

ITEM NUMBER: C 37/03/15

*RECOMMENDATION FROM THE EXECUTIVE MAYOR: 19 MARCH 2015*

**MC 54/03/15      DECISIONS AND DELEGATION REQUIRED TO PREPARE FOR  
THE IMPLEMENTATION OF THE MUNICIPAL PLANNING BY-LAW**

It is **RECOMMENDED** that Council:

- (a) determine the format for the invitation and the call for nominations as required by section 115(3) of the Municipal Planning By-law to be in the form attached as Annexure A to the report on the agenda
- (b) determine that the nomination form which must be submitted in response to the call for comments for the purposes of section 115(3) of the Municipal Planning By-law is the form attached as Annexure B to the report on the agenda
- (c) determine that the criteria in Annexure C attached to the report on the agenda be additional criteria used in evaluating applications or nominations received for membership of the Municipal Planning Tribunal (MPT)
- (d) delegate authority to the Executive Mayor together with the Mayoral Committee to appoint officials to the evaluation panel for the purposes of section 115(6) of the Municipal Planning By-law.



REPORT TO: THE EXECUTIVE MAYOR  
COUNCIL

DATE 2015 -03- 19

1. ITEM NUMBER: MC 54/03/15
2. SUBJECT: DECISIONS AND DELEGATION REQUIRED TO PREPARE FOR THE IMPLEMENTATION OF THE MUNICIPAL PLANNING BY-LAW

ONDERWERP: BESLUIE EN DELEGASIES VEREIS TER VOORBEREIDING OP DIE IMPLEMENTERING VAN DIE VERORDENING OP MUNISIPALE BEPLANNING

ISIHLOKO: IZIGQIBO NOGUNYAZISO OLUFUNEKAYO UKULUNGISELELA UKUMISELA UMTHETHO KAMASIPALA ONGOCWANGCISO

[LSU: F1364]

#### STRATEGIC INTENT

- Opportunity City

The report is aligned with Strategic Focus Area 1: the Opportunity City and more specifically to objective 1.1 namely:

“Create an enabling environment to attract investment that generates economic growth and job creation.”

The report is also aligned with Strategic Focus Area 5: the Well-Run City.

#### 3. PURPOSE

The purpose of this report is to obtain approval of Council for certain matters as set out below and to delegate certain decision making powers in preparation of the implementation of the Municipal Planning By-law which is to be adopted on 25 March 2015.

#### 4. FOR DECISION BY

There are no delegations in place for the matters discussed in this report.

This report is for consideration/decision by:

Making progress possible. Together.

- The Executive Mayor together with the Mayoral Committee
- Council

## 5. EXECUTIVE SUMMARY

A new suite of legislation is expected to come into force on 1 July 2015 which will deal with land use development applications. The Spatial Planning and Land Use Management Act no 16 of 2013 (SPLUMA) sets a minimum requirement for a Municipal Planning Tribunal (MPT) to hear land development applications and sets requirements for the appointment of members to the MPT. The Municipal Planning By-law (the MPBL) is consistent with the requirements of SPLUMA as set out above. The MPBL is expected to be adopted on 25 March 2015. The Municipal Planning By-law is consistent with these requirements. The requirements are set out in more detail below.

The MPBL requires the City to call for nominations for persons who are not officials to serve as members of the MPT (referred to as external members). In order to do so, the MPBL requires the City to:

- determine the format for the invitation and call for nominations.
- determine the form for nominations.
- identify any other criteria for the evaluation of applications or nominations for membership of the MPT.
- Appoint an evaluation panel of officials to make recommendations to Council on the appointment of members to the MPT.

This preparatory work is necessary in order to commence the recruitment process to ensure that members of the MPT can be appointed when the By-law comes into force on 1 July 2015.

## 6. RECOMMENDATIONS

### **RECOMMENDATION BY THE EXECUTIVE MAYOR TOGETHER WITH THE MAYORAL COMMITTEE:**

It is recommended that:

- a) Council determine the format for the invitation and the call for nominations as required by section 115(3) of the Municipal Planning By-law to be in the form attached as annexure A.
- b) Council determine that the nomination form which must be submitted in response to the call for comments for the purposes of section 115(3) of the Municipal Planning By-law is the form attached as annexure B.
- c) Council determine that the criteria in annexure C be additional criteria used in evaluating applications or nominations received for membership of the MPT.
- d) Council delegate authority to the Executive Mayor together with the Mayoral

Committee to appoint officials to the evaluation panel for the purposes of section 115(6) of the Municipal Planning By-law.

Daar word aanbeveel dat:

- a) Die Raad bepaal dat die formaat van die uitnodiging en die oproep om nominasies, soos vereis by artikel 115(3) van die Verordening op Munisipale Beplanning, die vorm aangeheg as bylae A moet wees.
- b) Die Raad bepaal dat die nominasievorm wat ingedien moet word in reaksie op die oproep om kommentaar, vir die doeleindes van artikel 115(3) van die Verordening op Munisipale Beplanning, die vorm aangeheg as bylae B moet wees.
- c) Die Raad bepaal dat die kriteria in bylae C bykomende kriteria moet wees vir gebruik tydens die beoordeling van aansoeke om nominasies wat ontvang is vir lidmaatskap van die tribunaal op munisipale beplanning (MPT).
- d) Die Raad magtiging aan die uitvoerende burgemeester tesame met die burgemeesterskomitee delegeer om amptenare op die beoordelingspaneel aan te stel vir die doeleindes van artikel 115(6) van die Verordening op Munisipale Beplanning.

Kundululwe ukuba:

- a) IBhunga malimisele uhlobo lwesimemo kunye nesimemo solonyulo, njengoko kufunwa licandelo 115(3) loMthetho kaMasipala ongoCwangciso, ukuba ibeyifomu eqhotyoshelwe njengesihlomelo A.
- b) IBhunga malimisele ukuba ifomu yolonyulo emayifakwe xa kuphendulwa yokufaka izimvo, ngenjongo zecandelo 115(3) loMthetho kaMasipala ongoCwangciso, ukuba ibeyifomu eqhotyoshelwe njengesihlomelo B.
- c) IBhunga malimisele ukuba uluhlu olukwisihlomelo C malibe luhlu olusetyenziswayo xa kuhlolwa izicelo okanye ulonyulo olufunyenweyo lwamalungu ekomiti engocwangciso kamasipala i-Municipal Planning Tribunal (MPT).
- d) IBhunga malinike igunya uSodolophu weSigqeba ekunye neKomiti kaSodolophu weSigqeba ukuba baqeshe amagosa kwicandelo lohlolo ngeenjongo zecandelo 115(6) loMthetho kaMasipala ongoCwangciso.

**NOT DELEGATED: FOR DECISION BY COUNCIL:**

It is recommended that:

- a) Council determine the format for the invitation and call for nominations as required by section 115(3) of the Municipal Planning By-law to be in the form attached as annexure A.
- b) Council determine that the nomination form, which must be submitted in response to the call for comments for the purposes of section 115(3) of the Municipal Planning By-law, is the form attached as annexure B.
- c) Council determine that criteria in annexure C be additional criteria used in evaluating applications or nominations received for membership of the MPT.
- d) Council delegate authority to the Executive Mayor together with the Mayoral Committee to appoint officials to the evaluation panel for the purposes of

Making progress possible. Together.

Daar word aanbeveel dat:

- a) Die Raad bepaal dat die formaat van die uitnodiging en die oproep om nominasies, soos vereis by artikel 115(3) van die Verordening op Munisipale Beplanning, die vorm aangeheg as bylae A moet wees.
- b) Die Raad bepaal dat die nominasievorm wat ingedien moet word in reaksie op die oproep om kommentaar, vir die doeleindes van artikel 115(3) van die Verordening op Munisipale Beplanning, die vorm aangeheg as bylae B moet wees.
- c) Die Raad bepaal dat die kriteria in bylae C bykomende kriteria moet wees vir gebruik tydens die beoordeling van aansoeke om nominasies wat ontvang is vir lidmaatskap van die tribunaal op munisipale beplanning (MPT).
- d) Die Raad magtiging aan die uitvoerende burgemeester tesame met die burgemeesterskomitee delegeer om amptenare op die beoordelingspaneel aan te stel vir die doeleindes van artikel 115(6) van die Verordening op Munisipale Beplanning.

Kundululwe ukuba:

- a) IBhunga malimisele uhlobo lwesimemo kunye nesimemo solonyulo, njengoko kufunwa licandelo 115(3) loMthetho kaMasipala ongoCwangciso, ukuba ibeyifomu eqhotyoshelwe njengesihlomelo A.
- b) IBhunga malimisele ukuba ifomu yolonyulo emayifakwe xa kuphendulwa yokufaka izimvo, ngenjongo zecandelo 115(3) loMthetho kaMasipala ongoCwangciso, ukuba ibeyifomu eqhotyoshelwe njengesihlomelo B.
- c) IBhunga malimisele ukuba uluhlu olukwisihlomelo C malibe luhlu olusetyenziswayo xa kuhlolwa izicelo okanye ulonyulo olufunyenweyo lwamalungu ekomiti engocwangciso kamasipala i-Municipal Planning Tribunal (MPT).
- d) IBhunga malinike igunya uSodolophu weSigqeba ekunye neKomiti kaSodolophu weSigqeba ukuba bageshe amagosa kwicandelo lohlolo ngeenjongo zecandelo 115(6) loMthetho kaMasipala ongoCwangciso.

## 7. DISCUSSION/CONTENTS

### 7.1. Constitutional and Policy Implications

The Spatial Planning and Land Use Management Act no 16 of 2013 (SPLUMA) sets a minimum requirement for a Municipal Planning Tribunal (MPT) to hear land development applications and sets requirements for the appointment of members to the MPT. The Municipal Planning By-law is consistent with these requirements. The requirements are set out in more detail below.

## 7.2. Sustainability Implications

Does the activity in this report have any sustainability implications for the City? No  Yes

## 7.3 Discussion

### 7.3.1 **Format of call for nominations and form for nominations**

The MPBL is due to be adopted on 25 March 2015 and is expected to come into operation on 1 July 2015. In order to ensure that the MPT is established and members appointed by 1 July 2015, it is necessary to commence the process of calling for nominations immediately. The invitation and call for nominations is considered a preliminary administrative step which leads up to the appointment of the members of the MPT.

In terms of Section 115(3) of the MPBL, the City must invite applications or nominations for persons to be appointed to the MPT in a format determined by the City.

The format referred to above is an advertisement which has been advertised in the press. The advertisement refers to general information which gives more detail about the membership. A copy of this advertisement is attached as annexure A.

Section 115(4) of the MPBL provides that the notice referred to above must require the applications or nominations to be submitted on a form determined by the City. Section 115(5) of the MPBL contains the requirements for the nomination form which must be submitted in response to the call for comments. This information has been incorporated in the nomination form which has been placed on the City website and which is referenced in the advertisement. The form is attached as annexure B.

### 7.3.2 **Criteria**

The MPBL requires officials and outside persons to have knowledge and experience in any of the disciplines of spatial planning, land use management, land development or the law related thereto. Applications will also be assessed against the principles of employment equity.

The City may, in terms of section 115 (7) of the MPBL determine other criteria for the evaluation of nominations or applications received for membership of the MPT. The additional criteria are set out in annexure C. The criterion relating to knowledge of the objects and developmental duties

of local government is considered to be useful additional experience for members on the MPT.

The other two criteria relating to a driver's license and computer literacy are important practical considerations as members are required to attend meetings in different locations and the City is moving to an e-agenda format. Most of the communication within the City is on email as well.

### 7.3.3 Evaluation panel

Section 115 (6) of the MPBL requires an evaluation panel of authorised officials in the employ of the City and appointed by the City to evaluate nominations or applications received and to make such recommendations to Council.

It is suggested that the power to appoint officials to this evaluation panel is delegated to the Executive Mayor together with the Mayoral Committee.

### 7.4 Staff Implications

Does your report impact on staff resources, budget, grading, remuneration, allowances, designation, job description, location or your organisational structure?

No

Yes

### 7.3. Other Services Consulted

Manager: Talent Management - Mrs. Yolanda Scholtz

## ANNEXURES

Annexure A: Format of the call for nominations.

Annexure B: Nomination form.

Annexure C: Additional criteria for evaluation.

FOR FURTHER DETAILS CONTACT:

NAME	Fiona Ogle
CONTACT NUMBERS	021 4007578
E-MAIL ADDRESS	Fiona.Ogle@capetown.gov.za
DIRECTORATE	EESP
FILE REF NO	1/1/3/2/65
SIGNATURE : DIRECTOR	<i>Fiona Ogle</i> 16.3.2015

*[Handwritten Signature]*

EXECUTIVE DIRECTOR  
MR JAPIE HUGO  
ED: EESP

Comment:

NAME

DATE

*16.3.2014*

*(CA 2004)*

LEGAL COMPLIANCE

[Compulsory to Insert name]

NAME

*Alice Wata*

TEL

*(021) 4001150*

DATE

*16/3/2015*

REPORT COMPLIANT WITH THE PROVISIONS OF COUNCIL'S DELEGATIONS, POLICIES, BY-LAWS AND ALL LEGISLATION RELATING TO THE MATTER UNDER CONSIDERATION.

NON-COMPLIANT

Comment:



*A. G. Ras*

EXECUTIVE DIRECTOR: COMPLIANCE AND  
AUXILIARY SERVICES (MR GERHARD RAS)

DATE

*17/3/15*

SUPPORTED FOR ONWARD SUBMISSION  
TO MAYOR  / MAYCO  / COUNCIL

NOT SUPPORTED

REFERRED BACK

COMMENT:

*Johan van der Merwe*

MAYORAL COMMITTEE MEMBER: EESP  
COUNCILLOR JOHAN VAN DER MERWE

NAME

*JFH v/o merwe*

DATE

*17/03/2015*

COMMENT:

ITEM NUMBER: C 38/03/15

*RECOMMENDATION FROM THE EXECUTIVE MAYOR: 19 MARCH 2015*

**MC 36/03/15 APPLICATION FOR REZONING, SUBDIVISION AND DEPARTURES IN TERMS OF THE LAND USE PLANNING ORDINANCE NO. 15 OF 1985 AND CONSENT IN TERMS OF THE FORMER SIMON'S TOWN ZONING SCHEME: ERVEN 448, 4621 AND 4626 SIMON'S TOWN, DIDO VALLEY ROAD**

It is **RECOMMENDED** that Council recommend to the Competent Authority that the application for the consent of the Administrator, in terms of the transitional arrangements of the new Cape Town Zoning Scheme, to permit eleven Undetermined Use zoned erven to be used as Public Open Space, one Undetermined Use zoned erf to be used as a Public Walkway, four Undetermined Use zoned erven to be used for Public Road, one Undetermined Zoned erf to be used for a Public Transport Facility and four Undetermined Use zoned erven to be used for authority usage for electrical substations, be approved.