



# MANGAUNG

DIRECTORATE  
CORPORATE SERVICES

COUNCILLORS

28 March 2022

THE MUNICIPAL MANAGER  
MANGAUNG METROPOLITAN MUNICIPALITY  
BLOEMFONTEIN

THE SPEAKER  
MANGAUNG METROPOLITAN MUNICIPALITY  
BLOEMFONTEIN

## **MOTION OF NO CONFIDENCE: EXECUTIVE MAYOR, CLLR SIYONZANA (MXOLISI ASHFORD)**

The Democratic Alliance in accordance with rule 29 of the council's standing rules and orders hereby table a Motion of No Confidence against the Executive Mayor, Cllr Mxolisi Ashford Siyonzana, by Cllr Johan Pretorius and seconded by Cllr Maryke Davies.

We request a secret ballot, to ensure Councillors are not intimidated or victimised for voting according to their ~~conscience~~ <sup>CONSCIENCE</sup>.

**The following reasons are tabled:**

### **A) Appointment of Political Staff**

The Executive Mayor, Cllr Mxolisi Ashford Siyonzana, is the middle point of all the chaos and instability of the Mangaung Metro Municipality. The unlawful appointment and payment to political staff since December 2021 is a clear indication of what the Executive Mayor's intentions are and where he is going to take this Metro. Even with the financial crisis looming over the Municipality with creditors, court cases, Bloemwater debt and the huge staff bill, Cllr Siyonzana gave instruction for the appointment of political staff. After Council gave instruction to stop paying the ghost workers and they closed the Bram Fisher building and intimidated the officials, Cllr Siyonzana gave instruction to pay these so-called political staff in direct contradiction to a Council resolution.

### **B) Appointment of City Manager**

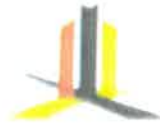
Cllr Siyonzana failed to bring a report to Council with all applicants and a shortlist that should have been compiled by the selection panel. Cllr Siyonzana was instructed by Council on the 8<sup>th</sup> of December 2021 to advertise the City Manager position, but Council was informed in March 2022 that the Executive Mayor cannot proceed with the process because the time has lapsed as prescribed by legislation and the process must start over again. This Council is without a permanent City Manager for almost a year. It is one of the reasons the Metro cannot function correctly. Adding to this, the Senior Managers' contracts are ending 31 March 2022 and the process to advertise these HOD positions has not even started yet. The financial implication to this Metro is going to be enormous and the AG will again class it as fruitless and wasteful expenditure because of the incompetence of the Executive Mayor. Cllr Siyonzana is not fit to be the Executive Mayor of this Metro and his only accomplishment is to miss every deadline stipulated in legislation. It is clear he has no respect for the Rule of Law and he will never accept accountability.

### **C) The instability in Council and Mangaung Metro Municipality**

The instability in Council and the Mangaung Metro Municipality is directly linked to the incompetence and misguided leadership of the Executive Mayor. Since his inauguration in November, officials were beaten up in their offices. The Bram Fisher Building was closed numerous times by his own political staff, service delivery has come to a complete standstill, and a water crisis emerged with no water tankers available for 7 days. He lied to the residents on numerous occasions indicating availability of water tankers. The amount of potholes is at an all-time high and the solid waste department is totally collapsed with refuse not removed on time and the landfill sites plunged in total chaos.

### **D) Embarrassment to Council and the Mangaung Metro Municipality**

Cllr Siyonzana appeared in front of a Parliamentary Select Committee of COGTA unprepared and with no presentation on Friday 23 March 2022 and the Chairperson voiced his exception of the behaviour of Cllr Siyonzana. The chairperson also indicated that they will investigate him and that it is clear that there is a crisis in Mangaung Metro Municipality. Members of the committee also indicated that the Executive Mayor is undermining the committee. The Executive Mayor is supposed to be the leader of this Metro and he must know what is going on in the Metro. This was a huge embarrassment to the Mangaung Metro Municipality and Council. The Executive Mayor disrespected this committee of Parliament on a social media platform and by doing that, compromised the credibility and integrity of the municipality.



The Executive Mayor did not comply with the following legislation:

## Definition

*non-compliance*: failure to act in accordance with a wish or command.

## Constitution of the Republic of South Africa, 1996 (Non-Compliance)

### A CHAPTER 2 Bill of Rights

Human dignity

Everyone has inherent dignity and the right to have their dignity respected and protected.

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. prevents pollution and ecological degradation;

Health care, food, water and social security:

Everyone has the right to have access to -

- a. sufficient water

### B. CHAPTER 7 Objects of local government Section 152.

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).

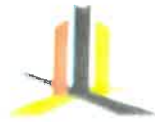
## 2. Local Government: Municipal Finance Management Act No 56 of 2003 (Non-Compliance)

### A. CHAPTER 7 RESPONSIBILITIES OF MAYORS

1. Section 42 General responsibilities:

The Mayor of a municipality -

- a. must provide leadership and vision in the strategic 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.

## 2 Section 53 Budget processes and related matters

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.

(4) 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.

(5) 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 to later than 14 days after the approval of the service delivery and budget implementation plan; and

(b) that the performance reporting 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.

### 3. Section 54 Budgetary control and early identification of financial problems

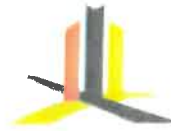
1. On receipt of a statement or report submitted by the accounting officer of the municipality in terms of section 71 or 72, the mayor must
  - (a) consider the statement or report;
  - (b) check whether the municipality's approved budget is implemented in accordance with the service delivery and budget 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.
4. The mayor must ensure that any revisions of the service delivery and budget implementation plan are made public promptly.

### 3. Local Government: Municipal Systems Act 32 of 2000 (Non-Compliance)

#### 1. Development of performance management system

The executive committee of executive mayor of a municipality or, if the municipality does not have an executive committee of executive mayor, a committee of councillors appointed by the municipal council must

- (a) manage the development of the municipality's performance management system;
- (b) submit a report to the municipal manager; and



(c) submit the proposed system to the municipal council for adoption

## B. Monitoring and review of performance management system

A municipality must establish mechanisms to monitor and review its performance management system.

## C. Remuneration of municipal managers and managers directly accountable to municipal managers

A municipality must, on or before 31 October of each year, publish in the media the salary scales and benefits applicable to posts of the municipal manager and every manager that is directly accountable to the municipal manager.

D. A municipality's executive committee or executive mayor or, if a municipality does not have an executive committee or executive mayor, the municipal council itself or a committee appointed by it, as the supervisory authority must oversee and monitor

(i) the implementation and enforcement of the municipality's credit control and debt collection policy and any by-laws enacted in terms of section 98; and

(ii) the performance of the municipal manager in implementing the policy and any by-laws; when necessary, evaluate or review the policy and any by-laws, or the implementation of the policy and any such by-laws, in order to improve efficiency of its credit control and debt collection mechanisms, processes and procedures; and at such intervals as may be determined by the council report to a meeting of the council, except when the council itself performs the duties mentioned in paragraphs (a) and (b).

## **4. Local Government: Municipal Structures Act 117 of 1998**

### A. Committees to assist executive committee or executive mayor

(1) If a municipal council has an executive committee or executive mayor, it may appoint in terms of section 79, committees of councillors to assist the executive committee or executive mayor.

(4) Such a committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor.

## **5. Local Government: Municipal Finance Management Act No 56 of 2003 (Non-Compliance)**

### **A. DISCIPLINARY REGULATIONS FOR LOCAL GOVERNMENT SENIOR MANAGERS**

Letter dated 30 January 2020: **RECOMMENDATION IN COUNCIL: DISCIPLINARY REGULATIONS FOR LOCAL GOVERNMENT SENIOR MANAGERS**

The Democratic Alliance request the Executive Mayor to implement the disciplinary procedure against all senior managers responsible for the loss in revenue of fines and irrecoverable debt to the amount of R15 558 520.50.

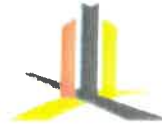
Disciplinary procedures

Section 5

(1) Any allegation of misconduct against a senior manager must be brought to the attention of the municipal council.

(2) An allegation referred to in sub-regulation (1) must be tabled by the mayor or the municipal manager, as the case may be, before the municipal council not later than seven [7] days after receipt thereof, failing which





the mayor may request the Speaker to convene a special council meeting within seven [7] days to consider the said report.

(3) If the municipal council is satisfied that –

(a) there is a reasonable cause to believe that an act of misconduct has been committed by the senior manager, the municipal council must within seven [7] days appoint an independent investigator to investigate the allegation[s] of misconduct; and

(b) there is no evidence to support the allegation[s] of misconduct against the senior manager, the municipal council must within seven [7] days dismiss the allegation[s] of misconduct.

(4) The investigator appointed in terms of sub-regulation (3)(a) must, within a period of thirty [30] days of his or her appointment, submit a report with recommendations to the mayor or municipal manager.

(5) The report contemplated in sub-regulation (4) must be tabled before the municipal council in the manner and within the timeframe as set out in sub-regulation (2).

(6) After having considered the report referred to in sub regulation (4), the municipal council must by way of a resolution institute disciplinary proceedings against the senior manager.

(7) The resolution in sub-regulation (6) must-

(a) include a determination as to whether the alleged misconduct is of a serious or a less serious nature.

(b) authorise the mayor, in the case of municipal manager, or municipal manager, in the case of the manager, directly accountable to the municipal manager to –

(i) appoint –

(aa) an independent and external presiding officer; and

(bb) an officer to lead evidence; and

(ii) sign the letters of appointment.



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**CONCLUSION:**

**A) Council must approve this Motion for the removal of the Executive Mayor, Cllr Mxolisi Ashford Siyonzana, on the following allegations: **appointment of political staff, appointment of City Manager, the instability in Council and Mangaung Metro Municipality & embarrassment to Council and the Mangaung Metro Municipality.****

**B) Council to request the speaker to write to the MEC of Cogta to investigate allegations of mal-administration against the Executive Mayor, Cllr Mxolisi Ashford Siyonzana in accordance with Section 106 (i) of the Local Government Systems Act that reads:**

106. (i) If an MEC has reason to believe that a municipality in the province cannot or does not fulfil a statutory obligation binding on that municipality or that mal-administration, fraud, corruption or any other serious malpractice has occurred or is occurring in a municipality in the province, the MEC must—

(a) by written notice to the municipality, request the municipal council or municipal manager to provide the MEC with information required in the notice; or

(b) if the MEC considers it necessary, designate a person or persons to investigate the matter.

Cllr Johan Pretorius  
Leader of the DA Mangaung Caucus

Cllr Maryke Davies  
Chief Whip of the DA Mangaung Caucus  
Seconded

O.B.O  
DEMOCRATIC ALLIANCE CAUCUS - MANGAUNG METRO MUNICIPALITY