

# ANNEXURE A

## REPORT BY THE ACTING EXCO REPRESENTATIVE FOR SUBMISSION TO THE COUNCIL

### INTERVENTION IN TERMS OF SECTION 139 (1) (b) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA AT MALUTI-A- PHOFUNG LOCAL MUNICIPALITY

The purpose of this item is to inform the Maluti-a-Phofung Councils' about the section 139 (1) (b) Intervention activated by Free State Executive Council, seek the affirmation of the seconded acting municipal manager and introduce the EXCO Representative and other technical support team members.

#### 1. BUSINESS PLAN

Integrated Development Plan.

#### 2. COMPLIANCE WITH STRATEGIC OBJECTIVE

- Basic Service Delivery and Infrastructure Investment;
- Municipal Financial Viability and Management.

#### 3. DELEGATED AUTHORITY

The appointed EXCO Representative

#### 4. ANNEXURE

**Annexure A:** Letter of concurrence from the Minister of Cooperative Governance and Traditional Affairs

#### 5. POLICY

None

#### 6. LEGAL REQUIREMENTS/PRESCRIPTS

Section 139 on "Provincial Intervention in local government" of the Constitution of the Republic of South Africa (1996)

Section 136 on "Types of Provincial Interventions" of the Municipal Finance Management Act (Act No.56 of 2003)

## **7. FINANCIAL IMPLICATIONS**

The financial implication that will be incurred as a result of the Section 139 Provincial Intervention at Maluti-a-Phofung will be borne by the Department of Co-operative Governance and Traditional Affairs supported by departments whose constitutional mandate intersect with local government and the Maluti-a-Phofung Local Municipality

## **8. STAFF IMPLICATIONS**

There is a need to establish a multi-disciplinary team that will be working with the appointed EXCO Representative to deal with service delivery failures and financial management challenges afflicting the municipality and necessitated the activation of section 139 (1) (b) at Maluti-a-Phofung Local Municipality as indicated

## **9. BACKGROUND AND DISCUSSION**

On the 10<sup>th</sup> of February 2018, the Free State Province Executive Council activated section 139 (1) (b) of the Constitution of the Republic of South Africa at Maluti-a-Phofung Local Municipality primarily for the following two main reasons:

- a) Breach of section 152 and 153 of the Constitution of the Republic of South Africa dealing with the " provision of services to communities in a sustainable manner and giving priority to basic needs of communities;
- b) Financial management as a result of inefficient financial system and inadequate / non existing revenue collection strategy and system in the municipality that resulted in the *municipality inability to meet its financial obligations and invariably its obligation to provide basic services.*

As demanded by applicable statutes, the then Member of the Executive Council (MEC) responsible for Cooperative Governance and Traditional Affairs, Ms SH Ntombela wrote to the Minister of Co-operative Governance and Traditional Affairs, Dr ZL Mkhize to apprise on the Free State Executive Council's activation of Section 139 (1)(b) intervention at Maluti-a-Phofung and sought concurrence.

The Minister of Co-operative Governance and Traditional Affairs, has since given his approval and indicated some of the conditionalities that should be met (*the said letter is hereto attached as Annexure A as indicated*). Chief amongst these are the following:

- 1) Appointed EXCO Representative should work with the Back to Basics (B2B) Task Team;
- 2) Appointment of the Municipal Manager and other vacant section 56 managers;
- 3) Appointment of an acting municipal manager;
- 4) Reviewing the Maluti-a-Phofung organogram to address the illegal appointment of general workers during the December 2017, for which provision was not made on the approved organogram, and has resulted in a huge salary bill and utilisation of conditional grants for operational expenditure. It is also noted that critical vacancies exist in the supply chain management unit of the municipality;
- 5) Fast-track the refurbishment of the Intabazwe water pipeline which has led to several interruptions in the provision of water and electricity services to the Harrismith town, Intabazwe community, a hospital and businesses;
- 6) Prioritize the functionality of the billing system as residents have not been billed for the past eight months;
- 7) Prioritize the signing of a realistic repayment plan between Maluti-a-Phofung and ESKOM to avoid the disrupting of electricity supply by Eskom scheduled on 23 March 2018 due to R2.7 billion outstanding debt owed by Maluti-a-Phofung;
- 8) An assessment be performed of sector projects implemented and budgets allocated towards these projects in the Maluti-a-Phofung municipality during the 2018/2019 FY. This assessment should prioritize the investment required to address the challenges related to the electricity and water infrastructure.

The Department of Cooperative Governance and Traditional Affairs (COGA) has since appointed Mr Moses Moremi, as EXCO Representative that will be exercising both the executive and legislative powers of Maluti-a-Phofung Council on the behalf of the Free State Executive Council.

Furthermore, COGTA has appointed, Mr Kadimo Masekoane and seconded him to the Maluti-a-Phofung Local Municipality as an acting municipal manager to assume full responsibility of an accounting officers in line with section 60 of the Municipal Finance Management Act and section 55 of the Municipal Systems Act.

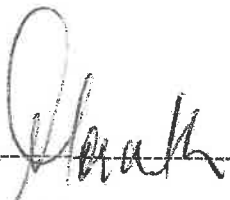
Messrs Moremi and Masekoane are supported by the technical team that are dealing with the following portfolios.

- Mr Amos Goliath, Corporate Services;
- Dr Solly Motigoe, legal matter and performance management

## **10. RECOMMENDATION**

It is recommended that:

- 10.1 The Council takes note of the activation of Section 139 (1) (b) Intervention at Maluti-a-Phofung
- 10.2 The Council affirms the appointment of Mr Kadimo Masekoane who has been seconded as the acting municipal manager by COGTA;
- 10.3 The Council notes the team that will be supporting the EXCO Representative and acting municipal manager
- 10.4 The Council notes that periodic reports will be provided to Council, Free State Executive Council, Minister and NCOP



-----

**AMOS GOLIATH**

**Acting EXCO Representative of the Free State Executive Council**

ANNEXURE A



MINISTRY  
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS  
REPUBLIC OF SOUTH AFRICA

Private Bag x 802, PRETORIA, 0001 Tel: (+27 12) 334 0705 Fax: (+27 12) 336 5950  
Private Bag x 9123, CAPE TOWN, 8000 Tel: (+27 21) 469 6701 Fax: (+27 21) 461 0967

Ref No: 3/5/6/3/12

Ms SH Ntombela, MPL  
MEC: Cooperative Governance, Traditional Affairs and Human Settlements  
P.O Box 211  
**SLOEMFONTEIN**  
9300

Dear Colleague

**INTERVENTION IN TERMS OF SECTIONS 139(1)(b) OF THE CONSTITUTION:  
MALUTI-A-PHOFUNG LOCAL MUNICIPALITY**

Your letter dated 19 February 2018, relating to the above matter, has reference.

I have taken note of the resolution by the Free State Provincial Executive Council to intervene at the Maluti-a-Phofung Local Municipality by invoking the provisions of section 139(1)(b) of the Constitution. Furthermore, I have considered the serious financial problems in the municipality, which have had a severe negative impact in its service delivery mandate. In this regard, I hereby approve the intervention by the Provincial Executive Council in terms of section 139(1)(b) of the Constitution at the municipality, as empowered by the provisions of section 139(2) of the Constitution, subject to the following conditions:

- (a) The appointed Administrator/Provincial Representative and other representatives of the PEC in the municipality must work together with the Back to Basics (B2B) Task Team designated for your province to deal with both the challenges which necessitated this intervention and other challenges that may be identified during the course of the intervention;
- (b) Since this intervention was prompted by the municipality's financial problems, the provisions of 141 to 145 of the Municipal Finance Management Act of 2003, relating to recovery plans, should apply;
- (b) The intervention must end as soon as the municipality is capable of fulfilling or exercising the obligations that were the subject of the intervention;
- (c) Your office regularly informs me of any further developments on this intervention, and that the Department be provided with quarterly progress reports on the intervention from the date of inception and a close-out report upon its revocation; and

- (d) The MEC closely monitors and assists the municipality in overcoming its shortcomings and challenges, guided by the B2B approach, until the Administrator/Provincial Representative, and other representatives of the PEC have fulfilled their functions, as per their respective mandates.

The MEC and the Administrator/Provincial Representative are in addition to the conditions stipulated above, further tasked to resolve the following challenges as part of the B2B approach:

- (i) Appointment of the Municipal Manager and filling of other vacant senior manager posts (the post of the Director: Technical Services has been vacant since August 2015) within the next six (6) months, consistent with the applicable regulations on conditions and appointment of senior managers;
- (ii) Appoint an acting Municipal Manager as soon as possible, from the current section 57 managers, to act as an overall accountability officer, and work closely under the directives of the Administrator/Provincial Representative;
- (iii) Development and align the Financial Recovery Plan of Maluti-a-Phofung Local Municipality with SALGA's Municipal Audit Support Programme and the Revenue Enhancement Programme. The financial recovery plan will be utilised to monitor implementation of the B2B phase 2 priorities towards the improvement of the performance of the municipality;
- (ii) Reviewing the Maluti-a-Phofung Municipality's organogram to address the illegal appointment of general workers during December 2017, for which provision was not made on the approved organogram, and has resulted in a huge salary bill and the utilisation of conditional grants for operational expenditure. It is also noted that critical vacancies exist in the supply chain management unit of the municipality;
- (iii) An audit to be undertaken to assess the current institutional capacity in the municipality, especially to coordinate investment and economic activities for growth related to the establishment of the Special Economic Zone;
- (iv) Fast track the refurbishment of the Intabazwe water pipe line which has led to several interruptions in the provision of water and electricity services to the Harrismith town, Intabazwe community, a hospital and businesses;
- (v) An analysis be performed by Provincial Treasury regarding the financial health and areas of non-compliance with the MFMA by the Maluti-a-Phofung Local Municipality and interventions/actions required in the short and medium term to address inter alia the following urgent financial challenges:
  - Prioritize the functionality of the billing system as residents have not been billed for the past eight months;

- Prioritise the signing of a realistic re-repayment plan between Maluti-a-Phofung and Eskom to avoid the disrupting of electricity supply by Eskom scheduled for 23 March 2018 due to the R2,7b outstanding debt owed by Maluti-a-Phofung.
  - Engaging and entering into payment agreements with the third parties currently owed by the Maluti-a-Phofung Local Municipality;
  - Payment of salaries and overtime to municipal employees.
  - Facilitating the resolution of the IGR disputes between the municipality and the Department of Water and Sanitation;
- (vi) An assessment be performed of sector projects implemented and budgets allocated towards these projects in the Maluti-a-Phofung municipality during 2018/19. This assessment should prioritise the investments required to address challenges related to the electricity and water infrastructure; and
- (e) The MEC, through the Administrator/Provincial Representative, must closely monitor and assist the municipality in overcoming its shortcomings and challenges, in addition to the conditions stipulated above, the Administrator/Provincial Representative is further required to submit bi-monthly reports to the Technical Interventions Steering Committee (TISC) established by National CoGTA and the Free State CoGTA departments to monitor progress with interventions in municipalities placed under section 139(1)(b) of the Constitution in the Free State currently.

I look forward to further cooperation with you and your Department, so that we can support the Maluti-a-Phofung Local Municipality to extricate itself from its current problems.

Kind regards

  
DR ZWELINI L MKHIZE, MP  
MINISTER

DATE: 20/03/2018



Member of the Executive Council for  
Cooperative Governance, Traditional  
Affairs and Human Settlements  
FREE STATE PROVINCE

## Department of Cooperative Governance & Traditional Affairs

### Administrator's Powers and Functions for Maluti-a-Phofung Local Municipality

I, S.H. Ntombela, in my capacity as Member of the Free State Executive Council responsible for local government, subsequent a decision of the Free State Executive Council on 10 February 2018, to pass a resolution and intervene at the Maluti-a-Phofung Local Municipality in terms of Section 139(1)(b) of the Constitution, 1996—

- a) Hereby determine that the Administrator for the Maluti-a-Phofung Local Municipality shall exercise and perform the following powers and functions:
  - i. Implement a system for the control and approval of all expenditure;
  - ii. Ensure implementation of financial systems, policies, and procedures;
  - iii. Set out a specific strategy to address the Municipality's financial problems, including a strategy to reduce unnecessary expenditure and to increase the collection revenue;
  - iv. Oversee all budgetary processes;
  - v. Ensure the implementation of the Local Government: Municipal Property Rates Act, 2004;
  - vi. Engage and enter into payment agreements with the third parties currently owed by the Maluti-a-Phofung Local Municipality;
  - vii. Ensure that all the vacant positions/posts of Senior Managers(S27) are filled;
  - viii. Ratify all decisions taken by the Acting/Municipal Manager and Managers directly accountable to the Municipal Manager in terms of delegated or original authority;
  - ix. Review the organisational structure of the Municipality. Focus particularly on curbing the ballooning salary costs, whilst improving performance;

PO Box 211, Bloemfontein, 9300

O. R Tambo House, 7th Floor, Cnr. St Andrews and Markgraaff Streets, Bloemfontein

Tel: (051) 405 5732/5722 Fax: (051) 405 4193





Member of the Executive Council for  
Cooperative Governance, Traditional  
Affairs and Human Settlements  
FREE STATE PROVINCE

- x. Ratify all executive decisions which may be taken by the Municipal Council and its committees, prior to implementation;
- xi. Ensure implementation of Municipal Council resolutions by the Administration which are not to the disadvantage of the Municipality;
- xii. Ensure that the Local Labour Forum(LLF) is resuscitated and functional;
- xiii. Ensure implementation of Local Labour Forum resolutions by the Administration which are not to the disadvantage of the Municipality;
- xiv. Implement all governance systems and procedures;
- xv. Undertake all functions of the Municipal Manager as stipulated in Section 55 of the Municipal Systems Act, 2000;
- xvi. Assess contractual obligations of the Municipality and negotiate contractual payments, scope and agreed schedule with service providers;
- xvii. Undertake the functions referred to in Section 67(1)(h) and Schedule 2 of the Municipal Systems Act, 2000 read with any other relevant legislative provisions dealing with disciplinary matters, including criminal, disciplinary and civil action; and
- xviii. Submit periodic reports on progress of the intervention to the MEC and Minister which addresses measures which have been implemented in returning the Municipality to maintaining effective financial management and meeting established minimum standards for the rendering of services to communities.

Given under my Hand at Bloemfontein on this 21<sup>st</sup> day of February, Two Thousand and Eighteen



Ms S.H. Ntombela  
Member of the Free State Executive Council  
Responsible for Local Government

PO Box 211, Bloemfontein, 9300

G. R Tambo House, 7th Floor, Cnr St Andrews and Markgraaff Streets, Bloemfontein

Tel: (051) 405 5732/5322 Fax: (051) 405 4193



**IN THE HIGH COURT OF SOUTH AFRICA  
FREE STATE DIVISION, BLOEMFONTEIN**

**Case No: 1453/2018  
1923/2018**

Before the Honourable Acting Deputy Judge President VAN ZYL

Before the Honourable Judge MATHEBULA

Before the Honourable Judge President LOUBSER

On the 22<sup>nd</sup> day of OCTOBER 2018

**In the matter between:**

<b>HARRISMITH BUSINESS FORUM</b>	First Applicant
<b>BOXMORE PLASTICS (SA)(PTY)LTD</b>	Second Applicant
<b>NESTLE (SOUTH AFRICA) (PTY) LTD</b>	Third Applicant
<b>MONN CARPETS (PTY) LTD</b>	Fourth Applicant
<b>BERGVIEW ONE STOP (PTY) LTD</b>	Fifth Applicant
<b>HANASOL CEREAL &amp; GRAIN (PTY) LTD t/a FUTURE FOODS</b>	Sixth Applicant
<b>EBENHAEZER BREIFABRIEK CC</b>	Seventh Applicant
<b>ENTRAKOR (PTY) LTD</b>	Eight Applicant
<b>ENTRAWOODS CC</b>	Ninth Applicant
<b>HIGHWAY PROPERTY GROUP(PTY) LTD</b>	Tenth Applicant
<b>NOUWENS CARPETS (PTY) LTD</b>	Eleventh Applicant
<b>SHOPRITE CHECKERS (PTY) LTD</b>	Twelfth Applicant

<b>MALUTI WOOD WORX CC BUSAMED HARRISMITH PRIVATE</b>	Thirteenth Applicant
<b>HOSPITAL (PTY) LTD</b>	Fourteenth Applicant
and	
<b>ESKOM SOC LIMITED</b>	First Respondent
<b>NATIONAL ENERGY REGULATOR OF SOUTH AFRICA</b>	Second Respondent
<b>MALUTI-A-PHOFUNG MUNICIPALITY</b>	Third Respondent
<b>THE ADMINISTRATOR: MALUTI-A-PHOFUNG MUNICIPALITY</b>	Fourth Respondent
<b>THE PRESIDENT OF SOUTH AFRICA</b>	Fifth Respondent
<b>MINISTER OF ENERGY</b>	Sixth Respondent
<b>MINISTER OF FINANCE</b>	Seventh Respondent
<b>MINISTER OF PUBLIC ENTERPRISES</b>	Eight Respondent
<b>SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION</b>	Ninth Respondent
<b>THE PREMIER, FREE STATE PROVINCE</b>	Tenth Respondent
<b>MEC: FREE STATE DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS</b>	Eleventh Respondent
<b>MEC: FREE STATE DEPARTMENT OF PROVINCIAL TREASURY</b>	Twelfth Respondent
<b>MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS</b>	Thirteenth Respondent

---

Having considered the notice of motion and the other documents filed of record and having heard Counsel for applicant,

**IT IS ORDERED THAT:**

1. The settlement agreement marked X is made an order of court;
2. The application is adjourned *sine die*;

3. The costs of the application, including all reserved costs are reserved for later adjudication;
4. Second respondent is called upon to file an affidavit, if it so wishes, on or before **15 NOVEMBER 2018** why any such respondent(s) eventually held liable for the costs of this application, including the costs of 2 counsel.

**BY ORDER OF THIS COURT**

  
**COURT REGISTRAR**

**HONEY ATTORNEYS  
PHATSHOANE HENNEY ATTORNEYS**

IN THE HIGH COURT OF SOUTH AFRICA  
(FREE STATE DIVISION, BLOEMFONTEIN)

X  
22/10/2018

CASE NO.

In the matter between:

<b>HARRISMITH BUSINESS FORUM</b>	First Applicant
<b>BOXMORE PLASTICS (SA)(PTY)LTD</b>	Second Applicant
<b>NESTLE (SOUTH AFRICA) (PTY) LTD</b>	Third Applicant
<b>MONN CARPETS (PTY) LTD</b>	Fourth Applicant
<b>BERGVIEW ONE STOP (PTY) LTD</b>	Fifth Applicant
<b>HANASOL CEREAL &amp; GRAIN (PTY) LTD</b> <b>t/a FUTURE FOODS</b>	Sixth Applicant
<b>EBENHAEZER BREIFABRIEK CC</b>	Seventh Applicant
<b>ENTRAKOR (PTY) LTD</b>	Eight Applicant
<b>ENTRAWOODS CC</b>	Ninth Applicant
<b>HIGHWAY PROPERTY GROUP(PTY) LTD</b>	Tenth Applicant
<b>NOUWENS CARPETS (PTY) LTD</b>	Eleventh Applicant
<b>SHOPRITE CHECKERS (PTY) LTD</b>	Twelfth Applicant
<b>MALUTI WOOD WORX CC</b>	Thirteenth Applicant
<b>BUSAMED HARRISMITH PRIVATE</b> <b>HOSPITAL (PTY) LTD</b>	Fourteenth Applicant
 and	
<b>ESKOM SOC LIMITED</b>	First Respondent

22/10/2018

<b>NATIONAL ENERGY REGULATOR OF SOUTH AFRICA</b>	Second Respondent
<b>MALUTI-A-PHOFUNG MUNICIPALITY</b>	Third Respondent
<b>THE ADMINISTRATOR: MALUTI-A-PHOFUNG MUNICIPALITY</b>	Fourth Respondent
<b>THE PRESIDENT OF SOUTH AFRICA</b>	Fifth Respondent
<b>MINISTER OF ENERGY</b>	Sixth Respondent
<b>MINISTER OF FINANCE</b>	Seventh Respondent
<b>MINISTER OF PUBLIC ENTERPRISES</b>	Eight Respondent
<b>SOUTH AFRICAN LOCAL GOVERNMENT ASSOCIATION</b>	Ninth Respondent
<b>THE PREMIER, FREE STATE PROVINCE</b>	Tenth Respondent
<b>MEC: FREE STATE DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS</b>	Eleventh Respondent
<b>MEC: FREE STATE DEPARTMENT OF PROVINCIAL TREASURY</b>	Twelfth Respondent
<b>MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS</b>	Thirteenth Respondent

**SETTLEMENT AGREEMENT**


*[Handwritten signature]*  
22/10/2018

The parties agree as follows:

1. The Municipality and the Administrator hereby acknowledge and admit that:
  - 1.1 as a result of a crisis in the financial affairs of the Municipality, the Municipality is:
    - 1.1.1 in serious and persistent breach of its obligations -
      - 1.1.1.1 to provide basic services; and
      - 1.1.1.2 to meet its financial commitments; and
    - 1.1.2 unable to meet its obligations and financial obligations;
  - 1.2 All the jurisdictional facts for a mandatory intervention in terms of section 139(5) of the Constitution of the Republic of South Africa, 1996 ("the Constitution") and section 139 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 ("the MFMA") are present.
  - 1.3 The Provincial Respondents must therefore act in accordance with section 139(1) and (2) of the MFMA.
2. Subject to the terms of this settlement agreement:

 22/10/2018

- 2.1 The First to Twelfth Respondents are directed to attempt to resolve this matter in compliance with the requirements of cooperative governance in section 41 of the Constitution;
- 2.2 Eskom shall not seek to terminate, interrupt or suspend the supply of electricity to the Municipality during the implementation of prayer 8 (i.e. the cooperative governance process envisaged in section 41 of the Constitution), following which and if the implementation of the section 41 process proves to be unsuccessful in resolving the electricity supply issues to the Municipality in the timeframes provided below, Eskom may re-enrol this application on reasonable notice to the other parties.
3. The parties agree that the proceedings under the above case number are suspended subject to clause 4 of this Agreement.
4. The parties agree on the following:
  - 4.1 a consultative committee is established, which committee will comprise of the following:
    - 4.1.1 2 representatives of the Municipal Finance Recovery Service;
    - 4.1.2 2 representatives of the Free State provincial government nominated by the Tenth Respondent;

 22/10/2018



- 4.1.3 2 representatives of National Government, nominated by the Thirteenth Respondent;
  - 4.1.4 2 representatives nominated by Eskom;
  - 4.1.5 2 representatives nominated by NERSA;
  - 4.1.6 2 representatives of the Municipality; and
  - 4.1.7 5 representatives in total of the Applicants under case number 1453/2018 and 1923/2018.
- 4.2 The consultative committee will be chaired by a nominated representative of the Thirteenth Respondent.
- 4.3 In establishing the consultative committee, the parties agree that:
- 4.3.1 Clauses 1.2 and 1.3 of this agreement is suspended subject to clause 4 of this Agreement;
  - 4.3.2 The consultative committee will meet for the first time on Wednesday, 15<sup>th</sup> November 2018. At this meeting the committee will agree on a schedule of meetings to be held fortnightly until the adoption of the recovery plan;
  - 4.3.3 Within two days of each meeting, the chairperson of the consultative committee will send a memorandum to the Minister of CoGTA (or his designated nominee) copied to


*DAF 22/10/2018*

the Applicants' attorney of record and Eskom in terms of which these parties will be apprised of the work of the committee including, but not limited to, the governmental, financial or technical challenges faced by the Municipality, the extent thereof and the remedial steps required, and/or remedial steps undertaken;

4.3.4 the Applicants (and/or their duly authorised representatives) agree to participate in the consultative committee. However, in doing so, and in undertaking tasks assigned by the Committee, they do not seek to assume the rights and obligations of the Municipality, its Council or its executive management;

4.3.5 The Municipality undertakes to cooperate fully with the consultative committee and to provide the consultative committee (or its agents) full access to documents and information reasonably requested in order to assess and improve the condition of the Municipality. In the event of a dispute about whether a request for access to information is reasonable or not, the parties agree that the Minister of CoGTA (or his nominee) will be the final arbiter on the reasonableness of such a request.

4.4 In the event of any disagreement between the members of the

 22/10/2018

consultative committee, the parties agree that the Minister (or his nominee) will be fully apprised of the nature and import of such disagreement or impasse.

4.5 The consultative committee will present a proposed recovery plan to the Minister (or his nominee) within sixty days from the date of signature hereof.

4.6 The Minister (or his nominee) and the MEC: Finance will duly consider the proposed recovery plan and will report back to the consultative committee within fifteen days on:

4.6.1 The extent to which the proposed recovery plan has been approved by the Department of CoGTA; and

4.6.2 The steps to be instituted in order to implement the recovery plan.

5. The Minister (or his nominee) will, through the chairperson of the consultative forum, report back regularly on the implementation of the recovery plan adopted.


6. If, at any stage after the conclusion of this settlement agreement, the Applicants are of the view that the process identified above has not effected appropriate changes to the Municipality's governance, financial or technical aspects, then:

6.1 The Applicants will give the consultative committee twenty days

*[Handwritten signature]*  
22/10/2018

written notice of its intention to issue a certificate as envisaged in clause 6.2 below;

- 6.2 The Applicants will issue a certificate in terms of which it is certified that the affairs of the Municipality cannot be remedied by any means other than those set out in section 139 of the MFMA. A copy of such certificate (together with the resolution adopted by the second applicant) will be served on all the parties to this agreement prior to being filed in Court;
- 6.3 Upon the service and filing of the such certificate, the Provincial Executive will forthwith be obliged to implement the terms of clause 1.2 and 1.3 above and the terms of the proposed court order will become effective;
- 6.4 In the event that the Provincial Executive fails to implement the terms of clauses 1.2 or 1.3 above (or the proposed court order), the Applicants will serve and file supplementary papers under the above case number:
- 6.4.1 setting out the basis on which it is contended that the Provincial Executive has failed to comply with clauses 1.2 and 1.3 above;
  - 6.4.2 calling upon the National Executive to intervene in terms of section 139(7) of the MFMA; and
  - 6.4.3 affording the National Executive an opportunity to

 22/10/2018

respond to the applicants' papers as  
supplemented.

*[Handwritten signature]* 22/10/2018



Local Municipality • Mmasepata wa seLhore • Plooslike Munisipaliteit

## OFFICE OF THE ADMINISTRATOR

Our Ref:

Enquiries: B Mosley-Lefatola

Date: 19<sup>th</sup> April 2020

**ADMINISTRATOR'S CLOSE OUT REPORT FOR THE MALUTI A PHOFUNG (MAP) MUNICIPALITY IN TERMS OF SECTION 139 1 (B) INTERVENTION OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA.**

**REPORT COMPILED BY THE ADMINISTRATOR BLAKE MOSLEY – LEFATOLA ON BEHALF OF THE JOINT INTERVENTION TEAM.**

### 1. PURPOSE

The purpose of the report is to provide the Political principals (i.e. Minister and Deputy Minister of the Department of Co-operative Governance and Traditional Affairs, The Premier for the Free State Province and the Member of the Executive Council of Free State responsible for Co-operative Governance in the Free State and the entire Free State Provincial Executive Council) of progress made since the deployment of the Joint Intervention team at MAP. This report thus will cover the period from July 2018 to 31<sup>st</sup> March 2019, indicating what was inherited, progress made, remaining challenges and recommendations for future implementation.

This report will not deal with the current COVID19 pandemic that is engulfing the country – important and critical as it is – because, as at the end of March 2020, the Joint Intervention team had only started to plan how to engage on this matter.

### 2. BACKGROUND

MAP was placed under Administration by the Free State Provincial Executive Council in March of 2018. The Provincial Executive Council utilized the provisions of the Constitution of South Africa which

allows for Provincial and National Government Intervention when municipalities fail to perform their Constitutional obligations and role and responsibility.

The reasons for placing the municipality under administration is due to a history of mismanagement and maladministration in MAP exhibited by the following:

- Political Instability – no elected leadership of council and council sittings not taking place for a period of 8 months thus resulting in council's failure to perform its Constitutional obligations.
- Poor or non-existent service delivery to the residents and citizens of the community.
- Poor financial management, non-adherence to Supply Chain Management prescripts thus resulting in increases in Unauthorized, Irregular, Fruitless and Wasteful Expenditure.
- Allegations of Fraud and Corruption
- Institutional Instability including vacant positions of Section 56 Managers i.e. Municipal Manager, Chief Financial Officer, Technical Director and suspension of key people in finance directorate due to them facing criminal charges
- Labour Instability characterized by a non-functioning of the Local Labour Forum and
- None compliance of Corporate Governance prescripts by MAP Water – a municipal entity that has been operating without a Board of Directors for 3 years and a substantive Chief Executive Officer.

It was against the above backdrop, that Provincial EXCO deployed a team from the Province in March 2018 as a team of Administrators to intervene in the municipality. This team consisted of the following individuals:

- Mr. Moremi as the Administrator
- Mr. Goliath as an Assistant Administrator focusing especially on Corporate Services and
- Mr. Masekoane as an Acting Municipal Manager

In a further development, and after discussions between National Department of COGTA and the Province, the parties agreed for National COGTA to provide additional support to the Provincial Team deployed already. This resulted in the constitution of a Joint Intervention Team with the deployment of the following additional resources:

- Mr. Mosley-Lefatola as the new Administrator
- Mr. Mopeloa as the new Acting Municipal Manager
- Mr. Zonke as Acting Technical Director and
- Mr. Mawonga as Acting Chief Executive Officer for MAP Water

This group of individuals would work as a team with different roles and responsibilities allocated to them. The Administrator was allocated a term of reference which indicated his powers and functions and what is expected.

The Joint Intervention team formally assumed office 1 August 2019– though had already started work in July 2019.

The subject of this report is to present work done by the Joint Intervention team from July 2019 to end March 2020.

### **3. PROGRESS RECORDED BY JOINT INTERVENTION TEAM**

Whilst there has been progress recorded by the Joint Intervention team, much more still remains to be achieved to ensure stable financial, governance and institutional sustainability. Given the state of the municipality, it is inconceivable that all its attendant problems and challenges can be resolved in a mere 9-month period. It is our considered view that to restore MAP to a position of financial sustainability, customer centric and sustainable service delivery within a framework of a compliant corporate governance, is a project that will take a minimum of two years. A further fundamental precondition for building MAP into a credible institution requires the unwavering co-operation between the political and administrative leadership of the municipality – which is currently sadly lacking. However, there has been significant progress recorded within this 9-month period which will be described in some detail below.

In particular, the Deputy Minister and the MEC oversaw the development of a Turnaround Strategy for the Municipality and mandated the Joint Intervention Team to implement this strategy to ensure overall sustainability of the MAP municipality. This Turn Around Strategy is attached as Annexure 1. Progress will be tracked by the monthly updating of this Turn Around Strategy and submitting monthly reports to the relevant political principals and stakeholders.

#### **3.1 Governance**

A new Council political leadership (Executive Mayor, Speaker and Chief Whip) was elected on the 12 September 2019 after the completion of successful by-elections which were held on the 27 August 2019. Thereafter, 4 ordinary council meetings were held and 2 special council meetings. This represents a welcome return from a scenario where no council meetings were held for a period of 8 months and where there was no council leadership for that particular period. To further entrench this welcome return to normal governance, council elected the following structures

- Mayoral Committee
- Section 79 and Section 80 Committees
- Maluti Party Audit Committee was reconstituted (MPAC)
- Performance Audit Committee was reconstituted

All the above committees are operational and have at least met once whilst others have met close to four of five times since their reconstitution.

However, there is a looming governance challenge in that not all reports processed at MAYCOM form part of the Council Agenda as compiled by the Speakers Office.



### **3.1.1 Relationship between the Joint Administrative Team and the Troika**

This working relationship started off well but quickly became strained because of disagreements between the parties. Whilst frequent meetings were held between the two parties, these dissipated into no meetings taking place between the parties. The disagreements related primarily to:

- The type of cars to be purchased by the administration for the Executive Mayor and the Speaker. The Speaker wanted to purchase a vehicle whose amount would not have been in conformance with the Treasury Regulation No 42514 on Cost Containment issued in June 2019 which is what the Administrator and Acting Municipal Manager was recommending.
- The organizational structures for the offices of the Troika and the pay levels of those posts. The Joint Intervention Team felt that the 33 and 25 posts requested in the office of the Executive Mayor's office was rather excessive and wasteful given the dire financial situation of MAP – and the 18 requested in the Office of the Speaker was likewise. Needless to indicate, the refusal by the Joint Intervention Team to accede to such requests were not well received by the Political leadership.
- The request and insistence by the Political leadership for payment to be made to service providers who were irregularly appointed (without any appointment letters, contracts and or Service Level Agreement and or order number) - explanations by the Administrator and Acting Municipal Manager that such cannot be done as its illegal and not in conformance with the law, were not well received by the Political leadership at all. It was as if the political leadership expected the Joint Intervention Team to proceed with all the wrong and suspect practices of the past and blissfully continue with the municipal mismanagement and maladministration that was happening prior to the Intervention.

As the relationship between the Joint Intervention Team and the Troika deteriorated, the latter openly began to defy the Intervention and act in manner that sought to sideline/ minimize the role of the Joint Intervention Team – resulting in pushback from the Administrator. This resulted in the Council Agenda not processing and dealing with all reports processed by Maycom – especially those dealing with Service Delivery and the Administrator's Performance report that deals with the Implementation of the Turn Around Strategy for Council to discuss and note.

It is the considered view of the Joint Intervention team that the current behavior and practice of the Troika does not bode well for good governance and can only promote maladministration and mismanagement, and which will be in direct conflict with the law. Consequently, it is difficult to appreciate that the current political leadership will promote good corporate governance.

### **3.1.3 Stakeholder Management.**

The commencement of the Joint Intervention team has also seen an increase in the interaction and engagement of different stakeholders within MAP. This is critical in normalizing relations with

key actors in the municipality and to address the credibility deficit MAP has. A programme was thus developed to interact with business community in all the three towns of Harrismith, Kestel and QWA. A series of meetings have been held with these constituencies discussing mainly matters related to Credit Control, account payments and service delivery. These meetings were well received and there is value in continuing this process of constant interaction with the business community.

Various interactions have also been held with individual School Principals due to the credit control campaign implemented. It is also further suggested that a partnership be forged with the MEC for Education by COGTA MEC to host a summit of School Principals to discuss outstanding debt to the municipality, the installment of prepaid meters at schools and other service delivery matters.

A decentralized campaign for engaging with the community must be initiated by Ward Councilors to focus on service delivery challenges especially electricity, water, roads and payments for service charges.

#### **3.1.4 National Council of Provinces (NCOP) Parliamentary Visit.**

MAP municipality was summoned to Parliament in March 2020 to account for its municipal governance and service delivery challenges. The delegation was led by the MEC as the Troika failed to attend and Parliament wanted to obtain a report on the background to the Intervention, those involved in wrongdoing and consequence management implemented against both the administrative and political leadership implicated. The Standing Committee subsequently decided that they would convene a meeting with the Hawks and other Law Enforcement Agencies to obtain a report on the criminal cases that are currently ongoing. The Standing Committee also resolved to pay a site visit to the municipality at a date to be determined in the near future.

#### ***Recommendation on Stakeholder Engagement:***

- A stakeholder management programme should continue to be implemented as it will help to mobilize the necessary resources and goodwill of all actors in MAP to restore faith in the municipality and roll back the credibility deficit the municipality currently suffers from.

#### **4. Financial Management.**

One of the most critical challenges facing the municipality relates to financial management which could only be described as catastrophic. The following as at the end of July 2019 provides an insight into the financial affairs of MAP:

- There was very little revenue collection i.e. 30% in 18/19 financial year with the municipality relying primarily on the Equitable Share to cover its operational expenses.
- there was a backlog of third party payments who were owed R10m.
- SARS was owed R72m.

- Creditors were owed approximately R4,6b (Eskom debt R4.2B, DW&S R 346m and other Service Providers R 124m.
- Debts owed to the Municipality in total was R1.3b (Business owe R320m, govt owes R289m, and Residential debt is R723m) The Municipality is thus insolvent in that the Liabilities far exceeds its Assets.
- Absence of Debtor and Creditor Strategy.
- Poor financial controls and accounting. The last audited statement was for the financial year 2016/17 and the 17/18 and 18/19 audited financial statements were outstanding.
- An unfunded and deficit budget for the 2019/20 financial year
- Abuse and mismanagement of supply chain management processes
- Outdated valuation roll.
- Outdated asset management Register.
- Backlog in billing for approximately 8 Months

These were some of the challenges that the Joint Intervention Team had to address and the following progress in the 9-month period were recorded.

#### **4.1 Third Party Debt.**

Third Party Debt (medical aids, loans, garnishee orders etc.) were brought up to date as at the end of August 2019 and staff salaries continue to be paid on time.

#### **4.2 SARS Debt.**

MAP SARS debt of R 24,976 000.00 m was brought up to date. Only MAP water had an outstanding debt of R31m as at the 31<sup>st</sup> March 2020. (down from R48 m).

#### **4.3 Revenue Collection**

With the commencement of a Credit Control Campaign from the end of August 2019, own revenue collection was increased from a monthly average of 30% -R17 251 128.000 average to 46% average per month -R43m per month average - over the past 8 months. The month of March recorded the best collection which was R60m.

This was done by developing and implementing a debtor management strategy which included segmenting debtors and identification of top 100 customers. Monthly revenue targets were set – though actual performance against these targets were poor. Despite the latter, own revenue increased from R17, 251 128m to R 60m collected in March 2020.

It needs to be indicated that despite this improvement in revenue collection, it is still not sufficient to cover monthly operational expenditure. For the municipality to cover its operational expenditure it needs to collect a minimum of at least R190m to cover at least its salary expenses and its Eskom and Water monthly accounts.

#### **4.4 Creditors Management**

A creditors management strategy was implemented prioritizing current creditors. Historical creditors will only be addressed if they were appointed in terms of due supply chain management processes pending availability of finances. Those not appointed in accordance with due supply chain management processes would not be paid. Needless to indicate, this amounted to endangering lives of individuals of the Joint Intervention team members.

The municipality is still struggling to pay its creditors within a 30 - day period as is required. Most current monthly creditors are paid between a 30 – 60 - day period.

The Eskom debt has escalated from R4.2B to R4,8B. MAP has not been in a position to service its monthly current bill. Though, MAP has been paying the 20% of all its electricity sales as per agreement with ESKOM – this averages to R4,5m per month, and the 14 LPU's in Harrismith are paying directly to ESKOM as per the court order obtained in April 2018. This amounts to R6m average per month. On average ESKOM is paid R 10m per month whilst its average monthly summer bill is approximately R60 m.

MAP has initiated negotiations with ESKOM and proposed the following package for discussions:

- Converting the historical debt into a concessional loan – then agree terms for the servicing thereof. ESKOM will suppress the historical interest and penalties.
- In return for the above. MAP agrees to pay the monthly current consumption bill as from July 2020.
- MAP will enter into a partnership agreement with ESKOM, for the latter to assist MAP to manage its network, its Notified Maximum Demand (NMD), improve electricity payment levels and improve its electricity service standards to ensure customer satisfaction.

Regrettably these negotiations were not concluded as at the end of 31<sup>st</sup> March 2020 due to the current COVID 19 lockdown and departure of the Joint Administration Team.

MAP have also undertaken an exercise with ESKOM to determine whether the municipality's tariffs are cost reflective. To this extent a Pilot was conducted in Kestell and was due to be completed by end of March. This process needs to be concluded so that the Municipality's tariffs be adjusted accordingly as ESKOM claims that the municipality's tariffs are undercharging consumers by 30%.

#### ***Recommendation on ESKOM***

- It is recommended that the above negotiations with ESKOM be resumed and completed as the end product can only result in a WIN – WIN situation for both MAP, ESKOM, residents and businesses in the area and the cost of sales study in Kestell also be concluded.

#### **4.5 Backlog in Audited Financial Statements**

The Joint Administration Team finalized the backlog in the Financial Statements by submitting both the 17/18 and 18/19 financial statements to the Office of the Auditor General for

Auditing. These were submitted in November 2019 and January 2020 respectively for the 2 years referred to above and will thus ensure that audited financial statements for the municipality is up to date. The office of the AG has already started with the audit for 17/18 financial year

#### **4.6 Backlog in Billing**

The 8 -month billing backlog has been eradicated and billing is up to date. However, billing data still needs to be cleansed and needs to be updated. Actual Performance (i.e. revenue collected) against bills issued still leaves much to be desired. This process will also be assisted by the replacement of meters and the updating of the valuation roll.

MAP must urgently pursue the replacement of meters in the municipality with SMART METERS as per the Private Partnership Model initiated by National and Provincial COGTA, National Treasury and the Development Bank of SA.

#### **4.7 Supply Chain Management (SCM)**

The SCM processes are in need of a complete overhaul. There are no Standard Operating Procedures SCM in the municipality. The SCM policy needs to be updated and staff needs to be trained and empowered to best practice in SCM. There also exists an opportunity to automate SCM processes within the municipality. This is a critical challenge for the municipality and requires immediate attention.

#### **4.8 20/21 Budget**

The current MAP 19/20 Budget is unfunded and has a deficit of R1,2b deficit. The MAP municipal budget for 2020/21 is a funded budget with a surplus of R35m. This however is highly dependent on an aggressive programme of the replacement and installation of SMART METERS and secondly, by recouping/ recovering the income derived from those meters. Any slippage on the replacement of the meters will threaten the funded nature of the budget, lead to a deficit budget and non – implementation of key service delivery projects.

The programme for the replacement of meters were due to start in April 2020. This project needs to be re-discussed given the current COVID19 pandemic and its impact on the municipality.

#### **4.9 Valuation Roll**

There are quite a few known properties that are not being levied any property rates as they are not on the current valuation roll. A valuer has already been appointed to update the Valuation Roll and the updated valuation roll will be ready for implementation in the 21/22 financial year.

#### **4,10 Asset Register**

MAP has an outdated Asset Register which represents a real risk to the economic interest of the municipality. To compound the problem, none of the assets of the municipalities have insurance cover. This is due to the historical track record of MAP as most if not all the service providers are loathe to provide the Municipality with insurance cover. As at the end of March 2020 the municipality had still not secured insurance cover for itself. This must be given urgent attention by the new Administrator.

When the Joint Intervention team assumed duty in July/August, MAP did not have any reliable fleet to execute its service delivery obligations. Not only has the municipality managed to secure new cars for the Mayor and Speaker, but it also managed to buy 6 new bakkies for the use by the Electricity Department and Finance Department, 1 cherry picker to be delivered end of March 2020. 2 compact trucks for use by the Refuse Department and a Tipper Truck. All these are not insured and represent a major challenge to the municipality.

Whilst major forward steps have been taken in the finance department of MAP, much still remains to be done. In particular, the areas of SCM, budgeting, financial accounting, asset management and revenue management are all in need of support. The Joint Intervention Team initiated a support programme with Provincial Treasury to address these capacity challenges and it recommended that this programme continue to be implemented.

## **5 Service Delivery Progress Report.**

### **5.1 Refuse Removal Service.**

There was no refuse removal service provided for a period of 4 months when the Joint Intervention team assumed office in August 2019. This was largely due to an absence of roadworthy vehicles. A strategy was devised and implemented to repair at least one truck and ensure that it was roadworthy. By the second week of August 2019, one truck was on the road to ensure the commencement of the refuse removal service. This one truck was inadequate and on an incremental basis other trucks were repaired - and at any point in time for a period of 7 months, between 1 and 4 trucks were available for use. It needs to be mentioned that these trucks were not reliable and continuously broke down, thus necessitating endless repairs. This would interrupt the service delivery schedules developed thus preventing a predictable refuse service to be rendered. In January 2020, 2 new Compactor trucks, 2 Tipper Trucks and 1 TLB were procured for the Refuse Removal department and these were to be delivered BY 31<sup>ST</sup> March 2020. These additional vehicles will contribute towards ensuring predictable refuse removal. The delivery has not happened as it was impacted upon by the COVID19 Lockdown.

### **5.2 Roads and Storm Water**

The Roads and Storm Water team has been doing minimal maintenance of roads and storm water in throughout the towns of MAP. This is largely due to lack of capital to do the necessary upgrading of Roads particularly in the Central Business District of Harrismith and QWA QWA. Thus no major

road upgrades have taken place in the past 8 months except for the minimal road markings, pot holes' repairs. The details of work done in the 3 towns of Harrismith, QWQ QWA and Kestell are attached as Annexure .....

The position of the Roads and Storm Water Manager in the division is vacant given the resignation of the incumbent in December 2019 and needs to be filled as a matter of urgency to ensure the necessary leadership for this particular function.

### **5.3 Project Management Unit (PMU)**

The PMU currently has 29 approved and running capital infrastructure projects with a combined project cost of approximately R750m funded by the Municipal Infrastructure Grant (MIG), Department of Water and Sanitation (DWS) and the Department of Energy (DOE). Expenditure to date is as follows: MIG R96 515 320 which is 58%, WSIG is R19 187 530 which is 54% and DOE is R3 961 225 which is 10%. It is anticipated that 100% of all grant funding would be fully expended by financial year end.

### **5.4 Electricity Services.**

Undoubtedly, the biggest priority for MAP is to stabilize its electricity supply as the current status quo of electricity supply should it continue can only be disastrous for all parties concerned.

Electricity supply in MAP continues to be unreliable and impacts negatively on residents and businesses alike. This is due to the inadequate, old infrastructure, overloading of main supply points, illegal connections, vandalization and sabotage of electricity infrastructure. The end result is that MAP cannot supply predictable and consistent electricity services. Compounding this problem is the institutional weaknesses and lack of funding and technical capacity to carry out the necessary services.

Despite the significant weaknesses referred to above, the electricity staff have attended to more than 7000 call outs in Harrismith and QWA QWA respectively. In this 8 month period, the Joint Intervention team also replaced and installed 83 distribution transformers at a cost of R5 220 911.00 and there have been more than 20 acts of vandalism and sabotage. 50 High mast lighting have been repaired, 5 sets of traffic lights repaired and 7 street lights have been repaired in Harrismith.

Three brand new 500 KVA mini substations for mainly business areas such as Industrial 1,2 and 3 have been procured, installed and commissioned at accost of R2.4m. A brand new Ring Main Unit (RMU) was also supplied, installed and commissioned in Harrismith at a cost of R305 000.00.

In Makabane substation 4 HT Circuit Breakers were acquired at a cost of R4m. As mentioned earlier, 4 new bakkies and 2 Cherry Pickers Trucks (the latter's delivery has been delayed due to the Lockdown) were procured for the Department. This will significantly help with service delivery.

It is also important to note that institutional capacity of the Electricity Department has been improved by the employment of 2 Electricity Managers for Harrismith and QWA QWA respectively. They have assumed duty in March 2020. The position of Technical Director was advertised, interviews were held and no successful candidate was found and a process of head hunting has commenced to fill the position.

It is important to note that there are numerous challenges in the Electricity and other divisions in the Infrastructure Department which is primarily due to an absence of overall leadership and management. The incoming Director will have to deal with matters of:

- overtime -there is an abuse of overtime in the electricity division – The Joint Intervention team has put in a system to monitor the abuse of overtime. This however is resisted by staff who have become accustomed to treating overtime payment as a second salary.
- staff training,
- staff placement of the challenge of Assistant General Workers There's a plan that has been put in place which must be implemented to address this matter.
- the procurement and supply of Plant and Protective Equipment. This has been procured and delivery is awaited whereupon it will be distributed to staff.

The Joint Intervention team came to the conclusion that there are a few critical key focus points that needs to be addressed if electricity services in the municipality is to significantly improve.

The first objective is to ensure that there is reliable and un-interrupted electricity supply to both residents and businesses. This will require a partnership with ESKOM to upgrade the electricity network by prioritizing the replacement of old meters with SMART prepaid meters throughout the municipality as a whole.

Hence there are two interventions which were made in this regard by the Joint Intervention team. The first was to conclude a Service Level Agreement with Eskom to audit and replace the top 100 meters of Large Power Users (LPU's) in the municipality. This SLA was concluded and signed with the understanding that the additional 1800 meters will be added later as an appendix to the original SLA.

Secondly, to ensure that there is improved revenue collection so that income must immediately be derived from the electricity sales. This will stop the current losses suffered of not deriving at least 95% income from the Conventional meters and less than 30% from prepaid meter sales.

As indicated above, of the top 2000 LPU's meters to be audited and replaced, ESKOM and MAP have started with the first 100 of meter replacements. As at the end of March 2020 ESKOM still had to submit its work-programme for the other 1800 replacement of the Large Power Users (LPU's) with the roll out to commence in the month of April 2020.

To reiterate, the importance of this roll out of the prepaid metering system cannot be overemphasized. It is critical that there is no time lag on the roll out of these meters as it has a



direct impact on the cash-flow and liquidity of MAP. Hence key attention must be paid to the management of this critical project.

It is also important to report that National and Provincial Cogta, the Development Bank of SA and National Treasury have adopted a Private Sector Participation Model to leverage capital funds from the Private Sector for infrastructure upgrade and development in Municipalities. MAP is one of the municipalities that have been identified as a Pilot. MAP has identified and submitted a list of projects for funding through this initiative and it is agreed that the Replacement and Installation of the Smart Meters is a project that should be the first priority and implemented immediately. Hence ESKOM's current work of meter replacement will have to be synchronized with this initiative.

**It is recommended that MAP must participate in this Private Participation Model of the DBSA, COGTA and National Treasury as it can only be of benefit to the municipality.**

The Joint Intervention Team also oversaw the successful completion of a Draft Electricity Masterplan that provides a guideline for the upgrading and development of the electricity infrastructure in the municipality as a whole. The next step is to develop a business plan for implementing the projects as stipulated in the Electricity Masterplan.

**It is recommended that the Draft Electricity Master Plan be implemented.**

It is also important to mention that because of the municipality's inadequate Electricity service delivery, it has resulted in the Business community initiating legal proceedings against MAP. In particular, AFRGRI CPY.LTD has taken NERSA, ESKOM and MAP to court arguing that the latter should be stripped of their electricity distribution license. AFGRI is supported by the Harrismith Business Consultative Committee who in turn have initiated a separate legal process for Eskom to be appointed as an Agent to distribute electricity in MAP.

Both matters are currently opposed by MAP. With respect to the AFGRI matter, MAP has filed papers to oppose. With respect to the Harrismith Business Consultative Committee, MAP is engaging them in the Forum that has been established between the 2 parties as per Court Order to resolve this matter. These incidences reinforce the fact that MAP electricity services have to drastically improve and cannot continue as is.

To compound MAP's electricity challenges ESKOM has taken a decision to cut electricity supply where the Notified Maximum Demand is exceeded. MAP has 7 Electricity Substations and 6 of these are exceeding their maximum demand. This means that communities and businesses will be subjected to additional power cuts over and above the normal load shedding that ESKOM normally undertakes. The Technical Director of the Joint Intervention team is in constant negotiations with ESKOM to manage this risk.

#### **5.5. Water Services Provision.**

Water reticulation services in the Municipality is the responsibility of MAP Water, - an entity created by MAP and wholly owned by the Municipality. MAP Water has a twin challenge of both

quality clean water supply and the treatment and management of water and waste water. The water infrastructure – like electricity infrastructure - suffers from a historical lack of years of maintenance, no operation and maintenance plan for its infrastructure, vandalization and sabotage of its assets and the current supply cannot meet existing demand. The staff capacity and skills leaves much to be desired as only 30% of the staff have the core competency to execute the water supply function whilst the rest have skills of a generalist nature.

MAP Water is also beset by corporate governance challenges in that it has not had a Board of Directors for a period of more than 3 years. Needless to indicate, this is not in compliance with the MFMA that governs municipal entities but also the provisions of Kings Code of Good Governance.

MAP Water also have an outstanding SARS Tax liability of R31m as at the end of March 2020. Like its parent entity MAP Water is also in the intensive care unit. The Joint Intervention task team was mandated to do a feasibility study into MAP Water to determine its future. A report was produced by an independent financial auditing firm, - focusing on finances only and whose findings were as follows:

- that the company is insolvent in that its liabilities exceeds its assets
- 15/16 Financial Audited statements were qualified
- 16/17 financial year Audited Statements was a disclaimer
- No audited statements for the 17/18 and 18/19 financial years
- Severe accounting challenges in that MAP Water never performed reconciliations for the past 4 years.

Further to this financial feasibility study that was done by Altimax, the other dimensions for due diligence of a legal, operations, human resource management, risk management and change management is still outstanding. However, even though these have not been undertaken as yet, a strong case can be made for the dissolution of MAP Water as a stand - alone entity based on the financial study done.

The financial due diligence study that was completed and received by MAP at end of July 2019 has not been submitted to Council for discussion. It is strongly suggested that the sooner this matter is attended to will secure financial savings for MAP as a whole.

The severe operational challenges facing MAP Water is laid bare by the fact that its 7 Waste Water Treatment Works with its attendant 25 water-pumps are all not functional and in need of repair. This severely compromises its ability to treat waste water and the consequent result is that it contributes significantly in polluting the Upper Vaal River System. Not only does it contribute to environmental challenges, but it also has a human and legal risk.

In order to address the above, the Joint Intervention Team identified what the minimal cost will be to fix the all 7 WWTW to at least enable them to operate, This will cost approximately R41 m whilst the cost for overall refurbishment is approximately R140m. The Joint Intervention team has

submitted business plans to the DBSA to source funding utilizing the Private Sector Participation Model described above. A response is still awaited.

*MAP Water Supply Context;*

MAP Local Municipality has 4 water supply systems namely Wilge (9,6ML/day abstraction) Sterkfontein Dam (2 600 000ML) Fika Patso Dam (28 000 ML) and Mestsi Matso Dam (4500 ML). The Fika Patso Dam serve about 85% of the population in QWA

It is important to note that these water supply systems (treatment plants) are not interlinked (i.e. should one fail; the other system cannot augment the other. Water losses are as high as 47% due to aged infrastructure and poor maintenance. The 3 dams referred to above are not interlinked due to landscape challenges.

It is against the above background that the drought experienced in MAP took place. This drought adversely affected QWA QWA with dam levels being below 10%. This resulted in communities in QWA QWA not having access to piped water for a period of 5 months i.e. November 2019 to 31<sup>st</sup> March 2020.

In an effort to address the above, a two pronged strategy was initiated by the Joint Intervention Team working in conjunction with DWS and its agent Sedibeng Water. This consisted of tankering of water, the drilling of boreholes as immediate relief and a series of short term projects aimed at the integration of the internal networks.

The water tankers at any point in time over these 6 months would range between anything between 20 and 70 (including those from Sedibeng Water), but this capacity was still not sufficient as all areas could not be covered.

There are 60 boreholes which were drilled in 2016 by Sedibeng Water but which were not operational. Of the 60 boreholes, the Joint Intervention Team with funding from Provincial COGTA activated 25 of these boreholes with hand pumps and an additional 5 boreholes with electrical pumps. This was done over a 6 to 7-week period with the objective to augment water supply. Sedibeng also commissioned and operationalized an additional 5 boreholes by the end of January 2020 from their prioritized boreholes programme.

Both these interventions of tankering and boreholes were afflicted by niggling and teething operational challenges which had to be attended to on an ongoing basis. This ranged from not all areas receiving water from the tankers, some of the JoJo tanks being empty, some boreholes not working, those boreholes which were solar driven had to be augmented with electricity supply in the event of rain, interference in the distribution programme and trucks not arriving and community shut-downs. All these matters had to be attended to on an ongoing basis by the Joint Intervention Team, MAP Water, COGTA, DWS etc.

The Integration of the Internal Networks over the short term consisted of the following projects:

- The upgrading of the Sterkfontein Water Treatment Plant from 10ML TO 20MLS and then subsequently increase it to 40ML. The outcome of this project will ensure that all the residents within Harrismith will have sufficient water 24/7. Project has commenced and contractor is on site. Estimated completed date is March 2021.
- The Comet to Ha Rankopane Decommissioned Pipeline which is about 5km's. Project commenced mid -March t and scheduled to be completed June 2020.
- The Reversal Project which is to increase the pipeline from 160 mm to 400 mm diameter. Project commenced in mid- March 2020 and completion date is 31 July 2020.
- Repairs of the Mangaung Showgrounds to Thaba Bosiu Pipeline – length about 16 km's. Designs are completed and project will commence in May and is scheduled to be completed by 31 January 2021.

The recent rains that occurred over the months of Dec, January 2020, February 2020 and March 2020 improved the Fika Patso Dam levels to 47%. This allowed piped water to be pumped to the neighboring villages adjoining Fika Patso. The recommencement of pumping water to the community has resulted in some operational challenges of burst pipes which MAP WATER has to attend to on an ongoing basis.

It is recommended that all these projects must be tightly managed to ensure completion as it will mitigate the over –reliance on Fika Patso Dam by the QWA community.

It is further recommended that the due diligence study in MAP Water be completed ASAP and a final formal decision on MAP Water be taken. There remain management challenges in MAP ranging from PPE for workers and an unfortunate practice of gross overtime abuse. This phenomenon of overtime abuse, which is rife throughout the municipality has to be dealt with forthwith.

MAP Water only had 1 Rodding Trailer and a non -functional Jetting truck. This severely compromised its ability to attend to sewerage blockages. The Joint Intervention Team under the leadership of the Acting CEO managed to procure new 7 Rodding Trailers to augment its capacity to attend to sewerage spillages in the different communities.

## **6. Institutional Assessment of MAP**

MAP is beset by a whole range of institutional challenges which could be listed as follows:

- Vacancies in key positions
- Poor work culture and ethic amongst the staff
- Dysfunctional department of Corporate Service
- Political/ councilor interference in the administration
- Labour unions that are intent on co-managing in the institution, disregards collective bargaining resolutions and ill- discipline and do as they please. When disciplinary action is

meted out to labour, the latter seeks protection from the Troika who then interferes in these administrative processes.

- The Troika is providing poor leadership in the Municipality and seems intent to continue do wrong that has landed the municipality in the position that it currently is.
- Contract Management challenges.
- Suspension of Directors for Sports and Human Settlement

These matters will be elaborated on.

### **6.1 Vacancies in key positions.**

The current vacancies of electrical engineers, the roads and stormwater manager, and those in the finance division needs to be filled ASAP. The Finance Dept has managers for supply chain, expenditure, budget and senior accountant all on special leave as they are facing criminal charges. They still draw a salary from the Municipality. This matter needs to be conclude ASAP. The financial accountant manager who is suspended should face a disciplinary hearing and his matter should also be concluded soonest.

**It is recommended that these disciplinary processes should be immune from any political interference.**

### **6.2 Organogram**

The reviewed organogram and policy framework for the organogram as required by the MSA have been ready for approval for a while. Council only need to approve the policy framework and to enable the MM to approve the organogram itself. This is because the amendments to the MSA of 2011 were repealed by the Constitutional Court.

However, the item is stuck in the offices of the Executive Mayor and Speaker; as they want more positions in their offices. In addition, SMAWU also don't want the new organogram to be approved as they want certain posts included in the organogram, which are not required. Note must be taken of the municipality's financial situation and the conditionality that the organogram must "focus on ballooning employee costs". The process to approve it, is constantly "sabotaged" at the level of the Troika.

It is recommended that the MEC: Cogta approved the policy framework and organogram of MAP.

### **6.3 Dysfunctional Corporate Services Department.**

The Director of this department has been suspended and currently faces disciplinary charges. The Troika and some councilors are hell bent on reinstating the individual. Their actions are irregular in that this amounts to interference in administration this is an executive matter of the Administrator. Attempts by the Administration to stabilize the Department is willfully undermined by the Troika, specifically the Office of the Speaker.

**It is recommended that the Disciplinary process against the Director Corporate Services be concluded soonest.**

#### **6.4 Political Interference in Administration**

Where the administration takes decisions that are unpopular but in the best interest of the organization and in compliance with the law, these are undermined particularly by the Troika and thus leads to a stand – off between the Joint Intervention Team and the Troika. Key examples that can be mentioned relates to deductions from staff salaries and councilor allowances for rates and service charges payments that are due – given that there is widespread non - payment by municipal staff and councilors. Another example relates to the Troika unreasonably insisting on the payment of overtime for electricity staff members when there can be no justification of people being paid for working 200- or 100-hours’ overtime per month. Others relate to the insistence to pay service provider who were not appointed in terms of SCM processes and with no appointment letter, contracts, SLA or order numbers.

#### **6.5 Relationship with Labour.**

The relationship with Labour is at an all- time low. The Local Level Negotiating Forum (LLF) is not meeting as scheduled. This is due to a variety of reasons including the dispute of the chairpersonship of the forum between the employer and labour, divisions within labour and the intentional strategy by Labour to bypass the LLF and to try and negotiate directly with management outside of the LLF. However, there’s an additional complication – which relates to labour and political nexus interconnection. There is collaboration between SAMWU and politicians to undermine and stabilize the Joint Intervention. Where the Joint Intervention Team have taken disciplinary steps against way ward and ill - disciplined shop stewards there is active instigation by the Troika to undermine the process.

#### **6.6 The Relationship between the Troika and the Joint Intervention Team**

The relationship between the Troika and Joint Intervention Team was fairly amiable in the beginning, However, it was not long before the relationship between the parties deteriorated primarily due to the fact that the Joint Intervention Team insisted on upholding the law, promote good governance and do things the right way – whereas the Troika insisted on serving the needs of their offices and themselves in contravention of the law and what is good, corporate governance and prudent financial management. Initial meetings between the Acting Municipal Manager, the Administrator and the Troika will predominantly focus on the people to be employed in their offices, their pay levels and type of cars to be bought, payment of irregularly appointed service providers to the detriment of key service delivery issues.

As the relationship deteriorated the Office of the Speaker unilaterally decided on the Agenda of council, often ignoring service delivery reports generated through the administration. In particular, a report on the Private Sector Participation Model that seeks to mobilize funding from the private sector for Infrastructure upgrading and development was not tabled at the March

Council meeting despite it being discussed at Mayoral Committee. This has the possibility of impacting negatively on this initiative.

#### **6.7 Contract Management.**

Contract Management in the municipality needs to be improved. This will allow the municipality to manage the risks that arises out of its contractual obligations and will also improve corporate governance and reduce the incidences of Unauthorized, Irregular, Fruitless and Wasteful expenditure.

#### **6.8 Suspension of Directors for Sports and Human Settlements**

Note must be taken of the suspension of the Directors for Sports and Human Settlements due to the following:

The Director for Sports was suspended by the Acting Municipal Manager because of alleged SCM transgressions in that he incorrectly advised and misled the AMM to effect payments to a number of companies who were irregularly appointed.

The Director for Human Settlements was suspended on allegations of misconduct, illegal appointment of staff into positions which were not part of an approved organogram, financial mismanagement and transgression of SCM.

### **7. Recommendation on the Intervention.**

To conclude the following can be summarized:

#### **7.1 Municipal Finances.**

Note should be taken of the few forward steps that have been taken with respect to financial management – especially improving revenue collection from R30% per month to an average of R46% collection, eradication of the billing backlog and the financial accounting backlog including the appointment of a substantive CFO.

However, this progress pales in comparison to the remaining outstanding challenges that first and fore-mostly indicate that the municipality is still financially bankrupt. Its liabilities still exceed its assets.

Secondly, the municipality – despite the modest improvement in revenue collection over this 8 - month period – still does not generate enough monthly income to cover its monthly expenditure. There continues to be an over –reliance of the quarterly equitable share to cover salaries and other operational expenditure. Limited cash –flow or no cash at all prohibits investment in service delivery initiatives. **A significant milestone would be if the municipality can generate enough Revenue on a monthly basis to cover its monthly expenditure. It is advisable that the municipality and council adopts a Financial Revenue Recovery Plan which will indicate a**

**Roadmap of how finances are to be improved including the tabling of monthly revenue targets that are to be achieved.**

There are still significant reforms that are to be implemented with respect to SCM and financial accounting – that if left unattended will continue to contribute to a negative audit outcome and potential increase in UIFW expenditure. It is thus reiterated that the FS Provincial Treasury should continue to help the Finance dept with capacity development initiatives in this regard.

**7.2 Governance.**

Council is functioning and meeting. The Section 79 and 80 committees are meeting. MPAC and Performance Audit Committee are meeting. Note however should be taken of the confusion - deliberate or not – between members of the Troika where the Office of the Speaker dabbles in the Executive business of the Mayor. The latter has the potential of creating tensions and conflict between the 2 respective offices. Note should also be taken of the fact that Council itself has not been discussing the Turn Around Strategy in depth given that the Office of the Speaker removed the item from the last Council Agenda together with other key service delivery reports. The arbitrary actions by the Speaker's Office deprives councilors and council from performing their oversight role.

**7.3 Service Delivery**

Despite progress with respect to Service Delivery that has been done over the past 8 months in MAP, the municipality has not turned the corner as yet. The supply of Regular Uninterrupted supply of electricity still remains a challenge. There are key negotiations with ESKOM wrt the historical debt, the NMD and partnership with the management of the electricity network that must be concluded and the replacement of existing meters with SMART METERS must continue as a matter of urgency. There continue to be legal challenges from Civil Society that seeks to revoke MAP's electricity distribution license that the municipality has to deal with.

The current inability of MAP Water to treat its waste water continues to pose a humanitarian, legal and environmental challenge that needs to be resolved soonest. Together with the accompanying challenge to provide clean quality water that is fit for human consumption will remain an agenda that the municipality should be seized with.

**7.4 Institutional Development.**

MAP have successfully filled the key positions of Municipal Manager, Chief Financial Officer and 2 electrical Managers – this will assist in improving Institutional Capacity in the Municipality. However, there is still a severe institutional capacity weakness across the municipality specifically in the form of a lack of the second level of leadership in Finance department and the Technical Director. These must be filled ASAP.

**7.5 Should the Section 139 1(b) into MAP BE Revoked?**



Taking all the above into consideration, the immediate revocation of the Section 139 (b) intervention may be premature and runs the risk of reversing the few gains that have been made.

It may be more prudent and practical to allow the Intervention to continue for a further period – preferably up until the commencement of the 22/23 financial year or until after the next local government elections - where after a further review can take place to assess whether a revocation should be effected. This will allow both Provincial and National Government to continue to direct and oversee the recovery process within the municipality, to assess whether there is a continued upward trend towards recovery or whether there is a regression and a slide back to the past.

As the information contained in this report firmly indicates, despite the limited progress registered within this short time, the municipality is far from being out of the hoods.

However, given the unco-operative, undermining and often hostile posture of the TROIKA to this intervention, the question arises as to why should Section 139 1 (c) of the Constitution not be invoked or Section 139 (5) or 139 (7).

## **8. Conclusion**

The Joint Intervention Team would like to extend its appreciation to the Minister, Deputy Minister, the Premier of the FS, the MEC for COGTA in the FS and the officials in National and Provincial Treasury, officials in National and Provincial COGTA, officials in DWS and Sedibeng, and the councilors and staff of MAP whose support, advice and contribution have made the work of the Joint Intervention Team possible.

Report Ends

**BLAKE MOSLEY-LEFATOLA**  
**ADMINISTRATOR**

**The following reports accompanies the Administrator's Close-out report:**

- Report of the Assistant Administrator: Human Resources (Mr. HA Goliath)
- Report of Acting MM (Mr. TF Mopeloa)
- Report of Acting CFO (Mr. L Mahuma)
- Report of Acting Director Infrastructure & Electricity Services (Mr. L Zonke)
- Report of the Acting CEO: MAP Water (Mr. T Mawonga)



Local Municipality • Mmusapehla wa seLohoa • Plaatslike Munisipaliteit

**OFFICE OF THE SPEAKER**

**TO ALL MEMBERS OF MALUTI-A-PHOFUNG LOCAL MUNICIPALITY**

NOTICE IS HEREBY GIVEN OF THE FIFTEENTH COUNCIL MEETING OF THE FIFTH COUNCIL OF MALUTI-A-PHOFUNG LOCAL MUNICIPALITY TO BE HELD ON THURSDAY, THE 26<sup>TH</sup> OF MARCH 2020 AT NEW COUNCIL CHAMBER AT 10H00, TO BE CONSIDERED, ATTACHED AGENDA.

.....  
**CLLR TUMELO THEBE**  
**SPEAKER**

.....  
**MR BLAKE MOSLEY LEFATOLA**  
**ADMINISTRATOR**

**CCOR. Pieter**  
**Beukes**

AGENDA OF THE FIFTEENTH ORDINARY COUNCIL MEETING OF THE FIFTH  
COUNCIL HELD ON THE 26 MARCH 2020 AT NEW COUNCIL CHAMBER AT 10H00

ITEMS	Responsible Person
<p>ITEM 01/03/2020</p> <p>OPENING AND WELCOME</p>	<p>Speaker</p>
<p>ITEM 02/03/2020</p> <p>APPLICATION(S) FOR LEAVE OF ABSENCE</p>	
<p>ITEM 03/03/2020</p> <p>OFFICIAL ANNOUNCEMENTS</p>	
<p>ITEM 04/03/2020</p> <p>REPORTS OF THE SPEAKER IN TERMS OF RULE 15 (1) AND 99(4)</p> <p>None</p>	
<p>ITEM 05/03/2020</p> <p>APPLICATIONS AND APPEALS FROM COUNCILLORS IN TERMS OF RULES 14(1), 67 AND 72</p> <p>None</p>	
<p>ITEM 06/03/2020</p> <p>MOTION OF SYMPATHY AND CONGRATULATIONS BY THE SPEAKER</p>	
<p>ITEM 07/03/2020</p> <p>MOTION OF SYMPATHY AND CONGRATULATIONS BY OTHER COUNCILLORS</p>	
<p>ITEM 08/03/2020</p> <p>DEPUTATIONS AND INTERVIEWS</p> <p>None</p>	

AGENDA OF THE FIFTEENTH ORDINARY COUNCIL MEETING OF THE FIFTH  
COUNCIL HELD ON THE 26 MARCH 2020 AT NEW COUNCIL CHAMBER AT 10H00

**ITEM 09/03/2020**

**DISCLOSURE OF INTEREST**

**ITEM 10/03/2020**

**REPORTS FROM SALGA**

None

**ITEM 11/03/2020**

**MINUTES OF THE PREVIOUS MEETING**

**"ANNEXURE A"**

Draft minutes of the (14) fourteenth ordinary council meeting held on the 28 February 2020.

**ITEM 12/03/2020**

**REPORTS RECEIVED BY THE SPEAKER**

None.

**ITEM 13/03/2020**

**REPORTS OF THE EXECUTIVE MAYOR**

**13.1. Delegated Matters**

None

**13.2 Reserved Matters**

**13.2.1 APPOINTMENT OF MUNICIPAL MANAGER**

**"ANNEXURE B"**

***It is Recommendations:***

- a) That note be taken of the report;
- b) Take a decision on the appointment of Futhuli Patrick Mothamaha as the suitable candidate for the position of the Municipal Manger for a period which is equivalent to the remaining terms of the Council plus an extra one year

**AGENDA OF THE FIFTEENTH ORDINARY COUNCIL MEETING OF THE FIFTH  
COUNCIL HELD ON THE 26 MARCH 2020 AT NEW COUNCIL CHAMBER AT 10H00**

calculated from the last day of the current Council.

- c) The appointment is subject to receipt of concurrence from the MEC Cogta.
- d) Inform all interviewed candidates, including applicants who were unsuccessful, of the outcome of the interview.
- e) Submit a written report to the MEC for local government regarding the appointment process and the outcome within 14 days from the date of the decision to appoint.
- f) The administrator enters into an employment contract with incumbent subject to the current upper limits.
- g) The administrator enters into a performance contract with the incumbent within 60 days.

**13.2.2 APPOINTMENT OF THE CHIEF FINANCIAL OFFICER  
"ANNEXURE C"**

**RECOMMENDATIONS**

- a. That note be taken of the report;
- b. Take a decision on the appointment of Ms Matholase Jemene Baleni as the suitable candidate for the position of the Chief Financial Officer for a period 5 years.
- c. The appointment is subject to receipt of concurrence from the MEC Cogta.
- d. Inform all interviewed candidates, including applicants who were unsuccessful, of the outcome of the interview.
- e. Submit a written report to the MEC for local government regarding the appointment process and the outcome within 14 days from the date of the decision to appoint.
- f. The Municipal Manager enters into an employment contract with incumbent subject to the current upper limits.
- g. The Municipal Manager enters into a performance contract with the incumbent within 60 days.

**13.2.3 ILLEGAL APPOINTMENT OF ACTING DIRECTOR  
CORPORATE SERVICES**

**"ANNEXURE D"**

**RECOMMENDATIONS**

1. That note be taken of the report of illegal appointment of the Acting Director: Corporate Services.
2. That appointment be reversed with immediate effect.
3. All the benefits attached to this illegal appointment be cancelled.
4. All the decision taken in his acting ship be nullified.
5. That Council to pronounce itself.

**13.2.4 PAYMENT OF R1.370 105.61 TO THE SERVICE  
PROVIDER FOR THE ESTABLISHMENT OF CALL CENTRE**

**"ANNEXURE E"**

1. That note be taken of the report.
2. That Council pronounce itself.

**13.2.5 DETERMINATION OF THE UPPER LIMITS OF THE  
SALARIES, ALLOWANCES AND BENEFITS OF THE  
DIFFERENT MEMBERS OF MUNICIPAL COUNCILS**

**"ANNEXURE F"**

**RECOMMENDATIONS**

- a) That note be taken of the report
- b) That Councilors comments and make inputs on the review of the system of the remuneration for councilors.

**13.2.6 PROPOSED BUDGET FOR THE 2020/21 - 2022/23  
MEDIUM TERM REVENUE AND EXPENDITURE FRAMEWORK**

**"ANNEXURE H"**

**RECOMMENDATIONS**

1. That note be taken of the report.

**ITEM 14/03/2020**

**QUESTIONS OF WHICH NOTICE WERE GIVEN**

**None**

AGENDA OF THE FIFTEENTH ORDINARY COUNCIL MEETING OF THE FIFTH  
COUNCIL HELD ON THE 26 MARCH 2020 AT NEW COUNCIL CHAMBER AT 10H00

ITEM 15/03/2020

MOTIONS

ITEM 16/03/2020

CLOSURE

The Speaker, Mr Tumelo Thebe

Maluti-a-Phofung Council

Phuthaditjhaba

25 March 2020

Dear Speaker

It is with distress that we note the agenda of the council meeting scheduled for 26 March 2020 for the following reasons:

- Agenda item 13.2.1 Appointment of Municipal Manager
- Agenda item 13.2.2 Appointment of Chief Financial Officer

We believe that the Maluti-a-Phofung council, currently under Section 139(1)b Intervention, does not have authority to make appointments.

The authority of council is, under Section 139(1)b of the Constitution, and the 'conditions of administration' as signed by the Premier and the Minister of Cogta in February 2018, limited to legislative functions. These legislative functions consist of approval of by-laws, approval of budgets, and imposition of rates, taxes and service fees.

We wish to most strongly object to the proposed unlawful and underhanded actions being proposed. South Africa is currently seized with the Covid19 humanitarian disaster about to unfold, while the Speaker and his colleagues in council are plotting to undermine the current administration team for what can only be assumed to be factional interests.

The Democratic Alliance will not attend this council meeting and participate in unlawful activities. We believe that such unlawful activities would be unconstitutional and thus subject to legal review. We shall also be informing the Minister of Cogta, and the Minister of Finance, of the agenda of the meeting.

It should also be noted that while the country is engaged in averting a national crisis, the Speaker has not included one item in the agenda, for discussion by the elected representatives of the people, on how to best protect the vulnerable community of Maluti-a-Phofung, and especially Qwa Qwa.



---

Councillor Fien Beukes, Democratic Alliance Caucus Leader in Maluti-a-Phofung Council.

082 559 7676





(/home)

# Broke FS municipality makes senior appointments

13:38 Fri, 27 Mar 2020



Maluti-A-Phofung council speaker, Tumelo Thebe. Photo: Tumelo Khotha -

**The cash-strapped Maluti-A-Phofung municipality appointed two people in its top management despite the fact that it is currently under administration.**


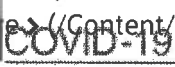


OFM News' correspondent, Tumelo Khotha, reports that the municipal council held a special meeting on the eve of the national shutdown. This after the meeting had to be postponed last week because the administrator, Blake Lefatola, was not present. Only a certain number of councillors and all media were not allowed to be part of the council sitting because of the Covid-19 measures. DA-members, however, boycotted the meeting. The party's MPL Leona

Kleynhans told OFM News since the municipality is under administration, the council has no authority to make any appointments.

**OFM News/Tumelo Khotha**

## Related Articles:




 Cookies help us deliver our services. By using our site, you agree to our use of cookies. Tell us [\(\(Content/14/privacy-policy\)\)](#)



 Visit the official Covid-19 Portal [/293582/kenya-wildlife-reserves-threatened](#)

3452

31 57



**MMASEPALA WA SELEHAE-LOCAL MUNICIPALITY-PLAASLIKE MUNISIPALITIE**

Enquiries: F.P MOTHAMAHA

Date: 30<sup>th</sup> March 2020

058 718 3767

Me. Jemina Matholase Mazinyo

No 1 Bouquet

Cnr Roelf Dreyer and Gascony

Pentagonpark

Bloemfontein

9301

**RE: APPOINTMENT AS CHIEF FINANCIAL OFFICER**

Madam,

You are hereby appointed as Chief Financial officer of Maluti- A – Phofung LocalMunicipality with effect from 30<sup>th</sup> March 2020, as enshrined in Municipal Systems Act, 32, of 2000, labour Relations act no.56 of 1995 and Local Government Regulations on the Appointment and Conditions of Employment of Senior Managers, government Gazette No.37245 of 17<sup>th</sup> January 2014.

Your Appointment will be for 5 years fixed term performance based employment contract.

Total remuneration package will be determined based on Government Gazette no 42023

Published on 08 November 2018 as R1 596 747

Hope you find this in order

Yours in Service

F.P Mothamaha

Municipal Manager



Local Municipality • Mmasepala • eMvelo • Phasitso / Municipality

## OFFICE OF THE ADMINISTRATOR

Our Ref: *Baleni/CFO/ Appointment/ 4/20*  
Enquiries: *HA Goliath*

8<sup>th</sup> April 2020

**Ms. MJ Baleni**  
**No. 1 Bouquet**  
**Cnr. Roelf Dreyer & Gascony Str.**  
**Pentagon Park**  
**BLOEMFONTEIN**  
**9300**

### LETTER OF APPOINTMENT: CHIEF FINANCIAL OFFICER – MALUTI-A-PHOFUNG LOCAL MUNICIPALITY

1. I am pleased to inform you of your appointment as Chief Financial Officer of the Maluti-a-Phofung Local Municipality.
2. Your appointment is done in terms of Section 56 of the Local Government: Municipal Systems Act (Act No 32 of 2000) and in line with the Local Government: Regulations on appointment and conditions of employment of Senior Managers which was promulgated on the 17<sup>th</sup> January 2014 (Government Gazette No. 37245).
3. The appointment is effective from 1<sup>st</sup> April 2020 and for a fixed term period of five (5) years.
4. There shall be no option to extend this contract beyond this period.
5. Your remuneration shall be fixed at R1, 156,263-00 p.a. (total cost to employer), as per Government Gazette No. 42023 of 08<sup>th</sup> November 2018.

6. You will be expected to enter into a fixed term contract with the Maluti-a-Phofung Local Municipality, upon assumption of your duties.
7. You will also be expected to enter into a performance contract with the Maluti-a-Phofung Local Municipality within sixty (60) days of assumption of duty.
8. Your appointment shall also be subject to receipt of concurrence from the MEC: COGTA.
9. Your employment is further subject to submission of certified copies of your identity document, qualifications and signing of Oath of Confidentiality/ Secrecy.
10. You are welcome to contact the Administrator, should you need more information or clarification on any aspect of this letter; and to assist all administrative processes relating to your appointment.
11. Kindly confirm acceptance of the appointment in writing.

On behalf of the Maluti-a-Phofung Local Municipality, I wish to take this opportunity to congratulate you with your appointment and wish you well in your new job.

  
HA GOLIATH  
ADMINISTRATOR  
Maluti-a-Phofung  
Local Municipality

Date: 9/4/2020

Cc: Executive Mayor  
HOD: COGTA  
Corporate Services  
Personnel file



Local Municipality • Amakapala wa setshaba • Phasitika Minisipalithi

## OFFICE OF THE ADMINISTRATOR

Our Ref: *Mothamaha/MM/ Appointment/ 4/20*  
Enquiries: *HA Gollath*

8<sup>th</sup> April 2020

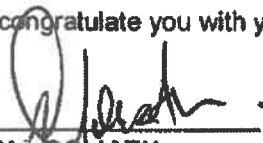
**Mr. FP Mothamaha**  
**75 Lucas Steyn Street**  
**Heuwelsig**  
**BLOEMFONTEIN**  
**9301**

### **LETTER OF APPOINTMENT: MUNICIPAL MANAGER – MALUTI-A-PHOFUNG LOCAL MUNICIPALITY**

1. I am pleased to inform you of your appointment as Municipal Manager of the Maluti-a-Phofung Local Municipality.
2. Your appointment is done in terms of Section 54A of the Local Government: Municipal Systems Act (Act No 32 of 2000) and in line with the Local Government: Regulations on appointment and conditions of employment of Senior Managers which was promulgated on the 17<sup>th</sup> January 2014 (Government Gazette No. 37245).
3. The appointment is effective from 1<sup>st</sup> April 2020 and for the period equivalent to the remainder of the term of the present Council; and shall not exceed one year into the term of the newly to be elected Council.
4. There shall be no option to extend this contract beyond this period.
5. Your remuneration shall be fixed at R1, 424,447-00 p.a. (total cost to employer), as per Government Gazette No. 42023 of 08<sup>th</sup> November 2018.

6. As Municipal Manager you will be head of administration of the Municipality.
7. You will be expected to enter into a fixed term contract with the Maluti-a-Phofung Local Municipality, upon assumption of your duties.
8. Your appointment shall also be subject to receipt of concurrence from the MEC: COGTA.
9. You will also be expected to enter into a performance contract with the Maluti-a-Phofung Local Municipality within sixty (60) days of assumption of duty.
10. Your employment is further subject to submission of certified copies of your identity document, qualifications and signing of Oath of Confidentiality/ Secrecy.
11. You are welcome to contact the Administrator, should you need more information or clarification on any aspect of this letter; and to assist all administrative processes relating to your appointment.
12. Kindly confirm acceptance of the appointment in writing.

On behalf of the Maluti-a-Phofung Local Municipality, I wish to take this opportunity to congratulate you with your appointment and wish you well in your new job.

  
\_\_\_\_\_  
**H.A. GOLIATH**  
**ADMINISTRATOR**  
**Maluti-a-Phofung**  
**Local Municipality**

Date: 8/4/2020

*Cc: Executive Mayor*  
*HOD: COGTA*  
*Corporate Services*  
*Personnel file*



Member of the Executive Council for  
Cooperative Governance and Traditional  
Affairs  
FREE STATE PROVINCE

Department of Cooperative Governance  
Or Tambo House  
Bloemfontein

Attention: Mr Amos Goliath

**APPOINTMENT AS ADMINISTRATOR AT MALUTI-A-PHOFUNG LOCAL MUNICIPALITY**

Kindly take notice that the Maluti-a-Phofung Local Municipality was placed under administration through the intervention by the Free State Provincial Executive Council. In operationalising the intervention, an EXCO Representative/Administrator has to be appointed for supervision and administration of the Municipality;

In light of the above, this serves to appoint you, Mr Amos Goliath, as the Administrator at the Municipality with effect from the 1<sup>st</sup> of April 2020;

Kindly take further notice that your appointment as the Administrator at the Municipality is for the duration of the intervention and therefore will terminate upon withdrawal of the intervention by the Executive Council or termination of your contract with the Department, whichever comes first;

In light of numerous governance failures and service delivery challenges confronting the Municipality, kindly take notice that you may be joined by one or more Assistant Administrators appointed for other specialised functions;

Congratulations on your appointment. It is firmly believed that you will return the Municipality's status to that of being able to maintain essential national standards and meeting established minimum norms for the rendering of services to our community;

Yours faithfully

Mr. ST Nxangisa, MPL  
Member of the Executive Council

Date: 25 March 2020



### **Administrator's powers and functions for Maluti-a-Phofung Local Municipality**

I, TS Nxangisa, in my capacity as the Member of the Free State Executive Council responsible for local government, based on a resolution of the Free State Executive Council on the 10<sup>th</sup> of February 2018, to intervene at the Maluti-a-Phofung Local Municipality in terms of section 139(1)(b) of the Constitution, 1996-

Hereby determine that the Administrator for the Maluti-a-Phofung Local Municipality shall exercise and perform the following powers and functions in terms of section 35(2) of the Local Government Structures Act:

1. Ensure implementation of financial systems, policies and procedures including preparation and implementation of cost cutting measures in order to reduce and ultimately complete the process of paying prior year creditors, increase revenue collection and related measures;
2. Implement governance systems and procedures including oversight over the administration including ratification of decisions taken by the Municipal Council, the Executive Committee, Committees, Municipal Manager and Section 56 Managers in terms of delegated or original authority;
3. Ensure implementation of findings arising from any investigations into fraud or maladministration or corruption;
4. Institute and act as Chairperson of the Interim Finance Committee (IFC) to monitor and manage cash flow of the municipality, approve or disapprove purchase requisitions and to ensure that the municipality's cash position improves.
5. Ensure implementation of remedial action plans dealing with negative findings from the Auditor General;
6. Ensure implementation of all projects undertaken by the municipality including unblocking projects that have stalled;





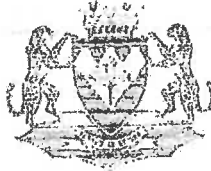
7. Open and conclude negotiations with creditors of the municipality including the application of processes envisaged in sections 152 and 153 of the Municipal Finance Management Act, 56 of 2003.
8. Set out a specific strategy to address the Municipality's financial problems, including a strategy to reduce unnecessary expenditure and to include the collection of revenue;
9. Facilitate and ensure that all the vacant positions /posts of Senior Managers (S56) are filled; in instances where municipal council fails to cooperate, the Administrator in consultation with the MEC must undertake such appointment process.
10. Ensure that the Local Labour Forum (LLF) is resuscitated and functional;
11. Assess contractual obligations of the Municipality and negotiate contractual payments, scope and agreed schedule with service providers;
12. Undertake the functions referred to in Section 67(1)(h) and Schedule 2 of the Municipal Systems Act, 2000 read with any other relevant legislative provisions dealing with disciplinary matters, including criminal, disciplinary and civil action;
13. Improve service delivery prioritisation on water and sanitation services;
14. Investigate the awarded contracts to establish validity and legitimacy;
15. Oversee and ensure that the feasibility of Maluti-A-Phofung Water as a Municipal Entity is conducted by the Strategic Support Head of Maluti Water and take appropriate action as contemplated in section 109 of the Municipal Finance Management Act, 2003 (Act no 56 of 2003);
16. Undertake all executive functions of the Municipal Council



17. Represent the Maluti A Phofung Local Municipality on the Council of the Thabo Mofutsanyana District Municipality;
18. Undertake all statutory executive functions of the Mayor;
19. Enter into performance agreements with the Municipal Manager, Mr Futhuli Patrick Mothamaha and the Chief Financial Officer Me Matholase Jemena Mazinyo within 60 days;
20. Submit monthly and or quarterly reports on progress to the Technical Interventions Steering committee (TISC), MEC (Head of Department) and Minister of COGTA (Director General) with regard to measures implemented towards ensuring effective financial management and meeting of minimum standards to render services to communities.

Given under my Hand at Bloemfontein on this 25<sup>th</sup> day of March 2020.

Mr. ST Nxangisa, MPL  
Member of the Executive Council



Member of the Executive Council for  
Cooperative Governance, Traditional  
Affairs and Human Settlements  
FREE STATE PROVINCE

## Department of Cooperative Governance & Traditional Affairs

### Administrator's Powers and Functions for Maluti-a-Phofung Local Municipality

I, S.H. Ntombela, in my capacity as Member of the Free State Executive Council responsible for local government, subsequent a decision of the Free State Executive Council on 10 February 2018, to pass a resolution and intervene at the Maluti-a-Phofung Local Municipality in terms of Section 139(1)(b) of the Constitution, 1996 –

- a) Hereby determine that the Administrator for the Maluti-a-Phofung Local Municipality shall exercise and perform the following powers and functions:
  - i. Implement a system for the control and approval of all expenditure;
  - ii. Ensure implementation of financial systems, policies, and procedures;
  - iii. Set out a specific strategy to address the Municipality's financial problems, including a strategy to reduce unnecessary expenditure and to increase the collection revenue;
  - iv. Oversee all budgetary processes;
  - v. Ensure the implementation of the Local Government: Municipal Property Rates Act, 2004;
  - vi. Engage and enter into payment agreements with the third parties currently owed by the Maluti-a-Phofung Local Municipality;
  - vii. Ensure that all the vacant positions/posts of Senior Managers(S27) are filled;
  - viii. Ratify all decisions taken by the Acting/Municipal Manager and Managers directly accountable to the Municipal Manager in terms of delegated or original authority;
  - ix. Review the organisational structure of the Municipality. Focus particularly on curbing the ballooning salary costs, whilst improving performance;

PO Box 211, Bloemfontein, 9300

O R Tambo House, 7th Floor, Chr St Andrews and Markgraaff Streets, Bloemfontein


Tel: (051) 405 5732/5322 Fax: (051) 405 4193



Member of the Executive Council for  
Cooperative Governance, Traditional  
Affairs and Human Settlements  
FREE STATE PROVINCE

- x. Ratify all executive decisions which may be taken by the Municipal Council and its committees, prior to implementation;
- xi. Ensure implementation of Municipal Council resolutions by the Administration which are not to the disadvantage of the Municipality;
- xii. Ensure that the Local Labour Forum(I.L.F) is resuscitated and functional;
- xiii. Ensure implementation of Local Labour Forum resolutions by the Administration which are not to the disadvantage of the Municipality;
- xiv. Implement all governance systems and procedures;
- xv. Undertake all functions of the Municipal Manager as stipulated in Section 55 of the Municipal Systems Act, 2000;
- xvi. Assess contractual obligations of the Municipality and negotiate contractual payments, scope and agreed schedule with service providers;
- xvii. Undertake the functions referred to in Section 67(1)(h) and Schedule 2 of the Municipal Systems Act, 2000 read with any other relevant legislative provisions dealing with disciplinary matters, including criminal, disciplinary and civil action; and
- xviii. Submit periodic reports on progress of the intervention to the MEC and Minister which addresses measures which have been implemented in returning the Municipality to maintaining effective financial management and meeting established minimum standards for the rendering of services to communities.

Given under my Hand at Bloemfontein on this 21<sup>st</sup> day of February, Two Thousand and Eighteen

  
\_\_\_\_\_

Ms S.H. Ntombela  
Member of the Free State Executive Council  
Responsible for Local Government

Annexure A



MINISTRY  
COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS  
REPUBLIC OF SOUTH AFRICA

Private Bag x 802, PRETORIA, 0001 Tel: (+27 12) 334 0705 Fax: (+27 12) 336 5950  
Private Bag x 9123, CAPE TOWN, 8000 Tel: (+27 21) 469 6701 Fax: (+27 21) 461 0987

Ref No: 3/6/8/3/12

Ms S H Ntombela, MPI  
MEC: Cooperative Governance, Traditional Affairs and Human Settlements  
P.O Box 211  
BLOEMFONTEIN  
9300

Dear Colleague

**INTERVENTION IN TERMS OF SECTIONS 139(1)(b) OF THE CONSTITUTION:  
MALUTI-A-PHOFUNG LOCAL MUNICIPALITY**

Your letter dated 19 February 2018, relating to the above matter, has reference.

I have taken note of the resolution by the Free State Provincial Executive Council to intervene at the Maluti-a-Phofung Local Municipality by invoking the provisions of section 139(1)(b) of the Constitution. Furthermore, I have considered the serious financial problems in the municipality, which have had a severe negative impact in its service delivery mandate. In this regard, I hereby approve the intervention by the Provincial Executive Council in terms of section 139(1)(b) of the Constitution at the municipality, as empowered by the provisions of section 139(2) of the Constitution, subject to the following conditions:

- (a) The appointed Administrator/Provincial Representative and other representatives of the PEC in the municipality must work together with the Back to Basics (B2B) Task Team designated for your province to deal with both the challenges which necessitated this intervention and other challenges that may be identified during the course of the intervention;
- (b) Since this intervention was prompted by the municipality's financial problems, the provisions of 141 to 145 of the Municipal Finance Management Act of 2003, relating to recovery plans, should apply;
- (b) The intervention must end as soon as the municipality is capable of fulfilling or exercising the obligations that were the subject of the intervention;
- (c) Your office regularly informs me of any further developments on this intervention, and that the Department be provided with quarterly progress reports on the intervention from the date of inception and a close-out report upon its revocation; and

- (d) The MEC closely monitors and assists the municipality in overcoming its shortcomings and challenges, guided by the B2B approach, until the Administrator/Provincial Representative, and other representatives of the PEC have fulfilled their functions, as per their respective mandates.

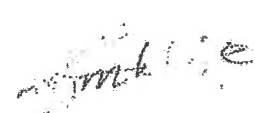
The MEC and the Administrator/Provincial Representative are in addition to the conditions stipulated above, further tasked to resolve the following challenges as part of the B2B approach:

- (i) Appointment of the Municipal Manager and filling of other vacant senior manager posts (the post of the Director: Technical Services has been vacant since August 2015) within the next six (6) months, consistent with the applicable regulations on conditions and appointment of senior managers;
- (ii) Appoint an acting Municipal Manager as soon as possible, from the current section 57 managers, to act as an overall accountability officer, and work closely under the directives of the Administrator/Provincial Representative;
- (iii) Development and align the Financial Recovery Plan of Maluti-a-Phofung Local Municipality with SALGA's Municipal Audit Support Programme and the Revenue Enhancement Programme. The financial recovery plan will be utilised to monitor implementation of the B2B phase 2 priorities towards the improvement of the performance of the municipality;
- (ii) Reviewing the Maluti-a-Phofung Municipality's organogram to address the illegal appointment of general workers during December 2017, for which provision was not made on the approved organogram, and has resulted in a huge salary bill and the utilisation of conditional grants for operational expenditure. It is also noted that critical vacancies exist in the supply chain management unit of the municipality;
- (iii) An audit to be undertaken to assess the current institutional capacity in the municipality, especially to coordinate investment and economic activities for growth related to the establishment of the Special Economic Zone;
- (iv) Fast track the refurbishment of the Intabazwe water pipe line which has led to several interruptions in the provision of water and electricity services to the Harrismlh town, Intabazwe community, a hospital and businesses;
- (v) An analysis be performed by Provincial Treasury regarding the financial health and areas of non-compliance with the MFMA by the Maluti-a-Phofung Local Municipality and interventions/actions required in the short and medium term to address inter alia the following urgent financial challenges:
  - Prioritize the functionality of the billing system as residents have not been billed for the past eight months;

- Prioritise the signing of a realistic re-repayment plan between Maluti-a-Phofung and Eskom to avoid the disrupting of electricity supply by Eskom scheduled for 23 March 2018 due to the R2,7b outstanding debt owed by Maluti-a-Phofung.
  - Engaging and entering into payment agreements with the third parties currently owed by the Maluti-a-Phofung Local Municipality;
  - Payment of salaries and overtime to municipal employees.
  - Facilitating the resolution of the IGR disputes between the municipality and the Department of Water and Sanitation;
- (vi) An assessment be performed of sector projects implemented and budgets allocated towards these projects in the Maluti-a-Phofung municipality during 2018/19. This assessment should prioritise the investments required to address challenges related to the electricity and water infrastructure; and
- (e) The MEC, through the Administrator/Provincial Representative, must closely monitor and assist the municipality in overcoming its shortcomings and challenges, in addition to the conditions stipulated above, the Administrator/Provincial Representative is further required to submit bi-monthly reports to the Technical Interventions Steering Committee (TISC) established by National CoGTA and the Free State CoGTA departments to monitor progress with interventions in municipalities placed under section 139(1)(b) of the Constitution in the Free State currently.

I look forward to further cooperation with you and your Department, so that we can support the Maluti-a-Phofung Local Municipality to extricate itself from its current problems.

Kind regards

  
**DR ZWELINI L MKHIZE, MP**  
**MINISTER**  
**DATE: 20/03/2018**

Most of retailers in the Free State continues to sell our people expired food, in most instances victims of expired food are kids, elderly people who cannot see properly or read and write, this is happening in the midst of Deste, Environmental Health Practitioners, what is the Department of Deste doing with this situation, does the Department have a sound plan on how to deal with this problem?

**NO RESPONSE**

**RESPONSE**

19/06/2020

100.1. The Consumer Protection Unit intervene by engaging with guilty retailers to exchange or replace expired or poor quality products. Failing their co-operation, a *summons* is issued for appearance before the Consumer Affairs Court. Secondly, the Unit would subject such a retailer to an Inspection Operation and if expired products are identified, such are confiscated and destroyed, and the perpetrating retailer is fined.

100.2 The Consumer Protection Unit continuously conduct consumer awareness programmes and inspections as part of its annual plan.

**101. Hon. R Jankielsohn (DA) asks the Hon. MEC responsible for DARD: Mr. W Bulwane.**

In view of the implementation of the Agricultural Master Plan in the Free State; whether all phases of the plan have been implemented, if not, (a) why not, (b) which phases are still incomplete, if so, (c) when were/have each of the respective phases been completed, (d) who implemented each of the respective phases, (e) what was the cost of implementing each of the respective phases and (f) whether all payments have been made to all the respective service providers, if not, which service providers have not been paid for services and for what reason, if so, how much money was paid to each respective service provider involved in the implementation of this plan? What were the milestones that have been achieved in respect of each of the respective phases of this plan?

**NO RESPONSE**

**RESPONSE**

13/06/2020

- (a) The implementation of the Agricultural Master Plan of the Free State (2015) phases of the plan have been implemented, (b) no phases are still incomplete, the Agricultural Master Plan is a dynamic long-term planning document that provides a conceptual layout to guide future growth and development therefore it provides overall guidance when implementing projects and programmes, (c) Projects and Programmes implemented by the Department of Agriculture and Rural Development are informed by the Agricultural Master plan, commodities identified in the Agricultural Master plan are continuously implemented there is no specific date as to when the commodity or a programme will cease to be implemented, (d) The Department of Agriculture and Rural Development initiated the development of the Agricultural Master plan in 2015 and it is therefore the implementer of the plan, (f) Payments have been made to the Service Provider appointed by the Department to develop the Agricultural Master plan, a total amount of R1 056 068.64 was paid to the Service Provider duly appointed by the Department of Agriculture to develop the Agricultural Master plan. All the milestones have been achieved. The immediate plan is to update and expand the Agricultural Master plan developed in 2015, incorporate the Agro-processing, risk management and mitigation strategies.

**102. Hon. L Kleynhans (DA) asks the Hon. MEC responsible for COGTA: Mr. T Nxangisa.**

Maluti-a-Phofung municipality was placed under Sec 139(1) b administration in February 2018. In July 2019, a strengthened Joint National Provincial intervention was announced with the appointment of an administrator, Mr Lefatola, and a team to effect a turnaround in Maluti-a-Phofung. The MEC has subsequently appointed a new administrator. In view of this:

- 102.1 What was the reason for the MEC to replace the administration team?  
 102.2 What is the current revenue collection rate in MaP?  
 102.3 What is the current total Debtors in Maluti-a-Phofung?  
 102.4 What is the current total Creditors in Maluti-a-Phofung?  
 102.5 What is the current total debt to Eskom in Maluti-a-Phofung?



- 102.6 On 26 March the Maluti-a-Phofung council, which had been stripped of its executive functions through the Sec 139(1) b intervention, appointed a new MM and a new CFO. Does the MEC consider these appointments to be constitutional? If so, why?
- 102.7 Has the financial due diligence study on MaP Water which was completed in July 2019 been tabled in Council? If not, why not? If so, what are the relevant details?
- 102.8 Has the reviewed organogram and policy framework as required by the MSA been tabled in Council? If not, why not? If so, what are the relevant details?
- 102.9 Why did the Speaker remove the item to discuss progress on the Turn Around Strategy, together with other key service delivery reports from the council agenda of 26 March, thus denying councillors and council from performing its oversight role?

**RESPONSE**

11/06/2020

- Mr. Blake Lefatola was employed by Office of the Deputy President with effect from the 01<sup>st</sup> of January 2020 and the Department then made a special request to the Deputy President for him stay until the end of March 2020 so as to allow him to wrap up his work and prepare a hand over report that is the reason Mr Amos Goliath was appointed to fill the vacancy created by the departure of Mr Lefatola with effect from the 01<sup>st</sup> April 2020
- The current revenue collection is 40%
- Current total Debtors is R1 821 931 599 billion
- Current total creditors R 5 358 147 029 billion
- R 5 304 941 000 billion
- The Appointment of both the MM and the CFO is constitutional and consistent with the interim regulations issued by Minister of COGTA replacing regulations 17 on the appointment of Municipal Manager and Managers directly accountable to the Municipal Manager that were declared null and void by the Constitutional Court on the 12 March 2019 given that the Administrator was part and participated in the entire recruitment process.
- The financial due diligence study was not tabled to Council.
- The Municipality is still working on the document and will be submitted to Council in due course.
- The reviewed organogram was not tabled to Council as the consultative process with other stakeholders has not been finalized.
- Our records indicate that all item(s) appearing in the agenda of Council were discussed.
- We are not aware of any item(s) appearing in the agenda that was withdrawn

**103. Hon. L Kleynhans (DA) asks the Hon. MEC responsible for COGTA: Mr. T Nxangisa.**

The town of Vrede in Phumelela municipality, with a population of about 26 000 people, has now run out of water completely, after the back-up dam was accidentally emptied in the middle of the past summer.

- 103.1 How will the municipality ensure that the 26 000 people receive the constitutional minimum of 25 litres of water per day, total daily 650 000 litres, immediately?
- 103.2 How many functioning boreholes are supplying water at present?
- 103.3 Are all drilled boreholes equipped with electrical pumps and electricity supply? If not, why not? If so, what are the relevant details?
- 103.4 How many tankers are available to deliver water to residents?
- 103.5 In view of the fact that Warden and Memel are both over 70 kilometres away, where will the tankers be able to extract water to fill up?
- 103.6 Is there a medium-term plan to address the water crisis in Vrede? If not, why not?
- 103.7 Is there a long-term plan to address the water crisis in Vrede? If not, why not?
- 103.8 Does the municipality have a qualified engineer? If not, why not, if so what are the relevant details? If so, what are the relevant details?
- 103.9 Is the water treatment plant in Vrede fully functional? If not, why not, if so what are the relevant details?
- 103.10 Do the reservoirs in Vrede have water meters? If not, why not, if so what are the relevant details?



cooperative governance  
and traditional affairs  
Department of Cooperative Governance  
and Traditional Affairs  
FREE STATE PROVINCE

# MALUTI-A-PHOFUNG LOCAL MUNICIPALITY



## **Presentation Select Committee on Cooperative Governance & Traditional Affairs( Water & Sanitation and Human Settlements)**

### **Progress report on Section 139(1) (b) of the Constitution 12 June 2020**

**HA Gollath  
Administrator**

ANNEXURE G

## BACKGROUND

- Appointed as Administrator of the Maluti-a-Phofung Local Municipality with effect 1 April 2020.
- At the introduction meeting (31 March 2020) were present the MEC: COGTA, HOD, Troika of MAP, members of the Joint Intervention Team and the newly appointed Municipal Manager Mr. Futhuli Patrick Mothamaha and the Chief Financial Officer, Ms. Matholase Jemena Mazinyo.
- The MEC indicated that Messrs. Mahuma and Mopeloa would stay on as members of the intervention team.
- In terms of my appointment I am expected to submit monthly and or quarterly reports on progress to the Technical Interventions Steering Committee (TISC), MEC (Head of Department) and Minister of COGTA (Director General) with regard to measures implemented towards ensuring effective financial management and meeting of minimum standards to render services to communities.

## GOVERNANCE continued....

- I had an introductory meeting with the newly appointed Municipal Manager in the same week at the MAP offices and he indicated to me that he intended reversing the suspension of staff effected by the previous administration. I advised against such a step. His intentions however appear to be pre-meditated and his mind made up. I also stressed the need for him and the CFO to have a proper hand-over meeting with their predecessors.
- At the time of them assuming duty (a day after Council meeting), the former Administrator, Mr. B Mosley-Lefatola had not yet ratified the resolutions of the Council meeting which appointed the new MM and CFO.
- Once resolutions of Council were ratified by my predecessor, I issued appointment letters to the new Municipal Manager and CFO on 08/04/2020, to be effective on 1 April 2020. By then both incumbents had already assumed their duties without the knowledge of either the outgoing Administrator or me. The appointment letters also confirmed the remuneration of both individuals. I also issued to them copies of the employment contracts for perusal and their signature.
- I also furnished both newly appointed officials of copies of the duties and Powers of the Administrator/ Terms of Reference.
- I have to date not received the signed copies of their employment contracts from the MM and CFO.

- **I have experienced immense resistance to my appointment as Administrator and the continuation of the section 139 intervention from the Troika (Executive Mayor, Speaker and Chief Whip). Some incidents followed my appointment, i.e.:**
  - In 1<sup>st</sup> week of April, I received a telephone call from the Executive Mayor, questioning the continued presence of other members of the joint intervention team, Messrs. Mopeloa and Mahuma insisting they should leave the municipality premises immediately.
  - Despite explanations for their presence, the Executive Mayor persisted.
  - Speaker amongst other questioned my directive to the municipality's bankers, FNB, not to effect any changes to the signatories of its bank account, until the Administrator has confirmed such.
  - Though I tried to explain that the decision to have the team here was an Exco decision; the heated discussion ensued.
  - The Speaker also questioned my directive to the municipality's bankers, FNB, not to effect any changes to the signatories of its bank account, until the Administrator has confirmed such.

- During a virtual meeting with MEC (COGTA), the latter requested all parties to prepare reports including hand-over reports and circulate them for discussion to be followed by a properly constituted hand-over meeting. Reports of the Administrator (Mosley-Lefatola), Assist. Administrator (Goliath), Acting MM (Mopeloa) and Acting CFO (Mahuma) were subsequently prepared and circulated to MEC, HOD and Troika).
- MEC advised me a few days later to request Messrs. Mopeloa and Mahuma leave the offices of the MAP municipality and to work from home, to ease the tension that prevailed. I abided by this directive; and they subsequently left MAP.
- It is evident that the newly appointed MM and CFO just like the Troika have no intentions to cooperate with the Administrator. This conclusion is arrived through the observation that various decisions are implemented without consulting the Administrator. It must be noted that the “*duties and powers of the Administrator*”, clearly states that the Administrator must ratify decisions of the Municipal Manager and Municipal Council. The two officials (MM & CFO) behaves as if the section 139 intervention does not exist at all.
- **Refusal of CFO to provide Administrator with financial information for April 2020 report.**

GOVERNANCE continued....

- On Wednesday, 22 April 2020, I was summoned to the office of the Executive Mayor, by the Chief Whip, Clr. Betsi Mofokeng at around 11/12h00.
- Present were Executive Mayor, Clr. M Lakaje-Mosia, Speaker, Clr. T Thebe and Chief Whip Clr. B Mofokeng and later MMC: Finance, Clr. M Tshabalala joint.
- The Executive Mayor complaint that I was not providing her with reports of activities in the municipality.
- I indicated that lock-down situation affected all operations and reporting as only essential services staff were working. I reminded them of a WhatsApp group I created which included all MAYCO members and which was regularly updated with information from the Steering Committee (COVID-19) and the Provincial Groups.
- Troika and MMC questioned my appointment as Administrator. I advised them to take up their concerns with the MEC: COGTA.

- **A heated debate ensued around the following issues:**
  - Legitimacy of my appointment as Administrator.
  - Changing of signatories to the Municipality’s bank account.
  - Administrator communicating with municipality’s bank regarding the bank account and who the signatories to the municipality’s bank account.
  - Payment of employee salaries on the 23<sup>rd</sup> April 2020.
  - Payment of the salaries of Messrs. Mahuma and Mopeloa for the month of April 2020.
  - Interpretation of the section 139 (1) (b); as they differed with the interpretation and legitimacy of the continuation of the section 139 (1) (b) intervention since the Council had appointed a Municipal Manager and Chief Financial Officer. Thus, rendering the interaction illegit until the National Council of Provinces direct otherwise.
  - Accusations by the Executive Mayor that the Administrator (I) was “running a parallel administration”; and obstructing the work of the newly appointed MM.





**GOVERNANCE continued....**

- **All my efforts to explain the interpretation of section 139 (1) (b) came to nothing and just heightened emotions.**
- **I was subsequently forcefully removed (ejected) from the municipal building by the Speaker, Clr. Thebe, chief whip, Clr. Mofokeng and security officers.**
- **For the sake of my own safety and security and to prevent conflict among security personnel; I left the building.**
- **I have submitted a comprehensive report in this regard to the MEC, HOD and COGTA.**
- **The hand-over meeting between the joint intervention team and the newly appointed officials never materialized as the Troika insisted that Messrs. Mahuma and Mopeloa leave the municipality premises with immediately.**



- Signatories on bank account has been delayed as the bank was awaiting the Exco resolution confirming my appointment as Administrator.
- Informed by the bank that it had been receiving constant calls from the Speaker, MM and CFO to change the signatories to the municipality's bank account. Bank referred them to the Administrator.
- The bank subsequently furnished me with a copy of a letter from the Speaker in which such instruction was confirmed. I have furnished the HOD with a copy of the letter.
- The dispute around the municipality's bank account has been put to bed with the withdrawal of the Administrator as co-signatory to MAP's bank account on 29/5/2020.
- I have also noted with concern that items for payment are loaded on the municipality's bank account without any consultation with the Administrator, nor provision of supporting documentation, although I have requested such.

## GOVERNANCE continued

- When employee salaries were loaded for payment 22<sup>nd</sup> March 2020, it came to my attention that both the remuneration of the MM (*from 1,424, 447 to R1,987,402-00 p.a.*) and CFO (*from R1,156,263 to R1,596,747 -00 p.a.*), were adjusted upwardly without my knowledge and consent. I am not aware who authorized the increased remuneration packages; and intend to institute an investigation immediately, as I regard this action as fraudulent.
- I have written to the two individuals concerned and instructed them to refund the overpayments within 48 hours. To my best knowledge, this has not been complied with. The matter was also reported to the MEC, COGTA, HOD, DCOG, AGSA and the relevant law enforcement agencies.

- **The Service Level Agreement with Eskom was concluded and signed parties, on 19<sup>th</sup> May 2020.**
- **This enables Eskom to complete audit and installation of new meters to top 100 of 1800 Large Power users (LPU's).**
- **Service level Agreement with Sedibeng Water for implementation of drought relief not yet concluded, due to delays on the side of the latter.**
- **Meetings have been held Sedibeng Water. A meeting was held with Sedibeng Water on 23/04/2020 to discuss finalization of the SLA, where MAP's concerns were communicated to them.**
- **SLA important to address terms of the relationship between Sedibeng as implementing agent and MAP as recipient of the drought relief.**



- **Regrettably, some of the decisions of the Joint Intervention Team have been reversed by the Municipal Manager. Among these are that you allegedly:**
  - Re-instated suspended managers/ senior managers,
  - Re-instated the shop stewards who were suspended, and
  - Reversed the implementation of the 4-shift system which was done in terms of the Collective Agreement for the Free State Division of the SALGBC, Circular No. 1/2016, dated 1 November 2016.
- **These actions risks the reversal of significant progress which were made with the implementation of among others the Recovery Action Plan and some of the recommendations contained in the concurrence of the section 139 (1) (b) letter of the National Council of Provinces in 2018 on consequence management.**
- **It further undermines efforts to restore discipline, governance systems, order, and accountability in the municipality.**
- **It has the inherent risk of triggering the recurrence of ill-discipline in the institution and undermine the spirit of the collective agreements of the SALGBC as well as progress made to ensure that the Local Labour Forum of the municipality only deals with matters as assigned to it in section 11.8 of the Main Collective Agreement of the SALGBC.**

## INSTITUTIONAL CAPACITY

- **After their appointments by Council on 26<sup>th</sup> March 2020, a new Municipal Manager and Chief Financial Officer assumed duty.**
- **Two new managers for electricity in Harrismith & Qwa-Qwa also appointed and assumed duty on the 1<sup>st</sup> April 2020.**
- **Due to COVID-19 Lock-down, only essential services staff are currently at work and other activities in the municipality have virtually come to a halt.**

## FINANCIAL MANAGEMENT

- The success of the section 139 intervention as well the municipality's future ability to discharge its constitutional mandate; largely depends on its ability to collect revenue, honor its financial obligations, and invest in infrastructure.
- Current levels of revenue collection and the continued loss of revenue through tampering with prepaid meters or by-passing them; remains a big threat to the municipality's economic sustainability.
- The collection for the month of May 2020 has dropped to R28,2m.
  - Previous collections were:
  - October 2019: R41 558 440.67
  - November 2019: R36 834 860.72
  - December 2019: R51 951 098.40
  - January 2020: R22 397 926.22
  - February 2020: R41 639 047.04
  - March 2020: R60 602 215.17
- The lockdown related to the covid-19 pandemic could have had a considerable effect on collections as most of the municipal pay points were closed.
- The monthly salary bill of the municipality is R48,942,284 without overtime.
- Overtime remains a huge challenge in both the municipality and its entity, despite previous measures taken to curb it. Time-off for overtime worked, still resisted by staff.

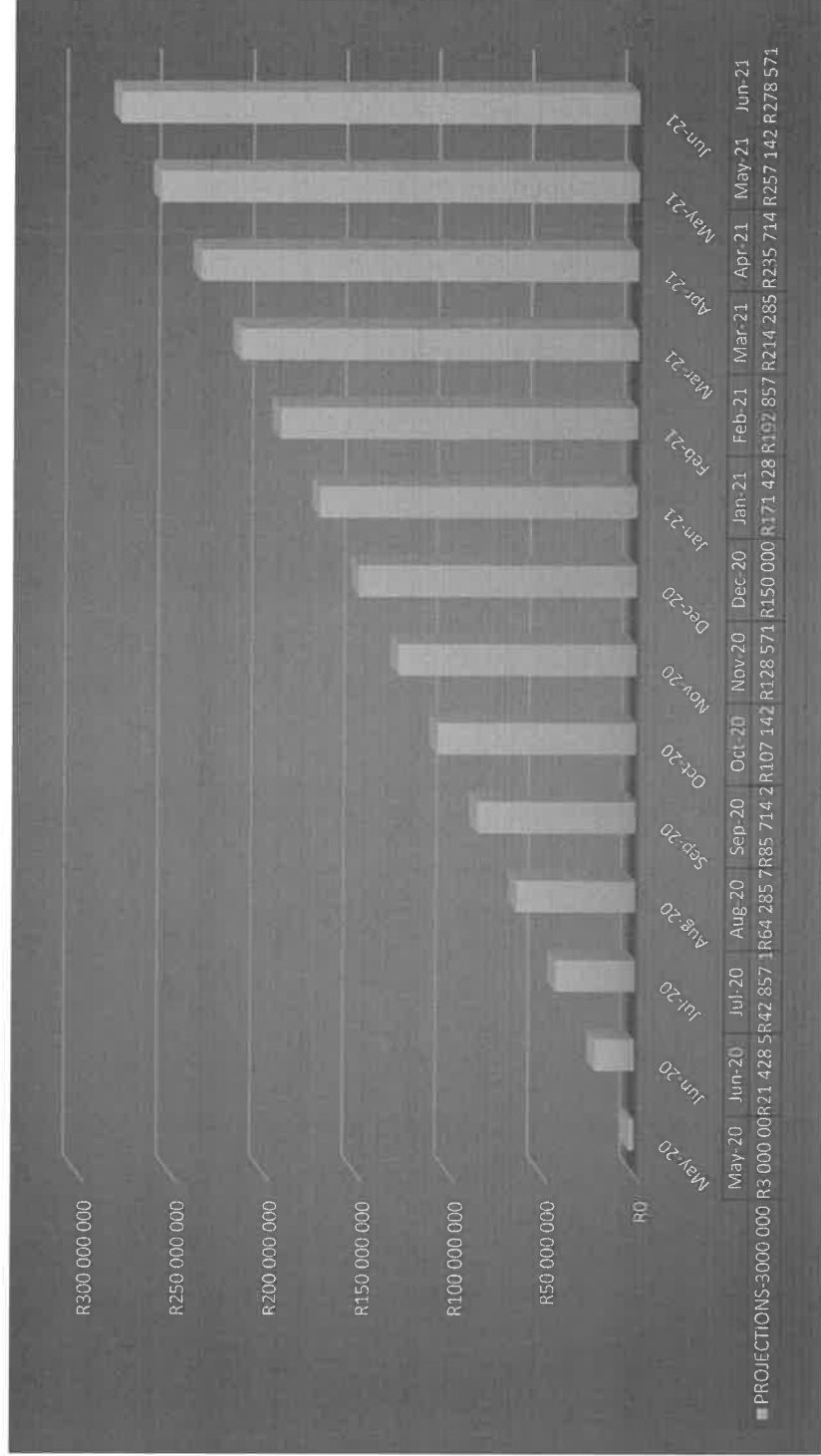


- **Cashflow**
  - **At the time of writing this report the available cash, including investments amounted to R69,881,954.**
  - **There is a plan which could stabilize the municipality's cashflow with expected income of R128,571, 429 by November 2020 and R278, 571,429 by June 2021.**
  - **Projections based on expected additional revenue from installation of new electricity meters by Eskom on Large Power User's (LPU's) from 1 June 2020.**
  - **The assumptions made:**
    - If Eskom installed 100 meters per month, an expected average of R3,000,000 for every 14 meters installed over a period of 12 months.**
    - This is because the revenue derived from the first 14 meters amounted to R6,000,000.**
    - The service level agreement between the two parties has been signed on 19 May 2020, to facilitate implementation of this project.**



# FINANCIAL MANAGEMENT continued.....

**Revenue projections all 1800 LPU's are replaced by Eskom over 12-month period - Expected income of R128,571, 429 by November 2020 and R278, 571,429 by June 2021.**



### **Creditors management strategy**

- Creditors continue to increase as the municipality's Eskom bill has now risen to R5.2billion and its not yet servicing its DWS account.

### **Other creditors**

- SARS is still owed R30m in PAYE payments. Agreement in place.
- AG is still owed R4.1 in auditing costs. Payment agreement in place.
- Still disputed creditors amounting to R14.8m to service providers resultant from a lack of paper trail for the transactions.
- DBSA loan of R4.1m which has not been serviced.

**Eskom account**

- Eskom has demanded a payment of R55m for current consumption by 15th June 2020. Failing to pay might lead to other legal option available to recover the current account.
  
- **In a meeting on 27th May 2020, attended by Administrator, Municipal Manager, CFO and Director: Infrastructure with Eskom management to discuss this and relevant matters there were agreements on the following:**
  - That MAP will explore all avenues available to it to pay current consumption of R55m (excluding other charges).
  - MAP committed to pay R60m of July equitable share towards the current account of the municipality for July 2020.
  - Eskom would continue installing outstanding 87 of the 1st 100 meters of LPU's and should be completed by end of June 2020.
  - Eskom also indicated that they would avail capacity to install another 200 meters by end of August 2020, which would increase revenue for the municipality and possibly enable it to pay the August 2020 account.
  - Eskom declared its availability to take further instructions from MAP for more installations until the municipality can pay its current monthly consumption.
  - Eskom also brought to the attention of MAP that some of the LPU's who are supposed to make direct payments to Eskom are not complying with court order. MAP attending to these customers in line with the court order to compel them to pay.

## SERVICE DELIVERY

### SERVICE DELIVERY

- Service delivery currently limited to essential services which includes, water and sanitation, electricity, waste collection, security and other services which are rendered on an ad-hoc basis, e.g. housing, planning, finance for loading of payments which cannot be delayed.
- Water services
  - The aftermath of the re-opening of the Fika Patso Dam presented several challenges, which led to the water supply to certain areas to shut down again i.e.:
  - Burst and leaking pipes
  - Broken valves
  - Stolen and vandalized infrastructure
  - Burst pipes
- Defects on infrastructure for water distribution still impacting on the functionality of all reservoirs and reticulation. Only the Mangaung reservoir has been fully functional since the Fika Patso re-opening. Although some of the other reservoirs were opened, they are closed periodically for the repair of aging infrastructure.
- Still over reliance of water tankers and Jojo tanks to provide portable water for Qwa-Qwa. The Fika Patso Water Treatment Plant had to be shut down for a day due to valves not working and a burst.

- Ageing infrastructure including asbestos pipes.
- Some of the improvements which could improve reliability of water supply are the following:
  - Upgrading of steel water lines as should pipe bursts be experienced along these lines most areas of Qwa Qwa will be without water.
  - Replacement/ upgrading of existing asbestos water pump lines.
  - Material utilized – valves, fittings, etc. should be compliant with specifications to avoid recurring pipe bursts.

#### **Water tankering:**

- Water tankering to some areas continue as though Fika Patso was re-opened the water levels required the rationing of water.
- Regular complaints from some communities that water is not delivered regularly.
- Both MAP Water and Sedibeng Water are also still providing water through tankers and Jojo's

### **Electricity outages**

- Periodic outages are experienced in several areas of Qwa Qwa for periods longer than a week due to transformers blown because of overload.
- Consequence of overload caused by excessive use of electricity by consumers.
- Attributed to the 70% of pre-paid customers who are not paying for electricity.
- An additional order for 60 transformers has been placed in anticipation of the demands of the winter period, and delivery is expected in the week of 9 June 2020.
- Meeting with Eskom convened by MEC to address the power interruptions.
- Quotation for increase to the NMD of MAP amounts to R166million with a deposit of R211,657million.

### **Waste removal**

- Waste removal is hampered by the lack of sufficient trucks. Order placed for 2 x compact vehicles; delivery has not been taken.
- Practice of illegal dumping by communities continues.

- **Private Sector Participation Model**

Engagements with COGTA, DBSA, MISA on the Private Sector Participation Model (PSP) to fast-track several infrastructures projects critical to service delivery. Projects identified are:

- Water Treatment Plant (Wilge Water Scheme) to increase capacity
- Waste Treatment Plants (x 7)
- Smart metering for prepaid electricity (Address by-passing of pre-paid meters and illegal connections. Estimated costs – R54m)
- Several meetings with critical stakeholders - included he Deputy Minister of COGTA and MEC: CoGTA. Final submissions currently being prepared for approval by the Municipal Council.

- **First Management Meeting was held on Wednesday 10 June 2020**

- **Audit outcomes**

Work in progress conclude audit backlogs. Office of the Auditor General is currently on-site auditing 2017/18 financial year.

## COVID-19

### COVID-19 MANAGEMENT

- **The COVID-19 Steering committee is functioning well and have regular meeting, latterly through videoconferencing. This enables them to identify risks arising from management of COVID-19 regulations and mitigate such.**
  - All bookings for public facilities of the municipality has been cancelled.
  - Daily reports are submitted to the provincial COVID-19 Coordinating team and relates to i.e.:
    - Identification of Quarantine sites
    - Public facilities – halls, etc.
    - Cemeteries availability,
    - Funerals,
    - Issue of Hawkers and Tuck-shop licenses,
    - Relocation of residents in informal settlements,
    - Security,
    - Cleaning/ fumigation of public facilities,
    - Preparation of financial estimates of to mitigate the impact of COVID-19,
    - Development of Action plans to mitigate the impact of COVID-19; etc.
    - Preparation for return of employees to work in phases.



## MAJOR RISKS FOR MUNICIPALITY

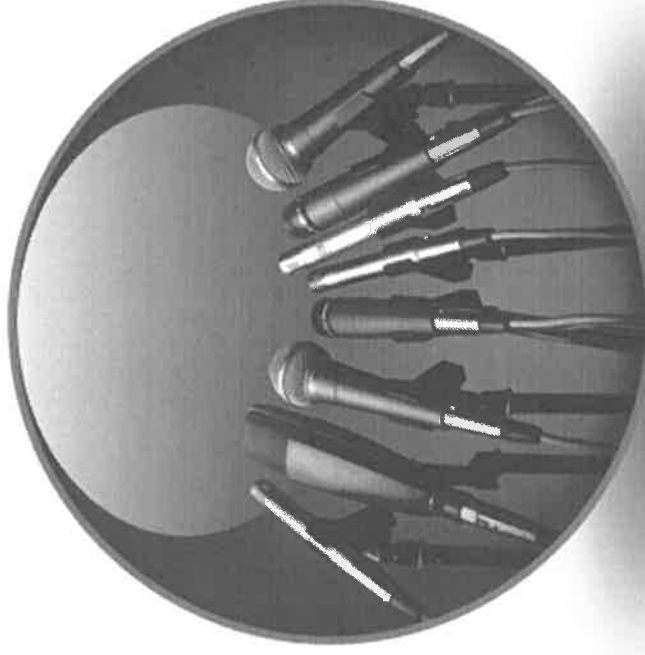
- **Uninterrupted delivery of potable water**
- **Uninterrupted delivery of electricity**
- **Servicing Eskom Debt**
- **Cashflow management and financial sustainability**
- **Political interference in administration**
- **Employee Costs and claims against Municipality**
- **Pending legal action by HBF**
- **Pending legal action by ALPA (urgent court interdict application for non-compliance with a court order to keep NMD for industrial area in Harrismith below 9MVA - 2/6/2020**
- **AFRI – Electricity distribution licence**
- **If the intervention is to continue , there is a need for clarification of role of/ need for Administrator in Section 139 (1) (b) intervention by governments role players and legislature.**



## CONCLUSION AND WAY FORWARD

- **Constant interference in administration by some councilors, especially the Troika.**
- **Presents a huge obstacle in getting the municipality out of the woods; as well as the prospects of it becoming able to discharge its constitutional mandate fully.**
- **Practices that led to the current state of affairs are finding expression in every engagement the Administrator has with the Troika, including the recent one where the Administrator was ejected from the municipal building by same.**
- **Continuation by the newly appointed officials to reverse decisions taken by the joint intervention team, risks reversing many of the gains made in taking the municipality forward.**
- **Condition prevailing at Maluti-a-Phofung Municipality presents a serious security risk and safety of Administrator cannot be guaranteed at the municipality.**
- **Of paramount importance that a proper hand-over session be convened between the previous joint intervention team and the newly appointed officials at MAP.**
- **Failure to do such could result in decision-making which could be to the detriment of the restoration of the Map to full functionality and impact severely on service delivery.**

I thank you



## Questions & Answers



# PARLIAMENTARY BRIEFING

## MALUTI-A PHOFUNG DISTRICT MUNICIPALITY

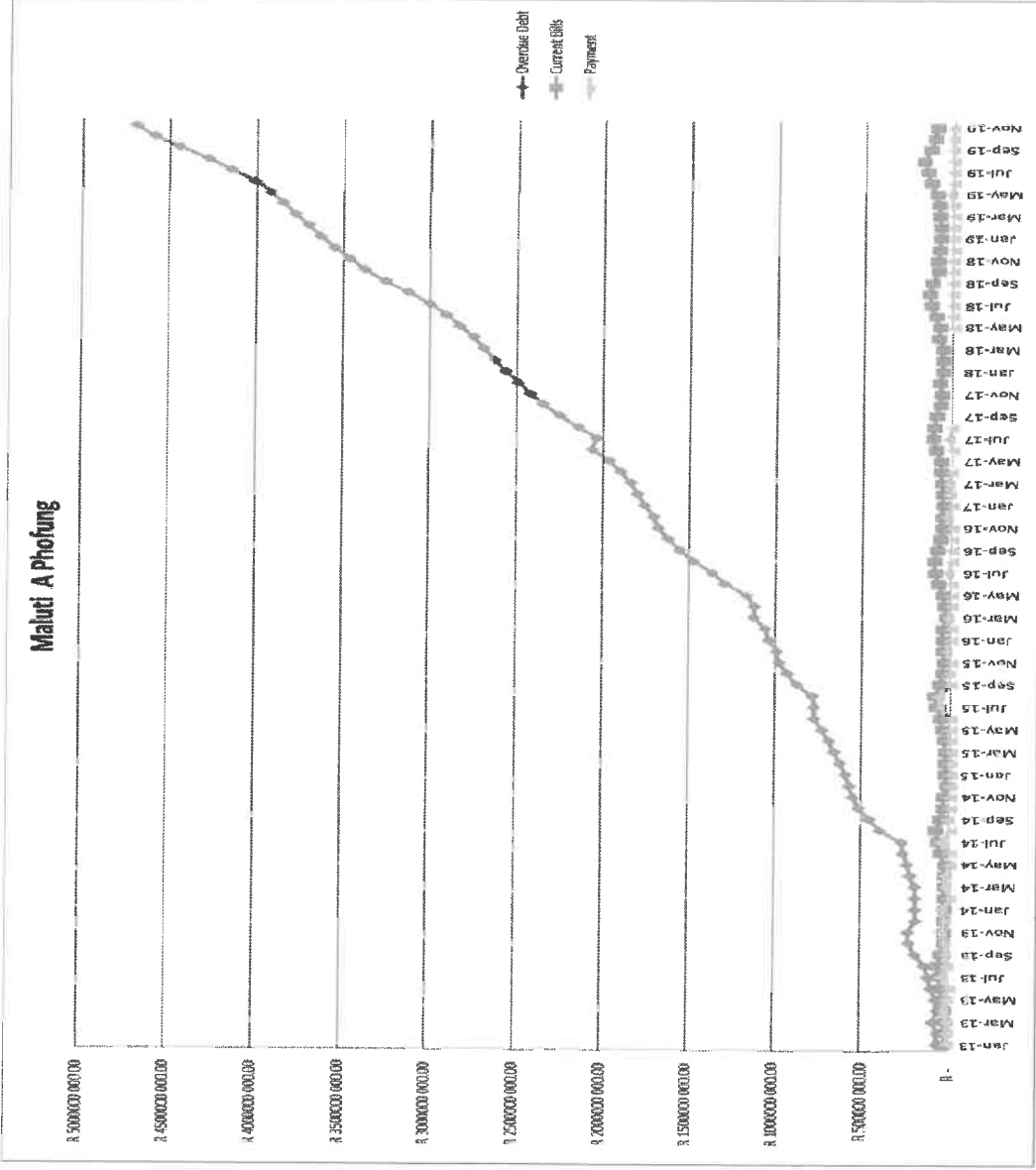
Eskom Municipal Debt Status as at 31 January 2020

10 March 2020



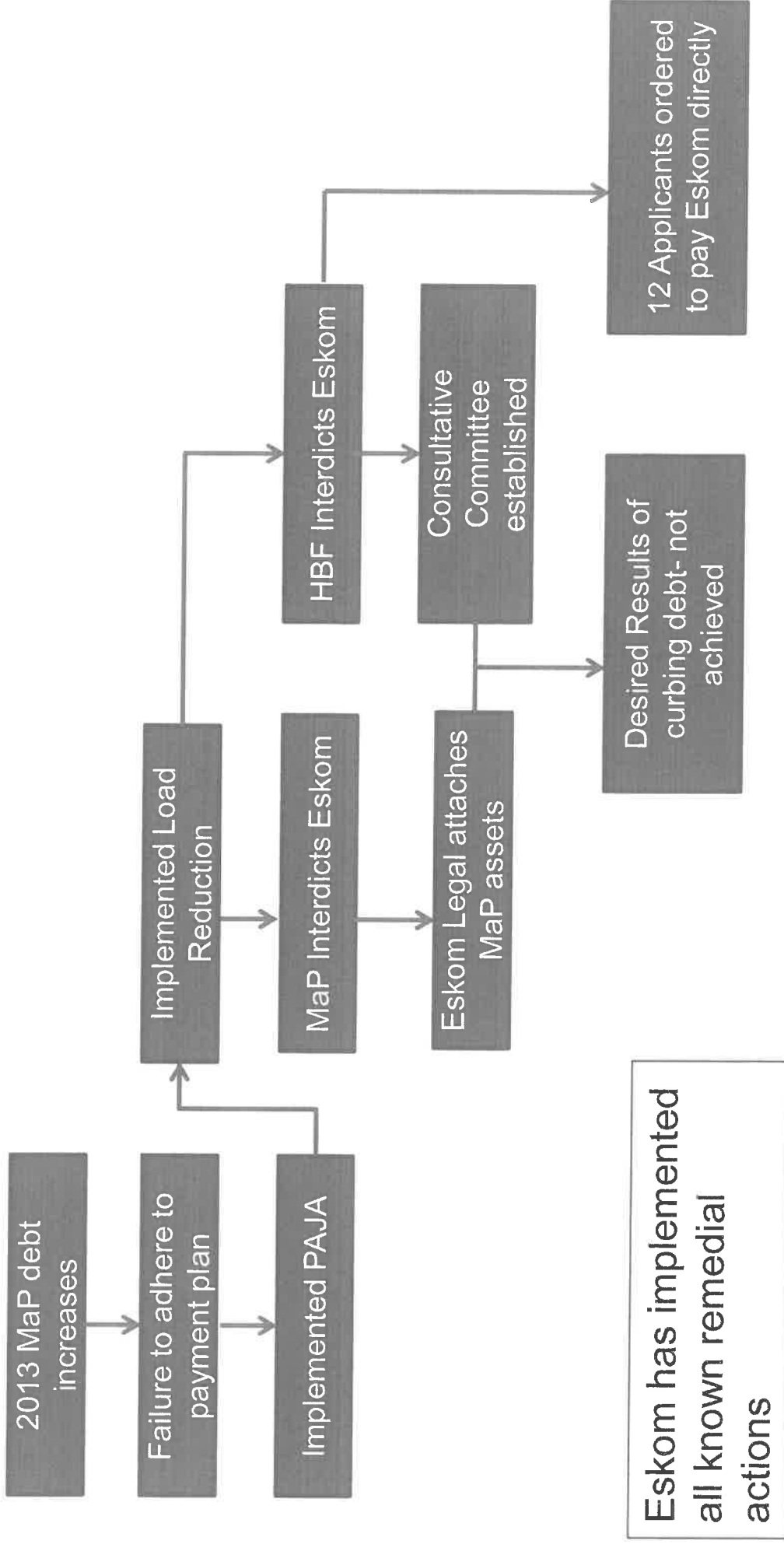
- Maluti-a Phofung arrear debt was R4.8 billion as at 31 January 2020
- The municipality has an average monthly bill of R110 million (Summer Bill: R89 million, Winter Bill: R143 million) with payment level of 6%
- The courts ordered a Consultative Committee, chaired by the Minister CoGTA, to address the Eskom debt situation in 2018.
- The municipality has an average monthly debt growth rate of 3%, since January 2018
- Despite non payment, Eskom continued to service the municipality and has spent R172m on capital and maintenance, since 2013 to ensure supply to the Municipality
- Eskom has explored all avenues to assist the Municipality towards financial recovery and continues to do so.

# Maluti-a-Phofung Debt



1. The overdue debt increased from R92m as at March 2013 to R4.8Bn at end January 2020.
2. Due to the payment holiday taken by the Municipality, the debt has grown exponentially.
3. Due to no payment arrangement and non service of the current account, interest charges are astronomical.
4. The debt has grown by R1.1Bn since March 2019.
5. The only substantial payment made was on the return of the attached assets, which was about 30% on the month consumption.
6. They have a payment level of only 6% comprising:
  - Payments made by the 12 applicants as per the court order – is only about R6m per month, less than 5% of the monthly consumption.
  - Municipal direct payments – approximately R2m per month

# Curbing Debt Flow Chart



The following matters were implemented in Maluti:

1. Reduced the interest rate charged on overdue municipal bulk accounts from prime plus 5% to prime plus 2.5%;
2. Payment terms were extended from 15 days to 30 days for municipal bulk accounts;
3. Payments received from municipalities are being allocated to capital first, and then to interest portion.



The following initiatives were implemented on 4 Sept 2019

1. Maluti a Phofung to make a payment of R2 841 556.85 for the installation of meters and normalisation of the first 100 Large Power Users (Commercial LPU points).
2. Maluti a Phofung to make payment of the minimum of 20% of revenue received from the sales of electricity as was concluded with by, Heads of agreement following the meeting held on 30 April 2019 between CoGTA, DPE, and Eskom regarding the release of assets attached and removed by Eskom belonging to Maluti a Phofung Municipality (condition for returning MAP assets). This payment should be made as from June 2019 until the installation and normalisation of the 100 LPU points are completed.
3. Eskom will carry out the installation of meters and normalisation of the 100 LPU points. The billing of the 100 customers and collection of revenue will be made directly to an Eskom ring-fenced account.

## Eskom in Maluti-a-Phofung – Consultative Committee Initiatives - Progress



1. Municipality paid the project cost for the installation of the 100 meters
2. 8 of the 100 customer meters have been commissioned
3. Maluti shut down and service delivery protest – no progress made
4. Project resumed on 2 March 2020

# Current Accounts and Payment Levels



Months	Total Due	Overdue Debt	Current Bills	Payment	Penalties on NMD	Interest on Acc	% Debt growth Month on Month	% Paid of last 12 months Bills
30-Sep-18	R 3 382 416 687.22	R 3 258 543 211.35	R 123 873 475.87	R 4 834 089.00	R 8 789 910.83	R 40 681 485.00	4%	3%
31-Oct-18	R 3 466 015 152.38	R 3 376 825 469.17	R 89 189 683.21	R 6 086 489.08	R 7 861 692.71	R 39 493 965.60	4%	3%
30-Nov-18	R 3 552 088 310.73	R 3 461 334 413.34	R 90 753 897.39	R 4 680 739.04	R 7 077 239.39	R 37 226 292.56	3%	3%
31-Dec-18	R 3 633 981 951.55	R 3 550 406 539.72	R 83 575 411.83	R 1 915 335.73	R 3 084 470.36	R 42 815 571.43	3%	4%
31-Jan-19	R 3 704 129 561.87	R 3 628 247 513.20	R 75 882 048.67	R 5 901 335.86	R 943 059.49	R 40 128 631.76	2%	4%
28-Feb-19	R 3 777 291 874.10	R 3 698 997 363.75	R 78 294 510.35	R 4 691 065.62	R 1 819 541.17	R 37 921 550.02	2%	4%
31-Mar-19	R 3 854 717 723.56	R 3 772 595 651.46	R 82 122 072.10	R 1 671 153.51	R 2 478 520.17	R 43 373 988.43	2%	5%
30-Apr-19	R 3 937 486 861.86	R 3 847 962 229.80	R 89 524 632.06	R 6 755 493.76	R 5 592 739.27	R 41 976 776.36	2%	5%
31-May-19	R 4 021 522 731.16	R 3 916 075 199.16	R 105 447 532.00	R 18 628 430.82	R 10 536 463.77	R 46 413 380.60	2%	7%
30-Jun-19	R 4 148 405 757.42	R 4 012 865 619.64	R 135 540 137.78	R 4 472 809.53	R 11 816 445.59	R 46 305 491.01	2%	7%
31-Jul-19	R 4 302 631 797.20	R 4 149 566 066.91	R 153 065 730.29	R 5 158 903.01	R 13 767 045.10	R 39 267 103.39	3%	6%
31-Aug-19	R 4 451 791 311.79	R 4 278 660 090.11	R 173 131 221.68	R 5 701 424.59	R 13 010 067.38	R 48 208 306.14	3%	7%
30-Sep-19	R 4 583 724 118.89	R 4 442 460 745.62	R 141 263 373.27	R 10 370 618.09	R 12 318 004.26	R 40 473 852.90	4%	8%
31-Oct-19	R 4 704 814 811.91	R 4 589 350 770.78	R 115 464 041.13	R 8 417 060.55	R 10 546 215.96	R 49 452 858.53	3%	7%
30-Nov-19	R 4 796 796 979.44	R 4 695 799 434.17	R 100 997 545.27	R 9 009 820.74	R 4 932 749.68	R 48 346 776.11	2%	7%
31-Dec-19	R 4 896 472 051.14	R 4 785 741 891.08	R 110 730 160.06	R 11 055 088.36	R 8 415 924.47	R 54 991 092.31	2%	7%
31-Jan-20	R 4 983 793 771.92	R 4 891 693 707.44	R 92 100 064.48	R 10 183 415.03	R 8 415 924.47	R 54 991 092.31	2%	7%
29-Feb-20	R 5 078 761 698.62	R 4 970 680 881.85	R 108 080 816.77	R 7 277 685.36	R 2 474 767.45	R 61 089 445.77	2%	8%

## Stop Defaulting

1. **Payment of Current**  
Accounts in full is a priority
2. **Enforce** revenue management principles. i.e. pay for what you use.
3. **Direct Customer Payments**
4. **Revenue Collection** on behalf of Municipality
5. **Upfront/Prepayment** of Current Accounts
6. **Limit supply/NMD** to affordability level.
7. **Promote payment** for services

## Reduce/Eliminate Overdue Debt

1. **Incentivized Payment** Arrangements (with conditions)
2. **Engagement with National Treasury** - Equitable Share allocation (direct payment)
3. **Prioritise paying customers** for fault repairs
4. **Litigate** to enforce payment.

## Prevent Defaulting

1. **Timely & Accurate Billing**
2. **Improve collection levels** i.e. ensuring **Timely Payments**
3. **Strengthen Relationship** Management and industry **partnership**
4. **Explore Prepayment** option
5. **Municipal Capacity Support/Active partnering**
6. **Termination** of the supply agreement

1. Eskom is and will continue to strengthen its debt collection strategies to improve its financial sustainability and in fulfillment of the National Treasury Equity Injection Conditions to collect debt.
2. While Maluti is owing R4.8Bn, primary focus is serving the current bill to curb the growth and crippling the utility.
3. In line with SALGA and MISA engagements, Eskom remains committed to actively engaging the industry and further commits that should institutional deficiencies be addressed Eskom is willing to provide support as needed. Eskom is thus committed to active partnering to ensure a viable and stable energy sector and local government services.
4. Eskom is committed to ensuring a viable energy sector to support Government agenda for economic Growth, debt collection remains a matter of survival.

End



The Office of the Official Opposition  
Free State Provincial Legislature

Tel: +27 51 407 1234

Fax: +27 51 430 8338

Email: sheltonm@da.org.za

[fs.da.org.za](http://fs.da.org.za)

P.O. Box 81, Bloemfontein 9300

<b>Date:</b>	22 June 2020
<b>To:</b>	Hon Tito Mboweni MP Minister of Finance South Africa
<b>Cc:</b>	Hon Nkosazana Dlamini-Zuma MP Minister of Cooperate Governance and Traditional Affairs South Africa
<b>From:</b>	Hon Leona Kleynhans MPL Member of the Official Opposition Free State Provincial Legislature
<b>Subject:</b>	2020/21 Budget of Maluti-a-Phofung Local Municipality

Dear Hon Mboweni,

We trust you are well.

The above mentioned matter bears reference.

It is with deep concern that we must again alert you to the 2020/2021 budget of the Maluti-a-Phofung Local Municipality (MaP) which was adopted by council on 18 June 2020. The budget is completely meaningless due to the fact that the estimated income and expenditure for the period does not in any way align with the reality in the books of the municipality.

The budget as proposed is unfunded and projects a deficit of R790 million which translates to 29% of the budgeted expenditure. The municipality has no reserves to call upon and it will not be possible to fund this budget without massive expenditure cuts and the non-payment of creditors.

Revenue projections are likewise totally unrealistic in that current collection rates have not been considered. An optimistic assessment of the collection rates in February was 40%. However, since the advent of the Covid19 disaster, which saw the closure of the municipality, and the cessation of revenue collection for three months, the actual collection rate during this period is closer to 10%.

The budget contains an unrealistic interest income of R76 million, or 4% of budgeted revenue, on a total debtors book of R1,8 billion. The largest percentage of the debtors' amount is irrecoverable, and makes the collection of any interest impossible.



**The Office of the Official Opposition  
Free State Provincial Legislature**

**Tel:** +27 51 407 1234

**Fax:** +27 51 430 8338

**Email:** sheltonm@da.org.za

**fs.da.org.za**

**P.O. Box 81, Bloemfontein 9300**

On the expenses side, the budget proposes a drop in finance charges. This is pure conjecture as, in terms of a recent Eskom report to the National Council of Provinces, MaP is not even paying for its monthly electricity usage. Only 20% of electricity income is transferred to Eskom.

A massive increase in councillors' remuneration needs to be interrogated. We believe that the number of councillors being appointed as chairpersons of 'committees' (without terms of reference) and thus earning allowances as full-time councillors, would explain this 28 percentage point increase in councillor remuneration. The demand by political leaders for perks far exceeding their rights, makes the cost to the municipality a further burden.

Fundamentals in the form of rates and tariffs must likewise be interrogated. The property rates do not comply with section 8 of the Municipal Property Rates Act of 2004, and while a valuator has been appointed, council is contesting the appointment.

Eskom furthermore believes that the electricity tariffs in MaP are 30% too low. These issues must be urgently addressed.

The MaP Water entity has had its bank account attached by the South African Revenue Service. The parent municipality is now paying the creditors of MaP Water. It is very doubtful that this procedure is legal. The justification for the existence of the entity must be urgently reconsidered.

A budget must be a realistic estimation of income and expenditure for a fixed period. Expenditure can only be funded by income, borrowings, or cash reserves.

Based on current collection rates, and the devastating effects of Covid19 the municipal predicted income is completely baseless.

MaP has no cash reserves to speak of, and no bank should lend them money. The only way they will be able to get the cash they need, is to short pay creditors (mainly Eskom) and continue to keep useless assets on their books.

We request that National Treasury interrogate the budget and refer it back for amendments to bring it in line with accepted financial and legislated requirements.

Your immediate intervention in this regard would be highly appreciated by all.





**The Office of the Official Opposition  
Free State Provincial Legislature**

**Tel:** +27 51 407 1234

**Fax:** +27 51 430 8338

**Email:** [sheltonm@da.org.za](mailto:sheltonm@da.org.za)  
[fs.da.org.za](http://fs.da.org.za)

**P.O. Box 81, Bloemfontein 9300**

Yours faithfully,

Leona Kleynhans  
Member of the Free State Provincial Legislature  
082 822 1101  
[leonak@da.org.za](mailto:leonak@da.org.za)