

A86 of 2017

**REPORT ON THE TRAINING OF WARD COMMITTEE SECRETARIES
(SPEAKER) (3/8/1/1)**

PURPOSE

To submit to Council for noting, the training of Ward Committee Secretaries on Report Writing and Minute-taking. The training was held on the 10th August 2017 at TS Du Plessis Hall at 8h30.

The Office of the Speaker in conjunction with COGTA conducted a successful training.

*** See the Attendance Register of all Ward Committee Secretaries who attended the training **on page 1 to page 2 of the Annexures.**

Attendance Certificates were issued after the completion of the training.

FINANCIAL IMPLICATIONS

None

RECOMMENDATIONS

1. That all 36 wards must submit reports on or before the 7th of every month to the Office of the Speaker.
2. That the Office of the Speaker must distribute the reports to the Municipal Manager's Office for attention or implementation.
3. That feedback should be given on the 15th of every month.

A87 of 2017

PAPERLESS AGENDA DEVICE REPORT (SPEAKER) (2/2)

PURPOSE

The purpose of the report is to submit to Council for noting, the training that Matjhabeng Municipality undertook on various dates in order to fulfill the Council Resolution of 31 May 2017 – A45/2017:

“That at the Council meeting scheduled for the 30th August 2017, all Council documentation would be distributed electronically and Councillors are expected to operate the gadgets during the meeting.”

*** See the schedule of all Councillors who attended the short training on paperless office **on page 3 to page 4 of the Annexures.**

64 Councillors attended the training and only 8 Councillors were unable to attend.

RECOMMENDATION

1. That Council takes note of the report.

A88 of 2017

REPORT ON THE CURRENT STATUS OF THE BY-LAWS, PENALTY CLAUSES AND RECOMMENDATIONS (SPEAKER) (1/2/1)

PURPOSE

The purpose of the report is to advise Council about the current status of the By-Laws and possible recommendations for consideration.

BACKGROUND

The municipality has 17 by laws which were promulgated in 2008, 2010 and 2015. There are 14 by-laws which are adopted by council but not yet promulgated. The list of the by-laws is attached to the report.

The challenges of the promulgated by laws are:

1. There has been a number of amendments to National Legislations that have a direct impact on the implementation of by-laws at municipal level. Having regard to the above, some of them will have to be amended.
2. The offences and penalty clauses do not make provisions for the following:
 - 2.1. A specific fine not exceeding a certain amount, i.e. *“Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and liable, on conviction to a fine not exceeding R 2000, 00 or imprisonment for a period not exceeding 24 months or both such fine and such imprisonment, as well as liable to the Council the tariff charge in respect of such removals or disposal. (Ekurhuleni: Solid Waste Management By-laws-Chapter 8, section 24(3)”*
 - 2.2. Another example: *“62)7) Upon conviction of an offence in terms of this by law, a person is liable to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment and the fine shall be calculated according to the ratio determined for such imprisonment in terms of the Adjustment of Fines Act (101 of 1991)” - Municipal Planning By law , 2016, City of Johannesburg.*
- 3 Recovery of Costs: There seems to be provision for the recovery of cost that are incurred by the municipality for any contravention of the by-laws. i.e.
 - 3.1 *“Any person committing a breach of the provision of these by- laws is liable to re-compensate the municipality for any loss or damage suffered or sustained by it in consequence of the breach” Draft Standard water services by law.*
 - 3.2 Another example *“11(d) any losses the municipality may suffer as a result of tempering with municipal equipment or meters” City of Cape Town, Credit control and debt collection by law.*
- 4 There seems to be uncertainty on whether section 56 of the National Road Traffic Act, no 93 of 1996 can still be used to effect spot fines or not.

MATTERS FOR DISCUSSION

The by-laws that were promulgated between 2008 and 2015 are still applicable and will require amendments to include:

1. *Cost recovery clauses that will be guided by the tariffs approved by Council;*
2. *General tariffs should cover a wide range of services in order to provide a cover for the recovery of costs.*
3. *Penalty clauses that suggest a fine not exceeding R2000,00 and also make reference to the Adjustment of Fines Act 101 of 1991*
4. *The municipality should investigate the development of a fine Schedule and have it approved by council for implementation”.*
5. *A legal opinion be sought to determine whether section 56 of the National Road Traffic Act, 93 of 1996 can be used to effect the fine schedule”*
6. *The credit control and debt collection by-law be repealed and be replaced by the standard draft by law with suggested recommendation from the by-law sub- committee.*
7. *The Water Services by-law be amended to include suggestions from the Department of water affairs.*
8. *The Tariff by law be promulgated with immediate effect in order to give effect to the Tariff Policy.*
9. *All by laws that do not constitute the 15 that have been promulgated should be replaced by the draft standard by laws*

FINANCIAL IMPLICATIONS

The promulgation of the by-laws attract cost for the Gazette which will be determined after receipt of quotation from the relevant department.

LEGAL AND POLICY REQUIREMENT

Section 156 (2) of the Constitution of the Republic of South provides that: “*A municipality may make and administer by –laws for the effective administration of the matters which it has the right to administer”*

RECOMMENDATIONS

It is recommended that:

1. That the Credit Control and Debt Collection by-law be replaced the standard draft by law with suggested inputs.
2. That the Water Services by-law be amended to include suggestions from the Department of Water Affairs.
3. The General Tariffs should cover a wide array of services in order to recover costs.
4. That a fine schedule of contraventions of different by-laws be investigated and recommendation be submitted to Council for approval.

5. That the Standard draft by-laws developed by the Free State Provincial Government be implemented in line with section 14 of the Local Government: Municipal Systems Act, 32 of 2000 subject to recommended amendments for those that are not yet promulgated.
6. The penalty clauses should include both the recovery of the cost incurred by the Municipality for contravention of the by-law and compliance with the Adjustment of Fines Act 101 of 1991.
7. That a legal opinion be obtained to determine whether the Municipality can continue to issue a fine using section 56 of the National Road Traffic Act no. 93 of 1996.

A89 of 2017

REPORT ON THE IMPLEMENTATION OF THE DRESS CODE IN LINE WITH THE STANDARD RULES AND ORDERS OF COUNCIL (SPEAKER) (2/2/1/1)

PURPOSE

To submit a report to Council on the implementation of the standard rules and orders, in particular, the dress code of Council.

BACKGROUND

The local government elections were held on 3 August 2017 and the first inaugural meeting of the Municipality was held on 16 August 2017. An item on the adoption of the Standard rules and orders served in Council under item **IA5/2016**.

“COUNCIL RESOLVED: (16 AUGUST 2016)

1. *That the Standard Rules and Orders as amended, attached herein **BE NOTED** and adopted as the Standard Rules and Orders of the Council of the Matjhabeng Municipality's working document.*
2. *That a workshop in which all new Councillors would be orientated in Standard Rules and Orders as well as all other related policies of Council **BE CONDUCTED**.*”

Despite the adoption of the Standard Rules and Orders, subsequent letter directed to all Councillors dated 07 September 2016 on compliance with the standard rules and orders and the workshop held on 25 November 2016, the EFF Councillors continued to disregard the dress code until they were ejected from Council.

MATTER FOR DISCUSSION

The office of the speaker received a letter from Kwinana & Partners, a firm of attorneys dated 13 July 2017. The letter was intended to advise the Speaker that he has no powers to eject members of the EFF from Council and judgment of the ***High Court of South Africa, East London Circuit Court between the Economic Freedom Fighters and Buffalo City***.

*** See the Letter from Kwinana and the judgment **attached on page 5 to page 9 of the Annexures**.

A consultative meeting was arranged between the office of the speaker of Matjhabeng and the office of the speaker of Buffalo City which was held on 21 July 2017 at East London.

The following was established during the meeting:

- Buffalo City only had a draft Standard Rules and Orders which were not adopted by council during the inaugural meeting.
- That their dress code is not as detailed as that of Matjhabeng.

- That the judgment was as a result of a settlement agreement between the parties.
- That their facts differ with that of our municipality in that we adopted the Standard Rules and orders during the inaugural meeting, rule 32 specifically addresses the dress code and the speaker has the authority to eject any Councillor that does not comply with the rules. (*Rule 31B, sub-rule(2)*)

On 14 August 2017, the EFF served us with a Notice of Motion. In essence, they were alleging that the Speaker does not have authority to eject them from Council. We filed our Notice of Intention to oppose on 18 August 2017. On 16 August 2017, they withdrew their application.

FINANCIAL IMPLICATION

An attorney and senior council were appointed to defend the matter and their accounts are still outstanding. Council will be advised accordingly as soon as their accounts have been received.

LEGAL REQUIREMENTS

The report is submitted in line with section 59 and 61 of the Local Government: Municipal Systems Act, 32 of 2000.

RECOMMENDATIONS

It is recommended:

1. That Council takes note of the report.
2. That the Standard Rules and Orders of Council be complied with by all Councillors.
3. That the provisions of the Dress Code remain binding to all Councillors until repealed or amended by Council or set aside by the Court of law.

A90 of 2017

DISPUTE OVER HOUSE 15761 THABONG (DISPUTE RESOLUTION CHAIRPERSON) (8/3/245)

PURPOSE OF REPORT

To present to Council the facts established by the Dispute Resolution Committee during their investigation.

To assist Me Ntsopa Selina Mokoena to take the occupation of residential property at house 15761 Thabong.

PARTIES

The Complainant is Ntsopa Selina Mokoena daughter of the late Me Marake.

The Defendant Mr. John Mosupa the previous owner of house 15761 Thabong.

House 15761 Thabong belongs to Khayaletu Home Loans. Khayaletu Home Loans granted a loan to Mr. Mosupa to buy a house for the amount of R24 545.00 on the 06th May 1991.

*** See the confirmation of the loan and proof of ownership by Khayaletu loans **on page 10 to page 14 of the Annexures.**

Mr. Mosupa failed to make regular payments of his loan and this resulted in the loan accumulating arrears. The house was ultimately repossessed by the company due to non-payment of the buyer of the house.

*** See the notice of non-payment **on page 15 of the Annexures.**

Me Selina Mokoena stated that her late mother Mrs Marake and her family were staying together with Mr Mosupa without formal marital documents.

Me Selina Mokoena claimed that after the house was repossessed from Mr Mosupa in 1998, she applied for an individual subsidy to pay the bond, and the application was approved.

*** See the proof of subsidy approval **on page 16 to page 17 of the Annexures.**

Me Selina stated that Mr. Mosupa left the house after it was repossessed and came back after her mother's death.

Mr. Mosupa, the defendant agreed that he left the house due to continuous family squabbles. The latter stated that as he is the person who applied for a loan for the house, therefore the house belongs to him. He stated that he was not aware that Mrs. Mokoena has applied for a subsidy to settle the arrears of the house.

ISSUES IN DISPUTE

- The house was repossessed from Mr. Mosupa in 1998 due to non-payment of the bond.

- Mrs Selina Mokoena daughter of Mrs Marake applied for individual subsidy to settle the house no. 15671. The subsidy was approved and the payment was done in her name.
- The house 15761 Thabong is currently used for business activities, while Mrs. Mokoena whose subsidy paid for the settlement of the debt does not stay at the house because of the ongoing conflict between her and Mr. Mosupa.

*** See the advice from Legal Services **on page 18 to page 19 of the Annexures.**

LEGAL IMPLICATIONS

Refer to the advice from the Legal Services.

RECOMMENDATIONS

1. That the Dispute Resolution Committee recommends that Council endorse the papers that declared the complainant as the lawful occupier of the property in question.
2. That the grant subsidy approved to pay off the house was made in the names of the complainant and thereby giving her the legal right towards the property.

A91 of 2017

DISPUTE OVER HOUSE 3556 THABONG (DISPUTE RESOLUTION CHAIRPERSON) (8/3/2/45)

PURPOSE OF REPORT

To present the dispute to Council for consideration and finalization.

PARTIES

The complainant is Me Sara Sethole currently staying in house no 3556 Thabong.

The Defendant is Mr Abel Sethole the previous owner of house 3556 Thabong.

BACKGROUND

The house no. 3556 Thabong was allocated to Mr Abel Sethole in 1971 by the Municipality.

*** See the proof of allocation **on page 20 of the Annexures.**

In 1987 Mr. Abel Sethole gave house no. 3556 Thabong to his younger brother Mr Albert Sethole and his wife Sara Sethole who were legally married.

*** See the marriage certificate **on page 21 of the Annexures.**

Mr Abel Sethole bought house no. 5578 Thabong where he stays with his family currently.

In 2001 Mr. Albert Sethole moved out in the house no. 3556 Thabong and left his family behind. His wife Sara Sethole stayed in the house together with her children to date.

Me Sara Sethole stated that she was staying in the house since 1987 under the impression that the house belongs to them.

The latter stated that she renovated the house using her money, after she was retrenched from work. She furthermore stated that since her husband left in 2001, he never came back to evict them in the house.

ISSUES IN DISPUTE

- That Mr. Abel Sethole wants to evict Mrs. Sara Sethole and her family.
- That in 1987 the verbal agreement was made between Mr. Abel Sethole and his younger brother, Mr. Albert Sethole for occupation of the house.
- That Mrs. Sara Sethole is married to Mr. Albert Sethole and also her children grew up in the house since they took occupation of the house.
- That Mrs. Sethole did not bother to apply for a site as she was under the impression that the house belongs to her.

*** See the advice from Legal Services **on page 22 to page 23 of the Annexures.**

LEGAL IMPLICATIONS

Refer to the advice from the Legal Services.

RECOMMENDATIONS

1. That Mrs Sethole has no other alternative place to stay with her family, and that in that basis she be given the house to stay with her family.
2. That the municipal services account be opened on Mrs Sethole's name to enable her to pay the municipal services.

A92 of 2017

DISPUTE OVER HOUSE 1249/51 THABONG (DISPUTE RESOLUTION CHAIRPERSON) (8/3/2/45)

PURPOSE OF REPORT

To present to Council the facts established by the Dispute Resolution Committee during their investigation.

PARTIES

The complainant is Me Ditswanelo Mokoenyana the daughter of the late Me Violet Mokoenyana and the grand-child of the late Me Maria Mokoenyana.

The complainant is supposedly the executrix of the estate late Me Violet Mokoenyana who inherited the house in dispute from her late parents Me Maria Mokoenyana and Mr George Makhanye.

The defendant is Mrs Royal SemangelaTlali.

BACKGROUND

House no. 1249/51 was allocated to the late Dr Tlali and R.S. Tlali. Me R.S. Tlali was appointed in 1990 as executrix of the estate of the late Dr. Tlali.

In 1996 Me R.S. Tlali sold the house to Me Maria Mokoenyana and Mr George Makhanye for the amount of R40 000.00 (Forty Thousand Rand).

*** See the agreement of sale **on page 24 of the Annexures.**

In terms of the agreement of sale, the purchase price was to be paid in instalments. The house was to be transferred to the buyers on payment of the final instalment. According to records a total amount of R32 500.00 was paid by Me Maria Mokoenyana to the defendant and a balance of R7 500.00 is still outstanding.

*** See the proof of payment **on page 25 of the Annexures.**

ISSUES IN DISPUTE

- The defendant wants the house back in her name or the balance of R7 500.00 of the purchase price.
- The defendant further alleges that the children together with the complainant left therefore there are no prospects of getting the balance owned to her.
- The defendant offers to buy the descendants of Me Violet Mokoenyana a four-roomed house in exchange of the house in dispute and thereby forfeiting the balance owned to her.

- The complainant stated that they (she and other heirs) can raise the balance owed to the defendant and pay it given the chance to.
- It is therefore; proved from the complainant that they do not want to give up their inheritance from their grand-parents which devolved on their mother and now them.

ISSUES NOT IN DISPUTE

- The defendant sold the house to the grand-parents of the complainant as evidenced by the agreement to purchase.
- The defendant is owed a balance of R7 500.00 of the purchase price.
- In the file of house 1249/51 kept by Housing Office, the defendant signed the house over to the parent of the complainant, Me Violet Mokoenyana.

*** See the transfer of the house from Mrs Tlali to Mrs Violet Mokoenyane **on page 26 of the Annexures.**

The Title Deed for the house was applied for under the name of Violet Mokoenyana.

*** See the application of the Title Deed **on page 27 to page 29 of the Annexures.**

*** See the advice from Legal Services **on page 30 to page 33 of the Annexures.**

LEGAL IMPLICATIONS

- 1) There is a valid contract of sale between the defendant and the grand-parents of the complainant (the purchasers).
- 2) There has been performance on this contract by the purchasers as a result of which they took occupation of the house. When the defendant signed the transfer papers of the house to the names of Violet Mokoenyana, by implication she was saying that the full performance has been made and therefore, she is not owed a cent by the purchasers.
- 3) Difficult as it is to understand the mind-set of the defendant at the time of signing the transfer papers, however, the following inferences can be drawn from that conduct:-
 - a) Either the defendant was paid in full by the purchasers at the time of signing the papers.
 - b) Or if not, there must have been a separate agreement between the defendant and the late Violet Mokoenyana regarding the balance owed to her, that possibly the complainant does not know about. And if that is the case, it was incumbent upon the defendant to disclose that even if it was never honoured by the late.

RECOMMENDATION

1. That the Dispute Resolution Committee recommends that Council endorse the transfer documents that give the Title Deed to Violet Mokoenyana or her heirs.

A93 of 2017

DISPUTE OVER SITE 2640 MELODING (DISPUTE RESOLUTION CHAIRPERSON)
(8/3/2/45)

PURPOSE OF REPORT

To present to Council the facts established by the Dispute Resolution Committee during their investigation.

To request Council to consider allocation of residential site 2640 Meloding to the next person on the waiting list.

PARTIES

The complainant is Mr Samuel Simon Zuka.

The Defendant is Mrs Selloane Monyobi currently staying as site 2640 Meloding.

BACKGROUND

The site 2640 Meloding was initially allocated to Mrs Sannah Maqadika on the 9th May 1994.

*** See the proof of allocation **on page 34 of the Annexures.**

On the 6th January 2000 Mrs Maqadika made an affidavit to request transfer of the site 2640 Meloding to Mr Zuka.

The Declaration of Oath to transfer the site was both signed by Mr Zuka and Mrs Maqadika.

*** See the signed declaration of Oath **on page 35 of the Annexures.**

In the year 2000, Mr Zuka requested Mrs Monyobi who was his friend to stay at residential site no. 2640 Meloding while he was out of Meloding because of work reasons.

Mr Zuka made an affidavit to request Mrs Monyobi to stay at the house to look after his belonging while he was working outside the area.

*** See the affidavit made by Mr Zuka **on page 36 of the Annexures.**

*** See the affidavit made by Mrs Maqadika **on page 37 to page 38 of the Annexures.**

Both Mrs Maqadika and Mr.Zuka, did not occupy the site. The then official Mrs Qabathe repossessed site 2640 from Mr Zuka to re-allocate it to Mrs Moleleki on the 11th September 2000.

*** See the proof of re-allocation **on page 39 of the Annexures.**

In the year 2013 Mrs Moleleki (married to Makena) surrendered site 2640 Meloding to the Municipality.

*** See the affidavit of surrendering the house to the Municipality **on page 40 of the Annexures.**

The residential site 2640 Meloding was never allocated to any person after it was surrendered by Mrs Moleleki to the Municipality. The site still belongs to the Municipality and no one is registered as the site occupant.

ISSUES IN DISPUTE

- The conflict is between Mr Zuka and Mrs Monyobi.
- In the year 2000, Mr Zuka requested Mrs Monyobi who was his friend to stay at residential site no. 2640 Meloding while he was out of Meloding because of work reasons.
- Mr Zuka made an affidavit to request Mrs Monyobi to stay at the house to look after his belonging while he was working outside the area.
- Mr Zuka wants to evict Mrs Monyobi out of the residential site claiming that the site belongs to him.
- Mr Zuka stated that somebody forged his signature in making the affidavit.
- Mrs Monyobi insists that Mr Zuka signed the affidavit.
- Mrs Monyobi indicated that she paid an amount of R2000.00 as a thank you gesture to Mr Zuka for requesting a residential site transfer.

FINDINGS

- Mrs Monyobi is resident at the residential site no. 2640 Meloding since the year 2000.
- The site still belongs to the Municipality and no one is registered as the site occupant.
- The residential site 2640 was repossessed on the 11 September 2000 from Mr Zuka and re-allocated to Mrs Moleleki by the Municipality.
- The residential site 2640 Meloding was never allocated to any person after it was surrendered by Mrs Moleleki in the year 2013 to the Municipality.

*** See the advice from Legal Services **on page 41 of the Annexures.**

LEGAL IMPLICATIONS

Refer to the advice from Legal Services.

RECOMMENDATION

1. That the Dispute Resolution Committee recommends that Council allocates site 2640 Meloding to the defendant.

A94 of 2017

DISPUTE OVER RESIDENTIAL SITE 33645 HANI PARK BETWEEN MOKHESENG'S FAMILY (DISPUTE RESOLUTION CHAIRPERSON) (8/3/2/34)

PURPOSE OF THE MEETING

To request Council to consider the ownership of residential site 33645 Hani Park by M.A. Mokheseng.

DESCRIPTION OF PARTIES IN DISPUTE

Complainant: Mamoliehi Alina Mokheseng
Defendant: Mokheseng's family

BACKGROUND

The residential site 33645 Hani Park was initially allocated to M.A. Mokheseng in 2005. In 2012 Mrs M.A. Mokheseng applied for housing subsidy, which was approved and the house was built in her name.

- *** See the approval of the housing subsidy **on page 42 to page 43 of the Annexures.**
- *** See the Deeds Registration **on page 44 of the Annexures.**

The matter previously came before the Dispute Resolution Committee and it was referred back for further investigations as per recommendations of the report from Legal Department.

- *** See the resolution of the Dispute Resolution Committee **on page 45 of the Annexures.**

PROBLEM STATEMENT

- Mrs Maphakiso Malakabe Lejone stated that she requested Mrs MA Mokheseng to apply for a residential site 33645 Hani Park on behalf of her children because she cannot qualify for a residential site because she does not have an identity book.
- The conflict between these family regarding the residential site 33645 Hani Park continued until Alina Mokheseng came to the office to lodge a case regarding the problem. The family requested that Mrs Alina Mokheseng should allow them to stay in the residential site.
- Mrs Alina Mokheseng refused to allow them to stay in the residential site as she stated that she applied for the residential site and the house was approved in her name.

FINDINGS

- a) According to Housing records, residential site 33645 was allocated to Mrs Alina Mamoliehi Mokheseng in 2005 and her subsidy was approved on 16 November 2012.
- b) The house was built until to the wall plate, the roofing was not put on due to the conflict of the family.

- c) No records in housing department indicating that the family was on the housing waiting list for allocation.
- d) The house was built in the name of Mrs. Alina Mokheseng, therefore the title deed will also be issued out in her name.

*** See the advice from the Legal Services **on page 46 of the Annexures.**

LEGAL IMPLICATIONS

Refer to the advice from the Legal Services.

RECOMMENDATIONS

1. That as the house was built in the name of Mrs Alina Mokheseng, the Title Deed will be issued out in her name.
2. That Mrs Alina Mokheseng be allowed to occupy house number 33645 Hani Park.
3. That the contractor be informed to the finish the construction of house number 33645.
4. That Mokheseng's family be advised to apply for the site.

A95 of 2017

DISPUTE OVER HOUSE 4937 THABONG BETWEEN ME MARIA SIGWELA AND ME MAKHOLANE MARIA MAIKGOSHO (DISPUTE RESOLUTION CHAIRPERSON) (8/3/2/45)

PURPOSE OF REPORT

To request Council to adjudicate this matter in a fair and legally acceptable manner.

DESCRIPTION OF THE PARTIES

Complainant: Me Makholane Maria Maikhosho

The complainant is daughter in law to the late Me Ntaku Rose Mosounyane and currently staying in the house 4937 Thabong.

Defendant: Me Annie Sigwela daughter to the late Me Ntaku Rose Mosounyane.

BACKGROUND

House No: 4937 Thabong was a two roomed house that was initially allocated to the late Me Ntaku Rose Mosounyane by the Municipality.

*** See the proof of allocation **on page 47 of the Annexures.**

The house has Title Deed No. TL16009/1998 in the name of the deceased, Me Ntaku Rose Mosounyane

*** See the Title Deed **on page 48 of the Annexures.**

The late Me Ntaku Rose Mosounyane was staying with her son Ishmael Mosounyane and his wife Makholane Maria Maikgosho. After her death, the son and his wife remained in the house.

In the year 2010 the Premier announced a project called Operation Hlasela (Rectifications project), where all the old two roomed houses in Free State Province were to be upgraded through housing subsidies. The old structure was demolished.

The Municipal Housing Department took the initiative to identify all Matjhabeng old two rooms. They found that most of two roomed original owners were deceased.

The current occupants should apply for the housing subsidy. This resulted that the original owner of the house will be replaced by the current occupants who qualified for subsidy.

The area was re-developed by the housing subsidies provided by the Provincial Human Settlements into four roomed houses, and on the 20th May 2014 Ishmael Mosounyane and his wife Makholane Maria Maikgosho applied for subsidy, and it was approved and the house was developed in their names.

*** See the housing subsidy **on page 49 to page 50 of the Annexures.**

In 2015 Mr Ishmael Mosounyane got ill and died, and his wife applied for Letter of Authority for the estates of the late.

*** See the letter of Authority of the late estate **on page 51 of Annexures.**

PROBLEM STATEMENT

Me Annah Sigwela daughter of the late Me Rose Mosounyane after her brother's death, wanted to evict Maria Maikgosho and her daughter, stating that the house 4937 Thabong is a family house and it belongs to her late mother.

FINDINGS

The household file indicated that the original owner of house 4937 Thabong was the late Ntaku Rose Mosounyane, the house has title deed TL16009/1998.

The original two roomed house was demolished in the year 2010, and in the year 2014 the subsidy house was built under Mr Ishmael Mosounyane and Maria Maikgosho.

This resulted that the old title deed of the original owner will be de-registered and the new title deed will be registered in the name of the complainant and her late husband.

The defendant currently has a house numbered 15424 Thabong where she is staying with her family.

The defendant has no authority over the property of house 4937 Thabong while the complainant has a Letter of Authority and the housing subsidy.

*** See the advice from Legal Services **on page 52 to page 53 of the Annexures.**

LEGAL IMPLICATIONS

Refer to the advice from the Legal Services.

RECOMMENDATIONS

1. That since the housing Provincial housing subsidy has been approved of Maria Maikgosho, the Municipality cannot decline the ownership in favour of Maria Maikhosho.
2. That Anna Sigwela did not stay on the residential site and was not responsible for services and her application should be declined.

A96 of 2017

DISPUTE OVER HOUSE 5209 K6 KUTLWANONG (DISPUTE RESOLUTION CHAIRPERSON) (8/3/2/47/5)

PURPOSE OF REPORT

To present the dispute to Council for consideration and finalization.

DESCRIPTION OF THE PARTIES

Complainant: Me Ditlhare Elizabeth Mokgoera, the wife of the late Daniel Mokgoera. The complainant is supposedly the executrix of the estate late Daniel Mokgoera.

Defendant: Me Nxoboyi presently residing on site 5209 K6 Kutlwanong.

BACKGROUND

The under-mentioned sites were originally allocated to the following people in 1991 by the Municipality:

5206 K6	Emely Hlatshwayo
5207 K6	John Radebe
5208 K6	Daniel Mogoera
5209 K6	Jankie Mahlaku

*** See the proof of allocation **on page 54 to page 56 of the Annexures.**

The respective site holders did not occupy sites according to how they were pegged in terms of their site as a result, sites numbering was affected.

After re-numbering, new sites allocations were as follows:

5206 K6	Daniel Khoaripane Mahlaku
5207 K6	George Ndlovu
5208 K6	John Radebe
5209 K6	vacant
5210/5211	Daniel Mogoera

*** See the proof of new allocations **on page 57 to page 60 of the Annexures.**

ISSUES IN DISPUTE

- The complainant claimed that her late husband was re-allocated double site 5209/10 K6 by the Municipality, and later her late husband bought site 5211 K6 from Me Tshabalala.
- Site 5209 K6 remained vacant after re- numbering of sites by the Municipality.
- No information available in Housing Department indicating that the late Mr Mogoera has been allocated site no 5209 K6 Kutlwanong even after re-allocation of sites.

- The late Mr Mogoera is a rightful owner of site 5210/11 K6 where his family currently stays and both sites have no Title Deeds.
- The complainant registered site 5209 K6 Kutlwanong and the Title Deed No. 23729/2009 was issued out in her name.

*** See the Title Deed **on page 61 to page 62 of the Annexures.**

The defendant was allocated the site 5209 K6 in 2010 by the then Ward Councillor.

Tension has occurred between two parties, eventually an eviction letter was issued out to evict Me Nxoboyi with immediate effect.

*** See the eviction letters **on page 63 to page 64 of the Annexures.**

FINDINGS

- The late Mr Mogoera is a rightful owner of site 5210/5211 K6 Kutlwanong where his family currently stays and both sites have no Title Deed.
- Site 5209 K6 remained vacant after re-numbering of sites by the Municipality.
- No information in Housing Department indicating that site no: 5211 K6 was allocated to Me Tshabalala.

*** See the advice from Legal Services **on page 65 to page 66 of the Annexures.**

LEGAL IMPLICATIONS

Refer to the advice from the Legal Services.

RECOMMENDATIONS

1. That the Dispute Resolution Committee recommends that Council instructs Legal Services to conduct an investigation to find out who helped the complainant to register a Title Deed to this site.
2. That legal processes and/or internal disciplinary actions should flow from that investigation.
3. That the Dispute Resolution Committee recommends that Council instructs Legal Services to initiate the process of reversing the registration of the current Title Deed giving ownership rights to the defendant.

A97 of 2017

**CURRENT STATUS OF THE MUNICIPAL INFRASTRUCTURE GRANT (MIG)
CAPITAL PROJECTS IN MATJHABENG LOCAL MUNICIPALITY JUNE 2017
(EXECUTIVE MAYOR) (6/4/1)**

PURPOSE

To provide information on the current status of capital projects and related MIG expenditure progress for the month of **JUNE 2017**.

BACKGROUND

The PMU Department is currently in the Infrastructure Directorate, while working closely with the office of the Chief Financial Officer for the purpose of expediting the Municipal Infrastructure Grant (MIG) funding expenditure.

PMU has its own staff complement whose operational costs including salaries and tools of trade is funded from the MIG allocation and has been approved for **R5 668 150.90** for the current financial year.

DISCUSSION

There are various projects currently being implemented and are on various stages summarized as follows:

STAGE	NUMBER OF PROJECTS
Planning Stage	-
Design Stage	3
Tender Stage	0
Evaluation/ Adjudication Stage	1
Construction Stage	10
Retention Stage	11
Complete beyond DLP/ Retention	3
TOTAL NUMBER OF PROJECTS	28

*** See the implementation plan on page 67 to page 71 of the Annexures.

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATION

ALLOCATION	PLANNED EXPENDITURE	CURRENT EXPENDITURE	CUMULATIVE	BALANCE TO BE SPENT
R113,363,000,00	R11,235,527.09	R113,363,000,00		R0.00
	(10%)	(100%)		(0%)

CHALLENGES AND PROPOSED REMEDY FOR UNDER EXPENDITURE

None. Our MIG allocation for 16/17 financial year is fully spent at 100%.

RECOMMENDATION

1. That Council takes note of the report.

A98 of 2017

MONTHLY FINANCE REPORT – MAY 2017 (EXECUTIVE MAYOR) (6/4/1)

PURPOSE

To submit to Council the Monthly Finance Report for May 2017 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
 - 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 information from Solar. This is done with the GS 560 and BS 902 procedures. This report shows the transactions for the month VAT EXCLUSIVE.
- 4) The Expenditure Department provides the Budget Department with the creditor's age analysis and the top 20 outstanding creditors.
- 5) The Costing Section provides the Budget Department with the employee related reports and the overtime per department.
- 6) The Section 71 report is then compiled with all the information received from other sections and extracted from the Solar System.

DISCUSSIONS

*** See the finance report for May 2017 on **page 72 to page 92 of the Annexures.**

FINANCIAL IMPLICATIONS

TABLE 1	Actual for the month (May 2017)	For Year to date (2016/2017)
All Grants Received	-	501 151 000
Actual Revenue Received	81 095 587	921 295 913
Actual Expenditure	107 025 222	1 316 118 176
Salaries	54 626 811	601 923 637
Water	8 771 930	175 438 597
Electricity	1 028 255	137 976 054
Other Expenditure	42 598 226	400 779 888
Sub-Total	-25 929 635	106 328 737
Loan Redemptions	-	-
Net Surplus/(Deficit) before Capital payments	-29 929 635	106 328 737
MIG Payments	17 188 528	124 741 352
INEG Payments	-	-
EEDG Payments	-	1 048 191
Capital Assets procured - Equitable Share	407 183	2 447 476
Fleet & Equipment	-	-
Office convention/ Furniture	407 183	2 447 476
Net Surplus/(Deficit) after Capital payments	-43 525 346	

Table 1: The Municipality had a deficit of R43 525 346 for the month of May after capital payments. This means that the amount received is below the amounts paid.

TABLE 2	Actual for the month (May 2017)	For Year to date (2016/2017)
Total Billings	152 891 791	1 504 237 633
Less: Indigent Billings	3 463 806	28 492 109
Actual Billings	149 427 985	1 475 745 524
Actual Revenue Received	79 204 190	899 761 790
Consumer Revenue	72 063 882	810 440 472
Other	7 140 308	89 321 318
Grants & Subsidies	-	501 151 000

Pay rate for May 2017 (Total Billings)	53%
Total income percentage - May 2017	54%
Total income percentage – YTD	62%

The pay rate for May 2017 was 53%

The total income percentage for May 2017 was 54%.

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(1) of the Municipal Finance Management Act, number 56 of 2003 states:

- (1) The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the 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:
 - a) Actual revenue, per source;
 - b) Actual borrowings;
 - c) Actual expenditure, per vote;
 - d) Actual capital expenditure, per vote;
 - e) The amount of any allocations received;
 - f) Actual expenditure on those allocations, excluding expenditure on –
 - (i) Its share of the local government equitable share; and
 - (ii) Allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and
 - g) When necessary, an explanation of –
 - (i) Any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote;
 - (ii) Any material variances from the service delivery and budget implementation plan; and
 - (iii) Any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

RECOMMENDATIONS

1. That the Finance Report for May 2017 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003, be noted.
2. That the Finance Report for May 2017 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003, be submitted to Provincial and National Treasury.

A99 of 2017

MONTHLY FINANCE REPORT – JUNE 2017 (EXECUTIVE MAYOR) (6/4/1)

PURPOSE

To submit to Council the Monthly Finance Report for June 2017 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
 - 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 information from Solar. This is done with the GS 560 and BS 902 procedures. This report shows the transactions for the month VAT EXCLUSIVE.
4. The Expenditure Department provides the Budget Department with the creditor's age analysis and the top 20 outstanding creditors.
5. The Costing Section provides the Budget Department with the employee related reports and the overtime per department.
6. The Section 71 report is then compiled with all the information received from other sections and extracted from the Solar System.

DISCUSSIONS

*** See the finance report for June 2017 is attached on **page 93 to page 110 of the Annexures.**

FINANCIAL IMPLICATIONS

TABLE 1	Actual for the month (June 2017)	For Year to date (2016/2017)
All Grants Received	-	501 151 000
Actual Revenue Received	98 325 883	1 019 621 796
Actual Expenditure	78 476 6833	1 394 594 859
Salaries	59 368 316	661 291 953
Water	-	175 438 597
Electricity	768 717	138 744 771
Other Expenditure	18 339 650	419 119 538
Sub-Total	19 849 200	126 177 937
Loan Redemptions	-	-
Net Surplus/(Deficit) before Capital payments	19 849 200	126 177 937
MIG Payments	10 115 332	134 856 684
INEG Payments	-	-
EEDG Payments	-	1 048 191
Capital Assets procured - Equitable Share	456 275	2 903 751
Fleet & Equipment	-	-
Office convention/ Furniture	456 275	2 903 751

Net Surplus/(Deficit) after Capital payments	9 277 593	
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Table 1: The municipality had a surplus of R9 277 593 for the month of June after capital payments. This means that the amount received is above the amounts paid.

TABLE 2	Actual for the month (June 2017)	For Year to date (2016/2017)
Total Billings	140 719 012	1 644 956 645
Less: Indigent Billings	3 462 589	31 954 698
Actual Billings	137 256 423	1 613 001 947
Actual Revenue Received	96 438 931	966 200 721
Consumer Revenue	86 885 420	897 325 892
Other	9 553 511	98 874 829
Grants & Subsidies	-	501 151 000

Pay rate for June 2017 (Total Billings)	70%
Total income percentage - June 2017	72%
Total income percentage – YTD	63%

The pay rate for June 2017 was 70%
The total income percentage for June 2017 was 72%.

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(1) of the Municipal Finance Management Act, number 56 of 2003 states:

1. The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the 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:
 - a) Actual revenue, per source;
 - b) Actual borrowings;
 - c) Actual expenditure, per vote;
 - d) Actual capital expenditure, per vote;
 - e) The amount of any allocations received;
 - f) Actual expenditure on those allocations, excluding expenditure on –
 - (i) Its share of the local government equitable share; and
 - (ii) Allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and
 - g) When necessary, an explanation of –
 - (i) Any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote;
 - (ii) Any material variances from the service delivery and budget implementation plan; and
 - (iii) Any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

RECOMMENDATIONS

1. That the Finance Report for June 2017 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003, be noted.
2. That the Finance Report for June 2017 in terms of Section 71 of the Municipal Finance Management Act, number 56 of 2003, be submitted to Provincial and National Treasury.

A100 of 2017

THREE MONTHS FINANCE REPORT: APRIL - JUNE 2017 (EXECUTIVE MAYOR)
(6/4/1)

PURPOSE

To submit to Council the three Months Finance Report for April - June 2017 in terms of Section 52(d) of the Municipal Finance Management Act, number 56 of 2003.

BACKGROUND

Section 52(d) 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 quarter and for the financial year up to the end of that quarter:

- 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 52 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 Information Communication Technology Department runs all the month end reports.
3. The Budget Department then extracts the required income and expenditure information from Solar. This is done with the GS 560 procedures. This report shows the transactions for the month VAT EXCLUSIVE.
4. The Expenditure Department provides the Budget Department with the creditor's age analysis and the top 20 outstanding creditors.
5. The Costing Section provides the Budget Department with the employee related reports and the overtime per department.
6. The Section 52(d) report is then compiled with all the information received from other sections and extracted from the Solar System.

DISCUSSIONS

See the finance reports for April - June 2017 on **page 111 to page 123 of the Annexures.**

FINANCIAL IMPLICATIONS

TABLE 1	Budget for three months	Actual for three months (2016/2017)
Actual Revenue Received	413 170 210	251 536 274
All Grants Received	125 538 750	-
Total Income	538 708 960	251 536 274
Actual Expenditure	509 183 596	287 018 714
Salaries	162 162 536	171 175 850
Water	72 927 615	8 771 930
Electricity	96 181 441	2 823 442
Other Expenditure	177 912 005	104 247 492
Net Surplus/(Deficit) before Capital payments	29 525 364	-35 482 440
MIG Payments		39 310 620
INEG Payments		-
EEDG Payments		-
Capital Assets procured - Equitable Share		1 040 916
Fleet & Equipment		-
Office convention/ Furniture		1 040 916
Net Surplus/(Deficit) after Capital payments		-75 833 976

Table 1: The Municipality had a deficit of R75 833 976 for the quarter after capital payments. This indicates that the expenditure incurred is more than the revenue received for quarter.

TABLE 2	Actual for three months (2016/2017)
Total Billings	413 331 479
Less: Indigent Billings	10 348 178
Actual Billings	402 983 301
Actual Revenue Received	245 439 362
Consumer Revenue	217 981 617
Other	27 457 745
Grants & Subsidies	-

Pay rate - Fourth quarter (Billing)	61%
Total income percentage - Fourth quarter	61%
Total income percentage – YTD	63%

The pay rate for the fourth quarter was 61%

The total income percentage for the fourth quarter was 61%.

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 budget report is submitted in compliance with Section 52(d) of the MFMA no 56 of 2003. Section 52(d) stipulates that the mayor of the Municipality must, within 30 days of the end of each quarter, submit a report to council on the implementation of the budget and the financial state of the Municipality.

RECOMMENDATIONS

1. That the Finance Report for the Quarter (April - June 2017) in terms of Section 52(d) of the Municipal Finance Management Act, number 56 of 2003, be noted.
2. That the Finance Report for the Quarter (April - June 2017) in terms of Section 52(d) of the Municipal Finance Management Act, number 56 of 2003, be submitted to provincial and national treasury.

A101 of 2017

SHORTAGE OF PERSONNEL AT FIRE DEPARTMENT (EXECUTIVE MAYOR)
(5/3/2/7)

PURPOSE

To bring under the attention of Council the need for appointment of personnel at the Fire Department.

BACKGROUND

The Fire Department is in dire need of personnel. Currently we are running a 4 shift system at each unit. The current shifts structure accommodate all our personnel with only 4 members per shift of which one must man the Control Room, this leaves 3 people to attend to a fire. Of these 3 one must handle the pump of the Fire Engine, one must pick up the hydrant to provide the Fire Engine with water; this lead to only one person to extinguish the fire. As it is, one person cannot hold the water strength of a fire hose; it must be handled by two people. Even more so if a Fire Fighter on the shift book off sick or is on leave, it means that the pump operator must leave his duties to pick up a hydrant.

Our approved structure makes provision for 78 Fire Fighters; this was when we were operated on a 3 shift system. Because of excessive working hours the shift system was changed to a 4 shift system.

In 2016 the new Fire Station in Mmamahabane was opened and no personnel were appointed to date for this station. Currently we have only 62 Fire Fighters appointed that must be divided into 4 shifts for the 5 Fire Stations.

During October 2016 the positions were advertised but were withdrawn just before the interviews could be held. In the meantime the current appointed Fire Fighters were working overtime to compensate for the shortage of personnel. This overtime was cancelled in the beginning of 2017.

FINANCIAL IMPLICATIONS

As per salaries to be paid for the appointed personnel because most of the positions are already approved on the current structure.

LEGAL IMPLICATIONS

None

POLICY POSITION

None

RECOMMENDATION

1. That the proposed organogram be approved and that the vacant positions be filled immediately.

A102 of 2017

EMERGENCY AND UTILITY VEHICLES AT FIRE DEPARTMENT (EXECUTIVE MAYOR) (20/2/2/1/1)

PURPOSE

To bring under the attention of Council the need for the procurement of Emergency and Utility vehicles at the Fire Department.

BACKGROUND

Most of the vehicles of the Fire Department are older than 20 years. This leads to that the vehicles are standing more often in the workshops and private service providers for repairs. After repairing these vehicles it will stand for more than 2 years at the service providers awaiting payment from Council before it gets released.

In 2013 the Council went out on tender to buy new Fire Engines. The tender was for 6 new fire engines which would have been received at a pace of 2 a year. After the Fire Department received the first two vehicles the tender company was liquidated and we did not receive any other fire engines. The Areal Device (Hydraulic Platform) that is used for fires in high rise buildings is also older than 20 years and is standing with a broken hydraulic pump. This vehicle is so old that we cannot get replacing parts.

The Fire Department is also in need of Utility vehicles to transport personnel between stations and will be used for personnel to conduct fire safety inspections. We are also in need for 4x4 bakkies that will be utilized to transport skid units especially for veld fires because a fire engine is not built for driving in the veld. We are being kept very busy with veld fires especially during winter.

In the townships there are limited Fire Hydrants and we requiring water tankers for the East and West regions to assist with fires in the townships.

FINANCIAL IMPLICATIONS

As per tender that will be obtained through Fleet Management for the procurement of the required vehicles (Major Fire Engine for each station, Hydraulic Platform for Welkom, water tankers for East and West region, utility vehicles for each station and 4x4 bakkies for each station for veld fires).

LEGAL IMPLICATIONS

None

POLICY POSITION

None

RECOMMENDATION

1. That the procurement of the fleet be speeded up as only 2 Fire engines are currently operational for the whole Matjhabeng and if one Fire Engine goes in for repairs only one Fire Engine is left to serve the whole Matjhabeng area.

A103 of 2017

UPGRADING OF STUDENT ACCOMMODATION (EXECUTIVE MAYOR) (5/9/3)

PURPOSE

To bring under the attention of Council the need for an upgrade and renovation of the accommodation at the Fire Training College situated at the Fire Department.

BACKGROUND

The Training College of the Fire Department runs two courses during the year and each for a six month period. We can only accommodate 24 students during each course. These students stay in the Fire Training Quarters for the whole duration of the course.

Students pay an amount of R14 343.47 for the course and including their accommodation. The Fire Department only provides the accommodation and the students are responsible for their own meals.

Currently these students sleep on steal frame beds with foam mattresses. The rooms do not have any locker facilities which they can use to lock away their clothes and valuables. They also do not have any desks with appropriate illumination to study by during night time.

FINANCIAL IMPLICATIONS

As per quotations which will be obtained for the upgrading of the accommodation, of the students at the Fire Training College.

LEGAL IMPLICATIONS

None

POLICY POSITION

None

RECOMMENDATION

1. That the upgrading of the student accommodation be approved, as the students pay a lot of money for the course and for accommodation.

A104 of 2017

**ESTABLISHMENT OF BOTH INDOOR AND OUTDOOR SHOOTING RANGES
(EXECUTIVE MAYOR) (10/1/1/4)**

PURPOSE

The purpose is to request permission from Council to establish both indoor and outdoor shooting ranges.

AIM

The aim is to have our own facilities, to save funds and time, by training Traffic Learners and the employees of Municipality in terms of Fire Arm Control Act.

BACKGROUND

Matjhabeng Traffic Training Academy is accredited to offer Traffic Officer course called Further Education and Training: Certificate: Road Traffic Law Enforcement ID number 62289 and the accreditation number of the College is 111999691940. This qualification is involving Fire arms training with three unit standards, that is, Fire Arm Control Act, Handle and use handgun and Handle and use handgun for Business purposes.

The Department is also having Law Enforcement Officers, that is Security personnel and Traffic Officers who must undergo refresher training on Fire Arms as per Fire Arm Control Act (Act 60 of 2000). The College had to apply separately for accreditation to offer Fire Arm training and the accreditation is received with registration number 4000839. Since 2011 the memorandum of understanding (MOU) for both Lengau Traffic Training College and that of Excalibur Shooting range was used.

The cost that we incurred involved travelling to and from Bloemfontein, toll gates and also having to pay for using Excalibur shooting ranch. The ammunition costs are also high. It is against this background that we request permission to establish our own shooting ranges.

IDENTIFIED AREAS

1. Indoor shooting ranch can be establish at the College there is a place for car pots that can be converted into an indoor shooting range.
2. Outdoor shooting range is identified at Klippan area since it is outside and it can be developed with ease.

This item served in Council on the 26th November 2015 under Item A136/2015 and Council resolved as follows:

COUNCIL RESOLVED: (26 NOVEMBER 2015)

1. That the item **BE REFERRED BACK** for detailed analysis of revenue that would be generated from the training of Traffic Officers.
2. That the item **BE RE-SUBMITTED** with comprehensive information that would enable Council to take informed decisions.

FINANCIAL IMPLICATIONS

- To apply for a tender as per the attached specifications
- After completion of establishment to apply for shooting range accreditation in terms of the Fire Arm legislation.

LEGAL IMPLICATIONS

Fire Arm Control Act
National Road Traffic Act
Road Traffic Management Corporation Act
Criminal Procedure Act

RECOMMENDATIONS

1. That permission be granted to establish both indoor and outdoor shooting ranges.
2. That a tender be advertised in order to acquire a Service Provider who will build those shooting ranges.

A105 of 2017

ACCOMMODATION FOR LEARNERS AT THE MATJHABENG TRAFFIC TRAINING ACADEMY (EXECUTIVE MAYOR) (8/3/2/51/1)

PURPOSE

The Purpose is to report to Council about the buildings to be identified for Traffic Students accommodation and further request permission from the Council to allow the College to have the white House Building situated in Stand number 6630/1, at 112 Highlands Avenue in Virginia renovated and be used for accommodation of the Learners.

BACKGROUND

Matjhabeng Traffic Training College is an accredited Traffic College with the capacity of hundred and three (103) learners per term (one year). The College is training learners who come from other municipalities and / or other provinces and from our Municipality.

It is however been a challenge that our clients always cancel to register their employees with the College as a result of not having accommodation. This matter was once tabled to the Section 80 Committee meeting but since 2011 it has not been addressed. The instruction from the Section 80 Committee was to identify buildings that belong to the Municipality that could be used for this purpose.

IMPLICATIONS

The Housing department and the unit Manager in Virginia was consulted with regard to this particular Building. Infrastructure (Housing Department) is in the position to indicate the costs for renovation of the Building.

LEGAL IMPLICATIONS

National Road Traffic Act
Road Traffic Management Corporation Act
National Traffic Training Policy

RECOMMENDATIONS

1. That Council approves the usage of White house Building Stand number 6630/1, Address 112 Highlands Avenue at Virginia for the accommodation of Traffic Students and that the necessary renovations and partitioning be made on that building.
2. That the costs for the renovation of the building be indicated in the report that will be submitted in the next meeting.

A106 of 2017

**MIG BUDGET MAINTENANCE FOR THE UPGRADING OF DR MNGOMA ROAD
(EXECUTIVE MAYOR) (3/3/27) (6/4/1)**

PURPOSE

The purpose of this item is table to Council the application for budget maintenance that is required in the Upgrading of Dr Mngoma Road project that is being implemented by the Municipality and funded through the MIG grant.

BACKGROUND

The upgrading of Dr Mngoma Road and Stormwater Management

After appointment the project was stopped with a court order by one of the Tenderers, the case was finalized in February 2017. The roadbed preparations by the previous Contractor were damaged during abnormal rains in January and February 2017. The newly appointed Contractor had to re-do the box cut and road bed. The roadbed subsequently needed to be stabilized with additional dump rock.

DISCUSSION

The newly appointed Contractor was appointed for an amount of R8 228 470.43 VAT Incl. and Contingencies. Due to the extra work that the Contractor had to do there was a shortfall of R1 881 541.82 including professional fees. A formal budget maintenance must be applied for as it is a requirement from COGTA when there is a shortfall and this must be approved by Council.

LEGAL IMPLICATIONS

This item has been prepared in compliance with the provision of the Municipal Systems Act. 32 of 2000

FINANCIAL IMPLICATION

Costs Description	Total Current Registration Amount (Incl. Vat)	New proposed registration amount (Incl. Vat)	Total Shortfall (Incl. Vat)
Construction Costs	R8 959 324.40	R10 715 984.68	R1 756 660.28
Professional fees	R1 487 247.85	R1 612 129.39	R124 881.54
Total	R10 446 572.25	R12 328 114.10	R1 881 541.82

*** See the registration and appointment letter on page 124 to page 126 of the Annexures.

OTHER IMPLICATIONS

It is very important that Council approves this budget maintenance as the available funding will not be enough to complete the project and thus the project will not serve its purpose and might result to Community unrest.

RECOMMENDATION

1. That the Budget Maintenance be approved for the successful completion of the project.

A107 of 2017

**MIG REQUEST FOR BUDGET MAINTENANCE FOR NYAKALLONG
STORMWATER SYSTEM CONSTRUCTION (EXECUTIVE MAYOR) (19/8/1/6)**

PURPOSE

The purpose of this item is table to Council the application for budget maintenance that is required in the Nyakallong Stormwater System Construction project that is being implemented by the Municipality and funded through the MIG grant.

BACKGROUND

This project entails the construction of the stormwater system in Nyakallong. Currently Nyakallong does not have a fully developed stormwater management system that collects and decants the surface run-off away from the development. This poses the following adverse impact to the Nyakallong Community:

- Standing Water in the form of pools during storms which becomes a danger to the community as the stagnant water can be a breeding spot for insects.
- Damage to property and road infrastructure during storms.
- Decreased safety of motorists during storms.

This project was registered with MIG in 2013 for an amount of R11 402 923.00 VAT Inclusive. It was then prioritized to be implemented in the 2016/17 financial year.

DISCUSSION

After a public open tender process a contractor was appointed for an amount of R13 774 408.30 and there was a shortfall of R4 160 370.47 VAT Inclusive in the budget amount and the amount that the contractor was appointed for due to market rates.

After the contractor occupied site there was a change in the design concept and the inclusion of a public fence that was requested by Department of Labour for ensuring the safety of the public while excavating the attenuation dam which lead to a variation order of R3 857 400.31 Inclusive of VAT and professional fees. A formal budget maintenance must be applied for as it is a requirement from COGTA when there is a shortfall and this must be approved by Council.

LEGAL IMPLICATIONS

This item has been prepared in compliance with the provision of the Municipal Systems Act. 32 of 2000.

FINANCIAL IMPLICATION

Costs Description	Total Current Registration Amount (Incl Vat)	New proposed registration amount (Incl Vat)	Total Shortfall (Incl Vat)
Construction Costs	R8 906 594.65	R17 043 114.14	R8 136 519.49
Professional fees	R1 249 404.63	R2 377 578.70	R3 334 999.98
Total	R10 155 999.28	R19 420 692.84	R9 264 693.56

*** See the registration and appointment letter on page 127 to page 129 of the Annexures.

OTHER IMPLICATIONS

It is very important that the Mayoral Committee approves this budget maintenance as the available funding will not be enough to complete the project and thus the project will not serve its purpose and might result to Community unrest.

RECOMMENDATION

1. That the Budget Maintenance be approved for the successful completion of the project.

A108 of 2017

MIG BUDGET MAINTENANCE FOR THE UPGRADING OF SEWAGE PUMPING STATION & OUTFALL SEWERS IN PHOMOLONG (EXECUTIVE MAYOR)
(19/8/1/5)

PURPOSE

The purpose of this item is table to Council the application for budget maintenance that is required in the Upgrading of swage pumping station and outfall sewer in Phomolong project that is being implemented by the Municipality and funded through the MIG grant.

BACKGROUND

This project entails the construction of a new main pumping station next to the existing facility. The upgrading works includes a new inlet works with new pumps and switch gear, as well as an appropriate roof structure and fence to protect electrical & mechanical equipment. Replacement of the existing rising main from the Phomolong Main pumping system. Decommissioning of the existing Basil Read pumping station and construction of a new gravity outfall sewer line that will gravitate towards the new Phomolong Main Pumping Station.

DISCUSSION

After a public open tender process a the recommended contractor tender amount is **R14,823,515.11** (all inclusive) with the professional fees amounting to **R2,099,190.05** (all inclusive) resulting in a total project value of **R16 922 705.16** (all inclusive). This resulted in a shortfall of **R4 143 022.44** which is a 32.4% increase. A formal budget maintenance must be applied for as it is a requirement from COGTA when there is a shortfall and this must be approved by Council.

LEGAL IMPLICATIONS

This item has been prepared in compliance with the provision of the Municipal Systems Act 32 of 2000.

FINANCIAL IMPLICATION

Costs Description	Total Current Registration Amount (Incl Vat)	New proposed registration amount(Incl Vat)	Total Shortfall (Incl Vat)
Construction Costs	R11 138 372.28	R14 823 515.11	R3 685 142.83
Professional fees	R1 641 310.44	R2 099.190.05	R457 879.61
Total	R12 779 682.72	R16 922 705.16	R4 143 022.44

*** See the registration and appointment letter on page 130 to page 132 of the Annexures.

OTHER IMPLICATIONS

It is very important that Council approves this budget maintenance as the available funding will not be enough to complete the project and thus the project will not serve its purpose and might result to Community unrest.

RECOMMENDATION

1. That the Budget Maintenance **BE APPROVED** for the successful completion of the project.

A109 of 2017

**SUBMISSION OF BACK TO BASICS PHASE I REPORT FOR NOTING
(EXECUTIVE MAYOR) (6/4/1)**

PURPOSE

To submit Phase I report to Council for noting.

BACKGROUND

An item on the background around introduction of back to basic concept in Municipalities was submitted in a Council meeting of the 31st March 2015. All Municipalities in South Africa are obliged to provide service delivery progress reports on the basis of the action plan as well as monthly reports. Challenges that hinder implementation of projects and programmes were easily spelt out and immediate interventions were provided in the plan.

Monitoring of progress report was done by the crack team that included the District Municipality, the provincial Departments as well as some National Departments.

Apart from the action plan which we developed for implementation, we were required to provide monthly progress reports as well on the basis of actual progress achieved on specific information as required by the template. Phase I of Back to Basics has come to an end with a report as submitted with challenges that remained unresolved.

*** See attached report on page 133 to page 154 of the Annexures.

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council takes note of the report on the Back to Basics Phase I.

A110 of 2017

**SUBMISSION OF A BACK TO BASIC ACTION PLAN FOR CONSIDERATION
(EXECUTIVE MAYOR) (6/4/1)**

PURPOSE

To submit Phase I report and the draft action plan to Council for consideration.

BACKGROUND

An item on the background around introduction of back to basic concept in municipalities was submitted in a council meeting of the 31st March 2015. All municipalities in South Africa are obliged to provide service delivery progress reports on the basis of the action plan as well as monthly reports. Challenges that hinder implementation of projects and programmes were easily spelt out and immediate interventions were provided in the plan. Monitoring of progress report was done by the crack team that included the District Municipality, the provincial Departments as well as some National Departments.

Apart from the action plan which we developed for implementation, we were required to provide monthly progress reports as well on the basis of actual progress achieved on specific information as required by the template. Phase I of Back to Basics has come to an end with a report submitted with the item of progress achieved and challenges that remained unresolved. From the outstanding challenges, all established work streams were required to escalate these challenges into Phase II action plan.

For the start of Phase II of the B2B, we are submitting the draft action plan that details activities to be monitored by the crack team. We have ensured that there an alignment to key focuses areas of the B2B template as follows:

1. Putting People First
2. Basic Services
3. Good Governance
4. Sound Financial Management
5. Capacity Building

*** Work stream leaders have made contributions on the action plan and their contributions have **been consolidated on page 155 to page 180 of the Annexures.**

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS

As budgeted for in the IDP and budget of 2017/2018 financial year.

RECOMMENDATION

1. That Council considers the completed draft Back to Basics Phase II action plan as it relates to the 5 key focus areas of Back to Basics.

A111 of 2017

SUBMISSION OF 4th QUARTER DRAFT NON-FINANCIAL PERFORMANCE REPORT TO COUNCIL FOR CONSIDERATION (EXECUTIVE MAYOR) (6/12/21)

PURPOSE

To submit a fourth quarter draft quarterly performance report to Council for consideration.

BACKGROUND

Section 152(2) of the Constitution of South Africa, Act 108 of 1996, clearly spells out objectives of local government as follows:

- (a) To provide a democratic and accountable government for local municipalities
- (b) To ensure provision of services to communities in a sustainable manner
- (e) To encourage the involvement of communities and community organisations in matters of local government.

It is also the requirement of section 38(a) (iii) of the Municipal Systems Act of 2000 to provide a clear linkage between the integrated development plan and the performance management system of the municipality. It is therefore critical that we measure the extent to which the objectives as set out in the integrated development plan are being achieved. It must be noted the first, second and third quarter reports have already served before Section 80 Committee, Mayoral Committee and ultimately Council during the last three quarters of the last financial year.

The institutional framework for the performance management process expects the following to take place:

- That the Executive Mayor provides oversight that ensures that senior management gathers relevant and planned information throughout each reporting period and submit progress report on a quarterly basis; and
- That the internal audit function must audit and assess the accuracy of performance reports, the functionality of the performance management system.

*** See the fourth quarter Draft Quarterly performance report **on page 181 to page 278 of the Annexures.**

LEGAL IMPLICATIONS

- Constitutions of the Republic of South Africa, Act 106 of 1996
Section 152(2) (b) “To provide a democratic and accountable government for local municipalities”
- Municipal Systems Act, Act 32 of 2000
Section 38- A municipality must:
 - (a) Establish a performance management system that is-

- (iii) in line with the priorities, objectives, indicators and targets contained in its integrated development plan.

FINANCIAL IMPLICATION

Development of Municipal quarterly non-financial report did not require financial inputs as it was done internally.

RECOMMENDATION

1. That Council notes the draft fourth quarter non-financial performance report.
2. That Council considers the progress achieved in the fourth quarter of the non-financial year.

A112 of 2017

SUBMISSION OF PROGRESS REPORT ON THE FREE STATE WONDERLAND PROJECT TO COUNCIL FOR CONSIDERATION (EXECUTIVE MAYOR) (20/14/4/3)

PURPOSE

The purpose is to provide progress report in relation to both the lighting display and decorations as well as fireworks project as planned in the Municipal IDP for 2017/2018 financial year to Council for consideration.

BACKGROUND

The project was borne out of the annual Madeira Festival which occurs in the City of Madeira, Portugal. A contingent of Free State leadership visited Portugal and observed how the festival attracted tourists into the town of Madeira during the December period. As a way of benchmark, the province initiated talks to ensure that we enjoy inaugural fireworks in South Africa taking the pattern of Madeira Festival.

The South African version of the festival is managed by a reputable Portuguese company, Macedos Group. The project is comprised of two significant initiatives:

1. New Year's Eve Fireworks Display, and
2. Christmas Decorations and Lighting Display

During the 2017/2018 IDP process, there was funding set aside for tourism purposes and within the budget, the two projects were identified.

A team of Municipal officials and political leadership went together with a Portuguese team to identify potential tourism areas in the whole of Matjhabeng Local Municipality where the actual lighting decorations and fireworks could take place. The following specific areas were identified as potential tourism attraction spots:

1. Municipal City Hall
2. Griffons Rugby Stadium
3. Thabong Multi-purpose Hall
4. Thabong Stadium
5. Meloding Stadium

In a addition to the above identified places, the Municipal contingent went on an inspection of other places where lighting and decorations could take place.

The following places therefore added to the initial list as follows:

1. Stateway (Decorations)
2. Participating business sites (Ocean Basket, KFC, Nandos, Casino, The Strip, Spar, Mines)- mainly lighting decorations

3. **Phakisa Raceway** (Lighting decorations and fireworks)
4. **Kutlwanong's SDIMM** (Lighting decorations and limited fireworks)
5. **Thabong's Boitumelo Mall Junction** (Lighting decorations to street and high mast light poles)
6. Bronville -**3 identified high mast lights** (Lighting decorations)
7. Meloding-**street lights entrance** and circle area (Lighting decorations)

*** See a copy of the presentation **on page 279 to page 284 of the Annexures.**

LEGAL IMPLICATIONS

1. The project must be reflected in the IDP of the Municipality
2. The project must comply with SDBIP of the Directorate responsible for tourism.

Financial implication

DESTEA to determine the cost of the whole project for the province and participating Municipalities.

RECOMMENDATIONS

1. That Council considers progress report in relations to this project.
2. That LED, Planning and Human Settlements takes over management of the project as part of their SDBIP for 2017/2018.

A113 of 2017

WARD 27: FEASIBILITY ANALYSIS OF THE DEVELOPMENT OF VACANT MUNICIPAL LAND IN THE FLAMINGO PARK AND WELKOM EXTENSION 17 PRECINCT AREAS (EXECUTIVE MAYOR) (8/3/2/27)

PURPOSE OF REPORT

The purpose of the report is to present to Council a feasibility analysis regarding the development of the vacant Municipal owned land in the Flamingo Park and with the main focus on the Welkom X17 precinct area.

1. BACKGROUND

This item must be read concurrently with the feasibility report of Flamingo.

2.1 LOCATION OF THE PRECINCT PLAN AREA

*** The orientation plan on page 285 of the Annexures depicts the following main undeveloped focus areas of this report:

- a) Lotgeval 96 – Future expansion area
- b) Flamingo Park X2, 3, 4, 5 – existing vacant erven
- c) Welkom X17
- d) Mining land – Portion 1 of the farm Welkom 129
- e) Mining land - Mealiebult 146 and portion of Bothmasrust 59

2.2 MATJHABENG SPATIAL DEVELOPMENT FRAMEWORK PLAN

2.3 ZONING PLAN FOR THE PRECINCT AREA

*** The zoning plan which depicts the permitted land uses in the precinct area is enclosed on page 286 of the Annexures.

2.4 PRECINCT AREA – VACANT LAND FACT SHEET

The following Table 1 provides a summary of the facts in relation to the vacant land in accordance with the **Orientation plan on page 285 of the Annexures**:

Table 1:

MAP REFERENC E	LAND DESCRIPTI ON	CURRENT STATUS	SDF RECOMMENDAT ION	SHORT TERM DEVELOPM ENT POTENTIAL OF AREA
1.	Farm Lotgeval 96 – Municipal owned	Vacant land	Future urban expansion area (4000 erven)	<ul style="list-style-type: none"> • Future residential development (4000 erven) • This land will be critical in relation to the housing backlog for low cost housing in the Welkom/Tha bong region.
2.	Flamingo Park X2,3,4,5 Municipal owned	Vacant erven (486) Vacant erven assigned to a developer in terms of a land availability agreement – development in progress	Residential development – redesign of existing erven to provide smaller erven	Residential development – densification of existing larger erven
3.	Welkom X17 Municipal owned	<ul style="list-style-type: none"> • Vacant land • “Municipal Zoned” 	Undetermined Municipal land	<ul style="list-style-type: none"> • High potential for commercial development • High density residential development e.g. old age homes, town houses, student accommodation.

MAP REFERENC E	LAND DESCRIPTI ON	CURRENT STATUS	SDF RECOMMENDAT ION	SHORT TERM DEVELOPM ENT POTENTIAL OF AREA
				<ul style="list-style-type: none"> • Current erf layout is not effective. It will be feasible to do township establishment on order to create a functional layout and marketable erven. • Because of required rezoning Environmental Impact Analysis will be required.
4.	Defunct mining land – Portion 1 of Welkom 129 Harmony owned	Old mining structures and vacant land	To be incorporated – Phase 3 SDF required.	<ul style="list-style-type: none"> • Commercial • High density residential development
5.	Defunct mining land – Mealiebult 146 and Bothmasrust 59 Harmony owned	<ul style="list-style-type: none"> • Old mining structures and vacant land • Bambanan i mining village and some industrial activities 	To be incorporated – Phase 3 SDF required.	<ul style="list-style-type: none"> • Commercial and high density residential development • Harmony Gold has intention to commission a precinct SDF for the area. • Township establishment must be done for mining

MAP REFERENC E	LAND DESCRIPTI ON	CURRENT STATUS	SDF RECOMMENDAT ION	SHORT TERM DEVELOPM ENT POTENTIAL OF AREA
				village/host el

2.5 DEMAND FOR DEVELOPMENT OF VACANT LAND IN THE PRECINCT AREA

The following facts support the high development potential of the area:

- a) A Land Availability Agreement has already been awarded to densify and develop the existing vacant erven in Flamingo Park X2, 3, 4 and 5.
- b) A portion of X17 is very suitable for the development of commercial activities e.g. conference centers etc.
- c) There is a strong demand for development of high density residential facilities north of the Koningkryk Church e.g. for old age homes, student accommodation, town houses.
- d) Harmony Gold is taking action to address the defunct mining land along Alma Road e.g. to redevelop the mining land into a mixed land use area for commercial activities including industrial development and residential areas.

2.6 THE CURRENT POSITION AND AVAILABILITY OF BULK INFRASTRUCTURE IN THE PRECINCT AREA

In terms of the Comments received from the Directorate Infrastructure the following is reported:

2.6.1 ENGINEERING INFRASTRUCTURE

Water:

- Bulk water is in place.

Sewer:

- The sewer from the Flamingo Park area drains to Traffic pump station from where it is pumped to Theronia WWTW. Currently Theronia WWTW is not functional.
- Theronia and Flamingo Pan treatment plants do not have the capacity for the current flow generated. Until Theronia WWTW is functional and the PSE system refurbished no new development should take place in the catchment area. The additional load on the lakes can become crucial and more problematic.

- The main sewer line to Traffic pump station is old, dilapidated and too small to address any additional capacity. About 3 km of the bulk lines must be upgraded at an estimated cost of R5 million.
- Traffic pump station must be upgraded to address the additional load. The cost for this upgrade will be about R12 million.
- A portion of the drainage area is towards Witpan WWTW. Currently the plant is still not functional. This plant will not have capacity until the Thabong WWTW is upgraded. The process to upgrade the plant with RBIG funding has started but it is not expected that it will be completed within the next 3 to 5 years.

Roads

- If a high density development is done in X17 it may result in the necessity of doubling of Tempest road. The cost will be approximately R8 million.

Storm water

- A major storm water system must be developed for X17 and the existing system will have to be upgraded unless a retention facility is implemented. This cost will be difficult to estimate until a complete storm water master plan is compiled. This can amount to R60 million.
- The pan level of Witpan is currently problematic with litigation actions against the Municipality due to this challenge. Any additional major development will add to this challenge

2.6.2 ELECTRICAL BULK INFRASTRUCTURE

- a) The main substation in X17 services the entire precinct area. It has a current capacity of 15 MvA of which 13, 26 MvA is already utilized. The available spare capacity is only 1,74MvA.
- b) The available spare capacity can service only a total extension of approximately 239 medium income new houses. It is estimated that the recent addition of Rheeder Park X2 to the system as well as the Flamingo Park development will deplete the available capacity.
- c) In terms of the any request to ESKOM to expand the current supply at the X17 substation the ESKOM conditions in relation to payment of the current ESKOM account, all capital cost for the expansion plus payment of the standard network cost by the Municipality must be taken into consideration. This cost amounts to approximately R1, 5 million per MvA expansion.

2.6.3 CONCLUSION

In relation to the above analysis the following is concluded:

- a) That the development potential of the X17 precinct area be noted, especially with regards to the development of medium to high density residential development including town houses, retirement villages, student accommodation etc. and that the X17 precinct be declared a high priority development area of the Municipality.
- b) That in relation to the intentions of Harmony to commence with the planning of the defunct mining areas as well as the fact that the erf layout of X17 is ineffective, a Phase 3 (SDF-precinct Plan) be considered a high priority of the Municipality in terms of which all land uses and especially bulk services requirements for such areas can be determined and costed. It will be feasible to negotiate with Harmony to share the financial responsibility of the Phase 3 precinct plan.
- c) That it be noted that the immediate development of the area is not recommended until the Theronia, and Witpan waste treatment plants are not upgraded and functional.
- d) That no further development of the area be permitted until the required capital development cost for the upgrading of the bulk engineering services is not committed.
- e) That the limited electrical bulk capacity be noted and that no further development of the area be permitted until the expansion cost of the electrical X17 substation is not financially committed.

LEGAL IMPLICATIONS

None

FINANCIAL IMPLICATIONS:

The estimated minimum expenditure analysis with the further development of the X17 precinct area is as follows:

• Phase 3 - Precinct Plan	R1,5million
• Township establishment – Phase 1	R1,5million
• Upgrading of main sewer line	R5million
• Upgrading of Traffic pump station	R12million
• Doubling of Tempest Road	R8 million
• Storm water system upgrading	R60 million
• Upgrading of Electrical substation	R32million

Total: R120 million

POLICY/LEGISLATIVE POSITION

National

- South African Constitution, 1996
- Spatial Planning and Land Use Management Act, (2013)
- Medium Term Strategic Framework (2009-2014)
- Municipal Financial Management Act

Provincial Policies:

- Free State Growth and Development Strategy (2005-2014)
- Free State Spatial Development Framework (2005/6)

District Level:

- Lejweleputswa DM IDP (2011/12)
- Lejweleputswa DM SDF (2008)

Local Level:

- Matjhabeng LM IDP

RECOMMENDATIONS

1. That the development potential of the X17 precinct area be noted, especially with regards to the development of medium to high density residential development including town houses, retirement villages, student accommodation etc. and that the X17 precinct area be declared a high priority development area of the Municipality.
2. That in accordance with the Matjhabeng SDF, the necessity for the development of a Phase 3 SDF for the X17 Precinct area be supported as a high priority of the Municipality in terms of which all land uses and especially bulk services requirements for such areas can be determined and costed and that a possible joint venture be negotiated with Harmony Gold to share the financial responsibility of the Phase 3 precinct plan.
3. That it be noted that the immediate development of the area is not recommended until the Theronia, and Witpan waste treatment plants are upgraded and functional.
4. That no further development of the area be permitted until the required capital development cost for the upgrading of the bulk engineering services, as contemplated in the report, is committed.
5. That the limited electrical bulk capacity be noted and that no further development of the area be permitted until the expansion cost of the electrical X17 substation is financially committed.

A114 of 2017

MATJHABENG: MOTIVATION FOR THE INVITATION OF DEVELOPMENT PROPOSALS FOR THE DEVELOPMENT OF GAP HOUSING ON A FLAMINGO PARK WELKOM VIA THE PUBLIC BIDDING PROCESS (EXECUTIVE MAYOR) (

PURPOSE OF REPORT

The purpose of the report is to motivate the invitation of development proposals for the development of gap market housing on a portions of land situated in Flamingo Park Welkom

BACKGROUND AND DISCUSSION

In order to stimulate the redevelopment of the available vacant erven in Matjhabeng Council resolved as follows in terms of Resolution SA4/2014:

- 1. That Council CONFIRMS that the erven in the following areas zoned for residential development in Flamingo (up market), Kitty (inclusionary), Allanridge ±840 erven, Ventersburg – Extension 6, Hennenman, Virginia Extension 10, Odendaalsrus Extension 13, Welkom – Naudeville Extension 2, Welkom – Rheeder Park Extension 2, Welkom – Flamingo Park Extension 5, Welkom – Riebeeckstad Extension 1, Thabong – Thandanani area, Thabong Extension 6, Saaiplaas, Dagbreek are not required for provision of municipal services.*
- 2. That the development proposals BE INVITED in terms of the requirements and the MFMA.*
- 3. That the Municipal Manager BE AUTHORIZED to conclude Land Availability Agreement with the developers in compliance with the legislative framework.*
- 4. That when the developed erven are disposed they be DISPOSED within the values as obtained in the Municipal Valuation roll.*
- 5. That in area where bulk services are not available, Service Level Agreement BE CONCLUDED with the developers to develop such services at its own costs.*
- 6. That the Municipal Manager to report PROGRESS to Council every (3) three months.*

2.1 The current demand in the gap housing market

In relation to the housing demand in Matjhabeng the demand pyramid clearly shows the strong demand for low – income housing estimated at approximately 36 000. This includes the demand for rental accommodation including social housing etc. for which land must also be made available. However there is strong indication that there is a reasonable demand from middle to higher income groups for gap market housing in terms of which a certain portion of the purchase price can be finance-linked. Even though National Government has

introduced Finance-linked Individual subsidy scheme, it remains the Council's responsibility to make land available for the gap housing market.

In order to stimulate the development of such housing projects Council already made land available to developers in Flamingo Lake, Flamingo Park, Kitty and Thabong T6 by means of land availability agreements. The limited success in this regard to date can be attributed to constraints that deter from the feasibility of these projects including the cost of the amendment of township layouts, the responsibility to provide the internal services, high building costs and especially the lack of bulk services.

In addition to the developments already mentioned a number of potential developers including SANY approached Council to make land available for gap market housing projects. In this regard the use of alternative building technologies as well as the ability of such developers to make funding available to Council for the provision of outstanding bulk services must be noted.

2.2 The current availability of vacant residential land in Matjhabeng

In terms of the municipality's residential development status quo report, there are 7000 vacant middle to high-income ($\pm 800\text{m}^2$ to 1000m^2 each) registered erven available in Matjhabeng that remained undeveloped, mainly because of the decline in the mining sector after 1980. It is important to note that the majority of these areas also have no internal or bulk services. In this regard the cost of the provision of bulk services to the areas must be noted.

Since these areas do not qualify for MIG funding the responsibility regarding the provision/upgrading of such bulk services will primarily remain the responsibility of Council in terms of the Spatial Planning and Land Use Management Act (Act 16 of 2013), unless some financial contribution can be negotiated with a potential developer.

2.3 The suitability of Flamingo Park next to Amari School

2.3.1 Location and current status

*** The location of the vacant portion of Welkom Flamingo Park is it partially developed and high-focus area that is closer to social and economic amenities thus further promotes Sustainable Integrated Human Settlements and Inclusionary Housing. **As indicated on the layout plan enclosed on page 287 of the Annexures the layout makes provision for approximately 400 residential erven ($\pm 460\text{m}^2$) for the gap market.**

2.3.2 Provision of land for show houses

In order to market the housing product developers normally express the need for a few vacant and serviced erven in order to put up show houses. In such case it will not always be feasible to allocate the erven in the development area where no services are available yet. In this case it is proposed that the Municipality allocates such vacant erven per contractual agreement to the developer in order to develop show houses, provided that such properties will later be alienated in terms of the land availability agreement with the developer or alternatively be marketed in terms of the MFMA.

*** See attached MOU between Matjhabeng Local Municipality and Sany Group CO. LTD including Land Allocation List **on page 288 to 298 of the annexures.**

2.3.3 Proposed method of development and alienation

In relation to the development of Flamingo Park it is proposed (in line with Resolution SA4) that:

- a) The method of competitive bidding be used by means of which development proposals for the development of gap housing in the area be invited in the press.
- b) Prospective developers be required to submit proposals to Council which includes the following information for the purpose of the evaluation of such development proposals:
 - i. A company profile with specific reference to similar completed development projects.
 - ii. Nature of professional teams to be involved in the project.
 - iii. A site development plan.
 - iv. Housing types that will be provided as well as the price structure thereof.
 - v. Market demand analysis.
 - vi. Project implementation plan including phased development.
 - vii. Total development cost of the project.
 - viii. A financial feasibility analysis.
 - ix. Beneficiary administration and assistance with loan applications.
 - x. An overview of the construction technology, SABS compliance etc.
 - xi. A services report that includes the standard of and provision of internal municipal services in the area.

COMMENTS FROM RELEVANT DEPARTMENTS

Electrical bulk infrastructure

- d) The main substation in X17 services the entire precinct area. It has a current capacity of 15 MvA of which 13,26 MvA is already utilized. The available spare capacity is only 1,74MvA.
- e) The available spare capacity can service only a total extension of approximately 239 medium income new houses. It is estimated that the recent addition of Rheeder Park X2 to the system as well as the Flamingo Park development will deplete the available capacity.
- f) In terms of the any request to ESKOM to expand the current supply at the X17 substation the ESKOM conditions in relation to payment of the current ESKOM account, all capital cost for the expansion plus payment of the standard network cost by the Municipality must be taken into consideration. This cost amounts to approximately R1,5 million per MvA expansion.

LEGISLATIVE/POLICY POSITION

- The Constitution of the Republic of South Africa (Act. No. 108 of 1996);
- Broad Based Black Economic Empowerment Act (Act No. 53 of 2003);
- Spatial Planning and Land Use Management Act (Act 16 of 2013)
- Extension of Security of Tenure Act (Act No. 62 of 1997)
- Local Government: Municipal Finance Management Act (Act No. 56 of 2003):

- Municipal Supply Chain Management Policy Regulations (Act No. No. 27636);
- Property Rates Act (Act No. 6 of 2004);

3.1 The Municipal Finance Management Act no. 56 of 2003:

Section 14 of the Municipal Finance Management Act No. 56 of 2003 states as follows:

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.*

3.2 Matjhabeng land disposal policy (AUGUST 2015)

In terms of Section 9 of the Land Disposal Policy, Council has the following options available to dispose land to a developer:

9.1.1. The disposal must seek to achieve objectives of the municipality read with Council's SCMP. The following methods can be employed:

- a) The outright tender method which involves the call for purely financial offers for the immovable property offered for alienation. In adjudicating such tenders the highest financial offer will score a determined number of points with lower offers scoring proportionately in relation to the highest offer. In addition, points must be allocated for complying with the municipality's Black Economic Empowerment Policy.*
 - b) The main objective of the outright tender method is the promotion of first time home ownership in previously disadvantaged communities. Black persons who had never before owned immovable property, either directly or indirectly, but are financially able and otherwise qualified will be afforded preference in the adjudication of the tenders. This will apply solely to the disposal of single residential erven in areas and on sites considered suitable to meet this objective.*
 - c) Competitive bidding, defined in the Supply Chain Management Regulations.*
 - d) An unsolicited bid as per this policy.*
 - e) Private treaty applicable between organs of state.*
- xii. Proposals in relation to the funding of and provision of the required bulk services by means of external sources and/or a proposed service level agreement with the Municipality.
 - xiii. A financial purchase offer of the erven to be alienated to end consumers.
 - xiv. Special contractual requirements in relation to the development of show houses.
 - xv. Aspects pertaining to the use of local labour and training during the construction phase.

- xvi. Any aspect that will require further negotiation with the Municipality.

FINANCIAL IMPLICATIONS

Considerable income for the Municipality will be derived as a result of direct income from the selling of the land as well as property rates and service consumption and in the long run

The provision of the bulk services to the development area is primarily the responsibility of Council. The expectancy that the developer will fund both the internal and bulk services may result in the entire project not being feasible. However if Council funding is not available, developers be requested to submit proposals regarding the provision of bridging finance.

RECOMMENDATIONS

1. That it be approved that the undeveloped vacant residential erven (400) in Flamingo Park are not required to provide minimum level of services to the community, and can therefore be made available to a developer in order to:
 - i) Develop gap-market houses for alienation to end-beneficiaries.
 - ii) Provide the internal and bulk services for the entire development area in accordance with Municipal standards.
2. That the Municipal Manager be mandated to invite development proposals in the press in accordance with Council's development guidelines as contemplated in Par. 2.3.3 of this report.
3. That the Municipal Manager, in compliance with Section 6.20 of the SCM Policy and Policy on the Alienation of Immovable Assets, shall submit a report to Council concerning the outcome of the bidding process, the market value of each of the vacant residential sites to be disposed of as well as the proposed land availability and services agreement with the developer.
3. That Council accepts the responsibility regarding the provision of bulk services to the development area in principle and that the cost thereof be taken up in the 2018/2019 Capital budget.
4. In case where funding is currently not available, prospective developers be requested to submit an undertaking as to how the bulk infrastructure of the said development proposals is to be funded
6. That as soon as the land is allocated to the developer a number of vacant Municipal erven be made available to the developer either in or outside the development area, per contractual agreement in order to develop show houses, provided that such properties will later be alienated in terms of the land availability agreement with the developer or alternatively be marketed in terms of the MFMA.

A115 of 2017

PROPOSED ORGANISATIONAL STRUCTURE: (MARCH 2017) (EXECUTIVE MAYOR) (2/1)

PURPOSE

To provide an update of Matjhabeng Local Municipality proposed Organisation Structure “**MARCH 2017**” to Council.

BACKGROUND AND DISCUSSION

This item served before Council on the 31st May 2017 and Council resolutions are contained hereunder:

COUNCIL RESOLVED: (31 MAY 2017)

1. That Council **TAKES NOTE** of the Draft Organisational Structure.
2. That the TASK-JOB-EVALUATION system **MUST BE APPLIED** to ensure that salaries are correlating with the jobs that are performed, within a period of 30 days.
3. That only critical positions **MUST BE FILLED**.
4. That the Organogram must **BE RE-SUBMITTED** at the next Ordinary Council meeting.

Following the above resolutions, Management has made arrangements for the TASK-JOB-EVALUATION system training for the period 21-25th August 2017 which would be undertaken under the auspices of SALGA.

The Directorates have submitted their lists of Critical positions which will await the approval of the Organogram by Council for their advertisement and filling.

PERSONNEL IMPLICATIONS

The current Draft Proposed Organisational Structure (March 2017) **attached as SEPARATE COVER 1** is a product, devised from the Draft Proposed Organisational Structure (February 2017) with amendments from different Directorates as per the abovementioned Mayoral Committee Resolutions.

The table below is a summary of staff complement of the current Draft Organisational Structure (**March 2017**) compared to the “**Current Approved**” and the Proposed (**February 2017**) Organisational Structures:-

	TOTAL STAFF COMPLEMENT		
	Approved	Proposed February 2017	Proposed March 2017
TOTAL COMPLEMENT:	3727	4 648	4 048
PERCENTAGE UTILISATION	100	125	109
TOTAL MANAGEMENT POSTS	79	90	74
Savings: "February 2017" - "March 2017." (Posts)			600
Savings: "February 2017" - "March 2017." (%)			12.91

FINANCIAL IMPLICATIONS

*** The financial implications are attached as **SEPARATE COVER 2**.

The table below is a summary of “Annexure A”:

	Staff Complement	Total Costs
	Proposed	Proposed
TOTAL COMPLEMENT:	4 048	997 293 166
PERCENTAGE UTILISATION	100	122
TOTAL MANAGEMENT POSTS	74	65 380 604

POLICY STATEMENT

Local Government Municipal Systems Amendment Act, 2011.
 Local Government Structure Act
 Municipal Financial Management Act.
 Approved Organisational Structure
 Basic Conditions of Employment Act

RECOMMENDATIONS

- 1 That the Draft Organisational Structure be approved by Council as a working document for all Human Resource related matters.
- 2 That the posts reflected on the structure are not necessarily going to be filled in the current financial year, given the Municipality’s financial status.
- 3 That only critical – and scarce skills posts be addressed in the current financial year.

SUBMITTED FOR CONSIDERATION

A116 of 2017

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE REPORT ON THE FRUITLESS AND WASTEFUL EXPENDITURE INCURRED FOR THE PERIOD 1 JULY 2016 - 30 APRIL 2017 (MPAC CHAIRPERSON) (6/12/2/1)

PURPOSE

To submit to Council the Municipal Public Accounts Committee report on Fruitless and Wasteful Expenditure incurred for the financial periods ended 1 July 2016- 30 April 2017 as mandated by the council.

BACKGROUND

The Municipality is required to disclose unauthorised, irregular or fruitless and wasteful expenditure as part of the notes to the Annual Financial Statements in terms of the requirements of sec 125(2)(d) of MFMA.

Requirements

1. The Municipality is required to disclose unauthorised, irregular or fruitless and wasteful expenditure as part of the notes to the Annual Financial Statements in terms of the requirements of sec 125(2)(d) of MFMA.
2. Section 32(2) and (4) of the Municipal Finance Management Act 56 of 2003, Unauthorised, irregular or fruitless and wasteful expenditure” state;
 - (1) 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) authorized in an adjustment 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 as irrecoverable and written off by council.
3. The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor General, in writing, of the following:
 - (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

Definitions

The *Municipal Finance Management Act No.56 of 2003* under paragraph 1 defines; ***fruitless and wasteful expenditure*** " means expenditure that was made in vain and would have been avoided had reasonable care been exercised.

(1) The following are examples of fruitless and wasteful expenditure:

- Expenditure due to negligence, e.g. cancellation fees incurred for missing a flight or claims for damages to vehicles of road-users due to potholes.
- Interest on overdue accounts, e.g. Eskom
- Penalties Paid E.g. Incorrect PAYE or VAT calculations resulting in penalties payable from SARS
- Procuring of goods and services that are not beneficial to the municipality
- Costs of goods and services are in excess of what would have been the case have proper procedures been followed (quotes etc.)
- Renting of property when sufficient and appropriate unoccupied property is owned by the entity
- Exuberant costs on parties, entertainment, subsistence and travel etc.
- Back Pay as a result of unfair dismissal or suspensions.

Fruitless and Wasteful expenditure is expenditure that was made in vain and could have been avoided had reasonable care been exercised. This type of expenditure is incurred where no value for money is received for expenditure or the use of resources.

DISCUSSIONS

In an effort to reduce the fruitless and wasteful expenditure, the Municipality has undertaken to compile registers, conduct investigations and put controls and measures in place to curb the re-occurrence of these expenditures.

Municipal Public Accounts Committee therefore submit the report on fruitless and wasteful expenditure and request council to consider write off and/or condonation as guided by National Treasury MFMA Circular No.68 and Section 32 of the MFMA.

*** See the Report on Investigation of fruitless and wasteful expenditure **on page 299 to page 306 of the Annexures.**

LEGAL IMPLICATIONS

The irregular expenditure is submitted for write off in compliance with Section 32(2) of the MFMA no 56 of 2003.

RECOMMENDATIONS

1. That Council takes note of the Municipal Public Accounts Committee report.
2. That Council certifies an amount of **R130 916 929.76** as irrecoverable and should be written-off.

3. That the appropriate disclosure note be made to the financial statements for the year ending 30 June 2017.
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.

A117 of 2017

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE REPORT ON THE IRREGULAR EXPENDITURE INCURRED FOR THE PERIOD 1 JULY 2016-30 APRIL 2017 (MPAC CHAIRPERSON) (6/12/2/1)

PURPOSE

To submit to Council the Municipal Public Accounts Committee report on irregular expenditure incurred for the period 1 July 2016-30 April 2017 as mandated by Council.

BACKGROUND

The Municipality is required to disclose unauthorised, irregular or fruitless and wasteful expenditure as part of the notes to the Annual Financial Statements in terms of the requirements of sec 125(2)(d) of MFMA

Requirements

1. The Municipality is required to disclose unauthorised, irregular or fruitless and wasteful expenditure as part of the notes to the Annual Financial Statements in terms of the requirements of sec 125(2)(d) of MFMA.
2. Section 32(2) and (4) of the Municipal Finance Management Act 56 of 2003, Unauthorised, irregular or fruitless and wasteful expenditure” state;
 - (2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure –
 - (c) In the case of unauthorised expenditure, is –
 - (iii) authorized in an adjustment budget; or
 - (iv) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
 - (d) In the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council as irrecoverable and written off by council.
3. The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor General, in writing, of the following:
 - (d) Any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
 - (e) Whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
 - (f) The steps that have been taken –
 - (iii) To recover or rectify such expenditure; and
 - (iv) To prevent a recurrence of such expenditure

Definitions

In accordance to the Municipal Finance Management Act No. 56 of 2003 under paragraph 1, the presentation described “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

In this context expenditure” refers to any of municipal funds that is in contravention of the following legislation:

- Municipal Finance Management Act, Act 56 of 2003, and its regulations;
- Municipal System Act, Act 32 of 2000, and its regulations;
- Public Office - Bearers Act, Act 20 of 1998, and its regulations, and
- The municipality’s supply chain management policy

DISCUSSIONS

In an effort to reduce the irregular expenditure, the Municipality has undertaken to compile registers, conduct investigations and put controls and measures in place to curb the re-occurrence of these expenditures.

Municipal Public Accounts Committee therefore submit the report on irregular expenditure and request council to consider write off and/or condonation as guided by National Treasury MFMA Circular No.68 and Section 32 of the MFMA.

*** See the Report on Investigation of irregular expenditure **on page 307 to page 314 of the Annexures.**

LEGAL IMPLICATIONS

The irregular expenditure is submitted for write off in compliance with Section 32(2) of the MFMA no 56 of 2003.

RECOMMENDATIONS

1. That Council takes note of the Municipal Public Accounts Committee report.
2. That Council certifies an amount of **R178 226 280.74 (156 338 442.75 Excl. VAT)** as irrecoverable and should be written-off.
3. That the appropriate disclosure note be made to the financial statements for the year ending 30 June 2017.
4. That the Accounting Officer must establish controls to detect and prevent these types of expenditures and on a quarterly basis submit a Supply Chain Management 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.

A118 of 2017

**DRAFT UNAUDITED ANNUAL PERFORMANCE REPORT 2016/2017:
MATJHABENG LOCAL MUNICIPALITY (EXECUTIVE MAYOR) (5/6/2/7)**

PURPOSE

The purpose of the item is to table the draft unaudited annual performance report for the financial year 2016/2017 to Council for consideration.

BACKGROUND

After the end of each financial year, the law requires Municipalities to develop draft unaudited annual reports for submission to Office of the Auditor General by the end of August of that year. The purpose of drafting an annual report is to provide evidence of planned tasks and the actual achievements for work that was planned. In other words, the Municipality makes public a record of performance for the past financial year and in the report we indicate areas that were challenges and how we anticipate solving such challenges going forward.

According to the Municipal Financial Management Act, Act 56 of 2003: the draft annual report should include:

- The Annual Financial Statements of the Municipality, and consolidated Annual Financial statements as submitted to the Auditor-General for auditing in terms of section 126(1) of the MFMA
- The Auditor General's Audit Report in terms of Section 126(3) of the MFMA on the financial statements in (a) above;
- **The Annual performance report of the Municipality as prepared by the Matjhabeng Local Municipality in terms of Section 46 of the Local Government: Municipal Systems Act 32 of 2000 (MSA)**
- An assessment of the Municipality's performance against the measurable objectives referred to in Section 17 (3)(b) of the MFMA for revenue collection from each revenue source and for each vote in the Municipality's approved budget for the financial year 2016/2017

The MAYCO of the 16th August 2017 resolved that a Special MAYCO meeting be convened just for the three items, among them, the draft annual performance report.

*** See the Draft unaudited annual performance report **attached as SEPARATE COVER 3.**

LEGAL IMPLICATIONS

Local Government: Municipal Systems Act 2000 (Act No 32 of 2000):

Section 46 (1) "A municipality must prepare for each financial year a performance report reflecting-

- (a) *The performance of the municipality and of each external service providers during the financial year;*
- (b) *A comparison of the performance referred to in paragraph (a) with targets set for and performances in the previous financial year; and*
- (c) *Measures taken to improve performance.*

FINANCIAL IMPLICATIONS

None.

RECOMMENDATIONS

It is recommended that:

1. That Council takes note of the draft unaudited annual performance report for the Financial Year 2016/17.
2. That the draft unaudited annual performance report be submitted to Office of the Auditor General on or before the 31st of August 2017, for audit purposes.

A119 of 2017

DRAFT UNAUDITED ANNUAL REPORT 2016/2017: MATJHABENG LOCAL MUNICIPALITY (EXECUTIVE MAYOR) (5/6/2/7)

PURPOSE

The purpose of the item is to table the draft unaudited Annual Report for the financial year 2016/2017 to Council for noting.

BACKGROUND

After the end of each financial year, the law requires Municipalities to develop draft unaudited annual reports for submission to Office of the Auditor General by the end of August of that year. The purpose of drafting an annual report is to provide evidence of planned tasks and the actual achievements for work that was planned. In other words, the Municipality makes public a record of performance for the past financial year and in the report we indicate areas that were challenges and how we anticipate solving such challenges going forward.

According to the Municipal Financial Management Act, Act, Act 56 of 2003: the Draft Annual Report should include:

- The Annual Financial Statements of the Municipality, and consolidated Annual Financial statements as submitted to the Auditor-General for auditing in terms of section 126(1) of the MFMA
- The Auditor General's Audit Report in terms of Section 126(3) of the MFMA on the financial statements in (a) above;
- The Annual performance report of the Municipality as prepared by the Matjhabeng Local Municipality in terms of Section 46 of the Local Government: Municipal Systems Act 32 of 2000 (MSA)
- An assessment of the Municipality's performance against the measurable objectives referred to in Section 17 (3)(b) of the MFMA for revenue collection from each revenue source and for each vote in the Municipality's approved budget for the financial year 2013/2014.

The Municipality intends submitting the draft unaudited annual report to Office of the Auditor General by the end August 2017 for auditing purposes.

The MAYCO meeting of the 16th August 2017 resolved that a Special Mayoral committee must be convened to discuss the draft annual report before it gets submitted to Council and Auditor General on the 31st August 2017.

*** See the Draft unaudited annual report **attached as SEPARATE COVER 4.**

LEGAL IMPLICATIONS

Local Government: Municipal Finance Management Act 2003(Act No. 56 of 2003)

Section 121(1) states as follows: ... "The council of a Municipality must within nine months after the end of a financial year deal with the annual report of the municipality and of any

municipal entity under the municipality's sole or shared control in accordance with section 129".

Local Government: Municipal Systems Act 2000 (Act No 32 of 2000):

Section 46 (1) "A municipality must prepare for each financial year a performance report reflecting-

(a) *The performance of the municipality and of each external service providers during the financial year;*

(2) An annual performance report must form part of the municipality's annual report in terms of Chapter 12 of the Municipal Finance Management Act."

FINANCIAL IMPLICATIONS

None.

RECOMMENDATIONS

It is recommended:

1. That Council takes note of the Draft unaudited Annual Report for the Financial Year 2016/17.
2. That the draft unaudited annual report 2016/2017 be submitted to Office of the Auditor General on or before the 31st of August 2017, for audit purposes.
3. That the draft unaudited annual report 2016/2017 be submitted to provincial and national treasuries as well as provincial COGTA after council has noted the report.

A120 of 2017

**SUBMISSION OF THE ANNUAL FINANCIAL STATEMENTS FOR 2016-2017
FINANCIAL YEAR (EXECUTIVE MAYOR) (6/12/2/1)**

PURPOSE

The purpose of the item is to table the Annual Financial Statement for the financial year 2016/2017 to the Council for consideration.

BACKGROUND

In terms of the Municipal Finance Management Act, Act 56 of 2003: The Accounting Officer of a municipality must comply with the following:

- (a) Must prepare the annual financial statements of the municipality and, within two months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing;

In terms of the Act, these Annual Financial Statement should:

- (a) fairly presents the state of affairs of the municipality or entity, its performance against its budget, its management of revenue, expenditure, assets and liabilities, its business activities, its financial results, and its financial position as at the end of the financial year; and
- (b) Disclose the information required in terms of sections 123, 124 and 125

The Municipality intends submitting the Annual Financial Statements to the Office of the Auditor General by the 31st of August for auditing purposes.

***** See the Annual Financial Statements attached as SEPARATE COVER 5.**

LEGAL IMPLICATIONS

Municipal Finance Management Act.

RECOMMENDATION

1. That Council takes note of the Annual Financial Statements for the financial year 2016-2017.

A121 of 2017

REQUEST FOR EXTENSION OF THE ACTING PERIOD OF THE EXECUTIVE DIRECTOR: COMMUNITY SERVICES (MM) (5/5/2)

PURPOSE

The purpose of the item is to request Council to approve an application to the MEC for COGTA to grant permission for the extension of the acting period of Executive Director for Community Services.

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 11th 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 1st June 2017.
6. That the acting period should **NOT EXCEED** three (3) months.

MATTER UNDER DISCUSSION

The acting period of Mr J. Molawa will expire on the 31st 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 3rd February 2017.
2. Only the position of the Municipal Manager has been filled as per Council resolution of the 13th 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 was 21 August 2017.

*** Copies of the advertisements in both Media News and City Press **are attached on page 315 to page 319 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 approves the request for an application for the extension of the acting period of Mr J. Molawa 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 Council appoints the Selection Panel in line with Regulation 12 of the Local Government: Regulations on the appointment and condition of employment of Senior Managers.
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 the acting period should not exceed three (3) months.

A122 of 2017

REPORT ON THE LABOUR COURT MATTER BETWEEN SAMWU AND MATJHABENG LOCAL MUNICIPALITY ON THE APPOINTMENT OF THE MUNICIPAL MANAGER (EXECUTIVE MAYOR) (15/2/1/24/1)

PURPOSE

The purpose is to report to Council regarding the challenge lodged by SAMWU (local branch) on the appointment of the Municipal Manager in the Labour Court, Johannesburg.

BACKGROUND

SAMWU lodged an urgent application on the appointment of the Municipal Manager in the Labour Court of Johannesburg. Amongst others, the union alleged that:

1. Council did not adhere to the regulations on the appointment and conditions of employment of senior manager of 17 January 2014, and
2. The selection panel failed to observe a policy that was adopted by Council in 2006 regarding the participation of employee representatives (**SAMWU & IMATU**). In essence, they were alleging that they should have been observers during the selection and the interviewing process.
3. The policy is referred to as Draft Policy: Recruitment and Selection (EMHR) 5/3/B.

The matter was heard on the 28 July 2017 and judgment was delivered on 1 August 2017. Council is specifically referred to paragraph 3, 4, 5 and 6 of the judgment as far as the Council resolutions are concerned.

*** See the Judgment on page 320 to page 324 of the Annexures.

MATTER FOR DISCUSSION

The application by **SAMWU** was dismissed. However, the policy adopted by Council in 2006 is in conflict with the Local Government: Regulation on the appointment and conditions of employment of senior manager of 2014. It is therefore prudent that the policy be repealed by Council in order to avoid unnecessary legal challenges in the future.

FINANCIAL IMPLICATION

The municipality appointed an Attorney and Advocates at the cost of **R 554 410.50**.

LEGAL REQUIREMENT

The report is submitted in line with section 59 and 61 of the Local Government: Municipal Systems Act, 32 of 2000.

RECOMMENDATIONS

1. That Council takes note of the report.
2. That the draft Policy: Recruitment and Selection under item A 87/2006 be repealed.

A123 of 2017

REPORT ON THE FENCING OF MUNICIPAL BUILDINGS (EXECUTIVE MAYOR)
(10/2/2/1/1)

PURPOSE

To report to Council on the progress for the fencing of all Municipal Buildings as per the resolution of the Mayoral Committee.

BACKGROUND

The Infrastructure Directorate was requested to compile specifications for submission to the Bid Specifications Committee and subsequently advertise Tenders for the fencing of all Municipal Buildings including Harvania Sports Ground in Virginia. The fencing of all these Municipal Buildings is for the purpose of improving security, thus eliminating theft and vandalism. The Directorate was tasked to identify Municipal Buildings to be fenced, draft the scope of work and estimate the costs required to implement this project. This report therefore serves as a response to the resolution taken by the Mayoral Committee.

It must be noted that this is a new project that has been identified and is not in the current adopted IDP and Budget, and therefore a report will have to be presented to Council as per section 29 of the Municipal Finance Management Act 56 of 2003.

DISCUSSION

Currently a project for the fencing of the Municipal main building is being implemented. The Contractor has been appointed and will resume site on 1 August 2017.

Further the following offices have been identified for fencing:

- Thabong Office;
- Bronville Office
- Odendaalsrus Office;
- Kutlwanong Office;
- Allanridge Office;
- Nyakallong Office;
- Virginia Office;
- Meloding Office;
- Hennenman Office;
- Phomolong Office;
- Ventersburg Office;
- Mmamahabane Office;

Additional to the above list is the Harvania Sports Ground in Virginia.

A desktop study was done whereby measurements of the identified sites to be fenced were done from the Municipal GIS and number of pedestrian and sliding gates were determined through assessment of the aerial photography.

The following technical details were concluded:

OFFICE	LENGTH FENCE	OF	NUMBER OF SLIDING GATES	NUMBER OF PEDESTRIAN GATES
Thabong Office	655m		1	1
Bronville Office	705m		1	1
Odendaalsrus Office	745m		5	2
Kutlwanong Office	240m		1	1
Allanridge Office	535m		3	3
Nyakallong Office	255m		2	1
Virginia Office	420m		2	1
Meloding Office	235m		3	1
Hennenman Office	367m		1	1
Ventersburg Office	255m		1	1
Mmamahabane Office	235m		1	1
Harvenia Sports Ground	1655m			

We are currently busy compiling specifications and draft tender documents for the fencing of the offices above. The recommended fencing is the “ClearVu” type due to its durability.

LEGAL SERVICES

- The National Building Regulations and Building Standards Act No. 103 of 1977 provides regulations for installation of perimeter fence.
- Section 25 of the Construction Industry Development Board (CIDB) regulations indicates that a Client may only invite and evaluate tenders of Contractors that are registered in their specific categories applicable to the project type.
- Municipal Finance Management Act 56 of 2003.

FINANCIAL IMPLICATIONS

Based on the assessment done and measurements taken, the following costs were estimated using historical figures from same projects that are currently being implemented:

- Thabong Office = R 982 500.00
- Bronville Office = R1 057 500.00
- Odendaalsrus Office = R1 433 020.83
- Kutlwanong Office = R 360 000.00
- Allanridge Office = R1 107 859.64
- Nyakallong Office = R 385 000.00
- Virginia Office = R 650 000.00
- Meloding Office = R 352 500,00
- Hennenman Office = R 550 500,00
- Ventersburg Office = R 382 500,00
- Mmamahabane Office = R 352 500,00

- Harvenia Sports Ground = R2 482 500,00
- TOTAL = R10 096 379,00**

RECOMMENDATIONS

1. That Council takes note of the report as per Section 29 of the MFMA.
2. That a procedure to appoint qualifying Contractors must be followed as per the CIDB regulations.

A124 of 2017

STATUS OF AUDIT COMMITTEE (SPEAKER) (6/12/3/2)

PURPOSE

To inform the Council about status of recruitment for Audit committee members.

BACKGROUND

In terms of section 166 of Municipal Finance Management Act, municipal council must appoint an Audit committee, which is an independent advisory body that must advise the municipal council, the political office-bearers; the accounting officer and the management staff of the municipality, or the board of directors on matters relating to Internal financial control and internal audits; Risk management; Accounting policies; the adequacy, reliability and accuracy of financial reporting; Performance management; Effective governance; Compliance with the Municipal Finance Management Act, the annual Division of Revenue Act and any other applicable legislation.

The Committee must also review the annual financial statements *to* provide the Council of the municipality or, in the case of a municipal entity; the council of the parent municipality and the board of directors of the entity, with an authoritative and credible view of the financial position of the municipality or municipal entity and respond to the Council on any issues raised by the Auditor-General in the audit report and carry out such investigations into the financial affairs of the municipality or municipal entity as the council of the municipality, or in the case of a municipal entity, the council of the parent municipality.

The Audit committee was appointed during the Council sitting dated the 27th of May 2015, through resolution A17/2015, after dissolution of the previous committee. The following people were appointed to serve on the Audit committee.

- Mr D Nadison; Chairperson of the Committee
- Mr S Mthombeni
- Mr M Makofane
- Ms T Mnqeta

The Council of Matjhabeng Municipality later resolved to extend the term of the Audit Committee until the 30th of June 2016 during its sitting dated the 13th of December 2016, through resolution A86/2016.

DISCUSSION

An advert was issued out inviting members of the Community to serve in the Audit Committee for three year period as of 2017/18 financial year and applications were received from the following people:

1. VB Dlamini
2. MA Moreki
3. RI Mokoena
4. K Mfabana

*** See the attached advert **on page 325 of the Annexures.**

*** See the names and qualifications of the applicants **on page 326 of the Annexures.**

Financial implications

	Per day/sitting
Chairperson	R 3584
Member	R 2176

LEGAL FRAMEWORK

Municipal Finance Management Act 166 of 2003.

RECOMMENDATIONS

3. That the Council re-advertise due to the following reasons.
 - 1.1 Low turnout of applicants, only four (4) applications received;
 - 1.2 Only two (2) applicants are in possession of relevant qualifications;
 - 1.3 Geographical location of two (2) of the applicants is outside the Province, which impacts on budget of the Municipality and inaccessibility of members during cases of emergency.

A125 of 2017

AUDIT COMMITTEE CLOSE-OUT REPORT (SPEAKER) (6/12/3/2)

Purpose

To submit Close-out report for 2015-2017 to Council for consideration.

Background.

In terms of section 166 of Municipal Finance Management Act, the Audit committee **must** advise the municipal council, the political office-bearers; the accounting officer and the management of the municipality on matters relating to internal financial control and internal audits; risk management; accounting policies; the adequacy, reliability and accuracy of financial reporting performance management; effective governance; compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; performance evaluation; and any other issues referred to it by the municipality or municipal entity.

The Act further bestows the Audit Committee with the responsibility to **review** the annual financial statements to provide the council of the municipality with an authoritative and credible view of the financial position of the municipality.

The Audit Committee must also **respond** to the Council on any issues raised by the Auditor-General in the audit report; and carry out such investigations into the financial affairs of the municipality.

*** See the report **on page 327 to page 332 of the Annexures.**

FINANCIAL IMPLICATION

None

LEGAL IMPLICATION

Section 166 of Municipal Finance management Act.

RECOMMENDATION

1. That Council considers the close-out report by Audit Committee.