

CONFIDENTIAL

EXTRACT OF CONFIDENTIAL ITEMS FROM THE

# MINUTES

8<sup>TH</sup> ORDINARY MEETING

of

**MATJHABENG MUNICIPALITY**

held on

**TUESDAY 28 AUGUST 2001**

at

**16:00**

CONFIDENTIAL

I

**EXTRACT OF CONFIDENTIAL ITEMS FROM THE MINUTES OF THE 8<sup>TH</sup>  
ORDINARY MEETING OF THE MATJHABENG MUNICIPALITY HELD ON  
TUESDAY 28 AUGUST 2001 AT 16:00**

**PRESENT**

**OFFICIALS**

The Acting Municipal Manager - RSB Sesele  
Assistant City Secretary (Administration) - Mr. TR Shiringani  
Deputy Town Secretary - Mr. B Molatseli

**EXECUTIVE MAYOR**

**Cllr:** Leeuw SJ

**SPEAKER**

**Cllr:** Matsepe TV

**Councillors:**

Alexander RR  
Auret IH  
Baaitjies M  
Bengu VV  
Bothma B  
Chao MK  
Dali VN  
Dassie YS  
Dlamini SC  
Dlova TW  
Du Toit JJ B  
Edeling JH  
Fourie JJC  
Ikaneng MI  
James TH  
Khalipha TD  
Kotzee D  
Kujoana MA  
Louw ML  
Mabuya FF - applied for leave of absence (attended from 16:25)  
Mafantire JM  
Majoe TS



Manzana NR  
Maqena AM  
Mashinini NL  
Masienyane MD  
Matlabe MMT  
Mbana MM  
Marais Dr JS  
Matosa AN  
Matsbukanye MM  
Menong KS  
Mfebe MSE  
Mgubanto KA  
Mhlaba N  
Mogole RR  
Mokoena ME  
Mokolutlo LA  
Montshioa BA  
Mosala MS  
Motshabi MP  
Nakwa TA  
Neumann VH  
Ngangelizwe S  
Ntsala MM  
Radebe LLF  
Radebe ML  
Ramojela JN  
Rubulana L  
Seboholi CP  
Segalo SS  
Sephiri MJ  
Smit DC  
Styger A  
Taliwe FE  
Thoabala ET  
Thuthani ZA  
Tladi RE  
Tsatsa SJ  
Tshabangu SE  
Tsoene TD  
Van Rooyen HC  
Vanga M



**1. OPENING**

The Speaker, Councillor TV Matsepe welcomed everyone present and Pastors Lee Ward-Able and Pieter Jooste opened the meeting with scripture reading and a prayer.

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**Councillors** : Liphoko SJ  
Olivier JJ  
Mohloli PP  
Tihone ML  
Masoka NL

**3. ABSENT WITHOUT LEAVE**

**Councillors** : Mafongosi VZ  
Mokhathi PE

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# 1

## **SECTION C**

C1

### **REPORT ON THE FORENSIC INVESTIGATION INTO ALLEGED IRREGULARITIES AT THE VENTERSBURG TRANSITIONAL LOCAL COUNCIL (6/12/2/1) (AMM) (P 34)**

#### **IT IS RESOLVED BY THE COUNCIL : (28.08.2001)**

That the following steps **BE TAKEN** by the TLC to prevent similar irregular activities in future:

#### **1. Corrective measures**

- There should be clearly documented segregation of duties in respect of receipt of revenue and all accounting procedures performed at the TLC. This segregation should be formulated in agreed-upon job descriptions for each staff member of the TLC and must be strictly implemented.
- Staff tasked with financial and accounting responsibilities at the TLC should receive proper training in respect of the Data-M system.
- Bank deposit slips for daily revenue received should also be deposited into the bank account on the same day.
- Clear rules pertaining to the safekeeping of keys should be laid down at the TLC.

#### **2. Punitive steps**

##### **2.1 Criminal prosecution**

The alleged irregular actions by the Treasurer of the TLC during the period 1 July 1996 to 20 October 2000 are not only of an extremely serious nature, but are also of a criminal nature. These actions were evaluated in the common law context and we came to the conclusion that fraud was committed.

Fraud as a common law offence consists of four elements. All four elements need to be proven before a conviction of fraud is possible. The alleged irregular actions of the Treasurer were evaluated against the four elements as follows :

## 2

- **Misrepresentation** - The essence of fraud is the deceiving or misleading of the victim of the crime. In this case, the Treasurer misled the victim (the TLC) in various ways. He misled the TLC by taking over certain responsibilities of the Accountant, knowing that those responsibilities were not his and by preventing all staff in the finance section from having access to the Data-M system. He misled Cashier 1 (an official of the TLC) by giving him a note with the instruction to deposit only the amount indicated on the note. The amount differed from the money actually received the previous day. The Treasurer also misled the TLC by creating fictitious daily receipt statements and replacing the original ones with these. Lastly, the Treasurer misled the TLC by manipulating the general ledger entries on the Data-M system. It is our view that these actions of the Treasurer constituted misrepresentations made to the TLC.
- **Unlawfulness** - The misrepresentation made to a victim must be unlawful in order to prove fraud. We are of the view that the misrepresentations made by the Treasurer were unlawful in the common law context. He had no authority to take the actions that he took.
- **Prejudice** - A mere unlawful misrepresentation does not constitute fraud. The unlawful misrepresentation must bring about harm or prejudice to the victim. In this case, it is our view that the unlawful actions of the Treasurer caused grave financial losses to the TLC (victim), amounting to R326 218,03 during the period of 1 July 1996 until 20 October 2000.
- **Intention** - The intentional element of fraud has 2 aspects, namely the intention to deceive and the intention to defraud. The suspect must have made the misrepresentation knowing or foreseeing that it might be false. The suspect must have induced the victim to believe that something was true which was false, and which he or she knew was false. Furthermore, the suspect must have wanted the victim to act upon misrepresentation. In this case, it is our view that the Treasurer (suspect) knew that his misrepresentations were false and meticulously planned and implemented the misrepresentations.

In the light of the above, it is clear that the irregular actions of the Treasurer contain all the elements of fraud. It is therefore recommended that this report be submitted to the Commercial Crime Unit in Bloemfontein.

# 3

Please note that a criminal case has already been registered with the SAPS.

## 2.2 Disciplinary action

The CEO initiated disciplinary procedures against the Treasurer. However, the Treasurer resigned from the employ of the TLC before any disciplinary steps could be taken.

## 2.3 Civil recovery

The TLC is comprehensively insured. It is recommended that the TLC consider claiming its losses of R326 218,03 from its insurance company.

The feasibility of a civil claim for damages against the Treasurer should also be considered. It is recommended that this matter be referred to the lawyers of the TLC.

## C2

### **REPORT ON THE PRELIMINARY INVESTIGATION INTO ALLEGED IRREGULARITIES AT VIRGINIA TRANSITIONAL LOCAL COUNCIL (6/12/2/1) (AMM) (P 35)**

#### **IT IS RESOLVED BY THE COUNCIL : (28.08.2001)**

#### **1. MOTOR VEHICLE**

- 1.1 That the internal Audit investigate and quantify any loss incurred by the TLC or any personal gain obtained by the Suspect as a result of a loan taken by the Suspect according to the Old Virginia Motor Vehicle Scheme instead of the New Scheme.
- 1.2 That the Internal Audit further investigate and quantify any possible loss incurred by the TLC or personal gain obtained by the Suspect as a result of the following :
  - 1.2.1 Securing further financing on the same vehicle
  - 1.2.2 Securing a further loan for acquiring a new motor vehicle
- 1.3 That any loss incurred by the TLC be recovered from the Suspect according to the provisions of the Section 10G(2)(f) of the Local Government Transition Act (Act no 97 of 1996) as amended.



# 4

- 1.4 That a Disciplinary Action be instituted against the Suspect for charges related to mismanagement / misuse of Council funds or fraud, and to institute relevant charges related to contravention of Council Policy and the Contractual Agreement between the Suspect and the TLC.
- 1.5 That where there is my convincing evidence that criminal offences were committed, criminal charges be laid against the Suspect.

## **COMPUTER EQUIPMENT**

- 2.1 That Council reconfirms the Council Resolution of former Virginia TLC to pay R16 381,04 to the relevant financial institution to take over ownership of the equipment.
- 2.2 That any extra money paid by the TLC be recovered from the alleged offender.

## **3. OVERTIME**

- 3.1 That Internal Audit be instructed to review all the overtime claims submitted by the alleged offender during the period stipulated in order to verify their legitimacy, and report to the Audit Committee.
- 3.2 That a comprehensive report be submitted to Council during September 2001.

## **4. LAPA**

- 4.1 That Council reconfirms the former Virginia TLC. Resolution K10 of 29 July 1991 that stipulates that the TLC would bear one third of the costs of permanent improvements to official houses.
- 4.2 That any extra costs incurred by the Council in respect of permanent improvements to the Official house of the alleged offender are recovered from the alleged offender.

## **C3**

### **AUDIT COMMITTEE : REPRESENTATION (6/12/2) (AMM)**

### **IT IS RESOLVED BY THE COUNCIL : (28.08.2001)**

The Executive Mayor **REPORTED VERBALLY** to the Council that **IT BE NOTED** that two Independent Members viz :

# 5

Mr LA Gambale (Chartered Accountant) has confirmed his availability to serve on the Audit Committee and that Mr H Engelbrecht (Senior Manager : Free State St Helena Gold Mines) has indicated his willingness to serve on the said Committee, but has still to confirm his availability.

**C4**

## **APPOINTMENT OF MATJHABENG MUNICIPAL MANAGER (5/3/2/1) (AMM)**

### **IT IS RESOLVED BY THE COUNCIL : (28.08.2001)**

During discussion and finalization of this item the The Acting Municipal Manager Mr RSB Sesele excused himself from the meeting.

1. That Mr RSB Sesele **BE APPOINTED** as the Municipal Manager for a term not less than four and not more than five years.
2. That the Executive Mayor **ENTERS** into a performance agreement with the appointed Municipal Manager **NOT LATER** than three months from today.
3. That the Executive Mayor **FURTHER NEGOTIATES** with the candidate on the remuneration package.
4. That the Executive Mayor **REPORT** to the Council on the agreement reached.

.....  
**DATE**

.....  
**TV MATSEPE (SPEAKER)**

- 4.1 The Speaker requested all Councillors to complete the form handed out to them indicating their preference on the proposed coat of arms for Matjhabeng and hand it in to the Assistant City Secretary (Administration) before the end of the meeting.
- 4.2 The Speaker announced that there is a tree planting ceremony on Arbor Day, Monday 3 September 2001 and that the function will be held at Ward 25, Jerusalem Park at 10:00, and will be attended by the Minister of Water Affairs and Forestry, Mr Ronie Kasrils.
- 4.3 The Speaker circulated samples of identification cards for Councillors requesting them to indicate their preferences, whereafter Councillors indicated that they are in favour of the Big Sample with a picture of the respective Councillor on it.

**5. REPORTS OF THE SPEAKER IN TERMS OF RULES 15(10) AND 99(4)**

None

**6. APPLICATIONS AND APPEALS FROM COUNCILLORS IN TERMS OF RULES 14(1), 67 AND 72**

None

**7. REPORTS RECEIVED FROM THE SPEAKER**

None