

## Chapter 4: Powers and Functions of the Speaker

### 4.1 POWERS AND FUNCTIONS IN TERMS OF NATIONAL LEGISLATION

#### 4.1.1 LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, 1998 (ACT NO 117 OF 1998)

| Section | Power conferred  | Delegating authority | Delegated body | Conditions, limitations and directions |
|---------|--|----------------------|----------------|--|
| 29(1)   | Deciding when and where the Council meets  | Speaker              | None           |  |
|         | Convening special Council meetings at a place and time set out in a written request received from a majority of the councilors | Speaker              | None           |  |

#### 4.1.2 LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 2000 (ACT NO 32 of 2000)

| Section      | Power conferred  | Delegating authority | Delegated body | Conditions, limitations and directions |
|--------------|--|----------------------|----------------|--|
| 62(4)(c)     | Appointing an appeal authority consisting of a committee of Councilors who were not involved in the decision, for considering appeals against a decision that affects the rights of a person, taken by a political structure, political office bearers, Councilor or staff member of the Municipality in terms of a power of duty delegated or sub-delegated | Council              | Speaker        |  |
| Sch 1(13)    | Authorizing an investigation into an alleged breach of the code of conduct for Councilors  | Speakers             | None           |  |
| Sch 1(14)(3) | Making representations to the MEC regarding an appeal of a Counsellor that has been found guilty of a breach of the code of conduct for Councilors   | Council              | Speaker        |  |

**4.1.3 LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 (Act No 56 of 2003)**

| Section      | Power conferred  | Delegating authority | Delegated body | Conditions, limitations and directions   |
|--------------|--|----------------------|----------------|--|
| 130(1)       | Determining the reasonable time period to be allowed during a council meeting at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken for the discussion of any written submissions received from the local community or organs of state on the annual report and for member of the Local community or any organs of state to address the Council | Speaker              | None           |  |
| 133(1)(b)(i) | Receiving information from the Auditor-General regarding the failure to submit annual financial statements   | Speaker              | None           |  |
| 133(1)(c)(i) | Investigate the reasons for the failure and report to the council as requested.  | Speaker              | None           |  |
| 166(2)       | Receiving reports of the audit committee   | Council              | Speaker        | In as far as the report of the audit committee relates to any matter specifically referred to it by council. |

**4.1.4 PROMOTION OF ADMINISTRATIVE JUSTICE 2000, (ACT No. 3 of 2000)**

| Section | Power conferred   | Delegating authority | Delegated body | Conditions, limitations and directions |
|---------|---|----------------------|----------------|--|
| 4(1)    | In cases where an administrative action materially and adversely affects the rights of the public, decide whether to hold a public enquiry or to follow a notice and comment procedure or to follow another appropriate procedure in order to give effect to the right to procedurally fair administrative action | Council              | Speaker        |  |

**4.2 POWERS AND FUNCTIONS IN TERMS OF PROVINCIAL LEGISLATION**

**4.2.1 LOCAL GOVERNMENT ORDINANCE 1962 (ORINANCE No. 8 of 1962)**

| Section       | Power conferred   | Delegating authority | Delegated body | Conditions, limitations and directions   |
|---------------|---|----------------------|----------------|--|
| 129(2)(b)(ii) | Incurring expenditure for the reception and entertainment of any person in a public or private manner | Council              | Speaker        | The expenditure so incurred must only be in connection with the business of the municipality and must be incurred strictly in accordance with MFMA and any prevailing regulations and/or guidelines issued by the National Treasury. |

**4.3 POWERS AND FUNCTIONS IN TERMS OF REGULATIONS**

**4.3.1 LOCAL GOVERNMENT: MUNICIPAL PLANNING AND PERFORMANCE MANAGEMENT REGULATIONS, 2001**

| Section | Power conferred  | Delegating authority | Delegated body | Conditions, limitations and directions |
|---------|--|----------------------|----------------|--|
| 3(3)    | Ensuring compliance with the municipality's rules and orders regarding an amendment to the Integrated Development Plan | Council              | Speaker        |  |

**4.3.2 MUNICIPAL REGULATIONS ON FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS, 2014**

| Reg      | Power conferred   | Delegating authority | Delegated body | Conditions, limitations and directions |
|----------|---|----------------------|----------------|--|
| 6(4)     | Table the report of investigation in the council at the first sitting after the report has been finalised   | Speaker              | None           |  |
| 11(1)(a) | On receipt of allegation of financial offence by a councillor, authorise investigation of the facts and circumstances of the alleged financial offence. | Speaker              | None           |  |
| 11(1)(b) | Give a councillor an opportunity to make, within five days of receipt of the report, a written submission with regard to the alleged                    | Speaker              | None           |  |

| Reg   | Power conferred   | Delegating authority | Delegated body | Conditions, limitations and directions |
|-------|---|----------------------|----------------|--|
|       | financial offence.  |                      |                |  |
| 11(2) | Submit a report of within five days of completion of the investigation, of the outcome of the investigation to council.   | Speaker              | None           |  |
| 11(3) | Ensure that the public has access to the report of investigation of any financial offence by any councillor of the municipality   | Speaker              | None           |  |
| 11(4) | Within five days of submitting the report to council, submit the report on the outcome of the investigation to MEC for finance in the province, MEC for local government in the province, Minister of finance and Minister of local government. | Speaker              | None           |  |
| 15(3) | Convene a special council on request of the Executive Mayor to discuss recoverability of funds lost as a result of financial misconduct of financial offence.   | Speaker              | None           |  |

#### 4.4 INCIDENTAL POWERS AND FUNCTIONS

##### 4.4.1 MISCELLANEOUS POWERS

| Par     | Power   | Delegating authority | Delegated body | Conditions, limitations and directions |
|---------|---|----------------------|----------------|--|
| 4.4.1.1 | Evaluating councillors performance with regard to their duties  | Council              | Speaker        |  |
| 4.4.1.2 | Chairing the rules committee, which interpret and evaluate the rules and orders of the Council  | Council              | Speaker        |  |
| 4.4.1.3 | Ensuring support for and building the capacity of councillors, which may include holding training programmers and workshops for which Council should budget           | Council              | Speaker        |  |
| 4.4.1.4 | Monitoring whether the constitutional obligation of public participation and consultation in the governance affairs of the municipality as required has been complied | Council              | Speaker        |  |

| Par     | Power  | Delegating authority | Delegated body | Conditions, limitations and directions |
|---------|--|----------------------|----------------|--|
|         | with   |                      |                |  |
| 4.4.1.5 | Signing, authenticating and/or executing any document conferring freedom of the Municipality, pursuant to a council resolution | Council              | Speaker        |  |