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DR JS MOROKA PRESENTATION TO THE PORTFLIO COMMITTEE ON COGTA

1. PURPOSE

1.1 The purpose of this report is to provide a briefing to the Portfolio Committee on Cooperative Governance and Traditional Affairs about the municipality being placed under section 139 (1) (b) of the constitution.

2. BACKGROUND

2.1 Dr J S Moroka Local Municipality is the institution established in terms of section 155 of the constitution of the Republic of South Africa read with chapter 2 section 12 of Local Government Municipal Structures act 117 of 1998.

2.2 The report covers the following:

- The state of the Municipality
- Reasons for section 139 intervention
- The role and functions of the intervention team
- Intervention plan/programme
- Report on the fight between the Executive Mayor and the municipal manager on service delivery and instability in the municipality

3.1 THE STATE OF THE MUNICIPALITY

- **Prior section 139 (1) (b) of the Constitution of the republic of South Africa, 1996(Act no.108 of 1996)**
- The municipality has been functional since its inception compliant with all laws and regulations until February 2019.
- **On the 1st March 2019** the municipality appointed the Municipal Manager, Mr Nelson Thammy Goodwin Kubheka who demonstrated an unacceptable negative attitude towards the senior managers and political leadership as well as noncompliance with statutory provisions of the law. His conduct led to the municipality initiating disciplinary process against him.
- **To date, on the 08th January 2020**, Council resolved to terminate the employment Contract of Mr N.T.G Kubheka based on the provisions of clause 25(2) of the contract of employment concluded between the Municipality and Mr N.T.G Kubheka with immediate effect from the 09th January 2020.However the former Municipal Manager Mr N.T.G Kubheka defied the resolution of the council and has been and/or is at the municipal premises.

- **On the 17th January 2020** section 139 (1) (b) of the Constitution of the republic of South Africa Act, 1996(Act 108 of 1996) was invoked to the Municipality, despite that the Municipal Manager Mr N.T.G Kubheka was adamant to take decision on behalf of the Municipality.
- The presence of the former Municipal Manager Mr N.T.G Kubheka at the Municipality has hampered the investigations to be proceeded with and the administrator Mr B.M Mhlanga is unable to perform his functions enshrined in terms of the sovereign law of the republic.
- **On the 20th January 2020**, the Municipality launched an urgent court application at Mdutjana magistrate court to evict the former municipal manager Mr N.T.G Kubheka from the municipal premises. The application has been heard on the points of law and judgement was reserved until the 18th March 2020.

3. 2 REASONS FOR SECTION 139 INTERVENTION

3.2.1 NON SPENDING ON CONDITIONAL GRANT/ POOR SERVICE DELIVERY

3.2.1.1 MIG (MUNICIPAL INFRASTRUCTURE GRANT)

- It has come to the Executive Mayor's attention that MIG payments are stalled and this will have a severe consequences in terms of our spending pattern. It was clearly presented to the municipal manager that our spending is too low and we are supposed to be on 75% spending to avoid disadvantaging our communities and also failing to" develop as we grow" Dr JS local Municipality.
- At the present moment the MIG was not fully spent for the year 2018/19.We ended at 96% worth of spending wherein 6 million was returned to treasury.

3.2.2.2 INEP (INTEGRATED NATIONAL ELECTRIFICATION PROGRAMME)

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- The memorandum of agreement entered into by Department of Energy and Dr J.S Moroka was from 1 April 2018 to 31 March 2019. The amount of R3, 500,000.00 was transferred in March 2019. It was required by the office of the municipal manager to do urgent procurement process to speed up the service delivery, but in vain. The service provider was appointed in June 2019.

3.2.2.3 NON COMPLIANCE WITH THE LEGISLATIONS WITH PUTS THE MUNICIPALITY INTO A SERIOUS DISREPUTE

3.2.2.3.1 NON COMPLIANCE WITH CONTRACT MANAGEMENT

Services of numerous contracts were terminated without following proper processes/ dispute clauses there by exposing municipality to litigations .A service provider tasked with performance management, ICT contracts, cultural show, records management etc.: have been terminated without following dispute clauses.

3.2.2.4 NON PAYMENT OF OUTSTANDING CREDITORS

Upon resumption of office by the municipal manager Mr N.T.G Kubheka, the municipality had outstanding creditors .The municipal manager fails to pay some outstanding creditors alleging that they are irregular, but no report was tabled to council as this is the prerogative of council. The inconsistency applicable in relation to payment reflect high level of unprofessionalism and it puts the municipality into a serious disrepute.

3.2.2.5 PAYMENT OF SERVICE PROVIDER ON EXPIRED CONTRACT

- An irregular payment was made to a service provider for repairs and maintenance of water networks.

3.2.2.6 GROUNDING OF FLEET

- The Municipal Manager issued a communication grounding all municipal vehicles including yellow fleet around April 2019. This brought a halt the supply of water, traffic operations and roads re-gravelling operations.
- Grounding of water tankers and excavators for graveyard by the Municipal Manager on the reasons known to him which also has a negative impact on service delivery. Members of community have paid services for example of graves for burials but excavators cannot be operated to render such services.
- Currently private water tankers are deployed within the municipal jurisdiction and they are selling water to the community.

3.2.2.7 SUSPENSION OF THE FLEET AND EXECUTIVE MAYOR PETROL CARDS WITHOUT COUNCIL RESOLUTION.

- The Fleet and Executive Mayor's petrol cards were suspended without consultation and no alternative solution was provided. This has caused serious service delivery disruptions including the delivery of water, grading of roads, waste collection and other municipal functions. We are experiencing serious complaints from the community and this has a bearing on the oncoming elections, hence the Mayoral car is grounded and this has halted the official activities of the Executive Mayor. The executive mayor had several engagements with the accounting officer but the action was unilaterally taken and is currently going on, despite the letters written to the municipal manager in this regard.

3.2.2.8 VARIATION OF EXITING CONTRACT WITHOUT FOLLOWING SCM PROCESSES AND WITHOUT COUNCIL RATIFICATION WHICH WILL LEAD TO IRREGULAR EXPENDITURE. (FLEET HORIZON)

- For example the fleet horizons which was initially appointed to provide tracking devices, which irregular expenditure is ongoing and currently at R10 000 000. Any addition or amendment of existing contract must be done so with reasons advanced to municipal council which was not the case. By so doing the council is currently on irregular expenditure to the value of R10 000 000 ⁹

3.2.2.9 NON PAYMENT OF COUNCILLORS TRAVELLING CLAIMS

- Payment of councillors travelling claim on official trips is informed by a resolution of council taken in line with the Determination of upper limits of salaries, allowances and benefits of different member. The resolution was taken by council at its sitting dated 4th January 2019 , resolution R396.01.2019 ND
- ***THAT, Council approve the full implementation of the upper limits notice retrospectively from 01st July 2018.***
- The Municipal Manager issued an sms that implied that the Councillors were claiming illegally on subsistence and travelling allowances and therefore no claims for travelling within the Municipality will be settled. This continues up to today despite the resolution of council. Letters were written to the Municipal Manager, but no implementation. (**See annexure “A”**).

3.2.2.10 NON COMPLIANCE WITH DRAFT AND FINAL IDP AND DRAFT BUDGET

- The Municipal Manager has dismally failed to implement council resolutions on draft and final IDP budget thereby putting municipality into disrepute. The draft IDP was submitted to COGTA by the Acting Executive mayor after numerous reminder for the Municipal manager to submit.

The Municipal Manager refused to submit the IDP documents 2019/20 including the organisational structure of the Municipality after being directed by the office of the Executive Mayor

- On the 12 June 2019 the Office of the Executive Mayor submitted the final IDP & Budget which was adopted by council on the 31 May 2019 to the MEC for Local government, as the Municipal Manager was reluctant to do so.

3.2.2.11 REFUSAL OF THE MUNICIPAL MANAGER TO ATTEND COUCIL SITTING OF THE 29 MARCH 2019. (TABLING OF DRAFT IDP AND BUDGET)

- The Municipal manager refused to attend Council sitting that was scheduled for Friday, 29 March 2019 and defied the Executive Mayor in front of staff members after he was requested to attend the said council sitting.
- On Friday, 29th March 2019 the Council sat and adopted the Draft IDP and Budget. in his absence even though the municipal manager was in the premises of the Municipality.

3.2.2.12 UNAUTHORISED CONVENING OF COUNCIL SITTING BY THE MUNICIPAL MANAGER

- On the 29th March 2019 Municipal manager issued sms to councillors inviting them to a Special Council Sitting on the 31st March 2019 which was not in accordance to standing rules of orders which prohibits council sittings on week-ends or public holidays, and he did that without consultation or requesting the Speaker for such.

.2.2.13 UNAUTHORISED COMMUNICATION WITH GOVERNMENT DEPARTMENTS COGTA AND TREASURY (MPUMALANGA)

Municipal Manager has written to COGTA and treasury raising controversial issues on numerous occasions without necessary authority.

- It is evident that on number of occasions the Municipal Manager wrote letters to COGTA and Treasury department lamenting on the status of the municipal council and its failure to comply with certain forms of legislation. By so doing he placed the council into disrepute and derelicted his duties by not advising the Municipal council that employed him to do so. In terms of Municipal Systems Act on code of conduct it provides that a municipal official may not without the permission of council disclose any information privileged without an approval. It was clear that the Municipal Manager disclosed certain information that the council was not aware of.

3.2.2.14 ILLEGAL POSSESSION OF FIREARM IN COUNCIL BY THE MUNICIPAL MANAGER

- Honourable Councillors and other officials witnessed on the **28th March 2019** that the Municipal Manager entered a Council sitting while in possession of a firearm, which actions is viewed as a serious misconduct In terms of Notice.34213 of Local Government disciplinary regulations for Senior Managers, 2010 at Annexure “A” part II 17.Council cannot afford such precedent of life threatening and viewed as a serious misconduct

3.2.2.15 NON IMPLEMENTATION OF COUNCIL RESOLUTION

3.2.2.15.1 Heritage budget for Amakhosi/Dikgosi

The municipal manager argues that it is not our responsibility to offer such grants to the traditional leaders in Dr JS Moroka Local Municipality and has even gone further to notify one of the traditional house. Expectation was for the municipal manager to follow protocol and allow the office of the Executive Mayor to engage Ubukhosi first and even go to Council and present an Item to rescind the resolution. Ikosi Mahlangu who is also the Deputy Chairperson of the Mpumalanga House of Traditional Leaders. Raised his discomfort and copied the Executive Mayor with the letter sent to his traditional office.

3.2.2.16 NON COMPLIANCE WITH SECTION 56 OF MUNICIPAL SYSTEMS ACT

- Non utilisation of Section 56 managers by the municipal manager is a serious violation of Municipal Systems Act.
- The municipal Manager raised an issue regarding the appointment of senior Managers and expressed an intention to reduce their salaries. Since his appointment the Municipal Manager has not been working with senior Managers. He consults with their Assistant Managers on crucial issues and this is highly unprofessional. Maladministration and an act of insubordination by those Assistant Managers. The following assistant managers are supporting the Municipal manager's maladministration.
 - Admin & Corp: Mr Thobejane, Mr K Aphone
 - CDS : Mr A Mahlangu, Mr M Maseko and Mr W Mawela
 - Finance : Mr T Mabuza, Mr S Morare
 - Technical Services: Mr F Shabangu and Mr J Mahlangu.
- It is further evident that all the managers within the institution are reporting directly to the Municipal Manager and not to senior managers as prescribed by section 56 of Systems Act. A municipal council in consultation with the Municipal Manager appoints a manager directly accountable to the municipal manager. It is evident that the senior managers are rendered as not existing as the Municipal manager is directly issuing instructions to the junior staff without informing senior managers

3.2.2.17 ILLEGAL UTILISATION OF EXECUTIVE MAYOR'S CAR (MERCEDES BENZ)

- The Municipal Manager unilaterally decided to use the Executive Mayor's black Mercedes Benz for few days without even showing any remorse. After talking to him as requested by Troika members he was then instructed to stop the usage, the Municipal Manager used the services of security company personnel utilized by the municipality without council approval and at the expense of the municipality.
- After he was informed of the decision to stop him from doing such, the Municipal Manager, decided to bring some unknown man into the municipal precinct without consent, that man sits in the waiting room of the Municipal Manager with a fire arm from morning till the time he knocks off, which poses a danger to those people visiting the municipality. The man moves around with no limitations.
- Even now the Municipal Manager is being escorted by a security company that is contracted by the Municipality, which is a conflict of interest.
- Upon notice of these tendencies of the municipal manager which presented a posture of a person who shows a clear given mandate of defiance and undermining of his employers, the Executive Mayor engaged the Regional Chairperson. Meetings were scheduled with the municipal manager for the 20th and 21 March 2019 but both failed. We finally sat with him on the 23rd March 2019 where discussions were not palatable. The municipal manager called the Executive Mayor a liar that is too defensive whom he does not take serious.

3.2.2.18 Advertising and appointment of municipal services that are already appointed and in existence

The Municipal Manager advertised for services which service providers are already appointed. The existing service providers may take legal actions against the municipality.

ONGOING INCIDENCES

3.2.2.19 Advertisement of posts beyond the threshold and against the moratorium by the council on the filling of vacancies

- The Municipal Manager advertised posts on a national newspaper that were not budgeted for in the 2019/20 financial year.
- Financial implications for the advertised posts raised the norm to 60% which is beyond the norm range.

3.2.2.20 SUSPENSION OF SEVEN MIDDLE MANAGERS WITHOUT FOLLOWING DUE PROCESS.

- The suspension against the middle managers was solely on the basis that they refused to carry unlawful instructions from the former Municipal Manager Mr N.T.G Kubheka.
- The principle of Audi Alteram partem rule was not observed and further Mr N.T.G Kubheka failed to comply with the Disciplinary procedure collective agreement applicable to all employees and employers falling within the scope of the bargaining council.

3.2.2.21 APPOINTMENT OF EPWP WORKERS

- The Municipal Manager has failed to implement the project which is meant for poverty alleviation and instead opted to advertise the posts. The Municipal Manager did not consult stakeholders in order to identify qualifying participants. The project was supposed to start in the new financial year 2019/20.
- EPWP was advertised by MM without consultation with the office of the Executive Mayor and council this has created problems for the municipality hence, the executive Mayor tried several times to stop him from doing that, by writing and even giving him the implementation protocol document, which he said the document is not Alpha and Omega.
- Furthermore, the process was not fair, thus caused people who were not called in for interviews complaint. The Assistant Manager Acting Aron Mahlangu had picked CV's on people to participate. There was unspent amount of R96000, 00 on the last financial year which was not disclosed to council which has negative impact on the programme.

3.2.3 THE ROLE AND FUNCTIONS OF THE INTERVENTION TEAM.

-Attached hereto are the terms of reference from COGTA as annexure “B”.

3.2.4 INTERVENTION PLAN/PROGRAMME.

-Attached hereto is the intervention programme from COGTA as annexure “B”.

5. INCIDENTS POST THE INVOKING OF SECTION 139 (1)(B)

- On the 17th January 2020 section 139 (1) (b) of the Constitution of the republic of South Africa Act, 1996(Act 108 of 1996) was invoked to the Municipality, despite that the Municipal Manager Mr N.T.G Kubheka was adamant to take decision on behalf of the Municipality. **(See the attached letters to the MEC'S office as annexure "D")**.
- **On the 24th January 2020**, the former Municipal Manager Mr N.T.G Kubheka lodged an urgent court application at Middleburg High Court, to prohibit special council sitting for the introduction of the administration team to conduct forensic investigation in terms of section 106 (1) (b) of the Municipal systems Act, 2000(Act 32 of 2000).However the application has been dismissed by the court.
- **On the 30th January 2020** council held a special council sitting to introduce the administrative team.
- Mr Kubheka was still at municipal premises on Monday 03 February 2020 and appointed about 40 General Workers and paying service providers.

- **INCIDENCESS OF THE 10TH FEBRUARY 2020.**

- The section 56 Managers, Middle Managers, Members of the Mayoral Committees and part of section 79 Committee members went to the Municipality at about 10h30.
- Upon arrival to the institution tragic incident happened , the above Managers and Councillors were physically attacked, intimidated and barred from entering the Municipal premises by the group of community members.
- South African Police service were at the Municipal gate and failed to provide assistance to gain access into the Municipal premises and instead shot one of the section 79 committee members who is severely injured and was immediately rushed to the hospital.
- The South African Police service instructed section 56 Managers, Middle Managers, Members of the Mayoral Committees and part of section 79 Committee members to move away from the Municipal premises and such instruction were acceded to.

3.2.6 REPORT ON THE FIGHT BETWEEN THE EXECUTIVE MAYOR AND THE MUNICIPAL MANAGER ON SERVICE DELIVERY AND INSTABILITY IN THE MUNICIPALITY

1. BACKGROUND

The appointment of the new Municipal Manager, Mr N.T.G. Kubheka was an achievement that was going to take our Municipality to another level of positive performance. He was appointed on the 01 March 2019 and he hit the ground running, full of energy and vigour. We thought he was going to take our municipality to greater heights after having gone through some time without a permanent accounting officer.

FEBRUARY 2019

It must be noted that before he even started working officially as the Municipal Manager, Mr Kubheka threatened the Municipality with legal action evidenced by the sms attached. **(See Annexure “A”)** This was clearly a signal of a person whose character is not humble, respectful and ready to be led. However we allowed him to settle in.

The municipal manager was officially welcomed by all and subsequently introduced to the officials of Dr JS Moroka Local Municipality.

1. Implementation of administrative corrective measures

The Municipal Manager started implementation of administrative corrective measures without any discussions with the Executive Mayor which actions could have resulted in uprising by the community. Hereinafter are a series of events that undermined the authority of the Executive Mayor.

2. INEP project of Siyabuswa Extension D

The electrification project for R3,5 million that was processed through Section 32 after permission was granted to the then acting municipal manager, Ms Rampedi by the Executive Mayor. This was done to avert a situation whereby the Municipality was going to lose the grant if not used by the end of April 2019. The other R3, 5 million was to be initiated in the 2019/20 financial year on or before April 2020. To date the process has stalled and the municipal manager is not prepared to move on swiftly on this matter. Amazingly the Municipal Manager published an advertisement in the Sowetan as a re-advertisement in the same month i.e March 2019. The municipality may lose the grants for both financial years that may lead to political instability that may cost us dearly. **(See Annexure “B”)**

13 March 2019

3. Non-payment of councillors' travel claims

The Municipal Manager issued a sms that implied that the Councillors were claiming illegal subsistence and travelling allowances . This continues up to today and this is contrary to the allowances for councillors as stated in the Upper limits. Currently there are no Councillors that are being paid for their travel anywhere.

15 March 2019

4. Revision of the IDP process plan.

On this date the Municipal Manager issued a letter which presented a reviewed process plan which had no public participation in it despite legislation stating that it was a crucial undertaking to be made by the municipality in its consultative processes.

17 March 2019

5. Heritage budget

The municipal manager argued that it was not our responsibility to offer such grants to the traditional leaders in Dr JS Moroka Local Municipality and has even gone further to notify one of the traditional houses. Expectation was for the municipal manager to follow protocol and allow the office of the Executive Mayor to engage Ubukhosi first and even go to Council and present an Item to rescind resolution. Ikosi Mahlangu who is also the Deputy Chairperson of the Mpumalanga House of Traditional Leaders. Raised his discomfort and copied the Executive Mayor with the letter sent to his traditional office. **(See Annexure “C”).**

20 March 2019

6. The Executive Mayor's car (Mercedes Benz)

Without getting consent from Council or the Executive Mayor, the municipal manager unilaterally decided to use the Executive Mayor's black Mercedes Benz for few days without even showing any remorse. The Executive Mayor had to stop him by confiscating the keys from him.

Upon notice of these tendencies of the municipal manager, who presented a posture of a person who shows a clear given mandate of defiance and undermining of his employers, the Executive Mayor engaged the Regional Chairperson. Meetings were scheduled with the municipal manager for the 20th and 21 March 2019 but both failed. We finally sat with him on the 23rd March 2019 where discussions were not palatable. The municipal manager called me a liar that is too defensive who he does not take serious.

28 March 2019

7. The first council sitting for the municipal manager

Events leading to the council sitting were Mayoral Committee meeting which sat to process items for council. In our first MAYCO it was realised that the municipal manager did not process some items submitted from Section 80 committee meetings. The immediate question was how were these items prepared? The items were referred back for processing through Section 80 meetings again. The second Special MAYCO made inputs which had serious implications for the finalisation and presentation of items to council. However there were glaring omissions of inputs made by MAYCO as the agenda was signed deliberately late by the Municipal manager and this caused great discomfort to the councillors.

After a meeting of TROIKA, the municipal manager was instructed to prepare logistics for a special council sitting for Friday the 29th March 2019 at 14h00. He openly defied the request and instructions of the Executive Mayor which were lawful and reasonable and the exchanges are hereinafter evidenced through sms, whatsapp messages and written documents (**See Annexure “D”**).

8. Meeting with ABSA officials

On the 28th March 2019 a meeting was arranged with ABSA bank officials wherein the municipal manager proceeded to change municipal signatories without informing the Executive Mayor accordingly. It is important for the municipal manager to inform the Executive Mayor on why he wants to make changes to municipal signatories and also as to why he wants to get involved in a process he must monitor and provide oversight on. The VBS saga that we are experiencing dictates that the municipality must be cautious and the municipal manager should avoid being viewed as a referee and a player at the same time. Good governance practices should be followed at all times.

9. Council sitting

The municipal manager refused to attend Council sitting that was scheduled for Friday, 29 March 2019. He then conducted an IDP Strategic plan whilst knowing of Council unfinished business on that matter.

Furthermore he defied the Executive Mayor in front of staff members after he was requested to convene a meeting with Section 56 Managers when it was urgent and necessary to do so under the circumstances that were prevailing.

On Friday, 29th March 2019 the Council sat and adopted the Draft IDP and Budget. in his absence even though the municipal manager was in the premises of the Municipality.

31 March 2019

10. Convening of an illegal Council sitting over the weekend

The municipal manager convened an illegal Council sitting for Sunday, 31 March 2019 without seeking permission from the Speaker, taking note of his limited powers and in violation of the Standing Rules of Council.

In only a month's' time, the municipal manager had shown that he will run the municipality like his private and personal entity, just like the mafia.

11. Municipal Manager's letters to COGTA and Treasury on the budget and related matters

It is evident that the municipal manager wrote to the Provincial Treasury a letter of notification on a possible non-compliance with the MFMA Act 56 of 2003 on the budget and related policies on the 29th March 2019. Instead of advising the Council or the executive mayor, the letter was secretly written and the response thereof from Provincial Treasury, dated the 4th April 2019 was also kept under wraps. **(See Annexure 'E')**

After Council adopted the Draft Budget on the 29th March 2019, the municipal manager was supposed to process the documents, send them to different departments and publish them as per Section 22 of the Local Government, Municipal Finance Management Act 56 of 2003. Up until the given date of the 04th April 2019 the process was not done, hence the Executive Mayor wrote to Provincial Treasury and COGTA on the 08th April 2019 requesting advice on the matter and further supplied proof contrary to what the municipal manager purported to be a non-compliance matter. **(See Annexure 'F')**

Despite several engagements, including a 4 hour meeting between the Executive Mayor and the Municipal Manager, up until today the process has not been honoured and therefore we are about to be taken over by the provincial government for non-compliance on publication of the budget and related policies.

12. Grounding of Fleet

The municipal manager finally issued a communication grounding all municipal vehicles including yellow fleet. This brought to a halt the supply of water, traffic operations and roads re-gravelling operations (**See Annexure “G”**)

13. Suspension of the fleet and executive mayor petrol cards

The Fleet and Executive Mayor's petrol cards were suspended without consultation and no alternative solution was provided. This has caused serious service delivery disruptions including the delivery of water, grading of roads and other municipal functions. We are experiencing serious complaints from the community and this has a bearing on the oncoming elections Hence the Mayoral car is grounded and this has halted the official activities of the Executive Mayor. The executive mayor had several engagements with the accounting officer but the action was unilaterally taken forward in is currently going on, despite the letters written to the municipal manager in this regard.

17 April 2019

14. The 3rd Ordinary Mayoral Committee meeting

The ordinary mayoral committee, which sat on the 17th April 2019 was a terrible failure because of a poorly prepared items by the municipal manager. The items were sent back because they were not deliberated on by Section 80 committees.

This shows the utter disrespect that the municipal manager has for the municipal processes in dealing with reports for the executive mayor. The process by which he was appointed, which means through his assertions, his appointment is also nullified.

19. April 2019

15. Issue of Senior Managers

The municipal manager raised an issue regarding the appointment of senior Managers and expresses an intention to reduce their salaries. Since his appointment the municipal manager has not working together with senior managers. He consults with their Assistant Managers on crucial issues and this is highly unprofessional.

MAY 2019

02 May 2019

16. IDP open day

The Municipal Manager refused to implement the IDP open days scheduled for 23.24 and 28 May 2019. It therefore means the Municipality could not go for public participation as a legislative requirement.

03 May 2019

17. Resolutions for the Council held 29 March 2019

After numerous requests the Municipal manager refused to sign Resolutions adopted on the 29th March 2019 for submission to COGTA. (**See Annexure ‘H’**)

18. MIG payments

It came to Executive Mayor's attention that MIG payments were stalled and this was going to have a severe consequences in terms of our spending pattern. It was clearly presented to the municipal manager that are spending is too low and were are supposed to be on 75% spending. We ended at 96% worth of spending on MIG spending for 2018/19 financial year

12 June 2019

19. Non-submission of Final IDP 2019/20 and related documents

The municipal manager refused to submit the IDP documents 2019/20 including the organisational structure of the Municipality after being directed by the office of the Executive Mayor to do so.

28 June 2019

20. Notice of intention to suspend the Municipal Manager

After all this events, the municipal manager was served with a notice of intention to suspend him.

21. Suspension of the Municipal Manager

The Municipal Manager was put on precautionary suspension after poor performance and alleged acts of misconduct and maladministration. (**see Annexure “I”**)

JULY 2019

25 July 2019

22. Upliftment of precautionary suspension of the Municipal Manager

The precautionary suspension of the Municipal Manager was lifted after a group of hooligans masquerading as community members closed the municipality, disrupted local schools and blockaded roads around Siyabuswa for two weeks.

The REC then resolved to reinstate the Municipal Manager in response to the disruptions caused in Siyabuswa and around the Municipal headquarters.

The resolution taken by Council requires of the Municipal Manager to submit a letter that cancelled the case he instituted against the Municipality at the High Court in Middleburg.³³
The Municipal Manager has not complied with that order

04 August 2019

23. Advertisement of posts

The Municipal Manager advertised posts on a national newspaper that were not budgeted for in the 2019/20 financial and thus raising the norm to 46%

27 August 2019

24. MAYCO and Council sitting for the 29th August 2019

The Municipal Manager agreed with the Executive Mayor via telephonic conversations to have a Mayoral Committee meeting and Council sitting on the 29th August 2019. This was meant to deal with compliance items and Finance issues in order to enable the municipality to submit credible AFS to the Auditor General. However on the next day Wednesday the Municipal Manager informed the administration to cancel both sittings without consultation with the Executive Mayor. However the Executive Mayor convened the MAYCO meeting and forcefully invited the Municipal Manager to attend' reluctantly so.

29 August 2019

25. An engagement between the municipal manager and the Executive Mayor

The Executive Mayor held a one on one meeting with the Municipal Manager for about 2 hours to discuss the wayforward on the working relationship in the municipality. The Municipal Manager was told to mend his working relationship with Senior Managers and the Executive Mayor.

September 2019

11 September 2019

26. EPWP

The municipal manager has failed to implement the project which is meant for poverty alleviation and is run directly from the office of the Executive Mayor. He instead opted to advertise the posts. The Municipal Manager did not consult stakeholders in order to identify qualifying participants. The project was supposed to start in the new financial year 2019/20.

12 September 2019

27. Letters written in relation to the Zondo Commission

The Commission requested the Executive Mayor to furnish information on corruption that may be required by the inquiry on state capture and related matters. As the Executive Mayor was still compiling such information, the municipal manager unilaterally wrote letters to postpone the submission without the knowledge of the Executive Mayor.(**See Annexure “J”**)

12 September 2019

28. Suspension of the Personal Assistant of the Executive Mayor

The Municipal Manager issued a notice of intention to suspend the Personal Assistant to the Executive Mayor on a frivolous allegation of convening of a Mayoral sitting without authorisation.

19 September 2019

29. The Municipal Manager issued a letter putting the Personal Assistant on precautionary suspension for three months. This shows a clear attack on the office of the Executive Mayor and the political head himself.

30 Security guards

Illegal deployment of security guards at the municipal manager's house

The municipal manager has deployed security guards at his own house without consent from council or the Executive Mayor. I instructed the municipal manager should stop using the services of the municipal security and a risk assessment should be done after his case was reported. The item on his security could not serve in council on the 28th March 2019 because the municipal manager did not put it on the agenda. On the 29 March 2019 the item did not serve because a reasonable and

31. Non-implementation of the Assessment report from COGTA

The municipal manager has failed to implement the resolution taken by the meeting held with the then MEC for COGTA, Honourable Speedy Mashilo on the 02 May 2019 to implement the recommendations of the COGTA investigation report and also to present the document to Council for adoption. Instead he has continued to rule against the recommendations and up to today the report has not been presented to Council. **(See Attached report as “Annexure”K”)**

18 October 2019

32. Suspension of the municipal manager

The municipal manger was served with a letter of suspension for the second time pending serious allegations of misconduct. He was requested to vacate the municipal premises but he refused. Instead he kept on mobilising a group of people to camp in front of the municipality in order to stop certain officials and politicians from entering the municipality. **(See Annexure” L”)**

23 October 2020

33. Illegal special Council convened by the municipal manager to remove political office bearers

The municipal manager convened an illegal Council sitting in order to remove the Executive Mayor and the Speaker. **(See Annexure “M”)**

24 October 2019

34. Illegal removal of the Executive Mayor from his position

On this day, the executive Mayor received a letter notifying him of his removal from office as per resolution of a bogus Council sitting held on the 23rd October 2019, signed by the so called acting municipal manager, Mr AS Mahlangu. An application to court was later made which restored the Executive Mayor to his position.

(Annexure “N”)

11 November 2019

35. Termination of employment of Senior Managers by the municipal manager

The municipal manager illegally terminated the employment of three senior managers i.e Ms MR Rampedi, Mr LE Babedi and Mr MF Monkoe without any consultation and proper procedure. By the way officially he was supposed to be on suspension. **(See Annexure “O”)**

DECEMBER 2019

14 December 2019

36. Termination of the employment contract of the municipal manager by the Executive Mayor

The executive Mayor issued a letter of dismissal to the municipal manager informing him of the termination of his employment contract. The municipal manager continued to defy the orders from the Executive Mayor.

JANUARY 2020

08 January 2020

37. Council resolves to endorse the dismissal of the municipal manager

Council resolution was taken to endorse the dismissal of the municipal manager by the Executive Mayor. The municipal manager defied a Council resolution and continued to organise a mob of hooligans to prohibit politicians and certain officials from entering the Municipality. (**See Annexure "P"**)

CONCLUSION

The Executive Manager takes serious offence of the Municipal Manager's arrogance and disrespectful behaviour and I raised this sharply with him and the NGO.

It is my view that the municipal manager is obsessed with the desire to see the Municipality being put under Section 139 (1) C through his actions. Instead of advising me, he is more of a competitor, a know it all, autocratic person who listens to himself. At the present moment, the working relationship is non- existent and with the type of person the municipal manager is, there is no sign of repentance. The relationship is irreparable, not only with his supervisor, but also with Council which he openly defied

RECOMMENDATIONS

1. The municipal manager should face criminal charges for embezzling the funds of the municipality.
2. All contracts and appointments done under his supervision should be reviewed.
3. Disciplinary action should be taken against assistant managers who were complicit in the misdemeanours committed by the municipal manager.