

SWELLENDAM MUNICIPALITY PETITIONS POLICY

Policy Champion: Corporate Services Directorate

Policy Title: **Petition Policy**

Council Adoption date: **31 August 2022**

Council Resolution: **Item A142**

Reference Petitions Policy

UNANIMOUSLY RESOLVED

Item A142/31/08/2022

1. that the proposed new Petitions Policy that was workshopped on 9 June 2022 be approved by Council.

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1. PURPOSE

1.1 The purpose of the Policy is to:

- Provide for the right to submit a petition to the Swellendam Municipality.
- Provide for the general principles and procedures for the submission of a petition to the Municipality;
- Provide for the establishment of a Petitions Committee to consider and dispose of petitions, and matters incidental thereto.
- Create mechanisms for communicating with petitioners and providing feedback to petitioners.
- Provide for the resolution of disputes that may arise from petitions.

2. DEFINITIONS

In the Policy, unless the context indicates otherwise-

“*Council*” refers to the council of the Swellendam Municipality as established in terms of section 18 of the Local Government: Municipal Structures Act 117 of 1998;

“*Municipality*” refers to the Swellendam Municipality, a Category B municipality established in terms of Section 12(1) of the Local Government: Municipal Structures Act 117 of 1998, for the municipal area described in such Notice;

“*petition*” means a complaint or request or a representation or submission to the Petitions Committee of the Municipality by:

(a) an individual (single petitioner)

(b) an association (or an individual submission mandated by an association)

(c) a collective (a collection of signatures from a number of individuals) (d) a mass group (group submission concerning the same or substantially similar complaints or requests

“*petitioner*” means a person who submits a petition in terms of the Policy;

“*Petitions Committee*” means a Standing Committee assigned by the Speaker to be responsible for the consideration of petitions as set out in the Policy.

“*Policy*” refers to the Petitions Policy of the Swellendam Municipality's.

2. REGULATORY FRAMEWORK

In terms of section 152(1)(a) of the Constitution of the Republic of South Africa, Act 108 of 1996 (Constitution) the objects of local government are to provide democratic and accountable government for local communities.

Section 152(1)(e) furthermore encourages the involvement of communities and community organisations in the matters of local government.

In giving effect to section 152 of the Constitution, the Local Government: Municipal Systems Act 32 of 2000, section 17(2)(a) stipulates that a municipality must establish appropriate mechanisms, processes and procedures to enable the local community to participate in its affairs, and to this end make provision for the receipt, processing and consideration of petitions and complaints lodged by members of the local community.

Section 17(3)(a and b) of the Systems Act furthermore imposes a duty on a municipality to establish mechanisms, processes and procedures that take into account the special needs of those who are illiterate and people with disabilities.

4. POLICY PRINCIPLES

4.1 The Municipality is committed to:

- 4.1.1 promoting a democratic, open, transparent and participatory system of local governance.
- 4.1.2 developing a culture of community participation through the creation of mechanisms that allow the “voice” of the community to be heard.
- 4.1.3 being responsive to communities by providing feedback to petitioners in respect of petitions received.

- 4.1.4 responding appropriately to the needs of persons with disabilities and those with special needs, by rendering appropriate assistance where and when needed.

5. OBJECTIVES OF THE POLICY

5.1 Through the provisions of the Policy, Council seeks to achieve the following:

- 5.1.1 Establish implementation protocols within the Municipality that are consistent with the Constitution and/or any other applicable policy, the scope and objectives of which endeavour to promote public participation.
- 5.1.2 Provide mechanisms, structures, processes and procedures for receiving petitions from the local community.
- 5.1.3 Provide a framework for processing petitions and providing feedback to the petitioner(s).
- 5.1.4 Create a reliable record of petitions received and the manner in which they have been disposed of.
- 5.1.5 Determine clear roles and responsibilities for those affected by the Policy.
- 5.1.6 Establish a framework for implementing, monitoring and evaluating the management of petitions in the Municipality.

6. SCOPE OF APPLICATION OF THE POLICY

- 6.1 The Policy applies to petitions in as far as the matter(s) raised:
- 6.1.1 falls within the jurisdiction, powers and functions of the Swellendam Municipality, and
- 6.1.2 is not pending in a court of law or other tribunal or forum contemplated in the Constitution of the Republic of South Africa.

7. PROCEDURE FOR SUBMISSION OF A PETITION

(1) A petition must –

- (a) Be submitted to the Office of the Speaker by any person;
- (b) Be in any of the three official languages in the Western Cape;

- (c) Include the signatories of all the Petitioners;
 - (i) The identity number, address and contact details of all the petitioners;
 - (ii) Where a petitioner is unable to sign his/her name, he/she may make a mark on the petition, which mark must be witnessed by two other persons, whom must sign as witnesses next to the mark.
 - (iii) Indicate the coordinators of the petition, their Identity numbers, address and contact details;
 - (iv) Must indicate the area where Petitions come from; and
 - (v) indicate in which ward they reside;
- (d) clearly indicate the full name and postal address, telephone number, facsimile number and e-mail address of one person to whom further communication relating to the petition may be directed; provided that where such information is not made available, the Municipality will direct further communication only to the first person who signed the petition and whose address is known.
- (e) clearly indicate the topic.
- (f) be legible (written or typed);

7.5 Any petition that does not meet the requirements in para.,. 7.4 above, will not be considered.

7.6 A petition may be hand delivered, posted, e-mailed or delivered as a memorandum through a march.

7.7 The Speaker in consultation with the Executive Mayor will designate a person to receive hand delivered petitions.

7.8 The Speaker in consultation with the Executive Mayor will designate a person to receive hand delivered petitions.

RECORDING OF PETITIONS

- © The assigned officials must open all petitions and record details such as -
 - (i) Date of receipt of petition;
 - (ii) Time received;
 - (iii) Name, identity number and contact details of a Petitioner; and
 - (iv) Short description of the content of the Petition.
- (2) All petitions must be recorded in the petition register.

7. ROLE OF THE SPEAKER

7.1 The Office of the Speaker will:

- 7.1.1 receive all petitions and record details (such as date and time received, from whom and short description of the content of the petition) thereof in a petitions register/database;
- 7.1.2 render any reasonable assistance to persons with disabilities or special needs who require assistance in submitting a petition
- 7.1.3 record verbal submissions made by those who are unable to put their petition in writing;
- 7.1.4 acknowledge receipt of a petition, in writing, within seven (7) days of receipt thereof;
- 7.1.5 contact the petitioner or a representative if there are any unclear matters or outstanding information;
- 7.1.6 determine the timeframe within which information is expected and follow up with reminders or telephone calls if no response is received from affected parties;
- 7.1.7 forward details of the nature of the petition to the Municipal Manager or Council structure, as the case may be, within 24 hours of receiving the petition, for consideration and preparation for the next monthly Petitions Committee meeting;
- 7.1.8 The Municipal Manager will meet with relevant department officials to share and obtain information on the petitions and submit a report within five working days to the Petitions Committee via the Speaker's office.
- 7.1.9 The Speaker's Office will inform the representatives of the petitioners of the date, time and venue for the petition to be considered and that the representative of petitioners attend that sitting of the Committee.
- 7.1.10 inform the petitioner of other remedies available, if any;
- 7.1.11 make the petitioner aware of the fact that the petitioner has access to the petition file at all reasonable times;
- 7.1.12 from time to time, inform the Petitioner of progress in respect of the consideration of a Petition;

7.1.13 communicate any decision taken by the Committee in respect of a Petition; and

7.1.14 promote and facilitate a fair and equitable process of considering and disposing of petitions.

7.2 The following steps need to be completed before comments are requested from relevant departments:

- (a) Refer petitions outside the scope of the jurisdiction of the Council to the relevant institution and inform the petitioner accordingly;
- (b) Contact the petitioner or the petitioner's representative if there is any matter that is not clear of for any information that is lacking; and
- (c) Determine the timeframe within which comments (maximum of 5 working days) are expected and follow up with reminders if no response is received and keep proof of the reminders.

7.3 Recommendations must be properly formulated to reflect the following:

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- (a) person responsible for the execution of the resolution;
- (b) timeframe, where applicable within which the resolution must be executed; and
- © a clear indication of what must be executed.

8 PETITIONS COMMITTEE

8.1 Establishment of Petitions Committee

8.1.1 A Petitions Committee will be established and constituted as follow:

- (a) The Speaker (as Chair of the Petitions Committee)
- (b) A representative appointed by the Executive Mayor
- (c) The Municipal Manager or a senior official delegated by the Municipal Manager

The Committee Services staff will provide the secretariat services.

8.2 Terms of Reference of the Petitions Committee

8.2.1 The Petitions Committee will meet within 7 days after a petition is received.

8.2.2 The meetings of the Petitions Committee will be chaired by the Speaker.

8.3 Functions and Powers of the Petitions Committee

8.3.1 ACTIVITIES PRIOR TO CONSIDERATION BY PETITIONS COMMITTEE

(a) Before commenting on any petition, the relevant departments must, if necessary, conduct inspection *in loco* to obtain relevant information that will assist in responding to the petition;

(b) The relevant Councillor must be involved in the preliminary investigation and *in loco* inspection.

© Comments must include proposed solutions, financial implications and proposals for an inspection *in loco* if necessary to assist with making an informed decision;

(d) Compare matters raised in the petition with report to determine if all aspects are addressed;

(e) Interact with other departments on any ambiguities or lack of clarity; and

(f) All reports must include full details of the investigation and proposed solutions including the dates and times of inspections and the dates of the directorates 'comments.

(g) Petitioners should be older than 18 years.

8.3.2 The Petitions Committee will:

(a) consider every petition received and submitted by the Office of the Speaker;

(b) make a decision or recommendation in respect of a petition;

© record the oral submission or evidence of a petitioner given in terms of this policy;

(d) dispose of the request or complaint raised in a petition;

(e) obtain additional information from affected parties in order to arrive at a decision, a recommendation in order to dispose of a petition, including

but not limited to the calling of witnesses to present oral or written evidence to the Committee;

- (f) inform a petitioner of the grounds upon which it will not consider a petition submitted to the Municipality;
- (g) require a Directorate or Council structure to furnish the Petitions Committee with a detailed report in respect of the steps to be taken to address the substance of the petition, within 5 working days;
- (h) submit petitions that could not be finalized in accordance with the powers delegated to it, for consideration to the Mayoral Committee;
 - (i) the Committee may make a recommendation to refer the petition to
 -
 - Council
 - Another Committee of Council
 - The Executive Mayor or Municipal Manager
 - A body supporting constitutional democracy established in terms of Chapter 9 of the Constitution.
- (i) the Petitioners may attend the hearing of the Petitions Committee.
- (j) in writing notify the petitioner who submitted the petition of the outcome of the petition within 7 working days;
- (k) where there is a need for feedback to the communities, a political champion nominated by the Executive Mayor, supported by officials will give verbal feedback to communities.
- (l) Where applicable the Petitions Committee meetings, may be open to the public.

9. LIMITATIONS

(1) The Committee must refuse to consider a petition –

- (a) Falling outside the scope of its powers;
- (b) Concerning a matter pending in a court of law or other tribunal or forum contemplated in the Constitution;
- (c) In concerning the conviction and sentencing by a criminal court of law of a person to a period of imprisonment;
- (d) Falling outside the powers and functions of the Municipality or its area of jurisdiction; or
- (e) Addressing a matter which falls within the scope of a commission of inquiry established by the National or Provincial

Government or a commission of enquiry established by the Council.

(f) If a matter is sub judicæ.

(g) If a petition is less than 300 in cases where there is a call to remove a councillor.

(2) The Committee may refuse to consider a petition which is –

(a) Is illegible;

(b) Does not state the correct name, identity number and contact details of the petitioner and, where applicable, the name of the association or group on whose behalf the petition is being submitted;

(c) Has not been signed by the petitioner, except in the case of a petitioner who is unable to write;

(d) Has a mark thereon as a symbol of authority to submit the petition of which the mark was not made in their presence of two witnesses that the mark is that of the petitioner;

(e) Addresses a matter previously considered by the Committee except if that petition contains new information that may materially impact on the outcome of the consideration of the petition; or

(f) Contains defamatory statements or improper language.

10. RIGHT OF APPEAL

(1.) Petitioners shall be allowed the right to appeal the decision of the Petitions Committee to Council within seven working days of such a decision being made, in the event the petitioners are not satisfied with it.

(2.) A formal appeal must be lodged with the Office of the Speaker of Council, stating clearly reasons for the appeal.

(3.) Council may appoint an *ad hoc* Committee to deal with the said appeal and submit its recommendation to Council.

(4.) The *ad hoc* Committee has the right to summon any individual it deems necessary to appear before it.

(5.) The appeal process must be finalised by Council within a period of 90 days.

(6.) The decision of Council on the said appeal is final.

11. REPORTING

11.1 The Office of the Speaker will submit quarterly reports to the Mayoral Committee and thereafter to Council.

11.2 Reports will include information about:

- 11.2.1 the number of petitions received per quarter;
- 11.1.2 the nature of the matters raised by petitions;
- 11.1.3 the number of meetings held by the Petitions Committee;
- 11.1.4 problems/challenges experienced by stakeholders, progress, successes/achievements and any other matters that may assist in the efficient and effective resolution of petitions;
- 11.1.5 petitions that fall outside the scope of jurisdiction and powers of the Municipality;
- 11.1.6 the final resolutions of the Petitions Committee.

12 DISPUTE RESOLUTION

- 12.1 The Executive Mayoral Committee will consider, with the purpose of resolving, any dispute that may arise from petitions considered by the Petitions Committee.

13. POLICY ADOPTION AND REVIEW

- 13.1 The Policy takes effect from the date of its adoption by Council.
- 13.2 The Policy will be reviewed every three years, or sooner, as circumstances may dictate.