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FORENSIC INVESTIGATION DRAFT REPORT

MAKANA LOCAL MUNICIPALITY

STRICTLY CONFIDENTIAL

DRAFT REPORT

MAKANA LOCAL MUNICIPALITY

FORENSIC AUDIT INVESTIGATION

STRICTLY CONFIDENTIAL

The contents of this report are strictly confidential and may not be disclosed, in whole or in part, to any person or authority other than the addressees listed below, without KABUSO's prior written consent.

ADDRESSEE	DESIGNATION	COPY OF REPORT
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Ms P Yako	Administrator of the Makana Local Municipality	1 of 1
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FEBRUARY 2015

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ABBREVIATIONS

Administrator	The Administrator of the Makana Municipality
Boma	Mr Mncedisi Boma, the former Strategic Manager in the Office of the Executive Mayor, Makana Municipality Suspended on: 8 January 2014 Dismissed on: Arbitration:
Budaza	Mr Fundile Jeffrey Budaza, Manager for Sport, Arts and Culture, Makana Municipality
The Constitution	The Constitution of the Republic of South Africa Act No 108 of 1996
CFO	Chief Financial Officer
Cllr	Councillor
Council	The elected council of the Makana Municipality
Crouse	Mr Marius Crouse, Manager: Expenditure and the Acting Chief Financial Officer, Makana Municipality for the period 1 July 2013 to 31 March 2014
FAME	Finance, Administration, Monitoring and Evaluation Committee
Fraud	The unlawful and intentional making of a misrepresentation which causes actual prejudice or which is potentially prejudicial to another
Fraud Prevention Policy	Fraud Prevention Policy of the Makana Local Municipality (Date reviewed by Council unknown)
Funding and Grants Policy	Funding and Grants Policy of the Makana Local Municipality (Date reviewed by Council unknown)
Ganza	Mr Edward Ganza, Manager Support Services, Makana Municipality
Grobbelaar	Ms Sanet Grobbelaar, Supply Chain Manager, Makana Municipality
IDP	Integrated Development Plan
IMATU	Independent Municipal and Allied Trade Union
Klaas	Mr Thabiso Klaas, former Director: Corporate Services, Makana Municipality Contract expired on: 31 March 2012
Lazarus	Mr Siyabulela Lazarus, former Manager: SMME, Makana Municipality Resignation date: 31 July 2014
Madinda	Cllr. Rachel Madinda, Speaker of Council, Makana Municipality
Madlavu	Mr Mzukisi Madlavu, Director: Corporate and Shared Services, Makana Municipality
Mbeleni	Mr Xolani Mbeleni, Acting Legal and Labour Relations Manager, Makana Municipality

ABBREVIATIONS

Mcuba	Ms Monica Mcuba, HIV and Aids Co-ordinator
MEC	Member of the Executive Council
Meiring	Ms Riana Meiring, former Director: Local Economic Development, Makana Municipality Contract expired on: 30 September 2013
MFMA	Municipal Finance Management Act (Act No. 56 of 2003)
MM	Municipal Manager of the Makana Municipality
Mthini	Mr Simphiwo Mthini, Registry Clerk, Makana Municipality
Municipality	Makana Local Municipality
Myalato	Mr Emmanuel T Myalato, former Director: Technical Services, Makana Municipality Resignation date: 11 February 2015
Naidoo	Dr Pravine Naidoo, the former Municipal Manager, Makana Municipality dismissed on 1 March 2014
Ngandi	Mr Likhaya Ngandi, Special Programmes Officer, Makana Municipality, Acting Human Resource Manager since 1 September 2014
Nondzube	Mr Unathi Nondzube, the former Acting Human Resource Manager, Makana Municipality Resignation date: 22 August 2014
PDP	Professional Driver's Permit
Peter	Cllr. Zamuxolo Peter, Executive Mayor, Makana Municipality
Pinyana	Ms Ntombekhaya Pinyana, Secretary of the Director: Corporate Services, Makana Municipality
Pittaway	Ms Rebecca Pittaway, Payroll Officer, Makana Municipality
Planga	Mr Mandisi Planga, Director: Community Services, Municipality
Sahibdeen	Mr Deochand Sahibdeen, former Chief Financial Officer, Makana Municipality - Appointed on 1 January 2013 and resigned 30 June 2013
SALGA	South African Local Government Association
SAMWU	South African Municipal Workers' Union
Santi	Ms Noluthando Santi, Office Manager, Office of the Speaker, Makana Municipality
SARS	South African Revenue Service
SCM	Supply Chain Management
SCM Policy	Supply Chain Management Policy of the Makana Local Municipality reviewed in terms of Council Resolution of 1 November 2012
SDBIP	Service Delivery and Budget Implementation Plan

ABBREVIATIONS

Shenxane	Ms Nonkululeko Shenxane, former Legal Intern, Makana Municipality Contract expired: 31 July 2013
Sindane	Mr Thembinkosi Sindane, Manager: Tourism and Heritage, Makana Municipality
Sizani	Mr Luvoyu Sizani, Manager: Income/Revenue, Makana Municipality
SLA	Service Level Agreement
VAT	Value Added Tax
Virements Policy	Virements Policy of the Makana Local Municipality (Date reviewed by Council unknown)
Wali	Mr Vukile Wali, Special Programmes Manager, Makana Municipality Appointment date: 1 September 2013
Yako	Ms Pam Yako, the Administrator of the Makana Municipality

ANNEXURES

Annexure A	Schedule of interviews/meetings conducted
Annexure B	Copy of the outgoing file register
Annexure C	Copy of Ms Shenxane's affidavit
Annexure D	Copy of Mr Myalato's affidavit
Annexure E	Copies of letters from Mr Planga to Mr Boma dated 18 and 27 November 2013
Annexure F	Copy of agreement signed by Cllr. Madinda
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Annexure H	Copy of Mr Crouse's affidavit
Annexure I	Copy of the payment voucher for R108,374.79
Annexure J	Copy of cheque no 2127
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Annexure M	Copy of the unsigned minutes of the Special Council meeting held on 20 November 2013
Annexure N	Copy of electronic correspondence from Mr Crouse
Annexure O	Copy of the Funding and Grants Policy
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Annexure Q	Payment voucher 5734 – Boxing South Africa
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ANNEXURES

Annexure S	Payment voucher 5749 – Fingo Festival (Pty) Ltd
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Annexure AP	Payment voucher 116650 – Gift Wholesalers
Annexure AQ	Payment voucher 116616 – L'nL Planning, Communication and Technology CC
Annexure AR	Payment voucher 116505 – Makana Poultry and General Trading
Annexure AS	Payment voucher 116727 – Ntombizodwa Noqayi
Annexure AT	Payment voucher 116953 – Makana Natural Bodybuilding and Fitness Club
Annexure AU	Payment voucher 117189 – Makana Heritage Solutions
Annexure AV	Copy of Makana News – August 2013 issue
Annexure AW	Copy of the Provisional estimates book extract
Annexure AX	Copies of the ledger enquiries
Annexure AY	Copies of payment vouchers to Intengu Communications CC

ANNEXURES

Annexure AZ	Copy of item to Council titled "Request of the Municipal Manager to deviate from the Recruitment, Selection and Appointment Policy"
Annexure BA	Copy of item to Council titled "Restructuring of the Macro-Structure of the Makana Organogram (Phase1)"
Annexure BB	Copies of the advertisements
Annexure BC	Copy of the minutes of the Shortlisting Committee – Youth Outreach Coordinator
Annexure BD	Copy of the Resolution of the Municipal Manager - Youth Outreach Coordinator
Annexure BE	Copy of the application submitted by Ms Stuurman
Annexure BF	Copy of the appointment letter – Ms Stuurman
Annexure BG	Copy of the minutes of the Shortlisting Committee – Driver: Executive Mayor
Annexure BH	Copy of the master list of applicants - Driver: Executive Mayor
Annexure BI	Copy of the Resolution of the Municipal Manager - Driver: Executive Mayor
Annexure BJ	Copy of Mr Van Aardt's application
Annexure BK	Copy of the Letter of Appointment – Mr Van Aardt
Annexure BL	Copy of the minutes of the Shortlisting Committee – Rural Development Coordinator
Annexure BM	Copy of the Resolution of the Municipal Manager – Rural Development Coordinator
Annexure BN	Copies of the Letters of appointments – Messrs Madinda and Ngqiyaza
Annexure BO	Copy of the Resolution of the Municipal Manager – Manager: Office of the Speaker
Annexure BP	Copy of the Appointment Letter – Ms Santi
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Annexure BS	Copy of the Resolution of the Municipal Manager – Manager: Sports, Recreation, Arts and Culture
Annexure BT	Copy of the Appointment Letter – Mr Budaza
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	Mayoral Committee
Annexure BY	Copy of the Resolution the Municipal Manager – Executive Secretary: Mayoral Committee
Annexure BZ	Copy of the Appointment Letter – Ms Matyityi
Annexure CA	Copy of the Appointment Letter – Mr Kona
Annexure CB	Copy of the minutes of the Shortlisting Committee – Operations Manager: Public Safety and Community Services
Annexure CC	Copy of the job application – Mr Smile
Annexure CD	Copy of the Resolution the Municipal Manager - Operations Manager: Public Safety and Community Services
Annexure CE	Copy of the Appointment Letter – Mr Smile
Annexure CF	Copy of the minutes of the Shortlisting Committee – Manager: Monitoring and Evaluation
Annexure CG	Copy of the Resolution the Municipal Manager – Manager: Monitoring and Evaluation
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Annexure CO	Copy of the Appointment Letter – Mr Gustav
Annexure CP	Copy of job application – Mr Gustav
Annexure CQ	Copy of the minutes of the Shortlisting Committee – Manager: Internal Audit
Annexure CR	Copy of the Resolution the Municipal Manager – Manager: Internal Audit
Annexure CS	Copy of the appointment Letter – Mr Ngcauzele
Annexure CT	Copy of the job application – Mr Ngcauzele
Annexure CU	Copy of the minutes of the Shortlisting Committee – Executive Secretary: Monitoring and Evaluation

ANNEXURES

Annexure CV	Copy of the Resolution the Municipal Manager – Executive Secretary: Monitoring and Evaluation
Annexure CW	Copy of the Appointment Letter – Ms Ndoro
Annexure CX	Copy of the Virements Policy
Annexure CY	Copies of virement forms
Annexure CZ	Copy of the advertisement
Annexure DA	Copy of the resolution of the Municipal Manager
Annexure DB	Copy of the appointment letter dated 3 August 2012
Annexure DC	Copy of the letter from Mr Boma, dated 10 August 2012,
Annexure DD	Copy of the “Acknowledgement of Debt Form”
Annexure DE	Copy of the Assumption of Duty form
Annexure DF	Copies of the salary cost screen
Annexure DG	Copy of the memorandum dated 8 August 2013 by Mr Mbeleni
Annexure DH	Copy of the pay advice

REPORT ON A FORENSIC INVESTIGATION INTO VARIOUS MATTERS AT THE MAKANA LOCAL MUNICIPALITY

1. MANDATE

- 1.1 Mr Planga, the then Acting Municipal Manager of the Makana Local Municipality (Municipality) appointed the Internal Audit Unit to conduct a Forensic Investigation (hereinafter referred to as an investigation) into various matters in January 2014.
- 1.2 The Internal Audit Unit of the Municipality is a co-sourced unit. The investigation team comprised of staff from KABUSO, the internal audit service provider.
- 1.3 The investigation commenced on 1 February 2014. The draft report was completed during May 2014 and submitted to Mr Mnguni, the then Acting Municipal Manager on 7 June 2014.
- 1.4 The Makana Municipality was placed under Section 139 (1)(b) administration during September 2014. Ms Yako was appointed as the Administrator on 1 October 2014.
- 1.5 On 22 January 2015, KABUSO was appointed to conduct further interviews and finalise the report.
- 1.6 The primary responsibility for the prevention and detection of fraud and error rests with both those charged with the governance and the management of an entity. Management, with the oversight of those charged with governance, needs to set the proper tone, create and maintain a culture of honesty and high ethics, and establish appropriate controls to prevent and detect fraud and error within the entity.
- 1.7 It is the responsibility of those charged with the governance of an entity to ensure, through the oversight of management, the integrity of an entity's accounting and financial reporting systems and that appropriate controls are in place, including those for monitoring risk, financial control and compliance with the law.
- 1.8 It is the responsibility of the management of an entity to establish a control environment and maintain policies and procedures to assist in achieving the objective of ensuring, as far as possible, the orderly and efficient conduct of the entity's business.
- 1.9 This responsibility includes implementing and ensuring the continued operation of accounting and internal control systems, which are designed to prevent and detect fraud and error. Such systems reduce but do not eliminate the risk of misstatements. Accordingly, management assumes responsibility for any remaining risk.

2. PURPOSE AND LIMITATION OF THE REPORT

The purpose of our report is to make known the findings emanating from an independent investigation conducted.

The report is to be used solely for the purpose and subject to the limitations set out in this paragraph. The report serves as a discussion document and may not be used for any other purpose, without our prior consent. In the case of civil litigation, criminal litigation and disciplinary hearings the document may only be used as a background document.

The forensic investigation did not constitute an audit in terms of Generally Accepted Government Auditing Standards and we did not express an audit opinion. The findings of the investigation do not form part of any audit report.

A limited number of copies of this report will be released, and the recipients will be duly recorded. KABUSO will not accept any responsibility should the report be disclosed or released to any other party.

Although the work performed incorporates our understanding of the law as it stands, we do not express an opinion on the legal effect of the facts or the guilt or innocence of any person(s) or party, but merely stated the facts as they have come to our attention.

The report is based on the facts established from documentation provided and/or information obtained from interviews conducted with officials during the course of the investigation. Should any further information be obtained, it may influence the conclusions.

3. CONSTRAINTS

As previously communicated during the course of the engagement, the following aspects of the terms of reference could not be adequately investigated:

- Examine all financial expenditure accounts or records relating to the Budget of the Office of the Executive Mayor, especially those that are earmarked for the Special Projects or major events of the Makana Local Municipality and determine whether the MFMA and SCM Procedures were strictly adhered to by all and sundry under the leadership of Mr M Boma - Strategic Manager in the Office of the Executive Mayor;
- Identify the Budget and examine the expenditure on the production and distribution of the Makana News Letter (a Key Performance Area of the Communications Unit, then

reporting to Mr Boma) in order to determine whether the MFMA and SCMA processes were strictly adhered to;

The main causes for the constraints were:

- Lack of safeguarding of documentation.

4. PURPOSE, OBJECTIVES AND APPROACH OF THE INVESTIGATION

The primary objectives of are to investigate and report on the following matters:

- Mr Boma's, the Strategic Manager, alleged unauthorised possession of the personnel file of the currently suspended Municipal Manager, Dr Naidoo;
- The payment of Dr Naidoo's legal costs by the Municipality;
- Examine all financial expenditure accounts or records relating to the Budget of the Office of the Executive Mayor, especially those that are earmarked for the Special Projects or major events of the Makana Local Municipality and determine whether the MFMA and SCM Procedures were strictly adhered by all and sundry under the leadership of Mr M Boma - Strategic Manager in the Office of the Executive Mayor;
- Identify the Budget and examine the expenditure on the production and distribution of the Makana News Letter (a Key Performance Area of the Communications Unit, then reporting to Mr Boma) in order to determine whether the MFMA and SCMA processes were strictly adhered to;
- All Appointments for the period April to December 2013:
 - The purpose thereof is to determine if the correct procedures were used and also to establish if the appointees had the correct qualifications for the posts;
 - All qualifications must be tested to establish if they are relevant to the post, authentic and valid;
 - The procedures used to facilitate the appointments should also be checked for correctness;

- Establish if the processes carried out were in compliance with Legislation and Policy;
 - Determine if the post requirements were identified correctly and include specialised qualifications that may be required for some of the posts;
 - Determine whether the accurate salary levels were applied in respect of the appointments.
-
- Determine whether shifting of funds / virements authorised by the Office of the Municipal Manager during the period April to December 2013 were in accordance with Legislation and Policy.
 - Determine whether Mr Boma was paid the correct salary from his date of appointment.
 - The investigation should be carried out in such a manner so as to report any other irregularity noted.
 - Provide recommendations to the Municipality.

The purpose of this final forensic audit report will be to inform you on the factual findings of our investigation and to establish the need for further action and/or investigation that may be deemed appropriate.

5. SCOPE OF THE ASSIGNMENT

The scope of our work was dictated by instructions of the Municipality.

Our investigative efforts were limited to the legal and legitimate acquisition and collection of admissible evidence.

The period under review extends from June 2011 to December 2013.

6. SOURCES OF INFORMATION

In conducting the investigation, we relied on the documentation and information made available by the following sources:

6.1 Makana Local Municipality

The following data and information was obtained from the Municipality:

- Policies;
- Administrative documentation and files.

6.2 Publicly available information

Publicly available information which was used for purposes of the investigation included *inter-alia*:

- Legislation, Regulations and Circulars
 - The Constitution of the Republic of South Africa, 1996;
 - Municipal Finance Management Act, 2003 (MFMA) and Municipal Supply Chain Regulations;
 - Municipal Systems Act, 2000 as amended
 - Municipal Structures Act, 1998 as amended
- Newspaper articles.

7. PROCEDURES PERFORMED

7.1 General procedures followed

The procedures performed and methods used, were based on documentation provided and/or information obtained during the course of the investigation.

The general procedures performed by us for purposes of achieving the objectives of the investigation, are set out below. Detailed procedures are referred to in the relevant sections of the report.

- Documentation made available to the investigation team was collated, filed and where appropriate, scheduled by means of electronically completed spreadsheets.
- A critical analysis was performed of transaction data, available documentation and information.
- A review was conducted of applicable policies, procedures, treasury circulars and directives.
- Consultations were conducted with Municipal officials and other parties where appropriate. The names of the person/s interviewed for purposes of the investigation and the dates on which they were interviewed, are reflected in the schedule attached hereto as **Annexure A**.
- Factual findings, supported by exhibits, as well as conclusions and recommendations were documented and reported on.
- Documentary evidence was collated into exhibit files.

8. BACKGROUND

- 8.1 In July 2013, Dr Naidoo, the then Municipal Manager secured a written Deed of Settlement, signed by the Speaker of Council, in terms of which he would be paid an amount of R3 million and legal costs although Council had not resolved on this matter.
- 8.2 In November 2013, Council requested Dr Naidoo to provide reasons why disciplinary proceedings should not be instituted against him in respect of, *inter alia*, his involvement in securing the settlement agreement. Mr Planga was appointed by Council as the Acting Municipal Manager.
- 8.3 In December 2013, Dr Naidoo was placed under suspension and Chris Baker & Associates was appointed to conduct the investigation against Dr Naidoo.
- 8.4 In January 2014, the Municipality laid a criminal charge against Mr Boma, the then Strategic Manager in the Office of the Executive Mayor, for failure to return Dr Naidoo's personnel file.
- 8.5 On 8 January 2014, Mr Boma was placed under suspension.
- 8.6 In February 2014, Mr Planga requested the Internal Audit Unit to investigate various matters, including Mr Boma's alleged unauthorised possession of Dr Naidoo's personnel file.

- 8.7 The Municipality conducted the disciplinary hearing against Mr Boma during June 2014.

DETAILED FINDINGS

9. **Mr Boma's, the Strategic Manager, alleged unauthorised possession of the personnel file of the former Municipal Manager, Dr Naidoo**
- 9.1. The Outgoing File Register maintained by the Registry Section reflected that Dr Naidoo's personnel file was issued by Mr Mthini on 23 November 2011. A copy of the outgoing file register is attached marked **Annexure B**.
- 9.2. The signature of the receiving official has been identified as that of Ms S Pinyana, the Secretary of the Director: Corporate Services.
- 9.3. In an interview conducted with Ms Pinyana, she stated that she collected the file on 23 November 2011 and signed the outgoing file register.
- 9.4. In an interview conducted with Mr Mthini, he stated that the following:
- Subsequent to Mr Klaas, the former Director: Corporate Services, leaving the employ of Municipality in March 2012, he collected personnel files from the Corporate Services Directorate and returned the files to Registry. Dr Naidoo's personnel file was part of the batch of files that he collected;
 - He handed over Dr Naidoo's personnel file to Ms Shenxane during June/July 2012;
 - Ms Shenxane did not sign the outgoing file register as the matter was urgent and he expected the file to be returned that same day.
- 9.5. In an interview conducted with Ms Shenxane, she *inter alia* stated the following:
- She collected Dr Naidoo's personnel file from Registry during June/July 2012;
 - Mr Mthini handed the file over to her;
 - She did not sign the outgoing file register;
 - During January 2013 she handed the file over to Mr Boma at his request.

A copy of Ms Shenxane's affidavit is attached hereto marked **Annexure C**.

9.6. In an interview conducted with Mr Myalato, he *inter alia* stated that during January 2013, he was the Acting Municipal Manager of the Municipality and he confirmed that he was present in Ms Shenxane's office when she handed over the personnel file of Dr Naidoo to Mr Boma, upon Mr Boma's request. A copy of Mr Myalato's affidavit is attached hereto marked **Annexure D**.

9.7. In an interview conducted with Mr Planga, he *inter alia* stated the following:

- He verbally requested the personnel file from Mr Boma on 18 November 2013;
- He again requested the personnel file from Mr Boma in writing on 18 and 27 November 2013 respectively;
- Mr Boma initially accepted that the file was in his possession but later denied being in possession of the file.

Copies of the letters from Mr Planga to Mr Boma dated 18 and 27 November 2013 respectively is attached hereto marked **Annexure E**.

9.8. The investigation team requested a meeting with Mr Boma to no avail.

10. THE PAYMENT OF DR NAIDOO'S LEGAL COSTS BY THE MUNICIPALITY

10.1. In 2007 when the Municipality did not renew Dr Naidoo's employment contract, he then sued the Municipality for approximately R 5 million in damages for future loss of earnings. The Grahamstown High Court dismissed the application with costs.

10.2. Dr Naidoo appealed to the Supreme Court of Appeal and lost again with costs.

10.3. Dr Naidoo instituted almost identical action in the Port Elizabeth Labour Court. It was postponed in 2010 without a date.

10.4. When Dr Naidoo was again employed as Municipal Manager and assumed his duties in April 2013, Wheeldon, Rushmere and Cole, his attorneys, wrote a letter reminding the Municipality of the unresolved litigation and further requesting that the outstanding matter be settled.

- 10.5. Under the Labour Court Order Case No. P356/08 a settlement agreement was signed by Dr Naidoo, the Applicant and Cllr. Madinda, the Speaker of Council on 5 July 2013 and 24 July 2013 respectively, instructed *inter alia* the following:

"...

- (4) *The Applicant and the First Respondent have agreed to compromise such claim and to settle the said action on the basis that the damages suffered by the Plaintiff was R 3 million, and in addition, to pay the Applicant's legal costs from November 2007 to present date;*

...

NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

...

4. LEGAL COSTS

- 4.1 *The First Respondent shall in addition to the abovementioned payment pay the legal costs in respect of case number P356/08 in the Labour Court of South Africa (Port Elizabeth), as may be agreed, or taxed, on the scale as between attorney and client; and*
- 4.2 *Shall pay the legal costs in respect of case number 4097/07 in the High Court of South Africa (Grahamstown), as may be agreed, or taxed, on the scale as between attorney and client; and*
- 4.3 *Shall pay the legal costs in respect of the Supreme Court of Appeal (Bloemfontein), as may be agreed, or taxed, on the scale between attorney and client;*

5. CONSCIOUS ACCEPTANCE

It is formally recorded that the parties have further agreed that the signing of this agreement by the First Respondent and/or Applicant shall be construed as an explicit and conscious acceptance of the terms and conditions as set out herein, the Executive Mayor being duly authorized to do so, and shall be in full and final settlement of all claims of whatsoever nature, which the Applicant may have against the First Respondent, arising out of the facts and circumstances as pleaded under case number P356/08.

The witnesses to Ms Madinda's signature are Messrs Mbeleni and Boma. A copy of the Labour Court Order and agreement is attached hereto marked **Annexure F**.

10.6. In a letter dated 20 September 2013, Mr Bowles from Mark Bowles and Associates (Legal Cost Consultants), informed Wheeldon Rushmere and Cole that the total bills, in respect of legal costs, amount to R108,374.79.

10.7. In a letter dated 23 September 2013, Wheeldon, Rushmere and Cole informed Dr Naidoo of the reconciliation of bills of costs conducted by Mr Bowles. The letter further states the following:

"...

3. *You will note from the letter that we did not charge for a large portion of the work done, (as a result of our relationship), and we will no pass a fee equivalent to the shortfall.*
4. *I emphasise that you will suffer no loss whatsoever and will receive repayment of the full amount you previously paid to us for fees and disbursements (including Counsel).*

..."

10.8. In a letter dated 2 October 2013, Mr Boma writes to Smith Tabata Attorneys and states inter alia the following:

"...

Kindly be hereby advised that we agree with the three (03) Attorney/Client Bills drafted by Mark Bowles & Associates (Legal Costs Consultants) and there is no need for the said bills to be taxed.

..."

10.9. In a memorandum dated 2 October 2013, Mr Boma *inter alia* instructed Mr Crouse to attend to the legal cost payment with immediate effect. The amount is indicated as R86,142.32, however it is amended by Mr Crouse to R108,374.79 "as per Mr Boma". A copy of the memorandum is attached hereto marked **Annexure G**.

10.10. In an interview conducted with Mr Crouse, he stated the following:

- On 2 October 2013, he was called to the Municipal Manager's Office;
- Dr Naidoo and Mr Boma was present;
- The payment of the legal costs was discussed and Dr Naidoo instructed that the monies be paid directly to him as it was a refund;
- Mr Boma informed him that the amount reflected on the memorandum was incorrect and that it should be R108,374.79.

A copy of Mr Crouse's affidavit is attached hereto marked **Annexure H**.

10.11. On 2 October 2013, a manual cheque for an amount of R108,374.79 was issued to Dr Naidoo. A copy of the payment voucher and manual cheque is attached hereto marked **Annexure I and J** respectively. The expenditure was allocated to the Unappropriated Surplus Previous Year vote (Vote No. 01 10 05 01 4998 001). A copy of the ledger enquiry is attached hereto marked **Annexure K**.

10.12. The manual cheque no 2127 for R108,374.79 was processed by First National Bank on 2 October 2013. A copy of the Makana Municipality bank statement no. 5316 is attached hereto marked **Annexure L**.

10.13. The Municipal Council has distanced itself from the settlement agreement, based on the reason that its negotiation was not sanctioned by the Council nor was the Speaker ever mandated to enter into such an agreement.

10.14. At a Special Council Meeting held on 20 November 2013, there was a motion of no confidence in the Speaker. The following points were raised in the motion:

"...

- i) *That the Speaker has failed to convene Council for regular Ordinary Council Meeting on a minimum of four occasions every year, as per Standing Rules and Orders of the Council Act No. 117, 1998 Local Government Municipal Structures Act, 1998 Part 2 37 (c) "must ensure that the council meets at least quarterly", and the Makana Standing Rules and Order of the Council (Prov Gazette No. 2274 dated 5 February 2010) Sect 3.3.(a)*
- ii) *That the Speaker did sign settlement agreement with the Municipal Manager in respect of the previous legal court cases on behalf of Council and without authorization delegation of such power by the Council.*
- iii) *That the Speaker has to date failed to advise council and the public that such an agreement had been signed in July 2013. (MFMA 4.33.3.a i & ii.)*
- iv) *That the Speaker did commit the Municipality to a financial liability without authorization or delegation of authority to do so and in contravention of MFM, Chapter 4 33. Ff.*
- v) *That the Speaker, knowing that Council has refused permission for the Mayor to negotiate a settlement with Municipal Manager, and knowing that Council did request that the Mayor seek a legal opinion from Chris Baker for consideration of Council on this matter, did never the less sign an agreement on behalf of Council.*
- vi) *That the Speaker, by signing this agreement, did misrepresent the council, implying that a decision had been taken by council allowing her to sign the said agreement.*
- vii) *That the Speaker, did refuse a request in a 2013 Council Meeting to implement Standing Rules and Order of the Council (Prov Gazette No. 2274 dated 5 February 2010) Sect 47 without good cause.*

10.15. The motion was put to the vote:

Those in favour of the Motion	-	04
Those against the Motion	-	18
Abstain	-	01

10.16. The Council resolved that the motion of no Confidence in the Speaker be rejected. A copy of the unsigned minutes of the Special Council meeting held on 20 November 2013 is attached hereto marked **Annexure M**.

10.17. The Council has since made an application to have the settlement agreement and the Court Order rescinded. This rescission application was granted by the Grahamstown High Court in January 2013. Dr Naidoo was also ordered to pay the costs of the application.

10.18. In an interview conducted with Cllr. Madinda, she stated the following:

- On 24 July 2013, she together with Cllr. Peter, attended a workshop in Queenstown held by the Eastern Cape Local Government MEC Mlibo Qoboshiyane at that time;
- Cllr. Peter informed her that Mr Boma had contacted him and indicated that he and Mr Mbeleni were on their way to Queenstown to obtain her signature on an urgent document;
- She decided to use the Mayor's vehicle and return to Grahamstown;
- She met Mr Boma and Mr Mbeleni en route to Grahamstown;
- She then joined Mr Boma and Mr Mbeleni in their vehicle and the Mayor's driver returned to Queenstown;
- She was presented with the settlement agreement for signature by Mr Mbeleni;
- She requested explanation from Mr Mbeleni as to why she was required to sign the settlement agreement;
- Mr Mbeleni pointed out the last page of the settlement agreement that reflected "*The Honourable Speaker as Chairperson of Council in terms of Section 36 (1) of the Local Government: Municipal Structures Act 117 of 1998*";
- Mr Mbeleni also referred to the Standing Rules of Order and showed her an extracted page thereof reflecting that the said duty was delegated to the Speaker;
- Mr Mbeleni and Mr Boma were the witnesses to her signature on the settlement agreement;
- Approximately 3 to 4 weeks later the Grocott's Newspaper reported of a "secret deal" that she made with Dr Naidoo;
- She then approached Dr Naidoo who assured her that there was nothing untoward with the settlement agreement;

- She also approached Mr Mbeleni who showed her a number of correspondence between the Mayor and Dr Naidoo relating to the settlement to the agreement;
- Subsequent to Dr Naidoo's suspension, Mr Planga, the Acting Municipal Manager informed her that the settlement agreement was not a legal document. Further, that the Standing Rules of Order did not delegate this duty to her;
- After her own investigation, she determined that the page of the Standing Rules of Order presented to her by Mr Mbeleni appeared to be a fabrication;
- Mr Mbeleni, Mr Boma and Dr Naidoo misrepresented to her that she had the necessary delegation to sign the agreement;
- Chris Baker stated that when the Speaker signed the agreement she was not aware that she did not have the delegation to do so;
- She confirmed that she is the custodian of the Standing Rules of Order of Council, however, at the time of signing the settlement agreement she did not have her own copy of the Standing Rules of Order and relied on the extract presented to her by Mr Mbeleni.

10.19. In an interview conducted with Mr Mbeleni he stated the following:

10.20. The speaker should take the initiative in the policy formulation around the rules of order. The speaker should chair the committee that deals with rules of order. The ultimate decision-maker on the rules of order is the council.

10.21. The Code of Conduct for Councillors set out in Schedule 1 of the Municipal Systems Act, 2000, stipulates the following:

"...

General conduct of councillors

2. A councillor must –

(a) perform the functions of office good faith, honestly and a transparent manner; and

- (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.*

...

11. A councillor may not, except as provided by law -

- (a) interfere in the management or administration of any department of the municipal council unless mandated by council;*
- (b) give or purport to give any instruction to any employee of the council except when authorized to do so;*
- (c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or*
- (d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.*

..."

11. SPECIAL PROJECTS / GRANTS IN AID – OFFICE OF THE EXECUTIVE MAYOR

- 11.1.** The power of the Municipality to make grants in aid is regulated by section 156 of the Constitution as read with section 8 of the Municipal Systems Act (MSA), Act 32 of 2000. These provisions limit the power to make grants-in-aid to circumstances where it is reasonable and necessary for or incidental to the functions and exercise by the municipality of its powers.
- 11.2.** The powers and functions of municipalities are set out in section 156 of the Constitution as read with parts B of Schedules 4 and 5 to the Constitution.
- 11.3.** Any grant made that does not conform to the abovementioned requirements is irregular expenditure in terms of the Municipal Finance Management Act (MFMA) and could also be considered in some circumstance as unauthorised. These funds would therefore have to be recovered from the person liable for the expenditure in terms of section 32 of the MFMA.
- 11.4.** Section 67 of the MFMA stipulates the following:

Funds transferred to organisations and bodies outside government

67. (1) *Before transferring funds of the municipality to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organisation or body—*

(a) has the capacity and has agreed—

- (i) to comply with any agreement with the municipality;*
- (ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;*
- (iii) to report at least monthly to the accounting officer on actual expenditure against such transfer; and*
- (iv) to submit its audited financial statements for its financial year to the accounting officer promptly;*

(b) implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and

(c) has in respect of previous similar transfers complied with all the requirements of this section.

(2) If there has been a failure by an organisation or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection

(1)(c) make a further transfer to that organisation or body provided that—

- (a) subsection (1)(a) and (b) is complied with; and*
- (b) the relevant provincial treasury has approved the transfer.*

(3) The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).

(4) Subsection (1)(a) does not apply to an organisation or body serving the poor or used by government as an agency to serve the poor, provided—

- (a) that the transfer does not exceed a prescribed limit; and*
- (b) that the accounting officer—*
 - (i) takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and*
 - (ii) certifies to the Auditor-General that compliance by that organisation or body with subsection (1)(a) is uneconomical or unreasonable.*

11.5. This section of the MFMA regulates grants made or contemplated to be made by municipalities. The section imposes stringent conditions and limitations on the making of grants. First, it appears to imply that grants may only be made to organisations or bodies (i.e. groups of persons and not individual persons). It implies, second, that there must be an agreement (although the MFMA does not expressly require this, it is assumed that it must be

a written agreement) between the Municipality and the beneficiary and that such an agreement must regulate specified terms and conditions, as well as the application of its provisions. The only exception to the contractual condition is when the beneficiary organisation/body is "... serving the poor ..." in which case different conditions apply.

- 11.6.** The power to make, grant or award (or not to make, grant or award) donations, grants and sponsorships, as the case may be, can be a powerful instrument for dispensing favours and purchasing goodwill. Therefore, the grant policy and procedures of the Municipality must, as far as is reasonably possible, reduce the opportunity for questionable decisions to be taken.
- 11.7.** The most effective ways of reducing the opportunity for dishonest practices is –
- to ensure that decision-making, systems and procedures are transparent; and
 - that adequate and appropriate reporting and accountability measures are in place and consistently enforced.
- 11.8.** Transparency is promoted where decisions are taken and reported on in an open manner. This means that the process of making decisions regarding grants should not differ from any other decision-making processes and should be subject to scrutiny like any other decision.
- 11.9.** Achieving the required degree of transparency will, more than likely be maximised if the process of considering grants forms an integral part of the budget preparation process. This would require, for example, that the annual budget timetable must provide specifically for the process of considering applications for grants.
- 11.10.** The Municipal Manager shall annually, in accordance with the budget timetable, publish a notice in local newspapers and, if practicable, run radio advertisements, inviting organisations to apply for grants for the budget year to which the timetable relates.
- 11.11.** An application must be made in the form and specify the information the Municipal Manager requires.
- 11.12.** MFMA Circular 51 stipulates inter alia the following:
National Treasury notes that section 17(3)(j) of the MFMA requires that when an annual budget is tabled it must be accompanied by "particulars of any proposed allocations or grants by the municipality to ... (iv) any organisations or bodies referred to in section 67(1)". The aim of this provision is to ensure that all proposed allocations or grants are presented transparently in the budget documentation that is tabled for public consultation and council approval, as well as for budget management and monitoring purposes. Any allocations or grants made to organisations or bodies that are not reflected in a municipality's budget or adjustments budget must be regarded as unauthorised expenditure because they are "(f) a

grant by the municipality otherwise than in accordance with this Act" (see definition of unauthorised expenditure in section 1 of the MFMA).

National Treasury further notes that section 67 of the MFMA only allows funds to be transferred to 'an organisation or body' and not to an individual. *Any allocations or grants to individuals, other than in terms of the municipality's indigent policy or bursary scheme, must be regarded as irregular expenditure because they are expenditures not in accordance with a requirement of the MFMA.*

11.13. National Treasury and provincial treasuries will exercise close oversight of all discretionary type allocations in municipal budgets. If there are any concerns about the use of these funds, section 74 of the MFMA will be used to interrogate their use.

11.14. In an interview conducted with Mr Crouse, he was unable to confirm that the Municipality complied with section 17(3)(j) of the MFMA which requires that when an annual budget is tabled it must be accompanied by "particulars of any proposed allocations or grants by the municipality to ... (iv) any organisations or bodies referred to in section 67(1)".

A copy of the electronic correspondence from Mr Crouse dated 31 March 2014 is attached hereto marked **Annexure N**.

11.15. Policy

11.15.1. The Funding and Grants Policy of the Municipality is not in compliance with the stipulations of the MFMA. A copy of the policy is attached hereto marked **Annexure O**.

11.15.2 It appears that the Funding and Grants Policy was not approved by Council.

11.16. Budget

11.16.1. A review of the provisional estimates book (2012/2013) revealed that the annual budgets of the Special Programmes Unit, specifically in respect of grants-in-aid and special projects, are as follows:

Vote no	Description	2011/2012 Estimate	2012/2013 Estimate	2013/2014 Estimate
6570 000	Festival Expenses	70,000	40,000	100,000
6608 000	Freedom Festival	200,000	200,000	550,000
6626 000	Grant Expenditure	0	29,850	100,000
6915 008	Project: Special Events	54,000	60,000	400,000

Vote no	Description	2011/2012 Estimate	2012/2013 Estimate	2013/2014 Estimate
6915 016	Project: Women's Program	70,000	50,000	150,000
6915 017	Project: Disabled Program	64,800	50,000	80,000
6915 018	Project: Youth Program/YAC	180,000	500,000	500,000
6915 019	Project: HIV/Aids Program	130,000	100,000	200,000
6915 020	Project: Arts & Culture Program	70,000	30,000	80,000
7325 000	Sports Festival	60,000	150,000	300,000

A copy of the provisional estimates book extract is attached hereto marked **Annexure P**.

11.17. Expenditure

We conducted a review of the available payment vouchers submitted for review purposes and determined the following:

11.17.1. Payment voucher 5734 – Boxing South Africa

11.17.1.1 On 31 August 2012, Mr Ngandi, requested that an amount of R29,000.00 be paid to Boxing SA on behalf of Nyusa Boxing Promotion based in Uitenhage.

11.17.1.2 The memorandum was approved by Mr Ganza, the Manager Support Services, Mr Crouse, the Acting CFO and Ms Meiring, the then Acting Municipal Manager on 31 August 2012.

11.17.1.3 It appears that Nyusa Boxing Promotion was the promoter of Mr Ndwayana, a boxer from Grahamstown.

11.17.1.4 In the memorandum, Mr Ngandi stated *inter alia* that the payment of R29,000.00 would result in Mr Ndwayana being billed in the tournament.

11.17.1.5 The letter from Mr Mfama from Nyusa Boxing Promotion appears to have been sent to the Municipality via facsimile on 31 August 2012. Mr Mfama states *inter alia* that he "...want to buy the fight of Ndwayana and Jerry Makubve from the promoter Mr. Mzimazi Mnguni."

11.17.1.6 The payment of R29,000.00 to Boxing SA was paid to Boxing SA on 31 August 2012.

11.17.1.7 The expenditure was allocated to the Sports Festival vote (Vote No. 01 10 70 07 7325 000). A copy of the payment voucher is attached hereto marked **Annexure Q**.

11.17.1.8 The boxing match took place at the Orient Theatre in East London on 9 September 2012. A copy of the boxing record is attached hereto marked **Annexure R**.

11.17.2 Payment voucher 5749 – Fingo Festival (Pty) Ltd

11.17.2.1 The Fingo Festival is an annual event held in the Fingo Township and devoted to art. The festival is held during the same period as the National Arts Festival.

11.17.2.2 On 22 August 2012, Ms Mcuba, requested that the Municipality assist with the staging of the Fingo Festival.

11.17.2.3 The memorandum was approved by Mr Ganza, the Manager Support Services, Mr Crouse, the Acting CFO and Ms Meiring, the then Acting Municipal Manager.

11.17.2.4 It appears that Fingo Festival (Pty) Ltd was the organiser of the Fingo Festival. The management of Fingo Festival (Pty) Ltd is Messrs Xolile Madinda and Bulelani Boo.

11.17.2.5 The SCM Policy of the Municipality was circumvented in that quotations were not obtained. The single quotation attached to the payment voucher is not addressed to the Municipality.

11.17.2.6 The invoice from Fingo Festival (Pty) Ltd amounting to R19,000.00 is not addressed to the Municipality. The breakdown of the amount is as follows:

- Management x2 R7,500 = R15,000
- Administration R2,000
- Marketing posters & site R2,000

11.17.2.7 It appears that payment of a R15,000.00 management fee was made to the Fingo Festival (Pty) Ltd on 10 September 2012.

11.17.2.8 It does not appear as if the Municipality entered into an agreement with the Fingo Festival.

11.17.2.9 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure S**.

11.17.3 Payment voucher 5757 – Makana Inkubeko Youth Development

11.17.3.1 On 22 August 2012, Ms Mcuba, requested that an amount of R12,000.00 be paid to a service provider rendering a service at the Fingo Festival.

11.17.3.2 The memorandum was approved by Mr Ganza, the Manager Support Services, Mr Crouse, the Acting CFO and Ms Meiring, the then Acting Municipal Manager.

- 11.17.3.3** It appears that the Makana Inkubeko Youth Development was a service provider at the Fingo Festival held during the National Arts Festival.
- 11.17.3.4** The SCM Policy of the Municipality was circumvented in that only one quotation was obtained.
- 11.17.3.5** It appears that payment of R12,000.00 was made to the Makana Inkubeko Youth Development on 31 August 2012 for sound hire, posters, flyers, airtime and payment of the artist and band.
- 11.17.3.6** The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure T**.
- 11.17.4 Payment voucher 5795 – Relevant Ambitions Trading 104 CC**
- 11.17.4.1** On 22 August 2012, Ms Mcuba, requested that an amount of R15,000.00 be paid to a service provider rendering a service at the Fingo Festival.
- 11.17.4.2** The memorandum was approved by Mr Ganza, the Manager Support Services, Mr Crouse, the Acting CFO and Ms Meiring, the then Acting Municipal Manager.
- 11.17.4.3** It appears that Relevant Ambitions Trading 104 CC was a service provider at the Fingo Festival held during the National Arts Festival.
- 11.17.4.4** Payment of R15,000.00 was made to the Relevant Ambitions Trading 104 CC on 31 August 2012 for sound hire and transport of the equipment to and from the venue.
- 11.17.4.5** The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure U**.
- 11.17.4.6** The SCM Policy of the Municipality was circumvented in that only one quotation was obtained.
- 11.17.5 Payment voucher 6055 – Makana Local Sports Council**
- 11.17.5.1** On 3 September 2012, Mr Ngandi requested that an amount of R160,000.00 be contributed to the Makana Local Sports Council.
- 11.17.5.2** It appears that the available budget as at 3 September 2012 for the Sports Festival amounted to R121,000.00 and a virement was necessary to cover the shortfall.

- 11.17.5.3 The memorandum was approved by Mr Boma, the Strategic Manager, Mr Crouse, the Acting CFO and Mr Myalato, the then Acting Municipal Manager. The date of approval is not reflected on the memorandum.

- 11.17.5.4 The request from Mr Thandazile Madinda, the Secretary of the Makana Local Sports Council dated 5 April 2012 refers to a Makana Sports Easter Tournament. A total amount of R300,000 was requested, however it appears that the Municipality previously transferred R140,000.

- 11.17.5.5 The Municipality transferred the R160,000 to the account of the Makana Local Football Association on 12 October 2012, approximately 6 months after the Makana Sports Easter Tournament.

- 11.17.5.6 It does not appear as if the Municipality entered into an agreement with the Makana Local Sports Council.

- 11.17.5.7 The expenditure was allocated to the Sports Festival vote (Vote No. 01 10 70 07 7325 000). A copy of the payment voucher is attached hereto marked **Annexure V**.

- 11.17.6 **Payment voucher 6193 – Uncedo Service Thutha Abantu**

- 11.17.6.1 On 11 October 2012, Mr Ngandi, requested that the Municipality approve the payment of transport for the Progressive Women's Movement. The memorandum does not reflect the amount to be paid.

- 11.17.6.2 The memorandum was approved by Mr Boma, the Strategic Manager and Mr Crouse, the Acting CFO. The date of approval is not reflected on the memorandum.

- 11.17.6.3 It appears that Uncedo Service Thutha Abantu was the service provider that transported members of the Progressive Women's Movement.

- 11.17.6.4 Payment of R22,000.00 was made to Uncedo Service Thutha Abantu on 31 October 2012.

- 11.17.6.5 The SCM Policy of the Municipality was circumvented in that only one quotation was obtained.

- 11.17.6.6 It appears that Uncedo Service Thutha Abantu did not submit an invoice to the Municipality.

- 11.17.6.7 There was no evidence attached to the payment voucher to confirm that the service was indeed received.

11.17.6.8 The expenditure was allocated to the Project: Women's Programmes vote (Vote No. 01 10 70 07 6915 016). A copy of the payment voucher is attached hereto marked **Annexure W**.

11.17.7 Payment voucher 6371 – Sugar Tours

11.17.7.1 On 21 November 2012, Ms Mcuba, requested that the Municipality pay for the transport costs of the Makana Choral Music.

11.17.7.2 The memorandum was approved by Ms Noganta, the then Manager: SCM, Mr Boma, the Strategic Manager and Mr Crouse, the Acting CFO. The date of approval by Messrs Boma and Crouse is not reflected on the memorandum.

11.17.7.3 Ms Noganta included the following comment:

"For SCM compliance, note that should any problems arise, the quotation was sourced by the user department"

11.17.7.4 It appears that Sugar Tours was the service provider that transported members of the Makana Choral Music.

11.17.7.5 The VAT number reflected on the quotation is fictitious.

11.17.7.6 Payment of R5,500.00 was made to F Vuso on 4 December 2012.

11.17.7.7 The SCM Policy of the Municipality was circumvented in that only one quotation was obtained.

11.17.7.8 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure X**.

11.17.8 Payment voucher 6729 – Various donations

11.17.8.1 On 26 November 2012, Ms Mcuba, requested that Nyusa Boxing Promotion based in Uitenhage be assisted with a total contribution of R23,160.00 made up as follows:

Description	Amount R
Payment of 2 ring doctors	3,260.00
Boxing South Africa	12,000.00
Fingo Festival (Pty) Ltd – hiring of PA system	3,000.00

Description	Amount R
Tell UR Friends Productions – officiating and ring girls	4,900.00
Total	23,160.00

- 11.17.8.2 The funds were for a boxing tournament held in Grahamstown on 8 December 2012. The tournament main attraction was the Eastern Cape welter weight title between Mzowoxolo Ndwayana and Jongikhaya Leve.
- 11.17.8.3 The memorandum reflects that the Department of Sport also contributed R82,850 to the boxing tournament and that it was a joint venture between the Municipality and the Department.
- 11.17.8.4 The memorandum was approved by Mr Boma, the Strategic Manager and Mr Crouse, the Acting CFO on 27 November 2012 and 30 November 2012 respectively.
- 11.17.8.5 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure Y**.
- 11.17.8.6 On 23 November 2012, Mr Ngandi, requested that the Municipality issue a cash cheque in the amount of R20,000.00 for the purchase of clothing, travel bags and stationery for 2 candidates from Makana selected to study medicine in Cuba.
- 11.17.8.7 The memorandum was approved by Mr Boma, the Strategic Manager and Mr Crouse, the Acting CFO. The date of approval by Messrs Boma and Crouse is not reflected on the memorandum.
- 11.17.8.8 *Mr Crouse included the following comment:*
- "Invoices have to be provided to Finance by 29 November 2012, or the amount is deducted from the official's salary in December 2012."*
- 11.17.8.9 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure Y**.
- 11.17.8.10 On 28 November 2012, Mr Ngandi, requested that *"assistance be given to the Brumbies Club in the form of donation in order for them to kick-start their fundraising and sponsor seeking endeavours."* An amount of R30,000 was requested to be paid to the Brumbies Club.

11.17.8.11 The memorandum was approved by Mr Sizani, the Acting CFO, Mr Boma, the Strategic Manager and Mr Myalato, the then Acting Municipal Manager. The date of approval by Messrs Boma and Myalato is not reflected on the memorandum.

11.17.8.12 The letter requesting assistance from the Brumbies Club dated 12 October 2012 reflected that it was in respect of a dinner dance / presentation on 30 November 2012. The letter requested assistance with the following:

"....

- *The free use of the Recreation hall, Albany Road on the above date.*
- *Catering for 200 people.*
- *Cutlery for 200 people.*
- *Payment of Music band, totaling R3500,00 (Three thousand five hundred rands)*

..."

11.17.8.13 The expenditure was allocated to the Sports Festival vote (Vote No. 01 10 70 07 7325 000). A copy of the payment voucher is attached hereto marked Annexure Y.

11.17.9 Payment voucher 116798 – Grahamstown Sports CC

11.17.9.1 On 9 September 2013, Mr Budaza, requested that funds be used to procure soccer kits, soccer cones and balls to support the ward 1 soccer teams in Riebeeck East. A total amount of R26,578.00 was requested to procure the soccer kits and equipment.

11.17.9.2 It appears that the following section of the Funding and Grants Policy was deemed applicable:

"With regard to Funding Policy – criteria may be used to the Mayoral Office and the Municipal Manager when assessing the NGOs and CBOs THAT –

3.2 The NGO or CBO that is applying is involved in a joint venture activity that has been initiated by or in partnership with the Makana Municipality in the pursuance of the municipality's strategic objectives. In such instance the municipality should reserve the right to determine the extent and the nature of the ultimate assistance."

- 11.17.9.3 The memorandum is recommended by Mr Sizani and Mr Wali on 9 September 2013.
- 11.17.9.4 The memorandum is approved by Mr Boma on 9 September 2013.
- 11.17.9.5 It appears that payment of R26,578.00 was made to Grahamstown Sports CC on 12 September 2013.
- 11.17.9.6 The SCM Policy of the Municipality was circumvented in that only one quotation was obtained.
- 11.17.9.7 It appears that Grahamstown Sports CC did not submit an invoice to the Municipality.
- 11.17.9.8 It appears that the Municipality did not claim input VAT on the payment.
- 11.17.9.9 The expenditure was allocated to the Free Basic Services vote (Vote No. 01 10 70 07 660 000). A copy of the payment voucher is attached hereto marked **Annexure Z**.
- 11.17.10 **Payment voucher 116603 – Alicedale Development Fund**
- 11.17.10.1 On 14 August 2013, Mr S Lazarus requested that an amount of R49,900.00 be paid to the Alicedale Development Fund for operational and administration costs for 3 months, July to September 2013.
- 11.17.10.2 The memorandum was recommended by Ms Meiring and approved by Mr Crouse. The date of recommendation and approval is not reflected on the memorandum.
- 11.17.10.3 The Alicedale Development Fund invoice includes stipends, office rental, stationery, new computer, bank charges and the salary of the office cleaner.
- 11.17.10.4 Payment of R49,900.00 to the Alicedale Development Fund was made on 15 August 2013.
- 11.17.10.5 The expenditure was allocated to Vote No. 01 80 05 01 4805 057. A copy of the payment voucher is attached hereto marked **Annexure AA**.
- 11.17.11 **Payment voucher 116626 – Thembinkosi Mdyogolo**
- 11.17.11.1 On 20 August 2013, Mr Ngandi requested that the Municipality fund the accommodation, meals and transport in the amount of R4,500.00 for Mr Thembinkosi Mdyogolo to participate in a race in Laingsburg.
- 11.17.11.2 The memorandum is supported by Mr Crouse, on 22 August 2013.

11.17.11.3 The memorandum is approved by Mr Boma. The date of approval is not reflected on the memorandum.

11.17.11.4 The expenditure was allocated to the Sports Festival vote (Vote No. 01 10 70 07 7325 000). A copy of the payment voucher is attached hereto marked **Annexure AB**.

11.17.12 Payment voucher 116651 – Fingo Festival

11.17.12.1 On 8 August 2013, Mr Ngāndi, requested that the Municipality approve the payment of services rendered by Fingo Festival (Pty) Ltd. The memorandum does not reflect the amount to be paid.

11.17.12.2 The memorandum was recommended by Mr Crouse, the Acting CFO and approved by Mr Boma, the Strategic Manager on 28 August 2013 and 22 August 2013 respectively.

11.17.12.3 It appears that Fingo Festival (Pty) Ltd was the service provider that provided a venue, public announcement system and local artists at the Youth Employment Accord and Youth Development Strategic Planning Session.

11.17.12.4 Payment of R9,200.00 was made to Fingo Festival (Pty) Ltd on 13 September 2013.

11.17.12.5 The SCM Policy of the Municipality was circumvented in that only one quotation was obtained.

11.17.12.6 It appears that Fingo Festival (Pty) Ltd did not submit an invoice to the Municipality.

11.17.12.7 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AC**.

11.17.13 Payment voucher 116809 – Pumlani Kongwana

11.17.13.1 On 12 September 2013, Mr Budaza requested that an amount of R35,075.00 be paid to the Mr Pumlani Kongwana. It appears that Mr Kongwana was selected to participate in an international rugby exchange programme.

11.17.13.2 The memorandum was supported by Mr Boma. The date is not reflected on the memorandum.

11.17.13.3 The memorandum was approved by Mr Sizani, the Acting CFO on 13 September 2013.

11.17.13.4 The R35,075.00 was for training and playing kits (R5,075.00) and pocket money for 6 months (R30,000).

11.17.13.5 A newspaper article dated 19 September 2013 reflected inter alia the following:

" ...

In a letter from Aylesford Bulls Rugby Football Club, where Kongwana will be based, the director of rugby Neil Wiltshire invited Kongwana to play at the club as part of the international exchange programme.

The club will provide Kongwana with accommodation and a subsistence allowance to cover general living expenses and all meals.

" ...

A copy of the article is attached hereto marked **Annexure AD**.

11.17.13.6 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AE**.

11.17.14 **Payment voucher 116741 – Sugar Tours**

11.17.14.1 On 23 August 2013, Mr Ngandi, requested that the Municipality pay for the transport costs of 60 Grade 7 learners and 10 teachers of Fikizolo School on a tour to Port Elizabeth.

11.17.14.2 The memorandum was recommended by Mr Sizani, the Acting CFO and approved by Mr Boma, the Strategic Manager on 6 September 2013.

11.17.14.3 The SCM Policy of the Municipality was circumvented in that quotations were not obtained. The 3 quotations are addressed to the Fikizolo Primary School.

11.17.14.4 It appears that an advance payment of R11,200.00 was made on 19 September 2013 to Mr Vuso. The tour dates were from 23 to 26 September 2013.

11.17.14.5 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AF**.

11.17.15 **Payment voucher 2144 – D Scheepers**

11.17.15.1 On 7 October 2013, Mr Wali requested that the Municipality assist Dephney Scheepers with an amount of R2,500.00 towards her training needs.

11.17.15.2 It appears that Ms Scheepers was selected as a member of the National Women Sevens Rugby team.

11.17.15.3 The memorandum was recommended by Mr Crouse, the Acting CFO and approved by Mr Boma, the Strategic Manager on 7 October 2013.

11.17.15.4 The memorandum refers to a request from the South African Rugby Union (SARU) to assist Ms Scheepers towards her national call up. However, the letter from SARU does not request assistance, instead it *inter alia* reflects the following:

“...

3. All accommodation, meals and support will be provided by SARU

...”

11.17.15.5 The letter from SARU is addressed “*To whom it may concern*”.

11.17.15.6 There is not a written request for assistance from Ms Sheepers to the Municipality attached to the payment voucher.

11.17.15.7 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AG**.

11.17.16 Payment voucher 117066 – King Lobengula Foundation

11.17.16.1 On 9 September 2013, Mr Sindane, the Acting Director: LED requested that an amount of R60,000.00 be transferred to the Kind Lobengula Foundation for the production of a booklet documenting the history of Fingo Village.

11.17.16.2 The memorandum was approved by Mr Crouse, the Acting CFO. The date of approval is not reflected on the memorandum.

11.17.16.3 The amount of R60,000 was paid into the private bank account of Mr Sizwe Mda on 10 October 2013.

11.17.16.4 The expenditure was allocated to Vote No. 01 10 75 05 6915 049). A copy of the payment voucher is attached hereto marked **Annexure AH**.

11.17.17 Payment voucher 117070 – Graeme College

- 11.17.17.1** On 30 September 2013, Mr Wali requested that the Municipality fund the flight ticket of Mr Siphosethu Pinini to the United Kingdom. Mr Pinini was selected to represent Graeme College on a rugby exchange programme with a school in the United Kingdom.
- 11.17.17.2** The memorandum was supported by Mr Crouse, the Acting CFO and by Mr Boma, the Strategic Manager. The date of support is not reflected on the memorandum.
- 11.17.17.3** The memorandum was approved by Dr Naidoo. The date of approval is not reflected on the memorandum.
- 11.17.17.4** The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AI**.
- 11.17.18 Payment voucher 117098 – Bantu Church of Christ**
- 11.17.18.1** On 7 August 2013, Mr Boma recommended the payment of R20,000.00 to the Bantu Church of Christ in Port Elizabeth towards the 100 year celebrations of the existence of the Church.
- 11.17.18.2** The memorandum is signed by Mr Sizani, the Acting CFO on 4 September 2013.
- 11.17.18.3** The memorandum is approved by Dr Naidoo, the Municipal Manager. The date of approval is not reflected on the memorandum.
- 11.17.18.4** The R20,000.00 was paid to the Bantu Church of Christ on 2 November 2013.
- 11.17.18.5** The expenditure was allocated to the Project: Special Events vote (Vote No. 10 70 07 6915 008). A copy of the payment voucher is attached hereto marked **Annexure AJ**.
- 11.17.19 Payment voucher 117085 – Alicedale Development Fund**
- 11.17.19.1** On 9 October 2013, Mr S Lazarus requested that an amount of R26,000.00 be paid to the Alicedale Development Fund for operational and administration costs for 2 months, October to November 2013.
- 11.17.19.2** The memorandum is recommended by Mr Sindane, the Acting Director: LED and Planning.
- 11.17.19.3** The memorandum is approved by Mr Crouse, the Acting CFO.
- 11.17.19.4** The Alicedale Development Fund invoice includes stipends, office rental, stationery, electricity, bank charges and the salary of the office cleaner.
- 11.17.19.5** The expenditure was allocated to Vote No. 01 80 05 01 4805 057. A copy of the payment voucher is attached hereto marked **Annexure AK**.

11.17.20 Payment voucher 117148 – Albany Baptist Church

11.17.20.1 On 24 October 2013, Mr Boma recommended the payment of R5,000.00 to the Albany Baptist Church towards the opening function of the Church.

11.17.20.2 The memorandum is signed by Mr Crouse, the Acting CFO. The date of signature is not reflected on the memorandum.

11.17.20.3 The memorandum is approved by Mr Myalato, the Acting Municipal Manager. The date of approval is not reflected on the memorandum.

11.17.20.4 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AL**.

11.17.21 Payment voucher 117252 – M C Kepe

11.17.21.1 On 16 October 2013, Ms Mcuba recommended the payment of R21,000.00 to MC Kepe for the transport costs of 150 learners and 11 teachers of Samuel Ntsiko Public Primary School on a tour to Port Elizabeth.

11.17.21.2 The memorandum was further recommended by Mr Crouse, the Acting CFO and approved by Mr Boma, the Strategic Manager on 17 and 18 October 2013 respectively.

11.17.21.3 Mr Crouse included the following comment on the memorandum:

"Clause 5.1 of the policy states that a school may not be assisted for transport on a touring excursion. In my opinion this request is exactly that. However clause 5.2 states that the school can be assisted if the request is for needy children, which is implied in this request. Mr Boma is to state which is applicable as he would have more insight in the details of this request."

11.17.21.4 Mr Boma included the following comment on the memorandum:

"I can confirm that these children are needy coming from poor backgrounds."

11.17.21.5 The SCM Policy of the Municipality was circumvented in that proper quotations were not obtained. The 3 quotations attached to the payment voucher are not addressed to the Municipality. Further, 2 of the 3 quotations are undated.

11.17.21.6 Payment of R21,000.00 to MC Kepe was made on 2 December 2013. The tour date was 18 October 2013.

11.17.21.7 The expenditure was allocated to the Grant expenditure vote (Vote No. 10 70 07 6626 000). A copy of the payment voucher is attached hereto marked **Annexure AM**.

11.17.22 Payment voucher 117332 – Ursula Boutique

11.17.22.1 On 18 November 2013, Mr Wali recommended the Municipality assist the young person who has started a project of making tracksuits for schools with a sewing machine and material.

11.17.22.2 It appears that during the Mayoral Imbizo, Mr Thozamile Yaka made a request to the Executive Mayor to be assisted with material and a machine.

11.17.22.3 The memorandum does not reflect the amount to be paid. The payment is recommended by Mr Crouse on 18 November 2013.

11.17.22.4 The memorandum is signed by Mr Boma and approved by Dr Naidoo on 19 November 2013.

11.17.22.5 The SCM Policy of the Municipality was circumvented in that quotations were not obtained. The quotation attached to the payment voucher is addressed to Stock and Stain Manufacturing.

11.17.22.6 Payment of R7,028.10 to Ursula's Boutique was made on 29 November 2013.

11.17.22.7 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AN**.

11.17.23 Payment voucher 117176 – Graeme College

11.17.23.1 On 25 October 2013, the Special Programmes Office requested that the Municipality fund the flight ticket of Mr Ethan September to the United Kingdom. Mr September was selected to represent Graeme College on a rugby exchange programme with a school in the United Kingdom.

11.17.23.2 The memorandum was recommended by Mr Boma and approved by Mr Crouse, the Strategic Manager and the Acting CFO respectively. The dates of the signatures are not reflected on the memorandum.

11.17.23.3 The memorandum was approved by Dr Naidoo on 31 October 2013.

11.17.23.4 It appears that payment of R12,000.00 to Graeme College was made on 31 October 2013.

11.17.23.5 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AO**.

11.17.24 Payment voucher 116650 – Gift Wholesalers

11.17.24.1 On 19 August 2013, the Executive Mayor's Office recommended that the Municipality assist a group of elderly women with sewing equipment.

11.17.24.2 The memorandum is recommended by Mr Boma on 19 August 2013 and approved by Mr Crouse. The date of approval is not reflected on the memorandum.

11.17.24.3 It appears that only 2 quotations were obtained.

11.17.24.4 It appears that payment of R10,000.00 to Gift Wholesalers was made on 28 August 2013. The amount was transferred into the ABSA bank account of T E Makeleni.

11.17.24.5 There was no evidence attached to the payment voucher to confirm that the sewing equipment was indeed received.

11.17.24.6 The expenditure was allocated to the Project: Women's Programmes vote (Vote No. 10 70 07 6915 016). A copy of the payment voucher is attached hereto marked **Annexure AP**.

11.17.25 Payment voucher 116616 – L'nL Planning, Communication and Technology CC

11.17.25.1 On 1 August 2013, the Office of the Strategic Manager requested that the Municipality process payment to L'nL for progress made in respect of the development of the youth development strategy.

11.17.25.2 The memorandum is recommended by Mr Boma on 19 September 2013 and approved by Mr Crouse. The date of approval is not reflected on the memorandum.

11.17.25.3 It appears that payment of R50,000.00 to L'nL was made on 20 August 2013.

11.17.25.4 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AQ**.

11.17.26 Payment voucher 116505 – Makana Poultry and General Trading

11.17.26.1 On 25 July 2013, the Special Programmes Unit recommended that the Municipality assist Ms Mavikela with poultry equipment.

11.17.26.2 The memorandum is recommended by Ms Mcuba and Mr Crouse. The date of recommendation is not reflected on the memorandum.

11.17.26.3 The memorandum is approved by Mr Boma. The date of approval is not reflected on the memorandum.

11.17.26.4 It appears that an amount of R26,598.00 to Ms Mavikela was made on 8 August 2013.

11.17.26.5 The SCM Policy of the Municipality was circumvented in that quotations were not obtained. The quotation attached to the payment voucher is not addressed to the Municipality.

11.17.26.6 There was no evidence attached to the payment voucher to confirm that the poultry equipment was indeed received.

11.17.26.7 The expenditure was allocated to the Project: Women's Programmes vote (Vote No. 10 70 07 6915 016). A copy of the payment voucher is attached hereto marked **Annexure AR**.

11.17.27 Payment voucher 116727 – Ntombizodwa Noqayi

11.17.27.1 On 20 August 2013, Mr Ngandi recommended the payment of R15,000.00 to the Ntando Yabapantsi Traditional Healers for their General Council that was to be held on 23 – 24 August 2013.

11.17.27.2 The memorandum is supported by Ms Grobbelaar, Acting Supply Chain Manager and Mr Crouse, the Acting CFO on 22 August 2013.

11.17.27.3 The memorandum is approved by Mr Boma. The date of approval is not reflected on the memorandum.

11.17.27.4 A cheque of R15,000.00 was issued to Ntombizodwa Noqayi on 4 September 2013.

11.17.27.5 The expenditure was allocated to the Project: Special Events vote (Vote No. 10 70 07 6915 008). A copy of the payment voucher is attached hereto marked **Annexure AS**.

11.17.28 Payment voucher 116953 – Makana Natural Bodybuilding and Fitness Club

11.17.28.1 On 17 September 2013, the Makana Natural Bodybuilding and Fitness Club requested that the Mayor's Office assist 9 athletes to attend a bodybuilding competition in Port Elizabeth.

11.17.28.2 On 30 September 2013, the Sport, Art and Culture Manager, requested that the Municipality provide financial assistance to the Makana Natural Bodybuilding and Fitness Club.

11.17.28.3 The memorandum was recommended by Mr Wali and supported by Messrs Crouse and Boma. The dates of recommendation and support are not reflected on the memorandum.

11.17.28.4 The memorandum was approved by Dr Naidoo. The date of approval is not reflected on the memorandum.

11.17.28.5 It appears that R11,700.00 was paid to the Makana Natural Bodybuilding and Fitness Club on 2 October 2013.

11.17.28.6 The expenditure was allocated to the Project: Youth Programmes vote (Vote No. 10 70 07 6915 018). A copy of the payment voucher is attached hereto marked **Annexure AT**.

11.17.29 Payment voucher 117189 – Makana Heritage Solutions

11.17.29.1 On 8 October 2013, Mr Wali, recommended payment to “Research Exhibition Designs” for the services rendered in preparation for the unveiling of the fallen heroes portraits. The memorandum does not reflect the amount to be paid.

11.17.29.2 The memorandum is recommended by Ms Grobbelaar, the Acting Supply Chain Manager. Ms Grobbelaar reflects the following comment:

“Deviation to be done as SCM procedures were not followed.”

11.17.29.3 The memorandum is approved by Mr Crouse on 13 October 2013.

11.17.29.4 The memorandum is supported by Mr Boma. The date of support is not reflected on the memorandum.

11.17.29.5 It appears that an amount of R11,300.00 was paid to Makana Heritage Solutions on 1 November 2013.

11.17.29.6 The expenditure was allocated to the Project: Special Events vote (Vote No. 10 70 07 6915 008). A copy of the payment voucher is attached hereto marked **Annexure AU**.

11.18 In an interview conducted with Mr Ngandi, he stated *inter-alia* the following:

- He confirmed that he was the author of the Funding and Grants Policy which was submitted to the Mayoral Committee in July 2011;
- The Special Programmes Unit receives requests from the Office of the Executive Mayor to consider applications for funding on an *ad hoc* basis;
- The Special Programmes Unit will then consider the request and ensure that it is in accordance with the Funding and Grants Policy;

- Once compliance with policy is confirmed, Mr Ngandi will then draft a memorandum recommending that the funding be distributed;
- The Special Programmes Unit do not conclude agreements entered with the beneficiaries of funding;
- The tabling of the annual budget is not accompanied by any details of proposed allocations and grants by the Municipality;
- The Special Programmes Unit has operated in this manner for many years, preceding his employment at the Municipality.

11.19 In an

12. MAKANA NEWSLETTER

12.1. Budget

12.1.1. It appears that the production of a Makana newsletter commenced in 2011/2012.

12.1.2. We obtained a copy of the Makana Newsletter issued in August 2013 which was published by Augmentis CC. A copy of the newsletter is attached hereto marked **Annexure AV**.

12.1.3. A review of the provisional estimates book (2012/2013) revealed that the annual budget of the newsletter is as follows:

Vote no	Description	2011/2012 Estimate	2012/2013 Estimate	2013/2014 Estimate
6867 000	Newsletter	230,000	200,000	400,000

A copy of the provisional estimates book extract is attached hereto marked **Annexure AW**.

12.2. Expenditure

12.2.1. A review of the ledger enquiry revealed the following:

Vote no	Description	(2011/2012) Expenditure	2012/2013 Expenditure	2013/2014 Expenditure (as at 17/03/2014)

6867 000	Newsletter	81,627	190,276	0
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Copies of the ledger enquiries are attached hereto marked **Annexure AX**.

- 12.2.2 It appears that Intengu Communications CC was appointed by the Municipality in 2011/2012 to design, print and distribute the newsletters in terms of RFQ 68/11.
- 12.2.3. It appears that Augmentis CC was appointed by the Municipality in 2012/2013 to design, print and distribute the newsletters. The Municipality did not submit details in respect of the appointment process to the investigation team.
- 12.2.3. We requested copies of the payment vouchers to the service providers. The Municipality submitted the following 2 payment vouchers:

Date	Payment voucher no.	Name of service provider	Amount (incl. VAT)	Comment
18/06/12	5188	Intengu Communications CC	45,885	Appointed in terms of RFQ 68/11
29/06/12	5315	Intengu Communications CC	45,885	Appointed in terms of RFQ 68/11

Copies of the payment vouchers are attached hereto marked **Annexure AY**.

13. APPOINTMENTS

The investigation team conducted a review of recruitment drive undertaken by the municipality for the period April to December 2013. The Municipality advertised 19 posts during the said recruitment drive. Mr Nondzube provided the team with the recruitment files of 14 of the posts in respect of which appointments were finalised.

- 13.1. The Municipal Systems Act as amended stipulates as follows:

"Staff matters

Staff establishments

66. (1) A municipal manager, within a policy framework determined by the municipal council and subject to any applicable legislation, must—

- (a) develop a staff establishment for the municipality, and submit the staff establishment to the municipal council for approval; and
- (b) provide a job description for each post on the staff establishment;

(c) attach to those posts the remuneration and other conditions of service as may be determined in accordance with any applicable labour legislation; and

(d) establish a processor mechanism to regularly evaluate the staff establishment and, if necessary, review the staff establishment and the remuneration and conditions of service.

(2) Subsection (1)(c) and (d) do not apply to remuneration and conditions of service regulated by employment contracts referred to in section 57,

"(3) No person may be employed in a municipality unless the post, to which he or she is appointed, is provided for in the staff establishment of that municipality.

(4) A decision to employ a person in a municipality, and any contract concluded between the municipality and that person in consequence of the decision, is null and void if the appointment was made in contravention of subsection (3).

(5) Any person who takes a decision contemplated in subsection (4), knowing that the decision is in contravention of subsection (3), may be held personally liable for any irregular or fruitless and wasteful expenditure that the municipality may incur as a result of the invalid decision."

13.2 On 30 May 2013, Dr Naidoo submitted an item to Council titled **"Request of the Municipal Manager to deviate from the Recruitment, Selection and Appointment Policy"**. The item included a motivation that whilst Council was finalising the Draft Recruitment, Selection and Appointment Policy that in order to expedite the filling of vacancies that the Municipal Manager in consultation with the Executive Mayor, undertake head-hunting process to fill critical vacancies. A copy of the item is attached hereto marked **Annexure AZ**.

13.3 On 30 May 2013, Dr Naidoo *inter-alia* submitted an item to Council titled **"Restructuring of the Macro-Structure of the Makana Organogram (Phase1)"**. The item sought to obtain Council's approval of the macro-structure of the organogram, which included the offices of the Executive Mayor, the Speaker, and the Municipal Manager. The Municipality was unable to submit minutes of the said Council meeting where the item was tabled and the resolutions taken by Council in respect of the said item. A copy of the item is attached hereto marked **Annexure BA**.

13.4 The Municipality advertised the following bulk advertisements:

- o Bulk advertisement with closing date 21 June 2013

#	Post	Task Grade	Package	Minimum Qualification
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#	Post	Task Grade	Package	Minimum Qualification
1	Manager: Operations Water & Sewer	15	R286K – R372K plus 10% scarce skills allowance	National Diploma in Civil Engineering ideally B Tech Civil
2	Senior Engineering Technicians (x2) (Water and Sanitation)	14	R248K – R322K plus 10% scarce skills allowance	National Diploma in Civil Engineering
3	Manager: Information Systems / Information Technology	15	R286K – R372K (subject to job evaluation) plus 10% scarce skills allowance	Degree/ Diploma information systems / Information Technology
4	Manager: Internal Audit	15	R286K – R372K (subject to job evaluation)	Bachelor of Commerce or B. Com Honors Degree or Bachelor's Degree in Accounting or Finance or Auditing
5	Senior Engineering Technician	14	R248K – R322K plus 10% scarce skills allowance	National Diploma in Civil Engineering
6	Administration Officer: Expenditure Management	11	R166K – R215K	National Diploma / Degree with accounting as a major
7	Building Control Officer	11	R166K – R215K	Relevant T3 Diploma in Building Science or equivalent

- o Bulk advertisement with closing date 1 August 2013.

#	Post	Task Grade	Package	Minimum Qualification
1	Chief Financial Officer	Section 57	5 year fixed term contract, remuneration negotiable	NQF level 6 in Finance/Municipal Finance or a Chartered Accountant
2	Youth Outreach Co-Ordinator	7	R98K – R127K plus benefits	Grade 12
3	Driver – Executive Mayor	6	R81K – R105K plus benefits	Grade 12; Code B/08 with PDP
4	Rural Development Co-Ordinator	7	R98K – R127K (Subject to Job Evaluation)	Grade 12
5	Manager: Office of the Speaker	15	R286K – R372K plus benefits (Subject to Job Evaluation)	Grade 12; Degree /National Diploma in the Office of the Speaker
6	Manager: Sports, Recreation, Arts and	15	R286K – R372K plus benefits (Subject to Job	Degree in Social Science / National Diploma

#	Post	Task Grade	Package	Minimum Qualification
	Culture		Evaluation)	
7	Youth Career Guidance Coordinator	7	R98K – R127K plus benefits (Subject to Job Evaluation)	Grade 12; Degree in Social Science
8	Executive Secretary – Mayoral Committee	7	R98K – R127K plus benefits	Grade 12; Computer Literacy Diploma
9	Executive Secretary – Monitoring & Evaluation Manager	7	R98K – R127K plus benefits	Not reflected

- o Bulk advertisement with closing date 9 August 2013.

#	Post	Task Grade	Package	Minimum Qualification
1	Operations Manager: Engineering & Infrastructural Services	15	Salary package not reflected (Subject to Job Evaluation)	Not reflected
2	Operations Manager: Public Safety & Community Services	15	R286K – R372K plus benefits (Subject to Job Evaluation)	Tertiary qualification at NQF Level 5. A qualification in Management Science would be advantageous
3	Manager: Special Programmes Unit – Executive Mayor's Office	15	R286K – R372K plus benefits (Subject to Job Evaluation)	A tertiary qualification at NQF Level 5. At least 3 years' experience in Local, Provincial or National Government

Copies of the advertisements are attached hereto marked **Annexure BB**.

13.5 We conducted detailed reviews of the recruitment processes for the following posts and set out our findings hereunder:

1. Youth Outreach Coordinator
2. Driver: Executive Mayor
3. Rural Development Coordinator
4. Manager in the Office of Speaker
5. Sports, Recreation, Arts and Culture Manager

13.5.1 Youth Outreach Coordinator

- 13.5.1.1 The post of Youth Outreach Coordinator is a newly formed post located in the office of the Executive Mayor.
- 13.5.1.2 The Municipality was unable to provide an approved Job description for the post. However, the post of Youth Outreach Coordinator was evaluated by the Job Evaluation Unit of the Amathole District Municipality on 26 July 2013 as a Task Grade 10.
- 13.5.1.3 The Municipality did not complete a motivation for the filling of the post, which motivation sets out *inter-alia*:
- The job description;
 - The job evaluation;
 - Financial considerations (including whether the post is budgeted for or not); and
 - Approvals from the head of the department, responsible Director, Chief Financial Officer, Director: Corporate Services, and the Municipal Manager.
- 13.5.1.4 In July 2013, the municipality advertised 9 posts externally. The bulk advertisement included the post of Youth Outreach Coordinator in the Office of the Executive Mayor on a Task Grade 7 (Subject to Job Evaluation Results). The post was advertised on a salary scale of R98 602 – R127 991 (plus normal council benefits). The advertisement further stipulated the minimum qualification and experience for the post was a Grade 12 plus relevant experience in youth development. The closing date for applications was 1 August 2013 and the advertisement was approved by Dr P Naidoo.
- 13.5.1.5 A review of the minutes of the shortlisting committee reflects that the committee met on 7 August 2013 and comprised of:
- The Municipal Manager, Dr Naidoo;
 - The Strategic Manager, Mr M Boma;
 - The Human Resource Practitioner, Mr V Ntshawuzana.

Further, minutes reflects that the shortlisting committee shortlisted the following applicants for interviews:

- Ms N Stuurman;
- Ms Q Selena; and
- Mr C Mdingi.

A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure BC**.

13.5.1.6 A review of the masterlist (undated) compiled by the municipality in respect of the post of Youth Outreach Coordinator reflects that the municipality received 123 applications for the said post. We agreed the names shortlisted against the names reflected on the masterlist and determined that the 3 shortlisted candidates' names appear on the masterlist.

13.5.1.7 A review of the Resolution of the Municipal Manager dated 29 August 2013, and the corroboration thereof with the associated documentation reflects that:

- The minimum qualification for the post was a Grade 12 and relevant experience in youth development.
- On 7 August 2013, the Shortlisting and Interviewing Committee met to review and conduct shortlisting for the said post. The committee comprised of:
 - The Municipal Manager, Dr Naidoo;
 - The Strategic Manager, Mr M Boma;
 - The Human Resource Practitioner, Mr V Ntshawuzana,
 - The Acting Human Resource Manager, Mr U Nondzube (not reflected on the Shortlisting Committee minutes has having attended the meeting);
 - The representatives from IMATU and SAMWU were reflected as absent.
- It appears that the 3 candidates reflected below were shortlisted and that on 22 August 2013, interviews were conducted. The candidates interviewed scored as follows.
 - Ms N Stuurman, scored 31 points;
 - Ms Q Selena, scored 23 points; and
 - Mr C Mdingi, scored 22 points;
- The panel recommended that Ms Stuurman be recommended and that the commencement of date of appointment be 1 September 2013.
- The appointment was recommended and approved by Mr Myalato in the capacity of Acting Director Corporate Services and Acting Municipal Manager on 3 September 2013 respectively.

A copy of the Resolution of the Municipal Manager is attached hereto marked **Annexure BD**.

13.5.1.8 A review of Ms Stuurman's application form reflects the following under qualification and experience:

- Ms Stuurman possesses a grade 12 certificate and incomplete studies towards a National Diploma in Marketing undertaken in the calendar year 2000.
- Ms Stuurman's work experience from October 2003 to May 2012 relates to working as a Ranger at the Pumba Private Game Reserve. Further, Ms Stuurman reflects under leadership roles that she was a Gender Officer for the Alicedale and Makana Youth Forums during 2003 to 2005.

A copy of the application submitted by Ms Stuurman is attached hereto marked **Annexure BE**.

13.5.1.9 On 28 August 2013, Mr Madlavu in the capacity of Acting Municipal Manager issued an appointment letter to Ms Stuurman, which appointment was at a Task Grade 7 and the commencement date of employment was 1 September 2013. The said appointment is not in accordance with the results of the Job Evaluation, which evaluated the post at a Task Grade 10. Accordingly, the Municipality may have a legitimate claim for back-pay from Ms Stuurman. Further, the appointment letter is dated 28 August 2013 prior to Resolution of the Municipal Manager date of approval of 29 August 2013. A copy of the appointment letter is attached hereto marked **Annexure BF**.

13.5.2 Driver: Executive Mayor

13.5.2.1 The post of Driver: Executive Mayor is located in the office of the Executive Mayor.

13.5.2.2 The Municipality was unable to provide an approved Job description for the post, however, the post of Driver: Executive Mayor was evaluated by the Job Evaluation Unit of the Amathole District Municipality on 26 July 2013 as a Task Grade 6.

13.5.2.3 The Municipality did not complete a motivation for the filling of the post, which motivation sets out inter-alia:

- The job description;
- The job evaluation;
- Financial considerations (including whether the post is budgeted for or not); and
- Approvals from the head of the department, Chief Financial Officer, Director: Corporate Services, and the Municipal Manager.

13.5.2.4 In July 2013, the municipality advertised 9 posts externally. The bulk advertisement included the post of Driver of the Executive Mayor in the Office of the Executive Mayor on a Task Grade 6. The post was advertised on a salary scale of R81 558 – R105 878 (plus normal council benefits). The advertisement further stipulated the minimum qualification and experience for the post was a Grade 12 plus Code B /08 Driver's License with valid Professional Driver's Permit (PDP). The closing date for applications was 1 August 2013 and the advertisement was approved by Dr P Naidoo.

13.5.2.5 A review of the minutes of the shortlisting committee reflects that the committee met on 7 August 2013 and comprised of:

- The Municipal Manager, Dr Naidoo;

- The Strategic Manager, Mr M Boma;
- The Human Resource Practitioner, Mr V Ntshawuzana.

Further, the shortlisting committee shortlisted the following applicants for interviews:

- Mr C Carelse;
- Mr S Bruintjies; and
- Mr C Van Aardt

A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure BG**.

13.5.2.6 A review of the masterlist compiled by the municipality in respect of the post of Driver: Executive Mayor (undated) reflects that the municipality received 76 applications for the said post. We agreed the names shortlisted against the names reflected on the masterlist and determined that Mr Van Aardt's name did not appear on the masterlist. A copy of the masterlist of applicants is attached hereto marked **Annexure BH**.

13.5.2.7 A review of the Resolution of the Municipal Manager dated 29 August 2013, and the corroboration thereof with the associated documentation reflects that:

- The minimum qualification for the post was a Grade 12, a Code B/08 driver's licence with valid PDP.
- On 7 August 2013, the Shortlisting and Interviewing Committee met to review and conduct shortlisting for the said post. The committee comprised of:
 - The Municipal Manager, Dr Naidoo;
 - The Strategic Manager, Mr M Boma;
 - The Human Resource Practitioner, Mr V Ntshawuzana;
 - The Acting Human Resource Manager, Mr U Nondzube (not reflected on the Shortlisting Committee minutes has having attended the meeting)
 - The representatives from IMATU and SAMWU were reflected as absent.
- It appears that the 3 candidates reflected below were shortlisted and that on 22 August 2013, interviews were conducted. The candidates interviewed scored as follows.
 - Mr C Van Aardt, scored 27 points;
 - Mr S Bruintjies, scored 21 points; and
 - Mr C Carelse, scored 20 points.
- The panel recommended the appointment of Mr C Van Aardt
- The reference check received for Mr Van Aardt is dated 1 August 2013.
- The appointment was recommended and approved by Mr Myalato in the capacity of Acting Director Corporate Services and Acting Municipal Manager on 3 September 2013 respectively.

A copy of the Resolution of the Municipal Manager is attached hereto marked **Annexure BI**.

13.5.2.8 A review of Mr Van Aardt's application form reflects the following under qualification and experience:

- Mr Van Aardt possesses a grade 12 certificate and a Code 8 Drivers Licence, no mention is made of the PDP which is a requirement.
- Mr Van Aardt's work experience from 1988 to 2001, a receiving manager at Weiers Cash and Carry, from 2001 to 2011, a catering storeman at the Rhodes University and from 1 June 2012 as a Manager at Sings Unlimited. The curriculum vita does not reflect that Mr Van Aardt has any experience as a Driver.

A copy of Mr Van Aardt's application is attached hereto marked **Annexure BJ**.

13.5.2.9 On 28 August 2013, Mr Madlavu in the capacity of Acting Municipal Manager issued an appointment letter to Mr Van Aardt, which appointment was at a Task Grade 6 and the commencement date was 1 September 2013. The date of the appointment letter (28 August 2013) and the commence date of service (1 September 2013) was prior to the approval of the Resolution of the Municipal Manager dated 3 September 2013. Further, Mr Van Aardt was shortlisted, interviewed and appointed to the post of Driver – Executive Mayor notwithstanding his name not appearing on the masterlist of applicants. A copy of the Letter of Appointment is attached hereto marked **Annexure BK**.

13.5.3 Rural Development Coordinator

13.5.3.1 The post of Rural Development Coordinator is located in the office of the Executive Mayor.

13.5.3.2 The post of Rural Development Coordinator has not yet been evaluated.

13.5.3.3 The Municipality did not complete a motivation for the filling of the post, which motivation sets out *inter-alia*:

- The job description;
- The job evaluation;
- Financial considerations (including whether the post is budgeted for or not); and
- Approvals from the head of the department, Chief Financial Officer, Director: Corporate Services, and the Municipal Manager.

13.5.3.3 In July 2013, the municipality advertised 9 posts externally. The bulk advertisement included the post of Rural Development Coordinator in the Office of the Executive Mayor on a Task Grade 7 (Subject to Job Evaluation Results). The post was advertised on a salary scale of

R98 602 – R127 991 (plus normal council benefits). The advertisement further stipulated the minimum qualification and experience for the post was a Grade 12, ability to inter-act with rural community and driver's license and experience in Community Development will be an added advantage. The closing date for applications was 1 August 2013 and the advertisement was approved by Dr P Naidoo.

13.5.3.4 A review of the minutes of the shortlisting committee reflects that the committee met on 7 August 2013 and comprised of:

- The Municipal Manager, Dr Naidoo;
- The Strategic Manager, Mr M Boma;
- The Human Resource Practitioner, Mr V Ntshawuzana.

Further, the shortlisting committee shortlisted the following applicants for interviews:

- Mr S Ngqiyaza;
- Mr N Madinda;
- Mr S Shoba;
- Mr M April; and
- Mr X Qinela.

A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure BL**.

13.5.3.5 A review of the masterlist compiled by the municipality in respect of the post of Rural Development Coordinator (undated) reflects that the municipality received 115 applications for the said post. We agreed the names shortlisted against the names reflected on the masterlist and determined that respective candidates' names did appear on the masterlist.

13.5.3.6 A review of the Resolution of the Municipal Manager dated 29 August 2013, and the corroboration thereof with the associated documentation reflects that:

- The minimum qualification for the post was a Grade 12, ability to interact with rural Community and drivers licence. Experience in Community Development will be an added advantage.
- On 7 August 2013, the Shortlisting and Interviewing Committee met to review and conduct shortlisting for the said post. The committee comprised of:
 - The Municipal Manager, Dr Naidoo;
 - The Strategic Manager, Mr M Boma;
 - The Human Resource Practitioner, Mr V Ntshawuzana,

- The Acting Human Resource Manager, Mr U Nondzube. (Mr U Nondzube is not reflected on the Shortlisting Committee minutes has having attended the meeting)
- The representatives from IMATU and SAMWU were reflected as absent.
- It appears that the 5 candidates reflected below were shortlisted and that on 21 August 2013, interviews were conducted. The candidates interviewed scored as follows.
 - Mr S Ngqiyaza, scored 31 points;
 - Mr N Madinda, scored 30 points;
 - Mr S Shoba, scored 26 points;
 - Mr M April, scored 23 points; and
 - Mr X Qinela scored 23 points.
- The panel recommended the appointment of Messrs Madinda and Ngqiyaza.
- The appointment was recommended and approved by Mr Myalato in the capacity of Acting Director Corporate Services and Acting Municipal Manager on 3 September 2013 respectively.

A copy of the Resolution of the Municipal Manager is attached hereto marked **Annexure BM**.

- 13.5.3.7 On 28 August 2013, Mr Madlavu in the capacity of Acting Municipal Manager issued appointment letters to Messrs Madinda and Ngqiyaza respectively. Further, the appointment letter is dated 28 August 2013 prior to Resolution of the Municipal Manager date of approval of 3 September 2013. On 2 September 2013, Messrs Madinda and Ngqiyaza confirmed their acceptance of the offers respectively.

Copies of the Letters of appointments are attached hereto marked **Annexure BN**.

13.5.4 Manager in the Office of Speaker

- 13.5.4.1 The Manager: Office of the Speaker is a newly formed post located in the Office of the Speaker.
- 13.5.4.2 The post of Manager: Office of the Speaker was evaluated by the Job Evaluation Unit of the Amathole District Municipality on 26 July 2013 as a Task Grade 15.
- 13.5.4.3 The Municipality did not complete a motivation for the filling of the post, which motivation sets out inter-alia:
- The job description;
 - The job evaluation;
 - Financial considerations (including whether the post is budgeted for or not); and

- Approvals from the head of the department, Chief Financial Officer, Director: Corporate Services, and the Municipal Manager.

13.5.4.4 In July 2013, the municipality advertised 9 posts externally. The bulk advertisement included the post of Manager in the Office of Speaker on a Task Grade 15 (Subject to Job Evaluation Results). The post was advertised on a salary scale of R286 652 – R372 093 (plus normal council benefits). The advertisement further stipulated the minimum qualification and experience for the post was a Grade 12, Degree/National Diploma in the Office of the Speaker and 2-3 years' experience in administration work.

The closing date for applications was 1 August 2013 and the advertisement was approved by Dr Naidoo.

13.5.4.5 A review of the masterlist compiled by the municipality in respect of the post of Manager: Office of the Speaker (undated) reflects that the municipality received 60 applications for the said post. We agreed the names shortlisted against the names reflected on the masterlist and confirmed that the respective candidates' names appeared on the masterlist.

13.5.4.6 A review of the Resolution of the Municipal Manager dated 13 August 2013, and the corroboration thereof with the associated documentation reflects that:

- The minimum qualification for the post was a Grade 12, Degree / National Diploma in the Office of the Speaker and 2 – 3 years' experience in administration work.
- On 7 August 2013, the Shortlisting and Interviewing Committee met to review and conduct shortlisting for the said post. The committee comprised of:
 - The Strategic Manager, Mr M Boma;
 - The Human Resource Practitioner, Mr V Ntshawuzana,
 - The Acting Human Resource Manager, Mr U Nondzube;
- Further, the shortlisting committee shortlisted the following applicants for interviews:
 - Ms N Santi;
 - Ms L Yako;
 - Ms L Snam;
 - Ms N Masabalala;
 - Ms N Yawa;
 - Ms N Kosi
- It appears that the 6 candidates reflected below were shortlisted and that on 12 August 2013, only 4 candidates were interviewed. The candidates interviewed scored as follows.
 - Ms N Santi, scored 126;

- Ms L Yako, scored 107;
- Ms L Snam, scored 88;
- Ms N Masabalala, scored 82;
- Ms N Yawa, excused herself during interviews;
- Ms N Kosi, was absent.
- The representatives from IMATU and SAMWU were reflected as absent.
- The panel recommended that Ms Santi be offered the post of Manager: Office of the Speaker.
- The Resolution of the Municipal Manager was recommended by Mr Madlavu on 19 August 2013 and approved by Dr Naidoo on 20 August 2013.

A copy of the Resolution of the Municipal Manager is attached hereto marked **Annexure BO**.

13.5.4.7 On 12 August 2013 the date of the interview, Dr Naidoo issued an appointment letter to Ms Santi. The letter of appointment is signed prior to the Resolution of the Municipal Manager approving that due process was followed on 20 August 2013. A copy of the Appointment Letter is attached hereto marked **Annexure BP**.

13.5.4.8 A review of Ms Santi's job application reflects that:

- Ms Santi is an internal candidate employed as a Personal Assistant to the Executive Mayor with a salary scale of R286 652 – R372 093 (plus normal council benefits);
- Ms Santi's qualifications are:
 - Grade 12;
 - National Diploma in Marketing from the Peninsula Technikon
- Ms Santi reflected the following relevant experience in her job application:
 - assisting in the Speakers Office;
 - Ward committee stipends;
 - arranging meetings;
 - Ward committee administration.

A copy of the job application is attached hereto marked **Annexure BQ**.

13.5.5 Sports, Recreation, Arts and Culture Manager

13.5.5.1 The post of Manager: Sports, Recreation, Arts and Culture was evaluated by the Job Evaluation Unit of the Amathole District Municipality on 26 July 2013 as a Task Grade 15. Copies of the Job evaluations undertaken are attached hereto marked **Annexure BR**.

13.5.5.2 The Municipality did not complete a motivation for the filling of the post, which motivation sets out *inter-alia*:

- The job description;
- The job evaluation;
- Financial considerations (including whether the post is budgeted for or not); and
- Approvals from the head of the department, Chief Financial Officer, Director: Corporate Services, and the Municipal Manager.

In July 2013, the municipality advertised 9 posts externally. The bulk advertisement included the post of Sports, Recreation, Arts and Culture Manager in the Office of the Executive Mayor on a Task Grade 15 (Subject to Job Evaluation Results). The post was advertised on a salary scale of R286 652 – R372 093 (plus normal council benefits). The advertisement further stipulated that the minimum qualification and experience for the post was a Degree / Social Science/National Diploma, driver's license, three years' experience in Sports Administration and Cultural Affairs. The closing date for applications was 1 August 2013 and the advertisement was approved by Dr Naidoo.

13.5.5.3 The municipality was unable to provide copies of the Shortlisting Committee minutes.

13.5.5.4 A review of the masterlist compiled by the municipality in respect of the post of Manager: Sports, Recreation and Culture (undated) reflect that the municipality received 34 applications for the said post. We agreed the names interviewed against the names reflected on the masterlist and confirmed that respective candidates' names appeared on the masterlist.

13.5.5.5 We reviewed the Resolution of the Municipal Manager compiled 13 August 2013 and determined that:

- It appears that the 4 candidates reflected below were shortlisted on 7 August 2013 and that on 12 August 2013, 3 candidates were interviewed. The candidates interviewed scored as follows.
 - Mr F Budaza, scored 101;
 - Mr L Ngxoweni, scored 82;
 - Mr M Du Plessis , scored 65;
 - Mr D Mtwa was absent.
- The representatives from IMATU and SAMWU were reflected as absent.
- The panel recommended that Mr Budaza be offered the post of Manager: Sports, Recreation, Arts and Culture.

- The Resolution of the Municipal Manager was recommended by Mr Madlavu on 19 August 2013 and approved by Dr Naidoo on 20 August 2013.

A copy of the Resolution of the Municipal Manager is attached hereto marked **Annexure BS**.

- 13.5.5.6 On 12 August 2013 the date of the interview, Dr Naidoo issued an appointment letter to Mr Budaza. The letter of appointment is signed prior to the Resolution of the Municipal Manager approving that due process was followed on 20 August 2013.

A copy of the Appointment Letter is attached hereto marked **Annexure BT**.

- 13.6 We conducted further high level reviews on the following posts and tabulate our findings hereunder:

1. Youth Career Guidance Coordinator
2. Executive Secretary: Mayoral Committee
3. Manager: Information System/ Information Technology
4. Operations Manager: Public Safety and Community Services
5. Manager: Monitoring and Evaluation – Office of the Municipal Manager
6. Manager: Special Programmes Unit - Office of the Executive Mayor
7. Operations Manager: Engineering and Infrastructural Services
8. Manager: Internal Audit
9. Executive Secretary: Monitoring and Evaluation

13.6.1	Youth Career Guidance Coordinator
<ul style="list-style-type: none">• The municipality did not complete a Motivation for filling of the vacant post.• The Shortlisting Committee conducted shortlisting on 7 August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked Annexure BU.• The Masterlist (undated) reflects 93 applicants. The shortlisted candidates are reflected on the masterlist.• The Resolution of the Municipal Manager reflects that Mr Nondzube, the Acting Human Resource Manager was present during the shortlisting, however the Shortlisting Committee minutes does not reflect that Mr Nondzube was present.• The Resolution of the Municipal Manager reflects that Mr Myalato appended his signature on behalf of Director: Corporate Services, recommending the appointment and also in the capacity of Acting Municipal Manager, approving the appointment on 3 September 2013. A copy of the Resolution the Municipal Manager is attached hereto marked Annexure BV.• Mr Madlavu signed and issued the Appointment letter on 29 August 2013 prior to Resolution of the Municipal Manager being approved on 3 September 2013. A copy of the appointment letter is	

attached hereto marked Annexure BW .	
13.6.2	Executive Secretary: Mayoral Committee
<ul style="list-style-type: none"> The municipality did not complete a Motivation for filling of the Vacant post. The Shortlisting Committee conducted shortlisting on 7 August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked Annexure BX. The Masterlist reflects 66 applicants. All the shortlisted candidates are reflected on the masterlist. The Resolution of the Municipal Manager reflects that Messrs Nondzube, the Acting Human Resource Manager and Ntshawuzana were present during the shortlisting; however the Shortlisting Committee minutes do not reflect that Messrs Nondzube and Ntshawuzana were present. The Resolution of the Municipal Manager reflects that Mr Myalato appended his signature on behalf of Director: Corporate Services, recommending the appointment and also in the capacity of Acting Municipal Manager, approving the appointment on 3 September 2013. A copy of the Resolution the Municipal Manager is attached hereto marked Annexure BY. Mr Madlavu signed and issued the Appointment letter on 28 August 2013 prior to Resolution of the Municipal Manager being approved on 3 September 2013. A copy of the appointment letter is attached hereto marked Annexure BZ. 	
13.6.3	Manager: Information System/ Information Technology
<ul style="list-style-type: none"> The appointment is on a Task Grade 15, subject to job evaluation. A copy of the Letter of Appointment is attached hereto marked Annexure CA. 	
13.6.4	Operations Manager: Public Safety and Community Services
<ul style="list-style-type: none"> The municipality did not complete a Motivation for filling of the Vacant post. The Shortlisting Committee conducted shortlisting on 13 August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked Annexure CB. The Masterlist reflects 12 applicants. All the shortlisted candidates are reflected on the masterlist. The qualification requirement is a Tertiary Qualification at NQF Level 5, in management science or studying towards management science, however Mr Smile possesses a Diploma: Module 3 (M+3) of the course in Senior Primary Education. A copy of the job application is attached hereto marked Annexure CC. The Resolution of the Municipal Manager reflects that Mr Boma was present during the shortlisting; however the Shortlisting Committee minutes do not reflect that Mr Boma was present. The Resolution of the Municipal Manager reflects that Mr Myalato appended his signature on behalf of Director: Corporate Services, recommending the appointment and also in the capacity of Acting Municipal Manager, approving the appointment on 2 September 2013. A copy of the Resolution the Municipal Manager is attached hereto marked Annexure CD. Dr Naidoo signed and issued the Appointment letter on 19 August 2013 prior to Resolution of the Municipal Manager being approved on 2 September 2013. A copy of the appointment letter is attached hereto marked Annexure CE. 	
13.6.5	Manager: Monitoring and Evaluation – Office of the Municipal Manager
<ul style="list-style-type: none"> The Shortlisting Committee conducted shortlisting on 7 August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked Annexure CF. 	

- The Masterlist reflects 31 applicants. All the shortlisted candidates are reflected on the masterlist.
- The Resolution of the Municipal Manager reflects that Dr Naidoo was present during the shortlisting; however the Shortlisting Committee minutes do not reflect that Dr Naidoo was present. A copy of the Resolution the Municipal Manager is attached hereto marked **Annexure CG**.
- Dr Naidoo signed and issued the Appointment letter on 12 August 2013 on the date of the interview prior to the Resolution of the Municipal Manager being approved on 20 August 2013 and the reference check date 21 August 2013. A copy of the appointment letter is attached hereto marked **Annexure CH**
- The appointment at a Task Grade 15 is subject to job evaluation.

13.6.6 Manager: Special Programmes Unit - Office of the Executive Mayor

- The municipality did not complete a Motivation for filling of the Vacant post.
- The Shortlisting Committee conducted shortlisting on 13 August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure CI**.
- The Masterlist reflects 32 applicants. Further, all the shortlisted candidates are reflected on the masterlist.
- The Resolution of the Municipal Manager reflects that:
 - 12 applications applied for the post, however, the masterlist reflects 32 applicants;
 - Mr Boma was present during the shortlisting; however the Shortlisting Committee minutes do not reflect that Mr Boma was present.
 - Mr Myalato appended his signature on behalf of Director: Corporate Services, recommending the appointment and also in the capacity of Acting Municipal Manager, approving the appointment on 3 September 2013.

A copy of the Resolution the Municipal Manager is attached hereto marked **Annexure CJ**.

- Dr Naidoo signed and issued the Appointment letter on 16 August 2013 on the date of the interview prior to the Resolution of the Municipal Manager being approved on 3 September 2013. Further, Mr Wali accepted the appointment on 23 August 2013.
- The appointment at a Task Grade 15 is subject to job evaluation. A copy of the appointment letter is attached hereto marked **Annexure CK**.
- The qualification requirement is a tertiary qualification at NQF Level 5, however Mr Wali possesses a N4 National Certificate: Management Assistant. A copy of the job application is attached hereto marked **Annexure CL**.

13.6.7 Operations Manager: Engineering and Infrastructural Services

- The municipality did not complete a Motivation for filling of the vacant post.
- The advertisement did not reflect the following information:
 - Salary scale;
 - Key minimum requirements, including qualifications and experience;
 - Competencies;
 - Key performance areas.
- Shortlisting Committee conducted shortlisting on 13 August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure CM**.

- Masterlist reflects 7 applicants. Further, the shortlisted candidates are reflected on the masterlist.
- The Resolution of the Municipal Manager reflects:
 - The qualification criteria is the same as that of the Operations Manager – Public, Safety and Community Services.
 - Mr Boma was present during the shortlisting; however the Shortlisting Committee minute does not reflect that Mr Boma was present.
 - Mr Myalato appended his signature on behalf of Director: Corporate Services, recommending the appointment and also in the capacity of Acting Municipal Manager, approving the appointment on 3 September 2013.
 - The reference check was only obtained by the municipality on 21 August 2013, after the Letter of Appointment dated 12 August 2013.

A copy of the Resolution the Municipal Manager is attached hereto marked **Annexure CN**.

- Dr Naidoo signed and issued the Appointment letter on 12 August 2013 prior to:
 - The shortlisting, which was undertaken on 13 August 2013;
 - The interviews, which was conducted on 16 August 2013; and
 - The Resolution of the Municipal Manager being approved on 3 September 2013.

A copy of the appointment letter is attached hereto marked **Annexure CO**.

- Further, Mr Gustav accepted the appointment on 22 August 2013.
- The appointment at a Task Grade 15 is subject to job evaluation.
- Mr Gustav does not possess experience in Local Government. A copy of Mr Gustav's job application is attached hereto marked **Annexure CP**.

13.6.8 Manager: Internal Audit

- The Shortlisting Committee conducted shortlisting on 9 July 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure CQ**.
- Masterlist reflects 11 applicants. Further, the shortlisted candidates are reflected on the masterlist.
- Dr Naidoo signed and issued the Appointment letter on 17 July 2013, the date of the interview; however the Resolution of the Municipal Manager was only prepared on 22 July 2013 and approved by Dr Naidoo on 24 July 2013. A copy of the Resolution the Municipal Manager is attached hereto marked **Annexure CR**.
- Further, Mr Ngcauzele accepted the appointment on 18 July 2013.
- The appointment at a Task Grade 15 has not been evaluated. A copy of the appointment letter is attached hereto marked **Annexure CS**.
- The qualification requirement is a Bachelor of Commerce Honors' Degree in Accounting, Finance or Auditing. Mr Ngcauzele possesses the following qualifications:
 - Diploma: Internal Auditing;
 - National Diploma: Internal Auditing
 - B Tech: Internal Auditing

A copy of the job application is attached hereto marked **Annexure CT**.

13.6.9 Executive Secretary: Monitoring and Evaluation

- The Shortlisting Committee comprising of Dr Naidoo and Mr Boma conducted shortlisting on 7

August 2013. A copy of the minutes of the Shortlisting Committee is attached hereto marked **Annexure CU**.

- Masterlist reflects 72 applicants. Further, the shortlisted candidates are reflected on the masterlist.
- The Resolution of the Municipal Manager reflects that:
 - Mr Myalato appended his signature on behalf of Director: Corporate Services, recommending the appointment and also in the capacity of Acting Municipal Manager, approving the appointment on 3 September 2013.
 - Messrs Ntshawuzana and Nondzube were present during the shortlisting, however, Messrs Ntshawuzana and Nondzube are not reflected on the Shortlisting Committee minutes (has having attended the meeting)

A copy of the Resolution the Municipal Manager is attached hereto marked **Annexure CV**.

- Mr Madlavu signed and issued the Appointment letter on 28 August 2013; however the Resolution of the Municipal Manager was approved by Mr Myalato on 3 September 2013. A copy of the Appointment Letter is attached hereto marked **Annexure CW**.

13.7 In an interview conducted with Mr Madlavu, he stated the following:

- The recruitment drive was controlled by Dr Naidoo;
- Although it was agreed that only phase 1 posts relating to the Offices of the Municipal Manager and the Executive Mayor would be advertised, Dr Naidoo advertised phase 2 posts as well without the involvement of the respective Directorates;
- He was deliberately "side-lined" and the junior officials that reported to him were tasked with the administrative responsibilities and oversight of advertising the posts, compiling the master list, shortlisting and the conducting of interviews;
- The municipality had not developed job descriptions for the various posts advertised and further the said posts were not evaluated;
- He was concerned that the incorrect Task Grades were attached to the respective posts;
- In certain instances evaluations were based on exaggerated job descriptions in an attempt to obtain a higher task grade;
- In violation of due process and policy, Dr Naidoo was involved in chairing the panels for the selection of candidates during the shortlisting process and the subsequent interviews;
- He only signed the appointment letters below Director level as he was delegated to do so by Dr Naidoo;
- Mr Myalato appended his signature as Acting Municipal Manager and Acting Director: Corporate and Shared Services on the Minutes of the Municipal

Manager, although Mr Madlavu was present and on duty. This was a deliberate attempt to exclude him and/or limit his involvement in the appointment process.

14. VIREMENTS

14.1. Virement is a process whereby the unused budget of a specific line item of expenditure is used to finance another line item of expenditure which has an insufficient budget.

14.2. The Virement Policy of the Municipality stipulates inter alia the following:

"...

7.7. Limits of Funds to be processed through virements

The processing of virements will be processed through completing a Virement Form (please see attached) which can be authorized by the Municipal Manager, Chief Financial Officer and the relevant Director up to a limit of R100 000. Anything greater than the R100 000 must be processed through an item that must be tabled to the Finance, Administration, Monitoring and Evaluation (FAME) Portfolio Committee.

..."

A copy of the virements policy approved by Council on 13 August 2013 is attached hereto marked **Annexure CX**.

14.3. We reviewed virement files obtained from the Budget and Treasury office.

14.4. The following virements from / to the Office of the Municipal Manager were identified:

No	Date	Amount R	From	To
1	9 April 2013	441 090.50	Municipal Manager Professional Fees	Municipal Manager Freedom Festival
2	20 May 2013	30 000.00	Municipal Manager Publicity & Advertising	Municipal Manager Admin charges – Website

No	Date	Amount R	From	To
3	17 May 2013	25 691.78	Municipal Manager Audit fee: Audit Committee	Municipal Manager Conference Expenses
4	15 May 2013	84 198.59	Municipal Manager International Relations	Municipal Manager Professional Fees
5	15 May 2013	100 000.00	Municipal Manager International Relations	Municipal Manager Professional Fees
6	17 May 2013	10 000.00	Municipal Manager Audit fee: Audit Committee	Municipal Manager Advertising Printing
7	25 April 2013	20 000.00	Municipal Manager International Relations	Municipal Manager Advertising Printing
8	15 May 2013	20 000.00	Municipal Manager International Relations	Municipal Manager Conference Expenses
9	21 May 2013	34 280.00	Municipal Manager Civic Awards	Municipal Manager Conference Expenses
10	19 September 2013	100 000.00	Municipal Manager Professional Fees	Corporate Services Advertising, Printing and Stationery
11	19 September 2013	30 000.00	Municipal Manager Professional Fees	Corporate Services Advertising, Printing and Stationery

Copies of the virement forms are attached hereto marked **Annexure CY**.

- 14.5. The 2 virements both dated 19 September 2013 appears to be a deliberate splitting of the total amount of R130,000 into parts of a lesser value merely to avoid compliance with the

virements policy. In terms of the policy any virement of greater than R100,000 must be tabled to the FAME Portfolio Committee. The virement forms are signed by Mr Madlavu and Dr Naidoo on 19 September 2013.

15. SALARY PAYMENTS OF MR BOMA

15.1. The advertisement for the post of Strategic Manager: Office of the Executive Mayor reflected that the post was a:

- Task grade 16;
- salary scale of R450, 000.00 per annum – all inclusive 5 year contract; and that
- There are no benefits attached to the post.

A copy of the advertisement is attached hereto marked **Annexure CZ**.

15.2. The Resolution of the Municipal Manager as approved by Mr Planga in the capacity of Acting Municipal Manger reflected that:

- Mr MD Boma be appointed to the post of Strategic Manager: Office of the Executive Mayor;
- On a Task grade 16;
- On a salary scale of R450,000.00 per annum - all inclusive
- The appointment is a 5 years fixed contract, subject to 3 months' probation.

A copy of the resolution of the Municipal Manager is attached hereto marked **Annexure DA**.

15.3. The appointment letter dated 3 August 2012 addressed to Mr Boma by Ms Meiring in the capacity of Acting Municipal Manager appointed Mr Boma to the post of Strategic Manager: Office of the Executive Mayor. The appointment letter stipulates that:

- the post is at a Task grade 16;
- the salary scale is R450,000.00 per annum all inclusive
- the appointment is a 5 year contract.

A copy of the appointment letter dated 3 August 2012 is attached hereto marked **Annexure DB**.

- 15.4.** The letter from Mr Boma, dated 10 August 2012, addressed to Ms Qezu, the then Human Resource Manager, confirmed the acceptance of the post. A copy of the letter from Mr Boma, dated 10 August 2012, is attached hereto marked **Annexure DC**. Further, on 10 September 2012, Mr Boma signed an "Acknowledgement of Debt Form", wherein he accepted the terms and conditions of the appointment as reflected in the appointment letter dated 3 August 2012. A copy of the "Acknowledgement of Debt Form" is attached hereto marked **Annexure DD**.
- 15.5.** It appears that on 27 August 2012, Mr Boma completed an Assumption of Duty form. A copy of the Assumption of Duty form is attached hereto marked **Annexure DE**.
- 15.6.** In accordance with the advertisement, Resolution of the Municipal Manager, the appointment letter and confirmation of appointment by Mr Boma, the all-inclusive package of R450,000.00 per annum paid monthly should amount to R37,500.00 per month payable to Mr Boma subject to statutory deductions.
- 15.7.** However, the review of the municipal payroll reflects the following remuneration processed in respect of Mr Boma. Copies of the salary cost screen are attached hereto marked **Annexure DF**.

Month	Salary Paid	Additional benefits processed by the Municipality				
		Salary Adjustment	Pension	Group Life	Bonus	Total
Sep-12	37 500.00		6 750.00	459.00		7 209.00
Oct-12	37 500.00		6 750.00	459.00		7 209.00
Nov-12	37 500.00		6 750.00	459.00	9 375.00	16 584.00
Dec-12	37 500.00		6 750.00	459.00		7 209.00
Jan-13	37 687.50	187.50	6 783.75	461.30		7 432.55
Feb-13	37 687.50	187.50	6 783.75	461.30		7 432.55
Mar-13	37 687.50	187.50	6 783.75	461.30		7 432.55
Apr-13	37 687.50	187.50	6 783.75	461.30		7 432.55
May-13	37 687.50	187.50	6 783.75	461.30		7 432.55
Jun-13	37 687.50	187.50	6 783.75	461.30		7 432.55
Jul-13	40 265.33	2 765.33	7 247.76	492.85		10 505.94
Aug-13	40 265.33	2 765.33	7 247.76	492.85		10 505.94
Sep-13	40 265.33	2 765.33	7 247.76	492.85		10 505.94
Oct-13	40 265.33	2 765.33	7 247.76	492.85		10 505.94
Nov-13	40 265.33	2 765.33	7 247.76	492.85	40 265.33	50 771.27
Dec-13	40 265.33	2 765.33	7 247.76	492.85		10 505.94
Jan-14	40 265.33	2 765.33	7 247.76	492.85		10 505.94
657 982.31		20 482.31	118 436.82	8 053.75	49 640.33	196 613.21

15.8. In view of the above, the municipality has processed the following additional benefits, amounting to R196,613.21 to Mr Boma that were not due and payable:

- Salary adjustments amounting to R20,482.31;
- Pension fund contributions amounting to R118,436.82;
- Group Life contributions amounting to R8,053.75;
- Bonus amounting to R49,640.33.

15.9 In an interview conducted with Ms Pittaway, she stated the following:

- She captured the Assumption of Duty form in respect of Mr Boma on the payroll system;
- She assumed that it was a permanent appointment as the Assumption of Duty form is only completed by permanent appointees;

- She captured Mr Boma as a permanent employee at a basic salary scale of R450,000 with additional benefits on the payroll system.

16. ACTING ALLOWANCE – MS SANTI, OFFICE MANAGER, OFFICE OF THE SPEAKER

16.1 In a memorandum dated 8 August 2013, Mr Mbeleni, the Labour Relations and Legal Services Manager, recommended the payment of an acting allowance to Ms Santi. A copy of the memorandum is attached hereto marked **Annexure DG**.

16.2 The memorandum does not stipulate, the details of the post, the period, nor the approvals received in respect of the said acting appointment. However, under the heading motivation/discussion, reference is made to the affidavits of Councillor Madinda, the Speaker and Councillor Peter, the Executive Mayor. The affidavits are attached to the memorandum as the motivation for the payment of the acting allowance. Copies of the affidavits are attached hereto marked **Annexure DG**.

16.3 It appears that on 20 August 2013, Councillor Madinda deposed a duly commissioned affidavit under oath and stated *inter-alia*:

- The affidavit is in support of payment to Ms Santi who has been of great assistance in the office of the Speaker and assisted all Councillors and Mayoral Committee before the appointment of the Secretary;
- During the period 2008 to 2012 Ms Santi was assisting administratively in the Office of the Speaker, the Councillors and the Mayoral Committee;
- During this period Ms Santi performed all administrative and secretarial duties of both offices that of Executive Mayor and Speaker of the Council;
- Ms Santi did not receive any remuneration for providing administrative and secretarial duties in my office;
- She submits this affidavit in support of Ms Santi's claim for back pay for the period Ms Santi was assisting in my office.

16.4 It appears that on 20 August 2013, Councillor Peter deposed a duly commissioned affidavit under oath and stated *inter-alia* as follows:

- He has read the affidavit deposed to by Ms Madinda. Rather than deposing to a further affidavit in this matter, I confirm its contents and seek that its contents be read as if specially incorporated into my own affidavit.

- 16.5 In an interview conducted with Ms Santi, she confirmed that she prepared the following computation in respect of her back pay, which was attached to the memorandum.

117 624 x 5% =	5 881.20
125 187 x 5% =	6 259.35
135 576 x 5% =	6 778.90
149 820 x 5% =	7 491.00
168 708 x 5% =	8 435.40
176 307 x 5% =	8 815.35
187 767 x 5% =	9 388.35
TOTAL =	53 049.55

- 16.6 On 20 August 2013, Mr Crouse, in the capacity of Acting Chief Financial Officer appended his comments in the memorandum as follows:

"The affidavit states 2008. We assume it is from July 2008, until clearer information is made available to Finance. The previous financial years has to be allocated to the surplus vote." A copy of the memorandum is attached hereto marked **Annexure DG**.

- 16.7 In view of the abovementioned comment from Mr Crouse, It would appear that amounts of R5,881.20 and R6,259.35 relating to the 2006 and 2007 financial years respectively was deducted from Ms Santi's computation, reducing the amount payable from R 53,049.55 to R40,909.00.

- 16.8 The memorandum for the payment of acting allowance to Ms Santi was approved by Dr Naidoo (undated).

- 16.9 The payment of the R40,909.00 was processed by Ms Rebecca Pittaway, the Payroll Officer, on 23 August 2013. A copy of the pay advice is attached hereto marked **Annexure DH**.

- 16.10 In an interview conducted with Ms Santi, she confirmed that she discussed the matter with Dr Naidoo and Mr Mbeleni, she was advised as follows:

- She could not claim an acting allowance from 2002 as the post of Secretary to the Office of the Speaker was included in the organogram in 2008;
- The post of Secretary to the Office of the Speaker, was at the same level as the post she presently occupied, which was Personal Assistant to the Executive Mayor and therefore she would not be entitled to an acting allowance;

- However, Dr Naidoo offered her what he termed an ex-gratia payment of 5% of her annual salary since 2008 to date to compensate for the assistance she provided to the Office of the Speaker and other Councillors;
- Mr Mbeleni provided her the payroll reflecting the annual remuneration since the date of her appointment;
- She was required to base the 5% computation on her annual salary as reflected in the payroll report.

Ms Santi advised that the copy of her request was handed to Mr Mbeleni. Further, that she would not have accepted the offer had she known that the offer was not a legal offer in terms of the Policy.

16.11 In an interview conducted with Mr Madlavu, he stated that he received an acting allowance claim from Ms Santi which he rejected as there was no basis for the payment thereof.

16.12 In a telephonic interview conducted with Mr Mbeleni, he stated the following:

- He did not attend any meetings held with Ms Santi and Dr Naidoo in respect of the payment of acting allowance to Ms Santi;
- He was aware that Ms Santi had previously submitted a memorandum for acting allowance, which was rejected by Mr Madlavu as there was no basis for the payment thereof;
- Dr Naidoo handed over the computations of the acting allowance as compiled by Ms Santi and the affidavits of Cllr Peters and Cllr Madinda and instructed him to compile a memorandum recommending the payment of the acting allowances to Ms Santi;
- He did not have the memorandum submitted by Ms Santi requesting the payment of the acting allowance.

16.12 Mr Etienne Mager confirmed that the position of Speaker was made "full-time" at the Council meeting held on 13 August 2013 and implemented retrospectively from 1 August 2013.

17. CONCLUSIONS

We conclude as follows:

17.1 Mr Boma's, the Strategic Manager, alleged unauthorised possession of the personnel file of the former Municipal Manager, Dr Naidoo:

- Ms Pinyana signed for Dr Naidoo's personnel file on 23 November 2011;

- Dr Naidoo's file was collected by Mr Mthini during March 2012 and returned to Registry;
- Mr Mthini handed over Dr Naidoo's personnel file to Ms Shenxane during June/July 2012;
- Ms Shenxane handed over Dr Naidoo's personnel file to Mr Boma during January 2013 in the presence of Mr Myalato;
- Mr Myalato confirmed that he was present when Ms Shenxane handed over the file to Mr Boma.
- Mr Planga requested the file from Mr Boma to no avail.

17.2 The payment of Dr Naidoo's legal costs by the Municipality:

- Under the Labour Court Order Case No. P356/08 a settlement agreement was signed by Dr Naidoo, the Applicant and Cllr. Madinda, the Speaker of Council on 5 July 2013 and 24 July 2013 respectively;
- The Municipal Council has distanced itself from the settlement agreement, based on the reason that its negotiation was not sanctioned by the Council nor was the Speaker ever mandated to enter into such an agreement;
- In a memorandum dated 2 October 2013, Mr Boma *inter alia* instructed Mr Crouse to attend to the legal cost payment with immediate effect. The amount is indicated as R86,142.32, however it is amended by Mr Crouse to R108,374.79 "as per Mr Boma";
- On 2 October 2013, a manual cheque for an amount of R108,374.79 was issued to Dr Naidoo. The expenditure was allocated to the Unappropriated Surplus Previous Year vote (Vote No. 01 10 05 01 4998 001);
- The manual cheque no 2127 for R108,374.79 was processed by First National Bank on 2 October 2013;
- The Council has since made an application to have the settlement agreement and the Court Order rescinded. This rescission application was granted by the Grahamstown High Court in January 2013. Dr Naidoo was also ordered to pay the costs of the application.

Money paid directly to the Naidoo & not a legal firm.

17.3 Special Projects / Grants in Aid – Office of the Executive Mayor

- The Grants-in-Aid Programme must be implemented with the purpose to provide support to organizations and bodies thereby enabling them to undertake actions and services to improve the standard of living of the communities, resulting in an improvement in the quality of life for those communities;
- The Municipality did not comply with section 17(3)(j) of the MFMA which requires that when an annual budget is tabled it must be accompanied by "particulars of any proposed allocations or grants by the municipality to ...(iv) any organisations or bodies referred to in section 67(1);
- The Funding and Grants Policy of the Municipality is not in compliance with the stipulations of the MFMA and Treasury Circulars;
- The review of expenditure has revealed a number of contraventions set out in the table below:

No	Voucher No	Amount R	Beneficiary/ Payee	Vote No	Signatures of officials	Findings by Investigation Team
1	5734	29,000.00	Boxing South Africa	Sports Festival	Mr Ngandi Mr Ganza Mr Crouse Ms Meiring	Payment to assist the boxing promoter of Mr Ndwayana
2	5749	15,000.00	Fingo Festival	Project: Youth Programmes	Ms Mcuba Mr Ganza Mr Crouse Ms Meiring	Circumvention of SCM Policy
3	5757	12,000.00	Makana Inkubeko Youth Development	Project: Youth Programmes	Ms Mcuba Mr Ganza Mr Crouse Ms Meiring	Circumvention of SCM Policy
4	5795	15,000.00	Relevant Ambitions Trading 104 CC	Project: Youth Programmes	Ms Mcuba Mr Ganza Mr Crouse Ms Meiring	Circumvention of SCM Policy
5	6055	160,000.00	Makana Local Sports Council	Sports Festival	Mr Ngandi Mr Boma Mr Crouse Mr Myalato	It does not appear as if the Municipality entered into an agreement with the Makana

No	Voucher No	Amount R	Beneficiary/ Payee	Vote No	Signatures of officials	Findings by Investigation Team
						Local Sports Council Funds transferred to the bank account of the Makana Local Football Association
6	6193	22,000.00	Uncedo Service Thutha Abantu	Project: Women's Programmes	Mr Ngandi Mr Boma Mr Crouse	Circumvention of SCM Policy Invoice not submitted Lack of evidence to confirm that service was received
7	6371	5,500.00	Sugar Tours	Project: Youth Programmes	Ms Mcuba Ms Noganta Mr Boma Mr Crouse	Circumvention of SCM Policy
8	6729	23,160.00	Nyusa Boxing Promotion	Project: Youth Programmes	Ms Mcuba Mr Boma Mr Crouse	Payment to assist the boxing promoter of Mr Ndwayana
9		20,000.00	Cash	Project: Youth Programmes	Mr Ngandi Mr Boma Mr Crouse	
10		30,000.00	Brumbies Club	Sports Festival	Mr Ngandi Mr Sizani Mr Boma Mr Myalato	Dinner/dance held by the Brumbies Club on 30 November 2012
11	116798	26,578.00	Grahamstown	Free Basic	Mr Budaza	Circumvention

No	Voucher No	Amount R	Beneficiary/ Payee	Vote No	Signatures of officials	Findings by Investigation Team
			Sports CC	Services	Mr Sizani Mr Wali Mr Boma	of SCM Policy
12	116603	49,900.00	Alicedale Development Fund		Mr Lazarus Ms. Meiring Mr Crouse	It does not appear as if the Municipality entered into an agreement with the Alicedale Development Fund
13	116626	4,500.00	Thembinkosi Mdyogolo	Sports Festival	Mr Ngandi Mr Crouse Mr Boma	Assistance for Mr Mdyogolo to participate in a race
14	116651	9,200.00	Fingo Festival	Project: Youth Programmes	Mr Ngandi Mr Crouse Mr Boma	Circumvention of SCM Policy Invoice not submitted
15	116809	35,075.00	Pumlani Kongwana	Project: Youth Programmes	Mr Budaza Mr Boma Mr Sizani	Assistance for Mr Kongwana to participate in rugby exchange programme
16	116741	11,200.00	Sugar Tours	Project: Youth Programmes	Mr Ngandi Mr Sizani Mr Boma	Circumvention of SCM Policy Advance payment
17	2144	2,500.00	Dephney Scheepers	Project: Youth Programmes	Mr Wali Mr Crouse Mr Boma	Assistance for Ms Scheepers although SARU to provide all accommodation, meals and support
18	117066	60,000.00	King Lobengula		Mr Sindane	Funds

No	Voucher No	Amount R	Beneficiary/ Payee	Vote No	Signatures of officials	Findings by Investigation Team
			Foundation		Mr Crouse	transferred to the private bank account of Mr Mda It does not appear as if the Municipality entered into an agreement with the King Lobengula Foundation
19	117070	15,000.00	Graeme College	Project: Youth Programmes	Mr Wali Mr Crouse Mr Boma Dr Naidoo	Flight ticket of Mr Pinini to the UK for a rugby exchange programme
20	117098	20,000.00	Bantu Church of Christ	Project: Special Events	Mr Boma Mr Sizani Dr Naidoo	Funding of religious institution 100 year celebrations
21	117085	26,000.00	Alicedale Development Fund		Mr Lazarus Mr Sindane Mr Crouse	It does not appear as if the Municipality entered into an agreement with the Alicedale Development Fund
22	117148	5,000.00	Albany Baptist Church		Mr Boma Mr Crouse Mr Myalato	Funding of religious institution opening function
23	117252	21,000.00	M C Kepe	Grant Expenditure	Ms Mcuba Mr Crouse Mr Boma	Circumvention of SCM Policy

No	Voucher No	Amount R	Beneficiary/ Payee	Vote No	Signatures of officials	Findings by Investigation Team
24	117332	7,028.10	Ursula Boutique	Project: Youth Programmes	Mr Crouse Mr Wali Mr Boma Dr Naidoo	Circumvention of SCM Policy Lack of evidence to confirm that goods were received
25	117176	12,000.00	Graeme College	Project: Youth Programmes	Mr Boma Mr Crouse Dr Naidoo	Flight ticket of Mr September to the UK for a rugby exchange programme
26	116650	10,000.00	Gift Wholesalers	Project: Women's Programmes	Mr Boma Mr Crouse	Circumvention of SCM Policy Lack of evidence to confirm that goods were received
27	116616	50,000.00	L'nL Planning, Communication and Technology CC	Project: Youth Programmes	Mr Boma Mr Crouse	Awaiting confirmation of appointment process by SCM
28	116505	26,598.00	Makana Poultry and General Trading	Project: Women's Programmes	Ms Mcuba Mr Crouse Mr Boma	Funding of a private business Circumvention of SCM Policy Lack of evidence to confirm that goods were received
29	116727	15,000.00	Ntombizodwa Noqayi	Project: Special	Mr Ngandi Ms	Payment to individual

No	Voucher No	Amount R	Beneficiary/ Payee	Vote No	Signatures of officials	Findings by Investigation Team
				Events	Grobbelaar Mr Crouse Mr Boma	
30	116953	11,700.00	Makana Natural Bodybuilding and Fitness Club	Project: Youth Programmes	Mr Wali Mr Crouse Mr Boma Dr Naidoo	Funding of a private business
31	117189	11,300.00	Makana Heritage Solutions	Project: Special Events	Mr Wali Ms Grobbelaar Mr Crouse Mr Boma	Circumvention of SCM Policy

TOTAL AMOUNT: R ???

17.4

Makana Newsletter

NOT MATERIAL ---- SCOPE LIMITATION.

- It appears that the production of the Makana newsletter commenced in the 2011/2012 financial year;
- The budget for the newsletter is as follows:

Vote no	Description	2011/2012 Estimate	2012/2013 Estimate	2013/2014 Estimate
6867 000	Newsletter	230,000	200,000	400,000

- The expenditure in respect of the newsletter is as follows:

Vote no	Description	(2011/2012) Expenditure	2012/2013 Expenditure	2013/2014 Expenditure (as at 17/03/2014)
6867 000	Newsletter	81,627	190,276	0

- It appears that Intengu Communications CC was appointed by the Municipality in 2011/2012 to design, print and distribute the newsletters in terms of RFQ 68/11.

- It appears that Augmentis CC was appointed by the Municipality in 2012/2013 to design, print and distribute the newsletters. The Municipality did not submit details in respect of the appointment process to the investigation team.

17.5 Appointments

Dr Naidoo's request to Council in May 2013 to deviate from the Recruitment, Selection and Appointment Policy (as the policy was in draft) in order to head-hunt to fill critical vacancies is in contravention of the Municipal Systems Act and the existing Policy of the Makana Municipality and appears to be a deliberate attempt to circumvent due process. #

17.5.1 The Municipality did not complete a motivation for the filling of the post, which motivation must set out *inter-alia*:

- The job description;
- The job evaluation;
- Financial considerations (including whether the post is budgeted for or not); and
- Approvals from the Head of Department, responsible Director, Chief Financial Officer, Director: Corporate Services, and the Municipal Manager.

#	Post	Task Grade	Package
1	Manager: Operations Water & Sewer	15	R286,652 – R372,093 plus 10% scarce skills allowance
2	Senior Engineering Technicians (x2) (Water and Sanitation)	14	R248,639 – R322,744 plus 10% scarce skills allowance
3	Youth Outreach Co-Ordinator	7	R98,602 – R127,991 plus benefits (Subject to Job Evaluation)
4	Driver – Executive Mayor	6	R81,558 – R105,878 plus benefits
5	Rural Development Co-Ordinator	7	R98,602 – R127,991 (Subject to Job Evaluation)
6	Manager: Office of the Speaker	15	R286,652 – R372,093 plus benefits (Subject to Job Evaluation)
7	Manager: Sports, Recreation, Arts and Culture	15	R286,652 – R372,093 plus benefits (Subject to Job Evaluation)

#	Post	Task Grade	Package
8	Youth Career Guidance Co-ordinator	7	R98,602 – R127,991 plus benefits (Subject to Job Evaluation)
9	Executive Secretary – Mayoral Committee	7	R98,602 – R127,991 plus benefits
10	Executive Secretary – Monitoring & Evaluation Manager	7	R98,602 – R127,991 plus benefits

17.5.2 The Job advertisement does not reflect relevant qualifications for the following posts:

#	Post	Task Grade	Package	Qualification
1	Manager: Office of the Speaker	15	R286,652 – R372,093 plus benefits (Subject to Job Evaluation)	Degree/National Diploma in the Office of the Speaker ?
2	Executive Secretary (Monitoring and Evaluation)	7	R98,602 – R127,991 plus benefits	Not reflected in the advertisement
3	Operations Manager: Engineering & Infrastructural Services	15	Salary not reflected (Subject to Job Evaluation)	Not reflected in the advertisement

17.5.3 The Resolution of the Municipal Manager, which is compiled by the Human Resource Department, recommended by the Director: Corporate Services and approved by the Municipal Manager is intended to detail the recruitment process and the results thereof, conflicts with the supporting documentation in the following instances:

17.5.3.1 The appointment letters are dated prior to the Resolution of the Municipal Manager being approved and in certain instances on or before the date of the interview:

Name	Post	Date of Appointment Letter	Date of Interview	Date of approval of Resolution of Municipal Manager
Ms N Stuurman	Youth Outreach Coordinator	28 August 2013	21 August 2013	3 September 2013
Mr C Van Aardt	Driver: Executive Mayor	28 August 2013	22 August 2013	3 September 2013

Name	Post	Date of Appointment Letter	Date of Interview	Date of approval of Resolution of Municipal Manager
Mr S Ngqiyaza Mr N Madinda	Rural Development Coordinators	28 August 2013	21 August 2013	3 September 2013
Ms N Santi	Manager: Office of the Speaker	12 August 2013	12 August 2013	20 August 2013
Mr F Budaza	Manager: Sports, Recreation and Culture	12 August 2013	12 August 2013	20 August 2013
Mr G Goliath	Manager: Operations – Engineering and Infrastructure Services	12 August 2013	16 August 2013	3 September 2013
Mr B Hanise	Youth Career Guidance Coordinator	29 August 2013	21 August 2013	3 September 2013
Ms S. Matyityi	Executive Secretary: Mayoral Committee	28 August 2013	21 August 2013	3 September 2013
Mr M Ndoro	Executive Secretary: Monitoring and Evaluation	28 August 2013	21 August 2013	3 September 2013
Mr A Ngcauzele	Manager: Internal Audit	17 July 2013	17 July 2013	24 July 2013
Mr S Kona	Manager: Information Systems	23 July 2013	17 July 2013	24 July 2013
Mr P Smile	Manager: Operations	19 August 2013	16 August 2013	2 September 2013
Ms NP Kosi	Manager: Monitoring and Evaluation	12 August 2013	12 August 2013	20 August 2013
Mr V Wali	Manager: Special Programmes Unit	16 August 2013	16 August 2013	3 September 2013
Ms M Ndoro	Executive Secretary: Monitoring and Evaluation	28 August 2013	21 August 2013	3 September 2013

17.5.3.2

The Resolution of the Municipal Manager reflects the following conflicting information:

Appointment of	Post	Date of Appointment Letter	Date Resolution Compiled by Human Resource Section	Date Resolution Recommended by Director: Corporate Services	Date Resolution approved by Municipal Manager
Ms N Stuurman	Youth Outreach Coordinator	Mr M Madlavu 28 August 2013	Mr V Ntshawuzana	Mr ET Myalato 3 September	Mr ET Myalato 3 September 2013

Appointment of	Post	Date of Appointment Letter	Date Resolution Compiled by Human Resource Section	Date Resolution Recommended by Director: Corporate Services	Date Resolution approved by Municipal Manager
			2 September 2013	2013	
Mr C Van Aardt	Driver: Executive Mayor	Mr M Madlavu 28 August 2013	Mr V Ntshawuzana 2 September 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013
Mr S Ngqiyaza Mr N Madinda	Rural Development Coordinators	Mr M Madlavu 28 August 2013	Mr V Ntshawuzana 2 September 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013
Ms N Santi	Manager: Office of the Speaker	Dr P Naidoo 12 August 2013	Mr V Ntshawuzana 19 August 2013	Mr M Madlavu 19 August 2013	Dr P Naidoo 20 August 2013
Mr F Budaza	Manager: Sports, Recreation and Culture	Dr P Naidoo 12 August 2013	Mr V Ntshawuzana 19 August 2013	Mr M Madlavu 19 August 2013	Dr P Naidoo 20 August 2013
Mr B Hanise	Youth Career Guidance Coordinator	Mr M Madlavu 29 August 2013	Mr V Ntshawuzana 2 September 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013
Mr S Matyityi	Executive Secretary: Mayoral Committee	Mr M Madlavu 28 August 2013	Mr V Ntshawuzana 2 September 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013
Mr M Ndoro	Executive Secretary: Monitoring and Evaluation	Mr M Madlavu 28 August 2013	Mr V Ntshawuzana 2 September 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013
Mr A Ngcauzele	Manager: Internal Audit	Dr P Naidoo 17 July 2013	Mr V Ntshawuzana 22 July 2013	Mr M Madlavu 22 July 2013	Dr P Naidoo 24 July 2013
Mr S Kona	Manager: Information Systems	Dr P Naidoo 23 July 2013	Mr V Ntshawuzana 22 July 2013	Mr M Madlavu 23 July 2013	Dr P Naidoo 24 July 2013
Mr P Smile	Manager:	Dr P Naidoo	Mr V	Mr ET Myalato	Mr ET Myalato

Appointment of	Post	Date of Appointment Letter	Date Resolution Complied by Human Resource Section	Date Resolution Recommended by Director: Corporate Services	Date Resolution approved by Municipal Manager
	Operations	19 August 2013	Ntshawuzana 2 September 2013	3 September 2013	3 September 2013
Ms NP Kosi	Manager: Monitoring and Evaluation	Dr P Naidoo 12 August 2013	Mr V Ntshawuzana 19 August 2013	Mr M Madlavu 19 August 2013	Dr P Naidoo 20 August 2013
Mr V Wali	Manager: Special Programmes Unit	Dr P Naidoo 16 August 2013	Mr V Ntshawuzana 2 September 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013
Mr G Goliath	Manager: Operations – Engineering and Infrastructure Services	Dr P Naidoo 12 August 2013	Mr V Ntshawuzana 20 August 2013	Mr ET Myalato 3 September 2013	Mr ET Myalato 3 September 2013

17.5.4

The masterlist of applicants, which reflects the details of all applicants that applied for a particular post, does not reflect the name of the following individual shortlisted, interviewed and appointed by the municipality:

Name	Post
Mr C Van Aardt	Driver: Executive Mayor

17.5.5

The appointed candidates do not possess the requisite qualification for the post as reflected in the job advertisement:

Name	Post	Advertised Qualification	Required Qualification	Incumbents Qualification
Mr C Van Aardt	Driver: Executive Mayor	Professional Driving Permit (PDB)		Not reflected
Ms N Santi	Manager: Office of the Speaker	Grade 12; Degree /National Diploma in the Office of the Speaker		National Diploma: Marketing
Mr P Smile	Manager: Operations	Tertiary Qualification at NQF Level 5, qualification in management science or studying towards		Diploma: Module 3 (M+3) of the course in Senior Primary Education

Name	Post	Advertised Qualification	Required	Incumbents Qualification
		management science		
Mr V Wali	Manager: Special Programmes Unit	Tertiary Qualification at NQF Level 5		National Certificate N4 – Management Assistant

17.5.6 The appointed candidates do not possess the requisite experience for the post as reflected in the job advertisement:

Name	Post	Advertised Experience	Required	Incumbents Experience
Mr G Goliath	Manager: Operations – Engineering and Infrastructure Services	3 years managerial experience in local government operations		Stores/Ordering Clerk at Settlers Hospital

17.5.7 The following appointments were made subject to job evaluation and could result in the municipality being held liable for back-pay to the various employees should the job evaluation result in the post being evaluated on a higher Task Grade, alternatively, the municipality may have a claim against the employee should the job evaluation result in the post being evaluated on a lower Task Grade.

#	Post	Task Grade	Package
1	Manager: Information Systems / Information Technology	15	R286,652 – R372,093 (subject to job evaluation) plus 10% scarce skills allowance
2	Youth Outreach Co-Ordinator	7	R98,602 – R127,991 plus benefits (Subject to Job Evaluation)
3	Rural Development Co-Ordinator	7	R98,602 – R127,991 (Subject to Job Evaluation)
4	Manager: Office of the Speaker	15	R286,652 – R372,093 plus benefits (Subject to Job Evaluation)
5	Manager: Sports, Recreation, Arts and Culture	15	R286,652 – R372,093 plus benefits (Subject to Job Evaluation)
	Manager: Internal Audit	15	R286,652 – R372,093 (subject to job evaluation)
6	Youth Career Guidance Co-ordinator	7	R98,602 – R127,991 plus benefits (Subject to Job Evaluation)

17.6 Virements

- The Virement Policy of the Municipality stipulates that virements greater than R100,000 must be processed through an item that must be tabled to the FAME Portfolio Committee;
- The 2 virements both dated 19 September 2013 appears to be a deliberate splitting of the total amount of R130,000 into parts of a lesser value merely to avoid compliance with the virements policy. The virement forms are signed by Mr Madlavu and Dr Naidoo respectively on 19 September 2013.

17.7 Salary Payments of Mr Boma

- The post of Strategic Manager was advertised at a salary scale of R450,000 per annum all inclusive package on a 5 year contract;
- Mr Boma commenced duties on 1 September 2012 and the appointment letter reflected a salary scale of R450,000 per annum all inclusive package;
- Ms Pittaway captured Mr Boma as a permanent employee at a salary scale of R450,000 excluding benefits on the payroll system;
- The additional benefits amounting to R203,222.66 paid to Mr Boma during the period September 2012 to January 2014 is deemed irregular expenditure.

17.8 Acting allowance – Ms Santi

- It appears that Ms Santi provided assistance to the Speaker for the period 2002 to 2013;
- The Speaker was not a full-time councillor at the time and Ms Santi's assistance was provided in an *ad hoc* manner. Ms Santi was not appointed to act as such a position did not exist;
- Ms Santi submitted an acting allowance claim to the Municipality which was rejected by Mr Madlavu;
- On 8 August 2013, Mr Mbeleni recommended the payment of R53,049.55 as an acting allowance to Ms Santi;
- On 20 August 2013, Cllr Peter and Cllr Madinda deposed affidavits supporting a claim for back pay;

- Mr Crouse also recommended the payment, however he reduced the amount payable;
- On 23 August 2013 the Municipality processed payment of R40,909.00 to Ms Santi in respect of an acting allowance claim;
- The payment was approved by Dr Naidoo (undated);
- The payment of the acting allowance amounting to R40,909.00 is deemed irregular expenditure.

18. RECOMMENDATIONS

We recommend as follows:

18.1 Mr Boma's, the Strategic Manager, alleged unauthorised possession of the personnel file of the former Municipal Manager, Dr Naidoo:

- Mr Boma be charged with the contravention of clause 1.2.4 annexure "A" to the South African local government disciplinary procedure collective agreement in that during January 2013, he took possession of the personnel file of Dr Naidoo belonging to the municipality and has failed to return the said file to the municipality.

18.2 The payment of Dr Naidoo's legal costs by the Municipality:

- Mr Boma be charged in that on 2 October 2013, he caused the municipality to incur irregular expenditure in that he issued a memorandum to Mr Crouse, the Acting Chief Financial Officer, instructing him to immediately effect the legal cost payment of Dr Naidoo, notwithstanding a lack of Council approval. The amount reflected on the memorandum is indicated as R86,142.32, however it was amended by Mr Crouse to R108,374.79 as per Mr Boma's verbal instruction;
- The Council request Cllr. Madinda to provide written explanation why action should not be taken in terms of the Code of Conduct in that she signed the settlement agreement with Dr Naidoo on behalf of Council and without delegation of such power by the Council;

- The Municipality request Mr Crouse to provide written explanation why disciplinary action should not be instituted against him for the approval of payment of R108,374.79 to Dr Naidoo in respect of legal costs;
- The Municipality must recover the amount of R108,374.79 from Dr Naidoo.

18.3 Special Projects / Grants-in-aid – Office of the Executive Mayor:

- The Municipality revise the Funding and Grants Policy in accordance with the stipulations of the MFMA and Circulars;
- The Municipality must comply with the stipulations of the MFMA which requires that when an annual budget is tabled it must be accompanied by "particulars of any proposed allocations or grants by the municipality to ... (iv) any organisations or bodies referred to in section 67(1)";
- The Municipality request officials responsible as detailed in section 17.3 of the report to provide written explanations why disciplinary action should not be instituted in respect of the various contraventions.

18.4 Makana Newsletter:

- The Municipality must provide the following information:
 - Copies of the newsletters issued to date;
 - Confirmation of the procurement process in respect of the appointment of Augmentis CC;

18.5 Appointments:

- The Municipality request Mr Madlavu to provide written explanations why disciplinary action should not be instituted against him for the following deficiencies identified:
 - The Municipality deviated from Policy;
 - The Municipality did not develop job descriptions for the advertised posts;
 - The Municipality did not ensure that the posts were evaluated;
 - The Municipality did not confirm budget availability for the posts;

- In certain instances the Municipality did not reflect the qualification criteria;
- In 1 instance the successful candidate was shortlisted and interviewed although his name was not reflected on the master list of applicants;
- In certain instances the date reflected on the letter of appointment was prior to the resolution of the Municipal Manager, which resolution confirms that due process was followed;
- The Municipality request Mr Myalato to provide written explanations why disciplinary action should not be instituted against him for the following deficiencies identified:
 - The Municipality deviated from Policy;
 - In certain instances the Municipality did not reflect the qualification criteria;
 - In 1 instance the date reflected on the letter of appointment was prior to the date of the interview;
 - Mr Myalato recommended certain of the appointments in the capacity of acting Director: Corporate Services and simultaneously approved the appointment in the capacity as acting Municipal Manager.
- The Municipality obtain legal opinion in respect of the validity of the appointments made during the recruitment drive in 2013 as numerous process deficiencies were identified.

18.6 Virements

- The Municipality request Mr Madlavu to provide written explanation why disciplinary proceedings must not be instituted against him in that he failed to comply with the Virements Policy of the Municipality.

18.7 Salary payments to Mr Boma:

- Mr Boma be charged in that from the period September 2012 to January 2014 you received additional benefits erroneously processed by the municipality totalling # (R196,613.21) which benefits were not due and payable to him. Further, Mr Boma failed to notify the municipality of the said errors, notwithstanding his acceptance of a R450,000 per annum all inclusive cost to company contract appointment.
- The Director: Corporate Services must:

- Advise the Acting Chief Financial Officer whether any salary adjustments were approved for Mr Boma;
- Upon receipt of confirmation of undue benefits processed to Mr Boma from the Acting Chief Financial Officer, that the Director Corporate Services issues written communication to Mr Boma advising of the undue benefits received and of the Municipality's intention and plan to recover the said undue payments.
- The Acting Chief Financial Officer must:
 - Conduct a review of the payroll, specifically in respect of Mr Boma and confirms in writing that the additional benefits processed to Mr Boma were not due and payable;
 - Ensure that the remuneration package of Mr Boma is corrected with immediate effect;
 - Issue a written communication to the Cape Pension Fund and the service provider for Group life cover advising of the overpayments and requesting a correction and offset of the amounts paid against the following months' municipal contribution;
 - Advise the Director: Corporate Services of the amount recoverable from Mr Boma in respect of salary adjustments and bonuses paid;
 - Raise a staff debtor account in the name of Mr Boma in the municipal accounting system (ABAKUS);
 - Report to the Audit Committee the remedial measures that have been implemented to improve the internal control environment.

18.8 Acting Allowance – Ms Santi, Office Manager, Office of the Speaker:

- The Municipality must obtain written explanation from Messrs Mbeleni and Crouse why disciplinary action should not be instituted against them for recommending the processing of the irregular payment of R40,909.00 to Ms Santi;
- The Municipality must recover the R40,909.00 from Ms Santi

19. APPRECIATION

- 19.1** The assistance rendered during the investigation by the officials of the Municipality and the Department is appreciated.

Ms L Maree

Member

KABUSO CC

DATE: 23 February 2015

