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ELECTION OF A COUNCILLOR REPRESENTATIVE TO THE GENERAL COMMITTEE OF FREE STATE MUNICIPAL PENSION FUND (SPEAKER) (4/1/2/2)

PURPOSE

To submit to Council, a proposed for election of a Councillor Representative to Free State Municipal Pension Fund.

BACKGROUND

In an e-mail message dated 03 July 2019, Free State Municipal Pension Fund invited nominations for Councillor in the Municipality to nominate a member representatives to fill the seats for the Municipality on the General Committee.

*** Attached on page 1 of the Annexures is the correspondence from Free State Municipal Pension Fund.

FINANCIAL IMPLICATIONS

None

RECOMMENDATIONS

1. That Matjhabeng Council elects the employer representative to represent the Municipality at Free State Municipal Pension Fund.
2. That the Municipal Manager communicates with Free State Municipal Pension Fund regarding the name of the employer representative to that Fund.

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MPAC COMMITTEE REPORT ON THE UNAUTHORIZED, FRUITLESS AND WASTEFUL EXPENDITURE INCURRED FOR THE PERIOD ENDED 30 JUNE 2018
(MPAC CHAIRPERSON)

PURPOSE

To submit to Council the MPAC report on Irregular and Fruitless and Wasteful Expenditure incurred for the financial periods ended 30 June 2018 as mandated by council.

BACKGROUND

The Municipality is required to disclose particulars of Unauthorised, Irregular or Fruitless and Wasteful expenditure as part of the notes to the Annual Financial Statements in terms of the requirements of Section 125(2) (d) of the Municipal Finance Management Act.

As part of the process to correct the audit exceptions, we submitted to Council a request for an investigation as per Section 32 of the Municipal Finance Management Act. Consequently, Council appointed the Committee to perform investigations as guided by National Treasury MFMA circular no. 68 and Section 32 of the Municipal Finance Management Act and to submit a report to Council with recommendations for consideration by Council.

Section 32 (1) of the Municipal Finance Management Act states the following:

(1) Without limiting liability in terms of the common law or other legislation-

(a) a political office-bearer of a municipality is liable for unauthorised expenditure if that office-bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;

(b) the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);

(c) any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or

(d) any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

Section 32(2) and (4) of the Municipal Finance Management Act states the following:

(2) 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) authorised in an adjustments 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 committee, certified by the council as irrecoverable and written off by the council.
- (4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—
 - (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.

Definition of Fruitless and Wasteful Expenditure

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 would 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. No particular expenditure is explicitly identified by the MFMA as fruitless and wasteful.

DISCUSSIONS

The MPAC met on a few occasions and recommended that most all of the unauthorised, fruitless and wasteful expenditure items identified during the 2017/2018 financial year as presented by Office of the Auditor General in December 2018 be authorized as well be written-off as they are irrecoverable. Recommendation with regard unauthorized expenditure must be

looked at decisively because it comes about in most part as a result of poor financial planning. The investigations that MPAC is happy about and requests authorization is for the R591,376,542.00 and the remainder from the total of R873,124,569.28 be subjected to further investigations. A report will be submitted to council at a later stage after investigations have been finalized.

It was resolved during a meeting of MPAC that the accounting officer is responsible for advising council to ensure that only a funded budget is approved by council. It has come to the attention of MPAC as per the advice of Provincial Treasury that fruitless and wasteful amounts must have been foreseen before council approved the budget because of cash flow constraints. The majority of items resulting in fruitless and wasteful expenditure are non-cash items and must have been factored in the adjustments budget.

It is therefore the recommendation of MPAC that given the Public Audit Amendment Act having to be implemented henceforth, the Municipality must start budgeting for non-cash items as well.

*** The MPAC Committee report on the investigation of unauthorized, fruitless and Wasteful expenditure **is attached under Separate Cover (24).**

FINANCIAL IMPLICATIONS

The Municipality is required to disclose particulars of the Unauthorized, Fruitless and Wasteful Expenditures as part of the notes to the Annual Financial Statements in terms of the requirements of section 125(2)(d) of the Municipal Finance Management Act.

LEGAL IMPLICATIONS

The report on the investigation of Unauthorized, Fruitless and Wasteful expenditure and the recommendations for authorization and write-off are in compliance with Section 32(2) of the Municipal Finance Management Act.

RECOMMENDATIONS

Fruitless and Wasteful expenditure

1. That Council takes note of the MPAC committee report;
2. That Council certifies an amount of **R167 709 893,26** detailed below as irrecoverable and be written-off;
3. That the appropriate disclosure note be made to the financial statements for the year ending 30 June 2018;
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.

RECOMMENDATIONS

1. That Council takes note of the MPAC report on unauthorized expenditure;
2. That Council authorizes an amount of **R591,376,542.00**;
3. That Council takes note that the outstanding unauthorized amount of R145, 013,039.81 be further investigated as it was not sufficiently dealt with by MPAC and will only be submitted in the next ordinary Council; and
4. That both the Accounting Officer and the Chief Financial Officer must advise Council when next a decision is taken on budget approvals so that only funded budgets get approved.
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.