

UPDATED PETITION ON CURRENT STATE OF MASILIONYANA MUNICIPALITY
Winburg new photo's - 13 Sept 2020 (pictures by Michael Landsman)
LANDFILL – WINBURG (inside and outside landfill fence)



WINBURG LANDFILL – 13 SEPT 2020





WINBURG TOWN COMMUNITY HALL





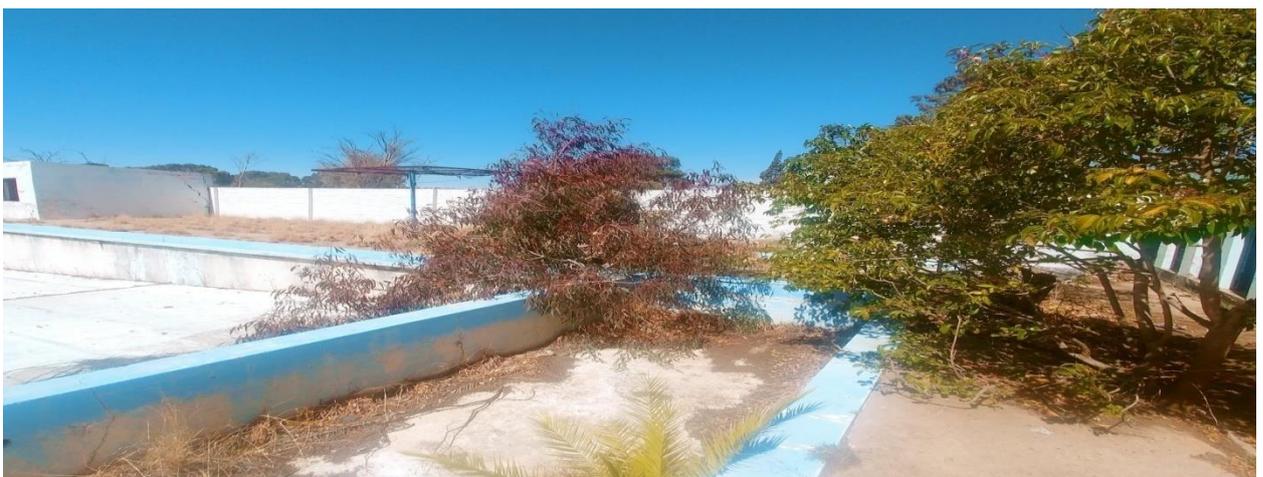
STADIUMS: CR SWART IN CENTRE TOWN



STADIUM MAKELAKETLA



WINBURG SWIMMING POOL





WORKING ON FIRE STADION – WINBURG FIREBRIGADE



WATER WORKS WINBURG







VOORTREKKER MONUMENT IN WINBURG



GRIEVANCES OF THE COMMUNITY – BY LESAWELL

We would like to point out the minutes of the meeting with Hon. Speaker Modisa by the Mayor of mun. For June 2020/21 budget speech to put detail on the grievances of the community.

The Mayor speech HIGH LIGHTED IN YELLOW

THE 2020/21 STATE OF MUNICIPAL ADDRESS BY: MAYOR OF MASILONYANA LOCAL MUNICIPALITY, CLLR. K.S KOALANE AT KAPPS BANYANE COMMUNITY HALL ON THE 30 JUNE 2020

Honourable Speaker, Cllr D.E Modise
Honourable Chief-Whip, Cllr P.E Mabitla
Municipal Manager, Mr. Pule Tsekedi
Honourable Councillors
ANC and Alliance Leaders

Leaders of political parties
Religious leaders and all stakeholders
Esteemed guests and
Fellow residents

Molweni, dumelang, good day and goeie dag!!!

Thank you, Madam Speaker, Honorable Councilors and our fellow residents for this opportunity to address the august Sitting.

The pandemic has caused massive disruption in the lives of our people, bringing the municipal and the country's economy to a standstill and threatening the livelihoods of millions. Lesawell - Many people lost their lives, employment and business and some hardly got an income during this lockdown period therefore Winburg Community under severe strain financially or even to make a living.

The URGENT grievances of community:

1. Service Delivery
 - A) Audit / Assets
 - B) Water and Sanitation
 - C) Landfill / refuge
 - D) Electricity
 - E) Accounts
 - F) Property rates
2. Farming
3. Economic development
4. Tenders
5. Mun. staff
6. Other

GRIVIANCE 1: Assets / Audits

No mun. Can deliver services or even operate unless there is finances and financial soundness. Finances are the biggest key to any business without it everything fails.

VERY IMPORTANT: CHAPTER 7 SECTION 153 OF THE CONSTITUTION

STIPULATE: A municipality **MUST** structure and manage its administration and budgeting and planning process to give **PRIORITY** to the **BASIC NEEDS** of the community and to **PROMOTE the SOCIAL AND ECONOMIC DEVELOPMENT of the community.**

The municipality has a history of financial constraints but is working towards improving the situation hence we currently have a cash-backed cash flow for the current year and the 2 outer years Lesawell – still it shows the audit is outstanding for the mun. And again they fail to comply to end dates and handing in audit.



1 July 2020 media press

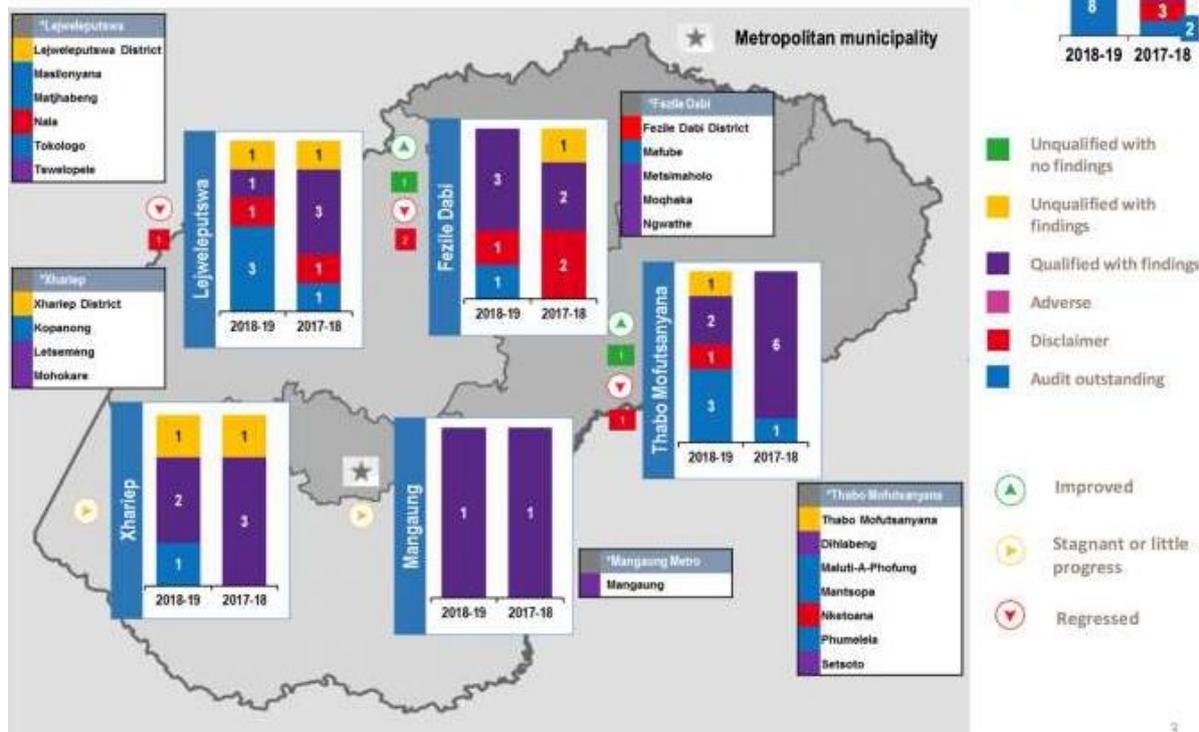
Free State

The audit outcomes in the province continued to regress for the third consecutive year. Ten municipalities did not submit financial statements on time – even more than in prior years, which resulted in eight audits not having been completed by the time of the AG's general report. Additionally, three municipalities received disclaimed opinions. This means that almost half of

the municipalities in the Free State have not yet accounted for the manner in which they used taxpayers' money in 2018-19 or did it so poorly that their Financial statements cannot be trusted. The outcomes were characterised by a lack of basic financial disciplines, an unwillingness to comply with legislation, and a general disregard for internal controls and accountability.

Free State – audit outcomes per district

Deliberate lack of accountability by political and administrative leadership



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The Weekly

SPECIALISTS DEPLOYED TO MUNICIPALITIES

February 17, 2012 | Filed under Popular News, Previous news | Posted by editor

Specialist help enlisted ... Premier Ace Magashule has deployed expert teams to embattled municipalities.



The Free State government is set to deploy teams of specialists to struggling municipalities in the province.

Premier Ace Magashule announced this in his State of the Province Address which was delivered at the Vista Arena in Bloemfontein yesterday.

"In the forthcoming year, we will be deploying teams of suitably qualified and experienced personnel comprising of both the provincial and national sphere of government as well as the private sector to the Mafube, Ngwathe, Tokologo, Nala, Phumelela, Masilonyana, and all Xhariep municipalities to provide sustained support over a long-term period."

Magashule said these municipalities cannot survive on their own due to the financial constraints they are currently encountering. This deployment is expected to last for a year.

He added that despite improvements in some of the municipalities in the province during the past two years, much still needs to be done towards creating viable and sustainable municipal service delivery.

"We believe government should achieve this by ensuring that municipalities have sound financial and administration systems by building a strong revenue base that not only encourages, but also holds the users of municipal services accountable for the payment."

In conjunction with the political leadership within municipal councils and their management teams, the province would work towards the delivery of quality and sustainable municipal services and improve participatory democracy in communities.

"Many challenges remain in ensuring access to basic services for all our people and in strengthening of municipalities. We therefore will make infrastructure repairs to sewerage systems, and water and electricity supplies with municipalities and the stakeholders within the water and electricity industries in Wesselsbron, Parys, Odendaalsrus, Ficksburg, Botshabelo, and the areas of Isithwalandwe, Khayelitsha, and Phase 9 in Mangaung."

Following the address, some of the residents of the embattled municipalities Ngwathe, Nala, Masilonyana, and Mafube voiced their opinions.

Lesawell Questions:

Why did the mun. Never handed in the financials for audit?

Despite that the mun. is under administration why did the team administrators not act to get the audits to the Auditor-General?

The last audit that was done is 2016 and it still had outstanding documentation? **Why are the audits outstanding since 2016?**

How do the mun. gain revenue if there is no financial soundness, service delivery or order in the mun. as there is NO REVENUE COLLECTION at his stage.

Why is there is NO By-laws to gain revue? (No action against illegal dumping, traffic fines,..)

Why did the National Gov. not ensure the mun gets evaluated on performance according to to Chapter 7 Section 155(7) OF THE CONSTITUTION STIPULATE THE NATIONAL GOVERNMENT SUBJECT TO SESTION 44 AND THE PROVINCIAL GOVERNMENT HAVE THE LEGISLATIVE AND EXECUTIVE AUTHORITY TO SEE TO THE EFFECTIVE PERFORMANCE BY MUNICIPALITIES OF THEIR FUNCTION?

Committee Section 18 plays a vital role in the municipality as well why is there NO COMMUNICATION BETWEEN MUN AND THE SECTION 18 COMMITTEE (No zoom, no whatsapp, no emails nothing) so the mun. top management runs the mun. Independent for months? That's for sure not a safe action due to outstanding audits already proof there's a red light?

How many staff on pay roll and how many of them is ghost workers and how many of them get overtime paid (please note work don't get done to gain revenue but still overtime gets charged/ paid out)

REQUIERED ACTION:

The mun. Can't work with finance because they can't even hand in financials for audit.

We insist that a full forensic audit on the above matters for the past years since 2016 as well as individual forensic audits per independent investigation of the mun. and each and everyone need to be accountable and **lawfully charge** where there is a finding of mismanagement.

NO MONEY NO SERVICE DELIVERY – THE COMMUNITY HAVE NO FINANCIAL TRUST IN THE MUN.

Action should be taken against the previous MM and CFO as they left without proof of finances and needs to be held responsible for any findings of mismanagement and needs to be legally charge.

Mun. By-laws need to be in place, published and available to all as well active. **(Chapter 7 Section 162(3) of the Constitution Municipal by-laws MUST BE ACCESSIBLE to the public.**

Committee of Section 18 SHOULD ALWAYS BE PART OF THE MUN. and communication very important

Full payroll to be actiove with no ghost workers and where ghost salary payments were wade that personsons who authorized the payroll need to be charge with concequances and needs to pay the full amount paid to ghost workers in private capacity back to the mun.

GRIVIANCE 2: Water and Sanitation

Regional Bulk Infrastructure Grant (RBIG): an in-kind a capital grant for bulk infrastructure improvements, allocated R153 064 000. This money will be used for Sedibeng – Winburg water pipeline and Winburg refurbishment and rehabilitation of the water treatment works. R33 Million has also been budgeted in the next financial year through Water Infrastructure Service Grant (WSIG) for:

□ Winburg/Makeleketla refurbishment of sewer pump stations & jetting of the Winburg Clear Water Rising Main: R6,215,739.13

Winburg derives its raw water from three dams namely, Rietfontein Dam, Wolvas 1 and Wolvas 2. During dry seasons, particularly in winter the Dams are affected by drought hence a construction of Bulk Water Pipeline from Sedibeng Storage Reservoirs to Winburg was initiated. For 2020/21 financial year, the Municipality has received an allocation of R120 million for water pipeline project from Sedibeng to Winburg.

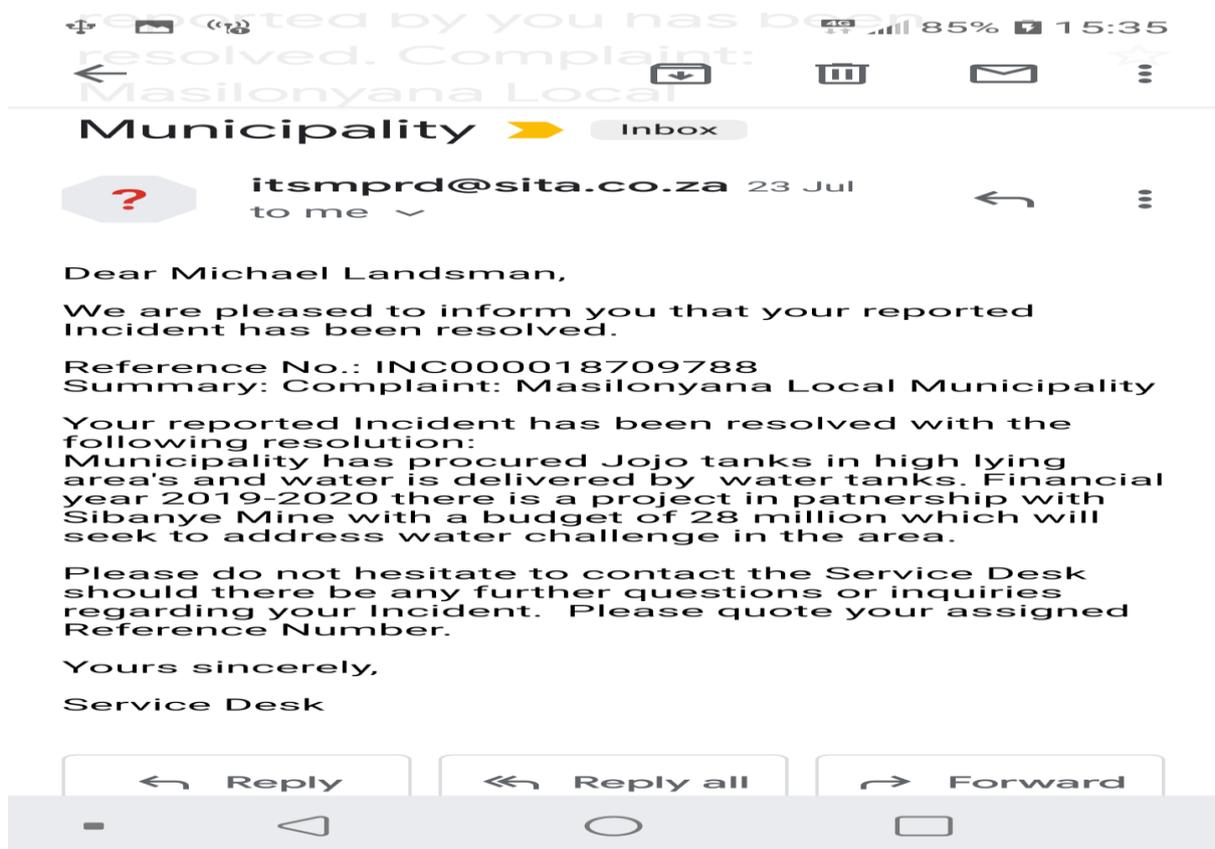
The upgrading of the Winburg Treatment Works has jointly benefited a company from Masilonyana and the project to value of R36 million is still under construction



Upgrading of 14 million rand standing for years like this and only now with construction it SEEMS they going to use it.



We had endless meetings with Minister DWS offices by Mr. Aviva Manqua (his no longer with the dept since last year). Mr. Aviva is the one on the cell phone. Provincial and more dept. attend the meetings. The MM didn't want to attend the meetings but rather sent every time the technical division Mr. Pule. The meetings contain endless documentation and are also available on request.





Above pumps stolen and now they busy to install new ones



The community already paying for service delivery they **don't get**. Mun. still expects the community to ensure clean water for themselves but still they want payments for service charge and usage. We can't carry on like this. Yes they currently busy to upgrade the system but the previous service supplier struggle to get payments from the mun. Then we don't have clean water. Now they us another service provider for chemicals and still the water have a brown oil look and taste not good as water still stays brown and smells like fish.

PLEASE SEE NEXT PAGE


[Read More »](#)


Winburg sewage treatment plant gets a facelift
[Read More »](#)

SEARCH

Masilonyana Local Municipality in the northern Free State has embarked on a project to move raw bulk water via a pipeline from the Sandvet Canal via Theunissen to Brandfort which has struggled with perennial water shortages over the years.

Masilonyana executive mayor Stephen Koalane said the move was aimed at bringing a sustainable solution to the Brandfort water challenges and address socio-economic situation of the community.

He said the department of water and sanitation had allocated nearly R82.8-million for the construction of the bulk raw water pipeline in Brandfort funded under a multi-year project through the regional bulk infrastructure grant.

"Through the municipal infrastructure grant we have spent over R21-million for the upgrading of the water treatment works and pump station," said Koalane.

He said R1.8-million will be spent on the refurbishment of the Brandfort water treatment works through the accelerated community infrastructure projects.

The municipality also got approval for construction of a bulk raw water pipeline to Winburg for R90-million which will be connected to Sedibeng Water.

"We have also spent more than R31-million on installations of household, bulk and zone water meters in all towns," said Koalane.

"Three boreholes to the value of R24-million were installed in Winburg to augment water supply into the Winburg water treatment plant."

The mayor said the municipality was also going to spend a total of R6.1-million from its capital budget to refurbish both the Theunissen and Brandfort waste water treatment works.

He said the projects were expected to address the issue of the ever recurring sewer spillages.

The Winburg waste water treatment works is also being upgraded for R14.5-million.

And in line with the government's plan to eliminate the bucket system as part of restoring people's dignity, the human settlement department appointed Babereki Consulting to implement the rapid bucket eradication programme in Winburg and Theunissen.

In Theunissen, the project includes the installation of house connections to the value of R43.5-million with 55 jobs created.

About 549 toilets are also set to be built at a cost R4.7-million with 25 labourers employed and seven contractors contracted.

The Winburg project, according to the mayor, is valued at R6.2-million and 12 jobs were created.

The municipality, which carrying out several projects in the current financial year, has also appointed a service provider to survey and open a register in Soutpan and Verkeerdevlei for the recently approved township establishments.

The process is expected to take two months.

About 312 residential stands and five public sites were approved for Verkeerdevlei and 98 residential stands were approved in Soutpan.

It is also looking at building recreational facilities, developing new business centres, fencing various municipal amenities such as cemeteries, water treatment plants and recreational facilities.

Among its future projects, Masilonyana wants to construct a one mega-litre storage reservoir in Soutpan/Ikgomotseng for R3.2-million.

It will upgrade water treatment works in Theunissen phase two for R4.8-million.

The municipality also wants to upgrade the old Masilo Stadium at a cost of R7-million from the 15 percent of its municipal infrastructure grant allocation.

It has applied to the department of energy for R80-million for a project to upgrade and refurbish the Masilonyana electricity supply, among other projects.

Why do the mun charge full service charges to the community for non service delivery? And for no clean water?

Why is there no actual human serving as security at the water plants and where there is very expensive equipment?

Why don't the mun. Pay the service providers?

Why do they keep on changing service providers for chemical?

Why do the mun. Violate the community human right and constitutional right Bill of right Section 27(1) (b)?

According to the reports the above new water dam (photo) was build about 3 years ago with grant money of R14.5 million rand but is this dam again charged for even if the current contractor didn't build the dam?

Was the contractors investigated en research to ensure they are the perfect contractors for the improvements because with the court case (see end of petition) it doesn't look like it as they already fail the requirements by the judge many times.

If the budget according to court case for the project was R20 million then why do the mayor say in the budget speech R33 million was allocated? Where are the other funds and what happen to it?

The mun. Used R24 million rand for 3 boreholes (the boreholes was drilled prior to 1994 and was dry but still the mun. Claim to have drilled the boreholes and they only put pumps on but was stolen due to no security of property) what happened to the funds?

The mun. Received a budget for R90 million for pipeline from Sedibeng to Winburg and now again adisional R153 064 000 still nothing in place.

The mun. Received R14.5 million for upgrade of water works and above dam was also build with the money but DWS minister's office was not happy with the way the money was spent and granted a forensic audit on the funds and still it was not done.

Mun. Received 82,2 million from DWS to upgrade the waterworks at Brandfort but still the contractors was not researched or investigated before hand and services fail year after year because the service provider also could not give a full on warrantee/ guarantee on the work. The mun. Received funds for JoJo tanks in all areas but still they fail to provide JoJo's to all areas and most of the JoJo's was provided by Covid funding recently.

Again no income for the mun. Due to lack of service delivery.

REQUIERED ACTION:

Investigation needs to be done on detail for the cost involved in the project and any mismanagement findings needs to be legally charge and responsible to pay it back.

Who approved the current contractors because that person/s needs to be liable for the court charges on own capacity and not from the mun. As the needed protocol was not done according to standards as well legally charge for mismanage the funds.

All funding on water treatment plants, infrastructure and upgrading regarding water systems needs to be investigated as the amounts don't add up.

The Brandfort water works upgrade of R82,2 million needs to be investigated and any mismanagement findings the person/persons needs to be accountable for it and be legally charge.

Jojo's to all areas when effects by water challanges.

GRIVIANCE 3: Landfill

We referred back to the above pictures as well as the court case between Verkeerdevlei and mun. As well as the mun. And Afriforum. Despite millions in court cases the mun. Still ignore the master of the high court rulings. (it shows they are incompetent to run the municipality). They don't listen to judges how will they even listen to the community? Big concern

All the plastic bags go to the water plant / works and mess up the system. All the refuge is a danger to animals and human and the health complications of this landfill. The landfill was built on the doorstep of a heritage site. The mun. Wants business and individuals to pay for refuge removal and still if the mun don't collect we still need to pay for the service. Regular they fail the community and when you deliver the refuge yourself they use a weight bridge and then they want money for it. Now there's no security or officer at the office at the landsite. The community is not prepared for pay more money other than the regular basis fee for refuge. The officers that were suppose to work at the landfill still on the payroll or what happen to the staff? The landfill was discus in the meeting with the Ministers Office of Environmental Affairs by Mr. Buthelezi as well as Ministers office DWS. Still the mun. Ignores ministers as the MM didn't even attend the meetings the Ministers Office requested.



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

Reportable:	YES/NO
Of interest to other Judges:	YES/NO
Circulate to Magistrates:	YES/NO

Case number: 2770/2017

In the matter between:

**MASILONYANA LOCAL MUNICIPALITY
LEJWELEPUTSWA DISTRICT MUNICIPALITY**

1st Applicant
2nd Applicant

and

**BAREND CHRISTIAAN BUURMAN BEZUIDENHOUT
WILLIAM JOSEF GOODYEAR
GERRIT PRETORIUS (JNR)
GERRIT PRETORIUS (SNR)
HENDRIK PETRUS OOSTHUIZEN
PIETER ROSSOUW VAN STADEN
JOHANNES GEORGE ROUX
HENDRIK JOHANNES DE WET SMITH
JOHANNES THEODORUS PIENAAR
JAN CHRISTOFFEL ELS
HENDRIK DANIËL FOURIE STEYN N.O.
ANNA SOPHIA STEYN N.O.**

1st Respondent
2nd Respondent
3rd Respondent
4th Respondent
5th Respondent
6th Respondent
7th Respondent
8th Respondent
9th Respondent
10th Respondent
11th Respondent
12th Respondent

Structures Act 117 of 1996 with main place of business at corner of Theron and Le Roux street, Theunissen, Free State Province”.

The Plea to that paragraph is couched in the following manner:-

“Save to state that the Defendant has no knowledge of the averments made in paragraph 1 and puts the Plaintiff to the proof thereof, the Defendants admits paragraph 2”.

- [4] All matters were consolidated and set down for trial before Jordaan, J. On the 20th October 2015 the parties (as cited) concluded a settlement agreement which was made an Order of Court. **In terms of the agreement, the first applicant accepted liability in the sum of R5 211 000 in favour of the respondents.** Throughout the litigation (from the summonses to the settlement agreement) both parties were assisted by eminent senior counsel and attorneys.
- [5] Between the 11th February to 30th September 2016, the first respondent effected monthly payments totalling R5 400 000 to the attorneys for the respondents. Thereafter the payments stopped. The respondents issued the writ of execution to enforce the court order. The notice of sale was served on the first applicant on the 18th April 2017 with the sale in execution scheduled for the 19th May 2017. On the latter date, Daffue, J granted the first applicant an interdict suspending the sale in execution pending the finalisation of the application for rescission of judgement. The issue of costs (including costs of the auction) were ordered to stand over to be adjudicated on the conclusion of this application.
- [6] Mr Burger, counsel for the applicants, submitted that the parties made a *justus error* with reference to the law. The applicant is a
-

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

APPLICATION NO.: 3065/2012

In the application of:

<u>AFRIFORUM</u>	1 st Applicant
<u>PETRUS JACOBUS KOTZÉ</u>	2 nd Applicant
<u>KOERT NICOLAAS VAN ROOYEN</u>	3 rd Applicant
<u>ANNAKIE VAN NIEKERK</u>	4 th Applicant
and	
<u>MASILONYANA LOCAL MUNISIPALITY</u>	1 st Respondent
<u>ME MAPHOBOLÉ NO.</u>	2 nd Respondent
<u>THE SOUTH AFRICAN HERITAGE RESOURCES AGENCY</u>	3 rd Respondent

AET 10
M.M. M.R.

and

THE HERITAGE FOUNDATION amicus curiae

SETTLEMENT AGREEMENT

1. INTRODUCTION

Whereas the applicants and the second and third respondents and the *amicus curiae* (hereinafter referred to as "the Parties") have agreed to settle the matter under the above case number, now therefore the Parties agree as follows:

2. REHABILITATION PLAN

2.1 The first and second respondents undertake to submit a written rehabilitation plan to the applicants, the Department of Economic Development, Tourism and Environmental Affairs (Free State Province) and the above Honourable Court, within 60 (sixty) days of signing of this settlement agreement, setting out the full particulars of:

2.1.1 the first respondent's sustainable repair, cleaning, maintenance and management of the illegal landfill/ refuse dumping site in the area around the Anglo – Boer War Cemetary, including the gravel road that gives access to the landfill/ refuse dumping site and Anglo Boer War Cemetary, situated in Jac Coetzer Street Extension, Winburg, Freestate Province.

AET 10
M.M. M.R.

2.1.2 The Parties agree that the applicants may approach the above Honourable Court for additional or supplementary relief after receipt of the first respondent's rehabilitation plan.

3. **ILLEGAL MINING**

3.1 The first respondent undertakes to undertake all necessary steps to ensure that all illegal gravel mining/ ground excavations at/ in the vicinity of the Boer War Cemetary, be stopped immediately.

3.2 The first respondent undertakes to take all necessary steps to ensure that no illegal gravel mining/ ground excavations take place at/ in the vicinity of the Boer War Cemetary.

4. **COSTS**

The Parties agree to pay their own costs incurred by the litigation under the above case number, excluding any orders as to costs already made or tendered.

5. **FULL AND FINAL SETTLEMENT**

The Parties agree and acknowledge this settlement agreement constitutes the full and final settlement of the dispute and litigation under the above case number.

6. **ENTIRE AGREEMENT**

This agreement constitutes the entire agreement between the Parties and no representation, terms, conditions or warranties not contained in this agreement shall be binding upon the Parties.

7. **NO VARIATION**

AEP

MD
MM

MP

Millions wasted!!! The court case between mun and Afriforum was R500 thousand rand each and 2 years after the court case the mun. Didn't fence off the landfill so the green scorpions were contacted by Lesawell and they started to build within 48 hours. Then the mun. Just built and did not comply with the heritage act and rules that the landfill may not be build on the doorstep of the Concentration camp.

As seen on the photo's the mun. Still ignores the above court ruling.

Lesawell Questions:

Where did the funds came from to build the landfill fence so fast?

Why do the community or an organisation first need to take the mun. To court before they comply with the standard to provide a service?

The security staff at landfill are they still on payroll and why because they don't work there anymore.

Why is there no up to standard recycle waste management?

Why are there no funds from the mun. For fuel to collect the refuse and maintain the trucks but the community needs to pay for services?

Expected action:

Investigation as to why there is no money for fuel for service delivery. The landfill needs to be moved further away and needs to be fenced and properly controlled and looked after.

Refuge needs to be collected per roster / time table.

Mun. Needs to comply to Section 152.(b) (c) (d) of chapter 7 of the constitution.

The mun. Needs to comply with above court rulings

All accounts needs to be correct ivy and can't be charge for a service not delivered by the mun. Community can't pay full price per month if they only collect once a month instead of 4 times a month. The landfill not up to standard and since beginning 2018 community can't be held liable for refuge removal as the mun. Is not complying with the laws.

GRIVANCE 4: Electricity

The percentage increases of both Eskom and Bulk Water tariffs are beyond the South African Reserve Bank inflation target. Given that these tariff increases are determined by external agencies, the impact that they have on the municipality are largely outside the control of the municipality

The screenshot shows the homepage of Dumelang News, dated Wednesday, 29 March 2017. The main navigation bar includes categories like LOCAL NEWS, WORLD NEWS, ENTERTAINMENT, SPORT, LIFESTYLE, MOTORING, and MULTIMEDIA. A 'Popular Content' sidebar lists several articles, including '6 Ways to Make Getting Up Early Work for You' and 'FREE STATE PROVINCIAL GOVERNMENT JOBS - 12 June 2015'. The main article is titled 'Masilonyana to convert to prepaid electricity', posted on Friday, 17 April 2015 at 11:07 PM. The article text discusses the municipality's migration from conventional meters to prepaid meters, mentioning Mayor Stephen Koalane and other officials. A photo of Mayor Koalane is included. Below the article is an advertisement for prepaid electricity meters, stating that in 2013 the community of Winburg town submitted a petition, and an application for funding was granted by the Department of Energy. The ad also mentions that the project will be implemented in phases and that the move will have a positive benefit to the municipal revenue and mitigate electricity distribution losses. At the bottom of the page, there is a 'Find us on Facebook' link and a 'SHARE' button.

March 2017 the mun. Received 80 million rand from | Dept. Energy for pre-paid meters and up to date nothing was use for the pre-paid meters in Winburg. Petition upon petition was raised to many departments and officials and still nothing. Every time it's just stays as a discussion and nothing more.

The community needs to pay that's correct but we can't keep on paying if there is no service delivery. We need to pay electricity but we get load shedding due to mun. Pay millions into incorrect account instead of Eskom, infrastructure collapse and no maintenance of meters despite complains to the mun. The only assistance we get is "Sorry there's no money"

Despite previous meetings the public participation is not up to date because they don't get minutes of meetings or even allowed to partake in inputs regarding the mun. As the public gets override and treated disrespectful.

LESAWELL QUESTIONS:

March 2017 the mun. Received 80 million for the pre-paid meters in portions why is there still no pre-paid meters installed in Winburg areas? What happen to the funds?

The MM said they already communicated and appointed the service providers for Smart Meters for pre-paid (please note the MM took the decision on himself as the committee did not agree with Smart meters as they know the community wants normal Pre-paid meters). No Smart meters installed since 2017 and before then why do the service provider of Smart Meters already claim funding from the mun?

Mun. Still still have an outstanding R73 million debt with Eskom why don't the mun. Pay Eskom and why do the mun. Not stick to the agreements they make with Eskom?

Why do Eskom cut the electricity to towns then the people don't have water as the mun is violating the human rights and violate the constitutional rights. Once again no service delivery no revenue.

The mun. Paid R3 million rand into wrong account instead of Eskom why is there no feedback in writing or media release about the findings? It needs to be investigated and the person/s who did the transaction needs to be held accountable for lost of revenue and mismanagement. They should also be legally charge. It shows that there's is no financial security in place with systems

There is ZERO SERVICE DELIVERY because ALL VECHILES OF MUN. NOT ROADWORTHY as they don't get maintain and all the vehicles including the trucks, tractors, cherry picker and more don't have valid licenses.

The mun. ONLY HAVE ONE OF THE FOLLOWING TO SERVICE ALL TOWNS:

1 x TLB (we had covid funerals daily and one TLB had to cover 4 towns)

1x Grader (needs to cover 4 towns)

1 x Sherry Picker (can't fix lights as it needs to be used in 4 towns)

Above out of fuel so they can't do the work as the mun. Don't buy or pay the fuel. The vehicles are NOT ROADWOORTHY and are a danger to community and to the drivers themselves.

REQUIERED ACTION:

NORMAL pre-paid meters ASAP installed, buying electricity directly from Eskom. WE DONT WANT SMART METERS (Look at Lydenburg the insurance

companies refuse to insure residential and businesses due to the Smart Pre-paid meters and also that it's not SABS approved).

We request for a detailed audit on the R80 million grant and where findings of mismanagement of funds is found that the person needs to be legally charged. Full on investigation on the R80 million that was provided for pre-paid meters. Eskom to be paid in full and no more violating of the human rights or constitutional right.

We want answers on the R3 million rand paid into incorrect account instead of Eskom's account.

Everyone in the Masilonyana towns needs to pay the same rate for electricity. All streetlights to work and be on at night.

Why is licenses expired of the mun. Vehicles and why don't they get services /maintenance?

Why is there NO FUNDS for fuel what happened to the budget allocated for it? Why is the mun. Neglecting the safety of the staff and the community?

GRIVIANCE 5: Accounts

The municipality's revenue strategy is built around the following key components:
The total allocation for indigent support to all registered and qualifying indigents as per Division of Revenue Act (DORA) allocation will be as follows:

Electricity Basic : R93.66 Advertised: R91.54

Water Basic : R144.86 Advertised: R102.61

Sewerage : R106.90 Advertised: R154.43

Refuse : R89.61 Advertised: R91.54

TOTAL : R 435.03 Total: R504.08 (VAT INCL).

The mun. Increase DORA service charges prior to the set legal dates and in some cases increased it twice in one year. There is NO SERVICE DELIVERY but we need to pay for services. We currently still waiting for accounts to be printed (then there is no cartridge or paper to print accounts or they don't pay the service providers for using the system then they keep changing the service providers) or the latest they move offices as well.

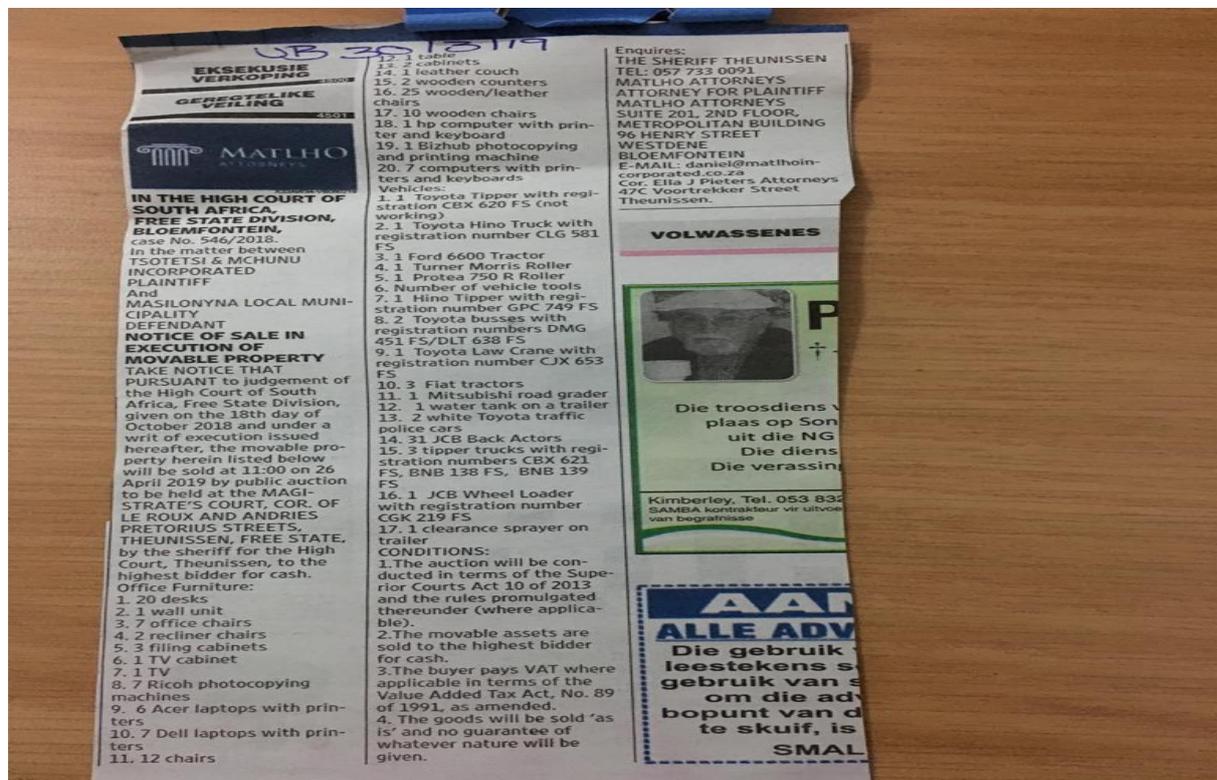
The mun. Fail to provide accounts on date and then community needs to pay interest on account as well they don't charge every household to gain revenue. Also the mun. Send out demand letters for accounts but they don't deliver services and it's more than a battle to get account sorted.

Payments don't get deducted from accounts – payments don't reflect. BIG CONCERN

Mun. Assets get auctioned due to debt and then they can't do the work.

Clearance certificates take endless time to be given to customers some even need to take the mun. To court and to attorneys.

The mun. Staff also feel neglected because the mun. Is not paying the staff medical aids, pension funds and more. Therefore the staff is also doing less because they feel the mun. Are giving those hard times and they don't get everything they work for. It happens on a regular basis. Previous Mun. Manager in Winburg got his house raided due to mun. Not paying the staff and up to date there was no compensation from the mun.



LESAWELL QUESTIONS:

- Why do the community need to pay for services not delivered?
- Why is there no deduction of accounts once payments made to account?
- Why do the mun. Stay in bad debt and assets needs to be claimed on auction?
- Why is there no proper system to do the accounts and on time?
- Why is there no financial soundness to gain revenue?
- Why do areas have to pay more for non service delivery than others?
- Why do the people need to wait endless and take the mun. To court to get clearance certificates on accounts?
- Why is the medical aid and pensions not paid of the staff?
- Why don't the mun. Gain revenue to fill its obligation to staff

REQUIERD ACTION:

- Financial soundness and systems needs to be in place and work proper.
- No more incorrect and unfair billing
- Pre-paid meters and water meters that work (NOT SMART METERS)
- Buying electricity directly from Eskom
- Property evaluation to be done a.s.a.p. according to the current state of mun.
- ALL ACCOUNTS needs to be updates (deductions for overcharge, interest, unfair charges like refuge removal and over charged property taxes)
- All clearance certificates to be given within 3 days from application.
- Water meters and Pre-paid meter must be fix and in working condition and installed.
- Community can't be held reliable to pay for faulty meters due to no service delivery.
- Every customer needs to pay the same DORA rate no matter where they situated as you get big and small properties all over. People in small households gain many times more income than the ones in big houses.
- Charges should be fair and equal.

Mun. Staffs needs to get their full salary packages
Mun. Needs to gain revenue to prevent violation in any way
Mun. Needs to compensate the previous Mun. Manager in Winburg Mr. De Wit for the damages caused by mun. Failing to pay the staff full packages.

GRIVIANCE 6: Property rates

For years did the community complaint about the property rates. We had meetings to get properties re-evaluated and in all fairness but despite meeting upon meeting the mun. Just don't do anything about the complaints. Winburg is a very small town and you get big properties and small properties combinations in all areas but the mun. Evaluate the properties still according to the old standards. We as the community feel that the properties is OVERCHARGE price evaluated and that the mun. Is over charging the community. For example the pharmacy property rates increased within one month almost 3 times the standard price. The community struggle and due to lack of service delivery more and more people selling properties to relocate because the standard of the town goes down and property values is far below mun current evaluation price. There is no service delivery from the mun. And the value of the town and surrounding areas is hardly worth a penny now. Despite meetings in town hall with the MM the mun. Still fail us and nothing gets done. The community refuse to do payments towards property rates due to non service delivery and outrages evaluation amounts.

Valuation roll under constant dispute and nothing gets sorted.

LESAWELL QUESTIONS:

Why is there so many meetings regarding this matter but nothing gets done?
Why do the mun. Overcharge the community on property rates if they mun. Fail the community and the economic in Winburg is finish/ exhausted / depleted.

Why the community do needs to beg for minutes of meetings and we don't get the minutes of meetings.

Why is there such a big delay in re-evaluation of property?

Once again no revenue coming in due to mun. Refuse to co-operate and be fair.

REQUIERED ACTION:

The evaluation of ALL PROPERTIES needs to be re-evaluated according to the current standard and status of the current municipality with NO EXEPTION to area, or any community members. (Take note due to non service delivery the property value really went down due to lack of standards). We don't want to be over charge again and that all accounts should be updated according to the lesser property evaluation roll as well ALL accounts should be updated where overcharge amounts gets deducted from accounts.

GRIVIANCE 7: Farming

We need to institute investigations regarding commonages, illegal land extension and land acquisition of Municipal land by farmers. These are as the result of more people coming to the municipality providing information about these trends.

□ We will be granting lease agreements of not more than 10 years to small scale beef cattle breeders by end of July 2020

Mun. Agriculture land gets used by local people to farm with livestock. The mayor mentioned that contracts will be in place for these farming activities but we have not received or seen anything yet. Livestock walking in town down the streets damage gardens and property and mun. Infrastructure but nothing gets done. 10 years farming contract is not good due to many don't have knowledge of farming and overstock livestock on the land and deplete the field. Nothing wants to grow again. Mun. Said people will pay rental fees and up to date no money was paid for using the land. If the mun. Continue with the empty promises then the community will continue to take camps and does the very same thing...farm without permission or paying rental.

LESAWELL QUESTIONS:

Why are farmers not paying fedges toward the mun.? It's again lost of revenue?

Why is there no pound active for animals in the street damaging property, storm water pipes and more?

Why do the mun. Allow the farmers to over use the land with overstock livestock?

Why is there no co-operation in protecting the animals where many starve of hunger?

Why are there no by-law protecting animals as well?

Why can farmers slaughter animals at any given place?

Why do farmers farm on tourist attraction properties where the mun. Could gain revenue?

REQUIERED ACTION

Every person making use of mun. Land / farms MUST PAY to gain revenue

No over population of life stock on land / farm and should be fenced proper

By-laws protecting animals and site visits by registered animal protection agencies / agriculture agencies / departments.

All land should have water and food and no slaughtering of animals other than at butchery, tradissional weddings / funerals.

All animals MUST be marked / to proof the animals belong to the farmer and there needs to be a register to prevent depletion of land / food / water

No farming on tourist attractions and no illegal farming

GRIVIANCE 8: Economic developments

No mun. Can move forward if there is no revenue incoming

The mun. Neglect the town hall, the sports grounds, the Malaketla Stadium (tender mismanage). All the economic development facilities is not maintain and not usable for the community. ONCE AGAIN NO REVENUE CAN BE GAINED.

LESAWELL QUESTIONS:

Town hall: There is no maintenance of the town hall even if it gets used for mun. Meetings mostly?

Why did a tender run to build the sports stadium for Malaketla and the tender was not complete. What happen to the funds allocated for the sports stadium?

Why was a new stadium 40% built but the most people inclusive of Malaketla use the main sports stadium?

Why is there no security in person to look after the assets?

Why did the mun. Neg. The main show sport stadium that could gain the most revenue?

REQUIERD ACTION

Sport stadium in town needs to be upgraded urgently to gain revenue for the mun. As funerals, church events, athletics, auctions and more could be hosted and provide a very steady revenue to built the community.

The town hall needs urgent maintenance and needs to be fenced off as the mun. Lost big time revenue again and weddings, funerals, concerts and more can gain large revenues.

The main facilities can create a lot of income even non profit organisations wants to use the facilities to assist the community but needs to get special prices as well as the non profit organisations assist the community especially where mun. Fail them.

Job creation and economic development can take place at these facilities once it gets restored and maintained.

GRIVIANCE 9: Tenders / Contractors

The mun. Gets budgets year after year but they fail to work on gain revenue to improve the communities. Tender upon tender and nothing gets done or only a part gets done.

Lesawell Questions:

Why is there no honest professional tender system in place?

Why do the mun. Not investigate and research service providers prior to appointment?

Why do contractors start with a tender and not long after that the contract gets terminated / ended and then a new contractor gets appointed and the same happen to the next contractor? Is family or friends involved?

Why is there no guarantee on service delivered by work done by contractors as every contractor should have guarantee on work done?

Why do the mun. Keep spending budget on contractors but don't get infrastructure systems in place to gain revenue?

Why is there no maintenance regular on mun. Assets to prevent losses and depletion of budgets?

Why do contractors gets approved on own accord and not according to the voting of the entire board of mun.?

Why do the mun. Waste so much of its budget on court cases and tenders?

Current contractor at waterworks in Winburg how was the approval for the contract done and who approved the tender?

REQUIERD ACTION:

Full investigation on tenders since 2016

All contractors should be first investigated and be researched on before appointment as well ensure they have a financial sound record, company should be long in business and proof of work as well guarantee on work delivered.

No family of friends or related members to mun. Staff allowed getting tenders.
The mun. Board inclusive of Sec 18 members should provide input on appointing a contractor.
Tenders should be advertised on the system and all application funds for tenders needs to be recorded on the mun. Website as well how much tender application funds was gain.
Once a contractor gets appointed that company needs to finish the contract to the end.
No contractor should receive all the funds at the beginning of the contract and should be based on progress measures before payments.
Person who did appointed below contractor needs to pay the court case and the person /s needs to be held accountable in person for the cost due to none protocol process.

Below is the court case regarding current contractor at Winburg Water works. It already shows that the contractor undermine the law by not complying with the judge request.

IN THE HIGH COURT OF SOUTH AFRICA,

FREE STATE DIVISION, BLOEMFONTEIN

Reportable: YES/NO Of Interest to other Judges: YES/NO Circulate to Magistrates: YES/NO

Case No: 1063/2019

In the matter between:

PRO CARE CONTRACTING (PTY) LTD	First Applicant
HT PELATONA PROJECTS (PTY) LTD	Second Applicant
And	
THE MUNICIPAL MANAGER OF THE	
MASILONYANA LOCAL MUNICIPALITY	1st Respondent
THE EXECUTIVE MAYOR OF THE	
MASILONYANA LOCAL MUNICIPALITY	2nd Respondent
MASILONYANA LOCAL MUNICIPALITY	3rd Respondent
MATJABENG JV	4th Respondent

JUDGMENT

HEARD ON: 18 MARCH 2019

DELIVERED ON: 20 MARCH 2019

- [1] This matter came before me as an urgent application, which was previously enrolled for hearing on 14 March 2019, and was postponed to 15 March 2019 for hearing. Due to the late filing of the opposing affidavit of the 1st to 3rd respondents, and a power outage, due to electricity load shedding, the matter was postponed to 18 March 2019 for hearing. The 4th respondent also opposed the application and filed his opposing affidavit on 13 March 2019. Mr S Grobler represented the applicants, Mr N Rampai represented the 1st, 2nd, and 3rd respondents and Mr Steenkamp represented the 4th respondent.
- [2] The background, very briefly, is that the two applicants and the 4th respondent, amongst others, were bidders in respect of a tender invitation put out by the 3rd respondent for the upgrading and rehabilitation of the Winburg Water Treatment Plant. It came to the attention of the applicants in December 2018 that they were not successful, and at that stage they were not aware who the successful tenderer was. Their attorney requested reasons and supporting documentation such as minutes and reports relevant to the decision in question, from the 3rd respondent. No response was received from the 3rd respondent, and the 1st and 2nd applicants decided to join forces, as they both believed that they had submitted compliant bids, which should have been successful. This belief was based on the release of the tender results showing that both applicants were shortlisted as successful bidders. They would of, course be subject to the two stage assessment referred to later in this judgment. An application was launched on 11 December 2018, in which an order was sought to compel the 3rd respondent to furnish the required information. Mr Grobler advised that this application was ultimately withdrawn, ostensibly on the advice of the Judge President, who indicated that other parties should be joined.
- [3] The 3rd respondent's failure to furnish the requested information continued, causing the applicants to launch an application, on an urgent basis, to compel the 3rd respondent to furnish the requested information. This application was heard on 14 February 2019, and the court granted the order, setting out specifically the information and documentation to be furnished by the 3rd respondent, who was given 5 days from the date of the order to furnish the information. These five days expired on 21 February 2019. There was still no response from the 3rd respondent. The applicants then launched the current application on 7 March 2019, for hearing on 14 March 2019. The 1st, 2nd and 4th respondents were joined as parties.

- [4] The orders initially sought in this application, in essence, are:
- 4.1 The 1st and 2nd respondents are found to be in contempt of the order granted on 14 February 2019;
- 4.2 A *rule nisi* be issued, returnable on a date determined by the court, in terms of which the 1st and 2nd respondents are to appear personally before this court and provide any evidence they desire to give, or make any representation they wish in respect of how the court should sanction their defiance of the court order;
- 4.3 Pending the finalisation of application by the applicants, to be instituted within 5 days (presumably of this court's order), for urgent review, the respondents are interdicted and restrained from in any way further acting upon the decision of the 1st and/or 2nd respondents to award the contract to the 4th respondent; The 1st and 2nd respondents are ordered to pay the costs of the application personally on the scale as between attorney and client. Should the 3rd or 4th respondents oppose, they are ordered to pay the costs, jointly and severally with the other respondents, the one paying the other to be absolved.
- [5] It is also common cause that the applicants received on 13 March 2019, the documentation from the 1st, 2nd and 3rd respondents that was ordered by the court on 14 February 2019. This consisted of the minutes of the respondents' Bid Evaluation Committee and the Bid Adjudication Committee. This led to discussions between the parties, and the applicants advised this court that they will no longer pursue the prayer for an order of contempt of court against the 1st, 2nd and 3rd defendants. This therefore left two issues for this court to determine, namely the urgency of the application and the interdict against the continuance of work by the 4th respondent, in terms of the contract between it and the other respondents.
- [6] The respondents disputed that the matter was urgent and asserted that any urgency claimed by the applicants was self-created and therefore ought not to be entertained by this court. Mr Steenkamp referred to a number of cases in his Heads of Argument handed up during argument, which deal with the issue of self-created urgency. The essence of these decisions is that the applicant must act swiftly and institute proceedings at the earliest available opportunity. The longer the applicant takes to institute litigation, the more urgency diminishes. Mr Steenkamp argued that the applicants knew in December 2018 that they should have asked for an interim interdict, as they requested the municipality to give an undertaking that implementation of the contract would be suspended. This was not done in the application launched in December 2018, and subsequently abandoned, nor was it prayed for in the application heard on 14 February 2019. They cannot now claim, four months later that the matter is urgent. He also argued that in the special conditions to the tender the municipality indicated that it will not necessarily accept the bid with the highest points. In the interim, the 4th respondent has already established the site and made enormous financial commitments in order to execute the contract. It would suffer severe prejudice and face financial ruin if the interim order suspending the contract were to be granted. Mr Steenkamp also argued that the applicants have not yet launched the review application.
- [7] Mr Rampai argued along similar lines regarding urgency, arguing that the applicants knew in December 2018 that neither of them was awarded the tender. Nothing stopped them from bringing

an application for an interdict at that stage, even if they did not have reasons from the 1st to 3rd respondents as to why the tender was not awarded to them. He alleged that the 3rd respondent complied with the court order of 14 February 2019 by forwarding the documents, via e-mail to the applicants' attorney on 22 February 2019. Mr Rampai addressed a letter to Ms Sonel Pienaar, the applicants' attorney on 12 March 2019 advising her that the documents had already been furnished to her office. A screenshot of an email allegedly forwarded to sonel@peyperattorneys.co.za on 22 February 2019 at 4.59 pm, with attachments reflected, *inter alia*, as "Bid Evaluation Committee report" and "Bid Adjudication Committee report", was attached to the letter. The e-mail was sent by a Neo Rabanye from the e-mail address nrabanye@masilonyana.co.za. An attachment to the 1st respondent's Opposing Affidavit was a letter by Ms Pienaar indicating that she responded the same day (12 March 2019) and advised that the documents were not received by her, and pointed out that the current application would not have been launched if the documents had been received. She also indicated that they would not proceed with prayers 1 and 2 of the Notice of Motion if the documents were received by 13 March 2019. I do believe she meant prayers 2 and 3, as prayer 1 is for condonation for the applicants' non-adherence to the Rules of Court. The documents were then furnished by Mr Rampai to Ms Pienaar on 13 March 2019.

- [8] Mr Grobler, in Reply pointed out that it would have been inadvisable for the applicants to proceed with an application for an interdict prior to receiving the information requested from the municipality. The appellants did not know if there was an irregularity or not. This could only be determined upon receipt of the requested information. Prior to that the appellants would not have been able to make out a prima facie case for the interdict. I agree. He also pointed out that in terms of section 5(1) of the Promotion of Administrative Justice Act 3 of 2000 (PAJA), the applicants had 90 days from the time they became aware of the administrative decision to request reasons for the decision. If there is no reply, then, in terms of section 5(3) of PAJA there is a legal presumption that the decision was taken without good reason. The respondents had not addressed these issues.
- [9] With regard to special conditions of the tender regarding the non-acceptance of the bid with the highest points, he acknowledged that the municipality would have such a discretion but that in terms of the Preferential Procurement Framework Act (5 of 2000), there must be objective criteria for doing so and tenderers must be informed beforehand of such criteria. This was not done by the municipality in this case. The 4th respondent alleged that two water pumps in Winburg had broken down and the residents of Winburg are without water. The pumps need to be replaced urgently and if the contract is suspended then the residents of Winburg would be without potable water. Mr Grobler's answer to this is that the applicants have no objection to the municipality instructing the 4th respondent to repair or replace the water pumps immediately so that water can be supplied to the residents. The rest of the contract can then be suspended pending finalisation of the review application which the applicants intend instituting urgently.
- [10] As indicated, the municipality furnished the requested documents to the applicants only on 13 March 2019. In considering the probabilities of the applicants receiving the documents on 22 February 2019, the actions of the parties must be examined. The applicants have been making concerted efforts since December 2018 to obtain reasons and documentation from the municipality to substantiate its decision to award the tender to another bidder, without success. Their attorney took the trouble to write to the municipality a day or so prior to the expiration of the five days stipulated in the court

order of 14 February 2019 to enquire if the information would be forthcoming, and received no response. It would have made no sense for them to launch this current application, seeking a contempt of court order against the municipality and its functionaries, if they had received the very information they had been repeatedly requesting. The municipality, on the other hand, did not react with the surprise and/or indignation that would have been expected, when the current application was served on it on 7 March 2019. If it did indeed send the documents to the applicants' attorney, it would have been expected of either the 1st or 2nd respondent to immediately call or write to the applicants' attorney and enquire why the application was launched in view of their having furnished the requested documents. Their response five days later is telling.

- [11] In considering the question of urgency, I have looked carefully at the history of the matter and the way the relevant events unfolded. The minutes of the Bid Evaluation Committee (BEC) and Bid Adjudication Committee (BAC) are dated 6 November 2018. These were furnished to the appellants by the municipality only on 13 March 2019, and yet must have been readily available to it in order for it to have awarded the tender to the 4th respondent, presumably some time in November 2018. It is inexplicable why the municipality failed to respond to the applicants' request in December 2018. They certainly have not explained this either in their opposing affidavit or in argument in court. Had they done so, they would have obviated the need for the applicants to have repeatedly approached the court for relief. The fact that the municipality reacted only after facing the threat of an order for contempt of court being granted against it, indicates dilatoriness and an element of wilfulness on its part.
- [12] It certainly does not lie in the mouth of the municipality, or for that matter, the 4th respondent, to criticise the applicants for not seeking an interdict in December 2018. The applicants correctly pointed out that they would have been unable to do so, as they had no information upon which to base their application and make out the required *prima facie* case for such an order. It is one thing knowing the procedure that would follow upon the award of a tender and quite another to seek a court order without knowing the reasons for the decision taken in the matter. This only became apparent to the applicants on 13 March 2019, when the minutes of the BEC and BAC were furnished to them. It seems their suspicions were confirmed that the decision was based on good grounds open to attack.
- [13] The minutes of the BEC reflect that four bidders passed the functionality stage of assessment. The 2nd applicant and 4th respondent were amongst these four. The 1st applicant failed the functionality stage of the assessment. The 4th respondent scored the highest points in this first stage of the two stage assessment. The 2nd applicant scored the highest points in the Preferential Points System, being the 2nd, and more important stage. The recommendation of the BEC to the BAC is that the choice for appointment of a tenderer for the upgrading and rehabilitation of the Winburg Water Treatment Plant be made between the 2nd applicant and the 4th respondent. The BEC further resolved that "on the basis of locality Matjabeng JV be given consideration to boost the Municipality's local economy"
- [14] The BAC agreed with the recommendation of the BEC that Matjabeng JV be appointed for the Upgrading and Rehabilitation of the Winburg Water Treatment Works. This recommendation was preceded by the remark that "The BAC further satisfied themselves with the two stage bidding process followed, that being functionality and preferential point system". It is clear from the BEC

minute that the 2nd applicant scored the highest points in the second stage, and in accordance with procurement procedures, ought to have been awarded to contract, unless there were objective criteria to depart therefrom. From the papers before this court it does not appear that such criteria were included in the tender documents, and I would have to accept the assertion of Mr Grobler that this was not done, so that tenderers were not informed beforehand that these criteria would be considered. Mr Grobler pointed out that the 4th respondent is a Gauteng based entity, and not local to the Free State or Winburg, so it is not clear how it would boost the local economy. The opposing affidavit of the 4th respondent confirms its locality.

[15] Based on these factors, the 2nd applicant, in my view, has established a prima facie right, not only to apply for the review of the decision of the municipality to award the tender to the 4th respondent, but also to interdict the municipality and the 4th respondent from continuing with the implementation of the contract. In my view, the earliest opportunity to have effectively done so would have been at this stage, as it would have been inappropriate for the appellants to have done so at an earlier stage, without the requisite information coming to hand. I must point out that it is evident from the citation of the parties in the two earlier applications that the applicants were not aware of who the successful tenderer was. The 4th respondent was only added as a respondent in the current application. It seems that this information only came to the knowledge of the applicants prior to the launching of the current application. Similarly the applicants were clearly not in a position to institute the review proceedings without the relevant information. The submissions by the respondents that the applicants have not issued review proceedings is without merit and certainly not understood.

[16] The municipality, on the other hand, was clearly aware of the successful tenderer, but also as early as 4 December 2018, became aware that there was a potential challenge to its decision, when it was asked by the applicants to give an undertaking to suspend implementation of the contract until the requested information was furnished to them to enable them to assess whether they will proceed to apply for a review of the decision. In spite of this, the municipality not only completely ignored the legitimate requests of the applicants, but authorised and allowed the 4th respondent to establish the site and incur the expenses that it alleges it has incurred. The court order of 14 February 2019 was just two weeks after the 4th respondent allegedly established the site, at the end of January 2019. It could not have done much by way of implementation of the contract at that stage. The municipality was made aware on 14 February 2019, by the appellants' attorney that the court had granted an order that morning, and what the import of the order was. The municipality made no attempt at that time to halt the implementation of the contract until the issues between it and the appellants were resolved, and prevent unnecessary escalation of expenses. It was expected of the municipality as the custodian of the public purse to take all reasonable steps to guard public funds jealously and utilise such funds judiciously. The conduct of the municipality in the present matter fell far short of its duties and obligations in this regard.

[17] I have taken note of the contents of the 4th respondent's opposing affidavit as well as the arguments in court concerning the prejudice it will suffer, with regard to expenses that it has incurred thus far in furtherance of the contract. The court was told that the total value of the contract is in excess of R20 000 000.00. It is in the public interest to ensure that this matter is resolved in a manner that

occasions the least wasteful expenditure of public money. The 4th respondent has indicated that it has incurred expenses of just over R500 000.00 in initial expenses. It has a liability of approximately R200 000.00 per month in salaries, and alleges that it would face financial ruin if the contract were to be suspended.

[18] Mr Grobler pointed out that the applicants would institute the review application within 5 days of this court's order, and will be able to secure a date in May 2019 for the hearing of this matter. I took the liberty of enquiring about available dates from the Chief Registrar of this Court, and was advised that the matter can be enrolled as early as 15 April 2019. The other dates that could be made available are 6 May 2019 and 20 May 2019. With regard to the financial prejudice that the 4th respondent alleges it would suffer, Mr Grobler pointed out that if the 4th respondent is instructed to repair the two broken water pumps, this will be a cost of R200 00.00, which is recoverable from the municipality. The residents of Winburg will then have access to potable water in the short term. The rest of the contract is due for completion by June 2020.

[19] The resolution of this matter on an urgent basis will minimise the costs involved and would still be the cheaper alternative to allowing the 4th respondent to continue with implementation of the contract. The 4th respondent will also be entitled to recover the cost of the work it has performed to date, and costs of "standing time", so it will not be out of pocket to the extent it claims. The practice in this Division is indeed to treat review applications of this nature on an urgent basis, for the very reason of the costs involved, which ultimately impact on the public whose interests are meant to be served. The hearing of the review application on an expedited basis reinforces my view that this matter is one which falls to be treated as urgent, in order that the negative impact on the interests of the various parties involved, is minimised. I have indicated the dates available for the hearing of the review application. The parties would be well advised to agree on truncated dates for the filing of further process and documents in order that the matter may be heard without undue delay.

[20] With regard to the issue of costs, the applicant seeks an order that the 1st and 2nd respondents pay such costs personally on an attorney and client scale. While I have expressed my view on the conduct of the municipality, no evidence has been placed before the court that the 1st and 2nd respondent conducted themselves in a manner that warrants an order for costs against them personally. They were not cited in the previous application, and I can only infer that they were joined in this application as a result of their respective positions in the running of the affairs of the municipality. It must be noted that by virtue of their positions, they would have a number of subordinate functionaries also involved in the day to day functioning of the municipality, and reporting to them. In my view this does not, without more, justify imputation of personal misconduct or negligence to warrant such a punitive costs order at this stage. This aspect would be more appropriately canvassed at the hearing of the review application.. With regard to the 4th respondent, it would be liable on the basis that costs follow the result.

[21] In the circumstances, the following order is made:

21.1 Condonation is granted to the applicants for non-adherence to the Rules of Court relating to time periods and service, so that the matter could be heard as an urgent application in terms of Uniform Rule 6(1);

- 21.2 The Applicants are directed to institute, within Five (5) day of the date of this order, an application for the review of the decision of the 1st respondent and/or the 2nd respondent and/or the 3rd respondent awarding the contract to the 4th respondent;
- 21.3 Pending the finalisation of the review referred to in 21.2, the respondents are interdicted and restrained from acting in any way, save as provided in 21.4, to further execute upon the contract arising from the decision of the 1st respondent and/or the 2nd respondent and/or the 3rd respondent to award such contract to the 4th respondent.
- 21.4 The 1st respondent and/or the 2nd respondent and/or the 3rd respondent is/are authorised to instruct the 4th respondent to repair or replace the two non-functional water pumps required to provide potable water to the residents of Winburg, for which the third respondent will be liable to compensate the 4th respondent.
- 21.5 The 3rd and 4th respondents are ordered to pay the costs of the application, jointly and severally, the one paying the other to be absolved.

S NAIDOO J

On behalf of Applicants: Adv. S Grobler

Instructed by: Peyper Attorneys

Dynarc House

200 Nelson Mandela Drive

Bloemfontein

(Ref: Ms S Pienaar)

On behalf of 1st, 2nd & 3rd Respondent: Mr N Rampai

Instructed by: Rampai Attorneys

48 Gen Hertzog Street

Dan Pienaar

Bloemfontein

(Ref: Mr Rampai)

On behalf of 4th Respondent: Adv Steenkamp

Instructed by: Kramer Weihmann & Joubert Inc

KWJ Building

24 Barnes Street

Westdene

Bloemfontein

(ref: CV457/emk)

GRIVANCE 11: FIREBRIGADE

Honourable Councillors, The Municipality has been faced with felt fire challenges during winter seasons; and we have had many incidents where houses burned down and several Cars around N1 and R30: In the coming financial year of 2020/21, the Municipality will build fire stations in four towns of our Municipality to ensure that we are ready to extinguish any fire that might erupt at any given time.

The fire brigade is very important as people lost lives due to no firebrigade. No need for a new building as there is a current one that needs maintenance and we really need urgently a fire brigade in Winburg due to the amount of fires we face in the area. Now the fire brigade needs to drive from Virginia if we need one in Winburg by the time it arrives in Winburg the damages is at large and lives has been lost.

REQUIERD ACTION:

URGENTLY NEED A FIRE BRIGADE ACTIVE IN WINBURG AS WE CAN'T LET ANOTHER PERSON DIES or that more damage cause by fires.
Maintenance of fire brigade and the building.

Last but not least.....

Oversights visits will be required from the petition committee please...

JUST A REMINDER REGARDING ABOVE PETITION:

1. There needs to be a full on forensic audit with consequence management.
2. Treasury need to force a recovery plan on the mun. in terms of article 139(5) and 139(7) of the constitution

(5) If a mun, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the relevant provincial executive must –

(a) Impose a recovery plan aimed at securing the municipality's ability to meet its obligations to provide basic services or its commitments, which-

- (i) Is to be prepared in accordance with national legislation: and
- (ii) Binds the municipality in the exercise of its legislative and executive authority, but only to the extent necessary to solve the crisis in its financial affairs; and

(b) Dissolve the Municipal council, if the municipality cannot or does not approve Legislative measures, including a budget or any revenue-raising measures, Necessary to give to the recovery plan, and –

- (i) Appoint an administrator until a newly elected Municipal Council has been declared elected; and
- (ii) Approved a temporary budget or revenue-raising measures or any other measures giving effect to the recovery plan to provide for the continued functioning of the municipality; or

(c) If the municipal council is not dissolved in terms of paragraph (b), assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not otherwise implement the recovery plan.

7. If a provincial executive cannot or does not or does not adequately exercise the powers or perform the functions referred to in subsection (4) or (5), the national executive must intervene in terms of subsection (4) or (5) in the stead of the relevant provincial executive.

Please take in mind that the mun. was already under administration endless times and administrators was already before appointed but fail the system / process.

We thank you for your time and assistance.

We pledge our support to the “Move One million” campaign, “Black lives matters” that has been going on around the world against RACISM. We as the community stand HANDS IN UNITY, ALL EQUAL and ALL HUMAN without discrimination of gender, race or age.

See next page

MINUTES ON WATER COMPLAINT MEETING 13 FEBRUARY 2017.docx



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DISTRICT MUNICIPALITY

MINUTES OF MEETING TAKING PLACE ON 13 FEBRUARY, MUNICIPAL OFFICE OF MASILONYANA LM

PRESENT:

Mr R Phaiphai – Department of Water & Sanitation
Me. R Burger - Department of Water & Sanitation
Mr F Malatji – PMU – Technician, Masilonyana LM
Mr D Kirsten – Manager MHS, Lejweleputswa DM
Mr L Volschenk – Chief EHP – Lejweleputswa DM
Mr C Valdivis - Masilonyana LM
Mr M Martinez - Masilonyana LM

PURPOSE OF THE MEETING:

A formal complaint was received by Mr Michael Landsman on 8 February 2017 by the Environmental Health Department of the Lejweleputswa DM. The complainant, Mr Landsman has also submitted the complaint to the National Department of Health, National Department of Environmental Affairs and Department of Water & Sanitation.

The core of the complaint focus on the interruption of water supply/provisioning and the quality of the water in the Masilonyana LM, town of Winburg.

This meeting was called between the relevant stakeholders as to:

- assess the cause/nature of the complaint,
- identify and implement immediate intervention measures and
- identify long-term intervention strategies,

in order to effectively address the complaint and to reduce/avoid future complaints.

DISCUSSION OF THE MEETING

Discussions confirm that indeed there was an interruption in the water supply on the date aligned with the complaint received.

The interruption in the water supply are caused by the motor of the water pump not being in a working/operational condition due to the pump being flooded. Problems are experienced with a broken/missing non-returnable valve, electric cable theft, electric wiring of the water pump and lack of standby/emergency water pump.

Short-term/ immediate solution actions required

The meeting resolved that the following solutions must be implemented with immediate effect:

1. Substitute the non-returnable valve of the water pump

2. Check and ensure the correct wiring of the water pump

3. Procurement of standby/emergency water pump



MINUTES ON WATER COMPLAINT MEETING 13 FEBRUARY 2017.docx



The meeting resolved that the following solutions must be implemented with immediate effect:

1. Substitute the non-returnable valve of the water pump
2. Check and ensure the correct wiring of the water pump
3. Procurement of standby/emergency water pump
4. Improve management of existing Security services as to secure the water pump cable
5. Interruption in water supply must be communicated immediately to all residents.
6. Points of delivery of temporary water supply with water tanks (JoJo tanks) must be communicated to all residents.
7. Residents must be effectively and thoroughly informed of the correct procedures to follow during water interruptions.

Long-term solution actions required

1. Establishment of Blue-and Green Drop Forum for the Masilonyana LM.
DWS will assist the Masilonyana LM on the invitations to the Forum
The date for the Blue-and Green Drop Forum must be in March 2017
The Forum will be held over two (2) days – the 1st day will be site visits to all the WTP's and WWTP's.
The Infrastructure Section of DWS will present the current and future project for the Masilonyana LM.
2. Masilonyana LM to ensure that Infrastructure Projects for WTP's and WWTP's be included in their IDP and Implementation Plan
3. Masilonyana LM must identify and apply for funding for the upgrading of the ageing infrastructure of the WTP's and WWTP's.
DWS will assist in the application process.

OTHER ISSUED RAISED:

Concerns were raised of the chlorination of the drinking water in Brandfort.
Mr. Malatji assured the meeting that he will ensure that effective chlorination is taking place in Brandfort

Concern were raised on the water quality of the water provision to the business of "Die Melkkan" (at the back of Brandfort Pharmacy), Brandfort. Recent samples of the water distribution pipe, revealed the presence of E.Coli and Coliforms in the water. It is requested from the Environmental Health Department that the Masilonyana LM investigate this concern and to flush the specific distribution pipe.

Mr Malatji assured the meeting that he will investigate the concern and address the flushing of the distribution pipes.

CLOSURE

The Weekly

MAYOR ROASTS CRITICS

February 3, 2012 | Filed under Latest News, Previous news | Posted by editor

Following allegations of nepotism, the Mayor of Masilonyana has emerged guns blazing and accused his detractors of using the media in a quest to halt his anti-corruption crusade.



On the offensive ... The Mayor of Masilonyana Steve Koalane condemns the attempts to discredit his efforts.

Heads are once again rolling at the Masilonyana Local Municipality. Recently, the municipality was rocked by renewed allegations of financial maladministration, insubordination, and misconduct, which left some positions vacant due to suspended officials.

Municipal manager Mohanoé Mpakane will be subject to a disciplinary hearing. This comes after he was suspended for failing to implement a council resolution late last year. The council decided that the Chief Financial Officer (CFO), Itumeleng Tiatsi, be suspended due to missing financial documents, but Mpakane did not follow through their decision.

"The municipal manager as an accounting officer failed to implement the resolution of the council to suspend the CFO. The decision was taken based on the AG report and other matters that I cannot reveal now. This is not based on this financial year report only but has been going on for years.

"There has been disappearance of documents that the CFO could not explain their whereabouts. We expected the municipal manager to take remedial action but nothing happened. On December 9, in consultation with Council we decided to suspend him as his conduct amounted to insubordination," Mayor Steve Koalane told The Weekly.

Tiatsi has since been suspended.

Koalane also came under fire when it was revealed that he was to be reported to the Public Protector.

It was alleged that his company had benefitted from municipal tenders for the installation of ablation systems and that it was on the municipality's list of service providers.

The Weekly

Koalane denied the allegations and said they were "malicious and defamatory". He also stated that these "lies" were exposed by an independent law firm that conducted an investigation following an unfounded newspaper report.

"These untested and unfounded allegations raised in the media using the name of a Chapter 9 institution like the Public Protector to discredit and besmirch my name and that of the municipality are mischievous. I can tell you that this does not start now; it is a well-orchestrated political campaign to portray me as insane.

"I have declared my interests in line with council policy. This declaration included my security company, a building material supplier, shares at the Johannesburg Stock Exchange, including all my properties."

The municipal council has taken a resolution to investigate two of the municipal officials – Steve Makata and Tshepo Khobane for misconduct.

Khobane is a Samwu representative at the municipality.

Speaking on behalf of Samwu, Makata stated that they never spoke about the mayor as a private individual, but in his capacity as the mayor of Masilonyana.

"We will continue raising issues concerning our municipality because whatever they are doing wrong affects workers negatively. We will talk about a person as a mayor or councillor and we are not prepared to apologise for raising this issues."

Makata said the Department of Cooperative Governance agreed with Samwu that there was "rampant corruption" at the municipality and that the KPMG report is outstanding.

"We also want to emphasise as Samwu that we do not say anything without documentation."

Masilonyana falls under the Lejweleputswa District Municipality in the Free State. It was placed under Section 139 of the Constitution in 2009. The intervention was made because the municipality was unable to pay its staff and third parties.

The municipality was unable to collect revenue and the figure for debtors had escalated to R129-million by the end of 2009. Money owed by the municipality to creditors had escalated to R10-million.

There had been financial maladministration, mass vacancies, and ghost workers. The municipality had also been incapable of providing services and breached municipal management systems legislation. However, it was declared fit to handle its finances in September last year.

The municipality also received a disclaimer from the Auditor-General (AG) in his report of 2010/11. Another reason cited for this performance was the unavailability of relevant documents. Based on the AG's report the council demanded answers from the CFO who in turn failed to provide relevant documents.

The Weekly

Joseph Mphuthi from Helbron in Ngwathe welcomed the deployment. "However, for me the core of problems of municipalities is ethical issues, not skills as is usually said. You can bring these professionals, but if systems remain unchanged you still going to experience problems."

Maki Serathi from Villiers in Mafube said: "The proposal sounds inviting as long as they do not bring in dictators in our municipality".

A trade union leader in Welkom, who wished to remain anonymous, added: "Perhaps this is a start of new things to come. As long as it is not another round of jobs for pals in disguise."