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Your Ref:
Room 314, Bram Fischer Building

Our Ref:
Date: 27 June 2023

**THE SPEAKER OF COUNCIL
MARYKE DAVIES**

RULE 38 QUESTION BY EFF MANGAUNG COUNCIL CAUCUS

OUTSOURCING OF TRANSLATION SERVICES AND PAYMENT OF MILLIONS OF RANDB.

Answers to Rule 38 Questions:

- (a) **Who or which departments requested translation of documents and for what purposes?**

Former Head for Corporate Services, for the purpose of translation of Bylaws.

- (b) **Which documents were translated and what is the actual costs paid, for such services?**

By-laws – R3 731 250,00

- (c) **How many quotations were sought and why the supply chain management policy was not followed for this type of professional services?**

Service Provider who has a Service Level Agreement with MMM was used. Law firm from the panel of attorneys was instructed due to specific nature of work.

- (d) **Where can we access those translated documents?**

Legal Services – By-Laws

RULE 38 QUESTION BY EFF MANGAUNG COUNCIL CAUCUS:

OUTSOURCING OF TRANSLATION SERVICES AND PAYMENT OF MILLIONS OF RANDB.

- (e) **Is the company that translated those documents registered with SATI (South African Translation Institute) and what is the registration number?**

Not registered with the SATI. The translation of legislation must be done by legal practitioners to maintain the meaning and interpretation of the translated document and in this regard the By-laws.

Yours Sincerely,-


**ACTING CITY MANAGER
MS NR DUMALISILE**



LEGAL SERVICES SUB-DIRECTORATE

Enquiries: Mr Thabiso Ramolebo

Date: 31 May 2022

Phone: (051) 405 8471

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PROVISION OF TRANSLATED VERSIONS OF BY-LAWS IN SESOTHO AND AFRIKAANS LANGUAGES

1. PURPOSE

1.1 The purpose of this report is to inform, update and clarify to the Acting City Manager about the matters pertaining to the provision of the translated versions of municipal by-laws into other main (official) languages of the Municipality, namely: Sesotho and Afrikaans.

2. BACKGROUND

- 2.1 The bylaws of the Municipality are and have been drafted in English language all the years without being available in other languages mainly used within the area of jurisdiction of the Mangaung Metro Municipality.
- 2.2 Since the by-laws of the Municipality are only available in English language, there have been complaints raised by many members of the community that they cannot understand or read the draft by-laws because they are written in the language they do not understand.
And as a result, they cannot effectively take part in making inputs regarding the draft by-laws. They feel marginalized and as such this can be regarded as a form of discrimination.
- 2.3 Due to frustrations, some had resorted to disrupting the public hearings because they were of the strong view that the Municipality, by failing to avail by-laws in other languages, was not taking them serious or put differently, the Municipality was just doing the public engagement processes for the

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sake of planning to pass by-laws and not necessarily intending to consider and incorporate their inputs into the draft by-laws.

2.4 During the previous public participation processes, some of the hearings took place with difficulty or did not take place. At Botshabelo W Section the matter was even sharply raised by a former ward councillor and at Kaizer Sebothelo, the hearing had to be abandoned by the officials fearing for their life. In Thaba Nchu the hearing was disrupted by angry community members. In some areas like Dewetsdorp and Soutpan the hearings did take place but the community members still raised their dissatisfaction about the issue of the non-availability of the translated versions of the by-laws.

2.5 In addressing the challenge, after the Incorporation of the former Naledi Local Municipality and Soutpan area, the by-laws had to be rationalised (reviewed) so that they can be applicable throughout the jurisdiction of the area of the Municipality.

The public participation process became a huge challenge again because the by-laws were not yet available in translated versions.

At that time, there was only one (1) firm of attorneys which was appointed in the category of legislative drafting to assist the Municipality with the drafting of by-laws in terms of contract number: C290/l

Due to the fact that the Firm was assisting the Municipality during that process of rationalization, and it was the only Firm in the category of legislative drafting, the Firm was requested to also avail the by-laws in translated versions. The Firm was instructed to provide the translated versions of only the by-laws they were drafting or assisting the Municipality with.

The understanding was that the provision of the translated versions of by-laws forms an integral part of the formulation thereof so that the literal and contextual meaning of words or provisions, as far as possible, do not lose their meaning in a translated version. This is aimed at preventing any misinterpretation amongst the three versions should any interpretation of a particular by-law be engaged upon.

2.6 The process of rationalization was not completed timeously as it was expected due to the prolonged public participation processes, the lock-

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down regulations that were imposed nationally as result of the Covid-19 pandemic, some internal processes that we had to follow or comply with and were ended in July 2021, and the last batch of the by-laws were approved and promulgated in September and November 2021 respectively. In other words, one can safely say that the process of rationalisation was completed in November 2021.

- 2.7 The approach was that once all the existing translated versions of the by-laws have been provided, a detailed submission was going to be made to Council for consideration and approval, as it is being recommended in terms of point 5.6 of this report.

3. LEGISLATIVE FRAMEWORK

3.1 Local Government: Municipal Systems Act 32 of 2000, as amended:

Subsection 18(2)(a) of the Act, on Community Participation, prescribes that when communicating the information mentioned in subsection (1), a *municipality must take into account the language preferences and usage in the municipality.*

Subsection 18(2)(a) of the Act provides that a municipality must communicate to its community information concerning –

- (a) the available mechanisms, processes and procedures to encourage and facilitate community participation;
- (b) the matters with regard to which community participation is encouraged;
- (c) the rights and duties of members of the local community; and
- (d) municipal governance, management and development.

3.2 Language Policy of the Municipality

The Policy recognises the three (3) languages, namely English, Sesotho and Afrikaans as the official languages of the Municipality.

It prescribes that when communicating with members of the community or/and providing them with documents, the documents must be in the language the members of community understand and prefer.

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4. DELIBERATIONS

- 4.1 In terms of the legislation (the Systems Act) the public participation process must be adequate and reasonable.

The translated versions of the by-laws available in other languages used in the Municipality, is one of the factors that make the by-laws accessible to members of the community in the language of their preference. As a result, the factor makes public engagements processes more reasonable and adequate. It is reasonable and adequate to provide members of the community with copies of bylaws written in the language they understand so that they can make meaningful inputs regarding the draft bylaws.

The Language Policy of the Municipality prescribes and encourages that the by-laws, as well, must be accessible to community members in the languages they prefer. And so, it is clear that the provision of the by-laws in translated versions is in line with the Language Policy of the Municipality.

- 4.2 One of the factors that should be considered is that once a by-law has been drafted or is available in translated versions it will remain obtainable in the other languages as long as the by-law continues to be applicable.
- 4.3 Although some by-laws were provided in translated versions, a huge number of by-laws still have to be provided in translated versions for the purposes of accessibility and smooth public participation processes.
- 4.4 In other municipalities, like City of Cape Town, the by-laws are available in translated versions in their two other main languages used within their area of jurisdiction in addition to English language, namely: Afrikaans and isiXhosa.

5. RECOMMENDATIONS

- 5.1 That the Acting City Manager takes note of the report.
- 5.2 That all the by-laws be made also available in translated versions in Sesotho and Afrikaans languages for the purpose of complying with legislation.
- 5.3 That the Acting City Manager reviews and redirects how other outstanding by-laws should be provided in translated versions.
- 5.4 That once a firm of attorneys in the panel of the municipality has been instructed to draft a by-law for the Municipality, that such a firm may also be requested to provide such draft in other languages used within the area of jurisdiction of the municipality. Or the Acting City Manager can direct who

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can translate the English draft version once such draft has been provided to the Municipality.

- 5.5 That it be noted that by-laws in translated versions are availed and obtainable, upon request, in the Legal Services.
- 5.6 That once all the existing, applicable and enforceable by-laws become available in translated versions, a detailed report be made to Council, for consideration and approval for the purpose of addressing the issues of accessibility of bylaws in preferred languages, smooth public participation processes and a version for the purposes of interpretation to prevail among the versions in the three languages.
Further that, they can also be placed on the municipal website in the three language versions for members of the public to access.


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Mr Thabiso Ramolebo
Acting Manager: By-laws

31 MAY 2022
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Date

Comments by the GM: Legal Services, if any:

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Adv. Charlie Naidoo
GM: Legal Services

31 May 2022
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Date

Comments by the Acting City Manager, if any:

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Noted by:


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Mr Tebogo Motlashinguping
Acting City Manager

25 June 2022
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Date