

ADDITIONAL ITEM

ITEM C/1/110/01/16

Mayoral Committee Meeting for recommendation to Council

PART-TIME SECONDMENT OF THE MUNICIPAL MANAGER AND CHIEF FINANCIAL OFFICER TO OUDTSHOORN MUNICIPALITY

Department: Office of the Municipal Manager **Demarcation:** All Wards
File Ref: 4/1/2/2 & 4/1/2/6
Attachment: Letter dated 20 January 2016 received from the Western Cape Provincial Government, Honourable Minister Anton Bredell (MPL),
Report from: Executive Mayor
Date: 21 January 2016

Purpose of the report

The purpose of the report is to both inform and seek an urgent resolution from Council about the request from the Western Cape Provincial Government, through the Office of Honourable Minister Anton Bredell (MPL), Department: Local Government, Environmental Affairs & Development Planning; seeking the part-time secondment of both the Municipal Manager, Mr. A. A. Paulse and the Chief Financial Officer, Mr. Felix Lötter, as part of a provincial intervention contemplated in terms of Section 139 of the Constitution of the democratic Republic of South Africa, as part of a turnaround strategy and programme for the Oudtshoorn Municipality.

Background

Section 20 of the Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, Government Gazette 37245, dated 17 January 2014, Commencement date: 17 January 2014, provides for the basis to second senior officials between municipalities,

Section 20: Secondment

- (1) *If a person is seconded to a municipality to act as a municipal manager in terms of section 54A(6) of the Act, an agreement must be entered into between the relevant sending authority and receiving municipality.*
- (2) *The agreement contemplated in subregulation (1) must specify --*
 - (a) *the duration of the secondment;*
 - (b) *the party responsible for the costs of the secondment; and*
 - (c) *the job description of the seconded official.*

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

(4) A person seconded in terms of subregulation (1) must report monthly to the MEC or the Minister, in terms of section 54A(6), on the following:

(a) steps taken to fill the vacant post to which he or she is seconded;

(b) the development and implementation of any municipal institutional recovery plan for which the seconded official is responsible;

(c) monitor and assess the adherence to policy, principles and frameworks applicable to the municipality;

(d) develop a turnaround strategy for the municipality including a strategy to promote good governance;

(e) ensure implementation of municipal council resolutions by the administration;

(f) implement a system to control and approve all expenditure;

(g) implement all governance systems and procedures; and

(h) ensure implementation of financial systems, policies and procedures.

(5) A person seconded in terms of subregulation (1) must –

(a) 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; and

(b) be compensated for subsistence and travel incurred during the course and scope of his or her duties, in accordance with the relevant policy of the municipality.

The Western Cape Provincial Government, acting in terms of these provisions and in terms of the letter and spirit of the Constitution as well as the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005), are seeking a resolution from the Council of Bitou Municipality for the secondment of both the Municipal Manager and the Chief Financial Officer, on a part-time basis, on the terms and conditions as provided in terms of the said Regulations.

The said officials will assist the administrator, Mr. K. Chetty, appointed in terms of the National Government intervention, to turnaround the Oudtshoorn Municipality. The said municipality has been under administration, since 28 September 2015.

The municipal manager, Mr. Allen Paulse has been appointed to Bitou Municipality, initially as Acting Municipal Manager on 1 August 2012 and then formally as Municipal Manager and on 3 October 2012. The Chief Financial Officer, Mr. Felix Lotter has been appointed to the position on 3 September 2012. Both the Municipal Manager and the Chief Financial Officer, through their appointments have significantly contributed to the turnaround at Bitou Municipality, with a second successive Clean Audit outcome from the Auditor General of South Africa as the most credible and tangible proof of their performance.

It is these and other considerations that have been recognized by the Western Cape Provincial Government, hence this secondment request (formal letter from Minister A. Bredell attached hereto), for them to also apply their knowledge, skills and expertise in the context of the intervention to turnaround the Oudtshoorn Municipality. Initially, the secondment will require that the Municipal Manager and Chief Financial Officer, spends three days a week at Oudtshoorn Municipality and as the turnaround intervention progress, less days, until the intervention has been successfully completed. Acting arrangements for both the Municipal Manager and the Chief Financial Officer, appears in the recommendations, hereunder.

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Legal requirements

Constitution (Act No 108 of 1996), as amended

Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended

Municipal Structures Act, 1998 (Act. No. 117 of 1998), as amended

Local Government: Regulations on Appointment and Conditions of Employment of Senior Managers, Government Gazette 37245, dated 17 January 2014, Commencement date: 17 January 2014

Intergovernmental Relations Framework Act, 2005 (Act. No. 13 of 2005)

Comments: Chief Financial Officer

The recommendation by the Municipal Manager is supported.

Comments: Head: Corporate Services

The recommendation by the Municipal Manager is supported.

Comments: Head: Community Services

The recommendation by the Municipal Manager is supported.

Comments: Head: Engineering Services

The recommendation by the Municipal Manager is supported.

Recommended by the Executive Mayor

1. That the Municipal Council approves the part-time secondment of the Municipal Manager to the Oudtshoorn Municipality.
2. That the Municipal Council appoints an Acting Municipal Manager from the remaining HOD's (Strategic Services, Corporate Services, Community Services and/ or Engineering Services), for the whole duration of the temporary secondment of the Municipal Manager.
3. That the Municipal Council waives and exempt the applicable provisions of the policy on acting, so that the Acting Municipal Manager, can be paid for all the actual days of acting during a month and that such provision only applies in this secondment context.
4. That the Municipal Council approves the part-time secondment of the Chief Financial Officer to the Oudtshoorn Municipality.
5. That the Municipal Council appoints an Acting Chief Financial Officer, from amongst the Finance Department managers (Budget & Treasury, Revenue/Income, Expenditure, Supply Chain and/ or ICT), for the whole duration of the temporary secondment of the Chief Financial Officer.

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6. That the Municipal Council waives and exempt the provisions of the policy on acting, so that the Acting Financial Officer, can be compensated for all actual days of acting during a month and that such provision only applies in this secondment context.
7. That the Municipal Council resolves that all incidental costs (accommodation,, travel, subsistence, daily allowance, cellphone/data allowance etc.), related to the temporary secondment of the Municipal Manager and the Chief Financial Officer; be borne by the Western Cape Provincial Government/ and or the Oudtshoorn Municipality.
8. That the Municipal Manager and the Chief Financial Officer, be allowed to accept any additional remuneration over and above the incidental costs (accommodation, travelling, subsistence, daily allowance, cellphone/data allowance etc.); if applicable, and that such acceptance will not constitute additional remuneration as ordinarily defined and contemplated in the relevant and applicable prescripts.
9. That the Municipal Council accepts in principle, that the Municipal Manager and Chief Financial Officer, during the term of their temporary secondment, may require other Bitou municipal officials with specific skills and expertise, as and when required, after consultation with the Executive Mayor.
10. That the incidental costs (accommodation, travel, subsistence, daily allowance, cellphone/data allowance etc.), for such officials, also be borne by the Western Cape Provincial Government and/or the Oudtshoorn Municipality, if so agreed by the respective parties.
11. That the Municipal Council gives any such officials, permission to accept and/or receive, additional compensation and/or remuneration in the course and scope of the additional tasks related to the Oudtshoorn turnaround programme, if so agreed between the respective parties.



REFERENCE: 3/11/2/20 (2015/1008)

The Executive Mayor
Bitou Municipality
Private Bag X1002
PLETTENBERG BAY
6600

Email: mbooyesen@plett.gov.za

Dear Councillor Booyesen

**REQUEST TO SECOND MR ALLEN A PAULSE AS ACTING MUNICIPAL MANAGER AND
MR FELIX LÖTTER AS ACTING CHIEF FINANCIAL OFFICER (CFO) TO THE OUDTSHOORN
MUNICIPALITY CURRENTLY UNDER ADMINISTRATION IN TERMS OF SECTION 139(1)(b)
OF THE CONSTITUTION**

I refer to our discussion on 18 January 2016, regarding the above-mentioned matter.

The Provincial Executive of the Western Cape Province on 31 July 2015 intervened in Oudtshoorn Municipality in terms of section 139(1)(b) of the Constitution. In an amendment to the original intervention, provision was made for the Administrator (Mr Kamalisen Chetty) to also act as accounting officer until such time as an acting Municipal Manager could be appointed.

Engagements with Oudtshoorn Municipality and feedback received from the Administrator and support officials, revealed that to give proper effect to the intervention, additional support is urgently required by way of the appointment of an acting Municipal Manager and acting Chief Financial Officer. The person currently acting as Chief Financial Officer is leaving the Municipality at the end of January 2016.

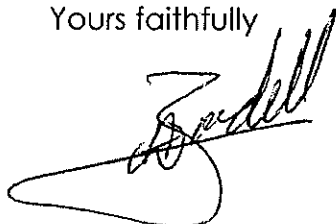
In consultation with my Department of Local Government, Mr Allen Paulse and Mr Felix Lötter were identified as suitable candidates to assist the Oudtshoorn Municipality and act in these positions. Your Council is hereby requested to make available the services of the said officials on a part-time basis as soon as possible

together with other Bitou officials with specific expertise as and when required for an initial period of three months with the option to be extended.

Additional expenditure incurred in respect of assistance rendered by the aforesaid two officials of the Bitou Municipality or any other staff members of your Municipality who may render assistance to the Oudtshoorn Municipality, will be for the account of Province and / or the Oudtshoorn Municipality.

Your Council's favourable consideration of this request in the interest of good governance and sound intergovernmental relations, will be highly appreciated.

Yours faithfully

A handwritten signature in black ink, appearing to read 'A. Bredeell', written over a large, stylized, looped flourish.

A BREDELL

MINISTER

DATE: 20/1/2016