

	council for consideration		
Technical	Develop skills to develop infrastructure plans	Department of Local Government (PMU)	Feb 2008
LED	Council to adopt the LED strategy	Municipal Manager and Council	Nov 2007
	LED officials to be capacitated	Department of Local Government LED Unit	Feb 2008

The Support Team will comprise out of officials from the Provincial Government. (Dept of Local Govt and Housing, Dept of Finance and Internal Audit Unit of Premiers Office.) Together with the Senior Management of Mbombela Municipality they will form part of a Steering Committee to oversee and implement the recovery programme.

The steering committee will be chaired by the Head of Department of Local Government and Housing. This committee will meet every fortnight to discuss progress. This committee will submit monthly progress report meetings to the MEC for Local Government and Housing and the MEC for Finance. Expertise within the Provincial Government and SALGA should be identified to form part of the Support Team. Expertise is required to assist in the following fields:

- Human Resource
- Procurement
- Financial management
- Legislative compliance

It is therefore recommended that the support programme be forwarded to the Mbombela Council for approval during the next Council meeting.

# MPUMALANGA PROVINCIAL GOVERNMENT

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## *Department of Local Government and Housing*

Litiko  
Lahulumende  
We Ndzawo Netindlu

Department van  
Plaaslike Regering  
en Behuising

Umyango  
Wombuso we ze  
Khaya neZindlu

### PROGRESS REPORT ON THE SUPPORT PROGRAMME FOR MBOMBELA MUNICIPALITY AS AT 10 DECEMBER 2007

#### Background

The Support Team did not start with the support programme in Mbombela. The reason for the delay is due to the fact that the report following the Section 106 investigation was not official tabled in Council as yet.

The support programme as discussed between the MEC of Local Government and Housing, the MEC of Finance, the Mayor, Deputy Mayor and Speaker was not tabled to the Council for adoption. This became clear during the interaction with Section 57 managers. During the process of compiling this report the managers were not aware of the programme. The Municipal Manager was not available to discuss the report with him.

#### Current status quo

- Section 106 Report was submitted to the NCOP and tabled with the Provincial Executive Council. The Executive Council adopted the report.
- Section 106 report not tabled for adoption by Council.
- The support Programme not tabled for adoption by Council
- The CFO resigned with effect from 31/12/2007.
- The indications from the Auditor-General is that the Municipality will receive a disclaimer due to non availability of documents to formulate an audit opinion.

**Progress made in the Municipality as per support programme.**

Area of Support	Activity	Responsibility	Deadline	Progress
Human Resource	Approval of the Human Resource plan by Council	Human Resource	16 October 2007	Approved by Council on 28 Nov 2007
	Finalise recruitment policy with clear delegations with levels of appointment	Human Resource	31 October 2007	Policy conference was held 15/16 November 2007 Document compiled and be referred to Corporate services Port Folio Committee To be discussed in January 2008
	Advertise all critical vacant funded posts	Human Resource	31 October 2007	To be advertised in 2008. Starting early January with a staggered effect
	Short listing and appointments of vacant posts	Human Resource & Support Team	Dec 2008	To follow advertisements
	Conduct skills audit into the finance and procurement section	Human Resource & Support Team	1 Jan 2008	DBSA will conduct skills audit for entire municipality starting on 14 <sup>th</sup> of January 2008
	Identify training needs as per skills audit and facilitate training	Human Resource & Support Team	1 June 2008	To follow after skills audit
Procurement	Revised Supply Chain Management Policies and procedures.	Dept of Finance	31 Dec 2007	Policy workshop was held on 15 and 16 November 2007. Supply chain Policy was presented and discussed. Issues were raised on delegations on powers and accuracy of database as well as capacity of officials. Workshop arranged for January 2008 to discuss and resolve issues as identified. 4 critical vacant posts identify for urgent filling.

Area of Support	Activity	Responsibility	Deadline	Progress
	Provide Supply Chain Management training to unit	CFO and Dept. of Finance	31 Jan 2008	Bid committees training was conducted for all committees. This training will be done for all new appointees.
Financial Management	Training on completion of bank reconciliations	CFO and Dept. of Finance	30 Nov 2007	Provincial Treasury and Municipality awaiting approval of the support program to assist with on the job training for both officials.
	Training on budget reporting	CFO and Dept. of Finance	30 Nov 2007	System training to be provided by Business Connection (Service Provider) for Financial System before end of January 2008.
	Implementation of proper cash flow management system	CFO and Task Team	31 March 2008	Currently evaluating the system
	Training on cash flow management for all managers	CFO and Task Team	31 March 2008	Awaiting the completion of the evaluation
	Establish a reporting model based on Service Delivery Budget Implementation Plan for reporting to Municipal Manager and Council	Municipal Manager and Task Team	Dec 2007	Report to Council on quarterly basis. 2 <sup>nd</sup> report due Dec 2007 for tabling in January 2008
	Review financial policies	Support Team	Dec 2008	International Financial Advisor is reviewing policies. Fund raising policy in draft form and will be considered in January 2008
	Revenue enhancement programme to be approved by council	Municipal Manager and Council	Nov 2007	Council to approve by February 2008 Currently in consultation process

Area of Support	Activity	Responsibility	Deadline	Progress
Asset Management	Finalise movable asset register	CFO and Dept of Finance	Nov 2007	Service Provider (I-Chain) appointed and finalised movable asset register. Depreciation and updating of current movable assets needs to be done on ongoing basis.
	Finalise immovable asset register	CFO and Dept of Local Government and Housing	August 2008	Asset register completed for water network.
Audit report	Correct all issues as raised by the Auditor-General over the last three financial years	CFO Task Team	Feb 2008	Previous Audit Reports indicated mainly inadequate asset management. Council already appointed service provider to assist with asset management. The other issues raised by the AG will receive attention during December 2007 and January 2008
2010 Coordination	Finalise the 2010 coordination structure. Council to approve the recommended structure for implementation	Municipal Manager and Council	16 Oct 2007	Approved by Council on 28 November 2007
Legislative compliance	Conduct workshop for Councillors on, powers and functions as well as roles and responsibilities as per Local Government Legislation	Dept of Local Government	30 November 2007	No progress due to the non adoption of the support programme by Council.
	Workshop on compliance for all other legislation for Mayoral Committee, Municipal Manager and all Heads of Departments	Dept Local Government and Housing (Legal Section)	April 2008	No progress due to the non adoption of the support programme by Council.
	Adherence to Council Standing Orders and Procedures	Dept Local Government and Housing (Legal Section)	Immediately	No progress due to the non adoption of the support programme by Council.

Area of Support	Activity	Responsibility	Deadline	Progress
Reporting	Workshop on MFMA compliance for Mayoral Committee, Municipal Manager and all Heads of Departments	CFO and Dept of Finance	20 Feb 2008	No progress due to the non adoption of the support programme by Council.
Technical	Develop skills to compile infrastructure investment plans	Department of Local Government (PMU)	Feb 2008	Municipal Infrastructure Grant support team from Department of Local Government and Housing is currently assisting Municipality.
LED	Council to adopt the LED strategy	Municipal Manager and Council	Nov 2007	No progress. Strategy still to be approved
	LED officials to be capacitated	Department of Local Government LED Unit	Feb 2008	Planning Phase.

#### Current Challenges:

- That the Section 106 consolidated report and the municipal support programme (recovery Plan) have not been tabled to Council for adoption.
- There does not seem to be any evidence of interaction or discussion among senior management on the support programme.

#### Remedial Action:

- The immediate adoption of the Section 106 Reports and the adoption of the support programme by the Council.
- The immediate implementation of recommendations contained in the Section 106 Report and the implementation of the support programme.

#### Contacts:

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Mr S Ngubane  
 Chief Director: Local Government  
 Tel: 013 – 766 6605  
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Mr C T Dlamini  
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" C "

**AUDITOR GENERAL OPINION FOR 2004/2005 AND 2005/2006:  
MBOMBELA LOCAL MUNICIPALITY**

---

Kindly receive the following requested information regarding the above subject for your attention.

**2004/2005 Financial Statements**

The Financial Statements was submitted on 31/8/2005

**STATUS OF AUDIT**

The auditing was finalized

**QUALIFIED AUDIT OPINION**

In the auditors opinion, except for the effect on the financial statements of the matters referred to in the next paragraph, the financial statements fairly present, in all material respects, the financial position of Mbombela Local Municipality at 30 June 2005 and the results of its operations and cash flows for the year then ended, in accordance with the accounting practice as disclosed in the basis of reparation and in the manner required by the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as amended (MFMA).

REQUEST FOR AUDITOR GENERAL OPINION FOR 2004/2005 AND 2005/2006: MBOMBELA LOCAL MUNICIPALITY

---

**REASONS FOR THE QUALIFICATION OF 2004/2005 AFS**

**1. Property, plant and equipment**

The fixed asset register was incomplete with regard to the descriptions and locations of assets. The municipality's records did not permit the application of alternative auditing procedures. Consequently, the Auditor General was unable to obtain all the information and explanations he consider necessary to satisfy himself as to the existence, completeness, valuation, ownership, presentation and disclosure of property, plant and equipment and the completeness and accuracy of the depreciation charge in the income statement.

**2. Suspense account**

Include in creditors on the balance sheet are the following accounts:

- Balance reconciliation suspense account amounting to R3,968,744

- Creditors work in progress suspense account amounting to R1,821,153
- Consumers suspense account amounting to R5,587,999

The municipality did not maintain supporting documentation relating to these accounts. The auditor did not obtain all the information and explanations and considered it necessary to be satisfied as to the existence, accuracy, presentation and disclosure of these accounts.

### **3. Inventory**

The auditor did not observe the counting of the physical inventories as year-end, as it was done prior the appointment of the auditor. The municipality's records did not permit the application of alternative auditing procedures. The auditor general was not satisfied with the existence of inventory.

### **4. Bad debt provision expense**

The municipality allocated an increase in the bad debt provision amounting to R 8,715,295 directly to the inappropriate surplus. This resulted in the net surplus for the year being overstated by this amount.

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REQUEST FOR AUDITOR GENERAL OPINION FOR 2004/2005 AND 2005/2006: MBOMBELA  
LOCAL MUNICIPALITY

---

## **2005/2006 FINANCIAL STATEMENTS**

The Financial Statements was submitted on 31/8/2006

### **STATUS OF AUDIT**

The auditing was finalized

### **QUALIFIED AUDIT OPINION**

In the auditors opinion, except for the effect on the financial statements of the matter referred to in the following paragraph, the financial statements fairly present, in all material respects, the financial position of Mbombela Municipality at 30 June 2006 and the results of its operations and cash flows for the year then ended, in accordance with the basis of accounting determined by the National Treasury of South Africa as described in note 1 of the accounting policies, and in the manner required by the Municipal Finance Management Act.



## **REASONS FOR THE QUALIFICATION OF 2005/2006 AFS**

### **1. Fines revenue**

- Source documentation for revenue from traffic fines, amounting to R 8,622 million, could not be submitted for audit purposes, as a result the auditor could not perform procedures to satisfy himself that income received from fines is complete.

### **2. Asset register and asset verifications**

Asset verifications have not been done on an annual basis. The fixed asset register was incomplete with regard to the descriptions and locations of assets and the municipality's records did not permit the application of alternative auditing procedures. Consequently, the Auditor General was unable to obtain all the information and explanations he considers necessary to satisfy himself as to the existence, completeness, valuation, ownership, presentation and disclosure of property, plant and equipment to the value of R 603,090,670 disclosed in the statement of financial positions, note 12 and appendix b and c of the financial statements and the completeness and accuracy of the depreciation charge in the statement of financial performance.

**3. Inadequate registers maintained for rental deposits**

Due to the lack of a framework for the performance of reconciliations registers for rental deposits received were kept, but do not indicate refunds of deposits made or the balance outstanding for the rentals deposit balances of R 2,914,381.33 appearing in the general ledger at year end. Reconciliations could not be performed to confirm these balances for valuation and existence.

**4. Inadequate journal descriptions and missing journal vouchers**

Journals to the value of R 6,914,187 were authorized and processed without adequate descriptions and supporting documentation. This is a result of the financial accounting and internal control systems that have not been adequately developed in this area. The Auditor General was therefore unable to satisfy himself as to the validity and accuracy of these journals.

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## Department of Local Government and Housing Office of the MEC

Litiko	Department van	UmNyango
LaHulumende	Plaaslike Regering	Wombuso we
We Ndzawo	en	Khaya ne
Netindlu	Behuising	Zezindlu

Enquiries: Mr M. J. Simelane  
Our Ref: LGH 43/2007

The Executive Mayor  
Mbombela Local Municipality  
PO BOX 45  
NELSPRUIT  
1200

**MR J NSIBANDE**

### NOTICE OF INTENTION TO ISSUE A DIRECTIVE TO THE MUNICIPAL COUNCIL IN TERMS OF SECTION 139 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO 108 OF 1996) AS AMENDED.

Kindly take notice that the Provincial Executive of the Mpumalanga Province has resolved at its meeting 12<sup>th</sup> December 2007 its intention to invoke section 139 of the Constitution of the Republic of South Africa 1996 (Act No. 108 of 1996), as amended, and intervene at Mbombela Local Municipality. The Executive Council further mandated me to proceed to deal with this matter on its behalf.

In terms of section 139(1) of the Constitution, a Provincial Executive may intervene in a Municipality that cannot or does not fulfil its executive obligation, by taking any appropriate steps necessary to ensure fulfilment of that obligation. Furthermore, subsection 1(a) stipulates that the Provincial Executive may issue a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations.

The Mpumalanga Department of Local Government and Housing conducted an investigation into the affairs of the Mbombela Local Municipality and it was discovered that:

**CONT...//NOTICE OF INTENTION TO ISSUE A DIRECTIVE TO THE MUNICIPAL COUNCIL IN TERM OF SECTION 139 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996(ACT N 108 OF 1996) AS AMENDED.**

**a) KPA 1:-Municipal Transformation and Institutional Development.**

The Municipality is currently functioning with a high number of critical vacant funded post. Notwithstanding the fact that all section 57 managers have been appointed, regrettably all male most managers' posts reporting to the section 57 remain vacant. Interference in the recruitment process by some Councillors thereby contravening section 66 of Municipal System Act, 2000(A No. 32 of 2000)("the Act") read with Item 11 as contained in Schedule 1 of the Act has been discovered.

**b) KPA 2: Municipal-Infrastructure and Service Delivery.**

The Municipality has overcommitted itself in view of the fact that its available budget is R87 million for the construction of the 2010 stadium and the contractor has been appointed at R920 931.13 thus contravening Municipal Finance Management Act,2003(Act No.56 of 2003)("MFMA").An amount of R2.986 million had been irregularly paid to Lefika Emerging Equity (Pty)Ltd thus contravening section 62(1) of the MFMA.A recommendation in terms of section 10 report of the Act that a formal Forensic Audit be conducted is yet to be implemented by Council. The Municipality has spent 52% of its MIG allocation instead of 75% by the third quarter.

**c) KPA 3: Local Economic Development**

Only one official is responsible for LED in the Municipality and several proposals on the structure were submitted to Council for approval without any success. The Municipality is therefore not in full compliance to promote social and economic development as contemplated in section 152(1) (c) of the Constitution.

**d) KPA 4: Municipal financial viability and Management**

The consumer debtors have increased from 203 million to R276 million in six months. The Municipality does not have sufficient financial management systems in place. This indicates a contravention of section 96 of the Act. The Municipality is operating under a high number of Journal entries (R65 million per month).

**e) KPA 4: Good Governance**

The Municipality received qualified Audit opinion for both 2004/05 and 2005/06 financial years. Early indicators are that the Municipality will receive a disclaimer for the financial year 2006/07.The

**CONT...//NOTICE OF INTENTION TO ISSUE A DIRECTIVE TO THE MUNICIPAL COUNCIL IN TERM OF SECTION 139 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996(ACT N 108 OF 1996) AS AMENDED.**

tendered his resignation with effect from 31 December 2007 adding strain to the financial management of the Municipality. Instances of interference on the roles and responsibilities of office bearers such as Executive Mayors, Deputy Executive Mayor, the Speaker and Chief Whip have been discovered. Interference with administration, defiance of Council resolutions, instances where Council passes irregular and illegitimate resolutions and confusion of the constitution and the sitting of section 79 and 80 of Municipal Structures Act, 1998(Act No. 117 of 1998) were reported. Thus a gross violation of the Code of Conduct for Councillors as stipulated in the Act has been committed. The section 106 consolidated reports and the municipal support programme (recovery plan) have not been tabled to Council for adoption.

In view of the above I hereby call upon the Municipal Council to make written representations and show cause why section 139 (1) (b) of the Constitution cannot be invoked. Such written representations must reach my office within 30 days from date of receipt of this notice, and not later than the 15<sup>th</sup> of January 2008.

Kind regards



**MS. K.C. MASHEGO-DLAMINI**  
**MEC: LOCAL GOVERNMENT AND HOUSING**

14/12/2007  
DATE

# MPUMALANGA PROVINCIAL GOVERNMENT

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## Department of Local Government and Housing Office of the MEC

Litiko	Department van	UmNyango
LaHulumende	Plaaslike Regering	Wombuso we
We Ndzawo	en	Khaya ne
Netindlu	Behusing	ZeZindlu

Enquiries: Mr M. Simelane  
Our Ref: LGH 43/2007

The Chairperson  
National Council of Provinces  
P.O. Box 15  
CAPE TOWN  
8000

Dear Sir

### NOTICE TO ISSUE A DIRECTIVE TO MUNICIPAL COUNCIL IN TERMS OF SECTION 139 (1)(a) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO 108 OF 1996) AS AMENDED.

Kindly take notice that the Provincial Executive Council of the Mpumalanga Province has resolved at its meeting held on the 12<sup>th</sup> December 2007 of its intention to invoke section 139 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), as amended, and intervene at Mbombela Local Municipality. The Provincial Executive Council further mandated me to proceed to deal with this matter on its behalf.

In terms of section 139(1) of the Constitution, a Provincial Executive Council may intervene in a Municipality that cannot or does not fulfil its executive obligation, by taking any appropriate steps necessary to ensure fulfilment of that obligation. Furthermore, subsection 1(a) stipulates that the Provincial Executive Council may issue a directive to the Municipal Council, describing the extent of the failure to fulfil its obligations and stating any steps required to meet its obligations.

The Mpumalanga Department of Local Government and Housing conducted an investigation in terms of section 106 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) to the affairs of the Mbombela Local Municipality and it was discovered that:

**NOTICE TO ISSUE A DIRECTIVE TO MUNICIPAL COUNCIL IN TERMS OF SECTION 139 (1)(a) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO 108 OF 1996) AS AMENDED.**

---

**a) KPA 1:-Municipal Transformation and Institutional Development.**

The Municipality is currently functioning with a high number of critical vacant funded posts. Notwithstanding the fact that all section 57 managers have been appointed, regrettably all male most managers' posts reporting to the section 57 remain vacant. Interference in the recruitment process by some Councillors thereby contravening section 66 of Municipal Systems Act, 2000 (Act No. 32 of 2000) ("the Act") read with Item 11 as contained in Schedule 1 of the Act has been discovered.

**b) KPA 2: Municipal Infrastructure and Service Delivery.**

The Municipality has overcommitted itself in view of the fact that its available budget is R87 million for the construction of the 2010 stadium and the contractor has been appointed at R920 931.13 thus contravening Municipal Finance Management Act, 2003 (Act No.56 of 2003) ("MFMA"). An amount of R2.986 million had been irregularly paid to Lefika Emerging Equity (Pty) Ltd thus contravening section 62(1) of the MFMA. A recommendation in terms of section 106 report of the Act that a formal Forensic Audit be conducted is yet to be implemented by Council. The Municipality has spent 52% of its MIG allocation instead of 75% by the third quarter.

**c) KPA 3: Local Economic Development**

Only one official is responsible for LED in the Municipality and several proposals on the structure were submitted to Council for approval without any success. The Municipality is therefore not in full compliance to promote social and economic development as contemplated in section 152(1) (c) of the Constitution.

**d) KPA 4: Municipal financial viability and Management**

The consumer debtors have increased from R203 million to R276 million in six months. The Municipality does not have sufficient financial management systems in place. This indicates a contravention of section 96 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003). The Municipality is operating under a high number of Journal entries (R65 million per month).

**e) KPA 4: Good Governance**

The Municipality received qualified Audit opinion for both 2004/05 and 2005/06 financial years. Early indicators are that the Municipality will receive a disclaimer for the financial year 2006/07.

**NOTICE TO ISSUE A DIRECTIVE TO MUNICIPAL COUNCIL IN TERMS OF SECTION 139 (1)(a) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO 108 OF 1996) AS AMENDED.**

---

The Chief financial Officer has tendered his resignation with effect from 31 December 2007 adding strain to the financial management of the Municipality. Instances of interference on the roles and responsibilities of office bearers such as Executive Mayors, Deputy Executive Mayor, the Speaker and Chief Whip have been discovered. Interference with administration, defiance of Council resolutions and instances where Council passes irregular and illegitimate resolutions and confusion of the constitution and the sitting of section 79 and 80 Council Committees in terms of Municipal Structures Act, 1998 (Act No. 117 of 1998) were reported. Thus a gross violation of the Code of Conduct for Councillors as stipulated in the Act has been committed. The section 106 of the Municipal Systems Act, 2000 (Act No. 32 of 2000) consolidated reports and the municipal support programme (recovery plan) have not been tabled to Council for adoption.

In view of the above, on a letter dated 13<sup>th</sup> December 2007, I have called upon the Municipal Council to make written representations and show cause why section 139 (1) (b) of the Constitution cannot be invoked. Such written representations must be made within 30 days from date of receipt of this notice and not later than the 15<sup>th</sup> of January 2008. We enclose herewith a copy of the letter as directed to the Municipality.

Kind regards.



**MS. K.C. MASHEGO-DLAMINI**  
**MEC: LOCAL GOVERNMENT & HOUSING**

19/12/2007  
DATE



## MBOMBELA LOCAL MUNICIPALITY

---

MINUTES of the **FIRST (2008) SPECIAL MEETING** of the **MBOMBELA LOCAL MUNICIPALITY** held on **MONDAY, 14 JANUARY 2008**, at **17:00**, in the **COUNCIL CHAMBERS, CIVIC CENTRE, NELSPRUIT**.

Present:

Councillors

M J Mohlala	-	Speaker	W N Murphy
J Nsibande	-	Executive Mayor	M J Mwali
C N Ndlovu	-	Executive Deputy Mayor	A A Ndowane
			T V Ndlala
M W Nkosi	-	Chief Whip	M A Ngwenyama
M E Banda			F P Nkala
C J Booyens			J D Nkosi
Z M Boroko			T E Nkosi
T M Charles			T F Nkosi
S G Chiloane			L E Nyalunga
E M Dlodlu			C J M Pienaar
M S Dube			E N Sambo
E M Khoza			J V Sambo
J M Khumalo			S R Schormann
J Koster			F H J Siboza
F Lange			J Sidell
H L Lekhuleni			T N Sifunda
S S Lukhele			T C Simelani
T K Mabilane			G S Siwela
N L Mabunda			D P C Tau
C D Mac Pherson			S Zwane
M C Mafotha			
H K Malomane			
T M Manana			
C Maseko			
B P Maseko			
N M Mashabane			
A B Mashabane			
P C Mathaba			
V M Mathebula			
M O Mathebula			
N B Matume			
J M Mbazo			
S D Mboshane			
F G Mbuyane			
S R Mdhuli			
V A Mdluli			
T J Milazi			
N L Mkhwanazi			
V B Mlimi			
M M Mlimi			
D M Mnisi			
N A Mokoena			
Z J Mokoena			
C G Mokoena			
W A Mona			
M J Msibi			

14.01.08

Officials: Acting Municipal Manager (Chief Operations Manager); Executive Manager : Corporate Services; Executive Manager : Technical Services; Executive Manager : Community Services; 2010 Project Co-ordinator; Manager : Corporate Services (Administration); Nelspruit Admin Officer (Secretariat); Operations Manager : Communication.

Also present: Members of the media and public.

#####

#### A. OPENING

A moment of silence was observed for meditation as well as in memory of those who passed away during the December recess.

#####

#### B. APPLICATIONS FOR LEAVE OF ABSENCE

Applications for leave of absence were received from Councillors G C De Bruin, S T Luthuli, Z L Mandlazi and T R Sgudla.

RESOLVED

THAT

leave of absence be granted to Councillors G C De Bruin, S T Luthuli, Z L Mandlazi and T R Sgudla in terms of section 31 of the Local Government Ordinance, 17 of 1939, as amended.

ABSENT WITHOUT LEAVE

None.

#####

#### C. OFFICIAL NOTICES

- (i) The Speaker, Councillor M J Mohlala, expressed Council's condolences towards the family of Mr Joseph Sidell, a Ward Committee member of Ward 6, who passed away.
- (ii) The Speaker informed Council that the Ehlanzeni District Municipality invited all Councillors and senior staff to attend a business day for the Mbombela communities arranged for 17 January 2008 from 10:00 at the Nsikazi Stadium.

Further information in that regard could be obtained from the Manager : LED, Mr Manie Ferreira.

14.01.08

(iii) A delegation from the LOC would visit Council on 26 February 2008 to follow up on matters regarding 2010. Details would be forwarded to Councillors in due course.

(iv) The speaker requested Councillors to note that ESKOM had resumed with the nation wide load shedding programmes, during which all essential services would be effected. The indication was that load shedding would last for 2 hours per session.

According to ESKOM, the load shedding was scheduled to continue for the rest of the year and beyond. Control over the situation was difficult as it was controlled by ESKOM directly.

Councillors were requested to convey the above to the communities.

(v) The Speaker informed Council that the Mayoral Committee had been invited by the Mayoral Committee of Nkomazi Municipality to visit Matola Municipality, in honour of the late Mayor of the latter, Mr F Tembe. The visit was scheduled to take place on 16 January 2008.

(vi) The Speaker lastly informed Council of the passing away of the Speaker of the Govan Mbeki Municipality, Councillor J Jiyane.

#####

#### D. REPORT OF THE EXECUTIVE MAYOR

The Executive Mayor, Councillor J Nsibande, requested that the report be considered.

#### A. NON-DELEGATED POWERS (OPEN COUNCIL)

##### A(1). GOOD GOVERNANCE : UPPER LIMITS FOR SALARIES AND ALLOWANCES OF COUNCILLORS : (4/3/1/1/1)

The Executive Mayor, Councillor J Nsibande, informed Council that, due to the fact that the report was not ready for consideration by the Mayoral Committee, it was agreed that the matter be discussed at the Council meeting.

--- A report in the above regard was then provided to all Councillors. (See annexure 1403/08.

Councillor J Koster requested that, as the report had financial implications, it first be referred to the Financial Services Committee for consideration and it be resubmitted to Council at its next meeting.

The Executive Mayor, Councillor J Nsibande, agreed that the report should be considered by the Financial Services Committee, but indicated that the matter had to be considered by Council urgently as it had an impact on the 2007/2008 adjustment budget which had to be finalised by 31 January 2008.

14.01.08

It was then agreed that the matter be referred to a Special meeting of the Financial Services Committee for finalization and a further report on the matter be submitted to Council at its next meeting for condonation.

## RESOLVED

## THAT

- (a) subject to (i) below, the approval of the MEC for Local Government and Housing, be obtained regarding the adjustment of Councillors' remuneration according to the upper limits for a grade 4 municipality as determined in terms of Government Notice R. 1227 dated 18 December 2007, retrospectively from 1 July 2007;
- (b) the allowances as per (a) above and back pay be implemented with the first salary run after the approval of the MEC for Local Government and Housing has been received;
- (c) in order to streamline the implementation process, the salary office calculate each Councillor's salary package by incorporating a travel allowance of 25% of the total remuneration package (this corresponds with the current packages) and taking into account their current benefits (pension fund and medical aid);
- (d) a schedule of how each package was structured be attached to the implementation month's pay slips and any Councillor that wishes to make any changes then contact the salary office;
- (e) travelling and subsistence allowances be paid in terms of Council's policy in this regard;
- (f) cell phone allowances be paid directly to Councillors and each Councillor be responsible to obtain his/her own fixed or pre-paid cell phone contract;
- (g) the shortfall of R183 295,00 on the 2007/08 budget for Councillor remuneration, be noted;
- (h) the shortfall as per (g) above be funded from the savings on the 2007/08 human resources budget and be addressed in the 2007/08 adjustment budget;
- (i) the Financial Services Committee be delegated to consider and finalize recommendations (a) to (h) above at a special meeting to be arranged for this purpose and a further report in this regard be submitted to Council at its next meeting for condonation.

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14.01.08

A(2). GOOD GOVERNANCE: NOTICE OF INTENTION TO ISSUE A DIRECTIVE TO THE MBOMBELA MUNICIPAL COUNCIL IN TERMS OF SECTION 139 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO 108 OF 1996) AS AMENDED : 1/2/1/76

The Executive Mayor, Councillor J Nsibandé, informed Council that it was agreed at the Mayoral Committee meeting that this item be transferred from Non-Delegated Powers (In Committee) to Non-Delegated Powers (Open Council). See item B(1) in this regard.

The Executive Mayor then requested that recommendations (c) and (d) be added as set out in the resolution below.

Councillor J Koster, on behalf of the DA, made a submission, attached as annexure 1402/08 to these minutes, regarding this matter.

Councillor E N Sambo, on behalf of the ANC, expressed his appreciation for the response by senior management to the letter from the MEC as set out in annexure 1602/08. He, however, requested that where statements were not substantiated by means of, inter alia, Council resolutions, such statements be deleted from the document. Examples were on page 2 of annexure 1602/08 where it was not indicated whether the Municipal Finance Management Act had been contravened or not, as well as bullet 3 on page 5 of the same annexure, which inadequately addressed the action plans regarding the adherence to the quota requirements in appointing officials and the deployment of staff.

Councillor Sambo further proposed that the intervention by the MEC for Local Government and Housing be accepted, but that the full time Councillors, led by the Chief Whip, be mandated to amend and enhance the submission (annexure 1602/08) to be made to the relevant MEC.

With reference to the last sentence in the first paragraph on page 3 of the notice received from the Department of Local Government and Housing and referred to as annexure 1601/08 of the report, Councillor V B Mlimi indicated that the paragraph implied that the required section 106 consolidated report had to be considered by Council, but that the report had not been submitted to Council up to date. Councillor Mlimi held the opinion that a procedural flaw existed in complying with the requirements in dealing with the section 106 consolidated report, which had to be corrected.

The Executive Mayor, on enquiry by the Speaker, Councillor M J Mohlala, informed Council that the section 106 consolidated report had not been received by his office from the relevant MEC.

The Executive Mayor further requested that, with reference to the proposal by Councillor E N Sambo that certain information in the response by senior management (annexure 1602/08) be deleted, this only be done should such information not be substantiated.

Councillor V B Mlimi supported the request by the Executive Mayor, but emphasized that should the relevant supporting evidence not be submitted, such information be deleted from the document.

RESOLVED

THAT

14.01.08

- (a) note be taken of the intention of the Department of Local Government and Housing to invoke section 139 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) on Council;
- (b) subject to (e) below, Council's responses to (a) above, as per annexure 1602/08, be approved and forwarded to the Department of Local Government and Housing;
- (c) the imminent intervention by the Department of Local Government and Housing referred to in (a) above, be supported;
- (d) the contents of annexure 1401/08, compiled by Mr T Mamuno, be rejected in view of the Council resolution that the appointment of the Senior Manager : Legal Services, be held in abeyance;
- (e) the full time Councillors, under the chairmanship of the Chief Whip, Councillor M W Nkosi, be delegated to scrutinize the report referred to as annexure 1602/08 on Tuesday, 15 January 2008 at 8:00 with the view of finalizing it at 10:00 for submission to the MEC for Local Government and Housing;
- (f) the team appointed in (e) above be mandated to amend the relevant document where necessary and any matter not substantiated by Council resolutions or other relevant documentation, be deleted from the report;
- (g) note be taken of the submission made by Councillor J Koster on behalf of the DA and referred to in the preamble as annexure 1402/08;
- (h) it be noted that no section 106 consolidated report had been received by the Office of the Executive Mayor from the MEC for Local Government and Housing.

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## B. NON-DELEGATED POWERS (IN COMMITTEE)

- B(1). GOOD GOVERNANCE: NOTICE OF INTENTION TO ISSUE A DIRECTIVE TO THE MBOMBELA MUNICIPAL COUNCIL IN TERMS OF SECTION 139 OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 (ACT NO 108 OF 1996) AS AMENDED : 1/2/1/76

//This item was transferred to Non-Delegated Powers (Open Council). See item A(2)//.

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The meeting adjourned at 17:30