

MC64 of 2019

THE FINANCIAL MANAGEMENT AND STATUS OF ERNEST OPPENHEIMER THEATRE (CSS) (9/2/1/1)

PURPOSE

To update the Mayoral Committee on the Financial Management and Status of Ernest Oppenheimer Theatre

BACKGROUND

In a report that was tabled to the erstwhile Welkom Transitional Council by the then Chief Executive Officer in January 1999, he indicated that as a result of the Council's inability to continue donating to PACOFS due to financial constraints, he recommended, among others, that Council in principle approves the take-over of the activities of the Ernest Oppenheimer Theatre together with its personnel, and that Council enters into discussion with PACOFS to this effect.

Subsequent Council meeting that was held on 29 February 2000 under item A57, resolved as follows:

1. *That the Transitional Local Council of Welkom Council enter into a performance linked contract with a person who will be responsible for the following for a trial period of 3 months*
 - *Do the bookings*
 - *Sign contracts with artists*
 - *Organise Technical Staff*
 - *Work out time schedule for events*
 - *Ensure the Theatre is kept clean*
 - *Ensure that General Maintenance is effected*
 - *See to the unlocking and locking of the Theatre*
 - *Arrange sales of tickets*
 - *Be responsible for Publicising Theatre events*
 - *Be given powers to enter into agreement with temporary technical staff as they are needed from time to time*
2. *That the Council enter into negotiations with PACOFS for the sound system*
3. *The Treasury open a separate Bank Account for the Theatre*
4. *That Council delegates the Chief Executive Officer or his nominee to negotiate the contract, remuneration and performance with the incumbent, and submit a proposal to Council for approval*
5. *That a Business Plan be compiled to indicate the financial implications to Council*
6. *That the Council enter into negotiations with PACOFS with regard to the outstanding money owed to PACOFS, and that the piano not be pledge as security to PACOFS*
7. *That the inventory list be ascertain with PACOFS*
8. *That a report in respect of whether the theatre is insured or not, and for what amount, be submitted to Council*
9. *That regular feedback reports be submitted to Council*

During the Council meeting of Matjhabeng Municipality that was held on 31 July 2001, it was further resolved as follows:

1. *The contract as negotiated with the Manager of the Oppenheimer Theatre **BE APPROVED.***

2. *The Manager of the Oppenheimer Theatre **NOT BE GRANTED** permission to assist promoters in her private capacity.*
3. *The updated year plan, as well as the income and expenditure statement **BE NOTED**.*
4. *The Manager of the Oppenheimer Theatre **BE GRANTED** permission **TO NEGOTIATE** the recovering of the sound equipment with PACOFS together with the Adhoc Mayoral Committee member consisting of the Speaker, TV Matsepe, Cllrs TE Thoabala and KS Menong to form part of Negotiating Team.*

Contractual Appointments

Booking Office Assistant Telephonist on all inclusive salary package of R27 470

BE APPROVED.

*That Council **BE INFORMED** of the need for the position of Technical Stage*

*Manager because it was not budgeted for, **SHOULD** Council approve then the post **BE ADVERTISED**.*

*The following financial activities **BE HANDLED** by the Directorate Financial Services:*

The reconciling of the financial records on a monthly basis be referred to the relevant department.

The handling of any outstanding amounts to the Theatre according to Council policy.

The reconciliation of VAT on a monthly basis.

*Funds **BE MADE AVAILABLE** during the coming budget on the capital needs of the Theatre so that they can be addressed. (See attached under Separate Cover (1) is and Status of Ernest Oppenheimer Theatre).*

DISCUSSION

Seemingly, the issue of financial activities, as mentioned above, was never attended to, leaving the Theatre Manager being the sole custodian of the funds of the Theatre.

Notwithstanding the resolution taken in February 2000 that The Treasury should open a separate Bank Account for the Theatre, this arrangement was rescinded by the promulgation of the Municipal Finance Management Act 56 of 2003 which made provisions that all the funds should be handled under a Primary Bank of the Municipality. It is against this background that urgent measures should be taken to correct this anomaly.

LEGAL FRAMEWORK

Municipal Finance Management Act 56 of 2003

FINANCIAL IMPLICATIONS

Migration of the Bank Account of the Theatre to the Municipal Primary Bank Account.

RECOMMENDATIONS

1. That the Chief Financial Officer manage mechanisms of migrating the Financial Management of the Bank Account of Oppenheimer Theatre to that of the Municipality with immediate effect

MC65 of 2019

PROPOSAL TO AMEND THE PAUPER, INDIGENT (DESTITUTE) AND UNKNOWN BURIAL POLICY AND TO INCREASE THE COSTS (CSS) (20/8/7)

PURPOSE

To submit to Mayoral Committee proposal to amend the Pauper Indigent (Destitute) and Unknown Burial Policy conditions and to increase the burial costs for adoption.

BACKGROUND

Indigent (Destitution) is a state in which a person finds that he can no longer take control of his basic human needs such as providing food, shelter, clothing, etc. for himself or his family due to ill health, physical disabilities caused by accidents or natural disasters and has to look to someone to assist either temporarily or permanently.

According to the Statute of the National Health Act, 2003 [Chapter 11 Regulations 90(i)] Authorities Responsible for the Removal and Burial of Unclaimed Bodies are: –

460 “the responsibility for the removal and burial of a destitute person or of any dead body which is unclaimed or which no competent person undertakes to bury or carry the costs involved, is the responsibility of the local authority of the district in which the body is when the necessity for the removal first arises.”

Since the year 2013 the Proposal (45/2013) was allocated for a period of 3 years with the following burial cost:

Costs for Adults	R1 300-00
Costs for Children (5-12 yrs)	R1 100-00
Costs for Infants and Toddlers (1-5 yrs)	R 900-00
Costs for still born & Costs for premature babies	R 800-00

COUNCIL RESOLVED AS FOLLOWS: COUNCIL RESOLUTION A41/2012 (31 JULY 2012)

“A41/2012

PROPOSAL TO INCREASE THE PAUPER BURIAL AND DESTITUTE FUNERAL COSTS (EDCSS) (20/8/7)

That the pauper burial and destitute funeral cost **BE INCREASED** as follows for the interim until the tender processes are finalised:

(a) Costs for Adults	R1 300-00
(b) Costs for infants	R 900-00
(c) Costs for children between the age of 7-14 years	R1 100-00
(d) Costs for still born and premature	R 800-00

MOTIVATION

- The current Policy was last approved in 2013 and Burial Costs have escalated due to inflation costs, CPIX and others.
- The maximum costs covered by the Municipality as outlined under Financial Implications, are no longer meeting the requirements for Burials in 2016.

- Burial Rituals of taking the deceased home prior to burial are not covered under current costs (Service Provider(s) demand R300 for this service).
- Small coffins are used for burials and do not make provision for heavy set (oversized, 2.2m over 120kg) corpses and Service Provider(s) spend more money to cover these special coffins.
- Destitute/Indigent community members needs to be provided with decent burials despite their financial situations.
- Late payments to Service Provider(s) also compromise timeous provision of Burial Services.

The following Criteria to be applicable

CRITERIA

- Tenders for Pauper Burials are invited on a yearly basis or as stipulated by Tender
- Paupers with relatives are investigated by the Branch Employee Wellness Programme.
- Unknown corpses are reported by the Forensic Pathology Services from the Department of Health and buried by Council.
- Paupers/Unknown corpses will be buried during the week and the Destitute/Indigent will be buried, on Saturdays.
- In the case of Destitute/Indigent, the normal rituals will be conducted where the corpse will be taken home on Friday and buried on Saturdays.

THE CONDITIONS OF THE POLICY TO BE CHANGED TO THE FOLLOWING:

CONDITIONS FOR PAUPER BURIALS

- 2.1 “The coffins will be of a basic, but durable nature. (A coffin the Edge which is made out of Maluti- or Redwood with handles.)
- 2.2 Provision to be made for over size coffins for heavy set corpses. (Kiaat/Wallnut flatlid coffin; 2.2m (120kg and above).
- 2.3 Graveyard costs must not be included in the tender price.
- 2.4 The Municipality will not be responsible for storage or other fees from other Service Provider(s), where a body was stored prior to application for a Pauper/indigent burial at Council.
- 2.5 The Municipality’s workers will be responsible for the digging and filling of graves.”
- 2.6 In the case of destitutes, the normal rituals will be conducted where the corpse will be taken home on Friday and buried on Saturdays.
- 2.7 The cost should include coffin and transportation.
- 2.8 The Service Provider(s) are not allowed to ask for any additional costs that may or may not occur.
- 2.9 The Service Provider(s) should provide SARS Verification Pin.
- 2.10 The Service Provider(s) should have reasonable experience, of at least 5 years, to render a funeral undertaking service.
- 2.11 The Service Provider(s) should provide proof of solvency certified by the Commissioner of Oaths
- 2.12 The Service Provider(s) should provide proof of payment for Municipal Services.
- 2.13 The Service Provider(s) should provide proof of Business Registration.
- 2.14 The Service Provider(s) should be able to render the service to the satisfaction of Council, thereby practising Ubuntu.

- 2.15 If a post-mortem is required, the undertaker will pay the fee (R450-00) and claim it back from Council when submitting invoice as per order, attaching certified copy of proof of payment.
- 2.16 Have an annual Competency Certificate as required by Lejweleputswa District Council, Environmental Management Department.
- 2.17 The Municipality will visit all Undertakers who responded to the tender to verify if they comply with all legislatives.”

FINANCIAL IMPLICATION

That the proposed Pauper Burial and Destitute Funeral cost ceiling amount be amended as follows:

Cost for Adults (over size coffin 2.2m, above 120kg)	R2 500-00
Costs for Adults	R2 000-00
Costs for infants	R1 200-00
Cost for children between the age of 7-14 years	R1 500-00
Costs for still born and premature	R1 000-00
Post Mortem fee (if applicable)	R 450.00
The costs be increased by 5.5% annually which is in line with CPIX	

LEGAL REQUIREMENT

National Health Act no, 61 of 2003 [Chapter 11 Regulations 90(i)]

RECOMMENDATION

That the proposed Pauper & Destitute Burial funeral costs be amended as follows:

Cost for Adults (over size coffin 2.2m, above 120kg)	R2 500-00
Costs for Adults	R2 000-00
Costs for infants	R1 200-00
Cost for children between the age of 7-14 years	R1 500-00
Costs for still born and premature	R1 000-00
Post Mortem fee (if applicable)	R 450.00
The costs be increased by 5.5% annually which is in line with CPIX	

That the Pauper and Destitute Burial Policy Conditions be amended to:

- “ 2.1 “The coffins will be of a basic, but durable nature. (A coffin the Edge which is made out of Maluti- or Redwood with handles.)
- 2.2 Provision to be made for over size coffins for heavy set corpses. (Kiaat/Wallnut flatlid coffin; 2.2m (120kg and above).
- 2.3 Graveyard costs must not be included in the tender price.
- 2.4 The Municipality will not be responsible for storage or other fees from other Service Provider(s), where a body was stored prior to application for a Pauper/indigent burial at Council.
- 2.5 The Municipality’s workers will be responsible for the digging and filling of graves.”
- 2.6 In the case of Destitutes/Indigents, the normal rituals will be conducted where the corpse will be taken home on Friday and buried on Saturdays.
- 2.7 The cost should include coffin and transportation.
- 2.8 The Service Provider(s) are not allowed to ask for any additional costs that may or may not occur.

- 2.9 The Service Provider(s) should provide SARS Verification Pin.
- 2.10 The Service Provider(s) should have reasonable experience, of at least 5 years, to render a funeral undertaking service.
- 2.11 The Service Provider(s) should provide proof of solvency certified by the Commissioner of Oaths
- 2.12 The Service Provider(s) should provide proof of payment for Municipal Services.
- 2.13 The Service Provider(s) should provide proof of Business Registration.
- 2.14 The Service Provider(s) should be able to render the service to the satisfaction of Council, thereby practising Ubuntu.
- 2.15 If a post-mortem is required, the undertaker will pay the fee (R450-00) and claim it back from Council when submitting invoice as per order, attaching certified copy of proof of payment.
- 2.16 Have an annual Competency Certificate as required by Lejweleputswa District Council, Environmental Management Department.
- 2.17 The Municipality will visit all Undertakers who responded to the tender to verify if they comply with all legislatives.”

SUBMITTED FOR APPROVAL

MC66 of 2019

PARTICIPATION OF MATJHABENG LOCAL MUNICIPALITY IN THE NATIONAL TRANSVERSAL CONTRACTS OF RT57 AND RT46

PURPOSE

To present to Mayoral Committee a municipal intention to participate on the National Treasury contract for purpose of procuring fleet.

BACKGROUND

An undertaking was made during a meeting with Government Garage official (Mr. Japhter Morobe as CEO of Provincial Government Garage) that Matjhabeng Local Municipality request to participate in the RT 57 contract has been agreed to. This was revealed during the same meeting and other municipalities within the Lejweleputswa District Municipality have been encouraged to follow the same route of vehicle procurement.

RT 57 is a vehicle procurement process spearheaded by National Treasury through the national transversal contract where entities of government are allowed to procure via the national contract. This procurement process saves money because it does not follow the third party route. Instead entities of government are allowed to engage with manufacturers directly and forward their specifically for any model or make of a vehicle which participate in the contract. We have been reliably informed that the majority of manufacturers participate in this contract.

RT 46 is another form of national contract that allows entity vehicles to be serviced, fuel management where a Municipality can enter into this contract and pay for fuel each month as well as purchase of tyres. RT 46 is a comprehensive system that enables entities to buy other services other than what the RT57 provides. It is like a one-stop center for servicing of vehicles, tyre management and fuel service.

*** The Municipality has initiated a process with National Treasury to ensure that we are serviced in terms of the RT57. It is understandable that the process will take time and discussions are continuing but the intention is to procure all our vehicles via this process. Mayoral Committee must understand that the process is likely to take a bit longer to complete and therefore it is going to be difficult to procure vehicles under normal procurement process than going via a deviation process during this negotiating process with National Treasury officials. In the latest development, a letter from the Procurement Officer is hereby attached regarding challenges they are experiencing with the implementation of the tender. **Attached letter on page 63 to 64 of the Annexures.**

We started the process internally by requesting vehicle needs from respective Departments and the lists were consolidated as reflected on the annexed list. The consolidated submission is attached as part of the item for consideration. The consolidated list has types of vehicles needed and it also shows number of vehicles required throughout the Municipality. In some instances, we have prioritized all units to be having some own vehicles. The numbers also indicate what priorities are there in terms of urgency and the fact that we currently do not have these vehicles.

LEGAL IMPLICATIONS

We are following the National Treasury's transversal contract (RT 57 and RT 46) on the procurement of Matjhabeng Local Municipality's fleet and servicing of vehicles and related and specified vehicle needs.

FINANCIAL IMPLICATIONS

- 2019/2020 approved budget.
 - A sum of R50 million has been set aside to accommodate purchase of vehicles as per the final needs analysis

RECOMMENDATIONS

1. That Mayoral Committee considers the two vehicle procurement processes.
2. That Mayoral Committee Approves the RT 57 as a vehicle procurement process to fast track purchase of vehicles for the delivery of services.
3. That Mayoral Committee approves the RT 46 as a procurement process for servicing of vehicles, buying of tyres and for fuel management purposes.
4. That Mayoral Committee considers procurement of some vehicles that we do not have on a deviation Basis until delivery has been finalized.

MC67 of 2019

SUBMISSION OF 3rd AND 4th QUARTER DRAFT NON-FINANCIAL PERFORMANCE REPORTS TO THE MAYORAL COMMITTEE FOR CONSIDERATION (SSS) (6/1/2/2)

PURPOSE

To submit a third quarter and fourth draft quarterly non-financial performance reports to Mayoral Committee for consideration.

BACKGROUND

Section 152(2) of the Constitution of South Africa, Act 108 of 1996, clearly spells out objectives of local government as follows:

- (a) To provide a democratic and accountable government for local municipalities
- (b) To ensure provision of services to communities in a sustainable manner
- (e) To encourage the involvement of communities and community organizations in matters of local government.

It is also the requirement of section 38(a) (iii) of the Municipal Systems Act of 2000 to provide a clear linkage between the integrated development plan and the performance management system of the municipality. It is therefore critical that we measure the extent to which the objectives as set out in the integrated development plan are being achieved. It must be noted the first and second quarter reports have already served Mayoral Committee and ultimately Council.

The draft reports are based on the 2018/2019 SDBIP as approved in June 2018. **In addition, these draft reports are in compliance with signed performance agreements of the Executive Directors with the Municipal Manager is attached under Separate Cover (2).**

LEGAL IMPLICATIONS

- Constitutions of the Republic of South Africa, Act 106 of 1996
Section 152(2) (b) “To provide a democratic and accountable government for local municipalities”
- Municipal Systems Act, Act 32 of 2000
Section 38- A municipality must:
 - (a) Establish a performance management system that is-
 - (iii) in line with the priorities, objectives, indicators and targets contained in its integrated development plan.

FINANCIAL IMPLICATIONS

Development of Municipal quarterly non-financial report did not require financial inputs as it was done internally.

RECOMMENDATIONS

1. That Mayoral Committee considers the draft third and fourth quarterly non-financial performance reports.
2. That the draft third and fourth quarter non-financial performance reports be submitted to Council for approval.

MC68 of 2019

PROGRESS REPORT ON FUNDING APPLICATION TO NATIONAL TREASURY FOR THE NATIONAL DEVELOPMENT PARTNERSHIP GRANT (NDPG) (SSS) (6/4/1)

PURPOSE

To submit progress report to Mayoral Committee about our endeavour to apply to National Treasury for grant funding.

BACKGROUND

Council has requested management to apply for available funding in order to complement available grant funding that we receive. We undertook a process and applied to National Treasury and the letter is dated the 2nd July 2018 requesting grant funding through the National Development Partnership Grant (see attachment). We received a positive response we were one of the 27 Municipalities to receive the grant. The 27 Municipalities were convened in Pretoria for a workshop with case studies of Municipalities which have already started with precinct planning process.

Two Municipalities made a presentation during the workshop convened for the 12th February 2019. One Municipality came from Kwazulu-Natal and the other came from the Eastern Cape. Matjhabeng Local Municipality was represented by Mr. B Golele and Mr. T Makofane during the workshop.

Subsequent to the workshop, an arrangement was made for National Treasury to come to Matjhabeng Local Municipality and the meeting took place on the 14th May 2019 with Project Manager for Matjhabeng Local Municipality, Mr. Dimphiwe Jamile and Acting General Manager, Mr. Collins Sekele attending the meeting.

DISCUSSIONS

As Matjhabeng team comprising of colleagues from Local Economic Development, Infrastructure, Human Settlements and Community Services and Public Safety, we brain stormed around how the precinct plans must be prioritized in line with the provided guidelines before the actual workshop. This was a requirement that we should have brainstormed around the concept and we came to a similar conclusion after interpreting the guidelines that the best town with advanced infrastructure and economic potential was Welkom and followed by Virginia and we agreed with their presentation.

The second aspect discussed was the issue of the development of the precinct plans for Welkom as a first priority. The process for an advert to be issued requires a council resolution that confirms support of the project. Final template of an advert is available and a council resolution will enable an advert to be issued.

*** **Both the guideline and the final advert attached under Separate Cover (3)**

LEGAL IMPLICATIONS

Appointment of service provider will follow Matjhabeng Local Municipality Supply Chain Management policy

FINANCIAL IMPLICATIONS

R1, 6 million has been set aside for the procurement and development of precinct plans via the National Development Partnership Grant.

RECOMMENDATIONS

1. That Mayoral Committee acknowledges progress on application of grants.
2. That Welkom be confirmed as the first town to benefit from the grant as per the guideline of the grant.
3. That the item be submitted to council for approval of town for precinct planning.

MC69 of 2019

APPLICATION FOR THE ALLOCATION OF A LAND AVAILABILITY AGREEMENT TO THE TSHWARAGANANG PROPERTY DEVELOPMENT TRUST FOR THE DEVELOPMENT OF LOW COST HOUSING IN EXTENSION 14, SAAIPLAAS VIRGINIA (LED) (20/14/4/3)

PURPOSE

The purpose of the report is to motivate the allocation of a Land Availability Agreement (251 erven) to the Tshwaraganang Property Development Trust for the development of low cost housing in Extension 14, Saaiplaas Virginia

BACKGROUND

2.1 DEVELOPMENT PROPOSAL AND PREVIOUS EXPERIENCE

*** The application and development proposal submitted by **Tshwaraganang is enclosed on Page 4 to 5 of the Annexures**. The project entails the development of 251 low cost RDP homes for qualifying beneficiaries in terms of the Individual Project Linked Housing Subsidy Scheme. In such case NURCHA will act as the custodian of the project and will see that all contractual conditions pertaining to the development are met.

*** It must be noted that Tshwaraganang already handled various projects of similar nature as indicated in the **company profile as attached on Page 6 to 19 of the Annexures, which also includes the registration details of the Trust**.

2.3 LOCATION AND CURRENT SITUATION

*** The target area is a portion of Saaiplaas, Extension 14 Virginia, the location which is indicated **on the location plan enclosed on Page 20 of the Annexures**.

The area has been surveyed and registered with both the Surveyor General and the Deeds Office (township register opened) and all the vacant erven belongs to the Matjhabeng Municipality.

It must be noted that 63 low cost houses were already developed in Extension 14 as a result of a previous Land availability agreement. Initially the project was a joint venture for SAMWU-NUM Housing PTY (Ltd) and the first Institutional Subsidy Project in the Free State. The project was partially funded by Saambou bank and the then Provincial Housing Board. Saambou bank topped -up the project with R20 000 and subsidy quantum from the former Provincial Housing Board was R18 400. Sixty-two (62) houses were completed but before the township register was opened Saambou Bank was liquidated. This also resulted in the liquidation of SAMWU-NUM Housing PTY (Ltd). The liquidators opened the township register and transferred the 62 completed houses into the names of the occupants

In terms of Item MC75/2014 the progress with the development of the township was reported to Council and the following was resolved:

“THE MAYORAL COMMITTEE RESOLVED: (15 OCTOBER 2014)

1. That the Mayoral Committee **TAKES NOTE** of the report.
2. That the Municipality advertises for request for **PROPOSAL** for developers.”

It must further be noted that Human Settlement also directed a request to the Department of Human Settlement to assist in the completion of the project which developed to the state where beneficiary lists were submitted to the Department.

2.4 MOTIVATION IN FAVOR OF GRANTING A LAND AVAILABILITY AGREEMENT

2.4.1 BACKLOG IN THE MELODING/VIRGINIA AREA

In terms of the provision of erven and houses in Matjhabeng the situation in Meloding is critical. The estimated backlog for the provision of planned and pegged erven amounts to 3000. This is mainly attributable to slow movement on the acquisition of land for new township establishment. Various applications have been directed to the Housing Development Agency and the Department of Human Settlement to provide funding for this objective and to declare Meloding/Virginia as a development priority area. To date this problem has not been solved. It must be noted that an attempt is now made to obtain funding via the Presidential Grant for Distressed Mining Towns.

The allocation of a Land Availability Agreement to a developer is therefore seen as a quick win situation to alleviate the housing demand to some extent in the Meloding/Virginia area.

2.4.2 PREVIOUS COUNCIL RESOLUTIONS REGARDING THE ALLOCATION OF LAND AVAILABILITY AGREEMENTS

In terms of Resolution SA4/2014 as enclosed on Page 21 of the Annexures, Council authorizes the Municipal Manager to enter into land availability agreements with prospective developers in the areas as mentioned which also includes the Saaiplaas area of Virginia. Similar land availability agreements were in various cases recently conditionally granted and concluded with developers e.g. FEKILE AND PRO-AFRICA.

2.5 THE PROBLEM REGARDING BULK SERVICES

In terms of previous comments from the Directorate Infrastructure the majority if the internal and bulk services are available in the area. The Electrical infrastructure has unfortunately been vandalized to a large extent and the estimated replacement value amounts to R16, 6 million.

It must also be noted that Par 2.4.2 of the mentioned Council Resolution states that a bulk service agreement be entered into with the prospective developer. In this regard the developer will have to submit a bulk services report and development strategy to the Municipality for approval before the LAA can becomes effective. In case of any forthcoming financial implications for the Municipality the agreement must be submitted to Council for approval.

2.6 PROPOSED LAND AVAILABILITY AGREEMENT

A proposed Land Availability Agreement applicable to the Tshwaraganang development in Saaiplaas is enclosed on Page 22 to 33 of the Annexures. Important to note is that the agreement is subject to the following aspects:

- a) That the applicant applies on behalf of the beneficiaries and obtains approval for the individual subsidies from the Department of Human Settlement.
- b) That the developer submits a services report to the Municipality for approval, also with the condition that the developer will be financially responsible for the provision of all outstanding engineering services in the area.
- c) That any financial proposal from the developer in relation to the provision of services or the purchase of the land will be submitted to Council for approval.
- d) That the development commences with one year after signature of the LAA agreement.

2.6 DEPARTMENTAL COMMENTS

The comments from the Directorate Infrastructure are already addressed in the above paragraph. It is important to note that on the submission of the services report by the developer all Departments be involved to comment on the feasibility and cost responsibilities related to the project in order to include these aspects into a services agreement with the developer as part of the land availability agreement.

3. POLICY AND LEGAL IMPLICATIONS

The following legislation has reference:

- Alienation of Land Act (Act No. 68 of 1981);
- Local Government: Municipal Finance Management Act (Act No. 56 of 2003);
- Municipal Supply Chain Management Policy Regulations (Act No. 27636);
- Property Rates Act (Act No. 6 of 2004);
- Spatial Planning and Land Use Management Act (Act No.16 of 2013);
- The Constitution of the Republic of South Africa (Act. No. 108 of 1996);

4. FINANCIAL IMPLICATIONS

As soon as the developer submits the services agreement the financial responsibilities can be determined and submitted to Council for approval.

RECOMMENDATIONS

1. The Land Availability Agreement with the Thwaraganang Property Development Trust (IT 2289/02) as enclosed on Page 22 to 33 of the Annexures be approved in principle and that the Municipal Manager be authorized to finalize the agreement in line with Resolution SA4/2014, but also inclusive of the following suspensive conditions pertaining to the development:
 - a) That the applicant applies on behalf of the beneficiaries and obtains approval for the individual subsidies from the Department of Human Settlement.
 - b) That the beneficiaries be identified in collaboration with Human Settlement.
 - c) That the developer submits a services report to the Municipality for approval, also with the condition that feasibility be proven and that the developer will be financially responsible for the provision of all outstanding engineering services in the area.
 - d) That any financial proposal from the developer in relation to the provision of services or the purchase of the land will be submitted to Council for approval.
 - e) That the development commences within one year after signature of the LAA agreement.

MC70 of 2019

VIRGINIA: APPLICATION TO PURCHASE ERVEN 1291, 1292, 1293 AND 1294, VIRGINIA CENTRAL BUSINESS AREA TO MEET THE REQUIRED PARKING REQUIREMENTS FOR THE EXPANSION OF THE VIRGINIA SHOPPING COMPLEX (3/2/10) (DP: LED) (8/3/2/50/6)

PURPOSE OF REPORT

The purpose of the report is to motivate the alienation of erven 1291, 1292, 1293 and 1294 Virginia to EDDZO Properties PTY LTD for the development of additional parking facilities as required by the Virginia Town Planning Scheme for the planned expansion of the Checkers complex on Erf 2203. The application is enclosed on **SC 4.1 under Separate Cover 4.**

2. BACKGROUND

2.1 LOCATION

The location of the target properties is depicted on **SC 4.2 under Separate Cover 4.**

2.2 DEVELOPMENT EXPANSION PLAN

The target area and immediate development expansion plan of the applicant is depicted from **SC 4.3 to SC 4.5 under Separate Cover 4.**

2.3 PARKING REQUIREMENTS IN TERMS OF THE VIRGINIA TOWN PLANNING SCHEME

The necessity for the alienation of the land can be motivated in terms of the Virginia Town Planning Scheme which stipulates that:

“The expansion of the Checkers complex requires an additional 97 parking bays that cannot be provided on the erf which requires a total of approximately 2910m² which must be provided, also including access and vehicle movement areas. The target properties will be sufficient to provide for this need.”

2.4 CURRENT STATUS OF THE TARGET PROPERTIES

The current status of the Municipal properties are as follows:

Erf Number	Size in m²	Zoning	Development status	Ownership
1291	715	Business	Vacant	Municipality
1292	717	Business	Vacant	Municipality
1293	718	Business	Vacant	Municipality
1294	715	Business	Vacant	Municipality

The target properties all belong to the Municipality as depicted in the Deeds Reports as enclosed from **SC 4.6 to SC 4.10 under Separate Cover 4.**

*** ***ATTACHED UNDER SEPARATE COVER (4) FIND SC4.1 TO SC4.14***

2.5 NECESSITY AND DESIRABILITY TO ALIENATE THE LAND

The necessity and desirability to alienate the land to the applicant can be motivated in terms of the following:

- a) The Checkers retail complex in Virginia is a key roleplayer in support of the attractiveness and local economy in Virginia. The expansion of the complex will support local economic growth and new job opportunities and should therefore be supported.
- b) It will be necessary that the applicant abide to the stipulations of the Virginia Town Planning Scheme in relation to the provision of parking. Since the additional parking spaces cannot be provided on the erf the Municipality can identify such land. In this case the applicant is willing to purchase and develop the additional parking areas at his own expense in order to ensure a functional development and to meet the parking requirements as stipulated in the Town Planning Scheme.
- c) As indicated on the location plan the adjacent street block to the Checkers complex which comprises of a number of business erven is still vacant. The demand for these erven is limited and should there be public interest from prospective developers these erven can be disposed of in terms of the public bidding process in line with the MFMA.

2.6 DEPARTMENTAL COMMENTS

Departmental comments have been incorporated in the recommendations.

2.7 MARKET VALUE

The market value reports of the target properties as obtained from a registered property valuer viz. BAMBANANI PROPERTY VALUATIONS AND ASSESMENTS are enclosed from SC 4.11 to SC 4.14 under Separate Cover 4.:

PROPERTY	MARKET VALUE	MUNICIPAL VALUE
1291	R85000	R36000
1292	R85000	R36000
1293	R85000	R36000
1294	R130000	R65000

LEGAL IMPLICATIONS

The administrative processes to create an alienable erf and the transfer of the land will be done in terms of relevant legislation and will be the responsibility of the applicant.

- The Constitution of the Republic of South Africa (Act. No. 108 of 1996);
- Development Facilitation Act (Act No. 67 of 1995);
- Local Government: Municipal Finance Management Act (Act No. 56 of 2003);
- Municipal Supply Chain Management Policy Regulations (Act No. No. 27636);
- Property Rates Act (Act No. 6 of 2004);
- Matjhabeng: Policy on the Disposal of Immovable Assets

In terms of the MFMA Capital assets that are not needed for the provision of basic municipal services may be disposed of, but only after the Council, in a meeting open to the public -

- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
- (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset; and
- (c) has decided that the asset concerned may be disposed of.

The target properties are earmarked for business related development and are not needed for the provision of minimum level of basic municipal services to the community and the land can therefore be disposed of.

FINANCIAL IMPLICATIONS

All costs in relation to the administrative processes to create an alienable erf, the sale, transfer and the relocation/provision of services will be for the account of the applicant.

POLICY/LEGISLATIVE POSITION

None

RECOMMENDATIONS

1. That since the erven are not considered critical to provide a minimum level of services to the community, the alienation of Erven 1291, 1292, 1293 and 1294 directly to EDDZO PROPERTIES PTY LTD for the development of parking facilities for the expansion of the Checkers complex, be approved in support of economic development of the CBD of Virginia and the motivations as stipulated in Par. 2.5 of the report.
2. That the Municipal Manager be authorised to finalize the sale of the land at the market values of the land as depicted in Par. 2.7 of the report, but subject to the following conditions:
 - a) All cost related to the alienation and transfer of the erven will be for the account of the applicant including any administrative actions that may be required viz. registration of servitudes, rezoning, consolidation of erven etc.
 - b) That the provision of a dust free surface (tar or paving) with marked parking areas by the developer will be considered the minimum development standard.
 - c) That prior to any construction, a site development plan which clearly indicates the parking layout and vehicle movement areas, vehicle access points as well as pedestrian crossings be submitted to the Directorate Infrastructure for approval. In this regard it is expected that the position of any existing municipal services in the adjacent street reserve be exactly determined and incorporated in the design in consultation with and to the satisfaction of the Director Infrastructure.
 - d) All cost related to the provision of municipal services to the properties or the protection of any affected municipal services will be for the account of the applicant.

UPGRADING OF THABONG T8 PUMPING STATION: REQUEST FOR ADDITIONAL FUNDING (AF) (EDI) (19/8/1/4)

PURPOSE

The purpose of this item is to submit to the Mayoral Committee a request for approval of the budget maintenance for the Upgrading of Thabong T8 Pumping station.

BACKGROUND

The Upgrade of Thabong T8 pumping station is currently being implemented by the Matjhabeng Local Municipality through MIG funds. This project entails the (i) Construction of a new Archimedes screw pump lifting station with emergency by-pass; (ii) Redirection of the existing outfall sewer lines leading towards and from the new screw pump lifting station and (iii) the investigation into viability of replacing the existing T8 pumping station outfall sewer by means of CCTV.

DISCUSSIONS

The approved project budget is R 13,540,602.44 (inclusive of VAT and Professional Fees). The project requires additional funds that amount to R 4 135 157.66 (inclusive of VAT and Professional Fees) in order to successfully complete the outstanding works on site – this amount is 30.54% of the current project budget. During construction stage, the project encountered numerous costly delays which were attributed to strike actions by laborers and community unrests; additions and variations to Construction Designs; Flooding of sewer trenches due to rainfalls and non-functioning of the existing pump station and price escalations during construction (CPA). Therefore, the consultant has submitted a request for budget maintenance in order to address the shortfall amount. **See attached Contractors appointment letters on page 34 to 35 and MIG registration on page 36 of the Annexures.**

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

Approved Project Budget (inclusive of VAT and Professional fees)	Revised Project Budget (inclusive of VAT and Professional fees)	Variance (inclusive of VAT and Professional fees)
R 13,540,602.44	R 17,675,760.11	R 4,135,157.66

RECOMMENDATIONS

1. That the Mayoral Committee takes note of report.
2. Mayoral Committee approves the application for additional funding for an amount of R4 135 157.66.

MC72 of 2019**THABONG: INSTALLATION OF BULK ZONAL WATER METERS AND VALVES
APPLICATION FOR BUDGET MAINTANANCE (EDI) (19/2/2/3)****PURPOSE**

The intention of this report is to effectively motivate for the approval by the Mayoral Committee for additional funding amounting to **R1 220 696.95 (incl. Vat)** under the Municipal Infrastructure Grant (MIG), budget maintenance.

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 were 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 registered for funding in 2016 under MIG project number MIG/FS1151/W/16/17 for an amount of 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-funded by the Municipality as the project includes areas that are not Previously Disadvantaged.. The actual costs after appointment of Contractors amount to R8 201 090.30 VAT Inclusive including professional fees. This variance is due to increase in VAT and price escalations in Construction Costs. **See attached MIG Registration Letter on page 37 and 4x Contractors appointment letters on page 38 to 45 of the Annexures.**

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 in 2016	Actual Cost at 15% 2018	Variance
Construction fees	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	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

RECOMMENDATIONS

1. That the Mayoral Committee takes note of the report.
2. Mayoral Committee approve the application for additional funding for an amount of R1 220 969.95 VAT Inclusive.

MC73 of 2019

CONSTRUCTION OF MMAMAHABANE CEMETERY (EDI) (2/8/1/3)

PURPOSE

The purpose of this item is to submit to the Mayoral Committee a request for approval of the budget maintenance for the Construction of Mmamahabane Cemetery.

BACKGROUND

Construction of Mmamahabane Cemetery is currently being implemented by the Matjhabeng Local Municipality through MIG funds. This project entails the following:

- Approximately 1.065km of blocked paved access road from the North with a 15M wide servitude, 7M block paved surface and mountable kerbs on both side and 1M gravel shoulders on both sides. The road also includes a pipe crossing of 4 x 1.2M diameter concrete pipes with headwall, wing walls and erosion protection.
- 0.820M of gravel surfaced access road from the South with a 7M wide gravel surface (no kerbs) and 1M gravel shoulders. The existing 3.8M wide storm water culvert has been included in the project.
- A network of blocked paved cemetery roads of approx. 2.240 km plus 8 turnabouts of 10M radius, 4M wide with 60MM blocks with kerbs, storm water accommodated on the road surfaces and 2 x 3M gravel shoulders.
- A paved parking area of 4500M² with 80MM blocked paving will be provided with kerbs. In addition, a gravel parking area of 4600M² will be provided
- Concrete Palisade fencing of 1.8M high with concrete foundation of 300MM x 200MM under the concrete fencing, i.e. for parking area for the cemetery area 2652M in length. In addition, 3 security gates will be provided i.e. 1 on the Northern access road to the parking area, 1 on the Southern access road to the parking area and one at the access point to the cemetery area
- Building works will include a guardhouse, ablution block, storage area and a restroom for workers with a total size of 735m² including 7 toilets, 1 disabled toilet, 3 urinals, 9 washbasins, 2 kitchen sinks, workers shower and a security gate.
- The water supply will be a 50MM diameter pipe from the existing Mmamahabane township feeding 2 x 5000L tanks that will be elevated on 12M high steel towers.
- The sewer will be a septic tank (15M long, 5M wide & 2.0M deep) with a soak away (20M long x 1.5M wide and 2M deep)
- 2 high mast lights 30-meter radius
- Electrical works includes 22KV overhead aluminum Eskom line with a 50KVA transformer and underground cable to a distribution kiosk with an underground cable to 30M radius high mast lights and 300MM overhead OVC line about 300M in length to the second 30M radius high mast light.
- In addition, an underground cable to supply the building with electricity for lights, plugs and 1 geyser and a small oven.

DISCUSSIONS

The approved project budget is R29 970 388.78 (inclusive of VAT and Professional Fees). The project requires additional funds that amount to R6 606 340.63 (inclusive of VAT and Professional Fees) which takes the total project cost to R36 576 729.42 VAT Inclusive. The Variance is due to the following:

- Construction costs that came higher than the Engineers Estimate and the project duration changed from 5 to 6 months and that also means an increase in professional fees.
- The Record of Decision from the Department of Environmental Affairs requires that an Environmental Engineer must visit the site on a monthly basis and once after completion which mean the Environmental Engineer will visit the site for 7 months. The extra month is to check that the area has been rehabilitated.
- A requirement from the Municipality's Tribunal that the site be rezoned and subdivided which was not part of the initial project budget. **See attached MIG registration letter on page 46 and appointment letter on page 47 to 48 of Annexures.**

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

An additional funding of R6 606 340.44 Including VAT as per the table below is requested. Approval of the additional funding will change the project cost from R29 970 388.78 to R36 576 729.42

Construction Costs		
Engineer's Estimate	Contractor's tender price @ December 2018	Variance (inclusive of VAT and Professional fees)
R24 939 965,82	R 30,616 272.98	R 769,826.65
Professional Fees and Disbursements		
Engineer's Estimate	Revised Fees	Variance (inclusive of VAT and Professional fees)
R5 030 422,96	R5 960 456.44	R930 033.47
TOTAL		
Engineer's Estimate	Contractor's tender price & professional fees	Variance
R29 970 388.78	R36 576 729.42	R6 606 340.64

RECOMMENDATIONS

1. That the Mayoral Committee takes note of report.
2. Mayoral Committee approves the application for additional funding for an amount of R6 606 340.63 Including VAT.

MC74 of 2019

UPGRADING OF THE WELKOM LANDFILL SITE: BUDGET MAINTENANCE (EDI)
(10/14/1)**PURPOSE**

The purpose of this item is to request the approval of the Mayoral Committee for the additional funding of the Upgrading of the Welkom Landfill Site in compliance with Municipal Systems Act 32 of 2000; Section 73 (1).

BACKGROUND

The Upgrading of the Welkom Landfill Site project is currently being implemented by the Municipality through MIG funding. This project entails the following scope of work: the reconstruction of an access road, provision of access control, provision of two weigh bridges, refurbishment of a cloak room and signage, perimeter fencing, paving and training, carport, street lights and security features, an improvement of the wash bay facility and the provision of two shed buildings.

*** The contract was awarded to Kholeba Construction and Projects whom is being managed by Maragela Consulting Engineers. A request for budget maintenance report was received from Maragela Consulting Engineers and **is attached for ease of reference under Separate Cover (5).**

DISCUSSIONS

Once the contractor was appointed it was noticed that the approved project budget is less than the contractor appointed amount. 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 and an additional scope of works. 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

Original Budget	Project	Contractor's price	Professional Fees	Variance	Revised Project Budget
R 18 021 120.00		R 31 494 595,70	R 3 922 004,35	R 17 395 480,07	R 35 416 600.07

OTHER IMPLICATIONS

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

RECOMMENDATIONS

1. That the Mayoral Committee takes note of the report.
2. That Council approve the application for additional funding for an amount of **R17 395 480.07**.

MC75 of 2019

THABONG EXTENSION 20 (HANI PARK): EXTENSION OF WATER NETWORK, HOUSE CONNECTIONS AND WATER METERS (180 STANDS): BUDGET MAINTENANCE (EDI) (19/1/2/6)

PURPOSE

The purpose of this item is to request approval of the Mayoral Committee the request for additional funding for 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).

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 for ease of reference.

DISCUSSIONS

This project was registered for funding in 2018 under MIG project number MIG/FS1243/W/18/19 for an amount of R2 599 855.74 (incl. Vat). The actual costs after appointment of Contractors amounts to R4 202 064.08 VAT Inclusive including professional fees. This variance is due to increased price of materials which were previously priced below the market rate. **See attached Contractors appointment letters on page 49 to 52 and MIG registration letter on page 53 of the annexures.**

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

The request for an additional R1 602 208.34 from MIG to enable the project to be completed successfully. The table below entails the variance between the original project approved amount and the current amount for Learner Contractors.

Description	Total original cost	Total current cost	Variance
Construction fees+ Professional fees, vat and other indirect cost	R2 599 855.74	R 4 202 064.08	R 1 602 208.34

RECOMMENDATIONS

1. That the Mayoral Committee takes note of the report.
2. Mayoral Committee approve the application for additional funding for an amount of R1 602 208.34 VAT Inclusive.

MC76 of 2019

NYAKALLONG/ALLANRIDGE REPLACEMENT OF OLD GALVANIZED STEEL PIPES: REQUEST FOR BUDGET MAINTENANCE (EDI) (19/2/4)

PURPOSE

The purpose of this item is to request approval of the Mayoral Committee for additional funding for Replacement of old galvanized steel pipes with uPVC in Allanridge and Nyakallong Townships.

BACKGROUND

The replacement of old galvanized steel pipes with uPVC in Allanridge and Nyakallong Townships project is currently being implemented by the Municipality through MIG funding. The project was registered in 2018/2019 financial year. This project entails the following scope of work:

Allanridge:

- the replacement of 893m of old galvanized steel pipes with new 250mm diameter uPVC Class 12 pipes.
- The inspection and repair or replace of valves and fire hydrants.
- Inspect and repair of all leaking pipes at households.

Nyakallong

- the replacement of 1.7 km of old galvanized steel pipes with new 250mm diameter uPVC Class 12 pipes.
- The inspection and repair or replace of valves and fire hydrants.
- Inspect and repair of all leaking pipes at households.
- Maintenance of water meters

DISCUSSIONS

*** This project was registered for funding in 2018 under MIG project number MIG/FS1241/W/18/18 for an amount of R6 682 316.78 (incl. Vat). The actual costs after appointment of Contractors amounts to R7 690 399.86 VAT Inclusive including professional fees. This variance of R 1 008 084.95 is due to the learner contractors under- pricing items in the BOQ. **See attached Contractors appointment letters on page 54 to 61 and MIG registration letter on page 62 of the annexures.**

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

The request for an additional R1 008 084.95 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 and the current amount for Learner Contractors

Description	Total original estimates	Current actual Cost	Variance
Construction fees+ Professional fees, vat and other indirect cost	R 6 682 316.78	R 7 690 399.86	R 1 008 084.95

RECOMMENDATIONS

1. That the Mayoral Committee takes note of the report.
2. Mayoral Committee approve the application for additional funding for an amount of R1 008 084.95 VAT Inclusive.

MC77 of 2019

PROGRESS REPORT ON THE BY-LAWS, PENALTY CLAUSES AND PUBLIC PARTICIPATION OF DRAFT BY LAWS AND ADOPTION BY COUNCIL (LED) (1/2/1)

PURPOSE

The purpose of the report is to advise Mayoral Committee about the by-laws, penalty clauses and public participation of draft by laws and adoption by council.

BACKGROUND

The municipality has 17 by laws which were promulgated in 2008, 2010 and 2015. There are 14 by-laws which are adopted by council but not yet promulgated.

The challenges of the promulgated by laws are:

1. There has been several amendments to National Legislations that have a direct impact on the implementation of by-laws at municipal level. Having regard to the above, some of them will have to be amended.
2. The offences and penalty clauses do not make provisions for the following:
 - 2.1. A specific fine not exceeding a certain amount, i.e. *“Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and liable, on conviction to a fine not exceeding R 2000, 00 or imprisonment for a period not exceeding 24 months or both such fine and such imprisonment, as well as liable to the Council the tariff charge in respect of such removals or disposal. (Ekurhuleni: Solid Waste Management By-laws-Chapter 8, section 24(3))”*
 - 2.2. Another example: *“(62)7) Upon conviction of an offence in terms of this by law, a person is liable to a fine or imprisonment not exceeding 20 years or to both a fine and such imprisonment and the fine shall be calculated according to the ratio determined for such imprisonment in terms of the Adjustment of Fines Act (101 of 1991)” - Municipal Planning By law, 2016, City of Johannesburg.*
- 3 Recovery of Costs: There seems to be provision for the recovery of cost that are incurred by the municipality for any contravention of the by-laws. i.e.
 - 3.1 *“Any person committing a breach of the provision of these by- laws is liable to re-compensate the municipality for any loss or damage suffered or sustained by it in consequence of the breach” Draft Standard water services by law.*
 - 3.2 Another example *“11(d) any losses the municipality may suffer as a result of tempering with municipal equipment or meters” City of Cape Town, Credit control and debt collection by law.*
- 4 There seems to be uncertainty on whether section 56 of the National Road Traffic Act, no 93 of 1996 can still be used to effect spot fines or not.

The by-laws that were promulgated between 2008 and 2015 are still applicable and will require amendments to include:

1. *Cost recovery clauses that will be guided by the tariffs approved by Council;*

2. General tariffs should cover a wide range of services in order to provide a cover for the recovery of costs.
3. Penalty clauses that suggest a fine not exceeding R2000,00 and also make reference to the Adjustment of Fines Act 101 of 1991
4. The municipality should investigate the development of a fine Schedule and have it approved by council for implementation”.
5. A legal opinion be sought to determine whether section 56 of the National Road Traffic Act, 93 of 1996 can be used to effect the fine schedule”
6. The credit control and debt collection by-law be repealed and be replaced by the standard draft by law with suggested recommendation from the by-law sub- committee.
7. The Water Services by-law be amended to include suggestions from the Department of water affairs.
8. The Tariff by law be promulgated with immediate effect to give effect to the Tariff Policy.

The suggested by Draft laws were as follows:

1. Draft Tariff by law.
2. Draft Credit control and debt collection by law
3. Draft ward committee by law
4. Draft water services by law
5. Draft Electricity by law
6. Draft water restriction by law
7. Draft Indigent Support by law
8. Draft fresh produce by law
9. Draft Dumping by law
10. Draft impounding by law

On 16 January 2018, COUNCIL RESOLVED: (16 JANUARY 2018)

1. That Council **APPROVES** the Draft by-laws.
2. That the Draft by-laws **BE SUBJECTED** to community participation.
3. That the Draft by-laws be **RE-SUBMITTED** to Council for adoption.
4. That a workshop **BE ARRANGED** for Councillors on the proposed draft by-laws.
5. That a legal opinion **BE OBTAINED** to determine whether the Municipality can continue to issue a fine using section 56 of the National Road Traffic Act no. 93 of 1996.

The 10 by-laws were subjected to public participation in **FREE STATE SUN** on 17 -23 May 2019 in line with section 13 (3) of the Municipal Systems Act, Act no.32 of 2000. No comments have been received from all invited participants and community members.

*** Attached under Separate Cover is the Draft by-laws

FINANCIAL IMPLICATIONS

The promulgation of the by-laws attract cost for the Gazette which will be determined after receipt of quotation from the relevant department.

LEGAL AND POLICY REQUIREMENT

Section 156 (2) of the Constitution of the Republic of South provides that: “*A municipality may make and administer by –laws for the effective administration of the matters which it has the right to administer*”

RECOMMENDATIONS

1. That Mayoral Committee recommends to Council to adopt the undermentioned by laws:

- 1. Draft Tariff by law.*
- 2. Draft Credit control and debt collection by law*
- 3. Draft ward committee by law*
- 4. Draft water services by law*
- 5. Draft Electricity by law*
- 6. Draft water restriction by law*
- 7. Draft Indigent Support by law*
- 8. Draft fresh produce by law*
- 9. Draft Dumping by law*
- 10. Draft impounding by law*

2. That the above-mentioned by laws be submitted for promulgation.

MC78 of 2019

DRAFT UNAUDITED ANNUAL PERFORMANCE REPORT 2018/2019: MATJHABENG LOCAL MUNICIPALITY (SSS) (5/1/1/1)

PURPOSE

The purpose of the item is to table the draft unaudited Annual Performance Report for the financial year 2018/2019 to Mayoral Committee for noting.

BACKGROUND

The Municipality is required to provide progress report in relations to the draft quarterly performance reports. The basis for providing the report is to show proof on implementation of projects and programmes that have been budgeted by council. The consolidated draft annual performance report is required to be submitted to Office of the Auditor General by the end of August of each year. The Municipality makes public a record of performance for the past financial year and in the report we indicate areas that were challenges and how we anticipate solving such challenges going forward.

Essentially, the draft annual performance report is intended to influence budget adjustments when the mid-year performance report is tabled in council in relations to challenges that were experienced in the last financial year. This process enables council to have seamless planning in relations to projects that were not implemented in the previous financial year. See **attached under Separate Cover (6) is the Annual performance report.**

LEGAL IMPLICATIONS

Local Government: Municipal Systems Act 2000 (Act No 32 of 2000):

Section 46 (1) “A municipality must prepare for each financial year a performance report reflecting-

(a) The performance of the municipality and of each external service providers during the financial year;

(2) An annual performance report must form part of the municipality’s annual Report in terms of Chapter 12 of the Municipal Finance Management Act.”

FINANCIAL IMPLICATIONS

None

RECOMMENDATIONS

1. That Mayoral Committee notes the draft unaudited annual performance report for the financial year 2018/19.
2. The draft unaudited annual performance report 2018/2019 be submitted to Council for noting.

MC79 of 2019

UPPER LIMIT OF TOTAL REMUNERATION PACKAGES PAYABLE TO MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS (CSS) (5/1)

PURPOSE

To provide the calculation of the total remuneration package payable to Municipal Manager and Managers directly accountable to Municipal Manager in terms of Government Notice no. 42023 of 8 November 2018.

INTRODUCTION AND BACKGROUND

During 2018 the Minister for Cooperative Governance and Traditional Affairs issued Circular No.42023 determining the upper limits of the total the total remuneration packages payable to municipal managers and managers directly accountable to municipal managers.

These remuneration packages as per the circular have not been effected for Senior Managers at Matjhabeng Local Municipality.

LEGISLATION

Local Government: Municipal Systems Act No: 32 of 2000

Government Notice No. 287 of 2016

Local Government: Competency Framework for Senior Managers

Municipal Finance Management Act No. 56 of 2003

Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers: Government Gazette No. 37245 of January 2014

Division of Revenue Act, Gazette No.41678 of 04 June 2018.

Financial Calculation

1. Allocation of points for total municipal income.

Total municipal income in respect of local municipality based on actual income as stated in the audited financial statements of Matjhabeng Local Municipality for the 2016/17 financial year was R 1,539,789,661.

	2016/17
Total Municipal Income	R 1,539,789,661

Total Municipal Income	Points
R 1,539,789,661	57

TOTAL MUNICIPAL INCOME		
From	To	Number of Points
R 181,631,676	R 186,615,240	37
R 186,615,241	R 192,013,250	38
R 192,013,251	R 203,509,737	39
R 203,509,738	R 216,622,976	40
R 216,622,977	R 246,602,697	41
R 246,602,698	R 268,052,603	42
R 268,052,604	R 291,368,256	43
R 291,368,257	R 316,711,946	44
R 316,711,947	R 344,260,068	45
R 344,260,069	R 374,204,373	46
R 374,204,374	R 406,753,282	47
R 406,753,283	R 442,133,348	48
R 442,133,349	R 480,590,830	49
R 480,590,831	R 567,832,041	50
R 567,832,042	R 670,910,069	51
R 670,910,070	R 729,266,924	52
R 729,266,925	R 861,650,077	53
R 861,650,078	R 936,597,811	54
R 936,597,812	R 1,106,617,549	55
R 1,106,617,550	R 1,501,007,514	56
R 1,501,007,515	R 2,409,648,960	57
R 2,409,648,961	R 4, 565,865,708	58
R 4, 565,865,709	R 8,696,499,675	59
R 8,696,499,676	above	60

2. Allocation of points for total population.

Population of Matjhabeng Local Municipality as published in the Community Survey 2016: Statistical Release No. P0301, in terms of the *Statistics Act*, 1999 (Act No.6 of 1999).

TOTAL POPULATION		
From	To	Points
426,485	495,420	18

3. Allocation of points for total local government Equitable Share.

Municipal Equitable Share allocation for the 2017/18 financial year was.

TOTAL EQUITABLE SHARE		
From	To	Points
R309,591,116	R2,011,870,725	9

Allocation of number of points for total municipal equitable share

4. The number of points allocated for the total municipal equitable share of a municipality, is as follows:

TOTAL MUNICIPAL EQUITABLE SHARE		
From	To	Number of Points
R 0	R 22,240,225	1
R 22,240,226	R 33,476,473	2
R 33,476,474	R 43,762,069	3
R 43,762,070	R 51,360,279	4
R 51,360,280	R 62,961,507	5
R 62,961,508	R 89,166,616	6
R 89,166,617	R 140,903,448	7
R 140,903,449	R 309,591,115	8
R 309,591,116	R 2,011,870,725	9
R 2,011,870,726	above	10

4. Determination of categorization of municipality

The sum total number of points allocated to municipality in terms of **total municipal income, total population equitable share** is 84.

CATEGORISATION OF MUNICIPALITY		
Categorization	From	To
6	79	85

CATEGORISATION OF MUNICIPALITY		
Categorisation	From	To
5	71	78
6	79	85
7	86	91
8	92	96
9	97	98
10	99	100

5. Upper limits of the total remuneration packages of municipal managers; 2017/18

MUNICIPAL CATEGORISATION	TOTAL REMUNERATION PACKAGE MINIMUM	TOTAL REMUNERATION PACKAGE MIDPOINT	TOTAL REMUNERATION PACKAGE MAXIMUM
6	R1,351,468	R1,618,524	R1,885,581

6. Upper limits of the total remuneration packages of managers directly accountable to municipal managers; 2017/2018.

MUNICIPAL CATEGORISATION	TOTAL REMUNERATION PACKAGE MINIMUM	TOTAL REMUNERATION PACKAGE MIDPOINT	TOTAL REMUNERATION PACKAGE MAXIMUM
6	R1,097,024	R1,305,982	R1,514,940

(b) Managers directly accountable to municipal managers:

MUNICIPAL CATEGORISATION	TRANSLATION KEY					
	2017/2018			2018/2019		
	TOTAL REMUNERATION PACKAGE MINIMUM	TOTAL REMUNERATION PACKAGE (MIDPOINT)	TOTAL REMUNERATION PACKAGE (MAXIMUM)	TOTAL REMUNERATION PACKAGE (MINIMUM)	TOTAL REMUNERATION PACKAGE (MIDPOINT)	TOTAL REMUNERATION PACKAGE (MAXIMUM)
10	R 1,949,720	R 2,468,000	R 2,986,279	R 2,055,005	R 2,601,272	R 3,147,538
9	R 1,673,220	R 2,091,524	R 2,509,830	R 1,763,574	R 2,204,466	R 2,645,361
8	R 1,444,570	R 1,772,478	R 2,100,387	R 1,522,577	R 1,868,192	R 2,213,808
7	R 1,249,824	R 1,514,940	R 1,780,053	R 1,317,315	R 1,596,747	R 1,876,176
6	R 1,097,024	R 1,305,982	R 1,514,940	R 1,156,263	R 1,376,505	R 1,596,747
5	R 973,759	R 1,145,598	R 1,317,437	R 1,026,342	R 1,207,460	R 1,388,579
4	R 884,770	R 1,022,855	R 1,160,941	R 932,548	R 1,078,089	R 1,223,632
3	R 813,635	R 929,869	R 1,046,101	R 857,571	R 980,082	R 1,102,590
2	R 769,844	R 864,994	R 960,143	R 811,416	R 911,704	R 1,011,991
1	R 741,423	R 823,805	R 906,184	R 781,460	R 868,290	R 955,118

Comparative figures of current remuneration of senior managers versus Upper limits of the total remuneration packages of municipal manager and managers directly accountable to municipal managers; 2017/2018.

DESIGNATION	CURRENT REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE	TOTAL REMUNERATION PACKAGE
		MINIMUM	MIDPOINT	MAXIMUM
Municipal Manager	R1 775 581,00	R1 351 468,00	R1 618 524,00	R1 885 581,00
Executive Director Strategic Support	R1 212 549,84	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Corporate Services	R1 285 302,84	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Strategic Infrastructure	R1 215 786,12	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Local Economic Development	R1 372 885,56	R1 097 024,00	R1 305 982,00	R1 514 940,00
CFO	R1 514 940,00	R1 097 024,00	R1 305 982,00	R1 514 940,00
Executive Director Strategic Community Services	R1 305 981,96	R1 097 024,00	R1 305 982,00	R1 514 940,00

The following documents are attached for ease of reference:

- Statement of Financial Performance for financial years 2016 to 2017.(Total Income)
- Notes to the Annual Financial Statements for the year ended 30 June 2018 indicating Equitable Share allocated to Matjhabeng Municipality for Financial year 2017/18. (Equitable Share)
- Government Notice Number 42023 of 8 November 2018.(Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers)
- Information from Statistics South Africa's website indicating the population of Matjhabeng Local Municipality (FS184)

RECOMMENDATIONS

- That information provided in this item be verified with Finance before it can be implemented.
- That the Municipal Manager and Managers directly accountable to Municipal Manager be compensated as per the Circular No. 42023 of 8 November 2018, "Upper Limits of Total Remuneration Package Payable to Municipal Manager and Managers Directly accountable to Municipal Manager."
- That the remuneration be backdated from 1 July 2018 as per Circular No. 42023 of 8 November 2018.

MC80 of 2019

MATJHABENG LOCAL MUNICIPALITY DRAFT COST CONTAINMENT POLICY (CFO) (61B)

PURPOSE

To submit the:

1. Local Government: Municipal Cost Containment Regulations, 2019
2. National Treasury MFMA Circular 97
3. Matjhabeng Local Municipality Cost Containment Policy (Draft)

BACKGROUND

The President announced the cost-containment measures in the State of the Nation address, and it was re-emphasised by the Minister of Finance during the Budget Speech. It must further be noted that MFMA Circular 58, 66, 70, 72, 74 and 75 on cost containment measures are still applicable with regard to curbing of non-priority spending. This group of expenditure has also been identified as an area in which cost savings and efficiencies can be achieved as per the financial recovery plan.

The municipality has already embarked on the process of the implementation of cost containment measures. On 24 April 2015, Council resolved that a Financial Recovery Plan should be developed, and that Cost Containment Measures should form part of the plan. On 20 May 2015 the Financial Recovery Plan containing the cost containment measures was tabled in Council and reviewed during the 2017/18 financial year. The cost containment measures involved the following cutting of cost and or elimination of cost on the following items:

1. Catering for all meetings
2. Office groceries
3. Training of officials
4. Transportation
5. Overtime
6. Advertising fees – limited to notices and adverts
7. Internet usage – be limited to government websites
8. Printing cost – centralization of printing and limit colour printing
9. Matjhabeng News
10. No new appointments
11. Procurement of furniture
12. Telephone usage (both landlines and cell phones)

The National Treasury first published the draft Municipal Cost Containment Regulations (MCCR) for public comment on 16 February 2018, with the closing date being 31 March 2018. Comments were received, from the Department of Cooperative Governance and Traditional Affairs, SALGA, municipalities and other stakeholders. After extensive consultation and consideration of all comments received, the MCCR were finalised and promulgated on 7 June 2019 in the Government Gazette, with the effective date being 1 July 2019.

DISCUSSIONS

The MCCR were promulgated on 7 June 2019 and came into effect on 1 July 2019. Regulation 4(1) of the MCCR requires municipalities to either develop or review their cost containment policies. The MCCR require municipalities to adopt the cost containment policies as part of their budget related policies. Cognisance has been taken to the fact that the 2019/20 financial year budget process has been completed and therefore new or revised cost containment policies must be adopted by 30 September 2019, as part of its updated budget related policies.

MFMA circular 97 states that the MCCR do not apply retrospectively, therefore will not impact on contract concluded before 1 July 2019. If municipalities decide to extend current contracts, such must be aligned with the principles outlined in the MCCR and SCM regulations. National Treasury developed MFMA Circular 97 to confirm and clarify the process followed to promulgate the MCCR, to provide more information to municipalities and to assist with the implementation. It must be noted that MFMA circular 97 replaces MFMA circular 82.

Accounting Officers are requested to share the MCCR and its own policy with all officials and councillors. The progress and completion of this process, including tabling of the cost containment policy are to be finalised by 30 September 2019.

The Matjhabeng Local Municipality is developed in line with the MCCR and guided by MFMA circular 97.

See attached supporting documentation under Separate Cover (7).

4. Local Government: Municipal Cost Containment Regulations, 2019
5. National Treasury MFMA Circular 97
6. Matjhabeng Local Municipality Cost Containment Policy (Draft)

POLICY POSITION

Municipal Finance Management Act, 2003

Local Government: Municipal Cost Containment Regulations, 2019

RECOMMENDATION

1. That the Matjhabeng Local Municipality Cost Containment Policy be adopted by Council.

MC81 of 2019

UPDATED REPORT ON THE FLOODING THAT DESTROYED INFRASTRUCTURE AROUND THABONG, BRONVILLE AND HANI PARK WITHIN MATJHABENG LOCAL MUNICIPALITY FROM THE 21st UNTIL THE 26th APRIL 2019 (SSS)

PURPOSE

To provide an updated report to the Mayoral Committee regarding the extreme flooding that destroyed infrastructure including houses in our towns and township areas of Matjhabeng Local Municipality.

BACKGROUND

Matjhabeng Local Municipality experienced serious and severe flooding from the 21st April 2019 in the morning around early morning wherein approximately 400 houses and related infrastructure were severely damaged. A lot of structural damage was reported during the days ensuing the incident as people came out seeking shelter from the Municipality.

The preliminary report was sent to council informing council on the disaster and a request that the area be declared a local disaster area was then approved. Both the council resolution on this matter and the preliminary report were sent to both the District Disaster Management Centre as well as the provincial counterparts. Subsequently, the Provincial Government, through the Provincial Disaster Management Centre gazetted the disaster on the 24th June 2019.

Through our interaction with the District Disaster Management Centre, an agreement was reached that the draft report must contain only issues that directly affect the Municipality. In this instance, we are advised to only reflect actions that we have taken that would have a bearing on our finances. Hence the attached report has been radically altered to only reflect costs incurred by the Municipality. Issues relating to houses, schools and other structural damages that provincial departments are liable would be dealt with at those level and not the responsibility of Matjhabeng Local Municipality. It is therefore anticipated that an overall report would be consolidated at the District level.

As per the council resolution, we have updated the report and indicated the estimated budget figures to be spent or have already been spent by the Municipality. **See attached report under Separate Cover (8).**

FINANCIAL IMPLICATIONS

The estimated cost reflected in the attached report is **R43, 691,598.62.**

R14, 936,763.00 for the use of procured yellow fleet during the affected period;

R2, 053,600.00 is made of requests for catering and food parcels and accommodation and blankets that have already been catered for during the disaster period;

R 2 955 718, 66 is money estimated to repair pump stations and waste water treatment works; and

R 23,745,516.96 was estimated for electrical damages throughout the Municipality.

LEGAL IMPLICATIONS

Key Performance Area 4 of the National Disaster Management Framework is applied.

The KPA 4 ensure that appropriate Disaster response and recovery are categorised according to their severity.

RECOMMENDATIONS

1. That the mayoral committee considers the updated and revised report;
2. That the costs relating to work done during the disaster period be condoned.
3. That other costs not incurred yet be prioritized during the current financial year.
4. That the report be submitted to council for consideration.

MC82 of 2019

**REPORT ON REGRESSION FROM UNQUALIFIED TO QUALIFIED AUDIT OPINION
(MM) 2017/2018 FINANCIAL YEAR**

PURPOSE

To submit the report on regression from unqualified to qualified audit opinion to Mayoral Committee, for noting.

BACKGROUND

In order for the Council to perform its oversight function, the Municipal Manager must submit a written report regarding the regression from unqualified to qualified audit opinion to the Executive Mayor and then Council.

DISCUSSION

In compliance with MFMA

*** A Detailed report is **attached under a Separate Cover (9)**.

LEGAL IMPLICATIONS

MFMA (Municipal Finance Management Act)

FINANCIAL IMPLICATIONS

Please refer to the attached report.

RECOMMENDATION

1. That Mayoral Committee takes note of the Report on Regression from Unqualified to Qualified Audit Opinion.

MC83 of 2019

**SUBMISSION OF THE ANNUAL FINANCIAL STATEMENTS FOR 2018-2019
FINANCIAL YEAR (MM) (6/12/2/1)**

PURPOSE

The purpose of the item is to table the Annual Financial Statement for the financial year 2018/2019 to the Mayoral Committee for consideration.

BACKGROUND

In terms of the Municipal Finance Management Act, Act 56 of 2003: The Accounting Officer of a municipality must comply with the following:

- (a) Must prepare the annual financial statements of the municipality and, within two months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing;

In terms of the Act, these Annual Financial Statement should:

- (a) fairly presents the state of affairs of the municipality or entity, its performance against its budget, its management of revenue, expenditure, assets and liabilities, its business activities, its financial results, and its financial position as at the end of the financial year; and
- (b) Disclose the information required in terms of sections 123, 124 and 125

The Municipality intends submitting the Annual Financial Statements to the Office of the Auditor General by the 31st of August for auditing purposes.

*** **See the Annual Financial Statements attached under Separate Cover (10).**

LEGAL IMPLICATIONS

Municipal Finance Management Act.

RECOMMENDATION

1. That Mayoral Committee takes note of the Annual Financial Statements for the financial year 2018-2019.

MC84 of 2019

TRANSFER OF OWNERSHIP OF TWO VEHICLES FROM THE FREE STATE PROVINCIAL GOVERNMENT FLEET MANAGEMENT SECTION TO MATJHABENG LOCAL MUNICIPALITY (MM)

PURPOSE

To submit a report to the Mayoral Committee regarding the transfer of ownership of two vehicles to Matjhabeng Local Municipality.

BACKGROUND

The Constitution of the Republic of South Africa, Section 41.1.h.(ii) All spheres of government and all organs of state within each sphere must co-operate with one another in mutual trust and good faith by assisting and supporting one another; Section 154.1. Also provides that national government and provincial governments, by legislative and other measures, must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.

*** See attached letter from **Provincial Government Garage on page 65 of the Annexures.**

Based on the above Constitutional prescripts the Municipal Manager approached the Free State Provincial Government - Fleet Management for assistance with service delivery vehicles to the Municipality. Below is a table captured details of the vehicles transferred.

GG Number	Other number	MoldelID
GBF684FS		Nissan Hard Body NP300 2.0i LWB(K09/K38) P/U S/C
GBF844 FS		Volkswagen Polo Vivo 1.6 S/D 4d

DISCUSSIONS

During October 2018 the Free State Provincial Government - Fleet Management delivered five LDV's and five Sedans (10 vehicles) to the Matjhabeng Municipality as part of supporting the Municipality in ensuring efficient and effective service delivery to its communities.

The Free State Provincial Government - Fleet Management in conjunction with the Provincial Treasury has now decided to permanently transfer ownership of the two vehicles (out of the ten) to the Matjhabeng Municipality

POLICY POSITION

The Constitution of the Republic of South Africa, 1996

RECOMMENDATION

1. That Mayoral Committee takes note of the transfer.

MC85 of 2019

PROGRESS REPORT ON COUNCIL RESOLUTIONS (ED: CSS) (2/2/2)

PURPOSE

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

BACKGROUND

In Local Government practices and processes, submission of written reports to Council and its Committees 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 Council and Committee meetings a report on the execution of its resolutions must be tabled.

DISCUSSION

This report on audit of Council Resolutions covers the month of July 2018 to May 2019.

*** See the attached Council Resolution Audit **under Separate Cover (11)**.

POLICY POSITION

Council Resolutions

FINANCIAL IMPLICATION

None

LEGAL IMPLICATIONS

None

SUBMITTED FOR INFORMATION

MC86 of 2019

TUCKSHOP POLICY (LED)

PURPOSE OF REPORT

The purpose of the report is to develop a uniform policy for the evaluation and regulation of Tuckshops/Spaza shop within the Matjhabeng area of jurisdiction.

BACKGROUND

Faced with the current economic challenges of unemployment, crime, poverty, the present government crafted policies and programmes to support and promote the creation of Small, Medium and Microsized Enterprises or SMMEs. However, despite all of these initiatives, the small grocery shops which are commonly known as tuckshops/ spaza shops, are faced with a number of obstacles with respect to the establishment, operation and growth.

There are currently unregistered and uncontrolled Tuckshop/ Spaza Shops within the Matjhabeng Local Municipality. The existence of these Tuckshops/Spaza Shops indicate a demand for regulation for such a service within residential areas, especially where communities are less mobile and existing business nodes are out of reach.

Whilst the entrepreneurship of foreign investors in the township economy should be welcomed, the terms on which tuckshops/spaza shops operate needs to be formalised. All tuckshops/spaza shops should require a trading licence, requiring adherence to the laws of residence, employment, taxation and municipal regulations. Regulation should be made simple, based on recognition of the economic position of spaza shops within the township economy and their role in providing access to basic necessities for local consumers. **Attached under Separate Cover (12)**

PROBLEM STATEMENT

- It is important to note that there is a tendency by these traders to sell expired/and or counterfeit products
- Untidy and unhygienic shops due to the tendency by foreigners sleeping, cooking and bathing in these shops
- There is a suspicion that non-South African owners have an orchestrated plan to oust South African business people
- There is a suspicion that drugs could be sold in these premises.
- There is no uniform policy or legislation regulating this informal sector.

2.2 DISCUSSION

The following aspects in relation to the necessity of Tuckshops must be taken into consideration:

- a) Integrating various policies and procedures operative within Matjhabeng Local Municipality without taking away any existing rights.
- b) • Promoting harmonious development and protecting the residential character of the surrounding areas.
- c) • Promoting small businesses and boosting the economic status of the Municipality.

LEGAL REQUIREMENTS

- The Constitution of South Africa (Act No.108 of 1996)
- Spatial Planning and Land Use Management Act (SPLUMA)
- National Development Plan (NDP)
- National Building Regulations Standards Act
- Property Rates Act 6 of 2004
- Business Act of 1991
- Free State Growth and Development Strategy
- Municipal Spatial Development Framework
- Municipal Land Use Management Scheme
- Municipal LED Strategy

CURRENT POLICY ASPECTS

None

FINANCIAL IMPLICATIONS

Payment of application fees to municipality as indicated in the approved budget tariffs

RECOMMENDATIONS

1. That a Forum for Small Medium Micro Enterprises, especially Spaza Shops be established in Matjhabeng.
2. That a Policy Governing Tuckshops/Spazas in Matjhabeng be developed.
3. That initiatives to assist Tuckshops/Spazas in Matjhabeng be sought.

