

# Formal Response to Mossel Bay Municipality Regarding IDP and Budget Public Participation

**To:** The Acting Municipal Manager, Mossel Bay Municipality

**From:** Mossel Bay Property Owners Association (MPOA)

**Date:** 20 April 2026

**Subject:**

Legal Objection to the "Walk-In" Meeting Model and Non-Compliance with Public Participation Standards

**Dear Mr. Naidoo,**

We acknowledge receipt of your correspondence dated 07 October 2025. While we note the Municipality's efforts to diversify its engagement platforms, we maintain that the "walk-in" session model employed on 15 September 2025 fails to meet the rigorous legal standards for **meaningful engagement** and **public meetings** as prescribed by South African law.

Below are the specific legal grounds and factual points why the "walk-in" model is unacceptable:

## 1. Failure to Constitute a "Public Meeting" under the Municipal Systems Act

The Local Government: Municipal Systems Act 32 of 2000, specifically **Section 17(2)(a)**, requires the establishment of mechanisms for "public meetings and hearings."

- **Legal Definition:** A "public meeting" in South African administrative law implies a structured forum where the community can collectively hear information, ask questions in a transparent environment, and hear the responses given to others.
- **The "Walk-In" Flaw:** A walk-in session is a series of fragmented, individual interactions. It lacks the **collective deliberative character** essential to a public meeting. It prevents residents from hearing the concerns of their fellow citizens, which is a cornerstone of "participatory governance" as mandated by **Section 16(1)**.

## 2. Violation of the Principle of "Meaningful Engagement"

The Constitutional Court has established the principle of "**meaningful engagement**" (e.g., *Occupiers of 51 Olivia Road v City of Johannesburg* and *Port Elizabeth Municipality v Various Occupiers*).

- **Standard of Engagement:** Engagement must be a two-way process where the municipality and the community "engage with each other meaningfully" to resolve concerns.
- **The "Walk-In" Flaw:** By treating public participation as a "convenience" similar to a service desk, the Municipality has reduced a constitutional right to a transactional encounter. Meaningful engagement requires a structured dialogue where the public can hold officials accountable in a public record, which individual walk-in sessions do not provide.

### 3. Procedural Unfairness: Access to Information (MFMA Section 21)

Your response claims that documents were available on the website and in libraries. However, **Section 21(1)(b) of the MFMA** and **Section 21A of the Municipal Systems Act** require that the municipality must "convey to the local community" the necessary information.

- **Factual Dispute:** Residents reported that the specific, detailed documents required for the September session were not accessible in a timely manner (14 days prior) to allow for informed participation.
- **Legal Requirement:** Providing a link to a general budget approved in May does not satisfy the requirement for the **specific review documents** under discussion in the September IDP/Budget cycle. Participation without prior access to the specific data being debated is "procedural window-dressing" and has been set aside by courts in cases like *Doctors for Life International v Speaker of the National Assembly*.

### 4. Inadequacy of Notification vs. Quality of Participation

While the Municipality lists various notification platforms (Facebook, Radio, etc.), the **legality of the meeting** is determined by the **quality of the interaction**, not just the notice.

- **Section 17(2)(b)** of the Systems Act requires the municipality to take into account the "special needs" of the community. A walk-in session often disadvantages those who require structured presentations to understand complex municipal budgets.
- The use of a "walk-in" model as a *replacement* for a structured public hearing, rather than a *supplement*, undermines the statutory requirement for "consultative sessions" with community organizations.

### Conclusion

The "walk-in" model, while flexible, does not satisfy the **statutory definition of a public meeting** or the **constitutional requirement for meaningful engagement**. It fragments the community's voice and shields the Municipality from collective accountability.

We respectfully demand that the Municipality:

- 1 Schedule a **formal, structured public hearing** where collective deliberation can occur.
- 2 Ensure all relevant documents are provided in a single, accessible bundle at least 14 days prior to such a hearing.
- 3 Record all proceedings of such a hearing to form part of the official IDP/Budget record.

Failure to adhere to these standards renders the IDP and Budget process procedurally flawed and susceptible to legal challenge under the Promotion of Administrative Justice Act (PAJA).

Yours faithfully,

Mossel Bay Property Owners Association (MPOA)