

**A23 of 2018**

**APPOINTMENT OF AUDIT COMMITTEE (SPEAKER) (6/12/2/2)**

**PURPOSE**

To recommend appointment of an Audit Committee to the Municipal Council.

**BACKGROUND**

In terms of Section 166 of Municipal Finance Management Act, each municipality must have an Audit Committee which 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.

During the Council sitting dated 16 January 2018, resolution A127 of 2017 was passed for appointment of panel comprising of five (5) Councilors; with Cllr Manese as Chairperson; to shortlist; interview and make recommendations to Council about suitable candidates to serve on the Municipal Audit Committee.

The panel sat on the 09<sup>th</sup> of February 2018 for shortlisting and on the 22<sup>nd</sup> February and the 9<sup>th</sup> of March 2018 for interviews.

The following stakeholders were invited as observers to give the processes credibility:

- Provincial Treasury
- Department of Cooperative Governance and Traditional Affairs
- South African Local Government Association

**DISCUSSION**

Applications from the following applicants were received following newspaper advertisement:

1. Mr M.A Moreki
2. Mr R.I Mokoena
3. Mr K Mfabana
4. Mr P.R Mnisi
5. Mr S Simelane
6. Mr P.P Ngqeleni
7. Mr MNG Mahlatsi
8. Mr M.J Mutsi
9. Mr EM Mohlahlo
10. Mr L.A Makgale
11. Mr B.L.L Mbange
12. Mr K. Maja
13. Mr U. Botshiwe

14. Ms N. G. Pule
15. Mr N Mokhesi
16. Mr N. L. Masoka
17. Mr S. A. Xaba

On the 9<sup>th</sup> of February 2018; the panel selected the following eight (8) candidates for interviews.

1. Mr M.A Moreki
2. Mr MNG Mahlatsi
3. Mr M.J Mutsi
4. Mr EM Mohlahlo
5. Mr B.L.L Mbange
6. Mr U. Botshiwe (Not available)
7. Ms N. G. Pule
8. Mr N Mokhesi

The interviews were held on the 22<sup>nd</sup> of March 2018; and one candidate; namely Mr U Botshiwe; could not avail himself for the interviews. During evaluation stage of the interviews, the following people were identified as suitable candidates to serve on the Municipal Audit Committee:

1. Mr MNG Mahlatsi
2. Mr M.J Mutsi
3. Mr EM Mohlahlo
4. Ms N. G. Pule (Female)
5. Mr N Mokhesi

\*\*\* The interviews score-sheet is attached on page 1 of the Annexures.

### **Financial Implication.**

- Treasury Regulation

Remuneration of Audit Committee members should be in accordance with Chapter 3 of National Treasury Regulations (PFMA) paragraph 20.2.2 as adjusted annually, effected 1<sup>st</sup> April each year.

- The Council Resolution A50/2016

The resolution states that Audit committee members be paid preparation fees equal to the sitting allowance of ordinary member or chairperson per meeting attended.

In terms of the afore-mentioned provisions, Committee members will be paid as follows:

	<b>Sitting Allowance</b>	<b>Preparation fee</b>
<b>Chairperson</b>	R 3784 per meeting	R 3784 per meeting
<b>Members</b>	R 2296 per meeting	R 2296 per meeting

Circular 65 of National Treasury Regulation further directs that:

*“Remuneration will only be applicable to officials employed outside the public service. No remuneration for participating in audit committees will be payable to officials employed at national; provincial and local government; it agencies or other agencies regarded as falling within definition of organ of the state; except for out of pocket expenses which may be reimbursed”.*

## **LEGAL FRAMEWORK**

- Municipal Finance Management Act 166 of 2003 requires that each municipality must have an Audit committee.

## **RECOMMENDATION**

1. That Council appoints the following five (5) candidates to serve as Audit Committee; with \_\_\_\_\_ as Chairperson for the remainder of Council term.
  - a) Mr MNG Mahlatsi
  - b) Mr EM Mohlahlo
  - c) Mr N Mokhesi
  - d) Mr M.J Mutsi
  - e) Ms N. G. Pule

A24 of 2018

**RESIGNATION OF COUNCILLOR M.S TSOAELI AS AN EFF COUNCILLOR  
(SPEAKER) (3/1/4/2)**

**PURPOSE**

The purpose of this item is to submit to Council the resignation of Cllr M.S Tsoaeli as a Councillor representing Economic Freedom Fighters in Matjhabeng Council, for noting.

**BACKGROUND**

The Office of the Municipal Manager received a letter from Councillor M.S Tsoaeli dated 26 February 2018 submitting his resignation as a Councillor representing EFF in Matjhabeng Local Municipality with effect from 28 February 2018.

\*\*\* The resignation letter is attached on page 2 to page 3 of the Annexures.

**POLICY POSITION**

None

**LEGAL IMPLICATIONS**

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

**FINANCIAL IMPLICATIONS**

None

**RECOMMENDATION**

1. That Council takes note of resignation of Cllr M. S Tsoaeli.

**A25 of 2018**

**MUNICIPAL COUNCILLORS' PENSION FUND (MCPF) (SPEAKER) (5/4/4/1/1)**

**PURPOSE**

To brief Council about the current status of the Municipal Councillors Pension Fund.

**BACKGROUND**

In 2016 the Council took a resolution that Councillors should resign or get out of the Municipal Pension Fund (MCPF). This was communicated to the MCPF.

There was no response from MCPF and what followed was that the Board of Trustees was dissolved by Financial Services Board (FSB). The PO, Mildred Mlinjana resigned as she was already suspended by the previous Board as she was also facing charges.

The Section 26 Board investigated the fund and came up with a report that showed that R145 136 508 was unaccounted for by the fund. The report is attached as an annexure for perusal. The Speaker formed a task-team that needed to meet with the MCPF Board. Many letters were written to try to secure an appointment but with no success until the Section 26 Board was dissolved.

Two curators were appointed by Gauteng High Court. Under those curators, the fund was able to come and meet the task team that was formed by the Speaker. The matter of transferring the Councillors Benefit to CRF was discussed. The fund was saying that according to their Rules, that was not possible. They could not explain a specific Rule that was saying that. They could not explain Rule 24A1.2 which talks about transfers and amalgamations also Section 14 from the Pension Fund Act No 24 of 1956 talks about transfers and amalgamations.

Having followed up by a letter to them they then answered to say for that to happen there is a process to be followed which involves FSB. We then answered to say we were not saying that they short circuit processes they should follow procedures and transfer those benefits.

\*\*\* Attached as Annexure 1 **on page 4 to page 7 of the Annexures is Circular: MCPF 3/2017.** This reveals how funds were used in the MCPF.

\*\*\* Attached as Annexures 2-4 **on page 8 to page 13 of the Annexures** is the correspondence between the Municipality and the Fund.

At the time of drafting this report, telephonically they said they were still going to consider the matter.

**LEGAL IMPLICATIONS**

There are legal implications if the Council decides to take the matter to Court.

**SUBMITTED FOR CONSIDERATION**

**A26 of 2018**

**OVERSIGHT REPORT IN RESPECT OF THE 2016/2017 DRAFT ANNUAL REPORT FOR THE MATJHABENG LOCAL MUNICIPALITY (MPAC CHAIRPERSON)**  
(4/1/2/2)

**PURPOSE**

To submit to Council an Oversight report of the Municipal Public Accounts Committee (MPAC) regarding public participations process undertaken on the Draft Annual Report of the Municipality for the 2016/2017 financial year and recommendations made thereafter.

**BACKGROUND**

Council of Matjhabeng Local Municipality discussed and noted the draft annual report of 2016/2017 financial year on the 31<sup>st</sup> January 2018. In terms of applicable legislation, a public participation process needed to be sanctioned and as a result, the Municipal Public Account Committee was tasked with the responsibility of soliciting views regarding service delivery evidence for the year under review.

A public participation process was planned from the 27<sup>th</sup> February and until the 22<sup>nd</sup> March 2018 where views of community of the Municipality were heard and recorded as such in the oversight report. Simultaneously, a public notice was issued for comments to be submitted as required by law until the 23<sup>rd</sup> March 2018.

The process of public participation would be concluded on Monday, the 26<sup>th</sup> March 2018. The report is submitted to Council recommending on the basis of the public participation process.

\*\*\* The draft report **attached as SEPARATE COVER 1 will be available on Monday, the 26<sup>th</sup> March 2018.**

**LEGAL IMPLICATIONS**

- Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003),

Section 129. Oversight reports on annual reports. “(1) The council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality’s sole or shared control, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing the council’s comments on the annual report, which must include a statement whether the council—

- (a) has approved the annual report with or without reservations;
- (b) has rejected the annual report; or
- (c) has referred the annual report back for revision of those components that can be revised”.

- MFMA Circular No. 32 of March 2006 on the Oversight Report

**FINANCIAL IMPLICATIONS**

Development of the oversight report did not require external expertise and therefore it was developed by the Council Committee.

**RECOMMENDATIONS**

1. That Council, having fully considered the 2016/2017 Draft Annual Report of the Municipality and representations thereon, adopt the Oversight Report and approve the Annual Report without reservations.
2. That specific Committee recommendations be noted.
3. That the Oversight Report be made public in accordance with Section 129(3) of the Municipal Finance Management Act 56 of 2003.
4. That the Oversight Report be submitted to COGTA, Provincial Treasury and National COGTA and National Treasury as required by Section 132(2) of the Municipal Finance Management Act 56 of 2003.

**A27 of 2018**

**PROGRESS ON THE FIRST DRAFT REVIEWED INTEGRATED DEVELOPMENT PLAN FOR THE FINANCIAL YEAR 2018/2019 (EXECUTIVE MAYOR) (9/3/1)**

**PURPOSE**

To present to the Council sitting progress towards the first Draft Reviewed Integrated Development Plan (IDP) for the Financial Year 2018/2019 for noting as work in progress in terms of Chapter 5 of the Municipal Systems Act.

**BACKGROUND**

In terms of Municipal Systems Act No. 32 of 2000, local municipalities are required to submit their revised draft Integrated Development Plans every year, no later than the 31st of March, to Council for noting.

The Draft IDP for 2017/2018 was noted by Council on the 22<sup>nd</sup> March 2017 as a draft and the following resolutions were taken during the meeting:

- That Council TAKES NOTE of the draft IDP document as a work in progress.
- That the draft IDP BE SUBJECTED to public consultation as per adopted IDP process plan.
- That the draft IDP incorporating inputs from consultations BE RE-TABLED to Council for final approval.
- That the IDP BE WARD-BASED.
- That all issues raised by the communities in previous years BE SUMMARIZED and INCORPORATED in the current IDP.
- That the acting Municipal Manager MUST DETERMINE whether the priorities listed for the previous five years in all 36 wards are still current priorities.

The draft IDP was ultimately approved by Council for implementation in May 2017. Subsequent to approval and implementation of planned projects for the first six months of the 2017/2018 financial, and as per the requirements of the law, Council received both financial and non-financial reports as per section 72 of the Municipal Finance Management Act of 2003 indicating challenges in terms of implementation of the planned projects in the IDP due to financial constraints.

An adjustment budget was then submitted to a Special Council held on the 28<sup>th</sup> February 2018 with the following resolutions:

- That the 2017/2018 Annual Budget MUST REMAIN unadjusted at R 2 480 389 358.
- That Council **APPROVES** the virements between votes.
- That Council **APPROVES** the mSCOA data strings.



- That Council **SHOULD REDUCE** the budget in the next financial year.
- That Council **MUST SPEND** according to the revenue collection, which is 60% currently.
- That in the new budget, payment according to the recovery plan **SHOULD TAKE** preference.

In anticipation of the reduced budget, new project inputs to the revised IDP must really take into account the current financial situation of the Municipality and how additional budget would be sourced for implementing the new projects.

In addition, the process of the development/review of sector plans (Integrated Transport Plan, Land Use Management Schemes, Spatial Development Framework and Housing Sector Plan) has been going on since the beginning of January 2018. These are some of the key sector plans that must form part of the draft IDP 2018/2019 and three of the four draft sector plans are annexed here.

\*\*\* **Attached as SEPARATE COVER 2** is the Draft revised integrated development plan for the financial year 2018-2019.

## **LEGAL IMPLICATIONS**

Municipal Systems Act No. 32 of 2000- Chapter 5(s34) clearly indicates that a Municipal Council-

- (a) *Must review its integrated development plan-*
  - (i) *Annually in accordance with an assessment of its performance measurements in terms of section 41; and*
  - (ii) *To the extent that changing circumstances so demand; and*
- (b) *May amend its integrated development plan in accordance with a prescribed process.*

## **FINANCIAL IMPLICATIONS**

The draft revised IDP for 2018/2019 did not require financial support.

## **RECOMMENDATIONS**

1. That Council notes progress on the first Draft revised IDP for the Financial Year 2018/2019.
2. That the first draft revised IDP be subjected to public consultation as per adopted IDP process plan.
3. That the draft IDP be ward-based.
4. That the draft IDP must include inputs from previous and current consultations and both be incorporated to be re-tabled to Council for final approval.

A28 of 2018

**THE 2018-2019 ANNUAL BUDGET FOR THE MATJHABENG MUNICIPALITY  
(EXECUTIVE MAYOR) (6/1/1/1)**

**PURPOSE**

To table the Annual Budget for the 2018/2019 medium term revenue and expenditure framework (MTREF) financial year.

**BACKGROUND**

According to section 16 (2) of the MFMA, the Municipal Council must at least 90 days before the start of the budget year consider approval of the annual budget to be able to adhere to subsection 1 of section 16, which stipulates “The council of a municipality must for each financial year approve an annual budget for the municipality before the start of that financial year.

The Total Annual Budget for the 2018/19 financial year is **R 2 726 759 150**, inclusive of operating and capital transfers.

\*\*\* The Annual Budget for 2018/2019 MTREF financial year is attached as **SEPARATE COVER 3**.

\*\*\* The 2018/19 tariffs are **attached as SEPARATE COVER 4**.

**A - Revenue**

- a) Increase of 5.3% in water tariffs for the 2018/2019 financial year. The proposed increase by Sedibeng is 9%.
- b) There will be an overall average increase of 7.23% in electricity tariffs for the 2018/2019 financial year as per NERSA guidelines.
- c) Assessment rates will increase with 5.3%.
- d) There will be a 5.3% increase in Refuse and Sewerage Rates.
- e) General tariffs will increase with 5.3%.

**Budget Assumptions:-**

CPIX of approximately 5.3%

Increase in Sedibeng Water tariffs by 9%

Eskom Tariff increase of 6.84% and 7.23% for municipalities

Salary increases of approximately 8%

National Treasury (MFMA Circular No. 91)

- f) The average pay rate of **60%** has been informed by the following factors:-

- Historic collection trends.

- g) The Equitable Share allocation for the 2018/19 financial year will be **R 459 418 000**.

With this background in mind, we are therefore of the view that the budgeted revenue figure is realistic. However, the major challenge facing the Municipality is the huge backlog in service delivery.

## B – Expenditure

- a) The salary figure is **28.61%** of the total expenditure. However, not all vacancies have been filled. This has an adverse impact on service delivery. If all positions were to be filled, the salary figure would be above 50% of total expenditure. This would clearly be unaffordable to the Municipality. However, there are critical positions that would have to be filled. Provision is made for a 7% increase in salaries.
- b) There are other fixed costs that the Municipality cannot do without.
  - Supply of bulk services making up **35.90%** of total expenditure.
  - Other General Expenditure relate to operational costs and are therefore inevitable. This makes up **4.85%** of total expenditure.

The Municipality therefore has a great challenge of providing basic services to its population with limited resources.

## Capital Budget

The Capital Budget for the 2018/19 financial year is **R 163 245 000**. The sources of funds for the capital budget are as follows:

Municipal Infrastructure Grant	R 128 420 000
Water Services Infrastructure Grant	R 26 825 000
Integrated National Electrification Programme	R 8 000 000

## POLICY POSITION

Municipal Finance Management Act  
Municipal Systems Act  
Municipal Budget Regulations

## RECOMMENDATION

1. That Council takes note of the 2018-2019 Annual Budget for the Matjhabeng Municipality.

A29 of 2018

**SPECIAL ADJUSTMENT BUDGET FOR 2016/2017 FINANCIAL YEAR  
(EXECUTIVE MAYOR) (6/1/1/1)**

**PURPOSE**

The purpose of the item is to request council to approve the special adjustment budget for 2016/2017 financial year

**BACKGROUND**

During the 2016/2017 financial year, the Municipality incurred unauthorised expenditure as per special adjustment budget attached hereto. In terms of regulation 23(6)(b) of the MBRR, council may authorise unauthorised expenditure in a special adjustments budget tabled in council when the mayor tables the annual report in terms of section 127(2) of the MFMA. This special adjustment budget “may only deal with unauthorised expenditure from the previous financial year which the council is being requested to authorise in terms of section 32(2)(a)(i) of the Act.”.

**LEGAL IMPLICATIONS**

Section 15 of the MFMA provides that a municipality may incur expenditure only in terms of an approved budget. This is confirmed by section 32(2)(a)(i) of the MFMA that provides that council may only authorise unauthorised expenditure in an adjustments budget.

Sections 28(c) and 28(g) of the MFMA, read together with regulations 23(1), 23(2), 23(4) and 23(6) of the MBRR, discusses *when* council may authorise unauthorised expenditure in an adjustments budget. This can be addressed in three different adjustments budgets as follows:

- (a) ***Adjustments budget for unforeseen and unavoidable expenditure:*** An adjustments budget to allow council to provide *ex post* authorisation for unforeseen and unavoidable expenditure that was authorised by the mayor in terms of section 29 of the MFMA must be tabled in council at the “first available opportunity” or within the 60 days after the expenditure was incurred (see section 29(3) of the MFMA). Should either of these timeframes be missed, the unforeseen and unavoidable expenditure must be treated in the same manner as any other type of unauthorised expenditure and may still be authorised in one of the other adjustments budgets process described below.
- (b) ***Main adjustments budget:*** In terms of regulation 23(6)(a) of the MBRR, council may authorise unauthorised expenditure in the adjustments budget which may be tabled in council “at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year”. Therefore, unauthorised expenditure that occurred in the first half of the current financial year may be authorised by council in this adjustments budget. Where unauthorised expenditure from this period is not identified or investigated in time to include in this adjustments budget, it must be held over to the following adjustments budget process noted below.
- (c) ***Special adjustments budget to authorise unauthorised expenditure:*** In terms of regulation 23(6)(b) of the MBRR, council may authorise unauthorised expenditure in a

special adjustments budget tabled in council when the mayor tables the annual report in terms of section 127(2) of the MFMA. This special adjustment budget “may only deal with unauthorised expenditure from the previous financial year which the council is being requested to authorise in terms of section 32(2)(a)(i) of the Act.” This special adjustment budget therefore deals with:

- unauthorised expenditure that occurred in the first half of the previous financial year that was not included in the main adjustments budget or that was included but referred back for further investigation or further information;
- unauthorised expenditure that occurred in the second half of the previous financial year, and
- any unauthorised expenditure identified by the Auditor-General during the annual audit process.

All instances of unauthorised expenditure must be recovered from the liable official or political office-bearer, unless the unauthorised expenditure has been authorised by council in an adjustments budget.

\*\*\* Attached on page 14 of the Annexures is the 2016/17 unauthorized expenditure.

## FINANCIAL IMPLICATIONS

Unauthorised expenditure as per special adjustment budget attached hereto, amounts to R965 932 246,00.

EXPENDITURE TYPE	ADJUSTED BUDGET 2016/17	POST AUDIT ACTUALS	VARIANCE	SPECIAL ADJUSTMENT BUDGET
Employee related costs	620 098 550,73	654 633 722,00	(34 535 171,00)	654 633 722,00
Remuneration of councillors	28 551 594,00	28 790 999,00	(239 405,00)	28 790 990,00
Debt impairment	70 000 000,00	350 487 460,00	(280 487 460,00)	350 487 460,00
Depreciation & asset impairment	87 000 000,00	210 591 424,00	(123 591 424,00)	210 591 424,00
Finance charges	105 980 000,00	225 560 704,00	(119 580 704,00)	225 560 704,00
Bulk purchases	676 436 219,79	893 422 073,00	(216 985 853,21)	893 422 073,00
Other materials	230 690 767,00	71 864 414,00	158 826 353,00	230 690 767,00
Contracted services	80 000 000,00	167 483 479,00	(87 483 479,00)	167 483 479,00
Transfers and grants	32 850 000,00	-	32 850 000,00	-
Other expenditure	105 127 252,00	208 156 182,00	(103 028 930,00)	208 156 182,00
Loss on disposal of PPE	-	-	-	-
	<b>2 036 734 383,52</b>	<b>2 810 990 457,00</b>	<b>(965 932 426,00)</b>	<b>2 897 952 396,00</b>

Non -cash items

(404 078 884,00)

Bulk purchases and Eskom  
Interest

(336 566 557,00)

Other expenditures

(225 286 985,27)

**Total Unauthorised  
expenditure**

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**(965 932 246,00)**

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## RECOMMENDATION

1. That Council approves the special adjustment budget to authorize the 2016/2017 unauthorized expenditure incurred.

**A30 of 2018**

**REPORT ABOUT HARMONY GOLDMINE'S INTENTION TO DONATE THE REMAINING EXTENT OF THE FARM, MEALIE BUILT NO.49 TO THE MUNICIPALITY (EXECUTIVE MAYOR) (6/4/2/2)**

**PURPOSE**

The purpose is to submit a report to council about Harmony Gold Mine's intention to donate the remaining extent of the farm, Mealie Built no.49 (next to Pabalong Village) to the municipality.

**BACKGROUND**

On or about 24 February 2018, some members of the community occupied the remaining extent of the farm, Mealie Built no.49 (next to Pabalong Village) to the municipality which is owned by Harmony Gold Mine. Pursuant to such occupation, Harmony Gold Mine launched an urgent interdict application in the Bloemfontein High Court. A meeting was also arranged between the Executive Mayor and the CEO of Harmony and held on 1 March 2018.

Harmony made the following proposal to the municipality at the meeting:

1. They will stay the legal proceedings (interdict) against the illegal occupants and the municipality.
2. That they will donate the occupied land the remaining extent of the farm, Mealie built no.49 (next to Pabalong Village) to the municipality.
3. That they will provide the maps of the entire occupied area and all the necessary information pertaining to structural plans (underground infrastructure).
4. That the municipality will provide basic services i.e. temporary water taps, electricity and sanitation facilities until the informal settlement is formalised.

Copies of the correspondence between Harmony and the Municipality **is attached on page 15 to page 17 of the Annexures.**

**FINANCIAL IMPLICATION**

The land will be donated to the municipality. The financial implication for provision of bulk services will only be determined after an assessment / investigation has been conducted by the Infrastructure department including costs.

**LEGAL IMPLICATION**

The municipality will be required to provide alternative accommodation (land) should the donation not be accepted by council. The reason being that if Harmony Gold Mine is successful with their eviction application, the court is likely to compel the municipality to provide alternative accommodation.

## **RECOMMENDATIONS**

1. That Council takes note of the report.
2. That Council accepts the donation of the remaining extent of the farm, mealie built no.49 (next to Pabalong Village) by Harmony Gold Mine.
3. That the Municipal Manager should obtain the Maps of the entire area and structural plans (underground Infrastructure) from Harmony.
4. That the Municipal Manager be mandated to finalize the transfer of the land to the Municipality.
5. That the Municipal Manager to proceed to install temporary water taps, electricity and sanitary facilities.