



**Local government
transparency
& accountability**



RIGHT2KNOW

The objects of local government are:

to provide democratic and accountable government for local communities;



to ensure the provision of services to communities in a sustainable manner;



to promote social and economic development;



to promote a safe and healthy environment; and



to encourage the involvement of communities and community organisations in the matters of local government.



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**HEINRICH
BÖLL
STIFTUNG**

How to use this guide

The full text of these documents are available at r2k.org.za/localgovt.

Local government is a vital part of the South African state. As the part of government that is closest to the people, local government is tasked with fixing some of the most basic challenges we face as a country, including inequality and the legacy of apartheid. The constitution and other laws say clearly that local government must be open, responsive, and accountable. Sadly this is often not the case.

On the eve of the 2016 Local Government Elections, R2K is pleased to produce this Activist Guide to help you understand the policies and practices that can help make local government more transparent and accountable.

Right2Know Campaign, July 2016



Pledge proposal

Using the 'pledge' in this guide

This guide also tries to help you develop a pledge that your community can get candidate councillors to commit to if they want you to vote for them.

We've included a blank pledge on the last page of the publication. It has not been filled in so that you and your community can choose the pledges most important to you. Throughout the publication we include proposals of what the pledge could include.

Glossary

- ▶ **Executive:** the implementing part of a council - either an Executive Mayor or an Executive Committee.
- ▶ **IDP:** (Integrated Development Plan) a holistic long-term guiding document produced by all municipal departments in consultation with communities.
- ▶ **Quorum:** the minimum number of members which must be present before a meeting can proceed and make decisions
- ▶ **Recall:** In politics, this is the withdrawal of an individual from a position.
- ▶ **Referendum:** A public vote to decide on an issue, where people vote for or against a proposal

Laws & regulations

- ▶ Municipal Structures Act 117 of 1998: establishes various kinds of municipalities and details their powers and functions.
- ▶ Municipal Systems Act 32 of 2000 (MSA): details the principles, mechanisms and processes for how municipalities work
 - ▶ **Municipal Finance Management Act 56 of 2003 (MFMA):** this creates the rules for how municipalities must manage their finances and spend money responsibly
 - ▶ **Municipal Supply Chain Management regulations (MSCM):** these explain the rules for municipalities when it comes to tenders and contracts
 - ▶ **Promotion of Access to Information Act 2 of 2000 (PAIA):** this law is meant to ensure that people can access any information held by the state, and certain kinds of information held by private bodies

1

Understanding Local Government

1.1 What do we need to know about the mandate and powers of local government?

Before 1996, South Africa's local government was fragmented and made up of racially segregated institutions that had no real powers and provided unequal services to different communities. In an effort to fix these imbalances, advance social justice and deepen democracy, South Africa's new Constitution provided for the following:

Every part of South Africa is governed by a municipality: Section 151(1) of the Constitution introduced "wall-to-wall municipalities". Hence, South Africa's local government is a collection of municipalities.

Municipalities are independent from provincial and national government: Sections 151 (2-4) give local government "autonomy" - the power to make independent decisions. Although national and provincial governments may supervise the functioning of local government, they can only interfere under special circumstances.

Municipalities are democratic and developmental: Section 152 (1) (a-e) and Section 153 say that local government are responsible for deepening democracy by fostering citizen participation and prioritising the provision of basic needs and social and economic development.

Local government only has power to implement some public services: Schedules 4B and 5B of the Constitution say what each sphere of government is responsible for. It's important that you understand what your councillor and municipality can do so you don't waste time and effort knocking on the wrong doors.

Developmental duties of municipalities

- A municipality must:
- ▶ structure and manage its administration and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; and
 - ▶ participate in national and provincial development programmes.

1.2 How is power structured in local government?

278
MUNICIPALITIES
IN SOUTH AFRICA



3 TYPES OF MUNICIPALITIES

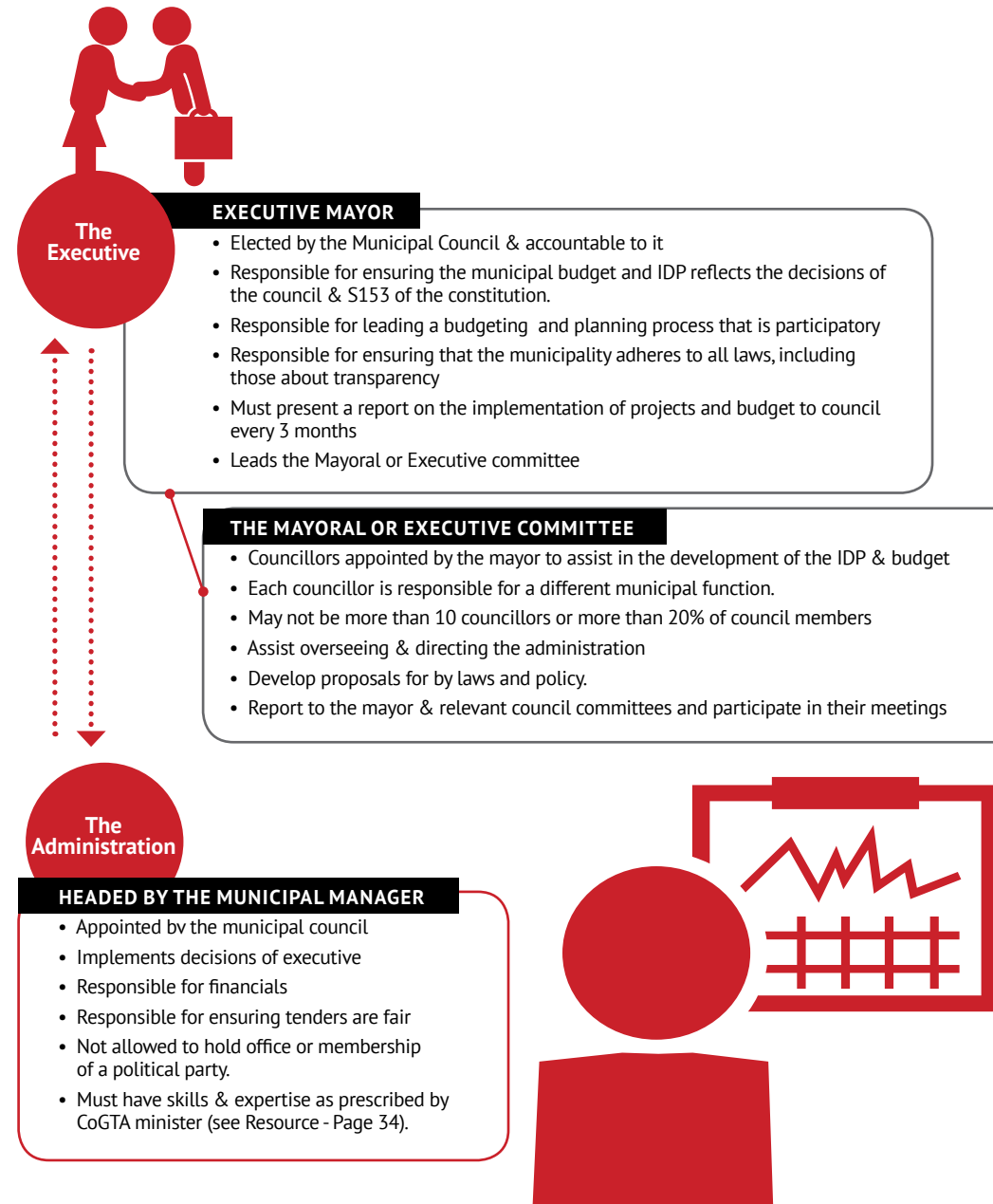
(Separated by our Constitution¹)

- 1 Metro municipalities (type A)
- 2 Local municipalities (type B)
- 3 District municipalities (type C)

1. Section 155 (1) a - c)

1.3 How are our municipalities structured?

We can think about our municipalities as having 4 parts:



1.4 Local government structures



The Municipal Council

OFFICE OF THE SPEAKER

- Elected by the municipal council
- Responsible for convening council meetings at least once every 3 months
- Must ensure that councillors follow the Code of Conduct (pg 14). This can mean launching an investigation when suspicions or complaints are raised
- Supervises ward committee elections and responsible for their functioning of ward committees

THE MUNICIPAL COUNCIL

- Makes decisions on the municipality's programme & budget. This must prioritise the provision of basic services (pg 35)
- Holds the executive to account
- Oversees the provision of services by holding the administration to account
- Is divided into smaller committees that focus on different topics. The exact topics are different in every municipality, but all should have a finances committee and a public accounts committee.

**NOTE:
VERY SMALL MUNICIPALITIES DO NOT HAVE A SPEAKER, ONLY A MAYOR**



The PR councillor is not elected directly. We vote for a political party, which in turn receives a number of seats in the council proportional to their share of the vote. Political parties select the persons who fill these seats based on internal rules and priorities.

Ward councillors are persons chosen by you specifically to represent your ward. Ward councillors do not have to be affiliated to a political party. Anyone can be elected as ward councillor if they register as candidates. In theory, ward councillors can be recalled.

In local government elections we have two votes:

ALL COUNCILLORS, REGARDLESS OF THEIR TYPE MUST FOLLOW THE MUNICIPAL CODE OF CONDUCT (PG 35)

In rural areas, "traditional leaders" have major power over the people who live on the land under their control, and whose authority overlaps with the local municipality structure. At times, traditional leaders are part of the municipal structure. This situation in the rural areas can lead to conflict between municipal leadership, which is democratically elected, and traditional leadership, which is not democratic.

1.5 What about ward committees?

Ward Committees are meant to enable community participation in local government, but they are often a source of frustration because they are abused by political parties. Ward Committee elections must consider the need for diverse interests and women representatives.²

To learn more about how Ward Committees should work, see the Resources section for a Handbook that describes ward committee elections and functions.

 Pledge proposal #1

Open and representative ward committees:

Ask your ward councillor to commit to:
Inviting the IEC to administer your ward elections procedures

Local stories:

Community involvement in ward committees

Although the IEC officials supervising the ward committee election at Thembelihle were known ANC members, the local Crisis Committee managed to get a member on the ward committee. This activist ignored instructions from the councillor not to address public meetings, and reported the proceedings of the ward committee to the community. The councillor then tried to intimidate him, saying that as his employer she was giving him his first written warning. He refused to accept that, saying that she is not his employer, but he is in his position due to the people who voted for him to be there. After that she left him alone and he continued to report to the community, saying that it's his right under the national Constitution. For example he reports that many of the ward committee members are contractors who hear from the councillor about tenders even before the ward committee meets. Then often they don't come to the ward committee meeting and it has to be called off due to lack of quorum.

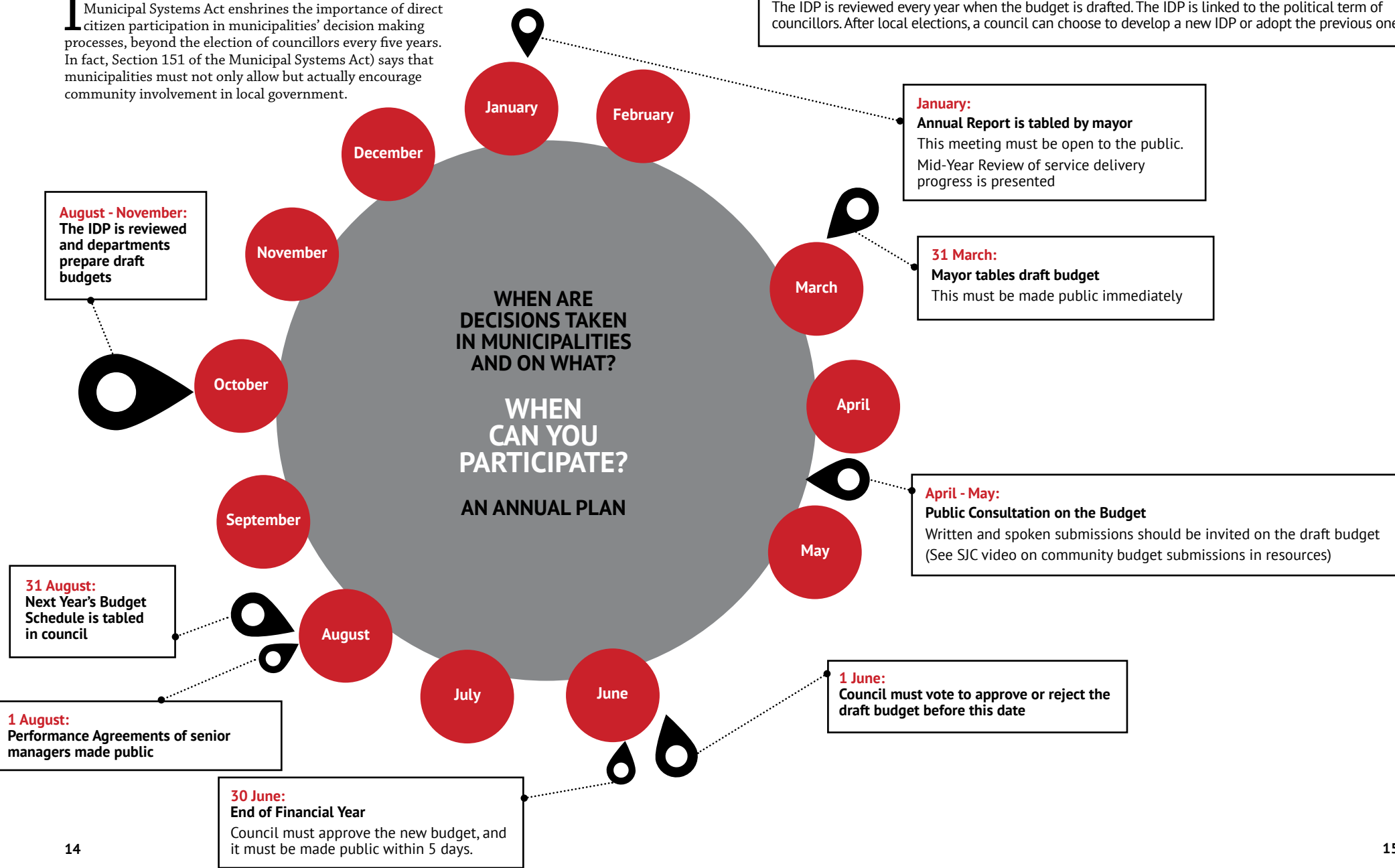
1.6 When and how can we participate in local government decisions?

In line with our Constitution and the Bill of Rights, the Municipal Systems Act enshrines the importance of direct citizen participation in municipalities' decision making processes, beyond the election of councillors every five years. In fact, Section 151 of the Municipal Systems Act says that municipalities must not only allow but actually encourage community involvement in local government.

The Integrated Development Plan (IDP):
 Every municipality must have a 5 year plan that explains how it will improve residents' lives. **The plan must:**

- Identify development priorities and major projects the municipality will undertake
- Explain how the municipality will finance these projects
- Indicate what tenders will be issued

The IDP is reviewed every year when the budget is drafted. The IDP is linked to the political term of councillors. After local elections, a council can choose to develop a new IDP or adopt the previous one.



1.7 Participation opportunities

It is important that opportunities to participate are meaningful, and not box ticking exercises.

The Constitutional Court has ruled that in order to be meaningful, participatory processes must meet the following conditions:

- 1 Government must consult people before a final decision has been made^a.
- 2 Representatives must listen to people's opinions with an open mind^b.
- 3 All relevant stakeholders and interested persons must be given information about the location and time of the consultation, the impact decisions will have on their lives, and given enough time to prepare for consultation^c.
- 4 A section of the population that may be affected by the decisions under consideration has been consulted^d.

a. Matatiele Municipality and Others v President of the Republic of South Africa and Others (CCT 73/05) [2006] ZACC 2

b. Merafong Demarcation Forum and Others v. President of the Republic of South Africa (CCT 41/07) [2008] ZACC 10

c. Doctors for Life International v. National Assembly & Others (CCT 12/05) [2006] ZACC 11

d. Matatiele Municipality and Others v President of the Republic of South Africa and Others (CCT 73/05) [2006] ZACC 2

2 Fighting for local government transparency

In addition to the requirements identified by the Constitutional Court, participation can only be meaningful, and government can only be held accountable, if citizens have access to sufficient information. Section 32 of the Constitution states that 'everyone has the right of access to (a) any information held by the state'.

2.1 What information are you entitled to?

The Municipal Manager is ultimately responsible for making records available in each municipality -- in other words, making sure that the community has access to documents about the municipality. The Municipal Manager is also responsible for appointing an 'information officer' whose role is to assist members of the public to access information.

According to two key pieces of legislation, the Municipal Systems Act (MSA) and the Municipal Finance Management Act (MFMA), your municipality *must* give you the following documents automatically. This means that this information *must* be available at all times at their offices, at libraries, and online, *without* a Promotion of Access to Information Act (PAIA) request:

- ▶ The draft and final Integrated Development Plan (IDP); (within 14 days)³
- ▶ All budget related documents, in particular the draft and final annual budget of the municipality as well as the adjusted budget (immediately)⁴
- ▶ Service Delivery Budget Implementation Plans (SDIBP)⁵
- ▶ All By-laws, compiled into a *publication* called "the Municipal Code"⁶
- ▶ The municipality's annual report⁷
- ▶ The quarterly reports tabled in council by the mayor⁸

3. MSA Section 25

4. MFMA Section 22, MSA chapter 4. For a full list of documents see Section 75.

5. MFMA s53

6. MSA Section 15

7. MSA Section 46

8. MFMA Section 75

- 9. MSA Section 19
- 10. MFMA Section 53
- 11. MFMA s75
- 12. Section 23 of Municipality Supply Chain Management Regulations, notice 868 of 2005

- ▶ Notices of council meeting dates and venues⁹
- ▶ Performance agreements with senior staff¹⁰
- ▶ Service Delivery agreements¹¹
- ▶ Contracts above ZAR 200 000
- ▶ A register of all bids received for tenders¹², including the name of the bidder and the cost and BBBEE status if relevant.

The municipality is responsible for making available any of these documents, in any official language, upon request.

2.2 What if I have to submit an access to information request?

Every municipality must also supply a manual for purposes of Promotion of Access to Information Act (PAIA) requests, detailing what further information is available.

When we need information that is not in any of these documents, we can use PAIA to request specific records. A PAIA request can be made to any state body for any information, and a request can be made to a private body for any information that you need to uphold your rights. For more information and guidance on how to do a PAIA request, see r2k.org.za/paia

Watch this space:

By July 2017 National Treasury aims to start providing access to detailed municipal financial data. This will enable us to know the exact areas and projects on which the municipality spends its money. Currently this information does not exist.

Pledge proposal #2

Provide information

Ask your councillor to commit to making information available and accessible.

This could include the following:

- Regular report back from your councillor at a venue of your choice.
- The Establishment of a municipal notice board at a venue of your choice that displays hard-copies of key documents within 7 days of their publication.
- These must include the documents listed under 2.1, as well as additional documents such as minutes of council, council committee and sub council meetings; contact details of service providers and the municipal official responsible for them.

Local stories:

The importance of accurate minutes:

This story comes from a group of ex-Midrand Workers who joined with R2K Gauteng. This group of workers retrenched in 1994 from Midrand Municipality thought their struggle for justice was yielding fruit when, after many years of campaigning, in 2010 the then mayor of Johannesburg promised them re-employment and compensation among other things. However, he was replaced soon afterwards and the new mayor's team claimed no knowledge or record of the promise. The workers even demanded access to the minutes of the meeting with the previous mayor via a PAIA request but the municipality replied with an affidavit that no such records exist. The workers' struggle continues - they are trying to get the previous mayor to testify about his promises.

Did you know?
Municipalities are required by law to set aside funds for public participation on the budget and other decisions.



Tip: In order to ensure that minutes are captured accurately and that important decisions are taken forward, we can record meetings on our phones, or take our own minutes and notes in the meeting, to compare with (and if necessary challenge) the official minutes. In order to ensure that minutes are captured accurately and that important decisions are taken forward, we can record meetings on our phones, or take our own minutes and notes in the meeting, to compare with (and if necessary challenge) the official minutes.

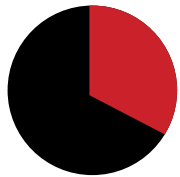
2.3 Do councillors declare their Financial Interests?

A “financial interest” is anything you can benefit from financially, such as an income, ownership of a business or property, or being on the board of a company. By law, councillors must declare their financial interests to the municipal manager for transparency reasons, to try prevent corruption -- because many municipalities give tenders and contracts to companies that councillors and other officials benefit from financially!



The Auditor General’s report on financial management in municipalities over 2014/15 year found that

COLLECTIVELY,
VALUE OF THESE
CONTRACTS
R78.6 BILLION



LOCAL GOVERNMENT
TOTAL CONTRACTS
347 BILLION

19%
MUNICIPALITIES AWARDED CONTRACTS TO COMPANIES IN WHICH THEIR **OWN COUNCILLORS OR EMPLOYEES** HAD INTERESTS

30%
MUNICIPALITIES AWARDED CONTRACTS TO COMPANIES IN WHICH **CLOSE FAMILY MEMBERS OF THEIR OWN EMPLOYEES OR COUNCILLORS** HAD INTERESTS

61%
MUNICIPALITIES AWARDED CONTRACTS TO COMPANIES IN WHICH **OTHER STATE OFFICIALS** HAD INTERESTS

The Code of Conduct for elected councillors (Schedule 5 of the MSA) says that councillors must declare all of their financial interests in writing to the municipal manager within 60 days of their election. This includes:

- ▶ Shares in any company
- ▶ Directorship of any company
- ▶ Any employment or income
- ▶ Any property owned
- ▶ Gifts above a certain value

Any changes to the financial interests of the councillor must also be declared to the municipal manager every year in writing.

However, the Code of Conduct says that the municipal council must decide which of the financial interests should be made public and which should be kept private, balancing the need for transparency with the councillor’s right to privacy.

This could lead to information being covered up from the public. As activists we should strive for maximum transparency. Councillors are public servants, they must be open!



Pledge proposal #3

Provide information

Ask your councillor to commit to:
Posting their financial interest disclosure form on a community notice board
Include the financial interests of their close family members and business partners in the form.

- 13. These are the MFMA and Municipality Supply Chain Management Regulations, notice 868 of 2005
- 14. MSA s78
- 15. MSCM Regulations Section 26
- 16. MSCM regulations s23
- 17. As above

2.4 Are Tender Processes transparent?



TWO THIRDS OF MUNICIPALITIES FAILED TO ADHERE TO PROCUREMENT LAWS AND REGULATIONS¹³.

- The Auditor General reports 2014/15 financial year

Although this does not mean that all tenders awarded by these municipalities were rigged, it does mean that municipal funds were put at risk.

The MSA, MFMA and the Municipal Supply Chain Management (MSCM) Regulations provide some opportunities for citizen monitoring. These include:

- ▶ Municipalities must consult affected community before appointing an external service provider who will provide basic services. The MSA says the municipality must first notify the community of its intention, and then consider the community's views prior to issuing a tender¹⁴.
- ▶ Unless properly justified, every outsourced service above R200 000 must be awarded through a competitive bidding process.
- ▶ The municipal manager has the option to *appoint an independent observer* of all meetings where decisions on tenders are made, if this will help ensure fairness and transparency¹⁵.
- ▶ Once the deadline for submission of tender documents has passed, the tender box must be opened in *public*. Observers may ask the official opening the box to read the name, price and BBBEE status of each bidder if practical to do so¹⁶.
- ▶ Within *10 days* of the bid deadline, all the information above must be available in a bid register on the the municipality's website¹⁷.

- ▶ Before a municipality awards a contract for a basic municipal service, it must inform and consult the affected community about the contract it plans to sign. Once signed, the contract (known as a Service Delivery Agreement - SDA) information on the contract (who it was awarded to, for what, and for how much) must be communicated to the affected community through the media¹⁸.
- ▶ All SDA's must be available in hardcopy and on the municipal website¹⁹.
- ▶ A community has the right to ask the municipality to review an SDA if they aren't happy with the service²⁰. They can also submit a petition to the municipal council²¹.

Unfortunately, South Africa's laws do not provide as much opportunities for citizen oversight as laws of some other countries, such as Mexico, Argentina and the Philippines. Under Pledge Proposal #4 below we include some suggestions to change processes in our municipalities in line with global best practice. For a comprehensive account of procurement processes in SA and the possibilities of monitoring them please see resources listed in the references.

Important to Know:

- ▶ Councillors and employees of the municipality may not receive gifts or benefits from a company that provides a service to the municipality²².
- ▶ Councillors are not allowed to participate or even observe meetings in which decisions are made on which companies get tenders²³.
- ▶ If corruption and/or fraud influenced the selection of a company, the municipality has the right to cancel that contract²⁴.
- ▶ Gauteng province, the Nelson Mandela Bay, Ekurhuleni and Cape Town municipalities already allow the public to observe the meeting in which it is finally decided which company is appointed (these are called Bid Adjudication Meetings). It is possible and does not undermine the right to privacy or commercially sensitive information.

- 18. MSA s80
- 19. MFMA, s75 and MSA s84
- 20. MSA s77
- 21. MSA s17
- 22. MSA s81
- 23. MFMA s117
- 24. MSCM s38



Pledge proposal **#4**

Open tender processes

When it comes to services in your community, ask your councillor to commit to:

- Respecting your legal right to consultation before making decisions about outsourcing or the appointment of a company
- Hold public opening of tender boxes at a venue easily accessible to your community
- Post a copy of the bid register on the community notice board
- Hold the final meeting in which a decision is made (the Bid Adjudication Meeting) in the community and open to the public.



Petition tools

AMANDLA.MOBI IS A MOBILE PETITION WEBSITE THAT ALLOWS YOU TO CREATE AND DISTRIBUTE PETITIONS THAT CAN BE SIGNED BY EMAIL OR SMS OR ON PAPER. TO CREATE YOUR OWN PETITION CAMPAIGN, **VISIT AWETHU.AMANDLA.MOBI**



Get more information about your ward, online!

THE WEB TOOL WAZIMAP COMBINES INFORMATION FROM THE IEC WEBSITE, THE NATIONAL CENSUS DATA, AND OTHER PLACES, TO TELL YOU A LOT ABOUT YOUR WARD, YOUR MUNICIPALITY, YOUR PROVINCE AND SOUTH AFRICA AS A WHOLE. **VISIT WAZIMAP.CO.ZA** AND SEARCH FOR ANY LOCATION YOU WANT TO KNOW MORE ABOUT.

2.5 Who is funding Political Parties?

In South Africa, political parties get both public funding (from the IEC and Parliament) and private funding (from individuals, companies, and other bodies) to finance their campaigns and other activities

But who is giving that private funding? And for what?

There are no laws or regulations that require political parties to be transparent about those private donations (in other words, they are secret). This creates a big opportunity for corruption and secret deals.

Political parties need money to do their work -- but sometimes a person or a company gives money to a political party in exchange for a favour or a tender.

Because these financial donations are secret, it becomes very difficult for the community to know when the people who are giving money to political parties are also the people who are getting tenders or benefiting from other decisions of the municipality.

In December 2015 Mr Truman Prince, the Mayor of Beaufort West, wrote to a state entity in his municipality asking them to help use their procurement process to bring in funds for his political party, the ANC.

Join the campaign to demand transparency



Visit www.myvotecounts.org.za

My Vote Counts (MVC) is a campaign to ensure that voters have the right to know who is funding political parties. MVC first went to the Constitutional Court in 2015 to demand that there must be a law requiring transparency. That case was dismissed on a technicality, MVC is now going to the High Court to continue the fight for voters' right to know.

Pledge proposal #5

Regulate political party funding

- Ask your councillor to commit to supporting political party funding regulations. Although s/he may not have direct power to do so, they can lobby for this decision and set an example.
- Although they do not directly target political party funding regulation, pledge proposals 3 and 4 can minimise the negative impact of untransparent political party funding by making decisions on the use of state resources easier to scrutinise.

Does your councillor:

- File a **detailed report** of their financial interests to the municipal manager?
 -
 -
 -
 -
- Attend **meetings** of the municipal council and its committees?
 -
 -
 -
 -
- Report back** to your community/ward at least 4 times per year concerning the activities of local government?
 -
 -
 -
 -
- Disclose information**, including any gifts or benefits their family members or business partners stand to get from a municipal contract and avoid conflict of interests?
 -
 -
 -
 -

3 Fighting for local government accountability

How can a failing councillor be removed? Local government is supposed to be the most accessible part of government, but sometimes local politicians don't do their job.
What can be done when this happens?

3.1 The Councillors' Code of Conduct (see Resources - Page 34)

Under the Municipal Systems Act, citizens may report their councillors to the Municipal Council for investigation and sanction if they have not respected the Councillor Code of Conduct (MSA, schedule 1).

The Code says that councillors must:

- a** Act honestly, transparently, and in the best interests of the community
- b** Report back to the community at least quarterly
- c** Attend all council meetings
- d** Disclose financial interests, including gifts, financial benefits or favours within 60 days of appointment.
- e** Not use his/her position for personal gain
- f** Not use and abuse council property

Most of these requirements also apply to traditional leaders who are members of a municipal council (MSA schedule 1)

3.2 Removing councillors using the code of conduct

If you suspect or have evidence of your councillor failing to live up to the Code of Conduct, you can report this to the Speaker of the Municipal Council with a written complaint. Once a complaint is lodged, the community has the right to a quick response (MSA s5). Any breach of the Code must be investigated by the Speaker.

The Council may:

- a** Give the councillor a formal warning;
- b** Reprimand the councillor;
- c** Ask the MEC for Local Government to suspend the councillor for a period
- d** Fine the councillor; or
- e** Ask the MEC to remove the councillor from office.

In other words, the MEC may suspend the councillor for some time or remove the councillor from office based on the Code of Conduct alone (MSA, Schedule 1).

3.3 Holding municipal staff to account

National government has set minimum standards of education and skills for officials who occupy important positions in the municipality (e.g. Municipal Manager, Chief financial officer, head of the Supply Chain Management unit. If you have questions about the qualifications of such personnel, approach the Auditor General, an opposition councillor or the media.

3.4 Disciplinary Action against staff

Although the Council must investigate and take disciplinary action against officials suspected of mismanagement, the Auditor General says that in 2014/15 only 55% of reported cases were actually investigated. At times, even when officials are dismissed, they are then employed by a different municipality. In addition, National Treasury has established a central database in which all disciplinary and dismissal cases are recorded.



Pledge proposal #6

hold officials to account

- Ask your councillor to commit to ensuring staff are investigated and held accountable.
- Provide the community with updates on any such cases.

3.5 The 'recall' option?

Some countries have laws that enable citizens to 'recall' their elected representatives if they do not perform or deliver on their promises. Although South African law does not make such provision, we can ask our councillors to commit to our right to recall. While it may be a 'hard sell', ultimately, if the right conditions are in place, there is no reason for a councillor who plans to work hard and is committed to improving lives in his community should be afraid of giving his or her community this right.

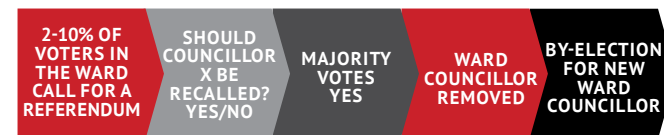
One reason political parties are afraid of a 'right to recall' option is that internal factionalism at a local level could lead to the 'recall' option being abused by factions within a particular party against their own elected representatives. However, examples from other countries may provide solutions to prevent this 'abuse' from happening.

For example, in Venezuela and some US states a recall 'vote' is permitted if one or more of the following conditions are met:

- Certain percentage of the registered voters in a particular constituency sign a petition to hold recall vote. Usually the time to collect signatures is limited to e.g. 60 days.
- Certain conditions trigger a recall vote. These can include misconduct in office, incompetence, or failure to perform prescribed duties

While we do not have these systems of recall in South Africa, we can approach councillors to sign a recall pledge, which commits them to stepping down under specific conditions if they are not representing community interests. We can learn from some of the recall strategies used in other countries, including a referendum or a petition (see below). If a PR councillor is removed or steps down, they would then be replaced by someone else in their political party. If a ward councillor is removed or steps down, this triggers a by-election in that ward run by the IEC to choose a new councillor.

By Referendum:



By Petition (Venezuela model):





Pledge proposal #7

The right to recall

Ask your ward councillor to commit to resigning if conditions jointly set by him/ her and the community are met.
 Ask the local leader of a political party to commit to resigning if conditions jointly set by the party and the community are met.

Local stories:

How the Operation Khanyisa Movement uses the right to recall

Operation Khanyisa Movement (OKM) is an example of a community coming together for councillor accountability. In 2006 OKM was formed by Thembelihle Crisis Committee, Soweto Electricity Crisis Committee, and Wynberg Concerned Residents to contest the municipal election in Johannesburg. It obtained one PR seat in the Johannesburg City Council and so its learning experience started about how and where the decisions were made which affect service delivery. An important part of the OKM experience is that the councillor shares her pay with the organisation and is answerable to the collective. If she fails in her duty the “party” may replace her with the next person on the list, simply by informing the IEC that she is no longer councillor.

(Please send a photo of this pledge to admin@r2k.org.za or 071 571 4470)

Ward Council Candidates’ Pledge to Voters



Candidate Name: _____
 Candidate ID: _____
 Ward Number: _____ Area: _____
 Municipality: _____

As a promise to the community in ward ____ and to the whole municipality, I commit myself to:

The Right of Recall: I give the community the right to recall me. I will be accountable first and foremost to the community. I commit to stepping down as councillor, as described in the Activist Guide to Local Government Transparency, under the following conditions:

Key promises:

1. _____

Conditions: _____

2. _____

Conditions: _____

3. _____

Conditions: _____

4. _____

Conditions: _____

Signed: _____ Date: _____

Witness 1 Name: _____ Signature: _____

Witness 2 Name: _____ Signature: _____

Resources



Make Councillors Take the Transparency Pledge:

Download the pledge at www.r2k.org.za/pledge

Laws and regulations

- ▶ Councillor Code of Conduct: r2k.org.za/councillor-code
- ▶ The Municipal Systems Act: r2k.org.za/msa
- ▶ The Municipal Finance Management Act: r2k.org.za/mfma
- ▶ National Treasury Municipal Supply Management Regulations: r2k.org.za/municipal-supply-regs
- ▶ Other municipal laws
- ▶ r2k.org.za/municipal-laws

Understanding local government

- ▶ Local Government Action's Making Local Government Work: localgovernmentaction.org
- ▶ The Ward Committee Handbook: r2k.org.za/ward-committee-handbook
- ▶ Ndifuna Ukwazi factsheet on budget procedures: r2k.org.za/nu-budget1

Promotion of Access to Information Act

- ▶ Visit R2K's website for useful contacts and guides created by the South African History Archive and Ndifuna Ukwazi: r2k.org.za/paia

Procurement

- ▶ The IBP Guide to monitoring procurement in South Africa: r2k.org.za/ibp-guide
- ▶ eTender - the website on which all SA government tenders must be listed - <http://www.etenders.gov.za/>
- ▶ Ndifuna Ukwazi factsheet on Service Delivery Agreements: r2k.org.za/nu-sda

Appendix

What's in the Councillor Code of Conduct?

Main points of the Code:

- ① The preamble states that Councillors must be accountable to the public via meetings at least quarterly (four times per year);
- ② Councillors must act in good faith and in the interest of the municipality;
- ③ They must attend all meetings except when they have leave of absence or must withdraw due to having a vested interest in the matters being discussed;
- ④ After missing three or more meetings without leave they must be fired;
- ⑤ They must disclose all business interests and large gifts to the council (but the council may decide how much of this must be public);
- ⑥ Councillors who have, or whose family or close associates have, an interest in a matter being discussed must leave the meeting for that part of the discussion;
- ⑦ They may not use their position to benefit themselves or others improperly;
- ⑧ If more than a quarter of councillors object to the council granting permission to a councillor to benefit from doing business with the council, it then requires permission from the province's MEC for local government;
- ⑨ Councillors must have permission from the council before they undertake other paid work;
- ⑩ They must not disclose confidential information obtained within the council;
- ⑪ They may not interfere in the municipal administration;
- ⑫ They must not acquire any of the municipal assets;
- ⑬ If a Speaker reasonably suspects a councillor of breaching this Code, s/he must launch an investigation, giving the councillor a chance to respond to the findings, then present them to the council, send them to the MEC for local government, and make them public;
- ⑭ Speakers must bring this Code to the attention of new councillors and display it at meeting places.
- ⑮ Councils have wide discretion in responding to such reports within guidelines; in extreme cases they can ask the provincial MEC for local government to suspend and even fire the councillor.
- ⑯ Traditional leaders who work with councils are subject to some of the Code.



RIGHT2KNOW

The Right2Know campaign (R2K) was launched in August 2010 in response to the South African government's introduction of the Protection of State Information Bill. Since then we have grown into an activist movement centred on freedom of expression and access to information.

Find out more at www.r2k.org.za

JOIN US!

Contact us and get involved in the movement

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Right2Know



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