

SA9 of 2017

**APPOINTMENT OF AN ACTING CHIEF FINANCIAL OFFICER (MM) (5/5/2)**

**PURPOSE**

The purpose of the item is to request Council to appoint an acting Chief financial Officer.

**BACKGROUND**

The Local Government's Municipal Systems Amendment Act No 7 of 2011 was enacted into law and is effective as from the 11 July 2011. This Act vests in Council the power to appoint an acting manager directly accountable to the Municipal Manager in terms of section 56 (1)(a)(ii) which reads thus:

*"Section 56(1)(a) A municipal Council, after consultation with the municipal manager must appoint –*

*(i) ...*

*(ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed."*

Council at its Special sitting held on 14 February 2017 resolved under item SA3/2017 inter alia as follows:

*"That Council APPOINTS Ms. L. Williams to act as a Chief Financial Officer for a period of thirty (30) days."*

During the Ordinary Council sitting held on the 28<sup>th</sup> March 2017, under item C1/2017 it further resolved as follows:

*"That Council APPROVES the extension of the acting period of the acting Chief Financial Officer, Ms. L. Williams until 15<sup>th</sup> May 2017."*

The acting period of three months (3) was in line with the provisions of section 56 (1)(c) of the Local Government Municipal Systems Amendment Act referred to above. Ms. L Williams acting period expired on the 15<sup>th</sup> of May 2017.

Prior to the expiry of the three months acting period of the Chief Financial Officer, Council resolved during its Special Council sitting under Item SA5/2017 as follows:

**COUNCIL RESOLVED: (11 MAY 2017)**

1. That Council **APPROVES** the request for an application for the extension of the acting period of Ms. L Williams in terms of section 56(1) (c) of the MSA as amended.
2. That the Executive Mayor **IS DELEGATED** to depose the letter to the MEC of Local Government.
3. That the extension of the acting period beyond three months should **NOT BE CONSTRUED** to create a legitimate expectation of appointment by the incumbent.

## MATTER UNDER DISCUSSION

The appointment of Ms. L. Williams to act as a Chief Financial Officer was as a result of the elevation of Mr. ET Tsoaeli to act as a Municipal Manager as from the 14<sup>th</sup> February 2017. On the 13<sup>th</sup> of July 2017, Council resolved during its Special meeting as follows:

### **COUNCIL RESOLVED: (13 JULY 2017)**

1. That Council **APPOINTS** Mr. ET Tsoaeli as the Municipal Manager of Matjhabeng Local Municipality subject to the final approval by the MEC of Cooperative Governance and Traditional Affairs.
2. That the second highest candidate **BE APPOINTED**, should the recommended candidate fail to assume his responsibilities for any reason.
3. That Council **DELEGATES** the Executive Mayor the function of negotiating the remuneration package with the appointed Municipal Manager and must report to Council for finalization.
4. That Council delegates the Executive Mayor **TO FINALIZE** the contract of employment, performance agreement and financial disclosure form with the appointed Municipal Manager.

The appointment of Mr. ET Tsoaeli as the Municipal Manager has resulted in the position of the Chief Financial Officer to be vacant. As a result, adverts from both Media News and City Press were issued on 28 July 2017 and 30 July 2017 respectively, calling for suitable candidates to apply for a position of a Chief Financial Officer. The closing date is 21 August 2017.

\*\*\* Copies of the advertisements in both Media News and City Press **are attached on page 1 to page 4 of the Annexures.**

## FINANCIAL IMPLICATION

The financial implication will be in line with the acting policy of the Matjhabeng Local Municipality.

## LEGAL REQUIREMENT

In terms of the provisions of the Local Government: Municipal Systems Amendment Act, No.7 of 2011, the authority to appoint a manager accountable to the Municipal Manager vests with Council.

Section 56(1)(a) of the aforesaid Act provides as follows:

*“Section 56(1)(a) A municipal council, after consultation with the Municipal Manager **must** appoint –*

*(i) ...*

*(ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed.”*

Section 56(1) (b) requires further that a person appointed in terms of paragraph (a)(ii) **must** at least have the skills, expertise, competencies and qualifications as prescribed.

## **RECOMMENDATIONS**

### **It is recommended that:**

1. That Council appoints ..... as the acting Chief Financial Officer as from the 16<sup>th</sup> August 2017.
2. That the acting period of the afore-mentioned must not exceed a period of three months.
3. That the Municipal Manager should finalize the selection process of the Chief Financial Officer.

**SA10 of 2017****APPOINTMENT OF AN ACTING EXECUTIVE DIRECTOR: LED, PLANNING & HUMAN SETTLEMENTS (EXECUTIVE MAYOR) (5/5/2)****PURPOSE**

The purpose of the item to appoint an acting Executive Director for LED, Planning & Human Settlements.

**BACKGROUND**

The Local Government's Municipal Systems Amendment Act No 7 of 2011 was enacted into law and is effective as from the 11 July 2011. This Act vests in Council the power to appoint an acting manager directly accountable to the Municipal Manager in terms of section 56 (1)(a)(ii) which reads thus:

*"Section 56(1)(a) A municipal Council, after consultation with the municipal manager must appoint –*

*(i) ...*

*(ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed."*

On the 14 February 2017, Council resolved during its Special meeting under Item SA1/2017 as follows:

**COUNCIL RESOLVED: (14 FEBRUARY 2017)**

1. That Council **APPOINTS** Mrs. MG Mothekhe as acting Executive Director: LED, Planning and Human Settlements from 1 March 2017.
2. That the acting period **SHOULD NOT EXCEED** three (3) months.
3. That the Accounting Officer **MUST FINALIZE** the process of the recruitment and selection of candidates within the period of three months from the date hereof.

On the 11<sup>th</sup> of May 2017, Council resolved during its Special meeting under Item SA6/2017 as follows:

**COUNCIL RESOLVED: (11 MAY 2017)**

1. That Council **APPROVES** the request for an application for the extension of the acting period of Ms. M Mothekhe in terms of section 56(1) (c) of the MSA as amended.
2. That the Executive Mayor **IS DELEGATED** to depose the letter to the MEC of Local Government.
3. That a Panel of 5 members comprising of 1 representative from COGTA, 1 representative from SALGA, the Executive Mayor or his appointee, the MMC of Corporate Services and Cllr. A Styger **IS APPOINTED** to conduct the short-listing and

interviews for the advertised positions of Executive Director: LED, Planning & Human Settlements and Executive Director: Community Services.

4. That the extension of the acting period beyond three months should **NOT BE CONSTRUED** to create a legitimate expectation of appointment by the incumbent.
5. That Council **APPOINTS** Mr. J. Molawa to act as the Executive Director: Community Services with effect from 1<sup>st</sup> June 2017.
6. That the acting period should **NOT EXCEED** three (3) months.

#### **MATTER UNDER DISCUSSION**

The acting period of Ms. M. Mothekhe will expire on the 31<sup>st</sup> of August 2017 and Council should take note of the following:

1. That the Municipality advertised for the vacant post of the Municipal Manager, Executive Director: LED, Planning & Human Settlements and Community Services on Media News of 20-26 January 2017, the Free State Sun of 13-19 January 2017 and City Press. The closing date for the application was the 3<sup>rd</sup> February 2017.
2. Only the position of the Municipal Manager has been filled as per Council resolution of the 13<sup>th</sup> of July 2017 under Item SA8/2017.
3. That prudent application of the Local Government: Regulations on the appointment and conditions of service of senior managers of 2014, encourages that the Municipal Manager should chair a selection panel for the selection process of Managers directly accountable to the Municipal Manager.
4. The afore-mentioned regulations provide for timelines for the appointment of Senior Managers and those requirements must be adhered to, failing which the entire process will be unlawful.

Having regard to the above, an advertisement was issued on both Media News and City Press on 28 July 2017 and 30 July 2017 respectively, inviting suitable candidates to apply for a position of an Executive Director: LED, Planning & Human Settlements. The closing date is 21 August 2017.

\*\*\* Copies of the advertisements in both Media News and City Press **are attached on page 1 to page 4 of the Annexures.**

#### **FINANCIAL IMPLICATION**

The financial implication will be in line with the acting policy of the Matjhabeng Local Municipality.

#### **LEGAL REQUIREMENT**

In terms of the provisions of the Local Government: Municipal Systems Amendment Act, No.7 of 2011, the authority to appoint a manager accountable to the Municipal Manager vests with Council.

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Section 56(1)(a) of the aforesaid Act provides as follows:

*“Section 56(1)(a) A municipal council, after consultation with the Municipal Manager **must** appoint –*

*(ii) ...*

*(ii) an acting manager directly accountable to the municipal manager under circumstances and for a period as prescribed.”*

Section 56(1)(b) requires further that a person appointed in terms of paragraph (a)(ii) **must** at least have the skills, expertise , competencies and qualifications as prescribed.

### **RECOMMENDATIONS**

#### **It is recommended that:**

1. That Council appoints ..... as the acting Executive Director: LED, Planning & Human Settlements as from the 1<sup>st</sup> September 2017.
2. That the acting period of the afore-mentioned must not exceed a period of three months.
3. That the Municipal Manager should finalize the selection process of the Executive Director: LED, Planning & Human Settlements.

SA11 of 2017

**APPROVAL OF THE BANKING FACILITIES AND OVERDRAFT OFFERED BY ABSA BANK LIMITED FOR THE 2017/18 FINANCIAL YEAR (EXECUTIVE MAYOR) (12/1/2/3)**

**PURPOSE**

To request approval for the banking facilities and overdraft offered by ABSA Bank Limited for the 2017/18 financial year.

**BACKGROUND**

In terms of Section 7 of the Municipal Finance Management Act 56 of 2003, must every municipality open and maintain at least one bank account in the name of the Municipality. All the money received by the Municipality must be paid into its bank account or accounts, and this must be done promptly and in accordance with Chapter 3 of the aforementioned act and any requirements that may be prescribed. Section 8 of the Municipal Finance Management Act 56 of 2003 indicates all the moneys that must be paid into a Municipality's primary bank account.

The volume of the banking transactions that the Municipality performs daily is a great number which result in too excessive banking costs, the Municipality should therefore manage and reduce the banking cost by implementing a banking facility that will assist and perform the aforementioned.

Every year the Council of the Municipality is responsible for approving the banking facilities offered. ABSA Bank Limited has approved banking facilities in favour of the Municipality.

Council resolved previously that:

1. The client opens/operates bank accounts with ABSA Bank Limited ("the bank") from time to time.
2. The client negotiates and accepts banking facilities and/or other banking services/products, including but not limited to electronic banking products and foreign exchange products, with the bank.
3. The municipality be entitled to:

Request the Bank to open new or close existing bank accounts;

Negotiate and settle the terms and conditions of the banking facilities/services/products on behalf of the client;

Sign all documentation relating to 3.1 and 3.2 including but not limited to application forms, agreements, facilities letters, security documents including but not limited to indemnities, surety ships, cessions, undertakings and mortgages;

Authorize individuals to give instructions to the bank, whether verbal, written, faxed or electronic, that may be necessary for the utilization of the banking facilities/services/products;

For purpose of electronic banking services, appoint system managers who will be responsible for registration of operations; registration of modules and authorizations per operator; linking accounts to operators; changing operator detail;

Authorize individuals to sign cheques, bills of exchange, promissory notes, other negotiable instruments, documentation relating to deposit and withdrawal of funds in any bank account;

4. The Mayor be authorized to supply the bank with the names and specimen signatures of the persons authorized pursuant to 3 above.

## **DISCUSSIONS**

None

## **POLICY POSITION**

Liability, Investment and Cash Management Policy

## **LEGAL IMPLICATIONS**

Municipal Finance Management Act 56 of 2003 Section 7

## **FINANCIAL IMPLICATOINS**

ABSA Bank Limited will assist Council in reducing and effectively managing Council's banking cost.

Overdraft facility of R 10 000 000.

## **RECOMMENDATION**

1. That the Council approves the banking facilities and overdraft facilities of **R10 000 000** for the 2017/18 financial year.