



PO Box 3704, Bloemfontein, 9300  
2<sup>nd</sup> Floor, Bram Fischer Building, De Villiers Street, Bloemfontein  
Tel. No.: +27(0)51 405 8885

---

**Enquiries: Adv. Nkateko Mpangane**  
Acting HOD: Corporate Services

**Phone: (051) 405 8623**

---

**Ref: EFF Rule 38 Question,**  
(Dated -- / -- / ----)

**Date: 27 June 2023**

---

**To: The Speaker of Council**  
**Cllr Maryke Davies**

**Dear Madam Speaker**

**RULE 38 QUESTION BY EFF:**  
**MATLHO REPORT ON THE CONDUCT OF OFFICIALS**  
**AND RESOLUTION OF THE COUNCIL FOR DISCIPLINARY PROCESSES**

**QUESTION BY EFF:**

Madam Speaker, during the Municipal Council meeting held on the 12<sup>th</sup> May 2022, Matlho Attorneys report was considered by the Council which relates to the ghost employees (political employees). The report recommended that three officials be charged for misconduct, including the HOD: Corporate services.

I therefore ask the following questions as per the Rule 38 questions, namely;

- a) What happened to the two junior officials who signed and misled the Council on the contracts and other administrative matters regarding the payment of the political staff, are they undergoing disciplinary processes as resolved by the Council?
- b) Are they suspended and if not why?
- c) Is the administration recouping moneys paid to the political staff as resolved by the Council and how far is this process of recouping those moneys?

Madam Speaker, kindly adhere to the provisions of the Standing Rules and Orders which stipulate that I should receive written response within fourteen days (14) from the date of receipt of this letter by your office.

Regards,

**EFF**  
**MANGAUNG COUNCIL CAUCUS**

**RESPONSE TO THE QUESTION:**

The management of discipline of staff below Senior Managers (meaning the two officials named in Matlho investigating report) is in accordance with the Disciplinary Procedure contained in the Collective Agreement of the SALGBC.

The Collective Agreement provides that an allegation of misconduct against an employee shall be brought before the municipal manager or his authorised representative for consideration and decision. If the municipal manager or his authorised representative is satisfied that there is prima facie to believe that an act of misconduct has been committed, he may institute disciplinary proceedings against the employee concerned.

The Municipal Manager or his authorised representative shall appoint, in the first instance, a suitably qualified person employed by the municipality, preferably one level or two above the employees' position, to serve as the presiding officer and employer representative.

Should it not be possible to appoint a suitably qualified person, employed by the municipality, the Municipal Manager or his authorised representative may appoint a suitably qualified external person, from outside its employ, *excluding a legal practitioner*, to serve as presiding officer and employer representative neither the employer or employee shall be entitled to be represented by a *legal practitioner* in disciplinary proceedings, unless both parties agree, in writing, to allow legal representation.

**MR. N. S MASWABI**

In compliance with SALGBC Collective Agreement (disciplinary procedure, the former acting City Manager attempted to appoint persons to serve as presiding officer and employer representative by approaching national and provincial SALGA for assistance in this regard. The reasons behind the approach were informed by advice by national CoGTA that the Executive Management Team must build capacity and not be seen as purging employees. The current acting City Manager has since appointed external persons to be presiding officer and employer representative and the disciplinary process will commence soon.

**MR. T. J MPELI**

The former acting City Manager appointed Mr. Billy Barnes to be presiding officer and Mr Tilfred Mabuza as the prosecutor but later Mr Mabuza withdrew to participate in the disciplinary process and a replacement is being sought. It is worth noting that, currently municipal employees object to participate in disciplinary process affecting their fellow municipal employees.

Council is drawn to legislative shortcomings that had occurred in dealing with this matter emanating to sanction taken by council:


- Council appointed one legal representative to be presiding officer in the disciplinary hearing of the former Head Corporate Services whilst in terms of disciplinary code for Senior Managers, the authority resides with the Municipal Manager. It was further found during processing of payment that the presiding officer is not part of the legal panel of the municipality, rendering his fees due and payable unauthorised and irregular expenditure.
- Council failed to charge former Head of Corporate Service, Mr Nkaiseng within the 90 days period prescribed in the disciplinary code for senior managers. Subsequent thereto, the former Head instituted unfair labour disputes with the CCMA which was settled out of court with conditions that the details thereof would be kept confidential between the two parties.

To that end, the former acting City Manager considered the merits of the case and facts before him and made the determination that suspension of the two officials will not meet the requirements of the disciplinary code that, firstly their presence at the workplace will hamper any investigations, secondly, they will not more acts of misconduct, and that they will not interfere with any witnesses.

As for the recouping of monies paid, the matter will form part of the disciplinary hearings against the two officials. In the case of the former HOD: Corporate Services it should be borne in mind that the settlement reached between the parties is that it should be kept confidential.

*It should be noted that the Council resolved that that the former HOD: Corporate Services be charged and that the City Manager should consider to take disciplinary action against the two junior officials.*

The fact that the two officials are still at work does not necessarily mean that disciplinary proceedings has ceased to exist, the delays are due to challenges mentioned hereinabove.

  
\_\_\_\_\_  
**MS NR DUMALISILE**  
**ACTING CITY MANAGER**  
Date: 28/06/23