

Knysna, South Africa

## Rules of Order for Internal Arrangements

Legislation as at 30 June 2017

FRBR URI: /akn/za-wc048/act/by-law/2017/rules-of-order-for-internal-arrangements/eng@2017-06-30

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PDF created on 19 April 2024 at 09:19.

*Collection last checked for updates: 12 April 2024.*

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# Knysna South Africa

## Rules of Order for Internal Arrangements By-law, 2017

[Published in Western Cape Provincial Gazette 7788 on 30 June 2017](#)

Commenced on 30 June 2017

*[This is the version of this document from 30 June 2017 and includes any amendments published up to 12 April 2024.]*

To provide for rules of order for the internal arrangements and the business and proceedings of the Council of the Municipality and to provide for matters in connection therewith.

### Chapter 1 Introduction

#### 1. Definitions

In this by-law, including the Rules, unless the context indicates otherwise -

"**Code**" means the Code of Conduct for Councillors set out in Schedule 1 to the Systems Act;

"**Committee**" means a committee established by the Council in terms of section 79 of the Structures Act;

"**Council**" means the Municipal Council of the Knysna Municipality;

"**Councillor**" means a member of the Council, including a political office bearer as referred to in section 1 of the Systems Act;

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

"**Meeting**" means any meeting of the Council and its committees;

"**Member of the public**" means a person who is not a councillor or an employee of a municipality and who attends a meeting of the Council or a committee;

"**Municipality**" means the Municipality of Knysna;

"**Municipal Manager**" means the person appointed as Municipal Manager by the Council in terms of section 54A of the Systems Act, or a person delegated by the Municipal Manager;

"**Provincial Minister**" means the Provincial Minister responsible for Local Government in the Province;

"**Rules**" means the rules provided for in this by-law;

"**Speaker**" means the Speaker of the Council elected under section 36 of the Structures Act or a councillor elected as acting Speaker under section 41 of the Structures Act;

"**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 Saturday or Sunday or a public holiday.

#### 2. Application of rules

- (1) These rules apply to all meetings.
- (2) Except where it is clearly inappropriate, a rule applying to a councillor in any proceedings, also applies to a member of the public who takes part in those proceedings.

- (3) These rules apply to all meetings of committees except to committees established, in terms of item 14 (1)(b) of the Code and section 62 of the Municipal Systems Act. Unless clearly inappropriate, any reference in these rules to the Council is regarded as a reference to the committee, and any reference to the Speaker is regarded as a reference to the chairperson of the committee or a person acting as the chairperson of the committee.
- (4) In this by-law words used in the masculine gender include the feminine, the singular includes the plural and vice versa. The English text prevails in the event of an inconsistency between the different texts and unless the context otherwise indicates.
- (5) The Speaker, councillors and members of the public must familiarise themselves with these rules.

## **Chapter 2 Meetings**

### **3. Order of business**

- (1) The order of business in ordinary council meetings is as follows, unless the order has been changed in terms of sub rule (2) -
  - (a) election of acting Speaker, if necessary;
  - (b) application for leave of absence;
  - (c) confirmation of minutes;
  - (d) statements and communications by the Speaker;
  - (e) statements and communications by Executive Mayor or Executive Committee;
  - (f) consideration of reports;
  - (g) report on delegated powers;
  - (h) urgent matters submitted by the Municipal Manager;
  - (i) consideration of motions;
  - (j) consideration of questions;
  - (k) consideration of motions of exigency; and
  - (l) adjournment.
- (2) The Speaker may change the order of business appearing on the agenda.
- (3) A councillor who wishes to have the order of business on the agenda changed must approach the Speaker prior to the meeting.

### **4. Agenda**

- (1) The Speaker or a person designated by the Speaker must prepare the agenda for a meeting.
- (2) The Speaker may at any time during a meeting introduce an urgent matter, which does not appear on the agenda, unless the Council resolves otherwise.
- (3) Except as otherwise provided for in these rules or in terms of sub rule (2), no matter not appearing on the agenda may be transacted at a meeting.

## 5. Meetings

- (1) The Council must meet at least quarterly, as required by section 18(2) of the Municipal Structures Act.
- (2) All meetings must be open to members of the public, unless they have been excluded under rule 16.
- (3) Subject to sub rule (1), the Speaker decides when and where the Council meets.
- (4) The Municipal Manager or, in his or her absence, a person designated by the Speaker must give notice to each councillor and to the public of every meeting at least 5 days before such meeting except in the event of special or urgent meetings of Council.
- (5) If the position of Speaker (or Acting Speaker) is vacant, the Municipal Manager (or Acting Municipal Manager) or in the absence of the Municipal Manager (or Acting Municipal Manager), a person designated by the Provincial Minister, must-
  - (a) convene a special meeting to elect a Speaker or an acting Speaker; and
  - (b) give notice to each councillor and to the public of the meeting.
- (6)
  - (a) A majority of councillors may request the Speaker in writing to convene a special council meeting and the Speaker must convene such meeting at a time set out in the request.
  - (b) If the Speaker fails to convene a special council meeting referred to in sub rule (6)(a), the majority of councillors may request the Municipal Manager to convene such meeting and the Municipal Manager must convene such meeting at a time set out in the request.
  - (c) A notice by the majority of councillors must clearly indicate the business that will be conducted at the special council meeting. No other business, except with the agreement of a majority of councillors, may be conducted at the special council meeting.
- (7)
  - (1) The notice referred to in sub rules (4) and (5) must state the date, time and venue of the meeting, and must be-
    - (a) given in writing, together with the agenda, to each councillor by any reasonable means to achieve the purpose;
    - (b) published in a local newspaper determined by the Municipal Manager or a person designated; and
    - (c) posted on a notice board at the municipality's head office.
    - (d) posted on the municipal website.
  - (2) Any changes to the dates of any meeting, shall be published on the municipal website.
- (8) The Municipal Manager or a person designated under sub rule (4) or (5) may depart from the requirement of sub rule (6)(b), in the case of an urgent or special meeting when time constraints make it impossible to comply with the requirement.

## 6. Functions of Speaker regarding meetings

- (1) The Speaker must take the chair precisely at the time the meeting has been scheduled for.
- (2) In addition to the functions referred to in section 37 of the Municipal Structures Act and any other law, the Speaker -
  - (a) must preserve decorum in meetings;
  - (b) must give a ruling in respect of a point of order raised by a councillor, including a point in relation to the priority of the business; and

- (c) may give a ruling in respect of any procedural eventuality for which these rules do not provide.
- (3) The ruling referred to in sub rule (2) must be entered into the minutes.

## **7. Attendance by councillors**

Subject to Item 3 of the Code, rule 8 and rule 18 of these rules, a councillor must attend each meeting and must sign his or her name in the attendance register.

## **8. Procedure for leave of absence**

- (1) A councillor must, before absenting himself or herself from a meeting, inform the Speaker by means of email, sms or other electronic communication at least 48 hours before the meeting.
- (2) The Speaker, on good cause shown, may grant leave of absence to a councillor who has been prevented by special circumstances from applying for leave of absence in accordance with sub rule (1).
- (3) The special circumstances referred to in sub rule (2) may include -
  - (a) illness of the councillor; or
  - (b) illness or death in the family of the councillor; or
  - (c) family related or ward emergencies.
- (4) Should any special circumstance listed in sub rule (3) arise, a councillor may on good cause shown, inform his/her respective party chief whip of his/her absenteeism.
- (5) The names of all councillors present at a meeting and of all councillors to whom leave of absence from the meeting has been granted, must be entered into the minutes.
- (6) If the Speaker rejects the application referred to in sub rule (1), he or she must provide a reason therefore and such reasons must be recorded into the minutes.
- (7) Sub rules (1) to (6), apply, with the necessary changes, in respect of the Speaker, and in such application, a reference in those sub rules to the Speaker is regarded to be a reference to the Council.

## **9. Sanctions for non-attendance**

- (1) Except for the instances contemplated in rule 8(2) and (3), a councillor is in breach of the rules if he or she without leave-
  - (a) absents himself or herself from a meeting;
  - (b) fails to be in attendance at the commencement of a meeting; or
  - (c) fails to remain in attendance until the end of a meeting.
- (2) A councillor who is absent from three or more consecutive meetings which he or she is required to attend in terms of rule 8 is in breach of the Code.
- (3) The Council may appoint a special committee comprising of councillors to investigate and report to the Council on any alleged breach referred to in sub rule (1) or (2).
- (4) The special committee must notify the councillor in writing of his or her alleged breach of the rules or the Code. The councillor must be given seven days from date of the written notice to respond in writing regarding the alleged breach.
- (5) The Council must decide whether the rules or the Code has been breached or not, after receiving a report from the special committee.



- (6) If the Council finds that a councillor has breached the rules as contemplated in sub rule (1), the Council must fine the councillor 10% of his or her monthly salary.
- (7) If the Council finds that a councillor has breached the Code as contemplated in sub rule (2), the Council must request the Provincial Minister to remove the councillor from office.
- (8) Sub rules (1) to (7) apply, with the necessary changes, in respect of the Speaker.

## 10. Minutes

- (1) The Municipal Manager must -
  - (a) compile the minutes of the proceedings of a meeting in writing within two weeks of the meeting; and
  - (b) provide each councillor with a copy of the minutes within a reasonable period, such reasonable period to be determined by Council.
- (2) The minutes of a meeting must be considered by the Council at its next meeting and, if confirmed, must be signed by the Speaker.
- (3) The Municipal Manager must keep a record of the signed minutes for a period of five years.
- (4) The minutes are taken as read, for the purpose of sub rule (2), if they were provided to each councillor within a reasonable period before the meeting considering them.
- (5) No motion or discussion is allowed on the confirmation of the minutes, except in connection with the correctness thereof.
- (6) If a councillor is dissatisfied with the correctness of the minutes, the councillor must -
  - (a) state the item with which he or she is dissatisfied; and
  - (b) propose a motion clearly outlining the alternative wording to amend the minutes.
- (7) The minutes of a meeting must set out the date, time and place of the meeting and the decisions or other action taken at the meeting.

## 11. Quorum

- (1) A majority of the councillors constitutes a quorum as referred to in section 30 (1) of the Municipal Structures Act.
- (2) Whenever there is no quorum, the start of the meeting must be delayed for no longer than 30 minutes and if at the end of that period, there is no quorum, the Speaker must adjourn the meeting to another time, date and venue at his or her discretion and record the names of those members present.
- (3) Whenever the Speaker is not present and there is no quorum, the start of the meeting must be delayed for no more than 30 minutes and if there is no quorum at the end of that period, no meeting may take place and the Municipal Manager must record the names of the members present.
- (4) Whenever during a meeting there is no quorum, the Speaker must suspend the proceedings until a quorum is again present, provided that if after 10 minutes or such longer time the Speaker may allow, there is still no quorum the Speaker must adjourn the meeting.
- (5) Whenever a meeting is adjourned owing to the absence of a quorum, the time of such adjournment, as well as the names of the members present, must be recorded in the minutes.
- (6) The Speaker may report the names of the absentee members to the committee appointed in terms of rule 9(3), for the purposes of an investigation of a breach of these rules.

## Chapter 3 Decisions

### 12. Unopposed matters

Whenever Council is called upon to consider a matter before it and there is no opposition from any councillor, a unanimous vote will be recorded in the minutes.

### 13. Opposed matters

- (1) The Speaker must put every opposed matter to the vote by calling upon councillors to indicate by a show of hands, unless otherwise prescribed by any law or the Council resolves otherwise, whether they are for that matter or against it, whereupon the Speaker must announce the result of the vote, including those councillors who abstained from voting.
- (2) Upon the announcement of the result of a vote, a councillor may demand that his or her vote be recorded against the decision concerned.

### 14. Decisions

- (1) In accordance with section 160(3) of the [Constitution](#), a supporting vote of a majority of councillors is necessary to decide on -
  - (a) the passing of by-laws;
  - (b) the approval of the budget;
  - (c) the imposition of rates and other taxes, levies and duties; or
  - (d) the raising of loans.
- (2) In accordance with section 34 of the Municipal Structures Act, a supporting vote of at least two-thirds of councillors is necessary to adopt a decision to dissolve the Council.
- (3) All other questions before the Council are decided by a majority of the votes cast, as contemplated by section 160(3)(c) of the [Constitution](#), except the approval of the IDP that has to be adopted by a supporting vote of a majority of councillors.
- (4) If on any question there is an equality of votes, the Speaker must exercise a casting vote, as contemplated by section 30(4) of the Municipal Structures Act. In addition to those instances listed in Rule 14(1), the Speaker does not have a casting vote on the election of political office bearers as set out in Schedule 3 of the Municipal Structures Act.

## Chapter 4 Attendance of members of public

### 15. Attendance of members of public

- (1) The Speaker must take reasonable steps to regulate public access to, and public conduct at meetings.
- (2) The Speaker may allocate reasonable time to any member of the public who wishes to address the Council, having regard to-
  - (a) the nature of the matter to be discussed;
  - (b) priorities in relation to other Council business;
  - (c) other members of the public present who also wish to address the Council; and

- (d) whether such an opportunity has already been provided to the member of the public.
- (3) A member of the public who wishes to address the Council must apply in writing to the Speaker within 6 working days prior to the meeting, stating the matter on which he or she wishes to speak.

## **16. Exclusion of the public from meetings**

- (1) The public may be excluded from the meeting -
  - (a) where so directed by the Speaker; or
  - (b) where so decided by Council upon a motion from any councillor to that effect.
- (2) If a motion to exclude the public from the meeting is seconded, the motion must be put to the vote, after discussion of the reasons but without discussion of the matter.
- (3) If a motion to exclude the public is carried, the place of meeting shall be cleared of all members of the public, including the media.
- (4) The motivation for the exclusion of the public must be minuted.

## **17. Re-admission of members of public**

- (1) A councillor may during the course of a meeting from which the public were excluded, move a motion "that the meeting again be opened" and state the reasons for the motion.
- (2) If the motion is seconded, it must be put to the vote forthwith without debate.
- (3) If the motion is carried, the Speaker must ensure that members of the public are allowed access to the meeting again.

# **Chapter 5**

## **Conduct in meetings**

## **18. Conduct of councillors and members of public**

- (1) Councillors and members of the public must preserve order and decorum at meetings, and they may not-
  - (a) behave in an unseemly manner;
  - (b) obstruct the business of a meeting;
  - (c) challenge the ruling of the Speaker on any point of order; or
  - (d) commit any breach of the rules.
- (2) If a councillor or member of the public breaches sub rule (1), the Speaker must direct the councillor or member of the public to refrain from the breach.
- (3) If a councillor or member of the public disregards the directions of the Speaker under sub rule (2), the Speaker may:
  - (a) direct the councillor or member of the public if speaking, to discontinue his or her speech;
  - (b) in relation to a councillor, adjourn the meeting and request the councillor in question, together with his or her party chief whip, to address the Speaker in chambers; or
  - (c) with regard to members of the public, direct such person or persons, to withdraw from the place of meeting for the remainder of the meeting or, if necessary, to be removed by a person designated by the Speaker.

- (4) If the Speaker fails to act under sub rule (3), any councillor may move a motion to require the Speaker to do so.
- (5) The motion referred to in sub rule (4) must be moved without notice, and if the motion is seconded, it must be put to the vote forthwith without debate.

## **Chapter 6**

### **Debate and motions**

#### **19. Address to Speaker**

- (1) A councillor or a member of the public who is recognised to speak at a meeting must address the Speaker.
- (2) A member of the public who is recognised by the Speaker must state his or her name, and if he or she is representing an organisation or any group, identify the organisation or group.

#### **20. Right to speak and limitation**

- (1) A councillor may speak or proceed to speak at a meeting after being recognised by the Speaker.
- (2) All councillors are allowed to speak at meetings of Council and its committees and are protected by the provisions of the Western Cape Privileges and Immunities of Councillors Act, 2011 ([Act No 7 of 2011](#)).
- (3) A councillor may speak only once to -
  - (a) the matter before the Council;
  - (b) any motion before the Council;
  - (c) any amendments to a motion before the Council; or
  - (d) a point of order or a question,unless authorised by the Speaker or as provided for in these rules.
- (4) A councillor may not be interrupted while speaking, unless called to order by the Speaker or a point of order is raised by any other councillor.
- (5) The Speaker may not recognise a councillor to speak on a matter once council has taken a resolution on that matter.
- (6) The Speaker may not allow a debate on a matter -
  - (a) which may anticipate any matter on the agenda; or
  - (b) in respect of which a decision by a judicial or administrative body or a commission of enquiry is pending.

#### **21. Length of speeches**

- (1) Except with the consent of the Speaker, no member may speak for more than five minutes on any subject.
- (2) The mover of an original motion or of any amendment may however speak for five minutes on such motion or amendment.

#### **22. Content of debate**

- (1) A councillor who speaks must direct his or her speech to the matter before the Council.

- (2) If a councillor persists in irrelevance after being requested by the Speaker to confine his or her speech to the matter before the Council, the Speaker must order him or her to be seated and not to speak further in respect of that matter.
- (3) Councillors and members of the public must preserve order and decorum at meetings, and they may not indulge in tedious repetition of arguments, or unbecoming language or remarks, which are of a defamatory nature.

## **23. Points of order**

- (1) A councillor may interject during a meeting to raise a point of order to call the attention of the Speaker to a breach of the rules or a statutory provision.
- (2) A point of order may be raised in relation to -
  - (a) a procedural matter; or
  - (b) the conduct of a councillor, a member of the public, or an employee of the Municipality.
- (3) A councillor raising a point of order must immediately be heard, and he or she must -
  - (a) state the point of order; and
  - (b) the rule or statutory provision that is being breached.
- (4) A councillor who is speaking when a point of order is raised must immediately stop speaking until the point of order is ruled on by the Speaker. All other matters before the Council must be suspended until the point of order is ruled on.
- (5) If ruled to be in order, the councillor must be allowed to proceed with his or her speech.
- (6) If ruled to be out of order, the councillor must remain silent or must retract or change any remarks so as to comply with the ruling.
- (7) The Speaker's ruling on a point of order is final and not open to debate, and it must be entered in the minutes.

## **24. Explanations**

- (1) The Speaker may allow a councillor to explain a previous speech, but only when and to the extent that a material part of the speech may have been misunderstood.
- (2) The councillor giving the explanation may not introduce any new matter, and no debate on the explanation may be allowed.

## **25. Motions**

A councillor may move a motion only when it is put by the Speaker and if seconded by another councillor, except if provided otherwise in these rules.

## **26. Notice of motions**

- (1) Unless provided otherwise in these rules, a notice of motion must be in writing, motivated, signed by the relevant councillor, dated and delivered to the Speaker at least six working days before the date of the meeting at which it is to be moved.
- (2) The Speaker must either put the motion in the agenda or refer such motion to the committee, which is dealing with the matter.
- (3) Sub rule (1) does not apply to the following motions:
  - (a) a motion of exigency; or

- (b) a motion of course.

## 27. Questions

- (1) After any motion or amendment has been moved and seconded or at the conclusion of any speech thereon, a member may ask any question relevant to such motion or amendment.
- (2) No supplementary questions may be asked except by the member asking the original question and then only in respect of matters arising out of the reply to such original question.
- (3) The Speaker may not disallow 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 rule 26.

## 28. Motions of exigency

- (1) A member may direct the attention of the council to any matter which does not appear on the agenda and of which no previous notice has been given, by stating briefly the subject of the matter and without comment thereon moving "that the motion to which attention has been directed be considered forthwith as a matter of exigency."
- (2) Such motion is herein referred to as a motion of exigency.
- (3) If such motion is seconded and carried by a majority of the members present, the mover shall be permitted without notice to bring the matter under consideration by way of motion or question.

## 29. Motions of course

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

- (i) that precedence be given to the consideration of any particular item appearing on the agenda;
- (ii) that any report referred to in the agenda be noted, adopted, acted upon or referred back;
- (iii) that any document before the council be acted upon in the manner specified in the motion;
- (iv) that action be taken in regard to any item submitted for consideration in the manner specified in the motion.

## 30. Order of debate

When a motion is under debate at any meeting of the council, no further motion shall be received except the following -

- (i) that the motion be amended;
- (ii) that the consideration of the matter be postponed;
- (iii) that the public and the media be excluded;
- (iv) that the public and the media be re-admitted;
- (v) that the council do now adjourn;
- (vi) that the council adjourn for a specified time;
- (vii) that the debate be adjourned;
- (viii) that the matter be put to the vote;
- (ix) that the council proceed to the next business.

**31. Amendment motions**

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

**32. Motion for postponement of 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 need not be in writing, provided that the seconder shall not be permitted to speak. The mover shall be permitted to speak to the motion for a period not exceeding five minutes and the seconder shall not speak except for seconding the motion.
- (3) Upon such motion being made, the mover of the matter under debate may (without prejudice to his or her ultimate right of reply if the motion that the matter be postponed be not carried) be heard in reply for five minutes, after which the motion shall be put without further debate.
- (4) If the motion is carried, the matter shall be placed first on the agenda of matters to be considered at the meeting to which it has been postponed.

**33. Motion for adjournment of meeting to another date**

- (1) A member who has not already participated in the debate on the 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 do now adjourn to another date".
- (2) Such motion must be seconded but need not be in writing.
- (3) The mover shall be permitted to speak to the motion for a period not exceeding five minutes but the seconder shall not speak except for seconding the motion.
- (4) If the motion is carried, the council shall forthwith adjourn; provided that the Speaker may direct that the meeting proceed first to dispose of business other than opposed business.
- (5) If the motion is not carried, the Speaker shall not accept another such motion until the period of half an hour has elapsed.
- (6) Save as is provided in sub rule (3), no discussion on such motion shall be permitted, except that a member, who has first indicated as such, may speak in opposition of the motion for not more than five 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 prior to the conclusion thereof, then upon consideration of the matter forming the subject of such debate, the adjourned meeting, the member who moved the adjournment shall be entitled to speak first.

- (9) No business shall be transacted at an adjourned meeting except such as was set out in the agenda for the meeting of which it is an adjournment.

#### **34. Motion for adjournment of meeting for 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 move "that the council now adjourn for a specified time, up to one hour".
- (2) Such motion need not be in writing.
- (3) If the motion is carried, the council shall forthwith adjourn for the specified time.
- (4) The Speaker may limit the number of such motions.

#### **35. Motion of adjournment of debate on matter for specified time**

- (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 minutes, but the seconder may not speak beyond formally seconding it.
- (4) Save as is provided in sub rule (3) no discussion may be permitted on such motion except in relation to the period of adjournment and that the member who first rises in his place for that purpose may speak in opposition thereto for five 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 shall 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.

#### **36. Motion that matter be put to vote**

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

#### **37. Motion that the matter be removed from agenda**

- (1) A member who has not yet participated in the debate on a matter may during such debate, at the conclusion of any speech, move that the matter be removed from the agenda.
- (2) Subject to the provisions of sub rule (3), no motion put in terms of sub rule (1) shall be open to discussion.



- (3) The mover of a matter under discussion may, when a motion has been put in terms of sub rule (1), speak on such motion for not more than five minutes, whereupon the said motion shall be put to the vote without any further discussion.
- (4) If such a motion is carried, the matter under discussion shall not be further pursued.

### **38. Motion to refer matter to committee**

- (1) A councillor may, at the conclusion of any speech on a matter, move "that the matter be referred to a committee".
- (2) The motion must be seconded and need not be in writing.
- (3) Subject to sub rule (4), a motion referred to in sub rule (1) is not open to debate.
- (4) The councillor who moved the original motion under debate may, when a motion referred to in sub rule (1) has been moved, speak on that original motion, whereupon the motion referred to in sub rule (1) must be put to the vote without any further debate.
- (5) If the motion referred to in sub rule (1) is carried, the matter under debate may not be further pursued at the meeting.
- (6) If the motion referred to in sub rule (1) is not carried, the meeting proceeds as though no interruption occurred, and the Speaker may not accept a similar motion.

### **39. Withdrawal of motion, amendment or questions**

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

### **40. Absence of councillor who gave notice of motion or question**

In the event of the mover or questioner not being present in his place at the meeting of the council when called upon by the Speaker to move a motion or ask a question standing in his name on the agenda, such motion or question shall lapse unless the original mover or questioner has notified the Speaker in writing of a substitute to move the motion or ask the question.

### **41. Re-introduction of motions or questions**

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 months of such meeting except with the consent of the Speaker.

### **42. Motions or questions on matters dealt with by committee**

- (1) A member may not give notice of a motion or question in 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 and report.
- (2) The chairman of a committee may, if he or she is of opinion that the matter is one of urgency, give notice of his or her intention to introduce a motion or ask 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.

**43. Recommendation by executive mayor or executive committee**

- (1) A recommendation contained in a report submitted by the Executive Mayor or an Executive Committee to the Council is considered to have been moved by the Executive Mayor or Executive Committee, as the case may be.
- (2) The motion does not need to be seconded.
- (3) The Executive Mayor or any member of the Executive Committee may speak on the matter and reply, but in replying he or she must confine himself or herself to answer the matter and may not introduce any new matter into the debate.

## **Chapter 7**

### **Legislative process**

**44. Introduction of draft by-laws**

In accordance with section 12 of the Municipal Systems Act, a draft by-law may be introduced only by a councillor or a committee.

**45. Introduction of draft by-laws by councillors**

- (1) A councillor introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker.
- (2) The Speaker must obtain the comments of the Municipal Manager on the contents of the draft by-law and may solicit the comments of any other person.
- (3) The Speaker must submit a draft by-law, together with any comments received in terms of sub rule (2), to the Executive Mayor or the Executive Committee, if the municipality has such a mayor or committee, for a report and recommendation in accordance with section 30(5) of the Municipal Structures Act.
- (4) The Executive Mayor or the Executive Committee must within three months of receipt of a draft by-law from the Speaker, consider the draft by-law and decide to either support or not support it.
- (5) If the Executive Mayor or the Executive Committee decides to support the draft by-law, the Municipal Manager must publish the draft by-law for public comment in accordance with rule 47.
- (6) If the Executive Mayor or the Executive Committee decides not to support the draft by-law, the Executive Mayor or the Executive Committee must submit a report to the Council, which sets out the following:
  - (a) an executive summary of the draft by-law;
  - (b) a memorandum on the objects of the draft by-law;
  - (c) the contents of the draft by-law;
  - (d) other by-laws that will have to be repealed or amended if the draft by-law is adopted;
  - (e) any relevant comments or proposals;
  - (f) the reasons why the draft by-law is not supported; and
  - (g) a recommendation.
- (7) After considering the report referred to in sub rule (6), the Council must decide to either reject the draft by-law or to approve the commencement of the legislative process set out in rules 47 and 48 in respect of the draft by-law.

- (8) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.
- (9) When the commencement of the legislative process in respect of a draft by-law has been approved in terms of sub rule (7), the draft by-law must be published for public comment in accordance with rule 47.
- (10) If the municipality does not have an Executive Mayor or an Executive Committee, the councillor who introduced the draft by-law must submit a report setting out the matters referred to in sub rule (6)(a) to (g) to the Council where after the procedures set out in sub rules (7) to (9) apply.

#### **46. Introduction of draft by-laws by executive mayor or executive committee**

- (1) An Executive Mayor or Executive Committee introduces a draft by-law by submitting it, together with a memorandum on its objects, to the Speaker and the Municipal Manager.
- (2) The Municipal Manager must publish the draft by-law for public comment in accordance with rule 47.

#### **47. Publication of draft by-laws**

The Municipal Manager must as soon as possible after-

- (a) the Executive Mayor or the Executive Committee has decided to support the draft by-law under rule 45 (5);
- (b) the Council has given approval in terms of rule 45(7) for the commencement of the legislative process; or
- (c) the Executive Mayor or Executive Committee has introduced a draft by-law in terms of rule 46(1), publish the draft by-law for public comment in accordance with [section 12\(1\)\(b\)](#) of the Municipal Systems Act for at least 30 days, unless the Council has approved a shorter period.

#### **48. Consideration of draft by-laws**

- (1) The Municipal Manager must as soon as possible after the closing date for public comment referred to in rule 47, submit a report to the Council if the municipality has an Executive Mayor or an Executive Committee, to that mayor or committee, together with -
  - (a) a copy of the draft by-law;
  - (b) copies of the advertisements in which the public was invited to make representations;
  - (c) any comments received from the public; and
  - (d) any other comments or recommendations from the Municipal Manager.
- (2) The Executive Mayor or Executive Committee, if the municipality has such a mayor or committee must consider the report by the Municipal Manager and must -
  - (a) submit a report to the Council, which sets out the following:
    - (i) An executive summary of the draft by-law;
    - (ii) a memorandum on the objects of the draft by-law;
    - (iii) the view of the Executive Mayor or Executive Committee on the need for the draft by-law;
    - (iv) the contents of the draft by-law;
    - (v) other by-laws that will have to be repealed or amended if the draft by-law is adopted; and

- (vi) any relevant comments or proposals; and
- (b) recommend to the Council to pass the by-law, to pass the by-law in an amended form or to reject the by-law.
- (3) When a draft by-law has been rejected by the Council, no by-law of the same substance may be introduced within a period of six months from the date of rejection.
- (4) When a by-law has been passed, it must be published in accordance with section 13 of the Municipal Systems Act.

## **Chapter 8**

### **Miscellaneous matters**

#### **49. Official Languages**

Anyone who speaks at a meeting may use any of the three official languages recognised by the [Constitution](#) of the Western Cape, 1997, namely Afrikaans, English and isiXhosa.

#### **50. Municipal employees**

- (1) The employees of the municipality who attend a meeting must observe the rules and decorum applicable to councillors.
- (2) A municipal employee must attend a meeting if requested to do so by the Municipal Manager or the Speaker.

#### **51. Offences and penalties**

- (1) A councillor or a member of the public who -
  - (a) refuses to withdraw from a place of meeting of the councilor a committee when directed to do so by the Speaker or chairperson of a meeting in terms of rule 18(3)(b) or rule 18(3)(c); or
  - (b) returns to a meeting from which he or she has withdrawn or was removed in terms of rule 18(3)(b) or rule 18(3)(c),may be forcibly removed and is guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (2) No councillor or member of the public may -
  - (a) improperly interfere with -
    - (i) or impede a councilor committee when such councilor committee is exercising its authority or performing its functions; or
    - (ii) the performance by a councillor of his or her functions as a councillor;
  - (b) threaten or obstruct a councillor proceeding to or going from a meeting of a councilor committee;
  - (c) assault or threaten a councillor, or deprive a councillor of any benefit, on account of the conduct of the councilor in a councilor committee;
  - (d) while a councilor committee is meeting, create or take part in any disturbance within the precincts;
  - (e) fail or refuse to comply with an instruction by the person presiding at a meeting of a councilor committee regarding the presence of any person at that meeting; or

- (f) fail or refuse to comply with an instruction by a duly authorized official of the council regarding -
  - (i) the presence of persons at a particular meeting of the council or a committee; or
  - (ii) the possession of any article, including a firearm, in the precincts or any part thereof.
- (3) A person may not by fraud, intimidation, force, insult or threat of any kind, or by the offer or promise of any inducement or benefit of any kind, or by any other improper means -
  - (a) influence a councillor in the performance of the functions of councillor;
  - (b) induce a councillor to be absent from a council committee; or
  - (c) attempt to compel a councillor to declare himself or herself in favour of or against anything pending before, proposed, or expected to be submitted to a council committee.
- (4) A person, including a councillor, who contravenes sub rules (2) and (3) is guilty of an offence and on conviction is liable to a fine or to imprisonment for a period not exceeding three years or to both the fine and the imprisonment.

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

The provisions of any by-law previously promulgated by the municipality or by any of the disestablished municipalities now incorporated in the Knysna Municipality, are hereby repealed as far as they relate to matters provided for in this by-law.

## **53. Short title and Commencement**

This By-law is called the Knysna Municipality's Rules of Order for Internal Arrangements By-law and comes into operation on the date of promulgation thereof in the Western Cape *Provincial Gazette*.