

SMC8 of 2018

PROGRESS REPORT OF THE MUNICIPAL PLANNING TRIBUNAL (AED: HS, P & LED) (1/1/38)

PURPOSE

The purpose of the item is to provide a progress report to Mayoral Committee on the functioning and decisions taken on applications by the Municipal Planning Tribunal (MPT).

BACKGROUND

On the 16 January 2018, the Speaker submitted an item to Council on the appointment of the additional member for the Municipal Planning Tribunal in terms of the Spatial Planning and Land Use Management Act, No. 16 of 2013. Pursuant to the presentation, the Council resolved as follows:

COUNCIL RESOLVED: (16 JANUARY 2018)

1. That Council **APPOINTS** Mr Kgosi Simphiwe Mocwagae as an additional member to the Matjhabeng Municipal Planning Tribunal.
2. That in future, Council **MUST NOT** put names of municipal officials when appointments to the Tribunal are made, instead it should indicate the designations, as officials come and go, such as, Messrs X. Msweli and K. Duvenage.

DISCUSSION AND PROBLEM STATEMENT

The Municipality has already adopted the Spatial Planning and Land Use Management by-law. The Municipal Planning Tribunal conducted nine (9) meetings so far. It is important to mention that Mr. Barry Golele is still the Acting Executive Director: LED, Planning and Human Settlements and part of the Matjhabeng Municipal Planning Tribunal, whilst Mr. Boipelo Molelekoa is still the Acting Manager: Development Control since the departure of Mr. Koos Duvenhage in September 2016. It is important to mention that the above positions must inter alia be advertised and filled in order to strengthen the functioning of the MPT, the Spatial Planning Division and speed up service delivery.

With the resignation of the Director Infrastructure in August, Me Betty Maswanganyi, the MPT has now six (6) members despite the fact that Council resolved that there should be seven (7) members of which three (3) comprises of municipal officials and four (4) is external individuals not in the employ of the municipality. It is important that this vacant position is filled internally and immediately. The non-payment of Municipal Planning Tribunal members is a burning issue that needs to be addressed imminently as members have been seating without receiving their remuneration.

Furthermore, there are challenges that have made a negative impact on development within the Matjhabeng area of jurisdiction. Lack of capacity from internal municipal departments has caused a hamstring on the functioning of the Spatial Planning Division, Municipal Planning Tribunal and the Matjhabeng community at large. It is standard procedure that land use reports must be circulated to internal municipal departments and other government departments before

serving the Municipal Planning Tribunal. It takes at least one (1) month to evaluate and develop a report to serve the MPT.

It should be noted that there is a lack of capacity within the Spatial Planning Division and most importantly the core functions of this division cannot be done. This leads to other activities and functions being compromised. For the division to function effectively there is a dire need to employ more competent staff, adjust the job descriptions and remuneration packages as per the SPLUMA legislation and provide support to the division. Lack of capacity hampers service delivery and also leads to stress and burnout from the current employees within this division. Since the inception and implementation of SPLUMA at the municipality, there has been a reduction in timeframes with regards to processing land use applications. This is a positive indication that if this division is capacitated urgently, the mandate of the Constitution, the National Development Plan, the International Urban Development Framework and critical objectives of government will be achieved.

There is also a backlog of more than 20 land use applications which must still be processed by the Municipal Planning Tribunal (MPT) and Category 2 and exemption applications that must be approved by the Municipal Manager. This situation can be resolved by delegating powers to the Acting Director: LED, Planning and Human Settlements or the Acting Manager: Development Control.

There are applications that cannot be processed accordingly by the appointed authorized official due to a lot of other commitments. The Municipal Manager has been appointed to approve Category 2 applications by Council and this has led to delays with regards to signing off of applications. It is important that Council revisits the Council Resolution taken in the past in order to appoint an official in the Spatial Planning Division to approve Category 2 applications in order to expedite development and service delivery.

In summarizing the above-mentioned, there is lack of capacity within the Spatial Planning Division that has negatively affected the functioning of the municipality, the Municipal Planning Tribunal (MPT) and ultimately service delivery is compromised. In order to address this issue, the available critical positions must be filled as a matter of urgency. There is also a proposed Divisional Structure that must be aligned with the objectives of SPLUMA and be approved by Council. Plans, policies and systems within this Division must be developed in order to fast track service delivery.

SUGGESTED SOLUTIONS FOR MANAGEMENT

- That Management speeds up the process of a Work Study and job descriptions of the Spatial Planning Division employees be done as a matter of urgency.
- That Management facilitates the promotion policy and placement of internal employees on available critical positions and advertises the remaining critical positions.

*** Minutes of the Municipal Planning Tribunal meetings held in June and July **2018 is attached as Separate Cover 9.**

*** List of land use applications received, approved, declined and referred back is **attached on page 10 to 14 of the annexures.**

FINANCIAL IMPLICATIONS

- As stipulated in the regulations under Gazette No. 38594 dated 23 March 2015 provides for norms and standards for the terms and conditions of service of the members of the Municipal Planning Tribunal under Schedule 1.
- Adjustment and alignment of remuneration packages for municipal employees working in the Spatial Planning Division with the added duties and functions.

LEGAL AND POLICY REQUIREMENTS

Spatial Planning and Land Use Management Act, no 16 of 2013 provides a framework for Spatial Planning and Land Use Management. For the purposes of the Municipal Planning Tribunal, it provides for policies, principles, norms and standards for spatial development planning and land use management. It is intended to address past spatial regulatory imbalances; to promote greater consistency and uniformity in the application procedures and decision making by authorities responsible for land use decisions and development application; to provide for the establishment, functions and operations of the Municipal Training Tribunal; to provide for the facilitation and enforcement of land use and development measures.

Chapter 6 of the aforementioned Act provides under Part B, the process that must be followed in the establishment of Municipal Planning Tribunal. Part C provides for processes of Municipal Planning Tribunal and Part D regulates related land development matters such as internal appeals.

Section 54 of the Spatial Planning and Land Use Management enjoins the Minister of the Department Rural Development and Reform to promulgate in terms of the Spatial Planning and Land Use Management Act 16 of 2013. The regulations have been promulgated.

With regards to the Planning Professions Act, Act No. 36 of 2002, it is important that this professional legislation is recognized and implemented within the municipality.

RECOMMENDATIONS

1. That Mayoral Committee takes note of the Report regarding the Municipal Planning Tribunal (MPT) meetings held in June and July 2018.
2. That Council appoints a municipal official, who has relevant qualifications, background and expertise as required in the Spatial Planning and Land Use Management Act, 16 of 2013 to serve on the Municipal Planning Tribunal.
3. That the filling of critical vacant Town Planning posts of Manager: Development Control and two (2) Senior Chief Town Planners be expedited.
4. That Council expedites the process of approving the proposed Organizational Structure and aligning the remuneration packages of all the Spatial Planning Division employees as per the planning Professions Act, Act No. 36 of 2002 and the Spatial Planning and Land Use Management Act, Act No. 16 of 2013 legislation.