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**PROCLAMATION***by the**President of the Republic of South Africa***No. R. 25, 2007****SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT AND SPECIAL TRIBUNAL**

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996), have been made in respect of the affairs of the Great Kei Local Municipality situated in the Eastern Cape Province (hereinafter called "the Municipality");

AND WHEREAS the Municipality suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and justiciable civil disputes emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, and at the request of the Premier of the Eastern Cape Province, refer the matters mentioned in the Schedule for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31

July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act any -

- (a) serious maladministration in connection with the affairs of the Municipality;
- (b) improper or unlawful conduct by officers and/or employees of the Municipality;
- (c) unlawful appropriation or expenditure of public money or property;
- (d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
- (e) intentional or negligent loss of public money or damage to public property;
- (f) offence referred to in Part 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004, and which offences were committed in connection with the affairs of the Municipality; or
- (g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which have taken place between 1 January 2003 and the date of publication of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, in relation to the said matters in the Schedule, for the purpose of the recovery of any losses suffered by the Municipality.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this Seventh day of September Two thousand and seven.

**T. M. MBEKI**

**President**

By Order of the President-in-Cabinet:

**B. S. MABANDLA**

**Minister of the Cabinet**

**SCHEDULE**

1. The disposal of residential erven belonging to the Municipality, namely, erven 576, 577, 578, 579, 580, 585, 586, 587, 588, 589 and 591, Kei Mouth, without -
  - (a) the approval of the Council of the Municipality;
  - (b) the Council of the Municipality, in a meeting open to the public -
    - (i) having decided on reasonable grounds that the erven were not needed to provide the minimum level of basic municipal services; and/or
    - (ii) having considered the fair market value of the erven and the economic and community value to be received in exchange for the erven; or
  - (c) following a procedure that was fair, competitive, transparent, equitable, cost-effective and consistent with the supply chain management policy, which the Municipality was obliged to have and maintain in terms of section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
  
2. The disposal of farms belonging to the Municipality, namely, farm 98, the remainder of farm 102 and the remainder of farm 106, Division of Komga, without -
  - (a) the approval of the Council of the Municipality;
  - (b) the council of the Municipality, in a meeting open to the public-
    - (i) having decided on reasonable grounds that the farms were not needed to provide the minimum level of basic municipal services; and/or
    - (ii) having considered the fair market value of the farms and the economic and community value to be received in exchange for the farms; or
  - (c) following a procedure that was fair, competitive, transparent, equitable, cost-effective and consistent with the supply chain management policy, which the Municipality was obliged to have and maintain in terms of section 111 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
  
3. The procurement of -
  - (a) goods and services by the Municipality to the amount of R4 412 539-00 for the conversion of the Royal Hotel, Komga, into office accommodation;
  - (b) goods and services by the Municipality to the amount of R4 486 505-00 for road maintenance by a civil engineering business during the 2003-2004, 2004-

2005 and 2005-2006 financial years;

- (c) eight mobile toilets and a combination truck by the Municipality;
  - (d) administrative services by the Municipality from management consultants;
  - (e) goods and services by the Municipality from a construction business to pave the "Great Hall"; and
  - (f) goods and services by the Municipality from a catering business,
- without the approval of the Council of the Municipality, contrary to prescribed tender procedures or in a manner that was not fair, competitive, transparent, equitable or cost-effective and the payment of fruitless and wasteful, irregular and/or unauthorised expenditure in respect thereof.
4. The payment by the Municipality of travel and subsistence allowances to its mayor and municipal manager in respect of a trip to France without approval of the Council of the Municipality.
  5. The expenditure incurred on behalf of the Municipality by its municipal manager for an endowment policy with Momentum Group Limited without the approval of the Council of the Municipality.
  6. The payment by the Municipality of performance bonuses to its municipal manager and chief financial officer during the 2003-2004 and 2004-2005 financial years without a performance assessment indicating that the desired level of performance had been achieved and/or without the approval of the Council of the Municipality.
  7. The payment of remuneration for overtime worked by an employee of the Municipality, in excess of the employee's entitlement thereto.

**PROKLAMASIE***van die**President van die Republiek van Suid-Afrika***No. R. 25, 2007****WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET No. 74 VAN 1996): VERWYSING VAN AANGELEENTHEID NA BESTAANDE SPESIALE ONDERSOEKEENHEID EN SPESIALE TRIBUNAAL**

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna die "Wet" genoem), gemaak is in verband met die aangeleenthede van die Groot Kei Plaaslike Munisipaliteit geleë in die Provinsie van die Oos-Kaap (hierna die "Munisipaliteit" genoem);

EN AANGESIEN die Munisipaliteit verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en beregbare siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;

DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, en op versoek van die Premier van die Provinsie van die Oos-Kaap, die aangeleenthede in die Bylae vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van daardie aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in die Wet, ondersoek te doen na enige -

- (a) ernstige wanadministrasie in verband met die aangeleenthede van die Munisipaliteit;

- (b) onbehoorlike of onregmatige optrede deur beamptes of werknemers van die Munisipaliteit;
- (c) onregmatige bewilliging of besteding van publieke geld of eiendom;
- (d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
- (e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
- (f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004, in verband met die sake van die Munisipaliteit; of
- (g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie van die publiek veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 Januarie 2003 en die datum van publikasie van hierdie Proklamasie, en om die bevoegdhede en werksaamhede wat deur die Wet aan die Spesiale Ondersoekendeheid toegewys of opgedra is uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, vir doeleindes van die verhaal van enige verliese wat deur die Munisipaliteit gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die Sewende dag van September Tweeduisend-en-sewe.

**T. M. MBEKI**

**President**

Op las van die President-in-Kabinet:

**B. S. MABANDLA**

**Minister van die Kabinet**

**BYLAE**

1. Die beskikking oor residensiële erwe wat aan die Munisipaliteit behoort het, naamlik, erwe 576, 577, 578, 579, 580, 585, 586, 587, 588, 589 en 591, Kei Mond, sonder –
  - (a) die toestemming van die Raad van die Munisipaliteit;
  - (b) dat die Raad van die Munisipaliteit, in 'n vergadering wat toeganklik was vir die publiek –
    - (i) dit besluit het op redelike gronde dat die erwe nie benodig word om 'n minimum standaard van munisipale dienste te verskaf nie; en/of
    - (ii) die billike markwaarde van die erwe en die ekonomiese- en gemeenskapswaarde wat ontvang kon word in ruil vir die erwe oorweeg het; of
  - (c) dat 'n prosedure gevolg was wat regverdig, mededingend, deursigtig, billik, koste effektief en konsekwent is met die voorsieningskanaal-bestuursbeleid, wat die Munisipaliteit verplig is om te hê en in stand te hou kragtens artikel 111 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No.56 van 2003).
  
2. Die beskikking oor plase wat aan die Munisipaliteit behoort het, naamlik, plaas 98, die oorblywende gedeelte van plaas 102 en die oorblywende gedeelte van plaas 106, Afdeling van Komga, sonder –
  - (a) die toestemming van die Raad van die Munisipaliteit;
  - (b) dat die Raad van die Munisipaliteit, in 'n vergadering wat toeganklik was vir die publiek –
    - (i) dit besluit het op redelike gronde dat die erwe nie benodig word om 'n minimum standaard van munisipale dienste te verskaf nie; en/of
    - (ii) die billike markwaarde van die erwe en die ekonomiese- en gemeenskapswaarde wat ontvang kon word in ruil vir die erwe oorweeg het; of
  - (c) dat 'n prosedure gevolg was wat regverdig, mededingend, deursigtig, billik, koste effektief en konsekwent is met die voorsieningskanaal-bestuursbeleid, wat die Munisipaliteit verplig is om te hê en in stand te hou kragtens artikel 111 van die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003 (Wet No.56 van 2003).



3. Die aanskaffing van –
    - (a) goedere of dienste deur die Munisipaliteit ten bedrae van R4 412 539-00 om die Royal Hotel, Komga, in kantoor akkommodasie te omskep;
    - (b) goedere en dienste deur die Munisipaliteit ten bedrae van R4 486 505-00 vir die onderhoud van paaie deur 'n siviele ingenieurs besigheid gedurende die 2003-2004, 2004-2005 en 2005-2006 finansiële jare;
    - (c) agt mobiele toilette en 'n kombinasie vragmotor deur die Munisipaliteit;
    - (d) administratiewe dienste deur die Munisipaliteit van bestuurskonsultante;
    - (e) goedere en dienste deur die Munisipaliteit van 'n konstruksie maatskappy om die "Groot Saal" te plavei; en
    - (f) goedere en dienste deur die maatskappy van 'n spyseniersbesigheid, sonder die goedkeuring van die Raad van die Munisipaliteit, strydig met voorgeskrewe tenderprosedures en op 'n manier wat nie regverdig, mededingend, deursigtig, billik of koste effektief was nie en die uitbetaling van vrugtelose en verspilde, onreëlmatige en/of ongemagtigde uitgawes in verband daarmee.
  
  4. Die betaling deur die Munisipaliteit van reis- en verblyf toelaes aan dié se burgermeester en munisipale bestuurder ten opsigte van 'n toer na Frankryk sonder die goedkeuring van die Raad van die Munisipaliteit.
  
  5. Die uitgawes wat names die Munisipaliteit aangegaan is deur dié se munisipale bestuurder ten opsigte van 'n uitkeringspolis by die Momentum Groep Beperk sonder die goedkeuring van die Raad van die Munisipaliteit.
  
  6. Die betaling deur die Munisipaliteit van prestasiebelonings aan sy munisipale bestuurder en hoof finansiële beampte gedurende die 2003-2004 en 2004-2005 finansiële jare sonder dat 'n prestasie evaluasie gedoen is wat aandui of 'n bevredigende graad van prestasie bereik is en/of sonder goedkeuring van die Raad van die Munisipaliteit.
  
  7. Die betaling van vergoeding vir oortyd wat deur 'n werknemer van die Munisipaliteit verrig is, in oormaat van die werknemer se geregtigheid daarop.
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