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COMMITTEE.

MANAGEMENT COMMITTEE (19/8/68).

TOWN CLERK.

DALTON AWARD - APPOINTMENT OF SENIOR OFFICIALS.

The Dalton Award entitles the Johannesburg Municipal Employees' Association to make representations to the Council on "all proposals or recommendations relating to staff matters and conditions of service generally and to individual appointments, promotions and dismissals", and provides machinery to make this right effective. The operation of the award is exemplified in the making of appointments: the recommendation of the head of the department is notified to the Association which considers and investigates objections lodged by unsuccessful applicants who belong to it, and decides whether to support any objection. If no settlement is reached, the ultimate remedy given by the award is the publication in the Council's agenda of the Association's representations.

This procedure has worked very well and the Association has performed a most valuable service in sifting the objections and narrowing the field of the occasional conflict of opinion. It has long been felt however that there is something anomalous in requiring an unsuccessful applicant for the post of, say, deputy head in one of the larger departments to seek the support of the Executive of the Association, whose members are almost invariably considerably junior to him.

At the request of the Management Committee, the Town Clerk has taken this matter up with the Association and, after discussion and the exchange of correspondence, he wrote the following letter to the Association on the 16th November 1967:-

"The requirements of your Association as expressed in their final form in your letters of 2nd and 13th October 1967 have now been considered by the Special Committee for Fixed Salaries, and its views on them will be indicated in the following paragraphs.

In regard to the appointment of any head or deputy head of a department and officials occupying posts at salaries of R6,756 a year or more (about 66 officials in all), the Special Committee agrees that it should replace the Association as the body for disposing of objections to the appointment of the candidates recommended by heads of departments, and that it should

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have the right (which the Association will now surrender entirely) to incorporate its views in any report by the Management Committee in which a recommendation is made to the Council for the appointment of a candidate supported by (not) the Special Committee. During any interview by the Special Committee of recommended candidates and objectors and during the ensuing discussion until the Committee takes its final decision two representatives of the Association shall be entitled to be present and participate in the interviews and discussion but not in the decision, and when the decision has been taken the Association shall become functus officio with no further right to make representations regarding the decision.

In regard to the appointment of officials to posts with salaries of less than R6,756, the Special Committee has now decided that it wishes to play no part at all. This means that what is set out in the preceding paragraph is the only substantive change proposed in the provisions of the Dalton Award. I shall now ask the Clerk of the Council to have a set of by-laws drafted to give effect to this change of procedure and to bring the remaining provisions of the Award up to date. If the Management Committee approves of the draft, it will be submitted to your Association for comment before it is put to the Council. "

A draft of the proposed by-laws has been circulated informally to members of the committee, because even at this stage drafting has not been sufficiently advanced for formal submission to the Committee, and in any event changes are likely after the draft has been considered by the Association. The draft endeavours to put in the form of by-laws all the provisions of the Dalton Award together with the variation in the manner of dealing with objections to recommendations for appointments in positions at salaries of R6,756 or more.

The drafting has been by no means easy. The Town Clerk's Department has submitted two drafts, and the draft under consideration has been prepared by the Town Clerk and will have to be carefully vetted by the legal advisers before it is presented to the Committee.

However, all that is required at this stage is the Committee's approval in principle of the continuation of negotiations with the Association on the lines of the Town Clerk's letter quoted above with a view to the embodiment of the final settlement in the Council's standing orders.

It is recommended accordingly.

Amend the Standing Orders of the Johannesburg Municipality published under Administrator's Notice No. 873 of 25th November 1964 by the addition after section 95 of the following sections with their headings -

APPOINTMENTS TO POSITIONS ON THE  
GRADED PERMANENT STAFF.

Interpretation.

95A. For the purposes of sections 95B, 95C, 95D and 95E unless the context otherwise indicates -

"Association" means the Johannesburg Municipal Employees' Association;

"Eligible" in relation to a vacant position means having the qualifications prescribed by the Council's standard of education and the qualifications prescribed by or in pursuance of the Public Bodies (Language) Ordinance, 1958 for such position;

"Head of the department" in relation to the appointment of a person to fill a vacant position means the head of the department on whose establishment the vacant position exists or the officer designated by him generally or specially for the purpose of considering applications for appointment and making recommendations thereon;

"Special Staff Committee" means a committee consisting of the Town Clerk as chairman and the City Engineer, the City Treasurer and the Chairman of the Staff Board, subject however to the proviso in paragraph (3) of section 95D; and

Stipulated periods of numbers of hours shall be exclusive of Saturdays, Sundays and public holidays.

Vacancies to be Circularised.

95B. (1) No vacant position on the graded permanent staff, other than a vacant position on the initial grade of entry or a vacancy in the position of Town Clerk, may be filled until a circular has been delivered to all departments of the service of the Council in the form of an invitation to all eligible employees to apply for appointment to the vacant position and, if the vacant position be one the appointment of persons to which has to be made by the Council, until an advertisement has been published in the press inviting applications from eligible members of the public for appointment to the vacant position.

(2) If no applications are received from eligible persons whom the head of the department considers to be suitable for appointment, he may cause another circular to be issued in the form of an invitation to both eligible and ineligible employees of the Council.

(3) Copies of all circulars issued in terms of the preceding paragraphs of this section shall be posted on the notice board at the offices of the Staff Board and on the notice boards of all the departments of the Council.

(4) No ineligible person may be appointed to the vacant position unless a circular has been issued in terms of paragraph (2) hereof.

(5) Application in response to such a circular or such an advertisement in the press shall be made on the form or forms provided by the Council from time to time, and failure to complete the form in all respects may entail the disqualification of an applicant should the Management Committee so decide.

(6) On receipt of the replies to such a circular or such an advertisement in the press, the Staff Board shall cause a schedule in alphabetical order of names to be prepared in the form from time to time approved by the Management Committee of all the applications received and shall forward the schedule together with the applications to the head of the department.

(7) If the head of the department desires to appoint one of the applicants he shall submit a report accordingly containing his recommendation to the Staff Board.

(8) Not less than ninety-six hours before the meeting of the Management Committee at which the report provided for in paragraph (7) hereof is to be submitted, the Staff Board shall post a copy of the report on the notice board at its offices and deliver copies of the report to the Association.

(9) Every employee of the Council who applied timeously for appointment to the vacant position in terms of the circular shall have the right to object, in the manner prescribed in that one of the two immediately succeeding sections that is applicable, to the recommendation in such report, provided however that no ineligible applicant may object to the appointment of an eligible person.

Appointments made by the Management  
Committee.

95C. (1) Every objection made in terms of paragraph (9) of section 95B by an applicant who is a member of the Association shall, if the vacant position be one the appointment of persons to which may be made by the Management Committee, be made in writing to the Association within forty-eight hours of the receipt by the Association of copies of the report of the head of the department as prescribed by paragraph (8) of section 95B.

(2) Written notification by the Association of its intention to support any such objection or objections shall be delivered to the Staff Board within seventy-two hours after the delivery to the Association of copies of the report of the head of the department as prescribed in paragraph (8) of section 95B or within such longer period as the Town Clerk in his complete discretion may on application allow.

(3) Every objection made in terms of paragraph (9) of section 95B by an applicant who is an employee of the Council but is not a member of the Association shall, if the vacant position be one the appointment of persons to which has to be made by the Management Committee, be made in writing to the Staff Board within seventy-two hours after a copy of the report is posted on the notice board at the offices of the Staff Board as prescribed in paragraph (8) of section 95B or within such extension of the period as the Town Clerk in his complete discretion may grant to the objector.

(4) No applicant by whom or on whose behalf no objection is timeously lodged in the manner prescribed either by paragraphs (1) and (2) on the one hand or by paragraph (3) hereof on the other hand shall be entitled to advance before the Council or any committee thereof any objection to the recommendation

(5) The Staff Board shall thereafter convene a meeting or meetings with the head of the department and the representatives of the Association to which the recommended applicant and the objector or objectors may by agreement be invited, provided that should any applicant who is not a member of the Association have duly lodged an objection which is supported by the trade union to which he belongs, the representative of such trade union shall be entitled to participate in the proceedings of the meeting or meetings.

(6) If the meeting after considering the report and all the objections agrees with the recommendation of the head of the department or agrees upon some other applicant, the appointment shall be reported to the Management Committee as an unopposed recommendation;

but if no agreement can be reached, the Staff Board shall submit the report to the Management Committee stating that the recommendation is opposed, and the Management Committee shall fix a date and time for a meeting with the representatives of the Association.

(7) At a meeting of the Management Committee convened in terms of paragraph (6) hereof, three representatives and the secretary of the Association, the Staff Board and the head of the department shall be entitled to be present throughout the proceedings to present their views and to ask for any relevant information. The Management Committee may decide to appoint none of the applicants, but if agreement is reached between the Management Committee and the representatives of the Association on an appointment, the Management Committee shall make the appointment forthwith. Should the Management Committee prefer an applicant who is opposed by the Association, the decision of the Management Committee shall be referred to the Council as a recommendation and the Association shall be entitled to submit to the Town Clerk within forty-eight hours of the decision of the Management Committee a report setting forth its representations and such report shall be included in the agenda for the meeting of the Council together with the report of the Management Committee on its recommendation for the appointment.

#### Appointments Reserved to the Council.

95D. (1) Every objection made in terms of paragraph (9) of section 95B shall, if the vacant position be one the appointments to which have been reserved to the Council, be made in writing to the Town Clerk within seventy-two hours after a copy of the report is posted on the notice board at the offices of the Staff Board as prescribed in paragraph (8) of section 95B or within such extension of the period as the Town Clerk in his complete discretion may grant to the objector.

(2) As soon as possible after the closing date for objections, the Town Clerk shall refer the report of the head of the department and all objections that have been timeously lodged to a meeting of the Special Staff Committee for consideration.

(3) At such meeting two representatives of the Association and the head of the department shall be entitled to be present throughout the proceedings and participate in the discussion but not in the decision of the Special Staff Committee, provided that if the head of the department be the City Engineer, the City Treasurer or the Chairman of the Staff Board he shall for the duration of the discussion of and the decision on the report be deemed not to be a member of the Special Staff Committee and his place on the Special Staff Committee shall be taken by the Clerk of the Council or his authorised representative.

(4) The recommended applicant, every objector who has timeously lodged his objection and any other person whom the Special Staff Committee may invite shall be entitled to address the Committee and may be questioned by any member thereof or by the representatives of the Association or the head of the department.

(5) When the Special Staff Committee has concluded its deliberations and has come to a decision, it shall submit a report to the Management Committee and if its recommendation differs from that of the head of the department it shall state in the report its reasons for differing.

(6) If the Management Committee after considering the report of the head of the department and the report of the Special Staff Committee decides to recommend to the Council for appointment an applicant other than the applicant recommended by the Special Staff Committee, the report and the recommendation of the Special Staff Committee shall be included in the agenda for the meeting of the Council together with the report and recommendation of the Management Committee.

#### Rights of the Johannesburg Municipal Employees' Association.

95E. (1) In addition to the rights conferred on the Johannesburg Municipal Employees' Association (hereinafter referred to as the Association) by paragraph (8) of section 95B, by section 95C and by paragraph (3) of section 95D, the Association shall be entitled to make representations to the Council on any of the matters included in sub-section (1) of section 24 of the Industrial Conciliation Act, 1956.

(2) Notice of intention to submit any proposals or recommendations relating to any of such matters to the Council shall be delivered in writing to the said Association not less than ninety-six hours before any meeting of the Management Committee at which such proposals or recommendations are to be considered, and if the Association should desire to make any representations thereon, it shall make such representations in writing within seventy-two hours of the receipt by it of the aforesaid notice.

(3) The proposals or recommendations and the representations of the Association thereon referred to in paragraph (2) hereof shall be considered by the Management Committee at a meeting at which three representatives of the Association together with its secretary may attend and be present throughout the discussion of and decision on the matter, and ask for any relevant information and address the Committee, but may not participate in the decision.

(4) If no agreement is reached between the Management Committee and the Association, the Association may within forty-eight hours of the decision of the Management Committee submit a report setting out its representations, and this report together with a report of the Management Committee shall be submitted to the Council for decision.

(5) The agenda for every meeting of the Council shall be forwarded to the Association at the same time as it is circulated to councillors or so soon thereafter as is reasonably possible. If any matter in such agenda is one of which the Association should have but has not received due notice as prescribed by paragraph (2) hereof and the Association desires to make representations thereon, the Association shall notify the Town Clerk and the Council shall not consider such matter until the Association has been afforded the opportunity of exercising the rights conferred by the preceding paragraphs hereof.

(6) Closed shop. The wording of this paragraph is primarily a matter for the Association to suggest, because official records do not make it clear exactly whom the Association represents. The Council has always refused to enter into disputes between unions over the classes of employee who must belong to them. The Council has merely insisted that every permanent employee must belong to some union or other. As long as the exceptions stipulated by the Council on the 26th March 1940 are preserved, it can safely accept any definition put forward by the Association in accordance with its registered constitution.



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