

TJ Babane (012 358 8065)  
COUNCIL: 28 February 2019



28. OFFICE OF THE SPEAKER  
AMENDMENT OF THE CITY OF TSHWANE: WARD COMMITTEE BY-LAW,  
2017: DRAFT BY-LAW AND FEEDBACK ON THE WARD COMMITTEES  
NOMINATION AND ELECTION PROCESS BY GOUP AUDIT AND RISK.  
**(From the Section 79 Electoral Committee: 22 February 2019)**

1. PURPOSE

The aim of the report is to request approval from Council to amend the current By-Law on the institutionalisation and operations of the Council's Ward Committees (Ward Committee By-law, 2017).

The main focus of the proposed amendment on the Ward Committee By-laws is to address the concerns and remedial actions identified by the Office of the Speaker and Group Audit and Risk department (GAR) during the implementation of the Ward Committee Elections and Nomination process. The inputs from GAR are attached as Annexure C.

2. STRATEGIC PILLARS

This report addresses Strategic Pillars 2 and 5:

Strategic Pillar 2: A City that cares for Residents and Promotes Inclusivity.

Strategic Pillar 5: A City that is Open, Honest and Responsive.

3. BACKGROUND

The draft Ward Committee By-law 2017 was presented to Council by the Office of the Speaker for approval on the 30 March 2017, the Council approved the report and subjected to the participation processes. Public Consultation on the draft Ward Committee By-law 2017, took place in all seven regions of the City on 6 May 2017. On 27 July 2017, the draft Ward Committee By-law 2017 was presented to Council with the report of the public comments and it was adopted. Thereafter Council submitted the adopted Ward Committee By-law 2017, for promulgation.

On 4 September 2017 the adopted By-Law was sent to Gauteng Province for Promulgation. The Ward Committee By-Law 2017, was promulgated on 20 September 2017.

The briefing session for Councillors on the Ward Committee election process was arranged and implemented by the Office of the Speaker on 5 October 2017.

Advertisements for the Stakeholders to register with the City of Tshwane (CoT) and the Office of the Speaker was placed in the newspapers for thirty days i.e. from 16 October 2017 to 16 November 2017 as per the requirements.

GAR department, on 23 November 2017 received a request to assist the Office of the Speaker with the Ward Committee Election nominations. The GAR accepted

the request from the Office of the Speaker to oversee the nomination process of the Ward Committee elections.

Consequential hereto, following the Municipality's Supply Chain Management Policy (SCMP), GAR decided to appoint a firm of independent auditors named Sizwe Ntsaluba Gobodo (SNG) to conduct verification and validation of Ward Committees' nomination process.

It would be fair to assume that GAR was to fulfil this role whilst the said SNG was merely assisting from an audit and vetting perspective. Nomination of Ward Committee members by stakeholders and community members was to be done by GAR Department, starting from January to February 2018.

Elections for Ward Committees were arranged to take place from 15 March to 15 April 2018. Elections of Ward Committees were deferred at the nomination and validating process due to technical problems found within the By-law.

GAR department submitted a progress report on the establishment of Ward Committees and during the process of nominations and verification it was discovered that there are short comings in the By-law and as a result a number of residents were to be excluded and this had to be addressed to ensure maximum participation and a free and fair process. It was therefore inevitable that the By-law will have to be reviewed to ensure that communities are not excluded from the process.

The Section 79 Electoral Committee established, by Council on 25 January 2018, in terms of Section 79 of the Local Government: Municipal Structures Act 1998 (Act 117 of 1998) to oversee the process of electing Ward Committee members and approval of the appointment of the Independent Electoral Body resolved on 9 March 2018, amongst others, that the Committee recommends to Council the initiation of a review of the Ward Committee By-Law and that a Terms of Reference for the Committee be compiled.

Council on 26 April 2018 approved an amended Terms of Reference of the Section 79 Electoral Committee mandating the Committee to oversee the amendment and implementation of the By-law on Ward Committees, the election of Ward Committee members and the Ward Committee secretariat, the adjudication of disputes and appeals and any contractual agreements.

## 4. DISCUSSION

### 4.1 LEGISLATIVE AND CONSTITUTIONAL FRAMEWORK

#### 4.1.1 COUNCIL AUTHORITY TO MAKE BY-LAWS

The Executive and Legislative authority of the Municipality is, among others, captured in Section 11 of the Local Government: Municipal Systems Act 2000 (Act 32 of 2000), hereinafter referred to as the "Systems Act", which provides as follows:

(Unaltered)

- "(1) The executive and legislative authority of a municipality is exercised by the council of the municipality, and the council takes all the decisions of the municipality subject to Section 59.*
- (2) A municipality may exercise executive and legislative authority within its boundaries only, but may, by written agreement with another municipality and subject to Chapter 5 of the Municipal Structures Act and other applicable national legislation, exercise executive authority in the area of that other municipality.*
- (3) A municipality exercises its legislative or executive authority by-*
  - (a) developing and adopting policies, plans, strategies and programmes, including setting targets for delivery;*
  - (b) promoting and undertaking development;*
  - (c) establishing and maintaining an administration;*
  - (d) administering and regulating its internal affairs and the local government affairs of the local community;*
  - (e) implementing applicable national and provincial legislation and its by-laws;*
  - (f) providing municipal services to the local community, or appointing appropriate service providers in accordance with the criteria and process set out in Section 78;*
  - (g) monitoring and, where appropriate, regulating municipal services where those services are provided by service providers other than the municipality;*
  - (h) preparing, approving and implementing its budgets;*

- (i) *imposing and recovering rates, taxes, levies, duties, service fees and surcharges on fees, including setting and implementing tariff, rates and tax and debt collection policies;*
  - (j) *monitoring the impact and effectiveness of any services, policies, programmes or plans;*
  - (k) *establishing and implementing performance management systems;*
  - (l) *promoting a safe and healthy environment;*
  - (m) *passing by-laws and taking decisions on any of the above-mentioned matters; and*
  - (n) *doing anything else within its legislative and executive competence.*
- (4) *A decision taken by a municipal council or any other political structure of the municipality must be recorded in writing."*

As can be seen above, Section 11(3) of the Systems Act, 2000, forms the cornerstone of by-laws.

#### 4.2 PROCESS: MAKING OF BY-LAWS

Sections 12 and 13 of the Systems Act, in broad, provides for the legislative process and publication in the making of By-laws. A great deal is made out of the fact that the community must be actively involved in the process.

Sections 12 and 13 provide as follows:-

(Unaltered)

#### **"12. Legislative procedures**

- (1) *Only a member or committee of a municipal council may introduce a draft by-law in the council.*
- (2) *A by-law must be made by a decision taken by a municipal council-*
  - (a) *in accordance with the rules and orders of the council, and*
  - (b) *with a supporting vote of a majority of its members.*
- (3) *No by-law may be passed by a municipal council unless-*
  - (a) *all the members of the council have been given reasonable notice; and*
  - (b) *the proposed by-law has been published for public comment in a manner that allows the public an opportunity to make representations with regard to the proposed by-law.*

(Unaltered)



(4) *Subsections (1) to (3) also apply when a municipal council incorporates by reference, as by-laws, provisions of-*

(a) *legislation passed by another legislative organ of state; or*

(b) *standard draft by-laws made in terms of Section 14."*

### **13. Publication of by-laws**

*A by-law passed by a municipal council-*

(a) *must be published promptly in the Provincial Gazette, and, when feasible, also in a local newspaper or in any other practical way to bring the contents of the by-law to the attention of the local community; and*

(b) *takes effect when published or on a future date determined in or in terms of the by-law."*

Section 160(4) of the Constitution of the Republic of South Africa, 1996, likewise provides for community participation.

The whole By-law making process could broadly be broken down into the following six stages:

- (i) Drafting;
- (ii) Report and principle approval of Council;
- (iii) Public Participation;
- (iv) Consultation with stakeholders/community and MMC where appropriate;
- (v) Second report to Council to obtain final approval (This process could sometimes be drawn out to long periods as the same so called second report may be referred back by Council for various reasons, often to be further consult with the public. It sometimes happen that the second report is more than 3 times resubmitted back to Council for final approval);
- (vi) Promulgation.

### **4.3 PROPOSED PUBLIC PARTICIPATION PROCESS**

As can be seen from the above the Council is involved in two important stages on the critical path in the By-law making process. The first being the adoption of a resolution for the principle approval of a new By-law where after the draft document is presented to the public at large to obtain public comment. This is also done with the assistance of the Office of the Speaker who is responsible for the co-ordination of the Council's public participation process. The second stage of Council's involvement, after having undergone the public participation process and all public comments have been received and where necessary, the draft by-law was amended, at which the Council must consider the final format and draft of the proposed by-law for final adoption and approval for promulgation thereof in the Provincial Gazette.

#### 4.4 REVISION OF THE WARD COMMITTEE BY-LAW PROCESS

To ensure the functionality and effectiveness of the Ward Committee system in the CoT and to promote and enhance community involvement in the affairs of the Municipality as well as public participation, the Office of the Speaker, in consultation with Group Legal and Secretarial Services and GAR, amended the current Ward Committee By-law in line with Section 73 of the Local Government Municipal Structures Act 1998 (Act 117 of 1998) read with:

- Section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998);
- Section 13 of the Local Government Systems Act, 2000 (Act 32 of 2000);
- Section 162 of the Constitution of the Republic of South Africa, 1996; and
- The By-law for Ward Committees of the City of Tshwane, 2017 as approved by the Council on 30 March 2017.

The revision speaks to the spirit and letter of legislation and the constitutional mandate by including residents, as well as interest groups both secular and non-secular organisations as well as the business sector.

The revised By-law also addresses the Socio-Economic realities of diverse communities, both formal and informal, when developing eligibility criteria, while not devolving beyond reasonable administrative capacity, as well as to provide for further criteria on how to manage an exorbitant number of possible nominations.

The By-law is therefore submitted to the Committee to oversee the amendments and to recommend approval to Council where after the public will be informed of the intended amendments by way of a prior notice for the prescribed period, in the official newspapers and be afforded the opportunity to render written input thereon. A further report will then subsequently be submitted for final adoption and approval by Council and promulgation in *the Provincial Gazette*.

#### 4.5 CHALLENGES

In terms of the process plan of the Office of the Speaker, City of Tshwane, IEC was requested to conduct the ward committee elections. IEC could not commit entirely with the terms of reference of the City due to their commitment to "Address Harvesting" as instructed by the Constitutional Court Order.

During the implementation process of the By-law including the development, verification and management of nominations to the Ward Committees, specific reference was made to the following:

- This report must be referred to the Section 79 Electoral Committee concerned to confirm and verify all the technical challenges in the Draft By-law, this will include compliance with relevant legislation;
- Confirmed that the By-Law is not in conflict with any legislation;
- That the By-law be amended considering the challenges posed by the eligibility criteria and practical implementation;
- That deficiencies in constitutional and legislative intent of the By-law, leading to the arbitrary exclusion of interested community members, be amended.
- That the prescriptive and resource intensive nature of the By-law be amended.

## 5. COMMENTS OF STAKEHOLDER DEPARTMENTS

### 5.1 GROUP HEAD: GROUP LEGAL AND SECRETARIAT SERVICES

The comments from the Group Head: Group Legal and Secretarial Services were incorporated in the draft By-law.

### 5.2 CHIEF FINANCIAL OFFICER

(Unaltered)

“Cognisance is taken of the contents of the report.

The purpose of this report is to report on ward committee’s elections, nominations and the nomination lists as performed by of Group Audit and Risk (GAR) at the appointment by Office of the Speaker (OOS) and to highlight the recommendations and challenges posed by eligibility criteria and practicality of implementation of the By-law.

Group Financial Services have noted the recommendations of the report with comprehension.

There are no financial implications emanating as a result of this report as the intent of the report is to appraise the Section 79 Electoral Committee on ward committee’s elections nominations and the nomination lists as performed by of Group Audit and Risk (GAR) and to highlight the recommendations and challenges posed by eligibility criteria and practicality of implementation of the By-law.

It is recommended in the report that the Amended Ward Committee By-law Annexure A, be referred to Council for discussion and public participation.

Group Financial Services will render further financial comments on separate report regarding the proposed Amended Ward Committee By-law including financial implications associated in the process.”

## 6. IMPLICATIONS

### 6.1 HUMAN RESOURCES

There are none

### 6.2 FINANCES

There are none

### 6.3 CONSTITUTIONAL AND LEGAL FACTORS

The By-law on Ward Committees of the City of Tshwane will be revised in accordance with the implementation principles and imperatives.

#### 6.4 COMMUNICATION

The Section 79 Electoral Committee will consistently communicate to the Council regarding the progress made with the implementation of the Ward Committee By-law after promulgation.

#### 6.5 PREVIOUS COUNCIL AND MAYORAL COMMITTEE RESOLUTIONS

City of Tshwane Metropolitan Municipality, By-law on Ward Committees, as approved by Council on 30 March 2017 and 27 July 2017 promulgated on 20 September 2017 and the Terms of Reference of the Section 79 Electoral Committee approved by Council on 26 April 2018.

All current Mayoral Committee and Council resolutions will need to be brought in line with the provisions of the newly amended Draft By-Law on Ward Committees if required.

#### 7. CONCLUSION

The functionality and effectiveness of the Ward Committee system in the City of Tshwane will promote and enhance community involvement in the affairs of the municipality as well as public participation. It is crucial that the current Ward Committee By-law, 2017, be revised so as not to arbitrarily exclude members of the community who may have a substantive interest in the wellbeing of the Ward in light of the unforeseen circumstances highlighted by the GAR final report on Ward Elections Nominations Process of Ward Committee Members for the City of Tshwane.

#### **IT WAS RECOMMENDED (TO THE SECTION 79 ELECTORAL COMMITTEE: 22 FEBRUARY 2019):**

That it be recommended to the Council:

1. That the Draft City of Tshwane Metropolitan Municipality: Ward Committee By-laws as contemplated in the Annexure A attached to the report be approved in principle by Council in terms of Section 12(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
2. That the said Draft By-law be subjected to a public participation process to be designed for this purpose by the Office of the Speaker and Group Legal and Secretariat Services Department, taking into consideration the relevant legislation.
3. That a notice be published in two official newspapers to invite interested parties to submit comments for the prescribed public participation period.
4. That, after finalization of the public participation process in 2 and 3 above, the said Draft By-laws be submitted to the Council in terms of Section 12(3) of the Municipal Systems Act, 2000 (Act 32 of 2000), for consideration and final approval, and ultimately to the MEC concerned for promulgation in terms of Section 13(a) of the Act.

5. That cognisance be taken of the report from Group Audit and Risk department on Ward Committee nominations
6. That the nominations received during the nomination calling period in 2018 be taken into consideration for purposes of ward elections in terms of the amended Draft City of Tshwane Metropolitan Municipality: Ward Committee By-laws.

**During the meeting of the Section 79 Electoral Committee held on 22 February 2019 The Chairperson requested the Divisional Head Ward Administration and Community Mobilization to present the report. The Divisional Head Ward Administration and Community Mobilization presented the report where after the following members participated in the ensuing debate:**

- **Councillors S Maas**
- **Councillor SJ Mabona**
- **Councillor MMS Matshiyane with specific reference to the success rate regarding the participation of community members during public participation sessions. She requested that percentages should be determine in order to rate the success of participation.**
- **Councillor CJ Napier(Chairperson)**

**Councillor S Maas seconded by Councillor JZ Ndlovu proposed the following amendment to be inserted between recommendation 3 and 4:**

**(Unaltered)**

**“That after finalization of the public participation process in 2 and 3 above, the said draft By-law as well as a report on the public participation process be submitted to the Section 79 Electoral Committee for scrutiny.”**

**The proposal was accepted by the members and the Committee resolved to recommend as set out below:**

## **ANNEXURES**

- A. Proposed/suggested amendments to the City of Tshwane Ward Committee By-laws, 2017.
- B. *Promulgated Ward Committee By-laws published in Provincial Gazette No. 232, Vol. 23 of Provincial Gazette No. 810 of 20 September 2017.*
- C. Final Report on Ward Elections Nominations Process of Ward Committee Members for the City of Tshwane.

## RESOLVED:

1. That the Draft City of Tshwane Metropolitan Municipality: Ward Committee By-laws as contemplated in the Annexure A attached to the report be approved in principle by Council in terms of Section 12(1) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000).
2. That the said Draft By-law be subjected to a public participation process to be designed for this purpose by the Office of the Speaker and Group Legal and Secretariat Services Department, taking into consideration the relevant legislation.
3. That a notice be published in two official newspapers to invite interested parties to submit comments for the prescribed public participation period.
4. That after finalization of the public participation process in 2 and 3 above, the said draft By-law as well as a report on the public participation process be submitted to the Section 79 Electoral Committee for scrutiny."
5. That, after finalization of the public participation process in 2 and 3 above, the said Draft By-laws be submitted to the Council in terms of Section 12(3) of the Municipal Systems Act, 2000 (Act 32 of 2000), for consideration and final approval, and ultimately to the MEC concerned for promulgation in terms of Section 13(a) of the Act.
6. That cognisance be taken of the report from Group Audit and Risk department on Ward Committee nominations
7. That the nominations received during the nomination calling period in 2018 be taken into consideration for purposes of ward elections in terms of the amended Draft City of Tshwane Metropolitan Municipality: Ward Committee By-laws.





**ANNEXURE A****CITY OF TSHWANE METROPOLITAN MUNICIPALITY****NOTICE OF THE DRAFT CITY OF TSHWANE BY-LAW ON WARD COMMITTEES, 2019**

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes, in terms of Section 73 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), read with Section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), Section 13 of the Local Government: Municipal System Act, 2000 (Act 32 of 2000), and Section 162 of the Constitution of the Republic of South Africa, 1996, the City of Tshwane By-law on Ward Committees, 2019, as contemplated hereunder and approved by Council on .....

This by-law will come into operation on the date when it is promulgated in the Gauteng Provincial Gazette.

**CITY OF TSHWANE BY-LAW ON WARD COMMITTEES**

This By-law will –

- provide for the establishment of ward committees within the jurisdictional area of the City of Tshwane Metropolitan Municipality;
- lay down rules and legislative requirements on the processes to be followed;
- provide for the establishment and composition of ward committees.
- provide for the roles and functions of individual members and stakeholders;
- provide for the convening of meetings, quorums, absenteeism of members and stakeholder involvement;
- set out the terms of office and the procedures for vacating office and filling vacancies;
- provide for the nomination and election of ward committee members;
- set out the roles and functions of the Election Committee; and
- provide for dispute resolution and administrative support for ward committees in accordance with Sections 73 to 78 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

## **CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

### **WARD COMMITTEE BY-LAW 2019**

**To provide for the establishment of ward committees within the jurisdictional area of the City of Tshwane Metropolitan Municipality by virtue of the provisions of Section 72(1) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) to establish ward committees in all the wards of the Municipality in terms of Sections 73 to 78 of the Local Government: Municipal Structures Act.**

#### ***Preamble***

**WHEREAS Chapter 7, Section 152, of the Constitution of the Republic of South Africa, 1996** defines the aim of local government;

**WHEREAS Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)** stipulates the public participation opportunities the community can expect from municipalities;

**WHEREAS Sections 73 to 78 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)** set out the establishment and functions of ward committees;

**WHEREAS the Municipal Council resolved on 30 March 2017** to establish a by-law to give effect to the above-mentioned legal objectives;

**BE IT THEREFORE ENACTED** by the City of Tshwane Metropolitan Municipality that this document constitutes a by-law on the establishment of ward committees.

## ARRANGEMENT OF BY-LAW

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#### SCHEDULE 1

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## ANNEXURE 1

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## ANNEXURE 3

Declaration

DRAFT 24 JANUARY  
2019

## 1. Definitions

In this by-law, a word or a phrase to which a meaning has been assigned in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and regulations and the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and regulations, has that meaning, unless the context indicates otherwise, and other terms are defined as follows:

**“Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended;

**“Business interest, industrial undertaking or professional interest”** refers to an individual having a business interest, or professional interest and/or owning a business and/or property or pursuing a business interest a commercial or professional interest in a ward which can be substantiated;

**“by-law”** means the City of Tshwane By-law on Ward Committees, 2019;

**“chairperson”** means a ward councillor of the Municipality who chairs ward committee meetings by virtue of the provisions of Section 73(2)(a) of the Local Government: Municipal Structures Act;

**“code of conduct”** means the code of conduct and disciplinary procedures for ward committee members set out in Schedule 1 to this by-law and to which ward committee members are subject to at all times;

**“disciplinary procedures for councillors”** means the disciplinary procedures applicable to councillors as set out in Schedule 2 of this by-law;

**“Constitution”** means the Constitution of the Republic of South Africa, 1996;

**“Council”** means the council of a municipality referred to in Section 157(1) of the Constitution, 1996, in this case the City of Tshwane Metropolitan Municipality, established in terms of the Municipal Structures Act, read with Government Notice 1866 published in Provincial Gazette Extraordinary 128 of 30 June 2010, as amended;

**“Electoral committee”** means a committee established in terms of Section 79 of the Municipal Structures Act to oversee the amendment and implementation of the By-law on Ward Committees, the election of ward committee members and the ward committee secretariat, and the adjudication of disputes, appeals and any contractual agreements;

**“election”** means a ward committee election or elections held in terms of this by-law;

**“election officer”** means a person appointed by the independent electoral management body to undertake the responsibilities of an election officer in terms of this by-law;



**“financial year”** means the period commencing on 1 July in any given year and ends at end of business on 30 June of the following year;

**“form of communication”** means all types of written, verbal, electronic or digital communication;

**“Group Financial Services”** means the financial department of the Municipality;

**“independent electoral management body”** means the body contracted in terms of this by-law to manage the ward committee election process;

**“large ward”** means a ward with seven (7) or more voting districts as determined by the Municipal Demarcation Board **“member of the community”** means any individual who holds an interest in the well-being of a ward and meets the requirements of Section 5(3) of this by-law;

**“Municipality”** means the corporate administration of the City of Tshwane Metropolitan Municipality which has exclusive executive and legislative authority within the Tshwane jurisdictional area as described in Section 155(1) of the Constitution, established by Provincial Notice 6766 of 2000 dated 1 October 2000, as amended, in terms of the Municipal Structures Act, and it includes –

- (a) a structure, the independent electoral management body, an official or other person who exercises a delegated authority or power or carrying out a function in terms of this by-law, or any power delegated in terms of the Corporate System of Delegations of the Municipality provided for in Section 59 of the Municipal Systems Act, 2000; or
- (b) a service provider, and where appropriate it includes the Independent Electoral Committee staff and functionaries, that fulfils a responsibility under this by-law, assigned to it by the Municipality or any other contractual assignment or law, and any amendments thereto after date of commencement, and “City” has a corresponding meaning;

**“nominator”** means the person who proposes a stakeholder or individual member of a community for election to a ward committee and who is a registered voter in the ward in which the nominee intends to be elected;

**“nominee”** means the stakeholder representative or individual community member who is nominated for election to a ward committee;

**“Office of the Speaker”** means any individual or individuals empowered by the Speaker to perform duties relevant to this by-law and the Municipal Structures Act;

**“polling station manager”** means the person appointed by the independent electoral management body to undertake the duties of managing the election process in terms of this by-law;

**“privileged or confidential information”** means all types of written, verbal, electronic or digital communication which contain information ruled by Council or a

ward committee to be classified, privileged or confidential and as being for the attention only of the person who receives such information;

**“PR councillor”** means a proportional representative municipal councillor elected by a political party in terms of Section 22(1)(a) of the Municipal Structures Act to proportionally represent a political party in Council;

**“Rules and Ethics Committee”** means the Section 79 Standing Committee appointed by Council to deal with disciplinary matters in relation to public office-bearers;

**“seconders”** means the person who seconds the nominator who proposes a stakeholder or individual member of the community for election to a ward committee and who is a registered voter in the ward in which the nominee intends to be elected;

**“Speaker”** means the Chairperson of Council elected to that position by Council in terms of Section 36 of the Municipal Structures Act and includes the acting Speaker who will be responsible for ensuring due compliance with this ward committee by-law and will similarly, without limitation, have all powers incidental thereto to ensure compliance;

**“special election”** means an election to be held as provided for in Section 3(6) of this by-law;

**“stakeholder”** means an individual natural person registered as a voter as well as an organised group, sector or collective group of people recognised and approved by the Office of the Speaker as such as provided for in Section 5(8) of this by-law, subject to the Office of the Speaker’s authority as provided for in Section 32 of this by-law excluding a political party;

**“Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended;

**“voter”** means an individual person who resides within the Municipality’s area of jurisdiction and appearing as such on the City’s common voters’ roll compiled and managed in terms of the Local Government: Municipal Electoral Act, 2000 (Act 27 of 2000) and regulations, as amended;

**“voting district”** means a voting district established in terms of Section 60 of the Municipal Electoral Act;

**“voters’ roll”** means the national common voters’ roll compiled and managed in terms of the Municipal Electoral Act;

**“ward committee”** means a ward committee established in terms of Section 73 of the Municipal Structures Act, and in this by-law **“committee”** has the same meaning;

**“ward committee meeting”** means a meeting duly constituted by elected ward committee members in terms of the provisions of Chapter 2 of this by-law;

**“ward committee member”** means a person elected to the ward committee in terms of the provisions of Chapter 2 of this by-law or a member co-opted by the ward councillor in consultation with the ward committee members to serve on a ward committee;

**“ward councillor”** means a municipal councillor elected in terms of Section 22 of the Municipal Structures Act to represent the residents of a particular ward; and

**“ward”** means a geographic area delimited in terms of Item 2 of Schedule 1 to the Municipal Structures Act.

## **2. Establishment of ward committees**

The Municipality, in terms of Section 73 of the Act, hereby establishes ward committees to promote participatory democracy and accountability.

## **3. Composition of ward committees**

- (1) A ward committee must comprise –
  - (a) the ward councillor as chairperson; and
  - (b) a maximum of ten (10) and a minimum of six (6) stakeholder representatives or individual members, in accordance with the provisions of Section 73(2) of the Act.
- (2) If the Executive Mayor, Speaker or Chief Whip of Council are ward councillors, they may appoint another councillor to act as chairperson of their ward committee.
- (3) If the maximum of ten (10) seats cannot be filled, the Office of the Speaker, after consulting with the respective ward councillor, aside from failure to comply with Section 5(1)(g) of this by-law, will be entitled to co-opt such persons as members to meet the minimum requirements provided for in Sections 5(1)(a) to (f) to represent the community in such empty positions; provided that this will not prohibit the Office of the Speaker from filling all remaining positions to supplement the elected members, but limited to a maximum of ten (10) representatives.
- (4) Persons co-opted as members of a ward committee, pursuant to Subsection (3) above, must comply with and sign the prescribed declaration.
- (5) The co-opted members will have the same rights as those elected.
- (6) If fewer than six (6) members are elected, the Office of the Speaker will cause a further special election to be held as determined by the independent electoral management body.

## **4. Representative nature of ward committees**

- (1) Ward committee members must be representative of the diverse interests of the community in their respective wards and are required to play an active role in decision-making and to recommend actions in the pursuit of advancing such interests.
- (2) The overall membership of the ward committee must –
  - (a) have due regard for gender equality; and
  - (b) have due regard for geographic representation within the particular ward, where feasible and practical.

- (3) The following ex officio members may be appointed to assume an oversight and advising role to the ward committee:
  - (a) One (1) PR councillor assigned to it by the Office of the Speaker for assisting and complementing the work of the ward councillor and the ward committee, and who may participate in deliberations and give advice but will have no voting rights.
  - (b) The Executive Mayor, Speaker and Chief Whip of Council will have a standing invitation to be ex officio members.
- (4) Members of the public may attend ward committee meetings but will have no voting rights.
- (5) The chairperson may invite any person, including municipal officials, to give expert advice to the ward committee on matters pertaining to the ward.

## **5. Requirements for membership of a ward committee**

- (1) Unless disqualified in terms of Sections 158(1)(a), (c), (d) or (e) of the Constitution, 1996, every South African citizen qualified to vote in municipal elections for a particular municipal council is qualified to stand as a candidate in a particular ward committee election for that council, provided that he/she –
  - (a) is a registered voter on the municipal voters' roll for that particular ward of the Tshwane municipal area; or
  - (b) owns property within the ward; or
  - (c) proves to the satisfaction of the Office of the Speaker that he/she has demonstrable interest in the particular ward; and
  - (d) has not been convicted, after February 1997, of an offence for which he/she was sentenced to imprisonment without the option of fine for a period of not less than twelve (12) months; and
  - (e) has not been declared by a court of law as a person of unsound mind; and
  - (f) is not be under curatorship or an unrehabilitated insolvent; and
  - (g) within, thirty days (30) of the announcement of the ward election, is duly nominated by a ward-based interest group, sector or as an individual community member and seconded by a registered voter within such a ward.
- (2) A person may be a member of only one (1) ward committee at any given time.
- (3) Political parties may not be represented in a ward committee.

- (4) Municipal officials in the service of the Municipality may not be members of a ward committee.
- (5) Persons are disqualified to be members of a ward committee if they have any contractual interests in providing services or goods to the Municipality.
- (6) A person who is indebted for payment of any sum of money to the Municipality for any period longer than three (3) months is disqualified from membership, unless he/she can prove to the satisfaction of the Office of the Speaker that satisfactory arrangements for the settlement of the account have been made with Group Financial Services and remain in good standing for the duration of the term of office or where such person can prove that he/she has lodged a legitimate pending dispute in terms of Section 102(2) read with Sections 95(f), (g) and (h) of the Systems Act, 2000; provided that should such dispute be resolved, by which time he/she must without delay pay any such amount which the Municipality may find due and payable.
- (7) Members of a ward committee must attend meetings in person and, except in the event of a chairperson being substituted in terms of Section 8 of this by-law, may not be substituted by another person.
- (8) Members of the community that meet the minimum requirements provided for in Subsection (1) above, having common vested legitimate interests, will, subject to Subsection (3) above, be entitled to organise themselves into a stakeholder group of people, organisation, sector or otherwise as a collective franchise, as the case may be, and nominate a particular eligible person to represent their interests in the relevant ward; provided that the name of such nominated representative be revealed to the Office of the Speaker for inclusion on the Office of the Speaker's database, in terms of Section 19 of this by-law, in a manner decided by the Office of the Speaker prior to the date of the ward election.
- (9) The Office of the Speaker must record all names revealed in terms of Subsection (8) above in a separate register held for that purpose in his/her administration.
- (10) All members, including those who were co-opted, must sign the prescribed declaration.

## **6. Functions of ward committees**

- (1) A ward committee must –
  - (a) assist, monitor, give advice and make recommendations on any matter that affects the ward, as provided for in Section 74 of the Act; and
  - (b) make recommendations to the ward councillor or, through the ward councillor, to the relevant municipal department or Council on any matter that affects the ward; and



- (c) exercise such duties and powers as Council may delegate to it in terms of Section 59 of the Municipal Systems Act; and
- (d) act as an advisory committee to the ward councillor; and
- (e) comment on or respond to the following, subject to Subsection (2) below:
  - (i) The preparation, implementation and review of the Integrated Development Plan (IDP) and budget
  - (ii) The establishment, implementation and the process for reviewing the Municipality's service delivery performance, including the outcomes and impact of such performance
  - (iii) By-laws and policies
  - (iv) Any other strategic decision, including spatial planning, related to the provision of municipal services, rezoning and consent use applications, development proposals and the allocation of resources that may have an impact on the community
- (2) A ward committee may not perform the functions or execute the responsibilities or powers entrusted to it in a manner that compromises or interferes with Council's right to govern and to exercise its executive, legislative and oversight authority.
- (3) Ward committee members may not perform the responsibilities of ward councillors, except as provided for in Section 8(1) of this by-law.

## **7. Term of office of ward committee members**

- (1) The term of office of ward committee members will coincide with the term of office of Council as prescribed in Section 24 of the Act.
- (2) Ward committee members may serve for successive terms of office, provided that the members comply with all the requirements of this by-law and any applicable legislation.

## **8. Absence and vacating of office by ward councillors**

- (1) Whenever a ward councillor, for whatever reason, is absent from a meeting and a quorum is present, the ward committee members present, cognisant of Section 6(3) of this by-law, and upon expiry of twenty (20) minutes from the time when the activities of the meeting were to commence, may from among its members present at the commencement of the meeting elect a member to act as chairperson for that particular meeting only, and such acting chairperson will enjoy the same powers as those of the ward councillor; provided that the Office of the Speaker will retain the discretionary power to nominate another councillor to act as chairperson, in which event such nominated councillor will act as the chairperson for that particular meeting only.

- (2) If the position of a ward councillor becomes vacant, the Office of the Speaker will, in accordance with the provisions of Section 32 of this by-law, nominate another suitable councillor of his/her choice to act as chairperson until a new chairperson is elected in terms of Section 10 of this by-law.

## **9. Vacating of office by members of a ward committee**

- (1) A ward committee member ceases to hold the position after conducting an investigation in terms of the Code of Conduct and Disciplinary Procedures as contemplated in Schedules 1 and 2 together with an appropriate finding of the Office of the Speaker, when he/she –
- (a) resigns in writing by delivering a communication to the Office of the Speaker;
  - (b) relocates to another ward;
  - (c) ceases to be a member of an interest group that he/she represents;
  - (d) is removed from office by the Office of the Speaker after an investigation in terms of the Code of Conduct and Disciplinary Procedures as contemplated in Schedules 1 and 2;
  - (e) is absent for two (2) consecutive meetings without justifiable and excusable reason beyond his/her control;
  - (f) is absent from ward committee meetings four (4) times during any financial year;
  - (g) is found to have acted in a manner that undermines the integrity or authority of Council, the ward councillor or the ward committee;
  - (h) is elected as a councillor in the Municipality;
  - (i) is appointed as a staff member of the Municipality;
  - (j) enters into a contract with the Municipality for the supply of goods or services;
  - (k) acts in a manner that undermines or otherwise jeopardises the decisions or recommendations of the ward committee;
  - (l) acts in a manner that compromises the integrity or good image of the ward committee or the Municipality;
  - (m) is found to be involved in corrupt or otherwise fraudulent activities, however remote, in relation to his/her position as a member of the ward committee;

- (n) is found to be involved in party canvassing or a similar activity during ward committee meetings;
  - (o) displays conduct that is, in the opinion of the ward committee, contrary to the good image of the committee; or
  - (p) no longer complies with the minimum requirements as provided for in Section 5 of this by-law.
- (2) It is recorded that the disciplinary procedure referred to in Schedule 2, in addition to those provisions as provided for in Schedule 1, must also apply to chairpersons and councillors appointed in terms of Section 10(2) hereunder.

#### **10. Filling of vacancies**

- (1) A vacancy on the ward committee must be reported to the Office of the Speaker by the chairperson or the person acting as such.
- (2) Whenever the Office of the Speaker becomes aware of a vacancy within the ward committee, the office will, after consulting the relevant ward committee chairperson, initiate such steps as are deemed feasible to have the position filled; provided that, should the remaining number of members be more than six (6), the Office of the Speaker may decide not to fill such a position, except for the position of chairperson.

#### **11. Procedure to convene ward committee meetings**

- (1) Ward committee members must be notified of the next meeting and provided with the agenda no less than seven (7) days before the scheduled meeting.
- (2) The quorum for a duly constituted ward committee meeting is fifty (50) percent plus one (1) of the members present.
- (3) The ward committee meeting will be conducted in line with the provisions of Schedule 5.

#### **12. Frequency of ward committee meetings**

- (1) A ward committee must meet at least three (3) times and not more than ten (10) times in a financial year; provided that the ward councillor may, with the approval of the Office of the Speaker, request that a special ward committee meeting be held to consider such urgent matters as may be deemed fit.
- (2) At the first meeting of each financial year, the ward committee must draft a schedule of meetings, taking into account the Council's calendar.
- (3) At its first meeting or as soon thereafter as is reasonably practicable, the ward committee must agree on the method and most convenient form of communication between its members as well as with Council and officials for the duration of its term.

### **13. Cancellation of ward committee meetings**

- (1) A ward committee meeting may be cancelled for a good cause by the chairperson of a ward committee or a person acting in that capacity, in consultation with the Office of the Speaker.
- (2) The cancellation of a ward committee meeting must be communicated to each ward committee member by the chairperson not less than 24 hours before the scheduled meeting.
- (3) The cancellation must be reported in writing to the Office of the Speaker not less than twelve (12) hours before the commencement of the scheduled meeting.

### **14. Notice of changed meeting time and venue**

A notice of any change of the commencement time and venue of any meeting of the ward committee must be sent to every member at least 24 hours before the scheduled meeting, and it must include details of the new starting time and venue.

### **15. Postponement of ward committee meetings**

- (1) If a quorum is not present within twenty (20) minutes after the scheduled time for commencement of a ward committee meeting, the chairperson must postpone the meeting.
- (2) If a meeting is postponed in terms of Subsection (1) above, the chairperson of the meeting must notify the Office of the Speaker and all members of the ward committee in writing within 24 hours of such postponement.
- (3) No out-of-pocket expenses are payable to members who had attended a meeting which did not commence because of the absence of a quorum.

### **16. Record of attendance**

Each member that attends a ward committee meeting must sign the attendance register as prescribed in Schedule 4.

### **17. Decision-making in ward committees**

- (1) The ward committee must strive to reach decisions through consensus, provided that where consensus cannot be reached, the matter will be put to the vote by a show of hands.
- (2) If there is an equality of votes on a matter, the chairperson will have a casting vote.

### **18. Payment of out-of-pocket expenses**

- (1) In terms of the provisions of Section 73(5)(c) of the Act, a metropolitan local council may make arrangements for the payment of out-of-pocket expenses to members of ward committees in respect of participation by ward committee members in the activities of the ward committees.
- (2) Out-of-pocket expenses must be paid to ward committee members in accordance with the policy and criteria developed by the Municipality in conformity with the provisions of the Act.
- (3) In pursuance of the provisions of Section 73(5)(a) of the Act, the out-of-pocket expenses referred to in Subsection (1) above must be paid from the budget of the Municipality.
- (4) Out-of-pocket expenses referred to in Subsection (1) above must be paid monthly, on submission of proof that the attendance register as set out in Schedule 4 was duly signed.
- (5) In pursuance of the provisions of Section 77 of the Act, no remuneration is payable to members of the ward committee referred to in Section 3(1)(b) of this by-law.

#### **19. Stakeholder or sector group database**

- (1) The Office of the Speaker may, within the available resources, compile a database for the stakeholders or the sector groups in each ward and across ward boundaries for the entire municipal area.
- (2) A database for the stakeholder or the sector groups may include the contact details, the area of operation and the objectives of each group.
- (3) The Office of the Speaker may update the database for stakeholders or sector groups on a continual basis.

#### **20. Appointment of Independent electoral management body**

- (1) The Office of the Speaker, with the approval of Council, must appoint an independent electoral management body that will oversee the conduct of ward committee elections and be accountable to the Office of the Speaker.
- (2) An independent electoral management body must be contracted by the Municipality to manage the election processes and will report to Council through the Office of the Speaker.
- (3) The independent electoral management body must –
  - (a) oversee the election of members of ward committees;
  - (b) verify a database of all stakeholder and sector groups;

- (c) facilitate the nomination of representatives by the identified stakeholder and sector groups and members of the community;
- (d) develop training manuals for election officials;
- (e) print and distribute the nomination forms for candidates;
- (f) manage the preparation, printing and the secure storage of ballot papers;
- (g) obtain copies of the voters' roll for each voting district, either in electronic or physical format, for each voting district in each ward;
- (h) appoint election officials and staff for each municipal ward from the list supplied by the Office of the Speaker;
- (i) for each polling station, designate a polling station manager from among the election management staff who will be in charge of the polling station and the election officers assigned to that polling station;
- (j) publish the final list of polling station managers, election officials and their designated polling stations no less than ten (10) working days before the date of the election;
- (k) assist in resolving objections and disputes; and
- (l) report the election results to Council through the Office of the Speaker within thirty (30) days after the completion of the election process.

## **21. Appointment of election officials**

- (1) The Office of the Speaker must compile a list of all municipal officials and members of the public who wish to assist in the ward committee election.
- (2) The list must include their full names, contact details and areas of interest as well as their expertise that is relevant to ward committee election.
- (3) Access to the list by anyone is subject to the law that regulates the protection of personal information and any other applicable law.
- (4) The Municipal Manager will determine the remuneration of election officials.

## **22. Functions of polling station manager and election officials**

- (1) Each polling station will be presided over by a polling station manager that is appointed by the independent electoral management body.
- (2) Election officials are accountable to the polling station manager.



- (3) Election officials and any additional staff must manage and administer ward committee elections in the wards assigned to them by the independent electoral management body.
- (4) In performing the allocated functions, the polling station manager will –
  - (a) declare the voting process open and closed;
  - (b) manage, coordinate and supervise the voting process in the voting station;
  - (c) take all reasonable steps to ensure orderly conduct at the voting station;
  - (d) order any person within the boundary of the voting station to leave the voting station if that person's conduct is not conducive to a free and fair election or if it interferes with the impartiality of the electoral processes;
  - (e) in the case of non-compliance with an order by the polling station manager, request a member of the Tshwane Metro Police Department or the South African Police Service to forcefully remove such a person or persons;
  - (f) in the case of ongoing disorderly or disruptive conduct, in consultation with the independent electoral management body, close the voting station until such disorderly or disruptive conduct has ceased, and submit a report to the Office of the Speaker;
  - (g) count, record and announce the votes received for each nominee to the ward community members present at the voting station;
  - (h) submit the election results and report to the Office of the Speaker on the election process that was followed; and
  - (i) declare the voting process closed, after consultation with the ward councillor, if the environment is not conducive for elections to proceed and submit a report to the Office of the Speaker.

**23. Election processes for ward committees and determination of stakeholder and sectoral boundaries**

- (1) In view of the great diversity of interests and the large geographic extent of certain wards, this by-law provides for up to three (3) separate elections to take place in large wards so as to fulfil the requirements of Section 73(3)(a)(ii) of the Act.
- (2) The Office of the Speaker is responsible for the final approval of the election process in large wards.

## **24. Process for nomination**

Sections 16(1) and (2) of the Local Government: Municipal Electoral Act, 2000 (Act 27 of 2000) deals with the process for nomination of ward candidates as set out below.

- (1) A person may be nominated to contest an election in a ward by –
  - (a) a stakeholder; or
  - (b) a person who is –
    - (i) ordinarily resident in the municipality in which that ward falls; and
    - (ii) registered as a voter on that municipality's segment of the voter's roll.
- (2) Provided that the other provisions of this by-law are complied with, a person nominated in terms of Subsection (1)(b) above may stand in the ward as an individual ward candidate.
- (3) By not later than a date stated in the timeline for an election, the independent electoral management body must –
  - (a) compile, for each ward to be contested in the election, a list of the candidates contesting that ward;
  - (b) certify those lists for that election; and
  - (c) keep copies of those lists available at the office of the independent electoral management body.
- (4) In the event that two (2) or more nominations are made for a stakeholder group, an election will be held to elect the preferred candidate for that stakeholder group.
- (5) In the case of a shortfall of ten (10) elected stakeholder group nominees in a particular ward, individual persons will be nominated to fill the maximum number of vacancies.

## **25. Appeal against rejection**

- (1) An appeal against rejection of a nomination may be lodged with the independent electoral management body's office within three (3) working days after receipt of the rejection letter.
- (2) The appeal must be in writing and completely set out the grounds of appeal, taking into account the facts and laws in support of such an appeal.
- (3) The independent electoral management body will consider the appeal within three (3) working days of receipt and its decision will be final.

## **26. Procedure for elections**

- (1) A voter must present a South African ID book or a certified copy thereof to the election officer at the polling station, who will certify that the person is on the voters' roll for that voting district in large wards where more than one election is to take place or on the general voters' roll for small wards where only one election is to take place.
- (2) A ballot paper will be issued to the voter and, upon completion of the voting process, it will be deposited in a box provided.
- (3) The nominees, general public and those not permitted to vote will be allowed to observe the voting process, and any objections to the election process will be addressed by the polling station manager.
- (4) If the voter makes a mistake, the voter may request the polling station manager to supply a replacement ballot paper.

## **27. Counting**

- (1) The voting station must be declared closed before any counting can commence.
- (2) Upon completion of the counting, the polling station manager will announce the results immediately at the voting station.
- (3) Objections to the counting process will be directed to and addressed by the polling station manager.

## **28. Management of objections and disputes**

- (1) The independent electoral management body will respond within 72 hours of receipt of objections and disputes.
- (2) The decision of the independent electoral management body is final.
- (3) Where a matter involves a councillor, such matter will be referred to the Office of the Speaker for investigation and resolution in terms of Schedule 2 of this by-law.

## **29. Dissolution of ward committees**

The Office of the Speaker may dissolve a ward committee under the following circumstances:

- (a) Failure to fulfil its objectives as set out in this by-law and or the applicable legislation

- (b) Failure to uphold the values and principles contemplated in Section 195 of the Constitution
- (c) Non-adherence to this by-law
- (d) Resignation of more than fifty (50) percent of the nominated and or elected members of the ward committee

### **30. Notice of election of new ward committees**

Notice of the election of a new ward committee must be given to the Office of the Speaker in accordance with the provisions of this by-law.

### **31. Administrative arrangements**

- (1) The Office of the Speaker must make any administrative arrangements necessary to enable ward committees to perform their functions and to effectively exercise their powers in terms of the provisions of Section 73(4) of the Act.
- (2) The administrative arrangements may include but are not limited to the following:
  - (a) Secretarial support and minute-taking
  - (b) Booking of meeting venues as agreed with ward councillors
  - (c) Capacity development
  - (d) Circulation of an attendance register
  - (e) Tracking of reports
  - (f) Collating of recommendations to the Electoral Committee.
- (3) Minutes of meetings of ward committees must be circulated to the ward councillor and members of ward committees.
- (4) A copy of the minutes, together with the recommendations of the relevant ward committee, in accordance with Section 74 of the Act must be deemed as reports to be sent to the Electoral Committee for consideration in order to make appropriate recommendations to Council.
- (5) Council must dispose of the matters mentioned in Subsection (4) above that are referred to it by the Electoral Committee in terms of Council Rules and Orders.

**32. Discretionary powers of the Office of the Speaker**

The Office of the Speaker, supplementary to this by-law, be empowered, after consulting the independent electoral management body and the relevant ward councillor or councillors, as the case may be, must adopt policies to achieve the objectives of the Act and furthermore issue directives on any matter provided for in this by-law to ensure practical and expedient compliance with the provisions therewith; provided that such policy, policies and or directives in respect of the election process only, must be made public at least two months prior to the date of election.

**33. Short title**

This by-law will be called the City of Tshwane By-law on Ward Committees, 2019 and it comes into effect on the date of publication in the Provincial Gazette.

## SCHEDULE 1

### CODE OF CONDUCT AND DISCIPLINARY PROCEDURES FOR WARD COMMITTEE MEMBERS

1.1 A member must perform the functions of office honestly, in good faith, and in a transparent manner. The member must at all times act in the best interest of the ward committee and the stakeholder, sector or community that he/she represents; and in such a way that the credibility and integrity of the ward committee are not compromised.

1.2 Meeting attendance

1.2.1 A member must attend all duly convened meetings of the ward committee.

1.2.2 A ward committee member must vacate his/her position if he/she –

- is absent for two (2) consecutive meetings without submitting an acceptable apology; or
- is absent in an irregular manner from four (4) meetings in a calendar year, with or without an apology that is acceptable to the ward committee.

1.3 Personal gain

A member may not use the position or privileges of a ward committee, or confidential information obtained as a member, for private gain or to improperly benefit another person.

1.4 Rewards, gifts and favours

A member may not –

- (a) request, solicit or accept any reward, gift or favour in return for voting or not voting in a particular manner or any matter before the ward committee;
- (b) persuade the ward committee regarding the exercise of any power, function or duty; or
- (c) disclose privileged or confidential information.

1.5 Unauthorised disclosure of information

1.5.1 Without derogating from the right of any person to access information in terms of national legislation, including Section 32 of the Constitution, 1996, a member may not disclose any privileged or confidential information of the ward or ward committee to any unauthorised person without the permission of the ward councillor or a committee of Council, and he/she may not disclose any

information which would violate a person's right to privacy or which is declared to be privileged, confidential or secret in terms of the law.

#### 1.6 Municipal property

A member may not use, take, acquire or benefit from any property or asset which is owned, controlled or managed by the Municipality and to which he/she has no right.

#### 1.7 Duty of chairpersons of ward committees regarding the Disciplinary Code

1.7.1 The chairperson must ensure that each member is given a copy of this code when he/she takes office, and that a copy of the code is accessible to all ward committee members.

1.7.2 If the chairperson of a ward committee has reasonable grounds to believe that a provision of this code has been breached, he/she must report such alleged breach to the Office of the Speaker for investigation.

#### 1.8 Breach of the code

1.8.1 On receipt of a report on an alleged breach, the Office of the Speaker may –

- (a) investigate and make a finding on any alleged breach of a provision of this code;
- (b) establish a special disciplinary committee or appoint an official to investigate and make a finding on any alleged breach of this code; and
- (c) make appropriate recommendations to Council.

1.8.2 If the Office of the Speaker or the Special Disciplinary Committee or the investigating official finds that a member has breached a provision of this code, it may –

- (a) issue a formal warning to the member;
- (b) reprimand the member;
- (c) suspend the member for a period of three months; or
- (d) request that the member be removed from the ward committee.

#### 1.9 Appeals

1.9.1 Any member who has been warned or reprimanded in terms of Paragraph 1.8.2 may, within fourteen (14) days of having been notified of the decision, appeal in writing to the Office of the Speaker, setting out the reasons on which the appeal is based.

- 1.9.2 Upon receipt of the appeal, the Office of the Speaker must convene an electoral committee to consider and finalise the matter, and the ruling must be conveyed to the ward committee member(s) and the ward councillor concerned.
- 1.9.3 Disciplinary and appeal processes must be concluded within a period of ninety (90) days from the date of receipt of a complaint.
- 1.9.4 The Office of the Speaker must keep a register of all disciplinary action taken against members.



## **SCHEDULE 2**

### **DISCIPLINARY PROCEDURES FOR COUNCILLORS**

The Rules and Ethics Committee of Council, as established in terms of Section 79 of the Municipal Structures Act, 1998 (Act 117 of 1998), will consider all disciplinary matters relevant to councillors. Upon receipt of a complaint by the Office of the Speaker, the Office of the Speaker must address the complaint in line with the rules and procedures that apply to the Rules and Ethics Committee of Council and make recommendations where appropriate.

### SCHEDULE 3

#### NOMINATION FORM FOR INDIVIDUAL CANDIDATES IN WARD COMMITTEE ELECTIONS

The nomination form must include the following:

**1. Nominee**

- a. Full name
- b. Identity number and certified copy of the nominee's South African identity document
- c. Contact details (ward number, residential address, phone number and email address)
- d. The stakeholder, group or sector that the individual member will represent
- e. The signature of the nominee and the date of acceptance of the nomination
- f. A declaration by the nominee attached to the nomination form

**2. Nominator**

- a. Full name
- b. Identity number
- c. Contact details (ward number where registered, residential address, phone number and email address)
- d. Signature of the nominator and date of nomination

**3. Secunder**

- a. Full name
- b. Identity number
- c. Contact details (ward number where registered, residential address, phone number and email address)
- e. Signature of the seconder and date

## **SCHEDULE 4**

### **ATTENDANCE REGISTER FOR WARD COMMITTEES**

The attendance register must be an official document, and it must include the following:

- a. Ward number
- b. Date of the meeting
- c. Venue and time of commencement of the meeting
- d. Name of the member
- e. Name of the stakeholder group or sector represented
- f. Signature of the member attending

## SCHEDULE 5

### AGENDA: WARD COMMITTEE MEETING

**WARD:** \_\_\_\_\_ **DATE:** \_\_\_\_\_ **TIME:** \_\_\_\_\_

- a. Opening and welcome
- b. Signing of attendance register
- c. Recording leave of absence
- d. Approval of the minutes of the previous meeting/s
- e. Matters arising from the minutes
- f. Matters for consideration
  - i. ...
  - ii. ...
  - iii. ...
- g. Annexure that lists the actions to be taken and the timeframe for action following ward committee deliberations
- h. Date of next meeting

## **SCHEDULE 6**

### **REGISTRATION FORM FOR STAKEHOLDER, GROUP OR SECTOR NOMINEE**

The registration form for a stakeholder or sector nominee must include the following:

- a. Full name of stakeholder, group or sector
- b. Description of the stakeholder's objectives and geographic boundaries and/or residential suburb or township
- c. Ward number and voting district number
- d. Name of nominee who wishes to become a member of the ward committee for that stakeholder group or geographic sector
- e. Full contact details of the individual nominee
- f. Signature of the nominee

## **SCHEDULE 7**

### **APPEALS PROCEDURE FOR REFERRAL TO THE ELECTORAL COMMITTEE**

Appeals must be submitted in writing to the Office of the Speaker and must include the following:

- a. Full name, address and contact details of the appellant
- b. Full details of appeal with reference to the By-law on Ward Committees

**ANNEXURE 1**

**WARD COMMITTEE**

**NOMINATION FORM (Individuals)**

<b>NOMINEE</b>	
Ward number	
Full names of nominee (as per ID)	
Identity number and certified copy of ID	
Residential/business address of nominee in ward	
Contact details/cell/email	
<i>Declaration to be attached</i>	
Motivation (statement why the nominee is eligible as a candidate)	
<b>NOMINATOR</b>	
Full names of nominator (as per ID)	
Identity number	
Residential address and ward where registered as a voter (declaration not necessary for nominator)	
<b>SECONDER</b>	
Full names of seconder (as per ID)	
Identity number	
Residential address and ward where registered as a voter (declaration not necessary for seconder)	
<b>Closing date for nominations</b>	

**ACCEPTANCE/REJECTION OF NOMINATION:**

I, \_\_\_\_\_, hereby accept/reject the above nomination.

**NOMINEE**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**NOMINATOR**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**SECONDER**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Electoral Management Body: Votes received \_\_\_\_\_

Official use: Reasons for the rejection of the nomination :

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DRAFT 24 JANUARY 2019



**ANNEXURE 2**

**WARD COMMITTEE  
NOMINATION FORM (Stakeholder and Sector  
Registration)**

<b>NOMINEE(S)</b>	
Ward number in which Stakeholder/ Sector is located	
Full names of nominee(s) (as per ID)	
Identity number and certified copy of ID	
Stakeholder/ Sector address in ward (postal, cell phone/e-mail)	
Stakeholder/Sector (brief description of the main activities of the stakeholder/sector, mission, articles of association, constitution)	
<i>Declaration to be attached</i>	
<b>NOMINATOR(S)</b>	
Full names of nominator (as per ID)	
Identity number and certified copy of ID	
Residential address and ward where registered as a voter (must be the ward in which stakeholder/sector is situated)	
<b>SECONDER(S)</b>	
Full names of seconder (as per ID)	
Identity number	
Residential address and ward where registered as a voter (must be the ward in which stakeholder/sector is situated)	
<b>Closing date for nominations</b>	

**ACCEPTANCE/REJECTION OF NOMINATION:**

I, \_\_\_\_\_, hereby accept/reject the above nomination.

**NOMINEE**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**NOMINATOR**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

**SECONDER**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Electoral Management Body: Votes received \_\_\_\_\_

Official use: Reasons for the rejection of the nomination:

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DRAFT 24 JANUARY  
2019

### ANNEXURE 3

#### OFFICE OF THE SPEAKER

#### DECLARATION FORM FOR WARD COMMITTEE ELECTION NOMINEES

DECLARATION		
I (full name) ..... Identity number ..... Residential address ..... Ward number ..... Voting district .....		
hereby declare that I am not disqualified by any of the following (Section 3) and that I am aware that a false declaration is in breach of legislation and will lead to disciplinary action.		
By signing this form, I hereby declare that I am not disqualified by any of the requirements of the by-law to be elected as a member of the ward committee.		
Furthermore, I am aware that should it become evident that this declaration is made under false pretence, such declaration constitutes a criminal offense for which I could be prosecuted in a court of law.		
I furthermore record that should I successfully be elected as member of the ward committee, I irrevocably bind myself to comply with the Code of Conduct and Disciplinary Procedures for Ward Committee Members (Schedule 1 of this by-law).		
	Mark applicable block with an "x"	
	YES	NO
1. Have you been declared insolvent or un-rehabilitated?		
2. Have you been declared to be of unsound mind by a court of the Republic of South Africa?		
3. Have you been convicted of an offence and sentenced to more than 12 months imprisonment without the option of a fine?		
4. Are you an employee of the City of Tshwane?		
5. Are you a contractor and/or a supplier of goods and services to the City of Tshwane?		
6. Do you have any debt to the Municipality for a period of longer than three (3) months?		

Signature: .....

Date: .....

Venue: .....

**ANNEXURE B**

No. 228

PROVINCIAL GAZETTE, 13 SEPTEMBER 2017

**PROVINCIAL NOTICE 810 OF 2017**

**CITY OF  
TSHWANE**  
IGNITING EXCELLENCE

**Office of the Speaker**

2<sup>nd</sup> Floor | Block A West Wing | Tshwane House | 320 Madiba Street | Pretoria  
PO Box 320 | Pretoria | 0001  
Tel: 012 358 1867 / 012 358 2867 | Fax: 086 211 9301  
Email: Dipuomo@tshwane.gov.za | www.tshwane.gov.za | www.facebook.com/CityOf Tshwane

**NOTICE ON THE BY-LAW ON WARD COMMITTEES 2017 FOR IMPLEMENTATION IN THE  
CITY OF TSHWANE METROPOLITAN MUNICIPALITY**

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes in terms of Section 73 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), read with section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), Section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), and Section 162 of The Constitution of the Republic of South Africa, 1996 the City of Tshwane Metropolitan Municipality: By-law on Ward Committees, 2017, as contemplated in the hereunder and approved by the said Council on 30 March 2017.

The said By-law will come into operation on the date of promulgation hereof in the Provincial Gazette.

MOEKETSI MOSOLA

CITY MANAGER

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**BY-LAW ON WARD COMMITTEES**

To provide for the establishment of ward committees within the jurisdiction area of the City of Tshwane Metropolitan Municipality, to lay down rules and legislative requirements on the processes therefore, the composition thereof, to provide for roles and functions of members and stakeholders, the sitting of meetings, quorums, absenteeism of members and stakeholder involvement, to set out the term of office, vacation and filling of vacancies, to provide for the establishment, composition roles and functions of the Electoral Committee, to provide for dispute resolution and administrative support to the ward committees in accordance with section 73 of the Local Government : Municipal Structures Act, 1998 (Act 117 of 1998).

## CITY OF TSHWANE METROPOLITAN MUNICIPALITY

### NOTICE OF THE DRAFT CITY OF TSHWANE BY-LAW ON WARD COMMITTEES, 2017

The City Manager of the City of Tshwane Metropolitan Municipality hereby publishes, in terms of Section 73 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), read with Section 7 of the Gauteng Rationalisation of Local Government Affairs Act, 1998 (Act 10 of 1998), Section 13 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and Section 162 of the Constitution of the Republic of South Africa, 1996, the City of Tshwane By-law on Ward Committees, 2017 as contemplated below and approved by Council on 27 July 2017..

This by-law will come into operation on the date when it is promulgated in the *Gauteng Provincial Gazette*.

### CITY OF TSHWANE BY-LAW ON WARD COMMITTEES

This by-law will –

- provide for the establishment of ward committees within the jurisdictional area of the City of Tshwane Metropolitan Municipality;
- lay down rules and legislative requirements for the processes to be followed;
- provide for the establishment, election and composition of ward committees;
- provide for the roles and functions of individual members and stakeholders;
- provide for the convening of meetings, quorums, absenteeism of members and stakeholder involvement;
- set out the terms of office and the procedures for vacating office and filling vacancies;
- provide for the nomination and election of ward committee members;
- set out the roles and functions of an independent election management body; and
- Provide for dispute resolution and administrative support for ward committees in accordance with Sections 73 to 78 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

### PREAMBLE

**WHEREAS** the City of Tshwane Metropolitan Municipality has adopted a mayoral executive system combined with a ward participatory system as provided for in Section 8(g) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998, as amended), in order to enhance public participation and facilitate community involvement in the decision-making processes of the Municipality;

**AND WHEREAS** the Municipality has a constitutional mandate in terms of the Constitution of the Republic of South Africa, 1996, to provide for appropriate

legislative rules and requirements in order to fulfil its responsibility in respect of community involvement as provided for in Chapter 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000, as amended);

**AND WHEREAS** the Municipality is competent to make rules regulating the procedures and functioning of ward committees in terms of Sections 73 to 78 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998);

**AND WHEREAS** the Municipal Council has resolved on 30 March 2017 to make a by-law to give effect to its legal mandate as mentioned above;

**BE IT THEREFORE ENACTED** by the City of Tshwane Metropolitan Municipality as follows:

## **ARRANGEMENT OF BY-LAW**

### **SECTION 1: DEFINITIONS AND ACRONYMS**

### **SECTION 2: ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF WARD COMMITTEES**

- (1) Establishment of ward committees
- (2) Composition of ward committees
- (3) Ward coordinator
- (4) Subcommittees
- (5) Functions of a ward committee
- (6) Ward committee meetings
  - (a) Frequency of meetings
  - (b) Cancellation of meetings
  - (c) Notice of change of meeting time and venue
  - (d) Record of attendance
  - (e) Postponement of meetings
  - (f) Decision-making in ward committee meetings
- (7) Term of office of ward committee members
- (8) Absence and vacating of office by ward councillors
- (9) Absence and vacating of office by ward committee members
- (10) Filling of vacancies
- (11) Out-of-pocket expenses of ward committees

### **SECTION 3: ELECTION PROCESSES**

- (1) Stakeholder database
- (2) Appointment and functions of an independent electoral management body
- (3) Appointment of election officers
- (4) Functions of election officers
- (5) Process of nomination
- (6) Notice of elections
- (7) Appeals
- (8) Eligibility of candidates
- (9) Notice of nominations
- (10) Nomination forms
- (11) Procedure for elections
- (12) Counting
- (13) Management of objections and disputes involving councillors

### **SECTION 4: DISSOLUTION AND RE-ELECTION OF WARD COMMITTEES**

- (1) Dissolution of ward committees
- (2) Notice of election of new ward committees

**SECTION 5: ADMINISTRATIVE SUPPORT FOR WARD COMMITTEES****SECTION 6: TITLE OF BY-LAW AND REPEAL OF THE PREVIOUS BY-LAW AND POLICIES****SCHEDULE 1****Code of Conduct and disciplinary procedures for ward committee members****SCHEDULE 2****Disciplinary procedures for councillors****SCHEDULE 3****Nomination of candidates for membership of a ward committee****SCHEDULE 4****Attendance register for ward committees****SCHEDULE 5****Agenda: Ward committee meeting****SCHEDULE 6****Stakeholder, sector and individual member registration**



## SECTION 1: DEFINITIONS AND ACRONYMS

- 1 In this by-law, a word or a phrase to which a meaning has been assigned in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) and the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) and Regulations has that meaning, unless the context compels otherwise; and other terms are defined as follows:

**"Appeals Committee"** means the committee appointed by the Office of the Speaker in terms of Section 1.8.3.2 of Schedule 1 below to hear appeals on disciplinary matters with regard to ward committee members.

**"Attendance register"** refers to the official register that is circulated at each meeting of a ward committee and complies with the prescribed format set out in Schedule 4 below.

**"By-law"** means the City of Tshwane By-law on Ward Committees, 2017 and "this by-law" has the same meaning.

**"Chairperson"** means a ward councillor of the Municipality who chairs the ward committee meetings by virtue of the provisions of Section 73(2)(a) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

**"Code of Conduct"** means the code of conduct and disciplinary procedures for ward committee members set out in Schedule 1 to this by-law and to which ward committee members are subject at all times.

**"Constitution"** means the Constitution of the Republic of South Africa, 1996.

**"Council"** means the duly elected Council of the City of Tshwane Metropolitan Municipality.

**"Electoral Commission"** is commonly referred to as the "Independent Electoral Commission" established in terms of Chapter 9 of the Constitution of the Republic of South Africa, 1996, and it manages and administers the "voters' roll".

**"Election"** means a ward committee election or elections held in terms of Section 3 of this by-law.

**"Election officer"** means a person appointed by an independent electoral management body to undertake the responsibilities of an election officer in terms of Section 3 of this by-law.

**"Form of communication"** refers to all types of written, verbal, electronic or digital personal communication, commonly available from time to time and

recognised as normal business practice, including email, SMS and WhatsApp communication.

**“Independent electoral management body”** means the body set up in terms of Section 3(2) of this by-law to manage the ward committee election process.

**“Large ward”** means a ward with six (6) or more voting districts as determined by the Demarcation Board.

**“Member of the community”** means any law-abiding individual resident holding an interest in the well-being of a ward.

**“Municipality”** means the City of Tshwane Metropolitan Municipality, being a municipality as contemplated in Section 155(6) of the Constitution of the Republic of South Africa, 1996.

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), as amended.

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), as amended.

**“Nominator”** means the person proposing a stakeholder or individual member of the community for election to a ward committee.

**“Nominee”** means the stakeholder representative or individual community member who is nominated for election to a ward committee.

**“Polling station manager”** means the person appointed by the independent electoral management body to undertake the duties of managing the election process in terms of Section 3 of this by-law.

**“Privileged or confidential information”** means all types of written, verbal, electronic or digital communication commonly available from time to time and recognised as normal practice, which contains information ruled by Council or a ward committee to be classified, privileged or confidential and as being for the attention only of the person who receives such information.

**“PR councillor”** means a municipal councillor elected by a political party in terms of Section 22(1)(a) of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) to proportionally represent a political party in a municipal council.

**“Rules and Ethics Committee”** means the committee appointed by Council to deal with disciplinary matters in relation to public office-bearers.

**“Small ward”** refers to a ward with up to and including five (5) voting stations as determined by the Demarcation Board.

**“Speaker”** means the chairperson of Council elected to that position by Council in terms of Section 36 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

**“Special election”** means an election to be held if less than six (6) seats on any ward committee are filled at a ward committee election.

**“Stakeholder”** means an organised group, sector or individual resident, excluding a political party, with a vested interest in a particular ward – such as a community policing forum, a business or a community grouping, or a residents’ or ratepayers’ group – which has a clear right to and interest in local government matters.

**“Voter”** means an individual resident in the Tshwane municipal area registered on the national common voters’ roll compiled and managed in terms of the Municipal Electoral Act (Act 27 of 2000);

**“Voting district”** means a voting district established in terms of Section 60 of the Local Government: Municipal Electoral Act, 2000 (Act 27 of 2000).

**“Voters’ roll”** means the national common voters’ roll compiled and managed in terms of the Local Government: Municipal Electoral Act, 2000 (Act 27 of 2000).

**“Ward committee”** means a committee established in terms of Section 73 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998), and in this by-law “committee” has the same meaning.

**“Ward committee meeting”** means a meeting duly constituted by elected ward committee members in terms of the provisions of Section 2(6) of this by-law.

**“Ward committee member”** means a person elected to the ward committee in terms of the provisions of Section 3 of this by-law or a member co-opted by the ward councillor in consultation with the ward committee to serve on a ward committee.

**“Ward councillor”** means a municipal councillor elected in terms of Section 22 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998) to represent the residents of a particular ward.

**“Ward”** means a geographic area delimited from time to time in terms of Item 2 of Schedule 1 of the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).

**“Working days”** means official City of Tshwane Metropolitan Municipality working days and excludes weekends and public holidays.

## **SECTION 2: ESTABLISHMENT, COMPOSITION AND FUNCTIONS OF WARD COMMITTEES**

### **1. Establishment**

The City of Tshwane Metropolitan Municipality, in terms of Section 73 of the Municipal Structures Act, hereby establishes ward committees to promote participatory democracy and accountability as enacted by this by-law.

### **2. Composition of ward committees**

A ward committee –

- (a) must comprise the ward councillor as chairperson and a maximum of ten (10) and a minimum of six (6) stakeholder representatives or individual members duly elected in terms of this by-law, provided that if fewer than ten (10) stakeholder representatives and/or individual members are elected, the ward councillor in consultation with those six representatives may co-opt a further four (4) stakeholder representatives or individual members to comprise a committee of ten (10) members. Such nominated members will have the same full rights as those elected. Should fewer than six (6) members be elected, a further special election must be held as determined by the independent electoral management body;
- (b) must represent organised stakeholder groups or sectors, each represented by a stakeholder group representative or individual member who is located in or has an active interest in the ward concerned;
- (c) Must be a registered voter in the ward concerned;
- (d) Must not be a person who is simultaneously a member of another ward committee;
- (e) Must have due regard for gender equity;
- (f) Must have due regard for geographic representation;
- (g) must include one (1) PR councillor assigned to it by the Speaker for assisting and complementing the work of the ward councillor and the ward committee, and who may participate in deliberations, but will have no voting rights; and

- (h) May include the Executive Mayor, Speaker and Chief Whip as *ex officio* members, and if these office-bearers are ward councillors, they may appoint another councillor to act as chairperson of their ward committee.
- (i) No political party may seek representation on a ward committee.
- (j) Serving municipal officials may not be members of a ward committee, but retired municipal officials may.
- (k) A stakeholder group or an individual member may not be a member of a ward committee if involved in contracting for the provision of goods and services to the Municipality.
- (l) Members of a ward committee must attend meetings in person and may not be replaced by another person.

### 3. Subcommittees

A ward subcommittee –

- (a) May be established by each ward committee to pursue stakeholder or general municipal interests or to provide specialist skills;
- (b) Will be convened by a member assigned thereto by the ward committee;
- (c) will report back in writing to the ward committee on the outcome of its recommendation(s) as soon as it is practical or within a time limit determined by the ward committee; and
- (d) May include non-ward committee members, who may attend meetings but will have no voting rights.
- (e) When circumstances so dictate, the ward councillor may invite any person, including municipal officials, to give expert advice to the ward committee on matters pertaining to the ward.

### 4. Functions of a ward committee

A ward committee –

- (a) Must assist, monitor, advise and make recommendations on any matter that affects the ward, as provided for in Section 74 of the Municipal Structures Act;

- (b) Must make recommendations to the ward councillor or, through the ward councillor, to the relevant municipal department or Council on any matter that affects the ward;
- (c) Must exercise such duties and powers as Council may delegate to it in terms of Section 59 of the Municipal Systems Act;
- (d) Must act as an advisory committee to the ward councillor;
- (f) Must comment on or respond to the following, subject to Paragraph (g) below:
  - (i) preparation, implementation and review of the Integrated Development Plan (IDP) and budget;
  - (ii) establishment, implementation and the process for reviewing the Municipality's service delivery performance, including the outcomes and impact of such performance;
  - (iii) by-laws and policies;
  - (iv) any other strategic decision, including spatial planning related to the provision of municipal services, rezoning and consent use applications, development proposals and the allocation of resources that may have an impact on the community; and
- (g) Must not exercise the functions, responsibilities and powers delegated to it in terms of Section 4 above in a manner that compromises or interferes with Council's right to govern and to exercise its executive, legislative and oversight authority.
- (h) Ward committee members may not exercise the responsibilities normally performed by ward councillors.

#### **5. Term of office of ward committee members**

- (a) The term of office of ward committee members will coincide with the term of office of Council as prescribed in Section 24 of the Municipal Structures Act.
- (b) Ward committee members may serve for successive terms of office, provided that the members comply with all the requirements of this by-law.



## 6. Absence and vacating of office by ward councillors

- (a) When a ward councillor is unable to attend a meeting, the ward committee members present will elect an acting chairperson for that meeting at the commencement of the meeting, provided that a quorum is present.
- (b) In the event of a ward councillor vacancy, the committee will elect one of its members to conduct the duties and functions of the chairperson in the interim. A PR councillor may be elected in the interim to perform the functions of the chairperson.

## 7. Vacating of office

A ward committee member must vacate his or her position if the person –

- (i) is absent for two (2) consecutive meetings without submitting an acceptable apology;
- (ii) is absent for four (4) meetings in a calendar year, with or without an apology that is acceptable to the ward committee;
- (iii) acts in a manner that undermines the authority of the ward councillor, Council and/or the ward committee;
- (iv) Commits a crime that results in a conviction exceeding twelve (12) months without the option of a fine;
- (v) Exhibits any annoying, offensive, violent, abusive and intimidating behaviour towards other members and/or the community;
- (vi) attends a meeting under the influence of alcohol and/or an illegal substance;
- (vii) Is found to have accepted a bribe from any party that has an interest in a development project or tender for that particular ward;
- (viii) Is found to have used his or her membership of the ward committee to extract, or in attempting to extract, favours of any kind;
- (ix) Is elected as a councillor in the Municipality;
- (x) Is appointed as a staff member of the Municipality or enters into a contract with the Municipality for the supply of goods and services;
- (xi) acts against the decision(s) of the ward committee without good cause;

- (xii) is involved in party-political canvassing or a similar activity during ward committee meetings;
- (xiii) is found guilty of an infringement of this by-law and is ordered by the Speaker to vacate his or her position; and
- (xiv) submits a letter of resignation to the ward councillor.

#### **8. Filling of vacancies**

- (a) Following the occurrence of a vacancy, the affected stakeholder group will be requested to nominate a replacement who will become a member of the ward committee, unless prohibited by the provisions of this by-law.
- (b) Where an individual community member is to be replaced, a ward committee will co-opt a qualifying, individual community member to serve on the committee, unless prohibited by the provisions of this by-law. The filling of such vacancies will be reported to the Speaker.

#### **9. Ward committee meetings**

- (a) Frequency of meetings
  - (i) A ward committee meeting must be convened at least three (3) but not more than ten (10) times a calendar year in each municipal ward.
  - (ii) At its first meeting each calendar year, the ward committee must draft a schedule of meetings, taking into account Council's calendar and the availability of each ward committee member.
  - (iii) At its first meeting or as soon thereafter as is practicable, the ward committee must agree on the method and most convenient form of communication between members as well as with Council and officials for the duration of its term.
  - (iv) Thereafter, ward committee members must be notified of the next meeting and provided with the agenda no less than seven (7) days before the meeting.
  - (v) The duration of a duly constituted ward committee meeting will be no less than one (1) hour and will be conducted in line with the provisions of Schedule 5.
  - (vi) The quorum for a duly constituted meeting shall comprise fifty-percent (50) of the members elected plus the Chairperson of that particular meeting.



(b) Cancellation of meetings

- (i) Ward committee meetings may be cancelled for a good cause by the chairperson of a ward committee or a person acting in that capacity in consultation with the Speaker.
- (ii) Any such cancellation of a meeting must be communicated to each ward committee member by the chairperson in the form of communication agreed upon by the ward committee and not less than 24 hours (1 day) before the meeting.
- (iii) Any such cancellation must be reported in writing to the Office of the Speaker in the form of communication agreed upon and not less than twelve (12) hours before the commencement of the scheduled meeting.

(c) Notice of changed meeting time and venue

A notice of any change in the commencement time and venue of any meeting of the ward committee must be sent to every member including co-opted members at least twenty-four (24) hours (1 day) before the scheduled meeting in the form of communication agreed upon by the ward committee, and it must include details of the new starting time and venue.

(d) Record of attendance

Each member attending a meeting must sign the attendance register as prescribed in Schedule 4.

(e) Postponement of meetings

- (i) If a quorum is not present within twenty (20) minutes after the scheduled time for commencement of a meeting, the chairperson must postpone the meeting. No out-of-pocket expenses are payable to those attending a non-quorate meeting.
- (ii) If a meeting is postponed in terms of Subparagraph (i) above, the chairperson of the meeting must notify the Office of the Speaker and all members of the ward committee in writing in the form of communication agreed upon within twenty-four (24) hours of such postponement. The date and time of the postponed meeting must be communicated to all ward committee members.

- (f) Decision-making in ward committees
  - (i) The ward committee must strive to reach decisions through consensus, provided that where consensus cannot be reached, the matter will be put to the vote by a show of hands.
  - (ii) If an equal number of voters vote for and against a proposal, the chairperson will have a deciding vote.

**10. Payment of out-of-pocket expenses**

- (a) Out-of-pocket expenses must be paid to ward committee members in line with the policy and criteria developed by the Municipality in terms of Section 73(b) and (c) of the Municipal Structures Act.
- (b) Out-of-pocket expenses must be paid from the Municipality's budget in terms of policy and procedure, as set out in Section 73(5)(a) of the Municipal Structures Act.
- (c) Out-of-pocket expenses must be paid monthly for each meeting attended on submission of proof that the official register as set out in Schedule 4 has been duly signed.

### **SECTION 3. ELECTION PROCESSES**

#### **1. Stakeholder database**

- (a) The Office of the Speaker must compile a database of stakeholder or sector groups in each ward and across ward boundaries for the entire municipal area.
- (b) A database for stakeholder or sector groups must include the contact details, the area of operation and the objectives of each group.
- (c) The Office of the Speaker must update the stakeholder database on a continual basis.

#### **2. Appointment of an independent electoral management body**

- (a) The Speaker, with the approval of Council, will appoint an independent electoral management body that will oversee the conduct of ward committee elections and be accountable to the Speaker.
- (b) An independent electoral management body will be contracted by the City of Tshwane Metropolitan Municipality to manage the election processes and will report through the Speaker to Council.
- (c) The independent electoral management body must –
  - (i) oversee the election of members of ward committees;
  - (ii) verify a database of all stakeholder groups and sectors and facilitate the nomination of representatives by the identified stakeholder groups and sectors and members of the community;
  - (iii) develop training manuals for election officials;
  - (iv) print and distribute the nomination form for candidates;
  - (v) manage the preparation and printing and the secure storage of ballot papers;
  - (vi) obtain copies of the voters' roll for each voting district either in electronic or physical format for each voting district in each ward;
  - (vi) appoint election officials and staff for each municipal ward from the list supplied by the Speaker;
  - (vii) for each polling station, designate a polling station manager from among the election management staff, and this manager will be in

charge of the polling station and the election officers assigned to that polling station;

- (ix) publish the final list of polling station managers, election officials and their designated polling stations no less than ten (10) working days before the date of the election;
- (x) assist in resolving objections and disputes;
- (xi) report to Council through the Office of the Speaker within thirty (30) days following the completion of the election process.

### **3. Appointment of election officials**

The Office of the Speaker must compile a list of all employees and members of the public who wish to assist in conducting the ward committee election. The list must include their full names and contact details and areas of interest and expertise relevant to ward committees and must be made accessible to councillors, candidates and the public. The City Manager will determine the remuneration of election officials.

### **4. Functions of the polling station manager and election officials**

- (a) Each polling station will be presided over by a polling station manager appointed by the independent electoral management body subject to the contractual agreement between the Municipality and the independent electoral management body.
- (b) Election officials are accountable to the polling station manager.
- (c) Election officials and any additional staff will manage and administer ward committee elections in the wards assigned to them by the independent electoral management body.
- (d) In exercising the allocated functions, the polling station managers will –
  - (i) declare the voting process open and closed;
  - (iii) manage, coordinate and supervise the voting process at their respective voting stations;
  - (iv) take all reasonable steps to ensure orderly conduct at the voting station;
  - (v) order a member of the security services on duty (Metro Police) to assist in ensuring orderly conduct at the voting station;
  - (vi) order any person within the boundary of the voting station to leave the voting station if that person's conduct is not conducive to a free and fair election or if it interferes with the impartiality of the electoral processes;

- (vii) in the case of non-compliance with an order by the polling station manager, request a member of the security services (Metro Police) to forcefully remove such a person or persons;
- (viii) in case of ongoing disorderly or disruptive conduct, in consultation with the independent electoral management body, close the voting station until such disorderly/disruptive conduct has ceased, and submit a report to the Office of the Speaker;
- (ix) count and announce the votes received for each nominee to the ward community members present at the voting station;
- (x) record the number of votes received by each nominee on the nomination form;
- (xi) submit the election results and report on the election process that was followed for each ward committee election to the Office of the Speaker;
- (xii) declare the voting process closed, after consultation with the ward councillor, if the environment is not conducive for elections to proceed, and submit a report to the Office of the Speaker.

#### 5. Election processes for ward committees and the determination of stakeholder and sectoral boundaries

- (a) In view of the great diversity of interests and the large geographic extent of certain wards, this by-law provides guidelines for the election and functioning of each ward committee so as to fulfil the requirements of Paragraph 2 above. Where this by-law does not prescribe detailed procedures, particularly with regard to stakeholder and sectoral boundaries and the practicality of elections, such detail will be finalised through consultation between the ward councillor and the independent electoral management body.
- (b) "**Large wards**" with six (6) and more voting districts (VDs) are entitled to cluster voting districts into no more than three (3) "geographic sectors" for the purposes of nominating and electing members of the ward committee. Through a process of consultation, a determination will be made of how many ward committee members may be elected from each sector to make up a total of ten (10) members in proportion to the numbers of voters in each voting district cluster. Up to three (3) separate elections may take place in large wards, which will result in ten (10) members being elected, roughly on a proportional basis, for the entire ward.
- (c) In "**small wards**" of one (1) to five (5) VD's, through a process of negotiation between the independent electoral management body and the ward councillor, geographic sectors that are not aligned with VD's may be demarcated to accommodate a diversity of stakeholder interest groups,

sectors and individual community members. Only one election will take place for the entire ward at an agreed-upon venue.

- (d) Final approval of the election process shall be approved by the Speaker.

## 6. Process for nomination

- (a) The Officer of the Speaker will set an election month and a timeline of no less than ninety (90) calendar days in advance for holding ward committee elections. An announcement to this effect will be made in the media and on the City of Tshwane website. The announcement will include a request for all who wish to stand for election or to vote in a ward committee election to ensure that they are registered on the national common voters' roll within thirty (30) days of the announcement. Should such persons not be registered in their respective wards, they should register at the Independent Electoral Commission (IEC) either electronically or in person. The announcement will also include a request for stakeholder groups or sectors to submit their nomination forms within forty-five (45) days to the Office of the Speaker in accordance with Schedule 6.
- (b) Within thirty (30) calendar days of the announcement of the election month, the independent electoral management body will commence verification of legitimate stakeholders or sectors and consultation with ward councillors.
- (c) Within sixty (60) calendar days from the date of the announcement of the election, verification of the stakeholder database must be completed. Each ward councillor, in consultation with the independent electoral management body, will finalise which stakeholder group, not exceeding ten (10), will be represented on each ward committee, the geographic areas or sectors which they will represent, and lists of stakeholders and individual residents for all wards will be compiled for inclusion in the nomination list for each ward.
- (d) The identified stakeholders and individuals as well as unsuccessful stakeholders and individual members will be informed within five (5) working days from the completion of the verification process of their inclusion or exclusion from the nomination list.
- (e) Upon completion of the publication of the stakeholders and/or individual members eligible for election to a ward committee, one stakeholder name per group and the names of individual members will be compiled on the prescribed nomination list by the independent electoral management body for inclusion on the ward ballot paper. The independent electoral management body will validate those nominations and, where necessary, replacement names will be given.



- (f) The election will proceed in the pre-announced month and on the dates to be determined by the independent electoral management body. One (1) representative will be elected for each ward stakeholder sector or geographic area comprising a maximum of ten (10) members. Where two (2) or more nominations are made for a stakeholder group, an election will be held to elect the preferred candidate for that stakeholder group. This process will be continued until all stakeholder positions are filled in compliance with (e) above.
- (g) In the event of a shortfall of ten (10) elected stakeholder group nominees in a particular ward, the balance will be made up by electing individuals by casting a vote for each of the preferred candidate(s) up to the maximum number of vacancies. The candidates that receive the highest number of votes will be elected to fill the remaining vacancies.

#### **(8) Eligibility of candidates**

- (a) Each eligible ward committee candidate must –
  - (i) be a registered voter in the respective Tshwane ward on the voters' roll and, within thirty days (30) of the announcement of the election, must be nominated by a ward-based stakeholder group or sector, or be nominated as an individual member by a registered voter who resides in any Tshwane ward;
  - (ii) own a property or a business in the ward and nominated by relevant stakeholder group in the ward.
  - (iii) not have been convicted, after February 1997, of an offence for which he/she was sentenced to imprisonment without the option of fine for a period of not less than twelve (12) months;
  - (iv) not be a person of unsound mind who has been declared so by a competent court; and
  - (v) Not be under curatorship or an un-rehabilitated insolvent.
- (b) Where a stakeholder group crosses several wards, ward councillors will, in consultation with the independent electoral management body and that stakeholder group or sector, determine in which ward that stakeholder group has the greatest interest or presence. That stakeholder group will then nominate a candidate in that ward for the ward committee in which it has the greatest interest and presence.

#### **(9) Notice of nominations**

- (a) The independent election management body must give public notice, in electronic and physical format, of the date, time, venue from where nomination forms will be obtainable, and the procedure and deadline for submitting nomination forms, which may be either in physical or in

electronic format. Such notice must be published in at least two (2) newspapers of general circulation and in local community newspapers at least thirty (30) calendar days before the first ward committee election is to take place, as well as broadcast on radio stations that cover the municipal area.

- (b) In addition, the Municipality will display such notices at municipal regional offices, libraries and customer care centres and on the City of Tshwane official website, as mentioned in Section 21B of the Municipal Systems Act.

#### **(10) Nomination forms**

- (a) Copies of nomination forms will be made available at all Municipal regional offices, libraries, customer care centres and on the City of Tshwane's official website.
- (b) Nomination forms will be produced in English and be available in other official languages on request.
- (c) The content of nomination forms will comply with the details as set out in Schedule 2 of this by-law, and it may be submitted electronically.
- (d) Nominations that are received after the advertised deadline will not be accepted.
- (e) Following the elections, the nomination forms with the number of votes received for specific candidates will be forwarded to the City Manager for record-keeping purposes and safekeeping.
- (f) The City Manager will keep and maintain a register of all elected ward members and supply the Office of the Speaker with such a list or any amendments thereto, as the case may be.
- (g) During elections, no nominations from the floor will be accepted.

#### **(11) Appeals**

- (a) An appeal against rejection must be lodged and hand-delivered to the independent electoral management body's office within three (3) working days after receipt of the rejection letter.
- (b) The appeal must be in writing and completely set out the grounds of appeal, having regarded the facts and laws in support of such an appeal.



- (c) The independent electoral management body will consider the appeal within three (3) working days of receipt and its decision will be final.

#### **(12) Notice of elections**

- (a) The independent election body will give written notice of the election date, the time of commencement and the venue for the election of ward committee members in each ward at least thirty (30) calendar days before the election. This notice will be published in at least two (2) local newspapers of general circulation and in local community newspapers at least thirty (30) calendar days before the first ward committee election is to take place, as well as broadcast on radio stations that cover the municipal area.
- (b) The polling station manager, in consultation with the independent electoral management body, may postpone an election if it is not reasonably possible to conduct a free and fair election. If an election is postponed, written public notice of the time and venue of the postponed election will be given in accordance with the provisions of this by-law.

#### **(13) Procedure for elections**

- (a) A voter will present a South African ID book or a certified copy thereof to the election officer at the polling station, who will certify that the person is on the voters' roll for that voting district in large wards or on the general voters' roll for small wards. The voter will be given proof that he or she is allowed to vote in that particular voting district or in the ward.

Elections will be by secret ballot; a ballot paper will be issued and will be deposited in a box provided upon completion of the voting process.

- (b) Nominees. The general public and those not permitted to vote will be allowed to observe the voting process, and any objections to the election process will be addressed by the polling station manager.
- (c) The election will be conducted in terms of Paragraph (6) above.
- (d) If a mistake is made, a voter may request the election officer to supply a replacement ballot paper.

#### **(14) Counting**

- (a) The voting station must be declared closed before any counting can commence.

- (b) Upon completion of the counting, the election officer will announce the results immediately at the voting station.
- (c) Objections to the counting process will be directed to and addressed by the polling station manager.

#### 14. (15) **Management of objections and disputes**

- (a) The independent electoral management body will respond within seventy-two (72) hours of receipt of objections and disputes.
- (b) The decision of the independent electoral management body is final.
- (c) Where a matter involves a councillor, such matter will be referred to the Speaker for investigation and resolution in terms of Schedule 2 of this by-law.

### **SECTION 4: DISSOLUTION AND RE-ELECTION OF WARD COMMITTEES**

#### **(1) Dissolution of ward committees**

The Office of the Speaker may dissolve a ward committee in the following circumstances:

- (a) Failure to fulfil its objectives as set out in this by-law and/or other legislation
- (b) Failure to uphold the values as contemplated in Section 195 of the Constitution of the Republic of South Africa, 1996
- (c) Non-adherence to this by-law
- (d) Resignation of more than fifty (50) percent of the nominated/elected members of the ward committee

#### **(2) Notice of election of new ward committees**

Notice of the election of a new ward committee must be given in accordance with the provisions of this by-law to the Office of the Speaker.

### **SECTION 5: ADMINISTRATIVE SUPPORT FOR WARD COMMITTEES**

- (1) The Office of the Speaker must make any administrative arrangements – including secretarial support and minute-taking, the booking of a meeting venue as agreed to with the ward councillor, capacity development and the circulation of an attendance register – to enable ward committees to perform their functions

and to effectively exercise their powers in terms of Section 73(d) of the Municipal Structures Act, 1998.

- (2) Minutes of meetings will be circulated to the ward councillor, members of the ward committee and relevant departmental heads. Approved minutes will be included on a suitable page of the City of Tshwane website.

**SECTION 6: TITLE OF BY-LAW AND REPEAL OF THE PREVIOUS BY-LAW AND POLICIES**

- (a) This by-law will be called the City of Tshwane By-law on Ward Committees, 2017.
- (b) This by-law repeals all previous by-laws and/or policies on ward committees of the City of Tshwane Metropolitan Municipality, including policies and/or by-laws of the former Kungwini and Nokeng tsa Taemane Local Municipalities and the Metsweding District Municipality, which were incorporated into the City of Tshwane Metropolitan Municipality in terms of Gauteng Notice 1866 of 2010 and included in the Provincial Government Gazette 128 dated 30 June 2010.

## SCHEDULE 1

### CODE OF CONDUCT AND DISCIPLINARY PROCEDURES FOR WARD COMMITTEE MEMBERS

1.1 A member must perform the functions of office honestly, in good faith, and in a transparent manner. The member must at all times act in the best interest of the ward committee and the stakeholder/sector or community that he or she represents; and in such a way that the credibility and integrity of the ward committee are not compromised.

#### 1.2 Meeting attendance

1.2.1 A member must attend all duly convened meetings of the ward committee.

1.2.2 A ward committee member must vacate his or her position if he or she –

- is absent for two (2) consecutive meetings without submitting an acceptable apology; or
- is absent in an irregular manner from four (4) meetings in a calendar year, with or without an apology that is acceptable to the ward committee.

#### 1.3 Personal gain

A member may not use the position or privileges of a ward committee, or confidential information obtained as a member, for private gain or to improperly benefit another person.

#### 1.4 Rewards, gifts and favours

A member may not –

- request, solicit or accept any reward, gift or favour in return for voting or not voting in a particular manner or any matter before the ward committee;
- persuade the ward committee regarding the exercise of any power, function or duty; or
- Disclose privileged or confidential information.

#### 1.5 Unauthorised disclosure of information

1.5.1 Without derogating from the right of any person to access information in terms of national legislation including Section 32 of the Constitution, 1996, a member may not disclose any privileged or confidential information of the ward or ward committee to any unauthorised person without the permission of the ward councillor or a committee of Council, and he or she may not disclose any

information which would violate a person's right to privacy or which is declared to be privileged, confidential or secret in terms of the law.

#### 1.6 Municipal property

A member may not use, take, acquire or benefit from any property or asset which is owned, controlled or managed by the Municipality, to which he or she has no right.

#### 1.7 Duty of chairpersons of ward committees regarding the disciplinary code

1.7.1 The chairperson must ensure that each member is given a copy of this code when taking office and that a copy of the code is accessible to all ward committee members.

1.7.2 If the chairperson of a ward committee has reasonable grounds to believe that a provision of this code has been breached, he or she must report such alleged breach to the Office of the Speaker for investigation.

#### 1.8 Breach of the code

1.8.1 On receipt of a report on an alleged breach, the Speaker may –

- (a) Investigate and make a finding on any alleged breach of a provision of this code;
- (b) Establish a special disciplinary committee or appoint an official to investigate and make a finding on any alleged breach of this code; and
- (c) Make appropriate recommendations to Council.

1.8.2 If the Speaker or the special disciplinary committee or the investigating official finds that a member has breached a provision of this code, it may –

- (a) Issue a formal warning to the member;
- (b) Reprimand the member;
- (c) Suspend the member for a period of three months; or
- (d) Request that the member be removed from the ward committee.

#### 1.8.3 Appeal

1.8.3.1 Any member who has been warned or reprimanded in terms of paragraph 1.8.2 may, within fourteen (14) days of having been notified of the decision, appeal in writing to the Speaker, setting out the reasons on which the appeal is based.

1.8.3.2 Upon receipt of the appeal, the Speaker must convene an Appeals Committee to consider and finalise the matter, and the ruling must be

conveyed to the ward committee member(s) and the ward councillor concerned.

- 1.8.3.3 Disciplinary and appeal processes must be concluded within a period of ninety (90) days from the date of receipt of a complaint.
- 1.8.3.4 The Office of the Speaker must keep a register of all disciplinary action taken against members.

## **SCHEDULE 2**

### **DISCIPLINARY PROCEDURES FOR COUNCILLORS**

The Rules and Ethics Committee of Council, as established in terms of Section 79 of the Municipal Structures Act, 1998 (Act 117 of 1998), will consider all disciplinary matters relevant to councillors. Upon receipt of a complaint by the Office of the Speaker, the Speaker must address the complaint in line with the rules and procedures that apply to the Rules and Ethics Committee of Council and make recommendations where appropriate.

## **SCHEDULE 3**

### **NOMINATION FORM FOR CANDIDATES IN WARD COMMITTEE ELECTIONS**

The nomination form must include the following:

1. **Nominee**
  - a. Full name
  - b. Identity number and certified copy of the nominee's South African identity document
  - c. Contact details (ward number, residential address, phone number and email address)
  - d. The stakeholder group or sector that the individual member will represent
  - e. A declaration that the nominee is not an employee of or a contractor of or a supplier of goods and services to the municipality
  - f. The signature of the nominee and the date of acceptance of nomination
2. **Nominator**
  - a. Full name
  - b. Identity number
  - c. Contact details (ward number, residential address, phone number and email address)
  - d. Signature of the nominator and date of nomination

**SCHEDULE 4****ATTENDANCE REGISTER FOR WARD COMMITTEES**

The attendance register must be an official document, and must include the following:

- a. Ward number
- b. Date of the meeting
- c. Venue and time of commencement of the meeting
- d. Name of the member
- e. Name of the stakeholder group or sector represented
- f. The signature of the member attending

**SCHEDULE 5****AGENDA: WARD COMMITTEE MEETING**

WARD: \_\_\_\_\_ DATE: \_\_\_\_\_ TIME: \_\_\_\_\_

- a. Opening and welcome
- b. Signing of attendance register
- c. Recording leave of absence
- d. Approval of the minutes of the meeting held on .....
- e. Matters arising from minutes
- f. Matters for consideration
  - i. ...
  - ii. ...
  - iii. ...
- g. Annexure listing actions to be taken and timeframe for action following ward committee deliberations
- h. Date of next meeting

**SCHEDULE 6****REGISTRATION FORM FOR STAKEHOLDER OR SECTOR OR INDIVIDUAL MEMBER**

The registration form for a stakeholder or sector must include the following:

- a. Full name of stakeholder or sector or individual

- b. Description of the stakeholder's objectives and geographic boundaries or residential suburb or township
- c. Ward number or voting district number
- d. Full contact details of the chairperson or individual member
- e. Name of the nominee who wishes to become a member of the ward committee
- f. Signature of the chairperson and/or nominee

13-20





## Group Audit and Risk Department

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 PO Box 440 | Pretoria | 0001  
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 Email: MoeketsiNt@tshwane.gov.za | www.tshwane.gov.za | www.facebook.com/CityOfTshwane

Our ref: Ward Nomination Project

Tel: 012 358 1630

Your ref:

Fax: 012 359 6449

Contact person: Mr. Dirang Modimakwane

Email: [DirangM@tshwane.gov.za](mailto:DirangM@tshwane.gov.za)

Section/Unit: Forensic Services

To: Cllr. Rachel Mathebe  
 Speaker of Council

CC: Dr. Moeketsi Mosola  
 City Manager;

Ms. Lorette Tredoux  
 Group Support Officer;

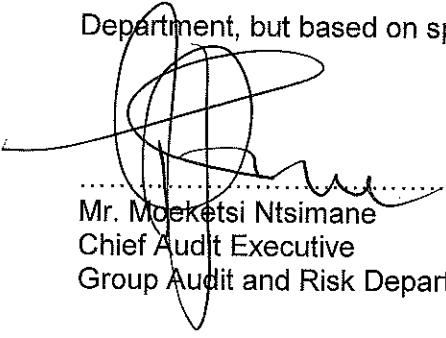
Mr. Tiyyiselani Babane  
 Group Head: Office of the Speaker

From: Mr. Moeketsi Ntsimane  
 Chief Audit Executive (CAE)

### **FINAL REPORT ON WARD ELECTIONS NOMINATIONS PROCESS OF WARD COMMITTEE MEMBERS FOR THE CITY OF TSHWANE.**

Please find attached the final report in relation to the subject matter.

The work undertaken was not an audit in terms of the audit plan of Group Audit and Risk Department, but based on specific pre-agreed terms as shown in the report.

  
 .....  
 Mr. Moeketsi Ntsimane  
 Chief Audit Executive  
 Group Audit and Risk Department



**CITY OF  
TSHWANE**  
IGNITING EXCELLENCE

## Group Audit and Risk Department

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Contact person: Mr. Dirang Modimakwane

Email: [DirangM@tshwane.gov.za](mailto:DirangM@tshwane.gov.za)

Section/Unit: Forensic Services

To: Cllr. Rachel Mathebe  
Speaker of Council

*L. Klein*  
Secretary

*L. Klein*

12/09/2018

CC: Dr. Moeketsi Mosola  
City Manager;

*Verna Moloi*  
14/09/2018

Ms. Lorette Tredoux  
Group Support Officer;

Mr. Tiyyiselani Babane

*RM Mogane*  
060 VGH

Group Head: Office of the Speaker 12/09/2018

*060 DH FS*  
12/09/2018

From: Mr. Moeketsi Ntsimane

Chief Audit Executive (CAE)

*12/09/2018*

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*[Signature]*  
Mr. Moeketsi Ntsimane  
Chief Audit Executive  
Group Audit and Risk Department

# WARD COMMITTEE ELECTIONS: NOMINATIONS OF WARD COMMITTEE CANDIDATES ALL REGIONS

ADDRESSED TO: CLLR RK MATHEBE

**SPEAKER OF COUNCIL**

COPY TO: DR MOEKETSI MOSOLA

**CITY MANAGER**

**INDEPENDENT ELECTORAL COMMISSION (IEC)**

COMPILED BY: WARD NOMINATIONS TEAM

MR RONALD MASHAKENG (TEAM LEADER)

**DIRECTOR: FORENSIC SERVICES**

REVIEWED BY: MR DIRANG MODIMAKWANE

**DIVISIONAL HEAD: FORENSIC SERVICES**

APPROVED BY: MR MOEKETSI NTSIMANE

**CHIEF AUDIT EXECUTIVE**

**12 JULY 2018**

**IGNITING EXCELLENCE**

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## GLOSSARY OF TERMS AND ABBREVIATIONS

Throughout this report, unless otherwise stated, the words in the first column has the meanings stated opposite them in the second column.

<b>CoT</b>	City of Tshwane
<b>GAR</b>	Group Audit and Risk Department
<b>SNG</b>	Sizwe Ntsaluba Gobodo
<b>SCM</b>	Supply Chain Management
<b>GH</b>	Group Head
<b>“Mr Babane”</b>	Tiyiselani Babane
<b>SAPS</b>	South African Police Service
<b>TMPD</b>	Tshwane Metropolitan Police Department
<b>GIS</b>	Geographical Information System
<b>ICT</b>	Information and Communication Technology

## LIST OF ANNEXURES

Annexure W1	List of accepted nominees for region 1
Annexure W2	List of accepted nominees for region 2
Annexure W3	List of accepted nominees for region 3
Annexure W4	List of accepted nominees for region 4
Annexure W5	List of accepted nominees for region 5
Annexure W6	List of accepted nominees for region 6
Annexure W7	List of accepted nominees for region 7

## **1. INTRODUCTION**

- 1.1 On 23 November 2017, the Group Audit and Risk department ("GAR") received a request to assist the Office of the Speaker with the ward committee election nominations.
- 1.2 The request was based on paragraph 2 of Section 3 of the City of Tshwane By-Laws on Ward Committees, 2017 ("by-laws").

## **2. DECLARATION OF INDEPENDENCE AND DISCLAIMER**

- 2.1 This report is not a court document and has been prepared solely for the purpose of ward nomination process. It should not be used for any other purpose. No part of this report may be quoted, referred to or disclosed, in whole or in part, other than to competent authorities in terms of legal requirements without our written consent.
- 2.2 The copying and distribution of this report without the consent of the Chief Audit Executive and concurrence by the City Manager will constitute a criminal offence, for which you may be prosecuted.

## **3. BACKGROUND**

- 3.1 The City of Tshwane By-Laws referred to above were approved by Council on 27 September 2017.
- 3.2 Paragraph 2 of Section 3 of the by-laws on the "appointment of an independent electoral management body" states that:  
  
*"The Speaker with the approval of Council, will appoint an independent electoral management body that will oversee the conduct of ward committee elections and be accountable to the Speaker."*
- 3.3 GAR accepted the request from the Office of the Speaker to oversee the nomination process of the ward committee elections.
- 3.4 GAR made an undertaking to appoint an independent firm of auditors and also deploy internal officials from GAR.

- 3.5 On 09 January 2018, the Office of the Speaker conducted a workshop with the team from GAR on the by-law.
- 3.6 GAR followed the Supply Chain Management ("SCM") process to appoint a firm of independent auditors named Sizwe Ntsaluba Gobodo ("SNG") to conduct verification and validation of ward committees' nomination process.
- 3.7 On 22 February 2018, GAR was invited by Mr. Babane, the Group Head ("GH") in the Office of the Speaker ("Mr. Babane") to present progress made to a caucus meeting of the Democratic Alliance party ("the DA").
- 3.8 On 27 March 2018, GAR was invited to attend a Section 79 oversight electoral committee meeting where the ward elections were discussed. GAR presented a progress report to the committee meeting. .

#### 4. BY-LAW REQUIREMENTS

- 4.1. The role of GAR was limited to overseeing the nomination process of candidates, guided by the requirements of the by-law, and implementation thereof.
- 4.2 In terms of the By-law, the eligibility criteria of candidates in terms of paragraph 8 (a) of Section 3 of the By-law on the "eligibility of candidates" preceded and directed GAR efforts, which required the following to be applied, viz: Each eligible ward committee candidate must:
  - 4.2.1 *Be a registered voter in the respective Tshwane ward on the voters' roll and, within thirty days (30) of the announcement of the election, must be nominated by a ward-based stakeholder group or sector, or be nominated as an individual member by a registered voter who resides in any Tshwane ward.*
  - 4.2.2 *Own a property or a business in the ward and nominated by relevant stakeholder group in the ward.*
  - 4.2.3 *Not have been convicted, after February 1997, of an offence for which he/she was sentenced to imprisonment without the option of fine for a period of not less than twelve (12) months;*

4.2.4 *Not be a person of unsound mind who has been declared so by a competent court; and*

4.2.5 *Not be under curatorship or an un-rehabilitated insolvent.*

## **5 SCOPE AND LIMITATIONS**

**5.1** Our involvement was limited to ensuring compliance with the requirements of the By-law as indicated above, (re paragraph 8 (a) of Section 3 of the By-law on the “eligibility of candidates”)

**5.2** We worked independent of the Speakers’ Office and became responsible for ensuring that the nomination process for the 2018 ward committee elections was compliant with the by-law.

**5.3** Eligibility requirement no. 8(a) (iii) “*not have been convicted, after February 1997, of an offence for which he/she was sentenced to imprisonment without the option of fine for a period of not less than twelve (12) months*” required the assistance of the South African Police Services (SAPS). The process turned out to be long and tedious.

**5.4** Eligibility requirement no. 8(a)(iv) “*be a person of unsound mind who has been declared so by a competent court*” proved to be complicated to test as GAR had no access to related court cases or records.

**5.5** Eligibility requirement no. 8(a)(v) “*Not be under curatorship or un-rehabilitated insolvent*”, we relied on a report from the consumer profile bureau system.

**5.6** The following are some of the challenges we experienced:

5.6.1 The Service delivery protests in Region 1 and the subsequent invasion of Akasia Municipal Offices by protesters, which impacted on safety of our auditors and document management challenges.

5.6.2 The unrests/ protests by former Extended Public Works Programme (“EPWP”) workers in Region 2.

5.6.3 Response of community members slow during the first four (4) weeks.



- 5.6.4 The Intimidation and threats against GAR staff members by community members.
- 5.6.5 The late release of nomination forms to GAR send through the Office of the Speaker; nomination forms were received through email from the Divisional Head in the Office of the Speaker.

## **6 METHODOLOGY AND APPROACH**

- 6.1 We received a list of all the regions, wards and stakeholder database from Mr Steve Masasela; Director in the Speaker's office and deployed our officials.
- 6.2 This is how we deployed our team:
  - 6.2.1 Group Audit and Risk Department developed a standard operation procedure to help guide members in terms of their roles and responsibilities at various stations.
  - 6.2.2 GAR ensured that all members involved in the ward committee nomination process sign declaration forms to ensure fairness and confidentiality in the process
  - 6.2.3 GAR deployed its officials in all the seven (7) regions of the CoT.
  - 6.2.4 Members deployed used the CoT's approved hours of work, i.e.; 7:30 to 16:00 to receive nomination forms; in other regions overtime had to be activated as communities arrived in droves towards the deadline.
  - 6.2.5 Deployed members were to be assisted logistically by Regional Coordinators from the Office of the Speaker.
  - 6.2.6 In deploying members to regions, GAR considered the areas from which members were residing to eliminate long travel distance.
  - 6.2.7 GAR deployed two (2) members in each region to ensure that there was presence at all times.
  - 6.2.8 GAR also deployed three (3) senior members; and were allocated regions proportionally to troubleshoot any emerging matters and complaints.
  - 6.2.9 Deployment was also done in the Central Point or the Nerve Centre to communicate, receive nomination forms and address all emerging complaints.
  - 6.2.10 GAR administrative staff was sourced to assist the Nerve Centre with the capturing of data from regions.

- 6.3** The nomination forms were distributed to the nominees by the Speaker's office. **GAR was not part of this process. Our role started with the acceptance of nomination forms.** The following is how we dealt with nomination forms:
- 6.3.1 We checked the nomination forms for general acceptability criteria as set out in the By-laws and checked the following:
    - 6.3.1.1 We checked for SA citizenship, by ensuring that all nomination forms are accompanied by a certified ID copy to confirm status as stipulated in Schedule 3 of the By-law.
    - 6.3.1.2 We checked the voters roll by verifying the status of both nominees and nominators as stipulated in section 8 (a) (i) of the CoT By-law on Ward Committees.
  - 6.3.2 All members of the public who submitted their nomination forms were given written proof of submission with a reference number.
- 6.4** One other criteria used to either accept or reject the nomination form was the application of Section 8(a) (iii) which required that the nominee must not have been convicted, after February 1997 of an offence for which he or she was sentenced to imprisonment without the option of fine for a period of not less than twelve (12) months. The following is details of how we dealt with the criminal conviction criteria:
- 6.4.1 In order to ensure that the above clause is properly implemented, GAR approached the Tshwane Metropolitan Police Department ("TMPD") to assist in vetting and screening all the nominees who were provisionally accepted as a result of qualification as voters in a specific ward.
  - 6.4.2 The TMPD, as part of their memorandum of understanding with the South African Police Service ("SAPS"), approached the SAPS Criminal Records Centre ("CRC") with GAR's request and the following was requested, that:
    - 6.4.2.1 All nominees accepted had to personally undergo biometric testing/ fingerprinting that according to the SAPS was the only method that can provide accurate information and results on each individual vetted.
    - 6.4.2.2 GAR members deployed in all regions communicated directly with all eligible candidates through telephone contacts provided.
    - 6.4.2.3 GAR used the text message log provided by Information and Communication Technology Department ("ICT") to communicate with a wider audience of eligible candidates.

- 6.4.2.4 The TMPD physically visited all the seven (7) regional centres to ensure that all qualifying nominees' fingerprints were taken.
- 6.4.2.5 Eligible candidates who missed the TMPD fingerprinting process were advised to visit TMPD offices in Rondalia Building, Visagie Street.
- 6.4.2.6 Eligible candidates who were unable to access GAR arrangement with the TMPD were advised to access same facilities with their local SAPS Police Station and follow up with same for results and submit final results to GAR.

**6.5** In terms of eligibility requirement 8(a)(ii) which dealt with ownership of property and business in a specific ward; the following is details of how we dealt with the property ownership criteria:

- 6.5.1.1 GAR used the CoT's TOI Viewer System which is part of the CoT's GIS system to verify property ownership, the system is linked with the Deeds Office and is able to provide information through using the candidate's full names including the identity number.
- 6.5.1.2 Access to the TOI Viewer System was provided to GAR members by the City Planning department.

**6.6** In dealing with eligibility requirement 8(a) (iv), we did not have access to court records and therefore relied on the signed nomination forms, that the nominees were conforming to the requirements of the by-laws when they accepted their nominations.

**6.7** In dealing with eligibility requirement no. 8(a)(v) we used the services of a service provider named Consumer Profile Bureau.

## **7 ROLE OF Sizwe Ntsaluba Gobodo (SNG)**

**7.1** Coupled with the requirement of section 3 (2) (b) of the by-laws to appoint an independent electoral management body; GAR was assisted independently by SNG.

**7.2** Sizwe Ntsaluba Gobodo ("SNG") was appointed on 15 January 2018 and began providing services to the CoT in conjunction with GAR. SNG was responsible for the following:

- 7.2.1 Validate stakeholders and individuals that appeared on the database.

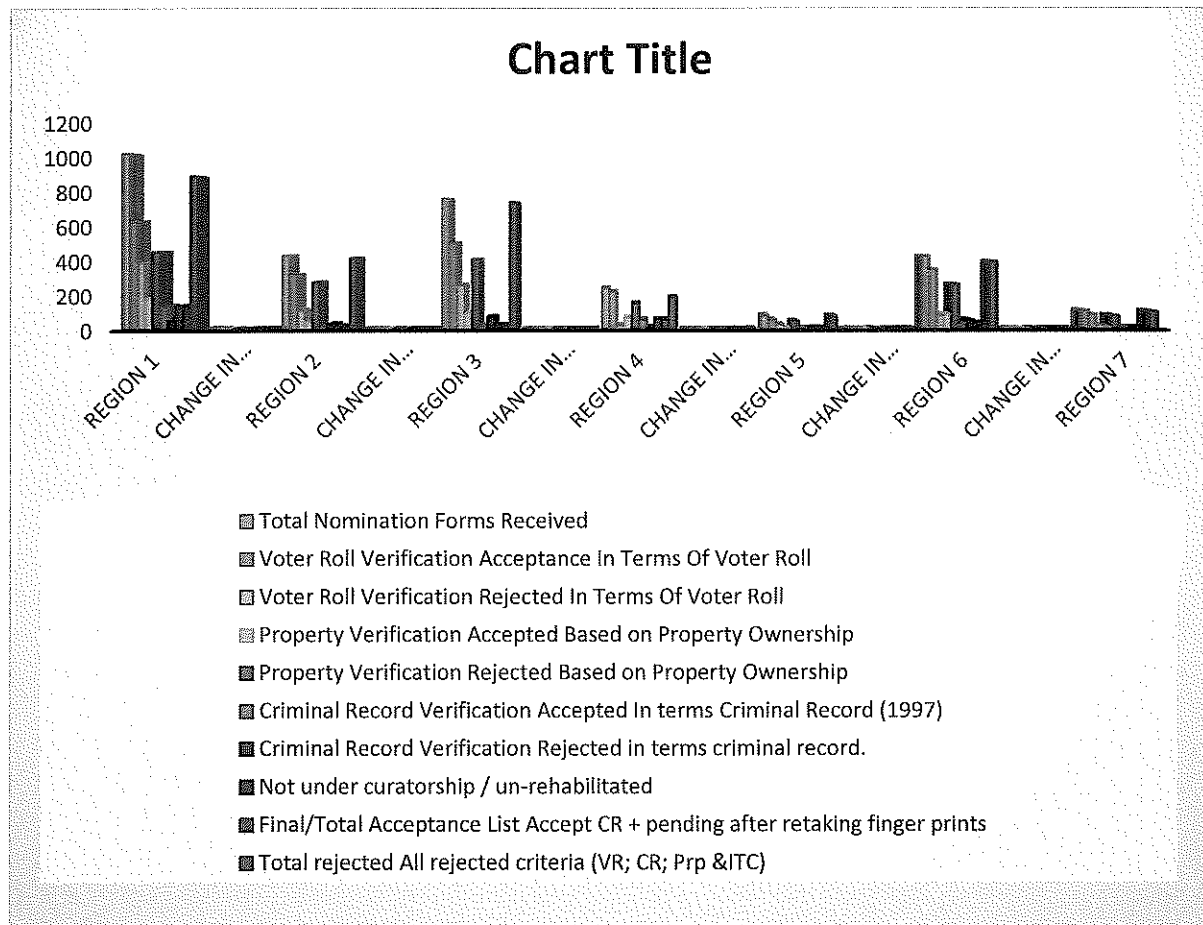
- 7.2.2 Validation of legitimate stakeholders or sectors in consultation with respective ward Councilors.
- 7.2.3 Ensure that verification is completed within sixty (60) calendar days from the date of the announcement of the election.
- 7.2.4 To identify unsuccessful stakeholders and individuals that will be informed within five (5) working days of their inclusion or exclusion from the nomination and to validate nominations and to handle appeal process.
- 7.2.5 To ensure that one (1) representative will be elected for each ward stakeholder or geographic area comprising a maximum of ten (10) members.
- 7.2.6 To validate that candidate are registered voter in the Tshwane municipal area, be nominated by a ward-based stakeholder group, or be nominated as an individual by a registered voter that resides in the ward.

## 8 RESULTS – ALL REGIONS

- 8.1 The results of accepted nominees are not affected by the limitation of the following eligibility requirements:
  - 8.1.1 Eligibility requirement in terms of paragraph 8 (a) (iii) – convicted of a criminal offence.
  - 8.1.2 Eligibility requirement in terms of paragraph 8 (a) (iv) – not to be under curatorship or being an un-rehabilitated insolvent.
- 8.2 All criminal check results received from the TMPD were submitted to SNG for final verification and validation.
- 8.3 At the time of compiling this report, we remain with “pending” confirmation letter from TMPD indicating that all criminal checks results from the SAPS CRC has been consolidated and received by GAR; emails to this regard were send to the Department and **attached as annexure.**
- 8.4 All results from the Consumer Profile Bureau (“CPB”) were verified and validated by SNG. **Attached as annexure**

8.5 Table A: Consolidated Results per Region

Regions	Total Nomination Forms Received	Voter Roll Verification		Property Verification		Criminal Record Verification		Not under curatorship / un-rehabilitated	Final/Total Acceptance List	Total rejected
		Acceptance In Terms Of Voter Roll	Rejected In Terms Of Voter Roll	Accepted Based on Property Ownership	Rejected Based on Property Ownership	Accepted In terms Criminal Record (1997)	Rejected In terms criminal record.			
Region 1	958	446	512	181	443	136	49	136	136	822
Change in percentage (%)	100%	61,94%	38,06%	17,86%	44,08%	13,11%	4,76%	13,11%	13,11%	86,89%
Region 2	432	321	111	46	275	16	30	16	16	416
Change in percentage (%)	100%	74,31%	25,69%	10,65%	63,66%	3,70%	6,94%	3,70%	3,70%	96,30%
Region 3	766	508	258	97	411	24	73	24	24	742
Change in percentage (%)	100%	66,32%	33,68%	12,66%	53,66%	3,13%	9,53%	3,13%	3,13%	96,87%
Region 4	245	222	23	69	153	57	12	57	57	188
Change in percentage (%)	100%	90,61%	9,39%	28,16%	62,45%	23,27%	4,90%	23,27%	23,27%	76,73%
Region 5	82	63	19	8	55	6	2	6	6	76
Change in percentage (%)	100%	67,07%	32,93%	9,76%	57,32%	7,32%	2,44%	7,32%	7,32%	92,68%
Region 6	430	351	79	87	263	34	53	34	34	395
Change in percentage (%)	100%	81,63%	18,37%	20,23%	61,16%	7,91%	12,33%	7,91%	7,91%	91,86%
Region 7	108	87	21	10	78	17	3	17	17	102
Change in percentage (%)	100%	80,56%	19,44%	9,26%	72,22%	15,74%	2,78%	15,74%	15,74%	84,26%
Totals	3021	1990	791	500	1670	288	222	288	288	2731



#### 8.5.1. Narrative to Table A:

The Criteria selection used for the Ward Nomination Committee were obtained from the approved By-Laws document. The following were also used to ensure completeness, accuracy and integrity of information:

- **Total Nomination Forms Received**

During the process the team received a large number of nomination forms which were captured on the system. This list does not include the verification of any of the selection criteria's as per the By-Law.

- **Cleaned Data**

This process was performed after verification of the Voter Roll. During the process it was noted that nominees/Ward nomination were elected by more than one individual and there were no stakeholder nomination. After the Voter roll verification the team went through the captured list and checked for individuals who were nominated more than once and only considered an approved record. An approved record is as a result of a nominee registered in the Ward which they are elected for and a nominator registered in any ward in Tshwane. The Cleaned data is then a result of data that was duplicated as a result of one nominee elected more than once.

- **Pending List**

The pending list was as a result of the outstanding results per criteria. Namely: Criminal records from the metro police department. The conclusion was to proceed and record the pending list as accepted.

- **Total Rejected List**

The list was based on the completion of the process after all the criteria's were completed. Namely: Voter Roll verification, Criminal Record, ITC, CSD and Property verification.

- **Finger Prints not taken**

During the process nominees were contacted telephonically and through text messages to notify them of the provincial acceptance process. The candidates were requested to visit their nearest Municipal Offices and have their finger prints taken to verify whether they have criminal records or not; however some of the candidates refused to have their finger prints taken whilst other did not come to the Municipal Office nor arrange for another date; furthermore the candidates who came after the closing date were referred to the nearest police station to take their finger prints and submit the results at the Winterness however they did not submit the results. As this is a requirement by the By-Law the conclusion reached was to reject those individuals.

#### 8.5.2. Results and Process Duration

- **Voter Roll**

The duration was almost immediate and depended on Network coverage. Once the data capture has captured the nominee and nominator ID number on the IEC Webpage, the results were available immediately and the data capture will print out the results and attached to the physical nomination form. The information was captured as and when they were received.

- **Criminal Record**

The duration took a minimum of two weeks and depended on when the results were provided by the Tshwane Metro Police department. Due to the dependency on the Tshwane Metro Police department to provide the verification and feedback results the process took six (6) weeks.

- **Property Verification.**

The duration was almost immediate but initially took three days to gain access from the GIS team. An additional application called TOi had to be installed in order to assist the team to verify property owner using their ID numbers. This also depended on the

network Coverage. Two systems (namely: GIS and TOi) were used in conjunction to perform the verification as a result the process took two weeks.

- **ITC Record**

The duration was almost immediate also depending on Network Coverage. It initially took the team a week as they had to obtain training and provided access to the CPB system.

- **Unsound Mind**

The team could not verify the criteria however relied on the nominator. The conclusion reached was that the nominator trusts that the nominee is of a sound mind hence the selection.



## 9 OUTCOME PER REGION

In terms of **section 2 Composition of ward committees** - A ward Committee – “(a) must comprise the ward councillor as chairperson and a maximum of ten (10) and a minimum of six (6) stakeholder representatives or individual members duly elected in terms of this by-law, provided that if fewer than ten (10) stakeholder representatives and/or individual members are elected, the ward councillor in consultation with those six representatives may co-opt a further four (4) stakeholder representatives or individual members to comprise a committee of ten (10) members. Such nominated members will have the same full rights as those elected. Should fewer than six (6) members be elected, a further special election must be held as determined by the independent electoral management body”.

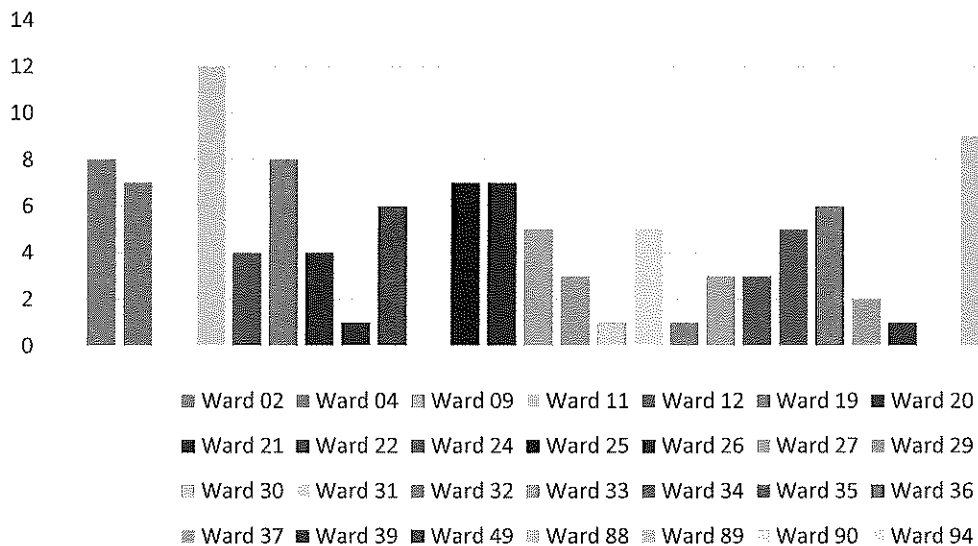
### 9.1 REGION 1

#### Region 1 Ward Contribution

Ward Number	Nominees Accepted	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 02	8	Yes
Ward 04	7	Yes
Ward 09	0	No
Ward 11	11	Yes
Ward 12	4	No
Ward 19	8	Yes
Ward 20	4	No
Ward 21	1	No
Ward 22	6	Yes
Ward 24	0	No
Ward 25	6	Yes
Ward 26	4	No
Ward 27	5	No
Ward 29	3	No
Ward 30	1	No
Ward 31	5	No
Ward 32	1	No
Ward 33	3	No
Ward 34	3	No
Ward 35	5	No
Ward 36	6	Yes
Ward 37	2	No
Ward 39	1	No
Ward 88	8	Yes
Ward 89	7	Yes
Ward 90	5	No

Ward Number	Nominees Accepted	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 94	8	Yes
Ward 98	4	No

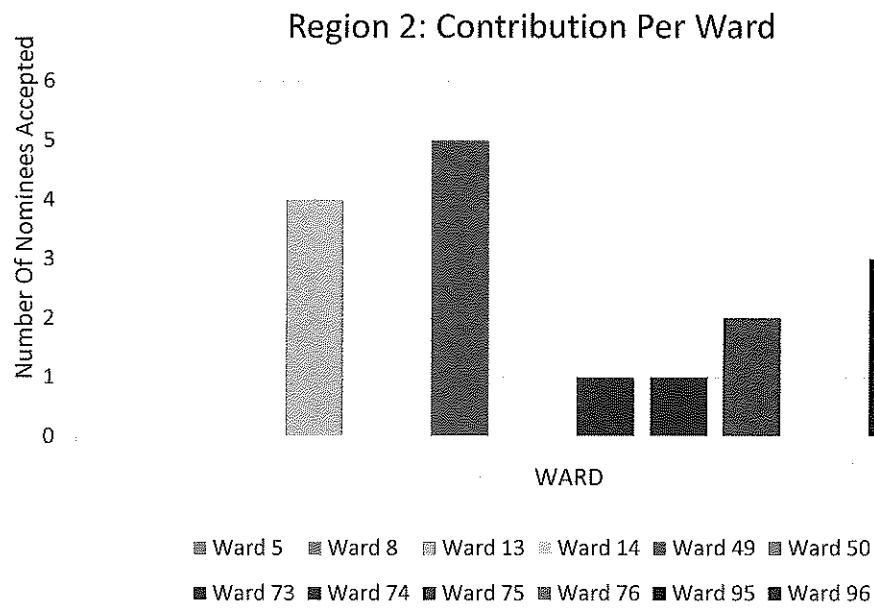
Region 1: Contribution Per Ward



The details of the nominees who were accepted are attached here as Annexure W1

## 9.2 REGION 2

Ward Number	Nominees accepted	Minimum Requirements Met In Terms Of Section 2 Composition of Ward Committees?
Ward 5	0	No
Ward 8	0	No
Ward 13	4	No
Ward 14	0	No
Ward 49	5	No
Ward 50	0	No
Ward 73	1	No
Ward 74	1	No
Ward 75	2	No
Ward 76	0	No
Ward 95	3	No
Ward 96	0	No



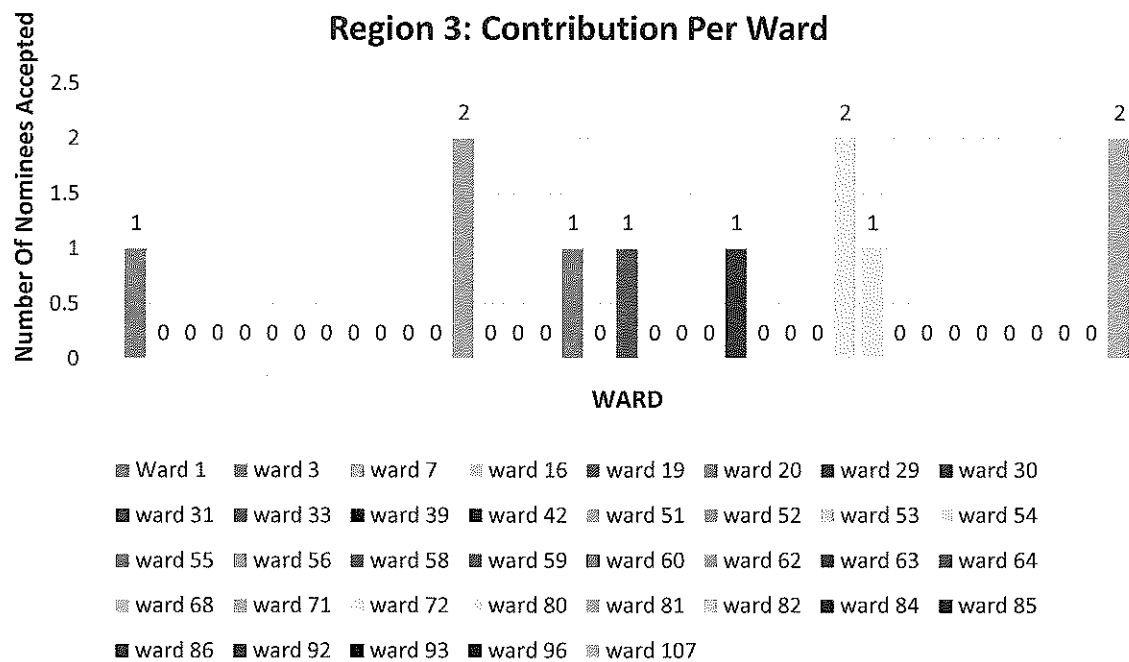
The details of the nominees who were accepted are attached here as Annexure W2

### 9.3 REGION 3

#### Region 3 Ward Contribution

Ward	Accepted nominees	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 1	1	No
Ward 3	0	No
Ward 7	0	No
Ward 42	0	No
Ward 51	2	No
Ward 52	0	No
Ward 53	0	No
Ward 54	0	No
Ward 55	1	No
Ward 56	0	No
Ward 58	1	No
Ward 59	0	No

Ward 60	0	No
Ward 62	0	No
Ward 63	1	No
Ward 68	0	No
Ward 71	0	No
Ward 72	2	No
Ward 80	1	No
Ward 81	0	No
Ward 82	0	No
Ward 84	0	No
Ward 92	0	No
Ward 107	2	No

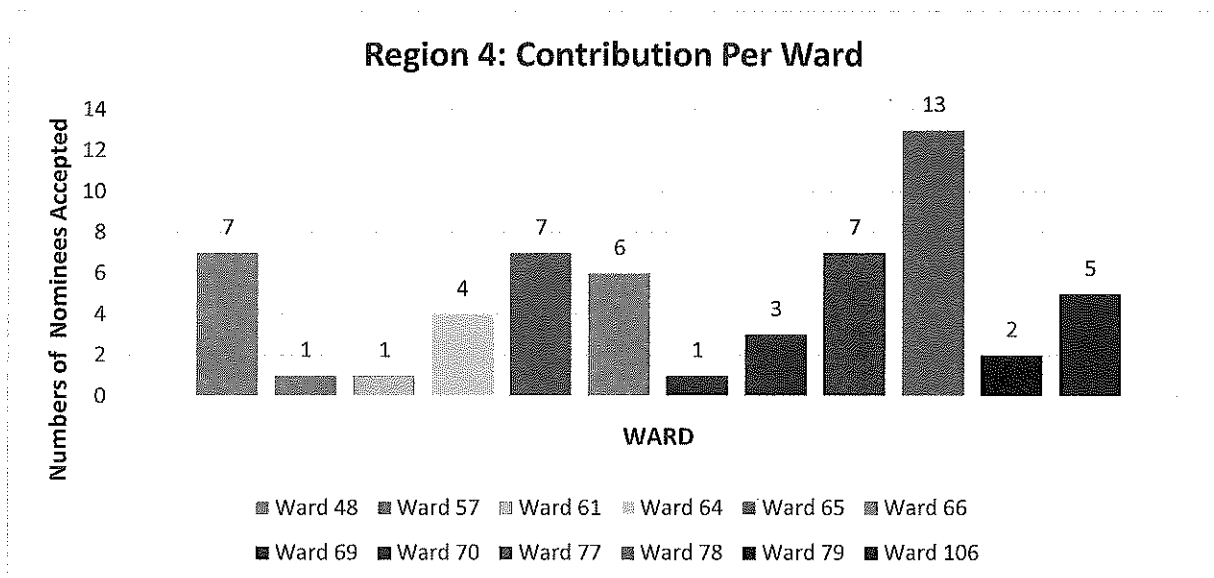


The details of the nominees who were accepted are attached here as Annexure W3

## 9.4 REGION 4

### Region 4 Ward Contribution

Ward Number	Nominees Accepted	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 48	7	Yes
Ward 57	1	No
Ward 61	1	No
Ward 64	4	No
Ward 65	7	Yes
Ward 66	6	Yes
Ward 69	1	No
Ward 70	3	No
Ward 77	7	Yes
Ward 78	13	Yes
Ward 79	2	No
Ward 106	5	No

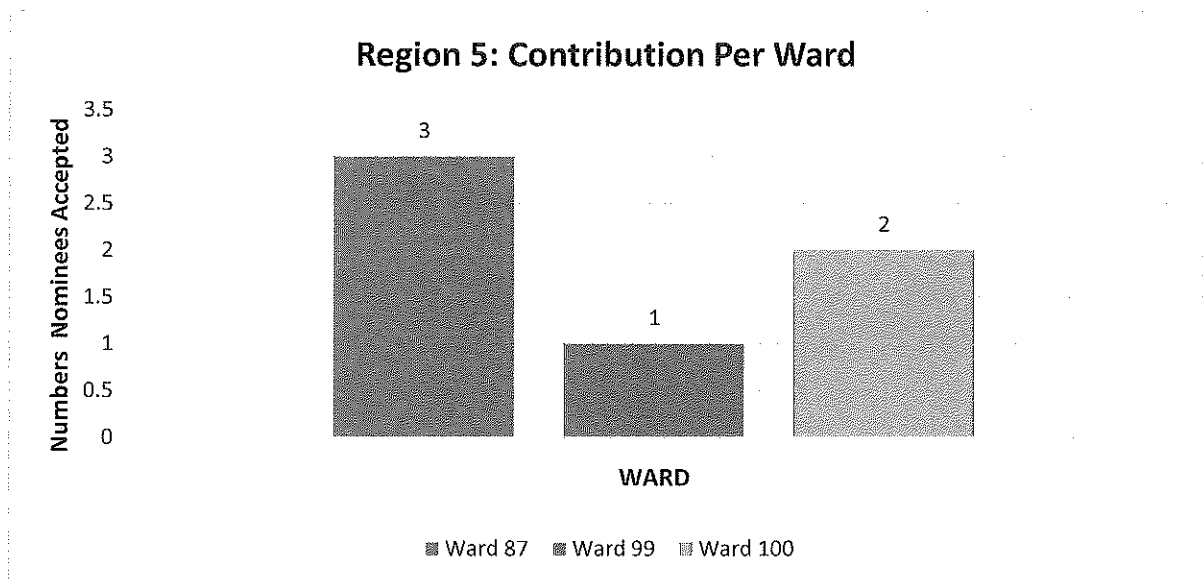


The details of the nominees who were accepted are attached here as Annexure W4

## 9.5 REGION 5

### Region 5 Ward Contributions

Ward Number	Nominees accepted	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 87	3	No
Ward 99	1	No
Ward 100	2	No



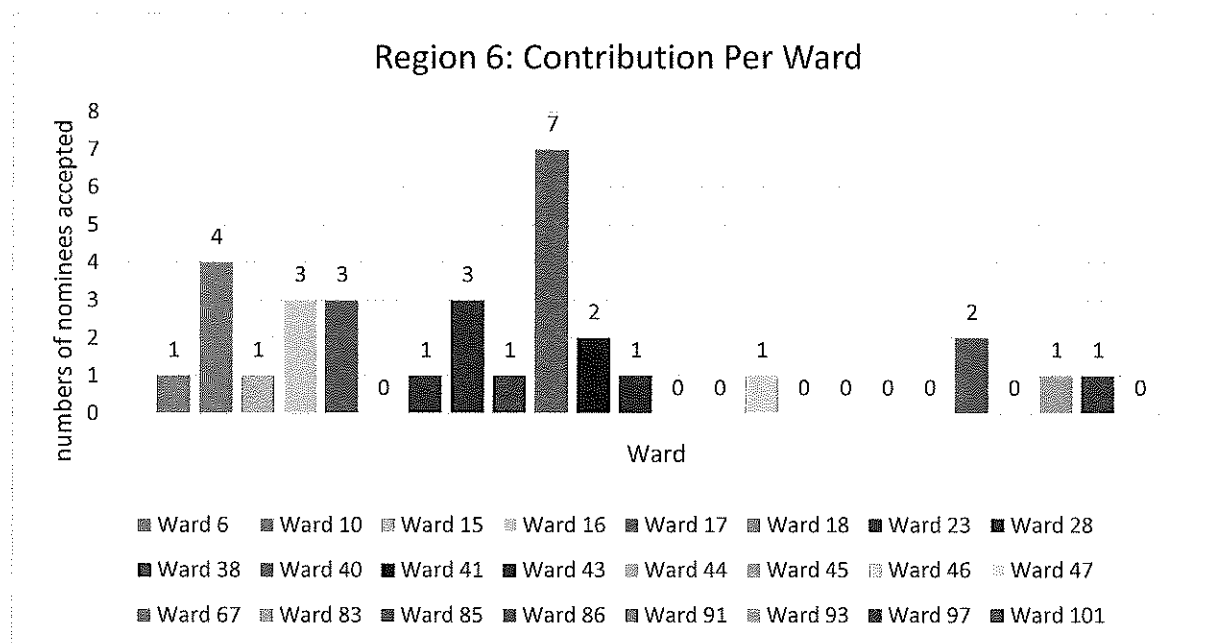
The details of the nominees who were accepted are attached here as Annexure W5

## 9.6 REGION 6

### Region 6 ward contribution

Ward Number	Nominees Accepted	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 6	1	No
Ward 10	4	No
Ward 15	1	No
Ward 16	3	No
Ward 17	4	No
Ward 18	0	No

Ward 23	1	No
Ward 28	3	No
Ward 38	1	No
Ward 40	7	Yes
Ward 41	2	No
Ward 43	1	No
Ward 44	0	No
Ward 45	0	No
Ward 46	1	No
Ward 47	0	No
Ward 67	0	No
Ward 83	0	No
Ward 85	0	No
Ward 86	2	No
Ward 91	0	No
Ward 93	1	No
Ward 97	1	No
Ward 101	0	No

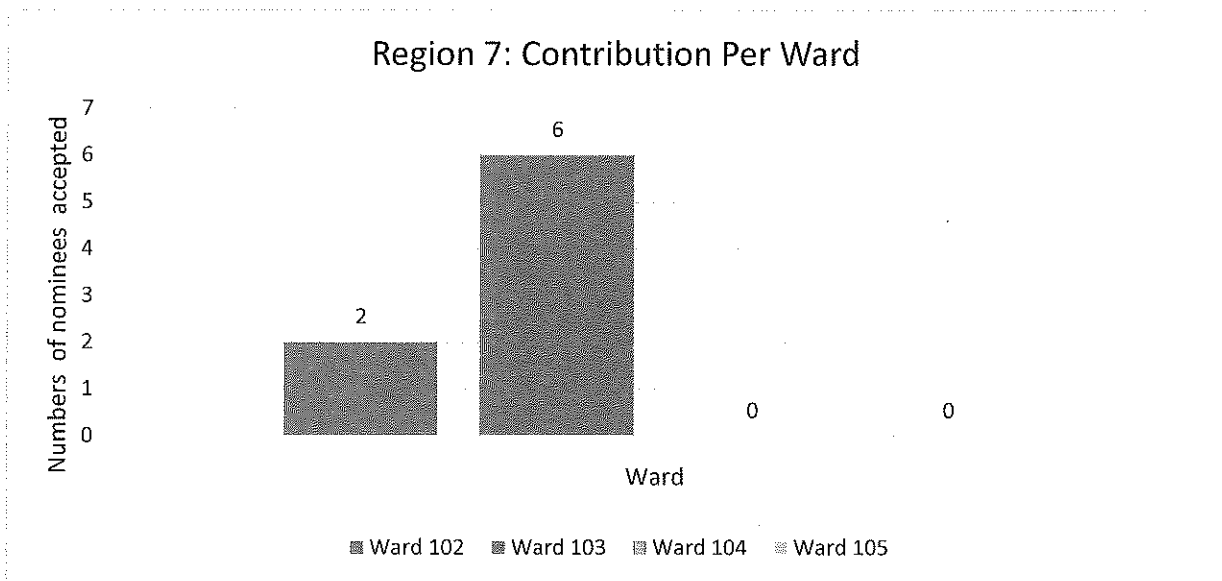


**The details of the nominees who were accepted are attached here as Annexure W6**

## 9.7 REGION 7

### Region 7 Ward Contribution

Ward Number	Nominees accepted	Minimum Requirements Met In Terms Of Section 2 Composition Ward Committees?
Ward 102	2	No
Ward 103	6	No
Ward 104	0	No
Ward 105	0	No



The details of the nominees who were accepted are attached here as Annexure W7

## 10 SUMMARY OF CONTRIBUTION AND PERFORMANCE BY WARDS

### 10.1 In terms of **section 2 Composition of ward committees** - A ward Committee –

“(a) must

comprise the ward councillor as chairperson and a maximum of ten (10) and a minimum of six (6) stakeholder representatives or individual members duly elected in terms of this by-law, provided that if fewer than ten (10) stakeholder representatives and/or individual members are elected, the ward councillor in consultation with those six representatives may co-opt a further four (4) stakeholder representatives or individual members to comprise a committee of ten (10) members. Such nominated members will have the same full rights as those elected. Should fewer than six (6) members be elected, a further special election must be held as determined by the independent electoral management body”.



- 10.1.1 The following is how each ward contributed or performed in order to comply with the Section 2 quoted above;
- 10.1.1.1 The City of Tshwane is comprised of seven (7) regions that is demarcated into hundred and seven (107) wards with each ward represented by a ward councillor.
- 10.1.1.2 **Region 1** is demarcated into twenty-eight (28) wards  
The Region contributed only ten (10) wards that comply with the threshold as per Section 2 above;  
Eighteen (18) wards did not reach the threshold and is non-compliant with Section 2 above;
- 10.1.1.3 **Region 2** demarcated into twelve (12) wards  
The twelve (12) wards in this region did not comply with Section 2;
- 10.1.1.4 **Region 3** demarcated into twenty four (24) wards  
The twenty four (24) wards in this region did not comply with Section 2.
- 10.1.1.5 **Region 4** demarcated into twelve (12) wards  
The Region contributed only five (5) wards that comply with the threshold as set out in Section 2 above;  
Seven (7) wards did not reach the threshold and is non-compliant with Section 2 above;
- 10.1.1.6 **Region 5** demarcated into three (3)  
The three (3) wards in this region did not comply with Section 2 above;
- 10.1.1.7 **Region 6** demarcated into twenty four (24)  
The Region contributed only one (1) ward that comply with Section 2;  
Twenty three (23) wards in this region did not comply with Section 2;
- 10.1.1.8 **Region 7** demarcated into four (4) wards  
The Region contributed only one (1) ward that comply with Section 2;  
Three (3) wards in this region did not comply with Section 2.
- 10.1.2 In terms of Section 2 of the CoT By-law on Ward Committees; only seventeen (17) Wards reached the threshold and are compliant to the prescript of the By-law.
- 10.1.3 A total of ninety (90) Wards did not reach the threshold and not complying with the prescripts set out in Section 2 of the CoT By-law on Ward Committees

## 11 ISSUES DEDUCTED FROM SNG REPORT CONCLUSION

- 11.1. We reviewed 3082 nomination forms and verified each against the eligibility Criteria as set out in the by-law .The table below is a summary of conclusions submitted by SNG regarding each procedure that was performed in respect of

the ward committee nominations process. Our comments in respect of the process are also included.

**Table 7: Conclusions in respect of procedures of the Ward Committee Nomination Process**

Procedure	Exception noted?	Comment by SNG	Comments by the CoT
(a) <b>Verifying whether stakeholders and individuals appeared on the CoT stakeholder database</b>	Y	We compared the nominees in respect of the 3082 nomination forms to the CoT stakeholder database and identified 26 individuals who appeared on the stakeholder database as indicated in Table 2 above	Our analysis is that, the twenty six (26) individuals identified were CoT employees, we did not find any declaration from the individuals concerned indicating otherwise nor proof that they were retired municipal officials. Section 2 (j) of the CoT By-law on Ward Committee dealing with the composition of ward committees states that "serving municipal officials may not be members of a ward committee, but retired municipal officials may"
(b) <b>Verification of legitimate stakeholders or sectors in consultation with respective ward councillors</b>	N	There were no stakeholders nominated in respect of the ward committee nomination process	All nominations received did not reflect affiliation to stakeholders or sectors in a specific ward. Nominees were from individuals nominating others in a specific ward.
(c) <b>Validate that the verification is completed within sixty (60) calendar days from the date of the announcement of the elections</b>	Y	The verification process was not completed within the specified period set in the by-law. The verification process by CoT commenced on the 09 February 2018 and was concluded during June 2018. In addition, as at the date of our report, the final acceptance and rejection letters were not sent to nominees because the verification process was finalised on 21 June 2018	Our comment is that, there are various factors that led to the delay of the verification process, amongst them is the service delivery protests by the community of Ga-Rankuwa in Region 1 who invaded the Regional Centre offices in Akasia and again blocked the entrance to the premises on .  Region 2 offices in Temba were also closed due to the actions of the disgruntled former EPWP workers in the Region, our members were chased out of the building and premises and relocated to the TMPD offices in Mandela Village near Renstown and also commuted between both

			<p>Hammanskraal and Kudu Building in Sinoville.</p> <p>Regions 2, 3, 5, 6 and 7 were also affected by the city-wide shutdown threat by the ANC Youth League, our members were chased out of the buildings.</p> <p>Region 3 offices regularly experienced power failures forcing our members to work manually and without means of communication. In Region 5 and 7, our members did not have access to internet, printers and phones to communicate with individuals who submitted nomination forms.</p> <p>Section 8 of the By-law which dealt with the eligibility criteria of candidates presented a challenge, the fingerprinting of eligible candidates from all the regions and the reliance on the police to provide feedback results took longer than expected, to date we have not received confirmation in writing from the TMPD that all results were received from the SAPS Criminal Record Centre.</p>
(d) <b>Validation of the process of identifying unsuccessful stakeholders and individuals that will be informed within five (5) working days of their inclusion or exclusion from the nomination list</b>	Y	<p>SNG reviewed the preliminary acceptance and rejection letters which were to be sent to the nominated candidates. The issuing of preliminary acceptance and rejection letters was conducted at the different regions, at different periods. At the date of our report, the final acceptance and rejection letters were not yet sent to the nominees because the verification process was finalised on 21 June 2018</p>	<p>Our comment on the exception is that there was serious conflict between the By-law and the practical implementation of the clause in the By-law, our members issued provisional letters of acceptance and rejection first on the basis of the candidate inclusion in the voter's roll in various regions and lastly on other eligibility criteria as set out in Section 8 (a), the practical application of other criteria presented a serious challenge to GAR.</p> <p>On Monday, 02 July 2018 after receiving the final report from SNG, we will hold a closed up meeting in terms of our interpretation of the clause in</p>

			section 6 (d) of the CoT By-law and within five (5) working days with the Office of the Speaker and thereafter communicate with all nominees informing them of their final inclusion and exclusion in the nomination list.
(e) <b>Validate the process of generating, arising from the inclusion and exclusion, a nomination list confirming stakeholders and individuals successfully nominated in line with the eligibility criteria, backed up by adequate portfolio of evidence defined by the by-law</b>	N	The 3082 nomination forms reviewed were accompanied by the following supporting documentation, where applicable : a) ID copies of the nominees; a) Screen shot of property searches results; b) Screen shot of CSD search results; c) TMPD criminal search results; d) Screen shot of voters roll registration on the IEC website; and e) ITC credit search results.	The criteria set by the CoT By-law required nominees to provide supporting documents. All reviewed nomination forms met this criteria.
(f) <b>To validate nominations and, where necessary, replacement names be provided</b>	N	We reviewed the 3082 nomination forms from the seven (7) regions. An agreement between CoT, the office of the Speaker and the IEC was that all the nominated individuals will appear on the ballot papers	Nominees who met all criteria set in the CoT By-law on Ward Committees will be appear on the Ballot paper and be eligible for elections. The Process to be finalised with the Office of the Speaker and IEC in our Closed out meeting
(g) <b>Verify that one (1) representative will be elected for each stakeholder sector or geographic area comprising</b>	N	We verified that there were a maximum of ten (10) members elected per region.	Only seventeen (17) Wards reached the threshold and are compliant to the prescript of the By-law. A total of ninety (90) Wards did not reach the threshold and not complying with the prescripts set

	a maximum of ten (10) members. Where two (2) or more nominations are made for a stakeholder group, IEC must conduct the election that will elect the preferred candidate for that stakeholder group			<p>out in Section 2 of the CoT By-law on Ward Committees.</p> <p>A re-run of the process should be done.</p>
(h)	To verify that the candidates are registered voters in the Tshwane municipal area, be nominated by a ward-based stakeholder group, or be nominated as an individual by a registered voter that resides in the ward	N	We confirmed by review of the voters roll registration details on the IEC website, that 943 nominees out of the 3082 nomination forms received, were not registered on the voters roll.	The nominees identified were informed as per the By-law of the rejection of their nomination.
(i)	Verify that the candidates are residents or employers/employees in the ward or own a legally registered business/s or property in the ward	N	<p>We reviewed CoT stakeholders database together with the list of previous ward committee members for the city, we identified 1694 candidates that were rejected based on the following:</p> <p>a) 26 nominees appeared in the CoT employee database as per table 2; and</p> <p>b) 1668 nominees did not have property registered in the Tshwane municipal area.</p>	<p>The twenty six (26) nominees were found to have been employees of the CoT and therefore rejected as per the CoT By-law.</p> <p>The Section 8 (a) (ii) of the CoT By-law excluded eligible registered voters on the basis of their not owning property amongst others.</p> <p>GAR identified this as a weakness in the By-law, the Section need to be repealed.</p>
(j)	Validate based on the TMPD verification, that the candidate has not been convicted, after February	N	We verified that 234 candidates were excluded based on criminal search results. Below is a breakdown of the 234 candidates:	<p>All nominees with criminal records as per the SAPS results were excluded.</p> <p>All nominees who met the provisional requirement of</p>

	1997, of an offence for which he/she was sentenced to imprisonment without the option of fine for a period of not a less than twelve (12) months		<p>a) 46 candidates have criminal records; and</p> <p>b) 188 candidates did not visit the designated CoT fingerprints collection sites for purposes of criminal checks to be conducted.</p>	<p>inclusion on the Voter's Roll were contacted by telephone and through a sms messages.</p> <p>Those who could not visit our vetting Centres were advised to visit the local SAPS stations but ensure that results are communicated back to GAR</p>
(k)	Validate, based on declarations, that the candidate is not a person of unsound mind who has been declared so by a competent court	Y	We were not provided with documentation indicating whether or not candidates were of a sound mind. ITC and criminal checks conducted, did not cover results in respect of nominees state of mind.	Our comment is that the process to validate unsound mind was restrained based on the reason that we could not determine the psychological state of the persons, individual or stakeholder group that nominated the person; that our process to determine this clause in section 8 (a) (vi) was reliant upon the use of "Reasonable man test" which gives responsibility to a person or persons nominating such candidate. GAR could not provide such documentation to SNG and therefore raise this clause as a serious weakness in the By-law.
(l)	Verify that the candidate is not under curatorship, based on the results of the ITC search	N	We verified that the 3082 candidates are not under curatorship, based on the results of the ITC checks.	GAR agrees and have assisted SNG on this qualification process

## 12. CONCLUSION

- 12.1. This report presents the final completion of the nomination process and the results thereto, contained in this reports and its **annexures**.
- 12.2. The eligibility criteria in terms of Section (8) (a) (i) that state as follows; be a registered voter in the respective Tshwane ward on the voters' roll and, within thirty days (30) of the announcement of the election must be nominated by the ward-based stakeholder group or sector, or be nominated as an individual member by a registered voter who resides in any Tshwane ward was successfully concluded

and used as a basis for the preliminary acceptance and rejection list compilation.

- 12.3. All eligible candidates were informed within five (5) working days by issue of signed notice of acceptance letters. Tests were also done on the voters' roll and the CoT employee database.
- 12.4. The eligibility criteria in terms of Section (8) (a) (ii) that states as follows; own a property or a business in the ward and nominated by the relevant stakeholder group in the ward was successfully concluded and used to validate Section (8) (a) (i) above. Consumer Profile Bureau report has been received and finalised.
- 12.5. The final results of all fingerprint screening of eligible candidates in terms of eligibility criteria (8) (a) (iii) that as follows; not have been convicted, after February 1997, of an offence for which he/she was sentenced to imprisonment without the option of a fine for a period of not less than twelve (12) months were received from the TMPD; confirmation report to this effect from TMPD still outstanding. Criteria used to validate Section (8) (a) (i) and (ii) above.
- 12.6. The eligibility criteria in terms of Section (8) (a) (iv) that state as follows; not be a person of unsound mind who has not been declared so by a competent court was not tested; GAR relied on the declaration signed by eligible candidates to conclude on this criteria.
- 12.7. All ITC checks as per illegibility criteria 8 (a) (v) were completed on all eligible candidates
- 12.8. Results of those candidates who on their own volition went to their local SAPS stations for biometric testing were not received nor presented by candidates to GAR; therefore affected by eligibility criteria as not met.
- 12.9. The baseline to inform the voter's roll for the ward committee elections was concluded by GAR. Out of the total hundred and seven (107) wards; only seventeen (17) wards reached the threshold as set out in Section 2 (a) of the CoT By-law and ninety (90) wards were non-compliant.
- 12.10. The threshold in terms of 10.9 above must also fulfil composition of ward committee criteria as set out in Section 2 (a), (b), (c), (d), (e), (f), (j) and (k).

12.11. None of the nominees suffered prejudice as a result of any process undertaken by GAR during the verification and validation process, due care and diligence was applied from the start of the process until it was concluded.

12.12. The overall implementation of the prescripts of the CoT By-law on Elections of Ward Committees was stalled and or hindered by the quality of the eligibility criterion variant to the intention of the by-law and had unintended consequences.

### 13. **RECOMMENDATIONS**

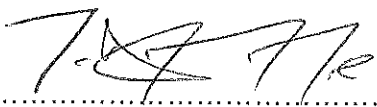
13.1. The Speaker and the Accounting Officer take cognisance of the final report on ward nominations, and the nomination lists attached per ward.

13.2. The report from GAR is the final report on ward committee nominations.

13.3. The Speakers Office and Accounting Officer, note that the completion of this complex process, with its unique dynamics and unforeseeable practical conditions on the ground.

13.4. The Speakers Office should consider the challenges posed by eligibility criteria and practical implementation challenges, and consider to amend the By-laws.

Reviewed by:

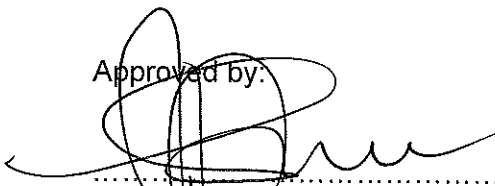


Dirang Modimakwane

DIVISIONAL HEAD: FORENSIC SERVICES

DATE: .....

Approved by:



Moeketsi Ntsimane

CHIEF AUDIT EXECUTIVE

DATE: 27/07/2018