1. OFFICE OF THE SPEAKER
DETERMINATION OF UPPER LIMITS OF SALARIES, ALLOWANCES AND
BENEFITS OF DIFFERENT MEMBERS OF THE MUNICIPAL COUNCIL IN
TERMS OF GOVERNMENT NOTICE 34869 OF 14 DECEMBER 2011

1. PURPOSE

The purpose of this report is as set out as follows:

- To inform the Council about the proclamation and implementation thereof of the upper limits of the salaries, allowances and benefits of members of Council in terms of Government Notice 34869 of 14 December 2011
- For Council to approve the above mentioned upper limits on the level of remuneration which will apply in the City of Tshwane
- To consult with the MEC for Local Government and Housing for concurrence, motivating the affordability and demonstrating that the liability has been budgeted for before implementation

2. STRATEGIC OBJECTIVE

This report addresses the following strategic objective:
To ensure financial sustainability, with governance, financial viability and optimal institutional transformation with capacity to execute its mandate.

3. BACKGROUND

In terms of the Remuneration for Public Office Bearers Act, Act 20 of 1998, the Minister proclaims the remuneration of Councillors through publishing the upper limits whenever the need arises. On the 14th of December 2011, the new upper limits (attached as Annexure A) were published and subsequently, subject to the MEC’s concurrence the salaries and allowances of Councillors will have to be adjusted in line with the notice.

Determination of the upper limits of salaries, allowances and benefits of members of Council in terms of Government notice 34869 of 14 December 2011 will be implemented with effect from 01st of July 2011 and repeals Government notice R1196 of 10 December 2010 with effect from the same date.

4. KEY FEATURES OF THE NOTICE

Key features of the notice are the following:

- An across the board percentile increase in salaries, allowances and benefits of 5% per annum effected retrospectively from the 01st of July 2011 and the preceding determination (i.e. 10 December 2010) is repealed with effect from 01st of July 2011
- Amending the definition of “total municipal income” to more explicitly provide for the Regional Services Council levy replacement grant and specifically excluding the Value Added Tax (VAT) refunds on conditional grants
• Recognition of Chairpersons of Section 79 Committees by categorising them within the same salary framework as Members of Mayoral Committee or Executive Committee, Chairperson of Sub-Councils and Whips
• Deleting the inclusion of running and maintenance costs incurred on official business travel up to 500 kilometers per month
• Deletion of Section 8 (1) (d) of the Income Tax Act, 1962 allowance of R 120 000.00 per annum.
• Increase in Cell phone allowances as follows
  ○ Full-time Mayors of Grade 6 (six) – R 3 146.00 per month
  ○ Other full-time Councillors – R 1 570.00 per month, and
  ○ Part-time Councillors – R 979.00 per month

5. IMPLEMENTATION

The upper-limits will not be implemented before the Council considered a report on the upper limits and have also resolved on the level of remuneration that will apply to Grade 6 (six) Municipalities.

Further, before implementation, it is necessary for Council to consult with the MEC for Local Government and Housing for concurrence, motivating the affordability and demonstrating that the liability has been budgeted for.

6. UPPER LIMITS

The upper limits of the annual total remuneration package of various categories of full-time Councillors are contained in paragraph 5 of the Gazette. It should be noted that unlike previous upper limits notices, the amount contained under total remuneration has not been separated to show the salary and the motor vehicle allowance. This means that every Councillor who opts to include the up to 25% motor vehicle allowance in his/her salary structure must now specifically provide for it, having regard to the likely kilometers to be travelled for the tax year and the type of vehicle to be used.

In providing for the travelling allowances, Councillors’ attention should be drawn to the reality that this allowance is granted to cover costs incurred on travelling for official business, which excludes travel between the place of residence and ordinary place of work. Although fully taxable on assessment, only 80% of the allowance is subject to the deduction of PAYE. Again, this does not mean that only 80% is taxable. The full allowance remains taxable and any unspent portion will be included in a Councillor’s taxable income and a Councillor would be required to account to the South African Revenue Services (SARS) for the use of such an allowance.

Councillors who do not have motor vehicles and/or who are likely to have difficulties accounting to SARS for this allowance are advised not to include the travel allowance in their salary structure.

The upper limits for part-time Councillors are set out in paragraph 8 of the determination. In the light of the deletion of Section 8 (1) (d) of the Income Tax Act, 1962 allowances for Councillors, Municipalities must now ensure that these are not included in the salary structure of Councillors.
7. REIMBURSEMENT FOR OFFICIAL USE OF A PRIVATE VEHICLE

The upper limits notice now entitles Councillors to claim from the Municipality for official use of private vehicles, albeit supported by a logbook. The reimbursement is in accordance with the applicable tariffs (rate per km) prescribed by the National Department of Transport for the use of privately-owned vehicles. For tax purposes, the reimbursement amount must be coded 3702 (taxable travel reimbursement) on the IRP5 certificate and will be added to a Councillor’s fixed travel allowance on assessment.

8. IMPLICATIONS OF THE UPPER LIMITS ON CHAIRPERSONS OF SECTION 79 COMMITTEES

The upper limits recognise the Chairpersons of Section 79 Committees by categorising them within the same salary framework as members of the Mayoral Committee or Executive Committee, Chairpersons of Sub-Councils and Whips.

The Council at its meeting held on the 09th of June 2011 approved a new Governance Model to Enhance Efficiency, Accountability and Responsiveness. At the said Council meeting, the Council appointed Chairpersons of the Section 79 Oversight and Standing Committees as required in terms of Section 79 (2) of the Municipal Structures Act as amended, as indicated below:

(A) Section 79 Standing Committees:

- Civilian Oversight : Cllr T.E Mabusela
- Public Places and Street Names : Cllr S.O Mthethwa
- Public Accounts : Cllr Prof T. Khalo
- Petitions : Cllr N.B Makitla
- Rules and Ethics : Cllr J.M Masango

(B) Section 79 Oversight Committees:

- Finance : Cllr O.S Lebese
- Community Safety : Cllr R.T Kekana
- Sports, Recreation, Arts and Culture : Cllr N.P Makeke
- Economic Development and Planning : Cllr E.N Nhlapo
- Infrastructure Development : Cllr N.M Masehe
- Agriculture and Environmental Management : Cllr F.R Lekwane
- Corporate and Shared Services : Cllr J. Mkhize
- Roads and Transport : Cllr D.C Ledwaba
- Housing and Human Settlement : Cllr D.B Mosito
- Health and Social Development : Cllr A.A Ndlovana

The Council at the said meeting further resolved as set out below:

"11. That cognisance be taken that indication from Department of Corporate Governance and Traditional Affairs that Chairpersons of the Committees including Chairperson of Committees (Chair of Chairs) will be remunerated differently from ordinary Councillors immediately after the introduction of legislation in this regard and eventually the proclamation of the remuneration of Public Office Bearers by the relevant Minister."
In view of the above, it is proposed that the above mentioned Chairperson of Section 79 Oversight and Standing Committees be remunerated retrospectively as per paragraph 5 of this proclamation with effect from the 01st of July 2011 with the exception of the Chairperson of Committees i.e. Chair of Chairs is not catered for as per the proclamation.

9. **FINANCIAL IMPLICATIONS**

It be noted that an amount of R58 469 796 was budgeted for against cost centre 221, Cost element 412053 and locomotion allowance is budgeted for against cost centre 221, cost element 412056 for this financial year.

10. **COMMENTS FROM STAKEHOLDER DEPARTMENTS**

10.1 **CORPORATE AND SHARED SERVICES**

Request for comments were submitted to the departments on Thursday, 15 December 2011 at 14:00 and those comments will be tabled at the Special Council meeting on 19 December 2011.

10.2 **FINANCE**

(Unaltered)

It should be noted that the upper limits of the salaries, allowances and benefits of members of council were proclaim in terms of the Remuneration for Public Office Bearers Act, Act 20 of 1998

Therefore, as a result of low increase by SALGA sufficient funds will be available in the 2011/12 Medium Term Revenue and Expenditure Framework as Gazetted by Legislation3 Circular 47.

It should further be noted that the implementation of the upper limits of the salaries, allowances and benefits of members of Council must be managed within the limitation of approved Medium-Term Revenue and Expenditure Framework of the relevant Department.

10.3 **LEGAL SERVICES**

(Unaltered)

In accordance with Section 7(1) of the remuneration of Public Office Bearers Act, 1998 (Act 20 Of 1998), the upper limit of salaries and allowances of the different members of Municipal councils, is determined by the Minister, after consultation with the member of the Executive Council responsible for local Government in each province, by notice in the gazette after taking in consideration. However, in accordance with subsection (3), the salary and allowances of the member of a Municipal Council is determined by that Municipal by resolution of a supporting vote of a majority of its members, in consultation with the member of the Executive Council responsible for local government in Gauteng, having regard to the provisions of subsection (1); the upper limit as set out in the said notice; and the financial year of Municipal Council.
We submit that the salaries and allowance and/or benefits of members of the Council must be determined by the Municipal Council, subject to the upper limits provided for in schedule to the Act, 1998 as published under Government Notice No 1064 in Government Gazette No 34869 of 14 December 2011 attached to the report. Although it is not indicated in the report as such, it is accepted that the Municipality is a Grade 6 municipality in terms of the legislation and the said Notice No. 1064.

Having regard to the aforesaid, Legal Services support the determination of the salaries and allowances by the Municipal council with the aforesaid provision of section 7.

10.4 SHARED SERVICES

The Division Shared Services concurs with and support the recommendations in the report.

It is however further recommended that the current packages of Councillors be maintained until the end of the current tax year. This will be necessary otherwise the salary system will immediate deduct tax of 20% retrospectively. The travelling allowance will therefore be paid as a salary unless the Councillor chooses to be paid a travelling allowance.

11. IMPLICATIONS

11.1 HUMAN RESOURCES

Relevant officials will ensure that immediately after the MEC’s concurrence in this regard, retrospective payments are paid to Councillors.

11.2 FINANCE

This determination will be financed within the allocated budget.

11.3 CONSTITUTIONAL AND LEGAL FACTORS

The relevant legal factor have been discussed within the comments from Legal Services

11.4 COMMUNICATION

Relevant communication will be sent to all Councillors.

11.5 PREVIOUS COUNCIL AND MAYORAL COMMITTEE RESOLUTIONS

This proclamation rescinds Council resolutions in this regard taken at the Council meeting of 14 December 2010
IT WAS RECOMMENDED (TO THE SPECIAL COUNCIL 19 DECEMBER 2011):

1. That cognisance be taken of the contents of this report.

2. That the implementation be done in terms of Government Notice 34869 of the 14th of December 2011.

3. That the implementation of the new upper limits for Councillors be effected administratively after the MEC for Local Government and Housing’s concurrence has been obtained.

4. That cognisance be taken that the Council at its meeting held on 09th of June 2011 appointed the following Councillors in terms of Section 79 (2) of the Municipal Structures Act as amended, as Chairpersons of the Section 79 Oversight and Standing Committees:

   (A) Section 79 Standing Committees:

   - Civilian Oversight : Cllr T.E Mabusela
   - Public Places and Street Names : Cllr S.O Mthethwa
   - Public Accounts : Cllr Prof T. Khalo
   - Petitions : Cllr N.B Makitla
   - Rules and Ethics : Cllr J.M Masango

   (B) Section 79 Oversight Committees:

   - Finance : Cllr O.S Lebese
   - Community Safety : Cllr R.T Kekana
   - Sports, Recreation, Arts and Culture : Cllr N.P Makeke
   - Economic Development and Planning : Cllr E.N Nhlapo
   - Infrastructure Development : Cllr N.M Masehe
   - Agriculture and Environmental Management : Cllr F.R Lekwane
   - Corporate and Shared Services : Cllr J. Mkhize
   - Roads and Transport : Cllr D.C Ledwaba
   - Housing and Human Settlement : Cllr D.B Mosito
   - Health and Social Development : Cllr A.A Ndlovana

5. That in view of recommendation 4 above, the above mentioned Chairpersons of Section 79 Oversight and Standing Committees be remunerated retrospectively as per paragraph 5 of this proclamation with effect from the 01st of July 2011 with the exception of the Chairperson of Committees i.e. Chair of Chairs who is not catered for by this proclamation.

6. That the City Manager submits a report to Council in January 2012 on the appointment of the Chairperson of the Section 79 Oversight and Standing Committees due to the full time status of the said Chairpersons as imposed by this proclamation.

7. That expenses for the implementation of the above mentioned proclamation be incurred against cost centre 221, cost elements 412053 and 412056.
When the Executive Mayor presented this report at the Special Council meeting of 19 December 2011 he, in terms of Section 13(5) of the Rules and Orders amended recommendations as contained in this report as set out below:

That recommendation 4(b), bullet number 5, be amended to read as follows:

"Infrastructure Development, Councillor NM Masehe be replaced by Councillor Moche"

That an additional recommendation be added

8. That the City Manager enlists the services of the tax consultants to advise Councillors accordingly on the tax implications emanating from this proclamation.

During the discussions of the abovementioned item by the Council at its special meeting held on 19 December 2011, Councillor J Engelbrecht seconded by Councillor J Jansen proposed the following amendments to the report:

(Unaltered)

"Delete recommendation 4 and 5 and replace it with the following recommendation:

That the Chairperson of the MPAC be herewith appointed as a full-time Councillor for purposes of Government Notice 34869 of 14 December 2011 and

Amend recommendation 6 to read:

That the City Manager submits a report to council in January 2012 on the appointment of the Chairperson of MPAC due to the full-time status of the said chairperson as imposed by this proclamation"

After lengthy deliberations the proposal was put to a vote and 109 Councillors voted against the proposal and 67 Councillors voted for the proposal and 0 Councillors abstained.

Councillor DL Flemming requested that it be placed on record that the DA also reject the 5% increase in the salaries/wages of Councillors.

Councillor RK Mathebe requested that it be placed on record that there is a tendency amongst Councillors to rather focus on the financial reward instead of service delivery.

It is therefore resolved as set out below:

ANNEXURE A - GOVERNMENT NOTICE 34869 OF 14 DECEMBER 2011

RESOLVED:

1. That cognisance be taken of the contents of this report.

2. That the implementation be done in terms of Government Notice 34869 of the 14th of December 2011.
3. That the implementation of the new upper limits for Councillors be effected administratively after the MEC for Local Government and Housing’s concurrence has been obtained.

4. That cognisance be taken that the Council at its meeting held on 09th of June 2011 appointed the following Councillors in terms of Section 79 (2) of the Municipal Structures Act as amended, as Chairpersons of the Section 79 Oversight and Standing Committees:

(C) Section 79 Standing Committees:

- Civilian Oversight: Cllr T.E Mabuselela
- Public Places and Street Names: Cllr S.O Mtethwa
- Public Accounts: Cllr Prof T. Khalo
- Petitions: Cllr N.B Makitla
- Rules and Ethics: Cllr J.M Masango

(D) Section 79 Oversight Committees:

- Finance: Cllr O.S Lebese
- Community Safety: Cllr R.T Kekana
- Sports, Recreation, Arts and Culture: Cllr N.P Makeke
- Economic Development and Planning: Cllr E.N Nhlapo
- Infrastructure Development: Cllr R.M Moche
- Agriculture and Environmental Management: Cllr F.R Lekwane
- Corporate and Shared Services: Cllr J. Mkhize
- Roads and Transport: Cllr D.C Ledwaba
- Housing and Human Settlement: Cllr D.B Mosito
- Health and Social Development: Cllr A.A Ndlovana

5. That in view of recommendation 4 above, the above mentioned Chairpersons of Section 79 Oversight and Standing Committees be remunerated retrospectively as per paragraph 5 of this proclamation with effect from the 01st of July 2011 with the exception of the Chairperson of Committees i.e. Chair of Chairs who is not catered for by this proclamation.

6. That the City Manager submits a report to Council in January 2012 on the appointment of the Chairperson of the Section 79 Oversight and Standing Committees due to the full time status of the said Chairpersons as imposed by this proclamation.

7. That expenses for the implementation of the above mentioned proclamation be incurred against cost centre 221, cost elements 412053 and 412056.

8. That the City Manager enlists the services of the tax consultants to advise Councillors accordingly on the tax implications emanating from this proclamation.