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13 July 2023

MOTION OF NO CONFIDENCE AGAINST THE SPEAKER OF MANGAUNG METROPOLITAN COUNCIL IN CONTRAVENTION OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, 1996 AND THE LOCAL GOVERNMENT: MUNICIPAL STRUCTURES ACT, ACT 117 OF 1998 AS AMENDED AND THE STANDING RULES AND ORDER OF COUNCIL OF MANGAUNG METROPOLITAN MUNICIPALITY.

ITEM AND MOTION IN COUNCIL

1. PURPOSE OF THE MOTION

1.1 The purpose of the motion is for the council to remove Cllr Maryke Davies as Speaker of Council through a Vote of No Confidence.

2. LEGAL BASIS FOR THE MOTION OF NO CONFIDENCE.

2.1 The Motion is brought in terms of rule 29 of the Standing Rules and Orders of Mangaung Metropolitan Council read with Section 40 of the Municipal Structures Act of 1998.

Section 160 (3)(a) of the Constitution read with section 30(1) of the Municipal Structures Act amplified in Rule 12(1) provides that:

- ***S160 (3) "A majority of members of municipal council must be present before a vote may be taken on any matter".***

- ***S30(1) "A majority of the councilors must be present at a meeting before a vote may be taken on any matter".***

- ***Rule 12.1 "The majority of Councilors must be present at a meeting before any matter maybe considered and/voted for on".***

2.2 The Rules and Standing Orders which are a by-law governing the proceedings of Council of Mangaung Metropolitan Municipality, further regulate how a Motion is brought to Council.

In terms of rule 29.1: *"No matter shall be brought before the Council or Committee by any member of the Council except upon a Notice of Motion, which shall be in writing and signed by the member giving the Notice as well as a member seconding it..."*

3. GROUNDS AND REASONS FOR THE VOTE OF NO CONFIDENCE AGAINST THE SPEAKER

3.1 On 14 April 2023, prior to the commencement of the Council meeting and before items on the agenda were discussed, deliberated and/or voted for, the Speaker was made aware and or warned that 7 (seven) councilors were barred by an interim court order from participating in the meeting and referring themselves as Councilors entitled to participate in the Council meeting of that day. The interim Court Order effectively meant that the council meeting should not proceed with the meeting with the barred 7 (seven) councilors thus rendering the meeting non quorate. As the meeting was not attended by most councilors as required by rule 12.1 and section 30 of the Municipal Structures Act.

3.2 The Speaker of council Cllr Maryke Davies intentionally and deliberated acted in bad faith by misleading Council to say that a quorum has been reached by members in the meeting, and she unlawfully allowed council meeting to continue with the proceedings of the day without a quorum of majority of councilors. Her actions resulted in council taking unlawful decision that led to bringing the municipality into disrepute and unnecessary costly litigations.

3.3 In doing so by allowing those 7 (seven) councilors to be in the meeting and allowing them to participate in the proceedings of the day, the Speaker acted against her oath of office and against her roles and responsibilities provided in section 37 of the Structures Act that include but not limited to that she must ensure that council meetings are conducted in accordance with rules and orders of council. The Speaker has breached her oath office and delineated her duties and responsibilities by proceeding chairing a meeting of council without a quorum in contravention of 12.1.

4. GROSSLY FAILURE TO CHAIR THE MEETINGS AND TAKING IRRATIONAL DECISIONS WITHOUT ALLOWING COUNCILLORS TO DEBATE ON THE MATTER.

4.1 On 27 April 2023 in the council agenda, there was an item for the election of the acting Executive Mayor and Council Whip. The Speaker tabled the report to council to debate on the method of voting for the election of acting Executive Mayor but did not allow the meeting to decide on the mode by unilaterally deciding to use a secret ballot. Standing rule 13. 6 says "In the event of there being opposition to the recommendation, the proposal to be decided upon will be done by means of voting, either by show of hands or if requested and approved by the Speaker or the chairperson, by way of secret ballot".

4.2 The Speaker, unilateral made her ruling that it is her discretion that the mode voting must be by way of secret ballot. That was never requested by any party in that meeting. She again in this meeting gave herself powers that were not provided for in the standing rules and orders of council. Her actions were ultra vires of the Standing Rules.

4.3 It is against this background that: -

4.3.1. that the Speaker has unilaterally contravened the supreme paramount law of the country and local government legislations including standing rules and order of council by deliberating allowing non quorate meeting.

4.3.2 That she unilaterally changed the rules of the council to suit what she wanted to achieve on the 29 March 2023

5. RECOMMENDATION

5.1 It is recommended that, the Vote of No Confidence against the Speaker to be removed, be tabled in the next ordinary council sitting. Should the motion be passed, council must elect new Speaker and special council meeting must be called by the acting City Manager.

MOTION PROPOSED BY: Cllr Pani Twala

SIGNATURE:

DATE: 13.07.2023

MOTION SECONDED BY: Cllr Theodorah Mosiala

SIGNATURE:

DATE: 13-07-2023

ACKNOWLEDGEMENT OF RECEIPT BY: Thembeka

SIGNATURE:

DATE: 13-07-2023