

LOCAL GOVERNMENT
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**Debating the review
of local government**

A CIVIL SOCIETY PERSPECTIVE

THE SPEAKER & COMMUNITY PARTICIPATION?

PITFALLS OF WARD COMMITTEES

Facilitating public participation

A NICHE ROLE FOR THE SPEAKER?

Considerable attention has been drawn to local government's ability to facilitate public participation and the role and effective administration of ward committees. Undoubtedly the most important aspect of the local government review is the need to improve the quality of local democracy, the degree of municipal responsiveness and accountability.

The office of the speaker has increasingly come under the spotlight since its inception in local government in 2000. Their role has often been ill-defined. At times, overlapping roles with the (executive) mayor have caused political tension and misunderstanding. The emergence of the political office of a 'chief whip' has added another dimension to the definition of the role of the speaker. Some argue that there are now three seats of political power in each municipality.

What is clear is that confusion over the political roles of office bearers is undesirable and burdensome to the efficient functioning of local government. This article looks at defining a role for the speaker in managing public participation, particularly the administration and effective functioning of ward committees.

Political contestation and seats of power

The Constitution vests both the legislative and executive authority of the municipality in the municipal council. This is unlike the national and provincial sphere, where legislative and executive authority is divided between the legislature and the executive.

Section 52 of the Constitution provides for the election of the Speaker of the National Assembly and section 111 provides for the election of speakers in the provincial legislatures. In contrast, the Constitution does not identify or assign powers and functions to specific political office bearers in local government. Section 160(1)(b) of the Constitution merely instructs each municipal council to elect "a chairperson". The implementation of this provision in the Municipal Structures Act has resulted in a separation of the chairperson of the council from the mayor; in nearly all municipalities, the chairperson is called a 'speaker' and is not the same person as the mayor. This is not the inevitable

consequence of section 160(1)(b) of the Constitution; the legislature could have opted to collapse the chairperson and the mayor in one office, as was the situation prior to the Structures Act. The fact that, in some instances (the so-called 'plenary-type' municipalities), the two offices are combined bears testimony to this.

The establishment of the office of speaker was one of the most notable governance-related reforms introduced in 2000. The Local Government Transition Act of 1993 made no provision for a speaker, referring only to a chairperson. The presence of both offices in a municipal council without any clear statutory directive on the boundaries of their roles and their relationship to one another results in two separate seats of considerable power in that council.

Both mayor and speaker operate on the basis of a mandate from the municipal council. However, the mayor has a much stronger public mandate based on his or her delegated powers, political ranking, the election campaign and visibility to the public. In the case of an executive mayor, this is even more so, considering the strong powers afforded to that office in the Structures Act. Both speaker and mayor typically hold full-time seats in the municipal council. The difficulty in local government is that a neat division between a legislature, headed by the speaker, and the executive, headed by the mayor, is not possible. The municipal council also takes executive decisions and, in doing so, is chaired by the speaker.

In delineating the two roles a division must be achieved which is true to the political weight and the role of the two offices, but is also efficient; the mayor and the speaker should develop different areas of expertise.

The mayor, as political head of the municipality, oversees the management of the administration and represents local

government to the public. The speaker is first and foremost responsible for the administration of the municipal council and for supporting councillors in the exercise of their duties. This, the argument goes, is an efficient division of labour that does not overburden either individual. In reality, however, petty political squabbling and power struggles have all too often prevented this division of labour from taking effect. The role of chief whip adds a level of complexity.

Chief whip

Chief whips often have powers that are similar to those one would generally expect to see assigned to speakers. For instance, in Johannesburg, the chief whip is responsible for “the maintenance of discipline among all councillors”. In Cape Town, the chief whip is required to prepare, in consultation with the speaker, the annual calendar of meetings of council and committees, and is authorised to grant leave to councillors.

A critical distinction between the role of chief whip and that of speaker is the means at their disposal for enforcement. The chief whip is essentially a political functionary who can mete out political sanctions, determined by the rules of political parties. The speaker is a local government functionary who has the instruments in the Code of Conduct for Councillors and the rules of order at his/her disposal. Conflating the two by affording the chief whip some of the statutory functions linked to the Code of Conduct certainly does not simplify the issue. However, to the extent that the role of the chief whip is an unavoidable political reality, developing clear terms of reference for the chief whip becomes critical.

Ironing out a niche for the speaker in public participation?

A review of systems of delegation in a number of municipalities reveals an increasing role for the speaker in enabling community participation in the affairs of local government. In the Greater Tubatse Local Municipality system of delegations, for example, the



KEY POINTS

- The speaker's increasing involvement in facilitating community participation mechanisms and supporting the establishment and functioning of ward committee structures is an important trend in the evolution of the speaker's role.
- It may contribute to the improvement of local democracy by creating an office that can be held accountable for the process of public participation.
- In a sense, the speaker becomes responsible and accountable for the success or failure of public participation in a municipality, particularly the functioning of ward committees.
- Municipalities should seek to make a distinction between the process of community participation and the content of the interaction in that process.

speaker has robust authority with respect to the establishment and functioning of ward committees. The speaker “facilitates, oversees and supervises the election of ward committees in accordance with council’s policy on the election of ward committee members (other than ward councillors)”. In addition, the speaker “deploys proportional representative councillors to ward committees”, “monitors and reports on the performance of ward committees to the council” and “makes recommendations to the Municipal Council on the dissolution of a ward committee”.

Similarly, in Johannesburg the “ongoing capacity building of ward committees” is listed as one of the key functions of the speaker. The Cape Town system of delegations authorises the speaker to determine the administrative arrangements to enable ward participatory mechanisms to perform their functions and requires the speaker to oversee the establishment and coordination of the ward participatory mechanism.

The trend towards granting the speaker a significant role in enabling community participation mechanisms and in supporting the establishment and functioning of ward committee structures is an important one in the evolution of the role of the speaker. It flows from the speaker’s statutory position as the champion of the Code of Conduct, which places a high premium – in its preamble, for example – on accountability and responsiveness. This function may also be complementary to the speaker’s role in supporting councillors in the performance of their functions. It may contribute

to the improvement of local democracy by creating an office that can be held accountable for the process of public participation. In a sense, the speaker becomes responsible and accountable for the success or failure of public participation in a municipality, particularly the functioning of ward committees.

The current spate of community protests points to a need to improve the quality of local democracy and the degree of municipal responsiveness and accountability. The fact that no individual is responsible and accountable for public participation has perhaps resulted in, or exacerbated, the lack of responsiveness and accountability. There is growing discontent around issues such as the politicisation of ward committees and unresponsive ward councillors – issues which can be dealt with by the speaker as guardian of the Code of Conduct. A distinct role for the speaker might also enhance participation by disadvantaged and marginalised groups.

Being accountable for facilitating public participation and for administering it effectively could potentially create a niche role for the hitherto contested office of speaker. It would lead to better accountability and further entrench that role.

Scope and limits of speaker's role in public participation

However, the allocation of 'community participation' to the speaker without any nuance is dangerous. The municipality's (executive) mayor remains the most politically visible office bearer responsible for representing the municipality politically, including to communities. The suggestion is that municipalities should seek to make a distinction between the *process* of community participation and the *content* of the interaction in that process. The speaker ensures a sound process whilst the mayor (or whomever he or she designates) is responsible for the content. The speaker should never be responsible for prioritising community needs or defending the municipality's policy positions (except when they concern the Code of Conduct or council procedure).

Furthermore, any policymaking on community participation must be done by the council. The speaker can prepare and initiate such a policy, but its adoption is the sole responsibility of the council. The speaker is also bound by the limitations of the Code of Conduct, and has only those powers and functions granted in it or through delegation from the council.

There are a number of functions which the speaker could perform in facilitating public participation in council processes. First, the speaker should ensure that the principles of transparency in the legislation are adhered to – including public notice of meetings, and comment on draft by-laws and policies – and can advise on whether council or committee meetings should be closed to the public.

Second, the speaker should oversee the election of ward

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committees within the policy set by council to ensure that they are representative and do not become politicised. The speaker can also advise council on the dissolution of such committees. Third, the speaker can ensure the effectiveness of ward committees, within council policy, by supporting their functioning – for example, by budgeting for ward committee meetings and making sure that information about those meetings is readily available to the public in the appropriate languages and media.

Finally, the speaker can ensure the effectiveness of ward committees and the accountability of ward councillors by establishing a system of report-backs from ward committees to council structures. For example, the speaker should ensure that, at every council meeting, all ward councillors table reports on issues raised by their ward committees and, where necessary, follow up on progress made on issues raised at previous council meetings.

Comment

There is little doubt that local communities are best served when all office bearers have clearly defined roles and functions that work symbiotically, with clear reporting lines, such that both politicians and bureaucrats can focus on the business of development rather than political wrangling. Undoubtedly, competition between office bearers regarding their roles and functions can cripple a municipality.

A clearer definition of boundary lines between the offices of speaker and mayor – to the effect that the mayor is responsible for managing and representing the administration or the bureaucracy before council and for representing local government to the public, while the speaker is responsible for the administration of the municipal council and for facilitating the effective functioning and administration of public participation – would go a long way towards ensuring efficiency and development. Municipalities should take heed and create the political structure and climate most conducive to accountability and responsiveness by, among other things, entrusting the speaker with the task of facilitating public participation and accounting for its success or failure.

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