CSS32 of 2018

<u>DRAFT EMPLOYEE ASSISTANCE PROGRAM HANDBOOK AND PRESENTATION</u> (ED: CSS) (5/3/B)

PURPOSE

To table the Draft Employee Assistance Program Handbook and Presentation to be use by Branch Wellness Programme for Induction purposes to Section 80 Committee Meeting for perusal and adoption.

BACKGROUND

Matjhabeng Municipality does not have an Employee Assistance Program Handbook and Presentation for Induction purposes regarding Employee Wellness.

- *** The Draft Employee Assistance Program Handbook is attached **on page 1 to page 2 of the Annexures**.
- *** The Presentation is attached on page 3 to page 12 of the Annexures.

LEGAL FRAMEWORK

- Labour Relation Act 1995 (Act No. 66 of 1995)
- Basic Conditions of Employment Act 1997 (Act No. 75 of 1997)
- Occupational Health and Safety Act 55of 1998.
- Compensation for Occupational Diseases Act 30 of 1993.
- Medical Schemes Act.
- Promotion of Equality of Prevention of Unfair Discrimination Act 4 of 2000.

FINANCIAL IMPLICATIONS

• Provision to be made on the 2017/18 Budget

RECOMMENDATION

1. That the proposed Draft Employee Assistance Program Handbook and Presentation to be used by Branch Wellness Programme for Induction purposes be considered for adoption.

CSS33 of 2018

PROGRESS REPORT ON IMPLEMENTATION OF SHIFT SYSTEM IN TERMS OF THE COLLECTIVE AGREEMENT FOR THE FREE STATE DIVISION OF THE SALGBC (ED: CSS) (5/2/2)

PURPOSE OF REPORT

To submit progress to the Section 80 Committee on the implementation of a new Shift System in terms of the Collective Agreement of the SALGBC Free State Division.

BACKGROUND

The Collective Agreement for the Free State Division of the SALGBC which was entered into by SALGA, SAMWU and IMATU came into operation on the 1st July 2016 and shall remain in force until the 30th June 2020.

In terms of Clause 5.3.19 "Shift Allowance" means a non-pensionable allowance, which shall be paid to employees who work on a regular rotational shift basis.

Clause 5.3.25 stipulates that "Shift" means where an Employee is required to work for a specific period of time on a rotational shift system with an average of either 42 hours, 56 hours or 84 hours per week respectively, a whereby twenty four hour, seven days a week (24/7) municipal service is rendered.

Section D makes provision for a Uniform Inclusive Fixed Shift Allowance.

Paragraph 20, under 20.1 reads as follows: "All personnel working shifts within Municipalities will be paid a monthly fixed allowance. For purpose of this Agreement the term "Operational Personnel" refers to those officials who are required to work shifts as agreed to by the parties and includes all operational personnel working in the Municipalities in the Free State Province." One of the following three categories of Shift systems can be applied:

42 HOUR WORKING	56 HOUR WORKING	84 HOUR WORKING	
WEEK (4 SHIFTS)	WEEK (3 SHIFTS)	WEEK (2 SHIFTS)	
A 27% monthly shift allowance payable.	Shall only be applicable to operational employees performing twenty four hour, seven days per week service.	Shall only be applicable to operational employees	

A Report was submitted to the Local Labour Forum on the implementation of a 42 Hour Work week (4 Shifts) system for discussion and to be agreed upon in order to comply with the Collective Agreement for the Free State Division of the South African Local Government Bargaining Council (SALGBC).

It was recommended that the 42 Hour Working Week (4 Shifts) with a fixed shift allowance of 27% be accepted and implemented across the Municipality in Fire & Rescue Services, Traffic & Security Services, Waste Water Treatment Works and Pump Stations with immediate effect, following consultation processes.

The Local Labour Forum at its meeting held on 26 January 2018 resolved as follows:-

- 1. That the matter **BE REFERRED BACK** to Basic Conditions Sub Committee for discussion.
- 2. That the matter **BE RESOLVED** within two weeks.

A Basic Conditions Sub-Committee Meeting was arranged on 9 February where it was resolved that the lists of Shift Workers submitted by the relevant Departments be verified with the employees present.

Verification sessions were scheduled on 15 February 2018, 22 February 2018, 26 February 2018, 6 March 2018, 15 March 2018 and 27 March 2018. Most of the employees were verified at these Sessions by the Basic Conditions Sub Committee.

Another Basic Conditions Sub Committee Meeting was held on 10 April 2018 where the Managers clarified certain points of contention and confirmed the names of the Shift Workers as well, as non-Shift Workers.

25 of the Employees clarified by the Managers as being Shift workers have not reported and could therefore not be verified by the Basic Conditions Sub Committee.

The Basic Conditions Sub-Committee submitted a progress report to the Local Labour Forum on the verification done of the Shift Workers.

The Basic Conditions Sub-Committee was in agreement that the 42 Hour Working Week (4 Shifts) with a fixed shift allowance of 27% be accepted and implemented across the Municipality in Fire & Rescue Services, Traffic & Security Services, Waste Water Treatment Works and Pump Stations.

The Sub-Committee recommended that the Finance Department present the financial implications in the Meeting of the Local Labour Forum as the Basic Conditions Sub-Committee could not pronounce itself in this regard.

At the Local Labour Forum which took place on 28 August 2018, SAMWU submitted that they wanted the 3 shift or 2 shift to be implemented as per the Arbitration Award in the matter between SAMWU obo Khasebe & 189 others and Maluti-A-Phofung Local Municipality (1st Respondent) and Maluti-A-Phofung Water (Pty) Ltd (2nd Respondent), issued by Commissioner JN Dlengezele on 19 March 2018.

ADDITIONAL RESEARCH BY LABOUR RELATIONS

Additional research was done by Manager Labour Relations in preparation of an opinion relating to the implementation of the Shift System.

1. Adv. Motloung: Representative of Maluti-A-Phofung Local Municipality (1st Respondent) and Maluti-A-Phofung Water (Pty) Ltd (2nd Respondent)

As per telephonic discussion with Adv. Motloung on 3 September 2018, Adv. Motloung confirmed that the Arbitration Award which was made by Commissioner JN Dlengezele has been taken on review and that currently they have not implemented the Award.

2. Paul Greyling: One of the co-authors in the Collective Agreement for the Free State Division

As per telephonic discussion with Mr P Greyling on 3 September 2018, Mr Greyling confirmed that the Fire Department of Mangaung Metro Municipality works in accordance with the 42 Hour Working Week (4 shift system). Mr Greyling recommended that Matjhabeng Local Municipality also considers the 4 shift system. Mr Greyling forwarded an example of how the 4 shift system can be calculated.

3. Bargaining Council:

The Bargaining Council was contacted on 3 September 2018 in order to obtain guidance in paving the way forward in the implementation of the Shift System. It is important to note that the Bargaining Council was not approached to interpret the specific clause relating to the Shift Allowance of the Collective Agreement. Unfortunately the Bargaining Council could not provide such guidance.

Labour Relations enquired whether the Bargaining Council would be able to make use of the Local Labour Forum Briefing Session, which is set down for 14 September 2018, to clarify issues / concerns regarding the Shift System. It was confirmed by the Bargaining Council, that, should it be discussed, that the Supervisors may also attend the Briefing Session.

4. SALGA: M Nelani

As per telephonic discussion with Mr Nelani on 3 September 2018, Mr Nelani has agreed with the proposed recommendation of the 4 shift system

5. (2) Meetings on 3 and 4 September 2018: Salaries, Fire & Emergency Services, Security & Traffic, Water Treatment Works and Pumpstations

Meetings were held with the above Sections whereby the Collective Agreement with regards to the implementation of the 4, 3 or 2 shift system was discussed.

Below is an outline of how the Shift System is currently applied to the various sections:

Fire and Emergency Services

Employees are working twelve (12) hours per shift which is averaged over a period of four (2) months.

The total hours worked over a period of four (4) months = 672 hours which is 168 average per month divided by 4 weeks. The average number of hours work per week is equal to 42 hours.

Security Services

Security is operating a four (4) Shift System and eight (8) hour shift, forty eight (48) hours a week. The shift runs for six days a week and rest for two (2) days. The average number of hours worked per week equals to 40 hours.

Security Officers over a period of eight (8) weeks will work 384 hours \8, which is an average of 48 hours a week.

Traffic Services

Traffic Section is operating a two (2) shift system and eight (8) hour shift, forty (40) hours a week. The shift runs for 5 days a week and rest for two (2) days.

Traffic Officers over a period of eight (8) weeks will work 336 hours\8, which is an average of 40 hours a week.

Please note that Traffic, in terms of the Collective Agreement for the Free State Division, does not qualify for either 42 hours, 56 hours or 84 hours per working week as the municipal service is not rendered 7 days a week (24/7).

When a shift is on duty on a Saturday and Sunday their working hours amounts to 7 hours per day from Monday to Friday. Saturday working hours amounts then to 5 hours per day.

When a shift is not on duty on a Saturday and Sunday, their working hours amounts to 8 hours per day from Monday to Friday.

An official within Traffic section confirmed that only Metro Municipalities work 24/7, and Matjhabeng Local Municipality is not a metro, and therefore it is not a prerequisite.

Traffic indicated that they are willing to work a 7 day working week (4 shifts).

Wastewater Treatment works (WWTW) and Pump stations.

4 Shift system of 12 hours per shift and 4 x 12 hours off

Day 1	6H00 to 18H00	12 hours
Day 2	6H00 to 18H00	12 hours
Day 3	18H00 to 00H00	6 hours
Day 4	12H00 to 6H00 / 18H00 to 00H00	6 hours + 6 hours
	121100 to 01100 / 101100 to 001100	o nours - o nours
Day 5	00H00 to 6H00	6 hours First day Off

The system for one Employee over a period of 8 weeks will work FOR 336 hours meaning an average of 42 hours per week.

MANAGEMENT RECOMMENDED TO THE EMPLOYER CAUCUS OF THE LLF:

- 1. That a 42-hour working week (4 shift system) with a fixed shift allowance of 27% be implemented for Fire & Rescue Services, Security Services, Waste Water Treatment Works and Pump Stations.
- 2. That all Departments that work shifts, working hours to be amended to a 9-hour day shift and 15 hours night shift.

- 3. The rationale for recommending a 42-hour working week (4 shift system) as well as the amendment to a 9-hour day shift and 15-hour night shift were motivated as follows:
 - With each shift rotation, employees working in other units than Welkom (Virginia, Odendaalsrus, Hennenman and Ventersburg) have to be transported to their respective workplaces. If the four shifts are changed to three shifts, it will increase the daily transporting of employees from two to three times. The same applies for transporting employees home after completion of shifts.
 - More shifts would result in challenges to transport the employees to and from work due to existing shortage of fleet.
 - In some of the work areas, employees have to commute from work and back on their own and such practice might pose its own risks.
 - If the shift system is adjusted to 08:00 to 17:00 (9 hours) for dayshift and 17:00 to 08:00 (15 hours) for night shift, it will be more cost-effective for Council as transport to home will be eliminated.
 - If the 56 Hour Working Week (3 Shifts) is implemented it will result in less employees needed to work per shift which in turn will result in jobs being declared redundant.
 - If a three-shift system is implemented, the personnel will change from 42 working hours per week to 56 working hours per week which can result in employees being overworked and possible loss of life due to fatigue in case of Fire personnel.
 - Section 17 of the Basic Conditions of Employment Act describes Night work as work performed after 18:00 and before 06:00 the next day. Specific reference is made to clause 2(b) of Section 17 which clearly stipulates that transport be available between the employee's place of residence and the workplace at the commencement and conclusion of the employee's shift. Should the working hours be amended to a 9-hour day shift and 15-hour night shift, challenges relating to transport will be eliminated as the Municipality will not have to provide transport.

FURTHER COMMENTS

A Special Local Labour Forum Meeting was held on 12 September 2018 where this matter was comprehensively deliberated. Unfortunately the parties could not agree on the matter which resulted in a deadlock.

A SALGBC LLF Briefing Session was held on 14 September 2018. Examples of a 4 shift system, 3 shift system and 2 shift system was distributed and it was indicated that ultimately Municipalities should migrate to a 4 shift system with a 27 % shift allowance.

SUBMITTED FOR NOTIFICATION

CSS34 of 2018

PROPOSED ORGANISATIONAL STRUCTURE (ED: CSS) (2/1)

To table the Proposed Organisational Structure of the Matjhabeng Local Municipality to the Section 80 Committee for discussion.

INTRODUCTION AND BACKGROUND

At its meeting held on 16 January 2018 COUNCIL RESOLVED:

- "1. That the item BE NOTED AND REFERRED BACK for re-submission at the next Ordinary Council meeting.
- 2. That Municipal Manager MUST IDENTIFY all critical positions that Council should approve to be filled.
- 3. That the Whips of different political parties MUST MEET with the Municipal Manager to deliberate on the Organogram, clarify matters, agree and present their consensus and their disagreements to Council, to deal with disagreements."

Subsequent to the above resolution, Management requested SALGA's inputs regarding the proposed organisational structure

*** Attached as SEPARATE COVER 1 is a report from SALGA.

The report proposes the approach that must be followed to ensure the birth of a comprehensive Organogram. During interaction with SALGA the municipality indicated that although it welcomed the proposed approach and guidance in developing the structure, there is however pressure from Council to complete the organisational structure and therefore will not afford to undergo the proposed model by SALGA. SALGA however recommended a phased approach in dealing with the proposed structure review process, rationalising which positions to prioritise etc. guided by the Municipality's current IDP priorities.

In its advice, SALGA identified key success factors that would ensure completion of the organisational structure:

- a. Political will and Council support.
- b. Management support.
- c. Change management.
- d. Identification of critical and strategic positions.
- e. LLF buy-in the organisation review so that there is common understanding of the process.
- f. Dedicated resources to drive the process.

DISCUSSION

The various directorates reviewed the proposed organisational structure to align it with current Municipal's financial needs and functions. The costs related to the new proposed organisational

structure could not be sufficiently brought down to acceptable level. The Executive Management Committee then resolved that sessions should be conducted with Directorates to with the view to reduce the cost of the Proposed Organisational Structure.

PROBLEM STATEMENT

- 1. The cost of the proposed organisational structure exceeds the 2018/19 staff establishment budget by R153 million per annum.
- 2. The number of directorates in the proposed organogram has increased from current 7 directorates to 8 directorates including the Office of the Municipal Manager.
- 3. The proposed organisational structure does not align to some of the provision of Powers and Functions in terms of Section 84 of the Municipal Structures Act. An example is the establishment of a component responsible for external training in the Directorate Community Services.
- 4. The structure stifles cross departmental communication and cooperation and as an example the IDP and Development are all in different Directorates with different line reporting structures.
- 5. Functions are wrongly placed within department, not allowing optimum and effective organisational functioning e.g. Placement of core artisan service delivery function of maintenance, in Corporate Services.

Local Government: Municipal Systems Act (32/2000): Regulations on appointment and conditions of employment of senior managers, chapter 2 on Staff Establishment states as follows:

"Organisation of administration

- 5. (1) The number of departments necessary for a municipal council to perform its functions must be determined by the municipal council in accordance with
 - a) the powers and functions allocated to a municipal council in terms of section 84 and 85 of the Municipal Structures Act;
 - b) the municipal council's integrated development plan; and
 - c) having regard to the medium term expenditure budget.
 - (2) A municipality must at least have the following departments
 - a) Office of the Municipal Manager;
 - b) Development and Town Planning Services;
 - c) Engineering Services;
 - d) Community Services;
 - e) Office of the Chief Financial Officer; and
 - f) Corporate Support Services

- (3) Depending on the size, medium term expenditure budget and powers and functions, a municipality may deviate from the provisions of sub-regulation (2) after taking into considerations factors listed in regulation 43 of these regulations."
- *** Attached as **SEPARATE COVER 2** are the financial implications tables of the Proposed Macro and Micro Organizational Structure of the Matjhabeng Local Municipality. Also attached are the comparative tables that indicate cost movements from the earlier submissions made to Council and recently to Executive Management.
- *** Attached as SEPARATE COVER 3 is the Organisational Structure.

The total cost of the Organisational Structure tabled in Mayoral Committee was R 905,124,161. After the exercise conducted by directorates to reduce non-crucial posts in the proposed structure, the total cost of the organogram has come down to R 900, 032,906.

LEGAL REQUIREMENTS

- Constitution of the RSA, Act 108 of 1996 (156 & 229)
- Local Government Municipal Structures Act, Act 117 of 1998
- Local Government Municipal Systems Act, Act 32 of 2000, as amended by Act No. 7 of 2011
- Municipal Finance Management Act, Act 56 of 2003 IDP of the Municipality.
- Local Government: Municipal Systems Act (32/2000): Regulations on appointment and conditions of employment of senior managers.

RECOMMENDATIONS

1. That the following methodical manner be followed in developing the new organisational structure:

Step Nr	Key Steps		
Step 1	Analysis and understanding of the current structure		
Step 2	Analysis of Strategic Plan, IDP and SDBIP		
Step 3	Determine legislative requirements		
Step 4	Determine and assess required functions and services		
Step 5	Determine functions and activities performed by all departments		
Step 6	Determine gaps between actual and required functions and competencies.		
Step 7	Determine resource requirements		
Step 8	Assessment of key management and institutional system and processes		
Step 9	Formulate skeleton organisational structure		
Step 10	Ensure consultation with:		
	Councillors		
	Staff		
	Unions		
Step 11	Final Report		

2. The number of proposed macro components of the proposed organisational structure be limited to six as stipulated in Chapter 2 of Local Government: Municipal Systems Act (32/2000): Regulations on appointment and conditions of employment of senior managers.

CSS35 of 2018

DRAFT EMPLOYEE ASSISTANCE PROGRAMME POLICY (5/3/B) (ED: CSS) (5/5/B)

PURPOSE

To table the Draft Employee Assistance Programme Policy with Annexure Templates to be use by Branch Wellness Programme to Section 80 Committee Meeting for perusal; discussion and referral to Council for approval.

BACKGROUND

Matjhabeng Municipality's existing Policy is outdated and has never been reviewed.

*** The Draft Amended Employee Assistance Programme Policy is attached as **SEPARATE COVER**4.

LEGAL FRAMEWORK

- Labour Relation Act 1995 (Act No. 66 of 1995)
- Basic Conditions of Employment Act 1997 (Act No. 75 of 1997)
- Occupational Health and Safety Act 55of 1998.
- Compensation for Occupational Diseases Act 30 of 1993.
- Medical Schemes Act.
- Promotion of Equality of Prevention of Unfair Discrimination Act 4 of 2000.

FINANCIAL IMPLICATIONS

• Provision to be made on the 2017/18 Budget

RECOMMENDATION

1. That the proposed Draft Amended Employee Assistance Programme with Annexure Templates that will be used by Branch Wellness Programme be considered for adoption.

CSS36 of 2018

PROGRESS REPORT ON CUSTOMER CARE COMPLAINTS FROM JULY TO AUGUST 2018 (ED: CSS) (5/3/2/2)

PURPOSE

To submit a progress report to corporate services section 80 on activities that took place in customer care in July and August 2018.

BACKGROUND

The customer care report is used as a tool to measure the effectiveness of service delivery.

DISCUSSION

The report serves to cover activities that took place in July and August 2018. It identifies challenges and achievements on community interactions.

*** Attached on page 13 to page 20 of the Annexures is the statistical report for July and August.

LEGAL AND POLICY FRAMEWORK

Matjhabeng Customer Care Policy of 2017:sub-section 2.3. Municipal Systems Act 32 of 2000

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATION

None

SUBMITTED FOR INFORMATION

CSS37 of 2018

REPORT ON STATUTORY AND NON-STATUTORY MEETINGS HELD FROM JULY TO SEPTEMBER 2018 (ED: CSS) (3/1/3/1)

PURPOSE

To submit a report on statutory and non-statutory meetings held from July to September 2018, for noting.

BACKGROUND

Section 32 (1) of the Municipal Structures Act stipulates that:

"A municipal council must develop a system that will maximize administrative and operational efficiency and provide for adequate checks and balances and in accordance with that system may-

- (a) delegate appropriate powers, excluding a power mentioned in section 160 (2) 30 of the Constitution and the power to approve its integrated development plan to-
 - (v) other committees or elected office-bearers; and
- (b) instruct any such committee or functional to perform any of the Council's duties."

Section 80 Committees are required to meet regularly in order to ensure that the Municipal obligations are fulfilled and also play an advisory role to the Mayoral Committee and Council.

LEGISLATIVE FRAMEWORK

Municipal Structures Act 117 of 1998

DISCUSSION

The meetings that were held from July to September 2018 are detailed as follows:

Statutory Meetings	No. of meetings	No. of Items Discussed	No. of Resolutions
		Discussed	Resolutions
Council	2	52	134
Mayoral Committee	2	20	34
EXCO	1	10	24
MPAC	2	6	15
Audit Committee	1	7	32
Corporate Services	1	9	9

IDP	1	12	8
Finance	1	5	12
LED & Tourism	2	18	25
Local Labour Forum	2	3	1
Non-statutory meetings	2		
TOTAL	17	142	294

SUBMITTED FOR INFORMATION

CSS38 of 2018

PROGRESS REPORT ON COUNCIL RESOLUTIONS (ED: CSS) (2/2/2)

PURPOSE

To submit a progress report to the Section 80 Committee on Council and Corporate Services Section 80 Resolutions, for noting.

BACKGROUND

In Local Government practices and processes, submission of written reports to Council and its Committees is fundamental as a tool for measuring the performance of the Municipality and to enable Council to effectively perform its role of playing oversight over the Executive and the Administration components of the Municipality. Thus Council resolved that in all of its Council and Committee meetings, a report on the execution of its resolutions must be tabled.

DISCUSSION

This report on audit of Council Resolutions covers the month of May to September 2018.

*** See the attached Council Resolution Audit on page 21 to page 30 of the Annexures.

*** See the attached Corporate Services Section 80 Committee Resolution Audit on page 31 to page 38 of the Annexures.

POLICY POSITION

Council Resolutions

FINANCIAL IMPLICATION

None

LEGAL IMPLICATIONS

None

SUBMITTED FOR INFORMATION

CSS39 of 2018

ACTIVITY REPORT: JULY TO SEPTEMBER 2018 (ED: CSS) (5/6/1)

PURPOSE OF REPORT

To submit to the Section 80 Committee (Corporate Services) an Activity Report for the period July to September 2018.

BACKGROUND

Apart from providing strategic and operational direction to training initiatives and reporting on such initiatives, the respective submission of the annual Workplace Skills Plan (WSP) and Implementation Report to the Local Government Sector Education & Training Authority (LGSETA) enables the Municipality to access recovery against levy payments by way of mandatory skills grants.

This grant, based on the skills levy paid by the Matjhabeng Local Municipality, is in essence a statutory fund designated for skills development.

LEGISLATIVE MANDATE AND POLICIES

The following legislation and policies provide the broader framework and imperatives:

Legislation

- Constitution of the RSA (108/1996)
- Employment Equity Act (55/1998) and regulations
- Skills Development Act (97/1998) and regulations
- Skills Development Levies Act (9/1999) and regulations
- South African Qualifications Authority Act (58/1995)

Policies / Procedures:

- Employment Equity Policy and Plan
- Skills Development Policy
- Study Assistance Scheme
- Control Measures: Attendance of External Training Events
- Annual Workplace Skills Plan (WSP)

TRAINING INTERVENTIONS

*** Considering the reporting period under review, the following initiatives were undertaken as per **Annexures attached on page 39 to page 48.**

Municipal Finance Management Program; Workplace Integrated Learning (WIL) included Water and Waste Water Treatment Process Control Learnership, Internships for Finance, Information Technology, PMU and Electrical Engineering.

In addition, induction briefing sessions were held for Contract and Bopa Lesedi Employees. Fourteen (14) plumbers have also been assessed in order to determine current competencies. Assessment results and advice on further training will only be made available after the Skills Development Provider is being paid for rendered services.

SUBMITTED FOR NOTIFICATION

CSS40 of 2018

<u>LABOUR RELATIONS ACTIVITIES REPORT FOR THE PERIOD JULY 2018 TILL SEPTEMBER 2018</u> (ED: CSS) (5/3/2/2)

PURPOSE OF REPORT

To submit to the Section 80 meeting Activities Reports for Labour Relations for the period July 2018 till September 2018.

BACKGROUND

*** Activities Reports for the period July, August and September are attached as Annexures and appear on page 49 to page 64 of the Annexures.

The Report contains the following information:

- Disciplinary hearings
- Grievances
- Disputes
- Meetings held
- Reports drafted
- Submissions drafted

SUBMITTED FOR NOTIFICATION