

# NDLAMBE MUNICIPALITY



## AGENDA SPECIAL OPEN NDLAMBE COUNCIL MEETING

**DATE: FRIDAY, 17 NOVEMBER 2017**

**TIME: 10H00**

**VENUE: COUNCIL CHAMBERS,  
CAMPBELL STREET,  
PORT ALFRED.**

**AGENDA OF A SPECIAL OPEN NDLAMBE COUNCIL MEETING TO BE HELD ON,  
FRIDAY, 17 NOVEMBER 2017 AT 10H00 IN THE COUNCIL CHAMBERS,  
CAMPBELL STREET, PORT ALFRED**

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**NOTICE is hereby given that a SPECIAL OPEN meeting of the NDLAMBE COUNCIL will be held in the COUNCIL CHAMBERS, CAMPBELL STREET, PORT ALFRED on Friday, 17 November 2017 AT 10H00.**

PORT ALFRED  
15 November 2017

  
DIRECTOR: CORPORATE SERVICES  
for: **MUNICIPAL MANAGER**

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TO: Councillor N V Maphaphu (In the Chair)

Councillors: P Faxi, K Daweti, N Gamlashe, J P Guest, C B James, Y P Kani, A L Marasi, M Mateti, T Mazana, T D Mbekela, T M Mbunge, M E Njibana, N A Ngqosha, M Raco, R L Schenk, L Shahzad, S Venene, N E Xhasa, M W Yali

Municipal Manager, Directors: Financial Management, Corporate Services, Infrastructural Development, Community / Protection Services.

Deputy Directors: Financial Management, Infrastructural Development (Port Alfred), Community and Protection Services, Manager: Local Economic Development, Manager: Human Resources, Manager: Town Planning, Assistant Director: Housing, Manager: Integrated Development Plan, Manager: Administration, Communication Officer, SAMWU and IMATU.

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**SNCA001/11/2017**  
**OPENING**

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**SNCA002/11/2017**  
**APPLICATION FOR LEAVE OF ABSENCE**  
**3/2/4**

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**SNCA003/11/2017**  
**OFFICIAL ANNOUNCEMENTS BY THE SPEAKER**  
**3/2/1**

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**SNCA004/11/2017  
COMMUNICATION BY THE MAYOR  
3/2/1**

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**SNCA005/11/2017  
DISCLOSURE OF INTEREST BY COUNCILLORS (SCHEDULE 1 OF MUNICIPAL  
SYSTEMS ACT)**

Attached as Annexure SC.01

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**SNCA006/11/2017  
DISCLOSURE OF INTEREST AND BENEFITS BY MUNICIPAL STAFF MEMBERS  
(SCHEDULE 2 OF MUNICIPAL SYSTEMS ACT)**

Attached as Annexure SC.02

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**SNCA007/11/2017  
REPORT DATED 15 NOVEMBER 2017 FROM THE MUNICIPAL MANAGER TO  
COUCIL: REVIEW OF THE POLICY ON CASUAL OR CONTRACT WORKERS**

PURPOSE

For Council to review and make additions to the resolution NCM016/03/2013 dated 08 March 2013 to satisfy the requirements of the Auditor General.

BACKGROUND

The resolution dated 08 March 2013 resolve that contract or casual worker be paid a daily rate of R100.00. It is requested that Council should consider increasing the amount of R100 to R150. The latter amount of R150 be considered during the adjustment budget process.

DISCUSSION

The policy for Contract or Casual workers is attached as Annexure SC.03

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**RECOMMENDATIONS TO COUNCIL**

1. THAT Council APPROVE the increase of R100 daily rate to R150 for Casual or Contract Workers.
2. THAT skilled temporary employees be exempted from the R100,00 daily rate applicable.
3. THAT the payment rate for skilled temporary employees be benchmarked with the current task grades applicable to Ndlambe Municipality.

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**SNCA008/11/2017**

**REPORT DATED 15 NOVEMBER 2017 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: FILLING OF THE POSITIONS ON THE ORGANISATIONAL STRUCTURE**

**PURPOSE**

For the COUNCIL to approve the deviation from normal job grading processes and the following positions be benchmarked: Manager Legal Services, Manger Project Management Unit, Manager Internal Audit, Water Services Authority, Water Conservation and Demand Management Officer, Senior Buyer, Contracts Management Officer, Skills Development Officer.

**LEGAL FRAMEWORK**

- The Labour Relations Act of 1995
- The Basic Conditions of Employment Act of 1997

**BACKGROUND**

It is imperative to fill these position for the following justifiable reasons:

Manager Legal Services, TG 16

Currently legal matters are decentralised which is not the desired situation in terms of best practice. By filling this position legal matters will be centrally handle and will enhance efficiency and precision.

Manger Project Management Unit, TG 15

These positions have been vacant for a long time and the functions are performed on a part time basis. This position is key to service delivery hence filling it will be beneficial to the institution.

Manager Internal Audit, TG 15

The institution have been qualified by the Auditor General for not having a senior person in charge of internal audit and by filling the position will enhance the attaining of a clean audit.

Water Services Authority, TG 14

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The position will improve our green and blue drop reporting and have a more senior incumbent responsible for water service which is a basic need.

Water Conservation and Demand Management Officer, TG 12

The institution is currently faced with a high volume of water losses due to water leaks, bypassing of water meters which is also questioned by the Auditor General.

Senior Buyer, TG 7

Due to the resolution of centralising Supply Chain Management the position is imperative to be urgently filled

Contracts Management Officer, TG 12

Due to the resolution of centralising Supply Chain Management the position is imperative to be urgently filled

Skills Development Officer. TG 12

The Skills Development Act requires the Municipality to appoint a dedicated official to handle issues of Skills Development.

**RECOMMENDATIONS TO COUNCIL**

1. THAT Council APPROVE the Deviation from normal job grading processes as required by SALGA.
2. THAT the following positions be advertised subject to job evaluation as benchmarked from a similar Municipality
  - a) Manager Legal Services, TG 16
  - b) Manger Project Management Unit, TG 15
  - c) Manager Internal Audit, TG 15
  - d) Water Services Authority, TG 14
  - e) Water Conservation and Demand Management Officer, TG 12
  - f) Senior Buyer, TG 7
  - g) Contracts Management Officer, TG 12
  - h) Skills Development Officer TG 12

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**SNCA009/11/2017**

**REPORT DATED 15 NOVEMBER 2017 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: DETERMINATION OF A GENERAL VALUATION DATE**

**PURPOSE**

For Council to determine a general valuation date.

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**BACKGROUND**

The General Valuation roll currently used for levying of property rates is expiring on **30 June 2018** but has been extended by the MEC for local Government by a year to expire by **30 June 2019**. The extension was done in terms of the Local Government: Municipal Property rates Act No. 6 of 2004. On expiry of the extended valuation roll, the Municipality must adopt a new general valuation in order to be able to levy property rates legitimately.

**DISCUSSION**

Compilation of a general valuation involves a number of activities, the most important activity, **is determination a valuation date** by Council. Section 31 (1) of the Local Government: Municipal Property rates Act No. 6 of 2004, requires that a valuation date not to be more than 12 months before the implementation date. In terms of the extension granted by MEC for local Government, on expiry of the extension by 30 June 2019, a new valuation roll must be ready for implementation.

Therefore, a valuation date for the new general valuation must be **01 July 2018**. It must be noted that this is the date the Municipal Valuer will use in determining property values of the new general valuation to be implemented on **01 July 2019**.

**RECOMMENDATION TO COUNCIL**

THAT Council APPROVE **01 July 2018** as the valuation date for the new general valuation to be implemented in **July 2019**.

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**SNCA010/11/2017**

**REPORT DATED 15 NOVEMBER 2017 FROM THE MUNICIPAL MANAGER TO  
COUNCIL: SARAH BAARTMAN BUDGET ALLOCATION FOR SERVICE DELIVERY  
CAPACITATION**

**PURPOSE**

For Council to note the submission made for R 1 million service delivery capacity building funding from Sarah Baartman.

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**BACKGROUND**

Ndlambe Local Municipality received a communication from Sarah Baartman District Municipality requesting Ndlambe to do a submission on what they would like to spend the R1million rand budget allocated to Ndlambe to assist the municipality in building its service building capacity.

**DISCUSSION**

During the Sarah Baartman District Municipality's visit to Ndlambe on the 20<sup>th</sup> October 2017, the delegation and Ndlambe Council agreed that the R 1million allocation will be made available to Ndlambe for spending in the current financial year.

Following this agreement, the Municipal Manager assessed the service delivery challenges, in consultation with his management team, it was established that the greatest need was in fleet. The two service delivery departments, infrastructure and Community Protection services were prioritised to benefit from the allocation.

According to Sarah Baartman District Municipality, the allocated funds will not be transferred to the Municipality, the procurement would be done at the district level. Ndlambe submitted a list of five (5) "1Tonne bakkies" to be procured for the two service delivery departments. Should the allocated amount not be enough for the 5 vehicles, the District will engage the Municipal Manager on the shortfall.

**RECOMMENDATION TO COUNCIL**

THAT Council NOTE the submission made by Ndlambe Local Municipality on how the R1 million Sarah Baartman Service Delivery capacity building allocation should be spent.

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**SNCA011/11/2017  
URGENT REPORTS BY THE MUNICIPAL MANAGER**

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**SNCA012/11/2017  
CLOSURE**

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**SPECIAL OPEN NDLAMBE COUNCIL MEETING**

**HELD ON FRIDAY, 17 NOVEMBER 2017**

**DISCLOSURE OF INTEREST BY COUNCILLORS  
(SCHEDULE 1 OF MUNICIPAL SYSTEMS ACT)**

**ANNEXURE SC.01**



# NDLAMBE MUNICIPALITY



## DECLARATION OF INTEREST BY COUNCILLOR

In accordance with Councillor's Code of Conduct Section 5(1)a, A Councillor must disclose to the Municipal Council or to any Committee of which that Councillor is a Member, any direct or indirect personal or private business interest that the Councillor or any Spouse, Partner or Business Associate of that Councillor may have in any matter before the Council or the Committee.

I, Councillor ..... declare that I recuse myself during the discussion of the following items:

.....  
.....  
.....

And I will recuse myself on the abovementioned items.

Signed at: ..... on this ..... day of ..... 2017

.....  
Signature of Councillor

Witnesses:

1. .... Signature: .....

2. .... Signature: .....

**SPECIAL OPEN NDLAMBE COUNCIL MEETING**

**HELD ON FRIDAY, 17 NOVEMBER 2017**

**DISCLOSURE OF INTEREST BY MUNICIPAL  
STAFF MEMBERS  
(SCHEDULE 2 OF MUNICIPAL SYSTEMS ACT)**

**ANNEXURE SC.02**

# NDLAMBE MUNICIPALITY



## DECLARATION OF INTEREST BY STAFF

In accordance with Code of Conduct for Municipal Members under Section 4 Personal Gain  
(1) a Staff Member of the Municipality may not:  
b) take a decision on behalf of the Municipality concerning a matter in which that Staff Member's Spouse, Partner or Business Associate, has a direct or indirect personal or private business interest.

I, ..... Identity Number .....

Staff Number ..... employed by Ndlambe Council as .....

Hereby declare that I have an interest on the following items:

.....  
.....  
.....

And I will recuse myself on the abovementioned items.

Signed at: ..... on this ..... day of ..... 2017

.....  
Signature of Staff

Witnesses:

1. .... Signature: .....

2. .... Signature: .....

**SPECIAL OPEN NDLAMBE COUNCIL MEETING**

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**REPORT DATED 15 NOVEMBER 2017 FROM THE  
MUNICIPAL MANAGER T COUCIL: REVIEW OF  
THE POLICY ON CASUAL OR CONTRACT  
WORKERS**

**ANNEXURE SC.03**

# **NDLAMBE MUNICIPALITY CORPORATE SERVICES**



## **POLICY FOR CONTRACT OR CASUAL WORKERS**

## **1 CREATION OF TEMPORARY OR CASUAL POSITIONS**

- 1.1. A head of a department after consultation with the head of department responsible for Human Resources and the CFO, must submit a proposal to the Municipal Manager for the creation of one or more temporary positions on the establishment (Institution).
- 1.2 A temporary position may be created to deal with a temporary increase in the Municipality's work due to:-
  - (a) A disaster;
  - (b) A backlog in work;
  - (c) The seasonal nature of certain tasks;
  - (d) Special programmes established or managed by the Municipality to alleviate poverty and/or unemployment;
  - (e) The protracted absence of an employee from work.
- 1.3 A temporary position shall cease to exist when the reason for its creation ceases to exist for not more than (3) three months or in line with Section 198 b of the Labour Relation Act Amended.
- 1.4 .The Municipal Manager's or his delegate's decision with regard to the creation and abolition of temporary positions shall be final.

## **2. PROCEDURE FOR EMPLOYMENT OF TEMPORARY / CASUAL WORKERS**

The Corporate Services Directorate is responsible for administering the recruitment process. In order to avoid instances where this department is by passed in the selection of candidates which might result in some casual employees assuming duties without signing employment contract stipulating their terms and conditions of employment and contractual period in terms of the Labour Relations Act Amended:

To address the aforesaid concern the procedure set forth below must be complied with:

- 2.1 The department must request contract workers from the Corporate Services after approval by Municipal Manager and the HR Department will for and recruit from Municipal Halls.

- 2.2. Positions deemed to be of a higher nature and require special skills or Equivalent may be advertise for the period of three (7) days externally and convene a selection panel comprising of the Director: Corporate Services, Director of the requesting department or his/her nominee and (1) one each Union Representatives and HR to shortlist candidates from the applications received through Human Resources.
- 2.3 If no suitable candidate is found from the list of applicants parties will head hunt for one candidate and when a suitable candidate has been found Corporate Services will convene the panel to look at the application and if necessary interview the candidate.
- 2.5. After the panel has decided on the suitable candidate Corporate Services will advise the applicant and cause employment contract to be signed by the candidate and thereafter by the Municipal Manager or his delegate.
- 2.6. Only after the candidate has signed the contract will he or she be allowed to assume work in the municipality
- 2.7. The Chief Financial Officer will pay contract employee against the following documentation;
  - (i) Employment contract signed by the contract employee and Municipal Manager or his delegate
  - (ii) Attendance register signed by the director or his/her nominee where the contract employee was working. Without these documents no payment will be effected.
- 2.8. A person appointed to a temporary position:
  - (i) is appointed to the lowest notch of the salary scale applicable to a comparable position on the permanent establishment; for strategic Position and **R150 for General Positions**
  - (ii) shall not receive any housing and traveling benefits, provided that the Municipality may, subject to its travel and subsistence policy, reimburse the employee for costs necessarily incurred in the execution of official Municipal business;
  - (iii) shall not become a member of a retirement fund or medical aid or Group Life scheme to which the Municipality must contribute;
  - (iv) earns vacation and sick leave in terms of the leave BCOEA and Policies and regulations of the Municipality; and

- (v) is subject to attendance, code of conduct, grievance procedure and disciplinary procedures in terms of the Municipality's conditions of service.

2.9. A contract employee appointed in a position on the permanent establishment whose incumbent is or will be absent from work for a prolonged period (e.g. maternity leave) –

- (i) is appointed on the lowest notch of the salary scale applicable to the position;

2.11 Whenever a person is appointed in a temporary capacity he/she must, not later than the day on which his/her employment commences, receive a contract of employment.

Such contract must, amongst other things, clearly state-

(i) when the person's employment with the Municipality commences;

(ii) if possible, the date on which his/her employment terminates, or if it is not possible to determine the termination date with reasonable accuracy, the circumstances under which employment will terminate;

(iii) that there is no expectation that the person's employment will be renewed or extended beyond the term referred to in (ii) above;

(iv) that any failure to renew or extend the period of employment shall not constitute a dismissal of the person and that he/she will not be entitled to any additional remuneration or compensation on or upon completion of such period;

(v) that the person's employment with the Municipality will come to an automatic end on expiry of the term and termination shall not be construed as a termination based on the Municipality's operational requirements nor as an unfair dismissal.

2.12 Reference in paragraph 2.11 (iv) above to additional remuneration or compensation to which a temporary employee shall not be entitled includes but is not limited to severance pay, notice pay, retirement and medical aid fund benefits to which an employee may otherwise be entitled in the event of a termination based on the Municipality's operational requirements.



### **3 APPOINTMENT IN LINE WITH THE LABOUR RELATIONS AMENDED ACT**

**198B. Fixed term contracts with employees earning below earnings threshold.**—(1) For the purpose of this section, a “fixed term contract” means a contract of employment that terminates on—

- (a) the occurrence of a specified event;
- (b) the completion of a specified task or project; or
- (c) a fixed date, other than an employee’s normal or agreed retirement age, subject to subsection (3).

(2) This section does not apply to—

- (a) employees earning in excess of the threshold prescribed by the Minister in terms of section 6 (3) of the Basic Conditions of Employment Act;
- (b) an employer that employs less than 10 employees, or that employs less than 50 employees and whose business has been in operation for less than two years, unless—
  - (i) the employer conducts more than one business; or
  - (ii) the business was formed by the division or dissolution for any reason of an existing business; and
- (c) an employee employed in terms of a fixed term contract which is permitted by any statute, sectoral determination or collective agreement.

(3) An employer may employ an employee on a fixed term contract or successive fixed term contracts for longer than three months of employment only if—

- (a) the nature of the work for which the employee is employed is of a limited or definite duration; or
- (b) the employer can demonstrate any other justifiable reason for fixing the term of the contract.

(4) Without limiting the generality of subsection (3), the conclusion of a fixed term contract will be justified if the employee—

- (a) is replacing another employee who is temporarily absent from work;
- (b) is employed on account of a temporary increase in the volume of work which is not expected to endure beyond 12 months;
- (c) is a student or recent graduate who is employed for the purpose of being trained or gaining work experience in order to enter a job or profession;
- (d) is employed to work exclusively on a specific project that has a limited or defined duration;
- (e) is a non-citizen who has been granted a work permit for a defined period;
- (f) is employed to perform seasonal work;
- (g) is employed for the purpose of an official public works scheme or similar public job creation scheme; (h) is employed in a position which is funded by an external source for a limited period; or (i) has reached the normal or agreed retirement age applicable in the employer’s business.

(5) Employment in terms of a fixed term contract concluded or renewed in contravention of subsection (3) is deemed to be of indefinite duration.

(6) An offer to employ an employee on a fixed term contract or to renew or extend a fixed term contract, must—

(a) be in writing; and

(b) state the reasons contemplated in subsection (3) (a) or (b).

(7) If it is relevant in any proceedings, an employer must prove that there was a justifiable reason for fixing the term of the contract as contemplated in subsection (3) and that the term was agreed.

(8) (a) An employee employed in terms of a fixed term contract for longer than three months must not be treated less favourably than an employee employed on a permanent basis performing the same or similar work, unless there is a justifiable reason for different treatment. (b) Paragraph (a) applies, three months after the commencement of the Labour

Relations Amendment Act, 2014, to fixed term contracts of employment entered into before the commencement of the Labour Relations Amendment Act, 2014.

(9) As from the commencement of the Labour Relations Amendment Act, 2014, an employer must provide an employee employed in terms of a fixed term contract and an employee employed on a permanent basis with equal access to opportunities to apply for vacancies.

(10) (a) An employer who employs an employee in terms of a fixed term contract for a reason contemplated in subsection (4) (d) for a period exceeding 24 months must, subject to the terms of any applicable collective agreement, pay the employee on expiry of the contract one week's remuneration for each completed year of the contract calculated in accordance with section 35 of the Basic Conditions of Employment Act. (b) An employee employed in terms of a fixed-term contract, as contemplated in paragraph (a), before the commencement of the Labour Relations Amendment Act, 2014, is entitled to the remuneration contemplated in paragraph (a) in respect of any period worked after the commencement of the said Act.

(11) An employee is not entitled to payment in terms of subsection (10) if, prior to the expiry of the fixed term contract, the employer offers the employee employment or procures employment for the employee with a different employer, which commences at the expiry of the contract and on the same or similar terms.

#### **4 APPOINTMENT OF REPLACEMENT LABOUR IN THE EVENT OF A STRIKE**

4.1 The Municipal Manager may, after consultation with the recognized trade unions operating in the Municipality, employ replacement labour during a strike in terms of and consistent with section 76 of the Labour Relations Act.

4.2 Every person appointed as replacement labour must receive a letter of appointment that complies with section 29 of the Basic Conditions of Employment Act. The letter of appointment must clearly state that the appointment is only for the duration of the strike and that the services of the employee will terminate immediately when the regular employees of the Municipality return to work.

4.1 Replacement labour is appointed to the positions of the employees who are on strike and must perform the functions of the striking workers.

#### **5 Review**

The policy shall be review annually and when necessary