**Motivation for the permanent appointment of Managers directly accountable to**

**Municipal Managers.**

1. **Current Legislative Framework**

Prior to 2011, a Municipality had the option of appointing a manager directly accountable to a municipal manager for a fixed term employment up to a maximum of five years, not exceeding a period ending one year after the local government elections. Pursuant to the Municipal Systems Amendment Act, 2011, the latter provision was deleted. As result hereof, municipalities now have the discretion to either appoint managers directly accountable to municipal managers for a fixed term contract or on a permanent basis. The proposal of introducing permanency for these managers in the current Municipal Systems Amendment Bill is credible for the purposes as outlined within this submission.

1. **Background**

The impetus to appoint Senior Managers in Local Government in fixed-term contract positions may be traced to the era of the democratic transition in the mid-1990s. At that time, Local Government was a highly contested space with municipal areas and authorities in the former dispensations catering for separate racial constituencies by policy and legislative designs. Per the burden of historic devices, the service delivery burden for communities was grossly iniquitous and unjust. The mission to reform the separate and unequal bureaucracies that served these disparate areas was the goal of developmental

Local Government as envisioned in the democratic dispensation. This transformational goal was threatened by a myriad of challenges including geographical and democratic demarcation and attendant Local Government civil service reform.

In such circumstances, *ante* the democratic transition, disparate factors of multiple extant

political boundaries and structures and their attendant civil service structures required amalgamation. This was coupled with the difficult historical realisation of a bureaucracy serving a new political dispensation. In this instance, the postulated standard of a bureaucracy providing a constant civil service permanence thereby securing institutional memory could not reasonably be obtained. This was due to the fact that the bureaucracy existed with the original conceptual instruction of racial division and was therefore inherently requiring change and reform such as new leadership on fixed term contracts to allow for different leadership to be brought from outside the administration, though not exclusively.

In such circumstances, taking the process of Local Government amalgamation as read, the idea of term-delimited contract management for senior managers in Local Government was introduced. This served the purpose in the mid-1990s and early 2000s of ensuring that there was a level of change at the executive leadership level of Local Government administration, assuming that such change served objectively the transformational goals that were distinct from ordinary notions of managerial succession. In such instances, it would appear to be instrumentally and substantively transformative to have Senior Managers in Local Government appointed under a different contractual regime that was different from the entrenched bureaucratic structures of the past insofar as such allowed for a degree of freedom of appointment with the idea of bureaucratic reformation in mind and also so as to allow for the theorised notion of introducing senior managers aligned to putative goals of democratic transformation in the first instance.

Furthermore, such changes, being in the era of the 1990s and early 2000s, were in the time of the doctrine of New Public Management. One of the tenets of this trend in Public Administration thinking was to have Senior Managers emulate private sector motivational

factors and be appointed with fixed terms with attendant performance bonus conditions to motivate exceptional delivery in individual managers.

**2.1 Political Landscape and Fixed Term Contracts**

While there are meretricious factors in service of the above arguments, there have been

undoubted deleterious effects in making Local Government Senior Managers fixed-term

contract employees, realising that this has not necessarily been a strictly determinative

category of employment for all senior managers in local government. Foremost among

these is the fact that fixed-term contract employment is linked in the main to term of office durations of Municipal Councils. What this means is that there is a fundamentally political element to civil service appointments in this context. In such cases, this creates space for a renewal should political conditions change. While this may in theoretical terms be considered to be a virtue of democratic control, though such conclusions are debatable, it introduces a degree of change and volatility with each major political shift, be that party political or factional political. This means that senior managers must be motivated by political satisfaction criteria in addition to professional criteria. While this is not in and of itself a negative element, it can be used by political leaders as a motivating factor to ensure that short term political objectives are met exclusively and not necessarily long-term goals.

While democratic rights of leadership are not discounted, one cannot neglect the fact that each election cycle is five-years in duration and therefore requires results. However, the true virtue of Municipal planning has, even as defined in South African legislation per sector planning, a multi-decade horizon. If, therefore, a civil servant must serve a political short term objective to the exclusion of long-term aims to maximise continued chances of renewed employment, their livelihood motivates service to the former at risk to the latter. This may inevitably be to the detriment of long-term planning where both the democratic leadership and the bureaucracy are defined by short-term cycles of delivery as defined by their professional self-interest. In the case of contract civil servants, the effects of dual short-term objectives are compounded by a dual-rotation of senior leaders with every election cycle, excluding changes that occur within the term of political office. Such dramatic changes by definition threatens the idea of institutional permanence and memory, which is inimical to the timelines of local government projects, which are either perennial in operational terms or have multi-year, if not decadal, intervals of delivery due to the weighted nature of infrastructure demand and planning.

1. **Lessons learnt from the Western Cape**

There have been municipalities in the Province of the Western Cape that have appointed managers directly accountable to municipal managers on a permanent basis which provides empirical and qualitative evidence of the successes of appointing senior managers on a permanent basis. In the same tone, the experiences also reveal the adverse effects of having senior managers on fixed term contracts.

1. **Motivation**

The empirical evidence below substantiates the justification for the support of proposing permanency of managers directly accountable to municipal managers in municipalities:

* 1. **Governance – Administration**
* Security of Tenure
	+ Increased levels of performance registered as incumbents are more secure in their positions and therefore able to plan their career paths and personal growth trajectory.
	+ Fixed term contracts has the tendency of leaving unavoidable vacancies in a senior management team, which results in instability in a municipality.
	+ Due to cumbersome procedures, combined with the minimum requirements as prescribed in prevailing legislation, it has become extremely challenging for municipalities to timeously fill vacant posts, resulting in a prolonged gap in the management team.
	+ The frequent need to appoint new senior managers on a relative short term basis increases the risk for nepotism and interference.
	+ Municipalities find it increasingly difficult to attract suitably qualified professionals to apply for contract positions in the following scarce skills areas: planning, engineering and finance.
	+ Particularly, rural municipalities struggle to attract competent, skilled and experienced senior managers on fixed term contracts. However, where permanent employment is offered candidates are more amenable to apply for senior management positions in rural municipalities.
* Institutional Stability and Memory
	+ Retention of highly experienced managers, who have built up extensive institutional memory, including knowledge and acumen can be done through the introduction of permanent positions.
	+ Extensive time, training, resources and energy is put into a newly appointed incumbent, and therefore when this contract expires, this investment can be seen as wasted and needs to be repeated.
	+ Permanent appointments contribute to the effectiveness and efficiently of the administration and management in the municipality.
	+ Where vacancies arise, there is increased pressure in smaller municipalities for the municipal manager to oversee the vacant portfolio for a prolonged time as recruitment and selection process might take some time.
	+ It often happens that potential good candidates applying for a senior management position withdraws from the recruitment and selection process for reasons of tenure of security, in other words the insecurity of a fixed term contract. Candidates have in the past indicated preference for permanent employment.
* Succession planning
	+ In the current practice of contract appointments, there is no career path opportunities for middle managers wanting to be appointed in senior positions as they do not want to sacrifice their permanent positions for a fixed term contract at a senior level.
	+ Should stability in the senior management team be created through the introduction of permanent positions, this will encourage middle management staff to improve the skills set in order to be eligible for upcoming vacancies.
	+ Middle managers in municipalities are less likely to apply for senior management positions due to the T-scale salary being higher than the upper limits.
	+ Permanent positions may assist smaller municipalities to attract and retain suitably qualified incumbents.
* Building a stronger management team
	+ Equitable distribution of professionally skilled and qualified persons across the public sector.
	+ Greater levels of commitment by permanent appointees to realize the longer term vision of the municipality for the benefit of the community.
	+ A positive organizational culture can be embedded where a management team remains stable and in place for a longer period of time.

**4.2 Governance – Oversight**

* Increased vulnerability for fraud and corruption:
	+ There is a greater likelihood of incumbents appointed in fixed term contracts, and therefore lacking job security to be more tempted to corrupt activities.
	+ In the case of a permanent appointment, there is more confidence by the incumbent to maintain integrity.
* Tendency for higher level of political interference
	+ Incumbents appointed on a fixed term contract, are more likely to be susceptible to intimidation or influence by councilors in an effort to increase their chances of being re-appointed, reappointed and security of tenure.
	+ There is a tendency of prematurely terminating fixed term contracts, or instituting prolonged disciplinary processes against senior managers.

**4.3 Service Delivery**

* Long term infrastructure planning
	+ The planning and the implementation of a longer term infrastructure programme are enhanced by a permanent incumbent’s longer term commitment to the Municipality. If new contract appointees join a municipality, the existing longer term view may be at risk for reprioritization – to the detriment to service delivery and financial stability.
	+ Improved and uninterrupted planning results and leads to a pipeline of implementation-ready projects which will positively impact on capital expenditure performance.
* Understanding the assets portfolio and services environment
	+ Due the complex nature of the portfolio, substantial time is required by the incumbent to become fully acquainted with the environment. The ending of a fixed term contract therefore has a severe and direct impact on service delivery.

**4.4 Financial Governance**

* Financial Sustainability
	+ The foundation for financial Viability is based on Political and Administrative stability.
	+ The Auditor General in its 2018/19 report drew a strong correlation between a lack of leadership and financial mismanagement.
* Accountability
	+ The increased job security offered in a permanent appointment cultivates a culture of accountability, responsibility and consequence management.
	+ Where there is instability in the senior management team, internal controls deteriorate and leads to potential financial irregularities.
* Stability affects financial stability
	+ A change in the management team will shift the vision and strategic objectives of the municipality which results in reprioritization and budget amendments.
	+ According to the Auditor General 2018/19,
		- there is consistent irregular SCM findings where there is administrative instability.
		- the root causes of financial mismanagement can be attributed to vacancies in key senior management positions.
1. **Indicator Analysis between Municipalities**

The tables below provide a scenario using municipal indicators to illustrate the performance achieved and stability attained by municipalities with permanent managers versus those with fixed term contracts.

**5.1 Municipalities with permanent appointments:**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Indicators** | **Swartland** | **Bergriver** | **Mossel Bay** | **Hessequa** | **Cape Agulhas** |
| **Rating per Governance Performance Index** **(Good Governance Africa, 2019)** | **3rd** | **8th** | **1st** | **19th** | **9th** |
| **Audit outcomes** | **Unchanged**2018/19:unqualified with findings2017/18: unqualified with findings2016/17:unqualified with no findings | **Unchanged**2018/19:unqualified with no findings2017/18:unqualified with no findings2016/17: unqualified with no findings | **Unchanged**2018/19:unqualified with findings2017/18: unqualified with findings2016/17:unqualified with no findings | **Unchanged**2018/19:unqualified with no findings2017/18:unqualified with no findings2016/17: unqualified with no findings | **Unchanged**2018/19:unqualified with no findings2017/18:unqualified with no findings2016/17: unqualified with no findings |
| * **Compliance with legislation**
 | Repeat finding | No finding | Repeat finding | No finding | No finding |
| * **Irregular expenditure**
 | 9.1 m | 15.4 m | 21.5 m | 5.9m | 6m |
| **MIG Expenditure (2018/19)** | 100% | 98% | 100% | 95% | 99% |
| **Disciplinary actions against senior managers** | None | None | None | None | None |
| **Turnover in senior management team** | None | Yes (2 positions) | Yes (1 position) | Yes (1 position) | None |
| **Maintaining clean governance:****allegations of fraud, corruption and maladministration** | No allegations received | Allegations received but Municipality has taken prompt action. No investigation required by Provincial Government. | No allegations received | No allegations received | No allegations received |

**5.2 Municipalities with fixed term contract appointments:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Indicators** | **Cederberg** | **Oudtshoorn** | **Beaufort West** |
| **Rating per Governance Performance Index (Good Governance Africa)** | **12th** | **42nd** | **57th** |
| **Audit outcomes** | **Unchanged**2018/19:unqualified with no findings2017/18:unqualified with no findings2016/17: unqualified with no findings | **Improved**2018/19: unqualified with findings2017/18:qualified with findings2016/17: qualified with findings | **Unchanged**2018 /19:qualified with findings2017/18: qualified with findings2016/17:disclaimed with findings |
| * **Compliance with legislation**
 | No finding | Repeat finding | Repeat finding |
| * **Irregular expenditure**
 | 71.4m | 170.1m | 68.5m |
| **MIG Expenditure (2018/19)** | 100% | 100% | 82% |
| **Disciplinary actions against senior managers** | Yes(2 positions) | Yes(1 position) | None |
| **Turnover of senior managers** | Yes(2 positions) | Yes(2 positions) | Yes(2 positions) |
| **Maintaining clean governance: allegations of fraud, corruption and maladministration** | Various allegations received by whistleblowers. | Various allegations received by whistleblowers. | Various allegations received by whistleblowers. |

1. **Data Analysis**

It is evident on an analysis of the above, that municipalities with permanent appointments overall perform better, as objectively determined by the external rating agency. These ratings influence the perceptions by investors, the community and other stakeholders which play an integral role in the municipality.

Based on the comparison, as illustrated in the tables and in the course of the content, one can furthermore denote that there is greater stability in the senior management team of municipalities with permanent appointments in contrast to those which have fixed term managers. This is manifested through a relative higher number of vacancies, as well as, the disciplinary actions instituted against managers in the respective categories.

This instability then results in the systematic breakdown of the ethical environment and internal controls of the municipality. This is evident in high levels of irregular expenditure as reported by the Auditor General in its most recent report, and also the high number of allegations of fraud and corruption in municipalities with managers on fixed term contracts.

1. **Case Study: Mossel Bay Municipality**

Mossel Bay Municipality has been hailed as one of the best performing municipalities in South Africa. This accolade can largely be attributed to effective and efficient leadership, management stability and a strong emphasis on good governance and oversight.

Among its achievements, the following can be highlighted:

* Clean audits: 6 consecutive years of clean audit findings by the Auditor General
* Top performing municipality in 2019, as per Good Governance Africa
* Top performing municipality in 2018 and 2020, as per Ratings Africa
* Town of the year: 2017
* National: Most successful internship programme: 2016 – 2020
* Implementation of the Performance Management System to lowest level in the Organization since 2011
* All 57 middle managers have undergone an accredited management development training programme (through the support of the Department of Local Government)
* Improved payment percentages by debtors: 2013: revenue collection level of 96% and in 2019: revenue collection level of 99,44%
* 2016: Cleanest town of the year – National award
* 2019: Best national Thusong Centre
* Management Stability: Same management team since 2016, with exemption of
1 vacancy
* No allegations of fraud, corruption and maladministration raised.
	1. **Background**

The Mossel Bay Council took a decision taken in 2013 to appoint all its senior managers, reporting directly the municipal manager on a permanent basis. The reasoning at the time was that a number of these individuals had received external offers of employment and in an attempt to retain the skills, knowledge and acumen of the incumbents, permanent positions were offered in line with provisions in prevailing legislation. As a result, all the senior managers remained in the service of Mossel Bay, largely contributing to the success story, that Mossel Bay is today.

* 1. **Cornerstone for the success of the model**

Select the right person, at the right time, for the right job – and ensure ongoing skills development whilst applying performance management principles.

* All potential candidates, must meet the minimum requires set, as per the job brief and prevailing Legislation and Regulations. In addition, the full recruitment and selection process must be followed to identify and select the most appropriate candidate for the vacant position.
* Introduce a responsive performance management system while encouraging personal development and growth.

A cornerstone for the successful implementation of the model for permanency is strong leadership from the Municipal Manager.

* 1. **Advantages, as identified by the Mossel Bay Municipality**

The following advantages have been identified:

* Trust relations are formed.
* Feeling a sense of belonging and improvement of a focused approach.
* Due to permanency, longer term planning is possible.
* Improved audit assurance by consistency in approach
* Increased loyalty towards organizational objectives and goals
* Increased personal stability, and improved interaction with political leadership and other employees
* Irrational, irresponsible and unsustainable decisions will then be blocked by the section 56 as they will not need to be scared for the renewal of their contracts
* Stability in interaction between macro and microstructure communication lines
* Better applications received for vacant positions due to job security and the fact that Manager can actually move to the area of employment.
* Increased accountability.
* Building of better and long term relationships with community and Stakeholders.
1. **Conclusion**

Given these factors, there is a rational argument to consider that Local Government is in fact best served by a lasting senior civil service leadership in the form of permanently appointed Senior Managers that can provide the expertise and knowledge to serve the legitimate democratic demands of the populace with expertise, experience, and memory.