandlu noma wekomidi.

(6) USomlomo kumele ngemuva kokubonisana noSotswebhu, anqume ukuthi umbuzo ngamunye uzokwabelwa isikhathi esingakanani emhlanganweni ngamunye.

(7) IKhansela livumeleke ukuthumela umbuzo owodwa kuphela kunoma imuphi umhlangano.

(8) Uma kuthunyelwa imibuzo ngokwalo mthetho eMkhandlwini, uSomlomo kumele adlulisele ikhophi yombuzo ngamunye kuSihlalo wekomidi elithintekayo nakwiMenenja yeDolobha okumele iqinisekise ukuthi ibuya nezimpendulo emhlanganweni olandelayo woMkhandlu.

(9) Uma kuthunyelwa imibuzo ekomidini ngokwalo mthetho, uSihlalo kumele ahambise ikhophi yombuzo ngamunye kuleyo Nhloko yoMnyango neSekela leMenenja yeDolobha elithintekayo, okumele baqinisekise ukuthi babuya nezimpendulo emhlanganweni olandelayo wekomidi. Impendulo kumele ilethwe iSekela leMenenja yeDolobha, iNhloko yoMnyango noma isikhulu esiqokiwe.

(10) Uma imibuzo ethunyelwe ngokwesigatshana zomthetho (1) no (3) ingaphendulwanga emhlanganweni olandelayo, amaminithi kumele abhalwe le mibuzo nokuthi zazingekho izimpendulo.

(11) IKhansela, ngemuva kokuba imibuzo yalo isiphendulilwe, elibona ukuthi izimpendulo azicacile, kumele licele ukucaciselwa mayelana nalokho ngemvume kaSomlomo noma kaSihlalo.

(12) Uma uSomlomo evuma ukuthi kucaciswe ngalezo zimpendulo, uSihlalo walelo komidi elithintekayo kanye nanoma iliphi ilungu lekomidi kumele liphendule ngaleyo mibuzo kulowo mhlangano noma emhlanganweni ojwayelekile olandelayo.

(13) Uma uSihlalo emhlanganweni wekomidi evumelana nokuthi kucaciswe ngombuzo, iNhloko yoMnyango othintekayo noma isikhulu esiqokiwe kumele siphendule kuleyo mibuzo emhlanganweni noma emhlanganweni ojwayelekile olandelayo.

(14) USomlomo kumele awuchithe umbuzo uma ebona ukuthi lowo mbuzo uphuma eceleni, awubekiwe ngendlela, uyabhibhidla noma awulethwanga ngokuhambisana nezinhlinzeko zale mithetho.

(15) IKhansela elethule umbuzo ngokwezigatshana zomthetho (1) no (3) elingazange lizithole izimpendulo kwiMenenja yedolobha ezinsukwini eziyi-14 kumele lowo mbuzo liwethule eMkhandlwini.

(16) IKhansela lingayibuza imibuzo egameni leKhansela elingekho, kuncike ekutheni iKhansela elingekho likhiphe imvume yokuba kwenziwe njalo ngencwadi.

(17) Imibuzo okungazange kufinyelelwe kuyo ngesikhathi esinqunyiwe kumele ithathwe njengemibuzo esalinde izimpendulo.

(18) Umbuzo angeke ube ngumbuzo osalinde impendulo isikhathi esingaphezu kwesisodwa.

(19) IKhansela angeke lilethe imibuzo efanayo noma iziphakamiso mayelana nanoma imuphi umbuzo ocutshunguliwe uMkhandlu noma ikomidi ezinyangeni ezintathu ezedlule.

(20) Yonke imibuzo kumele ithunyelwe ngencwadi eneminingwane esemthethweni yeKhansela - ilethead.

## ISAPHLUKO 6 IZINHLENGEKO EZIYINGXUBEVANGE

### Ukudluliselwa kwamandla ngesikhathi sekhefu nangesikhathi sezimo eziphuthumayo

**28.(1)** Uma kwenzeka kuba nesimo esiphuthumayo esivelayo —

- (a) ngesikhathi uMkhandlu usekhefini futhi kungeke kwenzeka noma kungelula ukuthi kutholakale isinqumo sekomidi elifanele noma soMkhandlu, lolo daba, ngesincomo seSekela leMenenja yeDolobha elithintekayo, lunganqunywa uSihlalo weKomidi lolo daba olungena ngaphansi kwemisebenzi yakhe;
- (b) ngesikhathi uMkhandlu usekhefini, lolo daba lunganqunywa iMenenja yeDolobha, ngemuva kokubonisana neMeya; noma
- (c) ngesikhathi esiphakathi kosuku lokwethulwa kwemiphumela yokhetho nokubekwa koMkhandlu omusha, lolo daba lunganqunywa iMenenja yeDolobha.

(2) Amandla anikezwa uSihlalo kanye neMenenja yeDolobha ngokwesigatshana somthetho (1) angabandakanya amandla okusebenzisa izimali: Kuncike ekutheni iPhini leMenenja yeDolobha eHhovisi loMgcinimafa noma oqokwe yilona ehovisi lomgcinimafa uqinisekisa ngencwadi ukuthi ukusetshenziswa kwezimali kuhlinzekelwe kwisabelomali salowo nyaka. Uma izilinganiso zonyaka wezimali zingakanqunywa uMkhandlu, kumele kuqinisekise ukuthi ukuhlinzekelwa kokusetshenziswa kwezimali kungenile ezilinganisweni noma kuzongena ezilinganisweni zalowo nyaka wezimali.

(3) Ngale kokulandela izinhleNGEKO zesigatshana somthetho (1) no (2) akukho zimali eziyosetshenziswa ezimalini zoMkhandlu, ngaphandle uma kugunyaze iMeya ngokwesikhundla sayo njengoSihlalo weKomidi eliPhezulu.

(4) Zonke izindaba ezinqunywa ngokwalo mthetho kumele zibikwe emhlanganweni olandelayo wekomidi elithintekayo ukuze ziqinisekise.

### **Amarekhodi**

**29.(1)** IMenenja yeDolobha kumele iqinisekise ukuthi —

- (a) amaminithi emihlangano yoMkhandlu namakomidi awo ayaqoshwa; futhi
- (b) lawo marekhodi ayagcinwa okungenani iminyaka engu-5.

(2) Amaminithi oMkhandlu kumele, ngemuva kokuba esehlolwe uSomlomo, agaywe futhi anikezwe amaKhansela.

(3) Uma sekunikezwe wonke amaKhansela ikhophi yamaminithi ngendlela ehlinzekelwe emthethweni 6(2), amaminithi kumele athathwe njengafundiwe ngenhloso yokuthi abe eseyoqinisekiswa emhlanganweni olandelayo woMkhandlu.

(4) Angeke kwenziwe ziphakamiso nankulumo-mpikiswano ngamaminithi, ngaphandle uma kuyisiphakamiso noma inkulumo-mpikiswano okuhloswe ngayo ukulungisa ukubhalwa kwamaminithi.

(5) IMenenja yeDolobha kumele iqinisekise ukuthi amagama amaKhansela —

- (a) ethamele umhlangano;
- (b) aphuthile emhlanganweni; kanye
- (c) nalawo anikezwe ilivu kunoma imuphi umhlangano, ayaqoshwa kumaminithi.

(6) IMenenja yeDolobha kumele iqinisekise ukuthi amaminithi akhombisa amagama amaKhansela acele ukuphikisana, ukugodla ivoti kanye naweseke udaba oluvotelwayo ngesikhathi kuvotwa aqoshiwe kumaminithi.

(7) IMenenja yeDolobha kumele igcine wonke amarekhodi namanye amaphepha oMkhandlu futhi akufanele isuse noma ivumele ukuba kususwe amarekhodi ngaphandle kwemvume kaSomlomo.

(8) Iziqophamazwi zayo yonke imihlangano yoMkhandlu kumele zigciwe okungenani isikhathi esithile kuze kube amaminithi ayemukelwa ngokusemthethweni.

**Ukutholakala kolwazi**

30. (1) IMenenja yeDolobha, uma kucela –

- (a) noma iliphi iphephandaba elibhaliswe ngokusemthethweni; noma
- (b) umuntu noma uhlaka olunentshisekelo,

ingakhipha amakhophi aqinisekisiwe amaminithi oMkhandlu, uhlelo olusemthethweni kanye namaminithi aqinisekisiwe awo wonke amakomidi kuncike ezinhlinzekweni zoMthetho wokuTholakala koLwazi.

(2) Kuncike kwisigatshana somthetho (1) , akekho umuntu —

- (a) ongathola;
- (b) ongavunyelwa ukucaphuna;
- (c) ongadalula;
- (d) ongashicilela; noma
- (e) enze amakhophi,

amaminithi oMkhandlu nekomidi noma uhlelo lomhlangano olusemthethweni olungadalulelwe umphakathi ngokomthetho 7.

(3) Noma iliphi iKhansela elishicilela noma elidalula noma elenza ukuthi kushicilelwe noma kudalulwe noma iliphi irekhodi loMkhandlu noma lomhlangano wekomidi ekubeni lowo mhlangano bewungavulelekile emphakathini ngokomthetho 7, liyothweswa icala lokuziphatha budlabha futhi liyobhekana nokuqondiswa izigwegwe nguMkhandlu ngokomyalelo kaSomlomo.

(4) IKhansela lingaya noma lingaxhumana neNhloko yoMnyango noma nesikhulu esiqokiwe ukuze lithole lolo lwazi eliludingayo ukuze lenze imisebenzi yalo okungulwazi okumele –

- (a) kube ngoluthinta udaba olusohlelweni loMkhandlu noma lekomidi loMkhandlu oluthinta imisebenzi kamasipala;
- (b) kube ngoluthinta imisebenzi yekomidi noma olungokwanoma imuphi umthetho; noma
- (c) kube eliludingayo ukuze lenze imisebenzi yalo ngokwesivumelwano soMkhandlu noma sekomidi loMkhandlu noma gokwanoma imuphi umthetho.

(5) IKhansela angeke likwazi ukuya noma ukuxhumana neNhloko yoMnyango noma nesikhulu esiqokiwe ngenhloso yokuthola ulwazi –

- (a) oluphathelele nesimo lapho iKhansela noma uwakwalo, noma uphathina noma elibambisene naye ebhizinisini ethinteka ngqo noma ngandlela thile noma ehlozela ngokwebhizinisi elizimele okungashayisana nezinhlinzeko zoMgomo wokuziPhatha;

- (b) oluzodinga ukuthi iNhlolo yoMnyango noma isikhulu esiqokiwe sephule umthetho;
  - (c) ukudalulwa kwalo okuzophazamisa noma okungase kuphazamise ilungelo ngaphansi kwanoma imuphi umthetho eligunyaza uMasipala ukuba ungadaluli ulwazi alutholile; noma
  - (d) uma ngokubona kweNhlolo yoMnyango noma kwesikhulu esiqokiwe ulwazi oludingekayo –
    - (i) luyimfihlo, ngaphandle uma ukudalulwa kwalolo lwazi kugunyazwe yikomidi elifanele okumele ngaphambi kokuthi lifinyelele kuleso sinqumo, linikeze iKhansela elifuna lolo lwazi ithuba lokuchaza kabanzi; noma
    - (ii) lungolohlobo oluzodinga ukuthi kwenziwe uphenyo olunzulu ngabasebenzi, ngaphandle uma ikomidi ligunyaze ukuba kwenziwe lolo phenyo futhi kukhishwe lolo lwazi.
- (6) INhlolo yoMnyango kumele ihlanganise uhlu lwabasebenzi iKhansela elingaya kubona noma elingaxhumana nabo uma lifuna ukuthola ulwazi ngokwezigatshana zomthetho (4) no (5).

#### **Umbiko ngokwenziwa kwezinqumo zoMkhandlu**

**31.**(1) IMenja yeDolobha kumele ekupheleni kwezinyanga eziyisithupha zokuqala kuqale ukusebenza uMkhandlu, nangemuva kwesikhathi esiyizinyanga eziyisithupha njalo ngemuva kwalokho, ithumele eMkhandlwini umbiko mayelana nokuqaliswa kwesinqumo ngasinye soMkhandlu.

#### **Isihloko esifingqiwe nokuqala kokusebenza komthetho**

**32.** Lo Mthetho kaMasipala ubizwa ngoMthetho kaMasipala Oqondene neMithetho yeNqubo kaMasipala weTheku, 2014 kanti uyoqala ukusebenza ngosuku oyoshicilelwa ngalo kwiGazethi yesiFundazwe.





**NOTICE – CHANGE OF TELEPHONE NUMBERS: GOVERNMENT PRINTING WORKS**

As the mandated government security printer, providing world class security products and services, Government Printing Works has adopted some of the highly innovative technologies to best serve its customers and stakeholders. In line with this task, Government Printing Works has implemented a new telephony system to ensure most effective communication and accessibility. As a result of this development, our telephone numbers will change with effect from 3 February 2014, starting with the Pretoria offices.

The new numbers are as follows:

- Switchboard : 012 748 6001/6002
- Advertising : 012 748 6205/6206/6207/6208/6209/6210/6211/6212
- Publications Enquiries : 012 748 6052/6053/6058 [GeneralEnquiries@gpw.gov.za](mailto:GeneralEnquiries@gpw.gov.za)
  - Maps : 012 748 6061/6065 [BookShop@gpw.gov.za](mailto:BookShop@gpw.gov.za)
  - Debtors : 012 748 6060/6056/6064 [PublicationsDebtors@gpw.gov.za](mailto:PublicationsDebtors@gpw.gov.za)
  - Subscription : 012 748 6054/6055/6057 [Subscriptions@gpw.gov.za](mailto:Subscriptions@gpw.gov.za)
- SCM : 012 748 6380/6373/6218
- Debtors : 012 748 6236/6242
- Creditors : 012 748 6246/6274

Please consult our website at [www.gpwonline.co.za](http://www.gpwonline.co.za) for more contact details.

The numbers for our provincial offices in Polokwane, East London and Mmabatho will not change at this stage.