

Hessequa, South Africa

## Rules for the Conduct of Meetings (Rules of Order)

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# Hessequa South Africa

## Rules for the Conduct of Meetings (Rules of Order) By-law, 2020

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Under the provisions of section 145 of the [Constitution of the Republic of South Africa, 1996](#), Hessequa Municipality enacts as follows:

### 1. Definitions

In this by-law the Afrikaans text prevails in the event of any conflict with the English text, and unless inconsistent with the context -

"**code**" means the Code of Conduct for Councillors set out in [section 54](#) and schedule 1 of the Systems Act;

"**committee**" means a committee of the Council established in terms of section 79 of the Local Government: Municipal Structures Act, 1998 ([Act 117 of 1998](#)) and a portfolio committee of the Council established in terms of section 80 of the Structures Act;

"**Constitution**" means the [Constitution of the Republic of South Africa, 1996](#);

"**Council**" means the municipal Council of Hessequa;

"**EMC**" means the Executive Mayoral Committee that is not a committee of the Council;

"**meeting**" means the meetings of the Council as well as any committee of the Council and the EMC;

"**member**" means a member of the Council, its committees and the EMC:

"**member of the public**" means a person who is not a Councillor or a municipal employee and who attends a meeting of the Council or a committee in person or electronically;

"**members of the Council**" means the same number of members stipulated in the section 12 notice in terms of the Structures Act and include a political office-bearer as defined in section 1 of the Systems Act;

"**motion**" means a motion of which notice is given by a member, but does not include a motion as envisaged in sections 39 and 40 of the Systems Act;

"**Municipal Manager**" means the Municipal Manager as defined in the Systems Act;

"**notice**" means a notice given of meetings, which notice must be in writing and includes electronic mail;

"**ordinary Council meeting**" means an ordinary meeting of the Council convened in accordance with [section 10](#);

"**party**" means a party envisaged in the Structures Act;

"**party whip**" means a Councillor appointed by his or her party to perform the duties attached to the position of a whip as envisaged in these rules;

"**Provincial Minister**" means the member of the Provincial Cabinet responsible for local government matters in the Western Cape Province;

"**quorum**" in relation to—

- (a) the Council means a majority of the incumbent councillors; and
- (b) a committee means a majority of the incumbent members appointed to that committee by the Council;

"**rules**" means the provisions of this by-law (alternatively, these Rules of Order);

"**Speaker**" means the Speaker of the Council elected in terms of section 36 of the Structures Act or the Acting Speaker elected in terms of section 41 of the Structures Act;

"**special Council meeting**" means a special meeting of the Council convened in terms of [section 10](#);

"**Structures Act**" means the Local Government: Municipal Structures Act, 1998 ([Act 117 of 1998](#));

"**Systems Act**" means the Local Government: Municipal Systems Act, 2000 ([Act 32 of 2000](#));

"**working day**" means any day of the week except—

- (a) a Saturday, Sunday and public holiday; and
- (b) when the Council is in recess.

"**virtual meetings or sittings**" means meetings or sittings conducted by any form of technology such as teleconferencing and videoconferencing.

## **Chapter 1**

### **Application of rules**

#### **2. Application**

- (1) These rules apply to all meetings of the Council as well as, with the necessary adaptations, any committee of the Council and the EMC and all meetings resulting from the activities of any of the aforementioned.
- (2) Except where it is clearly inappropriate, a rule applicable to members in any proceedings also applies to a non-member who participates in those proceedings with the approval of the Speaker.

#### **3. Supplementation**

- (1) The Speaker may make a ruling in respect of any eventuality for which this by-law does not make provision, and no further discussion will be allowed on the ruling.
- (2) The ruling of the Speaker must be recorded in the minutes.
- (3) After the meeting, a ruling of the Speaker may be queried in writing by a member and such query and the response to it will be reported by the Municipal Manager at the following meeting.

## **Chapter 2**

### **Meetings**

#### **4. Methodology of meetings**

The meetings of the Council as well as any committee of the Council and the Executive Mayoral Committee (EMC) may be held by means of face to face contact or virtual contact.

## 5. Commencement of meeting

The Speaker must take the chair precisely at the time for which the meeting is convened and must proceed immediately with the business of the meeting subject to the provisions of [section 15](#).

## 6. Order of business

- (1) The business of meetings must appear on the agenda in the following order:
  - (a) election of acting Speaker, if necessary;
  - (b) applications for leave of absence;
  - (c) statements and communications by the Speaker;
  - (d) statements and communications by the Executive Mayor;
  - (e) approval of minutes;
  - (f) interviews with deputations (if approved by the Speaker);
  - (g) consideration of items and matters not finalised;
  - (h) consideration of reports;
  - (i) urgent matters submitted by the Municipal Manager;
  - (j) consideration of notices of motion;
  - (k) consideration of notices of questions;
  - (l) consideration of motions of exigency;
  - (m) in-committee items;
  - (n) conclusion.
- (2) The Speaker may of own accord or at the request of a party whip change the order of the business appearing on the agenda.
- (3) A member wishing to change the order of business on the agenda must approach the Speaker prior to the meeting and any changes will be made at the sole discretion of the Speaker.
- (4) Agendas may be provided in electronic format.

## 7. Speaker may introduce urgent matter

The Speaker may at any time and without notice make any relevant statement or introduce urgent matters, and such matters may be discussed.

## 8. Matters for finalisation

Except as otherwise provided for in these rules, no matter not specified in the agenda of a meeting of the Council may be transacted at such meeting.

## 9. Agenda

- (1) The Speaker must prepare the agenda for a meeting in conjunction with the Administration.
- (2) The Administration must assist the Speaker in preparing the agenda.

- (3) The Speaker may refuse an item, motion or question to the agenda if such item, motion or question -
- (a) falls outside the jurisdiction of the municipality;
  - (b) is racist in nature or advocates hate speech;
  - (c) is sub judice;
  - (d) does not comply with procedural requirements for the submission of agenda items as provided for in these rules;
  - (e) lacks sufficient information;
  - (f) violates legislation or is contrary to provisions; or
  - (g) is of a defamatory nature,
- in which case the procedure in [section 43](#) must be followed.

## 10. Council meetings

- (1) The Council must meet at least quarterly and at least three (3) working days' notice must be given of every ordinary Council meeting.
- (2) The Speaker may convene a special Council meeting for a date, time and venue determined by him or her for the consideration of a specified matter or matters, and at least three working days' notice must be given of every special Council meeting.
- (3) Once the Speaker has determined the date, time and venue of a special Council meeting, he or she must inform the Administration thereof.
- (4) The Speaker decides when and where the Council meets, but if a majority of the members request the Speaker in writing to convene a meeting, the Speaker must convene a meeting at a time as set out in the request.
- (5) The Municipal Manager must, at the direction of the Speaker, give notice in writing to each member of every meeting decided upon in terms of subsection (4).
- (6) The Municipal Manager must give notice to the public of the day, time and venue of every meeting by publishing a notice in a local newspaper determined by him or her: provided that he or she may deviate from this requirement when time constraints in respect of urgent meetings make this impossible.
- (7) When a meeting is convened, it may not be cancelled, moved, postponed or adjourned unless done so in terms of the provisions of sections [14](#), [59](#), [60](#) and [63](#).
- (8) If the office of Speaker is vacant, the Municipal Manager may convene such meeting: provided that, after establishing that there is a quorum for the meeting, the election of an acting Speaker takes place immediately and the elected acting Speaker takes the chair.

## 11. Attendance of meetings

- (1) Every member attending a meeting of the Council or a committee of which he or she is a member, must sign his or her name in the attendance register kept for such purpose.
- (2) A member must attend each meeting of the Council or a committee of which he or she is a member, unless:
  - (a) leave of absence has been granted in terms of [section 12](#); or
  - (b) the member is required to withdraw in terms of law; or

- (c) the member has been assigned by the Council or a delegate to represent the municipality elsewhere in an official capacity; or
  - (d) the member has left the meeting in terms of [section 33\(2\)](#).
- (3) A councillor must disclose an interest in any matter before Council as envisaged in item 5 of the Code and withdraw from proceedings when that matter is considered, unless the Council resolves that the councillor's interest is trivial or irrelevant.

## 12. Leave of absence

- (1) A member who wishes to absent himself or herself from meetings must, prior to such absence, obtain leave of absence from the Council: provided that the Speaker on good reason may grant leave of absence to a member who is prevented by special circumstances from obtaining leave of absence from the Council, on condition that such member applies therefor in writing and provides the reason for the member's envisaged absence.
- (2) In the event of exceptional circumstances, the Speaker may grant leave of absence to a member if the member was unable to apply in writing.

## 13. Sanction for non-attendance

- (1) A member who is absent from a meeting without leave or who fails to be present at the commencement of the meeting or fails to remain present at such meeting is in breach of these rules.
- (2) A committee assigned by the Council must investigate any breach referred to in subsection (1) and submit a report on the matter to Council.
- (3) The committee assigned by the Council must transact its business in terms of the Standing Rules and Procedure regarding Disciplinary Matters pertaining to Councillors, as determined by Council from time to time.
- (4) Should the committee find that a member breached subsection (1), the member must be sanctioned in terms of clause 12.2 of the Standing Rules and Procedure regarding Disciplinary Matters pertaining to Councillors, as determined by Council from time to time.
- (5) A member who is absent from three (3) or more consecutive meetings that he or she is required to attend in terms of [section 10](#), must vacate his or her office as councillor, subject to confirmation by the Provincial Minister.
- (6) Proceedings for vacating an office by a member in terms of subsection (5) or for imposing a sanction in terms of subsection (4) must occur in accordance with the uniform Standing Rules and Procedure regarding Disciplinary Matters pertaining to Councillors determined by Council in terms of subsection (3).

## 14. Minutes

- (1) Minutes of the proceedings of meetings must be compiled in a printed format and be approved by the Council at the next meeting and be signed by the Speaker. In exceptional cases where there is uncertainty regarding a specific item in the minutes, the minutes may be approved without that item. After the recording of the relevant item has been verified, the item must be approved at the next meeting in its existing or amended form.
- (2) For the purpose of approval, the minutes will be taken as read if a copy has been sent to each member within a reasonable period, but not less than three (3) working days before the next meeting.
- (3) No motion or discussion on the minutes will be allowed, except if the correctness thereof is questioned.

## 15. Quorum

- (1) When there is no quorum, the commencement of the meeting must be delayed for no longer than thirty (30) minutes and if at the end of that period there is still no quorum, the Speaker must at his or her discretion reconvene the meeting for another time, date and venue, and record the names of those members present.
- (2) If the Speaker is not present and there is no quorum, the commencement of the meeting must be delayed for no longer than thirty (30) minutes and if at the end of that period there is still no quorum, the meeting may not take place and the Municipal Manager must record the names of the members present.
- (3) When there is no quorum during the course of a meeting, the Speaker must suspend the proceedings until a quorum is once again present, provided that if after ten (10) minutes there is still no quorum, the Speaker must adjourn the meeting.
- (4) If a meeting is adjourned because there is no quorum, the time of such adjournment as well as the names of the members present must be recorded in the minutes.
- (5) The Speaker must submit the names of the absent members to the committee established in terms of [section 12\(2\)](#) to investigate whether these rules were breached, after which the committee is to commence immediately with its activities.

## Chapter 3 Virtual meetings

## 16. Interpretation

- (1) A reference in the Rules to a meeting of the Council is not limited to a meeting of members all of whom, or any of whom, are present in the same place and any reference to a "place" where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.
- (2) Any reference in the Rules to being "present" at a meeting, includes being present through remote attendance;
- (3) A member in remote attendance attends a meeting when such member is able at that time of a meeting -
  - (a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,
  - (b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and
  - (c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (4) The presence of a member in terms of sub-rule (3) shall be deemed to be evidence for the attendance register.
- (5) Any member in attendance must before leaving the meeting, request the permission from the Speaker before doing so.
- (6) A requirement in the Rules of Order that a meeting be open to the public, is satisfied if the meeting is recorded and made available on the website of the Council as soon as practicable after the meeting.

- (7) The Speaker may make a ruling in respect of any eventuality regarding virtual meetings for which this by-law does not make provision, and no further discussion will be allowed on the ruling.

### **17. Public notice of virtual meeting**

- (1) The Municipal Manager must give notice to the public of each virtual meeting of the Municipal Council.
- (2) A public notice of the virtual meeting, must -
  - (a) state that the meeting is virtual and that there is no physical meeting location; and
  - (b) provide a phone number or email address where members of the public can obtain additional information on how the municipal council conducts the meeting and get assistance in operating the web conferencing software.

### **18. Notice and venue of meeting**

- (1) The Speaker shall issue a notice for a virtual meeting, which must include the date and time of the meeting;
- (2) All documents of the meeting shall be distributed by electronic means to which members have access; and
- (3) The legal venue of a virtual meeting shall be deemed to be the Council Chambers, Civic Centre, Riversdale.

### **19. Presiding officer**

In a virtual meeting the Speaker shall have all the powers as provided for in this Rules of Order.

### **20. Quorum**

In a virtual meeting -

- (a) the quorum requirements shall be those as determined in this Rules of Order; and
- (b) members who have accessed the meeting via the secure link sent to their email address shall be deemed present for the purposes of establishing a quorum, taking a decision or voting on a matter.

### **21. Exclusion of the public and media from meetings**

Whenever the Council decides to exclude the public and media from a virtual meeting, electronic access to the meeting must be suspended in order to close all or part of the meeting to the public and media.

### **22. Voting**

- (a) members shall be entitled to cast their votes electronically or by voice;
- (b) only members who are present when a vote is called shall be permitted to vote;
- (c) the results of a vote are announced and the names of members and how they voted are recorded in the Minutes; and
- (d) members must ensure that their votes are correctly recorded.

### **23. Privileges and immunities**

Councillors enjoy the same privileges and immunities which they ordinarily enjoy in physical Council proceedings.

## Chapter 4 Resolutions

### 24. Unopposed matters

When Council is called upon to consider a matter before it and there is no opposition from any member on the matter in terms of [section 25\(3\)](#), a unanimous vote must be recorded in the minutes.

### 25. Opposed matters

- (1) When a meeting has been in progress for at least one (1) hour, the Speaker may interrupt proceedings and instruct Council to immediately proceed with the finalisation of unopposed matters. For this purpose, the Speaker must find out from members which items they intend to oppose.
- (2) After finalisation of such unopposed matters, proceedings must be resumed at the point where it was interrupted, unless all other remaining matters have been postponed to the next meeting.
- (3) An item on the agenda is deemed an opposed matter if, immediately after the Speaker has indicated to the meeting that the matter is open for discussion, a member indicates that he or she intends to discuss such item, provided that no item is deemed opposed merely because questions are posed in connection with that item.

### 26. Resolutions

- (1) In accordance with the [Constitution of the Republic of South Africa, 1996](#), a majority of the members of Council is required to resolve -
  - (a) the adoption of by-laws;
  - (b) the approval of the budget;
  - (c) the imposition of rates and other taxes, levies and duties;
  - (d) the raising of loans.
- (2) In accordance with section 34 of the Structures Act, a supporting vote of at least two-thirds of the members is required to resolve that the Council be dissolved.
- (3) All other questions before the Council are resolved by a majority of the votes cast, as envisaged in section 160(3)(c) of the [Constitution](#).

### 27. Manner of voting

- (1) The Speaker must put every opposed item to the vote by calling upon the members to indicate by a show of hands, unless otherwise prescribed by law, whether they are for or against such item, after which the Speaker must declare the result of such vote.
- (2) When the Speaker declares the result of a vote, a member may request that his or her vote against the resolution concerned be recorded, and the Municipal Manager must ensure that such countervote is recorded in the minutes.
- (3) If the votes are tied in respect of an item on which voting takes place in accordance with subsection (1), the Speaker must exercise his or her casting vote, in addition to his or her deliberative vote: provided that the Speaker may not exercise a casting vote in terms of any matter contained in section 160(2) of the [Constitution, 1996](#).

- (4) Immediately after a matter has been put to a meeting of Council with the purpose of voting on it, or immediately after a resolution is made by a showing of hands and the result thereof is announced by the Speaker, any two councillors may call for a division.
- (5) When a division is called for, the Speaker must announce such division and voting must commence immediately.
- (6) When a division takes place, the Municipal Manager must call the names of all the Councillors in alphabetical order, record the vote of each councillor in attendance as "for" or "against" and record the names of the absent Councillors.
- (7) Based on such division, the Speaker must announce the resolution of Council as well as the number of Councillors who voted for or against the matter.
- (8) All divisions must be recorded in the minutes.
- (9) A councillor may not leave the Council chamber during voting.

## **Chapter 5**

### **Public access**

#### **28. Admittance of public**

The Speaker must take reasonable steps to ensure access for the public (taking the capacity of the Council chamber into account), the safety of the public and the orderly proceeding of meetings and to regulate the conduct of the public at meetings, as envisaged in section 20(4) of the Systems Act.

#### **29. Non-disclosure of matters**

- (1) When the Municipal Manager at his or her discretion has provisionally placed any matter on a section of the agenda, which matter will not be disclosed to the public before the meeting, the Speaker must, when such matters are to be considered -
  - (a) direct that all members of the public leave the meeting venue in respect of the items that will be dealt with "in-committee"; and
  - (b) direct that the members consider whether it would be reasonable that any or all of the items on such section of the agenda be considered without the presence of the public, with due regard to section 160(7) of the [Constitution](#), which provides that the public and media may only be excluded from a meeting when it is reasonable to do so, having regard to the nature of the matters being considered.
- (2) A detailed motivation for the exclusion of the public must be recorded in the minutes.
- (3) Any items that the public will not be excluded from must be considered immediately after completion of the procedure set out in subsection (1).

#### **30. Exclusion of the public and media from meetings**

- (1) The public, including the media, may be excluded from the meeting -
  - (a) where the Speaker wishes to make a confidential declaration to the meeting in terms of [section 6](#);
  - (b) where so resolved by Council in terms of subsection (3).
- (2) A member may put a motion, with reasons therefor, that the Council must meet with exclusion of the public and the media, and if such motion is seconded, it must be put to the vote forthwith and without discussion.

- (3) If, after due consideration by Council of the reasons stated, such motion is carried, all members of the public, including the media, must leave such meeting venue.
- (4) The public does not have a right of access to meetings of the EMC of the Council.

### **31. Readmittance of public and media to meetings**

- (1) A member may during the course of the meeting from which the public and the media were excluded, move that the meeting be reopened, stating the reasons for such motion.
- (2) If such motion is seconded, it must be put to the vote forthwith and without discussion.
- (3) If the motion is carried, the public and media must be readmitted to the meeting.

### **32. Invitation to non-members**

- (1) The Speaker may invite a person who is not a member to address Council or to attend a meeting in order to present his or her opinion on a matter to Council.
- (2) A time limit of fifteen (15) minutes or any such time as may be granted by the meeting, will apply.

### **33. Deputations**

- (1) A deputation wishing to make representations to Council must give six (6) working days' written notice to the Municipal Manager of such intention and must provide details of the representations that will be made and the nature of the deputation.
- (2) The Municipal Manager must submit the notice in terms of subsection (1) together with his or her comments and recommendations to the Speaker, who may decide to grant or refuse a request and, if granted, the relevant conditions.

## **Chapter 6 Order at meetings**

### **34. Conduct of non-members and members of the public**

If a non-member or member of the public is guilty of misconduct, behaves in an unseemly manner, breaches any rules, uses defamatory or obscene language, makes disparaging remarks, causes a disturbance or obstructs the business of any meeting, the Speaker may order that he or she should leave the meeting or be removed from the meeting, or in terms of sections 59 or 60 provide the opportunity for the meeting to be postponed or adjourned.

### **35. Conduct of members**

- (1) If a member -
  - (a) is guilty of misconduct, or
  - (b) behaves in an unseemly manner, or
  - (c) obstructs the business of a meeting, or
  - (d) challenges the ruling of the Speaker on any point of order or ruling in terms of section 3(1), or
  - (e) makes insulting remarks, uses abusive language and/or makes defamatory allegations that exceed the limits of privilege, the Speaker directs the member to withdraw it and, if the member fails to do so, directs that the member leaves the meeting, or
  - (f) indulges in tedious repetition or uses unseemly language, or

- (g) commits any breach of these rules, the Speaker must direct such member to conduct himself or herself properly and, if speaking, to discontinue his or her speech.
- (2) In the event of the directions of the Speaker being disregarded three times, the Speaker will direct such member to leave the venue of the meeting for the remainder of the meeting and the Speaker may, if necessary, adjourn the meeting.
- (3) If the Speaker is obliged to act against a member in terms of subsection (2), the offense will be referred to the committee envisaged in [section 12\(2\)](#) and the provisions of item 12(2) will apply upon conviction.

### **36. Offences**

Any non-member or member of the public who:

- (a) refuses or fails to comply with a direction of the Speaker given in terms of sections [34](#) and [35](#); or
- (b) returns to the meeting venue prior to the conclusion of the meeting from which he or she was directed to retire; or
- (c) resists whilst being removed from the meeting venue, will be guilty of an offense and liable on conviction by a court of law to a penalty in terms of the penalty schedule.

## **Chapter 7 Rules of debate**

### **37. Member to address Speaker**

A member that speaks at a meeting must address the Speaker whilst standing, unless the Speaker determines otherwise, and may do so in any of the three official languages of the Province of the Western Cape, as regulated by Council's communication policy.

### **38. Order of priority**

When a member wishes to address the Council, the member must first obtain the Speaker's permission.

### **39. Precedence of Speaker**

Whenever the Speaker addresses the meeting, all members must remain silent so that the Speaker may be heard without any interruption.

### **40. Relevance**

- (1) A member who speaks must direct his or her speech strictly to the subject or matter under discussion or to an explanation on a point of order.
- (2) No discussion will be permitted -
  - (a) which will anticipate any matter on the agenda;
  - (b) on any matter in respect of which a decision by a judicial or quasi-judicial body or a commission of enquiry is pending.

### **41. Right to speak**

- (1) A member may only speak once -
  - (a) to the matter before the Council;

- (b) to the motion before the Council;
- (c) to any amendments proposed by the member;
- (d) to a point of order or a question of privilege;

unless authorised by the Speaker or as provided for in terms of these rules.

- (2) The mover of an original motion may speak to the motion and reply to it, but in replying the mover will strictly confine himself or herself to answering previous speakers and the mover may not introduce any new matter to the debate.
- (3) The right of reply does not apply to the mover of an amendment which, having been carried, has become the substantive motion.

#### **42. Duration of speeches**

Except with the permission of the Speaker, no member may speak for more than five (5) minutes on any matter.

#### **43. Re-introduction of motion or question**

No motion which has been rejected by the Council and no question asked in terms of the rules and dealt with at any meeting may again be moved or asked within a period of three (3) months of such meeting, unless permitted by the Speaker.

#### **44. Notice of motion**

- (1) The Speaker may, subject to [section 47](#), not accept any motion unless notice thereof has been given in terms of subsection (2).
- (2) Every notice of intention by a member to introduce a motion must be in writing, motivated, signed, seconded and dated and be submitted to the Municipal Manager at least five (5) working days before the date of an ordinary meeting on which it will be introduced.

#### **45. Notice of question**

- (1) The Speaker may not accept any question unless notice thereof has been given in terms of subsection (2).
- (2) Every notice of intention by a member to put a question must be in writing, motivated, signed and dated and be submitted to the Municipal Manager at least five (5) working days before the date of the meeting on which it will be put.
- (3) The Speaker may -
  - (a) refer the question back to the councillor with a reason why it cannot appear on the agenda, which reason may include, amongst others, that he or she is of the opinion that the question is out of order, not clearly put, irrelevant or not submitted in accordance with these rules; or
  - (b) accept the question and refer it to the appropriate political office-bearer or municipal employee to answer.
- (8) The member to whom such question is directed, may answer the question at the meeting, or if the member so chooses, answer the question in writing within seven (7) working days of the meeting.

*[Please note: numberig as in original.]*

**46. Absence of mover or questioner**

In the event of the mover or questioner not being present in his or her place at the Council meeting when called upon by the Speaker to move a motion or put a question appearing in his or her name on the agenda, such motion or question will lapse, unless the original mover or questioner has notified the Speaker in writing prior to the meeting of a second's to move the motion or put the question.

**47. Motions and questions on matters dealt with by a committee**

- (1) A member may not give notice of a motion or question with regard to any matter assigned to a committee, unless such motion or question has previously been submitted to such committee or unless it is in the form of a reference to such committee for consideration or reporting purposes.
- (2) The chairperson of a committee may, if he or she is of the opinion that the matter is one of urgency, give notice of his or her intention to introduce a motion or put a question on a matter assigned to such committee, notwithstanding the fact that such motion or question has not received the prior consideration of such committee.

**48. Recommendation by committee regarded as motion**

- (1) The adoption of a recommendation contained in a report submitted by a committee to the Council will be deemed to have been moved by the chairperson of such committee, or in the chairperson's absence, or when he or she opposes the recommendation, by a member of such committee assigned by the chairperson to act at the time, when the Speaker of the meeting intimates that such recommendation is open for discussion. No such motion needs to be seconded and the chairperson of such committee may also not be precluded from exercising his or her right to speak thereon.
- (2) The chairperson referred to in subsection (1) may however speak on the matter and reply, but in replying the chairperson must strictly confine himself or herself to answering previous speakers and the chairperson may not introduce any new matter to the debate.

**49. Tabling of documents**

- (1) Where any law requires a document or report to be tabled before Council by a councillor or municipal employee, tabling is deemed to be effected when it is submitted to the Speaker at a Council meeting and/or distributed electronically to the members.
- (2) All documents and reports tabled before Council must be recorded in the minutes.
- (3) The Speaker must ensure that all documents and reports tabled before Council are included in the agenda of a subsequent meeting of the Council for consideration or resolution, or both.

**50. Questions**

- (1) After any motion or amendment presented to Council has been moved and seconded or at the conclusion of any speech thereon, a member may ask one question relevant to such motion or amendment.
- (2) No supplementary questions may be asked, except by the member who put the original question and then only one question in respect of matters arising from the reply to such original question.
- (3) Subsections (1) and (2), with the necessary adjustments, also apply to matters presented or delegated to the Executive Mayor.
- (4) The Speaker may not refuse any such question: provided that the member to whom such question is directed may either reply thereto forthwith or require that notice thereof be given in terms of [section 44](#).

**51. Motion of exigency**

No motion of exigency, excluding motions in terms of [section 6](#), may be moved.

**52. Motions of course**

In addition to the motions provided for elsewhere in these rules, the following will be regarded as motions of course -

- (a) that preference be given to the consideration of any specific item on the agenda;
- (b) that cognisance be taken of any recommendations specified in the agenda or that it be adopted or referred back or that the report be acted upon; and
- (c) that any document before the Council be acted upon in the manner specified in the motion.

**53. Point of order**

A member may raise a point of order to call attention to a deviation from these rules by mentioning the rule that such member is referring to, after which such member must immediately be heard.

**54. Point of explanation**

The Speaker may allow a member to raise a point of explanation: provided that such explanation will be confined to a material part of the debate which may have been misunderstood.

**55. Withdrawal of motion, amendment or question**

- (1) A motion or amendment may without discussion and with the permission of the seconder be withdrawn by the mover.
- (2) A member may not speak on such motion or amendment after Council has agreed to the withdrawal of such motion.
- (3) A question may be withdrawn by the member who intended to put the question.

**56. Speaker's ruling on motion of course or points of order and explanation**

- (1) The ruling of the Speaker on a point of order or an explanation will be final and not open to discussion. Questioning of the Speaker's ruling takes place in terms of [section 3\(3\)](#) of these rules.
- (2) The ruling of the Speaker on a motion or point of order raised as to the interpretation of these rules must be recorded in the minutes.

**57. Order of debate**

When a motion is under debate at any meeting of Council, no further motion may be received except the following:

- (a) that the motion be amended;
- (b) that the consideration of the matter be postponed;
- (c) that the public and the media be excluded;
- (d) that the public and the media be readmitted;
- (e) that Council adjourns now;
- (f) that Council adjourns for a specified time;

- (g) that the debate be adjourned;
- (h) that the matter be put to the vote;
- (i) that Council proceeds to the next matter;
- (j) that the matter be removed from the agenda;
- (k) that the matter be referred to a committee; or
- (l) that the matter be withdrawn.

### **58. Amendment of motion**

- (1) Every amendment must be relevant to the motion on which it is moved.
- (2) An amendment must, if required by the Speaker, be in writing, signed by the mover and handed to the Speaker.
- (3) An amendment must be read before being moved.
- (4) An amendment may not be discussed or put to the Council until it has been seconded.
- (5) If there is more than one amendment to a motion, the amendment last proposed must be put to the vote first and if carried, the matter will be resolved accordingly.
- (6) If the amendment last proposed is rejected, the amendment proposed immediately prior to the last amendment will be put to the vote.
- (7) No further amendment to a motion or amendment may be moved after the Speaker has commenced to take the vote upon such motion or amendment.

### **59. Adjournment of proceedings**

The Speaker may only adjourn a meeting—

- (a) after the Council has transacted all of its business on the agenda;
- (b) in the absence of a quorum as envisaged in [section 15](#);
- (c) after a successful motion to adjourn as envisaged in [section 60](#) or [61](#);
- (d) if a meeting becomes disorderly and becomes unruly and unsafe;
- (e) in the event of vis major.

### **60. Postponement of consideration of the matter**

- (1) A member may at the conclusion of a speech move that the consideration of the matter be postponed to a fixed or undetermined date.
- (2) Such motion must be seconded but the motion need not be in writing. The mover must be permitted to speak to the motion for a period not exceeding five (5) minutes and the seconder may not speak, except to second the motion.
- (3) When such a motion to postpone is moved, the mover of the matter under debate may without prejudice to his or her ultimate right to reply if the motion that the matter be postponed is not carried, be heard in reply for five (5) minutes, after which the motion will be put to the vote without further debate.
- (4) If the motion is carried, the matter must be placed first on the agenda of matters to be considered at the meeting to which it has been postponed: provided that [sections 6\(2\)](#) and [6\(3\)](#) do not apply to such matter.

**61. Adjournment of Council to another date**

- (1) A member who has not already participated in the discussion on a matter before the meeting may at any time, except during the course of a speech by another member or while a vote is being taken, move that the Council adjourns to another date.
- (2) Such motion must be seconded but need not be in writing.
- (3) The mover must be permitted to speak to the motion for a period not exceeding five (5) minutes but the seconder may not speak, except to second the motion.
- (4) If the motion is carried, the Council must forthwith adjourn: provided that the Speaker may direct that the meeting proceeds to first dispose of unopposed business.
- (5) If the motion is not carried, the Speaker may not accept another such motion until half an hour has elapsed.
- (6) Save as provided for in subsection (3), no discussion on such motion will be permitted, except that a member who has first indicated as such may speak in opposition of the motion for not more than five (5) minutes.
- (7) No amendment to such motion may be moved, except in relation to the period of adjournment.
- (8) If a motion to adjourn a meeting has been carried during a debate and before it has been concluded, the member who moved the adjournment will be entitled to speak first when considering the matter that will be the subject of such discussion when the adjourned meeting is resumed.
- (9) No business may be concluded at an adjourned meeting, except such business set out in the agenda for the meeting of which it is an adjournment.

**62. Adjournment of Council for a specified time**

- (1) A member may at any time, except during the course of a speech by another member or while a vote is being taken, request that the Council adjourns for a specified time and such an adjournment may also be an opportunity for the purpose of a caucus.
- (2) Such motion need not be in writing and no prior notice needs to be given thereof.
- (3) If the motion is carried, the Council must forthwith adjourn for the specified time.
- (4) If the motion is not granted by the Speaker, the mover of the motion may request that it be put to the vote.
- (5) The Speaker may limit the number of such motions so that the adjournments do not take up more than one (1) hour of the specific meeting.

**63. Adjournment of debate**

- (1) A member who has not yet participated in a debate may at the conclusion of any speech move that the debate be adjourned.
- (2) Such motion must be seconded but need not be in writing.
- (3) The mover of such motion may speak to it for five (5) minutes, but the seconder may not speak except to formally second the motion.
- (4) Save as provided for in subsection (3), no discussion may be permitted on such motion except in respect of the period of adjournment, and that the member who first indicates his opposition to such motion may speak in opposition thereto for five (5) minutes.
- (5) If such motion is carried, the meeting proceeds to the next business on the agenda, and the discussion of the adjourned debate, unless otherwise resolved, is resumed at the next meeting.

- (6) On the resumption of the adjourned debate, the member who moved the adjournment is entitled to speak first.
- (7) If the motion is not carried, the Speaker may not accept another such motion until half an hour has elapsed.
- (8) A member may not move or second more than one motion for the adjournment of the debate during the course of that debate.

#### **64. Postponement of meeting**

- (1) The Speaker may of own accord postpone any meeting that has already been convened but has not yet commenced, for the following reasons:
  - (a) For safety reasons;
  - (b) In the event of vis major,
  - (c) Discretion of the Speaker.
- (2) Before the commencement of the meeting, the Speaker must give written notice to each member of the said postponement and reasons.

#### **65. Voting on a matter**

- (1) A member who has not yet participated in the debate on a matter may during the course of such debate, at the conclusion of any speech, move that the matter be put to the vote.
- (2) Subject to the provisions of subsection (3), no motion put in terms of subsection (1) will be open to discussion.
- (3) The mover of a matter under discussion may, when a motion has been moved in terms of subsection (1), speak on such motion for not more than five (5) minutes, whereupon the said motion will be put to the vote without any further discussion.

#### **66. Removal of matter from the agenda**

- (1) A member who has not yet participated in the debate on a matter may during the course of such debate, at the conclusion of any speech, move that the matter be removed from the agenda.
- (2) Subject to the provisions of subsection (3), no motion put in terms of subsection (1) will be open to discussion.
- (3) The mover of a matter under discussion may, when a motion has been put in terms of subsection (1), speak on such motion for not more than five (5) minutes, whereupon the said motion will be put to the vote without any further discussion.
- (4) If such a motion is carried, there will be no further debate on the matter under discussion.

## **Chapter 8**

### **Process for adoption of by-laws**

#### **67. Submission of draft by-laws**

A by-law may only be submitted by a member or the Executive Mayor.

#### **68. Submission by member**

- (1) A member submits a draft by-law by submitting it to the Speaker, together with a memorandum on the objectives of the by-law.

- (2) On receipt of a draft by-law, the Speaker must submit it to the Executive Mayor for consideration, together with any comment received in terms of subsection (3).
- (3) The Speaker must obtain the Municipal Manager's comment on the content of the draft by-law and may request the comment of any person.
- (4) The Executive Mayor must consider the matter within three (3) months after receiving a draft by-law from the Speaker and submit to Council a report in the format envisaged in [section 69\(1\)](#).

#### **69. Submission by Executive Mayor**

- (1) The Executive Mayor may submit a draft by-law on own accord or after consideration of a request from the Municipal Manager.
- (2) If the Executive Mayor decides to submit a draft by-law of own accord, the Executive Mayor must obtain the Municipal Manager's comment on the content of the draft by-law and the Executive Mayor may also request comment thereon from any person.
- (3) The Executive Mayor must submit a report on the proposal to submit a draft by-law to Council in the format as envisaged in [section 69\(1\)](#).

#### **70. First submission to Council**

- (1) A draft by-law submitted by a member or the Executive Mayoral Committee must be submitted to Council in the following format:
  - (a) an executive summary of the draft by-law;
  - (b) the need to regulate the conduct envisaged in the draft by-law;
  - (c) the content of the proposed by-law;
  - (d) other by-laws that must be repealed or amended if the draft by-law is adopted;
  - (e) any relevant comments or proposals; and
  - (f) a recommendation.
- (2) After consideration of the report envisaged in subsection 68(1), Council must resolve to reject or provisionally adopt the proposed by-law.
- (3) When a proposed by-law has been rejected by the Council, no by-law with the same content may be submitted within a period of six (6) months after the proposed by-law was rejected.
- (4) When a proposed by-law is provisionally adopted, it must be advertised for comment by the public.

#### **71. Publication**

- (1) The Municipal Manager must, as soon as possible after a by-law has provisionally been adopted, publish the draft by-law for comment in such a manner that the public will have the opportunity to make representations in connection therewith.
- (2) The publication must be in at least two of the official languages of the province and the provisions of section 21A of the Systems Act must also be considered.

#### **72. Second submission to Council**

- (1) The Municipal Manager must, as soon as possible after the closing date for representations by the public, submit a report to the Executive Mayor together with:
  - (a) a copy of the proposed by-law;
  - (b) copies of the advertisements in which the public was invited to submit representations;

- (c) any comments received from the public; and
  - (d) any other comments of the administration.
- (2) When a draft by-law has been rejected by the Council, no by-law with the same content may be submitted within a period of six (6) months after the proposed by-law was rejected.
- (3) When a by-law is adopted after consideration thereof, it must be published in the *Provincial Gazette*.

### **73. Debating procedure**

The rules on debating are also applicable to the legislative process.

## **Chapter 9 General provisions**

### **74. Penalties**

A person who has committed an offense under this by-law is liable on conviction to a fine or, if the fine is not paid, imprisonment or such imprisonment without the option of a fine, or both the fine and such imprisonment and, in the case of a successive or continued offense, to a fine for each day on which such offense continues, or if the fine is not paid, to additional imprisonment.

### **75. Repeal of by-laws**

The provisions of any by-laws previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the municipality, are hereby repealed insofar as they relate to matters provided for in this by-law, and insofar as it has been made applicable to the municipality by the authorisation for the execution of powers and functions in terms of section 84(3) of the Local Government: Municipal Structures Act, [Act 117 of 1998](#).

### **76. Title and commencement**

This by-law will be known as the By-Law Relating to the Rules for the Conduct of Meetings (Rules of Order) of the Council of Hessequa Municipality and will come into effect on the date of publication thereof in the *Provincial Gazette*.