

**BA-PHALABORWA LOCAL MUNICIPALITY  
DELEGATION OF POWERS**

**2014/2015**

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**PREAMBLE**

The Municipal Council of the Ba-Phalaborwa Municipality:

Recognizing that section 151 (2) of the Constitution vests all legislative and executive authority of a municipality in the Municipal Council;

Recognizing its mandate to-

- (a) Increase efficiency in the municipality's decision-making processes;
- (b) Promote accountability and responsiveness to the needs of the entire Ba-Phalaborwa community; and
- (c) Maximize service delivery;

Recognizing the instruction in section 53 of the Municipal Systems Act to define the specific role and area of responsibility of each political structure and political office bearer of the municipality and of the Municipal Manager;

Recognizing the instruction in section 59 of the Municipal Systems Act to develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances;

Recognizing that, when duties or functions are delegated, the delegation is vested with the authority to perform;

Therefore, adopts the following system of delegations in terms of section 59 of the Municipal Systems Act:

## Definitions

The terms used in this System of Delegations will be assumed to carry the same meaning as assigned to them in the Constitution, Municipal Structures Act, Municipal Systems Act and Municipal Finance Management Act.

**“Budget Forum”** means the forum established in terms of section 5 of the Intergovernmental Fiscal Relations Act;

**“Executive”** is a general term referring to the municipality's executive committee, its executive councilors, including the Mayor;

**“Executive Councilor”** means a member of the Executive Committee (other than the Mayor);

**“Head of Department”** refers to one of the following positions:

Chief Financial Officer;  
Director: Planning and Development  
Director: Community & Social Services;  
Director: Corporate Services; and  
Director: Technical Services

**“Intergovernmental Relations Framework Act”** is the Intergovernmental Relations Framework Act 13 of 2005

**“Municipal Finance Management Act”** is the Local Government: Municipal Finance Management Act 56 of 2003;

**“Municipal Structures Act”** is the Local Government: Municipal Structures 117 of 1998;

**“Municipal Systems Act”** is the Local Government: Municipal Systems Act 32 of 2000;

**“Section 79 committee”** is a committee established in terms of section 79 of the Local Government Municipal Structures Act;

**“Section 80 committee”** is a committee established in terms of section 80 of the Local Government Municipal Structures Act;

**“Property Rates Act”** is the Local Government: Property Rates Act 6 of 2004

**“Portfolio Committee”** is a committee established by council, reporting to council or the executive committee;

**“Supply Chain Management Regulations”** is the Supply Chain Management Regulations, Notice 865 of 2005 Government Gazette 30 May 2005.

## **PART 1: GENERAL PRINCIPLES OF DELEGATION AND SUB-DELEGATION**

### **1. Objectives of delegation**

The objectives of this system of delegations are:

- (a) To optimize administrative and operational efficiency;
- (b) To maintain accountability through adequate and transparent checks and balances;
- (c) To delegate decision-making to the most effective level within the administration;
- (d) To involve employees in management decisions as far as practicable;
- (e) To promote a sense of collective responsibility for performance;
- (f) To assign clear duties for the management and co-ordination of administrative components, systems and mechanisms;
- (g) To define in precise terms the duties of each political structure and political office-bearer; and
- (h) To determine the relationships amongst the political structures, political office-bearers and the administration, and the appropriate lines of accountability and reporting for each of them

### **2. Legislative framework**

Local Government Municipal Finance Management Act (Act 56 of 2003), hereafter referred to as "MFMA".

Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), hereafter referred to as "MSAA".

Local Government Municipal Structures Act, 1998 (Act 117 of 1998)

The provisions of the above-mentioned pieces of legislation give effect to section 160 of the Constitution, more specifically, 160(1), (2),(5) and (6), which deals with the constitutional framework for the internal functioning of municipalities.

Supply Chain Management Regulations, Notice 865 of 2005 Government Gazette 30 May 2005

### **3. Oversight over delegations**

- 3.1 Delegated authority should always be carried out within the boundaries of the appropriate legislation and council policies; and should be subject to the municipality's normal practices, procedures and other applicable regulations.
- 3.2 The exercise of delegated power is subject to any limitations, conditions and directions the Council may impose.
- 3.3 A delegation does not divest the Municipal Council of the responsibility concerning the exercise of the power or the performance of the duty.
- 3.4 The Council or any other delegating authority, may at any time withdraw, qualify or amend a delegation made by it.

- 3.5 The withdrawal, amendment or lapsing of a delegation or sub-delegation does not invalidate anything done as a consequence of a decision taken in terms of that delegation or sub-delegation.
- 3.6 A political structure, political office bearer, councilor or staff member exercising (sub-) delegated authority may refer a matter before it to the authority that (sub-) delegated the authority.
- 3.7 This is compulsory if the political structure, political office bearer, councilor or staff member is instructed to do so by the relevant delegating authority.

#### **4. Acting positions**

- 4.1 Delegations also apply to acting positions. Persons acting in the office that has delegated authority have the same delegated authority as those serving in a permanent capacity, provided that the competent authority has duly appointed such acting persons.
- 4.2 In executing (sub-) delegated powers, no expenditure may be incurred unless the delegate is satisfied that the Council has budgeted for the expenditure and that the funds are still available on the relevant budget votes. No such delegations may be carried out if there are insufficient funds on a specific vote or if a specific vote or if a specific item does not appear on the municipal budget.
- 4.3 A (sub-) delegation that has financial implications for the municipality should only be executed by the person who has a specific responsibility for incurring expenditure under a specific vote and who has the authority to do so.

#### **5. Delegation register**

- 5.1 All delegations, including sub-delegations, must be reduced to writing and be recorded in the delegation register, which must be maintained and kept updated at all times by the Head of Department: Corporate Services.

#### **6. Decisions taken in terms of delegation**

- 6.1 The Council may, in accordance with procedures in its rules and orders, review any decision taken by such a political structure, political office bearer, councilor or staff member in consequence of a delegation or instruction, and either confirm, vary or revoke the decision subject to any rights that may have accrued to a person.
- 6.2 If at least a quarter of the councilors request the Council in writing to perform such a review, the Council is obliged to perform the review.
- 6.3 The Council may also require the executive committee to review any decision taken by such a political structure, political office bearer, a councilor or staff member in consequence of a delegation.
- 6.4 For all decisions taken in terms of (sub-) delegated authority affecting the rights of other persons must be recorded in or on the document which is

submitted for a decision or the appropriate minutes of the Council or Committee as the case may be.

## **7. Reporting duty**

- 7.1 A political structure, political office bearer, councilor or official that exercises delegated powers is obliged to report to the delegating authority at quarterly intervals. This report must deal with the decisions taken in terms of the (sub-delegated) power since the last report.
- 7.2 Any delegating authority may require a selected sample of decisions taken by a part of the executive below him/her to be audited.

## **8. Sub-delegation**

- 8.1 Any sub-delegation of a power, duty or function authorized in terms of this system of delegations must be in writing, and may be given subject to limitations, conditions and directions by the person who grants the sub-delegation.
- 8.2 It is not permissible in terms of the law for a person who has been given a "sub-delegation" to sub-delegate such power, duty or function.
- 8.3 The conferring of a sub-delegation does not divest a political structure, a political office bearer or an official which/who has sub-delegated, of the responsibility concerning the exercise of the power or the performance of the duty.
- 8.4 The chain of authority from the Council to the Mayor to the Executive Committee to the executive councilors, the Municipal Manager and officials below must not be jeopardized by any sub-delegation.

## **9. Review of system of delegations**

- 9.1 This system of delegations must be reviewed when a new Municipal Council of the Ba-Phalaborwa Municipality is elected.
- 9.2 The Municipal Manager submits to the executive committee a report on the existing delegations and sub-delegations and makes recommendations on any changes to the existing delegations which the Municipal Manager may consider necessary.
- 9.3 The executive committee submits a report and recommendations to the Municipal Council.

## **10. Transitional/Miscellaneous matters**

- 10.1 All powers that were sub-delegated prior to the date on which this System of Delegation was accepted remain in force until such time as they have been withdrawn in writing by the delegating authority.

**PART 11: DELEGATION OF POWERS TO POLITICAL STRUCTURES**

**1. MUNICIPAL COUNCIL:**

**1.1 Terms of Reference**

Determines overall strategic policy for the municipality as a whole which gives macro direction to its executive and which guides the formulation of all other policies.

The Municipal Council exercises political oversight over the municipality's executive.

It is the authority within the municipality that decides on disciplinary measures against councilors for violating the Code of Conduct. It may investigate alleged breaches of the Code of Conduct. Prior to making a decision on any such investigation, the Municipal Council will seek representations from the Speaker so as to minimize overlap with the Speaker's duty in this regard.

(Powers, listed in the blocks, refer to powers reserved by law for the Municipal Council).

**1.2 Adoption of strategic documents**

**The Municipal Council:**

- 1.2.1 passes by-laws;
- 1.2.2 approves the municipality's integrated development plan and any amendments thereto;
- 1.2.3 approves the municipality's budget; and
- 1.2.4 approves the municipality's performance management system and any amendments thereto.

**1.3 Political structures**

**The Municipal Council:**

- 1.3.1 determines the political structures of the municipality;
- 1.3.2 elects members of the executive committee, the Mayor and Speaker;
- 1.3.3 removes the Speaker, Mayor and one or more or all of the members of the executive committee from office;
- 1.3.4 delegates executive powers to council's executive;
- 1.3.5 establishes section 79 committees and section 80 committees;

- 1.3.6 appoints members to section 79 committees and section 80 committees;
- 1.3.7 determines the terms of reference of council's section 79 committees;
- 1.3.8 dissolves a section 79 or section 80 committees;
- 1.3.9 removes a member of a section 79 or section 80 committee from office;
- 1.3.10 approves rules of order for meetings of council;
- 1.3.11 elects another councilor to act as Speaker if the Speaker is absent;
- 1.3.12 dissolves a municipal council subject to the provisions of section 34(1) and (2) of the Municipal Structures Act;

#### **1.4 Code of Conduct**

##### **The Municipal Council:**

- 1.4.1 grants consent to a councilor in terms of Items 6(2), 8 and 10 of the Code of Conduct for Councilors;
- 1.4.2 determines which declarations of financial interests and gifts should be made public in terms of item 7(4) of the Code of Conduct for Councilors;
- 1.4.3 investigates and makes a finding on any alleged breach of a provision of the Code of Conduct for Councilors;
- 1.4.4 establishes a Special Committee to investigate a breach of the Code of Conduct for Councilors, make a finding and make an appropriate recommendation to the Municipal Council;
- 1.4.5 decides on any of the disciplinary measures against a councilor in terms of Item 14(2) of the Code of Conduct for Councilors;

## **1.5 Service delivery**

### **The Municipal Council:**

- 1.5.1 enters into service delivery agreements in terms of section 76 (b) of the Municipal Systems Act.

## **1.6 Appointment of Managers**

### **The Municipal Council:**

- 1.6.1 Decides on the appointment of the Municipal Manager;
- 1.6.2 Decides on the appointment of those Managers that report directly to the Municipal Manager.

## **1.7 Financial**

### **The Municipal Council:**

- 1.7.1 Approves the municipality's budget;
- 1.7.2 Imposes rates, taxes, levies and duties, including housing rentals for council housing schemes;
- 1.7.3 Decides on the raising of loans;
- 1.7.4 Determines a rating system for levying property rates on immovable property;
- 1.7.5 Determines a special rating area in terms of section 22 of the Property Rates Act No 6 of 2004
- 1.7.6 Writes off irrecoverable debt, arising from fruitless and wasteful expenditure, that is certified by it as irrecoverable in terms of section 32 of the Municipal Finance Management Act;
- 1.7.7 Grants exemption to the accrual of interest on arrears in payment for municipal services and taxes in accordance with its policy and within the framework prescribed by the Minister of Finance;
- 1.7.8 Provides security for debt obligations or contractual obligation in accordance with section 48 of the Municipal Finance Management Act.
- 1.7.9 Decides on the disposal of capital assets in accordance with section 14 of the Municipal Finance Management act;



1.7.10 Approves the municipality's credit control and debt collection policy; and

1.7.11 Approves the municipality's supply chain management policy.

## **1.8 Ward Committees**

### **The Municipal Council:**

1.8.1 Determines the procedure to elect the members of a ward committee (other than the ward councilor):

1.8.2 Dissolves, after consulting the Speaker, a ward committee if it fails to fulfill its objective;

1.8.3 Determine a policy for the role and functioning of ward committees in the municipality, which may deal with;

1.5.4 The administrative and other support ward committees receive; and

1.5.5 The deployment of PR Councilors to ward committee.

## **1.9 Other**

### **The Municipal Council:**

1.9.1 Determines councilor allowances and salaries with the framework provided by the Public Office-Bearers Act 20 of 1999.

1.9.2 Designates councilors, as determined by the MEC for Local Government, as full-time councilors; and

1.9.3 Establishes the municipality's audit committee.

1.9.4 Expropriates immovable property and rights in or to immovable property.

1.9.5 Bestows civic honours, including aldermanship and the naming of public streets, places and municipal buildings after persons; and

1.9.6 Determines a policy on the use of council facilities by councilors.

## **2. SPEAKER**

### **2.1 Terms of Reference**

The Speaker ensures compliances with the Code of Conduct and ensures orderly Council meetings in line with the Standing Orders of Council.

The Speaker reports to the Municipal Council. In order to ensure compliance with the Code of Conduct in Committee meetings, the Speaker liaises with all Chairpersons of council committees on matters related to the Code of conduct.

### **2.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the Speaker. These delegations include the power to sub-delegate any of these powers, unless indicated otherwise.

### **2.3 Council meetings**

#### **The Speaker:**

- 2.3.1 Presides at meetings of the Council;
- 2.3.3 Ensures that the Council meets at least once quarterly;
- 2.3.4 Maintains order during meetings of the Council and ensures that the meetings are conducted in compliance with the Council's Rules of Order, thus upholds the basic values that apply to all councilors;
- 2.3.5 Grants leave of absence to councilors for Council Meetings;
- 2.3.6 Signs the minutes of the Council meetings;
- 2.3.7 Performs all other duties assigned to him/her in the Council's Rules of Order,
- 2.3.8 Gives direction to, in terms of Council policy, and oversees the use of Council Chamber;
- 2.3.9 Takes reasonable steps to regulate public access to and public conduct at meetings of the Municipal Council and its committees;

### **2.4 Code of Conduct for Councilors**

#### **The Speaker:**

- 2.4.1 Ensures compliance in the Council and Council Committees with the Code of Conduct as set out in Schedule 1 of the Municipal System Act;
- 2.4.2 Initiates an investigation of the facts and circumstances of an alleged breach of the abovementioned Code of Conduct for Councilors.

## **2.5 Code of Conduct for officials**

### **The Speaker**

- 2.5.1 May receive reports from staff members of the municipality who have a reasonable suspicion that another staff member is violating the Code of Conduct for officials and who do not wish to report the matter to the Municipal Manager.
- 2.5.2 May forward any such reports to the relevant authority within the municipality that deals with enforcing the Code of Conduct for staff members; or
- 2.5.3 May decide, in consultation with Mayor, to refer the matter to the Municipal Council;
- 2.5.4 May receive a report from a staff member of the municipality that an offer has been made to him or her which, if accepted, would constitute a violation of item 8(1) of the Code of Conduct for officials;
- 2.5.5 May decide, in consultation with the Mayor to refer the matter to the South African Police Services.

## **2.6 Councilor Support and use of council facilities**

### **The Speaker**

- 2.6.1 Ensures that there is adequate councilor support so that councilors are able to do their work effectively;
- 2.6.2 approves the use of Council's facilities by members of Council in accordance with policies as determined by the Council.

## **2.7 Other**

### **The Speaker**

- 2.7.1 receives a report from the Auditor-General in case the municipality failed to submit financial statements to the Auditor-General.
- 2.7.2 investigates the reasons for a failure to submit financial statements in terms of section 133 of the Municipal Finance Management Act;
- 2.7.3 Chairs committees such as the Appeals Committee, the Ethics Committee, the Nominations Committee and Rules Committee, if such committees are established.

## **2.8 Ward Committees**

### **The Speaker**

- 2.8.1 makes a recommendation to the Council on procedures for the election of ward committee members and on procedures for the functioning of ward committees;
- 2.8.2 facilitates, oversees and supervises the election of ward committees in accordance with council's policy on the election of ward committee members (other than the ward councilor);
- 2.8.3 administers the Municipal Council's policy on administrative and other support for ward committees;
- 2.8.4 deploys the proportional representative councilors to ward committees;
- 2.8.5 monitors and reports on the performance of ward committees to the council;
- 2.8.6 makes a recommendation to the Municipal Council on the dissolution of a ward committee.

## **2.9 District representation**

### **The Speaker**

- 2.9.1 ensures that the municipality is represented at district council meetings by the appointed district representatives; and
- 2.9.2 ensures that the Council is kept informed about relevant matters discussed at district council meetings through the regular tabling in the Council of reports that are submitted by the appointed district representatives to the Speaker.

## **2.10 Financial**

- 2.10.1 incurs expenditure necessary for the performance of the functions in the office of the Speaker within budget.

### **3. Mayor**

#### **3.1 Terms of Reference**

The Mayor is the political head of the municipality and drives the municipality's strategies and policies. The Mayor represents the Municipal Council and its structures and office-bearers to the municipal community and represents the municipality as a whole to the community outside of the municipality. The Mayor is the councilor responsible for financial matters in terms of the Municipal Finance Management Act and drives the formulation and implementation of the budget. The Mayor reports to the Municipal Council and acts in consultation with the executive committee.

#### **3.2 Delegation provision**

Acting in terms of section 59 of the Municipal System Act, the Municipal council hereby delegates the powers reflected in this section to the Mayor. These delegations include the power to sub-delegate any of these powers, unless indicated otherwise.

#### **3.3 Executive Committee**

##### **The Mayor:**

- 3.3.1 presides at meetings of the Executive Committee;
- 3.3.2 decides when and where the Executive Committee will meet, but if a majority of the members requests the Mayor in writing to convene a meeting of the Committee, the Mayor must convene a meeting at a time set out in the request;
- 3.3.3 ensures that meetings of the Executive Committee are conducted in accordance with its rules and procedures;
- 3.3.4 grants leave of absence to members for meetings of the Executive Committee;
- 3.3.5 signs the minutes of meetings of the Executive Committee;
- 3.3.6 notifies the Speaker of any non-compliance with the Code of Conduct that occurs in an Executive Committee meeting;

#### **3.4 Integrated Development Planning**

##### **The Mayor:**

- 3.4.1 receives input on Council's Integrated Development Plan from the Municipal Manager, tables this in the Executive Committee, conveys the recommendations of the Executive Committee to the relevant portfolio committee, tables the recommendations of the portfolio committee in the Executive Committee, makes the final recommendations to Council for approval of an integrated development plan;

- 3.4.2 coordinates the annual review of the Integrated Development Plan to ensure that it is consistent with the budget;
- 3.4.3 takes the necessary steps to ensure that the municipality revises the Integrated Development Plan taking into account realistic revenue and expenditure projections for future years;

### **3.5 Financial**

#### **3.5.1 General**

##### **The Mayor:**

- 3.5.1.1 provides general political guidance over the fiscal and financial affairs of the municipality;
- 3.5.1.2 monitors and, to the extent provided for in the Municipal Finance Management Act, oversees the exercise of responsibilities assigned to the Municipal Manager and Chief Financial Officer without interfering in the exercise of those responsibilities;
- 3.5.1.3 receives the Auditor-General's reports and deals within it in terms of the relevant legislation;
- 3.5.1.4 identifies any financial problems facing the municipality, including any emerging or impending financial problems;
- 3.5.1.5 if the municipality faces any serious financial problems, responds promptly to and initiates any remedial or corrective steps proposed by the Municipal Manager to deal with such problems by
  - 3.5.1.5.1 taking necessary steps to reduce spending when revenue is anticipated to be less than projected;
  - 3.5.1.5.2 tabling an adjustment budget; or
  - 3.5.1.5.3 taking steps in terms of Chapter 13 of the Municipal Finance Management Act; and
  - 3.5.1.5.4 alerts the Municipal Council and the MEC for Local Government in the Province if the municipality faces serious financial problems;
  - 3.5.1.5.6 makes recommendations to the MEC for Finance about the appropriate provincial interventions in terms of section 139 of the Constitution;
  - 3.5.1.5.7 to incur expenditure necessary for the performance of the functions in the office of the Mayor within budget.

### **3.5.2 Budget**

#### **The Mayor;**

- 3.5.2.1 provides general political guidance over the budget process and the priorities that must guide the preparation of a budget.
- 3.5.2.2 coordinates the processes for preparing the annual budget
- 3.5.2.3 tables, before 1 September, a time schedule to the Municipal Council, outlining key deadlines for; the preparation, tabling and approval of the budget, the annual review and amendment of the IDP and budget-related policies and the various consultation processes;
- 3.5.2.4 ensures that the budget takes into account the national budget, the provincial budget, the national government's fiscal and macro-economic policy, the annual Division of Revenue Act and any agreements reaching the Budget Forum.
- 3.5.2.5 ensures that the following stakeholders are consulted during the budget process:
  - the district municipality
  - other local municipalities in the district
  - the Provincial Treasury
  - the National Treasury
  - those national or provincial organs of state prescribed by the Minister of Finance
- 3.5.2.6 ensures that the budget is consistent with the Integrated Development Plan.
- 3.5.2.7 takes all reasonable steps to ensure that the municipality approves its annual budget before the start of the budget year.
- 3.5.2.8 reports, promptly, to the municipal council and the MEC for finance in the province any delay in the tabling of an annual budget.
- 3.5.2.9 informs the MEC for Finance of any impeding non-compliance by the municipality of any statutory requirement pertaining to the tabling or approval of the budget or the consultation procedures mentioned under 3.5.2.5;
- 3.5.2.10 reports immediately to the MEC for Local Government in the Province if a municipality has not approved a budget by 1<sup>st</sup> July of each financial year.
- 3.5.2.11 provides, on request, any information relating to the budget to the organs of state mentioned and referred to in section 21(2) (e) of the Municipal Finance Management Act;

3.5.2.12 tables any adjustments budgets in terms of section 28 of the Municipal Finance Management Act.

### **3.5.3 Budget implementation**

#### **The Mayor**

3.5.3.1 takes all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;

3.5.3.2 issues any appropriate instructions to the Municipal Manager to ensure that the budget is implemented in accordance with the service delivery and budget implementation plan; and that spending of funds and revenue collection proceed in accordance with the budget;

3.5.3.3 submits, within 30 days of the end of each quarter, a report to the Municipal Council on the implementation of the budget and the financial state of affairs of the municipality;

3.5.3.4 approves a service delivery and budget implementation plan within 28 days after the approval of the budget;

3.5.3.5 reports, promptly, to the municipal council and the MEC for finance in the province any delay in the approval of the service delivery and budget implementation plan

3.5.3.6 makes revisions to service delivery and budget implementation plan If necessary, provide that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the Municipal Council following approval of an adjustments budget.

3.5.3.7 ensures that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan.

3.5.3.8 considers the statements and/or reports submitted by the Municipal Manager in terms of section 61 and 62 of the Municipal Finance Management Act and compares these with the budget and with the service delivery and budget implementation plan;

### **3.6 Financial Management**

#### **The Mayor:**

3.6.1 approves the shifting of funds between multi-year appropriations for capital expenditure in accordance with section 31 of the Municipal Finance Management Act;



- 3.6.2 submits the statements and/or reports submitted in terms of section 72 to the Municipal Council by 31 January each year
- 3.6.3 authorises, in accordance with section 29 of the Municipal Finance Act, any unforeseen and unavoidable expenditure for which no provision was made in the budget.
- 3.6.4 recovers unauthorized, irregular or fruitless or wasteful expenditure from political office-bearers, the Municipal Manager and Managers directly accountable to the Municipal Manager.

### **3.7 Performance Management**

#### **The Mayor**

- 3.7.1 enters, on behalf of the municipality, into a performance agreement with the Municipal Manager and;
- 3.7.2 reports, promptly, to the Municipal Council and the MEC for Finance in the Province any delay in the signing of the annual performance agreements for the Municipal Manager and for the Managers directly accountable to the Municipal Manager.

### **3.8 Ceremonial and civic duties**

#### **The Mayor:**

- 3.8.1 opens projects, civic functions and events and new buildings;
- 3.8.2 hosts and welcomes dignitaries;
- 3.8.3 receives representatives and delegations from international and national agencies, public interest groups and other civil society institutions;
- 3.8.4 ensures sound public relations and external communications, which includes making press statements on behalf of the municipality; and
- 3.8.5 interacts with the public.

### **3.9 Intergovernmental Relations**

#### **The Mayor:**

- 3.9.1 represents the municipality at intergovernmental forums, such as those established in terms of the Intergovernmental Relations Framework Act 13 of 2005.
- 3.9.2 consults with the national and provincial spheres of government, the local and other district municipalities and organized local government with respect to the powers and functions of municipalities, including the division, assignment, delegation and the exercise of such powers and functions on an agency basis.

### **3.10 International Relations**

#### **The Mayor**

3.10.1 makes recommendations to the Executive Committee regarding the approval of international co-operative agreements, such as twin city relationships.

### **3.11 Human Resources**

#### **The Mayor:**

3.11.1 approves leave and sick leave for the Municipal Manager;

3.11.2 approves the participation in meetings, conferences, seminars inside and outside South Africa by the Municipal Manager. This power is exercised, where practical, in consultation with the executive committee.

3.11.3 approves, after consultation with the Municipal Manager, the attendance by staff members of conferences, seminars and workshops outside the borders of South Africa;

3.11.4 enters, on behalf of the municipality, into an employment contract with the Municipal Manager.

3.11.5 authorizes, in consultation with the executive committee, investigations into irregularities (excluding where Councilors are involved) where the Municipal Manager and/or Managers directly accountable to him/her may be implicated;

### **3.12 Legal**

#### **The Mayor:**

13.12.1 decides to institute legal proceedings against other organs of state in order to enforce the municipality's rights, where all reasonable steps in terms of the principles of cooperative government and the Intergovernmental Relations Framework Act have failed;

13.12.2 provides legal representation, in terms of section 109A of the Municipal Systems Act, for a Councilor, the Municipal Manager or Manager directly accountable to the Municipal Manager after consulting the whips of the various parties in the Council where –

- legal proceedings have been instituted against the Councilor or Official as a result of any act or omission by the Councilor or Official in the exercise of his or her powers or the performance of his or duties; or
- the Councilor or Official has been summoned to attend any inquest or inquiry arising from the exercise of his or her powers or the performance of his or her duties.

### **3.13 Emergency / interim powers**

#### **The Mayor:**

- 3.13.1 appoints an Acting Mayor in the absence of the Mayor;
- 3.13.2 In consultation with EXCO recommends for the appointment an Acting Municipal Manager and a manager reporting to the municipal manager to council for a period not exceeding three months.
- 3.13.3 appoints an Acting Executive Councilor to perform the functions of any Executive Councilor who is absent on official business, on leave, or for any other reason, with the concurrence of the Executive Councilor concerned, if possible.

### **3.14 Fundraising**

#### **The Mayor:**

- 3.14.1 engages in raising funds for the municipality that are additional to the ordinary revenue of and intergovernmental allocations to the municipality.

### **3.15 Other**

#### **The Mayor:**

- 3.15.1 appoints Councilors to attend international, national and local meetings/conferences/seminars/study tours, together with associated costs, in consultation with the Councilor within whose function the conference/study tour falls;
- 3.15.2 makes grants which are within Council's powers and functions, to deserving causes, subject to Council policy;
- 3.15.3 performs the functions and exercises the powers of the Speaker in terms of the Code of conduct for Councilors where the Speaker is allegedly in breach of said Code; and
- 3.15.4 initiates special programmes on youth development, women, HIV/AIDS and traditional leaders.

## **4. EXECUTIVE COMMITTEE**

### **4.1 Terms of Reference**

The Executive Committee identifies the needs of the municipality, reviews and evaluates those needs in order of priority and recommends to the municipal council strategies, programmes and services to address those priority needs. It recommends or determines the best methods to deliver those strategies, programmes and services to the maximum benefit of the community.

The Executive Committee develops criteria in terms of which progress in the implementation of the municipality's strategies, programmes and services can be evaluated, including key performance indicators. The Executive Committee reviews the performance of the municipality in order to improve:

- the economy, efficiency and effectiveness of the municipality,
- the efficiency of credit control and revenue and debt collection services, and
- the implementation of the municipality's by-laws.

It monitors the management of the municipality's administration in accordance with the policy directions of the municipal council. The Executive Committee oversees the provision of services to communities in the municipality in a sustainable manner. It also ensures that regard is given by the Council, its office-bearers, political structures and administration to public views.

The Executive Committee drives important policy and strategic initiatives such as the development of the Integrated Development Plan and the development of the municipality's Performance Management System. It gives political direction to the municipal administration.

The Executive Committee coordinates the operations of the executive councilors.

The executive Committee reports to the Council on all the decisions taken by the committee.

### **4.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the Executive Committee. These delegations include the power to sub-delegate any of these powers, unless indicated otherwise.

### **4.3 General**

#### **The Executive Committee:**

- 4.3.1 deals with any matter referred to it by the Council and submits a recommendation thereon for consideration by the Council;

- 4.3.2 receives and considers reports from section 80 committees in accordance with the directives as stipulated by the Executive Committee;
- 4.3.3 makes recommendations to Council regarding the passing of by-laws.
- 4.3.4 recommends to Council policies where Council has reserved the power to make the policies itself;
- 4.3.5 sets policy in respect of matters falling within the delegated powers of the Executive Committee;
- 4.3.6 approves Rules of Order for its meetings;
- 4.3.7 elects a Chairperson to preside at meetings if the Mayor is absent from a meeting in the event of there being a quorum present at such a meeting; and
- 4.3.8 appoints or nominates Councillors to represent Council on outside bodies (excluding the District Council).

#### **4.4 Integrated Development Planning**

##### **The Executive Committee**

- 4.4.1 manages the drafting of the IDP;
- 4.4.2 assigns responsibilities in this regard to the Municipal Manager; and
- 4.4.3 submits the draft plan for adoption to the council;
- 4.4.4 approves a process that will guide the municipality in the planning, drafting, adoption and reviewing of the integrated development plan, as required in terms of section 28 of the Municipal Systems Act.
- 4.4.5 considers recommendations on the alignment of the IDP and the budget received from the relevant executive councillor;
- 4.4.6 makes recommendations to the relevant portfolio committee in respect of the IDP and the budget;
- 4.4.7 makes recommendations to the Council regarding the approval of an integrated development plan and any amendment thereto.

#### **4.5 Performance Management**

##### **The Executive Committee:**

- 4.5.1 manages the development of the municipality's performance management system;
- 4.5.2 assigns responsibility in this regard to the Municipal Manager; and
- 4.5.3 submits the proposed system to the Municipal Council for adoption;

4.5.4 submits to Council an annual report for approval, as required in terms of section 46 of the Municipal Systems Act as well as section 121 of the Municipal Finance Management Act which includes.

4.5.4.1 a report on the involvement of communities and community organization in the affairs of the municipality;

4.5.4.2 a report on the effect of consultation on the decisions of the Council.

#### **4.6 Human Resources**

##### **The Executive Committee:**

4.6.1 determines conditions of service of the Municipal Manager and Managers reporting directly to the Municipal Manager;

4.6.2 mandates the Municipal Manager in respect of salary and wage disputes that are not dealt with in terms of the Local Government Bargaining Council;

4.6.3 recommends to council the appointment of an Acting Municipal Manager for a periods of not more than three months.

4.6.4 gives direction, in terms of Council policy, in respect of the staff establishment, post description, remuneration, conditions of service, and the evaluation of the staff establishment of the municipality.

#### **4.7 Legal**

##### **The Executive Committee**

4.7.1 institutes and defends any court action in the High Court or Court of equal or higher stature, with the exception of claim relating to recovery of debt owed to the Municipality;

4.7.2 institutes and defends any arbitration proceedings in matters where it otherwise would have been dealt with in the High Court or court of equal or higher stature.

#### **4.8 Service Delivery**

##### **The Executive Committee**

4.8.1 authorizes an assessment in terms of section 78(1) of the Municipal Systems Act;

#### **4.9 Financial**

##### **The Executive Committee**

4.9.1 makes recommendations to Council regarding the adoption of the Estimates of Revenue and Expenditure, as well as Capital Budgets and the imposition of rates and other taxes, levies and duties;

- 4.9.2 makes recommendations to Council regarding the adoption of adjustments budgets;
- 4.10.3 determines strategic approaches, guidelines and growth parameters for the draft Budget;
- 4.10.4 makes recommendations to Council regarding the raising of loans;
- 4.10.5 determines the date of a general valuation;
- 4.10.6 approves the virement of funds of any capital or operational amount above R100 000 on the budget; but subjected to the Virement restriction of not exceeding the maximum of 0,1% of the total approved operating expenditure budget. In case of capital budget allocations Virement are only permitted within specified action plans and not across funding sources and in addition must have comparable asset lifespan classifications.
- 4.10.7 decides on the choice of a commercial bank and the opening of bank accounts;
- 4.10.8 makes medium-term and long-term investments on behalf of the municipality within a policy framework determined by the Minister of Finance, and the investments of surplus funds in terms of Council policy;
- 4.10.9 after appropriate enquiry, blacklists companies or persons with whom Council has contracted and authorizes the withdrawal of such blacklisting;
- 4.10.10 writes off irrecoverable debt that exceeds R50 000 in total value;
- 4.10.11 approves contributions to emergency relief funds;

#### **4.11 Political structures and other structures, office-bearers and offices**

##### **The Executive Committee**

- 4.11.1 makes recommendations to Council on proposed political structures of Council;
- 4.11.2 appoints a Chairperson from the members of the Executive Committee for any section 80 committees established by the Council to assist the Executive Committee.
- 4.11.3 determines the functional area of each portfolio of the executive councilors; and
- 4.11.4 assigns strategic objectives to executive councilors for implementation and oversight.

#### **4.12 Appeals**

##### **The Executive Committee:**

- 4.12.1 considers appeals from a person whose rights are affected by a decision of the Municipal manager (and there is no specific appeal procedure provided by law) provided that the decision reached by this Committee may not detract from any rights that may have accrued as a result of the original decision;
- 4.12.2 where appropriate the view of the Portfolio Committee responsible for the function concerned must be furnished to the Executive Committee.

#### **4.13 Administration**

##### **The Executive Committee:**

- 4.13.1 makes a recommendation to the Council on the adoption of an organogram for the municipality's administration.

#### **4.14 Other**

##### **The Executive Committee:**

- 4.14.1 formulates the municipality's comments on proposed national or provincial legislation and/or policies; and
- 4.14.2 approves scholarship and bursaries administered or awarded by the Council as per the annual WSP (Work Place Skills Plan);

#### **4.15 International Relations**

- 4.15.1 approves international co-operative agreements, such as twin city relationships.



## **5. SECTION 80 COMMITTEES**

### **5.1 Terms of Reference for section 80 committees**

Section 80 committees are established and appointed in terms of section 80 of the Municipal Structures Act. These committees assist the Executive Committee.

The Committees established by the Ba-Phalaborwa Municipality in terms of section 80 of the Municipal Structures Act are the following:

Finance/Treasury;  
Community Services;  
Technical Services;  
Planning and Economic Development;  
Governance, Administration and Shared Services; and  
Agriculture

### **5.2 Generic functions and responsibilities, applicable to all section 80 committees**

#### **Section 80 committees:**

- 5.3.1 develop policy within the functional area of their respective committee and recommend them to the Executive Committee;
- 5.3.2 initiate the development of draft by-laws within the functional area of their respective committee and recommend same to the Executive committee;
- 5.3.3 develop draft business plans within the functional area of their respective committee and recommend them to the Executive Committee;
- 5.3.4 oversee, within the functional area of their respective committee, the review of financial performance against approved budgets relating to prior and current years including dealing with reports from the Auditor-General;
- 5.3.5 comments on, and make recommendations to the Executive Committee with regard to the draft IDP;
- 5.3.6 makes recommendation to the Executive Committee with regard to the formulation of Draft Budget in respect of their functional area;
- 5.3.7 make recommendations with regard to the setting or revision of tariffs, levies, taxes and duties to the Executive Committee within the functional area of their respective committee;
- 5.3.8 ensure public participation in the development of policy, by-laws, IDPs and the budget within the functional area of their respective committee after the draft policy, by-law, IDP or budget has been sanctioned by the Executive Committee;
- 5.3.9 monitor the implementation of the municipality's IDP, budget, business plans, strategic objectives, policies and programmes within the

functional area of their respective committee and report herein to the Executive Committee;

- 5.3.10 assesses the performance of service delivery generally within the functional area of their respective committees and report herein to the Executive Committee;
- 5.3.11 evaluate and recommend to the Executive Committee on prioritizing projects falling within the functional areas of the portfolio for the allocation of discretionary funds;
- 5.3.12 receive and consider reports on international, national and provincial policy relevant to the operations of the functional areas of the portfolio and make recommendations to the executive committee;
- 5.3.13 determine the best way to deliver on the municipality's strategic, programmes and services to the maximum benefit of the municipality within the functional area of their respective committee and to recommend same to the Executive Committee;
- 5.3.14 identifies the needs of the municipality as far as it relates to the functional area of the committee and to recommend same to the Executive Committee;
- 5.3.15 review and evaluate those needs in order of priority and recommend same to the Executive Committee; and
- 5.3.16 consider reports from the Auditor-General and make recommendations herein to the Executive Committee.

### **5.3 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby allocates the above powers to section 80 committees.

### **5.4 Summoning councilors and/or officials**

Section 80 committees;

- 5.4.1 summons any councilor and/or official to appear before the Committee to assist the committee in the performance of its functions.

### **5.5 Portfolio and specific powers of section 80 committees**

#### **5.4.1 Budget and Treasury: Portfolio Committee**

Budgets which includes  
Operating and Capital budgets  
Budgetary Control and accounting

Revenue which includes  
Debt Management

Treasury and accounting which includes insurance  
Valuations which includes  
General and Interim Valuations

Supply chain management which includes:  
Procurement and Stock Management  
Stock levels  
Expenditure

Financial Administration

**5.4.2 Specific powers of section 80 committee on Budget and Treasury:**

5.4.2.1 considers the Draft Annual Operational Budget and Capital Budgets of the Council and makes recommendations to the Executive Committee for the alignment of the budget and the IDP;

5.4.2.2 recommends to the Executive Committee strategic approaches, guidelines and growth parameters for the Draft Budget including tariff structures

5.4.2.3 investigates funding options for the prioritized objectives and projects identified in the Integrated Development Plan and recommends herein to the Executive Committee;

5.4.2.4 oversees the review of the municipality's financial performance against approved budgets relating to prior and current years and makes recommendations herein to the Executive Committee;

5.4.2.5 makes recommendations to the Executive Committee on a Supply Chain Management Policy as required by section 112 of the Municipal Finance Management Act;

5.4.2.6 considers and submits to Council, if required, recommendation/s by a Committee for the incurring of Capital Expenditure not included in the estimates for the current year and not being able to be met by way of virement;

5.4.2.7 after appropriate enquiry, makes recommendations to the Executive Committee regarding the blacklisting of companies or persons with whom Council has contracted and the withdrawal of such blacklisting;

5.4.2.8 conducts an investigation into irrecoverable debt as referred to in section 32(2)(b) Municipal Finance Management Act and makes a recommendation to the Executive Committee.

**5.4.3 Section 80 committee on Community and Social Services**

Traffic control, law enforcement and security services, including traffic law enforcement, passenger security, traffic licensing, security services and law enforcement and crime prevention;

Community facilities, beaches, nodal points and resorts, museums, monuments, parks and cemeteries;

Management of waste disposal site;

Child care facilities, including nursery schools

Libraries

5.4.4 **Portfolio of section 80 committee on Technical Services**

Project Management

Infrastructure Services

Water and Sanitation

Roads

Electricity

Public Works

Public bath houses and public toilets

Building Regulations

5.4.5 **Portfolio of section 80 committee on Planning and Economic Development**

Local economic development, including SMME, empowerment support and job creation, the support and regulation of informal trading, sector support, investment and export, trade promotion and facilitation, the facilitation of partnerships between the municipality and business and community groups, economic co-ordination and facilitation, business area management, and community skills development;

municipal property management, including disposals and acquisitions, property information and property services;

tourism;

land use management;

social development, including arts and culture;

spatial planning for development, which includes: economic growth, employment creation, sustainable service delivery, poverty alleviation, and the eradication of historic inequities including spatial distortions; Valuations and additions.

Integrated Development Planning (IDP)

Performance Management System (PMS)

Intergovernmental Relations

5.4.6 **Portfolio of section 80 committee on Governance, Administration and Shared Services**

Information Technology functions, including WAN, PC Coordination, Architecture and Software;

Human Resources function, including Human resource Administration, Industrial Relations, Recruitment and Selection, Training and Development, Occupational health and Safety, Employment Equity, Grading and Remuneration;

Administrative Support, including General Administration, Auxiliary Services, Committee Secretariat, Councilor Support, Printing Services and Graphic Services;

Records management and archiving;

Management Services

5.4.7 **Specific powers of section 80 committee on Governance, Administration & Shared Services**

Mandates the local labour forum in respect of labour disputes (other than that related to salary and wage disputes).

**6. EXECUTIVE COUNCILORS**

**6.1 Terms of Reference for all Executive Councilors**

Executive Councilors chair the section 80 committee linked to their portfolio. The Executive Councilors report to the Executive Committee on the working and outcomes of the section 80 committee.

**6.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected above to the relevant Executive Councilors.

**6.3 Generic functions and powers of all executive councilors:**

**The Executive Councilor:**

- 6.3.1 is the Chairperson of the section 80 committee within the relevant portfolio;
- 6.3.2 calls meetings of the section 80 committee of which he or she is the Chairperson;
- 6.3.3 grants leave of absence to members for meetings of the section 80 committee.

## **7. SECTION 79 COMMITTEES**

### **7.1 Terms of Reference for all section 79 committees**

Section 79 committees are established and appointed in terms of section 79 of the Municipal Structures Act.

The section 79 committees established by the Ba-Phalaborwa Municipality are the following:

Rules Committee  
Municipal Public Accounts Committee  
Audit Committee

A section 79 committee reports, via its Chairperson, to the Council.

### **7.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the relevant section 79 committee.

### **7.3 Rules Committee / Ethics Committee**

#### **7.3.1 Terms of reference**

The Rules Committee / Ethics Committee is the committee, chaired by the Speaker of Council, which safeguards the integrity of the procedural functioning of Council, the integrity of individual councilors and the integrity of the municipality as a whole.

It deals with ethical matters, affecting individual councilors in the strictest of confidence.

It is chaired by the Speaker and reports to the Council.

#### **7.3.2 Powers**

7.3.2.1 recommends rules of order for the Municipal Council and any amendments thereto

7.3.2.2 makes recommendations on the rules of order for section 80 committees to the relevant section 80 committee;

7.3.2.3 determines its own rules of order;

7.3.2.4 if requested to do so by the Speaker or by the Council, investigates breaches of the Code of Conduct for Councilors, and makes recommendations in this regard to the Speaker or the Council, as the case may be;

7.3.2.5 recommends a policy for the use of Council's facilities by members of Council for determination by the Council;

- 7.3.2.6 summonses members of Council and officials to appear before the committee to give evidence or to enable the committee to perform its functions;
- 7.3.2.7 oversees that all councilors' financial interests, shares in companies, memberships of boards of trustees from which she/he receives income other than from the council, gifts and donations amounting to more than R350 are duly declared to the Municipal Manager by means of declaration of interests forms;
- 7.3.2.8 if necessary, makes recommendations to the Council on the implementation of the declaration of interests by councilors;
- 7.3.2.9 makes recommendations to the Council as to which of these declarations should be made public in terms of item 7(4) of the code of conduct for Councilors.
- 7.3.2.10 deals with any ethical matter affecting councilors in the strictest confidence;
- 7.3.2.11 determines and, if necessary, amends the Declaration of Financial Interests Form of Councilors.

## **8. CHIEF WHIP**

### **8.1 Terms of Reference**

The Chief Whip is responsible for the political management of council meetings and committee meetings. He or she promotes and maintains harmonious party to party relations and ensures that political decision-making takes place timeously and diligently.

The Chief Whip ensures that contentious issues are resolved in a manner that is consistent with our democratic values as a nation. To that end, the Chief Whip can, if need be, engage in behind the scenes negotiations with different political parties represented in the council to ensure that contentious issues are resolved.

Even though the Chief Whip is not a statutory functionary of the municipality, his or her role is recognized as essential for the efficient operations of the Council and its committees.

The Chief Whip reports to the Speaker regarding his or her institutional roles and functions.

### **8.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the Chief Whip.

### **8.3 Attendance of council and committee meetings**

The Chief Whip:

- 8.3.1 informs councilors of Council and Executive Committee of meetings called by the Speaker or the Mayor respectively; and
- 8.3.2 ensures that the meeting of the council and committees of the Council form a quorum.

### **8.4 Council agenda**

The Chief Whip:

- 8.4.1 advises the Speaker and Mayor on the agenda of Council meeting; and
- 8.4.2 informs councilors of council and Executive Committee of important items on the relevant agendas.

### **8.5 Council meetings**

- 8.5.1 advises the Speaker on the amount of time to be allocated to speakers and the order of such speakers in addressing the council;



- 8.5.2 ensures that councilor's motions are prepared and timeously tabled in the Council in terms of the Rules of Order.
- 8.5.3 advises the Mayor and the Speaker of urgent motions in writing prior to the commencement of the meeting;
- 8.5.4 advises the Speaker and the Mayor on how to deal with important items not disposed of at a Council meeting pending its resolution;
- 8.5.6 prepares for special debates on the state of municipality address or a budget address.

## **8.6 Party caucus meetings**

### **The Chief Whip:**

- 8.6.1 informs councilors of caucus meetings and ensures that caucus meetings are attended by the relevant councilors.
- 8.6.2 ensures that the political parties give careful attention to the agendas of the Portfolio Committees and Council.

## **8.7 Other**

### **The Chief Whip:**

- 8.7.1 attends forums, debates and meetings with Chief Whips of other municipalities, provincial or national legislatures;
- 8.7.2 consults the Speaker and the Mayor before attending, if reasonable necessary considering the duration and cost involved; and
- 8.7.3 provides feedback to the Speaker after such meetings.

## **9. WARD COMMITTEES**

### **9.1 Terms of reference**

Ward Committees are established in order for them to enhance participatory democracy in local government. It is the official body with which the ward councilors liaises regarding any matter affecting the ward and more specifically on items on the agenda of the municipality which affect that ward in particular.

Ward Committees are not political structures that are accountable to the Council in the same way that committees of council are. They are committees of community representatives, chaired by the ward councilor. The efficiency of their functioning, i.e the frequency of meetings, usage of council facilities and council funds etc, is overseen by the Speaker.

If a ward committee does not fulfil the object of enhancing participatory democracy, it can be dissolved by the Council, after considering a recommendation by the Speaker.

### **9.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the relevant ward committees.

### **9.3 Powers**

A ward committee:

- 9.3.1 makes recommendation to the ward councilors on any matter affecting its ward;
- 9.3.2 makes recommendations to the Council, through the ward councilor on any matter affecting its ward;
- 9.3.3 participates in the preparation, implementation and review of the integrated development plan;
- 9.3.4 participate in the establishment, implementation and review of a performance management systems;
- 9.3.5 participates in the preparation of the budget;
- 9.3.6 participates in strategic decision of the municipality, relating to the provision of municipal services in terms of chapter 8 of the Municipal Systems Act.

## **10. AUDIT COMMITTEE**

### **10.1 Terms of reference**

The audit committee is required by section 166 of the Municipal Finance Management Act. It is an independent advisory body that consists of at least three persons of whom may not be in the employ of the municipality.

The Council appoints the members of the audit committee as well as its Chairperson. No councilor may be a member of the audit committee.

The audit committee meets at least four times a year:

As it is an independent committee, it does not report to any political structure or office-bearer. Also, as it is a committee independent from the municipality and as the nature of its work militates against it, the audit committee may not sub-delegate any of its function and powers.

### **10.2 Functions and powers of audit committee**

10.2.1 Advises the Council, political office-bearers, the Municipal Manager and management staff of the municipality on the matters referred to in section 166(2)(a) of the Municipal Finance Management Act;

10.2.2 reviews the annual financial statements and provides an authoritative and credible view of the financial position of the municipality, its efficiency and effectiveness and its overall level of compliance with the Municipal Finance Management Act;

10.2.3 responds to the Council on any issues raised by the Auditor-General in the audit report;

10.2.4 carries out investigations into the financial affairs of the municipality as the Municipal Council may request;

10.2.5 has access to financial records and other relevant information of the municipality;

10.2.6 liaises with the internal audit unit and with the person designated by the Auditor-General to audit the financial statements of the municipality;

## **11. TRADITIONAL AUTHORITIES**

### **11.1 Terms of reference**

Traditional authorities that traditionally observe a system of customary law in the area of Ba-Phalaborwa Municipality may participate through their leaders, identified by the MEC for Local Government, in the proceedings of the Council.

Traditional authorities are invited by the Speaker to attend council meetings and may take part in the proceedings of the council and express their views. Traditional authorities are bound by the Council's rules and Order insofar as it applies to their participation in the Council. They cannot cast a vote on any issue before the Council.

### **11.2 Functions**

A traditional leader, identified by the MEC for Local Government:

11.2.1 may participate in meetings of the Council;

11.2.2 before the council takes a decision on any matter directly affecting the area of his or her traditional authority, must be given the opportunity by the Speaker to express a view on the matter; and

11.2.3 receives agendas and minutes pertaining to council meetings.

## 12. MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)

### 12.1 Terms of Reference

MPAC is established in terms of section 79 of the Municipal Structures Act and performs an oversight function on behalf of council and is not a duplication of other committees of council such as the Budget & Treasury or that of the Audit Committee

The MPAC, similar to other committees of council should comprise solely of councilors appointed by resolution of a full council meeting.

The MPAC shall comprise of councilors excluding any councilor who is serving as Mayor, Speaker, Chief Whip or and a member of the Executive Committee.

The actual size of the MPAC will be determined by the number of Councilors in the Municipality.

Care should be taken that Councilors represent a wide range of experience and expertise available in council and represent various political affiliations.

A minimum of 4 meetings must be held in a financial year.

### 12.2 Functions of MPAC

The primary functions of the Municipal Public accounts Committees are as follows:

- (i) To consider and evaluate the content of the annual report and to make recommendations to Council when adopting an oversight report on the annual report.
- (ii) In order to assist with the **conclusion** of matters that may not be finalized, Information relating to **past** recommendations made on the Annual Report, must also be **reviewed**. This relates to current in-year reports, including the quarterly, mid-year and annual reports
- (iii) To examine the financial **statements and audit reports** of the municipality and In doing so the committee must consider improvements from previous statements and reports and evaluate the extent to which the Audit Committee and the Auditor General's recommendations have been implemented.
- (iv) To promote good governance, transparency and accountability on the use of municipal resources;
- (v) To recommend or undertake any investigation in its area of responsibility, after reviewing any investigation report already undertaken by the Municipality or the Audit Committee;
- (vi) To perform any other functions assigned to it through a resolution of Council within its area of responsibility;

## **PART I11:**

### **DELEGATIONS TO ADMINISTRATIVE STRUCTURES OF THE BA-PHALABORWA MUNICIPALITY**

#### **1. MUNICIPAL MANAGER**

##### **1.1 Terms of reference**

The Municipal Manager is the Head of the Administration of Ba-Phalaborwa Municipality and also the Accounting Officer for the Ba-Phalaborwa Municipality.

In his or her capacity as Accounting Officer of the municipality, the Municipal Manager provides guidance and advice on compliance with Municipal Finance Management Legislation to all of the municipality's political structures, political office-bearers and officials.

The Municipal Manager reports to the Mayor.

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the Municipal Manager.

##### **1.2 General**

###### **The Municipal Manager**

- 1.2.1 advises the structures and functionaries of the Municipality;
- 1.2.2 carries out the decisions of the structures and functionaries of the Municipality;
- 1.2.3 administers and implements the Municipality's by-laws, resolutions and policies;
- 1.2.4 ensures that the municipality complies with applicable Municipal Finance Management legislation.
- 1.2.5 implements national and provincial legislation applicable to the Municipality;
- 1.2.6 appoints or nominates officials to represent the Municipality on outside bodies;

##### **1.3 Delegation**

###### **The Municipal Manager**

- 1.3.1 develops and regularly reviews an appropriate system of delegation for the municipality's administration;

## **1.4 Political structures**

### **The Municipal Manager:**

- 1.4.1 calls the first meeting of a newly elected Council in terms of section 29(2) of the Municipal Structures Act read with section 36(2) of the same Act;
- 1.4.2 presides over the election of the Speaker,

## **1.5 Administration**

### **The Municipal Manager**

- 1.5.1 forms and develops an economical, effective, efficient, accountable and performance driven administration that:
  - is equipped to carry out the task of implementing the municipality's integrated development plan (IDP)
  - operates in accordance with the municipality's performance management system
  - is responsive to the needs of the local community to participate in the affairs of the municipality
- 1.5.2 manages the municipality's administration in accordance with legislation applicable to the Municipality;
- 1.5.3 submits to the Council a report on the existing system of delegations issued by the Council and other delegating authorities of the municipality;
- 1.5.4 recommends any changes to the existing delegations which he considers necessary;

## **1.6 Human Resources**

### **The Municipal Manager:**

- 1.6.1 determines, subject to Council policy, the organogram, staff establishment, post descriptions, conditions of service, and the evaluation of the staff of the establishment of the Council, excluding the Municipal Manager and officials reporting directly to him/her;  
  
appoints staff to the municipality, excluding those managers reporting directly to him/her,
- 1.6.2 maintains discipline of staff;
- 1.6.3 exercises control over, manages, effectively utilizes, and ensures the training of staff;

- 1.6.4 promotes sound labour relations and compliance by the Municipality with applicable labour legislation;
- 1.6.5 approves job evaluations;
- 1.6.6 considers ex gratia categories of leave;
- 1.6.7 considers requests for additional time off beyond that provided in the Organizational Rights Policy;
- 1.6.8 considers in terms of Council policy any grants or donations to staff including ex gratia pension benefits;
- 1.6.9 suspends staff members excluding those staff members directly responsible to him/her in accordance with the municipality's disciplinary procedures;
- 1.6.10 suspends staff members directly responsible to him/her in accordance with a decision taken by the Council;
- 1.6.11 conducts disciplinary and grievances proceedings;
- 1.6.12 settles disputes under labour legislation;
- 1.6.13 approves the attendance of conferences, congresses, symposiums or training sessions by managers reporting directly to him or her;
- 1.6.14 approves the attendance of international conferences, congresses, symposium or training sessions by officials;
- 1.6.15 appoints an Acting Municipal Manager in consultation with the Mayor for a period not exceeding twenty (20) days.
- 1.6.17 ensures that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15 of the Municipal Finance Management Act;
- 1.6.18 ensures that staff members and relevant trade unions have easy access to a copy of the municipality's staff systems and procedures;
- 1.6.19 provides a copy of or extract from the municipality's staff systems and procedures to a staff member upon request;
- 1.6.20 ensures that the municipality's staff systems and procedures are explained to staff members who cannot read;
- 1.6.21 provides a copy of the Code of Conduct for staff members to every staff member;
- 1.6.22 ensures that the purpose, contents and consequences of the Code of Conduct for staff members are explained to staff members who cannot read;
- 1.6.23 communicates sections of the Code of Conduct for staff members that affect the public to the local community;



## **1.7 Integrated Development Planning**

### **The Municipal Manager:**

- 1.7.1 ensures the implementation of the Municipality's integrated development plan, and the monitoring of progress with implementation of the plan;

## **1.8 Service Delivery**

### **The Municipal Manager:**

- 1.8.1 manages the provision of services to communities, residents and ratepayers in a sustainable manner,

## **1.9 Bank accounts**

### **The Municipal Manager:**

- 1.9.1 administers all the municipality's bank accounts;
- 1.9.2 accounts to the Council for the municipality's bank accounts;
- 1.9.3 enforces compliance with the section 7, 8 and 11 of the Municipal Finance Management Act pertaining to the management of bank accounts;
- 1.9.5 notifies, in terms of section 70(2) of the Municipal Finance Management Act, the National Treasury if the municipality's bank account (or the consolidated balance of the bank accounts) shows a net overdrawn position for a period longer than the period prescribed by the Minister of Finance;
- 1.9.6 withdraws money from any of the municipality's bank accounts only in accordance with section 11 of the Municipal Finance Management Act;
- 1.9.7 authorizes other senior officials to withdraw money from any of the municipality's bank accounts only in accordance with section 11 of the Municipal Finance Management Act;
- 1.9.8 within 30 days after the end of each quarter, tables in the Council a consolidated report of all withdrawals made and submits a copy to the Provincial Treasury and the Auditor-General;
- 1.9.9 authorizes officials to sign cheques on behalf of the Council;

## **1.10 Budgets**

### **The Municipal Manager:**

- 1.10.1 assists the Mayor in performing his or her budgetary functions;

- 1.10.2 provides the Mayor with the administrative support, resources and information necessary for the performance of those functions;
- 1.10.3 makes public the annual budget immediately after it has been tabled before the Council and invites the local community to submit representations in connection with the budget;
- 1.10.4 immediately after it has been tabled before the Council, submits the annual budget to the National Treasury and the relevant provincial treasury and to National and Provincial organs of state and to other municipalities affected by the budget;
- 1.10.5 submits the approved annual budget to the National Treasury and the relevant Provincial Treasury;
- 1.10.6 prepares, when necessary, an adjustments budget and submits it to the Mayor for consideration and tabling in the Council;
- 1.10.7 informs the Provincial Treasury of any failure by the Council to adopt or implement a budget-related policy;
- 1.10.8 informs the Provincial Treasury of any non-compliance by a political structure or office-bearer of the municipality with any budget-related policy; and
- 1.10.9 issues certifications, in terms of section 31 (c) (ii), related to the shifting of funds for capital programmes between multi-year appropriations.

## **1.11 Budget implementation**

### **The Municipal Manager:**

- 1.11.1 is responsible for implementing the municipality's approved budget
- 1.11.2 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the spending of funds is in accordance with the budget
- 1.11.3 reports to the Council in writing any overspending of the municipality's budget;
- 1.11.4 reports to the Council any steps taken to prevent or rectify overspending and takes all reasonable steps, within his or her delegated or statutory powers, to ensure that spending of funds is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan;
- 1.11.5 ensures that revenue and expenditure are properly monitored
- 1.11.6 submits by no later than 10 working days after the end of each month, to the Mayor and to the Provincial Treasury, a statement, in terms of section 71 of the Municipal Finance Management Act, on the state of the municipality's budget

## **1.12 Service Delivery and Budget Implementation Plan**

### **The Municipal Manager:**

- 1.12.1 prepares a draft Service Delivery and Budget Implementation Plan and submits it to the Mayor;
- 1.12.2 prepares draft performance agreements for the Municipal Manager and for the managers directly responsible to him and submits it to the Mayor;
- 1.12.3 prepares a report on the performance of the municipality during the first half year of the financial year and submits this before 25 January of each year to the Mayor, the National Treasury and the Provincial Treasury, in line with section 72 of the Municipal Finance Management Act;

## **1.13 Financial Management**

### **The Municipal Manager:**

- 1.13.1 is responsible for managing the financial administration of the municipality
- 1.13.2 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the resources of the municipality are used effectively, efficiently and economically;
- 1.13.3 ensures that full and proper records of the financial affairs of the municipality are kept in accordance with any norms and standards prescribed by the Minister of Finance;
- 1.13.4 ensures that the municipality has and maintains effective, efficient and transparent systems of financial and risk management and internal control;
- 1.13.5 ensures that the municipality has and maintains effective, efficient and transparent systems of internal audit operating in accordance with any norms and standards prescribed by the Minister of Finance;
- 1.13.6 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that unauthorized, irregular or fruitless and wasteful expenditure and other losses are prevented;
- 1.13.7 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the municipality has and implements a tariff policy as referred to in section 74 of the Municipal Systems Act;
- 1.13.8 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the municipality has and implements a rates policy as required in terms of section 3 of the Property Rates Act 6 of 2004;
- 1.13.9 authorises the virement of funds of any capital or operational amount subjected to the Virement restrictions as approved by the Council.

## **1.14 Asset and liability management**

- 1.14.1 ensures the safeguarding and maintenance of all assets and the discharge of all liabilities of the municipality;
- 1.14.2 ensures that the municipality has and maintain a management, accounting and information system that accounts for the assets and liabilities of the municipality;
- 1.14.3 ensures that the municipality's assets and liabilities are valued in accordance with standards of generally recognized accounting practice;
- 1.14.4 ensure that the municipality has and maintains a system of internal control of assets and liabilities, including an assets and liabilities register;
- 1.14.5 decides on short-term investments of surplus funds in terms of Council policy;
- 1.14.6 makes recommendations to the Executive Committee regarding the medium-term and long-term investment of surplus funds;

## **1.15 Revenue management**

### **The Municipal Manager:**

- 1.15.1 is responsible for the management of the revenue of the municipality;
- 1.15.2 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the municipality has and implements a credit control and debt collection policy referred to in section 96(b) of the Municipal Systems Act;
- 1.15.3 ensures that the municipality has effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection policy;
- 1.15.4 ensures that revenue due to the municipality is collected on a monthly basis;
- 1.15.5 reports to the Council any impending shortfalls in budgeted revenue
- 1.15.6 report to the Council any steps taken to prevent or rectify overspending
- 1.15.7 ensures that accounts for municipal tax and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed by the Minister of Finance where monthly accounts are uneconomical;
- 1.15.8 that all money received is promptly deposited in accordance with the Municipal Finance Management Act into the municipality's primary and other accounts;

- 1.15.9 ensures that the municipality has and maintains a management, accounting and information system which recognizes revenue when it is earned, accounts for debtors and accounts for receipts of revenue;
- 1.15.10 ensures that the municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed by the Minister of Finance;
- 1.15.11 ensures that the municipality charges interest on arrears, except where the Municipal Council has granted exemptions in accordance with its budget-related policies and within a framework prescribed by the Minister of Finance;
- 1.15.12 ensures that all revenue received by the municipality is reconciled at least on a weekly basis;
- 1.15.13 informs the National Treasury of any payments due by an organ of state that are regularly in arrears for periods of more than 30 days;
- 1.15.14 ensures that any funds collected on behalf of another organ of state is transferred to the organ of state at least on a weekly basis and that such funds are not used for purposes of the municipality
- 1.15.15 writes off bad debts or other assets, subject to the Council policy and up to an amount not exceeding R50 000;

## **1.16 Expenditure management**

### **The Municipal Manager:**

- 1.16.1 is responsible for the management of the expenditure of the municipality;
- 1.16.2 ensures that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorization, withdrawal and payment of funds;
- 1.16.3 ensures that the municipality has and maintains a management, accounting and information system which recognizes expenditure when it is incurred, accounts for creditors and accounts for payments made by the municipality;
- 1.16.4 ensures that the municipality has and maintains a system of internal control in respect of creditors and payments;
- 1.16.5 ensures that payments by the municipality are made directly to the person to whom it is due unless agreed otherwise for reasons as may be prescribed by the Minister of Finance;
- 1.16.6 ensures that all money owed by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise by the Minister of Finance for certain categories of expenditure;
- 1.16.7 ensures that the municipality complies with its tax, levy, duty, pension, medical aid, audit fees and other statutory commitments;

- 1.16.8 ensures that any dispute concerning payments due by the municipality to another organ of state is disposed of in terms of the Intergovernmental Relations Framework Act;
- 1.16.9 ensures that the municipality's available working capital is managed effectively and economically in terms of the cash management and investments prescribed by the Minister of Finance;
- 1.16.10 ensures that all financial accounts of the municipality are closed at the end of each month and reconciled with its records;
- 1.16.11 reports in a formal and for periods as prescribed by the Minister of Finance to the Municipal Council on all expenditure incurred by the municipality on staff salaries, wages, allowances and benefits, and in a manner that discloses such expenditure per type of expenditure namely:
- salaries and wages
  - contributions for pension and medical aid;
  - travel, motor car, accommodation, subsistence and other allowances;
  - overtime payments;
  - loans and advances; and
  - any other type of benefit or allowance related to staff.

## **1.17 Supply Chain Management**

### 1.17.1 Supply Chain Management Policy

#### **The Municipal Manager**

- 1.17.1.1 prepares and submits a draft supply chain management policy to the Council;
- 1.17.1.2 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the municipality has a supply chain management policy in accordance with Chapter 11 of the Municipal Finance Management Act;
- 1.17.1.3 annually reviews the implementation of the supply chain management policy and, if necessary, submits proposals to the Council for amendment;
- 1.17.1.4 informs the Provincial Treasury of any failure by the Council to adopt or implement a supply chain management policy;

### 17.7.2 Implementation of Supply Chain Management Policy

#### **The Municipal Manager:**

- 1.17.2.1 implements the Supply Chain Management Policy in a way that is fair, equitable, transparent, competitive and cost-effective;

- 1.17.2.2 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimize the likelihood of fraud, corruption, favoritism and unfair and irregular practices;
- 1.17.2.3 informs the Provincial Treasury of any failure by the Council to implement a Supply Chain Management Policy;
- 1.17.2.4 notifies the Auditor-General, the Provincial Treasury and the National Treasury if a tender other than the one recommended in the normal course of implementing the Supply Chain Management Policy is approved together with reasons for the deviation;
- 1.17.2.5 informs the Provincial Treasury of any non-compliance by a political structure or office-bearer of the municipality with the Supply Chain Management Policy;

#### **The Municipal Manager**

- 1.17.3. makes the final award in closed tenders (but may sub delegate such powers)
- 1.17.4 Competitive bidding (over R200 000)

#### **The Municipal Manager**

- 1.17.4.1 appoints members of the bid specification committee, the bid evaluation committee and the bid adjudication committee
- 1.17.4.2 approves a bid specification in terms of regulation 27 of the Supply Chain Management Regulations;
- 1.17.4.3 determines a closure date for the submission of bids if they deviate from the prescribed 14 days or 30 days in terms of 22(1)(b) of the Supply Chain Management Regulations;
- 1.17.4.4 makes a final award after receiving the recommendation from the bid adjudication committee;
- 1.17.4.5 if he or she deems it necessary, refers any recommendation of a bid evaluation or bid adjudication committee back to the relevant committee for reconsideration;

1.17.5 'Disputes Manager'

**The Municipal Manager:**

- 1.17.5.1 appoints an independent and impartial person to assist in the resolution of disputes between the municipality and other persons regarding procurement and deal with objections, complaints and queries;

1.17.6 Unsolicited bids

**The Municipal Manager:**

- 1.17.6.1 decides, in the event of an unsolicited bid, whether the reasons for not going through the normal bidding process are sound;

1.17.7 Minor breaches and by-passing procurement

**The Municipal Manager:**

- 1.17.7.1 ratifies a minor breach in the procurement process committed by a committee or official acting in terms of delegated power which are purely of a technical nature;
- 1.17.7.2 dispenses with the official procurement process and procure goods or services through any convenient process in the circumstances referred to in section 36(1)(a) of the Supply Chain Management Regulations;

1.17.8 Contracts

**The Municipal Manager:**

- 1.17.8.1 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that a contract or agreement procured through the Supply Chain Management Policy is properly enforced;
- 1.17.8.2 monitors, on a monthly basis the performance of the contractor under the contract or agreement;
- 1.17.8.3 establishes capacity in the administration to assist him or her with the enforcement of procured contracts, the monitoring of contractors' performance and the overseeing of day-to-day management of contracts;



## **1.18 Contracts imposing financial obligations beyond three years**

### **The Municipal Manager**

1.18.1 in relation to a proposed contract imposing financial obligations on the municipality beyond the three years covered in the annual budget:

- makes public the draft contract and an information statement summarizing the municipality's obligations;
- invites the local community and other interested persons to submit comments or representations;
- solicits the views and recommendations of the National Treasury, the relevant Provincial Treasury and the National Department responsible for Local Government and the responsible National Department if the contract involves the provision of water, sanitation, electricity or any other service as may be prescribed by the Minister of Finance.

## **1.19 Financial Management in relation to grants, subsidies etc**

### **The Municipal Manager**

1.19.1 makes determinations, referred to in section 67(1)(a) and (b) of the Municipal Finance Management Act, pertaining to the transfer of funds to an organization or body outside government otherwise than in compliance with a commercial or other business transaction and enforces compliance with the requirements in section 67(1);

1.19.2 takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of transferred funds if an organization or body serving the poor or used by government as an agency to serve the poor does not comply with section 67(1)(a) of the Municipal Finance Management Act and the municipality wishes to transfer funds to such organization;

1.19.3 certifies to the Auditor-General that compliance by that organization with section 67(1)(a) of the Municipal Finance Management Act is uneconomical or unreasonable.

## **1.20 General reporting**

### **The Municipal Manager:**

1.20.1 submits to the National Treasury, the Provincial Treasury, the MEC for Local Government or the Auditor-General, such information as may be prescribed by the Minister of Finance or as may be required;

1.20.2 reports his or her inability to submit such information promptly to the Mayor and the Provincial Treasury together with reasons;

1.20.3 ensures that the sections referred to in section 75 of the Municipal Finance Management Act are placed on the municipality's website as referred to in section 21A of the Municipal System Act;

## **1.21 Reporting unauthorized, irregular or fruitless and wasteful expenditure**

1.21.1 informs the Mayor, MEC for Local Government in the province and the Auditor-General in writing of –

- any unauthorized, irregular or fruitless and wasteful expenditure incurred by the municipality;
- whether any person is responsible or under investigation for such unauthorized, irregular or fruitless and wasteful expenditure; and
- the steps that have been taken to
- recover or rectify such expenditure;
- prevent a recurrence of such expenditure

1.21.2 reports to the South African Police Service all cases of alleged irregular expenditure that constitute a criminal offence and theft and fraud that have occurred in the municipality.

## **1.22 Submission and auditing of annual financial statements**

### **The Municipal Manager**

1.22.1 prepares the annual financial statements of the municipality and, within two months after the end of the financial year to which those statements relate, submits the statements to the Auditor-General for auditing.

## **1.23 Annual report**

### **The Municipal Manager**

1.23.1 attends council and committee meetings where the annual report is discussed for the purpose of responding to questions concerning the report;

1.23.2 submits copies of the minutes of those meetings to the Auditor-General, the Provincial Treasury and the MEC for Local Government;

1.23.3 publishes the municipality's oversight report, as referred to in section 129 of the Municipal Finance Management Act;

1.23.4 submits the Annual report to the Provincial Legislature in accordance with section 132 of the Municipal Finance Management Act;

## **1.24 Communication**

1.24.1 manages communications between the Municipality's administration and its structures and functionaries;

## **1.25 Community participation**

- 1.25.1 facilitates participation by communities, residents and ratepayers in the affairs of the Municipality;
- 1.25.2 develops and maintains a system whereby community satisfaction with municipal services is assessed;

## **1.26 Councilors' Code of Conduct**

### **The Municipal Manager:**

- 1.26.1 receives the councilors' declarations of financial interests, shares in companies, memberships of boards of trustees from which she/he receives income other than from the Council, gifts and donations amounting to more than R350;
- 1.26.2 manages the Register of Financial Interests under the supervision of the Rules Committee;
- 1.26.3 publishes the Register of Financial Interest annually subject to instruction of the Rules Committee;

## **1.27 Appeals**

### **The Municipal Manager:**

- 1.27.1 decides on appeals in respect of decisions taken by other officials if no other appeal procedure is provided for in any applicable law;

## **1.28 Legal**

### **The Municipal Manager:**

- 1.28.1 decides, in consultation with the Mayor, on the instituting or defending of any action in the magistrate's court or court of similar stature or any arbitration and mediation which would otherwise have been heard in a magistrate's court;
- 1.28.2 decides, in consultation with the Mayor, on the instituting action in the High Court or court of similar status for the recovering of debt owed to Council provided that the institution of such proceedings is in accordance with an approved debt collection policy.

## **1.29 Emergency Powers**

### **The Municipal Manager:**

- 1.29.1 decides on and acts in cases requiring an immediate decision in consultation with the Mayor or the appropriate executive councilor or both. If neither the Mayor nor the relevant executive councilor is available, then the Municipal manager may act on his/her own initiative;

1.29.2 whenever this power is executed, a comprehensive report must be tabled with the political office-bearer or political structure which would ordinarily have been responsible for making the decision.

### **1.30 Occupational Health and Safety**

#### **The Municipal Manager:**

1.30.1 provides, ensure and maintain a safe, healthy and comfortable working environment to all employees in terms of section 16.2 of the Occupational Health and Safety Act No. 85 of 1993 as amended.

## **2. HEADS OF DEPARTMENTS (Directors)**

### **2.1 Terms of Reference for all HODs**

All HODSs are appointed in terms of section 56 of the Municipal Systems Act.

They are part of the municipality's "top management" as prescribed by the Municipal Finance Management Act. They report to the Municipal Manager.

### **2.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the relevant heads of Department.

### **2.3 Generic function and powers for all HODs (Directors)**

#### **2.3.1 Financial**

##### **The Head of Department (Director):**

2.3.1.1 assists the Municipal Manager in managing and coordinating the financial management and internal control established for the municipality and ensure that it is carried out diligently

2.3.1.2 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the system of financial management and internal control established for the municipality is carried out diligently;

2.3.1.3 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the financial and other resources of the municipality are utilized effectively, efficiently, economically and transparently;

2.3.1.4 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that any unauthorized, irregular or fruitless and wasteful expenditure and any other losses are prevented;

2.3.1.5 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that all revenue due to the municipality is collected;

2.3.1.6 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the assets and liabilities of the municipality are managed effectively and that assets are safeguarded and maintained to the extent necessary;

2.3.1.7 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that all information required by the Municipal Manager for compliance with the Municipal Finance Management Act is timeously submitted;

2.3.1.8 takes all reasonable steps, within his or her delegated or statutory powers, to ensure that the provisions of the Municipal Finance Management Act is complied with;

2.3.2 Human Resources

**The Head of Department:**

2.3.2.1 exercises the following human resources powers in terms of the human resources policies, systems and procedures adopted by the Council;

2.3.2.2 approves vacation, sick and special leave of the staff of his or her department;

2.3.2.3 exercises all powers in terms of the relevant by-laws falling within the ambit of the competencies of the department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with such by-laws whereby a person is summoned to comply with stipulation thereof;

2.3.2.4 approves leave of absence (vacation leave) of an official in his or her department without remuneration;

2.3.2.5 refuses an application for sick leave in consultation with the Occupational Health Subsection of an official in his or her department;

2.3.2.6 compels an official in his or her department to take sick leave;

2.3.2.7 approves maternity leave for female officials in his or her department and paternity leave for male employees in his or her department;

2.3.2.8 decides on the utilization of an official in his or her department in another capacity than that stated in the job description;

2.3.2.9 instructs an official in his or her department to report for duty temporarily outside his or her normal working hours;

2.3.2.10 instructs an official in his or her department to perform duties temporarily other than those normally assigned to him or her;

2.3.2.11 accepts the written notice of termination of employment of an official in his or her department;

2.3.2.12 instructs an official in his or her department to undergo a medical examination;

2.3.2.13 instructs an official in his or her department to submit a medical report;

2.3.2.14 approves overtime of staff in his or her department;

- 2.3.2.15 authorizes the payment of acting allowances, and ad hoc travel and subsistence allowances in consultation with the municipal manager;
  - 2.3.2.16 recommends for the payment or cancellation of payment of standby, telephone, transport, housing or cell-phone allowances to employees within the department;
  - 2.3.2.17 approves the attendance of conferences, congresses, symposiums or training sessions by employees (excluding international conferences, congresses, symposiums, training sessions or visits) in his or her department;
  - 2.3.2.18 approves the redemption of vacation leave credit.
- 2.3.3 Other

**The Head of Department:**

- 2.3.3.1 takes necessary action to enforce statutory provisions;
- 2.3.3.2 signs any sections and/or contracts pertaining to his or her department and/or functions in accordance with the Municipality's policy;
- 2.3.3.3 exercise all powers in terms of the relevant by-laws falling within the ambit of the competencies of the department, including the granting of any permission that may thus be required and the issuing of any notice in accordance with such by-laws whereby a person is summoned to comply with stipulation thereof;
- 2.3.3.4 executes all powers vested in terms of the Occupational Health and Safety Act and the General machinery Regulations;
- 2.3.3.5 approves/rejects requests from employees and non-employees to obtain specific information about the Municipality for research purposes or for obtaining a qualification, and to publish such information in consultation with the municipal manager. This power must be executed in accordance with the Promotion of Access to information Act, 2000 (Act 3 of 2000).

**2.3.4 Occupational Health and Safety**

**Head of Departments (Directors):**

- 2.3.4.1 provides, ensure and maintain a safe, healthy and comfortable working environment to all employees in his/her department in terms of section 16.2 of the Occupational Health and Safety Act No. 85 of 1993 as amended.
- 2.3.4.2 see to it that machinery and systems are safe.

- 2.3.4.3 eliminate risks before resorting to safety equipments and or apparel.
- 2.3.4.4 supply safety equipments and or apparel if necessary and instruct employees in the proper use thereof.
- 2.3.4.5 establish and enforce safe working practices and procedures.
- 2.3.4.6 ensure that all employees, visitors, the public and contractors comply with the act at all times.
- 2.3.4.7 identify dangers that exist in relation to the occupational and safety of employees in his/her department.
- 2.3.4.8 provide training and information to employees, regarding identified and or potential danger, in order to enable them to adequately cope with such danger.
- 2.3.4.9 investigate all accidents, incidents and injuries, in partnership with the appointed Occupational Health and Safety Representatives, with the aim of taking corrective action.
- 2.3.4.10 regard Occupational Health and Safety as a high priority and act proactively regarding all aspect relating to Occupational Health and Safety.

### **3. CHIEF FINANCIAL OFFICER**

#### **3.1 Terms of Reference for the Chief Financial Officer**

The Chief Financial Officer is a required position under the Municipal Finance Management Act.

The Municipal Manager designates an official in the municipality as the Chief Finance Officer in terms of the Municipal Finance Management Act. The Municipal Manager also allocates officials to the Chief Financial Officer to make up the budget and treasury office.

*The Chief Financial Officer is administratively in charge of the budget of a municipality and treasury office. He or she reports to the Municipal Manager;*

#### **3.2 Delegation provision**

Acting in terms of section 59 of the Municipal Systems Act, the Municipal Council hereby delegates the powers reflected in this section to the relevant heads of Department.

#### **3.3 Function and powers**

##### **The Chief Financial Officer**

- 3.3.1 advises the Municipal Manager on the exercise of powers and duties assigned to the Accounting Officer in terms of this Act;



- 3.3.2 assists the Municipal Manager in the administration of the municipality's bank accounts and in the preparation and implementation of the municipality's budget;
- 3.3.3 advises senior managers and other senior officials in the exercise of their powers and duties assigned to them in terms of section 78 of the Municipal Finance Management Act or delegated to them in terms of section 79 of the Municipal Finance Management Act;
- 3.3.4 performs such budgeting, accounting, analysis, financial reporting, cash management, debt management, supply chain management, financial management, review and other duties as may in terms of section 79 be delegated by the Municipal Manager to the Chief Financial Officer.

### **3.4 Budget**

- 3.4.1 manages the budget process for Municipal Council;

### **3.5 Service Delivery**

- 3.5.1 The Chief Financial Officer
- 3.5.2 enters into consumer agreements with members of the public for all services provided by the municipality;
- 3.5.3 amends payment vouchers owing to calculation errors to an amount not exceeding R10.00

### **3.6 Revenue collection**

#### **The Chief Financial Officer**

- 3.6.1 ensures that revenue is collected on behalf of the municipality (e.g rental, taxes levies and leases to municipal property) in accordance with section 95 of the Municipal System Act and the municipality's control and debt collection policy;
- 3.6.2 ensures that revenue due to the Municipality is calculated on monthly basis;
- 3.6.3 ensures that money collected is promptly deposited into the municipal bank account;
- 3.6.4 establishes a management, accounting and information system which recognizes revenue earned, accounts for debtors and accounts for receipts of revenue;
- 3.6.5 implement credit control;
- 3.6.6 cuts off the electricity supply to any person or to has it cut-off in terms of item 97(g) of the Municipal System Act, 2000, read with section 5.2 of the Municipality's Credit Control By-Law and the Municipality's Collection Policy, if such a person fails to pay any levies for the supply of electricity; or pay any other amount owed to the municipality for the supply of electricity;

3.6.7 accepts a guarantee and may require that the amount of the guarantee be increased in terms of the By-laws and Regulations Governing the Supply and use of electricity;

### **3.7 Supply Chain Management**

#### **The Chief Financial Officer**

3.7.1 renders supply chain management;

3.7.2 approves the reasons submitted to him or her to explain why three written quotations could not be obtained in terms of the Supply Chain Management Policy read with regulation 17 of the Supply Chain Management Regulations;

### **3.8 Legal**

#### **The Legal Advisor;**

3.8.1 institutes a claim, settles a claim or accepts payment and does everything deemed necessary to finalize the claim in the best interests of the municipality in respect of the assessment rates, amounts payable for health services, water services and electricity services or any other amount owed to the municipality, including exercising the powers, in terms, in terms of rule 52(1)(b) of the Rules of court made under the Magistrates' Court Act, 1944 (Act 32 of 1944),

3.8.2 advises the Municipal Manager on

- the institution of the necessary lawsuit or action;
- appointment of lawyers and advocates to finalize the lawsuit; and
- any steps necessary obtain execution of a sentence

### **3.9 General**

#### **The Chief Financial Officer**

3.9.1 administers the general ledger;

3.9.2 prepares monthly, quarterly and annual financial statements;

3.9.3 controls the assets and loan register;

3.9.4 signs stock certificates, cession sections, other sections required at maturity of investments and loans, as well as housing guarantees under the Housing Act, 1997 (Act 107 of 1997);

3.9.5 approves liquidation claims in respect of levy payers;

3.9.6 approves clearance certificates;

3.9.7 approves valuation certificates;

- 3.9.8 accepts bank guarantees and letters of undertaking in respect of amounts payable for the issues of clearance certificates;

#### **4. DIRECTOR: PLANNING AND DEVELOPMENT**

##### **4.1 Functions and powers**

###### **The Head of Department;**

- 4.1.1 Oversees land development initiatives in line with the Spatial Development Framework;
- 4.1.4 formulates, implements and maintains a comprehensive local economic development plan;
- 4.1.5 manages local economic development;
- 4.1.6 renders local economic development services in accordance with legislation and the IDP;
- 4.1.7 promotes tourism, economic growth for job creation and poverty alleviation;
- 4.1.8 Support mining development in the municipal area;
- 4.1.9 Market Ba-Phalaborwa municipality and support initiatives of creating an investor friendly environment
- 4.1.10 keep updated Valuation roll for the municipality and do annual adjustments if need be.
- 4.1.11 formulates and implements integrated development strategy planning;
- 4.1.12 manages transformation;
- 4.1.13 manages the municipality's performance management system;
- 4.1.14 attends to intergovernmental relations;
- 4.1.15 Facilitates strategic planning of the municipality;
- 4.1.16 manages the processing of land use applications and recommends to Council for approval (e.g. Rezoning, Park Closures,)
- 4.1.17 Give Consent and approval on land use applications such as Subdivisions, Removal of restrictions, Consent us.

## **5. DIRECTOR: COMMUNITY & SOCIAL SERVICES**

### **5.1 Functions and powers**

#### **The Head of Department;**

- 5.1.1 manages parks and cemeteries on behalf of the municipality;
- 5.1.2 attends to waste management on behalf of the municipality;
- 5.1.3 manages special programmes in relation to youth, women and traditional leaders;
- 5.1.4 attends to environmental management;
- 5.1.5 manages protection services of the municipality;
- 5.1.6. prepare and implement strategic plans for waste management that inform and are aligned to the IDP of the municipality;
- 5.1.7. Lead and direct strategic objectives of the municipality in relation to health;
- 5.1.8. lead and direct the library services;
- 5.1.9. regulate and manage traffic, enforce by-laws and educate the public on safety on the road; and
- 5.1.10. Oversee the management of the licensing section and testing stations.

## **7. DIRECTOR: CORPORATE SERVICES**

### **7.1 Function and powers**

#### **The Head of Department;**

- 7.1.1 renders Human Resource Management Services by Skills Development and Training Services;
- 7.1.2 manages communication and information services to the municipality particularly IT utilization and support services;
- 7.1.3 provides secretarial services to the Council, the Executive Committee, section 80 committees, section 79 committees;
- 7.1.4 provides legal advisory services with regard to policies, by-laws and labour relations as well as interpretation of legislation;
- 7.1.5 provides support services to the Independent Electoral Commission by establishing a local electoral office, infrastructure and local election capacity;
- 7.1.6 provides administrative support to the department by rendering support to satellite offices and rendering messenger services and ancillary services;
- 7.1.7 maintains the delegations register,

## **8. DIRECTOR: TECHNICAL SERVICES**

## **8.1 Financial and powers**

- 8.1.1 manages engineering services in accordance with the IDP by designing civil engineering structure and rendering mechanical and electrical engineering services
- 8.1.2 renders project management services by administering contracts for all civil infrastructure projects and amongst others managing local capacity building;
- 8.1.3 renders building control services by administering building plans, conducting building inspections and doing minor maintenance on council building;
- 8.1.4 Prepares and advises the municipal manager on contracts concluded by the Municipal Council for building and civil works and consultants in respect of projects executed by the department, subject to the municipality's Supply Chain Management policy and the relevant sub-delegations;
- 8.1.5 in consultation with the Municipal Manager and subject to the Supply Chain Management policy and the relevant sub-delegations, obtains the services of a consultant with regard to any matter under its control;
- 8.1.6 in consultation with the Chief Financial Officer, enforces the penalty clauses contained in council's contracts for late delivery of goods and services;
- 8.1.8 performs the functions and exercises the powers that vest in the Municipal Council in terms of the provisions of: -
  - electricity supply regulations.

**9. Delegated powers relating to the acquisition of goods, services and the execution of work and the disposal of assets:**

1. Approval authority for acquisitions (excluding the appointment of professional service providers) in respect of quotations:

<b>Amount (VAT inclusive)</b>	<b>Delegated body</b>
Acquisitions to a maximum of R 10,000	Persons on reporting level (PL) 4
Acquisitions to a maximum of R 30,000	Persons on PL 3
Acquisitions to a maximum of R 80,000	PL 2
Acquisitions to a maximum of R 120,000 up to R200,000	Directors

**Approval of petty cash:**

Authority in this case is delegated to Directors and Assistant Directors.

2. Approval authority for acquisitions excluding the appointment of professional service providers) in respect of bids

<b>Amount (VAT inclusive)</b>	<b>Delegated body</b>
Acquisitions to a maximum value of R 1,5 million	Bid adjudication committee (BAC)
Acquisitions above R1,5 million	Municipal Manager

3. Approval authority in respect the appointment of professional service providers

<b>Amount (VAT inclusive)</b>	<b>Delegated body</b>
Appointments up to R 120,000	Directors
Appointments exceeding R 120,000 up to R 200,000	Chief Financial Officer

Appointments exceeding R 200,000	Municipal Manager
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4. Approval authorities for disposal of capital assets

<b>Subject matter of disposal</b>	<b>Delegated body</b>
Disposal of all immovable capital assets, except residential land intended for development in terms of a national or provincial housing programme to supply the housing needs of a specific section of the community	Council
Disposal of movable capital assets with an estimated market value above R1 million	Council
Disposal of movable capital assets with an estimated market value below R1 million	Municipal Manager

Signed By: \_\_\_\_\_

DR SS SEBASHE MUNICIPAL MANAGER