



MINDE SCHAPIRO & SMITH

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Our Ref: DEM16/0678/ELZANNE JONKER/KS | **Your Ref:** | **Date:** 30 October 2019

THE SPEAKER

NELSON MANDELA BAY MUNICIPALITY

Dear Sir/Madam

RESCHEDULING OF COUNCIL MEETING DATED 17 OCTOBER 2019

1. We refer to your letter dated 23 October 2019.
2. We do not address each and every allegation contained in your letter, and the failure to do so should not be construed as admission of any of the allegations contained in that letter.
3. We shall only address matters which are pertinent at this stage, suffice it to say we reserve the right to respond to any specific allegation in your letter at a later stage.
4. We reiterate that your decision to “postpone” or “cancel” the meeting was unlawful.
5. Your reference to Rule 10.6.5 of the Rules of Order (**the Rules**) as an attempt to justify your decision does not assist you in this case. First, nowhere in your

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statement at the time you “postponed” or “cancelled” the meeting—did you invoke this rule as a basis for your decision. Your belated reference to the rule is clearly an afterthought.

6. Moreover, a central aspect of the reason you gave for your impugned decision was that South African Police Service (**SAPS**) had advised that the meeting should not go ahead as scheduled. However, it is now common cause and public knowledge that SAPS has expressly distanced itself from your claims; SAPS has made it clear that it did not advise you to “postpone” or “cancel” the meeting.
7. In fact, the SAPS has made it clear that it was adequately prepared to deal with any “security concerns” on the day the special meeting was supposed to take place.
8. In the circumstances, it is clear that the reasons you gave for your decision, and by extension the decision itself, are flawed as a matter of law. Indeed, even assuming that Rule 10.6.5 could find application in this case, it appears that you abused your “discretion” by cancelling the meeting on the basis of untrue grounds, namely the alleged “advice” given by the SAPS. This too renders your decision flawed.

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9. Finally, a motion of no confidence is an inherently urgent matter. This is even more so when it relates to the Metro's first citizen. Yet, you appear to be taking a pedestrian approach to dealing with the issue of reconvening the special meeting. This is unfortunate.
10. Moreover, it appears that you are using the "security concerns" argument as a stratagem to avoid convening the special meeting as a matter of urgency. This is, with respect, unacceptable.
11. In the circumstances, we demand that you reschedule the special meeting within the next 24 hours, and that this special meeting itself be held by no later than 6 November 2019. Should you fail to do this, we will have no option but to approach a court of law.
12. Our client's rights remain fully reserved.

Yours faithfully

MINDE SCHAPIRO & SMITH INC.

per:

(Electronically sent, therefore unsigned)

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