
Your Ref:

Our Ref: 4/4/1

Room 701, Bram Fischer Building

Date: 24 AUGUST 2022

**THE SPEAKER
COUNCIL ITEM**

**REQUEST TO AMEND AND REVIEW THE TERMS OF REFERENCE OF THE
PETITIONS AND MOTIONS SECTION 79 COMMITTEE**

1. Purpose

The purpose of this memoranda is to request the Municipal Council to review and amend the terms of reference of the Section 79 Committee on Petitions and Motions

2. Background

The Municipal Council in line with the Committee Management system adopted a framework of five oversight Council committees. These committees are located administratively in the office of the Speaker and report directly to the Municipal Council regarding their functionality and operation. Annually Section 79 Committees are required to review efficacy of their terms of reference and if any changes are recommended for improvement then the Municipal Council should be informed and requested to consider the amendments. For purposes of this report a review and changes are submitted regarding the functioning of the Section 79 Committee: Petition and Motions.

The Municipal Council adopted the terms of reference of the Section 79 Committee Petitions and Motions during the meeting held on the 08th December 2021. The intended terms of reference which are enclosed in this report under annexure A, covers both the petitions and motions submitted to the Speaker, Executive Mayor and the office of the City Manager.

The Section 79 Committee is requesting that the committee should primarily focus on the petitions received from members of the community and that motions be handled directly in line with the Standing Rules and Orders of Council. This means that the Committee name will also be amended and will forthwith be known as the Petitions Committee.

3. Deliberations

As it had been explained above petitions are submitted by members of the community, different organizations or institutions within the municipal area and stakeholders, the nature of petitions revolve around municipal services and matters impacting on the livelihoods of the community. However it should be highlighted that motions are primarily inhouse, submitted by councillors mostly on governance and administrative related matters. And the intention of submitting motions is to seek council consideration and approval, whereas petitions can be handled and resolved at the petitions committee level.

3.1. Reasons why separation between petitions and motions should be made

As indicated in the above-mentioned paragraph petitions are dealt with and resolved at the level of the committee, and the delegations, roles, responsibilities and functions of the committee are in line with the terms of reference accorded to the committee. On the contrary the management and processing of the motions is derived from the Standing Rules and Orders of the Municipal Council, in particular Rule 29. By all administrative accounts processing and consideration of the motions should remain with the Municipal Council process and should not be delegated to the committee.

3.2. Review of the Petitions terms of refence in line with the recommendations for amendment

It is hereby recommended that the revised and reviewed terms of reference of the Petitions be noted and approved, namely;

A. COMPOSITION

The Petitions Committee shall be comprised of ten Committee based on representation from different political parties in Council including the chairperson.

B. ELECTION OF THE CHAIRPERSON

The chairperson of the committee is elected by the Municipal Council at an open meeting to the public.

C. FUNCTIONS OF THE PETIONS COMMITTEE

(1) The Committee has the following functions:

(a) Adjudicate on all petitions received and make recommendations.

(b) Record the oral submission or evidence of a petitioner given in terms of this bylaw.

- (c) Convene monthly Petitions Committee meetings as per Council calendar.
- (d) Request a relevant department where a Petition was referred to furnish the Committee with a detailed report on the steps taken by the authority to address the complaint or request.
- (e) If the Committee refuses to consider a petition, they should inform the petitioner in writing of the reasons for its decision.
- (f) Report to the Municipal Council on quarterly basis on petitions submitted to it during said period and all its activities in respect of the petitions including the –
 - responsiveness, efficiency with which petitions were dealt with; and
 - number of petitions received and resolved.

D. POWERS OF THE PETITIONS COMMITTEE

- (a) Committee may invite a petitioner to –
 - (i) supplement the petition with additional oral or written submissions;
 - (ii) call a witness to present oral or written evidence to the Committee;
- (b) the committee recommend to an appropriate or relevant department with a view to settling the request or complaint contained in the petition to the satisfaction of the petitioner;
- (c) the committee may recommend to an appropriate or relevant department in respect of the general approach to be followed in future in settling a request or complaint;
- (d) the committee may refuse to accept a report from the relevant department, if not signed by the MMC or HOD;
- (e) the committee may make a recommendation to refer the petition to- (i) Council; (ii) another Committee of Council; (iii) the Executive Mayor or City Manager; (iv) a body supporting constitutional democracy established in terms of Chapter 9 of the Constitution;
- (f) the Committee may conclude its consideration of a petition if it resolves that no steps, or no further steps, as the case may be, can be taken to settle the matter to the satisfaction of the petitioner;
- (g) the Committee may, if the complaint or request in the petition has since its submission been settled to the satisfaction of the petitioner, close the petition file; and

(h) the Committee may invite or subpoena relevant department to come and present its case during the Committee meeting.

4. LEGAL FRAMEWORK

The following national legislation had been referred namely;

- a) The Constitution of the Republic of South Africa, Act 108 of 1996
- b) Local Government: Municipal Systems Act, 2000 (Act.32 of 2000)
- c) Promotion of Administrative Justice Act, 2000 (Act No.3 of 2000)
- d) Promotion of Access to Information Act, 2000 (Act No.2 of 2000)
- e) Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998)

5. RECOMMENDATIONS

It is hereby recommended that it be resolved, that

- a) the Municipal Council takes note of this report;
- b) the Municipal Council approves the withdrawal of the motions from the committee and rename the Section 79 Committee : Petitions Committee
- c) the Municipal Council approves the reviewed terms of Reference of the Petitions Committee; and
- d) that the reviewed Terms of Reference of the Petitions Committee are applicable from the date of the Council approval.

Submitted by:




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MR. T MOTLASHUPING
ACTING CITY MANAGER

~~Supported / Not Support~~



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MR P. MASEKO
NCR 26/08/22

~~Recommended/ Not Recommended~~



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COUNCILLOR ALFRED QAI
CHAIRPERSON OF THE PETIONS AND MOTIONS

~~Approved / Not Approved~~



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CLLR. STEFANI LOCKMAN-NAIDOO
SPEAKER

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