

A46 of 2019

**RESIGNATION OF COUNCILLOR M.S TD KHALIPHA AS AN ANC COUNCILLOR
(SPEAKER) (3/1/4/2)**

PURPOSE

To submit to Council, notice of resignation of Cllr TD Khalipha as a Councillor representing African National Congress in Matjhabeng Council.

BACKGROUND

The Office of the Speaker received a letter from Councillor TD Khalipha dated 27 May 2019 submitting his resignation as a Councillor representing ANC in Matjhabeng Local Municipality with immediate effect.

*** The resignation letter is attached on page 1 of the Annexures.

LEGAL FRAMEWORK

Local Government: Municipal Structures Act (Act 117 of 1998)

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council takes note of the resignation of Cllr TD Khalipha, effective from 27 May 2019.

A47 of 2019

**RESIGNATION OF COUNCILLOR D DIREKO AS AN ANC COUNCILLOR
(SPEAKER) (3/1/4/2)**

PURPOSE

To submit to Council, notice of resignation of Cllr D Direko as a Councillor representing African National Congress in Matjhabeng Council.

BACKGROUND

The Office of the Speaker received an undated letter from Councillor D Direko submitting her resignation as a Councillor representing ANC in Matjhabeng Local Municipality with effect from 21 May 2019.

*** The resignation letter is attached on page 2 of the Annexures.

LEGAL FRAMEWORK

Local Government: Municipal Structures Act (Act 117 of 1998)

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council takes note of the resignation of Cllr D Direko, effective from 21 May 2019.

A48 of 2019

REQUEST FOR APPOINTMENT OF ACTING EXECUTIVE DIRECTOR: LOCAL ECONOMIC DEVELOPMENT, PLANNING AND HUMAN SETTLEMENTS (EXECUTIVE MAYOR) (5/5/2)

PURPOSE

The purpose of the item is to request Council to approve the Acting of Executive Director: Local Economic Development, Planning and Human Settlement.

BACKGROUND

The Local Government's Municipal Systems makes provision for the appointment an Acting Director accountable to the Municipal Manager. 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.”

MATTER UNDER DISCUSSION

COUNCIL RESOLVED: (28 FEBRUARY 2019)

1. That Council **APPROVES** the request for an application for the extension of the acting period of Mr. Barry Golele in terms of section 56(1) (c) of the MSA as amended.
2. The extension must **NOT EXCEED** a period of three months.
3. The application for extension must **NOT BE CONSTRUED** by the incumbent as legitimate expectation for appointment to the post.
4. That the Executive Mayor **IS DELEGATED** to depose the letter to the MEC of Local Government.

The acting period of Mr. Barry Golele expires on 30 May 2019 and the law requires that council considers continued acting of Mr. Golele or appoint someone to act in the Vacant Position. The appointment of an acting director should be in line with the Constitutional Court ruling which declared the Municipal System Amendment Act, 2011 to be unconstitutional and invalid. The municipal council should also take into consideration the circular 1 of 2019.

The Municipal System Act, no. 32 of 2000 provides as follows:

Section 56 (1)(c) stipulates further that a person appointed in terms of paragraph (a)(ii) may not be appointed for a period that exceeds three months : Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a) , for a further period that does not exceed three months.

The special circumstances or good cause exists in that:

1. The vacant post for the Executive Director: LED, Planning and Human Settlements has been advertised.
2. Council appointed a selection panel in line with the Local Government: Regulations on the appointments and conditions of employment of Senior Managers of 17 January 2014.
3. The process has not been completed due changes in the law applicable to the appointment of managers directly accountable to the municipal manager.
4. Good Governance dictates that continuity for acting by the current directors is the most plausible managerial approach under the circumstances.
5. Circular 1 of 2019 has to be considered prior to the finalisation of the appointment.

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.

Section 56 (1)(c) stipulates further that a person appointed in terms of paragraph (a)(ii) may not be appointed for a period that exceeds three months : Provided that a municipal council may, in special circumstances and on good cause shown, apply in writing to the MEC for local government to extend the period of appointment contemplated in paragraph (a) , for a further period that does not exceed three months.

RECOMMENDATIONS

1. That Council appoint Mr. Barry Golele to act as Executive Director: LED, Planning and Human Settlement.
2. The extension must not exceed a period of three months.
3. The application for extension must not be construed by the incumbent as legitimate expectation for appointment to the post.