

MANGAUNG LOCAL MUNICIPALITY



POLICY ON PUBLIC PARTICIPATION IN THE DEVELOPMENT AND ADOPTING OF POLICIES AND BY-LAWS

Approved by Council on 28 February 2007 under item 21A5.13

1. Overview

- 1.1 This document serves as internal guidelines to Councillors, the public, ward committees, and officials on the process that must be followed for the development and adopting of policies and by-laws.
- 1.2 As provided for in the Municipal Systems Act, the executive and legislative authority of a municipality is exercised by the Council of a municipality inter alia by developing and adopting policies and passing by-laws. Although the Council has the right to exercise the municipality's executive and legislative authority without improper interference, it must however respect the rights of its citizens as protected by the Bill of Rights.
- 1.3 The Administration has an obligation to establish clear relationships, and facilitate cooperation and communication between the Administration and the local community.
- 1.4 Members of the local community have the right to contribute to the decision-making processes of the municipality, and to make written or oral presentations to the Council, politicians or the Administration.
- 1.5 In the process of the development and adopting of policies and by-laws of the municipality, there is a need to conduct a process of public participation as determined by legislation and more specifically as provided for in section 12(3) of the Municipal Systems Act, the Standing Rules and Orders, in particular the provisions of rule 9(1)(f) and 9(2) and in the exercise of any the powers and functions as contained in paragraph 2.4 of Chapter 1 of the Delegations of Powers Policy.
- 1.3 An appropriate amount of consultation, planning and effort should go into the development and review of a policy and a by-law before it is presented to Council for approval. The goal is to ensure that policies and by-laws are consistent with the vision, developmental objectives and strategies of the Municipality and are developed and monitored in a logical and consistent manner.
- 1.4 It is thus essential that public participation is an integral part of the process of formulation and continuous review of policies and by-laws as executed in the responsible line service unit.
- 1.5 The procedure and guidelines contained herein should be viewed as providing general direction, rather than specific prescriptions for action, except if

otherwise provided herein or in so far as specific actions are required by existing policies.

2. The Objectives of this Policy in the MLM

- 2.1 To ensure and improve consultation and engagement between Councillors, community and officials;
 - 2.1.1 To promote transparency to the public during the development, adopting and amendment of policies and by-laws;
 - 2.1.2 To promote public participation through disclosure of and access to supporting documents, particularly the timely release of the supporting rationales, analyses and data for policy proposals, and a timely opportunity for the public and interested parties to provide meaningful comments concerning policy proposals;
 - 2.1.3 To obtain from Councillors, community, officials and interested parties the benefit of ideas for alternative approaches, and of a detailed identification of unintended effects and practical problems associated with policy and by-laws proposals, thereby promoting the adoption of policies and by-laws that are more performance-oriented and cost-effective and have fewer adverse effects;
 - 2.1.4 To create better public understanding of the purpose and effect of policy and by-laws proposals, greater public confidence in the fairness and openness of the policy and by-laws development and review process, and greater public acceptance of the policies and by-laws adopted, thereby enhancing the implementation thereof.

3. Public participation in the development and review of the policies and by-laws of the MLM

- 3.1. Each directorate within the administration of MLM is responsible for the development and review of its own policies and by-laws that are in accordance with the needs of the directorate, and for the process of obtaining Council's adoption thereof. In this regard, the Executive Director concerned in consultation with the City Manager may at any time commission that there should be public participation through consultative process to canvass and

obtain, assess and determine the views and opinions of the municipal external stakeholders including ward committees, NGOs, business, etc. when developing and reviewing its policies and by-laws.

3.2 The following procedure and steps which include the roles and responsibilities should be followed in the event that a policy or by-laws should be developed or reviewed:

- (a) The Executive Director concerned, or a councillor, official of the Municipality or any other interested person including any organisation/s, may orally or in writing submit a request to the City Manager that a process for the development or review of a policy or by-laws on any matter be initiated and/or embarked upon;
- (b) The City Manager in consultation with the Executive Mayor will evaluate the request and make a determination on whether or not that must be carried forward. Should the decision be in the affirmation, the City Manager will request the Executive Director concerned to initiate the process of development and review of the proposed policy by preparing the first draft discussion document. The time allowed for this step in the process is 14 days;
- (c) The first draft discussion document will be submitted to the City Manager for his comments, and it will then be tabled before the Executive Mayor and/or responsible political office bearer for inputs and comments. Thereafter it will be referred back to the office of City Manager and the affected Directorate to incorporate such inputs and comments and prepare the second draft discussion document. The time allowed for this step in the process is 21 days;
- (d) The second draft discussion document will then be submitted to the Executive Management Team (EMT) including any other relevant senior managers, as well as at the relevant section 79 or 80 Committee for deliberations and further comments and inputs, and then referred back to the office of City Manager and affected Directorate to incorporate such further inputs and comments and prepare the third draft discussion document. The time allowed for this step in the process is 21 days;
- (e) The third draft discussion document is then submitted to the City Manager as a Council item under cover of a report signed by the Executive Director concerned and it will, together with the comments

from the City Manager and Executive Mayor, be tabled before Council for information and noting and update on the process until that level. The time allowed for this step in the process is 28 days.

- (f) The third draft discussion document will now be ready for external and public participation consultation process and a multi-pronged approach will be followed. In this regard the City Manager will issue a notice in the print and electronic media informing the public, stakeholders, institutions and organisations on the proposed discussion document, and calling for oral and written submissions and comments on the third draft discussion document and specify the period within which such submissions are to be made. The City Manager will ensure that notices about the third draft discussion document are put up on notice boards in the municipal buildings and on the website, and will cause that copies of the draft are made available and accessible at all municipal buildings and public places. The time allowed for this step in the process is 7 days;
- (g) The Office of the Speaker in consultation with the Offices of the Executive Mayor, City Manager and/or the affected Directorate will thereafter convene consultation sessions with ward committees or clusters to present the third draft discussion document. In this regard the Office of Speaker will request and liaise with ward councillors to convene constituency meetings in their wards and request that the agenda should include the third draft discussion document on the policy or by-laws and notify the community and stakeholders that they may make representations to the Municipality. The time allowed for this step in the process is 21 days;
- (h) The Office of the Speaker in consultation with the Offices of the Executive Mayor, City Manager and/or the affected Directorate will convene public hearings in each region to deliberate on the third draft discussion document and invite inputs and comments. Such public hearings will be held at the time and venue that is suitable to accommodate every member of the community including the unemployed and the employed. The time allowed for this step in the process is 21 days and it must run concurrently with the previous step;
- (i) The Offices of the Speaker and City Manager will at the same time cause or ensure that direct communication should be made to the individuals or organisations that are practitioners in the affected field

covered or related to the policy or by-laws. The time allowed for this step in the process is 21 days and it must run concurrently with the previous step;

- (j) After the expiry of the above period set aside for public comments and at the end of participation process as outlined above, the City Manager and affected Directorate will compile a report on the inputs and comments received and incorporate them into the draft document, and compile the fourth draft discussion policy or by-laws document;
- (k) The fourth draft discussion policy document is then submitted to the City Manager as a Council item under cover of a report signed by the Executive Director concerned and it will, together with the comments from the City Manager and Executive Mayor, be tabled before Council for approval;
- (l) After Council approval, the approved policy or by-laws will be subjected to the external legislative processes for promulgation that will be led by the City Manager and Director: Legal Services, to ensure that its application is binding and enforceable.

3.3 The legitimacy and the effectiveness of this process depends on the participation of the widest possible range of actors in the development, implementation, monitoring and evaluation at all levels (administrative, community etc) in order to ensure the representation of diverse perspectives, to tap on the benefits of local knowledge, and finally to hold officials accountable for carrying out their mutually agreed commitments in the formulation and review of the policies and by-laws.