

A8 of 2019

ELECTION OF COUNCILLOR M.D. MASIENYANE INTO NAMPAC (SPEAKER)
(4/1/2/2)

PURPOSE

To make Council aware that Cllr M.D. Masienyane, besides being the Chairperson of MPAC, has been also elected to serve in a National Structure called “National Association of Municipal Public Accounts Committees” (NAMPAC).

BACKGROUND

Municipal Public Accounts Committees (MPACs) in South Africa perform similar tasks without party political influences in accordance with the relevant Council rules and legislation. It was then found that there was a need for these Committees to be linked through an association to pursue common goals and objectives.

It is then out of the above that the National Association of Municipal Public Accounts Committees (NAMPAC) was established. There had to be a leadership to lead the NAMPAC. Cllr Masienyane was elected to be part of the leadership of NAMPAC.

The NAMPAC is requesting the Matjhabeng Local Municipality to assist Cllr Masienyane to fulfil his responsibilities for NAMPAC.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

RECOMMENDATION

1. That Council takes note of the item.

A9 of 2019

**REPORT OF THE SPEAKER REGARDING THE PERFORMANCE OF 36 WARDS
(SPEAKER) (3/7/1/6)**

PURPOSE

To bring the report to Council regarding the performance of all thirty six Wards of Matjhabeng.

BACKGROUND

A Ward Committee may make recommendation on any matter affecting its Ward to the Chairperson or through the Chairperson to the Council or a Committee of the Council.

- Organize in its Ward campaigns, competitions and celebrations to promote pride in cleanliness and elegance of the Ward and the Municipality;
- Supply to the residents within the Ward information of the municipal services in the ward and events regarding the ward or the Municipality in general;

The Ward Committee has a right to engage with the Municipal Manager or departmental heads about a particular matter regarding the ward. Whenever a Ward Committee makes a recommendation on a matter affecting its ward through the Chairperson, the Chairperson must submit a motion regarding that matter in terms of rule 54 to the Municipal Manager.

The activities of Ward Committees get reported on monthly basis to the Office of the Speaker. It is the view of the Office of the Speaker that common issues raised by wards will have to form part of the Council Agenda for them to be debated by Council and resolved.

***** The attached report on page 1 to page 8 of the Annexures will indicate which wards are reporting and which of those are not reporting.**

Wards are encouraged to bring monthly reports as the Office of the Speaker would like to improve communication channels between itself, wards and administration.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

Standard Rules and Orders
Municipal Structures Act No, 117 of 1998

RECOMMENDATION

1. That Council takes consideration of the item.

A10 of 2019

SUBMISSION OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)'S TERMS OF REFERENCE (MPAC CHAIRPERSON) (4/1/2/2)

PURPOSE

To submit draft terms of reference to Council for consideration.

BACKGROUND

The committee was established as part of other section 79 committees during a Council meeting held on the 6th September 2016 to work during the current term of council. Its term started during the 2016/2017 financial year and end during the 2020/2021 financial year together with the end of term of council.

The committee has been working without approved terms of reference and it is for this purpose that the committee intends using the SALGA terms of reference for Municipalities as found in the MPAC Practical Guide of March 2012. The terms of reference for the MPAC are in Part 2 of the same Practical Guide of SALGA (pages 10-12).

*** See the SALGA's Municipal Public Accounts Committee (MPAC) Practical Guide **attached as SEPARATE COVER 1.**

LEGAL IMPLICATIONS

- Formal delegations of MPAC work is done in terms of provisions of s59 of the Local Government: Municipal Systems Act, 2000.
- Matjhabeng Local Municipality's standard rules and orders.

FINANCIAL IMPLICATIONS

There are no financial implications for attending MPAC meetings by members.

RECOMMENDATIONS

1. That Council notes the terms of reference as submitted for consideration.
2. That Council approves the terms of reference for use by MPAC for the duration of the current term.

A11 of 2019

QUESTIONS OF WHICH NOTICE WAS GIVEN: CLLR P.F. BOTHA (MM) (3/1/3/2)

PURPOSE

To submit the questions raised by Cllr P.F. Botha and the response thereon by the Municipal Manager.

BACKGROUND

*** A letter dated 02 November 2018 received from Cllr P.F. Botha, containing certain questions **is attached on page 9 to page 10 of the Annexures.**

These questions were included in the Agenda of the 5th Ordinary Council meeting and served as Item A115 of 2018 on the 4th December 2018. Cllr P.F. Botha was not present in that meeting and as a result Council resolved as follows:-

COUNCIL RESOLVED: (04 DECEMBER 2018)

1. That the item **BE DEFERRED** to the next Ordinary Council meeting.

*** The Municipal Manager's response **is attached on page 11 to page 15 of the Annexures.**

SUBMITTED FOR NOTIFICATION

A12 of 2019

QUESTIONS OF WHICH NOTICE WAS GIVEN: CLLR M.J. BADENHORST (MM)
(3/1/3/2)

PURPOSE

To submit the questions raised by Cllr M.J. Badenhorst and the response thereon by the Municipal Manager.

BACKGROUND

- *** A letter dated 11 January 2019 received from Cllr M.J. Badenhorst, containing certain questions is **attached on page 16 to page 17 of the Annexures.**
- *** The Municipal Manager's response is **will be uploaded at a later stage.**

SUBMITTED FOR NOTIFICATION

A13 of 2019

**EXPENDITURE REPORT ON THE MUNICIPAL INFRASTRUCTURE GRANT (MIG)
2018/19 FINANCIAL YEAR (EXECUTIVE MAYOR) (6/4/1)**

PURPOSE

To provide Council with the current progress of the Municipal Infrastructure Grant (MIG) expenditure for the month of January 2019.

BACKGROUND

The Municipality was allocated an amount of **R116 581 000.00** of the Municipal Infrastructure Grant (MIG) for the 2018/19 financial year.

An amount of **R2 946 786, 95** is for PMU operational costs, which is 2.5% of the total MIG allocation.

DISCUSSION

Current MIG Expenditure can be reported as per the tables below.

ALLOCATION:

Summary of Expenditure to Date	
Allocation	R 116 581 000.00 (100%)
Planned/Target Expenditure by end January 2019	R 58 290 500.00 (50%)
Current Expenditure by end January 2019	R 56 185 404.82 (48%)
Planned/Target Expenditure by end February 2019	R72 280 220.00 (62%)
Balance to be spent by end June 2019	R60 395 595.18 (52%)

LEGAL IMPLICATIONS

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

RECOMMENDATION

1. That the Council takes note of the report.

A14 of 2019

PROGRESS REPORT ON COUNCIL RESOLUTIONS (EXECUTIVE MAYOR) (2/2/2)

PURPOSE

To submit a progress report to Council on Council Resolutions, for noting.

BACKGROUND

In Local Government practices and processes, submission of written reports to Council is fundamental as a tool for measuring the performance of the Municipality and to enable Council to effectively perform its role of playing oversight over the Executive and the Administration components of the Municipality. Thus Council resolved that in all of its Ordinary Sitzings, a report on the execution of its resolutions must be tabled.

DISCUSSION

This report on audit of Council Resolutions covers the month of January to December 2018.

*** **Attached as SEPARATE COVER 2** is the Council Resolution Audit.

POLICY POSITION

Council Resolutions

FINANCIAL IMPLICATION

None

LEGAL IMPLICATIONS

None

SUBMITTED FOR INFORMATION

A15 of 2019

MUNICIPAL ADJUSTMENT BUDGET (2018/2019) (EXECUTIVE MAYOR) (6/1/1)

PURPOSE

To submit to Council the Municipal Adjustment Budget for the 2018/19 financial year in terms of Section 28 of the Municipal Finance Management Act no.56 of 2003 and the Municipal Budget and Reporting Regulations.

BACKGROUND

Council approved Annual Budget for the 2018/2019 financial year of R 2 653 704 150 as well as the Budget Related Policies of which the Budget Policy formed part of. On 1 July 2017 all municipalities were expected to comply with mSCOA Regulations.

The proposed pay rate was based at 70% for property rates and 60% for all other services, this was informed by past collection trends and debt collection initiatives. The actual pay rate from consumer services for the first six (6) months of the financial year was 54%. The total income percentage for the six months was at 55% this amount excludes grants received from government. The total actual income received against the budget for the six months represent 70% which amounts to R 924 584 805 out the budgeted amount of R 1 326 852 075.

During 18/19 initiatives were implemented to enhance our revenue. A study was done which identified properties which were not entirely billed by the municipality.

DISCUSSIONS

Section 28 of the Municipal Finance Management Act 56 of 2003 should be read with part four (4) of the Municipal Budget and Reporting Regulations. Section 23 of the Municipal Budget and Reporting Regulations states the timeframes for tabling of adjustment budgets. Section 23(1) of the Municipal Budget and Reporting Regulations states that an adjustment budget referred to in section 28(2)(b), (d) and (f) of the Act may be tabled in the municipal council at any time after the mid-year budget and performance has been tabled in council, but not later than 28 February of the current year.

The adjustment budget for the 2018/19 financial year is based on the actual amounts as at 31 December 2018, the first six(6) months of the year. The recommendations for an adjustment budget will therefore only be submitted after the finalization of the processes stated in the Municipal Finance Management Act 56 of 2003 and the Municipal Budget and Reporting Regulations.

Cognizance must also be taken of Section 23 (2) stating that only one adjustments budget referred to in subregulation (1) of the Municipal Budget and Reporting regulations may be tabled in the municipal council during the financial year, except when additional revenues contemplated in section 28(2)(b) of the Act are allocation to a municipality in a national or provincial adjustments budget.

It must also be noted that the mSCOA Budget data strings be corrected as well as the virements performed during the financial year should be noted.

Section 26(6) (b) of the Municipal Budget and Reporting Regulations states that a special adjustments budget must be table in the municipal council when the mayor tables the annual report in terms of section 127(2) of the Act, which may only deal with unauthorized expenditure from the previous financial year which the council is being requested to authorize in terms of Section 32(2)(a)(i) of the Act.

The consumer pay rate and total income (excluding grants) collected was at 54% and 55%. The total income received against the budget was at 70%, which is in line with the 60% budgeted pay rate. Cognizance must be taken off the fact that the municipality experienced unexpected challenges which had a negative impact on the overall service delivery and subsequently the revenue collection function of the municipality.

Description	Budget for the six months	Expected revenue (60%) for the six months	Actual for the six months	Actual %
Revenue	1 014 523 075	608 713 845	496 201 805	48,91%
Grants & Subsidies	312 329 000	428 383 000	428 383 000	137,16%
Total Income	1 326 852 075	1 037 096 845	924 584 805	69,68%
Expenditure	1 161 144 819	694 414 685	721 620 699	29,90%
Salaries	381 732 091	362 645 486	349 763 441	91,63%
Water	239 486 739	119 743 369	6 698 696	2,80%
Electricity	220 126 664	132 075 998	161 229 467	73,24%
Other/Stationery, Telephone	319 799 325	79 949 831	203 929 095	12,97%
Net Surplus/(Deficit)	165 707 257	342 682 160	202 964 106	

FINANCIAL IMPLICATIONS

Additional revenue streams:

1. Revenue Investigation and collection

The purpose of the study was to investigate potential revenues that will flow to the municipality. The study entailed the following:

- Identification all government related properties under MLM.
- Identify all additional government properties under MLM that are not on the billing system.
- Perform data collection on all properties in the manner required by the Valuers and municipality.
- Perform a valuation of these properties.
- Respond and address any queries.
- Physical verification of these properties.
- Billing of these properties.

2. Income Enhancement Project

The purpose of the project is to perform a reconciliation for government properties and big businesses in the MLM demarcated area.

- Total state-owned properties and big businesses registered properties = 2700
- Match with valuation roll = 2554
- No match with valuation roll = 146

The additional revenue to flow to municipality from the two projects = R104 million rand.

The additional identified properties will increase the property rates budget from R 294 million to R398 million. The total revenue budget will increase from R2,6 billion to R2,7 billion.

*** Attached as **SEPARATE COVER 3** is the Adjustment Budget.

LEGAL IMPLICATIONS

Section 28(1) of the Municipal Finance Management Act no.56 of 2003 states that a municipality may revise an annual budget through an adjustment budget.

The adjustment budget –

- a) Must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year.
- b) May appropriate additional revenues that have become available over and above those anticipated in the annual budget but only to revise or accelerate spending programmes already budget for.
- c) May within a prescribed framework authorize unforeseeable and unavoidable expenditure recommended by the mayor of the Municipality.
- d) May authorize the utilization of projected savings in one vote towards spending under another vote.
- e) May authorize spending of funds that were unspent at the end of the past financial year were the under spending could not reasonably have been foreseen at the time to include projected rollovers when that annual budget for the current year was approved by council.
- f) May correct any error in the annual budget and
- g) May provide for any other expenditure within a prescribed framework.

Section 28(5) states that when an adjustment budget is tabled, it must be accompanied by-

- a) An explanation how the adjustments budget affects the annual budget;
- b) A motivation of any material changes to the annual budget;
- c) An explanation of the impact of any increased spending on the annual budget and the annual budgets for the next two financial years; and
- d) Any other supporting documentation that may be prescribed.

Municipal Budget and Reporting Regulations Part 4: Adjustment budgets of municipalities
Municipal Budget Policy Section 10

RECOMMENDATION

It is therefore recommended

1. That the Annual Budget 2018/19 be adjusted and the virements be approved.

A16 of 2019

**REPORT ON THE IMPLEMENTATION OF SOCIAL AND LABOUR PLANS PROJECT
BY MINING HOUSES (EXECUTIVE MAYOR) (18/1/6/1)**

PURPOSE

To report to the Council on the progress made by Harmony Gold and Sibanye-Stillwater on the implementation of the Social and Labour Plan projects (2018-2022).

BACKGROUND

The Department of Mineral Resources (DMR) has approved the next generation (2018 – 2022). Sibanye-Stillwater and Harmony Social and Labour Plan (SLP) for their Free State Operations. A significant portion of the proposed SLP budget is to be spent on resurfacing of municipal roads in the towns in and around Welkom. The resurfacing project has the approval and support of the Matjhabeng Municipality.

The initial scope of work will be based on the roads and financial assessments already communicated and discussed between Harmony Gold Mine and Sibanye Stillwater, and the Municipality. The Infrastructure department of the Municipality identified 209 000m² and 90000m² of roads for resurfacing for respective mines. Roads will be prioritised for resurfacing. The Project is divided in to two phases for each mining house. The first phase of Harmony will end at the financial year end of the client at the end of June 2019 while Sibanye Stillwater will end in December 2018.

The scope of works is divided into two separate contracts, i.e. Harmony Gold Mine and Sibanye Stillwater.

*** The list of roads for each contract is attached on page 19 to page 20 of the Annexures.

PROJECT LOCATION AND LIMITS

The project is located in the Free State in and around the town of Welkom and surrounding towns, which include Virginia, Riebeeckstad, Bronville, Thabong, Odendaalsrus, Kutlwanong, Allanridge and Nyakallong. The selections of these areas is based on the principle of community at door step of extraction.

All the roads are located in an urban environment. Existing road surfacing of the various roads include chip seals and asphalt, which have a coarse and/or fine texture with many or few voids and/or varying.

Typical cross sections differ from single lane to dual carriageway and varying widths. The towns especially Welkom has various traffic circles of which the surface differ from the rest of the roads. Circles usually are constructed with asphalt which has a smoother texture than the rest of the roads.

NATURE OF THE WORK

The roadworks include inter alia the following maintenance actions:

- Resurfacing preceded by patching(base and surfacing) and repair and/or crack seal

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- Preparatory work e.g. cleaning of vegetation on shoulders and kerbs
- Fixing of minor side/surface drainage problems prior to sealing (excluding concrete culvert structures)
- Resealing of the pavement surface using the following type of seals:
 - Thin overlay or slurry treatment
 - 13 mm Cape Seal plus one slurry on low trafficked roads
 - 19 mm Cape Seal plus two slurries on high trafficked roads
 - Light Fog spray overlapping 400 mm on the centre line
- Reinstating line-markings
- Edge break repairs using asphalt

Project Cost

Sibanye Stillwater – R 27 million

Harmony Gold Mine – R 60 Million

Project Execution Arrangements

Each Mining House have appointed its own project consultant to perform the following:

- Do detailed visual assessments using TMH6.
- Compile the specification for the work to be carried out.
- Compile the detailed design for the work.
- Compile Bill of Quantities.
- Project management and supervision of work
- Quality management and control.
- Budget control.

Each mining house will appoint the local contract to carry out the work. This first phase of the work is expected to commence in April 2019.

RECOMMENDATIONS

1. That Council take note of the report.
2. That the commercial processes, implementation and risk be sole domain of the project funder.
3. That Council should receive quarterly report on the progress.

A17 of 2019

PROGRESS REPORT ON THE PROPOSED DEVELOPMENT OF MATJHABENG LOCAL MUNICIPALITY TOWARDS BEING A SMART CITY (EXECUTIVE MAYOR)
(13/2/1/1)

PURPOSE

The purpose of the report is to advise Council about the proposed development of Matjhabeng Local Municipality towards being a Smart City as outlined in their Business Plan, for consideration.

BACKGROUND

The Mayoral Committee received a deputation from Korean Solar Power Consortium South Africa Ltd. (hereinafter referred to as “KSPC”). KSPC is a South Africa based Public company with its registration No. of 2011/005118/06. KSPC is a vertically fully integrated green energy, property and information technology development company located in Durban, South Africa. KSPC's core businesses include but not limited to: design, construction, operation and maintenance of power plant, and develop infrastructure and Information and Communication Technology.

KSPC intends to establish a long-term partnership with MATJHABENG to promote and develop through the model of Public Private Partnership and Technology Training/Education Programs that include construction of Social Mix Township, Innovation/Techno-Park under the theme of Afro-Asia Industrial Complex, Theme property development as well as development of high-tech, automotive, green energy, environment, and agro-business as well as the manufacturing plant in the region.

- *** A copy of the Business Plan is attached on page 21 to page 28 of the Annexures.
- *** A copy of the Service Level Agreement is attached on page 29 to page 34 of the Annexures.

FINANCIAL IMPLICATIONS

There is currently no financial implications on the part of the Municipality.

LEGAL REQUIREMENT

Conclusion between the parties of a Service Level Agreement as a baseline document for the implementation of the proposal.

RECOMMENDATIONS

1. That Council takes note of the report.
2. That a Service Level Agreement be concluded between Matjhabeng Municipality and KSCP.
3. That the Municipal Manager be mandated to conclude a Service Level Agreement.

4. That the travelling expenses for any Municipal Official/ Political Office Bearers for inspection in loco or observation of Smart Cities outside the Republic of South Africa will be paid for by KSPC.

A18 of 2019

REPORT ABOUT HARMONY GOLDMINE'S INTENTION TO DONATE THE REMAINING EXTENT OF THE FARM, MEALIE BUILT NO.49 TO THE MUNICIPALITY (EXECUTIVE MAYOR) (6/4/2018)

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) 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 formalized.

COUNCIL RESOLVED: (28 MARCH 2018)

1. That Council **TAKES NOTE** of the report.
2. That Council **DELEGATES** a team led by the Executive Mayor consisting of the Provincial and National government representatives, to interact with Harmony to discuss the issue of infrastructure funding for the Mealie Built No.49 area and other areas where Harmony has donated land. **(Council will only consider the donation once funding to provide basic infrastructure had been secured).**
3. That the matter must be **BROUGHT BACK** to Council upon receipt of financial support from whoever could give financial support pertaining to the matter.
4. That Council **DOES NOT** condone any arbitrary land grabbing, irrespective whether the land is owned by Council, individuals or multi-national companies.

After the above resolution, the Executive mayor consulted the Premier of the Free State Province and Harmony Gold Mine pertaining to the above. The consultation culminated in a meeting

between the Director General of the Province, Matjhabeng and Harmony Gold Mine on 23 October 2018 where it was agreed as follows:

1. That the Provincial Government will provide a guarantee that funding for the affected Area will be included in the next budget cycle, which is two years from the current cycle.
2. The Letter of guarantee will be transmitted to Matjhabeng within reasonable time from the date of the meeting.
3. That Harmony mine and Matjhabeng will conclude a donation agreement with the necessary conditions.

*** See the copy of the Draft Deed of Donation Agreement **attached as SEPARATE COVER 4.**

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 be mandated to conclude the Deed of donation.
4. That the Municipal Manager should obtain the Maps of the entire area and structural plans (underground Infrastructure) from Harmony.
5. That the Municipal Manager be mandated to finalize the transfer of the land to the Municipality.
6. That the Municipal Manager should facilitate the installation of temporary water taps, electricity and sanitary facilities.

A19 of 2019

PROGRESS REPORT OF THE MUNICIPAL PLANNING TRIBUNAL (EXECUTIVE MAYOR) (1/1/38)

PURPOSE

The purpose of the item is to provide a progress report to Council 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, 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 are attached on page 35 to page 71 of the Annexures.**

***** A list of land use applications received, approved, declined and referred back is attached on page 72 to page 81 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 Council 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.

A20 of 2019

REPORT ON THE EXPENDITURE OF EPWP GRANT ALLOCATION (EXECUTIVE MAYOR)

PURPOSE

To provide a report on the expenditure of EPWP grant from 2017 to date.

BACKGROUND

The Municipality received a grant allocation of R1 000 000 per annum for the 2017/18 and 2018/19 financial years.

The following projects were approved under the Grant:

1. Cleaning of Parks
2. Monitoring of Illegal Dumping;
3. Indigent Registration
4. Municipal Rental Unit Audit
5. Abandoned Houses Data Capturing.

NUMBER OF JOBS CREATED

90 and 150 short-term work opportunities were created for unemployed people in all the 6 towns of Matjhabeng Local Municipality during 2017/18 and 2018/19 Financial Years, respectively.

*** The Expenditure Report is attached on page 82 of the Annexures.

FINANCIAL IMPLICATION

A total amount of R2 million was allocated for the 2017/18 and 2018/19 financial years.

RECOMMENDATIONS

1. That a report should be submitted to the Office of the Premier and all relevant departments on a monthly basis.
2. That people with disabilities, women and coloured people should be considered as well.

A21 of 2019

REPORT ON THE UNPROTECTED STRIKE BY SAMWU (EXECUTIVE MAYOR)
(5/13/1)

PURPOSE

The purpose of this item is to provide Council with a report of the unprotected strike by SAMWU from the 13th November 2018 until the 28th November 2018.

BACKGROUND

SAMWU requested to hold a constituency meeting with their members on the 5th November 2018 to address matters affecting their members. Such meeting was granted and took place during the day of the 13th November 2018.

***** Attached on page 1 of SEPARATE COVER 5 is the SAMWU request.**

It was immediately after that constituency meeting that the members of SAMWU embarked on the rampage and destroyed municipal properties. This occurred even before SAMWU could table any demand to management.

On the 14th November 2018, the MEC, Hon. Khoaboane met the Executive Mayor and SAMWU wherein a list of fourteen (14) demands was tabled.

***** Attached on page 2 to page 5 of SEPARATE COVER 5 are the SAMWU demands.**

On the 15th November 2018, the MEC, Hon. Khoaboane and his team had a meeting with the Executive Management of Matjhabeng Local Municipality wherein answers and commitments were made and submitted to SAMWU and were rejected outright.

***** The Implementation Plan to address SAMWU demands is attached on page 6 to page 10 of SEPARATE COVER 5.**

The meetings with COGTA team excluding the MEC continued until SAMWU demanded that the MEC make an undertaking to place the Municipality under Section 106 of the Municipal Systems Act. SAMWU indicated that the MEC had indeed promised them the 106 of the Systems Act.

***** Attached on page 11 to page 14 of SEPARATE COVER 5 is a letter addressed to SAMWU, its members and employees participating in illegal strike.**

On the 23rd November 2018, the Municipality obtained an interdict barring SAMWU from striking and from using municipal fleet for striking purposes.

***** Attached on page 15 to page 18 of SEPARATE COVER 5 is the Court Interdict.**

On the 28th November 2018, a meeting with all Managers was held to advise that-

- That the Municipality has obtained an Interdict against employees participating in the illegal strike;

- This meant that the employees must return to work and resume duties effective from the 29th November 2018 at 7h30;
- Failure to report for duty will result in “**no work, no pay**” principle being applied. A notice to all employees was further issued electronically and through hard copies.

*** The Notice to all employees **is attached on page 19 of SEPARATE COVER 5.**

Most of the employees heeded the notice and resumed duties on the 29th November 2018. In a letter dated 29th November 2018, SAMWU responded to the provisions of the Interdict and further outlined the list of their demands.

*** The SAMWU letter **is attached on page 20 to page 21 of SEPARATE COVER 5.**

COUNCIL RESOLVED: (04 DECEMBER 2018)

1. That the Municipal Manager **MUST PRIORITIZE** Sedibeng, ESKOM and employees.
2. That the Municipal Manager **MUST ENSURE** that third parties are paid immediately.
3. That the Municipal Manager must **SORT OUT** the issue of the Executive Mayor’s vehicle and the Speaker’s vehicle before the end of 2018 year.
4. That the Municipal Manager must **ACT DECISIVELY** against those employees who breached the code of conduct of employees (breaking the Executive Mayor’s door and vandalizing the Municipal property) by applying Section 55 (1) (g) of the Municipal Systems Act.
5. That the Municipal Manager **MUST APPLY** the “no work, no pay” principle.
6. That the Executive Mayor and the Municipal Manager must **GIVE AN UPDATE** on the progress of the full operations system (shift system) in January 2019.
7. That the Municipal Manager **MUST ENSURE** that the unlawful tendency of non-payment of third parties, although the monies were deducted from employees’ salaries, never happens again.
8. That a report must **BE SUBMITTED** to Council at the end of the first quarter of 2019.

Following the EXCO meeting held on the 21 January 2019, deliberations around the strike were held and the subsequent approach in implementing the Council resolutions was adopted and is as follows:

1. That caution be applied when implementing the “No Work: No Pay” but this be implemented in a staggered manner from in February 2019. The rationale will be to ensure that the burden of repercussions of such is eased.
2. The investigation is in progress to view all the available footages to establish perpetrators of vandalism and destruction to Municipal property. As these get finalized, a comprehensive report will be submitted.

LEGAL FRAMEWORK

Labour Relations Act 66 of 1995

FINANCIAL IMPLICATIONS

The final figure of the financial implications of the illegal strike has not yet been finalised.

RECOMMENDATIONS

It is recommended:

1. That Council approves the implementation of “no work: no pay” over a period of three (3) months.
2. That Council notes that investigations in respect of misconduct committed during the strike are on-going.

A22 of 2019

PROGRESS REPORT ON IMPLEMENTATION OF SHIFT SYSTEM IN TERMS OF THE COLLECTIVE AGREEMENT FOR THE FREE STATE DIVISION OF THE SALGBC (EXECUTIVE MAYOR) (5/2/2)

PURPOSE

The purpose of this item is to report to Council on the implementation of the Shift System in terms of the Collective Agreement for the Free State Division as directed by Council and the Bargaining Council.

BACKGROUND

Council in its Ordinary Council sitting resolved under Item A18 of 2018 on 4th December 2018 that:

“That the Executive Mayor and the Municipal Manager must give an update on the progress of the full operations system (Shift System) in January 2019.”

This resolution comes in the wake of the signed Collective Agreement for the Free State Division: SALGBC that came into operation from the 1st of July 2016 and shall subsist until 30th June 2020, directing the municipalities to adopt one of the determined Shift Systems. Section D of the Collective Agreement makes provision for the Uniform Inclusive Shift Allowance and states:

“All personnel working shifts within Municipalities will be paid a monthly fixed allowance. For purposes of this agreement the term “Operational Personnel” refers to those officials who are required to work shifts as agreed to by the parties and includes all personnel working in the Municipalities in the Free State.”

*** **Attached as SEPARATE COVER 6** is a copy of the Collective Agreement for the Free State Division

The Collective Agreement makes provision for three shift categories:

42 HOUR WORKING WEEK (4 SHIFTS)	56 HOUR WORKING WEEK (3 SHIFTS)	84 HOUR WORKING WEEK (2 SHIFTS)
A 27% monthly shift allowance payable.	Shall only be applicable to operational employees performing twenty four hour, seven days per week service. A 48% monthly shift allowance payable.	Shall only be applicable to operational employees performing twenty four hour, seven days per week service. A 72% monthly shift allowance payable.

DISCUSSION

The Collective Agreement conditioned that before the implementation of the Shift System, organised labour must be consulted and there must be an agreement in the Local Labour Forum (LLF).

On the 26th January 2018 the LLF resolved that the Shift System matter be referred to the Basic Conditions Sub-Committee for deliberations and presentation to the Local Labour Forum meeting. The accompanying directive was that the Sub-Committee should finalise deliberations within two (2) weeks.

*** Attached on page 83 to page 88 of the Annexures find the minutes of the LLF held on 26 January 2018.

On the 9th February 2018 the Basic Conditions Sub-Committee resolved to verify all employees that are working shifts and such a process ended on 10 April 2018.

At the LLF meeting on 28 August 2018, SAMWU officially declared a deadlock and indicated its intention to declare a dispute in respect of their preferred shift. Safe to indicate that SAMWU proposed a three (3) and two (2) shift system with the Municipality insisting on the four (4) Shift System on account of:

- 1) Most municipal shifts were already on the four (4) Shift System.
- 2) All departmental heads consulted, preferred a four (4) Shift System as a norm.
- 3) Upon advise from SALGA.
- 4) Upon advise from the South African Local Government Bargaining Council (SALGBC).
- 5) Affordability.

*** Attached on page 89 to page 95 of the Annexures find the minutes of the LLF held on 28th August 2018.

Parties further agreed that the Bargaining Council should be invited to have a briefing session with the LLF and this was held on the 14th September 2018. The Bargaining Council advised parties to consider the four (4) shift system as it is user-friendly and financially sustainable.

Nevertheless, it was then discovered that SAMWU had already referred a dispute with the Bargaining Council around the Shift System matter. Attached in this dispute is the demand for the backpays stretching from October 2016 at the rate of 27%. This is despite the fact that shift allowance is for the shifts worked, not the shifts assumed to have been worked.

*** Attached on page 96 to page 100 of the Annexures find the referral lodged by SAMWU.

On the 7th September 2018, a conciliation was held under the auspices of the Bargaining Council to resolve the matter of the shift system to be adopted. This matter remained unresolved and will be set for arbitration on a date still to be determined by the Council. Council will then be advised of the date of the arbitration.

*** Attached on page 101 to page 102 of the Annexures find the Notice of Set down as well as the Certificate of Non-Resolution issued by the SALGBC.

Council is further advised that the following Units in the Municipality are already on the four (4) Shift System:

- 1) Waste Water Treatment Works (WWTW)
- 2) Pump Stations
- 3) Security Services

HUMAN RESOURCES IMPLICATIONS

The shifts will ensure a widely spread of personnel and this is governed by the Collective Agreement: Free State Division: SALGBC.

FINANCIAL IMPLICATIONS

Should the four (4) Shift System be implemented, this inclusive fixed monthly shift allowance will be paid at a rate of **27%** of each of the concerned employees' basic salary as a fixed allowance.

Should the three (3) Shift System be implemented, concerned employees will be paid at a rate of **48%** of the concerned employees' basic salary as a fixed allowance.

The two (2) Shift System makes provision that an employee would be entitled to **72%** of the concerned employees' basic salary as a fixed allowance.

LEGAL IMPLICATIONS

This is in line with the Labour Relations Act, 66 of 1995 as well as the Collective Agreement: Free State Division: SALGBC.

OTHER IMPLICATIONS

None

RECOMMENDATION

It is recommended:

1. That Council approves the delay in the implementation of the Shift Allowance until the arbitration process is finalized.

A23 of 2019

REPORT FOR THE APPROVAL BY COUNCIL OF THE EXTENSION OF A LONG TERM LEASE AGREEMENT TO CGOC FOR THE MANAGEMENT OF A FLYING ACADEMY (SCHOOL) AT WELKOM AIRPORT (EXECUTIVE MAYOR) (10/5/6)

PURPOSE OF REPORT

The report is submitted to council for the purposes of soliciting approval by council for the Extension of a Three-Year Lease Agreement (3) to a Nine Years and 11-month (9 years and 11 month) lease agreement for the purposes of the management of the flying academy (school) at the Welkom airport.

BACKGROUND AND DISCUSSION

The CGOC Aviation has made an application and presentations to the LED, Spatial Planning and Human Settlement Section 80 Portfolio Committee and Mayoral Committee for the management of the flying academy at the Welkom airport.

The Mayoral Committee then referred the presentation to the Executive Management for further engagement and the Executive Management resolved as follows:

- That the presentation **BE NOTED**.
- That the municipality **WOULD CONTACT** CGOC Aviation for any further enquiries.

On the 22 of March 2017, a report on the application of the management of the **Flying Academy (school)** served before the Mayoral Committee.

On 22 March 2017, the Mayoral Committee resolved that:

1. The Acting Executive Director LED,P&HS, Me. Mothekhe **SHOULD ARRANGE** a meeting between Mr Somhlahlo, the Acting Municipal Manager and herself to deal with the matter.
2. That the Acting Municipal Manager, Mr ET Tsoaeli **SHOULD SUBMIT** a report to the Mayoral Committee on the outcome of the meeting.

Pursuant to the Mayoral Committee Meeting, several meetings were held in order to clarify some of the clauses in the Lease Agreement and the financial benefits to be derived from the project by the Municipality and the community. Subsequently, an item was submitted to Council and it was deferred back on the 30th May 2017 as the lease agreement was not attached.

The Item was again submitted to council on 31 January 2018 under **A 22 of 2018**. The item was referred by council. Whilst the matter was being discussed and was in the Municipal System for consideration, maintenance and compliance challenges became critical and had a direct impact on the Airport licence. Some of the challenges are stated hereunder as follows:

CHALLENGES AT THE AIRPORT.

- The municipality did not have a budget for the maintenance of the Airport.

- The Airfield lighting system is not working.
- The runway requires resealing for it to reach an acceptable state for the Aviation Authority.
- The clock tower is at a poor state in contravention of the Aviation Legislation.

The total cost for the repairs referred to above, was estimated to be around R5 Million which necessitated engagement with CGOC Aviation to finalise the Lease Agreement and save the Airport Licence.

INTERVENTION STRATEGY AND PROGRESS

In view of the provision of section 33 of the MFMA, a lease agreement was concluded for a period of the three years in September 2018. The Lease agreement was specifically concluded for the Management of the Flying Academy (School) and the Restaurant. The rental agreed upon is the maintenance of the Airport and to date, **R422,500.00** has been spent at the Airport. The total cost for the repairs is at **R 5, 553, 129.00**.

The Establishment of the Aviation school in Welkom, has various economic spin offs where youth would be trained as pilots as opposed to having to go to other Provinces in order to obtain that training. A market has been identified and is being tapped into, in response to radical economic transformation. Additionally, there are various job creation opportunities ranging from air traffic controllers, aircraft mechanics, security and maintenance services etc.

*** A copy of the Lease Agreement and copies of quotations **are attached as SEPARATE COVER 7.**

FINANCIAL IMPLICATIONS

There will be no costs from the Municipality. The Municipality will benefit as the asset will be utilised to the maximum and the estimated repair cost to be borne by CGOC is R 5,553, 129.00.

LEGAL AND POLICY POSITION

1. Municipal Finance Management Act, Act 56 of 2003,
2. Civil Aviation Act no.13 of 2009
3. Air Services License Act no 115 of 1990
4. Civil Aviation Regulations of 2011
5. The South African Civil Aviation Technical Standards

RECOMMENDATIONS

1. That Council approves the Extension of the long term lease Agreement for the Management of the Flying Academy (school) for a period of 9 years 11 months.
2. That the Management of the Airport remains with the Council.
3. The Municipal Manager be authorised to conclude the lease agreement for the Flying Academy with CGOC Aviation.

A24 of 2019

MULTI PURPOSE PRECINCT DEVELOPMENT: EXTENT OF THE DEVELOPMENT, REZONING, BULK SERVICES AGREEMENT AND IMPLEMENTATION PLAN (EXECUTIVE MAYOR) (18/2/2)

1. PURPOSE OF REPORT

The purpose of the report is to provide a background, current information and motivation for Council's approval in relation to:

- a) All resolutions and agreements already concluded in relation to the development, and compliance thereto, the extent of Phase 1 of the proposed development as well as the ownership and business model.
- b) The Subdivision of the Municipal Property viz. Subdivision 1 of the farm Vooruitgang 52 and the rezoning thereof to "Special" in terms of the Welkom Town Planning Scheme 1/1980 as well as the associated development conditions applicable.
- c) The extent of the required municipal bulk services for the project and the bulk services agreement pertaining to the financial responsibilities of the parties.

2. BACKGROUND

2.1 PROJECT INITIATIVE AND CONCEPT

During 2003 the NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST (IT 418/04) was established to manage the project actions in relation to the establishment of a multi-purpose sport facility in Matjhabeng. The project will be located on Subdivision 2 of the farm Vooruitgang 52 which is indicated **on page 1 of SEPARATE COVER 8**.

The project concept was captured in a Scope of Design report as basis for the technical development of the project. (The initial development vision of the project is attached **on page 2 to 6 of SEPARATE COVER 8**. The project was initially valued R300-R500 million, but is now estimated at R2.5 billion.

Reference is also made to verbal presentations made by the developer to the Mayoral Committees, pass and present, also, to the various municipal subcommittees Section 60 committee.

2.2 COUNCIL RESOLUTION IN SUPPORT OF THE PROJECT AND APPLICABLE CONDITIONS

The development methodology of the project relates directly to the resolutions of the Mayoral Committee in the meeting held on 8 December 2004 when the project proposal was considered. The following resolutions are significant (Item MC271/2004 and A12/2005):

1. *"That a portion of Subdivision 2 of the Farm Vooruitgang 52 be made available to develop a multi-purpose Sport Stadium.*
2. *That the planning of all services, road, parking areas, stadiums etc. be done **in** consultation with and to the satisfaction of the Council.*
3. *That Council, in co-operation with Sports Marketing Dynamics, establishes a Public Private*

Partnership and will use a company as a vehicle to execute the project.

4. *That Council set out the roles and responsibilities of the different Stakeholders within the company as envisaged.*
5. *That the company will have a separate account within the Municipal Financial System.*
6. *That Council put an advert in Local Newspapers about its intention of the projects (Multi-Purpose Stadium Beyond 2010)*
7. *That the financial implications for a start-up capital be submitted so that proper provision could be made if need be.*
8. *That a feasibility study, as required by the MFMA and the Systems Act as amended, be conducted as a matter of urgency.”*

In terms of the progress report under Item A62/2017 Council resolved as follows:

1. *“That it **BE NOTED** that the project is in a very advanced stage and that the majority of the conditions as stipulated in terms of Resolution MC 271/2004 have now **BEEN COMPLIED WITH**.*
2. *That as soon as all reports in relation to the rezoning application have been received and internally evaluated, a comprehensive report will **BE SUBMITTED** to Council in relation to the project’s compliance to Resolution MC271/2004 as well as the aspects pertaining to the rezoning of the land and the consequent development conditions of Council regarding the development.*
3. *That in support of the project, the request for a further and final extension of the land availability agreement **IS GRANTED** with immediate effect for one year from the date of granting extension, to enable the completion of the rezoning and land transfer processes.*
4. *That a progress report must **BE SUBMITTED** every quarter to Council.”*

2.3 PROJECT FEASIBILITY

In compliance to Par. 8 of Resolution A12/2005 a pre-feasibility study was submitted by the developer. In terms of the recommendations of the report a detailed feasibility should be commissioned.

2.4 CONTRACTUAL AGREEMENTS BETWEEN THE NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST AND THE MATJHABENG MUNICIPALITY

2.4.1 INTRODUCTION

Planning of the project is now finalized. Construction can commence as soon as:

- a) Council resolved on and recommended positively to Townships Board on the rezoning of the land. (Application was submitted in terms of the Ordinance prior to and not in terms of

the Spatial Planning and Land Use Management Act).

- b) The Bulk services agreement has been approved by Council and signed
- c) Transfer of the land to the NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST has been finalized.

This section of the report will refer to the origin, purpose and compliance of the now planned project in relation to all agreements already entered between the Municipality and the NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST:

2.4.2 SERVICE LEVEL AGREEMENT FRAMEWORK (2014):

In accordance with Resolution A12 the Service Level Agreement Framework Agreement as attached on **page 7 to 19 of SEPARATE COVER 8**, addresses all aspects of the project as well as the associated responsibilities of the parties in relation to the development of and the organizational structuring of the project. It was signed during 2014.

This agreement gives explanation to the following main aspects of the development:

2.4.2.1 TRUST AS PUBLIC BENEFIT DEVELOPMENT OWNER:

The project was initiated by the **NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST** that was registered as non-profitable and a PBO (Public Benefit Organisation) with the intention to establish a multi-use precinct that will provide self-sustainability of a sporting facility in Matjhabeng as an investment project. The registration details of the Trust is enclosed on **page 20 to 28 of SEPARATE COVER 8**.

2.4.2.2 THE DEVELOPMENT AND MANAGEMENT COMPANY

In order to ensure economic viability and sustainability of the project, a development company was established to act as both development and management company viz., EUROMID Africa Development (PTY) LTD. The development company will be formed jointly between the Trust and the investor/ funder and will be bound by all the agreement conditions already signed between the Trust and Municipality. The developer will manage the project with a profit motive in order to ensure a profitable sustainable business venture. The company registration details are enclosed on **page 29 of SEPARATE COVER 8**.

Operational functions of the developer:

- (i) The developer will be responsible for CSI (Cooperative Social Investment) related benefit towards the sports structures and the identified beneficiaries.
- (ii) The developer will without exclusion consider national and international service providers, but, will opt preferentially towards the locals, regional and provincial residents that are South African citizens.
- (iii) The developer will enter into a mutual business agreement in the provision of jobs prior, during and beyond construction of the intended development.

2.4.2.3 PRIVATE INVESTORS

The project in total will be funded by means of private investment and donations through CSI (Cooperative Social Investment) funding. The JV/partnership will provide finance to the project in a form of investment, capital towards installation of all the internal services and structural construction of the entire development, through EUROMID Africa Development (PTY) LTD: not unless if conditions prescribe otherwise.

Financial income for investors will be secured by means of long term lease agreements for the variety of income generating developments in line with the act of law, between the Trust (land owner) and the identified investor. The lease agreements with the Trust will financially support the viability of the project.

2.4.2.4 PROJECT FUNDING:

The total project cost is estimated at R2.5 billion. Via the support of the project by the Department of Economic, Tourism and Environmental Affairs, the partial funding of the project was also approved by the Department of Trade and Industry (DTI), also with the participation of the Municipality.

Private sector investment and partnerships were also negotiated and established by the Trust. The value of land and or any other contribution from the municipality will be considered as a once off contribution in support of the other financial contributions from government institutions in pursuant of total implementation of the project.

2.4.2.5 BENEFICIARIES OF THE PROJECT:

The developer has undertaken the development primarily to benefit the Matjhabeng local economy and community, such beneficiaries whom will make use of the development on a social level once the project is self-sustained. Social beneficiaries identified will derive benefits from the Trust, by distributing their annual dividends to the identified existing sporting codes at their own discretion. The sporting codes will form part of the advisory board to the Trust and thus actively involved. As an investment project also, the project will financially benefit the Trust and its development company/or investors.

The draft Social Compact agreement as enclosed on **page 30 to 39 of SEPARATE COVER 8** between the NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST and social stakeholders must be noted.

2.4.2 PUBLIC NGO PARTNERSHIP (PNGOP) AGREEMENT:

Since the DTI (Department of Trade and Industry), without the exclusion of any other funders is targeted as one of the government institutions to provide funding under CIP (Critical Infrastructure Program), a form of PNGOP Agreement as enclosed **on page 40 to 53 of SEPARATE COVER 8** was entered between Municipality and the Trust partnership as a vehicle to allow the flow of cash that could be derived from any one of government department/s. Although the Trust has acquired company status which will enable it to apply for funding on its own behalf, it was resolved that the Municipality should be involved in the application for funds from the Department of Trade and Industry. In this regard the agreement will facilitate the flow of funding between Government institutions and the Trust towards the project.

2.4.3 LAND AVAILABILITY AGREEMENT:

A Land Availability Agreement together with addendums and Municipal Council Resolution of 26 April 2017 (enclosed on **page 54 to 60 of SEPARATE COVER 8** was entered into between the Matjhabeng Municipality N F S Lejweleputswa Community Partnership Trust on 25 January 2008.

The resolution of Council in this regard must also be noted:

“COUNCIL RESOLVED: (31 MAY 2017)

1. That it **BE NOTED** that the project is in a very advanced stage and that the majority of the conditions as stipulated in terms of Resolution MC 271/2004 have now **BEEN COMPLIED WITH**.
2. That as soon as all reports in relation to the rezoning application have been received and internally evaluated, a comprehensive report will **BE SUBMITTED** to Council in relation to the project's compliance to Resolution MC271/2004 as well as the aspects pertaining to the rezoning of the land and the consequent development conditions of Council regarding the development.
3. That in support of the project, the request for a further and final extension of the land availability agreement **IS GRANTED** with immediate effect for one year from the date of granting extension, to enable the completion of the rezoning and land transfer processes.
4. That a progress report must **BE SUBMITTED** every quarter to Council.”

The land identified in collaboration with Spatial Planning is a portion of the Farm Vooruitgang 52. The proposed development is in line with the Matjhabeng Spatial Development Framework for Matjhabeng (2013).

The following aspects in relation to the LAA are of importance regarding the proposed development:

2.4.3.1 PROPERTY DESCRIPTION

The land that forms the subject to this agreement consists of Portions of Subdivision 2 of the Farm Vooruitgang 52 as depicted on **page 61 of SEPARATE COVER 8**:

- a) The figure A to S in extent $\pm 54,6\text{ha}$ (Phase 1)
- b) The figure marked Phase 3 Development $\pm 36\text{ha}$
- c) The figure marked Future Development $\pm 34\text{ha}$

2.4.3.2 OWNERSHIP AND DISPOSAL

The following contractual stipulations are of importance (Land Availability Agreement; Service Level Agreement Framework):

- a) That the Trust will at its own expense create an alienable erf by means of subdivision, rezoning and to transfer the land (Phase 1).
- b) The Trust is obliged to keep the land in Trust for use and benefit for the Community of Matjhabeng.
- c) In case if the Trust cannot make use of the land and the improvements thereon, the Trust is barred from selling it to third parties the Trust will transfer the property back to Council.
- d) A restriction will be registered in the Title Deed that the Municipal will have a first purchase option.
- e) The land cost will be calculated at a donation cost of R1 payable upon transfer of the property.

2.5 SITE DEVELOPMENT PLAN AND PHASED DEVELOPMENT

The physical planned layout (Phase 1) of the development is depicted on the site development plan on **page 62 of SEPARATE COVER 8**. This is the result of the planning process in terms of which the comments and inputs of all stakeholders as well as the stipulations of the Welkom Town Planning Scheme have been address in order to provide for a functional layout.

The first phase of the project will be developed in four phases of which will comprise of the following land uses:

NO.	BUILDING NAME	STOREYS	FOOTPRINT AREA PER UNIT	TOTAL HALLS / MEETING ROOMS/ SPACES	TOTAL CAPACITY / SEATS/ AREA
PHASE 01					
1.	Student accommodation	3	40 627.57m ²		2500 beds
2.	Light Industrial Warehouse	1	5 136.33m ²		1 Unit
3.	High Performance Centre	3	4 049m ²	Offices	1 148.78m ²
				Meeting Rooms	952.51m ²
				Auditorium	255 seats
				Restaurant/ Coffee Shop	32 seats
4.	Green Source		836.21m ²	.	
5.	Astro Turf Sports Field		17 299.55m ²		
	Phase 01Total		<u>67 948.66m²</u>		
PHASE 02					

1.	Community Hall	1	3 078m ²	Offices	90.06m ²
				Boardroom	26 Seats
				Lecture Rooms	274 Seats
				Dining Hall	156 seats
				Conference Hall	772 seats
2.	Office Park	3	5 263m ²		2 Units
3.	Sports Training Academy	3	9 780m ²	Boardroom	16 seats
				Pavilion	165 seats
				External Gym	135 seats
4.	Boutique Hotel	6	2 998 m ²	Studios	92 seats
					32 Beds: max 2 people per room
				Offices	92.66m ²
				Multi - purpose Hall	206 seats
				Restaurant	92 seats
5.	Light Industrial Warehouse	1	7 681m ²	Bar	51 seats
	Phase 02 Total		<u>28 800m²</u>		

PHASE 03

1.	Retail Mall	2	39 456.98m ²		
2.	Filling Station	1	268.41m ²		
3.	Indoor sports Centre	2	4 192.47m ²		1 800 seats
4.	Bus Parking				21 Bus Parking
	Phase 03 Total		<u>43 917.86m²</u>		

PHASE 04

1.	Sports Stadium		52 721.08m ²		36 000 seats
				Restaurant	360 seats
2.	Theme Park				1000 people
3.	Parking on SANRAL property				
	Phase 04 Total		<u>52 721.08m²</u>		

2.6 TOWN PLANNING ACTIONS: CREATION OF AN ALIENABLE SITE

2.6.1 REQUIRED TOWN PLANNING APPLICATIONS

The Trust has the contractual obligation to create an alienable site. Before the land can be transferred the following two processes must be concluded:

- a) To amend the scheme boundaries of the Town-Planning Scheme of Welkom, by the inclusion of Subdivision 2 of the Consolidated farm Vooruitgang No. 52, Administrative District Welkom, into the scheme area of Welkom with the zoning “Agriculture”. This approval has already been achieved as indicated on **page 63 to 68 of SEPARATE COVER 8**.
- b) To lodge an application to the Department of Cooperative Governance and Tradition Affairs Free State for the subdivision (Phase 1) and the rezoning in terms of Section 31 of the Development Facilitation Act No. 67 of 1995 on behalf of the Matjhabeng Municipality of the Remainder of Portion 2 of the Farm Vooruitgang No. 52 from “Agricultural” to “Special” in terms of which an applicable land use and development conditions can be approved for the development. In terms of the applicable rezoning legislation the Townships Board can only resolve on the matter if a complete application has been submitted and the Matjhabeng Council has resolved on the rezoning of the land and has therefore taken all constraints and implications into consideration.

2.6.2 NOTES ON SUPPORTIVE COMPULSORY APPLICATION REPORTS

A land use amendment application in terms of legislation is supported by the following compulsory technical reports in order to evaluate and address and facilitate the physical impact regarding the proposed development. The application is supported by the following reports:

REPORT	NOTES
Site development plan	Finalised – see attached. Existing servitudes in favour of ESKOM etc.
Floodline report	Finalised
Geotechnical report	Finalised
Geohydrological report	Finalised
Traffic Impact Study	Finalised. All access and egress roads will be on Provincial or SANRAL roads.
Bulk Services report	See Par 7.
Environmental impact assessment	Record of Decision from DESTEA outstanding

2.6.4 COMMENTS FROM EXTERNAL STAKEHOLDERS, PROVINCIAL SECTOR DEPARTMENTS AND THE MUNICIPALITY

It must be noted that as part of the legal rezoning process the comments from all stakeholders, Provincial sector Departments as well as that of the Municipality regarding the proposed rezoning was requested, also by means of publication in the Provincial Gazette. All comments will be taken into consideration by the Townships Board. In this regard all conditions pertaining to the development will have to be adhered to by the developer.

2.6.5 PROPOSED ZONING SCHEDULES

The proposed zoning schedules applied for are as follows, the detail of which must be read with this section as attached on **page 69 to 71 of SEPARATE COVER 8:**

ZONING SCHEDULE:

Zone	Map indication	Allowable land Utilisation Practices	Reconcilable Practices subject to Application to and approval from the Council
Integrated Sport Complex		Multipurpose Sport Complex	Supporting Land Uses

2.6.6 BULK MUNICIPAL SERVICES

2.6.6.1 BULK SERVICES REPORT: TECHNICAL ASPECTS

The demands of the project in terms of the provision of all municipal services, is captured in a Bulk Services report that was developed by the Developer for Phase 1 in consultation with the Municipality. This is in compliance to Resolution A12/2005. **The Director Infrastructure approved the Bulk Services Report in terms of the technical demands of the project, the proposed upgrading/routing, technical construction requirements and estimated cost of each service.**

2.6.6.2 BULK SERVICES REPORT: EXTENT RESPONSIBILITY ASPECTS AND RELATED COSTS

The extent, responsibilities and estimated total cost of each municipal service is depicted in the following table:

BULK SERVICE	EXTENT OF BULK NEW/UPGRADING REQUIRED	RESPONSIBILITIES	OWNERSHIP AND MAINTENANCE	ESTIMATED TOTAL COST
WATER	The project will have to connect directly to the SEDIBENG main line because on non-availability of sufficient Municipal infrastructure.	Municipality will apply to SEDIBENG for a connection. Sedibeng will provide a quote for connection. Developer will be responsible to construct the connection line. Developer will apply to Provincial Roads Department and Sanral for a construction wayleave.	Connection line will be owned by Matjhabeng Municipality. Metering on the project boundary.	
SEWER		Developer – From project connection to Mun. pumpstation	Municipality	

		– Mun - upgrading of pumpstation - Mun. upgrading of Mun. rise line - Mun upgrading of purification works.		±R21,3m
ROADS	Project connects only to Provincial Roads and SANRAL roads	Developer proposes that the link road will be the responsibility of the Municipality – to be negotiated.		±R33,9m (link road)
STORM WATER	Internal measures by developer to retain storm water	Developer not to release more effluent than Municipal system can accommodate. – if so developer to upgrade system	±R33,9m (link road) Total cost of road connections R62,3m	Total cost of road connections R62,3m
Electrical				
Total				

2.6.6.3 LEGAL AND CONTRACTUAL RESPONSIBILITIES: SPATIAL PLANNING AND LAND USE MANAGEMENT ACT 16/2013

The principles regarding the provision of Municipal Bulk services to any development is determined in Section 49 of the Spatial Planning and Land Use Management Act 16/2013, viz.:

Provision of engineering services

49. (1) An applicant is responsible for the provision and installation of internal engineering services.

(2) A municipality is responsible for the provision of external engineering services.

(3) Where a municipality is not the provider of an engineering service, the applicant must satisfy the municipality that adequate arrangements have been made with the relevant service provider for the provision of that service. 25

(4) An applicant may, in agreement with the municipality or service provider, install any external engineering service instead of payment of the applicable development charges, and the fair and reasonable cost of such external services may be set off against development charges payable. 30

(5) If external engineering services are installed by an applicant instead of payment of development charges, the provision of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), pertaining to procurement and the appointment of contractors on behalf of the municipality does not apply. 35

2.6.6.4 LEGAL AND CONTRACTUAL RESPONSIBILITIES: LAND AVAILABILITY AGREEMENT

In terms of Par. 4 of the Land Availability Agreement it is stated that:

- 4.1 On finalization of the extent of development the Trust will be obliged to enter into a Co-operation and Services Agreement with the Matjhabeng Municipality whereby the services to be provided to the area are outlined
- 4.2 The internal services to the property will be provided by the Trust and the Bulk services by the Municipality if resources so permit.

2.6.6.5 LEGAL AND CONTRACTUAL RESPONSIBILITIES: SERVICE LEVEL AGREEMENT FRAMEWORK (2014)

In terms of the signed Service Level Agreement Framework Agreement (2014) the responsibilities of the Municipality and the Developer are stipulated in terms of the following extract:

/

5. 1 THE MUNICIPALITY:

- 5.1.1 The Municipality will forthwith make available existing bulk infrastructure at its immediate disposal and will ensure efficient provision of such infrastructure to the land at the Municipality's cost. This will include the provision of sewerage networks, clean water supply and electricity/power supply points up to the border of the land. The parties will draft a refuse collection program and the Municipality will provide such services to the development.
- 5.1.2 Subject to the above the Municipality will obtain from the Developer a business plan for all required bulk services and upon which the

Municipality will apply to the Department of Trade and Industry for the funding thereto.

- 5.1.3 The Municipality undertakes to contribute an amount equal to a minimum of 10% of the total cost required to provide bulk infrastructure to the land in order to enable the development to proceed. The project will accordingly be included in the Municipality's Integrated Development Plan and the 2015/2016 Capital Budget.
- 5.1.4 The Municipality will authorize the Developer to commence with the construction of such bulk infrastructure provided that the design and construction process is done in consultation with and to the satisfaction of the Municipality, and that after completion of such bulk Infrastructure the Municipality will take over such infrastructure and will be responsible for the maintenance thereof.
- 5.1.5 The Municipality acknowledges the partnership of the Trust and **EUROMID S A (PTY) LTD** to continue with the development and further approves any such partnership as should be entered into by the Trust in completion of the development.

5.2. THE TRUST/ EUROMID:

- 5.2.1. The Developer will duly apply to finalize all the necessary procedures in order to create an alienable portion of land inclusive of township establishment etc. and to create the necessary land uses for the development.
- 5.2.2 The Developer will duly apply for an investment incentive from the Municipality in terms of the prescribed incentive scheme, inclusive of the land donation.

- 5.2.4 The Developer will prepare a business plan in relation to the provision of all Bulk Infrastructure required for the project in consultation with the Municipality.
- 5.2.5 The Developer, in consultation with the Municipality, will prepare an application for the funding of the Bulk Infrastructure to the DTI.
- 5.2.6 The Developer will, prior to obtaining the funding from the DTI, for the bulk infrastructure, design and construct the Bulk Services at its own costs in terms of the standards and requirements of the Municipality.
- 5.2.7. Upon completion of the development the Developer will coordinate sporting events and programs with those of the Municipality.
- 5.2.8 The Trust will own the land in accordance with clause 2.2. of the LAA but the Municipality will reserve a first re-purchase option to the land should it remain undeveloped for a period exceeding 5 years from date of transfer of the land to the Trust/Developer and subject to monitoring and negotiation between the parties hereto in terms of Annexure "A".

2.7 SUMMARY OF PROPOSALS

In order to ensure the implementation of the project it is proposed:

- 2.7.1 That the following contractual agreements between EUROMID Africa Development (PTY) LTD on behalf of NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST, and the Municipality in terms of Resolutions MC271/2004 and A12/2005, be supported and condoned:
 - a) Land Availability Agreement (2008)
 - b) Public NGO Partnership Agreement (2012)
 - c) Service Level Agreement Framework (2014)
- 2.7.2 That the site development plan and planned phased development of the project as contemplated in Par. 2.5 of the report be noted and supported.
- 2.7.3 That in terms of the contractual obligation (in line with LAA clause 2 subparagraph 2.1)

to create an alienable site, the applications of the developer to the Department of Cooperative Governance and Tradition Affairs Free State for following administrative processes be supported:

- a) The amendment of the boundaries of the Town-Planning Scheme of Welkom, by the inclusion of Subdivision 2 of the Consolidated farm Vooruitgang No. 52, Administrative District Welkom, into the scheme area of Welkom with the zoning “Agriculture.
- b) The subdivision (Phase 1) of, incorporation into the Welkom Town Planning Scheme 1/1980 and the rezoning in terms of Section 31 of the Development Facilitation Act No. 67 of 1995 on behalf of the Matjhabeng Municipality of the Remainder of Portion 2 of the Farm Vooruitgang No. 52 from “Agricultural” to “Special”.
- c) That the supporting land uses associated with the Multi-Purpose Sport Complex as contained in the Zoning Schedule be approved.

- 2.7.4 That the development be bound by the Record of Decision in terms of the Environmental Assessment Report in which case the Municipal Manager be authorized to negotiate with the developer all constraints that may affect the implementation of the project, and that such agreements be included in the final bulk services agreement with the developer.
- 2.7.5 That Council acknowledges it’s legislative responsibility in relation to the provision of bulk services for the project, but due to the extent of the total cost of the bulk services and Council’s financial constraints, the developer in principle be financially responsible for the provision and construction of all infrastructure related to the project in terms of the bulk services report as approved by the Municipality.
- 2.7.6 That the developer submits a funding plan in relation to the construction of the bulk services and that the Municipal Manager be authorized to negotiate a final bulk services agreement between the developer and the Municipality.
- 2.7.7 That on completion of the Bulk Services agreement the Municipal Manager be finalized finalize a land sales agreement to affect the transfer of the land to the NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST.

3. LEGAL IMPLICATIONS:

It must be noted that the project relies on signed agreements which will have legal liabilities implications for the Municipality.

4. FINANCIAL IMPLICATIONS:

The financial responsibility for the Municipality vests in two aspects viz:

4.1 LAND DONATION:

As per the LAA agreement the land (Phase 1) is to be donated at an incentive value of R1.

4.2 BULK SERVICES CONTRIBUTION:

As explained in Par 2.6.6 the Municipality is responsible for the provision of bulk services to any new development area. In this regard the legislation is also clear that such bulk services will only be provided if the Municipality provided for the funding in the capital budget, otherwise the provision of the funding can be negotiated with the developer.

In terms of the Service Level Agreement Framework (2014), The Municipality is expected to contribute a minimum of 10% to the total cost of the bulk infrastructure. In terms of the Bulk services report the total estimated cost of the bulk infrastructure amounts to R62,3 million. In this regard it must be noted that the bulk services contribution was taken up in the Matjhabeng IDP and Budget.

In order to commence with the project the developer is willing to financially bridge the cost for the provision of the bulk services provided that a financial agreement can be negotiated and concluded with the Municipality.

5. POLICY/LEGISLATIVE POSITION

National:

- South African Constitution, 1996
- Spatial Planning and Land Use Management Act, (2013)
- 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

It is recommended:

1. That the following contractual agreements between EUROMID Africa Development (PTY) LTD on behalf of NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST, and the Municipality in terms of Resolutions MC271/2004 and A12/2005, be supported and condoned:
 - a) Land Availability Agreement (2008)
 - b) Public NGO Partnership Agreement (2012)
 - c) Service Level Agreement Framework (2014)
2. That the site development plan and planned phased development of the project as contemplated in Par. 2.5 of the report be noted and supported.

3. That in terms of the contractual obligation (in line with LAA clause 2 subparagraph 2.1) to create an alienable site, the applications of the developer to the Department of Cooperative Governance and Tradition Affairs Free State for following administrative processes be supported:
 - a) The amendment of the boundaries of the Town-Planning Scheme of Welkom, by the inclusion of Subdivision 2 of the Consolidated farm Vooruitgang No. 52, Administrative District Welkom, into the scheme area of Welkom with the zoning “Agriculture.
 - b) The subdivision (Phase 1) of, incorporation into the Welkom Town Planning Scheme 1/1980 and the rezoning in terms of Section 31 of the Development Facilitation Act No. 67 of 1995 on behalf of the Matjhabeng Municipality of the Remainder of Portion 2 of the Farm Vooruitgang No. 52 from “Agricultural” to “Special”.
 - c) That the supporting land uses associated with the Multi-Purpose Sport Complex as contained in the Zoning Schedule as enclosed **page 40 to 53 of SEPARATE COVER 8** be approved.
4. That the development be bound by the Record of Decision in terms of the Environmental Assessment Report in which case the Municipal Manager be authorized to negotiate with the developer all constraints that may affect the implementation of the project, and that such agreements be included in the final bulk services agreement with the developer.
5. That Council acknowledges it’s legislative responsibility in relation to the provision of bulk services for the project, but due to the extent of the total cost of the bulk services and Council’s financial constraints, the developer in principle be financially responsible for the provision and construction of all infrastructure related to the project in terms of the bulk services report as approved by the Municipality.
6. That the developer submits a funding plan in relation to the construction of the bulk services and that the Municipal Manager be authorized to negotiate a final bulk services agreement between the developer and the Municipality.
7. That on completion of the Bulk Services agreement the Municipal Manager be authorized to finalize a land sales agreement to affect the transfer of the land to the NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST.

A25 of 2019

**LEGAL OPINION: COLLECTIVE AGREEMENT FOR FREE STATE DIVISION
(EXECUTIVE MAYOR)**

PURPOSE

To submit to Council a legal opinion obtained from Messrs Finger Attorneys on the Collective Agreement for the Free State Division of the SALGBC, with specific reference to clauses 5.3.24, 9, 10 and 17.

BACKGROUND

Matjhabeng Municipality received a letter from SALGBC informing that they were requested to conduct an investigation in its alleged breach of the Collective Agreement and Matjhabeng had to answer to the allegations in the letter of IMATU dated 13 December 2018.

IMATU acted on behalf of 13 of its members and indicated that that during November 2018 all the 13 members received their standby allowances in terms of Clause 10.1 of the Collective Agreement.

Matjhabeng Municipality was of the view that due to the fact they were earning of excess of the threshold, they will not be paid. In terms of Clause 10, employees shall receive overtime payment when called out irrespective of the statutory threshold.

Messrs Finger Attorneys was appointed to submit a legal opinion on standby, overtime, night work allowance as well as threshold in terms of the Collective Agreement.

Threshold is contained in the Basic Conditions of Employment Act which makes provision for the Minister of Labour to publish a determination on the advice of the Commission that will exclude employees earning above a certain amount per year from sections of chapter 2 of the Act. Chapter 2 primarily deals with the regulation of working hours of employees.

*** Legal Opinion was received from Messrs Finger Attorneys. Said legal opinion **is attached as SEPARATE COVER 9.**

SUBMITTED FOR CONSIDERATION

A26 of 2019

REQUEST FOR APPROVAL FOR IN-SITU UPGRADINGS MELODING (EXECUTIVE MAYOR)**PURPOSE**

To request an approval from Council for in-situ upgrading of the following Meloding Informal Settlements;

1. Unit 3 Informal settlements
2. Unit 7 Informal Settlements.

BACKGROUND

A rapid assessment on Informal Settlements in Matjhabeng was conducted in 2013 with the assistance of Housing Development Agency (HDA).

This process led to the enumeration of informal settlement within Matjhabeng, about 21 informal settlement where enumerated, about 7 informal settlement in Meloding were recorded, namely;

No.	Settlement Name	Township / farm	Enumerated no. of structures	Updated no of Household as of April 2018.
1.	Bareng Informal Settlement	Meloding	6	6
2.	MK Square Informal Settlement	Meloding	10	73
3.	Matlharantlheng Informal Settlement	Meloding	139	135
4.	Unit 7 Informal Settlement	Meloding	45	45
5.	Unit 3 Informal Settlement	Meloding	88	55
6.	Phelindaba Informal Settlement	Meloding	9	9
7.	Tiptop & Bazaar Informal settlement	Meloding	8	8

The Criteria for electing the 3 informal settlement selected for in-situ upgrading are;

1. The land must belong to the Municipality;
2. The number of households must be less than 150, or area requiring only an amendment of a General Plan and rezoning in terms of municipal planning bylaws;
3. The settlement must be integrated and adjoining to an established township for ease of basic services connection by the Municipality.
4. LAND MUST NOT BE DISASTER PRONE.

*** Profile information on the informal settlement selected and land situated is **attached on page 103 to page 118 of the Annexures.**

DISCUSSION

All this settlement age are of over 15 years, though the land situated at has been zoned for different purpose other than residential, attached hereto the comments of Town Planning division on proposed in-situ upgrading.

The challenge with Meloding has been identifying and acquiring alternative land as there's land scarcity.

On the 22nd February an inception meeting was held wherein the consultants Ditsamai investments and Projects was official introduced as the appointed consultant to oversee the consolidation, subdivision and rezoning application on Erven 12434, 12142, 12143 and 12144.

Thus an approval from Council is sought so as to initiate the project.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

Municipal policy on allocation of Sites

RECOMMENDATIONS

1. That Section 80 notes the report.
2. That Council approves proposed in-situ upgrading in 2 informal settlements in Meloding.
3. That Council avail 12142, 12143, 12144 (Unit 7) and 12434 (Unit 3) for in-situ upgrading of the informal settlement in Meloding.

A27 of 2019

**THABONG: INSTALLATION OF BULK ZONAL WATER METERS AND VALVES
APPLICATIN FOR BUDGET MAINTANANCE (EXECUTIVE MAYOR)**

PURPOSE

The intention of this report is to effectively motivate for the approval Council for additional funding amounting to **R1 220 696.95 (incl. Vat)** under the Municipal Infrastructure Grant (MIG), maintenance budget. The funds will be used by the Matjhabeng Local municipality for the implementation of the water demand management system in Matjhabeng Local Municipality within the central area covering Welkom, Thabong, Bronville and Riebeeckstaad, under the project name Thabong: Installation of bulk zonal water meters and valves.

BACKGROUND

Tugelogic Consulting Engineers was appointed to design and supervise the Instalation of Zonal Meters. This project was not open to public tender but reserved for the Phase 2 Vuku'phile learner contractors under the EPWP programme as part of their Learnership. Four contractors have been appointed on the project namely Phanda Business Enterprise (Pty) Ltd, Evanciency Marketing (Pty) Ltd, Adell Trading (Pty)Ltd and MYBK Trading (Pty)Ltd. The project is also one of the Municipality's initiatives in saving water by measuring the outflow of water as a means to better manage and quantify water loss and improve service delivery.

DISCUSSION

This project was approved in 2016 under MIG project number MIG/FS1151/W/16/17. There is an approved budget of amount R7 000 000,00 (incl. Vat) The approved budget is 5 830 835,60 MIG funding and R 1 169 164,40 is for counter-funding, both inclusive of Vat. The actual construction costs tendered for and the verification of works amount to R 6 764 690,30 (incl. Vat) for construction and the professional fees are R 1 436 400,00 which leaves a variance of R 1 220 696.95 (incl. Vat). This increase in amount is caused an increase in vat amount from 14% to 15% and the actual cost tendered by the contractors are higher than the estimated costs from the 2016 technical report this is due to escalation.

*** Refer to appointment letters and verification of works **attached as SEPARATE COVER 10.**

LEGAL IMPLICATIONS

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

FINANCIAL IMPLICATION

The request for an additional R1 220 969.95 under the maintenance budget of MIG to enable the project to be completed successfully. The table below entails the variance between the original project approved amount, tendered amounts from Learner Contractors and vat at 14% and at 15%.

Description	Total estimates at 14% Vat (2016)	Actual Cost at 15% Vat	Variance
Supply and installation of valves, hydrants and water meters	R 5 830 835,60	R 6 784 569,95	R 953 734,35
Professional fees, vat and other indirect cost	R 1 169 164,40 (Incl Vat)	R 1 436 400,00	R 267 235,60
TOTAL	R 7 000 000.00	R 8 201 090.30	R 1 220 969.95

The additional counter-funding amount will then be **R 1 220 969,95 (Incl. Vat) which is 17,44% of the total 7 000 000,00** cost of project. The intent of this report is to motivate for the approval of R1 220 969.95 (incl. Vat) from Dept. of COGTA under MIG maintenance funds. This is for the success completion of the water demand management system within the zones listed above.

RECOMMENDATIONS

1. That Council takes note of the report.
2. That Council approves the application for additional funding.

A28 of 2019

THABONG EXTENSION 20 (HANI PARK): EXTENSION OF WATER NETWORK, HOUSE CONNECTIONS AND WATER METERS (180 STANDS): BUDGET MAINTENANCE (EXECUTIVE MAYOR)

PURPOSE

The purpose of this item is to present before Council the status and progress on Thabong Extension 20 (Hani Park): Extension of water network, house connections and water meters (180 Stands) in compliance with Municipal Systems Act 32 of 2000; Section 73 (1), and to request approval of the budget maintenance.

BACKGROUND

The extension of a water network, house connections and 180 water meters in Thabong Extension 20 (Hani Park) project is currently being implemented by the Municipality through MIG funding. This project entails the extension of a water network, house connections and the installation of 180 water meters in Thabong Ext.20. The project was awarded to Kalosi Trading Projects and Lusakho Trading, two vukuphile contractors which are being managed by Epitome Consulting Engineers. A request for budget maintenance report was received from Epitome Consulting Engineers and **is attached as SEPARATE COVER 11** for ease of reference.

DISCUSSIONS

After the appointment of the contractors, it was noticed that the approved project budget is less than the contractor appointed amounts. Thus, presenting a shortfall of funds required to successfully complete the project. This shortfall is a result of increased price of materials which were previously priced below the market rate. The consultant's estimates which were included in the original business plan and technical report were too low. Therefore, the consultant has submitted a request for budget maintenance in order to address the shortfall amount. This amount will increase the project budget as well as the construction and professional fees for the project. This proposal will ensure sufficient availability of funds required to adequately finish the project.

LEGAL IMPLICATIONS

Constitution section 152, MSA MFMA section 19's section 116 "The accounting officer of a municipality or municipal entity must (2)(b) Monitor on a monthly basis the performance of the contractor under the contract or agreement. (2)(d) Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor."

FINANCIAL IMPLICATIONS

Item no.	Description	Amount
1.	Original Project Budget	R2 599 855,74
2	Revised Project Budget	R4 202 064,08
3	Professional Fees	R548 095,31
4	Construction costs	R3 653 968,77
5	Additional Funding Required	R1 602 208,34

OTHER IMPLICATIONS

The project will not be completed successfully without approval of the budget maintenance, thus affecting its intended purpose.

RECOMMENDATIONS

1. That Council takes note of the report.
2. That Council approves the application for additional funding.

A29 of 2019

MOTION BY CLLR T.M. MACINGWANE: MOTION TO DISCUSS EXPROPRIATION OF LAND WITHOUT COMPENSATION (20/14/4/3)

PURPOSE

To submit to Council the motion received from Cllr T.M. Macingwane for consideration.

BACKGROUND

*** A copy of the motion by Cllr T.M. Macingwane dated 05 November 2018 is attached on page 119 to page 120 of the Annexures.

LEGISLATIVE MANDATE

Rule 54 of the Standard Rules and Orders states that:

- “1) A councillor or traditional leader may put a matter on the agenda of a committee of which he or she is a member or of the council by submitting a written motion to the municipal manager, provided that a councillor or traditional leader may orally request the municipal manager to include a motion in the agenda for the first ordinary meeting of such committee or the council next ensuing.”

Rule 55 of the Standard Rules and Orders states that:

- “1) With due regard for the provisions of sub-rule (4) a motion in terms of rule 54 must be included in the agenda for the first ordinary meeting next ensuing of the council or the committee concerned, provided it had reached the municipal manager at least forty-eight hours before the date referred to in rule 10(1).
- 2) Only one motion of a councillor or traditional leader may be considered at a meeting.
- 3) If the introducer of a motion is absent during the meeting when the motion is put to the order, it is deferred to the ensuing ordinary meeting of the council or committee, as the case may be.
- 4) Any motion which-
- (a) contemplates the repeal or amendment of a resolution taken during the preceding three months; or
 - (b) has the same scope as a motion that had been rejected during the preceding three months may not be included in the agenda, unless it has been signed by at least three councillors in addition to its introducer.”

FINANCIAL IMPLICATIONS

None

SUBMITTED FOR CONSIDERATION