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1/30/2026

Our Ref: TJM/Tswaing/106/Final/CIV/25

Your Ref:

**COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**
PRIVATE BAG X2099, MNARATHO 2735

The MEC

2026 -01- 30

Coghsta

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OFFICE OF THE HOD

North West Provincial Government

Sirs

RE: FINAL REPORT ON THE SECTION 106 INVESTIGATION AT TSWAING LOCAL MUNICIPALITY

Please receive the attached final report on the above subject matter.

Regards



Tau Matsimela Attorneys Inc.

Director & Chairman: RR Tau – LLB (NWU) (PLT) . Director & Co-Chairman :TJ Matsimela BA Law LLB (Unin) Mediator

(Company & Secretarial services – Civil Law – Comprehensive BEE Consulting – Construction Law – Criminal Law & Appeals – Environmental Law –
Insolvency Law – Litigation & Dispute Resolution – Divorce & Family Law – Pension Law, Legal Costs, , Civil & Commercial Mediator)

FINAL REPORT

INVESTIGATION INTO ALLEGED MALADMINISTRATION IN TSWAING LOCAL MUNICIPALITY IN TERMS OF SECTION 106 OF THE MUNICIPAL SYSTEM ACT, 32 OF 2000.

INTRODUCTION

1. This investigation was conducted in terms of Section 106(4) of the Municipal Systems Act, 32 of 2000 through a referral by the Minister of Cooperative Governance and Traditional Affairs to the MEC: Coghsta on allegations of maladministration against Tswaing Local Municipality.
2. The findings are set out hereunder.

TERM OF REFERENCE 1

ALLEGATIONS OF IRREGULAR PAYMENTS OF A FULL SALARY TO MR SELLO MAROGA BY THE MUNICIPALITY AS THE ACTING MUNICIPAL MANAGER DURING THE PERIOD NOVEMBER 2024 TO 30 JUNE 2025.

3. Mr Sello Maroga was appointed as the Acting Municipal Manager of Tswaing Local Municipality in terms of the Secondment Agreement entered into with the Department of Cooperative Governance, Human Settlements and Traditional Affairs dated 07 October 2024.

4. The Secondment Agreement was entered into in terms of Regulation 20(1) of the Local Government: Regulations on the Appointment and Conditions of employment of **Senior Managers** 21 of 17 January 2014.¹
5. The terms of the secondment accorded with the provisions of Regulation 20(2) of the Local Government: Regulations on the Appointment and Conditions of employment of Senior Managers 21 of 17 January 2014.
6. The secondment of Mr Sello Maroga was necessitated by the fact that:
 - 6.1 During April 2024, Council took a Special Council Resolution to place the Municipal Manager, Mr Keorapetse Shadrack Mere on a precautionary suspension to allow a fair disciplinary processes and investigation.
 - 6.2 Council filed a request with the MEC for Coghsta for a secondment candidate to fill the vacancy of Municipal Manager for a period of three months pending finalization of the disciplinary proceedings against the suspended Municipal Manager.
 - 6.3 In the interim, Mr F T Mabokela was appointed by COGTA commencing 19 June to 19th September 2024 which appointment was not extended by Council on the grounds of irretrievable breakdown of the relationship.

20(1) – If a person is seconded to a municipality to act as Municipal Manager in TERM of Section 54A(6) of the Act, an agreement must be entered into between the relevant seconding authority and receiving municipality.

- 6.4 On or about 12th September 2024 Council through the office of the Mayor requested the MEC for a secondment of a person to act as the Municipal and in the interim Council appointed Mr Borman Phutiyagae to act as the Municipal Manager pending the secondment by the MEC.
- 6.5 Thus, on 04 October 2024 the Mayor received letter from the MEC dated 01 October 2024 addressed to Hon. Councillor Norah Mahlagu seconding Mr Sello Maroga to act as Municipal Manager.²
- 6.6 Thereafter Council convened a Special Council Meeting and resolved under Special Council Resolution 009/06/2024 signed off by the Speaker Councillor Modisaotsile Sam Letlakane on 07 October 2024, that all powers and responsibilities be delegated to the Acting Municipal Manager Mr Sello Maroga.³
7. The terms of reference for this Section 106 investigation in respect of Mr Sello Maroga is to review the salary payments to Mr Sello Maroga from the date of secondment as the Acting Municipal Manager from 01 November 2024 up to 30 June 2025.
8. Further the investigation looks into possible contravention of the Municipal Finance Management Act as well as contravention of the Secondment

² See letter from MEC COGHSTA to The Mayor, Tswaing Local Municipality dated 01 October 2024. The letter also prescribes the duties of the secondee in compliance with Section 54A(6) of the Municipal Systems Act.

³ See Special Council Minutes dated 07 October 2024 – Resolution 009/06/2024.

Agreement between the Municipality and COGTA, North West Provincial Department.

9. In terms of Regulation 20(5), a person seconded in terms of sub-regulation (1) must be paid an allowance equal to the difference between the secondee's current salary and the minimum budgeted salary of the position that the secondee acts in; ⁴ and be compensated for subsistence and travel incurred during the course of his or her duties, in accordance with the relevant policy of the Municipality⁵.
10. Whilst Mr Maroga's secondment term as Acting Municipal Manager for Tswaing Local Municipality commenced on 01 November 2024, the proof of salary payment to Mr Maroga indicates that an amount of R68 591.00 was paid/or linked to his bank account on 25 October 2024. The first salary advice however indicates that the first payment was 25 November 2024.
11. No further record of further payments has been submitted to the investigator/s for the period December 2024 to 30 June 2025 or 31st August 2025.
12. This payment indicates that Mr Sello Maroga was paid a full salary contrary to the terms of the secondment agreement which provided that he shall be paid allowance equal to the difference between his then current salary and the minimum budgeted salary of the position of the Municipal Manager.

⁴ See Regulation 20(5)(a)

⁵ See Regulation 20(5)(b)

13. Thus, the payments were made in contravention of Regulation 20(5)(a) of the Local Government: Regulations on the Appointment and Conditions of employment of Senior Managers 21 of 17 January 2014.

COMPLIANCE WITH THE SECONDMENT AGREEMENT

14. The Local Government: Municipal Finance Management Act, 56 of 2003 defines irregular expenditure ⁶ in relation to a municipality or municipal entity as expenditure incurred by municipality or municipal entity in contravention of, or that is not in accordance with the requirements of the act and which has not been condoned by the treasury guidelines in terms of Section 170.
15. The Tswaing Local Municipality acknowledges non-compliance with the terms of secondment between Mr Sello Maroga and COGTA in that, the Municipality through the office of the Mayor (Cllr Norah Mahlangu), addressed correspondence to Mr Sello Maroga titled "Acknowledgement of debt and repayment plan for the period of your secondment: Yourself".⁷
16. The letter confirms that during the period of Mr Sello Maroga's secondment being 01 November 2024 to 31 August 2025, the Municipality paid Mr Sello Maroga a full salary instead of the difference between his COGTA salary and the Municipal Manager salary contrary to the secondment agreement.
17. In addition, Mr Maroga failed on several occasions despite the request, to submit his employment contract and or appointment letter.

⁶ See Section 1 of the Act

⁷ See letter dated 02 September 2025

**REVIEW: EXTENSION OF MR MAROGA'S CONTRACT AS ACTING MUNICIPAL
MANAGER**

18. On 13 December 2024 Council noted that the three [3] months contract of Mr Maroga will expire on 07 January 2025 and the Mayor was delegated by Council to inform the MEC: COGHSTA and its willingness to extend Mr Maroga's contract for a further period of three [3] months commensurate 08 January 2025 to 08 April 2025.
19. Council also took responsibility to bear the costs of secondment [extension] in terms of Regulation 20(2) and (1). Although this was an incorrect reference to the Regulations, the relevant Regulation upon which Council accepted to bear the costs of the secondment [extension] is as provided for in Regulation 20(3).⁸
20. Despite the provisions of the Local Government: Regulations on the Appointment and Conditions of employment of Senior Managers 21 of 17 January 2014 that the secondee should be paid the difference between the secondee's current salary and the minimum budgeted salary of the position that the secondee acts in, Council took a Special Council Resolution that the costs of monthly salary payment should now be borne by the

⁸ Notwithstanding subregulation (4) the costs of the secondment must be borne by the municipality, taking into consideration the financial capacity of the municipality.

Municipality [*without reference to the Municipality's financial capacity*] in full, contrary to as prescribed by paragraph 20(2)(1).⁹

21. The Special Council Resolution itself is evidently contrary to the Regulations which provide for payment of the difference between the seconded's current salary [at COGTA] and the minimum budgeted salary of the position that the seconded acts in.
22. Be thus as it may the Office of the Acting Director Corporate, then Mr Borman Phutiyagae addressed correspondence to the Chief Financial Officer on 17 December 2024 [*signed 18 December 2024*] recorded that the secondment letter of Mr Maroga by the MEC dated 1 October 2024 recommended that the Municipality should incur all the monthly payments for the said duration and that the employment contract stipulates that he should be paid the difference of the salary package of the substantive Municipal Manager.
23. The above could not reflect the correct position on the grounds that when Mr Maroga's contract of appointment as the Governance Specialist with the Department of COGTA expired on 01 August 2025 and such was communicated to Mr Maroga¹⁰, the Secondment Agreement thus came to an end, alternatively 31st August 2025.
24. The Municipality therefore could not take a Special Council Resolution to extend his Secondment in terms of [*Special Council Resolution No. 001/12/2024*] as recorded in Mr Borman Phutiyagae's letter of 17 December

⁹ See Resolution 003/12/2024 "Extension of contract of the Acting Municipal manager – In committee"

¹⁰ See letter from Office of the MEC: COGHSTA dated 14 August 2025

2025 requesting the Chief Financial Officer to process monthly salary payment of the Acting Municipal Manager for the month of December 2024.

25. Mr Maroga's term had expired at least on 31 August 2025. Confirmation can be obtained from the letter of demand by Cllr Norah Mahlangu dated 02 September 2025 as well as the MEC's letter of 14 August 2025. No record of further extension by the MEC was provided beyond 1st August 2025.
26. In the circumstances, the letter of 17 December 2024 by Mr Borman Phutiyagae stating that Council in its special sitting in terms of Special Council Resolution No. 001/12/2024 dated 13 December 2024 resolved to extend the secondment of the Acting Municipal Manager by three [3] months effective from 08 January 2025 until 08 April 2025 "and concur with the departmental appointment letter which states that the monthly salary of the Acting Municipal Manager should be paid in full by the municipality at mid-point level on monthly remuneration scale of the substantive municipal manager on current local government : gazette as prescribed in the Regulation 20(2)(b)" does not reflect the correct position.
27. The letter refers to concurrence with the departmental appointment letter without details. In the light of the letter from the Department dated 1st August 2024 confirming the expiry of Mr Maroga's contract with the Department, it is improbable that the Department could concur with the Municipality to extend Mr Maroga's contract beyond the 1st of August 2024.

28. Furthermore, it must be noted that:

28.1 Regulation 20(2)(b) cannot be read in isolation to Regulation 20(5)(a) even where the Municipality takes responsibility to bear the costs of the secondee's salary.

28.2 The secondment agreement entered into between the MEC: COGHSTA even if extended, cannot be extended on the terms contrary to Regulation 20(2)(b) read with Regulation 20(5)(a) unless the Municipality indicate in terms of Regulation 20(3) that it has the financial capacity to bear such costs.

28.3 Thus, it is a misrepresentation that the municipality concur with the departmental appointment letter which states that the monthly salary of the Acting Municipal Manager should be paid in full by the municipality. This is not reflected in the MEC: COGHSTA's letter of 01 October 2024 or in the Secondment Agreement signed 07 October 2024.

29. The letter in point 27 above raises serious concerns in that it further:

29.1 refers to Special Council Resolution No. 001/12/2024 dated 13/12/2024 however on clear scrutiny, there is no Special Council Resolution 001/12/2024 but Special Council Resolution 003/12/2024 dated 13/12/2024 which dealt with the extension of Mr Maroga's term from 07 January 2024 [effective 08 January 2024 to 08 April 2024].

30. At the time the letter was written, Mr Maroga's contract had expired *ex lege* [termination of his contract with the seconding Department on 01 August 2025] alternatively by effluxion of time and was no longer an employee [secondee] of the Department.

OBSERVATIONS

31. It is clear that Council could not extend the secondment period of Mr Maroga beyond the 1st or 31st of August with reliance on the Secondment Agreement.
32. Thus, it was legally impermissible for Council to extend Mr Maroga's contract from 08 January 2025 to 08 April 2025 in terms of a Secondment Agreement which expired in August 2025.

SPECIAL COUNCIL RESOLUTION 009/06/2024 VERSUS SPECIAL COUNCIL RESOLUTION 003/12/2024

33. No record of Special Council Resolution 001/12/2024 to deal with the extension of the secondment of Mr Maroga as Acting Municipal Manager was provided.
34. Save for the part outlining the Special Council Resolution, the Special Council Resolution 003/12/2024 dated 13/12/2024 is an *ad seriatim* copy of Special Council Resolution 009/06/2024 dated 07/10/2024.

35. Therefore, the similarity evidences improbability for reasons that Special Council Resolution 009/06/2024 was taken prior to the secondment of Mr Maroga *whilst* Special Council Resolution 003/12/2024 was taken after the expiry of Mr Maroga's secondment period and after his appointment as the Governance Specialist with the Department: COGTA had expired on the 1st *alternatively* 31st August 2025.
36. Special Council Resolution 003/12/2024 raises a serious doubt on its legitimacy and should be considered, unless the contrary is proved, to be fraudulent and thus null and void.

RECOVERY OF UNDUE PAYMENTS

37. As indicated above, the payment made to Mr Sello Maroga contrary to the Regulations and the Municipal Systems Act, constitutes an irregular and wasteful expenditure as contemplated in Section 32(6)(a) and (b) of the Local Government: Municipal Finance Management Act, 56 of 2003.
38. So is any payment made to Mr Sello Maroga for the periods:
- 38.1 08 January 2025 to 08 April 2025 on grounds of non-existing Special Council Resolution 001/12/2024, and;
- 38.2 at any time after 01st or 31st August 2025 following the expiry of his contract of employment with the seconding Department: COGTA.

39. There is no record that Mr Sello Maroga complied with the repayment demand of 02 September 2025 as there is no record of an acknowledgement of debt signed in favour of the Municipality for repayment as demanded or proof of payment.
40. There is no record that the Accounting Officer [Acting/Municipal Manager] has taken necessary steps to inform the Mayor, the MEC or the Auditor General in writing as contemplated in Section 32(4)(a),(b) or (c)(i) and (ii) of the Local Government: Municipal Finance Management Act, 56 of 2003 in respect of this irregular and wasteful expenses.

RESPONSE FROM MR SELLO MAROGA TO THE ALLEGATIONS

41. During the investigation and with a view to ensure procedural fairness [*audi alteram partem*], correspondence was addressed to Mr Sello Maroga on 13 October 2025 inviting him to react to the allegations of undue payments for the period under investigation, thus affording Mr Maroga an opportunity to be heard.
42. The correspondence also informed Mr Maroga that he may submit a written statement to the investigator/s setting out the detailed response to the allegations and provide any explanation or evidence.
43. The physical consultation was held with Mr Sello Maroga and investigators on 11 November 2025 regarding the contents of the letter/invitation and Mr

Maroga requested an extension of time to submit the written statement by 22 November 2025.

44. On or about 20 November 2025, Mr Fihla of Fihla Attorneys contacted the investigator and advised that he assists Mr Maroga in compiling the written submission and requested a further extension to 26 November 2025.
45. The correspondence of 13 October 2025 informed Mr Maroga that should he decline to respond, or if no response is received from him within the stated deadline [by not later than 5 calendar days, in this case considering the extensions requested], the investigation will proceed and a finding may be made regarding the allegations against him on the basis of the available evidentiary material provided to the investigator/s and will forfeit the opportunity to present his version.
46. As at the date of this report, no written submission was received from Mr Maroga or his Attorneys, Fihla Attorneys.

FINDINGS

In the light of the available evidence, it is prudent to conclude that:

47. The Secondment procedures were fully complied with by the Office of the MEC: COGHSTA as prescribed by the Municipal Systems Act, Regulations on Appointment and Conditions of Service for Senior Managers as well as the Municipal Finance Management Act.

48. The Secondment Agreement between Mr Maroga was terminated *ex lege* on 01st *alternatively* 31st of August 2025 and confirmed by the Office of the MEC in writing to the Municipality on 14 August 2025.
49. The Special Council Resolution No. 001/12/2024 purporting to extend the Secondment Agreement albeit on different terms contrary to Municipal Systems Act, Regulations on Appointment and Conditions of Service for Senior Managers as well as the Municipal Finance Management Act remain questionable.
50. The Special Council Resolution 003/12/2024 has no force or effect in that despite being an *ad seriatim* copy of Special Council Resolution 009/06/2024, it sought to appoint Mr Maroga as a secondee of the Department beyond his secondment period.
51. The Municipality failed to ensure that payments made to Mr Sello Maroga are made within the prescribed regulatory framework of the Municipal Systems Act, Regulations on Appointment and Conditions of Service for Senior Managers as well as the Municipal Finance Management Act in that Mr Maroga was paid:
- 51.1 First, a full salary instead of the difference between the secondee's current salary and the minimum budgeted salary of the position that the secondee acts in contrary to the Secondment Agreement.
- 51.2 Second pursuant to a questionable Special Council Resolution 001/12/2024 purporting to extend his terms of secondment as Acting Municipal Manager.

RECOMMENDATIONS

52. It is recommended that:

- 52.1 The Municipality provide a written explanation why the salary payment made to Sello Maroga contrary to the secondment agreement should not be declared a wasteful and fruitless expenditure in terms of Section 32 of the Local Government: Municipal Finance Management Act, 56 of 2003
- 52.2 The undue payments made to Mr Maroga as stated in the letter of demand from Cllr Norah Mahlangu dated 02 September 2025 be calculated and fully recovered from Mr Sello Maroga without delay.
- 52.3 The Municipal Manager provide a written explanation on the steps taken to inform the Mayor, the MEC or the Auditor General in writing as contemplated in Section 32(4)(a),(b) or (c)(i) and (ii) of the Local Government: Municipal Finance Management Act, 56 of 2003 regarding the salary payment contrary to the Secondment Agreement.
- 52.4 This should include referral by the MEC to the Minister the finding on unauthorised, irregular, fruitless and wasteful expenditure caused by the Accounting Officer and Chief Financial Officer for failure to ensure that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented as required by Section 62(1)(d) of the Municipal Finance Management Act.

52.5 It is further recommended that Council should consider instituting disciplinary procedures against the Accounting Officer as well as the Chief Financial Officer as contemplated in Section 62(1)(e) of the Municipal Finance Management Act.

52.6 The Municipality provide the register and minutes of the Special Council Meeting under Special Council Resolution 003/12/2024 as well as minutes of the Special Council Meeting under Special Council Resolution 001/12/2024.

52.7 Councillor Modisaotsile Sam Letlakane [then Speaker of Tswaing Local Municipality] to provide a written explanation on the anomalies evidenced by Special Council Resolution 009/06/2024 and Special Council Resolution 003/12/2024.

TERMS OF REFERENCE 2:

REVIEW OF IRREGULAR REINSTATEMENT OF MR MOGALE MORWE AND HIS ELIGIBILITY TO ACT AS THE DIRECTOR OF COMMUNITY SERVICES.

THE APPOINTMENT, SUSPENSION AND DISMISSAL

53. Mr Mogale Daniel Morwe [Mr Morwe] held a position with Tswaing Local Municipality as Town Planner between the period 2020 to 2023.¹¹

¹¹ See Curriculum Vitae of Mogale Daniel Morwe.

54. In 2021, Mr Morwe was suspended and subsequently summarily dismissed by the then Municipal Manager, I Moruti. In suspending and dismissing Mr Morwe [*and other employees totalling 35, excluding Mr Morwe and Mr V Diphoko*], the Municipality allegedly failed to observe the collective agreements or LRA on unfair dismissals.
55. Mr Morwe referred the matter to the Labour Court and whilst the matter still pending in the Labour Court, he approached the Bargaining Council for a similar remedy claiming re-instatement to his position.
56. The matter at the Labour Court was filed under Case No. J1230/20 and he was represented by South African Municipal Workers Union.
57. Thus, the Bargaining Council refused to hear the referral on the same issue pending finalisation of the Labour Court matter.
58. In the interim, an Administration Team was appointed to Tswaing Local Municipality in terms of Section 139(1)(c) of the Constitution, Act 108 of 1996 ¹² and Moatlhodi J Dilotsotlhe was appointed as the Administrator.
59. Whilst these proceedings were still under way, the then MEC of Coghsta engaged stakeholders to resolve the disputes without success.

¹² This section empowers a provincial executive to intervene in a struggling municipality, including dissolving its council and appointing an administrator, when the municipality admits it can't meet its obligations, fails to approve a budget, or persistently breaches its duty to provide basic services, aiming to restore effective local governance under the overarching goal of the Constitution's framework for local government.

60. The initial application to the Labour Court under Case No. J1230/20 was not successful and Mr Morwe appealed to the Labour Appeal Court under Case number JA12/21.
61. It appears from the documents received that the Labour Appeal Court equally dismissed the Appeal. Mr Morwe then approached the Constitutional Court under Case No. CCT 302/22 by way of appeal, which was heard on or about 09 May 2023.¹³

REINSTATEMENT - THE FIRST SETTLEMENT AGREEMENT

62. In October 2021, the Administrator, despite the Labour Court's dismissal of their application, created a direct conflict between judicial authority and administrative discretion. This action undermined the legitimacy of disciplinary proceedings and eroded confidence in lawful governance.
63. By ordering retrospective payments of salaries and benefits to employees who had been lawfully dismissed, the Administrator aggravated the municipality's already precarious financial position.
64. These salary payments were made without Council approval, without the consent of the Acting Municipal Manager, and in defiance of the

¹³ See ORDER under Case Number CCT 302/2022 granting condonation and dismissing leave to appeal because the matter had become moot as a result of having been settled.

municipality's financial recovery plan under section 139(5) of the Constitution.

65. Despite reinstatement pending arbitration, on 22 July 2021 the employees engaged in further unlawful conduct, colluding to incite violent behaviour, blocking municipal gates with vehicles, obstructing councillors, service providers, and community members, and directly contravening the High Court order UM123/2020.¹⁴
66. Be thus as it may the then Municipal Manager on 13 September 2022 and prior to the Constitutional Court judgment, facilitated settlement negotiations and settled the matter with the parties resulting in the Constitutional Court refusing to entertain the matter as having been settled between the parties.
67. The irregular reinstatement blurred the constitutional distinction between section 139(1)(c) and section 139(5) interventions, creating administrative confusion and weakening accountability. The Administrator and his team effectively usurped the functions of Council, issuing instructions uncontrollably and bypassing statutory processes.
68. It is not clear from the records received from the Municipality as to why the matter was still on the roll at the Labour Court or Labour Appeal Court in 2022 for the reasons that on 04 November 2021, already Advocate Lesang

¹⁴ See also Mahikeng HC Case No. UM236/2019, Labour Court Case No. J1062/21, Labour Appeal Court Case Nos J1268/20 & J1230/20 detailing the litigation between the Municipality and Employees.

Cyril Lobakeng addressed letter to M.D Morwe (100345) stating ad point 2 thereof:

"This communique serves to notify you that the termination of your employment contract is hereby lifted and you are reinstated with immediate effect, your salary and all benefits attached thereto are also reinstated".

69. This communique was served on Mr Morwe on 05 November 2021 already and it was sanctioned by the Section 139(1)(c) Administrator by virtue of correspondence dated 27 October 2021.¹⁵
70. This was meant to be the final resolution of the dispute between Mr Morwe and the Municipality. The settlement included the fact that all pending matters regarding the dispute will be withdrawn by both parties.
71. Unfortunately, the settlement agreement was entered into before the matters were withdrawn in Court and for that reason, the Municipality was left financially exposed. Taking advantage of the settlement, Mr Morwe's legal representatives insisted that Mr Morwe and other affected employees be given a "stress relief" payment from the Municipality consequent to the dismissal and that the municipality make a further payment towards their litigation costs.

¹⁵ See point 3.1 to 3.3 of thereof

THE SECOND SETTLEMENT AGREEMENT

72. On or about 21 February 2022, Fihla & Associates being in possession of the settlement agreement from the Municipality and the letter from the Administrator [*dated 27 October 2021*] insinuating that the employment contracts were arbitrarily terminated and that the termination be set aside effective immediately, threatened to settle the matter only if costs and stress relief are included in the settlement alternatively that they will argue and ask for costs when the matter is heard on 03 March 2022.
73. At this stage, the Municipality was already handicapped by the content of the letter of the Administrator and on that basis, the municipality was forced to conclude the Second settlement agreement on 13 March 2022, [*albeit after 03 March 2022*] and was accepted by Fihla & Associates on 20 March 2022.
74. Thus, on 13 September 2022, the then Municipal Manager, Mr R I Jonas addressed an internal correspondence, copying Fihla & Associates and urged to convene a meeting with affected member's representatives to settle the matter, to which he attached the settlement agreement concluded on 13 March 2022 which included the tender for costs and the stress relief payments. The Municipality thus suffered unnecessary financial blow.

BRIEF SYNOPSIS ON IRREGULAR PLACEMENTS AFFECTING MR MORWE

75. Following the earlier dismissals, the municipality faced a new wave of disputes relating to the adoption of a reviewed organisational structure and the placement of personnel within it.¹⁶
76. For years, the municipality had operated under two organisational structures, one adopted in 2007 and another in 2017. In an effort to stabilise the institution, the municipality consolidated these structures and during 2022 adopted a reviewed and costed organisational structure together with a Staff Placement Policy, Human Resource Strategy, and Job Evaluation Policy.
77. Although the placement process was initiated in 2022, implementation was delayed due to several factors that “required thorough review and consultation”
78. In 2023, the then Municipal Manager Ms Gomolemo Moipolai and other acting appointees such as the accounting officer and substantive Municipal Manager at that time required that a due diligence process be undertaken before implementation to ensure compliance in the placement exercise which included verification of the developed Task Team Report.
79. The final phase towards the implementation took place under the Acting Municipal Manager Mr Morwe and the placement appointment letters were

¹⁶ See Response to Section 106 Investigation inquiry – Placement and Appointments during the period November 2024 to June 2025 [prepared by Mr Kagiso Nathane (Organisational Development Officer, Human Resource Unit) co-authored by Adv C L Lobakeng (Acting Director Corporate Services) dated 15 October 2025.

signed off and issued to employees. *[it must be noted that Mr Morwe's Curriculum Vitae "CV" only refers to him acting as Municipal Manager of Tswaing Local Municipality during 2015 – 2016, so his acting stint as the Municipal Manager thereafter at least until he held his current position as Housing Manager 2024 – 2025 is not reflected in the CV.]*

80. The alignment of the Pay roll system was finalised in August 2025 under the Acting Municipal Manager Mr S Maroga *[whose term of secondment expired on or about 1 August 2025 alternatively on or about 31 August 2025]*.
81. On 22 March 2024, Council rescinded its earlier Special Council Resolution adopting the reviewed structure, directed that salary payments under the new staff establishment be affected by 30 April 2024, and prohibited retrospective payments.
82. **However**, on 02 May 2024, the Acting Municipal Manager, Mr. Mogale Morwe, signed a settlement agreement with SAMWU binding the municipality to process salary differences retrospectively from 1 April 2024 and the agreement was made enforceable under section 142A of the Labour Relations Act. This is a conduct *akin* to the Administrator at para 64 above.
83. Although the term of reference is narrowed to Mr Morwe's eligibility in his acting position as the Director of Community Services, the above exposition is necessary because Mr Morwe's employee file does not contain any appointment letters for any of the positions he occupied within the

Municipality or any record of his qualifications except his Curriculum Vitae indicating that he occupied this position during 2023.

84. The Curriculum Vitae indicates that he occupied the position of Town Planner for the Tswaing Local Municipality in 2020 to 2023 before he acted as Director of Community Services in 2023.

ELIGIBILITY TO ACT AS DIRECTOR – COMMUNITY SERVICES

85. In August 2024 the Acting Municipal Manager's report identified serious non-compliance and governance failures in the staff placement process.

86. These included:

86.1 the failure to submit the adopted staff establishment to the MEC and Minister as required by the Municipal Staff Regulations;

86.2 the unlawful halting of the TASK job evaluation system;

86.3 irregular placement of staff without competency assessments;

86.4 blanket promotions granted without due process, disregarding the promotion policy; and

86.5 contravention of the mandatory financial intervention under section 139 of the Municipal Finance Management Act.

87. Points 86.3 and 86.4 above are relevant to scrutinize how Mr Morwe ascended the ranks within the Municipality considering the record of his Curriculum Vitae that:

- 87.1 the highest standard passed is Matric;
- 87.2 it is not clear how he became an Auditor of Sun City Hotel and Hilton International Hotel during the period December 1994 – 31 July 1997 without any auditing qualification;
- 87.3 Same goes to his positions in Tswaing Local Municipality as Credit Control Manager [2005 – 2009], Acting Municipal Manager [2015 – 2016], Town Planner [2020 – 2023], Acting Director of Community Services [2023] and currently Housing Manager [2024 – 2025] without any relevant or post matric qualification.
88. Section 82 of the Municipal Structures Act,¹⁷ provides that a person appointed as Municipal Manager must have the relevant skills and expertise to perform the duties associated with that post.
89. The Personnel Procurement Policy does not seem to deviate from this principle with reference to placement of employees with relevant skills and expertise to perform the duties of the post their appointed in.
90. In any event the Task Team found that the placement process in the Tswaing Municipality was fundamentally flawed, prioritising vertical promotions and salary increases rather than restructuring to enhance service delivery.
91. Further finding that the placement was costed incorrectly, with employees receiving increases based on spreadsheets rather than posts being

¹⁷ 82(1)(2)

properly costed within the organisational structure. Acting appointments were made in violation of collective agreements and Municipal Staff Regulations.

92. Mr Morwe, without any relevant qualifications for the managerial positions he occupied, unduly benefitted from these flaws.

FINDINGS

In the light of the above, it is prudent to conclude that:

93. In the light of Mr Morwe's qualifications, i.e Matric, without any post matric qualification, Mr Morwe is and has always been ineligible to be appointed Director of Community Services or any Managerial positions within the Tswaing Local Municipality including as Acting Municipal Manager.
94. Despite inadequate qualifications, Mr Morwe was permitted to take drastic financial decisions binding on the Municipality during his stint as Acting Municipal Manager for example where he signed a settlement agreement with SAMWU on 02 May 2024 on behalf of the Municipality committing the Municipality to process salary payments or the difference thereof to the employees who formed part of the dispute with the Municipality in

accordance with the newly adopted staff establishment effective from 30 April 2024.¹⁸

95. Mr Morwe's lack of appreciation of the magnitude of financially binding decisions he made when he increased employees' salaries was clearly captured in the Task Team Report which recommended that the settlements be set aside.¹⁹

RECOMMENDATIONS

96. The close match principle adopted by the Municipality on its final placement implementation report²⁰ provides that employees be placed into positions where there was a 70% or more alignment between their current duties, qualifications, experience and the requirements of the new position.
97. Considering that Regulation 18 of the Municipal Staff Regulations support internal alignment without requiring competitive recruitment where suitability exists, Mr Morwe could not have been found to be suitable for the position of Director Community Services with only a matric qualification.
98. It is thus only just for the proper administration and accelerated service delivery in the Tswaing Local Municipality that it is recommended that Mr Mogale Daniel Morwe be relieved as the Housing Manager [*formerly*

¹⁸ See "THE ACTING MUNICIPAL MANAGER'S REPORT ON COUNCIL'S ADOPTED ORGANISATIONAL STRUCTURE AND SUBSEQUENT PLACEMENT OF PERSONNEL INTO IT" at para 36.6 [incl. 3.6.1 to 3.6.5].

¹⁹ See Task Team Report compiled the Office of the MEC COGHSTA dated 01 October 2024 at para 6.

²⁰ See final placement implementation report dated 09 July 2025

Director – Community Services], the post be advertised and appointment of a suitable qualified person be considered in terms of the Personnel Procurement Policy and other relevant legislation.

99. The Councillors were instrumental in condoning non-compliance with the Systems Act as well as the Regulations in endorsing the appointment of Mr Morwe and thus failed to act in the best interest of the Municipality by simply rubber stamping this unlawful conduct. The Code of Conduct of Councillors were simply ignored in this instance.
100. Given the magnitude of the negative effect of Mr Morwe's unlawful appointment to the coffers of the Municipality, there may be a need to source the records of the Special Sitzings of Council that processed the appointment of Mr Morwe so that the identities of Councillors who participated on the relevant items on his appointment can be determined.
101. This is so in that over and above the oversight powers of the MEC as per the Code of Conduct for Councillors such information may guide the MEC, where necessary, to institute civil recovery processes against the affected Councillors.
102. In the same vein, official/s who was/were accounting officer/s of the Municipality during the relevant period of Mr Morwes' appointment should be subjected to the account for their conduct as guided by Sections 32, 60, 61 and 62 of the Municipal Finance Management Act. It is however noted that in terms of the Systems Act and the Regulations thereunder, Council wields statutory authority in discipline of Senior Managers.

TERM OF REFERENCE 3

IRREGULAR APPOINTMENT OF MR LESANG LOBAKENG TO ACT AS LEGAL OFFICER AND ACTING MUNICIPAL MANAGER IN THE PAST FIVE YEARS

103. At the onset and as it will appear hereunder, Advocate Lesang Cyril Lobakeng [*Adv. Lobakeng*] has been appointed by the Municipality to occupy various positions on mostly three-month basis.
104. *First*, he was seconded by COGTA for appointment as a Legal Expert for the Tswaing Local Municipality in terms of Section 154 of the Constitution effective 1 March 2022 until 31 May 2022.²¹
105. Approximately 10 days later, he was appointed by the then MEC of COGHSTA (Hon N L Miga) as Acting Municipal Manager in Tswaing Local Municipality 1 March 2022 to 30 April 2022.²²
106. Thus, for the period 1st March 2022 to 30 April 2022 he occupied two non-substantive positions in the Municipality, *viz*:
- 106.1 as Legal Expert, at remuneration rate of R88 110.50 per month, excluding travel, accommodation, cell phone and data not exceeding R30 000.00;

²¹ See appointment letter from Office of the MEC: COGHSTA [*Hon. N.L Miga*] dated 04/03/2022 and accepted by Adv LC Lobakeng on the same day.

²² See appointment letter from Office of the MEC: COGHSTA [*Hon. N.L Miga*] dated 14/03/2022 and accepted by Adv LC Lobakeng on the same day.

- 106.2 as Acting Municipal Manager his remuneration rate escalated to R102 265.25 per month, excluding travel, accommodation, cell phone and data not exceeding R50 000.00
107. The appointment as Acting Municipal Manager, was also done as part of support programme of the Department on its Section 154 of the Constitution obligation and for this reason, the costs of his appointment were borne by the Provincial COGTA.
108. *Second*, on 5th May 2022 Cllr N Mahlangu (the Mayor) appointed Adv Lobakeng as an Acting Municipal Manager in terms of Special Council Resolution 006/05/2022 (*dated 03 May 2022*) for a period of two months effective 01st May 2022 to 30 June 2022.
109. On the other hand, he was appointed by the Provincial Department of Local Government and Traditional Affairs for Tswaing as a Legal Expert effective from the 1st of June 2022 until 31st August 2022.²³
110. Again in this instance for the period 1st June 2022 to 31st June 2022 he occupied two non-substantive positions at different salary scales.
111. The Acting Corporate Services Director at the time (then Mr Borman Phutiyagae) instructed the salaries section to make and or process his pay from the difference on his salary as Legal Expert against that of his Acting position as the Municipal Manager for the month of May and June.

²³ See letter of appointment from MEC COGHSTA

112. No record of such instruction was made in respect of the previous overlapping periods in the same positions.
113. It must be noted that Cllr N Mahlangu on 05 May 2022 refers to Special Council Resolution 006/05/2025 and state that the appointment is as a result of the expired secondment acting position as at 30 April 2022 [i.e Section 154 of the Constitution appointment] by the Department.
114. In the light of the above, it is not certain how it became possible for the MEC of COGHSTA (as she then was) to on 31 May 2022 extend the appointment of Adv Lobakeng again as Legal Expert in terms of Section 154 of the Constitution effective 1st June 2022 to 31st August 2022.
115. It appears from the above and below that in Mr Lobakeng's appointments, interchangeably as Legal Expert and Acting Municipal Manager, the position of Legal Expert has been designed as a foundation for the position of Acting Municipal Manager and other senior appointments.
116. Before the end of the period stated at para 110 above expired [*i.e 1st June 2022 to 31st August 2022*], Mr Lobakeng was again appointed by the Mayor (Cllr N Mahlangu) as Acting Municipal Manager from 01 July 2022 until the position of Municipal Manager is filled per Special Council Resolution 003/01/2022.²⁴
117. It must be noted that Cllr Mahlangu does not pronounce on the status of the extended appointment made on 31 May 2022 due to expire 31 August 2022.

²⁴ See letter of Appointment as an Acting Municipal Manager by Cllr N Mahlangu dated July 12, 2022

118. In his Curriculum Vitae,²⁵ Adv Lobakeng has recorded that he was appointed by Tswaing Local Municipality in terms of Section 139(1)(c) and Section 154 in various roles from September 2021 until 31 July 2022 as Technical Legal Expert, Acting Director Corporate Services and Acting Municipal Manager.
119. As at November 2024 he occupied the position of Chief Legal Advisor on contractual basis.
120. No record of his employment with the Municipality between the period 1 August 2022 and December 2022 was made available.
121. This appointment coincides with the period of his appointment stated at para 110 above.

INITIAL IRREGULAR APPOINTMENTS

122. On 26 April 2024 the Acting Municipal Manager, Mr M D Morwe, appointed Adv Lobakeng on contractual basis as Municipal Legal Adviser/ Manager effective 1 May 2024 until 29 July 2024.²⁶

²⁵ See page 8 of Adv Lobakeng's CV updated November 2024

²⁶ See appointment letter from the Office of the Acting Municipal Manager addressed to Adv Lobakeng dated 26 April 2024.

123. This appointment was made in terms of s55(e) [sic] of the Municipal Systems Act 32 of 2000 and the Basic Conditions of Employment Act at the remuneration rate of R522 046.20 per annum.
124. Section 55(1)(e) of the Municipal Systems Act provides for a Municipal Manager as head of the administration and subject to policy directions of the municipal council to be responsible and accountable for...
- (e) the appointment of staff other than those referred to in section 56(a), subject to the Employment Equity Act, 1998 (Act No. 55 of 1998);
125. Section 56(a) deal with appointment of managers directly accountable to the Municipal Managers and provides for a municipal council, after consultation with the municipal manager, to appoint a manager directly accountable to the municipal manager.
126. Section 56(a) is important for consideration for the reasons that Adv Lobakeng's appointment required the municipal manager to consult with Council in compliance with its provisions. This appears not to be the case in respect of his appointment to this position.
127. This rendered the appointment null and void for non-compliance. Simply put, the appointment was not made with consultation or authority of the Municipal Council and thus reviewable on the grounds of legality.

128. On this basis, all payments made pursuant to this appointment constituted an irregular expenditure on the part of the Municipality.
129. A further extension of this non-compliant appointment was made by Mr Borman Phutiyagae on 02 October 2024²⁷ for a period of three months effective 01 August 2024 to 31 October 2024 again in terms of Section 55(e) of the MSA.
130. The triviality of this extension is that it was back-dated to be effective 01 August 2024 whilst only authorised on 02 October 2024.
131. This is in clear contrast to Section 57(1) which provides for a person to be appointed as a manager directly accountable to the municipal manager, to be appointed to that position only in terms of a written employment contract with the municipality complying with the provisions of the section.
132. Thus, for the period 01 August 2024 to 02 October 2024 Adv Lobakeng did not have a written contract of employment with the Tswaing Local Municipality. Salary payments made by the Municipality to Adv Lobakeng during this period thus constitute an irregular expenditure in violation of the MFMA.
133. On 30 October 2024 the then acting Municipal Manager, Mr S Maroga, appointed Adv Lobakeng on temporary basis [TEMPORARY

²⁷ See appointment letter by Mr Boorman Phutiyagae dated 02 October 2024 and accepted by Adv Lobakeng on the same date.

APPOINTMENT AS A MUNICIPAL LEGAL ADVISOR/MANAGER] for a period of three months effective 01 November 2024 to 31 January 2025.²⁸

134. This appointment letter was signed on 08 November 2024. No reference to Special Council Resolution is referenced in the appointment. Thus, the appointment was again in contravention of Section 56(a) of the MSA.
135. This irregular appointment was again back-dated as it was only made on 08 November 2024 and operated retrospective to 01st November 2024.
136. At the time of this appointment, Mr B Phutiyagae now acted as the Acting Director of Corporate Services and requested the Creditors Department as well as CFO to effect the salary payment to Adv Lobakeng at post level 1.
137. What become strange with this appointment is the fact:
- 137.1 The appointment letter of 30 October 2024 was signed on 08 November 2024;
- 137.2 The appointment letter of 5 November 2024 was signed on the same day;
- 137.3 The appointment in 133.1 above is titled "TEMPORARY APPOINTMENT" whereas the appointment in 133.2 is titled "EXTENSION OF EMPLOYMENT CONTRACT";
- 137.4 Both these appointments were made by Mr S Maroga as Acting Municipal manager for the relevant periods.

²⁸ See temporary appointment letter from Acting Municipal Manager Mr S Maroga to LC Lobakeng dated 30 October 2024.

138. No compliance with Section 56 or 57 of the Municipal Systems Act were observed and no Special Council Resolutions for all these appointments were made available. The appointments were *ex facie* irregular and constituted irregular expenditure for the municipality.
139. The above also goes similarly with the temporary appointments on similar post for the periods 01 February 2025 to 30 April 2025,²⁹ 01 May 2025 to 31 July 2025³⁰ as well as 01 August 2025 to 31 October 2025.³¹
140. None of these appointments complied with Section 56 or 57 of the MSA and were thus irregular.

CURRENT APPOINTMENT - IRREGULAR

141. As it will appear below, Adv Lobakeng's current appointment is even more dubious as to exactly what his substantive position within the municipality is, for the following:
- 141.1 On 15 September 2025 the Acting Municipal Manager [B Phuthiyagae] made an offer of employment to Adv Lobakeng for the position of Chief Legal Officer under Corporate Services on permanent basis effective 15 September 2025.³²

²⁹ See appointment letter from S Maroga to LC Lobakeng dated 03 February 2025.

³⁰ See appointment letter from S Maroga to LC Lobakeng dated 07 May 2025

³¹ See appointment letter from S Maroga to LC Lobakeng dated 11 August 2025

³² See "Offer of employment as the Chief Legal Officer" dated 15 September 2025 signed by both B Phuthiyagae and Adv LC Lobakeng. This offer is initialed by only B Phuthiyagae.

- 141.2 The offer was made and accepted by Adv Lobakeng on the same day, 15 September 2025. It must be noted that this offer does not refer to any Special Council Resolution particularly as it refers to a permanent senior appointment within the municipality.
- 141.3 On 17 September 2025 [i.e *two days following the offer of the 15th*] Adv Lobakeng was appointed on two positions by Mr B Phutiyagae viz:
- 141.3.1 offer of employment to Adv Lobakeng for the position of Chief Legal Officer under Corporate Services on permanent basis effective 15 September 2025; and
- 141.3.2 Acting appointment as Director Corporate Services in terms of Special Council Resolution 002/09/2025 effective 17 September 2025 for a period of three months not exceeding six months.³³
142. From the above appointments it is not clear how was Adv Lobakeng appointed as permanent Chief Legal Officer under Corporate Services on 15 September 2025 and again on two positions two days later on 17 September 2025.
143. These anomalies question the reputability of Special Council Resolution 002/09/2025 which was allegedly taken on 17 September 2025. This shows that Adv Lobakeng's appointment of 15 September 2025 was made even

³³ See letter from the Office of the Acting Municipal Manager to Adv Lobakeng

before Special Council Resolution was taken to that effect and that is if any Special Council Resolution was taken to that effect.

144. This manner of irregular appointments confirms the finding of the Task Team that the placement process in the Tswaing Municipality was fundamentally flawed, prioritising vertical promotions and salary increases rather than restructuring to enhance service delivery.

OBSERVATIONS

145. The appointment of Adv Lobakeng as Legal Expert by COGTA was a mere camouflage and intended to secure a managerial position for him within the Tswaing Local Municipality.
146. This is borne by the fact that the Municipality has throughout treated his position of Legal Expert as if it is his substantive position with the Municipality. This is despite the fact that the appointment was temporary and merely an intervention [*support programme*] by COGTA in terms of Section 154 of the Constitution.
147. Adv Lobakeng has for the period 2021 to 2024 never held a substantive position with the Municipality but has been kept in the Municipality by various Municipal Managers (MD Morwe, S Maroga & B Phutiyagae) as well as Cllr N Mahlangu and MEC COGHSTA (N L Miga) by series of endless extensions of various acting periods on various positions.

148. No Special Council Resolutions were obtained for the purpose of these appointments and/or extensions contrary to Section 56 of the MSA and no compliance with Section 57 of the same Act.
149. It was only when no further extension was permissible in September 2025 that in haste Av Lobakeng was appointed permanently by Mr Phutiyagae as Chief Legal Advisor/Manager on 15th September 2025 [*without Council Resolution*].
150. Again, he was appointed to the same position [Chief Legal Advisor/Manager] and further as Director Corporate Services two days later on 17 September 2025 allegedly on the basis of a "Special Council Resolution".

FINDINGS

151. The initial appointment made by the MEC COGHSTA [N L Miga] as well as the 1st extension thereof were appropriate and expired at the end of the appointment periods.
152. All other appointments made by the Municipal Managers and Cllr N Mahlangu (then Mayor) to date were made in contravention of the Municipal Systems Act, in particular Section 55(1)(e) read with Section 57 of the Municipal Systems Act.
153. As it will appear from the record of litigation matters dealt with in this report, the Municipality paid an amount of R 39 383 887.79 [Thirty-nine million

three hundred and eighty-three thousand eight hundred and eighty-seven rand, seventy-nine cents] in the five-year period 2021 to 2025 since Adv Lobakeng was appointed interchangeably as Legal Expert, Chief Legal Advisor and Acting Municipal Manager.

154. There is no record of Special Council Resolution to offer/appoint Adv Lobakeng a permanent position as Chief Legal Advisor/Manager effective 15th September 2025.

RECOMMENDATION

155. It is already stated that on 26 April 2024 the Acting Municipal Manager, Mr M D Morwe, [whose appointment is found to be unlawful and irregular] appointed Adv Lobakeng on contractual basis as Municipal Legal Adviser/ Manager effective 1 May 2024 until 29 July 2024.
156. It is thus recommended that the appointment of Adv Lobakeng, either temporary or permanent should be reviewed by Council and set aside as irregular for non-compliance with Section 56 and 57 of the Municipal Systems Act, 32 of 2000.
157. The Councillors were instrumental in condoning non-compliance with the Systems Act as well as the Regulations in endorsing the appointment of Adv Lobakeng and thus failed to act in the best interest of the Municipality

by simply rubber stamping this unlawful conduct. The Code of Conduct of Councillors were simply ignored in this instance.

158. Given the magnitude of the negative effect of Adv Lobakeng's unlawful appointment to the coffers of the Municipality, there may be a need to source the records of the Special Sittings of Council that processed the appointment of Adv Lobakeng so that the identities of Councillors who participated on the relevant items on his appointment can be determined.
159. This is so in that over and above the oversight powers of the MEC as per the Code of Conduct for Councillors such information may guide the MEC, where necessary, to institute civil recovery processes against the affected Councillors.
160. In the same vein, official/s who was/were accounting officer/s of the Municipality during the relevant period of Adv Lobakeng's appointment should be subjected to the account for their conduct as guided by Sections 32, 60, 61 and 62 of the Municipal Finance Management Act. It is however noted that in terms of the Systems Act and the Regulations thereunder, Council wields statutory authority in discipline of Senior Managers.

166. The cv further records that he also acted as Director Corporate Services from August 2021 [*period not stated*] and ultimately as a substantive Land Use Manager effective from 1 April 2022 to date.

THE CURRICULUM VITAE OF MR BORMAN PHUTIYAGAE

167. It appears that Mr Phutyagae had not submitted his cv or qualifications to the Municipality in respect of all positions he occupied for the period 2021 to August 2024.

168. The above is on the basis that on 12 September 2025(sic) [*the year must be 2024 as the reply was penned on 10 March 2025*], the Acting Chief Director: Local Governance, COGTA addressed correspondence to Mr Phutyagae titled "*FACT FINDING SESSION INTO ALLEGATIONS OF NON-COMPLIANCE WITH RECRUITMENT PRESCRIPTS.*"³⁵

169. On 10 March 2025, Mr Phutyagae replied to this correspondence and attached his cv together with proof of qualifications. These are documents that should have been made available to the Municipality and the Department as early as 2003 on his first appointment.

170. What becomes relevant to this investigation is the "Comment" section of the reply which reads:

³⁵ See letter from Acting Municipal Manager, B Phutyagae to Mrs E Mmutle [Acting Chief Director: Local Governance dated 10 March 2025.

174. This appointment as Acting Director of Corporate Services was extended on several occasions on the basis of Special Council Resolution 005/02/23 [*attached to all appointments*] which is dated 27 February 2023 for the following periods:

174.1 01 to 30 April 2023 dated 18 April 2023;

174.2 01 to 31 July 2023 dated 3 July 2023;

174.3 01 to 30 August 2023 dated 21 August 2023. The anomalies noted on this appointment period is that there are two appointment letters, the first signed on 07 August 2023 and the second on 21 August 2023. No explanation proffered in this regard;

174.4 01 to 30 September 2023 dated 15 September 2023 and accepted 15 September 2023;

174.5 01 to 30 October 2023 dated 18 October 2023;

174.6 01 to 30 November 2023 dated 23 November 2023;

174.7 01 to 31 December 2023 dated 13 December 2023;

174.8 01 to 30 September 2024 dated 03 October 2023;

174.9 01 to 30 April 2025 dated 16 May 2025;

174.10 01 to 30 June 2025 dated 12 June 2025;

174.11 01 to 31 July 2025 dated 14 July 2025;

174.12 01 to 31 August 2025 dated 11 August 2025;

175. It must be noted that Special Council Resolution 005/02/2023 provide that the extension was affective from 01 March 2023 on month-to-month basis until the appointment of substantive senior manager. This Special Council Resolution also extends the appointment in similar terms as that of Acting Director Technical Services [Mr Gabatlooe Moleboge] as well as Acting Director Community Services [Mogale Morwe].

IRREGULARITY OF APPOINTMENT AS ACTING DIRECTOR CORPORATE SERVICES

176. Special Council Resolution 008/01/2025³⁸ dated 30 January 2023 provides that corporate service position be re-advertised and timelines be indicated and further provides that the position of the acting Director Corporate Services be extended until the post is duly filled.

177. The position was re-advertised on 18 November 2022 [Ref No. HR 01/2023/02] but remained vacant which allowed Mr Phutiyagae to occupy the acting position of Director Corporate Services until 31 August 2025.

178. Mr Phutiyagae dramatically ascended to the acting position of Director Corporate Services, i.e within his first month of his probation period. The possibility of collusion to retain Mr Phutiyagae as Director Corporate Services cannot be excluded.

³⁸ "Progress report on the Re: Advertising and filling of the vacant position of the Corporate Service Director"

179. Having regard to the Special Council Resolution that the post be re-advertised, which was done, it boggles the mind why if Mr Phutiyagae met the minimum requirements of the post did not apply for this position in the first advert as well as on the re-advert as it is the position where he already acted and was still acting as described in para 165 above.
180. In the letter to the Acting Chief Director: Local Governance he states that the post was re-advertised and council failed to proceed with the appointment due to refusal by candidate to accept the offer.
181. Special Council Resolution 008/01/2025 states that only three [3] applications were received and profiling of candidates had been concluded. Mr Phutiyagae was not part of the three profiled candidates.

FINDNGS

182. The appointment of an employee on two positions and on the same day is grossly irregular and does not comply with Section 56 of the Municipal Systems Act.
183. The perpetual irregular appointment of Mr Phutiyagae by the Municipality as acting Director of Corporate Services within his probation period as Manager Town Planning and Land Use Management effective 1 April 2023 was not in accordance with Section 56 of the Municipal Systems Act.

184. In essence, Mr Phutiyagae was appointed Manager Town Planning and Land Use Management for half a day and by the end of it, he was already "promoted" to a position of Director of Corporate Services whilst he does not have the minimum qualifications required for the position.

RECOMMENDATION

185. Considering the above, it is recommended that Mr Borman Phutiyagae's appointment as acting Director Corporate Services be reviewed by Council and set aside.

186. Mr Phutiyagae's appointment as Manager Town Planning and Land Use Management should be advertised and a suitable candidate be appointed as Mr Phutiyagae never served in this capacity for a full day.

187. The appointment of the substantive Director of Corporate Services be expedited and where possible be concluded within 3 months to ensure stability and accountability within the Municipality.

188. The nicodemous permanent appointment of Adv Lobakeng by Mr Borman Phutiyagae in contravention of the statutory prescripts with or without the approval of Council indicates a dangerously systemic pattern which if left unabated will collapse the administration of the Municipality.

189. The Councillors who were instrumental in condoning non-compliance with the Systems Act as well as the Regulations in endorsing the appointment

of Mr Borman Phutiyagae thus failed to act in the best interest of the Municipality by simply rubber stamping this unlawful conduct.

190. Given the magnitude of the negative effect of Mr Borman Phutiyagae's unlawful appointment to the coffers of the Municipality, there may be a need to source the records of the Special Sitings of Council that processed their appointments so that the identities of Councillors who participated on the relevant items on his appointment can be determined.
191. This is so in that over and above the oversight powers of the MEC as per the Code of Conduct for Councillors such information may guide the MEC, where necessary, to institute civil recovery processes against the affected Councillors.
192. In the same vein, official/s who was/were accounting officer/s of the Municipality during the relevant period of Mr Borman Phutiyagae appointment should be subjected to the account for their conduct as guided by Sections 32, 60, 61 and 62 of the Municipal Finance Management Act.

TERM OF REFERENCE 5

ALLEGATION OF FAILURE BY COUNCIL TO EXERCISE ITS OVERSIGHT ROLE ON APPROVAL OF THE ACTING ROLES OF BOTH ADV LOBAKENG AND MR PHUTIYAGAE TO ENSURE THAT APPOINTMENT OF SENIOR MANAGERS IN ACTING POSITIONS IS COMPLIANT WITH THE SYSTEMS ACT AND ITS REGULATIONS.

ON APPOINTMENT OF ADV LOBAKENG

193. On 05 May 2022 Special Council Resolution 006/05/2025 state that the appointment of Adv Lobakeng as Acting Municipal Manager is as a result of the expired secondment acting position as at 30 April 2022 [*i.e Section 154 of the Constitution appointment*] by the Department.
194. Before the end of the period stated at para 110 above expired [*i.e 1st June 2022 to 31st August 2022*], Adv Lobakeng was again appointed by the Mayor (Cllr N Mahlangu) as Acting Municipal Manager from 01 July 2022 until the position of Municipal Manager is filled per Special Council Resolution 003/01/2022.
195. This open-ended Resolution "until the position of Municipal Manager is filled" effectively appointed Adv Lobakeng to act as the Municipal Manager until such time that a substantive Municipal manager is appointed by

Council alternatively by non-extension of his acting period further alternatively if he resigns from the position.

196. No Counsel resolution to remove him as acting Municipal Manager was made available.
197. Council has failed in this regard to exercise its oversight role and ensure the Municipality's compliance with the provisions of Section 56(a) of the MSA.
198. Section 56(a) MSA deal with appointment of managers directly accountable to the Municipal Managers and provides for a municipal council, after consultation with the municipal manager, to appoint a manager directly accountable to the municipal manager.
199. On 30 October 2024 the then acting Municipal Manager, Mr S Maroga, appointed Adv Lobakeng on temporary basis [TEMPORARY APPOINTMENT AS A MUNICIPAL LEGAL ADVISOR/MANAGER] for a period of three months effective 01 November 2024 to 31 January 2025.
200. There is no Counsel Resolution following consultations with the Municipal manager, if any, in terms of Section 56(a) MSA.
201. In this regard again, Council failed to exercise its oversight role and ensure the Municipality's compliance with the provisions of Section 56(a) of the MSA.

202. Mr Phutiyagae and Mr Maroga both in their capacities as acting Municipal Managers extended Adv Lebakeng's appointment on various occasions without any Counsel Resolutions.
203. It must be noted that the only resolutions that relate to Adv Lobakeng 's appointment are Special Council Resolution 006/05/2022 (*dated 03 May 2022*) Special Council Resolution 003/01/2022.
204. Council has failed in this regard to exercise its oversight role and ensure the Municipality's compliance with the provisions of Section 56(a) of the MSA for appointment of managers.

ON APPOINTMENT OF MR PHUTIYAGAE

205. Special Council Resolution 005/02/2023 extended his appointment in this position from 01 March 2023 on month-to-month basis until the appointment of substantive senior manager.
206. This resolution is akin to the resolution taken in respect of Adv Lobakeng which appointed him until a future event happening. In this instance, until the appointment of substantive senior manager.
207. From 01 April 2023 to 11 August 2025 the Municipality was bound by this resolution to appoint Mr Phutiyagae to act as Director of Corporate Services for the Tswaing Local Municipality. Council failed to appoint a suitable candidate for the position of Director Corporate Services during that period.

208. In this regard, Council has failed to exercise its oversight role and ensure the Municipality's compliance with the provisions of Section 56(a) of the MSA for appointment of managers.

209. The quandary that the non-compliant appointment of Mr Phutiyagae has caused to the municipality is as follows:

209.1 On 17 March 2023 [*before the expiry of the extended period*] he was appointed on permanent basis as Manager Town Planning and Land Use Management effective 1 April 2023.³⁹ The position he occupied for half a day. The appointment was subject to three months' probation and his permanency depended on his work performance;

209.2 He acted as Director of Corporate Services with numerous extensions for consecutive three [3] years;

209.3 He now acts as Municipal Manager.

210. If he is removed as the acting Municipal Manger, does the municipality have to employ him back to his "substantive position" as Manager Town Planning and Land Use Management effective 1 April 2023 or must he continue to act indefinitely as Director of Corporate Services as per Special Council Resolution 005/02/2023 that provides that he acts in that position until the appointment of substantive senior manager.

³⁹ See appointment letter

211. This is a typical example that Council has failed to ensure the Municipality's compliance with the provisions of Section 56(a) of the MSA for appointment of managers.
212. This is despite the Municipality [Council] having the right to exercise any power concerning matters reasonably necessary for, or incidental to, the effective performance of its functions.⁴⁰
213. It must be noted that the recruitment, selection and appointment of Senior Managers **must** take place in accordance with the Municipal Systems Act and procedures contemplated in Section 67 of the Act and that are consistent with Sections 54A,56.57A and 72 of the Act.⁴¹
214. The above provisions are peremptory and non-compliance therewith renders the appointment null and void.
215. In the case of fixed term posts the municipal manager must have due regard to the financial implications of that post to the municipality, any existing contractual obligations of the incumbent manager and the financial implications on the budget of the municipality.
216. None of the above seem to be of concern to Council as the appointments and extension of appointments of senior managers were done without compliance with Section 56 of the MSA.

⁴⁰ See Section 156(5) – The Constitution, Act 108 of 1996.

⁴¹ See Section 6(1) MSA

217. Council has thus failed to ensure the Municipality's compliance with the provisions of Section 56(a) of the MSA for appointment of Adv Lobakeng and Mr Phutiyagae.
218. The Councillors who were instrumental in condoning non-compliance with the Systems Act as well as the Regulations in endorsing the appointment of Adv Lobakeng and Mr Borman Phutiyagae thus failed to act in the best interest of the Municipality by simply rubber stamping this unlawful conduct.
219. Given the magnitude of the negative effect of Adv Lobakeng and Mr Borman Phutiyagae's unlawful appointment to the coffers of the Municipality, there may be a need to source the records of the Special Sittings of Council that processed their appointments so that the identities of Councillors who participated on the relevant items on his appointment can be determined.
220. This is so in that over and above the oversight powers of the MEC as per the Code of Conduct for Councillors such information may guide the MEC, where necessary, to institute civil recovery processes against the affected Councillors.
221. In the same vein, official/s who was/were accounting officer/s of the Municipality during the relevant period of Adv Lobakeng and Mr Borman Phutiyagae appointment should be subjected to the account for their conduct as guided by Sections 32, 60, 61 and 62 of the Municipal Finance Management Act.

208. The total sum of litigation costs for this period total **R47 697 150.14 [Forty-seven million six hundred and ninety-seven thousand one hundred and fifty rand fourteen cents.]**
209. Adv Lobakeng was first seconded for appointment as a Legal Expert for the Tswaing Local Municipality in terms of Section 154 of the Constitution effective 1 March 2022 until 31 May 2022.
210. He was further appointed as Legal Advisor/Manager, Chief Legal Advisor, Acting Municipal Manager and now the Chief Legal Officer as at 15 September. 2025.
211. His duties were mainly to carry out his responsibilities associated with these positions by dealing, to the benefit of the Municipality, with all legal-related matters of the Municipality, which included representation of the Municipality in litigations, court orders, disciplinary process etc.⁴³

OBSERVATIONS

212. Though the municipality's instruction letters to legal service providers directed for bill of costs to be drawn on High Court Tariffs, there has never been or little compliance with such directive [condition of appointment] and bills submitted were not subjected to scrutiny or taxation to ensure compliance.

⁴³ See letter of extension of appointment as legal Expert dated 31 May 2022

213. This shortcoming has resulted in bloated bills of costs with a negative impact on the municipal budget.

FINDINGS

214. The amount of R47 697 150.14 [Forty-seven million six hundred and ninety-seven thousand one hundred and fifty rand fourteen cents] is absolutely unreasonable for litigation costs for just a period of 5 years.

215. In this instance, it is clear that Municipal officials might have connived with legal practitioners to pay exorbitant fees on Attorney and client scale rather than on set tariffs as per government regulations and or the conditions of the appointment letters. This would normally point to kickbacks to municipal employees amounting to elements of corruption.

216. The above is a classical illustration of collective failure of management to ensure compliance with Sections 61(1) and 61(2)(a) of the MFMA which provides for the Accounting Officer to act with fidelity, honesty, integrity and in the best interest of the municipality in managing its financial affairs.

217. In this regard it can be safely said that the Acting/Municipal managers, the Chief Financial Officers and Director Corporate Services have collectively relinquished their duty to Manage the Tswaing Local Municipality.⁴⁴

⁴⁴ See Minutes of Special Council Resolution 006/02/2022

218. Management managed the Municipality through Courts [ZANWHC] and thus opening a flood-gate for law firms to bill exorbitant fees as described in the preceding paragraphs. The cases in point are:

218.1 UM26/2021;

218.2 UM81/2021;

218.3 UM123/2020

218.4 UM97/2021;

218.5 UM151/2021;

218.6 UM153/2021

219. Council again failed in this respect to exercise its oversight role to safeguard the municipal fiscus and that bled the municipal finances heavily as against service delivery.

RECOMMENDATION

220. It is recommended that an overhaul of the actual litigation files be subjected to taxation to evaluate the actual work done and whether such work tally with the descriptions on the invoices to determine value for money spent.

221. Once done, the recovery of the excess amounts paid be initiated without delay.

224. In the same vein, official/s who was/were accounting officer/s of the Municipality during the relevant period of Adv Lobakeng and Mr Borman Phutiyagae appointment should be subjected to the account for their conduct as guided by Sections 32, 60, 61 and 62 of the Municipal Finance Management Act.

TERM OF REFERENCE 7

ILLEGAL SALE OF MUNICIPAL PROEPTIES INCLUDING FARM/S OF THE MUNICIPALITY. EXAMINATION OF THE ASSETS REGISTER TO DETERMINE WHETHER ANY PROPERTIES SOLD IN THE PAST FIVE [5] YEARS AND WHETHER IT WAS IN ACCORDANCE WITH THE PRESCRIBED LEGAL STANDARDS.

222. During 2018, the Tswaing Local Municipality through Council Resolution 022/03/2018 [*which is contested*] resolved to exchange/swap properties between the Municipality and JP Otto Boerdery cc.

223. The motivation advanced for this process was that the land belonging to JP Otto Boerdery cc would be used for community development projects and or human settlement. The land identified is closer to Letsopa Township and some members of the community had already settled therein illegally.

224. From the onset, the investigator/s are grateful for the assistance received from the complainant Mr Sam Letlonkana with the documents trail of this sale. This is so because the Municipality provided the investigators only with an unsigned three [3] page “report” bearing no name of its author or any municipal official.
225. The relevant property for the purpose of this investigation is identified as Portion 50 of 24 of the Farm Koranafontein 350 IO measuring approximately 28 hectares.
226. Of note is that in 2021 a mineral exploration report confirmed the presence of uranium deposits on the site which substantially elevated its market value.
227. Over the years this property was allocated for various community projects, interalia:
- 227.1 allocated for an Eco Garden project [1997 – 2002];
- 227.2 Leased to Mr O.R Lerole [2006 – 2011];
228. It must be noted that the proposal for this transaction was tabled before Council but not adopted. Nonetheless, a feasibility study was conducted but no formal report was ever made available for public scrutiny or Council itself.
229. It should further be noted that “Council resolution” 014/08/2018 was never formally adopted by Council and therefore not a Council resolution within

236. There are no records submitted to the investigator/s indicating that the technical subdivision process has been finalised and thus no Surveyor General's approval letter or deeds office registration documents have been made available by the municipality.

237. According to correspondence from Foster Attorney,⁴⁵ the diagrams were approved by the Surveyor General under SG No. 82/2019, SG No. 81/2019, SG No. 80/2019 and SG 83/2019. Consequently, the documents for the of the land and the contracts and transfer documents were prepared and emailed to Mr I Moruti on 09 May 2019.

BRIEF OVERVIEW STEPS TO BE TAKEN ON SALE OF MUNICIPAL LAND

238. The following steps are necessary to be undertaken when municipal land is sold, viz:

238.1 Council takes resolution on selling the land;

238.2 The administration will attend to the necessary arrangements and execution of the land;

238.3 Public participation is peremptory and should be complied with;

⁴⁵ See letter addressed to Municipal Manager [Mr I Moruti], the Mayor [Me L Malwane], Legal Advisor [Mr Sith] and Municipal Council dated 08 May 2020 as well as letter from Municipality to Foster Attorney dated 18 July 2018.

- 238.4 The Ministerial consent in terms of Section 4 of the Subdivision of the Agricultural Land Act **must** be obtained.
- 238.5 Once the transaction is concluded, the revenue department will then collect the income from the proceeds of sale and submit documentation to Assets Management Unit to perform necessary adjustments;
- 238.6 The collated information will then be handed over to corporate department to liaise with the Deeds office to perform change of ownership from the Municipality to the purchaser.
- 238.7 The title deed will upon registration will then be in the purchaser's name with the new title deed number.
239. In this transaction, it appears that the Surveyor General's approval was obtained even before the prerequisite Ministerial consent, which was not granted.

STATUS OF THE SALE

240. The unsigned "report" details that the transaction of this property has not been registered with the Deeds office and the bond cancellation over the property is still pending.
241. It would appear that the transaction is halted only by non-compliance with statutory requirements including but not limited to public participation as well as Ministerial consent.

252. It is trite law that unlawful transactions of this nature denote criminal conduct of possible fraud and/or theft of municipal property and this transaction should not be treated differently.
253. For this reason, it is recommended that the necessary action [*institution of criminal proceedings*] should be taken in terms of Section 32(6) and 32(7) of the Municipal Finance Management Act and all municipal officials involved in the transaction be held accountable.
254. In terms of Section 117 of the Municipal Systems Act, all records and documents of a municipality are in the custody of the Municipal Manager and it is for this reason that the Municipal Manager of Tswaing Local Municipality should provide the Section 32(6) of the MFMA process with a minimum of the following documents:
- 254.1 the complete and signed Council Resolution authorising the land exchange/swap, more particularly purported Resolution 022/03/2018 or any other Resolution regarding this transaction;
- 254.2 the signed Council agenda and official minutes of the meeting held on 28 August 2018 as well as the attendance register for the said meeting;
- 254.3 the records of any public participation but not limited to invitations, statutory notices and community feedback;
- 254.4 Copies of correspondence to the Minister and the Minister's consent granting concurrence for the subdivision and consolidation of the land;

254.5 A copy of the signed contract between Tswaing Local Municipality and JP Otto Boerdery cc;

254.6 In event that the transaction fell through, despite the faceless 'report' received from the municipality indicating that Council should re-assess the agreement, then proof of transfer as well as valuation reports should be made available.

255. The Accounting Officer of the Municipality is responsible for the management of that the municipality's assets and liabilities are valued in accordance with standards of generally recognised accounting practice.⁴⁶

TERM OF REFERENCE 8

IRREGULAR APPOINTMENT OF SERVICE PROVIDERS. EXAMINATION OF PROCUREMENT OF SERVICES IN THE SCM RECORDS EFFCETIVE FROM THE INSTALLATION OF THE CURRENT POLITICAL ADMINISTRATION.

256. The SCM records indicate that there are three categories of service providers to the Municipality, viz:

256.1 CONSULTANTS PANEL

256.1.1 From the information received the last time this panel was established was for a three-year period under Bid Number SCM006/2021/22.

⁴⁶ See Sectio 63(2)(b) of the MFMA

- 256.1.2 All in all, a number of 16 Consultant firms were appointed from the private sector and classified under Technical Services as Technical Consulting Engineers.
- 256.1.3 It is not certain as to what type of technical service has any of these companies rendered to the municipality save that the description of goods-services-projects contracted for is recorded as "Appointment for the inclusion in the panel of consultants in various fields for a period of three years.
- 256.1.4 These appointments still reflect the status of being active and in progress despite the expiry of the three-year period.
- 256.1.5 No record of appointments for specific projects have been provided to the investigator/s in connection with these appointments.
- 256.1.6 At the time of constituting this panel the responsible Director within the municipality was T Meerken. No record of a similar panel was constituted at the expiry of the three-year period. This is so because no other information could be found in this regard.
- 256.1.7 There are no records of grant register numbers or any order numbers, contract file numbers, appointment dates, starting dates, completion dates, total expenditure, extensions nor variations.
- 256.1.8 Essentially, it appears that this panel has not rendered any service to the Municipality and therefore there seem to be no reason why this panel was established. This can only a reasonable conclusion in this regard considering paragraph 256.1.7 above.

256.2 EVERGREEN CONTRACTS

- 256.2.1 The information supplied to the investigator/s indicates that these contracts were for a period of three years ranging from 2015 – 2018 and 2018 to 2020.
- 256.2.2 The last contract end date was 01 September 2021.
- 256.2.3 All appointment contracts under this category are recorded as expired.
- 256.2.4 Then Acting Director of Corporate Services, B Phutiyagae and CFO LJ Mogoemang were responsible for this category of contracts.
- 256.2.5 In total 9 companies were appointed in this category for supply of maintenance and consultation for municipal user system [**Business Connexion**], professional services for insuring municipal assets [**Kunene Makopo Risk Solutions**], security services [**Dephetogo**], provision of ICT hardware [**Matshelo Group**], provision of legal services [**Motshabi & Modiboa Attorneys and Motlatsi Seleke Incorporated**], website design and maintenance [**Diteng Business Solutions**], financial services [**First National Bank**] and photocopier machine leasing [**Universal**].
- 256.2.6 As there were no Service Level Agreements were concluded by the Municipality, it becomes impractical to evaluate these companies' performance and whether any of these contracts were renewed.
- 256.2.7 Out of these 9 contracts only the contract for supply of maintenance and consultation for municipal user system by Business Connexion was extended without any amendments for a further period of 12 months valued

at R897 350.95 under authority of Acting Director Corporate services, B Phutiyagae.

256.3 **CURRENT CONTRACTS**

256.3.1 A number of 16 companies were appointed under this category between the period 2018/2019 and 2023/2024.

256.3.2 In total, 7 of these contracts have since expired.

256.3.3 Two [2] companies were appointed for construction of Atamelang Taxi Rank Shelter and Kopela Taxi rank Shelter [TNTG Group (Pty) Ltd and Korone Engineers]. No explanation provided for this dual appointment for same project and why only these two companies were appointed. This is despite the fact that the reason/s for overspending is recorded as projects been under budgeted.

256.3.4 Two [2] companies were appointed for reconstruction of Atamelang Access Road [KKS Wealth Creations (Pty) Ltd and Mangethe Group (Pty) Ltd.

256.3.5 The following projects are still identified as in progress and still require monitoring as no SLA has been provided for any of the projects under this category:

256.3.5.1 Construction of Delareyville Internal Roads Phase 1, awarded to Letsapasei & Son (Pty) Ltd and Leitho Projects;

256.3.5.2 Construction of Letsopa internal road Phase 8, awarded to EKS Consulting Engineers (Pty) Ltd

256.3.5.3 Construction of Witpan Seteng internal Road Phase 1 and storm water, awarded to MER Consulting Engineers

256.3.5.4 Provision of VAT recovery services for a period of 3 years, awarded to Maximum Profit Recovery (Pty) Ltd;

OBSERVATION

257. The absence of Service Level Agreements has made it difficult to properly evaluate these three categories of contracts.
258. It is therefore further difficult to assess the Municipality's compliance with Section 63(2)(a-c) of the MFMA.

RECOMMENDATION

259. In the above circumstances, the Municipality should be required to provide the Department of COGHSTA with the information as contemplated in Section 63(2)(b) and (c) of the MFMA.
260. The failure to conclude Service Level Agreements with service providers is grossly irregular and fundamentally flawed to the core.

261. Section 81 of the Municipal Finance Management Act places an obligation on the Municipality's Chief Financial Officer to perform such budgeting, accounting, analysis, financial reporting, cash management, debt management, supply chain management, financial management, review and other duties as may in terms of section 79 be delegated by the accounting officer to the chief financial officer.
262. The absence of the mandatory Service Level Agreements with service providers indicates that it would be practically impossible for the Chief Financial Officer to perform his functions in terms of Section 81 of the MFMA however s/he allowed such projects to proceed.
263. For the above reasons, the accounting officer, the chief financial officer [or anyone in acting capacity during the relevant period] as well as delegated officials who oversaw the implementation of the contracts without Service Level Agreements should be held accountable for the dismal failure to comply with Section 116 of the Municipal Finance Management Act.

END OF REPORT

