

A49 of 2019

**REPORT ON COMPLAINTS RECEIVED BY THE OFFICE OF THE SPEAKER
REGARDING SERVICE DELIVERY CHALLENGES WITHIN MATJHABENG:
(SPEAKER)**

PURPOSE

To escalate the feelings of our communities about poor Service Delivery to the Council of Matjhabeng.

BACKGROUND

It has been a long time that Speakers Office receives complaints about poor service delivery either from the individuals or from the Councillors. The Office at times is able to go and check these complaints as they normally come to the office after they have been reported to administration and nothing was done about such complaints. On daily basis the office receives the complaints of sewer blockages and spillages in the yards of the people, water leakages and none removal of refuse.

SEWER SPILLAGE AND BLOCKAGES

This is the most complaint that comes to the Speakers Office after there has been no attempt to fix when it has been reported. We learned that this is annoying our communities and Councillors get blamed for this. The feedback from the follow-up by the Speakers Office is that some houses were found swimming in sewer water and raw sewer in people's yards.

Setshabelo Primary School Ward 16, the school is full of sewer, is almost 9 months now along the way as you go to Virginia before you get to the robots in Hani Park, the whole area on your left is covered by sewer. Almost all the Wards in Matjhabeng have this sewer problem. The unfortunate part of it, Councillors get blamed for this when there is no quick response to fix it. This is a problem as most of our areas are stinking because of sewer.

CLEAN WATER

This is also a common problem with all the 36 Wards of Matjhabeng. This get reported whenever this has been discovered but the response is usually not quick no matter how big the clean water leakage is. This also brings accusations that is why water is expensive in Matjhabeng because at times it runs in the streets from leakages and left unattended for a long time. We were told that in Thabong there was leakage that took five years and it penetrated into the people's houses.

REFUSE REMOVAL

We discovered that people are very angry with the Municipality due to poor refuse collection. This results into illegal dumping. The reports are that it even takes a month to collect refuse. This also creates a health hazard as one of the complaints is that you also find dead animals like dogs and cats in those illegal dumping.

ROADS AND STREETS

Most existing tarred roads and streets in the townships are damaged. This is as a result of water leakages either from sewer water or clean water. If these leakages are not fixed on time, they get eroded.

PROBLEM STATEMENT

The Council has a responsibility to play oversight on the performance of the executive and management. Councillors are elected representatives by communities and are confronted with all the challenges. The situation has reached an untenable stage which requires Council to pronounce itself on the state of service delivery and possible solutions.

The Council's failure to pronounce itself on these challenges will be regarded as failure to exercise its oversight responsibility. Whilst the state of affairs remains unchallenged, Councillors remain being viewed as the people who do not care about lives of the communities.

LEGAL IMPLICATIONS

Systems Act no 32 of 2000
and Regulations

FINANCIAL IMPLICATIONS

To be quantified per need

RECOMMENDATIONS

1. That Council considers the report.

A50 of 2019

REPORT ABOUT STREETS THAT ARE CLOSED FOR THE PUBLIC THROUGH THE INSTALLATION OF GATES: (SPEAKER)

PURPOSE

To report to Council about the tendency that has been observed, the closing of some streets without a Council permission, denying public access in those particular streets.

BACKGROUND

It has been noticed that there are some streets where the public has been denied access through the installation of gates around Welkom. There have no stage where the Council was served with request of installing some gates in the streets. It means therefore that there have been any public participation where there would be an awareness by the public of such actions.

To mention just few of them:

1. In industrial area, 9th Street, in Power Road, between Tappin and Sons and Mid City motors there is a gates in that street.
2. In 10th street, there is a gate there
3. Opaal Street in Jan Cillier Park the road is closed with palisade fence, no access by the public.
4. Next to Lejweleputswa Municipality, Jasmyn Street, a gate installed, there is even a notice that says residents only in that street
5. Akasia SGL Street there is a gate there
6. Behind Roots butchery opposite post office, the street is closed and there is also a number of such streets that are having gates in town.

LEGAL IMPLICATION

Municipal System Act No.32 of 2000

FINANCIAL IMPLICATION

None

RECOMMENDATION

1. That Council considers the report.

A51 of 2019

**NOMINATIONS OF SALGA FREE STATE PROVINCIAL WORKING GROUP:
(SPEAKER)**

PURPOSE

To afford the Council an opportunity to nominate Councillors who should go and serve within the SALGA Free State Working Groups.

BACKGROUND

SALGA Working Groups develops policies, strategies and programme to address critical issues within the sector they serve as a forum through which organised Local Government can consult at a political level, in order to contribute towards the creation of democratic and economically viable Local Government.

We are further guided that nominations should serve before Council and become a Council Resolution. It is also expected that the Council Speaker should sign the nomination forms.

***** The document with information from SALGA Free State is attached on page 1 to 6 of the annexures.**

LEGAL IMPLICATION

SALGA Constitution
Constitution of the Republic of South Africa

RECOMMENDATION

1. That Council considers the report.

A52 of 2019

REPORT ON WARD COMMITTEE ACTIVITIES IN THE WARDS: (SPEAKER)

PURPOSE

To report about the work of Ward Committees from 36 Wards of Matjhabeng.

BACKGROUND

Matjhabeng Municipality is one of the Municipalities that adopted the Ward Committee System as an executive type of municipality. One of the critical functions of the Ward Committees is to develop their Ward Plans, make recommendations on any matter affecting its Ward to the Chairperson or through the Chairperson to the Council or a Committee of Council.

Supply to residents within the Ward Information of Municipal Services in the Ward and events regarding the ward or the municipality generally. Ward Committees have to express the needs and concerns of the residents within the Ward it represent. Respond to the needs and concerns of the residents within the Ward. Involve the residents in the Ward in identifying and prioritising needs and etc.

Considering the above scope of work expected to be done by Ward Committees Matjhabeng decided to pay out of pocket expenses to Ward Committees as they do their work. Ward Committees are expected to report all their activities to the Office of the Speaker. By the time this report was drafted only 11 Wards had brought their reports. Up until there are reports, this paints a picture that in all the 25 Wards there is no work being done by Ward Committees.

The reports from the Wards are attached on page 7 to 10 of the annexures.

PROBLEM STATEMENT

In terms of Rule 165 the Speaker have to monitor the work done in the Wards through the reports. He have to evaluates the performance of Ward Committees and make appropriate recommendations to the Council after he has made his assessment. If this situation remains the same, where there are no reports coming forward, it then defeats the whole notion of paying out of pocket expenses as there will be no basis of paying it if no report of work that was done.

LEGAL IMPLICATION

Structure Act No. 117 of 1998
Standard Rules and Order

FINANCIAL IMPLICATIONS

Out of pocket expenses payment

RECOMMENDATIONS

1. That Ward Committees should submit reports every month to the office of the Speaker.
2. That as from September no out of pocket expenses should be paid to Ward Committees without reports from all the 36 Wards of Matjhabeng.

A53 of 2019

REPORT ON FILLING OF VACANCIES IN THE MPAC COMMITTEE: CHAIR OF MPAC: (SPEAKER)

PURPOSE

To make the Council aware of the filling of vacancies that existed in the MPAC Committee.

BACKGROUND

The passing of Councillor Malerato Tsupa of the ANC and the resignation of Councillor Sinxesi from the EFF created vacancies in the MPAC Committee, both ANC and EFF appointed the following Councillor's to serve in the MPAC Committee: Cllr MS Chaka - ANC, Cllr LE Khetsi - EFF.

LEGAL IMPLICATIONS

MFMA Act No 56 of 2003

FINANCIAL IMPLICATIONS

None

RECOMMENDATIONS

1. That the report be noted

A54 of 2019

UPDATED REPORT ON THE INVESTIGATION OF THE ALLEGED BREACH OF CODE OF CONDUCT OF COUNCILLORS BY COUNCILLOR VICKY MORRIS, AS PROVIDED IN THE MUNICIPAL SYSTEMS ACT, NO. 32 OF 2000 (SCHEDULE 1) (SPEAKER) (5/5/5)

PURPOSE

To update the Council on the investigation of the alleged breach of the Code of Conduct.

BACKGROUND

During the Council Sitting that was held on 31 January 2018, it was resolved as follows:

1. *That the matter be referred back to the Ad-hoc Committee to **RE-INVESTIGATE** and make recommendations based on information gathered in terms of Rule 99 of the Standard Rules and Orders.*
2. *That the Committee **BE BROADENED** to include other Councillors in order to add value to the quality of the report that would be submitted to Council.*
3. *That Council **EXPECTS** full cooperation from every individual who is called to appear before the Ad-hoc Committee.*
4. *That the Committee **MUST SUBMIT** a detailed report on its findings at the next Council meeting."*

Pursuant to these resolutions, the Ad hoc Committee met and finalized the Report.

*** The final report is **attached as Separate Cover (1)**

DISCUSSION

During the Council meeting that was held on 29 March 2019, The Speaker informed Council that the Ad-hoc Committee Chairperson, Cllr TJ Mosia became sick as he was coming to the Council meeting, and therefore the item would not be dealt with in his absence and it was subsequently resolved *that the item must **BE DEFERRED** to the next Council meeting.*

LEGAL FRAMEWORK

Matjhabeng Standard Rules and Orders.
Municipal Systems Act 32 of 2000

FINANCIAL IMPLICATIONS

None

RE-SUBMITTED FOR CONSIDERATION

A55 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 24 July 2019 received from Cllr P.F. Botha, containing certain questions is **attached on page 11 to page 12 of the Annexures.**
- *** The Municipal Manager's response is **attached on page 13 to page 15 of the Annexures.**

SUBMITTED FOR NOTIFICATION

A56 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 25 June 2019 received from Cllr P.F. Botha, containing certain questions is **attached on page 16 to page 17 of the Annexures.**
- *** The Municipal Manager's response **is attached under Separate Cover (2).**

SUBMITTED FOR NOTIFICATION

A57 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 16 July 2019 received from Cllr M.J.Badenhorst, containing certain questions is **attached on page 18 to page 19 of the Annexures.**
- *** The Municipal Manager's response is **attached on page 20 to page 23 of the Annexures.**

SUBMITTED FOR NOTIFICATION

A58 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 17 July 2019 received from Cllr M.J.Badenhorst, containing certain questions is **attached on page 24 to page 26 of the Annexures.**
- *** The Municipal Manager's response is **attached on page 27 to page 37 of the Annexures.**

SUBMITTED FOR NOTIFICATION

A59 of 2019

QUESTIONS OF WHICH NOTICE WAS GIVEN: CLLR T. MACINGWANE (MM)
(3/1/3/2)

PURPOSE

To submit the questions raised by Cllr T. Macingwane and the response thereon by the Municipal Manager.

BACKGROUND

- *** A letter dated 05 August 2019 received from Cllr T. Macingwane containing certain questions is **attached on page 38 to 39 of the Annexures.**
- *** The Municipal Manager's response is **attached on page 40 to 41 of the Annexures.**

SUBMITTED FOR NOTIFICATION

A60 of 2019

QUESTIONS OF WHICH NOTICE WAS GIVEN: CLLR T. MACINGWANE (MM)
(3/1/3/2)

PURPOSE

To submit the questions raised by Cllr T. Macingwane and the response thereon by the Municipal Manager.

BACKGROUND

- *** A letter dated 2019 received from Cllr T. Macingwane containing certain questions is **attached on page 42 of the Annexures.**
- *** The Municipal Manager's response **is attached on page 43 of the Annexures.**

SUBMITTED FOR NOTIFICATION

A61 of 2019

THREE MONTHS FINANCE REPORT – APRIL - JUNE 2019 (EXECUTIVE MAYOR)

PURPOSE

To submit to the Council three Months Finance Report for April - June 2019 in terms of Section 52(d) of the Municipal Finance Management Act, number 56 of 2003.

BACKGROUND

Section 52(d) of the Municipal Finance Management Act no 56 of 2003 states that the Accounting Officer must submit to the Executive Mayor a statement in a prescribed format on the state of the municipality's budget reflecting the following particulars for that quarter and for the financial year up to the end of that quarter:

- 1) Actual revenue per revenue source
- 2) Actual borrowings
- 3) Actual expenditure per vote
- 4) Actual capital expenditure per vote
- 5) The amount of any allocations received
- 6) Actual expenditure on allocations received

The compilation of the Section 52 report is as follows:

1. After the billing cycle the Income Department compile the income reports which consist of the following and submit to the Budget Department:
 - Billing and Income per month
 - Top Outstanding debtors for the month
 - Income per ward
 - Debtors age analysis per service
2. After month end the Information Communication Technology Department runs all the month end reports.
3. The Budget Department then extracts the required income and expenditure information from Solar. This is done with the GS 560 procedures. This report shows the transactions for the month VAT EXCLUSIVE.
4. The Expenditure Department provides the Budget Department with the creditor's age analysis and the top 20 outstanding creditors.
5. The Costing Section provides the Budget Department with the employee related reports and the overtime per department.
6. The Section 52(d) report is then compiled with all the information received from other sections and extracted from the Solar System

DISCUSSIONS

*** The finance reports for April - June 2019 are **attached under Separate Cover (3)**.

FINANCIAL IMPLICATIONS

TABLE 1	Budget for three months	Actual for three months (2018/2019)
Actual Revenue Received	507 261 538	284 954 914
All Grants Received	156 164 500	-
Total Income	663 426 038	284 954 914
Actual Expenditure	603 859 074	468 530 515
Salaries	190 866 021	188 784 119
Water	119 743 369	-2 448 004
Electricity	110 063 332	-20 320 070
Other Expenditure	183 186 352	302 514 470
Net Surplus/(Deficit) before Capital payments	59 566 964	(183 575 601)

MIG Payments	43 709 530
INEG Payments	8 176 704
WSIG Payments	6 534 296

Capital Assets procured - Equitable Share	-
Fleet & Equipment	-
Office convention/ Furniture	-

Net Surplus/(Deficit) after Capital payments	-241 996 131
-----------------------------------------------------	---------------------

Table 1: The municipality had a deficit of R 241 996 131 for the quarter after capital payments, this indicates that the expenditure incurred is less than the revenue received for quarter. This deficit is due to grants received for the reporting period

TABLE 2	Actual for three months (2018/2019)
Total Billings	464 405 763
Less: Indigent Billings	9 717 541
Actual Billings	454 688 222
Actual Revenue Received	281 549 576
Consumer Revenue	218 805 248
Other	62 744 328
Grants & Subsidies	-

Pay rate - Fourth quarter (Total Billings)	62%
Total income percentage - Fourth quarter	63%
Total income percentage – YTD	59%

The pay rate for the fourth quarter was 62%

The total income percentage for the fourth quarter was 63%.

In order for the municipality to be financially sustainable the pay rate will have to be increased to 80% monthly on the consumer services.

LEGAL IMPLICATIONS

The budget report is submitted in compliance with Section 52(d) of the MFMA no 56 of 2003. Section 52(d) stipulates that the mayor of the Municipality must, within 30 days of the end of each quarter, submit a report to council on the implementation of the budget and the financial state of the Municipality.

RECOMMENDATIONS

1. That the Finance Report for the Quarter (April - June 2019) in terms of Section 52(d) of the Municipal Finance Management Act, number 56 of 2003, be noted.
2. That the Finance Report for the Quarter (April - June 2019) in terms of Section 52(d) of the Municipal Finance Management Act, number 56 of 2003, be submitted to Provincial and National Treasury.

A62 of 2019

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

PURPOSE

To submit the report on regression from unqualified to qualified audit opinion to Council 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 (4)**

LEGAL IMPLICATIONS

MFMA (Municipal Finance Management Act)

FINANCIAL IMPLICATIONS

Please refer to the attached report.

RECOMMENDATION

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

A63 of 2019

SUBMISSION OF THE DRAFT ANNUAL FINANCIAL STATEMENTS FOR 2018-2019 FINANCIAL YEAR (EXECUTIVE MAYOR) (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 Council 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).5**

LEGAL IMPLICATIONS

Municipal Finance Management Act.

RECOMMENDATION

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

A64 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 Council 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.

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 capturing details of the vehicles donated.

GG Number	Other number	MoldeIID
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

See attached letter from Provincial Government Garage on page 44 to 45 of the Annexures.

POLICY POSITION

The Constitution of the Republic of South Africa, 1996

RECOMMENDATION

1. That Council takes note of the transfer.

A65 of 2019

TO SUBMIT REPORT ON THE PROGRESS REPORT ON STEERING COMMITTEE BETWEEN MATJHABENG MUNICIPALITY AND DEPARTMENT OF EDUCATION (EXECUTIVE MAYOR) (4/1/2/2)

PURPOSE

To submit before Council a status report on the Steering Committee between Matjhabeng Municipality and Department of Education pertaining to vacant school sites.

BACKGROUND AND DISCUSSION

In a letter dated 3rd August 2018 the Municipality engaged the department of Education pertaining to their intention on utilization of various vacant sites zoned for educational purpose as well as the transfer of educational sites where school are already built.

On the 2nd November 2018 an initial meeting was held between the department and the municipality, the issue of the following school sites was discussed;

1. Erven 15574 & 21378 Thabong
2. Erven 3209,3210,3211,3212,3824,3825 and 3826 Nyakallong
3. Erf 2175 Mmamahabane

The meeting resolved that engagement should continue as there a numerous school sites to be investigated, the district Director Mr. Zonke appointed Mr. Zotwana and Mr. Sefume to be permanent member of the steering committee and Mr. Kale from the province will be added.

The meeting further resolved that the meeting should be schedule monthly if it's possible and upon availability of all parties' concern to fast track the matter on discussion.

***** Copy of the minutes of the above meeting attached hereto on page 46 to 49 of the annexures.**

A follow meeting was convened on the 12th March 2019 with further deliberation on various matter pertaining to the school sites, and department made resolution on certain sites in Nyakallong, and same was communicated to the Municipality in letter dated 27th March 2018 (copy attached hereto on page 50 to 54 annexures).

***** Minutes of the meeting held on 12th March 2019 attached hereto on page 55 to 61 of the annexures**

The latest meeting was held on 28th May 2019 and the municipality requested the department to further investigate and resolve on whether the following school sites will be needed for future school development or same could be relinquish back to the municipality.

The sites in question are;

1. Erf 37049 Thandanani
2. Erven 39588, 39484, 39385 and 29248 Phokeng
3. Erf 21378 Dichokoleteng.
4. Erven 32704, 35429 and 29839 Hanipark

The Municipality waits feedback from the department pertaining to the above.

FINANCIAL IMPLICATIONS

None

LEGAL IMPLICATIONS

None

RECOMMENDATION

1. That Council takes note of the report.

A66 of 2019

**REPORT TITLE: FORMULATION OF MATJHABENG LED STRATEGY
(EXECUTIVE MAYOR) (11/5)**

PURPOSE OF REPORT

The purpose of the report is to report on the process of the Matjhabeng LED Strategy formulation.

BACKGROUND

Local Economic Development (LED) is a means of systematic identification, development and organization of economic opportunity. As the local economy grows, poverty is reduced and the public sector income increases. The context and the direction for the role of municipalities in economic development is provided in the White Paper on Local Government. It states that “Local government is not directly responsible for creating jobs. Rather, it is responsible for taking active steps to ensure that the overall economic and social conditions of the locality are conducive to the creation of employment opportunities”. Its role is therefore to create a conducive environment for economic development and growth

A strategic plan is a document used to communicate with the organization the organisations goals, the actions needed to achieve those goals and all of the other critical elements developed during the planning exercise. An LED Strategy document needs to be developed in order for the municipality to align itself with long term goals. The purpose of this document is to collate all economic information and investigate the options available to broaden the economic base of the Matjhabeng Local Municipality. The project aims to have a meaningful impact on the local economy thereby addressing the challenges of economic growth, poverty alleviation and job creation.

It is in this light that the Matjhabeng Local Municipality approached the Harmony Mining Company as part of the Social Labour Plan (SLP) to fund the formulation of this document.

PROJECT NAME

Matjhabeng LED Strategy

PROJECT LOCATION

Matjhabeng

BENEFICIARIES AND WHAT THE PROJECT MUST ACHIEVE

- The goal of this document is to assist and support the Matjhabeng Local Municipality to identify LED opportunities and to develop a LED strategy for the Municipality.
- The LED strategy will identify and evaluate the most recent development changes in the local economy. It will also align the document with district, provincial and national initiatives.
- The LED strategy aims to develop feasible implementation plans to thrust the economic development of the municipality forward onto additional paths of economic growth and expansion.
- The LED study forms part of the IDP process.

- The purpose of the LED is to assist the Matjhabeng Local Municipality in creating an enabling environment that allows for economic development to occur within sustainable parameters.

ACTION PLAN AND PROGRESS

- Four potential service providers were invited to make presentations at the Harmony Offices on the 23 November 2018.
- *** **See attached the LED Strategy presentation notes 23 November 2018 on page 62 to 66 of the annexures**
- One company Urban-Econ has been identified as a service provider of choice in a meeting held on the 5 December 2018.
- An appointment letter was issued on the 14 March 2019 to Urban-Econ Development Economists. It will remain in full force and effect until 14 August 2019.
- *** **See attached Urban-Econ appointment 032019 on page 67 to 68 of the annexures**
- On 2 April 2019 an inception report was submitted.
- *** **See attached MLM LED Inception Report 2019 under Separate Cover (6)**
- On 12 June 2019 the Matjhabeng Status Quo was presented and submitted.
- *** **Matjhabeng LM - Draft Status Quo Report – 12-06-2019 under Separate Cover (2)**

LEGAL IMPLICATIONS

The Local Government Transition (amendment act) Act of 1996
National Development Plan (NDP)
National Framework for LED in South Africa

RECOMMENDATIONS

1. That Council takes note of the report.

A67of 2019

PROGRESS REPORT ON PANNEL OF SERVICE PROVIDERS FOR THE TRANSACTIONAL ADVISORY SERVICES TO MATJHABENG LOCAL MUNICIPLITY FOR A PERIOD OF THREE (3) YEARS (EXECUTIVE MAYOR) (8/3/3/5)

PURPOSE

Purpose of the item is to give a feedback on progress made to date in regard to Appointment of panel of Transactional Advisors for Matjhabeng Municipality.

BACKGROUND

Management consulting is the practice of offering business third party advice, expertise, and support with the aim of enhancing the business's performance resulting in an overall increase in the value of the business for its shareholders and other stakeholders.

The Matjhabeng Local Municipality seeks to need to re-organise business functions and to create and rejuvenate revenue streams and increases the pressure for supply chain to react to business need for management consultants speedily.

The Lejweleputswa District Municipality's vision is "to be a leader in sustainable development and service delivery by 2030". As part of Lejweleputswa District, the Matjhabeng Local Municipality seeks services of a transactional advisor to assist them in the planning, procurement and implementation of large – scale transactions for water, roads and electricity, transactional planning, feasibility analysis, procurement and contract management.

The panel will consist of specialised, highly experienced professionals and service providers with an international footprint, able to provide the local municipality with access to practical experienced consultants. The selected service providers shall consist of these categories:-

- Business management
- Finance consulting
- Supply chain consulting
- Capital project and real estate management
- Information, communication and technology consulting

3. PROGRESS TO DATE

Invitation to tender was re-advertised on 30th March 2019, reason for re-advertisement was due to previous advertisement not listed on Central Supplier Database (CSD). The tender closed on the 22nd May 2019, and more than 10 companies responded to the bid, the documents are still at supply chain for verification of compliances. The Evaluation and Adjudication processes expected to be concluded by 1st August 2019, the report will be presented in the next meeting.

FINANCIAL IMPLICATIONS

Rejuvenate revenue streams to the Municipality.

RECOMMENDATION

1. That Council takes note of the report.

A68 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 Council 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 (7) 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 Council 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.

A69 of 2019

PROGRESS REPORT ON THE APPOINTMENT OF SECURITY OFFICERS AND TRAFFIC WARDENS (EXECUTIVE MAYOR)

PURPOSE

The purpose of this item is to provide an update regarding the recruitment process of the Security Officers and the Traffic Wardens.

BACKGROUND

One hundred (100) Security officers and forty (40) Wardens positions were internally and externally advertised in order to attract qualified candidates who will replace the private security and also enhance the traffic responsibilities of the municipality.

A total of 3 416 applications were received for the 100 positions of security officers and 3 948 applications for traffic wardens. The process of capturing was undertaken and finalised.

On the 29th May 2019, shortlisting for the security officers was undertaken with the same panel intending to finalise the wardens before the end of July 2019.

A submission to approve the interview panel has been submitted to the office of the Accounting Officer for approval. It is against this background that as soon as the approval is granted that the interviews will be held.

DISCUSSION

Out of the 3 416 candidates who applied a total of 687 candidates met the requirements. The requirements were stipulated as follows:

- Grade 12
- Diploma in Security or Equivalent
- Driver's License
- Security Experience

It is the resolution of the panel that the interviews will be used to streamline the number of the 100 required. It should also be taken note that the shortlisting's for the Traffic Wardens is still ongoing and will be finalised by end of July 2019.

FINANCIAL IMPLICATIONS

The total costs of the positions are as follows:

- Security Officers = R 20 573 636.00 per annum
- Traffic Wardens = R 8 229 454.40 per annum

PERSONNEL IMPLICATIONS

The total number of headcounts for the submissions

- Security Officers = 100
- Traffic Wardens = 40

LEGAL IMPLICATIONS

These appointments will be done in line with:

- The Municipal Systems Act 32 of 2000

- Recruitment and Selection Policy of Matjhabeng Local Municipality

OTHER IMPLICATIONS

None

RECOMMENDATION

1. That the Council takes note of the progress made on the appointment of Security Officers and Traffic Wardens.

A70 of 2019

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

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

(a) Municipal managers:

TRANSLATION KEY						
MUNICIPAL CATEGORISATION	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 2,437,149	R 3,084,999	R 3,732,849	R 2,568,755	R 3,251,589	R 3,934,423
9	R 2,091,524	R 2,614,406	R 3,137,288	R 2,204,466	R 2,755,584	R 3,306,702
8	R 1,805,713	R 2,215,598	R 2,625,484	R 1,903,222	R 2,335,240	R 2,767,260
7	R 1,562,280	R 1,893,673	R 2,225,066	R 1,646,643	R 1,995,931	R 2,345,220
6	R 1,351,468	R 1,618,524	R 1,885,581	R 1,424,447	R 1,705,924	R 1,987,402
5	R 1,179,011	R 1,395,280	R 1,611,549	R 1,242,678	R 1,470,625	R 1,698,573
4	R 1,071,375	R 1,245,786	R 1,420,196	R 1,129,229	R 1,313,058	R 1,496,887
3	R 985,303	R 1,132,533	R 1,279,762	R 1,038,509	R 1,193,690	R 1,348,869
2	R 937,632	R 1,053,519	R 1,169,406	R 988,264	R 1,110,409	R 1,232,554
1	R 903,016	R 1,003,351	R 1,103,686	R 951,779	R 1,057,532	R 1,163,285

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:

TRANSLATION KEY						
MUNICIPAL CATEGORISATION	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

7. 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:

- a. Statement of Financial Performance for financial years 2016 to 2017.(Total Income)
- b. 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)
- c. 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)
- d. Information from Statistics South Africa's website indicating the population of Matjhabeng Local Municipality (FS184)

RECOMMENDATIONS

1. That information provided in this item be verified with Finance before it can be implemented.
2. 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."
3. That the remuneration be backdated from 1 July 2018 as per Circular No. 42023 of 8 November 2018.

A71 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 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 (8)**.

POLICY POSITION

Council Resolutions

FINANCIAL IMPLICATION

None

LEGAL IMPLICATIONS

None

RECOMMENDATION

1. That Council takes note of progress report on Council Resolutions

A72 of 2019

THE FINANCIAL MANAGEMENT AND STATUS OF ERNEST OPPENHEIMER THEATRE (EXECUTIVE MAYOR) (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 resolution on the Treasury opening a separate Bank Account for the theatre be rescinded.
2. That the Municipal Manger manage mechanisms of migrating the Financial Management of the Bank Account of Oppenheimer Theatre to that of the Municipality with immediate effect.

A73 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 (EXECUTIVE MAYOR)**

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.

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 categorized according to their severity.

RECOMMENDATIONS

1. That Council considers the updated and revised report;
2. That Council approves costs relating to work done during the disaster period be condoned.
3. That other costs not incurred yet be prioritised during the current financial year.

A74 of 2019

PARTICIPATION OF MATJHABENG LOCAL MUNICIPALITY IN THE NATIONAL TRANSVERSAL CONTRACTS OF RT57 AND RT46 (EXECUTIVE MAYOR)

PURPOSE

To present to Council a municipal intention to participate in the National Treasury transversal contract for purpose of procuring fleet.

BACKGROUND

The Municipality approached provincial government garage with a view to solicit their opinion with regard to procurement of fleet via their procurement process. An undertaking was made during a mayoral committee meeting with Government Garage official (Mr. Japther 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 the first vehicle procurement process spearheaded by National Department of Transport through the national transversal contract where entities of government are allowed to procure via the national transversal 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 vehicle specifications 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 the second 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. RT46 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 Transport Department to ensure that we are serviced in terms of the RT57 and RT46. It is understandable that the process will take time and discussions are continuing but the intention is to procure all our vehicles and service them via the two processes. It should be noted that after discussion with the Chief Procurement Officer to establish progress on the procurement process, it has become clear that the process is slow and the Department of Transport is also awaiting completion of the process by National Treasury. A letter attesting to the status quo is hereby attached as proof from Chief Procurement Officer regarding challenges they are experiencing with the implementation of the tender. **(See attached letter on page 69 to 70 of the annexures)**

We have started the process internally by requesting vehicle needs from respective internal departments and the lists were consolidated as reflected on the **annexed list**. 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 Council considers the two vehicle procurement processes.
2. That Council approves the RT 57 as a vehicle procurement process to fast track purchase of vehicles for the delivery of services.
3. That Council approves the RT 46 as a procurement process for servicing of vehicles, buying of tyres and for fuel management purposes.

A75 of 2019

SUBMISSION OF 3rd AND 4th QUARTER DRAFT NON-FINANCIAL PERFORMANCE REPORTS TO THE MAYORAL COMMITTEE FOR CONSIDERATION (EXECUTIVE MAYOR) (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 (9).**

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 Council considers the draft third and fourth quarterly non-financial performance reports.
2. That the Council approves the draft third and fourth quarter non-financial performance reports.

A76 of 2019

**PROGRESS REPORT ON FUNDING APPLICATION TO NATIONAL TREASURY
FOR THE NATIONAL DEVELOPMENT PARTNERSHIP GRANT (NDPG)
(EXECUTIVE MAYOR)**

PURPOSE

To submit progress report to Council about our endeavor 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. The Municipality 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). Matjhabeng Local Municipality received a positive response and is 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. The purpose of the workshop was to induct the 27 Municipalities on how the precinct plans are expected to be developed. 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 brainstormed 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 our recommendation agreed with National Treasury 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.

***** Attached both the guideline and the final advert attached under Separate Cover ()**

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 Council 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.

A77 of 2019

BUDGET/ IDP REVIEW PROCESS PLAN – 2020/ 2021 (EXECUTIVE MAYOR)

PURPOSE

To present the Budget/ IDP Review Process Plan in terms of chapter 5 of the Municipal Systems Act and MFA chapter 4 section 21, to Council for consideration.

BACKGROUND

In terms of Chapter 5 section 34 of Local Government: Systems Act, a Municipal Council –

- a) Must review its Integrated Development Plan –
 - i) Annually in accordance with an assessment of its performance measurements in terms of section 41; and
 - ii) to extent that changing circumstances so demand; and
- b) May amend its Integrated Development Plan in accordance with a prescribed process.

The process plan for the review of IDP as contemplated in the section above is hereby complied with as per section 28 & 29 of the same Act.

The budget compilation is regulated in terms of section 21(1) (b) of the Municipal Finance Management.

The endeavour will be made to align the IDP process with Budget time table to achieve seamlessness out of the two processes.

See attached IDP Review Process Plan and IDP/Budget process Plan Time-table **under Separate Cover (11).**

LEGAL IMPLICATIONS

To comply with the provisions of chapter 5 of the Municipal Systems Act and MFMA.

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council approves the Budget/Integrated Development Plan Review Process-Plan for financial year 2020/21.

A78 of 2019

REQUEST FOR THE COUNCIL TO GIVE APPROVAL TO THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM TO PURCHASE FARMS FOR THE MATJHABENG LOCAL MUNICIPALITY BE USED FOR COMMONAGE PURPOSE (EXECUTIVE MAYOR)

PURPOSE

The purpose of this report is to request approval from the Council to request the Department of Rural Development and Land Reform for the acquisition of farm for commonage purposes.

BACKGROUND

The Department of Rural Development and Land Reform has acquired land for the municipality for different purposes over the years, one of which is commonage purposes. The land acquired has, however, come with challenges as the number of small scales farmers continue to increase resulting in reduced grazing capacity, and in cases the land not being suitable for other agricultural projects. In other instances such as in Bronville, Kutlwanong, Welkom, and Ventersburg the agricultural land had been taken and is used for human settlements.

The primary purpose of the Commonage program is to give subsistence farmers and emergent farmers access to municipal land. The subsistence farmer makes use of commonage to supplement income and to provide for household consumption, while the emerging farmer makes use of commonage as a stepping-stone where the gradual transition from subsistence to semi-commercial to commercial can be accommodated.

The Department of Rural Development and Land Reform provide funds to enable resource-poor municipalities to acquire land to extend or create commonage. The Grant for the Acquisition of Municipal Commonage enables municipalities to acquire land for commonage purposes.

PROBLEM STATEMENT

The land agrarian reform in South Africa is driven by a political, social and economic program that has to redress the unfair and unjust land acquisition by the minority of the South Africa country against the majority communities). Political pressure is gaining momentum to find a solution in order to redistribute land as a way to remedy past injustice and lay reasonable programs. 1996, the South African Constitution set a foundation as to where to start in order to address the land issue.

The 1996 Constitution of South Africa is the principal and highest authority law of the country, as stipulated in Chapter 2 of the bill of rights. Section 25(5) of the 1996 Constitution of South Africa states that; "The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis." Thus this sections guide the land reform policies and all agrarian support strategies and programs.

Agriculture is considered as one of the important economic sectors in the alleviation of poverty in South Africa. Taking agricultural production into consideration, the reduction of the unemployment rate, economic growth, and job creation are key challenges in South Africa. These formidable challenges still exist despite government's extraordinary efforts through the

introduction of the poverty mitigation strategies of which agricultural development is one sector which is receiving the support. The South African government is trying to reduce the unemployment rate by introducing various agricultural related strategies which seem not to succeed.

Livestock serves as a threat to traffic as there are no fences. The extension of commonage around Matjhabeng Local Municipality will improve livestock management, reduce accidents caused by stray animals, create job opportunities, attract funders for agricultural activities, and improve the lives of the poorest communities.

DISCUSSION

The Directorate of LED, Planning and Human Settlements has in the past years identified different farms to be used for commonage purposes; it is for this reason that we request the council to give approval for the process of identification and acquisition to go ahead. This will benefit different small-scale farmers in Matjhabeng Local Municipality.

LEGAL IMPLICATIONS

A council resolution is needed for the Department of Rural Development and Land Reform to acquire land for commonage purposes.

FINANCIAL IMPLICATIONS

Land Acquisition is the competency of the Department of Rural Development and Land Reform and as such the department will provide funds to acquire land for commonage purpose. All cost related to the sale and transfer of the property will be for the account of the Department of Rural Development and Land Reform. It will be again for the municipality as the farm will be an additional asset.

POLICY/LEGISLATIVE POSITION

The objects and duties of local government with regard to development, section 152 of the Constitution sets out the five objects of local government (all of which relate directly and/or indirectly to matters pertaining to development, including rural development).

The developmental duties of municipalities are identified in section 153, which section states that all municipalities must prioritize the basic needs of the community and promote social and economic development.

Municipalities must also participate in national and provincial development programs. This includes local government's compulsory participation in national and provincial rural development programmes.

After purchasing, the farm will be transferred to Council which makes it be a legal custodian and will then be leased to the interested and prospective emerging farmers in Matjhabeng Local Municipality.

RECOMMENDATION

1. That Council to resolve the Department of Rural Development and Land Reform (DRDLR) and be requested to purchase the farms as an extension of current commonage farms for the Matjhabeng Local Municipality which will be used for commonage purpose.

A79 of 2019

**REQUEST TO TEMPORARILY AVAIL SCHOOL SITES NO
39588,39484,39385,29248 THABONG FOR RELOCATION IN PHOKENG
(EXECUTIVE MAYOR)**

PURPOSE OF REPORT

To request permission from Council that sites no 39588,39484,39385,29248 Thabong zoned for educational purpose be availed to temporarily relocate the remaining occupants of informal shacks in Phokeng.

BACKGROUND

In 2017 allocation of sites in Phokeng resumed and 728 occupants were allocated and the remaining 215 occupants could not be allocated due to lack of more pegged sites.

PROBLEM STATEMENT

- Delay in relocation of the remaining 215 occupants of informal shacks could lead to more illegal invasion of land in Phokeng.
- Currently more than one shack is constructed on a single informal site.
- It will also create unauthorized site allocation by some members of the community and therefore cause allocation of sites to those who already benefitted.
- Of serious concern is that a contractor for installation of bulk service has been appointed and some of the occupant's shack are situated in area where bulk network is to be installed

FURTHER DISCUSSION

The Department has been in constant consultation with the Ward Councilor and concerned remaining group that was not allocated. The group continuously complained of unfavorable living conditions and lack of services.

The school sites no 39588,39484,39385,29248 Thabong were then identified by relevant Departments (Planning, Infrastructure and Human Settlements) as alternative temporary sites to address the backlog.

***** Attached on page 72 is the layout plan for identified school sites in Thabong.**

POLICY POSITION

5.7 Addressing existing informal settlements

Existing Informal Settlements

Council will only recognize informal settlements that existed in its municipal area before the adoption of this policy or where the court did not grant a court interdict for eviction of illegal occupants.

Council will only consider *in-situ* upgrading of an existing informal settlements if:

- a) It is recognized as an existing informal settlement
- b) Has been identified in accordance with the principles of NUSP

- c) It is a priority identified in the Integrated Development Plan (IDP) of the Municipality
- d) It conforms to the Housing Sector Plan and the Spatial Development Framework (SDF) of the Municipality
- e) It will create habitable sustainable human settlements.
- f) It is in the interest of those staying in the area as well as the rest of the community.
- g) It conforms to the general principles outlined in the policy.

RECOMMENDATIONS

1. That Council takes note of the report.
2. That Council approves that school sites no 39588,39484,39385 and 29248 Thabong be temporarily availed to relocate the remaining occupants of shacks in Phokeng until further planned and pegged sites are made available by the Provincial Human Settlements.
3. That MMC – Human Settlements convene a meeting with the relevant ward Councilor in order to address the issue of temporarily relocating the remaining occupants on the abovementioned school sites.
4. That four communal taps be installed at school sites no 39588,39484,39385,29248 Thabong.

A80 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 (EXECUTIVE MAYOR)

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 73 to 74 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 75 to 88 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 89 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 90 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 91 to 103 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.

A81 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 (EXECUTIVE MAYOR)

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 **Page (SC1) of the Annexures.**

2. BACKGROUND

2.1 LOCATION

The location of the target properties is depicted on **Page (SC2) of the Annexures.**

2.2 DEVELOPMENT EXPANSION PLAN

The target area and immediate development expansion plan of the applicant is depicted from **Page (SC3) to (SC5) of the Annexures.**

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 **Page (SC6) to (Anex10) of the Annexures.**

*** **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 **Page (SC11) to (SC14) of the Annexures:**

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.

A82 of 2019

PROGRESS REPORT ON THE BY-LAWS, PENALTY CLAUSES AND PUBLIC PARTICIPATION OF DRAFT BY LAWS AND ADOPTION BY COUNCIL (EXECUTIVE MAYOR)

PURPOSE

The purpose of the report is to advise Council 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.

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.

A83 of 2019

TUCKSHOP POLICY (EXECUTIVE MAYOR)

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 (13)**

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.

A84 of 2019

**MATJHABENG LOCAL MUNICIPALITY DRAFT COST CONTAINMENT POLICY
(EXECUTIVE MAYOR)**

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 (14).

Local Government: Municipal Cost Containment Regulations, 2019

National Treasury MFMA Circular 97

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.

A85 of 2019

DRAFT EMPLOYEE ASSISTANCE PROGRAM HANDBOOK AND PRESENTATION (EXECUTIVE MAYOR)

PURPOSE

To table the Draft Employee Assistance Program Handbook and Presentation to be used by Branch Wellness Programme for Induction purposes to Council for perusal and adoption.

BACKGROUND

Matjhabeng Municipality does not have an Employee Assistance Program Handbook and Presentation for Induction purposes regarding Employee Wellness.

*** The Draft Employee Assistance Program Handbook and Presentation are **attached under Separate Cover (15)**.

LEGAL FRAMEWORK

- Labour Relation Act 1995 (Act No. 66 of 1995)
- Basic Conditions of Employment Act 1997 (Act No. 75 of 1997)
- Occupational Health and Safety Act 55 of 1998.
- Compensation for Occupational Diseases Act 30 of 1993.
- Medical Schemes Act.
- Promotion of Equality of Prevention of Unfair Discrimination Act 4 of 2000.

FINANCIAL IMPLICATIONS

- Provision to be made on the 2017/18 Budget

RECOMMENDATION

1. That Council adopt the proposed Draft Employee Assistance Program Handbook and Presentation to be utilized by Branch Wellness Programme for Induction.

A86 of 2019

PROPOSAL TO AMEND THE PAUPER, INDIGENT (DESTITUTE) AND UNKNOWN BURIAL POLICY AND TO INCREASE THE COSTS (EXECUTIVE MAYOR) (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)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.”

RECOMMENDATIONS

1. That Council takes note of the proposed on pauper indigent (destitute) and unknown Burial Policy.
2. That The Costs Be Increased By 5.5% Annually Which Is In Line With CPIX be amended.
3. That Amendments be subjected to Community Participation and submitted to council for approval.

A87 of 2019

TO REQUEST THE CONSIDERATION OF REVIEWED ANTI-FRAUD AND ANTI-CORRUPTION POLICY FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present to Council the Anti-Fraud and Anti-Corruption Policy for the year 2019/20 for consideration.

BACKGROUND

Department of Public Service and Administration requires every municipality to have Anti-Fraud and Anti-Corruption Policy.

The objective of this policy is to:

To develop an anti-fraud and corruption free culture amongst staff and residents of Matjhabeng Local Municipality.

To activate policies and systems which minimize fraud and corruption or any other dishonest activities of a similar nature.

To ensure that Matjhabeng Municipality management is aware of its responsibilities for identifying exposures to fraudulent and corrupt activities or any other dishonest activities of a similar nature and for establishing controls and procedures for preventing such fraudulent and or corrupt activity and/or detecting such fraudulent and corrupt activity when it occurs;

To provide guidance to employees and members of the public as to what action should be taken where they suspect any fraudulent and or corrupt activity;

To provide a clear statement to staff or any other persons having a business with Matjhabeng Municipality, forbidding any illegal activity;

To provide clear guidance as to responsibilities for detecting and reporting investigations into fraudulent and or corrupt activities;

To provide assurances that any reasonable suspicion of fraudulent and or corrupt activity will be fully investigated;

Provide for a swift investigation of fraudulent and corrupt activities;

To provide adequate protection and guidance as to appropriate action to employees in circumstances where they are victimized as a consequence of reporting, or being a witness to, fraudulent and/or corrupt activities;

To provide a suitable environment for employees to report matters that they suspect may concern corrupt conduct, criminal conduct, criminal involvement or serious improper conduct.

This policy also sets down the stance of the Municipality to fraud as well as reinforcing existing regulations aimed at preventing, reacting to, and reducing the impact of fraud, corruption, theft and maladministration where these dishonest acts subsist.

After review, the only changes in the previous policy will be the dates.

*** **See attached** Anti-Fraud and Anti-Corruption Policy to be approved **under Separate Cover (16).**

LEGAL IMPLICATIONS

The Promotion of Access to Information Act (No 2 of 2000),
The Protected Disclosures Act (PDA) (No 26 of 2000),
The Promotion of Administrative Justice Act (No 3 of 2000),
The Prevention and Combating of Corrupt Activities Act (No 12 of 2004),
The Public Finance Management ACT (PFMA) (No 1 of 1999),
Municipal Finance Act (MFMA) (No 56 of 2003),
Prevention of Organized Crime Act (POCA) (No 121 of 1998).

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council considers the reviewed Anti-Fraud and Anti-Corruption Policy for the year 2019/20.

A88 of 2019

TO REQUEST THE CONSIDERATION OF ANTI-FRAUD AND ANTI-CORRUPTION STRATEGY FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present to Council the Anti-Fraud and Anti-Corruption Strategy for the year 2019/20 to for consideration.

BACKGROUND

Department of Public Service and Administration require every municipality to develop Anti-Fraud and Anti-Corruption Strategy.

The purpose of this strategy is:

- To adopt a plan, based on the legislation and policy;
- To set up the base of information in order that deviations can be monitored and detected;
- To reduce deviations and implement legal recourse where needed and improve controls as a response;
- To incorporate fraud prevention as part of the management practice.

The components of the municipality's fraud strategy consist of the following:

- Prevention
- Detection
- Investigation, and
- Response.

The prevention of fraud is the most important component of MLM strategy in dealing with fraud.

The municipality will review and update its Anti-Fraud and Anti-Corruption Strategy annually. After review, the only changes in the previous strategy will be the dates.

*** **See attached** Anti-Fraud and Anti-Corruption Strategy to be approved **under Separate Cover (17)**

LEGAL IMPLICATIONS

The Promotion of Access to Information Act (No 2 of 2000),
 The Protected Disclosures Act (PDA) (No 26 of 2000),
 The Promotion of Administrative Justice Act (No 3 of 2000),
 The Prevention and Combating of Corrupt Activities Act (No 12 of 2004),
 The Public Finance Management ACT (PFMA) (No 1 of 1999),
 Municipal Finance Act (MFMA) (No 56 of 2003),
 Prevention of Organized Crime Act (POCA) (No 121 of 1998).

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That the Council considers the Anti-Fraud and Anti-Corruption

A89 of 2019

TO REQUEST THE CONSIDERATION OF FRAUD PREVENTION PLAN FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present the Fraud Prevention Plan for the year 2019/20 to Council for consideration.

BACKGROUND

Fraud prevention is about changing organisational features that allow fraud to occur and possibly go unnoticed or unreported. Fraud control is an essential element of sound corporate governance and is integral to internal risk control.

Fraud is generally defined as wilful deceit or trickery. It covers a wide range of activities from such minor transgressions as the misappropriation of office stationery by a staff member to more serious crimes such as misrepresentations by Senior Management and Councillors to Council, the public and creditors, and mis-use of confidential information.

Fraud prevention strategies must be generated from senior management. If the Councillors, Accounting Officer, General Managers and Managers at all levels have a commitment to fraud prevention and understand how it may be achieved, this will provide a foundation for other employees to support the notion of fraud control.

Matjhabeng Local Municipality will review its Fraud Prevention Plan annually.

After review, there is no need for changes in the previous Fraud Prevention Plan, therefore the request is that Management approves the said plan as it is for the year 2019/20.

*** **See attached Fraud Prevention Plan to be approved under Separate Cover (18).**

LEGAL IMPLICATIONS

The Promotion of Access to Information Act (No 2 of 2000),
The Protected Disclosures Act (PDA) (No 26 of 2000),
The Promotion of Administrative Justice Act (No 3 of 2000),
The Prevention and Combating of Corrupt Activities Act (No 12 of 2004),
The Public Finance Management ACT (PFMA) (No 1 of 1999),
Municipal Finance Act (MFMA) (No 56 of 2003),
Prevention of Organized Crime Act (POCA) (No 121 of 1998).

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That the Council considers the Fraud Prevention Plan for the year 2019/20.

A90 of 2019

TO REQUEST THE CONSIDERATION OF REVIEWED RISK MANAGEMENT POLICY FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present the reviewed Risk Management Policy for the year 2019/20 to Council for consideration.

BACKGROUND

In terms of Treasury Regulations section 3.2.1 and the adoption of the Public Finance Management Act in 1999 infused the public service with municipality culture, which must add to its emphasis on external sanctions and include stronger internal controls with anticipatory management systems to assess the abuse of power, which is the central principle of risk management.

The Municipality is committed to the effective risk management and treatment of risk in order to achieve the municipality's objectives.

In terms of Section 62(1)(c)(i) of MFMA, the accounting officer of a municipality is responsible for managing the financial administration of the municipality, and for this purpose must take all responsible steps to ensure that the Municipality has and maintains: Effective, efficient and transparent systems of financial and risk management and internal control."

The aim of Risk Management Policy is to ensure that the Municipality makes informed decisions with regard to the activities that it undertakes by appropriately considering both risks and opportunities.

It is important that employees become aware of the risks associated with their area of work and must manage these risks to be within tolerance level by using risk management response strategies outlined in the municipal risk management strategy.

The municipality will review and update its Risk Management Policy annually. After review, the following changes will be made:

On page 23 of the policy under the heading "Communication and consulting", point number one, the words "published on website" will be replaced by "communicated to all employees as well as relevant stakeholders using communication methods that will suit all of them."

On page 33 of the policy under the heading "POLICY ADMINISTRATION", POINT 13.1, "annually" will be replaced by "after 3 years". It is therefore requested that Management approves the said policy for the year 2017/18, with those changes.

*** Attached find the Risk Management Policy to be considered **under Separate Cover (19)**.

LEGAL IMPLICATIONS

The Constitution of the RSA Act 108 of 1996
Municipal Finance Management Act (Act No. 56 of 2003)
Municipal Systems Act (No. 32 of 2000)
The Disaster Management Act (No. 57 of 2002)
The Occupational Health and Safety Act (No. 85 of 1993)
Hazardous Substances Act (No. 15 of 1973)
National Treasury Framework Final Risk Management Framework for the public sector.

King Report on Corporate Governance, 2002 (King II).

ISO 31000, published in 2009

Information Technology Risk Framework

Criminal Procedure Act 51 of 1977

Security Officers Act 92 of 1987

Protection of Information Act 84 of 1982

National Archives Act 43 of 1996

Fire Brigade Act 99 of 1987

Intelligence Services Act 38 of 1994

FINANCIAL IMPLICATIONS

None

RECOMMENDATIONS

1. That Council considers the reviewed Risk Management Policy for 2019/20.
2. That the reviewed Risk Management Policy for 2019/20 be submitted to Council for approval.

A91 of 2019

TO REQUEST THE CONSIDERATION OF THE REVIEWED RISK MANAGEMENT STRATEGY FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present the reviewed Risk Management Strategy for the year 2019/20 Council for consideration.

BACKGROUND

In terms of Treasury Regulations section 3.2.1 and the adoption of the Public Finance Management Act in 1999 infused the public service with municipality culture, which must add to its emphasis on external sanctions and include stronger internal controls with anticipatory management systems to assess the abuse of power, which is the central principle of risk management.

This is why risk management is central to managing the municipality as a whole, and why risk management is integral to planning, organising, directing and coordinating systems aimed at achieving municipality's goals and objectives.

The Risk Management Strategy (RMS) forms part of the Risk Management Framework of the municipality. The Risk Management Strategy guides the activities of Council, Municipal Manager, and the Risk Management Committee (RMC), Risk Management section as well as the risk owners and action owners. The municipality acknowledges that there are different risk management models and frameworks that institutions can implement in order to manage their risks.

The municipality utilizes the proposed Risk Management Framework as formulated by National Treasury and also follows the guidelines as stipulated in ISO 31000/2009.

Effective risk management is imperative for the municipality to fulfil its mandate, the service delivery expectations of the public and the performance expectations within the municipality.

The realization of our strategic plan depends on us being able to take calculated risks in a way that does not jeopardize the direct interests of stakeholders. Sound management of risk will enable us to anticipate and respond to changes in our service delivery environment, as well as make informed decisions under conditions of uncertainty.

Enterprise Risk Management (ERM) forms a critical part of any entity's strategic management. It is the process whereby an entity both methodically and intuitively addresses the risk attached to their activities with the goal of achieving sustained benefit within each activity and across a portfolio of activities. Enterprise Risk Management is therefore recognized as an integral part of sound organizational management and is being promoted internationally and in South Africa as good business practice applicable to the public and private sectors.

The municipality will review and update its Risk Management Strategy annually. After review, the following changes will be made on the old Risk Management Strategy:

1. Point number 6 of "RISK MANAGEMENT FRAMEWORK" up to point number 8 of "RISK MONITORING AND REVIEWING" will be removed because they are also part of the Risk Management Policy. Meaning that page 11 – 30 will fall off from the strategy.

2. Point number 12-22 will be removed from the strategy because all those responsibilities are included in the Risk Management Policy. That means page 32 – 38 of the strategy will fall off.

*** Attached find the Risk Management Strategy to be considered **under Separate Cover (20)**.

LEGAL IMPLICATIONS

The Constitution of the RSA Act 108 of 1996
 Municipal Finance Management Act (Act No. 56 of 2003)
 Municipal Systems Act (No. 32 of 2000)
 The Disaster Management Act (No. 57 of 2002)
 The Occupational Health and Safety Act (No. 85 of 1993)
 Hazardous Substances Act (No. 15 of 1973)
 National Treasury Framework Final Risk Management Framework for the public sector.
 King Report on Corporate Governance, 2002 (King II).
 ISO 31000, published in 2009
 Information Technology Risk Framework
 Criminal Procedure Act 51 of 1977
 Security Officers Act 92 of 1987
 Protection of Information Act 84 of 1982
 National Archives Act 43 of 1996
 Fire Brigade Act 99 of 1987
 Intelligence Services Act 38 of 1994

FINANCIAL IMPLICATION

None

RECOMMENDATION

1. That Council considers the reviewed Risk Management Strategy for 2019/20.

A92 of 2019

TO REQUEST THE CONSIDERATION OF RISK MANAGEMENT IMPLEMENTATION PLAN FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present the Risk Management Implementation Plan for the year 2019/20 to Council for consideration.

BACKGROUND

The Risk Management Implementation Plan forms part of the Risk Management Framework and must therefore be read in conjunction with the Risk Management Policy, as well as the Risk Management Strategy.

The risk management implementation plan for the Institution was prepared to give effect to the implementation of the risk management policy and strategy and sets out all risk management activities planned for the 2018/19 year.

The development of the risk management implementation plan has taken into consideration:

- The risk management policy;
- The risk management strategy;
- Available resources;
- Urgency, quick wins and sustainability.

The municipality reviews and updates its Risk Management Implementation Plan on an annual basis.

*** Attached to find the Risk Management Implementation Plan to be approved **under Separate Cover (21)**

LEGAL IMPLICATIONS

The Constitution of the RSA Act 108 of 1996
 Municipal Finance Management Act (Act No. 56 of 2003)
 Municipal Systems Act (No. 32 of 2000)
 The Disaster Management Act (No. 57 of 2002)
 The Occupational Health and Safety Act (No. 85 of 1993)
 Hazardous Substances Act (No. 15 of 1973)
 National Treasury Framework Final Risk Management Framework for the public sector.
 King Report on Corporate Governance, 2002 (King II).
 ISO 31000, published in 2009
 Information Technology Risk Framework
 Criminal Procedure Act 51 of 1977
 Security Officers Act 92 of 1987
 Protection of Information Act 84 of 1982
 National Archives Act 43 of 1996
 Fire Brigade Act 99 of 1987
 Intelligence Services Act 38 of 1994

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council considers the Risk Management Implementation Plan for the year 2019/20.

A93 of 2019

TO REQUEST THE CONSIDERATION OF WHISTLE-BLOWING POLICY FOR THE YEAR 2019/20 (EXECUTIVE MAYOR)

PURPOSE

To present the Whistle-Blowing Policy for the year 2019/20 to Council for consideration.

BACKGROUND

Department of Public Service and Administration requires every municipality to have Whistle-Blowing Policy.

Whistle-blowing is an early warning system to avert possible risks to the organization and alert Management about any wrong doing in time so that they can take necessary corrective action. A positive whistle-blowing culture is a critical element in the success of any risk management system.

The purpose of this policy is to provide a means by which staff is able to raise concerns through appropriate channels or line management or specific appointed person in the Municipality, where they have reasonable grounds for believing that there is fraud and corruption within the Municipality.

An organization that positively encourages whistle-blowing stands a far better chance of demonstrating that it is properly run and managed. The existence of a working whistle-blowing policy is pivotal in legal proceedings.

At its heart, the Protected Disclosure Act contains a simple idea; that, it is in the best interest of both the employer and the (responsible, potential whistle-blower) employee to blow the whistle internally within the organization rather than externally, to, for example, the media. The municipality will review and update its Whistle Blowing Policy annually. After review, the only changes in the previous policy will be the dates.

*** See attached Whistle-Blowing Policy to be approved on **under Separate Cover (22)**.

LEGAL IMPLICATIONS

The Promotion of Access to Information Act (No 2 of 2000),
The Protected Disclosures Act (PDA) (No 26 of 2000),
The Promotion of Administrative Justice Act (No 3 of 2000),
The Prevention and Combating of Corrupt Activities Act (No 12 of 2004),
The Public Finance Management ACT (PFMA) (No 1 of 1999),
Municipal Finance Act (MFMA) (No 56 of 2003),
Prevention of Organized Crime Act (POCA) (No 121 of 1998).

FINANCIAL IMPLICATIONS

None

RECOMMENDATIONS

1. That Council considers the Whistle-Blowing Policy for the year 2019/20.
2. That the Whistle-Blowing Policy for the year 2019/20 be submitted to Council for approval.

A94 of 2019

**TO REQUEST THE APPROVAL OF THE MATJHABENG ICT POLICY FRAME-
WORK (EXECUTIVE MAYOR)**

PURPOSE

To present to Council Policy Frame-work that governs ICT for consideration.

BACKGROUND

The ICT Policies Frame-work provides the relevant framework to establish sound corporate governance principles for ICT in order to enable Matjhabeng Municipality to transition towards adoption of sound governance principles along with more visibility and accountability of ICT deliverables. Moreover, these policies address security issues by reducing risks that can be caused to the Municipality's ICT systems, information and infrastructure, either. In addition, these policies define the acceptable use of ICT resources by officials and 3rd party service providers and breach or non-conformance is unacceptable.

Information, Communication and Technology (ICT) has evolved from a support-based department to a strategic business unit that will allow for leveraging technology to improve, enhance and direct strategy for Matjhabeng. This coupled with the exponential rate at which technology is advancing requires more prudent visibility, accountability and tangible performance measures for ICT to support Matjhabeng Municipality.

It also enables ICT systems to be fully integrated across each department, which in turn allows for organization-wide management of ICT environment. Finally, it is ICT's responsibility to secure Council Information to ensure that the Municipality's ICT systems, data and infrastructure are protected from risks such as unauthorized access, manipulation, destruction or loss of data, as well as unauthorized disclosure or incorrect processing of data. Four of these critical policies (**Corporate Governance of Information, Communication and Technology Policy, ICT Information Security Policy, Antivirus Policy and ICT Strategic**) have already underwent through all the processes, just waiting for Council approval.

Attached find **Matjhabeng Firewall Policy, User and System Access Policy, Change Management Policy, Disaster & Recovery Plan & Strategy, Laptop Policy and Guidelines, Wireless devices Policy** to be considered **under Separate Cover (23)**.

Also attached kindly see **DRAFT AG Finding on ICT Systems for 2017-8 and responses**. These policies have been developed with the following sections of legislation in mind:

In terms of the Municipal Systems Act, Act 32, of 2000, Section 55(1):

“the municipal manager of a municipality is, subject to the policy directions of the municipal council, responsible and accountable for:

- (a) The formation and development of an economical effective, efficient and accountable administration:
 - (i) equipped to carry out the task of implementing the municipality's Integrated development plan in accordance with Chapter 5:
 - (ii) Operating in accordance with the municipality's performance Management system in accordance with Chapter 6;”

In terms of the Municipal Finance Management Act, Act 56 of 2003, and Section 62:

“ The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take

all reasonable steps to ensure –

- (a) that the resources of the municipality are used effectively, efficiently and economically;
- (b) that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;”

In terms of the Municipal Finance Management Act, Act 56 of 2003, Section 78 of the Municipal Finance Management Act stipulates that:

“Each senior manager of a municipality and each official of a municipality exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure –

- (a) that the system of financial management and internal control established for the municipality is carried out diligently;
- (b) that the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparently;
- (c) that any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented;”

The Municipality is using guidelines and recommendations based on inputs from frameworks developed by CoGTA, DPSA, Industry best practices along with findings in the AG report to support this alignment and adoption to allow the ICT department to be geared to deliver on expectations from the Municipality.

FINANCIAL IMPLICATIONS

None

RECOMMENDATION

1. That Council approves Matjhabeng ICT Policy Frame-work.

A95 of 2019

MULTI PURPOSE PRECINCT DEVELOPMENT: PRINCIPLES FOR FINALISING THE BULK SERVICES AGREEMENT BETWEEN THE MATJHABENG MUNICIPALITY AND NFS LEJWELEPUTSWA COMMUNITY PARTNERSHIP TRUST: (EXECUTIVE MAYOR) (18/2/2)

1. PURPOSE OF REPORT

The purpose of the report is to present applicable legislative principles that will be applicable to the finalisation a bulk services agreement between the Matjhabeng Municipality and the NFS Lejweleputswa Community Partnership Trust, with specific reference to the financial responsibilities thereof, and also in accordance with previous Council Resolutions.

It is therefore the intention to motivate that the developer must submit to the Municipality a report tabling the Development Charges calculated using the 'net impact' method as per the National Treasury Guidelines for the implementation of Municipal Development Charges in South Africa 2018 Volume II, section 12, in order to quantify the actual financial responsibility for the Developer and Municipality, and in terms of which a final Bulk Services agreement can be finalised.

2. BACKGROUND

2.1 REZONING RESOLUTIONS OF COUNCIL

On 28 February 2019 Council considered a comprehensive report regarding the project which inter alia addressed the project concept, the site layout plan, all previous Council Resolutions in support of the project as well as a motivation for the rezoning of the property which was allocated for the project. In this regard Council resolved as follows:

“COUNCIL RESOLVED: (28 FEBRUARY 2019)

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 its 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 the developer **IS GIVEN** the last chance to develop the project as the Municipality has been waiting 11 years without anything happening.
 8. The Office of the Executive Mayor and the Municipal Manager must be mandated **TO MONITOR** all people who have signed the land availability agreements with the Municipality and, should three years lapse without any development, their contracts should be terminated.”

2.2 ARRANGEMENTS REGARDING THE PROVISION OF BULK SERVICES

2.2.1 BULK SERVICES REPORTS: TECHNICAL ASPECTS

In compliance to Resolution A12/2005 the Developer prepared the following reports in consultation with and for approval by the Directorate Infrastructure that will be Annexed to the final Bulk Services Agreement between the Council and the developer:

- a) Bulk Engineering Services Report
- b) Electrical Services Report
- c) Storm Water Master Plan.

The above reports are critical for the Bulk Services Agreement between the Council and the Trust in order to:

- a) Inform the Bulk Services Agreement on the cost responsibilities of the Council and that of the Developer.
- b) Direct responsibilities of the Council and the Developer and the Developer regarding the design and final construction of the bulk services.

In relation to the Electrical Report all aspects pertaining to the responsibilities for the provision of the required infrastructure are indicated to the satisfaction of the Directorate Infrastructure. Certain design elements are still in progress and will be included in the report for approval by the Directorate Infrastructure on completion.

2.2.2 RESPONSIBILITY REGARDING THE PROVISION OF BULK SERVICES: 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

2.2.3 THE NATIONAL TREASURY GUIDELINES FOR THE IMPLEMENTATION OF MUNICIPAL DEVELOPMENT CHARGES IN SOUTH AFRICA

Section 9 and 10 the National Treasury Guidelines for the implementation of Municipal development charges in South Africa (2018) stipulates as follows:

“9. DEVELOPMENT CHARGES AND THE PROVISION OF INFRASTRUCTURE BY THE DEVELOPER

Historically, developers have provided infrastructure instead of paying DCs. This practice is desirable from both the municipality's and the developer's perspectives. Often municipalities do not have the funding or the capacity to install the required bulk services, and installation by

the developer (or a contractor employed by the developer) will be faster (largely because of the avoidance of supply chain management delays) and may be cheaper than municipal installation. However, the approach taken in the Act is to deliberately separate the DC liability from the installation of external services. **The developer is liable for a calculated DC amount, regardless of the infrastructure that needs to be installed.** The installation of the required bulk services is treated as a separate transaction. Thus, the developer is not installing bulk services *instead* of paying DCs, but is offsetting the costs of the installation against the calculated DC liability. This treatment removes any uncertainty for the developer and results in greater equity between developers – everybody is charged.

On the same basis - where the developer agrees to install bulk infrastructure to offset his DC liability he may have to provide more or less up front capital than the value of the DC liability, but the total net liability is fixed and known at the outset. If the installation costs are higher than the DC, the municipality must reimburse the developer for the difference. If the installation costs are less than the DC liability, the developer is liable for the difference.

The installation of external services (both bulk and link) is undertaken in terms of an Engineering Services Agreement (ESA) between the developer and the municipality. This agreement will detail the basis on which the value of the infrastructure installed will offset the DC. **It does not change the DC liability.** The DC liability is a condition of approval and attaches to the land, and thus the owner of the property, and not the developer. The developer may change over time, or on-sell the property to another party, to whom the ESA will not apply. However, any new owners or developers will still be obliged to pay the DC if they wish to take up the approved development rights.

10. MUNICIPAL DEVELOPMENT CHARGE POLICIES

The Act requires that where municipalities apply DCs, they must have a policy that covers the basis for the charge. The policy must be subject to a prescribed public participation process prior to approval by the Council. The municipal DC policy is not a budget-related policy as defined in the MFMA. In terms of section 9B(2) of the Act, a municipal DC policy must:

- a) Treat persons liable for DCs equitably and fairly;
- b) Ensure that there is no duplication of costs in the manner in which DCs are calculated;
- c) Set out the methodology for calculation of a unit cost per engineering service;
- d) Set out standard unit impacts for each engineering service for each land use, or grouping of land uses, applied in the municipal land use scheme;
- e) Determine the criteria to be applied by the municipality if it will calculate DCs with reference to engineering service zones or grants reductions in the DC payable to a specific category of developers, or to the developers of a specific category of land developments; and
- f) Specify any engineering service zones determined in accordance with the specified criteria.

The DC policy may only permit subsidies to be granted in terms of the approved policy. In addition, the policy may allow for DCs to be increased or decreased for certain exceptional circumstances based on actual cost, but only as prescribed by the Minister of Finance or if the development exceeds the size or impact thresholds determined by the municipality in the policy. This provision has been included to either protect both the developer from excessive charges where the impact is significantly lower than the average impact, or to avoid under-

recovery by the municipality where the impact is significantly higher than the average. A further discussion on these exceptional circumstances is provided in section 13. **Where the DC is calculated based on actual impact, rather than by the standard unit impact, the cost of this exercise is to be covered by the developer.”**

2.2.3 ALREADY COMITTED 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.

2.2.4 ALREADY COMITTED 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".

2.2.5 LEGISLATIVE REQUIREMENT

In spite of the mentioned agreements and **as per the above mentioned quoted text in Par 2.2.2 from** National Treasury Guidelines for the implementation of Municipal Development Charges in South Africa (section 9 and 10), **the Municipality must as per this Act charge Development cost to the Developer and as per method of calculation of the development cost as stated in Section 10.** The developer can possibly be responsible for a large portion of the installation of bulk services. This then absolves the Municipality of the total monetary responsibility in providing Bulk infrastructure.

2.2.6 THE EXTENT AND COSTS OF THE BULK SERVICES REQUIRED FOR THE PROJECT AND THE LEGISLATED RESPONSIBILITIES

In line with Par. 6 of Resolution A24/2019 the extent, responsibilities and estimated total cost of each municipal service is depicted in the following Table 1:

TABLE 1

BULK INFRASTRUCTURE	EXTENT OF NEW OR UPGRADING REQUIRED	RESPONSIBILITY FOR CONSTRUCTION AND CONNECTIONS AS PER LEGISLATIVE GUIDELINES	INFRASTRUCTURE OWNERSHIP	ESTIMATED UPGRADING COST	MAINTENANCE RESPONSIBILITY
SEWER					
Outfall Sewer (315mm)	New construction between project boundary and Old Thabong Pump station	Developer/Municipal (refundable)	Municipality	R6.84m	Municipality
Old Thabong Pumpstation	Upgrading of existing	Municipal responsibility. The Developer will bridge the cost on behalf of Municipality (refundable)	Municipality	R1.2m	Municipality
Rising Main (200mm)	Upgrading of existing main from pump station to Gravity main	Municipal responsibility. This forms part of a municipal sewer upgrading project.	Municipality	R1.9m	Municipality
Gravity Main (600mm)	Upgrading from rising main to treatment works	Municipal responsibility. This forms part of a municipal sewer upgrading project.	Municipality	R7m	Municipality
WATER	New connection from Sedibeng main line to Sedibeng meter.	Municipality will apply to SEDIBENG Water for Connection. The cost of the application will be for the developer. SEDIBENG Water will provide the position and draw-off.	Municipality	To be determined by the developer	Municipality

BULK INFRASTRUCTURE	EXTENT OF NEW OR UPGRADING REQUIRED	RESPONSIBILITY FOR CONSTRUCTION AND CONNECTIONS AS PER LEGISLATIVE GUIDELINES	INFRASTRUCTURE OWNERSHIP	ESTIMATED UPGRADING COST	MAINTENANCE RESPONSIBILITY
(250 mm)	New line from Sedibeng meter to Municipal meter, the position of which will be provided by the Municipality. - internal	Developer (not refundable)	Developer	R1m	Developer
ROADS	As per Engineering report the project has access to the Provincial Road and SANRAL road. All roads are regarded as internal.	Developer (not refundable)	Developer	To be determined	Developer
STORM WATER	Upgrading of the Municipal system outside the boundaries of the project in order to cater for the additional discharge.	Developer/Municipal (refundable)	Municipality	R9.1m	Municipality
ELECTRICITY					

BULK INFRASTRUCTURE	EXTENT OF NEW OR UPGRADING REQUIRED	RESPONSIBILITY FOR CONSTRUCTION AND CONNECTIONS AS PER LEGISLATIVE GUIDELINES	INFRASTRUCTURE OWNERSHIP	ESTIMATE D UPGRADING COST	MAINTENANCE RESPONSIBILITY
	The allocated notified maximum demand (NMD) of 2MVA (estimated) is available for the project	Developer in terms of: <ul style="list-style-type: none"> • NRS 069 • Regulations for the Distribution of Electricity No. 68 of 1990. 	Developer – Although capacity is available (see recommendations)	±R19,83m	
	New 11kV connection link line from the bulk intake point at the Riebeeckstad substation including the upgrading of the substation as the point of connection and metering for the project – towards the on-site substation of the project.	Developer for Construction in terms of : <ul style="list-style-type: none"> • SANS • OHS Act 85/93 • Regulations for the Distribution of Electricity No. 68 of 1990. Developer for Connection in terms of: <ul style="list-style-type: none"> • NRS – 069 • Shared Network Regulations 	Developer	To be determined by Developer	Developer
	Registration of a servitude to accommodate the 11Kv supply line on behalf	Developer: <ul style="list-style-type: none"> • Registration of servitude • Finalise servitude agreements 	Developer	To be determined	Developer

BULK INFRASTRUCTURE	EXTENT OF NEW OR UPGRADING REQUIRED	RESPONSIBILITY FOR CONSTRUCTION AND CONNECTIONS AS PER LEGISLATIVE GUIDELINES	INFRASTRUCTURE OWNERSHIP	ESTIMATE D UPGRADING COST	MAINTENANCE RESPONSIBILITY
	of the project.				

Regarding the availability of electrical capacity at the Riebeeckstad substation from where the project will be supplied, a total capacity of approximately 3mVA is available. In this regard the position is held that 2mVA can be contractually assigned to the project. An application for additional electricity (NMD) is therefore not necessary at this point to accommodate phase 1 of the project with no associated and immediate application cost for Council. However in terms of the legislation this cost must be calculated for consideration by Council.

2.2.6 FINAL BULK SERVICES AGREEMENT

The drafting of a bulk services agreement is already in progress, but it is important that Council first approves the principles of cost reimbursement and the method for the calculation of the development charges as motivated in this report before the services agreement can be finalized.

3. LEGAL IMPLICATIONS:

It must be noted determination of cost responsibilities for the provision of bulk services are guided by legislative and national directives and that a final bulk services agreement be finalised within this legal framework.

4. FINANCIAL IMPLICATIONS:

As explained in Par 2.2.2 the Municipality is not entirely responsible for the provision of bulk municipal services to any new development area. In this regard the responsibilities as depicted in Table 1 represent the legislated cost responsibilities of the parties based on estimates. In this regard the legislation is also clear that such bulk services will only be provided if the Municipality made provision for the project in the annual capital budget, otherwise the provision of the funding of infrastructure that the Municipality is responsible for can be negotiated with the developer.

5. POLICY/LEGISLATIVE POSITION

National:

- South African Constitution, 1996
- Spatial Planning and Land Use Management Act, (2013)
- Municipal Financial Management Act
- Water services Act
- National Treasury Guidelines for the implementation of Municipal Development Charges in South Africa 2018

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

6. RECOMMENDATIONS

1. That Council approves the use of the Legislated principles of cost reimbursement and Development charges for the actual cost determination and cost responsibility pertaining to the cost items in Table 1 as basis for the finalization of the Engineering Services agreement and financial liability.
2. That the developer must submit to the Municipality, upon appointment of a service provider/s for the construction of the bulk services, a report tabling the Development Charges calculated using the 'net impact' method as per the National Treasury Guidelines for the implementation of Municipal Development Charges in South Africa 2018 Volume II, section 12, in order to quantify the actual financial responsibility for the Developer and Municipality, and in terms of which the Bulk Services agreement can be finalised.
3. That, as soon as the final report on the calculated development charges and cost responsibilities was finalised and submitted to the Municipality, the Bulk Service agreement, inclusive of any offers from the developer to construct services on behalf of the Municipality and/or the possible reimbursement of the developer be finalised within 14 days and submitted to Council for approval.
4. That approval be granted to the developer for the registration of a servitude for accommodating the 11kV electrical supply line to the project in accordance with the, position as indicated in the electrical report, and also inclusive of the necessary applications to and agreements with third parties.
5. That the developer in light of the Council approving the principles of drafting the Bulk services agreement, be permitted to commence with procurement of service providers and construction.

A96 of 2019

MOTION BY CLLR H.C.T VAN SCHALKWYK: MOTION ON IMPROVED SERVICE DELIVERY (MM)

PURPOSE

To submit to Council the motion received from Cllr Van Schalkwyk for consideration.

BACKGROUND

*** A copy of the motion by the Cllr Van Schalkwyk dated 02 May 2019 is **attached on page 104 to 105 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