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BY HAND AND BY E-MAIL

MOTION OF NO CONFIDENCE IN THE EXECUTIVE MAYOR

In terms of rule 29 of the Standing Rules and Orders, the Freedom Front Plus hereby submits a motion of no confidence in the Executive Mayor of the Mangaung Metro Municipality, Councillor Sarah Matawana Mlamleli. The motion is submitted by

councillor Adriaan de Bruyn and seconded by councillor Elizabeth Snyman-Van Deventer.

A vote of no confidence is based on

- i) the non-compliance of the Executive Mayor to fulfil her duties, obligations and responsibilities in terms of the Constitution of South Africa 1996, the Municipal Finance Management Act 56 of 2003, the Municipal Systems Act 32 of 2000, and the Municipal Structures Act 117 of 1998;
- ii) failure by the Executive Mayor to manage the financial recovery plan and the section 139(5) a and b intervention;
- iii) qualified AG report. The fact that the Mangaung Metro received a qualified audit, is already proof of the failure of her duties by the Executive Mayor and the reasons given for the qualified audit, are in itself enough evidence for a motion of no confidence in the Executive mayor;
- iv) the downgrading of the Metro by Moody's is also further proof of the lack of political, financial and administrative guidance by the Executive Mayor;
- v) the investigation by the Hawks into the payment of overtime in the Metro, is also a reflection on the state of the financial chaos in the Metro;
- vi) lack of basic good governance;
- vii) the negative image of the Metro in the media;
- viii) the lack of confidence in the Metro and general negative perception of the Metro by the residents of Mangaung; and
- ix) the lack of services and assistance to Soutpan and Naledi.

The motion is based on evidence from

- i) the documents available to the public: the Mangaung Metro Municipality budget 2018/2019 and 2020/2021; the Mangaung Metro Integrated Development Plans 2018/2019 and 2020/2021; Annual Levy, Rates & Tax

Increases for 2020/2021: Water Charges, Property Rates, Sewer & Refuse Removal Costs; MFMA Mangaung In Year Report for April and May 2020; Quarterly Budget & Performance Assessment Report (MFMA/Preliminary) – March 2020; Auditor General's Reports; Council agendas and minutes

- ii) the media; and
- iii) complaints from residents and experience of councillors in trying to fulfil their duties, obligations and functions especially in assisting residents with complaints regarding basic service delivery.

A. The Executive Mayor did not comply with the following legislation:

1. Constitution of South Africa 1996 Chapter 2

24. Environment

Everyone has the right

a. to an environment that is not harmful to their health or well-being; and

b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that

i. prevent pollution and ecological degradation;

ii. promote conservation; and

iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

The Executive Mayor is not ensuring an environment that is not harmful to the health and well-being to the residents of the Mangaung Metro Municipality: a) The problems pertaining to sewage and the slow response or inability of the Metro to carry out repair work in a timeous fashion contribute to an unhealthy environment; b) Lack of solid waste removal contributes to an unhealthy environment; c) Problems pertaining to water distribution and water shortage also are detrimental to the health of the residences of the Metro; d) the bucket system still not totally eradicated; e) the state of the streets and roads in the Metro, traffic lights not working, no traffic enforcement and potholes are harmful to the well-being of the residents of Mangaung; f) no

enforcement of building restrictions and plans and no inspections of building sites are dangerous and is harmful to the well-being of the residents of Mangaung; g) lack of service delivery in Soutpan and Naledi. Furthermore the Executive Mayor is not ensuring the rights of residences to a protected environment and the prevention of pollution: a) waste of clean water through slow response to complaints and slow response time to repair busted water pipes; b) sewage spills lead to pollution; c) lack of refuse removal leads to pollution. The Executive Mayor is also not promoting conservation: a) the old zoo and the inhumane treatment of the animals; and b) the new zoo and the lack of management as proven by eg the death of a giraffe.

2. Constitution of South Africa 1996 Chapter 2

27. Health care, food, water and social security

1. Everyone has the right to have access to

a. health care services, including reproductive health care;

b. sufficient food and water; and

c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.

The Executive Mayor fails to ensure that the residences of the Metro have access to sufficient water: a) water leakage and waste of clean water through water leakage; b) water shortage experienced in the Metro; c) the continued and unsolved dispute with Bloemwater.

3. Constitution of South Africa 1996 Chapter 7

152. Objects of local government

1. The objects of local government are -

a. to provide democratic and accountable government for local communities;

b. to ensure the provision of services to communities in a sustainable manner;

c. to promote social and economic development;

d. to promote a safe and healthy environment; and

e. to encourage the involvement of communities and community organisations in the matters of local government.

2. A municipality must strive, within its financial and administrative capacity, to achieve the objects set out in subsection (1).

The Executive Mayor does not contribute to the enhancement or fulfilment of the objectives of local government as required by the Constitution: a) Due to late tabling of all Mangaung budget and other statutory required documentation, the input of the local communities is not taken into consideration for example the last date of public participation for the 2020/2021 budget was Saturday 27 June and budget tabled 30 June 2020 with no changes from draft budget which indicates that none of the input from public participation were even considered for inclusion. Due to the lateness and not keeping within the legislative time frames, there is no democratic and accountable government in Mangaung; b) Lack of service delivery is proof of the failure of the Metro to provide services in a sustainable manner. The financial problems (bankruptcy) of the Metro also prevents the Metro to provide basic services; c) The Metro is not a safe and healthy environment for its residents (problems pertaining to sewage; refuse removal; water shortage; bucket system); d) Due to the underperformance of certain departments there is little promotion of social and economic development in the Metro.

4. Constitution of South Africa 1996 Chapter 7

153. Developmental duties of municipalities

A municipality must

a. structure and manage its administration, and budgeting and planning processes to give priority to the basic needs of the community, and to promote the social and economic development of the community; ...

As already indicated, the Executive Mayor failed to ensure that the Metro fulfils its constitution obligation in this regard through a) lack of a planning process that adheres to the legislative framework; b) the lack of basic services; and c) no incorporation of public input in the budget and IDP.

5. Municipal Structures Act 117 of 1998 Chapter 4

Functions and powers of executive mayors

56. (1) *An executive mayor is entitled to receive reports from committees of the municipal council and to forward these reports together with a recommendation to the council when the matter cannot be disposed of by the executive mayor in terms of the executive mayors delegated powers.*

(2) The executive mayor must—

(a) identify the needs of the municipality;

(b) review and evaluate those needs in order of priority;

(c) recommend to the municipal council strategies, programmed and services to address priority needs through the integrated development plan, and the estimates of revenue and expenditure, taking into account any applicable national and provincial development plans: and

(d, recommend or determine the best way. including partnership and other approaches. to deliver those strategies; programmes and services to the maximum benefit of the community.

(3) The executive mayor in performing the duties of office, must—

(a) identify and develop criteria in terms of which progress in the implementation of the strategies, programmes and services referred to in subsection (2)(c) can be evaluated, including key performance indicators which are specific to the municipality and common to local government in general;

(b) evaluate progress against the key performance indicators;

(c) review the performance of the municipality in order to improve—

(i) the economy, efficiency and effectiveness of the municipality;

(ii) the efficiency of credit control and revenue and debt collection services: and

(iii) the implementation of the municipality's by-laws;

(d) monitor the management of the municipality's administration in accordance with the directions of the municipal council;

(e) oversee the provision of services to communities in the municipality in a sustainable manner;

(f) perform such duties and exercise such powers as the council may delegate to the executive mayor in terms of section 59 of the Municipal Systems Act;

(g) annually report on the involvement of communities and community organisations in the affairs of the municipality; and

(f) ensure that regard is given to public views and report on the effect of consultation on the decisions of the council.

(Underline for emphasis)

Section 56 lists the functions and powers of mayors and the Executive Mayor fails to perform the functions as set out in section 56: a) The Executive Mayor must identify needs of the community and oversee provision of services, but the lack of basic service delivery eg huge water leakages all over Mangaung; shortages in water; sewage pollution even close to schools; potholes; street lights not working; problems pertaining to refuse collection; lack of street names signs and traffic signs indicates; traffic lights not working; inefficient call centre and no reaction to complaints; no service delivery in Soutpan and Naledi; b) in order to perform her duties the Executive mayor needs reports from the committees of council, but some committees had no meetings in more than a year while the chairpersons of the section 79 committees receive additional remuneration (fruitless and wasteful expenditure); c) there is no effective debt collection and the Metro pays Ramathello Attorneys Inc R3 268 714 over 3 years, but the collection rate of bad debt is not improved; d) the debt of the provincial government increases every month and it is not collected; e) The Executive Mayor must monitor the administration of the Metro but problems pertaining to staff dismissals, use of legal practitioners from outside Mangaung in disciplinary proceedings, staff grievances, lack of appointment of staff in key positions (eg building and health inspectors) etc are not solved; f) R38 questions of councilors are not answered in accordance the Standing Rules and Orders of Council.

6. Municipal Finance Management Act 56 of 2003 Chapter 7 Responsibilities of Mayors

52. The mayor of a municipality—

(a) must provide general political guidance over the fiscal and financial affairs of the municipality;

(b) in providing such general political guidance, may monitor and, to the extent provided in this Act, oversee the exercise of responsibilities assigned in terms of this Act to the accounting officer and the chief financial officer, but may not interfere in the exercise of those responsibilities;

(c) must take all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;

(d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality; and

(e) must exercise the other powers and perform the other duties assigned to the mayor in terms of this Act or delegated by the council to the mayor.

In terms of section 52, the Executive Mayor is responsible to provide guidance, monitor and oversee the fiscal and financial affairs of the Metro and must ensure that the Metro complies with constitutional and statutory functions: a) the budget for 2019 was unfunded; b) documents are tabled to fulfil legislative requirements, but then it is withdrawn meaning that in the minutes it was tabled, but it never served before Council; d) constitutional function is to provide water and other services which the Metro constantly fails to do; d) the Executive Mayor does not oversee the exercise of their duties by the City Manager and Chief Financial Officer (cut and paste budget; late submissions; over- and under spending; abuse of grants; underspending of grants; overtime payments; adjustments budgets; capital projects not completed; payment of suppliers/contractors for incomplete work or non-payment of other creditors; debtors; use of “middle men” in procuring services that the Metro could procure at a cheaper rate through the tender process eg vehicles and petrol and diesel that are not bought directly from suppliers; no steps to prevent irregular, fruitless and wasteful expenditure and no investigation into and steps taken against officials responsible for irregular, fruitless and wasteful expenditure; etc); e) no guidance to or oversight over the exercise of their duties by the City Manager and the Chief Financial Officer as there are various problems regarding the financial and administrative management of the Metro.

7. Municipal Finance Management Act 56 of 2003 Chapter 7 Responsibilities of Mayors

Budget processes and related matters

53. (1) The mayor of a municipality must—

(a) provide general political guidance over the budget process and the priorities that must guide the preparation of a budget;

(b) co-ordinate the annual revision of the integrated development plan in terms of section 34 of the Municipal Systems Act and the preparation of the annual budget, and determine how the integrated development plan is to be taken into account or revised for the purposes of the budget; and

(c) take all reasonable steps to ensure—

- (i) that the municipality approves its annual budget before the start of the budget year;*
- (ii) that the municipality's service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget; and*
- (iii) that the annual performance agreements as required in terms of section 57(1)(b) of the Municipal Systems Act for the municipal manager and all senior managers—*
 - (aa) comply with this Act in order to promote sound financial management;*
 - (bb) are linked to the measurable performance objectives approved with the budget and to the service delivery and budget implementation plan; and (cc) are concluded in accordance with section 57(2) of the Municipal Systems Act.*
- (2) The mayor must promptly report to the municipal council and the MEC for finance in the province any delay in the tabling of an annual budget, the approval of the service delivery and budget implementation plan or the signing of the annual performance agreements.*
- (3) The mayor must ensure—*
 - (a) that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan; and*
 - (b) that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the municipality's service delivery and budget implementation plan. Copies of such performance agreements must be submitted to the council and the MEC for local government in the province.*

There is no general political guidance over the budget process and the priorities that must guide the preparation of a budget a by the Executive Mayor as: a) the 2020/2021 the budget is a duplicate of previous budgets with only changes pertaining to increases in tariffs; b) there is projects in the IDP not funded by the budget; c) there is projected income that is not feasible.

8. Municipal Finance Management Act 56 of 2003 Chapter 7 Responsibilities of Mayors

Budgetary control and early identification of financial problems

54. (1) *On receipt of a statement or report submitted by the accounting officer of the municipality in terms of section 71 or 72, the mayor must—*

- (a) consider the statement or report;*

(b) check whether the municipality's approved budget is implemented in accordance with the service delivery and budget implementation plan;

(c) consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget;

(d) issue any appropriate instructions to the accounting officer to ensure—

(i) that the budget is implemented in accordance with the service delivery and budget implementation plan; and

(ii) that spending of funds and revenue collection proceed in accordance with the budget;

(e) identify any financial problems facing the municipality, including any emerging or impending financial problems; and

(f) in the case of a section 72 report, submit the report to the council by 31 January of each year.

(2) If the municipality faces any serious financial problems, the mayor must—

(a) promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include—

(i) steps to reduce spending when revenue is anticipated to be less than projected in the municipality's approved budget;

(ii) the tabling of an adjustments budget; or (iii) steps in terms of Chapter 13; and

(b) alert the council and the MEC for local government in the province to those problems.

(3) The mayor must ensure that any revisions of the service delivery and budget implementation plan are made public promptly.

Spending and revenue collection is not in accordance with the budget: a) The increase in the debtors and especially the debt not collected from government. The Executive Mayor failed to identify and take the necessary steps when the municipality faced financial problems: a) Even though it was stated in Council and in the media that the municipality is bankrupt, it took the Executive Mayor more than two years to alert the MEC of the financial problems; b) no steps to reduce spending in accordance with projected income was taken (see overtime in the office of the Executive Mayor in the section 71 Report May 2020 as one example of no reduction in spending); c) the Executive Mayor did not promptly initiate remedial or corrective steps; d) the continued waste of money by the Metro further indicates no reduction of spending eg the financing of the Metro Police; the buying of a Caspir; the financing of the Metro busses;

the contract with Cobra Towing; the contract with Ramathello Inc; payment of consultants; etc.

9. Municipal Finance Management Act 56 of 2003 Chapter 7 Responsibilities of Mayors

Report to provincial executive if conditions for provincial intervention exist

55. If a municipality has not approved an annual budget by the first day of the budget year or if the municipality encounters a serious financial problem referred to in section 136, the mayor of the municipality—

(a) must immediately report the matter to the MEC for local government in the province; and

(b) may recommend to the MEC an appropriate provincial intervention in terms of section 139 of the Constitution.

As already indicated the Executive Mayor did not timeously seek appropriate provincial intervention in terms of section 139 of the Constitution and only did so in 2019. No terms of reference or financial recovery plan are available when requested by councillors.

10. Municipal Finance Management Act 56 of 2003 Chapter 7 Responsibilities of Mayors

Exercise of rights and powers over municipal entities

56. (1) The mayor of a municipality which has sole or shared control over a municipal entity, must guide the municipality in exercising its rights and powers over the municipal entity in a way—

(a) that would reasonably ensure that the municipal entity complies with this Act and at all times remains accountable to the municipality; and

(b) that would not impede the entity from performing its operational responsibilities.

(2) In guiding the municipality in the exercise of its rights and powers over a municipal entity in accordance with subsection (1), the mayor may monitor the operational functions of the entity, but may not interfere in the performance of those functions.

The situation pertaining to Centlec and its general disregard towards the Metro and the Council, indicates the lack of input, guidance and good corporate governance by the Metro as shareholder in Centlec and over its directors. The requirements of the Companies Act pertaining to the appointment of directors are not complied with eg the appointment of the CEO.

Signed:



Cllr A de Bruyn



Cllr E Snyman-Van Deventer