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File Reference: Selection Panel: City Manager

Author: Adv NG Mpangane

Report Number: Designation:

Acting Head of Corporate Services

APPROVAL

1st Level: EMT (N/A)
2nd Level: Section 80 Committee (N/A)
3rd Level: MAYCO (N/A)
4th Level: Council (28/02/223)

REPORT OF THE SELECTION PANEL FOR THE RECRUITMENT, SELECTION AND APPOINTMENT OF THE MUNICIPAL MANAGER (CITY MANAGER) FOR MANGAUNG METROPOLITAN MUNICIPALITY (MMM) IN TERMS OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS AMENDMENT ACT, ACT 3 OF 2022 READ TOGETHER WITH LOCAL GOVERNMENT: REGULATIONS ON APPOINTMENT AND EMPLOYMENT CONDITIONS OF SENIOR MANAGERS.

1. PURPOSE

The purpose of this report is to:

- 1.1 The purpose of this submission is to brief council on the selection, recruitment and appointment processes of the selection panel for the recruitment, selection and appointment of the City Manager at MMM.
- 1.2 For the council to note the previous recruitment process and that the 90 day period has lapsed, thus requiring the process to be restarted;
- 1.3 For the Council to appoint the selection panel for the selection, recruitment and appointment of the City Manager;
- 1.4 For the council to approve the road map for the selection, recruitment and appointment of the City Manager

2. BACKGROUND

- 2.1 On 31 August 2022, the Municipal Council appointed 5 members to constitute the selection panel for the appointment of municipal manager/ city manager. The selection panel executed their mandate with commitment, due diligence, fairness and transparency supported by the National Cabinet Representative (NCR) who were appointed as observers to oversee the process.

- 2.2 The selection panel is mandated to submit to council its final report in accordance with regulation 16(4) on their work executed since their appointment. The said report of the selection panel failed to meet the minimum requirements as enshrined in the Municipal Systems Act and Regulations due to two legal issues, namely the selection panel itself was not constituted properly (council appointed two councillors instead of one) and also included the acting City Manager who is deemed to be municipal employee due to his secondment from national which is explicitly stated in the Regulations. Lastly the selection panel also failed to recommend to council candidates in order of preference based on the outcome of the competency assessment and that the computation of time for appointment was due in December 2022. The panel was also provided legal advice on recent judgements on the composition of panel by the secretariat, and their views was that it is council who appointed them.
- 2.3 This incompleteness of the report of the selection panel was raised by the National Cabinet Representative (Governance Expert) through the secretariat, Adv NG Mpangane, acting Head of Department, Corporate Services of which the selection panel was made aware of these views, however the selection panel failed still failed to remedy its report on the appointment, selection, and recruitment of the City Manager.
- 2.4 Subsequent thereto, NCR submitted similar report to the Speaker of Council Ms Lockman providing their reasons of not signing the final report of the selection panel on recruitment, selection, and appointment of City Manager emphasising incompleteness as stated above.

3 DISCUSSION

- 3.1 The appointment process of senior managers is highly regulated, and appointment must be finalised within the specified time frames. The current process should have been finalised by 23 December 2023 as stipulated in the aforesaid Regulations. The reservation of the NCR is legally correct in that the final report of the selection panel is incomplete, constituted selection panel was outside the regulatory frameworks, therefore rendering the process untaken unlawful.
- 3.2 To legitimise the selection, recruitment and appointment of the city manager, the process must commence from the beginning with approval of readvertisement and appointment of properly constituted panel by council. The Municipal Systems Amended Act, read together with Chapter 3 of the appointing regulations, stipulate and outline processes and procedure with time frames to be followed through when council commences with the recruitment, selection, and appointment of municipal manager. One of the critical paths and milestones is for the council to approve that the positions of municipal manager be readvertised and appoint a selection panel.
- 3.3 Regulation 12(4) mandates council to appoint a selection panel consisting of at **least three** and not more than **five members**, constituted as follows-
- (a) the executive mayor/mayor or delegate from the council, who will serve as the chairperson;
 - (b) **one councillor designated by the municipal council** (preferably the mayoral committee member or relevant portfolio head); and

- (c) at least one other person who is not a councillor or a staff member of the municipality, with expertise or experience in the role of the municipal manager¹.

If a selection panel of more than three members is preferred, **the fourth and fifth members shall not be councillors.**² The only category of persons that can be increased on the selection panel is the persons mentioned in (c) above and not by persons mentioned in (a) and (b) above.

4 LEGISLATIVE PROVISIONS

- 4.1 The recent Municipal Systems Amendment Act state that any appointment that is not in compliance with the Act is null and void and empowers the MEC of responsible for local government to either to request council to remedy its decision and or apply for a declaratory order to set aside such appointment made by council. The MEC is also enjoined to report to the Minister responsible for local government on the process followed by the municipality to appoint senior managers. Chapter 3 of the Regulations on appointment and employment conditions of senior managers details processes, procedure, and computation of time by council.
- 4.2 The municipal council is enjoined to appoint the City Manager on recommendation by the selection panel.

5. DELEGATIONS

- 5.1 The Executive Mayor oversee the administration component of the municipality.

6. IMPLICATIONS

6.1. FINANCIAL

- (a) The municipality has fruitless and wasteful expenditure for the 1st and second process as detailed in the table below:

No	Discovery Date	Reported to the Accounting Officer	Date of payment	Amount	Payee	Purpose
1	27/02/2023	No	14/12/2022	R21. 600.00	Gijima Ast Holdings	Competency Assessments for 3 candidates
2	27/02/2023	No	14/01/2022	R47. 780.00	Media 24 City Press	Advertisement
3	27/02/2023	No	15/09/2022	R45. 632.00	Media 24 City Press	Advertisement
4	27/02/2023	No	06/12/2022	R15,798.52	Vericrim	Background checks
5	27/02/2023	No	Cancellation fee-still to be paid	R7. 528.95	Ashwood – Guest house	Interview venue

¹ Moerane and another v Buffalo City Metropolitan Municipality and others(611/2017[2017])(05 December 2017)

² Circular no 24 of 2022: Implementation of the local government: Municipal Systems Amendment Act, 2022 (Act No 3 of 2022 issued by National CoGTA.

Total	R 130 818.05	The expenditure incurred to be reported and investigated in accordance with MFMA³
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- (b) The municipality will incur estimated expenditure for re-advertisement and over heads costs for candidates selected for interviews covering travel and accommodation (candidates outside the province) and competency assessment of three candidates recommended by the selection panel.

Item	Estimated Costs	Purpose
Media 24 City Press	R46. 000.00	Readvertisement
Service provider accredited by DCoG	R21. 600.00	Competency assessments
Travel and accommodation	R 7.000.00	Interviews (candidates)
Total	R74 600.00	

6.2. LEGAL

- (a) The legal implications are that appointed selection panel is outside the regulatory framework and the computation of time for appointment by council has lapsed rendering the process not in compliance with the Municipal Systems Act and its Regulations.
- (b) Council must approve readvertisement and appoint properly constituted selection panel that would be available and acknowledge that the finalization of the process is very urgent.

6.3. COMMUNICATION

The Executive Mayor must report to the MEC for responsible for local government and subsequently to the Minister for responsible for local government on the process undertaken and the decision of council.

6.4. COMMUNITY & SERVICE DELIVERY

The absence of head of administration impacts on development of long-term visions and strategies to improve service delivery. The uncertainty, high turnover of the municipal manager and managers reporting to the municipal manager brings in instability in administration, lack of continuity in administration which leads to implementation of different approaches and turn around strategies.

7. RECOMMENDATION

IT IS RECOMMENDED THAT COUNCIL:

- 7.1 Note the process embarked upon by the selection panel as mandated by council on the recruitment, selection and appointment of the City Manager.

³ Fruitless and wasteful expenditure as per the report obtained from the office of acting Chief Financial Officer

- 7.2 Note the report on the selection, recruitment and appointment of the City Manager from the NCR;
- 7.3 Mandate the MPAC Committee to investigate the UIFWE relating to the selection, recruitment and appointment of the City Manager and report back to the Council;
- 7.4 Approve that the position of the City Manager be readvertisement and the appointment must be finalised within 3 months.
- 7.5 Appoint selection panel for the recruitment, selection and appointment of the City Manager as follows:
 - 7.5.1 **Chairperson** – Mayor, Mangaung Metropolitan Council
 - 7.5.2 **Panel Member** - Local Government Expert
 - 7.5.3 **Panel Member** - Cllr designated by council
 - 7.5.4 **Panel Member** -
 - 7.5.5 **Panel Member** -
 - 7.5.6 **Observer** – NCR
 - 7.5.7 **Observer** – NCR Support Governance
- 7.6 Direct the acting City Manager to handover to the new City Manager to be appointed for a period to be determined by the new incumbent City Manager .

8. WRITTEN BY:




Adv N Mpangane

01/03/2023

DATE

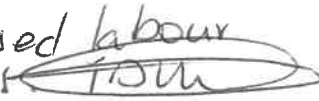
9. APPROVED BY:



T Mottashuping (Mr)

ACTING CITY MANAGER

kindly provide for organised labour to have observer status



01/03/2023

DATE

10. APPROVED BY:



Ms Mapaseka Nkoane

DEPUTY EXECUTIVE MAYOR

1/03/2023

DATE

11. RATIFIED BY:

Ms Gugu Malaza

NATIONAL CABINET REPRESENTATIVE



DATE

01/03/2023

12. ANNEXURES

- 12.1 ANNEXURE A : LOCAL GOVERNMENT : MUNICIPAL SYSTEMS ACT,**
- 12.2 ANNEXURE B : LOCAL GOVERNMENT : REGULATIONS ON APPOINTMENT AND CONDITIONS OF EMPLOYMENT OF SENIOR MANAGERS**
- 12.3 ANNEXURE C : COURT JUDGEMENTS**
- 12.4 ANNEXURE D : CIRCULAR NO. 24 OF 2022: IMPLEMENTATION OF THE LOCAL GOVERNMENT: MUNICIPAL SYSTEMS AMENDMENT ACT, 2022 (ACT NO. 3 OF 2022)**

ROAD MAP TOWARD RECRUITMENT, SELECTION AND APPOINTMENT OF POSITION OF CITY MANAGER

ACTION	TIMEFRAMES		RESPONSIBILITY	VARIABLES
	Number of Days	START END		
<p>1. Obtain approval from municipal council to readvertise the vacant post The submission to council readvertise and appoint selection panel members.</p>		03 March 2023 03 March 2023	Municipal Manager/ Mayor	Delays in approvals
<p>2. Advertisement of vacant post The post must be advertised in a newspaper circulating nationally and the province where the municipality is located. Issue an invite to the selection panel</p>	14 days	05 March 2023 (readvertisement) 12 March 2023	AHOD: Corporate Services	Delay in compiling a job description, confirming advertisement
<p>3. Compiling a long list This activity entails the process to take all applicants and sort out the candidates that are not fulfilling the requirements. This is the</p>	Within 5 days after the closing date of the advertisement (can be done during the	13 March 2023 17 March 2023	AHOD: Corporate Services	Number of applications received

<p>step where the formal requirements for a job are checked. This include the years of experience, the educational requirements, checking for relevant work experience etc.</p>	<p>advertisement stage)</p>				
<p>4. Compiling a shortlist Analyse applicants according to their skills, competencies, qualification and experience.</p>	<p>Within 3-5 days within after the compilation of long list (can be done after closing date)</p>	<p>18 March 2023</p>	<p>22 March 2023</p>	<p>Selection panel</p>	<p>Selection panel availability. Number of applications received</p>
<p>5. Screening of candidates Ensure that academic qualification, experience and competencies are verified; reference checks conducted; current and previous employer contacted; details of any dismissal for misconduct and any disciplinary actions.</p>	<p>21 days</p>	<p>23 March</p>	<p>05 April 2023</p>	<p>AHOD: Corporate Services</p>	<p>Delay in receiving screening reports</p>
<p>6. Interviews, competency assessment and selection One key challenge is to get all the right people, i.e. all applicants, all panel members into the same time zone and make sure they are reachable i.e. not traveling, being in a location with</p>	<p>5 days</p>	<p>10 April 2023</p>	<p>20 April 2023</p>	<p>Selection panel</p>	<p>Availability of candidates / selection panel members. Suitable candidate not recommended or found</p>

connectivity etc. Depending on the complexity of the job, several rounds of interviews can be conducted.						
7. Submission of report and recommendation to MAYCO and municipal council/ appointment made	10 days	25 April 2023	02 May 2023	Municipal Manager/ Mayor	Delay in council approving the appointment.	
8. Submission of report to the MEC	14 days	17 May 2023		Municipal Manager/ Mayor MEC		
9. Submission of the report to the Minister	14 days	30 May 2023				
10. Total turnaround time	+/- 55 days					

Days which may be limited