

**A98/2019**

**PROTEST MARCH OF THE 30 SEPTEMBER 2019 – CHAIR WOMEN CAUCUS  
(SPEAKER)**

**PURPOSE**

To inform the Council in Matjhabeng about the action taken by the Women Caucus against Gender Based Violence.

**BACKGROUND**

The Women Caucus in Matjhabeng took a decision to embark into a protest march against the brutal killings of women and children in the country and in our area, Matjhabeng. This march was well supported across the Matjhabeng Communities - black and white. We would like to also thank our male Councillors and men in general. The memorandum was well accepted by the Welkom Magistrate which was in turn to be sent to Justice Minister and the Presidency.

**\*\*\* The memorandum is attached on page 1 to 3 as an Annexures.**

**LEGAL FRAMEWORK**

Constitution of the RSA  
Bill of Rights

**FINANCIAL IMPLICATIONS**

None

**SUBMITTED FOR INFORMATION**

**A99/2019**

**QUESTIONS OF WHICH NOTICE WAS GIVEN: CLLR M. NQEOBO (MM)**  
**(3/1/3/2)**

**PURPOSE**

To submit the questions raised by Cllr M. Nqeobo and the response thereon by the Municipal Manager.

**BACKGROUND**

- \*\*\* A letter dated 22 August 2019 received from Cllr M. Nqeobo, containing certain questions is **attached on page 4 of the Annexures.**
- \*\*\* The Municipal Manager's response is **attached on page 5 to page 14 of the Annexures.**

**SUBMITTED FOR NOTIFICATION**

**A100/2019**

**QUESTIONS OF WHICH NOTICE WAS GIVEN: CLLR S. TALJAARD (MM)**  
**(3/1/3/2)**

**PURPOSE**

To submit the questions raised by Cllr S. Taljaard and the response thereon by the Municipal Manager.

**BACKGROUND**

- \*\*\* A letter dated 20 August 2019 received from Cllr S. Taljaard, containing certain questions is **attached on page 15 of the Annexures.**
- \*\*\* The Municipal Manager's response is **attached on page 16 of the Annexures.**

**SUBMITTED FOR NOTIFICATION**

**A101/2019**

**MONTHLY FINANCE REPORT – SEPTEMBER 2019 (EXECUTIVE MAYOR)**  
**(6/4/1)**

**PURPOSE**

To submit to Council the Monthly Finance Report for September 2019 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003.

**BACKGROUND**

Section 71 of the Municipal Finance Management Act no 56 of 2003 states that the Accounting Officer must submit to the Executive Mayor a statement in a prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:

- 1) Actual revenue per revenue source
- 2) Actual borrowings
- 3) Actual expenditure per vote
- 4) Actual capital expenditure per vote
- 5) The amount of any allocations received
- 6) Actual expenditure on allocations received

The compilation of the Section 71 report is as follows:

1. After the billing cycle the Income Department compile the income reports which consist of the following and submit to the Budget Department:
  - Billing and Income per month
  - Top Outstanding debtors for the month
  - Income per ward
  - Debtors age analysis per service
2. After month end the ICT Department runs all the month end reports.
3. The Budget Department then extracts the required income and expenditure
4. information from Solar. This is done with the GS 560 procedures. This report shows the transactions for the month VAT EXCLUSIVE.
5. The Expenditure Department provides the Budget Department with the creditor's age analysis and the top 20 outstanding creditors.
6. The Costing Section provides the Budget Department with the employee related reports and the overtime per department.
7. The Section 71 report is then compiled with all the information received from other sections and extracted from the Solar System.

**DISCUSSIONS**

\*\*\* The finance report for September 2019 is **attached under Separate Cover (1)**.

**FINANCIAL IMPLICATIONS**

<b>TABLE 1</b>	<b>Actual For the Month (September 2019)</b>	<b>For Year to date (2019/2020)</b>
<b>All Grants Received</b>	-	<b>238 660 000</b>
<b>Actual Revenue Received</b>	<b>104 881 009</b>	<b>311 946 095</b>
<b>Actual Expenditure</b>	<b>111 961 801</b>	<b>304 657 498</b>
Salaries	63 764 652	192 708 600
Water	5 217 391	5 217 391
Electricity	1 502 261	14 647 496
Other Expenditure	41 477 497	92 084 011
<b>Sub-Total</b>	<b>-7 080 792</b>	<b>245 948 597</b>
Loan Redemptions	-	-
<b>Net Surplus/(Deficit) before Capital payments</b>	<b>-7 080 792</b>	<b>245 948 597</b>
MIG Payments	<b>12 841 260</b>	<b>18 675 417</b>
INEG Payments	-	-
WSIG Payments	<b>511 163</b>	<b>4 152 284</b>
<b>Capital Assets procured - Equitable Share</b>	-	-
Fleet & Equipment	-	-
Office convention/ Furniture	-	-

<b>Net Surplus/(Deficit) after Capital payments</b>	<b>-20 433 216</b>	
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Table 1: The Municipality had a deficit of R20 433 216 for the month of September after capital payments, this means that the amount received is below the amount paid.

<b>TABLE 2</b>	<b>Actual For the Month (September 2019)</b>	<b>For Year to date (2019/2020)</b>
Total Billings	197 213 395	549 102 031
Less: Indigent Billings	6 044 071	9 157 174
<b>Actual Billings</b>	<b>191 169 324</b>	<b>539 944 857</b>
<b>Actual Revenue Received</b>	<b>103 614 645</b>	<b>308 236 662</b>
Consumer Revenue	90 507 051	292 979 844
Other	13 107 594	15 256 818
Grants & Subsidies	-	<b>238 660 000</b>

<b>Pay rate for September 2019 (Total Billings)</b>	<b>54%</b>
<b>Total income percentage - September 2019</b>	<b>55%</b>
<b>Total income percentage – YTD</b>	<b>58%</b>

The pay rate for September 2019 was 54%

The total income percentage September 2019 was 55%.

In order for the municipality to be financially sustainable the pay rate will have to be increased to 80% monthly on the consumer services.

### **LEGAL IMPLICATIONS**

The Finance Report is submitted in compliance with Section 71 of the MFMA no 56 of 2003.

### **RECOMMENDATIONS**

1. That the Finance Report for September 2019 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003, be noted.
2. That the Finance Report for September 2019 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003, be submitted to Provincial and National Treasury.

A102/2019

**CELL – C PUBLIC ACCESS WI-FI EVOLUTION – AROUND MATJHABENG MUNICIPALITY (EXECUTIVE MAYOR) (19/5/4)**

**PURPOSE**

- Purpose of the item is to source support from Council for installation of public Wi-Fi around Matjhabeng municipality.
- To source an approval for the use of municipal infrastructure (Streets poles, Council owned buildings and use of electricity)

**BACKGROUND**

Fourth Industrial Revolution represents a fundamental change in the way we live, work and relate to one another. It is a new chapter in human development, enabled by extraordinary technology advances commensurate with those of the first, second and third industrial revolutions. These advances are merging the physical, digital and biological worlds in ways that create value and even what it means to be human.

Public Access Wi-Fi is fully funded by Facebook of which the contract was awarded to Cell C in 2018 to roll-out the project in South Africa. Cell C has since signed an agreement with the Free State Provincial Government that paves the way for public access Wi-Fi for the province.

\*\*\* The Memorandum of Agreement (MOA) is on page 17 to 20 of the annexures sets out the way forward for Cell C's public access Internet hotspots around the province supported by Facebook's Express Wi-Fi platform.

This project will provide more Matjhabeng citizens with faster and more reliable Internet access, especially those from previously disadvantaged communities. Internet access and digital literacy are widely recognised as enablers of economic participation and improved education. There is a positive correlation between the availability of Internet access and the social and economic advancement of communities.

Facebook Express WiFi will help Cell C bring fast, affordable and reliable Internet access to the Free State public and the MOA with the province reflects the success of the project already running in other parts of the country like City of Cape Town.

**KEY REQUIREMENTS FOR DEPLOYMENT OF THE PROJECT**

<b>CELL -C</b>	<b>MATJHABENG LOCAL MUNICIPALITY / LANDLORD</b>
Provide the infrastructure and the installation of the required equipment to enable Wi-Fi access at Cell C's cost 100% Capital expenditure (Capex) outlay	Municipality/landlords can now offer Public Access Wi-Fi, this in turn will increase
Fund the maintenance of equipment – 100% Operating expenses (Opex) outlay	Upfront approval is needed which provides Cell C with blanket approval to install equipment on the identified buildings, lamp posts, etc
Use the Wi-Fi to promote products/ services	Provide access rights to attend and maintain equipment deployed
Users will receive promotional data daily. Users will be able to watch promotional items that will allocate additional data	Provide power to run the equipment. Cell C will not be accountable to pay any rental space or electricity used for equipment infrastructure

Users will be able to buy additional Wi-Fi data bundles	Landlords will be able to use the Wi-Fi footprint to run campaigns to its users – ( paid option)
Market the Wi-Fi services	Landlords will be able to market to its customers – (Paid Option)
Expand the Wi-Fi footprint to reach more potential customers with the ability to “drive feet” to a specific venue	Landlords can opt for a separate Service Set Identifier (SSID) to be used for staff or for premium customers – (Paid option)

## **BENEFITS TO THE MUNICIPALITY**

### ***Public administration sector***

Public Wi-Fi is a great opportunity for governments to connect entire community, smart cities deploying free Wi-Fi are largely increasing and as a result, can effectively empower their communities with better services.

For instance, system integrator and solution provider, delivers smart digital services, such as smart waste management, smart security and smart lighting to public spaces around the municipality.

Another advantage that public Wi-Fi access brings to communities is represented by public libraries to everyone, even those who can't afford internet at home, can benefit from a free connection and use it to access public services, look for jobs, or for their personal entertainment.

### ***Commercial sector***

Smart cities Wi-Fi hotspots are expected to grow with high speed globally by 2021. This optimistic forecast is related to the positive revenues that businesses such as retail stores, restaurants, bars, cafès, salons, hotels and shopping malls, among many, have gained from offering free Wi-Fi connection to their clients. Customers, in turn, can leverage freely accessible Wi-Fi connection while shopping. Furthermore, free Wi-Fi connections available in public venues can be a solution for people who can't afford home broadband connections – whose tariffs are pretty high in some countries.

### ***Tourism and Town Promotion***

Tourists will recognize that a town is “cool” and “hip” when their iPhone dings an announcement of a free wireless signal as they drive through. That free zone gives them a motivation to stop and explore the town more, and also allows the town to be recognized as a forward-thinking place, where new ideas and technology are welcomed.

### ***Education and Digital Literacy***

We have heard stories of students travelling from our townships only to idle outside of a closed library, a free and public zone would always be running, and would allow students to find a place where they can do their homework close to home, and where others can check their email, or even apply for a job.

## **LEGAL IMPLICATIONS**

- Memorandum of Agreement
- SONA 2019
- Free State Growth Strategy



**FINANCIAL IMPLICATIONS**

- Use of electricity during installation
- Revenue generation to the municipality after installation

**RECOMMENDATIONS**

1. That Council support the project as concluded at Provincial level.
2. That Council grant access of Cell-C to enter the Municipal space.

**A103/2019**

**SMME DEVELOPMENT – PILOT PROJECT YOUTH BUSINESS CORNERS IN MELODING (EXECUTIVE MAYOR) (18/1/19)**

**PURPOSE**

The purpose of this report is to give feedback on actual progress in relation to SMME development on youth business corners pilot project in Meloding.

**BACKGROUND**

Addressing challenges confronting people of Matjhabeng, particularly young people are one of the central endeavours that must be unleashed by all stakeholders with resources. Establishing business youth is one of the key interventions to address stringent structural problems facing youth people located in townships.

Youth in these areas suffer from apathy, unemployment, struggle for basic services, and vulnerability to array of social ills such as drug abuse, unsafe sex; lack of proper training, scarce opportunities to engage labour market and are not exposed to contemporary information pertaining to bettering lives. Considering the socio-economic status quo and negative growth outlook as narrated above, it seems and deems fit to suggest that the envisaged youth business corners are central to efforts to curb some economic calamity.

The working collaboration between Matjhabeng Municipality and Harmony Gold must manifest in proper deployment of much needed resources to implement youth business corners concept. Based on the list of areas identified, business youth corners will be established and implemented across all Matjhabeng municipal area and across all townships. The implementation will start in one site and based on successful establishment within a passage of time, an incremental approach will be adopted, and lessons will be used to implement in another site.

Consensus has been reached among Matjhabeng municipality and Harmony Gold that the initial business youth corner site will be implemented at Meloding, Virginia Area, Kutlwanong and Allanridge. The office also received requests from some Thabong youth, who already started similar thing in ward 29 and Ventersburg ward 1.

**TYPE OF BUSINESSES**

The type of businesses to take place in all the business youth corners will of course be determined by the robust market research, case studies and business survey that will followed by the business plan for each site. The aim is to be aligned to the Big Box Co, a new school movement for a generation of entrepreneurs who want to define their own success.

The objective hereto is to introduce a convenient, retail experience to township nodes and street corners. At this stage it is assumed that townships businesses are in the form of car wash, chisa-nyama, butchery, grocery shop, hair salon, dry clean, upholstery shop, tyre repair, auto repair and auto spares business, internet café shop, Cell phone shop/Sale of Call Cards and Data Bundles, Gourmet business, Drinks and Table Water Retailing Business, Ice Cream shop, retailing Frozen food mart, home upgrading and repairs (plastering, tiling, electrical installations, insulation, energy-saving light bulbs, solar panels) as well as the distribution and delivery of goods other related business related to small manufacturers.

\*\*\* These businesses combined are conceived and construed as SMME or represent what is known as informal economy. **See attached on page 21 to 29 of the annexures.**

## **DISCUSSIONS WITH PARTNERS**

In the previous discussions between Matjhabeng Municipality and Harmony Gold, it was agreed in principle that the youth business corners must have an anchor business tenant that will be an impetus to the establishment and will also be solid base to the sustainability of the business corner operation. It must emphasize that youth corners sites are located along high arterial roads that have defined corridors with lot of cars and pedestrians.

The footprint and economic activity along business corners is expected to be massive and vibrant. A long term perspective is to have a 24hour economic activity across all business to promote liveability, and vibrancy, attracting not just local customers and citizens but also people from other regions and tourists. In some instances, business support interventions can entice and lobby large businesses that could support township small business through capital injections through networks of micro-franchises. In this potential arrangement, we can have some small enterprises linked to big businesses as a way of promoting forward and backward linkages between informal and formal businesses.

Central to the establishment of the business corners is the promotion of the notion of circulating money in the township. It is public knowledge that most of the township money is spent outside “kasi”, as majority of people even work outside the township, they buy bulk products in city centers and in bigger regions. Most township residents used the bulk of their purchasing power on consumer goods and durables, spending a lot of money outside their residential areas. Establishing business corners will promote some circulation of money in the township locality and promote positive local economic growth outlook and incrementally build momentum for sustainable futures.

There is no denial that when it comes to starting a youth corner business, there are array of factors to be taken into consideration before investing in such ventures. Key among critical issues is the size of the population of the township, number and character of existing businesses, level of competition, availability of market, demand and supply factors, availability of skills both skilled and unskilled, distance to markets to buy bulk products, transportation costs, availability of municipal services and infrastructure, incentive scheme, business support, crime levels, safety and security inter alia. All these factors will be detailed in the market research, survey and the business plan that will inform the establishment of the business corners.

### ***Progress to - date***

Presentation of the concept and roll-out of the project already conducted with youth from Kutlwanong and Nyakallong has been already conducted, and business proposals for these areas received. Harmony already procured 10 containers for Meloding which they costs ± R800 000.00 including conversion and with air-conditioning installed. This excludes fencing, equipment and start-up stock, Meloding site already cleared and containers to be delivered during the first week of October. The Meloding site had to be moved to erf 589 so as to increase chances of Department of Small Business Development (DSBD) co-funding approval of next to other economic activities. The DSBD has stated that the municipality also shows the financial commitment for this project.

***Challenges – financial limitations***

It is in this context that the project requires additional funding resources and support from various stakeholders across our region. This report is a request to Mayoral Committee /Council to give resource support to Youth Business Corners programme in a form of leverage funding of 3 million. The additional funding will help leverage on the existing Harmony funding which has some percentage spending (about 1 million) on the planning and pre-implementation procurement of equipment for the project in Meloding, Kutlwanong and Nyakallong. The committee may allow their accounting officers to deviate from supply chain processes by appointing Inqayi consulting Inqayi Design Economic Partnership under the same contract secured by Harmony gold as recommended by the Municipality for the same project.

Additional funding will cater for equipment's, fencing and stock for SMME's that will occupy containers. The following equipment and stock are needed to sustain the operations of the business entities:-

***Tube and tyre Business will need the following additional equipment;  
Tire Changer,***

Tire Balancer Compressor,  
POS System Branding 3m x 12m Corrugated sheet veranda

***For Spaza shop some of the additional key stock needed include;***

Ice cream machine cost R10 000  
Deep fryers starts cost estimated R6000 to R8000  
The bulk airtime printing machine cost estimated R7500  
Airtime machine and Electricity machine (for selling electricity) Flash Machine  
Estimated at about -R2000  
Big coolers and freezers R7000-R8000  
Shelves/Dividers R4000-R6000

***Hair salon business***

Equipment's used In Hair salons include among others  
Chairs R50-R500 each  
Mirrors-R50-R300 each  
Hair Dryers R150-R300 each  
Drying Lamps R100-R200 each  
Sinks-R450-R600 each

***Dry Cleaners***

Equipment used in Dry Cleaners among others include;  
Washing Machine R1500- R8000 each  
Drying Machines R2000-R9000 each  
Iron R100-R600 each  
Clothing streamer R750-R2000 each  
Laundry Baskets R50-R150 each

***Chisanyama business***

A lot of factors have to be considered when estimating a monthly outcome of a chisanyama factors like where it is situated, competition, trading hours and if they sell alcohol or not. It is estimated in a month they can generate about +-R16 000. Additional Equipment's need in used in Chisanyama business include, viz;

Chisanyama grillers R3000-R8000  
Chips fryer R500-R8000 (Deep fryers)  
Dish wares R45-R120 each  
Meat Displayer R6 500 to R12 000

## **BUSINESS REGISTRATION**

All SMME's that will occupy containers will embark on business registration as part of compliance to company Act and CIPC regulations so that they operate with systems efficiency and do business beyond just informality, sell quality goods and products, make profit and link with other businesses across formal industries and broader economies of scales.

### **Enterprise development**

Beneficiaries will be incubated and receive business support for a period of 1 year. Enterprise development is a cornerstone to business development value chain system and a foundation to for any business or SMME to survive the ever-changing global business environment and regulations. Business or SMME's that will be considered for Business Youth Corners programme will require a high customised and solid enterprise development rooted in capacity development driven by consistent training, mentoring and coaching in business planning, management, marketing and branding, product selling strategies and tactics, communication, financial management skills, information technology network, business systems efficiency and effectiveness.

Capacity development programmes will be operated, coordinated and managed by the turnkey programme manager appointed by both Matjhabeng Municipality and Harmony Gold. Additionally, Enterprise development will also be expanded as part of the government, enterprise, training and funding agencies and corporate both public and private, these institutions will be engaged to expand their programme to the Youth Business corners on a consistent and sustainable basis so that SMME's are kept abreast of the ever changing market economies of scale both local, regional and international scales.

## **LEGAL IMPLICATIONS**

- MFMA
- Municipal IDP
- Section 22 and 36 of Constitution
- Business Act
- Free State Growth Strategy
- SALGA Guidelines on Local Economic Development

## **FINANCIAL IMPLICATIONS**

There are financial implications involved of R3m

## **RECOMMENDATION**

1. That Council approves an extra funding.

A104/2019

**TO REQUEST FOR AN APPROVAL OF DONATION OF SITES TO ELDERLY CITIZEN (EXECUTIVE MAYOR) (20/14/4/3)**

**PURPOSE**

To request Council to take note of the report and approval the donation of sites and further refer the matter to Council for approval of the donation of sites made to elderly citizen by the Executive Mayor as part of his program of 67 Minutes of Mandela Day.

**BACKGROUND AND DISCUSSION**

The office of the Executive Mayor sought to make a difference to the lives of Elderly and destitute citizens within Matjhabeng, and as part of the 67 minutes of Mandela day, the office of the Executive Mayor was approach to help with few elderly and destitute citizen who are in desperate need of houses.

The following beneficiaries were selected based on their special cases as depicted in the table below:

NO.	FULL NAMESS	ID NUMBER	PROFILE
1.	Sethuthi Adelina Monokoane	1807010349089	<u>Elder</u> , old age grant, stays with grand daughter and two great grandchildren (34 yrs, 13yrs & 2 yrs)
2.	Zodwa Gertrude Mathe	7005250470087	<u>Mental Health</u> , Receiving Disability Grant, three children (22yrs, 18 yrs & 15 yrs)
3.	Mahadi Franchiscah Senkha	5802240730089	<u>Elder</u> , old age grant, stays with three grandchildren (27yrs, 26 yrs & 16 yrs)
4.	Mamohlouda Sarah Tolo	5704050363086	<u>Paraplegic</u> , disability grant stays with two chidren (24 yrs & 13 yrs)
5.	Daniel "Oupa" Khathatso Taka	6810295487082	<u>Disabled</u> , disability grant, stays with wife and currently staying at St Johns Church in Thabong

Housing department was instructed to identify sites for the elderly citizen, the site to be identified had to be fully serviced so as to fast-track the building of BNG for the identified beneficiaries.

The only sites that a redial available and serviced could be found in Riebeeckstad, the following sites were identified;

1. Erf 5622, size 1842 valued at R 50 000
2. Erf 5616, size 1675 valued at R 40 000 and
3. Erven 5773-5771, size 833 valued at R 20 000

The Housing department advised that given that the intention is for BNG houses to be built, a subdivision of sites will be required as the current size of the site identified are too big.

It is against this background that an approval is herewith sought for Mayoral Committee to endorse the donation of this to the identified elderly and destitute individuals.

## **FINANCIAL IMPLICATIONS**

Appointment of surveyor general for subdivision of sites. Quotation to be sourced via SCM department.

## **LEGAL IMPLICATIONS**

Municipal Allocation Policy

Municipal Finance Management Act.

## **RECOMMENDATIONS**

1. That Council takes note of the report.
2. That Council approves the donation of sites identified for elderly citizens at Sewende – delaan.

**A105/2019**

**THE FINAL DRAFT OF MATJHABENG LED STRATEGY (EXECUTIVE MAYOR) (12/1/3)**

**PURPOSE OF REPORT**

The purpose of the item is to report on the submission of the final draft of the Matjhabeng LED Strategy to Council.

**BACKGROUND**

Local Economic Development (LED) is a means of systematic identification, development and utilisation of economic opportunity. As the local economy grows, poverty is reduced and the public sector income increases. The context and the direction for the role of municipalities in economic development is provided in the White Paper on Local Government. It states that “Local government is not directly responsible for creating jobs. Rather, it is responsible for taking active steps to ensure that the overall economic and social conditions of the locality are conducive to the creation of employment opportunities”. Its role is therefore to create a conducive environment for economic development and growth

A strategic plan is a document used to communicate with the organisation the organisations goals, the actions needed to achieve those goals and all of the other critical elements developed during the planning exercise. An LED Strategy document needs to be developed in order for the municipality to align itself with long term goals. The purpose of this document is to collate all economic information and investigate the options available to broaden the economic base of the Matjhabeng Local Municipality. The project aims to have a meaningful impact on the local economy thereby addressing the challenges of economic growth, poverty alleviation and job creation.

It is in this light that the Matjhabeng Local Municipality approached the Harmony Mining Company as part of the Social Labour Plan (SLP) to fund the formulation of this document.

**PROJECT NAME**

Matjhabeng LED Strategy

**PROJECT LOCATION**

Matjhabeng

**BENEFICIARIES AND WHAT THE PROJECT MUST ACHIEVE**

- The goal of this document is to assist and support the Matjhabeng Local Municipality to identify LED opportunities and to develop a LED strategy for the Municipality.
- The LED strategy will identify and evaluate the most recent development changes in the local economy. It will also align the document with district, provincial and national initiatives.
- The LED strategy aims to develop feasible implementation plans to thrust the economic development of the municipality forward onto additional paths of economic growth and expansion.
- The LED study forms part of the IDP process.



The purpose of the LED is to assist the Matjhabeng Local Municipality in creating an enabling environment that allows for economic development to occur within sustainable parameters.

## **ACTION PLAN AND PROGRESS**

On the 19 September 2019 a presentation on the draft Matjhabeng LED Strategy was done at the Matjhabeng Local Municipality Strategic Planning Session. This was inclusive of all Councillors, Executive Committee (EXCO) and Stakeholders.

\*\*\* **See attached the Programme for the planning Session Day 1 on page 30 of the annexures.**

On 30 September 2019 the Matjhabeng LED Strategy – Final Report is submitted.

\*\*\* **See attached Matjhabeng LED Strategy – Final Report under Separate Cover (2).**

## **LEGAL IMPLICATIONS**

The Local Government Transition (amendment act) Act of 1996  
National Development Plan (NDP)  
National Framework for LED in South Africa

## **RECOMMENDATIONS**

1. That the report be approved by Council.
2. That the report be circulated for Community Public Participation.

A106/2019

**REQUEST FOR THE IDENTIFICATION OF UNUSED AGRICULTURE AND NON AGRICULTURAL LAND PARCELS (EXECUTIVE MAYOR) (19/9/1/3)**

**PURPOSE OF THE REPORT**

The purpose of this report is to request approval from the Council to request the mines, churches, SOEs, government departments, absentee landlords, and general landowners to start identifying agricultural and non-agricultural land parcels. The objective this identification land process is to start the discussion on voluntarily donating unused these and abandoned land to previously disadvantaged individuals as per recommendation of the Expert Advisory Panel on Land Reform and Agriculture in their report named, **“final report of the presidential advisory panel on land reform and agriculture 04 may 2019 for his excellency the president of south Africa”**.

**BACKGROUND**

The land agrarian reform in South Africa is driven by a political, social and economic program that has to redress the unfair and unjust land acquisition by the minority of the South Africa country against the majority communities). Political pressure is gaining momentum to find a solution in order to redistribute land as a way to remedy past injustice and lay reasonable programs. 1996, the South African Constitution set a foundation as to where to start in order to address the land issue.

The 1996 Constitution of South Africa is the principal and highest authority law of the country, as stipulated in Chapter 2 of the bill of rights.

Section 25(5) of the 1996 Constitution of South Africa states that; “The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.” Thus this sections guide the land reform policies and all agrarian support strategies and programs.

The Presidential Advisory Panel on Land Reform and Agriculture was appointed by His Excellency President Cyril Matamela Ramaphosa on 26 September 2018 to provide a unified policy perspective on land reform and independent advice to the Inter-Ministerial Committee (IMC) chaired by His Excellency Deputy President David Mabuza. Panel members brought a diversity of skills, experience and expertise in matters related to land reform policy, practice and research, urban and rural development policy and planning, land reform law, agricultural economics, farming and agribusiness. The Panel’s Terms of Reference (TOR) covered a broad spectrum of land reform issues in rural and urban areas. These include the consideration of agrarian reform and addressing spatial inequality. The mandate was partly informed by the resolution of Parliament to consider expropriation of land without compensation. It is thus with great humility and pride that we announce the official approval by Cabinet of the “Final Report of the Presidential Advisory Panel on Land Reform and Agriculture” of 4 May 2019. The Cabinet approval on 24 July 2019 in Cape Town follows the handover of the Report to His

**PROBLEM STATEMENT**

Agriculture is considered as one of the important economic sectors in the alleviation of poverty in South Africa. Taking agricultural production into consideration, the reduction of the unemployment rate, economic growth, and job creation are key challenges in South Africa. These formidable challenges still exist despite government’s extraordinary efforts

through the introduction of the poverty mitigation strategies of which agricultural development is one sector which is receiving the support. The South African government is trying to reduce the unemployment rate by introducing various agricultural related strategies which seem not to succeed.

Livestock serves as a threat to traffic as there are no fences. The extension of commonage around Matjhabeng Local Municipality will improve livestock management, reduce accidents caused by stray animals, create job opportunities, attract funders for agricultural activities, and improve the lives of the poorest communities.

## **DISCUSSION AND REFERENCE ADDRESS AND DOCUMENTS**

In her address, Minister Thoko Didiza, Minister of Agriculture, Land Reform and Rural Development on tabling of final report of presidential advisory panel on land reform and agriculture on the 28 July 2019 she stated, “We recommend that government develop a Donations Policy, which encourages landowners to donate properties, or part of their properties, by offering exemptions from donations tax, and carrying the conveyancing costs of land transfer. We call on the churches, mining companies, financial institutions, agribusinesses and others, to audit their own landholdings to identify land they can donate, and suggest that the Minister convene, within the coming year, talks across these sectors to secure donations, and to open discussion with potential beneficiaries, including existing land occupiers such as Farm Dwellers and Labour Tenants”.

**Minister Thoko Didiza`s tabling address is also corroborated by the Expert Advisory Panel on Land Reform and Agriculture in their report named, “Final report of the Presidential Advisory Panel on Land Reform and Agriculture 04 May 2019 for his Excellency the President of South Africa”** which the panel propose a voluntary release of underutilised land by mines, churches, municipalities, SOEs, government departments, absentee landlords and general landowners, directly to beneficiary households, communities, individuals, or to the proposed Land Depository, which may or may not be linked to the Land Bank.

\*\*\* **Attached on pages 31 to 32 of the annexure is copy of the “FINAL REPORT OF THE PRESIDENTIAL ADVISORY PANEL ON LAND REFORM AND AGRICULTURE 04 MAY 2019 FOR HIS EXCELLENCY THE PRESIDENT OF SOUTH AFRICA”** cover page and page 57.

## **LEGAL IMPLICATIONS**

N/A

## **FINANCIAL IMPLICATIONS**

N/A

## **POLICY/LEGISLATIVE POSITION**

As South Africa navigates the land question, it must be borne in mind that the outcome of a unitary, coherent, coordinated land reform project, must have as its object, the promotion and safeguarding of dignity, non-racialism, the supremacy of the Constitution and the rule of law at all times.

The Constitution strikes a balance between the protection against arbitrary deprivation of property and the need to implement land reform. The framework for land reform in South Africa is contained in section 25 of the Constitution of the Republic of South Africa Act 108

of 1996. By placing section 25 within the Bill of Rights the Constitution ensures that any changes to the land reform framework through an amendment to section 25 must be done by two thirds majority of members of Parliament agreeing to the amendment.

The so-called three legs of land reform are stipulated for in section 25 of the Constitution. For example, section 25(5) makes provision for the distribution; section 25(6) stipulates the framework for tenure reform; and section 25(7) stipulates the framework for restitution including fixing the date for the validity of claim to 19 June 1913 and the cut-off point for submitting claims to 31 December 1998.

Parliament passed legislation to give effect to section 25(5), namely Provision of Land and Assistance Act 126 of 1993. Parliament passed the Land Reform (Labour Tenants) Act 3 of 1996 and the Extension of Security of Tenure Act 62 of 1997 to give effect to section 25(6). As far as restitution is concerned Parliament gave effect to section 25(7) by passing the Restitution of Land Rights Act 22 of 1995. The Land Claims Court and the Commission on Restitution of Land Rights (Land Claims Commission) were established in terms of the Restitution Act.

The Land Claims Court contributed to the development of policy, guidelines and procedures. This in turn led to several amendments of the Restitution Act to be in line with the policy.

Section 25 of the Constitution of the Republic of South Africa Act 108 of 1996 provides that –

“25 (1) no one may be deprived of property except in terms of a law of general application.

(2) Property may be expropriated only in terms of a law of general application –

(a) for a public purpose or in the public interest; and

(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

(3) The amount of the compensation and the time of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including –

(a) the current use of the property;

(b) the history of the acquisition and use of the property;

(c) the market value of the property; (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and

(e) the purpose of the expropriation.

(4) For the purposes of this section –

(a) the public interest includes the nation’s commitment to land reform, and to reforms that bring about equitable access to all South Africa’s natural resources and

(b) Property is not limited to land.

(5) The state must take reasonable legislative and other measures, within its available Resources to foster conditions which enable citizens to gain access to land on an equitable basis.

(6) A person or community whose tenure is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by the Act of Parliament, either to tenure which is legally secure or to comparable redress

(7) A person or community dispossessed of property after 19 June 1913 as a result of past discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to PART VI: SUMMARY OF VIEWS REGARDING EXPROPRIATION WITHOUT COMPENSATION 68 The Presidential Advisory Panel on Land Reform and Agriculture restitution of that property or to equitable redress; (8) No provision of this section may impede the state from taking legislative or other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).

(9) Parliament must enact legislation referred to in (6).”

The objects and duties of local government with regard to development, section 152 of the Constitution sets out the five objects of local government (all of which relate directly and/or indirectly to matters pertaining to development, including rural development).

The developmental duties of municipalities are identified in section 153, which section states that all municipalities must prioritize the basic needs of the community and promote social and economic development.

Municipalities must also participate in national and provincial development programs. This includes local government’s compulsory participation in national and provincial rural development programmes.

Therefore it is important that the Matjhabeng local Municipality be proactive and takes a leading role by requesting the mines, churches, SOEs, government departments, absentee landlords and general landowners their unused, abandoned land for discussion and subsequently be donated to deserving prospective individual community or groups from the previously disadvantaged individuals.

## RECOMMENDATION

1. That Council to resolve that the Mines, Churches, Soes, Government Departments, absentee landlords and general landowners to start identifying agricultural and non-agricultural land parcels with the objective of starting discussion on voluntarily donating unused these and abandoned land to previously disadvantaged individuals.

**A107/2019**

**ENHANCING PUBLIC SAFETY SERVICE DELIVERY THROUGH THE APPOINTMENT OF EXISTING MUNICIPAL SECURITY PERSONNEL TO EFFECT THE DUAL FUNCTION OF MUNICIPAL LAW ENFORCEMENT & MUNICIPAL SECURITY SERVICES (EXECUTIVE MAYOR) (5/3/2/7)**

**PURPOSE**

The purpose of this item is to highlight Council on the enhancing of Public Safety Service delivery through dual function of Municipal Law Enforcement and Municipal Security Services.

**INTRODUCTION AND BACKGROUND**

Matjhabeng Municipal Security officers are currently having limited powers in terms of their appointment. They have the power in terms of section 334 and can issue section 341 fines and execute warrants in certain circumstances. However they do not have powers in respect of issuing Section 56 fines, dealings with house or car break-ins, or with persons who are suspected of dealing in stolen property. This has stifled their performance in this field. They also do not have powers to deal with animals that were suspected to being stolen, or for checking on gambling licence establishments. The Security officers can also not deal with people suspected of being illegal immigrants, the unlawful occupying of land and informal traders.

**DISCUSSION**

Matjhabeng Local Municipality would achieve a giant leap towards enhancing public safety service delivery through the appointment of Law Enforcement Officers (hereafter referred to as LEO) to effect the dual function of municipal law enforcement & municipal security.

**POWERS IN TERMS OF THE NEW EXTENDED POWERS**

- Municipal Law Enforcement Officers in terms of the extended powers have powers of arrest within the jurisdiction of Matjhabeng Local Municipality;
- they can ensure by-law enforcement as compelled for a municipality to do through a variety of existing legislation;
- their patrols in the city will be seen as visible policing or force multipliers;
- immediately available to deal with protests and marches;
- application of access control to public premises would also be more effective through municipal law enforcement officers rendering the dual function referred to;
- effective VIP security services could also be drawn from these officers;
- municipal law enforcement officers with the dual function of security are more affordable for the municipality;
- can be rapidly deployed in the protection of municipal assets and their extra powers will contribute to efficiency;
- allows for traffic officers (who cost more) to be more focused on ensuring good traffic management.

## **EXTENSIVE LAW ENFORCEMENT & CERTAIN POLICING POWERS**

Section 334(1) (a) of the Criminal Procedure Act 51 of 1977 authorises the Minister of Justice to declare that categories of law enforcement officers have certain powers. In GN R209 dated 19 Feb. 2002 municipal LEO's are given powers to:

- Enforce by-laws and also,
- Certain policing powers in regard to:

Section 341 and Section 56 notices,

the execution of warrants of arrest, and

*i.r.o* certain national and provincial legislation, powers of arrest without warrants.

- The power to arrest without warrant suspects or witnesses who refuse to give a name or address or if they give a name the LEO suspects that it is false.

## **NO CERTIFICATE - NO POWERS**

Vital importance of Section 334(2) (a) and (b) determines that no person who is a peace officer by virtue of a notice issued under sub-section (1) shall exercise any power conferred upon him under that sub-section unless he is at the time of exercising such power in possession of a certificate of appointment issued by his employer, which certificate shall be produced on demand. A power exercised contrary to the provision of paragraph. (a) Shall have no legal force or effect.

## **LEGAL MANDATE**

Section 43(c) of the Constitution states that the legislative authority of the local sphere of government is vested in municipal councils and Section 151(2) of the Constitution goes on to say that the executive and legislative authority of a municipality is vested (*given and possessing*) in its municipal council.

Matjhabeng Local Municipality has a constitutional mandate to promote a safe and healthy environment for all its residents. (See section 152 of the Constitution, 1996).

In regard to by-laws, Section 156 of the Constitution is a key section, what it does is:

- *Give a municipality power to make and administer by-laws on the matters it may administer.*
- *The matters that may be administered are in Part B of Schedules 4 & 5 as well as other matters assigned to municipality by national or provincial legislation, which includes law enforcement.*
- *Give a municipality the right to exercise any power concerning a matter reasonably necessary for or incidental to the effective performance of its functions – the so-called ancillary powers. In practical terms this means that a by-law may create offences, limit the actions of persons or require permission to be obtained to do a certain act.*

**Municipal by-law now has a constitutional status equal to a national or provincial act but with different powers.**

Section 334(2) (a) and (b) of the Criminal Procedure Act, 51 of 1977

## **PROBLEM STATEMENT**

In order for Matjhabeng Municipality to have an effective and efficient Law Enforcement force the following imperatives need to be in place.

### **IMPERATIVE 1**

Appropriate and enforceable by laws must be in place around the clock.

Although a whole range of National and Provincial legislation provides certain frameworks and measures within which to operate, it remains the responsibility of Matjhabeng Local Municipality to deal with the issues that are unique to the different communities and suburbs.

Proper execution of the functions allocated to a municipality in terms of Schedules 4B & 5B of the Constitution requires sound policies and frameworks to be put in place. There is no obligation on the municipality to adopt any by-laws, except those relating to revenue management, and under normal circumstances policies would suffice. The problem however, starts when legal effect has to be given to such policies. No matter how sound the policy may be, it will be worthless without a by-law to give effect thereto.

### **IMPERATIVE 2**

Personnel must be properly trained to understand and enforce the laws.

The law enforcement function of municipalities is now more important than ever. The actions of municipalities are governed by a very long list of National legislation and policies which in some cases require substantial knowledge of the law and especially the procedures and actions to enforce them.

Proper training is thus even more important. There are many court cases in which law enforcement agencies and municipalities are challenged in court for unlawful arrests and for failure to comply with the Promotion of Administrative Justice Act, 3 of 2000. Many hours of the LEO are spent in legal follow up & good training will achieve convictions which eventually diminishes criminality.

Adequacy of training is more than ever tested in court and the legal implications for municipalities providing sub - standard training can have huge financial implications through related civil liability for example an illegal arrest or an injury in the course of duty.

## **FINANCIAL IMPLICATIONS**

No increase in salaries anticipated. There would, however, be a new rank structure with appropriate insignia as advised by the Institute for Municipal Public Safety of Southern Africa (IMPS-SA) with nominal costs expected from existing vote.

Financial implications regarding training will be incurred as all officers **MUST BE TRAINED** in the new curriculum for Law Enforcement Officers as offered by the University of Nelson Mandela Bay.

## **CONCLUSION**

Considering the many benefits to be gained as set out in this item, Matjhabeng Local Municipality would undoubtedly achieve its objective by maintaining law and order and to execute its constitutional mandate by ensuring a safe and secure environment for its inhabitants. This item previously served before section 80 before the signing off of extended powers by the National Minister.



**RECOMMENDATIONS**

1. That the dual function of both Municipal Security and By-Law Enforcement of the Security Officers be approved by Council.
2. That the Officers be re-designated as Municipal Law Enforcement Officers.
3. That new employees in said function be appointed as learner/law enforcement officer.
4. That funds be made available for the training of all Officers.

A108/2019

**UPPER LIMIT OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS (EXECUTIVE MAYOR) (5/1)**

**PURPOSE**

To provide the calculation of the total remuneration package payable to Municipal Manager and Managers directly accountable to Municipal Manager in terms of Government Notice no. 42023 of 8 November 2018.

**INTRODUCTION AND BACKGROUND**

During 2018 the Minister for Cooperative Governance and Traditional Affairs issued Circular No.42023 determining the upper limits of the total the total remuneration packages payable to municipal managers and managers directly accountable to municipal managers. These remuneration packages as per the circular have not been effected for Senior Managers at Matjhabeng Local Municipality.

**LEGISLATION**

Local Government: Municipal Systems Act No: 32 of 2000

Government Notice No. 287 of 2016

Local Government: Competency Framework for Senior Managers

Municipal Finance Management Act No. 56 of 2003

Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers: Government Gazette No. 37245 of January 2014

Division of Revenue Act, Gazette No.41678 of 04 June 2018.

**Financial Calculation**

**1. Allocation of points for total municipal income.**

Total municipal income in respect of local municipality based on actual income as stated in the audited financial statements of Matjhabeng Local Municipality for the 2016/17 financial year was R 1,539,789,661.

	2016/17
Total Municipal Income	R 1,539,789,661

Total Municipal Income	Points
R 1,539,789,661	57

TOTAL MUNICIPAL INCOME		
From	To	Number of Points
R 181,631,676	R 186,615,240	37
R 186,615,241	R 192,013,250	38
R 192,013,251	R 203,509,737	39
R 203,509,738	R 216,622,976	40
R 216,622,977	R 246,602,697	41
R 246,602,698	R 268,052,603	42
R 268,052,604	R 291,368,256	43
R 291,368,257	R 316,711,946	44
R 316,711,947	R 344,260,068	45
R 344,260,069	R 374,204,373	46
R 374,204,374	R 406,753,282	47
R 406,753,283	R 442,133,348	48
R 442,133,349	R 480,590,830	49
R 480,590,831	R 567,832,041	50
R 567,832,042	R 670,910,069	51
R 670,910,070	R 729,266,924	52
R 729,266,925	R 861,650,077	53
R 861,650,078	R 936,597,811	54
R 936,597,812	R 1,106,617,549	55
R 1,106,617,550	R 1,501,007,514	56
R 1,501,007,515	R 2,409,648,960	57
R 2,409,648,961	R 4, 565,865,708	58
R 4, 565,865,709	R 8,696,499,675	59
R 8,696,499,676	above	60

**2. Allocation of points for total population.**

Population of Matjhabeng Local Municipality as published in the Community Survey 2016: Statistical Release No. P0301, in terms of the *Statistics Act*, 1999 (Act No.6 of 1999).

TOTAL POPULATION		
From	To	Points
426,485	495,420	18

**3. Allocation of points for total local government Equitable Share.**

Municipal Equitable Share allocation for the 2017/18 financial year was.

TOTAL EQUITABLE SHARE		
From	To	Points
R309,591,116	R2,011,870,725	9

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**Allocation of number of points for total municipal equitable share**

4. The number of points allocated for the total municipal equitable share of a municipality, is as follows:

TOTAL MUNICIPAL EQUITABLE SHARE		
From	To	Number of Points
R 0	R 22,240,225	1
R 22,240,226	R 33,476,473	2
R 33,476,474	R 43,762,069	3
R 43,762,070	R 51,360,279	4
R 51,360,280	R 62,961,507	5
R 62,961,508	R 89,166,616	6
R 89,166,617	R 140,903,448	7
R 140,903,449	R 309,591,115	8
R 309,591,116	R 2,011,870,725	9
R 2,011,870,726	above	10

#### 4. Determination of categorization of municipality

The sum total number of points allocated to municipality in terms of **total municipal income, total population equitable share** is 84.

CATEGORISATION OF MUNICIPALITY		
Categorization	From	To
6	79	85

CATEGORISATION OF MUNICIPALITY		
Categorisation	From	To
5	71	78
6	79	85
7	86	91
8	92	96
9	97	98
10	99	100

#### 5. Upper limits of the total remuneration packages of municipal managers; 2017/18

MUNICIPAL CATEGORISATION	TOTAL REMUNERATION PACKAGE MINIMUM	TOTAL REMUNERATION PACKAGE MIDPOINT	TOTAL REMUNERATION PACKAGE MAXIMUM
6	R1,351,468	R1,618,524	R1,885,581

(a) Municipal managers:

TRANSLATION KEY						
MUNICIPAL CATEGORISATION	2017/2018			2018/2019		
	TOTAL REMUNERATION PACKAGE (MINIMUM)	TOTAL REMUNERATION PACKAGE (MIDPOINT)	TOTAL REMUNERATION PACKAGE (MAXIMUM)	TOTAL REMUNERATION PACKAGE (MINIMUM)	TOTAL REMUNERATION PACKAGE (MIDPOINT)	TOTAL REMUNERATION PACKAGE (MAXIMUM)
10	R 2,437,149	R 3,084,999	R 3,732,849	R 2,568,755	R 3,251,589	R 3,934,423
9	R 2,091,524	R 2,614,406	R 3,137,288	R 2,204,466	R 2,755,584	R 3,306,702
8	R 1,805,713	R 2,215,598	R 2,625,484	R 1,903,222	R 2,335,240	R 2,767,260
7	R 1,562,280	R 1,893,673	R 2,225,066	R 1,646,643	R 1,995,931	R 2,345,220
6	R 1,351,468	R 1,618,524	R 1,885,581	R 1,424,447	R 1,705,924	R 1,987,402
5	R 1,179,011	R 1,395,280	R 1,611,549	R 1,242,678	R 1,470,625	R 1,698,573
4	R 1,071,375	R 1,245,786	R 1,420,196	R 1,129,229	R 1,313,058	R 1,496,887
3	R 985,303	R 1,132,533	R 1,279,762	R 1,038,509	R 1,193,690	R 1,348,869
2	R 937,632	R 1,053,519	R 1,169,406	R 988,264	R 1,110,409	R 1,232,554
1	R 903,016	R 1,003,351	R 1,103,686	R 951,779	R 1,057,532	R 1,163,285

**6. Upper limits of the total remuneration packages of managers directly accountable to municipal managers; 2017/2018.**

MUNICIPAL CATEGORISATION	TOTAL REMUNERATION PACKAGE MINIMUM	TOTAL REMUNERATION PACKAGE MIDPOINT	TOTAL REMUNERATION PACKAGE MAXIMUM
6	R1,097,024	R1,305,982	R1,514,940

(b) Managers directly accountable to municipal managers:

TRANSLATION KEY						
MUNICIPAL CATEGORISATION	2017/2018			2018/2019		
	TOTAL REMUNERATION PACKAGE (MINIMUM)	TOTAL REMUNERATION PACKAGE (MIDPOINT)	TOTAL REMUNERATION PACKAGE (MAXIMUM)	TOTAL REMUNERATION PACKAGE (MINIMUM)	TOTAL REMUNERATION PACKAGE (MIDPOINT)	TOTAL REMUNERATION PACKAGE (MAXIMUM)
10	R 1,949,720	R 2,468,000	R 2,986,279	R 2,055,005	R 2,601,272	R 3,147,538
9	R 1,673,220	R 2,091,524	R 2,509,830	R 1,763,574	R 2,204,466	R 2,645,361
8	R 1,444,570	R 1,772,478	R 2,100,387	R 1,522,577	R 1,868,192	R 2,213,808
7	R 1,249,824	R 1,514,940	R 1,780,053	R 1,317,315	R 1,596,747	R 1,876,176
6	R 1,097,024	R 1,305,982	R 1,514,940	R 1,156,263	R 1,376,505	R 1,596,747
5	R 973,759	R 1,145,598	R 1,317,437	R 1,026,342	R 1,207,460	R 1,388,579
4	R 884,770	R 1,022,855	R 1,160,941	R 932,548	R 1,078,089	R 1,223,632
3	R 813,635	R 929,869	R 1,046,101	R 857,571	R 980,082	R 1,102,590
2	R 769,844	R 864,994	R 960,143	R 811,416	R 911,704	R 1,011,991
1	R 741,423	R 823,805	R 906,184	R 781,460	R 868,290	R 955,118

**7. Comparative figures of current remuneration of senior managers versus Upper limits of the total remuneration packages of municipal manager and managers directly accountable to municipal managers; 2017/2018.**

DESIGNATION	CURRENT REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE
		MINIMUM	MIDPOINT	MAXIMUM
Municipal Manager	R1 775 581,00	R1 351 468,00	R1 618 524,00	R1 885 581,00
Executive Director Strategic Support	R1 212 549,84	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Corporate Services	R1 285 302,84	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Strategic Infrastructure	R1 215 786,12	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Local Economic Development	R1 372 885,56	R1 097 024,00	R1 305 982,00	R1 514 940,00
CFO	R1 514 940,00	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Strategic Community Services	R1 305 981,96	R1 097 024,00	R1 305 982,00	R1 514 940,00

The following documents are attached for ease of reference:

- a. Statement of Financial Performance for financial years 2016 to 2017.( Total Income)
- b. Notes to the Annual Financial Statements for the year ended 30 June 2018 indicating Equitable Share allocated to Matjhabeng Municipality for Financial year 2017/18. (Equitable Share)
- c. Government Notice Number 42023 of 8 November 2018.( Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers)
- d. Information from Statistics South Africa's website indicating the population of Matjhabeng Local Municipality (FS184)

## **RECOMMENDATIONS**

1. That information provided in this item be verified with Finance before it can be implemented.
2. That the Municipal Manager and Managers directly accountable to Municipal Manager be compensated as per the Circular No. 42023 of 8 November 2018, "Upper Limits of Total Remuneration Package Payable to Municipal Manager and Managers Directly accountable to Municipal Manager."
3. That the remuneration be backdated from 1 July 2018 as per Circular No. 42023 of 8 November 2018.



A109/2019

**UPGRADING OF THABONG T8 PUMPING STATION: REQUEST FOR ADDITIONAL FUNDING (EXECUTIVE MAYOR)**

**PURPOSE**

The purpose of this item is to submit to Council a request for approval of the budget maintenance for the Upgrading of Thabong T8 Pumping station.

**BACKGROUND**

The Upgrade of Thabong T8 pumping station is currently being implemented by the Matjhabeng Local Municipality through MIG funds. This project entails the (i) Construction of a new Archimedes screw pump lifting station with emergency by-pass; (ii) Redirection of the existing outfall sewer lines leading towards and from the new screw pump lifting station and (iii) the investigation into viability of replacing the existing T8 pumping station outfall sewer by means of CCTV. This item served in the Mayoral Committee that sat on the 21 August 2019

**DISCUSSIONS**

The approved project budget is R 13,540,602.44 (inclusive of VAT and Professional Fees). The project requires additional funds that amount to R 4 135 157.66 (inclusive of VAT and Professional Fees) in order to successfully complete the outstanding works on site – this amount is 30.54% of the current project budget.

During construction stage, the project encountered numerous costly delays which were attributed to strike actions by laborers and community unrests; additions and variations to Construction Designs; Flooding of sewer trenches due to rainfalls and non-functioning of the existing pump station and price escalations during construction (CPA). Therefore, the consultant has submitted a request for budget maintenance in order to address the shortfall amount.

**LEGAL IMPLICATIONS**

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

**FINANCIAL IMPLICATIONS**

<b>Approved Project Budget</b> (inclusive of VAT and Professional fees)	<b>Revised Project Budget</b> (inclusive of VAT and Professional fees)	<b>Variance</b> (inclusive of VAT and Professional fees)
R 13,540,602.44	R 17,675,760.11	R 4,135,157.66

## **RECOMMENDATIONS**

1. That Council takes note of report.
2. That Council approves the application for additional funding for an amount of R4 135 157.66 VAT Inclusive.

A110/2019

**CONSTRUCTION OF MMAMAHABANE CEMETERY (EXECUTIVE MAYOR)****PURPOSE**

The purpose of this item is to submit to the Council a request for approval of the budget maintenance for the Construction of Mmamahabane Cemetery.

**BACKGROUND**

Construction of Mmamahabane Cemetery is currently being implemented by the Matjhabeng Local Municipality through MIG funds. This project entails the following:

- Approximately 1.065km of blocked paved access road from the North with a 15M wide servitude, 7M block paved surface and mountable kerbs on both side and 1M gravel shoulders on both sides. The road also includes a pipe crossing of 4 x 1.2M diameter concrete pipes with headwall, wing walls and erosion protection.
- 0.820M of gravel surfaced access road from the South with a 7M wide gravel surface (no kerbs) and 1M gravel shoulders. The existing 3.8M wide storm water culvert has been included in the project.
- A network of blocked paved cemetery roads of approx. 2.240 km plus 8 turnabouts of 10M radius, 4M wide with 60MM blocks with kerbs, storm water accommodated on the road surfaces and 2 x 3M gravel shoulders.
- A paved parking area of 4500M<sup>2</sup> with 80MM blocked paving will be provided with kerbs. In addition, a gravel parking area of 4600M<sup>2</sup> will be provided
- Concrete Palisade fencing of 1.8M high with concrete foundation of 300MM x 200MM under the concrete fencing, i.e. for parking area for the cemetery area 2652M in length. In addition, 3 security gates will be provided i.e. 1 on the Northern access road to the parking area, 1 on the Southern access road to the parking area and one at the access point to the cemetery area
- Building works will include a guardhouse, ablution block, storage area and a restroom for workers with a total size of 735m<sup>2</sup> including 7 toilets, 1 disabled toilet, 3 urinals, 9 washbasins, 2 kitchen sinks, workers shower and a security gate.
- The water supply will be a 50MM diameter pipe from the existing Mmamahabane township feeding 2 x 5000L tanks that will be elevated on 12M high steel towers.
- The sewer will be a septic tank (15M long, 5M wide & 2.0M deep) with a soak away (20M long x 1.5M wide and 2M deep)
- 2 high mast lights 30-meter radius
- Electrical works includes 22KV overhead aluminum Eskom line with a 50KVA transformer and underground cable to a distribution kiosk with an underground cable to 30M radius high mast lights and 300MM overhead OVC line about 300M in length to the second 30M radius high mast light.

- In addition, an underground cable to supply the building with electricity for lights, plugs and 1 geyser and a small oven.

This item served in the Mayoral Committee that sat on the 21 August 2019.

## DISCUSSIONS

The approved project budget is R29 970 388.78 (inclusive of VAT and Professional Fees). The project requires additional funds that amount to R6 606 340.63 (inclusive of VAT and Professional Fees) which takes the total project cost to R36 576 729.42 VAT Inclusive. The Variance is due to the following:

- Construction costs that came higher than the Engineers Estimate and the project duration changed from 5 to 6 months and that also means an increase in professional fees.
- The Record of Decision from the Department of Environmental Affairs requires that an Environmental Engineer must visit the site on a monthly basis and once after completion which mean the Environmental Engineer will visit the site for 7 months. The extra month is to check that the area has been rehabilitated.
- A requirement from the Municipality's Tribunal that the site be rezoned and subdivided which was not part of the initial project budget.

## LEGAL IMPLICATIONS

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

## FINANCIAL IMPLICATIONS

An additional funding of R6 606 340.44 including VAT as per the table below is requested. Approval of the additional funding will change the project cost from R29 970 388.78 to R36 576 729.42

Construction Costs		
Engineer's Estimate	Contractor's tender price @ December 2018	Variance (inclusive of VAT and Professional fees)
R24 939 965,82	R 30,616 272.98	R 769,826.65
Professional Fees and Disbursements		
Engineer's Estimate	Revised Fees	Variance (inclusive of VAT and Professional fees)
R5 030 422,96	R5 960 456.44	R930 033.47
TOTAL		
Engineer's Estimate	Contractor's tender price & professional fees	Variance
R29 970 388.78	R36 576 729.42	R6 606 340.64

## **RECOMMENDATIONS**

1. That Council takes note of report.
2. That Council approves the application for additional funding for an amount of R6 606 340.63 Including VAT.

A111/2019

**UPGRADING OF THE WELKOM LANDFILL SITE: BUDGET MAINTENANCE  
(EXECUTIVE MAYOR)****PURPOSE**

The purpose of this item is to request the approval of the Council for the additional funding of the Upgrading of the Welkom Landfill Site in compliance with Municipal Systems Act 32 of 2000; Section 73 (1).

**BACKGROUND**

The Upgrading of the Welkom Landfill Site project is currently being implemented by the Municipality through MIG funding. This project entails the following scope of work: the reconstruction of an access road, provision of access control, provision of two weigh bridges, refurbishment of a cloak room and signage, perimeter fencing, paving and training, carport, street lights and security features, an improvement of the wash bay facility and the provision of two shed buildings. The contract was awarded to Kholeba Construction and Projects whom is being managed by Maragela Consulting Engineers. A request for budget maintenance report was received from Maragela Consulting Engineers and is attached for ease of reference.

This item served in the Mayoral Committee that sat on the 21 August 2019.

**DISCUSSIONS**

Once the contractor was appointed it was noticed that the approved project budget is less than the contractor appointed amount. Thus, presenting a shortfall of funds required to successfully complete the project. This shortfall is a result of increased price of materials which were previously priced below the market rate and an additional scope of works. The consultant's estimates which were included in the original business plan and technical report were too low. Therefore, the consultant has submitted a request for budget maintenance in order to address the shortfall amount. This amount will increase the project budget as well as the construction and professional fees for the project. This proposal will ensure sufficient availability of funds required to adequately finish the project.

**LEGAL IMPLICATIONS**

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

**FINANCIAL IMPLICATIONS**

<b>Original Budget</b>	<b>Project</b>	<b>Contractor's price</b>	<b>Professional Fees</b>	<b>Variance</b>	<b>Revised Project Budget</b>
R 18 021 120.00		R 31 494 595,70	R 3 922 004,35	<b>R 17 395 480,07</b>	R 35 416 600.07

## **OTHER IMPLICATIONS**

The project will not be completed successfully without approval of the budget maintenance, thus affecting its intended purpose.

## **RECOMMENDATIONS**

1. That Council takes note of the report
2. That Council approve the application for additional funding for an amount of R17 395 480.07.

A112/2019

**THABONG: INSTALLATION OF BULK ZONAL WATER METERS AND VALVES APPLICATION FOR BUDGET MAINTANANCE (EXECUTIVE MAYOR)**

**PURPOSE**

The intention of this report is to effectively motivate for the approval by the Council for additional funding amounting to **R1 220 696.95 (incl. Vat)** under the Municipal Infrastructure Grant (MIG), budget maintenance.

**BACKGROUND**

Tugelogic Consulting Engineers was appointed to design and supervise the Instalation of Zonal Meters. This project was not open to public tender but reserved for the Phase 2 Vuku'phile learner contractors under the EPWP programme as part of their Learnership. Four contractors were appointed on the project namely Phanda Business Enterprise (Pty) Ltd, Evanciency Marketing (Pty) Ltd, Adell Trading (Pty) Ltd and MYBK Trading (Pty) Ltd. The project is also one of the Municipality's initiatives in saving water by measuring the outflow of water as a means to better manage and quantify water loss and improve service delivery. This item served in the Mayoral Committee that sat on the 21 August 2019.

**DISCUSSION**

This project was registered for funding in 2016 under MIG project number MIG/FS1151/W/16/17 for an amount of R7 000 000, 00 (incl. Vat). The approved budget is 5 830 835, 60 MIG funding and R 1 169 164,40 is for counter-funded by the Municipality as the project includes areas that are not Previously Disadvantaged.. The actual costs after appointment of Contractors amount to R8 201 090.30 VAT Inclusive including professional fees. This variance is due to increase in VAT and price escalations in Construction Costs. See attached MIG Registration: Letter and 4x Contractors appointment letters

**LEGAL IMPLICATIONS**

Municipal Finance Management Act (MFMA) 56 of 2003  
Division of Revenue Act (DORA) 3 of 2016

**FINANCIAL IMPLICATION**

The request for an additional R1 220 969.95 under the maintenance budget of MIG to enable the project to be completed successfully. The table below entails the variance between the original project approved amount, tendered amounts from Learner Contractors and VAT at 14% and at 15%.

<b>Description</b>	<b>Total estimates at in 2016</b>	<b>Actual Cost at 15% 2018</b>	<b>Variance</b>
Construction fees	<b>R 5 830 835,60</b>	<b>R 6 784 569,95</b>	<b>R 953 734,35</b>
Professional fees, vat and other indirect cost	<b>R 1 169 164,40</b>	<b>R 1 436 400,00</b>	<b>R 267 235,60</b>
<b>TOTAL</b>	<b>R 7 000 000.00</b>	<b>R 8 201 090.30</b>	<b>R 1 220 969.95</b>



## **RECOMMENDATIONS**

1. That Council takes note of the report
2. That Council approves the application for additional funding for an amount of R1 220 969.95 VAT Inclusive.

A113/2019

**NYAKALLONG/ALLANRIDGE REPLACEMENT OF OLD GALVANIZED STEEL PIPES: REQUEST FOR BUDGET MAINTENANCE (EXECUTIVE MAYOR)**

**PURPOSE**

The purpose of this item is to request approval of the Council for additional funding for Replacement of old galvanized steel pipes with uPVC in Allanridge and Nyakallong Townships.

**BACKGROUND**

The replacement of old galvanized steel pipes with uPVC in Allanridge and Nyakallong Townships project is currently being implemented by the Municipality through MIG funding. The project was registered in 2018/2019 financial year. This project entails the following scope of work:

Allanridge:

- the replacement of 893m of old galvanized steel pipes with new 250mm diameter uPVC Class 12 pipes.
- The inspection and repair or replace of valves and fire hydrants.
- Inspect and repair of all leaking pipes at households.

Nyakallong

- the replacement of 1.7 km of old galvanized steel pipes with new 250mm diameter uPVC Class 12 pipes.
- The inspection and repair or replace of valves and fire hydrants.
- Inspect and repair of all leaking pipes at households.
- Maintenance of water meters

This item served in the Mayoral Committee that sat on the 21 August 2019.

**DISCUSSIONS**

This project was registered for funding in 2018 under MIG project number MIG/FS1241/W/18/18 for an amount of R6 682 316.78 (incl. Vat). The actual costs after appointment of Contractors amounts to R7 690 399.86 VAT Inclusive including professional fees. This variance of R 1 008 084.95 is due to the learner contractors underpricing items in the BOQ. See attached Contractors appointment letters. See attached MIG Registration letter and 2xContractor appointment letters

**LEGAL IMPLICATIONS**

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

**FINANCIAL IMPLICATIONS**

The request for an additional R1 008 084.95 under the maintenance budget of MIG to enable the project to be completed successfully. The table below entails the variance between the original project approved amount and the current amount for Learner Contractors.

<b>Description</b>	<b>Total original estimates</b>	<b>Current actual Cost</b>	<b>Variance</b>
Construction fees+ Professional fees, vat and other indirect cost	<b>R 6 682 316.78</b>	<b>R 7 690 399.86</b>	<b>R 1 008 084.95</b>

**RECOMMENDATIONS**

1. That the Council takes note of the report
2. That Council approves the application for additional funding for an amount of R1 008 084.95 VAT Inclusive.

A114/2019

**THABONG EXTENSION 20 (HANI PARK): EXTENSION OF WATER NETWORK, HOUSE CONNECTIONS AND WATER METERS (180 STANDS): BUDGET MAINTENANCE (EXECUTIVE MAYOR)**

**PURPOSE**

The purpose of this item is to request approval of the Council the request for additional funding for Thabong Extension 20 (Hani Park): Extension of water network, house connections and water meters (180 Stands) in compliance with Municipal Systems Act 32 of 2000; Section 73 (1).

**BACKGROUND**

The extension of a water network, house connections and 180 water meters in Thabong Extension 20 (Hani Park) project is currently being implemented by the Municipality through MIG funding. This project entails the extension of a water network, house connections and the installation of 180 water meters in Thabong Ext.20. The project was awarded to Kalosi Trading Projects and Lusakho Trading, two vukuphile contractors which are being managed by Epitome Consulting Engineers. A request for budget maintenance report was received from Epitome Consulting Engineers and is attached for ease of reference.

This item served in the Mayoral Committee that sat on the 21 August 2019.

**DISCUSSIONS**

This project was registered for funding in 2018 under MIG project number MIG/FS1243/W/18/19 for an amount of R2 599 855.74 (incl. Vat). The actual costs after appointment of Contractors amounts to R4 202 064.08 VAT Inclusive including professional fees. This variance is due to increased price of materials which were previously priced below the market rate. See attached Contractors appointment letters and MIG registration letter.

**LEGAL IMPLICATIONS**

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

**FINANCIAL IMPLICATIONS]**

The request for an additional R1 602 208.34 from MIG to enable the project to be completed successfully. The table below entails the variance between the original project approved amount and the current amount for Learner Contractors.

<b>Description</b>	<b>Total original cost</b>	<b>Total current cost</b>	<b>Variance</b>
Construction fees+ Professional fees, vat and other indirect cost	<b>R2 599 855.74</b>	<b>R 4 202 064.08</b>	<b>R 1 602 208.34</b>

**RECOMMENDATIONS**

1. That Council takes note of the report.
2. That Council approves the application for additional funding for an amount of R1 602 208.34 VAT Inclusive.

A115/2019

**KUTLWANONG OUTFALL SEWER: REQUEST FOR BUDGET MAINTENANCE  
(EXECUTIVE MAYOR)****PURPOSE**

The purpose of this item is to present before Council the current status and progress report on the Kutlwanong outfall sewer in compliance with Municipal Systems Act 32 of 2000; Section 73 (1), and to request recommendation of the budget maintenance.

**BACKGROUND**

The Kutlwanong outfall sewer project is currently being implemented by the Municipality through MIG funding. The project was registered in 2016/2017 financial year. This project entails the following scope of work:

- Clearing and grubbing
- Earthworks
- Compaction
- Bedding
- Pipe laying
- backfilling
- Manholes
- Testing

**DISCUSSIONS**

The Kutlwanong Outfall Sewer Project was registered by MIG in the 2016/17 financial year for value of R 20 787 843.77. Upon going out on tender in November 2018, the successful bidder's tender price was R 22 183 654.79 and professional fees are R 3 626 548.22 which is a total of R 25 810 203.01. The revised total project cost is R 25 810 203.01 is due to price escalations and VAT increase from 14% to 15% between 2016/17 and 2018/19 financial years: The acceptable Tender Offer of J.T Promotions JV Mawee exceeded the MIG Amount by 7%.

This item served in the Mayoral Committee that sat on the 21 August 2019.

**LEGAL IMPLICATIONS**

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

**FINANCIAL IMPLICATIONS**

ITEMS		TENDER AWARD	COST ESTIMATE APPLIED	VARIANCE
1	A:PRELIMINARY AND GENERAL	R 2,505 108.04	R 2,098 930.34	-R 406 177.70
2	SECTION B: DAYWORKS	R 728 291.21		-R 728 291.21
3	SECTION C:SITE CLEARANCE	R 326 700.00		-R 326 700.00
4	SECTION D: EARTHWORKS	R 4 711 600.00	R 4 446 273.25	-R 265 326.75
5	SECTION E: BEDDING	R1 116 063.75	R 8 564 695.67	-R 134 163.75
6	SECTION F: SEWER MAIN	R 8 148 723.00	R 8 564 695.67	+R 487 686.67
SUB TOTAL		R 17 536 486.00	R 16 091 799.26	R 1 444 686.74
Plus 10% CONTINGENCIES		R 1 753 648.60	R 1 766 899.48	R 144 468.67
SUB TOTAL		R 19 290 134.60	R 17 700 979.18	R 1 589 155.42
Plus 15% VAT		R 2 893 520.19	R 2 655 146.88	R 238 373.31
TOTAL		R 22 183 654.79	R 20 356 126.06	R 127 528.73

The additional professional fees in respect to Bid No. 08/2018: Kutlwanong Outfall Sewer is as shown below.

ITEMS		Prof. Fee
1	Original Fees at 15% of R20,607,080.00 (i.e. 15% of Contract Amount plus Contingencies)	R 3,091,062.00
2	Additional Fees at 15% of R1,576 574.79 (i.e. 15% of Total Additions)	R 236 486.22
3	Additional Fees due to redesign	R299 000.00
SUB TOTAL (Inc VAT)		R 3,626 ,548.22
REVISED TOTAL PROF. FEES		R 3,626,548.22

**OTHER IMPLICATIONS**

The project will not be completed successfully without cost adjustments, thus affecting its intended purpose and effective use.

**RECOMMENDATIONS**

1. That Council takes note of the report.
2. That the budget maintenance of an additional amount of **R5 203,123.01** to the Mayoral Committee.

A116/ 2019

**PHOMOLONG: APPLICATION TO CONVERT MUNICIPAL ERF 1132 INTO BUSINESS ERVEN FOR ALIENATION TO THE CURRENT OCCUPANTS (EXECUTIVE MAYOR)**

**PURPOSE**

The purpose of the report is to motivate the subdivision of a portion of Municipal Erf 1132 in Phomolong in order to create a number of business erven, the rezoning thereof and the alienation of the subdivisions to current occupants of the property.

**2. BACKGROUND**

**2.1 LOCATION**

\*\*\* The location of the target property is depicted on Page 33 of the Annexures.

**2.2 ERF INFORMATION**

The basic information about the erf is as follows:

**Zoning:** Public open space  
**Size:** 11286<sup>2</sup>  
**Ownership:** Matjhabeng Municipality  
**Assets:** The Phomolong Public Library is situated on the erf.

**2.3 PROBLEM STATEMENT**

\*\*\* As shown on the **Plan on Page 34 of the Annexures** five informal businesses have over time been allocated space on the park site to perform business activities. One business and a church have even been permitted to erected permanent structures on the site. None of the former arrangements could be detected.

In terms of the stipulations of “Annexure F” which is the applicable Town Planning Scheme as shown in the following table, the current businesses on the erf represents a transgression of the Town Planning Scheme.

Use zone	Permitted uses	Uses permitted only with the consent of the responsibility authority	Prohibited uses
(1)	(2)	(3)	(4)
Public open space	Parks, sports and recreational facilities and buildings used in connection therewith	Residential buildings, special purposes	Uses not under column (2) or (3)

**2.3 APPLICATION FROM THE OCCUPANTS:**

In the joint application as **attached on Page 35 to 36 of the Annexures** the current occupants request that the Municipality convert the property into a number of business sites that can be purchased / rented to them. This will provide security of tenure and will allow for the development of permanent structures.



## 2.4 PRESENTATION TO THE MAYORAL COMMITTEE

During the meeting of the Mayoral Committee held on 4 November 2019 Mr. T Tsiane presented the proposal to the Mayoral Committee. **It must further be noted that Mr. Tsiane specifically requested the Municipality to assist him with the following documents, which is acknowledgement letter of the availability of a portion of Erf 1132, a Zoning Certificate and the approval of Building Plans to convert his existing store into an OK Mini Market at Phomolong, Hennenman with immediate effect.**

In this regard the Mayoral Committee resolved as follows:

**“That Mr T. Tsiane MUST MEET with the Office of the Municipal Manager to be assisted with the above mentioned documents.”**

## 2.5 PROPOSED SOLUTION

As part of the investigation of the application a meeting with the occupants was held on 27 August 2019 after which a site inspection was held. In order to rectify the situation it was agreed to approach Council with a joint application to subdivide the target property into a number of sites that can be purchased or rented from Council.

\*\*\* The proposed layout of the site was done by Spatial Planning in consultation with the applicants. **The proposed layout is enclosed on Page 37 of the Annexures.**

The proposed future use of the individual erf portions is depicted in the following table:

**TABLE 1:**

PROPOSED PORTION	CURRENT SITUATION	ESTIMATED SIZE IN M <sup>2</sup>	PROPOSED ACTIONS	COMMENT
1	Formal business	1734	Subdivision and rezoning to Business	The current business will be expanded. The site will be leased to purchased or sold and transferred
2	Formal church built	975	Subdivision and rezoning to Community Facility	The site will be leased to purchase or sold and transferred
3	New business site for informal business	801	Subdivision and Rezoning to Business	The site will be declared as an informal business area by Council and rented to informal traders
4	New site for informal business	532	Subdivision and Rezoning to business	The site will be declared as an informal business area by Council and rented to informal businesses
5	New site for church	1061	Subdivision and rezoning to	The site will be leased to purchase

PROPOSED PORTION	CURRENT SITUATION	ESTIMATED SIZE IN M <sup>2</sup>	PROPOSED ACTIONS	COMMENT
			Community facility	or sold and transferred
6	Municipal Library	2656	Subdivision and Rezoning to Community Facilities	It must be determined if Provincial Department will take transfer of the property
7	Public Space Open	2976	Subdivision	Area will remain as a park for the community
8	Street		Subdivision and reservation as Street	A gate to the school exist on this side. The creation of a street will benefit the school

## 2.6 REQUIRED TOWN PLANNING ACTIONS

In order to create the individual erven the following town planning actions are required in terms of the Spatial Planning and Land Use Management Act:

- The preparation of an application to the Municipal Planning Tribunal for the subdivision of Erf 1132 in accordance with the layout plan and the rezoning of the individual portions in accordance with the above Table 1.
- Survey and registration of the subdivided portions with the Surveyor General
- Registration of the properties in the Office of the Registrar of Deeds.

## 2.7 OUTSTANDING MATTERS

The following aspects of the investigation have not been concluded yet:

- Determination of market values to conclude the sales/rental agreements pertaining to alienation the new erven. Market values were requested from the Municipal Valuer and are awaited.
- The availability and costs related to the provision of municipal services to each of the erven.

## 3. LEGAL IMPLICATIONS

**It will be important that the required actions in terms of the creation, allocation and alienation of the new erven be done in terms of the following legislation:**

- Alienation of Land Act (Act No. 68 of 1981);
- Local Government: Municipal Finance Management Act (Act No. 56 of 2003);
- Municipal Supply Chain Management Policy Regulations (Act No. 27636);
- Property Rates Act (Act No. 6 of 2004);

- e) Spatial Planning and Land Use Management Act (Act No.16 of 2013);
- f) National Building Regulations
- g) The Constitution of the Republic of South Africa (Act. No. 108 of 1996);

## **4. FINANCIAL IMPLICATIONS**

The responsibility in relation to the following financial aspects must be determined:

- a) Town Planning – Cost related to subdivision and rezoning of the land.
- b) Costs in relation to the survey and registration in the Deeds Office.
- c) Costs associated with the registration in the Deeds Office.
- d) Costs in relation to the re-location of existing services.
- e) Costs related to the provision of services connections to all the properties.

## **5. CONCLUSION**

It can be concluded that the allocation of a portion of Erf 1132 to the current occupants of the property will not only solve the current transgression of the zoning of the erf but will also contribute towards local economic development in Phomolong.

## **RECOMMENDATIONS**

- 1. That it be supported that a portion of Erf 332, Phomolong is not required to render future municipal services and that in order to support economic development as well as to rectify the current transgression of zoning, it be earmarked for formal development.
- 2. That the subdivision plan as depicted on Page 34 of the Annexures as well as the proposed zonings as indicated in Table 1 be approved.
- 3. That it be approved in principle that after creation of the individual erf portions, it be made available to the current occupants at full market value as a straight sale or on a lease to purchase basis.
- 4. That the Municipal Manager be mandated to negotiate an applicable sales/lease agreement with the applicants with inclusion of the following:
  - a) Costs related to the subdivision, rezoning and registration of the properties.
  - b) Costs related to the relocation and/or connection of municipal services to the individual sites.
- 5. That the Municipal Manager be mandated to facilitate the request from Mr. T Tsiane to develop the OK Franchise within the permissible legal framework.

A117/ 2019

**UYINGCWELE BABA CAPITAL (PTY) LTD: APPLICATION FOR AN UNSOLICITED BID FOR THE PURCHASE OF ERVEN 10283 AND 10284 FOR THE DEVELOPMENT OF KUTLOANONG SHOPPING CENTRE, LIFESTYLE CENTRE BUSINESS CENTRE, HAWKERS HUB, TAXI RANK AND PETROL STATION (EXECUTIVE MAYOR)**

**PURPOSE OF REPORT**

The purpose of the report is to request Council to grant an unsolicited bid to Uyingcwele Baba Capital (Pty) Ltd for the purchase of Erven 10283 and 10284 for the development Kutloanong Shopping Centre, Lifestyle Centre Business Centre, Hawkers Hub, Taxi Rank and Petrol Station.

**BACKGROUND AND APPLICATION**

Uyingcwele Baba Capital made an application and request the granting of an unsolicited bid in terms of Section 37 of the Municipal Supply Chain Management Regulations for the outright purchase of both erven 10283 and 10284, Kultoanong, Odendaalsrus for the development shopping complex, lifestyle business centre and taxi rank.

The main focus of the development build shopping complex of 6387,85 m<sup>2</sup> with a national anchor tenants.

The item was submitted to Council to that Uyingcwele Baba Capital (Pty) Ltd application to purchase Erven 10283 and 10284 during March 2018 to the Department of LED and Spatial Planning, the company was invited to a joint Section 80 Committees meeting of both LED and Spatial Planning for presentation and both committees supported this Kutloanong Development Business Initiatives and the matter was escalate to **“The Mayoral Committee Meeting held on 02 August 2018”** and served under **“Deputation and Interviews”**

**The Mayoral Committee Resolved: (02 August 2018)**

1. That the Mayoral Committee **ACCEPT** the presentation made by Mr L Moahlodi.
2. That Mr L. Moahlodi **MUST MEET** with the Municipal Manager to sign Service Level Agreement.

**3. PROPERTY LOCATION**

\*\*\*

The location of the target land (properties) are along busy main road of Du Plessis Road between Block 4 and Block 7 and are depicted on the locality plan **enclosed on Page 38 of the Annexures.**

**4. OWNERSHIP AND PROPERTY INFORMATION**

The property information is as follows:

ERF	OWNERSHIP	AREA IN M <sup>2</sup>	Current Municipal Valuation as at 2015-2019	ZONING
10283	Municipality	1,4462 Hectares	R120 000-00	“Business”
10284	Municipality	1,7953 Hectares	R360 000-00	“Business”

## 5. LEGAL IMPLICATIONS

Sections 14 read with section 90 of the Local Government: Municipal Finance Management Act No. 56 of 2003 (“the MFMA”) prescribes that:

### 14 Disposal of capital assets:

- (1) A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- (2) A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public-
  - (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
  - (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.
- (3) A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.
- (4) A municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsection (2) (a) and (b) in respect of movable capital assets below a value determined by the council.
- (5) Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111.

\*\*\* See attached under Separate Cover (3) is the Land Availability Agreement with Matjhabeng Local Municipality

**The Municipal Management Supply Chain Regulations (2005) stipulates as follows:**

### Unsolicited bids

- 37.** (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and

- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
- (8) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the **[municipality / municipal entity]** *[select which is applicable]* to the bid may be entered into or signed within 30 days of the submission.

**Matjhabeng Local Municipality: Policy on Disposal of Immovable Assets is as follows;**

**7.1. Dispensing with the competitive bidding process (Unsolicited bids)**

- 7.1.1. In accordance with section 113 of the Municipal Finance Management Act, 2003 (Act 56 of 2003), there is no obligation to consider unsolicited bids received outside a normal bidding process in respect of immovable assets.
- 7.1.2. Council reserves the right to entertain unsolicited bids for the purchase of viable immovable property for development purposes, with the proviso that it abides by Council's strategic objectives and more specifically that it favours

the promotion of black ownership, entrepreneurship and community upliftment.

7.1.3. Council may decide in terms of section 113 of the Municipal Finance Management Act, 2003 (Act 56 of 2003) to consider an unsolicited bid, only if –

- a) the disposal is linked to a substantial beneficial development and / or improvement commitment that is demonstrably proven as a unique innovative concept by the person who made the bid (the bidder);
- b) the disposal and linked development will be exceptionally beneficial to, or have exceptional benefit and income advantages for Council and Matjhabeng's economy in the form of an agreed value of capital outlay for the development and its related operations ;
- c) the application / proposal sets out details of the feasibility and viability of the project as well as clear financial plan with evidence that the finances are secured for the development;
- d) the allocation / procurement of other or alternative immovable property will render the bidder's proposal uneconomical, useless or impossible;
- e) going through the normal bidding process will deprive the bidder of his intellectual property right to his unique innovative proposal;
- f) the proposed purchase price is equal or higher than the marked related value as determined in accordance with Section 14(2)(b) of the MFMA; and
- g) the reasons for not going through the normal bidding processes are found to be sound by Council.

7.1.4. If the Municipal Manager decides to submit to Council an unsolicited bid that could qualify in terms of section 9.7.3 of this policy, outlines of the proposal must be made public in accordance with section 21A of the Municipal Systems Act, 2000 (Act 32 of 2000), together with –

- a) reasons as to why the bid should not be open to other competitors;
- b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- c) an invitation to the public to submit their comments within 30 days of the notice.

7.1.5. The accounting officer must submit all written comments received pursuant to section 9.7.4 including any responses from the unsolicited bidder, to National and Provincial Treasury for comment.

7.1.6. A meeting of Council to consider an unsolicited bid must be open to the public and when considering the matter, Council must take into account –

- a) any comments submitted by the public; and
- b) any written comments and recommendations of the National and Provincial Treasury.
- c) the documentation submitted in terms of Section 6.1(i)(v)

## 6. FINANCIAL IMPLICATIONS

- The development of the shopping complex proposed by the developer will contribute towards the expansion of the economic base, social upliftment of the area and job creation.

- Direct financial benefit for Council will be from the selling of the land, normal rates as well as the income derived from the selling of services.

## 7. POLICY/LEGISLATIVE POSITION

- Alienation of Land Act (Act No. 68 of 1981);
- Broad Based Black Economic Empowerment Act (Act No. 53 of 2003);
- Development Facilitation Act (Act No. 67 of 1995);
- Extension of Security of Tenure Act (Act No. 62 of 1997);
- Formalities in respect of Leases of Land Act (Act No.18 of 1969)
- Rental Housing Act (Act No.50 of 1999)
- Land Use Management Bill;
- Local Government: Municipal Finance Management Act (Act No. 56 of 2003);
- Municipal Supply Chain Management Policy Regulations (Act No. 27636);
- Property Rates Act (Act No. 6 of 2004);
- Spatial Planning and Land Use Management Act (Act No.16 of 2013);
- Matjhabeng Local Municipality: Policy on Disposal of Immovable Assets.
- The Constitution of the Republic of South Africa (Act No.108 of 1996).

## 8. RECOMMENDATIONS

- 8.1 Council approves the report of the estimated fair market value of the property.
- 8.2 That Council approves the signed Service Level Agreement by Municipal Manager and Mr L. Moahlodi on behalf of Uyingcwele Baba Capital.
- 8.3 That the submission of an unsolicited bid by the Uyingcwele Baba Capital be granted on the basis of the benefits as contemplated in the application and the uniqueness of the development, provided that the stipulations of the Municipal Supply Chain Management Policy Regulations are adhered to.
- 8.4 That the application /proposal sets out details of the feasibility and viability of the project as well as clear financial plan with evidence that the finances are secured for the development.
- 8.5 That a follow up report in relation to the final unsolicited bid and development proposal by Uyingcwele Baba Capital be submitted to Council for noting.



**A118/ 2019**

**MPAC COMMITTEE REPORT ON THE IRREGULAR EXPENDITURE  
INCURRED FOR THE PERIOD ENDED 30 JUNE 2018 (MPAC CHAIRPERSON)**  
(6/1/2/2)

**PURPOSE**

To submit to Council the MPAC report on Irregular Expenditure incurred for the financial periods ended 30 June 2018 as mandated by council.

**BACKGROUND**

The Municipality is required to disclosed particulars of Unauthorised, Irregular or Fruitless and Wasteful expenditure as part of the notes to the Annual Financial Statements in terms of the requirements of Section 125(2)(d) of the Municipal Finance Management Act.

As part of the process to correct the audit exceptions, we submitted to Council a request for an investigation as per Section 32 of the Municipal Finance Management Act. Consequently, Council appointed the Committee to perform investigations as guided by National Treasury MFMA circular no. 68 and Section 32 of the Municipal Finance Management Act and to submit a report to Council with recommendations for consideration by Council.

Section 32(2) and (4) of the Municipal Finance Management Act states the following:

- (2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—
  - (a) in the case of unauthorised expenditure, is—
    - (i) authorised in an adjustments budget; or
    - (ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
  - (b) in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.
- (4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—
  - (a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
  - (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
  - (c) the steps that have been taken—
    - (i) to recover or rectify such expenditure; and
    - (ii) to prevent a recurrence of such expenditure.

**IRREGULAR EXPENDITURE**

The *Municipal Finance Management Act No.56 of 2003* under paragraph 1 defines; “Irregular expenditure “, in relation to a municipality or municipal entity, as-

- a) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;
- b) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of Municipal Systems Act, and which has not been condoned in terms of the MFMA;
- c) Expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office- Bearers Act 1998 (Act no.20 of 1998); or
- d) Expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law.

But excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure"

## DISCUSSIONS

\*\*\* The MPAC Committee report on the investigation of Irregular Expenditure **is attached under Separate Cover (4).**

## FINANCIAL IMPLICATIONS

The Municipality is required to disclose particulars of the Irregular Expenditures as part of the notes to the Annual Financial Statements in terms of the requirements of section 125(2)(d) of the Municipal Finance Management Act.

## LEGAL FRAMEWORK

The report on the investigation of Irregular Expenditure and the recommendations for write-off is in compliance with Section 32(2) of the Municipal Finance Management Act.

## RECOMMENDATIONS

### Irregular expenditure

1. That Council takes note of the MPAC committee report;
2. That Council certifies an amount of **R129 887 387,58 (R114 209 752,91 excl. vat)** detailed below as irrecoverable and be written-off;
3. That the appropriate disclosure note be made to the financial statements for the year ending 30 June 2020;
4. That the Accounting Officer must establish controls to detect and prevent these types of expenditures and on a quarterly basis submit a report for consideration to Council; and
5. That the Accounting Officer must in writing communicate the Council resolutions to the office of the Auditor General, COGTA and Provincial Treasury in terms of section 32, subsection 4 of the Municipal Finance Management Act.

A119/ 2019

**MOTION BY CLLR PF BOTHA: MOTION TO HAVE ALL THE MEDIA NEWS CONTRACTS DECLARED NULL & VOID (MM) (20/19)**

**PURPOSE**

To submit to Council the motion received from Cllr PF Botha for consideration.

**BACKGROUND**

\*\*\* A copy of the motion by the Cllr PF Botha dated 12 November 2019 is **attached on page to 39 to 42 of the annexures.**

**LEGISLATIVE MANDATE**

Rule 54 of the Standard Rules and Orders states that:

- “1) A councillor or traditional leader may put a matter on the agenda of a committee of which he or she is a member or of the council by submitting a written motion to the municipal manager, provided that a councillor or traditional leader may orally request the municipal manager to include a motion in the agenda for the first ordinary meeting of such committee or the council next ensuing.”

*Rule 55 of the Standard Rules and Orders states that:*

- “1) With due regard for the provisions of sub-rule (4) a motion in terms of rule 54 must be included in the agenda for the first ordinary meeting next ensuing of the council or the committee concerned, provided it had reached the municipal manager at least forty-eight hours before the date referred to in rule 10(1).
- 2) Only one motion of a councillor or traditional leader may be considered at a meeting.
- 3) If the introducer of a motion is absent during the meeting when the motion is put to the order, it is deferred to the ensuing ordinary meeting of the council or committee, as the case may be.
- 4) Any motion which-
- (a) contemplates the repeal or amendment of a resolution taken during the preceding three months; or
  - (b) has the same scope as a motion that had been rejected during the preceding three months may not be included in the agenda, unless it has been signed by at least three councillors in addition to its introducer.”

**FINANCIAL IMPLICATIONS**

None

**SUBMITTED FOR CONSIDERATION**