ISAZISO SOBURHULUMENTE
BASEMAKHAYO UMASPALA WASENGQUSHWA

IMITHETHO YODOLOPHU EPHATHELWE KWIZAKHIWO KWANENDAWO ZINGAKHATHALELWANGA

Umanenjalo kamasiplala wenza upapashi, ngokuphathelele kwincandelo 13 lorhulumente basemakhaya: Umthetho wekqubo kamasipala 2000 umthetho (ongunombolo 32 ka 2000) kunda kunye necandelo 162 lomgaqo – siseko werhiphabliki yasemzantsi Afrika, 1996 (Umthetho ongu no 108 ka 1996) Umthetho wedolophu ophathele kwizakhiwo kwanendawi ezingakhathalelwanga.

Injongo zalo mthetho weDolophu

Injongo yalomthetho wedolophu kukuwisa umthetho ophathelele kwizakhiwo kwanendawo zokuhlala ezingakhathakekwanga, ukuze kuphuculwe imo kulenginqi yalomasipala uluntu oluhlala kuyo, ukuze kulawuleke inkaneleko nobume bezakhiwo kwanendawo ngokubanzi.

1. **Incazelo** – Kulo mthetho wedolophu, amagama asetyenziswe kwisini samadoda kubandakanya abasetyini, esinye sibandakanya isininzi kwangokunjalo kwanye ngaphandle xa lukho umshintsho-

   "**Umnini okanye umhlali aongekhoyo**" kubhekiselelwe kumnini okanye umhlali ongaxabisanga kubakho okanye esoloko engekho kweso sakhiwo okanye indawo ahlala okanye enelungelo kuyo.

   "**isenzo somlawuli**" oku kubhekisa kwesenzo esinyanzelisa umasipala ekusebenziseni igunya lakhe ukulungisa imo okanye imeko.

   "**Isakhiwo**" sibandakanya –

   (a) Nayiphina into emisiweyo okwethutyana okanye ithuba ekide –

      (i) Indawo yokuhlala elungele abantu okanye isizalwana okanye izilwanyana;

      (ii) Yokuvelisa, yokugcina, yokubonisa okanye nokubonisa nantoni na;

      (iii) Ekunikezeleni inkonzo;

      (iv) Ekuthabalaliseni nasekucoceni inkunkuma;

(v) Ukukhulisa izityalo okanye imifuno

(b) Naluphina udonga, indawo yokuqubha, indama lokuqubha, ibhulorho naso nasiphina isakhiwo esinxulumene noku

(c) Nayiphina impompo yamafutha okanye umgqomo ohlangene nawo.

(d) Nayiphina indawo yesakhiwo kubandakanya nezakhiwo ngokucacisiweyo kwicandelwana (a),(b) okanye (c)

(e) Naziphina izinto ezibandakanywa nesakhiwo esisetyenziswa ukuzisa amanzi, imibhobo yelindle, nemisele yamanzi, nokuhanjiswa kombane

"**Usuku**" luthetha isithuba seyure eziyisi24 ukususela ngentsimbi yokuqla ekuseni ukuya kutsho kwintsimbi yokuqala emini, oku kubandakanya iCawa, umqhibelo nosuku lweholide.

"**Uphuculo**" oku kuthetha umsebenzi owenziweyo kwisakakhiwo okanye kwindawo ukutshintha ubume nenkangelo yaso.

"**Umaspala**" Kuthethwa umasipala wase Ngqushwa osekwe nokwencandelo 12 loburhulumente basemakhaya: iMunicipal Structures, 1998(Act no 117 of 1998) ngokubhekiselele kwezobupolitiki, nabaphathi abaphetheyo baka rhulumente namalungu ekansile.

"**Ummandla kamasipala**" kuthetha ummandla ophantsi kolawulo luka Masipala;

"**Umnini**" kuthetha –

(a) Umtu othi ngamathuba ngamathuba abe ngobhalisiweyo kwindawo

(b) Xa umthu ebhaliswe ngomthetho kwindawo yakhe efile okanye engaselulawulo lalondawo lowo mntu, olawulayo kulo ndawo ngokoku bekwa yinkundla namagosa omthetho woba ngumnini – ndawo.

(c) Xa umasipala engesakwazi ukumahlula lo mntu indlalifa

(d) Xa kuqeshisiwe ngendawo isithuba esimashumi amabini umqeshi,
(e) Ngokubhekiselele kwi –

(i) Xa umhlaba obandakanywe kwisicwangso ngokomthetho isectional Titles 1986 (Act no 95 of 1986) umphuhlisi wemihlaba, okanye

(ii) Incandelo lomhla njengoko umthetho uchaza lowo mntu ilelakhe wobandkanywa ngokwesigumyazisi

(f) Nabanina ogunyaziswe nguthetho obandakanya –

(iii) Inkampani ebhaliswe ngokomthetho wenkampani 1973 Act no 61 of 1973, itrust okanye inkampani ehaliswe phantsi komthetho closed corporations Act 1984 (Act no 69 of 1984),

(iv) Naliphi na isebe lezoburhulumente welizwe, lwephondo nawaswmakhaya

(v) Nayiphina ikansile okanye ibhodi esekwe ngokomthetho we Mzantsi Afrika.

(vi) Nawuphina umeli welizwe nelizwe langamaphandla kaMasipala.

"**Indawo**" ithetha nawuphina umhla nokuba umiwe okanye zizakhiwo ezilapho kumandla ka Masipala.

2. **Uxanduva lomnini – umhlaba nokumiwa** kwezakhiwo

Umnini okanye ngumhlaba okwindawo ka Masipala uyakuba noxanduva azilungise izakhiwo kwanomhlaba ukuqinisekisa ukuba –

(a) Impilo nococeko lungabikho engozini,

(b) Ukungafaneleki okanye ukuchaseka

(c) Inkathazo kubemi okanye kubamelwane

(d) Ukuhla kwexabiso nakwezabanelwane

3. **Ukusekwa umsebenzi namagunya ekomiti yococeko.**

(1) Umasipala woseka ikomiti yezococeko ngokwenjongo yokusebenzisa lemithetho yedolophu

(2) Ikomithi yezococeko isekwa ngokwendlelwana (1) ukuze iphandle, inike ingxelo yenze nezincomo kuMasipala ngesikhalazo ezifumeneyo.

(3) Umaspala unokugunyazisa ikomiti aninike amandla ngokwencandelwana u(1)

4. **Umasipala unako ukuthumaelo isaziso ezibhaliweyo**

(1) Ngokwembono zikaMasipala nasiphina isakhiwo okanye indawo isenokuba –

(a) Yingozi kwimpilo nococeko

(b) Ingabukeki okanye ichaseke

(c) Ibe yinkathazo kubemi abasondeleyo

(d) Ithobe ixabiso lwendawo ezisebmelwaneni

Umaspala unakho ukuthumala isaziso ngokubhaloweyo kumnikazi okanye kimhlali kwizakhiwo nomhlana onjalo, enyanzelisa ummi okanye umhli ophucule imako kwezondawo ibe yefanelekileyo umgangatho ofunwa nguMasipla uya kuyakubandakanywa kwisaziso eso yaye agunyaziswe alungisw kinke kwisithuba senyanga eziyi 6.

(2) Isaziso esibhaliweyo sikhutshwa ngokwe ncandelwana u(1) ngoluhlobo

(a) Ngoku thungelwa ikopi yaso –

(i) Ubuqi isiwe kumnini okanye umhlali nabanina obameleyo

(ii) Nakubanina ominyaka ilishumi elinesithandathu ohlala kulo indawo

(iii) Kwindawo yokuhlala ekhethwe ngumnini okanye ngumhlali

(b) Apho ummi okanye umhlali evala indawo yakhe ngenjongo yokungamkeli isaziso –

(i) Koncanyatheliswe ikopi yesaziso kumnyango wangaphandle wendawo leyo

(ii) Kobekwa ipopi kwibhokise yeposi yomzi lowo

(3) Umnikazi okanye umhlali ngokwelicandelo wothatyathwa okokuba usifumene usaziso kwisithuba –

(a) Senyana salomhla sakhuthwa ngawo.

(b) Kwisithandathu senyanga salo mhla inkonzo yanikezwa ngayo.

5. **Ukufakwa kwezikhalazo ngokunxulumene nesaziso**

(1) Ekufunyanweni kwesaziso ngokwencande 4 (1) umni okanye umhlali unokufaka isikhalazo ku Masipala achaze isizathu.

(2) Isikhalazo masingeniswe kumasipala kwisithuba sentsuku eziyi 14 emva kokufunynwa kwesizasiso, njengokubalula kwecandelo 4 (1) no (2).

(3) Umasipala uyakusiqwalasela isikhalazo kweaiaithuba sentsuku ezingamshumi amathathu emva kokusifumana

(4) Xa kuthe –

(a) Umasipala wangqina ukufaneleka kwesikhalazo ithuba elilindelekileyo lingahlengahlengiswa

(b) Umasipala warhoxisa isaziso esibhaliweyo angakhupha esinye isaziso etshintsha umgangatho ebewfuba okanye ixesha ebelibekile

(5) UMaspala uyakumazisa umhalali ngesigqibo esibhaliweyo kwamgexesha

(6) Ukuba umhlali okanye umnini uthe akakwazi ukufaka isikhalazo ngokwecandelo u (2) uMasipala akangesisiso sikhalazo

6. **Izilungiso zinokwenziwa nguMasipala**

(1) Umasipala umokuthabathela kuye ukulingiswa kwezakhiwo nendawo ngokomgangatho ochaziweyo kwisazisi. Icandelo 4 (1) ligunyazisa –

(a) Isigqibo eso sikaMasipala asimsindisi umnini okanye umhlali ekufunyanweni enetyala

(b) Xa ithuba elikwisaziso llithe lafika ummi okanye umhlali engakuthobelanga oko

(c) Xa kungekho sikhalazo sifakiweyo ngumnini okanye ngumhlali kwixesha elikhankanyiweyo kwisaziso.

(2) Xa athe umnini okanye umhlali wafaka isikhalazo ngokwencandelo 5(1) no (2) uMasipala akangekhuthabatheli kuye ukulungisa izakhiwo nendawo ngaphandle –

(a) Uhambisene nencandelo 5 (3) no (5)

(b) Uqinisekisile ukuba ixesha ebelitshitshiwe liphelile xa kusetyenziswa icandelo5(4).

(3) Xa umnini okanye umhlali uthe akaphumelela ukufaka isikhalazo ngexesha ebekufanele ngalo ngokwesaziso avumelane ngoko noMasipala azenze izilungiso.

(4) Umaspala unokuqesha umnikinkonzo enze izilungiso xa –

(a) UMasipala iyakuba nguye onexanduva ngokwenziwa ngumniki – nkonzo.

(b) Umniki – nkonzo uyakuba noxanduva yaye aphendule ngomsebenzi awenzileyo

(c) Nokuba nguMaspala okanyr umniki – nkonzo akangeniki mvume yokuqesha omnye umtu asebenze kwakuyo lo ndawo

(d) Nawuphina umsebenzi woenziweyo ngumniki – nkonzo woba –

(i) Ngokomgangatho ochaziweyo kwisaziso esibhaliweyo ngikwencwadi 4 (1)

(ii) Kwimo weyohlukileyo ngenkangeleko kwizakhiwo ezifutshane.

(5) Yonke incitho eywnziwe nguMasipala ekulungisweni kwezakiwo nendawo zothwalwa ngumnini okanye ngumhlali xa-

(a) Isiqinisekiso esivela kumanenjala ka Masipala sibonisa ixabiso ngokupheleleyo womsebwnzi lowo

(b) Umnini okanye umhlali woba nelungelo lokusikhaba isigqibo sikaMasipala sokuhlawula kwencitho nguye xa kukho umonakalo obangwe ngumniki – nkonzo.

7. Ulwaphulomthetho netlawulo

Nabani na owophula umthetho okanye angawufezekisi wofunyanwa enetyala yaye ahlawuliswe –

(a) Intlawulo engadlulanga kwi R60 000 okanye avalelwe isithuba senyanga ezilyi12 okanye anganikwa thuba lentlawulo okanye zombini ezo zinto

(b) Xa eqhubekeka ngokona intlawulo yonyuselwa nge R600 okanye ahlale eluvalelweni usuku ngaphezulu, okanye anikwe isigwebo esongezelekileyo ngaphakathi esingenantlawulo okanye kongezwe intlawulo kwanesigwebo sosuku ngaphakathi.

8. Imigaqo

(1) Umasipala unokwenza lwmigaqo ngokuphathelele.

(a) Ukusekwa, imisebenzi namagunya ekoniti yezococeko njengoko imfumaneko kwicandelo 3

(b) Inothisi iqulathe okokwicandelo 4 (1) kubandakanya –

(i) Ukubekwa komgangatho wezakhiwo nomhlaba omawufikelelwe ngokomthetho

(ii) Ithuba lokwenza izilungiso

(c) Ukufakwa kwesikhalazo ngesaziso –

(i) Indawo apho isikhalazo sinofakwa khona negosa likaMaspala eliya kusijonga

(ii) Ixesha elimisiweyo ngokwecandelo 5(2) no (3)

(d) Izilungiso ezenziwe nguMasipala zibandakanya –

(i) Ukumisela intlawulo ngokwamaxaniso asekiweyo

(ii) Isiqinisekiso nokuqulathwe siso ngokwecandelo 6 (5) no (a) ; no

(iii) Indlela yokucithwa kwesigqibo ngokwencande 6 (5)(b)

(e) (i) Ukumiselwa kwentlawulo ngoncandelo 7 xa isaziso singazalisekiswanga.

(ii) Ukuhlengahlengiswa kwentlawulo kumaxesha ngamaxesha.

(f) Nayiphina into ebalulwa ngumthetho weDolophu, nantonina elungiselelwa ukusebenzisa umthetho weDolophu.

(2) (a) UMasipala uyakwenza umgaqo awudlulisele eluntwini njengoko amacandelo u 21 no 21An womthetho wezamakhaya. IMunicipal Systems Act 200 (Act No.32 of 2000), emva kwenyanga afake isaziso ememelela imbono.

(b) Ukuba uMasipala ugqiba ekuguquleni imigaqo esayilwayo ngenxa yembono zabantu akusayi kufuneka ukuba aphinde akudlulisele oku eluntwini.

9. Ukurhoxisa umthetho weDolophu

Nawuphina umthetho wedolophu ophathelele kwizakhiwo nendawo ezingakhathalelwanga, owamkelweyo nguMaspala okanye nayiphina ikansile kamasipala equlathe icandelo lolawulo likaMasipala uzakurhoxisa kususela kumhl lo mthetho obhengezwe ngawo.

10. Itaytile emfutshane

Lo mthetho wedolophu ubizwa ngokuba ngumthetho weDolophu ophathelele kwizakhiwo kwanendawo ezingakhathalelwanga, 2004, usebenza ngomhla ogqitywe nguMaspala ngokuchazelwa kukuGazethi ye Phondo.