

Date: March 11, 2021

File No: 4/4/1

**THE SPEAKER
COUNCIL ITEM**

**REQUEST TO CONDONE THE ACTING OF COUCILLOR MOLEFI MORAKE DURING THE
ABSENCE OF COUNCILLOR LEBOHANG MASOETSA**

1. PURPOSE

The purpose of this memoranda is to appraise the Municipal Council on the leave of absence of the Acting Mayor and subsequent implications thereof.

2. BACKGROUND

Councillor Lebohang Masoetsa started acting as Executive Mayor, beginning from August 14, 2020. An important consequence is of the fact that executive decision-making is centralized in the hands of the Executive Mayor. The Executive Mayor as the face of the municipality is required both legally and administratively to report decisions, he/she has taken on matters of service delivery and municipal governance.

Information flow is essential to hold executive and management to account for decisions taken, and the prerequisite for information flow is based on transparency in the manner in which the executive carries out its tasks.

3. LEGAL IMPLICATIONS

The Municipal Structures Act provides that; election of full-time office bearers must take place as and when vacancy exists. Safe to state that both an election and removal of the office bearers is a reserved power of Municipal Council and cannot be delegated. Similarly, an acting office bearer does not have legal authority or delegations to appoint an acting incumbent for an extended period of time.

The prescripts of Municipal Structures Act (Act No 117 of 1998) provides a framework on the process to be followed regarding elections, roles and responsibilities of full-time councillors.

Secondly, the prescripts of the Municipal Systems Act (Act No. 32 of 2000) also provides the legal authority or delegations which are entrusted to the full-time office bearers, especially to the Executive Mayor. These delegations once assigned to the incumbent, will not and cannot be sub-delegated to the third party and can only be removed by the delegating authority. It is in this context, that the Municipal Council delegates authority to the incumbent and not to the executive office he/she represents. The Municipal Systems

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Act is flexible in terms of allowing the Executive Authority in delegating functions and responsibility but not the authority.

4. DELIBERATIONS

During January 18th, 2021, Councilor Masoetsa encountered bereavement within his family and took an urgent family responsibility leave in order to focus on the bereavement and funeral process. It was practically not possible to convene an urgent Municipal Council meeting to seek Council consideration and approval of electing an Acting Mayor. Councillor Masoetsa then requested Councillor Molefi Morake to act in his stead for the time of his absence during the bereavement period.

On the 25th February 2021, Councillor Lebohang Masoetsa was indisposed and had to be admitted at the Hospital. And from that date Cllr Lebohang Masoetsa has been hospitalized until recently. We hope for his speedy recovery and well-being, as mentioned-above it was inadvertently unfeasible to also urgently convene the Municipal Council to elect an acting Mayor for the period of his hospitalization. And his absence would have left a void if left unattended.

5. FINANCIAL IMPLICATIONS

The are no financial implications as a result of the acting of Councillor Molefi Morake.

6. RECOMMENDATIONS

It is hereby recommended that it be resolved, namely

- a) That the Municipal Council take note of the report;
- b) That the Municipal Council approves the leave of absence of the acting Executive Mayor Councillor Lebohang Masoetsa as highlighted in the report;
- c) That the Municipal Council approves and condone the acting of Councillor Molefi Morake date due to the reasons of absence of Councillor Lebohang Masoetsa as highlighted in the report;
- d) That council delegates the acting Executive Mayor to, in consultation with Speaker and the Council Whip appoint one of the members of mayoral committee to act in his position in the event that he is temporarily unable to fulfill his mayoral obligations and duties.

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ADVOCATE T MEA
CITY MANAGER

Recommended/ ~~Not Recommended~~ 11/03/2021

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COUNCILLOR LEBOHANG MASOETSA
ACTING EXECUTIVE MAYOR