

MUNICIPAL BUDGETING AND PLANNING DURING COVID-19

by

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Introduction

A municipality's Integrated Development Plan is a five-year strategic plan, where the many interests, wishes and preferences of a municipal community are mediated and put into action. The municipality's budget allocates resources to this plan. Each year, municipalities review their IDPs and pass a budget for their financial year, which runs from 1 July to 30 June.

The coronavirus pandemic has disrupted the regular flow of these two key governance processes. This article discusses the general legislative framework for these processes, and how it has changed during COVID-19.

The focus is on the overarching principle that municipalities must encourage and create conditions for local communities to participate in the formulation (and review) of the Integrated Development Plan (IDP) and in the adoption of budgets, including budget related policies.¹

Municipal budgeting in normal times

The process of reviewing the IDP is coordinated by the mayor who must work closely with the municipal manager (MM) on this.² This is governed by the Municipal Systems Act and its regulations, which provide that changes to the IDP must be published for comment for at least 21 days.³ This IDP (revised or not) must inform the municipality's budget.

¹ Section 16(1) Municipal Systems Act, Act 32 of 2000.

² Section 21(1) Municipal Finance Management Act (MFMA), Act 56 of 2003.

³ Regulation 3(4)(b) Municipal Systems Regulations, 2001.

The budget process, also coordinated by the mayor (working with the MM and the chief financial officer) is governed by the Municipal Finance Management Act (MFMA). This Act instructs the mayor to table a budget in the council before the end of March of each year.⁴ It must be accompanied by key policies and resolutions, for example any IDP amendments, rates and tariff increases, and indigent policies. All of this must be published and the local community must be invited to comment.⁵ The budget must also be submitted to other stakeholders, such as the National Treasury and the provincial treasury.⁶ The council must consider all the submissions on the budget⁷ and must allow the mayor an opportunity to respond to the submissions. The entire council is expected to engage with the budget tabled by mayor and the inputs of the community. When necessary, the mayor may revise the budget and table an amended budget to the council for consideration.⁸ The council must meet to consider the budget before 30 May.⁹ If the council does not approve the budget, it must reconsider and take another vote within seven days.¹⁰ This must be repeated until a budget is approved. If by 1 July (the start of the financial year for municipalities), a municipality does not have an approved budget, the provincial government intervenes.

Municipal budgeting under COVID-19

It is clear from the above that the period between end of March and end of May is a crucial time in the municipal calendar. Preparations for the budget start much earlier but these two months are very intense, particularly when it comes to (1) public participation and (2) the council engaging with the budget. COVID-19 hit South Africa's shores in March. As a result, this crucial period for municipalities coincided almost precisely with an unprecedented lockdown. It was therefore impossible for municipalities to adhere to the above regime. The legal regime itself also underwent many changes.

COVID-19 changes to the 2020-2021 municipal budget process

⁴ Section 16(2) MFMA.

⁵ Section 22(a)(i)(ii) MFMA.

⁶ Section 22(b) MFMA.

⁷ Section 23(1) MFMA.

⁸ Section 23(2) MFMA.

⁹ Section 24(1)(2) MFMA.

¹⁰ Section 25(1) MFMA.

- Shortly after the Lockdown was announced on 23 March 2020, the Minister of COGTA issued Regulations and Directions.¹¹ These prohibited municipalities from convening council and community meetings. This immediately made all physical community engagement on the proposed changes to the IDP and 2020-2021 budget impossible.
- The Minister instructed all municipalities to cede all executive authority related to the pandemic to the Mayor and the Municipal Manager, who were to report to council after the state of disaster.
- On 30 March, the National Treasury exempted all municipalities from undertaking actions required by the MFMA during the period of the national state of disaster.¹²
- While the MFMA exemption freed municipalities of many strictures related to budgeting and financial management, there was no similar exemption in terms of the Municipal Systems Act. When it came to the review of the IDP, therefore, municipalities were still required to comply with the Act and facilitate public participation in the IDP review process, including the abovementioned 21-day consultation period.

With the slow easing of the Lockdown, the legal regime for municipal governance and budgeting was changed again on 7 May 2020.

- The Directions were amended to provide that municipalities were required to perform various legislated functions including the adoption of IDPs, deliver municipal services and collect revenue.¹³ They were instructed to ensure, that, in doing so “there is strict adherence to all COVID-19 public health and containment prescripts, especially those relating to gatherings, physical distancing, health and safety”.¹⁴
- The ban on council meetings was lifted and municipalities were now instructed to convene meetings via online platforms, such as teleconferencing and video conferencing.¹⁵ This was directed at political and administrative meetings such as the council, municipal planning tribunals and boards of municipal entities.¹⁶

¹¹ The Directions were issued in terms of section 27(2) of the Disaster Management Act of 2002.

¹² Municipalities and municipal entities will be required to undertake such actions within 30 days after the national state of disaster lapsed or is terminated.

¹³ Amended Direction 6.7.1.

¹⁴ Amended Direction 6.7.2.

¹⁵ Amended Direction 6.7.3.

¹⁶ Meetings of structures performing similar quasi-judicial functions, such as the Development Tribunal, should, however, only be held where necessary.

- When reviewing IDPs and drafting budgets, municipalities were still required to consult communities despite the ban on gatherings. They were directed to replace contact sessions for such consultations with alternative methods of consultation, including the media.¹⁷

The prohibition on community gatherings meant that contact sessions to consult communities on the IDP and the budget remained impossible. This would have excluded communities from the budget process if municipalities did not seek alternatives. Some municipalities used community radio and social media to broadcast their tabled budgets. There were also municipalities that used email or messaging services (WhatsApp) to solicit inputs, or even developed dedicated apps to receive inputs.

Special adjustments budget

During COVID-19, municipalities were given an additional opportunity to pass an adjustments budget. Municipalities were permitted to pass a special adjustment to their 2019/20 budgets. These have to be tabled by 15 June 2020. This enables municipalities to legalise expenditure related to COVID-19 which had not been catered for in their 2019/20 budgets. These adjustments may only relate to funding for COVID-19 related responses. The law does not compel municipalities to undertake public participation with respect to the adjustment budget.

Council and committee meetings

As mentioned above, municipal councils were initially prohibited from convening any council and committee meetings. On 7 May, government changed direction and instructed all municipalities to conduct virtual meetings using online medium platforms.¹⁸ During the second half of May, municipalities across the country thus held their first-ever virtual meetings. It was a baptism of fire, given the fact that this first-ever virtual meeting was perhaps the most important meeting of the year, namely the adoption of the 2020-2021 budget. So municipalities were thrust into a new era of virtual council meetings with little time to adjust.

¹⁷ Amended Direction 6.7.4(b).

¹⁸ Amended Direction 6.7.3. and 6.7.4 (a)

An example of this was that few, if any municipality had made provision for virtual meetings in their rules of order, i.e. the rules that govern council and committee meetings. The South African Local Government Association assisted by developing generic rules for online meetings and sittings. It invited its members to consider, customise and adopt these rules.¹⁹ These draft rules cover issues, such as notice of meetings, decision making and voting, and the facilitation of public involvement.

What does this new way of conducting council meetings mean for transparency and public participation in local government? The legislation is clear: municipalities must be transparent about their meetings and allow public admission into their meetings. In short, these are the rules:

- The Municipal Systems Act requires all meetings of the municipal council to be open to the public. Municipalities may provide for limited circumstances when it is reasonable to close the meeting to the public.²⁰ In any event, meetings on the IDP and the budget must always be open to the public.²¹ The same rules apply to meetings of committees of the council (including executive committees and mayoral committees).
- The Municipal Systems Act also directs municipalities to provide space for the public in council chambers and in any other places where the council and its committees meet.²²
- Municipalities are required to build the capacity of their respective communities, councillors and staff to foster effective community participation. Every municipality must set aside a budget every year to fund this.²³

What does this mean in the era of virtual meetings? Virtual council meetings were a necessary innovation to counter the challenges presented by COVID-19. However, there is more to it. They present both opportunities and challenges for transparency and public participation. Virtual meetings can undermine transparency and public involvement when they are not livestreamed and the public is excluded. On the other hand, if they are livestreamed, do they perhaps open up local democracy? If so, this could be a positive development coming out of our experience with COVID-19. When being physically present is not required, members of

¹⁹ SALGA 'General Rules for Virtual Meetings or Sittings', Circular 18/2020, 11 May 2020.

²⁰ Section 20(1) Municipal Systems Act.

²¹ Section 20(2) Municipal Systems Act.

²² Section 20(4)(a) Municipal Systems Act.

²³ Section 16(1)(b) Municipal Systems Act.

the public no longer need to navigate distance and competing diaries, to be part of a council meeting. Instead, it is possible to attend council meetings from anywhere. However, if members of the community don't have data and/or devices to view the meetings, it has the opposite effect, namely making access something for the privileged few.

In this context, the abovementioned instruction on municipalities to build capacity for community participation takes on a new form. Now that we are in the world of virtual meetings, what forms does such capacity building take? Should this include municipalities reprioritising their budgets to fund innovative ways of enabling and promoting community participation and transparency during COVID-19 times and beyond?

Conclusion

The COVID-19 pandemic, and the measures to contain it, are testing the ability of municipalities to comply with the rules and principles for transparency, participation and oversight applicable to planning and budgeting. Municipalities were forced to 'think on their feet' and respond to a rapidly changing governance environment. At the same time, the crisis is not an excuse to compromise on transparency. The public is entitled to information about municipal finances, to make inputs into municipal budgets and to observe council and council committee meetings. Furthermore, the crisis may have jolted municipalities out of the 'tried and tested', and into a new era of responsive budgeting.