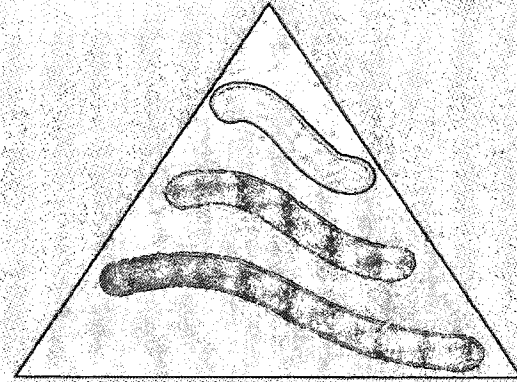


"NGM 1"



EMFULENI
LOCAL MUNICIPALITY

AGENDA

of a
SPECIAL
COUNCIL MEETING

to be held on

THURSDAY, 26 MAY 2011

in the

City Hall
VEREENIGING

at

13:00



Notice is hereby given in terms of Section 29(2) of the Local Government: Municipal Structures Act no. 117 of 1998, that the Inaugural Meeting of the Council of the Emfuleni Local Municipality will be held at **VEREENIGING CITY HALL** on **THURSDAY, 26 MAY 2011** at **13:00**

SS SHABALALA
MUNICIPAL MANAGER

23 May 2011



- A. **OPENING AND WELCOME**
- B. **CHAIRPERSON**
- C. **OATH OR SOLEMN AFFIRMATION BY MEMBERS OF THE COUNCIL**
- D. **SIGNING OF ATTENDANCE REGISTER AND LEAVE OF ABSENCE**
- E. **DETERMINATION OF FULL-TIME COUNCILLORS**
- F. **ELECTION OF THE SPEAKER**
- G. **ELECTION OF THE EXECUTIVE MAYOR**
- H. **APPOINTMENT OF THE CHIEF WHIP OF COUNCIL**
- I. **EXECUTIVE MAYOR'S ACCEPTANCE SPEECH AND ANNOUNCEMENT OF MEMBERS OF THE MAYORAL COMMITTEE**
- J. **ELECTION OF EMFULENI LOCAL MUNICIPALITY REPRESENTATIVES TO THE COUNCIL OF THE SEDIBENG DISTRICT MUNICIPALITY**
- K. **CLOSURE**

EMFULENI LOCAL MUNICIPALITY		
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ITEM A2349
SIGNING OF ATTENDANCE REGISTER AND LEAVE OF ABSENCE

PURPOSE

The purpose of the report is to notify Councillors about the importance of attending meetings and the resultant consequences for failure to attend.

DISCUSSION

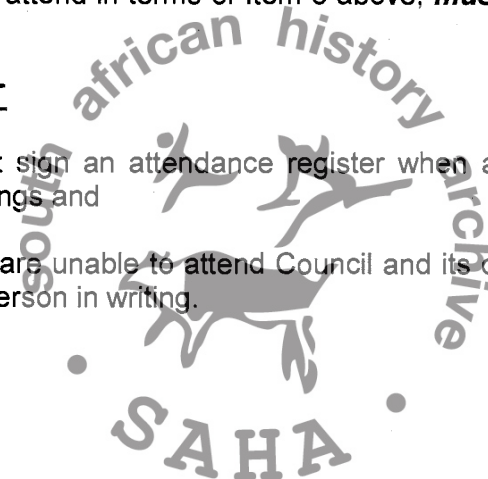
Item 3 of the Code of Conduct for Councillors contained in Schedule 1 of the Local Government: Municipal Systems Act, 2000, inter alia provides as follows:

"A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when leave of absence is granted in terms of an applicable law or as determined by the rules of order of the council".

In addition, Item 4(2) of the Code of Conduct specifies that a Councillor who is absent from three or more consecutive meetings of Council or a Committee which that Councillor is required to attend in terms of Item 3 above, **must** be removed from office as a Councillor.

RECOMMENDED THAT

1. Councillors must sign an attendance register when attending Council and its committee meetings and
2. Councillors who are unable to attend Council and its committee meetings must notify the Chairperson in writing.



ITEM A2350

DETERMINATION AND ESTABLISHMENT OF FULL TIME COUNCILLORS

PURPOSE

The purpose of the report is to recommend to Council to approve the determination, election and appointment of full-time Councillors for Emfuleni Local Municipality.

DISCUSSION

Emfuleni Local Municipality is a municipality with a Mayoral Executive System in terms of Sections 12 and 13 of the Provincial Gazette Extraordinary dated 1 October 2000 that read as follows:

"CATEGORY

12. ***Emfuleni Local Municipality is a category B municipality as determined by the Demarcation Board in terms of section 4 of the Municipal Structures Act, Act 3 of 2000.***

TYPE

13. ***Emfuleni Local Municipality is a municipality with a mayoral executive system as described in section 3(c) of the Gauteng Types of Municipality Act.***

The Executive Mayor must therefore in terms of Section 60 of the Local Government: Municipal Structures Act, No. 117 of 1998 appoint from the elected Councillors, a Mayoral Committee.

Section 16 of the Provincial Gazette Extraordinary of 1 October 2000 further stipulates as follows:

- "16. (1) Any or all of the following office bearers may be designated by the council of Emfuleni Local Municipality as full-time councillors:
- (a) The Speaker;
 - (b) The Executive Mayor;
 - (c) Members of the Mayoral Committee.
 - (d) Single Chief Whip (hereinafter referred to as the Chief Whip of Council)

Section 60 of the Local Government: Municipal Structures Act, Act No. 117 of 1998 determines as follows:

- "(1) If a municipal council has more than nine members, its executive mayor –
- (a) must appoint a mayoral committee from among the councillors to assist the executive mayor;
 - (b) may delegate specific responsibilities to each member of the committee;
 - (c) may delegate any of the executive mayor's powers to the respective members; and
 - (d) may dismiss a member of the mayoral committee.

- (2) The mayoral committee must consist of the deputy executive mayor (if any) and as many councillors as may be necessary for effective and efficient government, provided that no more than 20 per cent of the councillors or ten councillors, whichever is the least, are appointed.
- (3) Those of the executive mayor's powers and functions as may be designated by the municipal council, must be exercised and performed by the executive mayor together with the other members of the Mayoral Committee.
- (4) The members of a mayoral committee remain in office subject to subsection (5) and section 26, for the term of the executive mayor who appointed them.
- (5) If the executive mayor vacates office, the mayoral committee appointed by that executive mayor dissolves".

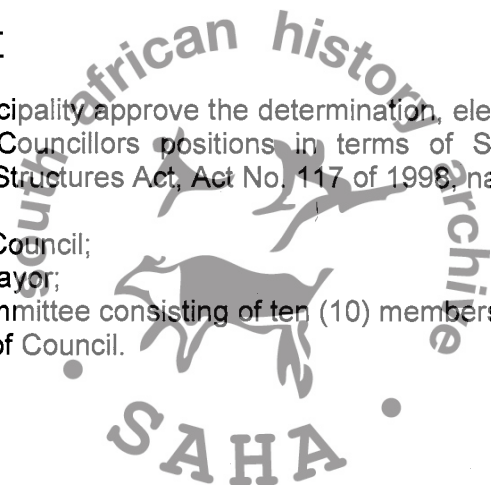
CONCLUSION

Emfuleni Municipal Council has eighty-nine (89) Councillors and therefore the Executive Mayor may appoint not more than ten (10) members of the Mayoral Committee, without the position of the Deputy Executive Mayor.

RECOMMENDED THAT

the Emfuleni Local Municipality approve the determination, election and appointment of the following full-time Councillors positions in terms of Section 60 of the Local Government: Municipal Structures Act, Act No. 117 of 1998, namely:

- (a) The Speaker of Council;
- (b) The Executive Mayor;
- (c) The Mayoral Committee consisting of ten (10) members and
- (d) The Chief Whip of Council.



ITEM A2351
ELECTION OF SPEAKER

INTRODUCTION

Section 36 of the Local Government : Municipal Structures Act, 1998 (Act No. 117 of 1998) determines that each Municipal Council must have a Chairperson who will be called the Speaker. At the first sitting of the Emfuleni Municipal Council, the Municipal Manager shall act as Chairperson at the Meeting until the Speaker is duly elected by the Council.

FUNCTIONS OF THE SPEAKER

In terms of Section 37 of Act No. 117 of 1998 the functions of the Speaker are the following:

- "(a) *presides at meetings of the council.;*
- (b) *performs the duties and exercises the powers delegated to the speaker in terms of section 32;*
- (c) *must ensure that the council meets at least quarterly;*
- (d) *must maintain order during meetings;*
- (e) *must ensure compliance in the council and council committees with the Code of Conduct set out in Schedule and*
- (f) *must ensure that council meetings are conducted in accordance with the rules and orders of the Council."*

TERMS OF OFFICE OF SPEAKER

The Speaker of the Council is elected for a term ending when the next Council is declared elected, unless the Speaker vacates office during the term of the Speaker:

- * resigns as Speaker;
- * is removed from office or
- * ceases to be a Councillor.

Section 36(5) Act 117 of 1998 provides that a Councillor may not hold office as Speaker or Executive Mayor at the same time.

After a Councillor has been duly elected as Speaker of the Council, the Councillor will be congratulated by the Municipal Manager whereafter the Speaker will take up his/her position and continue to chair the Meeting.

RECOMMENDED THAT

a speaker for the Emfuleni Municipal Council be elected as provided for in the Local Government: Municipal Structures Act, Act 117 of 1998, as amended.

ITEM A2352
ELECTION OF EXECUTIVE MAYOR

INTRODUCTION

The MEC responsible for Local Government has determined that the Emfuleni Local Municipality will have a mayoral executive system. This determination was made by the MEC in terms of Section 12 of the Local Government: Municipal Structures Act, 1998. Section 13 of the Provincial Gazette Extraordinary of 1 October 2000, stipulates as follows:

13. Emfuleni Local Municipality is a municipality with a mayoral executive system as described in section 3(c) of the Gauteng Types of Municipality Act, Act No 3 of 2000."

The mayoral executive system is a system of municipal government which allows for the exercise of executive authority through an Executive Mayor in whom the political leadership of the Municipality is vested and who is to be assisted by a Mayoral Committee.

Section 55(1) of the Local Government: Municipal Structures Act, 1998, provides that a Mayoral Executive type of municipality may have an Executive Mayor, if it so chooses.

DISCUSSION

The aforesaid Act further provides that once a Municipal Council has chosen to have an Executive Mayor, it must elect the Executive Mayor from amongst its members. The election procedure prescribed in Schedule 3 to the Local Government: Municipal Structures Act, 1998 and as set out in the attached Annexure (page 7), regulates the election of the Executive Mayor.

The Speaker will accordingly invite written nominations in the prescribed format for the office of Executive Mayor at the meeting and thereafter follow the said procedure as set out in Schedule 3 of the Local Government: Municipal Structures Act, No. 117 of 1988.

CONCLUSION

It is therefore recommended that Council resolve to have an Executive Mayor and to proceed with the election of a councillor to this office.

RECOMMENDED THAT

an Executive Mayor be elected for the Emfuleni Local Municipality as provided for in the Local Government: Structures Act, Act No 117 of 1998 as amended.

SCHEDULE 3*Election of municipal office-bearers***Application**

1. The procedure set out in this Schedule applies whenever a municipal council meets to elect a speaker, an executive mayor, a deputy executive mayor, a mayor or a deputy mayor.

Nominations

2. The person presiding at a meeting to which this Schedule applies must call for the nomination of candidates at the meeting.

Formal requirements

3. (1) A nomination must be made on the form determined by the municipal manager.
(2) The form on which a nomination is made must be signed by two members of the municipal council.
(3) A person who is nominated must indicate acceptance of the nomination by signing either the nomination form or any other form of written confirmation.

Announcement of names of candidates

4. At a meeting to which this Schedule applies, the person presiding must announce the names of the persons who have been nominated as candidates, but may not permit any debate.

Single candidate

5. If only one candidate is nominated, the person presiding must declare that candidate elected.

Election procedure

6. If more than one candidate is nominated—
(a) a vote must be taken at the meeting by secret ballot;
(b) each councillor present at the meeting may cast one vote; and
(c) the person presiding must declare elected the candidate who receives a majority of the votes.

Elimination procedure

7. (1) If no candidate receives a majority of the votes, the candidate who receives the lowest number of votes must be eliminated and a further vote taken on the remaining candidates in accordance with item 6. This procedure must be repeated until a candidate receives a majority of the votes.

(2) When applying subitem (1), if two or more candidates each have the lowest number of votes, a separate vote must be taken on those candidates, and repeated as often as may be necessary to determine which candidate is to be eliminated.

Further meetings

8. (1) If only two candidates are nominated, or if only two candidates remain after an elimination procedure has been applied, and those two candidates receive the same number of votes, a further meeting must be held within seven days at a time determined by the person presiding.

(2) If a further meeting is held in terms of subitem (1), the procedure prescribed in this Schedule must be applied at that meeting as if it were the first meeting for the election in question.

ITEM A2353
APPOINTMENT OF A CHIEF WHIP OF COUNCIL

INTRODUCTION

In terms of the Local Government : Municipal Structures Act, 1998, Amendment of Notice Establishing the Emfuleni Local Municipality published by the MEC for Local Government in terms of the Extraordinary Provincial Gazette issued on 19 December 2003; the Emfuleni Local Government Establishment Notice, (Notice No. 6765 of 2000) was amended as follows, thereby giving effect to the appointment of a Single Whip (hereinafter referred to as Chief Whip of Council) as a full-time Office Bearer of Council:

"AMENDMENT OF PART 3

Amendment of Clause 16

Clause 16 is hereby amended by the substitution therefore of the following clause:

'16. *Any or all of the following office bearers may be designated by the Emfuleni Local Municipality as full-time councillors:*

- (a) *The Speaker;*
- (b) *The Executive Mayor;*
- (c) *Members of the Mayoral Committee and*
- (d) *A single whip for the Council."*

DISCUSSION

The above amendment empowers the Council of Emfuleni Local Municipality to call for nomination and election of the Chief Whip of Council at its Inaugural Council Meeting of 26 May 2011.

CONCLUSION

That in terms of the amendment of Section 16 of the Municipal Structures Act (Act No. 117 of 1998) Emfuleni Local Municipality elect and appoint a Chief Whip as a full-time Councillor.

RECOMMENDED THAT

nominations be invited for the appointment of a Chief Whip for Emfuleni Local Municipality.

ITEM A2355

ELECTION OF EMFULENI LOCAL MUNICIPALITY REPRESENTATIVES TO THE COUNCIL OF THE SEDIBENG DISTRICT MUNICIPALITY

PURPOSE

The purpose of the report is to illustrate compliance with the legislative requirement with the determination of Proportional Representation of Emfuleni Local Municipality's Councillors to the Sedibeng District Municipality.

INTRODUCTION

The Independent Electoral Commission (IEC) has determined in terms of the formula contained in Section 23(2) of the Local Government: Municipal Structures Act, 1998, the number of Councillors to represent Local Municipalities and District Management areas in the Council of the Sedibeng District Municipality as 48, as determined in the Provincial General Notice No 2906 of 2009, published in the Gauteng Provincial Gazette Extra Ordinary No 208 dated 28 January 2011.

The number of Councillors to represent Emfuleni Local Municipality at Sedibeng District Municipality shall be 23 as per Item 1(7)(b) of the Provincial Gazette Nr 14 of January 2011.

APPOINTMENT OF REPRESENTATIVES

Item 16 of the said Schedule requires that the Municipal Electoral Officer will manage the election of these representatives. The Municipal Electoral Officer's delegated representative will be present in the Council meeting to assist the Speaker.

Each party or individual councillor can submit one list with names of candidates in order of preference, together with the candidates' written acceptance of candidacy. A councillor cannot appear on more than one list.

As the Council is entitled to more than one seat, the seats will be allocated on a proportional representation basis and filled from the lists provided by parties as required in items 17 to 22 of the aforesaid Schedule 2. The Independent Electoral Commission's (IEC) representative will provide further guidance at the meeting.

--- Attached hereto as **Annexure (pages 11 - 12)** is a copy of the mentioned amended schedule of Provincial Gazette Nr 14 of January 2011 explaining the election procedure as well as an example of how seats were calculated from the Municipal Electoral Officer's (MEO) Office during 2006 Municipal Elections.

CONCLUSION

It should be noted that Section 5(3) of Schedule 2 requires that every party must seek to ensure that fifty per cent of the candidates on their party list are women and that women and men candidates are evenly distributed through the list. Each Councillor then casts one vote for one list.

RECOMMENDED THAT

twenty three (23) representatives of the Emfuleni Local Municipality be elected in compliance with Provincial Gazette Extraordinary Nr 14 of 28 January 2011 and Schedule 2, Sections 16 to 19 of the Local Government: Municipal Structures Act, No. 117 of 1998 to the Sedibeng District Municipality.

SCHEDULE

Notice No. 6765 of 2000, published in the Gauteng Provincial Gazette Extraordinary No. 141 dated 1 October 2000, as amended, is hereby further amended by amending the Schedule thereto as follows:

AMENDMENT OF PART 2**1. Amendment of clause 7**

Clause 7 is hereby amended by the substitution therefor of the following clause:

"7. The council of the Sedibeng District Municipality consists of 48 councillors as determined in provincial General Notice No. 2906 of 2009, published in Gauteng Provincial Gazette Extraordinary No. 208 dated 9 September 2009, of whom:

- (a) 19 must be proportionally elected councillors;**
- (b) 23 must be appointed by the local municipality mentioned in Part 3 of this Schedule;**
- (c) 3 must be appointed by the local municipality mentioned in Part 4 of this Schedule; and**
- (d) 3 must be appointed by the local municipality mentioned in Part 5 of this Schedule."**

2. Amendment of clause 8

Clause 8 is hereby amended by the substitution therefor of the following clause:

"8. Any or all of the following office bearers may be designated by the council of the Sedibeng District Municipality as full-time councillors:

- (a) The Speaker;**
- (b) The Executive Mayor;**
- (c) Members of the Mayoral Committee; and**
- (d) A single whip for the council."**

**EMFULENI LOCAL MUNICIPALITY (GT 421)
DISTRICT COUNCIL ELECTION
1 MARCH 2006**

**CALCULATION OF COUNCILLORS
22 SEATS TO THE DC**

POLITICAL PARTY	NO OF CLRS: EMFULENI	QUOTA	NO OF CLRS: DISTRICT COUNCIL
African National Congress	65	16.25	17
Democratic Alliance	15	3.75	4
Pan African Congress of Azania	3	0.75	1
Freedom Frond Plus	1	0.25	0
Independent Democrats	1	0.25	0
	85	21.25	22

Determining the quota: In a local council, the quota of votes for a seat to the district council must be determined in accordance with the following formula (fractions to be disregarded)

A/B + 1. A represent the number of members of the local council (85); and B represents the number of seats that the local council has been awarded on the DC (22) = $3.86 + 1 = 4$

Allocation seats: The number of votes cast in favour of each list must be divided by the quota of votes for a seat and the result is the number of seats allocated to that list. See Quota column for allocations.
For example: ANC $65/4=16.25$

Above calculation is based on the assumption that there will be 100% attendance at the meeting and each councillor will vote for his/her own party.

Local Government Municipal Structures Act, Schedule 2, Section 19 & 20