



DIRECTORATE
OFFICE OF THE
CITY MANAGER

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Your Ref: Clr D Kotze	Our Ref: 12/1/9/4/2
Room 201, Bram Fischer Building	Date: 02 August 2022

Clr D Kotze
Democratic Alliance
Mangaung Metropolitan Municipality

RESPONSE TO RULE 38. Implementation Of Council Resolution. Disciplinary Hearing of The Former Hod: Corporate Services.

Your undated letter received on 7TH July 2022, regarding the above-mentioned matter refers.

Question 1:
Have any steps been taken to implement the Council's decisions?
Response: Yes, steps were indeed taken.

Question 2:
If any, what specific steps/actions have been taken?
Response: In line with the council resolution, the Acting City Manager appointed Mr. Lesley Mokgoro of Phatsoane Henney Attorneys to be the Lead Evidence Officer and Advocate Charles Dell as the Presiding Officer from Lovius Block Attorney, in the matter of Mr. David Nkaiseng. Mr. David Nkaiseng referred the Unfair Labour Dispute with CCMA on the 03 June 2022, and plead for the lifting of his suspension and compensation.

The Prosecutor or Lead Evidence Leader then served Mr David Nkaiseng with the preliminary charges on Monday, 13 June 2022. The disciplinary hearing commenced on Tuesday, 21 June 2022, at Phatsoane Henney Attorneys. However, the hearing was postponed on even date due to the fact that Mr Nkaiseng only took note of the charges on Monday, 20 June 2022 and the Lead Evidence leader was intending to supplement and or amend the charges after consideration of all the documents/information from the investigators, the municipality and consultations with possible witnesses or individuals that were not consulted during the investigations.

It was then agreed that the hearing will resume on Friday, 15 July 2022 and the Lead Evidence leader requested the municipality to serves its bundle of documents on or before Friday, 08 July 2022 to Mr Nkaiseng or his chosen representatives.

The Lead Evidence leader also requested to have the consultations with the following persons as part of preparing for the hearing, which consultations happened on 7 July 2022:

1. Cllr Mxolisi Siyonzana the Executive Mayor
2. Cllr Stefani Lockman-Naidoo the Speaker
3. Cllr Vumile Nikelo the Chief Whip
4. Mr. Tshwaro Ledibane Manager Payroll

The CCMA then issued the municipality with Con-arb which was scheduled for 14 July 2022 and Commissioner Mafoyane advised the parties to the dispute to try and settle the matter. The legal representative of the municipality then advised the municipality to try settle the matter by bringing forward the end period of Mr Nkaiseng employment contract to end on the 14 July 2022, which was expiring on the 30 November 2022. The parties then entered into CCMA Settlement Agreement.

The matter was then concluded and Mr David Nkaiseng is no longer an employee of the municipality as from the 14 July 2022.

Question 3:

If not, why not?

Response: Not applicable.

Question 4:

If not, why is the acting city manager disrespecting the decisions of Council and undermining the functioning of Council?

Response: Not applicable.

Question 5:

If not, why is the Acting City Manager supporting corruption in the administration of the Mangaung Metro Municipality?

The National Intervention Team is not aware of any acts of corruption. However, if the Honourable Councillor knows or is aware of specific acts of corruption, the team recommends that same be reported with the relevant law enforcement authorities, so that action can be taken.

Question 6:

Have the Acting City Manager and the National Cabinet Representative replaced the legally elected Council in decision-making and therefore have the power to decide which Council decisions will be implemented or not?

Response: No, the terms of references are very specific about what the National Intervention must achieve, and report to Council.

Question 7:

Do the terms of reference as published in Government Notice Nr 2044 Government Gazette 46287 of 28 April 2022 give the national cabinet representative and support team the discretion and power to intervene in Council's decisions?

Response: No, the Intervention Team is currently focussing on stabilizing the untenable situation at Mangaung. This responsibility includes inter alia, implementation of all Council resolutions, taken prior, before to their arrival, and during their arrival as part of stabilising the Municipality.

Question 8:

If so, please provide the specific responsibility as set out in above-mentioned notice.

Response: Not applicable.

Question 9:

Does any legislation provide the Acting City Manager with any discretion regarding the implementation of Council's decisions?

No, the City Manager, together with the other Acting HoD's : are performing the same function of implementing Council resolutions.

Question 10:

If so, please provide the relevant legislation and the specific sections in the legislation.

Response: Not applicable.

Question 11:

Was the acting city manager elected by the citizens of Mangaung in a free and fair election to represent their best interest?

Response: No, the Acting City Manager, forms part of the seconded national team to MMM, in terms of Section 139 (7) of the Constitution of the Republic of South Africa.

Question 12:

If so, please provide the proof from the IEC.

Response: Not applicable.

Question 13:

If not, why does the acting city manager refrain from implementing the decision of the duly elected Council?

Response: Refer to response in 2 above.

Question 14:

Will the acting city manager be willing to be personally responsible for any legal costs endure by any party to ensure the implementation of Council's resolution?

Response: The Acting City Manager and the EMT will ensure the implementation of the Council resolutions and therefore shall not be responsible for any legal costs whatsoever.



Yours faithfully

Tebogo Motlashuping

Acting City Manager

Date: 16/08/2022