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**4. Gross Negligence and/or Gross Dereliction of Duty in performing Fleet Management Duties**

The Director CSS has been grossly derelict in his duties regarding Fleet Management. Due to his neglect and dereliction of duty ■ failed to ensure timeous repair of refuse trucks and because of his failure or neglect or dereliction service delivery was severely affected, as the vehicles were not road worthy when they should have been. There was also loss of revenue as communities refuse to pay because of non-collection of revenue, among other reasons. Also there is an irregular expenditure incurred in as far as penalties and interests which is tantamount to Financial Misconduct.

**5. Gross Dereliction and/or Gross Insubordination and/or Unethical Conduct and/or Fruitless and Wasteful Expenditure in the Process of Recruiting Managers**

The Director CSS has committed gross insubordination against the Municipal Manager and/or Unethical Conduct and/or Fruitless and Wasteful Expenditure and has been grossly derelict in the recruitment of the managers for the following positions:

- Manager Town Planning
- Manager Supply Chain Management
- Manager Revenue
- Manager Internal Audit

The Director CSS has disrespected and defied the Municipal Manager in the recruitment process of these Managers by seeking to act directly against her instructions in this process. The MM is the person responsible to drive all recruitment in terms of the relevant policy. There is also evidence of unethical conduct concerning deliberate manipulation of shortlisting results against the policy pointing at him. Due to his failure to follow the policy the process had to be initially withdrawn and had to be restarted. The municipality incurred fruitless and wasteful expenditure because of the withdrawal. The current process is likely to come to the same result because of his obstructive and defiant attitude as well as all the issues highlighted above.

**6. Placing the Name of the municipality into Disrepute**

All the actions of the Director that are listed above indicate that ■ has failed to act with diligence, with good faith and in an honest and transparent manner. ■ has also failed to act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised. ■ actions show that ■ has placed the name of the municipality into disrepute.

**Disciplinary Regulations: Regulation 5**

The Municipal Manager is required to report allegations of misconduct to the municipal council as per the Disciplinary Regulations (Regulation 5). The municipal council is required to appoint an independent investigator to investigate the allegations of misconduct and the investigator has 30 days to submit a report with recommendations to the MM, once it is satisfied that there is reasonable cause to believe that an act of misconduct has been committed by the senior manager. The MM must report the outcomes of the investigation to council as per regulations.

**Precautionary Suspension:**

Regulation 6 deals with precautionary suspension of the manager by the municipal council on full pay, if it is alleged that the senior manager has committed an act of misconduct, where the council has reason to believe that –

- (a) the presence of the manager at the workplace may –
  - (i) jeopardise any investigation into the alleged misconduct;
  - (ii) endanger the well-being or safety of any person or municipal property; or
  - (iii) be detrimental to stability in the municipality; or
- (b) the senior manager may –
  - (i) interfere with potential witnesses; or
  - (ii) commit further acts of misconduct.

Based on the information submitted above it is advised that there is great likelihood that the Director, based on the position ■ occupies, may jeopardise the investigations by withholding crucial information and may commit further defiance and misconduct. The allegations require an in-depth investigation and there are documents in his office which ■ may not want to disclose or to be disclosed because it affects his case. Another person who is not directly affected must assist with the investigations in his absence. His presence may affect other officials (witnesses) that report to him from fully co-operating during investigations and give

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evidence freely (it is likely there may be interference with other persons or witnesses). Some of the allegations already show that his defiance towards the authority of the Municipal Manager has created tensions and affects the stability and smooth running of processes affecting his area and is likely to be worsened if ■ was to be present during investigations (stability will continue to be affected badly). This clearly shows that the council must initiate precautionary suspension to protect the process.

The senior manager must be given the opportunity to make written representation to the municipal council why ■ or she must not be suspended within 7 days after being notified of the council's decision.

- The municipal council must consider any representation written to it within 7 days.
- A senior manager may only be suspended once the representation has been considered.

**Sub-regulation 5:**

- The senior manager must be informed in writing of the reasons for his suspension on or before the date of suspension.
- The Minister and the MEC must be notified in writing within 7 days of the suspension.

The sub regulation requires once the senior manager has been suspended a disciplinary hearing must commence within 3 months of suspension, failing which, the suspension will automatically lapse. It is worth to note that the 3 months' period may not be extended by council.

**CHALLENGES**

The report shows the problems currently affecting the Directorate of CSS which council must assist in urgently addressing.

**STAFF IMPLICATIONS**

The Director CSS will be affected by the recommendations and resolutions that are in this report.

**FINANCIAL IMPLICATIONS**

The allegations reveal instances of possible irregular fruitless and wasteful expenditure. The investigations will require the appointment of an investigator and the costs are not yet established.

**OTHER PARTIES CONSULTED**

- The Executive Mayor: Enoch Mgijima Local Municipality.

It is

**RECOMMENDED**

- The municipal council upon having considered the allegations is satisfied that there is a reasonable cause that misconduct has been committed, and an independent investigator must be appointed as provided for in terms of the regulations.
- The Municipal Manager is authorised to initiate and appoint an investigator as required.
- The Municipal Manager informs the Director: Corporate Support Services of the decision to investigate and of its intention to place him under precautionary suspension.
- The Council directs that the Director: Corporate Services be given an opportunity to make written representations to the Office of the Municipal Manager why serious misconduct charges and disciplinary procedures should not be brought against himself and why she must not be placed on precautionary suspension within 7 calendar days of being notified of the council's decision.
- A report be submitted to Council on the further processes that must be or have been followed as the matter progresses.

**NC MGIJIMA – ZONDANI  
MUNICIPAL MANAGER**