



"People's power in action"

POLICY ON PUBLIC PARTICIPATION

1. INTRODUCTION:

- 1.1 A culture of participation in local government affairs need not be over-emphasized. If communities are not aware of how local government works, who is in charge, what the issues are and what are the means available to them to participate, then it means we are failing the people that elected us in positions of power so as to represent their interests.
- 1.2 We need to understand community participation as an ongoing process of debate, dialogue and communication between local government and the community. This process must be valued and nurtured in order to ensure trust and agreement on decisions. The notion of “participation” must thus be seen as interaction in this context.
- 1.3 However, community participation should also not be seen as a process whereby every decision and action has to be sanctioned and approved by the community. This can cause confusion as to who is responsible for what.

2. THE LEGAL FRAMEWORK:

- 2.1 The first source relevant to the legislative obligation in respect of the notion of public participation is the Constitution of the Republic of South Africa Act, 1996 in which for example in Section 152 (1)(a) provides for one of the objects of local government as follows:

“To encourage the involvement of communities and community organizations in the matter of local government.”

2.2 In Section 152 (2) of the Constitution a municipality must strive, within its financial and administrative capacity, to achieve its stated objects.

2.3 Section 160 (7) states as follows:

“A Municipal Council must conduct its business in an open manner, and close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted.”

2.4 Section 160 (8) states as follows:

“Members of a Municipal Council are entitled to participate in its proceedings and those of its committees in a manner that-

- a. Allows parties and interests reflected within the Council to be fairly represented;
- b. In consistent with democracy; and
- c. May be regulated by National legislation.”

2.5 Member of a Municipal Council are defined in section 158 (1). This section states as follows:

“Every citizen who is qualified to vote for a Municipal Council is eligible to be a member of that Council.”

2.6 Section 162 (3) of the Constitution provides that municipal by-laws must be accessible to the public.

2.7 The second legislative source is the Municipal Systems Act, no 32 of 2000. Chapter 4 of the Municipal Systems Act, No 32 of 2000 lays down the various elements of community participation, in particular:

- Section 5 (1)
- (a) Through the mechanisms and in accordance with processes and procedures provided for in terms of this Act or other applicable legislation to submit complaints to the municipal Council or to another political structure or a political office bearer or the administration of the municipality.

(b) To prompt responses to their complaints.

Section 16: Development of a Culture of Community Participation:
Sub section (1) states “A Municipality must develop a culture of municipal governance that complements formal representative government with a system of participatory governance”.

2.8 This clearly requires municipalities to create conditions for participation in relation to tire following:

- Participation in the Integrated Development Plan (IDP) processes.
- Establishment, implementation and review of the Performance Management System;
- Participation in the Budgetary processes;
- Building the capacity of local communities to enable effective participation;
- Fostering of a culture of community participation by both councilors and employees of municipality;
- Decision –making on the provision of municipal services; Drafting of municipal by-laws.

2.9 Section 17 – Mechanisms, Processes and Procedures for Community Participation:

Subsection (1) states that: “Participation by the local community in the affairs of the municipality must take place through political structure for participation “in terms of the Municipal Structures Act”.

Subsection (2) states, “A Municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the municipality and must for this purpose provide for the receipt, processing and consideration of petitions and complaints lodged by members of the local community.”

Subsection (3) states, “When establishing mechanisms, processes and procedures in terms of subsection (2) the municipality must take into account the special needs of people who cannot read and write, people with disabilities, women and other disadvantage groups.”

2.10 Section 18 - Communication of information concerning community participation.

Section 18 (1) states “A municipality must communicate to its community information concerning the available mechanisms, processes and procedures to encourage and facilitate community participation, and....”.

Section 18 (2) states, “When communicating the information a municipality must take into account the language preference and usage in the municipality and the special needs of people who cannot read and write.”

2.11 Section 19 and 20 deal with Public Meetings

Section 19 states; “The municipal manager of a municipality must give notice to the public, in a manner determined by the municipal council, of the time, date and venue of every ordinary meeting of the council, ‘and special or urgent meeting of the council, except when time constraints make this impossible.”

Section 20 states; “Meeting of a municipal council and those of its committee are open to the public, including the media; and the council or such committee may not exclude the public – include the media except when – it is reasonable to do so having regard to the nature of the business being transacted; and a by-law or a resolution of the council specifying the circumstances in which the council or such committee may close a meeting”.

2.12 Section 21 – Communication to Local Community

Section 21 (1) states;

“When anything must be notified by a municipality through the media to the local community in terms of this Act or any other applicable legislation it must be done:

- In the local newspaper or newspapers of the area
- In a newspaper or newspapers circulating in its area and determined by council as a newspaper of record; or
- By means of radio broadcasts covering the area of the municipality.”

Section 21 (2) to (5) places obligations on a municipality relating to language preference, points of publication, conditions for written representations from the public, reasonable assistance from Council to the public to aid with submissions.

3. OBJECTIVES OF A PUBLIC PARTICIPATION POLICY FOR MOQHAKA LOCAL MUNICIPALITY

Objectives of a public/community participation policy are:

- To meet the statutory requirements on community participation as spelled out in the Constitution of the country and the Municipal Systems Act No 32 of 2000
- To develop a culture of community participation through the creation of conditions for local communities to participate in the affairs of local government.
- To build an open, transparent and accountable municipality.
- To develop and implement mechanisms, processes and procedures for community participation.
- To assist disadvantaged groups to participate effectively in the system of local government.
- To provide clear, sufficient and timeous information concerning community participation to communities.

- To communicate public notices of meetings of council to communities in a manner that promotes public participation.
- To set up systems and mechanisms that will ensure compliance with regulations and guidelines that may be issued from National and/or Provincial Government.

4. IMPLICATIONS FOR MOQHAKA LOCAL MUNICIPALITY:

The effort to build the capacity of local communities to enable effective participation of communities can be achieved through:

- Mayoral road shows
- People's Forums
- Petitions management system
- Recording of all motions to council and provide relevant answers for each where a reply is required. Any member of Council can view these motions.
- Setting up of Ward Committees.
- Project Specific Forums
- Councillor community support system based at Mayor's Office and Speaker's Office.
- Complaints and suggestions system (Suggestion boxes and book recording).
- Accessible Municipal Code for by-laws.

5. VALUES THAT INFORM PUBLIC PARTICIPATION POLICY

The following values are appropriate:

- Transparency: Councillors must strive towards transparent participation that promotes fair and effective decision making.
- Accountability: This means public representatives are accountable to the communities that elected them and act on behalf of the residents within Moqhaka Local Municipality by focusing on efforts to discover and meet their needs.
- Participatory governance: This refers to an ongoing dialogue and communication between the council and the community.
- Commitment: We must be committed to the transformation of society and the workplace that will ensure equity and anti-discrimination.
- Honesty: We must conduct our business in fairness and honesty.

- Batho Pele Principles: We shall always strive to assist communities and treat them with dignity and respect.

6. PARTICIPATIVE STRUCTURES

6.1 Council Meetings

The Municipal Manager must give notice of Council meetings in a manner determined by the Council in terms of section 19 of the Municipal Systems Act.

It is suggested that a notice be published once a year in the local media, outlining the programme of meetings for the year. This can also cover Mayoral Committee meetings and Section 80 meetings and any oversight can be established by Council.

It should also be understood that all Council agendas/minutes are public documents and should be available on request. But section 20 of the Municipal Structures Act makes provision for Council to exclude the public and the media from a meeting when the nature of the report requires that to be done. In-committee decisions will then be taken, but resolutions will be made public.

It should be noted that despite the transparent nature of Council meetings, the public and the media do not have any speaking or voting rights.

6.2 Peoples' forum / Mayor's road shows

The plans to hold meetings with communities in Moqhaka where the Executive Mayor will, together with Members of the Mayoral Committee, interact with communities and listen to their problems have begun. It should be strengthened and can be improved based on the relevant needs and timing.

The purpose will be to listen to view and problems raised by communities to the Executive Mayor and his team. The Executive Mayor will disseminate information to the community. This process was started successfully where the team was introduced to Council employees.

6.3 Ward Committees/meetings

The ward participatory system as proclaimed by the MEC: Development Planning and Local Government in the section 12 notice allows for the establishment of ward committees to facilitate such participation. This will enable residents of Moqhaka to have a direct voice in the governance of their wards.

The Municipal Structures Act sets out the broad parameters around the establishment, composition and functioning of ward committees, but requires a municipality to develop the detail and provide the required support.

The purpose of the ward committee system is to assist the democratically elected representative of a ward i.e. ward councilors, to carry out his/her mandate and to enhance effective public participation. A ward committee is not a structure with a mandate to govern the ward. This duty rests solely with the ward councilor.

Members of the ward committee do not have any mandate from a constituency. The ward councilor has the representative mandate from all the constituents in a ward.

Ward committee members are people within a community that know sectors of the community well, and are thus able to assist and advise the ward councillor around certain issues of governance in the wards.

Ward committees will assist the ward councilor in developing and implementing a broader public participation strategy for the ward. It is important to note that ward committee meetings do not replace public meetings of the ward where all stakeholders are represented. The ward committee will work with a ward councilor to ensure that the public participation process in that ward represents the full diversity of interests of that ward.

The ward committee does not do away with the responsibility of the ward councilor to liaise with other community and interest groups informally or through formalized forums.

6.4 Project specific arrangements/forums

Participation is also required in specific project processes. These processes include specific planning and policy related exercises, as well as major development projects. It is proposed that project specific forums be set up and extensive publicity is important to ensure greater representation and participation herein. Forums comprise at least the ward councilor, adjoining ward councilors, council officials, consultants, developer representatives and other interested parties. This can also differ according to the nature of the project and needs relevant to a particular project. Each forum should draw up its terms of reference and report to the relevant council committee at agreed intervals.

The agendas and minutes of these meetings should be made available to the public on request.

7. ARRANGEMENTS TO MEET PARTICIPATIVE REQUIREMENTS:

7.1 Public notices of meetings

The Municipal Manager is responsible for public notices of Council meetings.

The Executive Mayor's Office will be responsible for Mayoral road shows.

The Speaker's Office shall be responsible for communication functions with ward committees.

Project forums shall be the responsibility of the department in consultation with the Municipal Manager and they should provide a budget for these expenses and ensure that all arrangements are made.

7.2 Publication for comments

The publishing of Council by-laws for comments by the community can be done through posters, pamphlets or newspapers. The Municipal Manager and the Director Corporate Services must ensure that the process is followed properly.

7.3 Accessibility of information

Section 160 (7) of the Constitution states as follows:

“A Municipal Council must conduct its business in an open manner, and close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted.”

Section 18 (1) (a) and (2) (a) and (b) of the Municipal Systems Act provide that:

“A municipality must communicate to its community information concerning the available mechanisms, processes and procedures to encourage and facilitate community participation;”

(2) When communicating the information mentioned in subsection (10) a municipality must take into account language preferences and usage in the municipality and the special needs of people who cannot read or write.”

It is therefore important for Council to consider this matter carefully.

7.4 Language

Section 18 of the Municipal Systems Act states that a council must take into account language preferences of its community when providing information and/or interacting with such community. Practicalities and financial constraints should be taken into account in assessing whether the services of translators or in respect of sign language can be availed. Each public participation exercise should be assessed on its merits, but every effort should be made to facilitate translation.

7.5 Meeting needs of people with special requirements

Section 17 of the Municipal Systems Act requires that a council take into account the special needs of:

People who cannot read and write
People with disabilities
Women and
Other disadvantaged groups

This should be understood as a way of encouraging Council not to exclude these groups by providing for their meaningful participation. This does not mean Council should provide transport to venue, but the timing of Council meetings and the selection of venues should take cognizance of accessibility and proximity to transportation facilities. Council should also not only communicate through the press, but through other media facilities. Practicalities and budgetary constraints should be taken into account. Ward councilors and their committees should utilize their public meetings to inform communities of the relevant information.

8. PARTICIPATION IN THE INTEGRATED DEVELOPMENT PLANNING (IDP) PROCESS

The Municipal Systems Act (32 of 2000) in section 23 provides:

- “(1) Each municipal council, ... must adopt a process set out in writing to guide the planning, drafting, adoption and review of integrated development plan.
- (2) The municipality must through appropriate mechanisms, processes and procedures established in terms of Chapter 4, consult the local community before adopting the process.
- (3) A municipality must give notice to the local community of particulars of the

Section 29 provides –

- “(1) The process followed by a municipality to draft its integrated development, including its consideration and adoption of the draft plan, must
- a) Be in accordance with a predetermined programmed specifying timeframes for different steps.
 - b) Through appropriate mechanisms, processes and procedures established in terms of chapter 4, allow for
 - I) Local community to be consulted on its development needs and priorities.
 - II) The local community to participate in the drafting of the integrated development plans; and
 - III) Organs of State and other role players to identified and consulted on the drafting of the IDP.”

Based on the above, it is proposed that this Council –

1. Draft an Annual IDP process.
2. Refer the process document to ward communities for comment once operational.
3. Request ward committees to report to the Speaker’s Office monthly to facilitate, through the Executive Mayor’s Office, the consolidation of comments in respect of the process and to reach agreement on proposed amendments that may be adopted by Council.
4. Give notice to the local community of particulars of the process it intends to follow in accordance with the approved, predetermined programme specifying timeframes for the different steps.
5. Consult the local community, organs of state and other role players, through ward structure and/or special forums on its development needs and priorities and at predetermined intervals as specified in the process outlined above.

9. **PARTICIPATION IN THE COUNCIL BUDGETARY PROCESS**

Participation in the budgetary process will be based on the approved work plan of the IDP.

10. PARTICIPATION IN MAJOR PROJECTS AND POLICY FORMULATION

It is proposed that all major projects with a project value in excess of R500 000 and policy of Moqhaka Local Municipal nature be subjected to participation. Forums need to be set up to ensure representation and participation. It is also suggested that these forums may not take any binding decision, but that these forums may make recommendations to the relevant Council committee.

11. INSTITUTIONAL ROLES AND RESPONSIBILITIES

It is suggested that the support for the participatory democracy of Council should reside with the Office of the Speaker who is the Chairperson of Council. The Speaker will therefore need to ensure that Councillors implement a dynamic and effective system of public participation.

It needs to be clarified that co-ordination through the Speaker's Office does not include implementation of all aspects of the public participation.

The management of the public participation process in the IDP and the budget would be managed by the MMC IDP and MMC Finance. However, co-ordination of this process and how fits into the ward committee plan that deals with input to the IDP and the budget; will be set up through mechanisms within the office of the Speaker.

The following framework is proposed:

AVTIVITY	ROLE	WHO
Overall political co-ordination of public participation policy of Council	Receiving regular reports from all areas involved in public participation. Leading and directing a co-ordinated process.	Rules Committee
Administrative mechanisms to co-ordinate public participation	Developing a mechanism to: 1. Ensure that all political and administrative components relating to public participation are fulfilling their function, and 2. Ensuring synergy	Office of the Speaker

	in overall policy.	
Public Participation process in IDP and Budget	Ensure compliance with the legal obligations around public participation and the IDP	Finance and Development Planning (Political oversight) Corporate Services (Administrative oversight)
Petitions management	Ensure effective referral and implementation of decisions relating to petitions.	Office of the Speaker Corporate Services (Administrative oversight)
Ward Committee System	Ensure that minimum standard is set for ward committees. Ensure monitoring performance of ward committee	Office of the Speaker
Mayoral road shows	Ensure interaction with communities. Draft programme for People's Forums. Ensure follow-up	Office of the Mayor and Council Whip. Office of the Speaker
Notice of meetings	Ensure public notification of meetings according to law and Council policy	Office of the Municipal Manager
Management of access to information	Develop and manage the system of access to information	Office of the Municipal Manager

12. CONCLUSION

This proposed policy on public participation should be viewed as a value underlying the work of Moqhaka Local Municipality and not a function. For this reason it cannot be isolated to the work of one department. The principles of community participation filter into the most critical mainstream work of Council. This document tries to indicate the main areas where Council must engage in public participation initiatives and sets out a framework for the implementation and co-ordination of such activities. This can be tested and improved as and when needed.

13. PENALTIES

Non-compliance to any of the stipulations contained in this policy will be regarded as misconduct, which will be dealt with in terms of the Disciplinary Code and Code of Conduct.

14. REVIEW

Notwithstanding the review date herein, this policy shall remain effective until such time approved otherwise by Council and may be reviewed on an earlier date if necessary or as and when need arises.

15. AUTHORITY

Formulation Policy : Director: Corporate Services

Authorization Policy : Council

Ownership & Maintenance Manager : Speaker