

POLICY 014/2016 RAADSBELEID

SUBJECT/ONDERWERP: PUBLIC ACCESS TO COUNCIL MEETINGS

REFERENCE/VERWYSING: 3.1.3.R

RESOLUTION NO/BESLUIT NR: 30.7/06/2016

DATE/DATUM: 7 June 2016

1. AIM

For Council to take reasonable steps to regulate public access to, and public conduct at, meetings of the Council and its Committees.

2. PHILOSOPHY

//Khara Hais Municipal Council adheres to and supports the principle that the proceedings to be observed at meetings of Council or its committees should contribute to open, transparent and informed decision making and encourage appropriate community participation and involvement in the affairs of Council.

Council is anxious to provide access to its meetings by the public, but must maintain the rules and order set down in the Standing Rules of Order adopted by Council.

However, Council also recognizes that on a limited number of occasions it may be necessary in the broader community interest to restrict public access to "*In Committee*" discussions and documents.

3. OBJECTIVE(S)

3.1 To clearly outline the guidelines and procedures to get access to and make representations to Council or Council Committee Meetings.

3.2 To outline for what purpose and on what basis Council may apply the provisions of the Access to Information Act to restrict public access to meetings.

4. GUIDELINES FOR PUBLIC ACCESS

4.1 Representations to Council and Committee Meetings / Working sessions

4.1.1 The members of the public and media will get access to meetings by applying or requesting to attend a Council meeting or Council Committee Meeting.

4.1.2 To prevent unnecessary product/ company marketing, the Municipal Manager in consultation with the Speaker considers the application for representations and replies to applicant/s in writing whether access is granted or not.

4.1.3 The Speaker (or Chairperson of a committee) has control of the meeting and of public access.

4.1.4 The Speaker will provide directions for the person/s to address Council or committee of Council. Such directions may include the varying of any part of this policy and any part of the guidelines for public access to enable persons with a disability to make an effective presentation to the Council/ committees.

4.1.5 The Speaker has the right to limit the number of presentations in total or the number of presentations on any one issue so that the public access section does not unduly impinge on Council business or is not used for unnecessary repetition or duplication of points of view.

4.2 Attending of Council Meetings

4.2.1 The Municipal Manager must give notice to the public, the time, date and venue of every-

- (i) ordinary meeting of the Council; and
- (ii) special or urgent meeting of the Council, except when time constraints make this impossible.

4.2.2 Meetings of a municipal Council and those of its Committees are open to the public, including the media, **no** Councillor or Committee may exclude the public, including the media, from a meeting, except when -

- (i) it is reasonable to do so having regard to the nature of the business being transacted; and
- (ii) a bylaw or a resolution of the council specifying the circumstances in which the Councillor such Committee may close a meeting and which complies with paragraph (a), authorizes the councillor such committee to close the meeting to the public.

4.2.3 The Council, or a Committee of the Council, may not exclude the public, including the media, when considering or voting on any of the following matters:

- (i) A draft by-law tabled in the Council;
- (ii) a budget tabled in the Council;
- (iii) the municipality's draft integrated development plan, or any amendment of the plan, tabled in the Council;
- (iv) the municipality's draft performance management system, or any amendment of the system, tabled in the Council;
- (v) the decision to enter into a service delivery agreement referred to in section 76 (b); or
- (vi) any other matter prescribed by regulation.

4.2.4 The members of the public and media will get access to meetings by applying or requesting to attend a Council meeting or Council Committee meeting.

4.2.5 The Speaker or delegated councilor can invite members of the public or the media to attend any meeting of Council or Council Committee.

5. GUIDELINES : GROUNDS FOR CLOSURE OF A MEETING

5.1 Privacy

5.1.1 A meeting must be closed if failure to do so will result in unreasonable disclosure of personal information about a third party who is a natural person, including a deceased individual.

5.1.2 This ground of closure will not be met if -

1. the individual has furnished written consent to disclosure of the information to the public;
2. the information was given to the Municipality by the individual to whom it relates and the individual was informed by or on behalf of the Municipality, prior to the disclosure of the information, that it belongs to a class of information that would, or might, be made available to the public;
3. the information is already publicly available;
4. the information is about an individual who was or is an official of a public body in which relates to the position or functions of the individual, including but not limited to -
5. the fact that the individual is or was an official of the public body;
6. the title, work address, work phone number and other similar particulars of the individual;
7. the classification, salary scale, remuneration and responsibilities of the position held or services performed by the individual; and
8. the name of the individual or a record prepared by the individual in the course of employment.

5.2 Commercial information

5.2.1 A meeting must be closed if failure to do so will result in disclosure of the following information:

1. trade secrets of a third party;
2. financial, commercial, scientific or technical information, other than trade secrets, of a third party, the disclosure of which would be likely to cause harm to the commercial or financial interest of that third party; and
3. information supplied in confidence by a third party, which could reasonably be expected to put that third party at disadvantage in contractual or other negotiations, or to prejudice that third party in commercial competition.

5.2.2 The grounds of closure in 5.2.1.2 and 5.2.1.3 also apply to commercial information of the Municipality, with the changes required by the context, but closure of meeting in such circumstances is discretionary.

5.2.3 This grounds of closure will not met if the information -

1. Is already publicly available;
2. is about a third party who has consented in writing to the disclosure of the information; or
3. is about the results of product or environmental testing or investigation supplied by a third party or the result of any such testing or investigation carried out by or on behalf of the third party and its disclosure would reveal a serious public safety or environmental risk. The results referred to do not include the results of preliminary testing or investigation for the purpose of developing methods of testing or investigation.

5.3 Confidential information other than commercial information

5.3.1 A meeting must be closed if failure to do so would result in the disclosure of information (other than commercial information) in breach of a duty of confidence owed to a third party in terms of an agreement.

5.3.2 A meeting may be closed if failure to do so would result in the disclosure of information that was supplied in confidence by a third party-

1. the disclosure of which could reasonably be expected to prejudice the future supply of similar information, or information from the same source; and
2. if it is in the public interest that similar information, or information from the same source, should continue to be supplied.

5.3.3 The grounds of closure in 5.3.1 and 5.3.2 will not be met if the information-

1. is already publicly available;
2. is about a third party who has consented in writing to the disclosure of the information.

5.4 Safety of individual and protection of property

5.4.1 A meeting must closed if failure to do so could reasonably be expected to endanger the life or physical safety of an individual:

5.4.2 A meeting may closed if failure to do so would be likely to prejudice or impair-

1. the security of -
 - 1.1 a building, structure, or system, including but not limited to, computer or communication system;
 - 1.2 a means of transport; or
2. methods, systems, plans or procedures for the protections of-
 - 2.1 an individual in accordance with a witness protection scheme;
 - 2.2 the safety of the public, or any part of the public; or
 - 2.3 the security of property referred to in clause 5.4.2.1

5.5 Law Enforcement and legal proceedings

5.5.1 A meeting must be closed if failure to do so would result in the disclosure of information the disclosure of which is prohibited in terms of sections 60 (14) of the Criminal Procedure Act, 1977 [Act 51 of 1977].

5.5.2 A meeting may be closed if failure to do would result in disclosure of information-

1. which would reveal the methods, techniques, procedure or guidelines for the prevention, detection, curtailment or investigation or a contravention or possible contravention of the law or the prosecution of offenders, the disclosure of which could reasonably be expected to

- prejudice their effectiveness or lead to the circumvention of the law or facilitate the commission of an offence;
2. where the prosecution of an alleged offender is being prepared or about to commence or pending and the disclosure of the information could reasonably be expected to impede the prosecution or to result in a miscarriage of justice in that prosecution;
 3. the disclosure of which could reasonably be expected to -
 - 3.1 prejudice the investigation of a contravention or possible contravention of the law, which investigation is about to commence or is in progress or, if it has been suspended or terminate, is likely to be resumed;
 - 3.2 reveal the identity or enable a person to ascertain, the identity of a confidential source of information in relation to the enforcement or administration of the law;
 - 3.3 result in the intimidation or coercion of a witness, or a person who might be or has been called as a witness, in criminal proceedings or other proceedings to enforce the law;
 - 3.4 facilitate the commission of a contravention of the law;
 - 3.5 prejudice or impair the fairness of a trial or the impartiality of an adjudication.

5.6 Legal privilege

5.6.1 A meeting must be closed if failure to do so would result in disclosure of information which is privileged from production in legal proceedings unless the person entitled to the privilege has waived the privilege.

5.6.2 Information subject to privilege includes, but is not limited to any confidential communication between the Municipality and its legal advisors, including its salaried legal advisors. Only the Council or Executive Committee, or persons duly authorised to do so by the Council or Executive Committee may waive the Municipality's privilege. Any waiver of privilege must be recorded in writing at the time it is done or as soon as possible thereafter.

5.7 Security

A meeting must be closed if failure to do so would result in disclosure of information the disclosure of which could reasonably be expected to cause prejudice to security of the Municipality, or any office bearer or employee thereof.

5.8 Economic interests and financial welfare of the Municipality

A meeting may be closed if failure to do so would result in disclosure of information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party, a person that is or will be carrying out the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

5.9 Research information

5.9.1 A meeting must be closed if failure to do so would result in disclosure of information about research being or to be carried out by or on behalf of a third party, the disclosure of which would be likely to expose the third party, a person that is or will be carrying out the research on behalf of the third party, or the subject matter of the research, to serious disadvantage.

5.9.2 This ground of closure also applies to research information of the Municipality.

5.10 Operation of the Municipality

5.10.1 A meeting may in exceptional circumstances be closed if failure to do so would frustrate a deliberative process of the Municipality by inhibiting –

1. the candid communication of an opinion, advice, report or recommendation or the candid conduct of a consultation, discussion or deliberation; or
2. the supply in similar situations in the future of candid opinions, advice, reports or recommendations or the conduct in similar situations in the future of candid consultations, discussions or deliberations, and it is in the public interest that they be candidly supplied or conducted.

5.10.2 A meeting must be closed if failure to do so would result in disclosure of information -

1. which could reasonably be expected to jeopardise the effectiveness of testing, examining or auditing procedure or method used by the Municipality;
2. containing evaluative material, if disclosure would breach an express or implied promise of confidentiality made to the person who supplied the material.

5.10.3 Evaluative material is an evaluation or opinion prepared for the purpose of determining -

1. the sustainability, eligibility, or qualifications of the person to whom or which the evaluation of opinion relates -
 - 1.1 for employment or for appointment to office;
 - 1.2 for promotion in employment or office or for continuance in employment of office
 - 1.3 for removal from employment or office;
 - 1.4 for the awarding of a tender or contract; or
 - 1.5 for the awarding of a scholarship, award, bursary, honour or similar benefit; or
2. whether any tender, contract, scholarship, award, bursary, honour or similar benefit should be continued, modified, cancelled or renewed.

5.11 Public interest

Notwithstanding any of the grounds of closure outlined above, a meeting must be open to the public if

5.11.1 that would result in the disclosure of evidence of -

1. a substantial contravention of, or failure to comply with, the law; or
2. an imminent and serious public safety or environmental risk; and

5.11.2 the public interest in the disclosure clearly outweighs the harm of disclosure

6. PROCEDURES

Representations

- 6.1 Application to make representations to Council or a Committee of Council must be made to the Municipal Manager or his/her delegated person.
- 6.2 On approval of the application or request the Directorate Corporate Services is responsible for all logistics with regards to giving approved applicants the opportunity to make their representations to Council.
- 6.3 Visitor cards will be issued to a delegation or members of public or the media indicating clearly the purpose of their business with Council.
- 6.4 After the representation to Council or Committee of Council the delegation or individual are accused from the meeting and the normal proceedings of Council continues.
- 6.5 Access control will be responsible to recollect visitor cards from the members of public or media.

Requests and invites to attend meetings

- 6.6 Requests to attend a Council meeting or a Committee of Council meeting must be made to the Municipal Manager.
- 6.7 The Speaker can invite members of the public or the media to attend any meeting of Council or Council Committee.
- 6.8 On approval of the request the Directorate Corporate Services is responsible to communicate and arrange attendance with the applicants.
- 6.9 Invites or requests from the Speaker will be handled through the Office of the Speaker to arrange attendance to Council meetings or Council Committee meetings with the invitees.
- 6.10 Visitor cards will be issued to members of public or the media indicating clearly the purpose of their business with Council.
- 6.11 Members of public or invitees or the media attending meetings are accused from the meeting at any moment with the consent of the Speaker.
- 6.12 Access control will be responsible to recollect visitor cards from the members of the public or media.

Grounds for closure of a meeting

6.13 Subject to clause 6.13.1, a meeting may only be closed -

6.13.1 if a business item on an agenda to which a ground of closure contained in this policy applies has been marked confidential/ in-committee by a person referred to in clause 6.14; and

6.13.2 for the duration of the consideration of such business item.

6.14 The Municipality Manager, or a person duly authorized by him or her in writing, is hereby delegated the authority to mark a business item on an agenda of the Council or its Committees as confidential.

6.15 When marking a business item on agenda as confidential, the Municipality Manager shall specify the grounds of closure, in terms of this policy, upon which the decision is based and shall motivate why the ground of closure applies.

6.16 The documentation relating to a business item that has been marked confidential:

6.16.1 shall be treated as confidential by all employees of the Municipality and the persons to whom it is distributed for the purposes of the meeting;

6.16.2 and shall not be available for inspection by members of the public or the media until the meeting has resolved that it is no longer confidential.

6.17 Prior to considering a business item on an agenda that has been marked confidential, council or the relevant committees shall determine whether the item should remain confidential and if the decision is made that it should not remain confidential, the part of the meeting with that business item shall no longer be closed and the documentation relating to that business item shall be available for inspection by members of the public or the media.

ROLE PLAYERS

Speaker.

Mayor.

Municipal Manage.

Director Corporate Services.

Director Community Services.

LEGISLATION

Constitution.

Promotion of Access to Information Act.

Municipal Systems Act.

Standing Rules of Order of //Khara Hais Municipal Council.