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

Not reportable
Case no: 2026-155813

In the matter between:

MATJHABENG COMMUNITY FORUM NPC	**APPLICANT**
and	
MATJHABENG LOCAL MUNICIPLALITY	**FIRST RESPONDENT**
PREMIER OF THE FREE STATE PROVINCE	**SECOND RESPONDENT**
MEC FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS, FREE STATE PROVINCE	**THIRD RESPONDENT**
PROVINCIAL EXECUTIVE OF THE FREE STATE PROVINCE	**FOURTH RESPONDENT**

Neutral citation: *Matjhabeng Community Forum NPC v Matjhabeng Local Municipality and Others* (2026-155813) [2026] ZAFSHC 414 (28 August 2026)

Coram: VAN RHYN J

Heard: 27 July 2026

Delivered: 28 August 2026

Summary: Urgent application – interim relief – suspension of water tariff increase – Integrated Development Plan – Annual Budget – public participation – Municipal Systems Act 32 of 2000 – Local Government: Municipal Finance

Management Act 56 of 2003 – prima facie right – irreparable harm – balance of convenience – separation of powers.

ORDER

1 The applicant's non-compliance with the time periods in relation to the service and filing of papers is condoned, and the applicant's application is treated as one of urgency in terms of rule 6(12) of the Uniform Rules of Court.

2 The implementation of the 25% (twenty-five percent) water tariff increase, as contained in the first respondent's Annual Budget for the 2026/2027 financial year adopted on 28 May 2026, is suspended, and the first respondent is hereby interdicted and restrained, from implementing same pending the final determination of Part B of the Notice of Motion.

3 The first respondent is hereby directed to pay the costs of Part A of this application, such costs to include the costs of counsel on scale C.

JUDGMENT

Van Rhyn J

[1] The applicant, Matjhabeng Community Forum NPC, a non-profit company representing various business enterprises within the area of the first respondent, Matjhabeng Local Municipality's (the Municipality) jurisdictional area, seeks, on an urgent basis, an interlocutory interdict sought in Part A of the notice of motion pending a review contemplated in Part B of the notice of motion.

[2] The relief sought in Part A is as follows:

(a) That the rules regarding to form and service be dispensed with and that the application be disposed of as one of urgency in terms of rule 6(12);

(b) That the implementation of the Municipality's Integrated Development Plan (IDP) for the 2026-2027 financial year, adopted on 3 June 2026, be suspended pending the final determination of Part B of the notice of motion;

(c) That the implementation of the Municipality's Annual Budget for the financial year 2026/2027, adopted on 28 May 2026, be suspended pending final determination of Part B of the notice of motion; and

(d) That the costs of Part A be reserved for determination with Part B of the notice of motion, subject thereto that the costs of Part A are to be paid by the Municipality in the event that it opposes Part A, with costs to include costs of counsel on scale C.

[3] The relief sought in Part B involves, *inter alia*, declaratory orders sought pertaining to the Municipality's IDP and Annual Budget, to be declared invalid, set aside, alternatively reviewed and set aside and for the preparation and adoption of the Municipality's IDP for the financial year 2026/2027 be commenced with *de novo* and that the Municipality proceed as aforesaid in compliance with the provisions of relevant legislation.

[4] The application was issued on 2 July 2026, served by the sheriff upon the Municipal Manager of the Municipality on 3 July 2026, whereafter the Municipality filed its notice to oppose the application on 7 July 2026 and its answering affidavit on 16 July 2026, two days after the time period cast by the applicant for the filing of an answering affidavit. The urgent application was enrolled to be heard on 23 July 2026. The Premier of the Free State Province is cited as the second respondent and the Member of the Executive Council for Cooperative Governance and Traditional Affairs, Free State Province as the third respondent. No relief is sought against the second, third and the fourth respondents, the fourth respondent being the Provincial Executive of the Free State Province. The second respondent filed a notice to abide by the court's decision. No papers were filed nor appearance made on behalf of the third and fourth respondents.

[5] The application is opposed by the Municipality, *inter alia*, on the ground of urgency in that the Municipality objects to the applicant's attempt to enrol this matter on severely truncated time periods. According to the Municipality the application is not urgent, and its contentions, which to a degree also overlaps with the urgency argument, are that the relief sought ought not to be granted on the basis that a 'clearest of case' has not been made out, and no irreparable harm has been shown by the applicant. The contention on behalf of the Municipality is that this is a typical example of self-

created urgency in that the new water tariff has been implemented with effect on 1 July 2026, with the result that the applicant is too late in stopping its implementation due to its own dilatory conduct.

[6] Furthermore, on the initial scheduled date for hearing, the 23rd of July 2026, the legal representatives appearing on behalf of the Municipality were provided with heads of argument and a draft order reflecting the relief which the applicant will be seeking at the hearing of the urgent application. Whereas the applicant had initially sought relief interdicting the implementation of the Municipality's financial budget and its IDP, the only relief now sought by the applicant is aimed at interdicting the implementation of the incorporated water tariff, pending finalisation of a review. On 23 July 2026, the matter was not heard and by agreement between the parties, the urgent hearing thereof was postponed to 27 July 2026, to be heard virtually.

[7] Counsel on behalf of the Municipality lamented the fact that the change in the stance by the applicant is quite obviously prejudicial because by far the lion's share of the answering affidavit, which was drafted in extreme haste and under extremely unreasonable time constraints set by the applicant, focusses not only on why the budgetary process was not irregular, but also on the prejudice to the Municipality should the relief sought by the applicant regarding the suspension of the Municipality's budget, as set out in its notice of motion, be granted. The Municipality specifically denies that neither the IDP nor the Annual Budget was adopted unlawfully, irrationally or in a manner inconsistent with the Constitution, the Municipal Systems Act 32 of 2000 (Systems Act), the Local Government: Municipal Finance Management Act 56 of 2003 (MFMA), or any applicable subordinate legislation.

[8] In the answering affidavit, deposed to by the Acting Municipal Manager of the Municipality, it was contended that it was impossible for the Municipality, due to the severely truncated timelines, to prepare and file a comprehensive answering affidavit and place all relevant facts before the Court due to the fact that key records and information related to the issues raised by the applicant are not readily available. Consequently, the Municipality indicated that it would file a supplementary answering affidavit in due course as it is already in the process of compiling certain information relevant to the matter.

[9] Two fundamental issues require determination. The first is whether the matter was properly launched in accordance with the provision of the Uniform Rules in respect of urgency. Secondly, whether the applicant has established the requirements for interim relief.

[10] The preliminary issue of urgency, which must be dealt with, is raised by the Municipality, and if found in its favour, will undoubtedly be dispositive of this point. The Municipality contends that the applicant is too late in stopping the implementation of the new water tariffs due to its own dilatory conduct. If the applicant is responsible for its own urgency, the court will not come to its aid. The applicant's contention that it will be more difficult for the court – *sans* an order – to frame appropriate relief in the review should the water tariff be implemented in the interim, does not equate to an absence of an alternative remedy in due course. What is lost in the interim can be regained ultimately and any inconvenience or harm is only temporary. The Municipality therefore sought an order that the application be struck form the roll with costs of two counsel for lack of urgency.

[11] The applicant explained that the Annual Budget was adopted on 28 May 2026 and the IDP on Wednesday, 3 June 2026. On Monday, 8 June 2026 the deponent to the applicant's founding affidavit, consulted with the applicant's attorney, thereafter a fee estimate from counsel was obtained on 10 June 2026 and funds were raised by way of contributions from members of the applicant to pay for expenses in relation to urgent litigation. On 12 June 2026, a consultation was held with a representative of the Democratic Alliance, also a council member, in an endeavour to obtain more information regarding the decisions taken at the council meetings held on 28 May and 3 June and to obtain information regarding the process followed leading up to the adoption of the IDP and the Annual Budget. Some schedules, agendas and items relating to the meeting of 28 May 2026 were obtained.

[12] On 15 June 2026, the Municipality was requested to make available the typed minutes of the meetings, which up until the hearing of the application were not provided to the applicant. Certain councillors were able to assist in preparing the founding affidavit and one councillor, Piet Botha, provided a confirmatory affidavit appended to

the founding affidavit. Counsel was briefed on 15 June 2026, additional documents, including the Annual Budget, IDP, comprising 373 pages, and the Public Participation Report were forwarded to counsel on 24 June 2026 resulting in the application being issued on 2 July 2026. On behalf of the applicant, it is argued that even without the typed minutes of the relevant meetings being made available to it, the application was instituted without delay and as soon as it was in possession of the required information to prepare the application. The application is, further, of a complex nature and various documents, including the IDP had to be considered in preparation of the urgent application.

[13] The argument on behalf of the applicant is that all the applicant's members and, in fact, the residents within the Municipality's municipal area will be required to pay the increased water tariff provided for in the Annual Budget pending the final determination of the relief applied for in Part B. Trying to restrain any municipality from implementing council resolutions and the implementation of the annual budget as well as its IDP adopted by council, is akin to chasing a moving target. Once the adoption thereof has occurred, the next stage is the implementation thereof, which will negatively impact upon the residents within the Municipality's jurisdictional area. Given these circumstances, matters such as these are ordinarily urgent. At the hearing of the matter, the applicant sought an order in terms of a draft order which, in prayer 2, provides for the following relief:

'2. The implementation of the 25% (twenty- five percent) water tariff increase as contained in the First Respondent's Annual Budget for the 2026/2027 financial year adopted on 28 May 2026, is suspended and the First Respondent is interdicted and restrained from implementing same pending the final determination of Part B of the Notice of Motion.'

[14] Therefore, the implementation of the IDP and the Annual Budget, as a whole, is no longer sought to be interdicted, it is the implementation of the higher water tariff which is sought to be suspended pending the review. In *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd,*[1] the court held that the question of whether a matter is sufficiently urgent to be enrolled and heard as an urgent application

[1] *East Rock Trading 7 (Pty) Ltd and Another v Eagle Valley Granite (Pty) Ltd and Others* [2011] ZAGPJHC 196 para 7. See also *Gradco South Africa (Pty) Ltd v Mahlopi Metals Group (Pty) Ltd and Another* (6092/24) [2025] ZANWHC 23 (4 February 2025) paras 24-27.

is underpinned by the issue of absence of substantial redress in an application in due course. This is not the same as the irreparable harm that is required before granting interim relief. It is something less. It means that a matter will be urgent if the applicant can demonstrate, with facts, that he requires immediate assistance from the court, and that if his application is not heard earlier than it would be in due course, any order he might later be granted will by then no longer be capable of providing him with the legal protection he requires.

[15] In considering whether to allow this matter to be heard on an urgent basis the main considerations to be taken into account are the prejudice the applicants might suffer if the order is not granted and the prejudice the Municipality might suffer if the order is granted by the abridgement of the prescribed time period. The applicant contends that the Annual Budget, *inter alia*, provides for excessive tariff increases that will negatively impact upon the businesses and the residents within the Municipality's municipal area.

[16] Taking into account that the decision precipitating the launching of these urgent proceedings was as a result of the adoption of both the Annual Budget and the IDP, which incorporated the higher water tariff, as well as the circumstances of the case and the explanation given by the applicant, I am satisfied that there was no undue delay in bringing this application. I accept the applicant's explanation that the applicant firstly had to obtain a quotation regarding counsel and/or legal fees, thereafter funds were raised from members whereafter the process of briefing counsel and preparing papers followed. More fundamentally, the alleged harm will take effect as soon as the Municipality starts to implement the higher water tariffs.

[17] Mr Grobler SC, counsel on behalf of the Municipality, argued that even if the higher water tariff is levied, substantial redress can indeed be obtained by way of credits against the residents' municipal accounts in the event that the review by the applicant ultimately succeeds. Having regard to the dire financial position of the Municipality and the fact that it is currently operating within a constrained financial and service delivery environment, I am satisfied that the applicant has shown sufficient cause and grounds for the matter to be heard on an urgent basis. That said, because

urgency and the merits often overlap in interim interdict proceedings, I proceed to consider the application on its merits rather than striking the matter for lack of urgency.

[18] An applicant seeking an interim interdict has to satisfy the following requirements, namely that:

(a) it has a clear or *prima facie* right, though open to some doubt;

(b) there is a reasonable apprehension of irreparable harm if the interim relief is not granted and the ultimate relief is eventually granted;

(c) the balance of convenience favours the granting of interim relief; and

(d) there is no other alternative satisfactory remedy available.

[19] The main purpose of an interim interdict is to preserve or restore the status *quo* pending the determination of the rights of the parties. The approach by the courts in applying these requirements is to consider them in conjunction with each other and not in isolation.[2] This being a discretionary remedy, it is trite that all facts of the matter ought to be considered by the court. With regard to a *prima facie* right, in *Simon NO v Air Operations of Europe AB and Others*,[3] the court stated that:

'The accepted test for a *prima facie* right in the context of an interim interdict is to take the facts averred by the applicant, together with such facts set out by the respondent that are not or cannot be disputed and to consider whether, having regard to the inherent probabilities the applicant should on those facts obtain final relief at the trial. The facts set up in contradiction by the respondent should then be considered, and if serious doubt is thrown upon the case of the applicant he cannot succeed.'

[20] On the other hand, the Municipality contends that the relief sought by the applicant is problematic in that it invites the court to encroach upon the exclusive terrain of the Municipality, thereby breaching the principle of separation of powers. The applicant has not demonstrated exceptional circumstances, nor has it made out a clear case warranting the Court to grant an order that restrains the Municipality's exercise of statutory powers and functions.

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[2] *Erikson Motors (Welkom) Ltd v Protea Motors Warrenton, Warreton and Another* 1973 (3) SA 685 (A) at 691E.

[3] *Simon NO v Air Operations of Europe AB and Others* [1998] ZASCA 79; 1999 (1) SA 217 (SCA); [1998] 4 All SA 573 (A) at 228G-H. See also R.C v H.S.C (A5033/22) [2023] ZAGPJHC 219; 2023 (4) SA 231 (GJ) para 16.

[21] The statutory provisions of the Systems Act that govern the adoption of a municipality's IDP, relevant for the adjudication of this application are as follows:

(a) Section 16(1)*(a)*(i) provides that a municipality must develop a system of participatory government, encourage and create conditions for the local community to participate in the affairs of the municipality, including the preparation, implementation and review of its IDP;

(b) Section 25(1)*(c)* provides that each municipal council must within a prescribed period after the start of its elected term, adopt a single inclusive and strategic plan for the development of the municipality, the IDP, which forms the framework and general basis on which annual budgets must be based;

(c) Section 25(4) provides that a municipality must within 14 days of the adoption of its IDP, give notice to the public of the adoption of the plan, that copies of the plan or extracts thereof are available for public inspection at specific places; and publicise a summary of the plan;

(d) Section 28(1) provides that each municipal council must adopt a process set out in writing to guide the planning, drafting, adoption and review of its IDP, in accordance with the provisions contained in ss 29 and 30;

(e) Section 28(2) provides that a municipality must through appropriate mechanisms, processes and procedures established in terms of Chapter Four of the Systems Act, consult the local community before adopting the process; and

(f) Section 34 provides that a municipal council must review the IDP annually, in accordance with an assessment of its performance measures in terms of s 41 and to the extent that changing circumstances so demand, with the amendment to be affected in accordance with a prescribed process. The process for amending the IDP is, *inter alia*, that any proposal for amending the IDP must be accompanied by a memorandum setting out the reasons for the proposal and be aligned with the framework adopted in terms of s 27 of the Systems Act.[4]

[22] The following provisions of the MFMA (and the Regulations promulgated in terms thereof) are relevant in respect of the IDP and a municipality's annual budget:

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[4] Local Government: Municipal Planning and Performance Management Regulations, 2001, GNR. 796 of 24 August 2001.

(a) Section 16(1) provides that the council of a municipality must, for each year, approve an annual budget before the start of that financial year;

(b) Section 16(2) provides that for a municipality to comply with ss 16(1), the mayor must table the annual budget at a council meeting at least 90 days before the start of the budget year;

(c) Section 17(1) provides that the annual budget of a municipality must be in the prescribed format and must, *inter alia*, contain a statement containing any other information required by s 215(3) of the Constitution or as may be prescribed;

(d) Section 17(3) provides that when an annual budget is tabled in terms of s 16(2), it must be accompanied by the following documents:

'(a) draft resolutions:

(i) approving the budget of the municipality;

(ii) imposing any municipal tax and setting any municipal tariffs, as may be required for the budget year; and

(iii) approving any other matter that may be prescribed.

(b) measurable performance objectives for revenue from each source and for each vote in the budget, taking into account the municipalities [IDP];

. . .

(d) any proposed amendments to the municipalities [IDP] following the annual review of the IDP in terms of s 34 of the Systems Act.'

(e) Section 21(1) provides that the mayor of a municipality must:

(i) Co-ordinate the process of preparing the annual budget and for reviewing the municipality's IDP and budget related policies to ensure that the tabled budget and any revisions of the IDP and budget-related policies are mutually consistent and credible;

(ii) At least ten months before the start of the budget year, table in the municipal council, a time schedule outlining key deadlines for:

'(a) co-ordinate the processes for preparing the annual budget and for reviewing the municipality's [IDP] and budget-related policies to ensure that the tabled budget and any revisions of the [IDP] and budget-related policies are mutually consistent and credible;

(b) at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for—

(i) the preparation, tabling and approval of the annual budget;

(ii) the annual review of—

(aa) the [IDP] in terms of section 34 of the Municipal Systems Act; and

(bb) the budget-related policies;

(iii) the tabling and adoption of any amendments to the [IDP] and the budget-related policies'

(f) Section 21(2) provides that when preparing the budget, the mayor of a municipality must:

'(a) take into account the municipalities [IDP]; and

(b) take all reasonable steps to ensure that the municipality revises the [IDP] in terms of s 34 of the Systems Act, taking into account their realistic revenue expenditure projections for future years.'

[23] The contention on behalf of the applicant is that, at the very least, the Municipality failed to comply with the provisions of ss 27 and 28(1) of the Systems Act and ss 17(3), 21(1) and 21(2) of the MFMA, read with s 3 of the applicable regulations. The Municipality, *inter alia*, contends that the preparation of both the revised IDP and the Annual Budget occurred 'concurrently over several months' and that the 'strategic priorities' reflected in the reviewed IDP informed the preparation of the budget long before the formal adoption of either instrument. On behalf of the Municipality, it is thus argued that it has complied with the applicable constitutional and statutory framework governing the review of its IDP, the preparation and adoption of its Annual Budget the public participation process and the approval of the impugned tariff adjustments.

[24] At the third Ordinary Council Meeting of the Municipality for the year 2026, held on 28 May 2026 the following items were, *inter alia*, tabled for approval, together with the relevant reports in respect thereof:

(a) Item Number 56/2026, Review: Draft Integrated Development Plan; and

(b) Item Number 57/2027, Matjhabeng Local Municipality 2026/2027 medium term revenue and expenditure framework (MTFEF) budget.

From the contents of the agenda, it is evident that the Annual Budget was not tabled 90 days prior to the commencement of the budget year, being 1 July 2026 and secondly, that the review of the IDP for the 2026/2027 financial year was tabled for approval together with the budget. The draft IDP, comprising of 373 pages, does not contain any indication of amendments to be affected to the IDP. The IDP forms the policy framework and general basis on which the annual budget is based. From the applicable statutory framework, it is clear that the IDP relevant to the budget period must, by necessity, be approved prior to the budget can be prepared and tabled for approval.

[25] In the report of the Executive Mayor, the following recommendations for the approval of the IDP are stated: that the IDP is the primary strategic planning tool for the Municipality; and that the IDP Review aligns with the Financial Recovery Plan due to the Municipality's financial distress. It is furthermore stated that: '. . . this review indicates a shift toward realistic planning emphasizing fiscal discipline, governance improvement and operational effectiveness'. In the Executive Mayor's Foreword included in the 'Final Draft Review Integrated Development Plan' it is explained that the IDP is not developed annually, but instead '. . . it is reviewed each year within a five-year cycle to remain responsive to the evolving needs of the community'.

[26] The Council did not achieve the statutory majority necessary for the adoption of the revised IDP during the meeting held on 28 May 2026. The Council proceeded to consider the Annual Budget and obtained the necessary majority to adopt same. Following the events of 28 May 2026, a Special Council Meeting was convened on 3 June 2026. Council then considered and adopted the reviewed IDP by the requisite majority. It is evident that it is impossible to ascertain how the 'Revised IDP' differs from the IDP of the previous financial year. The council members were therefore required to consider and adopt a document comprising of 373 pages with no guidance being provided in respect of proposed amendments, if any, effected to the draft IDP. It is obvious that the council members were advised, following the recommendation by the Executive Mayor, to adopt the Reviewed IDP with the sector plans as annexures and that the IDP be submitted to the National Treasury, Free State Provincial Treasury and the Department of Cooperative Governance and Traditional Affairs upon tabling and that the IDP be published immediately after adoption by council.

[27] The draft Review IDP 2026/2027 must by law be adopted by a municipal council within 90 days before the start of the new financial year and that the adoption must be resolved by a full council in a meeting which is open for the public and the media. The IDP represents the strategic plan of a municipality and the annual budget the means by which that plan is to be funded. As such the IDP and the budget form the essential policy framework for the achievement of the developmental objectives of a municipality.

And these are the matters upon which the Constitution requires effective public participation of the local community.

[28] In addition to the provisions of s 27 of the Systems Act, which provides for the framework to be adopted for IDPs, s 28 of the Systems Act provides that each municipal council must adopt a process, set out in writing, to guide the planning, drafting and review of its IDP to be effected in accordance with the prescribed process. The Municipality established a Portfolio Committee for Strategic Support Services (the Committee), which is responsible for the planning and drafting of the Municipality's' IDP and the review of its IDP. According to councillor Gerhard Botha, who is a member of the Committee, to the best of his knowledge, no process was adopted, set in writing, in respect of the planning, drafting and adoption of the IDP and/or reviewing of the IDP. The said Mr Botha, who deposed to a confirmatory affidavit appended to the founding affidavit, states that the Committee never even met to deliberate on, consider or recommend the draft IDP submitted to Council on 28 May 2026.

[29] Against the evidence presented by the applicant, the Municipality contends that it has complied with the applicable constitutional and statutory framework governing the review of its IDP, the preparation and adoption of its Annual Budget as well as the public participation process. In the answering affidavit the Municipality explained that it became apparent during consultation with counsel on 13 July 2026 that further documentation would be required to ensure that the answering affidavit accurately and comprehensively addresses the applicant's allegations. The additional documentation exceeded one thousand pages and included Council records, reports, supporting documentation, correspondence and other material relevant to the impugned decisions.

[30] At the hearing of this matter, Mr Grobler SC placed on record that even though the Municipality contemplated the filing of a supplementary answering affidavit prior to the hearing of the matter on 23 July 2026, being ten days after the consultation, same is not available. The application was eventually only heard on 27 July 2026. In the heads of argument filed on behalf of the Municipality, it is argued that substantial rather than strict compliance with the budgeting prescripts governing municipal budgeting is

sufficient in most cases. It is argued that the review court will have to embark upon that process.

[31] The Municipality accepts that compliance with constitutional and statutory obligations relating to municipal planning, budgeting, and public participation is mandatory. According to the Municipality, the applicant's difficulty lies in demonstrating any actual contravention of the legislative framework. The Municipality in its answering affidavit states that it has over the years consistently reviewed its IDP in accordance with s 34 of the Systems Act and that any suggestion by the applicant that no lawful review occurred is inconsistent with both the documentary record and the legislative framework governing municipal planning. However, due to time constraints to file the answering affidavit, all the relevant facts and information were not readily available.

[32] According to the Municipality the record contemplated in rule 53 will demonstrate, *inter alia*, the statutory timetable followed, the consultation process undertaken, public participation, the reports considered, council deliberations, the resolutions adopted and the legislative compliance underpinning each decision. Absent from the answering affidavit is an allegation by the Municipality that the record will demonstrate compliance with s 28(1) of the Systems Act and/or the prescribed process for reviewing the IDP required by s 34 of the Systems Act. The Municipality contends that the Annual Budget was first tabled before the council during March 2026 and the council minutes evidencing such tabling will form part of the rule 53 record.

[33] Section 17(3) of the MFMA, *inter alia*, provides that when an annual budget is tabled in terms of s 16(2) it must be accompanied by any proposed amendments to the IDP, following the annual review of the IDP in terms of s 34 of the Systems Act. Section 21(2) of the MFMA provides that when preparing the budget, the mayor must, *inter alia,* take into account the municipality's IDP, and s 3 of Schedule A to the Municipal Budget and Reporting Regulations provides that the mayor's report, accompanying the annual budget, must provide a summary of the linkages between the annual budget and the IDP. The Executive Mayor did not depose to a confirmatory affidavit regarding the steps taken in compliance of the provisions of ss 17(3), 21(1) and 21(2). It is clear from the common cause facts that the Executive Mayor's report

does not comply with the applicable statutory provisions and the same applies in respect of the report appended to the minutes of the meeting.

[34] In the Public Participation Report (PPR) it is stated that stakeholders raised concerns regarding the affordability of the proposed tariff increases, particularly within the context of the current economic hardship, unemployment and declining household income levels. Concerns were also raised that the tariff increases are not accompanied by visible improvements in service delivery quality, infrastructure reliability or response time by the Municipality. Concerns were raised regarding the adequacy, accessibility and effectiveness of the public participation process. Some submissions indicated that consultation processes were perceived as inadequate, with limited feedback mechanisms and insufficient communication regarding municipal decisions and implementation progress. In the PPR, the Municipality recorded its commitment to strengthening communication, stakeholder engagement and public participation processes to improve transparency, responsiveness and community involvement in municipal governance matters.

[35] The Municipality furthermore acknowledged the need to improve municipal feedback mechanisms to ensure communities receive responses and updates regarding matters raised during public consultations and stakeholder engagements. Organs of local government are not only required to conduct themselves lawfully and in accordance with the principle of legality they are also required to extend the reach of local participatory democratic processes by actively incorporating effective public participation in their decision-making.

[36] From the evidence presented by the applicant, at this stage, the IDP that applies to the budget period, was not approved prior to the preparation and tabling of the Annual Budget. The IDP was not tabled timeously and, contrary to the legislative framework, it was initially tabled for adoption together with the proposed budget for the same financial year. Taking into consideration Mr Botha's version that the Municipality failed to adopt a process in respect of the planning, drafting and adoption of the IDP and/or the reviewing of the IDP and his evidence that the Committee never met to deliberate on, consider or recommend the draft IDP which was submitted to Council, I am convinced that the applicant has satisfied the requirement that it has a *prima facie*

right to apply for the relief in Part A of the notice of motion. P*rima facie*, the IDP and/or the Annual Budget were not adopted lawfully, alternatively that the IDP and/or the Annual Budget are *prima facie* reviewable in terms of section 8(1)*(c)* of the Promotion of Administrative Justice Act 3 of 2000 (PAJA) on the basis that mandatory and material procedures or conditions prescribed by the empowering provisions were not complied with. It is not for the court to dictate to or micro manage an organ of state in the manner that it exercises its core functions. However, it is a recognised principle of our law that the exercise of such power by an organ of state is subject to the constitutional control and in appropriate cases an interim interdict may be granted against it.

[37] I am furthermore alive to the principle that *OUTA*[5] in effect elevates the threshold in cases involving public power from a *prima facie* right to something closer to a clear right, given the separation of powers implications attending judicial restraint of statutory executive functions and that a court should be slow to interfere with the constitutional and statutory functions of a municipality unless it is entirely persuaded that a clear case for relief exists.

[38] On these grounds it is safe to conclude that the applicant has a strong *prima facie* case. The Municipality disputes the applicant's contention that the implementation of the budget and the IDP will render the review proceedings academic. Having regard to the fact that the applicant is no longer seeking a hold on the implementation IDP and the Budget in its entirety, but only pertaining to the implementation of the increased water tariff, which will certainly have an impact on the residents and businesses, such impact cannot be described as anything other than negative which will result in irreparable prejudice if interim relief is refused.

[39] Even though the Municipality asserts that the tariff adjustments were subjected to the requisite regulatory approval processes, the answering affidavit does not explain the disparity between the figure of a 25% increase passed on to the residents and businesses within its area beyond the bare and unsubstantiated assertion that the increase is informed by costs analysis. The Municipality will still be

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[5] National Treasury and Others v Opposition to Urban Tolling Alliance and Others 2012 (6) SA 233 (CC).

able to generate revenue from the residents in respect of water usage as reflected on the municipal accounts. From the Mayor's Report it is evident that the bulk service provider, Vaal Central Waterboard is increasing its tariff with 9,5% for the 2026-2027 financial year. It is furthermore evident that the overall electricity tariff will be increased with 11.3%, whereas Eskom, the bulk electricity supplier is increasing its tariff with 9.01% and further increases for refuse (increasing with 7%), sewerage (increasing with 7%) was budgeted for. One of the assumptions upon which the draft Budget is based is improved debt collection and maximisation of revenue generation of the municipal revenue base.

[40] From the contents of the Public Participation Report appended to the founding affidavit, it is furthermore evident that the Municipality's contention that it had successfully implemented a public participation process in compliance with s 152 of the Constitution and ss 16 and 17 of the Systems Act, it is clear that the Municipality failed to take steps to address the concerns raised by the residents, specifically in respect of the impact of the proposed increased tariffs. Even prior to 28 May the applicant's representatives endeavoured to arrange for a meeting with the Municipality's representatives without success.

[41] The applicant and the residents of the relevant municipal area will suffer irreparable harm and serious inconvenience if a water tariff increase of 25% is implemented without due process being followed. Access to water is a human right and it is certainly possible that a 25% increase in the water tariff will cause serious inconvenience and prejudice to many businesses and households within the Matjhabeng area. For these reasons I find that the balance of convenience favours the applicant.

[42] I furthermore remain convinced that there is no other alternative remedy available to the applicant. If the Municipality is allowed to benefit from what is ostensibly a contrived and invalid process followed in the tabling and adoption of its Annual Budget and the IDP and the interim interdict is not granted, the horse would have bolted. The sensible and pragmatic thing to do will be to maintain the status *quo* pending the determination of the rights of the parties in the review application. It however, bears stressing that the grant of an interim interdict does not, and should not,

effect the review court's decision when making its final decision and should not have an effect on the determination of the rights of the parties in the main application, being Part B.

[43] The applicant has been successful in its application and there is no reason why costs should not follow the result.

[44] In the circumstances the following order will issue:

1 The applicant's non-compliance with the time periods in relation to the service and filing of papers is condoned, and the applicant's application is treated as one of urgency in terms of rule 6(12) of the Uniform Rules of Court.

2 The implementation of the 25% (twenty-five percent) water tariff increase, as contained in the first respondent's Annual Budget for the 2026/2027 financial year adopted on 28 May 2026, is suspended, and the first respondent is hereby interdicted and restrained, from implementing same pending the final determination of Part B of the Notice of Motion.

3 The first respondent is hereby directed to pay the costs of Part A of this application, such costs to include the costs of counsel on scale C.

I VAN RHYN

JUDGE OF THE HIGH COURT

Appearances

For the applicant:	D Prinsloo
Instructed by:	Kruger Venter Attorneys, Bloemfontein
For the respondent:	S Grobler SC with T M Ngubeni
Instructed by:	Mhlokonya Attorneys, Bloemfontein.